



Monday, 10 April 2017

LICENSING SUB-COMMITTEE

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

Thursday, 20 April 2017

commencing at **9.30 am**

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

Members of the Committee

Councillor Doggett

Councillor Ellery

Councillor Thomas (J)

A prosperous and healthy Torbay

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

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01803 207087

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. **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.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent.
5. **Il Pomodoro, Unit 5, Victoria Square, Paignton TQ4 6PE**
To consider an application for a Premises Licence in respect of Il Pomodoro, Unit 5, Victoria Square, Paignton.

(Pages 3 - 16)



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for Premises Licence in respect of Il Pomodoro, Unit 5, Victoria Square, Paignton TQ4 6PE**

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub Committee** **20 April 2017**

Contact Officer: **Mandy Guy**
Telephone: **01803 208293**
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 new 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 Objective “The Prevention of Crime and Disorder” and “The Prevention of Public nuisance”.
- 1.4 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made, having considered the Representations, either:-
 - (a) to grant the licence subject to
 - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the Premises Supervisor;
 - (d) to reject the application.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant and Interested Party following the determination of the matter.

2. Introduction

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:

The Supply of Alcohol from 10.00 until 23.00 seven days a week on and off the premises.

To be open to the public from 10:00 until 23.30 7 days a week.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as a Relevant Representation has been received. The Licensing Authority is also satisfied that the Representation has been received within the appropriate time scale, has not been subsequently withdrawn and is not vexatious or frivolous.

We have received a Representation from a Member of the Public in relation to the licensing objectives "The Prevention of Crime and Disorder" and "The Prevention of Public nuisance". This is shown as Appendix 2.

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

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 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 Representation and the procedure to be followed at the hearing.
- 2.5 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
- (a) The holder of the licence against any decision
 - (i) to impose conditions on the licence, or
 - (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
 - (b) Any person who made a relevant Representation who desires to contend
 - (i) that the licence ought not to have been granted, or
 - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.

- 2.7 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 order as to costs as it thinks fit.

Frances Hughes
Executive Head Community Safety

Appendices

Appendix 1 Details of the application.

Appendix 2 Representation from a Member of the Public.

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2016.



Application for a premises licence to be granted
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.

I/We Il Pomodoro Ltd

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description <u>IL Pomodoro</u> Unit 5, Victoria Square, Paignton			
Post town	Paignton	Postcode	TQ4 6PE

Telephone number at premises (if any)	none
Non-domestic rateable value of premises	£ <u>£10,250</u>

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick as appropriate

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
A	S	A P

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)

Ex café 'The Pond'
 Located in the Victoria Square

We are intending to open a new 'Pizzeria' offering authentic style pizzas
 The sale of alcohol for consumption on premise only
 Approx 24 covers for eating
 Approx 12 covers for refreshments

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

No

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4) None		
Mon	10.00	23.00			
Tue	10.00	23.00			
Wed	10.00	23.00			
Thur	10.00	23.00	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri	10.00	23.00			
Sat	10.00	23.00			
Sun	10.00	23.00			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

None

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4) None
Day	Start	Finish	
Mon	10.00	23.30	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5) None
Tue	10.00	23.30	
Wed	10.00	23.30	
Thur	10.00	23.30	
Fri	10.00	23.30	
Sat	10.00	23.30	
Sun	10.00	23.30	

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

The DPS will ensure that all staff members are trained in relation to the Four Licensing Objectives particularly:

Selling of alcohol to underage people, drunk and disorderly behaviour, preventing the use or sale of drugs, avoiding any anti-social behaviour and preventing any harm to children

And how to apply any necessary action without placing themselves or any other person in a dangerous situation

b) The prevention of crime and disorder

Monitor and prevent any intentions of crime and disorder.

Use of a CCTV system to monitor any criminal intentions and staff and customer safety.

Display the premises opening hours with regard to the sale of alcohol

Be aware of any drug or alcohol related misuse / abuse in and around the general area and report if necessary

Staff will be trained in asking customers to use premises in an orderly and respectful manner

No bottles intended for consumption to be taken off the premises

c) Public safety

Staff awareness for their own safety and security as well as that of customers/public both in and around the premises.

Apply any appropriate signage ie: exit locations

A first aid box will be available on site.

Any accidents will be recorded in an accident book and available for inspection if required

Good maintenance of fixtures, fittings and sanitary conditions

Fitting an external light with PIR

d) The prevention of public nuisance

Staff and customers will be encouraged to leave the premises quietly at the end of the night.

The disposal of refuse, such as bottles, into receptacles outside the premises will not take place before 8.00am or after 8pm

All rubbish produced will be placed into secure bins

Cooking/noxious or persistent smells not to cause a nuisance to nearby properties

The kitchen extract system will operate so as to not cause a noise or odour nuisance to nearby residents

All collections / deliveries will take place between the hours of 8am and 8pm

e) The protection of children from harm

No admission of anyone aged under 16 unless supervised by an adult
 The premises shall operate the Challenge 25 scheme. Any individual who appears to be under the age of 25 will be asked to produce photographic ID in the form of a passport or driving licence to prevent any underage sales.
 The premises will not tolerate any intentions of aggression, drunkenness, rudeness or nudity.
 Keep a refusal book on the premises where staff can record details of anyone who has been refused alcohol

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 11). **If signing on behalf of the applicant, please state in what capacity.**

Signature	Mark Cannon
Date	23 rd February 2017
Capacity	Director of Il Pomodoro

For joint applications, signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Il Pomodoro Ltd

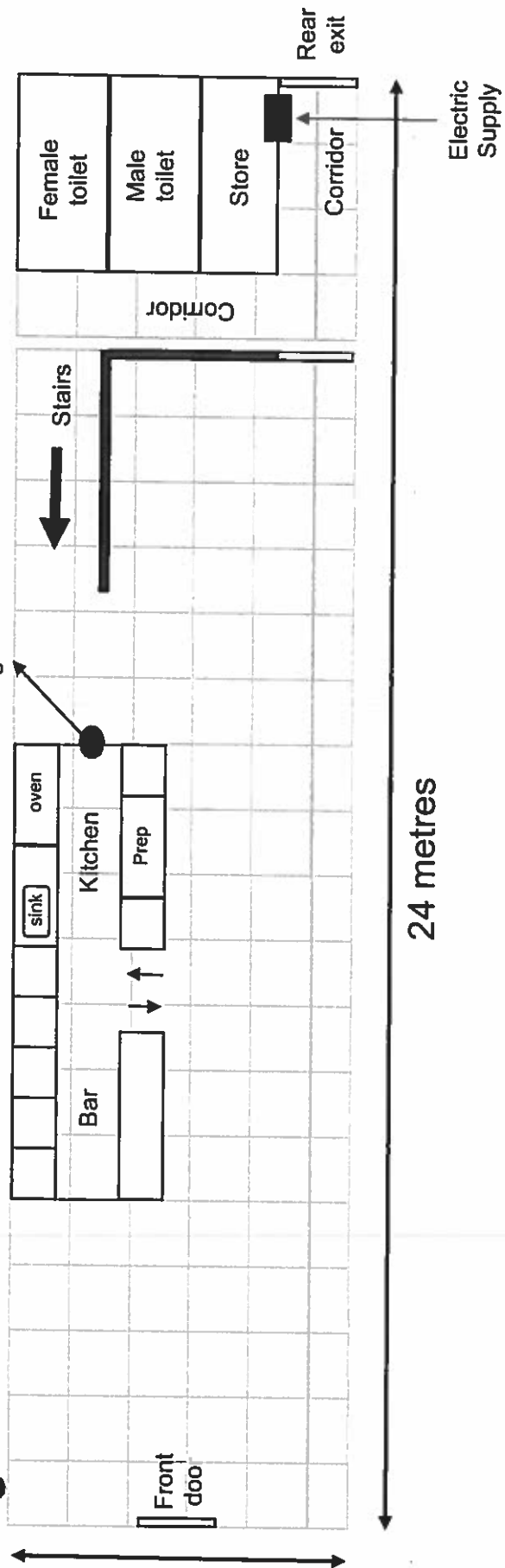
Unit 5, Victoria Square, Paignton, TQ4 6PE – Restaurant Layout
Ground Floor



Scale 1:100

Burglar & Fire Alarm System

Fire extinguisher



TORREY COUNCIL

COMMUNITY SAFE

19th March 2017

Re: IL POMODORO, UNIT 5,
Victoria Square, Paignton TQ4 6PE
Request for music and alcohol
licence. Hours of proposed
opening 10.00 am - 11pm ~~10~~ Seven
days a week.

I reside in the above flat,
which is adjacent to the block of
empty shop premises where it is
proposed that IL POMODORO could
be opened and licensed.

There are many shops with
the attached flats in this area.
The flat I reside in overlooks
the empty shops in Victoria

Square, also Victoria Square and the rear of Torbay Road. My lounge window and entrance door to the the four flats in the building overlook directly onto these areas.

My concerns are that Victoria Square consists of shops which are not open in the evening until late and the proposed times of opening for Il Pomodoro changes this. Also Il Pomodoro proposes to open all day on a Sunday the same times as in the week. I feel that the extra hours of opening in this area and the music and selling of alcohol will be detrimental to me especially as I hear all the noise from outside which could

increase if the proposed premises opens. There may also be a possibility of anti-social behaviour in Victoria Square, especially late evenings and weekends. There is already disturbances from people walking through from the promenade and High St, who seem to be inebriated and shouting obscenely. Victoria Square is a place where young people gather after shopping hours.

Could you please take all this information into consideration when making your decision.