

## DECISION NOTICE

### LICENSING ACT 2003 – TO CONSIDER AN APPLICATION FOR THE REVIEW OF A PREMISES LICENCE FOR RAFAEL’S COFFEE SHOP, 28 WESTLODE STREET, SPALDING, LINCS, PE11 2AF

#### PRESENT

<b>Members of the Panel:</b>
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Councillor J Tyrrell (Chairman) Councillor A Casson Councillor J L King
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<b>Officers:</b>
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H Lawson (Licensing Team Leader) A Howlett (Democratic Services Team Leader) A Franklin (Democratic Services Officer) S Wolstenholme-Smy ((Legal Services Manager) Legal Advisor to the Panel)
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<b>In attendance:</b>
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Jorge Carmezim (Premises Licence Holder) Sgt K Enderby (Lincolnshire Police) PC G McConville (Lincolnshire Police)
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The Panel considered the application for the review of a Premises Licence for Rafael’s Coffee Shop, 28 Westlode Street, Spalding, Lincs, PE11 2AF.

#### DECISION

The Panel considered the written and verbal evidence presented by all parties, in arriving at this determination. They also considered body worn camera evidence.

The Panel took due notice of the Licensing Act 2003, and the Regulations made under it, in particular sections 51-53, the guidance issued under section 182 including paragraphs 2.1, 2.7, and 11.16 - 11.28 and South Holland District Council’s Statement of Licensing Policy.

The responsible authority, namely the Police, asked for the premises licence to be reviewed. There was evidence that the premises licence holder opened their premises in breach of the Health Protection ( Coronavirus Restrictions ) ( England ) Regulations 2020 ( “the Regulations” ) on at least 20<sup>th</sup> June 2020. Police body worn camera evidence shows a number of adults in the premises drinking alcohol on that date.

The Premises Licence holder admits that they opened the premises in breach of the Regulations. They claimed the premises were opened for a child's birthday party for friends and family. The Licensing Panel do not accept this was the reason for opening the premises and serving alcohol, but in any event whatever the reason, the licenced premises were opened in breach of the Regulations when other businesses were subject to closure. At this time various businesses had to close to restrict the spread of the Coronavirus and protect the health service. The Premises Licence holder has shown a blatant disregard for this. Furthermore there is no evidence that the Premises Licence holder ensured that users of the premises adhered to social distancing or that other safety measures were in place.

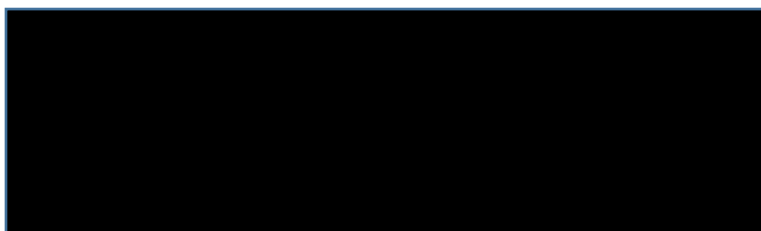
The Licensing Panel considers this to be in breach of all four licensing objectives and do not consider that any additional conditions would satisfy this breach. Therefore, the Licensing Panel determines that the Premises Licence should be revoked,

## **RIGHT OF APPEAL**

Under Schedule 5 of the Licensing Act 2003 there is a right of appeal 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.

The holder of the licence, the applicant for the review or any person who made relevant representations may appeal against the decision.

The determination does not have affect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.



**Signed: Councillor J Tyrrell (Chairman of the Panel)**

**Date: 11 August 2020**