

Meeting of the Licensing Act 2003 Sub-Committee  
 held at the Town Hall, Peterborough on Thursday, 11 June 2015

**RECORD OF DECISION**

Appointment of Chairman	Nominations were received for Councillor Davidson as Chairman. Following nominations, Councillor Davidson was appointed as Chairman for this hearing.
1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	Review of Premises Licence – Madina Kebab House – 65 Gladstone Street, Millfield, Peterborough, PE1 2BN
3.1 Application Reference	MAU: 071291
3.2 Sub-Committee Members	Councillor Davidson (Chairman) Councillor Shabbir Councillor Coles
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles , Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Cambridgeshire Constabulary
3.5 Nature of Application	<p><b><u>Application Type</u></b></p> <p>Review of Premises Licence.</p> <p><b><u>Summary of Review Application</u></b></p> <p>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 was required to hold a hearing.</p> <p>The application to review, served by Cambridgeshire Constabulary, was received on 23 April 2015.</p> <p>A representation in support of the review and recommendations had been received from the Licensing Authority. Additional representations in support of the review had also been received from Safer Peterborough Partnership, supplementary information in the form of a witness statement from the police and Immigration Enforcement.</p> <p>Representations were received from other persons in writing in the form of two petitions, one with 17 names and one with 20 names.</p>

	<p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> <li>• Breach of Crime and disorder objective for employing illegal workers at the premises;</li> <li>• Section 11.27 and 11.28 of Guidance recommends revocation where the objectives are undermined through the premises being used to further crimes;</li> <li>• Illegal working had harmful social and economic effects in the UK, exploiting migrant workers and undercutting other businesses operating within the law;</li> <li>• Questioning the management’s ability to promote the licensing objectives;</li> <li>• Complaints from residents received alleging trading past authorised hours and unreasonable disturbance caused by the premises;</li> <li>• Allegations of anti-social behaviour, drug problems, litter, noise disturbance causing sleep deprivation, all associated with the premises and its patrons; and</li> <li>• Operating too late for a residential area.</li> </ul>
<p>3.6 Licensing Objective(s) under which representations were made</p>	<p>1. The Prevention of Crime and Disorder</p>
<p>3.7 Parties/Representatives and witnesses present</p>	<p><b><u>Applicant / Responsible Authority</u></b></p> <p>PC Robinson, who presented the case on behalf of Cambridgeshire Constabulary.</p> <p><b><u>Responsible Authorities</u></b></p> <p>Donna Hall, who was present on behalf of the Licensing Authority.</p> <p><b><u>Other Persons</u></b></p> <p>Patrick Rush, who was present on behalf of Immigration Enforcement.</p> <p>Gulshad Khan, who was present as other persons. Gulshad Khan was also present on behalf of Butal Rafique.</p> <p><b><u>Licensee / Representative</u></b></p> <p>Mr Hussain, the Licensee was not in attendance. There was no representative in attendance on behalf of Mr Hussain.</p>
<p>3.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p>	<p>The Sub-Committee, agreed to permit the submission of a letter and petition from the Licence Holder as supplementary information.</p>

3.9 Oral representations

The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.

**Applicant / Responsible Authority**

PC Robinson addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:

- There had been a breach to the licensing objectives crime and disorder for employing people that were not entitled to work in the UK;
- The police executed a warrant following the inspection by Immigration which had resulted in the arrests of four people;
- The four persons arrested had since been exported;
- A fine had been submitted to the license holder for the employment of immigrant workers;
- There were drug activities in the area, however, the activity could not be solely attributed to the Madina restaurant;
- The police had liaised with licensing in regards to reported noise disturbances; and
- Requests had been made to the premises to ensure that their CCTV was in good working order.

**Responsible Authority – Licensing Authority**

The Public Protection Manager addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee, were as follows:

- A number of concerns in regards to the management of premises in order to uphold the licence objectives had been raised with the team; and
- A review application had been made by the police.

**Other Persons – Patrick Rush, who was present on behalf of Immigration Enforcement**

Patrick Rush addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee, were as follows:

- Immigration had visited the Madina Kebab house following reports of community tensions;
- Threats were made by Madina staff towards the agency officers during a first visit which led to the officers withdrawal from premises;
- At the time of the first visit there had been seven people suspected to be immigrant workers at the Madina premises;
- The seven people identified were cross referenced by use of the immigration database, which identified 4 illegal immigrants;
- A further visit to the premises was made, which was supported by the Licensing Team on 13 March 2015;
- The 13 March 2015 visit made by immigration and the Licensing Team found that there were Pakistan nationals at the Madina premises that were not entitled to work in the United Kingdom;

	<ul style="list-style-type: none"> <li>• The owner could not provide paperwork accompanied with photographic evidence for the British national workers; and</li> <li>• A referral noticed with a potential fine of up to £80,000 was issued to the premises owner for non-compliance of being able to produce documentation and for the illegal migrant workers identified.</li> </ul> <p><b><u>Other Persons – Gulshad Khan, Local Resident</u></b></p> <p>Mrs Gulshad Khan addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee, were as follows:</p> <ul style="list-style-type: none"> <li>• Mrs Gulshad Khan lived next door to the Madina takeaway and had experienced significant disturbance to the family, in that her five children were subjected to regular patterns of broken sleep as a result of the noise omitting from and around the Madina takeaway;</li> <li>• The disturbances had been reported to the police, which had resulted in warnings issued to the premises;</li> <li>• People had frequented the area from around 1 to 1:30am, which surrounded the Madina premises;</li> <li>• The noise disturbance experienced had also included moving furniture in the Madina kitchen and arguments between staff, which could be heard for a period of time after 10pm;</li> <li>• The owner Mr Hussain had been contacted by neighbouring residents on various occasions to talk through and resolve the issues being experienced, however, in response, Mr Hussain would be rude and would antagonise the neighbours further by turning up music;</li> <li>• Following the residents attempts to approach the Madina owner Mr Hussain in order to discuss the issues being experienced, their cars would be found damaged the following day;</li> <li>• Other concerns raised with the premises owner (Madina) was with regard to vehicle horns sounding directly outside Mrs Gulshad’s house; and</li> <li>• Residents of the area would like the premises not to operate so late.</li> </ul> <p><b><u>Summing Up</u></b></p> <p>All parties were given the opportunity to summarise their submissions and there were no further comments made by any party.</p>
<p>3.10 Written representations and supplementary material taken into consideration</p>	<p><b><u>Applicant / Responsible Authority – Cambridgeshire Police</u></b></p> <p>Consideration was given to the application submitted by Cambridgeshire Police and attached to the Sub-Committee report.</p> <p><b><u>Responsible Authorities</u></b></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from the Licensing Authority.</p> <p><b><u>Other Persons</u></b></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from Immigration Enforcement, witness statement from</p>

	<p>Police Sergeant Pryke on behalf of Op Can Do, Mr Shariq Khan, Mrs Gulshad Khan and two petitions which contained 37 signatures.</p> <p><b>Licensee</b></p> <p>Consideration was given to the supplementary information submitted on the day of the hearing and attached at appendix 1.</p>
3.11 Facts/Issues in dispute	<p><b><u>Issue 1</u></b></p> <p>Whether the review application would further support the ‘Prevention of Crime and Disorder’ Licensing Objective.</p>
4. Decision	<p><b>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</b></p> <p>The Sub-Committee considered the representations made and in writing from:</p> <ul style="list-style-type: none"> <li>• Immigration Enforcement;</li> <li>• Licensing Authority as a Responsible Authority; and</li> <li>• Other persons, especially residents who attended and spoke clearly and credibly about the problems they are experiencing.</li> </ul> <p>Immigration Enforcement Officer Mr Patrick Rush told the Committee that on 13<sup>th</sup> March 2015 in a joint operation with the Police, he attended the premises and found that there were four illegal migrants who were working at the premises unlawfully. The licence holder was invited to attend but declined.</p> <p>A previous visit by Immigration Enforcement Officers on 17 December 2014 was abandoned due to threats of violence made by persons unknown at the premises. Before officers left the premises they were able to establish that up to seven workers were illegal migrants who were working unlawfully.</p> <p>Mr Rush informed the Committee that such workers were exploited by their employers and often were not paid the minimum wage. This allowed an unfair advantage over legitimate traders. HMRC were unable to collect revenue from such operations thus depriving the public purse of legitimate taxation. Also, there was little compliance to health and safety regulation.</p> <p>In the statement of Police Sergeant K Pryke, he stated that the premises was located in the heart of a residential area and the premises was associated with anti-social behaviour late at night. Youths tended to gather around the premises adding to noise nuisance and disturbance to residents. In his opinion, residents felt intimidated by these groups.</p> <p>The Public Protection Manager of Peterborough City Council informed the Sub-Committee that the premises often traded previously after 11pm without being licensed. There is an allegation of selling hot food at 3am. On being licensed, the premises continued to trade past its licensable hour of 1am.</p>

On 19<sup>th</sup> March 2015, the Food Safety Team attended the premises for a routine inspection. They found little evidence of food safety compliance and no documented food hygiene safety system.

Also, there had been a pattern of non-compliance with legal requirements and poor management practices.

Safer Peterborough Partnership supported the review but did not expand further.

Local residents informed the Committee that there has been a history of noise nuisance, anti-social behaviour and intimidation. Cars arrived late at night, often with loud music coming from within, groups of young men gathered around the premises making noise, and vehicles in the immediate vicinity had been damaged. Many residents were fearful when it came to complaining.

A petition was included in the review documents signed by some thirty seven residents also complaining of noise disturbance and other anti-social behaviour.

The licence holder, Mr A Hussain, did not attend the hearing but did submit a statement and a petition signed by some seventy four people in support of his business. Although the petition was presented beyond the end of the period for making representations, the Sub-Committee agreed to consider it as supporting information on behalf of the licence holder in the interests of fairness.

Mr Hussain stated in his statement that the employment of four illegal workers was an oversight and he should have been more vigilant.

He also stated that he was also a victim and has been verbally abused. He denied the allegations of the residents, he stated that he was complying, or at least attempting to, with his licence conditions and other regulations.

He made no mention of the previous visit to his premises made by immigration Enforcement Officers in December 2014.

In its deliberations, the Sub Committee gave consideration to the facts submitted, those being:

- Breach of Crime and disorder objective for employing illegal workers at the premises;
- Previous history of illegal workers at the premises;
- Section 11.27 and 11.28 of Guidance recommended revocation where the objectives were 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;
- The complaints from residents received alleged trading past authorised hours and unreasonable disturbance caused by the premises; and

	<ul style="list-style-type: none"> <li>Allegations of anti-social behaviour, litter, noise disturbance causing sleep deprivation, all associated with the premises and its patrons.</li> </ul> <p>The Sub Committee considered the licence holder's supporting statement and the attached petition (Appendix 1). On balance, the Sub-Committee attached more credibility to the evidence of the Responsible Authorities and residents.</p> <p>The Sub-Committee noted that revocation was recommended by officers. The Sub-Committee attached significant weight to the representations of the Police and other Responsible Authorities, and to the residents.</p> <p>The Sub-Committee concluded that within the community this premises was problematic.</p> <p>The Sub Committee considered such steps as appropriate to promote the licensing objectives. The steps were:</p> <ul style="list-style-type: none"> <li>to modify the conditions of the premises licence;</li> <li>to suspend the licence for a period not exceeding three months; or</li> <li>to revoke the licence.</li> </ul> <p>The Sub-Committee's decision was to revoke the licence in its entirety for the premises, known as Madina Kebab House – 65 Gladstone Street, Millfield, Peterborough, PE1 2BN.</p> <p>The Sub-Committee did not consider that additional conditions or modification of existing conditions would resolve the issues at the premises, nor would any period of suspension. Due to the history of non-compliance and the failure to abide by statutory provisions associated with premises, the Sub-Committee did not believe that the business was being run properly or responsibly, and it had been more likely than not, based on the facts and submissions before the Sub-Committee, that the premises under the current management would continue to be problematic.</p> <p>The Sub-Committee adjourned at 11:40am for 20 minutes to allow the applicant and representatives to be present for the next hearing.</p>
5. Application	New Premises Licence – Nectar Stanground, 2 Central Square, Stanground, Peterborough, Cambridgeshire, PE2 8RH
5.1 Application Reference	071225
5.2 Sub-Committee Members	Councillor Davidson (Chairman) Councillor Coles Councillor Shabbir
5.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy Democratic Services Officer – Clerk to the Sub-Committee
5.4 Applicant	Polish Deli Peterborough Ltd

<p>5.5 Nature of Application</p>	<p><b><u>Application Type</u></b></p> <p>Application for a new premises licence.</p> <p><b><u>Authorisations and Times Applied For</u></b></p> <ul style="list-style-type: none"> <li>• <b>Sale of alcohol for consumption off the premises</b></li> </ul> <p>Monday to Saturday 09.00 to 22.00 Sunday 10.00 to 22.00</p> <ul style="list-style-type: none"> <li>• <b>Hours premises are open to the public</b></li> </ul> <p>Monday to Saturday 09.00 to 22.00 Sunday 10.00 to 20.00</p> <p><b><u>Summary of New Premises Licence Application</u></b></p> <p>In accordance with the Licensing Act 2003, following the submission of an application for a new premises licence for Nectar Stanground, 2 Central Square, Stanground, Peterborough, Cambridgeshire, PE2 8RH, which had attracted representations in objection to the application, the Licensing Authority was required to hold a hearing.</p> <p>A summary of the issues raised within the representations included:</p> <ul style="list-style-type: none"> <li>• It was felt by residents that there were already sufficient premises in the area where alcohol could be purchased;</li> <li>• The premises was on a school route which could lead to an increase in underage consumption of alcohol; and</li> <li>• The premises would be detrimental to the visual appearance of the area.</li> </ul>
<p>5.6 Licensing Objective(s) under which representations were made</p>	<ol style="list-style-type: none"> <li>1. The Prevention of Crime and Disorder</li> <li>2. The Protection of Children from Harm</li> <li>3. The Prevention of Public Nuisance</li> <li>4. The Protection of Public Safety</li> </ol>
<p>5.7 Parties/Representatives and witnesses present</p>	<p><b><u>The Licensing Authority</u></b></p> <p>The Licensing Officer, who presented the case on behalf of the Licensing Authority.</p> <p><b><u>Applicant</u></b></p> <p>Mr Yuriy Zhuravel, the Applicant, and Mr Robin Howard, the Applicant's Representative.</p>
<p>5.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p>	<p>There were no pre-hearing considerations.</p>

5.9 Oral representations

The Regulatory Officer addressed the Sub-Committee and outlined the main points in regards to the application. The key points raised in his address included:

**Applicant/Representative**

Mr Howard, the applicant's representative, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:

- A plan of the building was distributed to the Sub-Committee, which demonstrated how the premises would be set out to resemble a small supermarket;
- There would be a large amount of CCTV surveillance cameras placed in strategic places throughout the premises to deter crime;
- The beer and wines would be refrigerated, with spirits located behind a counter;
- The applicant wished to include the sale of alcohol within the times stated with reduced times offered on the weekends;
- The premises would have a similar set up to the premises already in operation by the applicant on Bourges Boulevard and in Huntingdon;
- There had been no operational issues raised or reported to the authorities in respect of the Bourges Boulevard and Huntingdon premises;
- A book would be kept to record circumstances where the sale of alcohol to customers had been refused;
- The applicant was aware of the main points made within the representations against granting the licence, and noted that the information provided had not been a licensing consideration;
- It would be a rebuttable presumption that the premises would impact on the area even if a saturation policy was in place;
- Central Square was located near bus stops and schools, where a Tesco's store had also operated;
- Alcohol would not be sold to young people under the permitted age and if they persisted in their attempts, they would be refused entry to the shop;
- The shop would run short operating hours in comparison to most premises;
- The petitions signed by local residents did not align in with the four licensing objectives;
- There would be a varied amount of products in sale at the premises; however there was no intention to sell cheap alcohol;
- The premises staff would regularly inspect and clean any rubbish from around the shop;
- Only fully trained staff would be permitted to sell alcohol. Any new staff would also be trained in the sale of alcohol;
- A training record would be kept on;
- There would be no sales of promotional packs of beer and it was envisaged that the average abv would not exceed 5%.

**Other Persons – Mr Colin Blackman**

Mr Colin Blackman, addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as

	<p>follows:</p> <ul style="list-style-type: none"> <li>• Mr Blackman had signed the petition over a month ago;</li> <li>• There was no objection to the premises selling a wide range of delicacies;</li> <li>• There was a pub located near the premises, namely, 'The Whistle', which sold alcohol all day;</li> <li>• There had been objection made towards another establishment selling alcohol in the area due to the fact that a Tesco's was located on the main road and a garage was located on Lawson Avenue that already sold alcohol;</li> <li>• Residents did not want the sale of alcohol located so near to a school;</li> <li>• A concern was raised that Central Avenue Stanground, may become saturated with establishments such as in the Millfield area of Peterborough, if the Sub-Committee was minded to grant the premises licence;</li> <li>• There had already been an issue with litter in the area;</li> <li>• There was a concern that people would frequent the area after 10pm as a result of the sale of alcohol;</li> <li>• There was a strong feeling that the premises should only be permitted to sell food; and</li> <li>• There were 72 petitioners against the application.</li> </ul> <p><b><u>Summing Up</u></b></p> <p>All parties were given the opportunity to summarise their submissions and there were no further comments made by any party.</p>
<p>5.10 Written representations and supplementary material taken into consideration</p>	<p><b><u>Applicant</u></b></p> <p>Consideration was given to the application for a Premises Licence, attached to the Sub-Committee report.</p> <p><b><u>Responsible Authorities</u></b></p> <p>Consideration was given to the written submission attached to the Sub-Committee report from four Responsible Authorities.</p> <p><b><u>Other Persons</u></b></p> <p>Consideration was given to the representation made in the form of a petition from some 72 residents.</p>
<p>5.11 Facts/Issues in dispute</p>	<p><b><u>Issue 1</u></b></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p>
<p>6. Decision</p>	<p><b>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</b></p>

The Sub-Committee considered the petition in objection to the grant of a premises licence. Residents appeared to be concerned about the number of licensed premises in the area and the risk of underage alcohol sales.

One resident attended and spoke of the risk of underage sales and that there were sufficient outlets to purchase alcohol.

The Applicant's representative informed the Committee that the premises went beyond a shop, it was a supermarket with strict controls, a "Challenge 25" policy and a very robust CCTV system. The Applicant operated another supermarket in Peterborough and there had been no complaints from the Police.

The Committee considered the representations made today against the application. A summary of the issues raised included:

- Already sufficient premises in the area where alcohol can be purchased;
- Premises was on a school route which could lead to an increase in underage consumption of alcohol; and
- Detrimental to the visual appearance of the area.

The Sub-Committee had taken account of the Government Guidance and the Council's own Licensing Policy. The Committee accepted that there was a presumption to grant unless there were sound reasons backed by evidence to rebut this presumption.

The Sub-Committee believed that the Applicant's operating schedule was sufficiently robust to meet residents' concerns.

The Applicant operated another similar premises. There were no objections from any Responsible Authorities. The Applicant intended to operate a "challenge 25" initiative.

The Sub-Committee disregarded irrelevant considerations such as "need" and "saturation" in this case.

The Sub-Committee also gave consideration to the various options in order to promote the licensing objective as follows:

- 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, where there are more than one licensable activity and as appropriate; and
- Decide to refuse to grant the licence.

The Sub-Committee therefore granted the application for the premises licence as applied for.

The Sub-Committee advised that any party in objection to the decision could appeal to the Peterborough Magistrates Court within 21 days of receiving the formal decision notice.

Chairman  
Start 10:30 am–Finish 1:07pm