

BOROUGH OF KETTERING

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Report Originator	Hazel Webb	<i>Fwd Plan Ref No:</i>	
Wards Affected	Rothwell	29 th August 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 representations have 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, the applicant is Rothwell Leisure Limited. A copy of the application is attached at **Appendix A**.

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

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

2.3 A site plan showing the location of the premises is attached at **Appendix B**.

3. CONSULTATION AND CUSTOMER IMPACT

3.1 The following were consulted:

Public	No Representation
Police	Representation
Trading Standards	No representation
Environmental Health	Representation
Borough Councillors	No representation
Planning	No representation
Child Protection	No representation

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Fire	No representation
Customs and Excise	No representation
Health	No representation
Licensing Authority	Representation

- 3.2 The Licensing Authority has made representation (**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. This premises is under investigation for breaches of the Licensing Act 2003 despite the applicant and the manager of the premises 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 under investigation.
- 3.3 However, information which is in the public domain can be released. Attached are price lists taken from the internet on 31st July 2019 together with an extract from The Gin Palace Facebook page relating to live music and alcohol at the premises. (**Appendix D**)
- 3.4 The applicant used up the legal quota of Temporary Event Notices over 4 weekends.
- 3.5 The failure by the applicant to complete the steps to be taken to meet the licensing objectives also raises a significant level of concern about the applicant's comprehension of the licensing process. Given the applicant's disregard for licensing law and the failure to identify any steps to meet the licensing objectives despite the premises being in a town centre with other licensed premises and close to residential properties, the Licensing Authority takes the view that this applicant will not promote the licensing objectives.
- 3.6 Northamptonshire Police have submitted representation concerning their discussions with Mr Thorn and the premises manager about the lack of a premises licence. They have also proposed conditions for the licence as none are proposed in the application, should the Committee decide to approve the application. (**Appendix E**)
- 3.7 The Health Protection Team from Kettering Borough Council, as the Authority responsible for health and safety at the premises, have also proposed conditions as none are proposed in the application, should the Committee decide to approve the application. These conditions were offered to Mr Thorn by email but no reply was received. (**Appendix F**)
- 3.8 A witness statement from Northamptonshire County Council Trading Standards is also attached indicating the applicant's failure to engage with them on the mandatory condition relating to an age verification policy. (**Appendix G**)

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- 3.9 An email from Rothwell Town Council is attached raising concerns about the failure of the applicant to complete the sections of the application form relating to the licensing objectives. (**Appendix H**)

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.

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- 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-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.
- 4.2.1 Regard must also be had to the Section 182 guidance to the Licensing Act 2003, in particular :

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

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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 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: