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Application for full variations to a licensed premises - Ref no. 134916

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<b>Are you able to return the existing premises licence or club certificate?</b>	Yes
<b>What do you want to vary?</b>	Premises licence : PREM-LIC\103477
<b>Who is making the variation?</b>	An authorised agent
<b>Agent details</b>	
<b>First name</b>	Kotiva
<b>Last name</b>	Legal
<b>Name of business (optional)</b>	Kotiva
<b>Address</b>	LIFESTYLE EXPRESS BEACHLEY ROAD NP16 7DJ TUTSHILL
<b>Email address</b>	████████████████████
<b>Telephone number</b>	████████████████
<b>Correspondence details</b>	
<b>Who should we correspond with in regards to this application?</b>	Agent
<b>What type of variation are you applying for?</b>	Full variation
<b>What is the non-domestic rateable value (NDRV) of the premises?</b>	39750
<b>Will the variations mean the premises is used exclusively or primarily to sell or supply alcohol?</b>	No
<b>Will the variations change the expected</b>	No

attendance?

**When do you want the variations to take effect?**

As soon as possible

**What changes do you want to make?**

- Amend conditions

### **Amended conditions**

**Will any of the changes made give rise to concerns in respect of children?**

No

**The prevention of crime and disorder**

No

**Public safety**

No

**The prevention of public nuisance**

No

**The prevention of children from harm**

No

### **About this form**

**Issued by**

Camden Town Hall  
Judd Street  
London  
WC1H 9JE

**Contact phone**

020 7974 4444

**Form reference**

Ref. no. 134916

**Data protection**

**Application for full variations to a licensed premises - Ref no. 134916**

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## **APPLICATION TO VARY A PREMISES LICENCE (SECTION 34 LICENSING ACT 2003)**

### **1. DETAILS OF VARIATION SOUGHT**

We are the premises licence holders and apply under section 34 of the Licensing Act 2003 to vary the premises licence by the removal (or, in the alternative, variation) of the following existing conditions 31, 32, 33 and 34

(31) No sale of super-strength beer, lager or cider above 5.5% ABV (with limited exceptions for premium products).

(32) Wine and spirits not to be sold in bottles under 180ml.

(33) Alcohol must be kept in display units with metal shutters.

(34) Alcohol must be secured behind shutters outside permitted hours.

### **2. STATUTORY BASIS AND DECISION TEST**

This application is made pursuant to section 34 of the Licensing Act 2003 and falls to be determined under section 35. If relevant representations are made, the Licensing Authority must hold a hearing (unless dispensed with) and must take only such steps as it considers appropriate for the promotion of the licensing objectives, including modifying (altering or omitting) existing conditions.

In exercising its functions, the Licensing Authority must have regard to the Guidance issued by the Secretary of State under section 182 of the Act. The Guidance emphasises (in summary) that conditions must be appropriate for the promotion of the licensing objectives; precise, unambiguous and enforceable; tailored to the individual premises; not standardised; not duplicative of other statutory requirements; and proportionate and justifiable.

### **3. LICENSING OBJECTIVES**

We fully recognise and support the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

We submit that the conditions under challenge are legacy measures that are no longer necessary or proportionate to promote those objectives at this premises. The licensing objectives can be, and are, promoted through robust day-to-day management and modern retail compliance controls, rather than through blanket product prohibitions and prescriptive physical shutter requirements.

### **4. CASE LAW AND LEGAL PRINCIPLES RELIED UPON**

We rely on the following principles from relevant authorities:

4.1 Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)

The High Court quashed licensing restrictions imposed on an insufficient evidential basis and stressed that restrictions must be necessary for the promotion of the

licensing objectives; necessity imports proportionality. Decision-making based on speculation or generalised assumptions, rather than proper evidence, is unlawful.

4.2 R (Hope & Glory Public House Ltd) v City of Westminster Magistrates' Court [2011] EWCA Civ 31

The Court of Appeal confirmed that appeal courts pay careful attention to the licensing authority's reasons; the weight given depends on the quality of reasons and evidence. The case underlines the importance of conditions being justified by clear objective-linked reasoning and evidence.

4.3 East Lindsey District Council v Abu Hanif [2016] EWHC 1265 (Admin)

The High Court confirmed that the crime prevention objective is forward-looking and may be engaged without a prior prosecution, but licensing measures must still be rational, objective-linked and appropriate to the particular premises and circumstances.

## **5. WHY THE CONDITIONS SHOULD BE REMOVED / VARIED (CONDITION-BY-CONDITION)**

CONDITION (1): No sale of "super-strength" beer/lager/cider above 5.5% ABV (premium exception)

Intent: Typically aimed at preventing crime/disorder and/or public nuisance associated with street drinking and alcohol-related anti-social behaviour.

Our submission:

- The condition is a blanket restriction using ABV as a proxy for risk. ABV alone is not a reliable indicator of misuse, and many legitimate products exceed 5.5% ABV (including mainstream, imported and craft products) purchased by responsible customers for lawful consumption.
- The "premium products" exception demonstrates the inherent arbitrariness of ABV as the deciding factor and creates uncertainty and enforceability problems (what is "premium?"), contrary to the requirement for clarity and enforceability.
- There is no premises-specific evidence demonstrating that the sale of products above 5.5% ABV from this premises causes or contributes to crime, disorder or nuisance.
- Applying Thwaites, the continuation of a blanket restriction without a sound evidential basis is neither necessary nor proportionate. The condition is not appropriately tailored to this premises and should be removed.

CONDITION (2): Wine and spirits not to be sold in bottles under 180ml

Intent: Typically aimed at reducing concealability/impulse purchasing and managing risks of street drinking and/or underage access.

Our submission:

- The condition is a blanket product-format prohibition and is not tailored to this premises.
- Bottle size is a poor proxy for risk; smaller formats are commonly sold for legitimate purposes. Risks relevant to children from harm are addressed far more directly by age-verification controls, staff training and refusals recording.
- There is no premises-specific evidence that sales of sub-180ml wine/spirits at this premises have caused licensing harms.

- The condition is disproportionate and not shown to be necessary for objective promotion; it should be removed.

CONDITION (3): Alcohol must be kept in display units with metal shutters

Intent: Typically aimed at preventing theft and/or controlling access to alcohol products.

Our submission:

- This condition is unusually prescriptive and mandates a specific physical security mechanism (metal shutters) rather than specifying an objective outcome.
- Modern retail practice provides effective alternatives (supervision, layout, CCTV, staff controls and store procedures) which can promote the crime prevention objective without imposing an inflexible infrastructure requirement.
- The condition is burdensome, not tailored to the premises' particular risks, and not shown to be necessary or proportionate. It should be removed.

CONDITION (4): Alcohol must be secured behind shutters outside permitted hours

Intent: Typically aimed at preventing accidental or unauthorised sales outside authorised hours and/or deterring theft.

Our submission:

- Compliance with authorised hours is already controlled by lawful operating requirements, staff procedures and modern electronic till/EPOS controls.
- This condition is effectively dependent on (and duplicative of) the shutter requirement in condition (3) and is unnecessary where compliance is achieved through operational systems and management controls.
- The condition is not shown to be necessary or proportionate and should be removed.

## **6. CONTINUING PROMOTION OF THE LICENSING OBJECTIVES**

We confirm that the premises will continue to be operated responsibly and in full compliance with the Licensing Act 2003, all mandatory conditions, and any other conditions remaining on the licence. We will continue to promote the licensing objectives through effective management, staff training, and appropriate controls including age-verification procedures and refusals recording where required.

## **7. CONCLUSION AND REQUEST**

For the reasons set out above, we respectfully request that the Licensing Authority grants this application and removes the four conditions identified. We submit that the conditions are not demonstrated to be necessary, proportionate or appropriately tailored for the promotion of the licensing objectives at this premises, and that their retention would be inconsistent with the statutory framework, the section 182 Guidance principles on conditions, and the approach endorsed in the relevant authorities.

London Borough of Camden, 5 Pancras Square, London N1C 4AG

**Premises Licence**  
London Borough of Camden Licensing Authority

**Premises licence number**  
PREM-LIC\103477

**Part 1 – Premises details**

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

MAG ONE  
68 Rosslyn Hill  
London  
NW3 1ND

**Telephone number** | N/A

**Where the licence is time limited the dates**  
N/A

**Licensable activities authorised by the licence**

Retail of Alcohol: | Yes

**The times the licence authorises the carrying out of licensable activities**

Retail of Alcohol:	
Monday to Saturday	08:00 – 23:00
Sunday	10:00 – 22:30

**The opening hours of the premises**

Monday to Saturday 06:00 – 23:00  
Sunday 10:00 – 22:30

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

OFF Premises

**Part 2**

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

Mr Sunil Brahmbhatt



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

N/A

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

Mr Sunil Brahmbhatt



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



**For Corporate Services Directorate on behalf of the Licensing Authority  
Date Licence Granted: 22/09/2020 APP\PREMISES-NEW\102413**

## Annex 1 - Mandatory conditions

1. The supply of alcohol is prohibited at a time when there is no designated premises supervisor in respect of the premises.
2. The supply of alcohol is prohibited at a time when the designated premises supervisor does not hold a personal licence or his/her licence is suspended.
3. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
5. But nothing in subsection (4) requires such a condition to be imposed -
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), or
  - (b) in respect of premises in relation to -
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
6. For the purposes of this section
  - (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies[ and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act)], and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.
7. (1) The responsible person must 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

(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 in a manner which carries a significant risk of undermining a licensing objective;

(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 in a manner which carries a significant risk of undermining a licensing objective;

(d) 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;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

8. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
9.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) 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 either
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
10. The responsible person must 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;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

11. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

12. For the purposes of the condition set out in paragraph 11

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) “permitted price” is the price found by applying the formula

$$P = D + (D \times V)$$

where

- (i) P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

13. Where the permitted price given by Paragraph (b) of 12 above would (apart from this paragraph) not be a whole number of pennies, the price given by

that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

14. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.  
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **Annex 2 - Conditions consistent with the operating schedule**

15. There shall be CCTV in operation with signs prominently displayed to this effect.
16. All instances of crime or disorder to be reported by the Designated Premises Supervisor or responsible member of staff.
17. Fire extinguishers and fire alarm is installed.
18. All alcohol shall be sold in sealed containers. They shall not be opened or consumed on or within the vicinity of the premises.
19. Where the sale or supply is taking place employees of the premises must request sight of evidence of the age of any person appearing to be under the age of 25.
20. The premises will display prominent signage by every entrance and exit requesting customers to leave the premises quietly and to respect local residents.

## **Conditions agreed with the Police Responsible Authority**

21. The CCTV system shall be maintained in good working order and at all times when open to the public, be fully operational covering both internal and external areas of the premises to which the public have access.
22. CCTV Camera Views are not to be obstructed.
23. At least one CCTV camera is to be placed no more than seven feet above

floor level; near to the exit in order to capture clear facial images of all persons leaving the premises.

24. The facility to transfer the images to a compatible, removable format, shall be held on the premises.
25. Copies shall be made available within 48 hours to the Police or Local Authority upon request.
26. The medium on which CCTV images are recorded shall be of evidential quality; stored securely; shall be retained for a period of 31 days; and be available for inspection by the Police or Local authority upon request.
27. If the CCTV is inoperative or not installed and working to the satisfaction of the Police, then within 48 hours the Police shall be notified and an estimate given of the repair timescale. The premises shall comply with all reasonable requests from the Police.
28. No Alcohol to be stored beneath the serving counters at any time.
29. Alcohol being displayed in public areas to be covered over in the event operating hours exceed the permitted hours for alcohol sales.
30. All product to be paid for in full at the point of sale No "Credit" to be offered to any customers.
31. The Premises licence holder shall not sell super strength beer, lager or cider with an alcohol content above 5.5% ABV or greater This restriction shall not apply in respect of specialist branded premium priced products, for example Craft ales, local or microbrewery specialist products, boxed gifts or national celebratory/ commemorative beer, lager or cider with alcohol content of 5.5% ABV or greater.
32. Wine and spirits shall not be sold in bottles of less than 180ML
33. All alcohol in the public parts of the premises shall be kept in display units. All display units for alcohol will have metal shutters.
34. All alcohol is to be covered and locked behind secure metal shutters when the premises remain open outside the permitted hours for the supply of alcohol.
35. If staff become aware of any person entering the premises and carrying visibly

open alcohol vessels they will be refused entry or asked to leave immediately.

36. A visible sign to be in place reminding customers that the London Borough of Camden is a controlled Drinking Zone and alcohol must not be consumed in the street.
37. Police must be called to incidents of violence and disorder.
38. An incident log shall be kept at the premises, and made available on request to an authorised officer or the Police, which will record the following:
  - a) All crime reported to the venue
  - b) Any incidents of disorder and violence
  - c) Any faults in the CCTV system
  - d) Any refusal of the sale of alcohol to include date, time, and staff member
  - e) Any visit by a relevant authority or emergency service.
  - f) CAD reference numbers where Police are called
39. The premises Licence Holder and or Designated Premises Supervisor shall not purchase any alcohol goods from door to door sellers.
40. The Premises Licence holder and or Designated Premises Supervisor shall ensure alcohol is only purchase from an authorised wholesaler and shall produce receipts for the same for inspection as soon as practicable. (An authorised wholesaler means an established warehouse or trade outlet with a fixed address and not a van or street trader, even is they claim they are part of, or acting on behalf of, an authorised wholesaler who provides full itemised VAT receipts).
41. The Premises Licence Holder and /or Designated Premises Supervisor shall ensure persons responsible for purchasing alcohol do not take part in any stock swaps or lend or borrow any alcohol goods from any other source unless the source is another venue owned and operated by the same company who also purchase their stock from an authorised wholesaler.

### **Annex 3 - Conditions attached after a hearing by the licensing authority**

### **Annex 4 - Plans**

London Borough of Camden, 5 Pancras Square, London N1C 4AG

**Premises Licence Summary**  
London Borough of Camden Licensing Authority

**Premises licence number**  
PREM-LIC\103477

**Part 1 – Premises details**

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

MAG ONE  
68 Rosslyn Hill  
London  
NW3 1ND

**Telephone number** N/A

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by the licence**

Retail of Alcohol: Yes

**The times the licence authorises the carrying out of licensable activities**

Retail of Alcohol:	
Monday to Saturday	08:00 – 23:00
Sunday	10:00 – 22:30

**The opening hours of the premises**

Monday to Saturday 06:00 – 23:00  
Sunday 10:00 – 22:30

**Part 2**

**Name, (registered) address of holder of premises licence**

Mr Sunil Brahmbhatt



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

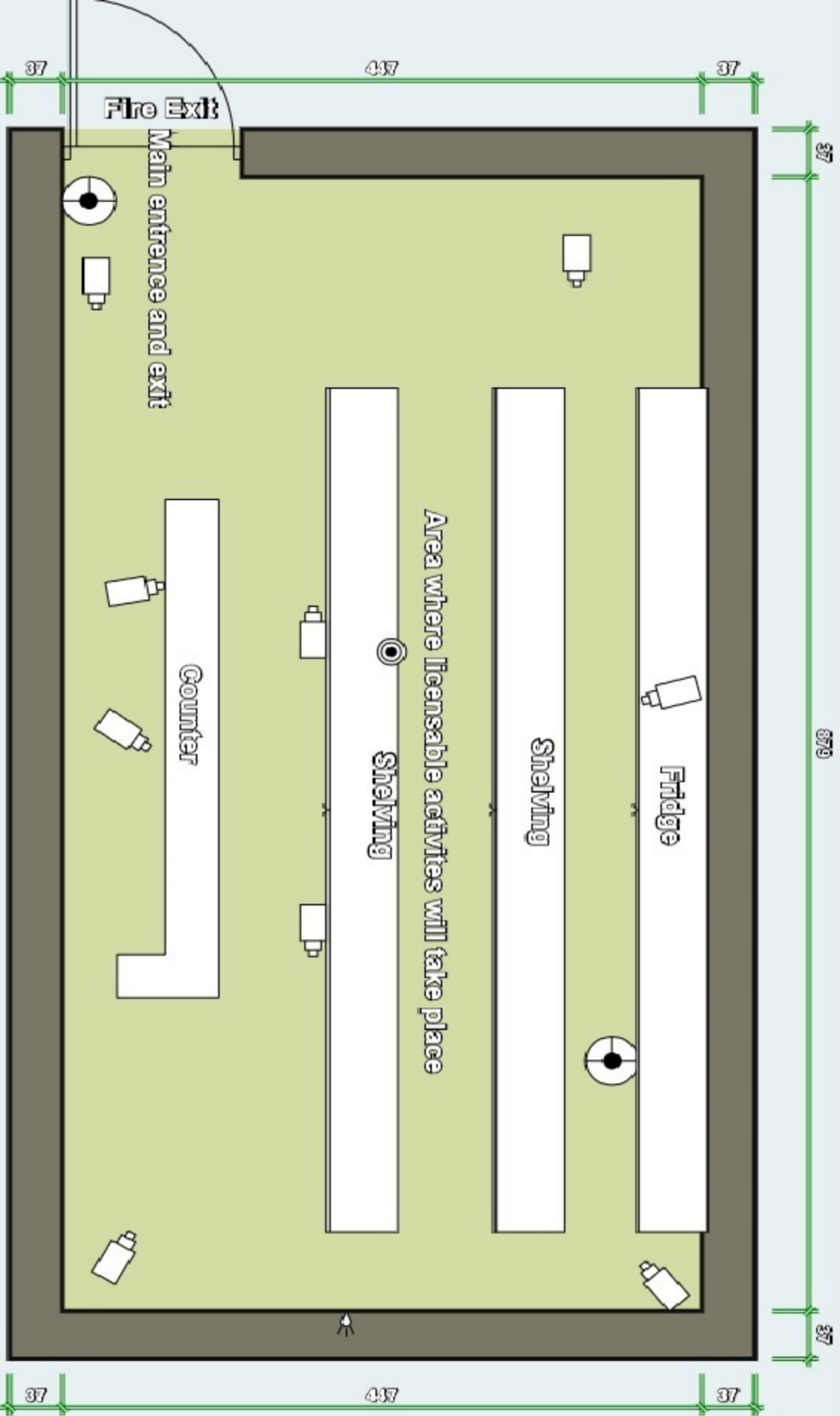
N/A

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

Mr Sunil Brahmbhatt

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

N/A



Scale 1:100

MAG ONE



**METROPOLITAN  
POLICE**

**TOTAL POLICING**

Camden Licensing Authority

Town Hall Extension  
Argyle St  
London

WC1H 8EQ

**EK - Camden Borough**

Licensing Unit  
Room 1.22  
Kentish Town Police Station  
12a Holmes Rd  
London  
NW5 3AE

Telephone: [REDACTED]

Email: [REDACTED]

Your ref: **NEW134916**

Dear Sir/Madam

**RE: Application NEW134916**

**Mag One, PREM-LIC\103477 68, Rosslyn Hill NW3 1ND**

With reference to the above Application, the **Metropolitan Police Service (MPS)** wishes to **make a Representation.**

The MPS believe that this application will undermine the Licensing Objectives if granted, primarily the prevention of crime and disorder.

**The applicant is requesting the removal of key conditions.**

(31) No sale of super-strength beer, lager or cider above 5.5% ABV (with limited exceptions for premium products).

(32) Wine and spirits not to be sold in bottles under 180ml.

(33) Alcohol must be kept in display units with metal shutters.

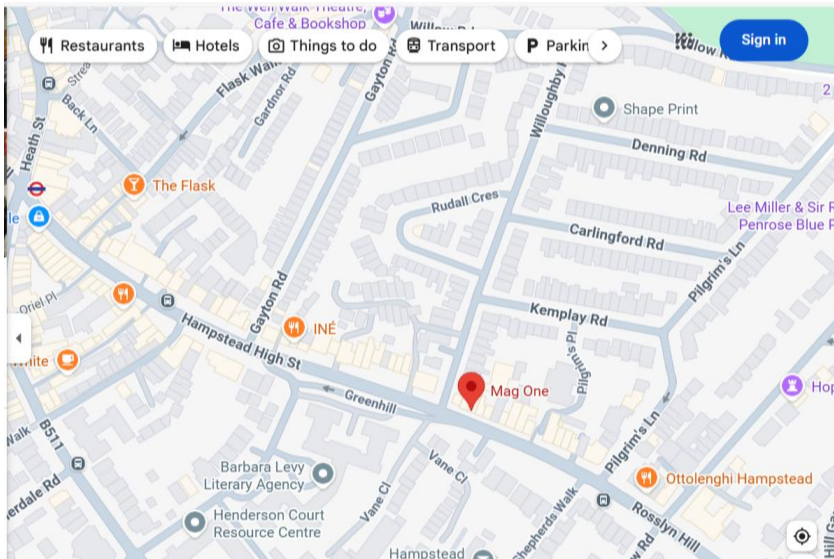
(34) Alcohol must be secured behind shutters outside permitted hours.

**Current business and alcohol sale hours:**

The times the licence authorises the carrying out of licensable activities	
Retail of Alcohol:	
Monday to Saturday	08:00 – 23:00
Sunday	10:00 – 22:30

**The opening hours of the premises**

Monday to Saturday 06:00 – 23:00  
Sunday 10:00 – 22:30

**Location:**

The venue is located on the Highstreet area towards Hampstead tube station, further down the hill is the Belsize Park area. The surrounding area is largely residential with an entrance to the Hampstead Heath a short walk away. There are several pubs and restaurants in the area with primary schools a short distance away.

The venue has included the following passage as part of its application, in reference to the removal of conditions:

“We fully recognise and support the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

We submit that the conditions under challenge are legacy measures that are no longer necessary or proportionate to promote those objectives at this premises. The licensing objectives can be, and are, promoted through robust day-to-day management and modern retail compliance controls, rather than through blanket product prohibitions and prescriptive physical shutter requirements.”

To my knowledge, the venue has not requested pre-application advice with the council, and they have not approached the Police regarding the conditions referred to as legacy.

The MPS believe that these conditions are entirely relevant and proportionate, they are considered “Gold Standard” conditions and they are still requested for new applications.

- (31) No sale of super-strength beer, lager or cider above 5.5% ABV (with limited exceptions for premium products).

The MPS still promotes “reduce the strength” initiatives through these conditions and this is aimed at ensuring cheap, high strength alcohol is not readily available to those who suffer from addictions. Those belonging to the homeless community do often suffer with alcohol addictions and will beg on the streets for change, the Police often receive calls regarding aggressive beggars in the street causing anti-social behaviour. Premium products make it far more difficult for people from this community to access these products and feed their addiction, it is also not uncommon for people to become medical emergencies requiring ambulance callouts as well as Police as a result of high strength alcohol products. The royal free hospital is a short walk from the area, as a Police Officer I have regularly attended calls where intoxicated people have caused anti-social behaviour within the venue as well as criminal offences against hospital staff.

- (32) Wine and spirits not to be sold in bottles under 180ml.

This condition is aimed at addressing both alcohol related ASB and drug use, these bottles are often used by those suffering with addiction to consume Class A drugs. They are not cleaned and thrown away responsibly; they are often left on the streets causing a nuisance to those in the area and a potential risk to children and animals considering the sharp nature of the objects along with its unsanitary condition. Restricting the sales of these item helps to drastically reduce these issues.

- (33) Alcohol must be kept in display units with metal shutters.

and;

- (34) Alcohol must be secured behind shutters outside permitted hours.

Thefts and shoplifting, particularly of alcohol remains high. The correct protection makes venues less vulnerable to these offences. It also helps to ensure that out of hours sales are not conducted or promoted by having them physically removed from sight. This is especially relevant to venues who are open to sell other products after their licensable hours have ended. This is an issue that Police Licensing Officers frequently come across and are constantly working to address.

CCTV and even security guards are often not enough when it comes to deterring those looking to steal from stores. Faces are easily concealed, and security guards are regularly assaulted or threatened with weapons. I have attended many calls where Security Officers have stated that their company policy is “not to intervene or get physical with suspects” due to the risk of assault or complaint. These shutters are another safeguard against these offences.

I have been a front-line Police Officer for over 12 years, based in Camden. I am familiar with the borough and its areas and I am aware that the homeless population do frequent the area, there are hostels that house vulnerable people in the area. I have attended many calls where alcohol has played a factor to the condition of those present, heavily intoxicated people committing offences and anti-social behaviour.

These conditions are aimed at tackling a wider issue. There are many off licences and businesses similar to this who operate with these conditions across the borough, they are not uncommon and they are highly effective.

### **Summary:**

The MPS believe these conditions are important in addressing all the licensing objectives, they are still regularly applied to businesses of a similar nature.

This application should be rejected, the MPS would encourage open communication and engagement with the responsible authorities when looking to remove conditions as important as these.

If these conditions are removed it will likely have a negative impact on the wider area. It is highly inappropriate to suggest their removal and the MPS do not believe the applicant has provided sufficient, relevant evidence, nor do they properly understand the consequences of the removal of these conditions.

**PC Dominic Hallam 1908 CN – Camden Licensing Team**

Kentish Town Police Station, 12a Holmes Road, NW5 3AE

■ [REDACTED]  
■ [REDACTED]



**CENTRAL NORTH**

Policing Camden & Islington

**WAVE PROGRAMME**  
Welfare And Vulnerability Engagement



[Click to see what we are doing for you on Twitter @MPSCamden](#)

[Click here to see what we are doing for you @MPSIslington](#)

## Section 1: Background comments of the Borough Solicitor

- 1.1 The purpose of Camden's Statement of Licensing Policy is to make it clear to applicants that wider considerations will be taken into account when determining applications. It is intended to guide the Licensing Panel when considering licence applications. However, the Licensing Panel must always consider each application on its own merits and allow exceptions to the normal policy where the circumstances of the application justify allowing an exception. The burden is on the applicant to show that they comply with the policy.
- 1.2 Members should only address those matters that have formed the subject matter of relevant representations. Matters that arise that are not the subject of relevant representations fall outside the function that the Panel is exercising when it holds a hearing
- 1.3 Members must determine, having regard for the evidence, whether granting the application for a premises licence will impact adversely on the policy criteria listed in paragraph 3 of this report.
- 1.4 In accordance with the provisions of Part 1 of Schedule 5 of the Act, where a Licensing Authority rejects in whole or in part, an application for a new premises licence, the applicant may appeal against the decision, to a magistrate's court within 21 days of being notified of the decision.
- 1.5 Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted, or that different or additional conditions should have been imposed on the licence, he may appeal against the decision to a magistrate's court within 21 days of being notified of the decision.
- 1.6 **The Human Rights Act 1998** incorporates the key articles of the European Convention on Human Rights into domestic law. Decisions on licensing matters are actions of a public authority and must be compatible with Convention rights. Consequently, Members of the Panel must be aware of the rights contained in the Convention (particularly those set out below) when making licensing decisions.
  - (a) **Article 6: Right to a fair trial**  
In the determination of his civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
  - (b) **Article 8: Right to respect for private and family life**  
Everyone has a right to respect for his or her private life, his home and correspondence.

**(c) Article 1 of the First Protocol: Protection of property**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions, including a licence. No one shall be deprived of his possession except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

**(d) Article 10: Freedom of Expression**

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The exercise of these freedoms since it carries with it duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

**(e) Article 14: Prohibition of discrimination**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

- 1.7 When formulating policy local authorities must have regard to the **Equality Act 2010**. The Act provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including licensing powers. Members of the panel must be mindful of this duty when determining all licensing applications.

**The section 149 Public Sector Equality Duty**

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
- (b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

1.8 In determining any application, the Council must comply with the public sector equality duty in s.149 of the 2010 Act. This is a duty to have regard to the need to achieve the statutory goals of s.149, rather than to achieve a particular result. The s149 duty sits alongside and does not override statutory requirements in relation to determining licensing applications, including the duty to consider all evidence on its merits and the legislative criteria listed at paragraphs 3 & 4.

1.9 When members have before them representations or other material on issues relevant to s149, even outside the scope of “standard” licensing considerations such material must still be specifically assessed in the context of s149. However, because s149 creates a requirement to “have regard” the fact a matter raised is relevant to s149 will not automatically translate into a reason for refusing an application that would be sustainable in any subsequent appeal, given the legal requirement to determine applications in compliance with licensing legislation.

**Section 2: Financial Comments**

- 2.1 Following consideration there are no financial implications concerning this application. The Executive Director Corporate Services has been consulted in the preparation of this report and has no further comments to add.