



LICENSING ACT 2003

REPORT TO LICENSING SUB-COMMITTEE FOLLOWING RECEIPT OF AN APPLICATION TO REVIEW A PREMISES LICENCE

**Cartergate News and Wine
84A Cartergate
Grimsby
North East Lincolnshire
DN31 1RT**

NORTH EAST LINCOLNSHIRE COUNCIL
LICENSING AUTHORITY

LICENSING ACT 2003

Report to Licensing Sub-Committee
following receipt of an Application to Review a Premises Licence

1. Premises Licence Details -

- 1.1 Premises:** Cartergate News & Wine, 84a Cartergate, Grimsby
- 1.2 Premises licence holder:** Mrs Jeyathevi Rameshkumar
- 1.3 Relevant licensable activity authorised by the premises licence:**
Supply of Alcohol
- 1.4 Times when the relevant licensable activity is permitted by the premises licence:**

Please see attached Premises Licence
- 1.5 Designated Premises Supervisor:** Mrs Jeyathevi Rameshkumar

2. Summary of Review Application –

Full details are set out on the review application form and supporting statements are attached

The following information is also included: -

- Appendix 1 - Premises Licence
- Appendix 02 - Premises Review Application
- Appendix 03 - Statement of Humberside Police Licensing Officer
Alison Saxby
- Appendix 04 – Exhibits from Humberside Police
- Appendix 05 – Representation from Mrs Rameshkumar
- Appendix 06 – Form confirming Mr Rameshkumar was in hospital in
India 3/9/2022 – paper copy to be accessible at
meeting

- 2.1 Date review application received:** 1 September 2022
- 2.2 Person making application for review:** Licensing Officer Alison Saxby
on behalf of the Chief Constable of Humberside Police
- 2.3 Licensing objective affected:**
- The Prevention of Crime and Disorder

- Public Safety

3. Representations –

- 3.1 One representation has been received from Arka Licensing on behalf of the Licence Holder Mrs Rameshkumar in support of herself (see appendix 5/6)

4. Statement of Licensing Policy -

The following sections of North East Lincolnshire Council's Statement of Licensing Policy are considered relevant to this review application:

Licensing Objectives: 2.0 – 2.4, 9.1 – 9.1.9

Conditions: 6.1.4

Licensing Decisions and Delegation of Functions: 7.0 – 7.9

Premises Licence: 8.2.1 – 8.2.4

Representations: 8.7.1 - 8.7.4

Reviews: 8.8.1 - 8.8.2, 8.8.5 - 8.8.6

Enforcement 8.9.1, 8.9.

Prevention of Crime and Disorder: 9.2.1 – 9.2.3. 9.2.5 – 9.2.7

Public Safety: 9.3.1, 9.3.4

5. Guidance issued under Section 182 of the Licensing Act 2003 –

This guidance is provided for Licensing Authorities carrying out their functions. It is regarded by the Government as a key mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality. It does not however replace any statutory provisions of the 2003 Act and it is for the Licensing Authority to take their own professional and legal advice about its implementation.

The following sections of the Guidance are relevant to this review application:

Crime and Disorder 2.1, 2.3, 2.5

Public Safety 2.7

Reviews 11.1 – 11.11, 11.16, 11.18 – 11.22

6. General Advice on Determination of the Application –

- 6.1 The sub-committee are advised that findings on any issues of fact should be on the balance of probability.
- 6.2 The sub-committee are advised that in arriving at any decision, it must have regard to relevant provisions of national guidance and North East Lincolnshire Council's Statement of Licensing Policy. Reasons must be given for any departure.
- 6.3 The sub-committee are advised that the final decision should be based on the individual merits of the application and the factual findings made

at the hearing.

6.4 Section 52 of the Act states that the Licensing Authority must, having regard to the application for review and any relevant representations, take such of the steps set out below as it considers **appropriate** for the promotion of the licensing objectives:

- Modify the conditions of the licence (i.e. alter, omit or modify conditions).
- Exclude the licensable activity from the scope of the licence.
- Remove the designated premises supervisor.
- Suspend the licence (or an aspect of it) for a period not exceeding 3 months.
- Revoke the licence.

6.5 The conditions of the licence are modified if any of them is altered or omitted or any new condition is added. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to 3 months. It may also be decided that no action is necessary and consideration given to whether a warning should be issued to the licence holder and/or recommend improvement within a particular period of time.

6.6 Conditions should be proportionate to the size, style and characteristics of the premises and the activities proposed or taking place and must be **appropriate**.

6.7 Paragraph 11.20 of the Section 182 guidance recommends that in deciding which powers to invoke, Licensing Authorities should so far as possible seek to establish the cause or causes of the identified problem and direct proportionate responses at these areas as a means of remedial action.

6.8 Paragraph 11.18 of the Section 182 guidance points out that it may be the case that the Licensing Authority decides that no further steps are necessary in order to promote the licensing objectives or that an informal warning is considered sufficient. However it also states that where responsible authorities have already issued warnings that have not been heeded, this approach should not be repeated.

6.9 The sub-committee are advised that they must take into account the following Human Rights provisions:

- Everyone is entitled to peaceful enjoyment of their possessions (includes licences), although a person can be deprived of their possession if it is in the “public interest”.
- Everyone affected by a decision has a right to a fair hearing.

- Everyone has the right to his private and family life, his home and his correspondence.

6.10 The sub-committee, in its decision making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010

7. Observations –

7.1 Since Mr and Mrs Rameshkumar became holders of the Premises Licence for 84a Cartergate, first with Mr Rameshkumar in 2007 and latterly Mrs Rameshkumar in 2021, there have been numerous issues in relation to Crime and Disorder, The Protection of Children from Harm and Public Safety.

This has included reports of a staff member attacking a customer with a claw hammer, staff threatening and/or chasing customers from the property on several occasions, once whilst a staff member was in the possession of a knife. There have also been reports of underage alcohol sales/selling to people when drunk, youths in drink causing problems around the premises and buying stolen goods to sell in store. In addition, there have been ongoing failures to comply with old and new conditions placed on the licence following revocation/review.

7.2 In 2009 the Premises Licence was taken to review due to police evidence that both underage alcohol sales and sales to drunken street drinkers were being made by the premises. As a result of the subsequent Licence Hearing the Premises Licence was revoked due to the serious nature of this evidence. Following an appeal, by Mr Rameshkumar to the Magistrates Court, a Consent Order was made which reversed the decision to revoke the licence subject to new conditions which meant the premises could again sell alcohol. Two of those conditions were: -

- *From 1/09/2010 all sales of alcohol made after 10:00 hours shall be made by a Personal Licence Holder*
- *Adequate CCTV equipment shall be maintained at the premises which shall provide images of all entrances/exits and the public areas of the premises. Such images are to be kept for 30 days and made available to the police or duly authorised licensing officers on reasonable request*

7.3 In 2011, the premises were again referred to the Licensing Committee for selling to intoxicated members of the public. However, in this instance the committee found it difficult to attribute all the issues in the area to the premises, so no further action was taken. Since this review the premises, along with others in the area, has received a warning letter from North East Lincolnshire Council Licensing requesting they cease sales of alcohol to intoxicated customers.

7.4 In May 2019 a serious incident occurred in which, following the victims attempt to buy alcohol and a subsequent argument on the premises, a member of staff hit a customer on the head with the claw hand of a

hammer. The member of staff was arrested on suspicion of GBH – wounding with intent to do grievous bodily harm in relation to this incident.

- 7.5 Following this incident Licensing Officers from Humberside Police made a visit to the premises to speak to Mr Rameshkumar with regards to the incident and to find out what training staff have had with regards to conflict management. It was whilst on this visit that both a full-size plastic cricket bat and a pointed end ornamental sword were found by the officers behind the counter. Whilst Mr Rameshkumar did have a lawful reason for having the cricket bat, he did not have one for the sword, so it was confiscated and destroyed.
- 7.6 Due to the above incident the Premises Licence was reviewed once again. At the time of the review the member of staff involved in the incident remained employed by the Licence Holder. This not only surprised the Licensing Subcommittee, but it also raised serious concerns. Furthermore, the staff member did not hold a personal licence and was alone in the shop, thus breaching the condition added to the licence following the Magistrates decision. Whilst the Sub Committee considered revoking the premises licence at the review hearing held in 2019, they were persuaded by Mr Rameshkumar that adding conditions should deal with underlying problems and promote the licensing objectives moving forward. Therefore, further conditions regarding alcohol sales and staff training were once again added to the licence. **However, the Committee did reiterate to Mr Rameshkumar that he had come very close to losing him livelihood and he was being given one last chance, furthermore the starting point of any future review would be the revocation of his premises licence**
- 7.7 In November 2020 Police became aware that a known male was regularly committing shop thefts in Grimsby Town Centre. This same male had also been identified as regularly attending Cartergate News & Wine immediately after these occurrences. CCTV footage and subsequent visits to the shop by Humberside Police, along with interviews held with Mr Rameshkumar, confirmed that Mr Rameshkumar was buying goods from the known male to sell in his shop. Mr Rameshkumar also admitted he was aware the goods had been stolen from other premises. Whilst there was no evidence that any of the shop staff were directly involved, it appeared from CCTV footage that they were also aware of what was going on.
- 7.8 On 7 January 2021, following the above interviews, Mr Rameshkumar asked the Licensing Officer for Humberside Police, if he was planning to review the premise licence for Cartergate News & Wine. He was informed that, as it was considered his actions had seriously undermined the licensing objectives, that an application would be sent to North East Lincolnshire Council imminently. However, before this application could be made, applications were received by North East Lincolnshire Council to transfer and vary the designated premises supervisor (dps) to Mrs

Rameshkumar. At the time, Humberside Police believed these applications were made to frustrate the licensing process and to prevent the review from happening. Humberside Police objected to both these applications and a hearing was arranged.

- 7.9** A hearing was scheduled in April 2021 to hear both the Review and the Objections to the application to transfer and vary the dps to Mrs Rameshkumar. However, both applications were subsequently withdrawn due to Mr Rameshkumar suffering from serious ill health and an agreement being reached between both parties of, once again, further conditions being added to the licence and Mrs Rameshkumar becoming the new Licence Holder and DPS.
- 7.10** In July 2022, Licensing Officers from both Humberside Police and North East Lincolnshire Council undertook a visit to the premises. There was a young male behind the counter who advised, when asked if officers could speak to Mrs Rameshkumar, that she had sold the business to the young male's dad a couple of months ago and neither Mr nor Mrs Rameshkumar had any involvement in the premises anymore.
- 7.11** The "new owners" were given a copy of the premises licence by North East Lincolnshire Council on 28/7/2022, so they could familiarise themselves of the conditions on the licence, along with application forms to complete transfer and vary dps applications. The applications were not forthcoming, so another joint visit was conducted 23/8/2022 where the same young male was in the shop by himself. Following a request, his dad came to the premises so that the applications and licence could be discussed. During these discussions it became apparent that neither the son nor the dad had a personal licence and therefore the condition that a personal licence holder should be in attendance from 10.00 a.m. was not being adhered to. Further checks were also conducted which highlighted that numerous conditions on the licence were not being abided by, despite them being given a copy of the licence, including ones regarding CCTV and staff training.
- 7.12** The information that had been given initially with regards to Mrs Rameshkumar selling the business was subsequently changed following conversations with the son and dad and a licensing consultant. Information was then given that Mrs Rameshkumar was still the owner and was managing the premises from abroad and was going to be putting in a minor variation to remove some of the conditions highlighted. As the story kept changing, the premises were advised that they could not sell alcohol unless until it was confirmed who was responsible for the premises and a personal licence holder was in the premises. North East Lincolnshire Council was consequently advised that Mrs Rameshkumar was indeed still the premises licence holder. However, there is still a lot of confusion around who is running the premises.
- 7.13** In the Guidance issued under Section 182 of the Licensing Act 2003, s.11.18 ascertains that

“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”

- 7.14** The view of the Chief Constable is that the premise has had an extremely troubled past both historically and more recently. Whilst previous incidents have been when Mr Rameshkumar has been the Licence Holder, Mrs Rameshkumar has had a known involvement in the premises.
- 7.15** Humberside Police are extremely concerned that Mrs Rameshkumar and those connected with the premises would continue to have no regard to running the premises and will continue to undermine the licensing objectives. Consequently, the Chief Constable requests that the Licensing Sub-Committee not only considers all points made but seriously considers the final words of the 2019 review hearing and revoke the premises licence.

Report prepared by:

Jo Bennett, Licensing Enforcement Officer

25 October 2022