

**AGENDA**

**\*\* PLEASE NOTE THERE WILL BE A BRIEFING FOR MEMBERS OF  
THE COMMITTEE ONLY AT 9.30 AM \*\***

**Licensing Sub-Committee  
Friday 17 October 2014 at 10am  
Ancholme Meeting Room, 1<sup>st</sup> Floor, the Guildhall, Gainsborough**

**Members:** Councillor Jessie Milne  
Councillor Roger Patterson  
Councillor Lewis Strange

1. To elect a Chairman for this meeting only.
2. Apologies for absence.
3. Members' Declarations of Interest.

*Members may make any declarations of interest at this point but may also make them at any time during the course of the meeting.*

4. Licence Hearing

**Reference Number:** LRSC.04 14/15

**PAPER B**

**Licence Number :** 32UHB50262

**Application Type:** Review of a Premises Licence

**Applicant:** Lincolnshire Police

**Premise:** 'Capri' 16 King Street, Market Rasen, Lincolnshire LN8 3BB

**Premises Licence Holder:** Four Seasons (Lincs) Ltd

Appendix 1 - Application – for Review  
Appendix 1 b – Restricted Statement (Confidential)  
Appendix 2 - Licence

M Gill  
Chief Executive  
The Guildhall  
Gainsborough

9 October 2014

**Notes :** This licensing authority will only allow licensing decisions to be taken by a minimum of three Councillors. In the event of one member being unable to attend, their place will be substituted by another member. In the event of this substitution taking place all parties will be informed of the change of membership at the beginning of the hearing.

**Please note the procedure to be taken by the committee (which is attached to this agenda marked A).**

**Agendas, Reports and Minutes will be provided upon request  
in the following formats:  
Large Clear Print: Braille: Audio Tape: Native Language**

# LICENSING ACT 2003



## REVIEW HEARING PROCEDURE

1. Chairs welcome and opening remarks
  - Name of applicant and the premises address
  - The introduction of members on the sub-committee and officers
  - Introduction of applicant and objectors
  - Chair to explain that all parties have been given notice to attend the hearing and that the hearing will proceed notwithstanding a party's failure to attend the hearing.

Solicitor to explain the procedure to the parties

Senior Licensing Officer will present details of the review and will include any previous licensing history.

2. Applicant to present case for review

This procedure will be followed for each individual Applicant:

- The Applicant or their representative presents their case.
- The Applicant their representative will then call any witnesses and/or give evidence in support of their case.
- The Premises licence holder or their representative may then question the Applicant and their witnesses.
- The Members of the sub-committee may ask questions of the Applicant and their witnesses.
- The Applicant or their representative will then be given a final opportunity of asking any further questions of their witnesses to clear up any points raised in the earlier questioning.

3. The Premises Licence Holder Case

- The Premises licence holder or their representative will present their case regarding the review submitted.
- The Premises Licence Holder or their representative will then call any witnesses.
- The Applicant or their representative may then question the Premises licence holder and any witness.
- The Members of the sub-committee may ask questions of the Premises Licence Holder and any witnesses.
- The Premises Licence Holder or his/her representative will then be given a

final opportunity of asking any further questions of their witnesses to clear up any points raised in the earlier questioning.

4. Closing Statement or Summary

The Premises Licence Holder can summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce any new issues at this stage.

Applicants can summarise any points they wish to make and comment briefly on the Premises Licence Holder's replies to questions. They cannot introduce new issues at this stage.

5. Conclusion

The Chair will then ask the Solicitor whether there are any other matters to be raised or resolved before the sub-committee retires to begin its deliberations. The Sub-Committee will exclude the press and public from its deliberations and its decision making.

The Chair will advise the hearing that they will retire to consider the application and that the Solicitor will be retiring with them but will take not part in the deliberation.

Once a decision has been made everybody is invited back in and the Chair announces the decision and will give reasons for the decision including any conditions that have been attached and the right of appeal if necessary. The decision will subsequently be formally notified to the Applicant and the Premises Licence Holder or their representatives in writing by the Licensing Authority within 5 working days.

*NB. If legal Advice is given to Members by the Solicitor then this advice will be repeated in summary form by the Solicitor when the public are re-admitted.*

*If any party to the hearing or the Senior Licensing Officer are required to address the Committee during their deliberations, all parties will be invited to hear these issues.*

Licence Number: 32UHB50262

Hearing Type: Review of a Premises Licence

Applicant: Lincolnshire Police

Premise: 'Capri' 16 King Street, Market Rasen, Lincolnshire LN8 3BB

Premises Licence Holder: Four Seasons (Lincs) Ltd

## 1 The Application for Review

- 1.1.1 An application for review of the Premises Licence for 'Capri' 16 King Street, Market Rasen, Lincolnshire LN8 3BB has been made by Lincolnshire Police which was received on 27 August 2014. Lincolnshire Police are a Responsible Authority, as defined by Section 13(4) of the Licensing Act 2003 and are therefore entitled to apply for a review of a licence when of the opinion a premise is failing to operate with a view to promoting one or more of the licensing objectives. A copy of the application, outlining the grounds for review is attached at Appendix 1.
- 1.1.2 From the information detailed in the application for review, Lincolnshire Police have concluded that there is evidence the licensing objective for the prevention of crime and disorder is being undermined.
- 1.1.3 Lincolnshire Police visited the premises in August 2014 alongside officers from Home Office Immigration. Further detailed information regarding the reasons for the review application can be found in Appendix 1 and 1B
- 1.2 Supporting information in the form of statements and a record of interview from Police and Immigration Officers will be made available for Members of the Licensing Sub-Committee, however as this information is marked as "restricted" it will not be available in the public domain. The *restricted* information is referred to as Appendix 1B.
- 1.1.4 Section 51(3)(a)(b) of the Licensing Act 2003 requires the applicant of a premises review, to notify each Responsible Authority by way of a Notice containing details of the review application. The Licensing Authority must also advertise the review application and invite representations to be made by Other Persons and Responsible Authorities. No other representations have been received from Responsible Authorities or Other persons.

## 2 The Premises

- 2.1 Capri holds a licence authorising the provision of late night refreshment indoors. This was issued in December 2008 under the current licensing regime (Licensing Act 2003). A copy of the premise licence including any attached conditions is attached at Appendix 2.

### **3 Representations – Responsible Authorities**

3.1 There have been no representations from other Responsible Authorities within the statutory timescale.

### **4 Representations – Other persons**

4.1 There have been no representations received from any Other Persons within the statutory timescale.

### **5 Considerations**

5.1 With respect to the review application, Members of the Licensing Sub-Committee must satisfy themselves whether or not the licence holder is satisfactorily promoting the licensing objective in relation to the prevention of crime and disorder.

5.2 In considering the application for review and making its decision the Licensing Sub-Committee must do so in line with:

- The Licensing Act 2003
- The Section 182 Guidance made under the Act
- The Licensing Authority's Statement of Licensing Policy

5.3 When considering the application and representations received, attention is drawn to the Licensing Authority's Policy which can be found at the link below by clicking on the Download Tab, then downloading the Policy:  
<http://www.west-lindsey.gov.uk/businesses/licensing/licensing-and-gambling-policies/licensing-policy/104810.article>

5.4 Attention is also drawn to the contents of the section 182 statutory guidance which can be found at the link below:  
<https://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance>

### **6 Options**

6.1 The Licensing Sub-Committee, in its capacity as licensing authority, must, having regard to the application for review, take such steps, if any, it considers appropriate and proportionate for the promotion of the licensing objectives.

6.2 The steps available 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 from the licence
- to suspend the licence for a period not exceeding 3 months
- to revoke the licence

for the avoidance of doubt the conditions of a licence are modified if any of them is altered or omitted or any new condition is added.

- 6.3 Any action the Licensing Sub-Committee resolve to implement must be appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.
- 6.4 **N.B.** Whatever decision the Members of the Licensing Sub-Committee arrive at, they are reminded about the comments made in a recent court case, known as Hope and Glory, in relation to reasons for their decision making. The comments noted from this case stated: "*The fuller and clearer the reasons, the more force they are likely to carry*". Therefore taking these comments into account, Members are strongly advised to give good, clear, justifiable reasons in relation to their decision, which will have more chance of being upheld, should the decision be appealed against.
- 6.5 If the Licensing Sub-Committee resolve to implement any of the steps set out at 6.2 above, the action will not take effect until the end of the period for appeal (21 days) or if the decision is appealed against, until the appeal is disposed of.

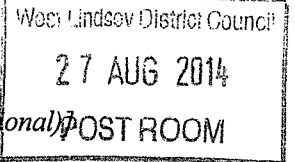
## **7 List of Associated Papers**

Appendix 1 – Application for review  
Appendix 1B – Supporting information by Lincolnshire Police and H.O.I.  
Appendix 2 – Premises Licence for Capri

## **8 Background Papers**

Licensing Act 2003  
Section 182 Government Guidance  
WLDC Statement of Licensing Policy

# APPENDIX 1



[Insert name and address of relevant licensing authority and its reference number (optional)]

## Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

#### I NEIL RHODES (CHIEF CONSTABLE LINCOLNSHIRE POLICE).

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

#### Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Capri Pizza 16 King Street	
Post town Market Rasen	Post code (if known) LN8 3BB

Name of premises licence holder or club holding club premises certificate (if known)
FOUR SEASONS (LINCS) LTD – 16 King Street, Market Rasen.

Number of premises licence or club premises certificate (if known)
32UHB50262

#### Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

X

3) a member of the club to which this application relates (please complete (A) below)



**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes

**Current postal  
address if  
different from  
premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address;  Lincolnshire Police Force Headquarters, Deepdale Lane, Nettleham, Lincolnshire, LN2 2LT
Telephone number (if any) 01522 558448
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
  - 2) public safety
  - 3) the prevention of public nuisance
  - 4) the protection of children from harm

**Please state the ground(s) for review (please read guidance note 2)**

This premise has been granted a premise licence by West Lindsey District Council authorising the provision of late night refreshment from 2300 hours until 01:00 hours daily with seasonal variations.

The premise is operated as a takeaway and the Premise Licence is held by a company called Four Seasons (Lincs) Ltd. No further details or individual point of contact were provided on the original application.

The Home Office Immigration Team received intelligence and information suggesting that the premises were involved in the employment of illegal workers. Subsequently a joint Immigration Enforcement and Lincolnshire Police inspection took place.

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On Thursday 14th August 2014 Immigration and Lincolnshire Police officers visited the premise and located 5 persons on site.

1 of the males was subsequently identified as an overstayer in the United Kingdom with no entitlement to work.

There were no issues with the remaining 4 persons present. One of those individuals – [REDACTED] identified himself as the owner and manager of the premise. When questioned about the licence [REDACTED] stated that he did not hold the licence for the premise and that it was held by the male whom he bought the lease off. This indicates a direct lack of control or supervision from the actual licence holder whose identity remains unknown.

The registered address for the licence holder on the licence is 16 King Street, the address of Capri

Pizza, this is clearly not the case.

Admissions were made straight away and it was stated that the illegal immigrant had worked at the premise for two years on a 'cash in hand' basis.

Licence Holders should either know that the persons they are employing are illegal or consciously elect not to know. Our assertion is that they ought to know and that they are negligent in failing to do so. In this instance it would appear that the Licence Holder has no dealings with the business or control over the premise. [REDACTED] did not know who the licence holder was and nominated himself as the person in charge. It is therefore the opinion of Lincolnshire Police that he has also been negligent and failed in his duty to manage the premise lawfully.

Section 11.24 of the Guidance to the Licensing Act states that reviews do not have to be directly linked or connected with the licensable activities at any premise -

Lincolnshire Police will assert that in this case, the offences are directly linked to the operation of the premises as a takeaway providing late night refreshment with the detained member of staff being actively involved in these activities. If this is not accepted, then consideration should be given to the alternative that this is a licensed premises involved in actively employing illegal Immigrants within the United Kingdom.

Police experience in similar operations around the County indicate that this is not a matter simply of mistakenly or ignorantly employing or housing persons who are subsequently found to be illegal but is part of an orchestrated and organised arrangement to accommodate illegal immigrants and also to employ them beneath the authorities radar.

These circumstances are also indicative of the involvement of organised crime in facilitating the entry of these illegals and/or their subsequent harbouring within the UK.

.....

Section 11.25 of the Guidance states that reviews are not part of criminal law and procedure and therefore the necessity to test the evidence beyond all reasonable doubt does not apply.

Home Office Immigration is concerned with the apprehension, detention and management of persons unlawfully in the UK and as such their procedures and protocols are not directed towards supporting or promoting the Licensing Act and the licensing objectives, nor are they considered a responsible authority for the purposes of the legislation.

The Immigration, Asylum and Nationality Act 2006 is ineffective in dealing with the specific issue of this review application and the consideration of this matter at a licensing hearing is therefore considered wholly appropriate.

.....

Lincolnshire Police have no doubt that the premise licence granted by the authority is being used for the provision of licensable activities which in turn is being exploited to employ illegal workers to facilitate this activity. This is to the owner's financial benefit and to the detriment of law abiding competitors.

It is obvious that illegal workers are prone to exploitation by their employers in that such workers are unable to declare themselves to the authorities to claim any sort of financial support or benefits as this would render them liable to detention.

Consequently they receive scant remuneration 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 provided in most cases with anything other than the most basic of living accommodation, nor are they afforded the benefit of the protections offered by UK employment legislation.

In this instance the male arrested stated he was paid £40 per day which equates approximately to £4 an hour. This is approximately 33% less than the current minimum wage which is £6.31.

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Allowing these premises to continue to operate with the benefits of a premises licence will merely serve to perpetuate the criminal activity and human exploitation already apparent from the findings of this Immigration and Police visit. It would also allow a premise to continue with the use of a licence that is not held by any responsible person who takes an active interest in the business.

This review application is submitted with the circumstances having undermined the Licensing objectives, namely the prevention of crime and disorder in that employing persons illegally is a crime as is harbouring illegal immigrants and failing to pay the minimum wage.

The Licensing Act 2003 is clearly intended to prevent crime from occurring in relation to licensed premises but also to deter and prevent criminals from operating a premise under the auspices of a Premises Licence granted by the local authority.

Section 11.26 states that it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premise and affecting the promotion of the licensing objectives.

The amended statutory guidance at 11.27 states "There is certain criminal activity that may arise in connection with Licensed Premises that should be treated particularly seriously, amongst these are:

*The use of the licensed premises for knowingly employing a person who is unlawfully in the UK or who cannot be lawfully be employed as a result of a condition on that person's leave to enter.*

*The amended statutory guidance at 11.28 states "Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crime, it is expected that revocation of the licence –even in the first instance- should be seriously considered".*

It is the submission of the Chief Constable that in the circumstances it would be appropriate and reasonable to seek the revocation of the premises licence in the first instance.

**Please provide as much information as possible to support the application (please read guidance note 3)**

See MG11 witness statements attached.

Have you made an application for review relating to the premises before

Please tick ✓ yes

If yes please state the date of that application

Day    Month    Year

┆	┆	┆	┆	┆	┆	┆	┆	┆
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**If you have made representations before relating to the premises please state what they were and when you made them**

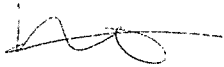
Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature  Sgt 1040 K.Enderby  
.....

Date <sup>22nd</sup> August 2014  
.....

Capacity for and on behalf of the Chief Constable for Lincolnshire Police  
.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6) Sgt 1040 Kimble Enderby c/o Licensing (Alcohol) Lincolnshire Police Police Headquarters PO Box 999	
<b>Post town</b> Lincoln	<b>Post Code</b> LN5 7PH
<b>Telephone number (if any)</b> 01522 558448	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



Guildhall  
Marshall's Yard  
GAINSBOROUGH  
Lincolnshire  
DN21 2NA

APPENDIX 2

Tel: 01427 676676  
Fax: 01427 675159

Licensing Act 2003

# Premises Licence

# 32UHB50262

## Part 1 - Premises Details

### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

#### Capri

16 King Street, Market Rasen, Lincoln, Lincolnshire, LN8 3BB.

Telephone 01673 844687

### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- provision of late night refreshment

### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
L. Late night refreshment (Indoors)	Monday to Sunday	11:00pm	1:00am +1hr BHols,,Xmas Eve

### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	4:00pm	1:30am +1hr BHols, Xmas Eve

### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

## Part 2

### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Four Seasons (Lincs) Ltd

16 King Street, Market Rasen, Lincolnshire, LN8 3BB.

### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Four Seasons (Lincs) Ltd

04838384

### ANNEXES

#### ANNEX 1 - MANDATORY CONDITIONS

Not Applicable

#### ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Prevention of Crime & Disorder





Licensing Act 2003

**32UHB50262**

# Premises Licence Summary

## Premises Details

### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

#### Capri

16 King Street, Market Rasen, Lincoln, Lincolnshire, LN8 3BB.

Telephone 01673 844687

### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- provision of late night refreshment

### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

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Monday to Sunday	4:00pm	1:30am +1hr BHols, Xmas Eve

### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

### NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Four Seasons (Lincs) Ltd

16 King Street, Market Rasen, Lincolnshire, LN8 3BB.

### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Four Seasons (Lincs) Ltd

04838384

### STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Not Applicable

