

## 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 29 May 2019
<b>SUB-COMMITTEE MEMBERS PRESENT:</b>	Councillor David Goodwin (Chairman) Councillor Joss Bigmore Councillor Ted Mayne
<b>OFFICERS PRESENT:</b>	Mark Adams (Licensing Officer) Gcobisa Bonani (Trainee Solicitor) Sophie Butcher (Committee Officer) Raj Devandran (Litigation Solicitor)
<b>DISCLOSURES OF INTEREST BY MEMBERS PRESENT:</b>	None.
<b>PREMISES:</b>	Guildford Harbour Hotel, 3 Alexandra Terrace, Guildford, Surrey, GU1 3DA
<b>TYPE OF APPLICATION:</b>	Submission of a Temporary Event Notice (TEN)
<b>DETAILS OF APPLICATION SOUGHT:</b>	The premises user has given notice of the following licensable activities: Outdoor Cinema Evening 6-7pm start conclusion by 10pm
<b>APPLICANT:</b>	Mr Stuart Bateman (Commercial Director) Mr Steve Lewis (Regional General Manager)
<b>RESPONSIBLE AUTHORITY:</b>	Mr Ian Croll (Environmental Health Officer)
<b>COUNCILLOR IN ATTENDANCE:</b>	Councillor Dennis Booth (observing)

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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 – Paragraphs 4.1 to 4.12: (Fundamental Principles)
- Section 10 – Paragraphs 10.1 to 10.7 (Temporary Event Notices)
- Section 12 – The Licensing Objectives – specifically 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 7.1 – 7.40 – Hearings

The Sub-Committee received a report from the Licensing Officer that a Temporary Event Notice (TEN) had been received from the premises users of Guildford Harbour Hotel for an outdoor cinema evening starting at 6pm/7pm until 10pm on Thursday 4 July 2019. The event was proposed to take place on the veranda at the rear of the hotel facing out onto Deane Road. Guildford Harbour Hotel had a premises licence, which included the showing of films; however, as this event was outside of the licensable area a TEN was required. The TEN was given on Friday 3 May 2019 and was a valid notice.

The Sub-Committee noted that an objection had been received from the Environmental Health Team owing to the potential for a public nuisance caused by the proposed event. The Sub-Committee was advised that it must, having regard to the objection notice, give a counter notice under Section 105 of the Licensing Act 2003 if it considers it appropriate for the promotion of the licensing objective of the prevention of public nuisance to do so. If a counter notice was given, the event was not authorised to take place. If the Sub-Committee did not consider it appropriate to serve a counter notice under Section 105, it may impose conditions on the notice if it considers appropriate for the promotion of the 'prevention of public nuisance' licensing objective to do so. Because there is a premises licence in effect in respect of the premises, any conditions imposed on the temporary event notice are limited to those already imposed on the premises licence. If the Sub-Committee did not consider it appropriate to give a counter notice, the premises user will be entitled to hold the event as stated in the notice, subject to any conditions imposed by the Sub-Committee. If the Sub-Committee decided to give a counter notice, it must give the counter notice and a notice stating the reasons for the decision to the premises user and Environmental Health. The Sub-Committee was advised there was a right to appeal to the Magistrate's Court for the recipient of a counter notice or for Environmental Health where no counter notice is given, however, no appeal may be brought later than 5 working days before the event period begins.

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The Chairman invited the applicant, Mr Steve Lewis, the Regional General Manager, to address the Sub-Committee. He handed the committee a document with more details about the event, and made the following points:

- The Guildford Harbour Hotel offered a variety of services for both Guildford residents and visitors. These ranged from dining, exercise classes, spa membership as well as providing a calendar of events.
- They wished to use the outdoor space for the cinema event with a limited audience of up to 50 people. Guests were anticipated to arrive at 6pm.
- There was no decision about which film would be shown, but it would be family friendly, and suitable for all ages.
- The screen used would be approx. 2m x 2.25m in size.
- Customers would be able to use the outside covered terrace. The hotel had a licence to use this outside space until 1am, however they never have and do not intend to do so for this event.
- The film was anticipated to finish at 9:30pm when all guests would be invited inside.
- External providers Asahi and Peroni would assist the Guildford Harbour Hotel by providing the screen, technology and undertaking the required sound checks.
- The Event Manager, Hotel Manager and waiting staff would be in attendance to assist with the smooth running of the event.
- The following would be provided in terms of food offer: a pizza oven, a mobile popcorn machine and an outdoor Peroni Bar. Bi-fold doors that will be opened up to allow the free flow of people through to the terrace would separate the rear of the hotel. The doors would then be closed at 9:30pm.

In response to questions from the Sub-Committee, the applicant confirmed the following:

- The speakers were not surround sound, and would be located either side of the screen and facing the hotel.
- If they were successful with this application, it was likely they would look to hold events of this type a couple of times a year in the summer months.
- They would be happy to apply a film classification as necessary.
- The event was not a moneymaking activity but part of expanding the offer of services at the hotel.
- They could look to apply for a variation in their premises licence to include the outside area for the provision of such events on a permanent basis.

The Chairman invited the Environmental Health Officer, Ian Croll to make his representation:

- He acknowledged that the Guildford Harbour Hotel was a well-run establishment.
- The speaker size and noise generated by the event was the main concern, rather than the size of the screen.
- Local residents had complained since 2016 about noise generated by music events at the Guildford Harbour Hotel, however, the current management has only been in place recently and was not in place at that time.
- The Guildford Harbour Hotel was surrounded on three sides by residential properties.

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- Noise patrol officers were in place to go out and measure sound levels.
- Environmental Health wished to minimise the risk of noise complaints received from local residents, particularly those located in Deane Road and Eastgate Gardens.
- Worplesdon Place Hotel had held outdoor cinema events and Environmental Health received complaints from residents who were located further away from that hotel than those who complained about the Harbour Hotel's music events.
- He expressed concern that opening the doors to the bar will help to funnel the noise outside.
- He expressed concern about both ambient noise as well as that generated by the clientele.
- He noted that outdoor cinema events were unusual and it was more difficult to control noise disturbance caused by such events.

The Chairman invited the applicant to address the concerns made by Environmental Health. The applicant stated that:

- The hotel took great care to minimise risk and maximise enjoyment at events.
- G-Live was far noisier when guests were leaving the premises at night.
- Cars were also noisier when leaving G-Live at night.
- A car park, swimming pool and terrace separated the hotel from the residential area, which acted as a buffer for noise.
- It was unfair to compare the event to an open cinema event when this was limited to 50 people only.
- The cinema event was scheduled to be held on a weeknight and not at the weekend. The event was for Guildford residents and for those that used the hotel's facilities on a regular basis.

The Litigation Solicitor confirmed that the Sub-Committee must, having regard to the objection notice, give a counter notice under Section 105 of the 2003 Act if it considers it appropriate for the promotion of the licensing objective of the prevention of public nuisance to do so. If a counter notice was given, the event would not be authorised to take place. If the Sub-Committee did not consider it appropriate to give a counter notice, the premises user would be entitled to hold the event as stated in the notice, subject to any conditions imposed by the Sub-Committee. He also advised that any counter notice or conditions should be accompanied by reasons.

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

**RESOLVED:** That the Temporary Event Notice (TEN) for the outdoor cinema evening on 4 July 2019, at 6pm – 10pm at the Guildford Harbour Hotel, 3 Alexandra Terrace, Guildford, Surrey, GU1 3DA be approved.

The Licensing Sub Committee considered both written and oral representations from Environmental Health and oral representations from the applicant.

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**REASON FOR DECISION:**

The Sub-Committee took into account the objection received from Environmental Health in relation to the potential for public nuisance caused by the noise of the outdoor cinema speakers and ambient noise of the guests overall. The Sub-Committee strongly recommended that the applicant ensured that the speakers were located towards the hotel as planned, which would reduce the potential for any sound pollution. The timing of the event would also successfully mitigate the concerns raised by Environmental Health about noise so that all guests would be asked to come inside the hotel after the screening of the film at 9:30pm. It was the first time the hotel had run an outdoor cinema event of this kind and the measures the hotel were taking assured the Sub-Committee that they did not consider it appropriate to give a counter notice or impose any conditions.

Signature of Chairman: .....

Dated: .....