

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



Licensing Sub Committee Hearing

Agenda

Friday, 13th January, 2017

at 11.00 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**

For Premises – Lynn Express, 107 Norfolk Street, King's Lynn, PE30 1AQ



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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 11.00 am** in the **Committee Suite** to discuss the business shown below.

Yours sincerely

Chief Executive

AGENDA

1. Apologies for absence

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. Declarations of Interests

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. To consider a review application for a Premises Licence for Lynn Express, 107 Norfolk Street, King's Lynn

- a) **Procedure which will be followed at the Hearing** (Pages 5 - 8)
- b) **Report of the Licensing Manager** (Pages 9 - 28)

To:

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

Officers:

Noel Doran, Senior Solicitor
John Gilbraith, Licensing Manager

Procedure for Determining Licensing Act 2003 Cases

The hearings will be held 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 i.e. normally 15 minutes each, in total. Any person may apply for longer time if they immediately notify the licensing authority upon receipt of the Notice of the Hearing and in exceptional circumstances, the licensing authority 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 licensing authority 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 a matter 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** whether 15 minutes is sufficient 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 Review of a Premises License

6. The **Legal Advisor** explains the procedure that will be followed at the hearing.
7. The **Officer representing the Licensing Authority** outlines the review application to the Committee by presenting the report referring to any relevant extracts from the Borough Council's Licensing Policy and any relevant Statutory Guidance.
8. The **Chairman** will invite questions from all parties to clarify the content of the Licensing Officer's report.

The Applicant's Case

9. The **Chairman** then invites the Applicant or their 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 Chairman invites questions to the Applicant or his representative from
 - (i) The Officer representing the Licensing Authority
 - (ii) The respondent (or their representative)
 - (iii) Responsible Authorities (or their representative)
 - (iv) Other persons (or their representatives)
 - (v) Members of the Committee.

11. The Chairman will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The respondent (or their representative)
- (iii) 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 Respondent's Case

12. The **Chairman** then invites the respondent 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 respondent has presented their case, the **Chairman** invites questions to the respondent or their representative from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) Responsible Authorities (or their representative)
- (iii) Other persons (or their representatives)
- (iv) Members of the Committee.

14. The **Chairman** will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) Responsible Authorities (or their representatives)
- (iii) Other persons (or their representatives)
- (iv) Members of the Committee.

Responsible Authorities

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

Questions

16. Once the Responsible Authorities have presented their case, the **Chairman** invites questions to the them or their representative from

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) The respondent (or their representative)
- (iv) Any other Responsible Authorities (or their representative)
- (v) Other persons (or their representative)
- (vi) Members of the Committee.

17. The **Chairman** will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) The respondent (or their representative)
- (iv) Any other 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.

Other Persons

18. Each of the other persons or their representatives wishing to address the Committee may do so in an order determined by the **Chairman**. They too must be willing to be questioned by other parties in the same order. Other persons 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.
19. The Officer representing the Licensing Authority, the applicant (or their representative), the respondent (or their representative) and Responsible Authorities (or their representatives) will be invited to ask relevant questions of those parties (or the parties' representatives).

Summing Up

20. The **Chairman** then invites the Officer representing the Licensing Authority 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.
21. The **Chairman** then invites the respondent (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.
22. The **Chairman** then invites the Responsible Authorities (or their representatives) 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.
23. The **Chairman** then invites the other persons (or their representatives) to sum up their case. They may comment upon what has been said but no evidence should be introduced. Each party will be allowed 5 minutes to sum up.
24. The **Chairman** 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

25. **The Chairman** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
26. 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).
27. 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.
28. Once a decision has been made, **the Chairman** will invite the **Legal Advisor** to announce in public any legal advice he/she has given in private.
29. **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).
30. **The Chairman** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.⁷

31. 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.

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 Review of a Premises Licence

- Kubus (Lynn Express), 107 Norfolk Street, King's Lynn, PE30 1AQ
- Licence Holder: Mr Sarhad SALARI (Joana LAURUSONYTE wef 30/11/2016)
- Premises Licence Number WNPL009407

Introduction

1. At any stage, following the grant of a premises licence, a 'responsible authority' or 'other person' may apply to the licensing authority to review the premises licence because of matters arising at the premises in connection with any of the four licensing objectives. These four licensing objectives are:

- the prevention of crime & disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm

Current Premises Licence

2. The current premises licence for Kubus was granted on the 22nd February 2010. A copy of this licence is attached to this report at Appendix 1 and shows the times and activities authorised along with the licence conditions. On the 30th November 2016 the premises licence was transferred to Miss Joana Laurusonyte and the name of the premises was formally changed to 'Lynn Express'. Members of the Licensing Sub-Committee should be aware that the Police are objecting to this transfer application. This objection is subject to a separate report.

The Review Application

3. Mr Shaun Norris, Norfolk County Council Trading Standards has made an application to review the premises licence for Kubus/Lynn Express, 107 Norfolk Street, King's Lynn under 'the prevention of crime and disorder' licensing objective. A copy of the review application and supporting evidence is attached at Appendix 2.

Representation from Responsible Authorities

Section 13(4) of the Act defines the 'Responsible Authorities' as the statutory bodies that must be sent copies of an application.

4. Norfolk County Council Trading Standards, as a responsible authority has made the review application. Norfolk Constabulary supports the review application and a copy of their letter of the 5th December 2016 is attached at Appendix 3. Comments from the remaining responsible authorities are:

<u>Responsible Authority</u>	<u>Comments Received</u>
CS&NN (BCKLWN)	None
Norfolk Fire Service	None
Norfolk Trading Standards	None
Norfolk Safeguarding Children's Board	None

<u>Responsible Authority</u>	<u>Comments Received</u>
Public Health	None
Planning (BCKLWN)	None
Health & Safety (BCKLWN)	None
Licensing Authority (BCKLWN)	None

Representations from ‘Other Persons’

As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business that are entitled to make representations to applications. Representations made must relate to the licensing objectives.

5. There are no representations from ‘other persons’ to consider.

Notices

6. The Borough Council is responsible for advertising a review application by way of a notice in a specified form at the premises and on the Borough Council’s website. This notice has to be displayed for 28 consecutive days and should have been displayed on the premises between the 24th November 2016 and the 21st December. A notice was also displayed on the Borough Council’s website and at the Council offices for the same period. A copy of this notice is attached to this report at Appendix 4.

Plans

7. A location map is attached at Appendix 5 showing the general location of Kubus/Lynn Express on Norfolk Street, King’s Lynn.

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

8. 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.

7.0 Review Process

7.1 The review process represents a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence. At any stage, following the grant of a premises licence, a responsible authority, or an

interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

- 7.3 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 7.4 The Borough Council recognises that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holder's early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 7.5 Where the request originates from other persons – e.g. a local resident, residents' association, local business or trade association – the Borough Council will first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

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.

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

Licence Conditions – General Principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will”, is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives;
 - must be precise and enforceable;
 - must be unambiguous and clear in what they intend to achieve;
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;

- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;

- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where 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.

Reviews arising in connection with crime

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, 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. 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 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. 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. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting 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 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 the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
 - for unlawful gambling; and
 - for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police 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.

Hearings

9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.

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

10. Having regard to the review application, the Licensing Sub-Committee are requested to consider this report and any submissions submitted by the licence holder and those making representations and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps are:

- (a) To do nothing;
- (b) To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition;
- (c) To exclude a licensable activity from the scope of the licence, for example, to exclude the sale of alcohol; To remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- (d) To suspend the licence for a period not exceeding three months;
- (e) To revoke the licence.

Under Section 52(6) of the Licensing Act 2003 if the Sub-Committee takes a step mentioned in paragraph 11(b) or 11(c) above it may provide that the modification or exclusion is to have effect for only such a period (not exceeding three months) as it may specify.

11. The Sub-Committee are reminded that full reasons for its decision must be given as all 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 Current Premises Licence.
2. Copy of Review Application dated 23rd November 2016.
3. Police Letter dated 5th December 2016.
4. Copy of Review Notice
5. Location Plan.

Background Papers:

1. The Licensing Act 2003
2. Borough Council's Statement of Licensing Policy (26 November 2016)
3. Guidance issued under Section 182 of the Licensing Act 2003 (March 2015)

LICENSING ACT 2003 PREMISES LICENCE

Appendix 1 to
Report to Licensing Sub-Committee
Re: Kubus/Lynn Express, 107 Norfolk Street, KL
Dated 4th January 2017

LICENSING AUTHORITY

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



Environmental Health – Licensing
Kings Court
Chapel Street
Kings Lynn
Norfolk
PE30 1EX
Tel: 01553 616200
Fax: 01553 691663
Web: www.west-norfolk.gov.uk
Email: ehlicensing@west-norfolk.gov.uk

Part 1 – Premises Details

Kubus

107 Norfolk Street
King's Lynn
Norfolk
PE30 1AQ

Telephone Number:

Where the Licence is time limited the dates:

Not applicable

Licensable Activities authorised by the licence:

the sale of alcohol by retail

The times the licence authorises the carrying out of licensable activities:

the sale of alcohol by retail (Off)

Description	From	To
Monday to Sunday	09:00	23:00

The opening hours of the premises:

Monday to Sunday	09:00	23:00
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Where the licence authorises supplies of alcohol whether these are on and /or off supplies:

Alcohol is supplied for consumption **OFF** the Premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:

Mr Sarhad Salari
45A Bridge Road, Long Sutton, Lincolnshire, PE12 9EF

Registered number of holder, for example company number, charity number (where applicable)

WNPL009407

Name address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:	
Mr Salari Sarhad 45A Bridge Road Long Sutton Lincolnshire PE12 9EF	
Personal Licence number and issuing authority of Personal Licence held by Designated Premises Supervisor (where the premises authorises for the supply of alcohol):	
Personal licence Number: Licensing Authority:	Licence Number: PA0843 Licensing Authority: South Holland
Manager Environmental Health (Commercial)	
Original Issue date of Premises Licence: 22nd February 2010	
Date of last change: 26th February 2016	

ANNEXES
ANNEX 1 – MANDATORY CONDITIONS
<p>1. Under Section 19(2) of the Licensing Act 2003, no supply of alcohol shall be made under this premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.</p> <p>2. Under Section 19(3) of the Licensing Act 2003 every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.</p> <p>3. The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark, or an ultraviolet feature.</p> <p>4. A relevant person shall ensure that no alcohol is sold or supplied for consumption off the premises for a price which is less than the permitted price. For the purposes of this condition 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; 'permitted price' is the price found by applying the formula - $P = D + (D \times V)$ where; P is the permitted price; D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol. A 'relevant person' means the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, or the personal licence holder who makes or authorises a supply of alcohol under such a licence. 'Valued added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.</p>

The permitted price must be rounded up to the nearest penny.

A change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

ANNEX 2 – CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

5.The windows and door at the front of the premises must be protected from criminal attack. Glass must either be laminated to British Standards or be securely fitted with security grilles or shutters or bars to the inside of the glazing.

6.The front door must be fitted with 2 x 5 lever mortice Locks to British Standards and fitted 1/3rd up and 1/3rd down the door.

7.The rear door must be of a solid construction and must be fitted with 2 x 5 lever mortice Locks to British Standards and fitted 1/3rd up and 1/3rd down the door.

8.An appropriate alcohol store must be provided and located in a solidly constructed part of the building with a solid door. The door must have 2 x 5 Lever mortice locks to British Standards fitted 1/3rd up and 1/3rd down the door. The door must have at least 3 Security Hinges and be supported by Hinge Bolts.

9.A fully monitored alarm system must be installed at the premises to current British and European Standards and must include the alcohol store.

10.The alarm system will be properly maintained and used at all times when the premises are closed. All staff must be conversant with its proper use.

11.Alcohol on display in the shop must be in a position that provides Staff with the easiest surveillance opportunities and control. Spirits must only be on display behind the service counter and served to customers.

12.A digital CCTV system must be installed on the premises and be capable of retaining images on a hard drive for a minimum of 14 days. The system must be capable of downloading images onto an independent digital storage system if required.

13.The CCTV system must be maintained in full working order at all times.

14.All staff must be trained in the proper use of the CCTV system.

15.Notices must be displayed within the premises advising customers that a CCTV system is in operation.

16.The "Challenge 21" proof of age system (or current equivalent) will be incorporated and used at the premises.

17.A "refusals register" will be kept and maintained by staff at the premises.

ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING

None

ANNEX 4 – AUTHORISED PLANS

As attached.

Environmental Health - Licensing
Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn, PE30 1EX
Tel: 01553 616600
Email: ehlicensing@west-norfolk.gov.uk
www.west-norfolk.gov.uk

ENVIRONMENTAL
LICENSING
REC'D 23 NOV

Appendix 2 to
Report to Licensing Sub-Committee
Re: Kubus/Lynn Express, 107 Norfolk Street, KL
Dated 4th January 2017

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



Licensing Act 2003

Application for the review of a premises licence or club premises certificate

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 **original** 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, Norfolk, PE30 1EX.

and **copies** to the following:-

- **Norfolk Constabulary Licensing Team**, Bethel Street Police Station, Bethel Street, Norwich, Norfolk, NR2 1NN.
- **Fire Safety Office**, Norfolk Fire Service Western Area, Kilhams Way, King's Lynn, PE30 2HY
- **Norfolk Children's Safeguarding Board**, Room 60, Lower Ground, County Hall, Martineau Lane, Norwich NR1 2DH
- **Consumer Operations Manager, Norfolk County Council Trading Standards**, County Hall, Martineau Lane, Norwich, Norfolk, NR1 2UD
- **Development Services**, Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- **Health & Safety**, Environmental Health & Housing, Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- **Community Safety & Neighbourhood Nuisance**, Environmental Health & Housing, Borough Council of King's Lynn and West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- **Public Health Director**, Norfolk County Council, County Hall, Martineau Lane, Norwich, NR1 2DH
- The premises at the premises to which the application relates

I, Shaun Norris, apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1

Part 1 – Premises or club premises details

Postal address of premises or club premise, or if none, ordnance survey map reference or description	
Kubus / Lynn Express 107 Norfolk Street	
Post town Kings Lynn	Postcode PE30 1AQ
Name of premises licence holder or club holding club premises certificate (if known)	
Mr Sarhad SALARI	

Number of premises or club premises certificate (if known) WNPL009407

Part 2 – Applicants 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)

Title (Mr/Mrs/Miss/Ms/Other) Please circle the title which applies or if **Other** applies please add in title.

Surname

First names

I am 18 years old or over

please tick ✓ yes

Current address:

Post Town:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

(B) Details of other applicants

Name and address
Telephone number (if any)
E-mail (optional)

(C) Details of Responsible Authority Applicant

Name and address Norfolk County Council Trading Standards Service County Hall Martineau Lane Norwich NR1 2DH
Telephone number (if any) 01603 638078
E-mail address (optional) trading.standards@norfolk.gov.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)

The premises has been granted a premises license by Kings Lynn & West Norfolk Council authorising the sale of alcohol for consumption off premises Monday to Sunday 9am to 11pm. The premises is a general convenience store selling alcohol, tobacco and food items. Since 26 February 2016 the premises License holder has been Mr Sarhad SALARI and he is currently the Designated Premises Supervisor.

Trading Standards have obtained evidence that SALARI has been operating the premises in a manner which undermines the Crime & Disorder Licensing objective.

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

The premises license holder Sarhad SALARI is also the premises licence holder at Kubus 119 London Road (WNPL009461)

Trading Standards have applied to review the above premises license at 119 London Road under the crime and disorder objective following the seizure of a large quantity of concealed illegal tobacco products from the premises on 27 September 2016.

As a result of the evidence provided in the review of 119 London Road, Trading Standards submit that SALARI has demonstrated he is wholly unsuitable to manage licensed premises and in the circumstances Norfolk County Council Trading Standards feel it is appropriate and proportionate to also request a review of this Premises License and in light of the evidence provided and section 11.28 of the Revised Guidance issued under section 182 of the Licensing Act 2003, request that serious consideration is given to revoking the license.

Please tick ✓ yes

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

If yes please state the date of that application

...../...../.....

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

Checklist

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, 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.

The council is registered under the Data Protection Act 1998 for the purpose of processing personal data in the performance of its legitimate business. Any information held by the council will be processed in compliance with the eight principles of the Act. Information you have provided may be shared with other public sector organisations for the prevention of crime and detection of fraud. Further information relating to your rights under the Data Protection Act can be sent to you on request.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity

Signature: 

Date: 23 November 2016

Capacity: Trading Standards Section Manager

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 6)	
Vicky Conlon	
As above	
Post town	Postcode
Telephone number (if any)	
E-mail address (optional)	

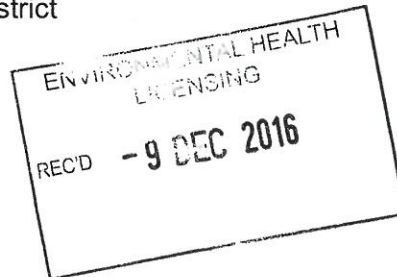
Guidance Notes

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.



CONSTABULARY
Our Priority is You

Kings Lynn and West Norfolk District
Council,
Kings Court,
Chapel Street,
Kings Lynn,
Norfolk,
NR30 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

5th December 2016

Kubus, 107 Norfolk Street, Kings Lynn

Dear Licensing Team,

Police have received the review application from trading standards for the above premises. The Licensing Inspection was conducted by trading standards and police and the evidence presented is the same from both authorities. To that end this letter is in support of the objection raised by Trading Standards regarding the crime and disorder licensing objective. The premises are being used for the sale and storage of smuggled goods namely illegally imported cigarettes.

Yours sincerely

Chris Brooks,
Police licensing officer

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



Licensing Act 2003

Notice of Application for Review of a Premises Licence

Premises:	Kubus (Lynn Express) 107 Norfolk Street King's Lynn PE30 1AQ
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Notice is hereby given that the Borough Council of King's Lynn & West Norfolk has received an application for a Review of the Premises Licence in respect of the above named premises under Section 51 of the Licensing Act 2003.

The Grounds of the application for review are:

That the 'Prevention of Crime & Disorder' licensing objective is undermined because Trading Standards have received intelligence that the licence holder is involved in the sale and storage of smuggled tobacco products.

Anyone who wishes to make representations regarding this application should do so in writing to Environmental Health – Licensing, Borough Council of King's Lynn & West Norfolk, King's Court, Chapel Street, King's Lynn PE30 1EX no later than the 21st December 2016.

The application can be viewed on arrangement with the Licensing Team at the Council's Office on (01553) 616200.

It is an offence under Section 158 of the Licensing Act 2003, knowingly or recklessly to make a false statement in connection with an application to which a maximum fine of £5000 is liable on summary conviction.

Location Map – Kubus/Lynn Express, 107 Norfolk Street, King’s Lynn

