

## **LINCOLNSHIRE POLICE**

### **NOTICE OF OBJECTION TO THE APPLICATION TO VARY A LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR SECTION 37(5) OF THE LICENSING ACT 2003**

The Chief Officer of Lincolnshire Police, Paul Gibson, having been notified under Section 37 of the Licensing Act 2003, of the application to vary the designated premises supervisor (DPS) for Alisia Off Licence, Manor Way, Deeping St James to Nirusan Sivatharan and being satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective hereby gives notice of objection.

The grounds for the objection notice are as follows:

Lincolnshire Police have concerns that the premises is linked to criminal activity. There are concerns that the current applicant is not genuinely in control of the business and that they are acting on behalf of the previous operator (Kugenthiran Kugathas) who withdrew their application to vary DPS on 3<sup>rd</sup> December 2025, due to the concerns evidenced by the Police objection.

The concerns with the previous applicant, Mr Kugathas, are summarised as follows; the sale of alcohol otherwise than in accordance with a premises licence (s.136 Licensing Act 2003), inappropriate behaviour by a male shop worker towards females under 16 years old and also intelligence suggesting that sales of alcohol to underage persons were taking place. PC Braithwaite also met with Mr Kugathas at the premises on 18<sup>th</sup> November 2025 and encountered one male working at the shop who had no right to work in the UK. It is an offence to employ an illegal worker under section 21 Immigration Asylum and Nationality Act 2006 (as amended by section 35 of the Immigration Act 2016.) PC Braithwaite asked Mr Kugathas for details of the worker who was thought to be responsible for the inappropriate behaviour to females. When details were provided it was a Sri Lankan male who came back as no trace following Immigration checks. This is unexplained as an immigration record would be expected.

Appendix A – previous S.37 objection to vary DPS to Kugenthiran Kugathas.  
Appendix B – statement of PC 842 Braithwaite.

When PC Braithwaite met with Mr Kugathas on 18<sup>th</sup> November 2025 he did not mention that the business was about to be sold or handed over to anyone new. It is evident from PC Braithwaite's statement that ownership of the business since June 2025 is unclear. Lincolnshire Police find it suspicious that immediately after the Police objected to both the vary DPS and transfer

applications, which subsequently saw him withdraw the applications, Mr Kugathas has managed to advertise the business for sale, find a buyer and pass on full responsibility to that third party.

Lincolnshire Police have contacted the applicant's agents – Arka Licensing – to request some evidence of a takeover of the Manor Way Store by way of a lease agreement or similar. Arka Licensing have been emailed and spoken to on the telephone and each time they have assured Police that paperwork is coming. The latest phone call to Arka Licensing was on the morning of 17<sup>th</sup> December 2025 when the agent told PC Casey that the request for evidence was with the lawyers and that they would chase this up that day.

Later on the 17<sup>th</sup> December, Arka licensing sent an email with a letter attached. The letter confirms that solicitors have been instructed to handle the sale of the business and lease – it does not confirm completion of the sale and highlights that this process is in the early stages. That letter details the client as Nivethan Sivatharan which is slightly different name to the one on this transfer application.

Appendix C – Arka email and solicitors letter.

In summary Lincolnshire Police are concerned that this latest applicant is actually requesting the variation on behalf of Mr Kugathas who will truly be the person in control of the shop.

Lincolnshire Police respectfully request that this variation application is refused in order to uphold the licensing objectives of the prevention of crime and disorder and the protection of children from harm.

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In relation to this application, the following Guidance issued under **Section 182 of the Licensing Act 2003** has been considered –

*Section 2.1, Licensing authorities should look to the police as the main source of advice on crime and disorder.*

*Section 2.8, (which is in relation to premises licence holders is relevant) .... Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act.*

*Section 8.101 (in relation to transfer) 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.*

*Section 9.12, Each responsible authority will be an expert in their own field...for example the police have a key role in managing the night-time economy.....However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent.*

*Section 11.23 (which is in relation to reviews but deemed relevant) states where the premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.*

*11.24 (which is in relation to reviews but deemed relevant) states a number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. 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 (which is in relation to reviews but deemed relevant) states that 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 (which is in relation to reviews but deemed relevant) states that 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, (which is in relation to reviews but deemed relevant) .... There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises;*

*- for employing a person who is disqualified from that work by reason of their immigration status in the UK.*

*Section 11.28, (which again is in relation to reviews, but deemed relevant) .... It is envisaged that licensing authorities, the police, the Home Office*

*(Immigration Enforcement) 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 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.*

**South Kesteven District Council statement of licensing policy (2021 – 2026)** also raises the following points that are deemed relevant to this application:

#### *4. Licensing Objectives*

*1.17 In undertaking its licensing function, the Licensing Authority is also bound by other legislation including, but not exclusively:*

- *Section 17 of the Crime and Disorder Act 1998 – which imposes a duty on every Local Authority to do all that it reasonably can to prevent crime and disorder in its decision-making process.*

*In relation to the Prevention of Crime and Disorder licensing objective the council policy states :*

*4.3 In accordance with the Guidance, Police views on matters relating to crime and disorder will be given considerable weight. There are many steps an applicant may make to prevent crime and disorder. The Licensing Authority will look to the Police for the main source of advice on these matters.*

### **Crime and Disorder Act 1998 Section 17**

*Duty to consider crime and disorder implications.*

*(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,*

*(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting*

*the local environment); and*

*(b) the misuse of drugs, alcohol and other substances in its area, and*

*(c) re-offending in its area*

*(2) This section applies to each of the following—*

*.a local authority .....;*

.....

For and on behalf of Chief Constable P.Gibson

18/12/25