

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
01 AUGUST 2018		PUBLIC REPORT
Contact Officers:	Kerry Leishman, Licensing & Business Manager Simon Andrews, Licensing Regulatory Officer	Tel: 453502 Tel. 453489

APPLICATION:	PREMISES LICENCE REVIEW
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APPLICANT:	PETERBOROUGH & CAMBRIDGESHIRE TRADING STANDARDS
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REFERENCE NO:	Review: 077399	Premises Licence: 074451
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PREMISES:	Lifestyle Convenience Store, 29 London Road, Peterborough, PE2 8AN
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GLOSSARY OF TERMS:	Attached at Appendix A
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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 Peterborough & Cambridgeshire Trading Standards in relation to the above premises at Appendix B. The review was bought under the Prevention of Crime and Disorder objective.

2. BACKGROUND INFORMATION

- 2.1 On the 30th of November 2016 an application to transfer the premises licence for Lifestyle Convenience Store to Mr Ardalan Karim Mahmood was submitted, at the same time a Designated Premises Supervisor-DPS variation was submitted for Mr Ardalan Karim Mahmood to become the DPS. Both applications received no representations and were subsequently granted after the 14 day consultation.

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 Peterborough & Cambridgeshire Trading Standards, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A letter of support of the review has been received from PC Grahame Robinson, Cambridgeshire Constabulary. This letter of support is attached at Appendix C.
- 3.3 No representations have been received from any other of the Responsible Authorities i.e. Home Office, Public Health Authority, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Environmental Pollution Team, or Children's Services.
- 3.4 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 D).

4. SUMMARY OF ISSUES RAISED BY TRADING STANDARDS

- On 18 December 2017 Trading Standards visited Lifestyle Convenience Store following complaints of the shop selling foreign labelled cigarettes. The shopkeeper Mr Ahmed Mustafa picked up a black holdall that was behind the till and immediately walked out of the rear of the shop to his car. He returned without the holdall. The owner of the shop was telephoned and the designated premises supervisor Mr Ahmed Ghafoor arrived shortly after. Whilst waiting for Mr Ghafoor, several customers came into the shop asking for cheap cigarettes. Mr Ghafoor advised that the shop do not sell foreign labelled cigarettes and advice was given.

Following further complaints on 19 January 2018 a test purchase exercise was carried out by Trading Standards on the sale of foreign labelled cigarettes. A purchase was made of a Lithuanian packet of Marlboro Gold for £5.50 at Lifestyle Convenience Store.

- On 29 January 2018 Trading Standards visited Lifestyle Convenience Store and a seizure was made of 6000 cigarettes (300 packets) and 1600g of hand rolling tobacco (32 pouches) that were found at the rear of the shop in plastic bags, bin liners and a black holdall. The tobacco is believed to be counterfeit and the cigarettes are suspected to fail safety requirements.
- Following an interview with the owner Mr Ardalan Mahmood, he handed over a letter from his friend admitting that they were his cigarettes and he had left them in the shop.
- Following further complaints, Trading Standards visited Lifestyle Convenience Store on 9 March 2018 and spoke to the shopkeeper Mr Mustafa. Foreign cigarettes were not being stored in the shop however a plastic bag hanging behind the counter was full of foreign labelled Amber Leaf and Marlboro Gold sleeves and outer wrapping which could not be explained other than 'they must have been there from last night as the boss Ahmed (DPS) was working.
- Four more complaints were received regarding the sales of cheap foreign labelled cigarettes.
- On 21 May 2018 a test purchase was made of a foreign labelled packet of Marlboro Gold and paid £5.50. The male shopkeeper went out of the back door and got the cigarettes from the white van parked outside the door.

5. POLICY & GUIDANCE IMPLICATIONS

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

5.2 Council's Statement of Licensing Policy

- Objectives, Section 4 on Page 7 and 8
- Fundamental Principles, Section 6 on Page 6 and 7
- Licence Conditions, Section 14 page 17
- Delegation / Decision Making / Administration, Section 17 on Page 19 and 20

5.3 **Guidance Issued under Section 182 of the Licensing Act 2003 April 2017**

- The Licensing Objectives – Section 2 pages 7 to 17
- Applications for Premises Licences – Section 8 pages 52 to 62
- Determining applications – Section 9 pages 70 to 78
- Conditions Attached to Premises Licences – Section 10 page 79 to 90

6. LEGAL OFFICER’S COMMENTS

6.1 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.

6.2 In this case, the application was received at these offices on 07 June 2018.

6.3 The application before this committee will consider:

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

6.4 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.

6.5 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 into 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

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).
- Home Office (immigration)

‘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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