

Licensing Sub Committee



Tuesday, 28 September 2021 at 6.30 p.m.

The Council Chamber, Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG

Supplemental Agenda

This meeting is open to the public to attend.

Further Information

For further information including Membership of this body and public information see the main agenda.

Contact for further enquiries:

Simmi Yesmin, Senior Democratic Services Officer,
1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG
Tel: 020 7364 4120
E-mail: simmi.yesmin@towerhamlets.gov.uk
Web: <http://www.towerhamlets.gov.uk/committee>

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Licensing Sub Committee

Tuesday, 28 September 2021

6.30 p.m.

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Cabby's Rum Bar

Information and Submissions submitted on behalf of the Premises Licence holder

Tower Hamlets Licensing Subcommittee

28th September 2021

1. The Premises

The premises is one of a number of similar industrial units built into a railway arch. The railway above is a busy operational line with trains running to Fenchurch Street. A cobbled courtyard runs along the front of the units and parallel to the railway. Access to the courtyard is from St Pauls Way.

To the north and north-west of the premises are football pitches and Mile End Park.

To the south and south-West is waste ground leading onto the Regents Canal. There are residential addresses on the southern side of the canal.

To the East (and to the other side of the railway tracks) can be found Revolution Karting Track and Mile End Skate Park. Also to the east are residential buildings to the corner of St Paul's Way and Turner's Road. In addition, a block of flats is situated between the skatepark and the railway embankment.

2. The business

The Taxi Spirit Company Limited, has occupied the premises since 2016. At this time the director of the company began developing London's only Rum distillery. Mr Odong's story is a remarkable one. Having been turned down for training, apprenticeships or any assistance from established distilleries and discovering that training was virtually non-existent, Mr Odong persuaded a professor from Herriot Watt University to become his mentor, and he began the long process of training and building a distillery and obtaining the necessary licence from HMRC.

Many years later, within a month of producing his first batch, The Taxi Spirit Company won a number of prestigious awards for its Rum. In time, further accolades followed and the business moved into small-batch Gin production. During lockdown it even made hand sanitizer.

Further details, can be found here:

<https://taxispirit.com/>

and here

<https://www.youtube.com/watch?v=VlzJ0CcXsvM>

In order to sell the Rum and Gin produce on-line via their web site, the company sought a Premises Licence to permit off-sales supply from the premises. At the time of applying, they also sought on-sales and late-night refreshment so that they might run a small bar at the same premises. This bar would be an extension of the business and another route for selling the distillery's produce. The business therefore has two distinct but related functions:

- a> A distillery, with sales taking place for the consumption of alcohol off the premises – primarily via an online platform.
- b> A bar-restaurant where the produce can be consumed on the premises with food.

3. Submissions

3.1 Revocation of the Premises Licence is not an appropriate course of action in this case.

None of the representations in this case relate to issues identified with the supply of alcohol for consumption off the premises via the distillery business. The representations relate to Cabby's Rum Bar only and not to the off-sales supply of Rum and Gin produced at and sold from the premises.

Revocation of this Premises Licence would have the effect of closing the Bar *AND* the distillery's ability to sell alcohol. There is no suggestion in these review papers that the on-line sale of alcohol from the distillery has had a negative effect on the licensing objectives.

The advice on revocation in the licensing officer's report is:

8.3 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

We submit that in respect of the online sales of produce from the distillery, the licensing objectives are being met. For that reason, it would not be appropriate to revoke the licence. It would appear that at least part of the Premises Licence has operated free from criticism.

3.2 Although it is accepted that there have been problems of noise nuisance from the bar, the duration of the problems and some of the incidents themselves are not accepted.

The Licence was granted on the 20th of October 2020. Shortly after then, the country entered the second national Lockdown on the 5th November 2020. Tier 4 restrictions began from the 21st of December and the 3rd national Lockdown began on the 6th January 2021.

The bar was fitted out in March and April 2021 as restrictions began to ease and was only operational from May 2021.

We see in the review papers of a complaint made against the bar in December 2020. The Bar had not been built at that stage and it was certainly not operational. The country was in lockdown. Our instructions are that in December 2020, the yard was full of scrap, yet to be cleared.

One resident (we believe the same resident who apparently made the December complaint) makes the following statement:

'Since December 2020 a night club had opened behind my flat called Cabby's Jerk.....'

This is not accepted. Cabby's opened in May 2021. It is not a nightclub.

The Premises Licence holder is aware of incidents in May, June and July 2021, shortly after the bar had opened when complaints were made and some action needed to be taken.

The Premises Licence holder believes that there have been no complaints as to noise nuisance relating to August and September 2021 since there has been an opportunity to respond to the complaints and resolve the issues.

It is at least possible that some of the noise relates to the nearby skate park although there may be other sources.

It is noted that officers attending the premises on 3rd July at 23.00 (in response to a report of loud music from the venue) observed that no music was audible from the venue but that it was audible from:

'the adjacent skateboard park on the opposite side of the railway arch'.

It is our client's experience that Skaters regularly play loud music from the park.

3.3 The venue cannot be described as a 'night-club'.

The allegation that the premises operates or has operated as a 'night-club' is made by only one resident although it is repeated throughout the papers by different responsible authorities as justification for review and revocation.

Referring to the premises as a 'nightclub' is unfair and highly prejudicial. All the evidence suggests that it is no such thing.

One might characterise a nightclub as being a venue that is open late, that provides music for the purposes of dancing, or provides other entertainment, has a dance floor and is indoors. There may be other definitions, but we respectfully suggest that Cabby's Rum Bar cannot be a nightclub by any definition.

It is not a late-night venue. There was one occasion (a private party on the 23rd May) when the event ran on into the early hours. On all other occasions however, the bar has closed on time in accordance with its licensed hours.

There is no dancefloor. The interior of building is of a modest size and contains tables. Outside is a cobbled courtyard with benches.

Despite numerous visits, no police officer or Out of Hours Officers has reported seeing anyone dancing at the venue. No officer attending the venue has described it as a nightclub.

Attention is drawn by those supporting the review to one of the flyers mentioning dancing. This reference is in the text under the flyer:

'Let's Link Up, Drink Cocktails and Dance!'.

This flyer was designed and published by the promoter of this particular event rather than the Premises Licence holder who was not aware of its content. There was no dancing at this event. The Premises Licence Holder does not believe that the phrase was meant to be taken literally.

This flyer is the only one that mentions the word 'dance' Indeed, the other flyers advertise events with titles such as 'We Outside' and 'Backyard Jam' indicating that the venue was operating outside. These flyers emphasise food and cocktails.

There is only one reference to anyone seeing any dancing, one resident on one occasion - the 13th June 2021. The Premises Licence holder does not accept that any dancing took place on this occasion.

3.4 The Bar has been in operation for only a short period of time and some of the difficulties can be put down to teething problems including disruption brought about by opening just at the same time that coronavirus restrictions and regulations had an impact on how the venue was operated.

The police say:

'Given the license has only been in operation for a few months.....we do not believe any conditions can be imposed that he would respect or follow'.

We would submit that in contrast to that position, the short duration of operation lends weight to the argument that the licence should *not* be revoked.

At the time the bar became operational, the county had just moved onto Step 2 of the government's restriction road map. At this time bars were permitted to open but only if serving drinks outside. In due course the Business and Planning Act 2020 lifted restrictions on off-sales to outside areas in order to further encourage venues to operate outside.

Because the operation effectively moved outside, then difficulties with noise nuisance which perhaps wouldn't have originally been contemplated became apparent. The Premises Licence holder regrets that residents were initially inconvenienced as the business 'bedded down' and came to terms with its 'open air' nature. Lessons have definitely been learned and adaptations made to the operation in the light of feedback. It would have been preferable if this sort of risk assessment had taken place before the venue opened but in the circumstances, the Premises Licence holder, like everyone else at the time, was adapting to changing circumstances

The Premises Licence holder believes that they have now largely solved the music noise nuisance issues and regret that this was achieved only after disturbing local residents for a period of time.

3.4 Parking

Unfortunately, there is no sign on the resident's car park to indicate that it is for private resident's use only. The Premises Licence holder would be happy to supply a sign to say that it is private property and not available to patrons of Cabby's Rum bar.

Since the issue was raised, security guards employed at the venue have been tasked with preventing patrons from parking in this private car park. The Premises Licence holder is not aware of any complaints since this action was taken.

The premises Licence holder is currently negotiating additional car parking spaces from a nearby gym. If this negotiation is successful then these parking arrangements will be advertised on the company's website and social media accounts.

3.6 It is accepted (and regretted) that the police were initially not granted entry to the premises but there have now been many, many more subsequent occasions where the police have attended and have always been granted entry without difficulty.

On the 23rd May the venue had been hired for a private party. There was no licensable activity taking place (the host supplied his own food and drink to guests).

The DPS asked the officers to identify themselves but only one or two would do so. There was an unfortunate 'stand-off' and they were not admitted. The DPS did not appreciate the importance of admitting the officers. He does now.

(In fairness to Mr Odong, he did turn the music down immediately on being asked to do so by officers).

The police say that the failure to gain entry indicates to them that illegal behaviour was taking place at the premises. This is denied.

3.5 It is accepted that Mr Odong and the Police have not got off to a very good start

Mr Odong did speak to PC Laban on the 24th of May by telephone. Mr Odong said that he would prefer to speak to the officer in person and invited him to attend the venue. Mr Odong understood that an appointment was arranged for the morning of the 28th May but on the day PC Laban did not attend. Mr Odong has since spoken to PC Laban but still does not understand why he failed to attend the meeting or why a further meeting could not be arranged. Mr Odong would welcome a meeting with the police to 'clear the air'.

3.6 There is evidence available of the venue operating without causing any disturbances

- 2nd July reported in the Review papers - Police attend and confirm there is no noise disturbance.

- 3rd July reported in the Review papers Out of Hours officers attend and report no problems.

On instructions, officers have attended on many occasions e.g attended on 22nd July and at that time were attending almost daily. There have been no reports of difficulties on these days. There have been many more police visits where there have been *no* difficulties than visits where problems *were* noted.

3.7 There is evidence of cooperation with the authorities

On the 13th June, out of hours officers attend at 23.17 and report that the music is loud. They state that once this was pointed out to Mr Odong:

'he accepted the complaint and ordered the music to be turn off immediately'. They also reported *'all was in order on departure'*.

3.9 The Premises Licence Holder has taken positive action to deal with the issues raised

A Summary of actions

Noise Nuisance from Music

- After being advised by environmental health officers that noise problems primarily related to the use of microphones, ceased any microphone use.
- Sunday afternoon/evening Soca events (it is noted that most complaints related to Sundays) have now run their course and will not be repeated.
- Music is now played at background levels only
- Spot checks around the perimeter of the area are made each night checking for any noise (or other) nuisance.

Dispersal issues including car parking

- Employment of SIA registered security guards.
- Negotiation of additional car parking spaces.
- Offer to supply sign for the residents' car park to make clear it is private and not to be used by patrons of Cabby's Rum Bar.

Further proposals

- A condition to be added to the licence that no music either live or recorded to be played outside the venue.
- All music to be at background levels only and only inside the building.
- A removal of the condition that 'all windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access & egress of persons'. This is so that adequate ventilation might be facilitated in the premises in line with

government advice on reducing the risks associated with Covid-19.

The Premises Licence holder is happy to move the operation indoors but is concerned that the current condition is not compatible with government advice on ventilation.

- Remove Moses Odong as DPS and replace him with Mr Filip Puczka.

(Mr Puczka has worked and trained in the hospitality sector for a total of 9 years. He has a Personal Licence. He worked for 7 years in Hammersmith and Fulham in a pub and Restaurant with a 450-person capacity as General manager and DPS. This change might allow Mr Odong to concentrate on the distillery side of the business).

- Add the following condition to the licence:

A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

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Simmi Yesmin

From: Mohshin Ali
Sent: 22 September 2021 17:36
To: Simmi Yesmin
Cc: Nicola Cadzow; Farhana Zia; Committee Services
Subject: FW: MAU 139272 - REVIEW OF LICENSE Supplementary Information - Cabby's Rum Bar Railway Arch 411 St Paul's Way
Attachments: 329152 StPaulsWay411.004.doc
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Simmi,

Please add this to the review documents for the hearing on **Tuesday, 28th September, 2021, 6.30 p.m.**
Please circulate to the relevant parties.

Thanks

Mohshin Ali
Senior Licensing Officer
Licensing and Safety Team
Environmental Health & Trading Standards
Place Directorate
Mulberry Place
5 Clove Crescent
London E14 2BG

020 7364 5498 📞 020 7364 5008
www.towerhamlets.gov.uk 📧 licensing@towerhamlets.gov.uk

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From: Nicola Cadzow <Nicola.Cadzow@towerhamlets.gov.uk>
Sent: 22 September 2021 14:38
To: Licensing <Licensing@towerhamlets.gov.uk>
Cc: MARK.J.Perry@met.police.uk
Subject: MAU 139272 - REVIEW OF LICENSE Supplementary Information - Cabby's Rum Bar Railway Arch 411 St Paul's Way

Dear Licensing,

Please take this as supplementary information to my initial supporting representation of the 29th July 2021 in support of the review of Cabby's Rum Bar Railway Arch 411 St Paul's Way.

On 5th August 2021 an email was referred by the licensing team to Environmental Protection noise team regarding a complainant from a local resident advising that the noise from the venue and I quote ***"The noise is persistent from amplified speakers, excessively loud and has been repeated for at least 4 weeks now"***. Having received the complaint a warning letter was sent by our support team on the 5th August 2021 (please see attached).

Kind regards



Head of Service

David Tolley

Head of Environmental Health and Trading Standards

John Onslow House

1 Ewart Place

London E3 5EQ

Enquiries Noise Team

Tel 020 7364 5000

Fax 020 7364 6831

The Licensee/Manager
Cabby's Jerk
Railway Arch
411 St Pauls Way
London
E3 4AG

5 August 2021

Dear Sir/Madam,

Email : environmental.protection@towerhamlets.gov.uk

www.towerhamlets.gov.uk

App Ref 329152

Environmental Protection Act 1990 (Section 80)

Licensing Act 2003

Alleged Noise Nuisance – Commercial noise - music (club/pub/restaurant)

Cabby's Jerk, Railway Arch, 411 St Pauls Way, London E3 4AG

I am writing to inform you that the Council has received a complaint on 5 August 2021 alleging excessive noise (referred to above) amounting to a nuisance coming from your premises.

The Noise Team has a duty to investigate this complaint and I will be making appropriate arrangements to monitor the situation. You are welcome to contact me with any observations or comments you wish to make.

If you or your business are responsible for creating noise of the type complained about, I would respectfully request you to consider whether it may be excessive having regard to the effect on neighbouring properties, particularly in relation to the time of day.

Where the Council is satisfied that a noise nuisance exists, a notice under the Environmental Protection Act 1990 will be served requiring the nuisance to stop. If the situation does not improve, legal proceedings may be commenced, which could lead to an unlimited fine upon conviction.

If your venue is a licensed premise, we may also consider taking a review of your current Premises Licence. This may include adding extra conditions, suspension or ultimately revocation in order to prevent Public Nuisance.

If you have any comments regarding the allegation, please contact us quoting the above reference number.

Yours faithfully,

Environmental Protection Team

cc: Licensing Team, London Borough of Tower Hamlets

Tower Hamlets Council

Town Hall

Mulberry Place

5 Clove Crescent

E14 2BG

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**Place Directorate
Public Realm**

Environmental Health and Trading Standards
David Tolley

Licensing Section
John Onslow House
1 Ewart Place
London E3 5EQ

Tel **020 7364 5171**
Fax **020 7364 0863**
Enquiries to **Kathy Driver**
Email **Kathy.driver@towerhamlets.gov.uk**

www.towerhamlets.gov.uk



London Borough Tower Hamlets
Licensing Authority
Mulberry Place
5 Clove Crescent
London
E14 2BG

27th September 2021

My reference: P/PR/EHTS/LIC/130238

Dear Sir/Madam,

Licensing Act 2003

Re:Cabbys Rum Bar, Arch 411 St Pauls Way, London E3 4AG

Following on from my initial representation of 29th July 2021, in support of the review for the above, I wish to add the following for Members consideration.

Further complaints were received on:

12th September 2021 - the complaint reports that the customers of the venue are leaving and urinating in Turners Rd nearby and close to residential properties and the music from cars from the customers as they leave. The parties go on until 4-5am and noise throughout the night.

4th September 2021 complaints report loud noise from club from 2pm to 8pm causing disturbance.

1st August 2021- Complainant reports “the noise coming from this company/venue is unbelievable. The noise is persistent from amplified speakers, excessively loud and has been repeated for at least 4 weeks now.” It is especially bad on Sundays.

12th July 2021 – resident reports urination from customers leaving the venue, loud noise from those leaving.



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5 Clove Crescent
E14 2BG

In addition to complaints we have to add the following from visits made by Late Night Levy/Police patrols

Saturday 14th August 2021 01:15: CAD 239/14AUG21 CABBYS RUM BAR- UME

This venue was attended by the licensing serial initially and we attended the venue after. It was an event with security staff that did not engage with Police. There was approximately 60+ people inside the court yard with none of them engaging with police.

30th July and 31st July 2021 report no incidences however it was unclear from the patrol which time period they attended.

Sunday 18th July 2021 00:15:

Phillip Puczka Bar tender

Spoke initially with a male who was hesitant to speak to police and refused all details. Had said that all persons at location are staff having a gathering after work. It was apparent to officers that there were around 25-30 people on tables at location. Fire was alight and no music could be heard. This unknown male eventually went to get the manager after a short debate whether they were in breach of license or not.

Phillip came to speak to police. He had then stated that all persons at location were friends of them. When asked if they were colleagues he said it was a mixture. Phillip said that they already closed and padlock was in fact on the gate of the venue on police arrival. He had said that no alcohol sales were taking place and that the bar was closed. Phillip allowed police into the premises to check but only one officer. There was music playing inside but at a very low volume, advised to turn off immediately. No patrons within the venue, only outside. Some patrons had cups in their hands and clearly drinks which were still half filled or full were on the tables. It appeared to officers that drinks must have been still served or that the people drinking them were very slow. Advised to close but Phillip was adamant that they were not in the wrong and said that he would like to speak to Tower Hamlets licensing direct about this. It was apparent that venue was padlocked up, but still a lot of people within the premises.

This was captured on Body worn video.

Saturday 10th July 2021 00:15

The venue was closed. No issues or concerns surrounding music, noise or sale of alcohol.

Friday 9th July 2021 01:15

No issues or concerns. Venue was closed and in darkness. No noise or egress coming from the venue.

Friday 9th July 2021 02:20

Gate locked, apparent no persons in venue and in darkness.

In addition to the above Ms Corinne Holland attended the venue on 2nd July 2021 for purposes of checking the notice on display, the Officer spoke with Filip Puczka and Jelani Lewis, of which they stated that the distillery is wholly in Unit 412 and that Unit 411 was sublet to them by Moses.

I raise the concern with Members of the actual unit where the alcohol is being sold which may appear to be at Unit 412, which is not licensed for the purposes of the sale of alcohol. The initial application for a licence was made in Unit 412 but changed to 411, which we were informed where the packing and distribution takes place. If Unit 411 is sublet there is the question whether any distribution for off sales is taking place within Unit 412 which is unauthorised.

It is therefore the opinion of the Licensing Authority that the licence should be revoked in its entirety.

Yours faithfully,



Kathy Driver
Principal Licensing Officer

Agenda Item 4.3

From: Manpreet Kapoor <

Sent: 26 July 2021 16:18

To: 'Nicola Cadzow' <

Subject: RE: 139209 New premises license application for Vish Convenience Store 59 Commercial Street, London

Dear Nicola

We understand your concerns regards the premises falling under the CIZ, however the we have agreed conditions with the Police they have withdrawn there objections, we are ready to accept conditions which can minimise the noise levels.

A bit of background information on the premises, this premises previously had an premises licence which was held by the previous owner of the business this licence was revoked by the licensing sub committee following a review application. The new owner have not been given a fair chance to run the premises properly, they bought this business from the previous owner thinking it had a premises licence, but it had its licence revoked. The new owner will robustly promoted every single of 4 licensing objectives and in particular the Public Nuisance in the following way;

- Posters will be displayed across the premises reminded customers not to loiter outside the premises and cause minimum noise when leaving the premises.
- The applicant will also make sure none of the customers gather in front or around the premises.
- No deliveries will be made to the premises outside of these hours 08:00 – 19:00.
- Bins will provided for customers and locals passing by to throw rubbish away.
- The applicant is aware that drunken customers shall not be served alcohol at any cost.

We are happy to reduce the alcohol sales hours to the following.

Monday – Saturday: 09:00 – 22:30, Sunday: 10:00 – 22:30.

Kind Regards

Manpreet Singh Kapoor BA(Hons)
Licensing Consultant



Please consider the environment before printing this email

From: Nicola Cadzow <

Sent: 26 July 2021 10:11

To: Licensing <Licensing@towerhamlets.gov.uk>

Subject: 139209 New premises license application for Vish Convenience Store 59 Commercial Street, London

Dear Licensing,

Having considered the premises license application for Vish Convenience Store 59 Commercial Street, London I have to consider the impact of the licensing objectives, particular for Environmental Protection the prevention of public nuisance and the prevention of noise generated from within the premises or outside to be causing disturbance to people in the vicinity, especially given the fact that the premises is within Brick Lane Cumulative Impact Zone.

Whilst the application is for lesser hours than the Council's framework hours there is insufficient information in the operating schedule of the application to show how the applicant will promote the licensing objective for the prevention of public nuisance. Consideration has to be given to patrons loitering outside the premises, deliveries, etc and the accumulative impact on public nuisance and crime and disorder being that the premises is within Brick Lane Cumulative Impact Zone.

Noise Sensitive premises: residential premises in close proximity to 59 Commercial Street London

In my view the application, as it stands fails, to comply with the objective of the Licensing Act 2003 relating to "public nuisance" for the following reasons:-

- Noise breakout from the venue affecting neighbouring residents.
- Access & egress to and from the venue, of patrons, especially due to patrons likely to be in high spirits

CONCLUSION

Environmental Protection **does not** support the application for Vish Convenience Store 59 Commercial Street, London

- (1) The applicant has provided insufficient information to show how they will promote the licensing objective for the prevention of public nuisance
- (2) The premises is in Brick Lane Cumulative Impact Zone.

Kind regards

Nicola Cadzow
Environmental Health Officer
Environmental Protection Team
Place Directorate
London Borough of Tower Hamlets
John Onslow House
London E3 5EQ

020 7364 6394

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