

# Licensing Sub-Committee Hearings Meeting

**Online Meeting, Virtual Meeting Platform  
Monday, 10 January 2022 at 10:00**

**The Licensing Sub-Committee** hears and determines applications made under the Licensing Act 2003.

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**COLCHESTER BOROUGH COUNCIL**  
**Licensing Sub-Committee Hearings**  
**Monday, 10 January 2022 at 10:00**

**The Licensing Sub-Committee Hearing Members are:**

Jeremy Hagon - Member, Dave Harris - Member, Martin Leatherdale - Member

**The Licensing Sub-Committee Hearing Substitute Members are:**

All members of the Council who are not Cabinet members or members of this Panel who have undertaken the necessary training.

**AGENDA**  
**THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING**  
**(Part A - open to the public)**

**Please note that Agenda items 1 to 4 are normally dealt with briefly.**

**1 Appointment of Chairman**

To appoint a Chairman for the meeting.

**2 Welcome and Announcements (Virtual Meetings)**

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

**3 Substitutions**

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

**4 Declarations of Interest**

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

**5 Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meeting held on 11 March 2021 are a correct record.

**Licensing Sub-Committee draft Minutes 11 March 2021** 5 - 8

**LA 2003 hearings process flowchart** 9 - 10

6 **Premises Licence Summary Review hearing - Licensing Act 2003** 11 - 70

The Sub-Committee will determine an application for a summary review in respect of a premises licence issued under the Licensing Act 2003.

**Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**Part B**  
**(not open to the public including the press)**

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**Licensing Sub-Committee**  
**Thursday, 11 March 2021**

**Present:** Councillor Buston, Councillor Crow, Councillor Hogg

**Substitutes:** None

**53. Appointment of Chairman**

*RESOLVED* that Councillor Hogg be appointed Chairman for the Sub-Committee meeting.

**54. Declarations of Interest**

Councillor Hogg declared a non-pecuniary interest by virtue of the fact that he was the holder of a licence issued under the Licensing Act 2003 on behalf of a registered charity.

**55. Transfer of the premises licence of the Anchor Public House, Tiptree**

It was confirmed to the Sub-Committee by the Democratic Services Officer that the holder of the premises licence had received the required formal notice of hearing, together with all agenda documents and an invitation to this hearing, however, she had indicated to Licensing Officers that she did not intend to be present or be represented at the hearing, and would take no part in the proceedings.

The Sub-Committee considered a report inviting it to determine an application which had been made for the transfer of the premises licence in respect of The Anchor, Station Road, Tiptree. Sarah White, Senior Licensing Officer, explained that the application for the transfer of the licence had been made by Ms Murphy on 4 February, and had been accepted on 8 February 2021 once all the necessary documentation had been received by the Licensing Authority. The transfer application had been made with immediate effect pending the outcome of this hearing, which had allowed Ms Murphy to operate the premises as if she were the licence holder. Essex Police had objected the transfer on the grounds that the prevention of crime and disorder Licensing Objective had been undermined, and the evidence that they had presented was before the Sub-Committee.

Alan Beckett, Essex Police Licensing Officer, addressed the Sub-Committee and advised it that at a previous meeting of the Licensing Sub-Committee which had been held on 9 March 2021, the decision had been taken to revoke the premises licence in respect of the Anchor Public House following numerous alleged breaches

of the law and the undermining of the crime and disorder Licensing Objective. The transfer application which was being considered by the Sub-Committee had been submitted shortly after the application for the review of the premises licence had been submitted, and it was the contention of Essex Police that the applicant, Ms Murphy, was either an absent landlord or had allowed the undermining of the crime and disorder Licensing Objective over a period of over six months. In either event, it was the contention of Essex Police that Ms Murphy would not be a suitable person to uphold the Licensing Objectives or engage in constructive dialogue with the relevant Responsible Authorities. It was suggested to the Sub-Committee that evidence to support this contention could be taken from Ms Murphy's failure to attend at the review hearing, and also her failure to attend this hearing. It was the view of Essex Police that these were exceptional circumstances that warranted the refusal of the application to transfer the premises licence.

Councillor Buston had considered the evidence provided in detail, and was impressed by the exceptional nature of the situation, and noted that the issues that had been raised in respect of the premises had not been isolated incidents. He further considered that the applicant for the transfer of the licence, as the owner, of the business, should have been aware of the issues at the premises, and in his opinion no attention had been paid to the proper running of the business for some considerable time. Without any evidence provided by the applicant to refute any of the allegations that were made, he considered that the Council had few options before it, and the non-attendance of the applicant to the hearing was of particular significance. Councillor Buston advised the Sub-Committee that he had been a member of the Licensing Committee for some years, and had not considered such an objection by Essex Police before, which emphasised the seriousness of the situation.

Councillor Crow echoed the comments made by Councillor Buston, and was surprised and worried by the fact that the applicant had not attended the hearing to offer any explanation or evidence in support of the application. He enquired whether Ms Murphy had been present during the alleged breaches of the Coronavirus Regulations had taken place, and Alan Beckett confirmed that, to his knowledge, she had not. It was confirmed to the Sub-Committee that Ms Murphy was listed as the sole director of the company M&A Anchor Limited, which had indicated that it was responsible for the running of the venue, however, Essex Police were not aware of any links between Ms Murphy and the previous premises licence holder.

In response to an enquiry from Councillor Hogg, Sarah White confirmed that there was no requirement for the holder of a premises licence to be present at the premises in person.

Alan Beckett re-iterated the contention of Essex Police that there would be no confidence in the ability of Ms Murphy to uphold the Licensing Objectives, and the Sub-Committee were requested to refuse the transfer application.

*RESOLVED* that the application to transfer the premises licence in relation to premises The Anchor Public House, Station Road, Tiptree, CO5 0AZ, which had been made by Kaye Murphy be refused.

### **Reasons for the determination**

Following deliberations, the Licensing Sub-Committee has reached the decision to refuse the application to transfer the premises licence in respect of the Anchor Public House, Tiptree into the name of Ms K Murphy.

In reaching its decision, the Sub-Committee examined all the documents and evidence submitted, and considered the representations made at the hearing by Essex Police.

The Sub-Committee was particularly concerned by the approach that had been adopted by Ms Murphy throughout, in relation to her lack of supervision of the premises.

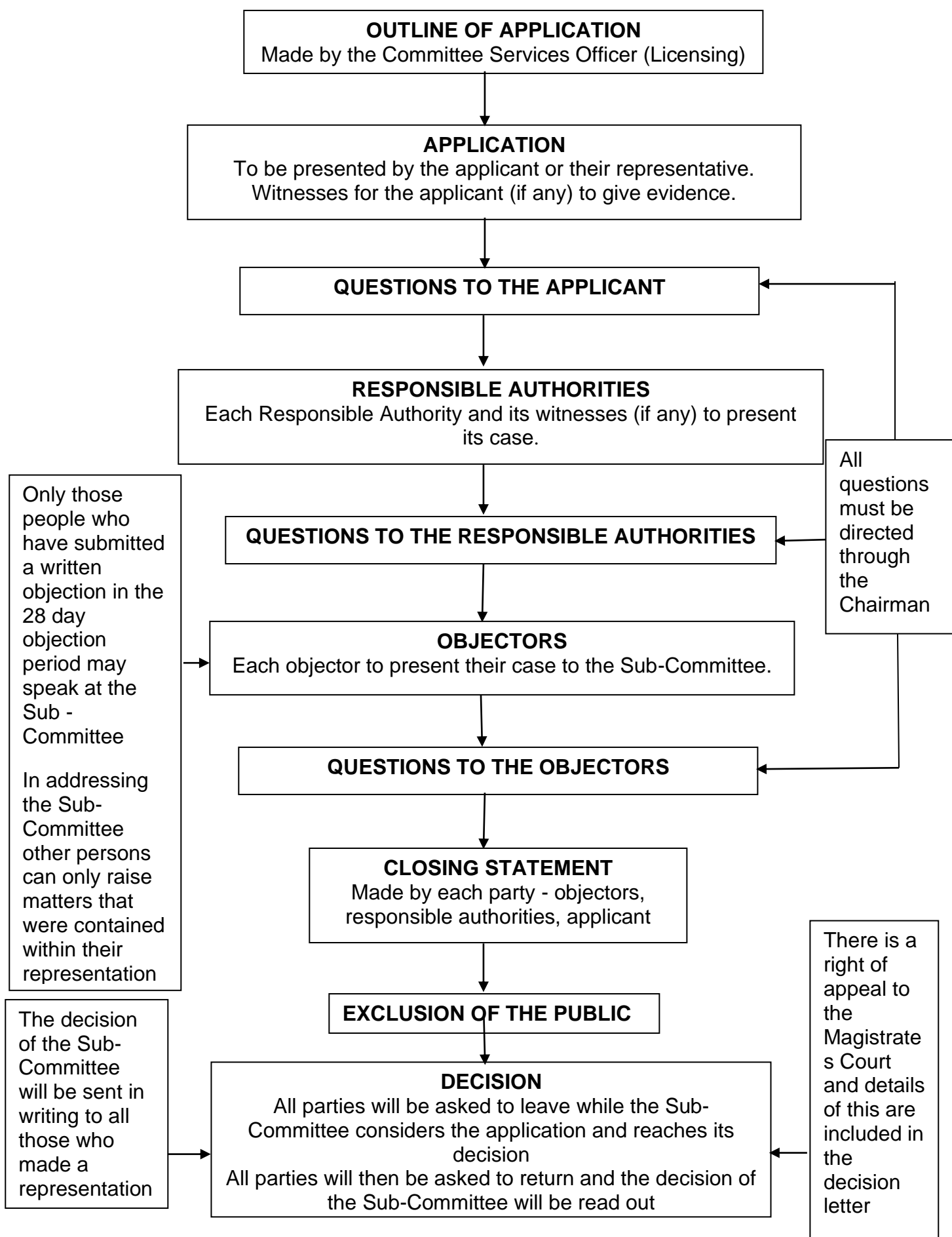
The Sub-Committee further felt that her failure to attend the hearing or engage in the process in any way did not provide them with any confidence that she would be in a position to uphold the licensing objectives in the future.

The Sub-Committee was therefore drawn to the conclusion that it had no other option but to agree to the request made by Essex Police in refusing to grant the transfer.





## The Licensing Sub-Committee Hearings Process





Licensing Committee – 10 January 2022	Agenda Item 6
The Royal Mortar, Colchester	FOR GENERAL RELEASE

<b>Purpose of the Report</b>	To determine an application for a summary review of a premises licence under the Licensing Act 2003
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## 1. Application

Applicant and Premises	
Application Type	Summary Review
Applicant	Essex Police
Premises	The Royal Mortar
Premises Licence Holder	Mr Paul Kevin Bugg and Mrs Tanya Bugg
Premises Address	120 Military Road, Colchester CO2 7RB
Ward	New Town

## 2. Current Licence

Premises Licence M003853
The licence is attached at <b>Appendix 1</b> .

## 3. Application for Summary Review

Licensing Objective
<p>The Licensing Authority accepted an application for the Summary Review of the premises licence in respect of The Royal Mortar, 120 Military Road, Colchester made by Essex Police on 13 December 2021. The application and Superintendent's Certification are attached at <b>Appendix 2</b>. Additional supporting information received from Essex Police is attached at <b>Appendix 4</b>.</p> <p>The relevant papers and notices were served on 14 December 2021 by the Licensing Authority.</p> <p>A Licensing Sub-Committee Hearing to determine whether any interim steps should be imposed took place on 14 December 2021. The Sub-Committee determined to</p>

suspend the licence. The decision notice from this meeting is attached at **Appendix 3**.

#### **4. Policy Context**

Policy references are given for guidance only, they should not be regarded as a substitute for the Policy which contains the necessary detail for all parties in making and determining applications.

##### **Reviews**

16.9 The review of a licensed premises is the key protection for residents and businesses where one or more of the licensing objectives are being undermined and these problems can be linked to the operation of a licensed premises. A responsible authority or any other body can ask for the review of a licence.

16.10 When considering a review request, or other possible enforcement action, the Licensing Authority will consider all relevant matters and in particular –

- The use of the premises for criminal activities such as the supply of drugs or money laundering
- Failure to promptly respond to a warning given by a responsible authority
- Failure to engage with the responsible authorities in an effective manner
- Previous convictions for licensing offences
- Previous failure to comply with licence conditions

16.11 The Licensing Authority will not normally engage its role as a responsible authority by calling reviews on behalf of other persons, such as local residents or community groups. These individuals are entitled to do so in their own right where there are sufficient grounds to do so.

16.12 Where responsible authorities have concerns about problems identified at a premises, the Licensing Authority considers it to be good practice for them to give the licence holder early warning of their concerns and the need for improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given, such as using an Improvement Plan before bringing the premises to review. Responsible authorities may seek to amend a licence via review where evidence indicates the need for permanent enforceable conditions to be added to a licence.

16.13 It should be noted that a review can be called without an early warning where a serious situation has occurred and immediate action is required. Where premises are associated with serious crime and/or disorder a senior Police officer may apply for a summary review of a premises licence.

16.14 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of.

## 5. Crime and Disorder Act 1998

The Council is required to have regard to the wider legislative context arising from Section 17 of the Crime and Disorder Act 1998 which provides that –

Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applied to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can to prevent –

- crime and disorder in its area (including antisocial and other behaviour adversely affecting the local environment); and
- the misuse of drugs, alcohol and other substances in its area; and
- re-offending in its area.

## 6. Section 182 Statutory Guidance

The following paragraphs of the Section 182 Statutory Guidance issued by the Secretary of State are relevant to this application.

### 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.

## 7. Options available to the Sub-Committee

The Sub-Committee must take such of the following steps as it considers appropriate to ensure the promotion of the licensing objectives –

- Modify the conditions of the premises licence
- Exclude the sale of alcohol or other licensable activity from the licence
- Remove the Designated Premises Supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence

## Annexes

Appendix 1	Premises Licence
Appendix 2	Application and Superintendent's Certification
Appendix 3	Decision Notice from Interim Steps Hearing
Appendix 4	Supplementary supporting information submitted by Essex Police

## Report Author

John Ruder, Licensing Manager	email <a href="mailto:jon.ruder@colchester.gov.uk">jon.ruder@colchester.gov.uk</a> telephone 01206 282840
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# Colchester Borough Council

## Premises Licence

Granted under the Licensing Act 2003 s18

Colchester Borough Council  
Licensing Team  
PO Box 889  
Rowan House, 33 Sheepen Road  
Colchester CO3 3WG

Premises licence number: 003853

### PART 1 - PREMISES DETAILS

The Royal Mortar  
120 Military Road  
Newtown Estate

**Post town:** Colchester

**Post code:** CO1 2AS

**Telephone number at premises:** 01206 790214

**Date Licence Granted:** 5 August 2005

### Regulated Activities authorised by this licence:

Performance of Plays	
Film Exhibitions	
Indoor Sporting Events	
Boxing or Wrestling Entertainment	
Performance of Live Music	Licensed
Playing of Recorded Music	Licensed
Performance of Dance	Licensed
Other Music or Dance Entertainment (see Schedule)	Licensed
Facilities for Making Music	
Facilities for Dancing	
Other Facilities for Music & Dance	
Late Night Refreshment	
Sale by Retail of Alcohol	Licensed

The times the licence authorises the carrying out of licensable activities:		
<b>a) The sale by retail of alcohol :-</b>		
Monday	11.30 to 23.00	
Tuesday	11.30 to 23.00	
Wednesday	11.30 to 23.00	
Thursday	11.30 to 00.00	
Friday	11.30 to 00.00	
Saturday	11.30 to 00.00	
Sunday	11.30 to 22.30	
Seasonal Variations	01.00 for parties etc. Not envisaged will stay open until 01.00 every weekend.	
Non-Standard Times	11.30 to 01.00 Christmas Eve and Bank Holiday Sundays New Years Eve and New Years Day - the period between the standard finish time of the authorised period starting on New Years Eve and the standard start time on New Years Day.	
On/Off Premises	Alcohol may be served ON and OFF the premises	
Further Details		
<b>b) The provision of regulated entertainment and entertainment facilities: –</b>		
	<b>Performance of Plays</b>	<b>Exhibition of Films</b>
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		
Seasonal Variations		
Non-Standard Times		
Indoors/Outdoors		
Further Details		
	<b>Indoor Sporting Events</b>	<b>Boxing or Wrestling Entertainment</b>
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		
Seasonal Variations		
Non-Standard Times		
Indoors/Outdoors		
Further Details		
	<b>Performance of Live Music</b>	<b>Playing of Recorded Music</b>
Monday		
Tuesday		
Wednesday		

<b>Thursday</b>		
<b>Friday</b>	19.00 to 01.00	19.00 to 01.00
<b>Saturday</b>	19.00 to 01.00	19.00 to 01.00
<b>Sunday</b>		
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>	Christmas Eve 01.00	Christmas Eve 01.00
<b>Indoors/Outdoors</b>	Activity may take place INDOORS	Activity may take place INDOORS
<b>Further Details</b>	Not intended to be a regular event- probably only 6 or 7 times a year. Amplified music.	

	<b>Performance of Dance</b>	<b>Other Music or Dance Entertainment</b>
<b>Monday</b>		
<b>Tuesday</b>		
<b>Wednesday</b>		
<b>Thursday</b>		
<b>Friday</b>	19.00 to 01.00	19.00 to 01.00
<b>Saturday</b>	19.00 to 01.00	19.00 to 01.00
<b>Sunday</b>		
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>	Christmas Eve 01.00	Christmas Eve 19.00 to 01.00
<b>Indoors/Outdoors</b>	Activity may take place INDOORS	Activity may take place INDOORS
<b>Further Details</b>		
	<b>Facilities for Making Music</b>	<b>Facilities for Dancing</b>
<b>Monday</b>		
<b>Tuesday</b>		
<b>Wednesday</b>		
<b>Thursday</b>		
<b>Friday</b>		
<b>Saturday</b>		
<b>Sunday</b>		
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>		
<b>Indoors/Outdoors</b>		
<b>Further Details</b>		
	<b>Other Facilities for Music &amp; Dance</b>	<b>Late Night Refreshment</b>
<b>Monday</b>		
<b>Tuesday</b>		
<b>Wednesday</b>		
<b>Thursday</b>		
<b>Friday</b>		
<b>Saturday</b>		
<b>Sunday</b>		
<b>Seasonal Variations</b>		
<b>Non-Standard Times</b>		
<b>Indoors/Outdoors</b>		
<b>Further Details</b>		

<b>The Opening Hours of the Premises</b>	
<b>Monday</b>	11.30 to 0.00
<b>Tuesday</b>	11.30 to 0.00
<b>Wednesday</b>	11.30 to 0.00
<b>Thursday</b>	11.30 to 01.00
<b>Friday</b>	11.30 to 01.00
<b>Saturday</b>	11.30 to 01.00
<b>Sunday</b>	11.30 to 23.30
<b>Seasonal Variations</b>	
<b>Non-Standard Times</b>	11.30 to 01.00 Christmas Eve and Bank Holiday Sundays New Years Eve and New Years Day - the period between the standard finish time of the authorised period starting on New Years Eve and the standard start time on New Years Day.

<b>Where the licence authorises supplies of alcohol, whether these are on and/or off supplies:</b>
Alcohol may be served ON and OFF the premises

<b>PART 2</b>	
<b>Name, (registered) address, telephone number and e-mail (where relevant) of holder(s) of premises licence</b>	
<b>Licence Holder 1</b>	<b>Licence Holder 2</b>
Mr Paul Kevin Bugg  Royal Mortar 120 Military Road Newtown Estate Colchester CO1 2AS Tel: 01206 790214 E-mail:	Mrs Tanya Elaine Bugg  Royal Mortar 120 Military Road Newtown Estate Colchester CO1 2AS Tel: 01206 790214 E-mail:

<b>Registered number of holder; for example, company number, charity number (where applicable):</b>
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<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:</b>
Mrs Tanya Elaine Bugg The Royal Mortar 120 Military Road Newtown Estate Colchester CO1 2AS  Tel: 01206 790214

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol:</b>
3898 Colchester BC



Beverley Jones – Head of Professional Services

8 May 2014

**Date of Issue**

## Annex 1 – Mandatory Conditions

### Alcohol

1. No sale/supply of alcohol shall be made when there is no Designated Premises Supervisor in respect of the Premises Licence.

2. No sale/supply of alcohol shall be made when the Designated Premises Supervisor does not hold a Personal Licence or when his/her Personal Licence is suspended.

3. Every sale/supply of alcohol under the Premises Licence shall be made, or authorised by a person who holds a Personal Licence.

### Door Supervision

Where a premises licence includes a condition that at specified times one or more individuals must be present at the premises to carry out a security activity, they must be licensed by the Security Industry Authority

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**Please note that Conditions 1,2,3 and 5 below do NOT apply to those premises ONLY authorised for off sales of alcohol**

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

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

## **Annex 2 – Embedded Restrictions**



### **Annex 3 – Conditions Carried Forward on Conversion**

## **Annex 4 – Conditions Consistent with the Operating Schedule**

### **Conditions Offered by Applicant in the Operating Schedule**

Live music shall comprise amplified music on probably only 6 or 7 occasions per year.

All areas of the bar are visible from the serving area including the beer garden.

CCTV cameras to be provided inside and out.

Tables and chairs to be provided to emphasise sitting down.

Last admission to the pub to be at 23.00.

All staff to be trained to request photo identification from anyone looking 21 years or under. Only photograph ID in the form of a passport, driving licence or Prove-It card is acceptable.

The beer garden is closed at 23.00 and the door is closed.

3 to 4 staff are working at a time.

### **General - all objectives**

All areas on the bar are visible from serving area including the beer garden. CCTV camera provided inside and outside. Tables and Chairs are provided to emphasise sitting down. Mature Bar Staff. There are always 3 to 4 staff at a time. There is a remote control panic button behind the bar. There is a mirror on the back of the bar. There are no cupboards/drawers in the toilet and the cisterns are boxed in. There is no gap at the top/bottom of the toilet doors.

### **Prevention of Crime & Disorder**

CCTV.

No problems with overcrowding.

### **Public Safety**

The beer garden is shut at 11.00 and the door is closed.

All doors and windows are kept closed. There are 2 ladies toilets and 1 ladies toilet and 2 urinals in the gents. Last admission to the pub is at 11.00.

### **Prevention of Public Nuisance**

All trained to ask for ID for anyone looking under 21 and photo ID's are requested.

Pub does not attract people under 18. It is not a food pub and is not family orientated, therefore children are not encouraged.

### **Protection of Children**

All staff are trained to ask for ID from anyone looking age 21 years and under. Only photograph ID in the form of a passport, driving licence or prove-it card is acceptable. The pub does not tend to attract anyone under 18.

### **Adult Entertainment Details**

None



## **Annex 5 – Conditions Agreed with Responsible Authorities**

Events involving live music shall not occur on more than eight occasions each year.

The garden must not be used by customers after the hours of 23.00.

All external windows/doors must be kept closed after 23.00, other than for access and egress, in all rooms when events involving amplified sound are taking place.

Staff shall check periodically during the entertainment that all external windows and doors are shut after 23.00. A written record shall be made of these checks in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.

Amplified sound from the licensed premises shall not be detrimental to the amenity of any noise sensitive premises.

No live or amplified music to be played in the open air (including temporary structures such as marquees and tents).

A designated premises supervisor will assess the impact of any noisy activities on any noise sensitive premises at the start of the activity/entertainment and periodically throughout the activity/entertainment to ensure that levels of noise have not increased (where appropriate a record shall be kept, for example on the event of complaints).

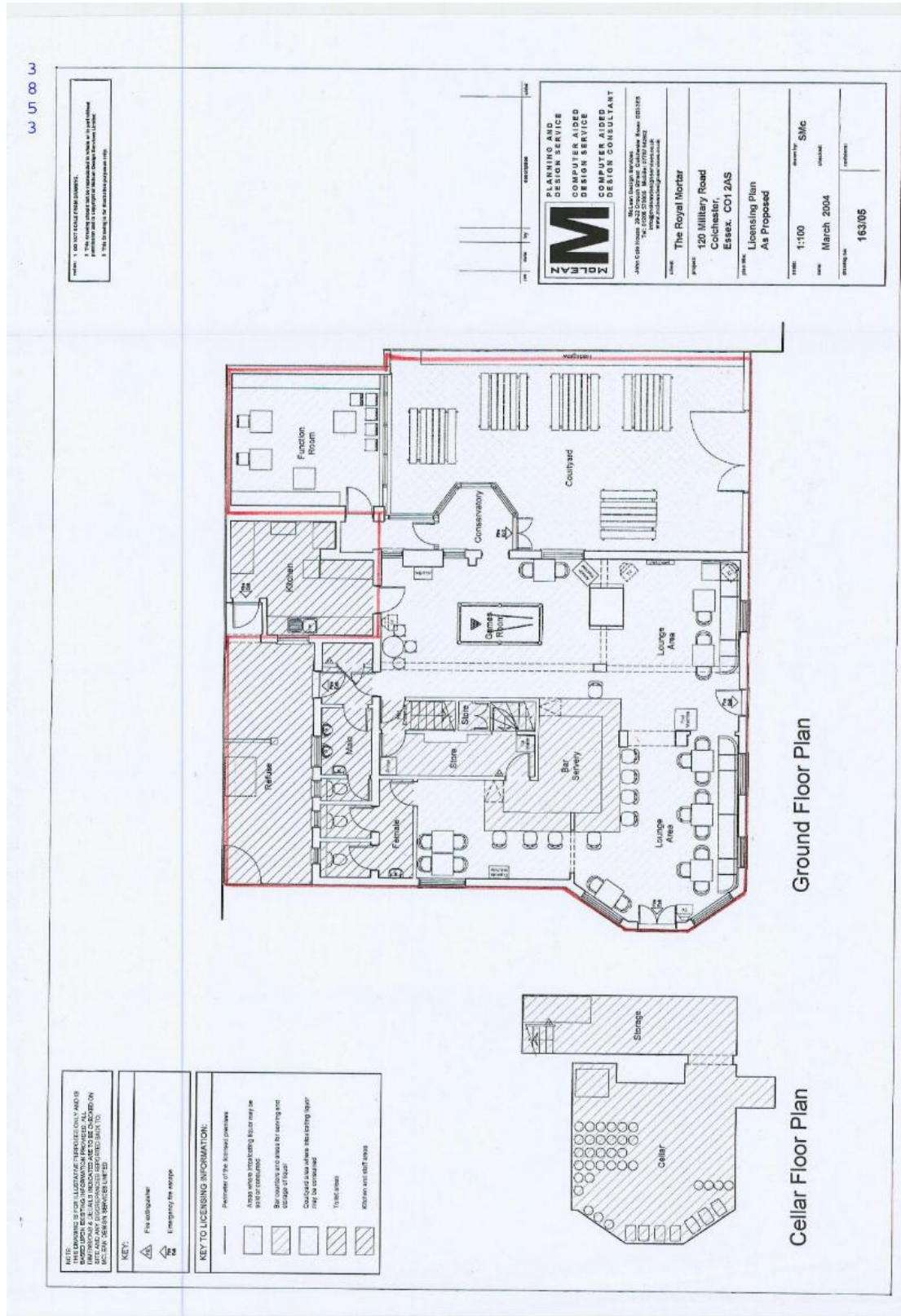
No music or speech shall be relayed via external speakers other than for events with the prior approval of the licensing authority.

Prominent and clear notices will be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and the area quietly.

**Annex 6 – Conditions Attached after a Hearing by the Licensing Authority**



# Royal Mortar Licensed Premises Plan







# Application for summary licence review



Licensing Department  
Colchester Borough Council  
Rowan House  
33 Sheepen Road, Colchester  
CO3 2WG

Licensing Authority premises licence number (optional): 004426

## Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

### 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 the 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.**

I Ronan McManus on behalf of the chief officer of police for the Essex Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

#### 1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

THE ROYAL MORTAR,  
120 MILITARY ROAD,

Post town: COLCHESTER

Post code (if known): C01 2AS

#### 2. Premises licence details:

Name of premises licence holder (if known):

Mr Paul Kevin BUGG, and Tanya BUGG  
The Royal Mortar,  
120 Military Road,  
Colchester .  
CO2 7RB

Number of premises licence holder (if known):

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003** [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm) ☒

**4. Details of association of the above premises with serious crime, serious disorder or both:**  
[Please read guidance note 2]

Between 7<sup>th</sup> June 2021 and December 2021 Essex Police has undertaken an operation to disrupt the supply of Class A drugs (including cocaine) in and around The Royal Mortar, 120 Military Road , COLCHESTER . This operation has three phases:

**Phase 1** being the use of undercover officers to observe and detect drug dealing between July 2021 and November 2021.

**Phase 2** the working up of intelligence and evidence.

**Phase 3** the arrest of suspects, the execution of warrants and the further investigation of offences disclosed. Phase 3 will begin on the 14/12/2021 and will be ongoing.

During phase 1 of the operation undercover officers were deployed to The Royal Mortar , Colchester on selective dates. On those occasions the open use of cocaine within the premises was observed and drug dealers routinely sold cocaine on the premises, including to undercover officers.

Where a drug supply offence is selling directly to users (as is this case) - the UK Sentencing Council categorises this as 'Category 3' for the purposes of sentencing, the starting point for those with a lesser role is 3 years imprisonment and for those with a leading role 8 years 6 months imprisonment. These therefore are 'serious crimes' as set out within section 53A(4) of the Licensing Act 2003 which states a 'serious crime' has the same meaning as in the Regulation of Investigatory Powers Act 2000 (s81(2) and (3) and which defines a serious crime as one where a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more (...) or includes the use of violence etc.. In accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2003, will ahead of the hearing provide documentary information in support of this application and to expand upon the details set out below.

**18<sup>th</sup>/19<sup>th</sup> June 2021** – Undercover Police officers attended the premises. Officers noted 50-60 inside 30 people outside. Officers enquired about buying cocaine and were told by a customer *“locals had respect for Paul the landlord, and if you are discreet Paul doesn't mind “* The officers observed a female bar staff member called Ash reported to be the daughter of the premises licence holder visiting the toilets on a very regular basis . The officer was supplied with class A drugs on the premises on this occasion, and also noted that whilst inside any time females went to the toilet, they went in two's. The police officer followed and every time the females would be in the same cubicle. The officer formed the opinion this was suspicious as it happened countless times throughout the night and it was their belief that the females were taking drugs inside the cubicle.

**On 29<sup>th</sup> June 2021** – Undercover Police officers attended the premises and were supplied with one bag of cocaine. The suspect who supplied the drugs reported was already at the premises when officers arrived, he reported he was “made busy over the last few days, hitting it hard”. The officers engaged a customer sitting on another table and it was reported to them “the pub was full of drugs”

**On 2<sup>nd</sup> July 2021** - an undercover officer made telephone contact with suspect who instructed the officers to meet at the Royal Mortar this suspect supplied two bags of cocaine. This male reported “none stop all day “. The suspect was in company with another male and the officers reported both were receiving telephone calls every few minutes arranging other drug deals. The main suspect reported that he would be back the pub tomorrow night (3<sup>rd</sup> July) – This coincided with the England v Ukraine Euro quarter finals football match.

**On 7<sup>th</sup> July 2021** -Undercover officer made arrangements to purchase drugs. Officers were directed to the Royal Mortar where they met a male who supplied the officer with a bag of cocaine. Officers noted that the drugs were held by a female sitting nearby while the male collected the money & orders and supplied customers.

**On 27<sup>th</sup> August 2021**- Undercover Police officers attended the premises and recognised a male that had previously supplied them with cocaine, this suspect reported that he had no drugs presently however someone would be along shortly to resupply him. The officers observed a short while later a

male arrived and they both went to the toilet together they were in there for some time. Then the second male came out and started nodding at people who then following him into the toilets. This male a large wedge of cash in his trouser pocket, which was clear to see, and this action was obvious to all in the pub.

**On 10<sup>th</sup> September 2021-** Under Cover officers deployed at the premises and reported a suspect who had previously supplied them with cocaine was sitting a large group of males in the pub garden. The behaviour were consistent with drug dealing, whereby the suspect repeatedly entered the male toilets with different customers.

It is Essex Police belief is that the use of cocaine was so blatant and conducted in plain sight that management and staff were either complicit or were wilfully blind to the occurrences. The drug dealing and drug use was widespread (it took place on each occasion the premises were visited) and conducted in the open.

At the full hearing Essex Police will be requesting the authority to at revoke the Premises Licence

Essex Police consider it absolutely essential to break the offending cycle by immediately closing the premises thus affecting the current customer base and excluding drug dealers. This will have a powerful deterrent effect on other premises where drug dealing is an issue. It will facilitate the current premises licence holder in taking steps to consider how best to prevent a reoccurrence should at a hearing the licence is not revoked – this would provide time to reflect on the staff currently employed, their training and relevant procedures with a view to implanting changes should the licence not be revoked at a hearing. These changes, if the licence is not revoked, would need to include CCTV provision and use of door supervisors.

Essex Police has submitted a summary review application for the reason that immediate suspension of the licence is required – no other interim steps would achieve the objective of preventing the distribution of drugs from this premises.

Essex Police requests that as 'interim steps' the licence is suspended until the full hearing takes place.

Given the nature of the incidents and the use of undercover officers and that these are live criminal convictions, Essex Police asks that in accordance with Regulation 14 of the (Hearing) Regulations that the public are excluded from those parts of the hearing where the specifics of the drug dealing are mentioned and that these are not published in open forum.

Signature of applicant: R McMANUS

Date: 08/12/2021

Capacity: LICENSING OFFICER, DELEGATED BY CHIEF  
OFFICER OF POLICE TO SUBMIT REVIEW  
APPLICATIONS

## 5. Contact details for matters concerning this application:

Address: ESSEX POLICE LICENSING TEAM  
POLICE STATION  
BLYTHS MEADOW  
BRAINTREE  
CM7 3DJ

Telephone number(s): 01245 452035

Email: licesning.applications@essex.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both. Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
  - conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



# Summary Review – Superintendent's certification



Certificate under Section 53A (1)(b) of the Licensing Act 2003

Protecting and serving Essex

Certifying officers name: STUART WEAVER

Rank & PIN: 42081326

Signature: *[Signature]*

Stationed at: COLCHESTER

Date: 8 DECEMBER 2021

Time: 0934 HOURS

I hereby certify that in my opinion the premises described below are associated with serious crime (\*see note below) / ~~serious disorder~~ / ~~both serious crime and serious disorder~~ (delete as applicable)

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act 2003 are in appropriate because;

Between June 2021 and November 2021 Essex Police has undertaken an operation to disrupt the supply of Class A drugs (including cocaine) in and around Colchester area . This operation has three phases:

Phase 1 being the use of undercover officers to observe and detect drug dealing between June 2021 and November 2021.

Phase 2 the working up of intelligence and evidence.

Phase 3 the arrest of suspects, the execution of warrants and the further investigation of offences disclosed. Phase 3 began on 9<sup>th</sup> December 2021 and is continuing.

During phase 1 of the operation undercover officers were deployed to The Royal Mortar , 120 Military Road , Colchester CO1 2AS on selective dates. On those occasions the open use of cocaine within the premises was observed and drug dealers routinely sold cocaine on the premises, including to undercover officers.

It is not appropriate to proceed by way of normal review procedures as a decision of the licensing sub-committee will not take effect for a considerable period.

In order to disrupt drug supply via this venue its immediate closure (by way of suspension as interim step) appears the most logical approach. This would immediatley sever existing links with customers that use the venue for drug taking and those that supply drugs on the premises and also provide an opportunity for the premises licence holder to take appropriate steps to prevent dug misuse should the premises be permitted to re-open following any suspension.

However the Statutory Guidance to the Act lists the sale and distribution of controlled drugs as criminal activity which should be treated particularly seriously and states that in such circumstances it is expected that revocation of the licence should seriously be considered.

Where a drug supply offence is selling directly to users (as is this case) - the UK Sentencing Council categorises this as 'Category 3' for the purposes of sentencing, the starting point for those with a lesser role is 3 years imprisonment and for those with a leading role 8 years 6 months imorisonment.

These therefore are 'serious crimes' as set out within section 53A(4) of the Licensing Act 2003 which states a 'serious crime' has the same meaning as in the Regulation of Investigatory Powers Act 2000 (s81(2) and (3) and which defines a serious crime as one where a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to

RESTRICTED

be sentenced to imprisonment for a term of three years or more (...) or includes the use of violence etc..

A **brief** description of why standard review processes are inappropriate e.g. degree of seriousness of the crime/disorder, past history of non-compliance etc. may be helpful but this is not a legal necessity for the issue of a certificate and will be outlined within any application for review, should one subsequently be applied for. Applications are usually sought when 'interim steps' are considered necessary before a review hearing takes place.

*There is no requirement to list all occurrences or provide the detail of each occurrence; the sole requirement is that an honest opinion is held that the premise is associated with serious crime/disorder. A single incident may be the trigger for a certificate if it is serious enough. The issue of a certificate does not mean the police MUST apply for a review.*

**\*NOTE: Serious crime includes any criminal conduct that involves the use of violence; serious disorder is not defined and should be given its ordinary meaning.**

Premises Name: THE ROYAL MORTAR

Name of Designated Premises Supervisor: MRS TANYA ELAINE BUGG

Premises address: 120 MILITARY ROAD,  
COLCHESTER  
CO1 2AS

Premises Licence No. if known 003853



## **COLCHESTER BOROUGH COUNCIL**

### **Licensing Sub-Committee**

#### **Notice of Determination**

Date of Hearing: 14 December 2021

Premises: The Royal Mortar

Application: Summary Review of premises licence

Committee Members: Councillors Buston, Hagon and Harris

Present: Mr Clifford, Democratic Services Officer  
Mr Ruder, Licensing, Food & Safety Manager  
Mrs Rundle, Community Group Manager  
Mr Weavers, Legal Advisor to the Committee

#### **Application**

A Summary Review of the premises licence of The Royal Mortar, 120 Military Road, Colchester CO1 2AS on the grounds that the licensing objective of the prevention of crime and disorder was being undermined by serious crime taking place at the premises.

#### **Decision**

To impose the interim step of suspending the premises licence held by Paul Kevin Bugg and Tanya Bug in relation to the Royal Mortar public house, 120 Military Road, Colchester CO1 2AS.

## **Reasons for the Determination**

In reaching its decision, the Sub-Committee carefully considered the evidence which had been placed before it as part of the summary review application made by Essex Police, and noted the seriousness of the alleged offences which had been committed in the premises.

Consideration was given to the weight of evidence which had been presented by Essex Police, together with the request that had been made for the suspension of the licence.

The Sub-Committee considered the other options which were available to it, including modification of the conditions of the premises licence, the exclusion of the sale of alcohol by retail from the scope of the licence, and the removal of the designated premises supervisor from the licence, but it considered that none of these steps would have been sufficient to address the serious issues that had been associated with the premises and prevent the continued undermining of the prevention of crime and disorder licensing objective, as set out in the Licensing Act 2003.

## **Appeal by way of representations**

The premises licence holder may make representations to the licensing authority against the interim steps imposed. Any representations should be made in writing to the Licensing Manager at [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk) or sent to Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG



Premises licence Summary Review

The Royal Mortar

120 Military Road, Colchester CO1 2AS

Supplementary documentary information in support of a Summary Review

Premises Licence Holder (PLH) Mr Paul BUGG and Mrs Tanya BUGG

Designated Premises Supervisor (DPS) Mrs Tanya BUGG

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5.0 Case Law	page 10

## **Appendices**

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Appendix B Skeletal statement of UC "Neil"	page 18
Appendix C Skeletal statement of UC "Natalia"	page 21
Appendix D Statement of UC supervisor Detective Sergeant GILES	page 24

## **1.0 Background details**

1.1 The Ryal Mortar pub is 120 Military Road, Colchester CO1 2AS, The Premises Licence Holder (PLH) is Mrs Tanya BUGG and Mr Paul BUGG, The Designated Premises Supervisor (DPS) is Mrs Tanya BUGG.

## **2.0 Outline of the circumstances leading to the Summary Review.**

2.1 Between June and September 2021 Essex Police has undertaken an Operation to disrupt the supply of class A drugs (including Cocaine) in and around the vicinity of the Royal Mortar. The operation consists of 3 phases, phase 1 being the use of undercover (UC) officers to observe and detect drug deals between June and September 2021. Phase 2 is the working up of intelligence and evidence. Phase 3 is the arrest of suspects, the execution of search warrants and the further investigation of any additional matters uncovered. Phase 3 began on 14/12/2021 and is ongoing.

2.2 During phase 1, 3 UC officers known for the purpose of this operation as Ruby, Neil and Natalia attended the Royal Mortar on a number of occasions between June and September 2021 and were routinely offered, sold drugs or observed "dealing" (The skeletal witness statements from these UC officers are appendix A to C)

2.3 The Officers supervisor for this operation is Detective Sergeant GILES and she has extensively collated and detailed the evidence gathered and has presented it in her witness statement (appendix D) In her statement she or one of the UCs lists the following activities. These are briefly outlined below.

2.4 On 18th June 2021 an operative (U/C) was advised by a subject of the investigation that “the locals take drugs at the pub and if discreet about it, Paul, the landlord does not mind”. It was also noted that a female member of bar staff called “Ash” (and was stated to be the daughter of the Landlord) appeared to be under the influence of drugs and was followed into the toilets where she went into the same toilet with another female. The UC observed similar behaviour during the visit with other pairs of female customers. Drug taking was described as “obvious”. The UC purchased a quantity of cocaine (0.4g) for £40, later tests showed this had a 69% purity.

2.5 On Tuesday 29<sup>th</sup> June 2021 an exchange of drugs for money took place in the garden of the pub in full view of other customers. Another customer told the UC that the pub was full of drugs and that he was waiting for someone to bring him an 1/8<sup>th</sup> (approx. 3.5g of cocaine).

2.6 On Friday 2<sup>nd</sup> July 2021 a UC was advised to meet a subject of the investigation in the pub garden and despite stating he was being watched by other customers he continued to complete the deal under the table.

2.7 On Wednesday 7<sup>th</sup> July 2021 an operative (UC) was directed to the Royal Mortar where another exchange of drugs for cash took place.

2.8 On 27<sup>th</sup> August 2021 Undercover Police officers attended the premises and recognised a male that had previously supplied them with cocaine, this suspect reported that he had no drugs presently however someone would be along shortly to resupply him. The officers observed a short while later a male arrived and they both went to the toilet together they were in there for some time. Then the second male came out and started nodding at people who then following him into the toilets. This male had a large wedge of cash in his trouser pocket, which was clear to see, and this action was obvious to all in the pub.

2.9 On 10<sup>th</sup> September 2021 a UC attended the location (Royal Mortar) where he observed a male who had previously sold drugs to him was with a large group of males and the behaviour is stated as being

consistent with drug dealing whereby persons would approach them for a short period of time and then leave

### **3.0. Reasons for a Review**

3.1 Where a drug supply offence is selling directly to users (as is this case) – the UK Sentencing Council categorises this as ‘Category 3’ for the purposes of sentencing, the starting point for those with a lesser role is 3 years imprisonment and for those with a leading role 8 years 6 months imprisonment. These therefore are ‘serious crimes’ as set out within section 53A(4) of the Licensing Act 2003 which states a ‘serious crime’ has the same meaning as in Regulation of Investigatory Powers Act 2000 (s81(2) and (3) and which defines a serious crime as one where a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more (...) or includes the use of violence etc...

3.2 The police belief is that the use of cocaine was so blatant and conducted in plain sight. It was clear that management and staff were not taking adequate steps to detect such activity and insufficient procedures and policies were in place to prevent such



occurrences. The drug dealing was widespread (it took place on each occasion the premises were visited) and conducted in the open.

3.3 Statutory Guidance to the Act lists the sale and distribution of controlled drugs as criminal activity, which should be treated particularly seriously and states that *in such circumstances it is expected that revocation of the licence should seriously be considered.*

3.4 It was felt therefore that it was therefore **not appropriate** to proceed by way of normal review procedures, as a decision of the licensing sub-committee would not take effect for a considerable period. A decision was therefore made to apply for a Summary Review. In order to promote the Licensing Objectives

3.5 Paragraphs 12.5 and 12.16 of the Statutory Guidance details that when sub- committees are considering interim steps then it must consider whether it is appropriate or proportionate to impose conditions as part of interim steps they should be wary of measures that require significant cost and/or permanent adjustments to the premises – measures that may be withdrawn at the subsequent full review hearing. This was further reason why as initial interim steps it

was considered by Essex Police that suspension of the licence was the most appropriate outcome to be sought.

3.6 Amongst the outcomes sought ahead of the full review hearing was the immediate suspension of the premises licence to break the cycle of offending by both displacing/deterring those taking drugs on the premises and those using the premises as a drugs distribution network.

3.7 There appeared to be either a complete lack of control of management in providing measures to combat the supply of class A drugs or that the management was complicit in this as evidenced by observations of the landlord's daughter "Ash" as well as the dealer's comments regarding "Paul" (BUGG) doesn't mind. It is the contention of Essex Police that the Crime and Disorder Licensing Objective has been undermined.

3.8 Further evidence of poor management is the observed noncompliance of some of the coronavirus regulations (face masks and social distancing). It is also noteworthy from the statement of Detective Sergeant GILES that despite some of the drug dealing being openly carried out there has been just 2 Information reports to the Police in this regard and one in relation to alleged covid breaches,

this suggests that most customers ignore the situation of are in fear of intimidation/reprisals if they report such matters.

#### **4.0 Outcome Sought**

**4.1** Essex Police sought at the initial Summary Review hearing that in order to disrupt drug supply via this venue that its immediate closure (by way of suspension as an interim step) was the most logical approach. This would immediately sever existing links with customers that use the venue for drug taking and those that supply drugs on the premises and provide an opportunity for the Premises Licence Holder to take appropriate steps to prevent drug misuse should the premises be permitted to re-open following any suspension.

**4.2** However, the Police contend that the weight of evidence provided suggests that the problems associated with the venue run much deeper and either by act or omission the Premises Licence Holders as well as the DPS (Mr and Mrs BUGG) have failed to discharge their obligations under the licensing act as at 1.2 of the guidance states *the legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken*. This must surely include the role of the PLH as well as the DPS which in this case are inextricably linked.

4.3 The guidance acknowledges this at 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.....*

4.4 Paragraph 11.23 also contends that.....*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.*

4.5 The evidence presented, the subsequent arrests and seizures for drug offences in and around the Royal Mortar (as reported) the Police would contend that there has been a systematic failure of Premise Management to uphold the Licensing Objectives for that reason we would seek revocation of the Premises Licence.

## **5.0 Case Law**

5.1 Deterrence is an established part of the Licensing Act 2003 – see the cases of R (Bassetlaw District Council) v Worksop Magistrates’ Court; [2008] WLR (D) 350 and East Lindsey District Council v Abu Hanif

(Trading as Zara's Restaurant and Takeaway), [2016] EWHC 1265

(Admin) where in both cases the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime. This also forms part of the reason Essex Police has applied for a review of the premises licence.

5.2 Deterrence as a legitimate consideration by a licensing sub-committee has been considered before the High Court where remedial measures (such as the imposition of additional conditions) were distinguished from legitimate deterrent (punitive) measures such as revocation.

5.3 *R (Bassetlaw District Council) v Worksop Magistrates' Court*; [2008] WLR (D) 350.

5.4 This was a case where a premises had sold alcohol to under age persons and subsequently the licensing authority suspended the licence. This was overturned on appeal to the Magistrates' Court and subsequently appealed to the High Court by the authority. The premises licence holder argued that they had a policy in place for checking the age

of customers but this was not a perfect policy and had not been adhered to and that rather than revoke the licence, instead stringent conditions on proof of age should instead be imposed on the licence.

5.5 Issues considered in the *Bassetlaw* judgement included whether a licensing authority was restricted to remedial action (as opposed to punitive action such as revocation); and the precedence of wider considerations than those relating to an individual holder of a premises licence when certain criminal activities (as specified in the Guidance) took place.

5.6 It specifically examined (and set aside in the case of ‘certain activities’) those parts of the Guidance now contained within paragraph 11.20 and 11.23, viz.

*5.7 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.*

*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.*

5.8 In her judgement, Mrs Justice Slade stated (at 32.1 & 33.1 of the citation):

*5.9 Where criminal activity is applicable, as here, wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State.(...) However, in my judgment deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable."*

5.10 *East Lindsey District Council v Abu Hanif (Trading as Zara's Restaurant and Takeaway)*, [2016] EWHC 1265 (Admin)

5.11 This is a recent High Court decision (published April 2016) which related to the employment of an illegal worker and where a prosecution for such had not been instigated.

5.12 Amongst other matters it had been argued for the premises licence holder that the crime prevention objective was not engaged where a prosecution or conviction for a crime was not in place at the time of the licensing hearing. The case reaffirmed the principle that a responsible authority need not wait for the licensing objectives to be undermined, and that in considering whether the crime prevention objective has been engaged a prospective consideration (i.e. what is likely to happen in the future) of what is warranted is a key factor.

5.13 It also reaffirmed the case of *Bassetlaw* in concluding that deterrence is a legitimate consideration of a sub-committee.

Mr Justice Jay stated: *“The question was not whether the respondent had been found guilty of criminal offences before a relevant tribunal, but whether revocation of his licence was appropriate and proportionate in the light of the salient licensing objectives, namely the prevention of*



*crime and disorder. This requires a much broader approach to the issue than the mere identification of criminal convictions. It is in part retrospective, in as much as antecedent facts will usually impact on the statutory question, but importantly the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence. In any event, I agree with Mr Kolvin that criminal convictions are not required.” (Paragraph 18)*

5.14 Mr Justice Jay added: *“Having regard in particular to the twin requirements of prevention and deterrence, there was in my judgment only one answer to this case. The respondent exploited a vulnerable individual from his community by acting in plain, albeit covert, breach of the criminal law. In my view his licence should be revoked.” (Paragraph*

This case affirms the fact that the sub-committee are able to take measures to ensure that other premises are deterred from operating in such a way that the licensing objectives are not upheld.

**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: RUBY

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Law enforcement officer

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

Signature: R.WILLIAMS..... (witness) Date: 30/11/2021

I am a serving Law Enforcement Officer within the United Kingdom, and I am trained and authorised to take part in Undercover Operations. For the purposes of this operation, I shall be known as RUBY.

During the period between 7<sup>th</sup> June 2021 and 10<sup>th</sup> September 2021 I deployed into COLCHESTER area of ESSEX with fellow UCO's for LEDGE.

Over this period of time, I have witnessed a number of occurrences at Public Houses within the Colchester area as part of the deployment activity. In respect of those occurrences at ROYAL MORTAR PUBLIC HOUSE, MILITARY ROAD, COLCHESTER. I will document the following:-

**On 18<sup>th</sup> June 2021**, I attended the above location, at this time Government Covid restrictions were in place, however on arrival at 18.40 hours, there were no restrictions being maintained, no masks being worn or requested. There were approximately 50-60 people inside and 30 outside. Once in the above location and seated in the garden area I was made aware by a female sitting next to me that *"The pub was really friendly and safe – the locals had respect for the landlord Paul – the locals take drugs at the pub and if discreet about it Paul doesn't mind"*. We met with two people in the pub who were under the influence of drugs, called [REDACTED] Enquires were made with these two people about "getting hold of drugs" we were told by [REDACTED] "it wouldn't be too hard in this pub, good quality".

Signature: R.WILLIAMS..... Signature witnessed by: .....

I observed Kim, going frequently to the toilets, when I spoke to her on her return she appeared to be under the influence of drugs.

There was a bar lady referred to as "Ash" – it was explained to me and my colleague that Ash is daughter of the landlord – Ash would go to the toilets with females from the pub very often – The female from the table and Ash went together a number of times and on one occasion I followed, both were in the same toilet. This happened numerous times on this evening.

Ash description - very dark hair, medium length, late 20's early 30's, very made up, fake lashes, slim, wearing green dress, which was very tight, tall 5'8 very slim. On this date I met a female in the pub who supplied me with Class A drugs within the premises.

On returning from the garden area, I noticed that whilst inside any time females went to the toilet, they went in two's. I would follow and every time the females would be in the same cubicle. I am of the opinion that this is suspicious as it happened countless times throughout the night and it is my belief that the females would be taking drugs inside the cubicle.

**On 2<sup>nd</sup> July 2021**, I attended the above location at 16.30 hours. I had been informed that the person I was purchasing drugs from was in this location and to meet there. At 16.38 hours I met with the male inside the public house, who provided 2 bags of white powder (confirmed cocaine). During the time in the bar the male received numerous phone calls on his two mobile phones about drugs purchases. This male had informed me and my colleague that he had been "none stop all day" as it was busy and he would be in tomorrow also as people would be "high as kites" due to the football being shown.

**On 10<sup>th</sup> September 2021** at 18.40 hours, I attended the above location with colleagues, I observed the male who had previously supplied drugs to me on 2<sup>nd</sup> July 2021, with a large group of males in the pub garden. Their behaviours were consistent with drug dealing, whereby they repeatedly entered the male toilets with different persons.

My original notes were made after each deployment.

Signature: .....R.WILLIAMS..... Signature witnessed by: .....

**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: NEIL

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Law enforcement officer

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

Signature:.....NEIL..... (witness) Date: 30<sup>th</sup> November 2021

I am a serving Law Enforcement Officer within the United Kingdom, and I am trained and authorised to take part in Undercover Operations. For the purposes of this operation, I shall be known as NEIL.

During the period between 7<sup>th</sup> July 2021 and 10<sup>th</sup> November 2021 I deployed into COLCHESTER area of ESSEX with fellow Under Cover Operatives for Operation Monaco 21.

Over this period of time, I have witnessed a number of occurrences at Public Houses within the Colchester area as part of the deployment activity. In respect of those occurrences at ROYAL MORTAR PUBLIC HOUSE, MILITARY ROAD, COLCHESTER. I will document the following: -

**On 18<sup>th</sup> June 2021**, at 18.30 hours I attended the above location, at this time Government Covid restrictions were in place, however on arrival at 18.40 hours, there were no restrictions being maintained, no masks being worn or requested. There were approximately 50-60 people inside and 30 outside. Once in the above location and seated in the garden area I was made aware by a female sitting next to me that *"The pub was really friendly and safe – the locals had respect for the landlord Paul – the locals take drugs at the pub and if discreet about it Paul doesn't mind"*.

I observed a number of people regularly attending the toilets together. There was a bar lady referred to as "Ash" – it was explained to me and my colleague that Ash is daughter of the

Signature: ..... Signature witnessed by: .....

landlord – Ash would go to the toilets with females from the pub very often – The female from the table were we were sitting, and Ash went together a number of times.

We met with two people in the pub who were under the influence of drugs, called [REDACTED].

Enquires were made with these two people about “getting hold of drugs” we were told by [REDACTED] “it wouldn’t be too hard in this pub, good quality”.

My colleague purchased class A drugs at this location on this date.

**On 29<sup>th</sup> June 2021**, at 14.50 hours I attended the above location with colleagues, at 17.41 I was provided by a male in the pub a telephone number of someone who could supply me with class A Drugs. On dialling this number, I spoke with a male who stated he was already in the pub garden and to come and find him. On finding this male said he had been “mad busy over the last few days, hitting it hard” – he asked what I was after, he produced a number of bags containing white powder, these were in a little man bag, which was dark in colour, which he was carrying. He gave me one of these 1 bag, at 17.45 hours in the garden of the pub. (This is confirmed as cocaine)

On the table next to us, group were sat, a male called Kevin mentioned the pub was full of drugs, he said he was waiting for someone to turn up with an 8<sup>th</sup> (weight to be purchased) for him.

It was very busy with about 100 people in the pub.

**On 7<sup>th</sup> July 2021**, at 16.56 I made a call to a male whom I was aware could supply class A Drugs. On this call he stated he would be in the “mortar” later about 18.00 hours. I arrived at the Royal Mortar at 18.08 hours and met with this male in the garden, he was surrounded by several other males. I walked over and they had a brief conversation. He apologised for being late saying he was out with his girlfriend having dinner. I handed him £40 in 2 x £20 notes, and he confirmed the order of “1”. He walked over to a female and took something out of her bag. He then walked back over to me and handed me 1 x clip seal bag containing powder. (This is confirmed as cocaine).

**On 27<sup>th</sup> August 2021**, at 19.45 hours I attended the above location with colleagues. On entering the pub, I saw the male who had supplied me class A drugs on 7<sup>th</sup> July 2021. He

Signature: .....NEIL..... Signature witnessed by:.....

stated he didn't have any "bits" (meaning drugs) on him at the moment, but someone would be coming to bring some.

A short while later a male arrived and they both went to the toilet together; they were in there for some time. Then the second male came out and started nodding at people who then following him into the toilets. This male a large wedge of cash in his trouser pocket, which was clear to see, and this action was obvious to all in the pub.

**On 10<sup>th</sup> September 2021** at 18.40 hours, I attended the above location with colleagues, I observed the male who had previously supplied drugs to me on 7th July 2021, with a large group of males in the pub garden. Their behaviours were consistent with drug dealing, whereby persons would approach them for a short period of time and then leave.

My original notes were made after each deployment.

Signature: .....NEIL..... Signature witnessed by:.....

**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: NATALIA

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

Occupation: Law Enforcement Officer

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

Signature:.....Natalia ..... (witness)    Date:

I am a serving Law Enforcement Officer within the United Kingdom, and I am trained and authorised to take part in Undercover Operations. For the purposes of this operation I shall be known as NATALIA.

During this operation I have been using a mobile phone, telephone number \*\*\*\*\*.

On FRIDAY 2<sup>nd</sup> JULY 2021 I deployed into COLCHESTER area of [REDACTED] with RUBY approximately 15:15 hours. At approximately 16:05 hours RUBY made a call to a male she knows as [REDACTED], subject [REDACTED]. I heard RUBY ask the person on the phone if they were about today and then she said she would take 0.5g of cocaine and 0.5g of MDMA. She subsequently said she would just take 1g of cocaine instead and was instructed to the ROYAL MORTAR PUBLIC HOUSE.

At approximately 16:20 hours we arrived at the pub. RUBY then called [REDACTED] number again and told him we were in the garden area. At approximately 16:38 hours a male I will now refer to as [REDACTED] walked into the garden. I would describe him as a white male, about 5'10" tall, in his early to mid-20's, chubby build, with short blonde/mousy hair, wearing a white T-shirt, grey shorts, two tone brown [REDACTED] over the shoulder man bag with letters V's printed design and grey and white Nike trainers. He had tattoos on both arms, he had some writing on his inner right arm and unidentified images on his left arm. [REDACTED] then shouted, "WHO IS RUBY?" and as we were the only females present he walked over to us. [REDACTED] confirmed he was called

Signature: ..... Signature witnessed by: .....



██████ who RUBY spoke to on the phone and sat down at our table. He stated he has been busy and said they have already sold loads. I understood this to mean busy selling drugs.

██████ was holding a bright blue and white NOKIA burner style phone which was ringing every few minutes during our stay in the pub. ██████ asked RUBY words to the affect of "DO YOU WANT TWO TICKETS?". He then reached inside his man bag and asked RUBY for her cigarette packet. ██████ placed two clear plastic bags containing white powder underneath. He then said something like "I'M BEING WATCHED" and looked over his shoulder to where other customers were sat. RUBY asked ██████ it was the same price as before which was £80. ██████ agree and RUBY passed the money to him under the table. ██████ then left and sat at another table. He seemed clumsy and nervous.

At the same time another male walked into the garden. I now know him to be subject ██████ and he later confirmed his name was ██████. I would describe him as a white male, about 5'9" tall- 5'10" tall, in his mid-20's, short shaven slightly receding brown hair, clean shaven with a round midriff. He was wearing a navy Tommy Hilfiger T-shirt, matching shorts and black Nike trainers with a white Nike writing and white tick.

██████ nodded to us and ██████ said to him: "That's RUBY" and pointed towards our table. ██████ and ██████ then sat down at the table together. They were joined by another male and they had general conversation together. I then asked ██████ to come over and asked him if he was going to get some 'mandy' soon and by this I meant MDMA. ██████ stated they were trying to get some, but it would not be this weekend. He said they would send a text when they get it.

██████ again joined ██████ at their table and both males were fielding calls. I could see another burner style phone which was dark grey or black in colour. At one point, ██████ was heard to say to someone on the phone: "I'LL BE OUT IN A BIT" and left via a back gate in the rear of the garden which leads to the main road. When he came back, he put cash on the table which ██████ took possession of.

RUBY and I tried to engage the males in general conversation, but they were not very talkative.

Signature: .....

Signature witnessed by: .....



As we were leaving the pub, I asked the males if they were going to be “on” all weekend, referring to selling drugs. [REDACTED] said they are always on and they will be in the pub tomorrow for the football. He said it will be mental and it will be a good night and said everyone will be on the same level and smiled. I understood this to mean that everyone will be using drugs and having a good time as a result. I then noticed an iPhone on the table in front of [REDACTED]. I said we will call them again, said our goodbyes and left the pub.

At 17:15 hours we left the area. At 17:26 hours I sent a text message to the telephone number 07\*\*\*\*\*0472 belonging to [REDACTED] stating: “HI IT’S NATALIA RUBY’S MATE, SAVE MY NUMBER TOO. CHEERS. PS HAVE A GOOD ONE TOMORROW.” I have saved the number in my phone under [REDACTED].

I had subjects [REDACTED] and [REDACTED] under my observation for about 30 minutes, at the closest distance I was about 0.5 metres away from them, the visibility was good as it was daylight, I had unobstructed view of the males.

1 x still image of [REDACTED] was produced during today’s deployment which I can exhibit as NAT/20210702/1403A I subsequently signed this exhibit and caused this to be placed into secure storage.

This statement has been produced from my original notes made on 2<sup>nd</sup> July 2021.

Signature: ..... Signature witnessed by: .....

**WITNESS STATEMENT****Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

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Statement of: Louise GILES

Age if under 18: over 18 (if over 18 insert 'over 18') Occupation: Detective Sergeant

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, 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: *J- 76025* (witness) Date: 23/11/21

This statement relates to disorderly conduct and other criminal activity witnessed within and connected to, THE ROYAL MORTAR PUBLIC HOUSE on MILITARY ROAD, COLCHESTER during a proactive operation – OP MONACO 21.

I am the deputy investigative lead for the proactive operation referred to as OP MONACO which has been conducted to investigate and address serious violence within the night-time economy and the supply of Class A drugs, namely cocaine, within the town of COLCHESTER, ESSEX and took place between the dates of JUNE and NOVEMBER 2021.

Several subjects have been identified in relation to the supply of Class A drugs which has occurred primarily in and around THE ROYAL MORTAR PUBLIC HOUSE on MILITARY ROAD. The arrest phase has not yet concluded at the time of writing this statement.

I have collated information relating to the experiences of undercover operatives deployed into THE ROYAL MORTAR PUBLIC HOUSE and reference them below. At the commencement of this operation, COVID regulations were in force and included capacity limits, social distancing guidance, rule of six or two households at one table, use of face coverings in public spaces, the necessity to order, eat and drink whilst seated and a legal requirement to check into venue on the track and trace app. I am aware most covid restrictions were lifted from the 19<sup>th</sup> July 2021

Signature: *J- 76025* Signature witnessed by: .....

**Drugs activity and Controlled purchases of Cocaine relating to the ROYAL MORTAR**

The following controlled purchases were made within the ROYAL MORTAR PUBLIC HOUSE on the relevant dates:

On the 18<sup>th</sup> JUNE 2021 undercover operatives deployed into the ROYAL MORTAR PUBLIC HOUSE, they observed that there were no bouncers, no Covid restrictions being maintained inside or out, no masks being worn or requested, however, table service was offered to prevent customers at the bar. It was busy, there was about 50 to 60 inside and about 30 outside.

Operatives were advised by a subject of the investigation that the locals take drugs at the pub and, if discreet about it, Paul, the landlord doesn't mind. A female working behind the bar named ASH who is the daughter of the landlord, would frequently go to the toilet with a subject of the investigation who appeared to be under the influence of drugs, on numerous occasions they went into the same toilet cubicle. Drug taking was obvious within the pub on the night. The UC made a controlled purchase of 0.4g of white powder for £40 whilst in the pub garden. This has been forensically examined and is Cocaine 69% purity with Levamisole also present. Also during the evening a customer advised the operative that he had taken 1.7g of cocaine recently and was wasted, he advised that getting hold of drugs would not be difficult in this pub, meaning the ROYAL MORTAR.

On TUESDAY 29<sup>th</sup> JUNE 2021 a purchase of 0.4g cocaine 69% purity was made within the pub garden. Contact was made by the operative over the phone and the subject advised that he was in the garden of THE ROYAL MORTAR and told the operative to come and find him. When he met with the operative, he advised that he had been mad busy 'out on it' over the last few days which was interpreted to relate to the supply of drugs. The exchange happened in front of customers in the garden. Another customer started speaking to the operative and mentioned that the pub was full of drugs and that he himself was waiting for someone to bring him an 8<sup>th</sup> (approx. 3.5g cocaine).

On FRIDAY 2<sup>nd</sup> JULY, an operative contacted a subject of the investigation by phone in order to arrange the purchase of Class A drugs – cocaine. The undercover operative was instructed to go to the ROYAL MORTAR PUBLIC HOUSE for this exchange to take place. Whilst in the

Signature: ..... *J 76025* ..... Signature witnessed by: .....

garden the dealer shouted out to the crowd in order to identify the operative whom he had arranged to meet, he then advised the operative that he was very busy and had already sold loads. This brazen act obviously attracted the attention of other customers as he then stated that he was being watched, however still continued with the exchange by passing the drugs (0.8g cocaine at 69% purity) under the table and collecting money in the same manner. The male was seen to exchange money with his associate and appeared to be fielding calls on the burner style phones which the operatives had used to make contact. He advised the operatives that he was 'ALWAYS ON' and would be at the pub again tomorrow for the football and that he was expecting it to be a mental night with everyone as high as kites.

On WEDNESDAY 7th JULY another operative made contact with a subject of the investigation in order to facilitate the purchase of drugs. Again, the operative was directed to the ROYAL MORTAR PUBLIC HOUSE for the purchase to occur, the subject was not at the pub but had arranged this as the meeting point. The operative waited in the pub for the subject to attend. The exchange was completed in the garden of the ROYAL MORATAR with a purchase of 0.4g (77% purity) of COCAINE for £40.

### **Intelligence**

The activity that the operatives have witnessed supports the recent intelligence picture around THE ROYAL MORTAR:

**Intelligence report 42/100531/21 submitted 17/08/21** suggests that a named male is selling drugs at THE ROYAL MORTAR on the weekends.

**Intelligence report 42/81931/21 submitted 02/07/21** suggests THE ROYAL MORTAR are breaking covid rules, people are mixing in large groups and cocaine is going around the venue.

**Intelligence report 42/119993/20 submitted 01/09/20** suggests drug taking regularly takes place at THE ROYAL MORTAR

### **SUMMARY**

Signature: .....

Signature witnessed by: .....

Throughout the investigation operatives have been consistently directed to the pub as a venue for purchases to occur – it is evidently seen by the suppliers as a suitably safe place for their illicit trade to take place without consequence or question. This is reinforced by the information given to operatives that the landlord PAUL doesn't mind the locals taking drugs and the behaviour observed regarding the bar staff also participating in the taking of illicit drugs on the premises.

Subjects of the investigation have used the ROYAL MORTAR PUBLIC HOUSE as a safe haven to build associations, advertise their merchandise and exchange illicit product. Therefore, growing their customer base, encouraging sales and enhancing the success of their business. The nature of their business being the supply of illicit drugs is abundantly clear, yet it is supported or at the very least, not deterred by the management and license holder. It is clear the ROYAL MORTAR pub is pivotal to the exchange of drugs for this particular group of subjects yet is an environment where families and members of the public are likely socialising in at the same time.

If THE ROYAL MORTAR is permitted to continue its business in the same way it is currently being managed then it will allow the supply of Class A drugs, the disorderly behaviour that follows and the risk to the personal safety of customers and residents to remain.

*J- 76025*

Signature: *J- 76025* .....

Signature witnessed by: .....

