



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 28 April 2022 at 10.00 am at Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Charlie Smith
Councillor Kath Whittam

**OTHER
MEMBERS
PRESENT:**

**OFFICER
SUPPORT:**

1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

There were no apologies for absence.

1. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

3. CONFIRMATION OF VOTING MEMBERS

There were no late and urgent items of business.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: QUICK BITE GRILL, 110 WYNDHAM ROAD, LONDON SE5 0EB

It was noted that this item had been withdrawn by the applicant.

6. LICENSING ACT 2003: MINGLES, 1 PECKHAM PARK ROAD, PECKHAM, LONDON SE15 6TR

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant and their legal representative addressed the sub-committee. Members had questions for the applicant and their legal representative.

The licensing responsible authority officer then addressed the sub-committee. Members had no questions for the licensing responsible authority officer.

The licensing sub-committee heard from the Metropolitan Police Service officer. Members had no questions for the police.

The environmental protection team officer addressed the sub-committee. Members had questions for the environmental protection team officer.

The licensing sub-committee then heard from a local resident objection to the application. Members had questions for the local resident.

All parties were given up to five minutes for summing up.

The meeting adjourned at 11.55am for the sub-committee to consider its decision.

The meeting reconvened at 12.32pm and the chair advised everyone of the decision.

RESOLVED:

That the application made by Mr Rowland Hamilton for a premises licence to be varied under Section 34 of the Licensing Act 2003 in respect of the premises known as Mingles, 1 Peckham Park Road, Peckham, London SE15 6TR be granted as follows:

Hours

Recorded Music (indoors):	Sunday to Thursday: 10:00 to 23:00 Friday and Saturday: 10:00 to 00:00
Late Night Refreshment on premises (only):	Friday to Saturday: 23:00 to 00:00
Sale of alcohol (on the premises):	Sunday to Thursday: 10:00 to 23:00 Friday and Saturday: 10:00 to 00:00
Opening Hours:	Sunday to Thursday: 10:00 to 23:30 Friday and Saturday: 10:00 to 00:30

Conditions

1. That there shall be no off sales of late night refreshment on Fridays and Saturdays.
2. That condition 345 be varied to permit a maximum of 30 persons (excluding staff) on the premises at any one time.
3. That condition 352 be varied so that door staff are employed on Fridays and Saturdays from 22:00 until closing.
4. That condition 353 be varied so that no admissions/re-admissions are permitted after 00:00 on Fridays and Saturdays.
5. That all publicity will highlight that customers should be encouraged to take public transport to the premises.

Reasons

This was an application to vary the premises licence granted under section 34 of the Licensing Act 2003 in respect of the premises known as Mingles, 1 Peckham Park Road, Peckham, London SE15 6TR.

The licensing sub-committee heard from the applicant's representative who advised that the variation application had been instigated due to the premises being severely affected by the pandemic as had the whole hospitality industry and the applicant needed to increase revenue for the business to be viable due to the increase in trading costs and conditions.

The application was also clarified in that it had been amended (as detailed on page 147 of the agenda). The hours for all licensable activities had been reduced. It was advised that the revised application sought the following: licensable activities to cease on Sunday to Thursday at 23:30, and closing by 00:00 and licensable activities to cease on Friday and Saturday at 01:00, and

closing by 01:30. The provision for off-sales (of alcohol) for deliveries was also removed.

The legal advisor informed the sub-committee that the original premises licence was granted in 2017 for a bar/restaurant. The representations received from the responsible authorities appeared to focus on the premises being a bar/nightclub, but the premises was very much a food led venue.

The legal advisor noted that, In their representations, the responsible authorities also referred to complaints to the noise and nuisance Team, made by an upstairs resident. The complaint had been received during the consultation period of the application. On the date of the complaint(s), the applicant was abroad and his enquiries confirmed that the premises had been closed at 23:00 and no noise would have been coming from the premises at the times indicated, suggesting that the noise must have come from another premises. The premises had a long record and late night temporary event notices had proceeded without attracting any incidents, concerns or issues.

The applicant agreed that he would endeavor not to use any single use plastics in the operation of his premises.

The licensing sub-committee heard from licensing as a responsible authority whose objection was based on the Southwark statement of licensing policy 2021–2026 and related to the licensing objectives for the prevention of crime and disorder and the prevention of public nuisance.

The officer stated that under Southwark's statement of licensing policy 2021-2026, the premises were situated in a residential area and the appropriate closing time for restaurants, public houses, wine bars or other drinking establishments in this area was 23:00 daily.

Takeaways or night clubs (with sui generis planning classification) were not considered appropriate for this area. The officer further stated that on Fridays and Saturdays the premises currently had closing hours in excess of those that are appropriate within Southwark's statement of licensing policy 2021-2026 for a residential area.

In addition, Southwark's noise and nuisance team had received complaints from a local resident on 7 March 2022 and 8 March 2022 concerning disturbance from music that on occasions continued until 01:00. The applicant also sought to remove conditions designed to promote the licensing objectives but failed to replace them with any suitable alternatives, suggesting that the premises was moving away from a restaurant to a vertical drinking establishment/nightclub.

An officer from the Metropolitan Police Service then made representations to the licensing sub-committee. The officer objected to the application based on the prevention of crime and disorder licensing objective. They advised that

the variation sought to extend opening hours and permitted hours for the provision of licensable activities, with the terminal hour increased to 30 minutes beyond the provision for licensable activities.

The current premises licence provided for on-sales of alcohol and this variation application concerned on-sales. However, the proposed variation for condition 369 concerned off-sales. Furthermore, in accordance with Southwark's statement of licensing policy, the premises were situated in a residential area and the closing times for restaurants in residential areas was recommended to be 23:00 daily. The current premises licence already had hours beyond the framework recommended in the statement of licensing policy and had limited control measures to prevent crime and disorder. A further extension in hours would be too excessive for a residential area and would be likely to have a negative impact on the licensing objectives.

The licensing sub-committee heard from the environmental protection team who objected to the application under the prevention of public nuisance licensing objective. The officer stated that the times applied for the provision of late night refreshment and the supply of alcohol fell outside the recommended hours detailed in Southwark's statement of licencing policy 2021-2026. The officer also informed the sub-committee that there were residents living above the premises and that on 7 March 2022 Southwark's noise and nuisance team received a complaint from a resident living above of music/noise emanating from the premises. The complainant also informed the noise and nuisance team that the building was not well soundproofed and that the premises had on occasion, played music until 01:00 hours.

The officer from the environmental protection team also referred the sub-committee to retrospective planning permission granted on 30 October 2017 for the change of use from an A1 (shop) to an A3 (restaurant) with an installation of an external flue to the rear. The planning consent restricted the hours of use Sunday to Thursday 10:00 to 23:00 and 10:00 to 00:00 on Friday and Saturday. The reason for the restriction was "...to ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of noise nuisance...."

The licensing sub-committee then heard from a local resident (and secretary of a local tenants and residents association (TRA)). The resident objected to the application on all four of the licensing objectives. The application was objected to by the TRA due to concerns of the impact of having a late night extension in an already densely populated area, saturated with other late night venues. The premises patrons had no regard to the safety of the local residents. Many of the patrons congregate outside of the restaurant and occupy the pavement drinking alcohol until the small hours of the morning. In part this was due to the restaurant being small and unable to accommodate the number of people frequenting there, therefore, spilling onto the pavement. The TRA also raised concerns of parking and the patrons using residents' parking spaces, which in turn creates a bottleneck for traffic on Peckham

Park Road.

The licensing sub-committee noted the objections from the three ward councillors who were not present at the meeting.

The licensing sub-committee were pleased that the applicant had amended their application and reduced the hours, in addition to removing the off-sales as suggested in the proposed varied condition 369. It is acknowledged that the hospitality industry has been severely affected by the pandemic. However, this, in addition to a business' financial viability are not relevant considerations in respect of this application.

The sub-committee noted the 2017 planning permission that restricted the hours as referred to by the environmental protection team. In the discussion stage of the meeting the applicant confirmed that he had yet to submit an application to vary the hours. Licensing and planning are two different legal regimes and whilst planning issues are not a consideration with this sub-committee the applicant is referred to paragraphs 101-103 of Southwark's statement of licensing policy:

"101. However, this Authority will look to ensure proper integration with the planning regime. While it is understood that there is no legal basis for a Licensing Authority to refuse a licence application solely because it does not have planning permission, to allow clarity and consistency both for Applicants; and in response of enforcement action, it is strongly recommended that applications for premises licences for permanent commercial premises should normally be from businesses with relevant planning consent for the property concerned. This applies equally to applications seeking a licence intended to facilitate a change of use / type of operation. Where this is not the case, the Council may expect the Applicant to address the reasons why planning permission had not been firstly sought and / or granted and provide reasons as to why licensing consent should be.

102. This Authority notes that Guidance supports 'where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, the Licensing Sub-Committee and Officers may consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

103. There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. It must be emphasised that where these hours are different to the permitted licensing hours, the Applicant must observe the earlier closing or later opening time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. This is emphasised by the decision in the case of Gold

Kebab v Secretary of State for Communities and Local Government 2015."

The applicant is therefore reminded of the importance to obtain the relevant planning consent in advance of operating under the licence, failing which, he is liable to enforcement action from the planning enforcement team.

Under paragraph 172 of Southwark's statement of licensing policy 2021-2026, the premises are located in a residential area. The members of the sub-committee are familiar with the area in which the premises is located. The area is a heavily densely populated residential area, but could also be considered as a local centre/small shopping parade with good transport links. For this reason, the sub-committee agree to extend the hours to take this into account.

Concerning the issues relating to parking, the sub-committee were not satisfied that these were wholly as a result of the premises patrons. However, to prevent any potential public nuisance, a condition for the premises to promote the use of public transport was added.

In reaching this decision, the sub-committee had regard to all of the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate

Appeal rights

The applicant may appeal against any decision to modify the conditions of the licence; and:

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The variation ought not to be been granted; or
- b) That, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

**7. LICENSING ACT 2003: THE CHARLOTTE, 204 UNION STREET, LONDON SE1
0LX**

It was noted that this item had been conciliated prior to this meeting.

The meeting ended at 12.36pm

CHAIR:

DATED: