

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
20 JANUARY 2012		PUBLIC REPORT
Contact Officers:	Adrian Day, Licensing Manager, Darren Dolby, Licensing Regulatory Officer	Tel: 454437 Tel. 453561

APPLICATION: NEW PREMISES LICENCE

LICENCE REFERENCE: MAU 062433

APPLICANT: Mr Alberto Manuel Passos

PREMISES: Steps Café, 94 Gladstone Street, Peterborough. PE1 2BL

GLOSSARY OF TERMS: Attached at **Appendix A – Page 6**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for Steps Café, 94 Gladstone Street, Peterborough, PE1 2BL taking into account the representations received from local residents in their capacity as interested parties.

2. BACKGROUND INFORMATION

2.1 On the 20th October 2006 a new application for a premises licence for 94 Gladstone Street was submitted by Mr Joaquim Mendes. As no objections were received the licence was granted. The premises operated as a café / sandwich shop. A copy of this original licence can be found at **Appendix B – Page 9**.

2.2 On the 14th December 2009 the premises licence for this premises was surrendered by Mr Mendes. No reason for the surrender of the licence was given by Mr Mendes.

3. SUMMARY OF AUTHORISATIONS APPLIED FOR

- 3.1 i) To allow the retail sale of alcohol from Monday to Saturday from 7am to 11pm.
- ii) To allow the retail sale of alcohol on Sunday from 9am to 11.pm..

3.2 The timing of these authorisations was amended by the applicant after mediation. The new timings are as follows :

- i) To allow the retail sale of alcohol from Monday to Sunday from 9am to 9pm.

4. APPLICATION & PROPOSED CONDITIONS

4.1 Please refer to the application attached at **Appendix C - Page 19**.

4.2 The applicant has proposed the following conditions be placed upon the licence to meet the four licensing objectives. For clarity and as per paragraph 8.42 of the guidance, these conditions have been translated in to clear and understandable conditions.

4.3 **The Prevention of crime and disorder**

i) CCTV equipment shall be installed inside/outside the premises and maintained in working order.

ii) CCTV equipment will be set to record all licensed areas from the time that the premises open to the public until the premises closes and all members of the public have left

iii) Digital images shall be retained for at least 31 days and shall be produced to an authorised officer on demand

iv) Notices advising that CCTV has been installed on the premises shall be posted up so that they are clearly visible to the public within the licensed premises.

v) An authorised person will be available at all times on the premises to show CCTV images immediately or to an authorised officer on demand.

vi) CCTV images will be clear and comprehensible

vii) Any new/existing CCTV system in place will be cleared for use by the Police/Licensing Authority

viii) A log book recording all incidents of crime and anti social behaviour will be maintained and will be available to an authorised officer.

ix) The premises licence holder shall ensure participation in the local pubwatch (or equivalent organisation) scheme operating in the area.

4.4 **Public Safety**

i) A fire risk assessment required under the Regulatory Reform (Fire Safety) Order 2005 (as amended) will be completed and be available for inspection by an authorised officer.

4.5 **The prevention of public nuisance**

i) Only 'background' music will be played at the premises.

ii) 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.

iii) Customers will be encouraged by Steps management and staff to disperse from the area promptly.

iv) Taxi company numbers will be made available to customers to assist in their safe and quiet dispersal from the premises.

4.6 **The protection of children from harm**

i) The 'Challenge 25' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises

ii) Signage will be prominently placed within the premises advertising the fact that the premises operates the 'Challenge 25' initiative

iii) Written staff training records will be documented and updated on a monthly basis. These training records will be produced to an authorised officer on demand

iv) Alcohol will not be stored on the lower shelves of the premises

4.7 Representations have been received from 5 local residents and a petition containing 31 signatures of local residents. These representations from interested parties are under the prevention of crime and disorder and the prevention of public nuisance. These representations are attached at **Appendix D – Page 35**.

4.8 No valid representations have been received from any of the other Responsible Authorities i.e. Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue Service, Peterborough Trading Standards, Peterborough City Council Planning Department, Peterborough City Council Health and Safety Team and Peterborough City Council Child Protection.

4.9 At the time of writing this report there is no valid designated premises supervisor on the licence application. The applicant, Mr Passos, has completed the paperwork to consent to being the designated premises supervisor but as it appears that he does not hold a personal licence issued under the Licensing Act 2003 he therefore cannot be the designated premises supervisor.

5. RESPONSIBLE AUTHORITIES

5.1 Summary of issues raised:

- Anti social behaviour will increase in the area.
- An increase in litter, including broken bottles, in the area.
- An increase of noise in the area.
- Potential health issues due to secondary tobacco smoke from customers smoking outside the premises.
- Parking issues near the premises

6 MEDIATION

6.1 Mediation has taken place and as a result the applicant has agreed to amend the application with a change in the authorisation hours for the sale of alcohol and to add conditions to appease noise pollution concerns. The new hours for the retail sale of alcohol are:

Monday to Sunday 9.00am to 9.00pm

6.2 The following additional conditions were agreed to be placed on the premises licence, if granted, by the applicant :

1. Noise Control Measures

The holder of the premises licence or a nominated representative shall take reasonable steps to prevent and control noise nuisance caused by persons using the Licensed Premises and also ensure patrons and visitors arrive and depart from the premises in a manner which will not cause annoyance to nearby residents.

2. Noise Control Measures

Prominent, clear notices shall be displayed at all exits and outside trading area's, requesting customers and staff to respect the needs of local residents and leave the premises and the area quietly. Staff must be given adequate instruction and training to prevent them causing unnecessary noise when they leave the premises.

3. Noise Control Measures

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

4. Noise Control Measures

The placing of bottles into receptacles outside the premise shall take place at times that will minimise disturbance to nearby properties.

5. Noise Control Measures

There will be no live or recorded music at the premises. The only music will be of a 'background' level.

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 8
- Fundamental Principles, section 6 on Page 9
- Licensing Hours, section 8 on Page 12
- Other Legislation, section 10 on Page 14
- Licence Conditions, section 13 on Page 16 and 17
- Delegation / Decision Making / Administration, Section 16 on page 18 and 19

7.3 Guidance Issued under Section 182 of the Licensing Act 2003 – October 2010

- The Licensing Objectives, section 2 pages 18 to 25
- Determining applications, section 9 Pages 78 to 81
- Conditions attached to premises licences, section 10 pages 83 to 96
- Pools of conditions, Annex D page 133 to 149

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 the variation of a premises licence made under Section 34 of the Licensing Act.

8.2 In this case, the application was received at these offices on 29th November 2011.

8.3 The application before this committee will be treated on its own merits, and the Licensing committee will make its decision based upon:

- The merits of the application
- The promotion of the four licensing objectives
- The statement of policy of the Licensing Authority
- The Guidance issued by the Secretary of State for Culture, Media and Sport March 2010 under section 182 of the Licensing Act 2003.

8.4 The licensing authority may determine the application, depending upon what is necessary for the promotion of the licensing objectives, in any of the following ways:

- decide to grant or vary the licence in the same terms as it was applied for
- decide to grant or vary the licence, but to modify or add conditions (to promote the licensing objectives);
- exclude from the scope of the licence a licensable activity
- decide to refuse to vary the licence

8.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

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 e.g. a Councillor

‘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