

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
16 SEPTEMBER 2013		PUBLIC REPORT
Contact Officers:	Adrian Day, Licensing Manager Darren Dolby, Licensing Regulatory Officer	Tel: 454437 Tel. 453561

APPLICATION: Review of Premises Licence

PREMISES: Marisqueira, 62 Cromwell Road, Peterborough, PE1 2EG

REFERENCE NUMBER: MAU 067710

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

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 submitted by the Pollution Control Team in their capacity as a Responsible Authority. Representations have also been received from Cambridgeshire Constabulary, a local Councillor and 8 local residents in their capacities as ‘other persons’. The review was bought under the licensing objective of ‘the prevention of public nuisance’.

2. BACKGROUND INFORMATION

2.1 On the 25th July 2005 a conversion application was submitted by Mr Giovanni Tomeo to convert a Justices restaurant licence to a premises licence. At that time of conversion the premises was called Marisqueira. As there were no objections from the police, the licence was granted on 22nd August 2005. Mr Tomeo was named on the licence as the Designated Premises Supervisor.

2.2 On the 18th December 2007 an application to change the name of the premises to ‘Sopranos’ was received and subsequently was granted.

2.3 On the 3rd March 2008 an application to vary the premises licence was received. This application was to remove the majority of the embedded restrictions, add dancing to the licence and to increase the hours for live music and the sale of alcohol until 3am. A representation from the Noise Pollution team was successfully mediated out. As there were no other representations received the application was granted on the 1st April 2008.

2.4 On the 24th February 2009 an application to vary the Designated Premises Supervisor on the premises licence was received. The application was to place Mrs N Cascalheira on the licence and remove Mr Tomeo with immediate effect. As no representations were received, the application was granted.

- 2.5 On the 24th June 2009 an application to vary the Designated Premises Supervisor back to Mr Tomeo with immediate effect was received. As no representations were received the application was granted.
- 2.6 On the 25th August 2009 a minor variation to the premises licence was applied for by Mr Tomeo. This application was to change the layout plan of the premises and to increase the conditions on the licence. As no representations were received, the application was granted.
- 2.7 On the 10th December 2009 an application to transfer the premises licence to Mr Joaquim Mendes was applied for. An additional application was also received to place Mr Mendes on the licence as the Designated Premises Supervisor. As no representations were received both applications were granted
- 2.8 On 5th July 2011 the South Central East Residents Association (SCERA) applied to the Licensing Authority to review Marisqueira's premises licence. The review was brought under the licensing objectives of crime & disorder and public nuisance and was supported by Cambridgeshire Constabulary. A review hearing was held on 18th August 2011 and the Committee decision sheet can be found at **Appendix B – Page 9**.
- 2.9 On 6th December 2011 an application to transfer the premises licence to Mr Paulo Manuel De Freitas was applied for and granted. On 16th January 2012 an application to transfer the designated premises supervisor on the premises licence to Me Pedro was applied for and subsequently granted.
- 2.10 On 14th September 2012 an application to transfer the designated premises supervisor on the premises licence to Miss Ivone Coelho was applied for and granted. A copy of the current premises licence can be found at **Appendix C - Page 17**.

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 Noise Pollution Team, a Responsible Authority, the licensing authority must hold a hearing.
- 3.2 A copy of the application to review served by the Pollution Control Team was received 22nd July 2013, a copy of this application is attached at **Appendix D – Page 29**.
- 3.3 Representations in support of the review and recommendations were received from Cambridgeshire Constabulary as a Responsible Authority, a local Councillor and 8 local residents. Copies of these representations are attached at **Appendix E – Page 41**.
- 3.5 No other representations have been received from any of the remaining Responsible Authorities, those being, the Licensing Authority, Local Health Authority, Cambridgeshire Fire and Rescue, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Children's Services, or Trading Standards.

4. RESPONSIBLE AUTHORITIES

4.1 Summary of issues raised by Responsible Authorities

- i. Continued breaches of premises licence conditions.
- ii. Poor management of the premises.
- iii. Continued issues with loud music and anti-social behaviour from the premises.

5. OTHER PERSONS

5.1 Summary of issues raised by Other Persons

- i. Continued issues with loud music from the premises
- ii. Increase with litter issues near to premises
- iii. Increase in anti-social behaviour in and near the premises

6 Mediation

6.1 No mediation has taken place.

7. POLICY & GUIDANCE IMPLICATIONS

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

7.2 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*

7.3 Guidance Issued under Section 182 of the Licensing Act 2003 (October 2012)

- Reviews: *Section 11 pages 75 to 80*
- Determining applications: *Section 9 pages 58 to 64*

8. LEGAL OFFICER'S COMMENTS

8.1 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.

8.2 In this case, the application was received at these offices on 22nd July 2013.

8.3 The application before this committee will consider –

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

8.4 The committee will take such steps as it considers that are appropriate 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

8.5 In addition Section 11.17 and 11.18 of guidance issued under section 182 of the Licensing Act 2003 states:

'The licensing authority may decide that the review does not require it to take any further steps appropriate 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 period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that

the licensing objectives are effectively promoted and that warnings should be in issued in writing to the licence holder.

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – 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 and should take this into account when considering what further action is appropriate.

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

‘Child’

(a) means an individual aged under 16

(b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

DCMS: Department for Culture Media and Sport

‘Designated Premises Supervisor’ means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

‘Other Persons’:

- persons who live, or are involved in a business, in the relevant licensing authorities area and who are likely to be affected by the application and are not a Responsible Authority.

‘Late Night Refreshment’ means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

‘Licensable Activities’ means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

‘Licensing Authority’: - is the licensing function of Peterborough City Council

‘Licensed Premises’ includes club premises and events unless the context otherwise requires.

‘Licensing Objectives’

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

‘Operating Schedule’ means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

‘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.

‘Relevant Licensing Authority’: is the Authority in the area the premises are situated.

‘Responsible Authority’ means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children’s Services – Child Protection & Review Manager
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

‘Supply of alcohol’:

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

‘Temporary Event Notice’ means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year, and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

‘the Act’: means the Licensing Act 2003