

LICENSING ACT 2003 SUB-COMMITTEE

WEDNESDAY 1 AUGUST 2018

1.30 PM

Council Chamber - Town Hall

AGENDA

Page No

1. Apologies for Absence

2. Declarations of Interest

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification " that has been disclosed to the Solicitor to the Council.

3. Application for Premises License Review - Lifestyle Convenience Store, 29 London Road, Peterborough, PE2 8AN **3 - 20**

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<http://democracy.peterborough.gov.uk/documents/s21850/Protocol%20on%20the%20use%20of%20Recording.pdf>

Committee Members:

Councillors: Ayres (Chairman), Allen and Hussain

Further information about this meeting can be obtained from Karen Dunleavy on telephone 01733 452233 or by email – karen.dunleavy@peterborough.gov.uk



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LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
01 AUGUST 2018		PUBLIC REPORT
Contact Officers:	Kerry Leishman, Licensing & Business Manager Simon Andrews, Licensing Regulatory Officer	Tel: 453502 Tel. 453489

APPLICATION:	PREMISES LICENCE REVIEW
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APPLICANT:	PETERBOROUGH & CAMBRIDGESHIRE TRADING STANDARDS
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REFERENCE NO:	Review: 077399	Premises Licence: 074451
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PREMISES:	Lifestyle Convenience Store, 29 London Road, Peterborough, PE2 8AN
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GLOSSARY OF TERMS:	Attached at Appendix A
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1. PURPOSE OF REPORT

- 1.1 To consider and determine an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003 served by Peterborough & Cambridgeshire Trading Standards in relation to the above premises at Appendix B. The review was bought under the Prevention of Crime and Disorder objective.

2. BACKGROUND INFORMATION

- 2.1 On the 30th of November 2016 an application to transfer the premises licence for Lifestyle Convenience Store to Mr Ardalan Karim Mahmood was submitted, at the same time a Designated Premises Supervisor-DPS variation was submitted for Mr Ardalan Karim Mahmood to become the DPS. Both applications received no representations and were subsequently granted after the 14 day consultation.

3. APPLICATION

- 3.1 In accordance with section 51 of the Licensing Act 2003 following the submission of an application to review the premises licence from Peterborough & Cambridgeshire Trading Standards, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A letter of support of the review has been received from PC Grahame Robinson, Cambridgeshire Constabulary. This letter of support is attached at Appendix C.
- 3.3 No representations have been received from any other of the Responsible Authorities i.e. Home Office, Public Health Authority, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Environmental Pollution Team, or Children's Services.
- 3.4 A statutory 'Notice' was displayed on the premises in accordance with Part 5 no. 38 of Statutory Instruments 2005 No. 42 – The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (Appendix D).

4. SUMMARY OF ISSUES RAISED BY TRADING STANDARDS

- On 18 December 2017 Trading Standards visited Lifestyle Convenience Store following complaints of the shop selling foreign labelled cigarettes. The shopkeeper Mr Ahmed Mustafa picked up a black holdall that was behind the till and immediately walked out of the rear of the shop to his car. He returned without the holdall. The owner of the shop was telephoned and the designated premises supervisor Mr Ahmed Ghafoor arrived shortly after. Whilst waiting for Mr Ghafoor, several customers came into the shop asking for cheap cigarettes. Mr Ghafoor advised that the shop do not sell foreign labelled cigarettes and advice was given.

Following further complaints on 19 January 2018 a test purchase exercise was carried out by Trading Standards on the sale of foreign labelled cigarettes. A purchase was made of a Lithuanian packet of Marlboro Gold for £5.50 at Lifestyle Convenience Store.

- On 29 January 2018 Trading Standards visited Lifestyle Convenience Store and a seizure was made of 6000 cigarettes (300 packets) and 1600g of hand rolling tobacco (32 pouches) that were found at the rear of the shop in plastic bags, bin liners and a black holdall. The tobacco is believed to be counterfeit and the cigarettes are suspected to fail safety requirements.
- Following an interview with the owner Mr Ardalan Mahmood, he handed over a letter from his friend admitting that they were his cigarettes and he had left them in the shop.
- Following further complaints, Trading Standards visited Lifestyle Convenience Store on 9 March 2018 and spoke to the shopkeeper Mr Mustafa. Foreign cigarettes were not being stored in the shop however a plastic bag hanging behind the counter was full of foreign labelled Amber Leaf and Marlboro Gold sleeves and outer wrapping which could not be explained other than 'they must have been there from last night as the boss Ahmed (DPS) was working.
- Four more complaints were received regarding the sales of cheap foreign labelled cigarettes.
- On 21 May 2018 a test purchase was made of a foreign labelled packet of Marlboro Gold and paid £5.50. The male shopkeeper went out of the back door and got the cigarettes from the white van parked outside the door.

5. POLICY & GUIDANCE IMPLICATIONS

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

5.2 Council's Statement of Licensing Policy

- Objectives, Section 4 on Page 7 and 8
- Fundamental Principles, Section 6 on Page 6 and 7
- Licence Conditions, Section 14 page 17
- Delegation / Decision Making / Administration, Section 17 on Page 19 and 20

5.3 **Guidance Issued under Section 182 of the Licensing Act 2003 April 2017**

- The Licensing Objectives – Section 2 pages 7 to 17
- Applications for Premises Licences – Section 8 pages 52 to 62
- Determining applications – Section 9 pages 70 to 78
- Conditions Attached to Premises Licences – Section 10 page 79 to 90

6. LEGAL OFFICER'S COMMENTS

6.1 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 review of a premises licence following the application by Trading Standards (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

6.2 In this case, the application was received at these offices on 07 June 2018.

6.3 The application before this committee will consider:

- (i) The application to review the licence,
- (ii) Any relevant representations.

6.4 The committee will take such of the steps as it considers that action is appropriate for the promotion of the licensing objectives. The steps are:

- (a) to modify the conditions of the premises licence
- (b) to exclude a licensable activity from the scope of the licence
- (c) to remove the designated premises supervisor from the licence
- (d) to suspend the licence for a period not exceeding three months, or
- (e) to revoke the licence

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

6.5 In addition the guidance issued under section 182 of the Licensing Act 2003 states:

‘The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be in issued in writing to the licence holder. However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.’

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

Except where there is an exemption under the Live Music Act 2012 or Statutory Instrument 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013.

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.

'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).
- Home Office (immigration)

'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

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Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Trading Standards

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Lifestyle Convenience Store 29 London Road	
Post town Peterborough	Post code (if known) PE2 8AN

Name of premises licence holder or club holding club premises certificate (if known) Mr Ardalan Karim Mahmood 29 London Road Peterborough PE2 8AN
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Number of premises licence or club premises certificate (if known) 074451

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises

- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Karen Woods Peterborough City Council Trading Standards Department Town Hall Bridge Street Peterborough PE1 1HG
Telephone number (if any) 01733 453407
E-mail address (optional) karen.woods@peterborough.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

Trading Standards are requesting a review of the premises licence for Lifestyle Convenience Store under the prevention of crime and disorder following an operation by Trading Standards to clamp down on the illicit tobacco and alcohol trade.

Please provide as much information as possible to support the application

(please read guidance note 2)

On the 18/12/17 Trading Standards visited Lifestyle Convenience Store following complaints of the shop selling foreign labelled cigarettes. The shop keeper Mr Ahmed Mustafa picked up a black holdall that was behind the till and immediately walked out of the rear of the shop to his car. He returned without the holdall.

The owner of the shop was telephoned and the designated premises supervisor Mr Ahmed Ghafoor arrived shortly after.

Whilst waiting for Mr Ghafoor, several customers came into the shop asking for cheap cigarettes. Mr Ghafoor advised that the shop do not sell foreign labelled cigarettes and advice was given

Following further complaints on the 19th January 2018 a test purchase exercise was carried out by Trading Standards on the sale of foreign labelled cigarettes. A purchase was made of a Lithuanian packet of Marlboro Gold for £5 .50 at Lifestyle Convenience Store.

On the 29th January 2018 Trading Standards visited Lifestyle Convenience Store and a seizure was made of 6000 cigarettes (300 packets) and 1600g of hand rolling tobacco (32 pouches) that were found at the rear of the shop in plastic bags, bin liners and a black holdall. The tobacco is believed to be counterfeit and the cigarettes are suspected to fail safety requirements.

Following an interview with the owner Mr Ardalan Mahmood, he handed over a letter from his friend admitting that they were his cigarettes and he had left them in the shop.

Following further complaints, Trading Standards visited Lifestyle Convenience Store on the 9th March 2018 and spoke to the shop keeper Mr Mustafa. Foreign cigarettes were not being stored in the shop however a plastic bag hanging behind the counter was full of foreign labelled Amber Leaf and Marlboro Gold sleeves and outer wrapping which could not be explained other than 'they must have been there from last night as the boss Ahmed (DPS) was working.

4 more complaints were received regarding the sales of cheap foreign labelled cigarettes.

On the 21/5/18 a test purchase was made of a foreign labelled packet of Marlboro Gold and paid £5.50. The male shop keeper went out of the back door and got the cigarettes from the white van parked outside the door.

Recommendations;

A revocation of the alcohol licence.

Reasons for the above recommendation;

Trading Standards as a responsible authority recommends revocation due to the seriousness of the illicit trade. The shop has continued to be involved in the sale and supply of illegal cigarettes and tobacco.

This is supported by guidance issued under section 182 of the Licensing Act 2003 11.27 There is a certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously.

One of them being;

- for the sale or storage of smuggled tobacco and alcohol.

Guidance states - 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 in 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.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date

6/6/18

Capacity

REGULATORY OFFICER

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



Creating a safer
Cambridgeshire

Ref: Trading Standards Review – 29 London Road

Wednesday 27th June 2018

Darren Dolby
Licencing Officer
Peterborough City Council
Town Hall
Bridge Street
Peterborough
PE1 1HU

Dear Darren,

Re: Trading Standards review application – 29 London Road Late Store

On the 06th June 2018 Cambridgeshire Constabulary received notification of a Licencing review application submitted by Peterborough City Council Trading Standards. The review application refers to the 'Off' Licensed premises called 'Lifestyle Convenience Store' at 29 London Road, Peterborough, PE2 8AN. The Premises Licence reference 074451 is held by Mr. Ardalan Karim Mahmood of the same address. The designated premises supervisor is Mr Ahmed Sherzad Ghafoor of [REDACTED] Cherry tree Grove, Peterborough, PE1 4NX who holds an Alcohol Personal Licence No: 073602 issued by Peterborough City Council.

The Premises License and Designated Premises Supervisor (DPS) was transferred over on 30th November 2017 to Mr. Mahmood and Mr Ghafoor respectively. The Premises License allows for the sale of alcohol daily between 06:00hrs and 00:00hrs.

Trading Standards, with ongoing support and co-operation of partners including Cambridgeshire Constabulary, have effectively used information collated over a period of time to prove that those connected with this store have been knowingly trading in counterfeit & illicit cigarettes from the premises. Clearly knowing the wrongs in such activity, it is evident that Mr Mustafa and Ghafoor have continued to be a party to the secreting of goods within the store, with a view to selling them from the store, for their or someone else's gain. This leads me to seriously doubt whether Mr Mustafa and Ghafoor are fit and proper to be concerned in the sale of alcohol.

The Premises License Holder, Mr Mahmood, has stated during formal interview that the cigarettes belonged to a third party who left them in the shop. It is my experience from previous unrelated events that this a commonly used tactic to try to mislead or impede the authorities and claim that those found in possession have no ownership or involvement with the illicit goods. The fact is that counterfeit / illicit cigarettes have been found on a number of occasions at this premises, and ordinary members of the public have found it necessary to inform the authorities about the activity.

Cambridgeshire Constabulary fully support the ongoing operation and partnership with Trading Standards and HMRC in a positive effort to prevent and deter counterfeit / illicit cigarettes and alcohol being sold or supplied in Peterborough.

We take a very serious view on the sale of illicit / counterfeit goods. This is a serious breach upon the licencing objective to prevent crime and disorder, and in my opinion does not promote public safety. Such crime has a detrimental effect upon the immediate community and can be harmful to unwitting customers including children. Foreign cigarettes and hand rolling tobacco are not subject to the strict regulation and control measures that would benefit UK authorised sale items and in most cases have not had UK duty paid on them. Distribution and sale of illicit / counterfeit goods is linked to serious and organised crime and nationally is a drain on the economy.

Section 182 Guidance - Licensing Act 2003 Para 11.27 states –

“There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously”.

This includes amongst other criminal activity –

“The sale or storage of smuggled tobacco and alcohol”.

Para 11.28 states –

“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”.

Cambridgeshire Constabulary support Trading Standards with their review application and also ask for the Licensing Sub-Committee to seriously consider revoking the Premises licence held by Mr Mahmood.

Grahame Robinson PC1572
Cambridgeshire Constabulary
Ops Planning & Licensing (Northern)
Thorpewood Police Station
Peterborough
PE3 6SD

[Tel:01733424438](tel:01733424438)

Email: grahame.robinson@cambs.pnn.police.uk

LICENSING ACT 2003
NOTICE OF REVIEW OF PREMISES LICENCE

Notice is given that Peterborough City Council, as the Licensing Authority, has on the 7th of June 2018 been asked to review the Premises Licence by Trading Standards for the following licensed premise

Lifestyle Convenience Store
29 London Road
Peterborough
PE2 8AN

The grounds for review are made under the Licensing Objective 'The Prevention of Crime & Disorder'
Anyone wishing to make representations concerning this review should do so in writing to:

Peterborough City Council, Licensing Section, 1st Floor
Town Hall, Bridge Street, Peterborough. PE1 1FA

Representations in respect to this review must reach the Licensing Authority by the 5th of July 2018

Persons wishing to inspect the review application may do so by attending the office of the licensing section during office hours, Monday to Friday. Alternatively the review application may be viewed on the public register section of the Licensing Authorities website,

<https://www.peterborough.gov.uk/business/licences-and-permits/licensing-public-register>

It is an offence knowingly or recklessly to make a false statement in connection with an application, the maximum fine for which on summary conviction is £5000

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