

**Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on 22 November 2018**

RECORD OF PROCEEDINGS

1. Apologies for Absence	There were no apologies for absence received.
2. Declarations of Interest	There were no declarations of interest.
3. Application	New Premises Licence
3.1 Application Reference	077885
3.2 Sub-Committee Members	Councillor Nawaz Councillor Hiller Councillor Saltmarsh
3.3 Officers	Simon Andrews, Regulatory Officer Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Daniel Kalley, Senior Democratic Services Officer – Clerk to the Sub-Committee
3.4 Applicant	Ponte De Amigo - 40 Russell Street, Millfield, Peterborough, PE1 2BQ
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Application for a new premises licence.</p> <p><u>Authorisations and Times Applied For</u></p> <p>Sale of alcohol for consumption off the premises only</p> <ul style="list-style-type: none"> • Monday to Sunday 8am to 10pm <p>Recorded Music</p> <ul style="list-style-type: none"> • Monday to Sunday 8am to 10pm <p>Opening hours of premises</p> <ul style="list-style-type: none"> • Monday to Sunday 8am to 10pm
3.6 Licensing Objective(s) under which representations were made	<ol style="list-style-type: none"> 1. The Prevention of Crime and Disorder 2. The Prevention of Public Nuisance 3. The Protection of Children from Harm 4. Public Safety

<p>3.7 Parties/Representatives and witnesses present</p>	<p><u>The Licensing Authority</u></p> <p>The Regulatory Officer, who presented the case on behalf of the Licensing Authority.</p> <p><u>Applicant</u></p> <p>The applicant/representative</p> <p>Maria Marcelo and Eduardo Vieira</p> <p><u>Ward Councillor</u></p> <p>Jamil and Iqbal</p> <p><u>Other Persons</u></p> <p>Mr Ferris</p>
<p>3.8 Pre-hearing considerations and any decisions taken by the Sub-Committee relating to ancillary matters</p>	<p>There were no pre-hearing considerations.</p>
<p>3.9 Oral representations</p>	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application. The key points raised in his address included the representation submitted against the application by local residents.</p> <p>Cambridgeshire constabulary had submitted a representation as well in writing. The application was for the sale and consumption of alcohol from Monday to Sunday 8am - 10pm.</p> <p>There had been no response to attempted mediation from the applicant's side.</p> <p><u>Applicant/Representative</u></p> <p>The applicant's representative addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:</p> <ul style="list-style-type: none"> • Regarding the issue over whether the premises was one building or had been partitioned, it was confirmed that although this was the same building the entrance had moved onto Russell Street. The current occupiers had no previous involvement with issues raised in the past or the revocation of the old premises licence. the new owners should be given a fair chance, past trouble was down to people who managed the place in the past. • There was an awareness of the local issues and an understanding of previous trouble in

the past. If there were any issues the owner would assist the Police and any other responsible authority. There was the provision of CCTV which could be accessed at any time. The current owners had been at the premises for 11 months and no trouble had been reported.

- The applicant believed that they should be granted a licence and had met all the requirements laid out by law. Customers within the restaurant would abide by the rules.
- If anyone showed signs of consuming too much alcohol the owners would refuse to sell that individual any further alcoholic drinks. When leaving the premises customers would be made aware that they needed to avoid making any noise nuisance to local residents.
- The applicant confirmed that they had accepted the revised hours to sell alcohol and were willing to alter the start time in selling alcohol from 8am to 9am.
- The reason for wanting a licence to sell alcohol was to help support the business and for customers to relax with a drink while they consumed a meal. The culture was to create a more relaxed atmosphere within the venue.

Ward Councillor

Cllrs Jamil and Amjad Iqbal addressed the Sub-Committee. The key points raised during their address, and following questions from the Sub-Committee were as follows:

- Cllr Iqbal confirmed that he was the landlord of premises in question, however he was to address the committee with objections to granting the licence. There had been a history of disturbance and nuisance when the premises had a licence previously. Since the old licence had been revoked there had been no problems in the area locally.
- Cllr Jamil confirmed that the original licence had been revoked around 2013-14 following a riot that took place outside the premises. Although it was confirmed that this had nothing to do with the current applicant.
- The issues was around the lack of guarantee that there would not be any further incidents with a licence granted. There had been no issues since the old licence had been revoked. A new licence would more than likely lead to future incidents, especially as this premises was in the 'operation - can do' area.
- Residents living close by had made representations against the premises having a licence. Parents in the local area had to put up

with a number of off-licences which caused enough issues. The granting of a licence would act as a magnet for homeless people and drug users.

Other Persons

Mr Ferris addressed the Sub-Committee. The key points raised during his address, and following questions from the Sub-Committee were as follows:

- There were already a number of licensed premises in close proximity including some only 250-300m away.
- Local residents had made a number of complaints and raised concerns over the property being granted a licence. There had been no reported issues recently due to the fact that no premises had been granted a licence.
- Residents were concerned that the granting of a licence would cause future issues and would be targeted by drug users and spark an increase in crime in the area.
- There had been discussions from the applicant over proposed conditions that had been suggested by the Police or the local authority. If the application was to be permitted then a number of conditions would need to be applied for it to work.
- There were issues around public safety, the area was heavily congested with cars.
- It was local residents understanding that the premises was to be used as a restaurant, serving meals and light snacks, in the style of a continental restaurant. It was possible that the local community were unaware of the style of restaurant being run.

Summing Up

All parties were given the opportunity to summarise their submissions.

Other Persons

Mr Ferris reiterated the concerns of local residents and that the licence should only be granted if a number of conditions were imposed.

Ward Councillor

Councillor Jamil and Amjad Iqbal commented that previous issues in the area would reappear if the licence was granted.

	<p>Applicant's Representative</p> <p>Mr Vieira stressed that the purpose behind the licence application was to help sustain the business and help it grow. In addition it was to improve the atmosphere and the experience for customers by having the licence in place.</p>
<p>3.7 Written representations and supplementary material taken into consideration</p>	<p><u>Applicant</u></p> <p>Consideration was given to the application for a Premises Licence, attached to the Sub-Committee report.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submission attached to the Sub-Committee report from local residents.</p>
<p>3.8 Facts/Issues in dispute</p>	<p><u>Issue 1</u></p> <p>Whether the premises licence application would further support the 'Prevention of Crime and Disorder' Licensing Objective.</p> <p><u>Issue 2</u></p> <p>Whether the premises licence application would further support the 'Prevention of Public Nuisance' Licensing Objective.</p> <p><u>Issue 3</u></p> <p>Whether the premises licence application would further support the 'Protection of Children from Harm' Licensing Objective.</p> <p><u>Issue 4</u></p> <p>Whether the premises licence application would further support the 'Public Safety' Licensing Objective.</p>
<p>4. Decision</p>	<p>The Sub-Committee listened to all the evidence put before it and also took into account the contents of the application and all representations and submissions made in relation to it. The Sub-Committee found as follows:-</p> <p>The Sub-Committee considered the representations made today and in writing from:</p> <ul style="list-style-type: none"> • Cambridgeshire Constabulary (did not attend) • Councillors Jamil and Amjad Iqbal • Mr Ferris, Community Centre Manager, Gladstone Connect Ltd

The Sub-Committee during deliberations, ignored irrelevant matters that do not impact on one or more of the licensing objectives, and which should not be taken into account for cumulative impact purposes.

The Sub-Committee were informed that residents were concerned with the application due to existing problems in the area associated with early morning drinking.

The Sub-Committee noted that there were no representations in support of the application.

A summary of the issues raised to the Sub-Committee included:

- the premises are situated within a Special Policy Zone (Cumulative Impact)
- the premises are situated in a residential area
- sufficient premises in the immediate area that operate in a similar manner

The Sub-Committee were referred to the Statement of Licensing Policy and the Government Guidance, in particular:

(Within the guidance)

14.30 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application.

14.36 A special policy should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example,

while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

The Sub-Committee considered the Representations from the police and noted the recommendations therein.

The police had provided further conditions, contained within their letter dated 25th October 2018.

Also, the police had suggested that there should be 'on', sales only, with reduced times for selling alcohol and for opening times.

These were for opening, 9:00am to 9:30pm, and for the sale of alcohol 9:00am to 9:00pm daily.

The Sub-Committee considered that there cannot be a late night licence given the opening times applied for, and there was no need for recorded music to be licensed as this had been incidental to the main function of the business, that being providing food for consumption on the premises.

The Decision

The Sub-Committee were informed that there were three similar premises within 500 metres of the this premises, and that there had been sufficient like premises to meet resident's requirements in this area.

The Sub-Committee believed that if granted, the premises would add to the cumulative impact and that in any event, the operating schedule would not avoid this.

Therefore, the application for a licence for the premises, known as Ponte de Amigo, 40 Russell Street, Millfield, Peterborough, PE1 2BQ was **REFUSED**.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days.

The Chairman advised residents that if they were unhappy with the operation of the premises licence they could seek a review of the licence.