

**Akaya Lounge, 307-309 High Street, Slough, SL1 1BD**

**Licensing representation of Neighbourhood Services**

**Objection – Public Nuisance**

The information detailed to prevent a public nuisance is not sufficient and not likely to ensure a public nuisance does not occur.

The Neighbourhood Enforcement Team have been receiving complaints about loud music continuing on into the early hours of the morning causing a nuisance to several nearby residential properties.

The first complaint about loud music from Akaya was received on the 16<sup>th</sup> December 2019. The complaint was made by a nearby resident and they reported being disturbed by loud music over the previous two weeks. A Community Warden initially spoke to the complaint on the 23<sup>rd</sup> December 2019. The complainant reported that they initially tried to speak to the premises supervisor about the volume of the music but he alleged the supervisor told him that as it was before 12am they were allowed to do what they liked.

Further complaints were received from other nearby residents on the 20<sup>th</sup> and 24<sup>th</sup> December 2019. In total the Council received complaints from 4 separate households all reporting the music was very loud and continuing late into the night.

On the 23<sup>rd</sup> December 2019 the on call out of hour's officer, Mrs Sarah Stefano, received complaints about loud music and flashing bright lights from Akaya Lounge. The out of hours officer is only contacted if the ASB hotline receives two or more complaints about noise from separate households and operates outside of the hours 9am-5pm, Mon-Fri. On this occasion two calls were to the ASB hotline from two separate residents in the vicinity of Akaya Lounge. The officer obtained a contact number from the Council premises database which was for a Mr Abdul Qaher who was detailed as the sole trader in relation to the premises when registering for food safety reasons. The officer called Mr Qaher at 00:07 hours on the 24<sup>th</sup> December 2019, explained complaints had been received and requested that the volume was reduced.

The officer visited the complainants shortly after to assess the noise. The first complainant had left their property to take their child to a relative so that they could sleep. The second complainant allowed the officer into their property so that they could make an assessment under section 79 of the Environmental Protection Act 1990 as to whether the noise constituted a nuisance. The music was of such a volume it was assessed as being a statutory nuisance. The officer found that not only was the music a nuisance but that crowds of people had also congregated outside of the premises adding to the disturbance. The Police were also in attendance. As such a noise abatement notice was served on Mr Qaher on the 24<sup>th</sup> December 2019. The notice required that no music should be played in the partially open area to the rear of the premises and that all other music played within the premises should not be audible outside of the premises after at 11pm.

During normal working hours on the 24<sup>th</sup> December 2019 an officer, Ms Fakhra Zaman, visited Akaya Lounge to further discuss the service of the abatement notice. She spoke with a gentleman who told her he was the chef/manager of Steakout, a nearby restaurant, but who appeared to her to be in

charge of Akaya at the time of her visit. He advised the officer that he was at Akaya Lounge the previous night and that it was a large event. He was aware that a nearby resident had been to the premises to complain about the loud music. He was not aware that they should have submitted a temporary event notice to the Council in relation to the event as it would be continuing beyond the 23:00 hours and the premises does not serve alcohol and as such to play recorded amplified music they would either need to have notified the Council or if they were playing recorded amplified music on a regular basis they would need to apply for a premises licence as they are not licenced to sell alcohol.

A further Noise Abatement Notice was issued on 30<sup>th</sup> December 2019 to Sultan Palace Lounge Limited as we became aware that they may also be responsible for the statutory noise nuisance as this company was registered at the premises address 307-309 High Street, Slough. An appeal was made against this notice and the basis of the appeal was that this company was not related to Akaya Lounge. We were informed by Mr Ali that the company related to Akaya Lounge is Sultan Restaurant and Lounge Limited. As such a further notice was served on this company as being responsible for the running of the premises and the resulting nuisance on the 31<sup>st</sup> January 2020.

On the 30<sup>th</sup> January 2020 Neighbourhood Services were consulted on an application made to our Planning Department requesting a variation to their operating hours. The permitted operating hours for this premise is 11:00 hours to 23:00 hours, Monday to Sunday. The application was to vary the operating hours to same hours detailed in this licence application. In addition to causing a public nuisance they have been opening outside of their permitted hours. The request to extend the opening hours to 01:00 hours Sunday to Thursday and 03:00 hours Friday to Saturday was objected to given the recent disturbance caused and lack of communication from any persons in control of the premises.

Mr Abdul Qaher contacted the Council on the 31<sup>st</sup> December 2019 to advise us that he was not in charge of the Akaya Lounge, despite not giving Mrs Stefano any indication that this was not the case when she spoke to him on the 24<sup>th</sup> December 2019. We also received a telephone call from a Mr Clarke Smith who informed us he was the director of the restaurant group that Akaya Lounge was part of. He was given details of the requirements of the abatement notice and reasons for its service over the phone.

On the 18<sup>th</sup> January 2020 the duty out of hour's officer, Mrs Diane Lewis, was contacted again as a nearby resident had reported being disturbed by loud music. When Mrs Lewis spoke to the complainant at 23:36 hours she was advised that the music had been turned off but that they were still being disturbed by the noise from people singing and shouting in the external part of the premises. Mrs Lewis visited the complainant's property at 00:10 hours on the 19<sup>th</sup> January 2020. She was able to clearly hear the noise when outside of the complainant's property and was still able to hear the noise from the people in the external part of Akaya Lounge when inside the complainant's bedroom with the windows closed. 10 minutes after Mrs Lewis's arrival at the premises people started to leave.

On the 25<sup>th</sup> February 2020 a resident submitted an online ASB report as they were again being disturbed by loud music being played in the external seating area at the Akaya Lounge. This report was made at 23:15 hours.

On Saturday the 1<sup>st</sup> February 2020 the out of hours officer, Mr Michael Needs, was contacted again as a resident had reported being disturbed by loud music from Akaya Lounge. Mr Needs visited the complainant at 23:59 hours and could clearly hear the loud music and customers voices coming from

Akaya Lounge when stood in their lounge with the windows closed. The music was still playing when Mr Needs left the property at 00:14 hours on the 2<sup>nd</sup> February 2020.

Having witnessed a breach of the noise abatement notice on two separate occasions and continuing to receive complaints about the noise an application was made at Slough Magistrates Court on the 7<sup>th</sup> February 2020 to enter the premises, Akaya Lounge, and seize all noise making equipment. The warrant was granted and an operation was carried out the same afternoon where all of the speakers were removed from the outside seating area of the premises and all but two of the speakers were removed from internal restaurant area.

Following the seizure of the speakers Mrs Stefano was contacted by a Mr Mabs Ali who identified himself as being in charge of the premises Akaya Lounge. Mrs Stefano and myself met with Mr Ali to discuss the noise issue on the 28<sup>th</sup> February 2020. During a discussion on the 28<sup>th</sup> February 2020 the applicant told us that he was persuaded to hold this event though he knew he wasn't ready and didn't have the capacity but he could not turn down the business.

Mr Ali told us that he had not made any enquiries as to whether he would need a premises licence. When we advised him our licencing team had sent him information about how to find out if he required a licence and how to apply for one he told us that he had not been opening the post. Mr Ali told us he was aware that he was opening the premises outside of the hours permitted on the planning conditions. He said he felt that as he had made an application to vary the times but had not received an answer then he could keep the premises open in line with the times he wanted to vary it to. We reminded Mr Ali that a noise abatement notice had been served and not appealed therefore even if he had planning permission for the interior and exterior parts of the premise to be open until 3am he would not be able to have any music playing in the exterior part of the premises at all and no music should be audible beyond the premises boundary after 11pm. Mr Ali left us with the indication that he would be appealing the noise abatement notice. To date no appeal has been submitted and the requirements of the notice still apply.

We have been made aware of another breach of the noise abatement notice. A complaint was made to the Police about loud music coming from the Akaya Lounge on the 31<sup>st</sup> May 2020. The statement from the attending police officer details that he could hear loud music as they approached the premises at 01:00 hours which was turned off as they knocked on the back door.

Due to the continuing breaches of the abatement notice and the significant disturbance caused to nearby residents when the Akaya Lounge has been open beyond 23:00 hours I am objecting to this application for a premises licence.

Should a premises licence be granted I would like to suggest that conditions be added to assist the licence holder in ensuring a public nuisance does not arise in the future and to ensure that they comply with the requirements of the noise abatement notice. My recommend conditions are:

1. At least two prominent signs will be displayed in the partially enclosed external area to the rear of the premises reminding customers to respect the fact that there are residents living nearby.
2. A complaints log will be maintained by the DPS ('the log'). The log will be used to record any complaints made by residents in relation to the operation of the premises. The log will record the date, time and nature of the complaint, along with the name of the person making the record and any action taken in relation to that complaint. A dedicated telephone number will be made available to residents during trading hours.
3. At the commencement of live or recorded music played within the premises, the DPS or designated manager will undertake noise checks at the boundary of the nearest noise sensitive

properties surrounding the premises to ensure that the music levels will not amount to a public nuisance. Levels will be turned down if they are deemed to be likely to cause a public nuisance and further checks undertaken until the levels are deemed to be appropriate for compliance with this condition. A record of the checks will be maintained at the premises and shall be available for inspection by licensing and other responsible authority officers.

4. The partially enclosed external area to the rear of the premises is not to be used for the playing of live music, recorded music and any associated live entertainment.
5. The external areas shall be managed as far as practicable to ensure that customers do not behave in a manner that is likely to cause a public nuisance. For the avoidance of doubt, this condition does not seek to prevent customers from engaging socially as would be expected at premises, but requires a degree of management of customers should their behaviour become overly loud or deemed to be offensive. If customer's behaviour is not able to be managed and is causing a nuisance then the Police will be called for assistance.
6. The partially enclosed external area will be closed to customers from 23:00 hours.
7. All customers to enter and exit the premises via the main front door facing the High Street.
8. Doors and windows will not be permitted to be opened during live or recorded music (excluding incidental background music) except for access and egress. Signs will be displayed on any doors used for public access and egress reminding customers to close the door after use. Regular checks will be made during regulated entertainment to ensure as far as practicable that this condition is being complied with.
9. No music shall be audible beyond the premises boundary after 23:00 hours.
10. Install a noise limiter and agree with the local authority the Db level it should be set at for the playing of music in the internal area of the premises before 23:00 hours. If the premise is not suitably sound insulated to prevent this level of noise from being audible beyond the premises boundary you will be required to lower or turn off the music after 23:00 hours to ensure that condition 7 is adhered to.

As there is nothing between the external area and the nearest noise sensitive premises to provide any sound insulation any volume of music is likely to be audible and cause a nuisance. I have enclosed a plan and highlighted in yellow the nearest noise sensitive premises, 4 blocks of flats, Crown House, Neo Apartments, Skyline Apartments and Regional House. However, we have not received any complaints from any of these properties about noise from Akaya Lounge. Complaints about noise from the premises have been in relation to the external area at the rear. Crown House and Neo Apartments have a clear line of sight to the rear of Akaya Lounge whereas the Skyline Apartments and Regional House do not and have the premises building itself between them and the rear external area. I have highlighted the internal portion of the premises in blue and the external in red. The entire external area is used as an extension of the premises.

There are residential properties directly above 307-309 High Street which are part of the same building and under the same ownership. As part of the original planning application, which was approved, to change the use from A1 (retail) to A3 (restaurant) acoustic report was submitted. This report advised that changes would be needed to the party floor to prevent noise transmission to the residential property above. The report also suggested the use of a noise limiter. But this was in relation to the noise source being solely the internal space of the premises, did not take into account the use of the external area, assumed that the music requirement of the premises would be as ambient background music in a restaurant setting and as such suggested a Db limit of 77Db. For the types of events that the premises have been hosting, more a nightclub atmosphere with very loud

music and flashing lights, this is likely to be of a lower Db level than they would like and this acoustic report would now not be applicable to the premises.

Natalie Worley, Neighbourhood Housing and Enforcement Officer