

**FOR THE CHAIR AND MEMBERS OF
THE LICENSING SUB-COMMITTEE
FOR 30 OCTOBER 2017**

APPLICATION FOR TRANSFER OF PREMISES LICENCE

Applicant: Apollo Apollinaire Ouedraogo

Ref.No. OL/17/03

Premises: Kilimandjaro, 243 Linthorpe Road, Middlesbrough TS1 3QP

Application received: 20 September 2017

Summary of Current Licensable Activities:

Recorded Music and Sale of alcohol – 11.00am until 12.00 midnight on Mondays to Sundays
Late Night Refreshment – 11.00pm until 12.00 midnight on Mondays to Sundays

A copy of the Application to transfer the Premises Licence is attached at Appendix 1.

1. Notification to Responsible Authorities:

The Police must be consulted in all cases involving an application to transfer of a premises licence. Also, the Home Office (Immigration Enforcement) must be consulted if the licence authorises the sale of alcohol and late night refreshment.

2. Legislation

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State.

Section 43 of the Licensing Act provides a mechanism which allows a transfer of a premises licence to come into immediate interim effect as soon as the licensing authority receives it,

until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the Police or the Home Office (Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

In cases where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. According to the statutory guidance, such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

3. Background

In the transfer application, the premises are described as an African Caribbean Restaurant, and has traded with the benefit of a premises licence since 16 March 2017.

4. The Representation

On 4 October 2017 a representation was received from the Home Office (Immigration Enforcement) to the application on the grounds of the prevention of crime licensing objective, including the prevention of illegal working and immigration crime in licensed premises. A copy of that representation is attached at **Appendix 2**.

A letter has been received from the applicant Mr Ouedraogo in response to the representation made by the Home Office (Immigration Enforcement), a copy of which is attached at **Appendix 3**.

5. The Licensing Policy

Members are referred to the following relevant sections of the Council's Licensing Policy.

Prevention of Crime and Disorder Pages 20 - 24

6. Guidance to the Licensing Act 2003

Members are referred to the following relevant sections of the Guidance.

Prevention of Crime and Disorder Starting at paragraph 2.1

With particular regard to transfer applications Starting paragraph 8.97

7. Members' Options

Members may consider the following options:

Grant the application.

Reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

Members are reminded that any aggrieved party (i.e. Applicant or Responsible Authority) may appeal the decision of the Licensing Sub-Committee to the Magistrates' Court.

Contact Officer: Steve Wearing
Principal Licensing Officer
Tel. 728713
