

Memorandum

To:	From	:	Community Safety
c.c	Contact	:	Mr Karl Martin
c.c.	Ext	:	01803 208025
c.c	My Ref	:	FRANX/KJM/REP
.	Your Ref	:	
For the attention of: [REDACTED]	Date	:	14 th February 2022

Premises Name & Address: Franx lifestyle Ltd, 343 Torquay Road

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

Prevention of Public Nuisance

1. The premises is situated in a mixed-use area. Immediately above and to the left and right consist of residential units with commercial enterprises below.
2. The arrangement of former houses which have been split into mixed use is not uncommon in Torbay. However, the Authority does receive complaints from residents living above or adjacent to these types of conversions regarding noise nuisance. Predominately in the form of recorded/live music and/or noise from patrons.
3. 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. For example, the applicant has not sought reassurance by providing information on the current sound insulation properties of the building.

4. Furthermore, the applicant seeks recorded music until midnight on a Friday and Saturday. Past 11:00pm the Live Music Act no longer applies. The applicant has not suggested any conditions on how they might control noise nuisance past 11:00pm.
5. 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/patio area, yet the operating schedule is silent on how this area will be controlled. The risks of nuisance occurring from 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 and propose suitable conditions.

6. Torbay Councils Licensing Statement of Principles P43 Para 9 states:-

'There will be an assumption however, that licensed premises in residential areas, or where there is close proximity to residential properties or hospitality services, will only be allowed to undertake licensable activities until 11pm, unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant Representations have been received.'

7. 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 full impact of the proposed activity will have upon the surrounding area and show evidence in the application.
8. The Licensing Statement of Principles clearly indicates this application should not be granted as applied for. However, 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 the Responsible Authority for the Prevention of Public Nuisance.

Mr Karl Martin
Public Protection Officer
Torbay Council