

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
26 MARCH 2013		PUBLIC REPORT
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APPLICATION: Review of Premises Licence

PREMISES: Zaika (previously known as Shalimar Gardens), 34 New Road, Peterborough, PE1 1FH

REFERENCE NUMBER: MAU 066657

GLOSSARY OF TERMS: Attached at **Appendix A – Page 4**

1. PURPOSE OF REPORT

1.1 To consider and determine an application for a review of a Premises Licence under Section 51 of the Licensing Act 2003 for the above premises, taking into account the representation made and supplementary information submitted by Cambridgeshire Constabulary in their capacity as a Responsible Authority. Representations have also been received from the Licensing Authority and the Pollution Control Team in their capacities as Responsible Authorities. The review was bought under all four of the licensing objectives.

2. BACKGROUND INFORMATION

2.1 This premises is located beneath the Travelodge Hotel in New Road, Peterborough and was first granted a premises licence on 12 March 2007. The premises operated as a restaurant and was originally called ‘Maharanis’. The licence holder was Mr Mohammed Farooq.

2.2 On the 24 April 2009 the premises licence was transferred to Mr Tariq Shaheen and a subsequent licence variation was applied for on 26 May 2009. This variation was to extend the hours for alcohol at the premises until 5am and to add licensable activities to the licence. There were no objections received and the application was granted on 24 June 2009. The premises was known after this variation as ‘Shalimar Gardens’.

2.3 On the 28 July 2009 a designated premises supervisor variation was applied for.

2.4 On the 12 February 2010 a minor variation was applied for to add conditions to the existing licence. The variation was to add items such as the need for CCTV to be installed at the premises.

2.5 On the 30 June 2010, Cambridgeshire Constabulary served an expedited review upon the premises. This was due to a serious assault taking place at the premises which led the

Police to believe that the premises was not being run to a standard to ensure public safety. As a result of this review additional conditions were placed upon the licence.

- 2.6 On the 3 August 2012 an application was made to transfer the premises licence to Mr Muhammed Khubaib. A designated premises supervisor transfer was also applied for at this time and both transfers were granted after no representations were received.
- 2.7 A further designated premises supervisor transfer application was made on 7 February 2013. This application was granted after no representations were made and Mr Lajos Boros became the designated premises supervisor of the premises which was now known as Zaika. A copy of this licence is attached at **Appendix B – Page 7**.
- 2.8 On 27 February 2013 Mr Boros removed himself as the designated premises supervisor of the premises.

3. APPLICATION

- 3.1 In accordance with section 51 of the Licensing Act 2003 following the submission of an application to review the premises licence from Cambridgeshire Constabulary, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A copy of the application to review served by Cambridgeshire Constabulary was received 29 January 2013, a copy of this application is attached at **Appendix C – Page 19**.
- 3.3 Representations in support of the review and recommendations were received from the Licensing Authority and the Pollution Control Team as Responsible Authorities, copies of these representations are attached at **Appendix D – Page 29**.
- 3.5 No other representations have been received from any of the remaining Responsible Authorities, those being, the Local Health Authority, Cambridgeshire Fire and Rescue, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Children’s Services, or Trading Standards.

4. RESPONSIBLE AUTHORITIES

4.1 Summary of issues raised by Responsible Authorities

- i. Continued breaches of premises licence conditions.
- ii. Poor management of the premises.
- iii. Continued issues with loud music from the premises.

5. OTHER PERSONS

- 5.1 No representations have been received from ‘other persons’.

6 Mediation

- 6.1 A mediation meeting between the applicant, Mr Khubaib and his solicitor, the Licensing Authority and the Council’s Noise Pollution Team took place at Thorpe Wood Police Station on Thursday 14th March 2013. As a result of this meeting an agreement was reached between all parties that it is asked that the Licensing Act 2003 Sub-Committee consider as an acceptable solution to the review. A copy of the mediated agreement can be found at **Appendix E – Page 37**.

7. POLICY & GUIDANCE IMPLICATIONS

- 7.1 The following sections/paragraphs are applicable to this application:
- 7.2 **Council’s Statement of Licensing Policy**

- Objectives: *section 4 on Page 5*
- Other Legislation : *section 7 page 7*
- Reviews: *section 16 on Page 12 and 13*
- Delegation / Decision Making / Administration: *Section 17 page 13 and 14*

7.3 Guidance Issued under Section 182 of the Licensing Act 2003 (October 2012)

- Reviews: *Section 11 pages 75 to 80*
- Determining applications: *Section 9 pages 58 to 64*

8. LEGAL OFFICER'S COMMENTS

8.1 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 review of a premises licence following the application by Trading Standards (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

8.2 In this case, the application was received at these offices on 29th January 2013.

8.3 The application before this committee will consider –

- (i) The application to review the licence,
- (ii) Any relevant representations

8.4 The committee will take such steps as it considers that are appropriate for the promotion of the licensing objectives. The steps are –

- (a) to modify the conditions of the premises licence
- (b) to exclude a licensable activity from the scope of the licence
- (c) to remove the designated premises supervisor from the licence
- (d) to suspend the licence for a period not exceeding three months, or
- (e) to revoke the licence

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added

8.5 In addition Section 11.17 and 11.18 of guidance issued under section 182 of the Licensing Act 2003 states:

'The licensing authority may decide that the review does not require it to take any further steps appropriate to promote 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 in issued in writing to the licence holder.

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 concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

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.

'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

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