

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No. 3
<b>22 November 2018</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Kerry Leishman, Licensing & Business Manager Simon Andrews, Licensing Regulatory Officer	Tel: 453502 Tel. 453486

**APPLICATION: NEW PREMISES LICENCE**

**APPLICANT:** Ponto De Amigos

**REFERENCE NO:** 077885

**PREMISES:** 40 Russell Street, Millfield, Peterborough, PE1 2BQ

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

**1. PURPOSE OF REPORT**

1.1 To consider and determine this application for a new premises licence for Ponto De Amigos, 40 Russell Street, Millfield, Peterborough, PE1 2BQ taking into account the background information and representations received from Mr Richard Ferris Centre Manager at the Allama Iqbal Centre. PC Grahame Robinson on behalf of Cambs Constabulary. Councillor Iqbal & Councillor Jamil.

**2. BACKGROUND INFORMATION**

2.1 There has not been any previous application under the Licensing Act 2003 for this premises. Representations mention an existing history but this relates to the adjoining premises.

2.2 Since 18<sup>th</sup> April 2013 the Licensing Authority has adopted a special policy relating to the cumulative impact in respect to all licensed premises within the ‘Operation Can – Do’ area. An explanation of what this special policy entails can be found in section 11 of the Council’s Statement of Licensing Policy. A map showing the Can – Do area is attached at **Appendix B Page 9**.

2.3 The premises falls within the ‘Operation Can – Do’ area and is therefore subject to the provisions of the special ‘cumulative impact’ policy.

**3. AUTHORISATIONS AND TIMES APPLIED FOR**

- **Sale of alcohol for consumption off the premises only**

Monday to Sunday 8am to 10pm

- **Recorded Music**

Monday to Sunday 8am to 10pm

- **Opening hours of premises**

Monday to Sunday 8am to 10pm

#### **4. APPLICATION**

4.1 Please refer to the application attached at **Appendix C – Pages 11**

4.2 Representations against the application have been received from Community Centre Manager Richard Ferris, Cllr Iqbal and Cllr Jamil. A representation to adjust the timings of the application and add licensing conditions has been received from Cambs Constabulary. These are attached at **Appendix D on Page 29**.

4.3 Part P of the application sets out the applicant's proposed conditions under the licensing objectives, these being, 'The Prevention of Public Nuisance', 'Public Safety', 'Prevention of Crime and Disorder' and 'The Protection of Children from Harm'. These are also contained within the body of this report (in section 7) and in accordance with section 10.5 of Guidance have been interpreted into enforceable conditions. Only those appropriate and proportionate for the promotion of the licensing objectives have been included in the Operating Schedule.

4.4 No representations have been received from the following Responsible Authorities. Peterborough Trading Standards, Public Health Authority, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Environmental Pollution Team, or Children's Services.

4.5 A 'Notice' was displayed in the newspaper in accordance with Part 4 No. 25 of Statutory Instruments 2005 No. 42 – The licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, Appendix E.

#### **5. REPRESENTATIONS**

5.1 Summary of issues raised by Councillor Iqbal, Community Centre Manager Richard Ferris objecting to the application:

- In 'Op Can-do' area which is now subject to a special 'cumulative impact policy.
- The impact of alcohol being sold at the premises is in a high density residential area.

5.2 There were no representations in support of the application.

#### **6. MEDIATION**

6.1 Mediation has been attempted but has proved unsuccessful. Cambridgeshire Constabulary have requested additional conditions and a reduction in opening hours to 21:30 hrs, Appendix F.

#### **7. APPLICANT'S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES:**

##### **7.1 Crime and disorder**

CCTV system installed to monitor entrances, exits and other parts of the premises in order to prevent any act of crime. A clear and legible notice outside the premises indicating the normal hours under the terms of the premises licence during which licensable activities are permitted. Not selling alcohol to drunk or intoxicated customers.

##### **7.2 Prevention of Public Nuisance**

Internal and external lighting fixed to promote the public safety objective. well trained staff adherence to environmental health requirements. Training and implementation of underage

ID checks. All parts of the premises and all fixtures and fittings will be maintained in good order and in a safe condition.

### 7.3 **Protection of children from harm**

Have a system in place that requires staff to ask for ID from customers who look below the age of 25 if they wish to buy alcohol.

### 7.4 **Public Safety**

Noise reduction measures to address the public nuisance objective. Deliveries of goods for the operation of the business will be carried out at such time or in such a manner as to prevent nuisance and disturbance to nearby residents.

### 7.5 **General**

To promote all four licensing objectives i will keep strong management controls and effective training of staff to ensure that they are aware of the premises licence and the requirements to meet the four objectives with attention to:

- No selling of alcohol to underage customers
- Only selling drinks made by us that contain alcohol and not bottles of alcohol so we know how much each customer is consuming at one time
- no drunk and disorderly behaviour on the premises
- no violent and anti-social behaviour
- no harm to children

## 8. **POLICY & GUIDANCE IMPLICATIONS**

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

### 8.2 **Council's Statement of Licensing Policy**

- Objectives, Section 4 on Page 7 and 8
- Fundamental Principles, Section 6 on Page 6 and 7
- Licence Conditions, Section 14 page 17
- Delegation / Decision Making / Administration, Section 17 on Page 19 and 20

### 8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 April 2018**

- The Licensing Objectives – Section 2 pages 7 to 17
- Applications for Premises Licences – Section 8 pages 52 to 62
- Determining applications – Section 9 pages 70 to 78
- Conditions Attached to Premises Licences – Section 10 page 79 to 90

## 9. **LICENSING OFFICER'S COMMENT (FOR INFORMATION)**

9.1 Regulation 19(a) requires authorities to disregard any information given by a party or person that is “not relevant” to the application.

9.2 Members should note that the letters and emails attached are in their entirety and that not all matters raised within the representations are relevant matters for consideration under the Licensing Act 2003. It is up to the Committee to decide upon what ‘weight’ they attach to these areas.

## **10. LEGAL OFFICER'S COMMENTS**

- 10.1 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 new licence made under Section 17 of the Licensing Act.
- 10.2 In this case, the application was received at these offices on 17 September 2018.
- 10.3 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; and
  - The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – April 2018.
- 10.4 The licensing authority may determine the application, depending upon what is appropriate for the promotion of the licensing objectives, in any of the following ways:
- Decide to grant the licence in the same terms as it was applied for;
  - Decide to grant the licence, but to modify or add conditions (to promote the licensing objectives);
  - Exclude from the scope of the licence a licensable activity; and
  - Decide to refuse to grant the licence.
- 10.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

# APPENDIX A

## LICENSING ACT 2003

### GLOSSARY OF TERMS

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

**'Challenge 25'** means that a retailer will ask for proof of identification if they have reason to believe that the person making a purchase of alcohol is under the age of 25.

**'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

Except where there is an exemption under the Live Music Act 2012 or Statutory Instrument 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

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