

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 11 August 2017 at 10.00 am at Ground Floor Meeting Room G02C - 160 Tooley Street, London SE1 2QH

---

**PRESENT:** Councillor Sandra Rhule (in the chair)  
Councillor Sunny Lambe  
Councillor Lorraine Lauder MBE

**OTHER S  
PRESENT:** Alan Aylott, legal representative, Adam News  
Nawaz Muhammad, applicant, Adam News  
D. Dornor, owner, Afrikiko  
Emmanuel Kpakpah, deisgnated premises supervisor, Afrikiko

**OFFICER  
SUPPORT:** Debra Allday, legal officer  
Wesley McArthur, licensing officer  
Bill Masini, trading standards officer  
Alexander Lisowski, licensing officer  
Andrew Weir, constitutional officer

### 1. ELECTION OF THE CHAIR

In the absence of the chair, Councillor Sandra Rhule was nominated to chair the meeting by Councillor Lorraine Lauder MBE. This was seconded by Councillor Sunny Lambe.

### 2. APOLOGIES

There were none.

### 3. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

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

It was agreed to consider the following urgent item:

- Licensing Act 2003: Afrikiko Bar, Restaurant and Nightclub, 871 Old Kent Road, London SE15 1NX.

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

There were none.

#### **6. LICENSING ACT 2003: TRANSFER APPLICATION ADAM NEWS, 6 COLDHARBOUR LANE, LONDON SE5 9PR**

The licensing officer presented their report. Members had no questions for the licensing officer.

The applicant and their legal representative addressed the sub-committee. Members had questions for the applicant and their legal representative.

The Metropolitan Police Service representative addressed the sub-committee. They advised that they would call on the trading standards officer, Bill Masini and the licensing officer, Alexander Lisowski, as witnesses. Members had questions for the police and their witnesses.

Both parties were given five minutes for summing up.

The meeting went into closed session at 11.27am.

The meeting resumed at 11.44am and the chair advised the applicant of the decision.

#### **RESOLVED:**

That having considered the objection notice submitted by the Southwark Police Licensing Office relating to the application submitted by Nawaz Muhammad to transfer a premises licence under the Licensing Act 2003 in respect of the premises known as Adam News, 6 Coldharbour Lane, London SE5 9PR, the sub-committee has refused the transfer application.

#### **Reasons**

The licensing sub-committee heard from the representative for the applicant for the transfer who advise that the only basis upon which the application could be refused was is there was an exceptional reason for the application's refusal. The representative referred the sub-committee to various paragraphs to the s.182 Licensing Act 2003 guidance (April 2017), in particular, paragraphs 4.31, 4.33 and 4.39. The applicant had a personal licence and as such could be considered a fit and proper person over the age of 18 who had a legitimate intention to carry on a business. To demonstrate that this was a genuine business transaction, the representative for the applicant provided a business agreement dated 29 June 2017; a letter from a firm of solicitors dated 18 July 2017 stating that the

terms of the lease had been agreed; a letter from a firm of accountants also dated 18 July 2017 stating that they were acting as accountants for A Food and Wine Limited and finally a certificate of stock valuation dated 30 June 2017.

The licensing sub-committee heard from the Metropolitan Police Service representative who objected to the transfer application and called a trading standards officer and licensing officer from the council as witnesses. The premises had been the subject of a review application and on 15 June 2017 the licensing sub-committee heard evidence from responsible authorities regarding a catalogue of breaches of the premises licence and evidence of a number of criminal offences. The licensing sub-committee took the decision to revoke the premises licence. The premises licence holder has appealed this decision. On 30 June 2017 an application was received from the applicant to transfer the above premises licence.

On 11 July 2017 a licensing officer attended the premises to conduct a licensing induction visit, with the applicant. In advance of this meeting, the applicant had been asked to ensure that the applicant had a copy of the lease agreement and all any other transfer documents which would indicate that he had legitimate control of the premises. This documentation was not forthcoming during the visit, stating that his solicitors were dealing with this matter and that no lease had been signed. Present during this induction meeting was the owner of the premises (SH), who had also been witnessed working behind the counter of the shop and had been seen working at the premises on previous occasions (16/05/2016, 26/05/2016, 07/07/2017, 11/07/2017 and 17/07/2017). On questioning SH stated he worked there for free. It was noted that other personnel, in particularly ET (12/05/2016, 23/05/2016, 28/05/2016, 07/07/2017, 11/07/2017 and 17/7/2017) had been witnessed working at the premises both before and after the transfer.

The police, trading standards and licensing were of the opinion that the applicant did not have legitimate control of the premises at either the time of the application or at the date of the licensing sub-committee.

Furthermore, at the conclusion of the induction meeting on 11 July, the licensing officer noticed a number of cans of Zubr lager displayed for sale, and the information displayed on the cans was not English and is a clear breach of the food labelling regulations.

The licensing sub-committee considered all written and oral representations before it. Section.42(6) of the Licensing Act 2003 and Section.182 of the Licensing Act 2003 guidance (April 2017) allows the police in exceptional circumstances to object to a transfer where they believe the transfer may undermine the crime prevention objective.

The premises licence was revoked following a trading standards review on 15 June 2017, when the licensing sub-committee found a catalogue of breached licence conditions, a number of criminal offences committed and an illegal worker working for the previous licence holder. Whilst there is reference with the s.182 guidance (paragraph 8.100) the objection mechanism being used to vet transfer applicants, the licensing sub-committee were guided to paragraphs 89 and 90 of the Southwark's statement of licensing policy and the practice of transfer applications being submitted immediately following an application for a review. Where, such applications are made, this transfer applicant's are expected and required to provide documentary proof of transfer of the business and lawful occupancy of the premises to support the contention that the business is under new management control.

The business agreement refers throughout to assets. It states "the parties agree that the

purchase price for the assets...". It does not refer to a purchaser's right to occupy or run a business from that premise. The business agreement is dated 29 June, a day before the certificate of valuation was issued. The Business Agreement is between two individuals: MJJ and the applicant. Trading standards confirmed that when MJ was interviewed as part of the trading standards investigation, MJJ was the sole director of a body corporate, set up in June 2015 in order to operate this business known as Adams News. The stock was bought as part of that business. The assets, goodwill and stock belonged to the Limited company, not MJ. Any payment for the business should therefore be made to the company, not the individual. The business agreement does not express the right to operate the business there as there is no lease for the premise. Further, 19 days after the business agreement was signed the solicitors wrote to the applicant thanking him for his instructions in respect of a lease. No lease has been supplied to date. The applicant's representative showed an un-redacted copy of the business agreement to all parties at the hearing. This showed a purchase price of assets to be £11,557.38; this being the amount exact shown on the stocktaking valuation certificate dated 30 June. This licensing sub-committee is not convinced that there has been a legitimate business transfer when a mere 2-weeks earlier on 15 June 2017, the licensing sub-committee revoked the premises licence and the applicant was given independent advice to proceed with the purchase, without a lease with the issue concerning the premises outstanding on appeal. There was also, no evidence of payment provided by the applicant to the MJJ.

The licensing sub-committee, similarly have concerns the same personnel working at the premises both before and after the transfer application. Given the serious history the premises, and as a matter of due diligence, the applicant would be expected to ensure the legitimacy of stock, that the completion of all transfer of the business/lawful occupation documentation and demonstration of sufficient distance from the poor management practices, including the removal of all previous staff.

This licensing sub-committee is satisfied that the evidence presented provide sufficient exceptional circumstances to reject this application and considers it necessary for the promotion of the crime prevention objective to do so.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives in addition to the provisions of the Human Rights Act and that this decision was appropriate and proportionate in order to address the licensing objectives.

### **Appeal rights**

The applicant may appeal against any decision:

- a) To refuse the application to transfer the premises licence
- b) To refuse the application to specify a person as premises supervisor.

Any person who submitted a relevant objection in relation to the application who desire to contend that:

- a) That the application to transfer the premises licence ought not to be been granted or
- b) That the application specify a person as premises supervisor ought not to be been granted

may appeal against the decision.

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

**7. LICENSING ACT 2003: AFRIKIKO BAR, RESTAURANT AND NIGHTCLUB, 871 OLD KENT ROAD, LONDON SE15 1NX**

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant for the review, the Metropolitan Police Service representative, addressed the sub-committee. Members had questions for the police.

The management of the premises addressed the sub-committee. Members had questions for the management of the premises.

All parties were given five minutes for summing up.

The meeting went into closed session at 12.30pm.

The meeting resumed at 1.12pm and the chair advised all parties of the decision.

**RESOLVED:**

That the licence be suspended as an interim step to promote the licensing objectives pending the determination of the review application at the full hearing, to be held on 6 September 2017.

**Reasons**

This was a hearing to consider if it is appropriate to take interim steps to promote the licensing objectives upon receipt of an application by the Metropolitan Police for an expedited summary review of the premises.

The police advised that on 9 August 2017 they applied to the licensing authority for a summary review of the premises licence in respect of the premises known as Afrikiko Bar, Restaurant and Nightclub, 871 Old Kent Road, London, SE15 1NX after a Superintendent for the Metropolitan Police Service certified that in his opinion the premises are associated with serious crime or serious disorder or both.

The application related to a serious incident that took place on the previous day, Tuesday 8 August 2017 at approximately 02:00 hours. An emergency call was made to the police at 02:02 reporting that a large fight including the use of a knife, and involving approximately 34 persons (both male and female), was taking place outside of the premises. Police attended the premises at 02:08 and established that a male was unresponsive on the floor. A large number of people were still in the vicinity of the premises. Police officers viewed CCTV of the incident which showed a large group of people outside the premises at 02:00. The closing time of the premises on Tuesday 8 August 2017 was 01:30. The

CCTV showed a fight involving weapons. The victim was stabbed and died as a result of the injuries the victim received.

The police stated that the premises were being operated on 8 August in breach of various of the conditions on the premises licence, namely condition 303 (completion of Form 696/venue hire agreement), condition 336 (personal licence holder to be on premises when alcohol is supplied) and condition 347 (only over 21s to be admitted to the basement area). They further stated that there was a history of non-compliance at the premises with regards to the terms and conditions of the premises licence issued in respect of the premises and recommended that the premises licence be suspended as an interim step.

The licensing sub-committee have also considered evidence submitted by the premises licence holder and the designated premises supervisor in relation to the application. It was accepted that the DPS was not present and was not aware of the event. It was also accepted that there was no personal licence holder was on the premises that night. No explanation could be given as to why persons under the age of 21 had been admitted to the premises or why the SIA staff had input fake dates of birth (approximately 20 people) in the ID scanner system. The premises stated that the victim was stabbed away from the premises and staggered back to the premises for assistance and "fell on the premises". The victim fell across the doorway and the main door could not be shut.

The licensing sub-committee believe that there are too many questions that require answers and matters that need to be urgently addressed. From the version of the events provided by the premises, the main door must have been open as the victim fell across the doorway and it could not be closed, meaning the door must have been open when he fell. Three conditions had been breached (conditions 336, 303 and 347). At this stage, the licensing sub-committee have no confidence in the management of the premises and in the interim the premises licence must be suspended.

The licensing sub-committee having read and heard all the evidence before them were satisfied that the interim steps set out above were appropriate and proportionate in order to promote the licensing objectives.

### **Appeal rights**

There is no right of appeal to a Magistrates' Court against the licensing authority's decision at this stage.

The premises licence holder may make representation against any interim steps imposed and a hearing to consider the representation will be held within 48 hours of receipt of the representation.

The holder of the premises licence may only make further representations if there has been a material change in circumstances since the authority made its determination

Any representation should be in writing and cannot be received outside of normal office hours.

The meeting ended at 1.20 pm.

**CHAIR:**

**DATED:**