

Licensing Sub-Committee

Wednesday 15 March 2023

10.00 am

Ground Floor Meeting Room G02A - 160 Tooley Street,
London SE1 2QH

Supplemental Agenda No.1

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Date: 10 March 2023

Agenda Item 6

Item No. 6.	Classification: Open	Date: 15 March 2023	Meeting Name: Licensing Sub-Committee
Report Title		Licensing Act 2003: Cool and Cozy Lounge "The Flying Dutchman", 156 Wells Way, London SE5 7SY	
Ward(s) of group(s) affected		St Giles	
From		Strategic Director of Environment, Neighbourhoods and Growth	

RECOMMENDATION

1. That the licensing sub-committee decide whether or not to issue a counter notice in respect of temporary event notice (TENs) 879741, served by Francis Kpandeh, with regards to event to be held at Cool and Cozy Lounge "The Flying Dutchman", 156 Wells Way, London SE5 7SY on 17 to 18 March 2023 from 12:00 to 03:00.
2. Notes:

The TEN submitted is only for the premises of Cool and Cozy Lounge "The Flying Dutchman".

BACKGROUND INFORMATION

The Licensing Act 2003

3. On 24 November 2005 the Licensing Act 2003 came into effect establishing a licensing regime for the following licensable activities:
 - a) The retail sale of alcohol
 - b) The supply of alcohol to club members or on behalf of a club
 - c) The provision of regulated entertainment
 - d) The provision of late night refreshments.
4. The Act established a process for the giving of "temporary event notices" (TENs).
5. Amendments to the Licensing Act 2003 were brought about by way of the Police Reform and Social Responsibility Act 2011 as of 25 April 2012.
6. A premises user may serve a TEN, where it is proposed to use the premises concerned to provide one or more licensable activities for a period not exceeding 168 hours for less than 500 persons.
7. A person holding a personal license issued under the Act may serve up to 50 TENs in a calendar year. Non personal licence holders may serve up to five TENs in the same period. No premises may be used for more than 12 TENs in a calendar year or for more than 21 days in a calendar year.
8. No premises may be used for temporary events that are less than 24 hours apart.

9. The police or environmental health authority may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a TEN.
10. If the police or environmental health team believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. This must be given within three working days of the receipt of the TEN.
11. A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.
12. The police or environmental health may contact the premises user to discuss their objections and attempt to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified. If there is no agreement, the licensing authority must hold a hearing to consider the notice.
13. If the licensing authority receives an objection notice from the police or environmental health that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions, and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and give a counter notice. This prohibits the event from taking place.

KEY ISSUES FOR CONSIDERATION

The temporary event notice (TEN)

14. On 2 March 2023 a TEN was served by Francis Kpandeh for an event at Cool and Cozzy Lounge "The Flying Dutchman", 156 Wells Way, London, SE5 7SY. The event is to be held on the 17 to 18 March 2023 from 12:00 to 3:00. A copy of the TEN application is attached to this report as Appendix A.
15. The TEN is summarised as follows:
 - To permit the sale of alcohol, regulated entertainment and late night refreshment on 17 to 18 March 2023 between 12:00 to 03:00 for licensable activities. The maximum number of people expected at any one time at the premises is 300. The supply of alcohol is in respect of consumption on the premises only.

The objection notice

16. On 7 March 2023 the environmental protection team served an objection in respect of the TEN on the grounds of the prevention of public nuisance.

17. The environmental protection team state that there is historical record of issues around this premises that had led for its premises licence to be revoked.
18. Further to that, more recent complaints and issues as a result of holding temporary events have been reported. These issues were mainly from rowdy behaviour following what appears to be a patron mismanagement from Cool and Cozy "The Flying Dutchman".
19. It is their opinion that this event is likely to lead to public nuisance as there is no evidence to show that there have been any changes to improve the current situation.
20. They object to the application on the grounds of the likely effect of the sought Notice if granted, on the promotion of the 'prevention of public nuisance' licensing objective.
21. A Copy of the environmental protection team's objection is attached to this report in Appendix B.

TENs History

22. Below is the history of TENs for the last year in respect of the premises.

Applicant	Date of event	Time of event and activities	Counter notice issued?
Francis Kpandeh	16/12/22 - 18/12/22	Sale of alcohol on and off the premises, regulated entertainment & late night refreshment between 12:00 and 04:00	No
Francis Kpandeh	23/12/2022 – 26/12/2022	Sale of alcohol on and off the premises, regulated entertainment & late night refreshment between 12:00 and 04:00	No
Francis Kpandeh	30/12/22 - 01/01/23	Sale of alcohol on and off the premises, regulated entertainment & late night refreshment between 12:00 and 04:00	No
Francis Kpandeh	13/01/2023 – 15/01/2023	Sale of alcohol on and off the premises, regulated entertainment & late night refreshment between 12:00 and 04:00	No
Francis Kpandeh	20/01/2023 – 22/01/2023	Sale of alcohol on and off the premises,	No

Applicant	Date of event	Time of event and activities	Counter notice issued?
		regulated entertainment & late night refreshment between 12:00 and 04:00	
Francis Kpandeh	27/01/2023 – 29/01/2023	Sale of alcohol on and off the premises, regulated entertainment & late night refreshment between 12:00 and 04:00	No
Francis Kpandeh	10/02/2023 – 11/02/2023	Sale of alcohol on the premises, regulated entertainment & late night refreshment between 01:00 and 04:00	No
Francis Kpandeh	17/02/2023 – 19/02/2023	Sale of alcohol on the premises, regulated entertainment & late night refreshment between 01:00 and 04:00	Yes

Premises history

23. The premises has operated as a drinking establishment since 1878 and operated under prior licensing legislation until 2005 when the Justices Licence held under the Licensing Act 1964 was converted into a premises licence held under the Licensing Act 2003.
24. On 13 February 2015 the licence was transferred to FDL Arts Ltd. The company directors were Antonio Mori and Manuela Codo.
25. On 25 February 2015 the licence was transferred to FDL Arts and Events Limited. The company directors were Antonio Mori and Manuela Codo.
26. On 18 March 2015 an application to vary the premises licence was submitted. The application sought to extend the premises operating hours. The application was granted and allowed for the current operating hours.
27. On 4 September 2019 Francis Kpandeh was specified as the designated premises supervisor in respect of the premises.
28. On 3 October 2020 an application to review the premises licence issued in respect of the premises was submitted by a local resident (other person 3). They withdrew their review on 6 October 2020 as they wished to preserve their anonymity.

29. On 4 September 2021 the licence was transferred to FDN Arts and Events Limited. The company director is Manuela Codo. A copy of this licence is available for Members' information in Appendix C.
30. On 24 July 2022, an application was submitted by an other person, under Section 51 of the Licensing Act 2003, for the review of the premises known as Cool & Cozy Lounge, The Flying Dutchman, 156 Wells Way, London SE5 7SY.
31. The matter was considered by the licensing sub-committee on 13 October 2022 and the Southwark licensing sub-committee saw fit to revoke the premises licence. A copy of the notice of decision from that hearing is available in Appendix D.
32. On 16 December 2022, an application for a new premises licence was submitted by Cool & Cozy Restaurant Ltd. The application looked to name Francis Kpandeh as designated premises supervisor. The premises are described in the application simply as being: "Bar/nightclub". A copy of the application is available in Appendix E.
33. Following a number of objections the matter was considered by the licensing sub-committee on 9 February 2023 and the Southwark licensing sub-committee saw fit to refuse the premises licence application. A copy of the notice of decision from that Hearing is available in Appendix F.
34. The licensing unit has received the following complaints regarding the premises:

Date	Complainant	Complaint sent to / referred from	Details
26/09/2019	Local Resident	SASBU referral	<p>SASBU (ASB): My family lives at XXX Wells Way in Camberwell.</p> <p>On the corner of our road, about xx meters from our front door, is an establishment called the flying Dutchman, although it recently appears to have been rebranded as Cool Cozy.</p> <p>As the Flying Dutchman, on average about once every 3 months, there would be a late night event at a weekend that went on until the very early hours of the morning (5am ish). When it's that infrequently we just used to Put up with it. The venue has a new sign outside now saying Cool Cozy and it's been loud enough to stop my family from sleeping for the last two weekends.</p> <p>From reading on the internet it seems the premises has a permanent licence</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>until 6am at the weekend. How can this possibly be appropriate in a residential area where it's stopping families from sleeping? It stops my family sleeping and there's at least half a dozen houses closer to the venue than mine. Plus there's flats under construction closer than our house.</p> <p>Can you please have a look at this as soon as possible?</p> <p>It's can't be appropriate to give this venue a 6am licence in a residential area where it's adversely impacting the lives of families.</p> <p>The venue has very few customers and it's just not right.</p>
23/04/2021	Local Resident	Licensing	<p>Hello Southwark Council,</p> <p>I'm the neighbour XXXXXXXXXXXXXXXX to the pub.</p> <p>I'm deeply concerned about developments.</p> <p>I have a small xx year old son and our front door opens straight onto the street where XXXXXXXX intends to start hosting outdoor parties.</p> <p>I've also seen the extra seating he has put in the smoking area directly outside my back garden. It will be noisy and judging by past events likely very drunken and potentially violent. I've had people fighting literally on my doorstep on at least 5 occasions since he took over, sometimes very late at night. The fact that the partying is now moving to the street is very worrying.</p> <p>Last summer the place was operated like a nightclub with no social distancing measures.</p> <p>Please take this matter seriously, we have tried every way possible to</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>reason with this man but he nods along then does what he pleases.</p> <p>Cheers,</p>
21/06/2021	Local Resident	Licensing	<p>Hello, we are neighbours to the 'club' The Flying Dutchman, aka Cool and Cozy Lounge at 156 Wells Way, London SE5 7SY.</p> <p>Over the last months, every Friday and Saturday, the venue has been playing extremely loud music and have had their garden filled with drunk and aggressive guests that have been shouting and fighting until 7 in the morning. We have experienced fights outside our doorstep and the police have been called out on numerous occasions.</p> <p>We fear our safety and a lot of guests drive drunk or under the influence so we fear the safety for the community too.</p> <p>This behaviour is also happening many Thursdays and Sundays with loud people being aggressive and shouting in the garden of above mentioned venue but also in the restaurant on 101 Southampton Way, Cool and Cozy. The premises on 101 Southampton Way are cooking food in the garden for the Flying Dutchman until 4 in the morning and have guests in their garden screaming and shouting until 1 in the morning most days.</p> <p>We can't sleep obviously and are also having our mental well-being seriously affected by the behaviour of this venue.</p> <p>How can we stop the manager of these two establishments to ruin our lives?</p> <p>We keep calling noise complaint but nothing happens.</p>

Date	Complainant	Complaint sent to / referred from	Details
			What actions do we have to take to work towards getting their licences revoked?
08/08/2021	Local Resident	Licensing	<p>Dear Southwark licencing,</p> <p>We are at our wits end.</p> <p>We've been calling noise control almost every weekend regarding the noise, fights and antisocial behaviour at the Flying Dutchman / Cool and Cozy.</p> <p>It's got to the point where we expect to have a terrible sleep (or no sleep at all) every weekend.</p> <p>Nothing seems to be done and the business continues to operate on breach of the conditions of the licence.</p> <p>Please can you tell us what routes we have to get the licence revoked.</p> <p>Every attempt to get XXXXXXXX to comply has failed.</p> <p>Yours sincerely,</p>
17/08/2021	Local Resident	Local residents group, copied to Licensing for information	<p>Hi all,</p> <p>I can confirm as well that the noise was once again excruciating on both Friday and Saturday. And that the noise keeper on until past 5 am in the morning. It can only be described as torture, since it was impossible to sleep or feel safe. It was as if there was a club venue both in the garden and out on the street. Being xx months pregnant it did not feel safe to ask highly intoxicated guests to lower the music or their voices. The security at the venue did nothing.</p> <p>The council was called several times but no one came to check the noise level.</p> <p>I am more than happy to leave a formal statement if needed. I've also</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>contacted the council and asked that they share all of my filed complaints. So that they can be shared with you. This might be helpful as it will show the consistency of the ongoing noise level.</p> <p>All the best,</p>
06/09/2021	Local Resident	Licensing	<p>The Flying Dutchman is, as every weekend playing extremely loud music and allow guests to shout scream and argue in the garden. His guests are also parked all over Southampton Way on double yellow and a lot of people are having small pre parties in their cars drinking, smoking weed, and shouting while littering and urinating on our houses. Southwark Council should be ashamed of themselves to let this bully XXXXXXXX continue behaving like this.</p>
06/092021	Local Resident	SASBU referral	<p>Several men are screaming aggressively at a women in at the Cool Cozy Lounge. Loud music is being played. Their own security is not intervening. We are worried about our own safety and others. This type of behaviour happens every weekend.</p>
18/09/2021	Local Resident	Licensing	<p>Hi all,</p> <p>Last night was just awful. Loud music and partying noise woke me from my sleep at 3.30am. Then there was a girl screaming outside. Later on around 6am a girl was knocking on doors with a knife and had to be tasered by the police that the neighbours phoned to come help. The drink driving is blatant also.</p> <p>We never had to once complain before Francis took over. We are beside ourselves. It's utterly exhausting having to phone up and wait for a call back for an hour or more when you want to be asleep. It doesn't seem to make a difference. The situation is almost lawless.</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>How much longer will it go on before we can put a stop to this?</p> <p>Sincerely,</p>
20/09/2021	Local Resident	SASBU referral	<p>The Flying Dutchman is every weekend playing extremely loud music and allow guests to shout scream and argue in the garden. His guests are also parked all over Southampton Way on double yellow and a lot of people are having small pre parties in their cars drinking, smoking weed, and shouting while littering and urinating on our houses. Southwark Council should be ashamed of themselves to let this bully XXXXXXXX continue behaving like this.</p> <p>We are suffering psychologically since we can't sleep and XXXXXXXX is threatening us.</p>
20/09/2021	Local Resident	SASBU referral	<p>There is screaming and fighting in the background at Cool and Cozy lounge, also known as The Flying Dutchman. People are highly intoxicated. This will go on until 06:00 since the owner keeps violating his licensing rights and it has been like this every weekend and some weekdays for the last 1 1/2 years (closer to 2 years). It always follows the same pattern and usually ends with a physical fight among guests in the early hours of the morning. That is when we are forced to call the police. It is having a serious impact on our day-to-day life. The lack of sleep effect our work and personal life.</p>
27/09/2021	Local Resident	SASBU referral	<p>Loud music, shouting, people all over the road, loud arguments in the beer garden of the pub.</p> <p>We couldn't sleep and were very distressed.</p>
28/09/2021	Local Resident	Noise Team referral	<p>Last night from around midnight until past 5am there was loud music coming from the Cool Cozy Pub at 156 Wells Way. There were also loud people outside on the street fighting and causing disturbance. I have a small</p>

Date	Complainant	Complaint sent to / referred from	Details
			child and this ongoing issue with noise is causing much distress.
28/09/2021	Local Resident	Noise Team referral	<p>The Flying Dutchman is, as every weekend playing extremely loud music and allow guests to shout scream and argue in the garden. His guests are also parked all over Southampton Way on double yellow and a lot of people are having small pre parties in their cars drinking, smoking weed, and shouting while littering and urinating on our houses. Southwark Council should be ashamed of themselves to let this bully XXXXXXXX continue behaving like this.</p> <p>My number is XXXXXXXXXXXX.</p>
11/10/2021	Local Resident	SASBU referral	<p>The Flying Dutchman are playing loud music and there are fights and screams in their beer garden. Cars are parked all over Southampton Way and people are littering using drugs and driving under the influence. ON A SUNDAY NIGHT (and Monday morning). How can the council allow this to happen??? It's 2 o'clock in the morning on a Monday.</p> <p>We are scared someone will get hurt and that our property will be destroyed.</p>
17/10/2021	Local Resident	SASBU referral	<p>Women being shouted at and threatened by several men. Fighting.</p> <p>Drunk driving. Loud music. Street littering. Community unsafe.</p>
17/01/2022	Local Resident	Licensing	<p>The venue was closed down last week due to pest issues.</p> <p>We saw rats running around the area just this evening and it has reopened even if the pest issue has not been resolved.</p> <p>People are (once again) arguing in the garden. There is loud music being played and the street has been closed off with traffic cones. People have been seen loudly arguing in the street.</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>This is an absolute outrage and frankly disgusting considering the amount of rats. We are extremely worried about or family's health and safety. We have a new born and now have to worry about both intoxicated people, unacceptable noise volumes (at 05:30 in the morning) and unsanitary conditions.</p>
22/02/2022	Local Resident	Environmental Customer Services, copied to Licensing	<p>Thank you for your email.</p> <p>I just received a very unsatisfactory call from one of your colleagues. The noise problem I was reporting is consistent and unrelenting.</p> <p>It is centred around the premises of 156 wells way, aka the 'cool and cosy lounge' aka the 'Flying Dutchman'.</p> <p>Every single weekend there is considerable noise between the hours of 3-4am and 5.30-6am. While the noise does not come directly from the premises it is entirely caused by its 6am licence.</p> <p>I was advised by your colleague that as this was the case and it had not been witnessed there was to be no further action at this time.</p> <p>I was also advised to call when the disturbance was happening. I have done this many times, having called the noise team when the number was operational at around 3am. Generally I would receive a call back at 4, and someone would attend just after then, when everyone was in the club and there was no disturbance outside.</p> <p>Subsequently, as always, just after 5am everyone would start to leave and the considerable disturbance would resume.</p> <p>I understand this is predominately a licensing issue but the problem is the</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>noise and the antisocial behaviour from the guests, hence I have started the process of resolving it with yourselves.</p> <p>I believe I have cc'd this to the relevant department if, as I was advised by your colleague, as there was nothing you can do.</p> <p>Myself and my wife have to get up at 9-10am every Saturday and Sunday for work and this consistent disruption to our sleep, on a residential road is both unacceptable and incredibly distressing.</p> <p>We're not the only one to be affected!</p> <p>Yours sincerely</p>
23/06/2022	Local Resident	Complaint to local MP referred to Licensing	<p>Dear Harriet,</p> <p>I'm sad to be writing to you again on the same topic over 2 years since the last time. A lot has changed over that time but there are also things that have not.</p> <p>The issues we were having with the Flying Dutchman / Cool & Cozzy across the road from our house really improved after your help back in 2019 and then lay dormant through the pandemic but are unfortunately now back and as bad as ever.</p> <p>To recap I live at XX Wells Way which is a lovely residential street in Camberwell. I now have X children...</p> <p>The reason for my emails is that the Flying Dutchman or Cool & Cozzy as it has now been branded has somehow over the years obtained a completely inappropriate alcohol licence that is totally at odds with it's completely residential location. I believe it's the only standing 6am licence in the whole of Southwark and it's a venue which is totally surrounded by houses full of</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>young families. In it's previous guise of the Flying Dutchman pre-2018, the venue was used as an events venue and would cause a disturbance once every couple of months. Nobody really minded that and we all got on with it. Now their patrons wake up everybody this end of the street from 3-6am every Friday and Saturday night. They routinely park all the way along the double yellow lines near the venue and shout, fight, and slam car doors every Friday and Saturday.</p> <p>The long and short of it is that this venue has somehow been given the wrong alcohol licence and it's negatively impacting a significant number of local residents. This is totally not the right location for Southwark's only 6am nightclub.</p> <p>Could you look into this again for us and help us please? Somehow we need this licence to be reviewed and changed to 11pm as would be appropriate for its location.</p> <p>Now it's time for me to get ready to take my sons to football training after the standard 3-6am wake up this morning.</p> <p>Anything you could do to help would be very much appreciated as your help was back in 2019.</p> <p>Regards,</p>
20/09/2022	Local Resident	Licensing	SASBU (ASB): Large verbal fight in the venues garden that has been going on for hours. Extremely loud music and litter all over the street. No indication that this will stop.
22/09/2022	Local Resident	Police referral	<p>Good Afternoon,</p> <p>I am writing to complain about the poor running of Cool & Cozy Lounge, 156 Wells Way, SE5 7SY. This ineffective management has resulted in a customer suffering a GBH assault on</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>18th September 2022 where he was hit by a bottle of drink causing a gash to the head.</p> <p>This customer had been out drinking with a female friend elsewhere & they then came to Cool & Cozy. When they were about to leave at 05:00, an argument over the ownership of jacket ignited between the victim & his female friend. This female struck the victim over the head with a bottle, causing a deep gash to his head around 2 inches long that required hospital treatment. The victim called 999. Police & LAS attended. Crime report XXXXXXXX/XX & CAD XXXX refer.</p> <p>DPS Francis Kpandeh told police that the victim was drunk when he arrived & been trying to eat food off other people's tables when he stepped in to try & give him some water to sober him up. Despite this, the victim & his friend were allowed to continue dancing & drinking. The crime report states "Staff were disgruntled that the victim called police, so when police were on scene staff were reluctant to give their details as well as incident information."</p> <p>The area where the assault took place was covered bottles, glass, liquid & tissues, so no opportunity for any forensic evidence to be secured.</p> <p>According to the victim, his friend he arrived with is called "XXXX" & she has been she is a regular at the this venue for a long time.</p> <p>Staff were also asked for further details on RUGI. They confirmed she was a regular but they would not provide any details. She left immediately after assault.</p> <p>CCTV was checked. It was found not to cover the location where the assault happened & was of poor quality.</p>

Date	Complainant	Complaint sent to / referred from	Details
			<p>In summary, this venue has completely failed to meet the licensing objectives of prevention of Prevention Of Crime & Disorder and Public Safety for the following reasons –</p> <ul style="list-style-type: none"> • They permitted drunk victim & suspect into the venue. • They served alcohol to the drunk victim & suspect. • Once the assault took place, they did not attempt detain the suspect & she was permitted to leave (despite having SIA door staff). • They did not provide any first aid to the victim. • They did not contact police or ambulance after the assault. • Further to this, the victim informed police that staff were actually telling him & putting him under pressure not to contact police. • Staff were unhelpful & obstructive towards police. Despite the fact that suspect XXXX is a regular there, they were not willing provide any details for her, plus the SIA door staff initially refused to provide his details to police until he was reminded that he is obliged to share these details with us. • The CCTV at the venue, which is a requirement on their license is of poor quality. • By permitting entry & serving alcohol to two drunk people, they have created the situation for violence to occur. Once the assault happened, DPS Francis & other staff there have shown no regard for the welfare of the victim, placed the victim under duress to not contact police & been obstructive towards police. Their only concern was for the potential implications the GBH may have on their license.

Date	Complainant	Complaint sent to / referred from	Details
			<p>Very poor indeed.</p> <p>Regards,</p> <p>PC Ross Kennedy 2222AS Night Time Economy Team</p>
29/11/2022	Local Resident	Licensing	Complaint of a verbal altercation with the Manager, Francis. Ongoing issues with noise.

Premises licence

35. The premises does not currently have a premises licence.

Licensing visit history

36. A licensing officer conducted a programmed inspection at the premises on 5 February 2019 to check on compliance and the premises was found to be operating in full compliance with the terms and conditions of the premises licence.

37. A licensing officer conducted a programmed inspection at the premises on 20 October 2019 at 23:05 hours. The officer witnessed 4 breaches of the premises licence conditions and a warning letter was sent to Francis Kpandeh the DPS.

38. Copies of the warning letter and compliance letter are attached as Appendix G

The local area

39. A map showing the location of the premises is attached as Appendix F. The following licensed premises are within the locality of the premises (100m):

Cool and Cozy Restaurant, Ground floor and basement, 101 Southampton Way, London, SE5 7SX licensed for:

- The sale by retail of alcohol to be consumed on the premises:
 - Monday to Thursday: 10:00 to 23:00
 - Friday and Saturday: 10:00 to 00:00 (midnight)
 - Sunday: 11:00 to 23:00
- The provision of late night refreshment (indoors)
 - Monday to Sunday: 23:00 to 00:00

N.B. The licence holder is Cool and Cozy Restaurant Limited and Francis Kpanideh is the DPS. The premises licence issued in respect of this premises is currently suspended due to non-payment of annual licence fees.

Policy considerations

40. Section 4 of the Southwark statement of licensing policy on “administration, exercise and delegation of function” deals with the parameters under which TENs may be considered.

Consideration by the sub-committee

41. The sub-committee is asked to consider whether the issue of a counter notice is necessary for the promotion of the prevention of public nuisance and protection of public safety licensing objectives.

Community impact statement

42. Members are advised that under the Act, the matters to which consideration may be given in this instance are the crime and disorder and public nuisance objectives.
43. In considering the TENs in terms of community impact the sub-committee must restrict its considerations to this matter.

Climate change implications

44. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
45. Climate change is not a legal factor in the consideration of a grant of a premises license under the current licensing objectives, however members can make enquiries and request an agreement from applicants to promote the reduction of the impact of climate change that may be caused by the operation of the premises.
46. Examples of such agreements may be:
- Not use single use plastics, such as disposable plastic glasses, when selling alcohol at the premises.
 - Encourage patrons not to drive to venues by providing details of public transport on their webpages/tickets.
47. The council’s climate change strategy is available at:

<https://www.southwark.gov.uk/assets/attach/48607/Climate-Change-Strategy-July-2021-.pdf>

Community, equalities (including socio-economic) and health impacts

Community impact statement

48. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

Equalities (including socio-economic) impact statement

49. This report does not result in a policy decision and each application is required to be considered upon its own individual merits with all relevant matters taken into

account. In considering the recommendations of this report, due regard must be given to the public sector equality duty set out in section 149 of the Equality Act 2010. This requires the council to consider all individuals when carrying out its functions.

50. Importantly, the council must have due regard to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct; advance equality of opportunity and foster good relations between people who have protected characteristics and those who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The public sector equality duty also applies to marriage and civil partnership, but only in relation to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct.
51. The equalities impact statement for licensing decisions is contained within the Southwark statement of licensing Policy 2021 – 2026 at:

<https://www.southwark.gov.uk/business/licences/business-premises/licensing/licensing-and-gambling-act-policy>.

52. The equalities impact assessment is available at:

<https://moderngov.southwark.gov.uk/documents/s92016/Appendix%20F%20-%20Equalities%20Impact%20Assessment.pdf>

Health impact statement

53. Health impacts cannot be considered by law when making decisions under the Licensing Act 2003.

Resource implications

54. A fee of £21.00 has been paid by the applicant in respect of each TEN, this being the statutory fee payable.

Consultation

55. The Act provides for no consultations to take place other than the process outlined in this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Assistant Chief Executive – Governance and Assurance

56. The sub-committee is asked to determine the notification of this temporary event under Section 105 of the Licensing Act 2003 and to consider whether or not counter notice should be issued in the circumstance. It must only issue a counter notice if they believe the event would undermine the crime prevention objective set out in the Act
57. The principles which sub-committee members must apply are set out below.

Principles for making the determination

58. The general principle is that temporary event notices must be accepted unless a relevant objection is received from the police. This is subject to the proviso that the premises user has complied with regulations and submitted the notice within a prescribed time.
59. A relevant objection is that which:
- Is about the likely effect of the TEN on the promotion of the crime prevention of the licensing objectives
 - Is made by the metropolitan police
 - Has not been withdrawn
 - Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
60. If a relevant objection notice is received then the sub-committee must have regard to it in determining whether it is necessary for the promotion of the prevention of crime prevention and the prevention of public nuisance licensing objectives of the Licensing Act to:
- Issue a counter notice by adding to, omit, and/or alter the conditions of the licence or
 - Reject the whole or part of the application for TEN.

Conditions

61. The sub-committee may only attach conditions on the carrying on of permitted licensable activities on TENs where they premises is already in subject to a premises licence and the conditions are carried over from that premises licence. The sub-committee's function is to determine whether a counter notice should be issued

Reasons

62. The sub-committee must give reasons for its decision to issue or not to issue a counter notice.

Hearing procedures

63. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that:
- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the objection.
 - Members of the authority are free to ask any question of any party or other person appearing at the hearing.
 - The committee must allow the parties an equal maximum period of time in which to exercise their rights to:
 - Address the authority
 - If given permission by the committee, question any other party.

- In response to a point which the authority has given notice it will require clarification, give further information in support of their submission.
 - The committee shall disregard any information given by a party which is not relevant:
 - To the particular submission before the committee
 - To the licensing objectives prevention of crime and disorder.
 - The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
 - In considering the objection and notice the authority may take into account documentary or other information produced by a party in support of their objection or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
64. This matter relates to the determination of a notification for a temporary event notice under section 105 of the Licensing Act 2003. Regulation 26(1) (c) requires the sub-committee to make its determination at the conclusion of the hearing.
65. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.
66. As a quasi-judicial body the licensing sub-committee is required to consider the temporary event notice on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The licensing sub-committee must give fair consideration to the contentions of the police objection.
67. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.
68. Under the Human Rights Act 1998, the sub committee needs to consider the balance between the rights of the applicant and those making the objection to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.
69. Where the relevant counter notice under section 105(3) is given the premises user may appeal against that decision. Where a counter notice is not given, the chief officer of police may appeal against that decision. The appeal must be made to the

Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against. No appeal may be brought later than five working days before the day on which the event begins.

Guidance

70. Members are required to have regard to the Home Office revised guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

Strategic Director of Finance and Governance

71. The head of regulatory services has confirmed that the costs of this process over and above the application fee are borne by the service.

REASONS FOR URGENCY

72. The TENs process is time limited, and due to legislative time constraints it would not be possible to wait for a further meeting to be held to consider this report.

REASONS FOR LATENESS

73. Due to the time limited nature of TENs there was not sufficient time to prepare and clear the report in time for the main agenda dispatch.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office revised guidance Secondary Regulations Statement of Licensing Policy Various papers from the premises file.	Licensing Unit Hub 2 Third Floor 160 Tooley Street SE1 2TZ	Kirty Read (020 7525 5748)

APPENDICES

Name	Title
Appendix A	Temporary events notice
Appendix B	Environmental protection team objection to temporary event notice
Appendix C	Premises licence
Appendix D	Notice of decision from 13 October 2022
Appendix E	Application for a new premises licence
Appendix F	Notice of decision from 9 February 2023
Appendix G	Inspection letters
Appendix F	Map

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment, Neighbourhoods and Growth	
Report Author	Jamie Stubbs, Licensing Enforcement Officer	
Version	Final	
Dated	8 March 2023	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		10 March 2023

02/03/2023

Business - Temporary events notices

Ref No. 1986369

Before completing this notice, please read the guidance notes. You should keep a copy of the completed application for your records. After completing the form, it will automatically be forwarded to police and environmental health. If there is any representation then we will inform you of the outcome within the 3 day consultation period. You can view this information on our website.

The premises user must ensure either:

- 1) that a copy of the temporary event notice is prominently displayed at the premises, or
 - 2) that the temporary event notice is kept at the premises in the premises users' custody or in the custody of a person who is present and working at the premises you have nominated and, where the temporary event notice is in the custody of a person so nominated, ensure that a notice specifying the notice is held by a nominated person and the position held at the premises by that person is prominently displayed at the premises.
- A constable or authorised officer may require the premises user, or nominated person, to produce the temporary event notice for examination.

The premises user commits an offence if he fails, without reasonable excuse, to comply with any of the above instructions.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. Your name

Title	Mr
If other, Please state	
Surname	Kpandeh
First name(s)	Francis

2. Previous names (Please enter details of any previous names or maiden names)

Title	
If other, Please state	
Surname	
First name(s)	

3. Your date of birth

	██████████
--	------------

4. Your place of birth

	██████████
--	------------

5. National Insurance Number

	██████████
--	------------

6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box on the next page)

Address Line 1	██████
Address Line 2	██████████████
Town	██████
County	
Post code	██████

Note 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed "premises user". Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user. If you include an e-mail address in section 1(7) or 1(9), the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

7. Other contact details

Daytime	
Evening (optional)	
Mobile (optional)	██████████
Email	████████████████████

8. Alternative address for correspondence

Address Line 1	
Address Line 2	
Town	
County	
Post code	

9. Alternative contact details (if applicable)

Daytime	
Evening (optional)	
Mobile (optional)	
Email	

Please do not apply to us if your premises is not in Southwark. See link find local council
If your premises is not situated in Southwark then DO NOT proceed

Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)

Address Line 1	THE FLYING DUTCHMAN
----------------	---------------------

Address Line 2	156 WELLS WAY
Town	LONDON
County	
Post code	SE5 7SY

Ordnance Survey grid reference

--	--

If there is no recognised postcode or the location is a park, please enter details i.e name of park

Details (MUST be in Southwark)	
--------------------------------	--

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.

Premises licence number	
Club premises certificate number	

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)

--	--

Please describe the nature of the premises below. (Please read note 4) *

	Bar
--	-----

Please describe the nature of the event below. (Please read note 5)

	The sale of alcohol, the provision of late night refreshment and regulated entertainment to the public
--	--

If the event is situated in a park or in part of a larger premises, please upload the site location plans. Other documents such as risk assessments can also be uploaded here

Document 1	Plans.1.pdf
Document 2	
Document 3	
Document 4	
Document 5	

Note 2

For the purposes of the Licensing Act 2003, "premises" means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land.

If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- not to give a counter notice under section 105 of the Licensing Act 2003;
- the conditions apply to the licence or certificate; and
- the imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

Note 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

Note 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

Note 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers' market, a discotheque, the performance of a string quartet, a folk group or a rock band.

Please state the licensable activities that you intend to carry on at the premises (please tick next to the licensable activities you intend to carry on). (Please read note 6)

	<input type="checkbox"/> The sale by retail of alcohol <input type="checkbox"/> The provision of regulated entertainment (Please read note 7) <input type="checkbox"/> The provision of late night refreshment

Are you giving a late temporary event notice? (Please see note 8)

	<input type="checkbox"/> No
--	-----------------------------

Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)

Start date	17/03/2023
------------	------------

(DD/MM/YYYY)	
End date (DD/MM/YYYY)	18/03/2023

Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock e.g. 23:00). (Please read note 10)

	12:00-03:00
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Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11)

	300
--	-----

If the licensable activities will include the sale or supply of alcohol, please state whether these will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 12)

	On the premises only
--	----------------------

Note 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

Note 7

Regulated entertainment, subject to specified conditions and exemptions, includes:

- (a) a performance of a play;
- (b) an exhibition of a film;
- (c) an indoor sporting event;
- (d) a boxing or wrestling entertainment;
- (e) a performance of live music;
- (f) any playing of recorded music;
- (g) a performance of dance;
- (h) entertainment of a similar description to that falling within (e), (f) or (g).

In terms of specific regulated entertainments please note that:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell

alcohol for consumption on those premises, provided that the audience does not exceed 500.

o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.

o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

• Recorded Music: no licence permission is required for:

o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

• Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:

o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;

o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and

o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

Note 8

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised.

The number of late notices that can be given in any one calendar year is limited to 5 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

Note 9

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Note 10

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

Note 11

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise you. The maximum figure of 499 does not just include the audience, spectators or consumers and includes, for example, staff, organisers, stewards and performers who will be present on the premises.

Note 12

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice

that he/she intends to carry on both types of supplies. For this purpose the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Do you currently hold a valid personal licence?

	Yes
--	-----

If "Yes" please provide the details of your personal licence below.

Issuing licensing authority	London Borough of Southwark
Licence number	██████
Date of issue	██████
Any further relevant details	

Note 14

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?

	Yes
--	-----

If answering yes, please state the number of temporary event notices (including the number of late temporary events notices, if any) you have given for events in that same calendar year

	5
--	---

Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hrs or less before; or b) begins 24 hrs or less after the event period proposed in this notice?

a) ends 24 hrs or less before	No
b) begins 24 hrs or less after	No

Note 15

As stated under Note 14, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 10 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1st January to 31st December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices. However, only one notice needs to be given. The limits are:

for event periods occurring wholly or partly in 2022 or 2023, up to 20 times in the calendar year for each

premises

for other event periods, 15 times in a calendar year for each premises

for event periods (or any part of a period) occurring in 2022 or 2023, 26 days in the calendar year for each premises

for other event periods, 21 days in a calendar year for each premises
 50 per personal licence holder each calendar year; and
 5 for non-holders each calendar year.

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. Note 16 below sets out the definition of an “associate”.

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they had been given by the premises user. Note 16 below sets out the definition of an “associate”.

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

	No
--	----

If answering yes, please state the total number of temporary event notices (including the number of late temporary events notices, if any) your associate(s) have given for events in the same calendar year

--	--

Has any associate of yours already given a temporary event notice for the same premises in which the event period:

a) ends 24 hours or less before; or	No
b) begins 24 hours or less after	No

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

	No
--	----

If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.

--	--

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:

a) ends 24 hours or less before; or	No
b) begins 24 hours or less after	No

Note 16

An “associate” of the proposed premises user is:

- a. the spouse of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;
- c. an agent or employee of that person; or
- d. the spouse of a person within (b) or (c).

For these purposes, a person living with another as that person’s husband or wife is to be treated as that person’s spouse.

I shall

	If the premises are situated in one or more licensing authority areas, send at least one copy of this notice to each additional licensing authority If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police If the premises are situated in one or more local authority areas, send a copy of this notice to each additional local authority exercising environmental health functions
--	--

Note 17

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (not including the date that the form is submitted and the date of the Event) (or five working days for a late notice) (not including the date that the form is submitted and the date of the Event)before the commencement of the proposed licensable activities.

The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary.

Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the second police force and local authority exercising environmental health functions.

The information contained in this form is correct to the best of my knowledge and belief.

I understand that it is an offence:

- (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and
- (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months,

or to both

I agree to the above statement

	I agree
PaymentDescription	THE FLYING DUTCHMAN, 156 WELLS WAY, SE5 7SY
PaymentAmountInMinorUnits	2100
AuthCode	██████
LicenceReference	██████████
PaymentContactEmail	████████████████████

Note 17

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement). To do so could result in prosecution and a fine not exceeding level 5 on the standard scale.

The information you provide will be used fairly and lawfully and Southwark Council will not knowingly do anything which may lead to a breach of the Data Protection Act 1998.

From: [Regen, Licensing](#)
To:
Cc: [Stubbs, Jamie](#)
Subject: FW: Temporary Event Notice (TEN) for Cool and Cozzy "The Flying Dutchman", 156 Wells Way, London SE5 7SY our ref 994957
Date: 07 March 2023 10:43:36
Attachments: [image001.png](#)
[image002.png](#)

From: Binya, Raymond <Raymond.Binya@southwark.gov.uk>
Sent: Tuesday, March 7, 2023 10:27 AM
To: Regen, Licensing <Licensing.Regen@southwark.gov.uk>
Cc: [REDACTED]
Subject: RE: Temporary Event Notice (TEN) for Cool and Cozzy "The Flying Dutchman", 156 Wells Way, London SE5 7SY our ref 994957

Dear Licensing Team,

RE: Temporary Event Notice for 17/3/2023 (1200) to 18/3/2023 (0300) for maximum of 300 people

I wish to make a representation on behalf of Southwark Environmental Protection Team (EPT) in our capacity as Environmental Health Responsible Authority on the above TEN.

Event is described as "The sale of alcohol, the provision of late night refreshment and regulated entertainment to the public".

There is a historical record of issues around this premises that had led for its licence to be revoked. Further to that, more recent complaints and issues as result of holding temporary events have been reported. These issues were mainly from rowdy behaviour following what appears to be a patron mismanagement from Cool and Cozzy "The Flying Dutchman".

It is my opinion that this event is likely to lead to public nuisance and as there is no evidence show that there have been any changes to improve current situation. Therefore, on behalf of EPT, I object the above application on the grounds of the likely effect of the sought Notice if granted, on the promotion of the 'prevention of public nuisance' licensing objective

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



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Download the mobile phone app from: <http://walkit.com/walk/?city=london> .

Southwark Website - information on what you can do to improve air quality. See:

<http://www.southwark.gov.uk/environment/air-quality>

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Licensing Act 2003

Premises Licence



Regulatory Services
Licensing Unit
Hub 1, 3rd Floor
PO Box 64529
London, SE1P 5LX

Premises licence number

875973

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Cool and Cozy Lounge The Flying Dutchman 156 Wells Way Ordnance survey map reference (if applicable): 533046177249	
Post town: London	Post code: SE5 7SY
Telephone number	

Licensable activities authorised by the licence

Films - Indoors
Indoor Sporting Event
Live Music - Indoors
Recorded Music - Indoors
Late Night Refreshment - Indoors
Sale by retail of alcohol to be consumed on premises
Sale by retail of alcohol to be consumed off premises

The opening hours of the premises. For any non standard timings see Annex 2

Monday	10:00 - 00:30
Tuesday	10:00 - 00:30
Wednesday	10:00 - 00:30
Thursday	10:00 - 00:30
Friday	10:00 - 06:30
Saturday	10:00 - 06:30
Sunday	11:00 - 01:30

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

Sale by retail of alcohol to be consumed on premises
Sale by retail of alcohol to be consumed off premises

The times the licence authorises the carrying out of licensable activities

For any non standard timings see Annex 2 of the full premises licence

Films - Indoors

Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 06:00
Saturday	10:00 - 06:00
Sunday	11:00 - 01:00

Indoor Sporting Event

Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 06:00
Saturday	10:00 - 06:00
Sunday	11:00 - 01:00

Live Music - Indoors

Monday	10:00 - 23:30
Tuesday	10:00 - 23:30
Wednesday	10:00 - 23:30
Thursday	10:00 - 23:30
Friday	10:00 - 06:00
Saturday	10:00 - 06:00
Sunday	11:00 - 01:00

Recorded Music - Indoors

Monday	10:00 - 23:30
Tuesday	10:00 - 23:30
Wednesday	10:00 - 23:30
Thursday	10:00 - 23:30
Friday	10:00 - 06:00
Saturday	10:00 - 06:00
Sunday	11:00 - 01:00

Late Night Refreshment - Indoors

Monday	23:00 - 00:00
Tuesday	23:00 - 00:00
Wednesday	23:00 - 00:00
Thursday	23:00 - 00:00
Friday	23:00 - 05:00
Saturday	23:00 - 05:00
Sunday	23:00 - 01:00

Sale by retail of alcohol to be consumed on premises

Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 06:00
Saturday	10:00 - 06:00
Sunday	11:00 - 01:00

Sale by retail of alcohol to be consumed off premises

Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 06:00
Saturday	10:00 - 06:00
Sunday	11:00 - 01:00

Part 2**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

FDN Arts & Events Limited
 Flat 9 Woolford Court
 100 Coldharbour Lane
 London
 SE5 9PU

Registered number of holder, for example company number, charity number (where applicable)

13723920

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Francis Kpandeh
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence No.: [REDACTED]
 Authority.: LB Southwark

Licence Issue date: 11/11/2021

[REDACTED]
 Head of Regulatory Services
 Hub 1, 3rd Floor
 PO Box 64529
 London, SE1P 5LX
 020 7525 5748
 licensing@southwark.gov.uk

Annex 1 - Mandatory conditions

100 No supply of alcohol may be made under the Premises Licence -

- a. At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
- b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

101 Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.

102 The admission of children to films given under this licence must be restricted in accordance with the recommendations of the British Board of Film Classification or of the licensing authority itself.

485 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require, encourage, individuals to –

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional poster or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; and

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

487 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

488 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or

such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either

- (a) a holographic mark; or
- (b) an ultraviolet feature

489 The responsible person shall ensure that -

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) Beer or cider: 1/2 pint;
- (ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) Still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available,

491 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purpose of the condition set out in paragraph (1):

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where-

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence;
- (ii) the designated premises supervisor (if any) in respect of such a licence; or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (iv) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(v) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 on a day

("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax;

(2) the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the operating Schedule

109 Alcohol shall not be sold or supplied except during permitted hours: as stated elsewhere on this licence and on

a. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

The above restrictions do not prohibit;

i) Consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

ii) The sale of alcohol to a trader or club for the purposes of the trade or club;

iii) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

iv) The taking of alcohol from the premises by a person residing there; or

v) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by the persons so supplied; or

vi) The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the alcohol is supplied at the expense of their employer or the person carrying on, or in charge of, the business on the premises

110 No statutory regulations for music and dancing shall apply so as to require any licence for the provision in the premises of public entertainment by the reproduction of wireless (including television) broadcasts or of programmes included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service, or of public entertainment by way of music and singing only which is produced solely by the reproduction of recorded sound is permitted.

111 This licence provides for the provision of private music and dancing entertainment that is promoted for private gain;

112 This licence allows for the premises to remain open for non standard timings as stated on the days and hours stated below. 10:00 to 01:30 the following day on Christmas Eve, Christmas Day, Boxing Day, 27 December and 31 December 10.00 - 2 Jan 01.30

113 This licence allows for the premises to remain open for the sale or supply of alcohol for non standard timings as stated below. 10:00 to 01:00 the following day on Christmas Eve, Christmas Day, Boxing Day, 27 December and 31 December 10.00 - 2 Jan 01.00

114 This licence allows for the premises to extend the following licensable activities for non standard timings as stated below on the following days: Provision of regulated entertainment Films, Indoor Sporting Events, Live Music, Recorded Music, Provision of Entertainment Facilities, Making Music, Dancing and Late Night Refreshment 10:00 to 01:00 the following day on Christmas Eve, Christmas Day, Boxing Day, 27 December and 31 December 10.00 - 2 Jan 01.00

180 a. The premises shall be effectively ventilated to prevent public nuisance

255 a. Fire extinguishers and equipment as approved by the Council shall be efficiently maintained in satisfactory working order and kept available for instant use. They shall be in the charge of a suitable person specially nominated for the purpose.

b. Portable fire extinguishers shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an antifreeze agent shall be examined and recharged in compliance with manufacturer's instructions.

All testing of fire extinguishers and equipment shall be at the expense of the licensee.

288 That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing an image of every person who enters the premises.

289 That all CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to Officers of the Police and the Council

293 All staff shall be trained to observe the measures necessary to promote the crime and disorder objective and a record of the dates and names of the staff trained kept

296 Only responsible drinks promotions will be allowed at the premises.

298 That suitable notices shall be displayed stating "No Drugs". A zero tolerance policy towards illegal drugs will operate at all times.

302 The premises will operate in accordance with the Metropolitan Police Best Practice Guide on the handling of drugs in pubs and club and operate in accordance with all relevant legislation i.e the S.182 Guidance regarding the aims and objectives of the licensing laws

308 There shall be no new entry or re-entry to the premises after 02.30hrs

311 That notices shall be displayed and announcements made requesting that customers leave the premises in a quiet and orderly manner

316 That all collections, deliveries, waste handling and cleaning of external areas shall take place between the hours of 08.00hrs and 20.00hrs

323 That the management make regular checks to ensure that any noise from the licensable activities provided do not cause nuisance to the local neighbourhood

326 That all appropriate staff shall be trained in the age identification scheme required at the premises and records of training shall be kept and made available for inspection by authorised officers of the Council

334 That an age identification scheme shall be established and maintained. The scheme shall Require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol

336 That a Personal Licence holder is on the premises and on duty at all times after 20.00hrs that intoxicating liquor is supplied when the terminal hour of the premises is after 01.00hrs.

340 The premises will liaise and cooperate with the police and participate in any Pub Watch or other equivalent scheme

341 No person under 18 shall be admitted to any part of the premises where adult entertainment is provided

342 Any restrictions on the admission of children will be displayed outside the premises or relevant part thereof

343 That staff will be trained to observe the measures necessary to promote the public nuisance

344 That licensed entertainment, both amplified and acoustic, shall only take place inside the premises. No parts of the exterior shall be used for the purposes of entertainment.

345 That loud instruments (for example brass, drums, etc.) are required to be muted or muffled when being played.

346 That before the premises license can take effect with regard to amplified music, all speakers used within the premises shall be isolated from the structure of the building by either rubber matting or anti - vibration hangers.

347 That before the premises license can take effect with regard to amplified music, a working compressor type sound limiting device, or speaker protection system that will permit maximum volume and bass levels to be set, shall be fitted to the in-house sound amplification equipment. The maximum bass and volume levels shall be set by the applicant's sound engineer in conjunction with EP Team officers

348 That the sound limiter installation and its maximum volumes/set levels shall be maintained thereafter.

349 That every solo performer or the leader of every band or ensemble performing at the venue shall provide written guarantee that they and their musicians will obey instructions from the Designated Premises Supervisor regarding the overall volume level and the volume level of individual instruments. The same guarantee shall be provided by any sound engineer working at the venue. All documentation pertaining to this condition shall be kept on the premises and available to Officers of the Council or the Police to inspect on request.

350 That all openings in the building fabric such as doors, windows and vents shall be closed during licensed entertainment except for access and egress.

351 That before the premises license can take effect with regard to amplified music details of an internal ventilation/cooling system for the premises shall be submitted for approval by the EP Team. The licensee shall then undertake the approved works within 6 months of the commencement of the license. (note - free standing air conditioning units will be acceptable whilst the license is only for 2 days a week - if the premises wished to go to a 7 day a week license then a permanent ventilation system would be required).

352 Arrangements will be made for the storage and disposal of refuse which do not cause a nuisance and removals of waste shall not take place between the hours of 0000 and 0700 hours

353 That there shall be no movement of musical or performance equipment, other than those that are had held and easily managed by one person, to or from the premises between the hours of midnight and 8am.

354 That all exit doors for patrons will be fitted with clearly legible, noticeable signs requesting that patrons leave quietly and be aware the nature of the area is residential.

355 That all staff are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Officers of the Police and the Council

356 That suitable notices shall be displayed requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents

357 Customers shall not use any area at the front of the premises after 22.30.

358 A minimum of 1 SIA door supervisor shall be employed at the premises, or such other number as may be specified by an authorised officer of the Metropolitan Police, Friday and Saturday after 22.00hrs until the Terminal hour when the premises are in use under the licence.

359 When no SIA door supervisors are employed after 22.00hrs on Friday and Saturday at the premises members of the public shall not be permitted on the premises for the purpose of licensable activities after 01:00.

360 That there shall be no movement of musical or amplification equipment from the premises between the hours of 12.00 midnight and 8.00 am.

Annex 3 - Conditions attached after a hearing by the licensing authority

Annex 4 - Plans - Attached

Licence No. 875973

Plan No. 071

Plan Date May 2005



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 13 OCTOBER 2022

SECTION 51 LICENSING ACT 2003: COOL & COZZY LOUNGE, THE FLYING DUTCHMAN, 156 WELLS WAY, LONDON SE5 7SY

1. Decision

That the council's licensing sub-committee, having considered an application made under Section 51 of the Licensing Act 2003 submitted by an other person for the review of the premises licence issued in respect of Cool & Cozzy Lounge, The Flying Dutchman, 156 Wells Way, London SE5 7SY and having had regard to all relevant representations has decided to revoke the premises licence.

2. Reasons

This was an application made by an other under Section 51 Licensing Act 2003 for the review of the premises licence in respect of Cool & Cozzy Lounge, The Flying Dutchman, 156 Wells Way, London SE5 7SY.

The representative for the premises noted that the sole director for the premises licence holder and company was present at the sub-committee meeting. All dealings that the representative had were with the designated premises supervisor (DPS) and it was his understanding that the DPS and director were one and the same and sought confirmation from the director that they were content to be represented by him. This was confirmed.

The applicant for the review advised the sub-committee that the premises was located on Wells Way, Camberwell which was in a very residential area. The applicant's family had moved there three years previously. Prior to that, the applicant had lived on Electric Avenue, Brixton and despite this, had not experienced anything like the anti-social behaviour and licensing breaches that they had with Cool and Cozzy.

They advised that the problems with the premises had resulted in sleep disruption which was worst between 02:00 to 07:00 hours at the weekends. The incidents occurred primarily at weekends and that it was unusual to occur during the week. The problems had intensified since 2019.

The applicant stated that there had been extensive criminal and licensing violations all of which had been reported to the responsible authorities. The applicant's family had experienced drink driving, physical fights and illegal parking outside their home. There had also been public intoxication, extreme levels of noise, especially outside but also coming from inside the premises after closing hours. The Applicant had witnessed people urinating and vomiting outside of their home. There had also been reoccurring

pest infestations as a result of food being left out outside of the premises and the premises dustbins overflowing. Patrons were regularly in the premises garden, screaming and engaging in verbal and physical fights.

Large amounts of broken glass were regularly left by the premises on the pavement which had caused injuries to the family dog, requiring veterinary treatment. The applicant was also threatened by a patron of the premises who came to the applicant's front door screaming, with a knife. The individual kicked the applicant's front door so badly, it had to be replaced.

The applicant informed the sub-committee that the regular disturbances were extremely stressful. Reference was also made to the premises operating throughout the pandemic. The DPS, had been spoken to and was apologetic, but the problems always continued. The DPS had shown that he either had a lack of capacity or sound judgment to manage the premises. The DPS arranged a meet to discuss the noise level, but it felt that this was little too little, too late. The applicant requested that members revoke the premises licence.

The Chair of the licensing sub-committee noted that the premises had been transferred to an arts company, but the Applicant stated they had seen no evidence of this. The premises only appeared to operate as a nightclub.

The applicant advised that they had a Ring camera at their front door and all incidents had been captured on it, which were then duly sent to the police and the council. It was explained to the applicant that only trading standards had submitted a representation from all the responsible authorities. It was also advised that unless the applicant had submitted the evidence as part of their review application in advance of the hearing, the sub-committee would not be able to take the evidence into account.

The licensing sub-committee then heard from the trading Standards officer who stated that the ownership of the business was FDN Arts and Events Limited, who was the landlord to the premises and that DPS had been running the business before 2019. FDN Arts and Events maintained their position as premises licence holder, meaning they specified who could run the own business. The premises licence holder (director) interrupted and stated that they were not responsible for how the DPS ran the business.

The representative for trading standards advised that during the COVID pandemic, he had attended the premises with the police on numerous occasions during the lockdown and the premises was always locked and in darkness. It was compliant with the restrictions and closures imposed by the Coronavirus Regulations. Any suggestion that the premises were open, was untrue. Trading standards had been directed to attend the premises due to the extent of complaints received by the council. When the restrictions were being lifted, the premises were open and the DPS had demonstrated compliance with the COVID regulations and guidance.

When the review application had been submitted, the officer stated he had attended the premises and whilst initially there were a number of conditions not complied with, this had vastly improved. The officer confirmed that he had not witnessed any of the things being complained about, nor had the police raised any concerns to him. Other

venues in the area, had caught the officer's attention more than the Cool & Cozy Lounge. The officer had witnessed patrons using the external area/garden but the SIA security appeared strict on patron order/disorder.

The licensing sub-committee heard from other person 9. Concerning the queues into the premises, they had witnessed up to 30 to 40 people queuing to get in and called the noise team five or six times. Patrons drinking in the queue/outside the premises was not a problem nor did they feel the glass issue raised by the applicant was a problem.

The primary problem was the external noise particularly from patrons. The premises was generally well soundproofed; there was some noise, but not an amount that justified a complaint. The SIA security were able to control the door and the immediate area, but it was areas beyond the immediate vicinity that was the main problem which the DPS had not satisfactorily addressed.

The problems were at their worst between 02:30-05:30 hours. Curbing the last entry to 00:00 hours would assist the local residents. Other person 9 also referred to Southwark's statement of licensing policy and highlighted that the premises was located in a residential area and the recommended closing time was 23:00 hours and that nightclubs were not considered appropriate for residential areas. Local residents had attempted to deal with the matter amicably with the DPS, but there had been no improvements, hence the review application. It was felt that no additional conditions would alleviate situation.

It was pointed out that the recommended closing hours were introduced by council assembly after the variation of the premises licence in 2015.

The licensing sub-committee then heard from other persons 11 and 12. Other person 11 stated that FDL Arts and Events Limited was the premises licence holder and that they were the sole director of it. Person 11 was previously the DPS and ran the premises, before the current DPS. The premises was previously an arts venue between Monday and Friday, renting space to local students to show/perform their arts. At weekends, there were DJs playing until 06:00 hours. There were stringent rules as to how the premises operated at the weekends, which caused the least amount of nuisance to the neighbourhood. A lease had been signed with the DPS application. The rules as to how the premises ran (including at the weekends) were then passed to the DPS.

Since the DPS variation in 2019, there had been regular complaints of loud music and patrons not being managed well. Other person 11 stated they personally felt very disappointed with how the venue had been run and the amount of complaints that they had received from the local community. Other person 11 stated that they regretted appointing the DPS. Measures could have been put in place by the DPS to minimize any disturbance to the neighbours, but not implemented.

Person 11 stated they had no faith in the DPS. The DPS would neither implement nor comply with any conditions that the sub-committee imposed. They deeply regret appointing the DPS and being the premises license holder, were "absolutely not against the licence being revoked".

The representative for the DPS interjected and advised the sub-committee that he was likely to be conflicted in representing both the DPS and person 11 (as the premises licence holder) and requested a break to take instructions.

Following the brief adjournment the legal representative informed the sub-committee that it was not unusual in reviews applications to represent both the premises licence holder and a DPS. On this occasion however, there had been nothing in the agenda papers to indicate that other person 11 was in fact, the premises licence holder (or sole director of the company that was the premises licence holder).

The legal representative stated that due to a conflict, he was unable to assist the sub-committee. Further, because the DPS had not submitted a representation during the consultation period, he was not permitted to make verbal submissions in his own right to the sub-committee in respect of the review application. Regardless of Section 52(7) and Section 52(8) Licensing Act 2003, it was unclear why the premises licence holder failed to apply for a DPS variation.

The legal advisor to the sub-committee then asked the other person 11/premises licence holder to clarify that they were content for the premises licence to be revoked. This was confirmed. Other person 11/premises licence holder stated that the reason they had not removed the DPS was because they had a real fear of retaliation and wanted to go through the review process to ensure sure that the licence was revoked by the licensing sub-committee. To this, the legal advisor requested that the matter should go into a closed session to liaise with the members.

In hearing the evidence from the local residents, the members were initially of the view that the most appropriate course of action may have been to remove the DPS. However, in view of the other person/premises licence holder informing that sub-committee that they were content for the premises licence to be revoked, members concluded little would be gained in hearing any further action, particularly in light of the conflicting evidence from the applicant, trading standards and other person 9. However, the Chair of the sub-committee expressed extreme dissatisfaction with how the meeting had progressed.

Other person 11 was not just a resident, but the owner of the premises and the premises licence holder. Their representation made no reference to this at all. The representation was submitted in the name of EP, rather than their full legal name (held at Companies House).

The premises licence holder had the power to appoint and remove a DPS. Rather than administer the DPS' removal, they had allowed the local residents to endure the significant disturbance from the premises. The members did not accept other person 11/premises licence holder's belief that the removal of the DPS would result attract retaliation, given that they submitted a written representation and was happy to speak at a public sub-committee meeting.

It was apparent that the licensing review process was being exploited as a cheap alternative to terminating the business relationship and commercial lease through the civil courts. The licensing sub-committee unanimously felt that the matter should be

investigated further for potential criminal offences of Making a False Statement (Section 158 Licensing Act 2003) and/or Failing to Disclose Information (Section 3 Fraud Act 2006).

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.

3. Appeal rights

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application.

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

Issued by the Constitutional Team on behalf of the Director of Legal Services

Dated 21 October 2022

16/12/2022

Business - Application for a premises licence to be granted under the Licensing Act 2003

Ref No. 1941821

Name of Applicant

Please enter the name(s) who is applying for a premises licence under section 17 of the Licensing Act 2003 and am making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Cool & Cozy Restaurant Limited

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the

entertainment is provided by or on behalf of the health care provider;

o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and

o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).

4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

5. For example (but not exclusively), where the activity will occur on additional days during the summer months.

6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.

8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.

9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.

10. Please list here steps you will take to promote all four licensing objectives together.

11. The application form must be signed.

12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.

14. This is the address which we shall use to correspond with you about this application.

15. Entitlement to work/immigration status for individual applicants and applications

from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.

- A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A current Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A current Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, less than 6 months old, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a

European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.

- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.

- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
 - o evidence of the applicant's own identity – such as a passport,

 - o evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and

 - o evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,

 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,

 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or

 - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:

- (i) any page containing the holder's personal details including nationality;

- (ii) any page containing the holder's photograph;

- (iii) any page containing the holder's signature;

(iv) any page containing the date of expiry; and

(v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

Home Office online right to work checking service

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

Premises Details

Application for a premises licence to be granted under the Licensing Act 2003

Non-domestic rateable value of premises in order to see your rateable value [click here](#) (opens in new window)

£	8,200
	Band D and E only applies to premises which uses exclusively or primarily for the supply of alcohol for consumption on the premises

Premises trading name

	Cool & Cozy Lounge
--	--------------------

Postal address of premises or, if none, ordnance survey map reference or description

Do you have a Southwark postcode?	Yes
Address Line 1	THE FLYING DUTCHMAN
Address Line 2	156 WELLS WAY
Town	LONDON
Post code	SE5 7SY
Ordnance survey map reference	
Description of the location	Bar/ Nightclub
Telephone number	

Applicant Details

Please select whether you are applying for a premises licence as

	a person other than an individual (limited company, partnership etc)
--	--

If you are applying as an individual or non-individual please select one of the following:-

	I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
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Other Applicants

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name - First Entry

	Cool & Cozy Restaurant Limited
--	--------------------------------

Address - First Entry

Street number or building name	101
Street Description	Southampton Way
Town	London
County	
Post code	SE5 7SX
Registered number (where applicable)	09607267

Description of applicant (for example, partnership, company, unincorporated association etc)	Private Limited Company
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Contact Details - First Entry

Telephone number	[REDACTED]
Email address	[REDACTED]

Operating Schedule

When do you want the premises licence to start?

	14/01/2023
--	------------

If you wish the licence to be valid only for a limited period, when do you want it to end?

--	--

General description of premises (see guidance note 1)

	Bar/ Nightclub
--	----------------

If 5,000 or more people are expected to attend the premises at any one time please use the drop down below to select the number.

	Less than 5000
--	----------------

Note 1

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.

Operating Schedule part 2

What licensable activities do you intend to carry on from the premises?

	(Please see sections 1 and 14 of the Licensing Act 2003 and schedule 1 and 2 of the Licensing Act 2003)
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Provision of regulated entertainment (Please read guidance note 2)

	a) plays
	e) live music
	f) recorded music
	g) performance of dance

Provision of late night refreshment

	i) Late night refreshment
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Supply of alcohol

	j) Supply of alcohol
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In all cases please complete boxes K, L and M.

A - Plays

Will the performance of a play take place indoors or outdoors or both? (Please read guidance note 3)

	Indoors
--	---------

Please give further details here (Please read guidance note 4)

	-
--	---

Standard days and timings for Plays (Please read guidance note 7)

Day	Start	Finish
Mon	23:00	
	00:00	04:00
Tues	23:00	
	00:00	04:00
Wed	23:00	
	00:00	04:00
Thur	23:00	
	00:00	04:00
Fri	23:00	
	00:00	04:00
Sat	23:00	

	00:00	04:00
Sun	23:00	
	00:00	04:00

State any seasonal variations for performing plays (Please read guidance note 5)

--	--

Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed. (Please read guidance note 6)

	On Bank Holidays, licensable activities will be extended by 1 hour. From the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
--	---

3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.

E - Live Music

Will the performance of live music take place indoors or outdoors or both? (Please read guidance note 3)

	Indoors
--	---------

Please give further details here (Please read guidance note 4)

	-
--	---

Standard days and timings for Live Music (Please read guidance note 7)

Day	Start	Finish
Mon	23:00	
	00:00	04:00
Tues	23:00	
	00:00	04:00
Wed	23:00	
	00:00	04:00

Thur	23:00	
	00:00	04:00
Fri	23:00	
	00:00	04:00
Sat	23:00	
	00:00	04:00
Sun	23:00	
	00:00	04:00

State any seasonal variations for the performance of live music (Please read guidance note 5)

--	--

Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed. (Please read guidance note 6)

	On Bank Holidays, licensable activities will be extended by 1 hour. From the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
--	---

3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
4. For example the type of activity to be authorised, if not already stated, and give relevant further details.
5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.

F - Recorded Music

Will the playing of recorded music take place indoors or outdoors or both? (Please read guidance note 3)

	Indoors
--	---------

Please give further details here (Please read guidance note 4)

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Standard days and timings for Recorded Music (Please read guidance note 7)

Day	Start	Finish
Mon	23:00	
	00:00	04:00

Tues	23:00	
	00:00	04:00
Wed	23:00	
	00:00	04:00
Thur	23:00	
	00:00	04:00
Fri	23:00	
	00:00	04:00
Sat	23:00	
	00:00	04:00
Sun	23:00	
	00:00	04:00

State any seasonal variations for playing recorded music (Please read guidance note 5)

--	--

Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed. (Please read guidance note 6)

	<p>On Bank Holidays, licensable activities will be extended by 1 hour.</p> <p>From the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
--	--

3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.

G - Performances of Dance

Will the performances of dance take place indoors or outdoors or both? (Please read guidance note 3)

	Indoors
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Please give further details here (Please read guidance note 4)

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Standard days and timings for Performance of dance (Please read guidance note 7)

Day	Start	Finish
Mon	23:00	
	00:00	04:00
Tues	23:00	
	00:00	04:00
Wed	23:00	
	00:00	04:00
Thur	23:00	
	00:00	04:00
Fri	23:00	
	00:00	04:00
Sat	23:00	
	00:00	04:00
Sun	23:00	
	00:00	04:00

State any seasonal variations for the performance of dance (Please read guidance note 5)

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Non standard timings. Where you intend to use the premises for the performance of dance entertainment at different times to those listed. (Please read guidance note 6)

	<p>On Bank Holidays, licensable activities will be extended by 1 hour.</p> <p>From the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
--	--

3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.

I - Late Night Refreshment

Will the provision of late night refreshment take place indoors or outdoors or both? (Please read guidance note 3)

	Indoors
--	---------

Please give further details here (Please read guidance note 4)

	-
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Standard days & timings for Late night refreshment (Late night start time is from 23.00, see guidance notes 7)

Day	Start	Finish
Mon	23:00	
	00:00	04:00
Tues	23:00	
	00:00	04:00
Wed	23:00	
	00:00	04:00
Thur	23:00	
	00:00	04:00
Fri	23:00	
	00:00	04:00
Sat	23:00	
	00:00	04:00
Sun	23:00	
	00:00	04:00

State any seasonal variations for the provision of late night refreshment (Please read guidance note 5)

--	--

Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed. Please list, (Please read guidance note 6)

	<p>On Bank Holidays, licensable activities will be extended by 1 hour.</p> <p>From the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
--	--

3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 23:00) and only give details for the days of the week when you intend the premises to be used for the activity. Start time begins from 23:00

J - Supply of Alcohol

Will the supply of alcohol be for consumption (Please read guidance note 8)

	Both
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Standard days and timings for Supply of alcohol (Please read guidance note 7)

Day	Start	Finish
Mon	10:00	
	00:00	04:00
Tues	10:00	
	00:00	04:00
Wed	10:00	
	00:00	04:00
Thur	10:00	
	00:00	04:00
Fri	10:00	
	00:00	04:00
Sat	10:00	
	00:00	04:00
Sun	10:00	
	00:00	04:00

State any seasonal variations for the supply of alcohol (Please read guidance 5)

--	--

Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed. Please list, (Please read guidance note 6)

	<p>On Bank Holidays, licensable activities will be extended by 1 hour.</p> <p>From the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
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Please download and then upload the consent form completed by the designated proposed premises supervisor

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5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'.

If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.

Premises Supervisor

State the name and details of the individual whom you wish to specify on the licence as the designated premises supervisor (Please see declaration about the entitlement to work in the check list at the end of the form)

Full name of proposed designated premises supervisor

First names	Francis
Surname	Kpandeh

DOB

Date Of Birth	████████
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Address of proposed designated premises supervisor

Street number or Building name	████████
Street Description	████████████████
Town	██████
County	
Post code	████████

Personal licence number of proposed designated premises supervisor, if any,

Personal licence number (if known)	████████
Issuing authority (if known)	London Borough of Southwark

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (Please read guidance note 9)

	N/A
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9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.

L - Hours premises are open to public

- 5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
- 6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
- 7. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Hours premises are open to the public (standard timings Please read guidance note 7)

Day	Start	Finish
Mon	10:00	
	00:00	04:30
Tues	10:00	
	00:00	04:30
Wed	10:00	
	00:00	04:30
Thur	10:00	
	00:00	04:30
Fri	10:00	
	00:00	04:30
Sat	10:00	
	00:00	04:30
Sun	10:00	
	00:00	04:30

State any seasonal variations (Please read guidance note 5)

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Non standard timings. Where you intend to use the premises to be open to the public at different times from those listed. Please list, (Please read guidance note 6)

	<p>On Bank Holidays, opening times will be extended by 1 hour.</p> <p>From the end of the permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
--	--

M - Steps to promote four licencing objectives

a) General - all four licensing objectives (b,c,d,e) (Please read guidance note 10)

	<p>1. Training in relation to the promotion of the licensing objectives must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.</p> <p>2. Documented training records must be kept at the premises and made available to an officer of a responsible authority on request.</p>
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	<p>3. No persons carrying open, or sealed, vessels containing alcohol must be admitted to the premises at any time.</p> <p>4. No persons must be permitted to remove open vessels containing alcohol from the premises.</p>
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b) the prevention of crime and disorder

	<ol style="list-style-type: none"> 1. A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped. 2. The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed. 3. The system will record and retain CCTV footage for a minimum of 28 days 4. The system will record at all times when the premises are open. 5. The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer. 6. CCTV footage must be made available to be viewed by an officer of a responsible authority during an inspection of or visit to the Premises. 7. Upon receipt of a request for a copy of CCTV footage from any officer of a responsible authority, the premises will produce that footage within 24 hours. 8. CCTV system to be checked daily prior to the commencement of licensable activity. This check to be documented and signed by the person checking. This documentation to be made immediately available to any of the responsible authorities on request. 9. If the CCTV hard drive needs to be replaced then the old / previous hard drive will be kept on the premises for a minimum of 28 days and made immediately available to any of the responsible authorities on request. 10. An incident book must be kept at the Premises and maintained up to date (no later than 24 hours after the incident) at all times and will record the following: <ol style="list-style-type: none"> 11. Time date and details of all incidents/complaints of crime and disorder or anti-social behaviour 12. All crimes reported to the venue. 13. Any faults in the CCTV system, searching equipment or scanning equipment 14. Any visit by a responsible authority or emergency service 15. The incident book must be made available to officers of a responsible authority upon request or during an inspection 16. A refusals register must be kept at the Premises and maintained up to date at all times recording the date and time, type of product refused, reasons for every refusal to sell alcohol to a customer and the name and signature of member of staff refusing the sale. The refusals record must be made available to an officer of a responsible authority upon request.
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c) public safety

	<ol style="list-style-type: none"> 1. Premises to supply a risk assessment for all events held at premises. 28 days notice is required, unless otherwise agreed with Birmingham Central Licensing Team (West Midlands Police). 2. The Licence Holder must identify the requirement for Door Staff at all times by way of a written risk assessment. The written risk assessment must remain on the premises for a minimum of twelve months and be produced to any responsible authority on
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	<p>immediate request.</p> <p>3. The Licence Holder shall ensure that any door staff employed at the premises wear and clearly display their SIA registration badge at all times whilst on duty. A record shall be maintained containing the names, addresses, dates of birth and registration numbers of door supervisors. The record shall be made available for inspection upon request by the Police and/or officers of the responsible authorities.</p> <p>4. The Licence Holder shall ensure that all emergency lighting is checked on a weekly basis. Entrances, exits and passageways shall be kept clear. The premises' Fire Risk Assessment will be made available to any officer of a responsible authority upon request.</p> <p>5. The Licence Holder shall ensure that the maximum number of persons on the premises at any one time shall not exceed the number agreed with West Midlands Fire Service.</p>
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d) the prevention of public nuisance

	<ol style="list-style-type: none"> 1. Refuse shall not be collected from any external bins between 11pm and 7am. 2. Signs shall be placed at all exits asking customers to respect the needs of local residents and requesting that they leave the premises quietly. 3. The premises shall have an operational dispersals policy and noise management plan. 4. On closing the venue staff will encourage customers to move away and disperse. 5. A contact number will be provided for local residents to call if they have an issue with any noise levels. 6. A maximum of 6 people outside after 01:00 hour. 7. The Premises Licence Holder and Designated Premises Supervisor must ensure that noise levels from music (live or pre-recorded) do not give cause for annoyance to persons in the vicinity of the licensed premises. 8. Clear notices must be prominently displayed at all exits requesting customers to leave the premises and the area in a quiet and orderly manner.
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e) the protection of children from harm

	<ol style="list-style-type: none"> 1. The premises will adopt the Challenge 25 scheme with appropriate signage to be placed at the entrance to the premises and adjacent to the counter area. 2. Children under the age of 18 years old must not be permitted on the premises after 23:00 hours.
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Guidance note 10

Please list here steps you will take to promote all four licensing objectives together.

Please upload a plan of the premises

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Please upload any additional information i.e. risk assessments

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Checklist

	I have enclosed the plan of the premises. I understand that if I do not comply with the above requirements my application will be rejected. I understand that I must now advertise my application (In the local paper within 14 days of applying)
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Home Office Declaration

Please tick to indicate agreement

	I am a company or limited liability partnership
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Declaration

[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership]

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK.

The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work.

I/We hereby declare the information provided is true and accurate.

I agree to the above statement

	Yes
PaymentDescription	██████████
PaymentAmountInMinorUnits	██████
AuthCode	██████
LicenceReference	██████████
PaymentContactEmail	

Please provide name of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 12). If completing on behalf of the applicant, please state in what capacity.

Full name	Duncan Craig
Date (DD/MM/YYYY)	16/12/2022
Capacity	Barrister and Duly Authorised Agent

Where the premises licence is jointly held, enter the 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (guidance note 13). If completing on behalf of the applicant state in what capacity

Full name	
Date (DD/MM/YYYY)	16/12/2022
Capacity	

Contact name (where not previously given) an address for correspondence associated with this application (please read guidance note 14)

Contact name and address for correspondence	Duncan Craig
Telephone No.	██████████
If you prefer us to correspond with you by e-mail, your email address (optional)	████████████████████

GUIDANCE NOTES

12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

13. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.

14. This is the address which we shall use to correspond with you about this application.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Once you complete form you will be redirected to payments and won't be able to return back.

The information you provide will be used fairly and lawfully and Southwark Council will not knowingly do anything which may lead to a breach of the Data Protection Act 1998.



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 9 FEBRUARY 2023

SECTION 17 LICENSING ACT 2003: COOL AND COZZY LOUNGE (NEE FLYING DUTCHMAN), 156 WELLS WAY, LONDON SE5 7SY

1. Decision

That the application made by Cool and Cozzy Restaurant Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as Cool and Cozzy Lounge (nee Flying Dutchman), 156 Wells Way, London SE5 7SY be refused.

2. Reasons

This was an application for a premises licence made by Cool and Cozzy Restaurant Limited in respect of the premises Cool and Cozzy Lounge (nee Flying Dutchman), 156 Wells Way, London SE5 7SY.

It was noted that the representative for the Applicant had submitted an additional bundle of documents received at 21:38 hours on 8 February 2023. As such, agreement from all parties was required from all parties in accordance with regulation 18, Licensing Act 2003 (Hearings) Regulations 2005. Since not all other persons were present at the hearing, agreement could not be obtained, therefore it was not agreed to admit the bundle of documents as evidence. The representative for the Applicant was however, advised that it could be referred to in verbal submissions.

The representative for the Applicant advised that the premises licence had previously been revoked by the Licensing Sub-Committee at a hearing on 13 October 2022, but no finding of fact had been made against the Applicant. It was not disputed that the area was residential, but with the exception of the owner of the building, there was a lack of immediate residential neighbours. The proposed hours had been curtailed Sunday through to Thursday until 23:00 hours and only Fridays and Saturdays did the Applicant now seek as late nights until 03:30 hours.

The Applicant had listened to local residents concerning driving and parking and had now placed cones on the road, preventing customers from blocking neighbours from parking. This had been included in a dispersal policy. A noise management policy had also been submitted. The Applicant had volunteered extensive measures to address the concerns detailed in the objections which had been welcomed by the police, Environmental Protection Team and Licensing, but were not willing to withdraw their representations in view of the previous revocation.

Concerning the noise, the Applicant's representative stated that it was not disputed that this was much to do with patrons entering and exiting the premises. When the premises were operating under temporary event notices (TENs), no formal complaints had been received about noise. Videos had been submitted, but none of the incidents referred to took place when TENs were

operating. It was therefore, unfair to suggest that that anything that caused a public nuisance was automatically due to the premises.

It was the licence holder's responsibility to ensure a proper dispersal. But patrons would not disturb neighbours. A noise management policy would ensure there was a winding down time where lights come on and the volume of music being reduced. There was no karaoke in the early hours to not disturb sleeping people. The back garden would be used purely for those wishing to smoke, which would be limited to 10. No drinks could be taken outside.

The suitability of the Applicant had been raised in the objections. However, the sub-committee was reminded that the Applicant was a company. If the objections were directed to the DPS and questioned the DPS' suitability, the sub-committee was then reminded that the DPS was a personal licence holder who did not have a criminal record. He had all requisite training and had certifications in first aid, manual handling and fire and safety. The DPS also ensured that each member of his staff had the same certificates.

It was the Applicant's intention for the premises to be a restaurant/lounge bar. 50% of the patrons were Colombians/Latinos, 5% Caribbean, 20% African Sierra Leone. The premises had a very different menu, compared to the other premises in the locality. It also had a different genre of music depending on the patrons the premises attracted for a particular week/event.

The Cool and Cozy Lounge was a community and family hub for people of certain ethnic minorities. It was where people could go to enjoy food and listen to music of a certain nature. The premises would order food from the Cool and Cozy Restaurant, which had the same management and kitchen team. The Cool and Cozy Lounge would have a pre-order system where patrons call and order their food which was supplied by the restaurant then served at the Lounge. The pre-order system was due to the landlord of the Cool and Cozy Lounge not permitting the Applicant to having a kitchen there, but only facilities for storing and reheating food. The Cool and Cozy Lounge could then cater for up to 128 covers.

The Licensing Sub-Committee heard from the Metropolitan Police Service who advised that the premises licence previously held in respect of the premises had been revoked. The DPS and manager at the time of the revocation was the proposed DPS to the current application. At the previous Licensing Sub-Committee hearing, the sub-committee indicated that had the licence not been revoked then, they would have removed the DPS, Francis Kpandeh as the DPS of the premises. This suggested, allowing him to now be the DPS would undermine the promotion of the licensing objectives. The premises was also located in a residential area, with residential dwellings in very close proximity to the premises. Under Southwark's Statement of Licensing Policy 2021-2026 the closing times recommended for public house and wine bars (etc.) was 23:00 hours daily at Night clubs (with sui generis planning classification) was not considered appropriate. The premises licence application stated that the premises was to operate as a bar/nightclub. It was the Police view that it was entirely inappropriate for the premises given its sensitive location and the intended operation of the premises was highly likely to undermine the prevention of public nuisance licensing objective. The potential for anti-social behaviour and crime was a cause for police concern. The Applicants had provided a number of conditions that would suffice

for an average public house. However, they would not suffice for a venue opening beyond 00:00 hours. The Police concluded that the licensing objectives had not been sufficiently addressed, to justify any extended hours and that the location was not suitable for a bar nightclub, regardless how it has been run in the previous years.

The police accepted it had not issued objection notices to TENs. In the officer's view, TENs were not evidence of a good running business. The police objected outright to the current application because the area was not suitable for a late night bar/nightclub.

The Licensing Sub-Committee heard from Licensing as a responsible authority who informed members that its concerns did not relate to the previous revocation or the circumstances under which that revocation came, simply that the area is not suitable for a nightclub. The premises licence application clearly stated that the application was for a bar/nightclub. The applicant amended the closing times, but the amended times still remained more applicable for a nightclub. The Statement of Licensing Policy clearly indicated that nightclubs were not suitable for a residential areas and the premises were located in a densely residential area.

The officer raised concern that the premises was being touted as a restaurant, with food being prepared at the Cool and Cozy Restaurant. The licence to the Cool and Cozy Restaurant had been suspended due to the non-payment of annual fees since November 2021. The DPS had been written to and visited about the matter, but the premises licence remained suspended. Even if the premises licence was not suspended, it would only have late night refreshment until 00:00 hours midnight on Fridays and Saturdays.

Licensing as a responsible authority maintained that the application be rejected in its entirety. Even with a reduction in operating hours, the Applicant had indicated there the premises was to be operated as a nightclub, hosting club style events such as with DJs and even potential for live music. Nightclub style events could still lead to an overall club style operation. There had been genuine problems for local residents and this continued to be of genuine concern to them as demonstrated by the multiple residents that had objected to the application. Although statutory noise nuisance had not been witnessed by Council officers, public nuisance by way of intermittent loud voices screaming, shouting, music continued; complaints had been received even when the temporary event notices were operating. The residents' concerns in such a high densely residential area should be given full weight in the determination of the application.

The Licensing Sub-Committee then heard from the officer from the Environmental Protection Team (EPT) who representation was based on the prevention of public nuisance licensing objective. Reference was made to the premises licence review hearing and that although the decision was based on the premises licence holder agreeing with the revocation of the licence rather than consider the residents' complaints of noise nuisance, they were primarily based on the impact caused by early morning activities (Fridays and Saturdays), as a result of loud music and patron noise. Since this time, further complaints had been received when TENs had been in operation. The Applicant had added some conditions and proposed changes the time on weekdays,

which were welcome. However, the application was still for 03:30 hours finish on Fridays and Saturdays. For this reason, EPT still objected to the application. The officer concluded, that the premises was liable to be run as nightclub. The Statement of Licensing Policy stated that nightclubs were not acceptable in residential areas. EPT therefore, maintained that the application should be rejected; the EPT officer accepted that the biggest concern was the breakout from amplified noise to the premises immediate neighbours in addition to localised nuisance caused by patrons outside.

The Licensing Sub-Committee heard from the representative other person Q who advised that his client, other party Q, was the landlord of the building where the premises was located. Other party Q was also the previous operator and lived directly above the premises. In recent history the premises had caused disturbance to local residents for which, other party Q regretted. It was in his financial interest for the premises to operate, but because he lived directly above the premises, the proposed model, as a nightclub was unworkable. The sub-committee were urged to follow its Statement of Licensing Policy and the presumption was nightclubs as being unsuitable in residential areas. In accordance with the policy, bars and other licensed premises had a recommended terminal hour of 23:00 hours. The Applicant sought hours well beyond the recommended hours. It was submitted that local residents had a legitimate expectation the Council would follow its own policy, unless there was a good reason to depart from it. The Applicant had not however, provided any good reason to vary from it.

Contrary to the suggestion that no finding was made against the DPS, towards the end of the Notice of Decision the local residents had to "endure the significant disturbance from the premises". This was a finding that the premises had caused substantial problems. The representative for other party Q then referred to a number of extracts of noise complains as a result of the premises, which demonstrated typical noise problems. The Landlord to the premises, stated that the building could not structurally cope with loud amplified music being played on the ground floor level, whether karaoke or singing or whatever it may be. It was potentially possible to have amplified music in the basement, provided consideration was given to a properly designed sound system with appropriate mitigation and noise isolating, none of which was available at the hearing.

With a capacity of 300, it would be impossible for noise not to be emitted via ingress/egress, of patrons. This, smokers and voices all contributing to late night nuisance outside someone's bedroom window; more so, in the summer time to when windows are more likely to be open.

The Applicant had mentioned the placing cones in the highway and barriers blocking a cycle lane. Although not the major concern for other party Q, it was an offence under s.137 Highways Act 1980 to obstruct a highway, thus undermining the prevention of crime and disorder licensing objective.

The Licensing Sub-Committee then heard from other person R who advised the members that the application sought hours until 03:30 hours. Under both the previous licence and the recent TENs the noise from the premises was worse between 02:00 and 06:00 hours: hearing loud noises, loud music,

screaming/shouting from the premises and cars illegally parked. When the doors to the premises were open they would stay open for a prolonged period, meaning local residents could also hear the amplified music. If the premises licence application was granted, other person R had no confidence that they would not be disturbed. The premises was being referred by the Applicant as a “community hub”, which appeared an untruth, given the community the premises claimed to attract arrived by car and drove away very late at night/early morning.

The application was for a bar/restaurant, but this business model had changed to a restaurant, serviced by another restaurant. The change in business model appeared disingenuous, thought up only as a result of the level of opposition the application had attracted.

The Licensing Sub-Committee then heard from other person B who stated that they lived on Wells Way, a few houses away from the venue. Although they did not get disturbed so much by music noise as badly as other local residents, the real issue was the patrons coming in and out of the premises which was extremely noisy. It was difficult to get the Noise Team to investigate a complaint because the noise was so sporadic. Other person B also stated that blocking the cycle lanes to prevent people parking was a real hazard.

The Licensing Sub-Committee finally heard from other persons B and C supporting the application, both of whom spoke highly of what the premises bring to the local community. Both stated that the premises did not cause a public nuisance via noise. The sub-committee were somewhat reticent of the weight it should give to both since other person B stated in his written representation of his “close relationship with Francis” and other person C in his verbal submission referred to his being a DJ who had previously been hired by the Applicant.

The Licensing Sub-Committee noted the representations from the 22 other persons objecting to the application and the other one person who supported the application, none of whom attended the meeting.

The premises licence number 848709 to the Cool and Cozy Lounge was revoked by the Licensing Sub-Committee at a review of the premises licence on 13 October 2022. The review application was brought due to complaints of public nuisance made by residents. During the course of the hearing, the premises licence holder agreed to its revocation. Since the revocation of the licence the premises has operated under TENs. On each occasion Francis Kpandeh was the named premises user. Numerous residents complained of noise when the premises operated under recent TENs; each of those TENs was over a weekend.

The Applicant’s representative stated that the intention was now to operate as restaurant/lounge bar. It was accepted by both the Applicant and other party Q, the Applicant is prohibited from operating a kitchen in the premises under the terms of his lease. As a result, the Applicant proposed food being supplied by its sister premises, the Cool and Cozy Restaurant. Francis Kpandeh is the DPS to this premises, albeit, the premises licence is currently suspended; this troubled the sub-committee.

The Licensing Sub-Committee noted that on 1 February 2023 the Applicant's representative submitted a change to the operating hours and a change in conditions for the premises. No mention was made on 1 February to change in the business model, from a bar/nightclub to restaurant/bar. If there was any change to the real change to the business model, this would have been clearly communicated to the many objectors. If the changes were legitimate, the Applicant would have made a suggestion of a restaurant condition, but this was forthcoming in either the supplementary material from the Applicant or the representative in verbal submissions.

Other party Q informed the sub-committee that the premises was not structurally able to contain amplified music/sound. Other party Q resides in the nearest noise sensitive residential property to the premises and is also the landlord to the premises. The premises is flanked by residential buildings. The original operating schedule contained no conditions relating noise insulation and virtually none in the Applicant's amended conditions. The Applicant demonstrated little regard to any of the suggested measures detailed in paragraphs 272 and 273 of Southwark's Statement of Licensing Policy 2021-2026 in preventing nuisance from the premises. Works that might need to be undertaken to limit the outbreak of music and noise were not within the scope of the application and it was not for this sub-committee to identify what works would be required or the precise measures could be imposed, when expert evidence has not been provided.

The proposed hours were amended to Sunday to Thursday until 23:00 hours and Friday and Saturday until 03:30 hours. Fridays and Saturdays far exceed the recommended hours provided in Statement of Licensing Policy. The members each noted that the premises is relatively poorly serviced by public transport. The 343 night bus runs every hour between 01:00 to 05:00 hours. The 136 bus route does not run a night service. This would mean that patrons would generally arrive by car, particularly in the evening or late at night. The sub-committee is of the view that the Applicant's intentions is for the Cool and Cozy Lounge to be a nightclub.

The sub-committee recognises Southwark's diversity as one of its strengths and is committed to creating a more inclusive community. The sub-committee is satisfied that its Statement of Licensing Policy discriminates against any group within the community and will pursue any opportunity to promote equality of opportunity and good community relations, in compliance with the Equality Act 2010 and paragraphs 14.67 and 14.68 of the s.182 Guidance (December 2022).

The sub-committee were in agreement that the application as it stood was for a nightclub and it has generated such significant discontent from local residents and responsible authorities. For these reasons, this application is refused. 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.

3. **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:

- i. The licence ought not to be been granted; or
- ii. 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

Issued by the Constitutional Team on behalf of the Director of Law and Governance.

Date 09 February 2023



Flying Dutchman
156 Wells Way
London
SE5 7SY

Licensing Unit
Direct Dial - 020 7525 5767
Facsimile - 020 7525 5735
Our Ref: INU: 084133

5 February 2019

Dear FDL Arts and Events Ltd

**RE: THE LICENSING ACT 2003 – COMPLIANCE LETTER
(Flying Dutchman, 156 Wells Way, London, SE5 7SY)**

On 2 February 2019 at 22:30, Licensing Enforcement Officers carried out an inspection to determine whether the licensable activities at the above premises were carried out in accordance with your authorisation.

In addition to the above, the Officers also considered 'risk assessment' criteria that would help determine the frequency of future inspections to your premises.

I am pleased to confirm that at the time of the visit the premise was found to be operating in full compliance with terms and conditions of the premises licence. Your premise has been placed in the 'C' risk category and will be inspected again in 2 years or following a complaint whichever is the soonest.

Should you require any assistance or advice, please contact us by email at licensing@southwark.gov.uk or by telephone on between the hours of 9:00 and 17:00, Monday to Friday. Alternatively you can write or visit us at the above address.

Yours sincerely,

Andrew Heron
Principal Licensing Officer
andrew.heron@southwark.gov.uk

Francis Kpandeh
Flying Dutchman
156 Wells Way
London
SE5 7SY

Licensing Unit
Direct Line: 02075257529

29 October 2019

Dear Francis Kpandeh

**RE: THE LICENSING ACT 2003 – WARNING LETTER
(Flying Dutchman, 156 Wells Way, London, SE5 7SY)**

On 21 October 2019 at 23:05 Licensing Enforcement Officers carried out an inspection to determine whether the licensable activities at the above premises were carried out in accordance with your authorisation.

In addition to the above, the Officers also considered 'risk assessment' criteria that would help determine the frequency of future inspections to your premises.

During the inspection the officers witnessed the following breaches:

293 All staff shall be trained to observe the measures necessary to promote the crime and disorder objective and a record of the dates and names of the staff trained kept. The applicant confirmed during the inspection that training off staff had not yet been completed.

326 That all appropriate staff shall be trained in the age identification scheme required at the premises and records of training shall be kept and made available for inspection by authorised officers of the Council. The applicant confirmed during the inspection that training off staff had not yet been completed.

343 That staff will be trained to observe the measures necessary to promote the public nuisance. The applicant confirmed during the inspection that training off staff had not yet been completed.

355 That all staff are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Officers of the Police and the Council. The applicant confirmed during the inspection that training off staff had not yet been completed.

Each of the matters listed above potentially constitutes a breach of the licence issued by the Council under the Licensing Act 2003.

You must ensure that licensable activities and hours of operation are in accordance with those listed on your premises licence. You must also ensure that the conditions attached to your licence are adhered to. A further visit will be made to check on these matters.

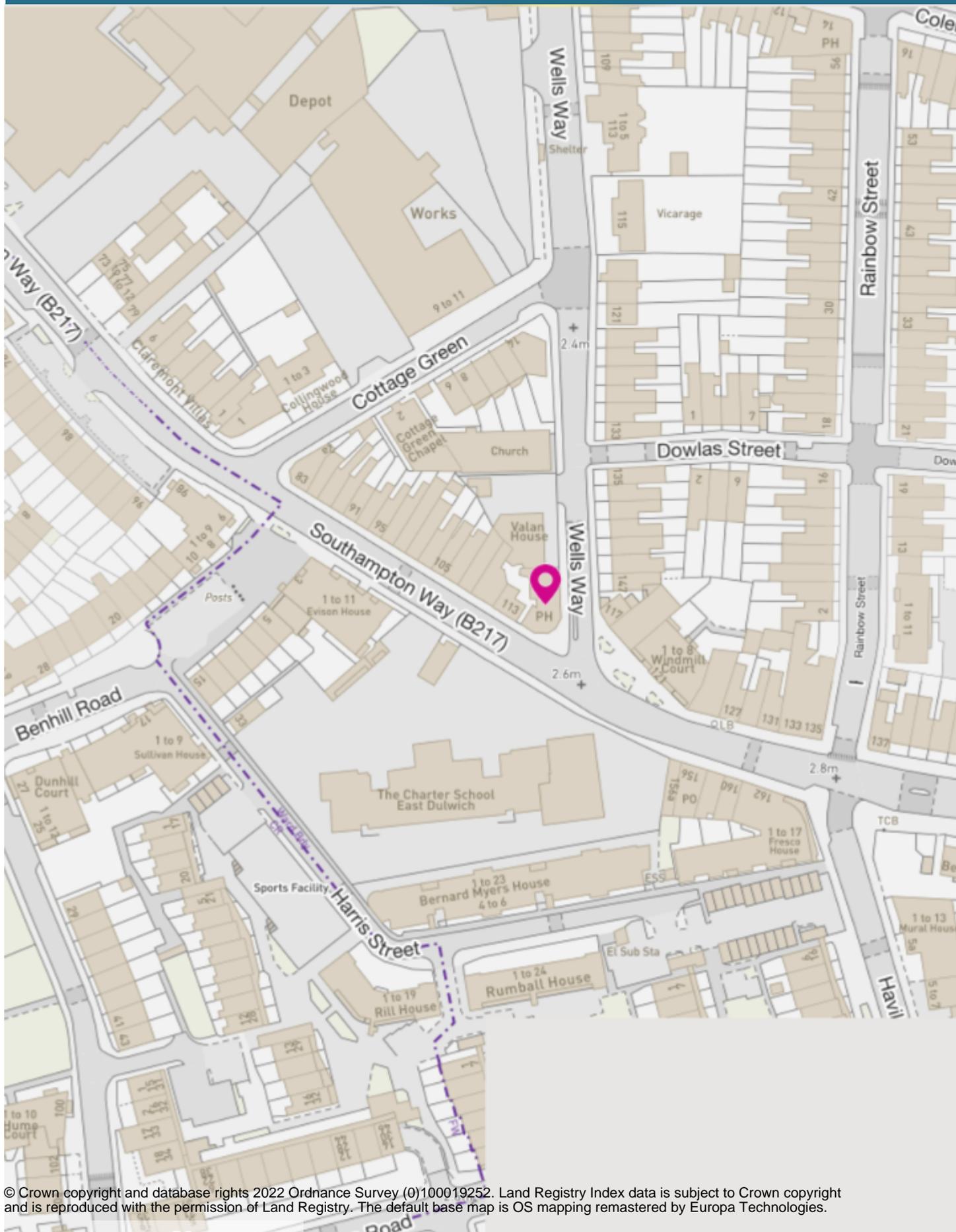
If compliance is not achieved the Council may take formal action that may affect your licence or lead to a prosecution. A person found guilty of an offence under the above section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £20,000.

I hope this warning will ensure that compliance is achieved and no further action will be required.

Thank you in anticipation of your co-operation. Should you wish to discuss this matter with a Licensing Enforcement Officer Please contact us by email at licensing@southwark.gov.uk or by telephone on 02075254261 between the hours of 9.00 and 17.00, Monday to Friday. Alternatively you can write or visit us at the above address.

Yours sincerely,

Charlie Jerrom
Licensing Enforcement Officer
Charlie.jerrom@southwark.gov.uk



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LICENSING SUB-COMMITTEE DISTRIBUTION LIST (OPEN) MUNICIPAL YEAR 2022-23

NOTE: Original held by Constitutional Team; all amendments/queries to Andrew Weir - Tel: 020 7525 7222

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