



Please reply to: Mr Craig Noble
Licensing & Public Protection
Roebuck House
Abbey Road, Torquay, Devon TQ2 5EJ

Mr Karol Lapa
Pub Alibi
113 St Marychurch Road
Torquay
Devon
TQ1 3HL

My ref: SRU/176672
Your ref:
Telephone: 01803 208025
Fax: 01803 208854
E-mail: Licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 24 May 2012

Dear Sir

**Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance arising from Music and Customers
at Pub Alibi 113 St Marychurch Road Torquay Devon TQ1 3HL**

I refer to our recent visit to your premises on the 21st May 2012 in respect of the above complaint.

As we discussed, it appears that you are not in compliance with the following conditions of your licence.

1. Annexe 3

The Prevention of Public Nuisance

2. Noise or vibration shall not emanate from the premises such as to cause person in the neighbourhood to be unreasonably disturbed. In general terms, noise from the premises should not be audible within any noise sensitive premises (e.g. dwelling) with windows open for normal ventilation especially after 23.00hrs. 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 23.00hrs – Noise emanating from the Premises shall not be clearly distinguishable above other noise.
 - (ii) After 23.00hrs – Noise emanating from the 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 premise are attached to others (i.e. semi's and terraced properties), to make further assessments from within the property.

2.

10. Conduct of Premises and Noise Nuisance

Schools and services for children and young people • social care and housing • recycling, waste disposal and clean streets • community safety • roads and transportation • town planning • tourism, harbours and economic regeneration • consumer protection and licensing • leisure, museums, libraries and arts

If you require this in a different format or language, please contact me.

- (b) The Licensee shall at all times ensure that persons on or leaving the Premises and using adjacent car parks and highways conduct themselves in an orderly manner and do not in any way cause annoyance to residents or persons passing by.
- (c) The Licensee shall ensure that noise shall not emanate from the Premises such as to cause persons in the neighbourhood to be unreasonably disturbed. To this end, adequate sound insulation should be provided and regard must be had to the ventilation requirements for the Premises. All sound insulation must be installed to the satisfaction of the Council.

Currently I am investigating the complaints I have received. At this point, I have little information as to the nature of the complaint but would advise you that I am investigating and I will be making visits in the near future to ascertain the severity of the complaint. You should be aware that trading outside the conditions set by your licence is an offence under the Licensing Act 2003 for which you may either be prosecuted or for which a review of your licence may be sought. The Licensing Committee may decide to add conditions to your licence or may partially or completely revoke your licence.

Also in relation to escape of noise from your premises, should you be found to be causing a statutory noise nuisance, the council is under a legal obligation to serve an abatement notice on you. An abatement notice will require you to control the noise from your premises so that it does not disturb neighbouring properties. Failure to comply with an abatement notice is an offence and should you fail to comply, you may be prosecuted. Upon conviction, the maximum fine for offences on a business premises is £20,000.

To minimise noise breakout, you should comply with the following good practice guidelines.

Ensure doors and windows are kept shut during the playing of amplified music or any entertainment.

Ensure speakers and performers are kept as far away from windows as possible.

A responsible person must make periodic checks outside to ensure that noise from music is inaudible. It is important to stay outside for some time as you will find that it takes time for your ears to adjust to the quieter noise outside. Remember that if you can hear it outside, it is likely that it is disturbing residents as their windows will cut out any masking noise and leave the bass which will cause disturbance. It is recommended that checks are noted in your diary.

The volume of any performance must be under the control of the premises management at all times. This is particularly important where you have live acts. If you are having difficulty controlling the volume of live acts consider installing a noise limiter.

Staff must make regular checks outside to ensure patrons are behaving in a responsible manner and are not causing a disturbance. It may be necessary for patrons to be politely reminded that the premise has neighbours and they should try not to disturb them. Putting up signs and reminding patrons to be quiet should assist in controlling the problem.

Designated smoking areas should be positioned as far away as possible from residential accommodation. If practical, line of sight between residential accommodation and the smoking area should be removed by the provision of a fence or a wall. This should help to reduce disturbance somewhat.

It may be necessary for you to limit the numbers of people that remain outside after 7:00pm, For instance, you could ensure that patrons are not allowed to take their drinks outside after 7:00pm to encourage them to return to the premises.

If you wish to play amplified music on a regular basis you may need to improve the sound insulation and ventilation of your premises. It is advisable to engage the services of an Acoustic

Consultant experienced in dealing with entertainment noise who can offer appropriate advice in improving your premises. Measures that may be necessary will include the provision of acoustic lobbies to doors that open to the outside, the provision of acoustically treated doors, windows vents and air extraction systems may be necessary. It will also be necessary to block up any other holes in the building to minimise noise breakout. An Acoustic Consultant will assist you in identifying areas where improvement is necessary.

A noise limiter may also need to be installed to control the maximum music level, a variety of solutions are available from systems that limit the maximum level that comes out of the Public Address System to systems that actively monitor the level within the entertainment area and then control the volume of the music. A member of the Council's licensing team will be happy to help you set the level of the limiter so that it does not disturb residents.

You must implement a noise management plan to control the level of noise produced by patrons. This should include measures to ensure patrons leave the premises quietly and disperse from the area as quietly and reasonably as possible. You should also have measures in place to ensure patrons behave in a reasonable manner while on your premises, things that can be done include stewarding outdoor areas, limiting the time and number of people allowed out to smoke and requesting that patrons respect your neighbours. Signs are a help in this but are not particularly effective and a proactive approach by your door staff will be more effective. You should be aware that your patrons may still cause public nuisance when they leave and should they cause excessive nuisance on a regular basis a review of your licence may be sought.

Yours sincerely

Mr Craig Noble
Licensing Enforcement Officer
Licensing and Public Protection

cc: Licensing Department East, Devon & Cornwall Police HQ, Middlemoor, Exeter, Devon, EX2 7HQ