

South Kesteven District Council
**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Bill SKELLY, Chief Constable of Lincolnshire Police

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Todays Extra. 50 Kesteven Road.	
Post town Stamford.	Post code (if known) PE9 1SU

Name of premises licence holder or club holding club premises certificate (if known) ARUMUGAM KALAMOHAN

Number of premises licence or club premises certificate (if known) 23619.

Part 2 - Applicant details

I am

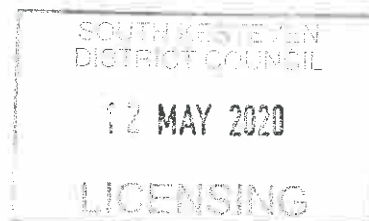
Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

X

3) a member of the club to which this application relates (please complete (A) below)



(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Chief Constable Licensing (Alcohol) Myle Cross Centre Macaulay Drive Lincoln LN2 4EL
Telephone number (if any) 101- Lincolnshire - 3298438
E-mail address (optional) Countylicensinggroup@lincs.pnn.police.uk

This application to review relates to the following licensing objective(s)

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 2)

This building has the benefit of a premises licence issued by South Kesteven District Council authorising the sale of alcohol from 06:00 hours until 00:00 hours daily. The premises operate as a convenience store.

This review application is submitted as being relevant to the prevention of crime and public safety and protection of children from harm licensing objectives.

Lincolnshire Police have acquired evidence in relation to a number of offences –

That the premises have employed an illegal worker, someone who is in the country legally but who has not been granted the right to work.

That the premises have been non-compliant in regards to the Annex 2 premises licence conditions.

The Licensing Act 2003 is clearly intended to prevent crime and disorder from occurring in relation to licensed premises but also to deter and prevent criminals from operating premises under the auspices of a Premises Licence granted by the local authority.

Revised Guidance issued under Section 182 of the Licensing Act 2003

11.23...But where the premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11.24 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, or 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 of law. 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.

11.25...In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives.

11.26 Where the licensing authority is conducted a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place, or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. 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.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- For employing a person who is disqualified from that work by reason of their immigration status in the UK.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration) 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 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.

Please provide as much information as possible to support the application (please read guidance note 3)

Lincolnshire Police attended the premises on 12th March 2020 accompanied by Home Office Immigration Officers who had received intelligence that an illegal worker was employed at the premises.

On entering the store a male was encountered stood behind the counter, operating the till whilst serving a customer. This male was the only member of staff present in the store. Checks by immigration officers revealed that he was barred from any form of employment due to his immigration status in the Country.

Two further persons - a male and female, both Sri Lankan Nationals - were located in a flat situated directly above the store. Immigration officers confirmed that the male had entered the country illegally and was now under arrest, the female had an outstanding asylum claim – both were barred from any form of employment due to their immigration status. As they were both staying in what appeared to be staff accommodation above the store it was believed that these two individuals had also been working in the store.

Immigration Officers are in the process of serving a Civil Penalty Notice on the business in relation to illegal employment of the first male encountered in the store.

See Attached Immigration Illegal Working Interview For Full Details*

Sgt 1040 ENDERBY conducted a compliance check whilst at the store and the premises was found to be in breach of a number of the Annex 2 conditions on the licence – a lack of specified signage, training records, failure to maintain accurate refusal or incident logs and all staff members encountered were unable to operate the CCTV system in any way. Two further staff members arrived at the premises during the visit and did not appear to be aware of their responsibilities within the Licensing Act or aware of the conditions on the Premises Licence.

Sgt Enderby seized a number of out of date and incomplete refusals logs and similar paperwork. He was unable to locate any documentation that indicated the correct right to work checks had been carried out in relation to the illegal worker initially encountered in the store and staff members were unable to produce any records to indicate that the checks had been completed. All of the staff member's inability to operate the CCTV system frustrated attempts to investigate if the male and female encountered in the upstairs flat had been working in the store. The entire duration of the visit to the premises was captured on Police Body Worn Video.

***** See Attached Statement From Sgt 1040 Enderby For Full Details*****

Non-compliance with premises licence conditions is an offence under Section 136 Licensing Act 2003 – unauthorised licensable activity, thereby carrying out unauthorised licensable activity each time alcohol is sold.

It is an offence to employ an illegal worker under section 21 of the Immigration, Asylum and Nationality Act 2006, as amended by section 35 of the Immigration Act 2016, if the employer knows or has reasonable cause to believe that they are employing an illegal worker. The employer by law has to carry out various checks to ensure that their staff are legally allowed to work.

Where an employer pays wages to illegal workers off record with no tax or national insurance deductions which are then deliberately omitted from an employers End of Tax Year P35 returns to HMRC, the employer may be dealt with by means of the Fraud Act 2006. Similarly, HMRC may take action as a civil proceedings case and raise a tax debt against the business.

Illegal workers are more than likely poorly paid for the hours they are required to work and are not subject to the benefit of a minimum wage or restricted hours as prescribed in law. Nor are they afforded the benefit of the protections offered by UK employment legislation and are therefore often exploited.

Home Office Immigration Officers are in the process of serving a civil penalty (generally £20,000 per worker) on the business. This process may not have been completed at the point that the review paperwork was submitted. However, a civil penalty does not have to be issued for the crime to have taken place; a crime has been committed as a person who is legally in the country but with no right to work has been found working, with a further issue being that the premises was licenced, and therefore should have been preventing crime and disorder not actively committing it to benefit themselves and at a detriment to others.

Lincolnshire Police request that the Licensing Sub-committee seriously consider a revocation of the premises licence.

Please tick ✓ yes

Have you made an application for review relating to the premises before

X

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to the premises please state what they were and when you made them

This premises has not been the subject of previous review representations. However the Premises Licence Holder (PLH) MR ARUMUGAM KALAMOHAN has been subject to the Review Process in South Kesteven. He was PLH of Todays Express, Market Place, Grantham when it was subject to a review hearing in October 2018.

The review was because of an illegal worker being found at the premises and breaches of Annex 2 conditions of the premises licence. The decision of the Licensing Sub- Committee was to revoke the premises licence.

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate X
- I understand that if I do not comply with the above requirements my application will be rejected X

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature Sergeant 1040 Enderby

Date 12/05/2020

Capacity Alcohol Licensing Manager, Lincolnshire Police.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

