

BOROUGH OF KETTERING

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Report Originator	Hazel Webb	<i>Fwd Plan Ref No:</i>	
Wards Affected	Rothwell	30 th October 2019	
Title	To determine an application for a premises licence for The Gin Palace/The Old Bakehouse, Market Hill, Rothwell where representations have been received.		

Portfolio Holder: Councillor Mark Dearing

1. PURPOSE OF REPORT

To determine an application for a premises licence for The Gin Palace/The Old Bakehouse, Market Hill, Rothwell where a representation has been received.

2. INFORMATION

2.1 An application for a premises licence has been received for The Gin Palace / Old Bakehouse, Market Hill, Rothwell from Mr Lee Thorn. A copy of the application is attached at **Appendix A**.

2.2 This application follows a similar application which was refused by the Licensing Committee on 29th August 2019. A copy of the committee papers for that hearing are attached at **Appendix B**.

2.3 The following licensable activities and hours have been applied for:

Supply of Alcohol – Tues – Thurs + Sun	12.00 – 23.00
(On Licence only) Fri & Sat	12.00 – 01.00
Live Music (In & Out) Thurs & Friday	19.00 – 23.00
Saturday & Sunday	16.00 – 19.00
	20.00 – 23.00
Recorded Music (In & Out) Mon – Thurs	19.00 – 23.00
Fri & Sat	19.00 – 01.00
Sun	12.00 – 23.00

There are some minor differences to the previous application in the hours applied for.

2.4 A site plan showing the location of the premises was included in the previous papers.

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3. CONSULTATION AND CUSTOMER IMPACT

3.1 The following were consulted:

Licensing Authority	Representation
Public	No representation
Police	No representation
Trading Standards	No representation
Environmental Health	No representation
Borough Councillors	No representation
Planning	No representation
Child Protection	No representation
Fire	No representation
Customs and Excise	No representation
Health	No representation

- 3.2 The Licensing Authority has made representation attached at **Appendix C** against this application in line with the requirements in the Licensing Act 2003 to carry out its functions to promote the licensing objectives. The applicant is currently under investigation for breaches of the Licensing Act 2003 despite the applicant and the manager of the premises at the time both being made aware both verbally and in writing that there is no premises licence currently in existence for the premises. Further details cannot be released at this time as the matter is still subject to proceedings.
- 3.3 Information which was within the public domain was released in the previous hearing papers.
- 3.4 The applicant has used up the legal quota of Temporary Event Notices for the premises. There have been no issues recorded with the operation of the premises on those occasions when a Temporary Event Notice has been used.
- 3.5 In the previous application the applicant had failed to complete the steps to be taken to meet the licensing objectives which was a concern.
- 3.6 Northamptonshire Police and Kettering Borough Council's Health Protection Team submitted representations against the previous application proposing conditions for the licence as none were proposed in the application.
- 3.7 Northamptonshire County Council Trading Standards provided advice on the mandatory condition relating to an age verification policy.
- 3.8 On 30th August 2019 the new application was received. The new application included the comments referred to above made by the responsible authorities.
- 3.9 When challenged in the Licensing Authority representation about the adequacy of this approach, the applicant provided the attached response with attachments (**Appendix D**).

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4. POLICY IMPLICATIONS

- 4.1 This section highlights the sections of the Authority's 2015 - 2019 Statement of Licensing Policy that may be relevant with respect to this application, this is not exhaustive and the policy should be looked at fully prior to making decisions with respect to applications. The paragraph numbers are as shown in the Statement of Licensing Policy:-
- 1.4 The Licensing Authority in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work and the importance of safe and well run entertainment premises to the local economy and vibrancy of the area. However, the Council also recognises that balancing these interests will not always be straightforward and it will be guided by the four licensing objectives as set out in this policy.
- 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and, as stated above, each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, this Council in adopting the policy is indicating that a wide range of considerations will be taken into account.
- 1.6 The Council will use its powers to promote best practice in relation to the operation of licensed premises and is committed to partnership working with responsible authorities, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.
- 2.11 Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 2.12 This authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. However this Council recognises that licensing legislation is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.
- 2.13 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions offered or agreed with the applicant will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 2.18 In considering licensing hours this Licensing Authority will place significant emphasis on the individual merits of an application. In addition, the views of the Police and other agencies will be important in this consideration.
- 2.19 Licensing hours will not inhibit the development of a thriving and safe evening and night-time local economy which is important for investment and employment locally and beneficial to tourism without compromising the ability to resource local services associated with the night-

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time economy. Providing consumers with greater choice and flexibility is an important consideration.

- 2.20 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community. Individual applicants should address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 6.4 It is important to note that crime and disorder are two separate elements of this objective. An authorisation can be considered by the Committee where crime alone has taken place and relevant representations are made.
- 4.2 Regard must also be had to the Section 182 guidance to the Licensing Act 2003, in particular :
- 8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.
- 8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
 - any risk posed to the local area by the applicants' proposed licensable activities; and
 - any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- 8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.
- 8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.
- 8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website;
 - Neighbourhood Statistics websites;
 - websites or publications by local responsible authorities;
 - websites or publications by local voluntary schemes and initiatives; and
 - on-line mapping tools.

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- 8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.
- 8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.
- 8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives
- 9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.
- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing

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objectives and the track record of the business. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

- 4.3 Section 17 of the Crime and Disorder Act 1998 requires that local authorities and others must consider crime and disorder reduction while exercising all their duties.

5. USE OF RESOURCES

- 5.1 There are no financial implications.

6. RECOMMENDATION

The committee's decision is requested.

Background Papers:

Title of Document:

Date:

Contact Officer:

Previous Reports/Minutes:

Ref:

Date: