

REPORT TO ALCOHOL, ENTERTAINMENT & LATE NIGHT REFRESHMENT COMMITTEE

REPORT OF: Community Safety & Licensing Service Manager

REPORT NO: CSL/018

DATE: 5 October 2012

TITLE:	Review of a Premises Licence - Zorbas 4, Broad Street, Stamford	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor John Smith Green, Healthy and Arts Portfolio Holder	
CONTACT OFFICER:	Pam Robinson, Senior Licensing Officer p.robinson@southkesteven.gov.uk 01476 406138	
INITIAL IMPACT ANALYSIS: Equality and Diversity	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: N/A
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. 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

