

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 28 November 2019

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

That the application made by Afrikiko Bar, Restaurant and Nightclub Limited for the premises licence to be varied under section 34 of the Licensing Act 2003 in respect of the premises known as Afrikiko Bar, Restaurant and Nightclub, 871 Old Kent Road, London SE15 1NX be granted in part as follows:

Live music, recorded music, performances of dance, entertainment similar to live & recorded music and the sale of alcohol to be consumed on or off the premises	Sunday to Thursday from 11:00 to 00:00 Friday and Saturday from 11.00 to 01.30
Late night refreshment	Sunday to Thursday from 11:00 to 00:00 Friday and Saturday from 11.00 to 01.30
Opening Hours	Sunday to Thursday from 11:00 to 00:30 Friday and Saturday from 11.00 to 02.00

2. Reasons

The sub-committee heard from the applicant's representative, who stressed that there have been no problems at the premises for over two years following the previous review and the changes made to the licence as a result. He reminded the sub-committee that each application must be considered on its own merits and submitted that the previous, admittedly serious, incident should not now be used as a stick to beat the applicant with.

The applicant had made demonstrable and significant changes. It was now reasonable to look at the licence again. The proposal was to retain the use of the ground floor as a restaurant, but the applicant wished to extend the use of the basement area, which currently has a lounge bar atmosphere with music and games. The applicant wants to make a better offer to his patrons and attract others, who tend to go out later in the evening and would wish to stay longer. The applicant acknowledged that the premises are in a residential area and currently benefit from longer opening hours than are indicated by the council's statement of licensing policy. However, as the planning officer himself pointed out, the premises are not overlooked, are relatively isolated and the risk of noise nuisance is therefore minor.

In support of the application, a very comprehensive operating schedule was being proposed, with 61 conditions designed to ensure proper management. The proposed capacity was being reduced from 200 to 150 for the whole premises. Alcohol would be ancillary to food on the ground floor (as now) and available at all times in the basement area. The conditions offered included effective soundproofing, ID scanning and a dispersal policy.

Clearly, there is always a risk when the use of premises changes, but that cannot be determinative of the application. The sub-committee must not base its decision on conjecture, but on the evidence of the last two years of effective management.

The sub-committee heard from the representative of the licensing authority, who reminded them that the premises is in a residential area and already benefits from longer than usual opening hours. The proposal now was clearly for a nightclub use, which is unsuitable for a premises in this area. The licensing authority were not reassured by the limited changes and conditions proposed. The reduction in hours and change of use as a result of the review had prevented a repetition of problems at the premises. There were concerns that the applicant had continued trading and ignored warnings after it was discovered that the layout of the premises was inconsistent with the plan attached to the licence. The licensing authority recommended that the application be refused.

The sub-committee heard from the representative of the Metropolitan Police Service, who reiterated that the changes made following the review had successfully prevented incidents of violence at the premises, which were in any event located in an area where nightclubs are discouraged by the licensing policy. He too requested that the application be refused.

The sub-committee heard from the representative of the council's planning department, who referred them to a series of photographs. He observed that the premises did not have large windows offering a good view of what is going on outside. They were not surveilled or closely overlooked. They were not in the town centre, but were relatively isolated. These factors tend to make premises more prone to incidents of anti-social behavior, though he accepted that noise nuisance was less likely to present a problem. He too emphasised that when the premises had been permitted to open later, there had been a problem with crime.

The sub-committee shared the concerns of the responsible authorities that there was a significant risk of further incidents of crime and anti-social behavior if the application was granted. Further, it was clear from the council's own statement of licensing policy that premises in residential areas are considered unsuitable for nightclub use and the longer opening hours sought. However, the sub-committee also acknowledged that the premises has been operating without problems since the review and noted that the applicant's clientele, who are largely from the African or Hispanic community, tend to eat later in the evening. The sub-committee therefore decided that it would be appropriate to grant the application in part, by permitting slightly longer hours for licensable activities on Friday and Saturday, and adding 30 minutes drinking-up time all week.

The sub-committee noted with approval the applicant's willingness actively to promote the use of public transport to and from the premises, to retain the current use of paper straws and to eliminate the use of single-use plastics.

In reaching its decision, the sub-committee had regard both to the revised guidance and to its own statement of licensing policy, and considered that its decision was appropriate and proportionate in order to promote the licensing objectives, in particular the prevention of crime and disorder and the prevention of public nuisance.

3. 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.

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

Date: 28 November, 2019.