

LICENSING ACT 2003 SUB-COMMITTEE

FRIDAY 23 MARCH 2012
9.30 AM

Forli Room - Town Hall

AGENDA

Page No

1. Apologies for Absence
2. Declarations of Interest
3. Application for Review of Premises Licence - Bora Bora, 417 Lincoln Road, Peterborough, PE1 2PF 1 - 60



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Committee Members:

Councillors: G Simons, M Todd and B Saltmarsh

Further information about this meeting can be obtained from Gemma George on telephone 01733 452268 or by email – gemma.george@peterborough.gov.uk

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LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
23 MARCH 2012		PUBLIC REPORT
Contact Officers:	Peter Gell, Strategic Regulatory Services Manager Adrian Day, Licensing Manager	Tel: 453419 Tel. 454437

APPLICATION: Review of Premises Licence

PREMISES: Bora Bora, 417 Lincoln Road, Peterborough. PE1 2PF

REFERENCE NUMBER: MAU 063461

GLOSSARY OF TERMS: Attached at **Appendix A – Page 4**

1. PURPOSE OF REPORT

1.1 To consider and determine an application for a review of a Premises Licence under Section 51 of the Licensing Act 2003 for the above premises, taking into account the representation made by the Pollution Control Team, subsequent supporting documents and a letter of support of the review by Cambridgeshire Constabulary, both in their capacity as a Responsible Authorities. The review was bought under the Prevention of Public Nuisance.

2. BACKGROUND INFORMATION

2.1 On the 9th May 2006 an application for a new premises licence was submitted by Mrs Sandra Filipa Pais. This application was for the retail sale of alcohol and other licensable activities. The name of the premises was Doce Mel 2 and the licence was granted on 9th June 2006.

2.2 On the 2nd October 2006 an application was made to vary the licence to include live music and dancing. This application was granted on 31st October 2006 after additional noise conditions were agreed for the licence.

2.3 On 13th October 2006 a premises licence review application was made by Cambridgeshire Fire & Rescue Service under the Public Safety objective. A licensing hearing was subsequently held which resulted in the premises licence being suspended for a period of 3 months and the designated premises supervisor being removed from the licence. On 4th January 2007 Sandra Filipa Pais surrendered the premises licence.

2.4 On 8th February 2007 an application for a new premises licence was submitted by Mr Nawas Ibrahim. This application was for the retail sale of alcohol and other licensable activities between the hours of 6am & 11pm seven days a week. The name of the premises was Millfield Restaurant and the premises licence was granted on 7th March 2007.

- 2.5 Between 4th April 2007 and 6th September 2011 there were seven designated premises supervisor changes on the premises licence.
- 2.6 On 30th August 2011 an application to change the premises licence holder was made to place Mr Bruno Fernando Azeved Silva on the licence. There was no Police objection to this and the licence was subsequently granted. On 6th September 2011 an application to place Mr Robert Norman Mulholland on the licence as the designated premises supervisor was made and granted.
- 2.7 On 23rd September 2011 an application to vary the plan of the licensable area and to extend the times for licensable activities at the premises was submitted by Mr Silva. Objections to this variation were received from the Noise Pollution Team and the Police. The matter was heard by the Licensing Act 2003 Sub-Committee on 9th November 2011. As a result of the hearing the application to extend the licensable area and hours were rejected.
- 2.8 On 17th November 2011 an application to vary the premises licence was made by Mr Silva. This application was to amend the plan of the premises and also to remove a condition pertaining to the seating occupancy of the premises. This application was granted on 16th December 2011.
- 2.9 On 7th February 2012 a Section 19 Closure Notice was served on Mr Silva by the Police as it was felt that the designated premises supervisor, Mr Mulholland, was not a fit and proper designated premises supervisor. Mr Silva was unable to place another suitable person on the licence until Mr Silva applied for and was granted his own personal licence. On 28th February 2012 Mr Silva was placed upon the licence as the designated premises supervisor. A copy of the most current premises licence is at **Appendix B – Page 7**. This is not the licence with Mr Silva's details upon it as this is still in the consultation period.

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 the Pollution Control Team, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A copy of the application to review was received on 17th February 2012, a copy of this application, together with supporting documents and a supporting evidential letter, is attached at **Appendix C – Page 21**.
- 3.3 A copy of the 'Notice' that 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 is attached at **Appendix D – Page 59**.
- 3.4 No representations have been received from any of the other responsible authorities or from any interested parties.

4. RESPONSIBLE AUTHORITY

4.1 Summary of issues raised by Pollution Control Team

- i. Recorded incidents of noise pollution from the premises at local residential properties.
- ii. Recorded incidents of breaches of licence conditions including noise being heard at nearby residential property, music being played and alcohol being sold after permitted hours.

4.2 Summary of issues raised by Cambridgeshire Constabulary

- i. Premises being used as a 'night club' without the correct planning consents
- ii. Premises being used without a valid designated premises supervisor

iii. Incidents of breaches of the Licensing Act 2003.

5. LICENSING OFFICERS COMMENTS

5.1 No mediation was undertaken.

6. POLICY & GUIDANCE IMPLICATIONS

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

6.2 Council's Statement of Licensing Policy

- Objectives: *section 4 on Page 5*
- Other Legislation : *section 7 page 7*
- Reviews: *section 16 on Page 12 and 13*
- Delegation / Decision Making / Administration: *Section 17 page 13 and 14*

6.3 Guidance Issued under Section 182 of the Licensing Act 2003 (October 2010)

- Reviews: *Section 11 pages 98 to 102*
- Determining applications: *Section 9 pages 78 to 81*

7. LEGAL OFFICER'S COMMENTS

7.1 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.

7.2 In this case, the application was received at these offices on 17th February 2012.

7.3 The application before this committee will consider –

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

7.4 The committee will take such of the steps as it considers that action is necessary 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

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

'The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary 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 time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. But, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvements – 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.

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.

‘Interested parties’:

- a person living in the vicinity of the premises in question;
- a body representing persons living in that vicinity, e.g. a residents association;
- a person involved in a business in the vicinity of the premises in question;
- a body representing persons involved in such a business e.g. a trade association
- a member of the relevant licensing 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

'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

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.

Or the provision of entertainment facilities:

Facilities for enabling persons to take part in entertainment of the following description for the purpose or purposes, which include the purpose of being entertained:

- making music
- dancing
- entertainment of a similar description

'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
- 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 96 hours;
- 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 15 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

‘Vicinity’: Given the normal everyday meaning of being ‘near to’ when considering the relevance of representations received from individual’s residence or business.

Licensing Act 2003\glossary of terms 13 March 2007

PART A

APPENDIX B

Premises Licence

Peterborough City Council, Operations Directorate
 Bayard Place, Broadway, Peterborough, PE1 1HZ

Premises Licence Number

062375

Part 1 - Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Bora Bora 417 Lincoln Road	
Post Town Peterborough	Post Code PE1 2PF
Telephone Number	

Where the licence is time limited the dates Start Date N/A End Date N/A
--

<p>Licensable activities authorised by the licence</p> <p>Plays The performance will take place indoors</p> <p>Films The exhibition will take place indoors</p> <p>Indoor Sporting Events</p> <p>Live Music The live music will take place indoors</p> <p>Recorded Music The recorded music will take place indoors</p> <p>Performances of Dance The performance of dance will take place indoors</p> <p>Anything of a similar description to that of live music, recorded music or performances of dance The entertainment will take place indoors</p> <p>Making Music The activity will take place indoors</p> <p>Sale by retail of alcohol The supply of alcohol will be for consumption both on and off the premises.</p>

The times the licence authorises the carrying out of licensable activities

Plays

Monday to Sunday Between 06.00hrs and 23.00hrs

Films

Monday to Sunday Between 06.00hrs and 23.00hrs

Indoor Sporting Events

Monday to Sunday Between 06.00hrs and 23.00hrs

Live Music

Monday to Sunday Between 06.00hrs and 23.00hrs

Recorded Music

Monday to Sunday Between 06.00hrs and 23.00hrs

Performances of Dance

Monday to Sunday Between 06.00hrs and 23.00hrs

Anything of a similar description to that of live music, recorded music or performances of dance

Monday to Sunday Between 06.00hrs and 23.00hrs

Making Music

Monday to Sunday Between 06.00hrs and 23.00hrs

Sale by Retail of Alcohol

Monday to Sunday Between 11.00hrs and 23.00hrs

The opening hours of the premises

Monday to Sunday Between 06.00hrs and 00.00hrs

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

The supply of alcohol will be for consumption both on and off the premises.

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Bruno Fernando Azeved Silva
308 Lincoln Road
Peterborough
PE1 2ND

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr Robert Norman Mulholland
31 Hill Street
Wisbech
PE13 1DB

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number	PERS0171
Issuing Authority	Fenland District Council

Annex 1 - Mandatory conditions

Licensees should note that the under enclosed Mandatory conditions should be read in conjunction with the granted licence and these conditions shall be enforceable where relevant to the operation of the premise and its activities.

Exhibition of films

This registration authorises the exhibition of films subject to the following conditions:

1. I will not exhibit any film unless –
 - (a) it has received a "U", "PG", "12", "12A", "15" or "18" certificate from the British Board of Film Classification; or
 - (b) it is a current newsreel which has not been submitted to the British Board of Film Classification.
2. Where films are classified by the film classification body, (British Board of Film Classification) I will make sure that children (persons under 18) are only admitted in accordance with the classification of the film:

U – Universal – suitable for audiences aged 4 years and over;
PG – Parental Guidance – some scenes may be unsuitable for young children;
12 – viewing by persons aged 12 years and over;
12A – viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult;
15 – viewing by persons aged 15 years and over;
18 – viewing by persons aged 18 years and over.
3. Where the Licensing Authority has made a recommendation on the restriction of admission of children to a film, I will make sure that notices are displayed both inside and outside the premises so that persons are aware of the classification.

Supply of alcohol (Premises Licence)

This registration authorises the supply of alcohol subject to the following conditions:

4. No supply of alcohol may be made at a time when
 - (a) there is no designated premises supervisor in respect of the premises licence, or
 - (b) when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

5. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
6. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children–

 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to–
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on–
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
7. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
8. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
9. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
(2) The policy must require individuals who appear to the responsible

person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

10. The responsible person shall ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with the Operating Schedule

Crime and Disorder

11. No alcohol to be sold in open bottles or other open vessels for use off the premises.
12. Any person selling or supplying alcoholic drink under the authority of a personal licence holder must ask for a photo ID proof of age where they have reason to suspect that the individual may be under 18 years of age.
13. Any grills and / or alarms installed at the licensed premises shall be maintained in working order.
14. The premises license holder shall be responsible for prevention and disposal of waste on the frontage of the premises and make provision for the emptying of litter bins in the vicinity of the premises.
15. The premise license holder shall not participate or encourage flyposting of events or the venue and any leaflet distribution shall be managed in such a way as to prevent litter.

Public Safety

16. Escape routes and exits, including external exits, shall be maintained to ensure that they are not obstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified.
17. Where chairs and tables are provided, internal gangways are to be kept unobstructed.
18. All exit doors shall be easily openable and shall not require the use of a key, card, code or similar means.
19. Doors at exits shall be regularly checked to ensure that they function satisfactorily and a record of the check will be kept.
20. Any removable security fastenings shall be removed whenever the premises are open to the public or occupied by staff.
21. All fire doors shall be maintained as effectively self-closing and not held open other than by approved devices.
22. Edges of the treads of steps and stairways are maintained so as to be conspicuous.
23. Safety checks are to be carried out before the admission of the public or club members and guests; and details of such checks are to be kept in a Log-book.

24. The fire brigade will be called at once on actuation of the fire alarm or to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.
25. All staff shall be given instructions on the method and use of fire extinguishers and fire blankets on the licensed premises; the position of emergency switches, the use of normal and emergency exits and procedures to be followed in the event of an evacuation of the premises.
26. Management are responsible for ensuring that comprehensive arrangements exist to enable the safe evacuation of all disabled occupants in the event of an emergency.
27. An adequate and appropriate supply of first aid equipment and materials shall be available on the premises.
28. In the absence of adequate daylight the lighting in any area accessible to the public shall be fully operational.
29. Any temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.
30. Valid public liability insurance shall be kept in force and a copy of the schedule shall be available for inspection by an authorised officer on request.
31. The premises shall not be altered in such a way as to make it impossible to comply with an existing licence condition, without first seeking a variation of the premises licence.
32. Free drinking water shall be available at all times the premises is open to the public.

Public Nuisance

33. The premises license holder shall take all necessary steps to ensure that noise or vibration is not noticeable at the façade of any noise sensitive premises.
34. Prominent, clear and legible notices at all exits shall be displayed on the premises requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.
35. The placing of bottles into receptacles outside the premises shall take place at times that will minimise disturbance to nearby properties.
36. Any request by an authorised officer of the Council in relation to reducing noise levels shall be complied with.
37. Any ventilation system shall be fitted with or include suitable sound attenuation.

38. A person nominated by the premises licence holder shall be responsible for monitoring noise levels and instructed to implement changes in noise levels in accordance with any request by an authorised officer of the Council immediately and ensure that volume is maintained at the reduced level.
39. The premises licence holder shall implement a system to ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.
40. Receptacles for waste shall be emptied regularly to minimise nuisance smells.
41. The licensed premise shall provide an adequate number of public conveniences in accordance with the requirements of BS 6465 : Part 1 : 1994
42. Litter shall be prevented at all times and where identified regularly cleared from the vicinity of the premises.
43. Doors and windows shall be kept closed (except for ingress and egress) to reduce noise nuisance from the premises.
44. The playing of live or recoded music in garden areas of the premises after 21.00hrs shall not be permitted.
45. The rear garden shall be managed to ensure that it is not used for drinking alcohol. The doors leading onto these areas should be kept closed. Prominent, clear notices shall be displayed at the rear smoking area, requesting customers to respect the needs of local residents.

Protection of Children from Harm

46. The premise license holder shall take all reasonable steps to prohibit the use of gaming machines to under aged persons.

Annex 3 - Conditions attached after a hearing by the licensing authority - NONE

Annex 4 – Plans

PART B

Premises licence summary

Peterborough City Council, Operations Directorate
 Bayard Place, Broadway, Peterborough, PE1 1HZ

Premises Licence Number

062375

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description

Bora Bora
 417 Lincoln Road

Post Town Peterborough

Post Code PE1 2PF

Telephone Number

Where the licence is time limited the dates

Start Date N/A
 End Date N/A

Licensable activities authorised by the licence

Plays

The performance will take place indoors

Films

The exhibition will take place indoors

Indoor Sporting Events

Live Music

The live music will take place indoors

Recorded Music

The recorded music will take place indoors

Performances of Dance

The performance of dance will take place indoors

Anything of a similar description to that of live music, recorded music or performances of dance

The entertainment will take place indoors

Making Music

The activity will take place indoors

Sale by retail of alcohol

The supply of alcohol will be for consumption both on and off the premises.

The times the licence authorises the carrying out of licensable activities

Plays

Monday to Sunday Between 06.00hrs and 23.00hrs

Films

Monday to Sunday Between 06.00hrs and 23.00hrs

Indoor Sporting Events

Monday to Sunday Between 06.00hrs and 23.00hrs

Live Music

Monday to Sunday Between 06.00hrs and 23.00hrs

Recorded Music

Monday to Sunday Between 06.00hrs and 23.00hrs

Performances of Dance

Monday to Sunday Between 06.00hrs and 23.00hrs

Anything of a similar description to that of live music, recorded music or performances of dance

Monday to Sunday Between 06.00hrs and 23.00hrs

Making Music

Monday to Sunday Between 06.00hrs and 23.00hrs

The opening hours of the premises

Monday to Sunday Between 06.00hrs and 00.00hrs

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

The supply of alcohol will be for consumption both on and off the premises.

Name, (registered) address of holder of premises licence

Mr Bruno Fernando Azeved Silva
308 Lincoln Road
Peterborough
PE1 2ND

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Robert Norman Mulholland

State whether access to the premises by children is restricted or prohibited

Restricted

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LC1

PETERBOROUGH



Peterborough City Council, Licensing Section, Bridge House,
Town Bridge, Peterborough, PE1 1HU

Application for the review of a premises licence or club
premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Dorothy Pocock, Pollution Control Officer apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 - Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description	
Bora Bora 417 Lincoln Road	
Post town Peterborough	Post code (if known) PE1 2PF

Name of premises licence holder or club holding club premises certificate (if known) Mr Bruno Fernando Azeved Silva

Number of premises licence or club premises certificate (if known) 061900

Part 2 - Applicant details

Please tick yes

I am

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss

Other title

(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current address

Post Town
Postcode

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Miss Dorothy Pocock Pollution Control Officer Neighbourhoods Peterborough City Council Bayard Place Broadway Peterborough PE1 1HZ
Telephone number (if any) 01733 453521
E-mail (optional) Dorothy.pocock@peterborough.gov.uk

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note1)

The Pollution Control team are requesting a review of the premises licence for Bora Bora Bar at 417 Lincoln Road, Peterborough under the Prevention of public nuisance objective.

The Pollution Control Team have been investigating the premise under the Environmental Protection Act 1990 for allegations that a noise nuisance exists at a residential properties on Lincoln Road, Peterborough.

The investigation has provided evidence that a noise problem exists and has the likelihood to reoccur. This conclusion has been established through the collection of evidence from sound monitoring equipment, witness statements, and log sheets.

The premises licence holder was informed about complaints via letters posted on 13 December 2012, and a subsequent letter on 10 January 2012.

Police and Licensing Officer's attended the premises on the 9 December 2011 at approximately 23.40hrs. The officers witnessed noise from amplified music emanating from the premises and serving of alcohol after 11pm. This is in breach of their licence conditions. The premises were warned about the noise and the breach of conditions.

The opinion of Pollution Control Team is that the building is inappropriately located and designed for the type of the activities that are undertaken in the cafe.

I therefore suggest that due to the continuing complaints and monitoring evidence undertaken, that Bora Bora at 417 Lincoln Road is in breach of conditions 34, 37 and 39 of the current licence.

34. Public Nuisance

The premises license holder shall take all necessary steps to ensure that noise or vibration is not noticeable at the façade of any noise sensitive premises.

37. Public Nuisance

Any request by an authorised officer of the Council in relation to reducing noise levels shall be complied with.

39. Public Nuisance

A person nominated by the premises licence holder shall be responsible for monitoring noise levels and instructed to implement changes in noise levels in accordance with any request by an authorised officer of the Council immediately and ensure that volume is maintained at the reduced level.

Due to continued breach of the noise abatement notice and non-compliance of licence conditions it is therefore recommended that, since activities can not be controlled through the use of conditions that live and recorded music is removed from the licence.

Recommendations

- To remove live and recorded music from the licence

Please provide as much information as possible to support the application (please read guidance note 2)

Since the initial complaint made on the 13 December 2012 we have received complaints about loud music on the following dates:

Date	Time from	Time until	Nature of noise
17/12/11	22.20	23.00	Loud music each time door to premises was opened
18/12/11	21.00	22.30	Music audible above TV in bedroom each time door at premises opened
22/12/11	19.50	UK	Door to 417 wide open and music on. When got to front door someone came out to shut the premises door
22/12/11	21.40	UK	Intermittent music audible when premises door opened
30/12/11	21.05	23.00	Intermittent music audible when premises door opened
07/01/12	19.30	NA	Music audible in downstairs in rear living room.
07/01/12	20.25	NA	Music audible over TV in rear living room
07/01/12	22.10	23.00 plus	Music clearly audible in bedroom
09/01/12	20.40	UK	Very loud music in bedroom. Premises doors are shut
11/01/12	21.20	UK	Brief burst of very loud music hear above television
13/01/12	22.00	22.30	Loud intermittent bursts of music
14/01/12	17.30	23.00	Loud base thump audible in rear living room. Loud music heard in bedroom. Large number of people outside the premises and door continually opening and closing.
15/01/12	17.20	17.25	Music audible above television in rear living room.
15/01/12	21.00	22.00	Intermittent music audible when watching television in bedroom
20/01/12	21.00	22.20	Intermittent music slightly audible. Noise recordings made
21/01/12	17.00	23.00	Intermittent music audible. Noise recordings made
22/01/12	17.30	17.35	Music audible early on but after 18.15 music much louder until 20.30. Noise recordings made
28/01/12	20.30	20.35	Brief burst of loud music. Recording made
28/01/12	21.30	23.00	Music audible when their doors were shut. Louder when doors open. Recording made.
30/01/12	18.50	19.00	Loud music. Premises appeared to be shut. Recordings made.

Noise recording equipment has been installed in one of the complainants' properties between 19 January 2012 and 31 January 2012. A number of noise recordings were made that demonstrate the breach of licence conditions. A CD and list are submitted as supporting evidence DP01.

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 - Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature *[Handwritten Signature]*

Date *7th February 2012*

Capacity *Responsible Authority*

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Faint, illegible text at the top of the page, possibly a title or introductory paragraph.

Second block of faint, illegible text, possibly a list or detailed description.

Column 1	Column 2	Column 3

Faint, illegible text at the bottom of the page, possibly a conclusion or footer.

Peterborough City Council, Pollution Control, Neighbourhoods, Bayard Place,
Broadway, Peterborough PE1 1HZ

Application for the review of a premises licence or club
premises certificate under the Licensing Act 2003

Supporting Evidence DP01

Noise recordings of 417 Bora Bora, Lincoln Road, Peterborough

The noise recording equipment was placed in the complainant's bedroom. Each noise recordings are just over 1minute in length. These are selection of all the recordings taken over the period the monitoring equipment was installed.

Track number	Date	Day	Start time (24hr)	Type of noise
01	21/01/12	Saturday	22.20	Loud base dance music
02	21/01/12	Saturday	22.21	Thumping dance music
03	21/01/12	Saturday	22.36	Thumping dance music
04	21/01/12	Saturday	22.37	Thumping dance music
05	22/01/12	Sunday	17.30	Loud thumping base music that pulses louder
06	22/01/12	Sunday	17.59	Thumping club music
07	22/01/12	Sunday	19.28	Loud dance music
08	22/01/12	Sunday	19.29	Loud dance music
09	22/01/12	Sunday	19.34	Loud dance music
10	28/01/12	Saturday	21.23	Thumping base music
11	28/01/12	Saturday	22.36	Dance music
12	28/01/12	Saturday	22.39	Heavy dance beat
13	28/01/12	Saturday	22.49	Heavy dance music
14	30/01/12	Monday	18.54	Very loud dance music
15	30/01/12	Monday	18.59	Loud dance music

Signed 

Print. DOROTHY POCOCK

Date 7th February 2012

STATEMENT OF WITNESS

(Criminal Procedure Rules, r.27.1(1), Criminal Justice Act 1967, s.9, Magistrates' Court Act 1980, s.5B)

Statement of [REDACTED]

Age of witness – over 18

I am the above named person and I live at [REDACTED] Lincoln Road, Peterborough. This is in a row of houses opposite Bora Bora, [REDACTED]

This statement consisting of 1 page is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false, or do not believe to be true.

In December 2011 the new Café/Bar Bora Bora opened up at 417 Lincoln Road. Even before they opened we could hear the drilling and banging during the renovation of the building.

After a number of weeks of noise problems caused by loud music from the premises and after I spoke to one of my neighbours and decided to report the noise problems to Peterborough City Council Pollution Team. This report was made on the 11 January 2012. I was asked to complete log sheets detailing the extent and effect of the noise. Exhibit COMPB02.

The noise from the premises happens most weekends. The noise is a heavy dance music drumming base and occasionally vocals. We cannot have our windows open as the music is just too loud. It is a particular problem when the front door of the premises opens as this means we get a full blast of loud dance music.

When the music has started at 5.30 – on my logs sometimes the children are having a bath and they can hear it in the bathroom at the back of our house downstairs. After this we have also been able to hear the music when they go to bed and it disturbs them.

We use the front room of the house as our living room, sometimes when it has started early in the evening we have seen youngsters going in and out of the premises. We use our living room all the time. However we struggle to hear our TV over the music. Our main bedroom is at the front of the house. Often we can hear the music there and this affects us greatly.

As well as the music we can hear and see people going in and out of the premises. Sometimes they are shouting and noisy. Occasionally it does stop at 23.00hours but in the past it has gone on lot later. Exhibit COMPB02.

Signed [REDACTED] (witness)

Date 25-2-2012 20

Peterborough City Council

Case number: 063461/645845

Defendants Name: Bora Bora Cafe

Property: 417 Lincoln Road, Peterborough, PE1 2PF

Exhibit
COMPB02

Signed.....

Print.....

25-2-2012

Peterborough City Council
Nuisance Log Sheet cont..

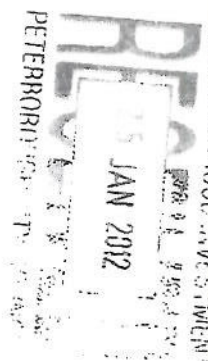
Complainant's Name: [REDACTED]

APP reference number: 645845

Date	Start Time	Finish Time	Nature of occurrence and source of nuisance	What effect did this have on you / your family	Details of any contact with subject
14/1/12	5.30		loud music over road	We had family received	
20/1/12	5.30	11.45	loud music over road	Trying to sleep in bed the kids and in pram.	
21/1/12	5.30	11	loud music over road	music to loud in bed waking to sleep	

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STATEMENT OF WITNESS

(Criminal Procedure Rules, r.27.1(1), Criminal Justice Act 1967, s.9, Magistrates' Court Act 1980, s.5B)

Statement of [REDACTED]

Age of witness – over 18

I am the above named person and I live [REDACTED] Lincoln Road, Peterborough, [REDACTED] which is one of a row of terraced houses [REDACTED] opposite the premises of 417 Lincoln Road known as Bora Bora Cafe.

This statement consisting of 2 pages is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false, or do not believe to be true.

In December 2011 the new Café/Bar Bora Bora opened up at 417 Lincoln Road. Just prior to them opening, following an article in the Evening Telegraph (brought to my attention when off work ill by friends and family) I had contacted the Licensing department and asked about the licensing hours and conditions as I was concerned that there would be a repeat of the problems that had occurred when the property operated under the name of Café Mo Sport. Being pregnant made me even more concerned as working full time I need the evenings and weekends to relax and recharge my batteries and our bedroom is situated at the front of our house directly across the road from the premises.


On the first weekend they were open we suffered noise from 7.30pm on Friday 2nd December when going to open our front door to see visitors out the door and handle were vibrating with the base of music from Bora Bora this music continued intermittently until at least 11.40pm which was the last time I looked at the time before falling asleep.

The same occurred regarding music intermittently throughout the evening on Saturday 3rd December until last time of looking and emailing from my phone was 11.34pm (I had fell asleep early in the evening then awoke again) this was followed by a heated discussion outside the premises at 12.20pm which woke me. I reported the noise problems to the Licensing Team at the City Council via email. Attached is my correspondence to the licensing team that I sent between 3rd December 2011 and 24 Dec 2011. Exhibit COMPA02

Then on Sunday 4th December I had reason to email yet again as at 3.30pm when in my rear living room above our television I could hear music from over the road each and every time their door opened. At first I wasn't sure if it was actually from there due to being able to hear it at the back of our house but going upstairs and looking out of bedroom window confirmed that it indeed was.

Signed [REDACTED] (witness)

Date 11-2 20.12

Continuation statement of 

After a number of evening and weekends of noise problems from the premises and several phone calls and emails to the licensing department I then reported the noise problems to Peterborough City Council Pollution Team. This report was made on the 17 December 2011. I was asked to complete log sheets detailing the extent and effect of the noise. Exhibit COMPA03.

The noise from the premises happens most weekends. The noise is a heavy dance music drumming base and occasionally vocals. Often we can hear the music in the rear living room one of the rooms furthest from the premises and in our main bedroom. On one occasion when I was soaking in the bath to try to alleviate a really bad back that kept me off work I could actually hear the music then and our bathroom is at the very back of our house upstairs. We cannot have our bedroom windows open as the music is just too loud.

It is a particular problem when the front door of the premises opens to let people in and out and whenever customers go outside the premises to smoke cigarettes as this means we get a full blast of loud dance music.

Sometimes as noted in my logs the music can actually be heard when the doors are closed. I would like to point out that our house is insulated and has double glazed doors and windows.

The following dates were the worst we have experienced as noted on my logs and emails.

Friday 2nd December 2011
 Saturday 3rd December 2011
 Sunday 4th December 2011
 Friday 9th December 2011
 22nd December 2011
 30th December 2011
 7th January 2012
 14th January 2012
 28th January 2012
 30th January 2012

I had noise recording equipment installed in my property in the main bedroom between 19 January 2012 and 31 January 2012. During this time the premises was not open as often as it had been, however we were still subjected to blasting music on both weekends and once on a Monday night.

Signe  (witness)

Date 11 / 2 / 2012

Peterborough City Council

Case number: 063461/644876
Defendants Name: Bora Bora Cafe
Property: 417 Lincoln Road, Peterborough PE1 2PF

Exhibit
COMPA03

Signed 

Print... 

11/2/12.

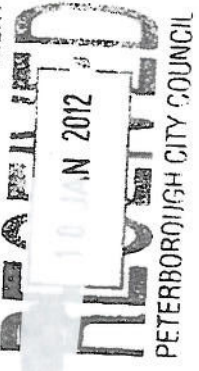
**Peterborough City Council
Nuisance Log Sheet**

Complainant's Name: [redacted] Subject's Name: [redacted]

Complainant's Address: [redacted] Lincoln Road Peterborough PE1 2NA Subject's Address: 417 Lincoln Road, Peterborough, PE1 2PF NEIGHBOURHOOD INVESTMENT

Complainant's Telephone: [redacted] APP reference number: [redacted]

Please confirm if you are willing to provide a witness statement: Yes No
 Are you prepared to give live evidence in Court: Yes No



Date	Start Time	Finish Time	Nature of occurrence and source of nuisance	What effect did this have on you / your family	Details of any contact with subject
Example 24/08/06	9:30 pm	12.45am	Constant loud music from next door		Asked them to turn it down and they refused
17/12/11	10:20 pm	just before 11pm	thump of music each time door opened to let people in / out	Children and myself unable to sleep	
18/12/11	9 pm	at least 10:30 pm	music to be heard above tv in our bedroom everytime door opened.	[redacted] we have to have peace in our bedroom	
22/12/11	7.50 pm		came home from my sisters, the door of 417 was wide open & music on.		
			as we got near as gate aft waiting for car someone came out & shut the door.		
22/12/11	9:40 pm		went up to read tv in bed & intermittent music to be heard whenever door opened, volume & increased amount of times as was went on.		
30/12/11	9:05 am	1st time asleep	thump of music	had gone up to watch tv in bed as didn't	
			by 11pm [redacted] said it carried on, feel worse!! no roboting.		

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* our windows - shut!

**Peterborough City Council
Nuisance Log Sheet**

Complainant's Name: [Redacted]
 Complainant's Address: [Redacted] ncoln Road Peterborough PE1 2NA
 Subject's Name: BOBO BOBO
 Subject's Address: 417 Lincoln Road, Peterborough, PE1 2PF
 APP reference number: [Redacted]

Please confirm if you are willing to provide a witness statement: Yes No
 Are you prepared to give live evidence in Court: Yes No

Date	Start Time	Finish Time	Nature of occurrence and source of nuisance	What effect did this have on you / your family	Details of any contact with subject
<i>Example</i> 24/08/06	9:30 pm	12:45am	constant loud music from next door		
7/1/12	7:30 pm		MUSIC TO BE HEARD IN DOWNSTAIRS flat FM whilst hubby on skype	Children and myself unable to sleep	Asked them to turn it down and they refused
7/1/12	8:25pm		MUSIC intermittently heard in back room after we TV. went to watch tv in bed music to be heard clearly in bedroom		
7/1/12	10:10 pm	After 11pm	11 few a/cup but hubby neighbour said went on talk fm v. loud music in our bedroom & said doors are shut & I brief burst of music heard above the tv.		
9/1/12	8:40A		loud intermittent bursts of music till 11:30		
11/1/12	9:20				
13/1/12	10pm				

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770 1

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**Peterborough City Council
Nuisance Log Sheet cont..**

Complainant's Name: [REDACTED]

APP reference number [REDACTED]

Date	Start Time	Finish Time	Nature of occurrence and source of nuisance	What effect did this have on you / your family	Details of any contact with subject
14/1/12	5:30 pm	11 pm	in back room on the phase corner near east beam of music - the music was not about but then went upstairs Some friends of female the road, lots of people outside - door opening closing. H got toys as well		
15/1/12	5:20 pm	5:25 pm	music above - twin track Pozam - also was hubby some have someone waiting Parked outside in parking waiting for someone and the situated them to move & they intermittent music when watching TV upstairs	the father (S) who they did see he could park	
	9 pm - 10 pm	10 pm			

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Peterborough City Council
Nuisance Log Sheet

Complainant's Name: [Redacted]
 Complainant's Address: [Redacted] Nicola Ross
 [Redacted] PE1 2NA
 Complainant's Telephone: [Redacted]

Subject's Name:
 Subject's Address:

Bar Bar
 NEIGHBOURHOOD INVESTMENT RD
RECEIVED
 24 JAN 2012
 PETERBOROUGH CITY COUNCIL

APP reference number:

Yes No
 Yes No

Please confirm if you are willing to provide a witness statement:
 Are you prepared to give live evidence in Court:

Date	Start Time	Finish Time	Nature of occurrence and source of nuisance	What effect did this have on you / your family	Details of any contact with subject
Example 24/08/06	9:30 pm	12:45am	Constant loud music from next door		Asked them to turn it down and they refused
20/1/12	9pm	10.20pm	intermittent music not heard as loud as last wknd but audible - tried to record - not easy as it was door open.	Children and myself unable to sleep	
21/1/12	5-	5.10	1 few also but neighbor said it continued thru after 11.30 in front room talking to neighbor & we said both hear the music intermittent but lots frequent fire later on not as loud as last wk. lights and people visible during fire after 11.15		
21/1/12	8.20	11pm	heard faint boom of music in back room went upstairs to record both with windows shut & open.		

8.70

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 Peterborough City Council, Pollution Control Team, Bayard Place, Broadway, Peterborough, PE1 1HZ. Tel: 01733 453571
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Peterborough City Council
Nuisance Log Sheet

Complainant's Name: [Redacted]
Complainant's Address: [Redacted]

Lincoln Rd
Peterborough
PE1 2AA

Subject's Name: [Redacted]
Subject's Address: [Redacted]

Baro Boro
417 LINCOLN RD
PETERBOROUGH

Complainant's Telephone: [Redacted]

APP reference number: [Redacted]

Please confirm if you are willing to provide a witness statement:
Are you prepared to give live evidence in Court: Yes No

(please circle)
(please circle)

Date	Start Time	Finish Time	Nature of occurrence and source of nuisance	What effect did this have on your family
Example 24/08/06	9:30 pm	12:45am	Constant loud music from next door	Children and myself unable to sleep
28/1/12	8:30		as hubby opened middle door to again faint rum we could hear music from our PTO road.	
			I went upstairs to press button & record but may have been too late & was briefly burst.	
28/1/12	9:30	11pm	I had gone up to read & relax & spent a fair bit of time repeatedly recording music from over the road - I could hear it even when their doors were shut - it sounded when it opened to be people in & out. I recorded with our window shut & other curtains slightly open.	PETERBOROUGH CITY COUNCIL contact with subject down and they refused
			I had gone up to bed early to relax - our glad it stopped but I had been closed mind - this a great when open for day.	

NEIGHBOURHOOD INVESTMENT

RELEASED
02 FEB 2012
Details of any contact with subject

not added just off 5pm
said this activity

Please complete and return to:

Peterborough City Council, Pollution Control Team, Bayard Place, Broadway, Peterborough, PE1 1HZ. Tel: 01733 453571

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PTO

Peterborough City Council Nuisance Log Sheet

Complainant's Name: [redacted]
 Complainant's Address: 1 Lincoln Road
 Peterborough,
 PE1 2NA

Subject's Name: [redacted]
 Subject's Address: 417 Lincoln Road, Peterborough, PE1
 2PF

Complainant's Telephone: [redacted]

APP reference number: [redacted]

Please confirm if you are willing to provide a witness statement: Yes No (please circle)

Are you prepared to give live evidence in Court: Yes No (please circle)

Date	Start Time	Finish Time	Nature of occurrence and source of nuisance	What effect did this have on you / your family	Details of any contact with subject
Example 24/08/06	9:30 pm	12.45am	Constant loud Music from next door	Children and myself unable to sleep	Asked them to turn it down and they refused
3/2/12	9.45pm		music to be easily heard in bedroom esp as tv out 10 guitar interplay as door opened & shut	I went up to bed early as near a 1 year thing as sleep not long off 10 so don't know when it finishes	
4/12/12	10.15 pm		intermittent music again when the door opens & shut - above the tv.	few asleep u. quickly don't know what time it stopped.	

Please complete and return to:

Peterborough City Council, Pollution Control Team, Bayard Place, Broadway, Peterborough, PE1 1FZ. Tel: 01733 453571



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Peterborough City Council

Case number: 063461/644876
Defendants Name: Bora Bora Cafe
Property: 417 Lincoln Road, Peterborough PE1 2PF

Exhibit
COMPA02

Signec [redacted]

Print... [redacted]

11/2/12.



FAO Simon regarding 417 Lincoln Road

1 message

Sat, Dec 3, 2011 at 11:29 AM

to: en.licensing@peterborough.gov.uk

Hi

I rang you regarding the above property now called Boro Boro or however you spell it after the article in the Evening Telegrap

Sorry to bother you but could you just confirm for me opening hours, does the 6am-11pm still apply on weekends? And does all music have to be off at 11 even if they remain open later on a weekend?

They have blacked out all the front windows which made me smile when i first saw it..however I am writing because they were open last night, and i realised this when answering my front door to visitors between 730 and 8pm. The music thumping could be heard easily from my front door as people were entering their premises and you could feel the vibrations of the music!

As the evening went on I could faintly hear the thump of music when in my front room on the pc.this was through the closed door and window.. They may well have sound proofed the property but obviously didnt account for people coming and going which was one of the concerns i voiced to you when I called.

This was still happening when went to bed at last time i looked at the time before falling asleep at 11.40pm as our bedroom is at the front of the house. I am hoping it was a one off later night on account of just being opened. As i explained go to bed early due to disturbed sleep anyway and having to work full time and my husband has to be up at 5am on 2weekly rota so hope this wont be a regular occurrence. I am glad that they had the hindsight to black out the windows as the flashing disco lights which were also visible when the door opens would no doubt have been a problem to up in the bedroom.

I am concerned that as they get more busy the noise will only escalate and especially with christmas coming up am sure they will be having relevant festivities which as a business i can understand why they would do so but they do need to be more aware of the fact how sound carries at night in a built up area..not only the noise of the music but also of the people outside the doors too.

Many thanks



So called cafe at lincoln road

1 message

Sat, Dec 3, 2011 at 11:37 PM

To: "eh.licensing@peterborough.gov.uk" <eh.licensing@peterborough.gov.uk>

Hi. I am writing again with regards to the premises known as boro boro at lincoln road. I am sending this from my phone and its a shame i cant have sound on it or you would be able to share in listening to the increased in volume from last night club music..our bedroom window is open very slightly as it is every night irrelevant if weather and even without the doors opening the sound of the thumping music is to be heard.the doors are being opened more frequently tonight and the noise from the door opening and from the people outside to me is an unacceptable level.during the afternoon the door was permanently open which was fine as no music on and i hope that in better weather they dont decide to do this throughout the evening too.. It is now 11.34pm and the music is still as loud as ever. On monday i will also be contacting the neighbourhood policing team,im surprised that if they were aware of the opening that they didnt think to send anyone to check they were running as they should be.

Many thanks





Sunday afternoon and 417 lincoln road boro boro

1 message

Sun, Dec 4, 2011 at 3:54 PM

To: "eh.licensing@peterborough.gov.uk" <eh.licensing@peterborough.gov.uk>

Hi

It is 3.30 on sunday afternoon.i am in my back living room ironing and watching x.factor as i fell asleep watching it last night and above that i can intermittently hear the music from over the road when door is opend as people go in and out..last night at 12.20 there was a loud heated discussion between several men who when i got out of bed to look were all parkd up rgt outside that place with various very flash silver 4x4s and cars

The lady who lives 2 floors away and is. [redacted] came to see if i was ok as she can hear it in her living room too.

Im sorry for sending so many emails on a weekend

I have rang police on 101 and they said if i have reason to complain about the noise tonight aft 11pm to just ring them.

Manv thanks

[redacted]

[redacted]



[Redacted]

Fao.Darren Dolby re.417 lincoln road

1 message

Sat, Dec 10, 2011 at 8:12 PM

To: "en.licensing@peterborough.gov.uk" <en.licensing@peterborough.gov.uk>

Hi.

Well last night-friday wasn't nearly as bad as last week.we could still hear the music from 417 lincoln road in our house but not nearly as loud until later in the evening when i guess theres very little traffic to mask it. I did call 101at about 11.15 as the music was still loud in our bedroom and people in and out.it was logged under incident number 605 date 9 december.

I was so tired that then fell asleep.

I am upstairs tonight watching xfactor as hubby watching football downstairs and through closed window and above tv their music is easily heard on each occasion door is opened.

It was last saturday that they were open till 12.30 at least.so it will be interesting to see if they shut or stop music at 11 or soon after tonight.

I was much reassurd after i had rang you from work at lunchtime on thursday.

Many thanks

[Redacted]

<https://mail.google.com/mail/?ui=2&ik=72901863dc&ui=opt&search=...>



Re: Weekend ?

1 message

Mon, Dec 19, 2011 at 9:04 AM

To: Dolby Darren <darren.dolby@peterborough.gov.uk>

Hi again

sorry about that I was trying to drink my coffee and email from my phone at the same time. Saturday I was going to say was fine until I went up to bed at about 10.20 and between then and when I fell asleep each time their door opened I could hear the thump of the music-an improvement on last Saturday though when we could hear it in the back room. I fell asleep before 11 so I don't know if it stopped then.

Last night-Sunday-I went up at 9pm to watch Michael Buble and was rather disgruntled that I could once again hear the music every time their door opened! and above that I fell asleep shortly after that finished at 10.30 so I don't know how long it went on for but I could hear it throughout the whole programme.

Considering when my friends left mid afternoon yesterday we saw a nice big notice in their window announcing Sunday karaoke We actually got off lightly I think...

So in general a much better weekend. I see that they have now removed some of the black out windows which made me smile!

I will fill in the noise log that Dorothy sent from the notes I have on my phone

[REDACTED]

How did the weekend go, was there any problems at 417 ??

Thanks

Darren Dolby

Licensing Regulatory Officer

Operations Directorate

Bayard Place

Broadway

[REDACTED]



417 lincoln road-music and opening hours

1 message

Sat, Dec 24, 2011 at 12:16 PM

to: grahame.robinson@cambs.pnn.police.uk

Hi

Darren Dolby passed on your email to me with regards to contact about the above address which i have the misfortune

I wasn't going to contact you over the festive holidays but as went out to the shop a while ago I saw that over the road had an official looking visitor outside on the phone and would like to think without sounding scrooge/grinch like it was one of your colleagues because to be honest yesterday evening as it went on they annoyed me more and more.

I am trying to get as much rest as i can over the holidays whilst off work and Im afraid that does mean I go to bed early. But i dont think that its unreasonable even though its before 11pm to be more than slightly miffed that through our shut windows and above the tv we could hear ever increasing and regularity of music from over the road.

I was asleep shortly after 11 and it had gone quieter literally just before then. However hubby said that when he came to bed later they was still open, and after talking to my friend a few doors away who like myself is keeping a noise log she also said that although the music wasn't as loud it definitely went on after 11 and made note of it.

On my log sheet i did note that on return from my sisters just before 8pm their door was wide open and music although not overly loud at that point could be heard. Funnily enough as we got out of the car and approached our front gate someone appeared and shut the door which made me smile-thinking to myself.too late ive clocked it! as I was told prior to them actually opening when i rang to voice my concerns that they were to have their doors and windows shut at all times!

Our computer is in our front room at front of the house and hubby said that prior to 11pm he could hear the music loud and clear even though he had skype headset on! Luckily I couldnt hear it until I went up to bed as we use the rear room of the house as our actual living room. This was an improvement as on previous weekends it has been easily heard in there as Im sure poor Darren who got the brunt of my emails has informed you.

It is the festive season but surely they still have to abide by their licencing hours..and should still be aware of the volume of noise at anytime of the day.

I know they are a priority on the CAN DO scheme so in some ways the more the holes they dig for themselves the better i guess.

Many thanks

Hope you dont have to work all over the festive time and sorry if i have sent this and you are on leave.

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Ref: 417 Lincoln Road / Licensed Premises

Thursday 09th February 2012

Darren Dolby
Regulatory Officer (Licensing)
Peterborough City Council
Bridge House
Peterborough
PE1 1HU



Dear Darren,

Re: Review Application – Bora Bora, 417 Lincoln Rd, Peterborough – Cambridgeshire Constabulary representation.

On 09th February 2012 Cambridgeshire Constabulary received notification from the Licensing Officers at Peterborough City Council of an application to review the premises license of Bora Bora, 417 Lincoln Road, Peterborough, PE1 2PF. The application has been submitted by Dorothy Pocock, Pollution Control Officer at Peterborough City Council. The review refers to 20 incidents of public nuisance related complaints concerning the playing of loud music reported by aggrieved local residents.

Cambridgeshire Constabulary wishes to make representation in support of Dorothy Pocock in relation to this review and ask the Committee to consider the following information.

Bora Bora, Premises License number 061965, is a café / coffee shop located at 417 Lincoln Road, Peterborough. The premises license holder is Bruno Silva of 308 Lincoln Road, Peterborough. The alleged Designated Premises Supervisor (DPS) is Robert Mulholland. The property is located within a residential area.

I would like to remind the committee that on 09th November 2011 Cambridge Constabulary took Bora Bora to review following Bruno Silva's application to extend the licensable hours of the bar to 04:00am on a Friday and Saturday. Information was that Mr. Silva was converting the premises into a night club and had no intention of running a café /coffee shop. I made representation in respect of the potential impact upon the residential community, what follows is an extract from that representation –

“I also believe that should the variation be granted then the quality of life for the local community will suffer. The premises is in a residential area with residents in very close proximity to the property. The applicant talks of sound proofing and an extension to the rear of the premises to take the impact away from Lincoln Road and the residential properties across the road. However, there are residential properties to the side and rear of this premises. In addition, there is likely to be a detrimental impact to local residents when clients would leave the premises at such late hours.

Extending the licensable area to include the rear of the property indicates that persons will congregate outside and ultimately bring some form of noise element with them. Potentially persons turned out onto the street at varying times through the night will have a severe and detrimental impact amongst those who live nearby. I believe this will quickly turn into a nuisance to the public and residents. The substance of the application indicates that there will be loud club music. Considering the residential position of the club this would be highly inappropriate and no amount of conditions would help the proprietor adhere to the principles of licensing”.

The Committee found in favour of the Police objection and the license extension was rejected. Since that time the Licensing authority has worked closely with Mr. Silva and given him the best possible advice in relation to his license and the premises. Mr. Silva has chosen to ignore any advice given by the Police or Council and has pressed ahead with converting Bora Bora into a night club. The venue does not have planning permission for this venture and I believe at the time of writing no application has been submitted for planning permission.

Whilst waiting for the premises license to be issued, and despite being given best advice against the TEN application Mr. Silva ignored this and submitted 4 temporary event notices for the following times –

- Friday 02nd & Saturday 03rd December 2011 – 09:00am to 02:00pm
- Sunday 04th December 2011 – 09:00am – 00:00pm
- Thu 08th December 2011 – 09:00am – 00:00pm
- Fri 09th & Sat 10th December 2011 – 09:00am – 02:00pm
- Sun 11th December 2011 09:00am – 00:00pm.

This resulted in myself making representation against the TEN applications. Mr. Silva eventually agreed to maintain the TEN until 23:00pm. On Friday 09th December 2011 at 23:30 hours Mr. Dolby from Peterborough Licensing Authority and I conducted an unannounced visit. I could clearly hear loud music coming from the venue despite the front door being closed. A check of the CCTV at the location revealed that bar staff were still serving customers alcohol at 23:30 hours – 30 minutes after his premises license allows him to serve. I have retained a copy of the CCTV as evidence which can be made available to view. As a result of this infringement I have had to task Police Officers to attend the venue every Friday and Saturday night to ensure compliance with the licensing act. No further breaches were reported. Ultimately it is not down to allocating Police resources to ensure compliance of a premises license, but for the license holder and a competent DPS to ensure compliance.

On Tuesday 07th February 2012 I attended Bora Bora in the company of Darren Dolby and Dorothy Pocock. Whilst at the premises I became concerned that every time I had visited the property I had never seen the DPS. Mr. Silva could not make contact with the DPS. He informed me that he did not have his phone number and could not answer me directly as to how he would contact him. He even suggested that the DPS only comes to the venue at ten o'clock at night. I made enquiries with Mr. Andrews from Peterborough County Council Licensing Authority and established a phone contact for the DPS. It was the same number as the phone which was in the possession of Bruno Silva. I reasonably believe that Mulholland does not have a day to day knowledge of the running of the business and as such not an appropriate DPS. At 15:38pm on 07th February 2012 I issued Bruno Silva with a Section 19 Closure Notice for the above reasons. On 08th February 2012 I had a phone conversation with Mr. Mulholland. It was established that he agreed to be Bruno Silva's DPS in November, until Silva had attained his personal license and then the DPS would change over. It appears that Silva told Mr. Mulholland that he had acquired his personal license. As such Mr.

Mulholland has nothing to do with Bora Bora and was therefore not a credible DPS.

Furthermore it was established that the venue has no land line telephone point installed and there was no mobile phone signal within the venue. This I believe is a clear and present risk to public safety. If there was to be an issue at the venue then a person would have to vacate the premises and wait outside for a phone signal before summoning assistance.

Cambridgeshire Constabulary supports the review application submitted by Dorothy Pocock and Peterborough City Council Pollution Control Team. It is clear to see that despite numerous warnings and constant advice Bruno Silva has not acted in best interests of the principles of licensing. It is evident that this premises and lack of proper control is causing a persistent public nuisance to local residents and the community.

Cambridgeshire Constabulary recommends to the Licensing Committee that 'Live and Recorded music is removed from the license'. In the interest of Public Safety where there is a license in place that a 'Landline telephone' be fitted within the premises in order to expedite calls for service should the need arise.

Yours faithfully,

Grahame Robinson
Police Constable 1572
Licensing Officer
Northern Division
Cambridgeshire Constabulary
Tel: 0345 456 4564 Xtn:4438
Email: grahame.robinson@cambs.pnn.police.uk
Mobile: 07921095030

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APPENDIX D

LICENSING ACT 2003
NOTICE OF REVIEW OF PREMISES LICENCE

Notice is given that Peterborough City Council, as the Licensing Authority, has on the 7th of February 2012 been asked to review the Premises Licence for the following licensed premises:

Bora Bora, 417 Lincoln Road, Peterborough, PE1 2PF

The grounds for review are made by 'Pollution Control PCC Neighbourhoods' under the Licensing Objective 'Public Nuisance'

Anyone wishing to make representations concerning this review should do so in writing to:

Peterborough City Council, Licensing Section, Bayard Place, Broadway, Peterborough, PE1 1HZ

Representations in respect to this review must reach the Licensing Authority by 6th March 2012

Persons wishing to inspect the review application may do so by attending the office of the licensing section during office hours, Monday to Friday. Alternatively the review application may be viewed on the public register section of the Licensing Authorities website,

<http://www.peterborough.gov.uk/page-5436>

It is an offence knowingly or recklessly to make a false statement in connection with an application, the maximum fine for which on summary conviction is £5000

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