

Licensing Sub-Committee

Thursday 15 July 2021

10.00 am

Online/Virtual: please contact andrew.weir@southwark.gov.uk for a link to the meeting and the instructions for joining the online meeting

Supplemental Agenda No.1

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Contact

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Date: 14 July 2021

Item No. 7.	Classification: Open	Date: 15 July 2021	Meeting Name Licensing Sub-Committee
Report title:		Licensing Act 2003: Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP - Expedited Review	
Ward(s) or groups affected:		North Walworth	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION:

1. That the licensing sub-committee considers whether it is appropriate to take interim steps pending the determination of an application for a summary review, made under Section 53A of the Licensing Act 2003 by the Chief of Police for the Metropolitan Police area, of the premises licences issued in respect of the premises known as the Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP.
2. Notes
 - a) Under section 53A(2) of the Licensing Act 2003 the licensing authority must consider interim steps within 48 hours following the submission of an application under Section 53A of the Licensing Act 2003.
 - b) A copy of the full application is attached as Appendix A.

BACKGROUND INFORMATION

The Licensing Act 2003

3. The Licensing Act 2003 provides a licensing regime for:
 - The sale of and supply of alcohol
 - The provision of regulated entertainment
 - The provision of late night refreshment.
4. Within Southwark, the licensing responsibility is wholly administered by this council.
5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are:
 - The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of nuisance
 - The protection of children from harm.

6. In carrying out its licensing functions, a licensing authority must also have regard to
- The Act itself
 - The guidance to the act issued under Section 182 of the Act
 - Secondary regulations issued under the Act
 - The licensing authority's own statement of licensing policy
 - The application, including the operating schedule submitted as part of the application
 - Relevant representations.
7. The summary review powers under sections 53A to 53C of the Act allow the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

KEY ISSUES FOR CONSIDERATION

The premises licence

8. The premises licence issued in respect of the ground floor premises known as Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP.
9. The premises licence was first issued on 01 August 2011. On 14 Septemeber 2018 Pasaje Primavera Limited applied under section 34 of the Licensing Act 2003 to this council to vary the premises licence. This was heard at a Licensing Sub Committee Hearing on 12 November 2018, at which point the variation was granted.
10. On 20 December 2018 the Metropolitan Police applied to the licensing authority for a summary review of the premises licence. The application refers to a serious incident witnessed by Police Officers at 20:00 on Friday 15 December 2018 and draws from further CCTV evidence acquired later. The matter involved a large fight with armed participants. One of the armed males was the son of the premises' owner whom was in charge of the premises that night, Mr Ian Gualavisi.
11. As a result, the licensing sub-committee put a number of measures in place, namely:
- i. That Mr Ian Gualavisi (Person A) and Mr Ronalo Palacios (Person B) be excluded from the premises.
 - ii. That all staff to receive conflict management training with 28 days.
 - iii. That all staff are retrained in the use of CCTV and their obligations in respect of conditions 288 and 289 of the premises licence within 28 days.
12. A copy of the notice of decision from the full hearing is attached in Appendix B.

13. The current licence allows the following licensable activities as follows:
- Opening hours:
 - Sunday to Thursday from 06:00 to 01:00
 - Friday and Saturday from 06:00 to 03:00
 - The sale by retail of alcohol (on sales only):
 - Sunday to Thursday from 11:00 to 00:00
 - Thursday and Friday from 11:00 to 02:30
 - The provision of late night refreshment (indoors):
 - Sunday to Thursday from 23:00 to 00:00
 - Friday and Saturday from 23:00 to 02:30
 - Regulated entertainment in the form of live music and recorded music (indoors) and facilities for making music (indoors):
 - Monday to Sunday from 06:00 to 00:00.
14. A copy of the current premises licence is attached as Appendix B.

Designated premises supervisor

15. The designated premises supervisor (DPS) of the premises is Segundo Vicente Gualavisi Carlosama who has been DPS since the licence was first issued in 2011 and holds a personal licence issued by the London Borough of Lambeth.

The review application and certificate

16. On 13 July 2021 the Metropolitan Police Service applied to this licensing authority for the summary review of the premises licence issued in respect of the premises known as the Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP.
17. On 13 July 2021 a Superintendent for the Metropolitan Police Service certified that in the Superintendent's opinion the premises are associated with serious crime, serious disorder or both.
18. On Saturday 10 July 2021 at approximately 02:40 a number of calls were made to the police stating that a fight was taking place at or near Rincon Costeno, Arch 146 Eagle Yard. This premises currently holds a premises licence 869693 under the business name of Pasaje Primavera. Shortly after this police received a call from the London Ambulance Service (LAS) stating they were dealing with a male victim with significant head injuries and a possible machete wound to his back.
19. Police arrived on scene to speak with the victim, who was uncooperative towards Police. He apparently could not remember where or how he received his injuries and wanted the matter forgotten. Police discovered that the incident took place at 146 Eagle Yard. They attended the venue and found it to be locked and secure with no staff or patrons inside. A key holder attended the premises and allowed police

access. Inside the venue police found a significant amount of blood, tables and chairs turned over and smashed glass all over the floor. It should be noted that no calls were made to the emergency services from the premises or staff at the premises.

20. Police managed to gain access to the CCTV which was viewed at the scene. The CCTV shows between 6 and 8 persons inside the venue sat at a table drinking what appears to be bottles of beer. One view shows the victim bending down behind the bar area, the suspect comes up from behind the victim and smashes a glass bottle across the back of the victims head. A fight then starts between the two males. The other people inside then attempt to break up the fight. It is not entirely clear what happened after this but the victim was attended to by the LAS outside the Elephant and Castle tube station. From the details contained in the crime report and CAD messages the victim was treated for a significant head injury and what is described by the LAS as a machete wound to his back. He was conveyed to hospital for further treatment.
21. The police in their application also refer to the incident on Saturday 18 December 2018 detailed in paragraph 10 of this report. The investigation of this incident established the suspect as the son of the premises licence holder. Following a review of the premises licence, the licensing sub-committee came to a decision that the suspect would be permanently barred from the premises. See condition 846 of the premises licence. It was also agreed that SIA door supervisors would be employed on Friday and Saturday nights when the premises operates after midnight. It is not clear at this stage if any SIA were employed on 10 July 2021. By allowing this same individual into the licensed premises they have breached the conditions of the premises licence, as a result a serious crime was committed inside the premises. No calls to the emergency services calls were received from the premises or staff. On attending the venue it was found to be locked and secured with a crime scene unattended inside.
22. The Metropolitan Police are of the opinion that this was a deliberate act from those at the premises to cover up the fact a serious crime had occurred on their licensed premises and ask the licensing sub-committee to consider immediate interim steps to promote the prevention of crime and disorder licensing objective and to suspend the premises licence, pending a full review hearing.
23. A copy of the review application is attached to this report as Appendix A.

The review procedure

24. The current hearing is for the purpose of considering if interim steps are needed as a result of the summary review application submitted by the police, prior to the pending full review hearing that will be held on 05 August 2021.
25. The licensing sub-committee is not obliged to hear evidence from other parties at this stage of the procedure.
26. The review is currently being consulted on and a public notice is advertised at the premises for 10 days. Responsible authorities and any other persons may make representations that will then be considered at the full Licensing Sub-Committee hearing regarding this matter.

27. Any interim steps made by the licensing sub-committee at this hearing will cease to have effect once the review has been determined.

Operating history

28. Paragraphs 9 to 12 give the recent history of the premises.
29. In addition, on 28 August 2019, a transfer application was received and granted to the current licence holder, Rincon Costeno Limited.
30. There is no history of temporary event notices (TENS) and no complaints have been received specifically about this premises, however, there are generic complaints from local residents of anti-social behaviour in the immediate vicinity caused by patrons of the various premises in Eagle Yard.

The local area

31. A map of the local area is attached at Appendix D.

Southwark Council statement of licensing policy

32. Council assembly approved Southwark's statement of licensing policy 2021 - 2026 on 25 November 2020. The policy came into effect on 1 January 2021. Sections of the statement that are considered to be of particular relevance to the sub-committee's consideration are:
- Section 3 - Purpose and scope of the policy. This reinforces the four licensing objectives and the fundamental principles upon which this authority relies in determining licence applications.
 - Section 5 - Determining applications for premises licences and club premises certificates. This explains how the policy works and considers issues such as location; high standards of management; and the principles behind condition setting.
 - Section 6 - Local cumulative impact policies. This sets out this authority's approach to cumulative impact and defines the boundaries of the current special policy areas and the classifications of premises to which they apply. To be read in conjunction with Appendix B to the policy.
 - Section 7 - Hours of operation. This provides a guide to the hours of licensed operation that this authority might consider appropriate by type of premises and (planning) area classification.
 - Section 8 - The prevention of crime and disorder. This provides general guidance on the promotion of the first licensing objective.
 - Section 9 - Public safety. This provides general guidance on the promotion of the second licensing objective.
 - Section 10 - The prevention of nuisance. This provides general guidance on the promotion of the third licensing objective.

- Section 11 - The protection of children from harm. This provides general guidance on the promotion of the fourth licensing objective.

33. The purpose of Southwark's statement of licensing policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

Resource implications

34. There is no fee associated with this type of application.

Consultation

35. The premises licence holder has been informed of the application for review and of the details of the interim hearing.

Community impact statement

36. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

37. The sub-committee is asked to consider interim steps following an application to review the premises licence under Section 53A of the licensing act 2003.

38. The principles, which sub-committee members must apply, are set out below.

Principles for making the determination

39. The licensing authority must hold a hearing to consider interim steps within 48 hours of receiving an application for review of a premises licence where:

- The application is properly made in accordance with Section 53A of the Act.
- The licensing authority has considered the ground(s) of review to be relevant to the licensing objective for prevention of crime and disorder.

40. The four licensing objectives are:

- The prevention of crime and disorder
- The protection of public safety
- The prevention of nuisance
- The protection of children from harm.

41. Each objective must be considered to be of equal importance. The authority must, having regard to the application and any relevant representations, take such of the following steps as it considers appropriate for the promotion of the licensing objectives. The steps are to:

- Modify the conditions of the licence by altering, omitting or adding any condition
 - Exclude a licensable activity from the scope of the licence
 - Remove the designated premises supervisor
 - Suspend the premises licence.
42. The steps will remain in place until the review application is determined at a full hearing of the licensing sub-committee.
43. The authority may decide to take no action if it finds no interim steps are appropriate to promote the licensing objectives.
44. In deciding what remedial action if any it should take, the authority must direct its mind to the causes or concerns that the representations identify. The remedial action should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
45. It is of particular importance that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for review.

Reasons

46. Where the authority takes interim steps an application for review it must notify the determination and reasons why for making it to:
- The holder of the licence
 - The chief officer of police for the area (or each police area) in which the premises are situated.

Hearing procedures

47. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that:
- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations.
 - Members of the authority are free to ask any question of any party or other person appearing at the hearing.
 - The committee must allow the parties an equal maximum period of time in which to exercise their rights to:
 - Address the authority
 - If given permission by the committee, question any other party
 - In response to a point which the authority has given notice it will require clarification, give further information in support of their application.

- The committee shall disregard any information given by a party which is not relevant:
 - To the particular application before the committee
 - To the licensing objectives.
- The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
- In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

48. This matter relates to the review of the premises licence under section 53A of the Licensing Act 2003.

Council's multiple roles and the role of the licensing sub-committee

49. Sub-committee members will note that, in relation to this application, the council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.
50. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.
51. As a quasi-judicial body the licensing sub-committee is required to consider the application on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The licensing sub-committee must give fair consideration to the contentions of all persons entitled to make representations to them.
52. The licensing sub-committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

53. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.
54. The sub-committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.
55. Under the Human Rights Act 1998, the sub committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.
56. There is no right of appeal to a Magistrates' Court against the licensing authority's decision regarding the setting of interim steps at this stage.

Guidance

57. Members are required to have regard to the Home Office revised guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

Strategic Director of Finance and Governance

58. The head of community safety and enforcement has confirmed that the costs of this process are borne by the service.

REASONS FOR LATENESS

59. When an application for an expedited summary review is received from the police under section 53a of the Licensing Act 2003 the council's licensing authority has a statutory duty hold a hearing within 48 hours from receipt of the application to consider interim steps that may be placed on the premises licence until such time as the application can be fully determined.

REASONS FOR URGENCY

60. The council has a statutory duty under section 53a to hold an interim hearing within 48 hours of receipt of a summary review.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Home Office Revised Guidance to the Act Secondary Regulations Southwark Statement of Licensing Policy Case file	C/O Southwark Licensing, Community Safety & Enforcement, 3rd Floor Hub C, 160 Tooley Street PO Box 64529 SE1 5LX	Mrs Kirty Read Tel:02075255748

APPENDICES

Name	Title
Appendix A	Copy of the review application
Appendix B	Copy of the Notice of Decision
Appendix C	Copy of current premises licence
Appendix D	Map showing the location of the premises

AUDIT TRAIL

Lead Officer	Caroline Bruce, Strategic Director of Environment and Leisure	
Report Author	Andrew Heron, Principal Licensing Officer	
Version	Final	
Dated	13 July 2021	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	13 July 2021	


**METROPOLITAN
POLICE**
TOTAL POLICING

Form 693

Form for Applying for a Summary Licence Review

Application for the review of a premises licence under section 53A of the Licensing Act 2003

(premises associated with serious crime, serious disorder or both)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink.

Use additional sheets if necessary.

Insert name and address of relevant licensing authority and its reference number:

Name: London Borough of Southwark

Address:

160 Tooley Street

Post town: London

Post code: SE1

Ref. No.:

I PC Ian Clements (Licensing Officer)

on behalf of the chief officer of police for the Metropolitan Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description:

Pasaje Primavera, Arch 146 Eagle Yard, Hampton Street

Post town: London

Post code:
(if known) SE1 6SP

2. Premises licence details

Name of premises licence holder or club holding club premises certificate (if known):

Rincon Costeno Limited

Number of premises licence or club premises certificate (if known):

869693

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

Please tick the box to confirm:



4. Details of association of the above premises with serious crime, serious disorder or both (Please read guidance note 2)

PROTECTIVE MARKING

On Saturday the 10th July 2021 at approximately 0240 a number of calls were made to the Police stating that a fight was taking place at or near Rincon Costeno Arch 146 Eagle Yard. This premises currently holds a premises licence 869693 under the business name of Pasaje Primavera.

Shortly after this Police received a call from the London Ambulance Service (LAS) stating they were dealing with a male victim with significant head injuries and a possible machete wound to his back. Police arrived on scene to speak with the victim, the victim [REDACTED] was uncooperative towards Police, he apparently could not remember where or how he received his injuries and wanted the matter forgotten.

Police discovered that the incident took place at 146 Eagle Yard, they attended the venue and found it to be locked and secure with no staff or patrons inside. A key holder attended the premises and allowed Police access. Inside the venue Police found a significant amount of blood, tables and chairs turned over and smashed glass all over the floor.

It should be noted that no calls were made to the emergency services from the premises or staff at the premises.

Police managed to gain access to the CCTV which was viewed at the scene. The CCTV shows between 6 and 8 persons inside the venue sat at a table drinking what appears to be bottles of beer. One view shows the victim bending down behind the bar area, the suspect comes up from behind the victim and smashes a glass bottle across the back of the victim's head. A fight then starts between the two males. The other people inside then attempt to break up the fight.

It is not entirely clear what happened after this but the victim was attended to by the LAS outside the Elephant & Castle tube station. From the details contained in the crime report and CAD messages the victim was treated for a significant head injury and what is described by the LAS as a machete wound to his back. He was conveyed to hospital for further treatment.

On Saturday the 18th December 2018 Police came across a fight outside 146 Eagle Yard. This incident triggered a summary review of the above premises for 146 Eagle Yard, then known as Pasaje Primavera. It was established the suspect for this incident was [REDACTED] was the son of the premises licence holder. Following a review of the premises licence the licensing sub committee came to a decision that [REDACTED] would be permanently barred from the premises. See condition 846 of the premises licence. It was also agreed that SIA door supervisors would be employed on Friday & Saturday nights when the premises operates after midnight. It is not clear at this stage if any SIA were employed on this night in question.

By allowing [REDACTED] into the licensed premises they have breached the conditions of the premises licence, as a result a serious crime was committed inside the premises. No calls to the emergency services were received from the premises or staff. On attending the venue it was found to be locked and secured with a crime scene unattended inside. I am of the opinion that this was a deliberate act from those at the premises to cover up the fact a serious crime had occurred on their licensed premises.

I ask the licensing sub committee to consider immediate interim steps to promote the prevention of crime and disorder licensing objective and to suspend the premises licence, pending a full review hearing.

Signature of applicant

Signature:

[REDACTED]

2362 AS

Date:

13th July 2021

Capacity:

Police ~~Licensing~~ Officer

Contact details for matters concerning this application

Surname:

Clements

First Names:

Ian

Address:

PROTECTIVE MARKING

Southwark Police Station, 323 Borough High Street			
Post town:	London	Post code:	SE1 1JL
Tel. No.:	[REDACTED]	Email:	SouthwarkLicensing@met.police.uk

Notes for guidance

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.
Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:
 - conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
 - conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.Serious disorder is not defined in legislation, and so bears its ordinary English meaning.
2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Retention Period: 7 years
MP 146/12


**METROPOLITAN
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Form 693A

Certificate under Section 53A(1)(b) of the Licensing Act 2003

Metropolitan Police Service | New Scotland | Yard 8-10 Broadway | London | SW1H 0BG

I hereby certify that in my opinion the premises described below are associated with:
Serious Crime

Premises (Include business name and address and any other relevant identifying details):

Postal address of premises or club premises, or if none, ordnance survey map reference or description:

Rincon Costeno (Pasaje Primavera) Arch 146 Eagle Yard Hampton Street

Post town:

London

Post code:
(if known)

SE1 6SP

Premises licence number (if known):

869693

Name of premises supervisor (if known):

Sugundo Vicente Gualavisi Carlosama

I am a Superintendent* in the Metropolitan Police Service: **Det. Supt Clair Kelland**

*Insert rank of officer giving the certificate, which must be superintendent or above.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case because:

(Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned)

On 10th July 2021 at approximately 0230 a serious assault took place inside this premises, one victim was hit over the head with a glass bottle causing injuries consistent with grievous bodily harm. The victim also sustained slash injuries to his back, described by the LAS as a potential machete injury. The victim of this incident has been previously barred from the premises following an incident at the venue in December 2018. Following this incident in 2018 a summary review of the premises licence led to the premises licence being modified to include a specific condition barring Mr Ian Gualavisi from entering the premises. Mr Gualavisi is the victim of this most recent assault.

On attending the premises Police found it to be locked and secure with no staff or patrons on scene. After eventually gaining entry, a crime scene with a significant amount of blood had been left unattended. This premises was operating in breach of its premises licence and has been the subject of a previous summary review. The incident was not reported to Police. It is for these reasons that I consider a summary review the most appropriate course of action.

Signature

PROTECTIVE MARKING

Signature:		Date:	13 th July 2021
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Retention Period: 7 years
MP 147/12



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 16 JANUARY 2019

SECTION 53C LICENSING ACT 2003: PASAJE PRIMAVERA, ARCH 146, EAGLE YARD, HAMPTON STREET, LONDON SE1 6SP

1. That the council's licensing sub-committee, having considered an application made under Section 53 C 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 **Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP** and having had regard to all other relevant representations has decided it necessary for the promotion of the licensing objectives to modify the conditions on the licence by adding:
 - i. That Mr **Ian Gualavisi** (Person A) and **Mr Ronalo Palacios** (Person B) be excluded from the premises.
 - ii. All staff to receive conflict management training with 28-days.
 - iii. All staff are retrained in the use of CCTV and their obligations in respect of conditions 288 and 289 of the premises licence within 28-days
2. **Reasons for the Decision.**

The reasons for this decision are as follows:

On 20 December 2018 the Metropolitan Police Service applied to the licensing authority for a summary review of the premises licence issued in respect of the premises known as Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP. The application refers to a serious incident witnessed by police officers at 20:00 on Friday 15 December 2018 and draws from further CCTV evidence acquired later. The matter involved a large fight with armed participants. One of the armed males was the son of the premises' owner whom was in charge of the premises that night. Further to the summary review application, interim steps were put in place that Ian Gualavisi and Mr Ronalo Palacios be excluded from the premises.

The representative for the Metropolitan Police Service accepted that the incident was a domestic incident and that alcohol was not a contributing factor. The officer also advised the Licensing Sub-Committee that there was an on-going investigation and criminal charges were likely and in the circumstances, recommended that the interim steps remain in place.

The premises licence holder was assisted by his daughter and 2-friend, one of which acted as a translator. On 15 December 2018, the premises were being managed by a family friend. It was incorrect that the licence holder's son was in charge. Ronalo Palacios was the ex-boyfriend of the licence holder, with whom she had a child. The relationship between him and the licence holder's daughter is acrimonious and the police have been called at least 3-times. On 15 December,

the ex-boyfriend unexpectedly turned up at the premises with their child. The licence holder's son instinctively went to defend and protect his sister, but over-reacted in making threats with a knife in a public area. This Licensing Sub-Committee were told that the likelihood of a reoccurrence of an incident of this type was nil. The premises had been operating for approximately 5-years as a family restaurant and there had been no previous incidents of this type, nor had there been any complaint regarding the premises management. The premises licence holder assisted his father greatly in doing the shopping and deliveries to the restaurant. Excluding his son would put a greater burden on the licence holder. The sub-committee reassured the licence holder that there was no reason why the son could not continue helping his father, but he could not enter the restaurant under any circumstances.

The Licensing Sub-Committee notes the representations from the other persons who were not present.

The Licensing Sub-Committee were concerned that no one from the premises who was also present during the incident at the sub-committee meeting and the explanation given by the premises of the events of 15 December differed from that given at the interim steps meeting. The members of the sub-committee also had concerns that the translator friend for the licence holder was not translating accurately and a tainted view of the incident was being given.

This was an extremely serious incident and those in charge of the premises failed to take any preventative action. The licence holder's son retaliated by wielding a knife and the police were not contacted immediately. Licensing Sub-Committee also strongly recommend that independent legal advice is sought with a view to obtaining an injunction against the ex-boyfriend to prevent him from approaching the licence holder's family, particularly his daughter and also to prevent him from approaching the premises.

Knife crime is at an all time high and it is necessary and proper that measures are put in place to prevent it. This

3. **Appeal Rights**

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.

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.

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 modify the premises licence by adding: That Mr **Ian Gualavisi** (Person A) and Mr **Ronaldo Palacios** (Person B) be excluded from the premises

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 Legal Services

Date: 16 January 2019

Licensing Act 2003 Premises Licence



Regulatory Services
Licensing Unit
Hub 1, 3rd Floor
PO Box 64529
London, SE1P 5LX

Premises licence number

869693

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Pasaje Primavera Arch 146, Eagle Yard Re-Instate Issued (Licensing) SE1 6SP	
Ordnance survey map reference (if applicable), 532056178732	
Post town London	Post code SE1 6SP
Telephone number	

Where the licence is time limited the dates
--

Licensable activities authorised by the licence
Recorded Music - Indoors Facilities for Making Music - Indoors Late Night Refreshment - Indoors Sale by retail of alcohol to be consumed on premises

The opening hours of the premises
For any non standard timings see Annex 2
Monday 06:00 - 01:00
Tuesday 06:00 - 01:00
Wednesday 06:00 - 01:00
Thursday 06:00 - 01:00
Friday 06:00 - 03:00
Saturday 06:00 - 03:00
Sunday 06:00 - 01:00

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies
Sale by retail of alcohol to be consumed on premises

The times the licence authorises the carrying out of licensable activities

For any non standard timings see Annex 2 of the full premises licence

Recorded Music - Indoors

Monday	06:00 - 00:00
Tuesday	06:00 - 00:00
Wednesday	06:00 - 00:00
Thursday	06:00 - 00:00
Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 00:00

Facilities for Making Music - Indoors

Monday	06:00 - 00:00
Tuesday	06:00 - 00:00
Wednesday	06:00 - 00:00
Thursday	06:00 - 00:00
Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 00:00

Late Night Refreshment - Indoors

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 02:30
Saturday	11:00 - 02:30
Sunday	11:00 - 00:00

Sale by retail of alcohol to be consumed on premises

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 02:30
Saturday	11:00 - 02:30
Sunday	11:00 - 00:00

Part 2**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

RINCON COSTENO LIMITED
 Flat 25 Waylett House,
 Loughborough Street,
 London, SE11 5PZ

Registered number of holder, for example company number, charity number (where applicable)

11689338

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Segundo Vicente Gualavisi Carlosama
 25 Waylett House, Loughborough Street,
 London,
 SE11 5PZ

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence No. 02539
 Authority
L B of Lambeth

Licence Issue date 30/08/2019



Head of Regulatory Services
 Hub 1, 3rd Floor
 PO Box 64529
 London, SE1P 5LX
 020 7525 5748
 licensing@southwark.gov.uk

Annex 1 - Mandatory conditions

100 No supply of alcohol may be made under the Premises Licence -

- (a). At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
- (b). At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

101 Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.

485 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require, encourage, individuals to -

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional poster or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; and

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

487 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

488 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either

- (a) a holographic mark; or
- (b) an ultraviolet feature.

489 The responsible person shall ensure that -

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or

supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) Beer or cider: 1/2 pint;
- (ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) Still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available,

491 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purpose of the condition set out in paragraph (1):

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula

$$P = D + (D \times V),$$

where-

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence:

- (ii) the designated premises supervisor (if any) in respect of such a licence; or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (iv) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (v) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax;
- (2) the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the operating Schedule

4AA The premises shall operate an age check 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card.

255 That fire extinguishers shall be kept at the premises and kept in unobstructed and easily accessible locations.

288 That a CCTV system shall be installed at the premises and shall be maintained in full working order and be continually recording at all times that the premises is in use under this licence. The CCTV system must be capable of capturing an image of every person who enters the premises.

289 That all CCTV footage shall be kept for a period of thirty one (31) days and shall be made immediately available to officers of the police or council on request.

293 That staff shall be trained in regards to all aspects of public safety at the premises.

298 That clearly legible signs shall be prominently displayed to the satisfaction of the council stating "Drug Free Zone".

309 That no electronically amplified instruments shall be played in the premises.

310 That after 21:00 hours the front entrance doors shall be kept closed when regulated entertainment is taking place.

311 That clearly legible signs shall be prominently displayed to the satisfaction of the council requesting that customers leave the premises in a quiet and orderly manner.

332 That all persons under 18 years old attending the premises must be accompanied by a parent, guardian or responsible adult at all times.

340 That a fire alarm system shall be installed at the premises and shall be maintained in full working order and be in operation at all times that the premises is in use under this licence.

341 Maximum persons to be allowed at any one time including staff to be 80.

342 A fire risk assessment and a evacuation plan will be implemented in case of fire or other emergencies.

343 The management will ensure that all staff receive appropriate training and development to carry out their job in an effective manner - to ensure that all the policies including health & safety are consistently maintained.

344 No bottles or glasses shall be taken off the premises.

345 A specified time between last sales and the close of the premises shall be displayed.

346 A display will set out conditions of entry to the premises in the vicinity of any entrance to the premises. a secure deposit box will be kept on the premises for the retention of confiscated items and ensure

that the police are informed of any item which require safe disposal.

347 Windows and doors will always be kept closed acoustically treated ventilation/air conditioning will be utilised.

348 Management will ensure that staff, DJs and artists understand the noise control requirements, and regularly monitor noise levels during operating hours.

349 A complaints and incidents book would be held on the premises to record details of any complaints received from neighbours for inspection by council officers.

4AB All staff will receive documented training in relation to the licensing act 2003, and the 'Challenge 21' policy and the training shall be repeated every six months. Records of this training and written policies relating to it will be kept and made available to police or council officers on request.

4AG That the premises adopts the 'challenge 21 scheme' whereby any person that appears under 21 year of age has to prove they are 18 or over by providing identification bearing their photograph, date of birth and a holographic mark and/or ultraviolet feature. examples of appropriate identification include passport, photo card driving licence, military ID and proof of age card bearing the pass hologram.

350 A Refusals Log be kept and maintained and be available to Police or Council Officers on request.

Annex 3 - Conditions attached after a hearing by the licensing authority

840 That substantial food to be served at all times that alcohol is supplied on Fridays and Saturdays after 00:00;

841 That a minimum of one SIA licensed door supervisors shall be on duty at the premises at all times when the premises are open between 00:00 and 03:00;

842 That patrons admitted after midnight must have been invited;

843 That there shall be no more than 80 patrons shall be present on the premises between 00:00 and 03:00;

844 That no more than six patrons may use the outside smoking area at any one time. No drinks may be taken into this area;

845 That no alcohol may be taken off the premises.

846 That Mr Ian Gualavisi (Person A) and Mr Ronalo Palacios (Person B) be excluded from the premises.

847 All staff to receive conflict management training with 28-days.

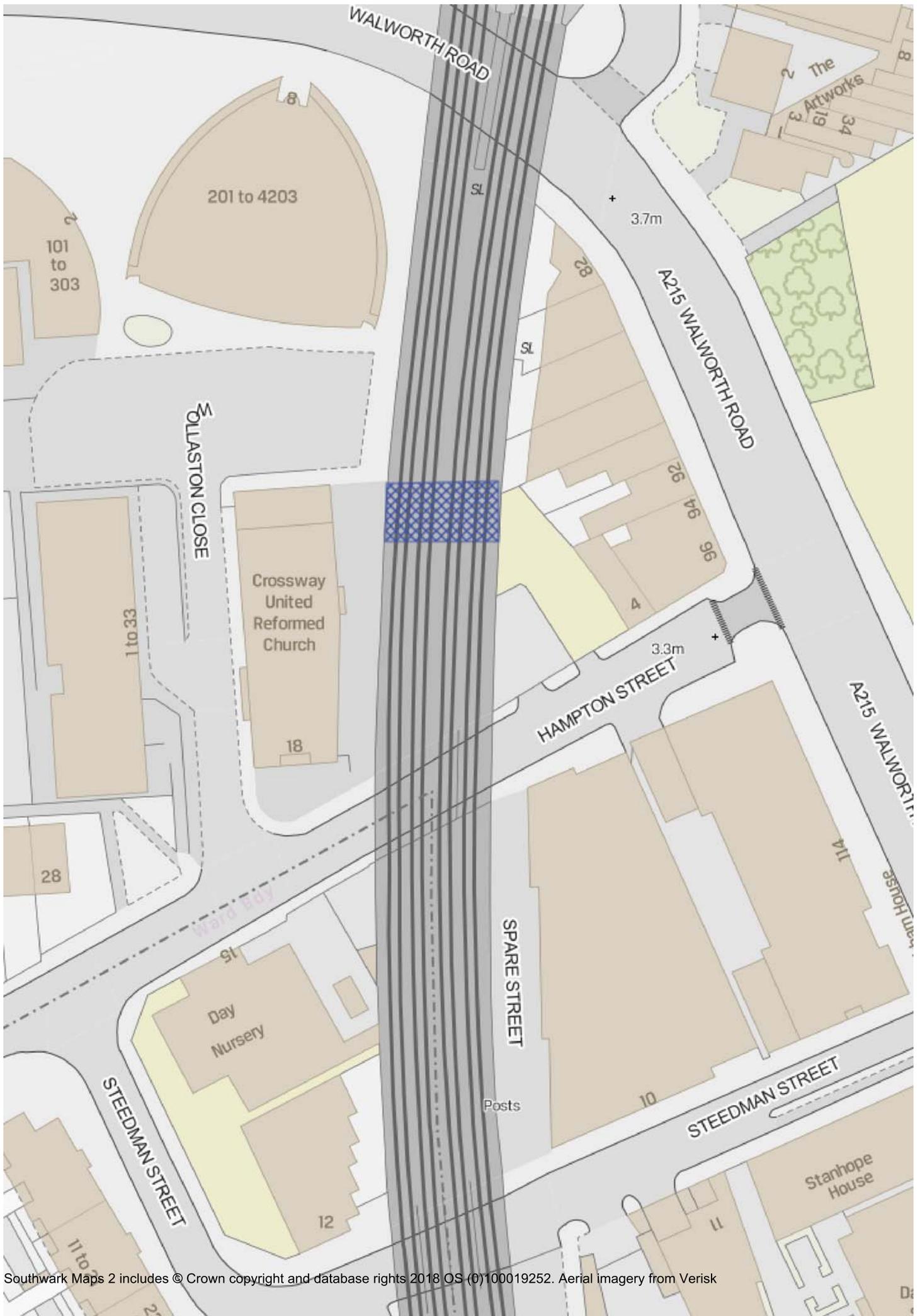
848 All staff are retrained in the use of CCTV and their obligations in respect of Conditions 288 and 289 of the premises licence within 28-days

Annex 4 - Plans - Attached

Licence No. 869693

Plan No. 221102(lic)01

Plan Date May 2011



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LICENSING SUB-COMMITTEE DISTRIBUTION LIST (OPEN) MUNICIPAL YEAR 2021-22

NOTE: Original held by Constitutional Team; all amendments/queries to Andrew Weir - Tel: 020 7525 7222

Name	No of copies	Name	No of copies
Members		Officers (by email only)	
Councillor Renata Hamvas (Chair)	By email	Debra Allday, legal team	
Councillor Charlie Smith	By email	Andrew Heron, licensing team	
Councillor Kath Whittam	By email	P.C. Ian Clements, Metropolitan Police Service	
Reserve			
Councillor Jane Salmon	By email	Andrew Weir, constitutional team	
		Dated: 14 July 2021	