

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 29 November 2022 at 10.00 am at Online/Virtual: please contact [andrew.weir@southwark.gov.uk](mailto:andrew.weir@southwark.gov.uk) for a link to the meeting and the instructions for joining the online meeting

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

**OTHER  
AUTHORITIES  
PRESENT:** P.C. Ian Clements, Metropolitan Police Service

**OFFICER  
SUPPORT:** Debra Allday, legal officer  
Jayne Tear, licensing officer  
Andrew Weir, constitutional officer

### 1. APOLOGIES

This was a virtual licensing sub-committee meeting.

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

There were no apologies for absence.

### 2. CONFIRMATION OF VOTING MEMBERS

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

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

There were none.

#### **4. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

At this point the chair advised that members had received an email from a local resident the night before the meeting. This email had not been read and would not be taken into account.

#### **5. LICENSING ACT 2003: FOUNDERS ARMS, 52 HOPTON STREET, LONDON SE1 9JH**

The licensing officer advised that one of the local resident objectors ('other person 54') was having difficulties in accessing the virtual meeting.

The meeting adjourned at 10.18 to allow officers time to assist other person 54 to access the virtual meeting.

The meeting reconvened at 10.31am.

The licensing officer presented their report. They advised that the police had now conciliated with the applicant. Members then had questions for the licensing officer.

The applicant and their legal representative addressed the sub-committee. Members had questions for the applicant and their legal representative. The chair also allowed the other persons to ask questions of the applicant and their legal representative.

The meeting adjourned at 11.20am to allow the applicant and their legal representative to consider possible conditions regarding capacity and SIA security staff.

The meeting reconvened at 11.30am.

The legal representative for the applicant addressed the sub-committee and confirmed that the applicant would agree to an SIA security staff condition but that they would not agree to a capacity condition. Members had further questions for the applicant and their legal representative.

The Metropolitan Police Service officer addressed the sub-committee. They advised that they had conciliated with the applicant. Members had questions for the police officer.

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

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

Members then had some additional questions for the applicant.

The meeting adjourned at 1.06pm for the sub-committee to consider its decision.

The meeting reconvened at 1.47pm and the chair advised everyone of the decision.

## **RESOLVED:**

### **Decision**

That the application made by Young & Co's Brewery Plc to vary a premises licence to be varied under the Licensing Act 2003 in respect of the premises known as Founders Arms, 52 Hopton Street, London SE1 9JH be granted.

### **Conditions**

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

1. That the premises shall employ at least two SIA officers on Thursdays, Fridays and Saturdays from 17:00 until 60 minutes after closing and also on days when the premises is open after 00:00 or any other days when their risk assessment deems it necessary.
2. That there shall be a maximum accommodation limit of 200 customers on the first floor of the premises.
3. That the premises shall meet with residents on at least a six monthly basis.
4. That the premises shall provide a telephone number for local residents.

### **Reasons**

This was a variation application made under s.34 Licensing Act 2003 in respect of the premises Founders Arms, 52 Hopton Street, London SE1 9JH.

The application identified that there were no changes to the licensable activities, hours of operation or proposed style of the premises. The premises were described as a public house/restaurant with alcohol sales accounting for 70% and food sales accounting for 30% of its business.

The application introduced a few changes on the ground floor to the lobby area, the removal of the current toilets and installation of a new disabled toilet in addition to a new staircase going up to the new trading area on the first floor. Additionally, there would be a new first floor trading area and extension to the existing building with new toilets, bar servery, food preparation area and fixed seating.

The licensing officer presented their report to the sub-committee. The licensing officer also advised of a further complaint that had been overlooked from the report. The complaint was received on 12 May 2022 and related to planning matters and breaches of licence conditions, health and safety and highways problems.

It was explained that a licensing officer visited the premises on 20 May 2022 and found the premises to be compliant. The health and safety team also visited the premises on 10 June 2022 and was satisfied with the risk assessment regarding the premises and around deliveries, but recommended a more suitable barrier to place around deliveries. The highways Team then visited the premises on 18 November 2022 and who confirmed that the tables and chairs were well within the premises own private boundary and were not encroaching on the surrounding premises.

A number of the representations from other persons indicated that they had not been consulted about the variation application. The licensing officer confirmed that the consultation process had been complied with, in accordance with the Licensing Act 2003 (Premises Licences and Cub Premises Certificates) Regulations 2005.

The licensing sub-committee heard from the representative of the applicant who described it as a not particularly attractive pub on the Thames Path which was some 40 years old. The front of the pub faced the River Thames and the rear faced Falcon Point where most of the other person objectors resided. The Thames Path was an extremely busy and vibrant area, busy throughout most of the day. More recent development had led to the area being even busier.

There was discussion about the capacity of the premises. It currently accommodated 170 on the ground floor and when constructed, there would be approximately 120 covers on the first floor, with an external area of approximately 120. The principal change was the introduction of a first floor trading area. 120 covers was estimated as the normal maximum figure for the first floor. However, on occasion the capacity could reach 200 if there was a party or event. That figure would not always be reached and similarly, there were not always 170 people using the ground floor. Regardless, the premises had a very good dispersal policy in place, which worked effectively.

The applicant emphasised that there would be no dramatic change to the operation of the premises. It did not seek to trade longer and there would not be a change in style of operation. The artist's impressions contained in the hearing bundle showed how the pub would look and both internally and externally. The premises would look different to the benefit of the Falcon Point residents. They would see the smaller part of the development.

The applicant's representative referred to Southwark's statement of licensing policy 2021-2026 and accepted that the premises was in a cumulative impact policy area, which applied to new applications and variations. They emphasised that the applicant was not varying the hours.

It was noted that the cumulative impact policy was introduced in 2009 due to concerns that of a large number of licensed premises and the impact on crime and disorder. The applicant's representative contended that it was challenging to apply the policy in 2022 to justify the development/improvement to pubs and suggested that was not the intention of the policy. The sub-committee were asked to balance the policy with the development opportunity and the application of the CIA policy. The premises had a good track record on crime and disorder. In the previous two years the premises only had two incidents of crime and disorder.

In terms of dispersal, the general manager would open the doors onto the terrace and encourage patrons to leave via the terrace and not via the main door (being the Falcon Point side of the premises). Although the applicant accepted that some people may leave the first floor via that route. The dispersal would encourage most people to leave through the terrace and on the Thames Path.

The bins and glass disposal were also raised in a number of representations and it was confirmed a planning condition was imposed requiring the bins to be behind a brick structure with a roof. Once constructed, this would reduce disturbance from disposals and also deliveries.

Concerning beer deliveries, the applicant accepted that these were challenging due to there being no vehicular access directly to the premises. Vehicles could only come via Falcon Point, through the undercroft to the premises boundary. This was the way the pub was designed and how deliveries were made over the 40 years of the premises operation. The applicant's representative made reference to a recent delivery incident referred to by one of the other persons. This had been a on off incident, that would not be repeated. As part of the dispersal policy there would be patrols collecting glasses, litter etc.

The applicant's representative advised that the premises always employed two SIA officers on Thursdays, Fridays and Saturdays. A condition had been agreed with the police that the number and times of the SIA's deploy would be risk assessed by the premises.

The licensing sub-committee heard from the Metropolitan Police Service who confirmed that the police had conciliated with the premises. The police representative advised that the conciliation included a number of control measures being agreed or amended, in addition to the current premises licence.

It was agreed with the applicants to condition the need for a written dispersal policy, despite the premises operating a dispersal policy albeit unwritten, already. The premises licence also did not require the applicant to employ SIA door officers. The police looked to the premises themselves to promote the licensing objectives, so a condition was agreed that they engage a risk assessment based employment of SIAs.

When asked about the lack of a capacity limit the officer highlighted that the premises already managed their capacity to a safe capacity, which is limited to the Fire Safety Regulations. The extended premises would not bring any more people to this busy area. Any concerns related to the dispersal of patrons of the bigger premises. However, the applicant had agreed a dispersal policy to deal with this matter.

The licensing sub-committee then heard from other person 66 the Chair of the Falcon Point Residents Association. They advised that Falcon Point had some 200 residents in 120 flats. Other person 66 highlighted the reasons the residents objected was based entirely on the licensing objectives, in particular the prevention of public nuisance, the prevention of crime and disorder and the promotion of public safety.

The premises was located within a cumulative impact area and this gave the sub-committee grounds to refuse the application. The premises building was currently relatively small but busy, built as an estate pub in 1977. The Tate Modern did not exist and the area was relatively quiet.

All deliveries and refuse removal from the pub take place through the estate. It was no accident that there were 77 representations objecting to the application; it was because there had been years of disturbance.

The Tate Modern attracted approximately some six million visitors per annum. The area was saturated. The applicant had not provided secure reasons for believing that there wouldn't be an increase in nuisance or crime and disorder, or an increase in public safety issues. Photographic evidence had been presented demonstrating the premises blocking the pathway with the deliveries and refuse removal. Other person 66 stated that there was a very significant risk to public safety.

The licensing sub-committee heard from other person 1 who repeated that the area was completely saturated and raised concern relating to the applicant's resistance to having conditions added to the premises licence. It gave the other person no confidence in the management of the premises or its compliance to conditions, particularly the refuse disposal. Contrary to the applicant's representative stating that the bins were emptied at 11:00, they were emptied anytime from 09:00. Other person 1 was unable to sleep in the early morning hours because of noise outside Falcon Point. This noise seriously affected the wellbeing of residents in Falcon Point.

Other person 54 echoed the concerns of other person 1 and other person 66. Their key worries were the increase in the volume of people and the fact that the applicant was unwilling to cap numbers, which would increase the volume of noise.

The applicant indicated that there would be an increase of 5% in delivery times and there would be only one beer delivery per week. Other person 54 disputed this. Lorries attended the premises all the time with beer kegs, specialist beers, wines,

and spirits. In addition, there were the various food deliveries some of which arrived at 05:00. There would then be an increase in waste and recycling. The proposed bottling/waste facility would impinge more on the Thames path. It was naïve of the applicant to believe that there would be no large increase in bottles and glassware.

It was also suggested by other person 54 that patrons would drink, smoke, and chat until the early hours and the external tables were not cleared until the following day.

The licensing sub-committee recognised that many of the representations received from objectors made reference to planning law issues. Planning and licensing are two independent regimes and this sub-committee are unable to consider matters relating to planning as part of its decision.

In November 2009 the London Borough of Southwark agreed it was appropriate and necessary to introduce a policy the Borough and Bankside local policy dealing with the cumulative impact of licensed premises in the area. The classes of premises within the area to which the policy applied to the Founders Arms being a public houses/bars/ restaurant. The Borough and Bankside cumulative impact area (CIA) has been reviewed in accordance with Section 5A of the Licensing Act 2003 and was last reviewed in 2020 after which it formed part of Southwark's statement of licensing policy 2021-2026 that was ratified on 20 November 2020.

Applications made within a specified CIA are deemed likely to add to the potential impact that the CIA policy intended to avoid. Therefore, there is an automatic presumption that such applications will be refused, although each application is judged on its own merit. Applications for new premises licences or for variations of existing premises licences, made in respect of classes of premises affected by the policy must address the local concerns raised within their application/operating schedule and demonstrate, if granted, they would not further contribute to the negative local cumulative impact on any one or more of the licensing objectives.

The Founders Arms already has a premises licence and submitted a variation of its licence on 22 September 2022 to include a first floor trading area. Because the application was not a review of the licence, the existing licensable activities were not and could not be considered. Whilst sympathetic to the residents, the options legally available to sub-committee were largely restricted to the proposed operation on the first floor.

The Licensing Act 2003 is a permissive regime and unless an application undermines the four licensing objectives (the promotion of crime and disorder, the promotion of public safety, the prevention of nuisance and the protection of children from harm) a licence must be granted.

Only the police submitted a representation from the responsible authorities. The police raised concern that the applicant has not offered any additional control measures to address the licensing objectives. This representation was conciliated,

with the applicant agreeing to 11 conditions to be added to the licence. No evidence was provided by responsible authorities demonstrating that the premises were undermining the licensing objectives.

There was some discussion of the absence of an accommodation limit condition. It was noted that the number of patrons would be safely restricted in accordance with The Regulatory Reform (Fire Safety) Order 2005.

The sub-committee felt that there was need for dialogue between the applicant and the residents of Falcon Point to allow grievances to be aired and discuss how the premises operation could be improved for the local community. On this basis the sub-committee added conditions for a contact number to be provided and for bi-annual meetings to be held between the applicant and the local residents.

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

### **Appeal rights**

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

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

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

may appeal against the decision.

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

The meeting ended at 1.53pm.

**CHAIR:**

**DATED:**