

**PETERBOROUGH CITY COUNCIL
LICENSING ACT 2003 SUB-COMMITTEE**

DATE OF HEARING	Thursday, 18 August 2011
PANEL MEMBERS	Councillor Dobbs (Chair) Councillor Simons Councillor Swift
APPLICATION TYPE/REF	Review of Premises Licence MAU 061530
LICENSEE	Mr Joaquim Mendes
ADDRESS	92a Gladstone Street, Peterborough, PE1 2EG

PREMISES DETAILS	Marisqueira, 62 Cromwell Road, Peterborough, PE1 2EG	
LICENSEE HEARD		No
LICENSEE REPRESENTED		No
WITNESSES FOR LICENSEE		No
THE FOUR LICENSING OBJECTIVES		
Prevention of crime and disorder	Public safety	
Prevention of public nuisance	Protection of children from harm	
LICENSING OBJECTIVES UNDER WHICH REPRESENTATIONS WERE MADE		
Prevention of crime and disorder		
Prevention of public nuisance		

Signed Councillor Dobbs.....Chairman

Date 18 August 2011.....

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REPRESENTATIONS: RESPONSIBLE AUTHORITIES & INTERESTED PARTIES ATTENDING AND/OR INTENDING TO SPEAK		
NAME/DETAILS	ATTENDING	SPEAKING
Mr Mohammed Saeed	Yes	Yes
Mrs Rukhsana Kauser	Yes	Yes
Ms Iwona Wojszczyk, Pollution Control	No	No
CI Kevin Vanterpool	Yes	Yes
Councillor Nazim Khan	Yes	Yes
Mr Mohammed Sabil	Yes	Yes
Mr Sohail Rashid	No	No

Signed Councillor Dobbs.....Chairman

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The Sub-Committee has read the report and relevant material and listened to all the evidence and submissions. The Sub-Committee has also considered the national guidance and the council's statement of licensing policy.

FINDINGS OF FACT

The Sub-Committee finds the following facts:

1. The Sub-Committee heard evidence relating to a noise nuisance emanating from the premises over an extended period of time. Such incidents included loud music, shouting and fighting in the street late at night and other such drunken behaviour. Loud music was affecting the sleep of some residents in the early hours of the morning.
2. Given the nature of the noise, the location of the premises with residential premises and other commercial premises, the Sub-Committee were of the view that a public nuisance was in existence.
3. The Sub-Committee read evidence from the residents who had made complaints of noise nuisance and criminality. The Sub-Committee referred to log sheets detailing incidents.

IRRELEVANT REPRESENTATIONS

There were no irrelevant representations.

Signed Councillor Dobbs.....Chairman

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<p>DECISION MADE</p> <p>Review of Premises Licence</p>	<p>The Sub-Committee has considered the relevant representations made today and previously submitted in line with the licensing objective.</p> <p>During the Sub-Committee's deliberations we have had regard to the Government Guidance, in particular to Chapter 11 and our own Statement of Licensing Policy.</p> <p>The premises licence holder was not present and the Sub-Committee heard no representations against the review.</p> <p>Our decision therefore is:</p> <ol style="list-style-type: none"> 1. To reduce the opening hours of the premises, to be: <ul style="list-style-type: none"> • Sunday to Thursday 10.00 - 23.00 • Friday and Saturday 10.00 - 00.00 2. To reduce the hours of live music, to be: <ul style="list-style-type: none"> • Sunday to Thursday 12.00 - 22.00 • Friday and Saturday 12.00 - 23.00 3. The hours of recorded music to be in line with the opening hours; 4. The hours of dancing to be: <ul style="list-style-type: none"> • Sunday to Thursday 12.00 - 22.00 • Friday and Saturday 12.00 - 23.00 5. Provision of facilities for making music and dance: <ul style="list-style-type: none"> • Sunday to Thursday 12.00 - 22.00 • Friday and Saturday 12.00 - 23.00 6. The hours of late night refreshment to be in line with the opening hours; 7. The sale of alcohol to be: <ul style="list-style-type: none"> • Sunday to Thursday 10.00 - 23.00 • Friday and Saturday 10.00 - 00.00 <p>The decision is suspended for 21 days to allow an appeal to the Magistrates' Court, and thereafter until the determination of that appeal.</p>
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Signed Councillor Dobbs.....Chairman

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ADDITIONAL CONDITIONS ATTACHED (if any)

1. *Conditions set out in the operating schedule (as amended or otherwise)*
2. *Additional conditions (if any) proposed by responsible authorities*
3. *Additional conditions proposed by applicant*
4. *Additional conditions arising from issues considered by the Sub-Committee in respect of any relevant representations*
5. *Any further conditions considered necessary for the promotion of the Licensing Objectives*

No additional conditions imposed.

Signed Councillor Dobbs.....Chairman

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REASONS FOR DECISION, LINKED TO FINDINGS OF FACT

In view of the Findings of Fact and submissions made, the Sub-Committee was satisfied on a balance of probability and considering all the circumstances that it was appropriate to review the Premises Licence and to reduce the opening hours of the premises and to reduce the operating hours for licensable activities.

SECTIONS OF THE NATIONAL GUIDANCE AND THE COUNCIL'S STATEMENT OF LICENSING POLICY REFERRED TO IN THE SUB-COMMITTEE'S DECISION:

Council's Statement of Licensing Policy

- Fundamental Principles: *section 6 on Page 6*
- Other Regulatory Systems / Policies: *section 8 page 7*
- Reviews: *section 16 on Page 12 and 13*
- Delegation / Decision Making / Administration: *Section 17 page 13 and 14*

Guidance issued under Section 182 of the Licensing Act 2003

- Public Nuisance: *Section 2.32 to 2.40 pages 23 to 25*
- Crime & Disorder : *Pages 18 to 21*
- Reviews: *Section 11 pages 98 to 102*
- Determining applications: *Section 9 pages 78 to 81*

Signed Councillor Dobbs.....Chairman

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LEGAL ADVICE GIVEN DURING DELIBERATION

Signed Councillor Dobbs.....Chairman

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CRIME AND DISORDER ACT 1998	Were there any implications under this Act? If so give details
<i>Section 17 imposes a duty to have due regard to the likely effect of the exercise of its functions and to do all it can to prevent crime and disorder.</i>	
Human Rights Act 1998	How were the following articles considered
Article 1 – <i>Every person is entitled to the peaceful enjoyment of his possessions.</i>	The Sub-Committee read the report and relevant material and listened to the evidence and submissions. The national guidance and the Council’s statement of Licensing Policy were also considered.
Article 6 – <i>Everyone is entitled to a fair trial</i>	The Sub-Committee read the report and relevant material and listened to the evidence and submissions. The national guidance and the Council’s statement of Licensing Policy were also considered.
Article 8 – <i>Everyone has the right to respect for his private and family life, his home and his correspondence.</i>	The Sub-Committee read the report and relevant material and listened to the evidence and submissions. The national guidance and the Council’s statement of Licensing Policy were also considered.
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The applicant, together with relevant authorities and interested parties who made representations, has the right to appeal against this determination. There is a period of 21 days from the notification of this decision to commence an appeal by giving notice to the Justices’ Chief Executive for the Magistrates’ Court. Details will be sent to the relevant parties with the written notice of this decision forthwith.

Signed Councillor Dobbs.....Chairman

Date 18 August 2011.....