

<b>LICENSING ACT 2003 SUB-COMMITTEE</b>		<b>AGENDA ITEM No. 3</b>
<b>7 JULY 2010</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Adrian Day, Licensing Manager, Terri Martin, Licensing Regulatory Officer	Tel: 454437 Tel. 453561

**APPLICATION: VARIATION OF PREMISES LICENCE**

**LICENCE REFERENCE:** MAU 059342

**APPLICANT:** Mr Naser Yousaf

**PREMISES:** Select and Save, 9-11 Scalford Drive, Peterborough, PE1 4XQ

**REPRESENTED BY:** Mr Vikram Singh, H & V Solicitors, 583 Lincoln Road, Peterborough, PE1 2PB

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

**1. PURPOSE OF REPORT**

**1.1** To consider and determine this application for a variation to the premises licence for Select and Save, 9-11 Scalford Drive, Peterborough, PE1 4XQ taking into account the representations received from Cambridgeshire Constabulary, interested parties and a body (Welland Residents Association) representing interested parties.

**2. BACKGROUND INFORMATION**

**2.1** On 16 January 2006 an application for a new premises licence was submitted by Mr M Yousaf to allow the off sale of alcohol from 06.00 to 21.00. Representations were received from Cambridgeshire Constabulary as the premises were found to be selling alcohol on three occasions prior to obtaining a premises licence. (Despite the police informing the premises they were unable to sell alcohol during this time.) The application was determined by the licensing committee at a hearing which took place on the 13 March 2006. The committee's decision was to refuse the application.

**2.2** On the 20 March 2006 an application for a new premises licence was submitted by Mr N Yousaf to allow the off sale of alcohol from 06.00 to 21.00 Monday to Saturday and 07.00 to 20.00 on Sunday. No representations were received for this application and it was therefore granted on the 18 April 2006.

**2.3** On the 22 November 2006 a variation application was received to extend the sale of alcohol from 06.00 to 22.00 Monday to Sunday. As no representations were received to the variation application, the variation was granted on 22 December 2006.

2.4 A copy of the current plan and licence which shows the current authorisations, timings and conditions is attached at **Appendix B – Page 9**

### 3. SUMMARY OF VARIATION APPLIED FOR

3.1 To extend the hours for the sale of alcohol off the premises for an extra 6 hours per day Monday to Sunday. Current hours are 06.00 to 22.00, variation application is to extend hours to 06.00 to 04.00. The application does not include any extra conditions to be attached to the premises licence and states that *“it is not anticipated that the proposed variation poses any additional risk to the objectives and that the current working practices employed at the premises are sufficient.”*

### 4. APPLICATION

4.1 Please refer to the application and revised plan attached at **Appendix C – Page 19**

4.2 Representations have been received from Cambridgeshire Constabulary as a Responsible Authority under all of the objectives which are, the prevention of Crime and Disorder, the Prevention of Public Nuisance, public safety and the protection of children from harm. A copy of the representation is attached at **Appendix D – Page 41**

4.3 Representations have also been received from the three ward Councillors, namely Cllr Saltmarsh, Cllr Ash and Cllr Miners and Welland Residents Association. Copies of these representations are attached at **Appendix E – Page 43**

4.4 No representations have been received from any of the other Responsible Authorities i.e. Cambridgeshire Fire and Rescue Service, Peterborough City Council Planning Department, Peterborough City Council Health and Safety Team, Peterborough City Council Child Protection, Peterborough City Council Trading Standards and Peterborough City Council Environmental Pollution Team.

4.5 A copy of the ‘Notice’ that was advertised 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 F – Page 53**

4.6 The applicant has stated that no additional conditions have been identified from those already attached to the current premises licence.

### 5. RESPONSIBLE AUTHORITY

LICENSING OBJECTIVE:	REPRESENTATIVE:
Prevention of Crime and Disorder Public Nuisance Public safety Protection of children from harm	<b>Responsible Authority:</b> Cambridgeshire Constabulary One letter of representation from Cambridgeshire Constabulary  <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 Summary of issues raised:

- Existing alcohol related antisocial behaviour in the locality
- The extra availability of alcohol in the locality is likely to exacerbate existing issues

## 6. INTERESTED PARTIES

LICENSING OBJECTIVE:	REPRESENTATIVE:	
Prevention of Crime and Disorder	<b>Interested Parties:</b> Representations from each of the three ward Councillors Cllr Saltmarsh, Cllr Ash and Cllr Miners	
Public safety		
Prevention of Public Nuisance		One letter from Welland Residents Association
Protection of Children from harm		<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>

### 6.1 '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
- A member of the relevant licensing authority

### 6.2 Summary of issues raised:

- Residents fear the increased hours will exacerbate the existing alcohol related anti social behaviour in the locality
- Residents fear for their personal safety due to persons congregating outside the shops
- Litter including cans and broken glass bottles
- Noise and nuisance from patrons utilising the shop during the proposed extended hours
- Anti social behaviour including, noise, shouting, swearing, spitting, urination and vomit
- Proximity to a Primary school and Children's (Sure Start) Centre
- Excessive hours for a residential area
- Area of social deprivation
- Street drinking already occurring potential to increase

## 7. MEDIATION

7.1 Mediation was attempted and the solicitor acting on behalf on the licence holder offered to reduce the hours for the sale of alcohol to 02.00. However this was not accepted by the interested parties and responsible authority making the representations. They felt that this was insufficient to alleviate the concerns raised. The solicitor has subsequently withdrawn this offer as it was not accepted.

## 8. LICENSING OFFICER'S COMMENT (FOR INFORMATION)

8.1 The changes to the plan have not been advertised in accordance with the regulations. The changes include a change to the existing layout and the inclusion of an external serving hatch. Members should also consider if the new plan can be accepted as part of this variation application.

8.2 In February 2007 the premises failed a test purchase, which resulted in a prosecution at the magistrates' court. The seller of the alcohol (Mr Sajid Yousaf) and the Designated Premises Supervisor (DPS) (Mr Naser Yousaf) both pleaded guilty to the sale of intoxicating liquor to a person under the age of 18. Further test purchases have been made at the premises and the premises refused the sale.

## **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
- Other Legislation, section 10 on Page 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, section 2 pages 16 to 25
- Determining applications, section 9 Pages 76 to 80
- Conditions attached to premises licences, section 10 pages 81 to 95
- Pools of conditions, Annex D page 131 to 147

## **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 the variation of a premises licence made under Section 34 of the Licensing Act.

**10.2** In this case, the application was received at these offices on 12 May 2010. The period during which relevant representations were made ended on 9 June 2010.

**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
- The Guidance issued by the Secretary of State for Culture, Media and Sport March 2010 under section 182 of the Licensing Act 2003.

**10.4** 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 or vary the licence in the same terms as it was applied for
- decide to grant or vary 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 vary the licence

**10.5** Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003.