

Memorandum

To:	From :	Community Safety
c.c	Contact :	Mr Karl Martin
c.c.	Ext :	01803 208025
c.c	My Ref :	1ZV SRU No: 180209/KJM
For the attention of: Licensing Steve Cox	Your Ref Date :	 20 September 2012

Subject: Premises– Licensing Act 2003
**Premises Name & Address: Marstons PLC, Newton Road,
Edginswell, Torquay.**

- a) I have no comments to make on the above application
- b) The application does not meet the following licensing objectives:
- i) Prevention of crime and disorder
 - ii) Protection of children from harm
 - iii) Public safety
 - iv) Prevention of public nuisance

I wish to object to the above named application as I do not believe the application supports the licensing objective 'Prevention of Public Nuisance'.

This is an application for a purpose built licenced bar and restaurant on existing vacant scrub land. Please see Figure 1 & 2.

The proposed site is flanked by residential accommodation to the south and southwest of the site. The north and east of the site consists of scrub land, rail and road networks.

Due to the proximity and density of residential accommodation this site can be regarded a residential area. Torbay Councils Licensing Policy leans towards refusing an application beyond 11pm in a residential area unless remedial measures can be demonstrated:-

'There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.' **Licensing Statement of Principles, Torbay Council, 2011, p37-38.**

The applicant has not convinced me the application has considered Torbay council Licensing Statement of Principles sec 3.3. p.19-20. This is evident by the lack of clarity in how the applicant is going to control noise nuisance arising from the proposed activities being applied for. These concerns are also mirrored by representations made by local residents. Specifically the applicant has failed to address the following points:

1. The operating schedule refers to appropriate noise attenuation measures are included in the structure, but the applicant offers no supporting documentation to the nature of this attenuation methods. I cannot therefore make an informed view that the proposed application will meet the licensing objection 'Prevention of Public nuisance'.
2. Furthermore the applicant makes reference to a risk assessment with regard to public nuisance but has not offered supporting information by way of the operating schedule on the control measures and licensing conditions the applicant can provide to prevent noise nuisance.
3. Live music has been applied for indoors up to 1:00a.m. No evidence has been provided to demonstrate mitigation of noise outbreak.
4. No consideration given to noise from a children's play area adjacent to a boundary with residential accommodation.
5. A proposed condition refers to double glazing windows being provided but stops short of offering windows and doors should be closed during regulated entertainment.
6. Applicant is seeking authorisation for recorded music outside until midnight Monday to Thursday and 1:00 am Friday and Saturday. I find this unacceptable given the residential nature of the area.
7. The applicant has not offered any remedial measure for controlling noise from vehicles using car parking facilities. The car park is adjacent to the boundary with residential accommodation.
8. No consideration given to taxi arrangements or people arriving and leaving the premises.
9. The operating schedule does not mention noise from extractor or air ventilation systems.
10. No suggested conditions or timings of when bottles should be emptied or any measures for controlling deliveries.

This applicant in making this application has not considered how the premises will impact on the local community especially as this is a new build. The resident presently experience no nuisance or activity associated with the land the proposed premises will be built on. Therefore I have concluded this application does not promote the licensing objective 'The prevention of public nuisance'. In accordance I recommend the Licensing Sub-Committee give their due consideration to the following recommendations:

1. Refuse the application on the grounds the application does not promote the licensing objective 'The prevention of public nuisance' in accordance with Licensing statement of principles.

Alternatively:

2. Reduce supply of alcohol and all requested licensable activities to 11:00p.m. Monday to Sunday.
3. No recorded music, except background, after 9:00p.m. outside the premises.
4. Reduce operating times of the children's play area and beer garden next to the residential accommodation to 9:00 Monday – Sunday.
5. Attached necessary and/or appropriate conditions to the license to address concerns of the local community and Environmental Protection.
6. Suggested conditions:-
 1. Noise from licensable activities shall not be audible within any dwelling with windows open for normal ventilation especially after 11pm. This shall be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that shall be applied are:-
 - (i) Before 11pm - Noise emanating from the premises shall not be clearly distinguishable above other noise.
 - (ii) After 11pm - Noise emanating from the premises shall not be distinguishable above background levels of noise.
 - (iii) The local authority shall reserve the right in cases of tonal noise and where premises are attached to others, to make further assessments from within the residential property.
 2. Doors and windows must be kept shut during entertainment to reduce noise breakout. A management scheme will be in place to ensure this situation remains.
 3. Suitable and sufficient means of ventilation must be provided and maintained in accordance with the manufactures guidelines.
 4. Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.
 5. Provision of mechanical ventilation or similar shall not allow noise breakout from the premises or cause a nuisance by its operation.
 6. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
 7. The volume of any regulated entertainment will be under the control of the management at all times.

Mr Karl Martin
Public Protection Officer

Figure 1



Figure 2

