

Alcohol, Entertainment & Late Night Refreshment Licensing Committee



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Friday, 26 July 2024 at 10.00 am
Council Chamber - South Kesteven House, St. Peter's Hill,
Grantham. NG31 6PZ

Committee Members: Councillor Pam Bosworth (Chairman)
Councillor Elvis Stooke (Vice-Chairman)

Councillor Harrish Bisnauthsing, Councillor Helen Crawford, Councillor Steven Cunnington, Councillor Paul Fellows, Councillor Jane Kingman, Councillor Robert Leadenham, Councillor Nikki Manterfield, Councillor Philip Knowles and Councillor Patsy Ellis

Agenda

1. **Apologies for absence**
 2. **Disclosures of interests**
Members are asked to disclose any interests in matters for consideration at the meeting.
 3. **Minutes of the meeting held on 24 April 2024** (Pages 3 - 7)
 4. **Licensing Act 2003: Review of Premise Licence - Indre Shop Ltd, 9A Bridge End Road, Grantham, NG31 6JW** (Pages 9 - 68)
Report from the Licensing Officer.
 5. **Any other business which the Chairman, by reason of special circumstances, decides is urgent.**
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☎ 01476 406080

Karen Bradford, Chief Executive

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Minutes

Alcohol, Entertainment & Late
Night Refreshment Licensing
Committee

Wednesday, 24 April 2024



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Elvis Stooke (Vice-Chairman)
Councillor Harrish Bisnauthsing
Councillor Helen Crawford
Councillor Paul Fellows
Councillor Robert Leadenham
Councillor Nikki Manterfield

Officers

Licensing Officers (Chris Clarke, Elizabeth Reeve)
Legal Advisor (Mandy Braithwaite)
Licensing Manager (Heather Green)
Democratic Officer (Lucy Bonshor)

The Vice-Chairman stated that the Committee's thoughts and prayers were with the Chairman of the Committee, Councillor Pam Bosworth at this sad time as her husband had passed away at the beginning of the week.

45. Apologies for absence

Apologies for absence had been received from Councillor Pam Bosworth, Councillor Steve Cunnington, Councillor Patsy Ellis and Councillor Jane Kingman.

46. Disclosures of interests

None disclosed.

47. Minutes of the meeting held on 11 December 2023

The minutes of the meeting held on 11 December 2023 were proposed, seconded and **AGREED**.

Exclusion of Press and Public

Due to the restricted papers appended to the report the Committee were advised that if they wished to discuss these in detail then the Committee would need to exclude the press and public in accordance with Section 100A (4) of the Local Government Act 1972 (as amended) during consideration of the item of business because of the likelihood that otherwise exempt information, as described in paragraph (1 & 2) of the Act (as amended) would be disclosed to them. It was proposed, seconded and AGREED to exclude the press and public.

Councillor Tim Harrison was in attendance at the meeting as he had intended to substitute for Councillor Steve Cunningham, however, as it was an Alcohol, Entertainment and Late Night Refreshment Licensing Committee substitutions were not allowed and Councillor Harrison remained as an observer.

The Legal Advisor was about to address the Committee regarding the restricted papers appended to the report and the provision in the Constitution, ensuring that Members of the Committee were content with the non-Committee Member remaining in attendance during consideration of the item but at this point Councillor Harrison left the meeting and did not return.

48. Licensing Act 2003: Application to transfer a Premise Licence - The Old Ship Inn, 22 High Street, Pointon, Sleaford, Lincolnshire, NG34 0LX.

Decision

To reject the transfer of the Premise Licence 5065 for The Old Ship Inn, Bombay Brasserie, 22 High Street, Pointon, Sleaford.

The Legal Advisor introduced those present and confirmed who would be speaking in respect of the application. Representatives were present from the Police and also on behalf of the Premises Licence in respect of the transfer to Chak27.

The Licensing Officer presented the report which concerned the transfer of a premise licence 5065 for The Old Ship Inn, 22 High Street, Pointon, Sleaford.

The application to transfer the premises licence was received on 12 March 2024. Section 43 of the Licensing Act 2003 provided a mechanism which allowed the transfer to come into immediate effect as soon as the Licensing Authority received it, until it was formally determined or withdrawn. The applicant had indicated on the application that it was for immediate effect. Statutory consultations were undertaken and during the consultation period one representative was received from Lincolnshire Police as shown within the appendices attached to the report.

Section 182 Guidance issued by the Home Office relating to the transfer of premises licence stated:

8.101 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

The Police then made their representation and referred to the exceptional circumstances provided for in Section 182 of the Home Office Guidance.

The visit to the premises where an illegal worker was found and what was said by the worker in relation to working at the premises and the fact that he had no right to work. The premises was made up of the Old Ship Inn public house and the Bombay Brasserie restaurant and the previous premises licence covered both businesses although they were accessed by the public by separate doors. The Police alleged that the Manager of the Bombay Brasserie knowingly employed someone who had no right to work in the Country and whose living conditions above the premises were cold and damp. At the time of the visit, it was noted that the conditions attached to the premise licence that was currently being used was not fit for purpose and that there were breaches to the conditions including no CCTV and no training records. The person who had been working behind the bar at the time of the visit was only 17 years of age. Reference was then made to the Premises Licence and the previous owners of the licence and the sub-letting of the premises and the offences for not having a valid premises licence in place.

The Police then spoke about what they saw as the links between the current Manager of the Bombay Brasserie and the Director of the new company Chak27 and who had the responsibility of running the business. Reference was made to another Bombay Brasserie that was situated in Boston and which was run by the Manager at the premises in Pointon at which more illegal workers had been found. The Police asked the Committee to reject the transfer of the premise licence due to the undermining of the licensing objectives.

The Manager of the Bombay Brasserie situated at the Ship Inn, Pointon then made his representation and spoke about the takeover of the business from the previous owners and how quick the takeover had taken place which had been around the time of the visit by the Police and what he had done and the notifications to the Licensing Officer. He stated that the ownership of Chak27 was different to the premises in Boston. He stated that he had received a letter from the Home Office stating that he was not liable and there was no penalty. He made reference to how the Bombay Brasserie and the Old Ship Inn would be run and that a previous ex landlady of the Old Ship Inn would be taking over as the DPS. He indicated that the previous premises licence holder had been happy for them to carry on the businesses under the old licence, he had not had any intention of doing anything wrong. He stated that he had not been aware of the

requirements in respect of CCTV or the relevant poster required by the premise licence and these were now in place together with training. Reference was also made to further conditions on the licence in respect of under 14 and leaving the premises by 9pm.

Members asked questions in respect of the employment of an illegal worker, the payment of NI and tax and the facts and knowledge that a premises licence holder should be aware of even before they applied for a licence.

Further questions were asked by the Police in respect of right to work checks of employees, what training had been carried out, what involvement the new director of Chap27 would have with the business and the proposed new DPS.

The Legal Advisor informed the Committee that the options available to them were to either accept the transfer of the premise licence or reject the transfer of the premises licence.

The Police then made their closing statement referring the Committee to the evidence that had been put forward which included the lack of compliance with conditions prior to the visit by the police, that a 17 year had been employed behind the bar at the time of the visit, the employment of an illegal worker and they asked the Committee to reject the transfer of the premise licence as they felt that the licensing objectives would not be upheld.

The applicant had nothing to add in respect of a closing statement.

(10:45 Licensing Officers, Police and applicant left the meeting)

The Committee considered the transfer of the premise licence having regard to all relevant guidance under the Licensing Act 2003 and policies including the Council's Statement of Licensing Policy together with the representations made. The Committee were concerned about how the premise was being run and the findings when a visit had been undertaken by the Police and the breaches that had been occurring in respect of the Premise licence. The Committee acknowledged that the issues in relation to the CCTV and training had been addressed. The Committee considered the information that had been presented by the Police and also what had been said by those present in respect of the premises and the transfer of the premises licence to Chak27 and links between the parties present. Members felt that on the information before them that the transfer of the premises licence be rejected. On being put to the vote this was **AGREED**.

(10:55 Licensing Officers, Police and applicant returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had considered the application for the transfer of a premises licence to Chak27 Ltd for The Old Ship Inn, Bombay Brasserie, 22 High Street, Pointon Sleaford NG34 0LX.

The Committee had taken into consideration the report and appendices and verbal evidence presented by both parties together with the Licensing Act 2003

and Regulations made under it, the Guidance issued under Section 182 of the Licensing Act 2003 and the Councils Statement of Licensing Policy.

The Committee accepted that exceptional circumstances were required for the Police to object to a transfer application. The Police stated that this was an exceptional circumstance and to reject the application if it considered it appropriate for the promotion of the crime prevention objective to do so.

The Police rely on matters and evidence referred to in the notice of objection to the transfer of the premises licence and had put evidence forward that the person in control of the premises employed a chef who was not entitled to work and this person is linked to Chak27 Ltd - the applicant for the transfer.

The Committee had carefully considered the grounds for the objection notice. The applicant explained the running of both the Old Ship Inn and Bombay Brasserie, (two business models) and events that took place more recently in relation to changes in ownership and change of DPS. The Committee noted that issues in relation to CCTV had been addressed and training records were on the premises.

This was not a review hearing it was simply a matter for the Committee to either accept or reject the transfer application with no power to consider adding conditions to address any concerns. There was nothing to prevent any party in due course applying for a new licence at the premises.

From the evidence before them, the Committee concluded that there was a link between the applicant's company and the person in control of the premises. The Committee rejected the application for the transfer of the premise licence as they considered it was appropriate to do so, for the promotion of the crime prevention objective.

There was a right of appeal to the Magistrates Court. Any appeal must be commenced by notice of appeal given by the Appellant to the Magistrates Court within 21 days beginning with the day on which the Appellant was notified by the Licensing Authority of the decision appealed against.

49. Any other business which the Chairman, by reason of special circumstances, decides is urgent.

None.

50. Close of meeting

The meeting closed at 11:00am.

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SOUTH
KESTEVEN
DISTRICT
COUNCIL



Alcohol, Entertainment and Late Night Refreshment Licensing Committee

26th July 2024

ENV883

Report of Chris Clarke, Licensing
Officer

Licensing Act 2003: Review of Premise Licence – Indre Shop Ltd, 9A Bridge End Road, Grantham, NG31 6JW

Report Author – Chris Clarke – Licensing Officer

01476 406080



Licensing@southkesteven.gov.uk

Hearing to determine an application for the review of a premises licence – Indre Shop Ltd, 9A Bridge End Road, Grantham, NG31 6JW.

Recommendations

It is recommended that the Alcohol, Entertainment and Late-Night Refreshment Committee (“the Committee”) consider the application for a review of the premises licence relating to the premise known as, **Indre Shop Ltd, 9A Bridge End Road, Grantham, NG31 6JW** and decide whether to:

1. modify the conditions of the licence;
2. remove the designated premises supervisor;
3. suspend the licence for a period not exceeding 3 months; or
4. revoke the licence.

Decision Information

Does the report contain any exempt or confidential information not for publication? Yes

What are the relevant corporate priorities? Connecting Communities & Effective Council

Which wards are impacted? All

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

- 1.1 There are no specific financial implication associated with this report, however, in the event of an applicant, responsible authority or interested person making an appeal against a decision which was then subsequently upheld, the council may incur additional costs.

Legal and Governance

- 1.2 The Licensing Act 2003 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 is obliged to hold a hearing to consider the application. In determining the application, the committee should consider guidance issued under S182 of the Act and the councils own statement of licensing policy, together with all representations. The decision of the committee should be no more than an appropriate and proportionate response to the concerns raised.

Community Safety

- 1.3 Community Safety implications will be considered in accordance with the licensing objectives and the duty to consider in accordance with S17 of the Crime and Disorder Act 1998

2. Background to the Report

- 2.1 On Tuesday 4th June 2024 an application for the review of the premise licence for Indre Shop Ltd, Grantham was received from Lincolnshire Police along with supporting documents. **(Appendix 1)**
- 2.2 The application for review relates to the following licensing objectives: -
- Prevention of crime and disorder.
 - Public Safety.
 - Protection of Children from harm.
- 2.3 Lincolnshire Police advise that they have obtained evidence which indicates that the management of these premises have been operating in such a manner that amounts to criminal activity and thus undermines the licensing objectives:
- A large scale cannabis grow within the disused ground floor shop area.
- 2.4 On 6th June 2024 a notice was erected at the premises by the Licensing Authority regarding the review.
- 2.5 No representations have been received.
- 2.6 The current licence holder Indre Adamkevicius has held the premise licence for this premise since June 2016. Mr Adamkevicius has previously been issued with a Police caution for admitting to committing licensing offences at the premises in 2016. Section 136 offences (Unauthorised licensable activities) and Section 144 Offences (keeping of smuggled goods on licenced premises).
- 2.7 A copy of the premise Licence. **(Appendix 2)**

3. Key Considerations

- 3.1 The options available to the Licensing Committee:

- modify the conditions of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding 3 months; or
- revoke the licence.

- 3.2 The guidance issued under Section 182 of the Act is:

“In deciding which of these powers to invoke, it is expected that licensing authorities 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 an appropriate and proportionate response.”

(Paragraph 11.20 of the guidance Issued under S182 of the Act.)

4. Reasons for the Recommendations

- 4.1 Application for review has been received from Lincolnshire Police.

5. Consultation

- 5.1 Statutory 28 day consultation has taken place from 6th June 2024 until 3rd July 2024. During this time, no representations were received by the Licensing Authority.

6. Background Papers

- 6.1 [Statement of Licensing Policy 1st April 2021](#)
- 6.2 [Guidance to Applicants](#)
- 6.3 [Guidance issued under section 182 of the Licensing Act 2003](#)

7. Appendices

- 7.1 Appendix 1: Application for Review and Supporting documents Annex A & B
- 7.2 Appendix 2: Copy of the Premise Licence

South Kesteven District Council

Application for the review of a premises licence or club premises certificate 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 Paul Gibson, Chief Constable of Lincolnshire Police

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Indre Food Ltd 9a Bridge End Road Grantham	
Post town Lincolnshire	Post code (if known) NG31 6JW
Name of premises licence holder or club holding club premises certificate (if known)	
Indre Adamkeviciene	
Number of premises licence or club premises certificate (if known)	
22276	

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)



3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Lincolnshire Police Alcohol Licensing Deepdale Lane Nettleham Lincoln Lincolnshire LN2 2LT
Telephone number (if any) 101
E-mail address (optional) Countylicensinggroup@lincs.pnn.police.uk

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

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | ☒ |
| 2) public safety | ☒ |
| 3) the prevention of public nuisance | ☐ |
| 4) the protection of children from harm | ☒ |

Please state the ground(s) for review (please read guidance note 2)

This review application relates to a premises which is no longer open to the public. It has a licence suited to operations as a shop permitted to sell alcohol. It was granted a Premises Licence under the Licensing Act 2003 by South Kesteven District Council (licence number 22276), authorising the sale of alcohol for consumption off the premises between the hours of 09:00 and 22:00 Monday to Sunday.

Lincolnshire Police have obtained evidence which indicates that the management of these premises has been operating it in such a manner that amounts to criminal activity and thus undermines the licencing objectives.

A professional large-scale cannabis grow has recently been discovered within the disused ground floor shop area of the premises which was estimated as being at least 3 months old.

The premises has been historically problematic and subject of a review previously on two occasions. The current premises licence holder (PLH) and designated premises supervisor (DPS), Indre Adamkevicius, was issued a police caution for admitting to committing licensing offences at the premises back in 2016.

Revised Guidance issued under Section 182 of the Licensing Act 2003

Section 2.1 states Licensing authorities should look to the Police as the main source of advice on crime and disorder.

Section 11.24 states that reviews do not have to be directly linked or connected with the licensable activities at any premises. For example, reviews may arise because of drugs problems at the premises.... Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts.

The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

Section 11.25 states reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all.

In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives.

Section 11.26 states that where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, it is

solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

Section 11.27 states there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime.

Section 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence - even in the first instance - should be seriously considered.

Please provide as much information as possible to support the application (please read guidance note 3)

On Wednesday 10th April 2024, police received a report from an energy company warrant officer who was tasked with disconnecting the electricity meter at the premises and had witnessed signs of a cannabis grow.

Police attended the location and confirmed there was indeed a cannabis grow inside the business premises. The set-up was described as professional, with 150 plants all located within the ground floor shop area, aged between 12-13 weeks old. The wholesale value of this grow was estimated at between £21,500 - £75,500.

There were no signs of any connection to the grow and the flat above the premises, and it was believed that entry/egress to the ground floor had been via the rear yard which was shuttered. The front windows had been fully covered up. There were no signs that 'gardeners' had been living on site and a wi-fi system had been installed to water the plants remotely. CCTV was present inside the premises, however no hard drive was recovered and it was remotely accessed. (see appendix A - PC 1073 Holmes Drug Expert Witness statement, particularly pages 8 and 13-15 for full details regarding the grow).

Investigations commenced to try and identify those responsible for the cannabis grow and the installation of the hydroponic equipment, however this was unsuccessful, and charges were not brought against any person.

The police officer in case stated the landlord of the property had contacted the police following the discovery and confirmed the shop had been rented to a Karolis Adamkevicius who had moved back to Lithuania months before the 10th April 2024.

Lincolnshire Police request that the Licensing Sub-committee seriously consider a revocation of the premises licence as no licensing conditions can be added to prevent this type of criminal behaviour from continuing.

A timeline of other relevant information to this review is as follows:

June 2016 – a review of the premises licence, then named 'Balt Foods', was initiated by Lincolnshire Police. The PLH and DPS at the time was an Irena Kundrotaitė. The grounds of the review were based on discoveries of non-duty paid alcohol, foreign labelled medicines and areas of non-compliance regarding the premises licence. The committee took no further action in respect of the licence, however Irena Adamkevicius was interviewed by police and cautioned for licensing offences. During this time, Indre Adamkevicius applied for a transfer of the licence which was granted on the 18th May 2016 and the shop commenced trading as 'Indre Food Ltd', with Indre Adamkevicius as PLH and Ms Kundrotaitė as DPS. Indre Adamkevicius then took on the DPS role from the 24th June 2016.

August 2016 – a second review of the premises licence was initiated by Lincolnshire Police following a test purchase operation on the 18th August 2016 where non duty paid cigarettes were sold. At the time police discovered both Indre and her husband Karolis Adamkevicius present at the shop. During a search of the premises, a 'hide' was discovered, with a large amount of illegal cigarettes located within in it. Breaches of the premises licence were also noted. Both Mr and Mrs Adamkevicius attended the review hearing and stated they would not sell illegal cigarettes, alcohol or medicines again, and wanted to make a 'proper business'. The decision notice issued by SKDC on the 20/10/2016 which documents the three-month suspension of the premises licence that was issued.

(see appendix B for decision notice).

September 2016 – Indre Adamkevicius was interviewed by police for the offences discovered on the 18th August 2016. She admitted the offences of Section 136- carrying on unauthorised licensable activities and Section 144 - keeping of smuggled goods on licenced premises. She was issued a caution for both offences.

March 2024 – the premises was checked at various times during the month and found completely closed.

10th April 2024 – cannabis grow was discovered.

29th April 2024 - Chris Clarke SKDC Licensing made a call to the PLH to discuss the future of the premises licence. There was no answer and no voicemail facility.

9th May 2024 – Chris Clarke visited the premises to find it completely stripped.

21st May 2024 – Pc Braithwaite from Lincolnshire Police Alcohol Licensing Team emailed Mr Adamkevicius (this was the only email address held on file for the couple) requesting contact back from the PLH. No reply was received. The mobile number held for Ms Adamkevicius would also not connect.

Have you made an application for review relating to the premises before

If yes please state the date of that application

If you have made representations before relating to the premises please state what they were and when you made them

As described above

Please tick ✓

yes

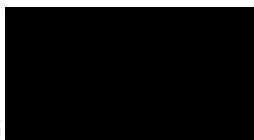
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature



PC 824 BRAITHWAITE

Date

04/06/23

Capacity

for and on behalf of Chief Constable of Lincolnshire Police

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

6. This is the address which we shall use to correspond with you about this application.

APPENDIX 1 ^{1A} **WITNESS STATEMENT**

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s.9

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Statement of: **David HOLMES**

Age if under 18: **Over 18** (if over 18 insert 'over 18')

Occupation: **Police Constable 1073**

This statement (consisting of 17 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: **PC 1073 David HOLMES**

Date **29/05/2024**

Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

Declaration

"I am a Drug Expert Witness and I been requested to provide a report in this case and confirm I am Independent of the Investigating Team.

1. I understand that my duty is to help the court to achieve the overriding objective by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing reports and giving oral evidence. I understand that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied with and will continue to comply with that duty.

2. I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.

3. I know of no conflict of interest of any kind, other than any which I have disclosed in my report.

4. I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.

5. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect my answers to points 3 and 4 above.

6. I have shown the sources of all information I have used.

7. I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.

Page 1 of 17

Signature:	Error! Reference source not found. PC 1073 David HOLMES	Signature witnessed by:	N/A
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Statement of: **David HOLMES**

8. I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.

9. I have not, without forming an independent view, included, or excluded anything which has been suggested to me by others including my instructing lawyers.

10. I will notify those instructing me immediately and confirm in writing if for any reason my existing report requires any correction or qualification.

11. I understand that:

(a) my report will form the evidence to be given under oath or affirmation.

(b) the court may at any stage direct a discussion to take place between experts.

(c) the court may direct that, following a discussion between the experts, a statement should be prepared showing those issues which are agreed and those issues which are not agreed, together with the reasons.

(d) I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert.

(e) I am likely to be the subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.

12. I have read Part 19 of the Criminal Procedure Rules¹ and I have complied with its requirements.

13. I confirm that I have complied with the code of practice or conduct for experts of my discipline, namely (DEWVA Best Practice Guidance) in all respects.

14. I confirm that I have read the CPS Guidance for Experts on Disclosure, Unused Material and Case Management² which details my role and documents my responsibilities, in relation to revelation as an expert witness. I have followed the guidance and recognise the continuing nature of my responsibilities of disclosure. In accordance with my duties, as document in the guidance booklet, I confirm that:

(a) I have complied with my duties to record, retain, and reveal material in accordance with the Criminal Procedure and Investigations Act 1996, as amended.

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Statement of: **David HOLMES**

(b) I have compiled an Index of all material. I will ensure that the Index is updated in the event I am provided with or generate additional material.

(c) in the event my opinion changes on any material issue, I will inform the investigating officer, as soon as reasonably practicable and give reasons.

I confirm that the contents of this report are true to the best of my knowledge and belief and that I make this report knowing that, if it is tendered in evidence, I would be liable to prosecution if I have wilfully stated anything which I know to be false or that I do not believe to be true."

I have attached a copy of my Professional Experience.

Professional Experience

I am currently employed by Lincolnshire Police as a Drug Expert Witness.

I joined Lincolnshire Police in 2008; I was based at Grantham as a uniformed response Officer until 2014 when I moved to Gainsborough Police Station in the same role.

My main aim for joining the Police was to help the public, due to this I have always been interested in offences involving drugs and the impact these types of crimes have on the users, their families and the community in general.

As part of my role I speak with people that are involved with Drugs on a daily basis, this includes the users of drugs and their families, Colleagues both in the police and other emergency services, to professionals from independent agencies such as We Are With You (Addaction) through to forensic sciences. From this I am able to build a picture of what drugs are available, their prices and purities, how the drugs are supplied including packaging and any local trends or issues relating to Lincolnshire and areas within.

I am a member of the Lincolnshire Substance Misuse Delivery Group, which is a multi-agency group with the responsibility of tackling substance misuse in Lincolnshire.

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Statement of: **David HOLMES**

I am sent numerous daily reports and bulletins to do with drugs from both Lincolnshire and other Counties, I read and research these documents along with other literature about drug use and supply, this enables me to compare the local Lincolnshire picture to the National one.

I have attended a field-testing course enabling me to test for Cocaine, Crack Cocaine, Heroin, MDMA and Amphetamine using the Alere (Cozart), Securetec Drug ID test and Marquis Reagent testing kits, I have received training on EDIT – Evidential Drug Identification Training and am responsible for training all colleagues within Lincolnshire Police. I have tested many samples of drugs, giving me continuous hands-on experience with commonly encountered drugs.

I successfully completed a Drug Expert Witness course in Kent which allows me to comment on drug culture and current values of different drugs.

As part of my role I have delivered training to Colleagues ranging from Police Cadets, Special Constables and Student Officers on an introduction to drugs they are likely to encounter, through to Constables going through their detective training, I have assisted with the writing of this presentation to new and existing colleagues.

I have also delivered training to Magistrates on common types of drugs they may encounter including costs, effects, methods of use through to how it is imported into the country.

As a Drugs expert witness I have completed many Statements for the courts covering the Identification of drugs, their values, the relevance of paraphernalia, tactics used by dealers and users to evade arrest and the interpretation of terms used within the drug trade. I have examined mobile phone exhibits and read through hundreds of thousands of text messages sent between drug dealers and customers.

In order to prepare these statements I use my own experiences and my daily work as outlined.

On a daily basis I read intelligence items submitted by Colleagues in relation to drugs. I keep a separate research database on pricing; this enables me to monitor Drug prices in Lincolnshire. This information is obtained through various sources including, intelligence submissions, drug users, drug and alcohol treatment facilities, prisons and colleagues. Through this I ensure I am constantly up to date with drug prices and deal sizes within the county.

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Statement of: **David HOLMES**

I monitor all drug seizures within the County and make decisions on what can be examined in force and what needs to be submitted to scientists for examination.

I look at all cases where persons have been arrested or identified for supply offences. I have rejected cases where I believe the offence is Possession only or no action is required.

I have received training at a Home Office licensed Premises used by GW Pharmaceuticals where cannabis is grown and processed in this Country, this is for both Research and the production of medicines such as 'Sativex'. Amongst other things I was shown the process for and then made Cannabis Resin using the ice water extraction process, I am now familiar with the method of this and what equipment is needed.

I have attended a Steroids conference in Essex covering hidden harms, their use and general image enhancement.

I have assisted in the writing of guidance to Lincolnshire Police Officers on the dangers and effects of Psychoactive Substances, Fentanyl and other similar drugs.

I have compiled a guide on Cocaine Presses, including their appearance and functionality.

I have attended Oxford University for a seminar in relation to the effects, use and make up of New Psychoactive Substances.

I have visited many sites of illegal cannabis production; I am trained in the identification of cannabis, the cropping and preparation of cannabis.

I have researched "County Lines" gangs and have a good knowledge on how they operate, including how they are set up and grow customer bases. I have attended conferences where the emergence of county lines was discussed and the impact of this on the local communities.

I have attended a seminar on New Psychoactive Substances at Oxford University.

During my service as a constable I have regularly encountered drug users, dealers and families of users;

I was involved in the investigation with numerous offences of Possession of controlled drugs including cannabis, Cocaine, Crack Cocaine, Heroin and amphetamines. I have dealt and spent time with the

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Statement of: **David HOLMES**

users of drugs for the offences they have committed to be able to fund their drug addictions, I spent time speaking with them to understand the effect drugs have on them, their families and friends.

I have witnessed drug deals taking place on the street, in houses and cars. I have seized various drugs from both users and dealers.

I have attended the scenes of outdoor raves where drug use and supply are frequent; I have seen the effects drugs can have on the public.

I am experienced with the various different weights and packaging for different drugs, the slang used for the drugs and culture in general. I am familiar with the methods in which drugs are supplied and consumed.

I have been involved in search warrants executed under section 23(3) Misuse of Drugs Act 1971, this has included searches of home addresses and vehicles that are connected with drug use and drug supply.

I have assisted in the investigation of offences of possession with intent to supply controlled drugs including Cannabis, Cocaine, Crack Cocaine, Heroin and amphetamine. During these investigations I have carried out the searching of addresses, seized drugs and drug related paraphernalia including scales, bags, electronic devices and books containing deal entries, arrested and interviewed offenders leading to successful prosecutions.

I have attended Magistrates court and Magistrates' home addresses to secure search warrants relating to drugs, I have led and been part of the team that executed these warrants where drugs and evidence of dealing have been located.

I am a member of the national organisation of drugs expert witness and valuation association, (DEWVA), which is an NPCC, supported body for drugs expert witnesses, which provides professional development and training around the supply of drugs from local to international supply, as well as promoting a consistent and professional response to providing expert evidence.

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Statement of: **David HOLMES**

I regularly look at and handle drug exhibits and have been involved in the testing and identification of drugs that were recovered in large scale operations that have made national headlines.

I am a member of the Drugs Advice Group (DAG). This group is a forum where information on drug markets is circulated to all members, this includes topics such as; Current drug Price, Practices and techniques used for how drugs are packaged and distributed, Jargon / Codes used by suppliers / users, consumption rates by users and recent headlines involving drugs.

I review statements completed by other Drug Expert Witnesses within Lincolnshire.

I have recently completed the Level 3 award in education and training (AET) so I can continue to develop my role as a trainer about drugs.

In December 2020 I attended a 5-day course in advanced expert evidence for Organised Crime Drug Trafficking, this looked at how drugs are imported into the UK, and how wholesalers and importers of these drugs distribute them through the country and how to present this evidence.

In September 2021 I attended a CPD event at the University of Portsmouth where Pieter Tritton spoke about his life as an International Drug smuggler.

Peter Tritton was involved in the drugs trade and had been organising and smuggling cocaine via concealments into the United Kingdom from South America through trusted contacts within the cocaine trade. He was arrested in Ecuador by Interpol in 2005 and spent the next 12 years in Ecuadorian prison's finally being released into Britain. The event included evidence of impregnation, extraction method, repressing and distribution of Cocaine.

In August 2023 I assisted a charity called "The Loop" to conduct back of house drug testing at a 4-day Festival in Lincolnshire called "Lost Village". This was for harm reduction, there was no prosecution from the testing, it allowed for purity information for numerous controlled drugs to be checked and any

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Statement of: **David HOLMES**

potential bad batches of controlled drugs or particular dangerous drugs to be identified and alerts sent out to festival goers.

My working day consists of handling, talking about, writing about and reading about drugs.

Case Summary – 24000208622

On the 10th of April 2024 the Police have attended 9A Bridge End Road, Grantham, where they have located a cannabis production, the address was previously being used as a shop, due to this it has one large growing area. I attended the production on the 11/04/2024.

I am aware this case has been finalised but have been asked to provide some details for licensing. I can not say for certain how access was gained to the production, I know the Police have used the front door – the entrance to the ‘shop’, I believe it is likely though that this was not used by the growers, this is due to the fact the plants would be visible from a busy road / street but also it appears when the police entered they removed some of the insulation boarding which would likely have covered the inside of this door, this along with the fact a number of the plants had been knocked over, makes it likely the rear (only other) entrance was used to access the production.

Cannabis

Cannabis female flowering top is the crop of the cannabis plant. It is the most desired part of the plant by those that smoke cannabis, as it has the highest Tetrahydrocannabinol (THC) content, being the principal psychoactive constituent. Cannabis is imported as well as being grown in the UK.

Cannabis is sold at street level in £10 deals for just under 1 gram. In larger weights it is sold as fractions of an ounce, and in wholesale weights as ounces, fractions of kilograms, and kilograms.

Cannabis is most commonly consumed by adding a small amount to tobacco and smoking in a hand rolled cigarette, known as a joint, or spliff.

The effects of smoking cannabis are relaxation, mild euphoria, pain relief, anxiety and paranoia.

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Statement of: **David HOLMES****Cannabis is a Class B drug as defined by the Misuse of Drugs Act 1971.****Cannabis Production**

Cannabis plants are an annual, which means that when grown outdoors, they complete their life cycle within one year, growing in spring from seeds dropped as plants died down the previous autumn.

However cannabis can be grown indoors, provided that the person growing the cannabis, the gardener, creates the correct environment. This is usually created by using high powered lighting, and water enriched with nutrients to maximise the growth and yield of the crop. The growing rooms are adapted by lining with silver or white sheeting to reflect all the light back into the growing area, and ventilated using an air extraction system, usually with a filter to hide the smell of the plants.

The lights provide heat and mimic the passing of the seasons by the length of time they are switched on for. This is often done by the use of automatic timers. The plants are forced through their natural life cycle in 12-16 weeks, meaning that several crops can be grown a year. The stage of growth the plants are at can be determined by examining the timer settings.

During the growing period, the summer, the lights will be on for 16 -18hrs, and this is reduced to 12 hours for the flowering period, the autumn. This change in the amount of hours of light mimics the shorter daylight hours of autumn, and stimulates the cannabis plants to go to flower, producing the flowering tops, sought by the gardener.

It is the female plant that is desired by the gardener, as it produces more of the flowering top smoked by users. If any male plants are allowed to grow they will produce fewer flowering tops, and will fertilise the female plants, causing them to produce seeds and weaken the crop. At the appropriate time, the gardener will identify and remove any male plants from the crop.

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Statement of: **David HOLMES**

Gardeners are therefore selective about the plants that they grow, and take steps to prevent male plants from growing, as it is not in their interests to spend time, and money on the lighting and nutrients to grow male plants which are removed.

One way to ensure that only female plants are grown is to grow the plants from "feminised" seeds which give a 99.9% guarantee that only female plants will be produced. These seeds are readily available particularly over the internet.

However, the best way to ensure female plants are grown is to grow plants from cuttings taken from female plants. These will be clones, with exactly the same characteristics as the plant from which they were taken, which is known as the mother plant.

After growing some plants from seed the most common way of producing future crops is to take cuttings from the female plants amongst them, which is likely to be all of them.

After having harvested the flowering tops, the cannabis is dried for about 1-2 weeks before it is ready to be smoked.

Calculating Crop Yields

There are two ways of calculating crop yields from any given number of cannabis plants.

One is to use the amount of mature flowering tops recovered from seized plants.

The other is to apply known average figures of the amount of mature usable flowering top cannabis produced to the plants seized by the police.

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Statement of: **David HOLMES**

Records kept by the Forensic Science Service give an average yield per plant of 40 grams, records kept by Derbyshire Police give an average yield of 60 grams per plant (range of 5 grams to 285 grams per plant).

Another forensic provider, ESG, gives an average figure of 51 grams per plant.

A forensic study in the Netherlands in 2006 reported an average of 33.7 grams per plant, where 15 plants per square metre were grown. This study recommended a nominal dry "flowering top" weight of 505 grams per square metre. (15 x 33.7grams).

The 2006 forensic study in the Netherlands also quoted a median average yield of 505 grams per square metre linked to a wattage of 510 watts per square metre.

A study in New Zealand where 3 sparsely planted plants were grown reported yields of over 800 grams per plant.

The UNODC World drug report, 2006, stated that indoor yields may vary from a little under 300 grams per square metre to over 800 grams per square metre. This report also said "Overall a yield of 500 grams per square metre seems supported by several sources".

I am aware of the stated case of R v Auton where a recommendation is given to use a yield figure of 28 to 40 grams per plant, but I do not have information on the plants, growing area, or other details on the cases upon which this guidance was based.

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Statement of: **David HOLMES**

Some cannabis seed producers and some growing guides predict yields in terms of weight per watt of electrical energy used by the lighting system. It is often claimed that a grower can expect 1 gram of dry flowering top cannabis per watt of electrical lighting.

A scientist who grows cannabis for commercial purposes in the production of a medicine called "Sativex", has done a variety of research into crop yields, and how they are affected by the light available to them, and by how closely they are planted together.

In a recent study (Potter and Duncombe, Journal of Forensic Sciences), different lighting regimes were used on different varieties of cannabis plants grown 10 per square metre under different strength lights.

In the lowest lights the crop ranged from 280–470 grams per square metre, with a mean of 422 grams. (28–47 grams a plant).

Under the brightest lights the range was 350 – 630 grams per square metre, with a mean of 544 grams. (35–63 grams a plant).

Mean averages of 0.9 to 1.6 grams per watt were found.

Nationally police forces have seized cannabis plants with yields in excess of 100 grams per plant. Police seizures of cannabis yields are monitored by the Drugs Expert Witness and Valuation Association, which reports an average yield of just over 84 grams of female flowering top per plant.

From all of the information available it is probably fairest to say that an exact figure can never be given in such circumstances, however the likely amount of yield per plant, grown under ideal growing conditions would be between the range of 28–84 grams.

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Statement of: **David HOLMES****Grow Room 1.**

This was the only growing area in the production, the grower(s) had already begun the process of harvesting the cannabis female flowering top due to this there were a number of empty pots which still had the soil / stem of the plant inside. All the plants were grown from cuttings, they were healthy, bushy and had a large amount of female flowering top present, there was slight discolouration to some of the leaves but no signs of pest infestation.

In total there was 102 plants still in the pots plus 50 empty pots, the plants were 12 to 13 weeks old so ready to harvest, given the amount of flowering top in bags which had been harvested plus the equipment I believe there was the 150 (rounded down slightly) plants grown.

The plants were likely being grown remotely – via timers, the lights were all in one units – containing the bulb / led strips and ballasts, these were controlled by timers with a 12 hour on and 12 hour off setting – the commonly used setting for the flowering stage of cannabis plants.

The watering was also timer controlled, all the plants were connected to a 750ltr water butt, which via a McAlister water pump, fed the 'easyfeed' self-watering pots which have a plunger system – when the plunger reaches a low level it tells the system to feed more water, this in turn raises the plunger telling the system when to stop, what was interesting was that the water butt was fed via a hose that also had a 'smart valve controller' – this could be connected / controlled via wifi and was monitored by a camera, this would allow the grower to fill the water butt remotely, the plants were being grown in a compost / clay pellet mix.

The plants all had netting over them covering the entire area of the plants, this acts as support for the plants, when they grow larger with female flowering top, the branches can not support the weight – lowering them from the lights or even snapping and harming the plant, the netting supports the plant / branches.

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Statement of: **David HOLMES**

In order to extract the smell there was 3 x Rhino Pro carbon filters, connected to box fans and the ducting going through the wall, there was 3 x air in pipes bringing fresh air into the grow room and 7 x wall mounted circulatory fans to circulate this.

There was no living area for a grower to stay / sleep, this along with the equipment used to grow the plants, I believe that this grow was predominantly being grown remotely, it was noted there was cctv cameras / equipment in other areas - showing the plants, grower(s) or harvester(s) had been present at the location to harvest the female flowering top.

Valuations

There was a total of **150** female cannabis plants which I will value.

I will use a scale of each plant producing 28g to 84g - It is noted though, that this appears to be a good professional set up, I have personally cropped plants which have produced well in excess of 200g per plant, given the setup of this grow, I believe it is more likely the plants would have been at the higher end and likely even exceeded this range.

The amount of cannabis female flowering top produced (using 28g to 84g) would have been between **4,200g to 12,600g**.

I am aware that some discounts can be offered for bulk purchases, but this would depend on the relationship between the supplier and purchaser, available funds, regularity of purchase, quality or perceived quality and availability of the commodity. I have not seen any evidence of such discounts being offered so will use the standard values.

The price of one kilogram (1000g) is £5000 to £6000, half a kilogram (500g) valued at £2800 to £3500, a '9 bar' – 252g valued at £1500 to £1700 and one ounce (28g) being valued at £170 to £200.

Using 28g per plant and the above values - the 4,200g is consistent with (slightly underweight) 4 and a quarter kilograms – if each kilogram weighed 990g this would leave 240g for the quarter, this gives a value of **£21,500 to £25,700**.

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Statement of: **David HOLMES**

Using 84g per plant and the above values – the 12,600g is slightly over 12 and a half kilograms, this gives a value of **£62,800 to £75,500**.

To give an idea of the street value of the cannabis produced, a 1g deal is valued at £10, in total the 150 plants could produce 4,200 to 12,600 individual deals with a value of **£42,000 to £126,000**.

- In total there are 150 female cannabis plants to be valued, using a conservative scale of each plant producing 28g to 84g this would make 4,200g to 12,600g, it is likely the amount of female flowering top is very conservative and would at least be towards the higher end of this scale. This gives a wholesale value of **£21,500 to £75,500**.
- If this amount of cannabis was separated into single gram deals (growers very rarely sell in single gram deals – but to give an idea of the potential value) it would have a value of **£42,000 to £126,000**.
- The production site at 9A Bridge End Road, Grantham, is a professional set up, capable of producing multiple kilograms of Cannabis Female Flowering Top.

Disclaimer

I confirm that I have read guidance contained in the booklet known as Disclosure: Expert's Evidence, Case Management and Unused Material, which details my role and documents my responsibilities in relation to revelation as an expert witness. I have followed the guidance and recognise the continuing nature of my responsibilities of revelation. In accordance with my duties of revelation I confirm that:

- I have complied with my duties to record, retain and reveal material in accordance with the Criminal Procedure and Investigations Act 1996, as amended.
- I have compiled an Index of all material. I will ensure that the Index is updated in the event I am provided with or generate additional material.

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Statement of: **David HOLMES**

- c. In the event my opinion changes on any material issue, I will inform the investigating officer, as soon as reasonably practicable and give reasons.

I submit this statement based upon the information available to me at the time of compilation. I reserve the right to add, alter or replace any explanation or opinion in the event of being informed of additional material, evidence or facts.

I am tendering this evidence with the purpose of providing information to those who would not otherwise be expected to hold such knowledge in order to assist them to come to their own conclusions

I know of no conflict of interest of any kind, other than any which I have disclosed in my report. I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect this position.

I have exercised reasonable care and skill in order to be accurate and complete in preparing this report and have shown the sources of all information I have used.

I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.

I have not, without forming an independent view, included or excluded anything which has been suggested to me by others including those instructing me.

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Statement of: **David HOLMES**

I will notify those instructing me immediately and confirm in writing if for any reason my existing report requires any correction or qualification.

I understand that:

- a. My report will form the evidence to be given under oath or affirmation;
- b. The court may at any stage direct a discussion to take place between experts;
- c. The court may direct that, following a discussion between the experts, a statement should be prepared showing those issues which are agreed and those issues which are not agreed, together with the reasons;
- d. I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert.
- e. I am likely to be the subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.

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Licensing

Our Ref: 22276

Please ask for: Mr R Etherton

Date: 20 October 2016

Telephone Number: 01476 406080

The Chief Officer of Lincolnshire Police
Licensing (Alcohol)
Police Headquarters
PO Box 999
Lincoln
LN5 7PH

Dear Sir,

Alcohol and Entertainment Licensing Committee Hearing Decision

Premises:- INDRE FOOD LTD

I refer to the application you made for a **Review** of the above premises Indre Food Ltd and the subsequent committee hearing. I enclose a copy of the minute regarding the application together with the Committee's decision.

Decision:

To suspend the Premise Licence for the premises known as Indre Food Ltd, 9A Bridge End Road, Grantham for a period of three months.

There is a right of appeal against the Committee's decision to a Magistrate's court within 21 days from the date of the hearing. The address to appeal against a decision is:

South Lincolnshire Magistrates Court, Harlaxton Road, Grantham NG31 7SB

If we can be of any further assistance please don't hesitate to contact the Licensing Team on 01476 406080.

Yours faithfully

Licensing Officer

MINUTES

**ALCOHOL, ENTERTAINMENT &
LATE NIGHT REFRESHMENT
LICENSING COMMITTEE
FRIDAY, 7 OCTOBER 2016**



COMMITTEE MEMBERS PRESENT

Councillor Mrs Pam Bosworth (Chairman)
Councillor Robert Broughton
Councillor George Chivers
Councillor Phil Dilks
Councillor Breda Griffin
Councillor Bob Russell (Vice-Chairman)
Councillor Peter Stephens
Councillor Frank Turner

OFFICERS

Licensing Officers (Richard Etherton, Chris Smith)
Legal Advisor to the Committee (Mandy Braithwaite)
Democratic Officer (Lucy Bonshor)

12. APOLOGIES

Apologies for absence were received from Councillors' Kingman, Manterfield and Ward.

13. DISCLOSURES OF INTERESTS

None disclosed.

14. MINUTES OF THE MEETING HELD ON 12TH AUGUST 2016

The minutes of the meeting held on 12th August 2016 were agreed as a correct record.

Your council working for you

EXCLUSION OF THE PUBLIC

In accordance with Section 100A of the Local Government Act 1972, it was resolved that the public be excluded because of the likelihood in view of the nature of the business to be transacted that if members of the public were present there would be disclosure to them of exempt information as defined in paragraphs 1 and 2 of Scheduled 12A of the Act.

15. LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE, INDRE FOOD LTD, 9A BRIDGE END ROAD, GRANTHAM NG31 6JW

Decision:

To suspend the Premise Licence for the premises known as Indre Food Ltd, 9A Bridge End Road, Grantham for a period of three months.

The Legal Advisor introduced those present. Sergeant Enderby and PC McConville were the representatives from Lincolnshire Police and Helen Coney, a Solicitor was representing Indre Adamkeviciene, the Premises Licence Holder and Designated Premises Supervisor and her husband Karolis Adamkevicius together with an interpreter

The Licensing Officer presented report CSL101 which concerned an application for a review of the premises licence for the premise known as Indre Food Ltd, 9A Bridge End Road, Grantham which had been submitted by Lincolnshire Police, a responsible Authority under Section 51 of the Licensing Act 2000 on 26 August 2016. The grounds for the review were under the licensing objectives of the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance. 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 were listed within the report and the Guidance issued under Section 182 of the Act and therefore the Committee should take a stepped approach to the problem and evidence should be assessed to seek to understand the cause of the problem. The Licensing Officer then listed the main points for the Committee.

- On 18 May 2016 the premise licence was transferred from Irene Kundrotaite to Indre Adamkeviciene, Irene Kundrotaite remained the DPS.
- On 24 June 2016, the DPS was varied from Irena Kundrotaite to Indre Adamkeviciene the Premises Licence Holder and a new Premises Licence was issued.
- On 17 June 2016, the Committee had before them a review submitted by Lincolnshire Police of the Premise Licence which had initially been held by Irene Kundrotaite, from the evidence produced at the time the Committee decided that no action should be taken regarding the existing Premises Licence.
- On 28 July 2016 intelligence was received by Lincolnshire Police

regarding the selling of non-duty cigarettes at Indre Foods Ltd.

- On 11 August 2016 a test purchase was carried out by Lincolnshire Police at the premises no cigarettes were sold.
- On 18 August 2016 another test purchase was carried out and non-duty cigarettes were sold from the Premise and the Police attended and spoke with both Indre Adamkeviciene and her husband Karolis Adamkevilius.
- 2,260 non-duty cigarettes were seized from the premises. Total of 113 packets of three different brands.
- A compliance inspection was conducted by Lincolnshire Police at the time of the second test purchase and breaches to the existing Premise Licence were found.
- The Premises Licence holder was to be interviewed with regard to the offences. The interview took place on 13th September and a copy of the statement taken was attached to the report.
- A representation was received from Trading Standards on 19th September 2016 and a further statement from Lincolnshire Police was also received on this date. Both were attached to the report circulated.

Sergeant Enderby from Lincolnshire Police then made representations on behalf of the Responsible Authority and explained the circumstances leading up to the request for a Review. He referred to the Review which had taken place on the 17th June 2016 at which both Indre Adamkeviciene and Karolis Adamkevicius ("the Couple") had been present. The review had been called because illegal cigarettes had been found at the store. The couple had purchased the store from the person responsible for the illegal cigarettes. The Police did not believe at the time that the Couple had been involved in the selling of the cigarettes but they had concerns over how the business had been purchased and how the business was being run. Visits to the store, once it was under the Couples control, highlighted a number of breaches to the Licensing Conditions. The Couple had been in charge of the store since May 2016 but they had no working CCTV, no challenge 25 posters displayed and apparently no knowledge or training in relation to the Licensing Act or their responsibilities under the Act. Sergeant Enderby then referred to the minutes and the decision which had been given by the Committee at the 17th June meeting. The minutes referred to a visit that had been undertaken by the Police at the premises on 9th June where there were still outstanding items from the previous compliance test, namely, no CCTV, no challenge 25 posters on display and again no apparent knowledge of their responsibilities under the Licensing Act. Sergeant Enderby had stated that the Licence Holder must have the correct knowledge for the sale of alcohol and it appeared that no DPS had been in place either. . The owners had stated at the previous meeting that they had thought that they would be buying the CCTV from the previous owner; however the Police had seized it. The couple had stated that it was their business and they had a company document with them but no other paperwork. The Committee had asked if they understood what was required of them in connection with the Premises Licence to which they replied that they did. They had stated that they would not be supplying any illegal cigarettes, medicines or alcohol; they wished to make it a proper business and indicated

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that the premises would be open if Members wished to visit. The couple had stated that they would be running a responsible, legitimate business and they knew how to run that business. Sergeant Enderby then referred to the last page of the decision notice, in which he had expressed, in his closing statement, concerns that the Couple did not demonstrate any knowledge of the Licensing Act but moving forward the Couple had stated that they would address this and sort out any issues as soon as possible. They had stated that the camera issue had been resolved. Members had expressed concern about the Couples understanding of the English language but felt that they should be given the opportunity to make a success of the business. Sergeant Enderby indicated that following the previous hearing no one should be in any doubt about how the owners should be operating the business; they knew what they were doing and what their responsibilities were. They had assured the Committee that all issues had been resolved, that there were no problems with the CCTV and they were fully compliant with the conditions on the licence and they intended to run a lawful legitimate business and the Committee had given them the opportunity to do that.

Two months later on 28 July 2016 Lincolnshire Police had received two pieces of intelligence that the store was again involved in the sale of illegal non-duty paid cigarettes. The Police were aware that intelligence could be given for a number of reasons; sometimes it could be true, other times it could be done for malicious purposes and therefore in order to test the intelligence received they carried out test purchases. They had a pool of foreign language speaking volunteers who helped them carry out test purchases. On 11th August 2016 an attempt was made at the premise to buy non-duty paid cigarettes. No sale was made on that occasion, but the test purchaser on returning to the police vehicle, informed the police that the women behind the counter had stated that they did not have any cigarettes at that time, she was not told that they did not sell them, just that there were none available at that time. Sergeant Enderby informed the Committee that no cigarettes were sold on the premises; there were no displays or anything to indicate that cigarettes were sold, they did not stock cigarettes. He stated that as they did not sell cigarettes you would expect that a member of staff would have said they did not sell cigarettes, but that was not the case. On 18th August again a test purchase was attempted. The test purchaser again entered the store which she had only been in once previously and attempted buy non-duty cigarettes. She was not known to the persons in the premise. On this occasion she was given a full packet of foreign Marlborough Gold cigarettes for £5.00. Sergeant Enderby referred to the statement from the police officer following the test purchase. The test purchaser had handed the police officer a foreign packet of Marlborough Gold cigarettes. The volunteer stated that a male had been serving in the store; he had taken the money and gone out the rear of the premises to fetch the cigarettes. Pictures of the cigarettes are shown with the police officers statement and it can be clearly seen that the cigarettes are a foreign brand and should not be sold in this country. Offences under health and safety legislation are being committed by selling something which does not have the correct health warnings on them. Following the test purchase, police officers immediately entered the store and spoke to the persons present and he referred to the statement from the police officer who had entered the store together with three

other police officers. The male present was Karolis Adamkevilius and two women at the rear of the store were the Premises Licences Holder/DPS, Indre Adamkeviciene and her mother. The police officer identified himself to those present and referred to the purchase of the non-duty paid cigarettes and asked to be shown where the cigarettes were stored. Initially Mr Adamkevilius denied any knowledge about cigarettes however after a few minutes he indicated that the only cigarettes he had were for personal use by him and the two other females present. He then led the police officer through the back store room to a back door and through a door which appeared to lead to a private dwelling. He then proceeded to lift a hinged step to show a hide containing a number of foreign branded packets of cigarettes. (700 Minsk, 500 Marlborough Gold, 1060 Winston cigarettes – total 113 packets). The two people running the business were on the premises when the sale was made and when the goods were seized. Sergeant Enderby considered that Mr Adamkevilius's claim that the cigarettes were for personal use, was suspicious, considering he had just sold a packet to the test purchaser. He suggested to the Committee that no weight could be attributed to Mr Adamkevilius's explanation of having that many cigarettes in a hidden store. Intelligence had indicated that cigarettes were being sold from the premises. The first test purchaser had been told that they hadn't got any cigarettes on that day. The next test purchase had resulted in a sale being made and a large amount of cigarettes were found hidden. The test purchaser had said that the male had gone to the rear of the stock room to get the cigarettes. He had disappeared in the direction of where the cigarettes were found.

Whilst at the store a compliance check was carried out in respect of the Premises Licence whereby it transpired that the hard drive to the CCTV was housed in an ununlockable wall cabinet and the CCTV monitor was not recording. When the hard drive was played back there was no indication that any recordings had been made during July or August. The hard drive was seized and had since been inspected by forensics who had stated that there were no recordings on the hard drive at all. This was despite the couple informing the Committee in June that all the issues with the CCTV had been resolved. Sergeant Enderby then went on to inform the Committee that in these cases where test purchasers had been used they would look at the hard drive to see how many times the purchase of cigarettes had been carried out, however in this instance they were unable to do that and the only benefit from not having a working CCTV was to the owners of the premise. Other conditions on the licence were then looked at and found to be non compliant such as an incorrect home address on the Premise Licence. The licence still indicated the Boston address even though the Couple now lived in the flat above the premise and had done for a number of weeks. This was an offence as they should have informed the Local Authority of the change of address. Both Sections 127 and Section 33 of the Licensing Act had been contravened.

The Premises Licence holder was then questioned about the conditions of the Premises licence and she seemed to be unaware of the Police Reform and Social Responsibility Act 2011 or the guidance under Section 182 of the Licensing Act or the Government Alcohol Strategy 2012. Sergeant Enderby felt that she was unaware that these conditions were on the licence and came

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across as not knowing what they meant. Conditions further down on the licence were referred to about proof of age advertising at point of sale, awareness and education of the law when selling alcohol to drunk and disorderly or selling alcohol to children. The Premises Licence holder did have awareness due to holding a personal licence but she admitted that she had not passed this on to her staff or carried out any training. When the premise licence holder's husband was asked about the law with regard to the selling of alcohol, he told the police officer that he did not sell to drunks or children. The police were concerned that the Couple had very limited knowledge of the Licensing Act, where as at the previous hearing in June, they had stated that they knew what their responsibilities were. Clearly, in the view of the Responsible Authority, this was not the case. There was a breach of all the conditions on the licence with regard to the CCTV. Although there was a CCTV system in place, it failed to record for the required 31 days, the playback and download facility did not work, the quality was not sufficient, the lighting within the store to capture CCTV images were too dark, none of the those present seemed to know how the system worked. The equipment should have been housed in a secure room/cabinet. There should have been one high resolution camera to capture people entering through public entrances capable of capturing a high resolution face and shoulder picture for facial recognition purposes. Other conditions which were not being adhered to were with regard to the public safety conditions such as fire evacuation training and alcohol being displayed in a secure area. The alcohol was in a fridge situated near the back door behind the counter and not in a secured area. The Licence conditions also state that the Licence holder must make great effort to inform the public of the dangers of alcohol by providing clear health warnings where the alcohol was displayed and at point of sale, again, there was no evidence of this taking place. Also staff should be trained in checking customer's ages against relevant documents such as passport or driving licence which the Premises Licence Holder had admitted that she had not given any training for. There was also the criminal offence in the sale of the cigarettes. Sergeant Enderby stated that in his view it appeared that very few of the licensing conditions were being complied with despite what the couple had said at the hearing in June.

Due to the number of offences that had been committed under the Licensing Act legislation due to the non compliance issues and the sale of the illegal cigarettes arrangements were made to interview the Premise Licence Holder. The Premise Licence Holder attended the interview together with her solicitor and an interpreter. The interview took place on the 13th September 2016 and the Police Officer's statements were appended to the report. Following the interview it was decided that the police would take no further action in connection with the failure to notify the Local Authority of the change of address, this had now been done. In relation to the unauthorised licensable activities she admitted several breaches to the Licensing conditions including being unaware of her responsibilities under the Licensing Act with regard to being the DPS even though she had taken a course. She claimed there was a language barrier on the day of the police visit and she did not realise what had been asked of her, even though she had taken the personal licence course in English. She informed the Police that she had bought a book to help her with

the course in English. She also admitted that the Licensing Officers had gone over the licensing conditions with her when she transferred the licence. During the interview she assured the Police Officers that the premises were now fully compliant and she did show training logs and posters that were intended to be put up around the premise. She denied that the reason that the CCTV was not working was to hide the illegal activities. In relation to the Section 144 offences, 'the keeping of contraband goods on licensed premises', she stated that her premises did not sell non duty cigarettes. Sergeant Enderby informed the Committee that a set policy was followed when a test purchase was being carried out and detailed what happens. When the second test purchase took place the volunteer was given money to buy some cigarettes and when she returned she had a packet of non duty cigarettes which she handed over to the Police Officer. The Premise Licence holder during her interview said that her husband had felt sorry for the women as she "looked poor" and "not very well dressed" and she was "begging" and so out of the goodness of his heart he had given her the cigarettes. She stated that she believed what her husband had told her and they were not selling illegal cigarettes and her husband had given them away.

During the interview she was asked where the cigarettes came from. She stated that when she lived in Boston she had seen an advertisement on Facebook for cheap non duty cigarettes and she had bought them. Sergeant Enderby informed the committee that if this was how she had bought them, then this was illegal. She had said that she knew they were non-duty but "everyone does it" and as they were for her own use she believed it was OK. She was then asked why they were kept in the shoe store which was what the hide was used for. She claimed that the cigarettes were kept there so that they did not have to keep going up stairs to fetch them. She said that she was aware that her husband had some in his pocket when he worked in the store and it was one of these packets that he handed to the test purchaser. It was pointed out that it was an offence even having the one packet in her husband's pocket on licensed premises. No sale has to take place for that offence to be made. She admitted the offence and was given a caution.

Sergeant Enderby informed the Committee that all the seized goods were passed on to HMRC. The Premises Licence holder was asked repeatedly if she believed her husband's storey that he had given the cigarettes away and she stated that she did. If this was the case than Sergeant Enderby informed the Committee that the test purchaser must then have lied to the Police. She stated that she believed her husband but could not comment as she was not there.

The Premises Holder was then asked who was working in the store prior to 24th August, specifically when the first test purchase was made and they had been informed that currently they had no cigarettes. The Premise Licence Holder replied that she thought it may have been her mother as it was not her. However, her mother would not have said that they did not currently have any non duty cigarettes as they did not sell cigarettes. The Premise Licence Holder was asked by the Police Officer whether she knew if her husband had given cigarettes away before and she replied as far as she knew he had not. She

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was then asked if she could account for the two pieces of intelligence that the Police had received that stated that premise was selling cigarettes. She could not account for it. As she had no prior convictions she was given a caution under Section 136 and Section 144 of the Licensing Act 2003.

The Premises Licence Holder had admitted under caution that she doesn't know her responsibilities in relation to the Licensing Act and yet had again claimed that everything was sorted. Clearly the couple should know what they were doing but the Police evidence suggests that they didn't and they had not bothered, nothing had moved on with the premises since they took control of it. Sergeant Enderby referred to the claims in relation to the test purchase which, if their claims were to be believed, points to the test purchaser lying to the Police and stealing the money given. The test purchaser was used repeatedly for this type of procedure and she would have nothing to gain from lying to the Police. If indeed the husband had given the test purchaser the cigarettes Sergeant Enderby had no doubt that she would have returned to the car and said they had been given to her rather than them having been purchased by her. From the intelligence given, in his mind, the store was selling cigarettes. The "hide" had been built into the step and he could think of no explanation as to why cigarettes would be kept there in that quantity and with three different brands. Tobacco companies relied on smokers being brand specific so that most smokers stick to a particular brand and if the seized cigarettes had been for personal use they would be expected to be all the same brand. In the quantity found and the way they were hidden and the intelligence received, it was clear in the Police view, that the premise was selling illegal cigarettes.

Sergeant Enderby ended by stating that everything possible had been done to give the couple the opportunity to run a legitimate, responsible business. They had failed because they had chosen to ignore the advice that had been given at the previous hearing and they were using the store as a front for criminal activity. The store was undermining the licensing objectives of the prevention of crime and disorder and public safety. Selling illegal cigarettes in this way was deliberate and unacceptable criminal activity for profit. Legitimate responsible retailers lost out to stores operating in this way. Trading Standards in their statement stated the dangers of these cigarettes and the other numerous health and safety offences that were being committed which is why the hearing had been brought before the Committee.

Members then questioned Sergeant Enderby about the safety of the cigarettes. He informed the Committee that all cigarettes which were UK compliant had health warnings both written and with pictorial diagrams. Also they have bumpers down the side as a safety features which, if the cigarette was left unattended they would self extinguish. Foreign cigarettes did not have this feature and he referred to the increase in house fires nationally and a recent house fire in this county, where the person died as she fell asleep with a lit cigarette as a result of foreign cigarettes which did not have the self extinguishing feature.

Another Member referred to the hinge step on the stairs and asked in Sergeant Enderby's view, did it suggest to him that this was a deliberate, premeditated

attempt to prepare the ground with a sophisticated hiding place for a sustained and long intention to profit from these types of illicit sales rather than a one off incident, to which Sergeant Enderby replied yes. He personally believed that the store had not stopped selling cigarettes. He believed that the previous owner had sold cigarettes for a number of years. Although the owners had stated that the hide was originally to put shoes in. They had used it for cigarettes as they did not want to go up stairs and they wanted them out of sight of the children. In his opinion it had been put there to hide the cigarettes. The man had walked in that direction when he had got the cigarettes for the test purchaser. A further comment was then made by the Member inferring that the reason why the CCTV was not working was due to them selling illegal cigarettes and Sergeant Enderby agreed. He referred to other test purchases done all over the County and one of the bonuses for the Police was the CCTV as people forgot that it was there and it often caught criminal activity. The only benefit of not having CCTV was for the owners.

Questions were then put to Sergeant Enderby from the Solicitor representing Indre Adamkeviciene, and her husband Karolis Adamkevicius. She referred to the visit on 9th June and stated that the issue of the posters relating to health warnings had not been raised at that time. Were there posters or had they been overlooked. Sergeant Enderby replied that there weren't any. The Solicitor then asked if Sergeant Enderby could confirm that the Challenge 25 posters were there at the visit on 18th August to which he confirmed that there were some Challenge 25 posters but there were no posters about the dangers of alcohol. The Solicitor then referred to the hard drive to the CCTV that was seized on 18th August and asked for confirmation that it had been put in place since 9th June hearing, to which Sergeant Enderby replied yes it had.

The Solicitor then asked about the hinged step and whether at the visit on 18th August Sergeant Enderby could tell how long it had been there, to which he replied "no" and also whether he could see a stair gate to which he replied "yes" as it was shown on the photographs. He also agreed that on an outside table there appeared to be smoked cigarettes and he confirmed that other than the cigarettes that the test purchaser bought no cigarettes were actually found in the shop. She also asked him to confirm that a packet of cigarettes had been found in Karolis Adamkevicius vehicle to which he replied they had and he had claimed they were for personal use.

The Solicitor then asked for Sergeant Enderby to confirm that the test purchaser had never been asked to supply a statement. In the circumstances before the Committee and for numerous other reasons the Police tried to keep the identity of test purchasers secret. The Solicitor had been in possession of the paperwork for a period of time and at no point had they asked for a statement from the test purchaser.

The Solicitor then made reference that another reason the cigarettes were kept in the step was because her children were upstairs and she didn't want to disturb them and in the step they were out of sight of the children. She also confirmed that at interview Indre Adamkeviciene had informed them of how she had bought the cigarettes and she asked whether the Police were aware of

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these sites. Sergeant Enderby replied that they were aware of sites selling illegal cigarettes, alcohol and illegal highs. She also stated that when these goods were sold they were in large quantities and in mixed brands. Sergeant Enderby replied that he had never bought them.

The Solicitor then spoke of the visit on 18th August and that Indre Adamkeviciene had been in the back area at the time and had not seen the test purchaser and wasn't aware of what had happened. Sergeant Enderby replied that this was correct; she claimed she was unable to confirm anything as she did not witness it. The Solicitor asked for confirmation that at interview it had been mentioned that there was a new policy in the shop that no cigarettes were to be in the shop at any time and at the end of the interview the Police were invited to come and inspect the premises to confirm the steps that she had taken to which Sergeant Enderby replied "yes".

The Solicitor then referred to the phrase that had been used for the first test purchase about "not having any cigarettes" or "them being out of stock" she asked if there was a statement from that test purchaser to which Sergeant Enderby replied that the Police Officer had stated verbally what had been said in his statement. Further questions were put to Sergeant Enderby where he replied and confirmed what had been said at interview, reasons for intelligence being given and the decision to caution. Confirmation was also given that a training folder had been brought to the interview about training given to staff.

The Solicitor then referred to the recent HMRC operation which had taken place across the County. Indre Stores had been visited and no illegal cigarettes or alcohol had been found. Sergeant Enderby confirmed that HMRC were only looking for illegal/smuggled goods and they did not carry out compliance tests.

The Solicitor on behalf of Indre Adamkeviciene and Karolis Adamkevicius then made their representation. She accepted that there were a number of licence breaches which had been made negligently, not deliberately the biggest of these being the CCTV not being in operation. They had purchased a hard drive as the equipment had been seized by the Police prior to them taking over the premise. They had installed the hard drive in good faith believing that it would be recording for the required 31 days and that they could operate it. Work had been done at the premise to convert a kitchen and it was explained that this work was why the CCTV had failed; it was the only explanation that they could provide as to why it was no longer functioning. Since then CCTV had been re-installed and they had a formal contract with the contractor. Screen shots had been brought in to show the quality of the footage and extra lights had been installed in the store. The position of one of the cameras had been moved to capture a facial image of persons entering and exiting the store. Licensing Officers had been invited to attend the store and view the CCTV functioning. Health notices were now displayed within the store, a misunderstanding had occurred at the last hearing as to what notices should be on display. Challenge 25 notices had been put up and also the health notices were displayed at the point of sale and near the alcohol displayed. The Solicitor then spoke about the alcohol being in a secure area. There was no definition as to what was a secure area. The alcohol was kept mainly behind

the counter where the public did not have access and shop staff would have to have been asked for the alcohol. A fridge was located to the rear of the store and situated next to the counter again under the observation of store staff. Customers who accessed the fridge would come to the attention of the store staff and the Solicitor suggested that the alcohol was secure as it was constantly monitored by the store staff. The Solicitor then spoke about the training issues. At the Police interview, a training log/record was produced which had been signed by staff when they had undergone training and she suggested that there wasn't a breach of the training aspect as this had been undertaken by staff. The smuggled cigarettes were clearly the main concern and it was their representation that they were for personal use and not for sale. It could not be determined when the hinge was added to the hide and there was evidence of personal use from the cigarettes found smoked on the table and the packet found in the car to support the explanation given at interview that they were purchased for personal use. It continues to be the case that the test purchaser was given the cigarettes rather than sold them. Karolis Adamkevicius maintained that he felt sorry for the woman and gave them to her. The Premise Licence Holder/DPS had taken steps to implement a policy that no cigarettes were allowed on the premises including ones for personal use. This was confirmed when HMRC carried out their unplanned visit to the premise and found no goods or cigarettes on which duty had not been paid. The couple had invested in trying to comply with all the licensing conditions and the store remained their sole income. It was stated that they hoped that the Committee had been satisfied that the necessary steps had been taken to rectify the breaches and an alternative action to revocation could be taken, even if that was to suspend the licence as a deterrent.

CCTV photographs were circulated to Members showing the quality of the equipment.

Questions were then put to the Solicitor from Sergeant Enderby asking when the CCTV had been installed following the hearing in June, unfortunately there was no documentary evidence to state when this happened and documentation that had been brought with them in connection with the agreement was dated 11 September 2016. Sergeant Enderby then sought clarity about when the CCTV stopped working following the work done to the kitchen. Again it was accepted that they had not checked whether the CCTV was recording following the work. It was Sergeant Enderby's view that the work had only been carried out because of the police action following the visits to the premise. He felt that in his view they were clearly non compliant despite what had been said at the June hearing. He also suggested that the posters and training had been carried out purely due to the Police action and had been done after the visit. During the visit she had told the Police Officer that she had not done any training. The Solicitor referred to the interview at which her client had stated that on the day of the visit there had been a language barrier and she did not understand what training was being referred to. The training book had been in existence since she took over the premise.

Sergeant Enderby then asked for the husband to give his account of what happened with regard to the test purchase. He was advised by the Chairman

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that he did not have to give his account if he did not want to. Through the interpreter he confirmed the position that had already been outlined that he gave the cigarettes away, the test purchaser had been persistent to buy some Russian cigarettes and he had told her that they did not sell cigarettes but as he felt sorry for her he gave her a packet out of his pocket.

The Committee then asked questions of the Premise License Holder through her Solicitor about when she bought the cigarettes; was this before the hearing in June when 3,000 non-duty cigarettes were found on the premise? She confirmed that they had been bought before the Committee hearing in June. She was then asked how many she had bought and their cost. The Solicitor replied that she bought 15 blocks in total, 4 of one brand, 8 of another and 3 of another the cost was £400. It was suggested by a Member that these had been bought after the first test purchase. The Solicitor stated that the cigarettes had been bought in Boston prior to the last hearing in June before the move to Grantham and they had been brought with them. The Chairman asked if a receipt had been received. Unfortunately sales on Facebook were not the same as Ebay and a receipt was not available and the Solicitor outlined what happens with a sale. Sergeant Enderby confirmed that no receipts would be given as it was a criminal act to purchase non duty cigarettes in that manner in the UK. It was put to the Solicitor that following the June hearing, did the Premise Licence holder not think that there was risk involved in buying (criminal act) and storing cigarettes in the way that she did? The Solicitor agreed that in hindsight they should not have brought the cigarettes with them, but they had been stored away from the shop premises in the residence.

Another Member asked about the packet given to the test purchaser- was this a full packet as it was unusual for smokers to have a full packet in their pocket? In response the solicitor confirmed that a full packet was given. The Member questioned that surely by having the cigarettes in a separate building they were for illicit sale? The Solicitor stated that the cigarettes could have been stored in the store room area of the shop if they were for sale in the shop however the cigarettes found smoked on the table and the packet found in the car suggested personal use. He then asked a further question concerning the visit from HMRC and that following the events that had happened at the premise was it not expected by the owners that a visit would be taking place? The Solicitor responded stating that during her Police Interview Indre Adamkeviciene had been informed that HMRC would be notified and that she may have to pay a fine for the non duty cigarettes that had been seized - no mention was made of a visit by HMRC. The Member's inference was that following the cigarettes being seized they would have been on their guard that a surprise visit would take place. The Solicitor stated that due to the small quantities that had been seized compared to those from other establishments, the visit had been a surprise. A further question was asked about the hide as to whether Indre Adamkeviciene had inherited it or did she establish it? It was confirmed that the hide was already in the property when they bought it and was used for shoes initially. The cigarettes were put in there out of sight of the children and so that they did not have to go through the stair gate to go up stairs to fetch them where the children were sleeping. Another question was asked about the quantities that had been bought in that it seemed excessive for

personal use. The Solicitor replied that the quantities were due to how they were sold on the Facebook sites, large quantities of multiple brands.

Another Member commented that it was disconcerting that with all that had gone on previously with the premise and the chances that had been given to the new owners that there was no advice or assistance available to them to help with any confusion that they had. The Solicitor replied that help was given at various stages from the Licensing Section but simply matters such as checking the CCTV was overlooked.

The Licensing Officer clarified that the Licensing Section had not been contacted by the Premise Licence holder with a view to looking at the CCTV or the premise. At the end of the last hearing they had spoken to them offering them any help that they wanted. The Licensing Officer had not seen them since, until the notice was put up about the review. They did offer help when asked for it.

The Solicitor on behalf of the Premise Licence Holder confirmed that it was following her clients interview with the Police that an invitation was made to the Police Unit Licensing Section to view the functioning CCTV.

The Licensing Officer then gave his closing statement. He reminded Members of the options available to them.

- a) To modify the conditions of the existing licence
- b) To exclude a licensable activity from the licence
- c) Remove the Designate Premises Supervisor
- d) Suspend the licence for a period not exceeding three months
- e) Revoke the licence.

If the Committee decided that none of the steps were necessary then they need take no further action.

Sergeant Enderby then gave his closing statement clarifying points that had been brought up during the meeting concerning the quantity of cigarettes and that if they were for personal use by three people they would not last longer than a month and half. For Members information the number of cigarettes seized together with the test purchaser's packet was circulated. He had neglected during his presentation to state that the test purchaser's packet had been put in a plastic bag which to him indicated that a sale had been made. He felt that what had been found at the store was not due to lack of knowledge or experience or ability or the language barrier but because they had chosen not to comply with the conditions. In his view it was deliberate, criminal activity for profit that was the only explanation for the circumstances encountered. Smuggled goods on licensed premises were a criminal offence. The Premise Licence Holder had admitted a number of criminal offences in relation to smuggled goods and carrying out un-licensable activity. He referred to Section 136 and Sections 11.24, 11.26, 11.27 and 11.28 of the Licensing Act. The decision of the Committee could not be a punishment but must be remedial designed to prevent the Licensing Objectives from being undermined and he

felt that the only course of action was to revoke the licence.

The Solicitor on behalf of the Premise Licence Holder then gave her closing statement. Her client had accepted that there had been some breaches to the Licensing Conditions. Steps had been taken to rectify the breaches installation of the CCTV, formal agreement with the contractor, screen shots of the system showing full compliance. She referred to the guidance and the sale of smuggled goods in relation to alcohol and tobacco. In her clients case the one packet of cigarettes wasn't sold but given away and this had been confirmed by the husband of her client. He had accepted that they had been put in a bag but this was done on reflex. They maintained that the cigarettes found were for personal use only. She referred to the number of packets of cigarettes left, the original amount had been 15 blocks. Some of the cigarettes had been consumed and she referred to the evidence of smoked cigarettes on the table and the packet in the car. That criminal activity had taken place was clearly disputed by her clients and it was accepted that only one packet was given away. Any measures to deter future acts could be addressed without revocation of the licence such as suspension for a short period.

(12.04pm the Licensing Officer, Police and all interested parties left the meeting)

Members discussed the application before them having regard to all the relevant licensing policies, guidance, the representations received and the witness statements appended to the Committee report. Members were very concerned about what they had heard especially since the owners had only been before the Committee in June where they had stated that they would sort out any issues and that the CCTV had been resolved. They felt that the owners seemed to have a "cavalier" attitude to running the business especially since they had appeared before the Committee in June. Ignorance of the law was no defence.

Members discussed the following matters:-

- Failing to notify change of address
- Premises not displaying health notices and challenge 25 notices
- Alcohol not in a secure area
- Breaches of CCTV conditions
- Awareness and responsibilities under the Licensing Act as Designated Premises Supervisor and Premises Licence holder
- Contraband cigarettes on licensed premises

In relation to the offence of failing to notify change of address of the premises licence holder as soon as reasonably practicable; noting also the Section 127 offence of failing to notify the licensing authority (Boston Borough Council) of change of address as soon as reasonably practicable, (personal licence) the Committee concluded that there was a breach of the licensing objective and noted the police comments contained within the statement of the licence

holder dated 14th September 2016 that "a reasonably practicable time had not elapsed since the move". The Committee also acknowledged that notification had now been done with the relevant authorities.

The Committee considered the unauthorised licensable activities admitted by the licence holder in relation to breaches of licensing conditions, (Section 136 offences). The police indicated lack of awareness and responsibilities under the Licensing Act. It was noted that the licence holder had indicated a language barrier; however, lack of understanding of spoken English is no excuse for being aware and understanding the responsibilities under the Licensing Act. It was noted that after the police visit, health notices were displayed within the store at the point of sale and near the alcohol displayed. As well as Challenge 25 notices. In relation to training issues, the licence holder produced a training log/record which had been signed by staff when they had undergone training.

In relation to the Police report which indicated that alcohol was not in a secure area, the Solicitor representing the licence holder informed the Committee that there was no definition of "secure area". The solicitor explained where the alcohol was kept; mainly behind the counter where there was no public access and also in a fridge which is next to the counter and constantly monitored by store staff. In the circumstances the committee reasonably concluded that alcohol was in a secure area.

The issue of breaches of conditions in relation to the CCTV, mainly the fact that the CCTV was not operating, was of great concern to the committee. Whilst it was explained that work had been done at the premise to convert a kitchen, which was the only explanation given for why the CCTV was not operating, the Committee consider this a serious breach.

In relation to the contraband cigarettes on the licensed premises, (Section 144 offence), the Committee discussed all relevant material. They considered this to be a very serious matter and a clear breach of the licensing objectives.

In conclusion therefore, the Committee Members were satisfied that there had been a breach of the licensing objectives related to public safety and prevention of a crime and disorder insofar as they related to the offence contrary to Section 144 (contraband cigarettes on licensed premises) and section 136 (breach of conditions) and the lack of CCTV.

Having found a breach of the licensing objectives the Committee then went on to determine an appropriate level of sanction in the circumstances.

Reference was made to the guidance issued under Section 182:

"In deciding which of these powers to invoke, it is expected that licensing authorities 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 an appropriate and proportionate response." (Paragraph 11.20 at page 78

of the Guidance Issued under S182 of the Act.

Members considered what may be an appropriate sanction in the circumstances, taking into account a modicum of mitigation put forward by the licence holder and the need to take a stepped approach when determining an appropriate and proportionate sanction. Their discussion touched upon the possibility of a revocation as requested by the Responsible Authority. However, taking into account the fact a number of the concerns have now been addressed and noting the Police issued a Simple Caution to the licence holder in relation to the Section 136 and 144 offences, it was thought something short of revocation would be an appropriate and proportionate response. The Committee then considered a suspension of the licence. It was agreed in principle that this would be appropriate and the period of the suspension should, based on the seriousness of the offences, be at the maximum level of suspension available to the Committee.

As a result it was proposed and seconded that the licence be suspended for three months. On being put to the vote the proposition was agreed by a majority.

(12.40pm the Licensing Officers, Police and other interested parties returned to the meeting)

The Legal Advisor to the Committee read out the Committee's decision. After considering the evidence before them and taking into consideration all the relevant policies, guidance and representations made, the Committee's view was that there had been clear breaches to the Licensing objectives in that there had been failure to adhere to relevant licensing conditions, and there is evidence that contraband cigarettes were on the premises as the husband was working in the shop and admitted to them being in his pocket. Members concluded on the balance of probabilities that a packet of contraband cigarettes were sold from the premises.

The Committee had noted that as recently as June 2016 the Licensing Committee had before them a review of the premises; amongst other things, illegal cigarettes were considered at that review and it was noted at that time the new licence holder had not complied with conditions. From evidence submitted at that review the Committee decided to take no action as previous issues at the premises, in particular the illegal cigarettes were not connected to the new licence holder and the Committee acknowledged that matters had been resolved by the new licence holder in relation to those conditions. At the time the Committee made it very clear to the new licence holder that they must ensure that everything is carried out in accordance with the Licensing Objectives and there was to be no breaches of the Licensing Objectives. They were also told that if they required any help with any licensing issues they should contact the Licensing Officers.

Within four months of the review they were back before the Committee considering serious breaches of the Licensing Objectives. Committee have

taken a stepped approach. They have considered necessary action regarded relevant to this specific case and in the circumstances, bearing in mind the seriousness of the wrong doing, the Committee feel that a suitable and proportionate sanction available is a three month suspension of the licence.

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

The meeting closed at 12.56pm.



APPENDIX 2

**South Kesteven District Council
Council Offices
St Peters Hill
Grantham
Lincolnshire
NG31 6PZ**

Premises licence summary

Premises licence number	22276
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Premises details

Postal address of premises, or if none, ordnance survey map reference or description Indre Shop Ltd 9a Bridge End Road	
Post town Grantham Lincolnshire	Post code NG31 6JW
Telephone number 07450267019	

Where the licence is time limited the dates

Licensable Activities authorised by the licence

Sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol

09:00 to 22:00 Monday
09:00 to 22:00 Tuesday
09:00 to 22:00 Wednesday
09:00 to 22:00 Thursday
09:00 to 22:00 Friday
09:00 to 22:00 Saturday
09:00 to 22:00 Sunday

The opening hours of the premises

09:00 to 22:00 Monday
09:00 to 22:00 Tuesday
09:00 to 22:00 Wednesday
09:00 to 22:00 Thursday
09:00 to 22:00 Friday
09:00 to 22:00 Saturday
09:00 to 22:00 Sunday

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Off the premises

Name of holder of premises licence

Indre Adamkeviciene

Registered number of holder, for example company number, charity number (where applicable)

Name of designated premises supervisor where the premises licence authorises the supply of alcohol

Indre Adamkeviciene

State whether access to the premises by children is restricted or prohibited



APPENDIX 2

**South Kesteven District Council
Council Offices
St Peters Hill
Grantham
Lincolnshire
NG31 6PZ**

Premises licence number **22276**

Part 1 – Premises details

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

**Indre Shop Ltd
9a Bridge End Road**

Post town **Grantham
Lincolnshire**

Post code **NG31 6JW**

Telephone number **07450267019**

Where the licence is time limited the dates

Licensable activities authorised by the licence

Sale by retail of alcohol

The times the licence authorise the carrying out of licensable activities

Sale by retail of alcohol

09:00 to 22:00 Monday
09:00 to 22:00 Tuesday
09:00 to 22:00 Wednesday
09:00 to 22:00 Thursday
09:00 to 22:00 Friday
09:00 to 22:00 Saturday
09:00 to 22:00 Sunday

The opening hours of the premises

09:00 to 22:00 Monday
09:00 to 22:00 Tuesday
09:00 to 22:00 Wednesday
09:00 to 22:00 Thursday
09:00 to 22:00 Friday
09:00 to 22:00 Saturday
09:00 to 22:00 Sunday

Where the licence authorise supplies of alcohol whether these are on and/or off supplies

Off the premises

Part 2**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence**

Indre Adamkeviciene
23 Forest Dale
Boston
Lincolnshire
PE21 9HD

Registered number of holder, for example company number, charity number (where applicable)**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol**

Indre Adamkeviciene
Indre Shop Ltd
9a Bridge End Road
Grantham
Lincolnshire
NG31 6JW

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

32UBA16018 – Boston Borough Council

**Indre Shop Ltd
9a Bridge End Road
Grantham
Lincolnshire
NG31 6JW**

Supply of alcohol

1. No supply of alcohol shall be made under this Premises Licence at a time:
 - a) When there is no designated supervisor in respect of the Premises Licence
 - b) When the designated premises supervisor does not hold a personal licence or his or her personal licence is suspended.
2. Every supply of alcohol under the Premises Licence shall be made or authorised by a person who holds a personal licence.

SCHEDULE Mandatory Licensing Conditions

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Mandatory condition preventing the sale or supply of alcohol below the permitted price.

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula:-
$$P = D + (D \times V)$$
 where:-

- P is the permitted price,
- i) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - ii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:-
- i) the holder of the premises licence,
 - ii) the designated premises supervisor (if any) in respect of such a licence, or
 - iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Indre Shop Ltd
9a Bridge End Road
Grantham
Lincolnshire
NG31 6JW

Steps Taken To Promote the Licensing Objectives

a) General - all four licensing objectives (b,c,d,e)

I have put some more training on for my staff about alcohol sales.

Installed new signs and new cameras.

b) The prevention of crime and disorder

The premises shall operate the "Challenge 25" Proof of Age Policy to prevent the sale or supply of alcohol to persons under 18 years of age. The policy shall require any person who appears to be under the age of 25 years to produce one of the following forms of identification:

* A recognised proof of age card credited under the British Retail Consortiums Proof of Age Standards Scheme (PASS);

* Photo driving licence;

* Passport;

* Any other means of identification approved and accredited in writing by Lincolnshire Police;

* Failure to produce satisfactory proof of age shall result in a refused sale.

A CCTV system shall be installed, recording and maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police, specifically

There shall be a minimum of one high-resolution colour camera fitted to the public entrance/exit to provide a quality head and shoulder image for facial recognition/identification purposes of all persons entering the premises.

There shall be sufficient cameras able to cope with the normal operating illumination to cover all licensed public areas.

Recording must be kept for a minimum of 31 days and endorsed with the accurate correct time/date (BST/GMT adjusted).

Police and/or Licensing Officers shall be able on attendance to view playback of any incident without the necessity for download.

Recordings of incidents at the premises must be provided to the police

following lawful request.

A member of staff shall be on the premises at all times they are open to the public who is capable of operating the CCTV system and providing recordings on request.

Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.

c) Public safety

Fire safety training and evacuation procedures. Alcohol display should be in secure area.

Great effort must be made to inform the public of the dangers of alcohol.

Specifically providing clear health warnings both where alcohol is displayed and point of sale.

d) The prevention of public nuisance

The opening hours are not in unsocial time creating an environment that controls nuisance by training staff to increase their awareness so they can assess potential risks and work towards minimising possible disturbances.

We have put high resolution cameras (1080) in place.

All the staff members are trained again about alcohol sales.

e) The protection of children from harm

Notices shall be prominently displayed advising customers of the "Challenge 25" policy.

All point of sale staff shall undergo training in the proof of age policy with a record of the date of the training and signed by the person trained and the person providing the training.

Such a record of training shall be kept for a minimum of 24 months from the date of completion and made available for inspection by the Police.

We will put some more awareness and education about alcohol signs in the shop.

Annex 3 – Conditions after a Hearing

APPENDIX 2

**Indre Shop Ltd
9a Bridge End Road
Grantham
Lincolnshire
NG31 6JW**

Conditions attached after a hearing by the licensing authority

No conditions attached.

Date of Hearing - 17 June 2016
Committee Report No - CSL 094

Annex 4 – Plans

**Indre Shop Ltd
9a Bridge End Road
Grantham
Lincolnshire
NG31 6JW**