

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No. 3
<b>25 AUGUST 2017</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Kerry Leishman, Licensing & Business Manager Simon Andrews, Licensing Regulatory Officer	Tel: 453502 Tel. 453489

**APPLICATION: NEW PREMISES LICENCE**

**APPLICANT:** The Green Backyard CIO

**REFERENCE NO:** 075551

**PREMISES:** The Green Backyard, Oundle Road, o/s 191979

**GLOSSARY OF TERMS:** Attached at **Appendix A** on **Page 11**

**1. PURPOSE OF REPORT**

1.1 To consider and determine this application for a new premises licence for The Green Backyard, Oundle Road, Peterborough, taking into account the background information and representations received from 4 residents/other persons.

**2. BACKGROUND INFORMATION**

2.1 The Green Backyard is a community project utilising Council owned land. On the 24th of March 2017 the Chairman of the Green Backyard contacted Licensing to kickstart an application that provisionally started with a site visit in August 2016. On 30th June 2017 a premises application was submitted for the Green Backyard - GBY. Prior to the licence being applied for a meeting took place between Rich Hill - GBY, Victoria Matsell - Pollution Control Officer and Simon Andrews, Regulatory Officer. The purpose of the meeting and in line with Home Office guidance was to prepare Public Nuisance conditions. The main outcome of this meeting was that the application would contain the code of practice recommendation for noise control at concerts, 12 events per year including other controls.

2.2 Prior to the application being submitted, numerous emails and telephone conversations took place between the applicant and the licensing team to design a set of proportionate conditions.

2.3 The application also contains an additional application to disapply mandatory need for a DPS.

- 2.4 The Licensing section is aware that a lease for the land is still being negotiated with Peterborough City Council. The lease agreement contains conditions relating to the sale of alcohol. A plan variation may also be required pending the outcome of the sub committee decision due to the leased area potentially being different to what has been supplied with the application.

### 3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**  
Sun to Thurs – 17.00 to 21.30.  
Fri to Sat 17.00 to 23.00. Limited to 12 during events per calendar year.
- **Regulated Entertainment**  
Fri 17.30 to 22.30. Sat 12.00 to 22.30. Sun 12.00 to 21.30
- **Hours premises are open to the public**  
Sun to Thurs – 17.00 to 21.30.  
Fri to Sat 17.00 to 23.00.

### 4. APPLICATION

- 4.1 Please refer to the application attached at **Appendix B – Pages 15-48** The application also contains a subsidiary document applying to remove the mandatory condition relating to the need for a DPS. The licensing section and Police have accepted this document as being valid.
- 4.2 Representations against the application have been received from ‘Other Persons’ **Appendix C on Pages 49-56.**
- 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 representations have been received from any other of the Responsible Authorities i.e. Home Office, Public Health Authority, 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 by other persons objecting to the application:
- Regulated Entertainment having an impact on local residents.

- The introduction of alcohol relating to an increase of anti-social behaviour (ASB) in the area.

5.2 There were no representations in support of the application.

## **6. MEDIATION**

6.1 Mediation was attempted with the first three residents that made representations. Mediation was not successful.

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

### **7.1 Crime and disorder**

- The Green Backyard will perform due diligence in complying with the law, prioritising public safety, and protecting the good reputation of our charity.
- The Licensee, or those individuals authorised by the Licensee, shall give at least 28 days notice to Peterborough City Council's Licensing and Environmental Services Teams, and authorised nominated contacts for Cambridgeshire Constabulary Police and Cambridgeshire Fire and Rescue Service, of all events where the expected attendance will be greater than 250 people at any one time (not including staff), and at which licensable activity will take place.
- All assistance will be provided to Peterborough City Council, Cambridgeshire Constabulary.
- Police, and Cambridgeshire Fire and Rescue Service in the event of any regulatory inspections that take place.
- The premises will not host any event where attendance exceeds 1000 people at any one time unless otherwise agreed with Peterborough City Council at least 28 days in advance.
- When alcohol is sold at an event where the expected attendance will be more than 250 people at any one time the following conditions will apply to all bars:
  - (a) Unless otherwise agreed with the Peterborough City Council Licensing, bars will be closed at least 30 minutes before the event finish time.
  - (b) Drinks will not be sold or served in glass vessels or containers.
- At all events where alcohol is sold, bars will not be permitted to run price promotions, happy hours or other promotions designed to encourage excessive drinking.
- The Licensee shall ensure that external organisers are issued with an agreement for hire of the premises, or part thereof. This agreement shall include the conditions attached to the Premises Licence.

- Any criminal activity witnessed at The Green Backyard will be reported to the police.
- Clear display of a code of conduct for customers visiting The Green Backyard, asking patrons to respect the needs of local residents.
- The Licensee will appropriately risk assess and consider the employment of door supervisors.
- All persons guarding premises against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.
- If SIA door supervisors are employed the premises licence holder shall ensure that the following details for each door supervisor are contemporaneously entered into a bound register kept for that purpose:
  - Full name
  - SIA Certificate number and I or badge number, or registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration or accreditation)
  - The time that they began their duty
  - The time they completed their duty
  - The full details of any agency through which they have been allocated to work at the premises if appropriate.
- The register shall be made available at all reasonable times to an authorised Officer or a Police Officer. The register is to be kept at the premises at all times and shall be so maintained as to enable an authorised officer to establish the particulars of all door staff engaged at the premises during the period of not less than 12 months prior to the request.
- A refusals record must be kept at the premises which details all refusals to sell alcohol. This record will include the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record will be made available for inspection and copying within 3 days of a request by an officer of a Responsible Authority.
- Staff training in relation to identifying and preventing sales of alcohol to any person who is, or appears to be, drunk should be undertaken on a regular basis at reasonable intervals. This training, together with on-going training to prevent underage sales (Challenge 25) and conflict management should be recorded in a written format and be available to an authorised officer upon reasonable request.

## 7.2 Prevention of Public Nuisance

- The Green Backyard will take all reasonable steps to prevent nuisance arising as a result of the charity's activities, abiding with statutory requirements detailed within the Licensing Act 2003 , and will adhere to the guidance set in the Code of Practice on Environmental Noise Control at Concerts.
- The number of licensable amplified music events that may be held shall be restricted to 12 concert days per calendar year.
- A person nominated by the premises license holder shall be responsible for monitoring noise levels, have full control over the sound amplification equipment, and be instructed to implement changes in noise levels in accordance with any request by an authorised officer of Peterborough City Council immediately and ensure that volume is maintained at reduced level.
- Noise monitoring results and complaints received shall be recorded and retained, including any actions taken in response to complaints and monitoring for 24 months, and made available to the local authority upon request.
- All complaints about noise received by The Green Backyard staff/Event Organiser/License Holder shall be notified to the Responsible Authority for Environmental Health (Pollution Control) within 24 hours of the complaint being received.
- The holder of the premises licence or responsible person nominated by them in writing shall take all reasonable steps to prevent and control noise nuisance caused by persons using the Licensed Premises and also ensure patrons and visitors arrive at and depart from the premises in a manner which will not cause annoyance to nearby occupants.
- Any queue which forms outside the premises shall be stewarded at all times to ensure that minimal disturbance is caused.
- The Licensee shall encourage patrons not to congregate outside the premises after the event has finished.
- An adequate number of suitable (lidded) receptacles shall be provided to receive and store refuse from the premises/site.
- Any litter or refuse generated must be contained within the boundaries of the premises or an area that had been designated for refuse storage and regularly cleared.
- During the build up and break down of the events site, any activities that might cause noise to be audible outside the premises will be limited to the hours of 09:00 to 21:00.

#### 7.4 **Public Safety**

- Adequate stewarding within the licensed area must be provided at all times during the licensed event.
- The Licensee shall employ sufficient numbers of stewards/marshals as required by the size of the event to ensure that patrons leave the premises safely.
- Adequate medical and first aid cover and facilities appropriate to the licensed event must be provided.
- A completed fire risk assessment required under Regulatory Reform (Fire Safety) Order 2005 will be available for inspection by an authorised officer.
- The Green Backyard CIO shall ensure that any event organiser is made aware of the premises' fire risk assessment and, when deemed necessary, ensure an event specific fire risk assessment is available for inspection by an authorised officer.
- Staff will be well trained on all policies and procedures relating to public safety, and have clearly displayed information on emergency numbers available at all times.
- The Licensee will ensure the capacity specified in the fire risk assessment is strictly adhered to at all times.
- The Licensee will ensure that there are adequate means of control to ensure that only permitted numbers of persons gain access to the event site.
- Valid Public Liability insurance must be kept in force and a copy of the schedule must be available for inspection by an authorised officer. Valid Public Liability insurance must be kept in force and a copy of the schedule must be available for inspection by an authorised officer.

#### 7.3 **Protection of children from Harm**

- Staff will be fully trained on terms of license and operate a Challenge 25 policy.
- The 'Challenge 25' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at all times at the premises and signage will be prominently placed within the premises advertising the fact that the premises operates the 'Challenge 25' initiative.
- There shall be an information point (or equivalent area) at all licensable events for the reporting and management of lost children.
- The information point will be in direct radio contact with the event manager authorised by the Licensee.

## **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 7 and 8
- Fundamental Principles, Section 6 on Page 6 and 7
- 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 2017**

- The Licensing Objectives – Section 2 pages 7 to 17
- Applications for Premises Licences – Section 8 pages 52 to 62
- Determining applications – Section 9 pages 70 to 78
- Conditions Attached to Premises Licences – Section 10 page 79 to 90

## **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.

9.2 Members should note that the letters and emails 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.

## **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 30 June 2017.

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 Home Office under section 182 of the Licensing Act 2003 – April 2017.

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).



**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

**‘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).
- Home Office (Immigration)

**‘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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