

<b>Report to</b>	Licensing sub committee 16 August 2017	<b>Item</b>
<b>Report of</b>	Head of citywide services	<b>4</b>
<b>Subject</b>	Licensing Act 2003: Application to vary a premises licence to specify an individual as designated premises licence holder – European Off Licence, 3 Aylsham Crescent Norwich NR3 2RZ	

## **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 an application to vary a premises licence to specify an individual as designated premises supervisor (“DPS”) under the Licensing Act 2003 (“the Act”) in respect of European Off Licence, 3 Aylsham Crescent Norwich NR3 2RZ, following the receipt of a notice of objection from Norfolk Constabulary.

## **Recommendation**

That members determine the application to vary a premises licence to specify an individual as designated premises supervisor (“DPS”) under the Licensing Act 2003 (“the Act”) in respect of European Off Licence, 3 Aylsham Crescent, Norwich, NR3 2RZ, 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 – Licensing Assistant

01603 212761

## **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 European Off Licence, 3 Aylsham Crescent Norwich NR3 2RZ so as to specify Ugur Baris as the DPS has been made by the holder of the premises licence, Ugur Baris.
2. This application has been submitted in accordance with the provisions of Part 3 of the Act and associated Regulations.
3. Ugur Baris 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. A copy of the police letter of representation is attached at appendix B(not for publication under paragraphs 1 and 3 of Schedule 12A to the Local Government Act 1972) to the report.

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

8. 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**

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. A copy of the police letter of representation in respect of the application is attached at appendix B to the report.

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



**Norwich**  
**Application to vary a premises licence to specify an**  
**individual as designated premises supervisor**  
**Licensing Act 2003**

For help contact  
 licensingapplications@norwich.gov.uk  
 Telephone: 0344 980 3333

\* required information

### Section 1 of 4

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

☒ Yes ☐ No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

### Applicant Details

\* First name

UGUR

\* Family name

BARIS

\* E-mail

robert@licenses-r-us.co.uk

Main telephone number

Include country code:

Other telephone number

☒ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- ☒ Applying as a business or organisation, including as a sole trader  
☐ Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

### Applicant Business

Is the applicant's business registered in the UK with Companies House?

☐ Yes ☒ No

Note: completing the Applicant Business section is optional in this form.

Is the applicant's business registered outside the UK?

☐ Yes ☒ No

Business name

If the applicant's business is registered, use its registered name.

VAT number

 - 

Put "none" if the applicant is not registered for VAT.

Continued from previous page...

Legal status

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

**Applicant Business Address**

If the applicant has one, this should be the applicant's official address - that is an address required of the applicant by law for receiving communications.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Agent Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

☒ An agent that is a business or organisation, including a sole trader

☐ A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent Business**

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

**Agent Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 4**

**PREMISES DETAILS**

I/we apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003.

\* Premises licence number

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

**Address**

\* Building number or name

\* Street

District

\* City or town

County or administrative area

Postcode

\* Country

**Contact Details**

E-mail

Telephone number

Other telephone number

Describe the premises. For example, what type of premises it is

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OFF LICENCE SHOP

**Section 3 of 4**

**SUPERVISOR**

**Full Name Of Proposed Designated Premises Supervisor**

\* First name

\* Family name

\* Nationality

\* Place of birth

\* Date of birth  /  /

Personal licence number of proposed designated premises supervisor

Issuing authority of that licence

**Full Name Of Existing Designated Premises Supervisor**

First name

Family name

\* Would you like this application to have immediate effect under section 38 of the Licensing Act 2003?

☒ Yes ☐ No

\* Will the premises licence or relevant part of it be submitted with this application?

☐ Yes ☒ No

\* Reasons why the premises licence or relevant part of it will not be submitted with this application

DIGITAL APPLICATION - COPY WILL BE SUBMITTED SEPARATELY

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

☒ Electronically, by the proposed designated premises supervisor

☐ As an attachment to this variation



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Reference number for consent  
form (if known)

If the consent form is already submitted, ask  
the proposed designated premises  
supervisor for its 'system reference' or 'your  
reference'

#### Section 4 of 4

#### PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £23

#### DECLARATION

\* I/we understand 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.

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on  
behalf of the applicant?"

\* Full name

ROBERT SUTHERLAND

\* Capacity

AUTHORISED AGENT FOR THE APPLICANT

\* Date

15 / 07 / 2017  
dd mm yyyy

Remove this signatory

Add another signatory

**OFFICE USE ONLY**

Applicant reference number	<input type="text"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

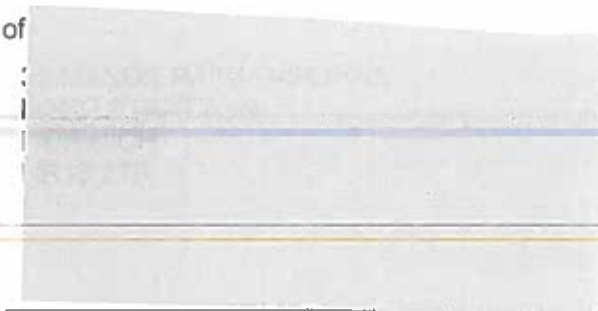
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**Consent of individual to being specified as premises supervisor**

UGUR BARIS

*[full name of prospective premises supervisor]*

of



*[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

**VARIATION OF PREMISES LICENCE**

*[type of application]*

by

UGUR BARIS

*[name of applicant]*

relating to a premises licence

15/01114/PREM

*[number of existing licence, if any]*

for

EUROPEAN OFF-LICENCE  
3 AYLSHAM CRESCENT  
NORWICH  
NR3 2RZ



*[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

UGUR BARIS

*[name of applicant]*

concerning the supply of alcohol at

EUROPEAN OFF-LICENCE  
3 AYLSHAM CRESCENT  
NORWICH  
NR3 2RZ

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

*[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



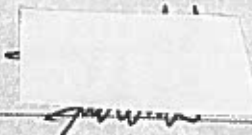
*[insert personal licence number, if any]*

Personal licence issuing authority



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

Signed



Name (please print)

UGUR BARIS

Date

13/07/2017