

If you would like any further information or have any special requirements in respect of this Meeting, please contact Kathryn Walton, Democratic Services Officer on (01507) 613421

Tel: (01507) 601111 Ext. 613422

**Email: kathryn.walton@e-lindsey.gov.uk
Website: www.e-lindsey.gov.uk**

Date: Monday 14 March 2022

Dear Councillor,

Licensing Act 2003 Sub Committee

You are invited to attend a Meeting of the **Licensing Act 2003 Sub Committee** to be held in the Council Chambers, Tedder Hall, Manby Park, Louth on **Thursday, 17th March, 2022** at **11.00 am**, for the transaction of the business set out in the attached Agenda.

Councillors observing the meeting and the public and the press may access the meeting via the following link <https://bit.ly/ELDCYT> where a livestream and subsequent recording of the meeting will be available.

Yours sincerely



Robert Barlow
Chief Executive

Conservative

Councillor Stan Avison and David Andrews

Labour

Councillor Graham Cullen

District Independent/Liberal Democrat

Councillor Sandra Campbell-Wardman

**LICENSING ACT 2003 SUB COMMITTEE AGENDA
Thursday, 17 March 2022**

Item	Subject	Page No.
1.	ELECTION OF CHAIRMAN:	
2.	DISCLOSURE OF INTERESTS (IF ANY):	
3.	APOLOGIES FOR ABSENCE:	
4.	EXCLUSION OF THE PUBLIC AND PRESS To consider excluding the public and press for the following items and if appropriate the Chairman to move: That under Section 100(a)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items on the grounds that, if they were present, there could be disclosed exempt information as defined at paragraph 1,3 & 7 of Part 1 of Schedule 12A of the Act (as amended).	
5.	TEMPORARY EVENT NOTICES (TENS) - PREMIER STORE, 103-105 NEWMARKET, LOUTH, LN11 9EG: Report of the Service Manager, Safer Communities.	1 - 34



REPORT TO:	LICENSING ACT 2003 SUB-COMMITTEE
DATE:	17 MARCH 2022
SUBJECT:	TEMPORARY EVENT NOTICES (TENS) – PREMIER STORE, 103-105 NEWMARKET, LOUTH, LN11 9EG
PURPOSE:	To consider objection notices issued by Lincolnshire Police regarding two TENSs for the Premier Store, 103-105 Newmarket, Louth, LN11 9EG.
KEY DECISION:	Not Applicable.
REPORT OF:	Service Manager – Safer Communities
REPORT AUTHOR:	Mr Adrian Twiddy (Principal Licensing Officer)
WARD(S) AFFECTED:	Louth
EXEMPT REPORT?	The content of this Report is not exempt from publication.

SUMMARY

This Report considers objection notices made by Lincolnshire Police in relation to two Temporary Event Notices (TENSs) served by Mr Janushanth Thuraisingam (the premises user) for the Premier Store, 103-105 Newmarket, Louth, LN11 9EG. The TENSs seek to authorise the sale of alcohol (for consumption off the premises) at the store during the following period:

- Tuesday 22 March to Sunday 27 March 2022
- Tuesday 29 March to Sunday 03 April 2022

The proposed event periods will be from 0700 to 2300 Hours each day.

RECOMMENDATIONS

The Sub-Committee must consider the objection notices issued by Lincolnshire Police and having regard to the notices, give the premises user a counter notice (under Section 105 of the Licensing Act 2003) in relation to the Temporary Event Notices (TENSs) if it considers it necessary for the promotion of a licensing objective to do so. Such counter notice would have the effect of cancelling the TENSs.

If the Sub-Committee considers that it is not necessary to issue a counter notice, then the Licensing Authority should take no action.

REASONS FOR RECOMMENDATIONS

The Licensing Authority must hold a hearing to consider the objection notice unless all parties agree that a hearing is unnecessary.

All parties within the licensing process must seek to promote the licensing objectives as defined under the Licensing Act 2003.

OTHER OPTIONS CONSIDERED

Under the terms of the Licensing Act 2003 this Authority must consider the objection notice. There is no other option but to undertake the hearing – unless of course the objection notice or the TEN is withdrawn.

1. BACKGROUND

1.1. Temporary Event Notices (TENs): The premises user intends to carry on the following activity during the currency of the notices - sale of alcohol (for consumption off the premises). The convenience store (subject of the TENs) does not currently hold a premises licence for the sale of alcohol (see Paragraphs 2.5 to 2.7 of this Report).

1.2. Premises User Details:

Premises User: Mr Janushanth Thuraisingam

Premises: A convenience store known as Premier Store (previously known as Costcutter), 103-105 Newmarket, Louth, LN11 9EG. A plan showing the location of the Premier Store is attached at **Appendix A** of this Report. Copies of the Temporary Event Notices (TENs), subject of this Report, will be available at the hearing for Members to inspect should they wish to do so. A site plan of the store is attached at **Appendix B**.

1.3. The TENs seek to authorise the sale of alcohol (for consumption off the premises) during the following periods:

- Tuesday 22 March to Sunday 27 March 2022
- Tuesday 29 March to Sunday 03 April 2022

The proposed event periods will be from 0700 to 2300 Hours each day.

1.4. Mr Janushanth Thuraisingam has indicated on the TEN forms that he does not currently hold a personal licence. Therefore, under the terms of the Licensing Act 2003 he may only serve 5 TENs during the calendar year.

2. REPORT

- 2.1. As required under the terms of the Licensing Act 2003 the TENs have been copied to Lincolnshire Police and the Council's Environmental Health Team. Lincolnshire Police have issued an objection to the TENs. Under the terms of the 2003 Act the Licensing Authority must now hold a hearing to consider the objection notice. Such a hearing must normally commence within 7 working days of the closing date for objections.
- 2.2. Copies of the notices of objection, issued by Lincolnshire Police, are attached at **Appendix C** of this Report.
- 2.3. Section 104 of the 2003 Act requires that the Police and the Environmental Health Team serve any objection notice on the Licensing Authority and the premises user within three working days of receipt of the TEN. The objection notices have been served within the requisite three working day period.
- 2.4. The Police's objection notices have been issued on the grounds of public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm licensing objectives.
- 2.5. The store does not currently hold a premises licence. A premises licence was previously held at the store - however, that premises licence was revoked by a Licensing Sub-Committee hearing held on 14 July 2021. The revocation decision was not appealed to the Magistrates Court. The decision notice from 14 July 2021 premises licence review hearing is attached at **Appendix D** of this Report.
- 2.6. The premises licence review held on 14 July 2021 related to an illegal worker who was found to be working at the premise. In addition, the Sub-Committee heard details from Lincolnshire Police of other issues initially encountered at the premises during a compliance visit, namely:
- stock without price labels,
 - staff were unable to work the CCTV,
 - CCTV operating not in accordance with requirements,
 - no written authorisation from the Designated Premises Supervisor (DPS) for other staff to sell alcohol.
- 2.7. The Sub-Committee noted how there had been some improvements undertaken at the premise following this first Police visit:
- price labels were now shown,
 - staff were able to work the CCTV,
 - a written authorisation was now in place,
 - along with some evidence of staff training.
- 2.8. The Licensing Sub-Committee must only issue a counter notice (effectively cancelling the TENs - pending any available appeal to the Magistrates Court) if it is persuaded by the

Police that it is appropriate to do so in order to promote one or more of the licensing objectives.

2.9. **Guidance Issued by the Home Office Under Section 182 of the Licensing Act 2003:** It is considered that the extracts from the national guidance, shown at **Appendix E** of this Report, have a bearing upon the TEN review.

2.10. The Home Office Section 182 Guidance indicates that the Police should usually be the Licensing Authority's main source of advice on matters relating to the prevention of crime and disorder licensing objective. However, the Police must ensure that their representations can stand up to scrutiny at a licensing hearing. The relevant section of the Home Office Guidance is detailed below:

THE ROLE OF RESPONSIBLE AUTHORITIES

Paragraph 9.12 - Each Responsible Authority will be an expert in their respective field, and in some cases, it is likely that a particular Responsible Authority will be the Licensing Authority's main source of advice in relation to a particular licensing objective. For example, the Police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The Police should usually therefore be the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. 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. However, it remains incumbent on all Responsible Authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

2.11. **Local Policy Considerations:** It is considered that the extracts from the Local Policy, shown at **Appendix F** of this Report, have a specific bearing upon the TEN review.

3. CONCLUSION

3.1. The Licensing Act 2003 sets out options which the Licensing Authority can utilise in order to promote the licensing objectives following the consideration of a TEN. The licensing objectives are:

- The prevention of crime and disorder.
- Public safety.
- The prevention of public nuisance.
- The protection of children from harm.

3.2. Any step taken by the Licensing Authority must be appropriate for the promotion of the licensing objectives.

EXPECTED BENEFITS TO THE PARTNERSHIP

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

CORPORATE PRIORITIES

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors and business community.

STAFFING

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

CONSTITUTIONAL AND LEGAL IMPLICATIONS

1. Part 5 of the Licensing Act 2003 restricts objections to TENs to the Police and the Council's Environmental Health Team. The Police and/or the Environmental Health Team may object on the ground that they are satisfied that allowing the premises to be used in accordance with the notice would undermine one or more of the licensing objectives. In such circumstances, the Police and/or the Environmental Health Team must give an objection notice to the Licensing Authority and the premises user stating the reasons why they are so satisfied.

2. The Police, the Environmental Health Team and the premises user may agree modifications to the TEN.

3. Unless the premises user, the Police, the Environmental Health Team and the Licensing Authority agree that a hearing is unnecessary, or the TEN is modified as indicated above, the Licensing Authority is required to hold a hearing to consider the objection notice.

4. The Sub-Committee, in considering the objection to the TEN, must have regard to the Authority's Licensing Policy, the guidance issued by the Home Office and the evidence before it at the hearing.

5. The Sub-Committee cannot modify the TEN in any shape or form; only the Police, the Environmental Health Team and the premises user can agree to modify the TEN. If the Police, the Environmental Health Team and the premises user do not agree to modify the TEN then the Sub-Committee must consider the TEN in the format that it was made.

6. If the Sub-Committee decide to issue a counter notice (cancelling the TEN) then it must also give the premises user, the Environmental Health Team and the Police a notice stating a reason for its decision. In deciding to issue a counter notice the Sub Committee must have regard to the objection notice and only issue such a counter notice if it considers it appropriate for the promotion of a licensing objective to do so (Paragraph 105 (2)(b) of the Licensing Act 2003 refers). The licensing objectives are:

- The prevention of public nuisance
- Public safety
- The prevention of crime and disorder

- The protection of children from harm

7. Both the premises user, the Environmental Health Team and the Police may appeal a decision made by the Sub-Committee, regarding a TEN, to the Magistrates Court. However, Part 3 (6) of Schedule 5 of the Licensing Act 2003 states:

No appeal may be brought later than five working days before the day on which the event period specified in the TEN begins.

Therefore, there is not enough time for an appeal to be submitted in respect of the first TEN subject of this Report.

8. The Licensing Act 2003 does not permit the Licensing Authority to attach conditions to TENs of this type.

DATA PROTECTION

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

FINANCIAL

This TEN review is being undertaken as part of the normal duties carried out by the Licensing Team with no additional costs involved. The premises user must pay a fee of £21.00 in relation to each TEN submitted to the Licensing Authority.

As with all licence applications it is possible that if a Licensing Committee decision is appealed to the Magistrates Court and the appeal is upheld, costs may be awarded against the Council. However, the judgement of the Courts is that costs should not normally be awarded against the Local Authority provided the Authority has acted properly and reasonably.

RISK MANAGEMENT

There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters.

STAKEHOLDER / CONSULTATION / TIMESCALES

The objection notices have been served within the requisite three working day period.

REPUTATION

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

CONTRACTS

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

CRIME AND DISORDER

All Local Authorities must fulfil their obligations under Section 17 of the Crime and Disorder Act 1981 when carrying out their functions as Licensing Authorities. Section 17 places a duty on Local Authorities to do all they reasonably can to prevent crime and disorder in their area

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

Equality Implications: There are no equality implications arising from the recommendations of this Report.

Human Rights: The Licensing Authority must ensure that its decisions can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action proportionate to what it wishes to achieve, or, colloquially does the end justify the means.

The premises user is entitled to a fair hearing; Article 6 of the European Convention on Human Rights applies.

Safeguarding Implications: There are no specific safeguarding implications arising from the recommendations of this Report.

HEALTH AND WELL BEING

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Not Applicable – This is a Licensing Act 2003 Sub-Committee Report.

ACRONYMS

TEN – Temporary Event Notice.

APPENDICES	
Appendices are listed below and attached to the back of the report: -	
APPENDIX A	Location plan of Premier Store, 103-105 Newmarket, Louth, LN11 9EG.
APPENDIX B	Internal Plan of Premier Store, 103-105 Newmarket, Louth, LN11 9EG.
APPENDIX C	Objection Notice submitted by Lincolnshire Police in respect of the TEN for the Premier Store, 103-105 Newmarket, Louth, LN11 9EG.
APPENDIX D	Decision Notice – Revocation of the premises licence for the Premier Store, 103-105 Newmarket, Louth, LN11 9EG.
APPENDIX E	Extracts from the Guidance Issued by the Home Office Under Section 182 of the Licensing Act 2003.
APPENDIX F	Extracts from the Local Licensing Policy Statement.

BACKGROUND PAPERS	
Background papers used in the production of this report are listed below: -	
Document title	Where the document can be viewed
Guidance issued by the Home Office to Licensing Authorities under Section 182 of the Licensing Act 2003	https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003

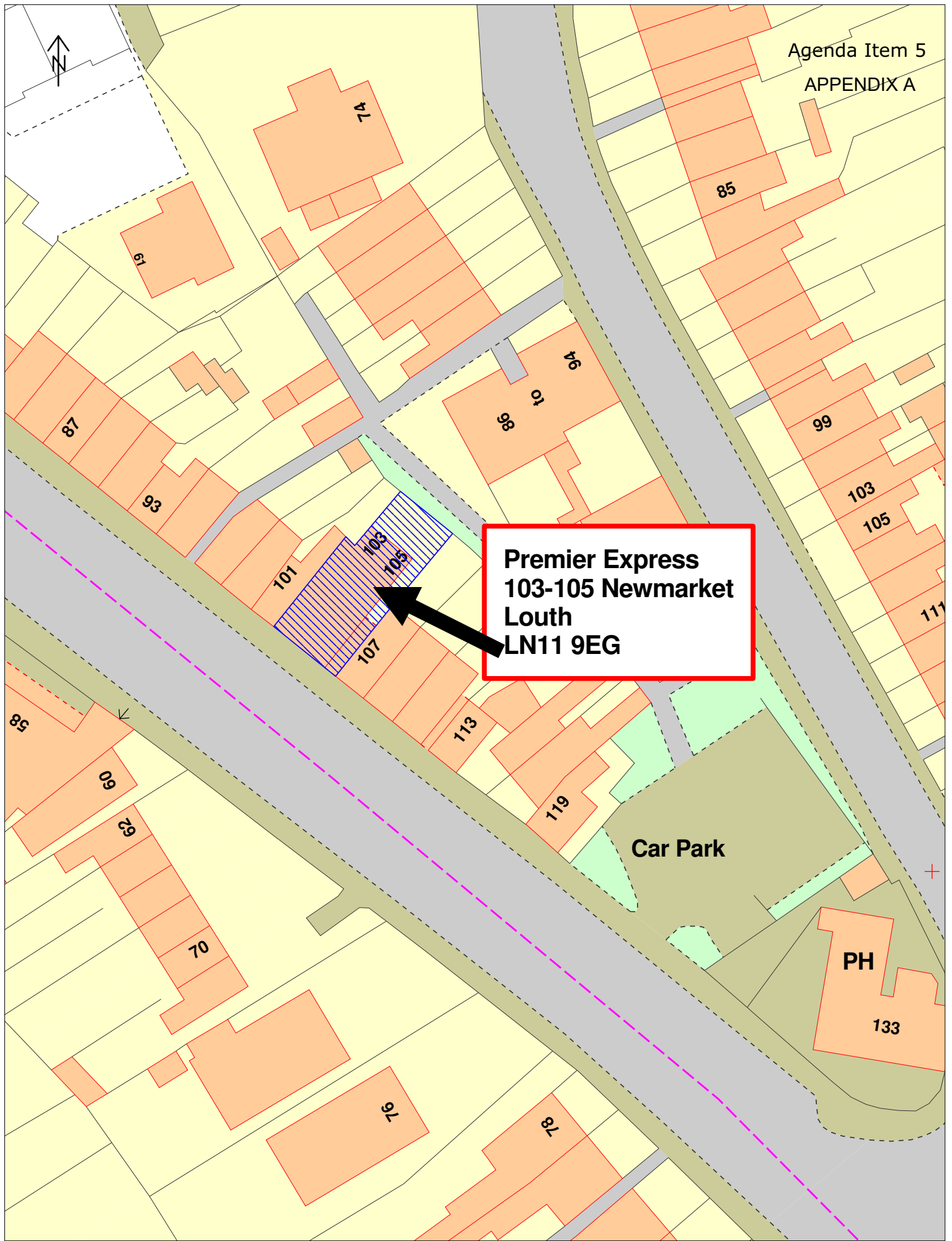
The Council's Statement of Licensing Policy adopted under the Licensing Act 2003.	https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.

REPORT APPROVAL

Report author:	Mr Adrian Twiddy (Principal Licensing Officer) Tel. No. 01507 601111 Email: adrian.twiddy@e-lindsey.gov.uk
Signed off by:	Mr Jon Challen (Service Manager – Safer Communities) Tel. No. 01507 601111 Email: jonathan.challen@e-lindsey.gov.uk
Approved for publication:	Not Applicable.

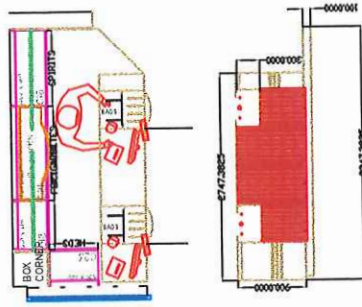
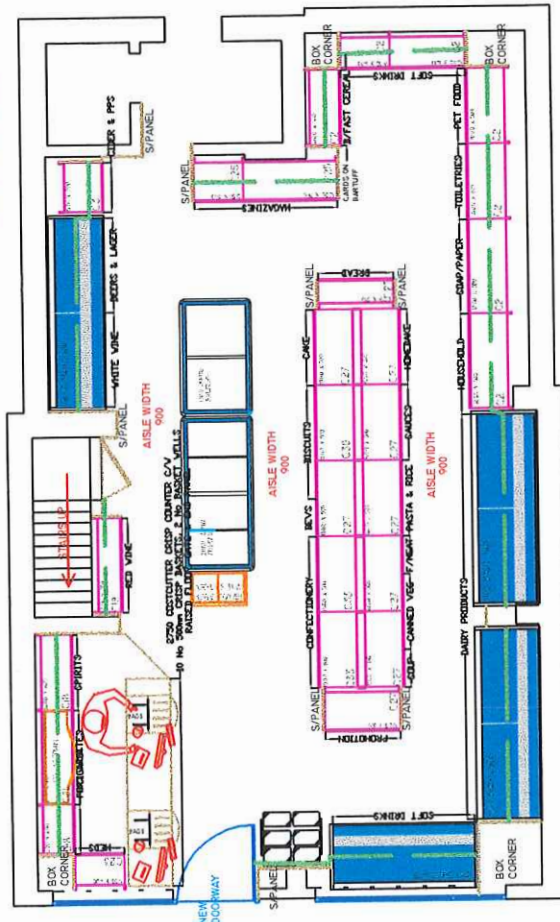


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PROPOSED SHOPFITTING & MERCHANDISING LAYOUT
FOR NEWMARKET ROAD LOUTH

- DISPLAY SHELVING
- NEW/EXISTING WALLS
- SERVICE RECEPTION
- CHECKOUT SERVICE POINTS
- NEW/EXISTING FLOOR
- SERVICE POINTS



Drawing Title

Off-Licence layout for:
Proposed Costcutter, 103-105 Newmarket, Louth, Lincolnshire, LN11 9EG.

Scale	1/100	Drawing No	RSL-102-1_B	Date	29.05.2007
Drawn	Mark Turner		Revisions	B	



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Lincolnshire Police

Licensing Act 2003 – Temporary Event Objection Notice (Section 104 Licensing Act 2003)

Details of person or body making objection	
Your Name:	Chief Constable, Lincolnshire Police.
Your Address:	Alcohol Licensing Myle Cross Macaulay Drive Lincoln LN2 4EL

Details of premises objection is about	
Name of Premises:	Premier Louth Store
Address of Premises:	103 – 105 Newmarket, Louth, LN11 9EG
Application No:	

Prevention of Crime and Disorder	x
Public Safety	x
Public Nuisance	x
Protection of Children from Harm	x

Please summarise your concerns about this application:
<p>This objection notice is in relation to a temporary event notice (TEN) for the supply of alcohol by retail from 103-105 Newmarket, Louth, between 22nd March 2022 and 27th March 2022.</p> <p>Lincolnshire Police has not been contacted prior to submission of the TEN by the applicant or any person representing him.</p> <p>The premises in question has a history with regards to licensing.</p> <p>The premises had its premises licence revoked on 14th July 2021 following a review hearing at East Lindsey District Council.</p> <p>The licencing sub-committee heard evidence from Lincolnshire Police that an illegal worker had</p>

been encountered at the premises, as well as breaches of the annex 2 conditions on the premises licence. The premises licence holder and designated premises supervisor were absent and failed to present at hearing or have any contact with authorities. The evidence demonstrated that there was a lack of overall control of the premises.

Mr Thuraisingam Kirushanth was encountered at the premises in March and May 2021 when the police visited and discovered the issues which led to the premises licence review and revocation. He presented as having control of the premises at the time the illegal worker was found on the second visit, stating that he was going to transfer the premises licence into his name. Yet he displayed a lack of knowledge and understanding of both licensing legislation and the conditions on the premises licence as the annex 2 breaches of the premises licence showed.

At no point in the subsequent hearing process did Mr Kirushanth offer any explanation for what was discovered by the police, nor did he as the potential new licence holder attend the review hearing to explain the situation to the licensing committee, despite being aware of everything that had occurred.

There then followed 3 x TEN's for the premises from Mr Kirushanth for August and September 2021, which were objected to by Lincolnshire Police on the basis that Mr Kirushanth was the person in control of the premises at the time the licensing objectives were seriously undermined, which led to the revocation. Lincolnshire Police produced evidence that Mr Kirushanth had registered for VAT at the premises prior to the first police visit. He was still registered for VAT at the premises during the subsequent police visit when the illegal worker was found, showing a great degree of involvement in the business that benefitted from the alcohol sales during that time. The TEN's were withdrawn on the day of the hearing.

Various draft applications from Mr Kirushanth for a new premise licence were then received by Lincolnshire Police over the following months. Mr Kirushanth was told that Lincolnshire Police would make representation to such an application should it be formerly submitted as the same argument still stood, that he was in control at the time of the serious failings which led to the revocation.

A new premises licence application for 103-105 Newmarket in the name of Janushanth Thuraisingam was formerly submitted 8th March 2022, along with 3 x TEN's (one of which was late).

Pc 1299 Casey attended the premise on 9th March 2022 and spoke with Mr Thuraisingam. He informed Pc Casey that he is taking on the business and Mr Kirushanth is his brother. Please see the statement from Pc Casey at appendix A attached.

Mr Thuraisingam's history, in regards to risk to the licensing objectives will be researched during the 28 days consultation period as part of the application process for the premises licence. Police are given 3 days in which to object to TEN's and it is not sufficient time to carry out enquiries with responsible authorities that are outside Lincolnshire.

The new premises licence application from Mr Thuraisingam shows that he doesn't currently live locally. His home address on that application, as opposed to on the TEN applications which gives the Newmarket premises address, is Nuneaton. He has applied for his personal licence with Nuneaton and Bedworth Licensing Authority, again showing this is where he is living, as you have to apply to the council in the area you live. As yet he has not been granted a personal licence, which further increases the risk to the licensing objectives.

Lincolnshire Police have requested evidence of a genuine takeover, business sale, lease agreement, movement of money, independent stock take, utilities, business rates, VAT registration, companies house registration etc. All the things that you would expect to have if there had there been a genuine change of hands.

The 28 day consultation period with the premises licence application will also allow time for Lincolnshire Police to carry out their own checks to verify a change of business operator, to scrutinise any paperwork received and conduct further enquiries if necessary.

At present Lincolnshire Police are concerned that Mr Kirushanth is still behind the business. A search of the premises postcode PE11 9EG into vat-search.co.uk, an open source VAT search reference, on 11th March 2022 brought back Mr Kirushanth's details, with the address Louth, Lincolnshire. This shows a VAT registration date of 2 Feb 2021, the VAT ID of GB 368173668 and the status as active.

A VAT ID check at www.gov.uk using the VAT ID provided on the previous search brought back the registered business name of Thuraisingam Kirushanth with the registered business address being 103-105 Newmarket, Louth, Lincolnshire, PE11 9EG. Please see appendix B attached for screenshots of these searches.

A temporary event notice allows licensable activities where no conditions are attached to promote the licensing objectives, unlike a premises licence. To allow licensable activity to take place at this premises, with this history, without sufficient evidence of improvement or changes of control since the failings which led to the licence revocation, is an unacceptable risk to the licensing objectives.

Lincolnshire Police object to this temporary event notice as to grant it risks undermining the licencing objectives.

Signed ...Sgt 1367 Ian Cotton
for and on behalf of the Chief Constable of Lincolnshire Police

Dated.....11/3/22.....

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Lincolnshire Police

Licensing Act 2003 – Temporary Event Objection Notice (Section 104 Licensing Act 2003)

Details of person or body making objection	
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Your Address:	Alcohol Licensing Myle Cross Macaulay Drive Lincoln LN2 4EL

Details of premises objection is about	
Name of Premises:	Premier Louth Store
Address of Premises:	103 – 105 Newmarket, Louth, LN11 9EG
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Prevention of Crime and Disorder	x
Public Safety	x
Public Nuisance	x
Protection of Children from Harm	x

Please summarise your concerns about this application:
<p>This objection notice is in relation to a temporary event notice (TEN) for the supply of alcohol by retail from 103-105 Newmarket, Louth, between 29nd March 2022 and 3rd April 2022.</p> <p>Lincolnshire Police has not been contacted prior to submission of the TEN by the applicant or any person representing him.</p> <p>The premises in question has a history with regards to licensing.</p> <p>The premises had its premises licence revoked on 14th July 2021 following a review hearing at East Lindsey District Council.</p> <p>The licencing sub-committee heard evidence from Lincolnshire Police that an illegal worker had</p>

been encountered at the premises, as well as breaches of the annex 2 conditions on the premises licence. The premises licence holder and designated premises supervisor were absent and failed to present at hearing or have any contact with authorities. The evidence demonstrated that there was a lack of overall control of the premises.

Mr Thuraisingam Kirushanth was encountered at the premises in March and May 2021 when the police visited and discovered the issues which led to the premises licence review and revocation. He presented as having control of the premises at the time the illegal worker was found on the second visit, stating that he was going to transfer the premises licence into his name. Yet he displayed a lack of knowledge and understanding of both licensing legislation and the conditions on the premises licence as the annex 2 breaches of the premises licence showed.

At no point in the subsequent hearing process did Mr Kirushanth offer any explanation for what was discovered by the police, nor did he as the potential new licence holder attend the review hearing to explain the situation to the licensing committee, despite being aware of everything that had occurred.

There then followed 3 x TEN's for the premises from Mr Kirushanth for August and September 2021, which were objected to by Lincolnshire Police on the basis that Mr Kirushanth was the person in control of the premises at the time the licensing objectives were seriously undermined, which led to the revocation. Lincolnshire Police produced evidence that Mr Kirushanth had registered for VAT at the premises prior to the first police visit. He was still registered for VAT at the premises during the subsequent police visit when the illegal worker was found, showing a great degree of involvement in the business that benefitted from the alcohol sales during that time. The TEN's were withdrawn on the day of the hearing.

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The 28 day consultation period with the premises licence application will also allow time for Lincolnshire Police to carry out their own checks to verify a change of business operator, to scrutinise any paperwork received and conduct further enquiries if necessary.

At present Lincolnshire Police are concerned that Mr Kirushanth is still behind the business. A search of the premises postcode PE11 9EG into vat-search.co.uk, an open source VAT search reference, on 11th March 2022 brought back Mr Kirushanth's details, with the address Louth, Lincolnshire. This shows a VAT registration date of 2 Feb 2021, the VAT ID of GB 368173668 and the status as active.

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Lincolnshire Police object to this temporary event notice as to grant it risks undermining the licencing objectives.

Signed ...Sgt 1367 Ian Cotton
for and on behalf of the Chief Constable of Lincolnshire Police

Dated.....11/3/22.....

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PLA009404

Mr A Twiddy

01507 601111

licensing@e-lindsey.gov.uk

15 July 2021

XXXX

DECISION NOTICE

Dear Sir,

**Licensing Act 2003 – Review of a Premises Licence
Licensing Sub-Committee Hearing - 14 July 2021
Costcutter (also known as Louth Premier Store), 103-105 Newmarket,
Louth, LN11 9EG**

The Licensing Act 2003 Sub-Committee held on 14 July 2021 considered the above premises licence review application. The application for licence review was submitted by Lincolnshire Police under Section 51 of the Licensing Act 2003.

The Sub-Committee carefully considered the representation made to it, both in writing and verbally at the hearing, and decided to revoke the premises licence.

REASONS FOR THE REVOCATION DECISION:

The Licensing Act 2003 Sub-Committee (the Sub-Committee) read and heard all of the information before them, and in reaching their decision had due regard of all of the information put to them, along with the Section 182 Guidance to Licensing Authorities, the Council's Licensing Policy and the licensing objectives under the Licensing Act 2003.

Lincolnshire Police confirmed that they were happy for the review hearing to be held in public session.

The Sub-Committee were disappointed that the Premises Licence Holder (PLH) did not appear before them at the hearing, but heard from Lincolnshire Police and Mr Brooks (Licensing Compliance Officer) as to the efforts undertaken on several occasions to contact the PLH but they had been unable to contact him,

and how all legal requirements had been adhered to in calling the review hearing. The Sub-Committee retired to deliberate and determined that it was in the public interest for the review hearing to go ahead despite the PLH's non-attendance.

The Sub-Committee were aware that the PLH was also the Designated Premises Supervisor (DPS) for the business, and heard details from Lincolnshire Police of the issues encountered at the premises across two visits, namely:

- stock without price labels,
- staff were unable to work the CCTV,
- CCTV operating not in accordance with requirements,
- no written authorisation from the DPS for other staff to sell alcohol, and
- an illegal worker encountered working at the premise.

Additionally, it was reiterated to the Sub-Committee by Lincolnshire Police and Mr Twiddy (Principal Licensing Officer) that this Authority is of the view that the main purpose of the DPS is to ensure that there is always one specified individual at a premise, who can be readily identified as holding day-to-day responsibility for running the premises. The behaviour experienced on the part of the DPS/PLH for this business was not what they expected from a responsible DPS/PLH who was running a lawful premise and upholding the licensing objectives.

The Sub-Committee noted how there had been some improvements undertaken at the premise following the first Police visit:

- price labels were now shown,
- staff were able to work the CCTV,
- a written authorisation was now in place,
- along with some evidence of staff training.

However, the Sub-Committee had strong regard for the distinct lack of contact had with the DPS/PLH and were very concerned that not only could staff not get in contact, neither could Lincolnshire Police or Licensing Officers.

The Sub-Committee noted that the written authorisation indicated that the DPS/PLH had been made aware of the Police's visit, and yet the Sub-Committee assumed that he had decided not to take any steps to contact Lincolnshire Police to discuss the issues, or to attend the premises licence review hearing.

The Sub-Committee were also gravely concerned to hear that an illegal worker was found to be working at the premise; and were aware that this is an offence.

The Sub-Committee noted that it is a legal requirement to check an employee's right to work status, and the Sub-Committee considered this to be further evidence of the lack of care and management, and regard for the licensing objectives on the part of the DPS/PLH.

Taking all of the above into consideration, the Sub-Committee decided that it was reasonable and proportionate for the promotion of the licensing objectives to revoke the premises licence. The Sub-Committee did not consider that there were any conditions they could be modified on the premises licence that would

rectify the issues encountered, and simply removing the DPS would leave the same individual as PLH; thereby not addressing the issue satisfactorily in the Sub-Committee's mind.

The Sub-Committee also did not consider that simply suspending the premises licence would send the correct message as to the severity of the issues encountered at the premises, nor would issuing a warning.

The Sub-Committee considered revocation of the premises licence would send a clear message as to the expectations of the Licensing Authority as to the level of responsibility required to be a DPS and PLH. Accordingly, the Sub-Committee determined that the premises licence should be revoked.

RIGHT TO APPEAL:

I would advise you that you have the right to appeal to the Magistrates Court against the above revocation decision.

Any appeal must be made to the Lincoln Magistrates Court, The Court House, 358 High Street, Lincoln, LN5 7QA, (email: li-lincolnmadmin@hmcts.gsi.gov.uk) (Tel: 01522 528218) within 21 days of the date of being notified of this decision.

Please note that the premises licence revocation will not take effect until the end of the period for the submission of an appeal or if an appeal is submitted until such time as the appeal is determined.

If you decide to appeal to the Magistrates Court, then I would be obliged if you would advise the Licensing Team of the date that you submit the appeal to the Court - please email: licensing@e-lindsey.gov.uk

FURTHER INFORMATION:

If you require any further information or advice, please do not hesitate to contact the Licensing Team by email: licensing@e-lindsey.gov.uk

Yours sincerely

A Twiddy
Principal Licensing Officer

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7. Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing). Under the 2003 Act ‘premises’ can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent. Local authorities and “relevant persons” (see below) may wish to make enquiries where appropriate to satisfy themselves of the exact location for where a TEN is being given.
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may

result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

Standard and late temporary event notices

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

- 7.9 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing licence conditions.

Limitations

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year

for a personal licence holder and five times in a calendar year for other people;

- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 15 times in a calendar year;
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENs allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days

away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

- 7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

Non-personal licence holders

- 7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).
- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not

withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. Under Schedule 3 of the 2003 Act, the licensing authority must also keep a record of such matters including any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person and any TEN received following modification. If requested to do so, a licensing authority must supply a person with a copy of the information contained in any entry in its register. Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment. Licensing authorities may wish to consider bringing TENs to the attention of local councillors and residents by making their register available online or including relevant details of a TEN when it is received, along with notice of licence applications on the authority's website. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.
- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the

premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.
- 7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

- 7.37 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

- 7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
 - if that objection has not been withdrawn;
 - if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
 - and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.
- 7.39 This decision is one for the licensing authority alone, regardless of the premises user’s

views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Duty of premises users to keep and produce TENs

7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014³.

³ For further guidance on the closure power under the 2014 Act, please refer to:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final__2_.pdf

APPENDIX F**EXTRACT FROM LOCAL LICENSING POLICY****Paragraph 10.13 Temporary Events Notices (TENs)**

Certain temporary events are not required to be licensed, although they must be notified to the Licensing Authority, Lincolnshire Police and the East Lindsey District Council Environment Team using the TENs procedure (contact should be made with the Licensing Section for details). The Licensing Authority strongly encourages organisers of temporary events to submit TENs notifications as soon as reasonably practicable to enable the Police, the Environment Team and Licensing Authority to work with them to identify and reduce the risk of any issues in relation to the licensing objectives.

The Licensing Authority recommends for normal events that at least 30 working days notification be given (the normal legal requirement is 10 working days). Although only the Police and the Environment Team can object to TENs, organisers of events where there may be significant numbers of people or may have an impact on the road network or public safety are encouraged to consult with relevant authorities at an earlier stage.

Paragraph 10.14

It should be noted that the Police and the Council's Environment (Noise) Team are the only bodies who may make representations to a TEN. However, these two bodies may object to a TEN on grounds that any of the licensing objectives would not be promoted should the event go ahead. Where objections are received the matter will be put before the Licensing Sub-Committee hearing. The Sub-Committee may:

1. Allow the TEN to go ahead
2. Reject the TEN
3. If the premises where the TEN is proposed to take place already has a premises licence the Committee may allow the TEN but impose some, or all, of the conditions on the premises licence onto the TEN if appropriate.

In relation to bullet point (3) above – the Licensing Authority has delegated powers to Officers to issue a TEN with conditions attached (without the need for a licensing hearing) – provided all parties agree to the attachment of the conditions.

Paragraph 10.15

Licensing legislation allows event organisers to submit up to 10 'late notices' per year if they hold a personal licence and 2 'late notices' if they do not hold a personal licence. These 'late notices' can be submitted to the Licensing Authority, Police and Environment Team between 5 and 9 days before the event. However, it should be noted that if either the Police or the Environment Team lodges an objection to a late TEN the event cannot go ahead.

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