

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on 22 April 2013

RECORD OF PROCEEDINGS

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	New Premises Licence – Super Poli, 613 Lincoln Road, Peterborough, PE1 3HA
3.1 Application Reference	066813
3.2 Sub-Committee Members	Councillor Thacker (Chairman) Councillor Hiller Councillor Saltmarsh
3.3 Officers	Terri Martin, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Gemma George, Senior Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Mrs Hatice Koc
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a new premises licence.</p> <p><u>Authorisations and Times Applied For</u></p> <ul style="list-style-type: none"> • Sale of Alcohol for Consumption off the Premises Monday to Sunday 08.00am to Midnight • Hours Premises are Open to the Public Monday to Saturday 08.00am to Midnight <p><u>Summary of New Premises Application</u></p> <p>The application had been submitted to the Licensing Authority and had been forwarded to the required Responsible Authorities by the Licensing Department in accordance with the regulations and Section 8.24 of Guidance.</p> <p>Representations had been received from Trading Standards, Children's Services, Public Health and the Licensing Authority in their capacity as Responsible Authorities.</p> <p>Further representations from 'Other Persons' had been received as follows:</p> <ul style="list-style-type: none"> • A Ward Councillor, also acting on behalf of the Victoria Park Resident's Association; and

- The Chairman of the Millfield and New England Regeneration Partnership (MANERP).

A petition in support of the application, containing 213 signatures, had also been delivered to the Licensing Department by Mr Huseyin. All bar one of the signatures pre-dated the date of the application and there were also a number of repeated addresses contained within. It was therefore for the Sub-Committee to determine what weight it attached to the petition.

A summary of the issues raised within the representations included:

- The history of the premises including illicit tobacco and alcohol sales, and underage sales;
- Not satisfied that the new application was 'distanced' from the prior revoked licence;
- Concerns about management of the 'family run' business, which led to the loss of the prior licence, with the same issues reoccurring;
- The premises were situated within the 'Op CAN-do' area which had been evidenced and consulted on in relation to it being a Cumulative Impact Area. A consultation had taken place and the Licensing Committee had recommended to Full Council for its adoption as a Cumulative Impact Area on 17 April 2013;
- The Operating Schedule conditions did not sufficiently address the issues of the historic problems and location;
- There were concerns that the application had been made to circumvent the revocation and lost/late appeal;
- The locality had issues of anti-social behaviour fuelled by alcohol;
- There were historic problems with the management of the family run business and the objectives of the Licensing Act 2003 not being upheld;
- The sale of 'cut price alcohol would exacerbate existing issues; and
- The application had been only submitted as the appeal was out of time, it was no more than cosmetic changes to circumvent the revoked licence and lost / out of time appeal.

On the 6 December 2012 Trading Standards had served an application to review the premises licence following a joint operation with HMRC where illicit alcohol and tobacco was seized, also due to test purchase failures at the premises. The review requested revocation of the licence; this was supported by Cambridgeshire Constabulary, the Director of Public Health, the Neighbourhood CAN-do team and the Millfield and New England Regeneration Partnership (MANERP) residents association, representing Other Persons. A hearing to determine the review application went before the Licensing Sub-Committee on 28 January 2013 and the decision of the Sub-Committee was to revoke the licence.

An appeal to the Magistrates Court 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 were currently unlicensed.

The Applicant was Mrs Hatice Koc who was also the proposed DPS (Designated Premises Supervisor), the agent acting on behalf of the Applicant was NARTS. Mrs Koc did not currently hold a personal licence, however her agent had stated that she passed her licensing qualification

	on 28 February 2013 and was awaiting a criminal record check which was required when applying for a personal licence.
3.6	<p>Licensing Objective(s) under which representations were made</p> <p>1. The Prevention of Crime and Disorder 2. The Prevention of Public Nuisance 3. The Protection of Children from Harm 4. Public Safety</p>
3.7	<p>Parties/Representatives and witnesses present</p> <p><u>Applicant / Applicant's Representative</u></p> <p>Mrs Hatice Koc, the Applicant, who was represented by Mr Mahir Kilic, NARTS.</p> <p><u>Responsible Authorities</u></p> <p>PC Grahame Robinson, who presented the case on behalf of Cambridgeshire Constabulary.</p> <p>Karen Woods, who presented the case on behalf of Trading Standards.</p> <p><u>Other Persons</u></p> <p>Councillor John Shearman, Park Ward Councillor.</p> <p>Mr Brian Gascoyne, Chairman of MANERP.</p>
3.8	<p>Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p> <p>There were no pre-hearing considerations to be determined by the Sub-Committee.</p>
3.9	<p>Oral representations</p> <p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>Applicant / Applicant's Representative</u></p> <p>Mrs Hatice Koc, supported by Mr Mahir Kilic, addressed the Sub-Committee. The key points highlighted in her address, and following questions from the Sub-Committee and Other Persons, were as follows:</p> <ul style="list-style-type: none"> • There would be two personal licence holders present when alcohol was sold; • All staff would receive 'prevent underage sales' training and copies of all certificates would be supplied to the Licensing Department; • A new stock control system was to be put in place, this would include marking each bottle with the date of purchase with an invisible ink pen, keeping a log of all invoices and checking each product for a UK duty stamp; • Mr Huseyin Koc, Mrs Hatice Koc's husband, had been the owner of the premises when Mr Ewa Walas was the personal licence holder and DPS. He was no longer involved in the business; • Mrs Koc wished to sell the business, however it would be more difficult to find a buyer without the premises having an alcohol licence; • Mrs Koc was apologetic for the previous issues that had arisen at the premises; • Mr and Mrs Koc had never resided at the premises;

- Mrs Koc had paid the previous owner £8k towards the final lease payment on the shop in order for her to take occupation of the premises;
- It was unclear as to why the letter from Mrs Koc's Solicitors stated that the £8k was towards stock in the shop. This should have stated 'final payment for lease';
- The previous premises owner was no relation to Mrs Hatice Koc;
- Mrs Koc conceded that the business had become too much for her to run, she therefore wished to sell up and move to London;
- Mrs Koc had undertaken a personal licence course; and
- Mrs Ewa Walas was not associated with the premises anymore.

Responsible Authorities – Cambridgeshire Constabulary

PC Grahame Robinson addressed the Sub-Committee and provided an overview of the points raised within the representation submitted by Cambridgeshire Constabulary. The key points highlighted during his address, and following questions from the Sub-Committee, were as follows:

- The premises had historically been contentious and a number of inspections had been carried out;
- It was suspected that the current application was simply a way of circumnavigating the previous licence revocation;
- There were a number of discrepancies in the Applicant's statement;
- There had been a burglary at the premises and the Koc's had given the premises address as their home address;
- The statement given to the Police at the time of the burglary had stated that Mr Hassan Koc was the premises owner, not Mrs Hatice Koc;
- The letter which had been submitted by Sal and Co, the Applicant's Solicitors, stated that the purchase of the premises had yet to be finalised; and
- It was not felt that the imposition of any specific conditions would be sufficient to uphold the Licensing Objectives.

Responsible Authorities – Trading Standards

Karen Woods, Regulatory Officer, addressed the Sub-Committee and provided an overview of the points raised within the representation submitted by Trading Standards. The key points highlighted during her address, and following questions from the Sub-Committee, were as follows:

- The premises had a history of failed test purchases;
- The family, including Mrs Koc's husband and his brother, would still have dealings with the business; and
- It was not felt that this application was an arms length application in relation to the previously revoked licence.

Other Persons – Councillor John Shearman

Councillor John Shearman, Park Ward Councillor and on behalf of the Victoria Park Resident's Association, addressed the Sub-Committee and the key points raised were as follows:

- The previous DPS and Premises Licence Holder was the husband of the Applicant. The current application was therefore viewed as a

	<p>way of circumnavigating the previous decision to revoke the premises licence;</p> <ul style="list-style-type: none"> • The local residents were extremely concerned with the number of premises selling alcohol in the area; • There were ongoing anti-social behaviour issues in the area; and • There had been a number of failed test purchases at the premises. <p><u>Other Persons – Mr Brian Gascoyne</u></p> <p>Mr Brian Gascoyne, Chairman of MANERP, addressed the Sub-Committee and reiterated the points raised by the previous objectors, he further added that the comment made by the Applicant in relation to wanting the licence simply to allow her to sell the business quickly, highlighted that she had no awareness of the responsibility around possessing such a licence.</p> <p><u>Summing Up</u></p> <p>All parties were given the opportunity to summarise their submissions.</p> <p><u>Responsible Authorities</u></p> <p>There were no further comments from any of the Responsible Authorities.</p> <p><u>Other Persons</u></p> <p>There were no further comments from any of the Other Persons.</p> <p><u>Applicant / Applicant’s Representative</u></p> <p>Mr Kilic stated that the Applicant’s husband and sons would not be involved with the business going forward and it was believed that the premises could be managed well.</p> <p>The Applicant was willing to work alongside the relevant authorities and it was reiterated that there would be two premises licence holders on site at all times.</p> <p>The conditions proposed were robust and the sale of alcohol would not commence until visits had been undertaken by the Police.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant / Applicant’s Representative</u></p> <p>Consideration was given to the application submitted by Mrs Hatice Koc, the proposed conditions under the Licensing Objectives and a further letter submitted by Sal and Co. the Solicitors for the Applicant.</p> <p>For the record, it was to be noted that the petition submitted in support of the application was disregarded by the Sub-Committee for the following reasons:</p> <ul style="list-style-type: none"> • The petition clearly stated ‘to keep the licence’ which was revoked on 28 February 2013 without appeal. This application was for a premises licence and therefore the keeping of the licence was not an issue; • Save as to one person, all names appeared to predate the application; and • The Petition added little in support of any of the Licensing

	<p>Objectives.</p> <p><u>Responsible Authorities</u></p> <p>Consideration was given to the representations submitted by Cambridgeshire Constabulary, Trading Standards, the Licensing Authority, Children’s Services and Public Health as Responsible Authorities.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the following:</p> <ul style="list-style-type: none"> • The representation submitted by a Park Ward Councillor and Secretary of the Victoria Park Resident’s Association;
3.11 Facts/Issues in dispute	<p><u>Issue 1</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the ‘Prevention of Crime and Disorder’ Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the ‘Prevention of Public Nuisance’ Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the ‘Protection of Children from Harm’ Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the granting of a new premises licence application would be detrimental to the ‘Public Safety’ Licensing Objective.</p>
4. Decision	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all of the representations and verbal submissions made in relation to it. The Sub-Committee also considered all of the various options available, those being:</p> <ul style="list-style-type: none"> • Not to grant the premises licence; • To grant the premises licence with additional conditions and/or a reduction in hours; and • To grant the premises licence as applied for. <p>The premises were situated within the Op CAN-do area of the city, principally the Millfield and New England areas. This area suffered from a proliferation of outlets selling alcohol. Many such outlets traded with ‘off sales’ licences. These premises were mainly off licences and small shops.</p> <p>The CAN-do Operation partnership with the City Council, Police, NHS and community groups was designed to address the issues caused by the sale of alcohol in this area.</p> <p>These issues included alcohol abuse which adversely affected the health of many of the residents who lived within the CAN-do area; street crime; and alcohol fuelled anti-social behaviour. Such issues were a drain on the</p>

Police and city resources.

The Sub-Committee was very concerned with the increase in alcohol consumption and the detrimental effects it had on the community at large.

The Sub-Committee weighed these concerns against the presumption to grant.

During its deliberations, the Sub-Committee considered the various options available.

The Applicant had offered the following conditions:

- There would be two personal licence holders present during alcohol sales;
- Staff would be trained on preventing the sale of age restricted products to those underage;
- There would be a stock control system implemented;
- There would be a UV ID reading facility for alcohol purchased; and
- Copies of invoices would be kept on the premises and made available to officers for inspection.

The Sub-Committee did not believe that it could attach any conditions that would be appropriate in promoting the Licensing Objectives, furthermore:

- Given the intricate family connections, the Sub-Committee did not believe that the Applicant was sufficiently distant from the previous premises licence holders and did not accept at face value the letter from Sal & Co., dated 25 March this year;
- The number and frequency of failed test purchases was found to be unacceptable. The Protection of Children from Harm caused by alcohol was a priority for central government and for Peterborough City Council;
- The sale of illicit alcohol and tobacco was unacceptable given that not only was it a crime, but the health of the community was taken very seriously, as there can be no confirmation as to the contents of illicit bottles of alcohol;
- The Sub-Committee believed that this type of business would add to the negative cumulative impact in the Operation CAN-do area. The Sub-Committee believed that the grant of the premises licence in this area would give rise to a negative impact on one or more of the Licensing Objectives.

This is in line with the Council's Statement of Licensing Policy at Paragraph 11.6 and Paragraph 13.32 of the Government Guidance.

Decision

The decision of the Licensing Act 2003 Sub-Committee was therefore to refuse the application outright.

The Applicant, any person lodging a valid representation, or a Responsible Authority, could appeal this decision to the Peterborough Magistrates Court, within 21 days of the date of the decision.

Chairman
13.30pm - 15.50pm

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