

<b>LICENSING ACT 2003 SUB-COMMITTEE</b>		AGENDA ITEM No. 3
<b>17 JULY 2013</b>		<b>PUBLIC REPORT</b>
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**APPLICATION: NEW PREMISES LICENCE APPLICATION**

**LICENCE REFERENCE:** MAU 067344

**APPLICANT:** Mr Iain Gordon-Smith

**PREMISES:** Unit 14, Alfric Square, Peterborough, PE2 7JP

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

**1. PURPOSE OF REPORT**

1.1 To consider and determine this application for a new premises licence for Unit 14, Alfric Square, Peterborough, PE2 7JP taking into account the representations received from responsible authorities.

**2. BACKGROUND INFORMATION**

2.1 On the 31 May 2013 a new premises licence application was submitted to the Licensing Authority by Mr Iain Gordon-Smith. The premises is a warehouse and has never had the benefit of any type of alcohol or public entertainment licence. A 'Notice' was displayed in the newspaper on 6<sup>th</sup> June 2013, 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. The new application is attached at **Appendix B - Page 9**.

**3. AUTHORISATIONS AND TIMES APPLIED FOR**

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

Monday to Sunday 11.00 to 06.00

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

Not given on application form

## **4. REPRESENTATIONS**

- 4.1 Representations against the application have been received from Cambridgeshire Constabulary and the local Health Authority in their capacity as a 'responsible authority'.. These representations are attached at **Appendix C - Page 21 and summarised at 5.1.**
- 4.2 There have been no representations in support of the application.
- 4.3 It is for Members of the Licensing Sub-Committee to decide to attach whatever weight to the documentation that it sees fit. Regulation 19(a) of the hearing regulations require authorities to disregard any information given by a party or person that is not relevant to the application. Members should note that the representations attached are in their entirety and 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.
- 4.4 Representations have been received from Cambridgeshire Constabulary and the local Health Authority. No other representations have been received from any of the other Responsible Authorities i.e. The Licensing Authority, Cambridgeshire Fire and Rescue Service, Peterborough Trading Standards, Peterborough City Council Pollution Control, Peterborough City Council Planning Department, Peterborough City Council Health and Safety Team, and Peterborough City Council Child Protection. No representations have been received from 'other persons'.

## **5. 'NEGATIVE' REPRESENTATIONS RECEIVED**

### **5.1 Summary of issues raised:**

- Safety issues raised by Police
- Issues raised by Police over 'due diligence' measures in place to protect children.
- Safety of delivery persons if sales are refused.
- Health issues for purchasers of alcohol in the early hours.

## **6. MEDIATION**

- 6.1 Mediation between the applicant and the responsible authorities (Cambridgeshire Constabulary & local Health Authority) has taken place and, at the time of the completion of this report, continues to take place to establish if the concerns of the responsible authorities can be appeased by placing additional conditions on the licence.

## **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 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

### **7.3 Guidance Issued under Section 182 of the Licensing Act 2003 October 2012**

- The Licensing Objectives – Section 2 pages 11 to 17
- Applications for Premises Licenses – Section 8.1 to 8.42 pages 41 to 58
- 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 the grant of a premises licence made under Section 17 of the Licensing Act.
- 8.2 In this case, the application was received at these offices on 31<sup>st</sup> May 2013.
- 8.3 The application before this Committee will be treated on its own merits, and the Licensing Sub-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 Home Office in October 2012 under section 182 of the Licensing Act 2003.
- 8.4 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 or vary the licence in the same terms as it was applied for
  - decide to grant or vary 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 vary the licence
- 8.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

## LICENSING ACT 2003 GLOSSARY OF TERMS

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