

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 4
20 May 2014		PUBLIC REPORT
Contact Officers:	Adrian Day, Licensing Manager Darren Dolby, Licensing Regulatory Officer	Tel: 454437 Tel. 453561

APPLICATION: NEW PREMISES LICENCE

APPLICANT: Mr Usman Abu Bakar Iftikhar

REFERENCE NO: 069164

PREMISES: Centre Café, 187a Lincoln Road, Peterborough, PE1 2UN

GLOSSARY OF TERMS: Attached at **Appendix A**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for Centre Café, 187a Lincoln Road, Peterborough, taking into account the representations received from Responsible Authorities (Cambridgeshire Constabulary and the Licensing Authority).

2. BACKGROUND INFORMATION

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

2.2 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 B**

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 on the premises**

Monday to Sunday 12 (Noon) to 10.30pm

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

Monday to Sunday 12 (Noon) to 10.30pm.

4. APPLICATION

4.1 Please refer to the application attached at **Appendix C**.

- 4.2 The applicant is Mr Usman Abu Bakar Iftikhar who is also the proposed DPS (Designated Premises Supervisor) and the agent acting on behalf of the applicant is Mr Langford Smith of 227 Park Road, Peterborough. Mr Iftikhar has held a personal licence since December 2011 and is currently the designated premises supervisor of an off licence situated at 415 Lincoln Road, Peterborough.
- 4.3 Representations have been received from Cambridgeshire Constabulary at **Appendix D**, and the Licensing Authority at **Appendix E**, both as Responsible Authorities.
- 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, Children's Services or Peterborough City Council Environmental Pollution Team.
- 4.6 A 'Notice' was displayed in the local 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

- 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 of the location and the surrounding area.
- If granted the concern is that the initial 'small' licensed premises would evolve in to large capacity functions taking place in an upstairs room which can be accessed from the café.

6. MEDIATION

- 6.1 Mediation has taken place between the applicant and the responsible authorities. The applicant has submitted a further 26 conditions that he wishes the Licensing Committee to place on the premises licence if granted. These 26 conditions replace the conditions initially proposed in Part P of the application and can be seen in full in section 7 of this report. Mediation was not successful and the application has been placed before the Licensing Act 2003 Sub Committee for determination.

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

7.1 Crime and disorder

- CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions in particular facial recognition. Cameras shall encompass all entrances and exits to the premises, fire exits and all area where the sale / supply of alcohol occur. A camera will be positioned outside the premises covering the shop frontage.
- CCTV equipment must be maintained in good working order, be correctly time and date stamped. Recordings must be kept in date order, numbered sequentially and kept for a period of 28 days

- The Premises License Holder must ensure at all times a Designated Premises Supervisor or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format and hand this footage over to the Police / Local Authority on demand
- The recording equipment and discs / usb pen drives shall be kept in a secure environment under the control of the DPS or other responsible named individual
- An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings of the system actions taken are to be recorded
- In the event of a technical failure of the CCTV equipment the Premises License Holder / Designated Premises Supervisor must report the failure to the Police or local authority immediately
- Notices advising that CCTV has been installed on the premises shall be posted so that they are clearly visible to the public within the licensed premises
- Staff training in relation to identifying and preventing sales of alcohol to any person who is, or appears to be drunk should be undertaken on a monthly basis. This training, together with on-going training to prevent underage sales (Challenge 25) should be recorded in a written format and be available to an authorised officer upon demand
- A refusals log will be maintained on a daily basis recording all refused attempted purchases of alcohol, carried out by drunks or underage persons
- 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 licensed premises and made available to 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
- A ultra-violet light will be available and maintained at the store 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 the Trading Standards department and HMRC as soon as possible
- Alcohol will only be served with a substantial meal.

7.2 **Prevention of Public Nuisance**

- Arrangements must be in place to ensure that waste collection contractors do not collect refuse between 23.00 and 07.00 hours.
- An adequate number of suitable (lidded) receptacles shall be provided to receive and store refuse from the premises / site.
- Receptacles for waste shall be emptied regularly to avoid causing a public nuisance through smells or odours and shall be maintained in a clean condition.
- Trade waste containers will only be left out for collection of waste and will be stored off the public right of way at all other times.
- No odour or noxious smell shall be emitted from the premises so as to cause a public nuisance.

7.3 **Protection of children from harm**

- Signage will be prominently placed within the premises advertising the fact that the premises operate the 'Challenge 25' initiative
- Any person selling or supplying alcoholic drink under the authority of a personal licence holder must ask for a photo ID proof of age where they have reason to believe that the individual may be less than 21 years of age.
- A refusal log will be accurately maintained on every refusal made in relation to the attempted purchase of alcohol by a juvenile or intoxicated person

7.4 **Public Safety**

- An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.

- Valid Public liability Insurance shall be kept in force and a copy of the schedule shall be available for inspection by an authorised officer on request
- No person will be allowed to enter or leave the licensed premises (as defined by the plan) with an open vessel of alcohol and the licensee will actively discourage and prevent anyone congregating or drinking outside the premises

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 June 2013

- The Licensing Objectives – Section 2 pages 11 to 17
- 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 25 March 2014.
- 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
 - 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

- 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