

AGENDA



For a meeting of the
ALCOHOL AND ENTERTAINMENT LICENSING COMMITTEE
to be held on
FRIDAY, 3 FEBRUARY 2012
at
10.00 AM
in the
COUNCIL CHAMBER, COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM
Beverly Agass, Chief Executive

Committee Members:	Councillor Pam Bosworth (Chairman), Councillor Robert Broughton, Councillor George Chivers, Councillor Breda Griffin, Councillor Reginald Howard, Councillor Vic Kerr, Councillor Graddon Rowlands, Councillor Bob Russell (Vice-Chairman), Councillor Susan Sandall, Councillor Mrs Jean Taylor and Councillor Frank Turner
Committee Support Officer:	Lucy Bonshor 01476 40 61 20 l.bonshor@southkesteven.gov.uk

Members of the Committee are invited to attend the above meeting to consider the items of business listed below.

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST**
Members are asked to declare an interest in matters for consideration at the meeting.
- 3. MINUTES OF MEETING HELD ON 22ND DECEMBER 2011**

(Enclosure)

4. LICENSING ACT 2003: REVIEW OF PREMISES LICENCE 90 DEGREES, 78 WESTGATE, GRANTHAM

Report ENV563 by the Community Safety and Licensing Service Manager.

(Enclosure)

(THE APPENDICES TO THE REPORT AT AGENDA ITEM 4 ARE ATTACHED FOR COMMITTEE MEMBERS ONLY. IF ANY OTHER MEMBERS WISH TO SEE THE SUPPORTING INFORMATION, PLEASE CONTACT THE SERVICE MANAGER, COMMUNITY SAFETY AND LICENSING).

5. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASON OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT.

MINUTES

ALCOHOL AND ENTERTAINMENT
LICENSING COMMITTEE
THURSDAY, 22 DECEMBER 2011



COMMITTEE MEMBERS PRESENT

Councillor Pam Bosworth (Chairman)
Councillor Bob Broughton
Councillor George Chivers
Councillor Breda Griffin
Councillor Reg Howard

Councillor Vic Kerr
Councillor Bob Russell (Vice-Chairman)
Councillor Susan Sandall
Councillor Mrs Jean Taylor

OFFICERS

Licensing Officers (Richard Etherton, Peter Harrison)
Solicitor to the Committee (Paul Rushworth)
Democratic Officer (Lucy Bonshor)

24. APOLOGIES

Apologies for absence were received from Councillor Rowlands and Councillor Turner for this meeting only.

25. DECLARATIONS OF INTEREST

None declared.

26. MINUTES OF MEETING HELD ON 7TH OCTOBER 2011

The minutes of the meeting held on 7th October were agreed as a correct record of the decisions taken.

27. LICENSING ACT 2003: APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE - QUICK SHOPPER, GRANTHAM

Decision

That the application for a premises licence for Quick Shopper, 59-61 Bridge End Road, Grantham be approved subject to the supply of alcohol

hours being Monday to Sunday 06.00am - midnight as agreed with Lincolnshire Police.

It was confirmed that neither the applicant nor Lincolnshire Police would be attending the meeting.

The Licensing Officer referred to report ENV560 which concerned an application for a premise licence for Quick Shopper, 59-61 Bridge End Road, Grantham. The previous licence holder had gone bankrupt and the applicant had asked for the existing premise licence to be transferred him. However, as this had not been transferred within a 7 day period a new premise licence had to be applied for. The opening hours were for Monday – Sunday 00.00 – 24.00 and the sale of alcohol Monday – Sunday 00.00 – 24.00. One representation had been received from a responsible body, Lincolnshire Police. They felt that the content of the application was insufficient to secure the intended protection of the licensing objectives. A meeting was held between the applicant, Lincolnshire Police and the Licensing Officer and an agreement reached with regards to the hours for the supply of alcohol. Following the agreement both parties felt that a hearing was unnecessary.

Having considered the representation made and the agreement of both parties it was proposed, seconded and the Committee unanimously agreed to approve the premise licence for Quick Shopper, 59-61 Bridge End Road, Grantham subject to the amended hours for the sale of alcohol (6.00am to midnight) as agreed with Lincolnshire Police.

28. LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE 90 DEGREES, 78 WESTGATE, GRANTHAM, LINCOLNSHIRE

Decision:

That the decision of the Committee be adjourned until the first Alcohol and Entertainment Licensing Committee in February 2012 to allow Mr Livingston to transfer the premise licence to the new owners and remove the Designated Premises Supervisor.

The Solicitor to the Council confirmed those people present and who would be speaking with regard to the application: Mr Richardson Lincolnshire Police Solicitor, PC Dale Walker the Police Licensing Officer for the South Kesteven area and Inspector Rod Rose and Sue Curtis from the Member Legal Department of Lincolnshire Police (observer) and Mr Mark Livingston, the current premises supervisor of 90 degrees and Zoe Millar, the Designated Premises Supervisor for 90 degrees.

LICENSING OFFICER'S REPORT

The Licensing Officer confirmed with those present that they had received the

late evidence circulated and that both parties were happy for the Committee to go ahead. All parties agreed.

The Licensing Officer informed the Committee that the review of the premise had been requested by Lincolnshire Police as they believed that three of the licensing objectives: prevention of crime and disorder, public safety and protection of children from harm were being undermined. They were seeking to have the licence revoked or, if the Committee did not feel the need for revocation, that stringent conditions be attached to the licence. The Licensing Officer then outlined recent events that had highlighted the concerns of the police.

The police had cited a number of incidents regarding underage drinking and drinks promotions, together with the failure of the CCTV, however, between the review being applied for and the writing of the report the Licensing Officer confirmed that the CCTV had been upgraded to the satisfaction of the police and the police confirmed this was correct.

Meetings had been held prior to the drinks promotion between Mr Livingston, the police and the Licensing Officer to discuss whether the drinks promotion fell into the irresponsible drinks promotion category. It was decided that the promotion could proceed as long as people did not consume too much alcohol and only if incidents occurred would the police take further action.

Meetings had been held with Mr Livingston, Inspector Rod Rose and a member of the Licensing Team whenever the police felt there was a problem with the premises and on each occasion agreement had been agreed. Mr Livingston had sold the premises and agreed to transfer the premises licence but the police were not confident that this would happen. Lincolnshire Police wanted Mr Livingston to transfer the premises to the new owners so that they had an opportunity to check the new owners against their records.

Mr Livingston felt that the police action was personal and therefore wanted the issue to be heard by the Licensing Committee.

LINCONSHIRE POLICE REVIEW

Mr Richardson, the police solicitor then presented the police's case. He highlighted various factors including the sale of alcohol to under 18s, the challenge age policy, the management of the premises, as the police saw it the irresponsible drinks promotion, a serious incident with the license holder, inadequate door supervision and altercations outside the premises. He referred to guidance issued about the night time economy, the licensing policy and children, the legislation within the Licensing Act governing the licensing objectives and partnership working. He read out that part of the Act concerning the purchase and consumption of alcohol by minors for the benefit of the committee and he asked that the Committee seriously consider revocation of the licence.

He referred to the conditions attached to the premises licence and the Licensing Act and how the police felt that these were being undermined particularly public safety, prevention of crime and disorder, and the protection of children from harm. He confirmed that the police were satisfied with the current CCTV system. It was mandatory to have a challenge age policy in place and therefore if a written policy was not adopted this was a breach of the conditions of the licence.

Then using statements from the police officers involved and CCTV footage he detailed incidents that had occurred at the premises, the key points being the sale of alcohol to underage persons following an event at the premises to which a warning letter was sent to Mr Livingston.

A sexual assault that had taken place although not at the premises, witness statements had been taken confirming that the victim and assaulter were 16 and 17 year of age and both had been in 90 degrees.

A CCTV footage clip was shown. Mr Livingston had not seen the CCTV and the Solicitor to the Council asked Mr Livingstone if he was content for the CCTV to be shown to the Committee Mr Livingston confirmed that he was happy for the footage to be shown. The clip showed an altercation outside the premises to which the police were called and showed one of the people fighting going back into the premises without being stopped by the door staff. The individual was later arrested in a different part of the town. A Member of the Committee then asked questions about the arrest and the timeframe, why it had taken so long to arrest the individual to which Mr Richardson replied. The Solicitor to the Committee asked if any criminal charges or convictions had resulted from the incident. The Police confirmed that warnings had been given to those involved. Mr Richardson said that the incident clearly showed the undermining of the licensing objectives. Members asked further questions about the timing of the statements taken, in particular the Committee were concerned about the reliability of the statements taken from the unidentified lifeguard and student.

Mr Richardson then referred to another statement and highlighted an incident concerning the CCTV system. Mr Livingston had been unable to provide the correct footage from the system that he had installed even though the Police officer had asked on numerous occasions for the footage and originally when it was asked for Mr Livingston had been receptive to getting the information off the system.

Mr Richardson then detailed the drinks promotions that had been held and the complaints received from officers on the ground about the increase in incidents, warning letters were sent to Mr Livingston by the Licensing Officers from Lincolnshire Police, however, the promotions did not stop. Mr Richardson then cited the challenge age policy was not being followed by the premises.

The Licensing Officer referred to one of the incidents highlighted and said that

a Temporary Events Notice had been applied for, however Mr Richardson replied that what occurs at the premises can be taken into account if the management of the premises was in doubt. Further clarification was asked for by Members about the incident and who had actually been invited.

Mr Livingston referred to the police response time for the incidents and what the police were doing to stop those causing trouble. He also referred to the number of meetings that he had attended with Inspector Rod Rose about issues at the premises.

THE PREMISES LICENCE HOLDER

Mr Livingston then responded. He informed the Committee that the premises had been closed since 28th October 2011 and that he had sold it because he could not operate the premises effectively given the police intervention. He said the major problem was with the number of false ID's in circulation and even if someone got rejected at one location they could enter another premises. In response to the CCTV incident which had been shown to the Committee, Mr Livingstone said it was very difficult to identify the people involved in the incident in order to stop them from re-entering the premises. Mr Livingstone would have hoped that the CCTV in town was linked to the police and they should be able to help to identify perpetrators in order to prevent people entering premises after altercations. He felt that the door staff could not react to everything and he felt that he did not have the support of the police. He referred to drugs that had been seized by door staff at his premises which were being kept in a locked cupboard and he was still waiting for the police to collect the drugs 18 months later. He said his door staff were constantly told to check ID's and they did the best that they could. Having a challenge 25 policy would be detrimental to his business as nowhere else in town had such a policy. He felt that he was being victimised by the police.

The Licensing Officer clarified that the police had served a closure notice on the premises but it had been withdrawn. It was accepted that the premises had been closed since the end of October 2011 and that the licence holder had sold the premises and agreed to transfer the premises licence as he could no longer manage the business effectively because of the police intervention.

Mr Richardson then asked Mr Livingston what the licensing objectives were, did he understand his obligation and the concerns the police had about the challenge age policy that was used, underage drinking at the premises and the drinks promotions. Would it not have been in Mr Livingston's best interests if had brought to the meeting a copy of his challenge age policy, records of training undertaken by his door staff and the refusals register.

[12.15pm Councillor Chivers left the meeting]

Mr Richardson once again referred to the drinks promotions that had taken place and whether Mr Livingston thought it was responsible to sell alcohol for

50p to encourage people on to the premises. Mr Livingston responded by stating that the trouble in town was not down to the 50p drinks promotions. Mr Livingstone objected to the reliability of the police evidence as some of the statements submitted were virtually the same and he guaranteed that the people who had written them were still in town drinking. Mr Richardson replied that the statements had been obtained for the review hearing. PC Walker clarified that the premises was not being targeted but there had been considerable crime and disorder issues in September and October of this year. Intelligence on issues was put on to the police system and only transferred when required such as if a review or hearing was taking place. Due to the number of incidents and the impact 90 degrees was having on the local policing, a review was requested.

The Committee then asked Mr Livingston to clarify if he still had connections to the premise. Mr Livingston confirmed that he had no link to the licensing trade and that he had sold the business. He had not transferred the licence as he would not have had the right to the review but he confirmed that the premises had been sold and the licence would be transferred after the hearing.

The Licensing Officer then gave his closing statement and the decisions available to the Committee following the review of the premise licence.

Mr Richardson then gave his closing statement stating that a phased approach had not worked; the licence holder had taken advantage of the drinks promotion and had undermined the licensing objectives. The premise licence may or may not be transferred and the police strongly submitted that the premises licence be revoked or conditions attached that are appropriate to the operation of the premises.

Mr Livingston gave his closing statement stating that the business had been sold and he had no interest in the club. He agreed that there was a problem with underage drinking in the town but that it was not specific to 90 degrees and he felt that the police action was unfair.

[12.40pm Licensing Officers, objectors and applicants left the meeting]

REASONS FOR THE COMMITTEE'S DECISION

The Committee discussed the representations of all the parties. The Committee was satisfied that there was evidence relating to the undermining of crime and disorder which was largely due to poor management at the premises. On balance however the Committee was satisfied that the premises was now closed and had been sold. Furthermore, the Committee was mindful of the licence holder's promise to transfer the premises licence. The Committee took advice from the solicitor. The Committee was reminded that it should seek to establish the cause or causes of the concerns and take no more than necessary and proportionate remedial action in response. The Committee was mindful that the premises licence holder had promised to transfer the premises

licence and that promise, along with the fact that the premises was closed and had been sold might have been sufficient for them to have decided to take no action as a necessary and proportionate response. The Committee however wanted a degree of certainty and noted that Lincolnshire Police doubted whether the premises licence holder would actually transfer the licence. For those reasons the Committee decided that it was in the public interest to adjourn the decision until the first Committee in February with a warning to the premises licence holder that he must transfer the premises licence and remove the DPS in the period before the recommenced hearing. It was considered that an adjournment would also give Lincolnshire Police time to liaise with the new club owners in the interest of all parties promoting the licensing objectives in terms of the future good management of the premises.

[1.05pm Licensing Officers, objectors and applicants return to the meeting]

The Solicitor to the Committee informed those present that the Committee's decision was to adjourn the decision until the meeting of the Alcohol and Entertainment Licensing Committee in February 2012. In the interim period, the licence holder should transfer the premises licence and the designated premises supervisor should be removed.

29. CLOSE OF MEETING

The meeting closed at 1.07pm.

REPORT TO ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT COMMITTEE

REPORT OF: Community Safety and Licensing Manager

REPORT NO: ENV 563

DATE: 3RD February 2012

TITLE:	Review of a Premises Licence 90 Degrees, 78 Westgate, Grantham, Lincolnshire	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter Engagement and Corporate Services Portfolio Holder	
CONTACT OFFICER:	Peter Harrison, peter.harrison@southkesteven.gov.uk 01476 406190	
INITIAL IMPACT ASSESSMENT:	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	Statement of Licensing Policy 6 January 2011	

1. RECOMMENDATIONS

- 1.1 It is recommended that the Alcohol, Entertainment and Late Night Refreshment Licensing Committee consider the application for a review of the Premises Licence relating to 90 Degrees and determine either to:
- a. Modify the conditions of the licence;
 - b. exclude a licensable activity from the licence
 - c. remove the designated premises supervisor;
 - d. suspend the licence for a period not exceeding 3 months;
 - e. revoke the licence.
 - f. adjourn a hearing to a date to be specified where it considers it to be necessary in the public interest.

2. PURPOSE OF THE REPORT/DECISION REQUIRED

- 2.1 The purpose of this report is to provide the committee with information to enable it to consider this application for a review of the premise licence under Section 51 of the Licensing Act 2003.
- 2.2 Where a relevant application for a review is received, the Licensing Authority must hold a hearing to determine the application. The options available to the Committee are as detailed in the recommendation application:

The guidance issued under Section 182 of the Act is:

“In deciding which of these powers to invoke, it is expected that the Committee should, so far as possible, seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate

3. DETAILS OF REPORT

Licensing Committee held a hearing on the 22nd of December 2012, it was resolved to adjourn the hearing to the first meeting in February 2012 to enable the Premises Licence Holder to transfer the licence,

The licence has been transferred to the new owner and a meeting was held between Lincolnshire Police, South Kesteven District Council and the new owner.

There was an agreement between all parties to remove all existing conditions and add the conditions at appendix 1.

Lincolnshire Police who brought the review are happy that the conditions together with the new management of the premises will resolve the issues they had, a new designated premises supervisor will be appointed in due course.

4. OTHER OPTIONS CONSIDERED

5. RESOURCE IMPLICATIONS

6. RISK AND MITIGATION

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

8. CRIME AND DISORDER IMPLICATIONS

9. COMMENTS OF FINANCIAL SERVICES

There are no specific financial implications associated with this report

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

The Act provides a procedure whereby a premises licence can be reviewed at any time on the application of an interested party or a responsible authority. On receipt of an application for review of a licence, the Council are obliged to hold a hearing to consider the application within 28 days of receipt of the application. The Committee should consider the Guidance issued under S182 of the Act and the Council's own statement of licensing policy when considering if the application merits evidence that the licensing objectives are being undermined or not.

The licensing objectives are:

- Prevention of Crime & Disorder
- Public Safety
- Public Nuisance
- Protection of Children from harm

Any decision taken by the Committee should be reasonable and proportionate and must be necessary for the promotion of the licensing objectives. The decision of the committee should be no more than a proportionate response to the concerns raised by the police. In this case the premises licence has been transferred and the new premises licence holder has agreed with Lincolnshire Police that the premises licence needs to be reviewed. Both parties have agreed that the conditions should be modified pursuant to Appendix 1.

11. COMMENTS OF OTHER RELEVANT SERVICES

N/A

12. APPENDICES:

1 – Conditions agreed by all parties