

LICENSING ACT 2003  
Section 52

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**Notice of determination of application for a review of premises licence.**

To

Of

The City of Lincoln Council, being the licensing authority, on 21<sup>st</sup> January 2015 received an application from the Chief Officer of Police for Lincolnshire, a Responsible Authority, for a review of a premises licence in respect to premises known as Status, 13-14 Silver Street, Lincoln, LN1 2EH the licensee being Innovation Pub Management Limited. The reason given for the application was that the licence objectives of Preventing Crime and Disorder and promoting Public Safety were at risk through the operation of these premises.

On 17<sup>th</sup> February 2015 it received a representation from the City of Lincoln Council's Food, Health and Safety Team, a Responsible Authority, in respect of the activities at the premises being a risk to the licensing objective of promoting public safety.

Having had regard to the application and the representations made during the hearing between 23<sup>rd</sup> March 2015 and 25<sup>th</sup> March 2015, the Sub-Committee considers it appropriate and proportional for the promotion of the licensing objectives, namely the Prevention of Crime and Disorder, and Public Safety to take the following action, namely to modify the hours of operation of licensable activities and to modify the conditions on the Premises Licence.

**(1) The Decision**

The hours authorised for licensable activities have been reduced by one hour to 03:00 each day of the week except those subject to the existing non-standard timings, namely:

**Supply of Alcohol**

Hours: Seven Days a Week from 09:00 until 03:00

Non standard Timings

On New Years Day no restrictions apply.

An additional hour to the standard and non standard times when British Summer Time commences.

**The Exhibition of Films is licensed to take place indoors**

Performance Hours: Seven Days a Week from 09:00 until 03:00

Non standard Timings

On New Years Day no restrictions apply.

An additional hour to the standard and non standard times when British Summer Time commences.

**The Performance of Live Music is licensed to take place indoors**

Performance Hours: Seven Days a Week from 09:00 until 03:00

Non standard Timings

On New Years Day no restrictions apply.

An additional hour to the standard and non standard times when British Summer Time commences.

**The Playing of Recorded Music is licensed to take place indoors**

Performance Hours: Seven Days a Week from 09:00 until 03:00

Non standard Timings

On New Years Day no restrictions apply.

An additional hour to the standard and non standard times when British Summer Time commences.

**The Performance of Dance is licensed to take place indoors**

Performance Hours: Seven Days a Week from 09:00 until 03:00

Non standard Timings

On New Years Day no restrictions apply.

An additional hour to the standard and non standard times when British Summer Time commences.

**The Entertainment similar to music/dance is licensed to take place indoors**

Performance Hours: Seven Days a Week from 09:00 until 03:00

Non standard Timings

On New Years Day no restrictions apply.

An additional hour to the standard and non standard times when British Summer Time commences.

**The Provision of Late Night Refreshments is licensed to take place indoors**

Hours: Seven Days a Week from 23:00 until 03:30

Non Standard Timings

New Years Eve from 23:00 until 05:00

An additional hour to the standard and non standard times when British Summer Time commences.

**The opening hours of the premises**

Opening Hours Seven Days a Week from 09:00 to 03:30

Non standard Timings

On New Years Day no restrictions apply.

An additional hour to the standard and non standard times when British Summer Time commences.

## **The following conditions have been modified:**

1. A tamper resistant CCTV system shall be installed, maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police, specifically:
  - a) the CCTV shall be used to record colour images to assist in the identification of individuals during all hours that the premises are open to the public.
  - b) where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.
  - c) there shall be a minimum of one high resolution camera fitted in a weatherproof housing, for external coverage of the entrance.
  - d) there shall be a minimum of one high-resolution colour camera fitted to the public entrance/exit to provide a quality head and shoulder image for facial recognition/identification purposes of all persons entering the premises.
  - e) the images recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days.
  - f) recordings of incidents at the premises must be made secure for inspection by the police and provided on lawful request. This means that a member of staff shall be available within 24 hours who is capable of operating the CCTV system and providing recordings.
  - g) signage shall be clearly displayed informing customers that a CCTV system is in operation and recording on the premises.
2. Recordings of incidents at the premises must be made secure for inspection by the police and provided on lawful request. This means that a member of staff shall be available within 24 hours who is capable of operating the CCTV system and providing recordings.

All CCTV recordings shall be dealt with in accordance with the Data Protection Act 1998.

3. A 'Challenge 25' Proof of Age scheme will be operated. Anyone attempting to enter the premise or purchase alcohol that appears under the age of 25 years will be asked for proof of age. Acceptable forms of identification will be a PASS-accredited proof of age card, photo driving licence or passport. Failure to produce satisfactory proof of age will result in a refused sale.
4. Clear, prominent and unobstructed signage informing customers of the Proof of Age scheme will be clearly displayed at: all entry points to the premises, adjacent to all points of sale.
5. There shall be a dispersal policy, drug policy, search policy, queue management policy and a general risk assessment completed for the premises. These documents will be specific to the venue and will be kept on site at all times and will be made available for inspection upon request from any responsible authority
6. All point of sale staff shall undergo training in the risk assessment, challenge 25 proof of age scheme and all other relevant policies with a record kept of the date of training, signed by the member of staff and the trainer. Each entry shall be retained for a period of 12 months from date of completion. This record shall be made available for inspection by Lincolnshire Police Officers or other parties acting on their behalf.

7. Patrons shall not be allowed to enter or leave the premises whilst in possession of any drink in either sealed or unsealed containers. For the purpose of clarity this includes patrons going outside to use a designated smoking area.
8. The General Risk Assessment shall also contain an occupancy capacity which the venue will adhere to.
9. When radio link communication is available in Lincoln city centre the premises will be part of the scheme with a radio being kept on the premise when open and any radio kept in good working order at all times. (To remove any doubt, when open means at any time the premises is open to the public, irrespective of whether door supervisors are on duty.)
10. An incident book shall be kept at the premises in which details of crime and/or disorder relating to the premises shall be recorded. The incident book shall contain the following details;
  - time, date and location of incident.
  - nature of the incident
  - names, addresses and contact details of persons involved.
  - the result of the incident.
  - action taken to prevent further such incidents.
  - each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS.The incident book shall be made available to police upon request. Each entry shall be retained for a period of 12 months from date of completion
11. There shall be a minimum number of 2 SIA-registered door supervisors on duty at the entrance of the premises from 22:00hrs whilst it is open for business and until 15 minutes after closing.
12. There shall be 1 additional SIA registered door supervisor on duty at the premises from 22:00hrs for the first 100 customers and for each 100 extra customers or part thereof whilst the premises are open for business and until 15 minutes after closing.
13. There shall be a Personal Licence Holder on duty on the premises whilst it is open for business from 21:00hrs until 15 minutes after the last sale of alcohol.
14. All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests.
15. Customers shall not enter the premises from either Silver Street or the service area emergency exits.
16. All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when the doors have been opened.
17. A drug safe shall be installed at the premises.
18. Staff and management shall receive refresher training every twelve months in relation to licensing legislation, underage sales and drugs policies and shall be fully conversant with the conditions contained therein the Premises Licence.

### **The following conditions shall remain on the licence in an unmodified form:**

1. A record/log book shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a door supervisor. The record shall be retained for a period of 12 months from date of completion and contain the following details:-
  - The door supervisor's name;
  - His/Her Security Industry Authority licence number;
  - The time and date he/she commenced and concluded their duty;
  - The door supervisors shall sign each entry; and
  - The Designated Premises Supervisor or other authorised person shall also endorse each entry as having checked the authenticity of the individual door supervisor.
2. There shall be regular collections of empty bottles/glassware whilst the premises are providing licensable activities.
3. All staff shall receive training in emergency evacuation procedures.
4. If a DJ is used on any night then he/she will ask customers to leave quietly.
5. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency or when persons are entering/exiting the premises.
6. All drinks shall be served in either toughened glassware and/or plastic drinking vessels.

### **Reasons for decisions**

The initial application for the review contained a request for the Sub-Committee to consider revocation of the licence; however the Applicant withdrew that request and submitted proposed conditions prior to the hearing in their supplementary evidence for consideration by the Sub-Committee. It was accepted by the parties to this hearing that the request for revocation was withdrawn and that modified conditions may enable the licensing objectives to be promoted by the Licence Holder. In accordance with section 11.19 of the Section 182 Guidance, and their policy at section 9.4, the Sub-Committee therefore focussed on which current conditions should remain, be amended, deleted and/or additional conditions to be added where appropriate, to include the operating hours of the licence.

For clarity it was clear that there were three sets of proposed conditions as well as the existing licence conditions referred to in the hearing for the Sub-Committee to consider. These were as follows:

- (a) Those submitted by the Applicant to the Licence Holder on 24<sup>th</sup> October 2014;
- (b) Those submitted by the Licence Holder on 18<sup>th</sup> November 2014 which indicated conditions that could be accepted, those which were not accepted and those which could be accepted if amended; and,
- (c) Those submitted to the licensing authority on 19<sup>th</sup> March 2015 by the Applicant

In reaching their decision, the Sub-Committee have carefully read the report which includes the original bundle papers submitted by the Applicant and the Responsible Authority, the papers submitted by the Licence Holder on 18<sup>th</sup> March 2014 and the Applicant on the 19<sup>th</sup> and 23<sup>rd</sup> March 2015.

The Sub-Committee heard oral evidence from, the legal representative of Lincolnshire Police, Police Constable Magson, Inspector Pat Coates, the City of Lincoln Council's Food Health & Safety Officer, the legal representative and licensing consultant acting for the Premises Licence Holder, Mr Paul Weeks (the sole director of the Premises Licence Holder), Ms Simone Litchfield (ex-DPS), Mr Robbie Marklew and Mr Craig Carnan, all employees of the Premises Licence Holder.

The Sub-Committee have taken specific account of the following:-

- a) Guidance included in the report by the Licensing Officer in paragraphs 6, 7, 8, 9 and 10
- b) The statutory Section 182 guidance included in the Agenda at Appendix E
- c) The extracts from the Council's licensing policy relating to Reviews and Licensing Objectives at Annex F and G of the Agenda
- d) Section 182 Guidance referred to by the Applicant during its representative's opening speech, namely 1.5, 1.17, 2.1, 2.6, 2.7, 2.11, 2.14
- e) Problem Licensed Premises – prevention process table, an extract from 'A Practitioner's Guide for dealing with problem licensed providers', produced by the Police & Crime Standards Directorate in November 2006, contained in Patterson's Licensing Acts and referred to by the Applicant
- f) The pages in Police Incident Bundle of the supplementary hearing papers highlighted by the Applicant, namely 1, 4, 6, 7, 10, 14, 82, 80, 27, 28, 29, 30, 32, 34, 39, 42, 46, 48, 49, 51, 54, 80, 83, 91, 94, 75, 79, 105, 115, 169, 171, 174, 190, 196, 197, 218, 231, 231, 236, 238, 256, 258, 288, 291, 292, 295, 298.
- g) In the Agenda papers, page 88 as highlighted by the Applicant.
- h) The Section 182 guidance referred to by the Premises Licence Holder during its representative's closing speech, namely 1.9, 11.10, 11.18, 13.39, 9.38, 9.42, 10.9, 10.10, 11.20, 11.23, 13.13, 13.15
- i) The paragraphs in the case law submitted and highlighted during submissions by the Premises Licence Holder and the Applicant

With respect to item i) above, the Sub-Committee recognised that the legal precedence of the High Court is binding upon this Committee, namely the cases of *Hall & Woodhouse Ltd v Poole Borough Council*, *R(on the application of Harpers Leisure International Ltd) v Chief Constable of Surrey* and another. The Sub-Committee have therefore not placed weight on the cases of *Wonderland, V2* and the *Commissioner of Police of the Metropolis & London Borough of Sutton and Sutton (NSD) Limited*.

The Sub-Committee was reminded by its legal adviser that it is for those making the application, and representations, to decide what evidence that they wish to produce. It is for the Sub-Committee to decide on what weight to give to that evidence and that the nearer the evidence is to being persuasive the more weight can be given to it.

The Sub-Committee was informed that normal rules of evidence in civil and criminal cases do not apply to the administrative procedures in the Licensing Act 2003.

The Sub-Committee accepts the advice in the Statutory Guidance to Licensing Authorities that it should look to the police for advice and information on the night-time economy (paragraph 9.12). The police do have a role in managing it and therefore suitable weight has been given to the statements of and comments given during giving evidence of Inspector Coates regarding the management of these premises and from PC Magson, including the evidence of the incidents prepared by PC Magson in the original review paperwork.

Upon hearing from the Applicant, the Sub-Committee has disregarded the evidence which was withdrawn in Annex 2 of the Agenda.

The Sub-Committee noted that its role is to identify whether problems existed at the venue, whether those problems were linked to the venue and if so, what the remedy should be in order to promote the licensing objectives. In addition they considered paragraph 11.20 of the Section 182 guidance whereby the remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

The Sub-Committee has considered carefully whether the licensing objectives of Preventing Crime and Disorder and Promoting Public Safety were or still are at risk. The Sub-Committee has concluded, having considered the evidence presented by the parties that the licensing objectives of Crime and Disorder and Public Safety have been proved to be at risk at times during the period from 5<sup>th</sup> September to 20<sup>th</sup> December 2014. The Sub-Committee has concluded that this was due, at least partly, to failings by the management of the Licence Holder to manage the venue appropriately. As a result of this conclusion, the Sub-Committee has noted that its duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual Licence Holder (Section 182 Guidance at paragraph 11.26).

It is clear that there were problems, as shown in the Applicant's evidence and in particular the police incident numbers (or other reference numbers specifically identified) below:

1. Incident 17/18 of 5<sup>th</sup> September 2014;
2. Incident 522 of 6<sup>th</sup> September 2014;
3. Incident 26 of 24<sup>th</sup> September 2014;
4. Incident 19 of 1<sup>st</sup> October 2014;
5. Incident 42 of 4<sup>th</sup> October 2014;
6. Incident 25 of 8<sup>th</sup> October 2014;
7. Incident 498 of 24<sup>th</sup> October 2014;
8. Incident 22 of 24<sup>th</sup> October 2014;
9. Incident 31 of 29<sup>th</sup> October 2014;
10. Incident 9 of 5<sup>th</sup> November 2014;
11. Incident 434 of 19<sup>th</sup> November 2014;
12. Incident 53 of 29<sup>th</sup> November 2014;
13. Incident 17 of 3<sup>rd</sup> December 2014;
14. Incident 34 of 6<sup>th</sup> December 2014;
15. Incident 54 of 20<sup>th</sup> December 2014;
16. Incident 22 of 20<sup>th</sup> December 2014;
17. Doorstaff incident log number 2183 of 14<sup>th</sup> September 2014;
18. Doorstaff incident log number 2190 of 28<sup>th</sup> September 2014;
19. Doorstaff incident log number 2198 of 4<sup>th</sup> October 2014;
20. Police Innkeeper reference number 24426 of 22<sup>nd</sup> November 2014; and

21. Police report reference number 32140060788 of 6<sup>th</sup> October 2014.

These are the 21 incidents that the Applicant's representative listed in his summing up and which the Licence Holder has accepted were incidents linked to the premises.

The Sub-Committee placed more weight on the incidents where there were arrests as a direct result of an incident and there was evidence that the incidents were directly linked to the premises. It did note and gave appropriate weight to the other incidents which were drawn to its attention by the Applicant's representative and which were accepted as linked to the premises during the oral evidence given by Mr Kheng, the Licence Holder's representative, but which did not result in an arrest but were accepted as also being serious.

The Sub-Committee has also taken into account the other incidents in the Applicant's table submitted in their supplementary evidence; however it has placed less direct weight to those as they were not accepted by the Licence Holder, nor were they emphasised by the Applicant.

Oral evidence was given by Mr Weeks, the Director of Innovation Pub Management Limited, and Mr Marklew, the Operations Manager at the venue that there had been problems at the venue during September, October, November and December 2014. It was agreed that these were partly due to problems in particular with a Designated Premises Supervisor, Mr McMeecham, who is no longer employed by the Applicant. The Sub-Committee understood the reasons for the changes in the DPS as explained by Mr Weeks and did not criticise the Licence Holder for these.

The Sub-Committee has noted the Section 182 guidance relating to partnership working highlighted by the Licence Holder and reviewed the evidence submitted by the Licence Holder that the Applicant by 4<sup>th</sup> December 2014 was focussing on the review process and stopped working in partnership with the management of the venue. In addition the Sub-Committee also noted the Applicant's evidence that they did undertake the process in accordance with the requirements and that communication was acceptable. Whilst the Sub-Committee had some concerns about the nature of the email to Mr Kheng from PC Magson on 4<sup>th</sup> December 2014 and the communication between the parties after that time, it is accepted that there was a stepped approach with early warnings given to the Licence Holder before the review was issued in accordance with the Section 182 guidance in 11.10.

The Applicant has not submitted any evidence that there have been incidents of violence or drunkenness at the premises since 20<sup>th</sup> December 2014. Therefore the Sub-Committee had to conclude that the premises were being run satisfactorily since that time.

The Sub-Committee felt that by modifying the conditions on the licence, the licensing objectives identified at risk in the application for review and the one in the representation made by the Food, Health and Safety Team could be promoted by the venue in the future.

The Sub-Committee has reviewed the Proposed Conditions submitted by the Applicant in evidence (the 19<sup>th</sup> March proposals). The Licence Holder had the opportunity during the hearing to review these and was given time to have discussions with the Applicant to see whether there was agreement on any of them. It is noted that some of these were agreed, some the Licence Holder sought an amendment to, and others were not agreed.

In addition, the Sub-Committee has reviewed the proposed conditions the Licence Holder referred to during oral evidence, namely the original proposed conditions provided to the



Licence Holder on 24<sup>th</sup> October 2014 and their response to these which was given to the Applicant on 18<sup>th</sup> November 2014. In addition to considering these documents, the Sub-Committee have reviewed the current premises licence conditions and their continued suitability.

Whilst not a request for direct conditions on the Premises Licence in the document submitted entitled 'Proposed Conditions' (19<sup>th</sup> March proposals), the Applicant has requested the Sub-Committee to consider putting advisory measures in place for some issues, which are considered below under the heading 'Advisory Notes'.

The Sub-Committee was pleased to note that the following concerns raised by the Applicant have now been resolved to the satisfaction of the Applicant and by the Licence Holder:

- 1 CCTV cameras, availability and quality of evidence provided by them.
- 2 The improvements to the smoking area outside the premises as outlined during the hearing and particularly by the representative of the City of Lincoln Council's Food, Health and Safety Team.

**The reasons for the reduction in times that licensable activities can be provided at the premises and the closing time of the premises are as follows:**

The Applicant sought a change to the current closing time of 04:00hrs for when sales of alcohol end to 02:00hrs and from 04.30hrs for licensable activities to conclude at 02.30hrs. The Sub-Committee recognised that any change in the hours of operation would have an impact on the business, as outlined in the evidence from the Licence Holder, and in accordance with the Guidance under Section 182 at paragraph 9.38 it felt that a 02:00hrs/02:30hrs finish was disproportionate in addition to considering the level of incidents, and the improvements to management in recent months.

The Sub-Committee accepted the evidence of the Licence Holder that during the provision of the retail sale of alcohol and of provision of late night entertainment, there are likely to be problems arising which have to be managed by staff at the premises accordingly. However the Sub-Committee decided it was appropriate and proportionate to reduce the hours of operation to 03:00hrs for the last sale of alcohol and entertainment and to 03.30hrs for the end of the provision of late night refreshment and the opening hours of the premises.

The Sub-Committee has concluded that the Applicant has demonstrated 21 incidents involving drunkenness and violence at or in the close vicinity of the premises between September and December 2014, and that the licensing objectives of crime and disorder and public safety have not been upheld. It therefore considered this matter to be serious.

The Sub-Committee gave particular weight to the distribution of the principal 21 incidents linked with the premises and the other evidence submitted for other incidents. There were 8 incidents of violence and/or drunkenness which occurred at or after 03:00hrs and which were accepted by the Licence Holder as being linked to the premises. They considered this to be too many and that a remedy was required to prevent this happening again. Members noted an increase in incidents after 03:00hrs.

It was also noted that these incidents occurred on Tuesdays, Thursdays, Fridays and Saturdays so were not just limited to weekend nights. Therefore the requirement to reduce the operating hours was appropriate throughout the week to ensure that the licensing objectives were upheld in future.

The Sub-Committee was also concerned about the evidence submitted relating to individuals attending at the premises after having been drinking elsewhere or pre-loading in the city before attending at the premises and felt that a reduction of hours would help to alleviate these specific problems.

The Sub-Committee was persuaded that the evidence demonstrated a need to reduce the hours of sale of alcohol and licensable activities at these particular premises in order to reduce the number of incidents in the future. This was principally to ensure that the licensing objectives of Prevention of Crime and Disorder and Public Safety are met. The Sub-Committee paid specific attention to the fact that there have been improvements in the management recently but were concerned that this improvement may not be sustained if the personnel changed or operating procedures altered.

This change to the operating hours was not considered by the Sub-Committee to be an undue restriction on the operation of the Licence Holder's business as they balanced the need to uphold the licensing objectives in respect of the wider community against any indirect costs incurred by the Licence Holder in respect of this condition being imposed. Members of the Sub-Committee also applied their local knowledge about the operation of similar venues across the city with similar or tighter limitations in order to reach their decision.

The Sub-Committee had not heard any evidence relating to the opening hours for New Years Eve on the licence and therefore has not modified this.

## **Conditions**

### **The conditions were modified for the following reasons**

#### **CCTV Conditions 1 & 2**

Reasons:

The Sub-Committee was asked to consider 3 sets of conditions for CCTV. One from October 2014 police to licensee, one from November 2014 licensee to police, (both are in annex 8 of the police application) and finally one submitted on the March 2015 by the Licence Holder.

The Sub-Committee has considered all 3 versions and the fact that the police have said they are satisfied with the quality of CCTV coverage since a new system was installed post 20<sup>th</sup> October 2014.

The Sub-Committee therefore rely on the proposed conditions from the Licence Holder from November 2014 and we expect that those proposed conditions would be in compliance with what the licensee agreed to when Mr Weeks signed off the work. It would not make sense to propose conditions and then install a system that did not comply.

However, the agreement from both sides was that the CCTV conditions satisfy the police's specification, i.e. those of October 2014. They required two high definition cameras on the entrance in a weatherproof cover to show the external coverage of the entrance and a second camera, to give head and shoulders. The reason for consideration of these two additional conditions to be added was that on the proposed conditions by the licensee on 18<sup>th</sup> November 2014 and as confirmed at the hearing was that the CCTV system has to be to the police's satisfaction. The police have stated that satisfaction level and these two cameras should meet that standard. If they were not included as conditions, it could lead to misunderstanding so in an attempt to be specific, the requirement shall be defined.

Therefore the Sub-Committee impose those additional conditions to be part of the existing conditions and therefore this condition has been modified.

### **The 'Challenge 25' Proof of Age scheme**

The Applicant and the Licence Holder have agreed this condition and the Sub-Committee has concluded it was appropriate to promote the licensing objectives.

### **Signage of the Proof of Age scheme**

The Applicant put forward this condition in October 2014 and the Licence Holder agreed to it at the hearing. The Sub-Committee believed it provided an additional safeguard as the signage will be at the entry and point of sale and entry to provide clarity, and was therefore appropriate to be included.

### **Dispersal policy, drug policy, search policy, queue management policy and a general risk assessment.**

The Sub-Committee agree that these policies were needed for a venue of this type and were appropriate to protect the customers and staff and promote all the licensing objectives. The police originally suggested this condition in October 2014 and it was agreed by the Licence Holder at the hearing. This condition is more encompassing than the content of the proposed conditions of the Applicant provided at the hearing relating to these matters.

In addition the Risk Assessment, Queue and Dispersal Policy, Search Policy, and Drugs Policy were contained in the supplementary evidence provided by the Licence Holder and these were not challenged by the Applicant.

### **Point of sale staff training**

This condition was proposed by the police in October 2014 and accepted by the Licence Holder, save for the length of time records are held.

In the proposed condition there was clearly a need to train staff in all relevant policies, the proof of age scheme and the risk assessment to ensure staff were fully aware of all the requirements of the venue to enable them to carry out their duties and so that they could promote the licensing objectives. The Sub-Committee was satisfied upon hearing the representation from the Licence Holder that 12 months would be acceptable and appropriate and was in line with the period of retention for the other records.

### **Possession of drinks when entering or leaving the premises**

This original condition required extending to include the smoking area, given the problems which arose previously, which were accepted by the parties. Therefore the Sub-Committee considered it provided clarity and was appropriate.

## **General Risk Assessment**

The Applicant put this condition forward in October 2014 and the Licence Holder agreed it at that time and therefore the Sub-Committee felt it was appropriate as it was directly relevant to the Public Safety and Prevention of Crime and Disorder licensing objectives. It was noted by the Sub-Committee that the Risk Assessment submitted by the Licence Holder in its supplementary evidence did not include an occupancy capacity.

## **Radio Link**

The Applicant put this condition forward in October 2014 and the Licence Holder proposed in addition that the radio link be kept on the premises only when they were open. The Sub-Committee agree that the radio needs to be available only when the premises are open in order to promote the licensing objectives. For clarity, the radio link was required at all times the premises were open which included when door supervisors were not working.

## **Incident Book**

The Sub-Committee was satisfied that the original proposed condition by the police in October 2014, as agreed by the Licence Holder in November 2014 was sufficient to ensure that all incidents at the venue are recorded appropriately. The Sub-Committee was satisfied upon hearing the representation from the Licence Holder that 12 months would be acceptable and appropriate and was in line with the period of retention for the other records.

## **Provision of Door Supervisors**

The Sub-Committee felt that there was insufficient evidence to require the venue to always have a minimum of 7 door supervisors on duty from 22:00hrs whilst open for business, as requested by the Applicant at the hearing. This was on the basis of considering the number of incidents and the lack of evidence linking the incidents included in the application with levels of door staffing. The only direct evidence presented by the Applicant as to numbers of door supervisors was that of Ms Litchfield, which was related to the smoking area, which was now no longer a concern to the Applicant. Inspector Coates alluded to the need for more door supervisors; however there was no evidence given as to how many, the sex, nor where they should be.

The Sub-Committee recognised that on some days there may well be very few customers and it was not possible to justify such a number of door supervisors. It was therefore not felt necessary to increase the levels of door supervisors to 7 to ensure that the licensing objectives were met.

However, it was clear that incidents had occurred inside as well as outside the premises and which the door supervisors have had difficulty in handling. Consideration had included a requirement to have door supervisors both inside and outside the premises to prevent those not suitable from entering the premises and to supervise and control those inside. Those door supervisors outside or inside cannot do both jobs.

As such, it was agreed that an additional SIA registered door supervisor should be in place within the venue in addition to those outside the venue in order to ensure the safety of the public within the venue from 2200hrs when the premises were starting to get busy and that

should be linked to the number of customers. Additional supervision was considered to be necessary in order to ensure the licensing objectives relating to the Prevention of Crime and Disorder and Public Safety are met in view of the previous incidents. Also, if there was any incident inside then a member of staff would require the presence of a door supervisor(s) from outside and the entrance would then be vulnerable.

The Sub-Committee carefully analysed the evidence of the incidents and the concerns which had been raised previously about the management of the premises and concluded that there needed to be a higher level of door supervision at the premises.

The Sub-Committee was persuaded that the management was better than they were in the latter part of 2014. It was concerned about the poor management prior to then, and acknowledged that some of this was due to Mr McMeecham who has since left the venue. They also noted that incidents, some of them were serious, continued when the replacement DPS, Ms Litchfield, was in place. This was despite her being considered a 'safe pair of hands' by the management, which was asserted during oral evidence.

In particular, the evidence of Mr Carnan was considered and his comments that the reasons for change were as follows:-

- 1 Some of the personnel in the door supervisor team have changed;
- 2 The visit by the staff to the town link CCTV unit was very helpful;
- 3 The hands-on input of Mr Carnan and Miss Litchfield had assisted;
- 4 A more front facing approach by all management and door supervisors; and
- 5 Improved training

These were accepted by the Sub-Committee as going some way to addressing the problems and they recognised that it would take time to instigate some operational changes after the meeting on 20 October 2014. However there remained a concern that if this operational improvement was not sustained or the personnel in the management change then there could be a deterioration again and the licensing objectives could be at risk once more and justified an extra door supervisor in the venue at busier times.

The Sub-Committee felt that the venue's staff could then concentrate on their roles more.

The Sub-Committee also considered the fact that door supervisors would potentially need to take breaks during the course of their shift at work and therefore cover might also be needed.

The Sub-Committee was satisfied that the use of the shisha pipes in the shisha lounge was only limited to the vapour substance which was set up by the staff and that they could not be tampered with to be misused. Therefore the Sub-Committee thought that this area did not need additional door supervisors as the licensing objectives were not demonstrated to be at risk due to the shisha lounge itself.

### **The presence of a personal Licence Holder**

This condition was proposed by the Applicant in the hearing. The Sub-Committee recognised that a personal Licence Holder was trained in respect of recognising and dealing with people who are drunk. It is clear that incidences of drunkenness had occurred at the premises and therefore it was reasonable and appropriate to have a personal Licence Holder on the premises when the premises were open after 21:00hrs and on all nights. The Sub-Committee felt it appropriate to ensure a properly-qualified and trained

personal Licence Holder was on site to ensure the premises were operated in accordance with its set conditions and available to deal with any incidents arising on any night so as to uphold the licensing objectives. This was particularly in view of the history of incidents of crime and disorder and the risk to public safety which had been evidenced.

**All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests**

This was proposed by the police in October 2014 and accepted by the Licence Holder, save for their objection to the use of jackets or vests being yellow. There had been no incidents arising from the visibility of the door supervisors and the Sub-Committee understood the requirement for the jackets or vests to be yellow was not essential. It was therefore appropriate to exclude the need for a specifically yellow coloured jacket or vest.

**Customers shall not enter the premises from either Silver Street or the service area emergency exits.**

This condition proposed by the Applicant at the hearing emerged from the incidents which were accepted by the Licence Holder and occurred near the smoking area. During the hearing the Licence Holder agreed to this condition. The Sub-Committee felt it was an appropriate response to include this condition to prevent any further such incidents, and it was noted by the City of Lincoln Council's Food Health & Safety Officer to be recommended practice.

**All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when the doors have been opened.**

As above, this condition proposed by the Applicant at the hearing emerged from the incidents which were accepted by the Licence Holder and occurred near the smoking area. During the hearing the Licence Holder agreed to this condition. The Sub-Committee felt it was an appropriate response to prevent any such incidents happening again so has been imposed.

**A drug safe shall be installed at the premises**

There is now a drug safe on the premises however it is felt appropriate to promote the licensing objective of crime and disorder for it to be included in the conditions

**Staff and management training**

Staff and management shall receive refresher training every twelve months in relation to licensing legislation, underage sales and drugs policies and shall be fully conversant with the conditions contained therein the Premises Licence.

This condition was proposed by the Applicant at the hearing and the Licence Holder agreed with the suggestion that the training be to the British Institute of Innkeeping licensing standard of Level 2 or an equivalent training programme. The Sub-Committee felt that it was sensible to ensure a refresher training programme was in place to uphold the licensing objectives following the historic concerns at the venue.

## Rejected conditions

**The reasons for not including the conditions proposed by the Applicant are as follows:-**

1. The Applicant requested that a condition be included stating: A search policy shall be in place including procedures for confiscation of illegal substances and random searches at the door supervisor's discretion.

The Sub-Committee recognised that there was no direct evidence introduced by the Applicant pertaining to any unlawful substances or weapons or other articles being brought into the premises nor them being linked to any incidents. The only mention made was by the council's building control officer and the Sub-Committee placed little weight on this evidence. Therefore it felt that it would not be justified to search every person entering or re-entering the premises. In any event there was a search policy which was provided in supplementary evidence by the Licence Holder which was adequate and covered elsewhere in the imposed conditions. There was therefore no need to include this condition.

2. The Applicant proposed the following condition: When a bar area is not in use and whilst the premises are open to the public, the Licence Holder shall ensure that all alcohol behind the bar/counter is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by customers.

The Sub-Committee agreed that there had been one incident evidenced of theft of alcohol from the bar when it was closed and staff dealt with the incident appropriately. It was therefore not felt appropriate to include this condition.

3. The Applicant proposed the following condition:- During the hours of operation of the premises, the Licence Holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

The Sub-Committee felt that due to the condition that no drink in either sealed or unsealed containers may be taken outside, this should negate the need for any such condition to be included. In addition this was covered by other legislation and enforcement powers.

4. The Applicant sought a condition as follows:- In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that: (a) The police (and, where appropriate, the Lincoln Ambulance Service) are called without delay; (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police; (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.

This condition was proposed by the Applicant at the hearing. There was no direct evidence submitted that the Licence Holder had failed to report serious assaults, apprehend any suspects, that they have not preserved a crime scene and not protected all persons present on the premises during such an incident. The Sub-

Committee also thought that this condition would be difficult to be complied with and enforced. It was therefore not appropriate to include it.

5. The Applicant sought a condition that multiple alcoholic drinks will not be sold on the payment of one set fee.

The Sub-Committee was satisfied that there was no need for this condition to be in place. There was no evidence that there was any link between this and the incidents and the Sub-Committee felt such promotions were common practice.

6. The Applicant sought a Search Policy to be included; however this was dealt with in the policies included in the conditions imposed by the Sub-Committee.
7. The Applicant wanted a zero tolerance policy in relation to drugs at the premises and there shall be regular checks by management to prevent the use of drugs by patrons. Again, the Sub-Committee felt that there was sufficient protection included in the policies submitted by the Licence Holder and in addition that there was very little evidence relating to the use of drugs in the premises.
8. The Applicant sought a condition that 'The Licence Holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.'

The Sub-Committee was satisfied there was no need to include this condition as it was covered by the queue management policy above and in addition there had been no public nuisance raised in the application as a concern.

9. The Applicant wanted a condition stating the following: 'A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open'.

The Sub-Committee had concluded this would be onerous on the Licence Holder and it would be difficult for this condition to be complied with and enforced. It was therefore not required to promote the licensing objectives.

10. The Applicant wanted a condition stating that:- There will be no admittance / re-admittance to the venue after 02.30 hours other than by those exiting the venue to use a designated smoking area. It was felt by the Sub-Committee that by bringing the time for sale of alcohol and late night entertainment back by an hour each, there was no need to address this issue. In addition there was insufficient evidence showing that there were problems arising from this issue.

The reasons for retaining the following existing conditions on the licence were as follows:-

1. Door Supervisor log book.

This condition was on the original licence and had not been in dispute and therefore it was appropriate for this to remain.

2. Regular collections of empty bottles/glassware.



This was a current condition on the licence which had not been included in either the Applicant's or the Licence Holder's submissions. This should therefore remain on the licence.

3. All staff shall receive training in emergency evacuation procedures.

This was a current condition on the licence which had not been included in either the Applicant's or the Licence Holder's submissions and should remain on the licence.

4. If a DJ is used on any night then he/she will ask customers to leave quietly.

This was a current condition on the licence which had not been included in either the Applicant's or the Licence Holder's submissions. It was appropriate for this to remain on the licence.

5. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency or to allow for ingress and egress.

The Sub-Committee concluded that there had been no complaints relating to noise highlighted during these proceedings and the licensing objective of preventing public nuisance was not cited in the application as a concern by the Applicant. In addition, there was no evidence received from the Licence Holder relating to this issue in order to justify their proposal. Therefore the Sub-Committee was content to allow this condition to remain.

6. Toughened glassware and/or plastic drinking vessels

The Sub-Committee acknowledged that there has been a serious incident including bottle swinging and throwing on the same night (police incident bundle – door supervisor log number 2190 of 8th November 2014). In addition the Licence Holder had not sought an amendment to the current condition, nor did the Sub-Committee think that this was necessary. The Sub-Committee concluded it would be disproportionate to impose a condition to not use any glass containers on the basis of one incident. The Sub-Committee also acknowledged the oral evidence given on behalf of the Licence Holder that by decanting drinks this could lead to more spiking, and there was a limited availability of drinks sold in non-glass material.

### **Advisory Notes**

There were issues raised by the Applicant which were not included in the proposed conditions but were mentioned during the course of the hearing for consideration by the Sub-Committee. There are also other matters that were felt appropriate by the Sub-Committee to be addressed as Advisory Notes as follows:

#### **Monitoring of toilets by staff**

The Sub-Committee noted that although there had only been one incident of inappropriate touching between a male and a female evidenced in the course of these proceedings which involved individuals in the toilet facilities and that the staff resolved this matter quickly however this did result in an arrest (Incident 54 8<sup>th</sup> November 2014). However it was

recognised that in a venue of this type there may be incidents arising in the toilets and it was recommended by the Sub-Committee that both regular and spot checks were made of the toilets whilst the venue is open and perhaps a record kept of the checks.

### **Spiking of drinks**

Evidence was provided to the Sub-Committee that there were incidents of alleged drink spiking carried out in the premises. These were not proved sufficiently for the Sub-Committee to put much weight to; however the Sub-Committee recognised that it was a potential issue. Therefore the Sub-Committee felt that the premises Licence Holder should take appropriate action to improve awareness of the potential problem in the venue for customers and ensure staff were trained accordingly and any anti-spiking measures put in place.

### **Promotions**

The Sub-Committee recognised that there were various drinks promotions around the City. They also accepted the Licence Holder's licensing consultant's evidence that this venue was not doing anything other venues were not in respect of promotions, as well as relying on the local knowledge of members. The Sub-Committee accepts that the pricing for drinks in the venue has not been shown to be irresponsible. However, the Management needed to exercise caution on the type of promotions they ran and the potential perception by customers of their nature, particularly on promotor led evenings, which could lead to irresponsible behaviour and drunkenness.

### **Under age drinking**

The Applicant produced a statement in their supplementary evidence of 19<sup>th</sup> March 2015 relating to an incident whereby a young girl aged 16 was in the premises and was drunk; however it did not lead to any police action being taken. The Sub-Committee recognised that the licensing objective of prevention of harm to children was not included in the application and thought it proper for it to be raised as a concern by the Applicant. The Sub-Committee noted the concerns and was reassured that the Challenge 25 scheme agreed between the parties would assist to prevent such problems arising in the future.

### **Queue Management Policy, Dispersal Policy, Search Policy and Drug Policy and the Proof of Age Scheme**

It was noted by the Sub-Committee that these policies and the policy relating the Proof of Age scheme, had not been challenged by the Applicant. The Sub-Committee agreed they need to be in place; however, it is concerned that these policies may change. It was therefore appropriate to recommend that any changes to these policies were notified to the police for their consideration.

### **Alcohol security**

Whilst the Sub-Committee did not feel that a condition from the Licensing Authority was required following the theft of alcohol from the closed bar, it was appropriate to recommend that any unsupervised bar area was properly secured against theft.

## **Littering outside the premises**

Whilst a condition relating to this was not appropriate, as no drinks are permitted to be taken outside from the premises, it was advisable that the Licence Holder provided receptacles for the disposal of cigarette ends in the smoking area.

## **Female door supervisor**

The Sub-Committee noted the contents of the drug policy requiring random searches by door supervisors of customers, in particular:

'remember that for safety you should only used same sex searches and this is to prevent any allegations being made to the police that they have been indecently assaulted whilst being searched. There is nothing wrong with a male supervisor asking a female customer to empty the contents of her handbag and pockets onto a table so that her property can be checked but he should not 'pat her down' or otherwise touch her to detect unauthorised items'

The Sub-Committee therefore felt it was justified for the venue to have at least one member of the door supervisor team on any night for the whole period of time where door supervisors were required, to be female. This was noted to be the policy proposed by the Licence Holder themselves to ensure protection of both staff and customers and was reasonable and appropriate to promote the licensing objectives.

Dated:                      Signed                      .....

Designation: Licensing Officer

Please address any communications to:

The Licensing Team  
City of Lincoln Council  
City Hall  
Lincoln  
LN1 1DB

**An appeal against the decision may be made by the Applicant/a person who made relevant representations/the Chief Officer of Police as applicable (see schedule 5 of the Act) to the magistrates' court for the petty sessions area (or any such area) in which the premises concerned are situated within 21 days from the date of receipt of the notification of the decision.**