

## Licensing Act 2003

### Representation by a Responsible Authority

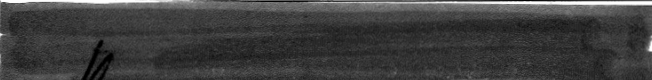
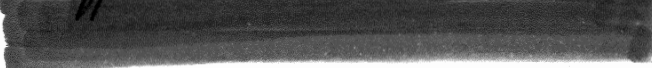
**Note:** Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the Licensing Act 2003 Committee hearing.

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority.

Representations are only relevant to an application if they relate to at least one of the four Licensing Objectives listed below:

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

Please enter your details below:

Responsible Authority:	Lincolnshire Police
Contact Officer:	PC 1299 Rebeka Casey
Address:	Myle Cross Centre, Macauley Drive, Lincoln
Telephone Number:	
E-mail:	

Please provide details of the application to which your representation refers:

Name:	Mr Janushanth Thuraisingam
Address:	103-105 Newmarket, Louth
Application Details:	New premises licence
Date Application Received:	08/03/22

Please provide details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box(es):

- **The Prevention of Crime and Disorder**
- **Public Safety**
- **Prevention of Public Nuisance**
- **The Protection of Children from Harm**

**Representation:**

In relation to this application, the following Guidance issued under Section 182 of the Licensing Act 2003 has been considered whilst the majority listed relates to the review process it is deemed relevant to this case due to the history.

**2.6** The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

**11.24** A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

**11.25** Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

**11.26** Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at

the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

**11.27** There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

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

**11.28** It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Lincolnshire Police also consulted the below stated case which saw East Lindsey District Council highlight how illegal working within licenced premises and its correlation to the crime prevention objective should be viewed.

**East Lindsey District Council v Abu Hanif in 2016** involved and illegal worker on a licenced premises within Lincolnshire in 2014. A civil penalty was issued by Immigration and the premises licence was reviewed and revoked. A subsequent appeal was successful based on the argument that a civil penalty was not a prosecution so did not concern the crime prevention objective. ELDC further appealed that decision by way of case stated, arguing that it was not necessary for a crime to have been reported, prosecuted, or established in a court of law for the crime prevention objective to be engaged. That the licensing objectives were prospective and were concerned with the avoidance of harm in the future. Mr Justice Jay upheld the Councils appeal, citing defrauding the Revenue and exploitation of vulnerable individuals by not paying minimum wage as evidence of the commission of criminal offences, and the fact that the employee could not provide the required paperwork, as clear inference that Mr Hanif well knew that he was employing an illegal worker.

Lincolnshire Police have had considerable involvement with the Louth Premier Store since March 2021. Pc Casey made two visits to the premises between March and May 2021 and found breaches of Annex 2 conditions, non-price marked items, an absent premises licence holder and an illegal worker. Following these visits Lincolnshire Police submitted a licence review application which was heard by the licensing committee on 14th July 2021. At that hearing the premises licence was revoked and no appeal was made against the decision.

During the above period the premises licence holder and designated premises supervisor was believed to be absent. On each visit Police encountered a Mr Thuraisingam Kirushanth who claimed to be taking over the business. The research carried out provided evidence to suggest that Mr Kirushanth had been in control of the business since February 2021 (and thus at the time the illegal

worker was found). He had, however, not completed the relevant transfer paperwork to put the premises licence into his name and nominate himself as DPS.

In August and September 2021 Mr Kirushanth applied for 3 temporary event notices all of which were objected to by Lincolnshire Police. The applicant withdrew the TEN's at the subsequent hearing.

In late 2021 PC Casey received various draft applications for a new premises licence in the name of Mr Kirushanth. Mr Kirushanth and his legal representative were told that the position of Lincolnshire Police had not changed and that a representation would be made if a formal application were to be submitted. Lincolnshire Police did not have any confidence in Mr Kirushanth as he was in control of the business at the time of the serious failings earlier in the year not least the employment of an illegal worker.

This latest application for a premises licence was received 8<sup>th</sup> March 2022 with the applicant – Mr Janushanth Thuraisingam - being the brother of the previous occupier Mr Kirushanth. At the time of the application 3 TEN's were also applied for by Mr Thuraisingam.

The first TEN was late and so a counter notice was served following the Police's objection. The 2 remaining TENS also received objections from Lincolnshire Police and were withdrawn by the applicant.

The reason behind this representation is the same as the reason for the most recent TEN objections. Lincolnshire Police do not believe that the applicant has provided sufficient evidence to prove that there has been a genuine take over of the Louth Premier Store. The Police have requested evidence in the form of a business sale, lease agreement, movement of monies, utilities, business rates, VAT registration, companies house registration etc. Some paperwork has been provided but the context of this is still not understood.


A business/lease agreement has been submitted by the applicant but it lacks in detail. It appears to be a rental agreement for the business and space for a year but also presents as though Mr Kirushanth still has an element of control with the agreement being able to cease at any time.

Lincolnshire Police have asked for evidence of movement of money, as past experience has shown that when asked for evidence, much like this time, paperwork is completed around the date the evidence is asked for, yet actual bank statements to show the movement of money which should have been conducted according to the paperwork is less forthcoming. According to the agreement we should see 3 months rent paid before 3<sup>rd</sup> March.

Lincolnshire Police have concerns that Mr Kirushanth is still involved in the day to day management of the Louth Premier Store. Pc Casey attended the shop on 9<sup>th</sup> March 2022 and encountered the applicant working within the premises. At the time of the visit Pc Casey was unaware of the licence application and so asked Mr Thuraisingam if Mr Kirushanth was available to which he said not but he went on to say that he should be back soon as he had only gone to B & Q. This confirms that Mr Kirushanth is still around and no conditions have been offered in the premises licence application to state that he will have nothing to

do with the business.

Since this application was received Lincolnshire Police have carried out some checks on Mr Thuraisingam.



The applicant has applied for a personal licence with Nuneaton and Bedworth Licensing Authority as this is the area in which he resides. To date we are not aware that the personal licence has been granted which clearly is a further risk to the licensing objectives.

Lincolnshire Police are concerned that Mr Kirushanth is still behind this business. He is still showing on a VAT registration search as linked to the premises (VAT ID GB 368173668) and this is unchanged since February 2021.

If possible, please suggest alterations to the application that would resolve the problem mentioned above, again paying attention to the **Licensing Objectives:**

Lincolnshire Police are not satisfied that the applicant is going to take full control of this premises or do so separately from his brother who previously employed an illegal worker. Neither do Lincolnshire Police have confidence in the applicant's ability to uphold the licensing objectives given [REDACTED]

Should the committee be satisfied that the applicant has provided sufficient evidence to show that Mr K is not involved with the business and they have the fullest of confidence with Mr T and his ability to robustly promote the licensing objectives at a problem premises, then Police respectfully ask that the following conditions be considered:

### **General**

Mr Thuraisingam Kirushanth shall not be employed in any capacity at the premises. To clarify, Mr Kirushanth shall not have day to day control or supervision of the business, hold a position of responsibility and should have no connection with the business including working in the premises. Mr Kirushanth shall not be appointed by the premises licence holder (or his/her nominated representative) to any management position, senior position or supervisory position within the business

A CCTV system shall be installed, recording and maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police, specifically:

- a) There shall be a minimum of one high resolution colour camera, fitted in a weatherproof housing, for external coverage of the entrance.
- b) There shall be a minimum of one high-resolution colour camera fitted to each public entrance/exit. To provide a quality head and shoulder image for facial recognition/identification purposes of all persons entering the premises.
- c) There shall be sufficient cameras able to cope with the normal operating illumination to reasonably cover all licensed public areas.
- d) Recordings must be kept for a minimum of 31 days and endorsed with the accurate, correct time/date (BST/GMT adjusted).
- e) Police and/or Authorised Licensing Officers shall be able on attendance to view immediate playback of any incident without the necessity for download.
- f) Recordings of incidents at the premises must be provided to the police following lawful request.
- g) A member of staff shall be on the premises at all times they are open to the public who is capable of operating the CCTV system and providing recordings on request. When this is not possible recordings shall be provided within 24 hours of the original request.
- h) Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.
- i) All equipment shall have constant time/date generation, which must be checked for accuracy on a daily basis.
- j) The CCTV system should be maintained and checked every 12 months, with the installing company, or if this is not possible another reputable company, producing a letter of compliance.
- k) In the event of a system malfunction, the Designated Premises Supervisor or

the Premises Licence Holder must immediately record details of this malfunction in the premises refusals/incident book. Arrangements for its repair must be made without delay.

### **Prevention of crime and disorder**

Right to work checks shall be conducted on all potential employees prior to their employment in any capacity at the premises. Checks shall be conducted in accordance with the Home Office Code of Practice for Employers as current at that time <https://www.gov.uk/view-right-to-work>.

Written records of right to work checks shall be retained and contain the following information:

- Date of the check
- Identity of the individual (full name, date of birth, country of origin)
- Documents checked with copies of said documents
- Result of the check
- Date for re-check if required according to the individual status.

The designated premises supervisor shall ensure that they and staff who are authorised to sell alcohol, are able to converse with customers and representatives of Statutory Agencies to a level that they are able to satisfactorily meet the four licensing objectives as contained in the Licensing Act 2003.

I. The Prevention of Crime and Disorder

II. Public Safety

III. The Prevention of Public Nuisance

IV. The Protection of Children from Harm

No persons shall sell or supply alcohol at the premises without the written authority of the premises licence holder and all such written records shall be kept securely and made available for inspection to the responsible authorities at their request.

### **Public Safety**

An incident/refusals book shall be kept at the premises, in which details of crime and/or disorder relating to the premises shall be recorded. The Incident book shall contain the following details;

Time, date and location of incident/refusals.

Nature of the Incident/refusal.

Names, addresses and contact details of persons involved.

Result of the incident/refusals.

Action taken to prevent further such incidents.

Each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS; and

Retained for a period of no less than 12 months and made available to Lincolnshire Police for inspection upon request.

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

The premises shall operate the "Challenge 25" Proof of Age Policy to prevent the sale or supply of alcohol to persons under 18 years of age. The policy shall require any person who appears to be under the age of 25 years to produce one of the following forms of identification:

A recognised proof of age card credited under the British Retail Consortiums

Proof of Age Standards Scheme (PASS);

Photo driving licence;

Passport.

Notices shall be prominently displayed advising customers of the "Challenge 25" policy

All point of sale staff shall undergo training in the challenge 25 proof of age scheme and all other relevant policies with a record kept of the date of training, signed by the member of staff and the trainer. Each entry shall be retained for a period of 12 months from date of completion. This record shall be made available for inspection by Lincolnshire Police Officers or other relevant authority.

*\*Lincolnshire Police request that the applicant submit any paperwork, which will evidence the transfer of the business to Mr Thuraisingam, in a timely manner to enable full scrutiny of the documents. This will lesson any likelihood of an adjournment.\**



Have you contacted the applicant to discuss this representation?

Yes  No

Have you contacted the Licensing Team to discuss this representation?

Yes  No

Do you consider further discussion could resolve the issue?

Yes  No

Do you propose to attend or be represented at any Committee hearing?

Yes  No

Please tick this box if you consent to any notice of any hearing being sent to you to the e-mail address provided by you above.

(please note if any notice is sent to you by electronic means, you will also receive confirmation of the same in writing).

Please return this form to the following address:

**Licensing Team  
East Lindsey District Council  
Tedder Hall  
Manby Park  
LOUTH  
Lincolnshire LN11 8UP**