

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
4 OCTOBER 2013		PUBLIC REPORT
Contact Officers:	Adrian Day, Licensing Manager Darren Dolby, Licensing Regulatory Officer	Tel: 454437 Tel. 453561

APPLICATION: NEW PREMISES LICENCE

APPLICANT: Ms Gitana Siatkiene

REFERENCE NO: 067854

PREMISES: 135 Dogsthorpe Road, Peterborough PE1 3AJ

GLOSSARY OF TERMS: Attached at **Appendix A** on **Page 7**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for 135 Dogsthorpe Road, Peterborough, taking into account the representations received from Responsible Authorities (Director of Public Health, Cambridgeshire Constabulary and Trading Standards.

2. BACKGROUND INFORMATION

2.1 Euro Shop has been operating as a general retail store since January 2011 when Ms Siatkiene confirmed to the Food Safety team that she was the food business operator.

2.2 Historically there has been no authorisation for any licensable activities, through a premises licence, to take place at the premises.

2.3 There have been four instances since August 2011 of HM Revenue & Customs visiting the premises and confiscating a large amount of illicit alcohol and tobacco. These confiscations led to the prosecution of the businesses owner, Mr Saade Jalal Jabar and his imprisonment for duty tax fraud. It has been established that Mr Jabar is the partner of the applicant, Ms Siatkiene.

2.4 Since 18th April 2013 the Licensing Authority has adopted a special policy relating to the cumulative impact in respect to all licensed premises within the 'Operation Can – Do' area. An explanation of what this special policy entails can be found on page 8 of the Council's Statement of Licensing Policy. A map showing the Can – Do area is attached at **Appendix C Page 37**

2.5 The premises falls within the 'Operation Can – Do' area and is therefore subject to the provisions of the special 'cumulative impact' policy.

3. AUTHORISATIONS AND TIMES APPLIED FOR

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

Monday to Sunday 07.00 to 23.00

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

Monday to Sunday 07.00 to 23.00.

4. APPLICATION

4.1 Please refer to the application attached at **Appendix B – Pages 11 - 30**

4.2 The applicant is Ms Gitana Siatkiene who is also the proposed DPS (Designated Premises Supervisor), the agent acting on behalf of the applicant is Personal Licensing Training Ltd.

4.3 Representations have been received from Public Health, Trading Standards and Cambridgeshire Constabulary, all as Responsible Authorities, which can be referred to at **Appendix C – Pages 31 - 36**

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, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Children's Services or Peterborough City Council Environmental Pollution Team.

4.6 A '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.

5. RESPONSIBLE AUTHORITIES

5.1 Summary of issues raised

- History of the premises (illicit tobacco and alcohol);
- In 'Op Can-do' area which is now subject to a special 'cumulative impact policy;
- Operating Schedule conditions do not sufficiently address the issues of the historic problems and location; and
- Concern that the application has been made to circumvent the revocation and lost/late appeal.

6. MEDIATION

6.1 No mediation has taken place.

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

7.1 Crime and disorder

- CCTV equipment will be installed, operated and maintained in agreement with the Police. The system will enable a frontal head and shoulders image of every person entering the premises. The system will record in real time and operate whilst the premises are open for licensable activities. The recordings will be kept and made

available for a minimum of 28 days. Recordings shall be made available to an Authorised Officer or Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request.

7.2 **Prevention of Public Nuisance**

- Prominent, clear and legible notices will be displayed at the premises requesting patrons to respect the needs of local residents and to leave the premises and the area quietly; and
- Deliveries of goods and collection of refuse will only be made between 8am and 8pm.

7.3 **Protection of children from harm**

- Any person selling or supplying alcohol under the authority of a personal licence holder must ask for a photo ID proof where they have reason to suspect the individual may be under 25 years of age; and
- Written staff training records will be documented and these training records will be produced to an authorised officer on demand.

7.4 **Public Safety**

- A fire risk assessment required under the Regulatory Reform (Fire Safety) Order 2005 (as amended) will be completed and be available for inspection by an authorised officer.

8. **POLICY & GUIDANCE IMPLICATIONS**

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

8.2 **Council's Statement of Licensing Policy**

- Objectives, Section 4 on Page 5 and 6
- Fundamental Principles, Section 6 on Page 6
- Cumulative Effect, Section 11 on Page 8 to 10
- Children and Licensed Premises, Section 13 on Page 10 and 11
- Licence Conditions, Section 14 page 11 and 12
- Delegation / Decision Making / Administration, Section 17 on Page 13 and 14

8.3 **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 42 to 48
- Determining applications – Section 9 pages 58 to 64
- Conditions Attached to Premises Licences – Section 10 page 65 to 74

9. **LICENSING OFFICER'S COMMENT (FOR INFORMATION)**

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

9.2 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.

10. **LEGAL OFFICER'S COMMENTS**

10.1 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.

- 10.2 In this case, the application was received at these offices on 8th August 2013.
- 10.3 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; and
 - The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – October 2012.
- 10.4 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; and
 - Decide to refuse to grant the licence.
- 10.5 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.

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

This page is intentionally left blank