

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Thursday, 22 April 2021
SUB-COMMITTEE MEMBERS PRESENT:	Councillor David Goodwin (Chairman) Councillor Dennis Booth Councillor Catherine Young
OFFICERS PRESENT:	Sophie Butcher (Democratic Services Officer) Peter Muir (Licensing Officer) Bridget Peplow (Lawyer)
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	None.
PREMISES:	Oktoberfest, 2-3 The Quadrant, Bridge Street, Guildford, Surrey, GU1 4SG
TYPE OF APPLICATION:	Application for a new Premises Licence
DETAILS OF APPLICATION SOUGHT:	A new premises licence to allow the following licensable activities. <ul style="list-style-type: none"> • The provision of films, • The provision of live music • The provision of recorded music • The provision of performance of dance • The provision of anything of a similar description to provision of music or performance of dance. • The provision of late night refreshment. • The supply of alcohol for consumption on and off the premises.
APPLICANT:	Dream Oyster Limited, Friary Court, 13-21 High Street, Guildford, Surrey, GU1 3DG
OTHER PERSONS:	None

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DETAILS OF DECISION TAKEN

In arriving at its decision, the Sub-Committee took into account the relevant representations submitted in writing at the meeting. The Sub-Committee was also made aware that the following were relevant: The following sections of the Council's Licensing Policy:

- Section 4: (Fundamental Principles)
- Section 11: (Licensing Hours)
- Section 12.1: (Prevention of Crime & Disorder)
- Section 12.2: (Public Safety)
- Section 12.3: (Prevention of Public Nuisance)
- Section 12.4: (Protection of Children from Harm)
- Section 17: (Licence Conditions).

The following sections of the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 were relevant:

- Paragraph 1.16 - Licence conditions – General principles
- Paragraph 1.17 – Each application on its own merits
- Paragraphs 2.1-2.6 – Crime and Disorder
- Paragraphs 2.7-2.14 – Public Safety
- Paragraphs 2.15-2.21 – Public nuisance
- Paragraphs 2.22-2.32 – Protection of children from harm
- Paragraphs 9.31-9.41 – Hearings
- Paragraphs 9.42-9.44 – Determining actions that are appropriate for the promotion of the licensing objectives
- Paragraphs 10.1-10.66 – Conditions

The Sub-Committee noted that they had convened a meeting, not a hearing. This was owing to the fact that they were considering a mirror application and licence for GUPLA0535 - premises, Oktoburfest, 2-3 The Quadrant, Bridge Street, Guildford, Surrey, GU1 4SG. The application had attracted representations from both Surrey Police and the Licensing Authority, following which all parties had agreed that the conditions attached to GUPLA0535 should be attached to the licence, that this would address Surrey Police and the Licensing Authority's concerns and that a hearing was not necessary. Licensing Officers did not have delegated authority powers to grant the application and therefore the Sub-Committee had to consider the application for a grant of the premises licence on its merits. The new premises licence was sought to allow the following licensable activities:

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- The provision of films;
- The provision of live music;
- The provision of recorded music;
- The provision of performance of dance;
- The provision of anything of a similar description to provision of music or performance of dance.
- The provision of late night refreshment.
- The supply of alcohol for consumption on and off the premises.

The Sub-Committee noted that the premises had a number of existing premises licences which had been suspended owing to non-payment of the annual fee. Licence GUPLA0535 was first granted in October 2014. The Sub-Committee was concerned regarding an apparent lack of prohibition and control on children attending the premises when GoGo Dancing was taking place. The Licensing Officer confirmed that as part of the conditions, children were restricted from attending the premises after 7pm when the dancing would take place. It was also noted that the premises would also require a Sexual Entertainment Venue (SEV) licence which it did not have currently.

The Sub-Committee RESOLVED that the premises licence in respect of Oktoburfest, 2-3 The Quadrant, Bridge Street, Guildford, Surrey, GU1 4SG be granted as a mirror licence of GUPLA0535 and the following conditions be applied to the licence as follows:

Conditions attached to GUPLA0535:

Conditions relating to noise and light

1. Laser lighting and effects can only be installed or operated with the express permission of the Council.
2. The external facade doors fronting Bridge street shall be closed at 11 pm and remain closed for the remainder of the day's trading period. Doors may be opened for normal entrance and egress of patrons and staff. To prohibit any excess noise breakout, the maximum volume of amplified music or speech shall be adjusted to ensure that noise breakout at any time shall not be audible beyond a radius at 10m from the front and rear façade of the premises. The noise limiting device shall be maintained at a setting to ensure this level of noise emission is not exceeded. If necessary, the licensee shall arrange to reset this level upon request from officers of the Environmental Health & Licensing Division.
3. Notwithstanding the above conditions, if in the opinion of an authorised Officer of the Council, noise from the premises is causing or is likely to cause a nuisance, the Licensees shall upon the request of the Officer take steps forthwith to effectively reduce the noise and abate the nuisance.

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4. From 03:00 to 03:30 live and recorded music shall be reduced to background levels. This half hour is to be used as a “wind down period” and the music should be incidental to other licensing activities taking place on the premises.

Conditions relating to CCTV

5. The licence holder shall ensure that the premises benefit from a CCTV system that operates at all times when licensable activities are taking place.
6. The System shall incorporate cameras covering each of the following areas:
 - a. Public entry and exit points, including emergency exits and routes;
 - b. Routes used for forced ejection of customers;
 - c. All public areas within the premises
 - d. The pavement areas abutting the premises.and shall be capable of providing an image which is regarded as identification standard. The precise position of the cameras may be agreed, subject to compliance with data protection legislation, with the Police from time to time.
7. The system shall incorporate a recording facility and any recording will be retained and stored in a suitable and secure manner for a minimum of 30 days and shall be made available, subject to compliance with data protection legislation, to the Police and all responsible Authorities for inspection on request.
8. The system shall be able to export recorded images to a removable means e.g. CD/DVD and shall have its own software enabled to allow playback / review.
9. A member of staff trained in the use of the CCTV system shall be available at the premises at all times when the premises are open to the public.
10. The system shall display, on any recording, the correct time and date of the recording.

Conditions relating to door staff.

11. Every day from 8pm until 10pm there shall be a minimum of 1 SIA licensed door supervisor on duty at the premises. From 10pm until 15 minutes after the close of the premises there shall be a minimum of 2 SIA licensed door supervisors on duty at the premises. The requirement for numbers of door supervisors will be risk assessed by the venue and the SIA numbers will be further increased, as a minimum, to ensure that the premises operates at all times on at least a 1:100 (SIA/patrons) basis. When carrying out the risk assessment for numbers of door supervisors the venue will take into account any advice from the police.

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Conditions relating to entry.

12. No children under the age of 18 shall be on the premises after 7 pm.

Mandatory conditions:

Mandatory condition - Sales of alcohol

1. No supply of alcohol may be made under the premises licence –
 - a. at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b. at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Mandatory condition - Age verification policy

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - a. a holographic mark, or
 - b. an ultraviolet feature.

Mandatory condition - Irresponsible promotions

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - a. games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - b. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

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e. dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Mandatory condition - Free potable water

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Mandatory condition - Smaller measures

The responsible person must ensure that—

- a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - i. beer or cider: ½ pint;
 - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii. still wine in a glass: 125 ml;
- b. these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- c. where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Mandatory condition - Permitted price for alcohol

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - a. “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - b. “permitted price” is the price found by applying the formula $P=D+(D \times V)$, where—
 - i. P is the permitted price,
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - c. “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - d. “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - e. “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

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3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory condition - Film exhibitions

- a) Subject to subsection (b) below, the admission of children to the exhibition of films on the premises shall be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC)
- b) If the licensing authority does not agree with the category of any film as recommended by the BBFC, it may alter the category of the film. On notice of alteration of category being given by the licensing authority to the holder of the licence, the film shall thereafter be treated as being in the altered category and admission of children to the exhibition of the film shall be restricted accordingly

Mandatory condition - Door supervision

Where at specified times one or more individuals must be at the premises to carry out a security activity, all such individuals must be licensed by the ‘Security Industry Authority (SIA)

REASON FOR DECISION:
The Sub-Committee having considered the fact that Surrey Police and the Licensing Authority had agreed that granting a mirror licence of GUPLA0535 would address their representations, agreed to grant the application subject to the conditions currently attached to GUPLA0535.
Signature of Chairman:
Dated: