

DECISION NOTICE - LICENSING ACT 2003 SUB-COMMITTEE

REVIEW OF THE PREMISES LICENCE – MADINA KEBAB HOUSE – 65 GLADSTONE STREET, MILLFIELD, PETERBOROUGH, PE1 2BN

11 JUNE 2015

This Decision Notice refers to the review of the premises licence Madina Kebab House – 65 Gladstone Street, Millfield, Peterborough, PE1 2BN.

The review was brought under the promotion of crime and disorder objective.

We have considered the representations made to us today in writing and in person, in support of the review by:

- Immigration Enforcement;
- Licensing Authority as a Responsible Authority; and
- Other persons, especially residents who attended and spoke clearly and credibly about the problems they are experiencing.

Immigration Enforcement Officer Mr Patrick Rush told the Committee that on 13th March 2015 in a joint operation with the Police, he attended the premises and found that there were four illegal migrants who were working at the premises unlawfully. The licence holder was invited to attend but declined.

A previous visit by Immigration Enforcement Officers on 17th December 2014 was abandoned due to threats of violence made by persons unknown at the premises. Before officers left the premises they were able to establish that up to seven workers were illegal migrants who were working unlawfully.

Mr Rush informed the Committee that such workers are exploited by their employers and often are not paid the minimum wage. This allows an unfair advantage over legitimate traders. HMRC are unable to collect revenue from such operations thus depriving the public purse of legitimate taxation. Also, there is little compliance to health and safety regulation.

In the statement of Police Sergeant K Pryke, he states that the premises is located in the heart of a residential area and the premises is associated with anti-social behaviour late at night. Youths tend to gather around the premises adding to noise nuisance and disturbance to residents. In his opinion, residents feel intimidated by these groups.

The Public Protection Manager of Peterborough City Council informed the Committee that the premises often traded previously after 11pm without being licensed. There is an allegation of selling hot food at 3am. On being licensed, the premises continued to trade past its licensable hour of 1am.

On 19th March 2015, the Food Safety Team attended the premises for a routine inspection. They found little evidence of food safety compliance and no documented food hygiene safety system.

Also, there is a pattern of non-compliance with legal requirements and poor management practices.

Safer Peterborough Partnership supports the review but does not expand further.

Local residents informed the Committee that there has been a history of noise nuisance, anti-social behaviour and intimidation. Cars arrive late at night, often with loud music coming from within, groups of young men gather around the premises making noise, and vehicles in the immediate vicinity have been damaged. Many residents are fearful when it comes to complaining.

A petition was included in the review documents signed by some thirty seven residents also complaining of noise disturbance and other anti-social behaviour.

The licence holder, Mr A Hussain, did not attend the hearing but did submit a statement and a petition signed by some seventy four people in support of his business. Although the petition was presented beyond the end of the period for making representations, the Committee agreed to consider it as supporting information on behalf of the licence holder in the interests of fairness.

Mr Hussain states in statement that the employment of four illegal workers was an oversight and he should have been more vigilant.

He also states that he is also a victim and has been verbally abused. He denies the allegations of the residents, he states that he is complying, or at least attempting to, with his licence conditions and other regulations.

He makes no mention of the previous visit to his premises made by immigration Enforcement Officers in December 2014.

The Government Guidance states:

11.24 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;

11.28 It is envisaged that licensing authorities, the Police and other law enforcement agencies, which are Responsible Authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

In its deliberations, the Sub Committee gave consideration to the facts submitted, those being:

- Breach of Crime and disorder objective for employing illegal workers at the premises;
- Previous history of illegal workers at the premises;
- Section 11.27 and 11.28 of Guidance recommends revocation where the objectives are undermined through the premises being used to further crimes;
- Illegal working has harmful social and economic effects in the UK, exploiting migrant workers and undercutting other businesses operating within the law;
- Questioning the management's ability to promote the objectives;
- Complaints from residents received alleging trading past authorised hours and unreasonable disturbance caused by the premises; and
- Allegations of anti-social behaviour, litter, noise disturbance causing sleep deprivation, all associated with the premises and its patrons.

The Sub Committee considered the licence holder's supporting statement and the attached petition (Appendix 1). On balance, the Sub Committee attach more credibility to the evidence of the Responsible Authorities and residents.

The Committee noted that revocation was recommended by officers. The Committee attached significant weight to the representations of the Police and other Responsible Authorities, and to the residents.

The Committee concludes that within the community this premises is problematic.

The Sub Committee considered such steps as appropriate to promote the licensing objective. The steps are:

- to modify the conditions of the premises licence;
- to suspend the licence for a period not exceeding three months; or
- to revoke the licence.

The Committee's decision is to revoke the licence in its entirety for the premises, known as Madina Kebab House – 65 Gladstone Street, Millfield, Peterborough, PE1 2BN.

The Committee does not consider that additional conditions or modification of existing conditions will resolve the issues at the premises, nor would any period of suspension. Due to the history of non-compliance and the failure to abide by statutory provisions associated with premises, the Committee does not believe that the business is being run properly or responsibly, and it is more likely than not, based on the facts and submissions before the Committee, that this premises under the current management will continue to be problematic.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days of receiving the formal notice at:

Peterborough Court House, Bridge Street, Peterborough, PE1 1ED. Tel No. 0845 3100575.
There is a fee to pay.

Councillor Davidson

Sub-Committee Chairman

DECISION NOTICE - LICENSING ACT 2003 SUB-COMMITTEE

APPLICATION OF THE PREMISES LICENCE – NECTAR STANGROUND, 2 CENTRAL SQUARE, STANGROUND, PETERBOROUGH, CAMBRIDGESHIRE, PE2 8RH

11 JUNE 2015

This Decision Notice refers to the application of the premises licence Nectar Stanground, 2 Central Square, Stanground, Peterborough, Cambridgeshire, PE2 8RH

The Committee considered the petition in objection to the grant of a premises licence. Residents appeared to be concerned about the number of licensed premises in the area and the risk of underage alcohol sales.

One resident attended and spoke of the risk of underage sales and that there were sufficient outlets to purchase alcohol.

The Applicant's representative informed the Committee that the premises went beyond a shop, it was a supermarket with strict controls, a "Challenge 25" policy and a very robust CCTV system. The Applicant operates another supermarket in Peterborough and there have been no complaints from the Police.

The Committee considered the representations made today against the application. A summary of the issues raised included:

- Already sufficient premises in the area where alcohol can be purchased;
- Premises is on a school route which could lead to an increase in underage consumption of alcohol; and
- Detrimental to the visual appearance of the area.

The Committee have taken account of the Government Guidance and our own Licensing Policy. The Committee accept that there is a presumption to grant unless there are sound reasons backed by evidence to rebut this presumption.

The Committee believed that the Applicant's operating schedule is sufficiently robust to meet residents' concerns.

The Applicant operates another similar premises. There are no objections from any Responsible Authorities. The Applicant intends to operate a "challenge 25" initiative.

The Committee disregarded irrelevant considerations such as "need" and "saturation" in this case.

The Sub Committee also gave consideration to the various options in order to promote the licensing objective as follows:

- 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, where there are more than one licensable activity and as appropriate; and
- Decide to refuse to grant the licence.

The Committee therefore grant this application for a premises licence as applied for.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days of receiving this formal notice at:

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Councillor Davidson

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