

Memorandum

To: Licensing and Public Protection Team	From :	Mr Karl Martin
c.c	Contact :	
c.c.	Ext :	01803 208025
c.c	My Ref :	1ZV SRU No: 249132
For the attention of: Gary O'Shea, Principle Licensing Officer	Your Ref :	
	Date :	28 th October 2019

Subject: Variations application, Anchorage Hotel, Aveland Road, Babbacombe, 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

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1. The Anchorage hotel is a 55 bedroom 3 star hotel situated on Aveland Road, Babbacombe, Torquay, please see Appendix 1. This area supports a substantial number of local businesses of large and small hotels that cater to visitors all year round. Equally Babbcombe is a popular area to live and consequently hotels tend to be situated close to residential properties.
 2. In July 2019 the Authority received two separate complaints from residents regarding noise nuisance. There is no record of noise complaints prior to July 2019.
 3. The first complaint coincided with a variation application submitted by the hotel owners to extend licensable hours. The applications was withdrawn shortly afterwards.
 4. The complainants refer to music breakout as the predominate nuisance. In August 2019 during a meeting with two of the co-owners, they confirmed mobile air conditioning units had been purchased to prevent the need for windows to be opened as a means of ventilation. Further noise mitigation methods was discussed but it was agreed to evaluate the difference air conditioning would make.

5. The function room is at the front of the building overlooking Aveland Road. The greater part of the room is a single story glass fronted flat roof structure. These type of structures tend to be poor at noise attenuation however the main hotel building offers some protection to residential accommodation situated behind and to the side of the building.
6. In October 2019 the hotel owners resubmitted a variation application to increase the terminal hour of Alcohol and Regulated entertainment from 11:00pm to :-

Sunday to Thursday – midnight.
Friday to Saturday - 1:00am

Regulated entertainment is not licensable before 11:00pm and therefore any conditions on the current licence is not applicable as the premise benefits from the Live Music Act 2012.

7. During week commencing 14th October 2019 the Licensing Team began to receive a large number of representations from members of the public. For this reason and because of previous complaints resources were allocated to visit the area out of hours to make an assessment of reported music outbreak.
8. On Saturday 19th October during a multi-agency enforcement evening, Julie Smart, Devon and Cornwall Police licencing Officer and myself visited the area between 10:30-11:10pm. The evening was dry, cool, with a light westerly wind. Ambient noise levels was low and typical of residential areas in Torbay.

Recorded music and DJ announcements could be clearly heard in the street (notably Aveland Road, Cary Road and Saint Georges Crescent) despite windows and doors of the premises were closed. Occasional the front reception door when opened would temporarily raise noise levels.

Before 11:00pm recorded music is not licensable and therefore not viewed in a licensable context. However, the noise levels present in the street would indicate it is reasonable foreseeable to predict a statutory nuisance in nearby residents could be occurring, especially during warmer weather.

Noise breakout during the evening of 19th October only seems to be effecting residential properties at the front of the premises. Music from the function room could not be heard at the rear of the venue.

9. The operating schedule does not offer any reassurances, other than air conditioning, on how noise levels will be control if the application is granted as applied.
10. Air conditioning alone is not working to control noise outbreak from the function room. It could be current noise levels, which cease at 11:00pm may be acceptable or tolerated by the wider community. But after 11:00pm the situation is different and this is reflected on P40, of Torbay Councils Licensing Statement of Principles 2016-21:-

Para 3

The Licensing Authority will presume against the grant of new Premises Licences or Licence Variations and Club Premises Certificates where there are extensions in operational hours, or the addition or extension of activities (regulated entertainment) that may cause public nuisance, where the Applicant has not properly considered the issue of nuisance and where

appropriate sought advice from those with expertise in this field, in order to alleviate any concerns arising.

And further to para 4

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.'

11. Until music breakout is controlled satisfactorily at this premises I can offer support for this application.
12. However on the morning of the 28th October 2019 during a telephone conversation with the management it was confirmed they would be appointing an independent noise consultant to assist in identifying suitable remedial measures.
13. At the time of writing this report my recommendations to the chairman of Torbay Councils Licensing Sub-committee would be to refuse as applied for, on the grounds if granted the applications would seek to undermine the licensing objective 'Prevention off Public Nuisance' rather than promote.
14. Consultation with the applicant will continue and I am confident a satisfactory outcome will be achieved that is acceptable to both the premises and residents.

Karl Martin
Public Protection Officer
Licensing and Public Protection
Community Safety
Torbay Council

Appendix 1 – Google street maps, The Anchorage Hotel

1.1



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