

LICENSING ACT 2003

TO CONSIDER AN APPLICATION TO TRANSFER A PREMISES LICENCE AND AN APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR UNDER THE LICENSING ACT 2003 AT DELICJA, UNIT 2, 20 WESTLODE STREET, SPALDING, LINCS, PE11 2AF

PRESENT

Members of the Panel:

Councillor J L King

Councillor G P Scalese

Councillor J Tyrrell (Chairman)

Officers:

D Hall (Licensing and Business Support Manager)

Christine Morgan (Democratic Services Officer)

Anna Howlett (Democratic Services Team Leader)

Sarah Wolstenholme-Smy (Legal Services Manager)

In attendance:

D Naghen (Maples Solicitors (legal advisor to the Panel))

Sgt K Enderby (Lincolnshire Police)

PC Gina McConville (Lincolnshire Police)

The Panel considered an application to transfer a premises licence and an application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003 at Delicja, Unit 2, 20 Westlode Street, Spalding, Lincs, PE11 2AF

The Panel considered the written and verbal evidence presented by all parties, in arriving at this determination.

The Panel took due notice of the Licensing Act 2003, and the Regulations made under it, in particular sections 37-39 and sections 42-45, the guidance issued under section 182 including paragraphs 2.1, 4.39, 8.101, 11.27-11.28, and South Holland District Council's Statement of Licensing Policy.

The Applicant and her Solicitor did not attend the Hearing. There was no request to adjourn to a later date and written representations were received in the anticipation that the Hearing would proceed in their absence. The Panel were deprived of the opportunity to ask additional questions or receive further information from the Applicant. The implication is that the Applicant having seen the evidence put forward by the Police would not have given answers that would have stood up to scrutiny.

The Applicant in her own written submissions accepted that she had not been open previously regarding her involvement with a person of concern. The police case was that she had deliberately lied and that significant evidence existed to demonstrate that she had lied. It was submitted by the Police that giving false information in respect of a Licensing Application may amount to a criminal offence in its own right.

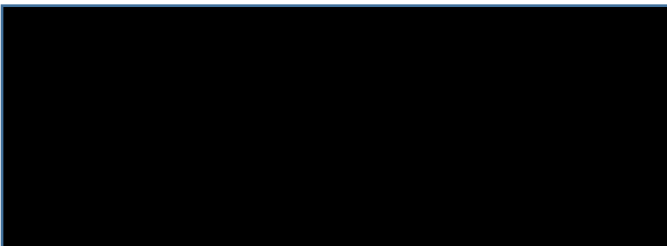
The Applicant was linked to a premises that had previously been raided for illicit tobacco and is also linked to an individual who has links to shops where there have been issues. All of this is set against a backdrop of the Applicant seeking to take over premises that the Police say have a history of applications from those with links to criminality and which has had a licence revoked.

Furthermore despite the Applicant only recently taking over the Premises there has already been a problem involving the failure to have prices on display for alcohol and alcohol being offered for sale at prices that would suggest that goods may be smuggled and labelling suggested that bottles of wine had not had UK duty paid.

The Panel accept that the Police need to believe that there are exceptional circumstances to object to both of these applications and the Police were unequivocal in their statement that they believe these to be exceptional circumstances. Having regard to the notice issued by the Police the Panel rejects each application considering it appropriate for the Crime Prevention Objective to do so.

RIGHT OF APPEAL

Under Schedule 5 of the Licensing Act 2003 there is a right of appeal for the police to the Magistrates Court. Any appeal must be commenced by notice of appeal given by the appellant to the Magistrates Court within 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.



Signed: Councillor J Tyrrell (Chairman of the Panel)

Date: 4 June 2020

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