

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
12 OCTOBER 2012		PUBLIC REPORT
Contact Officers:	Darren Dolby, Licensing Regulatory Officer	Tel. 453561

APPLICATION: VARIATION TO PREMISES LICENCE

LICENCE REFERENCE: MAU 065235

APPLICANT: Mr Iftikhar Usman

PREMISES: Mini Market, 415 Lincoln Road, Peterborough, PE1 2PF

GLOSSARY OF TERMS: Attached at **Appendix A – Page 5**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a variation to the premises licence for Mini Market, 415 Lincoln Road, Peterborough, PE1 2PF taking into account the representations received from responsible authorities and other persons. The application form is attached at **Appendix B – Page 9**

2. BACKGROUND INFORMATION

2.1 On the 31st May 2005 an application to convert an existing justice’s off licence to a premises licence for News N Booze, 415 Lincoln Road, Peterborough was submitted to Licensing Authority by Shaid Majid. This licence was granted as there were no representations received. Since the granting of this licence there has been a premises name change in 2007 to ‘The B Stop’ and two licence reviews of the premises licence. The first review in April 2007 concerned underage sales of alcohol to children and the second in August 2011 was due to illicit alcohol and tobacco being found at the premises. As a result of the second licence review the Licensing Act 2003 Sub-Committee revoked the premises licence.

2.2 On the 9th February 2012 a new premises licence application was submitted to the Licensing Authority by Mr Iftikhar Usman. Mr Usman is a new applicant and is not connected with the previous licence holders. After an initial Police objection to the granting of the licence the licence was granted with additional mediated conditions attached to the licence. A copy of the existing licence can be found at **Appendix C - Page 21**

3. VARIATION APPLICATION AND ADDITIONAL CONDITIONS PROPOSED

- 3.1
- i) To increase the hours authorised to sell alcohol from 10am until 8pm to 8am until 2am.
 - ii) To remove condition 16 – ‘No alcohol shall be consumed on the premises’
 - iii) To remove condition 20 – ‘No alcohol shall be consumed on the premises’
 - iv) To remove condition 18 – ‘No single vessel of beer, lager or cider to be offered for sale’

3.2 CONDITION TO BE ADDED AFTER MEDIATION

- i) The Premises Licence Holder shall ensure that all waste arising from the premises is disposed of in an appropriate manner

4. REPRESENTATIONS

4.1 Representations against the application have been received from Cambridgeshire Constabulary, the Licensing Authority, Peterborough City Council Planning Department, the Local Health Authority and Peterborough City Council’s Noise Pollution Team in their capacity of responsible authorities. The representation from the Noise Pollution Team has now been withdrawn after mediation. There have been representations from the Millfield and New England Regeneration Partnership (MANERP), the Victoria Park Resident’s Association and the Operation CAN-do Neighbourhood Delivery Team (NDT). These 3 organisations represent the interests of local residents in the area. We also received a representation from a local Councillor and 30 local residents who signed to acknowledge the Councillors representation. A further 2 representations have been received from local residents. These representations are attached at **Appendix D - Page 31 and summarised at 5.1.**

4.2 Representations in support of the application have been received from eleven local residents. The letters of support are contained within this report at **Appendix E - Page 79** The applicant’s agent has also produced a ‘Supporting Documentation’ pack. Contained within this document are a further 3 letters of support for the application and a petition signed by 109 persons stating that they support the application. These representations and documentation are attached at **Appendix F - Page 91 and summarised at 6.1**

4.3 It is for members of the licensing sub-committee to decide to attach whatever weight to the documentation that it sees fit. Regulation 19(a) of the hearing regulations require authorities to disregard any information given by a party or person that is not relevant to the application. Members should note that the letters and documentation attached are in their entirety and 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.

4.4 Representations have not been received from any other of the Responsible Authorities i.e. Cambridgeshire Fire and Rescue Service, Peterborough Trading Standards, Peterborough City Council Health and Safety Team and Peterborough City Council Child Protection.

5. ‘NEGATIVE’ REPRESENTATIONS RECEIVED

5.1 Summary of issues raised:

- An increase in litter in the area.
- An increase in anti social behaviour in the area.
- An increase in street drinking in the area
- Negative impact on the principles of the ‘Operation CAN-do’ initiative

6. 'POSITIVE' REPRESENTATIONS RECEIVED

6.1 Summary of positive representations :

- Applicant keeps the store and area clean and tidy
- Applicant is friendly and polite
- Decrease in anti social behaviour since the applicant has been at the store
- Decrease in street drinking in the area since the applicant has been at the store

7. MEDIATION

7.1 Mediation continues to take place between the applicant's agent and those that have made representations against the application. A representation initially made by the Council's Noise Pollution Team has been withdrawn after an additional condition was agreed through mediation. At the time of making this report there have been no further agreements made nor representations withdrawn during mediation.

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 pages 47 to 61
- Determining applications – Section 9 pages 68 to 75
- Conditions Attached to Premises Licences – Section 10 page 76 to 89

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 20th August 2012.

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 Home Office in April 2012 under section 182 of the Licensing Act 2003.

9.4 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 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.

‘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.

‘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

This page is intentionally left blank