



Devon & Cornwall Police

Building safer communities together

Licensing Department
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: 01803 218900

4 June 2015

Dear Sir/Madam

Shiraz, 2 Vaughan Parade, Torquay, TQ2 5EF

I refer to the above premise and an application for the Review of the Premises Licence, submitted by Mr Karl Martin, Public Protection Officer of Torbay Council, in relation to the licensing objective the prevention of public nuisance.

This premise is situated within the Torbay Council Cumulative Impact Area, which has been identified as an area subject to high levels of alcohol related crime, disorder, anti-social behaviour and public nuisance.

Mrs Smart, my Police Licensing Officer, has researched all crime records and logs in relation to the premises and I am satisfied that the premises are adequately meeting the licensing objective the prevention of crime and disorder.

However, Mrs Smart has advised me that during the last 12 months she has identified breaches of the Pavement Cafe Permit at Shiraz on 4 occasions and despite receiving a letter from myself, a leaflet by your Highways Department and verbal advice from Mrs Smart and various members of staff from the Torbay Council Licensing Department, the Premises Licence Holder, Mr Javadi, does not appear to take any action in respect of advice given to him.

Furthermore, the premises licence in respect of Shiraz contains a condition restricting the consumption of alcohol to the premises and the Pavement Cafe Permit area. Whilst we do not have evidence that this condition has been breached, Mrs Smart informs me that it is highly likely that Mr Javadi is regularly committing an offence under Section 136 of the Licensing Act 2003.

julie.smart@devonandcornwall.pnn.police.uk



www.devon-cornwall.police.uk



The Government Standard

Mrs Smart has made a statement concerning her observations in respect of Shiraz and this, together with photographs she has taken, is attached for your consideration at the Review hearing.

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

Yours faithfully

A handwritten signature in black ink, appearing to be 'G Mayhew', written over a horizontal line.

Superintendent G Mayhew
LPA Commander

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of **Julie Karen SMART** URN:

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Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Licensing Officer**

This statement (consisting of:3.2 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 anything in it which I know to be false, or do not believe to be true.

Signature: J K Smart.....J K Smart..... Date: 04/06/15

Tick if witness evidence is visually recorded (supply witness details on rear)

I am a Police Licensing Officer for the Devon and Cornwall Constabulary, stationed at Torquay, and I have held this position for the approximately 6½ years.

I am making this statement in relation to an application for the Review of the Premises Licence in respect of a premise known as Shiraz, 2 Vaughan Parade, Torquay, which has the benefit of Premises Licence PL0415 issued by Torbay Council. This application has been submitted by Mr Karl Martin, Public Protection Officer of Torbay Council, in relation to the licensing objective, the Prevention of Public Nuisance.

The Premises Licence Holder and Designated Premises Supervisor of Shiraz is Mr Mohammed Javadi and he has held this position since the premises licence was granted in November 2005.

Shiraz also has the benefit of a Pavement Cafe Permit issued by Torbay Council, which authorises the management of the premise to place tables and chairs on the highway for the consumption of food and drink by customers.

Vaughan Parade is located within the Torbay Council Cumulative Impact Area, and in basic terms this means that under the Licensing Act 2003 the area has been identified as experiencing high levels of crime, disorder and public nuisance based on evidence supplied by the police. This policy in effect places a higher degree of responsibility on the managers of

Signature: J K Smart.....J K Smart..... Signature witnessed by:

Continuation of Statement of Julie Karen SMART

licensed premises within that area to ensure that their premises can meet the licensing objectives.


In relation to Shiraz, I can provide the following information:

At 2047 hours on Sunday 8 May 2014 the police were contacted by a local resident in relation to a noise complaint in respect of Shiraz (log 0830 04/04/14 refers). The complainant stated that the premise had placed large speakers outside the premise and was 'blaring out loud music'. I subsequently passed this information to Mr Karl Martin, Environmental Health Officer of Torbay Council, via email.

At approximately 0100 hours on the morning of Sunday 13 July 2014 I was on duty carrying out licensed premises visits in the company of police officers. At that time I noticed that the tables and chairs were still in situ outside Shiraz and these were being used by numerous persons who were consuming drinks that appeared to be alcohol although this was not established. At that time I entered the premises and spoke to Mr Javadi and I pointed out to him that his Pavement Cafe Permit authorises the use of this outside area until 12 midnight and that at that time all tables and chairs must be removed from the highway. At my request Mr Javadi immediately started clearing the tables and chairs away. A photograph of this area in use was taken by myself (JKS/1) and as a result of this visit a letter was sent to Mr Javadi (JKS/2), copies of which were forwarded to Mr Tim Northway of Torbay Council's Highways Department on 15 July 2014 by email.

Whilst on duty that evening the manager of another licensed premises close to the harbourside was also spoken to by myself concerning breaches of the terms and conditions of the Pavement Cafe Permit at his premise. The details of this matter were also forwarded to Mr Northway by email and a letter was sent to the Premises Licence Holder/DPS outlining the breaches identified.

At 1400 hours on Wednesday 30 July 2014 I attended a meeting at Torbay Council's offices at Commerce House, Torquay where I met with Mr Tim Northway of the Torbay Council

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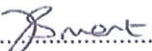
Continuation of Statement of Julie Karen SMART

Highways Department, Mrs Mandy Guy and other officers of Torbay Council to discuss the enforcement of Pavement Cafe Permits. At this meeting I was advised by Mr Northway that he would send a letter/leaflet to a large number of permit holders, particularly those based in the town centres and harbourside areas of Torbay, reminding them to ensure they comply with the terms and conditions of the permit at all times. I was later advised by Mr Northway that these letters had been sent, but I do not know the date that this occurred.

Later that day, at approximately 2340 hours, I was again on duty, in the company of Sergeant Norsworthy and Mr Craig Noble, an officer of Torbay Council, conducting licensed premises visits. At that time we attended Shiraz in order to establish if the premises were complying with the requirements of the Pavement Cafe Permit. On attendance I noted that all customers were sat down and no bottles were seen, however tables and chairs were placed several metres beyond the yellow markers fixed to the surface of the highway to identify the extent of the Pavement Cafe Permit area. Myself and Mr Noble spoke to Mr Javadi concerning this matter and I subsequently sent an email to Mr Northway of Torbay Council's Highways Department on Tuesday 5 August 2014 outlining my observations.

At approximately midday on 2 October 2014 myself and Mrs Guy of Torbay Council Licensing Department were walking past Shiraz, having attended a Licensing Meeting at the Green Ginger, when we both noted that the tables and chairs outside of Shiraz were well beyond the yellow markers affixed to the surface of the highway. At that time myself and Mrs Guy entered the premises and spoke to members of staff on duty and advised them to move the tables and chairs to within the designated area as soon as customers had vacated them. I took 2 photographs of this area (JKS/3 and JKS/4) and subsequently forwarded them to Mr Northway of Torbay Council's Highways Department by email on Tuesday 7 October 2014.

During the summer of 2014 I received several complaints from managers of licensed premises situated in the harbourside area concerning other licensed premises that were clearly breaching the terms and conditions of their Pavement Cafe Permits. As a result of this frequent checks were carried out and several licensed premises were identified as not complying with the requirements. However, as a result of my discussions with these premises

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the majority heeded my advice and further checks established that they were complying with the requirements. Unfortunately I can not say the same in respect of Shiraz, where despite receiving advice from myself, Sergeant Norsworthy, and Mrs Guy and Mr Noble of Torbay Council as detailed above, further beaches have been identified.

At Torquay Police Station on Wednesday 8 April 2015 a routine licensing meeting took place, at which Mrs Mandy Guy, Senior Licensing Officer for Torbay, raised concerns regarding a complaint she had received that the management of Shiraz, 2 Vaughan Parade, Torquay were not complying with the terms and conditions of the Pavement Cafe Permit in that tables, chairs and A-boards were frequently positioned outside the permitted area, and the premises were causing a noise nuisance. I informed Mrs Guy that I would be visiting the harbourside area that afternoon to carry out some licensing enquiries and would attend Shiraz and obtain evidence if any breach was identified.

At 2.09 pm on Wednesday 8 April 2015, myself and Sergeant Michael Norsworthy (Police Licensing Sergeant for Devon) attended Shiraz and viewed the outside seating area. I pointed out to Sergeant Norsworthy the location of yellow marker discs affixed to the surface of the paving which I am aware are placed there by Torbay Council to determine the extent of the area covered by the Pavement Cafe Permit.

I noted that the tables and chairs outside Shiraz were placed in such a way so as to leave a clear pathway leading to the front doors of the premises. One of these yellow marker discs was located within this pathway and, when standing at this discs location, it was obvious that tables and chairs extended a distance I would estimate to be at least 2 metres beyond the yellow marker disc, in the direction of the harbour.

As a result of this I formed the opinion that the premises were in breach of their Pavement Cafe Permit and went into the premises in order to discuss this matter with Mr Javadi, the Premises Licence Holder and Designated Premises Supervisor. Unfortunately at that time Mr Javadi was not available.

Signature: J K Smart.......... Signature witnessed by:

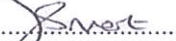
Continuation of Statement of **Julie Karen SMART**

Sergeant Norsworthy then stood immediately adjacent to this yellow marker disc and I took a photograph (JKS/5) of Sergeant Norsworthy which shows tables, chairs and an A-board clearly behind him outside the permitted area. In order to take this photograph I was stood with my back towards the entrance door to Shiraz looking out towards premises situated on The Strand and the yellow marker disc is clearly visible to the left of Sergeant Norsworthy's right foot.

A further yellow marker disc was located under a seat which was being occupied by a female with long dark hair wearing a white t-shirt. A photograph was taken of this marker disc (JKS/6). Unfortunately in the printed copy of this photograph the yellow marker disc is not easily visible, however I have retained this photograph (and JKS/5 and JKS/7) on my personal mobile phone and this can be viewed by the Licensing Committee and Mr Javadi at the Review hearing if they wish to do so. It is noted that within photograph JKS/6 there is a lady stood up with a pink backpack over her shoulder and seated at the table adjacent to the one at which the dark haired female is seated, is a female with long fair hair wearing a blue and white patterned top. In order to capture a photograph showing tables, chairs and A-boards beyond the yellow marker disc I took a further photograph (JKS/7) from the pathway leading to the entrance of Shiraz, which again shows the female with the pink backpack stood next to a seat, the female with fair hair wearing the blue and white top, and visible just above her head is the female with the dark hair and white t-shirt. This photograph clearly shows a whole row of tables and chairs outside the area designated under the Pavement Cafe Permit.

On Wednesday 29 April 2015 I attended a further meeting at Commerce House, Abbey Road, Torquay with Mr Northway, Mr Martin and Mr David Walker regarding issues in relation to Pavement Cafe Permits. At that time I again informed Mr Northway that I had identified a breach of the permit in respect of Shiraz and gave him copies of photographs JKS/5, JKS/6 and JKS/7.

The premises licence in respect of Shiraz contains a condition under the heading "Conditions Transferred from Full On Licence", which states "The consumption of intoxicating liquor shall be confined to the premises and the areas adjacent thereto designated under the terms of a Pavement Cafe Permit issued by the Local Authority whilst such permit is in force providing

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Continuation of Statement of Julie Karen SMART

persons are seated at tables within the areas designated by such Permit". On several occasions that I have attended the premises and noted that tables and chairs are outside of the designated area, I have seen customers consuming drinks that appear to be alcohol, but without seizing the drinks and sending them off for analysis I cannot state that they definitely contain alcohol. An example of this can be seen in photograph JKS/4 where a male wearing a blue football type shirt has what appears to be a pint of lager or cider on the table in front of him. I am of the opinion that alcohol is regularly consumed by customers of Shiraz outside the area designated by the Pavement Cafe Permit and this constitutes a breach of the condition on the premises licence, which in turn is an offence under Section 136 of the Licensing Act 2003.

In addition, it should be borne in mind by the Licensing Committee that although Vaughan Parade is quite wide outside Shiraz, the footpath available for pedestrian traffic narrows as you walk towards the marina, and should tables and chairs extend beyond the areas designated by the Torbay Council Pavement Cafe Permits, pedestrian access around this area becomes congested, particularly if there are a number of pushchairs or wheelchairs in the area.

As already mentioned within this statement, during the summer of 2014 I received several complaints from other licensed premises that whilst they were complying with the terms and conditions of their Pavement Cafe Permit, it was apparent that Mr Javadi was not and in fact a further breach WAS identified in April of this year. I am concerned that if Mr Javadi does not comply with the terms and conditions of the Pavement Cafe Permit again over this summer season, I will receive similar complaints and furthermore I am not satisfied that Mr Javadi will heed any advice given to him in respect of this matter. In the interests of fairness, it is imperative that all premises around the harbourside abide by the terms and conditions of the permit and no premises should be seen to be flouting the rules without facing the consequences. Unfortunately, unless it can be ascertained that alcohol is being consumed outside the area authorised by the premises licence in respect of Shiraz, the police are unable to seek a prosecution, but this option will be considered should such evidence be obtained.

In relation to the levels of crime recorded at Shiraz I can provide the following information:

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Continuation of Statement of Julie Karen SMART

2002 – 2 x theft, 1 x burglary, 1 x deception.

2003 –1 x theft, 1 x criminal damage.

2004 –2 x theft.

2005 – 1 assault ABH

2006 –1 x theft, 1 x harassment.

2007 – No crimes recorded.

2008 – 1 x criminal damage.

2009 – 1 x theft.

2010 – No crimes recorded.

2011 - 1 x theft.

2012 – No crimes recorded.

2013 – No crimes recorded.

2014 - 2 x assault ABH


2015 – to date no crimes recorded.

In relation to logs recorded by the police in respect of telephone calls received from the public in relation to Shiraz, I can state that there are 5 logs recorded since June 2013, these being as follows:

23/06/13 Log 0644 – Telephone call received from a female stating that she heard a loud bang and breaking glass. It transpired that a male with mental health concerns had smashed a glass on the floor of the premises and another customer had telephoned the police. However, no person was injured and staff dealt with the matter.

26/07/13 Log 0745 – Customer contacted police claiming she had been assaulted by a member of staff. Police attended and all parties were spoken to but no further action was taken.

04/05/14 Log 0830 – Noise complaint from member of the public who stated that speakers had been placed outside premises (this is the log referred to earlier in this statement).


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Continuation of Statement of **Julie Karen SMART**

26/10/14 Log 0703 – Member of public reported that his 4 year old son had gone missing outside Shiraz. Child was located a few minutes later.

30/11/14 Log 0686 – Complaint of a male in Vaughan Parade harassing members of the public and swearing. There is no information indicating that this male was a customer of Shiraz.

As can be seen from the above figures, crime at the premises is low and therefore I am satisfied that the premise is meeting the licensing objective the prevention of crime and disorder.

Signature: J K Smart.......... Signature witnessed by: