

Nuisance Control Team Submission for Licensing Hearing: 8/1/13

Peaches Nightclub: 177-179 Kenton Road.

Recommendation:

Reduce opening hours to 12 midnight any night. No Live or recorded music beyond 11 pm.

Case Summary:

- Number of unique complainants: 14+: almost everyone in the same building, Residents in Nash Way and Draycott avenue
- 1st complaint received was 3 days after opening in October 2009
- Premises is operated as a Night Club where as planning permission granted for operation as Restaurant and Bar
- On paper Peaches appears to be a tightly run business. However, a significantly large number of complaints have been received by the Nuisance Control Team since it opened.
- The noise level witnessed by the officers, who served a noise abatement notice in August, within a flat 2 levels above the site was unacceptably loud and judged to a nuisance in law.
- Nuisance Control Team engaged in discussions and follow-up actions with the management to try resolve future nuisance from occurring. Despite this we continue to receive complaints about the site (a further 15 individual complaints were received after the notice was served on 31 August 2013).
- We have no confidence in Management and remain concerned that despite intervention they do not deliver on the measures they promise.
- The premises is poorly insulated against sound and is not suitable for the level of noise emitted from the current activities on site (use of amplified sound in external areas and the loud amplified music on club nights internally).
- It is highly unlikely that the sound insulation for the site will be improved due to the current legal dispute between the freeholder and site management team. The site management team has not submitted a 'sound insulation improvement post completion' report which Mr Rai claims he possesses and for which the Council has made numerous requests but not received. This would verify that the suggested 85 dBA is an appropriate level for the purpose of playing amplified music/speech within the premises at a level unlikely to cause public nuisance.

Thus, the only way to resolve the ongoing public nuisance from the site is to reduce its operational hours (opening and licensable activities) to midnight at the latest and prohibit music (live or recorded) being played beyond 11 pm.

Chronology Complaints and actions

Year	Number of complaints related to noise	Number of complaints related to Friday and Saturday night	Number of complaints related to noise occurring after midnight	Notes
2009	2	2	2	Management advises that noise limiter was not working
2010	13	12	11	<p>Management claimed noise limiter was set at 75 dBA following complaints received They also claimed they have done 100K worth of works to improve SI</p> <p>Management verbally confirmed in March that the restaurant will close by 11.00pm (11.30pm at the latest)</p> <p>Mr Rai Stated he had spoken to most occupants of the 1st floor and believes complaints are malicious.</p> <p>Warnings issued and meeting with licensing police, SNT, local councillors and NCT</p> <p>Complaints from the freeholder as all other tenants affected.</p> <p>Allegations of use of drugs on site.</p>
2011	7	6	7	
2012				No complaints! Peaches applies for license variation to extend opening hours.
2013	5+15	4+12	5+10	<p>Note: + number are the complaints received after the notice was served.</p> <p>Complaints about noise from shisha area and beer gardens and external tv.</p> <p>Nuisance witnessed on 25/08/2013 at 00.45 hrs.</p> <p>DJ announcements and music heard clearly inside complainant's home. Vibration from music felt on the floor (2 level above the site). Visit to site confirms site is operated as night club for DJ/dance/Shisha.</p> <p>Peaches management tries to blame the freeholder for the</p>

				<p>noise! Claims poor SI due to their lack of insulation within their property.</p> <p>Sound Insulation weak points confirmed: includes areas near stairways to upper floors</p> <p>Freeholder and leaseholder dispute</p>
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Copy of Noise Abatement Notice

LONDON BOROUGH OF BRENT

Environmental Protection Act 1990

Section 80

Abatement notice in respect of statutory nuisance

Mr Bobby Rai
177-179 Kenton Road
Harrow
HA3 0EY

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the Council of the London Borough of Brent being satisfied of the existence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at the premises known as **177-179 Kenton Road, Harrow, HA3 0EY** within the district of the said Council arising from the playing of amplified music and amplified speech.

HEREBY REQUIRE YOU as the person responsible of the premises from which the noise is or would be emitted **forthwith** from the service of this notice, to abate the same and also

HEREBY PROHIBIT the recurrence of the said nuisance and for that purpose require you to: **Cease or cause to cease the playing of amplified music and amplified speech at such a level as to constitute a nuisance**

IN the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

IF without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of any offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale (currently £5,000), together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

Dated: 31/08/2013

Signed:



Print Name: Juhaina Junaid
Safer Streets
Authorised Officer

Safer Streets, Brent Civic Centre, Engineers Way, Wembley HA9 0JF
Tel: 0208 937 5252, Fax: 0208 937 5150, Email: env.health@brent.gov.uk

Ref: EH/09/15028/JJ

NB The person served with this notice may appeal against the notice to Brent Magistrates' Court, 448 High Road, London NW10 2DZ within twenty-one days beginning with the date of service of the notice (see notes attached).

A Similar notice has been served on: Mr Rahul, 177-179 Kenton Road Harrow, HA3 0EY.