



Report No: Public Agenda Item: **Yes**

Title: **Pavement Café Permit Application**

Wards Affected: **Berryhead with Furzeham.**

To: **Licensing Sub-Committee** On: 27 January **2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Steve Leatherland**

☎ Telephone: **01803 207736**

✉ E.mail: **Steve.leatherland@torbay.gov.uk**

1. What we are trying to achieve and the impact on our customers

1.1 The provision of Pavement Cafe Permits at approved locations improves the amenity of Torbay and enhances the streetscape in accordance with the Council's theme "Developing Torbay's culture" and specific aim to encourage a continental café culture".

2. Recommendation(s) for decision

2.1 That the application for a Pavement Café Permit, in respect of "Brixham Deli" be granted in accordance with the plans set out in appendix 1 and times as set out in appendix 2.

3. Key points and reasons for recommendations

3.1 It is a requirement of the Highways Act 1980, that the Highway Authority give consideration to applications for Pavement Café Permits and following a satisfactory assessment of the proposed area, liaison with emergency services and other interested parties and provided that there has been no objection to the granting of such permits, as within the plan set out in appendix 1 and the times set out in appendix 2, then the same will be issued.

3.2 The key issue being considered by the Highway Authority is the safety of road users and the effect on the local community following the outcome of the above assessments and the consultation undertaken, it is believed that road user safety will not be compromised, if this permit were granted within the times specified in appendix 2.

3.3 The Highways Service Manager (Highways Management) is unable to grant this licence under delegated powers, as there has been a Representation objecting

to the granting of the licence, as specified in appendix 3.

For more detailed information on this proposal please refer to the supporting information attached.

Sue Cheriton
**Executive Head,
Residents & Visitor Services.**

Supporting information to Report

A1. Introduction and history

- A1.1 The Highways Act, 1980 (as amended) contains provisions for Local Authorities to grant permits for the provisions of refreshment facilities on highway land, always taking into consideration the safety of pedestrian and vehicular traffic in the particular area.
- A1.2 The Torbay Highways Joint Committee considered Report BE/38/90 of the Borough Engineer at its meeting on 30 May 1990. The report referred to procedures established by Devon County Council's Planning and Transportation Committee in respect of the obstruction of highways and to the criteria recommended by the Borough Council (Minutes 495/9/83 and 1632/3/84) when considering the granting of permission to operate pavement cafes for refreshment on the public highway.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

- A2.2 There are some resource implications if there is any question whether consent is unreasonably withheld or is given subject to reasonable conditions shall be referred to and determined by an arbitrator to be appointed, in default of the agreement, by the President of the Chartered Institute of Arbitrators.

A3. Other Options

- A3.1 The following options been considered
- A3.2 To grant the application as applied for.
- A3.3 Refuse the application or;
- A3.4 Grant the application as applied for, subject to certain conditions – i.e. variation to either the hours applied for, the areas specified in the application or restrict the times of the year with which the Permit may have affect.

A4. Summary of resource implications

- A4.1 'There are some resource implications if there is any question whether consent is unreasonably withheld or is given subject to reasonable conditions shall be referred to and determined by an arbitrator to be appointed, in default of the agreement, by the President of the Chartered Institute of Arbitrators.'

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

- A5.1 None

A6. Consultation and Customer Focus

- A6.1 Following a public notices being displayed at the Premises for 28 days and consultation with the Police and Interested Parties', a letter of objection has been received in respect of this application from the Proprietor of an adjacent Premise on the grounds of 'The Promotion of Public Safety'. It is important to note that the Police have raised no objections to the issuing of this licence and that some of the persons named within the petition are not Interested Parties as they do not live within the vicinity.
- A6.2 Under delegated powers, all pavement café licence applications and renewals are signed by the Highways Service Manager. However it has been previously agreed with the Chairman of the Licensing Committee that where there are objections, the applications will go before the Licensing Committee for a decision

A7. Are there any implications for other Business Units?

- A7.1 There are no significant implications for other business units, however the increase in public awareness of the general area and other facilities provided can only be beneficial to the Torbay area as a whole.

Appendices

- Appendix 1 Plans indicating pavement café area.
- Appendix 2 Details of Applicant and application.
- Appendix 3 Schedule of objectors and correspondence received in respect of the application.

Documents available in members' rooms

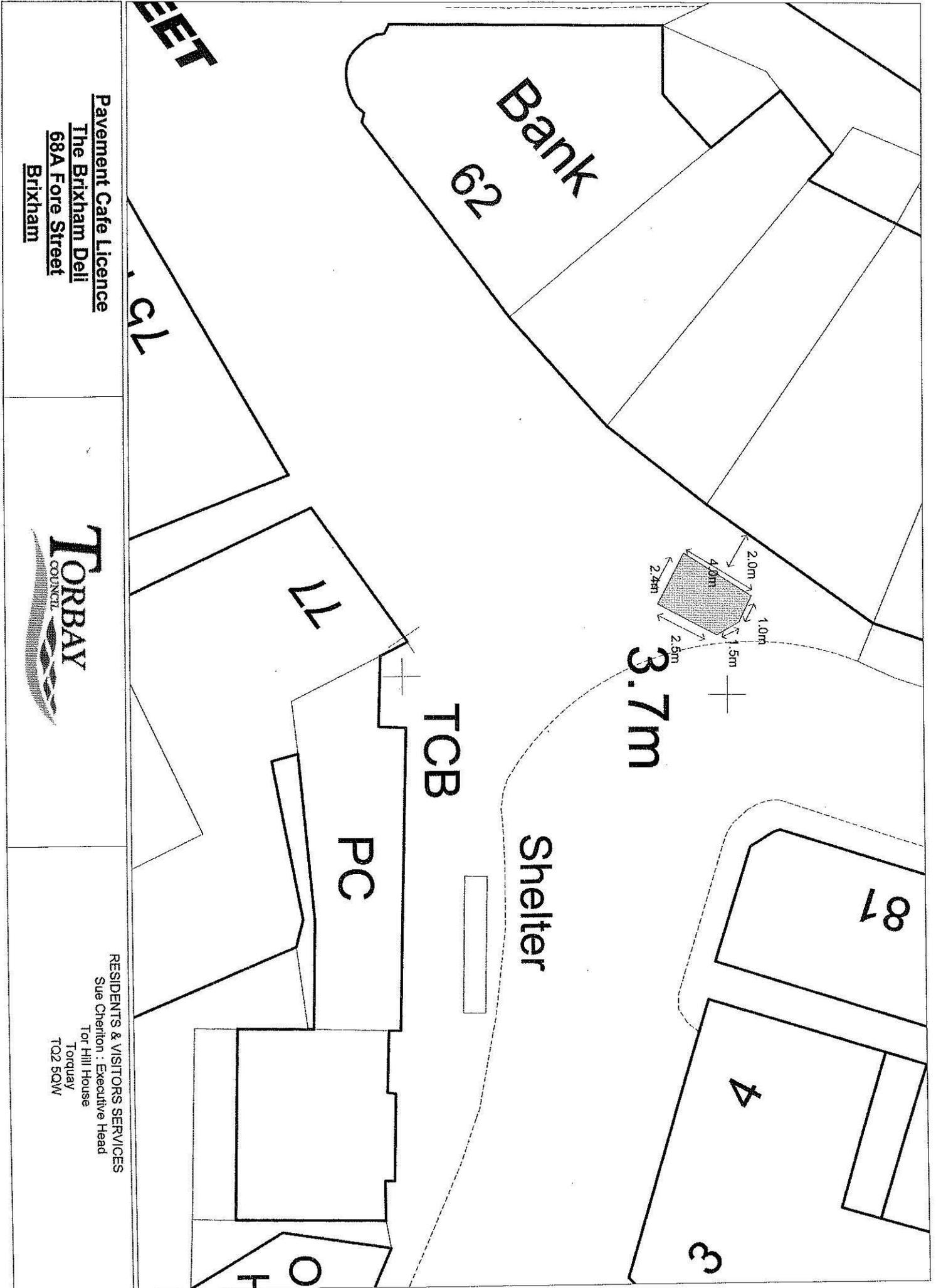
None

Background Papers:

The following documents/files were used to compile this report:

Correspondence File 5/2/7.

Letter from Devon & Cornwall Constabulary



Pavement Cafe Licence
The Brixham Deli
68A Fore Street
Brixham



RESIDENTS & VISITORS SERVICES
 Sue Cheriton : Executive Head
 Tor Hill House
 Torquay
 TQ2 5QW

Appendix 2

Location	Applicant	Details	Size	Times	Recommended
The Brixham Deli 68a Fore Street Brixham TQ5 8EF	Mr Hakin	Area to front of property	4.0mx2.4mx 2.5m	10am – 6pm	Accept

27th JAN 11

29.10.2010.

Dear Mr.S.Leatherland.

With ref, SL/SH Pavement café application for, The Brixham Deli. My main objections is that the volume of pedestrian traffic which use this area in the summer months. Will people be able to get round with push chairs and wheel chairs with out going on the road.

Yours faithfully,

**OBJECTION TO BRIXHAM DELI HAVING TABLES AND CHAIRS
ON PUBLIC HIGHWAY , REMOVING BENCHES AND RUBBISH
BIN**

The persons named below are objecting to Brixham Deli having a pavement licence issued that will mean tables and chairs being placed where the existing benches and rubbish bin are for the following reasons:-

- 1 The area is right next to the road on a blind bend.
- 2 The access will be reduced for the general public in an area which is already a 'bottleneck' in busy times.
- 3 There will be very limited access for wheelchair users and pushchairs as the pavement is very narrow just past this area and beyond.
- 4 The Deli does not have the correct consent to trade as a cafe so should not be given the right to outside seating {incidentally the planning department are fully aware of this and have been for 2 years and are still not acting on this}
- 5 The area affected will detract from the surrounding area and may cause excessive noise and litter and possibly alcohol abuse between the hours of 10 am and 10pm.
- 6 This is an area adjacent to a blind bend and cars and heavy goods vehicles have to negotiate this area by pulling onto the

designated area, - 2 accidents have occurred recently in the last 2 years alone due to the bottleneaking and the bend situation:-

1 The canopy above Tiffanys cafe had to be replaced as a heavy goods vehicle crashed into it while trying to turn the corner.

2 An elderly gentleman on a mobility scooter tipped over onto the road in August due to the volume of people.

7 This area is used daily for delivery lorries and vans delivering to various properties in the area, it would be a health risk for people sitting on these tables and chairs as they would be inhaling all the fumes from the passing traffic and the delivery vehicles

In summary the people listed object to the issuing of a pavement licence in the proposed area for the above reasons and feel very strongly that the existing benches and bin should remain as they are on a public highway and are used constantly both by local people and tourists alike.

All the people named below would like an acknowledgement that this letter has been received and actioned.

Thank you *each person is counted as an individual objection*

*C.C. Patrick Carney
Steve Heatherland*

52 Signature Petition Received

Building safer communities together



DEVON & CORNWALL
CONSTABULARY

Our ref: Dev/Lic/Tor/njs

Your ref:

Mr S Leatherland
Residents & Visitors Services
Highways Management
4th Floor Roebuck House
Abbey Road
TORQUAY TQ2 5TF

Licensing Department
Devon and Cornwall Constabulary
PO Box 1
PAIGNTON
TQ3 2YF

Telephone: 01803 841327/841287

1st November 2010

Dear Sir

**Pavement Cafe Applications 2010 – 2013
Highways Act 1980 Part VIIA**

I refer to your letter of 25th October 2010, received by my Licensing Department on the 28th October 2010, in respect of an application for The Brixham Dell, 68a Fore Street, Brixham.

The police have no objections to this application.

Should you require any further information, please contact Neil Stanlake of my Licensing Department on the above number.

Yours faithfully

Superintendent R Baker
Geographic Superintendent – Torbay

licensing.torbay@devonandcornwall.pnn.police.uk

www.devon-cornwall.police.uk



DEVON & CORNWALL
CONSTABULARY

SF 015

Brixham Town Council

Minutes of the Meeting of the Planning Committee held at the Brixham Town Hall on 22nd November 2010 at 7.00pm.

Present: Cllr B Harland (Chair), N Henderson, M Hodge, C Lomas, R Ryl, J Stockman

Also present: T Hallett, Assistant to the Town Clerk, K Barnes, Town Clerk, 2 members of the public.

- 10/154. To consider Brixham Deli Application for Pavement Licence.**
It was **resolved** to recommend refusal.