

LICENSING ACT 2003 SUB - COMMITTEE		AGENDA ITEM No. 3
9th January 2009		PUBLIC REPORT
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APPLICATION: VARIATION OF A PREMISES LICENCE

LICENCE REFERENCE: MAU 052811

APPLICANT: Asda Stores Limited

PREMISES: Asda Superstore, Viersen Platz, Peterborough, PE1 1ET

REPRESENTED BY: Gosschalks Solicitors, Queens Gardens, Kingston upon Hull, HU1 3DZ

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

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a variation to the premises licence for Asda Superstore, Viersen Platz, Peterborough, PE1 1ET taking into account the representation received from an interested party.

2. BACKGROUND INFORMATION

- On 1st July 2005 an application was made to Peterborough City Council by Asda Stores Limited to convert an existing Justices Off Licence to a premises licence under Schedule 8 to the Licensing Act 2003. This application did not request 24 hour alcohol.
- The conversion application was granted on 31st August 2008.

2.1 Between 13 November 2006 and 31 October 2008 three variations to Designated Premises Supervisors have been received and granted.

2.2 A copy of the current 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 to 24 hours each day of the year.

4. APPLICATION

4.1 Please refer to the application attached at **Appendix C - Page 19**.

- 4.2** A representation has been received from a local resident who has been deemed as an interested party. In order for a person to be an interested party in these circumstances they must live in the vicinity of the premises concerned. Vicinity is not defined by the Act, the associated Guidance or the Council’s Licensing Policy and therefore is a matter for determination in the particular circumstances of each case. A plan indicating the location of the person seeking to make representation in relation to the application is attached at **Appendix D - Page 33**.
- 4.4** No representations have been received from any of the Responsible Authorities i.e. Cambridgeshire Constabulary, 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 E - Page 35**.
- 4.6** The applicant has stated that no additional conditions have been identified from those already attached to the current premises licence **Appendix B Page 9**.

5. INTERESTED PARTIES

LICENSING OBJECTIVE:	REPRESENTATIVE:
<p>Prevention of Crime and Disorder</p>	<p>Interested Parties: One letter of representation from a local resident.</p>
<p>Public Nuisance</p>	<p>To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation</p>

- 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:**
- Anti-social behaviour of customers
 - Public nuisance
 - Noise from ‘customers’ walking to and from the premises
 - Crime and disorder issues
- 5.3** Members should note that the letter attached is in it’s entirety and that not all matters raised within the representation 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** At the time of compiling this report mediation continues to take place between the two parties. So far this mediation has not resulted in any settlement.

7. POLICY & GUIDANCE IMPLICATIONS

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

7.2 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

7.3 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
- Determining applications, section 9 Pages 66 to 70
- Conditions attached to premises licences, section 10 pages 71 to 81
- Pools of conditions, Annex D page 117 to 133

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

8.2 In this case, the application was received at these offices on 11th November 2008. The period during which relevant representations were made ended on 9th December 2008.

8.3 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.

8.4 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

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

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