

Licensing Panel AGENDA

DATE: Thursday 17 October 2019

TIME: 7.30 pm *

VENUE: Council Chamber, Harrow Civic Centre, Station Road, Harrow, HA1 2XY

* THERE WILL BE A BRIEFING FOR MEMBERS AT 7PM IN THE COUNCIL CHAMBER.

MEMBERSHIP (Quorum 3)

Chair: (To be appointed)

Councillors:

Pamela Fitzpatrick
Dean Gilligan

Chetna Halai

Reserve Members:

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

Contact: Nikoleta Nikolova, Senior Democratic and Electoral Services Officer
Tel: 020 8424 8284 E-mail: nikoleta.nikolova@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: Wednesday 9 October 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 TRANSILVANYA, 18 NORTH PARADE, MOLLISON WAY, EDGWARE, MIDDLESEX, HA8 5QH (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: 17 October 2019

Subject: Application for review of the premises licence for Transilvania, 18 North Parade, Mollison Way, Edgware, Middlesex, HA8 5QH

Responsible Officer: Paul Walker – Corporate Director – Community Directorate

Exempt: No

Wards affected: Edgware

Enclosures: Appendix 1 - Application for review
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 Transilvania, 18 North 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	No representations received
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>Home office immigration enforcement (on behalf of the secretary of state)</i>	No representations 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 Transilvania, 18 North Parade, Mollison Way, Edgware, Middlesex, HA8 5QH currently held by Transilvania Limited.
- 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 27 March 2006. There have not been any transfer or 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 20 September 2019. The application has been advertised in accordance with the prescribed regulations.

Representations

- 9 There have been two representations. One from a police officer and the other from a councillor.

Officer observations

- 10 The applicant alleges that during several visits by the police, and HMRC, 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.
- 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 as they suspected that the correct duty has not been paid.
- 12 The keeping of smuggled goods is an offence under Section 144 of the Act.
- 13 The licensee is Transilvania Limited and the sole director of the company is currently Constantin Dutta. The designated premises supervisor is Andreea Dutta-Spatariu (née Dutta)
- 14 Where a review application is submitted to the authority, statute requires that a hearing takes place to determine that application. In this case the licensee has surrendered the licence, however, there are circumstances in which a licence can be reinstated after surrender (within a limited time period) and so a hearing to make a determination of the application is recommended in this case.

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: 4 October 2019		

Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 7 October 2019		

Name: Paul Walker	<input checked="" type="checkbox"/>	Corporate Director
Date: 3 October 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:**

TRANSILVANIA, 18 NORTH PARADE, MOLLISON WAY

Post town:

EDGWARE

Post code:
(if known)

HA8 5QH

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

MS ANDREA DUTA

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

0603-LHP9-CAEW-WDNG

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)

During several visits to the premises, it has been found that the premises licence holder doesn't have control over the day to day running of this shop.

During visits by the police and HMRC the venue has been failing to uphold there conditions on there licence and has been found with non duty paid goods.

PROTECTIVE MARKING

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

20/11/2014

HMRC attended Transilvania, non-duty paid Goods were seized:

740 cigarettes

42.2 litres spirits

21.25 litres of wine.

Seized goods amounted to £940.33.

The person running the store at the time of this seizure was Mr Constantine Duta who is the father of the owner of the business.

08/03/2019

Police attended this venue with trading standards for a licensing inspection the only member of staff at the premises was a male who identified himself as Mr condtantine DUTA. His English was very poor but we were able to understand that his daughter was the Premises licence holder and the DPS Mr Duta gave police his daughter's mobile number so we could contact her he explained that she was in Romania on holiday & would be home in one week. Due to communication issues we was unable to conduct a full inspection, a note was left with MR DUTA to give to his daughter to call or email the police. However no email or phone call was received. Also whilst in this shop police noticed that the prices of the wine and beer were very cheap at £1 for a can of beer and £5 for a bottle of wine this was passed onto HMRC.

08/04/2019

Police attended the venue again for a follow up visit, it was only Mr Duta again, and police were unable to do a full licensing inspection due to communication issues. Another note was left for MS Andrea Duta to contact the police either by email or by phone. Mr Duta explained again that his daughter was in Romania on holiday and this time would be back in two weeks. Police called Ms Duta's phone and left a voicemail asking her to call or email the police ASAP, but police still haven't heard from her.

14/08/2019

Police attended the venue to conduct a full licensing inspection this time it was decided that we would attend with a Romanian speaking PCSO Ben-chalam who was able to translate, HMRC officers attended with us.

HMRC seized 246 Beers which And 164 bottles of wine which were all non-duty paid goods.

Mr Duta admitted that he was running the store and he was the one who was buying all the stock and in charge of the day to day running of the store. He stated that the landlord had put the rent up to £3000 a month and he could only make this much money by selling non duty paid goods.

Selling non- duty paid items allows the trader to sell products at a reduced rate thereby undercutting responsible retailers it also makes them more affordable for the more vulnerable members of our community that have alcohol addictions.

Police asked Mr Duta to call his daughter but said that he didn't want to worry her as she is in Romania.

We also with the help of PCSO Ben-chalam we was able to go through all of the licensing conditions that are on the license, he was failing to uphold the condition on Annex B – CCTV conditions, the CCTV was not working atall Mr Duta stated that he was aware of this and hadn't been working for 1 week, which he has no plans to get this fixed.

Whilst in the shop police were handed an accountants business card that MR Duta had found within his paperwork this was in the name of MRS Andrea SPATARIU (MATT) I asked who this was and he stated that it was his daughter and that her name was different as she was married. On this business card was the same number that MR DUTA had previously given to police. MRS SPATARIU (MS DUTA) has made no attempt to contact the council licensing to make them aware of this name change.

Police are of the belief that MS Andrea Duta is not involved in the day-to-day running of this premises, up to now police have not been made aware of any applications to the local authority to transfer the premises licence to another person or company. Therefore she is still the licence holder and designated premises supervisor and ultimate responsibility lies with her.

The local policing team, council, residents and other partnership agencies are going to great efforts to improve Edgware, and we of the opinion that not only is MS DUTA not capable of being a responsible licence holder - she has failed to uphold the law, and has so far failed in her duties to be the kind of business that contributes positively to the community in which she works consistently failed to promote the licensing objectives. The Police have no confidence in the owner or operation of the premises. 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.

PROTECTIVE MARKING

Have you made an application for review relating to this premises before?	<input type="checkbox"/> (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.	<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:	23/08/2019
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

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: Ruth Strauss

Age if under 18: Over 18 (If over 18 insert 'over 18')
Occupation: Higher Officer, HM Revenue & Customs

Occupation: Higher Officer, HM Revenue & Customs

This statement (consisting of 4 page(s) each signed by me is true to the best of my knowledge and belief and I make it knowing that I am liable to prosecution if I have wilfully stated in it anything which I know to be false.

Signature:



Date: 17/09/2019

I work in CITEX Operations, Jubilee House, Stratford. As part of my duties I conduct visits to Off Licences, Cash and Carries and Tobacco and Alcohol Wholesalers. As part of these duties I will seize Excise Goods (that is goods that are liable to a duty of Excise) where the goods are found to be not duty paid. I will also issue Civil Assessments to recover lost duty, and issue Excise Wrongdoing Penalties when evasion has taken place.

I acquired the information during my visit under the Customs and Excise Management Act 1979.

At approximately 11:43 hours on the 14/08/2019, I was on duty with other HMRC Officers conducting a shop inspection under S112 of the Customs and Excise Management Act 1979 as excise goods were clearly seen in the shop. Also in attendance was Police Licensing Officers. We identified ourselves as HMRC officers by way of our official identification cards, and reason for the visit was explained. The reason for the visit was to verify the duty status of the excise products being sold and stored in the shop. The shop details are: Transilvania, 18 North Parade, Mollison Way, Edgeware, HA8 5QH. Person behind the counter identified himself as Constantin Duta who confirmed he was the owner's father. The director of the shop Andreea Spatariu (formerley Duta now married) was not in the country she was in Romania. Mr. Duta said his English was not good so the police had a Romanian speaking officer present during the whole

Date: 17/09/2019

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: Ruth Strauss

of the visit. On the shelves and the stock room were 70 cl bottles of Alexandrion fine spirit at 37.5% ABV (alcohol by volume) these bore no UK duty stamps on the bottles, but had Romanian tax stamps on. Located on the shelf in the shop Stalinskaya Vodka 70 cl bottles at 45% ABV and 40% these bore no UK duty stamps and had Romanian tax stamps on. Since 1 January 2007 it has been a requirement of The Duty Stamp Regulations 2006 that all bottles and other retail containers of spirits, and wine or made-wine, with a strength of 30% alcohol by volume or more, of a capacity of 35cl and larger have to carry a duty stamp to be legal for retail sale.

I asked the Police officer to explain to Mr. Duta that the spirits bearing the Romanian tax stamps on were being seized by HMRC as the 70cl bottles should have UK duty stamps on. Mr Duta said he understood why the goods were being seized and that he was also aware about UK duty stamps being on bottles of spirits over a certain size.

Also located in the stock room floor and fridge were several brands of foreign beer. The brands being Ursus, Timisoreana, Bergenbeir, Ciuc. These all relate to 50 cl cans. This was marked up and being sold for £1.00 a can the price was confirmed by Mr. Duta. The price that this beer is being sold for is very cheap. I asked Mr. Duta where these products had been purchased from. Mr. Duta confirmed that these beer products had been purchased from Roe Exports based in London. Officer Parr from HMRC phoned Roe Exports to confirm this as no invoices in the shop covered these beer products. Officer Parr was able to confirm after speaking to Roe Exports that this trader had not purchased any alcohol from them this year and that they had last purchased alcohol from them on 14/12/2018. When I asked Mr. Duta where these products had been purchased from and had it been purchased off record from an illicit source i.e. a man in a van scenario. Mr. Duta admitted that the beer products in question had been purchased from a man in a van paying cash and getting no invoices. Mr. Duta said he purchased these products for the shop and not his daughter. When questioned as to the frequency

Date:

17/09/2019

Signa

(signature or 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: Ruth Strauss

that he had purchased from the man in the van Mr. Duta was able to confirm he had purchased every 2-3 months spending roughly £300.00 - £400.00 a time. I informed Mr. Duta that all these products would be seized.

Also in the shop on the shelves and in the stock room Romanian wine in 75cl bottles various brands these were all being sold for £5.00 a bottle. When Officer Parr had phoned Roe Exports they had confirmed that they sold Cothari wine 75 cls bottles for £5.09 a bottle with the VAT included this would be £6.18 a bottle. Transilvania is selling this product for £5.00 a bottle. I asked Mr. Duta if he had purchased all the Cothari wine in the shop off record. Mr. Duta confirmed that he had indeed purchased this wine and other brands in the shop off record again from a different person who turns up in a van, he pays them cash and receives no invoices. I then asked Mr. Duta to point to all the wine brands he had purchased off record. Mr. Duta said he knew that what he was doing is wrong buying alcohol from a man in a van but he does it to keep the shop going, because if he bought all the alcohol from Roe Exports it is too expensive. He also confirmed that he had been buying the wine off record during this year and normally spends £300.00 - £400.00 a time. I informed Mr. Duta that all the wine that he had identified that had been purchased off record would be seized as liable to forfeiture. All the relevant seizure paperwork was issued to Mr. Duta. I left my work card with my contact details on for the director to contact me on her return from Romania.

The seizure was no appealed within the time limit and as such the goods were condemned. The total amount of UK excise duty evaded from the seizure amounts to £782.66 for the alcohol this has been extracted from a departmental database.

To cut down on unlawful selling of alcohol HMRC have bought in a scheme that requires all businesses who are wholesaling alcohol to become registered AWRS (Alcohol Wholesaler Registration Scheme) if

Date: 17/09/2019

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: Ruth Strauss


the business is successful it will be issued with a unique reference number which will be visible on the invoice, so the retailer will know that the wholesaler is approved by HMRC. It also requires retail buyers to make sure that they are purchasing alcohol from a registered and approved supplier.

HMRC may seize stock supplied from an unapproved UK wholesaler. From the 1st April 2017 trade buyers who buy their alcohol from UK wholesalers for re-sale need to make sure that these wholesalers are approved by HMRC for AWRS.

HMRC provides an online look up service that allows trade buyers to look up the details of the alcohol suppliers to ensure that they are approved for AWRS.

I have taken the following information from an HMRC database which show's on the 20/11/2014 this trader was visited by HMRC officers and the following was seized as liable to forfeiture 740 cigarettes, 42.2 litres of mixed spirits and 21.25 litres of wine the total amount of UK excise duty evaded from the seizure amounts to £705.23 this has been extracted from a departmental database. The seizure was not appealed.

Date: 17/09/2019

Signature: 

(signature of witness)

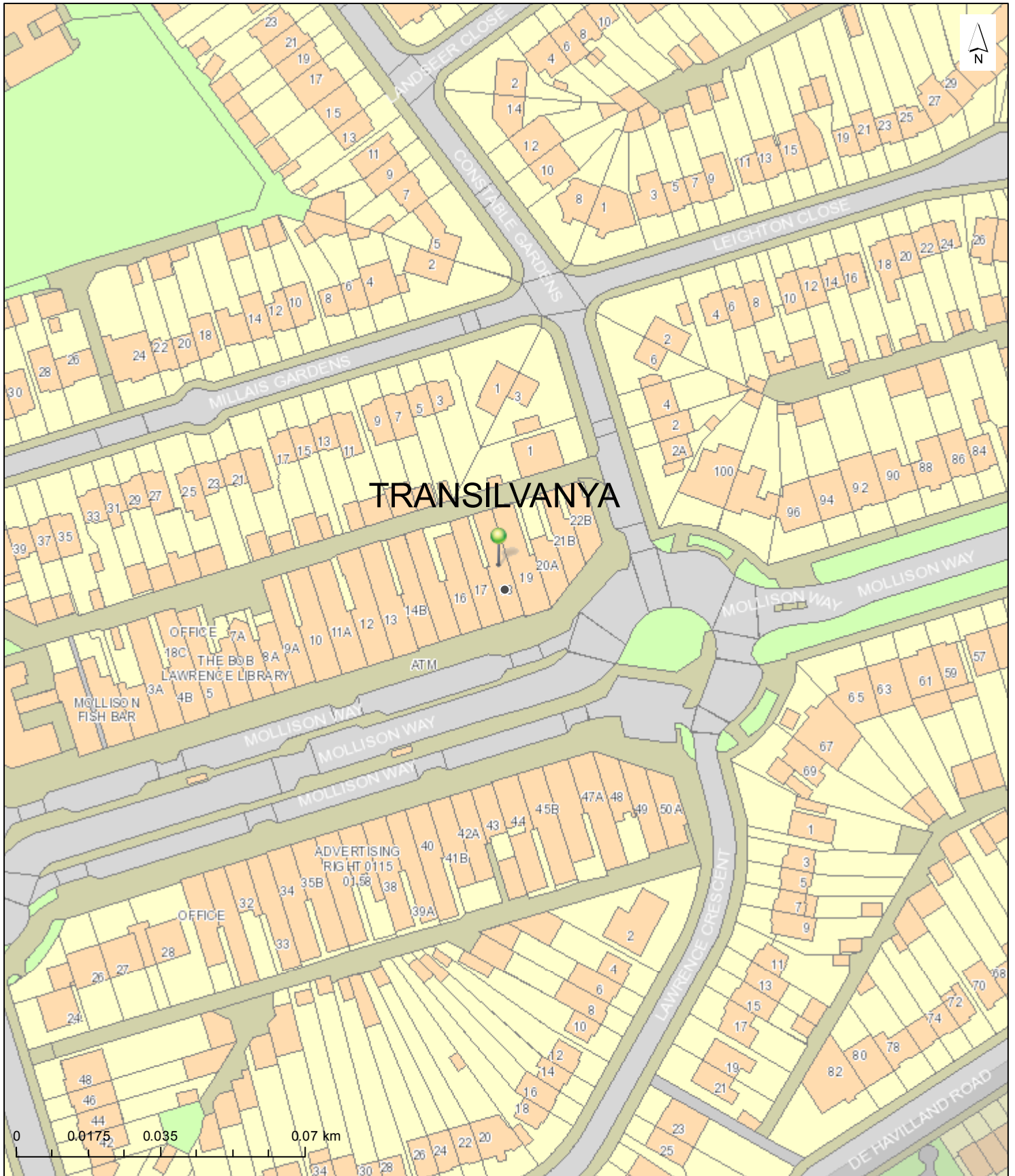
Signature: _____

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY

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Appendix 2 map and image



Legend

Points



24

CORAL



Newell Glass & Design

- UPVC windows
- Conservatories
- Doors
- Bi-Fold

Telephone: 020 8952 3634
 Mobile: 07930 626 566
 07790 594 657

Lebara mobile

TRANSILVANIA

NINETEEN

FOSTER'S Carlsberg LIVE SPORTS SHOWN HERE GUINNESS

Football 'n' Sport

Cricket 'n' Sports

LICENSING ACT 2003

Schedule 12

Part A (Regulation 33,34)

PREMISES LICENCE

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

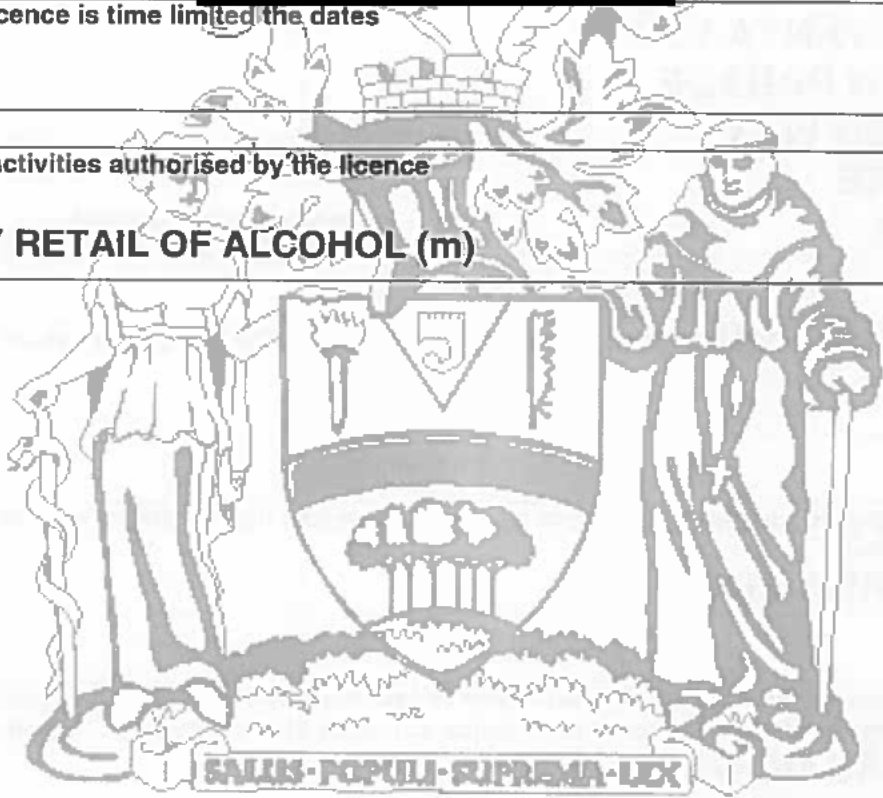
Premises Licence Number	0603-LHP9-CAEW-WDNG
-------------------------	---------------------

Part 1 – Premises details **TRANSILVANYA**

Postal address of premises, or if none, ordnance survey map reference or description 18 NORTH PARADE MOLLISON WAY			
Post town	EDGWARE	Post code	HA8 5QH
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)



[REDACTED]

Gareth Klywelyn Roberts
Signed: Chief Environmental Health Officer

The times THE licence authorises the carrying out of licensable activities

HOURS OPEN TO PUBLIC (o)							
	MON	TUE	WED	THU	FRI	SAT	SUN
	1000-2100	1000-2100	1000-2100	1000-2100	1000-2100	1000-2100	1000-1600
SALE BY RETAIL OF ALCOHOL (m)							
	MON	TUE	WED	THU	FRI	SAT	SUN
	1000-2100	1000-2100	1000-2100	1000-2100	1000-2100	1000-2100	1000-1600

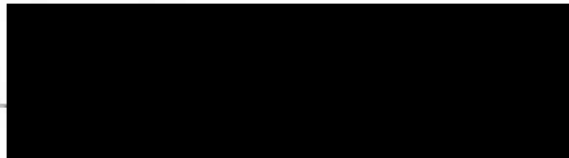
1. SALE BY RETAIL OF ALCOHOL CAN BE EXTENDED BETWEEN THE TERMINAL HOUR ON NEW YEAR'S EVE AND THE COMMENCEMENT HOUR ON THE FOLLOWING MORNING.

FOR CONSUMPTION OFF THE PREMISES

Part 2

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

**TRANSILVANYA LTD
18 NORTH PARADE
MOLLISON WAY
EDGWARE
HA8 5QH**



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

5639029

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

MS ANDREA DUTA

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

**06AD-00A6-MQWT-YFT4
LONDON BOROUGH OF HARROW**

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

N/A

ANNEX 1 – MANDATORY CONDITIONS:

1.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) AT A TIME WHEN THE DESIGNATED PREMISES SUPERVISOR DOES NOT HOLD A PERSONAL LICENCE OR HIS PERSONAL LICENCE IS SUSPENDED**

Annex 2 – Conditions consistent with the operating Schedule

P

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

THE PREMISES HAVE CCTV SYSTEM AND EXTERNAL LIGHTING (FRONT DOOR)
THE SELL OF ALCOHOL WILL BE DONE FOR OFF-PREMISES CONSUMPTION AND AUTHORISED BY THE DESIGNED PREMISES SUPERVISOR, WE WILL WORK IN PARTNERSHIP WITH LOCAL POLICE AND AUTHORITIES.

b) The prevention of crime and disorder

- THE SHOP HAS CCTV SYSTEM.
EXTERNAL LIGHTING
- ~~SHOP~~ COLLABORATE WITH LOCAL POLICE

c) Public safety

EXTERNAL LIGHTING (FRONT DOOR)
CCTV SYSTEM
- COLLABORATE WITH LOCAL POLICE, FIRE AUTH.

d) The prevention of public nuisance

BEING A SHOP WE DO NOT EXPECT ~~A BIG~~ AMOUNT OF PEOPLE ~~TOO MUCH~~ IN THE SAME TIME, IF WE WILL HAVE THIS SITUATION WE WILL LIMIT THE NUMBER OF PERSONS BEING IN THE SAME TIME ON THE PREMISES.

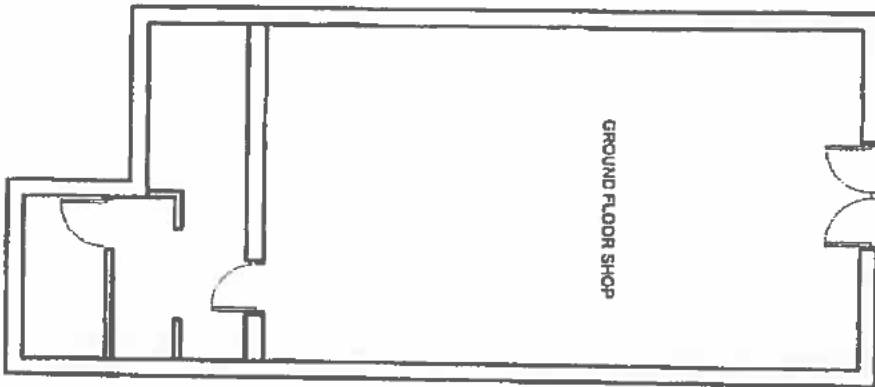
e) The protection of children from harm

WE WILL DISPLAY SIGNS THAT SAY: "IT IS AN OFFENCE TO PURCHASE OR ATTEMPT TO PURCHASE ALCOHOL IF YOU ARE UNDER AGE OF 18". AND "IT IS A CRIMINAL OFFENCE FOR ANY PERSON TO SELL ALCOHOL TO A PERSON WHO IS UNDER AGE OF 18 ANYWHERE."
ALSO, ALL OUR STAFF WILL BE TRAINED NOT TO SELL ALCOHOL TO UNDER 18 AGE AND TO ASK FOR AN ID ANYTIME WHEN CONSIDER THAT IT IS NECESSARY.

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

N/A

**Annex 4 –
Plan Attached**



LOCATION:	
18 MOLLISON WAY HARROW HAB SQH	
Proposal:	
LICENSE PLANS	
Date:	FEBRUARY 2006
Scale:	1:100
Dwg No:	MOL/06

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: (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 Sign  399NW 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 TRANSILVANYA, 18 NORTH PARADE, MOLLISON WAY, HA8 5QH.

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 TRANSILVANYA 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 TRANSILVANYA, 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 TRANSILVANYA were being sold separately and were largely non-uk, fully sign written in a foreign language on the cans. I asked the shopkeeper where they got them from to which the reply was "from a white van that comes around". 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 Sign  399NW
Signature Witnessed by Signature.....

Continuation of Statement of:

An HMRC warrant was executed on 14th AUGUST 2019 at TRANSILVANYA 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



[Redacted] 3399NW

Witness Signa

[Redacted]

3399NW

Signature Witnessed by Signature.....

Continuation of Statement of:

Figure 2



[Redacted Signature] 399NW

Witness Signature

3399NW

Signature Witness

Ash Waghela

From: Angella Murphy-Strachan
Sent: 02 September 2019 19:04
To: license
Subject: Application to review the premises licence of Transilvanya- 18. North Parade, Mollison Way, Edgware, Middlesex, HA8 5QH

Transilvanya, 18 North Parade, Mollison Way, Edgware, Middlesex, HA8 5QH.

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. I have observed a number of large groups of people drinking alcohol from cans and bottles on a Sunday afternoon on North parade. This creates an atmosphere of intimidation and fearfulness for 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.