

Memorandum

To: Licensing and Public Protection Team **From :** Mr Karl Martin

c.c. TORBAY COUNCIL **Contact :**

c.c. 0 8 NOV 2019 **Ext :** 01803 208025

c.c. COMMUNITY SAFETY **My Ref :** 1ZV SRU No: 253247

For the attention of: Gary O'Shea, Principle Licensing Officer **Your Ref :**

Date : 8th November 2019

Subject: New application, Harbour Lights, North Quay, Paignton

- 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
1. The building known currently as the Harbour Light is a 16th Century Grade II listed building. Throughout most of the buildings history it has been used for fish and general harbour storage. In recent times the building has been used as a restaurant as well as general storage for the working harbour. Please see Appendix 1 for locations maps and Appendix 2 for site photographs.
 2. A previous owner converted the Justice licence under grandfather rights to the Licensing Act in 2005. Terminal hour for alcohol under this licence was 11:00pm with premises closed by 00:30 am.
 3. This application retains the same operational hours, except for bank holidays, however the terminal hour for alcohol now ceases at midnight, except for bank holidays.
 4. The applicant seeks to only to use the benefit of deregulation afforded by the Live Music Act 2012 in respect of Live Music, but does seek recorded music until midnight.
 5. The applicant is extending the physical premise boundary by the inclusion of 3 external seating areas. Please see the premises plan submitted with the application.
 6. External live or recorded music is not requested in this application, subject to the provisions of the Live Music Act. However in the operating schedule a condition has been proposed ruling out regulated entertainment in any exterior area. This may offer a reasonable degree of reassurance.

Internal noise

7. Due to the constructions of the building, the distance from the nearest dwelling and the nature of the premises I do not believe recorded music until midnight will impact on the local community.

External noise – dispersion of customers

8. Due to the nature of the business and premises capacity it's not anticipated this application will impact on the community.

External noise – Exterior seating areas

9. Zone 1
The applicant has submitted as part of the operating schedule a schedule of conditions aimed at preventing nuisance and disorder. Combining the proposed conditions with a number of physical factors I do not believe this area will impact on the community.

Zone 2 & 3

The proximity of three residential dwellings situated on the cliff above these seating areas is a cause of concern. Two out of three do not have direct line of sight and are sighted approximately 7 metres above the proposed seating area. However the architects plans imply circa 100 people could be seated across zone 2 & 3.

The diagram in Appendix 1 shows 100 people talking at a moderate level could produce a sound pressure level of 45 dB at the façade of the second nearest residential building. In a bedroom 10 dB is removed to factor the effect of the open window. At 35dB the criteria of BS 8223 is complied with. Above 35dB is likely to impact on the ability to sleep.

The figures inputted into the diagram are conservative and does not take into account the natural variance in human speech or aspects which can cause nuisance or annoyance. Also not included is the effect this may have on residents wishing to use their gardens.

The diagram has been included in this representation to highlight how little buffer exists between not undermining the licensing objectives and causing a public nuisance.

The applicant is changing the use of the area, because to my knowledge the area has not been used for seating before. As a result this aspect of the application requires careful and detailed consideration.

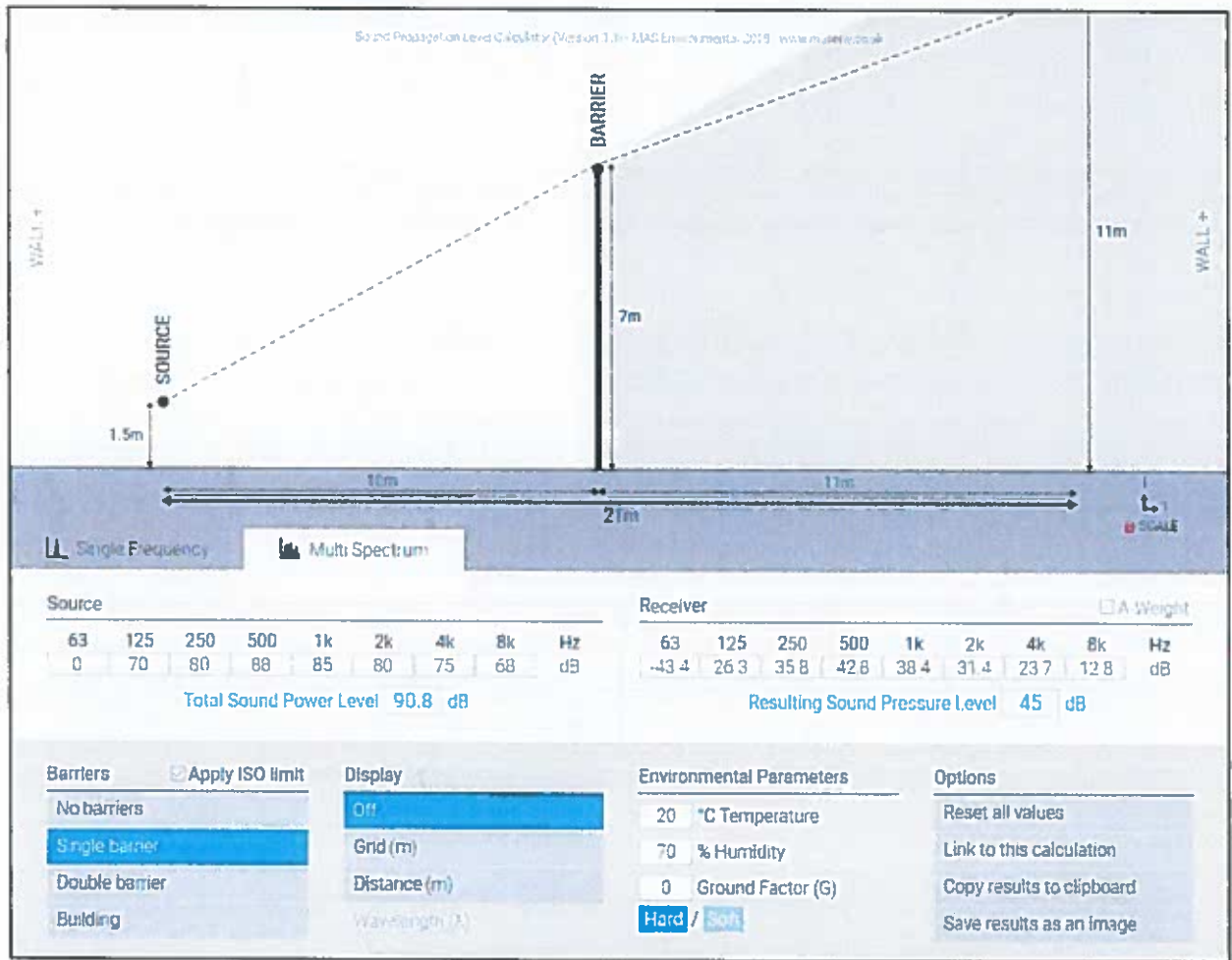
The use of this area as a seating space I do not object to, but rather the terminal hour remains the primary area of concern.

10. Consultation with the applicant's agent will continue and I am confident a satisfactory outcome will be achieved that is acceptable to both the applicant and residents.
11. Please see Appendix 2 for area photographs and maps.

Karl Martin

**Public Protection Officer
Licensing and Public Protection
Community Safety
Torbay Council**

Appendix 1 – Sound propagation test



Appendix 2 – Google Maps and photographs

2.1



2.2



