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 **Brecher**

Solicitors

TORBAY COUNCIL
24 JUN 2014
COMMUNITY SAFETY

Torbay Council
Licensing and Trading Standards Service
Town Hall
Castle Circus
Torquay
TQ1 3DR
FAO: Mandy Guy, Licensing Officer

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64 North Row
London W1K 7DA

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www.brecher.co.uk

DATE: 23 June 2014

YOUR REF:

Via email on 23 June
mandy.guy@torbay.gov.uk

OUR REF: RL/M30-29

Dear Mandy

**Representation/Objection in Respect of Variation Licence
Park Lane 1 Torwood Street Torquay TQ1 1ED**

Please find attached an objection/representation in respect of the above Variation Licence application made by Jam Leisure (Park Lane) Limited to their existing premises licence in respect of Park Lane, 1 Torwood Street, Torquay, Devon. The objection enclosed is submitted on behalf of the parties and persons named in section 1 of the document.

Please can you keep me informed in respect of the committee date for hearing this Variation Licence. I understand at present this matter is scheduled for licensing committee on 17 July at 9pm. Could you also forward a copy of the committee report once it has been prepared and published in advance of the committee date.

Please do not hesitate to contact me if any further information is required.

Yours sincerely


Brecher Solicitors




PARTNERS Andrew Brecher, Valerie Brecher, Jeremy Abram, Nicky Richmond, Michelle Brown, Redmond Byrne, Bradley Lee, Gillian Locke, Lisa Mantle, Michael Nee, Janice Northover, Bryn Robertson, George Saade, Belinda Solomon, Victoria Symons, Dominic Whelan.
SENIOR CONVEYANCER Anita Michaelides.

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OBJECTION TO VARIATION LICENCE
THE PARK LANE 1 TORWOOD STREET TORQUAY TQ1 1ED

1. Objectors:

- a. [REDACTED] 1 name
[REDACTED]
- b. [REDACTED] 2 names
- c. [REDACTED] 4 names
[REDACTED]
- d. [REDACTED] 1 name

2. Variation Licence Application submitted by Jam Leisure (Park Lane) Limited to their existing Premises Licence in respect of Park Lane, 1 Torwood Street Torquay Devon TQ1 1ED for an application to vary the existing licence by reference to a plan to include an additional licensed area of the premises consisting of the roof top terrace (roof space at front of the building as a beer/smoking garden). It is suggested from the application as submitted, that this terrace could accommodate up to 100 people and be open during the operational hours of the premises till 3/4am, including playing amplified/ live music.]

3. Grounds of Objection

We object to this application on the grounds of the detrimental impacts of noise and disturbance, potential smell for cigarettes, light intrusion that the use of an outdoor elevated area used in the late evening/early hours of the morning in close proximity to the residential flats at Queens Quay will cause.

Both Queens Quay and Park Lane are located within a mixed land use area. Most properties along Victoria Parade have commercial premises on the ground floor and residential or other uses at the upper floor levels of the buildings.

Queens Quay consists of commercial premises on the ground floor with residential flats above. Some of these residential flats are occupied full time by residents and others are used as holiday lets. Additionally further residential units are to be built at Queens Quay. The positioning of the buildings and the residential flats are in extremely close proximity to the Park Lane premises. Residents should expect a reasonable level of quiet and enjoyment in their homes particularly at the hours of the evening/early morning when residents should be able to sleep without interruption from external noise sources.

Park Lane is predominately an evening/early hours of the following morning club/venue. The Park Lane premises falls within the Cumulative Impact Area (CIA) as set out in Appendix 1 of Torbay Council's Licensing Statement of Principles 2011. The special saturation policy for the CIA area states "that a variation of an existing premises licence would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area,

unless the applicant can demonstrate within their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives”.

Extending the Park Lane premises activities to an elevated open area of the building (terrace) would be contrary to the guiding principles as set out in Torbay Council's Licensing Statement of Principles. In particular the use of the terrace area into the evenings would not promote the licensing objectives in respect of the prevention of public nuisance, public safety and the prevention of crime and disorder.

The grant of the licence variation would be contrary to paragraph 3.3 the Prevention of Public Nuisance a) (i) of the Licensing Principles in that the proposal would not prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. The measures in place under the current licence for sound proofing, sound limitation devices etc. cannot be used to control noise in an outside area. Even if music played on the terrace itself is low volume, noise travels and how will noise from the nightclub be contained if the door to the terrace area is constantly being opened? We fail to see how noise including any amplified music and human voices could be contained adequately in an open elevated area to not cause a nuisance to residents and occupiers of Queens Quay. The application needs to consider the potential for nuisance on both residential and holiday let accommodation at Queen Quays.

We note the contents of report on predicted noise levels from Acoustic Consultants Ltd dated 29 April 2014 but feel that this report contents and predictions need to be approached with a great deal of caution. The consultants have used drawings supplied for the proposed new roof terrace. Both the acoustic report and drawings are part of the planning application (not yet determined) (ref: 2014/0530) for the use of the roof area as a terrace. The reported monitoring measurements of noise levels was drawn from a single evening's sample recorded outside Park Lane during the night of 29/30 March 2014. We do not accept that this is a realistic basis to predict noise levels from the rooftop terrace at any time, but especially not during the summer months when local hotel occupation is greatest and residents will want to open windows, making vulnerability to noise nuisance all the greater.

The noise level measured by Acoustic Consultants Ltd was generated by smokers going outside for a quick cigarette on a chilly March night; it's highly unlikely that non-smoking friends would have joined them or that they would linger outside of the premises. Under the proposals however, things will be very different as tables, chairs and music would be provided on the terrace, not only encouraging smokers to stay out longer but also making it likely that non-smoking members of their group will come out with them, enjoying drinks and a break from dancing. We would as a result expect to find a much larger number of people on the terrace in warm weather, for much longer, than on the street in March.

A further cause for concern is that all the people on the terrace will have come directly from inside the nightclub premises playing loud music; they will inevitably have a tendency to shout as a result, something exacerbated by alcohol consumption. The noise from neighbouring conversations would have a cumulative effect, causing people to talk even louder, something witnessed inside any busy public place.]

The harbour side within the Cumulative Impact Assessment area is well documented for being an area where there are problems and the potential for problems associated with drinking of alcohol particularly in the evenings/early morning . The area is also an area where there can be issues associated with the activities from late night venue premises including the Park Lane in respect of public safety. The variation application is

also not in accordance with the licensing objectives in respect of the prevention of crime and disorder and the promotion of public safety.

The company that managed the holiday lets in Queens Quay on our behalf have reports from guests who have stayed in the apartments that there have been detrimental effects on their stay due to noise and disturbance in the area particularly in the late evening/early hours of the morning.

A predominately late night venue such as the Park Lane should have to adhere to its current licence requirements that restrict activities performance of live music, recorded music, dance, other entertainment of a similar description, facilities for making music and for dancing and entertainment to within the internal areas of the building where appropriate measures allow the activities to be properly controlled in accordance with the Licensing objectives.

4. Conclusion

The application to vary the licence should be refused. The application is contrary to the guiding principles as set out in Torbay Council's Licensing Statement of Principles. In particular the use of the terrace area into the evenings would not promote the licensing objectives in respect of the prevention of public nuisance, public safety and the prevention of crime and disorder.

Brecher Solicitors

23/6/14

~~3 Park Lane~~

~~Lease 07976432706~~

~~XXXXXXXXXX
XXXXXX
XXXXXX
XXXXXX
XXXXXX~~

Dear Sir/Madam,

Ref. Licensing Application

R.E. Planning Permission for Outside smoking Terrace at Park Lane, Torwood Street

TORBAY COUNCIL
23 JUN 2014
COMMUNITY SAFETY

We and the neighbours of Park Lane, Torquay are writing to you to formally object to the Planning request for the above mentioned premises. Please find below our reasons /concerns regarding this...

- (i) We object to music being permitted on the smoking terrace due to Park Lanes Music volume already being at an unacceptable level until all hours of the morning. Having music in the outdoor smoking area will only exasperate this.
- (ii) The people capacity of the premises is already at a very high level with many of their customers spilling out on to the streets and up to park Lane. This spillage causes a major concern for residents in the lane due to noise levels and unacceptable behaviour which results in the police being called on a regular basis.
- (iii) We understand that the smoking shelter will deter people off of the street/Lane but Capacity will be increased and therefore smoking shelter and lower outside area will still continue to be used due to the high volume in customers. In recent weeks the police have been called to the Lane due to unacceptable and threatening behaviour by users of this club, this has now caused a major distress to many of the residents in the lane.

We would further like to add that responsibility needs to be taken by the owners of Park Lane in ensuring that serious measures are taken to protect and respect the residents who reside here and have to endure night after night shouting, noise and abuse which only continues to worsen coming into the busy summer months. Most of us who live in the lane have experienced criminal damage to our possessions and intimidation from customers of this venue. Serious action needs to be taken before any more planning permission is granted to this premises.

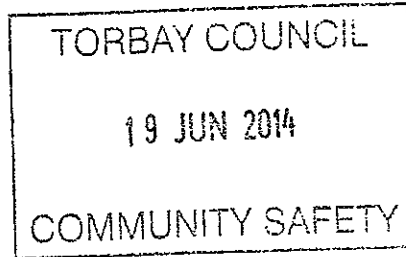
Please find attached a petition from residents who reside in and around Park Lane Nightclub who object to this Planning application.

We await your response,

Petition attached with
20 Signatures

Yours Sincerely,

~~XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX~~



19 June 2014

The Offices of the Executive Head of
Community Safety,
Torbay Council
Roebuck House, Abbey Road
TORQUAY
Devon, TQ2 5EG

Dear Sirs

**Re: Application by Jam Leisure (Park Lane) Limited,
Park Lane, 1 Torwood Street, Torquay, TQ1 1ED.**

We write to make the following representations against the application which has been submitted pursuant to the Licensing Act 2003 to vary the above named premises licence.

We write as Lifestyle Hospitality Group Ltd, the parent company of Cafe Mambo and the Apple and Parrott Public House situated on the Harbourside, Torquay.

As local business owners who operate in the vicinity of the premises which are subject to the application we make these representations to oppose the granting of the variation as it presently stands.

We do not do so for any commercial reasons but rather because the conditions which are attached on the numerous licenses in the Harbourside area are key to ensuring that the area remains a safe place for members of the public to go out and enjoy themselves in the evening without detriment to local residents.

In particular, having experience of a premises which has a roof terrace and a terrace at first floor level, we note in particular that the applicant seeks no alteration to their conditions which are presently attached to the licence in order to deal with the different issues which will foreseeably arise should the application be granted.

We have not had the benefit of the acoustic report which we understand has been prepared for the committee. We appreciate that it will be a matter for the committee to decide as to whether or not issues concerning noise nuisance may well arise as a result of any variation being granted.



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Mambo, Apple & Parrot, Hooks, Tiger Bills, Bombay Bills, The Gissons, Fast Eddie's, The Rooftop Lifestyle Events, Lifestyle Enterprises & Lifestyle Venues are all trading names of The Lifestyle Hospitality Group Ltd. Registered address: 2nd Floor Offices, Harbour Point, Victoria Parade, Torquay TQ1 2BD. VAT No. 997 3158 64. Company Registration No. 07150528 (England)

However, you will note by way of illustration conditions which are presently attached to our licence in order to uphold the licensing objectives. In particular the conditions attached to the use of our terrace in order to prevent noise nuisance, these conditions have been successful in assisting us to uphold the licensing objectives. Therefore it seems evident to us that the application as presently drafted does not adequately seem to reflect or deal with the issues that specifically arise in the use of a terrace, especially given the proximity of the terrace to adjacent residential properties.

The committee will be aware that the application is within an area subject to the cumulative impact policy established by Torbay Council. That being the case, you will no doubt be advised that there is a rebuttable presumption that any variation which is not deemed to be a minor one will be refused unless the applicant can show by their operating schedule that they are prepared to accept conditions which will ensure that the licensing objectives are in no way impinged.

As presently drafted, the application merely seeks to extend the existing conditions to that of a roof terrace.

We believe that the failure by the applicant to consider conditions which can be imposed to deal with the issue of the roof terrace can only lead to the conclusion that the application is flawed.

The fact that the application does not seem to appreciate the different manner in which a roof terrace needs to be operated, in our experience shows that they have not addressed their minds to the issues which open air drinking at height will have.

Furthermore there is no consideration given by the applicant to limiting the numbers of patrons who they anticipate will be able to use the terrace. This has been a key consideration for us in upholding the licensing objectives and no doubt the effective use of limitation of numbers through conditions attached to a licence should equally apply to this application as it does to our existing licence.

Presently the applicant is subject to a condition in relation to SIA Door Stewards which merely deals with matters concerning an overall ratio of stewards on duty.

We are only too aware, and no doubt the committee will appreciate, that open air drinking at height can cause its own difficulties and therefore such an area needs to be specifically stewarded as outlined in the conditions which we have upon our licence.

As presently drafted, the application would allow no particular increase in SIA Door Staff but more importantly no adequate supervision of the roof terrace because



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the conditions do not allow for there to be specific supervision of the terrace at all times whilst it is being used.

The fact that the applicant appears not to have considered this in their application, we submit also shows that they have failed to discharge the burden which is required in this application.

By way of example, and appreciating that each application needs to be dealt with on its own merits, we respectfully refer the committee to the conditions which are attached to our licence which reflect the fact that when one is dealing with a relatively old building and where there are stairs, different levels and different areas for the consumption of alcohol then specific attention needs to be addressed within the conditions to ensure that all patrons are properly supervised. A general 1:100 ratio is not specific enough. In order to uphold the licensing objectives staff need to be properly deployed in a consistent manner throughout the premises in order to deal with any issues as and when they arise.

The nature of a roof terrace creates its own problems and in particular concerning the conduct of customers which if not dealt with swiftly and under supervision can lead to an undermining of all four of the licensing objectives.

In this representation we do not seek to suggest the sort of conditions which ought to be applied to the premises, and no doubt the committee will wish to look in detail at the layout of the premises and the opportunity to ensure that the patrons at all times are supervised and safe.

However, by way of illustration we refer you to our premises licence at 652 of the Public Register which in particular not only deals with the number of SIA qualified staff but also where they should be positioned at the premises at certain times in order to ensure that the licensing objectives are upheld.

We therefore invite the committee to reject the variation on the basis that the applicant has not discharged their burden and alternatively should the committee be minded to grant the variation they do so by imposing specific conditions which will ensure the adequate supervision of all patrons of Park Lane.

Furthermore we submit that it would be appropriate in considering the need to uphold the licensing objectives to assess and apply conditions that would limit the use of the outdoor area to specific times; limit activities to smoking rather than drinking to specific hours; limit the number of patrons who are allowed onto the balcony; distinguish between those seated and standing; restrict the hours music can be played and establish control mechanisms for the control of numbers throughout the premises and on the balcony in particular.'



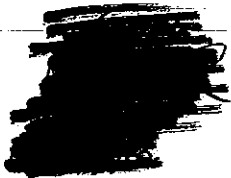
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VAT No. 997 3158 64 | Company Registration No. 07150528 (England)

We raise these issues in particular because of the need for all businesses to take their responsibilities seriously. Due to the fact of there being two roof terrace areas for the conduct of licensable activity potentially arising around the harbourside.

We submit that it is important that the local authority, in considering enforcement, is able to direct its attentions to where mischief is actually made as opposed to where it is perceived. This will ensure that all premises on the harbourside act according to the spirit as well as the letter of the law in this regard.

Yours faithfully



For and on behalf of
Lifestyle Hospitality Group Ltd



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VAT No. 997 3158 64 | Company Registration No. 07150528 (England)

[REDACTED]

From: [REDACTED]
Sent: 24 June 2014 10:02
To: [REDACTED]
Subject: FW: Park Lane objection
Attachments: Queens quay windows - left.jpg; park lane proposed outside area 2 from queens quay.jpg; park lane proposed outside area from queens quay.jpg; park lane to the right of queens quay window.jpg

From: [REDACTED]
Sent: 15 June 2014 23:10
To: [REDACTED]
Cc: [REDACTED]
Subject: Park Lane objection

Dear [REDACTED]

On Friday 13th June, we had a different set of busker /singers out, also heavy base music around the harbour, which I do not believe was offshore or shiraz. I noticed these venues regularly have all the chairs outside which does cause street noise until they appear to close ie, midnight, 1am. I believe by video evidence gave previously which was timestamped did show this.

[REDACTED]

Karl, could you forward the below revised representation for Park Lane, objecting to the opening of Park Lane roof top to 100 people, with alcohol and no doubt music.

Since we have lived at Queens Quay, from 2010, we have had numerous problems with associated premises in the harbour area, which are well documented by the council licensing committee, with many abatement notices being served, these include Park Lane, Mambos, and Shiraz.

The noise breakouts and continued problem put us off, and neighbours who have holiday rental from coming to torquay due to the noise created from venues that are generally poor at dealing with noise breakout, and dealing with the foul mouthed shouting and chanting from 9pm until 4am, seven days a week.

To name a few problems that have led to action:

Noise from subway, resulting in signs being put up to respect the neighbours

Apple and Parrot, outside and bands, which resulted in abatement notice being served

Street noise from Trents and Park Lane, Trents now closed, Park Lane improved as smoking is not allowed in foyer area.

Music from Park Lane (exits the rear of the building and enters through the back of the apartments) - abatement notice was served - I have enclosed pictures showing the proximity.

Shiraz / Offshore live bands and pavement street noise - resulting in abatement notices being served and ongoing actions

Mambo - resulted in licence suspension due to noise, violence and inappropriate behaviour, the balcony areas where then reduced in times allowed for alcoholic beverages, with the top floor only allowed to open until 11pm.

I am unsure how many people spot these licence applications, but generally as neighbours are not written to, one has to keep checking the council website to see who is applying for what.

Living at [REDACTED], on a noisy night of venues breaking their licence conditions and not dealing with noise breakout, which in turn makes a noisier street, impacts us in the following way:

1) Sleep deprived, so a stay of 2-3 days means can be very tired, and then driving to work during the week very Hazardous, which ultimately puts us off staying along with other rental customers, affecting revenue, and enjoyment of the property, impacting spend brought into Torquay for shopping, restaurants etc

2) Most nights there is a disturbance of some sort, within the harbour

3) The council will be used our previous noise diary for Mambo before they were eventually shut down with tighter conditions before re-opening, where every weekend there would be a disturbance of some sort. I see Park Lanes proposal to be bigger and alot closer.

4) The licensing commitee needs to consider The harbour is in a mixed use area, of restaurants, holiday lets, residents, and clubs, and any decision should be consistent with the surrounding environment.

5) Imagine the noise of 100 people in a restaurant, but then multiplied by alcohol and potential music, within 20-30ft of your bedroom window. I have enclosed pictures to get the point across of how close, please be aware there are flats right next to Park Lane, and the proposed development of the rear of Queens Quay.

6) The venue, advertises on facebook as a 12am - 4am venue, outside places in other places such as cities in mixed areas are closed by 10/11pm at the latest, even so why would I want to eat my dinner with 100 people next door in an open area, with the potential to see in the windows, and the noise breakout.

7) Given we are in cummulative impact area, any expansion of facilities should be resisted, and the correct balance be given to residents, holiday makers, cafe culture etc. I do not see how a roof top until 4am fits within the town plan

8) I see this as an over-development of a premises, in which it looks like some works has already started.

9) Lets be clear the harbour gets rowdy behaviour during the day, how will any disturbances be managed.

10) the area looks very small for 100 people

Please note I do not have an objection for a seated eating area during the day time, as long as noise breakout, rowdy behaviour is managed effectively, ie licence for 20-30 seated, closing 5-6pm no music.

[REDACTED]

Best Regards

[REDACTED]



