

Borough Council of King's Lynn & West Norfolk

Report to Licensing Sub-Committee under the Licensing Act 2003

Date of Hearing: 27th January 2022

Application for Variation on a Premises Licence

- Stop N Go, 53 London Road, Kings Lynn, Norfolk, PE30 5QH

Agent: Nira Suresh of Arka Licensing Consultants

Applicant – Mr Siva Nadarajan

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 Nira Suresh trading as Arka Licensing Consultants on behalf of Mr Siva Nadarajan submitted a full variation application under Section 34 of the Act on the 2nd December 2021 for the licensable activity of the '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 / Times</u>	<u>Times</u>
Sale of alcohol by retail (off sales only)	Monday to Thursday	06:00hrs – Midnight
	Friday to Saturday	06:00hrs – 01:00hrs
	Sundays	06:00hrs – 23:00hrs

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 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 currently on the licence:

4. The following two conditions are present on the existing current premises licence:

(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 premises shall adopt the Challenge 25 age verification scheme.

Conditions Consistent with the Operating Schedule (Proposed Conditions)

5. The following conditions have been identified from the operating schedule or agreed following consultation with the applicant.

- (a) A prominent sign must be on display visible near the exit to the premises stating that customers must leave the premises quietly.
- (b) The following changes to times of licensable activity have been agreed between the applicant and the Community Safety and Neighbourhood Nuisance team:

<u>Licensable Activity</u>	<u>Days / Times</u>
Sale of alcohol by retail (off sales only)	Monday to Saturday 08:00hrs – Midnight Sundays 08:00hrs – 23:00hrs
Sale of Alcohol via DELIVERY ONLY	Monday to Saturday 06:00hrs – Midnight Sundays 06:00hrs – 23:00hrs
Opening times:	Monday to Saturday 06:00hrs – Midnight Sundays 06:00hrs – 23:00hrs

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.

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

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

7. There are 2 representations from 'other persons' to consider. Copies of these representations are attached to this report at Appendix 2.

Notices

8. 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 & Advertiser on the 10th December 2021 and was also displayed on the premises up to and including the 30th December 2021.

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

9. There are no changes proposed to the existing premises licence layout. A plan showing the layout of the premises is attached at Appendix 3 along with a location plan including the location of the nearby objectors.

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

10. The current Statement of Licensing Policy under the Act was approved by full Council on the 14th January 2021. 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 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.

3.5 Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. The Borough Council, in addressing

this matter, will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

- 3.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy throughout the borough.

9.0 Public Safety

- 9.1 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

- 9.2 A number of matters should be considered in relation to public safety. These could include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with emergency services;
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises; and
- Considering the use of CCTV.

- 9.3 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. The Borough Council expects applicants to consider these when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they will achieve that.

10.0 Prevention of Public Nuisance

- 10.1 Licensed premises, especially those operating late at night and early in the morning can cause a range of nuisances which impact on people or businesses in the vicinity. The concerns will mainly relate to noise but could also include light pollution and noxious smells. The Borough

Council expect operating schedules to satisfactorily address these issues, as appropriate.

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 2018 and offers advice to Licensing authorities on the discharge of their functions under the Act.

11. 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.

Crime and disorder

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

Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective,

licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Public Safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts;
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises and
- Considering the use of CCTV in and around the premises.

- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. Applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

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.

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.

Disclosure of personal details of persons making representations

- 9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.

Hearings

- 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. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessel or identity scanners where they would not be appropriate to the specific premises. 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.

Premises Licence History

12. The Sub-Committee may also wish to be aware that a hearing was held in May 2017 when the initial premises licence application was granted. The decision notice for this hearing is attached to this report as appendix 4. The premises licence was transferred into Mr Siva Nadarajan’s name in November 2021.

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.

Johanna Riches

Licensing Officer

Environment & Planning

12th January 2022

Appendixes:

1. Copy of Application
2. Copies of letters of Representations from ‘other persons’
3. Premises layout and Location Map of Objectors
4. Decision notice from Hearing dated 24th May 2017

Background Papers:

1. The Licensing Act 2003
2. Borough Council’s Statement of Licensing Policy (14th January 2021)
3. Guidance issued under Section 182 of the Licensing Act 2003 (April 2018)

Your ref no: Form ref:

TGDKRGSJ

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

Appendix 1 to
Report to Licensing Sub-Committee
Re: Stop N Go
Dated: 12th January 2022

Page: Coversheet

This form was started at:	02/12/2021 16:43:43
This form was completed at:	02/12/2021 17:06:04
Internal form classification:	N / A
Openprocess state:	

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.

Are you completing this form on behalf of the applicant?	Yes - I am completing on the applicant's behalf
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Section: Tell us who you are

Name	<div style="border: 1px solid red; height: 100px;"></div>
Business name	
Address (including postcode)	
Telephone number	
Email address	

Would you like us to send all correspondence to the above address?	Yes
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In what capacity is the applicant applying for a premises licence?	An individual or individuals
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Please confirm the following:	The applicant is carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
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Page: Tell us about the individual applicants

How many individual applicants are there? 1

Section: Individual applicant details

Title
Full forename (s)
Surname
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? vary an existing premises licence

Section: Vary an existing premises licence

I being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described below.

Premises licence number	21/01078/LA_TRA
Name of premises or business	STOP N GO
Address line 1	53 LONDON ROAD
Address line 2	KING'S LYNN
Address line 3	
Address line 4	
Postcode	PE30 5QH
Telephone number at the premises	

Do you want the proposed variation to have effect as soon as possible? Yes

Please describe briefly the nature of the proposed variation
IT IS A LOCAL CONVENIENCE STORE. IT IS PROGRESSING TO SUPPORT LATE NIGHT CUSTOMERS AND HAVE ALL PRODUCTS AVAILABLE DURING ITS OPENING HOURS. THIS APPLICATION IS TO EXTEND THE OPENING HOURS AND SALE OF ALCOHOL.

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

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

Page: Provision of alcohol

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 06:00

End time 00:00

Section: Tuesday

Start time 06:00

End time 00:00

Section: Wednesday

Start time 06:00

End time 00:00

Section: Thursday

Start time 06:00

End time 00:00

Section: Friday

Start time 06:00

End time 01:00

Section: Saturday

Start 06:00

End time 01:00

Section: Sunday

Start time 06:00

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:

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)?	Yes

Section: Please tell us more about yourself

Please tell us your date of birth (dd/mm/yyyy)	<div style="border: 1px solid red; height: 100px;"></div>
Please tell us your nationality	
Do you currently hold a personal licence?	
Personal licence number	
Personal licence issuing authority	

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 06:00
End time 00:00

Section: Tuesday

Start time 06:00
End time 00:00

Section: Wednesday

Start time 06:00
End time 00:00

Section: Thursday

Start time 06:00
End time 00:00

Section: Friday

Start time 06:00
End time 01:00

Section: Saturday

Start time 06:00
End time 01:00

Section: Sunday

Start time 06:00
End time 00:00

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

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	WILL CONTINUE WITH CURRENT OPERATING SCHEDULE WITH ADDITIONAL STEPS BE TAKEN TO MINIMISE ANY NUISANCE; 1. Prominent sign to state that customers to leave the premises quietly 2. There will not any noise arising from the activities of the premises after 21.00 hours. such as delivery
The prevention of crime and disorder	as detailed above
Public safety	as detailed above
The prevention of public nuisance	as detailed above
The protection of children from harm	as detailed above

Page: Documents checklist - varying a premises licence

Checklist

- ✓ I understand that I must now advertise the application both in the newspaper and on the premises
- ✓ I will send a copy of the advert once it has appeared in the newspaper
- ✓ I understand that I must send my certificate of service, certificate of display and original premises licence to the Borough Council of King's Lynn and West Norfolk
- ✓ I understand that if I do not comply with the above requirements my variation may be rejected

When varying your premises licence, 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 (if the layout has changed):

Uploaded files*

* If empty, no files were uploaded

Please use this box to tell us anything else

Your ref no: Form ref:
TGDKRGSJ

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

Page: Payment summary

Application fee for RV 4301 to 33000	£190.00
Total	£190.00

Page: Declaration and payment

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.

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK
RECEIVED
20 DEC 2021
A. ENGLISH POSTAL ADMIN

Dear Sirs,

I'm writing to raise
my objection to the increased
alcohol selling hours at
Stop n Go 53 London Rd.

I live above my cafe next
door, and have to deal
with a constant stream of

people drunk sitting on
my window sill and picking
up bottles and cans daily.
My worry is fights breaking
out and my windows being
smashed. Its a nightmare
already.

Surely their hours selling

Its are enough. This is

unacceptable to all the

residents especially the elderly
on London RD.

Very concerned!



Sent: 20 December 2021 08:41
To: EH Licensing
Subject: Variation to licence Stop and Go, London Road

Categories: 

I have concerns about the application for changing the times to sell alcohol at the above premises. I objected to the original application based on issues around the location of these premises. There is located a short distant on the opposite side of the road, Merchant's Terrace, a hostel type premises for people who have been homeless and, many of whom, have issues with alcohol dependency.

I chair the Safer Neighbourhood Action Panel [SNAP] and the London Road area has become a regular Priority as it is currently particularly around anti-social behaviour. There have also been people with alcohol problems rehomed in South Everard and North Everard Streets and residents tell me they see people going to buy alcohol, sometimes in their pyjamas. There is a lot of anti-social behaviour that goes unreported to the authorities but is reported to me by people living in that area.

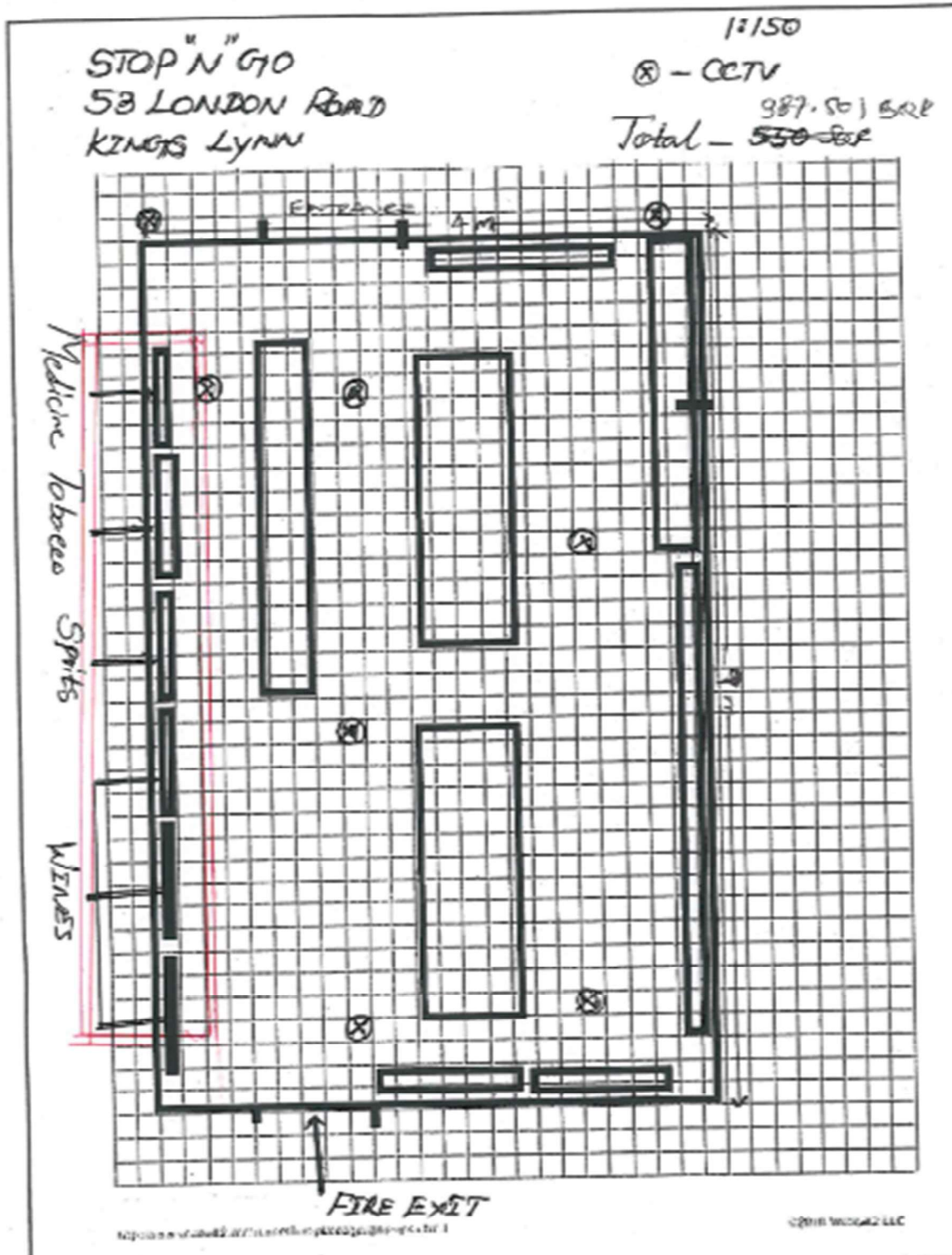
There are residents in flats above shops next door and further along, as well as HMOs and rooms to rent properties alongside and houses and flats opposite. The extended hours is not conducive to a residential area and that should be taken into account when considering this change.

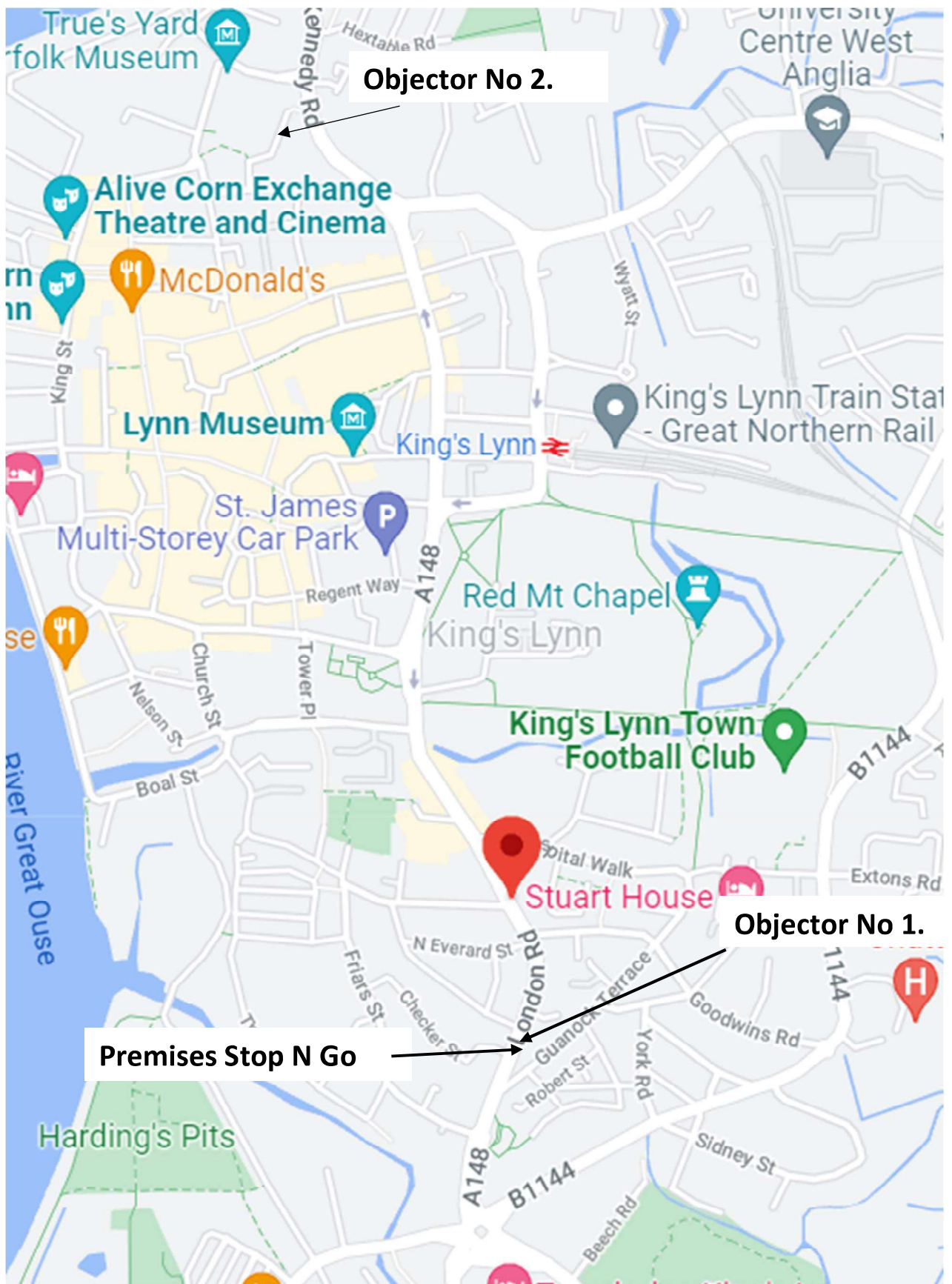
I would like all retailers to be selling alcohol during reduced hours rather than extended as I and residents cannot see why anyone would need to buy alcohol at 6am. I have volunteered at the Night Shelter for five years and I have seen alcohol dependent people leaving when shops are allowed to sell alcohol and have witnessed those very same people at such premises when I leave at the finish of my overnight shift.

I know the Licensing Act allows this but the government now wants people with dependencies to be given help rather than encouragement. It is about time the residents were considered. The existing hours [not before 9am] was to allow children going to school not to witness inebriated people.



Premises Layout: Stop N Go, 53 London Road, Kings Lynn, PE30





Objector No 2.

Premises Stop N Go

Objector No 1.

DETERMINATION NOTICE

Appendix 4 to
Report to Licensing Sub-Committee
Re: Stop N Go
Dated: 12th January 2022

Date of Hearing	24 May 2017
Sub-Committee Members	Councillors C J Crofts, T Parish and C Sampson
Legal Adviser	Noel Doran
Licensing Manager	John Gilbraith
Democratic Services Officer	Kathy Wagg
Applicant	Mr Thiagarajah Saravanapavan
Premises Address	Stop 'n' Go 53 London Road King's Lynn PE30 5QH
Responsible Authorities	None
Other Persons present	Councillor Lesley Bambridge Mr J Clench Mr D Nimmo
Application	For grant of a premises licence

APPLICATION

The Borough Council of King's Lynn and West Norfolk (the Council), being the relevant licensing authority, received an application under Section 17 of the Act for licensable activities of 'sale of alcohol by retail'. A copy of the application was attached to the Licensing Manager's report.

There were no representations from Responsible Authorities to consider.

There were five representations from 'other persons' to consider and copies of their representations were attached to the Licensing Manager's report.

HEARING

On 24 May 2017, a Hearing was held to consider the application. The Sub-Committee determined the application with a view to promoting the four licensing objectives. It considered the application on its own merits. In reaching its determination, the Sub-Committee had regard to the following matters:

- The relevant parts of the written and oral evidence before them;
- The Borough Council of King's Lynn and West Norfolk Licensing Policy;
- Statutory Guidance issued under the Licensing Act 2003;

The Sub-Committee listened to all the evidence and submissions. It heard from:

- The Licensing Manager
- The applicant
- Other persons.

SUMMARY OF EVIDENCE

The Licensing Manager presented the report to the Sub-Committee, outlining the application. He also identified the relevant extracts from the Council's Licensing Policy and the statutory guidance issued under the Licensing Act 2003.

The Licensing Manager responded to questions from all parties.

The applicant presented his case.

The applicant responded to questions from all parties.

The 'other persons' presented their case.

The 'other persons' responded to questions from all parties.

FINDINGS

The Sub-Committee had due regard to the report of the Licensing Manager, representations put forward in the agenda and the representations put forward at the Hearing by the applicant and 'other persons'.

The Sub-Committee only considered representations that were relevant to their consideration of this application.

DETERMINATION

Given the representations that have been submitted, the Sub-Committee is concerned at the preponderance of outlets from which alcohol can be purchased in the vicinity of the proposed licensed premises, in an area which is residential and regularly traversed by large numbers of school children. However, it is not the role of the Sub-Committee in determining this licence application to resolve problems that may already exist and it must operate within the principles of the licensing objectives.

The Sub-Committee noted that no representations had been received from any of the Responsible Authorities, in particular from the Police, which is a factor that must be taken into account and to which weight must be given. Because of the specific location of the proposed licensed premises, and taking into account the representations submitted, the Sub-Committee has concerns about the impact of granting a licence on the statutory objectives of the protection of children from harm and the prevention of public nuisance.

The Sub-Committee grants the application for a premises licence for Stop 'n' Go, 53 London Road, King's Lynn subject to the addition of the Mandatory Conditions, the proposed Conditions consistent with the operating schedule, as set out in the Licensing Managers Report, and an additional condition limiting the time within which alcohol can be sold to between the hours of 9.00am and 11.00pm, in the interests of promoting the statutory licensing objectives of the protection of children from harm and the prevention of public nuisance.

RIGHT OF APPEAL

There is a right of appeal against this decision to the Magistrates Court, available to both the Applicant and the persons making representations. An appeal must be commenced within 21 days beginning with the day on which notification of this decision is received. Independent legal advice may be sought from a solicitor or the Citizens Advice Bureau regarding this if consideration is being given to lodging an appeal.

Signed.....
Chairman (Councillor C J Cr



Date: 24 May 2017