

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Friday 21 October 2016 at 10.00 am at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor David Hubber (in the chair)  
Councillor Sunny Lambe  
Councillor Charlie Smith

**OTHERS PRESENT:** Adebowale Aderibigbe, designated premises supervisor, representing the premises  
Patrick Burns, legal representative for premises  
Abisoye lawal, manager of the premises  
Councillor Kieron Williams, ward councillor representing the applicant for the review and local residents supporting the review  
P.C. Ian Clements, Metropolitan Police Service  
Anthony Lyons, applicant for the review  
Joanne Reynolds, local resident

**OFFICER SUPPORT:** Debra Allday, legal officer  
Richard Kalu, licensing officer  
David Franklin, licensing responsible authority officer  
Richard Pinder, public health officer  
Bill Legassick, environmental protection officer  
Bill Masini, trading standards officer  
Farhad Chowdhury, health and safety officer  
Andrew Weir, constitutional officer

### 1. ELECTION OF CHAIR

In the absence of the chair, Councillor David Hubber was nominated by Councillor Charlie Smith. 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**

There were none.

**5. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**6. LICENSING ACT 2003: D'CONNECT RESTAURANT, 11 JOHN RUSKIN STREET, LONDON SE5 0NS**

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

Councillor Kieron Williams, the ward councillor, representing the applicant for the review and the local residents supporting the review, addressed the sub-committee. Members had questions for the ward councillor.

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

The public health officer addressed the sub-committee. Members had no questions for the public health officer.

The licensing officer representing the council as a responsible authority addressed the sub-committee. Members had questions for the licensing officer.

The environmental protection officer addressed the sub-committee. Members had questions for the environmental protection officer..

The trading standards officer addressed the sub-committee. Members had questions for the trading standards officer.

The health and safety officer addressed the sub-committee. Members had questions for the health and safety officer.

The representative for the licensee and their legal advisor addressed the sub-committee. Members had questions for the representatives for the premises.

The meeting adjourned at 12 noon to allow the legal officer to speak to the licensing team about the ownership of the business. The meeting resumed at 12.15pm.

There was a discussion regarding the ownership of the business.

All parties were given five minutes for summing up.

The meeting went into closed session at 12.30pm.

The meeting resumed at 12.39pm and the chair advised all parties of the decision of the sub-committee.

### **RESOLVED:**

That the council's licensing sub-committee, having considered an application by another person for a review of the premises under Section 51 of the Licensing Act 2003 in respect of the premises known as D'Connect Restaurant, 11 John Ruskin Street, London SE5 0NS and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- revoke the licence.

### **Reasons**

The reasons for this decision are as follows:

The licensing sub-committee heard from the ward councillor, the representative for the applicant for the review. The ward councillor advised that the applicant had asked him to represent them as the applicant feared reprisals from the premises. The review application had been submitted in respect of all four of the licensing objectives and could be summarised as: regularly being open beyond the terminal hour, patrons engaging in intimidating local residents, patrons loitering and drinking alcohol outside the premises, patrons shouting and talking loudly in the early hours of the morning, patrons of the premises fighting on John Ruskin Street and patrons urinating profusely throughout the street and behaving aggressively and threateningly when confronted for such anti-social behaviour.

The representative referred to various extracts from the agenda papers: *"...I have been subjected to rude and aggressive responses from the customers...The impact of the street is to make it unsafe for residents and their children and I avoid walking down that side of the street due to glass and the smell of urine"* (page 129), *"The list of disturbance in long. The customers have no respect for the residents in this residential area all around them. I sleep with earplugs every night and am still awoken twice or even thrice nightly"* (page 130); *"I don't feel safe walking past D'Connect late at night, customers are not considerate of people, blocking the pavement and I will cross the road to use the other side of the pavement to walk down the street"* (page 131); *"The issues at D'Connect are not isolated to Friday/Saturday night, in fact there are often more customers on a Sunday and Monday night. It is also common throughout the winter and summer months"* (page 132).

The Metropolitan Police Service representative advised that the premises had been visited by police and council officers on numerous occasions and that groups of patrons had been seen stood outside of the premises smoking, drinking and talking and causing a nuisance. Police officers had made the management of the premises aware of their licence conditions however the premises remained problematic. Five calls to the police regarding noise nuisance had been made, and witness statements detailing the activities that would amount to anti-social behaviour had been provided. The Metropolitan Police Service supported the review application.

The public health officer addressed the sub-committee stating that they were concerned

that local residents have been extensively disturbed by the premises placing them at considerable loss of amenity. The officer stressed concerns regarding the operation and management of the premises and fully supported the review application.

The officer representing licensing as a responsible authority addressed the sub-committee and advised that they supported the review in regards to all of the licensing objectives. The officer stated that there had been numerous complaints to the council regarding noise nuisance and anti-social behaviour due to the behaviour of customers of the premises, that council officers have observed people loitering outside; council officers had observed a patron of the premises urinating against a wall a few doors away and patrons sitting in their vehicle playing loud music from the vehicle. The officer said that they had no confidence that the management of the premises are promoting any of the licensing objectives.

The environmental protection officer addressed the sub-committee and stated that the noise and nuisance team had received complaints since 2014 in respect of people congregating in the street outside the premises, talking loudly and drinking and therefore supported the review.

The trading standards officer addressed the sub-committee and advised that they supported the review. The officer stated that toilet facilities at the premises may be inadequate thus leading to patrons urinating in the surrounding streets which constituted a public nuisance. The officer went contended that such public urination presented a health risk and also puts children at risk of being victims of public indecency. Trading standards recommended that the licence be revoked.

The public health directorate officer addressed the sub-committee stating that they were concerned that local residents have been extensively disturbed by the premises placing them at considerable loss of amenity. The officer stressed concerns regarding the operation and management of the premises and fully supported the review application.

The representative for the licensee of the premises addressed the sub-committee. They advised that the premises licence holder was not present at the meeting as he was away. A document "Payment Agreement of Alabama Restaurant" dated 24 February 2010 was produced as evidence of the designated premises supervisor's authority to speak on behalf of the premises licence holder. A text message was also received by the designated premises supervisor (DPS) from the premises licence holder authorising the DPS to represent him. The representative advised the licensing sub-committee that he had viewed the CCTV from the premises and that the complaints were not a true representation of the situation at the premises and that not all of the allegations could be attributed to the premises. The allegations that had been made by the other persons and the responsible authorities were so serious, the premises had to question why no enforcement action been taken.

Since the review application had been submitted in June 2016, there had been an improvement. SIA staff were employed, who were moving patrons inside the premises; the premises had not operated beyond the terminal hour; police confirmed that there was no evidence of drug use. Whilst the premises apologised for any inconvenience caused things were moving forward. The premises accept the conditions proposed by the responsible authorities and a slight reduction in hours and they would liaise with the residents.

The licensing sub-committee are deeply concerned as to the running of the premises

D'Connect and the extent of the evidence supporting the review, overwhelming. The DPS presented a document "Payment of Agreement of Alabama Restaurant", which provides that the Alabama Restaurant situated at 11-13 John Ruskin Street, SE5 0ND was sold by the owner, Mr R Shinaba to Mr D Alderibigbe for £20,000 including fixtures and fittings on 24 February 2010. Both parties signed the agreement, which was witnessed by a Mr K Ogunledun. On the agreement, there is a handwritten comment that "The full amount had been paid (twenty thousand pounds only) on 10 April 2011. The full ownership of the Alabama Restaurant has now transferred to Mr Debo Aderigbigbe". It appears that this was signed by the same witness to the agreement itself, Mr K Ogunledun. This agreement shows that the premises licence holder, Mr R Shinaba sold the business in its entirety to the DPS. This suggests that since 24 February 2010 the premises has been operating without a licence. That in itself, warrants an immediate revocation of the licence.

A friend of the DPS, who did not have a right to speak at this meeting, suggested that the sale of the business did not take place. This licensing sub-committee do not accept this, as the handwritten comment on the agreement confirms that full payment was made on 10 April 2011. Furthermore, when the responsible authorities have visited the premises and have difficulty in identifying who was managing the premises. The licensing sub-committee are of the view that the agreement explains why the responsible authorities had such difficulty.

The licensing sub-committee were directed to various extracts in the agenda papers which made for compelling reading: "*These men are out of control and I fear for my daughter whose health has degenerated due to fear and lack of sleep. The impact of this on my granddaughter is becoming felt too. The noise disturbs her too and she is tired at school*" (page 123); "*The constant noise on John Ruskin Street, emitted by the customers of D'Connect, has caused me so much lack of sleep and such a great deal of stress and anxiety that I have even sought medical and professional support*" (page 135).

This licensing sub-committee has no confidence in the management of these premises. The premises has been given warnings and advice on the running of the premises. Despite the ample opportunities, they have failed to improve. The premises denied incidents, even when they were witnessed by council officers and the police. They have failed to explain or provide any detail as to how they intend to improve and even when asked if they would agree to revert to the restaurant hours as suggested in Southwark's statement of licensing policy (being 23:00), they made a counter-offer of midnight.

In the circumstances, there is no alternative but to revoke the premises licence.

In making this decision the licensing sub-committee had regard to all of the licensing objectives and considered that in the circumstances the decision was appropriate and proportionate.

### **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.

The meeting ended at 12.45 pm.

**CHAIR:**

**DATED:**