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TORBAY COUNCIL
01 FEB 2018
COMMUNITY SAFETY

LICENSING ACT 2003

**APPLICATION FOR THE REVIEW
OF A PREMISES LICENCE OR
CLUB PREMISES CERTIFICATE**

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

**Environmental Health Manager (Commercial)
Torbay Council
Community Safety
C/O Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR**

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk

**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.

I Karl Martin – Public Protection Officer, Torbay Council

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

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

107 Winner Street

Post town Paignton

Post code (if known) TQ3 3BP

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

Shelby Family Ltd

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

1121

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete [A] or [B] below)
- 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 ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**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 KARL MARTIN PUBLIC PROTECTION OFFICER LICENSING AND PUBLIC PROTECTION TORBAY COUNCIL CASTLE CIRCUS TORQUAY TQ1 3DR
Telephone number (if any) 01803 208025
E-mail address (optional) KARL.MARTIN@TORBAY.GOV.UK

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

Please state the ground(s) for review (please read guidance note 2)

The regular performance of live and recorded music at the premises known as 'Peaky Blinders' is frequently causing public nuisance to nearby residents and in doing so the premises licence holders is failing to promote the licensing objective the 'Prevention of public nuisance'.

In making this application in the capacity as the designated responsible authority for public nuisance the following are stated as grounds for a review of premises licence number PL1121:-

1. The licensee is creating a public nuisance by frequently allowing the performance of amplified live and recorded music at a volume that is unreasonably disturbing nearby resident's wishing to benefit from their entitlement to peace and quiet.
2. The building has poor attenuation properties and the licence holders has failed to either adapt the business model to reflect the limitations of the building or undertake effective sound insulations works.
3. The premises does not have beer garden/smoking area and patrons congregate immediately outside the premises and as the licence holder has not implemented any noise mitigation methods and consequently noise from patrons is creating a public nuisance.

Please provide as much information as possible to support the application (please read guidance note 3)

1. Peaky Blinders located on Winner Street, Paignton, is a self-styled themed Bar & Grill.
2. A meeting took place in April 2017 with Mr Jamie Devon and Mr Ali Suat Mahmutyazicioglu, Police Licensing and Torbay Council Licensing Officers to discuss a new application for an American themed Restaurant located at 107 Winner Street.
3. At this meeting Mr Devon stated live music would be infrequent and gave the impression food sales was the primary focus of the business. It was agreed the applicant would not apply for regulated entertainment after 11:00pm and therefore the application would benefit from exemptions under the Live Music Act 2012.
4. However the premises opened in September 2017 as themed bar and live music venue. Food is served but it is not the core focus of the business.
5. The companies' facebook profile states that the licence holders seek to become one of 'Torbay's great live music venues'.
6. In an article published on the 'Devon live website' on the 25th August 2017 Mr Jamie Devon quoted "We want Peaky Blinders bar to be a proper music venue. We want to try and do something every night of the week."
7. The premises opened on the 16th September 2017 and the first complaint was received by Torbay Council from a resident on the 21st September 2017.
8. Since the premises opened the Authority up until the date of this report a total of 54 separate noise recordings have been submitted to the Council via the noise app. In the same period, advertised performances of live and or recorded music have totalled 130 occasions.
9. A variety of performances have been offered at the premises ranging solo artist to bands through to comedy nights and quiz nights.
10. There is some house PA equipment but it appear performers are largely using their own leaving the conclusion the licensees does not have any direct control over noise levels.
11. There are two distinct elements to the complaints. Firstly the breakout of noise from performance of music inside the building and secondly as the premises done not have a smoking area patrons have no choice but to use the street as area to smoke. Noise problems from customers is further exacerbated by patrons queuing to gain access to the premises and the natural to tendency for people to choose the surrounding vicinity of the premises as a place to meet.
12. Since the first complaint a number of meetings have been held with Jamie Devon. A number of recommendation where made including seeking the help of noise consultants. Since the noise issue where brought to Mr Devon's attention it appears the erection of curtains has been the only remedial measures implemented.
13. Throughout December 2017 and January 2018 the number of complaints intensified and additional residents complained about a range of issues including noise nuisance.

14. On the January the 26th 2018 Officers visited a number of residents. At a residents home the level of noise breakout was deemed excessive enough to amount to a statutory nuisance.
15. On the 1st February 2018 two abatement notices was served on the premises licence holder, Shelby family Ltd. James Devon and Jodie Harris are named Directors. One notice requires nuisance from amplified music to be abated and the second requiring noise from patrons to be abated.
16. On the 30th January 2018 during a meeting with Mr Devon it was recommended he seeks advice from a noise consultant. On the January 31st the Authority received confirmation a noise consultant had been employed but at the time of writing this report the recommendations were not available.
17. However, I am not convinced even if sound limitation equipment is installed together with substantial sound insulation that noise break out will be reduced to acceptable levels if the current business model is maintained. If this can be achieved, exceptional and robust management will be required to prevent re-occurrence.
18. The buildings on Winner Street follows a typical medieval plan of a narrow streets and terraced building with high elevations. This can greatly increase the propagating effects of noise. Historically the Authority has received noise complaints from all the premises on this street who have provided regular entertainment, including previous occupiers of 107 Winner Street.
19. 107 Winner Street is directly attached to the building either side and this easily allows the propagation of sound energy through the structure of the building.
20. Authorisation for Live and Recorded music was not required when a premises licence application was submitted on the 9th of August 2017. Consequently there are no conditions on the licence to control noise breakout.
21. At the time it is not appropriate to make recommendations to the licensing committee. This is to give the Licences time to develop a scheme of works they may positively influence recommendations and the outcome of a review hearing.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

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

✓

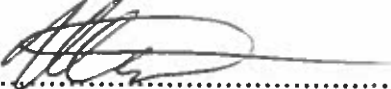
Please tick ✓ yes

- 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
- 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 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 
.....

Date 01.10.2018
.....

Capacity Public Protection Officer (T.C.)
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
/	
Post town	Post Code
/	/
Telephone number (if any)	
/	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	
/	

Notes for Guidance

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