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Dear Member

LICENSING SUB-COMMITTEE - THURSDAY, 25 APRIL 2013

I am now able to enclose, for consideration at the Thursday, 25 April 2013 meeting of the Licensing Sub-Committee, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
6.	Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Cockington Court Craft Centre, Cockington Lane, Torquay TQ2 6XA	(Pages 1 - 6)

Yours sincerely

Lisa Antrobus
Clerk

Agenda Item 6

COCKINGTON VILLAGE RESIDENTS ASSOCIATION (CVRA)

RE: LICENSING APPLICATION BY TORBAY DEVELOPMENT AGENCY

REPRESENTATIONS BY CVRA

1. History of the Premises Licence

- 1.1 The present licence was granted to the Torbay Coast and Countryside Trust by the Torbay Licensing Committee on 6th July 2006.
- 1.2 The application was originally listed for hearing by the sub-committee on 25th May 2006. The CVRA raised issues with regard to:-
 - (a) Public safety at large events arising out of access and departure, large numbers in small areas and fireworks displays.
 - (b) Public nuisance connected with events relating particularly to transport problems and numbers of people.
 - (c) Noise and disturbance from events.
- 1.3 The hearing was adjourned to 6th July 2006 so as to allow negotiations between the applicants and the CVRA.
- 1.4 On the morning of the adjourned hearing further discussions took place between the parties. The matter was called on at 11.30, when the sub-committee was able to approve the grant of a licence in the terms agreed between the parties which also incorporated conditions as to noise nuisance required by the Torbay Council Environmental Protection Officer.
- 1.5 The licence thus granted has remained in force in the original terms for almost 7 years.

2. Premises Licence

2.1 The present licence authorises:-

- Performance of play (outdoors) on ten occasions a year from June to August.
- Performance of live music (indoors) between 10.00 am and midnight and (outdoors) from 10.00 am to 5.00 pm (six times a year) and from 10.00 am to 11.00 pm (twice a year).
- Recorded music (indoors) between 10.00 am and midnight and (outdoors) from 10.00 am to 5.00 pm (six times a year) and from 10.00 am to 11.00 pm (twice a year).
- Performance of dance (outdoors) from 10.00 am to 10.30 pm.
- Sale of alcohol for consumption on and off the premises Monday to Sunday (indoors) between 10.00 am and 11.00 pm and (outdoors) from 10.00 am to 5.00 pm (six times a year) and from 10.00 am to 10.30 pm (twice a year).
- Opening hours (indoors) 8.00 am to midnight and (outdoors) 24 hours a day.

2.2 Of the conditions attached to the licence there are two groups which relate to public nuisance.

2.3 Four of these (the first group) were part of the original application and are not subject to proposed variation or representation.

2.4 There are seven further conditions relating to public nuisance (the second group) which were attached by the Licensing Sub Committee on 6th July. Three of them (marked with an asterisk below) are the subject of the proposed variation and of representations.

*1. Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed.

*2. The volume of amplified sound used in connection with the entertainment provided shall at times be under the control of the licensee/management or a designated member of staff.

3. For outdoor amplified entertainment after 21.00 hrs, a designated member of staff shall assess the impact of any noisy

- activities on neighbouring residential premises to ensure noise levels have not increased.
4. Outdoor functions which shall carry on after the hours of 21.30 hrs, with amplified live and recorded music and entertainment, shall be limited to not more than 10 occasions per year.
 - *5. A senior member of staff (manager) shall assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment to ensure levels of noise have not increased.
 6. Prior to the event taking place each year contact shall be made with a senior member of the Environmental Protection Unit of Torbay Council to agree noise limits and preventative control measures.
 7. Noise disturbance from all plant and machinery shall be kept to a minimum.

3. Variation

- 3.1 The Applicant now proposes a number of variations to the licence, most of which are not challenged by the CVRA.
- 3.2 The Applicant wishes to remove from the licence public nuisance conditions numbered 1, 2 and 5. (see para 2.4 above)
- 3.3 In their place the Applicant proposes the following conditions:-

Should complaints in respect of noise be received and proven, the Noise Management Plan and the following condition shall be implemented.

- (a) The volume of the music of external events shall not exceed the level agreed with the local Environmental Health Department.
- (b) A member of staff will monitor this level throughout the event to ensure that this level is adhered to.
- (c) All music played internally shall be played through a noise limitation device. The level of this device shall be agreed with the local Environmental Health Department and shall not be tampered with.

4. Response

- 4.1 The clause that protects neighbours and residents from unreasonable disturbance is seen by the community as an essential measure to allow

them a degree of independent protection and more importantly informs the licensee that noise is an important environmental issue for an area that has exceptionally low ambient noise level, particularly in the late afternoons and evenings. This principle has been identified in the relevant Neighbourhood Plan, supported by community consultation.

- 4.2 The CVRA does not wish to further restrict the Court operations but strongly desires to see the operations retained as low key and, as established for many years, a low noise evening/night time environment.
- 4.3 The CVRA had no prior notice of the Applicant's intention to vary the licence. Since they received notice of the Applicant's intention, however, they have sought to engage with the Applicant in order to seek to agree a format that would be acceptable.
- 4.4 The CVRA put forward these proposals as part of their function as a democratically elected body whose objects are:-
 - To discuss, plan and finance projects for the benefit of both the village and the residents.
 - To make representations to other bodies in the interests of the residents and the village's general environment.
- 4.5 The main concerns are two fold:-
 - (a) The proposal to remove the concept of being "unreasonably disturbed" which is said to be "so vague that it is unenforceable" and to replace it with a different measure "complaints in respect of noise (that are) received and proven".
 - (b) None of the conditions proposed by the Applicant will be implemented as conditions initially. They will come into force, if the variation proposal is accepted, only after the event, and following a process which can only be triggered once a complaint is "received and proven".

5. Proposal

- 5.1 The CVRA has put forward to the Applicant the following proposal which, it is submitted, will be clear and enforceable, built on the provisions of the existing licence, and unlikely to be an unreasonable administrative burden for the officers of Torbay Council.
 1. The volume of the noise emanating from the premises shall not cause residents in the neighbourhood to be unreasonably disturbed.

2. A Noise Management Plan shall be in place before any event to reduce, as far as reasonable, potential disturbance to residents in the neighbourhood, taking into consideration the time of day and expected noise levels.
3. Any complaints shall be investigated by the licence holder and, if substantiated, the Noise Management Plan will be appropriately amended to prevent unreasonable disturbance in the future.
4. If complaints of unreasonable disturbance continue, then the Noise Management Plan will include the following additional conditions:-
 - (i) The volume of noise at outside events (including tents and marquees) and considering the time of day shall not exceed the level agreed with the local Environmental Health Department. A member of staff will monitor this level throughout the event to ensure that this level is adhered to.
 - (ii) All music played internally shall be played through a noise limitation device. The level for this device shall be agreed with the local Environmental Health Department and shall not be tampered with.

Dated this 24th day of April 2013

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(Ref: RDN/COC026/0002)

Solicitors for the CVRA

