

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Thursday 10 June 2021
SUB-COMMITTEE MEMBERS PRESENT:	Councillor David Goodwin (Chairman) Councillor Ann McShee Councillor Bob McShee
OFFICERS PRESENT:	Ms Sophie Butcher, Democratic Services Officer Mr Peter Muir, Licensing Officer Mrs Bridget Peplow, Lawyer
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	None.
PREMISES:	Holroyd Arms, 36 Aldershot Road, Guildford, Surrey, GU2 8AF
TYPE OF APPLICATION:	Application for the variation of a Premises Licence, number GUPLA0286
DETAILS OF APPLICATION SOUGHT:	The premises is a public house located in a mainly residential area. The application is: <ol style="list-style-type: none"> 1) To vary the authorised plan attached to the licence 2) To amend the conditions attached to the licence All licensable activities and authorised hours to remain unaltered.
APPLICANT:	Punch Partnerships (PTL) Limited, 20 Great Titchfield Street, London, W1W 8BE In attendance: Mr Domleo (Solicitor for Applicant) Ms Ahmah (Tenant) (Designated Premises Supervisor) Mr Hamilton (Tenant) Mr Adrian Riley (Area Manager)
RESPONSIBLE AUTHORITIES:	Mr Ian Croll (on behalf of Environmental Health (Pollution Control)) Mr Mike Smith (on behalf of Licensing Authority)

GUILDFORD BOROUGH COUNCIL

DETAILS OF DECISION TAKEN

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

- Section 4: (Fundamental Principles)
- Section 12.1:12.1.1 – 12.1.14 Prevention of Crime and Disorder
- Section 12.2: 12.3.1 – 12.3.6 Public Nuisance
- Section 17: Licence Conditions

The following sections of the Guidance issued in April 2018 by the Secretary of State under Section 182 of the Licensing Act 2003 are relevant:

- Paragraphs 2.1 – 2.6 – Prevention of Crime and Disorder
- Paragraphs 2.15 – 2.21 - Public Nuisance
- 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 to 10.66 - Conditions attached to premises licences

The Sub-Committee received a report from the Licensing Officer. The application was to vary a premises licence for a Public House in Guildford called the Holroyd Arms that was located in a mainly residential area. The application was to vary the authorised plan and amend the conditions attached to the licence. The licence had been first granted to Punch Taverns PLC following a hearing of the Licensing Sub-Committee on 19 August 2005. The designated premises supervisor (DPS) had been varied twice since the licence was first granted and the current DPS had been named on the licence since 30 November 2012. No changes to the current hours or activities were proposed. Due to the plan being updated since 2014, the “Lawned Garden” referred to in the conditions was now labelled on the plans as “Beer Garden”. Therefore, any conditions remaining on the licence after the decision of the committee that refer to “Lawned Garden” should be updated to reflect the current terminology on the plan for the avoidance of any confusion.

Representations had been received from Environmental Health (Pollution Control) and the Licensing Authority on the grounds of prevention of crime and disorder and the prevention of public nuisance. The representations related to those aspects of the application that concerned the use of the beer garden. The Sub-Committee were reminded that having regard to the relevant representations received, they must take such steps, as it considered appropriate for the promotion of the licensing objectives. These were to modify, alter or add new conditions or to reject the application in whole or in part.

GUILDFORD BOROUGH COUNCIL

The Sub-Committee noted the following submissions made by Mr Domleo (the tenant's Solicitor):

- Ms Ahmah and Mr Hamilton had a long-term tenancy at the Holroyd Arms, Guildford. Ms Ahmah had been made the DPS in 2012. They had invested a total of £200,000 into renovating and fully refurbishing the pub with a new kitchen and stage, resulting in the creation of a much-valued community venue with the provision of food, drink, and music.
- The application was to amend the authorised plan to allow the creation of an external permanent bar servery within the rear beer garden to take the pressure off the inside bar.
- Under the current licence customers could sit in two different areas of the rear garden. On the blue bench, as shown in photographs circulated to the Sub-Committee, customers could drink outside until 8pm, whilst on the purple benches, customers could drink outside until 11pm. Within a 2-metre distance that was a time difference of 3 hours. 8pm had been applied as part of a condition following an application considered in 2014 where a neighbour had complained about the noise, however, that neighbour had not made any objections in relation to this application.
- New fences had been erected by the pub tenants, creating a private garden area which had relocated the beer garden away from nearby residents.
- 8pm was too early to stop serving alcohol in the beer garden and 10pm was perceived as more sensible and proportionate.
- Referring to complaints made by neighbours regarding noise coming from the outdoor garden on 24 April 2021 whereby patrons were singing along to music despite a silent disco taking place, it was acknowledged that Ms Ahmah and Mr Hamilton had made a mistake and they apologised.
- Referring to complaints made by neighbours regarding music events that had been held outside in September and October 2020, owing to the Covid restrictions, Ms Ahmah and Mr Hamilton had to externalise all of their music events that they would have otherwise held indoors. They didn't want to have music outside.
- The representation received from Ian Croll, Environmental Health (Pollution Control) was reliant upon noise recorded via an App and Mr Croll had not attended the premises or neighbouring properties to perform any sound checks. • Regarding the representation made by the Licensing Authority expressing a lack of faith in Ms Ahmah and Mr Hamilton's abilities to run the premises in accordance with the licensing objectives, this was rebutted. They had been using TENs with no complaints. No further complaints had been received since April 2021.
- Ms Ahmah and Mr Hamilton had successfully run the premises for a total of ten years. If problems in relation to crime and disorder and public nuisance were that prolific then enforcement action would have already been taken and residents would have submitted their objections to this application.
- It was re-iterated that Ms Ahmah and Mr Hamilton had invested a significant sum of money in renovating the pub and were therefore committed to providing a well-run venue for the local community. They wished to use the outside servery until 10pm. If any problems did occur in relation to disturbance of neighbours' enjoyment of their amenities, a review of the licence could be called for.

GUILDFORD BOROUGH COUNCIL

The Sub-Committee noted the following submission made by Mr Mike Smith on behalf of the Licensing Authority:

- He confirmed that an 8pm stop time for drinking in the garden had been applied as a condition following an application to vary the licence in 2014. This was applied in response to complaints received regarding noise.
 - The Licensing Authority did not have an issue with the installation of the outside servery however they were concerned regarding the extension of the area in which people could drink beyond 8pm as it would invariably increase noise from customers. It was only a small outside area in which customers could drink until 11pm.
 - On 24 April 2021, the Licensing Authority did undertake a visit of the premises and found that the outside bar servery was open beyond 8pm and the DPS, Ms Ahmah was given appropriate advice.
- He was concerned that things might slip back. There had been short term improvements in the past, but then problems had recurred.

The Sub-Committee noted the following submission made by Mr Ian Croll on behalf of Environmental Health (Pollution Control):

- He referred to a detailed objection received regarding an outdoor music event that took place at the Holroyd Arms on 1 October 2020. Owing to Covid restrictions, the government endorsed the use of outside premises for music events as long as the noise was restricted to background levels.
- Further complaints had been received about an event that was held on 10 October 2020. The DPS, Ms Ahmah was dismissive, and he had not had any response to a request for a noise management plan.
- The noise app had recorded noise intrusion from a neighbour's living room.
- A notice was not served at this point owing to no more complaints being received.
- Following the complaints received regarding the most recent event held outside on 24 April 2021 where two speakers had been placed on the outside bar servery, a meeting was arranged with Ms Ahmah and Mr Hamilton and the relevant authorities on 7 May 2021. A noise abatement notice was then served on 27 May 2021. The response was not constructive, and a noise complaint was received the following day.

The Chairman asked where the sound recordings had been taken from. Mr Croll confirmed that the sound clips played at the hearing were a clip from a garden at 3:56pm on 24 April 2021, a clip from a bedroom on 31 October 2020 at 5:26pm and 5:59pm, and a clip from a garden at 2:41pm and 6:37pm on 10 October 2020.

The DPS, Ms Ahmah made the following submissions:

- With regard to the event held on 24 April 2021, everybody was outside talking with background music being played until 6pm. All neighbours had been notified about the silent disco continuing until 8pm.
- The pub had no issues with neighbours and Mr Croll had been invited to attend the premises to undertake a noise limit test which he declined.

GUILDFORD BOROUGH COUNCIL

- Between July - October, a total of 12 events had been held and it was only in October that Mr Hamilton and Ms Ahmah were notified that complaints had been received.
- No Temporary Event Notice (TEN) had been submitted for the event on 24 April 2021 as they had forgotten owing to the pressures of running a pub during Covid-19 and lockdown.

The Sub-Committee noted the following submission made by Mr Ian Croll on behalf of Environmental Health (Pollution Control):

- Neighbours were not routinely notified when a variation to a licence was submitted and therefore this may explain why no complaints had been received. However, over the course of the events outlined, 5 separate household complaints had been received.
- With regard to the live event last summer, the pub was notified in relation to the complaints received. Environmental Health build a case before issuing notices and would not use under hand tactics.
- Background music can be construed differently according to what was deemed acceptable by nearby neighbours.
- He confirmed that he did not go to the pub to undertake a noise limit test as invited by Mr Hamilton owing to the fact it was a Saturday and not a working day. It was not his job to do background noise testing, but he did do noise patrol in the evenings.
- The Environmental Health file notes regarding the Holroyd Arms dated back to 2015 and the existing applicants had repeatedly displayed a dismissive attitude with Environmental Health officers.

Mr Mike Smith confirmed on behalf of the Licensing Authority that to the premises had complied with the requirement to advertise a full variation application in the local paper and a notice at the premises. It was also on the Council's website. Complainants however would not have been directed to the advertisement and may not have seen it.

Mr Domleo asked the Sub-Committee for a short adjournment so he could speak to the applicants about the matters raised, which was granted.

Mr Domleo (the applicant's solicitor) was invited to make his final comments:

- With regard to issues raised about the speakers positioned on the external bar servery, it had been agreed with Ms Ahmah and Mr Hamilton that these would be removed so that no music could be played in the garden in future.
- No complaints had been received about the premises prior to Covid-19 and Ms Ahmah and Mr Hamilton had increased the number of staff onsite to deal with the effective management of Covid restrictions.
- 10pm was a sensible time at which outside drinking should be permitted and no residents or the police had objected to the proposed increase in time.
- Ms Ahmah and Mr Hamilton had made their telephone number available to residents and also had a complaints logbook. They wanted their business to flourish and would seek to uphold the licensing objectives.

GUILDFORD BOROUGH COUNCIL

Having considered the submissions made by the applicant, Environmental Health (Pollution Control) and the Licensing Authority, the Sub-Committee:

RESOLVED to grant the variation of the authorised plan attached to the licence for Holroyd Arms, 36 Aldershot Road, Guildford, Surrey, GU2 8AF. The Sub-Committee also agreed to:

Remove the following conditions:

Additional Conditions agreed by the Licensing Sub Committee D on 19-08-2005

1. The designated premises supervisor shall be a member of Pub watch
2. Maintained illuminated fire exit notices shall be displayed above each exit door and at any change in direction. They must be illuminated at all times when the premises are in use.
3. Fire-fighting equipment shall be kept on the premises and maintained in satisfactory working order, unobstructed and available for immediate use.
8. External windows and doors serving the licensed area shall be kept shut at all times when entertainment is being provided. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter and must be fitted with self-closers, which shall be maintained in good working order, which shall ensure this. Noise from closing of doors shall not be audible beyond the site boundary.

Additional conditions agreed with Surrey Police on 18-12-2013

7. The CCTV will cover the area marked Lawned Garden

Additional conditions agreed with the Licensing Sub-Committee on 29-01-2014

1. The lawned garden will be closed to customers at 20:00. A gate will be fitted to close the area from 20:00 to customers.
2. A designated member of staff will regularly monitor the external area marked "Lawned Garden" on the plan attached to the premises licence, when in use, to ensure any empty receptacles are collected.

Condition 7 agreed by the Licensing Sub Committee D on 19-08-2005 -.All entertainment shall be restricted to within the buildings of the premises and no loud speakers external to the building shall be permitted, would remain on the licence in view of the applicant's agreement not to have any external speakers.

GUILDFORD BOROUGH COUNCIL

Add the following conditions to the licence:

1. The premises shall be a member of Pub Watch, where such a scheme exists.
2. The CCTV shall cover the external area
3. The sale of alcohol from the external bar servery shall be permitted daily until 21:00.
4. When regulated entertainment is taking place, in the form of live and recorded music, all windows and external doors shall be kept closed, except in the event of an emergency and for the immediate access/egress
5. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance

6. No customer shall be permitted to use the rear beer garden after 21:00

7. No customer shall be permitted to use the rear side beer garden after 23:00

8. After 23:00 customers shall be permitted to smoke in the designated smoking area only and no drinks shall be permitted to be taken into any external area after this time.
9. Staff shall monitor customers in the external area of the premises on a regular basis and ensure customers do not cause a public nuisance.

REASON FOR DECISION:

In reaching their decision to grant the application in part, the Sub-Committee considered both written and oral representations from the applicant and responsible authorities.

The Sub-Committee was mindful of the concern that the application had caused to Environmental Health and the Licensing Authority, in terms of the potential for public nuisance and crime and disorder and was sympathetic to their concerns in view of the fact that a number of noise complaints had been received by Environmental Health . However, the Sub-Committee noted that this was not a review of the premises licence and the concerns only related to the proposed removal of conditions restricting the use of the rear garden. The Sub-Committee noted that there was no objection to the variation of the plan and to the removal of the majority of the conditions applied for. The Sub-Committee also noted that the pub would not have ordinarily played music outside in the garden and this was a result of the restrictions placed upon them by the Covid-19 pandemic by not being able to host their usual events indoors. The complaints regarding the volume of the music had been received since lockdown began. The Sub-Committee were satisfied that removing the external speakers that had been placed on the outside servery bar would reduce the risk of the licensing objectives being contravened. The Sub-Committee were however concerned about the use of the rear beer garden until 10.00 pm. This would inevitably cause more noise to local residents. The Sub-Committee felt that 9.00 pm would be reasonable and therefore agreed to the amendment of the conditions allowing the rear beer garden to remain open until 9pm. This would help to further minimise the risk of a public nuisance being caused in terms of noise.

GUILDFORD BOROUGH COUNCIL

The Sub-Committee recognised that Ms Ahmah and Mr Hamilton were committed to providing a good service and a pub which was valued within the community. The Sub-Committee was satisfied that should Environmental Health or Licensing continue to receive complaints about the operation of the premises, the appropriate action would be to apply for a review of the premises licence.

Signature of Chairman:

Dated: