

GUILDFORD BOROUGH COUNCIL

LICENSING ACT 2003 RECORD OF HEARING AND DECISION TAKEN BY THE LICENSING SUB-COMMITTEE	
DATE OF HEARING	Monday, 18 March 2019
SUB-COMMITTEE MEMBERS PRESENT:	Councillor David Goodwin (Chairman) Councillor David Elms Councillor David Quelch
OFFICERS PRESENT:	Mark Adams (Licensing Officer) Sophie Butcher (Committee Officer) Raj Devandran (Litigation Lawyer)
DISCLOSURES OF INTEREST BY MEMBERS PRESENT:	None
PREMISES:	Corkage, 60 Quarry Street, Guildford, GU1 3UA
TYPE OF APPLICATION:	Application to vary Premises Licence GUPLA0563
DETAILS OF APPLICATION SOUGHT:	The application is to vary the hours for the sale of alcohol permitted by the Premises Licence. Variation to operating hours: Monday – Tuesday remains as is 11am – 10pm Wednesday – Saturday was 11am – 10pm; proposed 11am – 11pm Sundays was 12pm – 5pm; proposed 11am – 5pm
APPLICANT:	Mr Andrew Doré Corkage Ltd Mrs Deborah Doré - Co-Owner Ms Claire Feuillatre - Bar & Events Manager Mr Andrew Broughton - Retail Manager
OTHER PERSONS:	Ms Caroline Scott Plummer Mrs Ruth Scott Plummer Mr Wilkin

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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 were relevant:

Guildford Borough Council's Statement of Licensing Policy

- Section 4 – (Fundamental Principles)
- Section 11 - (Licensing Hours)
- Section 12.4 – (Public Nuisance)

Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003

- Paragraphs 2.15 – 2.21 – Public Nuisance
- Paragraphs 9.31 - 9.41 – Hearings
- Paragraphs 9.42 - 9.44 – Determining actions that are appropriate for the promotion of the licensing objectives
- Paragraphs 10.1-10.66 – Conditions attached to premises licences.

The Sub-Committee received a report from the Licensing Officer who stated that the application was to vary the hours for the sale of alcohol permitted by the Premises Licence for Corkage, 60 Quarry Street, Guildford, GU1 3UA. The licence was first granted by the Licensing Sub-Committee on the 23 November 2015. The licence allowed for both On and Off Sales. The variation to the operating hours was as follows:

Monday – Tuesday remains, as is 11am – 10pm

Wednesday – Saturday was 11am – 10pm, proposed to be 11am – 11pm

Sundays was 12pm – 5pm, proposed to be 11am – 5pm

The current licence had both mandatory and additional conditions linked to the operating schedule, these included conditions imposed on the granting of the licence by the Licensing Sub-Committee at a hearing on 23 November 2015. The exemption afforded under the Live Music Act 2012, removed recorded music as a licensable activity between the hours of 0800hrs to 2300hrs.

The licence holder had since submitted one valid minor variation application to adjust hours of operation at the premises from 10am to 9pm Monday to Saturday, 11am to 4pm Sunday to 11am to 10pm Monday to Saturday, 12pm to 5pm Sunday.

The previous application was correctly advertised in accordance with the act, receiving one objection from Caroline Scott Plummer. After consideration of the objection, operating history of the premises and further consultation with responsible authorities, the variation was granted by delegation at officer level.

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Prior to submitting this full variation application, the applicant requested that consideration to allowing another minor variation to adjust the operating hours be allowed.

Whilst the minor variation process can be used to vary hours up to 11pm, the applicant was directed to submit a full variation application on this occasion as Officers considered the combined effect of a series of applications to alter the licence may give local residents concerns.

No objections to the current application had been received from Responsible Authorities. One objection had been received, on the grounds of public nuisance, particularly in relation to activities regarding the operation of the premises. One further representation had been received by a resident who indicated that the premises was well run but recommended that the courtyard was restricted to limited hours of use.

The Sub-Committee was reminded that they must consider the application for the grant of a premises licence on its merits. Having regard to the relevant representations received, the Sub-Committee must take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

The Chairman invited the applicant to address the Sub-Committee and they made the following points:

- Corkage had 22 seats internally and 12 seats on the patio, which equated to 34 seats in total.
- The clientele largely consisted of couples or small groups of up to six people.
- Corkage occasionally held private hire events and held tasting events once a month issuing 60ml shots.
- Only one bottle was allowed per person and last orders rules were enforced. This was their internal, unofficial rule.
- The application to vary the hours to sell alcohol was to accommodate people who wished to have a quick drink, say after attending the Theatre.
- A drinking-up time of 10:30pm would be enforced and would be happy to restrict outside use of the patio up until 10pm, as suggested by Mr Wilkin.
- In response to concerns raised in relation to the fire alarm going off, it was confirmed that this was an isolated incident that had now been fixed.
- In response to concerns raised in relation to the patio light, it was confirmed that the main patio light was now broken, and they used lights in bottles to create an ambience.
- Mr Dore had submitted, as part of his response to the representations, unsolicited emails of support, in relation to the application to vary the premises licence hours for the sale of alcohol.
- He had not received direct complaints from the residents and would welcome contact so that any concerns could be remedied directly, rather than going via third parties such as the estate agent.
- The applicant and residents had a shared interest in ensuring that the premises were run properly.
- Aside from in the first year of the licence, when they applied for three, they had not served any Temporary Event Notices (TEN), which therefore demonstrated that they did not want to run a late night venue.

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- They were considering installing a retractable awning over the entire patio and hoped this would assist with light pollution and noise caused to neighbouring residents.
- The cigarette butts found in the doorway entrance to the premises as well as the flats could not be directly attributed to Corkage customers given that Quarry Street was located within a short distance of the town and local pubs, and the cigarette butts could easily be dropped by passers-by.
- One of the current conditions of the licence was that smoking was not allowed in the patio area. If the Sub-Committee were minded to remove this condition, customers who smoked would be able to use the patio, thereby decreasing the risk of using the doorway entrance to the premises.

The Sub-Committee asked if the awning would meet fire and safety regulations if there were smoking in the patio area. There was a risk that the awning may bring the patio area within the scope of smoking legislation.

The Chairman invited the objector, Ms Plummer to address the Sub-Committee with her concerns and she made the following points:

- The on-site sales portion of the original application submitted for Corkage in November 2015 was for wine tasting and specific events with the vast majority of sales made through off-site sales. However, it has since transpired that the bar has become Corkage's main business and operates six nights a week.
- The considerable shift in the nature of the business has contributed to an increase in noise generated from the patio area with up to twelve customers talking at a time.
- Ms Plummer observed that it takes patrons approx. 30-40 minutes for patrons to vacate the premises. It then takes up to an hour after closing Corkage before she can get some sleep.
- Her right to enjoy the property was being eroded as the lighting is bright on the patio and disturbs her sleep.
- Up until recently, none of the residents smoked, however, cigarette butts were left in the doorway and the associated smell had been coming through her window.
- The awning recommended by the applicant might block the light however, she was concerned that it would be ineffective at blocking noise given it was only made of material.
- She referred to a late representation made by the owner of Flat 4 who also objected to the application owing to its potential for public nuisance.
- She concluded that the extension of hours proposed would negatively affect residents.

The Chairman clarified with Ms Plummer that the owner of Flat no.4 was happy for their name to be added to Ms Plummer's objection. Ms Plummer had asked for the owner to put their own objection, but eventually missed the deadline by which representations could be considered. Ms Plummer also suggested that a third objector did not know about the application as they spend a lot of time abroad, and therefore did not put in a representation until it was too late. The Chairman also asked if Ms Plummer had reported the incidences in relation to the smoking in the doorway to the premises and entrance to the flats as well as light pollution on the patio to the authorities. Ms

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Plummer confirmed that she had reported the issues to Environmental Health. She had also raised an issue in relation to noise being generated by bottles being put into a bottle bank at night, but it transpired that this was not from Corkage but from a nearby premises.

The Licensing Officer confirmed that the majority of the patio area was part of the licenced area; however, there was a small area at the back, which was Off licence. The licence was for On and Off sales of alcohol, which meant that the alcohol could be consumed off the premises. The licenced area was subject to conditions. The licence was for the sale of alcohol and there was no requirement for the applicant to specify the type of business being operated, whether that was as a wine shop, late night bar or otherwise.

The Chairman invited Mr Wilkin, resident of Flat 1, to confirm his concerns. Mr Wilkin stated that he had lived there for 3 years but had recently moved and was now renting his flat out. He had no complaints in relation to the running of Corkage, he was affected to some extent by the light and noise generated on the patio as his bedroom window adjoined the outdoor area. His only concern was in relation to the extension of hours proposed, and suggested that the extension only be granted for the inside area of the Premises.

The applicant, Mr Dore, confirmed that Corkage was only open for 6 days a week and for 5 evenings, principally Friday and Saturday was the busiest times. Mr Dore stated that he was also happy to look at minimising noise disruption on the patio by asking customers to come inside by 10pm.

The applicant informed the Sub-Committee, that the awning proposed would be bespoke to cover the terrace with its sides left open and would cost approx. £2,000, according to a quote obtained approximately a year ago. Most customers wanted to sit down and there was only ten seats available outside for that purpose. Corkage currently has an umbrella that they use, however this is cumbersome and has not been used often.

The Chairman asked how often the owners were on the premises. Mr Dore confirmed that there were four people in total that ran the premises as well as two part-time staff. Mr Dore had been onsite a lot up until recently to ensure the business was running well. These responsibilities were now being shared out more to free up Mr Dore. This also meant that a manager will be on site almost all of the time. It was confirmed that Corkage held three Temporary Events in their first year for private hire events largely with property teams and local solicitor practices and a school staff party. He advised that their clientele is not hen or stag parties. He confirmed that he was happy to implement last orders by 10:30pm.

The complainant, Ms Plummer stated that if the application to vary the hours was granted, it meant that she would not be able to get to sleep until 11:45pm by the time people had gone home. Mr Dore confirmed that it was not their experience for customers to take 40 minutes before they went home.

The Litigation Solicitor confirmed that if the conditions of the licence were not met, or it was believed that the licencing objectives were not being promoted, a review of the licence could be called.

Having considered the application and the submissions from the applicant as well as those made by other persons, the Sub-Committee;

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RESOLVED: That the application to vary the hours for the sale of alcohol permitted by the Premises Licence for Corkage, 60 Quarry Street, Guildford, GU1 3UA be granted for the following licensable activities and hours:

Activities	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Sale of alcohol							
For consumption on and off the premises	11:00 – 22:00	11:00 – 22:00	11:00 – 23:00	11:00 – 23:00	11:00 – 23:00	11:00 – 23:00	11:00 – 17:00
Times premises are open to the public							
	11:00 – 22:00	11:00 – 22:00	11:00 – 23:00	11:00 – 23:00	11:00 – 23:00	11:00 – 23:00	11:00 – 17:00

REASON FOR DECISION:

In reaching their decision to grant the application, the Sub-Committee considered both written and oral representations from the applicant and residents.

The Sub-Committee was mindful of the concern that the application had caused to local residents and was sympathetic. On that basis, the Sub-Committee made the following recommendations, which they strongly advised Corkage to implement:

- To ensure that the patio area was closed to all customers of Corkage by no later than 10pm.
- To explore the installation of a bespoke awning to cover the patio, which was hoped, would alleviate concerns in relation to lighting causing a nuisance to residents.
- Recommend that Corkage hold a meeting every quarter or 6 months with residents to discuss any concerns or issues. Alternatively, residents can report any issues to the Licensing Authority.

There was no evidence to suggest that by extending the hours permitted for the sale of alcohol, it would lead to an increase in public nuisance by increased noise and light pollution and an inextricable link had to be proven. The Sub-Committee therefore agreed that the licensing objectives in this respect had not been engaged. The Sub-Committee was satisfied that should a public nuisance be caused that was directly associated with the sale of alcohol from Corkage, a review of the licence could be called for.

Signature of Chairman:

Dated: