

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.