

# REPORT TO ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT COMMITTEE

**REPORT OF: Community Safety and Licensing Manager**

**REPORT NO: ENV562**

**DATE: 22<sup>ND</sup> December 2011**

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

- 3.1 Lincolnshire Police are asking for revocation of the licence but if committee feel this is not appropriate they will seek stringent conditions at appendix 2 of this report.
- 3.2 The police say that recent events have highlighted concerns in relation to the licensing objectives and say they have failed to reach agreement with the premises licence holder and they are concerned regarding the drinks promotions.
- 3.3 The police have cited a number of incidents regarding underage drinking and the failure of CCTV, between the review being applied for and the writing of this report the CCTV has been upgraded to the satisfaction of the police.
- 3.4 A meeting was held prior to the drinks promotions between Mr Livingston, Inspector Rod Rose and Peter Harrison from the Licensing Team at South Kesteven District Council to discuss whether the promotion fell into the Irresponsible drinks promotion category. It was decided that the promotion was ok so long as people didn't end up consuming too much alcohol and only if incidents occurred as a result of the promotion would the police take further action
- 3.5 There have been meetings on each occasion that police felt there was a problem with the premises, these meetings were between Inspector Rose, Mr Livingston and Peter Harrison from the Licensing Team at South Kesteven District Council, on each occasion a way forward has been agreed.
- 3.6 There has been ongoing negotiation since the review has been applied for, Mr Livingston indicated a willingness to apply for a minor variation to add the conditions the police asked for.
- 3.7 At the time of the agreement Mr Livingston also said he was going to change the nature of the premises and reopen as a sports bar which would change the operating hours of the premises to close at 23.00

- 3.8 Mr Livingston applied for a minor variation to add the conditions but as he had sold the premises he did not apply to change the hours because the new owners wanted to remain as a nightclub.
- 3.9 Lincolnshire Police then said they would only accept the minor variation if Mr Livingston agreed to transfer the premises to the new owners and they had an opportunity to check the new owners against their records.
- 3.10 Mr Livingston feels that the police action is personal and that he is being targeted, as a result of the police request to transfer the licence as well as the minor variation which he considers to be unreasonable he has now withdrawn the minor variation.
- 3.11 Mr Livingston has withdrawn the minor variation because he wants the issue to be heard by Licensing Committee, he points to the fact that this year he was served with a closure notice which was withdrawn by the police as it had been served incorrectly, the police objected to a temporary event notice in February and then withdrew the objection and he also had a review notice served on him by the police in July 2011 that the police subsequently withdrew.
- 3.12 He has requested a review because he feels that he has tried to address every issue the police have raised only to find another issue soon after, he feels that other premises have the same issues but they are not subject to the same action nor do they liaise with the authorities and therefore feels the issue is personal rather than premises related.

#### **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.

## **11. COMMENTS OF OTHER RELEVANT SERVICES**

## **12. APPENDICES:**

- 1 – Application for review
- 2 – Suggested Police Conditions
- 3 – Police Statements