

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
4 APRIL 2019		PUBLIC REPORT
Contact Officers:	Kerry Leishman, Licensing & Business Manager Darren Dolby, Licensing Regulatory Officer	Tel: 453502 Tel. 453540

APPLICATION: NEW PREMISES LICENCE

APPLICANT: Mrs Lenke Stumpf

REFERENCE NO: 078636

PREMISES: Little Europe Store, 2 St Martins Street, Peterborough, PE1 3BD

GLOSSARY OF TERMS: Attached at **Appendix A on Page 8**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for Little Europe Store, 2 St Martins Street, Peterborough, PE1 3BD taking into account the objections received and the premises to which the application relates, is located within the cumulative impact boundary.

2. BACKGROUND INFORMATION

2.1 There have not been any previous applications under the Licensing Act 2003 for this premises.

2.2 Since 18 April 2013 the Licensing Authority have adopted a special policy relating to the cumulative impact in respect to all licensed premises within the 'Can – Do' area. This policy has been subsequently reviewed and consulted upon (in 2015 and 2018) in line with statutory time frames.

2.3 The Licensing Committee convened on the 18/10/18 to consider the future of the CI, following a consultation. The Licensing Committee considered all responses and evidence made available (orally and in writing) and determined to recommend to full council to retain the policy and publish a CIA (Cumulative Impact Assessment). This decision was ratified and adopted by full council on 12 December 2018.

2.4 The premises falls within the 'Operation Can – Do' area and is therefore subject to the provisions of the special 'cumulative impact' policy.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises only**

Monday to Sunday 08:00 to 23:00

- **Opening hours of premises**

Monday to Sunday 08:00 to 23:00

4. APPLICATION

- 4.1 Please refer to the application attached at **Appendix B – Pages 11**.
- 4.2 The applicant has not provided supplementary documentation intended to address the cumulative impact policy.
- 4.3 Representations against the application have been received from Cambridgeshire Constabulary, Peterborough Prevention and Enforcement Service (PES) Team, Public Health and MANERP (Millfield and New England Regeneration Partnership). These representations are attached at **Appendix C on Page 29**.
- 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 the following Responsible Authorities. Peterborough Trading Standards, 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.
- 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. REPRESENTATIONS

- 5.1 Summary of issues raised in the representations:
- The premises is located within the cumulative impact boundary, an area identified as being saturated with licensed premises which is having a negative impact on the licensing objectives;
 - The area suffers with anti-social behaviour fuelled by alcohol, exacerbated by the rapid growth of off sales licensed premises;
 - The impact of alcohol being sold at the premises in a high density residential area.
 - There is a strong relationship between alcohol outlet density and problems associated with social disorder which affects the health and wellbeing of the population.
 - The application, if granted, it would add to the availability of off sales of alcohol and exacerbate the negative impact on all the objectives, particularly the prevention of crime and disorder and public nuisance.
 - The CI area is already subject to significantly higher frequency of cleansing due to alcohol related litter. The addition of another premises will add to this litter.
 - Ambiguities within the conditions being offered by the applicant to appease the licensing objectives. These ambiguities have been removed from Part 7 (Applicants proposed conditions under the licensing objectives) of this report.
- 5.2 There were no representations in support of the application.
- 5.3 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

6. MEDIATION

- 6.1 As the representations are requesting refusal of grant, mediation was not a viable option.

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

7.1 Crime and disorder

- 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 at 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 an authorised 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 an authorised officer.
- 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.
- A clear and legible notice outside the premises indicating the normal hours under the terms of the premises licence during which licensable activities are permitted.
- Clear and conspicuous notices warning of potential criminal activity, such as theft, that may target customers will be displayed.
- Custom will not be sought by means of personal solicitation outside or in the vicinity of the premises.
- No alcohol shall be consumed on the premises.

7.2 Prevention of Public Nuisance

- The front of the premises must be kept tidy at all times and be swept at close.
- The holder of the premises licence shall ensure that noise caused by persons using (inc staff), arriving at or departing from the premises shall not cause nuisance or unreasonable disturbance to the occupiers of residential properties.
- Customers will be asked not to stand around loudly talking in the street outside the premises.
- Customers will not be admitted to premises after the stores opening hours.
- The movement of bins and rubbish outside the premises will be kept to a minimum after 11.00pm. This will help to reduce the levels of noise produced by the premises.
- Any lighting on or outside the premises will be positioned and screened in such a way so as to not cause a disturbance to nearby residents.
- Adequate waste receptacles for use by customers will be provided in the local vicinity.

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 and Signage will be prominently placed within the premises advertising the fact that the premises operate the 'Challenge 25' initiative.
- Written staff training records will be documented and updated on a 6 monthly basis. These training records will be produced to an authorised officer on demand.
- 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.

7.4 **Public Safety**

- A fire risk assessment and emergency plan must be prepared and regularly reviewed. All staff will receive appropriate fire safety training and refresher training. This must be documented and made available to an authorised officer.
- A log book or recording system shall be kept upon the premises in which shall be entered particulars of inspections made; those required to be made by statute, and information compiled to comply with any public safety condition attached to the premises licence that requires the recording of such information. The log book shall be kept available for inspection when required by persons authorised by the Licensing Act 2003 or associated legislation.

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
- Fundamental Principles, Section 6 on Page 6
- Cumulative impact, Section 11 page 10
- Licence Conditions, Section 14 page 15
- Delegation / Decision Making / Administration, Section 17 on Page 18

8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 April 2018**

- The Licensing Objectives – Section 2 pages 6 to 12
- Applications for Premises Licences – Section 8 pages 49 to 62
- Determining applications – Section 9 pages 68 to 76
- Conditions Attached to Premises Licences – Section 10 page 77 to 88

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.

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 7 February 2019.

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; and
- The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – April 2018.

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; and
- 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).

APPENDIX A

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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