

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Thursday, 2 April 2015
SUB-COMMITTEE MEMBERS PRESENT:	Councillor Graham Ellwood (Chairman) Councillor Jennifer Jordan Councillor Terence Patrick (Chairman)
OFFICERS PRESENT:	Sophie Butcher (Committee Manager) Peter Muir (Licensing Compliance Officer) Bridget Peplow (Senior Lawyer Litigation)
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	None
PREMISES:	Fahrenheit 55/Tudor Lounge Tudor Lounge 3 Milkhouse Gate Guildford Surrey GU1 3EX
TYPE OF APPLICATION:	Application for the variation of a premises licence number GUPLA0436.
DETAILS OF APPLICATION SOUGHT:	The premises is a public house located in the town centre. The application is to vary the authorised plans attached to the licence. All licensable activities and authorised hours to remain unaltered.
APPLICANT:	Mr Jonathan Croxford, 6 Weyview Close, Guildford, Surrey, GU1 3EX
OTHER PERSONS:	Mr Bob Bromham – (Secretary, Holy Trinity Amenity Group HTAG)

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DETAILS OF DECISION TAKEN:

The Sub-Committee considered the application for the variation of a premises licence GUPLA0436 to vary the authorised plans attached to the licence. The Sub-Committee also considered the relevant sections of the Council's Licensing Policy and the National Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 (as amended).

The Sub-Committee was informed by the Licensing Compliance Officer that no change to the proposed hours had been requested. The proposal was to allow patrons to take beverages into a small paved area, roped off to contain smokers during the evening after 8pm, with the area being closed to patrons from 11:30pm Sunday to Thursday and 2am on Friday and Saturday. Some minor internal changes to the building had been undertaken, including the reduction of the bar area in the Tudor Lounge end of the premises allowing patrons to access the bay window. An SIA registered door supervisor would monitor the premises from 22:30 until the area was cleared, and would ensure patrons in the smoking area kept the noise down to prevent disturbance to local residents.

The Sub-Committee noted that Environmental Health had submitted a representation, which was withdrawn following mediation as they were satisfied that the applicant had taken sufficient measures to mitigate concerns in relation to noise nuisance. Two further objections had been received, one from the residents of no 1 Milkhouse Gate and another from the Holy Trinity Amenity Group (HTAG).

The Sub-Committee was advised that they should consider the application for the variation of the premises licence on its merits taking into account the licensing objectives, but should not consider matters such as whether the area had planning permission, authorisation from the owner or a highways licence, as these would be determined separately.

Mr Croxford made the following submissions in support of his application and in relation to questions raised by the Sub-Committee:

- The outside paved area was created as a result of the smoking ban. It was a small parcel of land leased for a thousand years.
- The area was originally screened, but it could not be used as a smoking area as it was too enclosed, therefore a gate was installed.
- The intention was that tables and chairs would be put in so that the customers could sit outside. He didn't want it to just be for smokers..
- People could smoke anywhere, but by having a separate roped-off area, it could be kept clean and tidy. .
- In the interests of the safety of patrons, it was important that smoking patrons could take their drinks with them and not leave them unattended.
- The area was also monitored by SIA doorstaff.
- To make the area look more appealing, hanging baskets would be fixed at low levels and flowerbeds installed on top of the screens.
- He confirmed that there would be a total of three SIA registered door staff, one located at the front of the premises, one located at the back of the premises and one patrolling. The manager of the premises was also SIA accredited.

The Chairman noted that as part of HTAG's written submission a number of planning matters and issues in relation to the ownership of the land had been raised. He reminded Mr Bromham, who was in attendance on behalf of the Holy Trinity Amenity Group (HTAG), that they

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could only consider the licensing application before them. Planning matters could not be considered by the Sub-Committee and should not be addressed as part of HTAGs oral submission. The Chairman clarified that normally a licence was applied for first, and if granted, then it was a matter for the applicant to seek the relevant approval from the planning authority. If the applicant operated outside of any planning restrictions, then it was for the planning enforcement team to address those matters.

Mr Bromham of HTAG queried whether Milkhouse Gate was a prohibited area for street drinking. The Licensing Compliance Officer clarified that the Designated Public Places Order (DPPO) in respect of Guildford town centre was not an absolute prohibition against people drinking in public. However, if they were to display anti-social behaviour then the Police could confiscate their drinks. In addition, anti-social behaviour was monitored by the SIA registered door staff. The Sub-Committee noted that the Police had not submitted an objection in relation to this application.

Mr Bromham of HTAG stated that no street trading was permitted on Milkhouse Gate and no pavement licences could be granted. The Chairman confirmed that pavement licences were issued by Surrey County Council and again was not a matter for the Licensing Sub-Committee.

Mr Bromham of HTAG made the following submissions in objection to the variation application:

- a lot of HTAG members lived close to Fahrenheit 55 and would be affected by the variation if granted;
- the paved area was located in a very small space and it was therefore very difficult to avoid any type of nuisance occurring;
- he was concerned about vomit on the pavement and noise nuisance to the residents of No. 1 Milkhouse Gate as well as nearby residents in Tunsgate;
- the public walkway will get very congested and affect passers-by;
- a rope was an insufficient means of separating the customers from the public using the passage, was a trip hazard, could easily be removed and it would be easy for passers by to pass items across to persons inside;
- it was a fire escape route and therefore affected public safety;
- he could not understand why drinks could not be left unattended or why customers could not finish their drinks before going outside;
- broken glass was a problem and could be dropped in the walk way over the rope;
- the premises was described as a public house when in reality it was a night club;
- the enclosed area increased the effect of noise, particularly for the nearby residents at no.1 Milkhouse Gate;
- children would use the walkway particularly when late night events, were taking place such as the switching on of the Christmas lights and could potentially feel intimidated by a group of twenty drinkers located outside;
- it was not a big enough area to clear the smoke.

The applicant confirmed the following:

- he had not received any complaints from local residents;

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- he clarified that the rope which had been referred to as the division between the smoking area and the passageway was in fact a fixed barrier with a hanging canvas draped over it;
- the applicant frequently liaised with the Police and Street Angels;
- any broken glass was immediately cleared away and the passageway was swept at the end of the evening. It was not in their interests to create a bad atmosphere for anyone;
- the intention was to create a much nicer area to encourage non-smokers to enjoy the space as well.
- the applicant would be the tenant of 1 Milkhouse Gate by the end of the month.

The Sub-Committee also noted that the Fire Services had not made an objection in relation to the application.

The Sub-Committee

RESOLVED: That the application for a variation to premises licence number GUPLA0436 in relation to Fahrenheit 55/Tudor Lounge, 3 Milkhouse Gate leading to 144 High Street, Guildford, Surrey, GU1 3EZ be approved subject to the following:

The following conditions offered by the applicant to promote the licencing objectives.

1. The licence holder shall ensure that the smoking area marked in red on the accompanying plan number 07/33 of the premises:
 - a. Is roped off after 20:00 hours to contain smokers
 - b. Is cleared of customers by 23:30 hours Sunday to Thursday , and 02:00 hours Friday and Saturday
 - c. Is monitored by a SIA registered door supervisor from 22:30 hours until the area is cleared, and the door supervisor shall ensure patrons in the smoking area keep the noise down to prevent disturbance to local residents
 - d. Is limited to a maximum of 20 customers at any one time
 - e. Is cleaned and reset after the area is cleared
2. The licence holder shall ensure that patrons use the smoking area on the first floor after 23:30 hours Sunday to Thursday and after 02:00 hours Friday and Saturday. This area shall be monitored by a SIA registered door supervisor and limited to 20 patrons.

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REASON FOR DECISION:

In reaching their decision to grant the variation application subject to the above conditions as offered by the applicant, the Sub-Committee considered both oral and written representations from all the parties. The Sub-Committee considered that given that the applicant had offered additional conditions, the application would promote the licensing objective of preventing public nuisance.

The Sub-Committee noted that the street was not a known trouble spot. They agreed that it was not sensible for patrons to leave their drinks unattended when they went outside to smoke and that the proposal would promote public safety in that respect. Whilst they understood the concerns about noise, it was a town centre location and there were a limited number of residents in close proximity. The Sub-Committee did not think that many children would be using the street whilst the smoking area was in use. The Sub-Committee was satisfied that the additional condition requiring an SIA accredited door supervisor to monitor the area was sufficient to control and prevent public nuisance from the venue.

The Sub-Committee noted that additional measures had been taken by the applicant to satisfy Environmental Health (Pollution Control) by installing a tamperproof Formula Sound AVC2 noise controller, to regulate amplified music and speech on the premises. Tests indicated that the noise controller was functioning and regulating noise breakout from the venue to a level that would not cause noise nuisance to residents in the locality.

The Sub-Committee was satisfied that the condition requiring the area to be cleaned at the end of the night would ensure that the street was kept tidy and free of broken glass and other rubbish.

Signature of Chairman:

Dated: