



Minutes of the Licensing Sub-Committee

21 November 2019

-: Present :-

Councillors Atiya-Alla, Ellery and Kavanagh

9. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

10. Minutes

The Minutes of the meeting of the Sub-Committee held on 24 October 2019 were confirmed as a correct record and signed by the Chairman.

11. Anchorage Hotel, Aveland Road, Torquay TQ1 3PT

Members considered a report on an application for a Variation to a Premises Licence in respect the Anchorage Hotel, Aveland Road, Torquay. The Premises do not fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Public Protection	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'	28 October 2019
Members of the Public	42 Representations were received from Members of the Public who are objecting to the application on the grounds of "The Prevention of Crime and Disorder", "The Prevention of Public Nuisance", "Public Safety" and "The Protection of Children from Harm".	Various dates
Members of the Public	5 representations were received from Members of the Public who are supporting the application relating to the Licensing Objectives of "The Prevention of Crime and Disorder", The Prevention of Public Nuisance" and "Public Safety".	Various dates

Additional Information:

With the agreement of the Chairman, the time for oral representations was extended to 15 minutes.

Members were made aware that the exemptions of the Live Music Act apply in relation to this licence.

Oral Representations received from:

Name	Details
Applicant	The Applicant presented their application and responded to Members questions.
Public Protection Officer	The Public Protection Officer presented their representation in respect of the application and responded to Members questions.
Members of the Public	11 Members of the Public presented their objections to the application.

Decision:

That the application for a Variation to a Premises Licence in respect of the Anchorage Hotel, Aveland Road, Torquay be refused.

Reason for Decision:

Having carefully considered all the written and oral representations, Members unanimously resolved to refuse the application.

In coming to that decision, Members noted the concerns raised by members of the public and were satisfied on the evidence before them, notwithstanding that these premises had the benefit of the exemptions under the Live Music Act 2012, that noise nuisance was occurring from this premises which in turn was causing 'The Prevention of Public Nuisance licensing objective to be undermined. To grant the variation application as applied for at this stage, would seek in Member opinion, only to extend the hours of noise nuisance being complained of.

Members had regard to the written and oral representation from the Public Protection Officer (PPO) and whilst it was noted that only two complaints about noise had been received by the PPO since June 2019, Members were satisfied that the premises were aware of residents' concerns, as a number of them told how they had complained to staff at the premises directly. It was of concern to Members that the premises licence holder had not put mitigating measures in place sooner to address and alleviate these concerns.

It was however noted by Members, that at the meeting the premises licence holder apologised for causing these concerns and stressed that it was never their

intention to upset anyone and that they wanted to work with their neighbours to address and prevent these concerns from continuing.

It was apparent to Members that the objections to this application related primarily to noise from regulated entertainment, patrons frequenting the premises outside areas and the dispersal of those patrons at closing time, in to what is a quiet neighbourhood, especially after 11pm.

Members noted the recent efforts by the Applicants', in installing air conditioning, employing the services of a noise consultant, designating a smoking area and the purchase of a smoking shelter. However Members could not be satisfied that these efforts alone would ensure that the premises future operations would not continue to undermine 'The Prevention of Public Nuisance' licensing objective.

In determining that, Members noted the absence of any dispersal plan detailing mitigating measures for events, especially those finishing after 11pm, that the noise consultant findings had not yet concluded and therefore the implementation of those findings were not set out for Members consideration, the assured control of patrons using the premises outside areas, especially after 9pm were not detailed enough; and whilst it was pleasing to note that a noise limiter was being fitted at the premises, this had not yet been tested and levels set in consultation with and agreed by the Council's PPO. Therefore Members could not be satisfied that noise nuisance from amplified music and patrons would not continue to unreasonably disturb nearby residents should this application be granted.

Members had further regard to the PPO representation when determining to refuse the application, in that air conditioning alone is not working to control noise outbreak from the premises function room and that the fabric of this part of the building was not built with material which would deaden amplified breakout and therefore additional measures were required which at this time, were not in place or had not been tested.

Members had particular regard to page 40 of the Council's Licensing Policy and noting the geographical area in which this premises is situated, which is predominantly residential, and they could not with clear conscious grant the application as applied for, as to do so would in their opinion, undermine 'The Prevention of Public Nuisance' licensing objective and cause further disturbance to nearby residents.

In concluding, Members gave careful consideration to what if any conditions could be added to the premises licence, as an alternative to refusal of the application but in doing so, determined that the application appeared to them to be somewhat premature as there were number of yet to be determined findings or detailed operational plans written up and to add conditions at this stage, may change that intended by the Applicants and therefore resolved that a refusal of the application as it stood, was an appropriate and proportionate determination.