

Meeting of the Licensing Act 2003 Sub-Committee
 held at the Town Hall, Peterborough on Monday 16 September 2013

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	Review of Premises Licence – Marisqueira, 62 Cromwell Road, Peterborough, PE1 2EG
3.1 Application Reference	MAU 067710
3.2 Sub-Committee Members	Councillor Thacker (Chairman) Councillor Peach Councillor Saltmarsh
3.3 Officers	Darren Dolby, Regulatory Officer – Licensing Colin Miles, Lawyer – Legal Advisor to the Sub-Committee Karen S Dunleavy, Governance Officer – Clerk to the Sub-Committee
3.4 Applicant	Trading Standards
3.5 Nature of Application	<p><u>Application Type</u></p> <p>Review of existing premises licence.</p> <p><u>Summary of Review Application</u></p> <p>In accordance with section 51 of the Licensing Act 2003, following the submission of an application to review the premises licence from Pollution Control, a Responsible Authority, the licensing authority was required to hold a hearing.</p> <p>The application to review, served by Pollution Control, was received on 22 July 2013, which had included three witness statements from local residents.</p> <p>A representation in support of the review and recommendations had been received from Cambridgeshire Constabulary, a Ward Councillor and 8 local residents.</p> <p>A summary of the issues raised within the representations included:</p> <ol style="list-style-type: none"> 1. Continued breaches of premises licence conditions; 2. Poor management of the premises; and 3. Continued issues with loud music and anti-social behaviour from the premises. <p>Further representations were received from Councillor Nadeem, Central</p>

	<p>Ward Councillor and eight local residents in their capacity as ‘Other Persons’ had been received. A summary of the issues raised included:</p> <ol style="list-style-type: none"> 1. Continued issues with loud music from the premises; 2. Increase with litter issues near to premises; and 3. Increase in anti-social behaviour in and near the premises.
<p>3.6 Licensing Objective(s) under which representations were made</p>	<p>1. The Prevention of Public Nuisance.</p>
<p>3.7 Parties/Representatives and witnesses present</p>	<p><u>Applicant / Responsible Authority</u></p> <p>Mr Richard Bowler, who presented the case on behalf of Pollution Control.</p> <p><u>Responsible Authorities</u></p> <p>PC Grahame Robinson, who was present on behalf of Cambridgeshire Constabulary.</p> <p><u>Ward Councillor</u></p> <p>Councillor Mohammed Nadeem</p> <p><u>Other Persons</u></p> <p>Councillor Mohamed Jamil, speaking on behalf of Zaf Iqbal, local resident.</p> <p>Mr Aslam Ismail, local resident.</p> <p>Mohammed Kamran, local resident</p> <p>Mohammed Rashid, speaking on behalf of Saeeda Rashid, local resident.</p> <p><u>Licensee / Representative</u></p> <p>Licensee was not in attendance. The Licensee’s representative joined the meeting at 1.40pm.</p>
<p>3.8 Oral representations</p>	<p>The Regulatory Officer addressed the Sub-Committee and outlined the main points with regards to the application.</p> <p><u>Applicant / Responsible Authority</u></p> <p>Richard Bowler, Pollution Control Officer, 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"> • There had been consistent playing of loud music over the weekends; • Doors and windows had been left open by the premises at the time of playing loud music; • Diary sheets had been submitted by local residents, which had demonstrate that music was being played after the licensable hours; • Pollution Control recommend that the Designated Premises

Supervisor (DPS) be removed from the premises;

- There had been no issues with the illicit or under age sales of alcohol;
- Three recordings of the loud music disturbances were retrieved, which had been recorded by a property adjacent to Marisqueira; and
- There had been no reports of crime related arrests linked to the premises.

Responsible Authority – Cambridgeshire Constabulary

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

- The Police had visited the premises - Marisqueira on many occasions and had attempted to work with the establishment in persuading them to comply with the licensing rules;
- There had been growing tension building in the Community over how the Marisqueira was conducting their business;
- There had been no drug related arrests made; and
- At a temporary event held at the Marisqueira establishment on 12 and 13 July 2013, the doors and windows were open at the time of playing loud music and following a visit from PC Gary Johnson, it had been identified from CCTV footage that there were people dancing inside and outside the premises after the permitted licensing hours.

Other Persons – Councillor Mohammed Nadeem, Ward Councillor

Councillor Nadeem addressed the Committee and supported the review of the premises licence as the premises was not fit for purpose in light of all the evidence and witness statements submitted. In addition Councillor Nadeem stated that the License Holder had clearly demonstrated a breach of the license conditions.

Other Persons – Councillor Mohammed Jamil

Councillor Jamil, representing Mr Zaf Iqbal addressed the Committee and supported the review of the premises licence and was in favour of the Officer recommendations. The key points raised during his address were as follows:

- The premises had changed hands many times;
- The premises was intended to be operated as a café, however, it appeared to be operating as a night club;
- There had been a history of violence attached to the premises;
- The licensee holder had not demonstrated any control over what issues were arising from the premises;
- Local residents were forced to have to deal with disruption to their normal living routines due to loud music;
- Loud music had been played until 1-2am in the morning;
- The issues seem to be with the DPS who was in control of the premises;
- Conditions had been introduced in 2011 to curtail the disturbance that Marisqueira had been causing, however, the conditions were clearly being disregarded; and
- Residents wished to see the removal of the ability to play music.

Mr Aslam Ismail, a local resident living in Cromwell Road, addressed the Committee and supported the review of the premises licence. The key points raised during his address included:

- The Marisqueira premises attracted the wrong clientele to the area;
- There had been sales of drugs witnessed;
- The music disturbance was even affecting residents living a distance away from the premises;
- The Marisqueira premises was intended as a restaurant, but seemed to operate more like a nightclub; and
- The Community concerns and views should be heard as all were affected by the disruption that Marisqueira was causing.

Mr Mohammad Kamran, a local resident living next door to Marisqueira, addressed the Committee and supported the review of the premises licence. The key points raised during his address included:

- It was difficult to get any sleep due to the noise disruption created by Marisqueira;
- Mr Kamran's elderly mother had also been disturbed by the noise created by Marisqueira and was finding it difficult to sleep;
- People that had work commitments were finding it difficult to cope with their day to day working life due to a lack of sleep; and
- The Marisqueira premises should not be playing loud music into the early hours of the morning.

Mr Mohammad Rashid, a local resident representing his daughter, Saeeda Rashid addressed the Committee and supported the review of the premises licence. Mr Rashid supported the views made by other representatives and had no additional information to contribute.

Licensee's Representative

Miss Ivone Coelho (the DPS) addressed the Sub-Committee. The key points raised during her address, and following questions from the Sub-Committee, included:

- Mr Pedro was not available to attend the hearing, due to experiencing recent family issues;
- The DPS had requested for the hearing date to be changed to allow Mr Pedro to attend;
- Mr Pedro currently resided in London;
- The DPS had tried very hard to tackle the issues that had been highlighted to her with regards to the playing of loud music;
- The speaker equipment had been removed in July 2012;
- Every effort had been made to keep the windows and doors shut;
- The DPS had committed many hours in running the business and strived to do her best;
- There was a no tolerance to drugs policy operated at the Marisqueira premises;
- The sale of alcohol was conducted in a responsible way with no alcohol being consumed outside the premises;

	<ul style="list-style-type: none"> Local residents had not approached the DPS regarding the noise issues arising from the premises; and The DPS was always present at the time of when the music was being played at the Marisqueira restaurant.
3.10 Written representations and supplementary material taken into consideration	<p><u>Applicant / Responsible Authority – Pollution Control</u></p> <p>Consideration was given to the application and additional information, including a Pollution Control Officer witness statement, submitted by Pollution Control and Cambridgeshire Constabulary and attached to the Sub-Committee report.</p> <p><u>Other Persons</u></p> <p>Consideration was given to the written submissions attached to the Sub-Committee report from Councillor Nadeem and local residents,</p>
3.11 Facts/Issues in dispute	<p><u>Issue 1</u></p> <p>Whether the review application would further support the ‘Prevention of Public Nuisance’ Licensing Objective.</p>
4. Decision	<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>In our deliberations the Sub-Committee considered the various options available, these being:</p> <ul style="list-style-type: none"> To modify the conditions of the premises licence; To exclude a licensable activity from the scope of the licence; To remove the designated premises supervisor from the licence; To suspend the licence for a period not exceeding three months, or; and To revoke the licence. <p>The decision of this Licensing Act 2003 Sub-Committee was therefore to:</p> <ol style="list-style-type: none"> To remove from the Premises licence permanently: <ul style="list-style-type: none"> Live music; Recorded Music; Facility for making music; Dancing; and Provision of facilities for making music and dance. Remove the Designated Premises Supervisor (DPS); All licensable activities to cease at 21.30 hours, seven days a week; and Premises to close at 22:00 hours seven days a week, which meant 30 minutes for customers to finish their meals and vacate the premises.

The reasons for the Committees decision include:

After hearing from the Licensing Officer, the Pollution Control Officer and the Police that despite repeated attempts to advise and assist the Designated Premises Supervisor in adhering to the conditions of the licence that there had been a regrettable history of disregard for those conditions and no willingness demonstrated to make amends for the future.

In addition, hearing from those whom had lodged representations about the continuing noise nuisance late at night despite requests for this to cease. The Sub-Committee noted that the terms of the temporary event notice of 12 and 13 July 2013 were breached.

The Sub-Committee also heard information relating to noise nuisance and low level anti-social behaviour immediately outside the premises which the Committee believed was directly associated with the licensing activities and the opening hours.

It was clear on the information supplied that the premises was poorly managed and there had been little hope of this improving in the near future.

The changes in terms and conditions of the licence were appropriate and necessary in order to promote the licensable objective of prevention of public nuisance.

The Sub-Committee were also disappointed that the premises licence holder did not attend the hearing to personally address the concerns of the responsible authorities, the licensing authority and the local residents.

Chairman
1.30pm – 3.25pm