

South Holland 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 Chris Haward (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 Holbeach Drove Store Drove Gate Holbeach	
Post town Lincolnshire	Post code (if known) PE12 0PX

Name of premises licence holder or club holding club premises certificate (if known) Komalar Vijayakumar
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Number of premises licence or club premises certificate (if known) PL0090

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)



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

Please tick ✓ yes

I am 18 years old or over

**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

Lincolnshire Police
Alcohol Licensing
Myle Cross Centre
Macaulay Drive
LN2 4EL

Telephone number (if any)
101 - Lincolnshire - 3298438

E-mail address (optional)
Countylicensinggroup@lincs.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
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

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

This review application relates to a premises which operates as a general convenience store offering food, drink and groceries to the local community and has been granted a Premises Licence PL0090 (Licensing Act 2003) by South Holland District Council authorising the sale of alcohol for consumption off the premises. The sale of alcohol is authorised between the hours of 08:00 and 23:00 Monday to Saturday and 10:00 to 22:30 on Sundays.

Lincolnshire Police have obtained evidence which indicates that the management of these premises has been operating it in such a manner that amounts to criminal activity and thus undermines the licensing objective of the prevention of crime and disorder.

The premises have recently been found to have employed two illegal workers. One individual had entered the UK legally and has an outstanding asylum claim but he had not been granted the right to work. The second individual encountered by Police, and found to be working at the premises, had overstayed his VISA and thus had no right to work.

Revised Guidance issued under Section 182 of the Licensing Act 2003

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

Section 11.23 states 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.

Section 11.24 of the Guidance to the Licensing Act states that reviews do not have to be directly linked or connected with the licensable activities at any premises. In this case the offences are directly linked to the operation of the premises as a shop licensed to sell alcohol for consumption off the premises and the staff actively involved in these activities.

11.25 states that 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.

Section 11.26 states that 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.

Section 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)

Officers from the Lincolnshire Police visited the premises on Monday 24th October 2022 to conduct a routine compliance check. During the visit Officers encountered two males working within the store. One of those males was found to have overstayed his VISA and was subsequently arrested. Body worn video footage is available in relation to this arrest and can be played if required. The other male did not have the right to work so was advised to close the shop and cease working. (See *Annex A – Statement of PC Holmes and Annex B – Statement of PC Cummins*).

On Friday 25th November 2022 PC Cummins re-attended the shop and found two different staff members working within. Both individuals appeared to have the correct permissions to work.

On Thursday 5th January 2023 Pc Casey visited the store with Pc McConville to carry out a compliance check. Two individuals were found at the premises, both were seen to be working in the shop. One gentleman had been seen by PC Cummins on his previous visit in November, but the second male had not been encountered before. The second male had a student VISA restricting him to 20 hours work per week during term time. During this visit it was noted that there were no right to work checks documented despite a folder being in situ. There did not appear to be a written authorisation allowing staff to sell alcohol on behalf of the DPS. Pc Casey also saw that there were still some items of alcohol on the shelving which did not have a price label contrary to the Price Marking Order Act 2004. (See *Annex C – Statement of PC Casey and Annex D – PC Casey’s pocket notebook photographs*)

Following on from the Police visit on 24th October 2022 a Civil Penalty referral was made by Immigration Officer Hussain. (See *Annex E – Civil Penalty referral and IO Hussain’s notes*) The £20,000 penalty was issued on 12th December 2022 to Vijay Petroleum Retailers Limited. The penalty was paid on 21st December 2022. One of the two directors of Vijay Petroleum Retailers Limited is Komalar Vijayakumar.

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 must 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.

Lincolnshire has led the way with how illegal working within licenced premises and its impact on how the crime prevention objective should be viewed. The stated case of East Lindsey District Council v Abu Hanif in 2016 involved an illegal worker in a licenced premises in Lincolnshire in April 2014, where a civil penalty was later issued by immigration. The premises licence was reviewed and revoked, an appeal followed which was successful, based on the argument that a civil penalty was not a prosecution and so did not concern the crime prevention objective. East Lindsey District Council then appealed that decision by way of a case stated, arguing that it was not necessary for a crime to have been reported, prosecuted, or established in a court of law in order for the crime prevention objective to be engaged. That the licensing objectives were prospective and were concerned with the avoidance of harm in the future. Mr Justice Jay upheld the councils appeal, citing defrauding the revenue and exploitation of vulnerable individuals by not paying minimum wage as evidence of the commission of criminal offences, and the fact that the employee could not provide the required paperwork as clear inference that Mr Hanif well knew that he was employing an illegal worker.

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

N.A

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

N/A

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
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 =====
.....

Date 23/01/23
.....

Capacity for and on behalf of Chief Constable of 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.

