

**From:** Jennifer Barrett

**Sent:** Wednesday, August 2, 2023 2:29 PM

**To:** >

**Cc:** Licensing <[Licensing.Licensing@haringey.gov.uk](mailto:Licensing.Licensing@haringey.gov.uk)>; Festus Akinboyewa <[Festus.Akinboyewa@haringey.gov.uk](mailto:Festus.Akinboyewa@haringey.gov.uk)>

**Subject:** RE: NOISE & NUISANCE REPRESENTATION- Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)

Dear John Yianni

I have noted your comments below and the subsequent responses from the Licensing Team. I have also made additional checks of our records to confirm the status of the pavement outside your premises and provide the below: .

1. Recommended condition: No alcohol shall be consumed on the public highway outside the premises.

You said: We are entitled to seat customers for dining immediately outside the premises and we are also entitled to open the bifold windows so that there is overlap between the internal and external parts of the premises to seat diners. This entitlement exists under our current premises licence and so there is no discernible, regulatory or legal reason for such a condition, which will illogically serve to remove an existing entitlement under the existing Premises Licence.

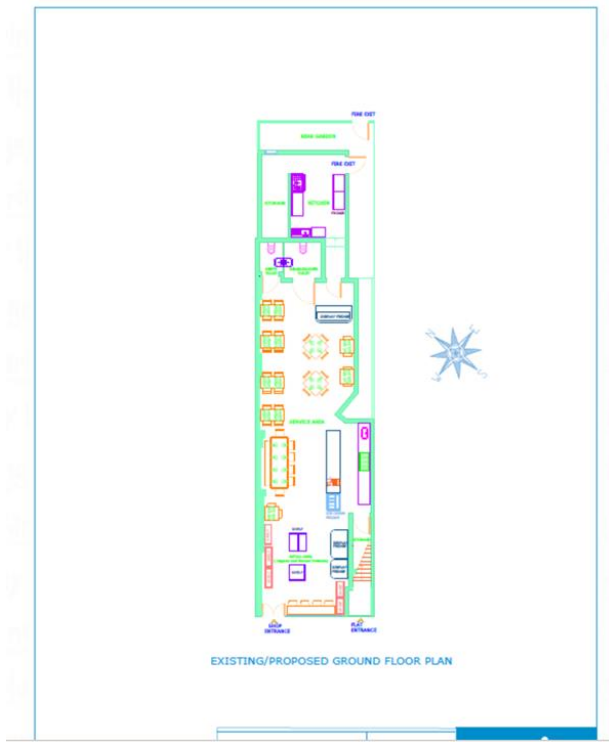
Our response: As the Responsible Authority we will be recommending this condition is included in any licence granted.

I have checked your current licence, specifically the plan of the area where you can conduct licensable activities and included this below for ease of reference. The plan does not include your outdoor area as part of the licensable area. In addition, our records indicate that the area outside your premises is Council maintained.

Licensed premises which offer Alcohol on sales have benefited from an easement (relaxation) of the rules for the last couple of years which automatically grants off sales without the need to formally vary the premises licence. This ends 30<sup>th</sup> September 2023 unless the government agree a further extension.

This means:

1. unless you can evidence that this area is within your demise you will need a Pavement Licence to serve food and/ or alcohol here. You must remove any tables or chairs currently put outside for this purpose until you have a licence.
2. you cannot put tables and chairs out at any time and for the benefit of your customers without permission from the council. Those who do so are subject to fines for unlawful street trading.



2. Recommended Condition: Music and sound from the premises shall not be audible at, or within the site boundary of the nearest residential premises at any time.

You said: There is already a condition to implement a noise management policy that would attempt to “prevent or control noise breakout from the premises” There is no discernible, regulatory or legal reason for a further condition simply because of a slight variation in the operating hours.

*Our response: We will consider removing this condition from our representation if you are able to provide a copy of your current noise management policy, or otherwise demonstrate this is a duplication.*

*The condition on your current licence reads “A noise management policy will be in place that sends out sound attenuation to prevent or control noise breakout from the premises”. If you can provide a copy of your current noise policy, we can confirm if the above is a duplication.*

3. CCTV must be installed and maintained. Digital images must be kept for 31 days. The equipment must have a suitable export method, e.g. CD/DVD so that Police can make an evidential copy of the data they require. Copies must be made available to an Authorised Officer or Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request free of charge. There will always be a member of staff on duty who can operate the system, to allow Officers to view recordings and if required by a Police Officer, provide a copy of images immediately free of charge to assist in the immediate investigation of offences. If the system malfunctions and will not be operating for longer than one day of business, the Police and the Council must be informed. There is already a condition in the existing premises licence dealing with CCTV and there is no discernible, regulatory or legal reason for a further

condition in these terms simply because of a slight variation in the operating hours. It is not practical or commercially economical or affordable to always have a member of staff on duty who can operate the system.

**Our response: we will be recommending this condition is included in any licence granted.**

*The condition above is an enhancement of the condition in your current licence which specifies how CCTV footage should be treated and who it should be provided to in the event of incidents. We acknowledge your comments about this being impractical to always have a member of staff who can operate the system but do not expect this to be significantly burdensome or materially change what you currently do since there is already a CCTV condition on your current licence.*

4. Smoking outside the front of the shop shall be limited to four (4) people at a time so as to minimise disturbance to residents and other members of the public. Suitable ashtrays/bins must be provided and the area must regularly be swept to remove cigarette ends. **There is no discernible, regulatory or legal reason for such a condition simply because of a slight variation in the operating hours. Under the current licence all restaurant guests can smoke outside without limit to numbers. We cannot control or restrict the number of guests that decide to leave the premises at any given time. It is neither ethically nor commercially viable to do so. We would need to engage security to enforce any purported limit to the amount of people who leave the restaurant for smoking at any given time and this would come at a financial cost together with a reputational cost in terms of the concept image of what is a family run local restaurant with very conservative, friendly mature diners. We cannot afford nor are we prepared to take action that would ultimately ruin the image and reputation of this friendly restaurant. This said, we have a general duty under both common law and statutory legislation to ensure that the business does not commit or allow to be committed a public nuisance. This includes ensuring the guests do not create unreasonable noise or litter and to ensure we clear any waste deriving from the premises from the public highways. This common law and statutory duty is sufficient without the requirement of oppressively stipulated conditions within the premises license.**

**Our response: we will be recommending this condition is included in any licence granted.**

*A core function of the role of the DPS is to control and manage the behaviour of your patrons. In addition, your licence also contains a condition requiring "proper management of the door with adequate door supervisors" and this would be a simple check to include in their duties. We have specified a number to limit the potential for disturbance of residents, particularly those situated adjacent to your premises. We do not consider this condition to be onerous nor should it require you to commission security personnel to manage it.*

5. A complaints book will be held on the premises to record details of any complaints received from neighbours. The information is to include, where disclosed, the complainant's name, location, date time and subsequent remedial action undertaken. This record must be made available at all times for inspection by council officers. **There is no discernible, regulatory or legal reason for such a condition simply because of a slight variation in the operating hours. It seems to us that this proposed condition together with the above proposed conditions arise because of one harassing couple who live on the second floor of the premises and who have**

unlawfully caused knowingly false and fabricated complaints to be made to the Noise and Nuisance team in an attempt to place pressure on the business and freeholder for their own personal gain. There has never been any finding of a noise disturbance despite visits from the noise and nuisance team and all investigations have proven to the contrary and that these individuals are intent on causing harassment for their own personal gain. Therefore, all proposed new conditions that do not feature within the current licence that appear to be solely proposed in order to satisfy an ulterior purpose shall be appealed.

***Our response:*** *we will be recommending this condition is included in any licence granted.*

*Compliance with this condition demonstrates that remedial action (where appropriate) is taken in response to complaints made directly to you about issues relating to the operation of your premises.*

You can contact me on 07989 223 970 if you wish to discuss the above. I called you yesterday and left a message. I will try contact you by phone today to discuss the above.

Yours sincerely

Jennifer Barrett

Noise and Nuisance Manager

[jennifer.barrett@haringey.gov.uk](mailto:jennifer.barrett@haringey.gov.uk)

[www.haringey.gov.uk](http://www.haringey.gov.uk) / [twitter@haringeycouncil](https://twitter.com/haringeycouncil) / [facebook.com/haringeycouncil](https://facebook.com/haringeycouncil)

Online services: [Report It](#) / [Contact Frontline](#) / [do it online](#)

**From:** Daliah Barrett <[Daliah.Barrett@haringey.gov.uk](mailto:Daliah.Barrett@haringey.gov.uk)> **On Behalf Of** Licensing

**Sent:** 18 July 2023 18:17

**To:** John Yianni <[y8nno@hotmail.co.uk](mailto:y8nno@hotmail.co.uk)>; Licensing <[Licensing.Licensing@haringey.gov.uk](mailto:Licensing.Licensing@haringey.gov.uk)>

**Subject:** RE: NOISE & NUISANCE REPRESENTATION- Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)

Dear Mr Yianni,

The law requires that when a licence holder wishes to make changes to an existing licence there is a process for this to be done. There are statutory consultees set out in the Act. There is a consultation period. There is a criterion for the consideration for what is being requested. That is the process in play here. The RA has responded with matters that they feel address one or more of the licensing objectives.

Equally, it is your right to submit the application and say that you feel the existing conditions are adequate to address the objectives should the variation be successful. It is therefore within the gift of the RA to think differently and propose conditions as they think appropriate.

I shall leave the Noise RA to address any matters with you and will arrange a Licensing Sub Committee if the matters below cannot be resolved beforehand.

Regarding the Pavement Licence please note there is a fee of £100 and that they do expire on 30<sup>th</sup> September 2023. The Government is extending the legislation for another year but all licenses will have to be applied for anew.

Regards  
Daliah Barrett  
Licensing Team Leader

**From:** John Yianni <[y8nno@hotmail.co.uk](mailto:y8nno@hotmail.co.uk)>  
**Sent:** Tuesday, July 18, 2023 5:52 PM  
**To:** Licensing <[Licensing.Licensing@haringey.gov.uk](mailto:Licensing.Licensing@haringey.gov.uk)>  
**Subject:** RE: NOISE & NUISANCE REPRESENTATION- Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)

Dear Ms Barrett

I understand the Act and the objectives very well.

The point to be made is that there is no plausible reason for what has been “*put forward*” in order to “*uphold and promote the said four licensing objectives*” in the context of this Variation Application. If there were reasonable grounds for what has been “*put forward*” then these would have been put forward during consultation of the initial full application. To illustrate the point best, we could withdraw this Variation Application and still continue to sell alcohol under the current licence without any of the proposed conditions.

To clarify, our entitlement to seat diners outside the premises is subject to what is included within the demised areas of our lease and/or a Pavement Licence where no such area is demised under the lease. We do not deny this, but your remark misses the fundamental point that any licensed premises is entitled to serve alcohol on their private forecourt under a premises licence or on the public highway following a successful Pavement Licence. Therefore, it would be illogical and in breach of those rights to impose a conflicting condition.

For completeness, we also understand what “ON” sales mean and how that is defined and enforced.

Kind regards

**From:** Daliah Barrett <[Daliah.Barrett@haringey.gov.uk](mailto:Daliah.Barrett@haringey.gov.uk)> **On Behalf Of** Licensing  
**Sent:** Tuesday, July 18, 2023 5:28 PM  
**To:** John Yianni <[y8nno@hotmail.co.uk](mailto:y8nno@hotmail.co.uk)>  
**Subject:** RE: NOISE & NUISANCE REPRESENTATION- Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)

Dear Mr Yianni,

Thank you for the email.

I am sure the Noise EHO Responsible Authority as authorised under the legislation will respond to you on the specific matters below.

In terms of the Licensing Act 2003, the requirement is that the Responsible Authorities consider what is being requested through the lens of the four licensing objectives. They are empowered by the Act to put forward what they feel is appropriate to ensure that you the licence holder will be able to uphold and promote the said four licensing objectives.

If the Noise RA is not in agreement with your remarks, they do not need to accept them and the matter will then be taken to the Licensing Sub Committee for determination.

I note you state that you have the right to put diners outside the premises. Is there a private forecourt immediately outside of 162 Fortis Green Road? If there is no private forecourt and the pavement there is public pavement then you have no automatic right to place anything in this area. Happy for you to provide a lease plan of the curtilage of the restaurant if required.

If you wish to place furniture on the public pavement for your customers to dine, please submit a Pavement licence application for consideration. We have an online form <https://www.haringey.gov.uk/business/council-services-business/licensing/z-licences/pavement-licence#apply>

Your alcohol permission also currently only allows for ON sales. Which means that alcohol can be brought and consumed onsite only. If a customer dines outside of your premises, they will need to pay for their alcohol within the premises as you are technically not covered for alcohol sales outside of the restaurant unit.

Communication is key to this process, and we are here to assist you should you wish to discuss any matters with us.

Kind regards  
Daliah Barrett  
Licensing Team Leader



**4th Floor, 10 Station Road, London N22 7TR**

T. 020 8489 8232

M: 07973244126

**If you need to report something please log it here: [Report It](#) or use our Online Service: [Contact Frontline](#) Why wait when you can [do it online?](#)**

[www.haringey.gov.uk](http://www.haringey.gov.uk), [twitter@haringeycouncil](https://twitter.com/haringeycouncil), [facebook.com/haringeycouncil](https://facebook.com/haringeycouncil)

Please consider the environment before printing this email.

**From:** John Yianni <[y8nno@hotmail.co.uk](mailto:y8nno@hotmail.co.uk)>

**Sent:** Tuesday, July 18, 2023 4:22 PM

**To:** Licensing <[Licensing.Licensing@haringey.gov.uk](mailto:Licensing.Licensing@haringey.gov.uk)>

**Cc:** Festus Akinboyewa <[Festus.Akinboyewa@haringey.gov.uk](mailto:Festus.Akinboyewa@haringey.gov.uk)>; Jennifer Barrett <[Jennifer.Barrett@Haringey.gov.uk](mailto:Jennifer.Barrett@Haringey.gov.uk)>

**Subject:** RE: NOISE & NUISANCE REPRESENTATION- Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)

Dear Sirs

Further to your email below where you ask for us to “advise your [our] course of action”, please specify with better precision what it is that you are specifically requesting and what the “course of action” referred to is intended to address?

In terms of the comments from the Noise and Nuisance team please see our comments in red next to each of the points made.

**From:** Licensing <[Licensing.Licensing@haringey.gov.uk](mailto:Licensing.Licensing@haringey.gov.uk)>

**Sent:** Tuesday, July 11, 2023 4:50 PM

**To:** [y8nno@hotmail.co.uk](mailto:y8nno@hotmail.co.uk)

**Subject:** NOISE & NUISANCE REPRESENTATION- Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)

**Importance:** High

Dear Sir/Madam,

Please find below a representation from the Noise and Nuisance Team.

Please advise your course of action.

*Please send any correspondence to [licensing@haringey.gov.uk](mailto:licensing@haringey.gov.uk). If it is sent to me directly there may be a delay in obtaining a response.*

Kind Regards

Chanel Roye

Licensing Administrator



**4th Floor, 10 Station Road, London N22 7TR**

T. 020 8489 8232

**If you need to report something please log it here: [Report It](#) or use our Online Service: [Contact Frontline](#) Why wait when you can [do it online?](#)**

[www.haringey.gov.uk](http://www.haringey.gov.uk), [twitter@haringeycouncil](https://twitter.com/haringeycouncil), [facebook.com/haringeycouncil](https://facebook.com/haringeycouncil)

Please consider the environment before printing this email.

**From:** Festus Akinboyewa <[Festus.Akinboyewa@haringey.gov.uk](mailto:Festus.Akinboyewa@haringey.gov.uk)>

**Sent:** Monday, July 10, 2023 10:17 AM

**To:** Licensing <[Licensing.Licensing@haringey.gov.uk](mailto:Licensing.Licensing@haringey.gov.uk)>; Jennifer Barrett

<[Jennifer.Barrett@Haringey.gov.uk](mailto:Jennifer.Barrett@Haringey.gov.uk)>

**Subject:** RE: Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)

Dear Licensing,

I would like to confirm that I have considered the above proposal with regard to the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.



While the premises will not be offering regulated entertainment with regards to live music after 2300 hours, which should limit complaints about noise, we recommend the following conditions are included in any licence granted to ensure that adequate controls are in place to uphold the licensing objectives.

6. No alcohol shall be consumed on the public highway outside the premises. We are entitled to seat customers for dining immediately outside the premises and we are also entitled to open the bifold windows so that there is overlap between the internal and external parts of the premises to seat diners. This entitlement exists under our current premises licence and so there is no discernible, regulatory or legal reason for such a condition, which will illogically serve to remove an existing entitlement under the existing Premises Licence.
7. Music and sound from the premises shall not be audible at, or within the site boundary of the nearest residential premises at any time. There is already a condition to implement a noise management policy that would attempt to "prevent or control noise breakout from the premises" There is no discernible, regulatory or legal reason for a further condition simply because of a slight variation in the operating hours.
8. CCTV must be installed and maintained. Digital images must be kept for 31 days. The equipment must have a suitable export method, e.g. CD/DVD so that Police can make an evidential copy of the data they require. Copies must be made available to an Authorised Officer or Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request free of charge. There will always be a member of staff on duty who can operate the system, to allow Officers to view recordings and if required by a Police Officer, provide a copy of images immediately free of charge to assist in the immediate investigation of offences. If the system malfunctions and will not be operating for longer than one day of business, the Police and the Council must be informed. There is already a condition in the existing premises licence dealing with CCTV and there is no discernible, regulatory or legal reason for a further condition in these terms simply because of a slight variation in the operating hours. It is not practical or commercially economical or affordable to always have a member of staff on duty who can operate the system.
9. Smoking outside the front of the shop shall be limited to four (4) people at a time so as to minimise disturbance to residents and other members of the public. Suitable ashtrays/bins must be provided and the area must regularly be swept to remove cigarette ends. There is no discernible, regulatory or legal reason for such a condition simply because of a slight variation in the operating hours. Under the current licence all restaurant guests can smoke outside without limit to numbers. We cannot control or restrict the number of guests that decide to leave the premises at any given time. It is neither ethically nor commercially viable to do so. We would need to engage security to enforce any purported limit to the amount of people who leave the restaurant for smoking at any given time and this would come at a financial cost together with a reputational cost in terms of the concept image of what is a family run local restaurant with very conservative, friendly mature diners. We cannot afford nor are we prepared to take action that would ultimately ruin the image and reputation of this friendly restaurant. This said, we have a general duty under both common law and statutory legislation to ensure that the business does not commit or allow to be committed a public nuisance. This includes ensuring the guests do not create unreasonable noise or litter and to ensure we clear any waste deriving from the premises from the public highways. This common law and statutory duty is sufficient without the requirement of oppressively stipulated conditions within the premises license.
10. A complaints book will be held on the premises to record details of any complaints received from neighbours. The information is to include, where disclosed, the



complainant's name, location, date time and subsequent remedial action undertaken. This record must be made available at all times for inspection by council officers.

There is no discernible, regulatory or legal reason for such a condition simply because of a slight variation in the operating hours. It seems to us that this proposed condition together with the above proposed conditions arise because of one harassing couple who live on the second floor of the premises and who have unlawfully caused knowingly false and fabricated complaints to be made to the Noise and Nuisance team in an attempt to place pressure on the business and freeholder for their own personal gain. There has never been any finding of a noise disturbance despite visits from the noise and nuisance team and all investigations have proven to the contrary and that these individuals are intent on causing harassment for their own personal gain. Therefore, all proposed new conditions that do not feature within the current licence that appear to be solely proposed in order to satisfy an ulterior purpose shall be appealed.

Kind regards,

**Festus Akinboyewa BSc; MA**  
**Noise & Nuisance Officer, Environment and Resident Experience**



Haringey Council

Level 9, Alexandra House, 10 Station Road, Wood Green London N22 7TR

T. 020 8489 5192

[festus.akinboyewa@haringey.gov.uk](mailto:festus.akinboyewa@haringey.gov.uk)

[www.haringey.gov.uk](http://www.haringey.gov.uk)

[twitter@haringeycouncil](https://twitter.com/haringeycouncil)

[facebook.com/haringeycouncil](https://facebook.com/haringeycouncil)

**From:** Jennifer Barrett <[Jennifer.Barrett@Haringey.gov.uk](mailto:Jennifer.Barrett@Haringey.gov.uk)>

**Sent:** 07 July 2023 12:01

**To:** Festus Akinboyewa <[Festus.Akinboyewa@haringey.gov.uk](mailto:Festus.Akinboyewa@haringey.gov.uk)>

**Subject:** FW: Premises Licence Variation Application- Ousia, 162 Fortis Green Road, Hornsey, London, N10 3DU. (WK/570812)