

LICENSING SUB-COMMITTEE

REPORT OF

Sharon Wroot - Executive Director for Environment, Economy and Resources

SUBJECT

Receipt of Police Objections regarding the Transfer and Vary DPS Applications of a Premises Licence at Cartergate News & Wine, 84A Cartergate, Grimsby.

STATUS

Open

CONTRIBUTION TO OUR AIMS

Stronger Economy:

Support for premises that promote the licensing objectives through appropriate action against those that do not.

Stronger Community:

Reduce incidence of crime, anti-social behaviour associated with licensed premises

EXECUTIVE SUMMARY

The Licensing Authority under the Licensing Act 2003 ("the Act") has a duty to determine applications for any Licence under the Act where relevant objections have been made. This duty has been delegated to the Licensing Sub-Committee.

Section 42(6) and 37(5) of the Act states that where the Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting an application to transfer a premises licence would undermine the crime prevention objective, he must give the licensing authority a notice stating the reasons for this.

RECOMMENDATIONS

To determine the applications for the Transfer and Vary DPS of the Premises Licence and consider the objections under Section 44 and 39 of the Act. To take such steps as considered **appropriate** for the promotion of the Crime Prevention Objective.

REASONS FOR DECISION

Must have regard to:-

- North East Lincolnshire Council's Statement of Licensing Policy.
- Guidance issued by the Secretary of State under s.182 of the Act.

Steps taken must be **appropriate** for the promotion of the Crime Prevention Objective.

1. BACKGROUND AND ISSUES

These are fully contained in the report of Jo Bennett

2. RISKS AND OPPORTUNITIES

Crime and Disorder – If the Sub-Committee finds that the grant of this application would undermine the crime prevention objective, it must consider whether rejection is appropriate to prevent this. If appropriate steps are not taken there is a risk that the licensing objectives will not be promoted.

Human Rights – The applicant is entitled to a fair hearing; article 6 of the European Convention on Human Rights applies. Article 8, 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.

Equality and Diversity – No direct effects

Value for Money –The aim must be to take action that prevents problems persisting and using further licensing resources.

The Impact on the Social, Economic and Environmental well-being of the Borough – Action taken to ensure that licensed premises promote the licensing objectives will have a positive impact in these respects.

Environmental Sustainability Implications – None

3. OTHER OPTIONS CONSIDERED

The steps which may be taken are:

- Grant the applications
- Reject the applications

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

There are potential positive reputational implications for the Council resulting from the decision where appropriate action has been taken. An action plan has been agreed with the Council’s communications service covering information requirements and communication channels to be utilised.

5. FINANCIAL CONSIDERATIONS

This report relates to a determination required in response to a an application made under the Licensing Act 2003. The process is governed by statutory regulations and the fees involved are statutory. There are no direct resource or funding implications in the first instance but there may be on appeal (see Section 5).

6. FINANCIAL IMPLICATIONS

The premises licence holder, the responsible authorities and any relevant person have a right of appeal against the decision made to the Magistrates and/or High Court. If the Licensing sub-committee takes a step which is considered to be unnecessary or unlawful by a higher court, there is a risk that an award of costs may be ordered against the Council in favour of the successful appellant. Such costs are difficult to quantify or estimate.

7. LEGAL IMPLICATIONS

These are covered in the body of the report of the Licensing Officer.

8. HUMAN RESOURCES IMPLICATIONS

There are no Human Resource Implications.

9. WARD IMPLICATIONS

West Marsh

10. BACKGROUND PAPERS

Please refer to the Index of Members Papers

11. CONTACT OFFICER

Jo Bennett – licensing@nelincs.gov.uk – 01472 323699

Sharon Wroot
Executive Director for
Environment, Economy and Resources

LICENSING ACT 2003

Report to Licensing Sub-Committee Following Receipt of Police Objections to Transfer & Vary DPS Applications

**Cartergate News & Wine
84A Cartergate
Grimsby**

NORTH EAST LINCOLNSHIRE COUNCIL
LICENSING AUTHORITY

LICENSING ACT 2003

Report to Licensing Sub-Committee
following receipt of Relevant Representations

1. Summary of Applications - (Full details in Application Form)

1.1 Premises: Cartergate News & Wine, 84 Cartergate, Grimsby

1.2 Applicant: Jeyathevi Rameshkumar

1.3 Date Application Received: 12 January 2021

1.4 Summary of Applications:

Transfer and Vary DPS of Premises Licence for the Premises cited in 1.1 above from Mr Thambiah Rameshkumar to his wife Mrs Jeyathevi Rameshkumar

2. Police Objection – (Full details attached to report)

2.1 Date received: 22 January 2021

2.2 Summary:

Humberside Police believe that these applications have been made to circumvent a Review Application that was due to be applied for by themselves.

The current Licence Holder Mr Thambiah Rameshkumar had previously questioned PC Garry Chapman whether Humberside Police were going to review the premises licence due to investigations into criminal activity that had occurred there. PC Chapman confirmed to Mr Rameshkumar that as the matter was serious Humberside Police would be seeking to review.

Humberside Police believe that were these applications to be granted the Prevention of Crime and Disorder Objective of the Licensing Act 2003 would not be promoted due to Mrs Jeyathevi Rameshkumar not being independent of Mr Rameshkumar and the previous illegal activity that has occurred at the premises.

3. Statement of Licensing Policy

The following sections of North East Lincolnshire Council's Statement of Licensing Policy 2015 – 2020 are considered relevant to this case:

8.2.1	Premises Licences
8.7.1	Representations
8.8.5 - 8.8.6	Reviews
9.2.1, 9.2.3, 9.2.7	Crime Prevention

4.Guidance issued under Section 182 of the Licensing Act 2003

This guidance is provided for Licensing Authorities carrying out their functions. It is regarded by the Government as a key mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality. It does not however replace any statutory provisions of the 2003 Act and it is for the Licensing Authority to take their own professional and legal advice about its implementation.

The following sections of the Guidance are considered relevant to this case:

2.1	Crime and Disorder
8.88	Applications to change the designate premises supervisor
8.99 – 8.102	Transfers of premises licence
9.11 – 9.12	The role of Responsible Authorities
11.24 - 11.28	Reviews arising in connection with a crime

5. General Advice on Determination of the Applications –

- 5.1** The sub-committee is required to make two determinations: -
 - a) In relation to the application to transfer the premises licence (section 44)
 - b) In relation to the application to vary the licence to specify an individual as premises supervisor (section 39)
- 5.2** The sub-committee are advised that findings on any issues of fact should be on the balance of probability.
- 5.3** The sub-committee are advised that in arriving at any decision, it must have regard to relevant provisions of national guidance and North East Lincolnshire Council's Statement of Licensing Policy. Reasons must be given for any departure.
- 5.4** The sub-committee are advised that the final decision should be based on the individual merits of the application and the factual findings made at the hearing.
- 5.5** Section 44 and 39 of the Licensing Act 2003 states that where relevant objections have been made and a hearing is held to consider them,

the sub-committee can take such of the steps set out below as it considers **appropriate** for the promotion of the crime prevention objective

- Grant the application
- Reject the application

5.6 The sub-committee are advised that they must take into account the following Human Rights provisions:

- Everyone affected by a decision has a right to a fair hearing.
- Everyone has the right to his private and family life, his home and his correspondence.

5.7 The sub-committee, in its decision making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010

6. Observations

6.1 There have been numerous incidents at the premises whilst Mr Rameshkumar has been the Licence Holder, both historically and recently, that Humberside Police allege seriously undermine the licensing objectives, with the premises licence last being reviewed in 2019 after a serious incident on the premises.

6.2 Mr Rameshkumar asked Humberside Police 7 January 2021 whether they intended to review his premises licence due to the investigation into his alleged criminal activity. He was advised the Police were drafting papers to apply to North East Lincolnshire Council for a Review. The application to 'Transfer and Vary the DPS on the Licence was received 12 January 2021 the day before Humberside Police submitted their application.

6.3 It is the opinion of Humberside Police that there will be no significant change in how the business operates if these applications are granted and Mrs Rameshkumar became the Licence Holder.

6.2 Humberside Police consider that Section 8.9.4 of the Section 182 guidance is the main factor for consideration because they have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved in crime (or disorder).

6.3 Humberside Police request that the Licensing Committee consider the points raised in this objection and refuse the transfer application.

Report prepared by – Jo Bennett

1 February 2021