

Memorandum

To: Licensing	From :	Community Safety
c.c	Contact :	Mr Gareth Fudge
c.c.	Ext :	01803 208025
c.c	My Ref :	1ZV SRU No: 169027/GDF
For the attention of: Licensing Steve Cox	Your Ref :	
	Date :	13 June 2012

Subject: Expedited Review of Premises Licence
**Premises Name & Address: Cafe Mambo, 7 The Strand, Torquay,
Devon, TQ1 2AA**

This department has received a number of complaints in respect of noise in relation to the above premises.

Café Mambo is a four storey premises on the Strand Torquay. On the first floor, the premises a bar area with a large balcony that extends out over the pavement. This area has large umbrellas over it. The area is used throughout the day and night whilst the premises is open. Access to the area is provided by a single door from the first floor where music is played as entertainment. As a result, if this door is left open there is the potential for a significant amount of noise breakout from the premises. Furthermore, the first floor balcony area is used by patrons to sit, drink and smoke outside until 03:00 am.

A number of complaints have been received over the last 12 months in relation to noise from the premises. The complaints relate to noise from music breakout and noise associated with patrons using the balcony.

Over the years, there have been a number of incidents involving patrons of the premises either jumping off the balcony or climbing on to the neighbouring roof of Hoopers Department Store and falling off. I am aware of an incident when the premises was under the control of the previous operator and to my knowledge there have been two incidents under the current ownership. One incident occurred recently on the 24th of October 2011 where a patron climbed on to the roof of Hoopers Department Store fell and broke his leg. Another incident occurred on the 31st March 2012 where police officer witnessed a patron climb off the balcony on the roof of Hoopers and then jump on to a lamp post.

I have been in correspondence with the operators on a number of occasions however the complaints have continued. Details of the correspondence is contained in appendix 1. I have written to them on the 24th of February 2011, the 15th of November 2011, the 13th of January 2012 and have emailed them in respect of complaints on the 6th of February 2012, the 13th of March 2012 and the 4th of April 2012. I would draw the attention of the committee to the fact that complaints have continued.

I have received reports from an officer of my department who were in the vicinity of the Regina Hotel at Beacon Quay on the 11th of January 2012 and who was surprised how loud the music from Mambo was at midnight.

I have received reports from police officers on the 6th of April 2012, 8th of April 2012 and the 9th of April 2012 regarding the doors to the balcony being left open and the amplified music being too loud. Copies of the reports submitted to me are contained in appendix 2.

Frequent complaints of noise have also been received from residents in Queens Quay Torquay and those on Victoria Parade advising that noise from Mambo has been disturbing them.

Complaints have also been made by residents in Victoria Parade and by guests at the Regina Hotel, however, neither party has decided to pursue their complaint.

The residents of Queens Quay identify that bass breakout that wakes them up and that this is regularly attributed to Café mambo. Complaints are also frequently received in respect of noise arising from the patrons on the balcony.

It is more difficult to quantify the effect of patron noise, there are a number of other premises in the area which attract people and there is associated noise in the street. However, there are long periods of time during the evening when the streets are quiet as all the revellers are in venues. I have witnessed occasions when noise arising from patrons on the balcony has been clearly audible in the flats at Queens Quay. One such incident was April 3rd 2012. At the time of my visit, which finished at around 02:00, the town centre was relatively quiet but noise from the balcony area of Mambos, shouting and laughing was audible with the windows ajar. This does support the complaints made.

Table 1 shows the list of noise complaints received in respect of the premises. Note these complaints are complaints by members of the public, mainly a resident in Queens Quay. These are unverified in that an officer has not witnessed noise on these occasions.

Table 1

Complaints made in respect of noise – relate to patron noise or amplified music
27/12/0210
29/12/2010
31/12/2010
1/1/2011
2/12011
12/2/2011
19/2/2011
26/2/2011
26/2/2011
2/4/2011
13/4/2011
17/42011
14/5/2011
5/6/2011
25/6/2011
13/7/2011
2/7/2011
12/7/2011
23/7/2011
5/8/2011
6/8/2011

12/8/2011

20/8/2011

More recently the following information has been received.

Date	Incident
5 th May 2012	Base breakout from Cafe Mambo – Time not specified.
4 th May 2012	Base breakout from Cafe Mambo until early hours of the morning.
30 th March 2012	Base breakout intermittent, doors left open suspected of being the cause. Base breakout noted in residents home at 10:45 pm, 12:20 am, 1:00 am and 1:45 am.
9 th March 2012	Base breakout heard inside residents home at 11:20pm, audible in bedrooms, noisy crackle from terrace, when Mambo closing woke up with heavy bass.
25 th February 2012	Woken up by noise from 1 st floor balcony. Time not specified.
24 th February 2012	11:30 Mambo- huge bass noise, lots of noise off balcony.

I am advised by one of the main complainants that they have not been living in their premises in Queens Quay since early May due to family issues.

In the light of this level of complaint, there is a significant body of anecdotal evidence indicating that a public nuisance is being caused by the activity at Café Mambo.

As the Licensing Committee will be aware, the licensing process is an administrative process not a criminal one. The Committee may consider all evidence and use it whilst giving it appropriate weight to make an appropriate decision as set out by the case R v Deputy Industrial Injuries Commissioner 1965.

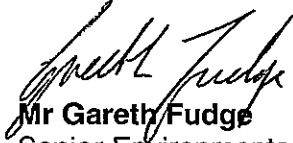
As I am satisfied a degree of public nuisance exists, I consider that the following conditions to control noise would be appropriate to promote the licensing objective of preventing public nuisance. I am further concerned that the level of supervision of the balcony is inadequate and I am concerned to note that this is leading to complaints in respect of noise and I am gravely concerned that the lack of supervision is leading to a serious risk to public safety, particularly the risk of a patron falling off the balcony or dropping a glass or other item off it.

I therefore propose to the committee the following conditions that are both appropriate and proportionate in support of the public safety licensing objective and the prevention of public nuisance.

- At all times the balcony is open after 22:00 the area shall be directly supervised by SIA qualified staff. Staff shall make all reasonable attempts to ensure patrons do not make excessive noise such as singing football songs and shouting. SIA staff must also be on the balcony to ensure that patrons make no attempt to climb or lean on the balustrades.
- Within three months of this hearing the door to the first floor balcony shall have an acoustic lobby constructed to the satisfaction of the responsible authority for public nuisance. The lobby doors shall be constructed and operated to ensure that at all times, that regulated entertainment is being played, at least one door is kept closed to prevent noise breakout.
- A noise limiter shall be fitted to the premises Public Address system. All music shall be played through the limited system.

- The limiter shall be set at a level agreed with the local responsible authority for public nuisance. The limiter shall be sealed in a tamper proof box and adjustments shall only be made with the express permission of the responsible authority for public nuisance.
- The limiter shall be independently calibrated to the level agreed with the responsible authority on an annual basis and a copy of the report shall be forwarded to the responsible authority.
- No changes shall be made to the Public Address system without the permission of the responsible authority for public nuisance.

However, I do note that there are currently conditions on the licence relating to noise and there is anecdotal evidence that the premises has not complied with these conditions in a manner that might be expected.



Mr Gareth Fudge
Senior Environmental Health Officer

Fudge, Gareth

From: Fudge, Gareth
Sent: 04 April 2012 14:27
To: 'Julie Eyre'
Subject: UNCLASSIFIED: Mambo Last Weekend

Hi Julie these are the times I had reported to me about noise coming from Mambo last weekend. The noise relates bass breakout. I am unsure of the durations but this should give you something to work with.

10:45 mambo base
12:20 am, mambo base ...
1:am, mambo base,
1:45am mambo base

Regards

Gareth Fudge
Senior Environmental Health Officer
e gareth.fudge@torbay.gov.uk
t 01803 208040

Fudge, Gareth

From: Fudge, Gareth
Sent: 13 March 2012 09:42
To: 'Julie Eyre'
Subject: UNCLASSIFIED: Cafe mambo

I received more complaints over the weekend regarding Café mambo. The complaints relate to shouting on the terrace and the breakout of music on Friday night from around 9:30 pm on. It was particularly bad apparently from 11:20pm, the music was clearly audible in the complainants bedrooms and then it was again particularly bad at closing time.

Gareth Fudge
Senior Environmental Health Officer
e gareth.fudge@torbay.gov.uk
t 01803 208040

Fudge, Gareth

From: Fudge, Gareth
Sent: 09 February 2012 13:55
To: 'Julie Eyre'
Subject: RE: UNCLASSIFIED: Mambo and Fast Eddies

Hi Julie, the structure of the building is extremely poor in terms of noise insulation, you may recall the previous occupant also had trouble with noise transmission through the building (although their activities were much louder). Based on experience, I would estimate that even music played at normal domestic levels could break out of both the basement and the ground floor. It appears to be transmitted by the metal structure of the building. I would like to visit and see if there is a simple way to resolve this and setting levels would probably be the easiest. Can we arrange a time or could you put me in touch with your manager to arrange a time?

From: Julie Eyre [<mailto:julie@thelifestylegroup.co.uk>]
Sent: 09 February 2012 12:43
To: Fudge, Gareth
Cc: Cox, Steve
Subject: RE: UNCLASSIFIED: Mambo and Fast Eddies

Hi Gareth

Below is our manager's response to the juke box noise complaint. I am happy for limits to be set but wonder if anything else has changed that would suddenly cause a problem as I am informed that the levels were lower than normal at the time of complaint and we have only had the one previous complaint when the door was open and level was higher.

Just to confirm about Fast Eddie's over the weekend, I have been running shift down there from 11pm onwards Fri and Sat due to Craig being away. Friday we were open 6pm until midnight and the music was at a level where you could have a conversation without shouting. Saturday night we were open 6pm until 12.45am and extremely quiet. At midnight I had 3 customers, again the music was no louder as I am very conscious of the above residents even though the restaurant is in-between. Standing outside at the top door you cannot hear the music from inside. The base levels are also off so not to cause any vibration etc. All back of house doors to the cellar etc are closed during trading hours.

I cannot understand why we would have noise complaints, people leaving the premises are never drunk or rowdy and most weekends we are never opened past 1.30/2am. (Abby)

I am awaiting reports from door staff, duty manager & a CCTV review regarding the balcony noise and will come back to you with the results.

Kind regards

Julie Eyre
Director

The logo for Lifestyle Hospitality Group features the word 'Lifestyle' in a large, elegant, cursive script font. Below it, the words 'HOSPITALITY GROUP' are written in a smaller, clean, sans-serif, all-caps font.

T 01803 201197
M 07931 374315

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From: Gareth.Fudge@torbay.gcsx.gov.uk [<mailto:Gareth.Fudge@torbay.gcsx.gov.uk>]
Sent: 06 February 2012 14:26
To: julie@thelifestylegroup.co.uk
Cc: Steve.Cox@torbay.gcsx.gov.uk
Subject: UNCLASSIFIED: Mambo and Fast Eddies

Hi Julie, just to let you know, I have received further complaint about noise breakout from Mambo over the weekend. I also received complaints about shouting on the balcony. The complaint relates to noise after Midnight mainly from 01:00 am onwards. I suggest you check your cctv to see if the doors were left open. Noise breakout of this nature appears to getting more regular.

Also I am receiving complaints regarding the Juke box at Fast Eddies. It appears that the volume has been turned up and it is now causing disturbance to the residential accommodation in Queens Quay. Please arrange for the level to be turned down again. If you would like to meet to agree levels, this can be arranged.

Gareth Fudge
Senior Environmental Health Officer
e gareth.fudge@torbay.gov.uk
t 01803 208040

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Fudge, Gareth

From: Fudge, Gareth
Sent: 06 February 2012 14:26
To: 'Julie Eyre'
Cc: Cox, Steve
Subject: UNCLASSIFIED: Mambo and Fast Eddies

Hi Julie, just to let you know, I have received further complaint about noise breakout from Mambo over the weekend. I also received complaints about shouting on the balcony. The complaint relates to noise after Midnight mainly from 01:00 am onwards. I suggest you check your cctv to see if the doors were left open. Noise breakout of this nature appears to getting more regular.

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Gareth Fudge
Senior Environmental Health Officer
e gareth.fudge@torbay.gov.uk
t 01803 208040



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

Mr Michael Johnson
Cafe Mambo
7 The Strand
Torquay
Devon
TQ1 2AA

My ref: SRU/169027
Your ref:
Telephone: 01803 208025
Fax: 01803 208854
E-mail: licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 13 January 2012

Dear Sir

**Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance arising from amplified music and shouting
at Cafe Mambo 7 The Strand Torquay Devon TQ1 2AA**

I refer to my letter of the 15th of November 2011.

An officer from this department attended town on the 10th of January 2012 and noted a significant amount of noise arising from your premises. The officer whilst not in a residential premises at the time was of the opinion that the noise being generated was sufficiently loud to constitute a statutory nuisance. The noise from your premises was clearly audible on the other side of the harbor and at 02:00 am the officer reported that he could identify the songs being played in your premises.

I am sure you must appreciate that this level of noise is unacceptable and will cause disturbance to residents in the area.

If you continue to allow this level of noise to arise from your premises, the council will have no alternative but to consider either review of your licence or may serve an abatement notice.

It is therefore in your interest to ensure that there is no further cause for complaint.

Yours sincerely

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

Mr Michael Johnson
Cafe Mambo
7 The Strand
Torquay
Devon
TQ1 2AA

Please reply to: Mr Gareth Fudge
Licensing and Public Protection
Roebuck House
Abbey Road, Torquay, Devon TQ2 5EJ
My ref: SRU/169027 **7FB**
Your ref:
Telephone: 01803 208010
Fax: 01803 208854
E-mail: licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 15 November 2011

Dear Mr Johnson

Licensing Act 2003 and Environmental Protection Act 1990
Alleged Nuisance arising from amplified music breakout
at Cafe Mambo 7 The Strand Torquay Devon TQ1 2AA

I have received further complaints about noise break out from your premises affecting nearby residents.

Complaints relate to noise arising from bass breakout from the premises during the course of the evening. However, I am advised that the noise becomes particularly bad during the last hour of operation and during closing time when doors are all opened for your customers to leave the premises.

As you are no doubt aware, there are conditions on your licence requiring you to control noise so that it does not disturb residents. For your information the conditions are listed below.

1. Noise from the premises shall not be audible within any dwelling with windows open for normal ventilation especially after 11pm. 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 11pm - Noise emanating from the premises shall not be clearly distinguishable above other noise.
 - (ii) After 11pm - 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 premises are attached to others, to make further assessments from within the residential property.
2. Doors and windows shall be kept shut during entertainment to reduce noise breakout. A management scheme shall be in place to ensure this situation remains.

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.

3. Entrances shall be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.
4. 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.
5. Provision of mechanical ventilation and air conditioning system shall not allow noise breakout from the premises or cause a nuisance by its operation.
6. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.

A number of complaints have been received over the summer and I feel it would be appropriate to meet to discuss how you are complying with the conditions above and how you can reduce your impact on the surrounding premises.

I am also advised that your staircase to the roof-top bar is missing. A flight of stairs greater than 3 stairs must have a hand rail at a height of 900 mm.

I look forward to hearing from you shortly.

Yours sincerely

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

cc: Licence holder if different to DPS

cc: Chief Superintendent of Police, c/o Licensing Team, Devon and Cornwall Police, PO Box 1
(if applicable)

The Company Secretary
Lifestyle Enterprises (UK) limited
Clarence House
47 the Strand
Torquay
Devon.

Please reply to: Licensing and Public Protection
Environmental Health & Consume, Abbey Road,
Torquay, Devon TQ2 5EJ

My ref: SRU 158829/GDF

Your ref:

Telephone: 01803 208010

Fax: 01803 208854

E-mail: licensing@torbay.gov.uk

Website: www.torbay.gov.uk/housing

Date: 24 February 2011

**Re: Licensing Act 2003 Café Mambo
Environmental Protection Act 1990 – Alleged Statutory Noise Nuisance arising from the
playing of amplified music played at Mambos**

I have received a complaint from a nearby resident alleging that the playing of amplified music at the above premises is causing a noise nuisance to them. They are alleging that they are disturbed by noise breakout from your building and by noise from your patrons singing along to songs on your balcony area.

I remind you that the following conditions on your licence apply to the playing of amplified music on your licence. I would remind you that there are various conditions on your licence covering the playing of amplified music on your premises.

Of particular importance are conditions contained in annex 3 that require that music from the premises should not be audible above the background noise. On several occasions when I have passed the area, noise from your club is audible some distance away. You are therefore currently operating in breach of your licence. If you would like help in setting the levels of amplified music in your premises please contact me to arrange a time to visit.

1. On every day when the premises are open, the following conditions will apply:-
 - a. The volume of all amplified music shall be at a level to be set and agreed to the satisfaction of the council. The settings shall be secured in a locked area and capable of amendment only by the manager or licensees following appropriate application to and consultation with the council.
 - b. All windows and doors shall be kept closed from 11pm each night. Entry to and exit from the premises shall be by way of the Strand entrance only. This condition will be in force in all circumstances except when an emergency evacuation of the premises is necessary.

Annex 3

1. Noise from the premises shall not be audible within any dwelling with windows open for normal ventilation especially after 11pm. This shall be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that shall

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

be applied are;

(i) Before 11pm - Noise emanating from the premises shall not be clearly distinguishable above other noise.

(ii) After 11pm - 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 premises are attached to others, to make further assessments from within the residential property.

2. Doors and windows shall be kept shut during entertainment to reduce noise breakout. A management scheme shall be in place to ensure this situation remains.

3. Entrances shall be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.

4. 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.

5. Provision of mechanical ventilation and air conditioning system shall not allow noise breakout from the premises or cause a nuisance by its operation.

6. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.

7. Regulated entertainment upon the terrace shall cease by 19.00 hrs.

I have also received a complaint relating to an incident in October 2010 where a member of the public was hit with a bottle, the complaint relates to the level of first aid treatment that the injured party received. They allege that they received very little help from the staff on duty at the time and that they attempted to staunch the blood flow with a bar towel prior to the arrival of the ambulance service. I visited the premises on the 31st of January 2011 to discuss the incident and inspect the first aid provision, I spoke with Kelly Postlethwaite the duty manager. I noted during my inspection, that your first aid box contained one sterile dressing. I recommend that you have a system in place to ensure that appropriate first aid provision is always available for both staff and members of the public who suffer an injury.

Should you need to contact us please quote the reference number above.

Yours sincerely

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

File No.:	Computer URN:	Minute No.:
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To be completed for any incident or for information on any licensed premises. This form to be submitted to the Licensing Unit as soon as possible. **Nominal and / or intelligence MUST be submitted via Source and Covert Intelligence System (CIS).**

- Licensing objective:**
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.

Name of premises: Mambo's	
Address: The Strand, Torquay	
Report type: <input type="checkbox"/> Visit <input type="checkbox"/> Incident <input checked="" type="checkbox"/> Other ENTE Patrols	Date: 06/04/2012 Time: After 23:00 hours
OIS Ref.:	Crime No.:

Brief summary / action taken (if not recorded elsewhere):
 After 23:00 hours loud noise and the sound of music was present from the balcony area of Mambo's. Officers were stood at The Offshore bar and restaurant and could hear the noise emanating from the balcony area. Also members of the public were sat drinking and smoking, there were roughly about 20-30 people on there.

Submitted by: Name: Birch	Force No.: 12856
Signed: Alan J Birch	Date: 07/04/2012 Time: 18:31

Action taken by Licensing Unit:

Licensing officer:
 Forwarded to Daily Tasking:



Alcohol / Licensing Information Form

File No.:		Computer URN:		Minute No.:	
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To be completed for any alcohol related incident or for information on any licensed premises. This form to be submitted to the Licensing Unit as soon as possible. **Nominal and / or intelligence MUST be submitted via Source and Covert Intelligence System (CIS).**

- Licensing objective:**
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.

Report type: <input type="checkbox"/> Visit <input type="checkbox"/> Incident <input type="checkbox"/> Other Noise	Date: 09/04/12 Time: 0230
OIS Ref.:	Crime No.:
Name of premises (where applicable): Cafe Mambo	
Address: The Strand Torquay	

Brief summary / action taken (if not recorded elsewhere):

At 0230hrs on 09/04/12 I was stood by Boots the Chemists on the Strand Torquay. There were lots of people on the street making a significant amount of noise but despite this I could still here amplified music from the club above the street level noise. I informed the door stewards that the level was loud but was called away to another incident so am unaware if it was turned down.

Submitted by: Name: Shepherd	Force No.: 14464
Signed:	Date: 09/04/12 Time: 0410

Action taken by Licensing Unit:

Licensing officer:
Forwarded to Daily Tasking:

File No.:	Computer URN:	Minute No.:
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To be completed for any incident or for information on any licensed premises. This form to be submitted to the Licensing Unit as soon as possible. **Nominal and / or intelligence MUST be submitted via Source and Covert Intelligence System (CIS).**

- Licensing objective:**
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.

Name of premises: Mambos
Address: The Strand, Torqua

Report type: Visit Incident Other Date: 080412 Time: 02.30
 OIS Ref.: Crime No.:

Brief summary / action taken (if not recorded elsewhere):

On standing in Vaughan Parade, Torquay harbourside I could hear music coming from Mambos. I stood there for approximately 10 minutes and could hear the music above any other noise in the area. I went to Mambos and spoke to the Manager inside the premises and told him I could hear music and it appeared to come from the first floor balcony even though I could not see anyone on it.

He stated the balcony was closed and nobody should be on there.

I walked across the road to the central reservation and again listened to the music which by this time was barely audible. The manger joined me and he stated that a member of staff must have left the door open. I pointed out that it was loud and unacceptable he didn't reply. He went back into the premises. I stood there for a further two minutes and was joined by two colleagues. We stood there and immediately the noise returned and was very clear and loud and again I could not see anyone on the balcony. After 5 minutes I noticed a member of staff cleaning and deduced that they are opening the door whilst they are on the balcony. The door should be closed at all times to stop the noise emanating from the premises especially at these times. Noise heard between 02.30 and 02.45 hrs.

Submitted by: Name: Sharam Force No.: 14781
 Signed: Tsharam Date: 080412 Time: 1858

Action taken by Licensing Unit:

Licensing officer:
 Forwarded to Daily Tasking: