

Appendix A (i)

City of Lincoln 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 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Zabka 111 Portland Street	
Post town Lincoln	Post code (if known) LN5 7LG

Name of premises licence holder or club holding club premises certificate (if known) Saman Osman ALI
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Number of premises licence or club premises certificate (if known) 32UD/B1611

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

Name and address

Chief Constable Lincolnshire Police
Licensing (Alcohol)
Myle Cross Centre
Macaulay Drive
Lincoln
LN2 4EL

Telephone number (if any)

██████████

E-mail address (optional)

████████████████████

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 checked="" 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 City of Lincoln Council authorising the sale of alcohol from 0800 hours until 2300 hours daily. The premises operates as a convenience store.

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

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

That the premises has been non-compliant in regards to Annex 2 premises licence conditions thereby conducting unauthorised licensable activity, which is an offence under Section 136 Licensing Act 2003.

That medicine without English on the original packaging was found being offered for sale at the premises, thereby endangering consumers. Some of these medicines are known to require a prescription. Human Medicines Regulations 2012 has various offences in relation to unlicensed medicine.

That certain cans of beer being offered for sale in the chiller cabinet were not priced, when products have to be under the Price Marketing Order 2004.

The premises has found to have bottles of spirits which were not displaying a UK duty stamp, both on sale and in a storage area, in contravention of the Customs and Excise Management Act 1979 (fraudulent evasion of duty). Some bottles of spirits offered for sale contained UK duty stamps cut out from labels from other bottles. The keeping of smuggled goods on licensed premises is an offence under Section 144 of the Licensing Act 2003.

5 bottles of Krackoff Vodka were seized as although they contained incorporated UK Duty stamps, there were a number of concerning factors regarding the safety of the product. Enquiries are ongoing as to the provenance of this vodka and a bottle is being analysed by Trading Standards.

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 a premises under the auspices of a premises licence granted by the local authority.

Revised Guidance issued under Section 182 of the Licensing Act 2003

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

2.7 Licence Holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act.

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: the sale or storage of smuggled tobacco and alcohol.

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 and Trading Standards Officers attended ZABKA on Wednesday 9th December 2020 to carry out an inspection as part of numerous multi-agency visits in the area that day. The check uncovered the following issues:-

Medicines were found being offered for sale which had no English labelling in their original packaging. It is an offence to knowingly sell or offer for sale medicine without English on the original packaging, contrary to Regulation 269 of The Human Medicines Regulation 2012. None of the medicine would have been licenced for sale in the UK. Some of this medication is prescription only, thereby putting the public at serious risk. Please see David Williams, Lincolnshire Police Controlled Drugs Officer's statement.

Non-compliance with premises licence conditions was found, this is an offence under Section 136 Licensing Act 2003 – unauthorised licensable activity, and thereby carrying out unauthorised licensable activity each time alcohol is sold. Please see PC 642 McConville's statement.

Certain cans of beer were offered for sale without a price being displayed. The Price Marking Order 2004 states that there must be a clear selling or unit price, which is easily identifiable without having to ask the trader. Concerns around high strength beers, lack of pricing, and low price are covered by Pc 642 McConville's statement.

9 bottles of spirits of differing brands were seized from the shelving behind the counter in the premises. They were not displaying the required UK duty stamp. 3 bottles of spirits were found to contain duty stamps removed from other bottles, and a further 5 bottles of spirits were seized from a box at the bottom of the shelving unit, they also required a UK duty stamp, but failed to display one. 53 bottles of spirits were found in a storage area on the landing at the top of the stairs at the rear of the premises. They also failed to display the required UK duty stamp and were seized. Pc 642 McConville's statement covers the discovery, explanation regarding duty stamps and seizure

5 bottles of Krackoff Vodka were seized sent for testing due to a number of irregularities. The bottles showed a UK duty stamp incorporated within the label therefore destined for a UK market, however there are differing fill levels, the bar code is not recognised, there is no batch code or production date, company website not recognised. Enquiries are ongoing. Pc 642 McConville's statement covers this in more detail.

Concerns over some bottles of spirits and wine stocked were stolen from shops elsewhere. This is covered by Pc 642 McConville's statement.

Lincolnshire Police have requested invoices from Mr Ali for all the items seized as well as the beer both stored and on display. As yet no invoices have been supplied. Lincolnshire Police request that the invoices are supplied within good time prior to the hearing so that the appropriate checks can be made and to ensure the hearing isn't delayed.

Due to the likelihood of a remote hearing and the inability to present the items seized Lincolnshire Police intends to produce a booklet of photographs so that the Sub-committee can see in details the items covered by Pc 642 McConville's statement. This will be sent out in due course.

Portland Street and the surrounding area is covered by a Public Space Protection Order where it has been evidenced that anti-social behaviour and crime is carried out through the use of intoxicating substances which includes alcohol and this has had a detrimental effect for those that live in the area.

Portland Street is Lower Super Output Area (LSOA) E01026176. A LSOA is a statistical

geographical area that is home to approximately 1,500 people. Lincolnshire is split into 420 LSOAs. Using Lincolnshire Police data for the period Oct 2017-Sept 2019 for specific indicators and the ranked out of the 420 LSOAs, the indicators which stood out from the model for E01026176 are:

- The area has the second highest number of drugs offences of all LSOAs in Lincolnshire
- The fourth highest number of youth-related ASB incidents
- The fifth highest rate of residents involved in domestic abuse crimes (as victims or perpetrators)
- The eighth highest rate of children living in the area who have been involved in any crime (as a victim or a perpetrator)

In relation to the above statistics, lack of training at the premises could mean sales to drunks and children. Taking in stolen alcohol perpetuates shop theft and drug use. Buying smuggled and stolen alcohol and selling it on cheaply likely influences a large number of indicators from ASB and crime to levels of deprivation. Selling illegal unlicensed medicines of prescription strength and spirits from unlicensed sources could seriously jeopardise the health and safety of adults and children within the community.

Many of the premises surrounding Zabka have had their premises licences revoked due to serious organised criminality. Zabka is one of the only shops with the authority to sell alcohol on Portland Street, it means a busy retail business, attracting all members of society. The holder of that authority has the ability to have huge impact on the community through the individuals they serve and those individuals impact on others. The Licensing Sub-Committee have to have full confidence in the licence holder to robustly promote the licensing objectives to ensure they do not contribute and compound the already well documented issues of the highly vulnerable area, which responsible authorities, working in partnership with the community are working hard to improve.

Lincolnshire Police have evidenced that, on the balance of probabilities the Premises Licence Holder has actively undermined the licencing objectives, for his own gain at the detriment of the local community and Lincolnshire Police has no confidence that anything can be put in place to stop this happening in future as the actions fundamentally lie with the Premises Licence Holder actively committing crime. 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
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

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 Pc 642 McConville

.....

Date 22/12/20

.....

Capacity Licensing Officer, 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.