

Memorandum

To:	From	:	Community Safety
c.c	Contact	:	Mr Karl Martin
c.c.	Ext	:	01803 208025
c.c	My Ref	:	1ZV SRU No: 245351/KJM
For the attention of: Gary O'Shea	Your Ref	:	
	Date	:	18 th June 2018

Premises Name & Address: The Terrace Bar, 12-14 the Terrace, Torquay

Subject: Review application – Licensing Act 2003

- 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. The Terrace bar (PL0433), is a late night venue situated within the Cumulative Impact Area.
2. The premises despite its proximity to Fleet Street is flanked by residential accommodation and noise sensitive commercial enterprises. Please see appendix 1.
3. The Authority has investigated noise complaints emanating from the premises on more than 10 occasions in the last 10 years.
4. The primary complaint is about recorded or live music breakout from the building. Whilst the current PLH has not been in control of the premises for the majority of this time, the type of noise complaints received by the Authority are common to all operators.
5. Using licensing conditions as a measure to control noise have been attached to annex 2 of the premises licence, notably:-
- 8. A senior member of staff (manager) shall assess the impact of any noise 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.

9. A limiter shall be installed on the PA system and the level set and agreed by Torbay Council. It must not be possible to bypass or override the limiter.
 10. Doors and windows shall be kept closed during all performances of live music and karaoke.
 11. Doors and windows shall be kept closed after 23.00hrs when playing recorded music.
 12. Any live or recorded music at the premises shall be played through the noise limiter.
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6. A noise limiter is a preferred method of controlling noise outbreak where a building has poor attenuation and the Terrace is such a premises. In addition all PLHs or lease holders of this premises have tended to use music as a way of advertising to would-be customers that they are open for trade.
 7. In April 2016 Ms Julie Smart, Police licensing Officer for Devon and Cornwall Police, informed me that a member of staff had told her there was no noise limiter.
 8. Despite being advised to contact myself by Ms Julie Smart as of May 2016 no contact had been made and therefore I visited the premises and spoke to a member of staff who tried to convince me a BT broadband router was the noise limiter. In June 2016 Mr Jamie Lawrence informed he had purchased a noise limiter but it was being kept in the safe.
 9. In September 2016 during a visit with Ms Smart to discuss noise complaints it was evident Mr Lawrence had still not installed the limiter in accordance with a condition of the licence.
 10. In December 2016 an s19 Closure Order was issued by the Police. A requirement of the notice was to comply with a condition relating to the noise limiter.
 11. In January 2017 a local noise consultant was employed by Mr Lawrence to install the limiter. The levels were set by the consultant and agreed by myself. It was noted the only viable sound limiter solution available to Mr Lawrence could allow a person to easily bypass the limiter if not appropriately managed.
 12. In November 2017 a series of noise complaints about the premises was received by the Authority and all concerned recorded music breaking out of the building. Most complaints related to excessive music during the day. During the investigation it transpired the venue at this time was being hired out for private parties and a DJ was allowed to bring their own equipment on site.
 13. The Live Music Act 2013 de-regulated Live and recorded music between the hours 8:00am -11:00pm. Consequently any condition relating to regulated entertainment is unenforceable during these times. Mr Lawrence was advised of this but advised it would be considered good practice to use the limiter at all times to avoid him causing a Statutory Nuisance.
 14. During routine visits with Police Licensing on 23rd June and again on the 29th, recorded music was observed being played at a volume higher than was set by the limiter. On the 23rd Door and windows were still open 20 minutes after a licence condition requires them to be closed.

15. Historically noise complaints are ad hoc in nature and the generally resolved quickly as it has often been management failings. This explains why the Authority in recent times has not been in an evidential position to consider enforcement action.
16. The existing conditions on the licence are suitable and should sufficiently adequately address the risk of noise breakout. Although good management is the crucial. The weakness is the exemptions allowed by the Live Music Act and I therefore ask members of the Licensing Committee to consider removing the exemption granted to the premises licence by the Live Music Act.

Mr Karl Martin
Public Protection Officer
Torbay Council