

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No 3
21 MARCH 2014		PUBLIC REPORT
Contact Officers:	Adrian Day, Licensing Manager Darren Dolby, Regulatory Officer Licensing	Tel: 454437 Tel. 453561

APPLICATION:	Personal Licence
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APPLICANT:	Mr Vakkas Ciftepala
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REFERENCE NUMBER:	MAU : 068881
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GLOSSARY OF TERMS: Attached at Appendix A on Page 6
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1. PURPOSE OF REPORT

1.1 To consider and determine an application for a personal licence under Section 117 of the Licensing Act 2003 for the above person, taking into account the objection notice made by Cambridgeshire Constabulary.

2. BACKGROUND INFORMATION

2.1 For the purposes of the Licensing Act 2003 (“the Act”) Peterborough City Council is a Licensing Authority. Under Section 4 of the Act, a Licensing Authority must carry out its licensing functions under the Act with a view to promoting the licensing objectives, which are the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

In addition, a Licensing Authority must also have regard to its own licensing policy statement and any guidance published by the Secretary of State under section 182 of the Act.

2.2 Section 111 of the Act defines a ‘personal licence’ as a licence which is granted by a Licensing Authority to an individual, and authorises that individual to supply alcohol, or authorise the sale of alcohol, in accordance with a premises licence. A personal licence has effect for an initial ten year period, unless surrendered, revoked, suspended or forfeited. At the expiry of the ten year period an application for renewal is required.

2.3 In accordance with the Licensing Act 2003 (Personal Licence) Regulations 2005, all personal licence applicants are required to submit with their application either:

- a) a criminal conviction certificate issued under section 112 of the Police Act 1997;
- b) a criminal record certificate issued under section 113A of the Police Act 1997; and
- c) the results of a subject access search under the Data Protection Act 1998 of the Police National Computer by the National Identification Service.

- 2.4 Where an application for a personal licence is made to the Licensing Authority in accordance with section 117 of the Act, the Licensing Authority must grant the licence if it appears to it that:
- a) the applicant is aged over 18;
 - b) he / she possesses a licensing qualification or is a person of a prescribed description;
 - c) no personal licence held by him (her) has been forfeited in the period of five years ending with the day the application was made; and
 - d) he / she has not been convicted of any relevant offence or foreign offence.
- 2.5 The Licensing Authority must reject the application if it appears to it that the applicant fails to meet the conditions in paragraph a, b or c above. Further, if it appears that the application meets the conditions in paragraphs a, b and c above but fails to meet the condition in paragraph d above the Licensing Authority must give the chief officer of Police for the area a notice to that effect.
- 2.6 Schedule 4 of the Act provides a list of offences classed as relevant offences for the purposes of an application for a personal licence. Where, having regard to any conviction of the applicant for a relevant offence, and any conviction of his (or hers) for a foreign offence which the chief officer of Police considers to be comparable to a relevant offence, the chief officer of Police is satisfied that granting the licence would undermine the crime prevention objective, he must, within the period of 14 days beginning with the day he received the notice, give the Licensing Authority a notice stating the reasons which he is so satisfied (an 'objection notice').
- 2.7 Where an objection notice is received the Licensing Authority must hold a hearing to consider the objection notice, and having regard to the objection notice, must either :
- reject the application if it considers it necessary for the promotion of the crime prevention objective to do so; or
 - grant the application in any other case.
- 2.8 Under section 17 of the Crime and Disorder Act 1998, the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent crime and disorder in its area.

3. APPLICATION

- 3.1 An application for a personal licence has been received from Mr Vakkas Ciftepala in accordance with section 117 of the Act, a copy of which is attached at **Appendix B Page 9**.
- 3.2 As required, the applicant submitted a criminal record certificate with his application issued by Disclosure Scotland. The certificate confirmed the conviction disclosed by the applicant, namely:
- Conviction date :** 27/7/11
Court : Peterborough Magistrates
Offence : Using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence.
- 3.3 The conviction is a relevant offence in accordance with Schedule 4 of the Act and, in accordance with section 120 of the Act, a notice to that effect was given to the Chief officer of Police by the Licensing Authority.
- 3.4 The Chief Officer of Police has served the Licensing Authority with an objection notice stating that Mr Ciftepala should not be issued with a personal licence due to the disclosed conviction, a summary of which is attached at **Appendix B Page 17**.

4. POLICY & GUIDANCE IMPLICATIONS

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

4.2 Council's Statement of Licensing Policy

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

4.3 Guidance Issued under Section 182 of the Licensing Act 2003 (June 2013)

- Personal Licences: *Section 4 pages 21 to 22*

5. LEGAL OFFICER'S COMMENTS

5.1 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 personal licence and a subsequent objection notice received by the Police under Section 117 of the Licensing Act 2003.

5.2 In this case, the application was received at these offices on 7 February 2013.

5.3 The application before this Committee will consider –

- (i) The application for the personal licence; and
- (ii) The objection notice issued by the Police.

5.4 The Committee will take such of the steps as it considers that action is necessary for the promotion of the licensing objectives. The steps are:

- (a) To grant the personal licence application; or
- (b) To reject the personal licence application.

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