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PC 138 Darren Welch  
Licensing Officer  
Luton Police Station  
Buxton Road  
Luton LU1 1SD

8 January 2020

Dear PC Welch,

**RE: APPLICATION FOR REVIEW OF PREMISES LICENCE  
RUBY'S CUISINE, 9 CHAPEL STREET, LUTON LU1 2SE**

I am writing to confirm the decision of the Council's Licensing Panel held on 3 January 2020 in respect of the above application. The Panel consisted of Councillors A. Hussain, Campbell and Keens.

The Panel carefully considered all the papers before it and the oral representations made by; yourself on behalf of the Chief Constable of Bedfordshire Police, Mr Bill Masini on behalf of Luton Council's Trading Standards in support of your application, Mr Malumueni Lusadisu ('Mr ML') the Premises Licence Holder himself and his representative, Mr Frank Fender Licensing Consultant of FJ Licensing Consultants. The Panel noted the representations received from Luton Council's Public Health Team in support of your application. Also in attendance was Ms Samantha Malila the Premises Manager.

As regards the papers before the Panel this included the pack of papers submitted to them at the hearing by Mr Fender on behalf of Mr ML which the Panel took time to read and consider. This consisted of various new Policy's and staff Training Records including ; Drug and Alcohol Policy, Admissions Policy, Dispersal Policy, Duty of Care Policy, Accident & Incident Reporting Policy/Procedure, Disorder & Drunkenness Policy, Premises Age Verification Policy, List of Persons Authorised to sell alcohol, Staff Training Records and Various Copy Training Certificates.

In addition the Panel had regard to the licensing objectives set out in the Licensing Act 2003 ('the Act'), the Council's Statement of Licensing Policy and the Statutory Guidance issued under the 2003 Act.

The Panel noted your reference to the incidents of crime and disorder recorded by the police back to January 2019 which you claimed were linked to the premises and

that few if any of the additional 13 conditions agreed by Mr ML at the Panel held on 13 July 2018 were being complied with at the time of the review.

The Panel also noted your accepting that there had been some improvements since the review application and the involvement of Mr Fender who had been engaged by Mr ML for advice and assistance. This had included that there had been no recorded crime and disorder incidents linked to the premises since 3 November 2019, better engagement and dialogue between Mr ML and the police together with the proactive steps taken by Mr ML- including implementation of new policies and procedures, maintenance of an incident log, undertaking staff training and maintenance of a staff training log.

The Panel noted and were concerned with regard to the representations made by Bill Masini on behalf of Luton Council's Trading Standards in support of your review application. This referred to the inspection of the premises undertaken by Trading Standards with other Responsible Authorities on 23 November 2019 which indicated a number of offences related to the sale of Polish vodka. Based on the information before the Panel, and on the balance of probabilities, the Panel considered that this vodka was smuggled and noted that the combined effect of paragraph's 11.27 and 11.28 of the Statutory Guidance was that this should be treated particularly seriously and revocation of the licence, even in the first instance, should be seriously considered by the Panel. The Panel noted Mr Fender had said, on behalf of Mr ML, that he had made a mistake for which he was sorry and that no other similar offences had been found in connection with sales and storage of other alcohol at the premises during the inspection on 23 November 2019.

The Panel noted the questioning of yourself and Mr Masini and the representations made by Mr Fender on behalf of Mr ML. This included Mr Fender going through your alleged breaches of each of the additional 13 conditions to establish that either they were not breaches or that, given the measures put in place by Mr ML since the review application, they are no longer continuing breaches.

Mr Fender said that prior to the review application Mr ML had been trading successfully for four years with no problems. The first Mr ML knew of problems was when he was served with the review application on 5 November 2019. Since then many improvements have been made to promote the licensing objectives including staff training, appointment of a manager and implementation of several new policies/procedures. Mr Fender asserted that all this would have happened in any event had the police followed a 'stepped approach' and given early warning of their concerns and need for improvement pursuant to paragraph 11.10 of the Statutory Guidance. Mr Fender also referred to paragraph 11.20 of the Statutory Guidance that required an appropriate and proportionate response by the Panel, which he submitted was to add conditions to the licence to promote the licensing objectives rather than revoke it which he considered would be disproportionate.

The Panel also noted Mr Fender's reference to the unsuccessful closure application related to the premises made by the police that was heard on 12 December 2019. In this regard he said that the court didn't grant the closure order due to lack of evidence connected to the premises including in relation to the 19 October 2019 stabbing incident which the police had referred to.

The Panel carefully considered all the evidence before them, the oral submissions, the Council's Statement of Licensing Policy and the relevant parts of the Statutory Guidance issued under the 2003 Act. Whilst the Panel noted the seriousness of the

circumstances here which included several breaches of licence conditions and other offences related to sale of smuggled alcohol, and the impact on the licensing objectives, particularly related to the prevention of crime and disorder, they considered that it would be disproportionate to revoke the licence. The Panel had regard to the fact that, prior to the circumstances which had led to this review Mr ML had a track record of successful trading and , with assistance and advice from Mr Fender, he had taken proactive steps since the review application to ensure that many of breaches of licence conditions identified in the review application were now being complied with including the maintenance of an incident log, staff training with regard to responsibilities in the sale of alcohol, maintenance of staff training records and implementation of several new policies/procedures.

That said, the Panel considered that it was appropriate, in the circumstances, and in order to promote the licencing objectives, to modify and add the new conditions (I to IX below) to the licence as follows:

### **Modifications Made By the Panel**

1. To modify Part A of the Premises Licence as follows;

- I. The times the licence authorises the carrying out of all stated licensable activities to be reduced to 7am to 4am (the following day) across the board 7 days per week.
- II. The opening hours of the premises to be reduced to 7am to 4am (the following day) 7 days per week.

### **Additional Conditions to be added to existing conditions and inserted at Annex 3**

- I. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises from 23.00 hours on any given day until the premises closes at the end of that day's trading. This staff member must be able to provide a Police Officer or an authorised Officer of the Licensing Authority with copies of recent CCTV images or data with the minimum of delay when reasonably requested.
- II. There shall be a personal licence holder on the premises from 23.00 hours on any given day until the premises closes at the end of the day's trading.
- III. All persons entering or re-entering the premises after 23.00 hours on any given day shall be searched by a SIA licenced member of staff and monitored by the premises CCTV system. The search shall include using electronic metal detecting wands or similar.
- IV. The premises shall install an identification scanning device, where all customers shall be required to produce identification, which shall be electronically scanned, prior to being granted entry to the premises. This condition shall apply to all customers prior to being granted entry to the premises late night bar on any given day.
- V. The maximum number of persons using the outside area at the front of the premises to smoke shall not exceed 10, after 23.00 on any given day.
- VI. No refreshments shall be permitted to be taken to the outside area at the front of the premises after 23.00 hours on any given day.
- VII. No licensable activity shall be permitted to take place in the outside area at the front of the premises, after 23.00 hours on any given day.

- VIII. The premises holder shall maintain purchase invoices at the premises, and these shall be produced for inspection upon the demand of the Police, authorised Officers of the Licensing Authority and Trading Standards Officers.
- IX. No person shall be granted entry to the premises after 3am on any given day.

Whilst additional conditions I to VIII above were proposed by Mr Fender on behalf of the Premises Licence Holder Mr ML and agreed by the Panel, the modifications set out above and additional condition IX above were determined by the Panel in order to promote the licensing objectives. The Panel noted that several of the incidences of crime and disorder, since January 2019 recorded by the Police and which had led to the review application, took place between 3am and 5am. Accordingly, they considered that reducing the hours of trading and imposing a last entry time would assist to promote the licensing objective relating to the prevention of crime and disorder.

The modified and additional conditions set out above come into effect on the date on which the period for appealing against this decision expires (i.e. 21 days from the date on which this letter is served) or, if an appeal is brought, conditions come into effect on the day that the appeal is determined by the Court or on which the appeal is withdrawn.

You are entitled to appeal to the Luton Magistrates Court at Stuart Street, Luton, Bedfordshire LU1 5BL against the decision of the Panel within 21 days of the date on which you receive this letter. A fee may be payable for any appeal which is made. If you appeal and are unsuccessful then the Council will ask the Court to order you to pay the Council's costs of defending the appeal.

If you are not sure of your position or do not know what action to take you should consider taking independent legal advice.

Yours sincerely,

**Raj Popat**  
**Principal Solicitor &**  
**Clerk to the Luton Licensing Panel**

