

GUILDFORD BOROUGH COUNCIL

| LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE | |
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| DATE OF HEARING | Monday, 16 October 2023 |
| SUB-COMMITTEE MEMBERS PRESENT: | Councillor Amanda Creese (Chairperson) Councillor Catherine Houston Councillor Dominique Williams |
| OFFICERS PRESENT: | Mr Mike Smith (Senior Specialist, Licensing and Community Safety) Mrs Kate Gillman (Legal Advisor) Miss Sophie Butcher (Democratic Services Officer) |
| DISCLOSURES OF INTEREST BY MEMBERS PRESENT: | No disclosures of interest were declared. |
| PREMISES: | The Guildford Manor Hotel, Newlands Corner, Guildford, Surrey, GU4 8SE |
| TYPE OF APPLICATION: | Application for a Review of Premises licence. |
| APPLICANT – ATTENDEES PRESENT: | Ms Caroline Laird, Immigration Officer Mr Raj Hundal (Lead for Home Office Alcohol Licensing) PCA Brady (Surrey Police) |
| REPRESENTATIVES FOR THE PREMISES LICENCE HOLDER: | Mr David Foster, Partner of Moore Barlow Ms Rachel Hetherington, Associate of Moore Barlow Ms Rosie Lansdown, Trainee Moore Barlow Mr Charles McNeil, Director Mr Douglas McNeil, Director Mrs Nahid McNeil (Former Director) Mr Andrew McNeil |

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 4.3-4.4: (Fundamental Principles)
- Section 12.5, 12.1.1 and 12.1.14: (Prevention of Crime & Disorder)
- Section 17: (Licence Conditions)
- Section 20.1-20.2: Reviews

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

- Section 2, paragraph 2.6: The licensing objectives
- Section 9, paragraph 9.25 and 9.38: Determining applications
- Section 11, paragraph 11.26, 11.27, 11.28, 9.42-9.44: Reviews

The Sub-Committee received a report from the Senior Specialist, Licensing and Community Safety, Mike Smith. An application for a Review of the Premises Licence held for Guildford Manor Hotel had been called for by the Home Office Immigration team as a responsible authority. The licence had been in effect since conversion in November 2005 and is held by Nahid Residential Ltd, having been transferred in January 2015. The Designated Premises Supervisor (DPS) was a Mr Andrew McNeil. An application had recently been received to vary the DPS to Mr Douglas McNeil.

The Review had been called for on the grounds of the prevention of crime and disorder following the discovery of illegal workers at the premises on 31 May 2023 by the Home Office Immigration Team and Police. This was the second occasion that illegal workers had been found at the premises following a previous visit on 24 November 2021.

GUILDFORD BOROUGH COUNCIL

The application sought the revocation of the premises licence on the grounds that all operators were expected to take steps to promote the licensing objectives, with the Home Office (Immigration Enforcement) believing Nahid Residential Ltd by employing illegal workers are not preventing crime and disorder and therefore should no longer be allowed to hold a premises licence.

The Sub-Committee noted that the employment of illegal workers was a serious crime. Any action taken, should always be no more than appropriate and a proportionate response to address the causes of concerns that instigated the review. The Sub-Committee was reminded of the steps it could take that were appropriate for the promotion of the licensing objectives such as modifying conditions, excluding a licensable activity, removing the DPS, suspending the licence for 3 months or revocation of the premises licence.

The Chairperson invited the applicant, Caroline Laird to speak on behalf of the Home Office Immigration Team and make their representation. Ms Laird confirmed that they had found illegal workers at the Guildford Manor Hotel on two occasions which was against the law and contravened the licensing objective of preventing crime and disorder. On the 31 May 2023, the Home Office Immigration Team found seven workers, of which two were found to be working illegally. In November 2021, two illegal workers were also found. The hotel management was aware of the checks required to be carried out so to ensure that their employees had the right to work. A civil penalty fine of £20,000 was issued following the November 2021 visit which had been paid in full. A decision was yet to be made on what action to take regarding the second visit in May 2023 which uncovered two further illegal workers.

The Chairperson invited the premises licence holder's representative, Mr David Foster, Solicitor to make their representation. Mr Foster commented that the civil penalty fine was paid immediately when issued following the finding of two illegal workers in November 2021. Guildford Manor Hotel was in a period of managerial transition in moving the responsibilities for running the hotel from the parents to their two sons. The family was committed to running the hotel according to lawful procedures. In relation to the student who had worked more hours than he was entitled such as working a 40 hour week as opposed to 20 hours as required, this was put down to an element of confusion on the

GUILDFORD BOROUGH COUNCIL

students part. The second illegal worker had not told the truth about their status to work in the UK. When the error became evident Mrs Nahid took pity on the worker and permitted him to stay onsite and gave him cash in hand for doing odd jobs. This was at no financial advantage to the business.

Mr Foster stated that the Directors now in place Douglas and Charles McNeil had both studied at university, Douglas had been to the London School of Economics and Charles had studied economics and worked at an Investment Bank. Owing to not want to jeopardise the hotel business any further owing to the discovery of the illegal workers, a decision had been made to remove their mother, Mrs Nahid McNeil as the Director. Mrs Nahid McNeil was officially removed in September as evidenced on the Company House's website. The current Directors wished to modernise the business and noted difficulties experienced in recruiting people to hotel jobs as local people would not apply. The Sub-Committee noted that the Directors had now put in place a comprehensive HR system via Bright HR which provided a digital trail of which employee was working, when, and for how long. In addition, Trust ID was used to perform a face ID check that was linked to police systems and flagged if potential employees did not have the right to work. In addition, a new general manager had been recruited with 15 years HR experience and would work in close partnership with the Directors. An application had also been submitted for Douglas McNeil to become the new DPS and for Andrew McNeil to step down as DPS.

Mr Foster stated that a revocation of the premises licence would not help the business. The family owned another smaller hotel which was linked to the Guildford Manor Hotel as working capital, therefore, if the premises licence was revoked, both businesses would be severely affected along with the loss of a number of jobs. The Sub-Committee was referred to the revised Home Office Guidance issued in August 2023 which required right to work checks to be undertaken along with a copy of that documentation to be kept as well as the addition of conditions to address the prevention of crime and disorder. In this case, the Directors, Charles and Douglas McNeil had put in place new robust recruitment procedures which enabled such checks to be carried out and maintained according to the law. The hotel had taken out a 5-year contract with the company Peninsula which offered 24/7 HR support system, Trust ID and Bright HR.

Mr Foster stated that the Directors, Charles and Douglas McNeil had started a new company called CAD22 Ltd. This was with the intention to offer the Sub-Committee an alternative name, should they feel that it was no longer appropriate to

GUILDFORD BOROUGH COUNCIL

have an association with Nahid Residential. However, it was also recognised that the company would still have the same Directors in place, albeit without Mrs Nahid McNeill.

Mrs Nahid commented that she had bought the hotel with her husband 9 years ago. The hotel was in a bad state and they had worked hard to make it into a viable business concern. She was remorseful for the errors in not carrying out the checks correctly on potential employees regarding their right to work.

Mr Douglas McNeil further explained that following the first visit by the Home Office Immigration Team, it was clear to him and his brother that their parents had outgrown the business. He and his brother therefore sought to implement modern day business practices with robust HR procedures which are now in place.

Mr Raj Hundal on behalf of the Home Office Immigration Team asked for clarification on whether Andrew McNeil was still a Director when an application had recently been submitted to remove him as DPS. It was confirmed that Andrew McNeil was never listed as a Director and that Douglas had a middle name, Andrew, which was referenced on the Company House website and may have caused confusion.

The Sub-Committee noted that the recommendation by the Home Office Immigration Team to now revoke the hotel's premises licence had no doubt caused shock to the family who ran the hotel. The Directors Charles and Douglas McNeil were in place when the illegal workers were found. Therefore what assurance did the Sub-Committee have that this would not occur again given the same management would be in place, just without Mrs Nahid McNeil listed as a Director.

Mr Foster explained that the management of the hotel business was in a state of flux and transition between the time of November 2021 and May 2022 of the illegal workers being found. A lot of conflict had resulted between the parents and sons who wished to progress the business and bring its HR procedures up to modern day standards. The Directors, Charles and Douglas McNeil regretted hugely the events that had occurred with regard to illegal workers but were now confident that robust HR procedures were in place to prevent that from ever happening again.

GUILDFORD BOROUGH COUNCIL

The Sub-Committee received absolute confirmation that Mr Andrew McNeil and Mrs Nahid McNeil would not be involved in the running of the business on any level moving forward.

The Sub-Committee asked how the student worker had been permitted to work 40 hours a week when the conditions of his student permit only allowed him to work 20 hours a week in total. It was confirmed by Mr Douglas McNeil, Director that confusion had arisen over when the student was in term time and when he was not. The Sub-Committee was then referred to the example given as part of their submission, included in the agenda papers of Mr Abdullah Hazim who was a fictional character that was only permitted to work 20 hours a week during term time as a student which the HR system had identified and allocated him the correct hours as permitted by law.

The Sub-Committee asked about the welfare of the illegal workers and conditions found by the Home Office immigration team at the time of their visits. Caroline Laird confirmed that the rooms were small and felt quite cold. Mr Foster confirmed on behalf of the premises licence holder that the rooms did have heating however the hotel was looking to improve upon the workers accommodation and facilities overall.

The Senior Specialist, Licensing and Community Safety, Mike Smith in his summing up confirmed the options available to the Sub-Committee.

The Legal Advisor, Kate Gillman confirmed that the Sub-Committee must take such steps that it considered were appropriate for the promotion of the licensing objectives.

Having considered the submissions made by all parties, the Sub-Committee

RESOLVED: To not revoke the premises licence for The Guildford Manor Hotel, Newlands Corner, Guildford, Surrey, GU4 8SE and to add the following conditions to the licence: 'That the premises licence holder was required to maintain records of right to work checks of all the staff employed by the hotel and that evidence of those checks was retained at the premises and available for inspection by the Licensing Authority and other responsible upon request'.

GUILDFORD BOROUGH COUNCIL

REASON FOR DECISION:

In reaching their decision to not revoke the premises licence for The Guildford Manor Hotel, the Sub-Committee had carefully considered both written and oral representations from the applicant and the premises licence holder.

The Sub-Committee recognised that this is a serious offence and was very concerned it was the second occasion in an eighteen month period that illegal workers had been discovered and the immigration law broken. The Sub-Committee wished for the highest possible standard of compliance to be maintained at all licensed premises and were very aware that the Home Office Immigration Team and Section 182 Guidance had pointed them towards considering the revocation of The Guildford Manor Hotel's premises licence.

The Sub-Committee took into account the measures which Guildford Manor Hotel had put in place to address the human resource failings and on that basis had decided against revoking the premises licence for The Guildford Manor Hotel on this occasion. Those measures included the use of an online HR 24/7 support system via the company Peninsula which the hotel had taken out a 5-year contract with. The use of online digital systems such as Bright HR which enabled a digital clock in and clock out system which tracked what employees were working and when. Trust ID was also another system used which would flag false IDs, that linked directly to police records and prevented the employment of people who were not legally entitled to work in the UK. Lastly, a General Manager with 15 years of HR experience had been recruited to oversee the HR functions overall and would work in close partnership with the Directors.

The Sub-Committee was placing their confidence in the Directors; Douglas and Charles McNeil to carry out the running of the business in accordance with the law. The Sub-Committee fully endorsed the removal of Andrew McNeil as designated premises supervisor (DPS) and Nahid McNeil as a Director. The Sub-Committee had been minded to remove Andrew McNeil as the DPS had an application not been submitted to the Licensing Authority prior to the hearing. The Sub-Committee believed that these measures were appropriate and proportionate in preventing crime and disorder. The Sub-Committee expected that the new Directors realised the seriousness of this situation and take every measure to ensure compliance with immigration law and the licensing regulations.

GUILDFORD BOROUGH COUNCIL

Signature of Chairman:

Dated: