

# Memorandum

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<b>To:</b>	<b>From</b>	<b>:</b>	<b>Community Safety</b>
<b>c.c</b>	<b>Contact</b>	<b>:</b>	Mr Karl Martin
<b>c.c.</b>	<b>Ext</b>	<b>:</b>	01803 208025
<b>c.c</b>	<b>My Ref</b>	<b>:</b>	1ZV SRU No: 214174
<b>For the attention of: Mandy Guy</b>	<b>Your Ref</b>	<b>:</b>	
	<b>Date</b>	<b>:</b>	11 <sup>th</sup> February 2015

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**Subject: Premises– Licensing Act 2003**

**Premises Name & Address: Rutland Hotel, Daddyhole Road, TQ1 2ED**

- 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. The Rutland Hotel is situated on Daddyhole Road which is a mixed use area of area of hotels, Coaching hotels and residential accommodation.
3. The premises has substantial land at the front of the premises which is included in the licensed area for alcohol but the applicant has not applied for live or recorded music outside.
4. The applicant despite advised by Licensing Officers before submission of the application of the need to consult with all responsible authorities has failed to consult with Environmental Protection 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...'*

5. 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**

6. The applicant has offered the following conditions as part of the operating schedule:-

*'Measures taken to prevent noise & /or vibration from escaping the premises'*

The applicant has not described what the measures they intend to take to prevent noise breakout in any detail which is enforceable or suitable and proportionate. Are we to assume this measures will included keeping doors and windows closed, installing a noise limiter, considered appropriate ventilation etc? What about management procedures for ensures staffs across shift patterns are aware of these procedures?

*'Minimal activity between 11:00 – 07:00 to prevent disturbance to residential dwellings'*

Whilst this is reassuring this conditions does again eludes to the detail on how the applicant will minimise disturbance. For example recorded music has been applied for until midnight but will the volume be reduce after 11:00pm? What activities and how will they be minimised?

*'Effective measures/management arrangements for collection and disposal of litter in place'*

This is not relevant mitigation measures for preventing public nuisance.

7. 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**

8. The applicant has not convinced me the application has considered Torbay council Licensing Statement of Principles. This is evident by the lack of clarity in how the applicant is going to control noise nuisance arising from the proposed licensable activities applied for. Specifically the applicant has failed to consider basic management controls to prevent music breakout from the building.
9. I undertook a search of Torbay Councils database of noise complaints and I am pleased to confirm the department has to date not received any noise complaints from either residents or other business regarding the Rutlands Hotel. Though I am encouraged I am concerned a representation received from a interested party has

made reference previous occasions of their quiet peace and enjoyment being affected by the activities of the Rutland. Notable during the period the premises did not hold a licence.

10. It is the experience of Torbay Councils Environmental Health Officers generally hotels cause few public nuisance problems. However without considered and effectively implemented control measures a hotel can create noise nuisance as readily as a regular public house.
11. With this in mind I do not wish to seek refusal of this application outright but would respectfully invite the members of the licensing committee to consider a range of licensing conditions I suggest will mitigate my reservations and those of interested parties whom have made separate representations.
12. If the members of the committee are so minded I suggest the following conditions are applied to the license if granted:-
  - a. All doors and windows must be kept closed during regulated music and performances of live entertainment or similar.
  - b. A written management scheme must be implemented to the satisfaction of the Local Authority within one month of the granting of this application.
  - c. Noise from licensable entertainment shall not be distinguishable above ambient noise 10 meters or more from the premises. This shall be assessed from the street. However, should a complaint from a resident in the area be made steps shall be taken to ensure that noise breakout is reduced to a level agreed with the Local Authority and the residents.
  - d. A senior member of staff (manager) shall assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment to ensure levels of noise have not increased.
  - e. The placing of refuse, such as bottles into receptacles outside the premises shall not take place before 08.00hrs or after 22:00hrs

**Mr Karl Martin**  
Public Protection Officer

Appendices

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

