

Minutes

Alcohol, Entertainment & Late Night Refreshment Licensing Committee

Friday, 6 December 2024



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Pam Bosworth (Chairman)
Councillor Elvis Stooke (Vice-Chairman)
Councillor Harrish Bisnauthsing
Councillor Helen Crawford
Councillor Paul Fellows
Councillor Robert Leadenham
Councillor Philip Knowles
Councillor Patsy Ellis

Officers

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

6. Apologies for absence

Apologies for absence were received from Councillor Steve Cunningham, Councillor Jane Kingman and Councillor Nikki Manterfield.

7. Disclosures of interests

None disclosed.

8. Minutes of the meeting held on 26 July 2024

Minutes of the meeting held on 26 July 2024 were proposed, seconded and **AGREED.**

9. Licensing Act 2003: Application for a New Premise Licence - Ramin Off Licence, 10 Wharf Road, Grantham, Lincolnshire, NG31 6BA.

The Legal Advisor informed the Committee that a request had been received the previous afternoon from solicitors that had only just been appointed by the applicant for the Premises Licence requesting that the hearing was postponed to be heard within the next two weeks. The Legal Advisor stated that the hearing could be deferred and referred to the legislation within the Human Rights Act which stated that the applicant had a right to be heard. It was for the Committee to decide whether or not they wished to defer the meeting following the request received.

One Member asked when the applicant for the premise licence had been notified of the date of the meeting. It was stated that the applicant's previous agent had been notified on 15 November 2024. However, they had notified the Licensing Team on 2 December 2024 that they were no longer acting on behalf of the premise licence applicant and they had advised him to withdraw his application. The applicant for the premise licence had been contacted on 2 December and he had indicated that he was not sure whether or not he would be attending. Nothing further had been heard until the newly appointed solicitors had contacted the Licensing Team late on Thursday 5 December 2024 requesting more time.

Further questions were asked in relation to deferring the hearing, with some Members stating that they felt that enough notice had been given to the applicant to attend the meeting and when a new meeting would be required to be held. It was stated that the request was to hold a meeting within the next two weeks.

It was proposed and seconded that the meeting be deferred, however on being put to the vote this proposition fell.

Further discussion took place in respect of legislation and the applicants rights under the Human Rights Act. The Legal Advisor read out extracts from the Human Rights Act under Article 6 to the committee in respect of their rights and that everyone was entitled to a fair and public hearing. More discussion followed on holding the hearing and it was stated that if the meeting went ahead, any decision would be appealable to the Magistrates Court.

Following further discussion by the Committee it was proposed, seconded and AGREED to continue with the hearing in the absence of the applicant for the premise licence.

The Legal Advisor introduced those present and confirmed who was present from Lincolnshire Police, Sergeant Adams and PC Braithwaite.

The Licensing Officer presented the report which concerned a new premise licence for the premise at 10 Wharf Road, Grantham to be known as Ramin Off Licence.

The premise had previously benefitted from an alcohol licence under the name “Max Off Licence” from 11/04/2019 to 30/05/2024. The licence was revoked by the Alcohol, Entertainment and Late Night Refreshment Licensing Committee at the meeting on 16 June 2023 following a review submitted by the Police. The review included evidence of several instances of underage sales and non-compliance of licensing conditions. The Committee concluded that the Licence holder was unable to prove they were an appropriate person to hold such a licence. The applicant appealed the decision which allowed them to continue licensable activities whilst in the appeal stages. The appeal was subsequently withdrawn via a consent order, and therefore the revocation of the premise licence took effect on 30 May 2024.

On 11 October 2024 an application was received by the Licensing Team for a new premise licence at the location. The application was submitted by an agent on behalf of an individual that was stated to have no connection to the old operation of the premises and was experienced in the off-sale industry.

The application was processed and forwarded to all the responsible authorities as required by the Licensing Act 2003. Statutory consultation was undertaken and only one representation was received from Lincolnshire Police. The representation included the following points:

- Concern regarding the previous premises licence holder still having a connection with the running of the premises and not the new applicant
- Concerns over items for sale within the shop such as drug paraphernalia and equipment
- The applicants previous experience of running a licensed premises:
 - Lack of understanding of the licensing objectives
 - Lack of understanding regarding the operating procedures that they offered in the application
 - Their lack of understanding and knowledge of the roles and responsibilities that come with being a Premises Licence Holder and Designated Premises Supervisor, including required employer checks and business management.

The Licensing Officer then referred to the revised guidance issued under section 182 of the Licensing Act 2003 which stated:

9.9 It is recommended that, in boarder line cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

It was not felt that the representation submitted by Lincolnshire Police fell within the delegated authority. Where relevant representations are made, the authority must:

- Hold a hearing to consider them, unless the authority, the applicant and each person who has made such representation agree that a hearing is unnecessary, and
- Having regard to the representations, take such steps mentioned below (if any) as it considers necessary for the promotion of the licensing objectives.

- The steps are:
 - o Grant the application subject to conditions that are consistent with the operating schedule modified to the extent that the committee considered appropriate for the promotion of the licensing objectives and any mandatory conditions that must be included under the Licensing Act 2003.
 - o Exclude from the scope of the licence a licensable activity to which the application relates.
 - o Refuse to specify a person in the licence as a Premises Supervisor (DPS)
 - o Reject the whole or part of the application

The Police then gave their representation. They expressed concern with the proposed Premises License Holder, Mr Ramyar Salih and possible connections with the previous Premise Licence holder and made reference to both Section 146 (Sale of alcohol to children) and Section 136 (Unauthorised Licensable activities) of the Licensing Act 2003 in respect of the premises.

Although Mr Salih had stated that there were no connection further background checks had been carried out in respect of the premise. The Police had requested a meeting with the applicant (Mr Salih) where he was asked to provide as many documents as possible which showed that he had full control of the business. Although the applicant attended the meeting and stated that he leased the premise in August 2024 he could not produce evidence to support this, he did produce a lease but it was only signed by himself, he did not know who the utilities were with for the premise, two invoices for stock were still in the name of the previous licence for "Max Off-Licence" since August 2024. The applicant had not registered for the Tobacco Track and Trace system and although the lease was signed by himself it only appeared to be witnessed on 4 November 2024 the date of the meeting. Further checks with the leasing agents confirmed that the lease had yet to be finalised and that the previous tenant of the premise was still paying the rent up to October 2024. Member attention was drawn to the supplementary papers circulated with had information from Companies House in respect of the premises. Police had concerns about the legitimacy of the business and asked Mr Salih about previous experience he had as a Premises Licence Holder or a DPS. He replied that he was a DPS at an off-licence in Manchester in 2023, however on checking this information it was found to be incorrect. At the same meeting requests were made to see the relevant insurance and the documents provided showed that the policy had only been taken out on the date of the meeting for public liability.

The Police expressed their concern about the applicant who did not appear to know how the premise should be run, especially given its previous history and the fact that certain products were being sold, that although were not illegal they were a major concern given the history of the premise. They asked that the Committee seriously considered rejecting the Premises Licence.

The Police then answered the Committees questions in respect of the date of the visit and gave their closing statement.

Members attention was drawn to Section 9 of the Revised 182 Guidance in determining actions that are appropriate for the promotion of the licensing objectives. Paragraph 9.43 stated:

“The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.”

The Police were concerned that the applicant did not have full control of the business, there did not appear to be any evidence that it had been bought legitimately, the business rates had not been changed from the previous applicant. The applicant did not appear to know what his responsibilities were in respect of the Licensing Act 2003 and the promotion of the licensing objectives. He did not appear to have knowledge in respect of having incident book, training books and adequate controls within the premise. The Police had little confidence that premise would be run in a way that would promote the licensing objectives.

The Licensing Officer then gave her closing statement and stated that the Committee needed to give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives.
- The representation (including supporting information) presented by the parties.
- The guidance issued under Section 182 of the Licensing Act 2003.
- South Kesteven District Council’s Licensing Policy.

The Licensing Officer then referred to the guidance issued under Section 182 at 9.37:

“As a matter of practice, Licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation.

They may not add further representation to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practical time limits.”

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

Members discussed the application before them having regard to the report, appendices, late papers submitted by the Police, the Revised Statutory Guidance and Regulations, the Council's Statement of Licensing Policy and the Councillor Handbook on Licensing. Members were very concerned with the lack of evidence put forward by the applicant in respect of the premise in their meeting with the Police. From the information put forward it appeared that they failed to fully understand their responsibilities under the Licensing Act 2003 and the promotion of the Licensing Objectives. There appeared to have been no attempt to become part of the Tobacco Track and Trace System, the information given to the Police about previous experience appeared to be false and no due diligence appeared to have been undertaken especially as the premises had a history of involvement of the sale and supply of alcohol to children. The applicant had not demonstrated that the previous licence holder did not still have some involvement in the premises. Members were very concerned that the licensing objectives would not be promoted and praise was given to the Police for the work that they had invested in the application. After further discussion it was proposed, seconded and unanimously agreed to reject the application for a premise licence for Ramin Off-Licence, 10 Wharf Road, Grantham.

(10:52 The Licensing Officers and Police returned to the meeting)

The Legal Advisor read out the Committee's decision.

The Committee had considered the report and appendices, late papers from the police, submissions made to it together with the Licensing Act 2003, Revised Statutory Guidance and Regulations, the Council's Statement of Licensing Policy and Councillor Handbook on Licensing. They had particular regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

The decision of the Committee was:

Decision

That the application for a new premises licence in respect of Ramin Off Licence, 10 Wharf Road Grantham NG31 6BA be refused.

Reasons for the decision

Each application must be considered on its own merit. The Committee had carefully considered all of the evidence before them including verbal representation from the Police with particular regard to all four licensing objectives.

It is for the applicant to demonstrate that their application for a premises licence would not undermine any of the four licensing objectives.

The committee noted that the applicant was aware that the previous premises licence was revoked. These premises have a history of involvement of sale and supply of alcohol to children with serious consequences. The applicant had not demonstrated that the previous licence holder, did not have any involvement in the premises. The applicant had not been able to provide sufficient documentation in relation to the running of the business. The applicant had failed to supply the Police with information regarding tobacco track and trace scheme, utility companies and insurance and appeared to have no awareness of legal responsibilities in relation to employers' liability insurance.

The Committee had concerns regarding the items for sale in the premises such as drug paraphernalia and equipment. The committee noted that these products are legal to sell but it was concerned, that given the history of these premises, the applicant didn't apply caution to what is for sale at these premises.

From evidence before the Committee, it was not satisfied that the Applicant is a responsible trustworthy person, particularly in view of false information supplied to the Police in relation to experience as a Premises Licence Holder and Designated Premises Supervisor. The Committee were concerned with lack of experience of running a licensed premises in relation to the understanding of the licensing objectives and knowledge of the roles and responsibilities that come with being a Premises Licence Holder and Designated Premises Supervisor, including required employer checks and business management. Also lack of understanding regarding operating procedures that are offered in the application.

The Committee was not satisfied with the application and was of the view that the Applicant had failed to successfully demonstrate that his application for a premises licence would not undermine any of the four licensing objectives.

There was a right of appeal to the Magistrates Court.

Any party to the decision or anyone who had made a relevant representation including a responsible authority or interested party in relation to the application may appeal to the Magistrates' Court within 21 days of written notification of the decision.

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

None.

11. Close of meeting

The meeting closed at 10:55.