



REPORT TO:	LICENSING ACT 2003 SUB-COMMITTEE
DATE:	16 MARCH 2023
SUBJECT:	APPLICATION FOR VARIATION OF A PREMISES LICENCE – TENNYSON LODGE, 61 VICTORIA ROAD, MABLETHORPE, LN12 2AF
PURPOSE:	To consider an application to vary the premises licence for Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2AF. The application has received representations from local residents.
REPORT OF:	Assistant Director – Regulatory.
REPORT AUTHOR:	Mr Adrian Twiddy (Principal Licensing Officer)
WARD(S) AFFECTED:	Mablethorpe
EXEMPT REPORT?	The content of this Report is not exempt from publication.

SUMMARY

This report considers an application by Mr Sunny K N Odedra for variation of the premises licence in respect of Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2AF.

The premises licence variation application seeks to remove conditions from the premises licence which restrict the supply of alcohol to persons taking table meals at the premises and persons residing at the premises (e.g., hotel guests) and their bona fide guests. The variation application does not seek to amend the licensing hours for the premise.

Seven representations, regarding the licence variation application, has been received from local residents.

RECOMMENDATIONS

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

- To modify the conditions of the licence
- To reject the whole or part of the variation application

If none of the above steps is considered appropriate the variation application should be granted in the form it was made.

REASONS FOR RECOMMENDATIONS

The Licensing Authority must hold a hearing to consider the representations - unless the representations are withdrawn by the local residents.

All parties within the licensing process must seek to promote the licensing objectives as defined under the Licensing Act 2003. The 2003 Act sets out the steps which the Licensing Authority may take when considering a representation regarding a premises licence application.

OTHER OPTIONS CONSIDERED

Not Applicable - Under the terms of the Licensing Act 2003 this Authority must consider the representations and the premises licence variation application.

1. BACKGROUND

1.1. Premises Licence Applicant: Mr Sunny K N Odedra.

1.2. Application: The application, subject of this Report, is to vary a premises licence under Section 34 of the Licensing Act 2003.

1.3. Premises: Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2AF. A plan showing the location of the Tennyson Lodge is attached at **Appendix A** of this Report. An extract from the current premises licence for the site can be found at **Appendix B** of this Report.

1.4. The premises licence variation application seeks to remove conditions from the premises licence which restrict the supply of alcohol to persons taking table meals at the premises and persons residing at the premises (e.g., hotel guests) and their bona fide guests. The variation application does not seek to amend the licensing hours for the premise.

1.5. Designated Premises Supervisor (DPS): The DPS for the site is Mr Sunny K N Odedra whose personal licence was issued by Oadby & Wigston Borough Council in March 2022.

2. REPORT

2.1. The premise comprises a guest house on the first and second floors with a bar, restaurant and kitchen on the ground floor. The premise was previously known as the Leicester Guest House and prior to November 2005 it held a justice's residential and restaurant alcohol licence with the Magistrates Court. That Justice's Licence restricted alcohol sales to persons taking table meals and persons residing at the premises and their bona fide guests.

2.2. In 2005, under the terms of the Licensing Act 2003, alcohol licensing became the responsibility of the Local Authority and not the Magistrates Court. Under the transitional arrangements in place at that time the Leicester Guest House applied to convert its justice's licence to a premises licence with this Authority. The transitional arrangements allowed licence holders at the same time to seek the removal of restrictions on their licences which had been imposed by the Magistrates Court. The Leicester Guest House

applied for a straight-forward conversion of the licence with its existing restrictions regarding table meals and residents remaining in place. The Leicester Guest House did not seek the removal of any conditions on the licence or the amendment of the licensing hours. The licence conversion application was granted by Officers in 2005 acting under delegated powers.

- 2.3.** In April 2022 the premises licence was transferred to Mr Sunny K N Odedra and he was also appointed as DPS for the venue at the same time. At this point the business also appears to have changed its name from the Leicester Guest House to Tennyson Lodge. Mr Odedra is now seeking the removal of the licence conditions that were converted across from the Justice's Licence in 2005.
- 2.4.** The premises is currently authorised to undertake the supply of alcohol (for consumption on and off the premises) Monday to Saturday 1000 to 0000 Hours and Sunday 1200 to 2330 Hours. There is no time restriction regarding the supply of alcohol to persons (e.g., hotel guests) residing in the premises. The authorised hours for late night refreshment are Monday to Saturday 2300 to 0030 Hours and Sunday 2300 to 0000 Hours. As with alcohol sales there are no time restrictions regarding the supply of late-night refreshment to persons residing in the premises. With both alcohol and late-night refreshment there are extended hours on New Year's Eve – see the copy licence at **Appendix B** of this Report.
- 2.5.** As required under the terms of the Licensing Act 2003 the premises licence application has been advertised in the local newspaper and also outside the premise. Details of the application were also displayed on the Council's website. Persons, including those living and/or operating businesses in the vicinity of the premise, and the Responsible Authorities (e.g. Lincolnshire Police, Trading Standards, Health and Safety, etc.), were permitted to submit representations regarding the licence application. Any representation must relate to one or more of the licensing objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 2.6.** None of the Responsible Authorities (e.g., Lincolnshire Police, Lincolnshire Trading Standards, Lincolnshire Fire & Rescue, Health & Safety, etc.) have submitted a representation in relation to the licence application.
- 2.7.** Prior to the submission of the licence variation application the premises licence holder held detailed discussions with Lincolnshire Police. As a result of those discussions the applicant has volunteered steps in relation to:
- Adoption of a Drugs Policy for the venue.
 - Provision of CCTV.
 - Maintenance of an Incident / Sales Refusals Book.
 - Adoption of the Challenge 25 Proof of Age Scheme.
 - Staff Training.
 - Customer Notices asking customers to leave the premises quietly.

All the above are steps recommended as good practice in this Authority's Statement of Licensing Policy.

2.8. Seven local residents have made representations in relation to the premises licence variation application. Redacted copies of the representations are attached at **Appendix C** of this Report. The representations have been made by:

- Gareth Rowland and Jill Rowland
- Martin Lee and Glenis Lee
- Graham Allen and Sue Allen
- Helen Lanzetta
- Robert Bowen and Joanne Bowen
- Neisha Manning
- Darren Hastings

Contact details / addresses have been removed from the copies at **Appendix C**.

Unredacted copies of the representations will be available at the hearing for Members of the Licensing Sub-Committee.

2.9. Anyone who may be affected by an application for a new licence or variation to an existing licence can make a representation. In order for a representation to be deemed relevant it needs to relate to the likely effect of the application on the promotion of the licensing objectives.

2.10. Under the terms of the Licensing Act 2003, an operating schedule forms a part of the premises licence application process. The operating schedule outlines what activities are proposed, when these activities will take place, the overall opening hours and how the activities will be managed, particularly in respect of the licensing objectives. A critical part of the operating schedule is the section where the applicant describes the steps intended to promote the four licensing objectives. A copy of the applicant's intended steps to promote the licensing objectives, as a result of the variation application, can be found at **Appendix D** of this Report. As detailed in Paragraph 2.7 of this Report the steps were discussed and agreed with Lincolnshire Police.

2.11. A full copy of the premises licence variation application will be available for inspection at the licensing hearing if Members wish to do so.

2.12. Any evidence submitted by the applicant, in support of the licence application, will be forwarded to the Members of the Committee separate to this Report.

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

2.14. **Local Policy Considerations:** It is considered that the extracts from the Council's Local Statement of Licensing Policy, shown at **Appendix F** of this Report, have a specific bearing upon the premises licence application.

2.15. **Planning and Licensing:** Members are reminded that any decision of the Licensing Authority on an application for a premises licence does not relieve the premises user of any requirements under planning law for appropriate planning permission where it is required. With this in mind, Mr Odedra has been advised by the Council's Licensing Team that he may need to apply to the Planning Authority for Change of Use Consent to operate the Tennyson Lodge venue as guesthouse with a public bar.

2.16. **Planning – Agent of Change Principal:** For information Members are advised that when there is an application for planning permission (including changes of use), which could have a significant adverse effect in the vicinity, the National Planning Policy Framework indicates the applicant (or 'Agent of Change') should be required by the Local Planning Authority to provide suitable mitigation before the development has been completed. This will be a consideration for the Planning Authority, in relation to the Tennyson Lodge, should an application for change of use be required. In simple terms the 'Agent of Change Principle' encapsulates the position that a person or business introducing a new land use is responsible in planning terms for managing the impact of that change.

3. CONCLUSION

3.1. The Licensing Act 2003 sets out options which the Licensing Authority can utilise in order to promote the licensing objectives following the consideration of a premises licence variation application (which has received a valid representation). Any step taken by the Licensing Authority must be appropriate for the promotion of the licensing objectives. The licensing objectives are detailed in Paragraph 2.5 of this Report.

3.2. The steps open to the Sub-Committee include refusing to grant the premises licence variation application. Alternatively, there is the option of rejecting part of the licence variation application. Such a step or any other amendment to the licence variation application must only be taken if the Sub-Committee are persuaded that there is clear potential for harm resulting from the use of the premises in the licence application's current form. If the Sub-Committee considers that there is no potential for harm and no steps are necessary, then the licence variation application should be granted in the form it was made.

3.3. The Sub-Committee should examine the potential for harm and if it is satisfied that this is real, it should take sufficient and reasonable measures to prevent this harm from occurring. The Sub-Committee should only refuse the licence variation application if it is of the opinion that no lesser step would ensure compliance with the licensing objectives.

EXPECTED BENEFITS TO THE PARTNERSHIP

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

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP

There are no SELCP implications.

CORPORATE PRIORITIES

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

STAFFING

The processing of this premises licence variation application is being undertaken as part of the normal duties carried out by the Licensing Team and so there are no staffing implications.

CONSTITUTIONAL AND LEGAL IMPLICATIONS

1. The Sub-Committee must consider the application for variation of a premise licence and having regard to the representations, take such of the steps mentioned below (if any), as they consider appropriate for the promotion of the licensing objectives. The steps are:

- To modify the conditions of the licence
- To reject the whole or part of the variation application

If none of the above steps is considered appropriate the variation application should be granted in the form it was made.

2. The licensing objectives are:

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

3. Both the applicant and any person / body making relevant representations may appeal any decision made by the Sub-Committee to the Magistrates Court. On determining an appeal, the Court may:

- Dismiss the appeal.
- Substitute for the decision appealed any other decision which could have been made by the Licensing Authority, or
- Remit the case to the Licensing Authority to dispose of in accordance with the direction of the Court.

4. The conditions of the licence are modified if any of them are altered or omitted or any new condition is added. Conditions can only be attached to a premises licence if they are considered appropriate for the promotion of the licensing objectives.

5. If consideration is being given to attaching conditions, Members should consider, are the proposed conditions:

- Appropriate;
- Relevant;
- Relevant to the activity/premises/venue;
- Enforceable;
- Precise;
- Reasonable, and

- Achievable.

6. The breach of a premises licence condition is an offence punishable (if the Licensing Authority or Lincolnshire Police are minded to prosecute) by an unlimited fine and/or six months imprisonment.

7. The Licensing Authority's determination of the licence application should be evidence-based. Any decision must be justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

DATA PROTECTION

The contact and address details relating to the persons submitting representations have been redacted for data protection purposes.

FINANCIAL

The processing of this premises licence variation application is being undertaken as part of the normal duties carried out by the Licensing Team with no additional costs involved. The premises licence application fee in this case is £190.00.

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

RISK MANAGEMENT

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

STAKEHOLDER / CONSULTATION / TIMESCALES

The representations from the Responsible Authority and other parties were received within the requisite 28-day period.

REPUTATION

There is a risk that the Council's reputation could be damaged if licensing legislation and guidance are not upheld and applied appropriately.

CONTRACTS

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

CRIME AND DISORDER

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

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

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

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

The premises applicant is entitled to a fair hearing; Article 6 of the European Convention on Human Rights applies. The Human Rights of the wider community are also engaged.

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

HEALTH AND WELL BEING

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

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

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

ACRONYMS

DPS - Designated Premises Supervisor

APPENDICES	
Appendices are listed below and attached to the back of the report: -	
APPENDIX A	Location plan of Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2AF.
APPENDIX B	Extract from the current premises licence for Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2AF.
APPENDIX C	Representations by Local Residents in respect of the premises licence variation application for Tennyson Lodge, 61 Victoria Road, Mablethorpe, LN12 2AF.
APPENDIX D	Extract from the Premises Licence Variation Application – Steps the Applicant Intends to Take to Promote the Licensing Objectives.
APPENDIX E	Extracts from the Guidance Issued by the Home Office Under Section 182 of the Licensing Act 2003.
APPENDIX F	Extracts from the Local Licensing Policy Statement.

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

under Section 182 of the Licensing Act 2003	
The Council's Statement of Licensing Policy adopted under the Licensing Act 2003.	https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment

CHRONOLOGICAL HISTORY OF THIS REPORT

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

REPORT APPROVAL

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