

Memorandum

To: Licensing Team	From : Community Safety
c.c	Contact : Mr Karl Martin
c.c.	Ext : 01803 208025
c.c	My Ref : SRU/262774
For the attention of: Sarah Clarke	Your Ref : Date : 15 th June 2021

Premises Name & Address: Crab and Hammer, South Quay, Paignton Harbour, Paignton, TQ4 6DU

Subject: New application – Licensing Act 2003

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 premises, situated in Paignton Harbour, occupies the ground floor of a building with residential accommodation situated on the floors above and to the side. See Appendix 1.
2. The ground floor level has previously been used as an industrial unit. No record of any planning application for change of use was found on Torbay Council Planning portal. The applicant may wish to clarify if a planning application has been submitted.
3. In the past residents living in the flats above have mentioned to Officers they could hear noise from industrial unit on the ground floor, but as the operation was largely confined to the daytime no official complaints were received. However this does indicate the building may have poor sound attenuation properties that need consideration, particular for licensed premises.
4. I would expect as part of the application the applicant would have submitted documentation such as a noise consultant report to offer some reassurance to residents and the responsible authority that noise nuisance arising from the business has been considered.
5. Had a planning application been submitted, Environmental Health would have required a noise impact assessment to be undertaken by the applicant and any remedial works completed.
6. Torbay Councils Licensing Statement of Principles P22 Para 4 states: -

'Where Applicants are completing Operating Schedules, they are expected to have regard to the location of the proposed or actual premises. In particular, consideration should be given to whether proposals may have a disproportionate impact in residential areas or near to sensitive premises

such as nursing homes, older people's accommodation, hospitals, hospices, schools, childcare facilities or places of worship.'

There is no indication in the operating schedule that the applicant has considered noise transmission through the building and impact this may have on the existing residential properties.

7. The Responsible Authority notes the terminal hour for alcohol is at 11:00pm with a premises closure at 11:30. The applicant wishes to use the benefit of the Live Music Act 2012 and therefore this activity does not require authorisation, however this does not absolve the applicant from the requirement of the Environmental Protection Act 1990.

8. When the Council receive complaints about licensed premises situated underneath residential accommodation the lack of suitable sound insulation is often identified as the main cause. Most commonly experience by residents includes disturbance from music (even at a low volume), voices, doors closing, catering noise and noise from the movement of furniture.

9. Torbay Councils Licensing Statement of Principles P42 Para 5 states:-

Applicants with access to outdoor spaces, such as beer gardens and designated smoking areas, may be asked to provide a written noise management plan if the location of outdoor spaces is adjacent to or in proximity of residential accommodation or hospitality services, such as hotels and B&Bs.

The operating schedule makes reference to an outdoor seating area, yet the operating schedule is silent on how this area will be controlled. An outdoor seating area situated directly under residential accommodation needs to be considered. I would urge the applicant to produce a suitable and sufficient noise management plan.

10. The operating schedule states deliveries will take place at a time to minimise disruption to residents, but what time will this be? Likewise emptying of rubbish is stated as 'will be minimised' after 11pm. The emptying of beer bottles into waste bins has been recorded as producing a peak level of 120dB and is often cited by residents as a nuisance.
11. The application is also silent on the matter of extraction equipment for the kitchen. Is there one? Has planning permission been applied for? What is the specification? Has it been designed to minimise noise and odour nuisance? How will it be maintained?
12. In summary licensed premises such as bistros, restaurants and Cafes generally do not cause public or Statutory nuisance. In cases where this type of premises do it is almost always because of the lack of sound insulation between the licensed premises and adjoining residential accommodation. Applicants must consider the impact of the proposed activity will have, especially in situations where a change of use is taking place.
13. At this time I will not make any formal recommendations as the applicant may wish to provide further supporting evidence to alleviate the concerns raised by residents and those contained in this report.

Mr Karl Martin
Public Protection Officer
Torbay Council

