

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No. 3
<b>17 October 2014</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Adrian Day, Licensing Manager Darren Dolby, Licensing Regulatory Officer Terri Martin, Licensing Regulatory Officer	Tel: 454437 Tel. 453561 Tel. 453561

**APPLICATION: NEW PREMISES LICENCE**

**APPLICANT:** Mr George Sakkalli

**REFERENCE NO:** 070020

**PREMISES:** The Exeter Arms, Church Lane, Helpston, Peterborough, PE6 7DT

**GLOSSARY OF TERMS:** Attached at **Appendix A**

**1. PURPOSE OF REPORT**

1.1 To consider and determine this application for a new premises licence for The Exeter Arms, Church Lane, Helpston, Peterborough, PE6 7DT Peterborough, taking into account the representations received from 14 local residents and one local Councillor in opposition of the application and a petition containing 34 signatures in support of the application. Representation was also received from the Pollution Control Team but mediated conditions have been applied and the representation was withdrawn.

**2. BACKGROUND INFORMATION**

2.1 An application to convert an existing Licensing Act 1964 Justices 'On Licence' was made by Mr & Mrs Pembroke on 27<sup>th</sup> July 2005. An application to vary the licence to increase the licensable hours was made at the same as the conversion. There were no representations made and the licence was subsequently granted on 26<sup>th</sup> August 2005.

2.2 The licence was surrendered on the 13<sup>th</sup> April 2012.

2.3 This is a reserve of a prior application which was deemed invalid on 21 August 2014 due to non compliance with the regulations.

**3. AUTHORISATIONS AND TIMES APPLIED FOR**

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

Sunday to Thursday 08.00 to Midnight  
Friday and Saturday 08.00 to 02.00

Alcohol sales will cease in the barn at 23:00  
Christmas Eve and New Year's Eve 08.00 to 03.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, the Sunday prior to Spring and Autumn Bank Holiday's until 2am

- **Plays, Films, Indoors and Outdoors**

Sunday to Thursday 08.00 to Midnight  
Friday and Saturday 08.00 to 01.00

Outdoor activities to cease at 21.00  
Activities in the Barn will cease at 23.00  
Christmas Eve and New Years Eve 08.00 to 02.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, Spring  
and Autumn Bank Holiday to 01.00

- **Performance of Dance – Indoors and Outdoors**

Sunday to Thursday 08.00 to Midnight  
Friday and Saturday 08.00 to 01.00

Outdoor activity to cease at 21.00  
Activity in the Barn will cease at 23.00  
Christmas Eve and New Year's Eve 08.00 to 02.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, the  
Sunday prior to Spring and Autumn Bank Holiday to 01.00

- **Recorded Music – Indoors and Outdoors**

Sunday to Thursday 08.00 to Midnight  
Friday and Saturday 08.00 to 02.00

Recorded Music in the Barn will cease at 23.00  
Recorded Music will cease outdoors at 21.00  
Christmas Eve and New Year's Eve 08.00 to 03.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, Spring  
and Autumn Bank Holiday to 02.00

- **Indoor Sporting Events**

Sunday to Thursday 08.00 to midnight  
Friday and Saturday 08.00 to 02.00

Christmas Eve and New Year's Eve 08.00 to 02.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, Spring  
and Autumn Bank Holiday to 01.00

- **Live Music – Indoors Only**

Sunday to Thursday 23.00 to Midnight  
Friday and Saturday 23.00 to 01.00

Live Music in the Barn will cease at 23.00  
Christmas Eve and New Years Eve 23.00 to 02.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, Spring  
and Autumn Bank Holiday to 01.00

- **Late Night Refreshment – Indoors Only**

Sunday to Thursday 23.00 to Midnight  
Friday and Saturday 23.00 to 02.00

Late Night Refreshment in the Barn will cease at 23.00  
Christmas Eve and New Years Eve 23.00 to 03.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, the  
Sunday prior to Spring and Autumn Bank Holiday to 01.00

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

Sunday to Thursday 08.00 to 00.30  
Friday and Saturday 08.00 to 02.30

Christmas Eve and New Years Eve 08.00 to 03.00  
Burn's Night, St Patricks Day, St George's Day, St Andrew's Day, St David's Day, the  
Sunday prior to Spring and Autumn Bank Holiday to 02.00

#### **4. APPLICATION**

- 4.1 Please refer to the application attached at **Appendix B**.
- 4.2 Representations against the application have been received from one local Councillor and 14 'other persons'. These are attached at **Appendix C**.
- 4.3 A petition in support of the application containing 34 signatures is attached at **Appendix D**.
- 4.4 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.
- 4.5 No representations have been received from any of the following Responsible Authorities i.e. Cambridgeshire Constabulary, Peterborough City Council Trading Standards, Public Health Authority, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department or Children's Services.
- 4.6 A representation was received from Peterborough City Council Environmental Pollution Team, however mediated conditions have been agreed and the representation has been withdrawn.
- 4.7 A 'Notice' 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. A copy of this notice is attached at **Appendix E**.

#### **5. REPRESENTATIONS**

- 5.1 Summary of issues raised by persons objecting against the application:
  - If granted it could lead to a rise in anti social behaviour
  - If granted it would lead to an increase in noise and disturbance in the area, including from customers leaving the premises late at night, causing sleep deprivation affecting the health and wellbeing of residents, resulting in emotional and physical detriment.
  - Excessive and inappropriate hours and activities for a village pub in residential area, more acceptable hours would be 23.00 – 23.30
- 5.2 A petition in support of the application has been received containing 34 signatures.

## 6. MEDIATION

- 6.1 Mediation has taken place with the applicant and the Pollution control team. Mediated conditions have been agreed and the pollution team have withdrawn their representation.

## 7. APPLICANT'S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES (AFTER MEDIATION):

### 7.1 Crime and disorder

- The premises licence holder / designated premises supervisor, or in their absence another responsible person, to keep an 'Incident report register' in a bound book, in which full details of all incidents are recorded. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The register is to be kept on the premises at all times and shall be produced to a Police Officer (incl PCSO) or an authorized Licensing Authority Officer when required. The records should be retained for a minimum of 12 months.
- The premises licence holder will ensure that a digital CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document ([www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)) regarding installation of CCTV is provided at the premises.
- The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of a least 2 hours afterwards.
- Digital CCTV images shall be retained for a minimum of 28 days and should be produced to a Police Officer (including PCSOs) or Local Authority Officer immediately upon demand.
- The CCTV system shall be capable of downloading images to a recognizable viewable format.
- At all times the premises are open for business a member of staff shall be present who is capable of operating the digital CCTV system and downloading images at the request of a Police Officer (include PCSO) or Local Authority Officer.
- The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders of every person entering or leaving the premises.
- All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers
- The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build up of empties in and around the premises
- The premises licence holder and/or designated premises supervisor shall ensure that any outside area included in the licence will be controlled in a safe and effective manner to the same standard operated within the premises building and will pay special attention to the impact that the use of the outside area has on the surrounding community.
- An alcohol refusals register will be kept at the premises and maintained by all staff. The register will contain the date and time of the potential sale, what product was refused and a brief description of the person and the name and signature of the person who refused the sale.

### 7.2 Prevention of Public Nuisance

- The holder of the premises licence shall ensure that no music or amplified speech originating from the premises (including the Barn) is audible inside any residential property or hotel bedroom at any time.  
Note: For the purposes of this condition noise may be considered inaudible when it is at a low enough level that it is not recognisable as emanating from the source in question and/or it does not alter the perception of the ambient noise environment that would prevail in the absence of the source in question.
- Doors and windows in the main public house and barn must be kept closed (except for ingress and egress) to reduce noise nuisance from the premises at all times.

- Prominent, clear and legible notices at all exits shall be displayed on the premises requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.
- The holder of the premises licence shall ensure that noise caused by persons using, arriving at or departing from the premises shall not cause nuisance or unreasonable disturbance to the occupiers of residential properties **(or hotel bedrooms/other specified relevant receptor)**.
- The placing and disposal of bottles into receptacles outside the premises must not take place between 23.00 and 07.00 in order to minimise disturbance to nearby properties
- The playing of live or recorded music in garden areas of the premises after 21.00 is not permitted.
- All activities in the barn including live music, recorded music, late night refreshment and the sale of alcohol must cease at 23.00.
- No fireworks or other pyrotechnics or large bonfires shall be used other than with the prior written consent of the licensing authority. A risk assessment and safety plan will be required when requesting consent. Consent shall be sought at least 28 days prior to any event.
- All ventilation of steam and cooking fumes to the atmosphere shall be suitably filtered to avoid nuisance from smell, grease, smoke or noise to persons in neighbouring or nearby properties.  
Where mechanical extract ventilation is used, Sound Power Level (SWL) data is required by Pollution Control Team to enable an adequate assessment of the likely impact on local residents. Prior to the use of the existing equipment or installation and use of NEW equipment details of the above and the nature and location of such filtration equipment should be submitted to and agreed in writing by the Local Authority before use / installation.
- The garden and outside areas will be vacated and cleared of glasses and dishes by 23.00. The DPS or other management must ensure the above is affected in an orderly and swift manner.
- Customers in the garden area and barn will be invited to start finishing drinks and meals at 22.30
- Children must vacate the play areas as 22.00
- The premises licence holder, or a responsible person nominated by them in writing, shall receive and respond to complaints throughout the duration of all licensable activities. These complaints shall be recorded and the records made available to the local authority upon request. Such records shall be retained for a minimum of 2 years.

### 7.3 **Protection of children from harm**

- The 'Challenge 25' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises.
- Signage will be prominently placed within the premises advertising the fact that the premises operates the 'Challenge 25' initiative.
- Unaccompanied children (under 18) will not be allowed on the premises
- Children under the age of 16 are required to be accompanied by adults or guardians whilst on the premises.

### 7.4 **Public Safety**

- A fire risk assessment required under the Regulatory Reform (Fire Safety) Order 2005 (as amended) will be completed and be available for inspection by an authorised officer.
- An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.
- Valid public liability insurance shall be kept in force and a copy of the schedule shall be available for inspection by an authorised Local Authority or Police Officer (inc PCSO) on request.

## 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
- Licence Conditions, Section 14 page 14 and 15
- Delegation / Decision Making / Administration, Section 17 on Page 16 and 17

## 8.3 Guidance Issued under Section 182 of the Licensing Act 2003 June 2014

- The Licensing Objectives – Section 2 pages 11 to 20
- Applications for Premises Licenses – Section 8 pages 56 to 73
- Determining applications – Section 9 pages 80 to 89
- Conditions Attached to Premises Licences – Section 10 page 90 to 104
- Regulated Entertainment – Section 15 pages 136 to 147

## 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 and emails 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 27 August 2014.
- 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
  - The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – June 2014
- 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
  - 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

**'Challenge 25'** means that a retailer will ask for proof of identification if they have reason to believe that the person making a purchase of alcohol is under the age of 25.

**'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

Except where there is an exemption under the Live Music Act 2012 or Statutory Instrument 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

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

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