

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No.3
5 NOVEMBER 2010		PUBLIC REPORT
Contact Officers:	Adrian Day, Licensing Manager Terri Martin, Regulatory Officer Licensing	Tel: 454437 Tel. 453561

APPLICATION: Review of Premises Licence

PREMISES: Murco Costcutter Express
218-226 Lincoln road, Peterborough, PE1 2NE

REFERENCE NUMBER: MAU 059422

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 Prevention of Crime and Disorder, Public Safety and Protection of children from harm objectives.

2. BACKGROUND INFORMATION (in chronological order)

2.1 On the 4 December 2006 an application for a new premises licence was submitted by Murco Petroleum Ltd to allow the sale of alcohol 24 hours a day seven days a week and Late Night Refreshment from 23.00 to 05.00 seven days a week. As no valid representations were received the licence was granted on 3 January 2007. A copy of this current licence may be found at **Appendix B – Page 9**.

2.2 On the 5 June 2007, a review application was served by Cambridgeshire Constabulary in their capacity as a Responsible Authority. The review was bought under the Prevention of crime and disorder and the protection of children from harm objectives, following the failure of two test purchases on a TUSAC (Tackling Underage Sales of Alcohol to Children) campaign. The first failure was on the 9 May 2007 where the seller of the alcohol to the underage test purchasers was also the Designated Premises Supervisor (DPS) and the second failure was on the 22 May 2007, where the alcohol was sold to the underage volunteers by a member of staff.

2.3 Following a meditation meeting on the 20 June 2007, the review application was withdrawn. A representative of the premises licence holder agreed to suspend alcohol sales, remove signage relating to alcohol sales and agreed no alcohol would be exposed for sale, until such time as a new DPS was appointed and a full training programme was implemented.

This training was to include ensuring that all staff were made aware of the conditions attached to the premises licence.

- 2.4 An application to vary the Designated Premises Supervisor (DPS) was received on 13 August 2007, this application was to remove Mr Inderjit Singh as the DPS and make Mr Naguleswaran Elayathamby the DPS with immediate effect.
- 2.5 A Test Purchase took place at the premises on 29 October 2008 which the premises refused the sale of alcohol to the underage volunteers.
- 2.6 On 5 December 2008 an application to vary the DPS was received. This was to make Mr Rasaratnam Rajakumar the new DPS with immediate effect
- 2.7 On the 22 December 2008 a test purchase took place at the premises and alcohol was sold to the underage volunteers by a member of staff who later received a Penalty Notice for Disorder (PND) for this offence.
- 2.8 On 2 February 2009 an application to vary the DPS was received. This was to make Mr Mahavatnam Preamkumar the new DPS with immediate effect.
- 2.9 A Test Purchase took place at the premises on 18 February 2009 where the premises refused the sale of alcohol to the underage volunteers.
- 2.10 A Test Purchase took place at the premises on 27 March 2009 where the premises refused the sale of alcohol to the underage volunteers.
- 2.11 On 17 July 2009 an application to vary the DPS was received. This was to make Mr Joe Anand Xavier the new DPS with immediate effect.
- 2.12 A Test purchase took place at the premises on 1 August 2009 where the premises refused the sale of alcohol to the underage volunteers.
- 2.13 On the 12 March 2010 a test purchase took place at the premises and alcohol was sold to the underage volunteers by the DPS, who later received a PND for this offence. A mediation meeting took place shortly after, between the licensing department, police and a representative for the premises licence holder. At this meeting the premises voluntarily stopped the sale of alcohol from the date of the failed test purchase, introduced a bespoke training package and assurances were made that regular retraining would take place and the removal of the current DPS. They were informed that this was the final warning for this contravention.
- 2.14 On 27 May 2010 an application to vary the DPS was received. This was to make Mr Bhaskar Rameshbhai Satani the current DPS with immediate effect.
- 2.15 On the 14 July 2010 a test purchase took place at the premises and alcohol was sold to the underage volunteers by a member of staff, who later received a PND for this offence.

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 13 September 2010 is attached at **Appendix C – Page 19**
- 3.3 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 D – Page 27**

3.4 No other representations have been received from any of the remaining Responsible Authorities, interested parties or the Licence holder.

4. RESPONSIBLE AUTHORITY

LICENSING OBJECTIVE:	REPRESENTATIVE:
Public Safety Prevention of Crime and Disorder Crime & Disorder	Responsible Authority: Cambridgeshire Constabulary As per the application for review attached at Appendix C Page 19 <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>

4.1 Summary of issues raised by Cambridgeshire Constabulary

- I. Sale of alcohol to individuals under the age of 18, on five separate occasions in three years.
- II. Mediation meetings, bespoke training packages and pledges of staff retraining have taken place, but sales to underage persons continue to occur.
- III. Concerns for the safety of children and the premises not upholding the objectives.

5. LICENSING OFFICERS COMMENTS

5.1 Mediation was viewed not viable by the representative for the premises licence holder as the police are requesting revocation of the alcohol permission.

5.2 All test purchasing is done in accordance with LACoRS Guidelines which are endorsed by the Home Office. The volunteers used are aged between 14 and 16 and must answer truthfully if questioned by a retailer. Premises are targeted for test purchasing following complaints made to the council from members of the public or intelligence received by the police.

6. POLICY & GUIDANCE IMPLICATIONS

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

6.2 Council's Statement of Licensing Policy

- Children and Licensed Premises: *Section 9 on Page 12 to 14*
- Reviews: *section 15 on Page 18*
- Delegation / Decision Making / Administration: *Section 16 page 18*

6.3 Guidance Issued under Section 182 of the Licensing Act 2003 (March 2010)

- The licensing objectives: *Section 2 pages 16 to 25*
- Reviews: *Section 11 pages 97 to 100*
- Determining applications: *Section 9 pages 76 to 80*

7. LEGAL OFFICER'S COMMENTS

7.1 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 Cambridgeshire Constabulary (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

7.2 In this case, the application was received at these offices on 13 September 2010.

7.3 The application before this committee will consider –

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

7.4 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

7.5 In addition the guidance issued under 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.