



Clerk: Lisa Antrobus
Telephone: 01803 207013
E-mail address: governance.support@torbay.gov.uk
Date: Monday, 31 October 2016

Governance Support
Town Hall
Castle Circus
Torquay
TQ1 3DR

Dear Member

LICENSING SUB-COMMITTEE - THURSDAY, 3 NOVEMBER 2016

I am now able to enclose, for consideration at the Thursday, 3 November 2016 meeting of the Licensing Sub-Committee, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
6.	Licensing Act 2003 - An application for a Variation to a Premises Licence in respect of The Bierkeller, 7 Braddons Hill Road West, Torquay	(Pages 96 - 120)

Yours sincerely

Lisa Antrobus
Clerk

Agenda Item 6

Memorandum

To:	From	:	Community Safety
c.c	Contact	:	Mr Karl Martin
c.c.	Ext	:	01803 208025
c.c	My Ref	:	1ZV SRU No: 232492/KJM
For the attention of: Licensing Mandy Guy	Your Ref Date	:	: 27th October 2016

Subject: Premises– Licensing Act 2003

**Premises Name & Address: The Bierkeller, 7 braddons Hill Road
West, Torquay, TQ1 1BG**

Please can you arrange for the attached document to be circulated for the above named premises before the licensing sub-committee hearing on the 3rd November 2016:-

Appendix 1 – Supplementary information for Committee members.

Karl Martin
Public Protection Officer

Appendix 1 – Supplementary information for Committee members.

Email Correspondence

On 07/10/2016 11:25, Martin, Karl wrote:

Good Morning Tom

RE: Non-compliance with licensing conditions

Please find attached a letter I have written on behalf of the Licensing Authority in relation to a visit last Wednesday where I accompanied Julie Smart to undertake a licensing inspection of the premises.

I understand you and the licensees have since been working to ensure compliance with the licensing conditions and in the letter I am recommending you provided the Police and the Council with an update at the earliest opportunity if you have not already done so.

Kind regards

Karl Martin

Karl Martin
Public Protection Officer
Licensing and Public Protection
Community Safety
Torbay Council
01803 208025

From: Micky Sheehan [mailto:micky@torbay.gov.uk]
Sent: 07 October 2016 11:51
To: Martin, Karl; 'Ashley Sims'; 'tom_crowe@torbay.gov.uk'
Cc: 'Julie.SMART@torbay.gov.uk'; 'police@torbay.gov.uk'
Subject: Re: The Bierkeller

Dear Karl,

I can confirm the following have been addressed . . .

1; Addressed

2; A new CCTV monitoring system has been purchased and is being cabled behind both bars

5; Completed

8; I have implemented a staff handbook and training manual. This contains a written drug policy, challenge 25 declaration and noise risk declaration. The manual also covers the 4 licensing objectives in full along with the company's personal objectives. BIAB have been purchased and I will oversee the staff complete this alongside Tom.

10; Implemented on A4 and framed, clear and legible.

11; Available on both bars

12; Available on both bars

15; Written and positioned in the staff hand book as well as separate copies available around the site

17; Implemented on A4 and framed, clear and legible.

3; Completed

5; In process

2; Please see screen grab attached RE email to Karl Martin

6; All doors close automatically.

7; Completed. We also held discussion with the fire officer RE having to close the front doors. He said this was not to be as it's a fire exit [obviously].

11; Completed and positioned under lights

4; Completed with text direct from our license Implimented on A4 and framed, clear and ledgible.

NB; I am still tweaking the staff manual/handbook so that I can apply this policy and training across the board, IE at The Bierkeller, The York and The Apple & Parrot. I can email a pdf of this to you by monday latest. Staff copies are at the printers as they are being placed in binding [due to them being a legal document], I am due to collect these tomorrow.

Regards
Micky Sheehan,

 MICHAEL SHEEHAN PROMOTIONS

Independent music industry consultant since 2000

180 Union Street, Torquay, TQ2 5QP

On 07/10/2016 12:40, Martin, Karl wrote:

Good Afternoon Micky

Thank you for your prompt reply with the update. As you may be aware the Council has received a representation from the Police in relation to your variation application, meaning the application will be heard by Torbays Licensing committee on the 3rd of November. Ms Mandy Guy will be writing to you shortly with further details of this process.

Therefore you will need to ensure you remain compliant with the current licence until the Committee hearing. Further visits to the premises will be made in the near future by the relevant Authorities seeking evidence for the items you have addressed below.

In relation to the noise limiter condition may I suggest we could meet one evening next week, any day except Monday works me. In relation to the door which Fire Officer have you spoken to as I'm a little confused by their response and would like further clarification. Though as I said to you at the York last week if the front door is to be kept open we can set the limiter accordingly to ensure noise does not break out to a level that may give raise to noise complaints.

Kind regards
Karl



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 218900

26 October 2016

Dear Sir/Madam

The Bierkeller, 7 Braddons Hill Road West, Torquay, TQ1 1BG

I refer to an application for the Variation of a Premises Licence in respect of the above named premises, submitted by the applicant, The Bierkeller (Torquay) Ltd, the directors of which are Mr Ashley Sims and Mr Keith Byron.

In addition to the information contained within my letter of 6 October 2016, I now wish to bring the following to your attention.

On Tuesday 18 October 2016, Sgt Norsworthy, Mrs Smart and Karl Martin attended the Bierkeller in order to carry out a compliance visit as a follow up to the letters sent to the Premises Licence Holder and DPS on 28 September 2016. At the time of this visit Sgt Norsworthy was not satisfied that condition 5 under the heading Public Safety was being complied with in that an area already identified as being not visible from the bar still had no CCTV coverage, a further area on the first floor of the premises by a pool table was also not visible from the bar and lacked in CCTV cover, and no staff training records could be produced. As a result of Sgt Norsworthy's findings, he subsequently issued a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001, a copy of which is attached for your information.

Whilst examining the CCTV system at the premises, Sgt Norsworthy and Mrs Smart viewed footage from about 7.00 pm on Monday 17 October 2016 and noted that this showed a male stood up drinking what appeared to be a pint of alcohol. He was stood within the first floor of the premises, immediately next to the bar, and so should have **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 Standard
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easily been seen by the member of staff on duty in that area. At no time within the footage viewed, did it appear that this male was requested to sit down. This matter constitutes a breach of condition 1 under the heading the Prevention of Crime and Disorder.

At the time of this visit Mr Byron attended the premises and he was made aware of all the above matters.

At 1400 hrs on Tuesday 25 October 2016 Sgt Norsworthy and Mrs Smart re-attended the Bierkeller and met with the DPS, Mr Thomas Crowe. They established that an additional CCTV camera had been installed to cover an area of the ground floor not visible from the bar, and a folder containing a training record for each member of staff was produced. However in respect of the CCTV camera on the first floor by the pool table, this had not been repositioned to provide a satisfactory view of this entire area. Sgt Norsworthy therefore advised Mr Crowe that he would extend the Section 19 Notice until 5.00 pm on Monday 31 October 2016.

During the evening of Tuesday 25 October 2016 Mrs Smart received emails from Mr Crowe and Mr Sheehan concerning the CCTV camera which they indicated had been repositioned and they both attached a photograph showing the camera view. Mrs Smart subsequently emailed Mr Crowe and Mr Sheehan and advised them that she had forwarded their emails for the attention of Sgt Norsworthy, outlining that it was he who had served the Closure Order and therefore he needs to be satisfied that the condition is being fully complied with before he can issue a Cancellation Notice. Mrs Smart also advised Mr Crowe and Mr Sheehan that Sgt Norsworthy is on leave and unable to attend the premises to inspect the camera until 1.00 pm on Tuesday 1 November 2016.

The police consider that the above further demonstrates a lack of responsibility by the licence holders to address any concerns brought to their attention by the police within a satisfactory time period.

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

Yours faithfully



Superintendent M Lawler
Territorial Policing & Partnership Department



File No.:	Computer URN:	Minute No.:
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Closure Notice

Section 19 Criminal Justice and Police Act 2001

Section 19 of the Criminal Justice and Police Act 2001 empowers a constable or local authority to serve a closure notice on a person having control of, or responsibility for, any premises that are being, or have been used within the last 24 hours, for the sale or consumption of alcohol on or in the vicinity of the premises, without a licence. (Where such a closure notice is served it must also be served on any other occupier of the premises whose access may be impeded if the part involved in the unlicensed sale of alcohol was to be closed.) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises, he may serve a notice in respect of the premises.

Date and time of the Closure Notice: 18 OCTOBER 2016 AT 1355 HRS

Person making the Notice: SGT 3671 NICHOLAS NORSWORTHY
Signature:

Name (if applicable) and address of the affected premises:
THE PIERCELLES, 7 CRADDOCK'S HILL ROAD WEST, TORQUAY,
DEVON, TQ2 1BA

Alleged unauthorised use of the premises:
 (1) TWO AREAS OF PREMISES IDENTIFIED AS NOT BEING VISIBLE FROM THE BAR THAT ARE NOT COVERED BY CCTV CAMERAS.
 (2) STAFF UNABLE TO PROVIDE TRAINING RECORDS AND I WAS ADVISED THAT IT WAS A WORK IN PROGRESS.
 BOTH ABOVE ARE BREACHES OF CONDITIONS ON PREMISES LICENCE

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
 (1) CCTV CAMERA TO BE INSTALLED IN GROUND FLOOR AREA IDENTIFIED TO CHARLIE CRONE + MICKY SHEEHAN
 (2) CCTV ON FIRST FLOOR TO BE RE-POSITIONED TO COVER AREA BY POOL TABLE.
 (3) DETAILED TRAINING RECORDS TO BE CREATED FOR ALL STAFF, MAINTAINED ON REGULAR BASIS + PROVIDED AS REQUIRED.

The person (if applicable) on whom the Closure Notice has been served:
Name: CHARLIE CRONE
Signature:

Explanatory Notes

A police officer, or an authorised officer from the local authority has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 ('The 2001 Act').

Section 19 of the 2001 Act – Closure Notices

Where a police officer or an authorised officer from the local authority is satisfied that any premises are being, or within the last 24 hours have been used for the unlicensed sale of alcohol, including being in breach of its licence conditions, he may serve under Sub Section (3) a notice in respect of the premises.

Section 20 of the 2001 Act – Closure Orders

Your attention is drawn to Section 20 of the 2001 Act. This provides that the police, or as the case may be the local authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a closure order if the unlicensed sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than 7 days, and not more than 6 months after the date on which this closure notice was served.

After an application for the Closure Order is made the Justice of the Peace may issue a summons requiring the applicant and also the persons or persons on whom the Closure Notice was served to attend a hearing at the court on a specified date and time. At the hearing the court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.

In accordance with the Magistrates' Court Act 1980 and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the court before any decision is taken.

Appeals – Section 24 of the 2001 Act

An appeal against a decisions by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order can be made by an affected person to the Crown Court within 21 days.

Enforcement Powers and Offences - Section 24 of the 2001 Act

It is an offence for a person, without reasonable excuse, to permit a premises to open in contravention of a Closure Order made by the Magistrates Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months, or to both.

It is also an offence for a person who, without reasonable excuse fails to comply with any other terms of a Closure Order made by the court, or does an act, which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000 or to three months imprisonment, or to both.

Police officers and authorised officers from the local authority have the power to enter the said premises at any reasonable time, and to do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However when exercising this power the constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or the person in charge of the premises).

It is an offence for a person to intentionally obstruct police officers or authorised local authority officer from exercising these powers. Any persons convicted of obstructing a police officer is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both. Any person convicted of obstructing an authorised local authority officer is liable to a fine not exceeding £5,000.



Devon & Cornwall Police

Harbourside Leisure Ltd
Premises Licence Holder
The Apple and Parrot
17 The Strand
TORQUAY
TQ1 2AA

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

Telephone: 01803 218900

20 October 2016

Dear Sir

The Apple and Parrot, 17 The Strand, Torquay, TQ1 2AA

I write to you in your capacity of Premises Licence Holder of the above premises, which has the benefit of Premises Licence Number PL1090 issued by Torbay Council.

I have been advised of the following:

At approximately 0100 hrs on Saturday 30 July 2016 an incident occurred outside your premises whereby a male removed a glass bottle from your bin (located on the public footpath in an alleyway adjacent to your premises). This male was spoken to by one of my officers, who confiscated the bottle. The male indicated that he had intended to use the bottle as a weapon or to protect himself.

On 23 August 2016 my Police Licensing Officer, Mrs Smart, attended your premises with Mr Karl Martin, Public Protection Officer of Torbay Council, where she met with Mr Byron, Mr Sheehan and Ms Sweeney. Mrs Smart advised these persons of this incident and recommended that the bins are kept locked at all times. Mr Byron stated that he had already ordered a key for the bins but would go to a hardware store that afternoon to purchase one.

At 1550 hrs on Monday 19 September 2016 Mrs Smart and Sgt Norsworthy were walking past your premises when they checked your bins and found that they weren't locked and there were glass bottles inside.

On Wednesday 28 September 2016 Mrs Smart and Sgt Norsworthy were at the Biekeller, Torquay when Mrs Smart again raised this issue with Mr Byron, and again he
Contact the police

Emergency 999

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

 101@devonandcornwall.pnn.police.uk  101

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Page 103



advised her that he would go to a hardware store to get a key that afternoon.

On 4 October 2016 Mrs Smart received information that at some point over the previous weekend, either on Friday 30 September or Saturday 1 October 2016, a male picked up a piece of wood from the alleyway adjacent to your premises, next to your bins, and when spoken to by my officers, he indicated that he had intended to use this article as a weapon.

At 2355 hrs on Tuesday 4 October 2016 a male was ejected from your premises. This male then attempted to gain entry to Park Lane but was refused entry. The male then went to your bins and removed 2 glass bottles, one of which he threw at a door steward from Park Lane striking him in the chest. The male then smashed the other glass bottle, picked up one of the glass shards and continued to threaten door staff and members of the public with the glass. Officers attended and the male was subsequently arrested and charged with affray. My officers spoke to a female bar manager who stated that the lock to the bins was not working but she had 'ordered' another but it had not come yet.

On 5 October 2016 Mrs Smart emailed Mr Sims, Mr Byron and Ms Sweeney in relation to this matter and requested that a copy of the order for the bin locks be forwarded to herself. To date this has not been received.

At approximately 1600 hrs on Thursday 13 October 2016 Mrs Smart was walking past your premises when she noticed that in respect of the 2 bins located in the alleyway, holes had been drilled in the lids and sides and bicycle type chains with combination locks were in situ. However, Mrs Smart lifted the lids of both bins and she could easily place her whole arm in the bins and she therefore considered that the locks were ineffective.

At approximately 1330 hrs on Tuesday 18 October 2016 whilst at The Bierkeller, Torquay, Mrs Smart spoke to Mr Sheehan (now DPS of the Apple and Parrot) and advised him of her findings in relation to the bins. Mr Sheehan indicated to Mrs Smart that he has ordered new bins and he was hopeful that these would arrive within the next 7 days.

I am sure you appreciate that injuries sustained as a result of incidents involving glass can be very serious, and in certain circumstances life threatening. In order to minimise the risk of this occurring I consider that Mrs Smart has provided you with suitable advice and ample opportunity to address this matter and I am now concerned that some 11 weeks after this matter was first brought to your attention you have not felt it appropriate to resolve this issue to a satisfactory level. I do hope that your new bins will arrive as indicated.

Having reviewed the conditions contained within your Premises Licence, I note the below condition:

All rubbish produced by the premises shall be stored securely in the designated area or in a bin with a tight fitting lid to prevent litter being blown around.

I do not consider that this condition adequately promotes the licensing objective the Promotion of Public Safety and I therefore request that you apply for a minor variation to include the below condition on your licence, and I would ask that this is done by no later than Friday 28 October 2016.

All rubbish from the premises shall be placed in lockable bins situated outside the premises. These bins shall be kept locked at all times, except when staff are putting rubbish therein or on being emptied by the contractor. No loose items shall be kept in the bin area and the bin area shall be kept in a tidy and orderly manner, to allow pedestrians unhindered access to the footpath.

I must advise you that should your new bins not be in situ by the 28 October 2016, and/or you fail to apply for a minor variation by this date, I shall consider applying for a Review of your Premises Licence as I am not satisfied that your premises is meeting the Licensing Objective the Promotion of Public Safety.

As Premises Licence Holder and I would remind you that it is your responsibility to ensure that your premises is run in accordance with the conditions of your Premises Licence, in a manner that promotes the Licensing Objectives and within the confines of the law at all times.

A copy of this letter has been forwarded to the Torbay Council Licensing Team for their information.

Should you wish to discuss this matter further, please contact Mrs Smart on 01803 218900.

Yours faithfully



Superintendent M Lawler
Territorial Policing & Partnership Department



Devon & Cornwall Police

Mr M Sheehan
Designated Premises Supervisor
The Apple and Parrot
17 The Strand
TORQUAY
TQ1 2AA

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

Telephone: 01803 218900

20 October 2016

Dear Sir

The Apple and Parrot, 17 The Strand, Torquay, TQ1 2AA

I write to you in your capacity of Designated Premises Supervisor of the above premises, which has the benefit of Premises Licence Number PL1090 issued by Torbay Council.

My Police Licensing Officer, Mrs Smart, has advised me that you took over the role of DPS at this premises on 13 October 2016 and therefore I do not hold you accountable for any matters outlined in this letter but I would greatly appreciate your assistance in resolving the identified issue to a satisfactory level.

I have been advised of the following:

At approximately 0100 hrs on Saturday 30 July 2016 an incident occurred outside your premises whereby a male removed a glass bottle from your bin (located on the public footpath in an alleyway adjacent to your premises). This male was spoken to by one of my officers, who confiscated the bottle. The male indicated that he had intended to use the bottle as a weapon or to protect himself.


On 23 August 2016 my Police Licensing Officer, Mrs Smart, attended your premises with Mr Karl Martin, Public Protection Officer of Torbay Council, where she met with Mr Byron, Ms Sweeney and yourself. Mrs Smart advised these persons of this incident and recommended that the bins are kept locked at all times. Mr Byron stated that he had already ordered a key for the bins but would go to a hardware store that afternoon to purchase one.

Contact the police

Emergency 1999

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

 101@devonandcornwall.pnn.police.uk  101

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At 1550 hrs on Monday 19 September 2016 Mrs Smart and Sgt Norsworthy were walking past your premises when they checked your bins and found that they weren't locked and there were glass bottles inside.

On Wednesday 28 September 2016 Mrs Smart and Sgt Norsworthy were at the Bierkeller, Torquay when Mrs Smart again raised this issue with Mr Byron, and again he advised her that he would go to a hardware store to get a key that afternoon.

On 4 October 2016 Mrs Smart received information that at some point over the previous weekend, either on Friday 30 September or Saturday 1 October 2016, a male picked up a piece of wood from the alleyway adjacent to your premises, next to your bins, and when spoken to by my officers, he indicated that he had intended to use this article as a weapon.

At 2355 hrs on Tuesday 4 October 2016 a male was ejected from your premises. This male then attempted to gain entry to Park Lane but was refused entry. The male then went to your bins and removed 2 glass bottles, one of which he threw at a door steward from Park Lane striking him in the chest. The male then smashed the other glass bottle, picked up one of the glass shards and continued to threaten door staff and members of the public with the glass. Officers attended and the male was subsequently arrested and charged with affray. My officers spoke to a female bar manager who stated that the lock to the bins was not working but she had 'ordered' another but it had not come yet.

On 5 October 2016 Mrs Smart emailed Mr Sims, Mr Byron and Ms Sweeney in relation to this matter and requested that a copy of the order for the bin locks be forwarded to herself. To date this has not been received.

At approximately 1600 hrs on Thursday 13 October 2016 Mrs Smart was walking past your premises when she noticed that in respect of the 2 bins located in the alleyway, holes had been drilled in the lids and sides and bicycle type chains with combination locks were in situ. However, Mrs Smart lifted the lids of both bins and she could easily place her whole arm in the bins and she therefore considered that the locks were ineffective.

At approximately 1330 hrs on Tuesday 18 October 2016 whilst at The Bierkeller, Torquay, Mrs Smart spoke to you and advised you of her findings in relation to the bins. You indicated to Mrs Smart that you have ordered new bins and you are hopeful that these should arrive within the next 7 days.

Having reviewed the conditions contained within your Premises Licence, I note the below condition:

All rubbish produced by the premises shall be stored securely in the designated area or in a bin with a tight fitting lid to prevent litter being blown around.

I do not consider that this condition adequately promotes the licensing objective the Promotion of Public Safety and I therefore request that you apply for a minor variation to include the below condition on your licence, and I would ask that this is done by no later than Friday 28 October 2016.

All rubbish from the premises shall be placed in lockable bins situated outside the premises. These bins shall be kept locked at all times, except when staff are putting rubbish therein or on being emptied by the contractor. No loose items shall be kept in the bin area and the bin area shall be kept in a tidy and orderly manner, to allow pedestrians unhindered access to the footpath.

I must advise you that should your new bins not be in situ by the 28 October 2016, and/or you fail to apply for a minor variation by this date, I shall consider applying for a Review of your Premises Licence as I am not satisfied that your premises is meeting the Licensing Objective the Promotion of Public Safety. I do hope that this course of action will not be necessary.

As Designated Premises Supervisor and I would remind you that it is your responsibility to ensure that your premises is run in accordance with the conditions of your Premises Licence, in a manner that promotes the Licensing Objectives and within the confines of the law at all times.

A copy of this letter has been forwarded to the Torbay Council Licensing Team for their information.

Should you wish to discuss this matter further, please contact Mrs Smart on 01803 218900.

Yours faithfully



Superintendent M Lawler
Territorial Policing & Partnership Department

SMART Julie 50403

From: Micky Sheehan [<mailto:micky@sheehanpromotions.co.uk>]
Sent: 25 October 2016 11:47
To: LAWLER Matthew 14544
Cc: SMART Julie 50403; NORSWORTHY Michael 13671; Purple Angel Music; Keith Byron; matt.lawler@devonandcornwall.pnn.police.uk
Subject: Re: THE APPLE & PARROT TORQUAY :: PL1090 :: LETTER REPLY 20/10/16

Hello Matt,

You are more than welcome.

Addendum; please note, new bins arrived this morning. A record of them being opened will be kept alongside my records of the windows being closed, which is also a condition of the license. These form part of my "week sheet" recordings which are available direct from the bar at the A & P anytime.

Please do not hesitate to contact me direct on 07759 998 979 should you require anymore information regarding PL 1090.

Regards
Micky Sheehan,

 MICHAEL SHEEHAN PROMOTIONS

Independent music industry consultant since 2000

180 Union Street, Torquay, TQ2 5QP

On 25/10/2016 10:42, Matthew.LAWLER@devonandcornwall.pnn.police.uk wrote:

Micky

Thank you for your prompt and thorough reply, it is appreciated.

The local Licensing staff are a good point of contact to resolve concerns direct and so I have also copied in Julie Smart and Sgt Mike Norsworthy, who drafted my letter to you, so that they discuss in detail the issues.

I am sure they will be in contact very soon, and I hope that assists,

Yours Sincerely

Matt

Supt Matt Lawler
Head of Prevention,
Devon & Cornwall Police and Dorset Police



Address : Prevention Dept, Police Headquarters, Middlemoor, Exeter EX2 7HQ
Email : matthew.lawler@devonandcornwall.pnn.police.uk
Websites : [Devon and Cornwall Prevention](#) : [Dorset Police Prevention](#)
Intranet : [Sharepoint](#)

From: Micky Sheehan [<mailto:mallycrotchet@devonandcornwall.pnn.police.uk>]
Sent: 24 October 2016 19:07
To: LAWLER Matthew 14544
Subject: Fwd: THE APPLE & PARROT TORQUAY :: PL1090 :: LETTER REPLY 20/10/16

Dear Mr. Lawler,

Please find below my reply to your letter addressed to me, M Sheehan, regarding The Apple & Parrot, PL1090.

I feel I should email as there is not much time left to reply via postal mail, and as stated in your letter you have asked me to perform task before 28th October. Please not several other dignitaries and associated parties are BCC'd into this and I would appreciate that when you reply you indeed "reply to all".

Therefore - I have paragraphed and attached a copy of the letter to this email. I will answer each paragraph thus

1; I am of course more than happy to assist you with your following advisories. Although you state "I do not hold you accountable for any matters outlined in this letter" you have also stated "I must advise if your new bins are not in situ by 28th October 2016, and/or you fail to apply for a minor variation by this date, I shall consider applying for a Review of your Premises License as I am not satisfied that your premises is meeting the Licensing Objective the Promotion of Public Safety."

I of course take exception to this, as, and you pointed out you do not hold me accountable, you are now threatening to review my license! I'm quite sure I do not need to point out the connotations of this statement at this early stage???

2; Can you please be more specific what the incident was? Or was the removal of the bottle the incident as this is how the letter reads. How was the incident associated with The Apple & Parrot other than the bottle removed from one of our bins? If there is no association with The Apple & Parrot, please see reply to paragraph 11.

Also - with the admission by the male that he intended to use the bottle as a weapon, could you please inform me of his name so I can bar him from The Apple & Parrot immediately?
Also - what action has been taken against him regarding this admission?

3; A key was purchased. The then DPS did not use it. She has been dismissed.
For an incident of such severity - I don't feel 24 days passing to be made aware of this acceptable. In future, may we be made aware of these incidents the following week at least? I have already suggested this to Mrs. Smart by way of a Monday morning email, which at the

time I was not legally privy to, until Ashley Sims advised Mrs. Smart she could communicate with me.

3.1; At this same meeting, we were also made aware of an incident with a girl [drunk, sick on a doorman [not ours], put in a taxi] which had been reported to licensing and which sequentially was deemed untrue due to inaccuracies in hers and the reporters story. This seems to have been dropped.

4; Leading to the dismissal of the DPS.

5; Not something I can comment on as It does not involve myself in anyway.

6; Again - who? May we have evidence of this? Was if A & P related? We need him banned from the premises regardless. Also, see reply to paragraph 11.

7; See reply to point 4.

8; See reply to point 5.

9/10; And indeed they have. See attached chain of coms with Viridor. They failed to show today, but have confirmed delivery tomorrow.

Again, a 5 day gap in referring the problem. I only discussed this by chance, as I happened to go to The Bierkeller. If this pattern of communication is normal then so be it.

11; I can confirm I am fully aware of this current condition, as Is my barrister cc'd. Therefore, and with all these events being logged before my tenure as DPS, we feel this course of action to be confrontational. Mrs. Smart is more than aware that the DPS was dismissed due to failings regarding this matter. I will not be starting my tenure at The Apple & Parrot tarnished with previous DPS mistakes and laziness. Hence my hiring of legal representation to oversee all matters forthwith. Reporting people doing these events to us without evidence holds absolutely no substance whatsoever. If these events have breached the licensing objectives then I would like to take the opportunity to show you 100's per week that do. And seem to get over looked.

The bin's will be locked. If this helps to stop this ridiculous tit for tat bar war mentality that appears to be going on then so be it. I will not tolerate my premise being subject to evidenceless hearsay, from other bars, customers, police etc etc. I am here to exercise licensing and promote the licensing objectives, not to "get away with it" or "make a quick pound", two phrases that I also have email correspondence of.

After 21 years in the business, I would like to make it clear to you now that I squash this nonsense at embryo, any further "reports" that don't have 100% concrete evidence, see 3.1; will be dealt with in court. Regardless of whom is making the accusations.

12; Nor do I. And subsequently I will have a minor variation submitted by midday tomorrow. I completely agree with you. May I also suggest a blanket condition across the harbor?

13; As per.

14; It won't be, as I have new bins and have submitted a variation. I will leave the consequences of reviewing the license in the hands of my legal representatives.

15; They are, have been, and will do. The confines of the law so far suggest a designated

area with a tight fitting lid. If there is contention in the bin area please advise forthwith. If Viridor are not a competent supplier of refuse disposal please also advise and suggest an alternative we should be using.

NB - I will be suggesting to the Police that I feel a pubwatch scheme is appropriate. It's stultifying that one is not in place. Pub watch schemes work.

I am now going to draught you a private email offering suggestions and help regarding the licensing situation in Torquay. I feel that there is a missing branch that we all need to reach for, and work together.

As of the receipt of this email - please accept this as my vision of a better Torquay and complicit licensing. I am of course available to come over to Exeter to meet you in person, and would very much like to do so.

Regards
Micky Sheehan,

 MICHAEL SHEEHAN PROMOTIONS

Independent music industry consultant since 2000

180 Union Street, Torquay, TQ2 5QP

Contact Devon & Cornwall Police on 101@devonandcornwall.pnn.police.uk
Textphone 18001 101 for the deaf, hard of hearing or speech impaired
Always call 999 in an emergency

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APPLE AND PARROT – 17/05/16 TO 06/10/16

Date	Time	Information	Action taken by Licensing
06/06/16		Email re noise complaint. Complainant indicated that about 4/5 times a week he is being disturbed with music/noise disturbance from the Apple and Parrot, particularly heavy bass sound. He felt that other residents were also being affected.	On 08/06/16 Mrs Smart, Sgt Norsworthy and Mr Martin attended premises and met with Ashley Sims. Ashley didn't know much about the sound system but introduced us to a male called Micky Sheehan who knew about the noise limiter. Karl and this male chatted for some time whilst Sgt Norsworthy and Mrs Smart discussed a proposed application for a new licence in respect of Blu Cargo with Ashley.
13/06/16		Premises advertising on Facebook that they can sell alcohol from 8.00 am on 18/06/16. Torbay Council Licensing Register and police computer system checked but no TEN in place. It was then established that whilst a TEN had been submitted for 11/06/16, no payment was received by Torbay Council.	Email sent to Ashley Sims advising him that no TENs had been received for 11/06/16 and 18/06/16.
11/07/16		Information received that premises are to place a hog roast in the Pavement Café Permit area, which this permit does not authorise. Subsequent enquiries revealed that the Pavement Café Permit had not been transferred to the new Premises Licence Holder and the plan for Premises Licence does not include any outside area and therefore there should be no consumption of alcohol outside.	Email sent to Ashley Sims explaining that tables and chairs cannot be placed outside and no alcoholic drinks consumed outside. Advice given on applying for a Pavement Café Permit and Variation of Premises Licence.
24/07/16	0305	Male was ejected by doorstaff after causing issues within the premises and towards his girlfriend. He was warned on several occasions to vacate the area and did so. 10 or so minutes later the same male approached the same venue and shoved another male. The male was subsequently arrested for Breach of the Peace and removed from the area. He was highly intoxicated, unsteady on his feet and slurring his words.	Email sent to Ashley Sims regarding this matter and requesting that he makes his DPS, Michelle Sweeney, aware.

25/07/16		<p>Photograph received showing a person sat at the table and chairs outside the Apple and Parrot with what appears to be a pint of alcohol.</p> <p>*The premises licence did not authorise the consumption of alcohol in that area at that time and the premises had been advised of this in writing by Mrs Smart on 11/07/16 and Mr Rackley (Torbay Council).</p>	<p>Email sent to Ashley Sims advising him of this matter.</p>
31/07/16	0030	<p>L10. Observations were made in regards to the level of drunkenness apparent and behaviour of patrons, which seemed quite high with lots of noise emanating from the smoking area and the large groups of customers hanging around the doorway. Concerns were also raised regarding an advertising sign in the middle of the pavement by the smoking area which limited people's access to the footpath. Pictures attached for reference.</p>	<p>Matter discussed with Micky Sheehan, Keith Bryon and Michelle Sweeney on 23/08/16.</p>
31/07/16	0030	<p>L10. Whilst on foot patrol on Torwood Street I witnessed a female leave the Apple and Parrot with a glass containing an alcoholic drink and stand in the seating area outside the premises. The door staff did not notice this female and when it was pointed out to them, she was ushered back inside the premises.</p> <p>The seating area outside the premises was taking up a lot of space on the pavement and people were not being controlled as they stood smoking and chatting on both sides of the barriers, blocking the pavement. This wasn't helped by a large metal advertising sign on the remaining part of the pavement causing people to be pushed into it, leaving even less space to pass on a busy part of the street. This also increased the likelihood of injury and/or disorder. I would suggest that if the seating/standing area that is barriered on the pavement cannot be managed correctly then it should not be in place. It is not the place of the police to manage seating areas outside of premises and I would also suggest that to enable this area to be managed correctly, if this is not possible for two door staff to adequately manage, then a third member of door staff should be considered. My initial opinion based on what I've seen over several weeks is that this area should not exist as it encroaches too far onto the pavement and isn't being managed correctly.</p> <p>In addition 2 photographs received showing customers of Apple and Parrot drinking what appears to be alcohol outside when licence does not allow this. Also an L10 received in relation to a group of persons who left the premises at 0100 on 30/07/16 and one of them</p>	<p>Email sent to Ashley Sims and Michelle Sweeney. Telephone call received from Ashley who stated that tables and chairs would be removed from outside the premises. On 23/08/16 attended premises and discussed the issue of glass bottles being taken out of the bin with Keith Byron, Micky Sheehan and Michelle Sweeney. Keith stated that a key had been ordered but he would got to a hardware store that afternoon to get one.</p>

		took a glass bottles out of the Apple and Parrot bins and told an officer that he had intended to use the bottle as a weapon/or to protect himself.	
06/08/16	2235	L10. A male, X, was ejected from the Apple and Parrot for unknown reasons and became angry and aggressive. After walking away from the premises, he headed up Torwood Street kicking several parked vehicles causing criminal damage. He was then arrested by PC 12841 PARKER.	Email sent to Ashley and Michelle on 09/08/16. No response received.
14/08/16	0220	L10. 23 year old female reported to police whilst on foot patrol by member of public. Discovered in doorway on Torwood Street. Excessively intoxicated and had vomited on herself and the ground. She was alone and in a vulnerable state as her belongings were scattered around her. She only managed to provide a first name of X and her age. Very incoherent and disorientated. She informed officers she had spent all evening in the Apple and Parrot. She was assisted by officers into a taxi. Officers did not speak to door staff.	Email sent to Ashley Sims, Michelle Sweeney and Micky Sheehan outlining this matter. On 23/08/16 Mrs Smart attended premises with Mr Martin and met with Micky Sheehan, Keith Byron and Michelle Sweeney. Michelle stated that this female did not go home in a taxi and that the female's boyfriend picked her up. Michelle further stated this female had not been drinking in the premises but had gone in there looking for her boyfriend who is a friend of Keith's. Her boyfriend wasn't on the premises and as she was drunk Michelle gave her some crisps and water to sober her up.
14/08/16	0130	L10. Officers were alerted to persons with glasses of drink in the alley to the side of the premises having exited via the fire escape. On arrival officers encountered 3 men, one of whom identified himself as X. X was vomiting on the floor and heavily in drink. His companions explained that they had just bought him a 'dirty pint' in the premises which was why he was vomiting. They declined any assistance and declined to provide further details.	Telephone call received from Michelle Sweeney re another matter so advised her of this L10. She said that she was aware that these males had gone out the fire escape and had sent stewards out to deal with them. Asked her what a 'dirty pint' is and she said she didn't know. Asked her if this might

16/08/16	2348	L10. Log 1093 of 16/08/16 and CR/57025/16 refer. Attempted to stop the male from re-entering the premises and to prevent fight from occurring. Staff from Park Lane assisted in taking the male away from the situation. Male fought back and punched unknown male	<p>have been a pint of top row spirits and again she said she didn't know. Advised her that I would be informing Ashley of this incident.</p> <p>Research shows that a 'dirty pint' is a drinking game involving group members each pouring some of their own drink into a pint glass which someone then has to down.</p> <p>Telephone call also received on Monday from Keith Byron who expressed concerns that his premises was being picked on and asking why all these reports were being submitted. I advised him that it is normal for police officers to submit reports re incidents at licensed premises but it was also fair to say that the Apple and Parrot seems to be coming to my attention more now than it ever has in the past.</p> <p>Email received from Ashley indicates he is thinking about reviewing door staff policy, but no specific comments in relation to this matter.</p> <p>Email sent to Ashley Sims, Michelle Sweeney and Micky Sheehan outlining this matter. Email</p>
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		in the face. Unco-operative with all staff members and police.	received from Ashley indicating that he is thinking of reviewing the door staff policy but no specific comments in relation to this matter.
18/08/16		Photograph received of 2 individuals within Pavement Café Permit area stood up and leaning through window to consume what appears to be glasses of wine. On this date the Premises Licence did not authorise the consumption of alcohol outside the premises.	Email sent to Ashley Sims and Michelle Sweeney advising them of details of this matter, that the consumption of alcohol outside constitutes an offence under S136 LA2003, that they had already received written warning and any further information concerning this matter may result in a prosecution.
20/08/16	0010	Form L10. During ENTE on Friday 19 th to Saturday 20 th August 2016 during my patrol of the area I noticed a large crowd of people gathering outside of the Apple and Parrot. I watched the crowd for a couple of minutes shouting and messing around with no attempt from the door staff of the Apple and Parrot to move the crowd on. I took the attached photo at 0010 hrs which shows the crowd, this meant that anyone needing to walk past the crowd had to enter the road to pass. Officers spoke to the door staff in relation to dispersing the crowd. 2 other L10's received regarding same issue on the same night.	23/08/16 Mrs Smart and Mr Martin attended Apple and Parrot and met with Micky Sheehan, Keith Byron and Michelle Sweeney. Advice given that door stewards need to manage customers outside better, be prepared for such situations and ensure an area of pavement is kept clear to allow pedestrians to pass safely without being forced into the road.
04/09/16	0030	Form L10. Officer encountered a female named X outside the London Inn. She had been given a chair to sit on by door staff but had fallen from it to the ground and was having difficulty getting back up again. X was very heavily in drink. She stated that she had just come from the Apple and Parrot but had started her evening in the London Inn. Officer helped her to her feet and had to all but carry her to the street pastors who took over her care. This female is believed to be the same female as dealt with on 14/08/16 above.	Email sent to Ashley Sims and Michelle Sweeney advising them to ensure that they have adequate measures in place to prevent drunkenness, refuse entry and ensure vulnerable lone females are brought to the attention of police/street pastors. Email received from Micky Sheehan asking

			if there was a Pubwatch Banning Scheme in operation but nothing received in relation to advice given.
19/09/16		Sgt Norsworthy and Mrs Smart checked Apple and Parrot bin. Bin not locked and glass bottles located inside.	On 28/09/16 whilst at the Bierkeller discussed this issue with Keith Byron and advised him to obtain a key as discussed with him on 23/08/16, following incident on 31/07/16.
01/10/16	0255 hrs	Form L10. A male who gave his name as X was encountered by a police patrol asleep on a bench near to the Clocktower Public House. X was heavily in drink, unable to stand and had fresh blood on his shirt, he wasn't sure where it had come from. He declined all offers of assistance and was left to sleep it off at his request. He told officers that he had been drinking in the Apple and Parrot all night. He had on a white shirt which was stained with blood on the left breast and light blue jeans.	Email sent to Ashley Sims, Michelle Sweeney and Keith Byron.
04/10/16	2355	L10. Log 0860 of 04/10/16 and CR/070443/16 refers. A male by the name of X was thrown out of the Apple and Parrot, opposite Park Lane, this male was then refused entry to Park Lane as he was banned for being located with drugs on him previously. This male then became very aggressive and threatening towards door staff lunging at the several times. The male then went back across the road where her located two glass bottles from the bin on the side alley of The APPLE & PARROT. The wheelie bins were not locked like they should have been so was easy access to get at glass and rubbish. One of the bottles he threw at door staff of Park lane hitting one bouncer in the chest. The male then smashed the other bottle, picked up one of the glass shards and continued to threaten staff and members of the public with the glass. After the male had been arrested officers spoke to the bar manager who said that the lock to the bins were not working and she had ordered another but it had not come through yet. She promised she would get it sorted ASAP.	Text message received from Ashley Sims at 1917 hrs on 05/10/16 saying "first one on the list made me think same old, same old" By this he was referring to this information. Email sent to Ashley Sims, Michelle Sweeney and Keith Byron at 1917 hrs 05/10/16 in relation to this incident and requesting a copy of the 'order' for the bin locks is forwarded to Mrs Smart. Text message received from Ashley Sims on 05/10/16 saying ".... Second one was inexcusable. There's going to be a cabinet reshuffle in the next 24 hours I will call you tomorrow". No telephone call received. Vary DPS application received for Mr Sheehan to become DPS. On 13/10/16 bins at Apple and

			<p>Parrot checked. 2 bins had holes drilled in the tops and sides with bicycle type chains looped through, with combination locks. However Mrs Smart was still able to lift the lid of the bins wide enough to get her whole arm and shoulder within.</p> <p>On 20/10/16 letter sent to PLH/DPS re this matter (copy attached).</p>
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CRIMES -- 17/05/16 to 06/10/16

23/07/16	2123	CR/050911/16 – Assault ABH. Male offender punched male aggrieved to head causing visible injury	Licensing Dept not notified of crime at time of occurrence.
		Crime reported to police by friend of aggrieved. Aggrieved visited at home address on 25/07/16 and stated "I don't remember much, I was very drunk, I probably deserved it to be honest" and signed the pocket notebook of PCSO 30604 to confirm he does not want to progress anything.	
05/08/16	1200	CR/053969/16 – Theft. Female aggrieved placed her phone inside her bag whilst at the location and when she checked for it later on, the phone was missing. She retraced her steps and it has not been handed in so believed stolen.	Licensing Dept not notified of crime at time of occurrence.
28/08/16	0100	CR/060085/16 – Common Assault. Female aggrieved confronted female offender for going off with her partner. This caused an argument and the offender then punched the aggrieved to the neck causing no visible injury. The offender then shouted that she would kill the aggrieved.	Licensing Dept not notified of crime at time of occurrence.

FURTHER INFORMATION

In 2015 there were 5 crimes recorded at the premises – 1 x ABH, 1 x theft, 1 x public order, 1 x burglary, 1 x drunk and disorderly
 In 2014 there were 3 crimes recorded at the premises – 1 x criminal damage, 2 x theft
 In 2013 there were 5 crimes recorded at the premises – 2 x theft, 1 x criminal damage, 1 x burglary, 1 x ABH

As you will see assaults at the premises have historically low, however under the current management there have been 2 violent incidents in just over a month.