

Review 12 Red Lion Street, Boston, March 2024.

Review document

Appendix A - 10 Red Lion St Representation to new licence application received 7/8/23

Contents:-

Representation

A - Decision notice for 10 Red Lion Street

B - 85 West St review and decision notice

C – Caution Paperwork

D – Statement from [REDACTED]

E – Statement from Mr Rowley (BBC Licensing Officer)

F – Statement from Pc Jones

G – Decision notice for 12 Red Lion Street

H- Statement from Immigration Officer Whyman

I – Statement from Pc McConville with photographs

Appendix B – Statement from Volunteer PCSC [REDACTED]

Appendix C – Statement from Trading Standards Officer Wright

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Appendix G – Tobacco Track and Trace Gov.uk information.

Boston Borough Council

Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Julia Debenham (Deputy Chief Constable of Lincolnshire Police)
(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description 12 Red Lion Street Boston	
Post town Lincolnshire	Post code (if known) PE21 6NY
Name of premises licence holder or club holding club premises certificate (if known) Yavuz ECER	
Number of premises licence or club premises certificate (if known) 32UBB11013	

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

2) a responsible authority (please complete (C) below)



3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname	First names
<input type="text"/>	<input type="text"/>

Please tick ✓ yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Lincolnshire Police Police Headquarters Deepdale Lane Nettleham PO Box 999
Telephone number (if any) 101 - Lincolnshire – Alcohol Licensing
E-mail address (optional) Countylicensing@lincs.police.uk

This application to review relates to the following licensing objective(s)

- | | |
|---|---------------------------------|
| 1) the prevention of crime and disorder | Please tick one or more boxes ✓ |
| 2) public safety | X |
| 3) the prevention of public nuisance | X |
| 4) the protection of children from harm | X |

Please state the ground(s) for review (please read guidance note 2)

This review application relates to a premises which operates as an off-licence offering alcohol with some food, drink and groceries to the local community. It has been granted a premises licence by Boston Borough Council, authorising the sale of alcohol for consumption off the premises. The sale of alcohol is authorised between the hours of 04:00 and midnight on weekdays and 0500hrs to midnight on weekends.

The premises is situated within the public space protection order (PSPO) for alcohol, a valuable tool for the Police and Council to address concerns of street drinking and alcohol-related nuisance within Boston's valued public spaces. Red Lion Street, and Central Park, which is very close by, is a known area for street drinking.

12 Red Lion Street's premises licence was reviewed on 18/1/2023 following an application made by Lincolnshire Police. The review centred round issues when [REDACTED] was premises licence holder and designated premises supervisor. It involved illegal working, an unsupervised child selling alcohol and non-compliance with the licence conditions. However, at the time of review hearing for No 12 the premises licence holder [REDACTED] was Mr Yavuz Ecer (Police didn't have the opportunity to object). Lincolnshire Police's concerns were that [REDACTED] had been operating the premises in such a manner that amounted to criminal activity and the ramifications of this had undermined all four of the licencing-objectives, that the transfer of business to Mr Ecer wasn't genuine, that [REDACTED] still had an element of control, and Mr Ecer's past history with regards to licensing was concerning and current compliance with premises licence conditions was poor. The Licensing Sub-Committee decided on a 3-month suspension of the premises licence.

Lincolnshire Police has since the suspension, further evidence, despite assurances given to the Licensing Sub-Committee, that the management of the premises have been operating it such a manner as to seriously undermine the licensing objectives namely, being non-compliant with the premises licence conditions, the takeover from [REDACTED] was not genuine, [REDACTED] still has an element of control, the premises has sold an illegal disposable vape to an adult and a child, illegal cigarettes and illegal disposable vapes have been found on the premises, therefore risking all four of the licencing objectives.

Sec 136 Licensing Act 2003– unauthorised licensable activity – not compliant with premises licence conditions.

Sec 144 Licensing Act 2003 - smuggled goods on licenced premises (cigarettes).

The sale of the vape to the minor is an offence under the Children and Families Act 2014 and the Nicotine Inhaling Product (Age of Sale and Proxy Purchasing) Regulations 2015.

Breaches of Tobacco & Related Products regulation 2016 regarding disposable vape size sold, and cigarettes not in English (making them likely smuggled), with the prescribed warnings or pictorial representations. Nor were they in the standard packaging as stipulated by those regulations.

The Tobacco and Related Products Regulations 2016 deal with the manufacture, presentation and sale of tobacco and related products, including herbal products for smoking, vapes and refill containers, as well as smokeless and novel tobacco products. The Tobacco and Related Products Regulations 2016 set out rules covering vapes. No one must produce or supply a vape or refill container unless they meet the following requirements:

- nicotine-containing liquid for retail sale must be in a dedicated refill container in a maximum volume of 10 ml; in a disposable vape, single-use cartridge or a tank the maximum volume is 2 ml
- the capacity of the tank of a refillable vape must not be more than 2 ml
- there is a nicotine limit of 20 mg per ml that applies to nicotine-containing liquids in an vape or refill container. Disposable vapes sometimes display a typical number of puffs on the packaging. Typically, a disposable vape would provide 600 puffs or the equivalent of 20 cigarettes.

Breaches of Tobacco Track and Trace - The Tobacco Products (Traceability and Security Features) Regulations 2019. Implements Articles 15 and 16 of the Tobacco Products Directive (2014/40/EU) provide a track and trace system for the supply chain of tobacco products and a system of security features to authenticate tobacco products; later updated when UK left the EU in 2020.

The Tobacco Products (Traceability System and Security Features) (Amendments) (EU Exit) Regulations 2020. Ensures continued functionality of tobacco products traceability scheme and security feature post-Brexit.

Section 93 Finance Act 2022 introduced primary legislation, giving powers to make regulations setting out new sanctions linked to Tobacco Track and Trace. The provisions provide powers to issue financial penalties, seize any tobacco products found at non-compliant premises and exclude retailers from Tobacco Track and Trace.

Revised Guidance issued under Section 182 of the Licensing Act 2003

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

2.8 Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act.

2.35 Licensing authorities should give considerable weight to representations about child protection matters.

9.12 Each responsible authority will be an expert in their own field....for example the police have a key role in managing the night-time economy.....However, any responsible authority under the 2003 Act may

make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent.

11.23 ...where the premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11.24 A number of reviews may arise in connection with crime that is not directly related with licensable activities. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is the matter for the courts. The licensing authorities role when determining such review is not therefore to establish guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 There is no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings....it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of crime prevention objective. It's important to recognise that certain criminal activity or associated problems may be taking place or have been taking place despite the best efforts of the licence holder and staff working at the premise despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection to licensed premises which should be treated particularly seriously –

- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.
(Lincolnshire Police would argue that although a vape is not alcohol, a sale of an illegal, age restricted product to a child is similar and of a serious nature.
- for the sale or storage of smuggled tobacco or alcohol

11.28 It is envisaged that licensing authorities, the police, The Home Office (Immigration Enforcement) and other law enforcement agencies will use the

review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determined that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Please provide as much information as possible to support the application (please read guidance note 3)

In 2022 numbers 10 and 12 Red Lion Street, Boston were licenced with [REDACTED]'s premises licence holder and DPS, with the company [REDACTED] appearing to operate both under the same company. [REDACTED] wife is [REDACTED] and she is the director of that company.

Issues of non-compliance, sale of alcohol and vapes to children, illegal working, and an unsupervised child selling alcohol at No 10 led to a review where the premises licence was revoked.

At No 12 the issues were non-compliance, illegal working, and an unsupervised child selling alcohol. The premises licence was reviewed, the licence transferred to Mr Yavuz Ecer prior to hearing (without the police given the opportunity to object due to an error) and a suspension given. No appeals occurred for either premises.

Following the suspension of No 12 premises licence, Mr Ecer attempted to licence No 10. Lincolnshire Police made representation, citing the previous failings of Mr Ecer, the current failings of Mr Ecer at No 12 and the evidence that the purported takeover to Mr Ecer at 12 and 10 Red Lion Street was not genuine and [REDACTED] was still in control of the premises.

Please see the representation with appendices at Appendix A, submitted on 24/8/23 by Lincolnshire Police for a new premises licence at 10 Red Lion Street. The application was withdrawn on 21/9/23. The applicant was Boston Food Store Ltd, the director of which is Mr Ecer, the current premises licence holder for 12 Red Lion Street. The representation explains much of the background that has led to this review.

On 10/11/23 12 Red Lion Street sold an oversized, 4000 puff illegal disposable vape to an adult during a test purchase operation. Please see appendix B for a statement from Volunteer PCSO Porter (the purchaser) and appendix C for a statement from Trading Standards Officer Andy Wright regarding the legality of what was purchased.

On 18/11/23 12 Red Lion Street sold an oversized, 4000 puff illegal disposable vape to a child, during a test purchase operation. Please see appendix D for a statement from Trading Standards Officer Kimberly Marshall.

On 23/11/23 12 Red Lion Street was visited by Police Licensing and Trading Standards Officers, illegal vapes and illegal cigarettes were found on the premises. Alcohol with concerning duty stamps (peeling off) were also seized and further enquiries are ongoing. Please see Trading Standards Officer Alan Griffin's statement at appendix E.

On 13/12/23 12 Red Lion Street was visited by Police Licensing to view CCTV from the test purchase on 18/11/23 and the seizure on 23/11/23, paperwork was photographed. Please see Pc 642 McConville's statement at appendix F

with the photographs. CCTV from the premises on 23/11/23 is available to view, should the Licensing Sub-Committee wish, however not from all cameras as requested.

Gov.uk information regarding Track and Trace of tobacco products can be found at appendix G.

██████████ appears to still have responsibilities at the premises. The company ██████████, still appears to be buying and receiving goods at the premises.

It appears that despite the large amount of Police and Council time spent working with Mr Ecer and the ample opportunities given to Mr Ecer by the 2 Licensing Sub-committee's over the years, he is still unable to recognise the responsibilities to the licensing objectives he has agreed to take on by becoming premises licence holder and DPS on a premises licence, and has failed to meet the minimum standards required, despite his assurances. The sales and storage of illegal products, particularly to a child, is extremely concerning.

The licensing objectives have been further undermined by ██████████ continued involvement. The purpose for the 3 month suspension was to enable to full takeover of the business in every aspect, not just a paper exercise where nothing changed on the ground, otherwise there is still as much a risk to the objectives that initiated the first review, and that caused the licence to be revoked at No 10, and despite assurances, in June 2023 staff are still being paid by the company what was paying staff when ██████████ was PLH and DPS. The change only came about on the day of the police visit in August, indicating there never was a full change of control.

Lincolnshire Police have previously highlighted to the Licensing-Sub Committee serious concerns with ██████████, Mr Ecer and the risk to the licensing objectives. Those risks have not been dealt with by the 3 month suspension given at the last review hearing, and the licensing objective have continued to be undermined, therefore Lincolnshire Police request that the premises licence is revoked.

Please tick ✓ yes

Yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

If you have made representations before relating to the premises please state what they were and when you made them

A review of the premises licence at the time (understood to not be this licence) occurred in 2011 due to smuggled goods.

A review of this premises licence occurred 18/1/2023 following submission on 11/10/2022 due to illegal working, non-compliance, and an unsupervised child selling alcohol, with a transfer occurring before hearing and concerns regarding genuine takeover and new premises licence holder and DPS.

yes

Please tick ✓

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature Pc 642 Gina McConville

Date 13/03/24

Capacity for and on behalf of Deputy Chief Constable of Lincolnshire Police

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
1	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

