



Reference: 2014/00176/01SPRD

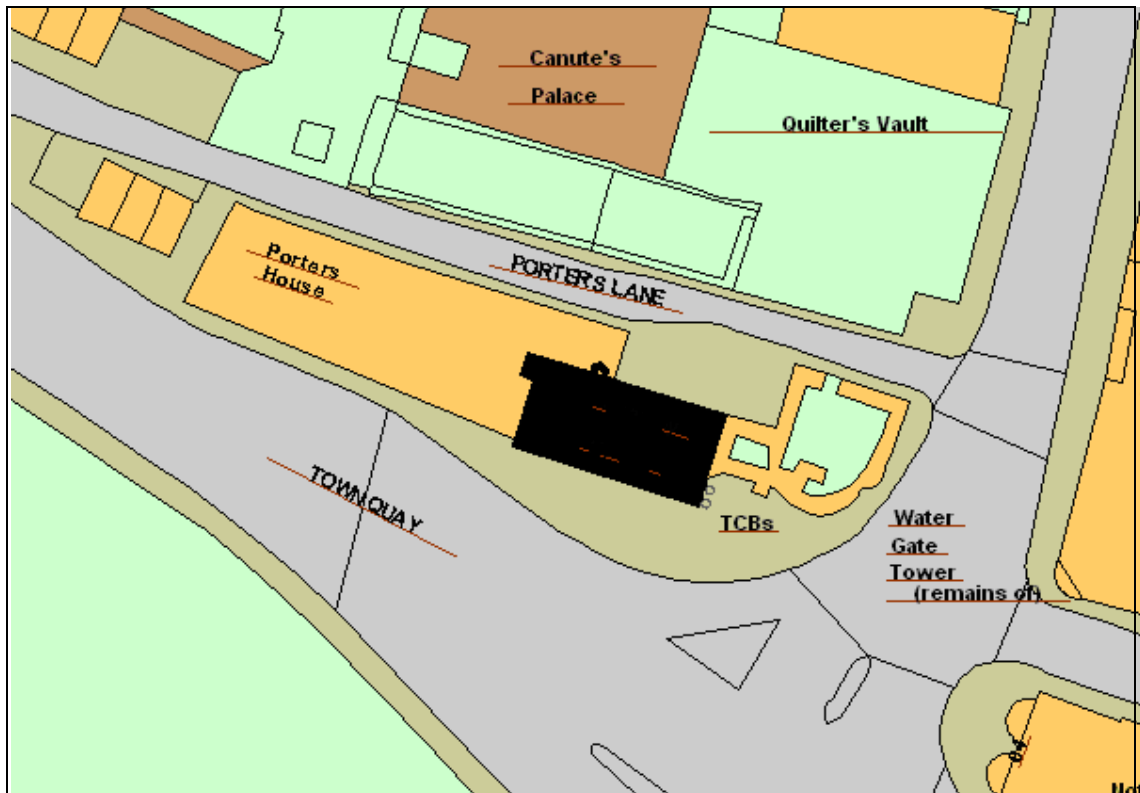
Hearing: 27<sup>th</sup> February 2014

**Variation Application for Premises Licence - DPS Variation**

Premises Name: Ennio's  
 Premises Address: Geddes Warehouse  
 Town Quay  
 Southampton  
 SO14 2AR

Application Date: 14th January 2014  
 Application Received Date: 17th January 2014

Application Valid Date: 17th January 2014



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***Representations From Responsible Authorities***

Responsible Authority	Satisfactory?	Comments
Police - Licensing	No	

## ***Legal Implications***

1. Where the Police give notice (stating that the Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective and stating their reasons) the authority must –
  - (a) hold a hearing to consider it, unless the authority, the applicant and the Chief Officer of Police who gave the notice agree that a hearing is unnecessary, and
  - (b) having regard to the notice, reject the application if it considers it necessary for the promotion of the crime prevention objective to do so.
2. The decision making panel, in considering an application, must have regard to the notice, adopted Statement of Licensing Policy and any relevant representations of the applicant.
3. An applicant, whose application has been rejected, may appeal against the decision to the Magistrates' Court. Likewise the Chief Officer of Police may appeal against a decision to grant the application.
4. Where an application is granted or rejected, the relevant licensing authority must give a notice to that effect to –
  - (a) the applicant,
  - (b) the proposed individual and
  - (c) the Chief Officer of Police for the police area (or each police area) in which the premises are situated.

The notice must state the authority's reasons for granting or rejecting the application. Where the application is granted, the notice must specify the time when the variation takes effect.
5. In considering this application the panel will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the panel must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.

The panel must also have regard to:-

6. *Crime and Disorder Act 1998*  
Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
7. *Human Rights Act 1998*  
The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of Proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

## Southampton City Council

### Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

#### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we Ennios Al Porto Ltd

*(full name(s) of premises licence holder)*

**being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003**

#### Premises licence number

2006/01712/01SPRN

#### Part 1 – Premises details

##### Postal address of premises or, if none, ordnance survey map reference or description

Ennios  
Geddes Warehouse  
Town Quay

##### Post town

Southampton

##### Post code (if known)

SO14 2AR

##### Telephone number (if any)

##### Description of premises (please read guidance note 1)

Restaurant with rooms

RECEIVED  
17 JAN 2014

**Part 2****Full name of proposed designated premises supervisor**

Mark Walter

**Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)**

343/2

**Full name of existing designated premises supervisor (if any)**

Ernes Fabbri

**Please tick yes**

I would like this application to have immediate effect under section 38 of the Licensing Act 2003



I have enclosed the premises licence or relevant part of it



(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

**Reasons why I have failed to enclose the premises licence or relevant part of it****Please tick yes**

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 2)

**Signature of applicant or applicant's solicitor or other duly authorised agent**  
(See guidance note 3). If signing on behalf of the applicant, state in what capacity.

Signature

Date 14/01/2014

Capacity Director

**For joint applicants signature of 2<sup>nd</sup> applicant 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 5)

Mark Walters  
Ennios  
Geddes Warehouse  
Town Quay

**Post town**  
Southampton

**Post Code**  
SO14 2AR

**Telephone number (if any)**

**If you would prefer us to correspond with you by e-mail your e-mail address (optional)** info@ennios.co.uk

## Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

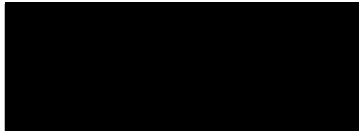
### Southampton City Council

#### Consent of individual to being specified as premises supervisor

Mark Walters

I .....  
*[full name of prospective premises supervisor]*

of



.....  
*[home address of prospective premises supervisor]*

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

Consent of the DPS variation of a premises supervisor

.....  
*[type of application]*

by

Mark Walters

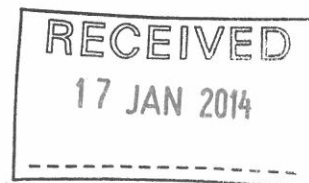
.....  
*[name of applicant]*

relating to a premises licence 2006/01712/01SPRN  
*[number of existing licence, if any]*

for

Ennios  
Geddes Warehouse  
Town Quay  
Southampton  
SO14 2AR

.....  
*[name and address of premises to which the application relates]*



and any premises licence to be granted or varied in respect of this application made by

Mark Walters

-----  
*[name of applicant]*

concerning the supply of alcohol at

Ennios

Geddes Warehouse

Town Quay

Southampton

SO14 2AR

-----  
*[name and address of premises to which application relates]*

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

343/2

-----  
*[insert personal licence number, if any]*

Personal licence issuing authority

*NEW FOREST DISTRICT COUNCIL*  
-----  
*[insert name and address and telephone number of personal licence issuing authority, if any]*

Signed

-----  


Name (please print)

Mark Walters

Date

-----  
14/01/2014



**New grant or variation of premises licence  
Or club premises certificate  
Form for representations from Hampshire Constabulary**

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

**Hampshire Constabulary is a responsible authority and wish to make a representation regarding under the Licensing Act 2003, regarding the:**

<input type="checkbox"/> 1: Grant for a personal licence	(Object within 14 days)
<input type="checkbox"/> 2: Grant for a temporary event notice (TEN)	(Object within 2 days)
<input type="checkbox"/> 3: Transfer of a premises licence	(Object within 14 days)
<input checked="" type="checkbox"/> 4: Variation of designated premises supervisor	(Object within 14 days)
<input type="checkbox"/> 5: Grant/Variation of a premises licence/club prem' certificate	(Object within 28 days)

Name of Applicant:	Ennios Al Porto Ltd
Name of Proposed DPS:	Mark Walter

Details of relevant conviction ( Personal Licence Applications ONLY)

Postal address of premises:	Geddes Warehouse Town Quay Southampton
Postcode:	SO14 2AR

**Details of responsible authority applicant**

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input checked="" type="checkbox"/> Ms <input type="checkbox"/> Other title / Rank:
Surname: Barrett First Names: Samantha
Current postal address : Southampton Central Police Station Southern Road Southampton
Postcode: SO15 1AN
Daytime telephone number: 02380 674 768
E-mail address: (optional) western.licensing@hampshire.pnn.police.uk

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003







### New grant or variation of premises licence Or club premises certificate Form for representations from Hampshire Constabulary

This application to object relates to the following licensing objective(s)

- 1) The prevention of crime and disorder
- 2) Public safety
- 3) The prevention of public nuisance
- 4) The protection of children from harm

*Please select one or more boxes*

Please state the ground(s) for representation:

Hampshire Constabulary object to the application to vary the Designated Premise Supervisor (DPS) to Mr Mark Walter at Enninos, Geddes Warehouse, Town Quay, Southampton SO14 2AR.

The objection is based on the prevention of crime and disorder under the Licensing Act 2003, and the exceptional circumstances of the relecant conviction.

On the 31/12/2012 Mr Walter was involved in a road traffic collision where he crossed an oncoming carriage causing damaged to a fence, shed and wooden electricity pole.

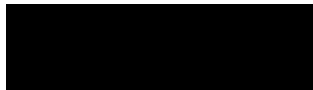
Mr Walter provided a positive breath test which showed he had 111 micrograms of alcohol in 100 millilitres of breath, the legal limit is 35 micrograms of alcohol per 100 millilitres of breath. On 30/01/2013 Mr Walter pleaded guilty at West Hampshire Magistrates and was disqualified from driving for 23 month with a reduction if course is completed, he was also given community order and supervision requirements.

Hampshire Constabulary believes that due to these exceptional circumstances Mr Walter is not a suitable DPS for Ennios restaurant, Southampton.

The position of DPS is one where he would be authorising the sale of alcohol to others and assessing their level of drunkenness, and responsible for upholding the licensing objectives, particularly preventing crime and disorder. Hampshire Constabulary are concerned that as Mr Walter has been convicted of the offence of drink driving he has little regard for the law and i would question his ability to prevent the sale or supply of alcohol to persons in drink as he clearly does not recognise drink driving as an offence. Mr Walter has only just recently finished his supervision and community orders and is still under his drink driving ban. This conviction would be spent in 2018 as the Rehabilitation of Offenders Act 1974 states that the time it takes for this conviction to be spent is 5 years. There has not been a suitable period of time for Mr Walters to show that he has not got the propensity to commit further offences, giving concerns that he is not suitable to be a DPS at this time.

**It is an offence, under section 158 of the Licensing Act 2003 to make a false statement in or in connection with this representation**

Police recommendations (including any conditions)





**New grant or variation of premises licence  
Or club premises certificate  
Form for representations from Hampshire Constabulary**

To submit a new application to vary the Designated Premise Supervisor.

Signature of Officer Completing

Name Samantha Barrett

Collar Number: 15527

Signature:

Date: 30/01/2014

Signature of Authorising Officer

Name S. Wood

Collar Number: 2117

Signature:

Date: 30/01/2014

