

**Meeting of the Licensing Act 2003 Sub-Committee
held at the Town Hall, Peterborough on Monday, 20 May 2013**

RECORD OF DECISION

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	New Premises Licence Application, Maxima – 43 Park Road, Peterborough PE1 2TH
3.1 Application Reference	MAU 066980
3.2 Sub-Committee Members	Cllr Thacker Cllr Peach Cllr Davidson
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Mr Dana Aziz
3.5 Nature of Application	<p><u>Application Type</u></p> <p>New Premises Licence</p> <p>The Premises was previously operated as a bed centre and did not benefit from a Premises Licence in order to sell alcohol.</p> <p>Authorisations and Times Applied for (After Mediation)</p> <ul style="list-style-type: none"> • Sale of Alcohol for Consumption off the premises Monday to Sunday 10.00am to 22.00pm • Hours premises are open to the public Monday to Saturday 08.00am to 22.00pm Sunday 09.00am to 22.00pm <p><u>Summary of Review Application</u></p> <p>On the 27 March 2013, a new premises licence application was submitted to the Licensing Authority by Licensed – Inn – Tuition on behalf of the applicant, Mr Dana Aziz. The premises was formerly a bed sales shop and has never had the benefit of any type of alcohol or public entertainment licence. A 'Notice' was displayed in the newspaper on 4 April 2013, in accordance with Part 4 No. 25 of Statutory Instruments 2005 No. 42.</p> <p>Representations had been received from the Responsible Authority, however, a mediation session was held and an agreement had been reached</p>

	<p>with the applicant and the representation was withdrawn.</p> <p>A representation in objection had been received from two local residents and a local business in their capacities as 'other persons'</p> <p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> • An increase in anti social behaviour in the area; • An increase in crime in the area; • An increase in street drinking in the area; and • Increase in parking issues.
<p>3.6 Licensing Objective(s) under which representations were made</p>	<p>List relevant Licensing Objectives</p> <ul style="list-style-type: none"> • The Prevention of Crime and Disorder; • Public Safety; • The Prevention of Public Nuisance; and • The Protection of Children from Harm.
<p>3.7 Parties/Representatives and witnesses present</p>	<p><u>Applicant</u></p> <p>Mr Dana Aziz the Applicant, who was represented by Mr Paul Byatt.</p> <p><u>Other Persons</u></p> <p>Mr Sugar Ali and Mrs Carole Aldous, residents of Park Road.</p>
<p>3.8 Oral representations</p>	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>The Applicants Representative</u></p> <p>Mr Paul Byatt addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> • Mr Aziz held considerable experience in the retail industry and had owned and managed many shops over the years; • Mr Aziz currently owned a successful business located in Kings Lynn; • Previous businesses that Mr Aziz had owned had undergone routine Local Authority test purchasing exercises, which had resulted in a positive outcome; • Although the premises was known to be located in a high impact area, Mr Aziz was aware that the area was subject to scrutiny and had worked with the Responsible Authorities over the adjustment in licensing times in order to open a responsible business; • The supermarket was primarily intended for the sale of food. It was anticipated that alcohol sales would average around 10%; • The premises had been equipped with 32 CCTV cameras located inside and outside. The Applicant was in a position to access a CCTV application link via his mobile phone and was able to view activity at the premises at anytime; • There was no evidence that the opening of the Maxima supermarket would increase crime and disorder; • Comments made by the objectors regarding the prospective clientele that may visit the supermarket was inappropriate and irrelevant; and

- The parking issues raised would be a matter for the Council's relevant amenities department and was not a licensing issue.

In response to a question raised by Councillor Peach regarding the Cumulative Impact Policy, the Regulatory Officer confirmed that the Maxima application had been received prior to the policy's agreement at Council and its use in this application would not apply.

Other Persons

Mr Sugar Ali addressed the Sub-Committee and outlined the main points and objections with regards to the application. The key points raised during his address were as follows:

- Residents had experienced people sitting on the walls and drinking large amounts of alcohol purchased from other nearby supermarkets, on a Thursday, Friday or Saturday evenings;
- The windows of surrounding properties in Park Road were only single glazed due to its status of a conservation area. As a result, residents were constantly being disturbed by the noises created by antisocial behaviour;
- Residents had witnessed unsolicited activities of a sexual nature that had taken place in the alleyways near the residents properties on Park Road;
- The parking arrangements had caused concerns to residents due to many visitors to the premises, in that drivers had operated their vehicles unsafely by reversing off the driveway and endangering passersby;
- There had also been cases of car vandalism in the Park Road area; and
- Consideration should be given to lower the proposed licensing operation time to 7.30pm or 8pm, in order to avoid further noise disturbance to residents.

Mrs Carole Aldous addressed the Sub-Committee and outlined the main points of objection with regards to the application. The key points raised during her address were as follows:

- There was no objection to the shop itself or the passing trade that it may experience, but consideration should be given to reducing sale of alcohol in such a high impact area of public disorder;
- Residents would be in favour of additional CCTV cameras being installed outside the premises;
- Consideration should be given to set the sale of alcohol up until 6pm;
- There had been a spate of incidents in the area recently where elderly people had been terrorised by people loitering;
- Parking provisions to accommodate the volume of trade was inadequate and that consideration should be given to review the arrangements currently in place;
- Residents and school children had experienced incidents of traffic accidents and near misses;
- The nearby church had experienced problems with vandalism;
- There was no reason why people should visit a shop to buy alcohol at 9.30am; and
- Maxima had changed the shop opening times many times.

The Lawyer addressed the Committee and advised Members that the Licensing Act 2003 Sub-Committee held no authorisation to impose any adjustments or any new provisions to the parking arrangements in the area and that Committee were advised to disregard any such consideration.

Summing Up

All parties were given the opportunity to summarise their submissions.

Mr Paul Byatt, the Applicants Representative addressed the Committee and provided responses to the objections made by the 'other persons'. In summary, responses included:

- The shop opening times had changed a number of times due to the mediation process that had been undertaken with the Responsible Authorities;
- The parking concerns raised regarding the area would be a matter for the relevant authority's department to investigate and suggest recommendations to present to the appropriate Committee for decision;
- The shop was intended as a food supermarket with an anticipated food sale of 90% and alcohol sales at 10%.
- Given the predicted sales figures for alcohol, it was clear that the Applicant had not intend to sell alcohol irresponsibly;
- The Applicant was not responsible for drunk people coming into town; however, the applicant was aware that he held a duty to ask any drunk person loitering around the premises to move on;
- Under section 182 of the Home Office regulations for Licensing, the Responsible Authorities, such as the Police, had a duty to manage licensing issues in an area; and
- Any person had the right to request a review of a Premises Licence if they believed that the licensing regulations were being breached.

Mrs Carole Aldous, a resident on Park Road addressed the Committee and commented that the applicant had stated that if the Premises Licence was not granted, the business would not be successful, however, the sales of alcohol was at 10%, which did not make sense. Mrs Aldous also appealed to the Committee and requested that they be responsible for the residents of Park Road when making their decision on whether to grant the Premises Licence.

3.9 Written representations and supplementary material taken into consideration

Applicant – Mr Dana Aziz

Consideration was given to the application submitted by Mr Dana Aziz and the additional information regarding the mediated conditions that had been agreed with the Responsible Authorities.

Other Persons

Consideration was given to the written submissions attached to the Sub-Committee report from two local residents and one business as other persons.

<p>3.10 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the 'Prevention of Crime and Disorder' Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the 'Public Safety' Licensing Objective.</p>
<p>4. Decision</p>	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <ul style="list-style-type: none"> • That the mediated conditions as proposed were appropriate in promoting the Licensing Objectives; • That the police were content with the mediated terms to the operating schedule; • There had been no other representations from any of the other Responsible Authorities; • The application was for a new premises licence and no information was presented, which directly linked the premises with any crime, disorder or public nuisance incidents; and • That CCTV was to be positioned outside the premises covering the shop frontage. <p>During its deliberations, the Licensing Act 2003 Sub-Committee considered the various options available, including:</p> <ul style="list-style-type: none"> • To grant the licence in the same terms applied for; • 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 • Refuse to grant the licence. <p>The Licensing Act 2003 Sub-Committee's decision was to therefore to Grant the premises licence as applied for with the amended schedule following mediation.</p>