

<b>LICENSING ACT 2003 SUB-COMMITTEE</b>		<b>AGENDA ITEM No. 3</b>
<b>16 DECEMBER 2011</b>		<b>PUBLIC REPORT</b>
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<b>APPLICATION:</b>	<b>NEW PREMISES LICENCE</b>
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<b>LICENCE REFERENCE:</b>	MAU 062198
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<b>APPLICANT:</b>	Mr Qaiser Ijaz
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<b>PREMISES:</b>	Fags & Booze, 97 St Pauls Road, Peterborough, PE1 3DR
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<b>GLOSSARY OF TERMS:</b>	Attached at <b>Appendix A – Page 5</b>
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## 1. PURPOSE OF REPORT

- 1.1 To consider and determine this application for a new premises licence for Fags & Booze, 97 St Pauls Road, Peterborough, PE1 3DR taking into account the representations received from Trading Standards & Cambridgeshire Constabulary, both of whom are responsible authorities.

## 2. BACKGROUND INFORMATION

- 2.1 On the 17<sup>th</sup> September 2007 a new application for a premises licence was submitted by Mr Dhanwant Singh & Mr Kismet Singh. As no objections were received the licence was granted. A copy of this original licence can be found at **Appendix B – Page 9**.
- 2.2 On the 28<sup>th</sup> October 2009 an application to transfer the premises licence and to change the designated premises supervisor at the premises to Mr Mohammed Tokir was applied for. As there were no objections these transfers to the licence were granted.
- 2.3 On the 30<sup>th</sup> November 2010 an application for the variation to the premises licence was applied for by Mr Tokir. This application was to amend and increase the licensable hours to sell alcohol and to amend the opening hours of the premises. As there were no objections the application was granted on 29<sup>th</sup> December 2010. A copy of this varied licence can be found at **Appendix C – Page 17**.
- 2.4 On the 10<sup>th</sup> August 2011 a review of the premises licence was submitted by Trading Standards. This review was sought after the premises had been the subject of a joint Trading Standards / Her Majesty's Revenue & Customs investigation over illicit alcohol and cigarettes being sold at the premises. Trading Standards also sought the review after the premises failed an alcohol test purchase. The review hearing was held on 28<sup>th</sup> September 2011. As a result of this hearing the premises licence was revoked.

2.5 Mr Tokir has appealed the Licensing Act 2003 Sub-Committee's decision to revoke the premises licence. This appeal is to be held at Peterborough Magistrates Court on 23<sup>rd</sup> January 2012. Pending this appeal the premises has continued to sell alcohol as per the timings and authorisations on the premises licence issued on 29<sup>th</sup> December 2010.

### **3. SUMMARY OF AUTHORISATIONS APPLIED FOR**

- 3.1
- i) To allow the retail sale of alcohol from Sunday to Thursday from 10am to 10.30pm.
  - ii) To allow the retail sale of alcohol on Friday and Saturday from 10am to 11.30pm.
  - iii) To allow the premises to be open from Sunday to Thursday from 10am to 10.30pm
  - iv) To allow the premises to be open on Friday and Saturday from 10am to 11.30pm.

### **4. APPLICATION & PROPOSED CONDITIONS**

4.1 Please refer to the application and plan attached at **Appendix D – Page 25**.

4.2 The applicant has proposed the following conditions be placed upon the licence to meet the four licensing objectives. For clarity and as per paragraph 8.42 of the guidance, these conditions have been translated in to clear and understandable conditions.

#### **4.3 The Prevention of crime and disorder**

- CCTV equipment shall be installed inside/outside the premises and maintained in working order.
- CCTV equipment will be set to record all licensed areas from the time that the premises open to the public until the premises closes and all members of the public have left
- Digital images shall be retained for at least **one month** and shall be produced to an authorised officer on demand
- Notices advising that CCTV has been installed on the premises shall be posted up so that they are clearly visible to the public within the licensed premises.
- An authorised person will be available at all times on the premises to show CCTV images immediately or to an authorised officer on demand.
- CCTV images will be clear and comprehensible
- Any new/existing CCTV system in place will be cleared for use by the Police/Licensing Authority
- Regular liaison with the Police will be maintained.

#### **4.4 Public Safety**

- (CCTV conditions as per above)

#### **4.5 The prevention of public nuisance**

- To ensure that customers do not loiter outside the premises after they have purchased alcohol.
- Prominent, clear and legible notices at all exits shall be displayed on the premises requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

#### 4.6 **The protection of children from harm**

- The 'Challenge 21' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises
- Signage will be prominently placed within the premises advertising the fact that the premises operates the 'Challenge 21' initiative

4.7 Representations have been received from Trading Standards and Cambridgeshire Constabulary as Responsible Authorities under the prevention of crime and disorder objective. Copies of the representations are attached at **Appendix E – Page 49**.

4.8 No representations have been received from any of the other Responsible Authorities i.e. Cambridgeshire Fire and Rescue Service, Peterborough City Council Planning Department, Peterborough City Council Health and Safety Team, Peterborough City Council Child Protection and Peterborough City Council Noise Pollution Team.

4.9 The applicant, through mediation, has agreed to a number of further conditions being placed upon the licence. These agreed conditions are shown at paragraph 7

### 5. **RESPONSIBLE AUTHORITIES**

#### 5.1 **Summary of issues raised:**

- The applicant, Mr Ijaz, was directly implicated in the Trading Standards / Her Majesty's Customs & Revenue investigation into illicit alcohol & tobacco being sold at the premises.
- It is felt that the applicant has no regard to the licensing objectives due to previous highlighted issues.
- It is felt that this application is being used to circumvent the revocation of the previous licence, which is currently subject to an appeal at Peterborough Magistrates Court.
- The premise is within the area of a multi-agency initiative, Operation CAN-do, which is tackling drug and alcohol related crime within the area.

### 6. **MEDIATION**

6.1 Mediation has taken place and the applicant has agreed to additional conditions being placed upon the licence. However Trading Standards and the Police felt that the premises licence review should continue and be heard by the committee as they are of the view that the addition of licensing conditions will not remove the concerns expressed in 5.1. It is felt that alcohol related crime and disorder will continue to be associated with the premises, as well as adversely impacting on the wider community.

### 7. **APPLICANT'S AGREED ADDITIONAL CONDITIONS**

#### 7.1 **Crime and disorder**

- 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 shop 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.
- An ultra violet light will be available at the premises 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 or HMRC.

## **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 8
- Fundamental Principles, section 6 on Page 9
- Licensing Hours, section 8 on Page 12
- Other Legislation, section 10 on Page 14
- Licence Conditions, section 13 on Page 16 and 17
- Delegation / Decision Making / Administration, Section 16 on page 18 and 19

### **8.3 Guidance Issued under Section 182 of the Licensing Act 2003 – October 2010**

- The Licensing Objectives, section 2 pages 18 to 25
- Determining applications, section 9 Pages 78 to 81
- Conditions attached to premises licences, section 10 pages 83 to 96
- Pools of conditions, Annex D page 133 to 149

## **9. LEGAL OFFICER'S COMMENTS**

9.1 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 the variation of a premises licence made under Section 34 of the Licensing Act.

9.2 In this case, the application was received at these offices on 28<sup>th</sup> October 2011.

9.3 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 March 2010 under section 182 of the Licensing Act 2003.

9.4 The licensing authority may determine the application, depending upon what is necessary for the promotion of the licensing objectives, in any of the following ways:

- decide to grant or vary the licence in the same terms as it was applied for
- decide to grant or vary 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 vary the licence

9.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003.

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.

**‘Interested parties’:**

- a person living in the vicinity of the premises in question;
- a body representing persons living in that vicinity, e.g. a residents association;
- a person involved in a business in the vicinity of the premises in question;
- a body representing persons involved in such a business e.g. a trade association.
- a member of the relevant licensing authority e.g. a Councillor

**‘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
- 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 96 hours;
- 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 15 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

**‘Vicinity’**: Given the normal everyday meaning of being ‘near to’ when considering the relevance of representations received from individual’s residence or business.

Licensing Act 2003\glossary of terms 13 March 2007

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