

APPENDIX C



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 8 JULY 2022

SECTION 53A LICENSING ACT 2003: THE LUNCHEONETTE AND GIUSEPPES RISTORANTE ITALIANO - 47-49 BOROUGH HIGH STREET, LONDON SE1 1NB

Decision

That as an interim step to promote the licensing objectives, pending the determination of the review application in respect of the premises known as The Luncheonette and Giuseppe's Ristorante Italiano - 47-49 Borough High Street, London SE1 1NB at the full hearing, to be held on 2 August 2022, the licence be modified as follows:

Alcohol (on-sales only)	<u>Ground Floor</u> Sunday to Saturday: 11:00 to 23:30 <u>Basement</u> Sunday to Saturday: 11:00 to 23:30
The provision of late night refreshment (indoors):	<u>Ground Floor</u> Sunday to Saturday: 23:00 to 23:30 <u>Basement</u> Sunday to Sunday: 23:00 to 23:30
Opening	<u>Ground Floor</u> Sunday to Saturday: 06:00 to 00:00 <u>Basement</u> Sunday to Sunday: 09:00 to 00:00

Modified Conditions

1. That Artur Cami and Massimo Olmo be excluded from the premises and are not involved in anyway whatsoever with the running or operation for the premises.
2. That no alcohol shall be served other than to patrons who are seated and are taking a substantial table meal. All service shall be by waiter/waitress service.

3. That there shall be no vertical-drinking permitted in the premises.

Reasons

This was an application made by the Chief of Police for the Metropolitan Police area as to whether it was appropriate to take interim steps pending the determination of an application for a summary review made under Section 53A of the Licensing Act 2003 in respect of the premises known as The Luncheonette and Giuseppe's Ristorante Italiano of 47-49 Borough High Street, London SE1 1NB, the full hearing of which will be heard on 2 August 2022.

The licensing sub-committee heard from an officer for the Metropolitan Police who informed the committee that on 7 July 2022 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.

The first of the two incidents that resulted in this application happened on 2 July 2022 at approximately 02:40. A bottle was thrown during a fight inside the premises, missing the intended victim but smashed next to the victim, cutting his arm, which required hospital treatment. The victim approached staff at the premises and asked them to call the police as the suspect was still present. The victim said that staff refused to call emergency services and asked the victim to leave. The suspect was then also allowed to leave the premises. The victim called the police from outside the premises. At the same time, the suspect returned and was subsequently arrested for grievous bodily harm (GBH) at the scene.

Police attended the premises to retrieve and view the CCTV, but staff were unable to operate it. This evidence remains outstanding. Police licensing officers attended the venue later that evening and issued the premises operator with a notification of offences, as they were unable to operate the CCTV, a condition on the premises licence.

The second incident took place on 3 July at approximately 04:15. Police were flagged down by the London Ambulance Service (LAS) who were attending to a male with serious head injuries outside the premises. It was understood that the male victim and a group of his friends had been involved in a large fight within the premises. The victim then left the premises and was further attacked in the alleyway next to the premises. The victim was bleeding from his ears and shaking involuntarily. He was taken to Kings College Hospital with suspected fractured jaw and potential brain injury. A witness recorded the victim laying on the floor bleeding whilst the security staff rushed to clear up outside and closed the premises before police arrived.

As of 09:30 hours on 4 July 2022 police had still been unable to access the crime scene. They advised that Hertfordshire Police contacted the owner of the premises at the request of the Metropolitan Police Service. The apparent owner contacted them back stating that he had attended the premises but was unable to get in as no one was there. At the time this call was made, police had been outside the premises managing the crime scene

The police considered both incidents to be serious. It is believed that the actions of the staff at the premises delayed any investigation into the assaults. The staff appeared to have deliberately closed the premises in an attempt to cover up what might have occurred inside the premises.

The licensing sub-committee heard from the legal representative for the premises who accepted interim steps were appropriate, whilst the investigation was on-going. The premises was bought in the 1990s and had operated under a justices' licence. The premises licence holder had been the designated premises supervisor since 2005 and since that time, there had been no issues.

Concerning the two incidents that occurred, the premises licence holder was not aware of the extent of the incidents until the summary review application was received on Thursday 7 July. The premises licence holder was particularly surprised by the incident that occurred on 3 July as the police had not contacted with him. He had keys to the premises, so there would never had been a problem accessing the property.

Ordinarily, the premises licence holder would be present whenever the premises was open late. He was not present on the Friday as he was having a 40th birthday party for his daughter. Because trains were not operating on the Saturday, he was unable to get into London and be present on the Saturday. Once the premises licence holder became aware of the incident that had occurred on the Friday, he had instructed Complete Licensing (licensing consultants) to undertake an investigation, as he had been told of a different version of events.

It was explained that there were essentially three different aspects of the premises operation. On the ground floor there was a snack bar/delicatessen that closed in the late afternoon. A restaurant was in the basement which operated from lunchtime until approximately 23:00 or 00:00. On Thursdays, Fridays and Saturdays a late night bar/disco also operated in the basement.

The legal advisor for the premises advised the sub-committee that it would be appropriate for the snack bar/delicatessen and the restaurant to continue to operate; the operation of these two aspects of the premises had no bearing on the issues raised by the police.

They advised that late night events had taken place at the premises on Fridays and Saturdays for 20 years. Like all licensed premises, Covid had a significant impact on his business and following the relaxation of the Covid restrictions, the late night events were extended to Thursday nights also.

During the informal discussion the premises advised the sub-committee that having reviewed the CCTV from the 2 July, no bottle had been seen being thrown, nor was a fight caught on CCTV. However, it was accepted that staff cleared broken glass from the dance floor area for the safety of patrons. The broken glass was in the middle of the dance floor, not near the wall, as suggested by the police.

However on 2 July, staff did not refuse entry to the emergency services. The victim was asked to go outside with staff, where the lighting was better to assist the victim. It was the premises that contacted the emergency services. Four or five staff were employed when the premises operated as restaurant. This figure increased to the premises licence holder, three bar staff and four security when the premises was open for the late nights. The security were positioned at the following locations: one outside in the alleyway, one on the door, one at the door downstairs

and one roaming the premises. Since the incident, the security company had been dismissed and a new CCTV system was being installed.

Concerning the second incident (3 July), the premises licence holder believed that the off-duty manager must have been contacted (by the police), as he most definitely was not. The premises licence holder on his own volition, had made contact with the police and was told the relevant officers would contact him, but no one had been in contact. Again, there was a contradictory versions of events, which the premises was investigating.

When asked whether the premises had an incident book, the sub-committee were informed that there was a brief note of the incident that occurred on 2 July. There were managers in the premises licence holder's place who were in charge when the premises licence holder was not present. Of the additional alleged incidents referred in the police application (4 September 2021, 12 December 2021, 30 December 2021, 6 February 2022 and 1 May 2022), the premises licence holder was only aware of the 4 September 2021 incident. A police officer (believed to be PC Lynch) had previously attended the premises and said that he was keeping an eye on the premises, but no details of the incidents were disclosed by him.

In deliberations, the members indicated that at the full review, in view of the contradictory version of events provided by the premises licence holder, the sub-committee would expect clarification from the police on the precise timeline(s) of the 2 and 3 July 2022 incidents. Further details were requested as to the additional incidents referred to in the police application.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and the licensing sub-committee agreed that it was appropriate and proportionate to put these interim steps in place.

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: 8 July 2022