

**Licensing Act 2003
Environmental Health Representation**

Application Details

Premises: Arena Torquay

Name of Applicant: Steve Garratt

Address: 39 – 41 Torwood Street, Torquay, TQ1 1DZ

Type of Application: Alcohol (On)/Entertainment Licence/
Late Night Refreshment Licence

Representation

This department would like to make the following representation:

I consider the application to undermine the following licensing objectives:

The Prevention of Public Nuisance

The likely effect of granting the licence as applied will undermine the licensing objectives because:

All of the below points relate to the objective of the prevention of public nuisance. Should the licence be granted, I consider the likely effect to be as follows:

- 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.
- 2.) Noise nuisance from customers queuing and smoking outside the entrance.
- 3.) Noise nuisance from customers loitering, and associated noise from anti-social behaviour.
- 4.) Smoking related littering

Recommendations

I therefore recommend that this application is refused because:

An application has been received by Torbay Council's Licensing department for a new premises licence. This new application looks to re-instate the building belonging to the former nightclub known as Bohemia. During the periods between 2009 – 2013, Torbay Council's Licensing department and environmental health department received several complaints relating to noise nuisance from nearby residents regarding the nightclub.

This department has concerns with regards to the location of the proposed venue. The application for this premises licence lies within the boundary of Torbay Council's cumulative impact area.

"Cumulative Impact has been used as a term to describe the stress that a large number of licensed premises can have on crime and disorder, nuisance and the demand on local services. The guidance describes cumulative impact as 'the potential impact on the promotion of the licensing objectives of a number of

licensed premises concentrated in one area'. It is often not that licensed premises on their own are operating in a way that is detrimental to the licensing objectives, but it is the accumulation of the premises and the people attending them that creates the increased problems and demands on services" (Source: Torbay Council Cumulative Impact Assessment 2024 - 2027).

At present, this area of Torbay is host to several existing licensed premises including a nightclub 'The Foundry' which operates until 03:30 hrs Monday to Sunday.

I have concern that the addition of a similar venue situated in close proximity to others of its type will give rise to increased noise nuisance. I suspect that this will be created by noise breakout from the venue itself but also from a significant increase in numbers of 'partygoers' in the area.

Torbay Council's Cumulative Impact Assessment 2024 – 2026 states that:

"In CIA's, there is a presumption that the licensing authority will refuse or impose limitations on applications which are likely to add to the cumulative impact unless the applicant can demonstrate that there will be no negative cumulative impact on the licensing objectives."

The proposed venue is also surrounded by residential properties. There are flats directly opposite and there are several residential streets around the back of the property. Section 6 under the Prevention of Public Nuisance on page 42 of Torbay Council's Statement of Licensing Principles 2021 – 2026 states:

"6. Proximity to residential accommodation is a general consideration with regard to the prevention of public nuisance. The Authority will treat each case on its individual merits, however, stricter conditions will generally be considered on premises licences in areas that have denser levels of residential accommodation or residential accommodation in close proximity to them. This may include, where appropriate, the Authority considering an earlier terminal hour than that proposed by the Applicant".

I have reviewed the proposed conditions under Annex 2, particularly with reference to the prevention of public nuisance objective. There are some conditions under this section which look to mitigate the effects of noise disturbance. Notably, the proposed condition which states:

Noise from the premises shall not be audible within any dwelling with windows open for normal ventilation especially after 23.000 hours. This shall be assessed from the boundary to the nearest residential properties, on all side of the licensed premises. The criteria that shall be applied are: -

1 - Before 23.00 hours – Noise emanating form the premises shall not be clearly distinguishable above other noise.

2 - After 23:00 hours – Noise emanating from the premises shall not be distinguishable above background level noise.

3 - The local authority shall reserve the right in cases of tonal noise and where premises are attached to others, to make further assessments from within the residential property.

However, in view of the proposed activities and structure of the existing building, I fail to see how this condition can be met.

As mentioned, the premises has previously operated as a nightclub and has been closed since 2013. The Environmental Health Department received a number of complaints during this time about noise from music and from people congregating in the street. The previous premises Bohemia also has the same condition imposed on their licence but were not able to adhere to it. I can say this with confidence as between 2009 and 2013, the environmental health department were in receipt of 18 complaints about noise. These were made by residents in nearby properties including Torwood Street, Meadfoot Road and Trinity Hill.

Whilst the business has advised that it will not be operating as a nightclub, the noise implications are likely to be the same or worse as they have advised that they will be using the premises as:

“a mixed entertainment venue to host a range of entertainment such as concerts, comedy nights, record fairs, exhibitions, private event hire, wrestling/boxing, film, and basically anything related to the entertainment genre.”

We also have concern over the timings of the activities proposed under the provision of regulated entertainment. Notably, boxing/wrestling until 03:30am, recorded music until 03:30 and live music until 03:00. Such activities, along with their proposed timings will likely create an atmosphere that is conducive to very loud, night-time economy type venues. Such premises tend to attract large crowds, typically in drink and prone to making lots of noise, shouting, and having loud conversations into the early hours.

There appears to be no provision of mitigation against the effects of noise created by large crowds of people congregating outside the premises. Notably, there appears to be no provision of a dedicated smoking area and therefore customers are likely to congregate on the pavement area to smoke. There is no indication in the application as to how this will be managed. We note that the applicant has since agreed an additional condition with the Police with regards to managing smokers. However, the premises are only providing door staff at certain times and therefore there could be customers congregating outside with no management if the premises closes at 1am.

Owing to the proposed nature of the venue and estimated footfall, there will also be an increased likelihood for customers to queue outside the entrance and loiter outside when leaving the building/waiting for taxis. To the best of our knowledge there is only one entrance to the premises on Torwood Street. There is no suggestion of how this would be managed either. I believe this to be an issue considering when Bohemia was in operation, we received a number of complaints from nearby residents advising that loud shouting and conversations were being had outside the premises.

A noise abatement notice was served in December 2010 due to excessive noise from amplified music emanating from the premises. Further to this, a letter was sent in 2011 to the previous premises supervisor to reinforce the notice following further complaints after it had been served. The letter advised that there were several weak elements to the structure where noise was suspected to be leaking from. These included, the rear door to the premises as used by staff, the opening

for the cellar ventilation and the ventilation duct in the toilet that opened into the cellar area. There were issues with the boarded over windows on the lower end of the club where disused ventilation ducts were present.

In November 2013, the owner closed the building with the intention to carry out additional sound proofing as part of a refurbishment before reopening. However, they decided to relocate the business and the premises has not been open since. A noise limiter was in place at this premises, but noise was still causing disturbance due to escape from these openings. There were issues with the bass speakers and the noise was vibrating throughout the structure.

The original Bohemia premises licence is still in place. The applicant has applied for a new licence as they wish to increase the hours from the original licence. Please refer to Section 7 under the Prevention of Public Nuisance section on page 43 of Torbay Council's Statement of Licensing Principles 2021 – 2026 which states: ***The Authority will presume against the grant of new or variations to Premises Licences 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, and the Applicant cannot demonstrate that they have properly considered the issue of nuisance.***

There is also no information on the application form to advise if any additional sound proofing has been carried out to this building to prevent noise disturbance to nearby residents. Please refer to Section 8 and 9 under the Prevention of Public Nuisance on page 44 of Torbay Council's Statement of Licensing Principles 2021 – 2026 which states:

8. To demonstrate proper consideration, Applicants are strongly encouraged to engage the services of and obtain appropriate advice from those with the expertise in this field, to explore what if any mitigation measures could be put in place to alleviate the impact of potential nuisance arising from their premises operations.

9. There will be an assumption however, that licensed premises in residential areas, or where there is close proximity to residential properties or hospitality services, 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.

Please also refer to section 12, 13 and 14 on page 43 also states:

The following suggestions should be considered but will vary according to the intended operations of each premises. The list is not exhaustive and is intended to act as prompt for Applicants:

- ***Is an acoustic report needed if the application involves live or recorded music and later hours?***

- ***Can details of the location and types of any schemes designed to attenuate noise from the premises be provided?***
- ***Can details of any measures to minimise the noise caused by patrons outside the premises be provided?***
- ***How the noise from the activity can be controlled to prevent noise breakout. Some premises simply do not have the structure to contain noise, and it is unlikely that these types of premises can have these noisier activities.***
- ***Can the noise breakout be controlled by double glazing, noise limiters, large lobby areas, or any other structural change that attenuates the noise?***
- ***The location and availability of any taxi ranks, bus stops, street pastors, railways stations in relation to the premises which are operational at or just after the terminal hour of the licence.***
- ***Provide details of the location and management of any outdoor areas within the property boundary for use by patrons drinking, eating, smoking, queuing or congregating outside, and the hours of use of such areas.***
- ***Include details of dispersal policies, and consider the role of door supervision and winding down periods.***
- ***Will music sound levels and tempo be reduced towards the end of the evening?***
- ***Will lighting be increased towards the end of the evening?***
- ***Will there be an area for patrons to use whilst waiting for taxis, such as wind-down/chill out areas?***

13. If an application is expected to be contentious or noise problems already exist, expert advice should be sought. Applicants are advised to employ a noise consultant before an application is submitted but ideally before signing a lease agreement, if applicable.

14. Sound attenuation works can be very costly and Applicants should factor in the costs into their budget. It can be more expensive and inconvenient if noise breakout is not mitigated at the build stage. The consultant's report should be submitted as part of the application, or a proposed condition that advises that this will be done to the Responsible Authorities' satisfaction before the activity starts.

I therefore recommend that this application is refused.

Licensing representation

Date and Time Submitted	25 April 2024 22:04:17
Name of the premises:	Arena Torquay
Support/Object to application	Object
Address of the premises:	39 - 41 Torwood Street Torquay Devon TQ11DZ

Applicant Details

In what capacity are you applying?	Any other person
First name:	[REDACTED]
Last name:	[REDACTED]
Email address:	[REDACTED]
Address:	[REDACTED]


Representation

Which of the following Licensing Objectives is this representation relevant to?


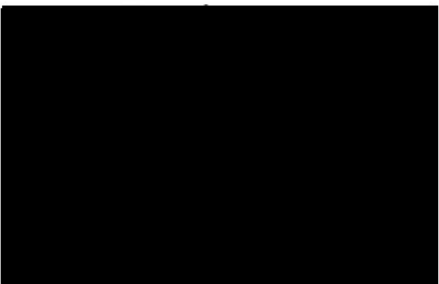
This representation is relevant to the following Licensing Objectives	The prevention of crime and disorder Public safety The prevention of public nuisance The protection of children from harm
The reason for your representation:	<p>I object to this application on the grounds of noise, nuisance and antisocial behaviour adding to the already existing problems that happen along Torwood Street regularly. Almost every weekend and some nights during the week, notably Wednesday, Friday and Saturday and sometimes Sunday nights, where intoxicated people are shouting and screaming from 11pm through to 3 am and sometimes later, along with the noise of staff on their way home from the businesses further down Torwood Street that park outside of where i live, all of which affect my sleep and my life along with other residents on Torwood Street. Having lived at my current address since 2003 i understand how bad things can be on this street. The building in question has a history of noise, antisocial behaviour along with violence that spilled out onto the street, and sound leakage, that kept me awake which was never addressed and should be rectified before any license is granted. The</p>

	various remedial works to resolve the noise problem with the property failed, including the installation of noise limiters.
Is there any reason why you do not want your personal details to be passed on to the premises license holder?	Yes
What is the reason you do not want your personal details to be passed on to the premises license holder?	I do not wish to be contacted by the premises license holder.
Would you like to include any documentation in support of your representation	No
Uploaded Files	

Confirmation

I confirm I have read the representation guidance notes and agree that a copy of my representation will be given to the premises license holder.	1
Full name:	



From  To Torbay Council
Address  Town Hall
Date 25/4/24 TQ1 3DR

I object to the licensing application:

Arena Torquay

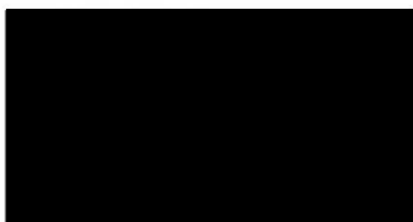
39-41 Torwood Street, Torquay, Devon, TQ1 1DZ

Open application 067024 which is a New Application for Premises Licence:

I object to this application on the grounds of noise, nuisance and antisocial behaviour that this building has a history of when last used as a nightclub. There is a particular problem with noise breaking out through the roof which has not been addressed and at the very least should be rectified before a licence is granted.

The various remedial works that were tried historically to solve the problems all failed including the installation of a noise limiter.

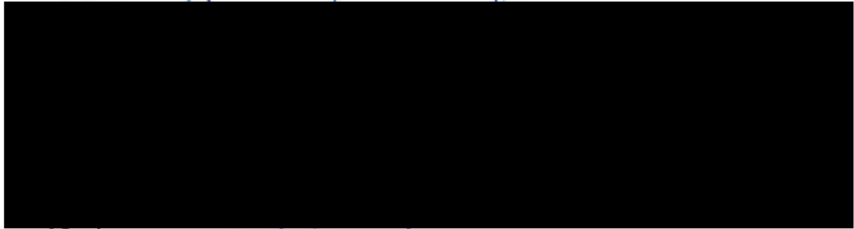
Yours sincerely

A large black rectangular redaction covering the signature area.

From



Address



To Torbay Council
Town Hall
TQ1 3DR

Date

26/04/2024

I object to the licensing application:

Arena Torquay

39-41 Torwood Street, Torquay, Devon, TQ1 1DZ

Open application 067024 which is a New Application for Premises Licence:

I object to this application on the grounds of noise, nuisance and antisocial behaviour that this building has a history of when last used as a nightclub. There is a particular problem with noise breaking out through the roof which has not been addressed and at the very least should be a rectified before a licence is granted.

The various remedial works that were tried historically to solve the problems all failed including the installation of a noise limiter.

Yours sincerely



TORBAY COUNCIL

30 APR 2024

COMMUNITY SAFETY

From

Address

To Torbay Council
Town Hall
TQ1 3DR

Date 26 April 2024

I object to the licensing application:

Arena Torquay

39-41 Torwood Street, Torquay, Devon, TQ1 1DZ

Open application 067024 which is a New Application for Premises Licence:

I object to this application on the grounds of noise, nuisance and antisocial behaviour that this building has a history of when last used as a nightclub. There is a particular problem with noise breaking out through the roof which has not been addressed and at the very least should be a rectified before a licence is granted.

The various remedial works that were tried historically to solve the problems all failed including the installation of a noise limiter.

Yours sincerely

The area has improved markedly in the absence of this night club in particular as regards noise and people urinating and vomiting in our premises which led to us having to fence our premises and install security lighting.

TORBAY COUNCIL
30 APR 2024
COMMUNITY SAFETY

From [REDACTED] To Torbay Council
Address [REDACTED] Town Hall
[REDACTED] TQ1 3DR
Date 26-4-2024 [REDACTED]

I object to the licensing application:

Arena Torquay

39-41 Torwood Street, Torquay, Devon, TQ1 1DZ

Open application 067024 which is a New Application for Premises Licence:

I object to this application on the grounds of noise, nuisance and antisocial behaviour that this building has a history of when last used as a nightclub. There is a particular problem with noise breaking out through the roof which has not been addressed and at the very least should be a rectified before a licence is granted.

The various remedial works that were tried historically to solve the problems all failed including the installation of a noise limiter.

Yours sincerely [REDACTED]



From [REDACTED]
Address [REDACTED]

To Torbay Council
Town Hall
TQ1 3DR

Date 25th APRIL 2024

I object to the licensing application:

Arena Torquay

39-41 Torwood Street, Torquay, Devon, TQ1 1DZ

Open application 067024 which is a New Application for Premises Licence:

I object to this application on the grounds of noise, nuisance and antisocial behaviour that this building has a history of when last used as a nightclub. There is a particular problem with noise breaking out through the roof which has not been addressed and at the very least should be a rectified before a licence is granted.

The various remedial works that were tried historically to solve the problems all failed including the installation of a noise limiter.

Yours sincerely

[REDACTED]

TORBAY COUNCIL
30 APR 2024
COMMUNITY SAFETY

From [REDACTED] To Torbay Council
Town Hall
Address [REDACTED] TQ1 3DR
[REDACTED]

Date 23/4/24

I object to the licensing application:

Arena Torquay

39-41 Torwood Street, Torquay, Devon, TQ1 1DZ

Open application 067024 which is a New Application for Premises Licence:

I object to this application on the grounds of noise, nuisance and antisocial behaviour that this building has a history of when last used as a nightclub. There is a particular problem with noise breaking out through the roof which has not been addressed and at the very least should be a rectified before a licence is granted.

The various remedial works that were tried historically to solve the problems all failed including the installation of a noise limiter.

Yours sincerely

[REDACTED]

TORBAY COUNCIL
- 7 MAY 2024
COMMUNITY SAFETY

From

[REDACTED]

To

Torbay Council
Town Hall
TQ1 3DR

Address

[REDACTED]

[REDACTED]

Date 01-05-24

I object to the licensing application:

Arena Torquay

39-41 Torwood Street, Torquay, Devon, TQ1 1DZ

Open application 067024 which is a New Application for Premises Licence:

THIS Building IS ONLY 4.9 meters from our home and there IS no way we will put up with this!

I object to this application on the grounds of noise, nuisance and antisocial behaviour that this building has a history of when last used as a nightclub. There is a particular problem with noise breaking out through the roof which has not been addressed and at the very least should be a rectified before a licence is granted.

The various remedial works that were tried historically to solve the problems all failed including the installation of a noise limiter.

Yours since

[REDACTED]

Licensing representation

Date and Time Submitted	07 May 2024 19:12:42
Name of the premises:	39-41 Torwood street TQ1 1DZ
Support/Object to application	Object
Address of the premises:	39-41 Torwood Street Torquay TQ1 1DZ

Applicant Details

In what capacity are you applying?	Any other person
First name:	[REDACTED]
Last name:	[REDACTED]
Contact number:	[REDACTED]
[REDACTED] address:	[REDACTED]
Address:	[REDACTED] [REDACTED]

Representation

Which of the following Licensing Objectives is this representation relevant to?

This representation is relevant to the following Licensing Objectives	The prevention of crime and disorder Public safety The prevention of public nuisance The protection of children from harm
The reason for your representation:	Having only been made aware of application and no residential neighbours invited to a meeting on Tuesday 7th May, as being the closest residential property that will be very effected by this licence being granted, At the moment Torwood gardens road is under a massive problem with anti social behaviour that is linked to both drugs and alcohol, over the past six months we have had to allow access to our Cctv for police officers from stabbing to disorderly conduct. Torwood street has just got back to having a good reputation for street dining and would not benefit from another licence premises being open until 3.30am as the local police can not handle what is happening in the Bay. With regards to the noise, there is no way that this can be retained within the premises and not cause a nuisance to local residents let alone the new

	<p>multi million pound hotels that Torbay Council have so invested in over the last few years. Smoking areas that are shown are on the footpaths outside the premises that will again deter people using the restaurants, it was only last week when there was an event at Foundry police officers had to attend for two hours allowing locals and tourists get passed safely. After putting in time and lots of money into Torbay hospitality and our personal property that is less than 5 meters away we strongly suggest that this be refused. With regards to the safety of Children I can not understand why there would be a licences premises running alongside an application for a children's soft play directly below the said premises, and the play area would be received by all local businesses in Torquay. I would like to strongly object to the application due to noise more</p>
<p>Is there any reason why you do not want your personal details to be passed on to the premises license holder?</p>	No
<p>Would you like to include any documentation in support of your representation</p>	No
<p>Uploaded Files</p>	

Confirmation

<p>I confirm I have read the representation guidance notes and agree that a copy of my representation will be given to the premises license holder.</p>	1
<p>Full name:</p>	<p>██████████</p>

Licensing representation

Date and Time Submitted	09 May 2024 14:44:06
Name of the premises:	Arena Torquay
Support/Object to application	Object
Address of the premises:	Arena Torquay 39-41 Torwood Street Torquay TQ1 1DZ

Applicant Details

In what capacity are you applying?	Any other person
First name:	[REDACTED]
Last name:	[REDACTED]
Contact number:	[REDACTED]
Email address:	[REDACTED]
Address:	[REDACTED] [REDACTED]

Representation

Which of the following Licensing Objectives is this representation relevant to?

This representation is relevant to the following Licensing Objectives	The prevention of public nuisance
The reason for your representation:	This premises was previously Bohemia nightclub. When this closed down the council assured the residents who live opposite that there would be no more late night music venues in this part of Torwood st. The applicant want's to have a late night license until 3 am with live music, recorded music bands, etc, with the capacity of over 1000 people. This would be completely detrimental to residents just 30 feet away. The past was a nightmare for us and we don't want to go through it again. I object to this application.
Is there any reason why you do not want your personal details to be passed on to the premises license holder?	Yes
What is the reason you do not want your	I only ever pass on my email address or any

personal details to be passed on to the premises license holder?	personal data only if it completely necessary.
Would you like to include any documentation in support of your representation	No
Uploaded Files	

Confirmation

I confirm I have read the representation guidance notes and agree that a copy of my representation will be given to the premises license holder.	1
Full name:	██████████

Licensing representation

Date and Time Submitted	03 May 2024 16:13:39
Name of the premises:	ARENA Entertainments Venue
Support/Object to application	Support it
Address of the premises:	39-41 Torward Street Torquay TQ1 1DZ

Applicant Details

In what capacity are you applying?	A business
First name:	████
Last name:	██████
Email address:	████████████████████
Address:	██ ██

Representation

Which of the following Licensing Objectives is this representation relevant to?

This representation is relevant to the following Licensing Objectives	The prevention of crime and disorder Public safety The prevention of public nuisance
The reason for your representation:	The Building has been empty and run down for many years. Allowing a venue of this type (non nightclub) in an area that is undergoing renovation will ensure a varied and vibrant entertainments economy as well as providing additional jobs in the area for locals. With the new Hilton and Premier Inn nearby, a venue of this unique type will draw in tourists and boost the local economy. It will turn an eyesore in to a fantastic asset for the local community and tourists to the area. As this is not a nightclub, it will not add to the late night / early morning noise from other clubs closing at 3am therefore not have a negative impact on the local neighbours. This type of venue also does not cause disorder to increase and is therefore only a huge positive for Torbay.
Is there any reason why you do not want your personal details to be passed on to the premises license holder?	No

Would you like to include any documentation in support of your representation	No
Uploaded Files	

Confirmation

I confirm I have read the representation guidance notes and agree that a copy of my representation will be given to the premises license holder.	1
[REDACTED]	[REDACTED]

Licensing representation

Date and Time Submitted	07 May 2024 18:48:04
Name of the premises:	Arena Entertainment Venue. Old Bohemia
Support/Object to application	Support it
Address of the premises:	39-41 Torwood st Torquay Tq1 1dz

Applicant Details

In what capacity are you applying?	A business
First name:	[REDACTED]
Last name:	[REDACTED]
Contact number:	[REDACTED]
Email address:	[REDACTED]
Address:	[REDACTED] [REDACTED]

Representation

Which of the following Licensing Objectives is this representation relevant to?

This representation is relevant to the following Licensing Objectives	The prevention of crime and disorder
The reason for your representation:	I strongly feel by having a venue for live music would attract a different class of clientele. People are more likely to use the local restaurants before and after a show, it would be fantastic for the Bay.
Is there any reason why you do not want your personal details to be passed on to the premises license holder?	No
Would you like to include any documentation in support of your representation	No
Uploaded Files	

Confirmation

I confirm I have read the representation guidance notes and agree that a copy of my representation will be given to the premises license holder.	1
Full name:	[REDACTED]