

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



# **Licensing Committee**

## **Agenda**

**Friday, 30th September, 2016**  
at 10.00 am

in the

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



If you require parts of this document in another language, large print, audio, Braille or any alternative format please contact the Council Information Centre on 01553 616200 and we will do our best to help.

#### **LATVIAN**

Ja Jums nepieciešamas daļas no šī dokumenta citā valodā, lielā drukā, audio, Braila rakstā vai alternatīvā formātā, lūdzu, sazinieties ar Padomes informācijas centru (Council Information Centre) pa 01553 616200 un mēs centīsimies Jums palīdzēt.

#### **RUSSIAN**

Если вам нужны части этого документа на другом языке, крупным шрифтом, шрифтом Брайля, в аудио- или ином формате, обращайтесь в Информационный Центр Совета по тел.: 01553 616200, и мы постараемся вам помочь.

#### **LITHUANIAN**

Jeį pageidaujate tam tikros šio dokumento dalies kita kalba, didelių šriftų, Brailio raštu, kitų formatų ar norite užsisakyti garso įrašą, susisiekite su Savivaldybės informacijos centru (Council Information Centre) telefonu 01553 616200 ir mes pasistengsime jums kiek įmanoma padėti.

#### **POLISH**

Jeśli pragną Państwo otrzymać fragmenty niniejszego dokumentu w innym języku, w dużym druku, w formie nagrania audio, alfabetem Braille'a lub w jakimkolwiek innym alternatywnym formacie, prosimy o kontakt z Centrum Informacji Rady pod numerem 01553 616200, zaś my zrobimy, co możemy, by Państwu pomóc.

#### **PORTUGUESE**

Se necessitar de partes deste documento em outro idioma, impressão grande, áudio, Braille ou qualquer outro formato alternativo, por favor contacte o Centro de Informações do Município pelo 01553 616200, e faremos o nosso melhor para ajudar.



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

Dear Member

**Licensing Committee**

You are invited to attend a meeting of the above-mentioned Panel which will be held on **Friday, 30th September, 2016 at 10.00 am** in the **Committee Suite, King's Court, Chapel Street, King's Lynn** 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 an application for Baltic Stores, 33 Old Sunway, King's Lynn**

a) **Procedure which will be followed at the Hearing (Pages 5 - 7)**

b) **Report of the Licensing Manager** (Pages 8 - 32)

To:

**Licensing Committee:** Councillors C J Crofts (Chairman), C Manning and Miss S Sandell

**Officers:**

Jo Furner, Solicitor

John Gilbraith, Licensing Manager

## 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 Sub-Committee should read out a statement declaring under which capacity the Committee is sitting.

**This Sub-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 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. (Only those persons who have made representations may address the Sub-Committee)
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).
6. Please note at any time during the hearing the Legal Advisor or the Licensing Manager may be asked or may offer advice to the Sub-Committee/other parties or ask questions of any party.

### The Application for a Premises License

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

### The Applicant's Case

10. The **Chairman** 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

11. Once the Applicant has presented their case, the **Chairman** invites questions to the Applicant or his representative from
  - (i) The Licensing Manager
  - (ii) The Responsible Authorities (or their representative)
  - (iii) Other persons (or their representatives)
  - (iv) Members of the Committee.
12. The **Chairman** will invite questions to the witnesses (if present) from the
  - (i) The Licensing Manager
  - (ii) The Responsible Authorities (or their representative)
  - (iii) Other persons (or their representative)
  - (iv) Members of the Committee

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

## The Responsible Authorities Case

13. The Chairman 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

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

## Other Persons Case(s)

16. 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. 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.

17. The Licensing Manager, Applicant (or their representative) and the Responsible Authorities will be invited to ask relevant questions of those parties (or the parties' representatives).

### **Summing Up**

Each party will be allowed 5 minutes to sum up their case. They may comment upon what has been said but no new evidence should be introduced.

18. The **Chairman** then invites the Licensing Manager to sum up his case.
19. The **Chairman** then invites the Responsible Authorities and other parties (or their representative) to sum up their case.
20. The **Chairman** then invites the applicant (or their representative) to sum up their case.

### **Reaching and Making a Decision**

21. **The Chairman** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
22. 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).
23. 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.
24. 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.
25. **The Chairman** will read out the decision of the application and the reasons for the decision (unless the Committee is unable to reach a determination at the conclusion of the hearing). Where appropriate, **the Chairman** will ask the Licensing Manager/Officer for any comments on their decision prior to any final determination.
26. **The Chairman** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.
27. 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: 30<sup>th</sup> September 2016

### Application for Grant of a Premises Licence

- Baltic Store, 33 Old Sunway, King's Lynn, PE30 1DN
- Applicant – Miss Oksana KULIKOVSKAJA

### Introduction

1. A premises licence is required under the Licensing Act 2003 (the 'Act') for the sale of alcohol, regulated entertainment or for the provision of late night refreshment (i.e. the supply of hot food and drink between 11pm and 5am). The four licensing objectives to be considered when determining the application, and relevant representations, are:

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

### The Application

2. Miss Oksana Kulikovskaja has made an application under Section 17 of the Act for the licensable activity of 'sale of alcohol by retail'. A copy of the application is attached at Appendix 1 and if granted would allow the premises to operate as follows:

<u>Licensable Activity</u>	<u>Days</u>	<u>Times</u>
<b>Sale of Alcohol by Retail</b> (for consumption 'off' the premises only)	Monday to Sunday	8am to 10pm

### Mandatory Conditions

3. The Act provides for the following four mandatory conditions to be attached to all premises licences authorising the sale of alcohol for consumption off the premises:-

- (a) 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.
- (b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- (c) 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.

- (d) 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. 'Value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

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.

#### **Conditions Consistent with the Operating Schedule (Proposed Conditions)**

4. The following four conditions have been identified from the operating schedule (Box M on the application) to promote the licensing objectives.

- (a) A digital CCTV system shall be maintained at the premises which is capable of recording images for a continuous period of at least 28 days. Images must be capable of being downloaded in digital format upon reasonable request from representatives of the Police or the Licensing Authority. All staff on duty at the premises must be trained in the use of the system and be able to comply with any such request. The system will be maintained in good working order at all times. A CCTV monitor will be positioned so that a member of staff will be capable of seeing images from the cameras.
- (b) The licence holder shall maintain records of all refusals of the sale of alcohol and other incidents that may occur at the premises in a book that will be kept for that purpose. The refusals / incident book will be

produced for inspection upon reasonable request from representatives of the Police or the Licensing Authority.

- (c) Deliveries of alcohol shall only be made to the premises during the hours authorised for the sale of alcohol.
- (d) The premises shall operate the 'Challenge 25' age verification scheme and prominent signs shall be displayed on the premises.

### **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. Representations made must relate to the licensing objectives.*

5. The Norfolk Constabulary are objecting to the application under the prevention of crime and disorder licensing objective. A copy of their letter of objection dated the 27<sup>th</sup> July 2016 is attached to this report at Appendix 2.

6. Norfolk Trading Standards are objecting to the application under the prevention of crime and disorder licensing objective. A copy of their letter of objection dated the 25<sup>th</sup> July 2016 is attached to this report at Appendix 3.

7. There are no representations from any of the other 'responsible authority' to consider. Namely:

- Norfolk Fire Service;
- Norfolk Safeguarding Children's Board;
- Public Health;
- CS&NN (BCKLWN);
- Planning (BCKLWN);
- Environmental Health (BCKLWN);
- Licensing Authority (BCKLWN).

### **Representations from 'Other Persons'**

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

8. There are no representations from 'other persons' to consider.

### **Notices**

9. The applicant is responsible for advertising the application by way of a notice in a specified form at the premises for not less than 28 consecutive days and in a local newspaper on at least one occasion. The notice appeared in the 'Lynn News' on Friday the 15<sup>th</sup> July 2016 and should have been displayed on the premises until the 4<sup>th</sup> August 2016.

10. In accordance with the Licensing Act (Hearings) Regulations a notice of the application was also published on the Borough Council's website for the duration of the consultation period.

## **Plans**

11. A plan showing the layout of the premises is attached at Appendix 4 and a location map is attached at Appendix 5.

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

12. The current Statement of Licensing Policy under the Act was approved by full Council on the 26<sup>th</sup> November 2015. The following extracts may be relevant to this application and assist the Sub-Committee:

### **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 on an application.

3.3 Every application will be dealt with impartially and on its individual merits. The Borough Council will not refuse to grant or vary an application unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or other person, such as a local resident or local business, which is a relevant representation.

3.4 Licensing is about regulating licensable activities on licensed premises and any conditions that are attached to premises licences or club premises certificates will be focused on matters which are within the control of the individual licensee or club, i.e. the premises and its vicinity.

### **8.0 Crime & Disorder**

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

### **17.0 Conditions**

17.1 The Borough Council will not impose conditions unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or other persons, such as a local resident or local business, which is a relevant representation, or is offered in the applicant's Operating Schedule. Any conditions will be proportional and appropriate to achieve the licensing objectives.

## **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.*

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

### **Licensing Objectives and Aims**

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

### **Legal status**

1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this

Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

### **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.

### **Each application on its own merits**

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

## **Crime and disorder**

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

## **Police Objections to New Designated Premises Supervisors**

- 4.26 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- 4.27 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected

## **Determining Applications**

- 9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

## **Where Representations Are Made**

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, (see paragraphs 9.4 to 9.10 below) the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

## **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**

- 9.31 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.32 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.33 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.34 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

- 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.
- 9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
  - the representations (including supporting information) presented by all the parties;
  - this Guidance;
  - its own statement of licensing policy.
- 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. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.39 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

### **Determining Actions that are Appropriate for the Promotion of the Licensing Objectives**

- 9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.



- 9.42 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.43 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination

### **Imposed Conditions**

- 10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.
- 10.9 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

### **Proportionality**

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

## **Determination**

14. Having regard to the representations received, the Licensing Sub-Committee are requested to consider the application, this report and take such steps as it considers appropriate for the promotion of the licensing objectives. These steps are:

- a) To grant the application under the terms and conditions applied;
- b) To grant the application with conditions that the Sub-Committee considers appropriate for the promotion of the licensing objectives;
- c) To reject all or part of the application.

15. The Sub-Committee are reminded that full reasons for their decision must be given as both the applicant and persons making representations have a right of appeal against that decision to the Magistrates' Court.

## **John Gilbraith**

Licensing Manager  
Environmental Health - Licensing  
12<sup>th</sup> August 2016

### Appendixes:

1. Copy of Application.
2. Police Letter dated 27<sup>th</sup> July 2016.
3. Trading Standards letter dated 25<sup>th</sup> July 2016.
4. Premises Plan
5. Location Map.

### 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  
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](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 for a 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 original applications back to us at:

- **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
  - **Norfolk Trading Standards**, Consumer Operations Manager, Norfolk County Council Trading Standards, County Hall, Martineau Lane, Norwich, NR1 2UD
  - **Planning**, 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

① We OKSANA KULIKOVSKAJA  
(insert name(s) of applicant(s))

apply for a premises licence under Section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making the application to you as the relevant licensing authority in accordance with Section 12 of the Licensing Act 2003.

#### Part 1 – Premises Details

Name, postal address of premises or, if none, ordnance survey map reference, or description	
BALTIC STORE 33 OLD SUNWAY	
Post town: KINGS LYNN	Postcode: PE 30 1DN

Telephone number at premises (if any):

Non-domestic rateable value of premises:

## Part 2 – Applicant Details

Please state whether you are applying for a premises licence as:

- Please tick ✓ yes**
- a) an individual or individuals\*  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) a person who is registered Under Part 2 of the Care Standards Act 2000(c14) in respect of an independent hospital  please complete section (B)
- h) the chief officer of a police force in England and Wales  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
- I am making the application pursuant to a
- statutory function or
- a function discharged by virtue of Her Majesty's prerogative

**(A) Individual Applicants** (fill in as applicable)

Mr  Mrs  Miss  Ms  Other title   
(e.g. Rev)

**Surname**


KULIKOVSKAJA

**First names**

OKSANA

I am 18 years old or over

please tick ✓ yes

<b>Current postal address If different from premises address</b>	
<b>Post Town:</b>	
<b>Daytime telephone number:</b>	
<b>Email address (optional):</b>	

**Second Individual Applicant** (if applicable)

Mr  Mrs  Miss  Ms  Other title   
(e.g. Rev)

**Surname**

**First names**

I am 18 years old or over

please tick ✓ yes

<b>Current postal address If different from premises address</b>			
<b>Post Town:</b>		<b>Post Code:</b>	
<b>Daytime telephone number:</b>			
<b>Email address (optional):</b>			

## (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 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 address (optional)

### Part 3 – Operating Schedule

When do you want the premises licence to start?

*28, 07, 2016*  
..... / ..... / .....

If you wish the licence to be valid only for a limited period, when do you want it to end?

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

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

--

Please give a general description of the premises (please read guidance note 1)

*Off licence store*

What licensable activities do you intend to carry on from the premises?

**Provision of regulated entertainment**

please tick ✓ yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment  
(if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performance of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling  
within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshments**

(if ticking yes, fill in box I)

**Sale by retail of alcohol**

(if ticking yes, fill in box J)

**In all cases complete boxes 'K', 'L' & 'M'**

**I**

<b>Late night refreshment</b> Standard timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors, outdoors or both – please tick ✓ (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variation (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

**\*Note: 'Late Night Refreshment' is only licensable between the hours of 11pm & 5am.**


**J**

<b>Supply of alcohol</b> Standard timings (please read guidance note 6)			Will the sale of alcohol be for consumption – please tick ✓ (please read guidance note 6)	On the premises	
				Off the premises	✓
				Both	
<b>Day</b>	<b>Start</b>	<b>Finish</b>	State any seasonal variation (please read guidance note 4)		
Mon	8:00	22:00			
Tue	8:00	22:00			
Wed	8:00	22:00	Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)		
Thur	8:00	22:00			
Fri	8:00	22:00			
Sat	8:00	22:00			
Sun	8:00	22:00			



State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (DPS)

Name: OKSANA KULIKOVSKAJA

Address: 

K1A

Postcode: 

Personal Licence number (if known): 32 LIBA 16002

Issuing licensing authority (if known): Boston Borough Council

**K**

Please highlight any services, activities, entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

**L**

**Hours premises are open to the public**

Standard timings (please read guidance note 6)

Day	Start	Finish
Mon	8:00	22:00
Tue	8:00	22:00
Wed	8:00	22:00
Thur	8:00	22:00
Fri	8:00	22:00
Sat	8:00	22:00
Sun	8:00	22:00

State any seasonal variation (please read guidance note 4)

Non standard timings. Where you intend to use the premises at different times to those listed in the column on the left, please list (please read guidance note 5)

**M** Describe the steps you intend to take to promote the four licensing objectives:

a) **General** – all four licensing objectives (b, c, d, e) (please read guidance note 9)

No selling of alcohol to underage people.  
No drunk & disorderly behavior on the premises.  
No violent and antisocial behavior.  
No harm to children.

b) **The prevention of crime and disorder**

No sale of alcohol to drunk customers  
Clear and conspicuous notices, warning signs.  
CCTV cameras

c) **Public safety**

TRAINING of underage ID check  
Log book & recording system shall be kept  
All premises will be maintained at all times in  
good order.

d) **The prevention of public nuisance**

Deliveries only at premises working hours.  
Sign will be displayed at the exit asking to leave  
premises and area quietly.

e) **The protection of children from harm**

"Challenge 25" signs.  
Requirement for person's identification, age  
establishment.  
ID check book & incident books will be filled and  
available at the counter.

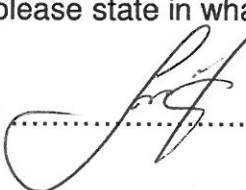
**Part 4 – Signatures** (please read guidance note 10)

<u>Checklist</u>	Please tick/ yes
1 I have made or enclosed payment of the fee. Cheques should be made payable to 'BCKLWN':	<input type="checkbox"/>
1 I have enclosed two sets of plans of the premises:	<input checked="" type="checkbox"/>
1 I have sent you the original application and copies including the plan to the 'responsible authorities' (details on front page):	<input checked="" type="checkbox"/>
1 I have enclosed the consent form completed by the individual I wish to be premises supervisor (if applicable):	<input checked="" type="checkbox"/>
1 I will send / I enclose my Certificate of Service:	<input checked="" type="checkbox"/>
1 I understand that I must now advertise the application both in a newspaper and on the premises:	<input type="checkbox"/>
1 I will send / I enclose the Certificate of Display:	<input checked="" type="checkbox"/>
1 I will send a copy of the advert once it has appeared in the newspaper	<input type="checkbox"/>
1 I understand that if I do not comply with the above requirements my application may be rejected:	<input type="checkbox"/>

**It is an offence, liable to conviction to a fine up to level 5 on the standard scale (£5,000) under section 158 of the Licensing Act 2003 to make a false statement in or in connection with this action.**

**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 and detection of fraud. Further information relating to your rights under the Data Protection Act can be sent to you on request.**

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent. (See guidance note 11) If signing on behalf of the applicant please state in what capacity.

Signature:  ..... Date: 01.07.2016 .....

Capacity: .....

Where the premises licence is jointly held signature of 2<sup>nd</sup> applicant (the current premises licence holder) or 2<sup>nd</sup> applicant's solicitor or other authorised agent. (Please read guidance note 12) If signing on behalf of the applicant please state in what capacity.

Signature: ..... Date: .....

Capacity: .....

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)	
<b>Name:</b>	<b>Address:</b>
If you prefer us to correspond with you by e-mail your email address (optional):	
<i>OKSANCIK LOIP @ GMAIL . COM</i>	

### Notes for Guidance

If you are completing this form by hand please write legibly in black ink and stay within the boxes.

1. Describe the premises. For example the type of premises, its general situation and the layout and other information which could be relevant to the licensing objectives. Where the application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure tick indoors. Indoors may include a tent.
3. Please state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively whether the or not music will be amplified or unamplified
4. For example (but not exclusively), where the activity will go on for an extra hour during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day i.e. Christmas Eve, New Year's Eve etc.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick **on**, if you wish people to be able to purchase alcohol to consume away from the premises please tick **off**. If you wish people to be able to do both please tick **both**.
8. Please give information about anything to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gambling machines.
9. Please list here steps you will take to promote all four licensing objectives.
10. The application must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form
13. This is the address which we shall use to correspond with you about this application.



**CON ST A B U L A R Y**  
*Our Priority is You*

Licensing team,  
Kings Court,  
Chapel Street,  
Kings Lynn  
PE30 1EX

Date: 27<sup>th</sup> July 2016

The Licensing Team

Bethel Street Police station  
Bethel Street  
Norwich  
NR1 2NN

Tel: 01603 276020

Fax: 01603 276025

Email: [licensingteam@norfolk.pnn.police.uk](mailto:licensingteam@norfolk.pnn.police.uk)

[www.norfolk.police.uk](http://www.norfolk.police.uk)

Non-Emergency Tel: 101

Dear Mr Gilbraith,

Police received an application for premises licence at **33 Old Sunway, Kings Lynn** for Baltic Stores your reference SID 34853. The applicant is **Oksana Kulikovskaja** from 45 Willington Road, Kirton, Lincs. There is an application to specify Ms Kulikovskaja as DPS. She is the wife of the former applicant and owner of Litexport Ltd Mr **Jurij Kravcuk** of 45 Willington Road, Kirton, Lincs, PE20 1EP.

I have researched the named individual and the company and found significant reasons police will object to this application.

Mr Kravcuk and his associates have several recent relevant convictions including offences for violence, possession of drugs, possession of offensive weapons, assault occasioning actual bodily harm, assault and battery and driving with excess alcohol. His offending history in the UK began in 2006 and the most recent was at Boston Magistrates court on 20<sup>th</sup> May 2015 for driving with excess alcohol where he was disqualified from driving until 19/05/2018.

There are other more sensitive matters known detailing Mr Kravcuks current offending activity but I could only disclose these at a closed hearing and after taking procedural advice.

Please therefore be advised police object to this application on the basis of the findings of the previous hearing on 17<sup>th</sup> March 2016 when the licensing sub-committee refused the application; and the licensing objectives specifically the prevention of crime and disorder may be undermined; and in the event of a hearing police would ask that at least some of the proceedings are conducted in camera.

Yours faithfully,

Chris Brooks  
Licensing Officer

Borough of Kings Lynn & West Norfolk  
Licensing Department  
Kings Court  
Chapel Street  
Kings Lynn  
PE30 1EX

County Hall  
Martineau Lane  
Norwich  
Norfolk  
NR1 2UD  
Tel: 0344 800 8020  
Business advice helpline

Tel: 03454 04 05 06  
All new consumer enquiries  
Fax: 01603 222999  
DX: 135926 Norwich 13

Email: [trading.standards@norfolk.gov.uk](mailto:trading.standards@norfolk.gov.uk)  
[www.norfolk.gov.uk](http://www.norfolk.gov.uk)

Please ask for: **Vicky Conlon**  
Contact No: 01553 669264

Your ref:  
My ref: **VCO/M26619**  
25 July 2016

Dear Sir/Madam,

**Licensing Act 2003**

**Oksana Kulikovskaja, Baltic Stores, 33 Old Sunway, Kings Lynn**

I am writing with regard to the application for a licence at the above premises. I am responding on behalf of Norfolk Trading Standards as a consulted party under the Licensing Act 2003.

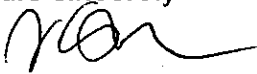
I have been advised by Lincolnshire Trading Standards that the current applicant, Oksana Kulikovskaja is married to the previous applicant Jurij Kravcuk, of Litexport Limited. Both applicants have put down the same home address. Kravcuk is also insured to drive Kulikovskaja's vehicle.

I am therefore concerned that Oksana Kulikovskaja is applying to circumvent the rejection of the original application of the licence by Jurij Kravcuk.

I have received confidential intelligence from Lincolnshire Constabulary and Trading Standards. This links Mr Kravcuk to two stores in Boston linked to the supply of illicit alcohol and tobacco. Illicit tobacco has also been found in the home address shared by Oksana Kulikovskaja and Jurij Kravcuk.

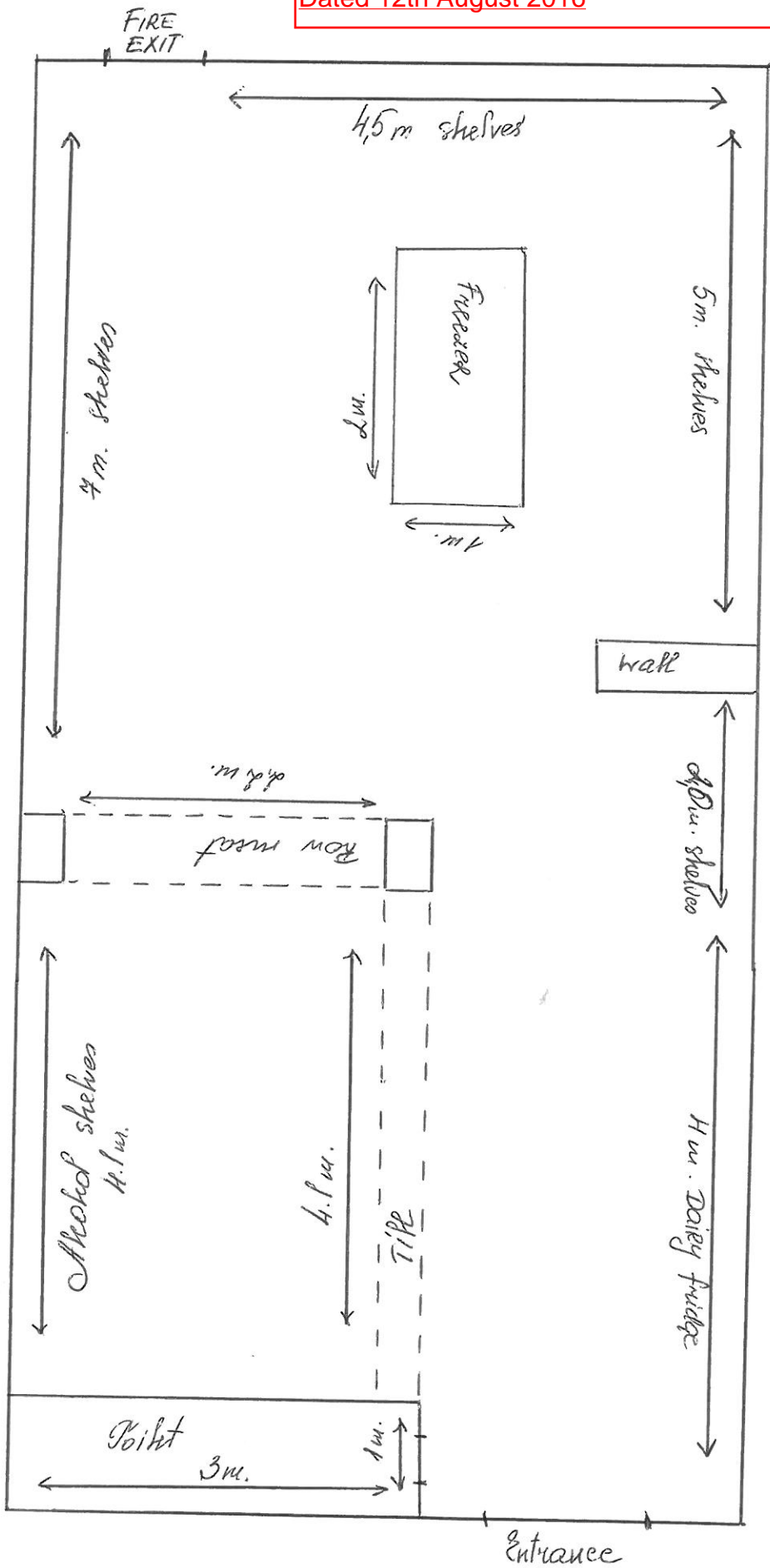
Based on the information supplied, Norfolk Trading Standards have significant concerns in respect of public safety and prevention of crime and disorder if the licence is granted.

Yours sincerely



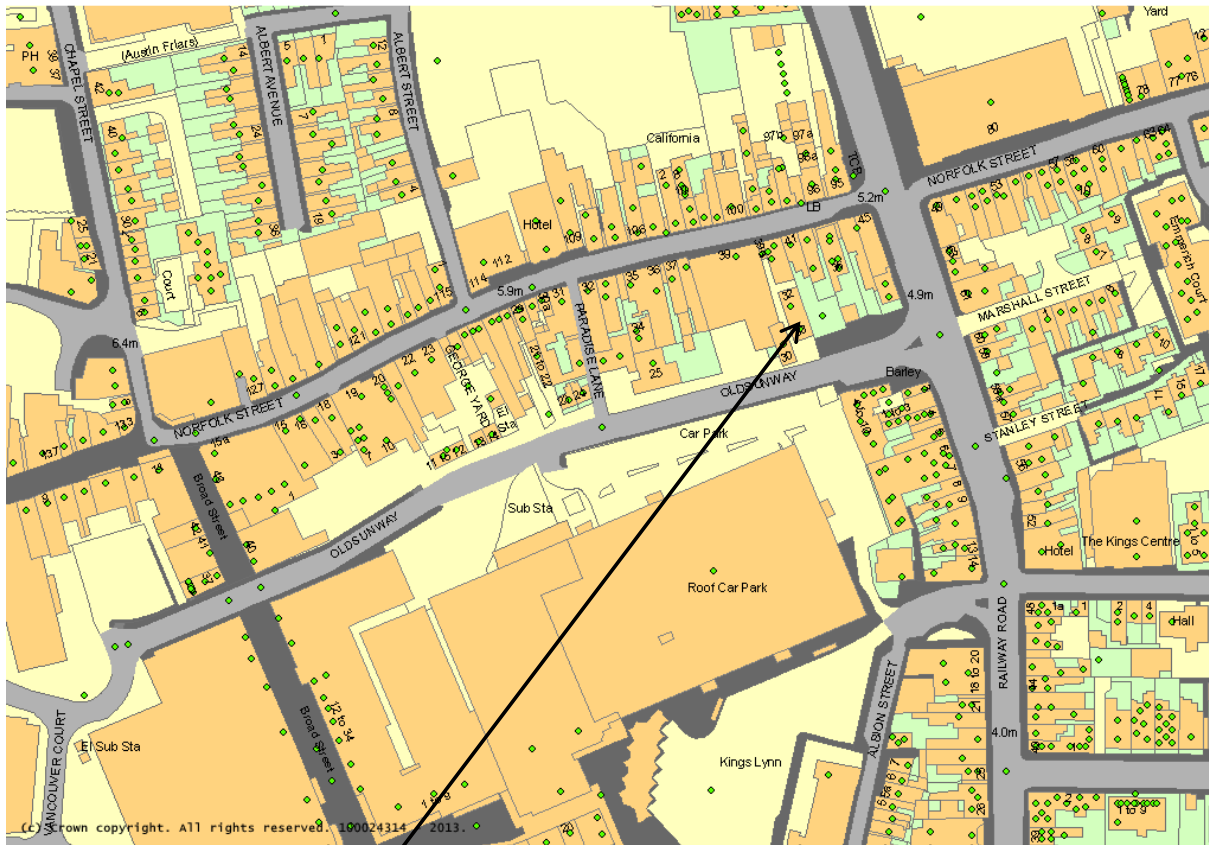
**Vicky Conlon**  
**Lead Trading Standards Officer**  
**Community Safety Fair Trading Team**

Baltic Store  
 33 Old Sunway  
 King's Lynn  
 PE 30 1DN



1 m. = 100 cm.

**Baltic Store, 33 Old Sunway, King's Lynn – Location Map**



**Baltic Store**