

# Licensing Sub-Committee

## Supplementary Agenda A

Wednesday 27 September 2023 at 6.30 pm

This meeting will be held remotely

Watch the meeting live: [youtube.com/hammersmithandfulham](https://youtube.com/hammersmithandfulham)

### MEMBERSHIP

Administration:	Opposition:
Councillor Paul Alexander (Vice-Chair) Councillor Florian Chevoppe-Verdier	Councillor Jose Afonso

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### Public Notice

This meeting will be held remotely. Members of the press and public can watch the meeting live on YouTube: [youtube.com/hammersmithandfulham](https://youtube.com/hammersmithandfulham)

Speaking at Licensing meetings is restricted to those who have submitted a representation and registered to speak.

Date Issued: 25 September 2023

# Licensing Sub-Committee Supplementary Agenda A

27 September 2023

<b><u>Item</u></b>		<b><u>Pages</u></b>
4.	GILASS CAFÉ AND RESTAURANT, 335 NORTH END ROAD, LONDON, SW6 1NN - OBJECTOR 1 COMMENTS	3 - 25
5.	GILASS CAFÉ AND RESTAURANT, 335 NORTH END ROAD, LONDON, SW6 1NN - OBJECTOR 2 COMMENTS	26 - 43

**Gilass Café & Restaurant 335 North End Road SW6 1NN**  
**License Application: 2023/01105/LAPR – Hearing 27<sup>th</sup> Sept 2023**

**SECTION 1**

**LOCATION - Pages 2-3 is to visually assist with the showing:**

- Premises location on North End Road & Residential homes above address
- Directly opposite premises is Clem Attlee Court entrance and homes

**Smoking & Alcohol Rear Garden Area for 1am Request – Pages 4 & 5:**

- The Applicants proposed licensing plans – Major variation on ‘Framework’ Conditions for rear garden space
- Designated rear garden space - impacting Residents living above and adjacent with gardens and bedrooms

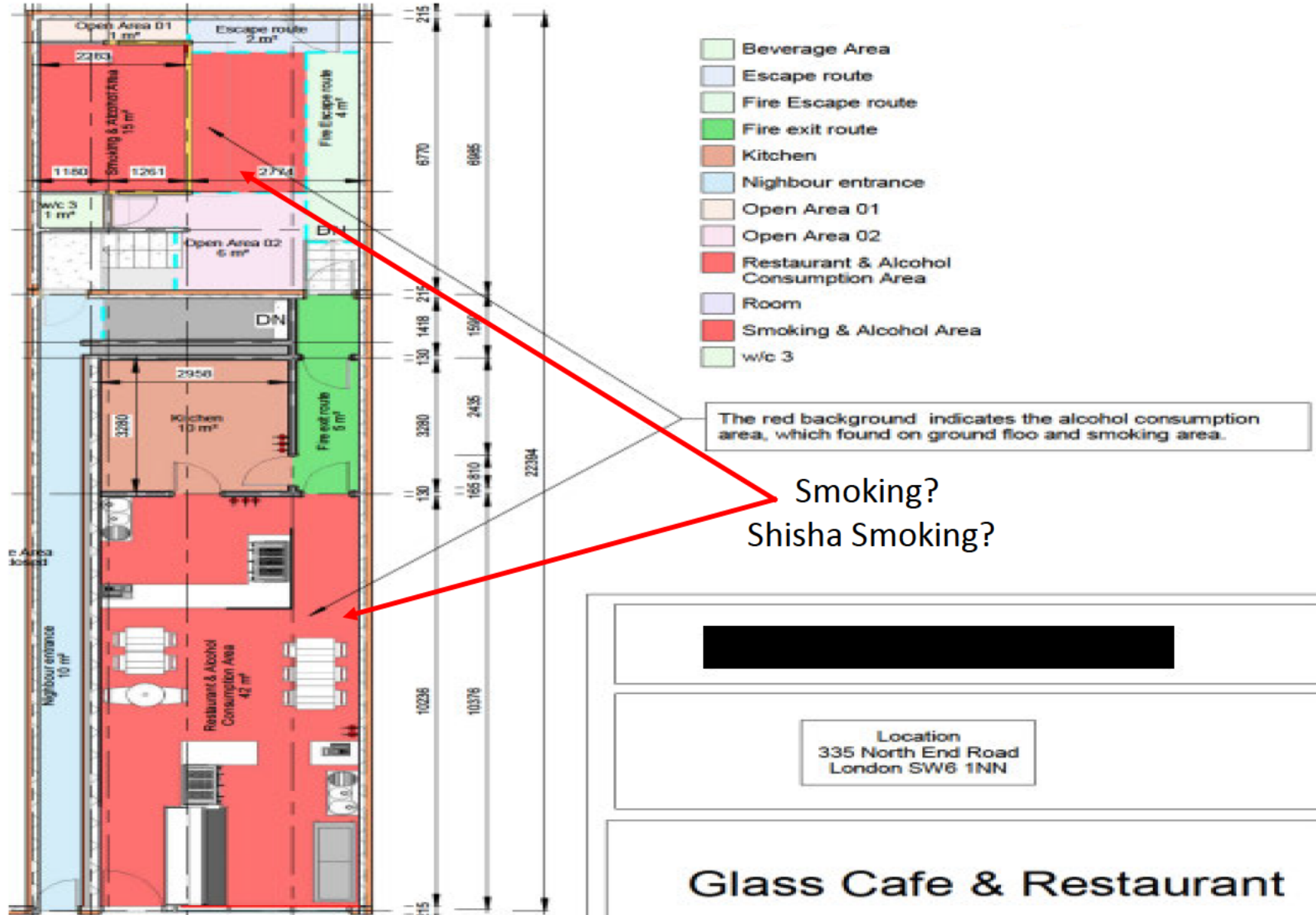
Location of Premises on 335 North End Road with Residential homes above



Premises Location is Opposite Clem Attlee Court Residential Homes & Entrance Into Estate



Applicants proposed licensing plans shows rear back garden area as a designated 1am - 'Smoking & Alcohol Area'  
 H&F PLANNING CONDITIONS IS NOTED THIS AREA AS STORAGE



This premises has an open rear 'seating garden space' shown as a designated Outdoor Alcohol and Smoking Area in the Applicants proposed plans - requesting until 01.00am. Residents live above and adjacent with gardens and bedrooms.



## **SECTION 2**

### **SECTION 2: Licensing Objectives - Prevention of Crime & Disorder & Public Safety**

#### **Latest Crime Map in the Area: Pages 7**

- Crimes stats for 12 months (Jul 2022 - Jun 2023) provided by Police.UK - UK's national police crime database.

This part of North End Road is the worst section for very high crime and disorder:

- a) Anti-social Behaviour exceeds the national average by over 600%
- b) Violence and Sexual Offences by 90%

#### **Feedback & Objection on Crime & Disorder at location: Page 8**

- Local Safer Neighbourhood Team Met Police feedback
- Objection and quote regarding existing crime from Co-Chair Walham Green Panel (MOPAC)

#### **North End Road Investment: Page 9**

- Attracting new lettings - Importance of Prevention of Crime and Promotion of Public Safety



The following interactive crime maps have been taken off <https://www.adt.co.uk/crime-in-my-area> - these statistics are provided by Police.UK - UK's national police crime database. (Jul 2022 - Jun 2023)

## Crime within 1 mile of: SW6 1NN North End Road, London, United Kingdom

Last 12 months

Data period (months):

3 6 12

SW6 1NN

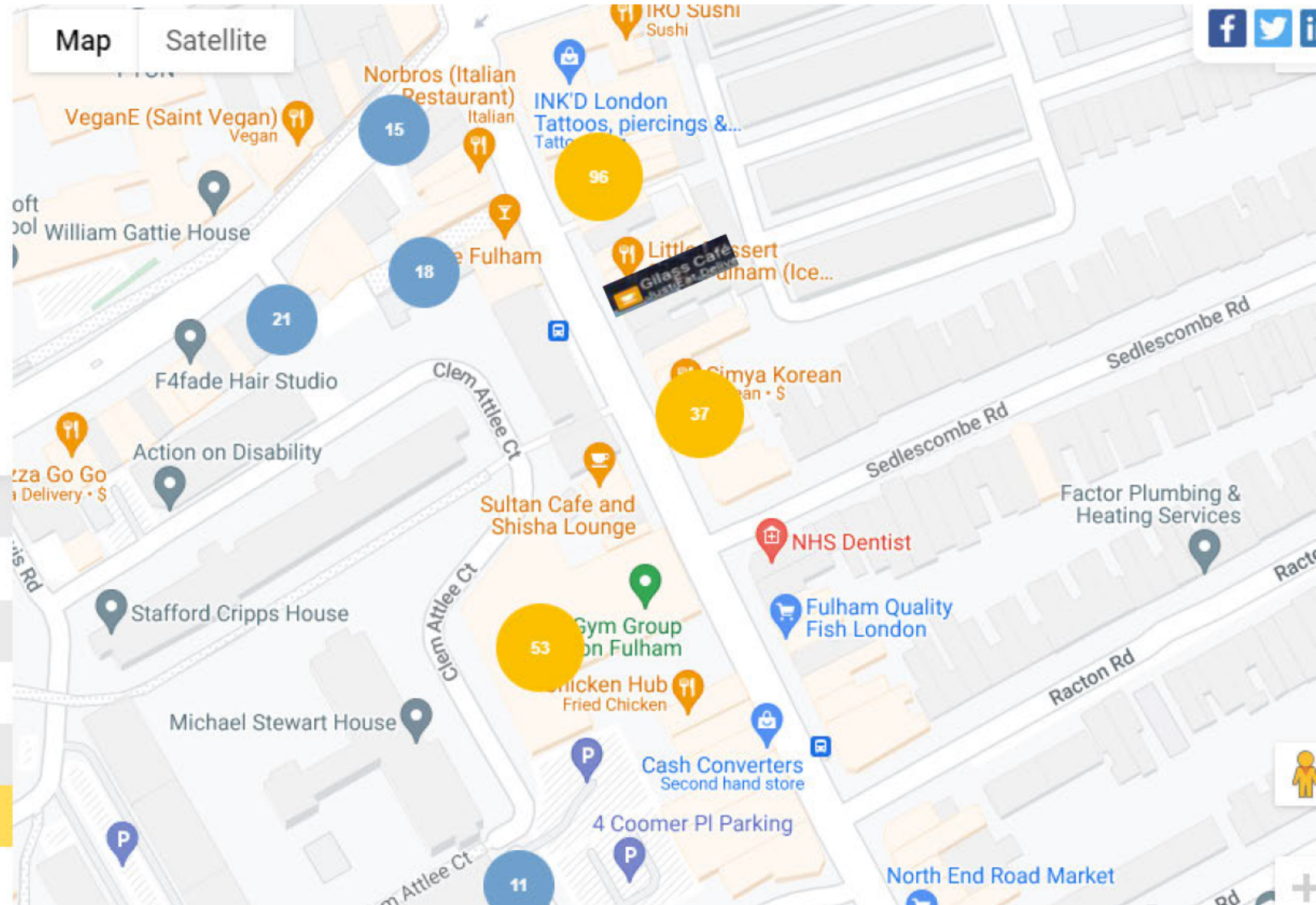
[+ Add another postcode](#) to compare

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Crime within 1 mile of:

	SW6 1NN	National avg. <small>(i)</small>	
Anti-social behaviour	191	25	x
Burglary	28	7	x
Possession of weapons	4	1	x
Violence and sexual offences	149	56	x
Criminal damage and arson	24	13	x
<b>Total</b>	<b>626</b>	<b>161</b>	

[View all crimes](#)



### **Licensing Objectives - Prevention of Crime & Disorder & Public Safety**

Local Safer Neighbourhood Team Met Police confirmed historic problems with this premises – specifically the usage of ‘rear garden space’ at a meeting on 21<sup>st</sup> July 2023 and defined this area on North End Road as a 'key' crime & disorder hot spot.

The Co-Chair of the Walham Green Ward Panel – a volunteer of the Met Police’s Independent Advisory Group (IAG) for the Area West Borough Command & Part of the Mayor’s Office For Policing & Crime (MOPAC) –  
Application Objection Comments:

“...There are already issues with anti-social behaviour on North End Road which has markedly increased this year and caused the police to call this area a “hotspot” for anti-social behaviour and disorder. Adding another venue for late alcohol sales will increase this issue”....

“The council have spent a significant amount of money on improving the North End Road, I especially on the hard landscaping. This money will be in vain if the council takes the retrograde step of approving cafes, restaurants and fast food places to be opening later, selling alcohol later etc. The North End Road is a semi-commercial, semi-residential road surrounded by residential streets” ....

Following a £1.9m investment to dramatically improve the street scene in North End Road (NER) and provide the catalyst for further improvements to its surroundings – it's imperative that part of this strategy is to reduce the existing very high level of crime & disorder on NER

Page 11  
Unfortunately, alcohol (on & off sales) and later trading hours play an integral part in exasperating crime & disorder.

As this section of NER is a key 'crime hot spot' – extending Gilass Café premises hours and alcohol sales license will undo many of the positives that have been achieved to date and likely detract future alternative lettings.



A new IBIS hotel apartment development is currently underway that will join Travelodge hotel helping to bring further visitors to the area. 322-324 whole building (Boots Shop) has also submitted development plans furthering NER improvements.

**Gilass Café & Restaurant 335 North End Road SW6 1NN**  
**License Application: 2023/01105/LAPR – Hearing 27<sup>th</sup> Sept 2023**

**SECTION 3**

**SECTION 3: Licensing Objectives - Prevention of Crime & Disorder & Promotion of Public Safety**

**Premises History:**

- Page 11 – Licensing enforcement history
- Page 12 – Breaches of existing Framework Conditions

**Impact on Residential Amenity**

- Page 13 & 14 – Progressive onslaught in ‘CREEP’ of Hours
- Page 15 – Risk Assessments & Impact Studies

**Gillass Café & Restaurant 335 North End Road SW6 1NN**  
**License Application: 2023/01105/LAPR – Hearing 27<sup>th</sup> Sept 2023**

Premises Recent Enforcement History & Breaches

On the 01 August 2023, following a Licensing Inspection carried out with Health and Safety and Trading Standards Officers, an inspection sheet was left as a warning letter for a breach of condition 9. *The premises shall operate a zero-tolerance policy to drug use and posters shall be prominently displayed to this effect*

On the 20 December 2022 following a Licensing Inspection, an inspection sheet was left as a warning letter following a breach of licence conditions 8, 11, and 14, alongside the identification of significant changes to the premises layout in comparison to the current plans attached to the licence.

*8. Appropriate signage shall be displayed in prominent positions inside and outside the premises, informing customers they are being recorded on CCTV.*

*11. High Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities and;*

- o shall cover any internal or external area of the premises where licensable activities take place.*
- o recordings shall be in real time and stored for a minimum period of 31 days with date and time stamping*

*14. The licence holder shall require staff to note any refusals in a refusals log. The refusals log shall record the date and time of the refusal; the name of the staff member refusing; and the reason for refusal. It must be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection upon request by the Licensing Team, Police or Trading Standards.*

**Gilass Café & Restaurant - 335 North End Road SW6 1NN**  
**License Application: 2023/01105/LAPR – Hearing 27<sup>th</sup> Sept 2023**

APPLICANTS CONTINUE TO BE UNDER THE FALSE IMPRESSION THAT LICENSING APPLICATIONS ARE A WAY AROUND PLANNING APPLICATIONS i.e. Hours, Delivery, Customer Usage of Garden Rear Space etc.  
Below points taken from 335 North End Road: 1995/01707/FUL Framework Conditions:

03 No organised delivery of hot food shall take place from the premises using motor vehicles.

03 No provision has been made for the parking of vehicles off-street in connection with a delivery service. In the circumstances any such vehicles would be likely to park on the public highway which would prejudice the free flow of traffic and public safety.

05 No chairs or tables shall be set out in the open area at the rear of the premises, and this area shall not be used by customers for any purpose in connection with the use hereby permitted.

05 To ensure that the use does not give rise to conditions which would be detrimental to the amenities of surrounding occupiers by reason of noise and disturbance occasioned by the use of this area.

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 Just Eat  
<https://www.just-eat.co.uk> > SW6 > Caribbean

**Gilass Café & Restaurant in London**

... restaurant. Find out more. Opening times. Delivery Collection. Monday 14:00 – 22:00.

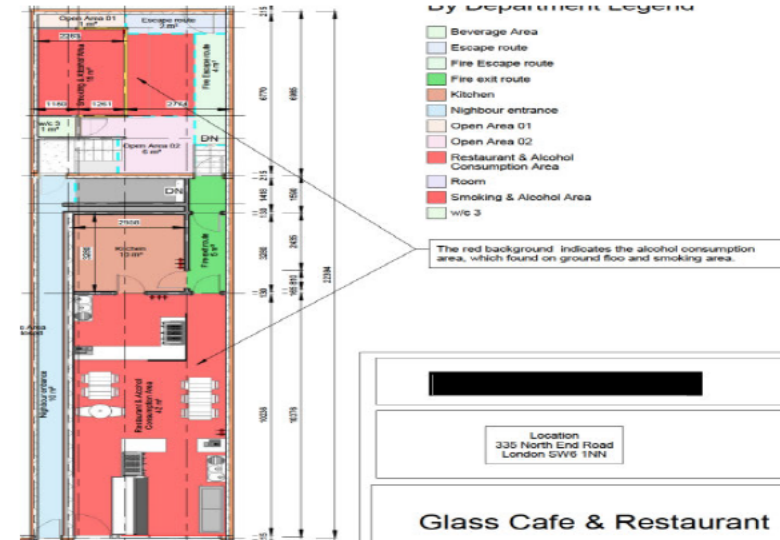
Tuesday 14:00 – 22:00. Wednesday 14:00 – 22:00. Thursday 14:00 – 22:00.

★★★★★ Rating: 3.9 · 9 votes

 Uber Eats  
<https://www.ubereats.com> > ... > West Kensington

**Gilass cafe and restaurant Menu - Takeaway in London**

Use your Uber account to order delivery from Gilass cafe and restaurant in London. Browse the menu, view popular items and track your order.



**Gilass Café & Restaurant 335 North End Road SW6 1NN**  
**License Application: 2023/01105/LAPR – Hearing 27<sup>th</sup> Sept 2023**

**THE PROGRESSIVE ONSLAUGHT IN ‘CREEP’ – HOURS, HOT FOOD, ALCOHOL**

Residents are genuinely concerned about the creep of hours & potential extended delivery hours i.e. if one is allowed - they all will. In no time at all there could be multiple late-night outlets opened as well as higher volumes of business dependant on dispatch riders speeding around Fulham with greater levels of noise and disruption.

**2020 (2020/00992/LAPR) Premises Applied for:**

- Alcohol On & Off Premises Mon to Sun from 12.00 to 21.30

**2022 (2022/0086/LAPR) Premises Applied for:**

- Sale of Alcohol On & Off Premises Mon to Sun 12:00 - 00:30 (Granted: Alcohol On until 23.30 & Off until 0.00)
- Opening Hours Mon to Sun 08:00- 01:00 (Granted: 08.00 until 00.00)
- Provision of Late Night refreshment (Hot Food)- Both Indoors and Outdoors Mon to Sun from 23:00 to 00:00 (Granted: 23.00 to 00.00)

**Now Proposing (2023/01105/LAPR):**

- Sale of Alcohol On and Off Premises Mon to Sun from 14:00 - 01:00
- Opening hours Mon to Sun from 08:00 - 01:30
- Provision of Late Night Refreshments (Hot Food) -Both Indoors and Outdoors Mon to Sun from 23:00 - 01:00

**Gilass Café & Restaurant - 335 North End Road SW6 1NN**  
**License Application: 2023/01105/LAPR – Hearing 27<sup>th</sup> Sept 2023**

Gilass Café and Restaurant Current licensable activities:

- Provision of Late Night Refreshments (Hot Food) -Both Indoors and Outdoors Monday to Sunday between the hours of 23:00 - 00:00
- Sale of Alcohol Off the Premises Monday to Sunday between the hours of 12:00 - 00:00
- Sale of Alcohol On the Premises Monday to Sunday between the hours of 12:00 - 23:30
- Current Opening hours Monday to Sunday between the hours of 08:00 - 00:00

**PLANNING CONDITIONS: MON-FRI 9.00am – 23.30pm & SUN 10.00am – 23.00pm Premises proposing hours outside of 'FRAMEWORK' Permission Hours for 335 North End Road (1995/01707/FUL)**

Proposed:

- Provision of Late Night Refreshments (Hot Food) -Both Indoors and Outdoors Monday to Sunday between the hours of 23:00 - 01:00
- Sale of Alcohol -On and Off the Premises Monday to Sunday between the hours of 14:00 - 01:00
- Opening hours Monday to Sunday between the hours of 08:00 - 01:30



## RISK ASSESSMENT – STATEMENT OF LICENSING POLICY

### Licensing Objective: Prevention of Nuisance

The applicant cannot control patrons as well as delivery drivers when offsite. The Met Police crime stats highlight that this premises is in an area of high crime and disorder. Constant background noise during majority of the late evening is having an impact on overall health, increasing levels of stress and frustration which is totally unacceptable.

LBH&F Statement of Licensing policy 2022-27 – POLICY 1: LOCAL AREA RISK ASSESSMENTS. States “Applicants are expected to undertake a local area risk assessment as part of any licensing application”.

These proposed requests are Major Variations on FRAMEWORK CONDITIONS - What risk assessment has Gilass Café premises undertaken towards understanding the impact on Resident Amenity? And/or on Crime & Disorder, Nuisance & Public Safety?

## RESIDENTIAL AMENITY & RIGHTS TO QUIET ENJOYMENT

### SECTION 4 - Prevention of Nuisance & Protection of children from harm

#### Late Night Delivery Findings:

- Page 17 - Recent Licensing Appeal (Sept 2021) in Highbury Camden Magistrates Court Establishes nuisance at the point of delivery
- Page 18 – Research testing how robust late night alcohol delivery current systems are in protecting children and vulnerable adults from alcohol harm

#### Sleep Deprivation (Residential Amenity & Well Being) – London Borough Research:

- Page 19 – Recent research from Dec 2022 found Hammersmith & Fulham to be the worst ‘sleep deprived London Borough’, which is significant considering it has the least number of residents against other boroughs.
- Page 20 & 21– ***Licensing Objective ‘Protection of children from harm’*** – Pages highlight the serious health consequences of sleep deprivation on Children. Many families live in the surrounding residential streets, which is demonstrated by the high number of schools in the immediate area as shown on page 21.

#### Residential Amenity – Rights to Quiet Enjoyment:

- Page 22 - Hampstead & Garden Properties v Diomedous [1968] – High Court Judgement
- Page 23 - The Mayor’s London Plan 2021 Policy GG3 ‘Creating a healthy city’ – denotes “local authorities are accordingly responsible for planning and public health”

## RESIDENTIAL AMENITY & RIGHTS TO QUIET ENJOYMENT

### Licensing Objective: Prevention of Nuisance

#### **Recent Licensing Appeal (Sept 2021) in Highbury Camden Magistrates Court Establishes nuisance at the point of delivery; Judge Newman decides:**

117. “I accept that deliveries after 23:00 are likely to be to residential addresses and there is a risk of noise at the delivery point. As pointed out, where premises comprise blocks of flats, the sound of the main doorbell to 20 one flat can be audible in another. Doors opening and closing and conversation at the point of delivery is also capable of disturbing neighbours late at night”.

118. “... a late-night delivery service of alcohol, is likely to be for immediate consumption. From his experience, this type of delivery service is more often used by people who are staying in short-let accommodation or are holding an unlicensed music event. It is likely that the person ordering alcohol for delivery has already been drinking. When a delivery is made, it is not possible to manage the situation, and it would be a brave delivery person who decided that the recipient was already drunk enough and refused to hand over the alcohol”.

140. “The responsible authorities are unable effectively to monitor couriers in a delivery only model...”

Source: [https://ftbchambers.searswebdevelopment.com/images/uploads/documents/Shoaib\\_LBC.pdf](https://ftbchambers.searswebdevelopment.com/images/uploads/documents/Shoaib_LBC.pdf)

LICENSING OBJECTIVE: PROMOTION OF PUBLIC SAFETY & Protecting Children from Harm

ALCOHOL CHANGE. ORG - 2022 RESEARCH ON LATE NIGHT ALCOHOL DELIVERY:

In recent times, UK consumers have been buying alcohol online in record numbers, from an ever-growing variety of retailers, increasingly promising delivery to the doorstep within minutes. As the market continues to expand, Alcohol Change.org - UK's leading charity body commissioned research to test how robust current systems are in protecting children and vulnerable adults from alcohol harm. In particular:

1. Examined online age verification controls on retailers' websites. The research identified major weaknesses, concluding that current methods of online age verification are "largely ineffectual"
2. A test purchases operation found that in 72% of cases where alcohol was ordered for delivery within two hours, this was subsequently handed over to the 18- and 19-year-old test purchasers without seeking proof of age. This is in direct contravention of retailers' own policies on delivering age-restricted items to those who may be underage.

Source: Full info can be found here:

<https://alcoholchange.org.uk/publication/delivering-a-problem-online-sales-and-deliveries-of-alcohol>



## THE MOST SLEEP-DISTURBED LONDON BOROUGH



Local authority			
1 Hammersmith & Fulham Borough Council	183,200	10,141	5,536
2 Newham Borough Council	351,100	14,753	4,202
3 Lambeth Borough Council	317,600	12,017	3,784
4 Barking & Dagenham Council	218,900	7,685	3,511
5 Camden Borough Council	210,100	6,122	2,914
6 Wandsworth Borough Council	327,500	6,137	1,874
7 Merton Borough Council	215,200	2,725	1,266
8 Greenwich Borough Council	289,100	3,595	1,244
9 Enfield Borough Council	330,000	4,017	1,217
9 Haringey Borough Council	264,200	3,215	1,217

KEY : Population Noise complaints Noise complaints per 100,000 people

## SURROUNDING RESIDENTIAL STREETS WITH FAMILIES

### Licensing Objective – Protecting Children from Harm

#### **Children – 2022 Lancet Research finds Insufficient Sleep = unnecessary mental health & behaviour issues:**

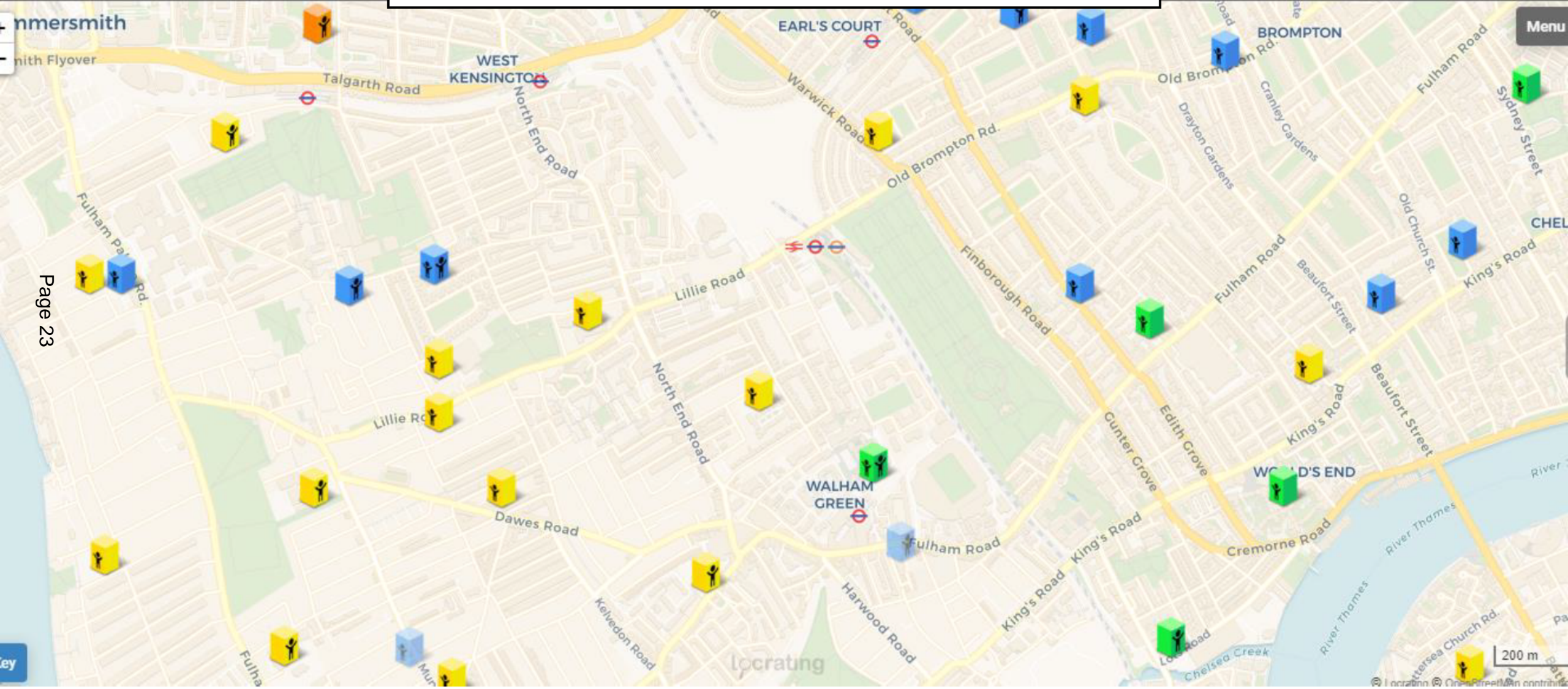
The researchers identified more than 4,000 ABCD participants, ages 9 or 10, who generally got nine or more hours of sleep per day, according to their parents. This group was compared to a similar number of age-matched children who typically got less than the recommended nine hours of sleep. The research team carefully matched the two groups based on some key factors that can confound study results. These factors included sex, household income, body mass index, and puberty status. Participants were assessed and followed over a two-year period. Results appeared in *Lancet Child & Adolescent Health* on July 29, 2022.

The researchers found that children in the insufficient sleep group at the start of the study had more mental health and behavioral challenges than those who got sufficient sleep. These included impulsivity, stress, depression, anxiety, aggressive behavior, and thinking problems. The children with insufficient sleep also had impaired cognitive functions such as decision making, conflict solving, working memory, and learning. Differences between the groups persisted at the two-year follow-up.

#### SOURCE:

<https://www.nih.gov/news-events/nih-research-matters/children-s-sleep-linked-brain-development#:~:text=The%20researchers%20found%20that%20children,aggressive%20behavior%2C%20and%20thinking%20problems.>

## Schools in the immediate Area



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## RESIDENTIAL AMENITY & RIGHTS TO QUIET ENJOYMENT

### **Hampstead & Garden Properties v Diomedous [1968] – High Court Judgement relevant to Gilass Café application:**

The Courts have long recognised the rights of householders to the quiet enjoyment of their homes, now found in Article 8 of the European Convention on Human Rights. In *Hampstead & Garden Properties v Diomedous* [1968], Mr Justice Megarry was dealing with music from a restaurant but he said – “It is the home rather than the meal table which must prevail. A home in which sleep is possible is a necessity whereas loud music as an accompaniment is for those who enjoy it, a luxury.”

The Judge’s comment is no less pertinent to the loud noise and disturbance caused by late night alcohol sales on and off premises as well as delivery vehicles motorbikes, electric vehicles and drivers talking and shouting whilst they wait and deliver food at delivery point.

**The Residents throughout Fulham have an entitlement to live in their homes without sleep disruption caused by substantial increase in later operating hours and delivery activities taking place during the most sensitive hours of the late evening when most people and particularly children are sleeping.**



## RESIDENTIAL AMENITY & RIGHTS OF ENJOYMENT

**Encouraging ‘Late night’ food delivery only creates more Nuisance problems in London’s most sleep deprived borough – Hammersmith & Fulham.**

**It also goes against The Mayor’s London Plan 2021 of “Creating a Healthy City”:**

Residential Amenity - is based on The Mayor’s London Plan 2021 Policy (link below) GG3 ‘Creating a healthy city’ outlines how those involved in....must ensure the wider determinants of health are addressed in an integrated and coordinated way. It sets out the need for a systematic approach to improving the mental and physical health of all Londoners and reducing health inequalities. Creating a healthy city 1.3.1 The mental and physical health of Londoners is, to a large extent, determined by the environment in which they live.

[london.gov.uk/sites/default/files/the\\_london\\_plan\\_2021.pdf](https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf) – (See pages 33 & 34 of pdf)

### **CONCLUSION:**

We ask the Sub Committee to take into account the serious concerns of Residents regarding the high level of crime and antisocial behaviour in the area and that extending these hours will only exacerbate the problems. We are very concerned about the enforcement history and breaches and respectively ask this application to be refused outright.

# Agenda Item 5

27 Sept 2023  
Licensing Hearing  
335 North End Road SW6 1NN  
2023/01105/LAPR

██████████ for and with  
Barclay Road  
Conservation Area  
Neighbourhood Watch  
(Barclay Road Residents)

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## **Pack 2, Supplemental Agenda 27 September 2023, Licensing Hearing Zoom 18:30 2023/01105/LAPR 335 North End Road**

On the following pages, we outline for the Sub-Committee vital evidence to support our request to protect our residential communities, our rights to residential amenity, and rights to quiet enjoyment of homes in one of the busiest cities in the world, London.

In short: We respectfully request the Sub-Committee to reject the Application outright.

The 2003 Act and its S.182 Guidance doc states the decision of the Licensing Committee must be evidence-based\*. This is also reflected in the LBHF Lic Policy 2022-2027, on page 15, at '8 Licensing Committee, '...steps for consideration', point c)

(\*From S. 182 Guidance August 2023

"9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.")

Link to S. 182 Guidance

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1178789/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_removal\\_of\\_minor\\_variation\\_relating\\_to\\_off\\_sales.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1178789/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_removal_of_minor_variation_relating_to_off_sales.pdf)

Tonight, residents are providing the following evidence for the Sub-Committee.

EVIDENCE A – Site visit attempted by a resident

EVIDENCE B – Takeaways; Framework considerations

EVIDENCE C – Recent Licensing Appeal establishes nuisance at the point of delivery; Judge Newman decides:

EVIDENCE D – S. 182 Guidance (Aug 2023), 2003 Licensing Act regarding planning hours and 'earlier' hours when different from licensing hours.

EVIDENCE E – Police-suggested hours are not in line with Framework hours, nor with this addresses' planning hours

CONCLUSION G –

### **EVIDENCE A– Site visit attempted**

I visited Gilass at 335 North End Road on Monday 18 September around 16:15.

The building is part of an entire block of one building. It is commercial at street level and 2 and 3 stories high above which is all residential. So, 1/3 commercial and 2/3 residential along this portion of North End Road.

The Kebab maker on the right told me that he sublets the space, as does the coffee counter lady to the rear of this front room. He also pointed to man who seems to offer something from a table only. The manager would be back later at some point, he said. I told him I was a local resident and that there was a licensing application and that I wanted to just see the place and walk around.

In my observation, this is not a restaurant, it is a takeaway with four small tables and chairs. Even 'cafe' is pushing it.

What might be built, renovated or otherwise, who knows?

I walked to the back through an open door, looking for the ladies toilet. I was immediately stopped by the three people up front, yelling towards me that I could not continue down what was a filthy hallway with mops, buckets, stuff, plants, all sorts. I said I wanted to go downstairs to see the area that I had seen on the Plan submitted with the Licensing Application (the Plan). They said no.

I did see the open area to the further rear–down a few steps, I think–which looked like an open tip, to be honest. This is the area on the proposed Plan submitted with the Licensing Application 2023/01105/LAPR that is supposed to be an outdoor smoking area (but there are flats above, and behind and to the sides–smoke not only kills, it travels, upwards, so a nuisance issue as well as public safety considerations). This is the area that is mentioned in the 4-page attached Planning Permission for refuse to be stored properly (Condition 12 of 1995\_1707/FUL).

This Licensing Application

My impression is that this licensing application includes a potential total refurbishment of the ground and basement floors. It is important for the Committee to know

- that existing planning is for use of ONLY the ground floor as a restaurant and explicitly NO takeaway
- that there is no planning permission to use the basement of this building for any commercial use
- Considering the age and lack of any big planning permissions for the basement, one would assume that the plans submitted are merely proposals and that steel beams would need to be put in place etc.
- that there is no planning application submitted so far for all these changes.


In any case, the 335 North End Road today is most definitely not what is shown on the 2-page plan for basement and ground floor, submitted with the licensing application 2023/01105/LAPR.

## **EVIDENCE B –Hours**

Planning Framework hours are stated in TLC5 and TLC6 of the latest Local Plan 2018 as 23:00 and exceptionally sometimes 24:00.

### **POLICY TLC5 MANAGING THE IMPACT OF FOOD, DRINK AND ENTERTAINMENT USES**

**Planning permissions for use class A3, A4 and A5 food and drink establishments as well as arts, culture, entertainment and leisure uses will be subject to conditions controlling hours of operation, as follows:**

- 
- a. except in predominantly commercial areas, such as parts of town centres – premises shall not be open to customers later than the hour of 23:00; and
  - b. within predominantly commercial areas, such as parts of town centres – premises shall not be open to customers later than the hour of 24:00.

**Extended opening may be permitted where:**

- the activities would not be likely to cause impact especially on local residents, and that, if there is potential to cause adverse impact, appropriate measures will be put in place to prevent it; and
- there will not be any increase in the cumulative impact from these or similar activities, on an adjacent residential area; and
- there is a high level of public transport accessibility to and from the premises at appropriate times; and
- the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets and roads forming part of the Strategic London Road Network or the London Bus Priority Network.

In addition, subject to the location of the proposals, the council will consider the type of activities appropriate to the class A3, A4 and A5 premises, and apply conditions on uses where these are appropriate.

Where a use will impact on local amenity, the council may also set an appropriate start time.

## **EVIDENCE B –Hours, (continued)**

### H&F Lic Policy 2022-2027

The longer hours 'suggested' in the H&F Lic Policy 2022-2027 (page 22) of suggested hours (for Takeaways Mon-Thurs hours are missing), appeared only last year when the new Licensing Policy (the Lic Policy) was published in August/Sep 2022.

Residents note that there is nothing to back up these longer hours; no evidence at all. These suggested hours tables are arbitrary and well beyond the Local Plan Framework hours.

To act as a guide for new or existing operators we have set out the suggested closing times for licensed premises below:

Type of premises	Town centres	Mixed use areas	Residential areas
Restaurants and cafes	Fri – Sat 01:30 Mon - Thurs 01:00 Sun – 00:00	Fri – Sat 01:00 Mon - Thurs 00:00 Sun – 23:00	Fri – Sat 23:00 Sun – 22:00
Late night refreshment premises (Takeaways)	Fri – Sat 01:00 Sun – 00:00	Fri – Sat 00:30 Sun – 23:30	Not considered Appropriate

\* Note: Above, Mon-Thurs hours are missing for Residential areas as well as for Late night refreshment premises (Takeaways) and Mixed use areas within the H&F Licencing Policy 2022-2027

## **EVIDENCE B –Takeaways; Framework consideration**

### **POLICY TLC6 BETTING SHOPS, PAWNBROKERS AND PAYDAY LOAN SHOPS AND HOT FOOD TAKEAWAYS**

To ensure that shopping areas remain diverse and balanced, the council will seek to manage the concentration of betting shops, pawnbrokers and payday loan shops.

Any proposal for a new betting shop, pawnbroker and payday loan shop will be considered against the provisions of Policy TLC2 and TLC3 and may be granted permission in accordance with the quotas that apply, and where it can be demonstrated that the proposal:

- will not impact adversely on the amenity, character and function of an area;
- will add to the vitality of the existing shopping parade or cluster; and
- will not result in negative cumulative impacts due to an unacceptable concentration of such uses in one area.

When considering proposals for hot food takeaways (class A5), and in addition to the quota policies that will apply, the council will take into account the location and nature of the proposal with regard to the proximity of existing hot food takeaways, its compatibility with surrounding uses and, as applicable, available evidence relating to health impacts.

**8.35** Although hot food takeaways provide a service for the community, the council is concerned about the potential health impacts of hot food takeaways, particularly on children and young people. In the case of proposals for class A5 uses (hot food takeaways), consideration will be given to the proximity of schools and similar facilities, the prevalence and clustering of takeaways and relevant evidence relating to potential health impacts arising from the type of use proposed.

**EVIDENCE C – Court of Appeal licensing appeal establishes nuisance at the point of delivery; Judge Newman decides:**

**-risk of noise nuisance at the delivery point**

**-impossible for Premises Licence Holder to manage delivery drivers once they leave the Premises**

**-Responsible Authorities are unable to effectively monitor couriers**

[https://ftbchambers.searswebdevelopment.com/images/uploads/documents/Shoaib\\_LBC.pdf](https://ftbchambers.searswebdevelopment.com/images/uploads/documents/Shoaib_LBC.pdf)

IN THE Highbury Corner Magistrates Court  
Case No: 2001522020

IN THE MATTER OF AN APPEAL UNDER S.181 & SCHEDULE 5 OF THE LICENSING ACT 2003 AGAINST A DECISION OF THE LICENSING SUB-COMMITTEE OF THE LONDON BOROUGH OF CAMDEN ON 13 AUGUST 2020 IN RESPECT OF PREMISES KNOWN AS KIERA (DELIVERY SERVICE), 134 CHARING CROSS ROAD, LONDON WC2H 0LA

BETWEEN:

MUHAMMAD SHOAIB  
(t/a Kiera (Delivery Service), 134 Charing Cross Road, London WC2H 0LA) \_\_\_\_\_

-and-  
THE LONDON BOROUGH OF CAMDEN

Appellant  
Respondent

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**JUDGMENT OF JULIA NEWTON DISTRICT JUDGE (MAGISTRATES COURTS) FOLLOWING HEARING ON 16 SEPTEMBER 2021**

On the next pages we capture the main points from this decision that are specifically relevant to this Gillass Licensing Application.

**Relevance of this Court Decision to Gilass Application 2023/01105/LAPR 335 North End Road**

- a) Applicant has no control, if it has its own employed Giliss-badged drivers, once they leave the Premises
- b) Applicant has no control over possible self-employed drivers who use Giliss-badged motorbikes/vehicles of any type once they leave the Premises
- c) There is risk of noise and nuisance at the delivery point that Gilass (the Premises) has no control over
- d) Applicant cannot manage risk of noise at the delivery point
- e) Responsible Authorities are unable to effectively monitor Gilass-badged delivery riders (employed or self-employed);
- f) Responsible Authorities are unable to effectively monitor any third party delivery riders such as Deliveroo, UberEats and JustEast–Uber and Just are used by Giliss

**Point by Point, quoting Judge Newman:**

1 Deliveries outside daytime hours, especially early in the morning and late evening or night, may cause a public nuisance (Judge's point 117)

2 Deliveries after Framework hours of 23:00 are likely to be to residential addresses and there is a risk of noise at the delivery point. (Judge's point 117)

"I accept that deliveries after 23:00 are likely to be to residential addresses and there is a risk of noise at the delivery point. As pointed out, where premises comprise blocks of flats, the **sound of the main doorbell of one flat can be audible in another. Doors opening and closing and conversation at the point of delivery is also capable of disturbing neighbours late at night.**"

3 The late-night delivery service of alcohol is likely to be for immediate consumption. (Judge's point 118. 1st sentence).

"...When a delivery is made, it is not possible to manage the situation..."

4 Persons ordering alcohol for late-night delivery have likely already been drinking (Judge's point 118, second sentence and point 35))

5 Unsupervised drinking in the home in the early hours of the morning can impact others living in the home and neighbours as well as the well-being and health of the person consuming alcohol. (Judge's point 121)

6 Domestic incidents during the early hours exacerbated by intoxication are particularly problematic for police to resolve (Judge's point 123)

7 Increasing the unsupervised availability of alcohol for consumption off-premises increases the risk of crime and disorder. (Judge's point 137)



**Point by Point, quoting Judge Newman (continued):**

8 In a domestic context, this also exposes children to the risk of harm. (Judge's point 137)

9 Extra pressure is inevitably placed on emergency services (Judge's point 137)

10 It is not realistic to expect a courier, eager for the next job, to wait for a customer to produce ID documents or to establish that the recipient is the same person as the one who placed the original order. (Judge's point 139)

11 It would be a brave delivery person who decided that the recipient was already drunk enough and refused to hand over the alcohol. (point 139)

12 The responsible authorities are unable effectively to monitor couriers in a delivery only model. (Judge's point 140)

**Other key points gleaned from this Appeal and its Decision:**

- a) Data protection laws now make it impossible for Premises Licence Holders to log personal data, addresses etc about deliveries.
- b) The Premises receives an order number only and the food/alcohol ordered is prepared and bagged and closed; the label has –no full name, no address, no phone number on the label; all this for data protection.
- c) The driver asks for a sealed bag with an order number on it, not a name/address. It is the driver who has the address and contact number only on his device; the Premises holds no such data.
- d) Potential refusals by delivery riders at the point of delivery cannot be logged because the driver only has the address and is not supposed to make a note of the address.
- e) Drivers have no motivation to return to a Premises to report issues such as drunken or potentially underage customers. (Drivers are paid per delivery and rewarded for speed of delivery).
- f) Riders do not see the full name of the person who ordered. Often a first name, a nickname or no name is used.
- g) Due to GDPR laws, drivers may not legally take photos of Identity cards, passports or similar official ID.

**EVIDENCE D – S. 182 Guidance (Aug 2023), 2003 Licensing Act, regarding planning hours and 'earlier' hours when different from licensing hours.**

**1) Planning and building control**

"14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs

"14.65 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes.

*"Where these hours are different to the licensing hours, **the applicant must observe the earlier closing time.***

"Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee."

**2) Hammersmith & Fulham's Statement of Licensing Policy 2022-2027 states:**

"POLICY 13: ALIGNMENT WITH PLANNING (p. 31)

Despite Licensing and Planning being under different legislation, the Licensing Authority will ensure that the licensing regime is in line with the planning regime in Hammersmith & Fulham as far as is possible."

EVIDENCE included here:

- Planning Permission for 'restaurant and cafe' (A3) 1995\_01707\_FUL, 4 page document (attached, pp 15-18)
- Condition 4: opening times 10:00-23:00 on Sundays and 09:00-23:30 Mon-Sat
- Condition 2: No primary use as takeaway
- Condition 3: No organised delivery from the Premises
- Plan of 2011 for change of use to Mini-cab office for one year; 1 page (attached, p. 18)

**EVIDENCE D, CONCLUSION:**

The Applicant's opening times are  
10:00-23:00 on Sundays and  
09:00-23:30 Mon-Sat on planning permission. The Applicant needs to know that these are the hours that must be adhered to.

**EVIDENCE E – Police-suggested hours are not in line with Framework hours, nor with this addresses' planning permission hours**

Please see page 4 of the Agenda Pack.

**EVIDENCE F 1) – Key concern of residents regarding lack of supporting evidence from licensing applicants**

Planning aside for a moment, why are we considering a Licence Application before the Premises looks as suggested on the Plans attached to 2023/01105/LAPR?

We have now done extensive research on this point and have found that some neighbouring Councils 'strongly suggest' or even 'expect' in the strongest legal sense of the word as used in the 2003 Act that applicants are 'expected' to have their planning in place before applying for licences under the 2003 Act, to save time, energy, and resource all around.

We have discovered that neighbouring boroughs have this fully in hand and state that they may potentially deem Licensing Applications 'invalid' if the planning permissions are not attached, risk assessments are not attached, thorough statements are not attached regarding the surrounding area to show that the applicant knows his neighbourhood, previous, present and future plans are not attached etc. Clearly a borough would not put this in writing in their own borough Licensing Policy, without the finest licensing legal minds in the land, ie King's Councils signing off on this approach. It gives clarity and save hundreds of hours of Council time and residents' time.

It seems to us that residents are the ones doing the heavy lifting of the back-up research and evidence gathering work for the Sub-Committee to consider at these hearings at this point, at least in Fulham. Other boroughs have found a way for a good majority of such evidence and support materials to be 'expected' by the applicant.

**Conclusion - G 1) Why we are requesting the Sub-Committee tonight to reject?**

EVIDENCE A– Site visit attempted

EVIDENCE B – Takeaways; Framework considerations

EVIDENCE C– Recent Licensing Appeal establishes nuisance at the point of delivery; Judge Newman decides

EVIDENCE D – S. 182 Guidance (Aug 2023), 2003 Licensing Act regarding terminal hours and 'earlier' hours when different from licensing hours

EVIDENCE E– Police-suggested hours are not in line with Licensing hours, nor with this addresses' planning hours

EVIDENCE F – Key concern of residents regarding lack of supporting evidence from licensing applicants

## **Conclusion - G 2) Why we are requesting the Sub-Committee tonight to reject?**

### Fulham Residents' biggest concern

In addition to Premises requesting extended hours at a Premises itself, we are very concerned about the very negative consequences of the burgeoning Delivery Economy on residential amenity.

We have discussed this at length with our Councillors in Walham Green Ward and Lillie Ward. They have told us to specifically voice these very serious concerns of ours to the Sub-Committee tonight at this very hearing.

Therefore, we now would like to let the Sub-Committee know in no uncertain terms that we are very concerned about this part of Fulham becoming a Delivery Economy hub of choice for eventual 24-hour nuisance throughout our residential roads;

- nuisance at the point of pick up
- nuisance at the point of delivery (now defined at Appeal)
- nuisance on every road in Fulham as drivers linger and 'do other business' waiting for orders
- nuisance on every road in Fulham as drivers speed through our neighborhoods

Even just last night (22 Sept) I was awoken by two electric bicycles. Electric bicycles make a rather dull high pitched whooshing sound when nothing else can be heard in those rare moments of London quiet in the small hours.

Interestingly, these electric bicycles entered from Fulham Road into Barclay Road to rat run up to Harwood Road. In other words, they were not delivering here in Barclay Road. I did not hear them return/exit back down Barclay Road towards Fulham Road. Another 'new' nuisance problem.

More nuisance is inevitably associated with more crime and disorder. Increased nuisance is a threat to public safety.

In short: There is no need for this part of Fulham, or any part of residential Fulham to become a Delivery Economy hub late at night, after midnight or even worse, 24/7/365.

### **Conclusion - G 3) Why we are requesting the Sub-Committee tonight to reject?**

Residents have spent at least 500 hours working on this specific application (and last night's application hearing, 26 Sept), making site visits, researching and preparing evidence, liaising with legal advisors, gathering crime stats, collating local information, teaming up to create presentations for tonight's hearing, and explaining the licensing process to scores of concerned residents.

Residents have submitted 17 representations against this Licensing Application, including one from our Walham Green Ward Panel Co-Chair who is the volunteer head of the Met Police's Independent Advisory Group (IAG) for the Met Police's Area West Borough Command.

*She wrote: "...There are already issues with anti-social behaviour on North End Road which has markedly increased this year and caused the police to call this area a "hotspot" for anti-social behaviour and disorder. Adding another venue for late alcohol sales will increase this issue"....*

*"The council have spent a significant amount of money on improving the North End Road, especially on the hard landscaping. This money will be in vain if the council takes the retrograde step of approving cafes, restaurants and fast food places to be opening later, selling alcohol later etc. The North End Road is a semi-commercial, semi-residential road surrounded by residential streets. Licensing [Authority] has to take this blend into consideration."*

For information, Ward Panels are MOPAC-sponsored (Mayor's Office for Policing and Crime) community groups who liaise often and directly with our local Safer Neighbourhood Team Met Police (SNT); I am a member of the Walham Green Ward Panel .

We have done all this work in order for the Sub-Committee to take an informed decision based on the evidence required by your own H&F Licensing Policy which is informed by the S. 182 Guidance of the Licensing Act 2003.

### **Please reject this application**

To the Sub-Committee tonight for your careful consideration, thank you from Barclay Road Residents (via our Barclay Road Conservation Area Neighbourhood Watch) and from all residents here present tonight, as well as the thousands of families and individuals for whom we are speaking on behalf of tonight, all of whom proudly call Fulham their home.

██████████ with and for Barclay Road Residents (Barclay Road Conservation Area Neighbourhood Watch)

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Town Hall, King Street, London W6 9JU  
Telephone: 0181-748 3020



SR

Town and Country Planning Act 1990  
The Town and Country Planning  
(General Development Procedure) Order 1995

Grant of Planning Permission

Applicant: J Ackerman	Application dated: 10.07.95
Agent: Richard Unwin	T.P.Number: 00572/0335/000
Address: 10 Green Fold Manchester M18 8RJ	U.P.R.N: 02526/0335/0/000
	Reg. Number: 95/20/01707

Location and Description

335 North End Road, SW6

Use of the ground floor as a restaurant (Class A3) and installation of fume extraction ducting on the rear elevation.  
Drg Nos; 2339/1A (revised 10th May 1996) and letter dated 23rd May 1996

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Unless otherwise stated the permission is a planning permission under Part III of the Town and Country Planning Act 1990 only. It must not be taken as implying that any other consent, permission or approval of the Council under any other statutory powers, or in any other capacity, that may be necessary in connection with the development will be given.  
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Particulars of Decision

Permission Granted  
subject to the following conditions and reasons:

- 01 The development hereby permitted must be begun not later than the expiration of one year from the date of the planning permission.
- 01 The normal granting of planning permission valid for a period of 5 years would lead to a number of A3 planning permissions that could be implemented in Fulham Town Hall Centre over a long period of time. This situation is such that it is difficult for the Council to properly consider the acceptability of new A3 planning applications and their cumulative impact on the town centre in terms of increased traffic, parking, noise and disturbance and loss of retailing units. The Council is currently reviewing its adopted Unitary Development Plan policies and supplementary planning guidance applicable to A3 uses in Fulham Town Centre. In order not to prejudice early implementation of the possible outcome of that review, and in order to be able to properly assess the



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continued/

95/01707

cumulative impact of the current proposal, other A3 proposals and unimplemented planning permissions, the Council considers it appropriate to limit the scale of potential change from A1/A2 uses to A3 uses in Fulham Town Centre by restricting implementation of new A3 uses to a period of one year only, until such time as the current policy review has been completed.

- 02 The premises hereby permitted shall not be used primarily for the sale of take-away hot food and any activity of this nature shall be incidental and ancillary to the permitted use for the consumption of food and drink on the premises.
- 02 A general take-away use could give rise to different operating conditions and a different pattern of traffic generation and car parking demand. In these circumstances the Council would wish to have the opportunity of assessing the implications of such a use on the amenities of the area.
- 03 No organised delivery of hot food shall take place from the premises using motor vehicles.
- 03 No provision has been made for the parking of vehicles off-street in connection with a delivery service. In the circumstances any such vehicles would be likely to park on the public highway which would prejudice the free flow of traffic and public safety.
- 04 No customers shall be on the premises in connection with the use hereby permitted between 23.30 hours Mondays to Fridays inclusive and 09.00 hours the following day, between 23.30 hours on Saturdays and 10.00 hours on Sundays, and between 23.00 hours on Sundays and 09.00 hours on Mondays.
- 04 In order that noise and disturbance which may be caused by customers leaving the premises is confined to those hours when ambient noise levels and general activity are sufficiently similar to that in the surrounding area, thereby ensuring that the use does not cause demonstrable harm to surrounding residents.
- 05 No chairs or tables shall be set out in the open area at the rear of the premises, and this area shall not be used by customers for any purpose in connection with the use hereby permitted.
- 05 To ensure that the use does not give rise to conditions which would be detrimental to the amenities of surrounding occupiers by reason of noise and disturbance occasioned by the use of this area.
- 06 Noise from any machinery or equipment operated in connection with the development hereby permitted shall not exceed the hourly background sound level which exists in the absence of such machinery or equipment operating. The background sound level shall be measured for the purposes of this condition on the boundary of the site at the position nearest the noise source or from the nearest window to a habitable room in



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separate occupation from the operator of the noise source, whichever is the closest.

- 06 In order that the machinery and equipment used in connection with the permitted use does not give rise to conditions that would be detrimental to the amenities of surrounding occupiers by reason of noise and disturbance.
- 07 No machinery or equipment operated in connection with the development hereby approved shall be operated other than within the hours during which customers are permitted on the premises.
- 07 In order that the machinery and equipment used in connection with the permitted use does not give rise to conditions that would be detrimental to the amenities of surrounding occupiers by reason of noise and disturbance.
- 08 No live music shall be performed on the premises.
- 08 In order that the use does not give rise to conditions detrimental to the amenities of surrounding occupiers by reason of noise disturbance.
- 09 The development hereby permitted shall not commence prior to the submission and approval by the local planning authority of a scheme of sound insulation between the ground floor and the first floor residential accommodation. The sound insulation shall be installed in full compliance with such details as approved prior to the commencement of the restaurant use.
- 09 In order that the use does not give rise to conditions detrimental to the amenities of surrounding occupiers by reason of noise disturbance.
- 10 The use hereby approved shall not commence prior to all external doors to the premises being fitted with a self-closing device which shall be maintained in an operational condition, and at no time shall any external door be fixed in an open position.
- 10 In order that the use does not give rise to conditions detrimental to the amenities of surrounding occupiers by reason of noise disturbance.
- 11 The use shall not commence prior to the installation of the external fume extraction ducting hereby permitted on anti-vibration mountings and in full compliance with the details indicated on submitted drawing 2339/1A (revised 10.05.96) and letter dated 23rd May 1996.
- 11 In order that the operation of the ducting does not give rise to conditions detrimental to the amenities of surrounding occupiers by reason of noise disturbance and in the interests of visual amenity.
- 12 The development shall not commence prior to the submission and approval by the local planning authority of details of the ventilated refuse storage enclosure in the open area to the rear of the premises. The

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refuse storage enclosure shall be provided in accordance with such approved details prior to the commencement of the restaurant use.

- 12 In order to ensure that satisfactory provision is made for refuse storage and to ensure that the development does not give rise to smell nuisance and clutter arising from the operation of the use.
- 13 All refuse generated by the use hereby approved must be stored within sealed containers in the ventilated enclosure approved in accordance with condition 12 above.
- 13 In order to ensure that satisfactory provision is made for refuse storage and to ensure that the development does not give rise to smell nuisance and clutter arising from the operation of the use.

*William Gyles*

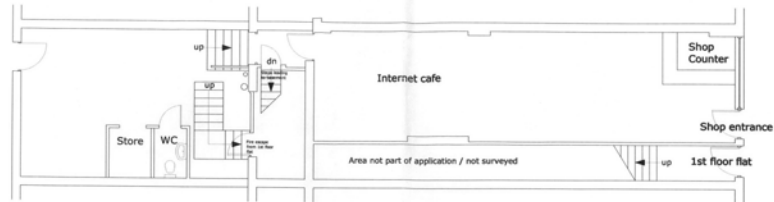
Director of the Environment Department

Dated: 3rd June 1996

Registered Number: 95/01707

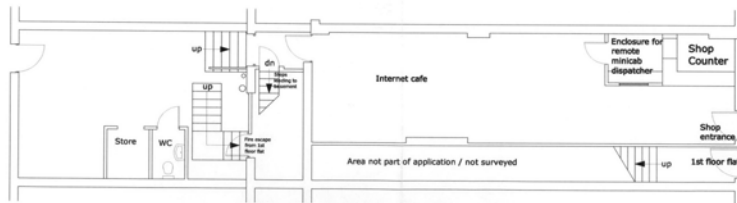
Duly authorised by the Council to sign this notice.

Refer to the Statement of Applicants' Rights and general information enclosed.



Existing floor plan

2011/01125



Proposed floor plan

REV.	DATE	DRAWN	DESCRIPTION



**PROJECT**  
 335 North End Road  
 London  
 SW6 1NN

**CLIENT**  
 Mr R Roble

**DRAWING TITLE**  
 Ground Floor  
 Existing and Proposed Floor Plans

Date	Drawn	Checked	Approved
March 09	CAD	JG2	

Scale 1:100 @ A3      Dwg. No. No 2      Rev.