

LICENSING ACT 2003

TO CONSIDER AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR HOLBEACH DROVE STORE, HOLBEACH DROVE GATE, HOLBEACH, LINCS, PE12 0PX

PRESENT

Members of the Panel:

Councillor M D Booth Councillor A Casson Councillor J Tyrrell (Chairman)
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Officers:

H Lawson (Licensing Officer) H Wright (Assistant Licensing Officer)
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In attendance:

D Naghen (Maples Solicitors (legal advisor to the Panel)) PC G McConville (Lincolnshire Police) D Ring (Lincolnshire Police Legal Representative) Sgt Amy Briggins (Lincolnshire Police) PC Jon Cummins (Lincolnshire Police) K Vijayakumar (Premises Licence Holder) F Fender (Premises Licence Holder's Agent) R Vinayagamoothy (Premises Licence Holder's Cousin)

The Panel considered the application for a review of a Premises Licence for Holbeach Drove Store, Holbeach Drove Gate, Holbeach, Lincs, PE12 0PX.

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, in particular sections 51 and 52 and the Regulations made under it, the section 182 guidance in particular paragraphs 11.20 - 11.28 and the Licensing Authority's Statement of Licensing Policy.

It was conceded by the Premises Licence Holder that there had been two illegal workers at the premises on 24th October 2022. It was conceded that no right to work checks had taken place on those workers. It was submitted that they had worked there only for a couple of months however the refusals register appears to be signed by one of these illegal workers as far back as 25th May 2022. The Premises Licence Holder agreed these workers were living at the premises but suggested they had not yet been paid due to not having provided documentation. This only heightened the concerns the Panel had over the running of the business.

The Panel considered imposing a stringent package of conditions, however conditions require confidence that they will be implemented and upheld and given the

lack of clarity in a number of answers from the Premises Licence Holder there was no faith that the crime and disorder objective would be promoted in the future. Even now, there were questions as to who was working in the store with one person who was encountered by the Police in January not appearing on the February payroll but then having a right to work check dated 23rd February 2023 marked as a follow up check.

The section 182 guidance indicates that certain criminal activity should be treated particularly seriously including employing a person who is disqualified from work by reason of their immigration status. The guidance indicates that revocation of the licence in these circumstances even in the first instance should be seriously considered.

The Panel is not seeking to impose a punishment but in light of all of the circumstances the only appropriate step to promote the licensing objective of prevention of crime and disorder was to revoke the licence.

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: 16 March 2023

