

Licensing Sub-Committee

Tuesday 10 August 2021

10.00 am

Reconvened from 5 August 2021

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

List of Contents

Item No.	Title	Page No.
5.	Licensing Act 2003: Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP - Review	1 - 7
	Appendix H: Representation from the licensing authority	
	Appendix i: Representation from the other person supporting the premises	
	Appendix J: Supplementary document from the police	

Contact

Gerald Gohler on or email:
Webpage:

Date:

MEMO: Licensing Unit

To Licensing Unit Date 27 July 2021

From Jayne Tear

Email jayne.tear@southwark.gov.uk

Subject Pasaje Primavera, Arch 146 Eagle Yard, Hampton Street, London, SE1 6SF
- Application to review the premises licence

I write with regards to the above application to review the premises licence submitted by The Metropolitan Police as a responsible authority under Section 53A of the Licensing Act 2003.

The grounds for the review within the application state:

'On Saturday the 10th 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. Police arrived on scene to speak with the victim, the victim Mr Ian Gualavisi was uncooperative towards Police, and 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 Mr Ian Gualavisi was the son of the premises licence holder. Following a review of the premises licence the licensing sub committee came to a decision that Ian Gualavisi 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 Mr Gualavisi 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.'

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

This premises has already been the subject of a previous expedited review. The full LSC hearing took place on 16 January 2019. It was the decision of the LSC to modify the premises licence to add the following conditions:

- **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

I attach a copy of the Notice of Decision from the 16 January 2019 LSC hearing to this representation.

I fully support the Police in submitting this review. It would seem that after the 1st review hearing on 16 January 2019; and the licensing sub-committee giving the licensee and DPS a chance to turn things around by applying more robust conditions, that the licensee and DPS have not taken their responsibilities to promote the licensing objectives seriously.

Allowing Mr Ian Gualavisi back into the premises is a breach of condition **846** on the premises licence and at the time of the incident the premises should have had at least 1 door supervisor on duty as stated in premises licence condition '**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*'. It should also be noted that no one from the premises attempted to call the police or ambulance service at the time of the incident.

This total lack of understanding of what is required to manage a licensed premises and a disregard for any conditions imposed on the premises licence to promote the licensing objectives leaves me no alternative other than to recommend that the premises licence is revoked in order to promote the objectives.

If the premises had complied with the conditions on the premises licence this incident may not have happened.

I may provide further information to support this representation at a later stage.

Southward'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>

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

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

OTHER PERSON A SUPPORTING REPRESENTATION

From:

Sent: Friday, July 23, 2021 7:54 PM

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

Subject: Honorabilidad

Cómo cliente del Restaurant Sabor Costeño,,, del cual es propietario Don Vicente,,, puedo afirmar que ha sido una persona educada y respetuosa con quiénes conformamos la clientela habitual del lugar antes mencionado,,, a lo largo de los últimos cinco años que acudo a su restaurant no habido ninguna mala manera o algún tipo de atención desagradable,ni problemas de algún índole,,,, siempre ha sido una persona a carta cabal,,, merecedora de respeto y admiración por parte de sus clientes y vecinos,,, sin más tener que afirmar me despido.....

Translation using Google Translate.

Subject: Honorability

As a client of the Restaurant Sabor Costeño ,, of which Don Vicente is the owner ,, I can affirm that he has been an educated and respectful person with whom we make up the usual clientele of the aforementioned place ,, throughout the last five years that I go to his restaurant there has not been any bad manner or any kind of unpleasant attention, or problems of any kind ,,,, he has always been a person to the full ,, deserving of respect and admiration on the part of his clients and neighbors ,, , without further having to affirm I say goodbye

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

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Statement of: Ian Clements PC 2362AS

Age if under 18: *(if over 18 insert 'over 18')* Occupation: Police Officer

This statement (consisting of _____ page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Witness Signature: Date: 03/08/2021

I am Police constable Ian Clements 2362AS. I am a Police Licensing Officer for Southwark Borough, I have been a Police officer for over 28 years and in the role of licensing officer for over 12 years. I have the following statement to make in regard the summary review application for the premises knows as Paseja Primavera 146 Eagle Yard, Hampton Street SE1 6SP.

Police maintain that this premises was operating under its premises licence, and at the time of the incident inside the premises it was operating in breach of the premises licence. The victim is maintaining his original statement that he does not know the suspect and is unwilling to provide Police with a written statement or allow access to his medical records.

Under certain circumstance the Police can proceed with a prosecution without the victims support. As this crime involves a level of injury consistent with grievous bodily harm the police would require access to the victim's medical records to establish the correct charging decision to be made by the crown prosecution service.

The premises licence holder has also been unable to provide us with any details of the other persons inside the premises, this would indicate that they were not staff members and therefore must be members of the public. From what we understand from the initial interim measures hearing the premises licence holder allowed his son to use the premises as he wasn't feeling well. It would appear from the CCTV that he was entertaining and drinking with other members of the public.

After the incident and when the Police arrived on scene the premises were locked and secure. In the absence of any other supporting evidence we must assume the premises licence holder or a key holder attended the premises and locked it up before Police arrival. It would be difficult to believe that this person was unaware a serious incident had taken place inside the premises. The question has to asked why no calls were made from the premises to alert the Police and emergency services that a serious crime and taken place.

The police maintain that this was a deliberate attempt to cover up a serious crime that had occurred on licensed premises, knowing that the premises were operating in breach of the premises licence.

Taking this into consideration, Police say that the premises licence holder is not a suitable person to hold a premises licence, we therefore ask the licensing subcommittee to revoke the premises licence and for the interim measures to remain in place pending the outcome of this review.

Witness Signature:

Signature Witnessed by Signature:.....

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

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