

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
13 SEPTEMBER 2023		PUBLIC REPORT
Contact Officers:	Liz Adamson, Food and Safety Manager Darren Dolby, Licensing Regulatory Officer	Tel. 07984 647157 Tel. 01733 453540

APPLICATION: NEW PREMISES LICENCE

APPLICANT: LSM Enterprises Ltd

REFERENCE NO: 123033

PREMISES: Orton Sportsbar and Fanzone, Unit 47-50 Ortongate Shopping Centre, Peterborough, PE2 5TD

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 Orton Sportsbar and Fanzone, Unit 47-50 Ortongate Shopping Centre, Peterborough, PE2 5TD taking into account the representations against the application that have been received.

2. BACKGROUND INFORMATION

2.1 This is a new application for a premises licence. There has not been any previous premises licence granted at this property.

3. AUTHORISATIONS AND TIMES APPLIED FOR (Amended after mediation)

- **Films and Indoor Sporting Events**
Monday to Sunday 8:00 to 23:30
- **Live Music, Recorded Music and Dancing**
Monday to Sunday 23:00 to 23:30
- **Sale of alcohol on the premises**
Monday to Sunday 09:00 to 23:00

4. APPLICATION

4.1 Please refer to the application attached at **Appendix B – Page 11**

- 4.2 Representations against the application being granted have been received from 1 local residents in their capacity of 'other persons'. These representations are attached at **Appendix C on Page 35**.
- 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, Peterborough City Council Environmental Pollution Team, Public Health 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:
- The granting of the licence would increase late night noise in the vicinity of the premises to the detriment of local residents.
 - The granting of the licence would increase anti-social behaviour in the vicinity of the Orton Centre.
- 5.2 Members should note that the correspondence attached against the application are in their entirety. 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 areas

6. MEDIATION

- 6.1 Mediation was undertaken between the applicant and Cambridgeshire Constabulary. This resulted in the original hours for the sale of alcohol being reduced from the original hours applied for of between 08:00 and 23:30 to 09:00 and 23:00. This mediated agreement can be found at **Appendix D on Page 37**.

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

7.1 Crime and disorder

The premises licence holder will ensure that CCTV cameras are located within the premises to cover all public areas including all entrances and exits. The CCTV system will record clear images permitting the identification of individuals. The CCTV system will securely retain all recorded footage for a minimum of 31 days. The CCTV system will operate 24/7 and the equipment will have a constant and accurate time and date generation. The CCTV system will employ security functions to prevent recordings being tampered with, i.e. password protected. The premises licence holder will be able to produce / download / burn CCTV images upon request by a police officer or an authorised officer of the licensing authority within 24 hours. Any footage will 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 any digital CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document www.ico.org.uk regarding installation of CCTV at the premises.

The premises licence holder shall ensure, by the completion of a risk assessment, 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 upon request from the Police and/or the Licensing Authority.

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.

The DPS and/or a nominated member of staff shall carry out searches of the premises before the premises open, during hours of operation and at closing. Any relevant items recovered, eg. illegal drugs, lost property, shall be managed accordingly in accordance with company procedures.

Documented written / online records of training to prevent underage sales of alcohol shall be completed and 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

Documented written / online records of training shall be completed and kept for each member of staff. Training shall be regularly refreshed and at no greater than 6 monthly intervals. Training records shall be made available for inspection upon request by a police officer or an authorised officer of the Licensing Authority. Training shall include (but not exclusively):

- a) Responsibilities under the Licensing Act 2003
- b) Relevant Age restriction in respect of alcohol sales ie. Challenge 25,
- c) Recognising signs of drunkenness, refusing service
- d) Actions to be taken in an emergency / Reporting an incident to Emergency Services
- e) Crime scene management (ie. Spiking / Assaults / sexual Assaults)
- f) Drugs Policy
- g) Safeguarding (children & Vulnerable Persons)
- h) Spiking
- i) Suspicious Packages
- j) VAWG (violence against Women & Girls) preventative training

There shall be a policy agreed with Cambridgeshire Constabulary for the premises relating to illegal or 'recreational' drugs (including 'legal highs') found on persons or on the premises.

Open containers of alcohol shall not be removed from the premises, except for consumption in any delineated external area as shown on the plan attached to the licence

7.2 **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.

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.

The premises licence holder shall ensure that at all times when the public is present there is at least one competent person able to administer first aid, that an adequate and appropriate supply of first aid equipment and materials is available on the premises, and that adequate records are maintained in relation to the supply of any first aid treatment

7.3 Prevention of Public Nuisance

All windows and external doors shall be kept closed at any time when regulated entertainment takes place, except for the immediate access and egress of persons

No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance

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 residential properties

The holder of the premises licence shall ensure that no music or amplified speech originating from the premises shall be audible inside any residential property at any time. Note: For the purposes of this condition noise may be considered inaudible when it is at a low enough level that it is not recognisable as emanating from the source in question and/or it does not alter the perception of the ambient noise environment that would prevail in the absence of the source in question.

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

Speakers shall not be located/operated in the entrance lobby or outside the premises

While live or recorded music takes place, the licensee or management 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.

7.4 Protection of Children

The 'Challenge 25' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises & signage will be prominently placed within the premises advertising the fact that the premises operate the 'Challenge 25' initiative

Entry by children under the age of 18 to the premises is prohibited daily after 9pm

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
- Fundamental Principles, Section 6 on Page 8
- Licence Conditions, Section 15 page 18
- Delegation / Decision Making / Administration, Section 18 on Page 20

8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 December 2022**

- The Licensing Objectives – Section 2 pages 6 to 12
- Applications for Premises Licences – Section 8 pages 54 to 72
- Determining applications – Section 9 pages 73 to 81
- Conditions Attached to Premises Licences – Section 10 page 82 to 93

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 24 July 2023.

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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