

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 12 June 2023 at 10.00 am at Room GO2B, 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Barrie Hargrove  
Councillor Charlie Smith

**OTHER MEMBERS PRESENT:** Councillor Irena Von Wiese (ward councillor)

**OFFICER SUPPORT:** Debra Allday, legal officer  
David Franklin, licensing officer  
Wesley McArthur, licensing responsible authority officer  
Jayne Tear, licensing officer  
Andrew Weir, constitutional officer

### 1. APOLOGIES

The meeting opened at 10.35am.

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

There were no apologies for absence.

### 2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed.

**3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT**

There were none.

**4. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**5. LICENSING ACT 2003: BIG BELLY COMEDY CLUB, UNIT 6 & UNIT 7, SOUTHBANK CENTRAL DEVELOPMENT, STAMFORD STREET SE1 9LQ**

The licensing officer presented their report. Members had no 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 ward councillor, objecting to the application addressed the sub-committee. Members had questions for the ward councillor.

The sub-committee heard from other persons (local residents) objecting to the application. Members had questions for the other persons.

The sub-committee also noted the written representations from other persons objecting to the application, who were not present at the meeting.

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

The meeting adjourned at 12.42pm for the sub-committee to consider its decision.

The meeting reconvened at 1.33pm and the chair advised everyone of the decision.

**RESOLVED:**

That the application made by Big Belly Entertainment Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Big Belly Comedy Club, Unit 6 & Unit 7, Southbank Central Development, Stamford Street SE1 9LQ be granted.

## Hours

The sale by retail of alcohol (on and off the premises):	Sunday to Thursday: 08:00 to 23:30 Friday and Saturday: 09:00 to 00:30
Regulated Entertainment in the form of <ul style="list-style-type: none"> <li>Performances of plays (indoors):</li> <li>Films (indoors):</li> <li>Live music (indoors):</li> <li>Recorded music (indoors):</li> <li>Performance of dance (indoors):</li> <li>Anything of a similar description:</li> </ul>	Sunday to Thursday: 08:00 to 23:30 Friday and Saturday: 09:00 to 00:30
Late night refreshment (indoors):	Sunday to Thursday: 23:00 to 23:30 Friday and Saturday: 23:00 to 00:30
Opening hours:	Sunday to Thursday: 08:00 to 00:00 Friday and Saturday: 09:00 to 01:00
<p>Seasonal variations for performances of plays, films, live and recorded music, performance of dance, anything similar to performance of dance live and recorded music, Late night refreshment and sale by retail of alcohol:</p> <p>On the commencement of British Summertime and on that day only, licensable activities (open hours) will be extended by one hour.</p>	
<p>Non-standard timings for performances of plays, films, live and recorded music, performance of dance, anything similar to performance of dance live and recorded music, Late night refreshment and sale by retail of alcohol:</p> <p>Licensable activities will be extended from the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>	

## Conditions

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in section M of the application form and the conditions agreed with the Metropolitan Police Service and the following additional conditions agreed by the sub-committee:

1. That after 22:00 all people shall be directed via Unit 7 onto Stamford Street and not Upper Ground with temporary barriers at the Upper Ground exit of the premises.

2. That there shall be a maximum capacity of 499 including the outside area (excluding staff).
3. That there shall be a total maximum capacity for the external areas of 90 comprising of 45 in the external area outside unit 6 and 45 in the external area outside unit 7.
4. That the external area outside Unit 6 shall close at 21:00 with all furniture rendered unusable.
5. That there shall be no externally promoted DJ led events.
6. That wherever possible, single use plastics shall not be used, unless there is no alternative.
7. That the website for the premises and all public literature shall encourage the use of public transport and provide the public transport details for the vicinity.
8. That smokers shall be directed to the external area outside unit 7.

## **Reasons**

This was an application made by Big Belly Entertainment Limited for a premises licence to be granted in respect of the premises known as Big Belly Comedy Club, Unit 6 & Unit 7, Southbank Central Development, Stamford Street, London SE1 9LQ.

The licensing sub-committee heard from the applicant's legal representative who advised that the premises was a comedy club, creative talent incubator and training centre. It would bring a New York style comedy club and would be the only purpose built seven day a week comedy venue in Southwark. The premises would host international acclaimed comedians and foster local creative talent. In addition to a regular comedy programme, it would be a training centre to include podcasting, writing and stage tech workshops and courses, with a broader all day offering from mid-morning coffee and meetings through to lunchtime food and drinks.

The lower ground floor would be open to the public and would not require entry to the comedy events in order to serve the local offices and passing trade. There would also be an outside seating area, along the frontage of the premises.

Although the premises were situated in the Borough and Bankside cumulative impact area (CIA), the applicant's representative argued the premises was essentially an event space, so the CIA did not apply as detailed in paragraph 150 of Southwark's statement of licensing policy (SoLP). The premises was neither a nightclub nor pub/bar as the other persons (local residents) suggested.

Having carried out pre-application consultation, there were no outstanding representations from the responsible authorities.

In terms of the objections raised by the other persons, the representative for the applicant advised that they reminded the sub-committee that it should look to the police as the main source of advice on crime and disorder as provided in paragraph 2.1 of the Home office Guidance issued under section 182 of the Licensing Act 2003 (December 2022). The applicant had accepted 22 additional conditions with the police, who had since withdrawn its representation.

Similarly, the environmental protection team (EPT) were the experts in respect of the prevention of the prevention of public nuisance licensing objective and no representation had been submitted by them.

The sub-committee could therefore be satisfied that the responsible authorities were satisfied that none of the licensing objectives would be undermined.

The licensing sub-committee heard from the ward councillor who informed members that the premises were located in the Borough and Bankside CIA. There was a CIA policy as the area was saturated with licensed premises and because of the level of the alcohol related crime and disorder for the area and alcohol related hospital admissions. It was inevitable that 200+ patrons dispersing into a densely residential area would cause a problem in terms of crime and disorder, public nuisance and public safety. The ward councillor urged the sub-committee to refuse the application, as this was reason for the CIA policy.

The licensing sub-committee heard from some of the residents who had objected to the application, namely other persons 1, 10, 13, 14 and 16 who raised concerns that the opening hours were inappropriate for a residential area. They also advised that the premises was not designed for entertainment venues and would produce additional traffic and footfall, particularly since Hatfield's was already a congested road, Stamford Street did not have any drop off/pick up points and Upper Ground was a one way street. An increase of security was required. It was also well known that entertainment venues attracted an after hours drinking fraternity rowdy and noisy crowds. The proposed use is not compatible with the location and public safety of the residents immediately adjacent.

The licensing sub-committee noted the representations from 15 other persons who were not in attendance at the hearing.

Following the discussion stage of the hearing, the sub-committee were satisfied that the premises would not be a vertical drinking establishment. The proposed activities by the applicants were more akin to an event space described in the Southwark statement of licensing policy. As such, it was not a premises type that was subject to the CIA policy.

The hours sought were in line with those detailed in SoLP for an event space. Of all the responsible authorities, only the Metropolitan Police Service had submitted a representation. That representation was subsequently conciliated.

The members were, however mindful of the other persons' concerns and to limit any impact the premises may have on the residents and to promote the prevention of public nuisance licensing objective, the sub-committee imposed conditions set out in section 3 of this notice of decision.

In reaching this decision the sub-committee had regard to all 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:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

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

- a. The licence ought not to be been granted; or
- b. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to 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.

## **6. LICENSING ACT 2003: JUMBI, REAR OF 137-139 COPELAND ROAD, LONDON, SE15 3SN**

The chair confirmed that the applicant was happy for the sub-committee to consider item 7 (Licensing Act 2003: Jumbi, Unit 4 1, 133 Copeland Road, London SE15 3SN) of the agenda at the same time, as the applications were linked.

The licensing officer addressed the sub-committee. 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 addressed the sub-committee. Members had questions for the licensing responsible authority officer.

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

The meeting adjourned at 2.44pm for the sub-committee to consider its decision.

The meeting reconvened at 3.16pm and the chair advised everyone of the decision (see item 7 for decision relating to Jumbi, Unit 4 1, 133 Copeland Road, London SE15 3SN).

### **RESOLVED:**

That the application made by Elephant Rum Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Jumbi, rear of 137-139 Copeland Road, London SE15 3SN be granted.

### **Hours**

Films (indoors and outdoors):	Sunday to Thursday from 08:00 to 00:00 Friday and Saturday from 08:00 to 02:00
Recorded music (indoors and outdoors):	Monday to Sunday from 08:00 to 00:00
Late night refreshment (indoors and outdoors):	Sunday to Thursday from 23:00 to 00:00 Friday and Saturday from 23:00 to 02:00
The sale by retail of alcohol (on and off the premises):	Sunday to Thursday from 08:00 to 23:30 Friday and Saturday from 08:00 to 02:00
Opening hours:	Sunday to Thursday from 08:00 to 00:30 Friday and Saturday from 08:00 to 02:30

### **Conditions**

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in section M of the application form and the conditions agreed with the Metropolitan Police Service and environmental protection team the following additional conditions agreed by the sub-committee:

1. That when this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.

2. That wherever possible, single use plastics shall not be used, unless there is no alternative.
3. That there are no off-sale deliveries unless drivers have received age verification training.
4. That all delivery bikes access the premises via the Copeland Road entrance. All delivery drivers will wait in the premises for the collection of food.
5. That staff will direct patrons away from the nearby housing estate.
6. That the website for the premises and all public literature will encourage the use of public transport and provide the public transport details for the vicinity.

## **Reasons**

This was an application made by Elephant Rum Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Jumbi, rear of 137-139 Copeland Road, London SE15 3SN.

The licensing sub-committee heard from the legal representative for the premises who advised that the premises had the benefit from a premises licence that already allowed for licensable activities to take place within the premises. The current application to be considered by the sub-committee would allow licensable activity to continue until 02:00, remove the “restaurant condition” from the licence and update the licence by adding a number of conditions that would promote the licensing objectives.

Jumbi was one of a small number of black owned licensed premises within the borough of Southwark. Creating a space for BAME groups was at the heart of everything the premises sought to do. There was a focus upon African and Caribbean culture, food and drink. Since 2022 the applicant’s focal point was for BAME events, including “Club Jamaica” (championing the cultural history and impact of Jamaica), poetry and music events focused on BAME artists and talks, workshops and sporting events for local young people in collaboration with the Olympian Dina Asher Smith.

The premises had an outstanding reputation for offering diverse cultural experiences and was known for providing a safe and welcoming space for individuals from all backgrounds, including the LGBTQIA+ and Asian community. The applicants had extensive experience in the area, one of whom operated the Colour Factory in Hackney Wick.

The premises had traded compliantly and without complaint, over 50 nights until 02:00 under temporary event notices (TENs). Because the maximum number of TENs had been reached, future events could not take place without a permanent licence (in 2023). It was accepted that although the successful operation of TENs would not preempt the grant of a premises licence, it demonstrated the applicant’s



ability to operate a well-run premises.

Pursuant to the Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2022), the police were the experts as to whether the applications granted would promote or undermine the crime prevention objective. The applicants had worked closely with the police who had not submitted a representation and conditions had been proposed that actively prevent crime and disorder.

Situated within Copeland Park, there was no residential homes in the immediate vicinity, and residents would not be troubled. Noise from regulated entertainment was inaudible before the boundary of the nearest residential unit. Furthermore, the environmental protection team (EPT) representation had been conciliated and conditions agreed with the applicants to promote the prevention of public nuisance licensing objective.

Concerning the dispersal of patrons, this would be via Copeland Road as the Rye Lane exit would be closed by the proposed terminal hour (controlled by the Copeland Park landlord). There were also no residential buildings on the premises' Copeland Road frontage. The majority of the premises customers were local and would walk to the premises. Some patrons travelled home by Uber (or similar) and the location was ideal for collection by mini cab at the front without causing nuisance. The location was also well served by night buses. Dispersal would be supervised by staff at the premises and the on duty SIA guard on Fridays and Saturdays, as detailed in the applicants' dispersal policy.

The applicants' representative referred to the Southwark statement of licensing policy (SoLP) and that the premises was situation in the Peckham cumulative impact area. The CIA policy created a rebuttable presumption. In rebutting the presumption, the applicant's representative stated that the applicants had mitigated any potential cumulative impact.

Firstly, by proposing (and agreeing) a suite of conditions to ensure the premises operated in a specified manner. It was also suggested that the CIA was intentionally designed not to impact upon the underrepresentation and marginalisation of disadvantaged groups. The application could therefore be granted as it would benefit an under-represented group even though it would otherwise fall to be refused under CIA policy.

The licensing sub-committee noted the two petitions supporting the application. One containing five petitioners, the other with 1,678 petitioners.

The licensing sub-committee then heard from the officer representing licensing as a responsible authority who objected to the application. They advised that the premises were located in the Copeland Park complex, which is an artistic, entertainment and local business hub in central Peckham. The wider locale was a busy town centre with many commercial premises of various types, including a high amount of licensed premises of diverse types, in addition to a very high

density of residential dwellings.

Under section 6 of Southwark's statement of licensing policy 2021-2026 (SoLP) the premises fell within the Peckham Major Town Centre Area where the recommended closing hours were:

- i. Public houses, wine bars or other drinking establishments and bars in other types of premises: Sunday to Thursday: 23:00 and Friday to Saturday: 00:00
- ii. Night clubs (with 'sui generis' planning classification): Friday to Saturday: 03:00, Monday to Thursday: 01:00 and Sunday: 00:00
- iii. Event premises / spaces where the sale of alcohol is included in, and ancillary to, a range of activities including meals: Sunday to Thursday: 00:00 and Friday to Saturday: 01:00.

The hours applied for therefore, exceeded those recommended in the SoLP.

The applicant's view was that there would be no increase in capacity and no impact on the cumulative numbers of customers in the locality, the Peckham CIA did not apply. It also did not apply as the premises did not fall within the categories identified. It would operate as a music bar and not as a nightclub. However the officer explained that the SoLP provided that the Peckham CIA applied to night clubs, pubs and bars, off-licences, grocers, supermarkets, convenience stores, and similar premises. Therefore, the Peckham CIA did apply.

Although licences for the premises already existed, because the applicant sought to extend the operating hours and remove the restaurant condition, the Peckham cumulative impact area did apply. As a bar, there was an increased risk compared to restaurants (which were not subject to the Peckham cumulative impact area) regarding the promotion of the licensing objectives, which is why such types of premises are subject to the Peckham cumulative impact area.

The officer also stated that if the applications were granted, the existing two premises licences numbers 877770 (and 877771) would be transferred back to the landlord and held as "shadow licences". Although there was no restriction under the Licensing Act 2003 for shadow licences, there would be concern as to under which premises licence the licensable activities would be taking place and whom the relevant premises licence holder and designated premises supervisor would be. This was echoed in paragraphs 122-129 of Southwark's statement of licensing policy 2021-2026.

Although the applicant strongly contended that the premises promoted the use of licensed premises by groups not well serviced with licensed premises within the borough, a variety of examples were provided of other such venues supporting marginalised groups and individuals.

The officer also referred to the authority of R (on the application of Westminster City Council) -v- Middlesex Crown Court [2002] EWHC 1104 that supported the application could be refused on the sole basis that the premises were located in a CIA.

The licensing sub-committee noted the representations from the environmental protection team and trading standards had been conciliated, with conditions agreed with the applicant.

This was an application for a premises licence which is located in the Copeland Park complex. It is accepted that the location is an artistic, entertainment and business hub in central Peckham. The applicants confirmed that the premises was a music bar and would not be a nightclub and would not operate as a conventional drinking establishment.

The music played at the premises was on vinyl via a single turntable, as opposed to mixing, with short breaks between records as records are changed. The patrons expected to attend the venue were described as “slightly older, calmer clientele who want to immerse themselves in the culture, food and music of the African and Caribbean diaspora”.

The sub-committee are required to exercise its Public Sector Equality Duty, under the provisions of the Equality Act 2010. In accordance with the Brown Principles, [R (Brown) v Secretary of State for Work and Pensions [2008] EWHC 3158]. The Court set out some general principles about the steps a public authority should take to comply with the duty to give ‘due regard’ to the relevant equality needs, including (but not limited to):

- a. Making decisions that may affect an equality group, it must be made aware of its duty to have due regard to the equality goals in the Equality Duties.
- b. The ‘due regard’ must be exercised with rigour and an open mind. It is not a ‘tick box’ exercise and involves a conscious and deliberate approach to policy-making and needs to be thorough enough to show that ‘due regard’ has been paid before any decision is made.

Having considered the submissions made, it was felt that the applicant has promoted facilities for a niche clientele and this would be a key consideration for the members when determining the application. Southwark is looking for a diverse entertainment industry with premises that provide such niche entertainment and social outlets, particularly for BAME and LGBTQIA+ groups.

Southwark’s Unitary Development Plan also recognises the importance of the cultural scene in Peckham and seeks to encourage this (at paragraph 4.75):

“The Council welcomes the provision of arts and entertainment facilities in the Peckham area where they can contribute to the establishment of Peckham as a cultural focus of the Borough with particular emphasis on black and ethnic

minority communities, and assist in the Council's regeneration objectives”.

The premises is located in Peckham's CIA and the sub-committee are of the view that it is applicable in this instance. As such, it is a matter for the applicant to rebut the presumption to refuse the application.

Paragraph 162 of Southwark's SoLP provides examples of factors that this authority may consider as demonstrating that there will be no impact on the CIA. Members may take steps to grant a premises licence outside of the recommendations of the policy to promote the use of licensed premises by groups that are not well serviced with licensed premises within the borough.

Whilst members found no reason why this premises licence should not be granted, they are acutely conscious and concerned of the level of crime and disorder in the Peckham ward and for this reason the sub-committee decided to add the additional conditions, as listed in the conditions section of this notice of decision, to the licence.

The application is also in conformity with Southwark's Night Time Plan, and should benefit from a number of the pronouncements in that Plan, e.g.: “We will support businesses to adapt to the changing economy throughout the 24-hour city cycle by sympathetically considering changes to opening times and uses.”

The sub-committee were also reminded of the case of *Daniel Thwaites plc v Wirral Borough Magistrates' Court* [2008] EWHC 838 (Admin). In the absence of empirical evidence from the police in relation to crime and disorder or the environmental protection team in relation to public nuisance and no objections from any residents, there was no evidence to suggest that the licensing objectives would be undermined.

In reaching this decision the sub-committee had regard to all 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:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

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

- a. The licence ought not to be been granted; or
- b. That on granting the licence, the licensing authority ought to have imposed

different or additional conditions to 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: JUMBI, UNIT 4 1, 133 COPELAND ROAD, LONDON, SE15 3SN**

Please see item 6 for the proceedings of the meeting.

**RESOLVED:**

That the application made by Elephant Rum Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Jumbi, Unit 4 1, 133 Copeland Road, London SE15 3SN be granted.

**Hours**

Films (indoors):	Sunday to Thursday from 08:00 to 00:00 Friday and Saturday from 08:00 to 02:00
Live Music (indoors)	Sunday to Thursday from 08:00 to 00:00 Friday and Saturday from 08:00 to 02:00
Recorded music (indoors)	Sunday to Thursday from 08:00 to 00:00 Friday and Saturday from 08:00 to 02:00
Late night refreshment (indoors)	Sunday to Thursday from 23:00 to 00:00 Friday and Saturday from 23:00 to 02:00
The sale by retail of alcohol (on and off the premises):	Sunday to Thursday from 08:00 to 23:30 Friday and Saturday from 08:00 to 02:00
Opening hours:	Sunday to Thursday from 08:00 to 00:30 Friday and Saturday from 08:00 to 02:30

**Conditions**

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in section M of the application form and the conditions agreed with the Metropolitan Police Service and environmental protection team the following additional conditions agreed by the sub-committee:

1. That when this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.
2. That wherever possible, single use plastics shall not be used, unless there is no alternative.
3. That there are no off-sale deliveries unless drivers have received age verification training.
4. That all delivery bikes access the premises via the Copeland Road entrance. All delivery drivers will wait in the premises for the collection of food.
5. That staff will direct patrons away from the nearby housing estate.
6. That the website for the premises and all public literature will encourage the use of public transport and provide the public transport details for the vicinity.

## **Reasons**

This was an application made by Elephant Rum Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Jumbi, Unit 4 1, 133 Copeland Road, London SE15 3SN

The licensing sub-committee heard from the legal representative for the premises who advised that the premises had the benefit from a premises licence that already allowed for licensable activities to take place within the premises. The current application to be considered by the sub-committee would allow licensable activity to continue until 02:00, remove the “restaurant condition” from the licence and update the licence by adding a number of conditions that would promote the licensing objectives.

Jumbi was one of a small number of black owned licensed premises within the borough of Southwark. Creating a space for BAME groups was at the heart of everything the premises sought to do. There was a focus upon African and Caribbean culture, food and drink. Since 2022 the applicant's focal point was for BAME events, including “Club Jamaica” (championing the cultural history and impact of Jamaica), poetry and music events focused on BAME artists and talks, workshops and sporting events for local young people in collaboration with the Olympian Dina Asher Smith.

The premises had an outstanding reputation for offering diverse cultural experiences and was known for providing a safe and welcoming space for individuals from all backgrounds, including the LGBTQIA+ and Asian community. The applicants had extensive experience in the area, one of whom operated the Colour Factory in Hackney Wick.

The premises had traded compliantly and without complaint, over 50 nights until 02:00 under temporary event notices (TENs). Because the maximum number of TENs had been reached, future events could not take place without a permanent licence (in 2023). It was accepted that although the successful operation of TENs would not preempt the grant of a premises licence, it demonstrated the applicant's ability to operate a well-run premises.

Pursuant to the Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2022), the police were the experts as to whether the applications granted would promote or undermine the crime prevention objective. The applicants had worked closely with the police who had not submitted a representation and conditions had been proposed that actively prevent crime and disorder.

Situated within Copeland Park, there was no residential homes in the immediate vicinity, and residents would not be troubled. Noise from regulated entertainment was inaudible before the boundary of the nearest residential unit. Furthermore, the environmental protection team (EPT) representation had been conciliated and conditions agreed with the applicants to promote the prevention of public nuisance licensing objective.

Concerning the dispersal of patrons, this would be via Copeland Road as the Rye Lane exit would be closed by the proposed terminal hour (controlled by the Copeland Park landlord). There were also no residential buildings on the premises' Copeland Road frontage. The majority of the premises customers were local and would walk to the premises. Some patrons travelled home by Uber (or similar) and the location was ideal for collection by mini cab at the front without causing nuisance. The location was also well served by night buses. Dispersal would be supervised by staff at the premises and the on duty SIA guard on Fridays and Saturdays, as detailed in the applicants' dispersal policy.

The applicants' representative referred to the Southwark statement of licensing policy (SoLP) and that the premises was situation in the Peckham cumulative impact area. The CIA policy created a rebuttable presumption. In rebutting the presumption, the applicant's representative stated that the applicants had mitigated any potential cumulative impact.

Firstly, by proposing (and agreeing) a suite of conditions to ensure the premises operated in a specified manner. It was also suggested that the CIA was intentionally designed not to impact upon the underrepresentation and marginalisation of disadvantaged groups. The application could therefore be granted as it would benefit an under-represented group even though it would otherwise fall to be refused under CIA policy.

The licensing sub-committee noted the two petitions supporting the application. One containing five petitioners, the other with 1,678 petitioners.

The licensing sub-committee then heard from the officer representing licensing as a responsible authority who objected to the application. They advised that the premises were located in the Copeland Park complex, which is an artistic, entertainment and local business hub in central Peckham. The wider locale was a busy town centre with many commercial premises of various types, including a high amount of licensed premises of diverse types, in addition to a very high density of residential dwellings.

Under section 6 of Southwark's statement of licensing policy 2021-2026 (SoLP) the premises fell within the Peckham Major Town Centre Area where the recommended closing hours were:

- i. Public houses, wine bars or other drinking establishments and bars in other types of premises: Sunday to Thursday: 23:00 and Friday to Saturday: 00:00
- ii. Night clubs (with 'sui generis' planning classification): Friday to Saturday: 03:00, Monday to Thursday: 01:00 and Sunday: 00:00
- iii. Event premises / spaces where the sale of alcohol is included in, and ancillary to, a range of activities including meals: Sunday to Thursday: 00:00 and Friday to Saturday: 01:00.

The hours applied for therefore, exceeded those recommended in the SoLP.

The applicant's view was that there would be no increase in capacity and no impact on the cumulative numbers of customers in the locality, the Peckham CIA did not apply. It also did not apply as the premises did not fall within the categories identified. It would operate as a music bar and not as a nightclub. However the officer explained that the SoLP provided that the Peckham CIA applied to night clubs, pubs and bars, off-licences, grocers, supermarkets, convenience stores, and similar premises. Therefore, the Peckham CIA did apply.

Although licences for the premises already existed, because the applicant sought to extend the operating hours and remove the restaurant condition, the Peckham cumulative impact area did apply. As a bar, there was an increased risk compared to restaurants (which were not subject to the Peckham cumulative impact area) regarding the promotion of the licensing objectives, which is why such types of premises are subject to the Peckham cumulative impact area.

The officer also stated that if the applications were granted, the existing two premises licences numbers 877770 (and 877771) would be transferred back to the landlord and held as "shadow licences". Although there was no restriction under the Licensing Act 2003 for shadow licences, there would be concern as to under which premises licence the licensable activities would be taking place and whom the relevant premises licence holder and designated premises supervisor would be. This was echoed in paragraphs 122-129 of Southwark's statement of licensing policy 2021-2026.



Although the applicant strongly contended that the premises promoted the use of licensed premises by groups not well serviced with licensed premises within the borough, a variety of examples were provided of other such venues supporting marginalised groups and individuals.

The officer also referred to the authority of R (on the application of Westminster City Council) -v- Middlesex Crown Court [2002] EWHC 1104 that supported the application could be refused on the sole basis that the premises were located in a CIA.

The licensing sub-committee noted the representations from the environmental protection team and trading standards had been conciliated, with conditions agreed with the applicant.

This was an application for a premises licence which is located in the Copeland Park complex. It is accepted that the location is an artistic, entertainment and business hub in central Peckham. The applicants confirmed that the premises was a music bar and would not be a nightclub and would not operate as a conventional drinking establishment.

The music played at the premises was on vinyl via a single turntable, as opposed to mixing, with short breaks between records as records are changed. The patrons expected to attend the venue were described as “slightly older, calmer clientele who want to immerse themselves in the culture, food and music of the African and Caribbean diaspora”.

The sub-committee are required to exercise its Public Sector Equality Duty, under the provisions of the Equality Act 2010. In accordance with the Brown Principles, [R (Brown) v Secretary of State for Work and Pensions [2008] EWHC 3158]. The Court set out some general principles about the steps a public authority should take to comply with the duty to give ‘due regard’ to the relevant equality needs, including (but not limited to):

- a. Making decisions that may affect an equality group, it must be made aware of its duty to have due regard to the equality goals in the Equality Duties.
- b. The ‘due regard’ must be exercised with rigour and an open mind. It is not a ‘tick box’ exercise and involves a conscious and deliberate approach to policy-making and needs to be thorough enough to show that ‘due regard’ has been paid before any decision is made.

Having considered the submissions made, it was felt that the applicant has promoted facilities for a niche clientele and this would be a key consideration for the members when determining the application. Southwark is looking for a diverse entertainment industry with premises that provide such niche entertainment and social outlets, particularly for BAME and LGBTQIA+ groups.

Southwark's Unitary Development Plan also recognises the importance of the cultural scene in Peckham and seeks to encourage this (at paragraph 4.75):

"The Council welcomes the provision of arts and entertainment facilities in the Peckham area where they can contribute to the establishment of Peckham as a cultural focus of the Borough with particular emphasis on black and ethnic minority communities, and assist in the Council's regeneration objectives".

The premises is located in Peckham's CIA and the sub-committee are of the view that it is applicable in this instance. As such, it is a matter for the applicant to rebut the presumption to refuse the application.

Paragraph 162 of Southwark's SoLP provides examples of factors that this authority may consider as demonstrating that there will be no impact on the CIA. Members may take steps to grant a premises licence outside of the recommendations of the policy to promote the use of licensed premises by groups that are not well serviced with licensed premises within the borough.

Whilst members found no reason why this premises licence should not be granted, they are acutely conscious and concerned of the level of crime and disorder in the Peckham ward and for this reason the sub-committee decided to add the additional conditions, as listed in the conditions section of this notice of decision, to the licence.

The application is also in conformity with Southwark's Night Time Plan, and should benefit from a number of the pronouncements in that Plan, e.g.: "We will support businesses to adapt to the changing economy throughout the 24-hour city cycle by sympathetically considering changes to opening times and uses."

The sub-committee were also reminded of the case of *Daniel Thwaites plc v Wirral Borough Magistrates' Court* [2008] EWHC 838 (Admin). In the absence of empirical evidence from the police in relation to crime and disorder or the environmental protection team in relation to public nuisance and no objections from any residents, there was no evidence to suggest that the licensing objectives would be undermined.

In reaching this decision the sub-committee had regard to all 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:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

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

- c. The licence ought not to be been granted; or
- d. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to 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.

The meeting ended at 3.20pm.

**CHAIR:**

**DATED:**