

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No. 4
<b>10 JANUARY 2018</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Kerry Leishman, Licensing & Business Manager Darren Dolby, Licensing Regulatory Officer	Tel: 453502 Tel. 453540

<b>APPLICATION:</b>	<b>NEW PREMISES LICENCE</b>
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<b>APPLICANT:</b>	Temptation Taste of Portugal Limited
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<b>REFERENCE NO:</b>	076406
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<b>PREMISES:</b>	Temptation Taste of Portugal Limited, 309 Lincoln Road, Peterborough, PE1 2PH
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<b>GLOSSARY OF TERMS:</b> Attached at <b>Appendix A</b> on <b>Page 9</b>
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## 1. PURPOSE OF REPORT

- 1.1 To consider and determine this application for a new premises licence for Temptation Taste of Portugal Limited, 309 Lincoln Road, Peterborough, PE1 2PH taking into account the background information and representations received from a responsible authority and two 'other persons' in opposition of the application.

## 2. BACKGROUND INFORMATION

- 2.1 On 6<sup>th</sup> February 2006 an application was made by Mr Serin for a new premises licence for Bingol Kebab and Pizza at 309 Lincoln Road, Peterborough. This application, for late night refreshment only, was granted in March 2006.
- 2.2 On 31<sup>st</sup> January 2007 an application to vary the premises licence to include the 'off sales' of alcohol was made by Mr Serin. This was granted in March 2007 with the permitted hours being: Monday Noon to 3am, Tuesday Noon to 2am, Wednesday and Thursday Noon to 3am, Friday and Saturday Noon until 4am, Sunday Noon until 2am.
- 2.3 After a premises licence holder change in March 2014 on 6<sup>th</sup> January 2016 the premises licence was revoked due to the licence holders, Euro Fried Chicken and Pizza Limited being liquidated as a company at Companies House.
- 2.4 The current applicant does not have any known link to the previous premises licence holders.
- 2.5 Since 18<sup>th</sup> April 2013 the Licensing Authority has adopted a special policy relating to the cumulative impact in respect to all licensed premises within the 'Operation Can – Do' area. An explanation of what this special policy entails can be found on page 10 of the Council's Statement of Licensing Policy. A map showing the Can – Do area is attached at **Appendix C Page 39**.
- 2.6 The premises falls within the 'Operation Can – Do' area and is therefore subject to the provisions of the special 'cumulative impact' policy.

### 3. AUTHORISATIONS AND TIMES APPLIED FOR

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

Monday	Noon to 03.00
Tuesday	Noon to 02.00
Wednesday	Noon to 03.00
Thursday	Noon to 03.00
Friday	Noon to 04.00
Saturday	Noon to 04.00
Sunday	Noon to 02.00

New Years Eve Noon on 31<sup>st</sup> December to Noon on 1<sup>st</sup> January

- **Late Night refreshment**

Monday	23.00 to 03.00
Tuesday	23.00 to 02.00
Wednesday	23.00 to 03.00
Thursday	23.00 to 03.00
Friday	23.00 to 04.00
Saturday	23.00 to 04.00
Sunday	23.00 to 02.00

New Years Eve 23.00 on 31<sup>st</sup> December to 05.00 on 1<sup>st</sup> January

- **Opening hours of premises**

Monday	Noon to 03.00
Tuesday	Noon to 02.00
Wednesday	Noon to 03.00
Thursday	Noon to 03.00
Friday	Noon to 04.00
Saturday	Noon to 04.00
Sunday	Noon to 02.00

New Years Eve Noon on 31<sup>st</sup> December to Noon on 1<sup>st</sup> January

On the morning that Greenwich Mean Time changes to British Summertime one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 1am.

### 4. APPLICATION

- 4.1 Please refer to the application attached at **Appendix B – Pages 11 – 37**. The applicant is being represented by their agent, Mr Andrew Heeler of Hegartys LLP.
- 4.2 Representations against the application have been received from Cambridgeshire Constabulary in their capacity as a 'Responsible Authority'. There have also been two further representations made against the application. The first is from the Millfield and New England Regeneration Partnership (MANERP) and the second from a local Councillor. These are attached at **Appendix D, E and F on Pages 41 - 50**.

- 4.3 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 'The Protection of Children from Harm'. These are also contained within the body of this report (in section 7) and in accordance with section 10.5 of Guidance have been interpreted into enforceable conditions. Only those appropriate and proportionate for the promotion of the licensing objectives have been included in the Operating Schedule.
- 4.4 No representations have been received from any other of the Responsible Authorities i.e. Peterborough Trading Standards, Public Health Authority, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Environmental Pollution Team, or Children's Services. There are no representations in support of the application.
- 4.5 A 'Notice' 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.

## **5. REPRESENTATIONS**

- 5.1 Summary of issues raised by authorities objecting to the application:
- In 'Op Can-do' area which is now subject to a special 'cumulative impact policy.
  - 'Off Sales' of alcohol would lead to an increase in anti-social behaviour in the vicinity.
- 5.2 There were no representations in support of the application.

## **6. MEDIATION**

- 6.1 Mediation has taken place with the applicant via his legal representative. However at the production of this report mediation has not been successful. .

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

### **7.1 Crime and disorder**

- The premises licence holder will ensure that a digital CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document ([www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)) regarding installation of CCTV is provided at the premises.
- CCTV images shall be retained for a minimum of 31 days and should be produced to a Police Officer (including PCSOs) or Local Authority Officer immediately upon demand..
- The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of a least 2 hours afterwards.
- The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders of every person entering or leaving the premises in all light conditions.
- At all times the premises are open for business a member of staff shall be present who is capable of operating the digital CCTV system and downloading images at the request of a Police Officer (include PCSO) or Local Authority Officer
- The CCTV system shall be capable of downloading images to a recognizable viewable format.
- All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.

- Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
- Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a substantial take-away meal.
- Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
- There will be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.
- A alcohol refusals register will be kept at the premises and kept an maintained by all staff. The register will contain the date and time of the potential sale, what product was refused and a brief description of the person and the name and signature of the person who refused the sale
- The premises licence holder / designated premises supervisor, or in their absence another responsible person, is to maintain an 'Incident report register' in a bound book, in which full details of all incidents are recorded. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The register is to be kept on the premises at all times and shall be produced to a Police Officer (inc PCSO) or an authorized Licensing Authority Officer when required. The records should be retained for a minimum of 12 months
- Patrons permitted to temporarily leave and then re-enter the premises (eg to smoke) shall not be permitted to to take drinks or glass containers with them.
- As soon as possible, and in any event within 1 month from the grant of the licence, the premises shall join the local Nightsafe / Pubwatch scheme scheme including the local radio scheme.

## 7.2 **Prevention of Public Nuisance**

- All windows and external doors shall be kept closed after 9pm except for the immediate access and egress of persons.
- All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- Prominent, clear and legible notices at all exits shall be displayed on the premises requesting patrons to respect the needs of local residents and to leave the premises and the area quietly. Notices will also be prominently displayed in any area used for smoking requesting patrons to respect the needs of local residents and businesses and to leave the area quietly.
- During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that the area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
- No deliveries will be made to the premises between 11pm and 8am the following day.

## 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 and signage will be prominently placed within the premises advertising the fact that the premises operates the 'Challenge 25' initiative
- All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.

#### 7.4 **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.

### 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 7 and 8
- Fundamental Principles, Section 6 on Page 6 and 7
- Licence Conditions, Section 14 page 17
- Delegation / Decision Making / Administration, Section 17 on Page 19 and 20

#### 8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 April 2017**

- The Licensing Objectives – Section 2 pages 7 to 17
- Applications for Premises Licences – Section 8 pages 52 to 62
- Determining applications – Section 9 pages 70 to 78
- Conditions Attached to Premises Licences – Section 10 page 79 to 90

### 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 and emails 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.

### 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 16 November 2017.

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; and
- The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – October 2014.

10.4 The licensing authority may determine the application, depending upon what is appropriate 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; and
- 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).

## APPENDIX A

### LICENSING ACT 2003

### GLOSSARY OF TERMS

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.

#### **'Other Persons':**

- persons who live, or are involved in a business, in the relevant licensing Authorities area and who are likely to be affected by the application and are not a Responsible Authority.

**'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

**'Challenge 25'** means that a retailer will ask for proof of identification if they have reason to believe that the person making a purchase of alcohol is under the age of 25.

**'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

Except where there is an exemption under the Live Music Act 2012 or Statutory Instrument 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

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.

**'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
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- 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 168 hours (7 days);
- 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 21 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