

# Borough Council of King's Lynn & West Norfolk

## Report to Licensing Sub-Committee under the Licensing Act 2003

Date of Hearing: 13<sup>th</sup> 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 30<sup>th</sup> 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 2<sup>nd</sup> 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 26<sup>th</sup> 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

4<sup>th</sup> January 2017

#### **Appendixes:**

1. Copy of Transfer Application.
2. Police Letter dated 2<sup>nd</sup> 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)

ENVIRONMENTAL HEALTH  
LICENSING  
REC'D 30 NOV 2016

Appendix 1 to  
Report to Licensing Sub-Committee  
Re: Lynn Express Transfer  
Dated 4th January 2017

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: [ehlicensing@west-norfolk.gov.uk](mailto:ehlicensing@west-norfolk.gov.uk)  
[www.west-norfolk.gov.uk](http://www.west-norfolk.gov.uk)

Borough Council of  
**King's Lynn &  
West 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.

I/We DANA LAURSON 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**

WNP2 009407

#### Part 1 – premises details

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

LYNN EXPRESS (FORMERLY KUBUS)  
107 NORFOLK STREET

Post town KING'S LYNN

Postcode PE30 1AQ

Telephone number at premises (if any)

Please give a brief description of the premises

INTERNATIONAL GROCERY STORE.

Name of current premises licence holder

SARHAD SARARI

## Part 2 - Applicants details

In what capacity are you applying for the premises licence to be transferred to you?

- Please tick ✓ yes**
- |                                                                                                                                                                                                                                |                                     |                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------------------------|
| a) an individual or individuals*                                                                                                                                                                                               | <input checked="" type="checkbox"/> | please complete section (A) |
| b) a person other than an individual*                                                                                                                                                                                          |                                     |                             |
| 1. as a limited company                                                                                                                                                                                                        | <input type="checkbox"/>            | please complete section (B) |
| 2. as a partnership                                                                                                                                                                                                            | <input type="checkbox"/>            | please complete section (B) |
| 3. as an unincorporated association or                                                                                                                                                                                         | <input type="checkbox"/>            | please complete section (B) |
| 4. other (for example a statutory corporation)                                                                                                                                                                                 | <input type="checkbox"/>            | please complete section (B) |
| c) a recognised club                                                                                                                                                                                                           | <input type="checkbox"/>            | please complete section (B) |
| d) a charity                                                                                                                                                                                                                   | <input type="checkbox"/>            | please complete section (B) |
| e) the proprietor of an educational establishment                                                                                                                                                                              | <input type="checkbox"/>            | please complete section (B) |
| f) a health service body                                                                                                                                                                                                       | <input type="checkbox"/>            | 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                                                                                                    | <input type="checkbox"/>            | 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. | <input type="checkbox"/>            | please complete section (B) |
| h) the chief officer of a police of a police force in England and Wales                                                                                                                                                        | <input type="checkbox"/>            | please complete section (B) |

\*If you are applying as a person described in (a) or (b) please confirm

- Please tick ✓ yes**
- |                                                                                                                             |                                     |
|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| • I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or | <input checked="" type="checkbox"/> |
| • I am making the application pursuant to a                                                                                 |                                     |
| ◦ statutory function or                                                                                                     | <input type="checkbox"/>            |
| ◦ a function discharged by virtue of Her Majesty's prerogative                                                              | <input type="checkbox"/>            |

**(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 title.

**Surname**

LAURWONYTE

**First names**

JOANA

I am 18 years old or over

please tick  yes

Current postal address  
If different from premises  
address

[Redacted]

Post town

[Redacted]

Postcode

[Redacted]

Daytime contact telephone number

[Redacted]

E-mail address (optional)

[Redacted]

**Second Individual Applicant** (if applicable)

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

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

**Surname**

[Redacted]

**First names**

[Redacted]

I am 18 years old or over

please tick  yes

Current postal address  
If different from premises  
address

Post town

Postcode

Daytime contact telephone number

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)
Description of applicant (for example partnership, company, unincorporated association etc)
Telephone number, if any

E-mail (optional)

**Part 3**

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

Please tick ✓ yes

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 existing premises licence holder?

Please tick ✓ yes

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

I have enclosed the premises licence

Please tick ✓ yes

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)

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

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

Signature [REDACTED] Date 30/11/2016

Capacity OWNER

For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> 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 .....

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.



## 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:

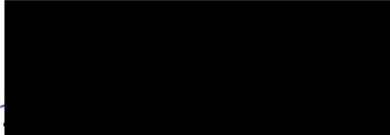
WNPL 009407 [insert premises licence number]

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:

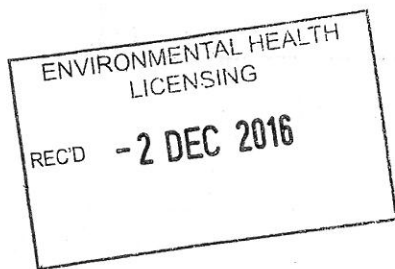
WNPL 009407 [insert premises licence number]

To: JOANA LARUSONYTE  
[full name of transferee]

Signed: 

Name (please print): SARHAD SALARI

Dated: 30/11/2016



Appendix 2 to  
Report to Licensing Sub-Committee  
Re: Lynn Express Transfer  
Dated 4th January 2017

**NORFOLK**  
CONSTABULARY  
*Our Priority is You*

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](mailto:licensingteam@norfolk.pnn.police)

[www.norfolk.police.uk](http://www.norfolk.police.uk)  
Non-Emergency Tel: 101

2<sup>nd</sup> 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.