

**If you would like any further information or have any special requirements in respect of this Meeting, please contact Joanne Paterson, Democratic Services Officer on (01507) 613422**

**Tel: (01507) 601111 Ext. 613422**

**Email: [joanne.paterson@e-lindsey.gov.uk](mailto:joanne.paterson@e-lindsey.gov.uk)  
Website: [www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk)**

Date: Thursday, 25 August 2022

Dear Councillor,

**Licensing Act 2003 Sub Committee- (Adjourned from 12<sup>th</sup> September)**

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, 22nd September, 2022 at 10.00 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://www.youtube.com/channel/UC8Vp5Ds-RK3Slk95IIMpgXQ> where a livestream and subsequent recording of the meeting will be available.

Yours sincerely



Robert Barlow  
Chief Executive

**Conservative**

Councillor Stan Avison (Chairman), David Mangion and Terry Taylor

**Labour**

Councillor Graham Cullen

**LICENSING ACT 2003 SUB COMMITTEE AGENDA  
Monday, 12 September 2022**

<b>Item</b>	<b>Subject</b>	<b>Page No.</b>
<b>1.</b>	<b>ELECTION OF CHAIRMAN:</b>	
<b>2.</b>	<b>DISCLOSURE OF INTERESTS (IF ANY):</b>	
<b>3.</b>	<b>APOLOGIES FOR ABSENCE:</b>	
<b>4.</b>	<b>EXCLUSION OF THE PUBLIC AND PRESS</b> 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 1,2 and 7 of Part 1 of Schedule 12A of the Act (as amended).	
<b>5.</b>	<b>REVIEW OF A PREMISES LICENCE:</b> Report of the Service Manager, Safer Communities.	1 - 42



<b>REPORT TO:</b>	<b>LICENSING ACT 2003 SUB-COMMITTEE</b>
<b>DATE:</b>	<b>12 SEPTEMBER 2022</b>
<b>SUBJECT:</b>	<b>REVIEW OF A PREMISES LICENCE – ARCADE MINI-MARKET, 2 SANDBACK ARCADE, DRUMMOND ROAD, SKEGNESS, PE25 3DY</b>
<b>PURPOSE:</b>	This Report considers an application by Lincolnshire Police for a review of the premises licence held in respect of the shop premises known as Arcade Mini-Market, Skegness.
<b>KEY DECISION:</b>	Not Applicable.
<b>REPORT OF:</b>	Service Manager – Safer Communities
<b>REPORT AUTHOR:</b>	Mr Adrian Twiddy (Principal Licensing Officer)
<b>WARD(S) AFFECTED:</b>	Skegness.
<b>EXEMPT REPORT?</b>	The content of this Report is not exempt from publication.  However, a confidential evidence pack will be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report. The evidence pack is exempt from publication – the pack is not for publication by virtue of Paragraphs 1, 2 & 7 of Part I of Schedule 12A of the Local Government Act 1972.

## **SUMMARY**

This Report considers an application by Lincolnshire Police for a review of the premises licence held in respect of the Arcade Mini-Market, 2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY. The review application has been submitted by Lincolnshire Police under the provisions of Section 51 of the Licensing Act 2003.

The review is the result of a Police compliance check during which a person at the premise was identified as holding no permission to work in the UK.

The Home Office guidance to Licensing Authorities states that there are certain criminal activities which should be treated particularly seriously by a Licensing Authority, one of these is knowingly employing a person who is not entitled to work in the UK.

This Authority's licensing policy stresses that in cases when the crime prevention objective is being undermined it can be expected that revocation of the premises licence will be seriously considered.

The application for review has not attracted representations from the other Responsible Authorities.

## **RECOMMENDATIONS**

The Sub-Committee must consider the application for review of a premises licence and having regard to the application, take such of the steps mentioned below (if any), as it considers appropriate for the promotion of the licensing objectives. The steps are:

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the Designated Premises Supervisor (DPS)
- To suspend the licence for a period not exceeding three months
- To revoke the licence

The Sub-Committee may also consider issuing a warning to the licence holder and/or to recommend improvement within a particular period of time.

If none of the above steps is considered appropriate the premises licence should remain in the form it was granted.

## **REASONS FOR RECOMMENDATIONS**

The Licensing Authority has a duty to consider the status of premises licences where reviews have been submitted by Responsible Authorities. All parties within the licensing process must seek to promote the licensing objectives as defined under the Licensing Act 2003.

The Sub-Committee must consider the application for review of the premises licence and having regard to the application, take such steps as it considers appropriate for the promotion of the licensing objectives.

## **OTHER OPTIONS CONSIDERED**

Under the terms of the Licensing Act 2003 this Authority must consider the premises licence review. There is no other option but to undertake and complete the review of the premises licence.

## **1. BACKGROUND**

### **1.1. Premises Licence Details:**

**Licence Holder Details:** Mr Ali Kayran

**Premises:** Arcade Mini-Market, 2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY

**Designated Premises Supervisor (DPS):** Mr Ali Kayran

**1.2.** This case involves an application for a review of a premises licence (Section 51 of the 2003 Act refers) by Lincolnshire Police. The Police have indicated that in their view the

application to review relates to the prevention of crime & disorder and protection of children from harm licensing objectives. A copy of the application for review is attached at **Appendix C** of this Report. The premise has not been subject of any previous premises licence reviews. But the premises was subject of a premises licence variation hearing on 23 January 2017 – see Paragraphs 2.19 to 2.21 of this Report.

## 2. REPORT

- 2.1.** The Licensing Authority has a duty to consider the status of premises licences where reviews have been submitted by Responsible Authorities or other relevant parties. This duty has been delegated to the Licensing Sub-Committees of the Full Licensing Act 2003 Committee.
- 2.2.** This review is the result of a joint Police and Immigration Officer operation on 15 June 2022 during which a person at the premise was identified as holding no permission to work in the UK. The Police are asking the Licensing Authority to consider the revocation of the premises licence. The Home Office Section 182 Guidance to Licensing Authorities states that there are certain criminal activities which should be treated particularly seriously by a Licensing Authority, one of these is knowingly employing a person who is not entitled to work in the UK. The guidance goes on to say:

*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.*

The Police review application also includes reference to a premises licence compliance check that was undertaken during the visit to the premise on 15 June 2022 – the check showed a level of non-compliance with requirements of the licensing regime. That is out of date staff training and the sales refusal register was not being maintained – both of which are conditions attached to the premises licence.

- 2.3.** The business in question is a convenience store and off licence offering alcoholic beverages for sale. Mr Ali Kayran has held the premises licence for the business since December 2015. He has also held the Designated Premises Supervisor (DPS) role for the site since that date. His personal licence was granted by the East Riding of Yorkshire Council.
- 2.4.** The premise is currently licensed to undertake the supply of alcohol for consumption off the premises. A plan showing the location of the business can be found at **Appendix A** of this Report. A plan showing the internal layout of the premises can be found at **Appendix B**. A full extract from the premises licence for the business can be found at **Appendix D** of this Report.
- 2.5.** In relation to the role of DPS this Authority is of the view that the main purpose of the DPS is to ensure that there is always one specified individual, among the personal licence holders at a premise, who can be readily identified for the business where the sale of alcohol is permitted. The premises licence holder will normally have given that person day-to-day responsibility for running the premises.

- 2.6.** A copy of the Police’s application for premises licence review (including the grounds for the review) can be found at **Appendix C** of this Report. The review application is accompanied by supporting documentation and evidence. A copy of the evidence pack will be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report. Copies of any evidence pack, submitted by premises licence holder, in support of his case and any additional evidence submitted by the Police, will also be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report.
- 2.7.** As required under the terms of the Licensing Act 2003 the review application has been advertised outside the premise, at the Council’s Tedder Hall Offices and on the Council’s website, for a period of 28 consecutive days. The Responsible Authorities (e.g., Lincolnshire Trading Standards, the Council’s Environmental Health Team, etc.) and other relevant parties were permitted to submit representations regarding the review application. Any representation, made in relation to the review, must relate to one or more of the licensing objectives. The closing date for representations was 18 August 2022.
- 2.8.** The application for review did not attract representations from the other Responsible Authorities. No representations were received from other parties (e.g., local residents and businesses).
- 2.9. Right to Work Licence Conditions:** There are a number of options available to the Licensing Sub-Committee in relation to the premises review (see the Legal Implications Section of this Report). Such options include the revocation or suspension of the licence or the addition of licence conditions. However, licence conditions should not normally duplicate existing legislation. Therefore, this Authority should not actively seek to place conditions on premises licences which replicate in detail the legal responsibilities which an employer already holds in relation to the checking of a prospective employee’s right to work in the UK. Employers must by law ensure that no new member of staff is able to work at the business unless they have provided satisfactory proof of identification and right to work.
- 2.10.** However, whilst bearing the contents of Paragraph 2.9 in mind, the Sub-Committee may wish to note the contents of the following Home Office Guidance Document: *Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales (April 2017)*. The document states the following:
- If appropriate, Home Office (Immigration Enforcement) will consider whether to request that conditions be attached to the licence. This will be the case where the conditions are considered appropriate to promote the licensing objective of preventing crime and disorder, including immigration crime and illegal working in licensed premises.*
- Conditions that are considered appropriate for the prevention of illegal working in licensed premises may include mandating a premises licence holder to undertake right to work checks on all staff employed at the licensed premises and requiring that a physical copy of any document checked as part of a right to work check is retained at the licensed premises, or a digital copy be immediately accessible from the premises.*

A complete copy of the above guidance document can be found on the GOV.UK website at the link shown under Background Papers at the end of this Report.

- 2.11.** With this in mind, if the Sub-Committee is minded for the premises licence to remain in force, then Members may wish to consider whether the imposition of both or one the following conditions (or similar worded conditions), would be relevant and suitable to the premises licence in this particular case:

**Checking of Prospective Employees Right to Work in the UK**

- Right to work checks shall be conducted on all potential employees prior to their employment in any capacity at the business. Checks shall be in accordance with the Home Office Code of Practice for employers as current at that time.
- The premises licence holder will operate a full digital HR management system where all relevant documents are stored for each individual member of staff. All relevant documents for members of staff will be retained for a period of 12 months post termination of employment and will be made available to Police, Immigration or Licensing Officers on request.

- 2.12. Yellow Card / Red Card:** Officers would remind the Sub-Committee that this Authority has adopted a 'yellow card' and 'red card' approach to the review of premises licences. This approach indicates that following an application for review of a premises licence by a Responsible Authority a yellow card warning from the Licensing Authority (if considered warranted by the Licensing Authority) would put the problem premises on immediate probation together with tough and uncompromising sanctions. The approach goes on to indicate that when the circumstances are right, the Licensing Authority would issue a straight red card leading to withdrawal of the premises licence

- 2.13. Local Policy Considerations:** It is considered that the extracts from the Local Policy, shown at **Appendix E** of this Report, have a specific bearing upon the premises licence review application.

- 2.14. 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 F** of this Report, have a bearing upon the premises licence review application.

- 2.15.** 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.*

**2.16. Premises Licence Review - Options Available:** There are a number of options available to the Licensing Sub-Committee in relation to the premises licence review (see the Legal Implications Section of this Report). Such options include the revocation or suspension of the licence or the addition of licence conditions.

**2.17.** The advice from Officers is that when determining a premises licence review in circumstances involving criminal conduct, consideration should be given to both of the following:

- what is necessary to promote the objective of crime prevention
- the needs of the wider community

The Committee's consideration should not be limited to:

- guidance
- remedial action
- the needs of the licence holder

The Licensing Authority is able to take steps in the interests of the wider community where licensed premises had been used for criminal purposes – it will be appropriate, in some instances, for the Licensing Authority to take action, such as a licence suspension, which is designed, if not to be a punishment, at least to be a deterrent. The maximum suspension period available to the Committee is three months.

**2.18.** If Members are minded to issue a period of licence suspension, then Officers would suggest that such a period should be of such length to act as a deterrent but not be sufficiently long to be viewed as excessively punitive. In addition, any suspension should be accompanied by a clear warning that any further appearance before a Sub-Committee will have serious and clear repercussions for the status of the premises licence.

**2.19. Refusal of Application to Extend Licensing Hours:** For information, the Sub-Committee is advised that on 23 January 2017 this Authority refused an application to extend the licensing hours at the premises subject of this Report. The 23 January 2017 licensing hearing followed from a representation made by Lincolnshire Police – neither the applicant nor his representative attended the hearing. A copy of the decision notice from the hearing can be found at **Appendix G** of this Report.

**2.20.** The Police submission included reference to compliance visits to the premise, which have shown a level of non-compliance with a number of requirements of the licensing



regime. The Police submission indicated that the business had failed a test purchase operation in March 2016, during which alcohol was sold to a child. In addition, a compliance visit to the premise on 5 December 2016 found the following issues:

- The CCTV hard drive was not positioned in a tamper proof position – it was stored where the public could gain access to it.
- There was not signage asking patrons to leave the premises and area quietly – it is a condition of the premises licence that such signage is displayed.
- A copy of the premises licence was not held on site.
- The premises licence holder had not advised the Licensing Authority of his change of residential address.

**2.21.** The premise is situated within an area of Skegness covered by the night time economy. At times this area can experience problems of anti-social and behaviour fuelled by the consumption of alcohol. The Police were of the opinion that allowing the requested extension of licensing hours would add to these existing problems.

### **3. CONCLUSION**

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

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

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 with no relevance to the South & East Lincolnshire Councils Partnership.

### **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**

The power to review a premises licence is designed to provide the Licensing Authority with a suitable mechanism to tackle problems that may subsequently arise once a premise is licensed.

The Sub-Committee must consider the application for review of a premises licence and having regard to the application, take such of the steps mentioned below (if any), as it considers appropriate for the promotion of the licensing objectives. The steps are:

- To modify the conditions of the licence.
- To exclude a licensable activity from the scope of the licence.
- To remove the Designated Premises Supervisor (DPS).
- To suspend the licence for a period not exceeding three months.
- To revoke the licence.

The Sub-Committee may also consider issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. If none of the above steps is considered appropriate the licence should remain in the form it was granted.

## **DATA PROTECTION**

There are no specific data protection implications arising from the recommendations of this Report.

## **FINANCIAL**

This licence application is being processed as part of the normal duties carried out by the Licensing Team with no additional costs involved

## **RISK MANAGEMENT**

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.

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**

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

## **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**

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 licence holder is entitled to a fair hearing; Article 6 of the European Convention on Human Rights applies.

Article 8, the right to respect for private and family life, also applies as the “licence” is crucial to the livelihood of the premises licence holder. The Human Rights of the wider community are also engaged.

Equality & Diversity – There are no specific equality and diversity implications arising from the recommendations of this Report.

Safeguarding – 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**

DPS – Designated Premises Supervisor

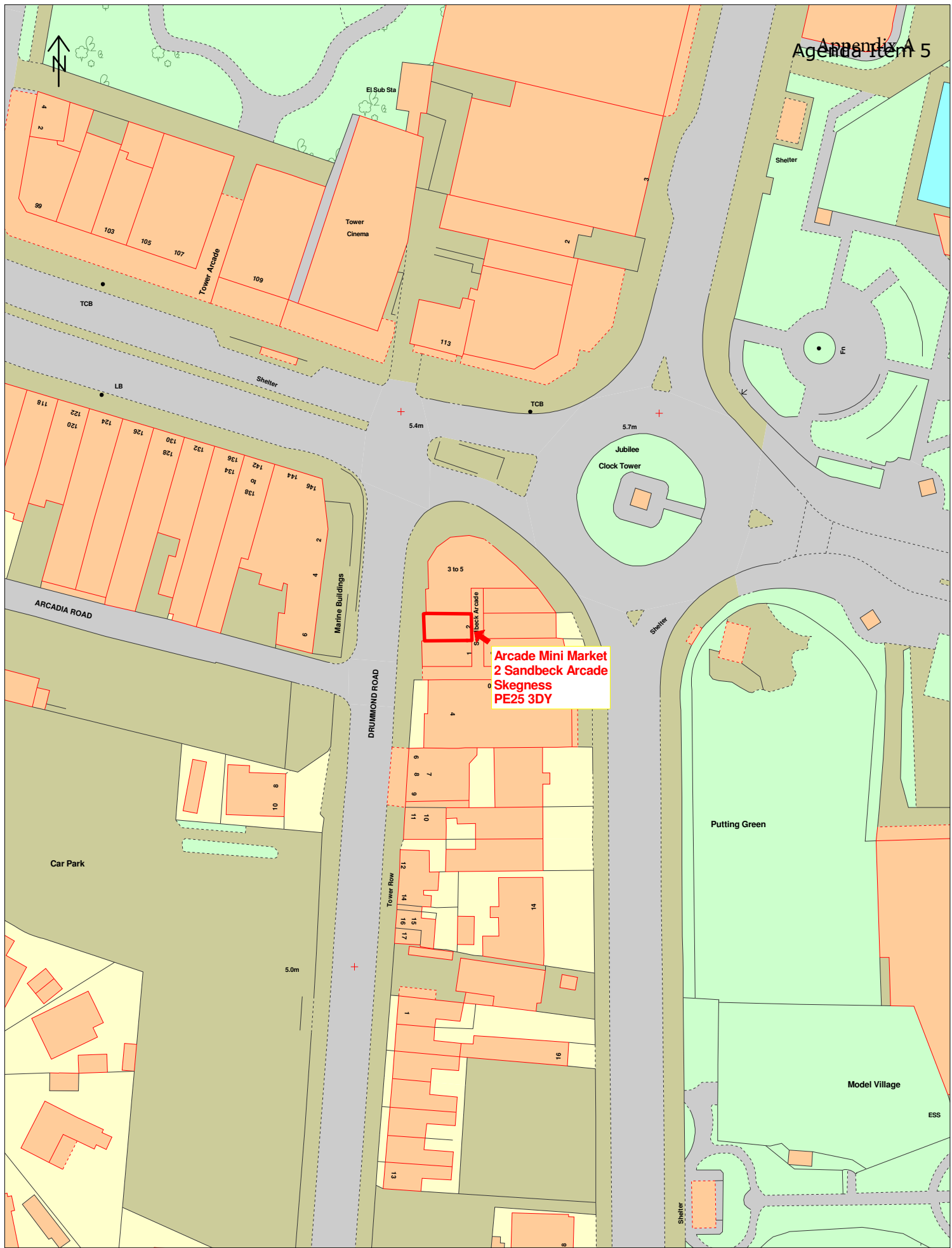
<b>APPENDICES</b>	
Appendices are listed below and attached to the back of the report: -	
<b>APPENDIX A</b>	Location Plan for the Arcade Mini-Market, 2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY.
<b>APPENDIX B</b>	Internal Plan of the Arcade Mini-Market, 2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY.
<b>APPENDIX C</b>	Premises Review Application submitted by Lincolnshire Police in respect of Arcade Mini-Market, 2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY.
<b>APPENDIX D</b>	Extract from the premises licence for Arcade Mini-Market, 2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY.
<b>APPENDIX E</b>	Extracts from the Local Licensing Policy Statement.
<b>APPENDIX F</b>	Extracts from the Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003.

<b>APPENDIX G</b>	Decision Notice from Licensing Sub-Committee held on 23 January 2017.
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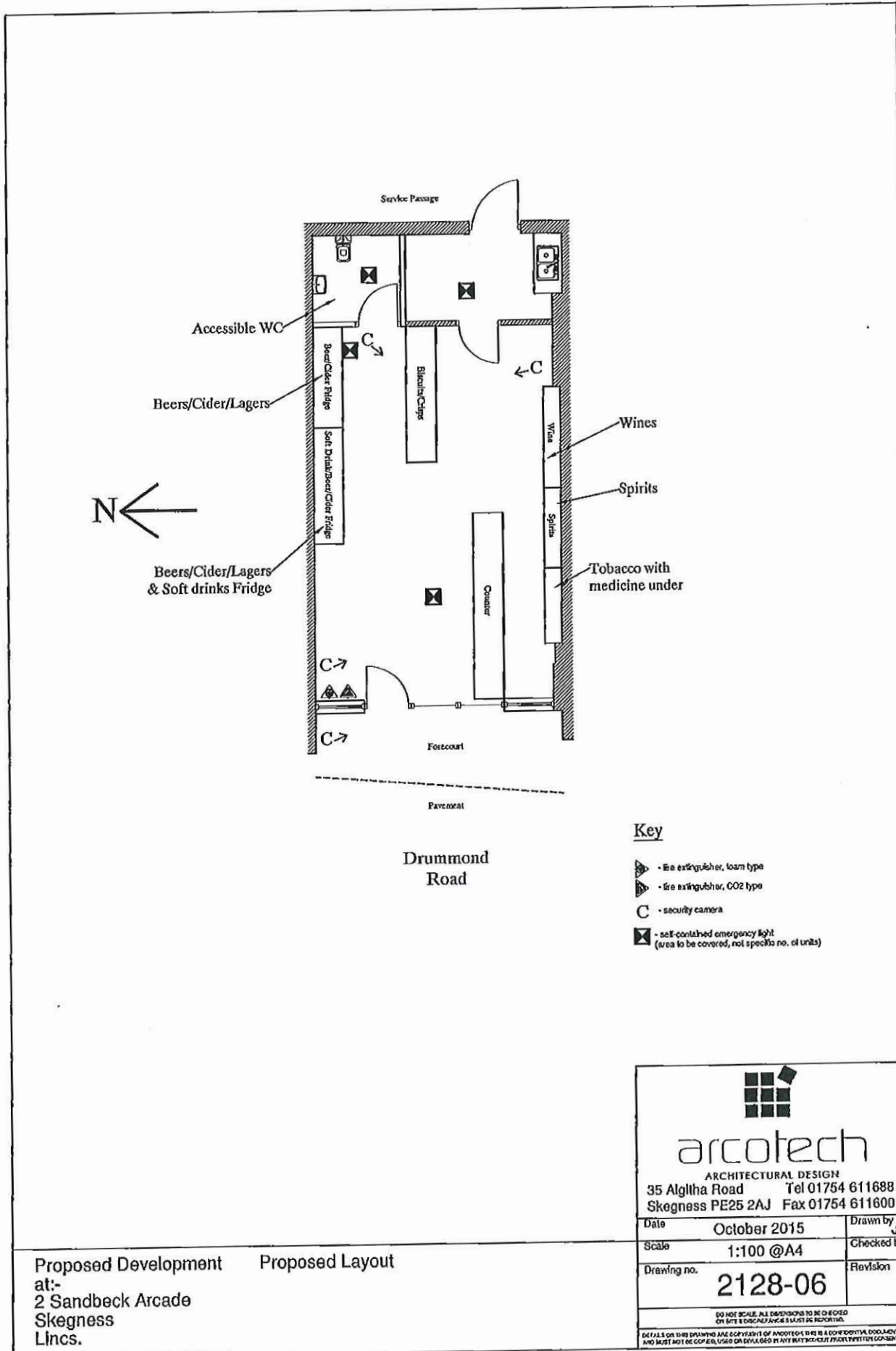
<p><b>BACKGROUND PAPERS</b></p> <p>The following background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.</p> <p>Guidance issued by the Home Office to Licensing Authorities under Section 182 of the Licensing Act 2003:</p> <p><a href="https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003">https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003</a></p> <p>The Council’s Statement of Licensing Policy adopted under the Licensing Act 2003:</p> <p><a href="https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment">https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment</a></p> <p>Home Office Guidance Document: Guidance for Licensing Authorities to Prevent Illegal Working in Licensed Premises in England and Wales:</p> <p><a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/675533/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/675533/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf</a></p>
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<b>CHRONOLOGICAL HISTORY OF THIS REPORT</b>
A report on this item has not been previously considered by a Council body.

<b>REPORT APPROVAL</b>	
Report author:	Mr Adrian Twiddy (Principal Licensing Officer) Tel. No. 01507 601111 Email: <a href="mailto:adrian.twiddy@e-lindsey.gov.uk">adrian.twiddy@e-lindsey.gov.uk</a>
Signed off by:	Mr Jon Challen (Service Manager – Safer Communities) Tel. No. 01507 601111 Email: <a href="mailto:jonathan.challen@e-lindsey.gov.uk">jonathan.challen@e-lindsey.gov.uk</a>
Approved for publication:	Not Applicable.



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**Key**

- fire extinguisher, foam type
- fire extinguisher, CO2 type
- security camera
- self-contained emergency light (area to be covered, not specific no. of units)



**arcotech**  
ARCHITECTURAL DESIGN  
35 Algha Road Tel 01754 611688  
Skegness PE25 2AJ Fax 01754 611600

Date	October 2015	Drawn by	JP
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Proposed Development      Proposed Layout  
at:-  
2 Sandbeck Arcade  
Skegness  
Lincs.

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*East Lindsey 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 Chris Haward (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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Arcade Mini Market 2 Sandbeck Arcade Drummond Road Skegness	
<b>Post town</b> Lincolnshire	<b>Post code (if known)</b> PE25 3DY

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Ali KAYRAN
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<b>Number of premises licence or club premises certificate (if known)</b> ELINDC/PLA009592
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**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**

Please tick  yes

**I am 18 years old or over**

**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 Myle Cross Centre Macaulay Drive LN2 4EL
Telephone number (if any) 101 - Lincolnshire - 3298438
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 | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

This review application relates to a premises which operates as convenience store and off licence offering alcoholic beverages for sale. It has been granted a Premises Licence (Licensing Act 2003) by East Lindsey District Council, authorising the sale of alcohol for consumption off the premises. The sale of alcohol is authorised between the hours of 08:00 and 23:00 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.

The premises has recently been visited as part of a joint operation with Immigration Officers. During this visit a male was found to be working behind the counter at the premises. The male had entered the UK legally with a visitor's VISA but had no right to work for the duration of his stay thus was arrested for working in breach.

#### Revised Guidance issued under Section 182 of the Licensing Act 2003

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

Section 11.23 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.

Section 11.24 of the Guidance to the Licensing Act states that reviews do not have to be directly linked or connected with the licensable activities at any premises. In this case the offences are directly linked to the operation of the premises as a convenience store licensed to sell alcohol for consumption off the premises and the staff actively involved in these activities.

Section 11.25 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 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 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 employing a person who is disqualified from that work by reason of their immigration status in the UK.

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 15<sup>th</sup> June 2022 Officers from the Lincolnshire Police Alcohol Licensing Team visited the premises as part of a joint operation with Immigration Officers.

Immigration Officers had received intelligence to suggest that there were illegal workers employed within the neighbouring premises. Checks were conducted on the individual who was allegedly employing the workers and it was established that this same male also had control of Arcade Mini Market whereby he was both Premises licence holder (PLH) and Designated Premises Supervisor (DPS). Visits were carried out at both the Mini Market and the premises next door.

Upon arrival at the Arcade Mini Market PS COTTON and PC JONES witnessed a lone male working behind the counter of the shop – the male was seen to serve a number of customers. This male was subsequently detained by Immigration Officers for the relevant offences under the Immigration Act 1971.

*Annex A – Immigration Officer Donnelly - debrief and record of interviews.*

*Annex B – Statement of PS 1367 Ian Cotton*

*(Body worn camera footage of PS Cotton has been downloaded and is available to show to the committee if requested.)*

Whilst on the premises PS Cotton carried out a compliance check in relation to the premises licence and found breaches namely, staff training was out of date with the last entry being in 2016 and the refusals register was not adequately filled in with the last entry being March 2020. It is an offence under s.136 Licensing Act not to comply with the conditions on the premises licence.

Upon arrival of PC Casey, she also noted that various alcoholic drinks were not price marked. (Contrary to s.4 of the Price Marking Order 2004)

*Annex C – Statement of PC 1299 Rebeka Casey*

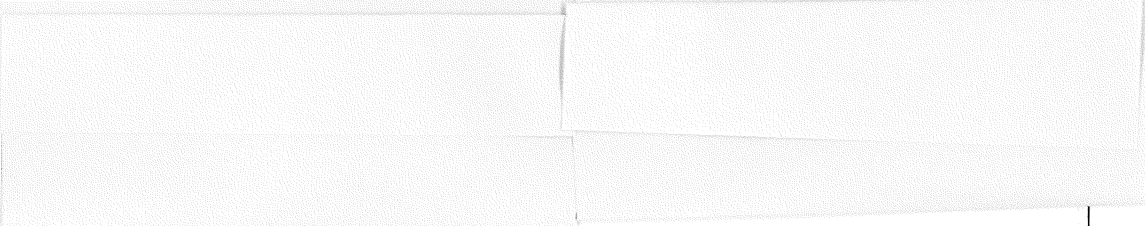
It is an offence to employ an illegal worker under section 21 of the Immigration, Asylum and Nationality Act 2006, as amended by section 35 of the Immigration Act 2016, if the employer knows or has reasonable cause to believe that they are employing an illegal worker. The employer by law has to carry out various checks to ensure that their staff are legally allowed to work.

Where an employer pays wages to illegal workers off record with no tax or national insurance deductions which are then deliberately omitted from an employers End of Tax Year P35 returns to HMRC, the employer may be dealt with by means of the Fraud Act 2006. Similarly, HMRC may take action as a civil proceedings case and raise a tax debt against the business.

Illegal workers are more than likely poorly paid for the hours they are required to work and are not subject to the benefit of a minimum wage or restricted

hours as prescribed in law. Nor are they afforded the benefit of the protections offered by UK employment legislation and are therefore often exploited.

Lincolnshire has led the way with how illegal working within licenced premises and its impact on how the crime prevention objective should be viewed. The stated case of East Lindsey District Council v Abu Hanif in 2016 involved an illegal worker in a licenced premises in Lincolnshire in April 2014, where a civil penalty was later issued by immigration. The premises licence was reviewed and revoked, an appeal followed which was successful, based on the argument that a civil penalty was not a prosecution and so did not concern the crime prevention objective. East Lindsey District Council then appealed that decision by way of a case stated, arguing that it was not necessary for a crime to have been reported, prosecuted or established in a court of law in order for the crime prevention objective to be engaged. That the licensing objectives were prospective and were concerned with the avoidance of harm in the future. Mr Justice Jay upheld the councils appeal, citing defrauding the revenue and exploitation of vulnerable individuals by not paying minimum wage as evidence of the commission of criminal offences, and the fact that the employee could not provide the required paperwork as clear inference that Mr Hanif well knew that he was employing an illegal worker.



Lincolnshire Police request that the Licensing Sub-committee seriously consider a revocation of the premises licence.

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**

N/A



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 1299 Casey

Date 21.07.22

Capacity for and on behalf of Chief Constable of Lincolnshire Police

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**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.

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**Premises Licence Number: 009592**

**Part 1 - Premises Details**

2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY

**Licensable Activities Authorised by the Licence:**

Supply of Alcohol

**The Times the Licence Authorises the Carrying out of Licensable Activities:**

**Supply of Alcohol -**

Monday to Sunday                    0800 to 2300 Hours

**The Opening Hours of the Premises:**

Monday to Sunday                    0800 to 2300 Hours

**Where the Licence Authorises Supplies of Alcohol Whether These are On and/or Off Supplies:**

Off the premises

**Part 2**

**Details of Premises Licence Holder**

Mr Ali Kayran

**Designated Premises Supervisor**

**Name:** Mr Ali Kayran

**Personal Licence Issued By:** East Riding of Yorkshire Council

**Annex 1 – Mandatory Conditions**

MC2

No supply of alcohol may be made under this licence:

- a) at a time when there is no designated premises supervisor in respect of it, or
- b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

*S19(1) Licensing Act 2003*

MC3

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

MC9

(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 licences 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.

*The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014*

MC11

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:

- (i) P is the permitted price,
- (ii) 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
- (iii) 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) 'value 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.

## **Annex 2 – Conditions Consistent with the Operating Schedule**

### **General**

Alcohol shall not be sold in an open container or be consumed on the licensed premises.

All staff shall be suitably trained for their job function in the operating standards for the premises and the contents of the premises licence. The training shall be under constant review.

The staff training will include the identification and recognition of drunks and the correct procedure to be followed when refusing service.

The premises licence holder shall ensure that a sales refusal register is maintained at the premises. The refusal register to include details of all alcohol sales refused and reason for refusal. The refusals register shall be made available on request to a Police Officer or an Authorised Officer of the Licensing Authority.

### **The Prevention of Crime and Disorder**

A tamper proof CCTV system shall be installed, maintained in working order and operated at the premises in liaison with and to the satisfaction of Lincolnshire Police and shall be used to record during all hours that the premises are open to the public.

The CCTV will cover all areas of the premises to which the public have access, as well as covering the outside of the premise.

CCTV images must be retained for a minimum of 28 days.

CCTV recordings / images shall be provided on reasonable and lawful request to Lincolnshire Police or an Authorised Officer of the Licensing Authority.

### **Public Safety**

Not Applicable.

### **The Prevention of Public Nuisance**

Prominent, clear and legible notices shall be displayed at all exits requesting that patrons respect the needs of local residents and to leave the premises and the area quietly.

### **The Protection of Children from Harm**

A Challenge 25 proof of age policy to be applied at the premises with the accepted means of proof being:

- Passport
- Photo Driving Licence
- A recognised valid photo-id card bearing the PASS hologram
- Any future accredited and accepted proof of age as defined by the premises licence holder.

## **Annex 3 – Conditions Attached After a Hearing by the Licensing Authority**

Not Applicable.

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**APPENDIX E****Local Policy Considerations:**

**This Authority's current Licensing Policy took effect on 1 May 2018. Extracts from the local policy, relevant to this case, can be found below:**

Paragraph 5.3 – Prevention of Crime & Disorder

The Licensing Authority will carry out its licensing functions with a view to promoting the prevention of crime and disorder .....

In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and do all it reasonably can to prevent crime and disorder in the District.

The Licensing Authority encourages applicants to include in their operating schedules the steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried on.

Paragraph 10.9 Designated Premises Supervisor (DPS)

The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment. Because of this the Licensing Authority will normally expect that the DPS for a licensed premise will be able to demonstrate that they are in day to day control of the premises and playing an active role in its operation through a regular personal presence.

Paragraph 10.10

The main purpose of the Designated Premises Supervisor is to ensure that there is always one specified individual, among the personal licence holders at a premises, who can be readily identified for the premises where the sale of alcohol is permitted. The premises licence holder will normally have given that person day-to-day responsibility for running the premises. In view of this the Licensing Authority would expect an applicant for a premises licence to confirm in his operating schedule, that the Designated Premises Supervisor will regularly attend the premises and be in day-to-day charge of them.

Paragraph 10.11

This Licensing Authority recommends that the DPS undergo relevant training, such as the Designated Premises Supervisor course provided by

the BIIAB, in order that they are made aware of the responsibilities this position brings with it.

#### Paragraph 10.16 - Review of Premises Licences

The Licensing Authority will consider the full range of powers available to it when a review of a premise licence becomes necessary. It will, however, be mindful of the need to prevent the review process being used as an opportunity by Responsible Authorities and interested parties to re-run earlier representations without due cause. The power to review premises licences represents a crucial protection for the community, especially with regards to the promotion of the four licensing objectives. Reviews of licences may be triggered at any stage by Responsible Authorities or interested parties because of a matter arising at the licensed premises and relating to one of the four licensing objectives. Reviews will become necessary following the service of a closure order by the Police. It is the Licensing Authority's belief that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. Reviews should therefore be mainly reserved for circumstances where early warnings of concerns and the need for improvement have gone unheeded by the management of the licensed premises.

#### Paragraph 10.17

This Authority emphasises the importance of all parties working in partnership to achieve the promotion of licensing objectives; the Authority expects that Responsible Authorities will aim to give licensees early warning of any concerns identified at a premises.

#### Paragraph 10.20

The Licensing Authority will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.

#### Paragraph 10.21

The following is a list of steps the Authority is empowered to take if it considers them necessary to promote the licensing objectives:

- To modify the conditions of the licence.
- To exclude a licensable activity from the scope of the licence.
- To remove the Designated Premises Supervisor (DPS).
- To suspend the licence for a period not exceeding three months.
- To revoke the licence.

The Sub-Committee may also consider issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. If none of the above steps is considered necessary the premises licence will remain in the form it was granted.



Paragraph 10.22

This Authority has adopted the "Red Card, Yellow Card" approach to reviews recommended by the Secretary of State in September 2008 and will use such an approach when it is appropriate to do so. Further information on this approach is available by contacting the Licensing Team.

Paragraph 10.23

Whilst bearing the Red Card, Yellow Card approach in mind this Policy stresses that in cases when the crime prevention objective is being undermined it can be expected that revocation of the licence – even in the first instance – will be seriously considered.

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**APPENDIX F****Guidance issued by the Home Office under Section 182 of the Licensing Act 2003:**

It is considered that the extracts from the Home Office guidance (dated April 2018), shown below, have a bearing upon the application for review.

**Paragraph 9.12 – The Role of Responsible Authorities**

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.

Paragraph 9.42 - Determining actions that are appropriate for the promotion of the licensing objectives - Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

**Paragraph 9.43**

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.

**Paragraph 9.44**

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as

the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

## **CONDITIONS ATTACHED TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

### Paragraph 10.2

Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

### Paragraph 10.8 - Imposed Conditions

The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.

### Paragraph 10.9

It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

### Paragraph 10.10 - Proportionality

The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV,

polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

## **DESIGNATED PREMISES SUPERVISOR**

### Paragraph 10.26

The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.

### Paragraph 10.27

The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).

### Paragraph 10.28

The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

## **POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW**

### Paragraph 11.16

The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

### Paragraph 11.17

The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

### Paragraph 11.18

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

### Paragraph 11.19

Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

#### Paragraph 11.20

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 that 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 to address the causes of concern that instigated the review.

#### Paragraph 11.21

For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

#### Paragraph 11.22

Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

#### Paragraph 11.23

Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where 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.

### **REVIEWS ARISING IN CONNECTION WITH CRIME**

#### Paragraph 11.24

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 of law. 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.

Paragraph 11.25

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. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

Paragraph 11.26

Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. 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.

Paragraph 11.27

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



Paragraph 11.28

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 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.

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**APPENDIX G**

**DECISION NOTICE**

**Licensing Act 2003 – Application for Variation of a Premises Licence  
Arcade Mini Market, 2 Sandbeck Arcade, Drummond Road, Skegness  
Licensing Sub-Committee Hearing – 23 January 2017**

The Licensing Act 2003 Sub-Committee held on 23 January 2017 considered the premises licence variation application in respect of 2 Sandbeck Arcade, Drummond Road, Skegness, PE25 3DY. The variation application sought to extend the licensing hours for the premise.

The Sub-Committee carefully considered the representations made to it, both in writing and verbally at the hearing, and decided to refuse the variation application.

**REASONS FOR THE DECISION:**

The Licensing Sub-Committee read and considered all the information before them. The Sub-Committee heard from Lincolnshire Police – neither the applicant nor his representative attended the hearing.

The Sub-Committee noted that there had been non-compliance with the current conditions on the premises licence. It was noted that the address of the premises licence holder remained incorrect and had not been updated on the premises licence.

The Sub-Committee noted the proposed additional premises licence conditions offered by the applicant, as part of the licence variation application, but there was no information or explanation by the applicant as to how these would be met.

The Sub-Committee did not consider that there had been any consideration to operating in the night time economy and the additional risks associated with that. The Sub-Committee were of the view that the applicant had not provided any information as to how he would address the increased risks and had not satisfied the Sub-Committee that the conditions or information provided would promote the licensing objectives of public safety, prevention of crime and disorder and prevention of public nuisance.

The Sub-Committee therefore decided that it was appropriate for the promotion of the licensing objectives to refuse the variation application.

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