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WELWYN HATFIELD

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Please ask for:
Graham Seal

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20 October 2017

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL LICENSING SUB-COMMITTEE to be held on Monday 30 October 2017 at **2.30pm** in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

Yours faithfully

Executive Director
Public Protection, Planning and Governance

A G E N D A
PART 1

1. APPOINTMENT OF CHAIRMAN

To appoint a Chairman of the Sub-Committee for the meeting.

2. DECLARATIONS OF INTERESTS BY MEMBERS

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

3. HATFIELD FOOD & WINE, 7 THE PARADE, ST ALBANS ROAD EAST, HATFIELD, HERTFORDSHIRE (Pages 3 - 48)

To consider an application for the review of this premises licence as requested by the Police.

Circulation: Councillors J.Beckerman, H.Bower, M.Cook

Press and Public (except Part II Items)

If you require any further information about this Agenda please contact Graham Seal, Governance Services Unit on 01707 357444 or email – democracy@welhat.gov.uk

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Part I
Item No: 3

WELWYN HATFIELD COUNCIL
LICENSING SUB COMMITTEE
REPORT OF THE LICENSING OFFICER

Hatfield East

REPORT TO LICENSING SUB COMMITTEE

REVIEW OF PREMISES LICENCE FOR HATFIELD FOOD & WINE
7 THE PARADE, ST ALBANS ROAD EAST, HATFIELD, HERTFORDSHIRE

1.0 Summary of the Review

Premises Licence Holder(s)
Mr Ali Demirci
Address of Premises
Hatfield Wine Stores 7 The Parade St Albans Road East Hatfield Hertfordshire.

This committee report contains an application for the Review of the Hatfield Wine Stores Premises Licence wk31355/060617. This licence has been in place since 2nd April 2011 but was transferred to the present licence holders on 26th March 2014. Also on this date the designated premises supervisor was also transferred to Mr Ali Demirci.

Appendix A - A copy of the Premises Licence.

The review of this Premises Licence (wk31355/060617) has been formally requested by James Moatt, Police Licensing Officer, on behalf of the Chief Constabulary of Police for Hertfordshire (the applicant) acting as a responsible authority under the Licensing Act 2003 (as amended).

The Police have requested this review under the Licensing Act 2003 on the statutory grounds of:

- Prevention of crime and disorder

Appendix B - The Full review application from Hertfordshire Constabulary

Appendix C - Map of Locality

Appendix D - Photographs of Premises

1.1 Summary of Representation Received

No Representations received; For or Against this review application.

Unresolved Representations

Not Applicable

Details of Review Received

An application has been received from Hertfordshire Constabulary under the Licensing Act 2003 for a review of the premises licence for Hatfield Wine Stores on the grounds of Prevention of Crime & Disorder. The police opinion is that the following factors show the premises is not complying with the licensing act objectives: -

a -History of prolonged criminal activity, some of which is directly linked to the licensable activity permitted under the Premises

1.2 Unresolved Review Concerns

The Police have requested a review of the premises licence (wk31355/060617) as they have serious concerns over the criminal activities taking place on/within the premises due to a failure by the premises licence holder and the DPS to control activities which are taking place or involving the premises.

1.3 Resolved Review Concerns

The concerns of the Police have not been resolved prior to this hearing.

2.0 Explanation

The application submitted is for the Review of the Hatfield Wine Stores Premise Licence WK31355/060617. This licence has been in force since April 2011. The licence was transferred to Mr Ali Demirci in March 2014.

The review relates to a premises licence which was issued in April 2011 so any evidence that is presented as part of this review must relate to *this* licence and not to any previous licence.

Any evidence and decision must also relate to the premises licence and not to other matters such as planning, and property law (e.g. landlord/tenant matters and lease). These are separate regimes which have no bearing on the premises licence and cannot be taken into consideration at this hearing.

The committee is obliged to determine this application for review of a premises licence for the Hatfield Wine Stores in light of an application for review (appendix B). In determining the review the sub committee must take account of the council's duty to promote the statutory licensing objectives namely:

A) The prevention of Crime and Disorder
B) Public Safety
C) The Prevention of Public Nuisance
D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

In determining the licence review, members will wish to keep in mind:

i) Ali Demirci became the Designated Premises Supervisor in March 2014,
ii) There has been a number of offences as indicated in the police submission since Mr Demirci has become the "DPS" and the premises licence holder in March 2014,
iii) The DPS who is the person who has been given day to day responsibility for running the premises has failed in his duty for the prevention of crime and disorder,
iv) The premises licence holder has failed in his duty, for the prevention of crime and disorder,
v) The Licensing Act 2003 provides a range of powers for the licensing authority which it may exercise in determining a review where it considers them appropriate for the promotion of the licensing objectives.

3.0 Licensing National Guidance (S182)

The sub committee will also wish to be aware of the Guidance issued under section 182 of the licensing Act 2003.

National Guidance Paragraph -11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

National Guidance Paragraph 11.18 - However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement either orally or in writing that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

National Guidance Paragraph 11.19 - Where the licensing authority considers that under its statutory powers is appropriate, it may take any of the following steps: -

a) To modify the conditions of the licence by altering or omitting or adding to them. (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added

b) To exclude from the scope of the licence any of the licensable activities to which the application relates.

c) To remove the designated premise supervisor,

d) To suspend the licence for a period not exceeding three months

e) To revoke the licence

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

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

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

National Guidance Paragraph - 11.23; Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. 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.

National Guidance Paragraph - 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.

National Guidance Paragraph - 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

National Guidance Paragraph - 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.

4.0 Welwyn Hatfield Borough Council Licensing Policy

4.1 Welwyn Hatfield Statement of Licensing Policy Decision 35.1

The Council recognises that at any time after a Premises Licence or Club Premises Certificate has been issued, a responsible authority, such as the Police or Fire Authority, a councillor, or any other person, may ask the Council to review the licence to premises because of problems arising in connection with any of the four Licensing objectives.

4.2 Welwyn Hatfield Statement of Licensing Policy Decision 35.5

If a request for review is justified, the Council will advise the holder of the Premises Licence or Club Premises Certificate concerned that a request has been accepted and the Council will provide them with the details pertaining to the nature of the request, including any supporting evidence, in order that they may be fully aware of the allegations made. The Council will then arrange a meeting of the Licensing Sub Committee, who will review the Premises Licence or Club Premises Certificate.

4.3 Welwyn Hatfield Statement of Licensing Policy Decision 35.6

Where premises are found to be trading irresponsibly, the licensing authority will 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.

4.4 Welwyn Hatfield Statement of Licensing Policy Decision 35.7

In cases when 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, will be seriously considered.

Explanation

For the prevention of crime and disorder, the provision of public safety, the prevention of nuisance and the protection of children from harm. Applicants will be expected to demonstrate that full consideration has been given to the licensing objectives in their operating schedule. Therefore, the operating schedule that is required by applicants for a Premises Licence should be sufficient to provide the Council with a description of the style and character of the business to be conducted at the premises together with other matters either prescribed by statute, regulation or the Council.

In order to secure the Licensing objectives, the Council may place additional conditions on a licence beyond those derived from the operating schedule. If this is necessary, the Council will draw from pools of model conditions where available.

5.0 Recommendation

5.1 The committee must have regard to the review application made and the evidence it hears. The committee is therefore asked to determine the review application.

5.2 In determining the review, the sub-committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:

f) To modify the conditions of the licence by altering or omitting or adding to them. (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added

g) To exclude from the scope of the licence any of the licensable activities to which the application relates.

h) To remove the designated premise supervisor,

i) To suspend the licence for a period not exceeding three months

j) To revoke the licence

6.0 Appendices

a. Premises licence
b. Premises Licence Review Application
c. Map of Locality
d. Photographs

Dennis Pennyfather - Licensing Technical Officer
Date – 5th October 2017

Premises Licence

Issued by the Licensing Authority:

Welwyn Hatfield Borough Council
Council Offices
The Campus
Welwyn Garden City
AL8 6AE

Reference number:
WK31355/060617

Premises Licence Number **WK31355**

Part 1 – Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description

Hatfield Wine Stores
7 The Parade
St Albans Road East

Post Town **Hatfield**	Postcode **AL10 0EY**
Telephone Number **07850 972140**	

Where the licence is time limited, the dates

The Licence is not time limited

Licensable activities authorised by the licence

Supply of Alcohol

The times the licence authorises the carrying out of licensable activities

Monday – Saturday - 09:00 – 01:00
Sunday - 09:00 – 00:00

New Years Eve – until 02:00

The opening hours of the premises

Monday – Saturday 08:00 – 01:00
Sunday 08:00 – 00:00

New Years Eve – until 02:00

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies

OFF

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Ali Demirci

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

Registered Number – **N/A**

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

Ali Demirci

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

LN/000004044 – Haringey Council

Annex 1 – Mandatory Conditions

Mandatory conditions where licence authorises supply of alcohol

(1) The first condition is that no supply of alcohol may be made under the premises licence-

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Annex 2 – Conditions consistent with the Operating Schedule

1. All reasonable steps will be taken to ensure that the premises will have a positive impact upon the local environment and its residents at all times.

2. The Licence Holder will take all reasonable steps to ensure that crime and/or disorder does not occur on the premises.

3. Any incidences of a criminal nature that may occur on the premises will be reported to the Police.

4. CCTV system shall be installed and maintained inside and outside the premises.

5. Appropriate fire safety procedures will be in place including fire extinguishers (HRO and CO2), internally illuminated fire exit signs, a smoke detector and emergency lighting.

6. All emergency exits will be clearly marked at all times.

7. Escape routes will be kept clear of obstruction at all times.

8. All customers are asked to respect neighbours and leave quietly.

9. Notices will be clearly and prominently displayed to remind customer to leave quietly.

10. Trade refuse agreement will be arranged and maintained at all times.

11. The Licence holder and staff will ask customers who appear to be under the age of 18 for photographic ID such as Proof of age cards, the connexions card and citizen card, photographic driving licence or passport, an official identity card issued by HM forces or by EU country, showing a photograph and date of birth of the bearer.

12. A register of refused sales shall be kept and maintained on the premises.

Additional Conditions added through variation 17 May 2012

13. Alcohol will only be sold for consumption OFF the premises.

14. Emergency lighting, smoke detectors, and fire extinguishers will be provided and maintained.

15. Alcohol will not be served to those who appear to be drunk

16. CCTV system installed at the premises will meet the standard ‘UK requirements for digital CCTV systems’

17. The premises will operate a Challenge 25 proof of age scheme.

18. Suitable signage will be displayed at the point of service advising customers the premises operates a ‘Challenge 25’ Policy

19. The Premises licence Holder or DPS will take reasonable measures to ensure alcohol is not consumed directly outside the premises.

20. Any person refused service will be recorded in a refusals book which shall be kept at the premises for not less than 12 months.

21. Suitable signage will be displayed at the point of exit advising customers to leave the premises quietly.

22. Identification in the form of a passport, Photo driving licence or a proof of age card bearing the PASS hologram will be sought and if not provided alcohol will be refused.

Condition agreed with the Police

23. Whenever the venue is trading at least one member of staff shall be on the premises who is able to operate the CCTV system, to include the ability to retrieve and download images and provided copies of those images to Police Officers, Police staff and Licensing Authority Officers there and then.

Annex 3 – Conditions attached after a Hearing by the Licensing Authority

N/A

Annex 4 – Plans

See Attached

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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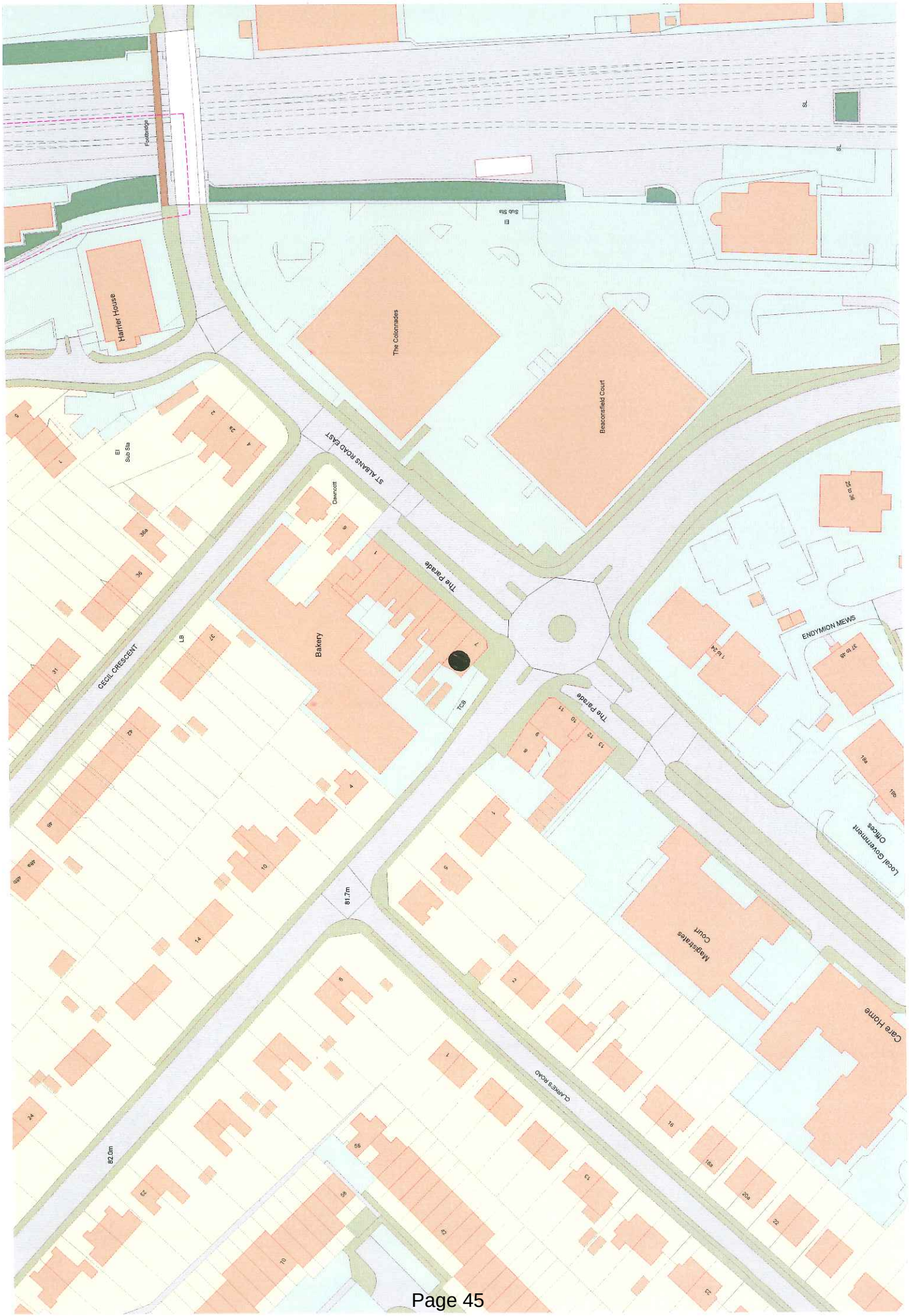
Footbridge
Hamer House
El
Sub Sta
The Colonnades
Beaconsfield Court
ST ALBANS ROAD EAST
El
Sub Sta
Dawnicott
The Parade
Bakery
CECIL CRESCENT
LB
BCB
The Parade
ENDYMION MEWS
Local Government Offices
Magistrates Court
Care Home
81.7m
CLARKE'S ROAD
82.0m

Beaconsfield
ST ALBANS ROAD EAST
Dawncott
6
1
The Parade
Bakery
7
TCB
The Parade
11
10
12
13
9
8
4
1
5
81.7m

GROUND LANE
HATFIELD
FOOD & WINE
Premium Quality
The National Lottery
PP
PayPoint
WELCOME TO
HATFIELD
FOOD & WINE
OFF LICENCE - GROCERY
FRUIT & VEG - FROZEN FOOD
EASTERN EUROPEAN PRODUCTS
PAY POINT - LOTTERY
PAYPOINT - OFF LICENCE - GROCERY - FRUIT & VEG - EASTERN EUROPEAN PRODUCTS
LITTER

HATFIELD
FOOD & WINE
HATFIELD
FOOD & WINE
OPEN
TILL LATE
GEORGE'S
FISH BAR
OFF LICENCE - GROCERY - FRUIT & VEG - EASTERN EUROPEAN PRODUCTS
FRUIT & VEG - EASTERN EUROPEAN FOOD
PAYPOINT - LOTTERY - FROZEN FOOD