

Memorandum

To:

TORBAY COUNCIL

From : Community Safety

c.c

04 DEC 2014

Contact : Mr Karl Martin

c.c.

Ext : 01803 208025

c.c

COMMUNITY SAFETY

My Ref : 1ZV SRU No:

For the attention of: Mandy Guy

Your :

Ref

Date : 4th December 2014

Subject: Premises– Licensing Act 2003

Premises Name & Address: Meat 59, 59 Abbey Road, Torquay

1. The applicant prior to the submission of the application under consideration consulted with all relevant parties as recommended by Torbay Council licensing Statement of Principles 2011 which suggests:-

'In order to reduce the risk of relevant representations and the cost and delay of a contested hearing, applicants are strongly recommended to consult with the relevant Responsible Authority...'

2. As part of the consultation I carefully considered the intended use of the premises, history of the premises and the noise sensitivity of the environment in the surrounding area. As part of this consultation agreements were reached with regards to additional conditions and amended timings to ensure the licencing objective 'Prevention of Public Nuisance' would not be undermined by the granting of this application.
3. The agreed conditions are:-
 - a. *Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be unreasonable disturbed.*
 - b. *All equipment capable of amplification shall be under the control of the management at all times and not be in a place accessible to the public.*
 - c. *The placing of refuse, such as bottles, into receptacles outside the premises takes place at times that shall prevent disturbance to nearby properties.*
 - d. *Deliveries of kegs, bottles, food or other materials necessary for the operation of the business shall be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.*
 - e. *The licence holder shall ensure that staff who arrive early morning or depart late at night when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents.*
 - f. *Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.*

- g. A specified taxi operator shall be nominated for staff and customers' use. The company's telephone number shall be advertised to customers. The operator, and all drivers, are aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily. In addition, staff shall leave as quietly as possible, particularly at night and early in the morning.*
- h. After 10:00pm Monday to Sunday customers wishing to use outside areas for the purpose of smoking shall be limited to no more than 6 customers at any one time.*
4. Operating hours were agreed at 7:00am opening and an 11:00pm closing, Monday – Sunday. These timing equally apply to the sale of Alcohol and licensable activities.
 5. Recorded music has been applied however this premise will benefit from the exemption under the Live Music Act 2012
 6. A premises licence was granted to 59 Abbey Road in November 2005 following a licensing hearing. This licence was surrendered in January 2009. Please see Appendix 1. It can be noted that the previous licence had later operating hours and licensable activities.
 7. A cafe operated at the premises from summer 2009 until Summer 2014. No alcohol premise licence existed during this time.
 8. A record search identified 2 noise complaints associated with number 59 since 2004:-
 - a. June 2005 – A enquires was made about potential noise nuisance. Advice given to resident. Record not clear, but no further action was logged.
 - b. May 2010 - A complaint was made by the then operator of the former cafe about loud music emanating from Flat 1. A street warden advised resident to turn music down.
 9. On the 3rd December 2014 a resident made a complaint about a humming noise and DIY noise coming from the building. The residents were concerned about being disturbed by customers and music until late at night when the premises opened.
 10. On the 4th of December the residents submitted a valid representation.
 11. At the time of writing the allegation made by the residents relates to lack of sound proofing between the ceiling of the premises and the floor of the residential flat.
 12. I'm satisfied the application being considered is for the operation of restaurant/cafe and as such I'm confident this premises will not give rise to public nuisance and risk undermining the licensing objectives.
 13. However an allegation has been made about general noise breaking out and at the time of writing this report consultation with the applicant and resident continues.

Mr Karl Martin
Public Protection Officer

Appendix 1.0 – Previous licence

Licensing Act 2003 - Premises Licence register as at 11:38 on Thur 04 Dec 2014

Richmonds Restaurant

59 Abbey Road, Torquay, Devon, TQ2 5NQ

Premises Licence from 24/11/05 to 19/01/09

Licence Holder(s)

-

Designated Premises Supervisor

-

Permitted Activities:

- any playing of recorded music
- provision of late night refreshment
- the sale by retail of alcohol

Premises Open Hours granted

	<i>Time From</i>	<i>Time To</i>
Monday to Sunday	8:00am	1:00am
New Year's Eve	8:00am	1:00am

On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

Activities - Times granted

	<i>Time From</i>	<i>Time To</i>
F. Playing of recorded music (Indoors)		
Monday to Sunday	9:00am	12:30am
L. Late night refreshment (Indoors)		
Monday to Sunday	11:00pm	12:30am
New Year's Eve	11:00pm	12:30am

On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

M. The sale by retail of alcohol for consumption ON and OFF the premises

Monday to Sunday	11:00am	12:30am
New Year's Eve	11:00am	12:30am

On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.

Additional Conditions

ANNEXE 1

MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

1) No supply of alcohol may be made under the premises licence:-

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or (b)
- (c) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Conditions transferred from the Restaurant Licence

1. Suitable beverages other than intoxicating liquor shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.

Conditions from Operating Schedule

(a) General

1. Good standards of custom must be respected and encouraged.
2. Laws concerning under-age drinking must be observed.
3. Appropriate health & hygiene legislation must be complied with.

(b) The Prevention of Crime and Disorder

1. Customers suspected of drug taking must not be served.
2. Police must be contacted in cases of suspected drug exchange on the premises.
3. All staff must make sensible judgements regarding alcohol intake by any situations anti social behaviour and must be prepared to ask customers to leave if the situation dicates.

(c) Public Safety

1. Maximum safe occupancy for the premises must be observed
2. Doors must be kept in good working order
3. Fire equipment must be serviced regularly and fire detectors must be maintained.
4. Plastic glasses only must be used in the case of alfresco dining.
5. Glasses must be collected regularly from all tables.
6. Customers must not be allowed to take glasses from the premises.
7. We must ensure adequate emergency vehicle access to the car park.
8. All gangways and doors must be kept clear.
9. Proprietors must uphold first aid requirements.

(d) The Prevention of Public Nuisance

1. Customers must be reminded to leave premises in an orderly fashion.
2. We must not serve people who we suspect are in a drunk condition.
3. All outside areas must be kept clean and tidy.
4. All refuse must be kept in bins with lids.
5. Noise must be kept to background level after 11.00pm
6. Alfresco diners must only be served via our side entrance.

(e) The Protection of Children from Harm

1. High chairs must be provided for very young children.
2. Smoking areas must be controlled to avoid children being close to smokers.
3. Alcohol must not be served to people under 18 years of age and proof of ID must be requested where necessary.

Restrictions transferred from the Restaurant Licence

1. The restrictions related to the permitted hours do not prohibit during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there when the alcohol was supplied for consumption as ancillary to the meals.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

The Prevention of Crime and Disorder

1. CCTV system to be installed to cover the "Al Fresco" area, in order that supervision can be maintained.
2. That any drinks are served to patrons at tables only, being that the application at present could be interpreted as use of the premise.

The Prevention of Public Nuisance

1. *The Alfresco dining area to only be used by diners, no alcohol to be served to non-diners using the Alfresco dining area.*
2. *The Alfresco dining area to be cleared from diners by 23.00 hours every night with no service provided to diners using the Alfresco area after 22.30 hours.*
3. *No live or amplified music to be played outside on the Alfresco dining area.*
4. *Noise or vibration will not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. The criteria that will be applied are:-*
 - (i) *Before 11.00pm - noise emanating from the premises will not be clearly distinguishable above other noise.*
 - (ii) *After 11.00pm - noise emanating from the premises will not be distinguishable above background levels of noise.*
5. *Deliveries of kegs, bottles, food and other materials necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.*

ANNEXE 4

PLANS

Copy attached to Licence.

