

## GUILDFORD BOROUGH COUNCIL

<b>LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE</b>	
<b>DATE OF HEARING</b>	Wednesday, 22 July 2015
<b>SUB-COMMITTEE MEMBERS PRESENT:</b>	Councillor Marsha Moseley (Chairman) Councillor Mike Hurdle Councillor Nigel Kears
<b>OFFICERS PRESENT:</b>	Ola Dejo-Ojomo (Committee Manager) Raj Devandran (Lawyer Litigation & Corporate)(Observing) Peter Muir (Licensing Compliance Officer) Bridget Peplow (Senior Lawyer Litigation)
<b>DISCLOSURES OF INTEREST BY MEMBERS PRESENT:</b>	None
<b>PREMISES:</b>	Mobile Catering Van Egerton Road Guildford Surrey
<b>TYPE OF APPLICATION:</b>	New application for a premises licence.
<b>DETAILS OF APPLICATION SOUGHT:</b>	A new premises licence to allow the provision of late night refreshment.
<b>APPLICANT:</b>	Mr Hamid Rezaei
<b>OTHER PERSONS:</b>	Mr Graham Hopkins of GT Licensing Consultants, on behalf of Mr Kilic

### **DETAILS OF DECISION TAKEN:**

The Sub-Committee considered the application for a new premises licence for the provision of late night refreshment. 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 a new premises licences was sought for the provision of late night refreshment by Mr Hamid Rezaei for a Mobile Catering Van on Egerton Road, between the hours 23:00 – 02:00 Sunday – Tuesday and Thursday, 23:00 – 03:00 on Wednesday, and 23:00 – 04:00 on Friday and Saturday. The premises was located between the Royal Surrey County Hospital and the large Tesco Superstore. The Licensing Compliance Officer advised that under the Licensing Act 2003, a premises

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licence was required to provide late night refreshment from 23:00 until 05:00, but a licence was not required outside these hours. The applicant had been trading for a few months up until 23:00, and was now seeking a licence to trade after this time.

The applicant, Mr Rezaei, had set out in his operating schedule the steps he would take to promote the licensing objectives (Appendix 2 in the agenda). The consultation period had been extended by an extra 15 days to 25 June 2015 to address issues with the advertisement of the application. The application received two representations which referred to the licensing objective of the prevention of public nuisance, namely litter and noise from the premises.

Mr Rezaei made the following submissions in support of his application:

- He had been in Guildford for five years, having spent four and a half years working with the other kebab van on Egerton Road run by Mr Koc where he had built a relationship of trust with the customers.
- Mr Koc sacked him from his job a few months ago for no reason, so he decided to set up his own business.
- Mr Kilic had removed the application notice from his van, took a picture of it, and sent it to the Council claiming no notice had been placed there. Mr Rezaei then resorted to affixing the notice to a wooden board to ensure it remained in place.
- It should be noted from the photo on page 26 of the agenda, which was submitted by Mr Kilic and purported to be of an oil spillage from under Mr Rezaei's van, that the supposed oil is about 5cm away from the van's pipe
- It should be noted that the photo on page 25 of the agenda, which was submitted by Mr Kilic and purported to be of litter from Mr Rezaei's van, was taken in the morning, not whilst Mr Rezaei was trading between the hours of 18:00 and 23:00. Mr Koc's business was open much later than his, serving customers coming back from the pubs.

Mr Graham Hopkins made the following submission on behalf of Mr Kilic:

- Mr Kilic objected to the application on the grounds of prevention of crime and disorder, public safety and prevention of public nuisance.
- Mr Kilic's position is that the photographs submitted are a true reflection of the current situation with the new kebab van.
- There was little of substance in the application to promote the licensing objective of the prevention of public nuisance. Whilst Mr Rezaei has offered to provide a bin and clear the area, he should be more specific and more proactive in ensuring the area is clean. As such, Mr Kilic proposed the following conditions should the Committee be minded to grant the licence:
  - to clean the area up to 50 meters either side of the vehicle
  - staff to clean around the van at least hourly and check the bins
  - to provide an adequate number of bins
  - the provision of signs requesting that customers dispose of their rubbish responsibly and requesting that they leave the area quietly
- In conclusion, Mr Hopkins submitted that an untidy area encouraged a lack of care and responsibility leading to petty crime, and that the cost of the clean-up of the premises should not fall on the Council, but on the operator. He also added that there was no evidence to substantiate the allegation that Mr Kilic put the oil under the van. Rather, Mr Rezaei should wash the area to avoid people falling over and injuring themselves.

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Having considered the application and the submissions from the applicant and on behalf of Mr Kilic, the Sub-Committee

RESOLVED: That the application for a new premises licence in relation to Mobile Catering Van, Egerton Road, Guildford, Surrey, be granted subject to the following conditions:

1. The licence holder shall provide two litter bins, one each side of the van, which shall be emptied when full to prevent overspill;
2. Notices shall be displayed on the van requesting customers to dispose of litter responsibly and to leave the area quietly; and
3. At the end of trading each day, the licence holder shall carry out a litter-pick and general clean within a 20 metre radius of the van.

### REASON FOR DECISION:

The Sub-Committee noted that the only substantive issue raised was in relation to litter in the area. The Sub-Committee were satisfied that this issue could be dealt with by imposing appropriate conditions. One representation had mentioned noise levels, but this was in very general terms and did not specify the type of noise or where it was coming from. The Sub-Committee noted that there were no houses nearby and that it was impossible to conclude that the noise levels were specifically related to the applicant's van. The Sub-Committee also noted that a licence holder should not be held responsible for the behaviour of their customers after they had left the immediate vicinity of the premises. The Sub-Committee agreed that conditions should be imposed to require the provision of 2 litter bins (one for each side of the van) and that these should be emptied regularly. The licence holder should also clean the area around the van at the end of trading and should provide signs encouraging customers to dispose of their litter properly and leave the area quietly.

Signature of Chairman: .....

Dated: .....