



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 6 SEPTEMBER 2017

LICENSING ACT 2003: AFRIKIKO BAR, RESTAURANT AND NIGHT CLUB 871 OLD KENT ROAD, LONDON, SE15 1NX

1. That the council's licensing sub-committee, having considered an application made under Section 53C of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as Afrikiko Bar, Restaurant and Night Club 871 Old Kent Road, London, SE15 1NX, and having had regard to all other relevant representations, has decided that it is appropriate, necessary and proportionate in order to promote the licensing objectives to:
 1. Suspend the licence for a period of 9 weeks.
 2. Modify the conditions of the licence by adding the following conditions:
 - i. That the hours of operation will be:
Sunday to Thursday from 11:00 to 00:00
Friday and Saturday from 11:00 to 01:00
 - ii. That all staff are trained in their responsibilities under the Licensing Act 2003 in addition to the terms and conditions of the premises licence in addition to training specific to premises licence terms and conditions and training records should be kept and signed, these records shall be updated every six months and shall, upon request, be made immediately available to officers of the police and the council.
 - iii. That alcohol shall be served ancillary to food, excluding snacks.
 - iv. That there are no externally promoted DJ events at any time, including when the premises operate under a temporary event notice.
 - v. That the premises licence holder operates according to a comprehensive written dispersal policy and staff training pertaining to it. The dispersal policy must include provisions regarding the car park at the premises (e.g when the premises are shut that vehicles are made to vacate the car park). The dispersal policy is to be submitted to the licensing authority prior to the premises operating.

- vi. That all event bookings and full details are to be logged and made known to all staff. The booking log is to be kept at the premises and made available for inspection immediately upon request by police and/or council officers.
- vii. That when events take place, the premises shall carry out pre-opening security checks of the premises and car park for both drugs and weapons to ensure that these items are not brought inside.
- viii. That condition 291 be amended to read: "Any events operating after 22:00 hours shall have two SIA registered door supervisors, one of whom shall be female, until the terminal hour that the premises are in use under the licence including any temporary event notice. Hand held search wands will be used to assist in searching all persons entering the premises. All persons to include staff, performers, guests and members of the public. Counting devices shall be used to ensure that the accommodation capacity is not exceeded. The number of attendees shall be recorded periodically whilst the premises is in operation. This information will be made available to the Police and officers of the council and any other authorised persons immediately upon request.
- ix. That conditions 347, 348 and 349 be removed from the licence.

2. **Reasons**

The reasons for this decision are as follows:

The licensing sub-committee heard from Metropolitan Police Service, the applicant for the review. They 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 very serious fatal incident that took place on the previous day, Tuesday 8 August 2017 at approximately 02:00 when an emergency call was made to the police reporting that a large fight, including the use of a knife, and involving approximately 34 persons who had previously been in the premises was taking place outside of the premises. Police attended the premises and found a male 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 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, and we accept, that the premises were being operated on 8 August in breach of various 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 stated further that there was a significant history of non-compliance at the premises with regards to the terms and conditions of the premises licence issued in respect of the premises. They informed the sub-committee that four Section 19 closure notices had been issued and recommended that the premises licence be revoked. In our view the Police acted very properly in instigating this summary review.

The licensing sub-committee heard from the representative for the premises who accepted that there had been failings at the premises in the past. The incident took place some distance from the premises, most of which could not be seen on the CCTV footage as it occurred behind a tree/car.

The licensing sub-committee noted a representation from the other person, a resident, that over the course of the previous 2years, there were often fights outside the premises, loud disturbing music and patrons loitering outside the premises. There was a suggestion that there had been a stabbing outside the premises in November 2015.

The sub-committee considered very carefully whether to revoke the premises licence as requested by the police, particularly in light of the admitted breaches of the licence. Considerable weight was given to the fact that the fatal incident took place some distance away from the premises and after those involved in the violence had already left the premises.

The sub-committee took the view that the appropriate and proportionate steps to be taken should be specifically directed at the cause of the serious incident and should not exceed those steps that were appropriate to promote the licensing objectives.

The sub-committee, on balance, took the view that a significant reduction in operating hours as well as a condition that alcohol must now be provided as ancillary to food, taken together with all the other conditions imposed, was the appropriate and proportionate response on this occasion. These steps were likely to significantly reduce the risk of the licensing objectives being undermined in the future.

Therefore, the sub-committee concluded that revocation of the premises licence was not appropriate at this stage. The premises licence holder is expected to fully comply with all of the imposed conditions without fail. If further breaches occur in the future that have the effect of undermining the licensing objectives then the police would be well within their rights to instigate a further review of the premises licence and, without binding the hands of a future licensing sub-committee, it is likely that more severe action would be taken on that occasion.

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.

4. **Review of interim steps pending appeal**

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
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate:

- To suspend the premises licence.

The interim steps is open to appeal by:

- a) The chief officer of police for the police area in which the premises is situated; or
- b) The holder of the premises licence

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.

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

Date: 6 September 2017