

Compliance Direct Ltd
52 Roxeth Green Avenue
Harrow
HA2 8AF

19 August 2024

Ref: 32523

Dear Sirs,

Licensing representation against the application to vary the premises licence in respect of Carlton Lounge, 232 – 234 Kingsbury Road, London, NW9 0BH (Premises licence number: 362998)

The above-mentioned application has been made pursuant to section 34 of the Licensing Act 2003.

I confirm that I am the delegated officer of the Licensing Authority, in whose area the above-mentioned premises is situated, and who is authorised for the purposes of exercising its statutory function as a 'Responsible Authority' under the Licensing Act 2003.

I certify that I have carefully considered the above application to vary the premises licence, and consequently, I wish to make a representation on the grounds that if the application were to be granted as it currently is, it would likely have a detrimental effect on one out of the four below licensing objectives:

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

Operating Schedule

The current premises permits the following licensable activities and opening hours:

Live music: Sunday to Thursday, 11:00 - 02:00, Friday & Saturday, 11:00 - 03:00

Recorded music: Sunday to Thursday, 11:00 - 02:00, Friday & Saturday, 11:00 - 03:00

Performance of dance: Sunday to Thursday, 11:00 - 02:00, Friday & Saturday, 11:00 - 03:00

Anything of a similar description to the above: Sunday to Thursday, 11:00 - 02:00, Friday & Saturday, 11:00 - 03:00

Late night refreshment (on and off the premises): Sunday to Thursday, 23:00 - 02:00, Friday & Saturday, 23:00 - 03:00

The supply of alcohol (on and off the premises): 11:00 - 02:00, Friday & Saturday, 11:00 - 03:00

The opening hours: Sunday to Thursday, 09:00 - 02:30, Friday & Saturday, 09:00 - 03:30

The application to vary the premises licence seeks the following permitted licensable activities and opening hours:

Live music: Sunday to Thursday, 11:00 - 03:00, Friday & Saturday, 11:00 - 04:00

Recorded music: Sunday to Thursday, 11:00 - 03:00, Friday & Saturday, 11:00 - 04:00

Performance of dance: Sunday to Thursday, 11:00 - 03:00, Friday & Saturday, 11:00 - 04:00

Anything of a similar description to the above: Sunday to Thursday, 11:00 - 03:00, Friday & Saturday, 11:00 - 04:00

Late night refreshment (on and off the premises): Sunday to Thursday, 23:00 - 03:30, Friday & Saturday, 23:00 - 04:30

The supply of alcohol (on and off the premises): 11:00 - 03:00, Friday & Saturday, 11:00 - 04:00

The opening hours: Sunday to Thursday, 09:00 - 03:30, Friday & Saturday, 09:00 - 04:30

The Licensing Authority duly notes that the premises licence application hasn't been made in line with other existing premises licences within the local area (i.e., such as the terminal hour for proposed licensable activities).

Location

The premises is located at 232 Kingsbury Road, NW9 0BH. The premises, a detached building, sits in-between a car wash and a block of flats. There is a parade of shops that sit directly opposite the premises along Kingsbury Road, with residential flats located above. Mead Court, a residential area of flats sits directly behind the premises. The local area itself is a mixture of commercial businesses that cater towards local residents and residential properties.



The nearest noise-sensitive dwellings are residential flats 10 meters east of the premises and 34 meters north, directly behind the premises along Mead Court. Additionally, there are properties 36 meters to the west along Uphill Drive and 40 meters directly south, across Kingsbury Road.



Cumulative Impact Zone (CIZ)

Kingsbury Road falls within one of Brent Council's Cumulative Impact Zones (CIZ). The purpose of these CIZs is to address issues related to alcohol-led anti-social behaviour in public areas and street drinking.

While this premises licence application does fall within one of Brent Council's Cumulative Impact Zones, and the premises is licensed to conduct off-sales, the nature of the application suggests it would not have a tangible effect on the cumulative impact in relation to street drinking.

This is because the business model predominantly caters to on-sales, thereby not increasing the likelihood of street drinking or alcohol-related anti-social behaviour.

Licence History

The current premises licence is held by a limited company, namely, Carlton Lounge (UK) Limited. The sole listed director of the company is Thavatheva Thevarajah. Carlton Lounge (UK) Limited has held the premises licence since June 2016. Thavatheva Thevarajah is also the designated premises supervisor and has held that position since July 2013.

The premises licence was subject to a review hearing on 26 June 2014 following an application made by the Metropolitan Police Service. The review was sought on the grounds that all four licensing objectives were being undermined. The Licensing Sub-Committee subsequently agreed to adjourn the meeting on the condition that the premises implemented an effective action plan to improve management, including staff training and building improvements.

The Licensing Authority acknowledges that this review hearing took place over 10 years ago and is therefore of limited relevance to the current application.

Complaints

The Licensing Authority has been made aware of the following complaints:

13 September 2022 – Following on from a pre-arranged meeting at the premises between Thavatheva Thevarajah and Brent Council (John McGann, Licensing Enforcement Officer and Martin Wood, Principal Nuisance Control Officer), Mr McGann undertook an inspection of the annex two conditions. Mr McGann highlighted his concerns that the condition pertaining to the CCTV and the incident book was not being met. It should be noted that Mr McGann acknowledged within his correspondence that the premises licence holder had resolved the CCTV issue thereafter.

28 November 2023 – A warning letter issued by Esther Chan, Licensing Enforcement Officer advising Mr Thevarajah that the Licensing Authority had been made aware of complaints regarding loud music emanating from the premises.

11 March 2024 - Martin Wood, Principal Nuisance Control Officer advised the premises licence holder of 8 noise recordings uploaded via the 'NoiseApp' between 4 February 2024 & 3 March 2024. The noise recordings were all recorded between 23:51 & 02:15.

Temporary Event Notices (TENs)

The premises has submitted numerous TENs to the Licensing Authority since 2023:

2024

Monday 1 January 2024 & Tuesday 2 January 2024: The sale by retail of alcohol (SOA), The provision of regulated entertainment (RG), The provision of late night refreshment (LNR): 02:01 to 04:00

Monday 1 May 2023: SOA, RG, LNR, 02:01 – 03:30

Monday 27 May 2024 & Tuesday 28 May 2024: SOA, RG, LNR, 02:01 – 03:30

Monday 6 May 2024 & Tuesday 7 May 2024: SOA, RG, LNR, 02:01 – 03:30

Monday 1 April 2024 & Tuesday 2 April 2024: SOA, RG, LNR, 02:01 – 03:30

2023

31 December 2022 - 2 January 2023: SOA, RG, LNR, 03:01 to 05:00 (Reduced to 04:00 upon agreement with the Police)

Monday 10 April 2023: SOA, RG, LNR, 02:01 – 03:30

Monday 1 May 2023: SOA, RG, LNR, 02:01 – 03:30

Monday 8 May 2023: SOA, RG, LNR, 02:01 – 03:30

Monday 29 May 2023: SOA, RG, LNR, 02:01 – 03:30

Monday 28 August & Tuesday 29 August 2023: SOA, RG, LNR, 02:01 – 03:30

Monday 25 December 2023: SOA, RG, LNR, 02:01 to 04:00

Tuesday 26 December 2023: SOA, RG, LNR, 02:01 to 04:00

Wednesday 27 December 2023: SOA, RG, LNR, 02:01 to 04:00

Summary

If the proposed application to vary the premises licence were granted without any amendments, it is my view, acting on behalf of the Licensing Authority, that this would likely have a detrimental effect on the promotion of the licensing objectives. My concern pertains solely to the licensing objective of “the prevention of public nuisance” being undermined.

The basis for my concern relates to the potential for noise breakout from inside and outside the premises if the proposed hours for licensable activities and opening times are granted in full, as set out in the application without any further amendments.

While I respect the rights of the premises licence holder to apply to vary his premises licence and respect the commercial right to make his business as financially viable as possible, I do not believe that this should be at the detriment of local residents.

The premises currently enjoys generous hours for licensable activities, far beyond those of other nearby establishments, particularly with a terminal hour of 02:00 from Thursday to Sunday and 03:00 on Friday and Saturday.

Although a later terminal hour on Friday and Saturday is expected, I am concerned that any extension beyond 03:00 on Friday and Saturday and beyond 02:00 on Thursday to Sunday could lead to an increase in noise complaints, particularly as no specific measures have been expanded upon in any great detail within the application to address this concern.

This potential disturbance could stem from patrons using the front area of the premises upon entering or leaving, using the rear external area, or from live/recorded music within the premises. I am mindful that the premises is very close to residential dwellings on Mead Court and Uphill Drive, and that increased capacity for live/recorded music could result in further noise breakout into the early morning hours without adequate noise attenuation measures.

Given the late hours during which patrons may enter or leave the premises, I am also concerned that elevated conversation levels could disturb residents in the block of flats across Kingsbury Road, especially given the reduced ambient noise at that time of night.

I am also mindful that extending the hours for the supply of alcohol could carry a higher risk of alcohol-related disorder. However, none of the complaints known to the Licensing Authority indicate that this is currently an issue, and therefore this does not form part of my representation.

It is noted that the premises licence holder, Mr Thevarajah, has engaged with Brent Council following previous noise complaints and has attempted to establish a decibel reading from one of the complainants' properties.

Furthermore, the Licensing Authority acknowledges that during occasions when licensable activities have been carried out under a Temporary Event Notice, no complaints have been recorded by the Licensing Authority. However, this may be because TENs are isolated events and not held on a weekly basis.

After carefully reviewing the application and considering all factors, I have no objections to the application being granted, provided that certain assurances are made through amendments to the current conditions and a reduction in the proposed hours during the working week.

I have also taken the opportunity to update all Annex Two conditions and add additional ones to promote the licensing objective of "the prevention of public nuisance." As mentioned in the application, these additional measures include logged noise monitoring checks at Mead Court and Uphill Drive to mitigate any potential noise breakout issues.

Further amendments include updating the wording of existing conditions and removing outdated or unenforceable conditions. I have also included conditions related to "the protection of children from harm," though I acknowledge that these are not directly relevant to the current application. However, their acceptance would indicate responsible management and best practices.

As such, if your client does not agree to the proposed amendments to the application and no resolution can be reached, my representation will be upheld, and the application will be determined at a Licensing Sub-Committee hearing.

Nonetheless, should your client agree to the proposed Annex 2 conditions and amendments to the proposed hours, I can confirm that the representation against the application to vary the premises licence would be withdrawn.

Amended Operating Schedule:

Live music: Sunday to Thursday, 11:00 - 02:00, Friday & Saturday, 11:00 - 04:00

Recorded music: Sunday to Thursday, 11:00 - 02:00, Friday & Saturday, 11:00 - 04:00

Performance of dance: Sunday to Thursday, 11:00 - 02:00, Friday & Saturday, 11:00 - 04:00

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The supply of alcohol (on and off the premises): 11:00 - 02:00, Friday & Saturday, 11:00 - 04:00

The opening hours: Sunday to Thursday, 09:00 - 02:30, Friday & Saturday, 09:00 - 04:30

Amended & additional conditions.

Annex Two Conditions

The prevention of crime and disorder.

The premises shall install, operate, and maintain a digital colour CCTV system. The CCTV system shall continually record whilst the premises are open for licensable activities and all recordings shall be kept for 31 days. *[To replace Annex Two, Condition 1]*

A member of staff who is conversant with the operation of the CCTV system shall always be available at the premises whilst open to the public. CCTV footage shall be provided on removable media (i.e., USB, hard drive, CD etc..). *[To replace Annex Two, Condition 1]*

The CCTV system shall display on any recordings, the correct date and time of the recording. *[To replace Annex Two, Condition 1]*

The CCTV system shall be capable of obtaining clear facial recognition images of every person entering or leaving the premises with further CCTV cameras covering the internal areas stipulated on the premises plan and any additional external area that members of the public can access. *[Additional]*

Signage stating that CCTV is in operation shall be clearly and prominently displayed at the premises. *[Additional]*

A minimum of 2 SIA licensed door supervisors shall be on duty after 22:00 if the premises will be open past 01:00. *[To replace Annex Two, Condition 2]*

All SIA licenced door supervisors shall wear clothing that can be clearly and easily identified. *[Additional]*

A log shall be kept of the SIA door supervisors working on any night to include their full name, date of birth, Security Industry Authority licence number, company and booking on-off times. A copy of SIA door supervisor log shall be available upon request by Police and authorised officers from Brent Council. *[Additional]*

There shall be no open glass vessels permitted outside the area defined on the premises plan. *[To replace Annex Two, Condition 3]*

An incident log shall be kept at the premises and made available for inspection upon request by an authorised officer of Brent Council or the Police, which will record the following:

- (a) any incidents of crime and disorder.
- (b) any customers barred from the premises
- (c) any ejections from the premises.
- (d) seizures of drugs or offensive weapon
- (e) any complaints received.
- (f) any faults in the CCTV system
- (g) any visit by a relevant authority or emergency service.

[To replace Annex Two, Condition 4]

Any entries into the log shall be made within 24 hours of any incident and shall contain the time/date of the incident, the nature of the incident, a description of the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. *[To replace Annex Two, Condition 4]*

The premises licence holder shall undertake a written search policy as a preventative measure to negate patrons from bringing in any prohibited drugs, weapons, or any other unlawful item onto the premises. *[To replace Annex Two, Condition 5]*

Notices shall be conspicuously displayed at the entrance notifying patrons that the premises reserves the right to undertake searches upon entry to the premises and that the premises has a "no drugs policy". *[To replace Annex Two, Condition 5]*

Substantial meals and alcohol-free drinks shall be always available for patrons whilst the premises are selling alcohol. *[To replace Annex Two, Condition 9]*

There shall be no entry or re-entry to the premises permitted after 00:30 on Sunday to Thursday and 02.00 on Friday and Saturday. *[To replace Annex Two, Condition 28]*

There shall be at least 4 members of bar staff on site after 00:00 hours. *[Additional]*

Public safety.

1. The maximum number of persons permitted on the Ground Floor shall not exceed 300 persons including staff. The maximum number of persons permitted on the First Floor shall not exceed 150 persons including staff. *[To be kept as per Annex Two, Condition 21]*

2. There shall be no smoking of shisha through "alcoholic drinks". *[To replace Annex Two, Condition 20]*

The prevention of public nuisance.

3. The outside drinking areas shall be closed after 23:00. *[To replace Annex Two, Condition 7].*
4. Ingress and egress notwithstanding, all doors and windows shall remain during any regulated entertainment and/or after 22:00 in all circumstances. Staff shall undertake regular checks to ensure that all doors and windows are closed. *[To replace Annex Two, Condition 12, 17 & 18]*
5. The playing of live or recorded music shall not be permitted in any external area after 22:00 hours apart from within the designated shisha areas as defined on the premises plan. *[To replace Annex Two, Condition 14]*
6. The internal areas from which any recorded music or live music is undertaken, the premises shall ensure that it sound proofed to prevent noise breakout. *[To replace Annex Two, Condition 16]*
7. If any live or recorded music provided at the premises, noise monitoring shall be undertaken by a trained member of staff between 22:00 until the closure of the premises. Noise monitoring shall involve walking to the nearest noise sensitive premises and take place at least once every two hours. *[Additional]*
8. All noise monitoring visits shall be recorded in writing, stating the time of the visit, location, whether noise was or was not audible and any action taken. The noise monitoring log shall be kept at the premises in hard copy form and be produced upon request to any authorised officer of Brent Council. *[Additional]*
9. A telephone number shall be made available to be used by residents in relation to any complaint of noise resulting from the premises. The premises licence holder shall ensure that all complaints made by residents, and any action taken, are recorded within the incident log. *[Additional]*
10. Clear and legible notices shall be prominently displayed at the exit requesting patrons to respect the needs of residents when leaving the premises. *[To replace Annex Two, Condition 13]*
11. The placing of bottles into receptacles outside the building shall not be permitted between 22:00 hours & 09:00 hours the following morning. *[To replace Annex Two, Condition 25]*

The protection of children from harm

12. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport, or proof of age card with the PASS Hologram. *[Additional]*
13. A Challenge 25 notice shall be conspicuously displayed at the point of sale. *[Additional]*
14. A logbook shall be kept recording all refused sales of alcohol. The log shall contain the time/date of the refusal, a description of the customer, the name of the staff member who refused the sale, the reason the sale was refused and any other relevant observation. The refusals register shall be made available for inspection upon request of an authorised officer of a Brent Council and the Police. *[Additional]*
15. No person under the age of 18 shall be admitted unless accompanied by a responsible adult. *[To replace Annex Two, Condition 24]*

16. No person under the age of 18 shall be permitted entry or allowed to remain at the premises after 21:00 hours. [Additional]

17. Staff training shall be undertaken by all members of staff involved with licensable activities. Additionally, all staff shall undergo refresher training every 12 months which shall also be recorded. Staff training shall include the following topics:

- (a) Age verification policy.
- (b) CCTV operation.
- (c) Conflict management.
- (d) Operating procedures.
- (e) Proxy Sales.
- (f) Permitted hours and relevant conditions.
- (g) Noise monitoring.

[To replace Annex Three, Condition 29]

18. Training records shall include the time/date of the training, staff members name, training topic and must be signed off by the relevant staff member and the respective premises licence holder/designated premises supervisor/duty manager. *[To replace Annex Three, Condition 29]*

19. A copy of staff training shall be available upon request by Police and authorised officers from Brent Council. *[To replace Annex Three, Condition 29]*

Wembley Stadium Event Days

20. During Wembley Stadium event days, patrons shall not be permitted to congregate outside the premises, save for ingress. *[To replace Annex Two, Condition 10]*

21. During Wembley Stadium event days, all drinks shall be decanted into either toughened glass, polycarbonate material or any other type of plastic vessel. *[To replace Annex Two, Condition 10]*

22. During Wembley Stadium event days, the DPS or relevant duty manager shall work in partnership with the Police and if necessary, comply with any direction given by a senior Police Officer, or Licensing Authority, on duty at the event. These directions may include:

- a. Cease the sale of alcohol for a specified amount of time. This shall be monitored, and the supply of alcohol reinstated as soon as is possible.
- b. Closing the entire premises for a specified amount of time. This shall be monitored, and the premises reopened as soon as possible.

[To replace Annex Two, Condition 10]

The following conditions are to be removed:

Signs alerting customers to theft shall be displayed. *[To be removed, as it's unenforceable]*

A copy of the premises licence summary including the hours which licensable activities are permitted shall be visible from the outside of each entrance to the premises. *[To be removed, duplication of existing legislation]*

No noise or vibration shall be detectable at any neighbouring noise sensitive premises. *[To be removed as inaudibility conditions have been quashed due to lack of precision. As per Developing Retail Ltd v East Hampshire Magistrates' Court [2011] EWHC 618 (Admin)]*

Nudity, striptease and other entertainment of an adult nature shall not be permitted on the premises. *[To be removed, duplication of existing legislation]*

The locks and flush latches on the exit doors and gates shall be unlocked and kept free from fastenings other than push bars or pads whilst the public are on the premises. *[To be removed, as it's unenforceable]*

The socket outlets (or other power supplies used for DJ equipment, band equipment and other portable equipment) that are accessible to performers, staff or the public shall be suitably protected by a residual current device (RCD having a rated residual operating current not exceeding 30 milliamps). *[To be removed, as it's unenforceable]*

The Licensee shall undertake a risk assessment of any significant promotion or event, using the Metropolitan Police Service Promotion/Event Risk Assessment Form (Form 696) or an equivalent and provide a copy to the Metropolitan Police and Brent Council's Licensing Unit not less than 14 days before the event is due to take place. *[To be removed, The Metropolitan Police Service has withdrawn the use of Form 696 and therefore it's unenforceable.]*

Where an event has taken place the licensee shall complete a Debrief Risk Assessment Form (Form 696A) and submit this to the Metropolitan Police and Brent Council's Licensing Unit within 3 days of the conclusion of the event. *[To be removed, The Metropolitan Police Service has withdrawn the use of Form 696 and therefore it's unenforceable.]*

Yours sincerely,

A handwritten signature in black ink that reads "E. Maldoom". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Edwin Maldoom
Licensing Enforcement Officer