

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



# **Licensing Committee**

## **Agenda**

Thursday, 16th July, 2020  
at 11.00 am

Meeting to be held on Zoom and available for the public to view on WestNorfolkBC on YouTube



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

Tuesday 7 July 2020

Dear Member

**Licensing Committee**

You are invited to attend a meeting of the above-mentioned Sub Committee which will be held on **Thursday, 16th July, 2020 at 11.00 am** as a **Remote Meeting on Zoom and available for the public to view on WestNorfolkBC on You Tube - Zoom and You Tube** 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 Chair 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 a Premises Licence for 119 London Road, King's Lynn**

- a) **Procedure which will be followed at the Hearing** (Pages 4 - 6)
- b) **Report of the Licensing Officer** (Pages 7 - 38)

To:

**Licensing Committee:** Councillors Miss L Bambridge (Vice-Chair), S Sandell (Chair) and D Whitby.

**Officers:**

Marie Malt, Licensing Enforcement Officer  
Hema Patel, Legal Advisor  
Alexa Baker, Legal Advisor

Agenda Item 4a  
Procedure for Determining Licensing Act 2003 Cases

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

### Introductions

1. The **Chairman** of the 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 Officer
  - (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 Officer 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. All parties to note that any requests or issues should be directed through the Chairman.
8. The **Licensing Officer** outlines the premises application to the Committee by presenting the report referring to any relevancy to Licensing Policy and Statutory Guidance.
9. The **Licensing Officer** 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 Officer
  - (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 Officer
  - (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 Officer
  - (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 Officer
  - (ii) The applicant (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 Officer, 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 Officer 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 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: 16<sup>th</sup> July 2020**

### Application for Grant of a Premises Licence

- **Vilnius Off Licence, 119 London Road, Norfolk, PE30 5ES**
- **Applicant – Mr Bestwn Tofik**

### 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. Mr Bestwn Tofik has made an application under Section 17 of the Act for the licensable activities 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)	Monday to Sunday	8am – 11pm

### 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) 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.
- (b) 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.
- (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 on or 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 conditions have been identified from the operating schedule (pages 10 to 12 of the application).

- (a) A CCTV system shall be maintained at the premises covering public areas where alcohol is displayed, which is capable of recording images for a continuous period of at least 28 days. Images must be capable of being downloaded 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, displaying the correct time and date. A CCTV monitor will be securely positioned so that a member of staff will be capable of seeing images from the cameras.
- (b) Signs shall be displayed in prominent positions requesting that customers show due consideration of neighbours when leaving the premises.
- (c) 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.

- (d) A Challenge 25 age verification policy must be in operation at the premises, with challenge 25 posters on display at the till, in area/s where alcohol is on display for sale and at the entrance of the premises.
- (e) All staff selling alcohol and age restricted products must receive on-going training, to be refreshed at least every 6 months. Records of staff training must be recorded in a staff training register and will be produced for inspection upon reasonable request from representatives of the Police or the Licensing Authority.

### **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 dated the 10<sup>th</sup> June 2020 is attached to this report at Appendix 2.

6. Norfolk County Council Trading Standards are objecting to the application under the prevention of crime and disorder licensing objective. A copy of their letter dated the 12<sup>th</sup> June 2020 is attached to this report at Appendix 3.

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

- Norfolk Fire Service;
- Norfolk Safeguarding Children's Board;
- Public Health;
- Community Safety & Neighbourhood Nuisance (BCKLWN);
- Planning (BCKLWN);
- Environmental Health (BCKLWN);
- Licensing Authority (BCKLWN);
- Home Office (Alcohol Licensing Team).

### **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 Public Notice appeared in the 'Lynn News' on Friday the 29<sup>th</sup> May 2020 and should have been displayed on the premises up to and including the 16<sup>th</sup> June 2020.

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.

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

11. 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.

### **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 April 2017 and offers advice to Licensing authorities on the discharge of their functions under the Act.*

12. 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.

#### **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.

#### **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.

#### **Relevant, vexatious and frivolous representations**

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new

premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

### **The role of responsible authorities**

- 9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.
- 9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, 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 usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

### **Hearings**

- 9.33 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.
- 9.37 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 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.

9.39 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.

9.40 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**

9.42 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.

9.43 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.

9.44 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

#### **Proposed conditions**

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

#### **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.



### **The need for licensed premises**

- 14.19 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

### **Determination**

13. 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.

14. 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.

### **Marie Malt**

Senior Licensing Officer  
Environment & Planning - Licensing  
4<sup>th</sup> July 2020

### Appendix:

1. Copy of Application.
2. Copy of letter of Representation from Norfolk Constabulary.
3. Copy of letter of Representation from Norfolk Trading Standards

### 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 (April 2018)

**Your ref no: Form ref:**  
TGQPSHLM

**Form title:** Apply for a new premises licence or a full variation

Appendix 1 to  
Report to Licensing Sub-Committee  
Re: Vilnius, 119 London Road  
Dated 4th July 2020

**Page:** Coversheet

<b>This form was started at:</b>	18/05/2020 19:40:15
<b>This form was completed at:</b>	19/05/2020 09:30:59
<b>Internal form classification:</b>	N / A
<b>Openprocess state:</b>	

**Your ref no: Form ref:**  
TGQPSHLM

**Form title:** Apply for a new premises licence or a full variation

**Page:** Tell us who you are

You can only vary a premises licence if you are the premises licence holder, solicitor or other duly authorised agent.

<b>Are you completing this form on behalf of the applicant?</b>	Yes - I am completing on the applicant's behalf
---	---

**Section:** Tell us who you are

<b>Name</b>	Patrick Burke
<b>Business name</b>	PMB Licensing
<b>Address (including postcode)</b>	
<b>Telephone number</b>	
<b>Email address</b>	

<b>Would you like us to send all correspondence to the above address?</b>	Yes
---	-----

<b>In what capacity is the applicant applying for a premises licence?</b>	An individual or individuals
---	------------------------------

<b>Please confirm the following:</b>	The applicant is carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
--------------------------------------	---

**Page:** Tell us about the individual applicants

How many individual applicants are there? 1

**Section:** Individual applicant details

Title Mr  
Full forename (s) Bestwn  
Surname Tofik  
Date of birth (dd/mm/yyyy)   
Nationality

As part of this application the applicant needs to demonstrate their **right to work** in the United Kingdom. At the end of this form there is the opportunity to upload the relevant documents.

Home address line 1  
Home address line 2  
Home address line 3  
Home address line 4  
Postcode  
Daytime telephone number  
Mobile telephone number  
Email address

**Page: Tell us about the premises**

A licence is not required between 08.00 and 23.00 on any day, with no limit on audience size for:

- any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

What are you applying for? apply for a new premises licence

**Section: Apply for a new premises licence**

Name of premises or business Vilnius Off Licence

Address line 1 119 London Road

Address line 2 Kings Lyn

Address line 3

Address line 4

Postcode PE30 5ES

Telephone number at the premises

Please give a brief description of the premises General Store wishing to sell alcohol alongside the products already available

When do you want the premises licence to start?  
(dd/mm/yyyy) 16/06/2020

If you wish the licence to be valid only for a limited period, when do you want it to end? (dd/mm/yyyy)

What is the non-domestic rateable value (NDRV) of the premises? £4,301 - £33,000

If you're unsure of the non-domestic rateable value you can double check this on the GOV.UK website. If the premises hasn't been set a non-domestic rateable value by the valuation office, then please select the lowest band.

How many people are expected to attend the premises at any one time? 4,999 or less

If you have 30,000 or more people attending at any one time, you will need to contact us.

**What you will need to pay**

The application fee for a non-rateable value between £4,301 - £33,000 is:

**£190.00**

### **Annual payments**

Each premises licence we grant will need to pay an annual fee. We will invoice you annually on the date when the first licence was issued.

Where do you want your annual invoice sent to? Premises address

**Page:** Tell us which licensable activities

<b>Will you be providing plays at the premises?</b>	No
<b>Will you be providing films at the premises?</b>	No
<b>Will you be providing indoor sporting events at the premises?</b>	No
<b>Will you be providing boxing or wrestling entertainment at the premises?</b>	No
<b>Will you be providing live music at the premises?</b>	No
<b>Will you be providing recorded music at the premises?</b>	No
<b>Will you be providing performances of dance at the premises?</b>	No
<b>Will you be providing anything of a similar description to live music, recorded music or performances of dance at the premises?</b>	No
<b>Will you be providing late night refreshment at the premises?</b>	No
<b>Will you be selling or supplying alcohol at the premises?</b>	Yes

Please make sure you provide the timings in a 24 hour clock, for example, 16:00 and only provide details for the days of the week when you intend the premises to be used for the activity.

**Section: Monday**

**Start time** 08:00  
**End time** 23:00

**Section: Tuesday**

**Start time** 08:00  
**End time** 23:00

**Section: Wednesday**

**Start time** 08:00  
**End time** 23:00

**Section: Thursday**

**Start time** 08:00  
**End time** 23:00

**Section: Friday**

**Start time** 08:00  
**End time** 23:00

**Section: Saturday**

**Start** 08:00  
**End time** 23:00

**Section: Sunday**

**Start time** 08:00  
**End time** 23:00

**Will the provision of alcohol take place on the premises, off the premises or both?** off the premises

**Please state any seasonal variations for the provision of alcohol**

**Where you intend to use the premises for the provision of alcohol at different times to those listed above, please specify below:**



**Your ref no: Form ref:**  
TGQPSHLM

**Form title:** Apply for a new premises licence or a full variation

**Page:** Tell us about the Designated Premises Supervisor (DPS)

Is this an application for a commercial premises licence requiring a DPS for alcohol sales?	Yes
Are you the proposed Designated Premises Supervisor (DPS)?	No

**Section:** Tell us about the DPS

Please state the name and details of the individual who you wish to specify on the licence as Designated Premises Supervisor (DPS).

Title Mr  
Forename (s) Bestwn  
Surname Tofik  
Date of birth (dd/mm/yyyy)  
Nationality  
Address line 1  
Address line 2  
Address line 3  
Address line 4  
Postcode  
Personal licence number:  
Issuing licensing authority:

You can use the following upload facility to provide a DPS consent form completed by the above individual:

**Uploaded files\***

Villnius DPS And ID .pdf

\* If empty, no files were uploaded

**Page:** Tell us the premises opening hours

Please tell us the hours the premises are open to the public. Please make sure you provide the timings in a 24 hour clock, for example, 16:00 and only provide details for the days of the week when you intend the premises to be used for the activities.

Where the 'on sale of alcohol' is present, you may wish to consider drinking up time, for example, alcohol sales end at 23:00, premises open until 23:30.

**Section: Monday**

Start time 08:00  
End time 23:00

**Section: Tuesday**

Start time 08:00  
End time 23:00

**Section: Wednesday**

Start time 08:00  
End time 23:00

**Section: Thursday**

Start time 08:00  
End time 23:00

**Section: Friday**

Start time 08:00  
End time 23:00

**Section: Saturday**

Start time 08:00  
End time 23:00

**Section: Sunday**

Start time 08:00  
End time 23:00

Please tell us about any seasonal variations

Please tell us where you intend to use the premises at different times to those listed above, please specify below:

**Page:** Tell us about the operating schedule

**Please highlight any services, activities, entertainment or matters ancillary to the use of the premises that may give rise to concern in respect to children**

No alcohol or tobacco will ever be purchased from sellers calling at the premise. Exceptions to the condition would be purchases made from authorised representatives who have made prior appointments to visit the store.

? All alcohol and tobacco products sold at the premises shall have the relevant UK duty paid.

? Foreign tobacco, which does not comply with relevant UK legislation, shall not be stored and/or sold at the premise.

? If any tobacco products purchased for or on behalf of the business does not have UK Duty Paid fiscal mark or are otherwise suspicious, the licensee and/or designated premises supervisor shall notify the supplier to Kings Lyn & West Norfolk Trading Standards and HMRC as soon as possible.

**Please describe the steps you intend to take to promote the four licensing objectives:**

**General - List here the steps you will take to promote all four of the licensing objectives**

1. The CCTV system must be installed and operate internally to cover all areas that licensable activities take place and where alcohol is displayed within any public area.

2. The CCTV unit shall be positioned in a secure part of the licensed premise. Access to the system should be allowed immediately to the Police upon request.

3. A competent trained person in the use of and operation of the CCTV will be in attendance at the premises at all times that licensable activities take place and be able to fully operate the CCTV system to be able to down load in a recognised format any information requested by the Police.

4. The CCTV system clock should be set correctly and maintained (taking account of GMT and BST).

5. A facility will be available for the Police to remove from the CCTV system a copy of any material relevant to any ongoing Police investigation.

6. All CCTV images will be retained for a period of not less than 28 day

7. All persons involved in the sale of alcohol will receive initial and subsequent 6 monthly refresher training by the Designated Premises Supervisor or an appropriately accredited training provider with regards to the law in relation to the sale of alcohol. This will be recorded in a staff training register and will include, signature of the member of staff, the DPS or an appropriately accredited training provider together with the date.

8. At any time when there is no Personal License holder on the premises there must be at least one member of staff on duty inside the premise who has been authorised by the DPS. Any such person should have seen, read and be fully aware of the conditions of the premise licence and take all steps to ensure that such conditions are adhered to whilst

they have responsibility for the premise.

9. The authorised person should also sign on each occasion that he/she has physically seen inspected and is fully aware of all the conditions attached to the premise licence. The DPS should sign to acknowledge that they agree to the authorised person being in charge of the premise for any times specified. The records of these matters should be kept fully updated at all times.

All Records shall be retained at the premises for a period of no less than 12 months and made available to responsible authorities on request.

### **The prevention of crime and disorder**

1. The CCTV system must be installed and operate internally to cover all areas that licensable activities take place and where alcohol is displayed within any public area.

2. The CCTV unit shall be positioned in a secure part of the licensed premise. Access to the system should be allowed immediately to the Police upon request.

3. A competent trained person in the use of and operation of the CCTV will be in attendance at the premises at all times that licensable activities take place and be able to fully operate the CCTV system to be able to download in a recognised format any information requested by the Police.

4. The CCTV system clock should be set correctly and maintained (taking account of GMT and BST).

5. A facility will be available for the Police to remove from the CCTV system a copy of any material relevant to any ongoing Police investigation.

6. All CCTV images will be retained for a period of not less than 28 day

7. All persons involved in the sale of alcohol will receive initial and subsequent 6 monthly refresher training by the Designated Premises Supervisor or an appropriately accredited training provider with regards to the law in relation to the sale of alcohol. This will be recorded in a staff training register and will include, signature of the member of staff, the DPS or an appropriately accredited training provider together with the date.

8. At any time when there is no Personal License holder on the premises there must be at least one member of staff on duty inside the premise who has been authorised by the DPS. Any such person should have seen, read and be fully aware of the conditions of the premise licence and take all steps to ensure that such conditions are adhered to whilst they have responsibility for the premise.

9. The authorised person should also sign on each occasion that he/she has physically seen inspected and is fully aware of all the conditions attached to the premise licence. The DPS should sign to acknowledge that they agree to the authorised person being in charge of the premise for any times specified. The records of these matters should be kept fully updated at all times.

All Records shall be retained at the premises for a period of

	no less than 12 months and made available to responsible authorities on request.
<b>Public safety</b>	PROMINENT SIGNS WILL BE DISPLAYED REQUESTING CUSTOMERS TO HAVE REGARD FOR LOCAL RESIDENTS WHEN LEAVING THE PREMISES ADEQUATE BINS ARE AVAILABLE FOR CUSTOMERS TO DISPOSE OF LITTER
<b>The prevention of public nuisance</b>	? A Challenge 25 policy will be adopted in order to reduce the potential for underage sales of age restricted products including alcohol. If a customer appears to be under 25 years of age and cannot prove that they are eligible to purchase the age restricted item with a valid UK or Ireland Photocard Driving Licence, a valid Passport or PASS accredited proof of age scheme card, they will be refused service. ? Challenge 25 posters will be displayed at the premises to reinforce this policy. Posters will be placed at; each till, each area alcohol is stocked and at the point of entry into the store. The posters will be displayed prominently and in sight of customers and staff. ? A Refusals Register is to be used to record all incidents when a sale is refused. The register is to be kept in the store at all times unless it is requested by authorised officers of responsible authorities. The Refusal/Challenge Register is to be checked and signed off by the Designated Premises Supervisor every two weeks. ? All staff working at the premises involved in the sale of age restricted products including alcohol will receive on-going training and will be refreshed at least every 6 months. This will be recorded in a staff training register and will also include a written test of knowledge. The Training records must be made available to authorised officers of responsible authorities on request. Records shall be retained at the premises.
<b>The protection of children from harm</b>	we will operate challenge 25 policy

You must tick the following statements to confirm you've understood them:

Checklist	<ul style="list-style-type: none"><li>✓ I understand that I must advertise the application both in the newspaper (within 10 working days) and on the premises (the day after the application is accepted). The Borough Council will send the notice once the application is accepted</li><li>✓ I will send a copy of the advert once it has appeared in the newspaper - do not advertise until accepted</li><li>✓ I understand that if I do not comply with the above requirements my application may be rejected</li><li>✓ The DPS named in this application is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate</li></ul>
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As part of this application, you need to provide the following information:

You can use the following upload facility to provide a copy of the set to **scale plans** for the premises:

<p><b>Uploaded files*</b></p> <p>Villnius Plan .pdf</p> <p><small>* If empty, no files were uploaded</small></p>
--

You can use the following upload facility to provide a **DPS consent form** completed by the proposed premises supervisor:

<p><b>Uploaded files*</b></p> <p><small>* If empty, no files were uploaded</small></p>
--

You can use the following upload facility to provide documents demonstrating your **right to work** in the UK:

<p><b>Uploaded files*</b></p> <p>Villnius DPS And ID .pdf</p> <p><small>* If empty, no files were uploaded</small></p>
--

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), you'll need to provide the 9-digit 'share code' provided to the applicant for that service.

How many share codes do you need to tell us about?	
Any further information	

**Your ref no: Form ref:**  
TGQPSHLM

**Form title:** Apply for a new premises licence or a full variation

**Page:** Payment summary

Application fee for RV 4301 to 33000	<b>£190.00</b>
Total	<b>£190.00</b>

## Review your answers

Before clicking 'submit' you must review all of the answers you've provided. **Once your form has been submitted, you cannot make any changes.** If you need to make any amendments to this form, then click 'previous' (you will need to click the declaration box first). Please click on the following link to double check your answers.

Open a read only view of the answers you have given (this will open in a new window)

## Privacy notice

The Council has a duty to process and store your personal information safely and securely in line with data protection legislation, which here means the General Data Protection Regulations (Regulation (EC) 2016/679 which is in force from 25 May 2018) (GDPR) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to the GDPR.

The Borough Council of King's Lynn and West Norfolk (the Council), of Kings Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX is the data controller for the purposes of the GDPR and associated domestic law.

We will use your personal information for the purposes of the provision of the licensing services. The processing of this information is necessary for the Council to undertake a public task, i.e. the processing is necessary for the Council to perform a task in the public interest or for its official functions, and the task or function has a clear basis in law, in this case the Licensing Act 2003, as amended.

Your data may be shared between Council departments and other agencies where there is lawful authority to do so.

Your information will be kept strictly confidential. It will be stored separately from other information in a secure, password-protected database on the Council's computer system.

Your personal information will be kept for as long as you require a licence and for a period after the service is terminated. You can find more information about our retention policy on the privacy notice page. We will only use your data within the terms of data protection laws, will delete your data securely and only keep it for as long as necessary. We will review dates for keeping personal data in the future and if necessary update these privacy notices.

You may see copies of the data held about you and ask for it to be corrected or deleted.

You can find more information about Data Protection and the Council's Data Protection Officer, on our Data Protection page.

If you are unhappy with the way your personal information is being handled you can contact the Independent Information Commissioner.

## Declaration

Please read this declaration carefully before you press submit.

- I certify to the best of my knowledge and belief, the information supplied by me on this form is accurate
- I understand that it is an offence under section 158 of the Licensing Act 2003 to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount
- I understand that it is an offence under section 24B of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status. Those



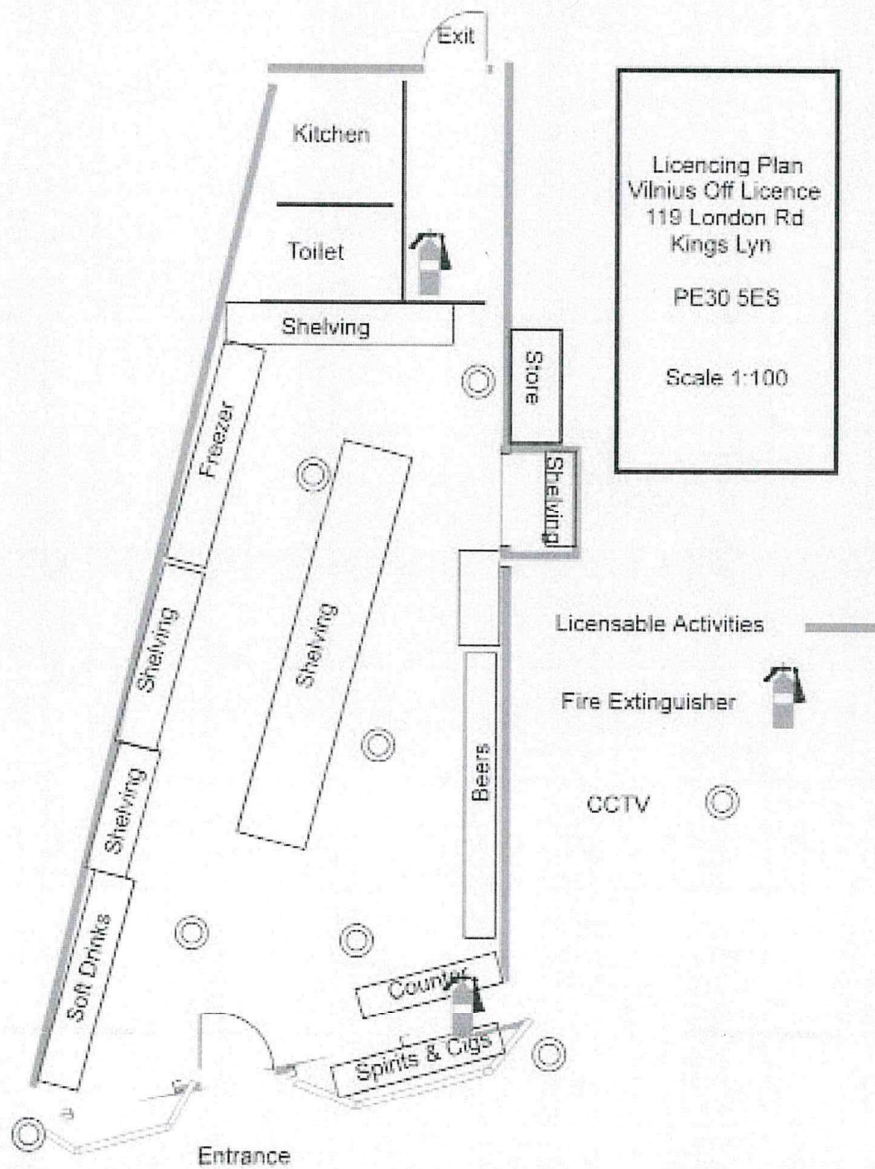
who employ an adult without leave or who is subject to conditions as to employment will be liable to a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 and pursuant to Section 21 of the same Act, will be committing an offence where they do so in the knowledge, or with reasonable cause believe, that the employee is disqualified

- I understand the personal information collected on this form will be used by the Borough Council of King's Lynn and West Norfolk to process my request, and deliver the service
- I understand the personal information will only be disclosed to the Norfolk Constabulary Licensing Team and the Home Office in connection with delivering this service
- I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work related to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK

You can find out more detailed information about our Privacy Policy, on our privacy notice page.

**I confirm that all of the details I have provided are correct and I understand that the information provided on this form is subject to the provisions of the above privacy notice.**

**Once you've completed the declaration, please 'submit' your form. You will then be passed to a secure site to make your payment.**





Appendix 2 to  
Report to Licensing Sub-Committee  
Re: Vilnius, 119 London Road  
Dated 4th July 2020

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

Licensing Manager  
Kings Lynn and West Norfolk Council,  
Kings Court,  
Chapel Street,  
Kings Lynn

Date 10<sup>th</sup> June 2020

Dear Licensing manager,

**Vilnius, 119 London Road, Kings Lynn**

Norfolk Police confirm receipt of the application for a premises licence at the above-named premises. For the reasons listed Police object to the issue of a premises licence to this applicant, at this address.

The Licensing Team

Bethel Street Police Station  
Norwich  
Norfolk  
NR2 1NN

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

Police assert this application is an attempt to enhance the criminal operation at 119 London Road and will so undermine the crime and disorder licensing objective. The storage and supply of smuggled tobacco products is a specific offence under S144 Licensing Act 2003. Police object to the issue of this premises licence on this basis.

Yours sincerely,

Chris Brooks  
Licensing Officer  
Norfolk Police

County Hall  
Martineau Lane  
Norwich  
Norfolk  
NR1 2DHLicensing Team  
Borough Council of Kings Lynn and West  
Norfolk  
Kings Court  
Chapel Street  
Kings Lynn  
PE30 1EXTel: 0344 800 8020  
Business advice helpline  
Text relay no. 18001 344 800 8020  
Tel: 0808 223 1133  
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: **Mr P Etherington**  
Contact No: 01603 638078Your ref:  
My ref: MA37020

12 June 2020

Dear Sir or Madam,

**Application for an Alcohol Licence for “Vilnius” 119 London Road, Kings Lynn**

This letter is to object to the granting of an Alcohol Licence for the premises.

We have concerns that the Licensing Objectives will not be met regarding the potential supply of Illegal Tobacco Products.

Illegal Tobacco Products are not intended for the United Kingdom market. They can be counterfeit or may not have the required written and pictorial warnings/be in the correct standardised packaging or may not have the self-extinguishing fire safety feature. There have been a number deaths from fires caused by an illegal cigarette failing to self-extinguish. We have had many seizures of illegal tobacco in Norfolk and tests on self-extinguishing have resulted in a 100% failure rate.

We are aware that in many cases retail outlets such as the one at 119 London Road are controlled by individual(s) who remain well in the back ground and put in place other persons to manage the supply of illegal tobacco from the shop.

It is our concern that the applicant is the next one in line in this process.

Yours sincerely



Shaun Norris  
Intelligence and Enforcement Support Manager