

APPENDIX 3

Harrow Council, Licensing Section, P O Box 18, Station Road, Harrow.

Making a Representation against an Application (New or variation) for a premises licence or club premises certificate 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 Ash Waghela make this representation under (Insert name of applicant) The Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description SOUTH PARADE EXPRESS, 50 South Parade Mollison Way	
Post town Edgware,	Post code (if known) HA8 5QL.

Name of premises licence holder or club holding club premises certificate (if known)
Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am	Please tick below
1) an interested party (please complete (A) or (B) below)	<input type="checkbox"/>
a) a person living in the vicinity of the premises	<input type="checkbox"/>
b) a body representing persons living in the vicinity of the premises	<input type="checkbox"/>
c) a person involved in business in the vicinity of the premises	<input type="checkbox"/>
d) a body representing persons involved in business in the vicinity of the premises	<input type="checkbox"/>

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms other title
(for example, Rev)

Surname

First names

Please tick below

I am 18 years old or over

Current address

Post Town

Post Code

Daytime contact telephone number

Email address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mr Ash Waghela Licensing Officer, Commercial Licensing LondonBorough of Harrow Harrow Civic Hub Forward Drive Harrow HA3 8FL
Telephone number (if any) 07927548402
E-mail (optional) Ash.waghela@harrow.gov.uk

This representation relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|---|
| 1) the prevention of crime and disorder | ✓ |
| 2) public safety | ✓ |
| 3) the prevention of public nuisance | ✓ |
| 4) the protection of children form harm | ✓ |

Please state the ground(s) for representation(please read guidance note1)

I make this representation on behalf of the Licensing Authority acting as a responsible authority..

This application is for a premises licence to enable the premises to carry out the activity for the retail sale of alcohol for consumption off the premises.

The licensing authority objects to the grant of this licence and would recommend that the application is refused in its entirety as the grant of the application would lead to the undermining of one or more of the licensing objectives.

Please provide as much information as possible to support the application (please read guidance note 2)

In making our representation and recommendations, we have taken into account provisions made under the Licensing Act 2003, the Statutory Guidance and additional guidance (A practical approach to making representations to a licensing authority) (AW1) issued by the Government.

Premises History:

The premises licence was granted to Mrs Mathivathani Kenkarajah in November 2008. Mrs Kenkarajah was also the DPS. Despite the licensing authority and the police working with the licensee to ensure compliance, the premises licence was reviewed by the Metropolitan Police and was subsequently revoked in September 2019. In Summary, there were consistent breaches of conditions, and consistent undermining of the Licensing Objectives. The licensee appealed the authority's decision which was dismissed by the courts. The full licensing authority report for hearing, decision and the court decision are attached (AW2)

Land Registry:

The authority has checked details on land registry and found that the official copy of the register of title (document numbers: AGL375707 and NGL 894221) contains the following covenant: under the third schedule:

"3. No part of the land transferred or any building erected or hereafter erected thereon shall at any time be used as or for a public house hotel inn tavern or beer shop or for the sale of wine beer or spirits (which shall include the sale or consumption of wine beer or spirits on any building erected or hereafter erected on the land hereby transferred if used as a Club) "

Copies of these documents are attached to this representation (AW3)

The Application Section 1

The applicant is Piraveenth Kenkarajah. It is stated that his position in the business is a sole trader and is the owner manager.

The records held by Land Registry do not reflect him as being in being in control or "owning" the business.

We would like the applicant to show what accountability he will have towards the premises if a licence is granted. One way to show this accountability is to provide us with evidence that he is legally entitled to trade from the premises.

Statutory Guidance

Section 8.17 and 8.18 of the current statutory guidance refer to clarity in accountability of applicants:

8.17 In considering joint applications (which is likely to be a rare occurrence), it must be stressed that under section 16(1)(a) of the 2003 Act each applicant must be carrying on a business which involves the use of the premises for licensable activities. In the case of public houses, this would be easier for a tenant to demonstrate than for a pub owning company that is not itself carrying on licensable activities. Where licences are to be held by businesses, it is desirable that this should be a single business to avoid any lack of clarity in accountability.

8.18 A public house may be owned, or a tenancy held, jointly by a husband and wife, civil partners or other partnerships of a similar nature, and both may be actively involved in carrying on the licensable activities. In these cases, it is entirely possible for the husband and wife or the partners to apply jointly as applicant for the premises licence, even if they are not formally partners in business terms. This is unlikely to lead to the same issues of clouded accountability that could arise where two separate businesses apply jointly for the licence. If the application is granted, the premises licence would identify the holder as comprising both names and any subsequent applications, for example for a variation of the licence, would need to be made jointly.

Despite entering in to correspondence with the applicant's agents, regarding accountability, the applicant has remained silent on this subject.

The Application Section 5

Under the general description of the premises, the applicant states that the business *was run by his family members*. Licensing officers have visited the premises on two recent occasions:

7 August 2023 – A visit was carried out to the premises to check the blue notice – Mrs Mathivathani Kenkarajah was behind the counter serving customers. This was the historical licensee and DPS.

14 September, A visit was carried out to the premises to check the blue notice. Mr Nadarajah Kenkarajah was present at the premises. There were no other members of staff present at the time.

Mrs Mathivathani Kenkarajah and Mr Nadarajah Kenkarajah are the named individuals were responsible for breach of conditions and the undermining of the licensing objectives which led to the previous premises licence being revoked and it appears to the licensing authority that they are still in control of the premises.

Application Section 18

Point 7 a), b), c) d) and e) refer to deliveries of alcohol. It is to be noted that this area is a mix of residential and commercial properties. The residential properties are in very close proximity to this premises and there is a possibility of the risk of undermining the public nuisance objective in the form of delivery scooters – drivers causing nuisance in the late hours or early hours of the day. The applicant has not offered any conditions or provided a risk assessment in order to eliminate this risk.

The licensing authority would like the applicant to make visible the content of any training programmes that will be used for staff who work at the premises or who may be carrying out deliveries in respect of on line orders.

The licensing authority is aware that the police have made a representation that suggested conditions that should be attached to the premises licence should it be granted. At the current time, it is understood that no agreement has been made about acceptance of these conditions.

For the reasons above, it is the authority's point of view that in its current form and content, this application be refused in its entirety.

Please tick below

Have you made a representation relating to this premises before

If yes please state the date of that representation, Day Month Year

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If you have made representations before relating to this premises please state what they were and when you made them

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

Part 5 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent.

(please read guidance note 4)

If signing on behalf of the applicant please state in what capacity.

Signature Ash Waghela.....

Date 12 September 2023
.....

Capacity Commercial Licensing Officer.....

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 using an email address your e mail address (optional)	

Notes for Guidance

1. The ground(s) for representation must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems, which are included in the grounds for representation if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address, which we shall use to correspond with you about this representation.

Relevant Representations means;

- a) are about the likely effect of the grant of the premises licence or club premises certificate on the promotion of the licensing objectives,
- b) that the representation were made by an interested party or responsible authority within the period prescribed, 28 days from the application was advertised.
- c) in the case of representations made by an interested party (who is not also a responsible authority) that they are not, in the opinion of the relevant Licensing Authority, frivolous or vexatious.

Further restrictions apply relating to Police Representations on DPS’s and representations on provisional statements. Please check with the Licensing Section.

[Home](#) > [Alcohol licensing: making representations](#)

[Public Health](#)
[England](#)

Guidance

A practical approach to making representations to a licensing authority

Published 9 May 2019

Contents

1. [Awareness of the tests involved](#)
2. [Effective representations and relevant evidence](#)
3. [Partnership and engagement](#)
4. [Monitoring and review](#)



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This publication is available at <https://www.gov.uk/government/publications/alcohol-licensing-making-representations/a-practical-approach-to-making-representations-to-a-licensing-authority>

This guidance forms part of the resources in [Alcohol licensing: a guide for public health teams \(https://www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams\)](https://www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams) and is best read alongside the rest of the resources to give added context and guidance.

This is a guide to help all responsible authorities (RAs) to:

- identify the applications that may have a negative impact on the promotion of the licensing objectives
- apply a stepped approach to making a representation

This is not just about refusing licenses, but also how conditions put on the licence can help applicants to promote the licensing objectives and ensure their premises are well run.

Some of the points below may be more relevant to specific RAs, but you should consider all the points in this document.

RAs should apply this within the context of their local area. Each RA will have different priorities, and understanding these priorities provides a useful framework for determining whether to make relevant representations.

For more information on the role of RAs see chapter 9 (determining applications) of the latest [section 182 of the Licensing Act 2003 guidance \(https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003\)](https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003).

1. Awareness of the tests involved

The licensing regime has a clear focus on promoting the 4 statutory licensing objectives, which the Licensing Act outlines as:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Each new application, or variation of an existing licence or club premises certificate, must assess the likely effects that granting the application will have on the promotion of the licensing objectives. This is a 'prospective consideration' [\[footnote 1\]](#), which aims to prevent adverse consequences from operating the premises. You should make the consideration based on the likely impact on the licensing objectives. This test should also apply if you're reviewing an existing licence or club premises certificate.

Not every application will need a response from every RA. Instead, RAs should identify the types of applications that could cause problems and undermine the promotion of the licensing objectives and apply this information accordingly. In each case, you should consider the relevance to and likely effects on the licensing

objectives of the particular premises in the particular location, being used in the particular way. You must consider each application on its own merit.

2. Effective representations and relevant evidence

All RAs can be involved in the application, and they will probably approach it from their specific point of view. For example, the police are likely to focus on crime and disorder. But all RAs can object on the grounds of any of the 4 licensing objectives, and public health teams should consider this when reviewing this information.

The following guide is a practical approach to evidence and representations to help all parties participate effectively in the process.

2.1 Premises

Where known, set out the proposed or actual operation of the premises. The 'operation' of a premises is wider than the licensable activities. For example, licensable activities operating in a restaurant differ to those operating from a small off-licence or late-night club.

The size and capacity of the premises will also have an impact on the surrounding environment.

Consider the effects and impact of this on the licensing objectives by asking:

- what are they going to be doing?
- is there a refusals book?
- what is the premises' capacity and how will it be managed?
- what is the history of the premises' operation before the application was made?
- what is the likely customer base and audience profile?

Consider whether the premises have a responsible approach towards alcohol sales, for example:

- do they have adequate staff training?
- do they have a robust age verification policy in place, such as [Challenge 21](https://beerandpub.com/campaigns/challenge-21/) (<https://beerandpub.com/campaigns/challenge-21/>)?
- are they planning irresponsible price promotions?
- do they have suitable entry policies if it's an on-licensed premises?

All the questions should try to find out how, and in what way, the premises will operate.

The nature and scope of the operation are crucial to assessing:

- the likely effects

- the actual effects
- the relevance to the licensing objectives

Remember that the operation can change during each day, week, month and year. If you do not know the operation or it's unclear, say so and reserve your position so you can comment once the operation and use of the premises is clear to you. You must do this within the consultation period.

2.2 People

The people owning or running the premises are ultimately responsible for adhering to the licensing conditions and promoting licensing objectives.

Do you know the people who make the decisions that matter and control the premises and the staff? This could include:

- managers
- the designated premises supervisor
- other staff
- independent contractors (like [Security Industry Authority](https://www.sia.homeoffice.gov.uk/Pages/home.aspx) (<https://www.sia.homeoffice.gov.uk/Pages/home.aspx>) staff)

Unless the application is for a new licence, the police are the only authority able to object to a change of designated premises supervisor (DPS), and only if they believe the change would undermine the prevention of crime objective.

In most cases, it's not possible to know all the various people and staff who will be responsible for the day-to-day running of the premises, as the only named requirements are the premises' licence holder and the DPS.

Are the various people and staff involved able to meet their commitments? If you have confidence in them, say so. If not, say so and explain why not. If you do not know, say so and reserve your position, so you can comment once the control, management, and staff of the premises are clear to you.

Also, consider how the applicant could demonstrate they can meet their commitments, and what sort of measures or conditions, like training, they could put in place to help them meet their commitments.

2.3 Physical characteristics of the premises

The physical characteristics of the premises can affect how they stick to the licensing conditions and the promotion of the licensing objectives.

If you have the opportunity, go and visit the premises, if only from the outside. Describe what you see. For example, a nightclub in a single-glazed listed building might be noisy and disturb neighbouring homes or flats. Premises with an outdoor space for eating, drinking or smoking will have an impact on things such as noise or litter. Visit and say what you see.

While visiting the premises, look at the local area and note what else is in the area. What other premises, facilities or features are near the premises? Briefly describe the surrounding area. Provide a plan if it helps. For example:

- what are the neighbouring premises?
- are there any premises, locations or uses that concern you?
- what are the transport facilities, open spaces, places where children might congregate, other entertainment facilities or known crime location hot spots?
- what are the operating times of nearby premises relative to the premises involved in the application?

Focus on what the issue is, and why it's an issue. If you identify concerns about the application, can you recommend appropriate changes to the premises that would help improve or reduce issues to the promotion of the licensing objectives?

2.4 Policies and local initiatives

It is crucial that you reference any relevant policy considerations, either from section 182 guidance or the local statement of licensing policy. You can also consider including [relevant case law](https://www.gov.uk/government/publications/beer-licensing-using-case-law/beer-licensing-using-case-law) (<https://www.gov.uk/government/publications/beer-licensing-using-case-law/beer-licensing-using-case-law>).

Is there a cumulative impact policy in place in that area? If yes, questions to consider include:

- what impact will the premises have and is it a similar application to what's already operating in the area?
- could this impact on the licensing objectives?
- does it offer an alternative to what already exists and help to diversify the area?

Are you aware of any local initiatives that are happening in the area? For example, policing and licensing initiatives (such as [Reducing the strength campaign](https://www.local.gov.uk/sites/default/files/documents/reducing-strength-guidanc-795.pdf) (<https://www.local.gov.uk/sites/default/files/documents/reducing-strength-guidanc-795.pdf>) and [Pubwatch](http://www.nationalpubwatch.org.uk/) (<http://www.nationalpubwatch.org.uk/>)), voluntary initiatives (such as [Street Pastors](https://www.streetpastors.org/) (<https://www.streetpastors.org/>)) or better regulation schemes (such as [Business Improvement Districts](https://www.gov.uk/guidance/business-improvement-districts) (<https://www.gov.uk/guidance/business-improvement-districts>), [Best Bar None](http://bbnuk.com/) (<http://bbnuk.com/>) or [Purple Flag](https://www.atcm.org/purple-flag) (<https://www.atcm.org/purple-flag>)).

2.5 Local concerns

What are the local concerns? Data might help show these concerns, which could include:

- crime statistics
- local authority complaints data (like licensing or noise nuisance complaints)
- enforcement action taken by the RA, including test purchase results

- concerns from the local anti-social behaviour teams, or community drug and alcohol teams
- data on ambulance call-outs
- alcohol and late-night-related hospital admissions
- deprivation data, particularly those linked to licensable activities such as child and young person alcohol use, street drinkers or proliferation of off-sales in areas of deprivation
- data collected by primary research such as concerns or views of the residents and business communities

Remember to only consider data and concerns that are local and relevant to the premises. You will rarely find child protection or alcohol consumption data useful when considering a restaurant, but you might find the data valuable for a convenience store near to a school, youth centre or sports field.

Data and concerns should be relevant to the promotion of the licensing objectives and preferably recent. You should not reference the data and concerns if the premises were closed at the time, or the premises were used as a landmark location to report incidents that occurred nearby. However, if it is a new application it may be appropriate to reference the data and concerns in an area close by if they are happening around the times the premises wish to operate.

2.6 Operating schedule

You should consider the proposed or existing operating schedule and management style of the premises.

Applicants must be clear in their operating schedules about the activities and times at which events would take place at the premises.

An applicant should consider what could have a negative effect on the licensing objectives and address these in the operating schedule. Chapter 8 of the [section 182 guidance \(https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003\)](https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003) outlines what an applicant should consider in their operating schedule.

Licensed premises often operate in difficult circumstances, and the licensing regime seeks to promote good and best practice to premises operators and RAs. The aim is not to prevent negative effects, but to regulate and respond to these in the best way to minimise them.

If you can balance the various factors and reach a conclusion about the likely effects or their relevance to the licensing objectives, do not be afraid to say so.

If you have concerns, can you address these with the operating schedule or further practical conditions that are in the direct capability of the premises? If further conditions are appropriate, you should say so.

You could suggest other appropriate conditions, that follow the guidelines in chapter 10 of the [section 182 guidance](https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003) (<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>), and your licensing authority may have model conditions that you can change to fit the circumstances of the premises you are considering.

2.7 A balancing exercise

A decision to license a premises is a balancing exercise between equally valid but conflicting interests.

Following the above steps will help you identify the relevant factors to consider. As an RA, you are an expert in your field. What is your assessment of the balance? Make this assessment, let the licensing sub-committee know and do not be afraid to have an opinion. You should also be open to amending your opinion following discussion at the committee.

If there is not enough information for you to form an opinion, highlight your concerns and reserve your opinion until you have answers. The premises operator should mostly provide these answers.

3. Partnership and engagement

Depending on the nature of the application and local circumstances, it might be appropriate to talk to the applicant directly. A premises operator can also contact the RAs to further explain their position. If you need further clarification, ask for this information in your representation.

During the consultation phase, you can discuss any concerns with other RAs. They may have information that could help.

4. Monitoring and review

Once the committee has granted an application, you should work with other RAs to monitor the impact of the licence. If problems develop, RAs should work together under an agreed enforcement protocol or policy. This can lead, among other measures, to an application for a licence review or a prosecution, and equally, keep evidence of good and successful operations to help support further licence applications.

-
1. See R (on the [application of East Lindsey District Council v Abu Hanif \(t/a Zara's Restaurant & Takeaway\)](https://www.gov.uk/government/publications/alcohol-licensing-using-case-law/alcohol-licensing-using-case-law#east-lindsey-district-council-v-abu-hanif)) (<https://www.gov.uk/government/publications/alcohol-licensing-using-case-law/alcohol-licensing-using-case-law#east-lindsey-district-council-v-abu-hanif>) [2016] EWHC 1265 (Admin), para [18].

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Licensing Panel AGENDA

DATE: Tuesday 24 September 2019

TIME: 7.30 pm *

VENUE: Committee Rooms 1 & 2, Harrow Civic Centre,
Station Road, Harrow, HA1 2XY

* THERE WILL BE A BRIEFING FOR MEMBERS AT 7.00PM IN COMMITTEE ROOMS 1 & 2

MEMBERSHIP (Quorum 3)

Chair: (To be appointed)

Councillors:

Michael Borio
Maxine Henson

Chetna Halai

Reserve Members:

Note: There are no Reserve Members currently appointed to this Panel.

Contact: Daksha Ghelani, Senior Democratic Services Officer
Tel: 020 8424 1881 E-mail: daksha.ghelani@harrow.gov.uk

Useful Information

Meeting details:

This meeting is open to the press and public.

Directions to the Civic Centre can be found at:
<http://www.harrow.gov.uk/site/scripts/location.php>.

Filming / recording of meetings

The Council will audio record Public and Councillor Questions. The audio recording will be placed on the Council's website.

Please note that proceedings at this meeting may be photographed, recorded or filmed. If you choose to attend, you will be deemed to have consented to being photographed, recorded and/or filmed.

When present in the meeting room, silent mode should be enabled for all mobile devices.

Meeting access / special requirements.

The Civic Centre is accessible to people with special needs. There are accessible toilets and lifts to meeting rooms. If you have special requirements, please contact the officer listed on the front page of this agenda.

An induction loop system for people with hearing difficulties is available. Please ask at the Security Desk on the Middlesex Floor.

Agenda publication date: Monday 16 September 2019

AGENDA - PART I

1. APPOINTMENT OF CHAIR

To appoint a Chair for the purposes of this meeting.

2. DECLARATIONS OF INTEREST

To receive declarations of disclosable pecuniary or non pecuniary interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Panel;
- (b) all other Members present.

3. MINUTES

[Note: Licensing Panel minutes are:-

- (1) approved following each meeting by the Members serving on that particular occasion and signed as a correct record by the Chair for that meeting;
- (2) not submitted to the next panel meeting for approval.

Reasons: The Licensing Panel is constituted from a pooled membership. Consequently, a subsequent Panel meeting is likely to comprise a different Chair and Members who took no part in the previous meeting's proceedings. The process referred to at (1) above provides appropriate approval scrutiny].

4. LICENSING PROCEDURES (Pages 5 - 6)

Procedure to be followed at an oral hearing.

5. APPLICATION FOR REVIEW OF THE PREMISES LICENCE FOR (A) DAY FRESH, 50 SOUTH PARADE, MOLLISON WAY, EDGWARE, MIDDLESEX, HA8 5QL (Pages 7 - 56)

Report of the Corporate Director of Community.

6. ANY OTHER URGENT BUSINESS

Which cannot otherwise be dealt with.

AGENDA - PART II - Nil

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Licensing Panel – Licensing Act 2003

Procedure For A Review Hearing - Oral Hearing in Public

*This document provides a summary of the Panel's procedure for the conduct of this oral hearing in public. This procedure is followed during a **REVIEW** procedure.*

*Please note that the **Applicant** is the party who has requested the Hearing*

- i. **Introductions** by the Chair of the Panel:
 - Members
 - Officers and Officers of Responsible Authorities
 - Applicants and Objector(s)
 - the Procedure for the hearing
- ii. **Presentation** of the report (**agenda item 6**) by Officers of the Relevant Authority.
- iii. **Introduction** by the **objector(s)** of their statement. Additional material may be submitted with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.
- iv. **Questioning** of the **objector(s)** by:
 - the applicant
 - the Panel
- v. **Presentation** by the **applicant**, or their representative, of their statements. Additional material may be submitted with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.
- vi. **Questioning** of the **applicant** by:
 - the objector
 - the Panel
- vii. **Concluding statement** by the applicant.
- viii. **Concluding statement** by objector(s).
- ix. The Panel together with its legal advisor and committee clerk withdraw to consider of the application. Should the Panel wish to clarify any point with any particular party, all sides are recalled for the questions to be asked.
- x. The hearing is reconvened for the Panel to announce their decision.

Agenda Item 4

Should the application be refused or conditions be placed on the licence the Panel must give reasons for this action.

NOTES

WITNESSES: *Either side may call witnesses to support their case. Witnesses should have submitted written statements before the hearing which they present and on which they may be questioned. Witnesses introduced at short notice may speak with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.*

ADJOURNMENT: *The Panel may at any time adjourn to a later date for the further consideration of an application. The date and time should be agreed with all parties as far as possible.*



REPORT FOR: LICENSING PANEL

Date of Meeting: 24 September 2019

Subject: Application for review of the premises licence for (A) Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL

Responsible Officer: Paul Walker – Corporate Director – Community Directorate

Exempt: No

Wards affected: Edgware

Enclosures:

Appendix 1 - Application for review
Appendix 1a - Additional information provided by Applicant
Appendix 2 - Location map and image
Appendix 3 - Current premises licence and plan
Appendix 4 - Representations
Appendix 5 – Relevant Section of Statement of Licensing Policy
Appendix 6 – Relevant Section of Statutory Guidance

Section 1 – Summary

An application has been received from the Metropolitan Police Service further to s.51 of the Licensing Act 2003 (“the Act”), to review the premises licence for (A) Day Fresh, 50 South

Parade, Mollison Way, Edgware, Middlesex, HA8 5QH.

Representations received

From	Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health	<i>No representations received</i>
Trading Standards	No representations received
Area Child Protection Service	No representations received
London Fire Brigade	No representations received
<i>Metropolitan Police</i>	Application made & representations received
<i>Licensing authority</i>	No representations made
<i>Her Majesty's Revenue & Customs</i>	Representation received

Representations from other persons

1 representation received from a Councillor.

Section 2 – Report

- 2 An application has been received on behalf of the Metropolitan Police Service further to s.51 of the Licensing Act 2003 (“the Act”) to review the premises licence of (A) Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL, currently held by Mrs Mathivathani Kenkarajah
- 3 The Licensing Objectives to which the review applications relates to are:
 - a) Prevention of Crime and Disorder;
 - b) Public Safety;
 - c) Prevention of Public Nuisance; and
 - d) Protection of Children from Harm.

Description of premises

- 4 The premises are located on the busy shopping parade of South Parade, Mollison Way. The premises comprise a three storey building. The ground floor being a small grocery and off licence and the other two floors being flats.
- 5 An image of the premises and a location map are provided at Appendix 2.

Licensing history

- 6 A premises licence was first granted on 14 November 2008. There have not been any transfer or DPS variations submitted since the original grant.
- 7 The current premises licence and plan are attached at appendix 3.

Details of the application

- 8 The Application was received on the 5 August 2019. The application has been advertised in accordance with the prescribed regulations.

Representations

- 9 There have been three representations. Two are from responsible authorities being HMRC and the police and the other from a councillor.

Officer observations

- 10 The applicant alleges that during several visits by the police, the licensee has not been able to uphold one or more of the four licensing objectives. The application alleges breaches of licence conditions and the keeping of smuggled goods. The applicant states that the police and the licensing authority have worked with the applicant on several occasions to remedy the problems encountered at the premises, however the problems still continue.
- 11 The representation made by the police alleges that by the premises providing alcohol to street drinkers, this is contributing to anti-social behaviour. The representation made by HMRC shows that they have confiscated alcohol and cigarettes from the premises on several occasions as they suspected that the correct duty has not been paid. On the latest visit by HMRC on 14 August, further confiscations were made and the licensee was given the opportunity to provide VAT invoices, however, the licensee failed to provide these.
- 12 The keeping of smuggled goods is an offence under Section 144 of the Act.

Licensing policy

- 13 In considering the Application for Review as set out in Appendix 1, the Panel will bear the statement of licensing policy attached to this report at Appendix 5. The Panel has discretion to depart from the guidelines, which are designed with consistency and transparency of decision-making in mind.

Statutory guidance

- 14 Paragraph 10.27 of the Statutory Guidance (April 2018) states in part “The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the

premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder.

- 15 Section 11 of the Statutory Guidance (April 2018) issued under section 182 of the Act regarding reviews is attached to this report at Appendix 6.

Determination

- 16 The Licensing Authority is required to hold a hearing to consider the review application and any relevant representations made. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

- 17 The Licensing Panel is required to give appropriate weight to the review application, representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps (if any) that are appropriate to promote the four licensing objectives.

- 18 The Licensing Panel shall determine the application in accordance with S.52 of the Licencing Act 2003 ("the Act").

- 19 As per s.52 (3) the Act, the authority must having, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the Licensing objectives.

- 20 The steps as set out in s.52 (4) of the Act are:

- a) to modify the conditions of the licence;
- b) to exclude any of the licensable activities from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding 3 months;
- e) to revoke the licence

And for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition added.

- 21 If the Panel takes a step mentioned in subsection (4) (a) or (b), it may specify that the modification or exclusion is to have effect for a period up to three months if it considers this to be appropriate.

- 22 The Panel should also note:

- clear reasons must be given for the decision;
- any additional or modified conditions should be practicable and enforceable;
- the applicant for the review, the premises licence holder and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in schedule 5 to the Act.

- 23 In addition to determining the application in accordance with the legislation, Members must have regard to the –
- Common law rules of natural justice (i.e. ensuring a fair and unbiased hearing etc.);
 - Provisions of the Human Rights Act 1998;
 - Considerations in section 17 of the Crime and Disorder Act 1998.
- 24 The Panel must also act appropriately with regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms implemented under the Human Rights Act 1998, particularly articles 6 (relating to the right to a fair trial); article 8 (protection of private and family life); and article 1 of the First Protocol (protection of property).
- 25 The Panel, when exercising its powers, must consider section 17 of the Crime and Disorder Act 1998 which states:
- 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'*
- 26 Full copies of the Council's statement of licencing policy, hearing procedure and statutory guidance to the Act will be available at the Panel Hearing or in advance if so required.

Financial Implications

- 27 There are no financial implications.

Appeals

- 28 If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in schedule 5 to the Act, they can appeal to a Magistrates' Court within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 13 September 2019		

Name: Andrew Lucas	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 12 September 2019		

Name: Paul Walker	<input checked="" type="checkbox"/>	Corporate Director
Date: 12 September 2019		

Ward Councillors notified:	Yes
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Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community and Public Protection, Ext. 6267

Background Papers:

Revised guidance issued under section 182 of the Licensing Act 2003 (April 2018)

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>



**METROPOLITAN
POLICE**

TOTAL POLICING

Application for the Review of a Premises Licence or Club Premises Certificate 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 **PC BERESFORD 1330NW**

apply for the review of a premises licence under Section 51 of the Licensing Act 2003
for the premises described in Part 1 below

Part 1 – Premises or club premises details

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

A DAY FRESH, 50 SOUTH PARADE, MOLLSON WAY

Post town:

EDGWARE

Post code:
(if known)

HA8 5QL

Name of premises licence holder or club holding club premises certificate (if known):

MRS MATHIVATHANI KENKARAJAH

Number of premises licence or club premises certificate (if known):

0810-XR4Y-DKGW-NR8G

Part 2 – Applicant details

I am:

Please tick Yes

- | | | |
|----------|---|-------------------------------------|
| 1 | an individual, body or business which is not a responsible authority
(please read guidance note 1 and complete (A) or (B) below) | <input type="checkbox"/> |
| 2 | a responsible authority (please complete (C) below) | <input checked="" type="checkbox"/> |
| 3 | a member of the club to which this application relates (please complete section (A) below) | <input type="checkbox"/> |

PROTECTIVE MARKING

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)										
Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Any other title (e.g. Rev.)	<input type="checkbox"/>	
Surname:					First Names:					
I am 18 years old or over <input type="checkbox"/>										
Current postal address if different from premises address:										
Post town:					Post code:					
Daytime Tel. No.:					Email: (optional)					

(B) DETAILS OF OTHER APPLICANT (fill in as applicable)	
Name and Address:	
Telephone Number (if any):	
Email address: (optional)	

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT (fill in as applicable)	
Name and Address:	
PC BERESFORD - Harrow Police station – Licensing Team	
Telephone Number (if any):	
Email address: (optional)	

This application to review relates to the following licensing objective(s)		
		Please tick one or more boxes
1	The prevention of crime and disorder	<input checked="" type="checkbox"/>
2	Public safety	<input checked="" type="checkbox"/>
3	The prevention of public nuisance	<input checked="" type="checkbox"/>
4	The protection of children from harm	<input checked="" type="checkbox"/>
Please state the ground(s) for review: (please read guidance note 2)		
<p>During several visits to the premises, it has been found that the premises licence holder has not been promoting the licensing objectives to the required standard.</p> <p>During visits by police and other responsible authorities, the following issues have been found: continuously failing to uphold there conditions of there licence.</p>		

PROTECTIVE MARKING

Please provide as much information as possible to support the application: (please read guidance note 3)

The premises licence holder for A DAY FRESH, 50 MOLLISON PARADE is failing to promote the licensing objectives, specifically:

- Prevention of crime and disorder.
- Prevention of public nuisance.
- Public safety
- Protection of children from harm

Over a period of approximately 6 years, The management of A DAY FRESH have shown themselves to be one of the main contributors of Anti-Social Behaviour at the south parade area every evening this shop has a group of males drinking directly outside in the doorway and this is the reason that the licensing team was asked by the local policing team to look into this venue.

The poor practices and running of the store are having a significant negative impact on the local community. This area has a long history of Anti-Social Behaviour and crime. Police have a dedicated problem solving plan, with partners aiming to improve the area, using Public Spaces Protection Orders

Chronology – A Day Fresh, 50 South Parade Mollison Way, Edgware, Middlesex, HA8 5QL

14/11/2008

New application

11/2/2013

Meeting:

People present:

P Sivashankar

Sgt Claire Ginger

Sgt Lindsey Hartley

Ash Waghela

Mr Nadarajah Kekarajah.

Mr Kenkarajah explained that although his wife is DPs and Licensee, he is the shop owner.

He explained that a lot of burglaries are happening in the area. Som black boys are making trouble. He lives down the road on Constable Gardens and his house has been burgled 2/3 times.

Youths that live in the council flats are coming into his shop and making trouble for him.

He has called the police 2/3 times before.

Once there was a fight in front of the shop and another time, there was some beer that was stolen from the shop.

On previous occasions, he has refused the sale of alcohol.

The CCTV is ok.

Shankar has advised Mr Kenkarajah that it would be better to use branded pricing tickets and Mr Kenkarajah has advised that he does have a pricing ticket machine that will accommodate this.

council are to send him information re till guards.

council will inform trading standards regarding arranging a visit to get him enlisted on to the responsible retailers scheme.

council are to send a letter to confirm the meeting and state the breaches of licence conditions.

Posters re alcohol exclusion zone required.

12/02/2013

Mr Nadarajah & Mrs Mathivathani Kenkarajah

Our ref:

12 February 2013

Dear Mr & Mrs Kenkarajah

Licensing Act 2003 – A Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QH

Following the licensing visit to your premises on the 4 February 2013 the following breaches of the licence conditions were found:

Annex 2 condition 3 – A Till guard will be installed to secure the till.

No till guard has been installed.

PROTECTIVE MARKING

Annex 2 Condition 6 – Two (2) members of staff will be employed at the premises.

During the visit, only one member of staff was present.

Annex 2 Condition 9 – The premises will operate a challenge 21 policy, whereby any person attempting to purchase alcohol (or other age restricted product) and who appears to be under the age of 21 years, shall be asked to provide proof (i.e. passport, driver's licence or other such accredited form of photo identification) that they are over the age of 18 years.

There were no posters displayed advising customers that a challenge 21 policy is in operation or any proof provided to the licensing officers at the time of the visit that this policy is being adhered to.

Annex 2 – Condition 10 – Records on refused sales will be maintained in a refusals register and made available to the police or other responsible authorities on request.

No record of a refusals register was provided to the licensing officers during the visit.

The authority and the police had a meeting with you (Mr Kenkarajah) on the 11 February 2013 and the breaches of the licence conditions were explained to you. Subsequent to the meeting, you are required to resolve the above breaches of licence conditions with immediate effect.

As agreed, please see attached information regarding the till guards. It was recommended by Mr Sivashankar that you contact the manufacturer of your till as they may be able to provide a till guard that is specific to your model.

The authority has informed Trading Standards for Brent and Harrow about enrolling you on to the responsible retailer's scheme and they will contact you shortly regarding this.

If you have any questions or queries regarding this, please do not hesitate to contact this authority.

Yours sincerely

Ash Waghela

Licensing Support Officer

Community Safety Services

Harrow Council

24/6/2013

Visited on 24.06.13 by Amit and Ash from the council licensing team

Condition 3 not met - No till guard

Condition 6 not met - Only 1 member of staff

Condition 9 not met - No challenge 21 policy poster

Condition 10 not met - No refusal register

Challenge 21 poster given to a member of staff.

30/09/2013

Visited by Amit and Jaz from the council licensing team

Condition 3 not met - No till guard

Condition 6 not met - Only 1 member of staff

Condition 10 not met - No refusal register

09/12/2013

Visited by Amit and Jas on 09/12/13 - from the council licensing team

Condition 3 not met - No till guard

Condition 6 not met - Only 1 member of staff

Condition 10 not met - No refusal register

Staff behind the counter has not received any training.

12/05/2014

Visit on 12/5/2014. Visit by Amit and Ash - from the council licensing team

Breaches of conditions:

Condition 3: No till guard

Condition 10: No refusal register

16/05/2014:

Letter re breaches of conditions

Mathivathani Kenkarajah

16 May 2014

PROTECTIVE MARKING

Dear Mrs Kenkarajah

Licensing Act 2003 - A Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QH

Following a routine licensing visit on the 12 May 2014 to the above premises, the following breaches of conditions were found:

Condition3: No till guard has been installed for the cash till

Condition 10 - No refusal register could be produced at the time of the visit.

It is disappointing to note that following the meeting that took place at our offices on the 11 February 2013, that these conditions are still being breached.

The above breaches have been noted on 24 June 2013 and 30 September 2013 and advice has been given on both occasions to rectify this matter.

I must advise you that these breaches must be rectified with immediate effect as failure to do so may lead to a review of the premises licence where the licence authority may request the panel to revoke the premises licence. If there are special reasons as to why these conditions are not being met, it is recommended that you contact this authority to arrange a meeting to discuss this matter. Another visit will be carried out shortly to ensure that the breaches of conditions have been dealt with.

Yours sincerely

Ash Waghela

Licensing Officer

Environment and Enterprise

Harrow Council

23/10/14

Voluntary closure of premises by food team.

Reason:

Mouse and rodent activity and standard of cleanliness.

17/11/2014

Visit with Peter Coates and Amit Kandeli from council licensing team:

Breaches found:

No Till Guard

No refusal Register

Only one member of staff on the premises at time of visit

Exhibition of films - not licensed.

27/01/2015:

Visit with Amit Kandelia from council licensing team.

Breaches of conditions:

No till guard

No refusal register

03/06/2015:

Pace invite sent for 15 June 2015 at 2.00pm

15/06/2015:

Received a call from licensee's husband which went to voicemail. Licensee is not well today - has fever. Have re-arranged a pace interview for Monday 22/6/2015 @ 11:00 AM

01/07/2015

Pace interview completed with Natasha O donohue. (council)

07/07/2015

Caution issued.

07/07/2015

Visited premises. Hand delivered caution. Mrs Kenkarajah signed the caution.

PROTECTIVE MARKING

20/09/2017 – S47 notice served for trade waste:
Date: 4/20th September 2017 Environment and Enterprise
Simon Baxter
Divisional Director

Mr N Kenkarajah
(A) Day Fresh 50 South Parade
Mollison Way HA8 5QL

Our ref WK/000633687

Environmental Protection Act 1990 – s.47(2), 47ZA, 47ZB
(Receptacles for Controlled waste)

I am writing to advise that by virtue of the above Act that;

“If it appears to a Waste Collection Authority that there is likely to be situated, on any premises in its area, commercial waste or industrial waste of a kind which, if the waste is not stored in receptacles of a particular kind, is likely to cause a nuisance or to be detrimental to the amenities of the locality, the authority may, by notice served on him, require the occupier of the premises to provide at the premises receptacles for the storage of such waste of a kind and number specified”.

Therefore, the London Borough of Harrow, by way of this notice requires that;

1. All your waste is placed in a correct commercial waste refuse container(s) and have enough containers to hold all your waste.
2. Your waste container(s) must be secure at all times the lid must close shut.
3. You must not overfill your container(s), if required increase the number of collections.
4. No waste, even in sacks, should be stacked on top of or around your containers.
5. You must take suitable steps to prevent interference with your waste.
6. You must take suitable steps to ensure your waste does not escape the container
7. You must take suitable steps to ensure that all your employees handle your waste in accordance with the terms of this notice; it is your responsibility to instruct them.
8. Your waste bins must be kept off the Public Highway, and only placed out on collection days, once the waste bin or bins have been emptied they must be taken off the Public Highway as soon as possible.

Continued.

IF YOU FAIL, without reasonable excuse to comply with any of the requirements of this notice then;

a) you will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000)

or

b) you may be issued with a £100 fixed penalty notice in lieu of prosecution.

I trust that we can rely upon your co-operation in this matter. If you have any queries please do not hesitate to contact me on the telephone number provided, I will be happy to clarify anything you do not understand.

Yours faithfully,

Mr C Dalby
Environmental Compliance Officer
The Environmental Protection Act 1990 provides as follows:

s. 47 Where an occupier is required to provide any receptacles he may, within 21 days of the notice being served or 21 days of any requirement to provide receptacles coming into force, appeal to a Magistrates' Court against the notice, on the following grounds:

- (a) The requirement is unreasonable; or
- (b) The waste is not likely to cause a nuisance or be detrimental to the amenity of the locality.

Where an appeal against a requirement is brought, the requirement shall be of no effect pending the determination of the appeal. A court can either quash or modify the requirement or dismiss the appeal.

Appeals can only be brought where an occupier is required to provide their own receptacles. Appeals cannot be brought in relation to other requirements about the placing of receptacles for collection or the types of waste that may be placed in the receptacle.

13-14/11/2017

Please see attached a caution issued following a pace interview for breach of conditions.

I don't think that speaking with them would do any good as history shows visits, warning letters, meetings, pace and caution.

PROTECTIVE MARKING

As this was less than 3 years ago, maybe a review of the premises licence with a view to suspension or revocation as they have a clear disregard for upholding the licensing objectives ?

Regards

Ash Waghela | Licensing Officer
Public Protection | Community Directorate

www.harrow.gov.uk

From: Patrick.A.Moran [REDACTED] POLICE
Sent: 13 November 2017 16:20
To: Jeffrey.Leib [REDACTED] Ash Waghela
Subject: Day Fresh 50 South Parade Mollison Way Licence number 0810-XR4Y DKGW NR8G

Jeffrey

I have visited the above premise today regarding a report of CCTV system being reported as being faulty. The hard drive on the CCTV system was replaced on Sunday 12/11/2017. The system appeared to be functioning now. The following breaches were found on my visit. Condition 6 Statutory firefighting equipment was found in the rear locked room There were two(2) water and Two (2) CO2 which have not seen the light of day for a considerable amount of time. There were no service stickers on them. I explained to MR Mathivathani KENKARAJAH the equipment should be serviced regularly, be on the shop floor in case of emergency. Condition 8 he was the only staff member in the premises on visit. He informed me the other person had gone out? There wasn't a full copy of premises licence on site or training record for staff. No incident log or refusal register on site (he mentioned his wife may have put it somewhere) Don't believe there is one in existence.

Patrick Moran
Harrow Police Licensing Officer

16/11/2017
Mathivathani Kenkarajah
(A) Day Fresh
50 South Parade Mollison Way
Edgware
Middlesex
HA8 5QL 16th November 2017
Our ref: CE/CSS/LIC/WK/000637021

Dear Sir

(A) Day Fresh, 50 South Parade Mollison Way, Edgware, Middlesex, HA8 5QL
Licensing Act 2003 – Breach of conditions
Following the recent visit by the police to your premises on the 13 November 2017, it was found that condition 1, 6, 9 and 10 of annex 2 of your premises licence were not complied with.
The authority would like to invite you to a meeting to be held at our offices on Thursday 23 November 2017 at 11:00am to discuss the matter.
Our address is: Licensing Department, 1st Floor, Unit 1, Central Depot, Forward Drive, Harrow, HA3 8NT.
On arrival, please use the courtesy phone located outside of the main doors of Unit 1 to contact the Licensing Team.
If you have any enquiries or if this date and time is not convenient for you and you would like to arrange an alternative date and time, please contact us on the details below.

Yours sincerely
Ash Waghela | Licensing Officer
Public Protection | Community Directorate

23/11/2017 - Letter sent from council
(A) Day Fresh
50 South Parade Mollison Way
Edgware
Middlesex

PROTECTIVE MARKING

HA8 5QL 23rd November 2017
Our ref: CE/CSS/LIC/WK/000637021

Dear Mrs Mathivathani Kenkarajah,
Licensing Act 2003

(A) Day Fresh, 50 South Parade Mollison Way, Edgware, Middlesex, HA8 5QL

This letter is to outline what was agreed at the meeting you attended this morning. Attending with me, were PC Moran and Derek Fergus, (Licensing Officer).

We explained that previously you had breached conditions 6 of your Premises licence which states, "two (2) members of staff will be employed at the premises," and condition 10 which states, "Records on refused sales will be maintained in a refusals register and made available to the police or other responsible authorities on request."

I note that you have found the refusals register so you have complied with that condition. However, I recommend that you consider having condition 6, removed from your licence because every time there are not 2 people present in the shop, you will be in breach of your licence and thereby commit an offence.

It is very important that you understand, if you breach this condition, your licence can be reviewed by the Licensing sub-committee and conditions can be applied, which could mean restrictions are imposed to limit your alcohol sales, or your licence could be revoked which would stop you selling alcohol altogether. Another consequence could mean that the council will start prosecution proceedings against you.

We also spoke about setting up an Off Watch scheme in your area and you seemed keen to participate, therefore I hope to contact you in due course to discuss this further.

If you do not fully understand this letter, may I suggest that you take it to someone who can explain it to you in your own language as it is very important.

If I can be of further assistance please do not hesitate to contact me. Yours faithfully

Jeffrey Leib
Licensing Team (CSS),
Community Safety

Email: licensing@harrow.gov.uk

23/11/2017

Duplicate documentation issued by the council

11/06/2018 - Email chain from a resident that was sent to the licensing team at the council

Dear Licensing Team

Please find attached licensed premise form, we need your help to stop A day Fresh shop causing antisocial behaviour, trading illegally and non payment of vat and tax. My elderly parent feel unsafe and unheard they gave lived for the past 40 years and things are getting worse.

broken alcohol bottles, people urinating in the side of the shop and the alleyway to the back of the shop which visible from our house. if nothing gets done i am going to report this issue to the press. In all honesty my parents house gets all this litter including bottles, food consumed boxes, wrappers from food, raw meat in drive way which i have to pick up, my parents cry and tell me do something, they don't need this in their life this issue.

I would appreciate your reply

thank you

(Name has been removed for data protection)

On Mon, Jun 11, 2018 at 10:35 PM,

>

> Thank you so much for coming back to me. My parents are upset, nothing gets done.

> 1) the alcohol is offloaded from the van with eastern european number

> plates, i have picture of the incident and taken to A day Fresh and

> other vans delivery.

> 2) this morning i went to see my parents to see everything was fine

> the drinking went on to 11pm at night and noise level as well, i

> noticed bottle, cans and rubbish. i have taken pictures of this as

> proof i shall send you.

> Your cleaning team are great and i have discussed this issue with them

> and they also agree with me, you need to address the source of the

> problem, i drive past Burnt Oak, Kingsbury, Queensbury with similar

> shops but not seen this issue. we need cctv to catch the rubbish dump

> near the green bin and signs saying no dumping with a fine. we would

> like the bin to be removed there is a bin 30 yards. and also the bird

PROTECTIVE MARKING

> feeding environmental issue also needs to be addressed.
> thank you for the link i shall complete this today. I don't want my
> parents name mentioned.

> Dear council

>
> This shop license must revoke i urge you the revoke their license.
> this is an ongoing issue enough of excuses. I would appreciate if you
> could acknowledge the issue. I am happy to meet you in person. I
> shall be completing the website as mentioned above.
> thank you
> Name removed for Data protection

> On Mon, Jun 11, 2018 at 10:12 AM, <kate.Curley [REDACTED]> wrote:

>> Dear name removed for data protection,

>>

>> Thank you for your email.

>>

> I am sorry to hear these issues are continuing to have a detrimental effect on your family.

With regards to the issues you have highlighted below, I would like to provide you with the following updates:

>>

>> Firstly, there is a Public Spaces Protection Order in place on Mollison Way which prohibits individuals from street drinking in the area. I have requested that the Local Safer Neighbourhood Team and Kingdom Security Enforcement officers patrol the area as much as possible and those identified to be in breach of the PSPO will be issued with fixed penalty notices.

>>

>> This case has also been referred through to the Licensing Department. I am aware that the Licensing Department visited all off-licences on Mollison Way in January to set up an Off-Watch scheme and remind them about responsible alcohol sales. However following your complaint, the Licensing Department along with Police will be carrying out a visit to A Day Fresh before the end of the month, to take either enforcement action or to see whether additional licence conditions are required. An update will be provided once this inspection is conducted.

>>

>> I also wish to inform you that you have the power to apply for All Day Fresh's licence to be reviewed by your three Edgware councillors, please find further information at http://www.harrow.gov.uk/info/200063/licences_and_street_trading/1802/complaints_about_licensed_premises/3. You will also find the details of your three Edgware Councillors at <https://www.gov.uk/find-your-local-councillors>. I have copied Cllr Nitin Parekh in above.

>>

>> With regards to the comments you made regarding "alcohol been offloaded from a van of Eastern Europeans", please can you clarify if this alcohol if being offloaded for A Day Fresh or is this alcohol being sold directly from the van to those street drinking?

>>

>> With regards to the over flowing bins, I have notified the Street Cleaning department of this issue and I am currently awaiting their feedback.

>>

>> I will continue to keep you updated.

>>

>> Kind regards

>> Kate

>>

>> Kate Curley

>> Community Safety Officer (East)

>> Community Safety Unit

>> Harrow Council

>> London Borough of Harrow

>> Forward Drive

>> Harrow

>> HA3 8NT

>>

>>

>>

>>

>>

>>

>> -----Original Message-----

PROTECTIVE MARKING

>> From: removed for data protection
>> Sent: 11 June 2018 00:10
>> To: ASB
>> Subject: Antisocial behaviour issues ongoing on Mollison Way &
>> Lawrence crescent HA8
>>
>> Dear ASB team
>>
>> We have reported numerous times ongoing issues which nothing gets
>> done, it is of concern now and I would like to escalate to the head
>> of the department and the councilor responsible for Harrow Queensbury:
>>
>> 1) Alcohol Drinking and antisocial behavior - just today Sunday 10
>> June at 9:30am i visited my elderly parents in the drive way (1
>> Lawrence Crescent) two pint size glasses broken and empty alcohol
>> bottles, which stopped my getting in the drive way of 1 Lawrence
>> crescent. I had to pick the glass myself. I got badly looked at by
>> people drinking sitting on the floor near the green litter on the
>> corner. I picked up my old mother and on my return at midday more and
>> more people outside on the corner and outside the shop drinking
>> alcohol. having lived for 36 years this is unacceptable, how many
>> times do we have to complain. this drinking will stop at midnight and
>> the noise factor as well and people ringing your door bell.
>>
>> I can not understand one shop can cause this and on the corner
>> Mollison Way of Lawrence crescent 'A day Fresh', I know for a fact
>> and taken picture of alcohol been offloaded from a van of eastern
>> european and i have picture in fact i was threatened but i did not
>> want to complain my parents are ill and old they pay they rates and
>> service is absolutely a shamble. Its time your team did something
>> with this issues as follows:
>>
>> 1) 'A Day Fresh' shop Alcohol license should be removed. we have
>> tolerated with this for the last five years, now its beyond tolerance.
>> My parents do not leave the house and also people drink and seat on
>> their wall leaving their empty cans, bottle, takeaway food which my
>> parents are unable to pick due to their disability. I should sent my
>> hourly bill to Harrow council or harrow council clear this up on a
>> daily basis.
>>
>> Also out sign of fines '£500 fine' which you have done in Queensbury
>> station and cameras and fine for selling alcohol and not paying vat
>> and taxes to A fresh.
>>
>> 2) Litter Green bin please remove this having asked every month for
>> the last four years. This is encouraging household and fly tipping of
>> house hold rubbish been dumped (we have rat infestation and fox
>> issues). your cleaning team clears this but within four hours its the
>> same.
>>
>> 3) Remove the Grey bin which is on the pavement and open. Also the
>> Red bin spillover and on the pavement. Why should we see dirty
>> rubbish left on the road.
>>
>>
>> 4) Feeding left over bread and other food to birds and Pigeons on
>> Mollison Heritage place plank, this started from A fresh and other
>> have been doing this. this is causing birds shitting on roof, garden
>> and soiling peoples washing. Again put a sign of penalty.
>>
>>
>> It is disappointing and frustrating we are paying our taxes and been
>> let down, antisocial behaviour is unacceptable i have tried several
>> times with the shopkeeper of A day Fresh but he just laughs at me and

PROTECTIVE MARKING

>> made treats at me. what do i have to do for your team to listen to
>> our voice, i am seriously considering contacting the press if the
>> above does not stop, my parents have to live with this every day and
>> been old it is stressful. I have picture which i can send if you
>> have an iphone (i am having problems with my email). what is Harrow becoming?
>> i would appreciate your reply in fact I would like a meeting with
>> Councillor, PLEASE DONT FOB ME OFF AND EMAIL ME TELLING ME WE ARE
>> LOOKING INTO TO THIS.
>> My name is (removed for data protection)
>> thank you

12/06/2018

Email response to complainant:

From: license

Sent: 12 June 2018 11:40

Subject: RE: Antisocial behaviour issues ongoing on Mollison Way & Lawrence crescent HA8

Dear

Thank you for the emails below.

As previously mentioned, we will arrange to visit A Day Fresh with the police by the end of the month to check that the licensing objectives are not being undermined and that the conditions on the premises licence are adhered to. Depending on the outcome of the visit, enforcement action may be taken as necessary. We will update you and the ASB team on any outcomes.

On the forms that you attached to the email, only the name field was populated. We do not currently require these forms as we have the information on the emails. If you have any further information to add, please do let us know.

You also have the power to initiate a review of the of the premises licence. Further information on the review process can be found here (Guidance issued April 2018):

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Please see section 11 from page 89 of the guidance.

The application for a review of the premises licence can be found here:

<https://www.gov.uk/government/publications/premises-licence-application-forms>

In the meantime, please do not hesitate to get in touch with us if you require any further information.

Regards

Ash Waghela | Licensing Officer

Public Protection | Community Directorate

Harrow Council collects and uses personal information about you when you contact us. For more information about how we use this information please see our privacy notice at

http://www.harrow.gov.uk/info/200116/media_publicity_and_web/819/privacy_and_cookies

04/07/2018:

(A) Day Fresh

50 South Parade Mollison Way

Edgware

Middlesex

HA8 5QL

Dear Mathivathani Kenkarajah,

Licensing Act 2003

A Day Fresh, 50 South Parade Mollison Way, Edgware, Middlesex, HA8 5QL

I am writing about a visit to the above premises on 29/06/18 at 16.40 hours.

During the visit, I brought to your attention the steel door at the back of the premises, which is currently barricaded.

When you submitted the application for your Premises licence, you submitted plans which showed that the back door is a fire escape. This would have been taken into account when your licence application was granted.

PROTECTIVE MARKING

If you no longer want to use the door as a fire escape, you will need to submit a minor variation application to the licensing authority. You can find the form here:


<https://www.gov.uk/government/publications/minor-variations-to-premises-licence-application-form>

It is very important that you submit the form to ensure that you do not breach any conditions on your licence or commit any offences.

If you require any further details, please contact me.

Yours sincerely

Derek Fergus | Licensing Officer
Public Protection | Community Directorate
Civic Centre, PO Box 18, Harrow HA1 2TU


www.harrow.gov.uk

15/06/2018

Our ref: UL/CSS/LIC/WK/000651519

Community Directorate

Corporate Director
Paul Walker

A Day Fresh
50 South Parade,
Mollison Way
Edgware
Middlesex
HA8 5QL

Dear Mathivathani Kenkarajah,


Licensing Act 2003 – Licensing Inspection

A Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL

I am writing about the licensing visit I carried out at your premises on 14/06/18 at 15.30 hours.

During the visit, I informed you that complaints have been received about people congregating at the side of your premises drinking alcohol.

In an attempt to try to identify where the alcohol is coming from, you have agreed to put a Black circle mark on the bottom of all your beer cans and bottles for a period of 2 weeks. When the bottles/cans that have been thrown away are collected, we will be able to see whether they have the mark underneath and therefore be able to tell if they were purchased from your shop.

Please contact me on  or email licensing@harrow.gov.uk to let me know when you have marked the cans/bottles, as I will need to revisit the shop to take a photograph and also check the CCTV.

Thank you for your cooperation.

Yours sincerely

Derek Fergus | Licensing Officer
Public Protection | Community Directorate
Civic Centre, PO Box 18, Harrow HA1 2TU

4/07/2018

(A) Day Fresh
50 South Parade Mollison Way
Edgware
Middlesex
HA8 5QL

Dear Mathivathani Kenkarajah,

Licensing Act 2003

(A) Day Fresh (A) Day Fresh, 50 South Parade Mollison Way, Edgware, Middlesex, HA8 5QL

I am writing about a visit to the above premises on 29/06/18 at 16.40 hours.

During the visit, I brought to your attention the steel door at the back of the premises, which is currently barricaded.

When you submitted the application for your Premises licence, you submitted plans which showed that the back door is a fire escape. This would have been taken into account when your licence application was granted.

PROTECTIVE MARKING

If you no longer want to use the door as a fire escape, you will need to submit a minor variation application to the licensing authority. You can find the form here:

<https://www.gov.uk/government/publications/minor-variations-to-premises-licence-application-form>

It is very important that you submit the form to ensure that you do not breach any conditions on your licence or commit any offences.

If you require any further details, please contact me.

Yours sincerely

Derek Fergus | Licensing Officer

Public Protection | Community Directorate

Civic Centre, PO Box 18, Harrow HA1 2TU



03/09/2018

From: Peter Wetteland

Sent: 03 September 2018 13:00

To: Aneta Sarafnejad

Subject: Advice : Complaint regarding (A)DAY FRESH – 50 South Parade, Mollison Way, Edgware, HA8

Hi Aneta

I will have a look when next in the area.

As far as I can recall, these retail premises only have 1 (one) fire exit viz. the front/entrance door, the rear stock room door has been 'sealed' for years !

Fire safety matters are generally a matter for the LFA to deal with and as far as I can recall – only a retail shop with a 'travel distance' of more than 18m would require a second (rear) fire exit.(but don't quote me) it should be per current fire risk assessment.

Do you have any suggestions regarding the 'temporary' cardboard box waste management – where is it left for collection – the side of shop on pavement or at the back of the shop (on private property) ?

It may not be reasonably practicable to expect the retailer to obtain/use a compactor for the boxes – perhaps here the 'depositors' need to be traced and advised to place their waste in the correct receptacle ?

I will let you know my findings.


Regards

Mr Peter M Wetteland MCIEH EHRB

Environmental Health Officer

Commercial safety

Harrow Council



From: David Gilmour

Sent: 03 September 2018 10:13

To: Natasha Cockar

Cc: Aneta Sarafnejad

Subject: RE: Issues - (A)DAY FRESH – 50 South Parade, Mollison Way, Edgware, HA8

Hi Natasha can you add this as a Health and safety complaint allocated for Peter to look at, thanks.

David Gilmour

Environmental Health Team Leader



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http://www.harrow.gov.uk/info/200116/media_publicity_and_web/819/privacy_and_cookies"

From: Aneta Sarafnejad

Sent: 03 September 2018 08:38

To: David Gilmour

Subject: Issues - (A)DAY FRESH – 50 South Parade, Mollison Way, Edgware, HA8

PROTECTIVE MARKING

Dear David,

I was approached by the resident in Mollison Way, Edgware who wanted to bring to my attention the following:
It's related to: (A)DAY FRESH – 50 South Parade, Mollison Way, Edgware, HA8

The owner blocked the fire exit with boxes and all sorts of things and in the event of fire, nobody will be able to escape.
- The owner has Biffa bin collection every Thursday; however, prior to the collection he accumulates a lot of boxes which places on the ground and all over the place which attracts people to place other waste and drink bottles there as well and this attracts rats which he has seen.

Is there any chance that he can be visited to ensure he's compliant?

Thank you

Kind Regards

Aneta

06/09/2018

Revisit to the premises with PC Pat Moran to Check CCTV. It showed :

17/08/18 closed at 22.49 hrs

18/08/18 closed at 22.54

24/08/18 closed at 22.43

25/08/18 closed at 23.04

CCTV timings were 15 minutes slow, however times above have taken this into account. (15mins added to notebook times). We also advised that 3 weeks too long to wait for CCTV. Licence holder says she has now ben trained to use CCTV. We also advised CCTV to be upgraded so that we can take a USB stck away away rather than having to go to thenpremises to look at it. In addition, i reiterated that licence holder needs to submit a minor variation to remove condition regarding back door fire escape .

The son of licence holder has given his email address for correspondence as paretns dont have one. It is

[REDACTED]

14/09/2018

Peter Wetland:

visited Mollison PO spoke at length to the owner explained min travel distance for rear fire exit and that the matter was really a matter for the LFB.

The exterior rear area was clear with 2 x 1100l red biffa bins only.

advised complainant that I would monitor when in the area but at present no PH risk prevailed.

8/03/2019 - POLICE ATTENDED WITH TRADING STANDARDS

PC DOWNES & PC BERESFORD

TS - SAMUEL

BREACHES FOUND:

COULDN'T OPERATE CCTV

NO PERSONAL LICENSE

NO RECORD OF REFUSALS

TRADING STANDARDS TOOK LOTS OF TOYS OFF THE SHELF AND EXPLAINED THAT THEY NEEDED TO GET RID OF THEM AS THEY DIDN'T HAVE THE SAFE TOY STAMP ON THEM. THE STAFF TOOK THESE TOYS STRAIGHT OUT THE BACK.

POLICE ISSUED A NOTFICATION OF ALLEGED OFFENCES SLIP WHICH THE DPS SIGNED.

8/04/2019 - POLICE ATTENDED WITH TRADING STANDARDS AND THE COUNCIL LICENSING TEAM

PC BERESFORD & PC WILCOCK

TS - SAMUEL

WHEN POLICE ARRIVED THERE WAS ONLY ONE STAFF MEMEBER IN THE SHOP

DPS THEN WAS CALLED ON HER MOBILE AND ARRIVED WITHIN 5MINS

BREACHES FOUND:

CCTV - NOT WORKING ATALL (NOT EVEN ABLE TO SWITCH IT ON)

NO RECORDS OF REFUSALS LOG

POLICE ISSUED A NOTFIICATION OF ALLEGED OFFENSES SLIP WHICH WAS SIGNED BY THE DPS

PROTECTIVE MARKING

SAMUEL FROM TRADING STANDARDS CONFISCATED THE TOYS THAT HAD BEEN PUT BACK ON THE SHELF FROM HIS PREVIOUS VISIT.

A Day Fresh has had ample opportunity to show that they can work in a safe and legal way but have consistently failed to promote the licensing objectives. We have engaged with the licence holder to bring operations up to standard but have continued to find breaches of the licensing act.

It is worrying that after police intervention, this premises continues to fail at promoting the licensing objectives. This leaves the police with no choice but to apply for a review of this premises licence. This is not the behaviour we expect from premises licence holders on the Borough of Harrow and therefore respectfully request that the licence be revoked.

Have you made an application for review relating to this premises before?

(Please tick yes)

PROTECTIVE MARKING

	Day	Month	Year
If yes, please state the date of that application:	0		

If you have made representations before relating to this premises please state what they were and when you made them:

PROTECTIVE MARKING

Please tick Yes

I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate.	<input checked="" type="checkbox"/>
I understand that if I do not comply with the above requirements my application will be rejected.	<input checked="" type="checkbox"/>

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 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature:	[Redacted]	Date:	05/08/2019
Capacity:	Licensing Officer - Metropolitan Police		

Contact name (where not previously given) **and postal address for correspondence associated with this application:** (please read guidance note 6)

Post town:		Post code:	
Telephone Number (if any):			
[Redacted]			
If you would prefer us to correspond with you using an e-mail address, your e-mail address (optional):			

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details, for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example, solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Retention Period: 7 years
MP 321/12



METROPOLITAN POLICE

MATHIVATHANI KENKARAJAH
[REDACTED]

Date: 09/04/2019

North West Command Unit
Barnet/Brent/Harrow Licensing Dept

South Harrow Police Station
74 Northolt Road
South Harrow
London
HA2 0DN

Telephone: [REDACTED]

Email: [REDACTED]

www.met.police.uk

Dear MATHIVATHANI KENKARAJAH

I am writing to you to inform you that we carried out a licensing inspections at A Day Fresh, 50 South Parade, Mollison Way, HA8 5QL on 08/04/2019 at 1115HRS police entered the premises Under section 179 of the licensing act 2003 a constable or authorised person has the power to enter a premises to investigate if licensable activity is being, or is about to be carried out in accordance with an authorisation.

The following conditions of the premises licence were breached;

- CCTV – NOT WORKING NOT ABLE TO SWITCH ON
- NO RECORD OF REFUSALS LOG AT PREMISES

Due to the conditions that were in breach, a notification of alleged offences form was issued for the following offences: (A copy was provided when police attended)

- **Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise in accordance with an authorisation or knowingly allowing licensable activity to be carried on.**

London Borough of Harrow, Licensing Department will be informed of this inspection and be provided with copies of all notices. If you need to speak to us our contact details are at the top of this letter. I am not satisfied that up to now the licensing objectives have been promoted to a satisfactory standard and am concerned that without further action, the premises will continue to be poorly run

Yours sincerely,
PC Beresford 1330NW
Licensing Officer
South Harrow Police Station
74 Northolt Road
HA2 0DN



Notification of alleged offences under the Licensing Act 2003

Venue Name: A DAY FRESH REF: (CAD/CRIS etc.)

Address: 50 SOUTH PARADE, MOLLISON WAY, COSSWART

VAR SQL Date: 8/2/19 Time: 1755

Details of person in charge at the relevant time: MATHIVATHANI K. KARATHAN

DPS Personal Licence Holder

Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 issued Y No)
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 issued Y No)
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 issued Y No)
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:

- NO PERSONAL LICENCE
 - COND 1 (REVOKED) - could not operate CCTV so unable to see if it is in good working order
 - COND 12 (REVOKED) - NO RECORD OF REFUSALS

Issuing officer: [Signature] Pri [Signature]

I acknowledge receipt of this form: (venue) M. Karathani

The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001



Notification of alleged offences under the Licensing Act 2003

Venue Name: A DAY FRESH REF: (CAD/CRIS etc.)

Address: 50 SOUTH PARADE, MOLLISON WAY, HAS 5QL

Date: 8/4/19 Time: 1115HRS

Details of person in charge at the relevant time: MATHIVATHANI KENKARAJAH

06MK-00AQ-GY73-YLWH DPS Personal Licence Holder

Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 issued Y No)
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 issued Y No)
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 issued Y No)
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:

AME x 2. (CCTV - NOT ABLE TO SHOW AS CCTV ISN'T WORKING. (condition ONE))

NO RECORD OF REFUSALS LOG AT PREM (condition 2)

Issuing officer: PC Beresford 1330NW Print  330NW

I acknowledge receipt of this form: (venue) M. Kenkarajah

The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001

WITNESS STATEMENT

ENGLAND AND WALES ONLY

(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B)

Statement of: Matthew Alun Parr

Age if under 18: **Over 18** (If over 18 insert 'over 18')

Occupation: **Officer, HM Revenue & Customs**

This statement (consisting of page(s) each signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature: _____

Date: _____

I am an Officer of HM Revenue & Customs currently employed in an Excise team dealing with traders operating within the alcohol and tobacco sectors. Part of my duties are to visit retailers and inspect their alcohol and tobacco stock in order to establish that they are only dealing in UK duty paid goods.

On 14 August 2019 I was on duty together with R. Strauss, officer of HM Revenue and Customs, Police officer Beresford and her colleagues at the retail outlet A Day Fresh, 50 South Parade, Mollison Way, Edgware HA8 5QL. We entered the premises at approximately 10:00 hours and I explained to the person behind the till, Mr Kenkarajah (the husband of the owner), who I was by showing him my ID badge. I explained that I intended to check the alcohol and tobacco stock held in the premises (there was alcohol clearly for sale and I was utilising the provisions under The Customs and Excise Management Act 1979 section 112 to search for excise goods). Prior to commencing the search my colleague, officer Strauss, saw that the East European beer and high strength beer on display in the refrigerated unit was not priced up. She asked Mr Kenkarajah why this was and he said that he had cleaned the shelves the day before and had not put the prices back up. She then asked him to confirm the prices of a number of 500cl cans which he did as follows – Lomza £1.20, Oranjeboom £2.00, Kestrel super £2.00, Perla black £1.50 and Timisoreana £1.20. I

Date: _____

Signature: _____

(signature of witness)

Signature: _____

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY

WITNESS STATEMENT

ENGLAND AND WALES ONLY

(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B)

Statement of: Matthew Alun Parr

then commenced my search during which time Mr Kenkerajah left and was replaced by his wife, the owner of the business. I asked her how much she sold cans of Lomza, Perla and Timisoreana for and she said £1.20, she also said that Kestrel super and Oranjeboom was £2.99 per can. I asked her why these items were not priced up and she said that the price can go up or down depending on the price she pays for them at the cash and carry. I explained to Mrs Kenkarajah that I needed to see the invoices from the cash and carry that she purchased her east European beer from. She explained to me that the invoices were with her accountant in Pinner – I suggested that her husband could go and pick them up at which time she used her telephone speaking to someone in a foreign language after which she said that her accountant was not picking up the phone and that her husband could not go and see them as he had to take their son to the hospital as an emergency. Mrs Kenkarajah then said that all the east European beer came from the cash and carry RO Export based in East Lane Business Park, Wembley whilst the high strength beer was purchased from a number of other wholesalers. I telephoned RO Exports and asked when A Day Fresh had last purchased beer from them and at 11:02 hours they sent me an email containing scans of the most recent two invoices for sales to A Day fresh which were dated 07/03/2019 and 20/06/2019 – neither of these invoices showed any beer being purchased. As no invoices were presented to me to explain where the east European beer was purchased from and my experience is that these are items regularly sold illicitly (having not had excise duty paid on them) I explained to Mrs Kenkarajah that I would be seizing this beer as I was not satisfied that duty had been paid on it. I also explained her rights of appeal and that if she was to provide me with invoices for this beer I would examine it and if I was satisfied that it was duty paid I would return it to the store. In total I seized 267 cans of beer (133.5 litres) which I have

Date: _____

Signature: _____

(signature of witness)

Signature: _____

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY

WITNESS STATEMENT

ENGLAND AND WALES ONLY

(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B)

Statement of: Matthew Alun Parr

subsequently inputted onto a Departmental database which has calculated the duty evaded to be £174.99.

I have examined departmental databases and have found that previous seizures have been made at 50 South Parade, Mollison Way as follows.

Date of seizure	Items seized
07/09/17	566.5 litres of beer
17/05/17	118.5 litres of beer, 0.5 litres Vodka, 6.75 Litres Wine
20/01/14	4,992 litres of beer, 338.25 litres of wine, 14.7 litres of spirits,
28/08/13	890 cigarettes, 1.49 kilos of tobacco
29/03/11	2,930 cigarettes, 4.85 kilos of tobacco, 2.1 litres of whisky
07/02/12	5,246 cigarettes, 3 kilos of tobacco, 13.4 litres of Vodka

Since the seizure on 14 August I have had no contact from Mrs Kenkarajah and she has not produced invoices to cover the beer that was seized.

Date: _____

Signature: _____

(signature of witness)

Signature: _____

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY

WITNESS STATEMENT

ENGLAND AND WALES ONLY

(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B)

Statement of: Matthew Alun Parr

[Large empty rectangular box for the witness statement content]

Date: _____

Signature: _____

(signature of witness)

Signature: _____

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY

Notification of alleged offences under the Licensing Act 2003

Venue Name: A DAY FRESH REF: (CAD/CRIS etc.) _____

Address: 50 SOUTH PARADE, MOLLISON WAY

Date: 14/08/19 Time: 10:28

Details of person in charge at the relevant time: MRS MATHIVATHANI KEKARAJAH

DPS Personal Licence Holder

Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 issued Y No)
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 issued Y No)
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 issued Y No)
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:

Annex 2

(1) - CCTV isnt storeing for 31 DAYS starts from 21/07/19 at 1220HRS

(12) - Records of refusals Log seems inconsistant

Issuing officer: PC Beresford Print: 


I acknowledge receipt of this form: (venue) M. Keenan/Joeh

The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001

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Appendix 2 (A) Day Fresh



- Legend
-  Override 1

40

MOLLISON WAY
SOUTH PARADE
(Nos 23-50)

(A)DAY FRESH OFF LICENCE
FRESH FRUIT & VEGETABLES

NEED A GADGET LTD
Quality products. Fantastic prices.

AMERICAN FRIED CHICKEN & COFFEE EXPRESS
PERI PERI BURGERS • BREAKFAST • LUNCH • DINNER



LICENSING ACT 2003

Schedule 12

Part A (Regulation 33,34)

PREMISES LICENCE

HARROW COUNCIL, P O BOX 18, STATION ROAD, HARROW

Premises Licence Number	0810-XR4Y-DKGW-NR8G
-------------------------	---------------------

Part 1 – Premises details **A DAY FRESH**

Postal address of premises, or if none, ordnance survey map reference or description 50 SOUTH PARADE, MOLLISON WAY			
Post town	EDGWARE	Post code	HA8 5QL
Telephone number	[REDACTED]		

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence SALE BY RETAIL OF ALCOHOL (m)

The times the licence authorises the carrying out of licensable activities							
SALE BY RETAIL OF ALCOHOL (m)							
	MON	TUE	WED	THU	FRI	SAT	SUN
	0800-2300	0800-2300	0800-2300	0800-2300	0800-2300	0800-2300	0800-2300
HOURS OPEN TO PUBLIC (o)							
	MON	TUE	WED	THU	FRI	SAT	SUN
	0800-2300	0800-2300	0800-2300	0800-2300	0800-2300	0800-2300	0800-2300

FOR CONSUMPTION OFF THE PREMISES

Andrew Mc [REDACTED]
Head of Community Safety Services

Part 2

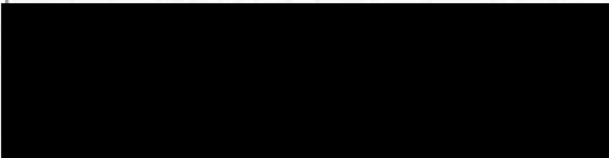
Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

MATHIVATHANI KENKARAJAH



Name and address of designated premises supervisor where the premises licence authorises for the supply of alcohol

MATHIVATHANI KENKARAJAH



Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

06MK-00AQ-GY73-YLWH

LONDON BOROUGH OF HARROW

State whether access to the premises by children is restricted or prohibited

N/A

Annex 1 – Mandatory Conditions

Mandatory conditions where licence authorises supply of alcohol

- (1) No supply or sale of alcohol shall be made under the premises licence
 - I. at a time when there is no designated premises supervisor in respect of the premises licence
 - II. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
- (2) Every supply or sale of alcohol made under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 – Conditions consistent with the operating Schedule

1. Fully operational digital CCTV system will be installed, operated and maintained according to the specification of the Metropolitan Police Crime Prevention Officer: images will be securely stored, kept for a minimum of 31 days and be made available to officers of the police or local authority upon request.
2. A monitored central station alarm will be installed, operated and maintained according to the specification of the Metropolitan Police Crime Prevention Officer
3. A Till Guard will be installed to secure the till.
4. A steel roller shutter and rear steel door with top and bottom locks to secure the premises when closed.
5. Spirits will be displayed behind the sales counter.
6. Two (2) members of staff will be employed at the premises.
7. Deliveries will be made during reasonable hours (excludes deliveries of milk, newspapers, municipal collections which are typically delivered early mornings).
8. Rubbish will be collected from the premises by a commercial waste contractor.
9. The premise will operate a Challenge 21 policy, whereby any person attempting to purchase alcohol (or other age restricted product) and who appears to be under the age of 21 years, shall be asked to provide proof (i.e. passport, driver's licence or other such accredited form of photo identification) that they are over the age of 18 years.
10. Records on refused sales will be maintained in a refusals register and made available to the police or other responsible authorities on request.

Annex 3 – Conditions attached after a hearing by the licensing authority.




N/A

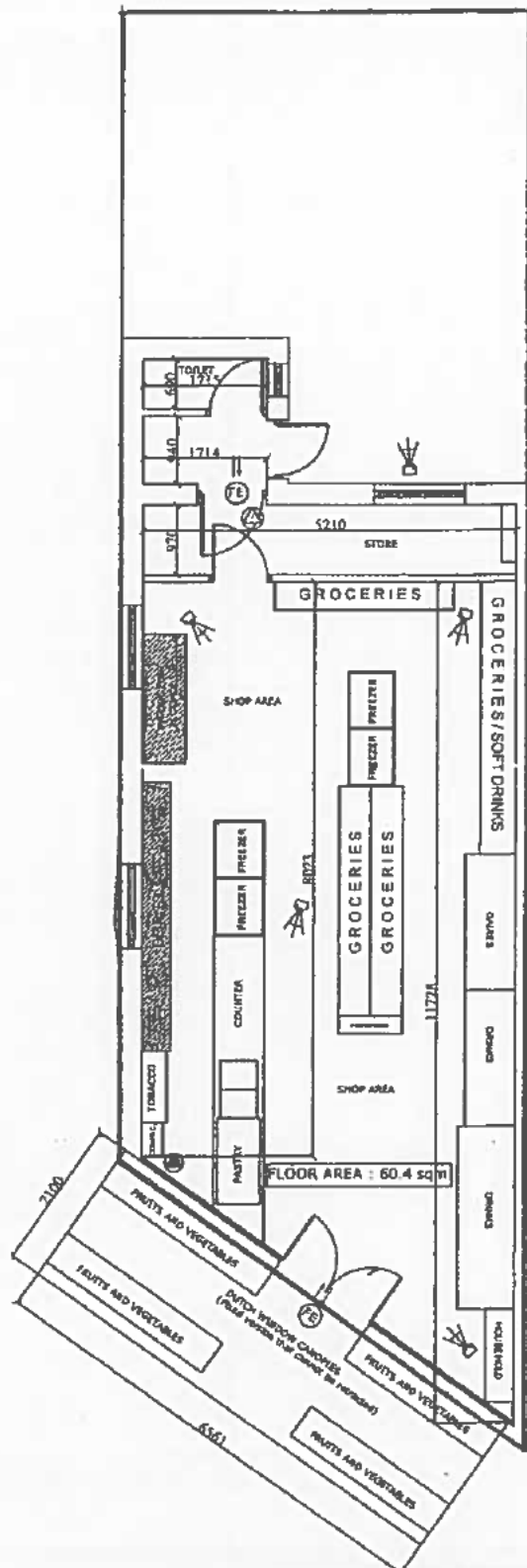
Annex 4 – Plan (Attached)

DATE OF ISSUE: 14 NOVEMBER 2008

REASON FOR ISSUE: NEW

ISSUE NUMBER: 1

DESCRIPTION	KEY
FIRE EXIT -	(FE)
CCTV CAMERA -	
FIRE EXTINGUISHER(CO2) -	
FIRE EXTINGUISHER(FOAM) -	



#328304105

(A) DAY FRESH GREEN GROCER
50 SOUTH PARADE,
EDGWARE, HA8 5QL

PROPOSED FLOOR (1:100)

Appendix 4 WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Mark JOHNSON

Age if under 18: 18+ (if over 18 insert 'over 18') Occupation: Police Constable

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Witness Signature:  3399NW Date: 24/08/2019

I am currently one (1) of the two (2) Dedicated Ward Officers attached to EDGWARE SNT. I have been a Police Officer for over nine (9) years and have been in my current role for three (3) months. I am providing this statement to assist in the licence review of A-DAY FRESH, 50 SOUTH PARADE, MOLLISON WAY, HA8 5QL.

Following my move to EDGWARE SNT, I was briefed by PS356NW regarding one of the biggest issues in the area being MOLLISON WAY. This area is an ASB hotspot caused by homeless street drinkers, which are a blight to the local residents, buying their alcohol from the local off licences including A-DAY FRESH and then hanging around in the rear service roads both NORTH and SOUTH PARADES drinking said alcohol. They can be found in large groups, drinking, shouting and fighting each other and then leave all of their empty beer cans on the floor whilst using anywhere in the alleyways as a public toilet. These males often slept at the area in disused garages and are regularly found passed out on the high street of MOLLISON WAY for all of the public to see.

I have seen these street drinkers on many occasions going into A-DAY FRESH, buying their alcohol before leaving and heading immediately to the rear service roads where they consume it. I would then stop these males and would find them with several cans in their pockets or in a small plastic bag, they would get from the store. The cans were always loose meaning the cans were sold separately at the venue.

Due to the high volume of complaints received, we have spoken with KINGDOM SECURITY who now patrol the area daily, handing out fines for littering and other offences. EDGWARE SNT now patrol the area as often as possible with a hard approach to street drinking and litter in the area in an effort to reduce the issues.

Whilst on patrols in the area I attended the off-licences and noticed that all the cans in A-DAY FRESH were being sold separately and were largely non-uk, fully sign written in a foreign language on the cans. I asked the shopkeepers where they got them from to which the reply was "from a van". I was not fully up on legalities around this at the time so I spoke with PS356NW regarding this as a potential issue who asked me to get in touch with Licencing at Harrow Police Station.

Witness Signature:  3399NW
Signature Witnessed by Signature:

Continuation of Statement of:

An HMRC warrant was executed on 14th AUGUST 2019 at A-DAY FRESH where EDGWARE SNT assisted with a large quantity of alcohol being seized, believed to be sold avoiding import tax.

Below are images of the litter caused by the street drinkers:

Figure 1



3399NW

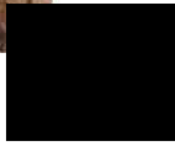
Witness Signa

3399NW

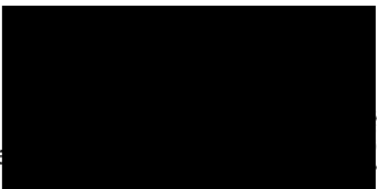
Signature Witnessed by Signature:

Continuation of Statement of:

Figure 2



3399NW



Witness Signature

3399NW

Signature Witnessed by Signature:

Ash Waghela

From: Angella Murphy-Strachan
Sent: 02 September 2019 19:15
To: license
Subject: Day Fresh, 50 South Parade, Mollison Way, Edgware, HA8 5QL

Day Fresh Parade, Mollison Way, Edgware, Middlesex, HA8 5QL.

Dear Licensing Team,

As Councillor for The Edgware Ward, I wish to support the application for a review of the Premises licence, of the above named premises, made by PC Beresford, on all four groups stated in the application. But I particularly want to highlight the grounds for the prevention of Public nuisance and the prevention of crime and disorder. The anti-social behaviour which results from the congregation of men in the area creates an atmosphere of intimidation and fearfulness among the residents.

Your sincerely,

Cllr Angella Murphy-Strachan

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Appendix 5

APPENDIX 1

Licence review guidelines

	Aggravating factors	Mitigating factors
Prevention of crime and disorder	<ul style="list-style-type: none"> • Failure to heed police or licensing authority advice • Encouraging or inciting criminal behaviour associated with licensed premises • Serious injury results from poor management • Previous track record • Deliberate or direct involvement in criminality 	<ul style="list-style-type: none"> • Minor breach of condition not justifying a prosecution • Confidence in management ability to rectify defects • Previous track record • Voluntary proposal/acceptance of additional conditions
Prevention of public nuisance	<ul style="list-style-type: none"> • Noise late at night in breach of condition or statutory abatement notice • Previous warnings ignored • Long and prolonged disturbances • Excessive noise during unsocial hours (relating to locality and activity concerned) 	<ul style="list-style-type: none"> • Noise limiting device installed • Licence-holder apologised to those disturbed by nuisance • Hotline complaints telephone available • Undertaking/commitment not to repeat activity leading to disturbance • Willingness to attend mediation • Voluntary proposal/acceptance of additional conditions
Public safety	<ul style="list-style-type: none"> • Death or serious injury occurred • Substantial risk in view of a responsible authority to public safety involved • Previous warnings ignored • Review arose out of wilful/deliberate disregard of licence conditions 	<ul style="list-style-type: none"> • Minor or technical breach of licence condition • Confidence in management to rectify defects • Confidence in management to avoid repetition of incident • Voluntary acceptance/proposal of additional condition
Protection of children from harm	<ul style="list-style-type: none"> • Age of children • Previous warnings ignored • Children exposed to physical harm/danger as opposed to other threats • Activity arose during normal school hours • Deliberate or wilful exploitation of children • Large number of children affected/involved • Children not allowed on premises as part of operating schedule/conditions 	<ul style="list-style-type: none"> • Conduct occurred with lawful consent of persons with parental responsibility for child • Short duration of event • No physical harm • Short-term disturbance • Undertaking/commitment not to repeat activity • Children permitted on the premises as part of operating schedule • Not involving under-age exposure to alcohol

	Aggravating factors	Mitigating factors
Application for review after other enforcement action taken by responsible authorities	<ul style="list-style-type: none"> • Penalty imposed by court • Previous warnings ignored • Previous review hearing held resulting in any corrective action • Premises licence holder previously convicted or cautioned for same or similar offences/contraventions • Offences over prolonged period of time • Offences resulted in significant danger or nuisance • Offences as a result of deliberate actions or reckless disregard for licensing requirements • Offence likely to be repeated 	<ul style="list-style-type: none"> • Compensation paid by offender or agreement towards mediation • Voluntary acceptance/proposal of additional conditions • Offence disposed of by way of simple caution or fixed penalty notice • First offence or warning • First review hearing • Single offence/breach • No danger to the public or nuisance • Offences merely administrative in nature • Offence unlikely to be repeated
Range of likely responses available to the Licensing Panel	<ul style="list-style-type: none"> • To take no action • To issue a written warning • To remove the designated premises supervisor (or require a designated premises supervisor in community premises without one) • Modify the conditions of a premises licence or club premises certificate, including adding new conditions or deleting old conditions • To exclude a licensable activity or qualifying club activity from the scope of the premises licence or club premises certificate • To suspend the licence for a period not exceeding three months • To revoke the premises licence or withdraw the club premises certificate 	

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order or illegal working compliance order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

LICENSING PANEL MINUTES

24 SEPTEMBER 2019

Chair: * Councillor Maxine Henson

Councillors: * Michael Borio * Chetna Halai

* Denotes Member present

52. Appointment of Chair

That Councillor Maxine Henson be appointed Chair of the Licensing Panel Hearing.

53. Declarations of Interest

RESOLVED: To note that there were no declarations of interests made by Members.

54. Minutes

(See Note at conclusion of these minutes).

55. Licensing Procedures

The Chair asked the Panel Members, officer/s, Responsible Authority/ies and other attendees at the meeting to introduce themselves and then outlined the procedure for the conduct of an oral hearing.

RESOLVED ITEMS

56. Application for review of the premises licence for (A) Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL

In attendance:

Legal Adviser:	Lina Amir
Licensing Officers:	Ash Waghela Natasha Cockar
Licence Holder:	Ms Kenkarajah
Licence Holder's Friend & translator:	H Jay
Metropolitan Police:	PC Beresford PC Downes PC Johnson

The Panel carefully considered all the relevant information including:

- written and oral representations by all the parties
- the Licensing Act 2003 and the steps that are appropriate to promote the licensing objectives
- the Guidance issued under section 182 of the Licensing Act 2003
- Harrow Council's Licensing Policy
- Human Rights Act 1998.

Members of the Panel also took into consideration the following, full details of which were set out in the Decision Notice sent to all interested parties:

- the police had observed that the licensee had not upheld one or more of the four licensing objectives and had breached the licence conditions, including the keeping of smuggled goods. For example, during a visit on 8 March 2019, the CCTV could not be operated, the Designated Premises Supervisor (DPS) failed to produce a personal licence when requested to do so by the police and there were no proper records of 'refusal' logs;
- the Licensing Authority and the police had made various attempts to work with the licence holder. Condition 8 of the licence had required two members of the staff to be employed at the store. This requirement had been explained to the licence holder and she had been advised that, if she found it difficult to comply with this condition, she should seek to have the condition removed. However, the condition had remained on the licence and had been breached continuously;

- despite being advised of the identities of the street drinkers to whom alcohol should not be sold, the licence holder had continued to sell to those customers;
- non-payment of duty on alcohol and tobacco on a number of occasions and the seizure of these goods by the HMRC (Her Majesty's Revenue and Customs), including the failure to provide evidence of purchase;
- no credible evidence or explanation had been provided by the licence holder in relation to the repeat breaches of the licence or the offence of holding smuggled goods;
- no offer by the licence holder of any means of remedying the breaches or ensuring that the licensing objectives would be upheld in the future. No responsibility was accepted for the repeat breaches. The licence holder did not offer to undertake training to ensure the upholding of the licensing objectives in the future;
- although the licence holder had requested an opportunity to improve and she had asked that she be given another chance to improve as this was her only business and she had four children, the Panel had been of the view that the licence holder had been given various opportunities since 2013 to improve but had continued to routinely breach the conditions on the licence and undermine the licensing objectives;
- consideration of the Guidance issued under section 182 of the Licensing Act 2003 which stated that certain criminal activity, such as the use of the licensed premises for the sale or storage of smuggled tobacco and alcohol, should be treated seriously;
- the police had not seen any evidence of a price gun having been used by the licence holder to identify that the alcohol sold had been bought from the premises in question;
- the submission from the licence holder that there were a few other off-licences in the area where the street drinkers were buying their drinks from and that the litter in the area could not be attributed to her premises. There were no signs on the side of her premises prohibiting street drinking although the signs were elsewhere.

The Panel concluded that, in the circumstances, revoking the licence was an appropriate and proportionate step to take in order to promote all the licensing objectives and, accordingly,

RESOLVED: That the licence for A Day Fresh, 50 South Parade, Mollison Way, Edgware, HA8 5QL be revoked.

REASONS: As detailed in the Decision Notice sent to all interested parties and set out in brief in the preamble above.

Right to Appeal

Any party aggrieved with the decision of the Licensing Panel on one or more of the grounds set out in schedule 5 of the Licensing Act 2003 may appeal to the magistrates' court within 21 days of notification of this decision.

The determination, in accordance with section 52(11) of the Licensing Act 2003, did not take effect:

- (a) until the end of the period given for appealing against the decision; or
- (b) if the decision was appealed against, the disposal of the appeal.

(Note: The meeting, having commenced at 7.32 pm, closed at 8.00 pm).

(Signed) COUNCILLOR MAXINE HENSON
Chair

[Note: Licensing Panel minutes are:-

- (1) approved following each meeting by the Members serving on that particular occasion and signed as a correct record by the Chair for that meeting;
- (2) not submitted to the next panel meeting for approval.

Reasons: The Licensing Panel is constituted from a pooled membership. Consequently, a subsequent Panel meeting is likely to comprise a different Chair and Members who took no part in the previous meeting's proceedings. The process referred to at (1) above provides appropriate approval scrutiny].

HARROW COUNCIL

LICENSING ACT 2003

Sections 51-52

Notification of decision following a licensing panel hearing to review a premises licence

PREMISES: (A) Day Fresh, 50 South Parade, Mollison Way, Edgware, Middlesex, HA8 5QL

**TO: The applicant
 The premises licence holder
 All persons who made relevant representations**

TAKE NOTICE:

THAT following a hearing before the Licensing and General Purposes Sub Committee (the Licensing Panel)

ON 24 September 2019

HARROW COUNCIL, as the Licensing Authority for the premises

RESOLVED TO TAKE THE FOLLOWING STEPS IN RELATION TO THE PREMISES LICENCE, AS APPROPRIATE TO PROMOTE THE LICENSING OBJECTIVES:

1. REVOKE THE LICENCE

REASONS:

The licensing panel carefully considered all the relevant information including:

- Written and oral representations by all the parties
- The Licensing Act 2003 and the steps that are appropriate to promote the licensing objectives
- The Guidance issued under section 182 of the Licensing Act 2003
- Harrow Council's Licensing Policy
- Human Rights Act 1998

The Panel first heard from Natasha Cockar, of Environmental Health and Licensing, regarding an application brought by the Police for review of the premises license. The application was brought on the basis that Police observed the licensee has not been able to uphold one or more of the four licensing objectives, breaches of the licence conditions and the keeping of smuggled goods.

PC Beresford presented on behalf of the Police stating that the area of Edgware, and particularly Mollison Way, had been brought to her attention for street drinking and anti-social behaviour related to alcohol. The Police conducted various visits to the area and to the Premises. There was a history of anti-social behaviour in the area and there was a Public Safety Protection Order and Criminal Behaviour Order in force. As detailed in the Police application, the Premises was subject to a number of licensing visits and on each occasion

there were failures to uphold licensing objectives. The running of the Premises appeared to have an impact on the local community and in 2013 a meeting was held to discuss the same. Since then there had been continuous breaches of various conditions of the licence. The Licensing Authority and the Police made various attempts to work with the licence holder. Condition 8 in Annex 2 of the licence required two members of staff to be employed at the store. It had been explained to the licence holder, that if due to the nature of the condition she found it difficult to comply she should seek to have the condition removed, but this condition remained on the licence and continued to be breached.

During the 08/03/2019 visit, Police attended with Trading Standards and found various breaches of the licence. CCTV could not be operated, the DPS could not produce their personal licence on request and there was no record of refusals. Trading Standards removed toys without the required safety stamp off the shelves. However during a subsequent visit on 08/04/2019 these toys had been put back on the shelf. They were then confiscated by Trading Standards. During this later visit there was still no CCTV in operation. PC Beresford highlighted an error in the Police's application for a review. During the most recent visit a refusal log was seen but PC Beresford did not consider it to be credible evidence of use of the same. All the entries were written in the same handwriting and using the same pen, although there were many pens behind the desk.

The Panel asked the Police whether they had advised the licence holder of the identities of the street drinkers and not to sell to them. PC Mark Johnson advised that Police had done so but that the Premises continued to sell to those customers.

The Panel considered written representations from HMRC that on 14 August 2019 a total of 267 cans of beer were seized from the Premises on the basis of a suspicion that duty was not paid on these items. HMRC listed a further six occasions where items were seized due to the non-payment of duty on those items. As HMRC were not present, the Panel asked the Police if HMRC had subsequently confirmed that duty had indeed not been paid on those items, which the Police confirmed. The Panel also queried whether there was any new evidence that duty had been paid on those items. PC Beresford confirmed that no evidence of this had been received.

The licence holder was in attendance together with her son and her friend Mr Jay who was translating for her. However, the licence holder declined to ask any questions of the Police in relation to their application. In her presentation the licence holder submitted that there were a few other off-licences in the area where the street drinkers were buying their drinks, so the litter in the area was not necessarily attributable to the Premises. She stated that there were no signs on the Premises' side of the road prohibiting street drinking although there were elsewhere. As a result of this, when challenged, the street drinkers would respond that as there were no signs saying, they were allowed to drink there. In relation to the pictures of litter attached to PC Mark Johnson's witness statement, the licence holder stated that the litter was not from their Premises.

When asked about whether the licence holder was using a price gun with stickers to identify their cans she said they were, but PC Beresford said that they were not seen on cans in the store and that the stickers were not being used.

When asked about proof that duty had been paid on items seized by HMRC on 14 August 2019, the licence holder stated that a shop on Archway Road called Food & Wine was closing down and had sold some of these items to them. They were supposed to provide receipts but then subsequently closed down. The seller could not be traced and the phone number provided was no longer working. The Panel did not consider this account to be credible.

The Panel also queried the 6 other occasions alcohol and tobacco had been seized by HMRC on the basis no duty had been paid and the failure to provide evidence of purchase. The licence holder stated her husband had purchased these items and that she did not know where they were purchased. She stated she was unable to go to the cash and carry as her son had a disability and she had to stay home to look after him.

The Panel considered the licence holder's concluding statement in which she requested another chance to improve things as this is her only business and she has four children.

The Panel noted that no credible evidence or explanation was presented in relation to the repeat breaches of licence or the offence of holding smuggled goods. The Panel were not satisfied that the licence holder was able to offer any means of remedying the breaches or ensuring the licensing objectives were upheld in the future. No responsibility was accepted for the repeat breaches. The licence holder did not offer to undertake training to ensure the upholding of the licensing objectives in the future.

The Panel also considered the Guidance which states that certain criminal activity should be treated particularly seriously. That includes the use of licensed premises for the sale or storage of smuggled tobacco and alcohol, in which instance the revocation of a licence even in the first instance should be seriously considered. Although she requested an opportunity to improve, the Panel considered that the licence holder had been given various opportunities since 2013 but had continued to routinely breach the conditions on the licence and undermine the licensing objectives. The Panel did not have any confidence that the licence holder would be able to improve the situation now.

The Panel concluded that, in the circumstances, revoking the licence is an appropriate and proportionate step to take in order to promote all the licensing objectives.

This determination, in accordance with section 52(11) of the Licensing Act 2003, does not take effect:

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, the disposal of the appeal.

Right to appeal

Any party aggrieved with the decision of the licensing panel on one or more of the grounds set out in schedule 5 of the Licensing Act 2003 may appeal to the magistrates' court within 21 days of notification of this decision.

Date: **30 September 2019**

Attendance Note 14 Dec 21

Horatio Waller

My subs re adjournment

1. This is the adjourned hearing to decide Mrs Kenkarajah's appeal against the revocation of her premises licence that enables her to sell alcohol for off-sales in her offlicence.
2. This hearing listed for 1 day by DJ; a 1 day hearing listed 30 July adjourned on the day by DDJ Brown, as Mrs K was not ready to proceed with her appeal.
3. Application to adjourn the hearing today; I resist this. I request that the Court proceeds to hear the appeal and then determine to refuse the appeal.
4. Background: appeal itself
 - a. Decision 24 Sept
 - b. Authorises sale of alcohol retail under Licensing Act 2003. If licence revoked can still continue trading as a local supermarket but cannot sell alcohol. However, licence continues in force until appeal
 - i. Issues concern breaches of licence conditions (each criminal offences), selling items contrary to trading standards, avoidance of VAT / excise duty and customers street drinkers causing disorder in area,
 - c. Appeal. burden of proof is on appellant to show licensing panel was wrong. hearsay evidence is admissible and de novo.
 - d. In licensing hearings new evidence is admissible and hearsay evidence is admissible
 - i. Appellant has produced a w/s
 - ii. w/ss from PC Beresford and Alex Lisowski
 - e. Bundle for the most part replicates what was before the Licensing Panel
 - f. Additional w/s from the police, licensing officer and Ms Kenkarajah
5. To conduct of the appeal
 - a. Mrs K's appeal. appeal
 - b. Solicitors Selva & Co instructed initially – 7 Dec.
 - c. Directions agreed
 - d. Some delay but eventually statements served 17 Dec 2020
 - e. Bundle should have been prepared by App; Provisional Bundle of 176 pages.
 - f. Tab 5: email correspondence
 - g. Listed for a 1 day hearing 30 July 2021. DDJ Brown

DJ: what is your position today?

6. I need a little more time;

what have you done to prepare your case for today?

7. ...

DJ

1. You were told to bring with you an interpreter, or a member of family
 - a. nobody helping me
2. why not bring member of family to help you understand proceedings

- a. ...
3. Husband?
 - a. At the shop
4. Mr W still wish to make your appeal. since the last hearing, prepared further wss? Done anything?
 - a. No
5. My barrister. Have you paid for anyone to represent you today?
 - a. My friend. Solicitor. little bit of time.
6. Sympathize with the illness in your family, but it is your responsibility. Told need to arrange your own interpreter. This cannot go on indefinitely
7. Anything want to say?
8. Mr Waller I must balance concerns about ability to pursue appeal with the fact that she was told directions not complied with and not come with interpreter and is not prepared
9. I consider there to be no substantive reason to adjourn

DJ retire to read provisional bundle and supp bundle

DJ

10. Made no efforts to ensure she can fully participate, her responsibility to obtain interpreter, history of proceedings, the instruction in July, the implications for ratepayers and public, cannot adjourn further, the appeal will proceed.

I opened the case and

Evidence from Mr Lisowski

11. 4 June 2021 stopped working for Council
12. Had not been any visits to premises; I began series of visits to see what was happening
13. First visit Oct last year; in the evening, found various things wrong. first, only one assistant behind the counter; licence requires two assistants behind the counter on licence holder; I did a test purchase of two cans of beer, concern to me. cans of beer, all writing foreign language, believe Polish – in contravention of food safety, beer classified as food; as a food should be list of ingredients in English in case they have an allergy in case affected by drinking beer. Should dbe address of either brewer or importer of the beer; if someone wanted to make complaint, have address to which can send their complaint. None of that information in English. It was possible to recognise names of brewers in Poland, a lot of customers not reocgnise what that information was.
14. One of the cans had passed its best by date. food, sell by day. sell by date, no longer safe to consume that food. Best by date, still safe past that date. quality of that product will begin to deteriorate after best by date. if sold after best by date, should be explained to customer, buying food not at its best. No such explanation made to me and I take it as an indication that this not being made. it shows a lack of stock control. Not knowing dates of products, whether fit to sell. The person serving behind the counter, unable to operate the CCTV, that is a condition on the licence that staff should be able to show police and C officers CCTV footage at a time of a visit. Last thing I found was that the member of staff could not produce the refusals log. Its part of the Ch 25 scheme, brief record of anyone refused sale of alcohol. 18 or over or drunk. Look at the refusals log to see how well doing the job. 1 or two refusals hint job done properly.
15. As a result of that visit came to shop during the day. Mrs K present, warning letter about what I had found. As a result of this done further visits, again found problems; no one being able to operate the CCTV, finally. Further examples cans no English. Some beyond best by date. final visit Mrs K on her own no other assistance, reported her for that, for view of prosecution. As I moved on, I did not get around to prosecution. Because I had done 4-5 visits, although I would gather more evidence, it would be like persecution.

Any explanation given as to your concerns?

1. Verbally explained to her where she is breaching; sent letters, she would be able to ask others to translate them.

Mrs K interjected at this point:

1. There are lots of shops
2. My shop is cornerside
3. Now I put a board everywhere

Mr L; DJ questions

4. Any other premises in near vicinity where there are concerns?

- a. I have done visits to other licensed premises; 5 other.
 - b. But I did not have concerns about those off licences.
5. Seen some photos about debris, litter, service cans. Part of your investigation?
- a. There is an alleyway that runs along the rear of the row of shops Mrs K's shop is.
 - b. There were various empty cans there; some behind her shop; some further down.
 - c. Mrs Ks' shop has no labels for her cans of beer; no way I could identify to link those empty cans with the shop. There was some in the alleyway behind the shop.

Mrs K evidence

- 6. DJ re-read w/s with exhibits
- 7. You do not put labels on your beer, as Mr L says
 - a. I don't know. I stopped.
 - b. Romanian beer; that is stopped already
- 8. On every occasion visited, 1 person not 2 as should be
 - a. Son help in the evenings
- 9. Exhibited to statement refusals register.
 - a. Whenever LO visited could not be produced; not here, other guy could not find it.
- 10. Rarely if anybody who could work the CCTV on the premises
 - a. It was working.
- 11. Running shop since 2008
- 12. There every day: me and husband
- 13. 2012 Licence holder
- 14. Convenience store; groceries and everything.

Judge retire 30 mins for decision.

Substantive decision

- 15. This is an appeal against the decision of the LB Harrow licensing panel to revoke the premises licence held by the A Mrs K in respect of a convenience store A Day Fresh.
- 16. The decision was made 24 Sept 2019; the app for review was instigated by Met Police. Because an appeal was lodged the licence holder has continued to be able to sell alcohol from premises for 2 years. Today, 14 Dec 2021, listed for effective appeal hearing. I have already considered history of appeal proceedings and for reasons already given concluded appeal continue today. LA presented by counsel, Mr W. Mrs K not represented today.
- 17. Pointed out at hearing 30 July, App informed she must arrange for her own interpreter, not done so, nor has family attempted to assist her. Court tried to obtain a Tamil interpreter to assist her but none could be provided in short notice. in the cs I decided balance of justice in favour of proceeding.
- 18. Read LA bundle, noted sub c reasons, read material available to panel, also read updating material including PC Beresford. Read and also heard oral evidence from enf officer at time. Statement Feb 21. Statement Mrs K Sep 2020. Mrs K has not produced any further evidence since date of statement. she gave oral evidence today and I asked her a number of

questions. Mr Waller decided that it was not appropriate for him to XX her which I agree with.

19. My role, helpfully reminded by Mr W in his subs, only to overturn if wrong. burden is on the appellant.
20. The appeal is a re-hearing. hearsay evidence carries weight and is admissible.
21. The concern of the panel in considering LOs
 - a. Anti-social behaviour, albeit other premises that sell alcohol
 - b. Concerns as to manner in which the premises managed since 2013
 - c. Continuous breaches of conditions of licence
 - d. LA in attempts to work with licence holder, continuing breach discretionary condition of licence, 2 members of staff employed on the premises. CCTV routinely could not be operated by person on premises. routinely refusals register could not be produced. PC Johnson identified street drinkers to LO, but this practice continued
 - e. August 2019 large quantity of beer seized by HMRC no duty paid; there having been 6 previous occasions when such seizures made.
 - f. Panel heard from Mrs K but concluded no credible evidence given for breaches; no confidence addressed
 - g. I have heard further evidence from Mr L. since appeal, attended 2020 . I am satisfied from his evidence that breaches of licence ongoing, one member of staff present. Cans marked in foreign language. Inability to produce refusals register on request.
 - h. Overall something sub committee aware of, considerable influence of emails from members of the public; asb in area which they connected with premises.
 - i. Overall considered her evidence and English is not her first language; she has not persuaded me that the decision was in any way wrong. correct decision and dismiss appeal.

Costs application

22. Submission: Mrs Ks' financial circumstances should not carry weight, this is a civil appeal
23. J should attach some weight
24. Mortgaged property;
25. Convenience store no income; carers allowance £265 per month;

Costs as at 8,000 around July of this year

Reasonable for extra 2,000

Total of 10,000 civil order payable within 56 days

Me: Court has no power to determine when it is paid but I will feed that indication back to instructing sol.

AW3

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Official copy of register of title

Title number AGL375707

Edition date 12.03.2020

- This official copy shows the entries on the register of title on 06 SEP 2023 at 12:50:33.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 06 Sep 2023.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Wales Office.

A: Property Register

This register describes the land and estate comprised in the title.

HARROW

- 1 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being 50-50A South Parade, Mollison Way, Edgware (HA8 5QL).
- 2 The land in this title has the benefit of a right of way over the land tinted brown on the title plan subject to paying a proper proportion of the expense of maintaining and keeping the same in repair.
- 3 The Transfer dated 16 January 1936 referred to in the Charges Register contains the following provision:-

"The Transferees shall not be entitled to any rights of light or air in respect of the land hereby transferred which would in any way restrict or interfere with the free user of any part of the adjoining or neighbouring land of the Transferors for building or other purposes."
- 4 The land edged and numbered 1 in blue on the title plan has the benefit of the rights granted by but is subject to the exceptions and reservations contained in the Transfer dated 20 December 1939 referred to in the Charges Register.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (29.04.2016) PROPRIETOR: MITTAL PROPERTIES LIMITED (Co. Regn. No. 07563169) of 45a Boundaries Lane, London SW12 8EU.
- 2 (29.04.2016) The price stated to have been paid on 7 March 2016 was £540,000.
- 3 (29.04.2016) A Transfer dated 19 July 1989 made between (1) Rizona Limited (Transferor) and (2) Imberstates Limited (Transferee) contains a Purchasers personal covenant(s) details of which are set out in the schedule of personal covenants hereto.

B: Proprietorship Register continued

The Transfer to the present proprietor contains a covenant to observe and perform the aforesaid covenant(s) and of indemnity in respect thereof.

- 4 (29.04.2016) A Transfer of the land in this title dated 7 March 2016 made between (1) IMBERSTATES LIMITED and (2) Mittal Properties Limited contains purchaser's personal covenants.

NOTE: Copy filed.

- 5 (12.03.2020) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 10 March 2020 in favour of Handelsbanken PLC referred to in the Charges Register.

Schedule of personal covenants

- 1 The following are details of the personal covenants contained in the Transfer dated 19 July 1989 referred to in the Proprietorship Register:-

The Transferee hereby covenants with the Transferor that the Transferee and the persons deriving title under it will hereafter observe and perform the covenants on the part of the lessor and the conditions contained in the Leases and Licences relating to the whole or any part of the properties hereby transferred and hereby indemnifies and will keep indemnified the Transferor against all actions claims and liability in respect thereof.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 The land is subject to rights of drainage and rights in respect of water, soil, gas, electricity and ancillary rights of entry.
- 2 The land tinted blue on the title plan is subject to rights of way.
- 3 A Transfer of the land in this title and other land dated 16 January 1936 made between (1) The Sharon Development Company Limited and (2) Woodfields Development Company Limited contains covenants details of which are set out in the schedule of restrictive covenants hereto.
- 4 A Transfer of 41, 42 and 46 South Parade dated 8 April 1938 made between (1) Woodfields Development Company Limited (Vendors) and (2) Arnold Brothers (Edgware) Limited (Purchasers) contains restrictive covenants by the Vendors.

NOTE:-Copy filed under MX85892.

- 5 A Transfer of 38 South Parade dated 21 December 1938 made between (1) Woodfields Development Company Limited (Vendors) and (2) Dudley Vera Elizabeth Arnold (Purchaser) contains restrictive covenants by the Vendor.

NOTE:-Copy filed under MX106843.

- 6 A Transfer of the land edged and numbered 1 in blue on the title plan and other land dated 20 December 1939 made between (1) Woodfields Development Company Limited and (2) The United Friendly Insurance Company Limited contains covenants.

NOTE:-No copy of the Transfer referred to is held by Land Registry.

- 7 (27.02.2008) The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto.
- 8 (12.03.2020) REGISTERED CHARGE dated 10 March 2020.
- 9 (12.03.2020) Proprietor: HANDELSBANKEN PLC (Co. Regn. No. 11305395) of

C: Charges Register continued

3 Thomas More Square, London E1W 1WY and of 101 Barbirolli Square, Manchester M2 3BG.

- 10 (12.03.2020) The proprietor of the Charge dated 10 March 2020 referred to above is under an obligation to make further advances. These advances will have priority to the extent afforded by section 49(3) Land Registration Act 2002.

Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Transfer dated 16 January 1936 referred to in the Charges Register:-

"THE transferees hereby further covenant with the transferors that the transferees and their successors in title and assigns will at all times hereafter observe and perform the restrictions and stipulations contained in the Third Schedule hereto and no part of the land hereby transferred shall be used for any other purpose than the erection thereon of shops with offices and/or flats above. Provided that the transferees shall not be liable personally in respect of any breach or non-compliance with any of the said restrictions and stipulations which shall first arise or occur after they shall have sold or transferred to any person or persons the land in respect of which any such breach or non-compliance shall have arisen or occurred.

THE THIRD SCHEDULE referred to

1. No hut caravan shed house on wheels or other chattel adapted or intended for use as a private dwellinghouse or sleeping apartment or any temporary buildings of any kind or any fowls house shall at any time be erected placed or used upon any part of the said land nor shall any poultry or pigeons be kept or allowed to be or remain in or upon any part of the said land and premises.
2. Not at any time to erect or cause or allow to be erected placed or remain at or upon any part of the lands hereby agreed to be sold any advertising boards except advertisements relating to the said land or to any of the shops flats or offices erected or to be erected thereon or permit any part of the same or any buildings to be erected thereon to be used as an advertising station or advertising stations (except as aforesaid).
3. No part of the land transferred or any building erected or hereafter erected thereon shall at any time be used as or for a public house hotel inn tavern or beer shop or for the sale of wine beer or spirits (which shall include the sale or consumption of wine beer or spirits on any building erected or hereafter erected on the land hereby transferred if used as a Club).
4. The Vendors reserve the right to vary or rescind all or any of the restrictions above set out except Clause 3 hereof."

Schedule of notices of leases

	Registration date and plan ref.	Property description	Date of lease and term	Lessee's title
1	27.02.2008	Ground Floor 50 South Parade	06.02.2008 10 years from 6/02/2008	NGL894221

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

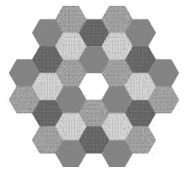
This official copy is issued on 06 September 2023 shows the state of this title plan on 06 September 2023 at 12:50:33. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Wales Office .

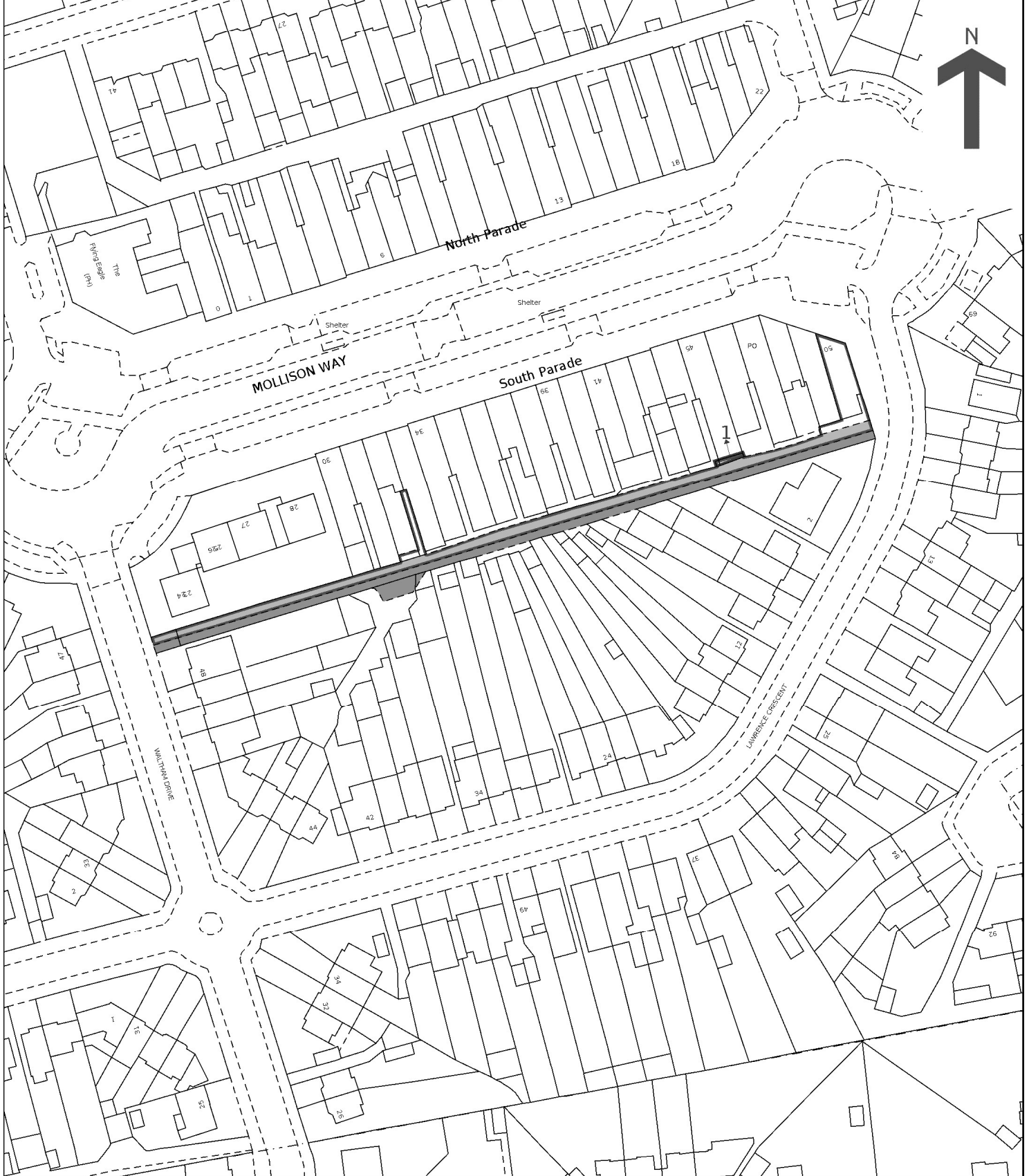
HM Land Registry

Official copy of title plan

Title number **AGL375707**
Ordnance Survey map reference **TQ1990SW**
Scale **1:1250**
Administrative area **Harrow**



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Official copy of register of title

Title number NGL894221

Edition date 27.02.2008

- This official copy shows the entries on the register of title on 06 SEP 2023 at 12:45:19.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 06 Sep 2023.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Wales Office.

A: Property Register

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

HARROW

- 1 (27.02.2008) The Leasehold land shown edged with red on the plan of the above title filed at the Registry and being 50 South Parade, Mollison Way, Edgware (HA8 5QL).

NOTE: Only the ground floor is included in the title.

- 2 (27.02.2008) The title includes any legal easements referred to in clause LR11.1 of the registered lease but is subject to any rights that are granted or reserved by the lease and affect the registered land.

- 3 (27.02.2008) The Transfer dated 16 January 1936 referred to in the Charges Register contains the following provision:-

"The Transferees shall not be entitled to any rights of light or air in respect of the land hereby transferred which would in any way restrict or interfere with the free user of any part of the adjoining or neighbouring land of the Transferors for building or other purposes."

- 4 (27.02.2008) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:

Date : 6 February 2008
 Term : 10 years from 6 February 2008
 Parties : (1) Imberstates Limited
 (2) Nadarajah Kenkarajah

- 5 (27.02.2008) There are excepted from the effect of registration all estates, rights, interests, powers and remedies arising upon, or by reason of, any dealing made in breach of the prohibition or restriction against dealings therewith inter vivos contained in the Lease.

- 6 (27.02.2008) The landlord's title is registered.

Title number NGL894221

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (27.02.2008) PROPRIETOR: NADARAJAH KENKARAJAH of 50 Constable Gardens, Edgware, Middx HA8 5RZ.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (27.02.2008) A Transfer of the freehold estate in the land in this title and other land dated 16 January 1936 made between (1) The Sharon Development Company Limited and (2) Woodfields Development Company Limited contains covenants details of which are set out in the schedule of restrictive covenants hereto.

Schedule of restrictive covenants

- 1 (27.02.2008) The following are details of the covenants contained in the Transfer dated 16 January 1936 referred to in the Charges Register:-

"THE transferees hereby further covenant with the transferors that the transferees and their successors in title and assigns will at all times hereafter observe and perform the restrictions and stipulations contained in the Third Schedule hereto and no part of the land hereby transferred shall be used for any other purpose than the erection thereon of shops with offices and/or flats above. Provided that the transferees shall not be liable personally in respect of any breach or non-compliance with any of the said restrictions and stipulations which shall first arise or occur after they shall have sold or transferred to any person or persons the land in respect of which any such breach or non-compliance shall have arisen or occurred.

THE THIRD SCHEDULE referred to

1. No hut caravan shed house on wheels or other chattel adapted or intended for use as a private dwellinghouse or sleeping apartment or any temporary buildings of any kind or any fowls house shall at any time be erected placed or used upon any part of the said land nor shall any poultry or pigeons be kept or allowed to be or remain in or upon any part of the said land and premises.

2. Not at any time to erect or cause or allow to be erected placed or remain at or upon any part of the lands hereby agreed to be sold any advertising boards except advertisements relating to the said land or to any of the shops flats or offices erected or to be erected thereon or permit any part of the same or any buildings to be erected thereon to be used as an advertising station or advertising stations (except as aforesaid).

3. No part of the land transferred or any building erected or hereafter erected thereon shall at any time be used as or for a public house hotel inn tavern or beer shop or for the sale of wine beer or spirits (which shall include the sale or consumption of wine beer or spirits on any building erected or hereafter erected on the land hereby transferred if used as a Club).

4. The Vendors reserve the right to vary or rescind all or any of the restrictions above set out except Clause 3 hereof."

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

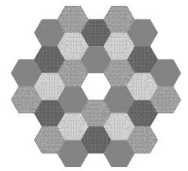
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This title is dealt with by the HM Land Registry, Wales Office .

HM Land Registry

Official copy of title plan

Title number **NGL894221**
Ordnance Survey map reference **TQ1990SW**
Scale **1:1250**
Administrative area **Harrow**



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