



Please reply to: Mr Karl Martin

Community Safety

Roebuck House

Abbey Road

Devon

TQ2 5EJ

My ref: NOU No: 001447

Your ref:

Telephone: 01803 208025

Fax: 01803 208854

E-mail:

Website: www.torbay.gov.uk

Date: 13th December 2011

Dear Ms Butchers

Seamus O'Donnells,

Re: Application to vary existing license Licensing

Seamus O'Donnells, 28 Victoria Parade Torquay

I write further to Mr Gareth Fudge letter dated 1st December 2011 regarding noise nuisance arising from Seamus O'Donnell's.

On the 9th November 2011 I met with you at Seamus O'Donnell's to discuss your proposed application to vary your premises licence. At that meeting you will recall that I suggested a number of conditions with the aim to negate any impact your application would have on the Licensing Objective 'The Prevention of Public Nuisance. Despite having reassurance from you that these conditions will be added when you made the variation application, I note with disappointment the conditions have not been included in your application. This is particularly concerning, as your premises are within the Cumulative Impact Area of Torquay and Torbay Council's Licensing Policy on your type of application, is one of a rebuttable presumption to refuse. The conditions I suggested at that time have been repeated below.

1. All doors and windows shall be shut during all regulated entertainment.
2. A written management plan to be in place to ensure that this doors and windows are kept closed during any regulated entertainment.
3. Noise from licensable entertainment shall not be distinguishable from the ambient noise on the street 10 meters or more from the premises. This shall be assessed from the street. However, should a complaint from a resident in the area be made steps shall be taken to ensure that noise breakout is reduced to a level agreed with the Local Authority and the residents.
4. There shall be no exterior sited speakers or speakers in doorways and lobbies
5. The management of the premises will undertake monitoring of noise breakout from the premises and a written record needs to be kept of this monitoring. This shall be undertaken

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at least once per day.

6. The volume of any regulated entertainment will be under the control of the management at all times. Should monitoring indicate that the volume should be reduced, management shall take steps to ensure that levels are reduced to those agreed in condition 3

Since meeting with you on the 9th November, when initially I did not feel that I had cause to object to your application because you assured me that my suggested conditions would be added to your application, new complaints have been received about noise nuisance coming from your premises which is disturbing nearby residents and denying them of their entitlement to quiet enjoyment of their home. The nature of the complaint has been outlined by Mr Fudges in his letter, dated 1st December 2011.

As Mr Fudge describes, noise amounting to a statutory nuisance has been recently witnessed by two Officers of this authority, inside the home of a neighbouring resident. Though I am pleased to inform you that the weekend of the 3rd and 4th of December 2011 your neighbours felt that following the service of this letter, they were not disturbed by noise breakout to the same level as they have been previously.

Despite this recent improvement, I am not satisfied at this stage that you can demonstrate that you have permanently remedied the noise breakout from your premises, or given enough reassurance by the way of proposed actions or agreement to conditions to control noise breakout should the variation to your premises licence be granted, as per the application made. Consequently on the 22nd December 2011 I will be recommending to the Licensing Committee that your application is not approved by the Members of the Licensing Committee.

This view is supported by Torbay Council Licensing Policy which states applications to vary an existing licence where that the applicant has not properly considered the issue of nuisance will normally not be approved (Sec 4.4 and 5.5).

Mr. Fudge has objected to your variation and you will receive a copy of his objection shortly. In his Representation he has recommended that should the Licensing Committee be minded to grant the variation, the following additional conditions be added to your licence, these are outlined below:-

1. A scheme of sound insulation works to the premises shall be submitted and approved by the local environmental health department. Such a scheme shall include sound insulation works to windows, doors, the wall adjacent to Harbour View Flats and shall include details of the construction of acoustic lobbies and glazing to prevent noise breakout. The scheme of works shall be implemented prior to music being played beyond Midnight.
2. Doors and windows shall be kept shut during the performance of regulated entertainment.
3. Prior to the playing of amplified music, a noise limiter shall be installed in the premises and all music encompassing regulated entertainment shall be played through the noise limiter. The limiter and associated Public Address system shall be kept in a tamper proof case under the control of an independent party.
4. The level of the noise limiter shall be set and agreed with the local Environmental Health Department. The limiter shall be calibrated by annually and set at the level agreed with the Local Environmental Health Department. A report of the calibration shall be sent to the local Environmental Health Department.
5. No changes to the Public Address system shall be made without the express permission of the local Environmental Health Department, this includes moving of speakers or the addition or removal of any equipment.
6. Patrons of the premises shall be reminded by door staff to leave in a quiet respectful manner and the door stall shall take all reasonable steps to ensure that their patrons leave

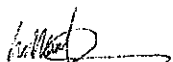
in a quiet manner.

7. Door Staff will monitor the area outside their premises and take reasonable steps to ensure that patrons do not congregate outside the premises.
8. Announcements shall be made on the Public Address system prior to closing reminding patrons to leave in a quiet respectful manner.
9. Door staff operating the nite-net radio system outside the premises shall do so with the use of an earpiece to minimise disturbance caused by the radio.

Please do not hesitate to contact Gareth Fudge or Myself should you wish to discuss any aspect of this letter or offer any proposals to alleviate the concerns I have regarding your variation application.

Should you need to contact us please quote the reference number above.

Yours sincerely



Mr Karl Martin
Noise and Licensing Officer
Licensing and Public Protection

Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.

Cc: Admiral Taverns (780) Limited – 150 Aldersgate Street London EC1A 4EJ