

To Brent Licensing by email

1 September 2020

### **LICENSING ACT 2003**

**Licence Representation in connection with Licence: 318510 and Application to vary a premises licence ref: 19499**

**Applicant: KAMIKA SAMUEL**

**Premises: Vybz Bar, 1 Craven Park, Road, Harlesden, London, NW10 8SE**

I, Paul Lee, certify that I have considered the application shown above and I wish to make a representation as a:

**Senior Trading Standards Officer of Brent and Harrow Trading Standards Service, Brent Civic Centre, Wembley HA9 0FJ, in whose area the premises are situated, which is authorised for the purposes of exercising its statutory function as a 'Responsible Authority' under the Licensing Act 2003.**

The Brent and Harrow Trading Standards Service representation is concerned with the licensing objectives;

- 1) the prevention of crime and disorder;
- 2) public safety;
- 3) the prevention of public nuisance;

### **REPRESENTATION**

The applicant wishes to vary their premise licence so as to extend permitted hours from 03:00hrs to 05:00hrs on Fridays and Saturdays.

The applicant has cited the Covid 19 pandemic related issues that have had a negative effect on the business, including loss of revenue. The applicant has also referenced that the application is to facilitate the implementation of hygiene and social distancing measures so that a higher throughput of customers can be accommodated.

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This representation is made in respect to a number of current & historic issues that have been identified at the premises.

In July 2020 my Licensing Inspector colleagues informed me that complaints had been received from members of public (via local Councillors) that alleged that the premise was continuing to trade outside of their permitted hours i.e. after 03:00 hrs. It was also alleged that the premises was trading as a night club which, at the time of writing this representation this type of business must still remain closed as required by the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020.

I conducted a number of online checks from 'open source' online material which strongly suggests that whilst the premises was closed from 20 March until 4 July and where, after re-furbishment the premises opened for business on or about Friday 4 July 2020. The premises has been open since then and was last seen to be trading on the weekend of 22/23 August. I have printed off a number pages of adverts/Flyers for various events at the premise on Fridays, Saturdays and Sundays that offer live/recorded music with various DJs shown. One 'Sunday Service' event for 18<sup>th</sup> August shows 21 DJs on rotation and a further 3 hosts. Images of the venue clearly show an illuminated dance floor area. Adverts also show the setup for a private function 'Baby Shower' that also appears to have taken place in a covered area at the rear patio of the premises. I have included printed copies of these adverts as **document 1** (these adverts are purely a sample further events have been advertised/taken place).

Taking into consideration the information from complainants and the advertising materials, I had reasonable grounds to believe that the premise was in contravention of The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020. The premises is a venue that opens at night, has a dance floor or other space for dancing by members of the public, and provides music, whether live or recorded, for dancing. As such a Prohibition Notice (in my name) was served on Saturday 15 August 2020 by Martin Wood; Principal Nuisance Control Officer (Brent Council). Mr Wood served the notice on the applicant for this variation – Kamika Samuel. Mr Wood has noted that prior to serving the notice that loud music was heard coming from the front of the premise.

I have printed and included a copy of my Prohibition Notice within this representation as **document 2**.

The premises is currently advertising events for August that include bank holiday (31<sup>st</sup> August). This event includes live music, food and an 'after party'. Tickets for the event are available through the online ticket hubs of Eventbrite and Shoobs.com. It should be noted that the event tickets are shown to be for 19:00hrs to 04:00hrs, however the current licensable activities for the premise are only up to 03:00 hrs. This clearly indicates that the event will exceed permitted hours by 1 hour. I have printed a copy of the Eventbrite and Shoobs tickets as **documents 3a and 3b**. The Shoobs site indicates that last entry to the event is at 02:30 a.m. The current premise licence states that 'No entry or re-entry shall be permitted after midnight'. Through online research, I have also found the webpage - <https://vybz-bar.business.site> this site indicates that the premise business hours are 12:00 p.m. to 05:00 a.m. on Fridays and 4:00 p.m. to 05:00 a.m. on Saturdays. These hours are again shown to be in excess of the premises current licensable hours that end at 03:00 hrs. I have included a printed copy of these opening hours as **document3c**.

The plan submitted by the applicant for this variation (not a requirement) appears to be the original plan for the initial premise licence application and refers to 'proposed' and 'existing' plans that are shown.

The plans include the licensable area (outlined in brown ink) which does not include the outside area at the premise.

This outside area is indicated by the premise as being used for a BBQ, eating, drinking and entertainment and appears to be currently shown as part of the venues attributes via the images provided online. I have included printed copies of these images as **document 4**.

In relation to the above observation, I am aware that advice/ warning letters have been sent to the applicant by Brent Council Licensing (20 September 2018)& (27 December 2018) & Met Police Licensing (19 August 2019) which mention numerous breaches of licence conditions, that include the use of the outside area for licensable activities which are not permitted.

I have include 3 printed copies of these warning letters and outside structure area photos as **documents 5a, 5b, and 5c**.

The applicant refers in their application to this variation assisting with social distancing requirements and maintaining a constant maximum of 45 customers in the premise at any one time. This capacity should be based on the area shown on the plan that constitutes the area covered by the premise licence for licensable activities and should not include the outside area as shown in **document 4**. The premise licence already limits the capacity of the venue to 50 persons.

Each person responsible for a premises should conduct a risk assessment to ensure that the government COVID 19 Secure guidelines are implemented and followed. Whilst viewing pictures/video on open source online social media sites relating to the premises, there are 2 references to a 'baby shower' event at the premises dated 2 August. If this event took place on or around this date in the format that is shown then I would be concerned by the place settings and whether Covid 19 Secure social distancing guidance was being adhered to. I have included 2 printed copies of still taken from a 'baby shower' event as shown on social media as **document 6**. Upon closer inspection it would appear that this function was hosted in the 'illegal structure' in the patio area.

The applicant makes reference to fire issues and working with the fire service to adhere to regulations, this would appear to be somewhat contradictory when there is a wooden structure at the rear of the premises which is used for licensable activities when it should not be. Photographs of the structure show a BBQ, Gas powered patio heaters and upholstered furniture. I would doubt that this structure and its features would comply with current fire safety regulations or be covered as far as public liability insurance is concerned.

Brent Council planning department have confirmed that the applicant is aware that structure within the patio area is in breach of planning regulations and that formal enforcement action may be taken.

There is evidence to suggest that the premises exceeds their licensable hours on a frequent basis so an extension by 2 hours for Fridays and Saturdays until 05:00 hrs. would not assist the business in any other way than financially/profit related. Extending the hours to 05:00 hrs. is also likely to have a negative impact on the local area and residents, especially in regards to noise nuisance and anti-social behaviour.

The applicant has stated that they have reduced the capacity of the venue from 50 to 45 to maintain Covid 19 social distancing guidelines. I have concerns that this reduction in capacity, based on the actual area for licensable activities is not sufficient. Private functions held at the premises are also of concern in respect to social distancing guidelines.

### **In Summary**

In my opinion, the premises/venue was open for business with the applicant's knowledge for a period of at least one month, when it should have remained closed (or changed its style of operation).

The premises with the applicant's knowledge has utilised an external open/enclosed area for events that constitute licensable activities, when it is prohibited from doing so.

Evidence from residents and Brent Council CCTV that the premises is already exceeding its licensable hours with events running on past 03:00 hrs. The potential for continued noise nuisance and anti-social behaviour issues are only likely to worsen if the operating hours are extended.

The outside patio area and enclosed wooden structure are still being used when the applicant has been made aware that this is not permitted and that the structure is in breach of planning regulations.

This structure through its use, construction, furnishings is also likely to pose a fire and health and safety risk particularly if cigarette and shisha pipe smoking is allowed.

The venues capacity and use for private functions in its current format and layout strongly suggest that Covid 19 Secure procedures are either not in place or are not being followed.

The above evidences that the following licensing objectives are **not** being upheld:

- 1) the prevention of crime and disorder;**
- 2) public safety;**
- 3) The prevention of public nuisance;**

Whilst I fully acknowledge the negative financial and social impact that Covid 19 has had on so many businesses in Brent, it is evident, that numerous breaches of licence conditions can be evidenced and that many of these will have occurred with the full knowledge of the applicant. The added public safety procedures that include premises that must remain closed and social distancing procedures in those that may open do not appear to have been followed or indeed taken seriously. This is of special concern where Brent and the area where the premises is located being so badly affected by Covid 19 infections and sadly, death rates.

Taking into consideration all of the above it is my opinion that this application to vary the premises licence should be **refused**.

## **List of Documents -**

### **Document – 1 (9 pages)**

20 pages of social media information on the venue and events

### **Document – 2 (3 pages)**

Copy of Prohibition Notice Served on 15<sup>th</sup> August 2020

### **Document – 3a (2 pages)**

Eventbrite Vybz tickets for 31/8/20 event

### **Document – 3b (2 pages)**

Shoobs.com Vybz tickets for 31/8/20 event

### **Document – 3c (1 page)**

Vybz business site opening hours

### **Document 4 (2 pages)**

Outdoor area social media images (10/07/20)

### **Document 5a (2 pages)**

Brent Council Licensing Letter (20/08/18)

### **Document 5b (4 pages)**

Brent Council Licensing letter and images (27/08/18)

### **Document 5c (2 pages)**

Met Police Licensing letter (19/08/19)

### **Document 6 (2 pages)**

Social Media images of 'baby shower' event at Vybz (outside structure)

Paul Lee

A handwritten signature in black ink, reading "Paul Lee", is enclosed within a thin black rectangular border.

Senior Enforcement Officer  
Brent and Harrow Trading Standards Service

1 September 2020