

Licensing Act 2003**Representation by a Responsible Authority**

Note: Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the Licensing Panel hearings.

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority.

Representations are only relevant to an application if they relate to at least one of the four Licensing Objectives listed below:

1. **The Prevention of Crime and Disorder**
2. **Public Safety**
3. **Prevention of Public Nuisance**
4. **The Protection of Children from Harm**

Please enter your details below:

Responsible Authority:	Lincolnshire Police
Contact Officer:	Pc 642 McConville
Address:	Lincolnshire Police Licensing, Myle Cross Centre Macaulay Drive Lincoln LN2 4EL
Telephone Number:	[REDACTED]
E-mail:	[REDACTED]

Please provide details of the application to which your representation refers:

Name:	Food Stop
Address:	1 Vauxhall Road Boston PE21 0BJ
Application Details:	Premises Licence Application – Uldis AUSTRUMS
Date Application Received:	2 nd September 2019

Please provide details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box(es):

- The Prevention of Crime and Disorder X
- Public Safety X
- Prevention of Public Nuisance X
- The Protection of Children from Harm X

In relation to this application, the following Guidance issued under Section 182 of the Licensing Act 2003 has been considered –

From Section 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.

From Section 11.24, which is in relation to reviews but deemed relevant to this representation.....A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

From Section 11.26, which is in relation to reviews but deemed relevant....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.

From Section 11.27, which is in relation to reviews but deemed relevant....there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises for the sale or storage of smuggled tobacco and alcohol.

From Section 11.28, which again is in relation to reviews, but deemed relevant.....It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is 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.

Along with Boston Borough Council Licensing Act 2003 – Statement of Licensing Policy

~~2.7 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the Licensing Authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned. Vicinity has not been given a definition within the Act and may vary in distance from the premises depending on the nature of the area. Considerations which will be taken into account when assessing “in the vicinity” include but are not limited to:~~

3.1 The Boston Borough Council aims to make the Boston area a safer place to live, work and visit by reducing crime and the fear of crime and reducing anti-social behaviour.

3.3 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Licensing Committee may therefore receive and may act upon relevant reports concerning:-

- crime and disorder
- community safety issues
- any other reports considered appropriate to the licensing function

~~3.4 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. There are several key differences between licensing and planning control. Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning control process. Planning control relates to use of the premises. The grant of planning permission should not be a presumption that a premises licence will automatically follow and vice versa. Additionally, there is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.~~

3.6 In reaching a decision of whether or not to grant a licence, the Licensing Authority will take account of any non-compliance with other statutory requirements brought to its attention, particularly where these undermine the licensing objectives. Non-compliance with statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

6.1.2 In addition to the requirement for the Licensing Authority to promote this licensing objective, prevention of crime and disorder it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect on, and do all it reasonably can to prevent, crime and disorder in the Borough.

Licensing Act 2003

Section 158(1) A person commits an offence if he knowingly or recklessly makes a false statement in or in connection with (a) an application for the grant, variation, transfer or review of a premises

licence or club premises certificate.

The premises this representation refers to has previously been licenced. That licence was surrendered and during the period where it can be transferred an application was received from Peshtwan Rasul AHMADI. Lincolnshire Police were aware of Mr Ahmadi as he had been removed from being the designated premises supervisor (DPS) at another premises within Boston when it was found selling illicit cigarettes. Lincolnshire Police objected to both Mr Ahmadi becoming premise licence holder (PLH) and DPS due to this and other information which was disclosed to the Licensing Sub-Committee in closed session.

The Licensing-Sub Committee deemed that the likelihood of the licensing objectives being undermined if Mr Ahmadi became PLH and DPS was too great and both applications were refused. Please see the decision notice attached at Appendix A. That decision was then appealed by Mr Ahmadi. Just prior to the appeal hearing a new premises licence application (that this representation relates to) was received. The appeal was subsequently withdrawn.

The new applicant, Mr Austrums, was asked how he found out the premises was for sale and to provide evidence of business ownership, including premises lease, bank statement showing purchase, companies house registration, utilities, rates, food registration etc on 9/9/19. Mr Austrums provided a copy of a lease in his name, dated 1/9/19, an agreement for the sale of the business between himself and Mr Ahmadi dated 15/7/19, a bank statement showing the movement of money and an advert from RightBiz showing the shop being advertised.

When asked about how Mr Austrums acquired the business he stated via email 'On the 12th of July I found [the business] on Rightbiz. I texted via the site and got a reply from Mr Ahmadi, he left his number and we spoke on the phone, then I went down to see the shop the same day. I really liked the shop, I thought it was a great first business opportunity for me. Mr Ahmadi showed me on the site that he had couple more people interested, he was desperate to sell it, so I had to make a move to make sure I got it. On 15th July I got the business agreement done and I paid £1000 deposit to secure the business as mine'. Lincolnshire Police asked 'Have you had any dealings with Peshtwan Rasul AHMADI before this time (this time being 12th July as per your last reply)? If so when? And what nature? Mr Austrums replied 'i had no dealing with Mr Ahmadi before'.

The Rightbiz advert, as passed to Lincolnshire Police by Mr Austrums (Appendix B) was scrutinised, it was noted that it was printed on 10/9/19 and on its third page was the text 'Please send more information about this business. Regards, Peshtwan Ahmadi' followed by his phone number. On making enquiries with the website and with Rightbiz itself, Lincolnshire Police have been able to confirm that above text is from cookies populated when a known individual, due to having previously registered with Rightbiz, visits the RightBiz site. As the details are Mr Ahmadi's, it leads to the assumption that the print out came from when Mr Ahmadi was logged into Rightbiz. Rightbiz have confirmed that Mr Ahmadi accessed their website on 10/9/19. Mr Austrums does have a separate registration to Mr Ahmadi on the website, from a different IP address.

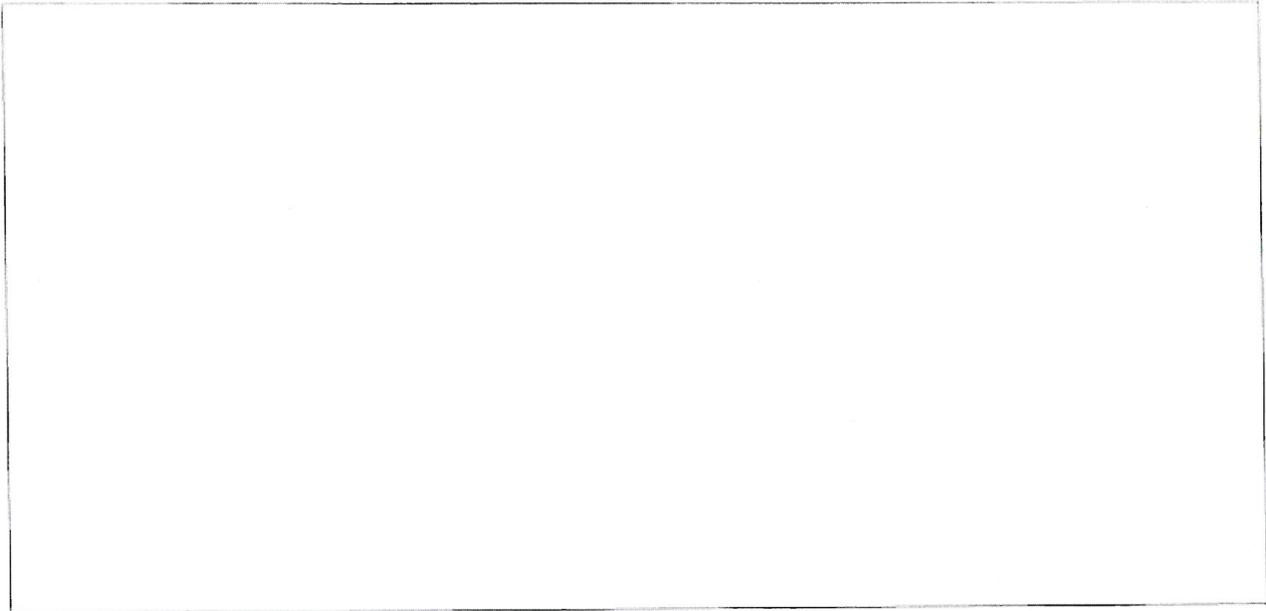
Due to the above inconsistency Lincolnshire Police relooked into the investigation into Mr

Ahmadi's attempt to acquire the premises licence at 1 Vauxhall Road, in March 2019. It was discovered that both Mr Austrums and Mr Ahmadi had attended a meeting in Nottingham together at the beginning of February 2019 regarding taking over the lease for that premises from the lease holder at the time. Both Mr Austrums and Mr Ahmadi arrived together with another male, the current lease holder arrived separately and the premises owners were also in attendance. As with any new tenant certain checks are carried out by the premises owner before allowing a tenancy, one being proof of funds to enable them to keep up the rent payments. After producing the documents requested it transpired that Mr Austrums had insufficient funds to pay a deposit, or regular rental payments. Mr Ahmadi then offered to be a guarantor for Mr Austrums and proved his funds within company bank accounts. Prior to new tenancy documents being sent out the owners received a phone call from Mr Ahmadi to say rather than being a guarantor he would just simply take the lease on himself.

Lincolnshire Police asked Mr Austrums about the advert and he stated he printed it out at home. When the text regarding Mr Ahmadi's details was pointed out he then stated that he got the print out from Mr Ahmadi's solicitor, when he went to see him regarding the business sale (which had taken place on 15/8/19). He said the solicitor called Mr Ahmadi who gave him access details to Rightbiz and he printed off the advert for Mr Austrums. This took place a day after Lincolnshire Police requested this information. Lincolnshire Police question why Mr Austrums visited Mr Ahmadi's solicitor nearly a month after the business sale was completed, and why would the solicitor and Mr Ahmadi assist with printing off an advert to show provenance, unless it was to some benefit for themselves.

Mr Austrums was given the opportunity to be truthful with Lincolnshire Police once the above was known. He decided to again offer that he had no previous dealings with Mr Ahmadi and that he first contacted him on 12th July 2019. The above information re the Nottingham meeting in February was then disclosed to him and he could offer no explanation as to why he deliberately kept that information from Lincolnshire Police and described Mr Ahmadi as a friend who was helping him out at the time.

Lincolnshire Police have serious concerns with Mr Austrum's connections to Mr Ahmadi and his willingness to lie to Police and his reasons for attempting to deceive in order to obtain a premises licence. There is no confidence in Mr Austrum's upholding the licensing objectives and ensuring the premise licence conditions are enforced when he has deliberately lied. Lincolnshire Police strongly suspect that he is attempting to obtain a premises licence on behalf of Mr Ahmadi and so is not the true person in control of the business. If this is the case the likelihood of the licensing objectives being undermined remains as before, when the application to transfer the old premises licence to Mr Ahmadi was refused, and therefore request that this application is also refused.



If possible, please suggest alterations to the application that would resolve the problem mentioned above, again paying attention to the **Licensing Objectives**:

If the Licensing Sub-Committee are satisfied that Mr Austrum's actions dictate him suitable as a PLH and DPS and have confidence that he will uphold the Licensing Objectives and therefore grant the application then Lincolnshire Police wish to make comment that the premises licence conditions offered in part M of the application although well-meaning, do not reflect the risk posed for the area. The premises is on a main road into the town with the ability to park on street, within metres of the premises. Boston Borough has a Public Space Protection Order which ceases where John Adams Way meets Main Ridge East, which goes in to Vauxhall Road. The Police Licensing Department has commissioned a crime analyst to look into the alcohol related crime statistics for the Vauxhall Road area, and it may be that the appropriate conditions include restricting the amount of can/bottles sold and the strength of beer lager/cider sold, along with more robust, specific, measurable wording for conditions relating to CCTV, incident book, refusals register, Challenge 25 and staff training. Once the results have been received Lincolnshire Police will inform all interested parties, along with recommendations prior to the hearing.

Have you contacted the applicant to discuss this representation?

Yes X No

Do you consider mediation could resolve the issue?

Yes No X

Do you propose to attend or be represented at any Licensing Panel hearing?

Yes X No

Please tick this box if you consent to any notice of any hearing being sent to you to via the e-mail address provided by you above. X

(Please note if any notice is sent to you by electronic means, you will also receive confirmation of the same in writing).

Appendix A

Boston Borough Council
Licensing Act 2003
Application for Variation of a Premises Licence
Decision Notice

Date of hearing	27 March 2019
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Members of Sub-Committee	Councillor James Edwards Councillor Paul Gleeson Councillor Stephen Woodliffe
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Applicant(s) Name	Mr Peshtwan Khidir Rasul Ahmadi
Premises Address	1 Vauxhall Road, Boston
Represented by	Mr Kahlil
Date Application Received	21 February 2019
Details of Application	Application to transfer a Premises Licence and variation of a Premises Licence to specify an individual as the Designated Premises Supervisor under the Licensing Act 2003.

The Parties:

Mr Ahmadi, has applied to transfer the Premises Licence for 1 Vauxhall Road, Boston and simultaneously applied for variation of the Licence to specify himself as the Designated Premises Supervisor.

The Chief Officer of Police has given notice that he is satisfied that the exceptional circumstances of both cases are such that granting the transfer and/or variation of Designated Premises Supervisor would undermine the crime prevention licensing objective.

Policy and Guidance:

In reaching its decision, the sub-committee has considered the statutory guidance issued under S182 of the Licensing Act 2003 and Boston Borough Council's Statement of Licensing Policy.

Licensing Objectives:

The sub-committee has found that the licensing objective of prevention of crime and disorder is relevant to this application.

Decision:

The sub-committee has decided to refuse the application to transfer and vary the premises licence to specify an individual as the Designated Premises Supervisor.

Reasons: The reasons for the Sub-Committee reaching this decision are as follows:

The Sub-Committee has read and heard all of the information before them. The Sub-Committee heard from the Licensing & Land Charges Manager, Lincolnshire Police, Mr Ahmadi (the applicant), and Mr Kahlil (on behalf of the applicant).

The Sub-Committee is aware of and has taken into account any implications that may arise from the Human Rights Act 1998.

The Sub-Committee in reaching its decision has had due regard for its public sector equality duty under section 149 of the Equality Act 2010 and consider that in reaching their decision they have fulfilled their duty under the Equality Act 2010.

The Sub-Committee noted that there are 2 applications before them, but it was agreed between all parties, as the applicant in each is the same, that it was sensible to hear and consider both applications together.

During the hearing, additional wage slips for the Tatry were given in evidence with the agreement of all the parties. The Sub-Committee heard from Mr Kahlil how there had been 2 test purchases undertaken by the police at the Tatry premises (where the applicant was previously the DPS), and how the applicant had not been present at the Tatry at the time of either despite being DPS. Mr Kahlil stressed to the Sub-Committee how the breaches encountered at the Tatry could not be linked to the applicant, because he had no knowledge of the illegal cigarettes at the premises and he only worked 1 day a week, (approximately 8-10 hours per week) at the premises, primarily training staff and assisting with trips to the cash and carry. The Sub-Committee heard how the applicant has not been interviewed, fined or charged in relation to the criminal activity encountered at the Tatry, and Mr Kahlil stressed how this is further evidence that the applicant had no involvement or knowledge of the unlawful activities at the Tatry.

The Sub-Committee are aware that review proceedings were brought by Lincolnshire Police in relation to the Tetry and that the Sub-Committee removed the applicant as the DPS from the premises licence with immediate effect citing serious concerns of the knowledge of the DPS of the illegal activities at the premises (Tetry), and also due to his failure to fulfil the role of DPS at the premises.

Mr Kahlil informed the Sub-Committee how the applicant did not have much control over the Tetry premises because he wasn't the premises licence holder; he had limited management of the premises as a result. The applicant confirmed that he was not paid for his time at the Tetry (until Sept 2018),.

The applicant informed the Sub-Committee how he had previously owned a car washing / valeting business, but he had closed it, and dissolved the business in Feb 2019 as the lease was up. Further, he has a slipped disc in his back, so can no longer wash cars.

It was confirmed to the Sub-Committee that the applicant is aware that he will be fully responsible for the premises as the Premises Licence Holder and DPS; to ensure the law and the premises licence conditions are preserved. It was stressed that the applicant is willing to work with the police, and how the application is genuine and not a front because the applicant had put forward his own name. The applicant had learnt a lot from the mistakes at the Tetry, and had done some research, and so now knows what duties are expected of him and of the responsibilities.

However, when asked, the applicant had not gone on any training courses, and when questioned whether he felt he ought to, he answered that he did not. Mr Kahlil confirmed the applicant is aware the police will be watching him, and could take steps against the licence should any breaches be found.

The Sub-Committee also heard from Lincolnshire Police, who confirmed to the Sub-Committee that they remain of the opinion that the applicant still has a lack of understanding of what it entails to be a DPS, and nothing they have been presented with, or heard, convinces them otherwise. Lincolnshire Police are of the opinion that nothing has changed since the applicant was removed as DPS from the Tetry premises licence, evidenced by the applicant's admission that he had not been on a training course, and wouldn't be doing so.

The police confirmed to the Sub-Committee that it was their opinion that the applicant's removal as DPS from the Tetry premises licence should be enough to reject the current applications.

Lincolnshire Police, however, informed the Sub-Committee that during their routine due diligence on notification of the application how they learnt about an incident that occurred in November 2018

which involved the applicant, and other individuals who the police are of the opinion are linked to organised crime and licensed premises. Lincolnshire Police confirmed that whilst an investigation is still on-going, it is a matter of fact that the applicant was arrested along with other individuals, and that this, along with the criminal activity encountered at the Tatry is strong evidence of the applicant's association with individuals who are linked to organised criminal activity.

In determining the application, the Sub-Committee were mindful that their concern here is to be confident on the balance of probabilities that the licensing objective of the prevention of crime and disorder will be safeguarded and promoted if the application was granted.

In reaching their decision the Sub-Committee had due regard for all that they have read and heard, along with consideration for the licensing objectives, the Licensing Act 2003, s182 Guidance, and the Council's licensing policy.

The Sub-Committee have had strong regard for their decision to remove the applicant as DPS at the Tatry, and their reasoning being his knowledge of the illegal activities encountered at the Tatry, and concerns regarding his fulfilment of the role of DPS.

The Sub-Committee do not consider that the applicant acknowledges the role he played at the Tatry and the shortcomings that flowed thereof; if he did not have any knowledge of the illegal activities, then the Sub-Committee consider that he failed as a DPS. If he was aware, then he equally failed in his role as DPS, and additionally the Sub-Committee noted there were other concerns regarding breaches of the premises licence conditions which contributed to their decision to find failure on the part of the applicant in his role as DPS at the Tatry.

The Sub-Committee have not been provided with convincing evidence that the applicant now has the required knowledge to satisfactorily carry out the role of DPS, nor has he taken any reasonable or proportionate steps to address the shortcomings in his knowledge previously identified by the Sub-Committee.

The Sub-Committee is also disappointed to note that the applicant still does not acknowledge his shortcomings at the Tatry, and remains of the mindset that as he wasn't at the premises at the time of the test purchases and did not have knowledge of the illegal cigarettes means that he did not fail in his role as DPS. Accordingly, the Sub-Committee reject the application to vary the premises licence to specify the applicant as the DPS in order to ensure the prevention of crime and disorder licensing objective is safeguarded.

The Sub-Committee have also considered the application to transfer the premises licence, and again have concerns regarding the applicant's awareness of the role and responsibilities of a Premises

Licence Holder. The applicant sought to convince the Sub-Committee that he was aware that if any breaches were encountered at the premises, that the police would take steps against the licence, but was unable to convince the Sub-Committee that he was actively aware of how to successfully run the premises, and of the role and responsibilities of a Premises Licence Holder. The Sub-Committee do not agree with the suggestion that being known to the police will assist with the promotion of the licensing objectives. Additionally, the Sub-Committee had strong regard for the applicant's association with individuals linked with criminal activity, previously at the Tatry, but also from the evidence presented by Lincolnshire Police about the incident in November 2018.

The Sub-Committee therefore have decided that the application to transfer the premises licence should be refused to ensure the safeguarding of the prevention of crime and disorder licensing objective.

Appeal Provisions

The Sub-Committee would like to remind the parties that there is a right of appeal to the Magistrates' Court under Section 181 of the Licensing Act 2003. The circumstances in which parties may appeal are detailed in Schedule 5 to the Licensing Act 2003.

The appeal must be commenced by notice of appeal to the Justice's Chief Executive for the Magistrates Court within the period of 21 days beginning with day on which the party was notified by the Licensing Authority of the decision being appealed against (i.e. the date of this decision notice). Appeal should be made to Lincoln Magistrates' court at 358 High St, Lincoln, LN5 7QA

Upon hearing an appeal the Magistrates' Court may

- a) Dismiss the appeal,
- b) Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
- c) Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

And make such order as to costs it thinks fit.

Signed:



Date 27 March 2019
Licensing & Land Charges Manager

On behalf of the Licensing Sub-Committee

Appendix B



RightBiz

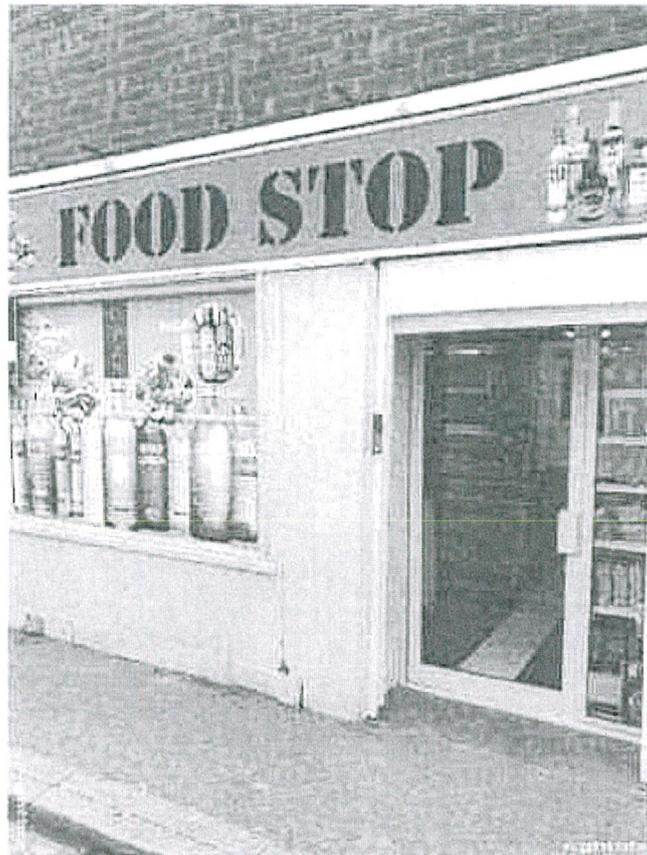
Sell Your Business

OFF LICENCE & CONVENIENCE STORE, on Vauxhall Road, Boston

Boston, Lincolnshire

Leasehold Price: £13,000

Contact seller »



< 1 of 1 >



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Details

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Ideal for someone looking to make an investment or start a new business.

Convenience Stores in Boston, Lincolnshire.

Shop located in busy residential area.

The price is very good as looking for a quick sale.

Contact me for more information.

Listing Details

Leasehold Price:
£13,000

Tenure:
Leasehold

Location:
Boston, Lincolnshire

Sector:
Convenience Stores

Financials

Annual Turnover:
£50,000

Annual Net Profit:
Available upon request

Key Features

New Lease
With Car Park

Offers Invited
Small Business

Listing Statistics

Impressions :
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Contact the seller for more details, or book a viewing

Your Message *

Please send more information about this business. Regards, Peshtwan Ahmadi

Your Contact Number *

[REDACTED]

[Send Message »](#)

* required fields

OR

[Make An Offer »](#)

Interested in a price reduction?

[Let the seller know »](#)

Tip:

Be specific on the type of details you wish to receive from the seller. This encourages communication with both yourself and the seller and makes the process smoother.

FAQ:

After my message, what's next?

The seller will be notified instantly that you have sent a message. Please note that replies made back are entirely dependable on the seller.

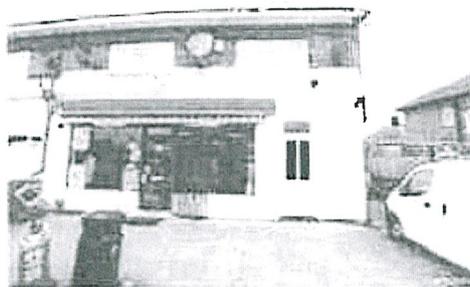
How will I know the seller has replied?

Once the seller has read your message and replied to you. You will be notified immediately via email. If the seller is using an agency/broker on their behalf, then an agent will be in touch with you either via your contact number or email.

Please click [here](#) for more Help & FAQ.

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- Post Wanted Advert

Brokers

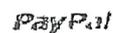
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