

Guildhall Gainsborough
Lincolnshire DN21 2NA
Tel: 01427 676676 Fax: 01427 675170

AGENDA

Please note there will be a briefing for Members only at 9.45am

Licensing Sub Committee
Wednesday, 10th May, 2017 at 10.00 am
Trent Meeting Room - The Guildhall

Members: Councillor David Cotton
Councillor Mrs Pat Mewis
Councillor Mrs Jessie Milne
Councillor Owen Bierley (Reserve)

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. Procedure

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

(PAGES 1 - 2)

5. Notes:

Note 1

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.

Note 2

Should discussion arise on those appendices defined as containing exempt information the Public and Press would need to be excluded by resolution of the Sub-Committee.

To resolve that under Section 14 of the Licensing Act 2003 (Hearings) Regulations 2005 - the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2 and 7 of Part 1 of Schedule 12A of the Act.

6. Licence Hearings

a) 102 Trinity Street

Licence Number: 32UHB01701

(PAGES 3 - 6)

Hearing Type: Review of a Premises Licence

Applicant: Lincolnshire Police

Premises: 102 Trinity Street, Gainsborough, Lincolnshire DN21 1HS

Premises Licence Holder: Mr Zydrunas Gaubys

b) 128 Trinity Street

Licence Number: 32UHB15005

(PAGES 7 - 10)

Hearing Type: Review of a Premises Licence

Applicant: Lincolnshire Police

Premises: "Polish Deli" 128 Trinity Street, Gainsborough, Lincolnshire DN21 1JD

Premises Licence Holder: Mrs Joanna Mielczarek

M Gill
Chief Executive
The Guildhall
Gainsborough

2 May 2017

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.

WEST LINDSEY DISTRICT COUNCIL

LICENSING ACT 2003

Licence Number: 32UHB01701

Hearing Type: Review of a Premises Licence

Applicant: Lincolnshire Police

Premises: 102 Trinity Street, Gainsborough, Lincolnshire DN21 1HS

Premises Licence Holder: Mr Zydrunas Gaubys

1 The Application for Review

- 1.1.1 An application for review of the Premises Licence for 102 Trinity Street has been made by Lincolnshire Police which was received on 13 March 2017. 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 premises 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 that the licensing objectives for the prevention of crime and disorder and public safety are being undermined.
- 1.1.3 Lincolnshire Police visited the premises on 28 February 2017 where numerous licensing breaches were found, as well as alcohol which they believed to be non-duty paid. Statements from Lincolnshire Police provide further information at Appendices A and C, part of the information supplied by Lincolnshire Police.
- 1.2. 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 advertise the review application as defined by regulations which means a Notice is placed on its website, in the Guildhall main reception area and also onto or nearby the premises concerned, in order to invite representations to be made by Other Persons and Responsible Authorities. In this instance the Notice was displayed on the shop door (visible when the shop is open) and a second notice was displayed on the outside shutters (visible when the shop is shut).

2 The Premises

- 2.1 102 Trinity Street holds a licence authorising the sale of alcohol (for consumption off the premises). This was issued in January 2017 under the provisions of the Licensing Act 2003. A copy of the premises licence including any attached conditions is attached at Appendix 2.

2.2 The Premises Licence Holder is Mr Zydrunas Gaubys and has been since the licence was issued. The Designated Premises Supervisor (DPS) is Mr Virginijus Skarbalius and has been since issue of the Premises Licence.

3 Representations – Responsible Authorities

3.1 There have been no representations received 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 objectives in relation to the prevention of crime and disorder, and public safety.

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 on the right hand side of the page, headed 'Downloads':

<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/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

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 are 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 that with regards to decision making, "*the fuller and clearer the reasons they give, the more force they are likely to carry*". Therefore, 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 A - C	RESTRICTED Statements and documents from Lincolnshire Police
Appendix 2	RESTRICTED Complete Premises Licence for 102 Trinity Street

8 Background Papers

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

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WEST LINDSEY DISTRICT COUNCIL

LICENSING ACT 2003

Licence Number: 32UHB15005

Hearing Type: Review of a Premises Licence

Applicant: Lincolnshire Police

Premises: "Polish Deli" 128 Trinity Street, Gainsborough, Lincolnshire DN21 1JD

Premises Licence Holder: Mrs Joanna Mielczarek

1 The Application for Review

- 1.1.1 An application for review of the Premises Licence for Polish Deli has been made by Lincolnshire Police which was received on 13 March 2017. 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 premises 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 that the licensing objectives for the prevention of crime and disorder and public safety are being undermined.
- 1.1.3 Lincolnshire Police visited the premises on 23 February 2017 where numerous licensing breaches were found as well as alcohol which they believed to be non-duty paid. Statements from Lincolnshire Police provide further information at Appendices A, B and E, part of the information supplied by Lincolnshire Police.
- 1.2 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 advertise the review application as defined by regulations which means a Notice is placed on its website, in the Guildhall main reception area and also onto or nearby the premises concerned, in order to invite representations to be made by Other Persons and Responsible Authorities. In this instance the Notice was displayed on the shop door.

2 The Premises

- 2.1 128 Trinity Street holds a licence authorising the sale of alcohol (for consumption off the premises). This was issued in April 2015 under the current licensing regime (Licensing Act 2003). A copy of the premises licence including any attached conditions is attached at Appendix 2.

- 2.2 The Premises Licence Holder is Mrs Joanna Mielczarek and has been since the licence was issued in 2015. The Designated Premises Supervisor (DPS) is also Mrs Joanna Mielczarek and has been since issue.
- 2.3 In November 2016 Zydrunas Gaubys submitted applications to West Lindsey to transfer the premises licence for 128 Trinity Street into his name and to vary the DPS for 128 Trinity Street (see appendix C of the information supplied by Lincolnshire Police). These were returned to Zydrunas Gaubys as the paperwork was completed incorrectly. To date these have not been resubmitted and so the premises licence remains as it was issued, in the name of Joanna Mielczarek.

3 Representations – Responsible Authorities

- 3.1 There have been no representations received 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 objectives in relation to the prevention of crime and disorder, and public safety.
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Appendix 2	RESTRICTED Complete Premises Licence for 128 Trinity Street

8 Background Papers

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 Section 182 Government Guidance
 WLDC Statement of Licensing Policy

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