

<b>Report to</b>	Licensing sub committee 8 January 2017	<b>Item</b>
<b>Report of</b>	Head of citywide services	<b>4</b>
<b>Subject</b>	Licensing Act 2003: Application to transfer premises licence to be granted, under the Licensing Act 2003 – Burys Newsagents, 159 – 161 Aylsham Road, Norwich, NR3 2AD	

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## **Purpose**

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003) to consider to transfer a premises licence under the Licensing Act 2003 (“the Act”) in respect of Burys Newsagents, 159 – 161 Aylsham Road, Norwich, NR3 2AD, following the receipt of a notice of objection from Norfolk Constabulary.

## **Recommendation**

That members determine the application to transfer a premises licence under the Licensing Act 2003 (“the Act”) in respect Burys Newsagents, 159 – 161 Aylsham Road, Norwich, NR3 2AD, following the receipt of a notice of objection from Norfolk Constabulary, in accordance with the:

- Licensing Act 2003;
- the crime prevention licensing objective
- the notice of objection received from Norfolk Constabulary
- guidance issued under Section 182 of the Licensing Act 2003; and
- Norwich City Council Statement of Licensing Policy.

## **Corporate and service priorities**

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

## **Financial implications**

None.

Ward/s: All wards

Cabinet member: Councillor Maguire – Safe City Environment

**Contact officers**

Maxine Fuller

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**Background documents**

None

## **Report**

### **Application to transfer premises licence**

1. An application to transfer premises licence number 16/02147/PREM in respect of Burys Newsagents, 159 – 161 Aylsham Road, Norwich, NR3 2AD has been received from Kamaran Ahmed. The applicant has also applied for the application to take immediate effect. The current licence-holder, Mohammed Imran, has consented in writing for the transfer of the premises licence to Mr Ahmed. A copy of the application is attached at appendix A to the report.

### **Representation by Chief Officer of Police**

2. Where a Chief Officer of Police is satisfied that the exceptional circumstances of a case are such that granting the application would undermine the crime prevention objective, he must give the licensing authority a notice stating the reasons he is so satisfied.
3. A copy of the police letter of representation in respect of the application is attached at appendix B to the report.
4. A copy of a letter supporting the police objection to this application is attached at appendix c to the report.

### **Guidance issued under section 182 of the Licensing Act 2003**

5. The updated statutory guidance which came into force in April 2017 refers to transfers of premises licences and police objections in paragraphs 8.97 to 8.100. Members may wish to refer to these extracts from the statutory guidance when determining this application:

#### ***Transfers of premises licences***

*8.97 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night refreshment. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.*

*8.98 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office (Immigration Enforcement) raise no objection*

*about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.*

*8.99 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.*

*8.100 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement).*

## **Summary**

6. Where an application is made in accordance with Section 42 of the Act and where notice is given by the police (and not withdrawn) the authority must hold a hearing to consider it unless the authority, the applicant and the Chief Officer of Police consider that a hearing is unnecessary.
7. After having had regard to the notice, the licensing authority must reject the application if it considers it necessary for the promotion of the crime prevention objective.
8. Schedule 5, Part 1 of the Act sets out the appeal provisions in relation to the application to vary the premises licence in a case where the Chief Officer of Police has given a notice (of objection) which was not withdrawn.
9. Where the licensing authority rejects the application to transfer a premises licence, the applicant may appeal against the decision.
10. Similarly, the Chief Officer of Police may appeal against the decision to grant the transfer and, in both cases, the appeal is made to the Magistrates' Court.