

Licensing Panel AGENDA

DATE: Tuesday 11 June 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:

Sarah Butterworth
Natasha Proctor

Kanti Rabadia

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 3 June 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. CARNIPROD, 181 BURNT OAK BROADWAY, EDGWARE, MIDDLESEX, HA8 5EH (Pages 7 - 42)

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: 11 June 2019

Subject: Application for review of the premises licence for Carniprod, 181 Burnt Oak Broadway, Edgware, HA8 5EH

Responsible Officer: Paul Walker, Corporate Director of Community

Exempt: No

Wards affected: Edgware

Enclosures:

Appendix 1 - Application for review
Appendix 2 and 2a - 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 Carniprod, 181 Burnt Oak Broadway, Edgware, Middlesex, HA8 5EH.

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	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

Representations from other persons

None

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 Carniproduct, 181 Burnt Oak Broadway, Edgware, Middlesex, HA8 5EH, currently held by Georgiana Monica Craciunescu.
- 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 Burnt Oak Broadway. The premises comprise a two storey building. The ground floor being a small grocery and off licence and the top floor 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 8 March 2012. The licensing authority received an application to vary the Designated Premises Supervisor on 23 February 2018. This was not accepted as the application was incorrectly completed. The application was duly returned to the applicant. On 10 April 2018, the licensing authority contacted the applicant and the authority was advised that the proposed DPS is awaiting

his personal licence and that the variation will go ahead in due course. No further applications have been received.

- 7 The current premises licence and plan are attached at appendix 3.

Details of the application

- 8 The Application was received on the 24th April 2019. The application has been advertised in accordance with the prescribed regulations.

Representations

- 9 There have been three representations. All are from responsible authorities with two from the Metropolitan Police Service and the other from Trading Standards.

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 trading standards have tried to work with the licensee to ensure that the licensing objectives are upheld and the conditions of the premises licence are complied with.
- 11 The representation made by Trading Standards states that the business has been prosecuted twice previously by them for the same infringements, in 2016 and 2017. It is alleged that despite these prosecutions the licensing objectives continue to be undermined and that non duty paid goods continue to be sold from the premises.
- 12 The keeping of smuggled goods is an offence under Section 144 of the Act.
- 13 It is alleged in the application that Mr Duta is in day to day control of the premises and that the Licensee and DPS, Georgiana Monica Craciunescu has very little input or no input into the business.
- 14 On 1 March 2017, licensing officers visited the premises and notes from the inspection state the following (in part): "*Mr Iulian Duta was present at the shop and advised me that he is the Owner and Georgina visits now and again to train staff.*"

Licensing policy

- 15 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

- 16 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.
- 17 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

- 18 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.
- 19 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.
- 20 The Licensing Panel shall determine the application in accordance with S.52 of the Licencing Act 2003 (“the Act”).
- 21 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.
- 22 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.
- 23 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.

24 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.

25 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.

26 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).

27 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.'

28 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

29 There are no financial implications.

Appeals

30 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: 24 May 2019		

Name: Mohammad Beyki	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 29 May 2019		

Name: Paul Walker	<input checked="" type="checkbox"/>	Corporate Director of Community
Date: 24 May 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,
Tel: 020 8736 6267 (Int 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:

Carniprod, 181 Burnt Oak Broadway, Edgware

Post town:

Harrow

Post code:
(if known)

HA8 5EH

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

Georgiana Monica Craciunescu

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

LN/000005304/2012/1

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: Non duty paid goods have been found at the premises more than once.</p>		

PROTECTIVE MARKING

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

The premises licence holder for Carnipro, 181 Burnt Oak Broadway, Edgware 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 4 years, The management of Carnipro have shown themselves to be one of the main contributors of Anti-Social Behaviour in the Burnt Oak area. 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 and Criminal Behaviour Orders to do so. Carnipro have shown a complete disregard for the law, repeatedly engaging in the sale of smuggled goods with little consideration for the and knock on affect on the local community.

On the 8th March 2019 Carnipro was found to have a quantity of tobacco on the premise by police and trading standards, that was suspected to be non-UK duty paid (smuggled) goods therefore a breach of section 112 of the customs and excise management act 1979 and S144 of the licensing act 2003 which makes it an offence to store non duty paid goods. Upon Police arrival, the venue received delivery of a box of non-duty paid goods. The delivery was received and placed behind the counter by Mr Duta's 14 year old son. 76 packs of tobacco were seized in total. Mr Duta appeared from the rear entrance of the shop shortly after the delivery van drove off.

Whilst at the premises Police Licensing Officers also identified a large number of plastic water bottles containing what Mr Duta said was wine and an empty foil bag which Mr Duta explained he had decanted the wine from, having imported it from Romania. Mr Duta stated that he sold the plastic bottles containing the wine to customers/friends.

Police are greatly concerned about this practise. Mr Duta has no idea what is in these foil bags he has been buying in terms of what ingredients is in these bags of "wine" it has not been subject to UK regulations and could be harmful to those consuming it. The customers that are most likely to buy this are the vulnerable members of the community. Carnipro's License is off sales only which means that all drinks sold have to be factory sealed.

The goods were recovered by trading standards, they are dealing with this investigation. Selling non duty paid items allows the trader to sell alcohol and tobacco products at a reduced rate, thereby undercutting and undermining responsible retailers.

This is not the first time Carnipro has been found to be selling non duty paid goods :

On 16th December 2015, Trading Standards conducted a visit following a covert test purchase, which had identified illicit tobacco products were being sold from the shop. Trading standards found and seized a large variety of illicit tobacco and also counterfeit Glens Vodka.

On 6th September 2016, Mr Duta appeared before Willesden Magistrates court and pleaded guilty as Director and on behalf of the Company for the alleged offences under the Tobacco Products Manufacture, Presentation & Sale Regulations and the Trade Marks Act 1994.

The company was fined £1,290, ordered to pay a £99 victim surcharge and costs of £1,000.00. Mr Duta was fined £175 and ordered to pay a victim surcharge of £20.

28th September 2016, Trading Standards conducted another visit where illicit tobacco was again found behind the counter.

18th April 2017 – Mr Duta appeared before Willesden Magistrates court and pleaded guilty as Director and on behalf of the Company for the alleged offences under the Tobacco and Related Products Regs 2016.

The company was fined £2,500, ordered to pay a £175 victim surcharge and costs of £1,000.00. Mr Duta was fined £350 and ordered to pay a victim surcharge of £35.

Carnipro 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. This leaves the police with no alternative but to submit a review application for this premises licence. Mr Duta has repeatedly failed to demonstrate the behaviour we expect from a business owner we are aware that he is not the premises licence holder but he still continues to work at the location with a disregard for the law. Georgiana Monica is the premises licence holder and knows she needs to promote the licensing objectives and still continues to let this go on in the shop this is not the behaviour we expect on the Borough of Harrow and therefore respectfully request that the licence be revoked.

PROTECTIVE MARKING

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

(Please tick yes)

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.



I understand that if I do not comply with the above requirements my application will be rejected.



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

Part 3 – Signatures (please read guidance note 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 Signature]

Date:

20/04/2019

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)

PC BERESFORD

Post town:

Post code:

Telephone Number (if any):

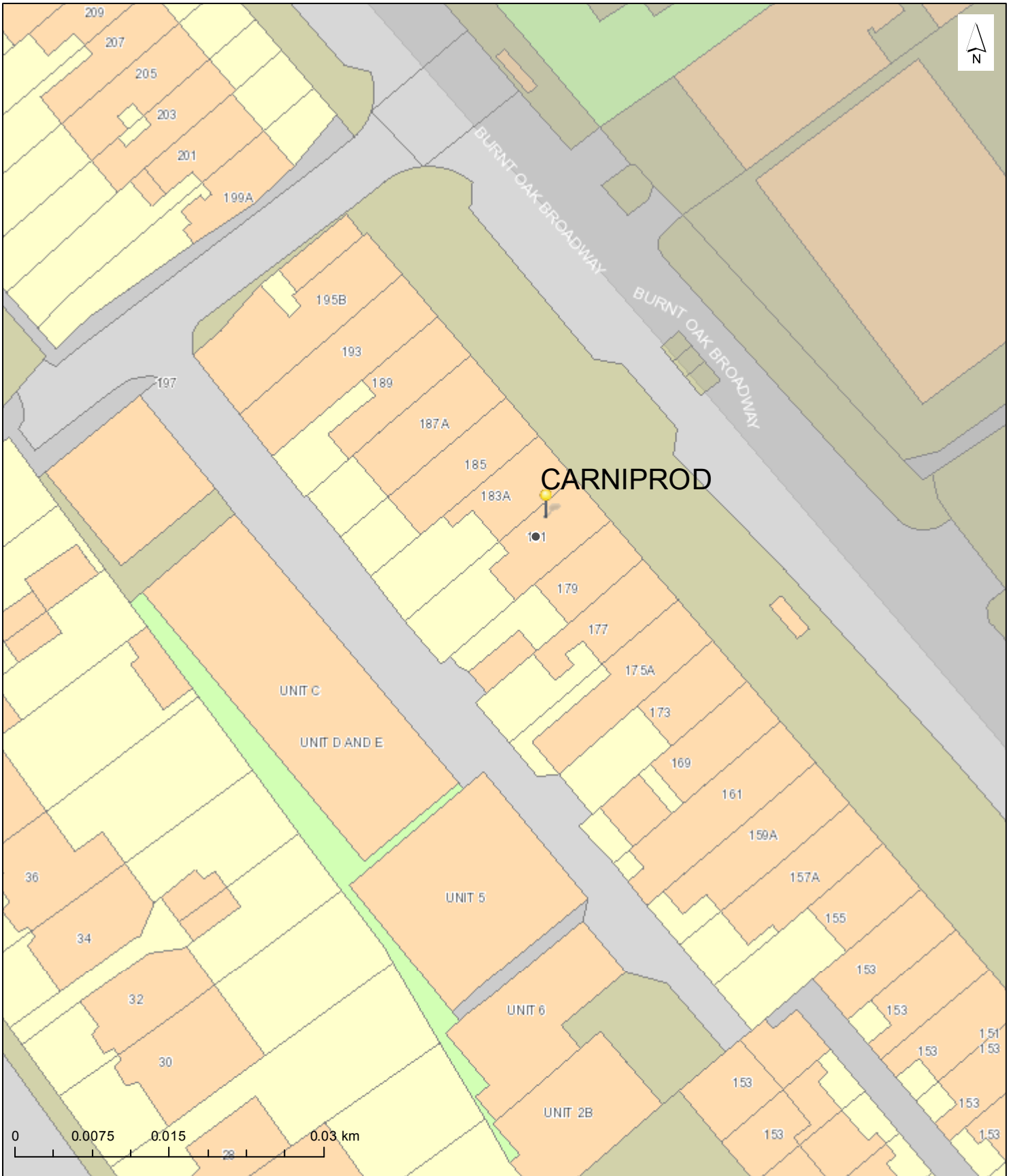
If you would prefer us to correspond with you using an e-mail address, your e-mail address (optional):

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

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APPENDIX 2a

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LICENSING ACT 2003

APPENDIX 3

Schedule 12

Part A (Regulation 33,34)

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

Premises Licence Number:

LN/000005304/2012/1

Part 1 – Premises details

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

Carniprod, 181 Burnt Oak Broadway, Edgware, Middlesex, HA8 5EH

Telephone Number

Where the licence is time limited, the dates:

N/A

Licensable activities authorised by the licence:

Sale of retail alcohol (m)

Signed by Finlay Flett
Head of Community Safety Services

Premises Licence



**Licensable Area
Hours open to public**

Sunday	09:00 - 21:00	-
Monday	09:00 - 21:00	-
Tuesday	09:00 - 21:00	-
Wednesday	09:00 - 21:00	-
Thursday	09:00 - 21:00	-
Friday	09:00 - 21:00	-
Saturday	09:00 - 21:00	-

The times the licence authorises the carrying out of licensable activities

**Location: Licensable Area
Sale of retail alcohol (m)**

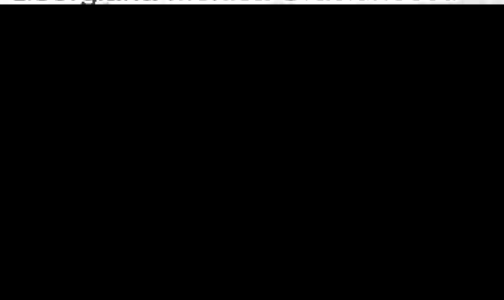
Sunday	09:00 - 21:00	-
Monday	09:00 - 21:00	-
Tuesday	09:00 - 21:00	-
Wednesday	09:00 - 21:00	-
Thursday	09:00 - 21:00	-
Friday	09:00 - 21:00	-
Saturday	09:00 - 21:00	-

Where the licence authorises supplies of alcohol – whether these are on and/or off supplies
Sale by retail off premises

Part 2

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

Georgiana Monica Craciunescu



Registered number of holder, for example company number, charity number (where applicable):

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:

Georgiana Monica Craciunescu

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

BARNET - LN/200712819

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 of alcohol may be made under the premises licence -
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) (b) 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.

Mandatory condition where licence requires door supervision:

Where one or more individuals are required to be at the premises to carry out a security activity, such individual(s) must be licensed by the Security Industry Authority.

Mandatory Conditions Order 2010

1.—(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and 250 ml

(b) customers are made aware of the availability of these measures.

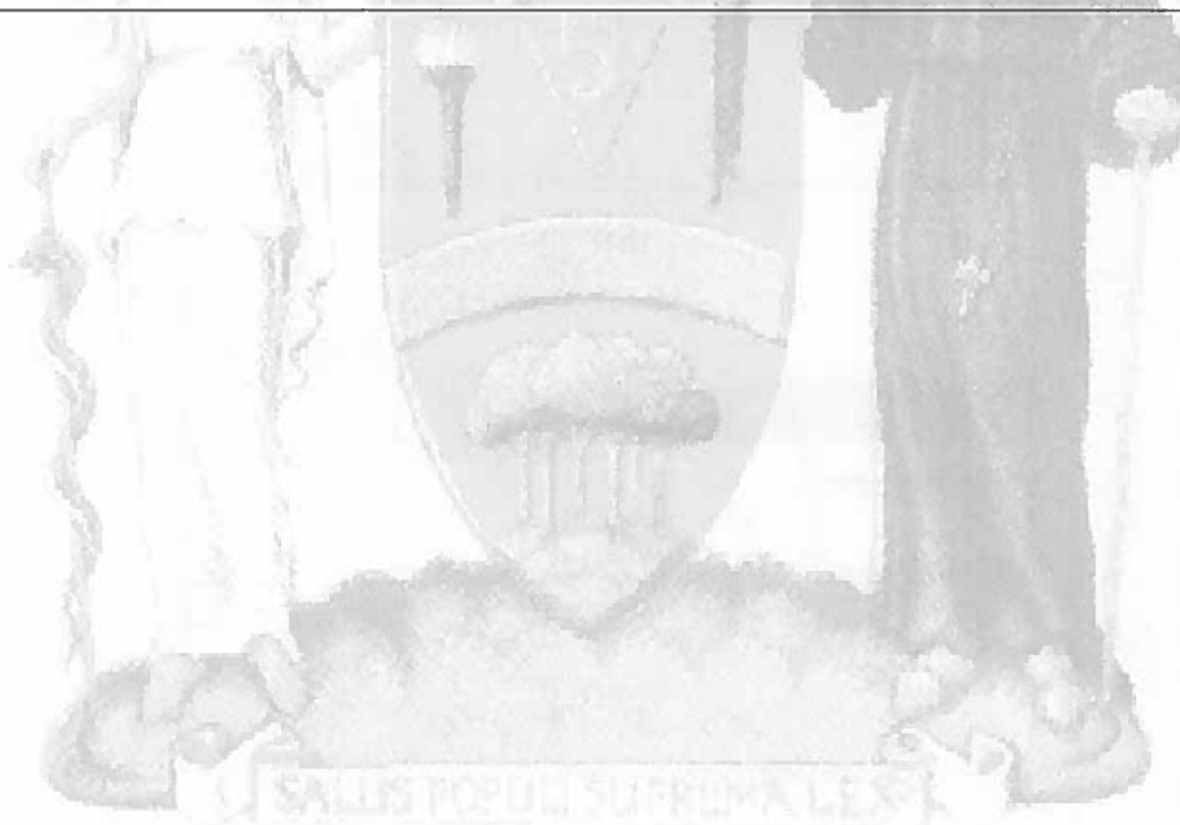
Annex 2 - Conditions consistent with the operating Schedule

1. The CCTV system to be maintained and operated in good order and to the satisfaction of the Metropolitan Police's reasonable requests as documented in the Harrow Police Security Recommendations document. The medium upon which the images are recorded will be clearly identifiable, stored securely and retained for a period of not less than 31 days if analogue and not less than 14 days if digital, and will be made available to Council officers and Police on request.

2. A 'Challenge 21' policy will be operated at the premises, whereby any person attempting to purchase alcohol (or other age restricted products) and who appears to be under the age of 21 years, will be asked to provide proof (i.e. passport, driver's licence or some other such accredited form of photo identification) that they are over the age of 18 years. Notices will be displayed advising customers that the scheme is in operation. A record of age related refusals of sale will be kept and will be made available to officers of the police or local authority upon request.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

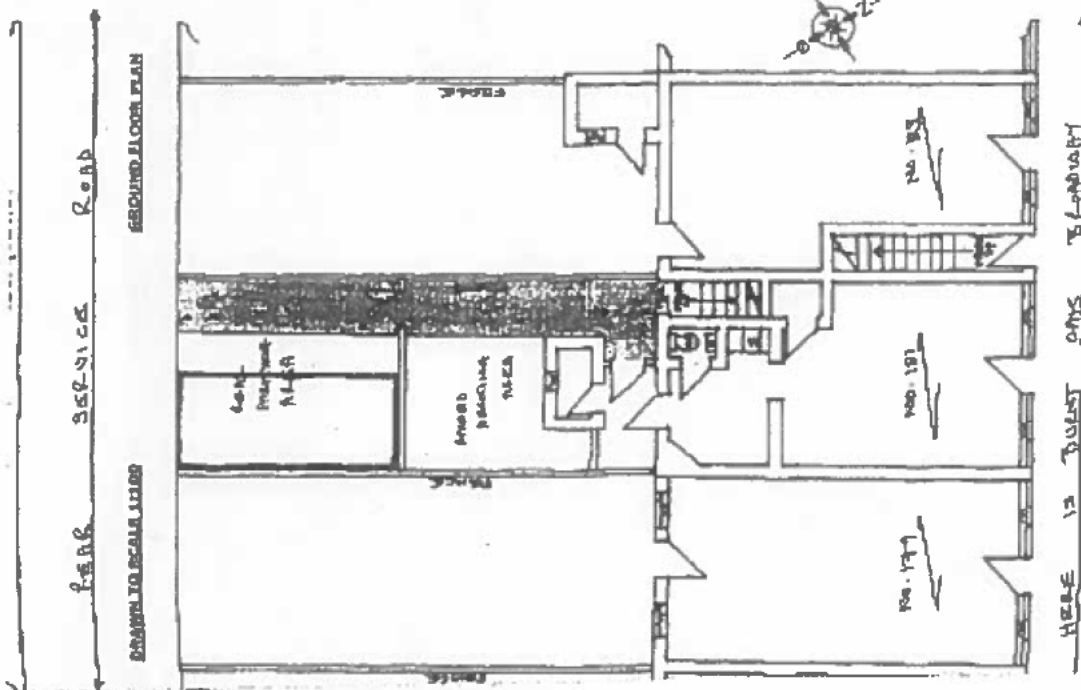
N/A



Annex 4 – Plan

TYPE	LEASE IDENTIFICATION PLAN
TITLE	PARKING AREA AT REAR OF CHURCH FLOOR LOCK-UP SHOP PREMISES
DATE	25 FEBRUARY 2012
CLIENT	BURST OAK, EDGWARE, REGENTIA HASSEN
CLIENT	COTTAGE LAUNDRY UNIT
DATE	12 DECEMBER 2010
SCALE	1:100
DRAWN BY	BLR
DRAWING NO.	12018

LOCATION PLAN



Date of original grant: 08/03/2012

Reason for issue: New Application

Date of issue: 20th March 2012

Issue Number: 1

APPENDIX 4

RESTRICTED (when complete)

MG11

WITNESS STATEMENT

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

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Statement of: Constable Barbara Ladna-Kaccouris

Age if under 18: Over 18

Occupation: Police officer

This statement 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: 03 May 2019

My name is Barbara LADNA-KACCOURIS and I am Police Officer working as Designated Ward Officer on Edgware Ward Harrow Borough since March 2018.

I have been police officer since 2012 and DWO for the last six years on two different wards. During that time, I came across various community issues and I learnt that anti-social behaviour has the biggest impact on the residents and local businesses.

I am providing this statement to assist in the license review of CARNIPROD, Off License Shop at 181 BURNT OAK BROADWAY EDGWARE.

When I took on DWO role on Edgware Ward, it became apparent that BURNT OAK BROADWAY which is on the main road A5 leading to Brent Cross Shopping Centre and Central London, is very busy and diverse part of Edgware. There are various businesses, licensed premises, betting shops, charity shops, pharmacies, Poundland, Iceland and hospital. The area is suffering from Anti-Social Behaviour mainly due to street drinkers discarding empty alcohol bottles and cans everywhere including phone boxes, flowerbeds and resident's front gardens. Whilst drunk, they urinate on the street, back alleyways, and commit offences of shoplifting in the local shops. The most effected are ICELAND, POUNDLAND, DOSHI PHARMACY, ST LUKE HOSPICE and OXFAM charity shops but the list of the victims is longer. Police also have a record of recent business burglaries where during one night the suspects broken into three business premises.

Unfortunately, the drinkers have access for cheap alcohol sold illegally by some of the Off License shops on BURNT OAK BROADWAY and one of them is CARNIPROD.

On 8th March 2019, EDGWARE SNT officers together with TRADING STANDARDS, LICENSING OFFICERS and KINGDOM OFFICERS have organised DAY OF ACTION on BURNT OAK BROADWAY. Officers were tackling ASB issues and carried out license premises visits. KINGDOM OFFICERS have issued in a few hours issued 12 fines for littering, spitting and begging. Police officers arrested male for PWITS.

Licensing officers visited off license shops and found that CARNIPROD had in stock a smuggled cigarettes and wine stored in the water bottles. Trading Standards confiscated the items and the business is currently under investigation. This is not the first time CARNIPROD was caught selling non-duty paid goods.

On 29th March 2019, SNT and LICENSE OFFICERS arranged meeting with local businesses to discuss action plan on how to improve and bring the quality of life to the BURNT OAK BROADWAY. We all agreed that all parties should work together and be actively involved in tackling of ASB the problems.

Businesses, like CARNIPROD should take partial responsibility for current situation on BURNT OAK BROADWAY and trade according to their license.

Signature:



Signature Witnessed by:

RESTRICTED (when complete)

HS

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of **Gary NORTON PC 965QK**..... URN:

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Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer**.....

This statement (consisting of: **3**..... pages 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 anything in it which I know to be false, or do not believe to be true.

Signature: Date:

This typed statement is my original evidential notes regarding a Premises Licensing visit, which was conducted at a convenience store: CARNIPROD, 181 BURNT OAK BROADWAY, EDGWARE, LONDON, HA8 5EH, on FRIDAY 8TH MARCH 2019. I was on duty in plain clothes, wearing my Metvest, Body Worn Video (BWV) and Personal Protection Kit & belt. I was in the company of PC Nicola McDONALD 2157NW and Trading Standards Officer (TSO), Andrew Faulkner. We had been conducting a series of visits to licensing premises in an Anti-Social Behaviour hotspot along the A5 corridor of Barnet/Harrow Boroughs. -----

As we made our way towards the premises of CARNIPROD, TSO Faulkner mentioned that on two previous premises visits he had seized illicit tobacco products, which resulted in prosecutions on both occasions. At 17:59hr, with my BWV switched on, we entered the premises. TSO Faulkner went in first and made us aware he had seen a box of tobacco being put behind the till area and had a closer look at it as he identified himself as Trading Standards. PC McDonald and I identified ourselves as police officers with our warrant cards. TSO Faulkner spoke with an IC1 boy who was wearing a school uniform standing at a rear doorway of the shop. I now know him to be [REDACTED] DUTA, [REDACTED]

[REDACTED] As PC McDONALD conversed with the lady working behind the till area, I joined TSO Faulkner at the rear of the shop. The doorway led into a storage area and out the back of the premises to a service alley. As we walked through with the 14 yr old schoolboy, he pointed out his father, who I now know to be Mr Iulian DUTA, [REDACTED] of [REDACTED] TSO Faulkner re-introduced to him as Mr DUTA walked toward us from the service alley road. He had a wide-eyed expression and seemed somewhat shocked. He was difficult to engage in conversation as we tried to speak to him and walked into the store with us following him closely. Inside the premises TSO Faulkner said “Wheres it come from today? He’s just walked through the shop. You’ve just delivered it? Do you know it’s illegal to sell

Signature: Signature witnessed by:

Continuation of Statement of Gary NORTON PC 965QK.....

this?"

Mr DUTA nervously said "It's just that people is coming and one hours its gone." TSO Faulkner repeated "Do you know it's illegal to sell this?" Mr DUTA said "Illegal?" TSO Falukner said "I think you know. He just delivered this here" he indicated the counter till area by pointing at it "We are going to be seizing this now and I am going to ask you to come in for an interview under caution." He then said "I am going to bag this up. Do you have anymore on the premises as we will do a full search?" Mr DUTA said "No, just this." TSO Faulkner said "Was this for sale in the shop?" Mr DUTA hesitated and said "No its errrrr.....Something for him." TSO Faulkner said "Whose him?" Mr DUTA said "(unintelligible).....Errrrmm , I don't....errr...One guy....who come". TSO Faulkner said "I'll speak to you more about it in interview." As he seized the illicit packets of cigarettes, I went to speak to [REDACTED] DUTA and got his personal details. He gave me his name, address and school details and showed me his school identification card. I was with him for a few minutes and made polite conversation with him to ease his nerves. When I returned to the front of the shop I noticed Mr Iulian DUTA wasn't there. I said "Wheres he gone?" PC McDONALD said "He's done a runner." I said "Are you serious?" She said "Yeah, seriously, I said you might want to tell these lot to clear off whilst we were here and he stuck my head out to speak to the lady with the flowers and he did a runner." I walked back to speak to the schoolboy, [REDACTED] DUTA and asked for his fathers name and date of birth. As he told me, his father returned through the front door of the shop. PC McDONALD took some semblance of control over matters upon Mr DUTA's return and ascertained who the two IC1 females present in the shop were to the business. She asked for a copy of the premises and if the CCTV worked. Mr DUTA said it did but also said he wasn't sure how it worked. He couldn't use the CCTV hardware in the shop but went to get a mobile phone and accessed it from there. I asked Mr DUTA how long he had the shop and he said "2010". I said "How you had any previous issues with illegal sales of cigarettes or anything?" He said "Yeah." I explained that given the circumstances, Trading Standards would be requesting him to come in for interview about the illicit tobacco. He said "Okay." I explained involving his son in moving of the tobacco through the shop would need logging on Police records and why. TSO Faulkner explained that he suspected Mr DUTA was committing a criminal offence selling the illicit tobacco. He then had another look behind the serving counter and saw a plastic bag, which contained more of the illicit tobacco products previously seized. He noted they were in easy reach of the shop assistant sales position when they were behind the counter. As TSO FAULKNER completed his seizure and paperwork, I went to the store room at the back of the shop and took a closer look. I could see an empty bottle of BECKS

Signature: Signature witnessed by:

Continuation of Statement of **Gary NORTON PC 965QK**.....

as well as an empty tin of FOSTERS, which would suggest they were consumed inside the premises. On the floor in a number of cardboard boxes, there were a large number of clear plastic soft drink bottles, but they had odd coloured liquids within them. They also had initials written on them to differentiate what was inside. Some were deep purple red in colour, others a pale yellow straw colour. Essentially, it appeared to be red and white wine decanted into reused soft drink bottles. Mr DUTA joined me and I asked him if they contained wine and he said "Yes." I said "Why does it have "T" on it for? Mr DUTA explained it was to tell him what type of wine it was. PC McDONALD said she had already asked him about the alcohol. Mr DUTA stated he sold the small 500ml bottles of white wine for £2. PC McDONALD stated that he could not make wine, or import wine and decant it to sell as it was illegal. I reiterated what PC McDONALD had said, that buying wine in from overseas, his "home" wine that he referred too, and avoiding customs tax etc was illegal. Mr DUTA didn't deny anything put to him regarding our suspicions about the rebottled wine and just repeated "Sorry", "Okay" or he would do it "No more". We left the shop shortly afterwards. I exhibited two Body Worn Videos of the visit as exhibit numbers GLN/1 & GLN/2.-----

Signature: Signature witnessed by:

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(when completed)

Home address:

Postcode:

Home telephone number Work telephone number

Mobile/pager number Email address:

Preferred means of contact:

Male / ~~Female~~ (delete as applicable) Date and place of birth:

Former name: Height: Ethnicity Code:

Dates of witness non-availability

Witness care

- a) Is the witness willing and likely to attend court? **No**. If 'No', include reason(s) on MG6. What can be done to ensure attendance?
- b) Does the witness require 'special measures' as a vulnerable or intimidated witness? **No**. If 'Yes' submit MG2 with file.
- c) Does the witness have any specific care needs? **No**. If 'Yes' what are they? (Healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?)

Witness Consent (for witness completion)

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes No
- b) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes No
- c) I consent to police having access to my medical records in relation to this matter: Yes No N/A
- d) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- e) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings (if applicable) Yes No N/A
- f) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness:

Statement taken by (print name):

Station:

Time and place statement taken:

Signature of witness:

From: Faulkner, Andrew [REDACTED]
Sent: 09 May 2019 09:29
To: license
Cc: Kirby.Beresford [REDACTED] Ash Waghela
Subject: RE: Application to review premises licence - Carniproduct 181 Burnt Oak Broadway, Edgware, HA8 5EH

Hello

Please accept this as my representation in support of a proposed Premises Licence Review application for Carniproduct 181 Burnt Oak Broadway, Edgware, HA8 5EH.

I am employed by the London Boroughs of Brent and Harrow Trading Standards Service as a Principal Enforcement Officer. I am authorised to enforce various statutes including the Tobacco and Related Products Regulations 2016.

On 8th March 2019, Licensing Police and I visited Carniproduct where upon arrival a box of tobacco was found being placed behind the counter by the owner of the business, Mr Duta's, 14 year old son. 76 cigarette packs were seized in total. Mr Duta appeared from the rear entrance of the shop shortly after this whilst a van drove off. The cigarettes were labelled in a foreign language and as such I recognised that they failed to comply with the Tobacco & Related Products Regulations 2016 which require UK health warnings on tobacco products.

Whilst at the premises Licensing Officers also identified a number of plastic water bottles containing what Mr Duta said was wine and an empty foil bag which Mr Duta explained he had decanted the wine from, having imported it from Romania. Mr Duta stated that he sold the plastic bottles containing the wine to customers/friends. In addition to this, an unknown male was also seen drinking alcohol at the rear of the premises upon our arrival.

Based on my experience, duty on the above products has not been paid therefore, causing a loss in tax revenue, allowing the business to sell these at a cheaper price making it easier for children to afford to buy cigarettes and other tobacco products which encourages underage smoking it also undermines and damages legitimate local businesses as they are being undercut by businesses who chose to operate illegally by selling cheap illegal tobacco products that have no place in the British market.

The business has been prosecuted twice previously by us for the same infringements, in 2016 and 2017. Unfortunately the continued failure to comply with law leads me to believe that the business has no intention to trade legitimately. Given the above information, I believe Carniproduct are a major contributor to crime, unfair business practices and anti-social behaviour in the Burnt Oak area and believe that revocation of their licence is needed to protect our residents from further criminal breaches.

Kind regards

Andrew Faulkner
Principal Enforcement Officer
Trading Standards
Regeneration and Environment
Brent and Harrow Council

[REDACTED]

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.