

MEMO: Licensing Unit

To Licensing Unit Date 7 May 2021
From Jayne Tear Telephone 020 7525 0396
Email jayne.tear@southwark.gov.uk

Subject Afrikiko Bar, Restaurant and Nightclub, 871 Old Kent Road, London, SE15 1NX - Application for a premises licence

I write with regards to the above application for a premises licence submitted by Jabulani Jabangwe under the Licensing Act 2003, which seeks the following licensable activities:

- Live music (indoors) on Monday to Sunday from 17:00 to 21:00
- Recorded music (indoors) on Monday to Wednesday fro 17:00 to 23:00; on Thursday, Friday and Saturday from 17:00 to 02:00 the following day and on Sunday from 17:00 22:00
- Supply of alcohol (on the premises) on Monday to Wednesday fro 17:00 to 22:45; on Thursday, Friday and Saturday from 17:00 to 01:45 the following day and on Sunday from 17:00 to 21:45
- Overall opening times shall be on Monday to Wednesday fro 17:00 to 23:00; on Thursday, Friday and Saturday from 17:00 to 02:00 the following day and on Sunday from 17:00 to 22:00

The premises is described within the application as

'The premises is a nightclub/bar. There is an age restriction of 18+ as there is a bar present; the distribution of alcohol will be of a high standard Male and female (separate) toilets downstairs Venue space at approximately 1500 sqft Capacity of approximately 200 to 250 people (standing); 70 people (seated) Two secure fire exits DJ booth'.

My representation is submitted under the prevention of crime and disorder; the prevention of public nuisance, public safety and the protection of children from harm licensing objectives and has regard to the Southwark Statement of Licensing Policy 2021 – 2026

This premises is situated within a residential area and under the Southwark Statement of Licensing Policy 2021 – 2026 the closing times appropriate for public houses, wine bars or other drinking establishments and restaurants and cafes is 23:00 hours daily. Night clubs (with sui generis planning classification) are not considered appropriate for this area.

The hours applied for are in excess of what is appropriate for a bar or restaurant in this area within the statement of licensing policy and the premises is very close to local resident's who could be disturbed by patrons leaving the premises late at night. I object to the granting of the opening hours asked for within this application as the operation of the premises and of people leaving the premises later at night could impact upon local residents living nearby and in the surrounding streets. The management would have no

control of patrons that have left the premises and the possible impact of any rowdy and anti-social behaviour or crime and disorder and this application has not addressed the dispersal of patrons.

This application gives no reason to convince the licensing sub- committee to divert from the hours appropriate within the licensing policy.

Further to this the premises has previously held a licence and has been the subject of a review on 2 occasions. On the last occasion which was an expedited review submitted by the metropolitan police, the premises licence was revoked on 27 October 2020 and I attach to this representation a copy of the notice of decision from the LSC hearing held.

I appreciate that this new application is applied for in a different name to the previous licence held, however I have concerns that the previous Licensee or DPS may be the controlling mind of the business (and clearly did not promote the licensing objectives) and would ask that the applicant provides a lease to show that he is the new business owner.

I also note that the premises plan submitted with this application does not include the basement of the premises and ask the applicant to confirm that this licence will apply only to the ground floor level of the premises.

I may submit further comments once this information is received.

The premises want to operate as a nightclub which is not considered suitable for this area; the application does not address the licensing objectives, including the dispersal of patrons. Therefore In its current form I object to the granting of this application and recommend to the LSC that the application is refused

.

Jayne Tear
Principal Licensing Officer
In the capacity of Licensing Authority as a Responsible Authority

Southwark's Statement of Licensing Policy 2021 – 2026 can be found on the following link: <https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 27 OCTOBER 2020

SECTION 53C LICENSING ACT 2003: AFRIKIKO RESTAURANT & NIGHT CLUB LTD (t/a “AFRIKIKO” 871 Old Kent Road, London SE15 1NX)

1. Decision

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 Restaurant & Night Club Ltd (t/a “Afrikiko” 871 Old Kent Road, London SE15 1NX) and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

- Revoke the premises licence.

2. Reasons for the decision

This was an application for a review of the premises licence in respect of Afrikiko Restaurant & Night Club Ltd (t/a “Afrikiko” 871 Old Kent Road, London SE15 1NX) brought under Section 53C of the Licensing Act 2003.

A preliminary issue was raised by the representative for the premises. They advised that the breach of COVID-19 regulations and guidance was not a legitimate basis for a premises licence review or a summary review and therefore should not be brought to the sub-committee. This application was brought using the expedited process under Section 53A of the Licensing Act 2003, based on the fact that a superintendent of the Metropolitan Police Service was of the opinion that the premises was associated with serious crime and/or serious disorder. This review process was not the correct mechanism to address the COVID-19 compliance of a premises. Alternative and specific powers should be used by authorities to address the premises operating in a COVID-19 secure manner.

The representative for the Metropolitan Police Service responded by informing members that the time had passed to question the superintendent’s certificate. If the basis of the certificate was in question, it should have been challenged in the High Court.

The licensing sub-committee was not persuaded by the argument submitted by the premises’ representative. All relevant case law was considered and accepted as to why this case fell under the expedited process on 2 October 2020. Those are set out in the notice of decision of the same date. Furthermore, the licensing sub-committee were directed to Section 53C of the Licensing Act 2003 which provides:

“The licensing authority must:

- a. hold a hearing to consider the application for the review and any relevant representations; and
- b. take such steps as it considers appropriate for the promotion of the licensing objectives”.

The premises representative’s legal argument was therefore rejected and the hearing then moved on to the parties presentations. The legal representative for the police advised that the police and responsible authorities had attempted to engage with the premises since July 2020 and that the police have tried hard to engage with the operator in line with the “4Es” approach to policing during the COVID-19 pandemic namely: engage, explain, encourage, enforce. The premises had previously been the subject of a review in 2017 after a customer had died on the premises steps. More recently, the police cited a number of incidents that justified the police’s request to revoke the premises licence.

On Friday 31 July 2020 police attended the premises at 23:45. Officers met with the manager. The ground floor restaurant area of the premises was quiet but loud music could be heard coming from the basement nightclub area.

When the police entered the basement they saw approximately 20 persons sitting together. A DJ was behind a DJ booth adjacent to the dancefloor area. Music was so loud officers had to shout to make themselves heard. Social distancing measures were not apparent and masks were not being used. Dancing was not witnessed, but the facility for dancing was apparent. On this basis, the police concluded that the premises was operating as a nightclub.

When questioned, the manager confirmed no risk assessment was in place but was “in the pipeline”. The manager was advised to correct this before re-opening to the public. The police officer also recommended that the operator should put tables and chairs on the dancefloor so people would not be tempted to dance. He was also advised to read the guidance before re-opening. This was in breach of the Health and Safety Act 1974 and associated guidelines, in addition to “Keeping workers and customers safe during COVID-19 in restaurants, pubs, bars and takeaway services” (3 July 2020).

The police also attended the premises on Saturday 15 August 2020. Loud club-style music could be easily heard from outside the premises. Approximately 30 patrons were present in the basement. Flashing strobe nightclub style lighting was in operation, a DJ in a DJ booth and patrons dancing on the dancefloor were also observed.

Officers again concluded that the basement area was operating as nightclub. Social distancing measures were not apparent and masks were not being used. When spoken to, the manager denied people had been dancing regardless of what the officers had witnessed. Officers reminded the manager that the premises could operate as a bar, but not a nightclub. This was contrary to the “Keeping workers and customers safe during COVID-19 in restaurants, pubs, bars and takeaway services” (3 July 2020).

Additionally, nobody at the premises was able to operate the CCTV system. The manager was also unable to produce either the premises licence or a summary of it. A formal notification of offences was served on the operator for Licensing Act 2003 breaches relating to Section 57(4) (failure to secure a premises licence or a certified copy at the premises or to prominently display a summary of the licence) and Section 57(7) (failure to produce a premises licence or a certified copy). The notification also included breaches in relation to conditions 288 and 289 concerning the installation of a CCTV system and retention of CCTV.

The police attended the premises again on 19 August 2020 to serve a formal notification warning notice on the venue regarding the visit on 15 August 2020. The ground floor restaurant was open, but no personal licence holder was present, in breach of the premises licence conditions. A formal notification relating to this offence of breaching condition 101, contrary to Section 137 of the Licensing Act 2003 (exposing alcohol for retail without an authorisation) was also served. As a result a Section 19 Criminal Justice and Police Act 2001 closure notice was served.

The police once again attended the premises on Friday 29 August 2020 at 01:00. The police were informed by the door supervisor present on the door they would need to wait for the manager before carrying a licensing inspection of the premises. The officers entered the premises to carry out their inspection.

When the police were waking down the staircase to the basement area, a male saw the officers and shouted "Shut the door! Shut the door.!" The door to the basement area was promptly closed and blocked from the inside. Others also attempted to stop the officers entering the basement area.

When the police managed to open the door, a female was found to be pushing the door shut with both her hands. Despite what the police witnessed, it was denied that the door was held shut, with one male stating "No one was holding the door, you just pushed the door when she was leaning against it". Approximately 47 to 60 men and women, aged between 18 and 30, were standing around. Social-distancing measures were not observed and no face masks were worn. Nightclub style neon lighting was on and a DJ was present.

The officers again concluded that the premises had been operating as a night club. An amplified male voice said "Sit down, sit in your seats" and "No dancing... just look at each other" and the DJ announced "I'm going to play music in the background". The patrons were dressed in party attire. Police again spoke with the manager who denied that the premises were operating as a nightclub. The officers therefore warned the manager that enforcement action could follow.

Reference was also made to 4 September 2020 when council officers and police attended the premises. Trading standards attended on this occasion and gave direct evidence regarding their attendance as part of their representation.

On 17 September 2020 police officers attended the premises to obtain CCTV footage of incidents when it was believed a prohibited nightclub had been in operation. The manager complained that he was being persecuted and that the police should visit other premises who were "packing people in like sardines". The

manager refused to identify the other premises, stating "I'm not giving you the names, I'm not a snitch". The manager did not agree to show officers the CCTV footage, so instead, the officers left him with a USB memory stick and instructed that the manager download the relevant CCTV footage from 29 August 2020. It later transpired that the USB stick returned to the police was blank.

The police attended the premises again on Saturday 26 September 2020 at 22:49 to ensure that it was complying with the 22:00 curfew regulations that had been introduced by way of an amendment to The Health Protection (Coronavirus, Restrictions) (No.2)(England) Regulations 2020 ("the No.2 Regs") on 24 September.

Officers knocked on the front door and entry was initially refused by the manager. Upon entry, officers witnessed 8 to 10 patrons seated or standing with bottles of beer sitting at tables eating and drinking. None of the staff were wearing facemasks. Officers attempted to gain entry to the basement club area, but the door was locked. They asked the manager to unlock it. The manager, who was with another male, feigned surprise and advised the officers "I think the key is with the cleaner and she has gone home". The manager then denied anyone was in the basement. One of the police officers requested to view the CCTV monitors but the monitor feeds for all the cameras in the basement area were not working. The manager stated that there was "a problem with the CCTV", despite the fact that the police had witnessed the CCTV working only two hours earlier.

The police officers went to the basement and pushed the basement door open, which opened ajar and was then swiftly slammed shut with people inside the basement holding it shut. The lighting to the whole of the basement area was then shut off. A smartly dressed male came out of the basement and the door was locked behind him. He refused to open the basement door for officers, until the police moved away. The male obstructed officers in the execution of their duties and had to be threatened with arrest.

When the door finally opened, some 47 to 60 patrons in party and evening attire exited the basement area, using threatening language and posturing. The manager was asked to put on the lights for safety reasons but he ignored the request. Most of the patrons were carrying alcoholic drinks. On entry to the basement area the director and licensee of Afrikiko Restaurant & Night Club Ltd, Zeona Ankrah, emerged with a baby. She claimed that she was cleaning despite wearing full make-up and evening dress. Electric shisha pipes were found on the basement tables, in addition to beer bottles and buckets containing bottles of wine.

The sub-committee then viewed body worn video footage. Members could clearly see people dancing on the 15 August 2020. The footage from 26 September 2020 the sub-committee saw the 47+ people filing out from the premises all of whom appeared of typical clubbing age rather the usual variation in age typical for a family gathering. It was note from the various footage that there were also the breaches in terms of SIA, ID scanning.

The officer for trading standards advised the licensing sub-committee that on Friday 4 September 2020, at approximately 20:00, officers from the council's trading standards, licensing, health and safety and noise teams attended the premises with

two police officers from the night time economy team. The officers were visiting the premises following complains about the basement being used as an unlawful nightclub, contrary to the Public Health (Coronavirus, Restrictions) (No 2) (England) Regulations 2020, and to serve a prohibition notice under the same regulations. Following the prohibition notice being served, lights from the basement and two speaker cables were seized to prevent the premises from re-opening as a nightclub until the law permitted it. When asked, the manager stated that he didn't know how to bring up the requested CCTV footage in breach of condition 288 and 289 of the premises licence.

The legal representative for the premises accepted that he could not hold the premises out to be a good example of a premises compliant with the COVID-19 legislation but the premises did have the following in place: a reduced capacity, hand sanitiser, a temperature control gun, track and trace and a risk assessment.

The representative also made reference to the incident in 2017 that instigated the summary review and said it should not now prejudice the premises. They advised that since the 2017 review, a variation application had been approved in November 2019, when the operating hours had been extended to the current hours, despite objection from the police and licensing as a responsible authority. The premises' position was that a nightclub had not been in operation at the basement of the premises. Since July 2020 the basement had been repurposed, as permitted by the COVID-19 legislation and had been trading as a bar and a "lounge".

Regarding the dates highlighted by the police, the premises contended:

- i. On 31 July 2020 there were only 20 people present and whilst there was music being played, no one was dancing.
- ii. Contrary to the police evidence, there was not a window to the basement area, so no dancing could have been seen be viewed, on 15 August 2020.
- iii. Whilst there was no personal licence holder on the premises 19 August 2020, no sales of alcohol were made.
- iv. It was accepted that on 29 August 2020 someone did say "sit down", but no dancing took place.
- v. The issues with the premises CCTV and producing the footage to the police and council officers had only come to light during the course of the review proceedings. This had now been replaced.
- vi. Concerning 27 September 2020 the premises were closed and a family meeting was taking place in the restaurant on the ground floor, after the manager's son had been stabbed. The family guests present, raised concern that perpetrators of the stabbing were at the door. Because of this, the guests to the premises all made their way to the basement area. No one looked out to see who was on the other side of the door and would chose not to open the door until it was safe to do so. This was the reason for the delay in opening the door to the police. As the premises were closed, there was no security on the door. It was accepted that when the police did enter the premises, were

shisha pipes on the tables were electronic and therefore did not breach the Health Act 2006.

The licensing sub-committee were only too aware that over 44,000 deaths have occurred in the UK as a result of the COVID-19. The requirements in the COVID-19 regulations and guidance were introduced by the government to secure the health and safety of the premises staff, customers and the wider community by reducing the infection to spread.

The premises licence holder of Afrikiko, its management and staff, have demonstrated that they are either unwilling or incapable to abide by the law and implement COVID-secure measures in the premises and between 31 July 2020 and 26 September 2020 operated a prohibited nightclub.

This licensing sub-committee were satisfied that customers have been ordered to stop dancing and to sit down by the management and staff of the premises. CCTV footage was deliberately not provided when requested, to cover up the operation of this prohibited nightclub. The police have been physically and verbally obstructed in the course of their duties by the operators, staff and customers of the premises. The management of the premises clearly did not wish to engage with the police, despite the best efforts of the police. It was also noted that the premises have been found to be in breach of a number of conditions on its premises licence during these visits.

The sub-committee considered the argument put forward by the premises to be unsustainable and that the actions of the premises had been deliberate. On 26 September, the premises were operating well beyond the 22:00 curfew, in spite of extensive national publicity. On this occasion between 47 and 60 persons were barricaded into a basement room, by the management of the premises, with the power, lights and ventilation cut off to avoid police detection and putting members of the public at significant risk. An experienced police officer described the premises on this date as “the most dangerous premises I have ever visited”

Whilst claiming to be fully aware of the COVID-19 regulations and restrictions at the interim hearing on 2 October, the premises flouted the “rule of six”. If the family were so anxious of the perpetrator to the manager’s son stabbing, the alleged family would not have made their way to the basement with their drinks. The alleged family also appear homogenous in nature, appearing to be mainly between 18 and 30 years old.

The representative for the premises urged the sub-committee that the events leading to the 2017 should not prejudice the premises. It is accepted that due to the passage of time, those events have not been taken into account. However, the sub-committee is mindful of the following comments in the decision of the licensing sub-committee of 6 September 2017: “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 actions would be taken on that occasion”. This should have

been sufficient warning that the failure to operate compliantly opened them to the very real possibility of the premises licence being revoked.

The licensing sub-committee have no confidence in the premises promoting the licensing objectives and there is no alternative but to revoke the licence.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate, and proportionate.

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

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 licensing sub-committee were satisfied that these modified interim steps are more appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above

The interim steps are 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 Law and Democracy.

Date: 27 October 2020.

----- Forwarded message -----

From: Jabulani Jabangwe

To: Tear, Jayne <jayne.tear@southwark.gov.uk>

Sent: Monday, 17 May 2021, 14:42:54 BST

Subject: Re: Application

Hi Jayne,

Following on from our conversation and in response to your objections, please see my responses below.

1. I'd like some clarity on the area being classed as residential as I was unaware of this. According to my knowledge, there is only one tower block behind the venue and the rest of the road is occupied by industrial and commercial sites.
2. Although I understand that the venue is situated closely to residential properties, my venue is basement level so I did not think this would cause or have an affect in terms of noise.
3. The hours applied for were based on the original establishment (Afrikiko) but this is a misunderstanding on my part and the hours desired was for the running of a bar with late hours.
4. My ownership of the venue, as stated in the lease, would only cover the management of the basement bar; the ground floor will remain as Afrikiko Restaurant.
5. The hours applied for was based on the venue being a cocktail bar which we deemed suitable due to the venue being basement level and the crowd we would attract wouldn't cause nuisance. I understand the policy explains that the establishment closing time would be 11pm which we are content with being applicable for Sunday to Thursday. However, between Friday and Saturday we would like a later closing time of 2am and an earlier opening time of 12pm.
6. It was always my intention, once the licence had been permitted, to apply for a grant to aid in offering a discount for cab/ride-hailing journeys to patrons of the venue. This would help in clearing the streets quicker thus minimising public nuisance.
7. There would be enough manpower (including security) on provided days for the crowd in order to disperse and disrupt any potential gatherings outside the venue after closing & during opening hours.
8. We will be enacting sanctions and warnings to those who congregate outside of the club urging them to vacate the area as quickly as possible.
9. I have no association with the previous DPS or premises licence holder. This application is entirely separate to their management and involvement. My company name is Patnup Limited, who will be the sole owner of the new

establishment in the basement. I will be able to provide a lease agreement that will be signed once (and if) a premises licence is granted.

10. It has been stated that I did not address the licensing objectives. This was my first time completing such an application so I thought that what I had included was enough. (Please see attached).

I trust that this information is sufficient.

If not, please do not hesitate to contact me further.

Regards,

Jabulani Jabangwe

From: Earis, Richard <Richard.Earis@southwark.gov.uk>

Sent: Friday, May 7, 2021 11:51 AM

To: Regen, Licensing <Licensing.Regen@southwark.gov.uk>

Cc:

Subject: RE: New premises application- Afrikiko Bar, Restaurant & Club, 871 Old Kent Road

RE: New premises application- Afrikiko Bar, Restaurant & Club, 871 Old Kent Road

I have considered this application on behalf of EPT (Prevention of Public Nuisance Responsible Authority) and I wish to object to the application.

The reasons for the objection are:

- The premises is located in an area deemed inappropriate for Night Clubs by the current Statement of Licensing Policy
- The proposed operating hours significantly exceed the allowable hours for other drinking establishments detailed in the current Statement of Licensing Policy
- The controls detailed in the application are insufficient to ensure the Prevention of Public Nuisance Licensing Objective and contain no detail as to how Public Nuisance will be avoided and very few enforceable conditions or obligations in light of the proposed mode and hours of operation
- There are residential dwellings directly adjacent to the premises which risk being adversely affected by music and dispersal to the hours proposed

I note that the premises has an adverse history, having recently had a license revoked. Evidence was given to the Hearing that loud music has previously been audible from outside the premises. It is unclear whether or how the applicant relates to the previous operation of the premises however the above comments apply irrespective of the history.

Kind Regards,

Richard

Richard Earis

Principal Environmental Protection Officer

Environmental Protection Team

020 7525 2469

From: Jabulani Jabangwe
Sent: Thursday, May 20, 2021 2:18 PM
To: Earis, Richard <Richard.Earis@southwark.gov.uk>
Cc: McArthur, Wesley <Wesley.McArthur@southwark.gov.uk>
Subject: Fw: Application

Hi Richard, please see email below I sent to Jane addressing similar matters to which you addressed.

I await your response.

Regards Jabulani Jabangwe

----- Forwarded message -----

From: Jabulani Jabangwe
To: Tear, Jayne <jayne.tear@southwark.gov.uk>
Sent: Monday, 17 May 2021, 14:42:54 BST
Subject: Re: Application

Hi Jayne,

Following on from our conversation and in response to your objections, please see my responses below.

1. I'd like some clarity on the area being classed as residential as I was unaware of this. According to my knowledge, there is only one tower block behind the venue and the rest of the road is occupied by industrial and commercial sites.
2. Although I understand that the venue is situated closely to residential properties, my venue is basement level so I did not think this would cause or have an affect in terms of noise.
3. The hours applied for were based on the original establishment (Afrikiko) but this is a misunderstanding on my part and the hours desired was for the running of a bar with late hours.
4. My ownership of the venue, as stated in the lease, would only cover the management of the basement bar; the ground floor will remain as Afrikiko Restaurant.
5. The hours applied for was based on the venue being a cocktail bar which we deemed suitable due to the venue being basement level and the crowd we would attract wouldn't cause nuisance. I understand the policy explains that the establishment closing time would be 11pm which we are content with being applicable for Sunday to Thursday. However, between Friday and Saturday we would like a later closing time of 2am and an earlier opening time of 12pm.

6. It was always my intention, once the licence had been permitted, to apply for a grant to aid in offering a discount for cab/ride-hailing journeys to patrons of the venue. This would help in clearing the streets quicker thus minimising public nuisance.

7. There would be enough manpower (including security) on provided days for the crowd in order to disperse and disrupt any potential gatherings outside the venue after closing & during opening hours.

8. We will be enacting sanctions and warnings to those who congregate outside of the club urging them to vacate the area as quickly as possible.

9. I have no association with the previous DPS or premises licence holder. This application is entirely separate to their management and involvement. My company name is Patnup Limited, who will be the sole owner of the new establishment in the basement. I will be able to provide a lease agreement that will be signed once (and if) a premises licence is granted.

10. It has been stated that I did not address the licensing objectives. This was my first time completing such an application so I thought that what I had included was enough. (Please see attached).

I trust that this information is sufficient.

If not, please do not hesitate to contact me further.

Regards,

Jabulani Jabangwe

On Friday, 21 May 2021, 11:47:11 BST, Earis, Richard
<richard.earis@southwark.gov.uk> wrote:

Dear Jabulani,

Thank you for your email and for clarifying that this application is unrelated to any previous premises management.

I remain concerned about the operation of the premises to the hours proposed.

You have still not sufficiently addressed the Prevention of Public Nuisance Licensing Objective in your application.

Are you able to agree to reduce the operating hours to fall in line with the Policy hours? In order to address the Licensing Objective the following conditions would also be necessary:

1. Doors and windows shall be kept closed at all times except for access and egress.
2. All external doors and doors to noise lobbies used by patrons to enter the premises shall have acoustic seals and brushes and self-closers (in accordance with BS 6459 Pt. 1 1984) fitted to those doors.
3. Suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents.
4. A comprehensive written Dispersal Policy shall be produced and implemented at the premises, with all staff trained on the most recent iteration of the policy. A record of staff training on the Dispersal Policy shall be kept at the premises and a copy of the policy and training records be made available to the council or police on request.
5. Suitably qualified or experienced persons shall be employed at all times, whilst licensable activity is being provided, and shall take all reasonable steps to ensure that patrons do not cause a nuisance in the vicinity of the premises.
6. Any queue [in a designated queuing area] to enter the premises must be supervised at all times by door supervisors.
7. Any [designated] queuing area must be within suitable barriers.
8. All speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.
9. A sound limiting device shall be installed, set and maintained, to control maximum levels of amplified sound inside the premises so as to ensure entertainment noise from the premises does not cause a public nuisance in the vicinity of the premises, and in particular is not audible inside any nearby noise sensitive premises.
10. All audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device at all times.
11. Premises management shall regularly monitor outside the premises to ensure that the volume and bass levels of any licensed entertainment is kept at a level that does not cause disturbance at the closest or most exposed noise-sensitive facade to ensure the prevention of public nuisance.
12. No external areas of the premises shall be used for the purposes of licensed entertainment.
13. Customers shall use no outside area after 22:00hrs except those who temporarily leave to smoke, with no more than 10 persons at any one time. Those customers shall be identified by a token or some other method with approval of the Police and Local Authority. Customers shall not take drinks outside after 22:00hrs.

14. There shall be no movement of musical or amplification equipment from the premises between the hours of 23:00 and 08:00am.

15. External waste handling, collections, deliveries and the cleaning of external areas shall only occur between the hours of 08.00hrs and 20.00hrs.

I look forward to hearing from you on the above.

Kind Regards,

Richard

Richard Earis

Principal Environmental Protection Officer

Environmental Protection Team

From: Jabulani Jabangwe <jjabangwe01@yahoo.co.uk>

Sent: Tuesday, June 1, 2021 12:59 PM

To: Earis, Richard <Richard.Earis@southwark.gov.uk>

Subject: Re: Application

Hi Richard,

Thanks for your email.

After having carefully considered your points, I am in agreement with the majority.

However, the following points I am contesting to are:

2. All external doors and doors to noise lobbies used by patrons to enter the premises shall have acoustic seals and brushes and self-closers (in accordance with BS 6459 Pt. 1 1984) fitted to those doors.

- **In order for this to be adhered to this needs to comply with the health and safety regulations for fire exit standards provided by the London Fire Brigade.**
- **I have arranged for an assessment to be carried out with LFB which will be confirmed in the nearby future.**

8. All speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.

- **Please note that we have been advised that the entire venue cannot be soundproofed as this will be in direct conflict with the sounding of a fire alarm which is a fire hazard in itself.**

13. Customers shall use no outside area after 22:00hrs except those who temporarily leave to smoke, with no more than 10 persons at any one time. Those customers shall be identified by a token or some other method with approval of the Police and Local Authority. Customers shall not take drinks outside after 22:00hrs.

- **I am happy to comply with this procedure considering that the closing time be permitted for 01:00hrs. This will then mean that the venues official closing time for customers would be 00:00hrs.**

14. There shall be no movement of musical or amplification equipment from the premises between the hours of 23:00 and 08:00am.

- **Following on from the point above, I am happy to oblige with this formality considering that the revised hours would be 00:00hrs and 08:00am.**

Regards,

Jabulani Jabangwe

On Monday, 7 June 2021, 14:46:18 BST, Earis, Richard
<richard.earis@southwark.gov.uk> wrote:

Dear Jabulani,

Thank you for your email however I am not clear on your points below.

- Condition 2 is a standard requirement and should not affect fire safety
- Condition 8 does not relate to soundproofing the whole venue, it relates to anti-vibration mounting of music speakers
- We are not able to agree any revised hours to conditions 13 and 14, which we consider necessary with the hours stated

Kind Regards,

Richard

Richard Earis
Principal Environmental Protection Officer
Environmental Protection Team

On Monday, 7 June 2021, 14:57:21 BST, Jabulani Jabangwe
<jjabangwe01@yahoo.co.uk> wrote:

Dear Richard Earis,

Condition 1 there is a possibility of it being a fire safety because being in the basement I only have to fire exit doors and they required to be of a certain standard which I am confirming with the fire station, as long as they say its ok then I will surely comply.

Condition 8 is fine if that is the case I am happy to comply

The revision of the times is only point need agreeing being that I am only giving till 11pm I feel my business model will not be able to operate with these hours in place and ask that you consider that under new management you give me the times asked:

Sunday - Thursday 11pm
Friday - Saturday 2am

Until the end of the year to see how my model works and if the standards do not meet yours then we reduce them back to the advised hours.

- Condition 2 is a standard requirement and should not affect fire safety
- Condition 8 does not relate to soundproofing the whole venue, it relates to anti-vibration mounting of music speakers
- We are not able to agree any revised hours to conditions 13 and 14, which we consider necessary with the hours stated

On Monday, 7 June 2021, 15:07:00 BST, Earis, Richard
<richard.earis@southwark.gov.uk> wrote:

Dear Jabulani,

Condition 13 relates to outside areas only. It is standard in our Licensing Policy that outside areas will not be used for drinkers or large numbers of smokers after 10pm. It does not relate to the wider premises opening hours for the inside of the premises.

Condition 14 relates to movement of musical or amplification equipment only. It does not relate to the wider premises opening hours.

Please confirm if you have understood this correctly or if there may be a misunderstanding here.

We are not able to adjust these times – they are usually the same for most/all premises regardless of operating hours. (i.e. even if the premises opens until 2am we still do not allow drinkers or large numbers of people outside after 10pm).

If you can agree these conditions the only outstanding issue will be the wider premises opening hours, which will need to be dealt with at the Licensing Hearing. If you are not able to agree these conditions then we will also request them at the Hearing.

Kind Regards,

Richard

Richard Earis
Principal Environmental Protection Officer
Environmental Protection Team

From: Jabulani Jabangwe <jjabangwe01@yahoo.co.uk>
Sent: Monday, June 7, 2021 5:04 PM
To: Earis, Richard <Richard.Earis@southwark.gov.uk>
Subject: Re: Application

Dear Richard Earis, I now understand these conditions thank you for the clarity I am happy to agree to those terms and as you said the only matter is the opening for venue which will be discussed at the hearing.

From: Earis, Richard <Richard.Earis@southwark.gov.uk>
Sent: Monday, June 7, 2021 5:31 PM
To: McArthur, Wesley <Wesley.McArthur@southwark.gov.uk>
Cc: Tear, Jayne <Jayne.Tear@SOUTHWARK.GOV.UK>
Subject: FW: Application

Hi Wes,

Please note below the applicant's agreement to conditions 1-15 in my email from below.

We have been unable to agree the premises opening hours so that will need to be resolved at a Hearing.

Thanks,

Richard

Richard Earis
Principal Environmental Protection Officer
Environmental Protection Team

From: McArthur, Wesley <Wesley.McArthur@southwark.gov.uk>
Sent: Friday, June 11, 2021 8:28 PM
To: Earis, Richard <Richard.Earis@southwark.gov.uk>
Subject: RE: Application

Hi Richard,

Please confirm that the final wording of the agreed to conditions is as per your email below dated Friday, 21 May 2021 sent at 11:47:11 (i.e. as follows):

1. Doors and windows shall be kept closed at all times except for access and egress.
2. All external doors and doors to noise lobbies used by patrons to enter the premises shall have acoustic seals and brushes and self-closers (in accordance with BS 6459 Pt. 1 1984) fitted to those doors.
3. Suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents.

4. A comprehensive written Dispersal Policy shall be produced and implemented at the premises, with all staff trained on the most recent iteration of the policy. A record of staff training on the Dispersal Policy shall be kept at the premises and a copy of the policy and training records be made available to the council or police on request.
5. Suitably qualified or experienced persons shall be employed at all times, whilst licensable activity is being provided, and shall take all reasonable steps to ensure that patrons do not cause a nuisance in the vicinity of the premises.
6. Any queue [in a designated queuing area] to enter the premises must be supervised at all times by door supervisors.
7. Any [designated] queuing area must be within suitable barriers.
8. All speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.
9. A sound limiting device shall be installed, set and maintained, to control maximum levels of amplified sound inside the premises so as to ensure entertainment noise from the premises does not cause a public nuisance in the vicinity of the premises, and in particular is not audible inside any nearby noise sensitive premises.
10. All audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device at all times.
11. Premises management shall regularly monitor outside the premises to ensure that the volume and bass levels of any licensed entertainment is kept at a level that does not cause disturbance at the closest or most exposed noise-sensitive facade to ensure the prevention of public nuisance.
12. No external areas of the premises shall be used for the purposes of licensed entertainment.
13. Customers shall use no outside area after 22:00hrs except those who temporarily leave to smoke, with no more than 10 persons at any one time. Those customers shall be identified by a token or some other method with approval of the Police and Local Authority. Customers shall not take drinks outside after 22:00hrs.
14. There shall be no movement of musical or amplification equipment from the premises between the hours of 23:00 and 08:00am.
15. External waste handling, collections, deliveries and the cleaning of external areas shall only occur between the hours of 08.00hrs and 20.00hrs.

Regards,

Wesley McArthur
Principal Enforcement Officer

London Borough of Southwark

E-mail: wesley.mcarthur@southwark.gov.uk

General: licensing@southwark.gov.uk

Phone: 020 7525 5779 (This number is temporarily out of use whilst I am working from home)

Fax: 020 7525 5705

Address: Licensing, Health & Safety, Hub 1, 3rd Floor, 160 Tooley Street, SE1 2QH

<https://www.southwark.gov.uk/community-safety/let-s-talk-about-women-s-safety>

From: Earis, Richard <Richard.Earis@southwark.gov.uk>

Sent: Monday, June 14, 2021 10:31 AM

To: McArthur, Wesley <Wesley.McArthur@southwark.gov.uk>

Subject: RE: Application

Hi Wes,

This is correct.

Thanks,

Richard

Richard Earis

Principal Environmental Protection Officer

Environmental Protection Team

020 7525 2469



The Licensing Unit
Floor 3
160 Tooley Street
London
SE1 2QH

Metropolitan Police Service
Licensing Office
Southwark Police Station,
323 Borough High Street,
LONDON,
SE1 1JL

Tel: 020 7232 6756

Email:

SouthwarkLicensing@met.police.uk
ian.clements@met.police.uk

Our MD/21/109/2021
reference:

Date: 7th May 2021

Dear Sir/Madam

Re:- Jabulani Jabangwe (Afrikiko) 871 Old Kent Road SE151NX

Police are in possession of an application from the above to for a new premises licence.

The application is for a Night Club with a potential capacity of 320 persons. The latest terminal hour as per the application is 2am on Thursday, Friday and Saturday nights.

This premises has been subject of two summary reviews in the past few years, in 2017 a male was murdered outside the venue, the premises were operating in breach of the premises licence at the time.

In 2020 the premises were again subject of a summary review, amongst other issues the premises were continuing to operate in breach of the government Covid regulations. The premises licence was revoked.

The venue is located in a residential area with a large number of residential dwellings in close proximity. Historically there have been a number of complaints from residents with regard to noises and public nuisance. This location is not suitable for a nightclub.

The applicant has provided some detail within the operating schedule, however they are not detailed or precise enough to promote the licensing objectives. They are not suitable for any type of licensed premises let alone that of a night club. This leads

me to believe the applicant has not considered Southwark's statement of licensing policy 2019-2021.

This application should be refused as it fails to address the licensing objectives, in particular the prevention of crime and disorder.

Submitted for your consideration.

Yours Sincerely

PC Ian Clements 2362AS

Southwark Police Licensing Unit

Tel: 0207 232 6756

ian.clements@met.police.uk

From:**Sent:** Wednesday, June 16, 2021 4:15 PM**To:** McArthur, Wesley <Wesley.McArthur@southwark.gov.uk>; Tear, Jayne <Jayne.Tear@SOUTHWARK.GOV.UK>; Earis, Richard <Richard.Earis@southwark.gov.uk>**Cc:** ian.clements@met.police.uk**Subject:** New premises application- Afrikiko Bar, Restaurant & Club, 871 Old Kent Road

Hello all,

I am happy to comply with the stipulations previously highlighted.

In order to move forward without going to a hearing, is it possible to come up with a temporary agreement allowing the closing time of 2am under the conditions pre-set by yourselves.

As such, is there anything else that you would like me to do or incorporate in order to permit a closing time of 2am?

Regards,

Jabulani Jabangwe

From: Ian.Clements@met.police.uk <Ian.Clements@met.police.uk>**Sent:** Wednesday, June 16, 2021 4:30 PM**To:** McArthur, Wesley <Wesley.McArthur@southwark.gov.uk>; Tear, Jayne <Jayne.Tear@SOUTHWARK.GOV.UK>; Earis, Richard <Richard.Earis@southwark.gov.uk>**Subject:** RE: New premises application- Afrikiko Bar, Restaurant & Club, 871 Old Kent Road

Dear Mr Jabangwe

My representation was submitted on the 7th May 2021, the letter contained my email address and telephone number. This is the first correspondence I have received since my submission.

My initial representation stands, the application does not address the licensing objectives.

Kind Regards

Ian

Ian Clements | Constable

MPS Central South BOCU

Neighbourhoods Policing - Partnership & Prevention Licensing Officer

From: McArthur, Wesley

Sent: Wednesday, June 16, 2021 5:22 PM

To:

Cc: ian.clements@met.police.uk; Tear, Jayne

<Jayne.Tear@SOUTHWARK.GOV.UK>; Earis, Richard

<Richard.Earis@southwark.gov.uk>

Subject: RE: New premises application- Afrikiko Bar, Restaurant & Club, 871 Old Kent Road

Importance: High

Hi Jabulani,

There appears to be some confusion. Jayne and Ian didn't set out any proposed conditions / stipulations in their representations (copies attached for reference).

You have agreed to the conditions proposed by Richard Earis of this council's Environmental Protection Team. I note that Richard hasn't withdrawn his representation and that the issue of the premises' proposed closing times are still of concern to him.

As advised in our phone call today, and in another email of today, the environmental protection team, the police and the licensing responsible authority are separate responsible authorities.

Whilst it is possible that some of the conditions that you have agreed to with Richard also address some of the concerns that Ian and Jayne have, I advise you to contact them directly in order to discuss the *specific* concerns that they have raised in their representations. If you are unclear as to their concerns, again, you must contact them directly. Please keep me copied into any such correspondence.

For information, Richard has confirmed that the following are the conditions that you have agreed to with him:

1. Doors and windows shall be kept closed at all times except for access and egress.
2. All external doors and doors to noise lobbies used by patrons to enter the premises shall have acoustic seals and brushes and self-closers (in accordance with BS 6459 Pt. 1 1984) fitted to those doors.
3. Suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents.
4. A comprehensive written Dispersal Policy shall be produced and implemented at the premises, with all staff trained on the most recent iteration of the policy. A record of staff training on the Dispersal Policy shall be kept at the premises and a copy of the policy and training records be made available to the council or police on request.
5. Suitably qualified or experienced persons shall be employed at all times, whilst licensable activity is being provided, and shall take all reasonable steps to ensure that patrons do not cause a nuisance in the vicinity of the premises.

6. Any queue [in a designated queuing area] to enter the premises must be supervised at all times by door supervisors.

7. Any [designated] queuing area must be within suitable barriers.

8. All speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.

9. A sound limiting device shall be installed, set and maintained, to control maximum levels of amplified sound inside the premises so as to ensure entertainment noise from the premises does not cause a public nuisance in the vicinity of the premises, and in particular is not audible inside any nearby noise sensitive premises.

10. All audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device at all times.

11. Premises management shall regularly monitor outside the premises to ensure that the volume and bass levels of any licensed entertainment is kept at a level that does not cause disturbance at the closest or most exposed noise-sensitive facade to ensure the prevention of public nuisance.

12. No external areas of the premises shall be used for the purposes of licensed entertainment.

13. Customers shall use no outside area after 22:00hrs except those who temporarily leave to smoke, with no more than 10 persons at any one time. Those customers shall be identified by a token or some other method with approval of the Police and Local Authority. Customers shall not take drinks outside after 22:00hrs.

14. There shall be no movement of musical or amplification equipment from the premises between the hours of 23:00 and 08:00am.

15. External waste handling, collections, deliveries and the cleaning of external areas shall only occur between the hours of 08.00hrs and 20.00hrs.

If you address all of Richard, Ian and Jayne's concerns and they withdraw their representations prior to the hearing date then a hearing will not be required – however any agreements you enter into with them will not be *temporary* – they will be permanent, be reflected in any subsequently issued premises licence and will be legally binding.

I note that you have asked the following:

“As such, is there anything else that you would like me to do or incorporate in order to permit a closing time of 2am?”

I cannot answer this question because I am the case officer and not a responsible authority (and thus not in a position to recommend licence conditions or amendments to your application).

It may be that there are no conditions that the responsible authorities feel would allow for a 02:00 hours closing time of the premises on any days of the week, however I will leave it to the responsible authorities to reply to your question.

Regards,

Wesley McArthur

Principal Enforcement Officer

London Borough of Southwark

E-mail: wesley.mcarthur@southwark.gov.uk

General: licensing@southwark.gov.uk

Phone: 020 7525 5779 (This number is temporarily out of use whilst I am working from home)

Fax: 020 7525 5705

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