

Wednesday, 15 July 2020

LICENSING SUB-COMMITTEE

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

Thursday, 23 July 2020

commencing at **9.30 am**

The meeting will be held remotely via Zoom (the links to the meeting are set out below)

<https://us02web.zoom.us/j/86394321311?pwd=eGw0NVA5MFFNbFcvQzhwWUxuUndUZz09>

Meeting ID: 863 9432 1311

Password: 906570

One tap mobile

+442030512874,,86394321311#,,,,0#,,906570# United Kingdom

+442034815237,,86394321311#,,,,0#,,906570# United Kingdom

Dial by your location

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Meeting ID: 863 9432 1311

Password: 906570

Members of the Committee

Councillor Ellery

Councillor Foster

Councillor Kennedy

A prosperous and healthy Torbay

Download this agenda via the free modern.gov app on your [iPad](#), [Android Device](#) or [Blackberry Playbook](#). For information relating to this meeting or to request a copy in another format or language please contact:

Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent.
5. **Hennessey Cocktails, 2 King Street, Brixham**
To consider an application for a Variation to a Premises Licence in respect of Hennessey Cocktails, 2 King Street, Brixham.

(Pages 4 - 69)

Instructions for the press and public for joining the meeting

If you are using an iPad you will need to install Zoom which can be found in the App Store. You do not need to register for an account just install the software. You only need to install the software once. For other devices you should just be taken direct to the meeting.

Joining a Meeting

Click on the link provided on the agenda above and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided above and follow the instructions. (**Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

You will be placed in a waiting room, when the meeting starts the meeting Host will admit you. Please note if there are technical issues this might not be at the start time given on the agenda.

Upon entry you will be muted and your video switched off so that only the meeting participants can be seen. When you join the meeting the Host will unmute your microphone, ask you to confirm your name and update your name as either public or press. Select gallery view if you want see all the participants.

If you have joined the meeting via telephone, your telephone number will appear on screen and will be displayed for all to see until the Host has confirmed your name and then they will rename your telephone number to either public or press.

Speaking at a Meeting

If you are registered to speak at the meeting and when it is your turn to address the Meeting, the Chairman will invite you to speak giving the Host the instruction to unmute your microphone and switch your video on (where appropriate) therefore please pause for a couple of seconds to ensure your microphone is on.

Upon the conclusion of your speech/time limit, the Host will mute your microphone and turn off your video.

Meeting Etiquette for Registered Speakers - things to consider when speaking at public meetings on video

- Background – the meeting is public and people will be able to see what is behind you therefore consider what you will have on display behind you.
- Camera angle – sit front on, upright with the device in front of you.
- Who else is in the room – make sure you are in a position where nobody will enter the camera shot who doesn't want to appear in the public meeting.
- Background noise – try where possible to minimise background noise.
- Aim to join the meeting 15 minutes before it is due to start.

TORBAY COUNCIL

: Public Agenda Item: **Yes**

Title: **Hennessey Cocktails, 2 King Street, Brixham**

Wards Affected: **St Peter's with St Mary's**

To: **Licensing Sub-Committee** On: **23 July 2020**

Contact Officer: **Mandy Guy**
☎ Telephone: **01803 208124**
✉ E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Variation to a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”.
- 1.4 The matter must be considered on its own merits having received details of the issues arising either at a hearing or by written Representations if all parties have agreed that a hearing is not necessary. Having regard to the Representations and issues arising, a decision must be made to take such steps as are appropriate for the promotion of the licensing objectives. These are:-
 - (a) to modify the conditions of the licence, or
 - (b) reject the application in whole or in part, or
 - (c) to grant the application as applied for

For this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

2. Introduction

- 2.1 An application has been made under Section 34 of the Licensing Act 2003 (hereinafter referred to as ‘the Act’) for a Variation to a Premises Licence. Details of the application are shown in Appendix 1. Only the relevant pages of the application are shown.

A brief description of the proposed Variation is as follows:-

To increase the hours for Recorded Music indoors by 3 hours every Friday and Saturday evening extending the time from midnight until 03:00. The Applicant would also like these additional hours on Christmas Eve, Boxing Day and each Bank Holiday weekend from Friday until Monday.

The premises is currently licensed for Recorded Music from 09:00 until midnight seven days a week and also on from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

To increase the hours for Late Night Refreshment indoors and outdoors by 3 hours every Friday and Saturday evening extending the time from midnight until 03:00. The Applicant would also like these additional hours on Christmas Eve, Boxing Day and each Bank Holiday weekend from Friday until Monday.

The premises is currently licensed for Late Night Refreshment from 23:00 until midnight seven days a week and also on from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

To increase the hours for the Supply of Alcohol, both on and off the premises, by 4 hours (1 hour in the morning and 3 hours in the evening), every Friday and Saturday evening. This would extend the time from midnight until 03:00 and starting time from 10:00 to 09:00. The Applicant would also like these additional hours on Christmas Eve, Boxing Day and each Bank Holiday weekend from Friday until Monday.

The Applicant would also like the Sale of Alcohol for an additional hour in the morning from 09:00 until 10:00 every Sunday to Thursday.

The premises is currently licensed for the Supply of Alcohol from 10:00 until midnight seven days a week and also on from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

The applicant has proposed to remove the following condition:-

Annexe 2, Prevention of Crime and Disorder, condition 4

On any Friday and Saturday night that the premises remains open for the sale of alcohol and then closes after 00:30hrs, SIA door supervisors shall be employed on the premises from 22:00hrs until close at a ratio of 1 supervisor per 100 customers (this condition shall also apply on Christmas Eve and New Year's Eve when they do not fall on a Friday or Saturday). On all other occasions the Premises Licence holder shall risk assess the requirements for door supervisors and employ such door supervisors, if at all, in such numbers and at such times determined by that risk assessment.

The applicant has written the following description of the proposed variation which is shown on page 3 of the application form:-

"To extend our opening times, and our time in which we are able to sell alcohol, late night refreshment and to play recorded music. Proposal is from 00:00 to be extended to 03:00am on Saturday and Sundays only and bank holidays/Christmas Eve and Boxing Day if they don't fall on a Saturday or Sunday.

To adapt our premises licence plan to show the addition of outside seating.

To add off sales to the existing licence.”

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report.

The exemptions under the Live Music Act 2012 apply to this licence.

- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) of the Act but is unable to issue the Variation to the Premises Licence, as relevant Representations have been received from members of the public and Responsible Authorities. The Licensing Authority is also satisfied that the Representations were received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received a Representation from the Police in relation to the Licensing Objective “The Prevention Crime and Disorder” and “The Prevention of Public Nuisance”. This is shown as Appendix 3.

We have received a Representation from Public Protection in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 4.

We have accepted 11 Representations from members of the public who are objecting to this application. The Representations relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”. These are shown as Appendix 5.

There have been no Representations received from any other Responsible Authority or any other Interested Party other than those mentioned above.

- 2.4 The Licensing Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.6 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
- (a) The applicant for the variation of the licence against any decision to modify the conditions
 - (b) Any person who made a relevant representation in relation to the application who desires to contend
 - (i) that any variation made ought not to have been made, or
 - (ii) that, when varying the licence, the Licensing Authority ought to have

modified the conditions of the licence or ought to have modified them in a different way.

- 2.8 Following such Appeal, the Magistrates' Court may:-
- (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1	Relevant sections of the application form.
Appendix 2	Copy of the Premises Licence and Plan.
Appendix 3	Representation from the Police.
Appendix 4	Representation from Public Protection.
Appendix 5	Representations from members of the public objecting to this application.

Documents available in members' rooms

None

Background Papers:

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

The current Premises Licence for the above Premise.

Torbay Council Licensing Policy 2016-2021.



Application to vary a premises licence
under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/ We Hennessey Cocktails Ltd

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number PL1116

Part 1 – Premises Details

HENNESSEY COCKTAIL LOUNGE,
2 KING STREET
BRIXHAM
TQ5 9TF

Part 2 – Applicant details

Daytime contact telephone number	01234 567890		
E-mail address (optional)	0123456789@10.com		
Current postal address if different from premises address	10 King Street Brixham TQ5 9TF		
Post town	Paignton	Postcode	TQ5 9TF

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

Yes

DD MM YYYY

If not, from what date do you want the variation to take effect?

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?
(Please see guidance note 1) No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

To extend our opening times, and our time in which we area able to sell aicohol, late night refreshment and to play recorded music. Proposal is from 00:00 to be extended to 03:00am on saturday and sundays only and bank holidays/christmas eve and boxing day if they don't fall on a saturday or sunday.

To adapt our premises licence plan to show the addition of outside seating.

To add off sales to the existing licence.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick all that apply

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

YES

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

YES

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

YES

In all cases complete boxes K, L and M

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	YES
Day	Start	Finish		Outdoors	
				Both	
Mon	09:00	00:00	Please give further details here (please read guidance note 5)		
Tue	09:00	00:00			
Wed	09:00	00:00	State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Thur	09:00	00:00			
Fri	09:00	03:00	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 7) On Christmas Eve, Boxing Day and each Bank Holiday Weekend from Friday to Monday 09:00-03:00		
Sat	09:00	03:00			
Sun	09:00	00:00			

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	
Day	Start	Finish		Outdoors	
				Both	YES S
Mon	23:00	00:00	<u>Please give further details here</u> (please read guidance note 5)		
Tue	23:00	00:00			
Wed	23:00	00:00	<u>State any seasonal variations for the provision of late night refreshment</u> bank holidays, christmas eve and boxing day I would like the same conditions. 00		
Thur	23:00	00:00			
Fri	23:00	03:00	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 7) On Christmas Eve, Boxing Day and each Bank Holiday Weekend from Friday to Monday 23:00-03:00		
Sat	23:00	03:00			
Sun	23:00	00:00			

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	On the premises		
				Off the premises		
Day	Start	Finish		Both	YES S	
Mon	09:00 -----	00:00 -----	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 6)			
Tue	09:00 -----	00:00 -----				
Wed	09:00 -----	00:00 -----				
Thur	09:00 -----	00:00 -----		<u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 7) On Christmas Eve, Boxing Day and each Bank Holiday Weekend from Friday to Monday 09:00-03:00		
Fri	09:00 -----	03:00 -----				
Sat	09:00 -----	03:00 -----				
Sun	09:00 -----	00:00 -----				

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon	09:00	00:30	
Tue	09:00	00:30	
Wed	09:00	00:30	
Thur	09:00	00:30	
Fri	09:00	03:30	
Sat	09:00	03:30	
Sun	09:00	00:30	<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)</u></p> <p>On Christmas Eve, Boxing Day and each Bank Holiday Weekend from Friday to Monday 09:00-03:30</p>

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

On any Friday and Saturday night that the premises remains open for the sale of alcohol and then closes after 00:30hrs, SIA door supervisors shall be employed on the premises from 22:00hrs until close at a ratio of 1 supervisor per 100 customers (this condition shall also apply on Christmas Eve and New Year's Eve when they do not fall on a Friday or Saturday). On all other occasions the Premises Licence holder shall risk assess the requirements for door supervisors and employ such door supervisors, if at all, in such numbers and at such times determined by that risk assessment.

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)

b) The prevention of crime and disorder

On any Friday and Saturday night that the premises remains open for the sale of alcohol and then closes after 03:30hrs, SIA door supervisors shall be employed on the premises from 22:00hrs until close at a ratio of 1 supervisor per 100 customers. A secondary SIA door supervisor shall be employed on the premises from 23:00hrs until the last patron has left the premises. (this condition shall also apply on Christmas Eve, Boxing Day, New Year's Eve) when they do not fall on a Friday or Saturday) and on each bank holiday weekend from Friday to Monday. On all other occasions the Premises Licence holder shall risk assess the requirements for door supervisors and employ such door supervisors, if at all, in such numbers and at such times determined by that risk assessment.

Adequate glass and bottle collection shall be undertaken throughout the premises. There must be a zero tolerance with drugs and have a drugs policy in force on the premises, with the objective of securing, as far as reasonably practical, the safety of others attending the premises.

c) Public safety

Where crowd management measures are needed, all reasonable steps shall be taken to ensure that such persons do not obstruct exits, passageways and stairways.

The fire safety measures with which the premises are provided, will be maintained in good working order, and their adequacy will be determined on a regular basis, by carrying out a fire risk assessment, as required by, and in accordance with the Regulatory Reform (Fire Safety) Order 2005. I understand that the safety of occupants is also influenced by numbers of persons present, their disposition and the activities taking place, and therefore undertake to maintain a safe occupancy level.

d) The prevention of public nuisance

- A management scheme shall be put in place to prevent excessive queuing into the street.
- Patrons that behave in a noisy or disorderly manner in the smoking area shall be removed from that area, and where appropriate asked to leave the premises. Details of this noisy conduct shall be recorded in a log book and where appropriate, details of the patron(s) causing the noise or disorderly conduct shall be recorded in that log book too.
- If Torbay Council receives a complaint of noise nuisance emanating from the premises and an Environmental Health Officer of Torbay Council deems noise nuisance to exist and the upholds the complaint, the premises Licence Holder shall on receiving written confirmation of that complaint.
 - a) Co-operate with Torbay Council's Environmental Health Officers and implement remedial measures to the satisfaction of the Environmental Health Officers immediately or as reasonably practicable to do so, as determined by the Environmental Health Officer; and

The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the licensee/management and the controlling mechanism shall be operated from a part of the premises not accessible to the public.

All regulated entertainment shall be played through a noise limiter which is set at a level as agreed with the local responsible authority for public nuisance. The noise limiter shall be made tamper proof and any adjustments to sound levels shall only be made in consultation with the responsible authority for public nuisance.

The level of amplified music shall be reduced automatically by 1/3 of the agreed level set by the noise limiter at 0300 hours until closing.

Where any proposed structural changes are made to the premises, agreement must be reached with the Environmental Health Department that these works will not increase noise breakout before the works are commenced.

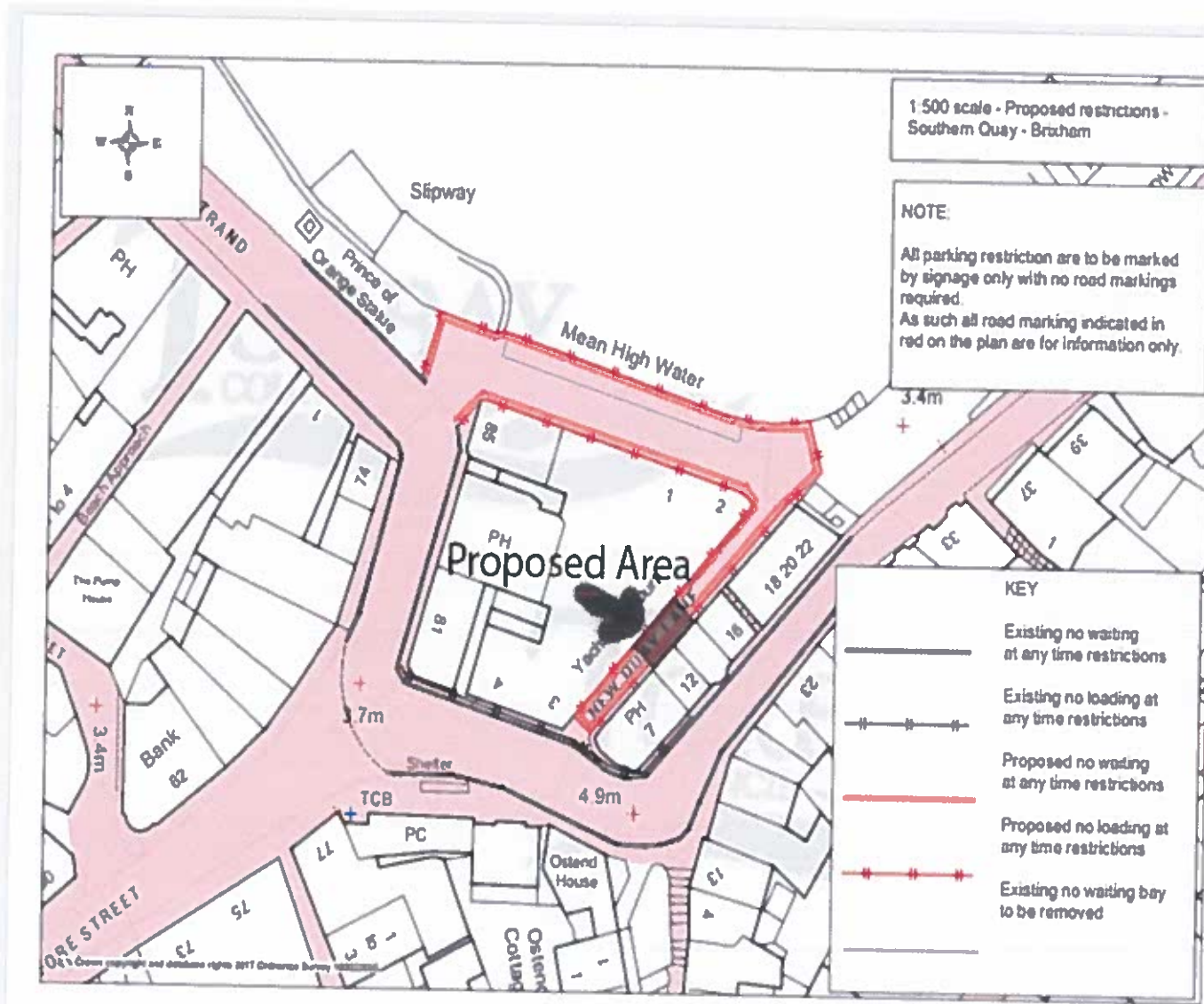
SIA door stewards positioned at the exits shall take all reasonable steps to ensure that patrons leave the premises in a quiet respectful manner and do not congregate outside the premises.

The licensee shall ensure that staff leaving the premises after a late night shift will conduct themselves in a manner as not to disturb nearby residents.

e) The protection of children from harm

Same conditions as before.

HENNESSEY – PROPOSED OUTSIDE SEATING AREA



Licensing Act 2003
Premises Licence

1116

LOCAL AUTHORITY



Torbay Council
Licensing & Public Protection
Town Hall
Castle Circus
Torquay
TQ1 3DR

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Hennessey Cocktails

2 King Street, Brixham, TQ5 9TF.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- any playing of recorded music
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
F. Playing of recorded music (Indoors)	Monday to Sunday	9:00am	Midnight
	On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day		
L. Late night refreshment (Indoors)	Monday to Sunday	11:00pm	Midnight
	On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day		
M. The sale by retail of alcohol for consumption ON the premises only	Monday to Sunday	10:00am	Midnight
	On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	12:30am
	On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day	

Licensing Act 2003
Premises Licence

1116

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON the premises only

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

~~Mr James Cook Ltd~~

~~020 8000 0000~~

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

~~Steve HENNESSY~~

~~020 8000 0000~~
Telephone ~~020 8000 0000~~

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. LI18-006903

Issued by Cornwall

Steve Cox

Steve Cox
Environmental Health Manager (Commercial)
6 November 2018



ANNEXES

ANNEXE 1

MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

- 1) No supply of alcohol may be made under the premises licence:-
- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3) (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:-
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 4) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 5) (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
- 6) The responsible person must ensure that:-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-

ANNEXES continued ...

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula $P = D + (D \times V)$

Where:-

- (i) P is the permitted price
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:-

- (i) The holder of the premises licence
- (ii) The designated premises supervisor (if any) in respect of such a licence, or
- (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

General

None

The prevention of crime and disorder

1. All drinks will be served in shatterproof glasses and no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink after 23:00hrs.

ANNEXES continued ...

2. CCTV must be installed on the premises to include a recording monitor behind the servery. Such CCTV system must be maintained and used throughout the licensing hours. Recordings will be kept for a minimum of 14 days during which time they will be available to the Police at any reasonable time.
3. On every operational day when door supervision is required, SIA door supervisors will be employed in front of house duties. They will wear yellow high visibility reflective clothing for the entirety of their duty.
4. On any Friday and Saturday night that the premises remains open for the sale of alcohol and then closes after 00:30hrs, SIA door supervisors shall be employed on the premises from 22:00hrs until close at a ratio of 1 supervisor per 100 customers (this condition shall also apply on Christmas Eve and New Year's Eve when they do not fall on a Friday or Saturday). On all other occasions the Premises Licence holder shall risk assess the requirements for door supervisors and employ such door supervisors, if at all, in such numbers and at such times determined by that risk assessment.

Public safety

1. Adequate emergency and fire exit lighting will be installed to British standard specification.

The prevention of public nuisance

1. The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the management.
2. Noise or vibration must not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. In general terms, noise from the premises shall not be audible within any noise sensitive premises (eg dwelling) with windows open for normal ventilation especially after 23:00hrs. This will be assessed from the boundary to the nearest residential properties on all sides of the licensed premises. The criteria that will be applied are:-
 - i) before 23:00hrs - noise emanating from the premises will not be clearly distinguished above other noise.
 - ii) after 23:00hrs - noise emanating from the premises will not be distinguishable above background levels of noise.
 - iii) the local authority will reserve the right in cases of tonal noise and where premises are attached to others (ie semis and terraced properties) to make further assessments from within the residential property.
3. Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
4. The placing of refuse such as bottles into receptacles outside the premises must take place at times that will prevent disturbance to nearby properties.
5. Deliveries of kegs, bottles, food and other materials necessary for the operation of the business must be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.
6. Doors and windows must be kept shut during entertainment to reduce noise breakout. A management scheme shall be in place to ensure this situation remains.
7. Patrons shall be asked not to stand around talking in the street outside the premises or any car park and shall be asked to leave the vicinity quickly and quietly.
8. Staff shall check prior to entertainment and periodically during the entertainment that all windows and doors are shut.
9. A senior member of staff (manager) shall assess the impact of any noise activities on neighbouring residential premises at the start of the activity / entertainment and periodically throughout the activity / entertainment to ensure levels of noise have not increased.
10. On calling last orders and at the end of Regulated Entertainment an announcement shall be made requesting patrons to leave the area as quickly and quietly as possible.

The protection of children from harm

1. The premises shall adopt a Challenge 25 policy whereby any person who looks 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.

ANNEXES continued ...

2. No under 18s will be permitted on the premises after 22:00hrs.
3. All staff shall be trained regarding the Challenge 25 policy, including acceptable forms of ID.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

The prevention of public nuisance

1. Recorded music shall be permitted inside the premises only.
2. Recorded music shall be permitted from 9.00am to midnight 7 days a week.
3. The supply of alcohol shall be permitted from 10.00am to midnight 7 days a week.
4. Late night refreshment shall be permitted from 11.00pm to midnight 7 days a week.
5. The premises shall be open to the public from 9.00am to 12.30am 7 days a week.
6. After 10.00pm the designated smoking area shall permit no more than 8 patrons at any one time.
7. After 10.00pm the designated smoking area shall be monitored at all times by either an SIA door steward or a member of staff to ensure that patrons using the area do not cause a nuisance to nearby residents.
8. A noise limiter shall be installed and used at the premises, with set levels agreed by Torbay Council's Public Protection Officer.

ANNEXE 4

PLANS

Copy attached to Licence.



Devon & Cornwall Police

Licensing Team
Torbay Council
C/O Torquay Town Hall
Castle Circus
TORQUAY
TQ1 3DR

Licensing Department
Devon and Cornwall Constabulary
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 304900

30 June 2020

Dear Sir/Madam

Hennessey, 2 King Street, Brixham

I refer to an application for the Variation of the Premises Licence in respect of the above-named premises, which has the benefit of Premises Licence Number PL1116.

HISTORY OF PREMISES:

The Premises Licence for this premises was granted on 27 April 2017 and at that time the premises were known as Coco's. Between April 2017 and October 2018 I had little or no dealings with the premises.

In November 2018 the licence was transferred to Hennessey Cocktails Ltd, the sole director of which is Mr Ross Hennessey. Mr Hennessey was also nominated as DPS. At that time the premises' name was changed to Hennessey.

DEALINGS WITH HENNESSEY COCKTAILS LTD:

Please note that I have not attached any of the emails I received from complainants as they contain information which would identify the complainant. At the hearing I will have them available should the Licensing Authority wish to see them.

22 October 2018 Late Temporary Event Notice (TEN) submitted to extend the sale of alcohol and provision of entertainment from midnight to 0300 hrs on the morning of Sunday 28 October 2018 for a Halloween launch party. The notice indicated that a noise limiter was in place and that extra security staff would be put on.

23 October 2018 I spoke to Mr Hennessey, the premises user/DPS, and discussed the TEN with him. At that time, he asked about the likelihood of him obtaining a later licence for the premises and I recommended that he trade for a suitable

Contact the police

Emergency 999

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

✉ 101@devonandcornwall.pnn.police.uk ☎ 101

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period in order that he could demonstrate that he could manage the premises in an appropriate manner.

As a result of our discussions, no representation was made in respect of the TEN as I was satisfied Mr Hennessey had taken steps to prevent crime and disorder.

27 October 2018 Myself and Mr Karl Martin, Public Protection Officer of Torbay Council visited Hennessey with Sgt Langley, WPC Seaman and PC Moore.

I do not have a time recorded for this visit, but I estimate it would have been sometime after 11.00 pm. Approximately 12-15 people were stood around the front door and noise from these persons could be heard some distance away. I could not tell whether these persons were waiting to gain entry or using the area for smoking. No stewards were visible.

We then entered and met with Mr Hennessey and advised him of our observations. Mr Hennessey introduced me to two males who he stated were his stewards. Neither of these were wearing a yellow high visibility jacket, as required by the premises licence, and I advised Mr Hennessey of the breach of this condition.

Mr Martin informed Mr Hennessey that the volume of music was too high, and he recommended that Mr Hennessey ask the DJ to turn the volume down.

31 October 2018 A letter was sent to Mr Hennessey regarding the visit, a copy of which is attached.

5 November 2018 I had a telephone conversation with a resident (Complainant 1) who advised me that they live in the vicinity of Hennessey and had been disturbed by noise from music and customers of the premises until the early hours of Sunday morning and household members could not sleep. Details of this complaint were passed to Mr Martin.

7 November 2018 Myself and Mr Martin attended Hennessey and met with Mr Hennessey and his DJ. Mr Hennessey and Mr Martin had lengthy discussions concerning noise and public nuisance matters. I advised Mr Hennessey to comply with the terms of his premises licence. We also discussed Mr Hennessey's proposal to apply for a later licence at the premises.

10 November 2018 I received an email complaint from a resident who lives in the vicinity of Hennessey (Complainant 2), who reported that there had been a drastic change in noise levels since Mr Hennessey took over at the premises. This resident said that they were angry and frustrated that the premises had been granted a licence until 3.00 am without any consultation and I explained the TEN legislation to them.

11 November 2018 I received an email from PC Veitch who was dealing with a complaint in respect of Hennessey, which referred to noise coming from the bar until 3.00 am on the launch weekend and the following weekend. It also referred to cocktail glasses being lined up against the wall outside the bar and cocaine wraps being left on the floor.

12 November 2018 I received another email from PC Veitch who stated that she had received a further 2 complaints from members of the public concerning noise from Hennessey. One of these complaints indicated that the premises had been open until 3.00 am on the previous two weekends. This complaint also referred to cocktail glasses left outside and cocaine wraps in the street after the premises closed on 2nd or 3rd November 2018.

As a result of the emails from PC Veitch, I sent her a copy of the premises licence and requested that officers attend the premises to view CCTV to establish if after hours drinking or entertainment had been provided at the premises as alleged. Unfortunately, on 28 November 2018 officers had been unable to visit the premises, and as the CCTV hard drive would have been overwritten at the end of 14 days, no further action was taken.

14 December 2018 I, Mrs Mandy Guy, PC Haworth and PC Moore attended Hennessey at 2345 hrs. One door steward was present. He was wearing a blue and white jacket with small reflective strips. I discussed this matter with Mr Hennessey and expressed my disappointment that the premises were still not complying with the condition on the licence. Mrs Guy identified that there was noise outbreak from the premises. She suggested to Mr Hennessey that a lobby may assist and advised him to speak to Mr Martin concerning the issue.

Whilst I appreciate that the colour of the high visibility jacket may not seem of particular importance, I would advise you that at that time, there had been issues with some door steward companies supplying their stewards with navy blue jackets with very small reflective strips in an attempt to circumvent the yellow high visibility jacket condition. The door steward company supplying this premises was providing stewards with blue and white jackets with small reflective strips and the director of that company had already been given advice on this matter. In addition, the Torbay Council Licensing Statement of Principles (Pg 15) states that stewards should wear clearly identifiable yellow reflective over-garments.

18 December 2018 A letter concerning the visit on 14 December 2018 was sent to Mr Hennessey, copy attached.

11 February 2019 I received a further email from Complainant 1 concerning loud music, troublesome guests leaving making noise and other issues in relation to Hennessey. The complainant said that the problems were occurring on a weekly basis, every Friday and Saturday evening, with loud music until

12.30 am, people leaving making a noise, fighting and people being sick in the street. I forwarded this email to Mr Martin.

16 February 2019

At 2350 hrs myself and Mr Martin were on duty when we parked outside The Quayside Hotel on King Street, Brixham which affords a good view of Hennessey. We observed the premises from this location for just over 20 minutes. We witnessed numerous customers stood outside Hennessey smoking, chatting, laughing and shouting which could clearly be heard at our location. We could also hear loud music from the premises, and this was worse when the door opened, which was often due to people coming and going. A door steward was present but he made no attempt to tell people to be quiet. We also witnessed two males come out and go around the corner out of view of the steward. They had a very brief exchange and then returned to the premises. I formed the opinion this may have been a drugs deal taking place. At 0010 hrs loud music was still being played, despite the premises licence requiring recorded music to cease at midnight.

We then drove down to the premises and entered without being challenged by the door steward. On entering a drunk male stumbled/fell down some internal steps. We stood amongst customers for a couple of minutes during which time we saw a glass bottle and another drink being placed on the bar. We saw the barmaid go to the till and return to the male, passing something to him. I formed the opinion that the sale of alcohol had taken place. This occurred at approximately 0015 hrs, when the last permitted sale of alcohol is at midnight. Many males were drinking from glass bottles, and we witnessed a drink being served in a glass bottle, despite a condition on the licence prohibiting the sale of alcohol in glass bottles after 2300 hrs.

Mr Martin and I spoke to Mr Hennessey. Mr Martin told Mr Hennessey that the music being played was too loud to be classed as background music and advised him that we had been monitoring his premises from King Street. I advised Mr Hennessey that we had witnessed what we believed to be the sale of alcohol after midnight. I asked Mr Hennessey to show me the CCTV footage, but he said he didn't know how to work the system. He went to look for a mouse but couldn't find one. He then offered to show me the footage on his phone. However, he didn't show me the footage I asked to see, and I was concerned that he was deliberately trying to avoid showing me the relevant footage. Mr Martin and Mr Hennessey discussed the issues with noise and customers outside and Mr Hennessey asked if he could put smokers at the rear entrance of the premises. He showed us where he meant, which was directly opposite the New Quay Inn (location now sought within this application). Mr Martin told him that he would not agree to that as it would cause more noise issues at the rear of the premises.

18 February 2019

I sent an email to Mr Hennessey asking him to download some CCTV footage for me in order that I could establish the time that the last sale of alcohol took place on the morning of Saturday 16 February 2019.

4

- 18 February 2019 I received a telephone call from a Brixham officer advising me of Log 20 of 16/02/19, a complaint from a resident (Complainant 3) of loud music being played for 3 hours on the night of Friday 15 February 2019 and stating that this is an on-going issue.
- 21 February 2019 Myself and Mr Martin attended an address in Brixham to discuss general licensing issues in Brixham with a resident (Complainant 5) who was concerned about noise, drugs and anti-social behaviour within the town. This male also raised concerns in relation to noise from music and customers of Hennessey.
- 25 February 2019 I received two text messages in which a resident (Complainant 3) complained of noise disturbance by music and people at the premises. The complainant stated they had contacted the premises but there was no reply, however eventually the manager rang and spoke to the complainant, as a result of which the music was turned down.
- 28 February 2019 I received an email from a resident (Complainant 4) who complained about noise, anti-social behaviour, underage drinking, drug taking and dealing, and general public nuisance issues associated with the premises.
- 2 March 2019 I again received a text message from Complainant 3 saying that they had a problem the night before, but they spoke to the owner and manager who said they would talk to the DJ about the noise.
- 4 March 2019 Complainant 5 emailed me and complained that Hennessey's had turned into a full-blown nightclub the Saturday before, with DJ's playing loud music. This person said that they could hear the noise from the premises through their double-glazed windows. This person said they walked down to the harbour at around 11.30 pm and the loud music was appalling. They looked into the premises and noticed that a lot of the furniture had been removed and large numbers were dancing. They said they encountered a small group around the corner who appeared to be taking illegal substances and the smell of urine was very high.
- This person ended their email "As we will soon be approaching the summer months, I, and most of our neighbours, are dreading the weekends even more and ENOUGH is ENOUGH!! Please can you revoke the licence and give us all some peace and quiet". I subsequently responded to this email advising the complainant of the steps myself and Mr Martin were taking in relation to securing evidence to apply for a Review of the licence, and the Review process in general.
- 5 March 2019 A letter was sent to Mr Hennessey outlining all complaints received by the police since 11 February 2019 and details of the visit by myself and Mr Martin on 16 February 2019, copy attached.

- 8 - 11 March 2019 I received 4 emails from Mr Hennessey in response to the letter sent to him on 5 March 2019. Some of these emails contained photographs from his CCTV system, and I also received 2 x USB sticks containing CCTV footage.
- 19 March 2019 Myself and Mr Martin met with Mr Hennessey in the Meadfoot Room of Torbay Town Hall to discuss all issues raised within the letter dated 5 March 2019.
- During this meeting Mr Hennessey told me that the premises had not been strict on ceasing music and the sale of alcohol. However, he assured me that they only ran over for between 5-10 minutes but since my visit on 17 February 2019 he had made sure that they finished on time. I tried to watch the CCTV but it would not play on two laptops. I subsequently decided not to progress this matter further as Mr Hennessey had admitted that licensable activities had not ceased on time and there would be little evidential gain in requesting our Video Processing Unit to convert the footage to a viewable format.
- 4 June 2019 I received a text message from a resident complaining about the number of cigarette butts on the road outside the premises. I advised Mr Hennessey of this matter and he said he would address it immediately.
- 22 July 2019 I was advised of potential fire safety issues at the premises, in that a non-fire door opens inwards into the public area, and that it does not have any internal handles so the only means of opening the door from the public side would be to use your finger nails along the edge of the door. A fire escape route within the premises was also partially obstructed by some bins and continues into a neighbour premises which was similarly blocked by equipment. I was advised that this information had been passed to the Fire Service.
- 18 November 2019 I received an email from Complainant 1 concerning noise and public nuisance issues in respect of the premises on 16 November 2019. On the night in question, Mr Hennessey had submitted a Late TEN to extend the hours of the premises, but the TEN was not submitted in accordance with the statutory requirement and Mr Hennessey was advised that the event could not go ahead.
- 28 November 2019 Myself and Mr Martin met with Mr Hennessey at the premises. I asked to view some CCTV, but Mr Hennessey did not have a mouse on the premises so was unable to show us. I asked him to ensure that at least one member of staff can always access CCTV and that they have the equipment available to do so. He agreed to this.
- 3 December 2019 Myself and Mr Martin again attended Hennessey. Mr Hennessey had downloaded the CCTV footage onto a USB, but it would not play on his

laptop or on mine. We again discussed the complaint and he said that the staff party did not go ahead. He was adamant that the only people in the premises at the time of the complaint were staff who had been cleaning and having a drink, with music playing whilst they did so. Advice was given to him to keep the music low at background level or turn it off and not allow to staff to drink after hours but to take tips as money instead.

THE APPLICATION:

This application seeks to include an outside area within the approved plan of the premises, for the provision of licensable activities and the consumption of alcohol. It also seeks to extend the sale of alcohol until 3.00 am on Friday and Saturday nights and to allow the premises to provide off sales.

The applicant has applied for a temporary Pavement Café Permit for the outside area, in which he requests the use of this area between 1000 and 0000 hrs. I note that there is no mention within the application as to how the applicant will manage customers in this area, which is a concern, particularly as it cannot be seen from within the premises and, at the time of my last visit, there was no CCTV monitor behind the bar.

In relation to the request to add off sales to the licence, the premises are situated within a Torbay Council Public Space Protection Order (PSPO) which prohibits the consumption of alcohol at any time. The recent Coronavirus pandemic has highlighted issues around customers purchasing off sales from licensed premises within such areas and advice was provided to these premises. Mr Hennessey is aware of this advice but has failed to include any measures within his application to ensure there is no negative impact of customers consuming alcohol purchased from his premises within the PSPO area. Furthermore, if you are mindful to allow the provision of off sales from this premises, they could be supplied at 0300 hrs on Friday and Saturday nights which could have a detrimental impact on crime and disorder if they were to be consumed within the town centre, particularly at that time of night.

In respect of the part of this application seeking to extend the sale of alcohol until 3.00 am on Friday and Saturday nights, with the premises closing at 0330 hrs, the police have examined the application and consider that the applicant has not given sufficient consideration to the Torbay Council Licensing Statement of Principles 2016-2021.

On page 16 of the application, the applicant seeks to remove a condition in respect of SIA stewarding levels from the premises licence. This condition requires the premises to employ stewards at a ratio of 1 steward per 100 customers whenever the premises sells alcohol after midnight and closes after 0030 hrs on Fridays, Saturdays and other stipulated days.

Within box b) on page 19 of the application, the applicant outlines an alternative stewarding condition, but this condition is confusing, and the intention of the applicant is not clear. The proposed condition states "On any Friday and Saturday night that the premises remains open for the sale of alcohol and then closes after 0330 hrs SIA stewards shall be employed on the premises from 2200 hrs until close at a ratio of 1 supervisor per 100 customers". My interpretation of this

condition is that when the premises close after 0330 hrs stewards will be employed based on the ratio of 1:100.

The next part of this proposed condition states "A secondary SIA door supervisor shall be employed on the premises from 2300 hrs until the last patron has left the premises". From this section of the condition it appears that the applicant is intending to employ two SIA stewards, although this is not clear and it appears to contradict the first part of the proposed condition. Furthermore, it appears that the ratio of 1:100 will apply only when the premises closes after 0330 hrs. This means that up until 0330 hrs no stewards will be required. The timing of 0330 hrs may have been a mistake by the applicant so perhaps Mr Hennessey can confirm this?

For your information, your policy (pg 38) recommends that a risk assessment is carried out to establish the appropriate number of stewards, but it also recommends that 2 SIA stewards are employed for up to the first 100 customers, and thereafter an additional steward is employed for each additional 100 customers.

As the applicant is seeking to include an outside area within this application, and that area is not visible from inside the premises or the front entrance, it is the opinion of the police that at least 3 SIA stewards will be required – 1 at the proposed outside area, 1 within the premises and 1 on the front door. The applicant indicates that the stewards will be employed until the last person has left the premises, however it is often the case that customers loiter outside licensed premises for some time after premises have closed, and therefore the police further recommend that stewards remain on duty until the last customer has left the vicinity of the premises to ensure that they do so in an appropriate manner.

I shall now refer to your policy and in particular Section 3.1 The Prevention of Crime and Disorder, in which you highlight specific considerations for inclusion within the operating schedule.

Whilst the applicant proposes to have a zero tolerance to drugs, there is no information on how this will be achieved, such as by having a written drugs policy which all staff will adhere to, or by having any entry or search procedures.

The premises licence already contains a condition concerning the provision of CCTV, however, as outlined earlier, there have been occasions when no one on the premises has been able to use the system, 2 occasions when there was no mouse available, and Mr Hennessey has been unable to provide viewable footage to the police. If this application is granted, what assurances can Mr Hennessey give that CCTV provision will not be a problem in the future? Is he intending to install an additional camera to cover the outside area, and is he going to install a monitor behind the bar so that staff will be able to supervise this area throughout the time the premises are open? The police recommend that due to previous concerns regarding the provision of CCTV, the condition on the licence is amended so that all footage has to be retained for a minimum of 28 days, and that footage is provided to the police within 7 days of any request.

Your policy recommends that premises maintain an incident book, but it does not appear that the applicant has considered this.

Your policy requires that all staff in the premises responsible for selling alcohol after midnight will be trained and hold the BIIAB Level 1 Award in Responsible Alcohol Retailing within 3 months of the commencement of their employment. The existing premises licence does not contain any reference to staff training, and nor does this application. As the applicant is seeking to extend the sale of alcohol by 3 hrs on a Friday and Saturday night, and this is likely to increase the likelihood of crime, disorder, public nuisance and drunkenness the police consider it imperative that staff receive appropriate training in relation to their responsibilities under the Licensing Act.

Your policy also recommends the use of breathboxes for premises selling alcohol after midnight to assist in the identification of intoxicated persons, but this does not appear to have been considered, despite the applicant seeking to sell alcohol for an additional 3 hours on Friday and Saturday nights. What measures are the premises proposing to take in relation to the management of drunk and vulnerable individuals?

The Torbay Council Licensing Statement of Principles is currently being reviewed as it needs to be republished in 2021. The police will recommend that the licensing authority include initiatives within the policy that assist in ensuring that our night-time economy premises operate in a safe manner. We recommend that premises that sell alcohol after midnight join and maintain membership of the Best Bar None Scheme and promote the 'Ask Angela' initiative. Will Hennessey support these schemes?

In relation to Mr Hennessey's role as DPS, since he was appointed as DPS it has come to the attention of myself and Mr Martin that Mr Hennessey has another business at a holiday park in Cornwall. During the summer season he is predominantly at that site, leaving Hennessey to be run by a manager. The Section 182 Guidance to the Licensing Act recommends that the DPS is the person who is responsible for the day to day management of the premises, which is clearly not the case. The police are concerned that, should this application be granted, there may not be any person at the premises at the critical times with any recognised licensing qualification or detailed knowledge of the law and the premises responsibilities. The lack of a DPS in day to day management and control of this premises may also cause issues should there be an increase in crime, disorder or public nuisance issues at this premises as it will be difficult to arrange meetings with Mr Hennessey in the summer season.

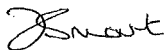
CONCLUSION:

It is the opinion of the police from our vast experience of dealing with licensed premises that those premises where alcohol sales cease at or around midnight occasionally come to the attention of police but generally do not impact on the Licensing Objections. Premises authorised to sell alcohol until 0200 hrs may impact on the licensing objectives, particularly the Prevention of Crime and Disorder and the Prevention of Public Nuisance, but with suitable management and policies in place most of these concerns can be addressed. However, in respect of premises which are authorised to sell alcohol after 0200 hrs the risks significantly increase and, irrespective of any conditions imposed on the licence and good management of the premises by the Premises Licence Holder and DPS, the likelihood of crime, disorder, anti-social behaviour and public nuisance issues is high.

As outlined at the beginning of this representation, numerous complaints have been received by the police in relation to public nuisance issues experienced by a number of local residents and it is apparent that the premises have had a negative impact on the prevention of public nuisance objective. Whilst I am pleased to advise you that no incidents of crime or disorder at the premises have been reported to the police to date, this is not unusual bearing the premises current hours in mind. However, the applicant is seeking to extend the hours for licensable activities until 0300 hrs on Friday and Saturday nights, and this carries a significant risk of impacting on the Licensing Objectives the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

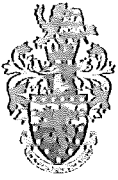
In conclusion, the police object to this application on the grounds that the applicant has not identified sufficient additional measures to support the licensing objectives in accordance with your policy and the granting of this application will impact on the existing levels of crime and disorder and public nuisance both at the premises and in the area. We therefore respectfully request that the Licensing Authority refuse this application.

Yours faithfully



Julie Smart
Police Licensing Officer – Torbay

Julie.smart@devonandcornwall.pnn.police.uk



Devon & Cornwall Police

Mr Ross Hennessey
Premises Licence Holder/DPS
Hennessey Cocktails
2 King Street
BRIXHAM
TQ5 9TF

Licensing Department
Devon and Cornwall Police
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 218900

31 October 2018

Dear Sir

Hennessey Cocktails, 2 King Street, Brixham, TQ5 9TF

I am writing to you in your capacities of Premises Licence Holder and Designated Premises Supervisor of the above named premises which has the benefit of Premises Licence Number PL1116, issued by Torbay Council.

During the late evening of Saturday 27 October 2018 my Police Licensing Officer, Mrs Julie Smart, attended your premises in the company of Mr Karl Martin (Public Protection Officer of Torbay Council), Sgt Lee Langley, WPC Abigail Seaman and PC Anthony Moore.

On approaching your premises they noticed a large number of persons congregated around the front door of your premises and noise from these persons could be heard some distance away. Mrs Smart is unable to say whether these individuals were waiting to gain entry or using the area for smoking. At this time Mrs Smart could not see any door stewards.

The officers then entered your premises and met with you. Mrs Smart advised you that she had not seen any door stewards at the front of your premises and you then took her to them and introduced her to two stewards. Mrs Smart noted that neither of these stewards was wearing a yellow high visibility jacket.

Contact the police

Emergency ☎ 999

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

✉ 101@devonandcornwall.pnn.police.uk ☎ 101

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I would take this opportunity to remind you of condition 3, under the heading The Prevention of Crime and Disorder, on your Premises Licence, which states:

On every operational day when door supervision is required, SIA door supervisors will be employed in front of house duties. They will wear yellow high visibility reflective clothing for the entirety of their duty.

I would also remind you that failure to comply with the terms and conditions of a Premises Licence constitutes an offence under Section 136 of the Licensing Act 2003 and a person found guilty of such an offence is liable to an unlimited fine, up to 6 months imprisonment, or to both.

As Premises Licence Holder and Designated Premises Supervisor 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.

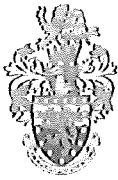
A copy of this letter has been forwarded to the Torbay Council Licensing Team for their information.

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

Yours faithfully



Superintendent J Hawley
Head of Prevention Department
Devon & Cornwall and Dorset Police Alliance



Devon & Cornwall Police

Mr Ross Hennessey
Premises Licence Holder/DPS
Hennessey Cocktails
2 King Street
BRIXHAM
TQ5 9TF

Licensing Department
Devon and Cornwall Police
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 218900

18 December 2018

Dear Sir

Hennessey Cocktails, 2 King Street, Brixham, TQ5 9TF

I am writing to you in your capacities of Premises Licence Holder and Designated Premises Supervisor of the above named premises which has the benefit of Premises Licence Number PL1116, issued by Torbay Council.

At approximately 2245 hours on the evening of Friday 14 December 2018 my Police Licensing Officer, Mrs Julie Smart, together with Mrs Mandy Guy (Senior Licensing Officer of Torbay Council), PC Haworth and PC Moore attended your premises and met with you.

Mrs Guy identified that there was noise outbreak from your premises whenever the front door was opened. She suggested to you that a lobby may assist and advised you to speak to Mr Karl Martin concerning this issue. Mrs Smart noted that you had a steward on duty however he was not wearing a yellow high visibility jacket as required by condition 3 under the heading The Prevention of Crime and Disorder on your Premises Licence, which states:


On every operational day when door supervision is required, SIA door supervisors will be employed in front of house duties, they will wear yellow high visibility reflective clothing for the entirety of their duty.

Contact the police


Emergency 999

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

✉ 101@dc.police.uk 101

Follow us  DevonAndCornwallPolice

 DC_Police

 You DCPolice



The Government Standard
Stock code: SF615

I would remind you that failing to comply with the terms and conditions of a Premises Licence constitutes an offence under Section 136 of the Licensing Act 2003 and a person found guilty of such an offence is liable to an unlimited fine, up to 6 months imprisonment, or to both.

I would also remind you that this is the second occasion that you have received a written warning about this matter, and this is very disappointing bearing in mind that you only took over as Premises Licence Holder and DPS on or around 6 November 2018.

As Premises Licence Holder and Designated Premises Supervisor 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 require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully



Superintendent J Hawley
Head of Prevention Department
Devon & Cornwall and Dorset Police Alliance

Mr Ross Hennessey
Premises Licence Holder/DPS
Hennessey Cocktails
2 King Street
BRIXHAM
TQ5 9TF

Licensing Department
Devon and Cornwall Police
Police Station
South Street
TORQUAY TQ2 5AH

Telephone: 01803 218900

5 March 2019

Dear Sir

Hennessey Cocktails, 2 King Street, Brixham, TQ5 9TF

I am writing to you in your capacities of Premises Licence Holder and Designated Premises Supervisor of the above named premises which has the benefit of Premises Licence Number PL1116, issued by Torbay Council.

On 11 February 2019 my Police Licensing Officer, Mrs Julie Smart, received an email complaint concerning the management of your premises. Within that email the complainant indicates that they frequently experience noise disturbance from recorded music which continues within your premises at a high volume until at least 0030 hrs and usually much later. In relation to your customers, the complainant indicates that customers outside smoking or congregating cause a disturbance by shouting and screaming, and there have been fights and people being sick in the road and on doorsteps.

As a result of this complaint, at approximately 2350 hrs on the night of Saturday 17 February 2019, Mrs Smart and Mr Karl Martin (Environmental Protection Officer of Torbay Council) were on duty and stood on the pavement outside the Quayside Hotel in order that they could monitor your premises. At that time they noted that there were several people stood outside your premises, some were smoking, and the rest were milling around. The noise from these individuals could clearly be heard at Mrs Smart and Mr Martin's location. Mr Martin and Mrs Smart noted that a door steward was on

duty and wearing a yellow high visibility jacket. Mr Martin and Mrs Smart also noted that they could hear loud music escaping from your premises, and this was exacerbated whenever the front door of your premises was open, which was a frequent occurrence due to customers entering and exiting. Mrs Smart informs me that, whilst she is not a noise expert, she considered that if she lived in a property along that road and had a window open to allow air to circulate, she is certain that she would be disturbed by the noise from your premises.

Whilst stood at this location, Mrs Smart and Mr Martin also saw two males come out of your premises and go around the corner to an alley which leads to the Hole in the Wall Pub. At this location, these males paused for a few seconds, before they returned to your premises. Mrs Smart and Mr Martin were not able to see what took place between these males but they felt that these males were acting suspiciously and Mrs Smart believes that this may have been a drug deal.

Mrs Smart and Mr Martin remained outside the Quayside Hotel until approximately 0010-0015 hrs and noted that during that time the volume of music was not turned down, they could see customers dancing within the premises and they could hear them signing along to the music.

They then decided to attend your premises in order to discuss the email complaint and their findings with you.

On approaching Hennessey's Cocktail Bar, they noted that there were approximately 10 people outside, including your door steward. They then entered your premises unchallenged. Immediately upon entering a male fell down the internal steps and landed in a heap next to Mrs Smart. Mrs Smart noted that this male's eyes were very glazed and he had to be helped to his feet by other males. Mrs Smart formed the opinion that this male was drunk.

When within your premises Mrs Smart and Mr Martin stood within the premises for a few minutes watching your customers. They noticed that a large number of males had almost full bottles of beer in their hands. Two males to the left of Mrs Smart then commenced shouting and she mentioned to Mr Martin that she felt the atmosphere was volatile. She also told Mr Martin that as there was only one door steward on duty, it would be extremely difficult for him to manage customers outside the premises and, at the same time, keep an eye on the behaviour of customers within.

During this time Mr Martin and Mrs Smart saw a female barmaid hand a glass bottle of beer and a drink in a glass to a male a short distance from them. The barmaid then went to the till and returned to the male, passing him something. Although they could not see if she handed him money, they formed the opinion that a sale of alcohol had taken place.

Mrs Smart and Mr Martin then spoke to you and the three of you went into the kitchen area in order that they could advise you of their concerns. Mrs Smart informs me that within the main public area of your premises it was difficult to hold a conversation due to the level of music being played. Mr Martin spoke to a female member of staff and told her to tell the DJ to stop playing music immediately.

Mr Martin asked you why music was still being played and you told him that you are allowed to play background music after midnight. Mr Martin told you that the level of music he could hear whilst stood in King Street outside the Quayside Hotel, and whilst within your premises, was not at a volume low enough to be considered background music. He also advised you that your Premises Licence requires all recorded music to cease at midnight.

In relation to the noise from your customers whilst outside, Mr Martin told you that you need to speak to your door steward and get him to tell customers to keep the noise down and ensure that there are only 8 outside after 10.00 pm. You told Mr Martin that your customers don't like being told what they can and cannot do outside as it is a public road. Mr Martin suggested that if your customers do not comply with your requests you should ban them due to their lack of co-operation.

Mrs Smart advised you that both herself and Mr Martin believed they had witnessed a sale of alcohol after your last permitted time, ie midnight, and you responded that you had a lot of family members within the premises who do not pay for drinks so it was probably one of them who had been served. You were advised that Mr Martin and Mrs Smart saw the female barmaid go to the till, then return to a male and hand him something, believed to be money.

Mrs Smart then asked you to show her the CCTV footage from 0010 hours that day. You indicated that you did not know how to operate the CCTV system but would try to do so if you could find a mouse. You then disappeared for a short period of time but returned explaining that you could view the CCTV footage on your phone. You then showed Mrs Smart some footage but when she asked to see the time of that footage, she saw that you were showing her from 0017 hrs that morning and not the footage she had requested.

At that time discussions were taking place concerning the fact that Mrs Smart considered that two door stewards were required at your premises due to the number of people present, and that one steward would not be able to monitor both the inside and outside of your premises. You then started showing Mrs Smart footage for other nights when you said that the premises had been very quiet. You told Mrs Smart and Mr Martin that you didn't think the premises would be that busy that night and you thought that one door steward would be adequate. Mrs Smart and Mr Martin told you that you should have a system in place to request a further door steward if your premises gets busy.

Mrs Smart then asked you what the Premises Licence states in respect of glass bottles and you advised her that glass bottles should not be served after 2300 hrs. Mrs Smart asked you why a large number of your customers had almost full bottles of beer but you did not answer this question. Mrs Smart advised you that at 2300 hrs you should ensure that no more glass bottles are served and bottles within the customer area should be cleared away as soon as they are finished to prevent them being used as weapons.

Mrs Smart informs me that at one point during her and Mr Martin's discussions with you, you suggested that if they allowed your premises to stay open for an additional hour this would allow customers to leave gradually thereby alleviating some of the concerns raised. In response to this, Mrs Smart told you that there is no way that either herself or Mr Martin will agree to allow your premises to trade for an additional hour, when you cannot manage the premises in a satisfactory manner during the current permitted hours.

Mr Martin discussed various conditions on the Premises Licence in relation to the prevention of public nuisance with you. You suggested to Mr Martin and Mrs Smart that you could get your smokers to congregate outside the rear exit of your premises and you then showed them a door positioned directly opposite the Hole in the Wall Pub. Mr Martin and Mrs Smart indicated that they would not want your customers smoking outside of another licensed premises as this would cause concern to the management of the Hole in the Wall. Mr Martin and Mrs Smart then concluded their discussions with you.

Mrs Smart has advised me that during the afternoon of Monday 18 February 2019 she was contacted by a police officer from Brixham, who drew her attention to Log 0020 of 16 February 2019 in respect of your premises. This log indicates that a telephone call was received by the police at 0025 hrs on the morning of Saturday 16 February 2019 from a member of the public. This person advised the member of police staff that at the time of their call your premises were playing extremely loud music and this had been going on for the last 3 hours.

Mrs Smart subsequently spoke to this complainant at length concerning the management of your premises. The complainant told Mrs Smart that since you took over at the premises they have been disturbed by extremely loud music until the early hours of the mornings on both Friday and Saturday nights. They have also experienced noise from persons congregating outside your premises throughout the evenings until your premises eventually close in the early hours of the morning.

As a result of Mrs Smart's visit to your premises, and her discussions with the above complainant, on Monday 18 February 2019 she requested that you provide her with 3 pieces of CCTV footage. Mrs Smart advises me that to date this CCTV footage has not

been forthcoming, although you did advise her that she would receive it during the week commencing Monday 25 February 2019.

Mrs Smart informs me that since her visit on 17 February 2019, she was contacted by text message on 23 February 2019 and 2 March 2019 by the complainant she spoke to on Monday 18 February 2019, concerning loud music being played at your premises causing a nuisance.

On Thursday 21 February 2019 Mrs Smart and Mr Martin attended a property some distance away from your premises where the occupant raised various concerns in relation to anti-social behaviour and noise coming from your premises.

On Thursday 28 February 2019 Mrs Smart received an email from another individual concerning your premises, and this relates to loud music, after hours drinking, alleged underage drinking and alleged drug taking/dealing by your customers which is taking place in the vicinity of your premises.

In addition, on Monday 4 March 2019, she received a copy of a document which appears to have been circulated to residents in the vicinity of your premises referring to late night music disturbing residents and guests who are woken up at the weekends by your premises, fights on the pavement and road outside Hennessey's with one person being thrown into the harbour, alleged drug dealing and money passing both outside and inside your premises, smokers shouting in the early hours of the morning, drunken people leaving the premises and disturbing the peace, alleged underage drinking, noise from bottles being emptied into bins in the middle of the night and the alley next to the premises being used as a toilet.

In addition, Mrs Smart has also received an anonymous call from an individual who left a voicemail message for her, indicating that he would not leave his name and address as he was worried that his windows would be put in. However this male indicates that he agrees with everything outlined in the document that he has received and he has witnessed noise and anti-social behaviour linked to your premises on numerous occasions. Mrs Smart believes that this male is referring to the document outlined in the above paragraph and she thinks that this message was left on her phone on Monday 4 March 2019.

I would take this opportunity to remind you that on 31 October 2018 I wrote to you concerning noise, issues with people outside your premises and a breach of a condition contained within your Premises Licence.

I also wrote to you on 18 December 2018 in relation to noise outbreak and Mrs Guy's suggestion that a lobby may prevent this from occurring, and again in relation to a breach of a condition contained within your Premises Licence.

It is therefore extremely disappointing that we have received further complaints regarding noise from your premises and further breaches of conditions contained in your Premises Licence, in relation to glass bottles and your failure to provide the CCTV footage requested by Mrs Smart.

I would take this opportunity to remind you of condition 1, under the heading The Prevention of Crime and Disorder, on your Premises Licence, which states:

All drinks will be served in shatterproof glasses and no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink after 2300 hrs.

Condition 2 under the heading The Prevention of Crime and Disorder on your Premises Licence, states:

CCTV must be installed on the premises to include a recording monitor behind the servery. Such CCTV system must be maintained and used throughout the licensing hours. Recordings will be kept for a minimum of 14 days during which they will be available to the police at any reasonable time.

I would remind you that failure to comply with the terms and conditions of a Premises Licence constitutes an offence under Section 136 of the Licensing Act 2003 and a person found guilty of such an offence is liable to an unlimited fine, up to 6 months imprisonment, or to both.

I am not prepared to tolerate poorly managed premises, particularly those that impact on the lives of individuals who live within the vicinity of troublesome premises. I must therefore advise you that should further concerns come to my attention I will seek a Review of your Premises Licence, but I hope that this will not be necessary.

As Premises Licence Holder and Designated Premises Supervisor 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 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 'J Hawley', written in a cursive style.

Superintendent J Hawley
Head of Prevention Department
Devon & Cornwall and Dorset Police Alliance

Memorandum

To:	Licensing and Public Protection Team	From	:	Mr Karl Martin
c.c		Contact	:	
c.c.		Ext	:	01803 208025
c.c		My Ref	:	1ZV SRU/KJM/HEN
		Your Ref	:	
For the attention of:		Date	:	29 th June 2020
Gary O'Shea, Principle Licensing Officer				

Subject: Full variation application, Hennessey, 2 King Street, Brixham.

- 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 **X**
1. Hennessey public house, Premises Licence PL1116 is situated on the harbour facing side of Kings Street. The premises is one of two licensed premises which form part of the ground floor of a former warehouse that was redeveloped approximately 3 years ago. The two floors above primarily consist of residential and office space.
 2. The geography of the surrounding area is a significant factor when considering how noise propagates in this area. The surrounding landmass is relevantly steep sided and densely built on; residential and hospitality accommodation is the primary use. The main retail area is nearby.
 3. Currently the area benefits from low ambient noise, particularly after midnight in part due to the lack of significant infrastructure and the absence of an established night late economy.
 4. There are two elements to this applications that ask the Licensing Committee to consider in relation to the Prevention of Public Nuisance
 - Proposal to extend the timings for the sale of Alcohol and regulated entertainment form midnight until 3:00am with a 3:30am closure time.
 - Proposal to include an outside seating area situated on New Quay lane.

4.0 Outside seating area

- 4.1 The applicant seeks to include an area approximately 5m x 2m. Please see Appendix 1.1.
- 4.2 New Quay lane is designated as a public road and requires a Pavement Café Consent. The Council has recently introduced a temporary licensing scheme in response to Covid19 which encourages far greater use of public highway to help businesses maintain current social distancing measures.
- 4.3 The applicant has submitted an application under this scheme asking for consent to place tables and chairs on the highway that mirrors this variation application.
- 4.4 The temporary pavement café consent has been rejected because the Authority does not have the powers to close the road unless a formal application is submitted and granted by the Highway Authority. Applicant advised.
- 4.5 At the time of writing the applicant has no legal consent to occupy or place objects on the highway.
- 4.6 Despite a potential *contra legem* I do not believe this area could be used for seating or indeed as a smoking area without giving rise to noise nuisance.
- 4.7 The Lane is occupied by a licensed premises (under previous ownership) whose customers congregated in the Lane during trading hours and loitered after closing. This caused significant disruption to nearby residents, some of which overlook the lane. Enforcement action was taken by the Authority to remedy nuisance.
- 4.8 It may be permissible to use only as a smoking area. However noise from customers, even if limited to a handful would be challenging. The Authority has received complaints regarding customer noise using the highway at the front of the premises therefore confidence remains low that the applicant could manage noise levels in a far more sensitive area.
- 4.9 I note a number of representations have been received from residents and I support their concerns in relation to use of the Lane and find it difficult to reassure residents as the applicant has failed to provide suitable mitigation in the operating schedule.

The applicant has been previously advised Responsible Authorities could not support an application to use New Quay Lane.

5.1 3:00am terminal hour for Alcohol and regulated entertainment (Fri-Sat)

- 5.2 The current licence permits regulated entertainment until midnight, 7 days week. The applicant has been the DPS since October 2018 and the licensee since November 2018.
- 5.3 A multi-Authority inspection took place on the 27th October 2018. The applicant had submitted a TEN to extend licensable hours until 3:00am to accommodate a Halloween celebration.

On approaching the premises at approximately 11:15pm I noted the volume of amplified music was excessive and if continued until 3:00am I was confident would invite noise complaints. The applicant was advised to turn the music down which the DJ did but I cannot with confidence state the level remained at a lower volume for the remainder of the night.

5.4 The Authority received three complaints from residents following the evening of the 27th October. In a subsequent meeting the applicant was given noise management advice including the recommendation to seek specialist advice.

5.5 Noise complaints associated with this premises continued until March 2019. The common grievance stated by residents includes allegations of after hours, excessive music after and before midnight, noise and other anti-social behaviour from customers in the street.

5.6 On the 16th February 2019 a second multi-agency visit to Hennessey took place. Before entering, the premises was observed from King Street. The location is approximately 70m from the premises and contains a large density of residential and hospitality accommodation.

Low frequency music could clearly be heard and likely to be loud enough to be heard in nearby homes. At times whilst the front door was open (not lobbied) the apparent volume doubled and included higher frequencies including vocals. The 'Warbling' effect from repeatedly opening and closing single entranced doors is a significant factor in noise complaints.

Noise from customers was equally excessive and at no point did we see door staff attempt to manage the situation. An area marked on the premises plan for smokers to use was not being employed.

Julie Smart, Devon and Cornwall Police Licensing Officer, entered the premises unchallenged shortly after midnight. The DJ was still playing music at a volume witnessed on King Street which in itself is far in excess of 'background'. Music should have ceased at midnight. A sale of alcohol took place at 00:15 at which point we intervened and spoke to Mr Hennessey (applicant) and instructed him to turn the music off and start clearing the premises.

Mr Hennessey was sent a written warning regarding his management of his premises on the 16th February 2019.

5.7 In March 2019 after a series of complaints from local residents in February 2019 regarding a range of issues including noise nuisance, the decision was taken to invite Mr Hennessey to the Town Hall to discuss an action plan for moving the premises forward. This meeting took place on the 19th March 2019.

By this time both Police Licensing and Public Protection felt it was increasingly likely the evidential threshold to trigger a review was highly likely to be exceeded in matter of weeks.

5.8 Shortly after the meeting Mr Hennessey instructed a sound engineer to survey the premises including the current PA system. The PA was upgraded to include a noise limiter. The limiter was set by the engineer and to my knowledge has not been adjusted since.

The Authority did not receive any further noise complaint until the 18th November 2019 and related to an evening which the premises had applied for a late TEN. The TEN was rejected as it was served out of time. The allegation made claimed premises remained open after midnight.

Mr Hennessey stated the event was cancelled and the noise complaint must have referred to staff playing music too loud during clean up following the shutting of the premises at midnight. As CCTV footage did not materialise, despite the best efforts of Mr Hennessey, it is difficult to ascertain if his account is accurate. In any case advice was given regarding the volume of music.

To the best of my knowledge the premise was mostly shut in January and February 2020 and closed by order of the Government in March 2020 and remains closed until at least the 4th July 2020

- 5.9 The Applicant has not detailed beyond employing extra door staff any additional mitigating measures to reassure residents or responsible authorities that if the premises is granted a 3:00am it will operate in the spirit of the Licensing Act.

P40 Para 2 of the Licensing Statement of Principles states:-

'This Authority expects applicants for premises licences and club premises certificates to have made relevant enquiries about the local area and prepare their operating schedule on the basis of a risk assessment of the potential sources of nuisance posed to the local community by their intended operation. The operating schedule should demonstrate an understanding of the level of risk of nuisance and include positive proposals to manage any potential risks'

The applicant is clearly aware there is risk of causing nuisance as he is premises has been the subject of number of noise complaints.

6.1 Conclusion

- 6.2 Mr Hennessey in first 6 months running the premises fell short of professional standards expected of licensees. By failing to adhere to the terms of his premises licences he undermined the licensing objectives instead of promoting. Only after the threat of a review did Mr Hennessey bring noise nuisance under control and begin to repair trust with his neighbours.

- 6.3 Between April and November 2020 there were no complaints. One in November but no more during the Christmas and the New Year trading period. Despite the initial infringements for at least a greater part of 2019 Mr Hennessey proved he could run his premises to midnight and promote the licensing objectives.

- 6.4 Torbay Councils Statement of Principles p40 para 4 states;-

'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'

- 6.5 This statement recognises premises who operate after 11:00pm in residential areas increase the likelihood of creating public nuisance, if not carefully managed. The risk of nuisance occurring and the impact this can have on residents living nearby exponentially increases as the night goes on.

- 6.6 Its fact this premises is situated in a natural bowl allowing sound energy waves to freely propagate throughout the surrounding area. The hard surfaces of densely packed building situated on the steep hills further reflect sound back out in every direction.

The applicant's premises would be the only premises operating regularly until 3:00am and would not benefit from the elevated ambient noise from other premises that help mask any outbreak.

- 6.7 Torbay Councils Statement of Principles p40 para 3 states;-

'The Licensing Authority will presume against the grant of new Premises Licences or Licence Variations and Club Premises Certificates where there are extensions in operational hours, or the addition or extension of activities (regulated entertainment) that may cause public nuisance, where the Applicant has not properly considered the issue of nuisance and where appropriate sought advice from those with expertise in this field, in order to alleviate any concerns arising.'

6.8 Beyond a plan, an application form with a brief operating schedule the applicant has not provided any additional information or documentation that can assist in determining how likely the Applicant can control noise from music outbreak and people outside the premises but also the noise as they disperse between after 3:00am.

7.0 Recommendations

As the application does not offer enough detail to evaluate the application systematically and on its merits I can only duly ask the members of the Licensing Sub-Committee to consider refusal of the application as applied for by the Applicant on the grounds:-

- Inherent weakness in the structure of the building and its ability to attenuate noise.
- The proximity to densely packed residential buildings.
- Resistance from residents to promote a night economy with operating hours beyond midnight.
- The applicant has failed to identify suitable mitigation methods as required by Torbay Councils Licensing Statement of Principles
- History of noise complaints.
- Premises has largely been shut in 2020 thereby the applicant cannot demonstrate recent management of the premises.
- Applicant not authorised to use a public road.
- Failings by the Applicant to promote the licensing objectives and by not operating within the terms of his current authorisation.

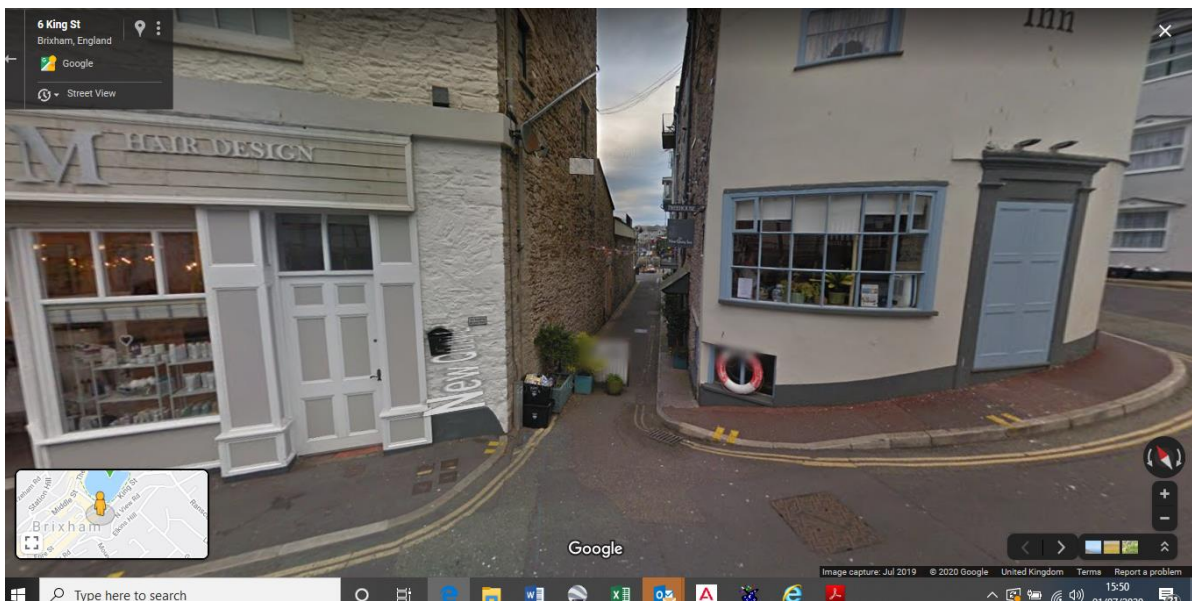


Karl Martin
Public Protection Officer
Licensing and Public Protection
Community Safety
Torbay Council

Appendix 1- Google image showing topography.



Appendix 1.1 Google street view of Newquay Lane.



TOBBAY COUNCIL [REDACTED]
[REDACTED]
09 JUN 2020 [REDACTED]
COMMUNITY SAFETY [REDACTED]

7 June 2020

Executive Head Community Safety
Torbay Council
c/o Torquay Town Hall
Castle Circus
Torquay TQ1 3DR

Dear Sir or Madam

Applicant - Hennessey's Cocktails Ltd

I am writing to voice my very strong objections to the above's application to vary a premise licence for the following reasons.

① I have complained on numerous occasions to Julie Smart

→ ②

②

Police licensing, Environmental Health & [REDACTED] about "underage drinking, loud music well after 12.30am, drunken behaviour & general rowdiness.

② I [REDACTED] "On the Rocks" & Hennassesys are [REDACTED] & have frequently asked for the music to be turned down as sometimes this is going on until 1.-2am but nothing has been done. I even offered for them to bring in a meter to check noise.

③ There does not appear to be any "Planning application yellow laminated notices" exhibited in the town whatsoever

→ ③

(3)

(4) The notice was only advertised in Yorkbay Weekly a copy of which was shown to me as I have never received this paper before.

(5) I have lived here for 4 years & have never ever complained about either "On the Rocks" or "Coco's", who sold to Hennessey's about 18mths ago I have complained so many times about problems with Hennessey's who don't care, this has been from day 1.

Regards.

[REDACTED]
[REDACTED]
email. [REDACTED]

To Torbay Council Licensing Authority

From [REDACTED]

Objection to Hennessey's Cocktail Lounge, 2 King Street, Brixham TQ5 9TF

We would formally like to object to the following:-

1. Adding Off Sales to existing License
2. Any amendments to Floor Plan
3. Extension to open hours to 3am
4. Conversion of parking spaces outside for the provision of Chairs and tables for purpose of consumption of alcohol and food.

Reasons for Objections:-

1. These premises have previously caused considerable local disturbance from noise and anti-social behaviour. Large groups of people have congregated outside (mixture of people smoking and waiting to enter) - they take a long time to leave the area even after the premises close.

2. Brixham Harbour is renowned for the echo due to the parabolic nature of the landscape. The level of anti-social behaviour already generates a decibel level far in excess of what is reasonable. We can hear all the swearing etc from across the harbour - which is approximately 350m way- past 1am already. We then can have another wave of social disturbance just after 3am when Jackz Bar and Lounge empties.

3. The current level of anti social behaviour is already causing negative feedback from our [REDACTED] and also from our [REDACTED] which overlooks [REDACTED]. We have seen a trend now for more off season bookings and a decline in demand from our regulars for Summer bookings due to this noisy behaviour.

4. The potential development of chairs and tables outside in the area currently set aside for 6 cars is a major Health and Safety concern. The current pathway outside the premises is used by cars to park in the Southern Quay car park which has a capacity for 58 cars - this is a busy car park with car movements happening 24 hours a day. The area between the premises and the car park spaces directly outside (not part of the Southern Quay car park) is only wide enough for one car at a time and already causes problems especially at weekends as there is simply not room for cars to pass when there are people smoking outside the premises and people queuing up to enter.

If these six car park spaces were to be converted to a drinking area, there could easily be another 50 extra people outside drinking which will be a potential Health Hazard either from the cars or falling into the sea.

If permission is given for this drinking area, there will often be approximately 80-100 people (including those waiting to enter plus the smokers) milling around which will cause significant noise pollution and prevent cars from entering and departing the car park.

10 June 2020

[REDACTED]
[REDACTED]
[REDACTED]

TORBAY COUNCIL
11 JUN 2020
COMMUNITY SAFETY

ref: Application to vary the premises licence by
Hennessey cocktail lounge to King Street TQ5
9TF

I am writing to strongly object to this extension
till 3:30 am Friday and Saturday and to sell alcohol
off sales .

I object on the grounds that we are all living very
close by and the collateral implications are
damaging to the area and to our quality of life.

Yours sincerely,

[REDACTED]
[REDACTED]

**Application to vary the premises licence by
Hennessy cocktail lounge to King Street TQ5 9TF**

10 June 2020

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

TORBAY COUNCIL
11 JUN 2020
COMMUNITY SAFETY

Dear Sirs,

I'm writing with regards to the application to vary a premises licence from Hennessy cocktails limited . I live [REDACTED] I do get a lot of noise from all three of the new business that have opened on the harbour . The noise carries more as we are in a bowl, so customers can be heard for miles! Antisocial behaviour is at epidemic levels here. The walkway doubles as a drug dealing / urinal at night.

To extend the license till 3 am will just exacerbate all those issues .

Although we wish they do well, no appreciation of the neighbours etc is applied. I would like to add that the pub , the new quay inn is actually [REDACTED] but there is no intrusive noise, no more than one would expect when living in the town.

I'm hoping that this letter remains confidential as there are , sadly , repercussions and aggressive behaviour if one speaks out against something . I trust this is the case. If not, please do not publish this letter.

Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]

To Torbay Council Licensing Authority

From [REDACTED]

11 June 2020

Objection to Hennessey's Cocktail Lounge, 2 King Street, Brixham TQ5 9TF

We would formally like to object to the following:-

1. Extension to open hours to 3am
2. Conversion of parking spaces across the road outside for chairs and tables in order to serve extra alcohol and food.

Reasons for Objections:-

1. These premises have previously caused considerable local disturbance from noise and anti-social behaviour. Large groups of people have congregated outside smoking, swearing and shouting up to and past 1am. Brixham Harbour is renowned for the echo resulting in decibel levels far in excess of what is reasonable.

2. The potential development of chairs and tables outside and across the road is a major concern. The narrow road already causes a problem, especially at weekends, as it is only wide enough for one car at a time and is the route to the Southern Quay car park with capacity for 58 cars. If these six car park spaces were to be converted there could easily be another 50 extra people outside which will be a potential Safety Hazard. The noise level would rise from already unacceptable levels and if allowed till 3am would be a complete disaster. A negative effect on Tourism would result and maybe the final straw for businesses already struggling to survive.

TORBAY COUNCIL
15 JUN 2020
COMMUNITY SAFETY

[REDACTED]
[REDACTED]
[REDACTED]
12/06/2020

Dear Sir,

I would like to object to the variation to the Premises Licence submitted by Hennessey Cocktail Lounge, 2 King Street, Brixham, TQ5 9TF. I will deal with the points, as they appeared in the newspaper advert.

1 To add off sales to the existing licence.

This is not acceptable. The premises close to Hennessey, Albero's, tried to do take away drinks and people congregated in large numbers outside their premises virtually turning the harbourside walkway in to a beer garden. It became very difficult for people to walk past the premises, and observe social distancing, due to the large number of people standing outside. There were also issues with lack of lavatory facilities, people were urinating in Newquay Lane, [REDACTED] [REDACTED] have, on several occasions, witnessed this happening on the steps between Newquay Lane and King Street, [REDACTED]

2 To amend changes to the floor plan.

No comment.

3 To extend the sale of alcohol, the playing of recorded music and the provision of late night refreshments to 03.00 on friday and saturday nights.

This is a residential area. Allowing Hennessey to open until 3am is not acceptable. Many of the people leaving at this time in the morning will be walking [REDACTED] doubtless making a lot of noise, which they already do, just at an earlier hour.

4 To extend the opening hours to 03.30 on friday and saturday nights.

Same comments as per point no. 3 above

[REDACTED]
[REDACTED]

TORBAY COUNCIL
15 JUN 2020
COMMUNITY SAFETY

[REDACTED]

Executive Head of Community Safety
Torbay Council
c/o Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR

10 June 2020

Dear Sir/Madam

Licensing Act 2003 Application to Vary a Premises Licence
Name of Applicant: Hennessey Cocktails Ltd
Name and address of premises: Hennessey Cocktail Lounge, 2 King Street, Brixham TQ5 9TF
Application Number: 057317

With reference to the above application to vary the current licence, we wish to lodge an objection to the proposed extension of business/trading/licensing hours from midnight to 3 am on Fridays and Saturdays, Bank Holiday weekends, Christmas Day, Boxing Day and New Year's Eve.

We note that the application would enable the Cocktail Lounge to play recorded music, provide late night refreshment both inside and outside and sale of alcohol for consumption both inside and outside the premises until 3 am.

Our home is [REDACTED] Brixham and [REDACTED] to the Cocktail Lounge. We already have had experience of late night revellers causing disturbance on leaving local hostelrys at midnight; the proposed extension to enable music and sales of alcohol to 3 am - and a 3.30 am closure - would potentially mean further disturbance to local residents and increase the risk of anti-social behaviour which Brixham can well do without.

For these reasons, we object to the application and hope our views will be taken into account.

Thank you.

Your
[REDACTED]

[REDACTED]

TORBAY COUNCIL

17 JUN 2020

COMMUNITY SAFETY

16th June 2020

Executive Head Community Safety
Torbay Council
c/o Torquay Town Hall
Castle Circus
TQ1 3DR

Dear Sir/Madam,

Re: Application for Variation of Premises Licence Hennessey Cocktails Ltd, 2 King Street,
Brixham, Tq5 9TF

I would like to rigorously oppose the above application on the grounds of Public Nuisance. Living [REDACTED] my wife and I are regularly kept awake at nights by the sound of loud music and revelry, much of which is somewhat expected as part and parcel of [REDACTED]. However, many of the clientele attracted to this particular establishment seem incapable of leaving quietly at the end of the evening and are prone to shouting, singing, arguing and fighting all very loudly and long after closing time. Furthermore, New Quay Lane [REDACTED] is regularly used for urinating, vomiting and dumping of glasses and bottles. The granting of this application to open until 3.30am will most probably exacerbate this intolerable problem and put extra pressure on an already small police force and I urge you to please refuse it.

Yours Sincerely [REDACTED]

TORBAY COUNCIL
22 JUN 2020
COMMUNITY SAFETY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Sir, Madam,

I wish to object to the application submitted by Hennessey's Cocktails LTD. As our property is [REDACTED] this cocktail bar and we believe the current opening hours are suitable and any lengthening of these hours will only increase the possibilities of anti-social behaviour which will increase the noise pollution (SWEARING) of the harbour. Thus if this application is allowed is not going to help the family atmosphere that Brixham is renowned for.

Yours sincerely,

[REDACTED]

Executive Head Community Safety
Torbay Council
Torquay Town Hall
Castle Circus
Torquay TQ1 3DR

Our Ref: GAF/LXF/MIS025/0532
Your Ref:
Date: 25 June 2020

Dear Sirs

Application for variation of Premises Licence – Hennessey Cocktail Lounge to Kings Street Brixham TQ5 9TF

We act for [REDACTED] whose registered office is situate at [REDACTED] but whose correspondence address is [REDACTED].

Our client company is the owner of the freehold property known as Harbour Side Arcade, King Street, Brixham, TQ5 9TF and the relevant application is made in respect of the ground floor thereof which is let to Ross Mark Hennessey.

We would mention the following as a background:-

1. The lease granted by our client company to the tenant does provide there can be no application to vary the Premises Licence without the consent of our client as landlord and such consent is not given.
2. It is the understanding of our client that the Local Planning Authority impose planning conditions restricting the hours of opening of the relevant business to 11pm and we believe that such condition was imposed to protect and preserve the position of the residential occupiers of numerous premises in the vicinity of this bar.

Immediately above the licences premises there are residential flats in the remainder of the building belonging to our client company. Furthermore, there are numerous other residential units within the area. Accordingly, our client objects very strongly to the possible lengthening of hours and opening in respect of the premises with all of the disturbance this would cause.

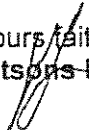
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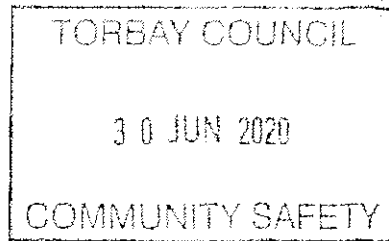
We believe that at the time of the granting of the Premises Licence the same diligence and care as exercised by the Planning Authority was similarly exercised in the grant of the Licence so that the hours of opening were limited to exercise a form of control for the benefit of adjoining residential properties and other amenities in the area.

It would not only be the sounds of music and general noise emanating from the premises but with the longer hours there is no doubt that an area which would need peace and quiet would be disturbed by customers smoking outside the building or leaving etc. Consequently, we reiterate the strong objection of our client and it will be taking separate action over the potential breach of the lease.


Yours faithfully
Kitsons LLP

Graham Forward
For and on behalf of Kitsons LLP

Direct Dial: 01803 202031
Email: graham.forward@kitsons-solicitors.co.uk



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
23/06/2020

Dear Sir/ Madam,

Re: Application to Vary Premises License at Hennessey Cocktail Lounge, Brixham

As [REDACTED], I have many concerns and reservations regarding the license extension application at the aforementioned business.

Firstly, I was neither regarded nor notified about the application submission and only found out when [REDACTED] alerted me to the article in the Torbay Weekly.

We are not happy with the idea of a license and opening hours later than what they currently are. Both of us have experienced some level of disturbances, but with the current opening times, it is generally kept at a relatively reasonable level.

There are times (every weekend) when the noise spills onto the road outside of Hennessey and sometimes an unacceptable level of swearing, shouting, spitting, littering, vomiting, urinating, glass smashing and drug taking can be witnessed.

There seems to be a high percentage of undesirables (criminals, thugs and drug takers) attracted to Hennessey and I fear this will only multiply should they be offered even more opportunity for prolonged binge drinking and resulting obnoxious and reckless behaviour.

Of course, from the perspective of the owner and staff at Hennessey, it is impossible to properly police and monitor activity that occurs outside of the establishment and I accept that but, in my opinion, a later alcohol license and opening hours are completely out of the question if we want to ensure the cohesion and harmony of residents and businesses alike on the harbour front.

There are no other drinking establishments in the harbour that have a license later than midnight and for good reason!

Another concern is that of an environmental and ecological standpoint. As mentioned above, there is an issue with litter and waste from patrons of Hennessey, particularly on busy weekend evenings. Cigarette butts speckle the road and are often carelessly thrown into the sea. Most end up in the water system eventually. Broken glass and empty glassware have been found on numerous occasions and not just outside Hennessey but in the doorway of On the Rocks, the alleyway adjacent to the building and, perhaps most concerning, [REDACTED]. Not only this, drug taking has been witnessed in the [REDACTED]. Additionally, on one occasion, vomit greeted me as I [REDACTED] morning.

I understand the desire to maximise profits and be as successful as possible and of course, in general, I wholeheartedly encourage and champion entrepreneurial endeavour but, in this case, the unrest, unhappiness, disturbance and environmental damage an extended license would cause, far outweighs

any business boost it may achieve particularly as the only beneficiary appears to be the business owner himself with a hugely detrimental effect on the surrounding wildlife and local residents' quality of life.

Yours Sincerely,

A redacted signature consisting of two blacked-out lines. A thin horizontal line extends from the right side of the first redacted line.