

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 1114 Gareth Crabb
Address:	Police HQ, Deepdale Lane, Nettleham, LN2 2LT.
Telephone Number:	07939887765
E-mail:	Gareth.crabb@lincs.police.uk

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

Name:	Sally Hewson
Address:	1 Victoria Road, Mablethorpe, LN12 2AF
Application Details:	New Premises Licence
Date Application Received:	18/11/24

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:

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

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 evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.

2.8 Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act.

8.15 Any person (if an individual aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period.

8.17 In considering joint applications (which is likely to be a rare occurrence), it must be stressed that under section 16(1)(a) of the 2003 Act each applicant must be carrying on a business which involves the use of the premises for licensable activities. In the case of public houses, this would be easier for a tenant to demonstrate than for a pub owning company that is not itself carrying on licensable activities. Where licences are to be held by businesses, it is desirable that this should be a single business to avoid any lack of clarity in accountability.

8.3 When considering conditions the Licensing Authority will look to the relevant responsible authorities to assist and advise on the appropriate measures to be taken.

In respect of new premises licence applications:

9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

9.12 Each responsible authority will be an expert in their own field...for example the police have a key role in managing the night-time economy... however, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent.

All of Section 11 guidance is based on reviews but deemed relevant to this representation:

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times.
- exclude a licensable activity from the scope of the licence, for example, to exclude the
- performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰.
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.
- suspend the licence for a period not exceeding three months.
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible, seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.23 But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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 ...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...

11.26 ...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.*
- for the sale or storage of smuggled tobacco and alcohol.*

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 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.

Crime and Disorder Act 1998 Section 17

Duty to consider crime and disorder implications.

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,

(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting

the local environment); and

(b) the misuse of drugs, alcohol and other substances in its area, and

(c) re-offending in its area...

*(2) This section applies to each of the following—
a local authority...*

The East Lindsey District Council Statement of Licensing Policy (January 2024) has also been considered and the following points are deemed relevant to this representation:

1.2 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the four licensing objectives. Each objective is of equal importance. It is important to note that there are no other licensing objectives.

The objectives are:

the prevention of crime and disorder.

public safety.
the prevention of public nuisance.
the protection of children from harm.

1.13 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the Police, local businesses and local people towards the promotion of the objectives as outlined.

3.10 In reaching a decision of whether or not to grant a licence, the Licensing Authority will take account of any non-compliance with other statutory requirements brought to its attention (by way of relevant representations), which undermine the licensing objectives. Non-compliance with statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

5.4 Prevention of Crime and Disorder.

In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on and do all it reasonably can to prevent crime and disorder in the district.

On 5th November 2024, Lincolnshire Police received a Premises Licence application from SPG Property Owners Ltd, to license the premises at 1 Victoria Road, Mablethorpe. The application was made on behalf of the business operating at 22 Victoria road, Mablethorpe, which is currently an Indian restaurant called Mo's Indian Cuisine. Mo's Indian Cuisine is managed by two persons, Noor Mohammed and Sally Hewson. The business operates an unlicensed Indian restaurant and intends to relocate to a recently renovated, larger premises at 1 Victoria Road, Mablethorpe. They intend to continue operating the business, Mo's Indian Cuisine, in the new premises but with an alcohol/entertainment licence.

Initial consultation between Lincolnshire Police and SPG Property Owners Ltd was made, and the plans for the premises were confirmed. SPG Property Owner Ltd wanted to get a Premises Licence in place before transferring this to Sally Hewson and Noor Mohammed to operate Mo's Indian Cuisine at 1 Victoria Road. Lincolnshire Police advised the application would be more appropriate if submitted in name of the applicants intending to run the business rather than the agent representing them. They were also informed that Lincolnshire Police had concerns with the applicants intending to run the business and a representation was likely to be submitted.

On 13th November 2024 SPG Property Owners Ltd withdrew the application.

On 18th November 2024, the application for 1 Victoria Road, Mablethorpe, was resubmitted through agent, SPG Property Owners Ltd, but with Sally Hewson as the applicant and Designated Premises Supervisor. The application is for a

licensed restaurant operating Mon – Sun, 12:00 – 00:00.

Sally Hewson and Noor Mohammed have worked together for many years at several different premises.

22 Victoria Road, Mablethorpe (Mo's Indian Cuisine).

On 11/12/23, Sally Hewson applied for a premises licence at 22 Victoria Road, Mablethorpe. This application was refused by ELDC due to failure to advertise the application correctly.

On 11/01/24, Licensing Officer, PC 26 Jones, attended the premises, believing the Premises Licence had been granted, to carry out a Licensing check. He was unaware that the application from December 2023 had been rejected. Whilst at the premises PC 26 JONES found a 70cl bottle of Captain Morgans Rum 40%ABV for sale. This bottle failed to have a UK Duty stamp affixed to it, which would indicate that the bottle was smuggled. This is an offence under the Custom and Excise Management Act 1979 where it states:

"If any person offers any goods for sale as having been imported without payment of duty, or as having been otherwise unlawfully imported, then, whether or not the goods were so imported or were in fact chargeable with duty, the goods shall be liable to forfeiture and the person so offering them for sale shall be liable."

During the visit PC 26 Jones found a male, [REDACTED], dressed in cooking garments, working in the kitchen alongside the co-owner, Noor Mohammed. Immigration checks were carried out on [REDACTED], where it was shown that he had no right to work and therefore, was an illegal worker. He had been working there for two weeks. Whilst at the premises PC 26 Jones also spoke to Sally Hewson on the phone about the premises, believing her to be the Licence holder and Designated Premises Supervisor. Sally was asked about 'right to work' checks on [REDACTED]; she stated these were carried out by the head chef (Noor Mohammed). When asked, the head chef denied making any employment checks. (See appendix A, screen shot from Innkeeper detailing the Licensing visit by PC 26 JONES at Mo's Indian Cuisine on 11/01/24).

Had Sally HEWSON checked the correct documents as required by law, and as detailed on the gov.uk website, then she would have seen that [REDACTED] was not allowed to work in the capacity of chef.

It is an offence to employ an illegal worker under section 21 of the Immigration, Asylum and Nationality Act 2006, as amended by section 35 of the Immigration Act 2016, if the employer knows or has reasonable cause to believe that they are employing an illegal worker. The employer by law must carry out various checks to ensure that their staff are legally allowed to work.

Where an employer pays wages to illegal workers off record with no tax or national insurance deductions, which are then deliberately omitted from an employers End of Tax Year P35 returns to HMRC, the employer may be dealt with by means of the Fraud Act 2006. Similarly, HMRC may take action as a civil proceedings case and raise a tax debt against the business.

Illegal workers are more than likely to be paid poorly for the hours they are required to work and are not subject to the benefit of a minimum wage or restricted hours as prescribed in law. Nor are they afforded the benefit of the protections offered by UK employment legislation and are therefore often exploited.

On 24/01/24, Immigration officers carried out an Operation at 22 Victoria Road, Mablethorpe, led by IO Shahid Hussain. During the Operation, the same male encountered by PC 26 JONES, [REDACTED], was located leaving the premises in a rear courtyard. Noor Mohammed was spoken to on entry and stated [REDACTED] wasn't at the premises. The entry to the premises was delayed by Noor Mohammed. An Illegal working civil penalty referral notice was issued to Noor Mohammed by IO Finley Swift. (See Appendix B, Report of Immigration visit to Mo's Indian Cuisine on 24/01/24).

Eagle Hotel, Victoria Road, Mablethorpe,

Sally Hewson was the DPS at the Eagle hotel between 15/03/22 and 04/12/23. The premises licence holder of the Eagle Hotel (Merry5dHomes Ltd) had informed ELDC of the change of DPS on 15/03/22. However, it took over five months and two Licensing visits before Sally Hewson finally completed and submitted the required transfer paperwork on 28/08/22.

Whilst at the Eagle, Noor Mohammed was working at an Indian restaurant called Nayeemas, within The Eagle Hotel.

On 11/05/23, Noor Mohammed was alleged to have committed a sexual assault on a seventeen-year-old employee at Nayeemas. This allegation was investigated and resulted in Moor Mohammed being convicted of common assault at Lincoln crown court on 05/07/24. (See appendix C, Email containing case result 32C60740223 Noor Mohammed).

Windmill Hotel, 10 Market Place, Alford,

Sally Hewson was the Premises Licence Holder and DPS at the Windmill Hotel between 23/02/15 and 12/04/22. Noor Mohammed also worked at the premises. During this time the premises was a hotspot for violence and suffered many licensing issues. (See appendix D, Licensing history of Sally Hewson from ELDC). Between 2015-2019, Lincolnshire Police officers responded to 27 separate incidents involving violence and disorder in or around the Windmill Hotel. Intelligence at the time suggested there were many more unreported incidents of violence.

Serious incidents included, on 19/11/16 an unregistered door staff member inflicting GBH injuries on a customer and on 05/04/19 a customer was beaten and glassed by a someone from The Windmill using a glass taken from the Windmill.

Licensing officers from Lincolnshire Police and ELDC made numerous visits to work with the Premises to address the issues. However, the succession of non-compliance and failures resulted in a review being submitted on 23/04/19 by Lincolnshire Police. (See appendix E, application for a review at The Windmill Hotel).

On 10/06/19 the decision of the review was to:

- suspend the premises licence for a period of one month,
- modify the conditions of the premises licence,

- reduce the licensable hours at the premises and introduce a new terminal hour of 2300 Hours, and,
- issue the premises licence holder with a yellow card warning regarding future conduct. (See Appendix F, Decision notice of the review for The Windmill Hotel).

Incidents did reduce after the suspension was served, however this time coincided with the Coronavirus pandemic. Sally Hewson left the premises on 12/04/22.

Lincolnshire Police has no confidence in Sally Hewson's ability to promote the Licensing objectives. Her history of failings at The Windmill seriously undermines the Prevention of Crime and Disorder and Public Safety objectives. The recent incidents concerning illegal workers and absence of right to work checks at Mo's Indian Cuisine, demonstrates Sally still has no regard for the responsibilities expected of a Licence holder and is not capable of promoting the Prevention of Crime and Disorder objective. Noor Mohammed's recent conviction of assaulting a colleague, concerns Lincolnshire Police that the Public Safety objective will also be undermined.

Lincolnshire Police deem the above matters to be of great concern and respectfully request that the licensing sub-committee give serious consideration to refusing this application.

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

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).