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| <b>LICENSING ACT 2003 SUB COMMITTEE</b> |   | AGENDA ITEM No. 3          |
| <b>18 DECEMBER 2009</b>                 |   | PUBLIC REPORT              |
| Contact Officers:                       | Adrian Day, Licensing Manager<br>Terri Martin, Regulatory Officer | Tel: 454437<br>Tel. 453561 |

**APPLICATION: NEW PREMISES LICENCE**

**APPLICANT:** Mr Akram Ayub

**REFERENCE NO:** 057417

**PREMISES:** 75 Cromwell Road, Peterborough, PE1 2EB

**GLOSSARY OF TERMS:** Attached at **Appendix A** on **Page 6**

**1. PURPOSE OF REPORT**

**1.1** To consider and determine this application for a new premises licence for Smart Convenience Store, 75 Cromwell Road, Peterborough, PE1 2EB, taking into account the representations received from interested parties, three petitions, representations from a Councillor representing interested parties in the vicinity, and a representation from a Responsible Authority.

**2. BACKGROUND INFORMATION**

**2.1** As per the application (under general description) the premises will be used as a general grocery store with off sales of alcohol. At the time this report was written, the premises were closed for refurbishment. The premises is located within a DPPO (Designated Public Places Order).

**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 09.00 to 02.00

**4. APPLICATION**

- Please refer to the application attached at **Appendix B - Page 9**
- Representations have been received from interested parties and a Councillor representing persons living in the vicinity, three petitions were also received, signed by residents in the vicinity. A plan indicating the location of these interested parties in relation to the premises is attached at **Appendix C - Page 31**

- Part P of the application sets out the applicant’s proposed conditions under the licensing objectives 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 the report (in section 8) and, in accordance with Para 5.67 of the Guidance have been translated into clear and understandable conditions consistent with the proposals in the Operating Schedule.
- A copy of the ‘Notice’ that 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 is attached at **Appendix D – Page 33**

**5. INTERESTED PARTIES**

| LICENSING OBJECTIVE:   | REPRESENTATIVE:   |
|--|---|
| <b>Public Nuisance</b><br><b>Crime and Disorder</b><br><b>Public Safety</b><br><b>The Protection of Children from Harm</b> | <b>Interested Parties</b><br><br>4 representations from Interested Parties<br><br>1 representation a Councillor representing interested parties<br><br>3 Petitions containing 123 additional interested parties<br><br><b>To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation</b> |

**5.1 ‘Interested Parties’ is defined as:-**

- a person living in the vicinity of the premises
- a body representing persons living in that vicinity
- a person involved in the business in that vicinity; and
- a body representing persons involved in such a business

**5.2 Summary of issues raised**

- i) Escalate existing alcohol related incidents and anti social behaviour in the area e.g. street drinking and urinating in residents driveways and gardens
- ii) Noise from patrons
- iii) Increase in litter
- iv) Public Safety Concerns – residents intimidated due to existing alcohol related anti social behaviour, which they feel would be exacerbated further
- v) Excessive hours of opening in residential area
- vi) Potential sleep disturbance from noise
- vii) Close proximity to schools, potential increase to existing underage drinking and proxy sales
- viii) Concerns of parents whose children cannot go out in the street due to the issues of anti social behaviour and street drinking, broken glass etc.
- ix) Escalate existing alcohol related crime and disorder and violence

## 6 RESPONSIBLE AUTHORITIES

| LICENSING OBJECTIVE: | REPRESENTATIVE:   |
|----------------------|---|
| Public Nuisance      | <p><b>Interested Parties</b></p> <p>Representation by Cambridgeshire Constabulary</p> <p><b>To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation</b></p> |

### 6.1 Summary of issues raised

- i) Directly contribute to an increase in existing alcohol related anti social behaviour
- ii) Escalate existing public nuisance issues such as street drinking and alcohol related rowdy nuisance behaviour

6.2 No representations have been received from any of the remaining Responsible Authorities i.e. Cambridgeshire Fire and Rescue Service, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Children's Services, Peterborough City Council Environmental Pollution Team and Peterborough City Council Trading Standards Department.

## 7. MEDIATION

7.1 Mediation was attempted and the applicant verbally agreed to reduce the hours for the sale of alcohol to 9am to 11pm Monday to Sunday, but due to the amount of representations and the strength of opposition to the application, it was unsuccessful.

## 8. APPLICANT'S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES:

### 8.1 Crime and disorder

Video / CCTV equipment shall be installed inside the premises and maintained in working order.

Video / CCTV equipment will be set to record from the time that the premises open to the public until the premises close and all members of the public have left.

Digital images shall be retained for at least one month and shall be produced to an authorised officer on demand.

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.

The Designated Premises Supervisor will ensure that staff receive training and supervision to ensure that they fully understand their responsibilities in relation to age restricted products, in particular to the sale of alcohol so as to prevent sales to persons under the age of 18

The Designated Premises Supervisor will ensure that all staff training is ongoing.

The Designated Premises Supervisor will provide a book for all staff to record instances where sales are refused. This book will be available to any authorised officer upon request.

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.

## **8.2 Prevention of Public Nuisance**

Receptacles for refuse storage shall be maintained in a clean condition.

Litter shall be prevented at all times and where identified regularly cleared from the vicinity of the premises.

## **8.3 Public Safety**

A fire risk assessment conforming to the Regulatory Reform (Fire Safety) Order 2005 (as amended) will be completed and be available for inspection by an authorised officer.

## **8.4 Protection of Children from Harm**

The 'Challenge 21' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises.

Signage will be prominently placed within the premises advertising the fact that the premises operates the 'Challenge 21' initiative.

## **9. POLICY & GUIDANCE IMPLICATIONS**

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

### **9.2 Council's Statement of Licensing Policy**

- Objectives, Section 4 on Page 8
- Fundamental Principles, Section 6 on Page 9
- Licensing Hours, Section 8 on Page 12
- Children and Licensed Premises, Section 9 on Page 12 to 14
- Licence Conditions, Section 13 on Page 16 and 17
- Delegation / Decision Making / Administration, Section 16 on Page 18 and 19

### **9.3 Guidance Issued under Section 182 of the Licensing Act 2003**

- The Licensing Objectives – Crime and disorder, - Section 2 pages 16 to 19
- The Licensing Objectives – Public Nuisance, Section 2 pages 21 to 23
- The Licensing Objectives – Public Safety, Section 2 pages 19 to 21
- Protection of Children from Harm, Section 2 pages 23 to 25
- Determining applications – Section 9 pages 66 to 70
- Pools of conditions – Annex D page 117 to 133

## **10. LICENSING OFFICER'S COMMENT (FOR INFORMATION)**

10.1 Members should note that the letters and petitions 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.

10.2 Regulation 19(a) requires authorities to disregard any information given by a party or person that is 'not relevant' to the application. Whilst the petitions contain more than 123 signatures, some have been duplicated, some are deemed as being outside the vicinity of the application to be directly affected and some have no signature.

10.3 Where petition signatories have been excluded, the petition has been marked in the following manner:

- \* If it is a duplicate signature
- \*\* If it is deemed outside the vicinity to be directly affected
- \*\*\* If there is no signature

## **11. LEGAL OFFICER'S COMMENTS**

- 11.1** 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.
- 11.2** In this case, the application was received at these offices on 03 November 2009.
- 11.3** 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 on 28 June 2007 under section 182 of the Licensing Act 2003.
- 11.4** The Licensing Authority cannot take into account in making its decision representations relating to the cumulative impact of a concentration of licensed premises in the area as it has not adopted a Special Policy in this respect.
- 11.5** The licensing authority may determine the application, depending upon what is necessary 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
- 11.6** Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

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.

**‘Interested parties’:**

- a person living in the vicinity of the premises in question;
- a body representing persons living in that vicinity, e.g. a residents association;
- a person involved in a business in the vicinity of the premises in question;
- a body representing persons involved in such a business e.g. a trade association.

**‘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
- 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 96 hours;
- 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 15 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

**'Vicinity'**: Given the normal everyday meaning of being 'near to' when considering the relevance of representations received from individual's residence or business.

Licensing Act 2003\glossary of terms 13 March 2007