

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Licensing Sub Committee held in the Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA on 24 May 2018 commencing at 10.00 am.

Present: Councillor David Cotton (Chairman)
Councillor Owen Bierley
Councillor Mrs Angela Lawrence

In Attendance:
Martha Rees Legal Advisor
Phil Hinch Licencing & Local Land Charges Manager
Ele Durrant Democratic and Civic Officer

Also In Attendance: **Licence Hearing – Murco Costcutter Express**
Sgt Kim Enderby, Lincolnshire Police
Representative for Murco Costcutter Express

Licence Hearing – Bankside News
Sgt Kim Enderby, Lincolnshire Police
Licence Holder, Bankside News
Interpreter for Licence Holder
Sara Wyeth, Barrister for License Holder

4 TO ELECT A CHAIRMAN FOR THIS MEETING ONLY

The Democratic and Civic Officer opened the meeting and introductions were made. She then asked for nominations for Chairman and it was

RESOLVED that Councillor Cotton be elected Chairman of the Licensing Sub-Committee for this meeting.

Councillor Cotton took the Chair for the remainder of the meeting and round the table introductions were made.

5 MEMBERS' DECLARATIONS OF INTEREST

The Chairman declared a personal non-pecuniary interest on the grounds that he was a serving Magistrate and such matters, as being dealt with by the Sub Committee, could be appealed through the Magistrates' Court. In the event that any appeal in connection with the case did arise, Councillor Cotton would not be permitted to consider the appeal and would absent himself from the bench.

6 EXCLUSION OF PUBLIC AND PRESS

In view of the restricted information provided by the police, in relation to both hearing

reviews, it was moved and seconded that the hearings be conducted within closed session.

RESOLVED that in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 – the public and press be excluded from the remainder of the session as the Sub-Committee considered that the public interest in doing so outweighed the public interest in the hearings.

7 LICENCE HEARING

Licence Number: 32UHB60016

Hearing Type: Review of a premises licence

Premises: Murco Costcutter Express, Bridge Filling Station, Gainsborough

The Council's Legal Advisor set out the procedure that would be followed, as detailed in the attachment for Agenda Item 4. The Licensing Officer was then requested to present his report, which set out the circumstances leading to the licence review having been brought before Committee, namely an application for review having been received from Lincolnshire Police. Further information regarding the application was set out in the confidential appendices. The Licensing Officer noted that the guidelines referenced in section 5 of the report had been updated since the circulation of papers to all parties, he confirmed he had a copy of the guidelines should anyone wish to view them. The options available for the Committee were set out in paragraph 6.2 of the report.

The applicant for the review, Lincolnshire Police, was then invited to present their case, outlining their reasons for applying for the licence review. In doing so, they explained that from all information presented to them, as detailed in the confidential appendices, they had concluded there was sufficient evidence to demonstrate that the licensing objective for the prevention of crime and disorder was being undermined. It was stated that owing to the delay between the date of the application for review and the convening of the Licensing Sub-Committee, accepted by all to be through no fault of any party but owing instead to severe weather conditions at the time of the original planned hearing, there had been significant changes made to the management of the premises and the licence holder involved previously had been removed. The representative from Lincolnshire Police stated that all improvements had been swift and appeared to be efficient and effective. He stated there were new procedures in place for the management of staff, for the working of the CCTV system and that Lincolnshire Police were satisfied that, as long as the changes were adhered to, the licensing objectives would be upheld.

The representative for the premises and the Members of the Sub-Committee were given the opportunity to ask questions of Lincolnshire Police. All confirmed there were no questions.

The Chairman therefore invited the representative for the licensed premises to present their case in support of the licence continuing. The representative explained that as soon as the company had become aware of the issues at the site in question, they had put in immediate sanctions. They had maintained contact with Lincolnshire Police and the Licensing Officer through all proceedings and had recently succeeded in removing the previous licence holder from the premises. He explained there was now a new manager on site who was DPS and premises licence holder. He added that new procedures had been put in place regarding staff management which would be trialled across several of the company's sites, leading to a

change in company procedure. He also highlighted that re-training at the site had been completed and the company had taken a 'start from scratch' attitude to ensure none of the issues raised against the previous licence holder would arise again. He thanked Lincolnshire Police for their even-handed dealing of the case and the Licensing Officer for his assistance throughout.

Members of the Sub-Committee, and the representative from Lincolnshire Police were given the opportunity to ask questions of the premises representative.

In response to questions from Members, the representative for the premises confirmed that the previous licence holder was no longer connected with the site in any way and there was no relationship between the previous licence holder and the newly appointed person. It was confirmed that contract arrangements would be reviewed across all 400+ sites in light of the issues raised in this case but this would have to be actioned over time. It was also clarified that CCTV footage would be held for the standard 28 days as there was no condition imposed on the licence to hold it for longer.

There were no other questions and both parties were offered the opportunity to add anything they felt relevant. Lincolnshire Police had no further comment, the representative for the premises again thanked all involved for their assistance throughout the case.

The Legal Advisor confirmed there was nothing she needed to clarify or any points to raise.

Note: The Sub-Committee then withdrew from the meeting at 10:39am to deliberate and come to a decision. The Democratic and Civic Officer and the Council's Legal Advisor accompanied the Sub-Committee.

Note: The Sub-Committee and Officers returned to the meeting at 11:06am to advise parties of the outcome of its deliberations, whereupon the Chairman read out the decision and the reasoning behind it.

RESOLVED that **no action is required** and the Licence may remain in place without change.

The Chairman advised that all parties would be notified of the decision in writing within five working days of today's hearing and reminded those present of the right to appeal to the Magistrates' Court within 21 days of receiving such notice.

Note: The Chairman adjourned the meeting at 11:10am and the representative for the premises left the meeting.

8 LICENCE HEARING

Note: The Chairman reconvened the meeting at 11:25am and the Licensing Officer brought the license holder, her translator and barrister into the meeting.

The Chairman welcomed all parties and round the table introductions were made for the benefit of those involved with the premises detailed below. The Chairman re-iterated his declaration of interest as made at the opening of the meeting. He enquired of the barrister

whether she was in possession of all paperwork and she confirmed this was the case. The Chairman also clarified that Members had received and reviewed all of the documentation provided.

Licence Number: 32UHB15015

Hearing Type: Review of a Premises Licence

Premises: “Bankside News” 17 Bankside, Gainsborough

The Council’s Legal Advisor set out the procedure that would be followed, as detailed in the attachment for Agenda Item 4. It was clarified with the licence holder whether she understood the proceedings or wished for her translator to have time to explain to her. She confirmed that she did understand and her translator was present to clarify any points that she may not be sure of. The Licensing Officer was then requested to present his report, which set out the circumstances leading to the licence review having being brought before Committee, namely an application for review having been received from Lincolnshire Police. Further information regarding the application was set out in the confidential appendices. The Licensing Officer noted that the guidelines referenced in section 5 of the report had been updated since the circulation of papers to all parties, he confirmed he had a copy of the guidelines should anyone wish to view them. The options available for the Committee were set out in paragraph 6.2 of the report.

The applicant for the review, Lincolnshire Police, was then invited to present their case, outlining their reasons for applying for the licence review. In doing so, it was explained that, following information presented to them as detailed in the confidential appendices, they had conducted a visit to the premises and found there to be numerous issues that constituted a breach of the premises licence. The police concluded that there was sufficient evidence to demonstrate that the licensing objective for the prevention of crime and disorder was being undermined. It was acknowledged that owing to the delay between the date of the application for review and the convening of the Licensing Sub-Committee, accepted by all to be through no fault of any party but owing instead to severe weather conditions at the time of the original planned hearing, there had been several changes made, including the transfer of the licence to a different person, and there seemed to have been improvements in all areas. It was explained that despite these changes, there were ongoing concerns that as there was a relationship between the previous licence holder and the current licence holder, there was a risk that the issues leading to the application for review might re-occur with the new licence holder.

The Chairman invited questions from the Members of the Sub-Committee and the licence holder and her barrister. Members of the Sub-Committee confirmed they had no questions.

The barrister for the licence holder confirmed the details of the case with the Police Sergeant. This confirmed that the premises licence was separate to any other licence that the original licence holder may have been involved with. It was confirmed that the hearing for the premises licence was separate to any other hearing proceedings. The issues leading to the application for review were clarified and all parties agreed that these issues had shown to be resolved during an unannounced visit from Trading Standards. On confirming these details, the barrister concluded her questions. The Council’s Legal Advisor confirmed she had no other questions.

The Chairman therefore invited the representative for the licensed premises to present their

case in support of the licence continuing. The barrister requested to submit additional information in support of the licence holder. The Chairman explained it was best practice to provide such details in advance to allow all parties time to review the documents. It was clarified with Lincolnshire Police and the Council's Legal Advisor that they were happy for the documents to be shared. The barrister explained that the issues identified as the reason for the review of the licence had all been at the time of the previous licence holder. She confirmed that the current licence had not been involved, the current licence holder had resolved all issues, the current licence holder was committed to maintaining the correct management of the business and adhering to the licensing objectives. She explained the repercussions for the family had been significant and the current licence holder did not want for it to happen again. They requested that no further action be taken against the current licence holder.

Members of the Sub-Committee, and the representative from Lincolnshire Police were given the opportunity to ask questions of the premises representative.

In response to questions from Members, the current licence holder confirmed that the previous licence holder was not involved in the business other than trips to the cash and carry and on occasion he would mind the shop if she needed to be out for a short period of time. She confirmed she was not involved with any other business and she held sole responsibility for the business under review. The barrister added that the unexpected visit from Trading Standards had shown this all to be the case. The barrister also explained there had been a visit from Environmental Health and although the licence holder had not yet received the full report, verbal feedback had indicated a positive visit and a hygiene rating of four or five stars. The barrister stated that all information indicated that the current licence holder was doing all in her power to manage the business correctly. It was also clarified that the current licence holder had held a personal licence for ten years and worked in an off licence for five years.

There were no other questions and both parties were offered the opportunity to add anything they felt relevant. Lincolnshire Police stated that they appreciated the circumstances had changed since they had applied to review the premises licences but requested there to be further assurance by way of a condition added to the licence to ensure the previous licence holder would not become involved again in the future. The barrister requested time to discuss this with her client and they retired from the meeting to discuss.

Note: The Chairman adjourned the meeting at 12:32pm to allow the licence holder to consult with her barrister.

Note: The Chairman reconvened the meeting at 12:35pm.

The barrister explained that the licence holder was willing to add a condition to the licence however the barrister voiced her concerns that it would need to be highly specific to ensure it was both practicable and enforceable. The Council's Legal Advisor suggested that the meeting be adjourned for both parties to discuss wording of a potential condition and this would then be for the Sub-Committee to decide what action, if any, was to be taken.

Note: The Chairman adjourned the meeting at 12:51pm for both parties to retire to discuss possible wording of a condition for the licence.

Note: The meeting reconvened at 1:08pm.

The Council's Legal Advisor asked both parties to clarify whether wording of a possible condition had been agreed and this was confirmed to be the case. The barrister stated that, should the Sub-Committee be minded to impose a condition, they had agreed for the wording to state that the previous licence holder was to have no involvement employment or staff training.

The Chairman enquired of all parties whether there was any further comment. The representative from Lincolnshire Police confirmed he had nothing further to add. The barrister for the licence holder restated her request for there to be no further action taken, however, requested that should a condition be considered necessary, it was worded as they had discussed. The wording and additional information from the licence holder was passed to the Council's Legal Advisor.

Note: The Sub-Committee then withdrew from the meeting at 1:11pm to deliberate and come to a decision. The Democratic and Civic Officer and the Council's Legal Advisor accompanied the Sub-Committee.

Note: The Sub-Committee and Officers returned to the meeting at 2:25pm to advise parties of the outcome of its deliberations,

The Chairman apologised to all parties for the lengthy adjournment. The Council's Legal Advisor confirmed she had reviewed the additional information and confirmed it had been covered within the hearing. She advised that the Sub-Committee had looked at the proposed wording for the condition to the licence and while the ethos of the condition remained the same, one word had been amended for additional clarity.

The Chairman then read aloud the decision and the reasoning behind it.

RESOLVED that the licence may continue with the addition of the following condition:

[The previous licence holder] is to have no involvement in the:

- a) employment (recruitment or termination) of any staff members;
- b) providing training for any staff member or the maintenance of training records.

The Chairman advised that all parties would be notified of the decision in writing within five working days of today's hearing and reminded those present of the right to appeal to the Magistrates' Court within 21 days of receiving such notice.

The meeting concluded at 2.32 pm.

Chairman