

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
28 JANUARY 2013		PUBLIC REPORT
Contact Officers:	Peter Gell, Strategic Regulatory Services Manager Terri Martin, Regulatory Officer Licensing	Tel: 453419 Tel. 453561

APPLICATION: Review of Premises Licence

PREMISES: Super Poli (also known as Mini Poli), 613 Lincoln Road, Peterborough, PE1 3HA

REFERENCE NUMBER: MAU 066319

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

1. PURPOSE OF REPORT

1.1 To consider and determine an application for a review of a Premises Licence under Section 51 of the Licensing Act 2003 for the above premises, taking into account the representation made and supplementary information submitted by Trading Standards in their capacity as a Responsible Authority, letter of support of the review and recommendations from Cambridgeshire Constabulary and the PCT (Director of Public Health) also Responsible Authorities. Representations from MANERP and The Neighbourhood Cando team as other persons also in support of revocation. The review was bought under the Prevention of Crime and Disorder objective.

2. BACKGROUND INFORMATION

2.1 Historically this premises operated as The Greyhound Public House, a justices licence was converted and varied in August 2005 and was surrendered on 3 April 2009.

2.2 On the 15 July 2009 an application for a new premises licence was submitted by Mini Poli Ltd to allow the off sale of alcohol from 08.00 to midnight Monday to Sunday, with the Designated Premises Supervisor (DPS) identified as Mr Uyan. As no representations were received the licence was granted 13 August 2009.

2.3 On the 26 January 2010 a minor variation was submitted to add extra conditions to the operating schedule following a test purchase operation (27/10/09), whereby a member of staff (Ewa Walas) sold alcohol to an individual under the age of 18 years. No representations were received and the licence was granted on 8 February 2010.

2.4 On the 14 April 2011 an application to vary the DPS from Mr Uyan to Ewa Walas was received. As no representation was received from the police, the licence was granted on the 29 April 2011.

- 2.5 On the 22 August 2011 an application was received to transfer the holder of the licence from Mini Poli Ltd to Mr Hasan Koc. As no representations were received, the application was granted on the 9 September 2011.
- 2.6 On the 30 October 2012 information was passed to the licensing team stating that Mr Koc was no longer connected to the premises. A visit was made to the premises and Ewa Walas produced an application to transfer the premises licence with receipt attached dated 25/6/12. Whilst the application was receipted it was never handed in to the council's licensing department, until 31 October 2010. This application requested transfer of the premises licence from Mr Koc to Ewa Walas. As no representations were received the application was granted on 15 November 2012. A copy of this current licence is attached at **Appendix B – Page 7.**

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 Trading Standards, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A copy of the application to review served by Trading Standards was received 6 December 2012, a copy of this application is attached at **Appendix C – Page 15.**
- 3.3 Supplementary information from Trading Standards was received 19 December 2012, a copy is attached at **Appendix D – Page 23.**
- 3.4 A copy of the 'Notice' that 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 is attached at **Appendix E – Page 25.**
- 3.5 A representation in support of the review and recommendations was received from Cambridgeshire Constabulary and the PCT (Director of Public Health) as Responsible Authorities, copies of these representations are attached at **Appendix F – Page 27.**
- 3.6 No other representations have been received from any of the remaining Responsible Authorities, those being, The Licensing Authority, Cambridgeshire Fire and Rescue, 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. RESPONSIBLE AUTHORITY

LICENSING OBJECTIVE:	REPRESENTATIVE:
Prevention of Crime and Disorder	<p>Responsible Authority: Trading Standards As per the application for review attached at Appendix C – Page 23 And supplementary information attached at Appendix D – Page 25</p> <p>Responsible Authority: Cambridgeshire Constabulary attached at Appendix E – Page 27</p> <p>Responsible Authority: PCT (Director of Public Health) attached at Appendix E – Page 31</p>

4.1 Summary of issues raised by Responsible Authorities

- i. Her Majesty's Revenue and Customs (HMRC) have seized 57.4 ltrs alleged non UK duty paid alcohol from the premises on 30/10/12.
- ii. The premises have failed to provide documentation for the seized alcohol to prove UK duty had been paid.
- iii. The UK Duty evaded was £579.42
- iv. Guidance issued under section 182 of the Licensing Act 2003 recommends revocation, even in the first instance, (Section 11.28)
- v. On 11 January 2012 HMRC Officers seized 0.8kg of tobacco and 880 cigarettes from a vehicle (outside the premises) registered to Mr Huseyin Koc. The revenue due on the seized tobacco and cigarettes was £286.12.
- vi. Underage Sales

5. OTHER PERSONS

LICENSING OBJECTIVE:	REPRESENTATIVE:
Prevention of Crime and Disorder	Other persons: Neighbourhood Can-do Team attached at Appendix G – Page 33 MANERP Residents Association (Millfield and New England Regeneration Partnership) attached at Appendix G – Page 34

5.1 Summary of issues raised by Other Persons

- i. Management of the premises not upholding the licensing objectives
- ii. Deliberately defrauding HMRC, resulting in unfair trading advantage providing cut priced alcohol in an area concentrated with licensed premises.
- iii. Criminal gain
- iv. Fully support revocation of the licence

6. LICENSING OFFICERS COMMENTS

6.1 Section 11.24 of Guidance (issued under section 182) states, '*A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.*'

7. POLICY & GUIDANCE IMPLICATIONS

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

7.2 Council's Statement of Licensing Policy

- Objectives: *section 4 on Page 5*
- Other Legislation : *section 7 page 7*
- Reviews: *section 16 on Page 12 and 13*
- Delegation / Decision Making / Administration: *Section 17 page 13 and 14*

7.3 Guidance Issued under Section 182 of the Licensing Act 2003 (October 2012)

- Reviews: *Section 11 pages 75 to 80*
- Determining applications: *Section 9 pages 58 to 64*

8. LEGAL OFFICER'S COMMENTS

8.1 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.

8.2 In this case, the application was received at these offices on 6 December 2012.

8.3 The application before this committee will consider –

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

8.4 The committee will take such steps as it considers that are 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

8.5 In addition Section 11.17 and 11.18 of 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 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.

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