Borough Council of King's Lynn & West Norfolk



Licensing Sub-Committee Hearing

Agenda

Friday, 13th January, 2017 at 11.30 am or upon the rising of the previous Hearing, whichever is the later

in the

Committee Suite King's Court Chapel Street King's Lynn PE30 1EX

Transfer Application for Premises – Lynn Express, 107 Norfolk Street, King's Lynn, PE30 1AQ



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Borough Council of King's Lynn & West Norfolk



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX Telephone: 01553 616200 Fax: 01553 691663

Wednesday, 04 January 2017

Dear Member

Licensing Committee

You are invited to attend a meeting of the above-mentioned Sub Committee which will be held on Friday, 13th January, 2017 at 11.30 am in the Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX to discuss the business shown below.

Yours sincerely

Chief Executive

AGENDA

1. <u>Apologies for absence</u>

To receive any apologies for absence.

2. Items of Urgent Business

To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.

3. <u>Declarations of Interests</u>

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

4. <u>To consider a transfer application for Lynn Express, 107 Norfolk Street,</u> <u>King's Lynn</u>

- a) **Procedure which will be followed at the Hearing** (Pages 5 7)
- b) Report of the Licensing Manager (Pages 8 19)

To:

Licensing Committee: Councillors M Hopkins, C Manning and D Tyler

Officers:

John Gilbraith, Licensing Manager Noel Doran, Legal Advisor

Agenda Item 4a Procedure for Determining Licensing Act 2003 Cases

The hearing will be held in public. However, the Borough Council may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. The hearing is not adversarial but an examination of the facts by the Members of the Committee. All participants must be courteous at all times. All parties will be given equal maximum time which is normally 15 minutes each, in total. Any person may apply for longer time if they immediately notify the Borough Council upon receipt of the Notice of the Hearing and in exceptional circumstances, the Borough Council may extend the maximum time allowed to all parties if the complexity of the application demands. In the event that there are a large number of objections to a particular application, the Borough Council may ask an appropriate number of representatives or a single representative to put forward their views.

Introductions

1. The **Chairman** of the Committee should read out a statement declaring under which capacity the Committee is sitting.

This Committee is sitting to consider matters under the Licensing Act 2003.

- 2. The **Chairman** will introduce himself and the Members of the Committee.
- 3. The Chairman will then introduce and explain the respective roles of
 - (i) the Democratic Services Officer
 - (ii) the Officer representing the Licensing Authority (i.e. Licensing Manager)
 - (iii) the Legal Advisor to the Committee
- 4. **The Chairman** should invite all those present to introduce themselves and ask them to indicate if they wish to speak during the hearing.
- 5. Each party will be asked by the **Chairman** for a time estimate for the presentation of his/her/body's case. (Agreement on the length of time given for each speaker is at the discretion on the Chairman).

The Application for a Transfer of a Premises License

- 6. The Licensing Manager explains the procedure that will be followed at the meeting.
- 7. The **Licensing Manager** outlines the transfer application to the Committee by presenting the report referring to any relevancy to Licensing Policy and Statutory Guidance.
- 8. The **Licensing Manager** will invite questions from all parties to clarify the content of the Licensing Officer's report.

The Applicant's Case

9. The **Licensing Manager** then invites the Applicant or his representative to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

Questions

- 10. Once the Applicant has presented their case, the **Licensing Manager** invites questions to the Applicant or his representative from
 - (i) the Responsible Authorities (or their representative)
 - (ii) other persons (or their representatives)
 - (iii) Members of the Committee.

11. The Licensing Manager will invite questions to the witnesses from the

- (i) the Responsible Authorities (or their representative)
- (ii) other persons (or their representatives)
- (iii) Members of the Committee.

Questions should be relevant to the application and repetition will be discouraged.

The Responsible Authorities Case

12. The **Licensing Manager** then invites the Responsible Authorities (or their representative) to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

Questions

- 13. Once the Responsible Authorities has presented their case, the **Licensing Manager** invites questions to the Responsible Authorities (or their representative) from the
 - (i) the applicant (or their representative)
 - (ii)) other persons (or their representatives)
 - (iii) Members of the Committee.
- 14. The Licensing Manager will invite questions to the witnesses from the
 - (i) the applicant (or their representative)
 - (ii) other persons (or their representatives)
 - (iii) Members of the Committee.

Other Persons

15. Each of the other persons or their representatives wishing to address the Committee may do so in an order determined by the **Licensing Manager**. They too must be willing to be questioned by other parties in the same order. Local Objectors may not however question each other. Questions should be relevant to the application and repetition will be discouraged.

This will operate as follows:

- each party will present his/her/body's case
- each party's witnesses (if any) will give evidence in support of the party's case
- firstly, each party and, secondly, their witnesses may be questioned by other parties, prior to questioning by Members of the Committee.
- 16. The applicant (or their representative) and the Responsible Authorities will be invited to ask relevant questions of those parties (or the parties' representatives).

Summing Up

- 17. The **Licensing Manager** then invites the Responsible Authorities and other parties (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.
- 18. The **Licensing Manager** then invites the applicant (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. They also will be allowed 5 minutes to sum up.

Reaching and Making a Decision

- 19. **The Chairman** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
- 20. The **Chairman** will then thank all those who have spoken and invite the Committee to retire to consider the application, accompanied by the Legal Advisor and Democratic Services Officer (who will take no part in the decision).
- 21. The Committee will then debate the case presented to them at the hearing and will seek to reach a decision and reasons for their decision.
- 22. Once a decision has been made, the Committee (and relevant officer/Legal Advisor) will return back in to the room and **the Chairman** will invite the **Legal Advisor** to announce in public any legal advice he/she has given in private.
- 23. **The Chairman** will read out the decision and the reasons for the decision (unless the Committee is unable to reach a determination at the conclusion of the hearing).
- 24. **The Chairman** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.
- 25. If the Committee is unable to reach a decision, the **Chairman** will explain that all parties will be notified as soon as possible (but within 5 working days) of the decision and the reasons for such.

NOTE

A decision may be deferred to:-

- 1. Receive further documentation referred to in the meeting
- 2. Enable a site visit to take place
- 3. Invite the Applicant or his representative to appear if they had not done so at the meeting (only once)
- No further debate may be heard on further documentation or at a site visit
- Adjournments should generally be granted if to refuse would deny applicant a fair hearing.

Agenda Item 4b

Borough Council of King's Lynn & West Norfolk

Report to Licensing Sub-Committee under the Licensing Act 2003

Date of Hearing: 13th January 2017

Application for Transfer of a Premises Licence

- Lynn Express (formerly Kubus), 107 Norfolk Street, King's Lynn, PE30 1AQ
- Applicant: Miss Joana LAURUSONYTE
- Premises Licence Number WNPL009407

The Application

1. On the 30th November 2016 Miss Joanna Laurusontye applied to the Borough Council to transfer the premises licence for 107 Norfolk Street into her name. The application requested that the transfer had immediate effect meaning that the applicant effectively became the 'licence holder' from this date. A copy of the transfer application is attached to this report at Appendix 1.

Representation from the Norfolk Constabulary

Only the police can object to a transfer application (Section 42(6) Licensing Act 2003)

2. Where the Police are satisfied that the exceptional circumstances of the case are such that granting the transfer would undermine the crime prevention licensing objective they may object to the application.

3. The Norfolk Constabulary are objecting to the transfer application as they believe the application is an attempt to circumvent the review application submitted by Norfolk Trading Standards. A copy of their letter of the 2nd December 2016 is attached to this report at Appendix 2.

Borough Council of King's Lynn & West Norfolk's Licensing Policy

4. The current Statement of Licensing Policy was approved by full Council on the 26th November 2015 and the following extracts may be relevant to this application:

3.0 Fundamental principles

- 3.1 The 2003 Act requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives:
 - (a) the prevention of crime and disorder,
 - (b) public safety,
 - (c) the prevention of public nuisance, and
 - (d) the protection of children from harm.
- 3.2 Nothing in this 'Statement of Policy' will:
 - (a) undermine the right of any individual to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its own merits;
 - (b) override the right of any person to make representations or to seek a review of a licence.

8.0 Prevention of Crime & Disorder

8.1 The Borough Council acknowledges that the Police are the main source of advice on crime and disorder.

Guidance Issued Under Section 182 of the Licensing Act 2003

Under Section 4 of the Act, Licensing Authorities must have regard to guidance issued under Section 182. The current Guidance was issued by the Home Office in March 2015 and offers advice to Licensing authorities on the discharge of their functions under the Act.

5. The following extracts may be relevant to this application and assist the Licensing Sub-Committee:

Transfers of premises licences

- 8.92 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.
- 8.93 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.
- 8.94 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. Such objections are expected to be rare and arise because the police have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved in crime (or disorder).
- 8.95 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police.

Representations from the police

9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their

local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

Hearings

9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.

Determination

6. Having regard to the transfer application, the Licensing Sub-Committee are requested to consider this report and any submissions submitted by the applicant and the Police and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps are to either 'Grant' or 'Reject' the application.

7. The Sub-Committee are reminded that full reasons for its decision must be given as both parties have a right of appeal against that decision to the Magistrates' Court. Such an appeal must be made within 21-days beginning with the day on which the parties are notified by the Borough Council of the decision which is being appealed.

John Gilbraith

Licensing Manager Environmental Health - Licensing 4th January 2017

Appendixes:

- 1. Copy of Transfer Application.
- 2. Police Letter dated 2nd December 2016.

Background Papers:

- 1. The Licensing Act 2003
- 2. Borough Council's Statement of Licensing Policy (26 November 2015)
- 3. Guidance issued under Section 182 of the Licensing Act 2003 (March 2015)

				Appendix 1 to	<u>)</u>	
	ENV	IRONMENTAL		Report to Lice	ensing Sub-Committee	
		LICENSING	3	Re: Lynn Express Transfer		
	REC'D	30 NOV 2	016	Dated 4th Jai	<u>nuary 2017</u>	
Environmental Health - Licensing Borough Council of King's Lynn & W King's Court Chapel Street King's Lynn, PE30 1EX Tel: 01553 616200 Email: <u>ehlicensing@west-norfolk.c</u> <u>www.west-norfolk.gov.uk</u>			King's	Council of s Lynn & Norfolk		

Licensing Act 2003 Application to transfer premises licence

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.

Once completed, send your application to then following:-

- The Licensing Team, Environmental Health Department, King's Lynn and West Norfolk Borough Council, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- Norfolk Constabulary Licensing Team, Bethel Street Police Station, Bethel Street, Norwich, Norfolk, NR2 1NN.

AURNSON

I/We apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number

Part 1 – premises details

Postal address of premises or, if none, ordnance survey map reference or description

LYNN EXPRESS (FORM	REFET KUBUS)
Post town KINGSLYNN	Postcode PE30 1AQ
Telephone number at premises (if any)	÷

Please give a brief description of the premises

FATTERNATIONAL GROCCHY STORE.

Name of current premises licence holder SARHAD SALARI

Part 2 - Applicants details

In what capacity are you applying for the premises licence to be transferred to you? **Please.tick** \sqrt{ves}

			. icuoc	and a yea
	a)	an individual or individuals*	E.	please complete section (A)
	b)	a person other than an individual*		
		1. as a limited company		please complete section (B)
		2. as a partnership		please complete section (B)
		3. as an unincorporated association or		please complete section (B)
		4. other (for example a statutory corporation)		please complete section (B)
	c)	a recognised club		please complete section (B)
	d)	a charity		please complete section (B)
	e)	the proprietor of an educational establishment		please complete section (B)
	f)	a health service body		please complete section (B)
	g)	person who is registered Under Part 2 of the Care Standards Act 2000(c14) in respect of an independent hospital in Wales		please complete section (B)
	ga)	a person who is registered Under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that part) in an independent hospital in England.		please complete section (B)
		he chief officer of a police of a police force n England and Wales	D p	lease complete section (B)
*lf y	/ou	are applying as a person described in (a) or (b) pl	ease co	
				Please tick √ yes
	•	I am carrying on or proposing to carry on a busin which involves the use of the premises for licens I am making the application pursuant to a		tivities; or
		° statutory function or		
		° a function discharged by virtue of Her	Majesty	's prerogative

(A) Individual Applicants (fill in as applicable)

Title (Mr/Mrs/Miss/Ms/Other)

Please circle the title which applies or if **other** applies please add in

Surname

LAURWONYTE

I am 18 years old or over

First names

please tick √ yes 🖵 🦯

JOANA.

Current postal address If different from premises address		
Post town		Postcode
Daytime contact telephone num	ber	,
E-mail address (optional)		
Second Individual Applicant (Title (Mr/Mrs/Miss/Ms/Other		Please circle the title which applies or if Other applies please add in title.

title.

Surname

First names

I am 18 years old or over

please tick \sqrt{yes}

Current postal address If different from premises address	
Post town	Postcode
Daytime contact telephone	umber

E-mail address (optional)	

(B) Other Applicants

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc)
Telephone number, if any

Part 3

Are you a holder of premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

I have enclosed the consent form signed by the

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•	•	•	./	Ι.	•	•	•	./	<i>.</i>	•	•	•	•	•	
										50					

Please tick √ yes

Please tick √ yes

existing premises licence holder?

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence. (see section 43 of the Licensing Act 2003) Please tick √ yes

Please tick √ yes

I have enclosed the premises licence

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee.
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why not enclosed.
- I have enclosed the premises licence or relevant part of it or explanation.
- I have sent a copy of this application to the chief officer of police today.
- I understand that if I do not comply with above requirements my application will be rejected.

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 4 - Signatures (please read guidance note 2)

OWNER

Signature of applicant or applicant's solicitor or other duly authorised agent (see quidance note 3).

If signing on behalf of the applicant please state in what capacity.

Signature		 Date 30	0/11/2016
Capacity	01.000		

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature	Date
Capacity	



D

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5).				
Post Town	Postcode			
Telephone number (if any)				
If you would prefer us to correspond with you by e-mail your e-mail address (optional)				

Notes for Guidance

- 1. Describe the premises. For example the type of premises it is, its general situation and the layout and other information which could be relevant to the licensing objectives.
- 2. The application must be signed.
- 3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
- 4. Where there is more than one applicant, both applicants or their respective agents must sign the application form
- 5. This is the address which we shall use to correspond with you about this application.

Environmental Health - Licensing Borough Council of King's Lynn & West Norfolk King's Court Chapel Street King's Lynn, PE30 1EX Tel: 01553 616200 Email: <u>ehlicensing@west-norfolk.gov.uk</u> www.west-norfolk.gov.uk





Licensing Act 2003 Consent of premises licence holder to transfer

Once completed, this form should accompany the transfer application to:

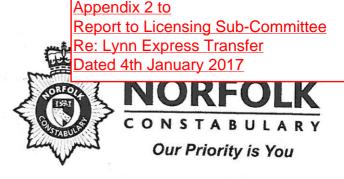
- The Licensing Team, Environmental Health & Housing, Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, PE30 1EX
- Norfolk Constabulary Licensing Team, Bethnel Street Police Station, Bethnel Street, Norwich, Norfolk, NR2 1NN.

I/We SARHAD SALARI. [full name(s) of premises licence holder(s)]			
the premise licence holder of premises licence number:			
WNPL			
relating to LYNN EXPRESS, 107 NORFOLK			
STREET, KING'S LYNN, NORFOLK.			
PESO IAG			
[name and address of premises to which the application relates]			
hereby give my consent for the transfer of premises licence number:			
WNPL COSHOT [insert premises licence number]			
To:			

Signed:			
Name (please print): Sarhad Salari			
Dated:	30/11/2016		



Kings Lynn and West Norfolk District Council, Kings Court, Chapel Street, Kings Lynn, Norfolk, PE30 1EX



Norfolk Constabulary

Licensing Team Bethel Street Police Station Bethel Street Norwich NR2 1NN

 Tel:
 01603 276024

 Fax:
 01603 276025

 Email:licensingteam@norfolk.pnn.police.

www.norfolk.police.uk Non-Emergency Tel: 101

2nd December 2016

Dear licensing team,

This letter is to confirm police have received the application to transfer the premises licence at 107 Norfolk Street, Kings Lynn.

The current licensee-Sarhad Salari is being investigated by Trading Standards supported by police for the unlawful storage and supply of smuggled and counterfeit cigarettes and tobacco. A date for licence review hearing is being arranged.

Salari has been the DPS at three shops in Kings Lynn- one licence has been surrendered leaving two. I think this application is an attempt to circumvent the review process and leave him free to continue his criminal enterprise from at least one shop should his licence be revoked at review.

To that end **police object to the transfer of this licence** pending the outcome of the review.

Yours sincerely,

Chris Brooks, Police licensing officer.

CC Kings Lynn BC.



We will answer letters within 10 working days, where information is available. Where this is not possible, an explanation will be given for any deg.