

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No 4
11 AUGUST 2022		PUBLIC REPORT
Contact Officers:	Gareth Brighton, Licensing and Business Manager Darren Dolby, Licensing Regulatory Officer	Tel. 864103 Tel. 453540

APPLICATION: Transfer of Premises Licence

PREMISES: Ali's Kebab House – 3 Fitzwilliam Street, Peterborough, PE1 2RU

REFERENCE NUMBER: MAU : 118164

GLOSSARY OF TERMS: Attached at **Appendix A**

1. PURPOSE OF REPORT

1.1 To consider and determine an application for a transfer of a Premises Licence following a representation served in accordance with Section 44 (5) of the Licensing Act 2003 by Cambridgeshire Constabulary in relation to the above premises. The representation relates to the Prevention of Crime and Disorder licensing objective.

2. BACKGROUND INFORMATION

2.1 A new application under the Licensing Act 2003 for late night refreshment was made by Mr Halil Ickin and granted in November 2005. The licence was transferred on a number of occasions as well as the premises undergoing a number of name changes. The licence was then transferred to the current licence holders AL1 Kebab Ltd 4 June 2018.

2.2 A copy of the current licence is attached at **Appendix B**

3. APPLICATION

3.1 In accordance with of the Licensing Act 2003 and following the submission of a representation against the transfer of the premises licence from Cambridgeshire Constabulary, a Responsible Authority, the licensing authority must hold a hearing.

3.2 A copy of the email representation was received on 14 July 2022, a copy of this email is attached at **Appendix C**.

3.3 A letter in support of the representation was received from Peterborough City Council Prevention and Enforcement Service in their capacity of 'Other Persons'. A copy of this representation is attached at **Appendix D**.

4. SUMMARY OF ISSUES RAISED BY CAMBRIDGESHIRE CONSTABULARY

- Following a visit by Home Office Immigration Officers a total of two persons at the premises were found to be working illegally.
- Section 11.28 of Guidance (issued under section 182 of the Licensing Act 2003) recommends that revocation of the licence even in the first instance, should be seriously considered where representations arise and the licensing authority determines, that the crime prevention objective is being undermined through the premises being used to further crimes.
- At the time of the Home Office Immigration Team visit Mr Mashroh Oryakhail identified himself as the owner and business operator. However, AL1 Kebab Ltd were still the premises licence holders.

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 Pages 6 and 7*
- Delegation / Decision Making / Administration: *Section 18 page 20 and 21*

5.3 Guidance Issued under Section 182 of the Licensing Act 2003 (April 2018)

- Applications for Premises Licence: *Section 8 pages 49 to 67*
- Determining applications: *Section 9 pages 68 to 76*

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 transfer of a premises licence following a representation against the transfer by Cambridgeshire Constabulary.

6.2 In this case, the application was received at these offices on 4 July 2022.

6.3 The application before this committee will consider –

- (i) The application to transfer 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 grant the transfer of the premises licence
- (b) to reject the transfer of the premises licence

6.5 In addition the guidance issued under section 182 of the Licensing Act 2003 states:

'In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.'

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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