

# AGENDA



For a meeting of the
<b>ALCOHOL AND ENTERTAINMENT LICENSING COMMITTEE</b>
to be held on
<b>FRIDAY, 5 OCTOBER 2012</b>
at
<b>10.00 AM</b>
in the
<b>COUNCIL CHAMBER, COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM NG31 6PZ</b>
<b>Beverly Agass, Chief Executive</b>

Committee Members:	Councillor Mark Ashberry, Councillor Pam Bosworth (Chairman), Councillor Robert Broughton, Councillor George Chivers, Councillor Breda Griffin, Councillor Reginald Howard, Councillor Vic Kerr, Councillor Graddon Rowlands, Councillor Bob Russell (Vice-Chairman), Councillor Mrs Jean Taylor and Councillor Frank Turner
Committee Support Officer:	Lucy Bonshor 01476 40 61 20 <a href="mailto:l.bonshor@southkesteven.gov.uk">l.bonshor@southkesteven.gov.uk</a>

**Members of the Committee are invited to attend the above meeting to consider the items of business listed below.**

**1. APOLOGIES**

**2. DISCLOSURE OF INTERESTS**

Members are asked to disclose any interests in matters for consideration at the meeting.

**3. MINUTES OF MEETING HELD ON 21 SEPTEMBER 2012**

(Enclosure)

**4. LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE - ZORBAS 4, BROAD STREET, STAMFORD**

Report CSL018 by the Community Safety and Licensing Service Manager.

**(Enclosure)**

**5. LICENSING ACT 2003: APPLICATION FOR VARIATION OF A PREMISES LICENCE FOR, TESCO GENERAL STORE, GODSEY LANE. MARKET DEEPING**

Report CSL021 by the Community Safety and Licensing Service Manager.

**(Enclosure)**

**(THE APPENDICES TO THE REPORTS AT AGENDA ITEMS 4 AND 5 ARE ATTACHED FOR COMMITTEE MEMBERS ONLY. IF ANY OTHER MEMBERS WISH TO SEE THE SUPPORTING INFORMATION, PLEASE CONTACT THE SERVICE MANAGER, COMMUNITY SAFETY AND LICENSING).**

**6. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASON OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT.**

# MINUTES

ALCOHOL AND ENTERTAINMENT  
LICENSING COMMITTEE  
FRIDAY, 21 SEPTEMBER 2012



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## COMMITTEE MEMBERS PRESENT

Councillor Mark Ashberry  
Councillor Pam Bosworth (Chairman)  
Councillor Robert Broughton  
Councillor George Chivers  
Councillor Reginald Howard

Councillor Vic Kerr  
Councillor Bob Russell (Vice-Chairman)  
Councillor Mrs Jean Taylor  
Councillor Frank Turner

## OFFICERS

Licensing Officers (Pam Robinson, Richard Etherton)  
Solicitor to the Committee (John Armstrong Legal & Democratic Service Manager)  
Democratic Officer (Lucy Bonshor)

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## 8. APOLOGIES

Apologies were received from Councillor Griffin and Councillor Rowlands.

## 9. DISCLOSURE OF INTERESTS

None declared.

## 10. MINUTES OF MEETING HELD ON 27TH JULY 2012

The minutes of the meeting held on 27th July were agreed as a correct record of the decisions taken.

## 11. LICENSING ACT 2003: REVIEW OF A PREMISES LICENCE, MILLSTONE PUBLIC HOUSE, 1 ALL SAINTS STREET, STAMFORD, LINCOLNSHIRE, PE9 2PA

### Decision:

*That the activity of outdoor music be removed from the Premises Licence for the Millstone Public House, 1 All Saints Street, Stamford.*

The Solicitor to the Committee introduced those present.

The Licensing Officer referred to the application that had been received for a review of the premise licence for the Millstone Public House at Stamford. The application had been received from The Environmental Protection Team who had asked that the Committee look at the provision of outside music with a view to removing it from the licence. The provision of outdoor music was allowed Thursday – Saturday between May and October.

The Environmental Protection Team had worked with the Designated Premises Supervisor (DPS) to try and address the continued complaints from members of the public regarding outdoor music. A sound level meter had been installed at a neighbouring property between the 5th and 12th July and the recordings showed that the music was loud, heavy bass, live music. The results of the recordings indicted a noise nuisance. Following the display of public notices seven letters of support for the review were received which indicated that outdoor music was a particular problem but also that indoor music could be problematic. They had all complained to the Environmental Protection Team as well as the DPS but there had been no improvement. A complainant had also spoken to the police and said that she had witnessed customers sniffing drugs and urinating and had now resorted to leaving her premises when she knew that an event was taking place.

Peter Rogers, Team Leader Environmental Protection then presented their case. He referred to the number of occasions that outdoor music events had taken place and the complaints that had been received. He referred to diary sheets that had been completed by complainants and letters that had been sent to the DPS asking them to reduce the excessive noise and to discuss the complaints that the Environmental Protection Team had received. As complaints had still been received a formal investigation had been undertaken. A sound level meter had been installed at a local residence and Members of the Committee heard an extract of the recording taken on 7th July 2012. The recording showed that the outdoor music being played was intrusive and created a statutory noise nuisance and Mr Rogers recommended that the playing of outdoor music be removed from the Premise Licence.

The Interested Parties (Sally-Ann Walton and Veronica Bossel) then presented their cases. They lived near to the premises referred to and the excessive noise particularly the rhythmic base line, played outdoors at the Millhouse at various dates during the year was so intrusive and loud that when they knew an event was taking place they made arrangements to vacate their premises for the duration of the event. Although efforts had been made to speak to the DPS asking for the base line to be reduced nothing had been done. A further interested party, Mr Clayton who lived at All Saints Street, referred to the previous application that had been made for the premises back in 2007. Although he had objected to the playing of outdoor and piped music at that time he had been the only objector and had spoken to the previous landlord who

had indicated that the outdoor music would only be used for sports events and would not be loud and would finish at a reasonable time. Mr Clayton confirmed that whilst the previous landlord had been at the premises they had not had any complaints it was only since the new landlord had been in situ that the problem with the excessive loud music had started. His house was triple glazed and had sound proofing yet still the heavy base could be heard making the house vibrate. The noise was totally unacceptable and far too loud.

Members asked Mr Clayton various questions to which he responded.

Mr Wycherley the DPS was then asked for his comments. He apologised for the stress that he had caused those residents who had attended the hearing, he had not really been aware of how distressing the noise level had been. He was asked by one of the interested parties present what he had done to address the complaints made about the noise. Mr Wycherley replied that although he had patrolled the outside of the premises and taken a recording on his phone he hadn't done enough. Mr Rogers then asked why he had not worked with the Environmental Protection Team to address the noise problems to try and resolve them. Mr Wycherley replied that he had tried to do it himself.

Members of the Committee then asked Mr Wycherley various questions about his long plans for the future to which he replied.

The Licensing Officer then gave her closing statement. She reminded Members to have regard to the representations they had heard and that the hearing was purely about outdoor music at the premises. The options available to the Committee were:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding 3 months; or
- e. to revoke the licence.

If the Committee decided that none of the steps were appropriate, then they should take no further action.

Mr Rogers then gave his closing statement referring to the fact that residents vacating their properties was a good indication that the noise coming from the Millstone created a statutory noise nuisance and the section continued to receive complaints about the noise, he recommended that outside music be removed from the license.

*(10.52am Licensing Officers, Environmental Protection Officers, DPS and Interested Parties leave the meeting)*

Members discussed the information they had been given and the representations made during the meeting and the comments from the Solicitor

to the Committee that any decision made must be proportionate to the evidence that they had heard. A Member suggested that this would have been a good example where a site visit would have been helpful and it was requested that this be considered in the future. Further discussion followed and it was proposed, seconded and unanimously agreed that the licence to play outdoor music be removed from the Premises Licence.

*(11.20am Licensing Officers, Environmental Protection Officers, the DPS and Interested Parties return to the meeting)*

The Solicitor to the Committee read out the Committees decision. Having considered all documentary evidence and having heard all representations the Committee were content that the noise created did emanate from the music played in an outside area on the premises of the Millstone Public House. The Committee were also content that due to the sound levels the music was both loud and intrusive as it affected a class of people who lived in the vicinity of the public house and they were also content that it caused a public nuisance in breach of one of the four licensing objectives. The Committee then considered whether what was asked for in the application for review, namely that the activity of outside music be removed from the premises licence was proportionate to meet the licensing objectives or whether there were mitigation measures that could be introduced that would be a more proportionate response to meet those objectives. The Committee noted that the noise emanated from music played in an outside space, therefore a condition that related to keeping all windows and doors closed would be inappropriate. The question of whether a noise limiter would be effective was also considered but although Mr Rogers had approached the premises DPS about mitigation measures the DPS had not gone back to Mr Rogers to discuss how these could be implemented. The Committee also considered whether a licence which limited the number of events a year would be a more proportionate response that would alleviate the noise levels so as to prevent a breach of one of the licensing objectives, however, the Committee were content that limiting the number of events would not prevent the breach from occurring, it would merely restrict the number of opportunities the owner would have to breach them. It was noted that if the owner wanted to have a one off event he could apply for a Temporary Events Notice. The Committee had also taken note of the concerns raised by the DPS relating to the potential adverse impact on his business if the licence was removed however, there was no evidence before the Committee that would corroborate the DSP's speculation that business would drop off. It could equally be speculated that removal of outside music could attract an alternative clientele. In any event the Committee were content that the impact on the business must be balanced by the effect the public nuisance was clearly having on the wider community and it must not be view in isolation. It must also be considered in light of the DPS's apparent lack of engagement with the local community to seek to address their concerns. Having taken all these matters into consideration the Committee were satisfied that:

- the music played outside on the premises of the Millstone Public House

was loud and intrusive and did affect a class of people and thereby caused a public nuisance in breach of one of the four licensing objectives;

- there was no other proportionate measure available beyond stopping the playing of music in the outside area that would have alleviated the noise levels so as to stop the public nuisance occurring.

The Committee's decision was that the activity of outside music be removed from the premises licence. The decision was appealable to the Magistrates Court within 21 days of written notification being given.

## **12. CLOSE OF MEETING**

The meeting closed at 11.24am.

## REPORT TO ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT COMMITTEE

**REPORT OF:** Community Safety & Licensing Service Manager

**REPORT NO:** CSL/018

**DATE:** 5 October 2012

<b>TITLE:</b>	Review of a Premises Licence - Zorbas 4, Broad Street, Stamford	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	N/A	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor John Smith Green, Healthy and Arts Portfolio Holder	
<b>CONTACT OFFICER:</b>	Pam Robinson, Senior Licensing Officer <a href="mailto:p.robinson@southkesteven.gov.uk">p.robinson@southkesteven.gov.uk</a> 01476 406138	
<b>INITIAL IMPACT ANALYSIS:</b>  <b>Equality and Diversity</b>	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:  N/A
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Statement of Licensing Policy 6 January 2011. Guidance issued under Section 182 of the Licensing Act 2003.	

### 1. RECOMMENDATIONS

1.1 It is recommended that the Alcohol, Entertainment and Late Night Refreshment Licensing Committee ("the Committee") consider the application for a review of the premises licence relating to a premises known as, Zorbas 4 of 40 Broad Street, Stamford and determine either to:

- a. modify the conditions of the licence;
- b. exclude a licensable activity from the licence;
- c. remove the designated premises supervisor;
- d. suspend the licence for a period not exceeding 3 months; or
- e. revoke the licence.

If the Committee decides that none of the above steps are necessary then it need take no action.

## **2. PURPOSE OF THE REPORT**

- 2.1 The purpose of this report is to provide the committee with information to enable it to consider this application for a review of the premise licence under Section 51 of the Licensing Act 2003 ('the Act').
- 2.2 Where a relevant application for a review is received, the Licensing Authority must hold a hearing to determine the application. The options available to the Committee are as detailed in item 1 of this report.

The guidance issued under Section 182 of the Act is:

*"In deciding which of these powers to invoke, it is expected that licensing authorities should, so far as possible, seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response."*

- 2.3 There are certain criminal activities that may arise in connection with licensed premises which the Secretary of State considers should be treated particularly seriously and smuggled alcohol is one of those activities.

The guidance issued under Section 182 of the Act is:

*"Where reviews arise and the licensing authority determines 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."*

## **3. DETAILS OF REPORT**

- 3.1 Zorbas 4 is a small, takeaway premise. It holds two premises licences, one for late night refreshment, licence number 5001 held by Seluatten Karaoelan and Erdogan Karaoglan and one for the off sales of alcohol, licence number 13553 held by Caner Kaya. It is the premises licence for the sale of alcohol that is under review (appendix 1).
- 3.2 An application for the review of the premises licence number 13553 was submitted by Lincolnshire Safer Communities Trading Standards on 14 august 2012 (appendix 2).
- 3.3 The grounds for review relate to:
  - The prevention of crime and disorder

- 3.4 On Friday, 18 May 2012, Zorba 4, 40 Broad Street, Stamford was inspected by Lincolnshire Safer Communities Trading Standards and Lincolnshire Police.
- 3.5 During the inspection two bottles of counterfeit Smirnoff Vodka and five bottles of Extra Vodka displaying invalid duty stamps were found on the premises.
- 3.6 Those five bottles of vodka were seized by Trading Standards as evidence and samples were submitted to their Public Analyst.
- 3.7 A certificate of analysis was received for the Smirnoff Vodka and the analysis states the sample is unfit for human consumption, failing to meet the food safety requirements under food legislation (appendix 3).
- 3.8 A certificate of analysis for the Vodka Extra was received and no food safety concerns were raised by the Public Analyst however, Bemrose Booth, who are solely responsible for the UK duty stamps, have confirmed that the labels affixed to bottles three and four of the Vodka Extra are definitely counterfeit as the number is not registered on their data base (appendix 4).
- 3.9 Witness statements and supporting evidence provided by Trading Standards is included as appendix 5 to this report.
- 3.10 The above is a brief summary of the review application. The full details can be found in the body of the application at appendix 1.
- 3.11 Lincolnshire Police submitted a representation and witness statement in support of Trading Standards application for the review of Zorbas 4 premises licence number 13553 and this is attached as appendix 6.

**4. OTHER OPTIONS CONSIDERED**

There are no other options available.

**5. RESOURCE IMPLICATIONS**

There is no resource implications associated with this report

**6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls

**7. ISSUES ARISING FROM IMPACT ANALYSIS**

Impact analysis not required.

## **8. CRIME AND DISORDER IMPLICATIONS**

8.1 Crime and disorder implications will be considered in accordance with the licensing objective and the duty to consider in accordance with s.17 of the Crime and Disorder Act 1998

## **9. COMMENTS OF FINANCIAL SERVICES**

9.1 There are no specific financial implications associated with this report however in the event of an applicant making an appeal against a decision which was then subsequently upheld, the council may incur additional legal costs.

## **10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

10.1 The Act provides a procedure whereby a premises licence can be reviewed at any time on the application of an interested party or a responsible authority. On receipt of an application for review of a licence, the Council are obliged to hold a hearing to consider the application within 28 days of receipt of the application. The Committee should consider the Guidance issued under S182 of the Act and the Council's own statement of licensing policy when considering if the application merits evidence that the licensing objectives are being undermined or not.

The licensing objectives are:

- Prevention of Crime & Disorder
- Public Safety
- Public Nuisance
- Protection of Children from harm

10.2 Any decision taken by the Committee should be reasonable and proportionate and must be appropriate for the promotion of the licensing objectives. The decision of the committee should be no more than a proportionate response to the concerns raised by Trading Standards.

## **11. COMMENTS OF OTHER RELEVANT SERVICES**

Not applicable

## **12. APPENDICES:**

1. Premises Licence
2. Application for review of premises licence
3. Certificate of analysis
4. Analysis from Bemrose Booth
5. Statement of witnesses and supporting documentation from Trading Standards
6. Lincolnshire Police representation and statement of witness



## REPORT TO ALCOHOL, ENTERTAINMENT AND LATE NIGHT REFRESHMENT COMMITTEE

**REPORT OF:** COMMUNITY SAFETY AND LICENSING MANAGER

**REPORT NO:** CSL/021

**DATE:** 5 OCTOBER 2012

<b>TITLE:</b>	Application for variation of a premises licence for, Tesco General Store, Godsey Lane. Market Deeping.	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	N/A	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor John Smith Green, Healthy and Arts Portfolio Holder	
<b>CONTACT OFFICER:</b>	Richard Etherton <a href="mailto:r.etherton@southkesteven.gov.uk">r.etherton@southkesteven.gov.uk</a> Tel: 01476 406190	
<b>INITIAL IMPACT ANALYSIS:</b>  Equality and Diversity	Carried out and Referred to in paragraph (7) below  No	Full impact assessment Required:  No
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Statement of Licensing Policy 6 January 2011. Guidance issued under section 182 of the Licensing Act 2003.	

## 1. RECOMMENDATIONS

1.1 That the Licensing Committee consider this application for variation of a premises licence at a premises known as, Tesco General Store, Market Deeping and the views of the representations made by Interested Parties, bearing in mind the four licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of children from harm.

1.2 Where relevant representations are made, the authority must hold a hearing to consider them, unless the authority, the applicant and each person who has made representations agree that a hearing is unnecessary

1.3 The committee may have regard to the representations and if it considers it appropriate for the promotion of the Licensing objectives;

- (a) Modify the conditions of the licence,
- (b) Reject the whole or part of the application.

For this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new conditions are added.

1.4 The licensing authority should give appropriate weight to;

- (a) The steps that are appropriate to promote the licensing objectives.
- (b) The representations (including supporting information) presented by the parties.
- (c) The guidance issued under section 182 of the licensing Act 2003.
- (d) South Kesteven district Council's Licensing policy.

## 2. PURPOSE OF THE REPORT

2.1 The purpose of this report is to provide the committee with information to enable it to consider this application for a variation of the premise licence under Section 34 of the Licensing Act 2003 and establish whether any action is required to promote the four licensing objectives set out in section 1.1 of this report.

2.2 If it is felt appropriate to take action, the options listed in section 1.3 are open to the committee.

## 3. DETAILS OF REPORT

3.1 On 16 August 2012, the licensing section received an application to vary the times for the supply of alcohol and the hours the premises are open to the public, this on the current premises licence for Tesco General Store, Godsey Lane, Market Deeping. **(Appendix 1 refers)**

3.2 The variations are 2 hours in the morning, 1 hour in the evening, Sundays 1 ½ hours.

3.3 The current hours are:

Supply of alcohol:

08:00 to 23:00 Monday  
08:00 to 23:00 Tuesday  
08:00 to 23:00 Wednesday  
08:00 to 23:00 Thursday  
08:00 to 23:00 Friday  
08:00 to 23:00 Saturday  
10:00 to 22:30 Sunday

The opening hours of the premises:

08:00 to 23:00 Monday  
08:00 to 23:00 Tuesday  
08:00 to 23:00 Wednesday  
08:00 to 23:00 Thursday  
08:00 to 23:00 Friday  
08:00 to 23:00 Saturday  
10:00 to 22:30 Sunday

3.4 The hours requested by the variation are:

Supply of alcohol:

06:00 to 24:00 Monday  
06:00 to 24:00 Tuesday  
06:00 to 24:00 Wednesday  
06:00 to 24:00 Thursday  
06:00 to 24:00 Friday  
06:00 to 24:00 Saturday  
06:00 to 24:00 Sunday

The opening hours of the premises:

06:00 to 24:00 Monday  
06:00 to 24:00 Tuesday  
06:00 to 24:00 Wednesday  
06:00 to 24:00 Thursday  
06:00 to 24:00 Friday  
06:00 to 24:00 Saturday  
06:00 to 24:00 Sunday

3.5 On the 13 September 2012 an objection was received from an interested party living within the Market Deeping area, the objection relates to Public Nuisance and Public Safety. (**Appendix 2 refers**) This objection was

accompanied by a petition and assorted documents signed by residents within Market Deeping.

3.6 The petition/assorted documents have not been attached to the report due to its extensive content and the document has been sent as a PDF file to the appropriate people.

The original will be available to be seen on the day of the hearing.

3.7 None of the responsible authorities have submitted any objections with regards to this application.

3.8 The licensing team at Tesco's has been contacted and wish the application to proceed.

#### **4. OTHER OPTIONS CONSIDERED**

N/A

#### **5. RESOURCE IMPLICATIONS**

There are no resource implications associated with this report.

#### **6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
None identified	Nil

#### **7. ISSUES ARISING FROM IMPACT ANALYSIS**

N/A

#### **8. CRIME AND DISORDER IMPLICATIONS**

8.1 Crime and disorder implications will be considered in accordance with the licensing objective and the duty to consider in accordance with s.17 of the Crime and Disorder Act 1998

#### **9. COMMENTS OF FINANCIAL SERVICES**

9.1 There are no specific financial implications associated with this report however in the event of an applicant making an appeal against a decision which was then subsequently upheld, the council may occur additional legal costs

## **10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

10.1 This is an application to vary a premises licence under S34 of the Licensing Act 2003. The Committee should consider whether the proposed variation is likely to impact on the promotion of the licensing objectives which are set out at paragraph 1.1 above. In reaching the decision the Committee should consider, the steps that are appropriate to promote the licensing objectives, the representations (including supporting information) presented by the parties, the guidance issued under S182 of the Licensing Act 2003 and the Council's own statement of licensing policy.

## **11. COMMENTS OF OTHER RELEVANT SERVICES**

N/A

## **12. APPENDICES:**

1. Application
2. Letter from interested party/Petition facing sheet. (Signatures sent as a PDF)