



Licensing Sub-Committee

17 December 2020

Subject – Application for the Review of a Premises Licence

Report by:

Ian Knowles
Chief Executive

Contact Officer:

Tracy Gavins
Licensing Enforcement Officer
01427 676598
tracy.gavins@west-lindsey.gov.uk

Purpose / Summary:

This report is being put before the Members of the Licensing Sub-Committee for them to determine the outcome of this review application.

RECOMMENDATION:

That Members take into account all the information put before them, both within this report and presented to them at the hearing, by all parties in attendance.

Members will then need to decide which of the options presented to them in section 6 of this report are appropriate in determining this application, taking into account The Licensing Act 2003, s.182 Statutory Guidance and West Lindsey District Council's Licensing Policy.

IMPLICATIONS

Legal: The Licensing Act 2003, Schedule 5, Part 1 makes provision for the applicant for the review of a premises licence and the licence holder and any other person who made relevant representations to appeal the outcome of the hearing.

Any appeal must be made to the Magistrates Court for the local justice area in which the premises concerned is situated.

Any appeal must be commenced within 21 days beginning with the day on which the appellant was notified by the authority of the decision appealed against.

Financial: N/A

Staffing: N/A

Equality and Diversity including Human Rights:

- Article 6 – Right to a fair hearing in public before an independent and impartial tribunal.

Data Protection Implications: Personal data within the report appendices has been redacted where relevant.

Climate Related Risks and Opportunities: N/A

Section 17 Crime and Disorder Considerations:

- (S.17 Crime and Disorder Act 1998) - (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Health Implications: N/A

Background Papers used in the preparation of this report:

Licensing Act 2003
WLDC Licensing Policy
s.182 Statutory Guidance

Risk Assessment:

See the Legal section above in relation to Appeals.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

LICENSING ACT 2003

Licence Number: 32UHB01805

Hearing Type: Review of a Premises Licence

Applicant: Lincolnshire Police

Premises: Gainsborough Grill - 168 Trinity Street, Gainsborough DN21 1JW

Premises Licence Holder: Mr Ramazan OZCAN

1 The Application for Review

- 1.1 An application for review of the premises licence for Gainsborough Grill (168 Trinity Street, Gainsborough) has been made by Lincolnshire Police, which was received on 4 November 2020. Lincolnshire Police are a Responsible Authority, as defined by the Licensing Act 2003, and are 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.
- 1.2 From the information detailed in the application for review, Lincolnshire Police have stated that the application relates to three licensing objectives: the prevention of crime and disorder, prevention of public nuisance and public safety.
- 1.3 Lincolnshire Police obtained evidence on 26-27 September 2020 that Gainsborough Grill had been trading beyond the Government's restrictions which were introduced on 24 September 2020. These instructed takeaway and other licensed premises not to allow customers to enter the premises after 10pm although premises could continue to offer a delivery service beyond this time, within their permitted licensing hours.

On a follow-up visit on 2 October 2020 by Police licensing officers, it was found that the CCTV system on the premises was not working in line with the licence conditions as set out in the operating schedule. Failure to comply with premises licence conditions is a criminal offence under section 136 of the Licensing Act 2003.

A copy of the review application is attached at **Appendix 1** with police statements at **Appendix 1a and 1b**.

- 1.4 West Lindsey District Council, as the Licensing Authority, must advertise the review application as defined by regulations. Therefore, in order to invite representations to be made by Other Persons and Responsible Authorities, a

notice was placed on Gainsborough Grill's advertisement board (which is external to the premises) and a notice published on WLDC's website.

2 The Premises (including any background information)

- 2.1 Gainsborough Grill holds a premises licence authorising the supply of late night refreshment (on and off the premises) between 23:00 – 02:00 and has done since March 2018. 'Late night refreshment' is the supply of hot food or drink between 23:00 and 05:00. A copy of the premises licence including any attached conditions is provided at **Appendix 2**.

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 conditions in relation to the licensing objectives.

- 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 any representations received, attention is drawn to the Licensing Authority's Policy which can be found at the link below, in the Download section. Please then select the PDF entitled Licensing 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. Please then select the April 2018 document.

<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 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 resolves 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 the review
Appendix 1a & 1b	Police Statements
Appendix 2	Premises licence for Gainsborough Grill

Appendix 1

**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 Bill Skelly, Chief Constable of Lincolnshire Police

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Gainsborough Grill, 168 Trinity Street,	
Post town Gainsborough.	Post code DN21 1JW

Name of premises licence holder Mr Ramazan Ozcan.

Number of premises licence 32UHBO1805

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)
- 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 Alcohol Licensing Myle Cross Centre Macaulay Drive LN2 4EL
Telephone number (if any) 101 - Lincolnshire - 3298438
E-mail address (optional) Countylicensinggroup@lincs.pnn.police.uk

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

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

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

This review application relates to the premises Gainsborough Grill, which operates as a takeaway and is licensed for the provision of late night refreshments from 23:00hrs until 02:00hrs Monday to Sunday.

Lincolnshire Police have obtained evidence which indicates that these premises have been trading beyond the 10pm closure introduced by the Government on 24th September 2020 in the ongoing effort to prevent the spread of the Coronavirus. The premises continuing trading in this manner means that the licensing objectives have been undermined and criminal offences committed.

In common with all takeaway businesses the 10pm closure meant that after that time no customers were allowed to enter the premises, it could remain open but for the purposes of deliveries only. The obvious intention of the 10pm till 5am closure time is to protect public health in light of the COVID-19 pandemic by closing down venues in which people congregated closely together and reducing the spread of infection in the local community.

Gainsborough Grill has been found to be in breach of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 by remaining open for customers to enter and purchase food between 10pm and 5am.

On a follow up visit by Police licensing officers it was found that the CCTV system in the store was not working. The CCTV system must adhere to the conditions embedded in Annex 2 of the premises licence. Failure to comply with the premises licence conditions is a criminal offence under Section 136 of Licensing Act 2003.

The Licensing Act 2003 is clearly intended to prevent crime and disorder from occurring in relation to licensed premises but also to keep to public safe and to prevent harm and nuisance.

At such an unprecedented time Lincolnshire has seen an overwhelming level of compliance with the restrictions and measures placed on licensed premises due to the current health pandemic amongst licensees across the county, who have all faced severe financial hardships. The actions and failure of Mr Ozcan the licence holder have seriously and intentionally undermined the licensing objectives for the prevention of crime, public safety, public nuisance.

Relevant Legislation, Guidance and Policies

Revised Guidance issued under Section 182 of the Licensing Act 2003

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

2.7 Licence Holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act.

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems, at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish guilt or innocence of any individual but to ensure that promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premise licence need to be delayed pending the outcome of any criminal proceedings. Some reviews will arise after conviction in the criminal courts of certain individuals, but not all. In any case it is for the licensing authority to determine whether the problem associated with alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interest of the wider community and not those of the individual licence holder.

11.28 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement, either orally or in writing, that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

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

The year 2020 has seen a Pandemic Disease, referred to as Covid19 infect vast swathes of the world including the UK.

In March 2020 the UK Government had to take the unprecedented step of closing down numerous business premises in order to try and stop the spread of the virus. It should be noted though those takeaway food businesses such as Gainsborough Grill were not required to close as they fell within the “essential businesses” category.

The three month national lockdown was successful in slowing the spread of the virus and businesses re-opened on 4th July 2020. However they had to ensure they followed Government Guidance and operated in a way that would minimise any potential spread of the disease.

Unfortunately infection rates and cases of Covid19 began to increase throughout the UK in September 2020. On Thursday 24th September 2020 the Government imposed new measures on all hospitality venues in England. All customers and staff who served them would be required to wear face masks. They all had to cease trading and be closed by 10pm – takeaway venues could remain open past this point for delivery service only. These were the first such restrictions to be placed on takeaway style premises and were extremely well publicised across all media channels.

On the evening of Saturday 26th September 2020 – two days since the introduction of the 10pm closure time, during routine patrols around the town a local officer saw that the venue was open and trading with customers inside beyond the 10pm curfew on two occasions. On the first occasion at 23:00hrs staff noticed the presence of the police vehicle and ushered the customers out of the store.

Officers returned at ten minutes past midnight on Sunday 27th September 2020 – there were two customers inside the premises and a group of six waiting outside. They entered the store and spoke to the owner and licence holder Mr Ozcan. Whilst he was dealt with and issued a fixed penalty notice for opening beyond 10pm he was obstructive and attempted to provide false details to the officer.

(See PC Vickers Statement for full account).

On Friday 2nd October 2020 a visit was made to Gainsborough Grill by Officers from the Alcohol Licensing Team. (See Sgt 1040 Enderby Statement for full account).

Officers found that the CCTV camera system was not working, a breach of licence conditions and an offence under Section 136 of Licensing Act 2003. Customers entered the store without masks and were not challenged by Mr Ozcan. Follow up investigations have also revealed repeated problems with the CCTV system which have not been rectified.

The Police are unable to offer any suitable conditions which would prevent the recurrence of such a serious deliberate breach of the current legislation. Many individuals and business are facing very serious financial hardship; however they have chosen to be responsible, at a huge personal cost to themselves and their families and abide by the current legislation and therefore not put themselves, their employees and their customers at risk. Lincolnshire Police request that the revocation of the premises licence be seriously considered, due to the deliberate breaches of legislation designed to stop the spread of the Covid19 virus and protect the public.

Please tick ✓ yes

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

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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 X
- I understand that if I do not comply with the above requirements my application will be rejected X

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 Enderby

Date 15/10/2020

Capacity Sgt 1040 Enderby – Alcohol Licensing Manager.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Appendix 1a

WITNESS STATEMENT
Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s.9

URN				
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Statement of: Laura Vickers

Age if under 18: 018 (if over 18 insert 'over 18')

Occupation: Police Officer

This statement (consisting of page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature:

Date

Tick if witness evidence is visually recorded *(supply witness details on rear)*

I am the above named person and I am a Police Officer currently based at Gainsborough Police Station.

On SATURDAY 26th SEPTEMBER 2020, I was on duty in full uniform in the company of SC 20569 HAMMERTON. We were conducting routine patrols of Gainsborough Town Centre.

Throughout the course of the shift, I noticed that the GAINSBOROUGH GRILL, TRINITY STREET, GAINSBOROUGH were not adhering to the new COVID restrictions that were put in place on the THURSDAY 24th SEPTEMBER 2020. The new guidelines from that date stated that businesses serving food must be closed between 2200HRS and 0500HRS. However it further stated that takeaways could remain open for food delivery.

Throughout the course of the evening, there were always a number of people within and outside the premises. At approximately 2300HRS, I have driven past the location and have again noticed a number of people within the premises. I have turned my vehicle around and returned to location to see a member of staff sending people out of the premises. The staff were clearly aware of the restrictions, and my presence at that time has made them enforce them. The door was open on each occasion that we have driven past and the signage at the front was still lit. There was no signage on the shop front to make members of the public aware that they were following the guidelines.

At approximately 0010HRS on SUNDAY 27th SEPTEMBER 2020, I drove past the location again. At that point the front door to the shop was wedged open and the sign was lit stating that the shop was clearly open. There were two members of the public within the store sat down and there for approximately 6

Page 1 of 3

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Statement of: _____

people at the front of the store coming and going to the door. Again, I have turned the vehicle around and returned to the location and a male member of staff was ushering the two people out of the premises.

I pulled up alongside the premises and spoke with a male that identified himself as the manager. He stated that his staff were not aware of the current restrictions as they do not speak English. However he confirmed that he was aware of the restrictions, as the manager.

Due to the amount of times that we had driven by and seen the breaches, it was at that point that I made him aware that we would have to look at the possible breaches.

The manager then started to shout at the members of the public that had been inside the premises and told them that it was their fault that he was in breach of the conditions.

I left the location to confirm the current way of dealing with such breaches and returned approximately ten minutes later.

I then parked up the vehicle and started to speak further to the male that identified himself as the manager. At that time, he started to state that he was in fact not the manager and that it was a further person, whose details he was unwilling to divulge to me. Throughout the interaction he was extremely obstructive and was trying to state that I wasn't doing my job properly. He kept pointing to a group of 6 people who were walking around the street, saying that I should have been concentrating on them and not on the fact that he was breaching his conditions.

He initially gave details that were incorrect. I had previously dealt with the male I was speaking to and knew that the details were wrong. He then confirmed his name and date of birth, but stated that he was not the manager. I advised that he had already made me aware in the previous conversation that he was in fact the manager. The details of the male were confirmed as Ramazan DZCAN, DOB 05/09/1995.

This was also confirmed by the vehicle that he was driving, which he had pulled up in prior to me speaking with him.

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Statement of: _____

He again stated that his staff were not aware that the restrictions had changed, although he confirmed that he knew what the new restrictions were. He then tried to say that he required the front door to be open because he was unable to cook the food without it being open due to a circulation issue within the building. He could not account for the reasons as to why he couldn't use a back door, and that the lights were clearly on stating that he was open.

I stated to complete the ticket with him and went through the process. He then said something along the lines of, "JUST FUCKING ARREST ME, TAKE ME TO COURT".

I advised of the process that would be followed, and gave him my details as he had requested.

Throughout the conversation, OZCAN remained extremely obstructive and was trying to give false details. He was trying to state that I wasn't doing my job correctly and should be dealing with other people that were in breach of the covid restrictions. He was aware of the restrictions himself, and as the manager of the store, should have made his staff aware. His staff were all wearing facemasks, so I gather that there would have been some understanding of the restrictions that they had to adhere to.

As I left the location, OZCAN went back inside the property and shut the door.

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Appendix 1b

Occurrence Number:		URN			
Name of Witness:					
Home address:					
Mobile:		Email address:			
Home telephone No.:		Work telephone No.:			
Preferred means of contact (specify details):					
Gender:		Date and Place of Birth:			
Former Name:		Ethnicity code (16+1):			
DATES OF WITNESS NON-AVAILABILITY:					

<u>Witness care</u>		
a)	Is the witness willing and likely to attend court?	If 'No', include reason(s) on form MG6
b)	What can be done to ensure attendance?	
c)	Does the witness require a Special Measures Assessment as a <i>vulnerable or intimidated witness</i> ? (<i>youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case</i>)	If 'Yes', submit MG2 with file in anticipated not guilty, contested or indictable only cases.
d)	Does the witness have any particular needs?	If 'Yes', what are they? (Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?)

<u>Witness Consent (for witness completion)</u>				
a)	The Victim Personal Statement scheme (victims only) has been explained to me:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
b)	I have been given the Victim Personal Statement leaflet and Select wish to make a Victim Personal Statement at this time.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
c)	I have been given the leaflet "Giving a witness statement to the police – what happens next?"	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
d)	I consent to police having access to my medical record(s) in relation to this matter (obtained in accordance with local practice):	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
e)	I consent to my medical record in relation to this matter being disclosed to the defence:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
f)	I consent to the statement being disclosed for the purposes of civil proceedings if applicable, e.g. child care proceedings, CICA:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
g)	Child witness cases only. I have had the provision regarding reporting restrictions explained to me. I would like CPS to apply for reporting instructions on my behalf.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>

<i>'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.</i>			
Signature of witness:		PRINT NAME:	
Signature of parent/guardian/ appropriate adult:		PRINT NAME:	
Address and telephone number if different from above:			

Statement taken by (print name):		Station:	
Time and Place Statement taken:			

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN				
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Statement of: Kimble.J.Enderby

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Sergeant 1040.

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature:

Date 07/10/20.

Tick if witness evidence is visually recorded (*supply witness details on rear*)

I am the Alcohol Licensing Manager for Lincolnshire Police.

On Friday 2nd October 2020 I was on plainclothes duty accompanied by PC 1299 Casey. At approximately 17:10hrs we attended at Gainsborough Grill, 168 Trinity Street, Gainsborough. A local officer had found the premises trading in breach of the 10pm closure introduced by the government on 24th September 2020- they were found open with customers inside at 00:10hrs on 27th September 2020.

It was our intention to do a follow up visit and check the premises was operating in compliance with the conditions on their premises licence. As we entered the takeaway we could see staff behind the counter wearing face masks. A male stood directly behind the counter introduced himself as Mr Ozcan, the licence holder. We identified ourselves and explained the reason for the visit to the store.

Mr Ozcan could offer no real explanation as to why he had been discovered open and trading by police on 27th September. I then explained to him that I wanted to do a review of his CCTV footage- to check that he had not been serving customers on other occasions since the introduction of the 10pm closure time on 24th September.

He told me that I would be unable to do this as his CCTV system was not working. I asked him how long it had been faulty and he said "about a month". The premises has specific conditions on its licence in relation to the CCTV system, these were clearly being breached by the system not working at all. I advised Mr Ozcan that he should only make deliveries from the premises past 23:00hrs if his CCTV system was operating correctly. He said he would get it fixed as soon as possible.

Whilst we spoke to Mr Ozcan two customers entered the store and sat down, they were not wearing masks. Ozcan did not challenge them in anyway, so we had too. We asked them to either put on masks or leave the store – they chose to leave the premises. I could see that there were no signs or notices displayed in the store or on the entrance door or windows to inform members of the public that masks and social distancing was required.

Following my visit to Gainsborough Grill I checked the police crime incident system Niche and discovered the following two incident-

9/07/2020 – Gainsborough Grill reports criminal damage to its front window. Investigating officer made the following entry – ***"THE VICTIM DOES NOT HAVE A SERVICABLE CCTV SYSTEM INSIDE HIS SHOP. HOWEVER HE DOES NOT KNOW IF TOWN COUNCIL CCTV COVERS THE FRONT OF HIS SHOP"***

Page 1 of 3

Signature:		Signature witnessed by:	
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Statement of: _____

8/8/2019- member of public reports losing credit card and after losing it someone had used it to purchase food at Gainsborough Grill Takeaway. Enquiries were made at the takeaway by the investigating officer who made the following entry - "*GAINSBOROUGH GRILL owner has been spoken to. CCTV Cameras are fitted, but the recording function is not working. He does not recall the food purchases in question. The nearest town camera is too far away.*"

These two incidents appear to show that there have been problems with the CCTV system at Gainsborough Grill for a considerable amount of time, meaning investigations in both these cases were hindered by the lack of a properly functioning CCTV system. This also further demonstrates the lack of care and management at the premises by Mr Ozcan.

Signature:		Signature witnessed by:	
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Appendix 2

Licensing Act 2003

Premises Licence

32UHB01805

Part 1 - Premises Details

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

Gainsborough Grill

168 Trinity Street, Gainsborough, Lincolnshire, DN21 1JW.

Telephone 01427 616060

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 & Outdoors)	Monday to Sunday	11:00pm	2:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	4:00pm	2:00am

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

Ramazan Ozcan

168 Trinity Street, Gainsborough, Lincolnshire, DN21 1JW.
Telephone 01427 616060 or [REDACTED]

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

ANNEXES

Mandatory Conditions

Not Applicable

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

There shall be a minimum of one high resolution colour camera fitted to each public entrance/exit to provide a quality head and shoulder image for facial recognition/identification purposes of all persons entering the premises.

There shall be sufficient cameras to be able to cope with the normal operating illumination to

Licensing Act 2003

Premises Licence

32UHB01805

ANNEXES continued ...

reasonably cover all licensed public areas.

Records shall be kept for upto 31 days should the CCTV system need to be accessed. Playback and access to be made available by the owner at all times.

Access to CCTV equipment to be kept in a secure locked away area

All records will be kept of incidents to include, date, name (where possible), incident details, staff involved and kept for a minimum of 12 months, kept in a secure area with restricted access.

Both the incident book and CCTV records will be available for inspection by relevant authorities.

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

Not Applicable

Licensing Act 2003

32UHB01805

Premises Licence Summary

Premises Details

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

Gainsborough Grill

168 Trinity Street, Gainsborough, Lincolnshire, DN21 1JW.

Telephone 01427 616060

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 & Outdoors)	Monday to Sunday	11:00pm	2:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	4:00pm	2:00am

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

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

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

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

Not applicable

LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

Schedule of information to accompany notice of a hearing

1. Rights of a party

- a) A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
(Regulations 15 – subject to Regulations 14(2) and 25)
- b) At a hearing a party shall be entitled;
 - (i) in response to a point upon which the Licensing Authority has given notice to a party that it will want clarification, give further information in support of their application, representation or notice (as applicable)
 - (ii) if given permission by the Licensing Authority, question any other party; and
 - (iii) address the authority*(Regulation 16)*

2. Consequences if a party does not attend or is not represented at a hearing

All parties have been given notice to attend the hearing.

- a) If a party has informed the Licensing Authority that he/she does not intend to attend or be represented at the hearing, the hearing will proceed.
- b) If a party who has not so indicated, fails to attend or be represented at the hearing, the hearing will proceed unless the Licensing Authority considers it necessary in the public interest to adjourn the hearing to a specified date.
(Regulation 20)

3. Procedure to be followed at the hearing

- a) The Licensing Authority has determined the procedure of the hearing, a copy of which is attached. This procedure is subject to the provisions of Regulations 22 and 25.
(Regulation 21)

4. Points on which the Licensing Authority considers it will want clarification

- a) Any points on which the Licensing Authority considers it will want clarification are attached if applicable.
(Regulation 7(1)(d))

5. Action following receipt of notice of a hearing.

- a) If you have not already done so you must, no later than 5 days before the day or the first day on which the hearing is to be held, give notice to the Licensing Authority, in writing:
 - (i) whether you intend to attend or be represented at the hearing
 - (ii) whether you consider a hearing to be unnecessary and if so give a full explanation as to why this is the case

A notice is enclosed for this purpose.

(Regulation 8)

Review Hearing Procedure

Licensing Act 2003

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.

Legal Advisor 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 or 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 witnesses
- The Members of the sub-committee may ask questions of the premises licence holder and any witnesses
- The premises licence holder 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

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.

The applicant can summarise any points they wish to make and comment briefly on the premises licence holder's replies to questions. They cannot introduce any new issues at this stage.

5. Conclusion

The Chair will then ask the Legal Advisor 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 Legal Advisor will be retiring with them but will not take 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 representative in writing by the Licensing Authority within 5 working days.

N.B. if legal advice is given to Members by the Legal Advisor then this advice will be repeated in summary form by the Legal Advisor 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.



**Notice of intention to attend
Licensing Act 2003**

Please complete the below and return **by e-mail to licensing@west-lindsey.gov.uk** within the timescale specified on page 2. The meeting will be held virtually so e-mail addresses will be used to send the meeting invite out.

Date of Hearing – **Thursday 17 December 2020 13:30**

- (1) Do you intend to attend the hearing in person? YES / NO*
- (2) Do you intend to be represented at the hearing? YES / NO*
- (3) Name **and e-mail address** of representative (where applicable)

- (4) Do you intend to call any witness at the hearing? YES / NO*
- (5) Name(s) **and e-mail address** of any witnesses (where applicable)

- (6) Do you consider that a hearing is unnecessary? YES / NO*

** delete as applicable*

The Sub-Committee may in any event determine to hear the matter and if you fail to attend hear it in your absence. You will be given notice if the hearing is dispensed with.

Signature _____

Name in full _____

Address _____

Date _____

Licensing
West Lindsey District Council
Guildhall
Marshall's Yard
Gainsborough
Lincolnshire
DN21 2NA

IMPORTANT –

YOU ARE REQUIRED TO COMPLETE AND RETURN THE ATTACHED NOTICE NO LATER THAN IN ACCORDANCE WITH THE TIMESCALES SET OUT BELOW.

IF YOU DO NOT PROVIDE ANY ADDITIONAL INFORMATION OR DOCUMENTARY EVIDENCE IN ADVANCE OF THE HEARING AND ANY PARTY OBJECTS TO THAT INFORMATION OR DOCUMENTARY EVIDENCE NOT ALREADY SUBMITTED BEING PROVIDED AT THE HEARING IT MAY NOT BE PRESENTED AT THE HEARING.

GUIDANCE NOTES:

Timescales for submission of the attached notice

(1) In the case of a hearing under:

- (a) Section 48(3)(a) (cancellation of interim authority notice following police objections), or
- (b) Section 105(2)(a) (counter notice following police objection to temporary event notice)

the party shall give the notice **no later than 1 working day** before the day on which the hearing is to be held.

(2) In the case of a hearing under:

- (a) Section 167(5)(a) (review of premises licence following closure order),
- (b) Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
- (c) Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
- (d) Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence)

the party shall give the notice **no later than 2 working days** before the day on which the hearing is to be held.

(3) **In any other case, the party shall give the notice no later than 5 working days before the day or the first day on which the hearing is to be held.**