

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
7 JANUARY 2013		PUBLIC REPORT
Contact Officers:	Peter Gell, Strategic Regulatory Services Manager Terri Martin, Licensing Regulatory Officer	Tel: 453419 Tel. 453561

APPLICATION: NEW PREMISES LICENCE

APPLICANT: Mr Hakan Tas

REFERENCE NO: 066073

PREMISES: 86-88 Star Road, Peterborough, PE1 5HQ

GLOSSARY OF TERMS: Attached at Appendix A – Page 6

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for 86-88 Star Road, Peterborough, taking into account the representations received from a Responsible Authority, other persons as individuals and within petitions (containing 487 signatures) as detailed in sections 5 and 6 of this report.

2. BACKGROUND INFORMATION

2.1 86-88 Star Road is currently closed, but was formerly a licensed bookmakers.
2.2 As per the application (under general description) the premises will be used as a grocery and off licence.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**

Monday to Sunday 10.00 to 22.00

- **Hours premises are open to the public**

Monday to Saturday 08.00 to 22.00
Sunday 09.00 to 22.00

4. APPLICATION

4.1 Please refer to the application attached at **Appendix B – Page 9**

4.2 Representations have been received from three local Councillors, residents as 'other persons' (individually and within petitions). A representation has also been received from Cambridgeshire Constabulary in their capacity as a Responsible Authority. (To comply with

the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation).

- 4.3 A representation was received from Trading Standards in their capacity as a Responsible Authority. Mediation took place with the applicant's representative and both parties have agreed to the addition of conditions to the operating schedule if the premises licence is granted. These extra mediated conditions are detailed in section 8 of this report.
- 4.4 Part P of the application sets out the applicant's proposed conditions under the licensing objectives, these being, 'The Prevention of Public Nuisance', 'Public Safety', 'Prevention of Crime and Disorder' and 'The Protection of Children from Harm'. These are also contained within the body of this report (in section 7) and in accordance with section 10.5 of Guidance have been interpreted into enforceable conditions. Only those appropriate and proportionate for the promotion of the licensing objectives have been included in the Operating Schedule.
- 4.5 No representations have been received from any of the remaining Responsible Authorities i.e. Cambridgeshire Fire and Rescue Service, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Children's Services, Health Board, Licensing Authority, or Peterborough City Council Environmental Pollution Team.
- 4.6 A copy of the 'Notice' that was displayed in the newspaper in accordance with Part 4 No. 25 of Statutory Instruments 2005 No. 42 – The licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 is attached at **Appendix C – Page 29**

5. OTHER PERSONS

LICENSING OBJECTIVE:	REPRESENTATIVE:
Public Nuisance Crime and Disorder Protection of Children from Harm Public Safety	Representations from three local Councillor's Residents association with 22 signatories Islamic Community Centre with a petition containing 223 signatures A child with a petition with 12 signatures Local business with a petition containing 231 signatures Three individual representations from residents Representations at Appendix D – Page 31 (To comply with the Data Protection Act all petitions have been distributed to Committee Members and the applicant, but are not for public circulation)

5.1 **'Any Other Person' is defined as:-** persons who live, or are involved in a business, in the relevant licensing Authorities area and who are likely to be affected by the application and are not a Responsible Authority

5.2 Summary of issues raised

- Potential to increase and exacerbate existing alcohol related incidents of anti social behaviour, public nuisance and crime and disorder in the area
- Potential to increase existing litter issues
- Concerns that the premises will attract loitering of persons outside which would result in intimidation of residents and the fear of crime
- Not appropriate for the locality due to vulnerable persons with two warden controlled retirement complexes, pre-school nursery and mainly residential.
- Alleged social spectrum for the area has a high dependency on alcohol with drunks walking the streets

6. Responsible Authorities

LICENSING OBJECTIVE:	REPRESENTATIVE:
Public Safety Crime and Disorder Protection of Children from Harm	Cambridgeshire Constabulary Representation at Appendix E – Page 47

6.1 Summary of issues raised

- The conditions offered in the operating schedule are considered insufficient, therefore proposed conditions have been recommended for inclusion to the licence if granted.

7. APPLICANT'S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES:

7.1 Crime and disorder

- CCTV equipment inside the premises is to be maintained in working order. The equipment will be set to record from the time that the premises open to the public until the premises close and all members of the public have left.
- Digital CCTV images will be retained for at least one month and will be produced to an authorised officer on demand.
- The Designated Premises Supervisor will ensure that staff will receive on going training and supervision to ensure they fully understand their responsibilities in relation to age restricted products, in particular to the sale of alcohol so as to prevent sales to persons under the age of 18. This training will be documented and available to an authorised officer on request.
- The Designated Premises Supervisor will provide a book for all staff to record instances where sales of alcohol are refused. This book will be available to any authorised officer upon request.
- Any person selling or supplying alcohol under the authority of a personal licence holder must ask for a photo ID proof of age where they have reason to suspect that the individual may be under 25 years of age.

7.2 Prevention of Public Nuisance

- Litter must be prevented at all times and where identified regularly cleared from the vicinity of the premises on a daily basis.
- Receptacles for refuse storage will be maintained in a clean condition.

8 MEDIATED CONDITIONS: proposed by trading standards and agreed by applicants representative

8.1 Protection of Children From Harm

- The Challenge 25 initiative to prevent sales of alcohol to persons under 18 years of age will be implement at the premises.
- Signage will be prominently placed within the premises advertising the fact that the premises operates the Challenge 25 initiative.
- Staff training to prevent underage sales will take place every 6 months

8.2 Prevention of Crime and Disorder

- No alcoholic drinks will be purchased by the store owners or staff from sellers calling at the store
- All invoices (originals or copies) for all alcoholic goods for retail sale on the premises will be kept at the shop and made available to the Police, Council and HMRC officers upon request.
- A strict stock control system will be introduced so that the licensee can quickly identify where and when alcoholic drinks have been purchased
- An ultra-violet light will be available at the premises for the purpose of checking the UK Duty Stamp on all spirits as soon as practical after they have been purchased.
- If any spirits bought by the company have UK Duty Stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee shall identify the supplier to Trading Standards department and HMRC as soon as possible.

8.3 Mediation was attempted with the applicant's representative in relation to the representation from Cambridgeshire Constabulary, however no response was provided at the time this report was written.

9. POLICY & GUIDANCE IMPLICATIONS

9.1 The following sections/paragraphs are applicable to this application:

9.2 Council's Statement of Licensing Policy

- Objectives, Section 4 on Page 5 and 6
- Fundamental Principles, Section 6 on Page 6
- Licensing Hours, Section 12 on Page 10
- Licence Conditions, Section 14 on Page 11 and 12
- Delegation / Decision Making / Administration, Section 17 on Page 13 and 14

9.3 Guidance Issued under Section 182 of the Licensing Act 2003 October 2012

- The Licensing Objectives – Section 2 pages 11 to 16
- Applications for Premises Licences – Section 8 pages 41 to 48
- Determining applications – Section 9 pages 58 to 64
- Conditions Attached to Premises Licences – Section 10 page 65 to 74

10. LICENSING OFFICER'S COMMENT (FOR INFORMATION)

10.1 Regulation 19(a) requires authorities to disregard any information given by a party or person that is "not relevant" to the application.

10.2 Members should note that the letters attached are in their entirety and that not all matters raised within the representations are relevant matters for consideration under the Licensing Act 2003. It is up to the Committee to decide upon what 'weight' they attach to these areas.

11. LEGAL OFFICER'S COMMENTS

11.1 The Licensing Authority (hereafter referred to as "the Council) is charged with implementing the provisions of the Licensing Act 2003. This is an application for a new licence made under Section 17 of the Licensing Act.

11.2 In this case, the application was received at these offices on 7 November 2012.

11.3 The application before this committee will be treated on its own merits, and the Licensing committee will make its decision based upon

- The merits of the application
- The promotion of the four licensing objectives
- The statement of policy of the Licensing Authority

- The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – October 2012
- 11.4 The licensing authority may determine the application, depending upon what is appropriate for the promotion of the licensing objectives, in any of the following ways:
- Decide to grant the licence in the same terms as it was applied for
 - Decide to grant the licence, but to modify or add conditions (to promote the licensing objectives)
 - Exclude from the scope of the licence a licensable activity
 - Decide to refuse to grant the licence
- 11.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

‘Child’

(a) means an individual aged under 16

(b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

DCMS: Department for Culture Media and Sport

‘Designated Premises Supervisor’ means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

‘Other Persons’:

- persons who live, or are involved in a business, in the relevant licensing Authorities area and who are likely to be affected by the application and are not a Responsible Authority.

‘Late Night Refreshment’ means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

‘Licensable Activities’ means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

‘Licensing Authority’: - is the licensing function of Peterborough City Council

‘Licensed Premises’ includes club premises and events unless the context otherwise requires.

‘Licensing Objectives’

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

‘Operating Schedule’ means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

'Rateable Value': as regards a premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(b).

'Regulated Entertainment' (Schedule 1 of the Act) means: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance

Or entertainment of a similar description falling within the last three of the categories listed above, where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

Or the provision of entertainment facilities:

Facilities for enabling persons to take part in entertainment of the following description for the purpose or purposes, which include the purpose of being entertained:

- making music
- dancing
- entertainment of a similar description

'Relevant Licensing Authority': is the Authority in the area the premises are situated.

'Responsible Authority' means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children's Services – Child Protection & Review Manager
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

'Supply of alcohol':

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

'Temporary Event Notice' means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and

- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

‘the Act’: means the Licensing Act 2003