

From: Binya, Raymond <Raymond.Binya@southwark.gov.uk>

Sent: Monday, July 10, 2023 10:48 AM

To: Regen, Licensing <Licensing.Regen@southwark.gov.uk>

Cc: [REDACTED]

Subject: Application for a new premises licence under the Licensing Act 2003 for Hayatt 20-22 Camberwell Church Street, London SE5 8QS our ref A01510

Dear Licensing Team,

New premises application to be granted under the Licensing Act 2003.

Application reference number: 880498

Address: Hayatt

20-22 Camberwell Church Street

London

SE5 8QU

A new premises licence application for late night refreshment to included sale of alcohol for following hours:

Day	Start	Finish
Mon	23:00	01:30
Tues	23:00	01:30
Wed	23:00	01:30
Thur	23:00	03:00
Fri	23:00	03:00
Sat	23:00	03:00
Sun	23:00	02:00

I wish to make a representation on behalf of Southwark Environmental Protection Team (EPT) in our capacity as Environmental Health Responsible Authority, about the likely effect of the sought licence if granted, on the promotion of the 'prevention of public nuisance' licensing objective for the following grounds:

a) Compliance with Licensing Policy

The proposed licensable activities are outside of suggested closing times for licensed premises of this type within the this area as stated within Southwark Statement of Licensing Policy 2021-2026. Closing time for Take-away establishment: Sunday to Thursday is 00:00 hours and for Friday and Saturday is 01:00 hours.

b) Public nuisance and impact to neighbouring properties

There are nine residential flats located on the upper floors on this building and over this restaurant, together with residential premises at 10 to 12 Wren Road approximately 25m away with bedroom windows facing the rear yard to 20-22 Camberwell Church Street. These residential premises are occupied by a significant number of people who are likely to be exposed for longer periods to disturbance from noise associated with the use of the restaurant as proposed and, in particular to the rear outside area. The Council has received complaints of noise arising from the premises from 2019, which demonstrates that residents are being affected by its

existing operation. With many people congregating in the outside area until late at night there is a much greater chance of adverse noise impacts on nearby residents. It is also worth mentioning that the likelihood of noise impact would be higher in the early hours of the morning as it would become more noticeable/evident due to the expected drop in background levels.

I have attached a record of complaints to date about the premises recorded by the Noise and Nuisance Team and their actions. I also note that regulated entertainment has not been ticked on the application form, are the applicants not intending to continue with the existing setting of regulated entertainment?

c) Planning history

I appreciate that Planning and Licensing are two separate regimes that operate independently, however, I believe in this case, it is essential that decisions which were made as a result of Planning applications on this address are taken into considerations when deciding whether to grant this licence as applied. The following is a short summary of recent Planning applications that were refused:

- 20/AP/1462
Retrospective planning application for the retention of a timber outbuilding used in connection with the ground floor restaurant.
Refused, 22nd July 2020
- 20/AP/2936
Retention of a timber shelter at rear.
Refused, 14th July 2021
Planning Appeal Reference: APP/A5840/W/21/3279306
Appeal Decision: Dismissed
- 22/AP/4145
Part retrospective application to retain the existing single storey rear extension and connecting canopy and to enclose the existing space between the extension and main buildings.
Refused/Withdrawn, 22/05/2023
 - ***“The agent has been advised that the application has not overcome the previous concerns raised regarding the impact of the structure on the amenity of nearby properties in terms of noise disturbance and therefore would be recommended for refusal. Following the receipt of this advice, they have confirmed within an email dated 22.05.2023 that the application may be formally withdrawn.”***
- 20/EN/0079
Enforcement Notice was issued on 04 October 2022 on the use of rear extension. It is our understanding that applicants have logged an appeal on this Notice and Planning Inspectorate are yet to provide their decision. The Notice is also attached in this email.

It is our understanding that the rear structure continues to be actively used in connection with the restaurant activities.

It is therefore clear that the use of the proposed land for this applicant has not been approved under Planning Laws. In addition, paragraph 9.45 of the Revised Guidance issued under section 182 of the Licensing Act 2003 states; “**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, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs**”. Although the last planning application has not been made simultaneously to this application, I believe the time between the two applications is so short and does meet paragraph 9.45’s ‘simultaneously’ requirement because the applicants are still actively seeking authorisation to use the rear extension.

In conclusion, based on the reasons given above, I confirm my objection to granting the above premises licence as applied.

Kind Regards

Raymond Binya
Principal Environmental Protection Officer

Environmental Protection Team

Tel: 020 7525 4809

Postal address: Southwark Council, Environmental Protection Team, Regulatory Services, 3rd Floor Hub 1, PO Box 64529, London, SE1P 5LX

Office address (By appointment only): Southwark Council, 160 Tooley Street, London, SE1 2QH

www.southwark.gov.uk

Date and time (24hrs)	Complaint detail	NTT/NRR	Action Taken
Complaints recorded against 22 Camberwell Church Street			
20/10/19 at 0:58	Loud music and people noise	NRR	Noise had ceased when officer called back
25/10/19 at 10:26	Loud music from the outdoor covered garden area	NTT	Resident was advised to call back when disturbance is ongoing
27/10/19 at 23:22	Loud music	NRR	Officers visited complainant but were unable to carry assessment after they were advised resident was uncomfortable having them (Kieran and I) enter the flat
1/11/19 at 23:35	Loud music	NRR	Officers visited but stat nuisance was not witnessed. Officers noted large crowd in shisha bar as a problem
14/11/19 at 23:06	Loud music	NRR	No stat nuisance was witnessed
30/12/19 at 1.40	Loud music	NRR	No stat nuisance witnessed. Music was heard in bedroom but was not that was being played at number 22. Possible another source but unable to locate
20/9/21	Loud music	NTT	Resident was advised to call back when disturbance is ongoing
25/9/21 at 22:40	Loud music and people noise from shisha bar	NRR	Noise had stopped when officers called back
15/11/21	Loud music, unruly patrons	NTT	Resident advised she will not allow officers into her property
6/3/2023	Loud music emanating from the structure in the garden	NTT	Resident was advised to call back when disturbance is ongoing
Complaints recorded against 20 Camberwell Church Street			
19/3/20	Request from BUM to review complaints	NTT	Advice was given to DPS regarding complaints
8/10/20	Noise from rowdy patrons outside the premises	NTT	Residents rejected Noise Assessment process
24/12/22 at 0.54	Loud music and patrons noise	NRR	Officers were unable to speak to the residents when they called back

*** Noise Team have two types of codes for service requests NTT is a service request that is logged when either the team is not in operation at the time of the reporting or the disturbance being reported is not occurring at that time.*



The Occupier
20-22 Camberwell Church Street
London
SE5 8QU

Contact - Deepa Mistry
Email - Deepa.mistry@southwark.gov.uk
Direct tel - 020 7525 3879
Our ref - 20/EN/0079

Date - 04 October 2022

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Sir/Madam,

Enforcement Notice - 20-22 Camberwell Church Street, London, Southwark SE5 8QU

This authority has issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Enforcement Notice as you have an interest in the land. Copies of the Enforcement Notice are also being served on the parties listed in the Enforcement Notice who, it is understood, also have an interest in the land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the Enforcement Notice. Unless an appeal is made, as described below, the Enforcement Notice will take effect on **8th November 2022** and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the Enforcement Notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the Enforcement Notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **8th November 2022**.

The powers of local authorities to issue Enforcement Notices and the right of appeal against them is set out in Section 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 ('the Act').

Under Section 174 of the Act you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the Enforcement Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

- (e) that copies of the Enforcement Notice were not served as required by Section 172;
- (f) that the steps required by the Enforcement Notice to be taken, or the activities required by the Enforcement Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the Notice in accordance with Section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Act this is the equivalent of applying for planning permission for the development alleged in the Notice and you will have to pay a fee of **£2772.00**.

This should be paid to the London Borough of Southwark by way of a cheque sent to the Planning Department at PO BOX 64529 London SE1P 5LX (160 Tooley Street, London SE1 2TZ), or via Online payment at:

<https://tinyurl.com/feeappeal> or https://forms.southwark.gov.uk/ShowForm.asp?fm_fid=1711

You must select '1. Planning Fee' and quote the Enforcement Notice reference number. Note that a successful appeal under ground (a) may create liability for Community Infrastructure Levy.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days. A copy of your appeal form and supporting documents should be send via email to Planning.Enforcement@southwark.gov.uk

My contact details can be found at the top of this letter should you wish to discuss the matter.

Yours sincerely

Deepa Mistry
Planning Enforcement

Enclosures: Enforcement Notice and Planning Inspectorate Information Sheet


IMPORTANT THIS- COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

ISSUED BY: THE LONDON BOROUGH OF SOUTHWARK

TO:

The Occupier(S) - 20 Camberwell Church Street, London, United Kingdom, SE5 8QU
The Occupier(S) - 22 Camberwell Church Street, London, SE5 8QU
The Owner(S) - 20 Camberwell Church Street, London, United Kingdom, SE5 8QU
The Owner(S) - 22 Camberwell Church Street, London, SE5 8QU
The Owner(S) - 20-22 Camberwell Church Street, London, United Kingdom, SE5 8QU
The Occupier(S) - 20-22 Camberwell Church Street, London, SE5 8QU


1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A (1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES**

The ground floor and rear garden, 20-22 Camberwell Church Street, London, SE5 8QU shown edged red on the attached plan ("the Land").

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

- 3.1 Without planning permission, the material change of use of the Land from a restaurant (class E) to a mixed use as a restaurant, drinking establishment and shisha bar/lounge (sui generis), and the erection of a building to the rear of the Land in the approximate location shown edged and hatched green on the attached plan ("the Unauthorised Development").

4. REASONS FOR ISSUING THIS NOTICE

- 4.1 It appears to the Council that the above breach of planning control has occurred within the last 10 years.

- 4.2 It is expedient to take enforcement action because: -

4.2.1 The Unauthorised Development, causes severe planning harm to the amenity of the neighbouring occupiers by virtue of increased noise and disturbance and poor quality in design, contrary to policies:

- National Planning Policy Framework 2021: Chapter 8 Promoting healthy and safe communities, Chapter 11 Making effective use of land and Chapter 12 Achieving Well-Designed Places
- Southwark Plan 2022: P56 – Protection of Amenity, P17 – Efficient Use of Land, P14 - Design Quality IP4 – Enforcement, SP5 – Thriving Neighbourhoods and Tackling Health Inequalities.
- The London Plan 2021: Policy D3 Optimising site capacity through the design-led approach, Policy D13 Agent of Change and GG3 Creating a Healthy

4.2.2 A fire safety statement for the Unauthorised Development of use has not been provided. It has not therefore been demonstrated that the Unauthorised Development of use achieves the highest standards of fire safety, contrary to policy:

- The London Plan 2021: D12 Fire Safety

5. WHAT YOU ARE REQUIRED TO DO TO REMEDEY THE BREACH OF PLANNING CONTROL – S173(4)(A)

- (i) Cease the use of the Land as a mixed use as a restaurant, drinking establishment and shisha bar/lounge
- (ii) Remove from the Land, all shisha pipes, tobacco, charcoal burners, and any other shisha smoking equipment.

- (iii) Remove from the rear of the Land (edged and hatched in green, on the attached plan) all amplified speakers and other musical equipment
- (iv) Demolish the building to the rear of the Land (edged and hatched in green, on the attached plan) and remove all materials arising from these works from the Land.

6. **TIME FOR COMPLIANCE**

Four (4) calendar months from the date this notice takes effect.

7. **WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on **8TH NOVEMBER 2022** unless an appeal is made against it beforehand.

Dated: 4TH OCTOBER 2022

Signed:

Stephen Platts

Stephen Platts

Director Planning and Growth

Chief Executives Department

5th Floor, PO BOX 64529, London SE1P 5LX

(160 Tooley Street, London SE1 2QH)

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate before the date specified in paragraph 7 of the Notice.

The enclosed Planning Inspectorate Information Sheet provides further information about your right of appeal against this Enforcement Notice.

If you are appealing under Ground (a), that you believe planning permission should be granted for what is alleged in the enforcement notice, you are required to pay a fee of £2772.00. This should be paid to the London Borough of Southwark by way of a cheque sent to the Planning Department at PO BOX 64529 London SE1P 5LX (160 Tooley Street, London SE1 2TZ) together with a copy of your appeal form.

You must submit with your Appeal Form, or within 14 days from the date the Planning Inspectorate notifies you, a statement in writing specifying the grounds of the appeal and state briefly the facts on which you are relying in support of those grounds.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not do appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Enclosures:

Planning Inspectorate Information Sheet



The Planning Inspectorate

CST Room 3/13
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line

0303-444 5000

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it: -

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>);
or
- by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by letter. You should include: -

- the name of the local planning authority.
- the site address.
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

