

LICENSING SUB-COMMITTEE

Application Type:	Application for a Review of a Premises Licence	
Ward:	Tillingbourne	Ward Councillors: Councillor Bob Hughes Councillor Danielle Newson
Applicant:	Immigration Officer Caroline LAIRD Home Office South Central Immigration Enforcement	
Premises:	The Guildford Manor Hotel, Newlands Corner, Guildford, Surrey, GU4 8SE	

1. SITE LOCATION AND HISTORY

- 1.1 The Guildford Manor Hotel is an independent hotel, restaurant, spa, wedding and event venue situated in the Newlands Corner area of the Surrey Hills.
- 1.2 The Licence has been in effect since conversion in November 2005 and is held by Nahid Residential Ltd, having been transferred in January 2015. The Designated Premises Supervisor (DPS) is a Mr Andrew McNeil. A copy of the current premises licence is included at Appendix 1.
- 1.3 The Licence authorises the following licensable activities:
- Sale of Alcohol
 - Late Night Refreshment
 - Plays
 - Films
 - Live Music
 - Recorded Music
 - Performance of Dance
 - Anything of a similar description to that falling within live music, recorded music or performance of dance

2. APPLICATION FOR A REVIEW

- 2.1 The application at Appendix 2 is for a Review of the Premises Licence called by the Home Office Immigration team as a Responsible Authority.
- 2.2 The Review has been called on the grounds of the prevention of crime and disorder following the discovery of illegal workers at the premises on 31

May 2023. This is the second occasion of illegal working at the premises following a previous visit on 24 November 2021.

- 2.3 The application seeks the Revocation of the Premises Licence on the grounds that all operators are expected to take steps to promote the licensing objectives, with the Home Office (Immigration Enforcement) believing Nahid Residential Ltd by employing illegal workers are not preventing crime and disorder and therefore should no longer be allowed to hold a premises licence.

The application continues that Nahid Residential Ltd are using the Hotel businesses to employ illegal workers which is strictly prohibited under the Licensing Act 2003 and Immigration Act 1971(aa). Employing illegal workers in the UK has the following impact on the community and society as a whole:-

1. It deprives HMRC and the Government of revenue by non-payment of tax and national insurance.
2. It exploits the undocumented by paying them less than the minimum wage and provides no employment or income protection.
3. It encourages other overstayers / illegals to seek similar work.
4. It allows a business to unfairly undercut other businesses by employing cheap labour.
5. Illegal workers are often housed in cramped and unsatisfactory conditions by the employer as part of their working arrangement.

- 2.4 The following information is also provided in support of the application:

On 31st May 2023 Immigration Officers from the South-Central Immigration Enforcement team alongside Officers from Surrey Police attended the address after receiving allegations of Modern Day Slavery and Illegal Working taking place at the address.

Entry was gained at the premises at 08:03 with a warrant issued under Section 8 of PACE.

Seven (7) people who were identified as being employees at the address were spoken to by Immigration and Police Officers. Home Office checks were conducted and five (5) of the 7 people were all identified as having the right to work.

The other two (2) were found to be working illegally. Both were fully interviewed by Immigration Officers and admitted to working at the establishment.

Mr MCNEIL – the DPS and Manager was also interviewed in regard to these 2 employees. A Civil Penalty Notice was served to Mr MCNEIL and is currently being considered.

One of the employees with no right to work stated that he showed his BRP in order to start working for Guildford Manor Hotel & Spa, this clearly states his work restriction of 20 hours per week.

Mr MCNEIL stated that the other he believed was waiting for his documents, and confirmed he has not seen any documents.

It appears to be that Guildford Manor Hotel & Spa are still not conducting the correct right to work checks before employees are given employment despite the previous visit in 2021 where similar offences were identified.

A previous visit which took place on the 24th November 2021 in which South Central ICE (Eaton House and Portsmouth), accompanied by Officers from West London ICE, South East ICE (Kent & Sussex), Eaton House ROM, Norman House ROM and Surrey Fire and Rescue were in attendance again identified 2 employees working with no right to do so.

A Civil Penalty for £20,000 was issued and Home Office checks show that this has been paid.

2.5 Consultation period and advertisement of the application

The application was accepted as valid on 18 August 2023, with the consultation period running until 15 September. The application was advertised by means of notices at the premises in accordance with the regulations.

3. RELEVANT REPRESENTATIONS RECEIVED DURING CONSULTATION PERIOD

3.1 Representations from responsible authorities:

The only representation received from responsible Authorities is further supporting information received from the Home Office (the applicant) on 5 September. The Home Office have collated a Licence Review Pack setting out the relevant framework and information collected during their interventions in the form of interview records, time sheets and rotas. This has been redacted and is included as Appendix 3.

3.2 Representations from other persons.

No further representations have been received from other persons.

3.3 Representations from the Licence holder

On 15 September the Licence holder's legal advisor provided a submission and a number of supporting statements. These are included as Appendix 4-9.

4. LICENSING POLICY

4.1 The Licensing Act 2003 requires the Licensing Authority to carry out its licensing functions to promote the licensing objectives. Guildford Borough Council as the Licensing Authority takes its responsibilities under the Licensing Act seriously and will use all available powers to promote the four licensing objectives.

The Council has adopted a Statement of Licensing Policy setting out how it will discharge its functions, with the following sections of the Council's Licensing Policy being relevant:

Section 4: Fundamental Principles

Paragraph 4.3 and 4.4: Licensing is about the control of licensed premises, qualifying clubs, temporary events and individuals within the terms of the 2003 Act. Any conditions or restrictions attached to a premises licence or club premises certificate will be focused on matters which are within the control of individual licensees.

These matters centre on the premises and places being used for licensable activities and any impact of those activities in the vicinity of those premises and places. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned.

Section 12: Promoting the four licensing objectives

Paragraph 12.5: The Licensing Authority considers the effective and responsible management of the premises, including instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives.

Paragraph 12.1.1: Licensed premises of any description, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder. The Licensing Authority expect operating schedules to satisfactorily address these and any other potential issues, from the design of the premises through to the daily operation of the business.

Paragraph 12.1.13: In addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.

Section 20: Reviews

Paragraph 20.1 and 20.2: Following the grant of a premises licence or a club premises certificate, a responsible authority or any other person may ask the Licensing Authority to review it due to a matter arising in connection with any of the four licensing objectives.

Full details of the review process can be provided by contacting a Council Licensing Compliance Officer or may be found in Chapter 11 of the Section 182 Licensing Act 2003 Revised Guidance on the Home Office website.

5. NATIONAL GUIDANCE

- 5.1 Section 182 of the Licensing Act provides that the Secretary of State must issue guidance to licensing authorities on the discharge of their functions. The guidance also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public.
- 5.2 Section 4 of the Licensing Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by under section 182 which is therefore binding on all licensing authorities to that extent.
- 5.3 The following sections of the Section 182 Guidance (issued August 2023) are relevant to this application:

Section 2: The licensing objectives

Paragraph 2.6: The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal

working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.

Section 9: Determining Applications

Paragraph 9.25: The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

Paragraph 9.38: In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives
- the representations (including supporting information) presented by all the parties
- the s.182 Guidance
- its own statement of licensing policy

Section 11: Reviews

Paragraph 11.26: The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

Paragraph 11.27: There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises for employing a person who is disqualified from that work by reason of their immigration status in the UK.

Paragraph 11.28: It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being

undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Paragraphs 9.42 – 9.44 (Determining actions that are appropriate for the promotion of the licensing objectives): Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

6. REVIEWS OF PREMISES LICENCES

6.1 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

- 6.2 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 6.3 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 6.4 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 6.5 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 6.6 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

7. RECOMMENDATION:

7.1 The Sub-Committee are requested to consider the application for the Review of the premises licence on its merits.

7.2 Having regard to the Application, any relevant representations made during the consultation period, and the submission of the Licence holder, the Sub-Committee must take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

The steps are:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

8. CONSULTATION

Report agreed by:

Executive Head of Regulatory Services: 19/09/2023

Legal Services: 03/10/2023

9. BACKGROUND PAPERS

[The Licensing Act 2003](#)

[Guildford Borough Council Statement of Licensing Policy effective 7 January 2021](#)

[Revised Guidance issued under section 182 of the Licensing Act 2003 effective August 2023](#)

[Preventing illegal working in licenced premises and the Home Office role as a responsible authority in England and Wales](#)

Appendices:

Appendix 1 – Premises Licence Ref: GUPLA0193

Appendix 2 – Application for a Review

Appendix 3 – Further information received from Home Office

Appendix 4-9 – Submission from Licence Holder

Originator:

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