

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

11 February 2014

Dear Sir/Madam

**Peaches Bar 177-179 Kenton Road Harrow HA3 0EY
Variation application to remove condition 24 of the Licence**

We represent the landlord of the above site, Bestville Properties Limited, which company is also the landlord of the residential properties over Peaches bar, and at Evergreen Court in Nash Way, which is directly opposite Peaches and separated only by a service road.

The Landlord is under a duty to ensure that its tenants have quiet enjoyment of their flats (which is, of course, also one of their Human Rights), and the directors also feel a personal obligation to the tenants to ensure this peaceful occupation is permitted.

Preliminary Issue

It is our contention that the application is defective insofar as the Notice advertised on the premises (and possibly also that published in the press) fails to comply with the requirements of paragraphs 25 and 26 of the Licensing Act 2003 (Premises Licences and Club premises Certificates) Regulations 2005.

A photograph is attached showing the position of the advertised notices on site, which we are advised were behind the external door (which is pinned open throughout the majority or all of the opening hours of the premises) for at least half of the statutory display period. The notice was not, therefore, capable of being "conveniently read from the exterior of the premises" throughout the requisite period of display.

A photograph of the Variation notice exhibited on site is attached. This fails to contain the mandatory wording required under paragraph 26(4)(f) and additionally fails to provide the worldwide web address of the Licensing Authority (paragraph 26(4)(b)) which is understood to be applicable as the register of the Licensing Authority is published on its website.

As the courts have accepted that as there are no slip rules applicable to the failure to comply with such prescriptive requirements, a Licensing Authority would be acting ultra vires if it entertained such a notice as a valid application. Further, to proceed in such

circumstances would, we suggest, be an unreasonable act for a Licensing Authority, having potential implications as far as costs are concerned in the event of any appeal.

Representations

If the Licensing Authority finds against us in this preliminary issue and decides that it is lawfully seized of the application, then (reserving the right to challenge such a finding) our Clients make formal representation against the application on the grounds that it will harm the licensing objectives of :

1. Prevention of crime and disorder
2. Prevention of public nuisance
3. Public safety

The Landlord has, both through its Managing Agents, Sonia Estates, and direct from the tenants, received numerous complaints as a result of the operation of the premises, especially since the Shisha marquee (the Starlight Café) was opened in June 2013. It has also investigated the situation through its directors and private investigators, and these investigations have corroborated the tenants' complaints.

The complaints in respect of use of the Shisha marquee include :

Nuisance from music and television noise from the marquee; from those using the marquee and coming to and going from it; from the smoke from the shisha pipes; from litter and anti-social behaviour:

Crime and Disorder from fights and other bad behaviour from those using the premises; including fear of violence as a result of such behaviour:

Public Safety due to the inappropriate parking of cars of those using the Peaches bar/shisha lounge obstructing emergency vehicle access routes and fire escapes, and of the broken glass which often litters the service road and public pavement areas outside these premises.

The shisha marquee fails to comply with the requirements of the Health Act 2006 that the premises be "smoke-free", and the use of the premises for smoking is therefore unlawful. The case of *R (on the application of Blackpool Council) v Howitt 2008 EWHC 3300* confirms that such a criminal offence can properly be regarded as being relevant to the prevention of crime and disorder objective.

Two notices to quit from tenants of 177-179 Kenton Road have been received in the 7 months since the Shisha lounge opened, citing such problems as the reason for having to leave.

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 situation in respect of the use of the shisha marquee and external area, which is immediately underneath the tenants' properties, is already intolerable. To extend the hours of use without limit as requested in the application, is completely unacceptable and can only lead to an exacerbation of the already intolerable situation.

Please note that, in the event of this application proceeding to a hearing, it is likely that my clients would wish to attend to make representations.

Kindly acknowledge receipt in due course.

Yours sincerely



JULIA PALMER

By special delivery and email