

REPORT TO ALCOHOL, ENTERTAINMENT AND LATE NIGHT REFRESHMENT COMMITTEE

REPORT OF: Mark Jones, Community Safety & Licensing Service Manager

REPORT NO: CSL/049

DATE: 18 July 2014

TITLE:	To consider the right to dispense with a hearing under Regulation 9 of the Licensing Act 2003 (Hearing) Regulations 2005	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor John Smith, Green, Healthy and Arts.	
CONTACT OFFICER:	Pam Robinson, Senior Licensing Officer Tel: 01476 406080 Email: licensing@southkesteven.gov.uk	
INITIAL IMPACT ANALYSIS:	Carried out and referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity	N/A	N/A
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. http://www.southkesteven.gov.uk/index.aspx?articleid=2955 Guidance issued under S182 of the Licensing Act 2003. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2_.pdf	

1. RECOMMENDATIONS

- 1.1 It is recommended that the Alcohol, Entertainment and Licensing Committee consider whether a hearing is necessary with regard to the application for a new premises licence for, Gurkha 91, 77 Manor Way, Deeping St James.
- 1.2 The steps open to the Committee are:
 - a Agree a hearing is not necessary subject to the agreed conditions; or
 - b Decide a hearing is necessary to hear representations and determine whether the conditions proposed are proportionate and necessary to protect the licensing objectives.

2. PURPOSE OF THE REPORT

- 2.1 To consider the right to dispense with a hearing under Regulation 9 of the Licensing Act 2003 (Hearing) Regulations 2005 following agreement by all parties that a hearing is not necessary.
- 2.2 Where relevant representations are made, the authority must hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary.

3. DETAILS OF REPORT

- 3.1 An application for a premises licence for Gurkha 91, 77 Manor Way, Deeping St James was received on 13 June 2014. Please see appendix 1.
- 3.2 The premise is a small, restaurant situated under residential flats along with a number of other retail premises.
- 3.3 The applicant appeared to state they wanted 24 hr opening and recorded music as well as late night refreshment and the sale of alcohol but subsequent telephone conversations and emails between the Council and the applicant established that this was a mistake by the applicant. He did not realise that background/piped music was not a licensable activity and although he put 12.00 until 12.00 for his licensable activities he didn't mean 24 hrs, he actually meant 1200hrs until 0000 hrs. Please see appendix 2.
- 3.4 The Police placed an objection to the application (appendix 3) and through subsequent discussions between the police and the applicant, the applicant has agreed to add the conditions stipulated by the police regarding CCTV and the restrictions on the sale of alcohol. These are detailed at page 4, numbers 1 & 2 of appendix 3.
- 3.5 The applicant's email agreeing that a hearing is not necessary is attached at appendix 4.
- 3.6 An email received from the police agreeing to the withdrawal of the objections subject to the conditions being added is attached at appendix 5.

4. OTHER OPTIONS CONSIDERED

No other options available

5. RESOURCE IMPLICATIONS

None

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
N/A	

7. ISSUES ARISING FROM IMPACT ANALYSIS

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 Regulation 9 of the Licensing Act 2003 (Hearing) Regulations 2005 requires the authority to determine whether it agrees that a hearing is unnecessary in circumstances where all other persons required by the Act (other than the Authority) have agreed that such a hearing is unnecessary.

11. COMMENTS OF OTHER RELEVANT SERVICES

Not applicable

12. APPENDICES:

- 1 Application for a premises licence
- 2 Email correspondence between applicant and Senior Licensing Officer detailing mistakes on the application form
- 3 Lincolnshire Police representation against the application
- 4 Email from applicant agreeing an hearing is not necessary
- 5 Email from Police agreeing a hearing is not necessary subject to the added conditions