

## GUILDFORD BOROUGH COUNCIL

| <b>LICENSING ACT 2003<br/>RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE</b> |  |
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| <b>DATE OF HEARING</b>  | Monday, 30 March 2015  |
| <b>SUB-COMMITTEE MEMBERS PRESENT:</b>   | Councillor Graham Ellwood (Chairman)<br>Councillor Jennifer Jordan<br>Councillor Marsha Moseley  |
| <b>OFFICERS PRESENT:</b>  | Sophie Butcher (Committee Manager)<br>Peter Muir (Licensing Compliance Officer)<br>Bridget Peplow (senior Lawyer Litigation)   |
| <b>DISCLOSURES OF INTEREST BY MEMBERS PRESENT:</b>  | None   |
| <b>PREMISES:</b>  | Ockfest<br>Blackmoor Heath<br>Ockham<br>Surrey<br>KT11 1NH   |
| <b>TYPE OF APPLICATION:</b>   | Notification of a Temporary Event.   |
| <b>DETAILS OF APPLICATION SOUGHT:</b>   | The licensable activities notified on the temporary event notice are:<br><br><ul style="list-style-type: none"> <li>(a) The sale by retail of alcohol</li> <li>(b) The provision of regulated entertainment and</li> <li>(c) The provision of late night refreshment</li> </ul> <p>on Saturday 11 July 2015 from 1200 hours to 0000 hours (midnight)</p> |
| <b>PROPOSED PREMISES USER:</b>  | Mr Anthony Joseph Goff   |
| <b>FOR ENVIRONMENTAL HEALTH:</b>  | Mr Gary Durrant  |
| <b>OTHER PERSONS IN ATTENDANCE:</b>   | Mr Dominic Armstrong (to support Mr Goff)  |

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## **DETAILS OF DECISION TAKEN AND REASONS THEREFORE:**

In arriving at its decision, the Sub-Committee took into account the relevant representations submitted both in writing and orally at the hearing.

The Sub-Committee was also made aware that the following were relevant:

### Guildford Borough Council's Statement of Licensing Policy

- Section 5 – paragraphs 5.1 to 5.17: Fundamental Principles
- Section 8 – paragraphs 8.1 to 8.12: Temporary Event Notices
- Section 11 – paragraphs 11.1 to 11.6: Licensing Objective – (3) prevention of nuisance

### National Guidance Issued by the Secretary of State under Section 182 of the Licensing Act 2003:

- Paragraphs 2.18 to 2.24 – Public Nuisance
- Paragraphs 7.1 to 7.37 – Temporary Event Notices

The Sub-Committee was informed that Ockfest was sited in an area characterised by a mix of residential and rural properties. The Temporary Event Notice (TEN) had been amended to clarify that a maximum of 499 attendees was permitted. The Sub-Committee was advised that they could not apply conditions to the TEN. After consideration of the objection notice from Environmental Health, together with the submissions made at the hearing, they had to determine whether it was appropriate for the promotion of the prevention of public nuisance objective to give a counter notice, which would prevent the event from going ahead.

The Environmental Health Officer requested clarification as to whether there was flexibility for the applicant to withdraw the TEN and re-submit with different operating times. The Licensing Compliance Officer confirmed that it was possible for the applicant to submit a new TEN.

The Sub-Committee considered the following submissions made by the applicant:

- He wanted to host a local produce festival;
- ambient background music would be played during the day;
- local organisations and charities had all expressed an interest in being involved;

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- all equipment had been hired for a period of 12 hours;
- he was trying to secure Simply Red to play the festival as well as a local band from Cobham.

The Sub-Committee requested clarification on how two very different events such as a produce market during the day and a large music event in the evening would be effectively managed. How would the applicant ensure that no more than 499 persons entered the site? The applicant confirmed that it would not be advertised that Simply Red were playing. All attendees had to have a ticket before entrance to the site was permitted. No tickets would be sold on the door. In addition, a seven-foot security fence would be installed around the entire site. In addition, a team of 10-20 people from G4S Security would patrol the perimeter fence at all times during the event to stop people entering the site without a ticket.

The Sub-Committee also queried the fact that whilst the equipment needed for the event could be hired for a total of twelve hours, would it necessarily be required until midnight. The applicant confirmed that he had initially requested midnight as the finish time, however he did not want the festival to run until midnight and in retrospect he would have requested an earlier finishing time.

The Sub-Committee queried whether the ticket bought for entrance to the site would enable a person to leave and come back again for the evening entertainment. The applicant confirmed that people would not be permitted re-entry. The applicant also stated that he had not run an outdoors event such as this before. The events he had hosted, to date, were largely indoors produce markets with the latest finishing at 9pm.

The Sub-Committee received the following representation from the Environmental Health officer:

- he acknowledged that the applicant had wholeheartedly engaged with Environmental Health in trying to mitigate concerns in relation to noise pollution for neighbouring residents;
- he was concerned in relation to how late and at what level the music would be played.

The applicant confirmed that he had been in contact with the nearest neighbour located at a property called 'Barnsthorns' who was friends with the land owner and was in support of Ockfest. The applicant would also contact all local residents located in Surrey Gardens and Old Lane in advance of the event with details of how to complain about noise levels, and the relevant telephone numbers.

The Sub-Committee noted that there had been no representations from the Police.

Having considered Environmental Health's objections and the submissions made by the applicant, the Sub-Committee

**RESOLVED:** That a counter notice be issued by Guildford Borough Council under Section 105 (2)(b) of the Licensing Act 2003 in respect of the temporary event notice as it was considered appropriate for the prevention of public nuisance objective to do so.

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**REASON FOR ISSUING THE COUNTER NOTICE:**

The Licensing Sub Committee considered both written and oral representations from Environmental Health as well as the submissions made by the applicant, and was satisfied that there was a serious risk of public nuisance if the event was allowed to go ahead, and it was therefore appropriate to issue a counter notice.

The Sub-Committee was concerned about the midnight finishing time. Whilst the Sub-Committee noted that the applicant had stated an intention for the music to finish earlier than midnight, the Sub-Committee was not able to alter the times on the notice or impose conditions on the event and therefore allowing the event to go ahead would entitle the event to run until midnight. The Sub-Committee were also not satisfied that sufficient measures had currently been taken to satisfy Environmental Health that the music would be played within appropriate noise limits. The Sub-Committee encouraged the applicant to re-apply for a TEN with an earlier finishing time of 10pm and to work with Environmental Health to resolve their objections.

Signature of Chairman: .....

Dated: .....