



Wednesday, 7 May 2014

LICENSING SUB-COMMITTEE

A meeting of **Licensing Sub-Committee** will be held on

Thursday, 15 May 2014

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Addis

Councillor Ellery

Councillor Pentney

Working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:

Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207026

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 1 - 5)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 8 April 2014.
4. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Licensing Act 2003 – An application for a Review of a Premises Licence for Seamus O’Donnells, 28 Victoria Parade, Torquay TQ1 2BD** (Pages 6 - 54)
To consider an application for a Review of a Premises Licence for Seamus O’Donnells, 28 Victoria Parade, Torquay TQ1 2BD.



Minutes of the Licensing Sub-Committee

8 April 2014

-: Present :-

Councillors Addis, Doggett and Ellery

62. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

63. Minutes

The Minutes of the meeting of the Sub-Committees held on 6 March 2013 and 13 March 2013 were confirmed as a correct record and signed by the Chairman.

64. Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Paignton Rugby Football Club, Queens Park, Queens Road, Paignton TQ4 6AT

Members considered a report on an application for a Variation to a Premises Licence in respect of Paignton Rugby Football Club, Queens Park, Queen's Road, Paignton TQ4 6AT.

Written Representations received from:

Name	Details	Date of Representation
Public Protection	Representation in relation to Licensing Objective 'The Prevention of Crime and Disorder' and proposed deletion of existing conditions and proposed additional conditions.	6 March 2014
Members of the Public	9 Representations in relation to Licensing Objectives 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance.'	Various dates March 2014

Oral Representation received from:

Name	Details
The Applicant's Legal Representative	The Applicant's Legal Representative outlined the application, as set out in the submitted documents and responded to Members questions.
Public Protection	The Public Protection Officer outlined their objection, as set out in the submitted documents and responded to Members questions.

Members noted that there had been no additional Representations received from any other Responsible Authority or any Interested Party.

Additional Information:

Paignton Rugby Football and Cricket Club currently has three separate licences operating under the same premises. There are two Club Premises Certificates, one for the Rugby Club and the second for the Cricket Club.. Both Certificates permit alcohol and regulated entertainment inside the club house until 1.00am for Members and signed in guests.

The third is a Premises Licence which is granted to Paignton Rugby Club and permits the general public access to the Club House until 10.00pm. Paignton Ruby Club sought clarity to align the Premise Licence with the same authorisations granted under their Club Premises Certificate which would enable to permit members of the public to use the Club House and facilities and alleviate confusion with enforcement agencies.

Members noted that an Abatement Notice has been served on Paignton Rugby Club in April 2012 and is still operative. In addition Members noted that the concerns raised in the Representations by Interested Parties related to similar issues which resulted in the service of the Notice in 2012.

The Council's Senior Lawyer advised Members that the wording throughout the Applicant's operating schedule needed to be specific and enforceable to the Rugby Club's Premises Licence. Members were advised that a number of amendments needed to be made to the wording of this application to ensure that there was no ambiguity when it came to enforcement, should Members resolve to grant the licence.

The Council's Senior Lawyer highlighted to Members and the parties present where the number of amendments were needed, as follows:

Section in Variation to Licence Application	Wording	Amended Wording or advice
Section 16	As the existing conditions, plus the addition of...	As the existing conditions <u>of the current Premises Licence</u> plus the addition of...
c) Public Safety 4)	A log book shall be kept of all incidents for disruptive behaviour and any complaints made by the public.	A log book shall be kept of all incidents <u>of</u> disruptive behaviour and any complaints made by the public.
c) Public Safety 13b)	The management shall ensure that there are <u>suitable</u> numbers of staff...	Clarification of 'suitable' needed for enforcement purposes.
c) Public Safety 13d)	Car parks must be monitored.....	<u>Premises</u> car parks must be monitored....
c) Public Safety 13e)	Stewards shall be on hand to ensure that car park entrances are closed as the event closes.	Stewards shall be on hand to ensure that <u>premises</u> car park entrances are closed as the event closes.
d) The Prevention of Public Nuisance 1)	towards the club house	Be deleted and add thereafter 'in writing by Environmental Health prior to each event taking place
d) The Prevention of Public Nuisance	All staff shall be trained to deal with 'difficult' customers.	Clarification of 'difficult.' Needed. Proposed unruly, noisy, aggressive, drunk.
e) The Protection of Children from Harm 1)	Staff shall be trained to prevent sale of alcohol to under 18's. Proof of age Policy	Staff shall be trained to prevent sale of alcohol to under 18's. <u>A</u> proof of age policy shall apply to any customer....
e) The Protection of Children from Harm 2)	Clearly marked signs shall be prominently displayed for the sale of soft drinks and water.	Clearly marked signs shall be prominently <u>on the Premises</u> displayed for the sale of soft drinks and water.
e) The Protection of Children from Harm 2)	Clearly marked signs shall be prominently displayed for the sale of soft drinks and water.	Clearly marked signs shall be prominently displayed <u>on the Premises</u> for the sale of soft drinks and water.

<p>e) The Protection of Children from Harm d)</p>	<p>In respect of the Beer Festival no person under the age of 18 shall be permitted on site after 6pm.</p>	<p>Members were advised by the Applicant's Legal Representative that 6pm was an error and that it should state 9pm as 6pm on site would remove children completely from the premises and clubhouse during an event after this time.</p> <p>Members were advised by the Council's Senior Lawyer that timing in the application could not be amended as proposed. In that there would be a need for consultation with Responsible Authorities' and Interested Parties. Particular reference was made in respect of Children's Safeguarding Board in that the absence of a Representation from them meant that an inference could be drawn that they were satisfied that the application as it stood met the Licensing Objective in respect of The Protection of Children from Harm.</p>
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Clarification was sought by the Applicant in respect of the Clubs Premises Certificate in that this application had no bearing on it.

The Council's Senior Lawyer confirmed that this was a separate application for a variation to the Rugby and Football Club's Premises Licence and that the provisions contained within the Clubs Premises Certificate remained unaffected by this application.

Decision:

That the application for a Variation to a Premises Licence in respect of Paignton Rugby Football Club, Queens Park, Queen's Road, Paignton TQ4

6AT be granted as applied for subject to licensable activities ceasing inside the premises at 11pm, with drinking up being permitted for 30 minutes thereafter and closure of the premises being at 11.30pm.

With regards to the use of the external area of the premises, the licence shall be granted as applied for subject to licensable activities ceasing at 11pm, with drinking up being permitted for 30 minutes thereafter and closure of the premises being at 11.30pm.

Only 6 events per year shall be permitted, as in accordance with the current Premises Licence.

The wording of the conditions put forward by the Applicants in their operating schedule shall be amended in line with that proposed by the Council's Senior Lawyer at the hearing, to ensure that the conditions to be imposed on the premises licence are not ambiguous and are enforceable.

Reason for Decision:

Having carefully considered all the written and oral Representations, Members resolved to grant the variation to the Premises Licence, as in accordance with the decision above having been satisfied that the application in respect of the external area of the premises would not undermine the Licensing Objectives, given the considered and comprehensive conditions to be imposed on the premises licence.

In respect of the internal area of the premises, Members had regard to the representations put forward by the interested parties and the fact that the premises is subject to an abatement notice. As such, Members were concerned that the nature of the application would result in the premises becoming a public house in a residential area with no real consideration given to its impact on nearby residents after 11pm. Members formed this view by what they saw as a lack of appropriate conditions contained within the Applicants operating schedule, the emphasis of the application and the oral representations submitted at the hearing by both the Applicants and their legal representative being in relation to the use of the premises external area and the lack of any definite or enforceable proposals for control and the use of the premises inside area.

In light of this, Members had regard to the Council's Licensing Statement of Principles 2011 which clearly states at section 4, paragraph 4.4 of page 24 that the Licensing Authorities rationale for issuing premises licence is to refuse or limit types of regulated entertainment or impose early closing times where Applicant's have not sufficiently demonstrated how they will protect residential premises, from public nuisance and as such, felt it appropriate to limit licensable activities until 11pm with closure of the premises being at 11.30pm.

Chairman/woman

Agenda Item 6



Briefing Report
No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Review of a Premises Licence for Seamus O’Donnells, 28 Victoria Parade, Torquay TQ1 2BD

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee** On: **15th May 2014**

Contact Officer: **Mandy Guy**
Telephone: **01803 208124**
E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder” and “The Prevention of Public Nuisance”.
- 1.4 The Authority must hold a hearing to consider the application and any relevant Representations.

The Authority must, having regard to the application and any relevant Representations, take such of the steps as detailed below, if any, as it considers necessary for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

If the licence is subject to sections 19, 20 and 21 (requirement to include certain

conditions in Premises Licences) they remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

2. Introduction

- 2.1 An application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above. Details of the application are shown in Appendix 1.

A brief description of the Review is as follows:

Tanya Carlton, an Interested Party, has sought a Review of the Premises Licence on the ground relating to the Licensing Objective “The Prevention of Public Nuisance”.

A copy of the current Premises Licence is shown in Appendix 2.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the application has been properly made, that the Applicant is an Interested Party, and that the administrative requirements of Section 51(3)(a) and (b) have been met and that the Representation has not been subsequently withdrawn and is not vexatious, frivolous or repetitious.

We have received a Representation from Public Protection in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 3.

We have received 1 Representation from an Interested Party in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 4.

There have been no Representations from any other Responsible Authority or any other Interested Party.

The Police have considered the application and are satisfied that the Premises currently meet the Licensing Objective “The Prevention of Crime and Disorder” and therefore are not making a representation in relation to this matter. However, they have provided a statement outlining historic concerns that they had and respectfully request that the Licensing Sub-Committee consider these and the remedial actions put in place to alleviate them when making their decision. This is shown as Appendix 5.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 52(2).
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.5 Once the matter is determined, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-

- (a) the Applicant for the Review,
- (b) the holder of the Premises Licence, or
- (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have affect until the Appeal is either determined or withdrawn.

- 2.6 Following such Appeal, the Magistrates' court may:-
- (a) dismiss the Appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such an order as to costs as it thinks fit.

Frances Hughes
Executive Head Community Safety

Appendices

Appendix 1	Details of the application for Review
Appendix 2	A copy of the Premises Licence
Appendix 3	Representation from Public Protection
Appendix 4	Representation from an Interested Party
Appendix 5	Statement from the Police

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton and Brixham and Torquay, Paignton, Churston and Brixham Libraries. Copies can also be obtained from the Democratic Services Office, Town Hall, Torquay.

Documents available in members' rooms

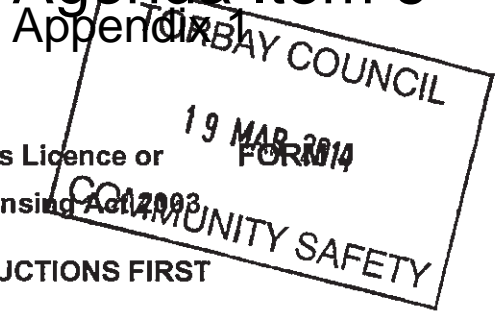
None

Background Papers:

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

Torbay Council Licensing Policy 2011.

201582



Application for the review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

1 MISS TANYA CARLTON

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 - Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

SEAMUS O'DONNELL'S
28 VICTORIA PARADE

Post town

TORQUAY

Post code (if known)

TQ1

Name of premises licence holder or club holding club premises certificate (if known)

STEVE & LESLEY BUTCHER

Number of premises licence or club premises certificate (if known)

PL0 422

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

a) a person living in the vicinity of the premises

b) a body representing persons living in the vicinity of the premises

- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

CARLTON

First names

TANYA

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

FLAT 3, 29-30 VICTORIA PARADE

Post town

TORQUAY

Post Code

TQ1 2BD

Daytime contact telephone

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

RELENTLESS, EXCESIVE LOUD MUSIC
EVERY SATURDAY NIGHT UNTIL 2. AM
CAUSING A PUBLIC NUISANCE AND GREAT
DISTRESS TO THE NEIGHBOURING
PROPERTY

Please provide as much information as possible to support the application (please read guidance note 2)

ON MOVING TO ~~THIS~~ MY FLAT I WAS MADE AWARE OF A PROBLEM WITH NOISE, FROM THE PUB NEXT DOOR, BY THE PREVIOUS TENANT. HE TOLD ME IT HAD CAUSED HIM RELENTLESS PROBLEMS AND ILL HEALTH. I THOUGHT IF THERE WAS A SERIOUS PROBLEM I WOULD BE ABLE TO SPEAK TO THE LANDLORD AND IT WOULD BE DEALT WITH. I WAS MADE AWARE OF THEIR NAMES BY THE MAN WHO OWNS THE ARCADE DOWNSTAIRS FROM MY FLAT, STEVE BUTCHER & HIS WIFE LESLEY INVITED ME & MY BOYFRIEND IN FOR A DRINK ON SEVERAL OCCASIONS BUT I DECLINED AS I FELT IT WOULD MAKE IT DIFFICULT IF THERE WAS A PROBLEM WITH THE NOISE, PLUS I HAVE WITNESSED SEVERAL VIOLENT INCIDENTS OUTSIDE THE PUB BETWEEN THE DOOR STAFF & CUSTOMERS.

WHEN THE MUSIC DID BECOME A PROBLEM I APPROACHED MR & MRS BUTCHER & THEY GOT THE COUNCIL TO COME AROUND TO MY FLAT & ALSO HAD A LIMITER (RESTRICTER) INSTALLED IN THEIR PUB I WAS HAPPY WITH THIS, EVEN THOUGH I COULD STILL HEAR THE MUSIC, IT WAS NOT A PROBLEM. THEN ~~THE~~ LAST SUMMER THEY (MR & MRS BUTCHER)

P.T.O

I HAVE ENCLOSED ⁵ FURTHER INFORMATION REL ~~Page 13~~ TO THIS MATTER

HAD WORK DONE IN THE PUB, REMOVING A KITCHEN WALL SO THEY COULD EXTEND FLOOR SPACE UPSTAIRS IN THE PUB. THIS IS DIRECTLY NEXT TO MY BEDROOM AND THIS IS WHEN THE SERIOUS NOISE PROBLEMS BEGAN. I APPROACHED MRS BUTCHER IN SEPTEMBER, SHE CAME TO MY FLAT AND AGREED IT WAS WAY TOO LOUD, SHE TOLD ME THAT "THE BOYS" (I ASSUME DJ'S) COULD BY-PASS THE LIMITER SET BY THE COUNCIL THAT IS WHY I WAS EXPERIENCING SO MUCH NOISE. SHE THEN TOLD ME TO TEXT HER ANY TIME IT WAS A PROBLEM & SHE WOULD TELL THE DJ TO TURN IT DOWN, AT FIRST SHE DID THIS, I WOULD TEXT HER & THE MUSIC WOULD BE TURNED DOWN. THEN SHE BECAME UNRESPONSIVE TO MY TEXT & CALLS UNTIL ONE NIGHT SHE TOLD ME TO PUT IT WITH IT AND SHE WOULD NOT BE DOING ANYTHING TO RECTIFY THE PROBLEM AS THIS IS HOW ^{LOUD} THE COUNCIL HAD SAID IT COULD BE.

THE EFFECT THIS HAS HAD ON MY STANDARD OF LIFE IS EXTREME. I CANNOT SLEEP ALL WEEKEND, MAKING ME ANXIOUS AND DISTRESSED, THE PROBLEM IS BEING MADE WORSE BY THE FACT, THEY KNOW THEY ARE CAUSING ME THIS DISTRESS AND ARE CHOOSING NOT TO RECTIFY THE PROBLEM THEIR SELFISH, ILLEGAL BEHAVIOUR NEEDS TO BE ADRESSED. IT HAS ALSO BEEN RECORDED & WITNESSED BY TWO COUNCIL OFFICERS.

Have you made an application for review relating to this premises before **Please tick yes**

If yes please state the date of that application

Day		Month		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to this premises please state what they were and when you made them

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate **Please tick yes**
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature T. Car Hon

Date 19.3.14

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) <u>FLAT 3, 29-30 VICTORIA PARADE</u>	
Post town <u>TORQUAY</u>	Post Code <u>TQ1 2BD</u>
Telephone number (if any)	
If you would prefer us to correspond at this address (optional)	your e-mail

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.





SW/WS1

STATEMENT OF WITNESS
C.J.A. Statement

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)

STATEMENT OF

Age of Witness Over 18

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

Occupation of Witness: U/E

This statement, consisting of 2 pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 14.3.14 day of20.....

Signed T. Carlton

I Tanya Carlton live at Flat 3 Harbour View, 29-30 Victoria Parade, Torquay, TQ1 2BD. I moved into this property in September 2012. My flat is next door to Seamus O'Donnell's public house and 'Back to the 80s' nightclub. When I moved into the flat through a house transfer scheme I was told by the outgoing tenant there had been problems with noise from Seamus O'Donnell's. My flat is on the 1st floor adjoining the first floor of Seamus O'Donnell's. They use this first floor as the 'Back to the 80's' night club. When I first moved in the owners Lesley and Steve Butcher approached me and offer me to come for a drink. I was polite and declined the offer in case problems with noise occurred in the future. They gave me their mobile number and said to contact them any time if there was ever a problem. Around Easter 2013 the front part of the back to the 80's nightclub was turned into a dance room. Environmental Health come out and set the limiter with the owners of Back to the 80s. After the limiter was set I could barely hear the music and could live with it. I was away most weekends over the summer 2013 and became aware of music breaking through into my flat on the 7th September. I remember this date clearly because I had friends staying from London. The music was louder than I had experienced before and prevented me from sleeping. The music could be heard throughout my flat. Later that week I contacted Lesley Butcher as they had previously asked me to do so if there was a problem. The following Saturday Lesley Butcher came round to my flat to listen to the music I could hear in bedroom. She agreed the music was unacceptable. Whilst she was in my bedroom she phoned her husband Steve Butcher and asked him to turn the music down. He must have done this because the volume of the music was fine. She apologised and told me the boys had bypassed the

Signed T. Carlton



SW/WS1

limiter, although at this time I did not know what she was referring to. She told me to call her any time if there are any more problems and she would call the DJ to ask him to turn the music down. This continued for a couple of weeks. By October Lesley Butcher started to ignore my calls and text messages. The last communication had from Lesley Butcher was a text message stating 'that's the volume and put up with it'. I considered all friendly ties with the butchers over at this point. I decided to contact Environmental Health in December 2013. I am sick to death of 80's classics every Saturday until 3:00 am in the morning to the point I know all the words to songs I didn't even know before. Dexy's midnight runners and Bon Jovi are particular favourite for the DJ to play. The DJ can continuously be heard speaking over the DJ which gets the crowd singing along to the songs which I can also hear. Certain songs make the customers dance up and down at the same time which sends vibrations throughout my flat. This has happened every Saturday since September 2013 without fail. I'm kept awake until the club closes. This is causing me sleeping problems leaving me feeling tired and stressed and I feel this way until for a few days after a Saturday night. I feel unable to function normally and wasting days because I cannot do the things I would like to do. I find this situation frustrating and stressful. I'm left feeling angry because they have been aware of this problem since September and I do not feel they have done anything to sort the problem out.

Signed..........



URGENT !!

RECEIVED
04 DEC 2013

Case Reference:
Community Safety, C/o Town Hall, Castle Circus, Torquay, TQ1 3DR

Nuisance Diary Sheet

NOTE: PLEASE READ THE ATTACHED GUIDANCE BEFORE MAKING DIARY ENTRIES.

Your name and address	Name and address of person / address being complained about	Date	Start time	Finish time	Description of incident / noise nuisance	How did the incident / noise affect you?
	MISS TANYA CARLTON - 29-30 VICTORIA PARADE FLAT 3, TORQUAY TQ1 2BD					
		SEPT 14 TH	9 pm	2am	LOUD MUSIC (80's style)	Sleep deprived, agitated, depressed, unhappy, !!! !!
		SEPT 21 ST	9 pm	2am	LOUD MUSIC (80's style)	Sleep deprived, agitated, depressed, unhappy, !!! !!
		SEPT 28 TH	9 pm	2am	LOUD MUSIC (80's style)	Sleep deprived, agitated, depressed, unhappy, !!! !!
		OCT 5 TH	9 pm	2am	LOUD MUSIC (80's style)	Sleep deprived, agitated, depressed, unhappy, !!! !!

URGENT !!

2

Date	Start time	Finish time	Description of incident / noise nuisance	How did the incident / noise affect you?
12TH OCT	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!! !!
19TH OCT	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!!
26TH OCT	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!!
2nd NOV	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!!
9TH NOV	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!!
16TH NOV	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!!
23rd NOV	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!!
30TH NOV	9 pm	2 am	Loud music (80's style)	Sleep deprived agitated, depressed unhappy, !!!

SEE ATTACHED !!
NOTE !!

- Some people worry about their spelling, and that puts them off filling in the sheets. Don't worry about that - as long as your entries can be understood there isn't a problem.
- If you are unable to write, we can supply you with a dicta-phone on which you can record your complaints; and
- Under certain circumstances, we may be able to complete the sheets on your behalf. You will just be required to sign them.

URGENT !!

What happens next?

Please complete your diary sheets over a period of two weeks and then return them promptly to this department using the pre-paid envelope provided. We will then review your diary and contact you again within 5 days with our assessment of the evidence and whether we feel further formal action can be taken.

Without diary sheets, Torbay Council generally cannot take action against perpetrators.



I have had regular contact with the landlord

Lesley, she has been in my flat and AGREED !!

the music was TOO loud!! She told me that

the "BOYS" meaning DJ's have by-passed the restrictor

level which has been put in place by TORBAY Council

Also the music is PIPPED into the back room

which is next to my bedroom, at first she would

tell the DJ's to turn it down, but now doesn't care

about making my life hell - - - even though she complained

about the BED BAR making noise. HYPOCRITE = HELP !!

Agenda Item 6

Appendix 2

Licensing Act 2003

Premises Licence

422

LOCAL AUTHORITY



Licensing Section
 Torbay Council
 Roebuck House
 Abbey Road
 TORQUAY
 DEVON
 TQ2 5EJ

COPY

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Seamus O'Donnells

28 Victoria Parade, Torquay, Devon, TQ1 2BD.

Telephone 01803 294608

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	10:00am	3:00am
C. Indoor sporting event	Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	10:00am	3:00am
E. Performance of live music (Indoors)	Monday to Sunday An additional hour to the standard and non-standard times on the day when British	10:00am	3:00am

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	continued ... Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.		
F. Playing of recorded music (Indoors)	Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	10:00am	3:00am
G. Performance of dance (Indoors)	Monday to Saturday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	11:00am	3:00am
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	10:00am	3:00am
I. Provision of facilities for making music (Indoors)	Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	10:00am	3:00am
J. Provision of facilities for dancing (Indoors)	Monday to Saturday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	10:00am	3:00am
K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)	Monday to Saturday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	10:00am	3:00am
L. Late night refreshment (Indoors)	Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences. From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.	11:00pm	3:00am

Licensing Act 2003
Premises Licence

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THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences.	10:00am	3:00am
	From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday An additional hour to the standard and non-standard times on the day when British Summertime commences.	7:00am	3:00am
From the start of standard timing on New Years Eve to the start of standard timing on New Years Day.		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND /OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Stephen Graham Paul Butchers info@energyreportsdevon.co.uk	68 Upper Manor Road, Paignton, Devon, TQ3 2TJ. Telephone 07872 303930
Lesley Ann Butchers lesley@energyreportsdevon.co.uk	68 Upper Manor Road, Paignton, Devon, TQ3 2TJ. Telephone 01803 666550

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Lesley Ann BUTCHERS	68 Upper Manor Road, Paignton, Devon, TQ3 2TJ. Telephone 01803 666550
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PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PA1475	Issued by Torbay
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Stephen Cox

Steve Cox
 Environmental Health Manager (Commercial)
 15 November 2012

ANNEXES

ANNEXE 1

MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

- 1) No supply of alcohol may be made under the premises licence:-
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence , or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3)
 - (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti social behaviour or to refer to the effects of drunkenness in any favourable manner.
- 4) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 6)
 - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

ANNEXES continued ...

- 7). The responsible person shall ensure that -
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (ii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

MANDATORY CONDITION: DOOR SUPERVISION

- 1) Where one or more individuals are carrying out security activities, each individual must be licensed by the Security Industry Authority.
- 2) But nothing in the aforementioned conditions requires such a condition to be imposed in respect of a) and b) and (b)(i) and (b)(ii)
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), are exempt.
 - (b) In respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
- 3) For the purposes of the aforementioned conditions:-
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

General

1. Staff shall be trained on the requirements of the Licensing Act 2003.
2. Staff shall be trained in drugs awareness.

The Prevention of Crime and Disorder

1. The premises shall remain open for 30 minutes after the end of the sale of alcohol, with access to amenities and the provision of soft drinks.
2. The Designated Premises Supervisor must maintain membership to the Torbay Licensed Traders Association 'Pubwatch'.
3. Persons who are an identifiable threat to public order shall be refused service.

ANNEXES continued ...

4. The premises shall ensure that all staff understand the social responsibilities associated with the sale and supply of alcohol.
5. Customers who are or appear to be drink shall be refused further alcohol sales.

Public Safety

1. Health and safety risk assessments must be carried out and regularly reviewed.
2. Fire safety measures provided shall be maintained and regularly reviewed to be in good working order, in accordance with Fire Precautions (Workplace) Regulations.
3. An appropriate, safe occupancy level must be maintained at all times.
4. A risk assessment must be undertaken where there is a sufficient risk of overcrowding and remedial steps must be taken.
5. Where there is a sufficient risk of overcrowding the DPS shall agree the most effective means of control with the Police.
6. Function bookings must be restricted to 100 persons per separate bar room.
7. There shall be securement of empty bottles, prompt clearance of glasses throughout opening hours.
8. The premises must ensure that all windows and doors are kept closed when regulated entertainment takes place apart from for entrance and exit.

The Prevention of Public Nuisance

1. The volume of recorded music must be reduced to background level during the wind down period.
2. All windows must be kept closed after 23:45hr.
3. Suitable signage must be prominently displayed requesting customers to leave quietly.
4. Persons on or leaving the premises shall be reminded to conduct themselves in an orderly manner so as not to cause annoyance to residents and persons passing by.
5. Kitchen extraction filters must be cleaned at least once a week.
6. A zero tolerance drugs policy must be in place.
7. Drugs and incident books must be used to record incidents.

The Protection of Children from Harm

1. Any person who appears to be under the age of 21 shall be asked for identification if attempting to purchase alcoholic drinks.
2. Identification that shall be accepted are: A valid passport, photographic driving licence or approved identification card carrying PASS logo.
3. Amusement machines with Prizes must be sited where supervision is available to prevent minors playing them.
4. A Challenge 21 scheme shall be in place.

PUBLIC ENTERTAINMENT LICENCE STANDARD CONDITIONS - 2000 REVISION**1. GENERAL**

ANNEXES continued ...

- (a) In these conditions the term 'Council' shall mean the Torbay Borough Council or any officer authorised to use appropriate Delegated Powers on its behalf.
- (b) In these conditions, the term 'Licence' shall be the Public Entertainment Licence issued or renewed from time to time by the Council.
- (c) In these conditions, the term 'Premises' shall be the building, land or any part thereof more particularly referred to in the Licence.
- (d) In these conditions, the term 'Licensee' shall be that person or those several persons whose name or names are so indicated on the Licence.
- (e) In these conditions, the terms "Door Steward", "Security Staff", "Door Staff" and "Steward", whether in the singular or the plural, shall be any person employed as a steward who has the authority of the proprietor or licensee exclusively or mainly to decide upon the suitability of customers to be allowed entry to the premises, to maintain order on the premises and/or to assist patrons escape in the event of fire. Such staff shall have no other duties and shall be in addition to staff employed on cloakroom, bar, food preparation, food service, pay desk and disc jockey duties.

2. DISPLAY

- (a) The Licence, and any Schedule of Special Conditions applicable thereto, shall be permanently exhibited in a conspicuous position within the entrance or foyer of the Premises.
- (b) A copy of these conditions shall be displayed in a part of the Premises where it can be easily seen by all members of staff.
- (c) There shall be affixed and kept in some conspicuous place on the door or entrance of the Premises an inscription in one inch capital letters in the following words:-
"LICENSED IN PURSUANCE OF ACT OF PARLIAMENT FOR PUBLIC ENTERTAINMENTS"

3. SANITARY EQUIPMENT AND CLEANLINESS

- (a) All parts of the Premises, including fittings, shall be kept clean to the satisfaction of the Council.
- (b) Suitable and sufficient sanitary accommodation shall be provided. All lavatories, wash hand basins, water closets and urinals shall at all times be properly maintained in good order and repair, effectively cleaned, ventilated and supplied with water and all necessary requisites. All doors leading thereto shall be suitably marked.

5. ENTRANCES, EXITS, GANGWAYS, FASTENINGS AND NOTICES

- (a) The exits in the Premises shall be clearly indicated and maintained to afford the public ready and ample means of safe escape.
- (b) In all such premises where it is deemed necessary by the Council and the Fire Service, a diagrammatic plan showing clearly the escape routes and the seating pattern shall be deposited with the Council and a copy displayed within the main entrance to the Premises.
- (c) All exit doors shall be kept unlocked and available for exit during the whole time that the public are on the Premises, provided that any person leaving during a performance or exhibition may be directed to certain exits at the discretion of the management.
- (d) Exit doors shall open in the direction of exit travel. Any doors which have been permitted by the Council to open inwards shall be locked in the open position when the Licence is in force and the public are on the premises. The key shall be removed to a safe place not accessible to members of the public.

ANNEXES continued ...

- (e) All exit doors must, if fastened during the time the public are on the Premises, be secured during such time by automatic bolts only, of a pattern to be approved by the Council and the Fire Service. Doors secured by such bolts shall be clearly marked "PUSH BAR TO OPEN" in block letters not less than 20 mm. and preferably 50 mm. in height immediately above or below the push bar.
- (f) All doors and fastenings shall at all times be kept in proper working order.
- (g) All exits shall be indicated by the word "EXIT" in plain block lettering not less than 125 mm. high placed above any door or opening leading to any exit. This notice should be placed between 2 m. and 2.5 m. from the floor.
- (h) The word "PRIVATE" or the description of the room to which the door leads shall be painted in letters not less than 25 mm. in height on any door which is in view of the persons present and which does not lead to an exit.
- (i) Exit routes shall be maintained free from obstruction at all times, and in particular, no provision for hanging clothing or storing any article shall be made in corridors, passageways, gangways or exitways.
- (j) All floors, stairs and steps shall be maintained with non-slippery and even surfaces and any floor covering shall be so secured and maintained that it will not ruck or be in any way a source of danger. Mats shall be sunk so as to be flush with the surface of the floor. The nosings and treads of stairs used by the public shall be kept in good repair and shall be conspicuous.
- (k) Persons must not be allowed to stand, sit or otherwise remain in any gangway or exitway.
- (l) Curtains shall not be hung across gangways, exitways or over staircases. Where hung over doorways or across corridors, they shall draw easily from the centre and slide freely and shall be clear of the floor.
- (m) Before the public is admitted to the Premises, the Licensee shall inspect or cause to be inspected all doors, exits and exitways to ensure that the same shall comply with these requirements and that all fastenings and bolts are in proper working order.

6. SEATING AND STANDING

- (a) In any part of the Premises which is regularly or exclusively used for a closely seated audience, all seats shall be securely fixed to the floor.
- (b) In any part of the Premises not so regularly used chairs, if provided, shall be securely fastened together in lengths of not less than four nor more than twelve whenever more than 250 persons are to be accommodated. There shall be space of not less than 300mm between the back of one seat and the front of the one behind measured between perpendiculars. Provision shall be made for the end seats in each row which flank the gangways to be securely fastened to the floor.
- (c) Except with the consent of the Council, no seat shall be more than 4 metres from a gangway.
- (d) Where any entertainment involving a closely seated audience is provided, seats must be allocated by row and seat number. The seating arrangements must be notified by the provision of a suitable plan to the Council and the Fire Service. Such seating arrangements shall not be installed or used unless they have been first approved by the Council.

7. ELECTRICAL, LIGHTING, HEATING AND VENTILATION ARRANGEMENTS

- (a) The whole of the electrical installation of the Premises shall be installed in a safe and satisfactory manner and shall be maintained in good working order. No work shall be carried out on the system except by a suitably qualified and competent electrician.
- (b) It shall be the duty of the Licensee to arrange an inspection of the whole of the electrical installation in the premises at least once in each three year period (or such shorter period as shall have been stipulated in writing by the Council).

ANNEXES continued ...

Such inspection shall be carried out by a competent electrician who shall be required to issue a Certificate of Fitness which must be produced to the Council as required.

- (c) The Licensee shall obtain a Certificate of Fitness for all temporary electrical installations, including all electrical appliances in the auditorium. A copy of each certificate shall be available on the Premises, while the installation is extant, and it shall be produced to the Council as required. Such installation shall only be carried out by a competent person and be intrinsically safe.
- (d) All temporary electrical installations shall be disconnected from the permanent installation immediately after each occasion on which they are used and shall be entirely removed immediately the need therefore has ceased.
- (e) All wires, cables and conduits from such temporary installations shall be installed in such a way that they shall not be liable to snagging, looping or damage and so become a danger to persons present.
- (f) A record shall be kept of Certificates of Fitness obtained
- (g) The current regulations of the Institution of Electrical Engineers for the electrical equipment shall be taken as a standard for the electrical installation generally.
- (h) A sensitive Earth Leakage Protection System (Residual Current Device) having a rated residual operating current of not exceeding 30 milliamps shall be installed and maintained as part of the fixed power circuit installation. The device shall be regularly tested (at least once a month) and a record of such tests kept in a log book and produced to the Council as required.
- (i) A nominated person conversant with the position of and procedures for dealing with the electrical installation is to be available at all times when the public are on the Premises.
- (j) Where entertainers require a three phase supply, all such equipment shall be installed only by a competent electrical contractor.
- (k) All parts of the premises shall be adequately illuminated and, except where otherwise permitted by the Council, those portions to which the public has access and all routes of escape for performers and staff shall be provided with adequate means of illumination from two independent sources.
- (l) The emergency lighting shall at all times when the public are upon the Premises be maintained in working order and so kept in use (except in such parts as are for the time being adequately lit by daylight) that it is adequate to enable the public to see their way out of the Premises and clear of the building.
- (m) The emergency lighting shall not be controllable from the stage nor from any place accessible to the public.
- (n) The emergency lighting shall be maintained to British Standard 5266, be tested regularly, at least once a month, and a record kept of such tests, such record to be provided to the Council as required.
- (o) In the event of failure of the general lighting, the public shall be required to leave the Premises forthwith.
- (p) In the event of the failure of the emergency lighting, the auditorium shall be immediately fully illuminated by the general lighting and the public shall be required to leave the Premises forthwith.
- (q) Any batteries supplying emergency lighting shall be fully charged before the public are admitted to the Premises. They shall be of such capacity and so maintained as to be capable of supplying at normal voltage the full load of the emergency lighting during the time required for "safe escape" of the public in an emergency.
- (r) When the public has been required to leave the Premises owing to a failure covered by these provisions, they shall not be readmitted until the general lighting or emergency lighting, as the case may be, failure of which was the reason for their being required to leave, shall have been fully restored.
- (s) All lighting to exit notices shall be maintained in good repair and shall not in any circumstances be extinguished or

ANNEXES continued ...

dimmed while the public are on the Premises.

- (t) In all cases where it is desired to install temporary lighting, notice must be given to the Council, in writing, at least 48 hours before the desired commencement of any work.,
- (u) All temporary work must be immediately removed when no longer required for the purpose for which it was installed.
- (v) All parts of the premises shall be kept properly and sufficiently ventilated to the satisfaction of the Council and, in those places where it is required for the purposes of the evacuation of smoke, the system shall be installed and maintained to the satisfaction of the Devon Fire and Rescue Service.

8. FIRE PRECAUTIONS

- (a) All curtains and drapes within the Premises shall be flame resistant to the satisfaction of the Council. The Licensee shall provide documentary evidence of the nature and date of any fire-proofing treatment. Details of such treatments shall be recorded in a log book and produced to the Council as required.
- (b) The surfaces of walls and ceilings of the Premises to be of not less than Class 1 flame spread as defined by British Standard 476 :Part 7. and escape routes to be not less than Class 0 as defined by paragraph A.8 of Approved Document B2/3/4 of the Building Regulations. No redecoration of these surfaces may be carried out without the prior consent of the Council.
- (c) A competent person trained in the handling and use of the fire equipment provided must be in charge of such equipment during the whole time that the public are on the Premises. The person so in charge shall not be assigned or allowed to perform any duties which will prevent him or her from being immediately available at all times.
- (d) A staff fire drill, including an evacuation procedure, shall be held at least once a month under the direction of the Licensee. A record shall be kept of such drills, and made available to the Council as required.
- (e) The Licensee shall take all possible steps to eliminate the danger of fire occurring and shall ensure that all members of staff, stewards and attendants are fully instructed in their duties in the event of fire.
- (f) A written copy of fire drill instructions, including action to be taken when a fire or other emergency is discovered, shall be displayed on the premises with these conditions.
- (g) No portable heating appliances of any description shall be used in the Premises while the public are present, without the consent of the Council.
- (h) No explosive or highly inflammable material shall be brought into the Premises and no liquefied petroleum gas cylinder shall be used or stored in any part of the Premises whilst the public are present.
- (i) No cotton wool or other similar highly inflammable material shall be used for scenery, decoration or costume.
- (j) Fire fighting equipment and a suitable approved alarm system shall be installed within the Premises and in such a way as shall be required by the Council and the Fire Officer. All such equipment shall be maintained in good and efficient working order and kept ready for use and regularly tested. Portable fire extinguishers should be discharged at regular intervals in accordance with Clause 10:2 of British Standard Code of Practice 5306 : Part 3 : 1980. Any backstage automatic sprinkler installations must be designed, installed and maintained in accordance with the latest requirements of the Fire Officers' Committee by a company entered on that Committee's Approved List of Installers Parts I,II or III. All tests are to be recorded in a log book to be produced as required by the Council.
- (k) Fire appliances containing carbon tetrachloride (CTC) or methyl bromide shall not be kept or used on the Premises.
- (l) Smoking will be prohibited within any stage area and dressing rooms and notices will be prominently displayed to this effect.
- (m) Immediately a fire is discovered or suspected, the Fire Brigade shall be called immediately by dialling 999. Any outbreak of fire, however small, shall be recorded in a log book.

ANNEXES continued ...

- (n) A conspicuous notice shall be displayed at the entrance or in the foyer of the Premises describing the position of the nearest telephone.
- (o) The Licensee shall give at least 21 days written notice to the Council of any proposed dangerous performance or exhibition, including exhibitions involving the use of naked flames and no such exhibition shall be permitted unless prior consent has been given by the Council.
- (p) Pyrotechnics shall not be used other than on a stage which is capable of being separated from the public by a fire-resisting curtain and the Council has given its express consent. In this connection, pyrotechnics means apparatus or other devices used to produce smoke, vapour or firework type effects.
- (q) The Licensee shall provide to the Council at least 28 days notice of his intention to install strobe or laser equipment and such equipment shall not be used without the express consent of the Council
- (r) Combustible materials may only be stored in such positions as may be approved by the Council.
- (s) Heating of the Premises shall be provided and maintained in a manner satisfactory to the Council. If required by the Council, a certificate in a prescribed form to the effect that the space heating apparatus and hot water boilers have been examined and tested and are in a safe working condition, shall be given annually by a recognised insurance company and shall be submitted to the Council with any initial or renewal Licence application.
- (t) Every heating appliance used on the Premises shall be so protected or situated sufficiently far from any woodwork, hangings or other materials that it shall not be likely to catch fire.
- (u) All gas burners must be of a type and position approved by the Council. Gas taps within reach of the public shall be of a secret or safety pattern.

9. STRUCTURE AND SUITABILITY

- (a) No alteration, either permanent or temporary, whether in construction or rearrangement of any detail, or otherwise, shall be made in the Premises without the consent of the Council. Plans and particulars, in duplicate, of such alterations must be sent to the Council for approval and no work may commence until such approval is given. Such consent will not be required for any work which is necessary for the efficient maintenance of the approved arrangements and which will be carried out in accordance with these conditions and the Council's technical requirements.
- (b) Notice shall also be given to the Council of any intention to carry out work necessitating the use of internal or external scaffolding, cradles or plant. If the Council shall so require, the Premises shall be closed to the public until the work has been completed and the scaffolding, cradles and plant have been removed.
- (c) In the event of any Premises being closed for the purpose of effecting alterations, additions, repairs, or decorating they shall not be reopened to the public unless and until the consent of the Council shall have been obtained. At least fourteen days notice in writing to the Council shall be given by the Licensee of his intention to reopen the premises and, in order that necessary inspections and tests may be made at the Premises by the Council, a clear interval of 48 hours (not including Sundays and Bank Holidays) shall elapse between the completion of the building and its equipment in accordance with the requirements of the Council and the date of proposed re-opening of the Premises.
- (d) Except with the prior consent of the Council, no work in connection with any alterations, repairs or redecoration in areas occupied by the public or performers shall be carried out whilst the public are on the Premises.
- (e) Any consent under this Condition does not relieve the Licensee of any necessity to seek a variation in the terms of the Licence where it is clear that such variation would be necessary as the direct result of the works carried out. eg. Removal of walls between separate rooms so affecting the capacity of each.
- (f) If required by the Council, the Licensee shall at his own expense provide a certificate to the effect that the Premises have been examined by a competent Technical Adviser (deemed to be suitable by the Council) and found to be structurally sound for the purpose for which they are intended to be used. Such certificate shall include an inspection of all ceilings and ornamental plasterwork. The certificate shall be renewed every five years or at any other time when

ANNEXES continued ...

required by the Council.

- (g) Where the Licence permits the provision of dancing, a suitable and clearly identifiable single area must be available for this purpose. The minimum area to be set aside shall be four square metres where the Licence permits a maximum capacity of between 1 and 99 people, six square metres where the Licence permits a maximum capacity between 100 and 199 people and nine square metres where the Licence permits a maximum capacity of over 200 people

10. CONDUCT OF PREMISES AND NOISE NUISANCE

- (a) The Licensee shall keep and maintain good order and decent behaviour in the Premises during the hours of public entertainment. No performance or exhibition provided shall be of an obscene, indecent or objectionable nature.
- (b) The Licensee shall at all times ensure that persons on or leaving the Premises and using adjacent car parks and highways conduct themselves in an orderly manner and do not in any way cause annoyance to residents or persons passing by.
- (c) The Licensee shall ensure that noise shall not emanate from the Premises such as to cause persons in the neighbourhood to be unreasonably disturbed. To this end, adequate sound insulation should be provided and regard must be had to the ventilation requirements for the Premises. All sound insulation must be installed to the satisfaction of the Council.
- (d) The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the Licensee or Management and the controlling mechanism shall be operated from a part of the Premises not accessible to the public.
- (e) During any period of time where amplified sound is played in any part of the Premises either:-
- (i) the noise level shall not exceed 102 dB(A)(slow) at any time or 95 dB(A) Leq over a 10 minute period OR
 - (ii) the contents of "The Draft Code of Practice on Sound Levels in Discotheques" (HMSO Ref. ISBN 01175 1862X) be adopted in its entirety on the Premises OR
 - (iii) suitable noise compressors/limiters (Entertainment Noise Controllers) be installed and operated to the satisfaction of the Council.

11. HYPNOTISM AND OTHER ENTERTAINMENTS PROVIDING SPECIAL RISKS

- (a) Unless the express written consent of the Council shall first have been obtained, no entertainment shall be provided in any part of the premises consisting of or involving:-
- Hypnotism (as defined by the Hypnotism Act 1952);
 - Striptease, lap dancing or any similar performance;
 - The use of special effects, or matters in respect of which special risks will arise, including the introduction to any area occupied by the public of any material, vapour, liquid, foam or foodstuff; or
 - The use of any temporary structure or staged area

Applications for such consent must be made in writing in a form to be prescribed by the Council and submitted not less than 28 days (or such other period as the Council may specify in particular circumstances) before the performance is intended to be provided. Additional information considered appropriate to the application may be required to be provided and, after due consideration, additional conditions may be imposed in relation to the entertainment, for which an additional fee may be payable. A copy of the application shall at the same time be forwarded to the Chief Officer of Police and Fire Authority.

- (b) With regard to a performance involving hypnotism, the application shall, in all cases, contain the following particulars. (1) the name and address of the person by whom the exhibition, demonstration or performance is to be given, (hereinafter called "the hypnotist"); (2) a description of the proposed exhibition, demonstration or performance; and (3) a statement as to whether, and if so, giving full details thereof, the hypnotist has been previously refused, or had withdrawn, a consent by any Licensing Authority or been convicted of any offence under the Hypnotism Act 1952 or of an offence involving the breach of a condition regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person at a place licensed for public entertainment.

ANNEXES continued ...

(c) In relation to any consent given for a hypnotism display, the following conditions shall apply:-

- 1 No exhibition, demonstration or performance shall be held whereby:
harm is caused or is likely to be caused to any person attending it, any person is caused, while under the influence of hypnotism, to say or do anything offensive to the public; if the Council notifies the Licensee in writing that it objects to anything said or done in the course of the exhibition such thing shall not thereafter be included in the exhibition, there is the giving of hypnotherapy or any other form of treatment, there is any experiment in which there is either the age regression of the subject or the subject is suspended between two supports (so called "catalepsy") or there is the giving of suggestions to the subject that he should perform any act or behave in any manner which is likely to be interpreted as indecent, offensive or harmful, nor that the subject should consume any substance which is either noxious or harmful.
- 2 All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subjects (including those of the audience) before they leave the room or place in which the performance takes place. Likewise, any post-hypnotic suggestions given shall take place only in the presence of the hypnotist and shall not continue after the performance or away from the room or place in which the performance takes place.
- 3 The exhibition shall conform to the description submitted to the Council unless the Council has required or expressly authorised a modification.
- 4 Any modifications in the exhibition subsequently required by the Council shall be made immediately upon notice thereof being given by the Council to the Licensee.
- 5 No inducements shall be offered to any person to subject themselves to the influence of the hypnotist.
- 6 No poster, advertisement or programme relating to the exhibition shall be displayed, sold or supplied by or on behalf of the Licensee either at the premises or elsewhere, which is likely to be injurious to morality or otherwise offensive to public feeling; if the Council notifies the Licensee in writing that it objects to such an item so displayed, sold or supplied, that item shall not thereafter be displayed, sold or supplied. All such items promoting the exhibition shall draw attention, in a clear and legible manner to the prohibition on the hypnotising of persons under the age of 18 imposed by Section 3 of the Hypnotism Act 1952.

12. MISCELLANEOUS

- (a) If the premises have the benefit of a Special Hours Certificate, issued by the Licensing Justices under Section 77 of the Licensing Act 1964, all drinking glasses in which drinks are served shall be of strengthened glass. No drink shall be served in a glass bottle from which it is intended or likely that a customer will drink.
- (b) A log book shall be kept upon the Premises in which shall be entered particulars of inspections required to be made under, and compliance with, Conditions 5m, 7f, 7h, 7n, 8a, 8d, 8j, 8m, 11h and 11i of these Conditions. The log book shall be kept available and produced for inspection when required by the persons authorised under these Conditions.
- (c) Any officer appointed for the purpose by the Council or any member of the Devon Fire and Rescue Service in uniform, or a Police Constable, may at all reasonable times enter the Premises with a view to seeing whether the provisions of the Local Government (Miscellaneous Provisions) Act 1982 and conditions made thereunder have been complied with.
- (d) The Licence may be revoked by the Council if at any time the Licensee is convicted of any offence of using any place for an entertainment other than in accordance with the terms, conditions or restrictions of the Licence.
- (e) The Council reserves the power after the grant, renewal or transfer of the Licence at any time to dispense with or modify or relax any of these terms, conditions or restrictions, and to make such additional terms, restrictions and conditions as they may deem requisite to meet the circumstances of any particular case.
- (f) Any application by a Licensee to alter any of the terms, restrictions and conditions applicable to the Licence shall be in the form prescribed by the Council and contain all information reasonably required by the Council to allow the modifications to be considered.
- (g) Facilities and equipment suitable for the number of patrons and the type of event undertaken by virtue of the Licence,

ANNEXES continued ...

shall be provided to enable first-aid treatment to be given promptly in the event of injury to patrons or staff.

- (h) A responsible member of staff shall be designated to take charge of a situation, call an ambulance and administer first aid in the event of any patron or member of staff becoming badly injured or taken seriously ill whilst on the Premises.
- (i) In the event of any accident causing injury to any person or property within the Premises, the Licensee shall within 48 hours report the same to the Council and shall supply any particulars in respect thereof as the Council may require. In addition, the Licensee shall record any particulars in respect thereof as shall be required by the Council. (This requirement is without prejudice to the Statutory Requirements).
- (j) The date on which any staff have obtained first aid qualifications or received refresher training shall be recorded and kept with the log book.

ANNEXE 3**CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY****General**

None

The Prevention of Crime and Disorder

1. The premises shall join and maintain membership of the Torquay Night-time Economy Forum and the DPS or a member of the Management Team shall attend at least 2 meetings per calendar year.
2. The premises shall join, maintain membership of, and actively participate in Torquay Pubwatch.
3. The premises shall join, maintain membership of and actively participate in the Nitenet Radio Communications Scheme.
4. A CCTV system to be installed at the premises to the satisfaction of the police, and must operate at all times the premises are open to the public. All recordings must be kept for a minimum of 14 days, during which time the police shall have access and be provided with downloaded images at any reasonable time.
5. On Sundays, Mondays, Tuesdays, Wednesdays and Thursdays, if the premises sells alcohol after 12 midnight and remains open after 0030 hrs, the DPS shall undertake a risk assessment as to the need for SIA door stewards. The DPS should consider the nature of the event, the number of persons expected to attend and recommendations from the Devon and Cornwall Constabulary. If SIA door stewards are deemed necessary, a minimum of two stewards shall be employed on the premises from 2200 hrs until closing.
6. On Fridays and Saturdays, New Years Eve, Christmas Eve, Boxing Day, Valentine's Day and Halloween (whenever they do not fall on a Friday or Saturday), and on Sundays and Mondays of Bank Holiday Weekends, when the premises sells alcohol after midnight and remains open after 0030 hrs, a minimum of two SIA stewards shall be employed on the premises from 2200 hrs until closing.
7. On every operational day when door supervision is required, SIA door stewards employed in front of house duties shall wear high visibility jackets or tabards for the entirety of their duty.
8. Written records of all SIA door stewards, including full name and full SIA badge number, shall be kept on the premises for at least 12 months and be available for inspection at any reasonable time by a member of the Responsible Authorities.
9. All drinks must be served in toughened or strengthened, polycarbonate or plastic glasses.
10. On days when the premises sells alcohol after midnight, and remains open after 0030 hrs, no drinks shall be served after 2200 hrs in glass bottles from which it is intended or likely that a person shall drink.
11. There shall be a cooling down period of 30 minutes after the last sales of alcohol when music will be turned down.

ANNEXES continued ...

12. All drinks promotions shall be managed in a responsible manner.
13. On all days the premises sells alcohol after midnight, and remains open after 0030 hrs, from 2200 hrs onwards the DPS or a Personal Licence Holder shall be on duty on the premises.
14. Any person employed at the premises in the sale and supply of alcohol after 2200 hrs shall attend and successfully complete the BIIAB Level 1 Award in Responsible Alcohol Retailing within 2 months of commencing employment or for existing staff within 2 months of the licence being granted.
15. A record of all staff training, including copies of all relevant BIIAB Certificates, shall be kept on the premises and be available for inspection at any reasonable time by a member of the Responsible Authorities. Such record to be kept for at least 12 months.
16. No under 18 year olds to be allowed on the first floor of the premises after 2200 hours, unless they are attending a private pre-booked function.
17. At each exit used by customers, suitable signage shall be displayed informing customers that they are entering a "No Drinking Zone" and that no open drinking vessels are to be taken beyond such point.
18. At each exit used by customers, suitable signage shall be displayed requesting customers to leave in a quiet and orderly manner.
19. Door stewards, the DPS and Personal Licence Holders shall monitor the immediate vicinity of the premises and take all reasonable steps to ensure patrons leaving the premises do so in an orderly manner and quietly so as not to disturb residents.
20. There shall be no entry/re-entry to the premises after 0200 hrs.

Public Safety

None

The Prevention of Public Nuisance

1. Noise and vibration will not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. Noise should not be audible within any noise sensitive premises with windows open for normal ventilation especially after 23:00hr. The criteria applied, from the boundary to the nearest residential property are;
 - (a) Before 23:00hr- Noise emanating from the premises will not be clearly distinguishable above other noise.
 - (b) After 23:00hr- Noise emanating from the premises will not be distinguishable above background levels of noise.
 - (c) The local authority will reserve the right in cases of tonal noise and where premises are attached to others (i.e. semi's and terraced properties), to make further assessments from within the residential property.
2. The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the Licensee/ Management and the controlling mechanism shall be operated from a part of the premises not accessible to the public.
3. Windows will be kept shut during amplified entertainment to reduce noise break out.
4. Cooking, noxious or persistent smells from the premises will not cause a nuisance to nearby properties.
5. Regulated entertainment from amplified equipment shall not be permitted on the 1st floor after midnight until such time that the levels of said equipment shall be set and agreed between the premises licence holder or a nominated person by them and the Environmental Health Department so as not to unreasonably disturb nearby residents.
6. These levels shall be set and agreed by 31.01.12.
7. The levels set and agreed between the premises licence holder or nominated person by them and the Environmental Health Department in respect of regulated entertainment by amplified equipment on the 1st floor after midnight shall me

ANNEXES continued ...

monitored and kept under the supervision of the management of the premises at all times.

8. All doors and windows shall be shut during all regulated entertainment.
9. A written management plan to be in place to ensure that this doors and windows are kept closed during any regulated entertainment.
10. Noise from licensable entertainment shall not be distinguishable from the ambient noise on the street 10 meters or more from the premises. This shall be assessed from the street. However, should a complaint from a resident in the area be made steps shall be taken to ensure that noise breakout is reduced to a level agreed with the Local Authority and the residents.
11. There shall be no exterior sited speakers or speakers in doorways and lobbies.
12. The management of the premises will undertake monitoring of noise breakout from the premises and a written record needs to be kept of this monitoring. This shall be undertaken at least once per day.
13. The volume of any regulated entertainment will be under the control of the management at all times. Should monitoring indicate that the volume should be reduced, management shall take steps to ensure that levels are reduced to those agreed in condition 5.
14. No changes to the Public Address system shall be made without the express permission of the local Environmental Health Department; this includes moving of speakers or the addition or removal of any equipment.
15. Patrons of the premises shall be reminded by door staff to leave in a quiet respectful manner and the door stall shall take all reasonable steps to ensure that their patrons leave in a quiet manner.
16. Door Staff will monitor the area outside their premises and take reasonable steps to ensure that patrons do not congregate outside the premises.
17. Announcements shall be made on the Public Address system prior to closing reminding patrons to leave in a quiet respectful manner.
18. Door staff operating the nite-net radio system outside the premises shall do so with the use of an earpiece to minimise disturbance caused by the radio.

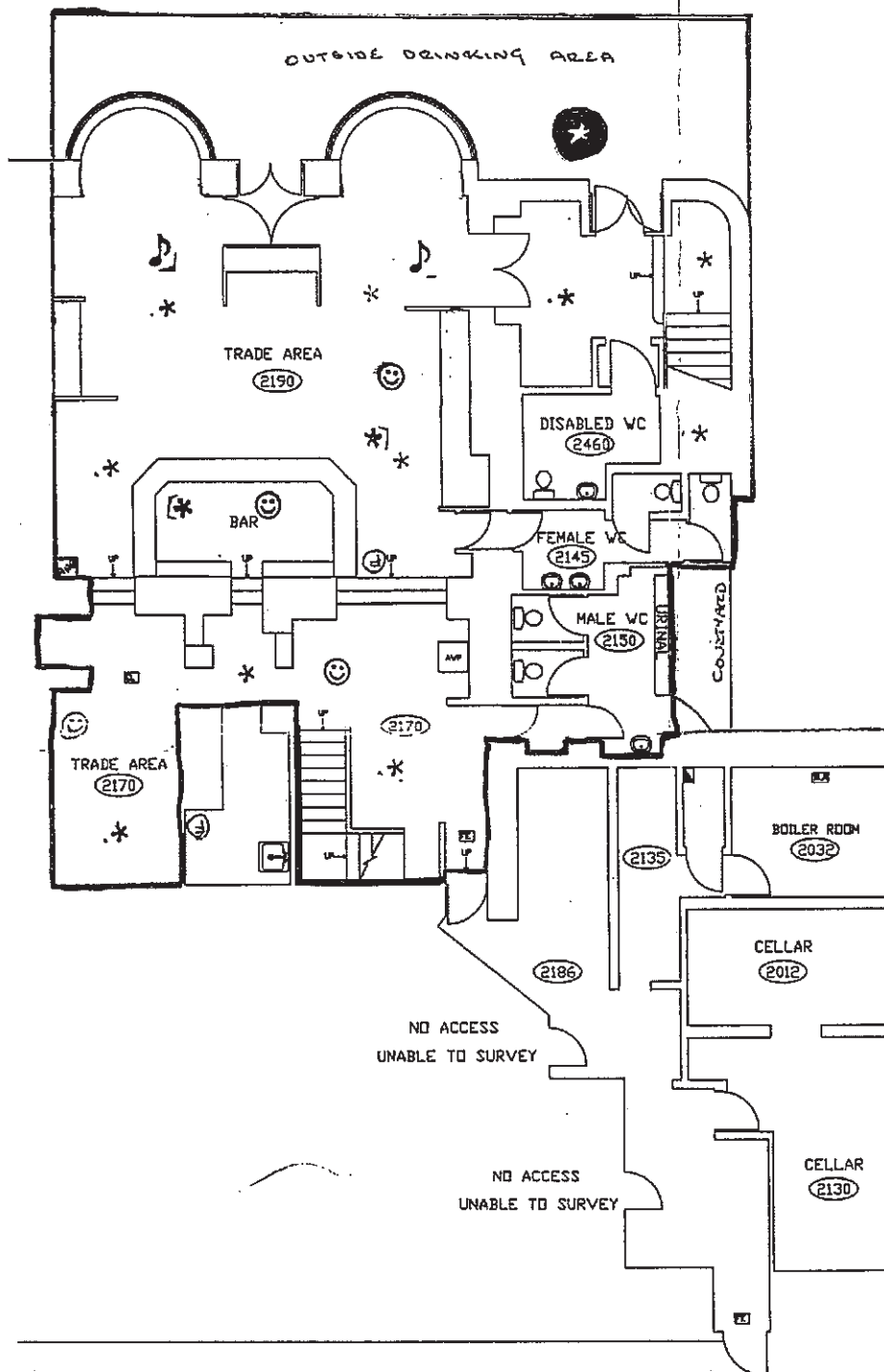
The Protection of Children from Harm

None

ANNEXE 4**PLANS**

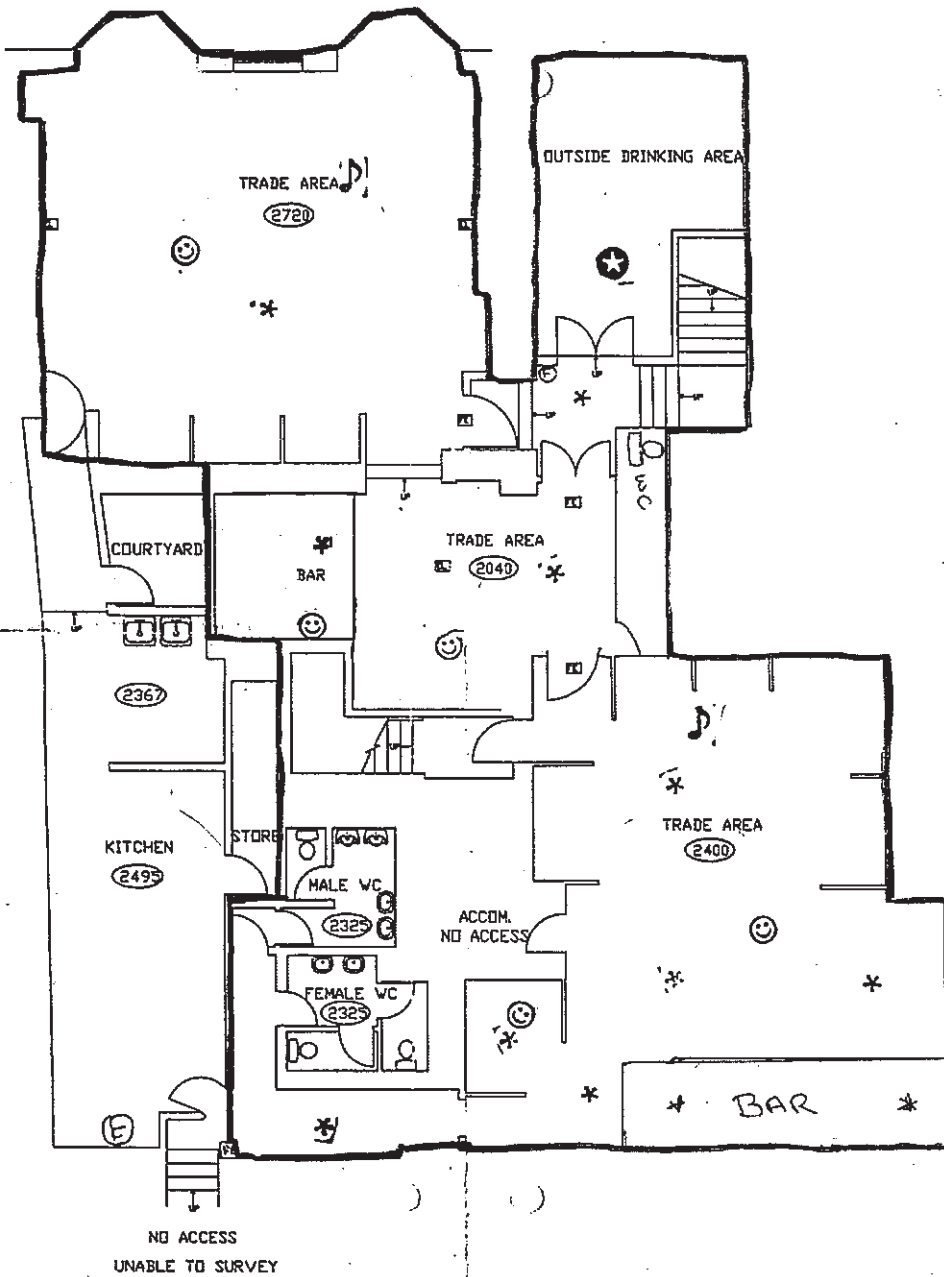
Copy attached to Licence.

ANNEXE 4

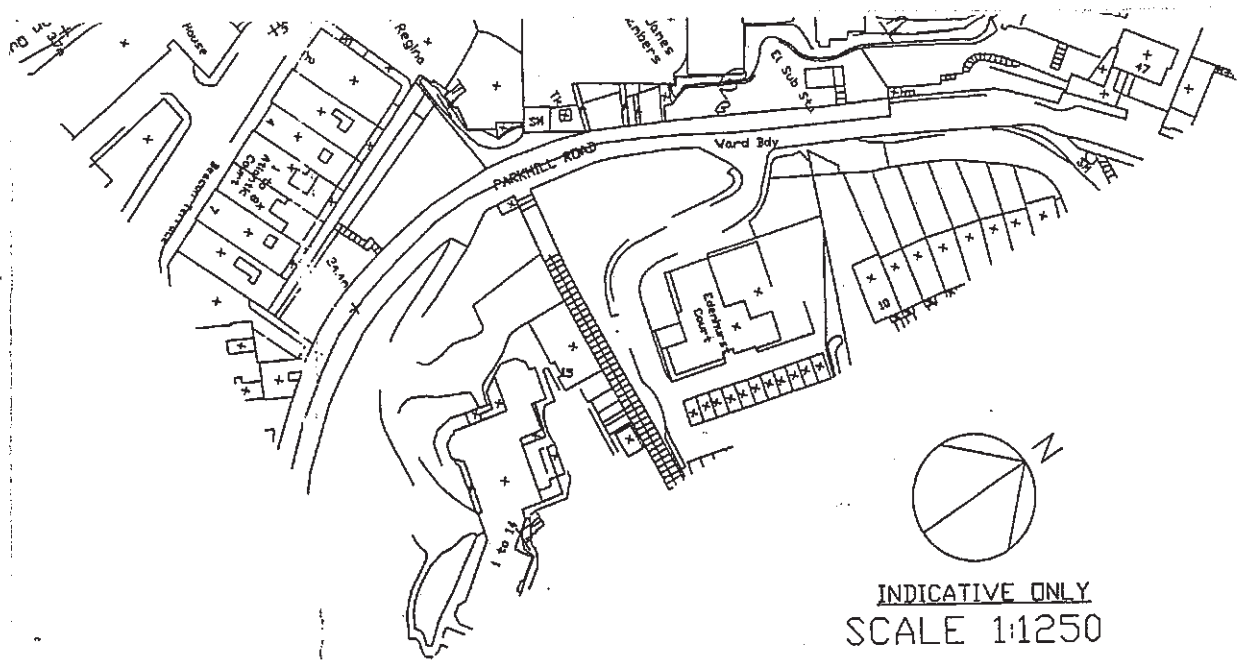


BUILDING SURVEYED AREA = 569.7 SQ. M

SCALE 1:100
GROUND FLOOR



SCALE 1:100
FIRST FLOOR



KEY TO LICENSED AREAS















- * Sale, Supply and Consumption of Alcohol – on and off sales
- J Regulated entertainment
- ⊙ Hot food after 23.00
- ⊙ Areas made available for consumption outside the premises

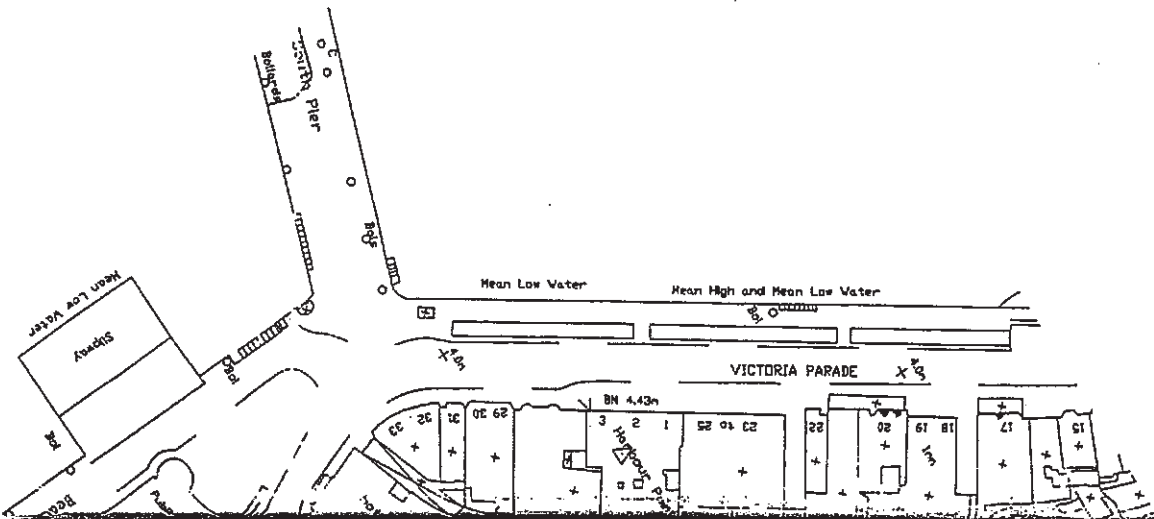
Allen	Property Name	SEAMUS O'DONNELLS	LICENSING SURVEY PLAN	
Property ID 02/02/227/10200	Address	28 VICTORIA PARADE TORQUAY DEVON TQ1 2BD	Date of Survey 19 & 21/ 07/04	Drg. Scale AS SHOWN

SCHEDULE OF ADDITIONAL ACCOMMODATION:

- 1. Number of storeys of building. 4
- 2. Staff accommodation. 3

LEGEND

-  CEILING HEIGHT
-  WINDOW
-  FIRE PLACE
-  DOOR
-  TOILET
-  URINAL
-  WASH HAND BASIN
-  BOILER
-  FIRE EXIT
-  EMERGENCY LIGHT
-  DISTRIBUTION BOARD
-  STEPS
-  SINK UNIT
-  AMUSEMENT WITH PRIZES
-  BAR FLAP
-  FIRE FIGHTING EQUIPMENT



Memorandum

To:	From	:	Community Safety
c.c	Contact	:	Mr Karl Martin
c.c.	Ext	:	01803 208025
c.c	My Ref	:	1ZV SRU No: 201582/KJM
For the attention of: Licensing Steve Cox	Your Ref Date	:	 31 st March 2014

Subject: Premises– Licensing Act 2003

Premises Name & Address: Seamus O'Donnells, 28 Victoria Parade, Torquay.

Seamus O'Donnell's is a licensed premise situated at the Beacon Quay end of Victoria Street and is situated in the Cumulative impact area. The premises effectively operates as two separate premises, the ground floor area is an Irish themed bar open to the public until midnight whilst the 1st floor area is an 80's themed nightclub operating until 3:00am.

The premises licence holders are Steve and Lesley Butcher. Lesley Butcher is the Designated Premises Supervisor (DPS).

The premise adjoins commercial property on one side and residential accommodation on the other side above an amusement arcade. Please see Appendix 1. The residential accommodation on the right side of the premises above the amusement arcade consists of seven self contained flats and is known as Harbour view. Flat 3 located on the 1st floor has been the source of complainants since April 2010. This flat shares the party wall with Seamus O'Donnell's. The existing tenant of flat 3 has called the review of the premises licence.

Chronology of noise complainants and interventions

April 2010- Jan 2012

The authority first received a complaint about noise regarding this premises in April 2010 regarding noise breakout from live and pre-recorded music emanating from the ground floor of Seamus O'Donnell's. The complaint at the time lived in flat 3. However the resident did not return a diary sheet and the complaint was closed. The same complainant contacted the authority a second time in October 2011. In November 2011 statutory nuisance was witnessed. The licence holders immediately undertook remedial work and officers confirmed the noise breakout problem from the ground floor had been resolved.

In November 2011 the authority received a full variation application to develop the 1st floor area into a 80s themed nightclub, the rear of the club would be the dance floor, bar and the DJ would be situated there; I shall refer to this area as room 2. The front area would remain a 'chill out' area with no amplified music; I shall refer to this area as room 1. In a committee hearing held in December 2011 it was agreed the noise levels would be set before the nightclub opened. In January 2012 Officers of this authority set the levels and

confirmed no noise was breaking out of the club. The levels were set from Flat 3 with the tenant's assistance. The club known as Back to the 80's opened shortly afterwards with no further problems.

July 2012

The authority received a complaint from the tenant of Flat 3 regarding music breakout from the Back to the 80's club. The licence holders consulted with a noise consultant and resolved the problem quickly by ensuring all music tracks are normalised and adjustments to the PA system were made.

November 2012

Complaint received from a resident living in a nearby block of apartments about the 1st floor smoking terrace. The licence holder was informed and they consulted with a noise consultant. Remedial work was undertaken which included removal of furniture, adding noise barriers and absorbent materials. The work resolved the problem at the time.

December 2012

Complaint received but complainant refused to give their details. A departmental policy is not to investigate anonymous complainants. The complainant was encouraged to give details and the policy was explained to them. The licence holder was not informed and no further action was taken.

April 2013

Ms Tanya Carlton moved into flat 3, Harbour view and the Licence holders submitted a minor variation to change the layout of room 1.

The Police had previously raised concerns about overcrowding in the Back to the 80's bar. The licence holders proposed putting PA equipment, a DJ booth and a dance floor into room 1 to alleviate overcrowding. A meeting was arranged on the 8th April with the licence holders and Julie Smart, Police licensing Officer, Devon and Cornwall Police Constabulary. During this meeting I advised the licence holders of my concerns due to the proximity of residential accommodation and advised them to consult with a noise consultant before a decision could be reached. The licence holders consulted with Neil Carpenter and a range of noise measures were recommended and implemented by the licence holders.

May 2013

On the 2nd May I met with Neil Carpenter and the licence holders at the premise. The dance floor, DJ booth and PA system had been installed. Mr Carpenter had in addition installed limiters in the premises. The purpose of the meeting was to ensure music from room 1 was not breaking into the adjacent flat 3. Lesley Butcher had arranged and sought permission from Tanya Carlton who was aware of previous noise problems and agreed to allow access to her flat to set the limiters. This was undertaken and it was confirmed no music was breaking into flat 3 at this time and it was agreed the licence holders could open the newly designed room 1 following a minor variation application.

December 2013

Miss Tanya Carlton complained to the public protection team regarding noise breakout. It was alleged she could hear music breakout from the Back to the 80's bar and this was keeping her awake every Saturday until the club closed at 3:00pm.

January 2014

Licence Holders informed of new noise complaint and Miss Tanya Carlton issued with noise recording equipment. Visit arranged to Seamus O'Donnell's on the 16th January with Craig Noble, Licensing Officer, Karl Martin and Licence Holder Steve Butcher to check sound levels. Music breakout out could very faintly be heard in Flat 3. Steve Butcher reduced levels further. Tanya Carlton stated this was not the levels she can hear at the weekends and added if the noise was like this at the weekend she would not have a problem. Further noise attenuation works identified and recommended to the licence holders. Steve Butcher showed Craig Noble and Karl Martin changes they were in the process of making to the club which included moving toilets to the former kitchen area, a proposed small chill out area and the opening of corridor along the party wall shared with Flat 3, Harbour view. This work was indented to allow abetter flow of customers around the premises thereby assisting the security and safety of customers.

February 2014

Miss Tanya Carlton continued to complain music from the back to the 80's bar could be heard in her flat preventing her from sleeping despite the levels being checked. She specifically claimed noise was breaking into her flat at a greater volume than when the levels where checked on the 16th January. Saturdays again seemed to be the main problem.

David Walker SEHO and Karl Martin arranged to visit Miss Tanya Carlton on Saturday the 15th February. Both Officer witnessed noise levels in Miss Tanya Carlton flat emanating from the Back to 80's club that was deemed unreasonable and at a level giving rise to a statutory nuisance.

Licence holders informed and given 7 days notice of the Authorities intention to serve a Noise Abatement Notice in accordance with s80 of the Environmental Protection Act 1990. Licence Holders provided within the 7 day period an outline of the action they intend to take to abate the nuisance, including remedial work to be undertaken in the next few weeks.

March 2014

March 17th review application served on the Council by Miss Tanya Carlton. March 19th review paperwork served on licence holders.

March 21st Craig Noble and Karl Martin met with licence holders Steve Butcher, Lesley Butcher and the licence holders appointed noise consultant Neil Carpenter. Access to Ms Tanya Carlton's flat was arranged. Noise levels and limiters again checked from flat 3. Levels where reduced so no noise could be heard breaking into flat 3. This resulted in the sound levels in room 1 being at a lower volume than was set originally in April 2013. The licence holders had completed the work agreed in February but this had not had the desired effect. Originally a DJ played from room 1 and a second played in room 2. In September 2013 when the licence holders were informed by Ms Tanya Carlton of noise breakout they removed the DJ from room 1 believing this would help the noise problem. This resulted in the music entering room 1 from 2 up to 20db higher and in combination with the improvement works to the gent's toilets to assist security and safety of customers had resulted in the noise breakout.

The noise consultant recommend a number of remediation work to the PA systems and recommended the door leading from room 1 to the gents toilets to be put back on in addition to lowering the ceiling to reduce the 'corridor' effect that can amplify sound pressure levels.

Throughout March Ms Tanya Carlton maintained at the weekends music was still breaking through from the night club despite the works being undertaken.

On March 27th the licence holder requested a sound check as further works identified in the previous meeting had been completed. The door leading from room 1 to the gent's toilets had been replaced and alterations to the PA system had been completed. The levels in room 1 had been restored to the level agreed in April 2013 and it was confirmed no noise was breaking out into flat 3.

It was agreed with the Licence holders I would continue to give them feedback after the weekend to see if this had the desired effect.

March 31st I contacted Ms Tanya Carlton who stated she could hear live music all day on Saturday 29th March until midnight when she managed to sleep. Steve Butcher was contacted who confirmed there was no live music in the back to the 80's bar and the live music act in the ground floor was a covers act they host once a month. The authority has no received a complaint about live music from downstairs since December 2011.

At this time it is not possible to confirm if the work undertaken in the back to 80's bar has abated the nuisance. I advised Steve Butcher I will arrange a weekend visit to Ms Tanya Carlton flat.

At the time of writing this representation this is the stage Public Protection is at. In the coming weeks Officer of the department will continue to liaise with Ms Tanya Carlton, the licence holders Steve Butcher and Lesley Butcher to ascertain if the works undertaken have abated the nuisance or if further works are required.

The Licence holders continue to engage with authority and show genuine willingness to resolve the nuisance.

The authority has on numerous occasions intervened and acted on behalf of two separate residents living at Flat 3, Harbour view. On all occasions interventions have resulted in the licence holders undertaking noise attenuations works, including seeking advice from professionals that have resulted in nuisance being abated.

At this stage I do not wish to make any recommendations to the Licensing Committee as I continue to investigate and work closely with the licence holders to resolve the nuisance. It is my intention to circulate to the committee shortly before the committee hearing additional updates for the time period from the date of this report to the hearing date.

Kind regards
Karl Martin
Public Protection Officer

TORBAY

11 APR 2014

~~Dear Mrs,~~
Re: "COMMUNITY SAFETY" LICENSE REVIEW SEAMUS O'DONNELLS,
28, VICTORIA PARADE.

We have lived and worked overlooking the harbour for nearly 40 years, so therefore have experienced noise levels 24/7.

For a number of recent years we have suffered from, what we consider to be, very excessive noise coming from licensed premises around the harbourside. Whilst it is mainly during evenings and especially early hours of the mornings at week ends/holiday times, it does also frequently occur at other times of the day, any time of the year.

It is very difficult to get to sleep, and stay asleep, during these noisy periods.

One of the noisier establishments that contributes to this situation is "SEAMUS O'DONNELLS".

"Relentless excessive loud music every Saturday night until 2 a.m. causing public nuisance and great distress to neighbouring properties" would be a reasonable description of the situation, but it is, to us, many more days than just Saturdays.

Therefore we would welcome anything that could be done to eliminate noise from this establishment.

P.S. - Premises that also cause similar, if not more noise and disturbance is the room over area behind/beside the

Agenda Item 6

Appendix 5



Devon & Cornwall Police

Building safer communities together

Licensing Team
Torbay Council
C/O Torquay Town Hall
Castle Circus
TORQUAY
TQ1 3DR

Licensing Department East
Devon and Cornwall Constabulary
Force Headquarters
EXETER
EX2 7HQ

Telephone: 01392 452225

15 April 2014

Dear Sir/Madam

Seamus O'Donnells, 28 Victoria Parade, Torquay, Devon

I refer to an application for the Review of the Premises Licence in respect of the above premises.

Having considered the application, the police are satisfied that the premises are currently meeting the Licensing Objective "The Prevention of Crime and Disorder" and therefore are not making representation in relation to this matter.

However, since December 2012 my Police Licensing Officer, Mrs Julie Smart, has been working with the Premises Licence Holders to alleviate police concerns regarding overcrowding issues in one particular area of the premises. Mrs Smart has informed me that the Premises Licence Holders have taken positive action to improve this situation and in an attempt to improve customer flow and a more even distribution of customers within the premises, the steps they have implemented may have attributed to the noise issues subject of this review application.

Mrs Smart has provided a statement outlining the police concerns, and action taken by the Fire Service and Premises Licence Holders regarding the overcrowding issue and I respectfully request that when considering any measures you deem appropriate in relation to the Review, you bear in mind any possible impact that these measures may have on customer distribution within the premises.

A copy of Mrs Smart's statement is attached for your information.

licensingeast@devonandcornwall.pnn.police.uk



www.devon-cornwall.police.uk

Page 48



The Government Standard

SF615

Although Mrs Smart does not have any issues or concerns she would like to raise at the hearing, she will attend in order to answer any queries you may have.

Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'C. Armes'.

Superintendent C Armes
LPA Commander

Witness Statement

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN:

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Statement of: **Mrs Julie Karen Smart**Age if under 18 (if over insert "over 18"): **Over 18**Occupation: **Police Licensing Officer**

This statement (consisting of5..... Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: **J K Smart**Date: **14/04/2014**

I am a Police Licensing Officer for the Devon and Cornwall Constabulary, stationed at Torquay, and I have held this position since September 2008.

I am aware that an application has been made by a local resident requesting a Review of the Premises Licence in respect of premises known as Seamus O'Donnells, 28 Victoria Parade, Torquay, TQ1 2BD, on the grounds that the premises are not meeting the licensing the objective, the prevention of public nuisance. Over the past 5 ½ years I have had occasion to liaise with the management of Seamus O'Donnells on numerous occasions, particularly in relation to overcrowding issues at the premise, and therefore submit this statement for the information of the Licensing Committee.

For your information Seamus O'Donnells has the benefit of Premises Licence Number PL0422 issued by Torbay Council. The current Premises Licence Holders for this premise are Mrs Lesley Ann BUTCHERS and Mr Stephen Graham Paul BUTCHERS, a position they have held since November 2012. Mrs BUTCHERS is also the Designated Premises Supervisor for the premises, having held this position since October 2010.

The premise is located within the Torbay Council Cumulative Impact Area and the building comprises of two storeys. The Premises Licence covers both floors of the premises, the ground floor area is generally known as Seamus O'Donnells, whereas the first floor is known as "Back to the 80's" and is split into two separate rooms with a bar in between. I shall refer to these rooms as Room 1 (situated at the front of the building) and Room 2 (situated at the rear of the building). At the far end of Room 2 there is a bar and a corridor leading to the male and female toilets and a fire exit.

On 1 December 2012 DC 747 SHARDLOW visited "Back to the 80's" at approximately 2330 hours whilst conducting duties under Operation Ambassador (a police operation focussing on the management of licensed premises within Torbay). Following his visit he submitted a Licensing Form L10, which states that in his opinion the location was extremely overcrowded with nearly all of the clientele being located in one room on the dance floor with the pool table room empty. At the time of his visit no music was provided in Room 1, which contained a pool table, and Room 2 provided music and dancing facilities.

Signature: **J K Smart**Signature Witnessed by: **N/A**

Witness Statement

Continuation of Statement of Mrs Julie Karen Smart

Around this time I recall discussing this matter with several other police officers who also expressed concerns regarding overcrowding in Room 2 of "Back to the 80's".

At 0025 hours on 9 December 2012 I attended "Back to the 80's" in the company of Mrs Mandy GUY, Senior Licensing Officer of Torbay Council. At the time of our visit I noted that Room 1 was very quiet with only a few customers inside, however Room 2 I would describe as being seriously overcrowded. Mrs GUY and myself had to push our way through the crowd, some of whom had drinks in their hands, in order to get to the bar, and in doing so I noticed a large amount of broken glass all over the floor. At the time of my visit it was apparent that any customer wishing to use the toilets would also have to push their way through this room in order to do so. It was also noted that as it was so overcrowded there was no separation between those customers stood around chatting/drinking and those dancing and that this would result in customers bumping into each other with drinks which could lead to potential conflict between customers. Whilst at the premises myself and Mrs GUY outlined our concerns to Mr and Mrs BUTCHERS.

On 11 December 2012 I emailed Mr John MONAGHAN and Mr Mark COTTELL, Fire Officers with the Devon and Somerset Fire Service, outlining the police concerns that overcrowding was a potential issue at the premises and requested their urgent assistance with this matter.

On 17 December 2012 Mr COTTELL sent me an email in which he indicated that he had visited the premises and carried out a Fire Safety Check. He further stated that he had paced out Room 2, which had been cleared of all furniture, and estimated it to be approximately 80m square with 3 exits, therefore, with an occupancy figure of 0.5m square per person, the capacity for Room 2 could be 160.

Mr COTTELL also indicated that he had been informed that Mr and Mrs BUTCHERS restrict the capacity for "Back to the 80's" to a maximum of 180 over both rooms and that their stewards are trained to evacuate the building. Mr COTTELL further stated he had no concerns from a fire or evacuation point of view.

At approximately 1100 hours on 20 December 2012 myself and PC Nick HEALEY attended Seamus O'Donnells and met with Mr and Mrs BUTCHERS. At that meeting we had lengthy discussions concerning an increase in levels of crime and disorder at the premises, the overcrowding of Room 2, noise complaints and other licensing issues. Regarding the overcrowding issue I pointed out to Mr and Mrs BUTCHERS that there is a condition on the Premises Licence which states they must risk assess where there is a risk of overcrowding and take remedial action to deal with this. Mrs BUTCHERS then showed us Room 2 and pointed out that all tables and chairs had been removed from the room and shelving had been put up around the room for drinks etc. She also told me that all glasses, except pint glasses, were being replaced with polycarbonate vessels and she was awaiting delivery. She also showed me several removable platforms that are located in various positions within Room 2 which the stewards will stand on to ensure they have adequate supervision of customers. In addition she stated all

Signature: J K SmartSignature Witnessed by: N/A

Witness Statement

Continuation of Statement of Mrs Julie Karen Smart

internal door stewards had been supplied with fluorescent SIA badge holders to make them more identifiable to customers. Mr and Mrs BUTCHER's raised at this meeting the possibility of providing music in Room 1 in an attempt to ensure a more even distribution of customers within "Back to the 80's" and I advised her to liaise with the Environmental Protection Officers of Torbay Council regarding this matter. At this time I was impressed by the swift and positive action that Mr and Mrs BUTCHERS had taken in an attempt to alleviate the police concerns.

At 1500 hours on 8 April 2013 myself and Mr Karl MARTIN, Environmental Health Officer for Torbay Council, visited Seamus O'Donnells and had lengthy discussions with Mr and Mrs BUTCHERS regarding the provision of music in Room 1 in an attempt to reduce the overcrowding of Room 2. During discussions it was agreed that music would not be provided in Room 1 until Mr MARTIN and Mr CARPENTER (Noise Consultant) had had opportunity to carry out an assessment from the adjacent premises. At this time Mrs BUTCHERS stated that the premises were currently reviewing their Fire Risk Assessment and that it was likely that the capacity would be increased from 180 to 230, thus meaning approximately 115 in each room. At that time I explained that I would not wish for the overall capacity to be much more than this as the use of Room 1 for the provision of music was being discussed in an attempt to reduce the numbers in Room 2, and on the grounds of prevention of crime and disorder it was important to relieve the overcrowding issue despite the fact that the Fire Service and Risk Assessments may allow more persons based on fire evacuation.

On 27 April 2013 DC 6984 BRETT visited "Back to the 80's" at approximately 2330 hours, again whilst conducting duties under Operation Ambassador. Following his visit he submitted a Licensing Form L10, which states "Upon entering it became immediately apparent that the bar was severely overcrowded. At the top of the stairs was complete gridlock. After persevering to get as far as the bar at the top of the stairs, I could see that the front room was in fact almost empty. Nearly all customers were pushing forward into the main room. Having visited the premises several times, this is a regular occurrence at the doorway. There was a high vis wearing member of staff at this door but it was unclear how numbers were being managed. As far as I am aware, the fire exit is to the rear of the main room. I would question how the premises could be evacuated if this exit needed to be used as you could not even get into the room, let alone make progress through to the fire exit. I am aware that the premises has been visited by the Fire service recently but I remain concerned that there is insufficient provisions at the club in relation to crowding. We gave up even trying to get into the main bar and upon exiting saw more customers walking up the stairs. I have no idea why they were allowed entry as the security staff at the top of the stairs were clearly aware of the 'bottleneck'. Upon us exiting, more customers were allowed entry. Uniform officers were made aware of the situation". This report was drawn to the attention of Mrs BUTCHERS.

Signature: J K SmartSignature Witnessed by: N/A

Witness Statement

Continuation of Statement of Mrs Julie Karen Smart

At 0035 hours on 11 May 2013 I attended the premises in the company of Mrs Karen ELLICOTT and Mr Shaun RACKLEY, Licensing Officers for Torbay Council. On this occasion Room 2 appeared extremely busy to me but I did not feel that it was seriously overcrowded as was my opinion in December 2012. I noted that there were 9 persons within Room 1 at the time of this visit.

On 5 June 2013 I raised the overcrowding of "Back to the 80's" at a Licensing multi-agency partnership meeting held at Torquay Police Station. At this meeting Mr COTTELL stated that he was still awaiting new Risk Assessments from the assessor but would update me when he had received them. He did however indicate that it was likely that the capacity for the premises would be increased and that from a fire perspective there was nothing he could do regarding this. Following this meeting within my computer records I have made reference to this matter, indicating that the police should continue to monitor the premises and should there be an increase in crime/disorder at the premises we should seek to negotiate separate room capacities based on this issue.

On 9 October 2013, again at the Licensing multi-agency partnership meeting, "Back to the 80's" was discussed. Mr COTTELL stated he had received the new Risk Assessments and was satisfied with them. In terms of capacity due to the layout of the premises and 3 fire escape routes he stated that the premises could actually hold substantially more persons than their risk assessment allows.

On 19 March 2014 an application for the Review of the Premises Licence in respect of Seamus O'Donnells was received by the Devon and Cornwall Police.

At 1030 hours on 1 April 2014 I attended Seamus O'Donnells in the company of Mrs GUY. At that time we viewed the premises in conjunction with the plan and Mr and Mrs BUTCHERS outlined the changes being made to the premises, which consists of the removal of the upstairs kitchen in order to provide toilets which can be accessed by either Room 1 or Room 2, and the creation of a 'quiet' room for customers to sit and chat. In my opinion these alterations will greatly improve customer flow within the premises, in particular providing access to the toilets from both rooms, and this will assist in the reduction of overcrowding in Room 2. Whilst at the premises Mrs GUY advised Mr and Mrs BUTCHERS that they will need to apply for a variation outlining the alterations to the layout of the premises and discussed the Review application with them.

I have researched the crimes linked to Seamus O'Donnells between 1 April 2013 and 1 April 2014 and can state there are a total of 7 crimes linked to the premises (3 x ABH, 2 x criminal damage, 1 x burglary and 1 x non crime domestic incident). I consider this level of crime to be very low in comparison with other late night licensed premises situated around Torquay harbourside.

Furthermore the premise has been subject of visits by officers conducting duties under Operation Ambassador since April 2013 but since that date there have been no reports highlighting overcrowding as a potential issue at this premise.

Signature: J K SmartSignature Witnessed by: N/A

Witness Statement

Continuation of Statement of Mrs Julie Karen Smart.....

In conclusion the police consider that the premises are meeting the Licensing Objective "The Prevention of Crime and Disorder", the Fire Service have indicated that they are satisfied with the Risk Assessments and capacity for the premise and it appears that Mr and Mrs Butchers are managing the capacity in Room 2 and are continuing to identify improvements to the premises that will assist in customer flow and therefore reduce overcrowding/pinch points within the premise. I feel it is unfortunate that whilst endeavouring to alleviate the police concerns it appears that the provision of music in Room 1 and the creation of the new toilet area may have caused noise nuisance to residents. In conclusion, the police do not consider that any action is required by the Licensing Committee in relation to the Prevention of Crime and Disorder objective. This statement has been submitted purely to bring this matter to the attention of the Licensing Committee with a respectful request that it can be borne in mind when considering the application for Review, to ensure that there is no knock-on effect from any measures deemed appropriate at the hearing.

Signature: J K Smart

Signature Witnessed by: N/A