

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No. 3
<b>1 APRIL 2015</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Donna Hall, Public Protection Manager Terri Martin, Licensing Regulatory Officer	Tel: 453514 Tel. 453561

**APPLICATION: NEW PREMISES LICENCE**

**APPLICANT:** Rylass Ltd

**REFERENCE NO:** 070898

**PREMISES:** Rylass Ltd, 489A Lincoln Road, Peterborough, PE1 2PE

**GLOSSARY OF TERMS:** Attached at **Appendix A** on **Page 7**

**1. PURPOSE OF REPORT**

1.1 To consider and determine this application for a new premises licence for Rylass, 489A Lincoln Road, Peterborough, taking into account the representations received from Cambridgeshire Constabulary and MANERP (a group representing local residents) in opposition to the application.

**2. BACKGROUND INFORMATION**

2.1 The application for a new premises licence was made by Mr Matas Bagociunas on 6 February 2015. The application did not address the Cumulative Impact Policy in which the premises is located, the applicant was contacted and he submitted a supplementary statement with extra conditions. This is attached at **Appendix C – Pages 21**

2.2 The Council adopted a special policy relating to cumulative impact in respect to all licensed premises for the Op Can Do area on 18 April 2013.

**3. AUTHORISATIONS AND TIMES APPLIED FOR**

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

Monday to Sunday 10.00 to 22.00

- **Hours premises are open to the public**

Monday to Sunday 10.00 to 22.00

**4. APPLICATION**

4.1 Please refer to the application attached at **Appendix B – Pages 9**

- 4.2 Representations against the application have been received from Cambridgeshire Constabulary and MANERP (a group representing local residents) These are attached at **Appendix D on Page 23**.
- 4.3 Peterborough City Council Pollution Control Team recommended the addition of an extra four conditions to those offered in the application and supplementary statement. The applicant agreed the addition of the extra four conditions, therefore no representation was made by the pollution team. The agreement is attached at **Appendix E on Page 31**.
- 4.4 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 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. A copy of this notice is attached at **Appendix F on Page 35**.

## **5. REPRESENTATIONS**

### **5.1 Summary of issues raised**

- Application falls within the Cumulative Impact (CI) Area, an area identified within the Councils Statement of Licensing Policy as already saturated with licensed premises.
- A further off licence is likely to add to the existing crime and anti-social behaviour fuelled by alcohol in the area, which is subject to a significant concentration of licensed premises.
- Evidence exists of the negative impact on the licensing objectives caused by alcohol, and the ease and availability of low cost alcohol which is purchased and abused in this locality.
- Application did not address the CI policy and does not demonstrate that it would not contribute towards issues already experienced.

## **6. MEDIATION**

- 6.1 Mediation in relation to this application would not be appropriate. The adoption of a Cumulative Impact Policy creates a rebuttable presumption to refuse when relevant representations are received. Therefore it is for the Licensing Sub-Committee to determine whether or not to depart from this policy.

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

### **7.1 Crime and disorder**

- CCTV must be installed and cover the inside and outside of the premises. It must be capable of holding recordings for 31 days and be available on request to a suitably authorised officer.
- Notices advising that CCTV has been installed on the premises shall be posted so that they are clearly visible to the public within the licensed premises.
- All employees/staff will receive initial and regular six monthly refresher training with regard to the conditions attached to the premises licence and the law, specifically to the Licensing Act 2003 and the four objectives. All training will be recorded and up to date training records of all training given by and to whom, will be maintained at the premises and produced and made available for immediate inspection upon request by an authorised officer.

- Any incidents of crime and disorder will be recorded in an incident register, which will be produced and made available for immediate inspection upon request by an authorised officer.
- No persons will be allowed to remain on the premises if they are displaying any signs violence or drunkenness through speech, manner or tone, or their disposition or steadiness on their feet.

## 7.2 **Prevention of Public Nuisance**

- Staff/employees of the premises will actively discourage and prevent anyone congregating, drinking or causing a disturbance outside the premises.
- Disposal of waste bottles into external receptacles where noise will be audible to neighbouring properties must not occur between 23:00 and 07:00 hours.
- Arrangements must be in place to ensure that waste collection contractors do not collect refuse between 23:00 and 07:00 hours
- An adequate number of suitable (lidded) receptacles shall be provided to receive and store refuse from the premises/site.
- Music played at the premises shall be background only.  
For the purposes of this condition, 'background' means music that is inconspicuous i.e. it is possible to hold a conversation at normal volume with the music playing.

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

- Any person who appears to be under the age of 25 will be challenged to produce identification prior to being allowed to purchase alcohol. Only identification bearing a photograph, date of birth, and either a holographic mark or ultraviolet feature will be accepted.
- Notices advising the Challenge 25 policy will be displayed inside the premises and at the main entrance, and on any advertising, literature, notices or website promoting the premises.

## 7.4 **Public Safety**

- Lighting will be provided both internally and externally to ensure the safety of customers, whilst also ensuring that it does not cause a public nuisance.

## 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 and 6
- Fundamental Principles, Section 6 on Page 6 and 7
- Cumulative Impact, Section 11 Page 8 to 10
- Licence Conditions, Section 14 page 14 and 15
- Delegation / Decision Making / Administration, Section 17 on Page 16 and 17

### 8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 October 2014**

- The Licensing Objectives – Section 2 pages 7 to 16
- Applications for Premises Licences – Section 8 pages 49 to 58
- Determining applications – Section 9 pages 71 to 81
- Conditions Attached to Premises Licences – Section 10 page 82 to 96
- Cumulative impact – Section 13.19 to 13.40 page 111 to 117

## 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 6 February 2015.
- 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
  - 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
  - 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).

## 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