

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
22 APRIL 2013		PUBLIC REPORT
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APPLICATION: NEW PREMISES LICENCE

APPLICANT: Mrs Hatice Koc

REFERENCE NO: 066813

PREMISES: 613 Lincoln Road, Peterborough PE1 3HA

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

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for 613 Lincoln Road, Peterborough, taking into account the representations received from Responsible Authorities (Director of Public Health, Children Services, Cambridgeshire Constabulary, Licensing Authority, and Trading Standards) and other persons (a local Councillor and MANERP a residents association) in opposition to the grant and a petition in support of the grant of a premises licence.

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 DPS (Designated Premises Supervisor) identified as Mr Uyan. As no representations were received the licence was granted on 13 August 2009.

2.3 The premises failed a test purchase on 27 October 2009, where a member of staff (Ms Ewa Walas) sold alcohol to underage persons.

2.4 The premises failed a test purchase on 16 December 2009, where a member of staff (Ms Miase Bekrov) sold alcohol to underage persons.

2.5 On the 26 January 2010 a minor variation was submitted to add extra conditions to the operating schedule following the two test purchase failures. No representations were received and the licence was granted on 8 February 2010.

2.6 The premises failed a test purchase on 3 February 2011, where a member of staff (Amir Fard) sold alcohol to underage persons.

- 2.7 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.
- 2.8 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.
- 2.9 The premises failed a test purchase on 21 December 2011, where a member of staff (Alexandra Stepien) sold alcohol to underage persons.
- 2.10 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 a receipt attached dated 25 June 2012. Whilst the application was receipted it was never handed in to the council's licensing department until 31 October 2012. This application requested transfer of the premises licence from Mr Hasan Koc to Ewa Walas. As no representations were received the application was granted on 15 November 2012
- 2.11 On the 6 December 2012 Trading Standards served an application to review the premises licence following a joint operation with HMRC where illicit alcohol and tobacco were seized, also due to the test purchase failures at the premises. The review requested revocation of the licence, this was supported by Cambridgeshire Constabulary, The Director of Public Health, Neighbourhood Can-do team and MANERP (residents association) representing other persons. A hearing to determine the review application went before the licensing committee on 28 January 2013, the decision of the sub committee was to revoke the licence.
- 2.12 An appeal to the Magistrates was made by the licensee's representative, however the appeal was out of time and therefore rejected by the Magistrates Court on 20 February 2013. Consequently, the premises is currently unlicensed.

3. AUTHORISATIONS AND TIMES APPLIED FOR

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

Monday to Sunday 08.00 to Midnight

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

Monday to Sunday 08.00 to Midnight.

4. APPLICATION

- 4.1 Please refer to the application attached at **Appendix B – Pages 9**
- 4.2 The applicant is Mrs Hatice Koc who is also the proposed DPS (Designated Premises Supervisor), the agent acting on behalf of the applicant is NARTS. Mrs Koc does not currently hold a personal licence, however her agent has stated that she passed her licensing qualification on 28 February 2013 and is awaiting a criminal record check which is required when applying for a personal licence.
- 4.3 Representations have been received from Trading Standards, Children's Services, Cambridgeshire Constabulary, Public Health, Licensing Authority all as Responsible Authorities these representation are attached at **Appendix C – Page 31**. A local Councillor and MANERP have submitted representations as other persons. These representation are attached at **Appendix D – Page 45**.
- 4.4 A petition in support of the premises was hand delivered to the Licensing Department by Mr Huseyin Koc on 11 March 2013. It must be noted that all of the 213 signatures, except one,

pre date the date the application was made. It was also noted that some addresses appear several times with different names and the heading of the petition states ‘*To keep the licence*’. It is for members to determine what weight they attach to this petition.

- 4.5 Due to the recent revocation of the prior licence for this premises, Responsible Authorities requested information to establish that this new application was ‘arms length’ from the licence which was revoked. The agent for the applicant provided a solicitors letter dated 25 March 2013, a copy of this letter is attached at **Appendix E – Page 49**
- 4.6 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 10.5 of 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.
- 4.7 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, or Peterborough City Council Environmental Pollution Team.
- 4.8 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 F – Page 51**

5. RESPONSIBLE AUTHORITIES

LICENSING OBJECTIVE:	REPRESENTATIVE:
Public Safety Crime and Disorder Protection of Children from Harm Prevention of public nuisance	Trading Standards Licensing Authority Cambridgeshire Constabulary Children’s Services Public Health

5.1 Summary of issues raised:

- History of the premises (illicit tobacco and alcohol and underage sales);
- Not satisfied that the new application is ‘distanced’ from the prior revoked licence;
- Concerns about management of the ‘family run’ business will remain a controlling influence which led to the loss of the prior licence, with the same issues reoccurring;
- In ‘Op Can-do’ area which has been evidenced and consulted on in relation to it being a Cumulative Impact area, consultation has taken place and the Licensing Committee have recommended to Full Council for it’s adoption on 17 April 2013;
- Operating Schedule conditions do not sufficiently address the issues of the historic problems and location; and
- Concern that the application has been made to circumvent the revocation and lost/late appeal.

6. OTHER PERSONS

LICENSING OBJECTIVE:	REPRESENTATIVE:
Crime and Disorder Protection of Children from Harm	Local Councillor on behalf of Victoria Park Residents Association and in own right as a Councillor MANERP – Residents Association

6.1 **‘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

6.2 Summary of issues raised

- Locality has issues of anti social behaviour fuelled by alcohol;
- Historic problems with the management of family run business not upholding the objectives of the Licensing Act 2003;
- Application (if granted) would only be a cosmetic change of licence holder with no real changes to operation of the business;
- Sale of ‘cut price alcohol would exacerbate existing issues; and
- Application only submitted as the appeal was out of time, no more than cosmetic changes to circumvent revoked licence and lost / out of time appeal.

7. APPLICANT’S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES:

7.1 Crime and disorder

- CCTV equipment will be installed, operated and maintained in agreement with the Police. The system will enable a frontal head and shoulders image of every person entering the premises. The system will record in real time and operate whilst the premises are open for licensable activities. The recordings will be kept available for a minimum of 31 days. Recordings shall be made available to an Authorised Officer or Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request.

7.2 Prevention of Public Nuisance

- Prominent, clear and legible notices will be displayed at the premises requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

7.3 Protection of children from harm

- Any person selling or supplying alcohol under the authority of a personal licence holder must ask for a photo ID proof where they have reason to suspect the individual may be under 25 years of age; and
- Written staff training records will be documented and updated on a monthly basis. These training records will be produced to an authorised officer on demand.

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
- Children and Licensed Premises, Section 13 on Page 10 and 11
- Licence Conditions, Section 14 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 October 2012**

- The Licensing Objectives – Section 2 pages 11 to 16
- Applications for Premises Licences – Section 8 pages 41 to 48
- Determining applications – Section 9 pages 58 to 64
- Conditions Attached to Premises Licences – Section 10 page 65 to 74

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 26 February 2013.
- 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; and
 - The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – October 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; and
 - 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).

**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

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