

LICENSING SUB-COMMITTEE

DATE	3 rd February 2022
REPORT OF	Sharon Wroot – Executive Director for Environment, Economy and Resources
SUBJECT	Review of Premises Licence in respect of premises known as Silhouette, 38A Alexandra Road, Cleethorpes, DN35 8LE
STATUS	OPEN

CONTRIBUTION TO OUR AIM

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 and public nuisance associated with licensed premises

Promotion of Prevention of Public Nuisance in relation to 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 representations have been made. This includes reviews. This duty has been delegated to the Licensing Sub-Committee. **Vicky Thompson, Environmental Protection Officer on behalf of North East Lincolnshire Council** who assert that:-

The Premises Licence Holder Mr Sean Desouza is undermining the Prevention of Public Nuisance licensing objective by repeatedly allowing music from his premises to cause a statutory noise nuisance in nearby properties.

RECOMMENDATIONS

To determine the application for a review of the Premises Licence and consider any relevant representations under s.52 of the Act. To take such steps as considered **appropriate** for the promotion of the licensing objectives.

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 Licensing Objectives, namely:-

- the prevention of crime and disorder;
- public safety
- the prevention of public nuisance; and
- the protection of children from harm.

1. BACKGROUND AND ISSUES

These are fully contained in the report of Iain Peck.

2. RISKS AND OPPORTUNITIES

Prevention of Public Nuisance – If the Sub-Committee finds this licensed premises has undermined the licensing objectives, it must consider what, if any, steps are 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 premises licence holder is entitled to a fair hearing; article 6 of the European Convention of 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 particularly Article 1 which states “Every natural or legal person is entitled to the peaceful enjoyment of his possessions”.

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 all 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:-

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence.

The conditions of the licence are modified if any of them is altered or omitted or any new condition is added. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to 3 months. It may also be decided that no action is necessary and consideration given to whether a warning should be issued to the licence holder and/or recommend improvement within a particular period of time.

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 communications channels to be utilised.

5. FINANCIAL CONSIDERATIONS

This report relates to a determination required in response to 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. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

There are no direct implications to Children or Young People.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

No direct climate change or environmental implications effects with regards to this review.

8. 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 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.

9. LEGAL IMPLICATIONS

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

10. HUMAN RESOURCES IMPLICATIONS

There are no Human Resource Implications.

11. WARD IMPLICATIONS

Croft Baker

12. BACKGROUND PAPERS

Please refer to the index of Members Papers.

13. CONTACT OFFICER(S)

Iain Peck 01472 324772

SHARON WROOT
EXECUTIVE DIRECTOR FOR ENVIRONMENT, ECONOMY AND RESOURCES