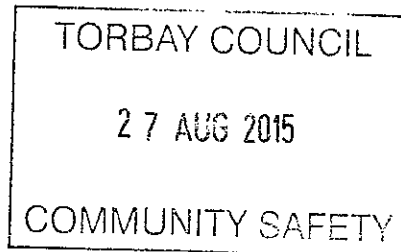


Torbay Council
Licensing and Trading Standards Service
Town Hall
Castle Circus
Torquay TQ1 3DR
FAO Carrie Carter, Licensing Officer



4th Floor
64 North Row
London W1K 7DA

Tel: +44 (0)20 7563 1000
Fax: +44 (0)20 7518 8420
DX: 42701 Oxford Circus North

www.brecher.co.uk

DATE: 26 August 2015

YOUR REF:

OUR REF: AG/M30-29

By post and email
carrie.carter@torbay.gov.uk

Dear Carrie

**Representation/Objection in Respect of Variation Licence
Park Lane 1 Torwood Street Torquay TQ1 1ED**

Please find attached an objection/representation in respect of the above Variation Licence application made by Jam Leisure (Park Lane) Limited to their existing premises licence in respect of Park Lane, 1 Torwood Street, Torquay, Devon. The objection enclosed is submitted on behalf of the parties and persons named in section 1 of the document.

Please can you keep me informed in respect of a committee date for hearing this Variation Licence application and send me a copy of the committee report in advance of the committee date.

Please do not hesitate to contact me if any further information is required.

Kind regards.

Yours sincerely



Anjana Ghosh

Solicitor

DDI: 0207 563 1044

Email: aghosh@brecher.co.uk

PARTNERS Andrew Brecher, Valerie Brecher, Jeremy Abram, Nicky Richmond, Michelle Brown, Redmond Byrne, James Empson, Wesley Fongenie, Caroline Howard, Peter Hughes, Lisa Mantle, Michael Nee, Jonathan Pawlowski, Bryn Robertson, George Saade, Natasha Sheridan, Belinda Solomon, Victoria Symons, Dominic Whelan.
REAL ESTATE DIRECTOR Dennis Le Quesne, Anita Michaelides, Michele Salter. LITIGATION DIRECTOR Chris Wright.

Brecher is a firm of Solicitors authorised and regulated by the Solicitors Regulation Authority, number 75022.

This firm does not accept the service of proceedings by email.

**OBJECTION TO VARIATION LICENCE
THE PARK LANE 1 TORWOOD STREET TORQUAY TQ1 1ED**

1. Objectors:

2. Variation Licence Application

The Variation Licence Application (reference 041287) is submitted by Jam Leisure (Park Lane) Limited to their existing Premises Licence (reference 034746) in respect of The Park Lane 1 Torwood Street Torquay Devon TQ1 1ED for an application to vary the existing licence by reference to a plan for the removal and addition of licence conditions, a change of the premises layout and increase in the hours of playing recorded music on Friday and Saturday to 10:00-03.30 and decrease in the hours of the supply of alcohol on Saturdays from 10:00 to 03:00.

3. Grounds of Objection

We object to this application on the grounds of the detrimental impacts of noise and disturbance, potential smell for cigarettes and light intrusion as a result of the altered layout of the premises, the proposed conditions and the extension of the hours of playing recorded music from 10:00 to 03:30am on Fridays and Saturdays in close proximity to:

- (i) the residential flats at Queens Quay;
- (ii) the rear section, Phase 2 of the proposed development of QHB comprising 8 flats, immediately opposite The Park Lane pub and club. Planning permission has been granted and implemented. Bedrooms of all flats will overlook Park Lane; and
- (iii) the rear section, Phase 3 of the proposed development of QHB comprising 6 flats which is a very short way up Park Lane but still very close to The Park Lane pub and club. The same planning permission is in place and implemented and the bedrooms of the flats will overlook Park Lane.

Both Queens Quay and The Park Lane are located within a mixed land use area. Most properties along Victoria Parade have commercial premises on the ground floor and residential or other uses at the upper floor levels of the buildings. Most of the premises fronting Park Lane are now residential and the proposed new Phase 2 and Phase 3 premises will all be residential.

Queens Quay consists of commercial premises on the ground floor with residential flats above. Some of these residential flats are occupied full time by residents and others

OBJECTION TO VARIATION LICENCE
THE PARK LANE 1 TORWOOD STREET TORQUAY TQ1 1ED

1. Objectors:

- (a) M Abram Limited as owners of the freehold interest in the whole of the old Queens Hotel Building ("QHB") including the rear sections fronting onto Park Lane and landlord of the 9 flats presently constructed, in the front section known as Queens Quay 3 Victoria Parade TQ1 2AB
- (b) David Abram and Vicky Abram owners of flat 2 Queens Quay.
- (c) Antony Abram, Patricia Abram and Richard and Joanne Carlton owners of flat 4 Queens Quay.
- (d) Jeremy Abram owner of flat 5 Queens Quay.

2. Variation Licence Application

The Variation Licence Application (reference 041287) is submitted by Jam Leisure (Park Lane) Limited to their existing Premises Licence (reference 034746) in respect of The Park Lane 1 Torwood Street Torquay Devon TQ1 1ED for an application to vary the existing licence by reference to a plan for the removal and addition of licence conditions, a change of the premises layout and increase in the hours of playing recorded music on Friday and Saturday to 10:00-03.30 and decrease in the hours of the supply of alcohol on Saturdays from 10:00 to 03:00.

3. Grounds of Objection

We object to this application on the grounds of the detrimental impacts of noise and disturbance, potential smell for cigarettes and light intrusion as a result of the altered layout of the premises, the proposed conditions and the extension of the hours of playing recorded music from 10:00 to 03:30am on Fridays and Saturdays in close proximity to:

- (i) the residential flats at Queens Quay;
- (ii) the rear section, Phase 2 of the proposed development of QHB comprising 8 flats, immediately opposite The Park Lane pub and club. Planning permission has been granted and implemented. Bedrooms of all flats will overlook Park Lane; and
- (iii) the rear section, Phase 3 of the proposed development of QHB comprising 6 flats which is a very short way up Park Lane but still very close to The Park Lane pub and club. The same planning permission is in place and implemented and the bedrooms of the flats will overlook Park Lane.

Both Queens Quay and The Park Lane are located within a mixed land use area. Most properties along Victoria Parade have commercial premises on the ground floor and residential or other uses at the upper floor levels of the buildings. Most of the premises fronting Park Lane are now residential and the proposed new Phase 2 and Phase 3 premises will all be residential.

Queens Quay consists of commercial premises on the ground floor with residential flats above. Some of these residential flats are occupied full time by residents and others

are used as holiday lets. Park Lane is a dark cul de sac and the return side of the pub and club runs up Park Lane. This lane attracts those seeking anti-social behaviour including lewd behaviour in public. Phases 2 and 3 of the development referred to above are yet to be built out. Once completed, there will be bedrooms facing out to the pub and club. The positioning of the buildings and the residential flats are in extremely close proximity to The Park Lane premises and residential amenity should be safeguarded. Residents expect a reasonable level of quiet and enjoyment in their homes particularly at the hours of the evening/ early morning when residents should be able to sleep without interruption from external noise sources and anti-social behaviour on their doorsteps.

The Park Lane is predominately an evening/early hours of the following morning club/venue. The Park Lane premises falls within the Cumulative Impact Area (CIA) as set out in Appendix 1 of Torbay Councils Licensing Statement of Principles 2011. The special saturation policy for the CIA area states *"that a variation of an existing premises licence would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area, unless the applicant can demonstrate within their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives"*.

The extension of The Park Lane's activities to the elevated open area has already led to a substantial increase in noise levels and light intrusion affecting neighbouring premises. The now proposed increase in the number of patrons from 60 to 80 permitted to use the roof terrace area in the evenings and the change in the premises layout on the second floor to include a new licensable area would not promote the licensing objectives in respect of the prevention of public nuisance, public safety and the prevention of crime and disorder and would exacerbate problems of public nuisance due to an increase in capacity. Further notwithstanding that there is a new condition requiring the level of amplified music to be reduced by one third at 3am until closing, the additional condition increasing the hours of playing recorded music on Fridays and Saturdays from 10.00 to 03.30 will increase noise disturbance in the early hours of the morning.

The grant of the licence variation would be contrary to paragraph 3.3 the Prevention of Public Nuisance a) (i) of the Licensing Principles in that the proposal would not prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. The measures in place under the current licence for sound proofing, sound limitation devices etc. do not adequately control noise in an outside area. Even if music played on the terrace itself is low volume, noise from the nightclub is not contained if the door to the area is constantly being opened. We fail to see how noise including any amplified music (even if reduced at 3am) and human voices could be contained adequately in an open elevated area to not cause a nuisance to residents and occupiers of Queens Quay and the 14 proposed new flats in the Phase 2 and Phase 3 developments at QHB.. The application needs to consider the potential for nuisance on both residential and holiday let accommodation at Queen Quays and on the proposed 14 new residential flats referred to above.

The very loud and intrusive noise levels experienced by the Queens Quay residents and holiday let guests since the 2014 variation in The Park Lane's licence and the bringing into use of the open roof terrace have underlined the inadequacy of the report from Acoustic Consultants Ltd. That report was submitted in support of the 2014 Licence Variation application (ref.034746) and in our objection dated 23 June 2014 on behalf of the same objectors as now, we stressed that the tests used did not constitute a realistic basis for predicting noise levels over longer time periods.

The harbour side within the Cumulative Impact Assessment area is well documented for being an area where there are problems and the potential for problems associated with drinking of alcohol. The area is also an area where there can be issues associated with the activities from late night venue premises including the Park Lane in respect of public safety. The variation application is also not in accordance with the licensing objectives in respect of the prevention of crime and disorder and the promotion of public safety.

The company that manages the holiday lets in Queens Quay on our behalf have continuing reports from guests who have stayed in the apartments that there have been detrimental effects on their stay due to noise and disturbance in the area particularly in the late evening early hours of the morning. This has had a seriously detrimental effect on achieving holiday lets and attracting holiday makers to Queens Quay.

A predominately late night venue such as The Park Lane should have to adhere to its strict licence requirements that accord with the licensing objectives in the Licensing Act 2003 and restrict activities comprising the performance of live music, recorded music, dance, other entertainment of a similar description, facilities for making music and for dancing and entertainment late night refreshment to within the internal areas of the building where there should be appropriate measures to allow the activities within the building to be properly controlled in accordance with the Licensing objectives.

4. Conclusion

The application to vary the licence should be refused. The application is contrary to the guiding principles as set out in Torbay Council's Licensing Statement of Principles. In particular the increased number of patrons permitted to use the terrace area into the evenings, increased licensable floor space, increased hours of playing recorded music and the updated conditions has a cumulative impact on residential amenity and would not promote the licensing objectives in respect of the prevention of public nuisance, public safety and the prevention of crime and disorder.

Brecher Solicitors

26 August 2015