

# Memorandum

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| <b>To:</b>   | <b>From</b>         | <b>: Community Safety</b>                   |
| <b>c.c</b>   | <b>Contact</b>      | <b>: Mr Karl Martin</b>                     |
| <b>c.c.</b>  | <b>Ext</b>          | <b>: 01803 208025</b>                       |
| <b>c.c</b>   | <b>My Ref</b>       | <b>: 1ZV SRU No:<br/>180209/KJM/ADDINFO</b> |
| <b>For the attention of: Licensing<br/>Mandy Guy</b> | <b>Your<br/>Ref</b> | <b>:</b>                                    |
|  | <b>Date</b>         | <b>: 23 January 2014</b>                    |

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**Subject: Premises– Licensing Act 2003**  
**Premises Name & Address: Marstons PLC, Newton Road,  
Edginswell, Torquay.**

I write further to my representation memorandum reference 1ZSRUNO:180209/KM. Since I made my initial representation I have been engaged in consultation with Michelle Hazelwood, nominated solicitor on behalf of Marstons Plc. I wish to make it know to the licensing committee the outcome of these consultations as supplementary information for members consideration.

In my representation I raised 10 points of concern with the application. I can confirm by way of conditions the applicant has addressed all concerns except point 7 in my representation:-

*7. The applicant has not offered any remedial measure for controlling noise from vehicles using car parking facilities. The car park is adjacent to the boundary with residential accommodation.*

Furthermore assuming no further amendments where made by the applicant it was my recommendation to the committee to consider refusal of the application or a reduction of the operating terminal hours for alcohol to be restricted till 11:00pm in line with Torbays licensing policy:-

- 1. Refuse the application on the grounds the application does not promote the licensing objective 'The prevention of public nuisance' in accordance with Licensing statement of principles.*
- 2. Reduce supply of alcohol and all requested licensable activities to 11:00p.m. Monday to Sunday.*

An agreement on terminal hours has not been discussed in detail and therefore no agreement reached. Although as my initial concerns was the children's play area, now to close at 9:00pm each day and live music inside, now to cease at 11:00pm. I feel I can move from my original position of a terminal hour at 11:00p.m. because I hold the view the applicant has demonstrated consideration of the criteria laid out in the Licensing Statement of Principles, Torbay Council, 2011, p37-38. Yet I would not support the 1:00a.m terminal hour as applied for because not all of the points raised in my representation have been considered.

However I do urge the Licensing Committee members to consider this view and I request on balance the premises terminal hour should be not later than midnight Monday-Sunday

with exception of New Years Eve, where an additional hour could be granted. I can justify this view as the applicant has not identified suitable remedial to address point 7 of my representation and the location for the proposed site is a residential area. An area currently enjoying the benefit of an undeveloped site.

For members convenience I have reproduced below agreed conditions. In my professional view addresses the majority of concerns I have made in my representation and those raised by residents:-

1. Where appropriate prominent and legible notices shall be displayed at all exists requesting the public to respect the needs of the local residents and to leave the premises and area quietly.
2. Live music provided internally will cease at 11 p.m.
3. Use of the external children's play area will cease at 9 p.m.
4. Use of the external terrace areas will cease at 11 p.m. in respect of licensable activities.
5. Noise relating to licensable activities shall not be audible within any dwelling with windows open for normal ventilation especially after 23:00 hours. This shall be assessed from the boundary to the nearest residential properties on all sides of the licensed premises. The criteria that shall be applied are:-
  - (i) Before 11 p.m. Noise emanating from premises shall not be clearly distinguishable above other noise.
  - (ii) After 11 p.m. - Noise emanating from premises shall not be distinguishable above background levels of noise.
  - (iii) The local authority shall reserve the right in cases of tonal noise and where premises are attached to others, to make further assessments from within the residential property.
6. Doors and windows must be kept shut during entertainment to reduce noise breakout. A management scheme will be in place to ensure this situation remains.
7. Suitable and sufficient means of ventilation must be provided and maintained in accordance with the manufactures guidelines.
8. Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.
9. Provision of mechanical ventilation or similar system shall not allow noise breakout from the premises or cause a nuisance by its operation.
10. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.  
The volume of any regulated entertainment will be under the control of the management at all times.

**Mr Karl Martin**  
Public Protection Officer