

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No. 3
<b>31 January 2019</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Kerry Leishman, Licensing & Business Manager Darren Dolby, Licensing Regulatory Officer	Tel: 453502 Tel. 453540

**APPLICATION: NEW PREMISES LICENCE**

**APPLICANT:** Mr Cemal Dogan

**REFERENCE NO:** 078412

**PREMISES:** UK Kebab & Pizza, 7 Ayres Drive, Peterborough, PE2 8JS

**GLOSSARY OF TERMS:** Attached at **Appendix A** on **Page 8**

**1. PURPOSE OF REPORT**

1.1 To consider and determine this application for a new premises licence for UK Kebab & Pizza, 7 Ayres Drive Peterborough, PE2 8JS taking into account the objection received.

**2. BACKGROUND INFORMATION**

2.1 There have not been any previous applications granted under the Licensing Act 2003 for this premises.

2.2 Mr Dogan is being represented by his agents, NARTS Food & Leisure Limited.

**3. AUTHORISATIONS AND TIMES APPLIED FOR**

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

Monday to Sunday 13:00 to 00:00

- **Late Night Refreshment**

Monday to Sunday 23:00 to 00:00

- **Opening hours of premises**

Monday to Sunday 12:00 to 00:00

**4. APPLICATION**

4.1 Please refer to the application attached at **Appendix C – Pages 11**

4.2 A representation against the application has been received from one ‘other person’ and this representation is attached at **Appendix D on Page 31**.

- 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 valid representations have been received from any of the Responsible Authorities – Cambridgeshire Constabulary, Peterborough Trading Standards, 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.
- 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 in the representation:**

- The application, if granted, would lead to an increase in noise disturbance in the area ;  
and
- The application, if granted, would lead to an increase in litter in the area.

### **5.2 There were no representations in support of the application.**

### **5.3 Members should note that the letter 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**

## **6. MEDIATION**

### **6.1 As the representations are requesting refusal of grant, mediation was not a viable option.**

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

### **7.1 Crime and disorder**

- The DPS, a personal licence holder or a trained member of staff nominated in writing by the DPS must be on duty at all times the premises are open to the public.
- A CCTV system covering the interior and exterior of the premises must be installed to current Cambridgeshire Constabulary standards and must be kept operational at all times the premises are open to the public.

It shall be capable of taking a head and shoulders shot of persons entering the premises, of recording images to an evidential standard in any light and be capable of storing images for a minimum of 31 days.

All staff who may work front of house must be trained to operate the CCTV system and download images.

At least one member of staff trained to operate the CCTV system and download images must be on duty at all times the premises are open to the public. Footage shall be shown to the police and screenshots provided to them on request. Copies of downloaded images must be provided to the police on a USB stick, CD or other acceptable means as soon as possible and in any case within 24 hours of the request.

- Challenge 25 shall be operated as the proof of age policy.
- All staff who work at the till must be trained for their role on induction and be given refresher training every six months.

Written training records will be kept for each staff member and be produced to police and authorised council officers on request. Training will include identifying persons under 25,

making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict and responsible alcohol retailing.

- An incident book must be kept at the premises and made available to the police or authorised council officers, which will record the following:  
All crimes reported  
Lost property  
All ejections of customers  
Any complaints received  
Any incidents of disorder  
Any seizure of drugs or offensive weapons  
Any faults in the CCTV  
Any refusal in the sale of alcohol  
Any visit by a relevant authority or emergency service
- All alcohol shall be ancillary to the operation of the premises as a takeaway restaurant. Alcohol may only be supplied with a substantial food order
- All alcohol will be displayed and kept and will be sold from behind the counter and to be dispensed by a member of staff only
- The delivery of alcohol to be made only to a residential or business address, where it is clearly evident that the customer is a resident or occupies the business
- The delivery of alcohol will not be made to a person in a public place such as a street corner, park or bus stop etc.
- Customers to be reminded it is a criminal offence for a person under 18 years to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18 years
- ID verification will be made when orders containing alcohol are delivered (no ID no delivery) – acceptable proof of age shall include identification bearing the customer's photograph, date of birth and integral holographic mark or security measure
- All serving and delivery staff shall receive regular training, a minimum of twice a year on the prevention of underage sales and on Challenge 25 scheme,
- Notices must be prominently displayed by the entry / exit door and point of sale (as appropriate) advising customers:  
That CCTV and challenge 25 are in operation  
Advising customers of the provisions of the Licensing Act 2003 regarding underage and proxy sales;  
Of the permitted hours for licensable activities and the opening times of the premises  
Not to drink in the street  
To respect the residents, leave quietly, not to loiter outside the premises or in the vicinity and to dispose of litter legally.

## 7.2 **Prevention of Public Nuisance**

- The front of the premises must be kept tidy at all times and be swept at close.
- No deliveries will be received or rubbish removed from the premises between 22:00 and 07:00.
- Any music played will only be played at background level
- A phone number for the premises must be made available if required upon request to the police, any other responsible authority or any local resident to express any concerns caused by the operation of the premises. Any complaints and the outcome will be recorded in the incident book

## 7.3 **Protection of children from harm**

- Challenge 25 must be operated as the proof of age policy and only a valid passport, photo driving licence, HM forces photographic ID card or proof of age card with the pass logo or hologram on it may be accepted as proof of age.
- All refusals of the sale of alcohol must be recorded in the refusals section of the incident book. The incident book must be kept and produced to police and authorised council officers on request
- All staff who work front of house will be trained for their role on induction and be given refresher training every six months. Written training records must be kept for each staff

member and be produced to police and authorised council officers on request. Training will include identifying persons under 25, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict and responsible alcohol retailing.

#### 7.4 **Public Safety**

- A fire risk assessment and emergency plan must be prepared and regularly reviewed. All staff will receive appropriate fire safety training and refresher training. This must be documented and made available to 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 6 and 7
- Fundamental Principles, Section 6 on Page 7 and 8
- Cumulative impact, Section 11 page 11 to 14
- 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 2018**

- The Licensing Objectives – Section 2 pages 6 to 12
- Applications for Premises Licenses – Section 8 pages 49 to 62
- Determining applications – Section 9 pages 68 to 76
- Conditions Attached to Premises Licences – Section 10 page 77 to 88

### 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.

### 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 10 December 2018.

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 – April 2018.

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

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