

Item No. 5.	Classification: Open	Date: 13 October 2022	Meeting Name: Licensing Sub-Committee
Report title:		Licensing Act 2003: Cool & Cozzy Lounge, The Flying Dutchman, 156 Wells Way, London SE5 7SY	
Ward(s) or groups affected:		St Giles	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing sub-committee considers an application submitted by an 'other person' under Section 51 of the Licensing Act 2003 (the Act) for the review of the premises licence held by FDN Arts and Events Limited in respect of the premises known as Cool & Cozzy Lounge, The Flying Dutchman, 156 Wells Way, SE5 7SY.
2. Notes:
 - a) The grounds for the review are stated in paragraphs 12 and 13 of this report. A copy of the premises licence review application is attached as Appendix A.
 - b) The review application is supported by representations submitted by a responsible authority (copy attached as Appendix B) and by other persons (copies attached as Appendix C). Details of the representations are provided in paragraphs 15 to 20.
 - c) A copy of the current premises licence issued in respect of the premises is attached to this report as Appendix D. A map showing the location of the premises is attached as Appendix E.
 - d) A copy of the council's approved procedure for hearings of the sub-committee in relation to an application made under the Licensing Act 2003, along with a copy of the hearing regulations, has been circulated to all parties to the meeting.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a licensing regime for:
 - The sale of and supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment.
4. Within Southwark, the licensing responsibility is wholly administered by this council.

5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
 - The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of nuisance
 - The protection of children from harm.
6. In carrying out its licensing functions, a licensing authority must also have regard to:
 - The Act itself
 - The guidance to the act issued under Section 182 of the Act
 - Secondary regulations issued under the Act
 - The licensing authority's own statement of licensing policy
 - The application, including the operating schedule submitted as part of the application
 - Relevant representations.
7. The applications process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies. The application must also be advertised at the premises and in the local press. The responsible authorities and other persons within the local community may make representations on any part of the application where relevant to the four licensing objectives.
8. The premises licence once issued remains valid for the life of the business unless surrendered or revoked. However, under section 51 of the Act it remains open to any Responsible Authority or other person to apply to the local Licensing Authority for a review of the premises licence where there are ongoing concerns regarding one or more of the four stated licensing objectives.

KEY ISSUES FOR CONSIDERATION

The premises licence

9. The premises licence allows the provision of licensable activities as follows:
 - The sale of alcohol to be consumed on and off the premises:
 - Monday to Thursday: 10:00 to 00:00
 - Friday and Saturday: 10:00 to 06:00
 - Sunday: 11:00 to 01:00
 - Films (indoors) and indoor sporting events:
 - Monday to Thursday: 10:00 to 00:00
 - Friday and Saturday: 10:00 to 06:00
 - Sunday: 11:00 to 01:00
 - Live music and recorded music (indoors):
 - Monday to Thursday: 10:00 to 23:30
 - Friday and Saturday: 10:00 to 06:00
 - Sunday: 11:00 to 01:00

- Late night refreshment (indoors):
 - Monday to Thursday: 23:00 to 00:00
 - Friday and Saturday: 10:00 to 05:00
 - Sunday: 11:00 to 01:00
- Opening hours:
 - Monday to Thursday: 10:00 to 00:30
 - Friday and Saturday: 10:00 to 06:30
 - Sunday: 11:00 to 01:30.

10. The licence is subject to the mandatory conditions set down under the Act and further conditions consistent with the operating schedule submitted with the application for the licence. A copy of the full premises licence is attached as Appendix D.

Designated premises supervisor (DPS)

11. The current designated premises supervisor (DPS) named on the licence is Francis Kpandeh.

The review application

12. 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 & Cozzy Lounge, The Flying Dutchman, 156 Wells Way, London SE5 7SY.

13. The review application was submitted in respect of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm licensing objectives and in summary states that the following has been witnessed and / or taken place at the premises:

- It is alleged that the operation of the premises gives rise to serious noise nuisance, anti-social behaviour and crime and disorder in the locale
- That customers engage in fighting outside of the premises
- That the police have had to attend the premises on numerous occasions one of which led to a customer being tasered by the police
- That women attending the premises appear to have been forced into cars on occasion
- That a customer armed with a knife attempted to gain entry to the applicant's home
- That the premises is very poorly managed
- That the operation of the premises gives rise to litter and broken glass in the locale
- That the council's noise and nuisance team has had to be called in regard to the premises on multiple occasions
- That the applicant's families' health has been severely affected by the operation of the premises.

14. Copies of the review application, and further correspondence from the review applicant, are attached to this report as Appendix A. The applicant has also provided recordings of noise nuisance allegedly arising from the premises. These recordings have been made available to all relevant parties and may be played during the hearing to determine this application.

Representations from responsible authorities

15. This council's trading standards service has submitted a representation regarding the review application.
16. The representation from the trading standards service references visits made to the premises on 19 September 2020 (regarding a check on compliance with COVID-19 restrictions at the time), 29 July 2022 (regarding an inspection of the premises to check compliance with the conditions of the premises licence issued in respect of the premises) and 6 August 2022 (regarding an inspection of the premises to check compliance with the conditions of the premises licence issued in respect of the premises). The representation also refers to a public meeting held at the premises on 9 August 2022.
17. During the visit to the premises of 19 September 2020 (and subsequent visits made in respect of COVID-19 restrictions) the premises appeared to be operating in compliance with the COVID-19 restrictions.
18. On the visit of 29 July 2022 the premises were not in operation, however council and police officers conducted a licensing inspection. As the premises were closed, it was not possible to ascertain compliance with the conditions of the premise licence issued in respect of the premises.
19. On the visit of 6 August 2022 the premises were in operation and a licensing inspection was undertaken. It was observed that the CCTV system installed at the premises was not operating properly as the dates were incorrect and there did not appear to be the requisite number of days being recorded (in possible breach of conditions 288 and 289 of the premises licence issued in respect of the premises).
20. Three local residents attended the public meeting of 9 August 2022. Matters pertaining to the review process were discussed. The three local residents said they were not aware of issues with noise from the business.
21. A copy of the representation submitted by the trading standards service is attached as Appendix B.

Representations from Other Persons

22. 22 representations have been submitted on behalf of 24 other persons (hereafter referred to as other persons 1 to 24).
23. 13 of the other persons support the review application.
24. 11 of the other persons oppose the review application.
25. All of the other persons live in very close proximity to the premises aside from other persons 1, 4, 10, 13, 16 and 23.

26. Copies of the representations submitted by other persons, and related correspondence, are attached as Appendix C.

Operating History

27. 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.
28. On 13 February 2015 the licence was transferred to FDL Arts Ltd. The company directors were Antonio Mori and Manuela Codo.
29. On 25 February 2015 the licence was transferred to FDL Arts and Events Limited. The company directors were Antonio Mori and Manuela Codo.
30. 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.
31. On 4 September 2019 Francis Kpandeh was specified as the designated premises supervisor in respect of the premises.
32. 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.
33. On 4 September 2021 the licence was transferred to FDN Arts and Events Limited. The company director is Manuela Codo.
34. 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.
35. No temporary event notices have been submitted in respect of the premises within the last 12 months.
36. The table set out below is a table of complaints submitted directly, or referred by another party, to the licensing unit regarding the premises. The table does not include complaints made directly to the noise team or the environmental protection team).
37. The licensing unit has received complaints from six separate complainants (numbered 1 to 6 in the table below) some of whom are other persons who have submitted representations in support of the review application. If a complainant is also an other person who submitted a representation regarding the review application it is indicated so in the table.

Date	Complainant number	Complaint sent to / referred from	Details
26/09/2019	1 (other person 8)	SASBU referral	<p>SASBU (ASB): My family lives at XXX Wells Way in Camberwell.</p> <p>On the corner of our road, about 25 meters from our front door, is an establishment called the flying Dutchman, although it recently appears to have been rebranded as Cool Cozzy.</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 Cozzy 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 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	2 (other person 3)	Licensing	<p>Hello Southwark Council,</p> <p>I'm the neighbour XXXXXXXXXXXXX to the pub.</p>

			<p>I'm deeply concerned about developments.</p> <p>I have a small 3 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 reason with this man but he nods along then does what he pleases.</p>
21/06/2021	3	Licensing	<p>Hello, we are neighbours to the 'club' The Flying Dutchman, aka Cool and Cozzy 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</p>

			<p>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> <p>What actions do we have to take to work towards getting their licences revoked?</p>
08/08/2021	2	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>

17/08/2021	4 (the review applicant & lives at the same address as complainant 3)	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 6 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 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>
06/09/2021	2	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 XXXXXXX continue behaving like this.</p>
06/09/2021	4	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.</p>

			This type of behaviour happens every weekend.
18/09/2021	2	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 neighbors 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> <p>How much longer will it go on before we can put a stop to this?</p>
20/09/2021	3	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 XXXXXXX continue behaving like this.</p> <p>We are suffering psychologically since we can't sleep and XXXXXXX is threatening us.</p>
20/09/2021	4	SASBU referral	<p>There is screaming and fighting in the background at Cool and Cozzy lounge, also known as The Flying Dutchman. People are highly intoxicated. This will go on until</p>

			<p>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	2	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	2	Noise Team referral	<p>Last night from around midnight until past 5am there was loud music coming from the Cool Cozzy Pub at 156 Wells Way. There were also loud people outside on the street fighting and causing disturbance. I have a small child and this ongoing issue with noise is causing much distress.</p>
28/09/2021	3	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>
11/10/2021	3	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</p>

			<p>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	3	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	4	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. This is an absolute outrage and frankly disgusting considering the amount of rats. We are extremely worried about our 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> <p>Please action this issue ASAP.</p>
22/02/2022	5 (other person 9)	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 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>
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23/06/2022	1	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 [REDACTED] which is a lovely residential street in Camberwell. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</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 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</p>
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			<p>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>
20/09/2022	4	Licensing	<p>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.</p>
22/09/2022	6	Police referral	<p>Good Afternoon,</p> <p>I am writing to complain about the poor running of Cool & Cozzy Lounge, 156 Wells Way, SE5 7SY. This ineffective management has resulted in a customer suffering a GBH assault on 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 & Cozzy. 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> <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).
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			<ul style="list-style-type: none"> • 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. <p>Very poor indeed.</p> <p>Regards,</p> <p>PC Ross Kennedy 2222AS Night Time Economy Team</p>
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38. Details of licensing visits to the premises are provided in the table below. Please note that during the periods between and soon after the COVID-19 lockdowns internal licensing inspections at premises were suspended, however some external observations of premises continued dependant on resources.

Date of visit	Details
26/09/2020	26/09/2020 - 23:22 – FRC – closed nobody outside.
24/10/2020	24/10/2020 - 23:10 – FRC – closed all shut.
16/10/2021	21:02 - Visit to premises to carry out observations following amendment to government COVID - 19 restrictions Club open staff putting barriers along the road for queues on Wells Way X3 SIA staff on doors.
18/12/2021	18:26 - Visit to premises to carry out observations following amendment to government COVID - 19 restrictions. Open all quiet outside.

The local area

39. A map showing the location of the premises is attached as Appendix D. The following licensed premises are also show on the map

Happy Valley, 160 Southampton Way, London SE5 7EW licenced for:

- The provision of late night refreshment (indoors):
 - Monday to Sunday: 23:00 to 02:00

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 premises licence issued in respect of this premises is currently suspended due to non-payment of annual licence fees.

Southwark Council statement of licensing policy

40. Council assembly approved Southwark's statement of licensing policy 2021-2026 on 25 November 2020 and it came into effect on 1 January 2021.
41. Sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:
- Section 3 - Purpose and scope of the policy. This reinforces the four licensing objectives and the fundamental principles upon which this authority relies in determining licence applications.

- Section 5 – Determining applications for premises licences and club premises certificates. This explains how the policy works and considers issues such as location; high standards of management; and the principles behind condition setting.
 - Section 6 – Local cumulative impact policies. This sets out this authority's approach to cumulative impact and defines the boundaries of the current special policy areas and the classifications of premises to which they apply. To be read in conjunction with Appendix B to the policy.
 - Section 7 – Hours of operation. This provides a guide to the hours of licensed operation that this Authority might consider appropriate by type of premises and (planning) area classification.
 - Section 8 – The prevention of crime and disorder. This provides general guidance on the promotion of the first licensing objective.
 - Section 9 – Public safety. This provides general guidance on the promotion of the second licensing objective.
 - Section 10 – The prevention of nuisance. This provides general guidance on the promotion of the third licensing objective.
 - Section 11 – The protection of children from harm. This provides general guidance on the promotion of the fourth licensing objective.
42. The purpose of Southwark's statement of licensing policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.
43. Members should take into consideration both the Southwark statement of licensing policy and the Section 182 Guidance when making decisions. Links are below:

Southwark policy:

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

Section 182 Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Cumulative Impact Area (CIA)

44. The premises are not situated in a cumulative impact area.

45. According to this council's statement of licensing policy 2021 - 2026 the premises are situated in a residential area.
46. Under this council's statement of licensing policy 2021 - 2026 the following closing times are recommended as appropriate within residential areas for the categories of premises stated:
- Restaurants and cafes, public houses, wine bars, other drinking establishments, bars in other types of premises, event premises / spaces where the sale of alcohol is included in, and ancillary to, a range of activities including meals:
 - Monday to Sunday: 23:00
 - Nightclubs are not considered appropriate for residential areas.

Climate change implications

47. Following council assembly on 14 July 2021, the council is committed to considering the climate change implications of any decisions.
48. 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.
49. 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.
50. The council's climate change strategy is available:

<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

51. 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

52. 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.

53. 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 with 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.

54. 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>.

55. The equalities impact assessment is available at:

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

Health impact statement

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

Resource implications

57. There is no fee associated with this type of application.

Consultation

58. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

59. The sub-committee is asked to determine, under Section 51 of the Licensing Act 2003, following an application, made under Section 51 of the same act, for a review of premises licence. At any stage, following the grant of a premises licence, a responsible authority or any other person may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

60. The principles, which sub-committee members must apply, are set out below.

Principles for making the determination

61. The sub-committee is asked to determine the application for a premises licence under section 51 of the Licensing Act 2003.

62. The four licensing objectives are:

- The prevention of crime and disorder
- The protection of public safety
- The prevention of nuisance
- The protection of children from harm.

63. Each objective must be considered to be of equal importance. The authority must, having regard to the application and any relevant representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are to:

- Modify the conditions of the licence by altering, omitting or adding any condition
- Exclude a licensable activity from the scope of the licence
- Remove the designated premises supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence.

64. For the purpose of determining a relevant representation under section 52 of the Act a “relevant representation” means representations which:

- Are relevant to one or more of the licensing objectives
- Are made by the holder of the premises licence, a responsible authority or an other person within the prescribed period
- Have not been withdrawn
- If made by another person (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority frivolous or vexatious.

65. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

66. The authority may decide that no action is necessary if it finds that the review does not require it to take any steps appropriate to promote the licensing objectives.

67. In deciding what remedial action if any it should take, the authority must direct its mind to the causes or concerns that the representations identify. The remedial action should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

68. It is of particular importance that any detrimental financial impact that may result from a licensing authority’s decision is appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

69. Where the authority determines an application for review it must notify the determination and reasons why for making it to:

- The holder of the licence
- The applicant
- Any person who made relevant representations

- The chief officer of police for the area (or each police area) in which the premises are situated.

Hearing procedures

70. 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 representations
 - 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 application.
 - The committee shall disregard any information given by a party which is not relevant:
 - To the particular application before the committee, and
 - The licensing objectives.
 - 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 any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
71. This matter relates to the review of the premises licence under section 51 of the Licensing Act 2003. Regulation 26(1) (a) requires the sub-committee to make its determination at the conclusion of the hearing.

Council's multiple roles and the role of the licensing sub-committee

72. Sub-committee members will note that, in relation to this application, the council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.
73. 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.

74. As a quasi-judicial body the licensing sub-committee is required to consider the application 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 all persons entitled to make representations to them.
75. The licensing sub-committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
76. 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.
77. The sub-committee can only consider matters within the application that have been raised through representations from other persons and responsible authorities.
78. Under the Human Rights Act 1998, the sub committee needs to consider the balance between the rights of the applicant and those making representations 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.
79. Other persons, responsible authorities and the applicant have the right to appeal the decision of the sub-committee 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.

Guidance

80. Members are required to have regard to the Home Office 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

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

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office Revised Guidance to the Act Secondary Regulations Southwark statement of licensing policy Case file	Southwark Licensing, C/O Community Safety and Enforcement, 160 Tooley Street, London SE1 2QH	Mrs Kirty Read Tel: 020 7525 5748

APPENDICES

No.	Title
Appendix A	Copies of the review application and further related correspondence from the review applicant
Appendix B	Copy of the representation submitted by this council's trading standards service
Appendix C	Copies of representations, and related correspondence, submitted by other persons
Appendix D	Copy of the current premises licence
Appendix E	Map showing the location of the premises

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure		
Report Author	Wesley McArthur, Principal Licensing Officer		
Version	Final		
Dated	29 September 2022		
Key Decision?	No		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments sought	Comments included	
Director of Law and Governance	Yes	Yes	
Strategic Director of Finance and Governance	Yes	Yes	
Cabinet Member	No	No	
Date final report sent to Constitutional Team		3 October 2022	