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Date: Tuesday, 28 May 2024

Governance Support
Town Hall
Castle Circus
Torquay
TQ1 3DR

Dear Member

LICENSING SUB-COMMITTEE - THURSDAY, 30 MAY 2024

I am now able to enclose, for consideration at the Thursday, 30 May 2024 meeting of the Licensing Sub-Committee, the following reports that were unavailable when the agenda was printed.

| Agenda No | Item | Page |
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| 5. | Arena Torquay, 39-41 Torwood Street, Torquay | (Pages 2 - 11) |

Yours sincerely

Governance Support
Clerk

REBUTTAL TO ENVIRONMENTAL HEALTH OBJECTION TO LICENSE APPLICATION

17 MAY 2024

Presented for:
Torbay Council

Presented by:
Arena Torquay Ltd



About Us

Arena Torquay Ltd is proposing to create a 1200 capacity, multi-purpose entertainment venue complete with adjacent Live Lounge bar.

Hosting Concerts, Comedy, Exhibitions and being available externally to national & local Promoters along with hiring out for private and corporate events.

We are partnering with industry renowned Bookers, Artists and Festival organisers to bring much needed trade into the region and to offer the local community access to some of the biggest and best names so they don't have to travel across the UK in order to see them.

Our Vision

Arena Torquay Ltd want to invest a 6 figure sum into refurbishing the inside and outside of the old and rundown Bohemia building on Torwood Street turning it into a well presented multi-use venue and community space hosting a wide range of events & facilities for all age groups such as:



**Live music from
touring & local
acts**



**Touring Theatre
productions &
local theatre
groups**



**Developing
local talent**



**Touring &
local
Comedy**



**Dance Rehearsals &
day time family
events**



**Hospitality
Amenities e.g
Lounge bar**

All of this would be done with the cultural needs of the town in mind by providing a venue that will meet the aspirations of the local community who want to see a vibrant entertainment space which caters for everyone's needs.

Rebuttal to **Environmental Health Representation objection to Alcohol (On)/Entertainment Licence/ Late Night Refreshment Licence for Arena Torquay 39 – 41 Torwood Street, Torquay, TQ1 1DZ.**

The Objection has been raised under:

The Prevention of Public Nuisance with the following 4 categories.

- 1.) Live and recorded music emanating from the premises are likely to cause a nuisance, particularly late into the night, based on previous history of the premises.**
- 2.) Noise nuisance from customers queuing and smoking outside the entrance.**
- 3.) Noise nuisance from customers loitering, and associated noise from anti- social behavior.**
- 4.) Smoking related littering.**

General Overview

We intend to answer each point in turn, but in general would submit that the objections have been raised without any relevant evidence, data or consideration as to our present day proposed operations and refurbishment. We feel there are inaccuracies in the objections in comparison to agreed terms in the proposed license, submitted after consultation with Police licensing and that further, the 'Noise' objection is based on events that happened 11 years ago.

It is worth noting that the building has historically been an entertainment Venue with the relevant consents, firstly as a casino and then from the early 1990's predominantly operated as a traditional nightclub. Until its close in 2013 it had a 05.30am license, which is still in place albeit suspended due to non-payment of fees.

The first objection reason is:

- 1.) Live and recorded music emanating from the premises are likely to cause nuisance, particularly late into the night, based on previous history of the premises.**

This objection point does in our opinion contradict itself in so far as it is based on the use of the building as a nightclub open until 5.30am, 11 years ago. It operated in a very different time in terms of the music scene, business practices, modern day acoustics and technology. It also had an open roof smoking room area which we believe caused the vast majority of issues and we do not dispute that based on its current design it would have been unsuitable for this purpose, hence the previous issues.

It is surprising though to read that the objection states that record fairs, concert & comedy nights finishing significantly earlier and with modern day acoustic solutions in place, would be worse than a nightclub operated in 2013, given the poor acoustic measures that were in place at the time.

As an example, to what we believe to be inaccuracies within the objection, it further raises concerns around "boxing / wrestling until 3.30am" when the proposed license clearly states that they must end by midnight, along with films and other activities restricted to that cut off time.

We further feel this point is no longer relevant as it should also be noted that in response to the concern of live and recorded music until 3.30am, We have now voluntarily amended the application to stop live music at midnight and recorded music at 1.30am. The last 30 minutes of which will be low key to assist in the steady egress of customers as they leave the premises.

This in effect offers an earlier closing time in comparison, for example, of the following premises in our immediate 50-meter vicinity.

| VENUE NAME | LICENSE |
|----------------------|-------------------------------------------------------------|
| Bamboo Bar (Fat Bar) | 2.00am Live & recorded music till 2.00am |
| Hideaway Bar | 2.30am Live & recorded music till 2.00am |
| Jun Jaow | Friday & Saturday live & recorded music till 2.00am |
| Eltons Piano Bar | Friday & Saturday live & recorded music till license 3.00am |

Hollywood Bowl is a significantly larger premises nearby as outlined in the acoustic report, and the demographic at that time of night will be 18+

We will therefore be closed prior to any other neighbouring licensed establishments and our customers & staff will also have left the premises before others have closed.

The second objection is:

2.) Noise nuisance from customers queuing and smoking outside the entrance.

As there is no specific queuing issue mentioned, we assume the "queuing" concern dates back to old nightclub times whereby pay on the door was the only option, There was also 'no cashless' or pre book options and this often caused a backlog of people who had arrived early to secure a place at events.

In the modern day, pre booked tickets are used to match capacity & the footfall on entry is staggered as people arrive at different times as they already have a ticket.

We will also have the ability to further manage any build up through the use of modern-day ticketing equipment and also bring any build up into the building for processing should it occur, although based on experience, we feel this is unlikely.

On egress, the designated taxi rank & bus stops are further down the road by the Clock Tower & Harbour area, with the train station a 15-minute walk away. The nearest takeaway establishment is around 150 meters away, again near the Clock Tower and other later licensed venues that our customers may also disperse to.

Torbay Council also currently have 'Operation Town Center' in place at key times which runs on the Harbourside, well away from our building, usually between 10.00pm & 4.00am. This would seem to be more of a meeting & congregation place than our own proposed venue.

Our view and with experience of people movements, is that as people leave our venue, others nearby as indicated, will still be open so they will either disperse into these venues, as they can at present, or move away from the area to dedicated taxi ranks and takeaways, and not as suggested congregate outside of our premises, as no doubt happened when this was the only club open until 5.30am in 2013.

In terms of smoking concerns, the behavior these days compared to the comparison of 2013 is more of a vape culture with minimal actual cigarette smoking taking place. It is also worth mentioning that none of the previously mentioned adjacent premises or indeed the vast majority of premises in the wider area have dedicated smoking areas and most do not have SIA door staff requirements 7 nights per week.

It is a further condition of our proposed license for SIA door staff to be in place at weekends and on a fixed ratio for larger events so therefore the 'smoking system' will be closely monitored by Licensed staff as agreed with Police licensing. It is worth noting some licensed premises & festivals allow vaping in a controlled internal area where the event is 18+ only and proper ventilation is in place.

3.) Noise nuisance from customers loitering, and associated noise from anti- social behavior.

We have addressed the vast majority of this point in the previous answer; however, we would also be installing a full CCTV system, internal radios will be in place, and we will subscribe to the local scheme for monitoring licensed premises. We feel this issue has been covered and agreed with Police licensing and along with the reduced opening hours minimises any risk of this issue and in fact, will ensure the area is better monitored than at present.

4.) Smoking Related littering

This is a repeat objection as per point 2, but to reiterate, it has been covered in the proposed license and a suitable wall bin and cleaning regime will also be in place when open. It is worth noting that one of the public objections to the license mentions the state of litter and other anti-social activity currently in the area. We feel that with the building occupied, CCTV, security and cleaning measures in place it can only help to reduce anti-social behavior and the general cleanliness and appearance of the building & the area in general. It will certainly be an improvement to the previous Cannabis factory!

In addition to the 4 main points of objection the subject of sound proofing and the previous 2013 operation was again referred to along with the Culminative Impact Area (CIA).

The original license is in place, and we would have been well within our rights to apply to use it. It is therefore a little disingenuous, as the objection states, to say we are trying to increase on this license without stating that this increase was purely for during the day only, to allow for different types of events to take place such as family led shows, exhibitions and so on and we have actually reduced the closing times, not increased.

We have worked with the Police to put in a new rigorous set of terms that they were happy with, and they agreed the 3.30am license with us. As mentioned, we have subsequently voluntarily reduced this to 1.30am although a later time of 2 - 2.30am would be commercially better for the venue.

In Terms of point 8. In relation to sound proofing, our plans have always been to engage and retain relevant qualified people in the architecture and acoustic fields. We have been in a 'chicken & egg' situation in terms of plans before a license could be obtained. Despite this we had already engaged the services of PMR architecture, A well respected local company who have worked with a number of licensed premises, and Red Twin Limited, a Bristol based acoustic solutions provider who have worked on projects with Glastonbury Festival & Exeter University, as well as acting as 'expert witnesses, in numerous sound related cases.

It had not been possible with time constraints to have all the information ready for the license application date of the 9th May however we have forwarded their preliminary report along with the action that will be taken should the license application be successful.

In terms of overall appearance, the whole building will be redecorated, and the external problem areas dealt with as per the acoustic report. This will not only improve the aesthetics of the current run-down state of the building but further mitigate any noise issues.

In terms of the Community Impact Area (CIA) which has been quoted extensively in the objection solely in relation to 'nuisance', the Venue was a licensed premises and retains the license for this from before the CIA was introduced.

In addition, putting that to one side, there are a number of quotes we can put forward to support this application.

"Likely to be refused unless the venue can show there would be no harm to the licensing objectives set out in the Licensing Act 2003"

There is no data to show this venue will cause any harm to the area or breach the licensing objectives, specifically the "Nuisance" objection. In fact, we believe the opposite effect would occur, a rundown building operated as a cannabis factory would be turned into a managed, secure and upgraded building offering a wide range of entertainment & arts to local people.

"It is often not the case that licensed premises on their own are operating in a way that is detrimental to the licensing objectives. The problems can be caused simply by the concentration of premises in one area, and the number of customers gathering there."

This reiterates our point, there is no evidence to suggest this venue will add to any existing issues and Police licensing themselves have agreed the license terms which would further indicate satisfaction of compliance and zero impact.

The publication of a CIA does not change how the licensing decisions are made. The Licensing Authority will always consider each application on its merits.

We submit that based solely on the merits of our application such as reduced opening hours, building modernisation, variety of activities & rigid pre agreed license conditions the application should be granted without further condition.

Although it would seem maps vary, the below was taken from the Torbay Gov website: <https://www.torbay.gov.uk/media/15796/cumulative-impact-policy-2021-24-by-easepdf-without-watermark.pdf>

it is clear from this version the road is covered by the CIA but not the building which may make the CIA objections irrelevant any way, along with the fact the premises was in use and licensed prior to the CIA coming into effect.

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further dispute that other issues would have arisen due to lack of other nearby licensed late-night venues in 2013 and the 05.30am license.

We do not however believe these issues from 2013 can be considered against our proposal which has considered all the previous issues, has planned mitigation and effective management, an agreed set of terms with Police Licensing, along with much reduced late night operating hours and non-singular use as a 'nightclub'.

The building will be returned to a decorated, maintained, functioning and managed business with a wide variety of entertainment and opportunities.

To make progression of the project possible, we would seek the recommendation of a license with no further conditions placed on us other than those already confirmed within the pre agreed license terms submitted.

S Garratt

Director

Arena Torquay Ltd

Thank You

If you would like to know more about our vision and how we propose to implement it, please contact us:

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