

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3.1
13 APRIL 2010		PUBLIC REPORT
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APPLICATION: REVIEW OF PREMISES LICENCE

PREMISES: News N Booze
95 Eastfield Road, Peterborough, PE1 4AS

REFERENCE NUMBER: MAU 58243

GLOSSARY OF TERMS: Attached at **Appendix A** on **Page 5**

1. PURPOSE OF REPORT

1.1 To consider and determine an application for a review of a Premises Licence under Section 51 of the Licensing Act 2003 for the above premises, taking into account the representation made by Cambridgeshire Constabulary in their capacity as a Responsible Authority. The review was bought under the Crime & Disorder, Protection of Children from harm objectives, Public Nuisance and Public Safety objectives.

2. BACKGROUND INFORMATION

2.1.1 On 31st May 2005 an application was made to Peterborough City Council by Mr Shaid Majid to convert an existing licence to a premises licence under Schedule 8 to the Licensing Act 2003. Following no representations being received from any of the responsible authorities or from any interested party the premises licence was granted. The **original** authorisations granted were as follows :

Sale of Alcohol : Monday to Saturday – 8am until 11pm
Sunday – 10am until 10.30pm.

Recorded Music : Monday to Sunday – During opening hours

A variation to extend the hours alcohol could be sold at the premises was received on the 23rd May 2006. This variation was subject to mediation after the Police made a valid representation. As a result of mediation the licence was granted on 24th June 2006 with additional conditions being placed on the premises licence. The authorisations granted after this variation were as follows :

Sale of Alcohol : Monday to Sunday – 8am until 2am

Recorded Music : Monday to Sunday – During opening hours

2.2 The original converted licence and the current licence, together with the licence conditions are attached at **Appendix B on Page 9 and Appendix C on Page 19**

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 Cambridgeshire Constabulary, a Responsible Authority, the Licensing Authority must hold a hearing.

3.2 A copy of the application to review, which was received at these offices on 12th February 2010 is attached at **Appendix D - Page 29**

3.4 A copy of the 'Notice' that 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 is attached at **Appendix E – Page 39**

3.5 No other representations have been received from any of the remaining Responsible Authorities, Interested parties, nor the Licence Holder.

4. RESPONSIBLE AUTHORITY

LICENSING OBJECTIVE:	REPRESENTATIVE:
Protection of children from harm	Responsible Authority: Cambridgeshire Constabulary As per the application for review attached at Appendix D - Page 29
Prevention of Crime & Disorder	Responsible Authority: Cambridgeshire Constabulary As per the application for review attached at Appendix D - Page 29
Prevention of Public Nuisance	Responsible Authority: Cambridgeshire Constabulary As per the application for review attached at Appendix D - Page 29
Public Safety	Responsible Authority: Cambridgeshire Constabulary As per the application for review attached at Appendix D - Page 29 <i>To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation</i>

4.2 Summary of issues raised by Cambridgeshire Constabulary

- i) After a number of test purchasing operations it was found that staff at the premises sold alcohol to underage persons. On three separate occasions (30/9/05, 4/7/07 & 22/1/10) underage volunteers were able to purchase alcohol from the premises without being asked for proof of their age.
- ii) Police continue to receive intelligence that indicates that underage persons are able to purchase alcohol at the premises.
- iii) The premises has been specifically identified by Police on a number of occasions as being responsible for violence, disorder and street drinking in Eastfield Road.

- iv) Insufficient measures are in place at the premises to ensure adherence to the Licensing Act 2003.
- v) The local Neighbourhood Policing Panel have prioritised that both the Neighbourhood Council and Neighbourhood Policing Team must 'ensure businesses comply with licensing laws and promote responsible trading and behaviour in the Eastfield Road area.'

5. Letter of support from Children Services

- 5.1** Children services have sent a letter of support for the review of the premises licence. This letter is attached at **Appendix F - Page 41** The letter indicates support for the recommendations in the Police's report and also suggests that the premises should adhere to the 'Safeguarding Children Licensable Activities – Good Practice Guidance'.

6. LICENSING OFFICERS COMMENTS

- 6.1** A mediation meeting between Cambridgeshire Constabulary and the applicant was due to take place in March 2010 but was cancelled by the applicant the day before. The applicant stated that he was unavailable on that date and failed to contact the Licensing Authority to rearrange the meeting.

7. POLICY & GUIDANCE IMPLICATIONS

- 7.1** The following sections/paragraphs are applicable to this application:

7.2 Council's Statement of Licensing Policy

- Children and Licensed Premises: *Section 9 on Page 12*
- Other legislation: *Section 10 on Page 14*
- Fundamental Principles, *Section 6 on Page 9*
- Reviews, *Section 15 on Page 18*

7.3 Guidance Issued under Section 182 of the Licensing Act 2003

- Reviews *Section 11 of the Guidance*
- Powers of a licensing authority on the determination of a review: *Section 11.15 Page 91*
- Reviews arising in connection with crime: *Section 11.22 Page 93*

8. LEGAL OFFICER'S COMMENTS

- 8.1** 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 the Cambridgeshire Fire & Rescue Service (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

- 8.2** In this case, the application was received at these offices on 12th February 2010.

- 8.3** The application before this committee will consider –

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

8.4 The committee will take such of the steps as it considers that action is necessary 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.

In addition the guidance issued under Para 11.15 of Section 182 of the Licensing Act 2003 states:

‘The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary 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 time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. But, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvements – 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.

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

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