

Environment & Protection
(Safer Streets) Licensing
Brent Council
Brent Civic Centre
Engineers Way
Wembley
HA9 0FJ



20 February 2014

Dear Sir/Madam

**Peaches Bar, Starlight lounge / Shisha café 177-179 Kenton Road Harrow HA3
0EY : Police Review application**

We represent, Bestville Properties Limited ('Bestville'), the freehold owner of the above property and landlord of the current premises licence holder, who make representation in support of the application by the Police for the Review of the above premises licence.

Background

As stated, the representor is the Landlord of the premises, which comprise a bar and latterly a marquee in the grounds, which is operated as a Shisha café. The licensed premises have been leased by Bestville to the C&R Group, of which Rajesh Rai was a director.

Bestville is also the Landlord of the residential flats over the premises, and of Evergreen Court, Nash Way .

The planning consent for these premises (09/2307) restricts the use of the ground floor operation to an A3 restaurant and its hours of operation to 0800 - midnight save on Sundays and Bank Holidays when it is reduced to 0900 - 2200 unless otherwise agreed in writing by the Local Planning Authority. It is understood that no extension of terminal hours has been agreed by the Local Planning Authority. Planning enforcement steps have

begun. Whilst the existence or otherwise of planning permission on a new grant may properly be regarded by a licensing authority as a matter outside its purview (because there is a separate regime with its own criteria for the consideration of the planning authority), we respectfully suggest that continued operation of premises in breach of planning restrictions may, where there is significant evidence of problems arising as a consequence, be a matter that a licensing authority can take into consideration upon the Review of a licence where issues are arising in relation into public nuisance.

The premises licence was granted prior to the conversion of the upper floors to residential units. The premises licence permits licensable activities including regulated entertainment, late night refreshment and sale of alcohol until 0200 Sunday to Thursday and 0400 Friday and Saturday. The hours of operation advertised by the premises are noon-midnight Sunday to Thursday and until 0300 Friday and Saturday.

The Landlord was unaware of the application made to the Council for the variation of the premises licence to include the Shisha café marquee that was considered by the committee at a hearing on 19 January 2012. We understand that on that occasion the representations made by the police and environmental health team were satisfied by agreed conditions, and the outstanding representation from the planning authority was dealt with by an informative on the licence that the licensee clarify with the planning services that they have the relevant planning permission. It is understood that no such clarification has been obtained, and that the operation remains in breach of the planning consent which, as indicated above, requires that the premises generally cease to operate at 12 midnight, some 3 - 4 hours earlier than it does actually close on Fridays and Saturdays.

The complaints

As you will be aware, all landlords are under a duty to ensure that their tenants have quiet enjoyment of their accommodation. The lease to the C & R Group contains a covenant, amongst others, that the tenant will avoid its business operation causing a noise nuisance to the residential flats above.

The directors of Bestville also feel a personal obligation to the tenants, many of whom come from overseas and are dependent upon their families' hard-earned savings to advance their education in the UK, to ensure this peaceful occupation is assured.

The management of the residential lettings is carried out by a specialist letting agent on behalf of the applicant : Sonia Estates. Accompanying this letter are some of the letters received by Sonia Estates from the tenants, registering their complaints as a result of the operation of the premises, especially since the Shisha lounge (the Starlight Café) opened in June 2013. The letters enumerate the breaches of the licensing objectives they have experienced, and can be briefly summarised as:

Breach of the crime and disorder objective

1. Drunken persons ringing the doorbell after closure of the club in the early hours of the morning
2. Customers from the bar/lounge in tenants' doorways and private access areas, behaving in an anti-social and intimidating manner
3. Fights and disorder involving customers from the premises, sometimes necessitating a call to the Police to resolve. These fights are often violent, and recently tenants have found blood smeared across the doors to the flat and in the main entrance. This caused considerable alarm and fear to the residents.

Breach of the Public Safety objective

1. Broken glass is often left as a result of the behaviour of the customers in and around the entrance to the flats and the rear of the private car park. This could be harmful and cause injury.
2. The smoke from the Shisha lounge and surround is excessive, causing discomfort and potential physical harm to the residents living directly above the area who cannot avoid the effect of the smoke.
3. Cars are parked by those using the bar/lounge in the private access route to the rear, often blocking fire escape routes from the flats and/or preventing access by emergency vehicles.

Breach of the Public Nuisance objective

The Landlord has, through its directors, witnessed the noise nuisance caused by the premises. It has tried on many occasions to exhort the premises licence holder to act in a responsible and neighbourly manner, but he fails to do so. His main retort is to try and blame the applicant for building defects which he claims allows noise escape to the upper residential flats. The Landlord was obliged by the planning consent to construct the residential units with acoustic insulation which met with Council approval and it has done this. It has also arranged for the glazing of the windows to be appropriately sound proofed : there is a triple layer of glass. Residents must, however, be permitted to enjoy some fresh air both during the day and for sleeping. In any event, some residents continue to complain of noise nuisance from the use of the bar and Shisha lounge even with all windows shut. The premises licence holder drew up a Management Information Policy to support its planning application in 2010, a copy of which is attached. The controls offered to prevent nuisance at paragraphs 1 and 2 are in breach on a regular basis. The residents' complaints of nuisance include:

1. Loud music and shouting from the premises which is suffered in the early hours of the morning at the weekends. This has recently extended to mid-week late night hours, on Mondays and Wednesdays.
2. A very strong smell of the shisha smoke, and the discomfort from smoke inhalation.
3. Disturbance from the live sports broadcast in the shisha lounge marquee.
4. Litter including broken glass being left in the area
5. Obstruction of the tenants' outside bin areas by inappropriately parked cars of those using the premises.
6. Inability to sleep; being woken up and health problems ensuing from the noise both from the premises and from people leaving the premises.
7. Fear of violence from the customers fighting etc, and their general anti-social behaviour preventing some tenants from going out after 10pm, and of reprisals from the operators.

The environmental health team have been called to the premises on several occasions, and some of the tenants note that, whilst the operators appear to immediately comply

with their requests to turn down the music etc, as soon as they have gone it resumes the unacceptably loud volume.

Bestville is aware that the tenants are delighted with the council's decision to prevent use of the shisha lounge, and to reduce the hours of the bar, which has resulted in a considerable improvement for them. They complain that they are, however, still being disturbed by loud music from the premises into the early hours of the morning, and by the unacceptable behaviour of their customers especially when leaving.

Breach of the Prevention of Harm to Children objective

Children are allowed into the bar. The smoke from the shisha lounge and the unacceptable behaviour of some of the customers, coupled with the broken glass etc left outside, poses a threat to their wellbeing.

The Landlord arranged for independent investigations regarding the operation of the premises by John Law Investigations over two separate weekends in October and November 2013. The findings substantiate the reports of the residents regarding the breaches of both the licence and the licensing objectives. The Report was updated on 21 December 2013 following the interim steps taken on the Expedited Review. The Report and update is attached. The Landlord asks the committee to also take these findings into consideration in support of its representations, in its deliberations.

The premises licence holder appears to have little or no regard for the residents and others living in the area, nor for adhering to agreements and conditions in respect of the operation.

The imposition of conditions is highly unlikely, having regard to the history of this case and the attitude of those managing the licensed premises, to address the harm being caused; the premises licence holder has been in consistent and repeated breach of the conditions currently on the licence.

The Landlord notes that the residents are largely satisfied with the operation of the Peaches bar (as distinct from the Shisha lounge) until midnight.

It is understood that Rajesh Rai, who is also shown as DPS on this licence, is no longer a director of the C&R Group, the tenant company operating these premises, and is rarely on site. He appears to have no direct control over the Starlight café, which it is believed has been sub-let to a different operator (without the permission required by the lease). The DPS no longer appears to be exercising any, or any proper, control over the licensed premises and clearly has no interest in their proper management and/or in ensuring that the licensing objectives are met. This is to the detriment of the residents and the area.

The Landlord asks the Committee to prevent the harm currently being caused by the operation of these premises by:

1. Reducing the terminal hour for all licensable activities and until which customers may be on the premises or any part of them until midnight on each day of the week (which would also be in line with the Planning Consent).
2. Continuing the prevention, imposed at the time of the summary review on 9th December 2013, of the marquee being used for any regulated entertainment, or for smoking of shisha pipes.
3. Preventing any smoking in the side area under the residents' windows and moving the smoking area to the front, maintaining the limitation of the number of persons who can use this smoking area to a maximum of 15 (although preferably 10 as suggested by in the site's own Management Information policy).
4. Removing the DPS.

Please note that my clients would wish to appear at the hearing, with representation, to support the Police application for review.

Kindly acknowledge receipt in due course.

Yours sincerely


Julia Palmer