

APP\PREM-VARY\122714

Licensing Act 2003

Re: Sir Colin Cambell, 264 – 266 Kilburn High Road. London NW6 2BY

(operated by Praeclara Limited)

Responses to the representations made by the Local Authority and Police.

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Introduction

This document is respectfully submitted to the panel who will be hearing this application for the variation of trading hours. The application attracted only two representations, PC Rachel ALDIS (Licencing Officer (CN BCU Licencing), *pp* Metropolitan Police), and the second by the Local Authority itself.

With respect to these, as the applicant, the overarching nexus to these representations is that both parties have articulated them as a matter of political policy, insofar they would make representations to *all* applications to vary premises licences' that include 'late night trading', dismissing out of hand the individual circumstances. We shall also rebut some of the individual points that were raised.

The main issue cited above, in our view, is evidenced in what is substantially two documents that are, put in plain English, "*copy and paste jobs*", with little by way of detailed research or articulation of the nexus to *their* representation apropos the venue itself and the merits of the application.

Therefore, we believe it prudent to give a little introduction to the venue, and the 'set the scene', the aim of which is to give some context to the application itself.

The Sir Colin Campbell public house

The Sir Colin Campbell public house (hereafter referred to as "SCC") is an 'Irish pub' on KILBURN HIGH ROAD just south of BRONDESBURY BR and opposite the KILN THEATRE.

At this location the KILBURN HIGH ROAD runs north/south, and the pub is on the east side of road which is LB Camden, whereas the properties on the west (directly opposite) are LB Brent.

The building has a history in operation as a tavern for more than 100 years, and the reason as to why a longstanding Irish pub is named after an English Field Marshal, remains unknown. However, it has operated as an Irish venue for many years, with no shortage of photographs available online spanning decades.

The property is currently leased to Praeclara Limited (as the lessee) by Stonegate (as the lessor), who are the biggest pub real estate operators in the country. Praeclara took operational ownership in April 2023 and the first day of trading (under our tenure) was 01/05/2023.

The SCC is a small venue with two entrances and a "U-shaped" bar situated centrally. It has a notational capacity of around 80 people, and during the week would be considered a "local pub" during the day, and in the evening shows sporting events on two screens (in other words, it is not a

“sports pub” per se), with a quiz on a Wednesday night. We also have a small function room upstairs, which we are converting into a dedicated dining room.

The business is gearing up to sell a more formal food menu in the form of upmarket ‘pie and mash’, from a brand called ‘Pieminister’.

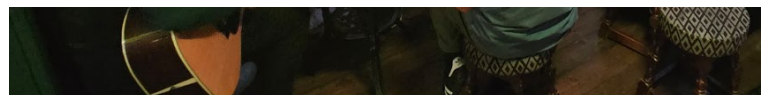
Our headline days and time of the week, however, are Saturday and Sunday nights because this is when we have traditional Irish music being played by a set of musicians that varies from week to week. We are one of a handful of pubs in London that **consistently** has live Irish music, and in our case for circa 2hrs from 8pm on Saturday and from 7pm on Sunday.

This attracts a variety of customers into the pub, from tourists wanting to see the live music, to the local Irish community and locals who enjoy the good-natured atmosphere.

Another crucial element to our profile is that we are (now) the **only** overtly LGBTQI+ venue in Kilburn. Since we have made this known (by virtue of a Pride flag that permanently hangs on the fireplace inside the venue, online and signage in the windows) we have attracted many from this community into the venue now this pub is accepted as a safe space.



Figure 1: a typical example of the traditional music being played



This conflation of these otherwise distinct profiles, we feel, represents contemporary London, and we assert materially contributes to the diversity of an area that is already highly diverse. By way of an example, a few doors up from the SCC is a mosque, and a few doors the other way an Afro Caribbean hair salon.

We do not run any nights with a DJ, karaoke, loud music or anything of that nature, and whilst we do have a mixed crowd with respect to ages, the SCC would undoubtedly be considered rather sedate if one were looking for a big night out.

Praeclara itself is owned and controlled by two individuals, Matthew L. APPLETON, LLB (Hons) and Alan SELDON, BEM, who were involved in creating one of the UK’s biggest rural broadband providers’, Voneus, that was sold to an Australian investment bank in 2021. They are both of Irish heritage.

Neither are involved in the operational management of the business, save for back-office functions, and the pub is managed by Gav STRANG who has more than 20 years of experience in the trade – and is himself from NW London.

Why we made this application

Early in our tenure and until October 2023 we had slightly later trading hours (detailed below). This made a marginal but positive contribution to our revenues because it allowed us to keep customers enjoying themselves in the venue for a little longer. Generally speaking, this is a group of regular customers who are retirees, during the week, as those who have to get up to work generally are gone before 11pm.

At the weekend it would mean those who came for the music could stay a little longer, as we lose some trade to venues further into town on this basis (with groups leaving at circa 10pm to facilitate this).

What we are not trying to become is a “late night venue” in any sense that the phrase may imply. The purpose is to keep customers in the pub that are there already, not attract new ones into the venue by virtue of its later opening hours.

Our current position with respect to the representations made

Whilst the narrative that follows attempts to surgically rebut several of the matters raised by both parties, we understand the overarching rationale in them having done so. The objective of improving the safety of all whilst in Camden and reducing the risk of ill-considered licencing decisions coupled with poorly run venues, is part of the justification of policy decision-making with respect to making [the] representations.

This being considered, as a demonstration of an equitable and reasonable approach undertaken on our part, we would like to respectfully ask the panel to reinstate the conditions in the premises licence to October 2023, with a headline closing time of 0100hrs (not 0200hrs in our application). This coupled with the administrative “tidying up” of the longform premises licence vis-à-vis the other conditions (such as aligning the opening hours with the conditions such as recorded and live music), we consider to be an equitable outcome that balances the bilateral objectives.

Response to MPS representation

The following comments are made in the same sequence to which they appear in the MPS document and are therefore unordered with respect to their relative importance.

Common law citations

“Daniel Thwaites PLC v Wirral Magistrates’ Court and Others” is an improper legal citation, it should probably be “*Daniel Thwaites plc v Wirral Borough Magistrates’ Court [2008] EWHC 838 (Admin)*”¹.

This is not brought up as a matter of pedantry, but because the author of the document is unlikely to be qualified in law (academically or having a postgraduate qualification) as this would be cited properly. What is more likely the case is that this citation is simply “copied and pasted” from previous incarnations of representations of a similar form, or from reference platforms such as the Police National Legal Database (“PNLD”), which is a “go to” reference library for officers to look up matters at law to assist in their duties.

Due to the ambiguity of the citation, it is not possible to be certain that the purpose of this relates specifically to the matters dealt with at *that* trial, but this is a matter dealt with in 2008, circa 16 years’ ago, and the decision itself has been subject to criticism subsequently on several strata (Kolvin, 2010) *inter alia*.

The MPS in citing this High Court matter, with their own subsequent narrative, we interpret to be something along the lines of (and put as simply as possible) “the Bench should use their common sense whilst making a decision”. We consider this potential undue influence considering two elements, (1) the *ratio decidendi* of this case is more nuanced, and (2) it is objectionable to omit that the members of the Bench would not in the first instance make decisions at law.

Size of NTE citation

It is stated in this document that “*Camden Borough has the 4th largest Night Time (sic) Economy in the UK*”. Whilst we all likely agree Camden is a big, central London Borough, this citation lacks a proper source and temporal reference.

A relevant and counter point might exist along the lines of “Camden is a big borough, but is also funded proportionally, and is not disproportionately burdened by licencing matters any more than Authorities both within Greater London or towns and cities elsewhere in the UK”. It could be

¹ This case does not appear in the British and Irish Legal Information Institute website so I cannot provide a URL to the ratio decidendi. It will be available in legal databases that a subscription must be paid to access, however.

argued, entirely without citation (as above), that Camden is very well resourced compared with Southend-on-Sea.

“Unique application issues”

“The premises is a licensed public house situated on Kilburn High Road. This is a busy part of the North area of the Camden Borough. There are numerous commercial businesses in the vicinity as well as hundreds of residential properties. It is imperative that the applicant ensures that the venue does not have a negative impact on the local residents within the area”.

- This is a highly anodyne statement to make, that also fails to reference the fact it is also on the border between LB Camden and Brent. There are “*numerous commercial businesses in the vicinity as well as hundreds of residential properties*” pretty much everywhere in zone 2 London.

“It would be of great concern to the MPS that a venue on Kilburn High Road is granted an extended licence until 1 or 2 am over the weekend”

- This fails to consider that the venue had a closing time of 0100hrs until October 2023 for several years. It is only by virtue of the voluntary surrender of the late-night element currently that the trading hours circumstances have changed.
- Taking this into account, we feel a more evidential representation would cite crime and public order issues relating to the SCC whilst the 1am closing time was in place.

Following this paragraph are generic statements of LB Camden policy that are not unique to our application. It is therefore objectionable that these statements are made entirely without any context to this venue nor the virtue of its operation. Put simply, there are no “unique application issues” specified whatsoever, save for the insertion of “*staying open until 0200 hours on Kilburn High Road*”.

Research and Intelligence

The figure of eight stated crimes “*recorded on KILBURN HIGH ROAD*”, on the “*Camden side*”, do not include, crucially, where along this road they took place. Nor is it stated, even more of relevant interest, whether licencing activities played any role whatsoever in the offences or contributed to any harm. Put simply, these may have occurred whether nearby pubs were open late, or not.

It is objectionable that this report does not include data from crimes recorded on the “*Brent side*”, as this is an administrative matter, and means the panel may only have *some* of the information relevant to their decision-making. Potentially 50% of the data is missing.

“A review of crime figures show (sic) that in the last 6 months (9th February – 9th August 2024) 12 calls to the Police / investigations of crime have taken place within the premises or directly linked to the premises. These reports / calls to Police include assaults, theft, suspicious circumstances and a number of burglaries”. This data may well be correct, but several of these are where *we*, the pub, **are the victim**. What is not stated here is the number in each category (relevant because without it is impossible to determine the weighting of each).

- Since we have operated the venue (May 2023 to date) only one serious assault has taken place inside the premises, on 17/12/2023, and the suspect in this case (arrested by police minutes after the call to police was made) had only been in the venue for less than 30 minutes and occurred during normal operating hours (specifically at about 21:40hrs).
- We have had no fights within the pub since we have operated it.

For this data to have any use to the panel, or indeed us to make representations, it would require the MPS to release redacted versions of the CAD incident logs and summaries of any CRIS/Connect Crime Reports that are relevant to licencing activities and/or this venue specifically.

The officer has stated that a “... more in depth (sic) breakdown ...” would be available to the panel, and we would welcome this level of scrutiny.

Mediation and discussion

The officer has stated that she made offers to meet and discuss the matter but fails to set out that she refused to visit the venue to contextualise the application. In fact, she stated to our DPS that (paraphrased) “... having visited the pub a few years ago, I don’t need to again”.

This is an unhelpful position to have taken on several fronts. (1) the venue is operated by a new PubCo since May 2023, (2) it has been substantially refurbished since her last visit and (3) the operational facets to how Praeclara run the business, and the perceived level of professionalism and risk reduction impossible to ascertain through an informal ‘chat’ at Kentish Town Police Station or on Microsoft Teams.

Conclusion

The conclusion simply summarises a generic representation to the application entirely without context. It states that *“the venue is located within a close vicinity to a large number of residential properties and is in an area which has a high volume of violent crime and anti-social behaviour”* with little to no evidence made in citation relating to this.

During our discussions with the officer, it was casually stated that the MPS would make representations to any variation application of this kind, with no consideration as to its merit.

Response to LB Camden representation

In a similar vein to the MPS document, the Authority has produced a highly generic and anodyne document lacking context to the specifics of the venue.

It does however state that no noise nuisance complaints have been recorded in the last 2 years blended with various references to live music and the potential for issues there.

Temporary Event Notices

The Authority has stated that no records of Temporary Event Notices (“TENs”) have been submitted in the last year, but this is wrong. It also shows the lack of grip the Authority has over their data, and we have pointed this out variously over the last 9 months.

Example applications (all of which were approved) include 122436 (16/07/2024), 120670 (22/04/2024) and 120297 (31/03/2024), *inter alia*.

The panel must therefore consider that the Authority has omitted evidence, and because of this, the inherent unreliability of [it] thus hindering the proper and diligent execution of duties thereunder. Put simply, the panel would be attempting to make a decision not having been given holistically correct information by the Authority and would be right in scrutinising the Authority in this regard.

Their conclusion

The Authority has stated that we have been remiss in not setting out how we would address risk relating to the application, blending into a single sentence the matters of trade waste and noise disturbance. We find this somewhat cynical, especially being the Authority knows full well that trade waste is collected by their contractor every night, and whether it is two bags or three, of no consequence.

Furthermore, they state in the next sentence of the risk of “... people singing along to the music”, without considering what traditional Irish music is (instrumental, in the main). Putting aside the fact the band finish no later than 11pm on a Saturday, this is a child-like statement to have made and demonstrates a total lack of context and research undertaken on their behalf.

They go onto state some conditions desirable upon the granting of an extension as follows:

<p>Reduce the permitted hours to framework hours for compliance with the framework hours in the policy statement.</p>	<p>As above, we are volunteering a reduction of hours from the application made originally back to the previous incarnation.</p>
<p>The premises shall liaise with the licensing service to ensure that staff members are trained in WAVE. This is to be done within a week of the licence being granted, to ensure that their staff are trained to support women and vulnerable people borough. They can email licensing@camden.gov.uk for further details.</p>	<p>We already provide several mandatory staff training modules, including this subject matter alongside others.</p> <p>So, we agree to this condition unreservedly, and would recommend expanding this list to include training input in the following areas:</p> <ul style="list-style-type: none"> • Disability awareness • Diversity, inclusion and equality • First aid training • Drinking spiking awareness • Challenge 25 policy • Recognising drunkenness or being unwell through drugs
<p>Working with the council's Pollution team, produce a noise management plan to ensure that noise from the live music being actively advertised and produced within the premises is not a source of disturbance to occupiers of neighbouring residential premises especially in the early hours of the morning.</p>	<p>We would volunteer that the conditions of live music stipulate that this must finish at no later than 2330hrs.</p>
<p>Ensure that bottle clearing, cleaning and tidying up activities are not carried out at times when it is likely to cause disturbance to residents in neighbouring premises.</p>	<p>This is highly ambiguous, and our interpretation is that the Authority want to avoid the business depositing glass waste into an external wheelie bin late at night. But the Authority should be aware that we use their waste collection services, and waste bags are left in the street for overnight collection.</p>

<p>Provide suitable and sufficient refuse receptacles to contain all waste and refuse generated by the business such that there is no overflowing of refuse or smell emanating from the refuse.</p>	<p>Ditto to above, our waste is collected by the Authority every day.</p>
<p>Provide signs at exits to the premises requesting their guests to leave the premises quietly and for the duty manager (sic) to ensure this.</p>	<p>We agree to this condition.</p>
<p>Ensure the contact details for the duty manager is available to bar staff so that residents who require his attention could contact him easily.</p>	<p>He lives on the premises and they already have this, but in any case, would agree to this condition appearing in an updated Premises Licence.</p>

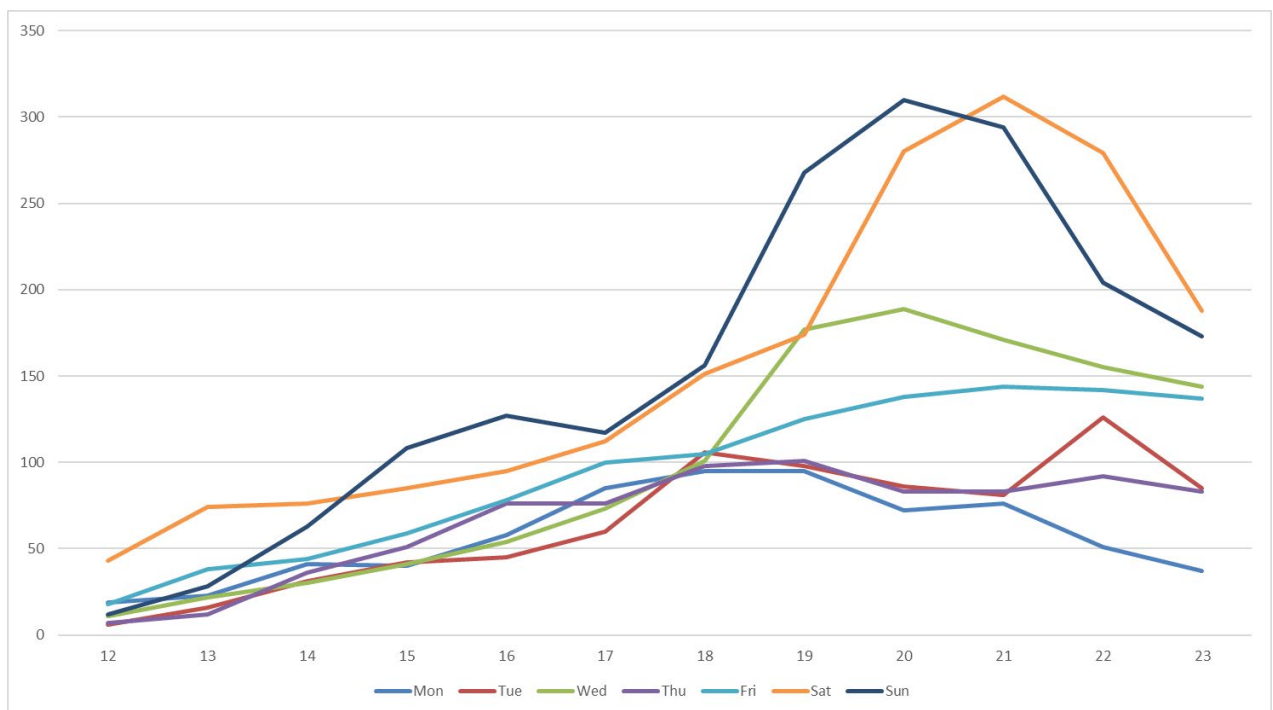
Our conclusion

Whilst some of the above narrative may seem a little combative at times, it is not an attempt to “score points” for the sake of it. What we are, in fact, trying to establish is an equitable statement of affairs that considers the trilateral needs of the parties involved (by which we mean us and the only two parties to whom representations were made).

We would also like to submit some other data that may be considered useful by the panel, as follows:

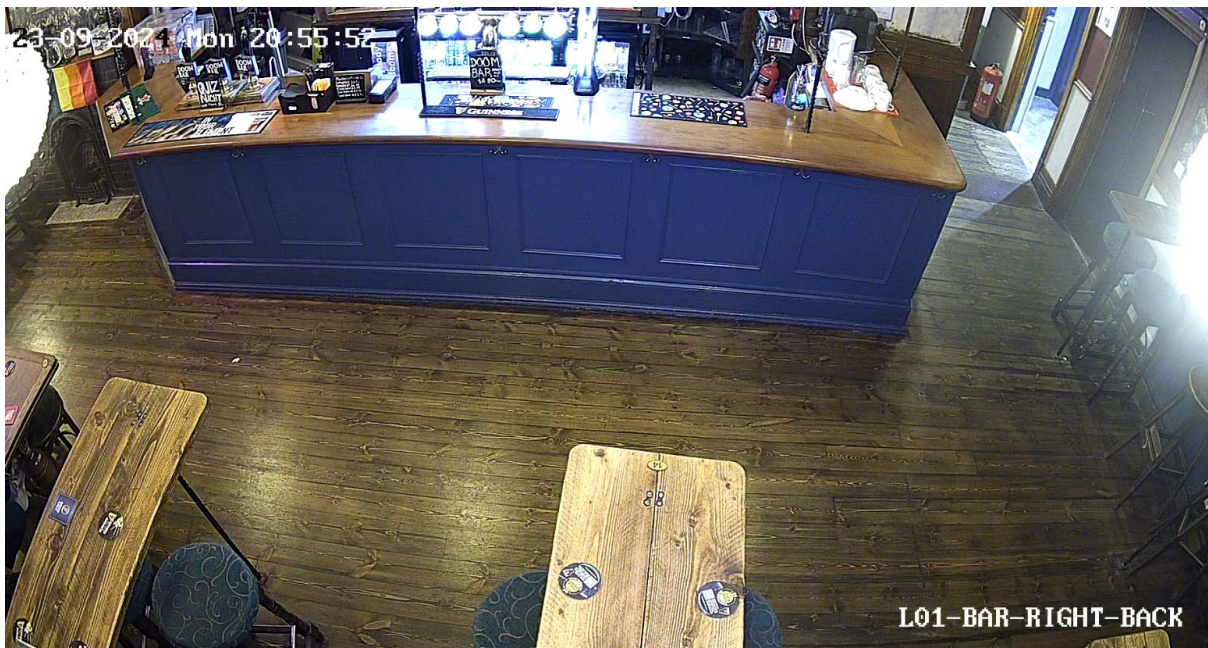
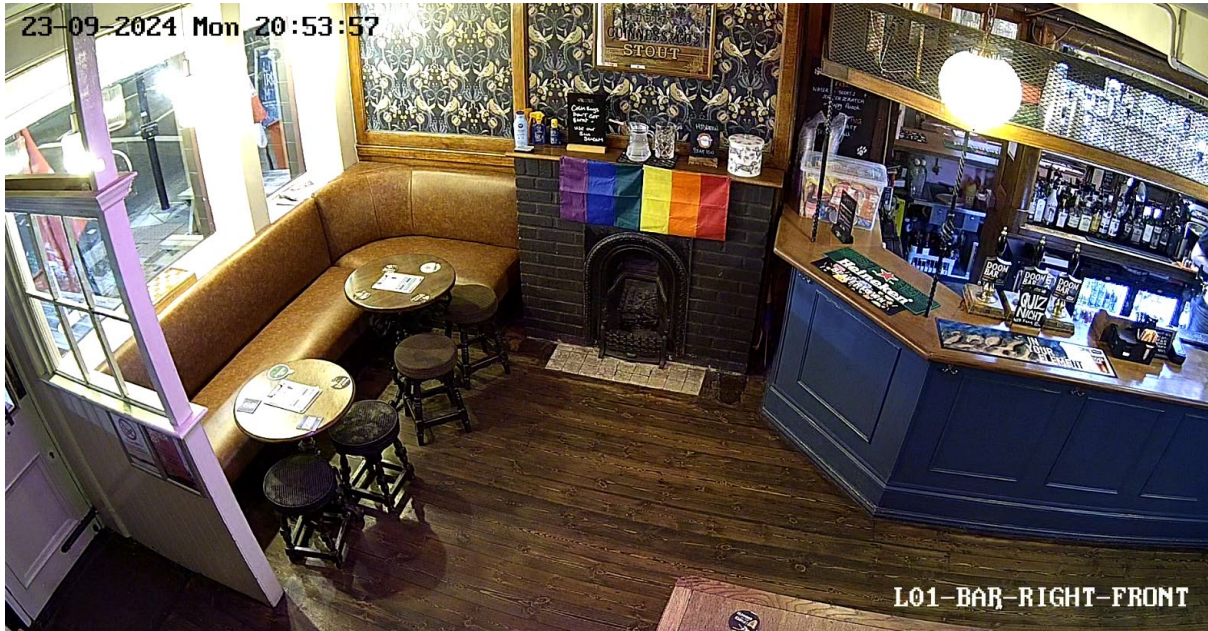
Ordering volume by day and hour analysis

This shows the trend of orders made by hour, then by day, in the last quarter. What is notable is the time in which the daily trend begins to fall southbound, such as Saturday being about 2100hrs at a peak and Sunday at 2000hrs. An extension to our trading hours would not materially change the shape of the lines in this graph but extend by one entry on the X axis.

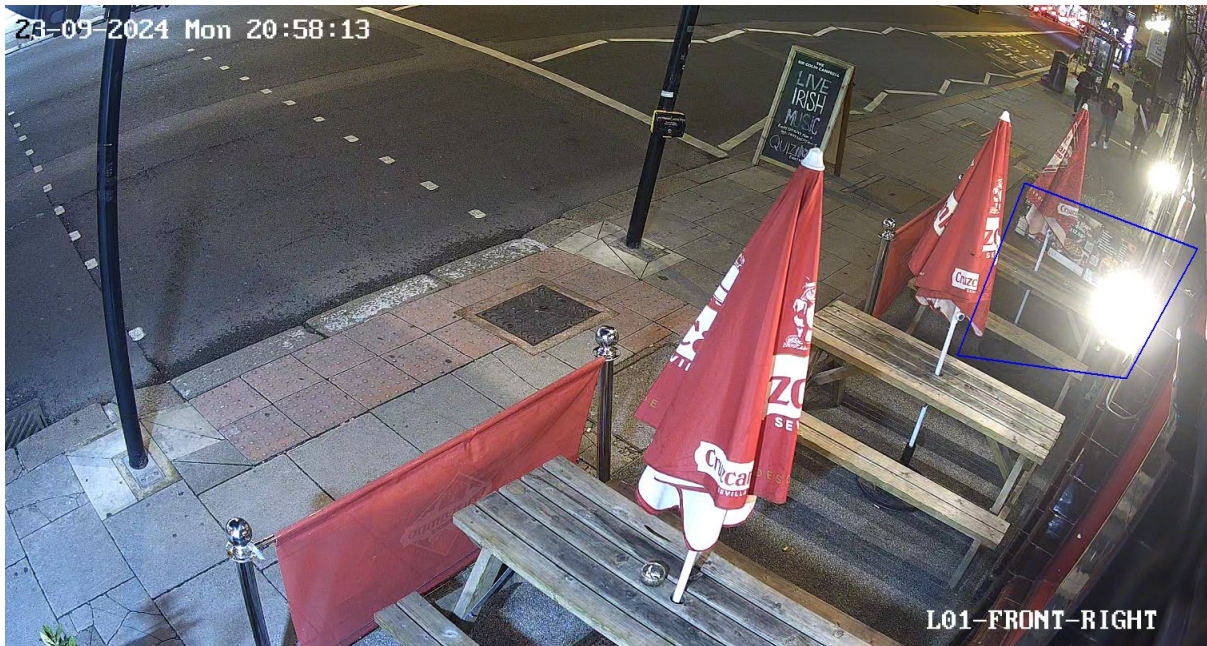


CCTV snapshots

These are provided to show what the venue looks like when fairly empty.







Bibliography

Kolvin, P. (2010, 12 15). *Evidence and inference*. Retrieved from localgovernmentlawyer.co.uk:

https://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=5407%3Aevidence-and-inference&catid=61%3Alicensing-articles&Itemid=29