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**REPORT FOR: LICENSING PANEL**

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**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 Carniprod, 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 24<sup>th</sup> 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

on behalf of the  
Chief Financial Officer

Date: 24 May 2019

Name: Mohammad Beyki

on behalf of the  
Monitoring Officer

Date: 29 May 2019

Name: Paul Walker

Corporate Director of  
Community

Date: 24 May 2019

**Ward Councillors notified:**

Yes

### **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>