



REPORT TO:	LICENSING ACT 2003 SUB-COMMITTEE
DATE:	24 AUGUST 2023
SUBJECT:	APPLICATION FOR REVIEW OF A PREMISES LICENCE – SOCIAL 22, 22 VICTORIA ROAD, MABLETHORPE, LN12 2AQ (SUMMERS ENTERPRISES LIMITED)
PURPOSE:	This Report considers an application by Lincolnshire Police for a review of the premises licence held in respect of Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ.
REPORT OF:	Group Manager Public Protection.
REPORT AUTHOR:	Mr Adrian Twiddy (Principal Licensing Officer)
WARD(S) AFFECTED:	Mablethorpe
EXEMPT REPORT?	The content of this Report is not exempt from publication. However, a confidential evidence pack will be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report. The evidence pack is exempt from publication – the pack is not for publication by virtue of Paragraphs 1, 2 & 7 of Part I of Schedule 12A of the Local Government Act 1972.

SUMMARY

This Report considers an application by Lincolnshire Police for a review of the premises licence held in respect of Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ. The review application has been submitted by Lincolnshire Police under the provisions of Section 51 of the Licensing Act 2003.

The Police are seeking the suspension of the premises licence together with the removal of the Designated Premises Supervisor (DPS). However, the Police have indicated that if the premises licence holder is 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 has not attracted representations from the other Responsible Authorities or Other Parties.

RECOMMENDATIONS

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

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

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

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

REASONS FOR RECOMMENDATIONS

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

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

OTHER OPTIONS CONSIDERED

Not Applicable - Under the terms of the Licensing Act 2003 this Authority must consider the premises licence review submitted by the Responsible Authority. There is no other option but to undertake and complete the review of the premises licence.

1. BACKGROUND

1.1. Premises Licence Number: PLA040018.

Licence Holder: Summers Enterprises Limited (Mr Spencer P Summers and Ms Lana D Summers are the Directors of the Company).

Premises: Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ (Also, known as Envy).

Designated Premises Supervisor (DPS): The DPS for the site is Mr Spencer P Summers whose personal licence was issued by Durham County Council.

1.2. This case involves an application for a review of a premises licence (Section 51 of the 2003 Act refers) by Lincolnshire Police. The Police have indicated that in their view the application to review relates to all of the licensing objectives. A redacted copy of the

application for review is attached at **Appendix E** of this Report. The premise has not been subject of any previous premises licence reviews.

- 1.3. A plan showing the location of the premises can be found at **Appendix A** of this Report. A plan showing the internal layout of the premises can be found at **Appendix B**. A photograph, showing the front of the premises, is at **Appendix C**.
- 1.4. The premises is currently authorised to undertake the supply of alcohol (for consumption on the premises) during 1100 to 0300 Hours (with extended hours from New Year's Eve into New Year's Day). The terminal hour for regulated entertainment is 0300 Hours (again with extended hours during the New Year period). A full extract from the premises licence for the business can be found at **Appendix D** of this Report.
- 1.5. The premises licence for this venue was granted on 24 November 2017. The business operates over two floors as a public house and nightclub. The business also uses the operating name of 'Envy'.

2. REPORT

- 2.1. The Licensing Authority has a duty to consider the status of a premises licence where a review has been submitted by a Responsible Authority. This duty has been delegated to the Licensing Sub-Committees of the Full Licensing Act 2003 Committee.
- 2.2. In this case Lincolnshire Police are of the view that the management of the premises has been operating in a poor manner. The Police have provided evidence that the premises licence holder has not complied with the conditions attached to the premises licence. The Police indicate that their warnings of concerns and the need for improvement have gone unheeded by the management of the licensed premises.
- 2.3. The Police application for review lists incidents and failings at the premises from July 2018 to June 2023. Once these issues had been highlighted to the premises licence holder and DPS, the Police indicate that the premises management failed to make efforts to correct them.
- 2.4. The Police are seeking the suspension of the premises licence together with the removal of the DPS. However, the Police have indicated that if the premises licence holder is 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.
- 2.5. The Police have concerns regarding the performance of Mr Spencer P Summers in his role as DPS for the premises. In relation to the role of DPS this Authority is of the view that the main purpose of the DPS is to ensure that there is always one specified individual, among the personal licence holders at a premise, who can be readily identified for the business where the sale of alcohol is permitted. The premises licence holder will normally have given that person day-to-day responsibility for running the premises.
- 2.6. A redacted copy of the Police's application for premises licence review (including the grounds for the review) can be found at **Appendix E** of this Report. The review application

is accompanied by confidential supporting documentation and evidence. A copy of the confidential evidence pack (including an unredacted copy of the review application) will be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report. Copies of any evidence pack, submitted by premises licence holder, in support of their case and any additional evidence submitted by the Police, will also be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report.

2.7. As required under the terms of the Licensing Act 2003 the review application has been advertised outside the premise, at the Council's Horncastle Offices and on the Council's website, for a period of 28 consecutive days. The Responsible Authorities (e.g. Lincolnshire Trading Standards, the Council's Environmental Health Team, etc.) and other relevant parties were permitted to submit representations regarding the review application. Any representation, made in relation to the review, must relate to one or more of the licensing objectives. The closing date for representations was 27 July 2023.

2.8. None of the Responsible Authorities have submitted a representation in relation to the premises licence review. There have been no representations received from Other Parties (e.g. local residents and local businesses).

2.9. The current premises licence for the site includes licence conditions in relating to:

- The Provision of SIA Registered Door Supervisors.
- Provision of CCTV and CCTV recording facilities at the premises.
- Maintenance of an Incident 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.

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

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

3. CONCLUSION

3.1. The Licensing Act 2003 sets out options which the Licensing Authority can utilise in order to promote the licensing objectives following the consideration of a premises licence review application. Any step taken by the Licensing Authority must be appropriate for the promotion of the licensing objectives. The licensing objectives are detailed in Point 3 of the Legal Implications Section of this Report.

3.2. The steps open to the Sub-Committee include suspending or revoking the premises licence. Alternatively, there is the option of amending the licence and/or removing the DPS. Such a

step or any other amendment to the premises licence must only be taken if the Sub-Committee are persuaded that it is appropriate for the promotion of the licensing objectives to do so.

- 3.3. The Sub-Committee must seek to establish the cause or causes of the concerns that the premises licence review identifies. The remedial action taken should be directed at these causes and should be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

EXPECTED BENEFITS TO THE PARTNERSHIP

Not Applicable.

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 review is being undertaken as part of the normal duties carried out by the Licensing Team and so there are no staffing implications.

LEGAL IMPLICATIONS

1. The power to review a premises licence is designed to provide the Licensing Authority with a suitable mechanism to tackle problems that may subsequently arise once a premise is licensed.
2. The Sub-Committee must consider the application for review of a premises licence and having regard to the application, take such of the steps mentioned below (if any), as it considers appropriate for the promotion of the licensing objectives. The steps are:
 - To modify the conditions of the licence.
 - To exclude a licensable activity from the scope of the licence.
 - To remove the Designated Premises Supervisor (DPS).
 - To suspend the licence for a period not exceeding three months.
 - To revoke the licence.

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

3. The licensing objectives under the Licensing Act 2003 are:
 - The prevention of crime and disorder
 - Public safety

- The prevention of public nuisance
- The protection of children from harm

3. Both the Police and the premises licence holder 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 new or amended conditions to the premises licence, 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 review 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.

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

DATA PROTECTION

A confidential evidence pack, in relation to the premises licence review, will be forwarded to the Members of the Licensing Sub-Committee under separate cover to this Report. The evidence pack is exempt from publication.

FINANCIAL

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

No representations, regarding the premises licence review, 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.

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 premise licence holder is entitled to a fair hearing. The right to respect for private and family life, also applies as the "licence" is crucial to the livelihood of the premises licence holder.

The Human Rights of the wider community are also engaged.

Safeguarding Implications: Licensing Authorities must consider the need to protect children and vulnerable persons from exploitation when undertaking licensing functions.

HEALTH AND WELL BEING

Not Applicable.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Not Applicable.

ACRONYMS

DPS - Designated Premises Supervisor

APPENDICES

Appendices are listed below and attached to the back of the report: -

APPENDIX A	Location plan of Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ.
APPENDIX B	Site Plan of Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ.
APPENDIX C	Photograph of Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ.
APPENDIX D	Extract from the current premises licence for Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ.
APPENDIX E	Redacted copy of the Premises Review Application submitted by Lincolnshire Police in respect of Social 22, 22 Victoria Road, Mablethorpe, LN12 2AQ.
APPENDIX F	Extracts from the Guidance Issued by the Home Office Under Section 182 of the Licensing Act 2003.
APPENDIX G	Extracts from the Local Licensing Policy Statement.

BACKGROUND PAPERS

Background papers used in the production of this report are listed below: -

Document title	Where the document can be viewed
Guidance issued by the Home Office to Licensing Authorities under Section 182 of the Licensing Act 2003	https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003
The Council's Statement of Licensing Policy adopted under the Licensing Act 2003.	https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment

CHRONOLOGICAL HISTORY OF THIS REPORT

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

REPORT APPROVAL

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