

# Borough Council of King's Lynn & West Norfolk

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

Date of Hearing: 27<sup>th</sup> June 2017

### Application to Vary Licence to Nominate Individual as Premises Supervisor

- 7 Days, 122 London Road, King's Lynn, PE30 5ES
- Applicant: Mr Qadir SAEYD
- Proposed DPS – Ms Sara SAWICKA
- Premises Licence Number: 17/00049/LA\_PRE

### The Application

1. On the 1<sup>st</sup> June 2017 Mr Saeyd submitted an application to the Borough Council to nominate Ms Sara Sawicka as the premises supervisor (DPS) in respect of the premises licence for 122 London Road, King's Lynn. The application requested that the change had immediate effect meaning that Ms Sawicka effectively became the DPS from this date. A copy of the DPS variation is attached to this report at Appendix 1.

### Representation from the Norfolk Constabulary

*Only the police can object to a vary DPS application (Section 37(5) Licensing Act 2003)*

2. Where the Police are satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention licensing objective they may object to the application.
3. The Norfolk Constabulary are objecting to the application and a copy of their letter of the 12<sup>th</sup> June 2017 is attached to this report at Appendix 2.

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

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

#### **3.0 Fundamental principles**

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

## **8.0 Prevention of Crime & Disorder**

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

### **Guidance Issued Under Section 182 of the Licensing Act 2003**

*Under Section 4 of the Act, Licensing Authorities must have regard to guidance issued under Section 182. The current Guidance was issued by the Home Office in April 2017 and offers advice to Licensing authorities on the discharge of their functions under the Act.*

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

#### **Requirements for a personal licence**

- 4.2 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why sales of alcohol may not be made under a premises licence unless there is a DPS in respect of the premises (who must hold a personal licence); and every sale must be made or authorised by a personal licence holder.

#### **Changes in name or address**

- 4.29 The holder of the licence is required by the 2003 Act to notify the licensing authority of any changes to a holder's name or address. These changes should be recorded by the licensing authority. The holder is also under a duty to notify any convictions for relevant offences to the licensing authority and the courts are similarly required to inform the licensing authority of such convictions, whether or not they have ordered the suspension or forfeiture of the licence. The holder must also notify the licensing authority of any conviction for a foreign offence. These measures ensure that a single record will be held of the holder's history in terms of licensing matters.

#### **Specification of new designated premises supervisors**

- 4.31 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.52 to 4.65 of this Guidance.
- 4.32 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS' personal address should not be included in the summary form in order to protect their privacy.
- 4.33 To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an

application for immediate interim effect) with a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and the premises licence

#### **Police objections to new designated premises supervisors**

- 4.39 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.
- 4.40 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.

#### **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.

#### **Other Matters**

6. Ms Sara Sawicka holds personal licence number WNPA010285 and the representations made by the Police indicate that she may have committed two offences. The address given to the Police is different to that on her personal licence and that a false statement may have been made by signing the DPS consent form on the 31<sup>st</sup> May 2017 that her address was in King's Lynn. The two offence details are as follows:-

a) **Duty to Notify Change of Name and Address**

Under Section 127 of the Licensing Act a person commits an offence if he/she fails to notify the Licensing Authority of a change of name or address. A person convicted could be liable to a fine not exceeding £500.

b) **False Statements made for the Purposes of this Act**

Under Section 158 of the Licensing Act a person commits an offence if he/she makes false statements made for the purposes of this Act. A person guilty of an offence under this section is liable on summary conviction to a fine of any amount

## **Determination**

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

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

## **John Gilbraith**

Licensing Manager

Environmental Health - Licensing

15<sup>th</sup> June 2017

### **Appendixes:**

1. Copy of Application to Vary the Premises Supervisor.
2. Police Letter dated 12<sup>th</sup> June 2017.

### **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 2017)

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

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.

I/we SA QADIR SAEED  
(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

17/00049/LA-PRE.

Part 1 – Premises details

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

7 DAYS'  
122 LONDON ROAD

Post town KINGS LYNN

Post code (if known)  
PE30 5ES

Telephone number (if any)

Description of premises (please read guidance note 1)

INTERNATIONAL STORE

17/ 00078/LA-APS

BOROUGH COUNCIL OF  
KING'S LYNN & WEST NORFOLK  
RECEIVED  
01 JUN 2017  
LAURA WACEY  
POSTING OFFICE

Part 2

**Full name of proposed designated premises supervisor**  
SARA SAWICKA.

**Nationality**  
[REDACTED]

**Place of birth**  
[REDACTED]

**Date of birth**  
[REDACTED]

**Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)**  
WNPA00285

**Full name of existing designated premises supervisor (if any)**

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

**Reasons why I have failed to enclose the premises licence or relevant part of it**  
ALREADY WITH BCKLWN LICENSING AUTHORITY

Please tick yes


- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

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.

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 TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

**Part 3 – Signatures** (please read guidance note 2)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 3). If signing on behalf of the applicant please state in what capacity.

4 Signature   
.....  
Date 01.05.2017  
.....  
Capacity OWNER  
.....

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

Signature  
.....  
Date  
.....  
Capacity  
.....

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

## Guidance notes

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





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

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

Date: 12<sup>th</sup> June 2017

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

**7 Days, 122 London Road, Kings Lynn**

Dear Mr Gilbraith,

Police received an application to vary the premises licence to specify an individual as a designated premises supervisor for premises at 7 days, 122 London Road, Kings Lynn. The applicant is Qadir Saeyd and the proposed DPS is Sara Sawicka who has given the address [REDACTED] on the application.

This address is that of [REDACTED] who featured in the evidence gathered for a hearing after [REDACTED] fought to keep his premises licenses at two shops he was found to be using to store and supply smuggled cigarettes and tobacco from at [REDACTED].

Ms Sawicka appears to have put a false declaration on her application. When I spoke with her on 12<sup>th</sup> June 2017 she told me her home address is [REDACTED].

[REDACTED]

Please therefore be advised police object to this application on the basis of the findings of the previous hearing on 13<sup>th</sup> January 2017 when the licensing sub-committee revoked the premises licenses at Kubus and Lynn Express; and the licensing objectives specifically the prevention of crime and disorder may be undermined. 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