

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
12 JULY 2012		PUBLIC REPORT
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APPLICATION: NEW PREMISES LICENCE

APPLICANT: Evelina Balzakeviciene

REFERENCE NO: 064340

PREMISES: 77 Mayors Walk, Peterborough, PE3 6EX

GLOSSARY OF TERMS: Attached at **Appendix A – Page 6**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for 77 Mayors Walk, Peterborough, taking into account the representations received from Responsible Authorities and other persons as detailed in sections 5 and 6 of this report.

2. BACKGROUND INFORMATION

2.1 77 Mayors Walk was formerly a licensed premises called Baltica. An application was submitted by Miss Aurika Zukauskienė (as DPS and premises licence holder) in November 2010 and as no representations were received, it was granted in December 2010. The licence was surrendered on 28/7/2011 following a review application served by Trading Standards on 29/6/11. Therefore the premises is currently unlicensed.

2.2 As per the application (under general description) the premises will be used as a food shop and off licence.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**

Monday to Sunday 09.00 to 22.00

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

Monday to Sunday 09.00 to 22.00

4. APPLICATION

- 4.1 The application was submitted online via ELMS (Electronic Licensing Management system). The application was then forwarded to the required Responsible Authorities by the licensing department in accordance with the regulations and section 8.24 of Guidance. Please refer to the application attached at **Appendix B – Page 9**
- 4.2 Representations have been received from a local Councillor and a resident as ‘other persons’. Representations have also been received from the following Responsible Authorities, Cambridgeshire Constabulary, Trading Standards and The Licensing Authority. A letter was also received from The Director of Public Health providing observations regarding the locality and the condition within the application in relation to the protection of children from harm objective. (To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation).
- 4.3 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 10.9 and 10.11 of the 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.
Also in accordance with section 10.17, conditions proposed which should be included in a fire risk assessment required by the Regulatory Reform (Fire Safety) Order 2005 cannot be included within the licence.
- 4.4 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, Peterborough City Council Children’s Services, or Peterborough City Council Environmental Pollution Team.
- 4.5 A copy of the ‘Notice’ that was displayed in the 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 is attached at **Appendix C – Page 29**

5. OTHER PERSONS

LICENSING OBJECTIVE:	REPRESENTATIVE:
Public Nuisance Crime and Disorder Protection of Children from Harm	2 representations: 1 from a local Councillor and one from a nearby resident. Appendix D – Pages 31 to 32

- 5.1 **‘Any Other Person’ is defined as:-** 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
- 5.2 **Summary of issues raised**
- Potential increase of existing alcohol related incidents and anti social behaviour in the area
 - Premises has a history of illegal activity
 - The number of premises in the vicinity selling alcohol
 - Not appropriate for the locality with schools, residents and church near to the premises

6. Responsible Authorities

LICENSING OBJECTIVE:	REPRESENTATIVE:
Public Safety Crime and Disorder Protection of Children from Harm	Licensing Authority Trading Standards Cambridgeshire Constabulary Appendix D – Pages 33 to 40

6.1 **Summary of issues raised**

- History of problems at the premises including:
 - a) Three HMRC seizures of illicit goods on the following dates; May 2010, April 2011 and May 2012.
 - b) Underage sale (failure of test purchase) June 2011
- Established link with prior owner and staff of new applicant
- Ambiguity over ownership, responsibility and control of business
- Questioning the ability of applicant to uphold objectives

6.2 A letter containing observations was received from The Director of Public Health. Whilst they do not directly oppose the licence being granted, their observations have been included for member's consideration. **Appendix D – Page 41**

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

7.1 **Crime and disorder**

- A personal licence holder will be on the premises at all times when sales of alcohol take place.
- CCTV will be installed and working to the satisfaction of the Police and Licensing Authority.
- CCTV recordings will be maintained and retained for a period of one month.
- If the CCTV equipment fails, the Police and Licensing Authority will be informed as soon as possible and immediate steps will be taken to put the equipment back into action.
- 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.
- All instances of serious crime and disorder will be reported to the police as soon as reasonably practicable.

7.2 **Public Safety**

- Access for emergency vehicles will be kept clear and free from obstruction.
- An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.
- Valid public liability insurance (to the minimum sum of £1 million) must be kept in force and a copy of the schedule shall be available for inspection by an authorised officer on request.

7.3 **Protection of Children from Harm**

- The premises licence holder shall take all reasonable steps to prohibit the sale of alcohol to persons under the age of 18.

7.4 **Prevention of Public Nuisance**

- Prominent clear and legible notices will be displayed at all exits, requesting customers to respect the needs of local residents and to leave the premises and the area quietly.
- Receptacles for refuse shall be maintained in a clean condition.
- Flashing or particularly bright lights on or outside the licensed premises must not cause a nuisance to nearby properties.

- The premises licence holder shall be responsible for prevention and disposal of waste on the frontage of the premises and make provision for the emptying of litter bins directly 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
- Licensing Hours, Section 12 on Page 10
- Licence Conditions, Section 14 on 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 April 2012

- The Licensing Objectives – Section 2 pages 8 to 18
- Applications for Premises Licences – Section 8.1 to 8.44 pages 47 to 55
- Determining applications – Section 9 pages 68 to 75
- Conditions Attached to Premises Licences – Section 10 page 76 to 89

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 18 May 2012.

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 – April 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).

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