

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
4 AUGUST 2021		PUBLIC REPORT
Contact Officers:	Gareth Brighton, Licensing & Business Manager Darren Dolby, Licensing Regulatory Officer	Tel: 864103 Tel. 453491

APPLICATION:	NEW PREMISES LICENCE
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APPLICANT:	Mixology Music Ltd
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REFERENCE NO:	114244
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PREMISES:	Mixology, Under the Orton Mere Parkway Bridge, Nene Park, Peterborough
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GLOSSARY OF TERMS: Attached at Appendix A on Page 10

1. PURPOSE OF REPORT

- 1.1 To consider and determine this application for a new premises licence for Mixology, Under the Orton Mere Parkway Bridge, Nene Park, Peterborough, taking into account the representations against and for the application that have been received.

2. BACKGROUND INFORMATION

- 2.1 There has been no previous premises licence granted for this premises area.
- 2.2 The premises does not fall within the 'Operation Can – Do' area and is therefore not subject to the provisions of the special 'cumulative impact' policy.

3. AUTHORISATIONS AND TIMES APPLIED FOR

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

Monday to Sunday 10:00 to 23:00

New Years Eve 11.00 to 02.00

- **Provision of Films, Live and Recorded Music and Dancing**

Monday to Sunday 10:00 to 23:00

New Years Eve 10:00 to 02:00

- **Opening hours of premises**

Monday to Sunday 10:00 to 23:00

New Years Eve 10.00 to 02.00

4. APPLICATION

- 4.1 Please refer to the application attached at **Appendix B – Page 13**
- 4.2 Representations, both against and in favour of the application being granted have been received. These representations are attached at **Appendix C on Page 37**.
- 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.
- 4.5 No 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, Public Health, Peterborough City Council Environmental Pollution Team, or Children's Services.
- 4.6 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 representations against the application being granted :
- Increase in both vehicle and pedestrian movements near to and to or from the premises
 - Premises is near to a river and therefore potential for accidents to occur if people access the water.
 - Increase in disturbance and noise pollution for local residents from the premises
 - Increase in anti-social behaviour, fuelled by alcohol, from customers of the premises.
 - The number of events that could take place at the premises due to the 7 days a week licence request.
 - Premises would be near to a conservation area within Nene Park.
 - Potential for overcrowding from persons attending the vicinity of the premises without a ticket.
 - Concerns re accessibility of premises for emergency services vehicles
- 5.2 Summary of matters raised from the representations in favour of the application being granted :
- The initial event ('Under') will finish at 10pm so will not be a late night event
 - The initial event would be something that people would look forward to attending after 18 months of restrictions during the pandemic
 - There is a relatively low chance of disturbance to local residents owing to the location of the premises.
 - The initial event will be professionally managed by a reputable established company who will put in place comprehensive measures to mitigate concerns re disturbance, anti-social behaviour and customers safety.
 - The initial event would promote cultural diversity within Peterborough and put the City 'on the map' as a leading arts & music area.
- 5.3 Members should note that the correspondence attached against the application are in their entirety. The correspondence in favour of the application being granted have been placed together and in their entirety on a separate sheet. Please note 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 matters.

6. MEDIATION

- 6.1 As a number of the representations against the application being granted are requesting refusal of the granting of the licence, mediation was not a reasonably viable option.

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

7.1 Crime and disorder

The premises shall install and maintain a comprehensive digital colour CCTV system when licensable activities take place and for a minimum of 2 hours after any event has ended. All public areas of the licensed premises, including all public entry and exit points, and the street environment will be covered, enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record while the premises are open to the public and recording shall be kept available and unedited for a minimum of 28 days with the date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce/download/ burn CCTV images upon request by a police officer or an authorised officer of the licensing authority. Any footage must be in a format that can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (ie. compact disc, flash card etc), a secure storage system to store those recording mediums shall be provided

The premises licence holder will ensure that the digital CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document (www.informationcommissioner.gov.uk) regarding installation of CCTV is provided at the premises.

The premises licence holder shall ensure that the provision of door supervisors at the premises is appropriate to ensure the safe control of the premises, and shall review this on a regular basis and / or prior to an event taking place via a suitable risk assessment and upon request from the Police and/or the Licensing Authority.

All door supervisor staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high-visibility jackets or vests.

All door supervisors sited at the access and egress to the premises should be in possession & operate a body worn camera when licensable activities take place

A minimum of 2 Security Industry Authority SIA-licensed door supervisors shall be on duty at every access / egress to the premises at all times while it is open for business

Where the holder of the premises licence employs security personal to carry out a security activity they must be licensed by the Security Industry Authority (SIA) A risk assessment must be carried out to determine the levels of security personal to be on site when the public are in. The Risk Assessment will take into consideration advice from the Purple Guidance in respect to minimal SIA Door Supervisors

A minimum of 2 female door supervisor(s) shall be on duty at the premises at such times as door supervisors are required to be provided where the audience is expected to be in excess of 1000.

An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the police or an authorised officer of the licensing authority, which will record the following incidents including pertinent details:

- (a) all crimes reported to the venue, or by the venue to the police
- (b) all ejections of patrons
- (c) any complaints received
- (d) Any incidents of disorder

- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any faults in the CCTV system, searching equipment or scanning equipment
- (i) any visit by a relevant authority or emergency service
- (j) the times on duty, names and the licence numbers of all licensed door supervisors employed by the premises.

The premises licence holder and/or DPS shall carry out a documented risk assessment on the need for searching patrons entering the premises. The risk assessment shall be reviewed regularly and no less than every six months.

A clearly visible notice shall be placed at each entrance to the premises advising those attending that it is a condition of entry that customers agree to being searched and that the police will be informed if anyone is found in possession of controlled substances or weapons.

There shall be a policy agreed with Cambridgeshire Constabulary for the premises relating to illegal drugs, weapons or other prohibited items found on persons attempting to enter or on the premises.

28 days' notice shall be given to Cambridgeshire Constabulary and the Licensing Authority of any events held that are organised by an external promoter, including full details of the nature of the event and of the promoter with an anticipated audience of 500 or more persons.

Alcohol is to be served in polycarbonate, plastic or shatterproof glasses. Alcohol and soft drinks may also be served in cans provided that the can is opened by bar staff prior to handing to customer. Alcohol served in any VIP area / Artist dressing or 'green' room may be served in glass subject to a suitable risk assessment being completed by the licence holder

7.2 Prevention of Public Nuisance

The number of large music events that may be held shall be restricted to 12 concert days per calendar year. The following conditions shall be applied for large music events. (Such events are described in the Code of Practice on Environmental Noise Control at Concerts. Events shall be regarded as a large music event where it is reasonable to apply that Code for the control of music. This includes live and pre-recorded music.)

The Licensee shall appoint a suitably qualified and experienced noise control consultant, to the approval of the Licensing Authority. The noise control consultant, shall liaise between all parties including the Licensee, Promoter, sound system supplier, sound engineer and the licensing authority etc. on all matters relating to noise control prior to and during the event.

While live or recorded music takes place, a competent & suitably qualified person shall undertake regular monitoring of noise levels at the nearest noise-sensitive locations. A record shall be kept of any monitoring, including the date, time and location of monitoring; the name of the monitor; and any action taken. Records shall be kept for no less than six months and shall be made available upon request by a police officer or an authorised officer of Peterborough City Council.

A noise propagation test shall be undertaken at least 3 hours prior to the start of the event in order to set appropriate control limits at the sound mixer position. The sound system shall be configured and operated in a similar manner as intended for the event. The sound source used for the test shall be similar in character to the music likely to be produced during the event.

The control limits set at the mixer position shall be adequate to ensure that Music Noise Level (MNL) shall not at any noise sensitive premises exceed the background noise level by more than 15 dB(A) over a 15 minute period throughout the duration of the concert.

The control limits at the mixer position shall be adequate to ensure that the Leq, 15min in the 63Hz and 125Hz octave bands shall not at any noise sensitive premises exceed 70dB throughout the duration of the event.

The control limits set at the mixer position shall be adequate to ensure that the MNL shall not at any noise sensitive premises exceed the background noise level by more than 15 dB(A) over a 15 minute period throughout any rehearsal or sound check for the event.

The Licensee shall ensure that the promoter, sound system supplier and all individual sound engineers are informed of the sound control limits and that any instructions from the noise control consultant regarding noise levels shall be implemented.

The appointed noise control consultant shall continually monitor noise levels at the sound mixer position and advise the sound engineer accordingly to ensure that the noise limits are not exceeded. The Licensing Authority shall have access to the results of the noise monitoring at any time.

Music from the event is permitted only between the following hours: 10:00 hrs to 23:00 hrs.

The Licence Holder shall effect full control over traders or other organisations on site where there is any type of amplified music or speech being played. At the request of the Responsible Authority for Environmental Health (Pollution Control) the Event Organiser shall arrange for the volume to be reduced or the playing to cease, or if necessary, the equipment to be confiscated.

The holder of the premises licence shall ensure that noise caused by persons using, arriving at or departing from the premises shall not cause nuisance or unreasonable disturbance to the occupiers of any residential properties

The premises licence holder, or a responsible person nominated by them in writing, shall receive and respond to complaints throughout the duration of all licensable activities. These complaints shall be recorded and the records made available to the local authority upon request. Such records shall be retained for a minimum of 2 years.

Prominent, clear notices shall be displayed at all exits requesting customers and staff to respect the needs of local residents and leave the premises and the area quietly

Litter bins shall be provided at the premises in sufficient capacity to ensure that customers can adequately dispose of any litter.

No unauthorised advertisement of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree, or any other property, or distributed to the public, that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services.

No inflatable play equipment shall be used without the agreement of the Licensing Authority with respect to its hours of use and other conditions as may be appropriate.

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 operate the 'Challenge 25' initiative.

Documented records of training to prevent underage sales shall be completed & shall be kept for each member of staff. Training shall be regularly refreshed and at no greater than 12 monthly intervals. Training records shall be made available for inspection upon request by a police officer or an authorised officer of the Licensing Authority.

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.

If it is proposed to play music (other than background music) a suitable cut out device, wired into the fire alarm system, should be installed so that in the event of the fire alarm sounding the music will be automatically shut down. This system must be tested prior to any event taking place.

Valid public liability insurance shall be kept in force and a copy of the schedule will be displayed at the venue and made available for inspection by an authorised Local Authority or Police Officer on request.

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 5
- Fundamental Principles, Section 6 on Page 6
- Licence Conditions, Section 14 page 15
- Delegation / Decision Making / Administration, Section 17 on Page 18

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 Licences – 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 11 June 2021.

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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