

Memorandum

To:	<div style="border: 1px solid black; padding: 5px; text-align: center;">TORBAY COUNCIL 07 MAR 2019 COMMUNITY SAFETY</div>	From :	Mr Karl Martin
c.c		Contact :	
c.c.		Ext :	01803 208025
c.c		My Ref :	12V SRU No: 249132
For the attention of: Mandy Guy, Licensing Officer		Your Ref :	
		Date :	7 th March 2019

Subject: Variations application Number 052784, Churston Court, Churston Ferrers, Brixham, TQ5 0JE. Premise licence number PL1061

- 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

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1. The application which is the subject of this report was accepted by the Council on the 7th February 2019 following a pre-trial hearing at Newton Abbot Magistrates Court. The pre-trial hearing was in relation to an appeal against a decision made by Torbay Council Licensing Sub-Committee in October 2018 in relations to a review of the Churston Courts premise licence.
 2. At the review hearing a condition was added to the licence removing the exemption under the Live Music 2012. This condition meant live and recorded music was now a licensable activity.
 3. The existing licence does not authorise live or recorded music for outside areas and therefore the applicant seeks to remedy by inclusion of these activities on the licence using the full variation application process under the Licensing Act 2003.
 4. The application seeks live, recorded music and the showing of films outside between the hours of 10:00am – 11:00pm 7 days a weeks.

5. Following the serving of a variation application number, number 052784, a meeting was arranged with Mr Smith et al on the 13th February 2019.
6. Mr Smith (Premises Licence Holder) at this meeting indicated it is not the intention to host music outside at all the times advertised but instead it was an opening negotiating position.
7. Mr Smith was advised to more narrowly define the timings and types of activities he wishes to host as this would greatly help residents, responsible authorities and in time the licensing Sub-committee in their decision process.
8. Three primary issues were identified in the original review hearing (in relations to noise nuisance):-
 - i. Large events
 - ii. Cinema/movie showings
 - iii. Live music on Sunday afternoons

Mr Smith was asked to refer back to his letter to Mr Karl Martin dated 24th August 2018 and verbal assurances given at the licensing review in October 2018 on the control measures he has put forward as solutions to unwanted noise nuisance created during the summer of 2018.

9. At the time of writing this report Mr Smith has engaged the services of an acoustic consultant with experience of managing noise from entertainment venues. The consultant will undertake the following:-
 - i. Establish background noise levels
 - ii. Noise modelling/local acoustic profile
 - iii. Full report with recommendations.
10. As of the 7th March 2019 without the benefit of the acousticians report it is difficult for the responsible authority to conclude informed recommendations to the licensing Sub-Committee.
11. Anticipating the arrival of the report W/C 11th March 2019 I will make no new recommendations at this time and will furnish members of Licensing Sub-committee with an additional report no later than 5 working days before the scheduled hearing date to allow sufficient time for negotiations with the applicant.
12. However, based on evidential facts to date the author has nothing new to offer in terms of reassurance and therefore I refer Members to the decision notice issued after the review hearing on the 25th October 2018.



Karl Martin
Public Protection Officer
Licensing and Public Protection
Community Safety
Torbay Council