

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
3 JUNE 2011		PUBLIC REPORT
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APPLICATION: New Premises Licence

APPLICANT: Mr Hakan Tas

REFERENCE NO: 061158

PREMISES: Unit 1 Sugar Square, 160 Padholme Road, Peterborough, PE1 5JB

GLOSSARY OF TERMS: Attached at **Appendix A** on **Page – 6**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for Unit 1, Sugar Square, 160 Padholme Road, Peterborough, taking into account the representations received from local residents as detailed in section 5 of this report.

2. BACKGROUND INFORMATION

2.1 160 Padholme Road was formerly The Volunteer Public House, the premises licence was surrendered on 28 March 2011. The building has now been separated into five separate units, this application is for unit 1.

2.2 As per the application (under general description) the premises will be used as a grocery and off licence.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**

- Monday to Thursday 06.00 to 00.00 (midnight)
- Friday and Saturday 06.00 to 01.00
- Sunday 07.00 to 00.00 (midnight)

- **Hours premises are open to the public**

- Monday to Thursday 06.00 to 00.00 (midnight)
- Friday and Saturday 06.00 to 01.00
- Sunday 07.00 to 00.00 (midnight)

4. APPLICATION

- 4.1 Please refer to the application attached at **Appendix B – Page 9**
- 4.2 A petition opposing the granting of the premises licence was received containing 161 signatures. However, only five representations from the petition could be taken into consideration as the reasons for objection given by the other signatories did not fall within the four licensing objectives. It is for members to consider what weight they attach to this petition.
- 4.3 Representations have been received from 2 interested parties one of which also signed the petition, (to comply with the Data Protection Act all letters have been distributed to Committee Members and the applicant, but are not for public circulation).
- 4.4 A representation was received from Pollution Control. Mediation took place with the applicant and both parties have agreed to the addition of three extra conditions to the operating schedule if the premises licence is granted. These three conditions are detailed in section 7.5 of this report.
- 4.5 Part P of the application sets out the applicant’s proposed conditions under the licensing objectives, these being, ‘The Prevention of Public Nuisance’, ‘Public Safety’, ‘Prevention of Crime and Disorder’ and ‘Protecting Children from Harm’. These are also contained within the body of this report (in section 7) and in accordance with Paragraph 5.67 of the Guidance have been translated into clear and understandable conditions consistent with the proposals in the Operating Schedule.
- 4.6 No representations have been received from any of the remaining Responsible Authorities i.e. Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue Service, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Children’s Services and Peterborough City Council Trading Standards Department.
- 4.7 A copy of the ‘Notice’ that was displayed 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 C Page – 35**

5. INTERESTED PARTIES

LICENSING OBJECTIVE:	REPRESENTATIVE:
Public Nuisance Crime and Disorder	6 representations from 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)

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
- a member of the relevant licensing authority

5.2 **Summary of issues raised**

- Potential increase of existing alcohol related incidents and anti social behaviour in the area
- Hours proposed considered too late for a residential area
- The number of premises in the vicinity selling alcohol

6. **MEDIATION**

- 6.1 Mediation of conditions has been agreed between the applicants' representative and pollution control. Details of the conditions agreed to be added to the operating schedule if the licence is granted are highlighted in section 7.5 of this report.
- 6.2 Mediation was not attempted between the applicant and the interested parties due to time restrictions and the strength of feeling from the objectors.

7. **APPLICANT'S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES:**

7.1 **Crime and disorder**

- Video / CCTV equipment shall be installed inside the premises and maintained in working order.
- Video / CCTV equipment will be set to record from the time that the premises open to the public until the premises close and all members of the public have left.
- Digital images shall be retained for at least one month and shall be produced to an authorised officer on demand.
- Notices advising that CCTV has been installed on the premises shall be posted up so that they are clearly visible to the public within the licensed premises.
- The Designated Premises Supervisor will ensure that staff receive training and supervision to ensure that they fully understand their responsibilities in relation to age restricted products, in particular to the sale of alcohol so as to prevent sales to persons under the age of 18. This training will be documented and available to an authorised officer on request.
- The Designated Premises Supervisor will ensure that all staff training is ongoing.
- The Designated Premises Supervisor will provide a book for all staff to record instances where sales are refused. This book will be available to any authorised officer upon request.
- Any person selling or supplying alcoholic drink under the authority of a personal licence holder must ask for a photo ID proof of age where they have reason to suspect that the individual may be under 25 years of age.

7.2 **Public Safety**

- A fire risk assessment required under the Regulatory Reform (Fire Safety) Order 2005 (as amended) will be completed and be available for inspection by an authorised officer.
- First aid kit will be available on the premises.

7.3 **Protection of Children from Harm**

- The 'Challenge 25' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises.
- Signage will be prominently placed within the premises advertising the fact that the premises operates the 'Challenge 25' initiative.

7.4 **Prevention of Public Nuisance**

- Receptacles for refuse storage shall be maintained in a clean condition.
- Litter shall be prevented at all times and where identified regularly cleared from the vicinity of the premises.

7.5 **Mediated Conditions - under the prevention of public nuisance objective**

- The holder of the premises licence or a nominated representative shall take reasonable steps to prevent and control noise nuisance caused by persons using the licensed premises and also ensure patrons and visitors arrive and depart from the premises in a manner which will not cause annoyance to nearby residents.
- Prominent, clear notices shall be displayed at all exits and outside trading area's requesting customers and staff to respect the needs of local residents and leave the premises and the area quietly. Staff must be given adequate instruction and training to prevent them causing unnecessary noise when they leave the premises.
- Disposal of waste bottles into external receptacles where the noise will be audible to neighbouring properties must not occur between 21.00 and 07.00.

8. **POLICY & GUIDANCE IMPLICATIONS**

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

8.2 **Council's Statement of Licensing Policy**

- Objectives, Section 4 on Page 5 and 6
- Fundamental Principles, Section 6 on Page 6
- Cumulative Effect, Section 11 on Page 8 to 10
- Licensing Hours, Section 12 on Page 10
- Licence Conditions, Section 14 on Page 11 and 12
- Delegation / Decision Making / Administration, Section 17 on Page 13 and 14

8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 October 2010**

- The Licensing Objectives – Crime and disorder, - Section 2 pages 18 to 21
- The Licensing Objectives – Public Nuisance, Section 2 pages 23 to 25
- Determining applications – Section 9 pages 78 to 81
- Pools of conditions – Annex D page 133 to 149

9. **LICENSING OFFICER'S COMMENT (FOR INFORMATION)**

9.1 Regulation 19(a) requires authorities to disregard any information given by a party or person that is "not relevant" to the application.

9.2 Members should note that the letters attached are in their entirety and that not all matters raised within the representations 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.

9.3 The application has been submitted with Mr Tas as the proposed Designated Premises Supervisor (DPS). Mr Tas does not currently hold a personal licence, however, this would not affect the granting of a premises licence solely on this basis. Mandatory conditions (attached to all premises licenses which authorise the sale of alcohol), make it an offence to allow the sale of alcohol where there is no DPS or the DPS does not hold a personal licence.

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 a new licence made under Section 17 of the Licensing Act.
- 10.2 In this case, the application was received at these offices on 20 April 2011.
- 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 under section 182 of the Licensing Act 2003 - October 2010
- 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 the licence in the same terms as it was applied for
 - Decide to grant 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 grant the licence
- 10.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

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.