

**Boston Borough Council
Licensing Act 2003
Review of a Premises Licence
Decision Notice**

Date of hearing	29 July 2020
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Members of Sub-Committee	Councillor Jonathan Noble Councillor Tom Ashton Councillor Deborah Evans
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Premises Licence Holder	Mrs P I Dos Santos Pereira
Premises Address	Beira Alta Deli, 18 West Street, Boston
Date Application Received	3 June 2020
Details of Application	Review of a premises licence in accordance with the Licensing Act 2003 – submitted by The Chief Constable of Lincolnshire Police.

The Parties:

Lincolnshire Police requested a review of the Premises Licence for Beira Alta Deli, 18 West Street, Boston on the 3 June 2020. No representations in respect of the review were received. The Licence holder is Mrs P I Dos Santos Pereira.

The sub-committee has heard from the Licensing & Land Charges Manager, Sgt Enderby and PC McConville from Lincolnshire Police and Mrs Pereira.

Policy and Guidance:

In reaching its decision the Sub-Committee has had due regard for all that they have read and heard and has considered the statutory guidance issued under section 182 of Licensing Act 2003 and Boston Borough Council's Statement of Licensing Policy.

Licensing Objectives:

The Sub-Committee has found that the licensing objectives prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm are relevant to this application.

Decision and Reasons:

The Sub-Committee has read and heard all of the information before them. 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 considered its public sector equality duty under section 149 of the Equality Act 2010 and consider that in reaching their decision today, that they have had due regard for the duty placed upon them by s.149.

The Sub-Committee heard from Sergeant Enderby and PC McConville on behalf of Lincolnshire Police, and Mrs Pereira the premises licence holder.

The Sub-Committee heard from the police outlining the evidence presented in the review application, which included details about the premises serving alcohol for consumption on the premises at a time when regulations prevented it during the COVID-19 pandemic. The Sub-Committee also heard that people were allowed to congregate in an area immediately outside the premises doorway with no social distancing measures in place. In addition the police advised the Sub-Committee that there were 4 conditions on the licence and of those 4 conditions 2 had been breached by the licence holder.

Mrs Pereira addressed the Sub-Committee and acknowledged that she had made a mistake and had sold alcohol to people to consume on the premises, although she stated the person on the premises during the police visit on 20th May 2020 was a friend. Mrs Pereira confirmed that she was aware of the order that had been made and was in effect from 21st March 2020 relating to the closure of premises. Mrs Pereira advised that she didn't have a refusal register immediately available, her licence on display or details of staff training available when the police visited, but she did have details of challenge 25 which included a poster on the wall.

With all the information before them the Sub-Committee are of the view that the licensing objectives have not been promoted by the premises licence holder, Mrs Pereira. The Sub-Committee do not consider that there are any conditions that are appropriate for inclusion on the licence and have in mind that there is evidence before them that both the law and current licence conditions have been breached. The removal of the DPS was not considered appropriate, as at the time the DPS was not present, and Mrs Pereira would remain the premises licence holder. The Sub-Committee are of the view that

given the circumstances within which the premises was trading at the time and the serious consequences of non-compliance with government guidance and regulations relating to the Covid-19 pandemic that suspension of the licence is not appropriate. In the circumstances and with all matters considered the Sub-Committee are of the view that revocation of the licence is appropriate.

Appeal:

The Premises Licence Holder and Lincolnshire Police have a right of appeal to the Magistrates' Court under Section 181 of the Licensing Act 2003.

The appeal must be commenced by notice of appeal to the Justices' Chief Executive for the Magistrates Court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision being appealed against.

Any appeal should be sent to: Lincoln Magistrates Court, 358 High St, Lincoln LN5 7QA

This decision does not take effect until the end of the appeal period or if the decision is appealed, when the appeal is disposed of.

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:



Fiona White
Licensing & Land Charges Manager
On behalf of the Licensing Sub-Committee
30 July 2020