

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

Tel: (01507) 601111 Ext. 613422

Email: committeeadmin@e-lindsey.gov.uk

Website: www.e-lindsey.gov.uk

Date: Friday, 01 March 2024

Dear Councillor,

Licensing Act 2003 Committee

You are invited to attend a Meeting of the **Licensing Act 2003 Committee** to be held at **the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH**, on **Monday, 11th March, 2024 at 2.00 pm**, for the transaction of the business set out in the attached Agenda.

Yours sincerely



Robert Barlow
Chief Executive

Conservative

Councillors Neil Jones (Vice-Chairman), Richard Avison, Stephen Evans, Carl Macey and Terry Taylor

District Independent/Liberal Democrat

Councillor Sandra Campbell-Wardman (Chairman)

Labour

Councillor Graham Cullen

Skegness Urban District Society (SUDS)

Councillor Billy Brookes

East Lindsey Independent Group

Councillors George Horton, Darren Hobson and Andrew Leonard

LICENSING ACT 2003 COMMITTEE AGENDA
Monday, 11 March 2024

Item	Subject	Page No.
1.	APOLOGIES FOR ABSENCE:	
2.	DISCLOSURE OF INTERESTS (IF ANY):	
3.	MINUTES:	1 - 66
	To confirm the Minutes of the Licensing Act 2003 Meetings held on 29 July 2022 and 18 September 2023 and the Minutes of the Special Meeting held at the rising of the Annual General Meeting held on 24 May 2023.	
	To confirm the Minutes of the Licensing Act 2003 Sub Committee Meetings held on 27 July 2022, 18 August 2022, 12 September 2022, 22 September 2022, 16 March 2023, 24 August 2023, 31 August 2023, 5 January 2024 and 2 February 2024.	

Minutes of a Meeting of the Licensing Act 2003 Committee held in in the Council Chambers, Tedder Hall, Manby Park, near Louth LN11 8UP on Friday, 29th July, 2022 at 2.00 pm at the rising of the General Licensing Committee.

PRESENT

Councillor Stan Avison (Chairman)
Councillor Sandra Campbell-Wardman (Vice-Chairman)

Councillors David Andrews, Adrian Benjamin, Graham Cullen, David Mangion and Terry Taylor.

OFFICERS IN ATTENDANCE:

Jon Challen	- Service Manager, Safer Communities
Ann Good	- Democratic Services Manager
Adrian Twiddy	- Principal Licensing Officer
Martha Rees	- Legal Representative
Joanne Paterson	- Democratic Services Officer
Lynda Eastwood	- Democratic Services Officer

3. APOLOGIES FOR ABSENCE:

Those present were noted.

Apologies for absence were received from Councillors Neil Jones, Andrew Leonard and Sarah Parkin.

4. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were asked to disclose any relevant interests.

Councillor Cullen asked it be noted that he was a personal licence holder.

5. MINUTES:

The minutes of the Licensing Act 2003 Meeting held on 9th May 2022 and the minutes from Special meeting held at the rising of the Annual General meeting held on 12th May 2022 were approved.

The Meeting closed at 11.55 am.

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Minutes of a Meeting of the Licensing 2003 Committee held in the Hub, Mareham Road, Horncastle LN9 6PH on Wednesday, 24 May 2023 at the rising of the Annual General Council Meeting.

PRESENT

Councillor Dick Edginton (Chairman of the Council in the Chair)

ELECTED MEMBERS OF THE COMMITTEE PRESENT:

Councillors Neil Jones, Stephen Evans, Carl Macey, Richard Avison, Terry Taylor, Andrew Leonard, George Horton, Darren Hobson, Graham Cullen, Sandra Campbell-Wardman and Danny Brookes.

1. ELECTION OF CHAIRMAN:

It was proposed and seconded that Councillor Sandra Campbell-Wardman be elected Chairman.

It was further proposed that Councillor Andrew Leonard be elected Chairman.

Upon being put to the vote, it was

RESOLVED:

That Councillor Sandra Campbell-Wardman be elected Chairman of the Licensing Act 2003 Committee for the Council year 2023/24.

2. ELECTION OF VICE-CHAIRMAN:

It was proposed and seconded that Councillor Neil Jones be elected Vice Chairman.

It was further proposed and seconded that Councillor Graham Cullen be elected as Vice Chairman.

Upon being put to the vote, it was

RESOLVED:

That Councillor Neil Jones be elected Vice Chairman of the Licensing Act 2003 Committee for the Council year 2023/24.

The Meeting closed at 8.34pm.

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Minutes of a Meeting of the Licensing Act 2003 Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Monday, 18th September, 2023 at 2.00 pm.

PRESENT

Councillor Sandra Campbell-Wardman (Chairman)
Councillor Neil Jones (Vice-Chairman)

Councillors Richard Avison, Billy Brookes, Graham Cullen, Stephen Evans, George Horton, Darren Hobson, Andrew Leonard, Carl Macey and Terry Taylor.

OFFICERS IN ATTENDANCE:

Martha Rees	- Legal Representative
Adrian Twiddy	- Principal Licensing Officer
Lynda Eastwood	- Democratic Services Officer
Elaine Speed	- Senior Democratic Services Officer and Civic Officer

1. APOLOGIES FOR ABSENCE:

No apologies for absence were received.

2. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were asked to disclose any relevant interests. The following interests were disclosed:

- Councillor Graham Cullen asked it be noted that he was a personal licence holder.
- Councillor Andrew Leonard asked it be noted that he was a personal licence holder.
- Councillor Carl Macey asked it be noted that he was a personal licence holder.

3. REVIEW OF LICENSING ACT 2003 POLICY:

A report was submitted by the Group Manager Public Protection which enabled Members to consider proposed amendments to the Authority's Licensing Policy (alcohol, regulated entertainment and late-night refreshment) prior to the submission of the amendments to the Council for adoption.

The Principal Licensing Officer set out the background to the report and highlighted that Members were required to review and recommend

acceptance to the full Council, as it was their responsibility to accept the updated policy document.

Members were reminded that they had considered the policy earlier this year and had discussions around drink spiking and night-time safety.

Members were referred to the proposed amendments to the current policy in Appendix A, pages 7 to 17 of the report refer.

The following comments and questions were received:

A Member queried how the policy related to Boston Borough Council and South Holland District Council, following which the Principal Licensing Officer confirmed that each Council was responsible for its own policies.

Following on from a query regarding 'Application to Vary a DPS', Section 4, page 13 of the report refers, the Principal Licensing Officer explained that only the police could object to a proposal for someone to be a Designated Premises Supervisor, however the Licensing Team could pass on any concerns that it had to the police, but it was ultimately the decision of the police.

With regards to night-time safety, a Member queried how the scheme 'Ask for Angela' was going to be advertised. The Principal Licensing Officer advised that it was a nationwide campaign and to include it in the policy would help to promote the scheme. Members were further advised that promotional material for the scheme was available online.

Following which, it was

RESOLVED

That the proposed amendments to the Licensing Policy (for alcohol, regulated entertainment and late-night refreshment) be recommended to Council for adoption.

The Meeting closed at 4:57pm.

Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in Council Chamber 1, Tedder Hall, Manby Park, Louth on Wednesday, 27th July, 2022 at 2.00 pm.

PRESENT

Councillors Stan Avison, David Andrews, Sandra Campbell-Wardman and Graham Cullen (sub).

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Caroline Currie	- Senior Environmental Health Officer
Martha Rees	- Legal Representative
Joanne Paterson	- Democratic Services Officer
Elaine Speed	- Democratic Services Officer
PC Casey	- Alcohol Licensing Officer, Lincolnshire Police
Ms Catherine McGarva	- Solicitor to Lincolnshire Police

Also in Attendance:

Mr Bradley Cooper	Festival Organiser
Mr Ian Herring	Applicant

1. ELECTION OF CHAIRMAN:

Councillor Stan Avison was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Stan Avison be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR STAN AVISON IN THE CHAIR

2. DISCLOSURE OF INTERESTS (IF ANY):

Councillor Graham Cullen asked that it be noted that he was a personal licence holder.

3. APOLOGIES FOR ABSENCE:

Those present were noted. No apologies for absence were received.

4. TEMPORARY EVENT NOTICE - LLAMA TREKKING FARM, JULIAN BOWER, LOUTH:

Members were advised that prior to the hearing discussion had taken place with the Premises User and Lincolnshire Police it was therefore considered beneficial to adjourn to clarify the issues that had been raised by the Premises User, in order that Officers could provide necessary advice to the Committee.

(N.B The Sub Committee adjourned at 2:15pm)

(N.B The Sub Committee re-convened at 2:50pm)

The Chairman invited those in attendance to introduce themselves.

The Principal Licensing Officer introduced his report and advised the Sub Committee Members that the report considered objection notices issued by Lincolnshire Police and the Council's Environmental Health Department regarding a Temporary Event Notice (TEN) for a dance music event in a marquee on the Llama Trekking Farm, Julian Bower, Louth.

The Principal Licensing Officer clarified the aspects of the event that required a TEN. A TEN had to be issued for an event for under 500 people where 'licensable activities' would take place, however the 'live music' element of the festival was exempt from TEN rules, should there be recorded music then this would require a TEN. The importance of this was emphasised to the festival organisers.

Members were further advised that the TEN sought to authorise the sale of alcohol (for consumption on the premises) and the provision of regulated entertainment on Saturday 30th July 2022. The proposed event period being from 1100 to 2300 hours.

Furthermore, the Principal Licensing Officer outlined the options available to the Committee, (page 1 of the report refers) stated that the Sub Committee must consider the objection notices issued by Lincolnshire Police and the Environmental Health Department in terms of upholding the licensing objectives.

The Principal Licensing Officer set out the background to the report in brief (paragraph 1.1-1.2, page 2 of the report refers) and explained that a decision was required to be made today.

Ms. Catherine McGarva, Solicitor to Lincolnshire Police was invited to make her representation to the Committee. Members were advised that the objection by the Police had arisen from concerns around crime and disorder, public nuisance and safety. The Police were concerned primarily with the absence of engagement and communication. Reference was made to the statement of Sergeant Palmer, Neighbourhood Policing Sergeant for the area concerned.

Members were reminded that Sergeant Palmer's role included engaging local communities and attempting to resolve any problems that were reported.

Specific concerns had been raised by Sergeant Palmer with regard to: -

- the 'siting' of the proposed festival given the local tensions in this area. Reference was made to the Location Plan (Appendix A of the report refers) also Julian Bower was a private road maintained by local residents a potential entry point for the event.
- There was also a live dispute regarding various rights of way and privately owned land in the area.
- Whilst these issues were ongoing it would only add to the risk of crime and disorder.
- In addition there was no consideration for provision of parking for the event resulting in members of the public parking on Julian Bower.
- There had been intelligence to suggest that local residents were using signage to try and prevent non-residents from using these roads.
- Concern that those visiting the event were unaware of the potential for local tensions, thereby escalating throughout the day potentially leading to violence and crime.
- Reference was made to a written statement from the Technical Community Fire Protection Manager with regard to various concerns with the event. Overall there was a lack of foresight to see that this site was not suitable and a serious risk to public safety.

Members were invited to asks question of the Police.

In response to a question raised, it was confirmed that the nearest property was 200 metres away from the proposed event.

Caroline Currie, Senior Environmental Health Officer was invited to make her case to the Committee.

Ms. Currie advised Members that her concerns related to noise, public nuisance, public safety and access for emergency vehicles should an incident occur. It was highlighted that Julian Bower was not a wide enough road to accommodate 2 vehicles, and there was limited access for pedestrians. Further concerns were raised with recent dry weather conditions and potential for fires. It was questionable whether the Llama Trekking Farm was a suitable size to safely vacate people off the site. It was also noted that another local event was taking place at Louth Cricket Club the same weekend further adding to the pressures on the local Town of Louth.

Mr. Bradley Cooper, Festival Organiser and Ian Herring representing LN Festival were both invited to make their comments on the request for a TEN.

Mr. Herring stated that the Event Management Plan (EMP) had been presented to the Safety Advisory Group (SAG) at the end of May 2022 via 'WeTransfer' and as such there had been no response. In applying for the TEN the organisers had tried to work with all parties including local residents. The festival organiser had put in place a full Medical Policy and confirmed parking would not be allowed on the site. It was confirmed that previous events held by LN Festival, there had been no reported issues with persons parking at the event. It was confirmed that a fire risk assessment had been drawn up and there was to only be one diesel generator on the site. The event organisers advised that the EMP document included a full risk assessment and associated insurance cover.

The Legal Advisor asked the event organiser if they wished the Committee to see the documents being referred to.

Further discussion ensued around whether the EMP had been received by the Council. Officers confirmed that this had not yet been received within the Licensing Team. Further Discussion also took place regarding the SAG. The event organisers reiterated that the EMP had been securely sent to the Council and with regard to the SAG, no response had yet been received.

The Principal Licensing Officer asked the festival organiser a number of questions.

In response it was confirmed that: -

- There had been difficulties contacting Officers within the Council regarding the event and there had been no response to telephone calls.
- In terms of the EMP this had been developed based on feedback from previous events held in Louth.
- Documentation had been sent via 'WeTransfer' and these emails could be provided as an audit trail.

The Legal Advisor urged Members to focus their decision making on the four licensing objectives and how these could be upheld.

The festival organiser assured the Sub Committee that they intended for the event to be as safe as possible, and wished to note that a considerable amount of effort had gone into organising the event.

The Legal Advisor confirmed with the Police and Ms Currie that they were happy for the Event Management Plan to be considered by the Committee. The Police and Ms Currie agreed to the documents being provided.

The Principal Licensing Officer stated that feedback had not yet been provided by the Safety Advisory Group and it was important that this feedback was received from experts in this field. The Principal Licensing Officer confirmed with the event organiser which documents had been received. These included; door supervisor arrangements, Drugs Policy, Security Policy and a Vulnerable Adults Policy. It was confirmed that the following documentation had not been provided; full risk assessment, medics information and an Event Management Plan. As such, these

documents needed consideration by the Committee in order for this to be an open and transparent hearing.

Members of the Committee were invited to ask questions.

In response it was confirmed that: -

It was the intention that the sale of alcohol would take place at the event until 2300 hours.

The Legal Advisor suggested that Members of the Sub Committee now adjourn to consider the additional information that was to be submitted by the festival organisers. This would allow all parties to have the opportunity to digest the additional information prior to making an informed decision.

(N.B The Sub Committee adjourned at 3:38pm)

(N.B The Sub Committee re-convened at 4:55pm)

N.B An incorrect Event Management Plan was circulated to all parties and it was decided that the hearing would continue without it.

The Senior Environmental Health Officer advised that should Members be minded to approve the application a draft Memorandum of Understanding (MOU) for the event had been drawn up which would address the noise issues.

The Principal Licensing Officer clarified that the MOU was an agreement detailing how both parties would manage noise levels and that this was not a matter for the Committee to agree today.

In response to questions asked the following was confirmed by Mr. Cooper and Mr.Herring: -

- In terms of the sale of alcohol and how this would be regulated it was confirmed that a Challenge 21 Scheme and 'No I.D No Entry' Policy would be displayed on posters around the site. Members were assured that this was an over 18's event and I.D was mandatory, and that there had been no issues with this at previous events.
- In terms of security, all staff were obtained from accredited companies and staff had vast experience having worked within the town.
- In terms of a Vulnerable Adults Policy this was now in place.
- Security staff on entrance gates would be responsible for checking customers I.D.
- Customers would exit the site outside Louth Athletics Club.
- Cigarette butt receptacles would be located around the site, no smoking permitted underneath the tents and there was a fire extinguisher on site.

(N.B The Committee retired for their deliberation at 5:05pm)

(N.B The Committee re-convened at 5:43pm)

In reaching their decision, the Sub-Committee had due regard for the licensing objectives, the Licensing Act 2003, the Live Music Act 2012, the Section 182 Guidance to Licensing Authorities and the East Lindsey District Council Licensing Policy. The Sub-Committee considered that all of the licensing objectives were relevant to the case of the TEN being considered.

The Committee had strong regards for the concerns raised by Lincolnshire Police, the Council's Environmental Health Team and Lincolnshire Fire and Rescue (who had submitted their concerns through Lincolnshire Police) about the event and also its location. Noting that there were concerns regarding emergency services accessing the site quickly, the plans for dispersing the crowd at the end of the event and also tensions surrounding access from the Julian Bower.

The Sub-Committee considered there to be a real risk of crime & disorder and public nuisance if there were only to be 2 Marshalls on the Julian Bower having been informed of existing issues between locals and the landowners. Additionally, the Sub-Committee had real concerns for public safety at the end of the event when event goers were being directed to exit the site onto London Road which was a 60-mph road with no footpath, especially given that event goers will have been drinking.

The Sub-Committee listened carefully to the views of the premise's user and his colleague and how they intended to run the event safely, and how they recognised that if there were issues, they would not be able to hold another event.

Having due regard for all that they had read and heard, the Sub-Committee considered that they remained unconvinced that the event would be run in a manner that would promote and safeguard the licensing objectives and alleviate the concerns of Lincolnshire Police, the Council's Environmental Health Team and Lincolnshire Fire and Rescue. The Sub-Committee remained of the opinion that the proposed site was not a safe location to hold the event and in a manner that would promote the licensing objectives.

The Sub-Committee therefore decided that it was appropriate for the promotion of the licensing objectives to issue a Counter Notice in respect of the TEN.

Following which it was,

RESOLVED

The Sub-Committee were satisfied, for the reasons put forward by the Police and the Environmental Health Team, that a Counter Notice

(cancelling the TEN) be served under Section 105 of the Licensing Act 2003.

The Meeting closed at 5.45 am.

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Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in Council Chambers, Tedder Hall, Manby Park, near Louth LN11 8UP on Thursday, 18th August, 2022 at 10.00 am.

PRESENT

Councillors Stan Avison, Graham Cullen and Sandra Campbell-Wardman.

Councillor David Andrews attended the Meeting as a Substitute.

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Kim Robertson	- Legal Advisor
Caroline Currie	- Environmental Health Officer
Elaine Speed	- Democratic Services Officer
Lynda Eastwood	- Democratic Services Officer

Also in Attendance:

Jonathan Hyldon	- Bridge McFarland Solicitors
Frederick Howell	- The Turks Head
Joanna Faulkner Smith	- The Turks Head
Kai Appleyard	- The Turks Head
Michael Kheng	- Kurnia Licensing Consultants
Lyndsey Howis	- Resident
Darren Melton	- Resident

5. ELECTION OF CHAIRMAN:

Councillor Stan Avison was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Stan Avison be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR STAN AVISON IN THE CHAIR

6. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were invited to declare any relevant interests.

- Councillor Graham Cullen asked that it be noted that he was a personal licence holder and that he knew Michael Kheng from Kurnia Licensing Consultants.

7. APOLOGIES FOR ABSENCE:

Apologies for absence were received from Councillor Adrian Benjamin.

8. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE:

An open report was submitted by the Service Manager, Safer Communities which enabled Members to consider an application to vary the premises licence for the Turks Head, 1 Aswell Street, Louth, LN11 9BA. The application had received representations from local residents and the Council's Environmental Health Team.

The premises licence variation application was seeking to firstly increase the internal licensed area of the premises by adding a function room / restaurant area to the first floor of the venue. Secondly, to extend the external licensed area with the construction of a roof terrace to the first floor. The applicant had volunteered a terminal hour of 2300 Hours for use of the roof terrace.

A representation regarding the licence variation application had been received from the Council's Environmental Health Team (who were acting as a Responsible Authority under the Licensing Act 2003). Three representations had also been received from local residents.

The Principal Licensing Officer outlined the recommendations available to the Sub-Committee, page 2 of the report refers.

Mr Jonathan Hyldon representing the applicant was invited to make his representation to the Sub-Committee.

Mr Hyldon referred Members to the application details, page 1 of the report pack refers, which outlined adding a restaurant/function room area on the first floor and secondly, the construction of a roof terrace on the first floor.

Reference was then made to page 3 of the report pack with regards to the plan which was submitted. Mr Hyldon advised Members that he wasn't involved in the submission of the application that contained red-lining around some of the external area which wasn't currently licensed. A revised plan had since been submitted, page 14 of the applicant's bundle refers.

The Sub-Committee were provided with some background information with regards to the applicant, The Turks Head Louth Limited and were advised that Mr Howell was the owner and had been running the premises since 2013. He also had the help of his Designated Premises Supervisor (DPS), Joanna Faulkner and the Manager, Kai Appleyard. They worked well together and ran the premises well.

It was stated that Mr Howell was also the DJ at the venue and was in control of the sound system, noise etc. Mr Hyldon informed Members that around £300k had been spent on the premises in the last year and referred Members to photos of the Turks Head, pages 8 to 13 of the applicant's bundle refer.

Mr Hyldon commented that the license had been in its current form since January 2022 as the hours were extended at the end of 2021. Members were referred to the current hours that were granted and the list of activities, along with the times, pages 1 to 2 of the applicant's bundle refers.

Members were also referred to the Conditions Consistent with the Operating Schedule which must be adhered to, Annex 2 on pages 5 to 7 of the applicant's bundle refer.

Mr Hyldon referred Members to the additional photos that had been produced for the new first floor function room on the application, pages 18 to 21 of the applicant's bundle refer, and advised Members that he couldn't find anything that objected to that part of the application. He further commented that the premises would not be operating in any different way.

With regards to the new first floor external area, Members were referred to the photos provided, page 22 of the applicant's bundle refers. Mr Hyldon informed Members that the objector's photos showed the area from above and that the venue was surrounded by structures. The application that was submitted to the Committee for the external area applied for a closing time for this area of 11pm which was in line with planning legislation, however his client was aware of the concerns raised by the Environmental Health Officer. Therefore, in order to promote the partnership working, his client was more than happy to have the external area hours changed from 11pm to 10pm. Mr Hyldon's client also wanted to confirm that no regulatory entertainment would take place in that area either.

Mr Hyldon then responded to the Environmental Health Officer's representation and Members were referred to Appendix E, pages 25 to 28 of report pack refer.

Members were informed that the objection was based on the roof area and that six different residents had made complaints from approximately 20 metres to 110 metres from the Turks Head. Mr Hyldon further commented that when the Environmental Health Officer had spoken to Ms Faulkner, the DPS, she made it very clear that she didn't feel the noise was coming from the Turks Head and that it could have been coming from a number of other licensed premises in the surrounding area.

Mr Hyldon stated that with regards to the external area, it would be surrounded by first floor structures and if noise from that area was not managed it was likely to affect both neighbours in close proximity to the venue as well as those at a much greater distance, however the opening hours were being curtailed until 10pm and there would be no regulated entertainment.

Members were further informed that the premises had never received a caution or warning from Environmental Health in relation to noise at the property.

Mr Hyldon advised Members that the external area would operate with background music only and there would not be regulated entertainment as it would likely cause a public nuisance.

Mr Hyldon asked that consideration be given to reducing the proposed time period to 10pm if the Sub-Committee were minded to allow the application.

Mr Hyldon read through the details relating to a number of residential representations and a letter from Environmental Health dated 07/07/22 with regards to noise complaints, pages 27 to 28 in the applicant's bundle refer. Members were informed that no noise readings had been carried out by Environmental Health and as far as the applicant was aware there was no issue regarding noise monitoring at the premises. Mr Hyldon further informed Members that his clients were carrying out their own noise readings with their own decibel meter in the surrounding area and the noise was being picked up from nearby premises, The Wick and Oliver's Bar.

Mr Hyldon informed Members that a brochure, 'Turks Head Noise', page 28 of the applicant's bundle, had been distributed around the area anonymously, however, only three complaints were received from the whole area after the application was widely advertised.

Members were further informed that the police were not objecting to the application and neither were Public Safety from the Council.

Mr Hyldon outlined the details of the three representations, and Members were referred to their letters, pages 29 to 32 of the report pack. The first representation being Ms Lockie-Evans who was not in attendance at the hearing and the second and third being Ms Lyndsey Clark and Mr Darren Melton, who were both in attendance at the hearing. Members were also informed that the landlord of Ms Clark and Mr Melton, a Neil Crossland, was the ex-business partner of Mr Howell and they were no longer on friendly terms.

Members were then invited to put questions to Mr Hyldon.

The Principal Licensing Officer queried why there was a photo of a noise limiter in the pack if there was no requirement for one. Mr Hyldon explained that the photo was of a decibel reader which was used for reading noise. It was not a noise limiter as there was no requirement for one.

Mr Kheng queried what level of decibels was acceptable as a reading at a property and at what distance from the Turks Head the readings were taken. Mr Hyldon responded that Environmental Health dealt with that, however his clients had monitored noise themselves. They would listen and know what music was being played from their property and they were in contact by phone at the time whilst monitoring. Mr Howell also replied and stated that he had always used a noise monitor in his businesses. Since having the noise complaints, they had regularly undertaken walks around the area and

confirmed that noise issues were from other venues. Mr Kheng stated that didn't answer his question.

Mr Kheng queried how customers would buy drink as the function room plan did not include a bar. Mr Hylton advised that drinks would be purchased from the downstairs bar.

A Member queried whether the Turks Head had any readings available from the noise monitoring that they had carried out. Mr Hylton advised Members that the DPS had the readings on her phone along with a photo showing the reading outside Ms Locke-Evans' property.

Caroline Currie, Senior Environmental Health Officer, was invited to make her representation to the Sub-Committee.

The Senior Environmental Health Officer outlined her qualifications and work profile and informed Members that Environmental Health had raised a representation to this proposal based on prevention of public nuisance due to noise that was likely to impact on those who lived in, worked in and visited the area. Their concern related to the proposed roof terrace and the representation focused on that area. Members were referred to Appendix E, pages 25 to 28 of the report pack refer.

The Senior Environmental Health Officer advised that they were yet to serve notice for statutory nuisance. She explained that it was a town centre location so they didn't expect silence, however, it was not considered reasonable for local residents to be exposed to excessive noise where best practises had not been employed to control noise. Environmental Health advised that even if they had received no complaints to this application, they would have still raised a representation to the proposed first floor area as it was unlikely to offer much sound attenuation.

The Senior Environmental Health Officer further commented that they welcomed the two changes that the applicant had submitted that day to remove the regulated entertainment and to reduce the time to 10pm.

The Senior Environmental Health Officer was aware that live and recordable music was not licensable between the hours of 8am and 11pm for an audience of up to 500 people in such premises and should the premises continue with the first-floor roof terrace, she would ask that consideration was given to remove the exemption and impose conditions to restrict such activity.

Members were then invited to put questions to the Senior Environmental Health Officer. None were received.

Mr Michael Kheng, who was representing the residents, was invited to make his representation to the Sub-Committee.

Mr Kheng explained that he was representing all three residents, Lyndsey Howis and Darren Melton who were in attendance and Melanie Lockie-Evans who sent her apologies.

He referred to page 11 of the bundle and pointed out the three residential properties, marked with three green dots.

His concern was that if the application was granted for a function room upstairs, inevitably a disco would appear as the next logical step. It was further highlighted that the photographs in the applicant's bundle showed what appeared to be single glazed windows which could open so there was the possibility of noise leaking out of the function room. There had been no proposals to soundproof the function room or to install a noise limiter or an acoustic report carried out for the building and noise was currently leaking out of the building causing a noise nuisance to residents. Six residents had made complaints to EHO to date

Mr Kheng highlighted that only the three Director's were at the hearing, and was disappointed that other members of staff were not as it was very clear that the current conditions on the license were being breached.

Mr Kheng then requested to play a short video. Adrian Twiddy suggested a short adjournment to get the video equipment set up. Mr Kheng confirmed he was happy to show the video later. He explained that the video showed the outside of the premises on 3rd July 2022 at 2.30am which confirmed that the applicant was not complying with current conditions of the license and doubted compliance if the first-floor area was allowed.

Mr Kheng again raised his concerns with the neighbours who lived close by and how this proposal to extend to a first-floor area would affect them.

Mr Kheng was pleased to hear that if the terrace area was granted, the applicant would seek to have no regulated entertainment on the terrace but as the Senior Environmental Health Officer had confirmed, before 11pm, live and recorded music was not classed as regulated entertainment. The EHO confirmed that a condition could be added to the license to say that that area would be exempt from deregulation, however needed to clarify whether deregulation had to be considered through a review. A brief discussion ensued with the Principal Licensing Officer and Mr Kheng with possible suggestions of wording.

Further to a brief discussion, it was put forward that the Sub-Committee go into Exempt Session to discuss material Mr Kheng had provided for Members' consideration.

It was Proposed and Seconded that the public and press be excluded from the meeting.

RESOLVED

That under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting of the following items on the grounds that, if they were present, there could be disclosed exempt information as defined at paragraphs 1, 2 & 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

It was proposed and seconded that the Hearing move back into Open Session.

At this point in the Meeting, Mr Kheng played the video showing that people were outside with open drinks vessels and outside of the seating area which was allocated on the pavement space, therefore considered that the Turks Head was in breach of its licensing conditions.

Mr Kheng then handed over to Lyndsey Howis and Darren Melton, who confirmed that they currently had problems with noise at the premises and they feared that by granting this license the noise breakout from the function room would cause them further distress.

Following which, both parties summed up their case.

N.B The Committee retired for their deliberation at 12:17pm

N.B The Committee re-convened at 1:13pm

The Licensing Sub-Committee read and heard all of the information before them. They heard from Mr Jonathan Hyldon representing the applicant, Mrs Caroline Currie from Environmental Health and Mr Michael Kheng representing the objectors (other parties) to the licence variation application.

The Sub-Committee heard from the licence applicant that they wished to reduce the terminal hour for the roof terrace to 2200 Hours and they would not have regulated entertainment on the terrace in response to the objections (representations) received. The Sub-Committee also noted measures that the applicant had taken to measure noise from the premises.

Mr Kheng addressed the Sub-Committee providing information about current noise issues with the premises that the objectors had experienced. He provided a video to show people outside of the premises and noise coming from the premises. Mr Kheng stated there would 'inevitably be a disco up there' referring to the first-floor area.

The Sub-Committee heard from Mrs Caroline Currie, the Senior Environmental Health Officer, who welcomed the reduction in hours and removal of regulated entertainment from the roof terrace.

The Sub-Committee having considered all of the information decided to grant the licence variation as applied for in respect of the first-floor area, but with the requirement that the windows on the first floor remained closed. In respect of the roof terrace, the Sub-Committee decided to reduce the terminal

hour to 2200 Hours and agreed to the removal of regulated entertainment from that area.

Having considered the representations the Sub-Committee felt that it was appropriate for the promotion of the prevention of public nuisance licensing objective that background music only should be played in the roof terrace area.

The Sub-Committee noted the request by the Other Parties for door supervisors to be provided on the first floor and roof terrace – however, they had not received evidence sufficient to warrant additional door supervisors noting the premises already had a requirement for door supervisors at the premises.

The Sub-Committee noting the application was a variation to a current premises licence decided that no further conditions were appropriate for the promotion of the licensing objectives.

Following which, it was

RESOLVED

That the licence variation was modified by:

- reducing the terminal hour for the roof terrace from 2300 to 2200 Hours.
- removing the provision of regulated entertainment from the roof terrace
- and indicating that only background recorded music may be provided in the aforementioned area.
- amending the conditions of the premises licence to include a requirement that the windows on the first floor remain closed.

Mr Howell was advised of his 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, (Tel: 01522 528218) within 21 days of the date of the decision notice.

The Meeting closed at 1.15 pm.

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Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in the Council Chambers, Tedder Hall, Manby Park on Monday, 12th September, 2022 at 10.00 am.

PRESENT

Councillor Stan Avison (Chairman)

Councillors Graham Cullen, David Mangion and Terry Taylor (substitute).

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Martha Rees	- Legal Representative
Neil Brooks	- Licensing Compliance Officer
Joanne Paterson	- Democratic Services Officer
Lynda Eastwood	- Democratic Services Officer

Also in Attendance:

PC Casey	Lincolnshire Police
PC McConville	Lincolnshire Police
Mr Sutherland	Solicitor
Mr Kenan Demir	Solicitor
Mr Ali Kayran	Premises Licence Holder

The Sub-Committee wished to observe a minute's silence in memory of Queen Elizabeth II.

1. ELECTION OF CHAIRMAN:

Councillor Stan Avison was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Stan Avison be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR STAN AVISON IN THE CHAIR

2. DISCLOSURE OF INTERESTS (IF ANY):

Councillor Graham Cullen asked that it be noted that he was a personal licence holder.

3. APOLOGIES FOR ABSENCE:

No apologies for absence were received.

4. EXCLUSION OF THE PUBLIC AND PRESS

It was Proposed and Seconded that the public and press be excluded from the meeting.

RESOLVED

That under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting of the following items on the grounds that, if they were present, there could be disclosed exempt information as defined at paragraphs 1, 2 & 7 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

(N.B. The meeting went into Exempt session at 10:50am).

(N.B The meeting returned to Open session at 10:58am).

5. REVIEW OF A PREMISES LICENCE:

The Chairman advised that due to the receipt of late information it was being proposed that the Sub-Committee adjourn for 30 minutes to allow them time to read the additional information.

(N.B The Sub-Committee adjourned at 10:11am)

(N.B The Sub-Committee re-convened at 10:48am)

Following which it was,

RESOLVED

That the Licensing Sub-Committee be adjourned until 22nd September 2022 at 10:00am to allow all parties more time to put forward further information.

The Meeting closed at 10.59 am.

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 3

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Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in on Thursday, 22nd September, 2022 at 10.00 am.

PRESENT

Councillors David Andrews, Sandra Campbell-Wardman and Graham Cullen.

Councillor Terry Taylor attended the Meeting as a Substitute.

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Joanne Paterson	- Democratic Services Officer
Lynda Eastwood	- Democratic Services Officer
Martha Rees	- Legal Representative

Also in Attendance:

Mr Robert Sutherland	- Solicitor representing Mr Kayran
Mr Kenan Demir	- Solicitor
Mr Ali Kayran	- Licence Holder
PC Casey	- Lincolnshire Police
PC Tilford	- Lincolnshire Police
Ms Suna Coverdale	- Interpreter

1. ELECTION OF CHAIRMAN:

Councillor Sandra Campbell Wardman was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Sandra Campbell Wardman be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR SANDRA CAMPBELL WARDMAN IN THE CHAIR

2. DISCLOSURE OF INTERESTS (IF ANY):

Councillor Graham Cullen asked that it be noted that he was a personal licence holder.

3. APOLOGIES FOR ABSENCE:

No apologies were received.

4. REVIEW OF A PREMISES LICENCE:

This item was being presented to Committee following an adjournment of the Sub-Committee Meeting held on 12 September 2022.

(N.B. An interpreter was in attendance to assist the Premises Licence Holder).

The Principal Licensing Officer advised Members that the Police had requested to present additional evidence in private session without the presence of the licence holder and his representative. Further to discussion with the Chairman, it was proposed that a discussion and the additional evidence referred be heard at the end of the hearing.

It was agreed that the Sub-Committee would continue with the Review Hearing and consideration of the factors that brought the review forward, together with submissions from both parties. Towards the end of the hearing, Members would vote to go into Exempt Session to discuss the legal considerations for the additional evidence received from the Police.

Further to a discussion, Members agreed with this proposal and for the hearing to remain in Open Session.

The Principal Licensing Officer introduced his report and advised the Sub-Committee Members that the report considered an application by Lincolnshire Police for a review of the premises alcohol licence held in respect of the premises known as Arcade Mini-Market, Skegness. The review was a result of a compliance check undertaken by the Police where they had identified a person at the premises who held no permission or right to work in the UK. The application for review was advertised outside the premises and copied to all responsible authorities, however the Licensing team received no representations from these.

The Principal Licensing Officer highlighted the steps that the Sub-Committee could take that was appropriate for the promotion of the licensing objectives, (page 2 of the report refers).

PC Tilford, representing Lincolnshire Police outlined the premises licence details (Appendix D, pages 35 refers) which highlighted that the premises was allowed to supply alcohol between the hours of 08:00 and 23:00hours Monday to Sunday.

It was highlighted that two of the licencing objectives were being undermined at the premises. PC Tilford reminded the Sub-Committee that when considering the crime and disorder objective the guidance did indicate that the Police were best placed best to provide that information. Both the prevention of crime and disorder and protection of children from harm objectives had been undermined in three ways; firstly, employment of staff members who were not recorded correctly within the documentation, secondly, the pricing issues within the store that were noted within the documentation and thirdly, sale to underage members of the public and this was captured on CCTV. As such, the Police considered revocation of the licence the best course of action in this particular case.

The Police further explained the circumstances that gave rise to the premises review. A joint Police and Immigration visit to the store on 15th June 2022 had been undertaken as a result of intelligence received around illegal workers, (Annex A refers). PC Cotton and PC Jones attended the store with PC Casey and were met by a lone male named 'Deniz Basal'. Mr Basal had served customers within the store and was ultimately detained by immigration. Members were informed that Mr Basal had a visa to be in the UK but did not hold a visa to work in the UK.

Furthermore, Police Officers then conducted a compliance check within the store. This highlighted that staff training records were out of date, the last entries being 2016. Police were concerned that the last entry within the refusals of sales of alcohol log was in March 2020 which was deemed inadequate by the Police and it was a criminal offence for these documents not to be completed.

The Sub-Committee were referred to the statement of PC Casey (Annex C page 18 of the Police evidence pack refers). This was the first reference to alcohol being on display without a purchase price on it, another offence that could be dealt with under the Price Marking Order Act.

A further statement had also been provided by Immigration Officer, Stacey Donnelly which had highlighted further information around the Mr Basal's visa and confirmed that he was working in breach of his visa conditions.

Members were referred to further information as follows:

- A statement from PC Casey dated 9th September 2022 relating to reviewed CCTV footage on 11th June which showed that Mr Basal was serving customers, both individuals being 15 years of age. A further visit by PC Casey on 28th July had shown photographs of products not priced within the store. It then appeared that Mr Basal had not reported or checked back in with immigration, however it did not appear he had left the country. Reference was made to an additional statement from PC Casey dated 9th September which corroborated this.
- A further visit by PC Casey on 28th July related to photographs the Committee had from a pocket notebook entry. On that particular entry, alcohol was not priced up within the store. It was noted that further documentation was provided by the Licence Holder at that point in relation to the Refusals Log, however this particular document did have entries in relation to 2022.
- PC Tilford referred to the statement provided by Mr Kyran which made reference to right to work checks and CCTV, however Police argued that ultimately none of those had been forthcoming.

In summary, when considering the crime and disorder licensing objective PC Tilford considered that even though a penalty had not been received for the illegal worker, this did not signify that the crime and disorder objective was not engaged. PC Tilford referred to some case law that would assist Members in relation to this, within that there was a paragraph which detailed how crime and disorder objective could be interpreted. This would help Members around how they could weight circumstances presented before them even though no penalty had been issued.

In terms of the protection of children from harm objective, the Sub-Committee had evidence of a sale of alcohol to underage children. The issues around records was crucial as those records were keystones around showing that the Premise Licence Holder was operating his store in a safe way.

Mr. Sutherland, Solicitor representing Mr Ali Kyran wished to clarify a couple of points with Lincolnshire Police. In particular, reference was made to when alcohol was not priced correctly at the store, he believed there to be only one incident on 15th June and queried whether there was another occasion being referred to.

The Police clarified that there were 2 occasions; the first being the initial visit on 15th June, the second being on 28th July and there were photographs of that particular visit and pocket note book entry from PC Casey to that effect.

Further to a query on the layout of the shop by Mr. Sutherland and asking for confirmation of the locations on where the products referred were photographed, Lincolnshire Police could not confirm this information.

Mr. Sutherland made reference to the refusals book and additional copies of these were re-circulated to Members of the Sub-Committee. Mr Sutherland wished to thank the Committee for adjourning the original hearing to allow them to address the points that had been previously raised.

Mr. Sutherland made reference to the witness statement from Mr. Kyran and asked that it be treated as evidence put forward by the Licence Holder. Mr. Sutherland began by stating that this whole process had been initiated by the alleged illegal employment of a person who was not entitled to work in the UK. Mr Sutherland found it frustrating that the Police could come in front of the Sub-Committee arguing that it did not matter what the Home Office were saying and to disregard the conviction referred as that did not relate to the matter the Committee were dealing with.

Reference was made to a historical case that had been considered by a past Licensing Sub-Committee whereby the licensing objectives were engaged in that matter and this decision was made appropriately. As such, Mr Sutherland considered that the matters in front of the Sub-Committee were very different to the historical case being referred to by the Police.

Mr Sutherland urged the Sub Committee to look at that determination which was that Mr Kyran had not employed a person that was not entitled to work in

the UK. The additional statement that Members were given by an Immigration Officer in September regarding what the individual was actually doing was completely irrelevant to this case. Mr Sutherland stated that this case was about the promotion of the licensing objectives.

Reference was then made to allegations about pricing not being displayed and Mr Kyran's understanding was that the visit of 28th July was somewhat different as the Police were satisfied with what had been done at the premises.

Further reference was made to the internal plan of the Mini Market, (page 13 of the report refers) and an explanation provided to the layout and storage and labelling of items. Following which, Mr Sutherland assured Members that the Licence Holder would in future ensure that the price marking was displayed on individual shelves and asked that in this particular circumstance the Sub-Committee accept Mr Kyran's apology and not look to take any action in relation to the premises licence.

Finally, in relation to compliance with the licence Mr Kyran wished to assure the Sub-Committee that the staff within the shop received proper training, the failure on his part was that appropriate records were not kept. Unfortunately, with the pandemic that had taken over everyone's lives, it was something that Mr Kyran had lost focus on as other matters took over.

In terms of the refusals log which was covered in Mr Kyran's statement, it was clear that Mr Kyran had not been in trouble with the police before the initial visit and he was unnerved by the experience. Mr Kyran had effectively panicked and the licensing folder that he kept at the premises was in disarray due to being in its form as a loose leaf ring binder, however a number of the documents had subsequently been provided to the Police and the Sub-Committee had had sight of these. Mr Sutherland therefore was proposing an additional condition (Condition 7) in order that the refusal book could be examined on a regular basis. Going forward the refusal book would be checked on a weekly or monthly basis.

In terms of the allegation relating to under age sales, Mr Kyran was aware that two females had been to the store on a number of occasions and had provided ID for proof of age. However, on looking at the CCTV there was clearly no request made at that stage for ID and whilst the individuals looked over 18 they were not over 25. The Challenge 25 policy would have required for them to have been asked for ID. The Challenge 25 system was now reinforced in the proposed conditions put to the Sub-Committee. Furthermore, conditions 4 and 8 were added to ensure that all staff were capable to confront and challenge under 18s attempting to purchase alcohol.

In summary Mr Sutherland considered that for all the allegations put forward, there may or may not be an explanation, however he and his client proposed the way of dealing with this in the future was by modifying the licence with the conditions enforced.

It was confirmed that the Sub-Committee had no questions.

The Police were invited to ask questions of the Licence Holder and his Solicitor.

The following information was confirmed:

- Initially Mr Kyran had been informed by his Solicitor that he would receive a penalty of £15k for employing an illegal worker; this was subsequently challenged resulting in no penalty.
- Mr Sutherland accepted that there had been contact from Mr Kyran following the initial visit from the Police due to concerns relating to the allegations being made. Mr Kyran was also very concerned for his licence. The initial contact made did indicate that Mr Kyran had placed the priced products up on the central isle. Also, his understanding was that the Police attended the premises and indicated that they were happy with the display of the prices.
- Mr Sutherland clarified the dates when the vapes were ceased by the Police on the basis that they believed they were not legitimate. It was confirmed that the vapes were found to be legitimate and returned to Mr Kyran.
- The training that Mr Kyran had used was in written form contained in a folder produced by the Council, which staff were required to read. In relation to other training, this would have been delivered by himself. In relation to up to date training that dealt with the review hearing, Mr Kyran had now engaged the services of Mr Sutherland and Mr DeVere to monitor and manage the training.
- The information being referred to was the information given out by Trading Standards at Lincolnshire County Council (a separate body).
- The staff member that had made the under-age sale had received training, however had since left the shop.

Mr Sutherland assured the Sub-Committee that the premises would tighten up its procedure with regard to Challenge 25 and underage sales and as such, had since barred two individuals from the shop.

Following which it was Proposed and Seconded that Committee moved into exempt session granted under Regulation 14 (3) of the Licensing Act 2003.

(N.B The Sub- Committee entered into Exempt Session at 11:25am).

(N.B The Committee returned to Open Session at 12:01pm)

All parties were invited to make their closing statements.

In Summary PC Tilford reinforced that there were two licensing objectives that were considered to be undermined these being; the Crime and Disorder Licensing Objective and the Protection of Children from Harm. The product pricing element was a key issue and showed whether the licensing conditions were being taken seriously. CCTV had identified two underage females purchasing alcohol and furthermore the staff member that made sale was not named on the staff list provided to the Police. Therefore, the Police considered that records were being inadequately kept and highlighted the importance of this in illustrating that the premises were complying with its licence conditions. In conclusion, given the number of issues that were apparent in the premises and the undermining of the said licensing objectives the Police were suggesting revocation of the licence.

In summary Mr Sutherland referred to Mr Kyran's statement which stated that immigration was not taking the matter any further relating to the illegal worker. Furthermore, it was highlighted that the issues around what an individual did when they left the premises was irrelevant and this did not relate to the principle of the licensing objectives. Mr Kyran accepted that there should have been pricing on his products. Mr Kyran had since indicated that he would ensure products were labelled appropriately going forward. In terms of training it was acknowledged that this aspect was important and suggested it be addressed through further conditions. Mr Sutherland further outlined the conditions which he was seeking to amend.

(N.B The Sub-Committee retired to deliberate at 12:35pm)

(N.B The Sub-Committee returned from their deliberations at 1:45pm)

The Legal Advisor stated that the Sub-Committee heard from Lincolnshire Police and the premises licence holder's legal representative. In reaching its decision the Sub-Committee had due regard for all that they read and heard (which included a witness statement in the public session from the premises licence holder), the licensing objectives, the Home Office Section 182 Guidance and the Council's Licensing Policy Statement.

For the avoidance of doubt in reaching their final decision, the Sub-Committee did not take into account any of the information supplied to them during the private session.

Of particular concern to the Sub-Committee was the fact that a person with no right to work in the UK was encountered at the premises, along with the admission on the part of the premises licence holder that he found record keeping and management to be difficult. Additionally, the Sub-Committee had strong regard that on 11th June 2022 alcohol was sold to individuals who appeared to be under 25 years of age (and who are now known to be underage) without first asking for ID.

The Sub-Committee did note however, there was evidence of having passed a test purchase, but this was not dated.

In considering all of the above, the Sub-Committee had grave concerns about the current day to day management of the premises and the promotion of the licensing objectives. The Sub-Committee concluded that the issues encountered at the premises were largely down to the management of the premises by the premises licence holder, who was also the Designated Premises Supervisor (DPS).

Accordingly, the Sub-Committee decided that it was reasonable and proportionate to remove the Designated Premises Supervisor from the premises licence, to allow someone new to be brought in to assist with the management and day to day running of the premises. Additionally, the Sub-Committee decided that it was reasonable and proportionate to amend the premises licence to add (or where relevant replace) conditions as shown at Appendix A of this decision notice.

The Sub-Committee decided that the modification of the licence conditions was an appropriate step for the promotion of the licensing objectives.

Finally, in order to allow for changes to the day to day running of the premises and to dissuade children from the premises to purchase alcohol and age restricted products, the Sub-Committee considered that it was reasonable and proportionate to suspend the premises licence for 3 months.

The Sub-Committee also issued the premises licence holder with a strict warning as to his future conduct and advised him that should the current issues encountered at the premises not be resolved then any future appearance before the Sub-Committee would result in the revocation of the premises licence being strongly considered.

RESOLVED

- 1) That the premises licence in respect of Arcade Mini Market, 2 Sandbeck Arcade, Drummond Road, Skegness be suspended for 3 months.
- 2) That the Premises Licence Holder be issued with a strict warning as to his future conduct.

The Meeting closed at 1.50 pm.

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Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Thursday, 16th March, 2023 at 10.00 am.

Councillor Stan Avison (Chairman)

Councillors Sandra Campbell-Wardman and Neil Jones.

Councillor David Andrews attended the Meeting as an Observer.

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Martha Rees	- Legal Representative
Lynda Eastwood	- Democratic Services Officer
Susan Care	- Democratic Services Officer

Also in Attendance:

Mr Rowlands	- Objector
Mr Lee	- Objector

6. ELECTION OF CHAIRMAN:

Councillor Stan Avison was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Stan Avison be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR STAN AVISON IN THE CHAIR

7. APOLOGIES FOR ABSENCE:

No apologies were received.

8. DISCLOSURE OF INTERESTS (IF ANY):

Councillor David Andrews stepped down and asked that it be noted that he would attend as member of the public only.

9. VARIATION OF A PREMISES LICENCE - TENNYSON LODGE, 61 VICTORIA ROAD, MABLETHORPE, LN12 2AF:

The Chairman outlined the background to the application then provided information on the meeting's procedure.

The Principal Licensing Officer introduced his report and advised the Sub-Committee Members that this was an application by Mr Sunny KN Oderdra for

variation of the premises licence in respect of Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2A, seeking to remove conditions from the premises licence which restricted the supply of alcohol to persons taking table meal and residents. He further provided a summary of the history of the conditions and how alcohol licences were granted. He also advised that it had become the norm for conditions to be removed if applied for. It was noted that additional conditions could be added by Members if deemed appropriate.

The Principal Licensing Officer drew Members' attention to the licence conditions. It was highlighted that the Police required the applicant to volunteer to implement standard measures that the Council would expect to see in these cases. He noted that neither Lincolnshire Police, Trading Standards or Environmental Health had made representations or raised concerns and reiterated that any planning issues needed to be referred to the Planning Department.

The Chairman invited Mr. Oderdra to make his representation to the Licensing Sub Committee.

Mr Oderdra detailed the background to his application, from the purchase of the property in 2022 to date. He advised that he had partook in constructive conversations with Lincolnshire Police and that all recommendations made had been included in the application.

Following which, representations were invited from those objecting to the application to the variation of the premises licence.

Mr Rowlands advised the Sub-Committee that he lived opposite Tennyson Lodge and raised concerns about smoking and vaping, as well as noise levels and drinking in an unfenced area next to the road. He also expressed concern about the size of the cellar and the ability to cool products. He also queried whether there was a separate room for hotel residents, and raised concerns with the limited on-site parking and problems with refuse and HGV deliveries.

Mr Lee outlined his interest in this application. The concerns he raised included noise levels from inside and outside of the property, including late night karaoke every day of the week. He requested that soundproofing should be added between adjoining properties and the reinstatement of a lobby to mitigate noise when the front doors were opened. He further expressed concern about midnight closing being too late, and repeated concerns about the impact of smoking. He also reiterated concern regarding barrels blocking access to his property. He highlighted that customer parking in front of his father-in-law's property was causing concern and inconvenience.

Following a brief discussion, an agreement was made between Mr Lee and Mr Oderdra to meet informally to discuss parking and the placement of barrels.

Members were then invited to put their questions forward to the Applicant and Objectors.

- A Member asked if the Applicant lived on the premises and whether he would be present during operational hours. The Applicant confirmed that he did not live on the premises, however would be in attendance for the majority of the time (Thursday to Sunday inclusive).
- A Member queried whether CCTV had been installed on the premises. The Applicant confirmed that it had and outlined the benefits of the system he had installed.
- A Member asked for clarification around the issues of parking on the driveways and glass and litter in the passageway and whether these had been addressed. The Applicant responded that he was aware of the problems and was working to address them. He advised that the alleyway was shared and a lot of refuse was left by other businesses and residents, he also confirmed that a contract was held with a waste management company. The Applicant outlined the systems in place to deal with glassware disposal and highlighted that there was an 'after hours' check of refuse disposal.
- Members asked for clarification around the management of closing time and parking on the driveway. The Applicant advised that this would be managed in a timely manner to ensure there were no 'stragglers' left on the premises, and that this would be monitored. He also confirmed that as soon as staff were made aware of a problem, they immediately asked the owner to move their vehicle. He also confirmed that he had put up signs and emailed guests prior to arrival.

The Principal Licensing Officer asked the Applicant for further information about the role of the Designated Premises Supervisor and queried who would be responsible when the Applicant was not on the premises. The Applicant confirmed that when he was not on the premises there would be a manager on site for the bar and the guest house. The Principal Licensing Officer also asked for clarity on actions regarding noise insulation on the wall adjacent to Mr Lee's father-in-law. The Applicant advised on the actions taken so far, including the purchase of a digital sound meter and avoiding placing speakers on that wall. The Principal Licensing Officer queried whether the Applicant had received advice from a noise expert, to which the Applicant responded that he had not. The Applicant also confirmed that part of the licence condition was to ensure litter patrols, but highlighted that it was difficult to say that all the litter was originating from his premises. He also confirmed that noise patrols were carried out, and that there was a log sheet to complete on an hourly basis. The Principal Licensing Officer asked whether a lobby to assist in reducing noise was a viable option. The Applicant responded that for the size of the bar, this would be difficult as it would impact on bar space.

The Principal Licensing Officer and a Member referred the Applicant to the conditions agreed with the police, and asked him about his understanding of

the sale of alcohol to non-residents. The Applicant confirmed that non-residents were not permitted to sit outside the premises with alcohol.

The Principal Licensing Officer referred to Page 13 of the report pack, to clarify that the alcohol licence times could not be changed by the Committee. It was confirmed that all the Committee could consider was to look at sales to the public if it was minded to remove the conditions.

The Chairman invited the interested parties to ask questions of the Applicant.

Mr Lee advised that car parking may be an ongoing issue but that it would be managed between himself and the Applicant.

(N.B: The Committee retired for their deliberation at 11.25 am)

(N.B: The Committee re-convened at 11.45 am)

In reaching its decision, the Sub-Committee had due regard for the representations made to it, both in writing and verbally at the hearing, and decided to grant the premises licence variation application with modification. The licence variation was modified by the addition of the following licence condition:

Sale of Alcohol to Non-Guests for Consumption On and Off the Premises –
These non-residents (unless there as a guest of a resident) must have vacated the premises by 2330 Hours (Monday to Saturday) and 2300 Hours (Sunday) except on New Year's Eve when the Non-Standard Timings shall apply.

N.B. *The Non-Standard Timings in relation to this premises licence were that during the New Year Period the supply of alcohol was permitted from New Year's Eve until the terminal hour on New Year's Day.*

REASONS FOR THE DECISION:

At the hearing the Sub-Committee heard from the Council's Principal Licensing Officer, the premises licence holder and three interested parties who lived locally to the premises. In reaching their decision the Sub-Committee had due regard for all that they had read and heard (including the written submissions from those interested parties not present at the hearing) and also for the Licensing Act 2003, the Section 182 Guidance to Licensing Authorities, the licensing objectives and their duty under Section 149 of the Equality Act 2010.

The Sub-Committee heard from the applicant as to the steps he had undertaken to address the concerns raised by the interested parties; removing a speaker from an adjoining wall, utilising a noise monitor, asking and advising guests about parking, extra refuse bins purchased, provision of CCTV, etc. The Sub-Committee were heartened by the dialogue between the

applicant and the interested parties to maintain a good relationship and to look to address any outstanding issues such as the refuse storage area.

Overall, the Sub-Committee supported the application as applied for, but felt that there was some scope for confusion in respect of one of the proposed conditions regarding when members of the public must leave the premises.

Accordingly, the Sub-Committee determined that it was reasonable and proportionate to the promotion and protection of the licensing objectives to grant the variation application as applied for but subject to the following amendment:

Sale of Alcohol to Non-Guests for Consumption On and Off the Premises – These non-residents (unless there as a guest of a resident) must have vacated the premises by 2330 Hours (Monday to Saturday) and 2300 Hours (Sunday) except on New Year's Eve when the Non-Standard Timings shall apply.

Following which it was,

RESOLVED:

That the modification of the premises licence conditions in relation to Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2AF as set out in Appendix D to the report be supported.

The Meeting closed at 12.02 pm.

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Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Thursday, 24th August, 2023 at 2.00 pm.

PRESENT

Councillors Sandra Campbell-Wardman, Andrew Leonard and Terry Taylor.

Councillor Stephen Evans attended the Meeting as a Substitute.

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Kim Robertson	- Legal Advisor
Elaine Speed	- Senior Democratic Services Officer and Civic Officer
Lynda Eastwood	- Democratic Services Officer

Also in Attendance:

Sgt Amy Briggins	- Lincolnshire Police
PC Jonathan Jones	- Lincolnshire Police
PC Kat Braithwaite	- Lincolnshire Police
Mr Spencer Summers	- Summers Enterprises Limited

10. ELECTION OF CHAIRMAN:

Councillor Sandra Campbell-Wardman was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Sandra Campbell Wardman be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR SANDRA CAMPBELL-WARDMAN IN THE CHAIR

11. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were invited to declare any relevant interests. None were received.

12. APOLOGIES FOR ABSENCE:

No apologies were received.

13. REVIEW OF A PREMISES LICENCE:

An open report was submitted by the Group Manager Public Protection which enabled Members to consider an application by Lincolnshire Police for a review of the premises licence held in respect of Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ.

The review application was submitted by Lincolnshire Police under the provisions of Section 51 of the Licensing Act 2003.

The Police were seeking the suspension of the premises licence together with the removal of the Designated Premises Supervisor (DPS). However, the Police had indicated that if the premises licence holder was unable to acknowledge their responsibility to promote the licensing objectives, then they would ask the Sub-Committee to seriously consider the revocation of the premises licence.

The application for review had not attracted representations from the other Responsible Authorities or Other Parties.

The Principal Licensing Officer outlined the recommendations available to the Sub-Committee, page 2 of the report refers.

Sergeant Briggshaw, who was representing Lincolnshire Police, was invited to make her representation to the Sub-Committee.

Sergeant Briggshaw relayed the supporting information set out in the application for the review to Members, pages 31 to 35 of the Agenda pack refer. Reference was made to the police visits and a number of specific breaches, concerns and issues, from November 2017 to November 2022, including:

- Unavailable CCTV following incidents the police were having to deal with.
- Door staff not being issued or using body worn video.
- Door supervisor logs not being filled in.
- Incorrectly recruiting door staff.
- Incident logbook and refusals book could not be produced.
- Screens put up outside to watch football when not permitted to.

Members were informed that further concerns were raised by Lincolnshire Police in November 2022 with regards to the suitability of the new management team that Mr Summers had leased the venue to, under the Summers Enterprise premises licence with Mr Summers remaining as the DPS.

Sergeant Briggshaw stated that if Mr Summers was a responsible premises licence holder and committed to running a safe venue, he would have ensured he was satisfied with their suitability to run a safe business using his building and his licence prior to making any agreements. . It transpired that he was not responsible and the situation continued with further concerns and further instances of increasing severity.

Members were referred to Paragraph 10.27 and 10.28 of the Section 182 Guidance, page 42 of the pack refers, relating to the expectation and responsibility of the DPS.

Sergeant Briggshaw highlighted that the venue had reopened under various names - Social 22, Envy, Tiki Bar and Tiki Lounge.

Sergeant Briginshaw further referred Members to the supporting information set out in the application for the review to Members, pages 31 to 35 of the agenda pack refer. Reference was made to the police visits and a number of specific breaches, concerns and issues, from November 2022 to July 2023, including:

- Issues of drunkenness and disorder including glassing.
- Criminal damage.
- Problems with the door staff.
- Intelligence around drug use and dealing.
- Assaults on customers.
- Unavailability of CCTV footage.
- No door supervisor logs or refusals book.
- A female assaulted with a hammer inside the venue.
- No DPS present on site.

Members were advised by Sergeant Briginshaw that Mr Summers did not consider himself responsible for the venue as it had been leased out, although there was no formal contract between the two parties. Following a further disorder in July 2022, that arrangement had ended. Members were advised that Mr Summers had confirmed that the management were no longer tenants and the venue had been closed for two weeks.

Members were referred to further incidents, including considerable drug detection throughout the premises including the staff area, as outlined in the additional evidence pack.

Sergeant Briginshaw informed Members that the licencing objectives were being seriously undermined and that there were repeated breaches and failings but no responsibility taken, as Mr Summers remained as DPS but chose to take no action and made no changes. Members were further advised that there was no involvement from the second director, Lana Summers.

Sergeant Briginshaw commented that she was aware that there were future plans for the venue to become an Indian restaurant and was interested in what official plans were being put in place and what considerations were being made regarding the operating style. However, with the evidence taken into consideration Lincolnshire Police had no confidence in Summers Enterprises Limited to uphold the licensing objectives.

Members were advised that incidents had continued and were referred to Paragraphs 11.10 and 11.19 to 11.23 of the Section 182 Guidance, pages 42 to 43 of the pack refer. Further reference was made to Paragraph 11.23 and Members were requested to give serious consideration to revoking the licence or, if the licence was to remain in place, changing the closing time to 23:00 hours, as the incidents referred often occurred after midnight.

Members were then invited to put questions to Sergeant Briginshaw.

- A Member queried whether any other venues were open beyond midnight. PC Jones responded that the majority of venues closed by midnight, at the latest.
- The Principal Licensing Officer queried what level of traces of drugs were found on the premises. PC Jones advised that the levels were very high considering the type of establishment, particularly as it was trying to change to a more family friendly establishment.

Mr Spencer Summers was invited to make his representation to the Sub-Committee.

Mr Summers commented that he was in agreement with a lot of what the police had said. He confirmed that he had leased out the venue and that a small business risks lease had been in place which the police had not asked to see.

Mr Summers advised Members that after taking over the club in 2017, he had invested a lot of time and money on it in order to turn it in to a nice establishment. The money he had spent also included a supply of body worn cameras and radio earphones, including training, but unfortunately these were not always used by the staff.

Mr Summers further advised Members that he had allowed the new management team to use him to undertake the role of the DPS whilst they transitioned into their new roles and attended the relevant course themselves, as they needed a personal licence holder on site in order to serve alcohol. Mr Summers informed Members that the police had received the certificate from the new manager who had undertaken the course, however a copy had not been sent to East Lindsey District Council in order for him to apply for the DPS role. Mr Summers added that he had fulfilled his responsibility in order to change over the DPS role.

Mr Summers informed Members that when the club opened, he had employed his own security doormen as he wasn't aware that they needed to be supplied by a security company and that once he became aware from a colleague, he changed the security team straight away.

With regards to the outside seating area, Mr Summers advised Members that he wasn't aware he was doing anything wrong as other venues had put up TV screens outside for the football and confirmed that he rectified the situation when he became aware he was in breach of his licence.

Mr Summers informed Members that in the future, he was hoping to have flats in the upstairs of the building and an Indian restaurant in the downstairs area.

Mr Summers advised Members that he acknowledged that the change of DPS should have taken place and that if it had, it would be the new manager attending the hearing and not him. He further advised that the police did not consider the new management team to be capable of running the premises, therefore if it had applied for a DPS role the application would have been refused. This had resulted him feeling like he had been backed into a corner.

Mr Summers explained that he considered the management team were responsible as the problems had occurred due to its actions but he was unable to ask them to leave as he may have a legal case against him as they had signed a lease.

Mr Summers referred Members to the hammer incident and the drug problems at the venue and highlighted that he felt Mablethorpe had a low police presence due to police resources being stretched.

Mr Summers advised Members that he had helped the police in the past with regards to incidents taking place outside of his and other premises and had shared his CCTV footage with them.

Mr Summers informed Members that he had changed and going forward, the venue would not be a club or a drinking bar and the intention was for it to be a restaurant with flats upstairs. Mr Summers further informed Members that he was happy to reduce the hours of the licence to 23:00 or midnight and the tenant of the restaurant would become the DPS.

Members were then invited to put questions to the Director of Summers Enterprises Limited, Mr Spencer Summers.

- A Member queried why Mr Summers had not challenged the tenants for breaching their lease when it became apparent that there were issues and concerns, to which Mr Summers responded that the incidents had happened over a short period of time and that he would have preferred to break the lease.
- A Member further queried the date the tenants moved in and how long they had occupied the premise. Mr Summers confirmed that the tenants were there from November 2022 to August 2023 when they moved out as they had lost control of the venue.
- When asked how long the lease was for, Mr Summers confirmed that it was a five-year lease.
- A Member put to Mr Summers that he was responsible for the venue and that he relied heavily on the lease, however he had not provided a copy for the Sub-Committee to see.

The Legal Advisor commented that if specific conditions for the operation of the business were in the lease, it would have been possible for Mr Summers to have pursued the tenants for breach of the lease.

- A Member queried whether the venue was now closed, following which Mr Summers confirmed that it was.

At this point, the Principal Licensing Officer outlined the process of obtaining a licensing certificate.

- The Principal Licensing Officer queried at what stage Mr Summers was with applying for consent for change of use. Mr Summers responded he was looking to appoint an architect and he was also

in negotiations with an Indian restaurant with regards to moving into the venue.

- The Principal Licensing Officer further queried who the directors of Summers Enterprises were. Mr Summers advised that it was himself and his wife, Lana Summers.
- The Principal Licensing Officer referred Members to page 21 of the report, relating to the drugs policy and invited Mr Summers to explain the drug policy at his premises.
Mr Summers informed Members that he understood that the drugs policy was the same one that he had spoken about with the tenants. In addition to this he had also advised the tenants that they had the use of metal detectors and sniffer dogs, if required.
- When queried about the tenants, Mr Summers explained that they were local people, and their children went to the same school. He was confident that they would run the venue in a satisfactory manner but unfortunately this was not the case.

The Legal Advisor requested clarification on some points including how long Mr Summers intended to remain as DPS, and what he did at the premises during that time.

Mr Summers responded that he thought he would remain as DPS for up to two months, whilst the new manager was in the process of obtaining her licence. He advised that he worked downstairs for most of the time and was showing the new team how to run the venue. Mr Summers had further advised the management team that the bar needed to close earlier as there were too many incidents happening and he had also advised them to move from glass to plastics.

When asked how Mr Summers followed up on the change-over of the DPS role, he confirmed that he had completed and signed all of the paperwork and he had trusted the tenants when they advised him that they had fulfilled their part with the paperwork, and had not checked with the Licensing Authority.

Mr Summers explained that he had to remain as DPS as so many incidents had been logged, and following a meeting between himself, the tenants and the police, he was told the venue could not continue unless things improved so he stayed on in the role. He then felt trapped in the situation, when all he wanted to do was to pass the business over to the tenants.

Following which, both parties summed up their case.

N.B The Committee retired for their deliberation at 3:19pm

N.B The Committee re-convened at 3:43pm

The Licensing Act 2003 Sub-Committee (the Sub-Committee) read and heard all of the information before them. They heard from Lincolnshire Police and Mr Spencer Summers, director of the company which held the

premises licence. In reaching their decision the Sub-Committee had due regard to 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 had confirmed that they were happy for the review hearing to be held in public session.

The Sub-Committee heard from the Police about the numerous incidents at the premises as set out in the paperwork. During the time all of the incidents had occurred, there were tenants in the property but Mr Summers remained the Designated Premises Supervisor (DPS) throughout.

The Sub-Committee noted that Mr Summers was aware at the outset that he was DPS. He believed the role of DPS would be transferred to one of the tenants; however, that did not happen due to the tenant not completing the relevant paperwork for a personal licence and the DPS role and due to the number of incidents that had then occurred at the premises.

Mr Summers did confirm to the Sub-Committee that he was aware he had remained the DPS for the premises.

Mr Summers advised there were conditions in the lease setting out how the premises should be run. He terminated the lease in August 2023. He did not take steps to terminate the lease earlier despite being aware of the issues and incidents at the premises.

Mr Summers advised that the premises would be changing use to a restaurant and residential flats in the future but this had not been evidenced.

The Sub-Committee considered the options available to them. They considered modifying the conditions on the licence; however, they considered this not to be appropriate as conditions on the licence had continually not been adhered to. They did not consider it appropriate to exclude a licensable activity from the premises licence given the incidents at the premises. The Sub-Committee considered removing Mr Summers as DPS but noted he was a director of the company who was the premises licence holder and this meant he would still have responsibility for the premises. The Sub-Committee considered licence suspension but were of the view this was not appropriate given the failings of the DPS in his role and the incidents at the premises.

Given the seriousness of the catalogue of events and evidence put before them, and Mr Summers' failings as a DPS and personal licence holder the Sub-Committee were therefore of the view that it was an appropriate and necessary step to revoke the premises licence in order to uphold the licensing objectives.

Following which, it was

RESOLVED

That the licence be revoked.

Mr Summers was advised of his 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, (Tel: 01522 528218) within 21 days of the date of the decision notice.

The Meeting closed at 3.46 pm.

Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Thursday, 31st August, 2023 at 2.00 pm.

PRESENT

Councillors Sandra Campbell-Wardman, Stephen Evans and Terry Taylor.

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Kim Robertson	- Legal Advisor
Elaine Speed	- Senior Democratic Services Officer and Civic Officer
Lynda Eastwood	- Democratic Services Officer

Also in Attendance:

Michael Kheng	- Kurnia Licensing Consultants
Leah Beeton	- Director of J & L Beeton Limited
Jack Beeton	- Director of J & L Beeton Limited
Mary Abbott	- Interested Party
Steve Farrar	- Interested Party's Witness

15. ELECTION OF CHAIRMAN:

Councillor Sandra Campbell-Wardman was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Sandra Campbell-Wardman be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR SANDRA CAMPBELL-WARDMAN IN THE CHAIR

16. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were invited to declare any relevant interests. None were received.

17. APOLOGIES FOR ABSENCE:

Those present were noted.

18. APPLICATION FOR A PREMISES LICENCE:

A report was submitted by the Group Manager Public Protection which enabled Members to consider an application for a premises licence in respect of The Blind Tiger Bar, 1-2 Pawnshop Passage, Mercer Row, Louth, LN11 9JQ.

The Principal Licensing Officer outlined the options available to the Committee, page 1 of the report refers.

The Sub Committee Members were asked to consider the application for a premises licence whilst having regard for the representations made by two local residents.

Mr Michael Kheng who was representing the applicants was invited to make his representation to the Committee. Members were advised that the applicants were applying for a new premises licence, with the opening hours up to 11pm from Sunday to Thursday and up to 1am on a Friday and Saturday which they did not consider to be excessive. It was confirmed that they would be operating within those hours and may not be open until 11pm every night.

Mr Kheng referred Members to a tabled plan which identified 13 local premises and included information on their live and recorded music hours and the hours in which alcohol was supplied. It was pointed out to Members that one of the premises was licenced for live and recorded music and the supply of alcohol until 4am seven days a week. However, it was highlighted that it did not operate at those hours and closed at midnight from Sunday to Thursday and at 1am on a Friday and Saturday.

Members were advised that the Police and ELDC Environmental Health were not objecting to the application, and they were referred to point 9.12 in the amended guidance issued under Section 182 of the Licensing Act 2003.

Mr Kheng outlined the two representations that had been received, the first being from Ms Wendy Becker, pages 21 to 22 of the report refer.

Members were informed that Ms Becker had referred to the neighbouring Wetherspoons pub seven times in her letter, with some of the information being factually incorrect and not specific to the Blind Tiger Bar.

The second representation was from Mary Abbott, the mother of local resident Emily Farrar, pages 23 to 24 of the report refer.

Mr Kheng pointed out that there were two emails from Mary Abbott, the first outlining the potential problems relating to the new licence and the second was advising him that her daughter, Emily, would now be dealing with the licensing issue however, it was confirmed that no correspondence had been received from her in relation to this.

Mr Kheng stated that he strongly disagreed that customers of the Blind Tiger Bar would use the area behind the two properties as they would have to go out of their way to access this.

Members were referred to photographs of the properties concerned and their location in relation to the Blind Tiger Bar which confirmed that there

were no windows overlooking the parking area that was referred to in the correspondence.

Mr Kheng further informed Members that the objection stated that Wendy Becker and Emily Farrar lived opposite Blind Tiger Bar however, as detailed on the plan there was a building in between, therefore any noise would bounce off that building.

Members were referred to paragraph 2.26 of the Section 182 Guidance, relating to public nuisance and were advised that matters beyond the immediate area of the surrounding premises were matters for personal responsibility of individuals under the law. It was pointed out that this was not the responsibility of the Blind Tiger Bar.

Members were then invited to put questions to the directors of the Blind Tiger Bar, Miss Leah Beeton and Mr Jack Beeton.

A Member queried what type of entertainment would be taking place and whether it would be a regular occurrence. In response, Miss Beeton advised that there would be general music played during the daytime and it would be similar in the evenings too. She explained that they would potentially like to invite guest DJs to perform in the bar.

A Member asked for clarification on the capacity in the building. Members were informed that it had not been assessed yet and it was confirmed that only the downstairs area would be open. The area upstairs was not ready and would be private rooms. It was anticipated that there would be a maximum capacity for 50 to 60 people.

Following on from a query regarding food being served, it was confirmed that there would be no food sold on the premises at the current time.

Mrs Mary Abbott was invited to put forward any questions to Mr Kheng. She explained that she was attending the hearing on behalf of her daughter Emily, who had recently had a baby. Mrs Abbott confirmed that her daughter had asked her to write the email on her behalf and that it was Emily's wording and added that her daughter was still very concerned and worried about the proposed application.

Mrs Abbott raised her concerns that if people chose to take drugs they would use the yard near her daughter's house and a further concern was that her daughter had a car parking space in that area.

Mrs Abbott stated that she disagreed with Mr Kheng's statement with regards to complaints about Wetherspoons and was of the opinion that the behaviour in the yard would increase and the later opening hours would increase the problem.

Mrs Abbott informed Members that she was not against the Blind Tiger Bar and she wished them luck in their venture however, the late licence was a concern for them.

Mr Stephen Farrar, the father of Emily Farrar was invited to speak and he commented that Mr Kheng was a reasonable man and the opening times for the Blind Tiger Bar were reasonable. He highlighted that if there were any issues following the opening of the establishment they would hope to be able to approach the owners in a reasonable way and hoped that the security staff would be helpful and take steps to discourage customers from going near the residential properties.

Mr Kheng advised that Leah and Jack Beeton were brother and sister and were Louth born and bred and he was sure they would address any problems or situations relating to the neighbouring properties.

Mr Kheng also highlighted that the original hours applied for were longer, however further to discussions with the police the applicants had agreed to reduce them.

N.B The Sub Committee retired to deliberate at 2:33pm.

N.B The Sub Committee returned from their deliberations at 2:48pm.

The Licensing Sub-Committee read and heard all of the information before them. They heard from Mr Kheng of Kurnia Licensing Consultants on behalf of the premises licence applicant - S & L Beeton Limited. They also heard from Mrs Mary Abbott and Mr Stephen Farrar on behalf of their daughter, Ms Emily Farrar.

The Sub-Committee noted the contents of the premises licence application. They noted there was a building in between the Blind Tiger Bar premises and the interested parties.

They also noted the Section 182 Home Office Guidance to Licensing Authorities – in particular Paragraph 2.26 in relation to public nuisance.

The Sub-Committee noted Mrs Abbott's representation and noted that Ms Emily Farrar was currently experiencing anti-social behaviour from persons in the area.

The Sub-Committee considered all the matters before them, noting in particular the area of the premises and the hours applied for. They noted that whilst there was currently anti-social behaviour in the area, this was not attributed to the Blind Tiger Bar which had not yet opened. They therefore considered that there was no evidence to suggest that the Blind Tiger Bar would contribute to anti-social behaviour or noise in the area.

Having considered everything and the licensing objectives the Sub-Committee were of the view that it was appropriate to grant the premises licence as applied for. In reaching their decision the Sub-Committee had due regard to all of the information put to them, along with the Section 182 Guidance to Licensing Authorities (August 2023), the Council's Licensing Policy and the licensing objectives under the Licensing Act 2003.

Following which, it was

RESOLVED

That the licence be granted subject to conditions consistent with the operating schedule accompanying the application, which had been modified to such extent as the Licensing Authority considered appropriate for the promotion of the licensing objectives.

The Meeting closed at 2.55 pm.

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Minutes of a Meeting of the Licensing Act 2003 Sub Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Friday, 5th January, 2024 at 10.30 am.

PRESENT

Councillors Sandra Campbell-Wardman, Darren Hobson and Terry Taylor.

Councillor Neil Jones attended the Meeting as a Substitute.

Officers in Attendance:

Adrian Twiddy	- Principal Licensing Officer
Kim Robertson	- Legal Advisor
David Dodds	- Environmental Health Service Manager- East Lindsey
John Dixon	- Environmental Protection Officer
Lynda Eastwood	- Democratic Services Officer
Laura Allen	- Democratic Services Officer

Also in Attendance:

Mr Michael Kheng	- Kurnia Licensing Consultants Limited
Mr Shane Harris	- Plaice on the Park Limited
Mr Robert Blyde	- DPS, Little Nan's Café

19. ELECTION OF CHAIRMAN:

Councillor Sandra Campbell-Wardman was duly nominated and upon being put to the vote, it was

RESOLVED

That Councillor Sandra Campbell-Wardman be elected Chairman of the Licensing Sub-Committee for this Meeting only.

COUNCILLOR SANDRA CAMPBELL-WARDMAN IN THE CHAIR

20. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were invited to declare any relevant interests. None were received.

21. APOLOGIES FOR ABSENCE:

No apologies were received.

22. APPLICATION FOR REVIEW OF A PREMISES LICENCE:

The Sub-Committee was presented with a report by the Group Manager, Public Protection which enabled Members to consider an application by the Council's Environmental Health Department for a review of the premises licence held in respect of Little Nan's Cafe, Unit 3, Cherry Park, South Road, Chapel St Leonards, PE24 5TS.

The review application was submitted by the Environmental Health Team under the provisions of Section 51 of the Licensing Act 2003.

The Environmental Health Team was seeking the removal of the live music licensing exemption from the premises (specifically the outdoor areas in the vicinity of Little Nan's) and the addition of licence conditions controlling the provision of outdoor music at the site. The Team was asking that the outdoor provision of amplified regulated entertainment be limited to a maximum of 3 days per calendar year.

The application for review had not attracted representations from the other Responsible Authorities (e.g. Lincolnshire Police, Lincolnshire Fire & Rescue, however two representations had been received from other parties in support of the licence review submitted by the Environmental Health Team.

The Principal Licensing Officer outlined the recommendations available to the Sub-Committee, page 2 of the report refers.

Mr Jon Dixon, Environmental Protection Officer, was invited to make his representation to the Sub-Committee.

The Environmental Protection Officer informed Members that the licence review was taking place following numerous complaints relating to noise coming from Little Nan's Café between May and September 2023. Details of the complaints were included in the evidence pack, pages 7 to 8 refer, submitted by the Environmental Health Team.

The Environmental Protection Officer relayed the supporting information set out in the application for the review to Members, which was included in the Agenda pack. Reference was made to the grounds for review, which included:

- The outdoor music and amplified voices provided in the immediate vicinity of the licensed area of the premises being completely unacceptable.
- Outdoor entertainment taking place during the spring, summer and autumn, weather permitting, as well as occasionally during the week and school holidays.
- A planning issue with the site as Planning Enforcement had deemed that planning permission was required to change the use from a café to a predominantly drinking establishment where entertainment was provided outside.

- No specific music provisions within the licence. The entertainment was provided within the live music exemption and Environmental Health was requesting that the Committee removed the exemption that allowed music (live music, karaoke and recorded music).
- A restriction on outdoor music activity to three event days per year.
- Guidance on Music Noise Levels.

The Environmental Protection Officer made further reference to the following, all of which were outlined in the evidence pack:

- A letter sent to the Premises Licence Holder and the Designated Premises Supervisor (DPS) on 15 May 2023, with regards to the frequency of the music that was being provided and the level of noise (Exhibit 2 in pack).
- A telephone call with Mr Harris of Plaice on the Park Limited on 16 May 2023.
- A monitoring exercise carried out in mid-June 2023 by Officers from the Environmental Health Team.
- A letter sent to the Premises Licence Holder and the Designated Premises Supervisor on 5 July 2023 (Exhibit 4 in pack).

The Environmental Protection Officer referred to a period of monitoring in July to September 2023, where he deployed noise equipment in one of the properties close to Little Nan's Café. He advised Members that there was music but not as many outdoor activities due to wet weather, however, concert level noise was happening on a frequent basis.

During a monitoring session on 9 September 2023, the music levels were extreme at mid to high 50 decibels and the outdoor level would have been higher.

Details relating to Mr Kheng's request for a noise limiter, alternative speakers, the occurrence of outdoor music days and a terminal hour of 21:00 hours were addressed in the email from the Environmental Protection Officer to Mr Kheng, dated 13 December 2023.

The Environmental Protection Officer outlined some conditions, as referred to in the email dated 13 December 2023, for the Sub-Committee's consideration, in relation to allowing music/entertainment on more than three days per year. He also reiterated that the favoured outcome was to remove the live music exemption from the outdoor areas and for occasional outdoor music provision to be restricted to three days per year and then no additional conditions would need to be applied. If, however, Members considered that was too restrictive in terms of the amount of activity and decided to remove the live music on the coast any differently to other parts of East Lindsey. The Principal Licensing Officer responded that they did recognise the difference between the coast and the rest of the East Lindsey district.

Mr Kheng advised Members that he had heard the sound recordings and was happy that they were not being played as evidence at the hearing. He requested some clarity on the noise recording equipment and queried whether, once installed into a premise, someone could stop the recording. In response, the Environmental Protection Officer advised that the equipment was set to record for a certain length of time.

Several questions were directed to the Environmental Protection Officer with regards to the ability to move the equipment and he advised that once in place, the cable wasn't long enough for it to be moved and a disturbance or interruption to the power would be evident. He was confident that the equipment had not been removed.

Mr Kheng was invited to make his representation to the Sub-Committee.

Mr Kheng informed Members that there was a minimum of 4000 caravans based in Chapel St Leonards and out of all of those caravans, only four or five complaints had been received.

Mr Kheng highlighted that Mr Toyne, operator of JT's, across the road from Little Nan's Café and the location of the noise recording equipment had submitted a complaint and supported the licence review, however was not present at the hearing.

Members were informed that Little Nan's was a café, not a bar and had under-performed over the years. It was taken over in 2022 by Mr Harris who had a good relationship with Mr Toyne but the relationship became strained when Little Nan's Café started to do well.

Members were referred to a letter from Mr Toyne, page 41 of the report pack refers, the content of which related to Mr Toyne receiving a complaint for having one speaker playing music outside, which he was subsequently asked to remove.

Reference was made to an aerial photograph, page 1 of the Premises Licence Holders Documentary Evidence Bundle refers, showing the location of several establishments that provided entertainment and music in the vicinity of Little Nan's Café, with some competing against each other. It was highlighted to Members that it was a holiday resort, not a sleepy village, with in excess of 15,000 to 20,000 people there during the summer season.

Members were referred to a map showing where the complaints had come from, page 8 of the evidence bundle refers, and were asked to note the distance from those locations to Little Nan's Café. It was pointed out that there were also a large number of caravans in between those locations that hadn't made a complaint.

Mr Kheng referred to the map on page 1 of the evidence bundle, along with a letter of complaint from Mr Broadhurst, page 39 of the report pack refers, and questioned why this was the only letter of complaint to have been received

when there were many caravans located between Mr Broadhurst in The Beeches and Little Nan's Café.

Members were further referred to the remaining aerial photos, pages 3 to 7 in the evidence bundle refer and the submissions of support, pages 9 to 10 refer.

Mr Kheng referred Members to page 13 of the report which showed the licensed area at Little Nan's Café and advised that the premises licence did not cover the outside area. Reference was also made to paragraphs 16.42, 16.43 and 16.44 from the Section 182 Guidance, page 11 of the evidence bundle refers. Mr Kheng commented that they were of the opinion that the area in front of Little Nan's Café was not a beer garden as anyone could access it and the area in front of the café was not included on the lease.

He also informed Members that there would be nothing to prevent the chip shop having live music in that area and that there were a number of tables outside the premises with no segregation between the areas, page 3 of the evidence bundle refers. It was an open area and therefore they would consider it a workplace, not a beer garden.

Mr Kheng further advised the Sub-Committee that they could remove the right for deregulation on the licence, however the deregulation licence wasn't being used outside as this area was being used as a workspace. Mr Kheng also stated that the Licensing Act hearing was not the appropriate place to be discussing this matter as it wasn't a licensed activity taking place under the Licensing Act 2003.

Mr Kheng commented that he couldn't see how the Sub-Committee would be able to condition the licence as the fish shop would be able to provide live music in the outside area. Mr Harris operated the fish shop, as well as Little Nan's Café.

Members were then invited to put questions to Mr Kheng.

Following which, a discussion ensued with regards to what constituted a beer garden further to a request from the Principal Licensing Officer, with Members being referred back to the Section 182 Guidance.

The Principal Licensing Officer referred to note 67 within paragraph 16.43 of the Section 182 Guidance, page 11 of the evidence bundle refers, and stated that he interpreted that note to looking at each case on its own merits.

The Legal Advisor queried who owned the benches outside Little Nan's Café and was advised that Cherry Park owned them and they also owned the bins although Mr Harris' team emptied them.

The Legal Advisor had a query with regards to a child in the photo of the outside area and asked whether the child was working. Mr Kheng responded

that the child was not working and that entertainment was taking place which made the area a work place.

A Member queried how Little Nan's Café would be affected if the licence was removed. Mr Kheng advised that the chip shop would provide entertainment.

A Member queried who paid for the entertainment. Mr Kheng confirmed it was currently paid by Little Nan's Café, however Cherry Park or the chip shop could pay for it. It was also confirmed that Mr Harris ran the convenience store.

Following a query from the Principal Licensing Officer with regards to Mr Kheng not providing a copy of the premises lease to back-up his comments, Mr Kheng responded that there was no underhand reason why it hadn't been provided and was happy to provide the documentation if required.

Following which, both parties summed up their case.

N.B the Committee retired for their deliberation at 12:51pm

N.B the Committee re-convened at 1:24pm

The Licensing Sub-Committee read and heard all of the information before them. In particular, the Sub-Committee noted the Section 182 Guidance to Licensing Authorities, specifically paragraphs 16.42 to 16.44.

Having listened to the representations, the Sub-Committee were of the opinion that the area (adjacent to the Little Nans premises) was a workplace, in this case operating as a beer garden. However, they noted that the area was under the control and management of the Cherry Park site and not Little Nan's Café on its own, acknowledging that entertainment was currently booked through Little Nan's Café but could be arranged by others. With this in mind, the Sub-Committee did not feel that it was appropriate to impose conditions on Little Nans Premises licence.

For the avoidance of doubt, the Sub-Committee accepted that there was a noise problem in that area which was causing a nuisance and needed to be addressed. It also noted that the premises licence holder's representative acknowledged the same and indicated that the premises was prepared to work with the Environmental Health Team on the issue.

Following which, it was

RESOLVED

That the licence remained in the form it was granted.

Mr Dixon was advised of his Right to Appeal to the Magistrates Court against the above decision.

Any appeal must be made to the Lincoln Magistrates Court, The Court House, 358 High Street, Lincoln, LN5 7QA, (Tel: 01522 528218) within 21 days of the date of the decision notice.

The Meeting closed at 1.26 pm.

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