

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No 3
11 JUNE 2015		PUBLIC REPORT
Contact Officers:	Donna Hall, Public Protection Manager Terri Martin, Licensing Regulatory Officer	Tel. 453514 Tel. 453561

APPLICATION: Review of Premises Licence

PREMISES: Madina Kebab House – 65 Gladstone Street, Millfield, Peterborough, PE1 2BN

REFERENCE NUMBER: MAU: 071291

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 served by Cambridgeshire Constabulary in relation to the above premises. Taking into account the representations in support of the review made by the Licensing Authority as a Responsible Authority and representations from other persons. The review was bought under the Prevention of Crime and Disorder objective.

2. BACKGROUND INFORMATION

2.1 A new application served by Mr Amjid Hussain for a premises licence to provide Late Night Refreshment was received on 2 May 2013, the application failed to meet the requirements of the regulations and was rejected on 20 May 2013. Another application was received on 20 May 2013, again this failed to meet the regulations and was rejected on 18 June 2013. A subsequent application was served on 22 July 2013, during the consultation process, pollution control requested modification of the conditions offered in the application, this was agreed and the application was granted on 20 August 2013 as no representations were received. A copy of the current licence (with conditions added) is attached at **Appendix B Page 9**.

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 Cambridgeshire Constabulary, a Responsible Authority, the licensing authority must hold a hearing.

3.2 A copy of the application to review was received on 23 April 2015, a copy of this application is attached at **Appendix C – Page 17**.

- 3.3 Supplementary documentation in the form of a witness statement from Police Sergeant Pryke, has been received. Sgt Pryke covers the 'Op Can Do' area, in which this premises is located, a copy of this statement is attached at **Appendix D – Page 23**.
- 3.4 Further information detailing Operation Deagon and an illegal working impact statement from Immigration Enforcement has been provided to support the review application. A copy of this letter is attached at **Appendix D – Page 24**.
- 3.5 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 (**Appendix E - Page 25**).
- 3.6 Representations in support of the review were received from the Licensing Authority as a Responsible Authority. No other representations have been received from any of the remaining Responsible Authorities. A Copy of this representation is attached at **Appendix F - Page 27**.
- 3.7 Representations from residents in the form of two petitions, (one with 17 names and one with 20 names, (it is noted that some people have signed both)) and two letters have also been received, requesting revocation of the late night refreshment licence. A copy of these letters and petitions are attached at **Appendix G Page 29**.
- 3.8 An email from Safer Peterborough Partnership supporting the police request for revocation is attached at **Appendix H Page 37**.

4. SUMMARY OF ISSUES RAISED

- Breach of Crime and disorder objective for employing illegal workers at the premises;
- Section 11.27 and 11.28 of Guidance recommends revocation where the objectives are undermined through the premises being used to further crimes;
- Illegal working has harmful social and economic effects in the UK, exploiting migrant workers and undercutting other businesses operating within the law;
- Questioning the management's ability to promote the objectives;
- Complaints from residents received alleging trading past authorised hours and unreasonable disturbance caused by the premises;
- Allegations of anti-social behaviour, drug problems, litter, noise disturbance causing sleep deprivation, all associated with the premises and its patrons; and
- Operating too late for a residential area.

5 LICENSING OFFICER COMMENTS

- 5.1 It is for members of the Licensing Sub-Committee to decide to attach whatever 'weight' to the documentation and petitions that it sees fit.
- 5.2 Regulation 19(a) requires authorities to disregard any information given by a party or person that is "not relevant" to the application.

6. POLICY & GUIDANCE IMPLICATIONS

6.1 The following sections/paragraphs are applicable to this application:

6.2 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*

6.3 **Guidance Issued under Section 182 of the Licensing Act 2003 (March 2015)**

- Reviews: *Section 11 pages 75 to 80*
- Determining applications: *Section 9 pages 55 to 62*

7. **LEGAL OFFICER'S COMMENTS**

7.1 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 Cambridgeshire Constabulary (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

7.2 In this case, the application was received at these offices on 23 April 2015.

7.3 The application before this Committee will consider –

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

7.4 The Committee will take such of the steps as it considers that action is appropriate 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.

7.5 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

‘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