

REPORT TO ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT COMMITTEE

REPORT OF: Community Safety and Licensing Manager

REPORT NO: CSL/012

DATE: 22ND June 2012

TITLE:	Review of a Premises Licence - European Mini Market - 9 Wharf Road, Grantham, Lincolnshire	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor John Smith Green, Healthy and Arts Portfolio Holder	
CONTACT OFFICER:	Peter Harrison, peter.harrison@southkesteven.gov.uk 01476 406190	
INITIAL IMPACT ASSESSMENT:	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	Statement of Licensing Policy 6 January 2011	

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 European Mini Market, Wharf Road, Grantham 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 the recommendation application:

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."

3. DETAILS OF REPORT

- 3.1 Lincolnshire Police are asking for a review of the Premises Licence for the European Mini Market on Wharf Road in Grantham, (appendix 1).
- 3.2 Law enforcement agencies had identified through intelligence, the possibility that alcohol and other goods were being made available for retail sale in contravention of the Customs and excise Management Act 1979 and the Tobacco Products Duty Act 1979.
- 3.3 On 8 February 2012 a joint visit consisting of officers from Lincolnshire Police, Trading Standards and Her Majesty's Revenue and Customs entered the store and seized a total of 3280 cigarettes, 2.42 Kilos of tobacco and 24.8 Litres of non duty paid vodka.
- 3.4 The cigarettes and tobacco were hidden in a purpose built store, concealed underneath the counter and accessed by pulling on what has been described by the police as 'false power sockets' to reveal a sliding door with the cigarettes hidden behind. This was only discovered after an indication by a dog trained in the detection of cigarettes/tobacco.
- 3.5 All the cigarettes found were foreign brands, none were UK duty paid marked and HMRC Officers have confirmed in their statement attached at appendix 1 that they should not have been for sale in this country.
- 3.6 The Premises Licence Holder was present at the time of the visit
- 3.7 On the 11th of February 2012 an incident of serious violence and disorder occurred which required immediate police attendance at which six people were arrested for affray. All persons involved in the affray have been uncooperative with police in explaining what the cause of the incident was and the police strongly believe it was caused by an argument over payment of the seized goods.

- 3.8 On the 2nd of March 2012 the police attended another incident involving fighting at the premises. A male arrested and subsequently charged with assault was clearly heard to say “do not talk to the police”. The police believed he was referring to the earlier affray and seizure. Please see page 4 of appendix 1.
- 3.9 The police say this serves to demonstrate that that management of the premises is ineffective because they are failing to promote the licensing objective of the Prevention of Crime and Disorder
- 3.10 The Police say that they are unable to offer any conditions that could prevent a reoccurrence of such criminal activity and they ask that serious consideration should be given to revocation of the licence
- 3.11 Trading Standards have submitted an e mail and three statements(appendix 2) supporting the review application and have included evidence relating to test purchase operations they carried out in January and May 2012 and the role they undertook when assisting Her Majesty’s Revenue and Customs and Lincolnshire Police with the counterfeit goods operation.
- 3.12 Bird and Co, Solicitors for the applicant, have submitted a statement (appendix 3) on behalf of the Premises Licence Holder in which he admits the offences relating to tobacco pouches and cigarettes but disputes the offences in relation to the alcohol.
- 3.13 The Premises Licence Holder also says that he did not construct the cabinet under the counter to conceal the cigarettes but to store cash and other valuables.

4. OTHER OPTIONS CONSIDERED

There is no other option than to hold a hearing

5. RESOURCE IMPLICATIONS

There are no resource implications associated with this report

6. RISK AND MITIGATION

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

8. CRIME AND DISORDER IMPLICATIONS

One of the licensing objectives that the committee must consider during the hearing of this matter is the prevention of Crime and disorder

9. COMMENTS OF FINANCIAL SERVICES

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 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.

10.2 The licensing objectives are:

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

10.3 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 the police.

11. COMMENTS OF OTHER RELEVANT SERVICES

12. APPENDICES:

1. Application for review
2. Trading standards email and Statements
3. Statement from Bird and Co Solicitors