

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No 3.1
<b>18 NOVEMBER 2013</b>		<b>PUBLIC REPORT</b>
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**APPLICATION:** Review of Premises Licences

**PREMISES:** Mini Poli – 44 – 46 Ivatt Way, Peterborough, PE3 7PN

**REFERENCE NUMBER:** MAU : 068076

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

**1. PURPOSE OF REPORT**

1.1 To consider and determine an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003 for the above premises, taking into account the representation made by Trading Standards in their capacity as a Responsible Authority and letter of support of the review and recommendations from Cambridgeshire Constabulary, also a Responsible Authority. The review was bought under the Prevention of Crime and Disorder objective.

**2. BACKGROUND INFORMATION**

2.1 An application for a premises licence for Mini Poli, 44-46 Ivatt Way, Peterborough was made on 3<sup>rd</sup> March 2010. No representations were received and the licence was granted on 1<sup>st</sup> April 2010. A copy of the current licence is attached at **Appendix C Page 15**.

2.2 On 4<sup>th</sup> July 2013 officers from Her Majesty’s Revenue & Customs seized a significant amount of alcohol from two premises that are operated by Tradycja Ltd trading as Mini Poli Ltd. The seized alcohol from the two premises, Ashwood House and 42 Ivatt Way, Peterborough, were seized after Her Majesty’s Revenue & Customs were satisfied that United Kingdom Excise Duty had not been paid on the alcohol. The revenue due on the seized alcohol, including Value Added Tax, was £66,167.48. A separate premises licence review has been applied for with regards to the Mini Poli premises at Ashwood House, Bretton.

### 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 was received on 23<sup>rd</sup> September 2013, a copy of this application is attached at **Appendix B – Page 9**.
- 3.3 A statutory ‘Notice’ 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. It was later noted by Officers that the original notice displayed at the premises showed an incorrect date that the notice was served upon the Licensing Authority. This administrative error did not materially affect the review process and the Licensing Authority do not believe that the process was prejudiced in any way as the end of representation date is clearly displayed on the notice. The applicant was informed of this administrative error.
- 3.4 A representation in support of the review and recommendations was received from Cambridgeshire Constabulary as a Responsible Authority, a copy of this representation is attached at **Appendix D Page 25**.
- 3.5 No other representations have been received from any of the remaining Responsible Authorities nor any ‘other persons’.

### 4. RESPONSIBLE AUTHORITY

LICENSING OBJECTIVE:	REPRESENTATIVE:
Prevention of Crime and Disorder	<b>Responsible Authority:</b> Trading Standards As per the application for review attached at <b>Appendix B Page 9</b>  <b>Responsible Authority:</b> Cambridgeshire Constabulary attached at <b>Appendix D Page 25</b> .

#### 4.1 Summary of issues raised by Responsible Authorities

- i. Her Majesty’s Revenue and Customs (HMRC) have seized alleged non UK duty paid alcohol from the premises on 4<sup>th</sup> July 2013;
- ii. The premises have failed to provide documentation for the seized products to prove UK duty had been paid; and
- iii. Guidance issued under section 182 of the Licensing Act 2003 recommends revocation, even in the first instance.

### 5 MEDIATION

- 5.1 Mediation did not take place.

### 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 or money laundering by criminal gangs or the sale of contraband or stolen goods there 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 of law. The role of the licensing authority 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 15 and 16*
- Delegation / Decision Making / Administration: *Section 17 page 16 and 17*

### **7.3 Guidance Issued under Section 182 of the Licensing Act 2003 (June 2014)**

- 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 23<sup>rd</sup> September 2013.

8.3 The application before this committee will consider –

- (i) The application to review the licence; and
- (ii) Any relevant representations.

8.4 The committee will take such of the steps as it considers that action is necessary 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 the 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 issued 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 in to account when considering what further action is appropriate.'

## 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