

AGENDA



For a meeting of the
ALCOHOL AND ENTERTAINMENT LICENSING COMMITTEE
to be held on
FRIDAY, 21 DECEMBER 2012
at
10.00 AM
in the
COUNCIL CHAMBER, COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM NG31 6PZ
Beverly Agass, Chief Executive

Committee Members:	Councillor Mark Ashberry, 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 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. DISCLOSURE OF INTERESTS

Members are asked to disclose any interests in matters for consideration at the meeting.

3. MINUTES OF MEETING HELD ON 7TH DECEMBER 2012

(Enclosure)

4. LICENSING ACT 2003: APPLICATION FOR THE GRANT OF A PREMISES LICENCE, COSTCUTTER EXPRESS, SOMERBY HILL SERVICE STATION, BRIDGE END ROAD, GRANTHAM

Report CSL026 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
FRIDAY, 7 DECEMBER 2012



COMMITTEE MEMBERS PRESENT

Councillor Mark Ashberry
Councillor Pam Bosworth (Chairman)
Councillor George Chivers
Councillor Breda Griffin

Councillor Reginald Howard
Councillor Vic Kerr
Councillor Graddon Rowlands
Councillor Mrs Jean Taylor

OFFICERS

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

20. APOLOGIES

Apologies for absence were received from Councillor Broughton and Councillor Russell.

21. DISCLOSURE OF INTERESTS

Councillor Chivers declared a personal interest in agenda item 4 and left the meeting whilst this item was debated and voted on.

22. MINUTES OF MEETING HELD ON 5TH OCTOBER 2012

The minutes of the meeting held on 5th October 2012 were agreed as a correct record of the decisions taken.

(10.05am Councillor Chivers left the meeting)

23. LICENSING ACT 2003: REVIEW OF PREMISES LICENCE, GRAVITY

Decision:

That the Premises licence for the premises known as Gravity, 8 Market Place, Grantham be modified to include the conditions outlined by Lincolnshire Police in their review documentation subject to the last

condition to be modified to three test purchases over a 12 month period, the exact wording to be drafted by the Licensing Officers and signed off by the Chairman of the Licensing Committee.

The Solicitor to the Committee introduced those present and confirmed who was to speak in connection with the application for the review. Sergeant John Mellor, County Licensing Sergeant, Lincolnshire Police, James Cleary, Counsel, representing the Licensing Holder, Jonathan Askham, the owner of Gravity, Kayleigh Newton, an employee of Mr Askham and the DPS, Stewart Wild solicitor of Bird & Co, and Hannah Wheeldon a pupil barrister.

The Licensing Officer then presented report CSL025 which concerned an application for a review of the premises licence for Gravity, 8 Market Place, Grantham. Lincolnshire Police had submitted the review on the grounds that the licensing objectives for the prevention of crime and disorder and the protection of children from harm were in their view being undermined. The Police had evidence which indicated that the premises had recently failed two test purchases within a seven week period. The test purchases had been carried out by Lincolnshire Police jointly with Lincolnshire Trading Standards. A volunteer 16 year old had been sold alcohol by bar staff on the 3rd August at the venue. The DPS had been present behind the bar at the time of the sale and the bar staff had been issued with a fixed penalty notice for selling alcohol to persons under the age of 18. Two other venues within Grantham also sold to volunteers during the operation and the DPS's were sent letters informing them of the sales.

The Police met with the DPS of Gravity and she stated that they would implement measures to prevent further occurrences. The Police also met with door staff of the premises and all parties were clearly informed that further test purchase operations would take place in Grantham.

On 14th September further test purchases were carried out with all premises that had failed a test purchase on 3rd August. A member of staff at Gravity again sold alcohol to one of the under-aged volunteers and was issued with a fixed penalty notice; again the DPS was behind the bar at the time of the sale. None of the other premises sold to volunteers that evening.

This was the first time that the premises had been before the Committee for a review. Trading Standards had also submitted a representation in support of the review which was appended to the report.

Sergeant Mellor from Lincolnshire Police then made his presentation. He referred to the two test purchases that had taken place. The operation had been organised jointly with Trading Standards following information received that sales of alcohol to underage children were taking place at the premises. Following the first instance of underage selling of alcohol PC Dale Walker (who had since retired) had met with the DPS and informed her that further test purchases would be undertaken within a three month period. The premises

were again tested on 14th September and again alcohol was sold to an underage volunteer and a fixed penalty notice issued. A meeting was arranged with Mr Askham, the owner in relation to the persistent selling of alcohol to underage children and the CPS were prosecuting. It was the police's belief that the management of the venue was putting the safety of children at risk and they were unable to adhere to the conditions governing the premises. In order to address the failures Mr Askham was asked to voluntarily close the premises for a period of time to train his staff. If he agreed to this the police would not prosecute although the review would go ahead. Mr Askham had not agreed to the voluntary closure of the premises and the Police were seeking the revocation of the Premises Licence as a result of the sale of alcohol to minors. If the Committee did not consider revocation appropriate they sought to add conditions to the licence as listed in their review.

Questions were then put to Sgt Mellor about police procedure and a letter that had been sent to the Premises Licence Holder to which he replied.

Mr Cleary then presented the applicants case. He asked questions of both Mr Askham and Miss Newton about measures and procedures that had been put in place since the failed test purchases. Posters had been put in windows and all staff had undertaken BII training. An extra door person was engaged and the Challenge 25 policy was now used instead of the challenge 21 policy. All staff had been given specific training and further one to ones were taking place between the DPS and staff on a regular basis. A log was kept of all staff training and staff had been informed that any sale to underage children would result in instant dismissal. There was a log at the bar for refusals and the DPS had more of a supervisory role and walked the premises regularly checking with staff that there were no problems.

Questions were then put to the owner about the number of door staff, opening times, the problems with ID's specifically fake ID's, the number of premises that he owned and the DPS role to which he replied.

Mr Clearly then asked Miss Newton about measures that had been put in place and she gave details about the training undertaken, the refusals log and that her role was now more of a supervisory one.

The Licensing Officer then gave her closing statement and listed the options available to the Committee.

Sgt Mellor then gave his closing statement stating that although the owner had put a number of measures in place these were not conditions of his licence and that the selling of alcohol to minors was seen as a serious matter. It undermined the licensing objectives of crime and disorder and the protection of children from harm and the police sought the revocation of the premise licence, if the Committee did not wish to revoke the licence then the conditions listed should be attached to the licence specifically the private test purchasing.

Mr Cleary then gave the applicants closing statement. He stated that there had clearly been a failure of policy at the premises but that procedures had been put in place to address this. The Committees response must be appropriate and proportionate. He felt that it would be disproportionate to revoke or suspend the licence; the owner had overhauled the policies in place and had implemented training of staff and put in place logs for completion. Staff were aware that if they sold to underage children they would be sacked and a Challenge 25 policy had been implemented. Mr Cleary was concerned about the cost of his client having to undertake test purchasing at his own expense. Any decision that the Committee made had to be a proportionate response to the incidents that had taken place.

(11.10am the Licensing Officers and all interested bodies left the meeting)

Members considered the information they had before them and all the representations made at the meeting. The letter sent by the police was mentioned and the Solicitor clarified that the letter's relevance had to be considered together with all the information that Members had before them. Members felt that the test purchasing required by the police would be onerous but felt that it should be included with the conditions. Members felt that revocation or suspension of the licence was not a proportionate response in this particular case but felt that the Premises Licence should be modified to include the conditions requested by the police. The test purchasing condition though to be amended to read three times over a 12 month period. It was proposed, seconded and agreed to modify the licence but that the last condition concerning test purchasing be worded appropriately by Licensing Officers to cover a 12 month period with three test purchases which would then be agreed and signed off by the Chair of the Committee.

(11.30am the Licensing Officers and all interested bodies returned to the meeting)

The Solicitor to the Committee read out the Committee's decision. The Committee had considered all representations from all parties and were satisfied that the licensing objectives were being undermined and as a result they had decided to modify the conditions of the licence to include those suggested by Lincolnshire Police at appendix 1 to report CSL025 save for the final condition suggested by Lincolnshire Police about independent test purchases. The Committee wished to modify that condition to require the License Holder to arrange for three test purchases to be carried out during the first 12 months of the term after the date of the decision of the Committee is given to the License Holder. Those three test purchases should be separated by a reasonable amount of time. The exact wording of the final condition be delegated to the Licensing Officers to ensure that the condition was robust and enforceable by law. The condition, once worded, to be circulated to all members of the Committee and signed off by the Chair of the Licensing Committee.

The decision was appealable to the Magistrates Court within 21 days of written notification of the decision.

24. CLOSE OF MEETING

The meeting closed at 11.35am.

REPORT TO ALCOHOL, ENTERTAINMENT AND LATE NIGHT REFRESHMENT COMMITTEE

REPORT Of: Community Safety and Licensing Manager

REPORT NO: CSL/026

DATE: 21 November 2012

TITLE:	Application for the grant of a Premises Licence, Costcutter Express, Somerby Hill Service Station, Bridge End Road, Grantham.	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor John Smith, Green, Healthy and Arts. Portfolio holder	
CONTACT OFFICER:	Richard Etherton r.etherton@southkesteven.gov.uk 01476 406312	
INITIAL IMPACT ASSESSMENT:	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity	No	No
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 Guidance issued under S182 of the Licensing Act 2003	

1. RECOMMENDATIONS

1.1 It is recommended that the Alcohol, Entertainment and Licensing Committee consider this application for a new premises licence for Costcutter Express, Somerby Hill Service Station, Bridge End Road Grantham together with the representations of residents and take such steps as it considers appropriate for the promotion of the four licensing objectives:-

- Prevention of Crime and Disorder
- The prevention of Public Nuisance
- The promotion of Public safety
- The protection of Children from harm

1.2 The steps are to:-

- (a) Grant the licence subject to conditions that are consistent with the operating schedule modified to the extent that the Committee considered appropriate for the promotion of the licensing objectives and any mandatory conditions that must be included under the Licensing Act 2003;
- (b) exclude from the scope of the licence a licensable activity to which the application relates;
- (c) refuse to specify a person in the licence as premises supervisor;
- (d) reject the application.

2. PURPOSE OF THE REPORT

- 2.1 The purpose of this report is to provide the committee with information to enable it to consider this application for a new premises licence issued under Section 17 of the Licensing Act 2003.
- 2.2 The decision required is to establish whether any action is required to promote the four licensing objectives set out in section 1.1 of this report.
- 2.3 If it is felt appropriate to take action, the options listed in section 1.2 are open to the committee.

3. DETAILS OF REPORT

- 3.1 An application has been received for the grant of a premises licence for a Costcutter Express, Somerby Hill Service Station, Bridge End Road, Grantham. (Appendix 1 refers)
- 3.2 The licensable activities requested are for the supply of alcohol and for late night refreshment as detailed below:

Supply of alcohol – 06.00 to 23.00 Monday to Sunday

Late Night Refreshment - 23.00 to 05.00 Monday to Sunday.
- 3.3 There have been 19 representations received from residents who reside in the area on the grounds of Public Nuisance within the consultation period. (Appendix 2 refers)
- 3.4 Two maps have been included with this report, one showing road locations and one showing the garage location and objectors locations, not all objectors are shown as addresses were not supplied with some e-mails. (Appendix 3 refers)
- 3.5 No representations have been received from any of the Responsible Authority's.

4. OTHER OPTIONS CONSIDERED

None Applicable

5. RESOURCE IMPLICATIONS

Not applicable

6. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Nil	None Required

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

Not applicable

8. CRIME AND DISORDER IMPLICATIONS

8.1 Crime and disorder implications will be considered in accordance with the licensing objective and the duty to consider in accordance with s.17 of the Crime and Disorder Act 1998

9. COMMENTS OF FINANCIAL SERVICES

9.1 There are no specific financial implications associated with this report however in the event of an applicant making an appeal against a decision which was then subsequently upheld, the Council may incur additional legal costs

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

10.1 When deciding the application, the Committee should consider the guidance issued under S182 of the Licensing Act 2003 and the District Council's own statement of Licensing Policy. Decisions taken should be reasonable, proportionate and appropriate for the promotion of the licensing objectives when considered against the representations and evidence supplied by the parties.

11. COMMENTS OF OTHER RELEVANT SERVICES

Not applicable

12. APPENDICES:

- 1) Application
- 2) Representations
- 3) Map showing premises & objectors



Licensing

Your ref:		Please ask for:	Mr R Etherton
Our ref:	021787	Dept. line:	01476 40 6190
Fax:	01476 40 60 06	Email:	licensing@southkesteven.gov.uk

Date: 10 December 2102

To: **All members of the Alcohol, Entertainment and Late Night Refreshment Licensing Committee.**

**LATE INFORMATION FOR THE HEARING FOR COSTCUTTERS EXPRESS,
SOMERBY HILL SERVICE STATION, BRIDGE END ROAD, GRANTHAM.**

**ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT LICENSING
COMMITTEE
10.00AM FRIDAY 21 NOVEMBER 2012**

SECTION 176 OF THE 2003 LICENSING ACT 2003.

Section 176 is a relevant consideration of the Licensing Act 2003 when a representation has been received pertaining to it.

Since the report was compiled and the consultation period had ended persons who have put in an objection/representation to the application have sited section 176 and licensing feel the committee should be made aware of the section.

HOME OFFICE GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003 STATES THE FOLLOWING;

GARAGES AND MOTORWAY SERVICE AREAS:

Section 176 of the 2003 Act prohibits the sale or supply of alcohol at motorway service areas (MSAs) and from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used as a garage if they are used for one or more of the following:

- the retailing of petrol;
- the retailing of derv;
- the sale of motor vehicles; and
- the maintenance of motor vehicles.

The licensing authority must decide whether or not premises are used primarily as a garage. The accepted approach is based on "intensity of use" to establish "primary use". For example, if a garage shop in any rural area is used more intensely by customers purchasing other products than by customers purchasing the products or services listed above, it may be eligible to seek authority to sell or supply alcohol.

Where there is insufficient evidence to establish primary use, it is for the licensing authority to decide whether to grant the licence and deal with any issues through enforcement action and it may be able to use its case management powers to enable further evidence to be obtained.

The agent was contacted by a member of the licensing team with regards to Section 176 and he stated he had produced customer flow documents.

On the application submitted to the responsible authority included was an analysis of projected customer flow and a pie chart. (These are attached) These were not included in the application submitted to the licensing section.

Mr R Etherton
Licensing Officer
SKDC

Analysis of Projected Customer Flow
Client Name: MFG Costcutter Somerby Hill

	Shop Sales - £	Average Shop Purchase - £	Number of Shop Customers	Number of Fuel Customers	Average Fuel Purchase - Litres	Fuel Sales - Litres
Month 1	29227	2.02	14469	9815	26.47	259800
Month 2	29719	2.05	14484	9896	26.30	260272
Month 3	30211	2.08	14499	9979	26.13	260745
Month 4	30703	2.12	14514	10062	25.96	261217
Month 5	31195	2.15	14528	10147	25.79	261689
Month 6	31687	2.18	14542	10233	25.62	262162
Month 7	32179	2.21	14555	10320	25.45	262634
Month 8	32671	2.24	14568	10408	25.28	263107
Month 9	33163	2.27	14581	10497	25.11	263579
Month 10	33655	2.31	14593	10587	24.94	264051
Month 11	34147	2.34	14605	10679	24.77	264524
Month 12	34639	2.37	14617	10772	24.60	264996
Totals	383196	2.19	174557	123395	25.54	3148776

Analysis of Projected Customer Flow - Shop v Forecourt

MFG Costcutter Somerby Hill

