

**NOTICE OF DECISION**

**LICENSING SUB-COMMITTEE - 27 FEBRUARY 2020**

**LICENSING ACT 2003: SECTION 53A: COSTA AZUL MEXICAN BAR & GRILL, 190-192 OLD KENT ROAD, LONDON, SE1 5TY**

**1. Decision**

That the premises licence to Costa Azul Mexican Bar & Grill, 190-192 Old Kent Road, London, SE1 5TY with immediate effect as interim steps be modified pending the determination of the review application at the full hearing and to promote the licensing objectives pending the determination of the review application at the full hearing, to be held on 24 March 2020 be as follows:

**2. Conditions**

**Hours:**

	Sale alcohol (on sales)	Opening Hours
Monday to Wednesday	11:00 hrs until 00:00hrs	07:00hrs until 01:00hrs
Thursday	11:00 hrs until 00:30hrs	07:00hrs until 01:00hrs
Friday to Saturday	10:00 hrs until 03:00hrs	07:00hrs until 04:00hrs
Sunday	10:00 hrs until 01:00hrs	07:00hrs until 01:30hrs

**Additional conditions:**

- i. That last entry be at 00:00 hours with the exception of event taking place on 1 March 2020 when the last entry will be 2:00 hours.
- ii. That there will be a minimum of 3 SIA security officers employed when the premises are open after 01:00 hours and a minimum of 1 of the SIA security officers will be located outside the premises until all patrons have left the premises and dispersed from the vicinity.
- iii. That all staff shall be retained in respect of responsible alcohol sales.
- iv. That staff shall ensure that all patrons leaving the premises disperse in an orderly fashion and shall inform the premises management of any issues that they observe with the vicinity of the premises.
- v. That there will be no glassware or drinks taken outside the premises.
- vi. That polycarbonate jugs of water with sufficient polycarbonate cups are to be provided at all tables and regularly refilled.

It is also recommended that the SIA security company currently employed by the premises be replaced to an alternative SIA security company.

### 3. Reasons

This was an application from the Metropolitan Police Service to consider whether interim steps were needed as a result of the summary review under section 53A of the Licensing Act 2003 prior to the pending full review which is due to be heard on 24 March 2020.

The licensing sub-committee heard from the representative from the Metropolitan Police Service who advised that on Thursday 23 February 2020 at approximately 03:40 hours police called via the London Ambulance Service to the premises at 190-192 Old Kent Road, London SE1 5TY concerning a male that had been assaulted. On arrival a male victim was found unresponsive on the pavement with blood coming from his mouth. Due to the seriousness of his injuries he was transferred to Kings College Hospital. At hearing the victim remained on life support, with his injuries being assessed as life threatening.

Security staff stated that the victim had attempted to gain entry to the premises but was refused due to being intoxicated. Outside of the venue, an argument commenced with the suspect who pushed the victim to the ground and whilst on the ground the suspect continued to kick the victim.

Other witnesses and friends of the victim gave a different version of events, stating that the victim had been drinking inside the venue since approximately 20:00 hours. The victim was removed from the premises by security staff at 03:00 hours and remained outside until he was assaulted between 03:20 and 03:40 hours. It appeared that the security staff had attempted to cover up the fact the victim had been drinking inside the venue prior to his assault. It was the belief of the Metropolitan Police Service that the level of intoxication of the victim was a contributing factor in the outcome of this incident and the early intervention by staff at the venue could have in their opinion prevented this happening.

The representative for the Metropolitan Police Service also stated that a further four assaults associated had occurred at the premises and high levels of intoxication were an aggravating factor. There are serious concerns for the safety of patrons becoming exposed to the potential of serious harm and injury if the premises continue to operate. In the circumstances, the Metropolitan Police Service recommends that the licence be suspended as an interim step.

On 25 February 2020 a Superintendent for the Metropolitan Police Service certified that in their opinion the premises are associated with serious crime, serious disorder or both.

The licensing sub-committee then heard from the representative for the premises who wanted to make it clear that they were cooperating with the police with their investigation into the incident. Concerning the incident itself, the victim entered the premises at approximately 00:00 hours and was removed by the security staff between 02:00 and 02:30 hours. The incident took place outside and opposite the premises, so it was outside the control of any of the staff. Similarly, the four additional incidents referred to by the police also took place outside the premises and the premises had no control over them. The sub-committee were urged not to suspend the licence, as it was felt that measures could be put in place to ensure a nothing similar could happen in the future.

Given the extremely serious nature of incident that occurred on 23 February 2020, the licensing sub-committee had considered suspending the premises licence as an interim step. However, the members accepted that the violent instances referred to by the police, occurred outside the premises, when staff had limited control of members of the public. That said, the sub-committee noted that on 10 June 2019 the premises was in breach of licence conditions 288 (CCTV being available for inspection for thirty one days) and 342 (a recognised training scheme for all the staff concerned with the sale or supply of intoxicating liquor). Therefore, felt in the circumstances to modify the licence with strict conditions would promote the licensing objectives.

The licensing sub-committee having read and heard all the evidence before were satisfied that the interim steps were necessary appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above.

#### **4. Appeal rights**

There is no right of appeal to a Magistrates' Court against the licensing authority's decision at this stage.

The premises licence holder may make representation against any interim steps imposed and a hearing to consider the representation will be held within 48 hours of receipt of the representation.

The holder of the premises licence may only make further representations if there has been a material change in circumstances since the authority made its determination

Any representation should be in writing and cannot be received outside of normal office hours.

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

Date: 27 February 2020