

Clerk: Lisa Antrobus  
Telephone: 01803 207013  
E-mail address: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)  
Date: Thursday, 17 December 2020

Governance Support  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

Dear Member

## **LICENSING SUB-COMMITTEE - MONDAY, 21 DECEMBER 2020**

I am now able to enclose, for consideration at the Monday, 21 December 2020 meeting of the Licensing Sub-Committee, the following reports that were unavailable when the agenda was printed.

<b>Agenda No</b>	<b>Item</b>	<b>Page</b>
5.	<b>Review, following an application made under section 53A for a Summary (Expedited) Review of a Premises Licence for The Sporty's,80 Belgrave Road, Torquay</b>	(Pages 2 - 4)

Yours sincerely

Lisa Antrobus  
Clerk

## Memorandum

<b>To:</b> Licensing and Public Protection Team	<b>From</b>	:	Mr Karl Martin
<b>c.c</b>	<b>Contact</b>	:	
<b>c.c.</b>	<b>Ext</b>	:	01803 208025
<b>c.c</b>	<b>My Ref</b>	:	1ZV SRU/KJM/SPO
<b>For the attention of:</b> Steve Cox, Principle Licensing Officer	<b>Your Ref</b>	:	
	<b>Date</b>	:	16 <sup>th</sup> December 2020

**Subject: Review hearing, The Sporty's, Belgrave Road, 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 **X**
  
- 1. I fully agree with the facts and support the opinions presented by Ms Julie Smart in the Devon and Cornwall Police Constabulary application for an expedited review and in the submissions for this review application.
  
- 2. Ms Smart has furnished the Licensing Sub-committee with a detailed chronology and I will not repeat what has already been presented, but instead present to the sub-committee examples of repeating behaviour and offer an explanation for the cause of Mr Langs failure to honour his duties as a licensee to promote the licensing objectives. The offer of the same explanation will seek to understand Mr Lang's behaviour during the corona virus pandemic
  
- 3. In 2010 the Licensing team first met with Mr Lang during an extended period of noise complaints shortly after he took over the Sportsmans Arms premises with his partner at the time. Mrs Lisa Lang was the licensee and DPS at this time but the authorities held the view Mr Lang was the main controlling mind.
  
- 4. Between 2010-11, as the controlling mind Mr Lang repeatedly allowed recorded music to take place which caused noise nuisance despite the licence at this time did not permit this activity.

5. Noise nuisance, in addition to other breaches of the Licensing Act 2003 was not remedied to the satisfaction of the responsible authorities or residents. The only possible conclusion was a premises review hearing held in May 2011. The sanctions imposed by the review including a reduction in trading hours and the removal of Live and Recorded music.
6. Mr Lang became the sole licensee and DPS for the Sportsman's Arms in December 2012 until February 2015 when Mr Lang vacated the premises.
7. In October 2012 the Live Music Act achieved royal assent and effectively overturned the Review Hearing by deregulating Live and Recorded Music. Mr Lang was now permitted to play live and recorded music without authorisation until 11pm.
8. December 2012- February 2015 noise complaints continued sporadically with occasionally more some sustained periods of complaints, notably in the warmer months.
9. During the same period a particular trait developed in Mr Lang's approach to managing Licenced premises that is most relevant to the events of 2020. Mrs Smart has provided evidence of multiple occasions where Mr Lang permitted either Lock-ins for selected individuals or failed to stop the sale of alcohol in accordance with the premises licence authorisation. This activity further added to noise nuisance.
10. A familiar pattern emerged whereby the Authorities would offer advice and issue warnings to Mr Lang to help him comply with the conditions of his premises licence. Interventions unfortunately did not have a long lasting effect. In late 2014 evidence was being collected by both the Council and the Police to support a second review. The owner of the freehold was notified and he took the decision to cease the Sportsman's Arms as licenced premises and convert to residential accommodation. Had the course of action by the freeholder not been taken a review would have been sought seeking a revocation of the licence.
11. Since 2015 when Mr Lang opened the Sporty's Bar the authority has received several noise complaints, mostly from residential properties at the rear of the premises. Though recorded music was often quoted as contributing to the nuisance it was in fact noise from customers using the rear beer garden causing the most nuisance. Due to the sporadic nature of the complaints and a genuine expression of fear of reprisals the residents refrained from pursuing with an investigation. However they would pass occasional comments onto the Council and Police, most recently regarding misuse of controlled substances.
12. The rear of the premises can be described as an enclosed courtyard and background noise is low at any time of the day. Complainants often quote customers would leave the premises at the rear and cause nuisance as they transitioned through the courtyard. Mr Lang was asked to stop customers using the rear exit, but I cannot confirm if Mr Lang succeeded.
13. The Authority did not have enough evidence to pursue with either a noise abatement notice under the Environmental Protection Act or apply for a licensing review. However when taking into account the built environment, the clientele, Mr Lang's history of non-compliance based on the balance of probabilities it is likely residents at the rear of the premises have suffered from excessive noise amounting to a statutory nuisance.
14. Mr Lang on the 6<sup>th</sup> July during a compliance visit was reminded to keep the music volume at background levels as the covid guidance seeks to prevent customers from raising voices and thus increasing the risk of aerosols spreading Covid19. This visit has been documented by Mrs Smart as an example where Mr Lang had woefully applied the covid workplace guidance.

15. The evidence of Mr Lang's actions on November 11<sup>th</sup> 2020 provided by the Police has been reviewed by Torbay Council and the Authority is committed to prosecuting Mr Lang under The Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020. The same regulations enable the service of Fixed Penalty Notice as an administrative alternative to prosecution. On the 26<sup>th</sup> November 2020 Mr Lang was served a fixed penalty notice and indicated he would pay the fine.
16. Throughout Mr Lang's time at the Sportsmans Arms and The Sporty, when not intoxicated, he has always been polite to Officers and conveyed a willingness to comply with advice and instruction. Equally he never tried to deny any wrong doing on his part when the evidence was clear.
17. During evening encounters with Mr Lang (most recently on the 4<sup>th</sup> July 2020) I found him to be on the other side of the bar and often intoxicated and more aggressive and argumentative than when he is sober. During a recent conversation with Mr Lang he stated drinking with his customers, many he would call friends is part of the culture of running a public house. Whilst I don't doubt that is the case, there must be a balance, a line which is not crossed so a licensee can maintain high standards of professional conduct when representing their premises and profession; at all times.
18. Mr Lang fails to appreciate there is a boundary around a licence premises that defines an area within it which is subject to regulation. A licence premises is not an extension of one's home.
19. Mr Lang lives above the Sportys's Bar, likewise as he did at the Sportsmans Arms. The living arrangement combined with his jovial and sociable outlook has made it very difficult for him to separate the business from his private social life. The lockdowns and more recently his behaviour during the pandemic are examples of his desire to socialise and entertain either the general public or friends.
20. Mr Lang has on multiple occasions failed to maintain professional standards as licensee and by doing so has undermined the licensing objectives. The same attitude to regulation has been exposed during the Covid19 pandemic as a characteristic cavalier disregard to comply with the wishes of the Government to control spread of a highly infectious disease. By doing so he has risked the health of people who live within his community as much as his own.
21. Since July 2020 the Authority and the Police have undertaken scores of compliance visits in licensed premises. We have learnt it is those licensees who before the pandemic had awarded themselves, by their own actions, a reputation of non-compliance have adopted the same lack of responsibility and judgement when it comes to playing their pivotal role in reducing the impact of Covid19 on the health of the community.
22. Mr Lang is an intelligent man and knows what is required and expected of him as a licensee. He has failed to prevent the same behaviour repeating and has not learnt from these mistakes. Except this time, during a pandemic, his actions as licensee could have fatal consequences.

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