

Report to Licensing sub committee
27 July 2017

Item

Report of Head of citywide services

Subject Licensing Act 2003: Application to vary a premises licence to specify an individual as designated premises licence holder and application to transfer premises licence to be granted, under the Licensing Act 2003 – Magdalen Convenience Store, 128 Magdalen Road, Norwich, NR3 4AN

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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 applications to vary a premises licence to specify an individual as designated premises supervisor (“DPS”) and to transfer a premises licence under the Licensing Act 2003 (“the Act”) in respect of Magdalen Convenience Store, 128 Magdalen Road, Norwich, NR3 4AN, following the receipt of a notice of objection from Norfolk Constabulary.

Recommendation

That members determine the applications to vary a premises licence to specify an individual as designated premises supervisor (“DPS”) and to transfer a premises licence under the Licensing Act 2003 (“the Act”) in respect Magdalen Convenience Store, 128 Magdalen Road, Norwich, NR3 4AN, 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: Kevin Maguire – Safe City Environment

Contact officers

Rachel Bennett

01603 212760

Background documents

None

Report

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

1. An application to vary the premises licence for Magdalen Convenience Store, 128 Magdalen Road so as to specify Karwan Sabir as the DPS has been made by the holder of the premises licence, Mohammed Imran.
2. This application has been submitted in accordance with the provisions of Part 3 of the Act and associated Regulations.
3. Karwan Sabir has consented, in writing, to being specified as the DPS
4. The applicant has also applied to have this application taken immediate effect in accordance with Section 38 of the Act.
5. A copy of the application is attached as Appendix A.

Representation by Chief Officer of Police

6. 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
7. The police have given such a notice and state in it that their concerns relate to the fact that the proposed DPS has admitted to being the owner of the premises and being involved in managing the premises whilst underage sales have taken place and counterfeit liquor was found at the premises. The applicant has also previously received a fixed penalty notice for selling to an underage person.
8. A copy of the police letter of representation is attached at appendix C to the report.

Guidance issued under section 182 of the Licensing Act 2003

9. The updated statutory guidance which came into force in April 2017 refers to specifications of DPS's and police objections in paragraphs 4.31 to 4.42. Members may wish to refer to these extracts from the statutory guidance when determining this application:

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 relevant part (Part A) of the licence.

4.34 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.

4.35 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.

4.36 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.

4.37 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.

4.38 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

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.

4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

Police objections to existing designated premises supervisors

4.42 The 2003 Act also provides for the suspension and forfeiture of personal licences by the courts and licensing authorities following convictions for relevant offences, including breaches of licensing law. The police can at any stage after the appointment of a DPS seek a review of a premises licence on any grounds relating to the licensing objectives if problems arise relating to the performance of a DPS. The portability of personal licences is also important to industry because of the frequency with which some businesses move managers from premises to premises. It is not expected that licensing authorities or the police should seek to use the power of intervention as a routine mechanism for hindering the portability of a licence or use hearings of this kind as a fishing expedition to test out the individual's background and character. It is expected that such hearings should be rare and genuinely exceptional.

Summary

10. Where an application is made in accordance with Section 37 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.
11. 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.
12. 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.
13. Where the licensing authority rejects the application to vary the premises licence to specify an individual as a DPS, the applicant may appeal against the decision.
14. Similarly, the Chief Officer of Police may appeal against the decision to grant the variation and, in both cases, the appeal is made to the Magistrates' Court.

Application to transfer premises licence

15. An application to transfer premises licence number 14/01643/PREM in respect of Magdalen Convenience Store, 128 Magdalen Road, Norwich NR3 4AN has been received from Karwan Sabir. 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 Sabir. A copy of the application is attached at appendix B to the report.

Representation by Chief Officer of Police

16. 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.
17. A copy of the police letter of representation in respect of the application is attached at appendix C to the report.

Guidance issued under section 182 of the Licensing Act 2003

18. 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

19. 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.
20. 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.
21. 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.
22. Where the licensing authority rejects the application to transfer a premises licence, the applicant may appeal against the decision.
23. 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.



NORWICH
City Council

Licensing Office
City Hall
St. Peters Street
Norwich
NR2 1NH
licensing@norwich.gov.uk

CORPORATE RESOURCES

12 JUN 2017

POST ROOM

LLP4

APPENDIX A

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 KARIMAN SABIR being the premises licence holder, apply to vary
(full name(s) of premises licence holder)
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

141016431 PREM

RECEIVED

24 MAY 2017

LICENSING OFFICE

Part 1 – Premises details

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

128 MAGDALEN ROAD

Post town NORWICH

Post code

Telephone number (if any)

01603 416716

Description of premises (please read guidance note 1)

CONVENIENCE STORE

Part 2

Full name of proposed designated premises supervisor

KARNAN SABIR

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

PA1616

Full name of existing designated premises supervisor (if any)

~~MUHAMMAD~~ MOHAMMED HUSSEIN

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

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 the 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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

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.

Signature

.....

Date.....23/5/17.....

Capacity

.....

For joint applications signature of 2nd applicant or 2nd 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

.....

Contact name (where not previously given) and address for correspondence associated with this application (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.



Licensing Office
City Hall
St. Peters Street
Norwich
NR2 1NH
licensing@norwich.gov.uk

Part A

Consent of individual to being specified as premises supervisor

I KARWAN SABIR [full name of prospective premises supervisor]
of 128 MAGDALEN ROAD NORWICH [home address of prospective premises supervisor]
hereby confirm that I give my consent to be specified as the designated premises
supervisor in relation to the application for LICENSE [type of application]
by KARWAN SABIR [name of applicant]
relating to a premises licence 123433 [number of existing licence, if any]
for [name and address of premises to which the application relates]
and any premises licence to be granted or varied in respect of this application made
by KARWAN SABIR [name of applicant]
concerning the supply of alcohol at 128 MAGDALEN ROAD NORWICH [name and address of premises to which application relates].
I also confirm that I am applying for, intend to apply for or currently hold a personal
licence, details of which I set out below.

Personal licence number 123433 [insert personal licence number, if any]
Personal licence issuing authority [insert name and address and telephone number of personal licence issuing authority, if any]

[redacted] signed
KARWAN SABIR name (please print)
5/6/17 dated

PART B

Consent of premises licence holder to transfer

I/we MOHAMMED IMRAN [full name of premises licence holder(s)]
the premises licence holder of premises licence number [insert
premises licence number] relating to [insert
128 MAGDALEN ROAD NR34AN [name and address of
premises to which the application relates] hereby give my consent for the transfer of
premises licence number [insert premises licence number]
to [redacted] [full name of transferee].

[redacted] signed
MOHAMMED IMRAN name (please print)
5/6/17 dated





NORWICH
City Council

Citywide Services
Public Protection (Licensing)
City Hall
St Peters Street
Norwich NR2 1NH

CORPORATE RESOURCES

24 MAY 2017

POST ROOM

Application to transfer premises licence to be granted 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 KARNAN SABIR

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

1401643/PREM

Part 1 – Premises details

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

MAGDALEN CONVENIENCE STORE
128 MAGDALEN ROAD

Post town

NORWICH

Post code

NR34AN

Telephone number at premises (if any)

01603 416716

Please give a brief description of the premises

NEWAGENTS
GROCERY
ALCOHOL

Name of current premises licence holder

MR MOHAMMED IMRAN

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

Please tick ☒ yes

a) an individual or individuals*

☒ please complete section (A)

b) a person other than an individual *

i. as a limited company

☐ please complete section (B)

ii. as a partnership

☐ please complete section (B)

iii. as an unincorporated association or

☐ please complete section (B)

iv. other (for example a statutory corporation)

☐ please complete section (B)

c) a recognised club

☐ please complete section (B)

d) a charity

☐ please complete section (B)

e) the proprietor of an educational establishment

☐ please complete section (B)

f) a health service body

☐ please complete section (B)

g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales

☐ please complete section (B)

ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England

☐ please complete section (B)

h) the chief officer of police of a police force in England and Wales

☐ please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒
- I am making the application pursuant to a
 - statutory function or ☐
 - a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr

☒

Mrs

☐

Miss

☐

Ms

☐

Other title
(for example, Rev)

Surname

SABIR

First names

KARNAN

Please tick ☒ yes

I am 18 years old or over

☐

Current postal
address if
different from
premises
address

~~P~~ NOT DIFFERENT
SHOP .

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr

☐

Mrs

☐

Miss

☐

Ms

☐

Other title

(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ☒ yes

☐

Current postal
address if
different from
premises
address

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick ☒ yes

Are you the holder of the premises licence under an interim authority notice? ☐

Do you wish the transfer to have immediate effect? ☐

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick ☒ yes

I have enclosed the consent form signed by the existing premises licence holder ☐

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

☐

Please tick ☒ yes

I have enclosed the premises licence

☐

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I understand that if I do not comply with the above requirements my application will be rejected

☐☐☐☐☐

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – 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.

Signature

[Redacted Signature]

Date

08/06/2017

Capacity

For joint applicants signature of second applicant, second 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

Contact name (where not previously given) and postal address for correspondence associated with this application (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)

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
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.



Licensing Office
City Hall
St. Peters Street
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NR2 1NH
licensing@norwich.gov.uk

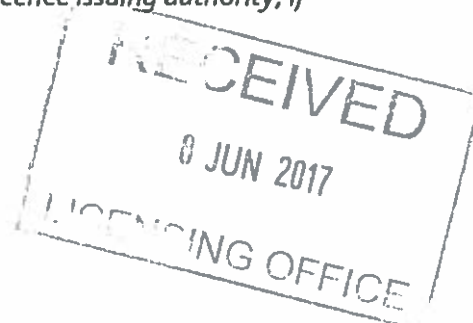
Part A

Consent of individual to being specified as premises supervisor

I KARWAN SABIR [full name of prospective premises supervisor]
of 128 MAGDALEN ROAD NORWICH
[home address of prospective premises supervisor]
hereby confirm that I give my consent to be specified as the designated premises
supervisor in relation to the application for LICENSE [type of application]
by KARWAN SABIR [name of applicant]
relating to a premises licence [number of existing licence, if any]
for 128 MAGDALEN ROAD NORWICH
[name and address of premises to which the application relates]
and any premises licence to be granted or varied in respect of this application made
by KARWAN SABIR [name of applicant]
concerning the supply of alcohol at 128 MAGDALEN ROAD
[name and address of premises to which application relates].
I also confirm that I am applying for, intend to apply for or currently hold a personal
licence, details of which I set out below.

Personal licence number 123433 [insert personal licence number, if any]
Personal licence issuing authority
[insert name and address and telephone number of personal licence issuing authority, if
any]

[REDACTED] signed
KARWAN SABIR name (please print)
4/6/17 dated



PART B

Consent of premises licence holder to transfer

I/we MOHAMMED IMRAN [full name of premises licence holder(s)]
the premises licence holder of premises licence number [insert
premises licence number] relating to 128 MAGDALEN ROAD
NORWICH NR3 4AN [name and address of
premises to which the application relates] hereby give my consent for the transfer of
premises licence number [insert premises licence number]
to [full name of transferee].

[REDACTED] signed
MOHAMMED IMRAN name (please print)
5/6/17 dated