

## BOROUGH OF KETTERING

<b>Committee</b>	<b>LICENSING SUB-COMMITTEE</b>	Item A1	Page 1 of 4
<b>Report Originator</b>	Russ Howell	<i>Fwd Plan Ref No:</i> -	
<b>Wards Affected</b>	William Knibb & All Saints	27 <sup>th</sup> November 2019	
<b>Title</b>	<b>To consider a premises licence application under the Licensing Act 2003 where representations have been received</b>		

### 1. PURPOSE OF REPORT

- 1.1 To consider a premises licence application under the Licensing Act 2003 where representations have been received.

### 2. INFORMATION

- 2.1 An application for a premises licence under the Licensing Act 2003 has been received from Mr Mehmed Mehmedov in relation to a proposed pizza restaurant at 64 Stamford Road, Kettering.
- 2.2 A copy of the application is included at **Appendix A**.
- 2.3 The following licensable activities and hours have been applied for:
- Late night refreshment - Friday and Saturday 23.00 – 01.00 hours  
Open to the public Sun – Thurs 12.00 – 23.00  
Fri – Sat 12.00 – 01.00
- 2.4 A copy of the location plan is included at **Appendix B**.
- 2.5 The application has been out for consultation for 28 days as required by licensing legislation.

### 3. CONSULTATION AND CUSTOMER IMPACT

- 3.1 The following were consulted:

- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
- the chief officer of police;
- the local fire and rescue authority;
- the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
- the local authority with responsibility for environmental health;
- the local planning authority;

## BOROUGH OF KETTERING

Committee	<b>LICENSING SUB-COMMITTEE</b>	Item A1	Page 2 of 4
-----------	--------------------------------	------------	----------------

- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- each local authority's Director of Public Health (DPH) in England<sup>4</sup> and Local Health Boards (in Wales);
- the local weights and measures authority (trading standards);
- Home Office Immigration Enforcement (on behalf of the Secretary of State).

3.2 Northamptonshire Police raised concerns with regards to the lack of information in the operating schedule especially with regards to CCTV provision (**Appendix C(ii)**).

3.3 Kettering Borough Council Development Services advise that the current planning permission on the premises allows opening until midnight on every weekday. While this is not grounds for refusal or amendment of the licensing hours applied for, if the licence is issued, opening beyond midnight cannot take place until planning permission has been approved for amended hours (**Appendix C(i)**).

#### **4. POLICY AND RESOURCE IMPLICATIONS**

4.1 When considering an application under the Licensing Act 2003, the committee should have regard to the Licensing Authority's Statement of Licensing Policy and the Section 182 Guidance to the Licensing Act 2003.

4.2 Relevant extracts from the Statement of Licensing policy are included below (paragraph numbers from the 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.*
- 2.8 *Licensing decisions will be made in accordance with the current legislation, case law, relevant guidance and in accordance with this policy.*
- 2.9 *No decision will be made which undermines the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.*

## BOROUGH OF KETTERING

<b>Committee</b>	<b>LICENSING SUB-COMMITTEE</b>	Item A1	Page 3 of 4
------------------	--------------------------------	------------	----------------

- 2.10 *Authorised persons, interested parties and responsible authorities, as defined in the Act, will have the right to make representations to the Licensing Authority on any application or seek a review of a licence or certificate where provision has been made for them to do so in the Act. This Authority recognises that in the absence of relevant representations it will grant licences on the terms sought.*
- 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 *The Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the control of the licence holder. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy.*
- 2.14 *The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. This Licensing Authority wishes to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.*
- 2.15 *This Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the area attracting tourists and visitors, and is a source of employment.*
- 2.16 *This Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area including littering, fouling, noise and street crime.*
- 2.17 *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 by 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-time economy. Providing consumers with greater choice and flexibility is an important consideration.*
- 4.2 There are no resource implications.

**BOROUGH OF KETTERING**

<b>Committee</b>	<b>LICENSING SUB-COMMITTEE</b>	Item A1	Page 4 of 4
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**5. LEGAL AND EQUALITY IMPLICATIONS**

5.1 None

**6. CLIMATE CHANGE IMPLICATIONS**

6.1 None

**7. RECOMMENDATION**

7.1 The committee's decision is requested.

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Background Papers:

Title

Date

Contact Officer

Previous Minutes/Reports:

Ref:

Date: