

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No 3
15 May 2023		PUBLIC REPORT
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**APPLICATION:** Review of Premises Licence

**PREMISES:** Tavan Restaurant – 17 Lincoln Road, Peterborough, PE1 2SH

**REFERENCE NUMBER:** MAU: 121276

**GLOSSARY OF TERMS:** Attached at **Appendix A** on **Page 6**

**1. PURPOSE OF REPORT**

1.1 To consider and determine an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003 served by Home Office Immigration Enforcement in relation to the above premises. The review was bought under the Prevention of Crime and Disorder objective.

**2. BACKGROUND INFORMATION**

2.1 An application for a new premises licence was made by Cocoa Beach Limited on 13<sup>th</sup> September 2019 for Tavan Restaurant. The licence was granted on 11<sup>th</sup> October 2019. On 3<sup>rd</sup> August 2021 the premises licence was transferred to Burgas Sea Limited who are the current licence holders. The current designated premises supervisor is Mr Chavdar Zhelev.

2.2 A copy of the current licence is attached at **Appendix C Page 49**

**3. APPLICATION**

3.1 In accordance with section 51 of the Licensing Act 2003 following the submission of an application to review the premises licence from Home Office Immigration Enforcement, a Responsible Authority, the licensing authority must hold a hearing.

3.2 A copy of the application to review was received on 22 March 2023, a copy of this application is attached at **Appendix B – Page 9.**

3.3 A statutory ‘Notice’ was displayed on the premises in accordance with Part 5 no. 38 of Statutory Instruments 2005 No. 42 – The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

3.4 An email in support of the review application was received by Cambridgeshire Constabulary. No other representations have been received from any of the remaining Responsible

Authorities. A representation from an 'other person' was received in support of the licence holder retaining the licence.

#### **4. SUMMARY OF ISSUES RAISED BY RESPONSIBLE AUTHORITIES**

- On 18 May 2022, The Home Office East of England Immigration, Compliance and Enforcement Team visited Tavan Restaurant where they arrested a male at the premises who had no legal basis to be in the United Kingdom.
- On 23 November 2022 the same team revisited Tavan Restaurant where they found the same male, who had been arrested on the previous visit, on site. The male was found to be working at the premises and was arrested.
- Section 11.28 of Guidance (issued under section 182 of the Licensing Act 2003) recommends that revocation of the licence even in the first instance, should be seriously considered where reviews arise and the licensing authority determines, that the crime prevention objective is being undermined through the premises being used to further crimes.

#### **5. POLICY & GUIDANCE IMPLICATIONS**

5.1 The following sections/paragraphs are applicable to this application:

##### **5.2 Council's Statement of Licensing Policy**

- Objectives: *section 4 on Pages 6 and 7*
- Other Legislation : *section 8 on Page 9*
- Reviews: *section 17 on Page 20*
- Delegation / Decision Making / Administration: *Section 18 page 20 and 21*

##### **5.3 Guidance Issued under Section 182 of the Licensing Act 2003 (Dec 2022)**

- Reviews: *Section 11 pages 94 to 100*
- Determining applications: *Section 9 pages 73 to 81*

#### **6. LEGAL OFFICER'S COMMENTS**

6.1 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 review of a premises licence following the application by Trading Standards (Responsible Authority) to review the premises licence made under section 51 of the Licensing Act 2003.

6.2 In this case, the application was received at these offices on 22 March 2023.

6.3 The application before this committee will consider –

- (i) The application to review the licence,
- (ii) Any relevant representations

6.4 The committee will take such of the steps as it considers that action is appropriate for the promotion of the licensing objectives. The steps are –

- (a) to modify the conditions of the premises licence
- (b) to exclude a licensable activity from the scope of the licence
- (c) to remove the designated premises supervisor from the licence
- (d) to suspend the licence for a period not exceeding three months, or
- (e) to revoke the licence

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added

6.5 In addition the guidance issued under section 182 of the Licensing Act 2003 states:

'The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder. However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach and should take this in to account when considering what further action is appropriate.'

## 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