

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
11 NOVEMBER 2014		PUBLIC REPORT
Contact Officers:	Adrian Day, Licensing Manager Darren Dolby, Licensing Regulatory Officer	Tel: 454437 Tel. 453561

APPLICATION: NEW PREMISES LICENCE

APPLICANT: Mr Abdul Latif Hussani

REFERENCE NO: 070138

PREMISES: Kim's Newsagents, 44 Eastfield Road, Peterborough, PE1 4AN

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 Kim's Newsagents, 44 Eastfield Road, Peterborough, taking into account the representations received from the Responsible Authorities and 'other persons'.

2. BACKGROUND INFORMATION

- 2.1 In August 2005 an application was granted by the Licensing Authority to convert an existing Justices Off Licence under Schedule 8 of the Licensing Act 2003 for 44 Eastfield Road to a premises licence. The applicant, Mr Churchill Singh Nassan, was granted a licence to sell alcohol 'off' the premises Monday to Saturday 8am to 11pm and Sunday 10am to 10.30pm.
- 2.2 The licence was transferred in September 2013 to Commercial First Business Limited who subsequently surrendered the licence in December 2013.
- 2.3 The nominated Designated Premises Supervisor for the premises, Mrs Roquia Alizada, has held a personal licence with Peterborough City Council since July 2009 and is currently the Designated Premises Supervisor for Victoria Food & Wine which is situated at 3 Winslow Road, Netherton, Peterborough.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**
Monday to Sunday 09.00 to 02.00
- **Hours premises are open to the public**
Monday to Sunday 05.00 to 02.00

4. APPLICATION

4.1 Please refer to the application attached at **Appendix B**.

- 4.2 Representations have been received from Cambridgeshire Constabulary, Peterborough City Council's Planning Department, the local Public Health Authority, the local Member of Parliament, 2 local Councillors, the multi agency Eastern Neighbourhood Delivery Team and 21 'other persons'. There has also been a petition delivered against the granting of the premises licence signed by 49 persons. These representations are attached at **Appendix C**. There are no representations in support of the application.
- 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 other Responsible Authorities i.e. Peterborough City Council Trading Standards, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Health & Safety Department, Children's Services or Peterborough City Council Environmental Pollution Team.
- 4.6 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.

5. OTHER PERSONS

5.1 Summary of issues raised

- If granted it would contribute to an increase in street drinking in the area.
- 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.

6. MEDIATION

6.1 No mediation has taken place.

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

7.1 **Crime and disorder**

- Door supervisors shall be used to monitor customers and maintain customers and maintain public order. The monitoring process must include implementation of the premises' proof of age policy. All door supervisors must ensure that identification bearing the customers photograph, date of birth and integral holographic mark or security measure is produced before allowing entry and where it is not, entry shall be refused. Suitable means of identification would include PASS approved proof of age cards, photo-card driving licences and passports.
- 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) 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.
- A digital CCTV system shall cover all areas of the premises to which the public have access including any outside areas.
- 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.
- If the CCTV equipment (including any mobile units in use at the premises) breaks down the premises licence holder or the designated premises supervisor shall ensure that they verbally inform both the Police & Licensing Authority as soon as is reasonably practicable. This information should be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Police and Licensing Authority shall be informed when faults are rectified.
- The CCTV system covering any dedicated smoking area shall be fully operational and regularly monitored.
- The premises licence holder must provide contact details for any security personnel employed at the premises to an authorised officer of the Local Authority or a Police Officer (inc PCSO) upon request.
- Notices advising that CCTV has been installed on the premises shall be posted up so that they are clearly visible to the public within the licensed premises.
- An authorised person will be available at all times on the premises to show CCTV images immediately or to an authorised officer on demand. CCTV images will be clear and comprehensible.
- No customers carrying open or sealed bottles, cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.
- 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 kept 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.
- 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.
- The premises licence holder or nominated person shall provide a written drugs policy detailing the actions to be undertaken to minimize the opportunity to use or supply illegal substances within the premises.
- The premises licence holder or nominated person shall ensure that records are maintained detailing the time and date of substance misuse training, the people who received the training and the name of the person delivering the training. The records will be available for inspection by an authorised officer at all reasonable times. The records will be retained for at least 12 months.
- The premises licence holder or nominated person shall deliver a structured programme at regular intervals to all staff that deal with persons who are in possession of / or incapacitated through the use of drugs or the combined effect of drugs and alcohol. The premises licence holder or nominated person shall ensure that where a drug safe is available on the premises to deposit finds there will be a clear policy for the handling and packaging of seized items. **NB:** For premises with a suitable 'drug safe' the items secured within that safe are **not** considered as being in their possession.

- The premises licence holder or nominated person shall ensure that a clearly visible notice is displayed advising those attending the premises that the Police will be informed if anyone is found in possession of controlled substances or weapons.
- Notices relating to any restrictions on the admittance of individuals according to age (e.g. *Children*) shall be displayed on or immediately outside the premises.
- Any conditions of entry to the premises shall be displayed in the vicinity of any entrance to the premises.
- Any grills and / or alarms installed at the licensed premises shall be maintained in working order and regularly serviced by a suitably qualified person.
- No person under 18 years of age shall be permitted within the premises at any time and a notice shall be clearly displayed at the entrance to the premises stating 'No persons under 18 will be admitted' in a prominent position so that it can be easily read by persons entering the premises.
- The premises licence holder shall be responsible for prevention and disposal of waste on the frontage of the premises and make provision for the emptying of litter bins in the vicinity of the premises.
- The premise license holder shall not participate or encourage flyposting of events or the venue and any leaflet distribution shall be managed in such a way as to prevent litter.
- Lighting shall be provided outside the premises (and in the private car park) during the hours of darkness when any licensable activity takes place on the premises

7.2 **Prevention of Public Nuisance**

- No conditions proposed by applicant.

7.3 **Protection of children from harm**

- Any person selling or supplying alcoholic drink under the authority of a personal licence holder must ask for a photo ID proof of age where they have reason to suspect that the individual may be under 21 years of age.

7.4 **Public Safety**

- No conditions proposed by applicant.

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 June 2014**

- The Licensing Objectives – Section 2 pages 11 to 20
- Applications for Premises Licences – Section 8 pages 56 to 79
- Determining applications – Section 9 pages 80 to 89
- Conditions Attached to Premises Licences – Section 10 page 90 to 104

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 17 September 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 – 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
- 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