

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Wednesday 17 January 2024
SUB-COMMITTEE MEMBERS PRESENT:	Councillor Patrick Oven (Chairperson) Councillor Amanda Creese Councillor Bob Hughes
OFFICERS PRESENT:	Mr Mark Adams, Licensing Officer Ms Sophie Butcher, Democratic Services Officer Mr Barnaby Yates, Legal Advisor
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	There were no disclosures of interest.
PREMISES:	The Charcoal Grill, 15 Park Street, Guildford, GU1 4XB
TYPE OF APPLICATION:	Application to Review a Premises Licence issued under Licensing Act 2003
DETAILS OF APPLICATION SOUGHT:	Review
APPLICANT:	Surrey Police: Mr Iain Scott (Licensing Officer for the Police) Mr Peter Savill (Barrister for the Police)
LICENSING OFFICER:	Mr Mike Smith, Senior Specialist, Licensing and Community Safety

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PREMISES LICENCE HOLDER:	Mr Serkan Temur Witnesses: Security Guard Translator and friend Also in attendance: Licensing Agent (ESI Licensing and Legal Consultancy Ltd)
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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 12.1.13: (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 9.11 and 9.38: Determining applications
- Section 11, paragraph 11.26, 11.27, 11.28, 9.42-9.44: Reviews

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The Sub-Committee received a report from the Licensing Officer, Mark Adams. The Sub-Committee noted that a review of the premises, Charcoal Grill had been called for by Surrey Police. The premises was located on the gyratory in Guildford town centre and was close to a nightclub.

The premises had a number of licences under various owners/managers and was previously licensed for the provision of late-night refreshment, licence reference GUPL0035, from 24 November 2005 until 12 May 2014. Licence GUPL0035 was reviewed by Surrey Police in 2012, at which time the Sub-Committee amended the hours and imposed additional conditions. Licence GUPL0035 was reviewed by Surrey Police in 2013, at which time the Sub-Committee revoked the premises licence. The premises licence holder appealed the decision to the Magistrate's Court who dismissed the appeal on 12 May 2014. The current licence had been in effect since 10 April 2015, following a Sub-Committee hearing who granted the licence with further conditions, GUPLA0574. Additional conditions were attached to the licence following variations to the original licence.

The licence was then transferred to Mr Mutlu Temur in February 2020. Following the receipt of the review application from Surrey Police, the licence was transferred to Mr Serkan Temur. The Designated Premises Supervisor (required for the sale of alcohol) was still Mr Mutlu Temur.

The Sub-Committee was advised that it must consider the review of the premises on its merits. Having regard to the application and relevant representations made, the Sub-Committee must take steps (if any) as it considered appropriate for the promotion of the licensing objectives. Those steps were to either modify the conditions of the premises licence, exclude a licensable activity, remove the Designated Premises Supervisor, suspend the licence for a period not exceeding three months or revoke the licence.

The Chairperson, Councillor Owen, invited Mr Peter Savill, Barrister to make a representation on behalf of the Police. The Committee noted that the premises had a long history of review proceedings including a manslaughter that occurred on 12 October 2019. The Police expected premises who operated in Guildford's night-time economy to have a strict adherence to the law and the conditions that were attached to their premises licence.

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A review of the premises was called by Surrey Police who recommended that the licence was revoked. This was owing to a very serious incident that occurred on 8 July 2023 outside of Charcoal Grill which involved an altercation between three men, two of whom were stabbed. Two intoxicated men had entered the take-away and asked the DPS for a kebab at 3:40am. The sale was a breach of the late-night premises licence. The two males when leaving the premises stumbled against a car which was parked outside Charcoal Grill and resulted in a physical altercation. Had the premises been complying with the conditions of its licence the incident would not have occurred as per Section 136 of the Licensing Act.

Following the serious incident, the Police had met with the DPS, Mr Mutlu Temur to establish the facts and attempt to work together to prevent such an incident from happening again. The Police recommended that they voluntarily reduced their hours of operation to terminate at 02:00hrs as opposed to 03:00hrs. Mr Temur refused to reduce the hours of operation as this was the shops busiest time. Mr Mutlu Temur did offer three conditions which were described as 'new' and which he felt would prevent future serious incidents. The new conditions presented were:

The DPS would look to obtain a town link radio and ensure both he and his staff were trained in its use.

The DPS would ensure that the SIA guards remain onsite until all staff have left the premises.

The DPS to install suitable blinds to be drawn once the premises has stopped serving food and closed.

The Police found this response wholly unsatisfactory given that the above were already conditions on their existing licence. The fact that they were presented as 'new' highlighted the fact that the DPS, Mr Mutlu Temur held a complete disregard for the conditions on his licence.

The Police's Licensing Officer (PLO), Iain Scott made a follow up visit on 31 August 2023 to conduct a licensing check at the premises between 21:05hrs and 21:20hrs. A Mr Erkan Talit was stood behind the counter sorting some kebab meat and vegetables. It was explained to PLO Scott that the DPS was in Turkey. Mr Talit said that he did not work there but that he

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was only looking after the shop. A Mr Serkan Temur then turned up on the premises. Both were asked if they knew how to operate the Town Link Radio, which after some time spent searching for it, they both confirmed that they did not know how to use it. They both did not know how to operate the CCTV nor were they aware of the Challenge 25 policy.

Lastly, the training records provided were insufficient and completely out of date. It did not demonstrate who had been taught, what training had specifically been given and by whom. The petition submitted on behalf of the licence premises holder also raised more questions owing to references of a sexual nature and demonstrated a complete lack of comprehension with regard to the seriousness of the situation. Owing to the breaches of Charcoal Grill's premises licence and following the serious incident on 8 July 2023, Surrey Police sought a revocation of the premises licence.

The Chairperson, Councillor Owen invited PLO Iain Scott to make his submission. PLO Scott reiterated the points above already made by Mr Peter Savill (Barrister for the Police).

The Chairperson, Councillor Owen invited Mike Smith, Senior Specialist Licensing and Community Safety to make his submission on behalf of the Licensing Authority. The Sub-Committee noted that premises that held late-night refreshment licences, such as Charcoal Grill were expected to uphold the conditions of their licence. The Licensing Authority was therefore highly concerned that the management of the premises had not been undertaken in accordance with the Licensing Act. Owing to the serious incident that had occurred in July, licensing officers had met with Mr Mutlu Temur, the premises licence holder and the Police. They tasked Mr Mutlu Temur to go away and come back on 1 August 2023, to outline what actions would be taken to remedy the situation and ensure that such an incident did not occur again. As already relayed, Mr Mutlu Temur outlined three conditions that were not new but were already conditions of his current licence. In addition, the Sub-Committee was urged to take with a pinch of salt the fact that a whole-sale new change of management would result from the premises licence being transferred to Mr Serkan Temur from Mr Mutlu Temur. Given they were brothers the Licensing Authority and Surrey Police were highly sceptical that it would result in an improvement in managing the premises in accordance with the licence conditions. The Licensing Authority were not

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satisfied with the training records kept for staff as they were out of date with no robust training procedures currently in place. The petition submitted by the premises licence holder also raised more questions than it solved.

The Sub-Committee queried whether Mr Serkan Temur held any other premises licences and was confirmed by Licensing Officers that he did not. It was also confirmed by the Police that a man had been charged with Grievous Bodily Harm (GBH) with regard to the incident in July involving the stabbing of two men outside of Charcoal Grill. The man charged with GBH with intent, was due to have his case considered by the Crown Court and carried the potential for life imprisonment.

The Chairperson, Councillor Owen stated that the Sub-Committee was not aware that Mr Serkan Temur would be in attendance or that witnesses would attend as well, as they had. Mr Temur stated, with the help of his Turkish translator, that it was the first time something like this had happened to him. He did not know who could be a witness or not, which was not helped by the language barrier.

The Chairperson then invited the premises licence holder, Mr Serkan Temur to make his representation.

Mr Serkan Temur confirmed that given he was the new premises licence holder, he was not aware of the previous incidents that had occurred at Charcoal Grill and wanted to have the opportunity of a fresh start.

The Chairperson stated that given the previous premises licence holder was his brother, did he therefore not relay such information to him as well as providing an overview of how to run the premises.

Mr Serkan Temur confirmed that the lease was transferred to him on 14 November 2023, and he had only since then taken charge of the business.

The Chairperson asked Mr Serkan Temur whether he knew how to operate the CCTV system and Town Link Radio which was positively confirmed by Mr Temur.

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The Chairperson asked Mr Serkan Temur about his proficiency in speaking and understanding English, given the importance of understanding the complexity of the conditions attached to the premises licence?

Mr Serkan Temur confirmed that the conditions were complicated to understand but that he was learning.

The Chairperson stated that given Mr Serkan Temur's apparent difficulties in his understanding of the English language, how could the Sub-Committee therefore be assured that he would understand the conditions attached to the premises licence?

Mr Serkan Temur then proceeded to confirm that a DPS was required to be onsite on a Monday, Friday and Saturday from 11:00hrs – 3:30hrs. He also confirmed his understanding of the Challenge 25 Policy in that if someone looked under the age of 18 he would ask for ID when selling alcohol. However, he had nevertheless undertaken to not sell alcohol on the premises or as part of a delivery. He also confirmed that blinds had been installed in the shop and that he did not live at the premises but close by.

The Chairperson, Councillor Owen asked if the Police had visited the premises over Christmas and the New Year to observe how Charcoal Grill was being run. It was confirmed that the Police had not visited.

Mr Peter Savill, Barrister for the Police was invited to question Mr Serkan Temur who asked who the DPS was for Charcoal Grill.

Mr Serkan Temur confirmed that he was the DPS for Charcoal Grill which to his knowledge was made official on 14 November 2023.

Mr Savill asked when the Council was sent the application to request the change of DPS, which again was confirmed by Mr Serkan Temur as November 2023. Mr Savill confirmed that there was a difference between the premises licence transfer

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and an application for a change in the named DPS. As per the officer's report, as part of the agenda on page 8 paragraph 1.10 stated that the premises licence was in fact transferred in September 2023. Mr Serkan Temur confirmed that it was the lease that he was referring to which had been transferred to his name on 14 November 2023.

The Licensing Officer, Mark Adams confirmed that following the receipt of the request for a review of the premises licence by the Police, the premises licence was also transferred to Mr Serkan Temur in September 2023, but was a tacit consent only as it was subject to the outcome of this hearing. Mr Serkan Temur received confirmation by email from the licensing team that tacit consent had been granted. It was also confirmed that no application had been received to change the DPS and as such it remained as Mr Mutlu Temur. Given that it had been confirmed by Mr Serkan Temur that there were now no sales of alcohol on or off the premises, the licensing conditions were therefore not being breached and there was no requirement for a DPS.

The Sub-Committee noted that Mr Serkan Temur had not worked at Charcoal Grill prior to becoming the owner and premises licence holder but ran his own business. The Sub-Committee queried whether Mr Serkan Temur had undertaken training to understand the conditions of his licence and what steps had he taken so far to ensure that these conditions were met. Mr Serkan Temur confirmed that he had undertaken the necessary training and had taken steps such as stopping the sale of alcohol on and off the premises. He had also introduced extra shifts to ensure that enough people were onsite to manage the customers in busy periods and put up the Challenge 25 poster in the shop.

Mr Serkan Temur in his final submission reiterated that as the new owner of Charcoal Grill he would like to be given the chance of proving himself. He wished to abide by the conditions of his premises licence. No incidents had occurred since he had taken over the take-away and wished to keep it that way.

The Sub-Committee heard a submission from the Security Officer of Charcoal Grill. He confirmed that once the shop has closed, he would stay on the premises for a further 30 minutes to ensure that no incidents occurred. This new procedure had been introduced since Mr Serkan Temur had become the new premises licence holder. He stated that there were two

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security officers in attendance on the premises on Friday, Saturday and Sunday nights and that he was the Senior Door Person.

The Sub-Committee heard a submission from Charcoal Grill's licensing agent. It was explained that he represented ESI who were a private licensing agency who provided training and consultancy advice. Mr Mutlu Temur was his previous client who as DPS was able to sell alcohol. Mr Mutlu Temur had to step away from the business owing to health issues that prevented him from being able to give it the attention it needed. Mr Serkan Temur did not have a personal licence to sell alcohol and therefore he was not able to provide such a service as part of his business.

The Licensing Agent confirmed that he would assist Mr Serkan Temur in undertaking and rolling out the necessary training required of him and his staff to run the premises in accordance with the conditions of his licence.

The Licensing Agent expressed concern for the health and safety of his own daughter who was 19 years old and went to the University of Surrey. She lived in Guildford and went out at night using the pubs, clubs and take-aways. It was the Licensing Agent's belief that the incident which happened in July 2023 involving the altercation between the three men had in fact started in a pub nearby and not at Charcoal Grill. If the premises licence was revoked, it would not assist with the bigger problem of stemming such incidents of violence overall. It was also stated that the Police and emergency services took a long time to respond to the altercation which occurred in July.

He wished to help Mr Serkan Temur and work with the Licensing Authority and Police in ensuring that the premises was run safely in future.

The Licensing Officer, Mark Adams reminded the Sub-Committee that they must consider the Review application on its merits taking into consideration the representations made. The Sub-Committee noted the various options available to them.

The Legal Advisor, Barnaby Yates had nothing further to add.

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

RESOLVED: To not revoke the premises licence for The Charcoal Grill, 15 Park Street, Guildford, GU1 4XB

REASON FOR DECISION:

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

The Sub-Committee wished to confirm that had the premises licence holder not changed, then their decision, given the seriousness of the incident in July 2023, would have been to unhesitatingly revoke the licence for Charcoal Grill.

The Sub-Committee noted that the premises licence had been transferred to Mr Serkan Temur in September 2023 and he had not been involved in the running of the premises until that point, the Sub-Committee recognised that he should be given a chance to prove that he could run the premises in accordance with the conditions of his licence and understood that there had been no incidents to date since Mr Serkan Temur had taken over the management.

The Sub-Committee took into account the seriousness of the incident which occurred in July 2023 which resulted in the stabbing of two young men. Before the incident, the two men were served food at the premises, when it was trading outside of its agreed hours of business. In this regard the Sub-Committee considered that it was appropriate to therefore reduce the hours of trading from 03:00hrs to terminate at 02:00hrs. The Sub-Committee believed that these measures were appropriate and proportionate in preventing crime and disorder and ensuring public safety. The following hours of operation therefore now applied:

Late Night Refreshment

23:00 hours to 02:00 hours Monday – Saturday

Sunday 23:00 hours to 01:00 hours (as per licence currently)

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Opening Hours

12:00 to 02:00 hours Monday – Saturday

Sunday 12:00 hours to 01:00 hours (as per licence currently)

As well as the following amendments to conditions:

5e) No new customer shall be admitted to the premises after 01:30 hours Monday – Saturday and all customers shall leave by 01:45 hours. For Sunday, no new customers shall be admitted to the premises after 00:45 hours and all customers must leave by 01:00 hours.

5f) The premises is required if it continues to provide food and beverages via a delivery service past 01:30 hours (until 02:00 hours), to have suitable blinds (or other effective physically attached device/s) to clearly show that the premises is closed to the general public.

5p) No customers to consume food within the shop from 01:30 hours.

The Sub-Committee agreed that it was also appropriate that the licence for the sale of alcohol on and off the premises was revoked with immediate effect and to remove Mr Mutlu Temur as DPS. This was consistent with Mr Serkan Temur's commitment to no longer selling alcohol on or off the premises for which a DPS was not required.

The Sub-Committee emphasised the importance of the premise licence holder and his staff undertaking ongoing training to ensure that the conditions of the premises licence were upheld at all times. The Sub-Committee received reassurance from the Licensing Officer, Mark Adams that they would work closely with Charcoal Grill and ESI Licensing who were the business' licensing consultants. If any such serious incidents occurred in the future, the Police held the powers to call a Review and revocation of the premises licence would be fully considered.

Signature of Chairman:

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Dated: