



Devon & Cornwall Police

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: 01803 218964

6 October 2017

Dear Sir/Madam

Gio's, 18 Esplanade Road, Paignton TQ4 6BD

I refer to an application for the Grant of a Premises Licence in respect of the above named premises submitted by MRH Paignton Limited.

The premises is situated on Paignton Esplanade and is located within an area which comprises of both commercial and residential properties.

For your information, the premises previously had the benefit of Premises Licence Number PL0876 issued by Torbay Council. However in September 2017 it was established that the Premises Licence Holders, Mr and Mrs Butchers, had become subject of Insolvency Voluntary Arrangements on 7 January 2016 and therefore the licence lapsed on that date. However the premises continued to trade up until this matter was brought to their attention in September of this year.

With respect to the current application, my Police Licensing Officer, Mrs Julie Smart, has studied the application and has identified that the applicants have not ticked the box on page 2 indicating that they are carrying on or proposing to carry on a business which involves the use of the premises for licensable activities. Mrs Smart advises me that during a meeting at the premises on Tuesday 3 October 2017, Mr and Mrs Butchers (on behalf of the applicants) indicated to herself, Sergeant Michael Norsworthy (Licensing Sergeant for Devon) and Mr Karl Martin (Torbay Council Public Protection Officer) that they would not be re-opening the business and they are intending to sell the lease or hand it back to the freeholders, Mr David Carter and/or

Contact the police

Emergency 999

Non-emergency www.devon-cornwall.police.uk/reportcrime

101@devonandcornwall.pnn.police.uk 101

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The Government's 2015 Star
Star code SF615

Mr Tony Carter. I would therefore ask the Licensing Authority to consider whether this application is a valid application under the Licensing Act 2003.

Putting the above matter aside, the police have considered the application and the past history of the premises and we object to all licensable activities ceasing at 0300 hours daily, with the premises closing at 0330 hours daily, on the grounds that this is likely to have a negative impact on the licensing objectives The Prevention of Crime and Disorder and the Prevention of Public Nuisance.

For your information, this premises has had the benefit of a Premises Licence since the introduction of the Licensing Act 2003. Mrs Smart has conducted research which shows that on 22 October 2007 an application to extend all licensable activities until 0300 hours, with the premises closing at 0330 hours, was received and granted in respect of this premises. Mrs Smart has produced a document showing all crimes at this premises and in Kernou Road since that date, up to the date of this letter, which is attached for your information. On this document all the crimes highlighted in yellow occurred between midnight and 0130 hours, and the crimes highlighted in red occurred after 0130 hours.

In respect of Mr and Mrs Butchers, I can advise you that they took over the premises on 21 May 2013 and it is fair to say that they have run the premises in a satisfactory manner with little impact on the crime prevention objective. However, as this is an application for a new licence and Mr and Mrs Butcher have indicated that they do not intend to run the business, I must consider the impact of this application for the life time of the licence, should it be granted, and this is of great concern to the police. Without any knowledge of who may run the premises in the future it is difficult to gauge potential crime levels but as the licensing objective is the PREVENTION of crime and disorder, I would advise you that I consider it highly likely that any premises authorising licensable activities until 0300 hours on a daily basis will have a negative impact on crime and disorder in the area.

With regard to the PREVENTION of Public Nuisance, whilst I recognise that the Torbay Council Public Protection Officer is the responsible authority for noise issues within Torbay, my officers are frequently contacted by residents in relation to noise issues, our call centre often receives noise complaints when local authority staff are not on duty, and we strive to assist both the local authority and residents wherever possible.

At 0210 hrs on the morning of Sunday 7 August 2016 my Police Licensing Officer, Mrs Julie Smart, was on duty and in the company of Mrs Mandy Guy (Senior Licensing Enforcement Officer of Torbay Council) and Mr Gary O'Shea (Principal Licensing Officer of Torbay Council). At that time they were in an unmarked police vehicle which was parked in Kernou Road, outside the doors to the Spinning Wheel Public House, monitoring noise levels from licensed premises in order to consider the impact of this upon residents in the area. At the time of this visit the Spinning Wheel Public House

was closed, there was no background noise in the area and the weather was windy and drizzly.

Mrs Smart states that she witnessed drunkenness and noise issues from Murphy's which she believes was likely to impact on residents. Please find attached notes that Mrs Smart made following this visit.

For your information, Murphy's Roadhouse has been a licensed premises for many years and historically there have frequently been noise complaints in relation to this premises. A few years ago, at a time when Mr and Mrs Butchers were not responsible for this premises, the police considered applying for a Review of the licence due to the level of complaints received in relation to anti-social behaviour and noise from this premises. However, this was problematic due to the nature of the premises, as follows. In April/May with warmer evenings and the beginning of the holiday season, the number of persons attending this premises increased and complaints were forthcoming. Numerous meetings were held to address the issues and the premises were monitored throughout the following months. At the end of the summer the police considered that they were almost at the point of requesting a Review, however the weather deteriorated, customer attendance at the premises dropped significantly, the number and frequency of complaints decreased and therefore the police did not feel it appropriate to pursue a Review at that time.

The police therefore requests that the Licensing Committee considers the cyclical nature of this premises when making your decision.

In addition, I would refer you to the below paragraph which is contained within page 40 of the Licensing Statement of Principles:

'There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.'

Attached for your information is a document outlining crimes that have occurred in Kernou Road since 22 October 2007. Please note that the police are not able to state how much, if any, of this crime is contributed to this particular licensed premises, but it is purely intended to provide the Licensing Authority with an overview of reported crimes at that location.

In respect of other licensed premises in the vicinity, the Spinning Wheel at 19 The Esplanade, Paignton is licensed to sell alcohol until 0100 hrs daily, closing at 0130 hrs. The Inn on the Green is licensed to sell alcohol until 0100 hrs on Wednesdays to

Saturdays January to April inclusive, but only until 0000 from Mondays to Saturdays throughout May to December inclusive. The Flagship, Esplanade Road, Paignton is licensed to sell alcohol on Thursdays to Saturdays until 0100 hrs, and Sundays to Wednesdays until midnight. The police therefore consider that 0100 hours would be a suitable terminal hour for the sale of alcohol at this premises, with it closing at 0130 hrs.

Should you be mindful to grant a Premises Licence in respect of this premises, the police request that the below conditions are deleted from the application:

1. Conditions 4, 5 and 6 under the heading the Prevention of Crime and Disorder as shown on page 7 of Premises Licence 876
2. Condition 2 under the heading the Protection of Children from Harm as shown on page 8 of Premises Licence 876


The police also request that the below conditions are imposed on the licence:

1. A CCTV system, capable of providing images of an evidential standard in all lighting conditions, particularly with regard to facial recognition, shall operate throughout the times the premises are open to the public, with monitors behind all bars and a recording system. 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 within 7 days of any request.
2. Any identified defect in the CCTV system shall be logged at the premises and remedied as soon as reasonably practical. The Police Licensing Officer or Police Licensing Team shall be notified by email of all defects, the action required to rectify the situation and the time frame for such action within 24 hours of the defect being identified.
3. On any Friday and Saturday nights that the premises remain open for the sale of alcohol after midnight and then close after 0030 hrs, SIA door supervisors shall be employed on the premises from 2200 hrs until 30 minutes after the premises close, at a ratio of 2 stewards for the first 100 persons and one additional steward for each 100 persons thereafter. The Premises Licence Holder shall also carry out a risk assessment taking the layout of the premises and the proposed activity to be carried out into consideration to determine whether any additional stewards are required. (This condition shall also apply on Christmas Eve and New Years Eve when they do not fall on a Friday or Saturday). On all other occasions the Premises Licence Holder shall risk assess the requirement for door supervisors and employ such numbers, if at all, in such numbers and at such times determined by that risk assessment.
4. On every operational day that SIA door supervisors are required, then those stewards who are employed for front of house duties must wear yellow high visibility jackets for the entirety of their duty.
5. 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 on demand by a police officer, a police licensing officer or officers of the local authority.
6. The DPS shall ensure that an Incident Book is kept on the premises and that all incidents are recorded therein on a daily basis. This record shall include the full names of all persons involved, if possible or practical to do so. The Incident Book shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand, and such records shall be kept at the premises for a minimum of 12 months.
 7. Any persons employed at the premises in the sale and supply of alcohol shall attend and successfully complete the BIIAB Level 1 Award in Responsible Alcohol Retailing, or other equivalent qualification deemed appropriate by the Police Licensing Officer, within 2 months of commencing employment.
 8. The DPS must hold or completed the BIIAB National Certificate for Designated Premises Supervisors within 2 months of commencing employment at the premises.
 9. A record of all staff training, including copies of all relevant BIIAB Certificates, shall be kept at the premises for a minimum period of 12 months and be available to the police or local authority licensing officers on demand.
 10. A Personal Licence Holder shall be on duty at all times the premises sell or supply alcohol after midnight.
 11. The Premises Licence Holder will ensure that the DPS or other nominated person shall attend at least two meetings of the Torbay Licensing Forum per calendar year, together with any other meetings arranged by the police in respect of high risk events.
 12. All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after midnight from which it is intended or likely that a person shall drink.
 13. The premises shall have a zero tolerance to controlled drugs and have a written drugs policy outlining what action will be taken in respect of individuals found in possession of drugs. A copy of this policy shall be retained on the premises and shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand.
 14. The premises shall operate a Challenge 25 Policy and any person who appears under the age of 25 shall be required to produce an approved form of photographic identification as outlined within the Torbay Council Licensing Statement of Principles.
 15. No persons under the age of 18 years shall be on the premises after 2100 hours except when attending a private party in a function room at the premises, when that part of the premises is not open to the general public.
 16. The police shall be entitled to discuss any concerns regarding the management of the premises with the freeholders.

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

Yours faithfully

A handwritten signature in black ink, appearing to read 'M Lawler', written in a cursive style.

Superintendent M Lawler
Head of Alliance Prevention Department

18 ESPLANADE ROAAD, PAIGNTON

CRIMES AT THE PREMISES SINCE 22/10/07 TO 06/10/17 - IE FROM WHEN LICENSABLE ACTIVITIES EXTENDED TO 0300 HRS

CR/081937/07	20/10/2007 21:30	20/10/2007 22:15	THREATS TO KILL
CR/082491/07	23/12/2007 00:00	23/12/2007 01:00	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/076210/08	03/02/2008 00:01	03/02/2008 02:00	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/076228/08	03/02/2008 00:01	03/02/2008 02:00	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/073825/08	01/03/2008 23:55	01/03/2008 23:59	DISPLAY VISIBLE REPRESENTATION W/ TO CAUSE FEAR PROVOKE VIOLENCE
CR/077049/08	01/03/2008 23:55	01/03/2008 23:59	POSSESS AN OFFENSIVE WEAPON IN A PUBLIC PLACE
CR/077197/08	14/03/2008 11:55	15/03/2008 01:01	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/077206/08	15/03/2008 01:00	15/03/2008 01:10	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/077320/08	28/03/2008 23:30	28/03/2008 23:55	POSSESS A CONTROLLED DRUG OF CLASS A - COCAINE
CR/073963/08	18/04/2008 23:20	18/04/2008 23:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/074508/08	31/05/2008 01:00	31/05/2008 01:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/074523/08	31/05/2008 01:00	31/05/2008 01:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/074850/08	28/06/2008 00:30	28/06/2008 00:32	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/069757/09	11/07/2008 23:59	12/07/2008 11:30	RAPE A WOMAN 16 YEARS OF AGE OR OVER - SOA 2003
CR/075175/08	25/07/2008 16:15	26/07/2008 17:00	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/075481/08	23/08/2008 00:01	23/08/2008 00:20	DRUNK AND DISORDERLY IN A PUBLIC PLACE

Highlighted text indicates the incident occurred between 0000 and 0130 hrs

CR/076137/08	23/08/2008 00:01	23/08/2008 00:20	DRUNK AND DISORDERLY IN A PUBLIC PLACE
CR/075482/08	23/08/2008 01:20	23/08/2008 01:29	DRUNK AND DISORDERLY IN A PUBLIC PLACE
CR/075720/08	12/09/2008 23:50	12/09/2008 23:55	POSSESS CANNABIS A CLASS C CONTROLLED DRUG
CR/075809/08	20/09/2008 00:10	20/09/2008 00:35	POSSESS A CONTROLLED DRUG OF CLASS B - AMPHETAMINE
CR/076108/08	19/10/2008 01:05	19/10/2008 01:12	POSSESS A CONTROLLED DRUG OF CLASS A - COCAINE
CR/076617/08	07/11/2008 00:30	07/11/2008 00:31	POSSESS CANNABIS A CLASS C CONTROLLED
CR/076327/08	08/11/2008 23:30	08/11/2008 23:31	POSSESS A CONTROLLED DRUG OF CLASS A - COCAINE
CR/076328/08	09/11/2008 00:55	09/11/2008 00:56	POSSESS A CONTROLLED DRUG OF CLASS A - COCAINE
CR/076399/08	15/11/2008 23:00	16/11/2008 01:45	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/076818/08	19/12/2008 23:00	20/12/2008 01:00	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/067976/09	17/01/2009 00:50	17/01/2009 00:55	POSSESS A CONTROLLED DRUG OF CLASS A - COCAINE
CR/068775/09	24/01/2009 23:00	25/01/2009 01:00	THEFT FROM THE PERSON OF ANOTHER
CR/070031/09	26/02/2009 23:00	26/02/2009 23:45	BURGLARY OTHER THAN DWELLING WITH INTENT TO STEAL
CR/067249/09	05/04/2009 01:10	05/04/2009 01:17	WOUND / INFLICT GRIEVOUS BODILY HARM WITHOUT INTENT
CR/067307/09	11/04/2009 00:15	11/04/2009 00:40	POSSESS A CONTROLLED DRUG OF CLASS A - COCAINE
CR/067465/09	12/04/2009 00:01	26/04/2009 19:35	BURGLARY DWELLING - WITH INTENT TO STEAL
CR/067694/09	17/05/2009 00:30	17/05/2009 01:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/068033/09	14/06/2009 01:00	14/06/2009 01:30	COMMON ASSAULT
CR/068046/09	14/06/2009 01:04	14/06/2009 01:05	USE THREATENING/ABUSIVE/INSULTING WORDS/BEHAVIOUR
CR/068188/09	29/06/2009 18:59	29/06/2009 19:20	DESTROY / DAMAGE PROPERTY OF A VALUE UNKNOWN
CR/068368/09	17/07/2009 23:20	17/07/2009 23:21	POSSESS A CONTROLLED DRUG OF CLASS A - MDMA



Highlighted text indicates the incident occurred between 0000 and 0130 hrs

CR/068661/09	04/08/2009	17:00	05/08/2009	08:00	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/068606/09	09/08/2009	01:15	09/08/2009	01:30	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/068696/09	16/08/2009	02:00	16/08/2009	02:20	SECTION 18 - GRIEVOUS BODILY HARM WITH INTENT
CR/061186/10	17/05/2010	17:00	18/05/2010	08:15	BURGLARY OTHER THAN DWELLING WITH INTENT TO STEAL
CR/061572/10	27/06/2010	23:19	27/06/2010	23:20	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/061790/10	19/07/2010	19:25	19/07/2010	19:40	TAKE A CHILD SO AS TO REMOVE FROM A PERSON HAVING LAWFUL CONTROL
CR/062929/10	05/11/2010	19:35	05/11/2010	19:43	CRIMINAL DAMAGE TO PROPERTY UNDER £5000 - OTHER
CR/062190/11	22/01/2011	21:30	22/01/2011	23:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/063111/11	04/12/2011	13:25	04/12/2011	17:10	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/060576/12	08/06/2012	19:30	10/06/2012	17:00	BURGLARY DWELLING - WITH INTENT TO STEAL
CR/060955/12	16/07/2012	17:30	16/07/2012	17:40	COMPLAINT RE DOGS MINOR AND NON INJURY 1871 ACT
CR/115654/12	11/11/2012	13:00	11/11/2012	13:10	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/060688/13	01/09/2013	13:00	01/09/2013	13:05	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/061030/13	28/09/2013	18:15	28/09/2013	18:30	CRIMINAL DAMAGE TO PROPERTY UNDER £5000 - OTHER
CR/070927/14	09/02/2014	01:17	09/02/2014	01:20	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/070928/14	09/02/2014	01:25	09/02/2014	01:35	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/051985/14	15/04/2014	20:00	15/04/2014	20:21	BURGLARY OTHER THAN DWELLING WITH INTENT TO STEAL
CR/052002/14	17/04/2014	23:10	17/04/2014	23:20	COMMON ASSAULT
CR/064048/14	25/04/2014	23:55	26/04/2014	00:05	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/052074/14	26/04/2014	00:00	26/04/2014	00:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/075919/14	25/05/2014	01:10	25/05/2014	01:15	COMMON ASSAULT
CR/081863/14	15/06/2014	01:00	15/06/2014	01:00	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/089001/14	11/07/2014	22:30	11/07/2014	22:45	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM

Highlighted text indicates the incident occurred between 0000 and 0130 hrs

CR/120876/14	08/11/2014 22:40	08/11/2014 22:45	COMMON ASSAULT
CR/123034/14	08/11/2014 22:45	08/11/2014 22:50	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/049356/15	14/07/2015 20:30	14/07/2015 21:00	USE THREATENING / ABUSIVE / INSULTING WORDS / BEHAVIOUR
CR/060198/15	26/08/2015 18:50	26/08/2015 19:00	COMMON ASSAULT
CR/080883/15	21/11/2015 01:15	21/11/2015 01:30	COMMON ASSAULT
CR/016801/16	14/03/2016 18:00	14/03/2016 18:55	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/016803/16	14/03/2016 18:00	14/03/2016 18:55	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/051028/16	23/07/2016 22:15	23/07/2016 22:35	WOUND / INFLICT GRIEVOUS BODILY HARM WITHOUT INTENT
CR/076603/16	29/10/2016 14:45	29/10/2016 15:13	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/086466/16	05/12/2016 11:00	05/12/2016 11:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/072395/17	25/08/2017 15:30	25/08/2017 15:30	POSSESS WITH INTENT TO SUPPLY A CONTROLLED DRUG OF CLASS A
CR/072397/17	25/08/2017 15:30	25/08/2017 15:44	POSSESS WITH INTENT TO SUPPLY A CONTROLLED DRUG OF CLASS B
CR/072400/17	25/08/2017 15:30	25/08/2017 15:44	POSSESS AN OFFENSIVE WEAPON IN A PUBLIC PLACE

Highlighted text indicates the incident occurred between 0000 and 0130 hrs

SharePoint Newsfeed OneDrive Sites SMART Julie 50403 ▾  

Force Licensing Team > Licensing Items - Active > Murphys Paignton

Item Type Visit - Multiagency
 Prem Name Murphys Paignton
 Date Rec'd 10/08/2016
 Date Due
 Event Start Date 07/08/2016 02:10
 Event End Date
 Submitting Officer SMART Julie 50403
 Applicant Surname
 Applicant First Name
 Proposed DPS Surname
 Proposed DPS First Name
 Prem Street
 Prem District
 Prem Town Paignton
 Prem County Devon
 Prem Postcode
 Premises risk rating
 Hub Location EAST - Exeter
 Logic outcome Pass
 Licensing Office Torbay
 Allocated To Pete COSBY
 Item Report Summary Multi-agency visit with Mandy Guy and Gary O'Shea

Comments COSBY Peter 55186 (03/10/2016 10:15):
 To remain open until decision over application submitted
 pass objection.
 COSBY Peter 55186 (19/09/2016 09:59):
 Joint visit with Local Authorities Thurs 22/9 now Steve and
 Lesley returned from holiday to discuss outside drinking to
 0200.
 COSBY Peter 55186 (12/09/2016 09:53):
 9/9 Steve and Lesley butcher away on holiday until 15/9.
 Spoke to bar manager Jack and although nothing officially
 could be resolved regarding the use of the garden area for
 consumption, he acknowledged the situation and agreed to
 draw back the times for the forthcoming weekend and LO
 to discuss further with DPS on return from holiday.

Any change to the outside area for consumption must be done officially by licence variation.

Other matters were discussed like person possibly still leaving by the side exit as opposed to front esplanade area and during conversation he mentioned that CCTV is due to be increase and cameras will cover blackspot areas. Recent glass incident discussed which stem from spinning wheel late August.

I also discussed report from Licensing Officers late night visit Sat 6 Aug 2016 at 0250 which highlighted the above comments along with excessive drunkenness that was seen by persons leaving premises during this time.

This matter to be discussed with DPS on return from holiday.

COSBY Peter 55186 (09/09/2016 09:16):

Joint authority meeting arranged for 9/9 with Karl Martin Environmental and contents of report to be discussed in detail and rumours that they are using outside garden area and allowing consumption of alcohol until 2am in garden area.

COSBY Peter 55186 (11/08/2016 09:41):

LO in liaison with Karl Martin environmental in relation to conducting a joint visit. Suggested following noise review therefore meeting sometime after Tuesday 16/8

SMART Julie 50403 (10/08/2016 12:17):

Parked up outside doors to Spinning Wheel, so about halfway between entrance of Murphy's and Berry Hotel. Murphy's was the only premises open on the sea front. Spinning Wheel was in darkness. Weather had changed from a warm dry evening and it was quite windy and drizzling. Mandy and Gary had the car windows down about an inch. My window was closed. Could not hear any music. A male came out of Murphys garden and vomited over the railings and onto a white van that was parked in Murphys. Another male was encouraging him to be sick and said "Let it all out" in a very loud voice. They went back into the garden area and then left again a bit later being loud, one of them climbed over the wall in Murphy's car park. Saw a couple of taxi's picking people up. When one taxi arrived a group were quite loud trying to decide who was going in the taxi. 0250 and 0251 saw two lots of 5 people walk past us. They were both quite noisy talking and the second group were singing. One group went down the lane at the back of the Berry Hotel and the other group went along the lane behind Murphy's. There was no sign of any door stewards directing people or asking people to leave the area quietly. We left the area at about 0300 as the lights at the rear of the premises had been turned off and it was quiet

with no further people leaving. We drove around to the front of the premises and could see 7 people still in the front garden area but could not see any door stewards. Saw one person inside but the doors were closed and could not tell if this was a steward.

Whilst monitoring Murphys people could clearly be heard stood chatting and laughing in the front garden area of the premises and we discussed the fact that this would easily have been heard from any residential accommodation in the road at the rear of the premises. In respect of the Berry Hotel, I noted that there were several lights on and at least 3 windows were open.

Visit tasked NO
 LA Time Taken
 LO Time Taken 155
 Item Briefed
 Representation/Objection No
 Hearing No
 Status In Progress

Version 6.0
 Created at 10/08/2016 12:17 by SMART Julie 50103
 Last modified at 03/10/2016 10:15 by COSBY Peter 55186

Close

CRIMES IN KERNOU ROAD, PAIGNTON BETWEEN 22/10/07 AND 06/10/17

CR/082295/07	07/12/2007	19:00	08/12/2007	09:10	DESTROY / DAMAGE PROPERTY OF A VALUE UNKNOWN - VEHICLE
CR/074992/08	11/07/2008	21:00	12/07/2008	07:45	DESTROY / DAMAGE PROPERTY OF A VALUE UNKNOWN - VEHICLE
CR/075367/08	04/08/2008	09:30	05/08/2008	01:15	SECTION 18 - GRIEVOUS BODILY HARM WITH INTENT
CR/075346/08	08/08/2008	23:45	08/08/2008	23:50	DRUNK AND DISORDERLY IN A PUBLIC PLACE
CR/068584/09	23/01/2009	23:15	23/01/2009	23:20	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/068589/09	23/01/2009	23:45	23/01/2009	23:50	ASSAULT A CONSTABLE IN THE EXECUTION OF HIS / HER DUTY
CR/069830/09	07/02/2009	14:30	08/02/2009	08:15	DESTROY / DAMAGE PROPERTY OF A VALUE UNKNOWN - VEHICLE
CR/067370/09	17/04/2009	21:55	17/04/2009	22:00	DRIVE MOTOR VEHICLE WHEN ALCOHOL LEVEL ABOVE LIMIT
CR/068885/09	28/08/2009	09:30	29/08/2009	09:00	DESTROY / DAMAGE PROPERTY OF A VALUE UNKNOWN - VEHICLE
CR/069552/09	12/11/2009	23:20	12/11/2009	23:30	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/063661/10	12/11/2009	23:20	12/11/2009	23:30	DRIVER OF A VEHICLE FAIL TO STOP AFTER A ROAD ACCIDENT
CR/069636/09	21/11/2009	00:30	21/11/2009	00:35	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/062533/11	01/02/2011	00:20	01/02/2011	00:22	DRIVE MOTOR VEHICLE WHEN ALCOHOL LEVEL ABOVE LIMIT
CR/063442/11	18/02/2011	23:20	19/02/2011	00:00	DRUNK AND DISORDERLY IN A PUBLIC PLACE
CR/063506/11	28/02/2011	18:00	01/03/2011	08:00	THEFT FROM A MOTOR VEHICLE
CR/061924/11	06/08/2011	23:40	06/08/2011	23:46	FAIL COMPLY WITH DIRECTION OF A CONSTABLE VIOLENT CRIME REDUCTION ACT 2006
CR/063290/11	22/12/2011	23:45	23/12/2011	00:05	DRUNK AND DISORDERLY IN A PUBLIC PLACE
CR/062552/12	19/02/2012	18:00	20/02/2012	06:00	DESTROY / DAMAGE PROPERTY OF A VALUE UNKNOWN - VEHICLE

Highlighted text indicates the incident occurred between 0000 and 0130 hrs

CR/060536/12	07/06/2012	18:20	07/06/2012	18:43	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/060599/12	13/06/2012	14:00	13/06/2012	16:00	DESTROY / DAMAGE PROPERTY OF A VALUE UNKNOWN - VEHICLE
CR/061126/13	02/02/2013	21:40	02/02/2013	21:45	AFFRAY
CR/059246/13	22/04/2013	16:40	22/04/2013	16:45	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/060596/13	23/08/2013	14:00	23/08/2013	14:20	COMMON ASSAULT
CR/060704/13	28/08/2013	17:00	28/08/2013	18:00	RACIALLY / RELIGIOUSLY AGGRAVATED INTENTIONAL HARASSMENT / ALARM /DISTRESS - WORDS / WRITING
CR/125532/13	07/09/2013	22:05	07/09/2013	22:12	USE THREATENING WORDS / BEHAVIOUR
CR/125533/13	08/09/2013	00:25	08/09/2013	00:30	DRUNK AND DISORDERLY IN A PUBLIC PLACE
CR/033418/14	16/02/2014	23:00	16/02/2014	23:15	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/110999/14	28/09/2014	01:00	28/09/2014	01:30	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/007668/15	02/02/2015	19:33	02/02/2015	20:05	DRUNK ON A HIGHWAY / IN A PUBLIC PLACE / ON LICENSED PREMISES
CR/021456/15	29/03/2015	11:00	29/03/2015	12:00	ROBBERY
CR/027450/15	23/04/2015	01:00	23/04/2015	01:15	DRUNK AND DISORDERLY IN A PUBLIC PLACE
CR/030079/15	29/04/2015	20:30	29/04/2015	21:00	AFFRAY
CR/008426/16	06/02/2016	23:50	06/02/2016	23:57	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/008767/16	08/02/2016	23:50	06/02/2016	23:57	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/008768/16	06/02/2016	23:50	06/02/2016	23:57	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/033566/16	23/05/2016	12:22	23/05/2016	12:22	USE THREATENING / ABUSIVE / INSULTING WORDS / BEHAVIOUR
CR/055936/16	13/08/2016	00:30	13/08/2016	00:44	SECTION 18 - GRIEVOUS BODILY HARM WITH INTENT
CR/068351/16	24/09/2016	00:00	24/09/2016	01:09	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/044164/17	05/06/2017	01:25	05/06/2017	01:37	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/052282/17	29/06/2017	09:10	29/06/2017	09:10	USE THREATENING / ABUSIVE / INSULTING WORDS / BEHAVIOUR

Highlighted text indicates the incident occurred between 0000 and 0130 hrs

Memorandum

To:	TORBAY COUNCIL	From :	Community Safety
c.c		Contact :	Mr Karl Martin
c.c.	11 OCT 2017	Ext :	01803 208025
c.c	COMMUNITY SAFETY	My Ref :	1ZV SRU No: 240574/KJM
		Your Ref :	
For the attention of: Licensing Steve Cox		Date :	11 th October 2017

Premises Name & Address: Gio's Bar, 18 Esplanade Road, Paignton, TQ12 6BD

Subject: New Premises application – Licensing Act 2003

- a) I have no comments to make on the above application
- b) The application does not meet the following licensing objectives:
- i) Prevention of crime and disorder
 - ii) Protection of children from harm
 - iii) Public safety
 - iv) Prevention of public nuisance

Introduction

1. I wish to object to the above named application as I do not believe the application promotes the licensing objective 'Prevention of Public Nuisance'.
2. Gio's is situated at the junction of Esplanade Road and Kernou Road Paignton.
3. The area surrounding the premises is best described as mixed use. Comprising of residential accommodation, hotels, B&B's and licensed premises. Situated directly above the premises on the 1st floor is a number of residential flats. Some of these flats overlooks the beer garden at the premises. See appendix 1 fig 2.

Chronology of noise complaints

4. Historically most noise complaints have come from residents living on Kernou Road
5. The premises licence PL0876 was first issued by Torbay Council in November 2007. The applicant at the time applied for and was granted subject to conditions a 3:00am licence. It should be noted at this time the premises was primarily operated as a 'traditional' nightclub and continued in this format until 2013 when Steve and Lesley Butchers took over.

6. Environmental Health first received a noise complaint in 2008 regarding noise break out from within the premises and noise associated with people on the street. At this time the premises was under different ownership.
7. Complaints were again received in 2010 and this investigation highlighted two significant factors. The first factor highlighted the building has poor acoustic attenuation properties. The operator at the time made a number of improvements to the fabric of the building and the installation of limiters.
8. The second problem is noise from people using Kernou Road as a short cut from Esplanade Road towards the taxi Rank and late night refreshment premises situated around station square.
9. In the following years this issue was regularly cited by complaints and created significant disturbance. In part due to the behavior of people including random and unexpected bouts of shouting, screaming and threatening behavior.
10. A number of operators including the current licencees have tried, using door staff, to encourage customers from leaving via Kernou Road with limited success. Though there is some doubt how often operators actually tried. For example 10/08/16 Torbay Council and Police Licensing officers observed the premises at approximately 3:00am and noted customers leaving nosily with no attempt by door staff to either ask them to quieten down or direct them away from Kernou Road. This example is consistent with diary sheets submitted by residents.
11. During April 2011 to September 2011, music break out was largely under control, occasional residents reported 'bass' breakout between 00:00-03:00am. During this period complaints regarding the behaviour of people on the street was the most significant source of nuisance reported.
12. Officers witnessed large groups of individuals congregating in Kernou Road. At this time the number of Police Officers on duty in Paignton town center was significantly reduced and this was noted as having a direct effect on public order in the area.
13. Residents continued to report problems with anti-social behaviour particularly on Friday and Saturday nights. Complaints diminished during foul weather.
14. The department again received noise complaints about noise on the street between Augusts –October 2012. The premises then known as Evo closed in the October.
15. In May 2013 Mr and Mrs Butchers took over the premises and changed the name to 'Murphy's Roadhouse'. A mezzanine floor was installed dividing the forming night club between two floors and the focus shifted from a nightclub to a live music venue. Daytime food trade become a significant focus at this time.
16. In June 2013 the Council received a complaint from a residents who rented one of the flats above the licensed premises. The complainant experienced music breakout, noise from patrons using the beer garden and cigarette smoke entering the flat. A number of meeting with the licences took place during the course of the investigation, however the resident withdrew the complaint. In July 2014 the same resident made another complaint but a few months later alleged he was evicted and the case was closed.
17. In July 2013 a second complaint was received by a nearby resident. As in the past the music breakout and noise from people in street was causing a nuisance. The

complaints noted a fire exit door was left open for hours which was causing significant breakout.

18. Previously Mr & Mrs Butchers had worked with the Authority to resolve noise outbreak in another premises they operate and it was noted by the Authority they have a positive attitude towards dealing with noise complaints.
19. Over the course of the summer the licences undertook a number of works to the building to resolve the issues but problems still continued. By August 2013 noise outbreak had diminished and the case was closed in October 2013.
20. During the course of investigation diary sheets submitted show problems with live and recorded music up to 3:00am in the morning followed by noise on the street from people walking through Kernou Road. It was normal for residents to be woken and kept awake by bass break out followed by noise associated with people on the street. Some diary entries put disturbances as late as 4:00am.
21. Another complaint was received in September 2015 from a resident who had experienced noise problems most summers for a number of years.
22. By this time the premises was starting to change direction. The basement was no longer used for licensable activities and converted to a store room. The ground floor function room was used less frequently for live music and was renovated to allow more space for eating.
23. As part of the investigation into the September complaint it transpired during the renovation work an AC/DC tribute band had played without any glass installed in a number of windows. The windows had previously been blocked and recently re-opened by the Butchers. Unfortunately the glass had not been delivered before the tribute band played. The Butchers did not cancel the gig which led to the noise complaint. Mr Butcher attended an interview under caution in relation to this matters.
24. Between July and September 2016 the Authority received a number of complaints about live music hosted outside the premises on Sundays afternoons. Officers attended but did not witness statutory nuisance. However the Butchers were advised and made several attempts to either change the volume or relocate the band.
25. July 2017 Sgt Mike Nosworthy sent the author of this report a short video clip which showed the excessive volume of live music outside the premises. The Butchers were spoken too regarding this and agreed they would turn the music down.
26. No complaints received by residents during 2017.

Conclusion

27. Officers who conducted late nights visit to the area on a number of occasions between 2010-2016 could not conclude to an evidential standard all people seen on the street causing a nuisance had come from the premises. The spinning wheel a late night venue opposite Gio's closes at 1:00 am and it's reasonable to expect after 1:00-1:30 the majority of people would be coming from Gio's.
28. Noise complaints occurred seasonally and were dependent on reasonably weather. This aspect of the complaints combined with the Butchers willingness to resolve noise outbreaks made it very difficult for the Authority and indeed residents to reach a point where a licensing review hearing could be requested.

29. During 2017 the premises has been closing around midnight for the majority of the time. The Butchers over the last years have greatly shifted the premises towards a food led premises. This is the main reason why noise complaints diminished in 2017.
30. As a late night premises selling entertainment it has proven be problematic for the owners to manage noise breakout due to the buildings properties, the later licence and type of music hosted. Consequential it's the local residents, of whom a number run business which sell 'sleep' are inconvenienced by this premises.
31. When considering an application for later hours an applicant must consider Torbay Councils Licensing Policy which leans towards refusing an application beyond 11pm in a residential area unless remedial measures can be demonstrated:-

'There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.'

Licensing Statement of Principles, Torbay Council, 2016-21 p40

The applicant has not offered any additional mitigating measures when making this application. To a point this is understandable in the absence of noise complaints in the last 12 months and the shift towards food led.

However the applicant is still requesting a 3:00 am license and the focus in the future could switch back to a later alcohol and music led premises.

In this context the applicant has failed to acknowledge Torbay Council Licensing Statement of principle and thus this application will not promote, but undermine the licensing objective 'The Prevention of Public Nuisance'

Recommendations

32. The application as applied for granted subject to amendments of the terminal hour for all licensable activities to cease at midnight with the premises closing at 00:30 am Monday to Sunday.
33. Bank holidays may benefit from an additional hour.



**Mr Karl Martin
Public Protection Officer
Torbay Council**