

Memorandum

To:	TORBAY COUNCIL	From :	Community Safety
c.c	24 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 :	24 th December 2014

Subject: Premises– Licensing Act 2003

Premises Name & Address: Las Iguanas, Abbey Crescent, Torquay

- 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. I wish to object to the above named application as I do not believe the application promotes the licensing objective 'Prevention of Public Nuisance'.
2. Las Iguanas according to the company website is a restaurant providing a confusion of native Latin American Indian, Spanish, Portuguese and African influences.
3. The restaurant will open in a unit on the new Abbey sands complex. This area is colloquially being referred to as Torbays newest restaurant quarter.
4. The abbey sands complex consist of 27 residential apartments spread over five floors with the lower floor being given over to 4 commercial units.
5. The applicant was advised to consult with all responsible authorities. The applicant solicitors submitted a draft application for consultation but only 24hrs later submitted the complete application. Allowing such a small window of opportunity I suggest the applicant has failed to consult as recommended:-

'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...'

6. The applicant intends to offer recorded music until 22:00 pm Sunday to Thursday and until midnight on Friday and Saturday which I no objection to, but the applicant has not indicated by way of conditions of how music breakout will be prevented. Will doors and windows be required to be kept closed during regulated entertainment? Will a lobby be provided? Will there be suitable ventilation to enable windows and doors to be kept closed? Is there suitable noise insulation in the ceiling? The application doesn't mitigate these concerns by offering to install a limiter either. For this reasons I do object to live music at this premises after 11:00pm. Live music is not a licensable activity prior to 11:00pm.
7. The applicant Under The Prevention of Crime and disorder suggested conditions has offered the following condition:-

'The premises shall have no fewer than two SIA Registered Door Supervisors, only when regulated entertainment takes place, on a Friday, Saturday and Bank Holiday Sunday, as well as any other evening when regulated entertainment takes place after midnight'

Is this premises to be a restaurant or a premises that offers food during the day and evening and becomes later at night a late night drinking/entertainment venue?

If the applicant wishes the premises to be a late night venue then Torbays Councils policy must be considered, namely that Torbay Councils Licensing Policy leans towards refusing an application beyond 11pm in a residential area unless remedial measures can be demonstrated:-

'There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, 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.'

Licensing Statement of Principles, Torbay Council, 2011, p37-38

Contained within this confused application is no attempt by the applicant to demonstrate what noise mitigation measures they intend to take and I suggest have not complied with the Licensing Statement of Principles. No details are offered in the schedule and suggested conditions barely acknowledged potential noise breakout from regulated entertainment.

8. An area outside the premises has been indicated on the plan for the provision of a smoking area. The applicant has not clearly demonstrated how the smoking area will be used or managed. I assume customers will be expected to eat in this area, but until 1:30 am in the morning at the weekends? Will the area be cleared at a given time and only allowed to be used as a smoking area? People using this area will they be allowed to sit only if consuming food or is it an outside beer garden? The application does not mention waiter service. The applicant has offered the following conditions in relation to the smoking area.

'A designated, de-lineated and bordered smoking area will be allocated outside the premises'

This area isn't marked on the plan submitted with the application. Where will the smoking area be? Is it the whole outside area or is the intention to have a smaller area for smoking only? Will the outside close at 11:00pm for eating and the designated smoking area can only be used after 11:00pm? The application does not offer any clarification.

'Any outside areas are to be monitored and supervised by management and staff, when occupied, during the hours that the premises are open to the public.'

How? The applicant has not indicated this area is a waiter service only location and has offered no detail in the application of how staff will actually monitor the area. Will there be written plans and procedures in place for staff to follow? Will staff be trained in what behavior is acceptable and that what is not potentially giving rise to nuisance? CCTV is mentioned but is there cameras outside and who will be monitoring cameras?

'Patrons will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity quickly and quietly'

As mentioned above how will staff actually comply with this condition? Are staff or SIA door stewards expected to police the street. No suggestion of any policy or procedures backing this condition.

9. The applicant wishes for a maximum closing time of 01:30 am. The premises is in a predominately residential area. As highlighted in point 9 the applicant has not satisfactorily complied with Torbay Council Licensing Statement of Principles. Will the outside areas be open until this time? Again ensuring customers leave quietly has not satisfactorily been conveyed in the application.

10. The Licensing Authority expects applicants to submit an operating schedule that properly addresses the impact their application may have on their neighbours or their surrounding communities, to ensure that each of the relevant licensing objectives are promoted. Notable s2.3(ii)(iii) guides applicant where the following applies:-

(ii) Noise from patrons and regulated entertainment where premises are in close proximity to residential properties and have a later opening time;
(iii) Public Safety matters for higher risk activities and one-off events.

Licensing Statement of Principles, Torbay Council, 2011, p13

Conclusion

11. The las Iguanas brand appears to be one of a predominately restaurant led business. Yet this application suggests a different service will be offered at the weekends and public holidays that will offer regulated entertainment and live music in addition to food. Experience shows it is the former style of operating that can give rise to public nuisance in residential areas. Though I have no objection to live music and regulated entertainment at the times requested in the application, I do object when the application has failed to consider appropriate and reasonable mitigation measures to ensure the operation of the business will not undermine the licensing objective the 'Prevention of Public Nuisance'

Recommendations

12. I respectfully request the Licensing Sub-Committee give their due consideration to the following recommendations:

a. *Prohibit any regulated entertainment after 11:00pm Monday-Sunday including public holidays on the grounds the application does not promote the licensing objective 'Prevention of Public Nuisance'.*

- b. Consider the outside area can only be used by Customers who are consuming food provided by a waited service until 11:00pm Monday- Sunday. After 11:00pm the outside area can only be used as a smoking area and no alcohol can be consumed in this area. The smoking area should also be clearly marked on the plan.*

Appendices

13. Appendix 1.0 – Street view and Plan of the locality of the proposed premises.

Mr Karl Martin
Public Protection Officer

Appendix 1.0

Artist impression of Abbey crescent development



Aerial map, red – approximate location of abbey crescent development. Yellow approximate position of Las Iguanas.



