

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

APPLICATION: Variation of a Premises Licence

PREMISES: Kaimas Lithuanian Restaurant, 561-563 Lincoln Road, Peterborough, PE1 2PB

APPLICANT: Mr Aidas Meckauskas

REPRESENTED BY: Belinda Smith & Co Solicitors

REFERENCE NUMBER: MAU 060284

GLOSSARY OF TERMS: Attached at **Appendix A – Page 7**

1. PURPOSE OF REPORT

1.1 To consider and determine an application for a variation to the premises licence for Kaimas Lithuanian Restaurant, 561-563 Lincoln Road, Peterborough, PE1 2PB taking into account the representations received from Environmental Pollution, Cambridgeshire Constabulary and three interested parties.

2. BACKGROUND INFORMATION

2.1 On the 4 August 2005 a conversion application was submitted by Mr Ibrahim Hassan to convert a justices restaurant licence to a premises licence, at that time the premises was called Meze Meze, and was a ground floor restaurant only. As no objections were received from the police, the licence was granted on 9 September 2005.

2.2 On the 12 February 2008 an application to transfer the premises licence to Mr Darr was received. As no representations were received the application was granted on the 29 February 2008. At this time the premises was called Al-Aziz.

2.3 On the 15 February 2008 an application to vary the Designated Premises Supervisor (DPS) to Mr Darr was received. As no representations were received the application was granted on the 3 March 2008.

- 2.4 On the 25 March 2010 an application to transfer the premises licence to Mr Aidas Meckauskas with immediate effect was received. As no representations were received, the application was granted.
- 2.5 On the 26 March 2010 an application to vary the Designated Premises Supervisor (DPS) to Mr Aidas Meckauskas with immediate effect was received. As no representations were received the application was granted.
- 2.6 On the 21 September 2010 an application for a variation of the premises licence was received. This application was withdrawn by the applicant's representative.
- 2.7 A copy of the current licence and plan, showing the existing authorised activities, is attached at **Appendix B – Page 11**

3. SUMMARY OF VARIATION APPLIED FOR

- 3.1
- i) To extend the area for licensable activities to take place to include the first floor.
 - ii) To amend the opening hours of the premises to midday until 02.00 seven days a week.
 - iii) To amend the hours for on sales of alcohol from those currently authorised, (which are Monday to Saturday 10am to midnight and Sunday from midday until 23.30), to midday until 02.00, seven days a week.
 - iv) To extend the hours for Late Night Refreshment to 23.00 to 02.00 seven days a week.
 - v) To include the provision of live music on Fridays and Saturdays from 19.00 to midnight in the downstairs (ground floor) restaurant.
 - vi) To amend the hours for recorded music seven days a week from midday to 02.00.
 - vii) The removal of embedded restrictions and conditions in Annex 2A of the current licence.
 - Viii) To include non standard timings for notable dates.

4. APPLICATION

- 4.1 Please refer to the application and additional plan of the first floor attached at **Appendix C – Page 21**
- 4.2 Representations have been received from Environmental Pollution Control as a Responsible Authority under the prevention of public nuisance objective. A copy of the representation is attached at **Appendix D – Page 43**
- 4.3 Representations have also been received from Cambridgeshire Constabulary as a Responsible Authority under the prevention of crime and disorder objective. A copy of the representation is attached at **Appendix E – Page 47**
- 4.4 Representations have also been received from the three interested parties under the prevention of public nuisance, public safety, prevention of crime and disorder. Copies of these representations are attached at **Appendix F – Page 49**
- 4.5 A plan indicating the premises and the properties of interested parties making representations is attached at **Appendix G – Page 57**
- 4.6 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, and Peterborough City Council Trading Standards.
- 4.7 Part P of the application sets out the applicants proposed conditions under the relevant objectives. These are also contained within the body of the report in section 7 and in accordance with paragraph 8.42 of the guidance have been translated into conditions.

4.8 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 H – Page 59**

5. RESPONSIBLE AUTHORITY

LICENSING OBJECTIVE:	REPRESENTATIVE:
Prevention of Crime and Disorder Public Nuisance	Responsible Authority: Representations from Cambridgeshire Constabulary Representations from Environmental Pollution Control To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation

5.1 Summary of issues raised:

- Objection to the removal of the embedded restriction which provides that the sale of alcohol is ancillary to food.
- Insufficient detail on the CCTV. Conditions proposed
- Objection to the proposed extension of hours due to existing and ongoing noise complaints
- Insufficient control of noise from music and patrons
- Excessive hours requested for a residential location already experiencing noise issues
- Insufficient conditions to control the noise nuisance for the first floor. Conditions proposed.
- Allegations of breaches of existing licensing conditions

6. INTERESTED PARTIES

LICENSING OBJECTIVE:	REPRESENTATIVE:
Prevention of Crime and Disorder Public safety Prevention of Public Nuisance	Interested Parties: Representations from three interested parties To comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation

6.1 'Interested Parties' are 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:

- Existing disturbance caused by noise from music and patrons – unable to sleep
- Parking causing nuisance to residents who are unable to park near their home, then disturbed when patrons return for their vehicles.
- Existing anti social behaviour caused by customers and staff

- Noise and nuisance from patrons utilising the premises during the proposed extended hours will exacerbate the existing problems
- Anti social behaviour including, noise, shouting, swearing, spitting, urination and vomit
- Excessive hours for a residential area
- Allegations of breaches of existing licence conditions

7. APPLICANT'S PROPOSED CONDITIONS

7.1 Crime and disorder

- CCTV cameras situated both inside and outside the premises, one on each floor and one at the front and back doors.

7.2 Public safety

- All staff will be fully trained with regards to health and safety and fire regulations.

7.3 Prevention of public nuisance

- Live music will only be performed on the ground floor of the premises
- The premises licence holder will ensure that speakers are situated at the furthest possible distance from residential accommodation on the first floor.
- The premises licence holder will ensure that customers arrive and depart from the premises in a manner which will not cause annoyance to nearby residents.
- The premises licence holder will ensure that the volume of any recorded music will be decreased after midnight.
- Any requests from an Authorised Officer of the Council in relation to reducing noise levels shall be complied with.

7.4 Protection of children from harm

- All staff will be fully trained with regards to the sale of alcohol and the prevention of underage sales.

8. MEDIATION

8.1 The applicant had to visit Lithuania for personal reasons during the consultation period, therefore mediation was unable to take place within the timescales of when this report was written. However, should any mediation take place the committee will be notified before or at the hearing.

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 – October 2010

- The Licensing Objectives, section 2 pages 18 to 25
- Determining applications, section 9 Pages 78 to 81
- Conditions attached to premises licences, section 10 pages 83 to 96

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 2 November 2010. The period during which relevant representations were made ended on 1 December 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).

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