

Wednesday, 29 September 2021

LICENSING SUB-COMMITTEE

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

Thursday, 7 October 2021

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Dart

Councillor Barbara Lewis

Councillor Ellery

Together Torbay will thrive

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, 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. Minutes** (Pages 4 - 8)
To confirm as a correct record the Minutes of the meetings of the Sub-Committees held on 19 August and 2 September 2021.
- 4. 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.)
- 5. Urgent items**
To consider any other items that the Chairman decides are urgent.
- 6. Hyde Dendy, 18 Esplanade Road, Paignton, TQ4 6BD** (Pages 9 - 55)
In accordance with the Licensing Act 2003 to consider an application for a Variation to a Premises Licence in respect of Hyde Dendy, 18 Esplanade Road, Paignton, TQ4 6BD.
- 7. Adjournment**
Please note that the Sub-Committee will adjourn and resume at 1.30pm to consider Jackz Bar, Parkhill Road, Brixham, TQ5 9BU.

8. Review of a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham, TQ5 9BU (Pages 56 - 91)

To consider a review for a Premises Licence in respect of Jackz Bar, Parkham Road, Brixham, TQ5 9BU.

Meeting Attendance

Whilst national Covid-19 restrictions were lifted on 19 July 2021, Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting please contact us to confirm arrangements for your attendance.

Minutes of the Licensing Sub-Committee

19 August 2021

-: Present :-

Councillors Ellery, Barbara Lewis and Douglas-Dunbar

16. Election of Chairwoman

Councillor Barbara Lewis was elected as Chairwoman for the meeting.

17. Minutes

The Minutes of the meetings of a Licensing Sub-Committee held on 17 and 24 June, 1 and 8 July 2021 were confirmed as a correct record and signed by the Chairwoman.

18. Licensing Act 2003 - An application for a Premises Licence in respect of Flour Flower, 40 Middle Street, Brixham, TQ5 8ER

Members considered a report on an application for a Premises Licence in respect of Flour Flower, 40 Middle Street, Brixham, TQ5 8ER.

Written Representations received from:

Name	Details	Date of Representation
Brixham Town Council	Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance'.	6 July 2021
Police	Representation in relation to the Licensing Objectives 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'.	27 July 2021

Additional Information:

Oral Representations received from:

Name	Details
Applicant	The Applicant and their Representative outlined the application and responded to Members' questions.
Police	The Police highlighted their concerns in respect of the application.

Brixham Town Council	The representative from Brixham Town Council highlighted their concerns in respect of the application.
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Applicant's response to Representations:

The Applicant suggested that the use of the outside seating area would cease at 10.00 pm and that notices could be displayed inside the premises and verbal reminders given to patrons to remind them to leave the premises quietly.

Decision:

That the application for a Premises Licence in respect of Flour Flower, 40 Middle Street, Brixham, TQ5 8ER be granted as applied for, subject to the following conditions:

1. The premises outside seating area shall cease to be used after 10.00 pm and the tables and chairs in this area shall be removed, at that time.
2. No music shall be permitted in the premises outside area after 10.00 pm.
3. Patrons using the premises outside area shall be seated at all times, except for access and egress.
4. The sale of alcohol shall cease at midnight.
5. The premises shall close at 12.30 am.
4. Supply of alcohol shall only be permitted to persons consuming a table meal and that those persons shall be seated at all times.
5. Supply of alcohol, inside and outside the premises licenced areas shall only be permitted by way of table service.
6. Any off sale of alcohol must be in a sealed container.
7. Premises shall have CCTV to a standard that is acceptable to the Police and the footage shall be retained for fourteen days and made available to the Police on reasonable request.
8. Premises must keep and maintain an incident book at the premises which shall be made available on reasonable request, to the Police or the Local Authority; and
9. Notices shall be on display inside the premises to remind patrons to leave the premises quietly so as not to disturb nearby residents.

Reason for Decision:

Having carefully considered all the written and oral representations, Members were satisfied to grant the application as applied for, subject to the additional

conditions which in their opinion, would ensure that the premises operation did not undermine the Licensing Objectives. Namely, The Prevention of Public Nuisance and The Prevention of Crime and Disorder.

In coming to their decision, Members noted that there was a lack of detail contained within the application, as required by the current Licensing Statement of Principles Policy, to mitigate the impact on the surrounding residential area that would be required for a Licence to be granted with a 2.00 am closure time. It was not clear to Members how the outside area and egress from the premises would be managed effectively to ensure nearby residents were not unreasonably disturbed after midnight and having heard the oral representation from the Applicant in this regard, Members could not be satisfied that internal signage and verbal communications alone would reduce the risk of noise outbreak from this premises. Noting the proximity of nearby residential premises and the environmental factors of the demographic of the land and lack of background noise later in the evening, Members unanimously determined that to limit the use of the outside area to 10.00 pm, with a terminal hour of 12.30 am, was both appropriate and proportionate, on the evidence before them.

Members carefully considered the concerns raised by the Police and Brixham Town Council and were satisfied that these concerns should be alleviated by the additional conditions and the premises ceasing to operate at 12.30am.

In concluding, Members noted that should issues of concern arise as a result of this grant, a Review of the Premises Licence is available to either members of the public or Responsible Authorities.

Chairman/woman

Minutes of the Licensing Sub-Committee

2 September 2021

-: Present :-

Councillors Dart, Douglas-Dunbar and Ellery

19. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

20. Peregrine Retail Limited, Torquay Service Station, 119 Newton Road, Torquay

Members considered an application for a Premises Licence in respect of Peregrine, Retail Limited, Torquay Service Station, 119 Newton Road, Torquay. Members were advised that the application was for a fuel forecourt store that had applied to sell alcohol off the premises 24 hours a day Monday to Sunday and Late-Night refreshment both on and off the premises from 23:00 to 05:00 Monday to Sunday.

Members were advised that the application had a substantial number of proposed conditions. The Environmental Health Manager (Commercial) informed Members that the Police had submitted a representation requesting additional conditions be added to the Premises Licence. These additional conditions (as set out in the submitted report) had all been agreed in writing between the Police and the Applicant and this had been provided to the Licensing Authority.

The Environmental Health Manager explained that the Authority was required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary. Both parties, the Police and the applicant, did not feel a hearing was necessary as both were happy with the agreed conditions. There had been no other representations received for this application therefore the decision to grant the licence (technically with or without the additional conditions) had to be made by the Licensing Sub-Committee.

Decision:

That the application for a Premises Licence in respect of Peregrine Retail Limited, Torquay Service Station, 119 Newton Road, Torquay, be granted as applied for, subject to the additional conditions proposed by the Police and as agreed by the Applicant.

Reason for Decision:

Having carefully considered the written and oral submission of the Environmental Health Manager (Commercial), Members determined to grant the licence having been satisfied that the Licensing Objectives will be promoted, and the concerns of the police will be alleviated by imposition of the additional conditions.

Chairman/woman

TORBAY COUNCIL

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Hyde Dendy, 18 Esplanade Road, Paignton, TQ4 6BD

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub-Committee**

On: **07 October 2021**

Contact Officer: **Carrie Cottell**

☎ Telephone: **01803 207079**

✉ Email: 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”, “Public Safety” 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 that the premises is open to the public on New Years Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day. Currently the premises is open to the public from 07:00 to 01:30 seven days a week.

To vary the plan of the premises, increasing the licensed area to include the ground floor section of the premises known as No 18.

The Applicant has proposed to remove the following conditions:-

Annexe 2, General, condition 1

"There shall be no entry or re-entry to the premises after 2am except for those customers who have left to use the designated smoking area."

Annexe 3, The Protection of Children from Harm, Condition 2

"No persons under the age of 18 years shall be on the premises after 21.00 hours except when attending a private party in a function room at the premises, when that part of the premises is not open to the general public."

The Applicant has proposed to amend the following conditions:-

Annexe 2, The Prevention of Crime and Disorder, Condition 7

From "Between the hours of 00:00 and 02:00 there shall be a maximum of 40 people allowed in the designated outside area."

To "From midnight there shall be a maximum of 60 people allowed in the designated outside area."

Annexe 2, The Prevention of Public Nuisance, Condition 2

From "The placing of refuse, such as bottles, in receptacles outside the premises must take place at times that will prevent disturbance to nearby properties."

To "The placing of refuse, such as bottles, in receptacles outside the premises must not take place between 22.00 and 07.00 hrs to prevent disturbance to nearby properties."

Annexe 3, The Prevention of Crime and Disorder, Condition 11

From "All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after midnight from which it is intended or likely that a person shall drink."

To "No alcohol shall be served in glass bottles after 23.00 hours from which it is intended or likely that a person shall drink."

The Applicant proposes the following additional conditions, in relation to the licensing objective “The Prevention of Crime and Disorder.”-

All full-time staff in premises selling alcohol after midnight shall be trained and hold, within three months of the commencement of their employment, BIIAB Level 1 Award in Responsible Alcohol Retailing or similar qualification.

When the premises are open for the sale of alcohol after midnight, in the absence of the DPS a suitably trained personal licence holder will be on duty. Written authorisations of the DPS to all staff will be kept on their training records.

All staff will be made aware of the Ask for Angela/Clive Campaign or similar initiative. Posters will be displayed on the premises for customer awareness.

All patrons entering the ground floor premise (No 18) after 8pm must check any bag over 40 cm by 30 cm into the cloakroom.

SIA Licences will be checked using the SIA Company Licence Checker facility.

The premises maintains a door supervisors’ policy. A copy of this policy shall be available for inspection on demand by a police officer, a police licensing officer or officers of the local authority.

The premises has a dispersal policy which will be reviewed regularly. A copy of this policy shall be available for inspection on demand by a police officer, a police licensing officer or officers of the local authority.

Premises will join and meet the standards of the Best Bar None scheme.

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

“To extend the ground floor section of the premise known as No 18. To amend and or include additional conditions to promote the licensing objectives.”

- 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 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 Protection of Children from Harm”. 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” and “Public Safety”. This is shown as Appendix 4.

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

- 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.

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.



Torbay
Application to vary a premises licence
Licensing Act 2003

For help contact
<https://forms.torbay.gov.uk/Contact/LicenseTrading>
 Telephone: 01803 208025

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

Hyde Dendy Variation

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

☒ Yes

☐ No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

[Redacted]

* Family name

[Redacted]

* E-mail

[Redacted]

Main telephone number

[Redacted]

Include country code.

Other telephone number

[Redacted]

☐ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

☒ Applying as a business or organisation, including as a sole trader

☐ Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is the applicant's business registered in the UK with Companies House?

☒ Yes

☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

[Redacted]

Business name

[Redacted]

If the applicant's business is registered, use its registered name.

VAT number

- [Redacted]

Put "none" if the applicant is not registered for VAT.

Legal status

Public Limited Company

Continued from previous page...

Applicant's position in the business

Director

Home country

United Kingdom

The country where the applicant's headquarters are.

Registered Address

Address registered with Companies House.

Building number or name

Hyde Dendy

Street

No 18 Esplanade Road

District

City or town

Paignton

County or administrative area

Devon

Postcode

TQ4 6BD

Country

United Kingdom

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

☒ An agent that is a business or organisation, including a sole trader

☐ A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House?

☐ Yes

☒ No

Is your business registered outside the UK?

☐ Yes

☒ No

Note: completing the Applicant Business section is optional in this form.

Business name

If your business is registered, use its registered name.

VAT number

-

Put "none" if you are not registered for VAT.

Legal status

Sole Trader

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Agent Business Address

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

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APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

64,000

Section 3 of 18

VARIATION

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

☒ Yes

☐ No

Do you want the proposed variation to have effect in relation to the
introduction of the late night levy?

☐ Yes

☒ No

You do not have to pay a fee if the only
purpose of the variation for which you are
applying is to avoid becoming liable to the
late night levy.

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

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

To extend the ground floor section of the premise known as No 18. To amend and or include additional conditions to promote the licensing objectives

Section 4 of 18

PROVISION OF PLAYS

See guidance on regulated entertainment

Will the schedule to provide plays be subject to change if this application to
vary is successful?

☐ Yes

☒ No

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PROVISION OF FILMS

See guidance on regulated entertainment

Will the schedule to provide films be subject to change if this application to
vary is successful?

☐ Yes

☒ No

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PROVISION OF INDOOR SPORTING EVENTS

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

☐ Yes

☒ No

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SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

☐ Yes

☒ No

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ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

None

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

New Years Eve - From the close of business on New Years Eve to the opening of business on New Years Day

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

Remove the following conditions:-

GENERAL

There shall be no entry or re-entry to the premises after 2am except for those customers who have left to use the designated smoking area.

THE PREVENTION OF PUBLIC NUISANCE

All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after midnight from which it is intended or likely that a person shall drink

The placing of refuse, such as bottles, in receptacles outside the premises must take place at times that will prevent disturbance to nearby properties.

THE PREVENTION OF CRIME AND DISORDER

All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after midnight from which it is intended or likely that a person shall drink

Between the hours of 00:00 and 02:00 there shall be a maximum of 40 people allowed in the designated outside area.

THE PROTECTION OF CHILDREN FROM HARM

No persons under the age of 18 years shall be on the premises after 21.00 hours except when attending a private party in a function room at the premises, when that part of the premises is not open to the general public.

Continued from previous page...

- ☐ I have enclosed the premises licence
- ☐ I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

The current licence is still on display.

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LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

b) The prevention of crime and disorder

All full-time staff in premises selling alcohol after midnight shall be trained and hold, within three months of the commencement of their employment, BIIAB Level 1 Award in Responsible Alcohol Retailing or similar qualification. When the premises are open for the sale of alcohol after midnight, in the absence of the DPS a suitably trained personal licence holder will be on duty.

Written authorisations of the DPS to all staff will be kept on their training records.

All staff will be made aware of the Ask for Angela/Clive Campaign or similar Initiative. Posters will be displayed on the premises for customer awareness

All patrons entering the ground floor premise (No 18) after 8pm must check any bag over 40 cm by 30 cm into the cloakroom.

SIA Licences will be checked using the SIA Company Licence Checker facility.

The premises maintains a Door supervisors policy. A copy of this policy shall be available for inspection on demand by a police officer, a police licensing officer or officers of the local authority.

The premises has a dispersal policy which will be reviewed regularly. A copy of this policy shall be available for inspection on demand by a police officer, a police licensing officer or officers of the local authority.

Premises will join and meet the standards of the Best Bar None scheme.

No alcohol shall be served in glass bottles after 23.00 hours from which it is intended or likely that a person shall drink.

From midnight there shall be a maximum of 60 people allowed in the designated outside area.

c) Public safety

d) The prevention of public nuisance

The placing of refuse, such as bottles, in receptacles outside the premises must not take place between 22.00 and 07.00 hrs to prevent disturbance to nearby properties.

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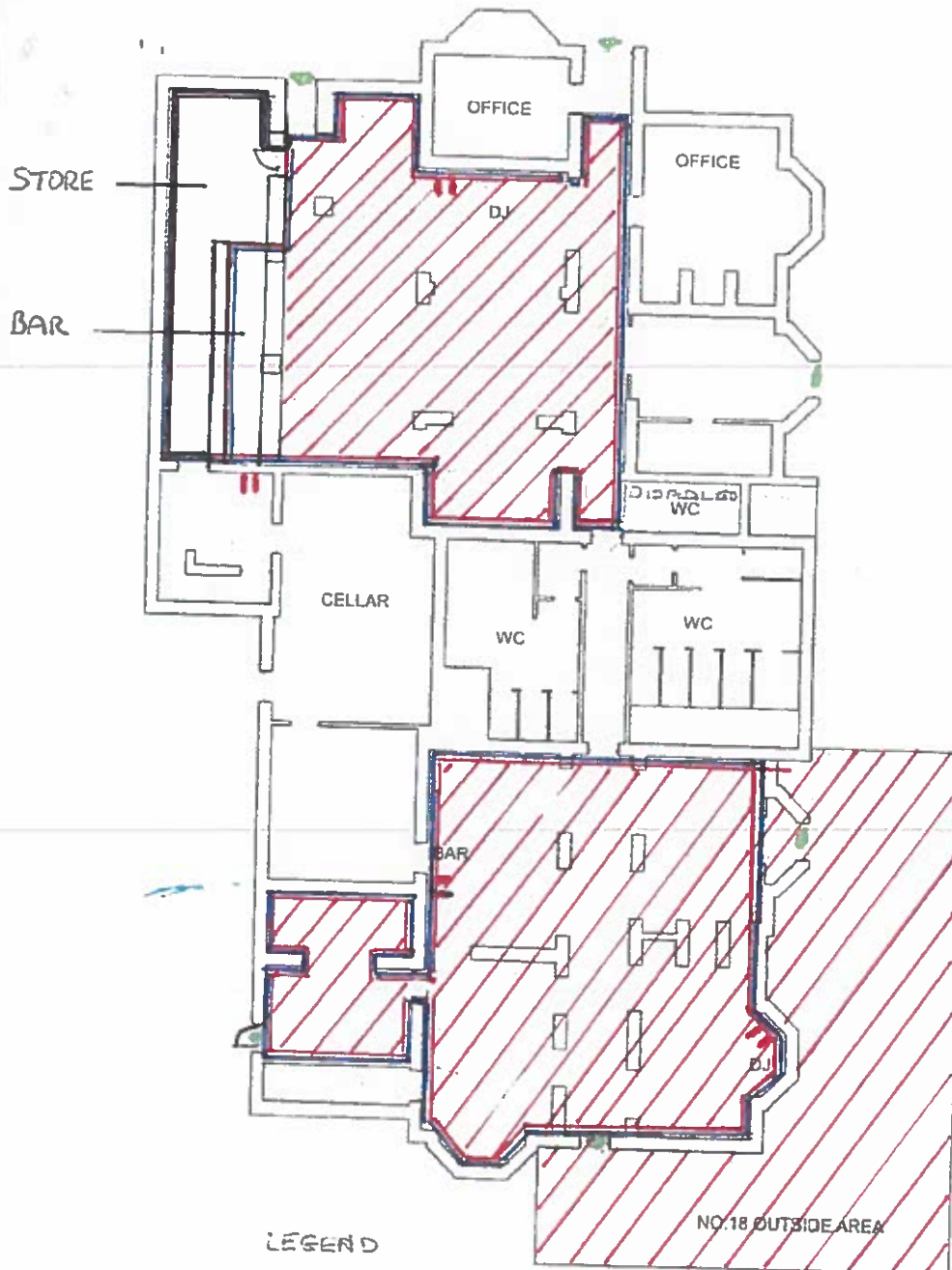
e) The protection of children from harm

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NOTES ON REGULATED ENTERTAINMENT

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.



KEY

- FIRE EXTINGUISHER
- ENTRANCE/EXIT
- EMERGENCY EXIT

LEGEND



CONSUMPTION OF ALCOHOL

SALE OF ALCOHOL

REGULATED ENTERTAINMENT



Licensing Act 2003

Premises Licence

1132

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

Hyde Dendy

18 Esplanade Road, Paignton, Devon, TQ4 6BD.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Monday to Sunday	10:00am	1:00am
C. Indoor sporting event	Monday to Sunday	10:00am	1:00am
E. Performance of live music (Indoors & Outdoors)	Monday to Sunday Live music outside on the Terrace to cease by 10.00pm	10:00am	1:00am
F. Playing of recorded music (Indoors & Outdoors)	Monday to Sunday	10:00am	1:00am
G. Performance of dance (Indoors)	Monday to Sunday	10:00am	1:00am
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Sunday	10:00am	1:00am
L. Late night refreshment (Indoors & Outdoors)	Monday to Sunday	11:00pm	1:00am
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	10:00am	1:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	7:00am	1:30am

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 and OFF the premises

Part 2

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

[REDACTED]
[REDACTED] The Hyde Dendy, 18 Esplande Road, Paignton, Devon, TQ4 6BD.
[REDACTED]

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

[REDACTED] [REDACTED]

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

[REDACTED] [REDACTED]

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

[REDACTED] [REDACTED]

Steve Cox
Environmental Health Manager (Commercial)
23 August 2019

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

ANNEXES continued ...

available to customers in the following measures:-

- (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.

MANDATORY CONDITION: EXHIBITION OF FILMS

1) Where the film classification body is specified in the licence, admission of children must be restricted in accordance with any recommendation made by that body.

2) Where -

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this condition applies to the film in question,

ANNEXES continued ...

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In the case of the aforementioned conditions

“children” means persons aged under 18; and

“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

General

1. There shall be no entry or re-entry to the premises after 2am except for those customers who have left to use the designated smoking area.
2. The use of the smoking area and the re-entry of customers who have used it shall be supervised at all relevant times by a door steward who shall be positioned immediately outside the main entrance door.
3. The licence holder must ensure that all staff receive appropriate training regarding emergency and general safety precautions and procedures.
4. The licence holder must ensure that all staff are aware of their social and legal obligations and their responsibilities regarding the sale of alcohol.
5. Training records will be retained for at least 12 months and made available for inspection by officers of both the Licensing Authority and the Police.

The Prevention of Crime and Disorder

1. The premises shall liaise and co-operate with the responsible authorities.
2. A zero tolerance towards illegal drugs shall operate at all times.
3. Customers shall be encouraged to leave the premises in a quiet and orderly manner.
4. Premises must join and maintain membership of the Nitenet Radio Communications Scheme.
5. The external areas of the premises shall continue to be well lit.
6. Glasses will be regularly collected throughout the premises whilst trading.
7. Between the hours of 00:00 and 02:00 there shall be a maximum of 40 people allowed in the designated outside area.

Public Safety

1. The necessary fire safety precautions shall be installed and maintained.

The Prevention of Public Nuisance

1. Any noise from the licensable activities provided shall be monitored in order to prevent nuisance.
2. The placing of refuse, such as bottles, in receptacles outside the premises must take place at times that will prevent disturbance to nearby properties.
3. The current noise limitation device installed within the premises must be used for all amplified live music and entertainment including karaoke. This device shall be regularly maintained to ensure the noise produced with the premises shall not be audible within any residential premises in the vicinity.
4. There shall be a written noise management plan regarding use of the beer garden after midnight and this shall be kept under review.
5. Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be

ANNEXES continued ...

unreasonably disturbed. Noise from the premises shall not be audible within any dwelling with windows open for normal ventilation especially after 11pm. This shall be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that shall be applied are:-

- (i) Before 11pm - Noise emanating from the premises shall not be clearly distinguishable above other noise.
- (ii) After 11pm - Noise emanating from the premises shall not be distinguishable above background levels of noise.
- (iii) The local authority shall reserve the right in cases of tonal noise and where premises are attached to others, to make further assessments from within the residential property.

6. The volume of the 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.
7. 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.
8. All doors and windows at the premises shall be kept closed during regulated entertainment to prevent noise breakout, except for access, egress and in cases of emergency.
9. Entrances with lobbies shall be fitted with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.
10. Provision of mechanical ventilation and air conditioning system shall not allow noise breakout from the premises or cause a nuisance by its operation.
11. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
12. When the outside smoking area is used after midnight a SIA door steward shall be located in that area to ensure that patrons using the area do not behave in a manner which causes a nuisance to nearby residences.
13. A member of staff shall be designated to monitor the outside smoking area after midnight to ensure that any empty drinking vessels are cleared away promptly.

The Protection of Children from Harm

1. Non-alcoholic drinks shall be available.

ANNEXE 3**CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY****The Prevention of Crime and Disorder**

1. A CCTV system, capable of providing images of an evidential standard in all lighting conditions, particularly with regard to facial recognition, shall operate throughout the times the premises are open to the public, with monitors behind all bars and a recording system. All recordings must be kept for a minimum of 14 days, during which time the police shall have access and be provided with downloaded images within 7 days of any request.
2. Any identified defect in the CCTV system shall be logged at the premises and remedied as soon as reasonably practical. The Police Licensing Officer or Police Licensing Team shall be notified by email of all defects, the action required to rectify the situation and the time frame for such action within 24 hours of the defect being identified.
3. On any Friday and Saturday nights that the premises remain open for the sale of alcohol after midnight and then close after 0030 hrs, SIA door supervisors shall be employed on the premises from 2200 hrs until 30 minutes after the premises close, at a ratio of 2 stewards for the first 100 persons and one additional steward for each 100 persons thereafter. The Premises Licence Holder shall also carry out a risk assessment taking the layout of the premises and the proposed activity to be carried out into consideration to determine whether any additional stewards are required. (This condition shall also apply on Christmas Eve and New Years Eve when they do not fall on a Friday or Saturday). On all other occasions the Premises Licence Holder shall risk assess the requirement for door supervisors and employ such numbers, if at all, in such numbers and at such times determined by that risk assessment.
4. On every operational day that SIA door supervisors are required, then those stewards who are employed for front of house duties must wear yellow high visibility jackets for the entirety of their duty.

ANNEXES continued ...

5. Written records of all SIA door stewards, including full name and full SIA badge number, shall be kept on the premises for at least 12 months and be available for inspection on demand by a police officer, a police licensing officer or officers of the local authority.
6. The DPS shall ensure that an Incident Book is kept on the premises and that all incidents are recorded therein on a daily basis. This record shall include the full names of all persons involved, if possible or practical to do so. The Incident Book shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand, and such records shall be kept at the premises for a minimum of 12 months.
7. The DPS must hold or completed the BIIAB National Certificate for Designated Premises Supervisors within 2 months of commencing employment at the premises.
8. A record of all staff training, including copies of all relevant BIIAB Certificates, shall be kept at the premises for a minimum period of 12 months and be available to the police or local authority licensing officers on demand.
9. A Personal Licence Holder shall be on duty at all times the premises sell or supply alcohol after midnight.
10. The Premises Licence Holder will ensure that the DPS or other nominated person shall attend at least two meetings of the Torbay Licensing Forum per calendar year, together with any other meetings arranged by the police in respect of high risk events.
11. All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after midnight from which it is intended or likely that a person shall drink.
12. The premises shall have a zero tolerance to controlled drugs and have a written drugs policy outlining what action will be taken in respect of individuals found in possession of drugs. A copy of this policy shall be retained on the premises and shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand.
13. The police shall be entitled to discuss any concerns regarding the management of the premises with the freeholders.

The Prevention of Public Nuisance

1. The Premises shall have a written noise management plan, in consultation with and agreed by, the Licensing Authority's Public Protection Officer.
2. The Premises noise management plan must be kept at the Premises and reviewed when appropriate to do so.
3. The Premises noise management plan must detail management policies and practices to control all aspects of public nuisance emanating from this premise and its patrons.

The Protection of Children from Harm

1. The premises shall operate a Challenge 25 Policy and any person who appears under the age of 25 shall be required to produce an approved form of photographic identification as outlined within the Torbay Council Licensing Statement of Principles.
2. No persons under the age of 18 years shall be on the premises after 2100 hours except when attending a private party in a function room at the premises, when that part of the premises is not open to the general public.

ANNEXE 4

PLANS

Copy attached to Licence.

LOCAL AUTHORITY



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

Premises Details

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

Hyde Dendy

18 Esplanade Road, Paignton, Devon, TQ4 6BD.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- 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
B. Exhibition of films (Indoors)	Monday to Sunday	10:00am	1:00am
C. Indoor sporting event	Monday to Sunday	10:00am	1:00am
E. Performance of live music (Indoors & Outdoors)	Monday to Sunday Live music outside on the Terrace to cease by 10.00pm	10:00am	1:00am
F. Playing of recorded music (Indoors & Outdoors)	Monday to Sunday	10:00am	1:00am
G. Performance of dance (Indoors)	Monday to Sunday	10:00am	1:00am
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Sunday	10:00am	1:00am
L. Late night refreshment (Indoors & Outdoors)	Monday to Sunday	11:00pm	1:00am
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	10:00am	1:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	7:00am	1:30am

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 and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

[REDACTED]

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

[REDACTED]

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

[REDACTED]

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Access is restricted only under the terms of the Licensing Act 2003

Steve Cox
Environmental Health Manager (Commercial)
23 August 2019

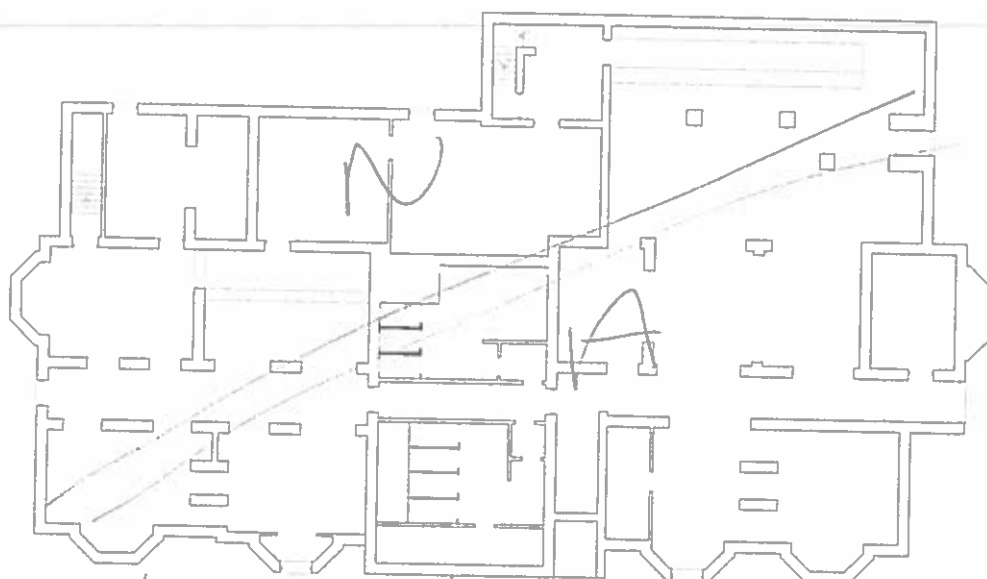
RGS
ARCHITECTURAL
DESIGN
CONSULTANTS LTD

4 Leader Close
Brixham
Devon
TQ5 9FQ
bob@rgsdesign.co.uk
tel 01803 907725
mob 07793 007016

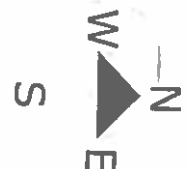
Drawing Title	GROUND & BASEMENT FLOOR PLANS
Drawing No	1847 - 04
Client	East Street Pub Company
Project	The Hyde Dendy, Esplanade Road, Paignton, Devon

Date - May '19

Scale NTS@A3

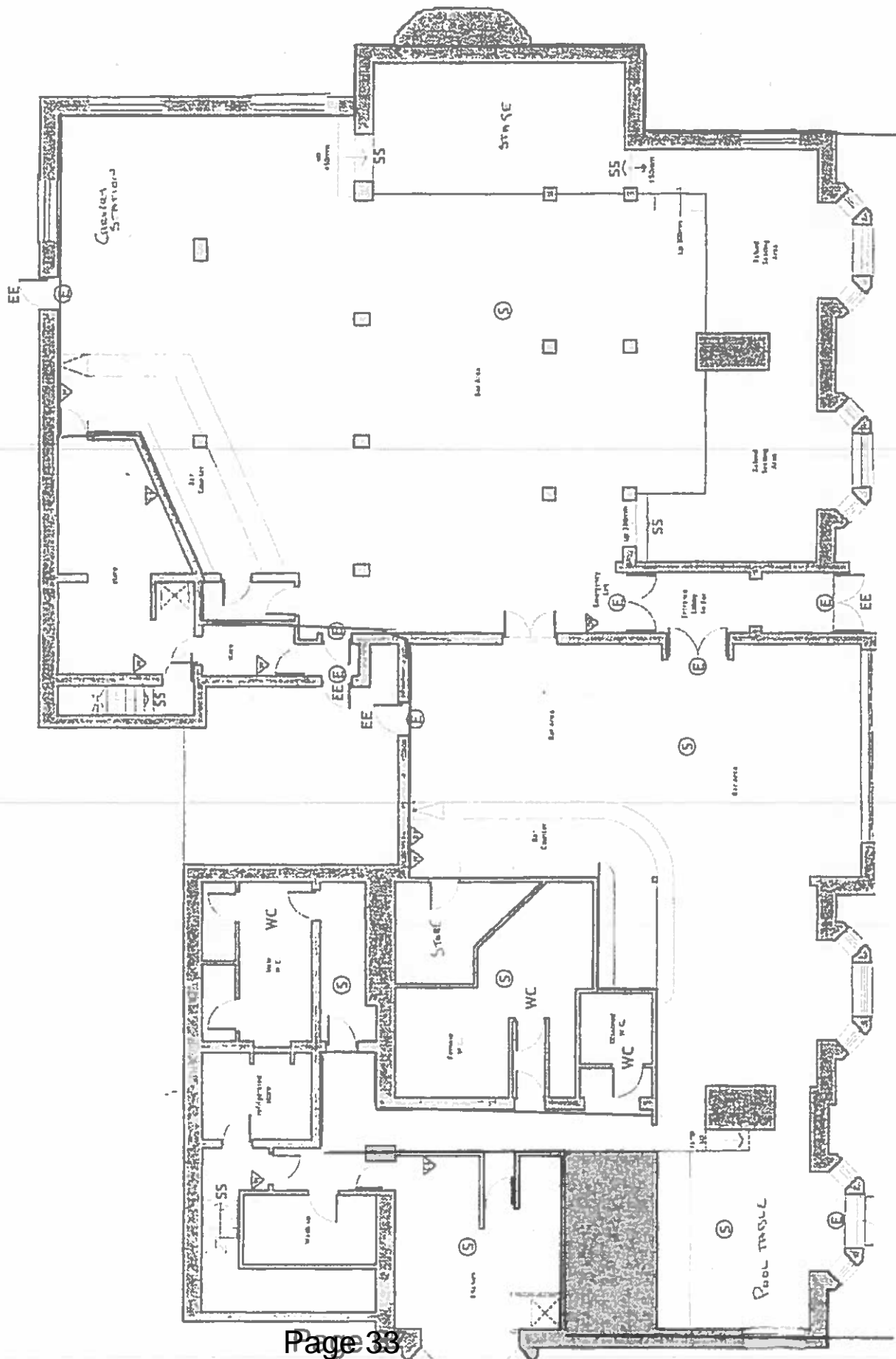


Lower ground floor plans to remain as previous. Not part of this variation Application

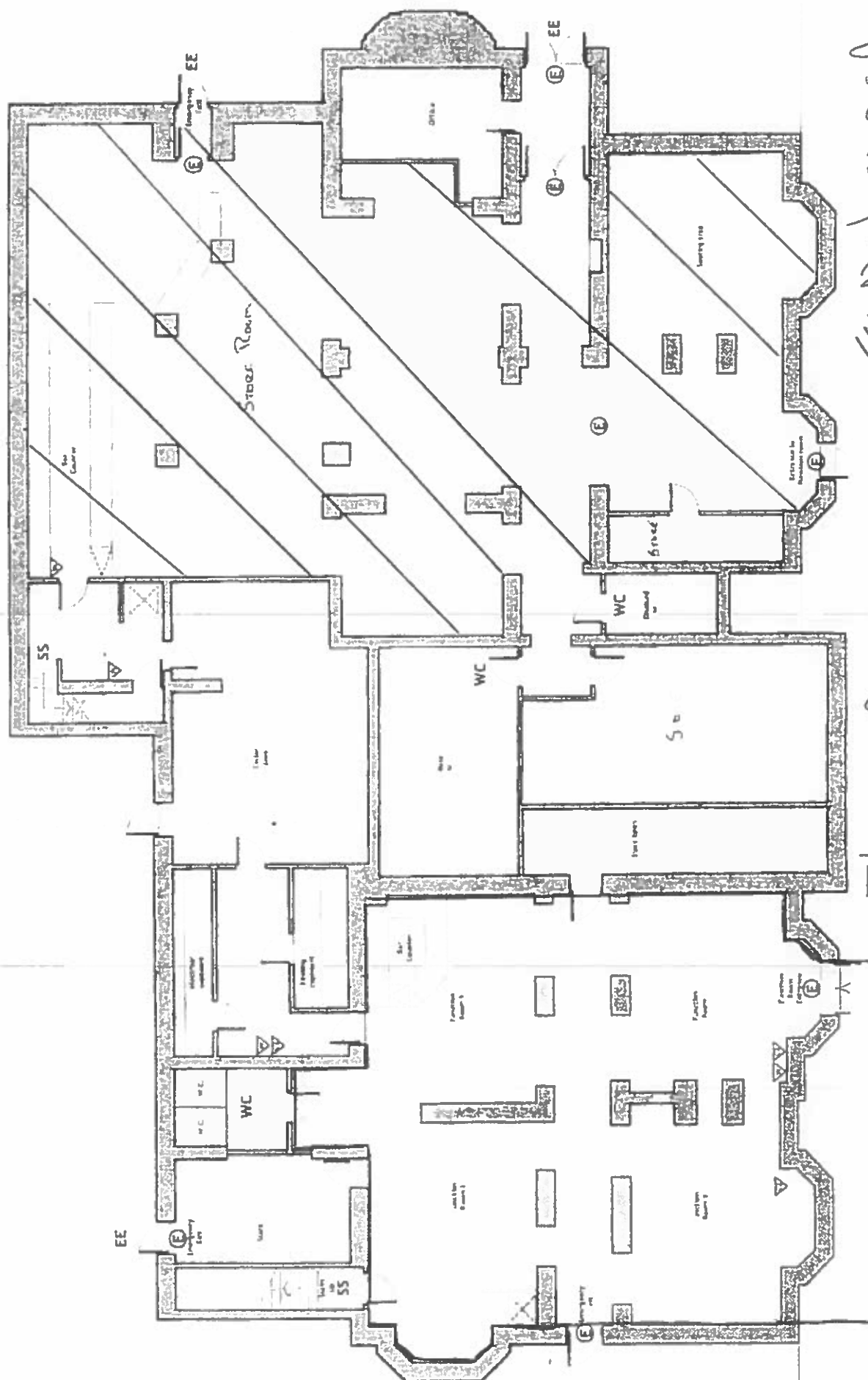


1 night

MAIN BAR & RESTAURANT

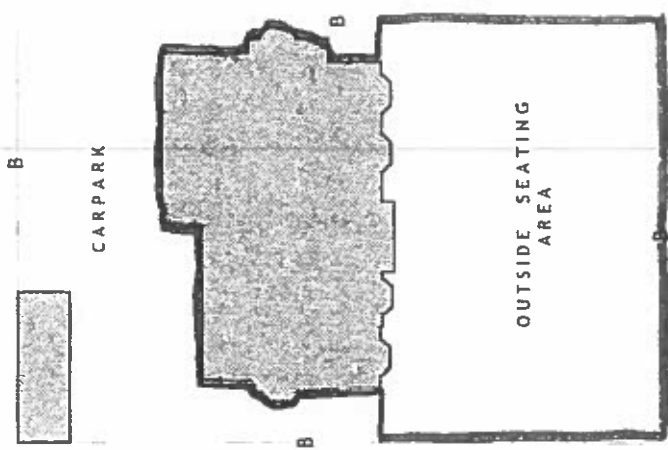


Basement Bar & Storage



Mr. Harvey Davis

GROUND FLOOR PLAN @ 1:100



SITE PLAN
@ 1:500

Whole Area licensed for all
Licenseable activities

Revisions	rev	date	description

Scale :- 1:100
Date:- May 21st 2007

Drawn by
JLP

Job
Georges Bar and Carvery
18 Esplanade Road
Palginton
Devon TQ4 6BD

Drawing
Floor Plans for
Licensing Purposes
Drawing number.

6504 : 01A

FOR LICENSING PURPOSES ONLY

COLIN RITCHIE ARCHITECTS LTD.

22a VICTORIA PARADE TORQUAY TQ1 2BB
Tel. 01803 298431 Fax. 01803 200956
Email. colin@colinritchiearchitects.fsnet.co.uk

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: HYDE DENDY, 18 ESPLANADE ROAD, PAIGNTON
Date: 10 September 2021 14:51:52
Attachments: [image001.png](#)
[image008.jpg](#)
[image010.png](#)
[image002.png](#)
[image003.jpg](#)
[image004.png](#)

Good afternoon

Please can you include the below with my representation for the Hyde Dendy, Paignton.

Further to my earlier representation, I have just checked my records and can advise you that a further glassing incident occurred at this premises on 12 April 2021. On this occasion, police attended, the victim was taken to hospital by ambulance, and details were taken of all witnesses. I have not been able to locate a crime complaint in relation to this incident so am unable to advise you of any other matters such as the injuries sustained or whether anyone was dealt with by police as a result of this incident.

Kind regards

[REDACTED]

From: [REDACTED]
Sent: 10 September 2021 14:15
To: [REDACTED]
Cc: [REDACTED]
Subject: HYDE DENDY, 18 ESPLANADE ROAD, PAIGNTON

Good morning

I refer to an application for the Variation of the Premises Licence in respect of the above named premises, submitted by the applicant Mr [REDACTED]

Section 3 of the application states the nature of the variation is "To extend the ground floor section of the premises known as No 18. To amend and or include additional conditions to promote the licensing objectives".

Section 15 of the application deals with the opening hours of the premises. This section has been completed to reflect the existing opening hours of the premises, ie 0700 hrs to 0130 hrs, however the applicant is also requesting "New Years Eve – From the close of business of New Years Eve to the opening of business on New Years Day". For your information in around 2002 the permitted hours for licensed premises on New Years Eve was deregulated under the Licensing Act 1964 to allow them to trade all night. When the Licensing Act 2005 came into effect, premises who held a licence under the old act converted their existing hours into a premises licence under the new Act. Hence a large number of premises have the ability to stay open and trade all night on New Years Eve. In respect of this premises, the licence authorises the sale of alcohol, late night refreshment and forms of entertainment until 0100 hrs on New

Years Eve and this application does not seek to extend these activities so what customers will do within the premises is unclear. As Section 3 of the application does not refer to any amendment to the opening hours on New Years Eve, and it is also likely that the site notice does not refer to this, I would question whether residents have been given sufficient information to consider the impact of this variation. Of course, it could be argued that providing no licensable activities are taking place, a premises may open outside of its licensing hours, but in such circumstances it would be prudent for the management to have policies in place to ensure that the use of the premises does not impact on the public nuisance objective, yet no additional conditions have been proposed within the operating schedule to deal with large numbers of customers leaving the premises on this night.

The applicant seeks to remove a number of conditions and I will now deal with each of these individually:

1. *There shall be no entry or re-entry to the premises after 2 am except for those customers who have left to use the designated smoking area.* As the premises close at 0130 hrs the condition has no effect. The police AGREE to the removal of this condition.
2. *All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after midnight from which it is intended or likely that a person shall drink.* The applicant has proposed an alternative condition "No alcohol shall be served in glass bottles after 2300 hours from which it is intended or likely that a person shall drink" but this does not stipulate that the premises shall use toughened/strengthened/plastic or polycarbonate vessels and therefore standard glass drinking vessels could be used at this premises. Standard glass drinking vessels break leaving sharp jagged edges and shards and if used as a weapon the injuries sustained would be much more serious. Paragraph (iv) on Page 19 of your Licensing Statement of Principles recommends the use of plastic/polycarbonate vessels in late night vertical drinking establishments. For your information a glassing incident occurred at this premises on 28 July 2019 in the outside area when a male picked up a glass and smashed it in the face of another male. The police OBJECT to the removal of this condition.
3. *The place of refuse, such as bottles, in receptacles outside the premises must take place at times that will prevent disturbance to nearby properties.* This is a matter for your Public Protection Officer to consider.
4. *All drinks shall be served in toughened or strengthened glasses, or plastic/polycarbonate vessels, and no alcohol shall be served in glass bottles after midnight from which it is intended or likely that a person shall drink.* This is a duplicate condition on the licence. The police agree to its removal from the section titled "Prevention of Crime and Disorder" providing it is retained on the licence under the heading "General" for the reasons already referred to above.
5. *Between the hours of 0000 and 0200 there shall be a maximum of 40 people allowed in the designated outside areas.* This is a matter for your Public Protection Officer to consider.
6. *No persons under the age of 18 years shall be on the premises after 2100 hours except when attending a private party in a function room at the premises, when that part of the premises is not open to the general public.* In addition to this condition, the premises licence also contains a challenge 25 condition. No alternative condition has been proposed by the applicant within this application. The removal of this condition will allow under 18's to be in the premises until 0130 hrs daily, which the police consider

unacceptable for late night vertical drinking premises not only to ensure the safety of young people but also as it places an increased burden on bar staff and door stewards to supervise these individuals within the premises. Pages 25 and 26 of your Licensing Statement of Principles outlines measures that applicants should take to ensure the safety of children and under 18's within their premises. The applicant has not given suitable consideration to this matter and the police OBJECT to the removal of this condition.

Section 16 of the application outlines conditions that the applicant seeks to add to the licence. With the exception of the first condition referred to (BIIAB Level 1 training) the police agree to the proposed additional conditions. In relation to the condition in respect of BIIAB Level 1 Training the police make the following recommendation:

1. *All full-time staff in premises selling alcohol after midnight shall be trained and hold, within three months of the commencement of their employment, BIIAB Level 1 Award in Responsible Alcohol Retailing, or similar qualification.* Whilst the police are pleased that the applicant intends to take steps to ensure that staff are provided with a recognised qualification, the police are concerned that this condition would only apply to full-time staff. Paragraph (xiii) on Page 20 of your Licensing Statement of Principles requires ALL staff responsible for the sale of alcohol after midnight to hold this qualification. The police consider that the following condition is more appropriate: "All staff involved in the sale of alcohol after midnight at the premises shall be trained and hold, within three months of the commencement of their employment, the BIIAB Level 1 Award in Responsible Alcohol Retailing, or similar qualification".

In respect of the applicant's proposed extension of the ground floor area, the police OBJECT to this. On 24 October 2019 a hearing was held in relation to the grant of a new premises licence for the ground floor of this premises. At that time the applicant advised the committee that the current capacity of the ground floor is 150 but the inclusion of a further licensed area would increase the capacity to 400 people. At the hearing I raised concerns in relation to the width of the corridor in the area of the toilets, and pinch points which will be created by persons queuing for the toilets and trying to move from one bar to the other. At the conclusion of the hearing, the application was refused and the attached decision notice outlines the grounds for the refusal, including the concerns of the committee in relation to this area.

On 20 May 2021 a further hearing was held in relation to the grant of a premises licence in respect of the ground floor of this premises. Just prior to this hearing, on 18 May 2021, I was forwarded a drawing that the applicant asked to be included in the hearing documentation. This drawing was of the corridor and toilet area demonstrating that one of the entrances to the corridor would be widened. The drawing stated "widen ex opening to 1100mm". A copy of this drawing is contained within the attached Supplementary Information document. At this hearing the applicant advised the committee that the corridor between the two bar areas had or was being widened by a couple of centimetres, that the number of ladies cubicles had or was being increased from 4 to 6, and that he intended to have a door steward at each end of the corridor. At the conclusion of this hearing, the application was again refused. A copy of the decision notice is attached and you will see that committee members were not satisfied with the steps taken and the oral submissions of the applicant in relation to this pinch point area.

The plan submitted to support this application is dated May 19 and does not contain a scale.

The drawing submitted to support the application for a new licence in May 2021 has not been submitted with this application. Despite the concerns of the police and committee members in relation to this area being expressed at two hearings and detailed within the attached two decision notices, there is no mention of this matter within the application and the plan does not show that any attempt has been made to alleviate the likelihood of congestion and pinch points, despite the capacity of the premises being increased from 150 to 400 persons. The police therefore object to the extension of the ground floor area due to the layout of the premises being unsatisfactory, carrying an increased likelihood of crowding, aggression and conflict, which in turns carries a significant risk of crime and disorder.

Kind regards


Prevention Department

Devon and Cornwall Police, Police Station, South Street, Torquay, TQ2 5EF

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Clerk: [REDACTED]
Telephone: [REDACTED]
E-mail address: [REDACTED]
Date: Thursday, 13 May 2021

Governance Support
Town Hall
Castle Circus
Torquay
TQ1 3DR

Dear Member

LICENSING SUB-COMMITTEE - THURSDAY, 20 MAY 2021

I am now able to enclose, for consideration at the Thursday, 20 May 2021 meeting of the Licensing Sub-Committee, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
6.	No 18, 18 Esplanade Road, Paignton, TQ4 6BD Additional Information	(Pages 135 - 138)

Yours sincerely

[REDACTED]
[REDACTED]

Agenda Item 6

Additional Conditions to be included in the operating Schedule for No 18.

The Prevention of Crime and Disorder

All full-time staff in premises selling alcohol after midnight shall be trained and hold, within three months of the commencement of their employment, BIIAB Level 1 Award in Responsible Alcohol Retailing or similar qualification.

When the premises are open for the sale of alcohol after midnight, in the absence of the DPS a suitably trained personal licence holder will be on duty.

Written authorisations of the DPS to all staff will be kept on their training records.

All staff will be made aware of the Ask for Angela/Clive Campaign or similar initiative. Posters will be displayed on the premises for customer awareness

All patrons entering the premises after 9pm must check any bag over 400 cm by 300 cm into the cloakroom.

SIA Licences will be checked using the SIA Company Licence Checker facility.

The Prevention of Public Nuisance

After 1 am any persons using the smoking area may leave drinks on a designated shelf behind the bar.

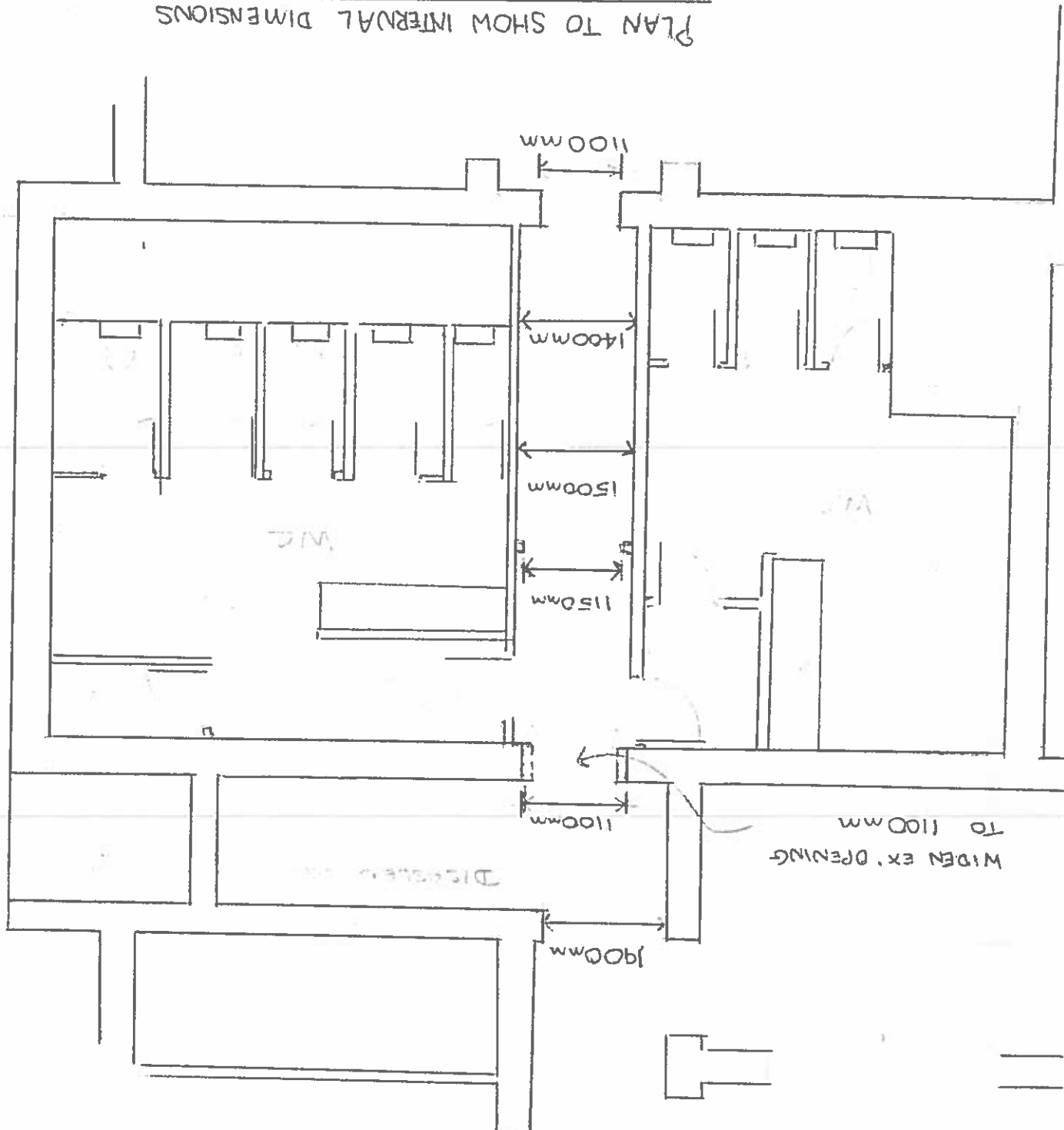
Agenda Item 6

Appendix 8

MAY 2021

AT NO. 18 THE ESPLANADE PAIGNTON

PLAN TO SHOW INTERNAL DIMENSIONS



Agenda Item 6

Appendix 9





TORBAY COUNCIL

Please reply to: [REDACTED]
Community Safety, C/o Town Hall
Castle Circus,
Torquay, TQ1 3DR



My ref: SRU/262455
Your ref:
Telephone: 01803 208025
E-mail: licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 4 June 2021

Dear [REDACTED]

Re: Notice under section 23 (1) & (3) Licensing Act 2003 – Application for a Premises Licence
No 18, 18 Esplanade Road, Paignton, TQ4 6BD

I am writing to you with respect to the committee hearing on 20 May 2021 to consider an application for a premises licence for the No18.

Committee Decision:

That the application for a Premises Licence in respect of No.18, 18 Esplanade Road, Paignton be refused.

Reasons for Decision:

Having carefully considered all the written and oral Representations, Members unanimously resolved to refuse the application before them.

In coming to that decision, Members considered the Independent Noise Report and Noise Management Plan submitted by the Applicants', dated 7th October 2019 and were impressed and pleased to note that they had thoroughly addressed the issue of potential noise outbreak from inside the premises. This coupled with the reassurances given by the Public Protection Officer that he had no concern in this regard, as was the case when the application was previously considered by a Licensing Sub-Committee hearing of the 24th October 2019, satisfied Members that noise outbreak from inside the premises would be eliminated by these measures.

However, on the evidence before them, Members were not able to gain the same level of reassurance they required in respect of ensuring that 'The Prevention of Public Nuisance' licensing objective was promoted, when determining an application for a 3am licence.

Members had careful regard to Torbay Council's Licensing Statement of Principles P22, Paragraph 4 which states "Where applicants are completing Operating Schedules, they are expected to have regard to the location of the proposed or actual premises. In particular, consideration should be given to whether proposals may have a disproportionate impact in residential areas or near to sensitive premises such as nursing homes, older people's accommodation, hospitals, hospices, schools, childcare facilities or places of worship".

If you require this in a different format or language, please contact me.

In doing so, Members noted that the immediate vicinity in which the premises were located, being surrounded by both private and commercial residential properties and determined, notwithstanding that contained in the Applicant's Dispersal Policy and that put forward by their representative at the hearing which included amendments to the original application, these residents would suffer a disproportionate impact, were a 3am licence be granted to these premises, in this location.

Members noted the submissions of the Interested Parties in that they had learnt to live with a 1am licence, albeit noise associated with these premises operations caused them and their guests disturbance beyond the closing time of 1.30am and to extend this known nuisance by a further two hours, seven days a week, would in Members opinion, undermine 'The Prevention of Public Nuisance' licensing objective. This echoed the submissions of the Public Protection Officer which stated that the current 1am licence has achieved a balance of acceptability between the residential community and the hotelier community and licensed premises; and that since a 1am licence was in operation, complaints about noise or anti-social behaviour had diminished.

Members further noted, with concern that the Applicants' has omitted to engage residents in the immediate vicinity in respect of this new application, some of which had made a representation in respect of the Applicants' previous application for a 3am licence, despite knowing who these were. Had they done so, Members were of the view that this would have assisted the Applicants' in either tailoring their application to address these concerns or to reassure residents that a nuisance would not occur. Instead, when considering the evidence before them, Members determined that little regard had been given to these residents in what they saw as a high likelihood of nuisance occurring.

Looking in more detail at the Dispersal Policy and the changes to the premises external layout which sought to address patrons leaving the area via Kernou Road, Members has specific regard to the submissions of the Public Protection Officer, in that it was his opinion that this Policy did not offer anything new that has not already been tried before and failed. Members also noted that despite this Policy being in place, Responsible Authority Officers had observed first hand, its implementation not being observed by patrons leaving the premises. In Members opinion, the insistence of staff and SIA door stewards trying to implement this Policy, could in itself lead to additional disturbance by those patrons whilst under the influence of alcohol, wanting to choose an avenue of travel which is contrary to any direction given.

In respect of the internal layout and the concerns raised by the Police regarding pinch points, Members noted the revised plans showing minor widening of the corridor, an increase in the number of ladies toilets to six and the intention to have SIA Door Stewards at either end. However, Members were not satisfied that this had changed significantly from what was there previously. In forming this opinion, Members determined that there was still an issue of concern where patrons are queueing to use the toilets and those passing between the bar areas, particularly given the Applicants' proposed capacity of over 400 persons. In their oral submissions, the Applicants' tried to address how the flow of this area would be managed to avoid conflict between such patrons but failed to provide sufficient detail on how this would be effectively managed, with the other pressures intended to be placed on the SIA Door Stewards. In Members opinion, additional persons in this area, could contribute towards pinch points and gave members further concern.

Whilst acknowledging the offer by the Applicants' to remove off-sales from the licence and add conditions to change the ratio of SIA Door stewards from 1 for every 100 persons to 1 for every 75; and to make the smoking area/beer garden no gathering after 1am and limit of maximum of 20 persons, Members remained concerned over how these premises would be managed and controlled with a 3am licence, given the proposed static position of SIA door stewards and the additional tasks being given to them in managing operations and what would happen to those static positions and tasks, should an incident occur inside the premises which required an immediate SAI response. This left Members with the view that the evolving proposals put forward by the Applicants' at the hearing, were not robust enough to reassure them that a 3am licence would not have a detrimental impact on the promotion of the licensing objectives and nearby residents.

In concluding, Members gave careful consideration as to what if any conditions could be added by them, as an alternative to refusal. However, Members resolved that with the lack of robust detail around specific numbers and locations of SIA Door Stewards, management and supervisory staff and how they would be utilised when responding to any incidents arising inside the premises whilst maintaining the demands of other duties, the minimum physical change to the internal layout of these premises in respect of pinch points, the human nature of individuals under the influence of alcohol and compelling them to follow direction and the history and geographical location to which these premises are situated, making it a high probability of disturbance from noise and anti-social behaviour, they could not be satisfied that this could be addressed via conditions to enable a 3am licence and therefore maintained that a refusal was appropriate and proportionate in these circumstances.

I enclose a sheet advising you of your appeal rights, if you are unhappy with the determination made by the Licensing Sub Committee.


If you have any queries then please do not hesitate to contact me.

Yours sincerely



AP
Licensing Officer
Community Safety

Encl – appeals schedule 7DL

c.c. Licensing Department, Devon & Cornwall Constabulary, Launceston Police Station,
Moorland Road, Launceston, PL15 7HY
, Public Protection Officer, Torbay Council, Town Hall, Castle Circus, Torquay,
TQ1 3DR



Please reply to: [REDACTED]

Community Safety, C/o Town Hall
Castle Circus, Torquay, TQ1 3DR

East Street Pub Company Ltd
Hyde Dendy
18 Esplanade Road
Paignton
TQ4 6BD

My ref: SRU/252540
Telephone: 01803 208025
E-mail:
Website: www.torbay.gov.uk
Date: 6 November 2019

Dear Sirs

**Notice under section 23 (1) & (3) Licensing Act 2003 – Application for a Premises Licence
No 18, 18 Esplanade Road, Paignton, TQ4 6BD**

I am writing to you with respect to the committee hearing on 24 October 2019 to consider an application for a premises licence for No. 18.

I can confirm that the committee decision and reasons are as follows:

Decision

That the application for a Premises Licence in respect of No.18, 18 Esplanade Road, Paignton be refused.

Reasons for Decision

Having carefully considered all the written and oral representations, Members unanimously resolved to refuse the application before them.

In coming to that decision, Members considered the Independent Noise Report and Noise Management Plan submitted by the Applicant and were impressed and pleased to note that the Applicant had thoroughly addressed the issue of potential noise outbreak from inside the premises. Furthermore, Members were reassured by the Public Protection Officer's (PPO) submissions, that if implemented, the recommendations set out in the Noise Report would in his opinion, eliminate noise outbreak from inside the premises.

However, on the evidence before them, Members were not able to gain the same level of reassurance they required in respect of ensuring that 'the prevention of public nuisance' licensing objective was promoted when determining an application for a 3am licence. Members had careful regard to, what in their opinion, was the high likelihood of risk of residents being unreasonably disturbed by patrons leaving the premises and entering in to areas in the immediate vicinity of the premises which are residential, both commercially and private. As such, Members could not be satisfied than in granting the application, 'the prevention of public nuisance' licensing objective, would not be undermined.

Whilst Members noted the Applicants submission that a dispersal policy had been written, however without having sight of that policy as the Applicant had omitted to provide this at the hearing, Members were unable to determine for themselves whether the dispersal policy had been given

Schools and services for children and young people • social care and housing • recycling, waste disposal and clean streets • community safety • roads and transportation • town planning • tourism, harbours and economic regeneration • consumer protection and licensing • leisure, museums, galleries and arts

the same level of consideration and attention by the Applicant. This was particularly pertinent, given Members highly perceived risk of such disturbance and therefore found the application lacking in this regard.

Members heard oral evidence from one local resident as regards the effect of noise disturbance experienced when the premises, though under a different licence holder, held a 3am licence and were also mindful of the PPO's reservations in this regard. Notwithstanding that the Applicant before them was a different operator, Members noted that the fabric of the surrounding area had not changed and therefore assessed the risk still to be present. The provision of a comprehensive dispersal policy which addressed these concerns may have provided assurances to Members in this regard.

Additionally, Members were concerned to note that the plan forming part of the application did not provide a detailed representation or accurately reflect the internal layout, as shown by the plan that the Applicant presented at the hearing. Members noted that the plan presented at the hearing, was in fact that which the Applicant intended for the premises layout and had not been consulted on, thereby potentially placing members of the public and Responsible Authorities at a disadvantage. In that had the intended plan been included in the application and consulted on, additional representations could have been made.

Notwithstanding this, on examination of the intended plan, Members were concerned to note that the application lacked detail with regard to what they foresaw as a potential 'pinch point' at the premises in respect of the connecting corridor between the two bar areas. A concern which was also raised by the Police in their oral submissions. This in Members opinion had the potential to lead to an undermining of 'the prevention of crime and disorder' licensing objective and found that more detailed considerations was needed in this regard and would need consulting on.

Members were also concerned that the connecting corridor, off of which, the toilets were located could become an issue when patrons are queueing to use the toilets and passing between the bar areas, particularly given the Applicants proposed capacity of 400 persons. In their oral submissions, the Applicant omitted to address how the flow of this area would be managed to avoid conflict between patrons which in Members opinion, could escalate to outside areas if not managed effectively. Again Members found that more detailed consideration was needed in this regard and would need consulting on.

In concluding and notwithstanding the minor breaches of conditions highlighted by the Police in respect of the adjoining premises licence which is also held by the Applicant, Members gave careful consideration as to what if any conditions could be added by them, as an alternative to refusal. However, Members resolved that with the lack detail before them, they would in effect be determining the intended concept which may not be that intended by the Applicant and therefore maintained that a refusal was appropriate in these circumstances.

I enclose a sheet advising you of your appeal rights, if you are unhappy with the determination made by the Licensing Sub Committee.

If you have any queries then please do not hesitate to contact me.

Yours faithfully



Encl – appeals schedule 7DL

c.c. Licensing Department, Devon & Cornwall Constabulary, Launceston Police Station,
Moorland Road, Launceston, PL15 7HY
Public Protection, Torbay Council, Town Hall, Castle Circus, Torquay, TQ1 3DR

Licensing Act 2003 – Appeals Guidance

Guidance for Interested parties and applicants

Appealing Licensing Decisions

This guidance describes the process for appealing a licensing authority's decision about an application for a new premises licence or club premises certificates or for a variation to an existing licence or certificate, or a provisional statement. It also contains information about the court hearings process. Unless stated otherwise, references to 'licences' in this text also apply to club premises certificates.

Who can appeal a licensing authority decision?

In relation to premises licences, "interested parties", that made relevant representations during the application stage, have the right to appeal against a licensing authority's decision in the courts, if they think:

- The licence should not have been granted
- The licensing authority should have imposed different or additional conditions on the licence
- A licensable activity should have been excluded from the licence
- The licensing authority should not have agreed to the named "premises supervisor" (not relevant for club premises certificate)
- There was a procedural irregularity, and this affected the decision (e.g. the licensing committee had failed to comply with the hearings regulations)

Any appeal must address the likely impact that granting the application may have on any of the four licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

How do I make an appeal?

Appeals should be made in writing to the designated officer for the magistrates' court for the area where the premises is situated. Appeals have to be made within **21 days** from the day the appellant is notified of the licensing authority decision about the application. Appellants may want to check the exact "cut-off" date with Torbay Councils Licensing Department. The court does charge a fee and it is recommended an appellant contacts the court directly of the current fee. For all general enquires please phone 01803 617880.

Please write to:

HMCTS South & West Devon
Nicholson Road
Torquay
TQ2 7AZ

Alternatively you can email:

de-torquaymadmin@hmcourts-service.gsi.gov.uk

Licensing Act 2003 – Appeals Guidance

What happens once an appeal has been made?

On receiving an appeal, a magistrates' court has three options. It can:

- Dismiss the appeal
- Substitute the decision being appealed against for any other decision the licensing authority could have made
- Send the case back to the licensing authority and tell them how to deal with it in accordance with directions of the court.

The court may also make such costs orders as it considers fit.

There will normally be an **"initial appeal hearing"** at the magistrates' court at least 28 days after the '21-day' period for making appeals. This is when the court will decide whether there is a case to hear, and whether it will hear the case itself or send it back to the licensing authority to deal with. In doing this, the court will consider whether the appeal is valid and whether the case outlined in the appeal has been contested. Where a court decides to hear the matter itself, it will normally adjourn to a separate **"full hearing"** date to decide the case, when sufficient court time can be allowed.

As the licensing authority is always a party to an appeal, it is suggested that concerned interested parties should contact their licensing authority to establish whether another party or the applicant has lodged an appeal.

[NB – If applicants appeal licensing authority's decisions, responsible authorities such as the police, and interested parties, such as local residents, that made representations about the application, will not, by the terms of the Licensing Act be "responding parties" at appeal hearings. However, in such cases, an interested party could request that the court make it a responding party, or the licensing authority could call upon them as a "witness" to back up the decision they made].

Procedure at an appeal hearing

Appeal hearings will take place at the magistrates' court for the area where the premises is situated. The licensing authority and the applicant will be the **"responding parties"** (respondents) to appeals from interested parties and will normally be present at appeal hearings. Interested parties should contact their court to find out whether they need to appear at a hearing. It may be possible in some cases for written evidence to be given to the court instead, however, magistrates courts aren't obliged to accept written evidence and can insist that parties attend in person, so prior agreement must be sought. At a hearing the person appealing would normally open the case and call his / her witnesses. However, in licensing cases the court may invite the respondents (i.e. the licence or certificate holder) to speak first, if everyone agrees, as this will enable the court to understand how the licensing authority came to its decision. All parties at an appeal hearing can call upon witnesses to provide evidence to support their position (e.g. other local residents or responsible authorities such as the police).

Costs

If you appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against you if it sees fit. This would mean that you would have to pay other parties' legal costs as well as your own. However, the Magistrates

Licensing Act 2003 – Appeals Guidance

Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an exception and not a rule, and any resident with reasonable grounds for appeal should not be penalised.

What happens after an appeal?

After an appeal hearing, the court will normally notify the licensing authority and other parties of its decision, and the reasons for it, within three working days.

The Licensing Act 2003 does not provide for a further appeal against the decision of the magistrates' court. Accordingly, the usual rules for challenging decisions of magistrates' courts will apply.

NB - Courts will not issue orders suspending the effects of any licensing authority decision, whilst an appeal is waiting to be heard. The licensing authority's decision will take effect immediately, until the outcome of any appeal is known.

This guidance does not detail matters such as the nature of the court hearing with regard to standard of evidence, role of licensing policy etc. Applicants should contact the relevant court for further advice.

Schedule 5 to the Licensing Act 2003 and Chapter 10 of the Secretary of State's Guidance to licensing authorities deal with appeals. For further information about the appeals process, contact Torquay Magistrates Court.

Memorandum

To:	From :	Community Safety
c.c	Contact :	[REDACTED]
c.c.	Ext :	[REDACTED]
c.c	My Ref :	No18Hydekjm3
For the attention of: [REDACTED]	Your Ref :	
	Date :	13 th September 2021

Premises Name & Address: No 18, 18 Esplanade Road, Paignton

Subject: Variation application – Licensing Act 2003

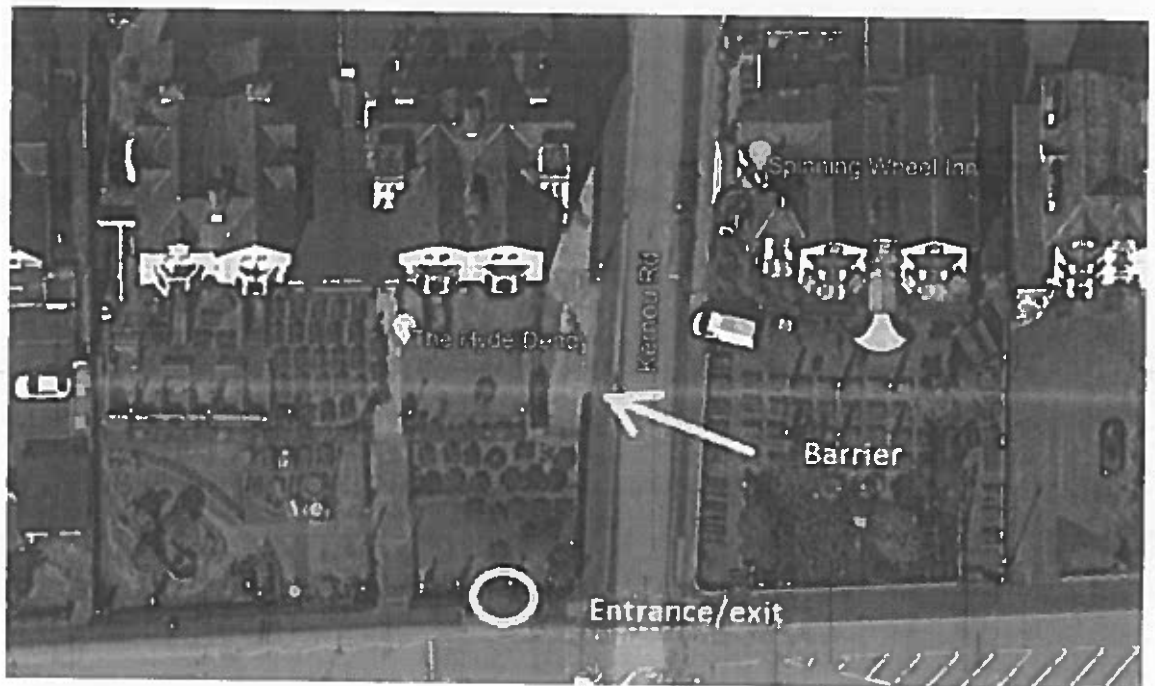
- a) I have no comments to make on the above application ☐
- b) The application does not meet the following licensing objectives:
- | | | |
|------|----------------------------------|--------------------------|
| i) | Prevention of crime and disorder | <input type="checkbox"/> |
| ii) | Protection of children from harm | <input type="checkbox"/> |
| iii) | Public safety | x |
| iv) | Prevention of public nuisance | X |

Prevention of Public Nuisance

- The application seeks to increase the overall capacity of the premises from 150 to 400 persons. Whilst it would not be the norm for any premises under most circumstances to operate at full capacity, clearly a more than doubling of the capacity will impact on the licensing objectives if not carefully considered and managed by the applicant.
- The applicant has not proposed any further conditions other than previously stated in a full variation application submitted, heard and refused at a hearing in May 2021.
- The decision to refuse was largely because the applicant applied for an increase in the terminal hour. This is not the case in this application; however the additional capacity will increase the likely hood of nuisance occurring from patrons using the exterior of the premise and when patrons disperse from the premises at 1:30am.
- The applicant has proposed a management scheme, but the Responsible of Authority lacks the confidence in the management to achieve success with this scheme. That is not wholly a criticism of the operator as arguably 'human behavior', to a degree is a matter that is largely beyond the control of the operator to successfully manage.
- The Responsible Authorities continuing resistance to any significant changes to the current license is borne out of the desire to prevent further nuisance to residents and business in

the surrounding area, particularly Kernow Road. This has been evidenced in the past and supported by those who live and operate businesses at this location.

6. The applicant relies heavily on a physically barrier to prevent patrons from existing onto Kernow road:-



7. The concept is simply, prevent a convenient line of sight exit onto Kernow Road with the aim of encouraging patrons to leave via Esplanade Road in the hope they will head towards Torbay Road.

However this does happen. In April 2021 Officers observed the barrier was in operation yet Patrons still naturally headed onto Kernow Road once left they left the premises via the exit

on Esplanade Road. The same situation was observed again on Friday the 10th of September 2021.

8. A view can be adopted that the applicants proposed management scheme does and will work, as long as it can be accepted it will not prevent all patrons from using Kernou Road. However the application is not supported by any numerical data to demonstrate whether the scheme prevents 90% or just 10% of patrons leaving the premises via Kernou Road.
9. In the absence of any supporting evidence which could quantify a response the view must remain that the barrier and use of stewards is not effective in preventing nuisance from the additional capacity of 250 persons.

Prevention of Public Safety

10. The application does not demonstrate matters raised by Devon and Cornwall Police Licensing in May 2021 in relation to the layout of the premises has been sufficiently addressed by this applicant. The Police raised these issues under the Prevention of Crime and Disorder but equally the responsibility Authority requires further assurance that the licensing objective prevention of Public Safety with not be undermined.
11. Concerns relating to the layout of the premises was a factor for refusal of the full variation application in April 2021. Extract from the decision notice: -

In respect of the internal layout and the concerns raised by the Police regarding pinch points, Members noted the revised plans showing minor widening of the corridor, an increase in the number of ladies toilets to six and the intention to have SIA Door Stewards at either end. However, Members were not satisfied that this had changed significantly from what was there previously. In forming this opinion, Members determined that there was still an issue of concern where patrons are queuing to use the toilets and those passing between the bar areas, particularly given the Applicants' proposed capacity of over 400 persons. In their oral submissions, the Applicants' tried to address how the flow of this area would be managed to avoid conflict between such patrons but failed to provide sufficient detail on how this would be effectively managed, with the other pressures intended to be placed on the SIA Door Stewards. In Members opinion, additional persons in this area, could contribute towards pinch points and gave members further concern.

12. At this time it is not appropriate to provide any recommendations to members of the licensing Sub-committee as the applicant has time to provide further reassurance and/or supporting evidence.
13. If necessary, an update will be provided to the licensing committee ahead of the hearing.


Public Protection Officer
Torbay Council



Briefing Report No:

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Review of a Premises Licence for, Jackz Bar, Parkham Road, Brixham, TQ5 9BU**

Wards Affected: **Brixham**

To: **Licensing Committee 07th October 2021**

Contact Officer: **Lisa Wright**

Telephone: **01803 208112**

E.mail: Licensing@torbay.gov.uk

1. Key points and Summary

1.1 To consider and determine an application, in respect of the Premises detailed above, for a Review of 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”.

1.4 Under Regulations to the Licensing Act 2003 (the Act), the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.

1.5 The Authority must have regard to the application and any relevant Representations and take one or more of the steps as detailed below, as it considers appropriate for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;
- (f) to do nothing;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

1.6 If the licence is subject to sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) they remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only

such period (not exceeding three months) as it may specify.

1.7 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 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premises detailed above.

The Review application has been received from Devon & Cornwall Police as a Responsible Authority. Grounds for the Review relate to:

- Drug supply and taking
- Persons brandishing knives and threatening customers
- Assault by a door steward and use of unlicensed door steward
- Fights and intoxicated groups outside the premises
- Allegation of a door steward assaulting a drunk male
- Premises licence holder failure to comply and meet or respond with the police upon numerous requests

Full details of the application are shown in Appendix 1. The application refers to several incidents. Additional documents have been submitted with the application to support these incidents. These are shown in Appendix 2, 3 and 4.

A copy of the current premises licence is attached as Appendix 5 and a plan of the premises is attached as Appendix 6.

2.2 Torbay Council as the Licensing Authority, is satisfied that the Applicant is a person as defined under the Act, as being entitled to make such application and that the application is not frivolous or vexatious. The Authority is also satisfied that the administrative requirements of Section 51(3) (a) and (b) have been met and that the application is therefore, properly made.

3. Application

3.1 A notice stating a Review application had been made was issued by Torbay's Councils Licensing Department and delivered by the Council's Compliance Officer on 05th August 2021. Details of the Review have been advertised on the Council's website. The Notice advised of the grounds for the Review and requested representations should be made no later than 01st September 2021 to Torbay Council in writing. All Statutory consultees were served a copy of the Review application.

3.2 There has been one Responsible Authority Representation received from Karl Martin, the Council's Public Protection Officer. This outlines the history of the premises relating to complaints received and action taken; and is made to provide necessary background information to assist in determining the outcome of this application. This is attached at Appendix 7.

No representation has been received from the Premises Licence Holder and no other representations have been received from any other Interested Party or

Responsible Authority.

4. Conclusion

4.1 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.

4.2 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.

4.3 Once the matter is determined, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-

- (a) the Applicant for the Review,
- (b) the holder of the Premises Licence, or
- (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have effect until the Appeal is either determined or withdrawn.

4.4 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 an order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1 Application for Review
Appendix 2 Doorman Statement
Appendix 3 Email regarding CCTV
Appendix 4 Email from licence holder
Appendix 5 Copy of the Premise Licence
Appendix 6 Plan of the Premises
Appendix 7 Representation from Responsible Authority

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:
Torbay Council Licensing Policy 2021-2026.



LICENSING ACT 2003

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

NOTIFICATION

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

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

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

Completed forms should be returned to:

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

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk

**Application for the review of a premises licence or club premises certificate
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

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

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

I Julie SMART, Police Licensing Officer for the Torbay area

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

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

Jackz Bar
Parkham Road

Post town Brixham

Post code (if known) TQ5 9BU

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

Miss Holly Georgina Harley

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

PL0878

Part 2 - Applicant details

I am

Please tick ✓ yes

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

☐

2) a responsible authority (please complete [C] below)

X

3) a member of the club to which this application relates
(please complete (A) below)

☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Devon and Cornwall Police Police Station South Street TORQUAY Devon
Telephone number (if any)
E-mail address (optional) Julie.smart@devonandcornwall.pnn.police.uk

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder ☒
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

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

Concerns re Miss Harley's suitability to hold a premises licence, in relation to the below:

- 1) Miss Harley works 25 hrs per week in alternative employment and due to this she has stated that she is unable meet with the police, or other responsible authorities, during normal working hours and she does not answer her phone whilst at her other employment.
 - 2) Failure by Miss Harley to contact Police Licensing Officer when requested, return telephone calls or respond to emails.
 - 3) Miss Harley became the Premises Licence Holder and DPS of this premises on 24 June 2021, since this time the police have received information in relation to the following matters:
 - a) Drug supply and taking
 - b) Males brandishing knives and threatening customers
 - c) Assault by a door steward and use of unlicensed door steward
 - d) Females fighting outside the premises and group outside very intoxicated
 - e) Drunk male alleges he was glassed and assaulted by a door steward
- All of the above matters have a negative impact on the Prevention of Crime and Disorder.

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

This premises has had the benefit of a Premises Licence issued by Torbay Council since November 2005. Since that date, despite the premises being authorised to sell alcohol until 0230 hrs, the premises has not regularly come to police attention due to the robust management in place.

On Thursday 24 June 2021, applications to transfer the licence and Vary the DPS to Mr Ross Hennessey were refused by the Licensing Authority following objections by the police. At the hearing in relation to this matter Mr Hennessey produced two documents, a Door Stewarding Policy and a Bar Staff policy, which he stated would ensure all his premises were managed in a responsible manner. The refusal of these applications has resulted in Mr Hennessey being the leaseholder of this premises but with him being unable to hold the licence or be the DPS.

Later that day, applications to transfer the licence and Vary the DPS were received in the name of Miss Holly Georgina Harley, with both applications to have immediate effect.

On Friday 25 June 2021 I received an email from the Neighbourhood Team at Brixham advising me of information they had received in relation drug supply and use at Jackz Bar, Brixham.

On receipt of the transfer and Vary DPS applications I attempted to ring Miss Harley on the mobile number provided within the applications on 4 occasions, however on each occasion a voice message indicated that the phone was temporarily unavailable. I also sent a text message to the phone requesting that Miss Harley contact me.

On 7 July 2021 I emailed Mr Hennessey advising him that I was having difficulty in contacting Miss Harley and asked him to provide me with her telephone number and email address. Mr Hennessey responded with Miss Harley's contact details and stated that she was busy at her day job at that time so might not respond straight away but would get back to me as soon as possible.

At 1455 hrs on 8 July 2021 I rang Miss Harley on a number provided by Mr Hennessey and she answered, indicating that she was driving but she stated she would ring me back in half an hour. At 1625 hrs that day, as Miss Harley had not contacted me, I again rang her. She did not answer her phone but I left her a voice message asking her to call me as soon as possible.

As a result of the lack of contact from Ms Harley, and information received by the police that she has other employment which was likely to impact on her ability to have day to day management and control of Jackz Bar, on 9 July 2021, the police objected to her applications to be Premises Licence Holder and DPS.

On 12 July 2021 I received information from two separate sources that a male customer of Jackz Bar had been assaulted by a door steward on the evening of Saturday 10 July 2021, with the male being knocked unconscious. One of these sources said that the male who had been assaulted had been dragged down the stairs by his arm, whilst laying on his back, by a door steward. He further stated that the male door steward involved had a video of the incident on his phone, which he had shown to a number of people around Torquay harbourside, whilst boasting about knocking the male unconscious. This source also informed me that one of the male stewards seen within the footage is not SIA licensed. As a result of receiving this information, I checked the police logs and crimes for the weekend but could find no records in relation to this alleged incident.

On 13 July 2021, as I had still not received any contact from Miss Harley, I again rang her. She answered and I raised concerns with her that she had not contacted me as she said she would, and she had not responded to my voice message either. I advised her that myself and Sgt Curtis wished to meet with her at Jackz Bar at 10.00 am on Thursday 15 July 2021. Miss Harley informed me that she works 25 hours a week at her day job, every day between the hours of 9.30 am and 2.00 pm, and she then collects her children from school. She said that she had recently been 'pinged' and was isolating, but in any case due to her day job she would not be able to meet with us during the working week.

During our discussions I asked her about her experience in the licensed trade and advised her of the information I had received in relation to Jackz Bar.

At 1605 hrs on 13 July 2021 I sent an email to Miss Harley requesting her to provide the CCTV footage of the incident involving the door steward and the door steward incident reports for that night.

At 1657 hrs on 14 July 2021 I received an email from Miss Harley indicating that she had tested positive for Covid 19 and was isolating for 10 days but Mr Hennessey and one of the door stewards were sorting out the CCTV and door staff reports. A copy of this email is attached.

At 1736 hrs on 14 July 2021 I received an email from Mr Hennessey indicating that the CCTV would be at Torquay Police Station the following morning.

At 1248 hrs on 15 July 2021 I received an email from Mr Hennessey which implies it is a written door steward report concerning the incident which occurred during the early hours of Sunday 11 July 2021. At the top of this email it indicates that the incident was witnessed by Mr Hennessey, Miss Harley, and another member of staff but further within the email it mentions that another door steward was also present. A copy of this email is attached for your information.

At 1249 hrs on 15 July 2021 I received a further email from Mr Hennessey in which he mentions that the door steward involved in the incident and himself had mutually decided to cut ties and the steward will be continuing his duties elsewhere.

On Thursday 15 July 2021 I attended Torquay Police Station and collected the CCTV.

Between Friday 16 July and Sunday 25 July 2021 I was on annual leave.

At 0258 hrs on Sunday 25 July 2021 police received a 999 phone call from a female who stated that some girls were fighting outside the premises (log 199 25/07/21 refers). A short time later a further telephone call was received indicating that 3 girls were fighting, with one female stamping on the head of another. The log was subsequently updated indicating that Torbay Council CCTV confirmed that there was a fight outside the premises at 0258 hrs but all parties had left the area. Officers arrived shortly after and spoke to 8-9 persons who were all very intoxicated and jovial but none of these raised any concerns so the officers left.

On Tuesday 27 July 2021 I emailed the officers who attended this incident to establish the levels of intoxication of the persons they spoke to, whether they spoke to any door stewards, whether door stewards had intervened in the fight and split it up, and whether stewards were requesting all customers to leave the area in a quiet manner. On 1 August 2021 I received an email from one of these officers who stated that on a scale of 1-10 (with 10 being very drunk) he estimates they were a 7, but they were able to communicate and walk. He further stated that he did not remember seeing any door stewards present, but they may have been there, but if they were they did not engage with the police.

On Thursday 29 July 2021 I watched the CCTV of the incident at Jackz Bar on Sunday 11 July 2021 and noted that the footage provided only covers the period from which the male was dragged out the front door of the premises by a steward pulling him by the arm, whilst he was lying on the floor. However, the door steward report indicates that this male was aggressive and beginning to assault another customer inside prior to being removed from the premises. No footage of this has been provided to the police. I also noted that within the footage, that one steward is wearing a black T shirt and trousers, whereas two other stewards are wearing black clothing with high visibility tabards. On the arm of the main steward involved in this incident and another steward wearing a high vis tabard, SIA badges can be seen, but no SIA badge is visible on a further steward wearing a high vis tabard. I further noted that during the footage Mr Hennessey is seen to be stood watching and at one point a female comes to the door for a short period of time and then goes back inside.

At 1415 hrs on Thursday 29 July 2021 I sent an email to Miss Harley requesting clarification as to the identity of each steward within the CCTV footage. Miss Harley did not respond to this email but at 1618 hrs that day I received an email from Mr Hennessey in which he states that a male member of staff was

employed as a Covid Marshal to monitor mask wearing, 6 per table, controlling smoking area, toilet checks and table service only etc. He stated that this person does not hold an SIA badge but was wearing a high vis jacket. He further states that one of the door stewards was also wearing a high vis jacket.

At 0316 hrs on Friday 30 July 2021 Ambulance Control contacted the police to advise that they had been called to deal with a drunk 16 year old male who was alleging that he had had a fight with the stewards and that they would not let him leave. The male further said that he had bottled, had serious bleeding and that the door stewards had possession of the bottle. The male then said that he had not been bottled, and that he had been talking to the owner of the premises, when he was assaulted by a door steward who strangled and then punched him and he was bleeding. The log was further updated that Police rang the ambulance crew, who stated that the male was drunk, not aggressive and scared of further assaults rather than looking for a fight (log 117 30/07/21 and CR/64599/21 refer).

The crime report in relation to this incident states "manager sent victim a message apologising for what happened, but no one seems to know why it happened". The crime report confirms that the aggrieved person is 24 years old and not 16 as originally indicated.

As a result of the police objections to the transfer and vary DPS applications in respect of Miss Harley, I was notified that a hearing had been arranged on Thursday 5 August 2021.

On Friday 30 July 2021 I was advised by Torbay Council that due to a local authority administrative error the police objections in relation to the transfer and Vary DPS for this premises had been deemed as having been received after the last day for representations and the applications had therefore been granted, with the proposed hearing cancelled.

On this date I was also advised that a member of Torbay Council staff had recently contacted Miss Harley in relation to the proposed hearing but Miss Harley indicated she was unable to attend as she had been 'pinged' and was having to isolate for 10 days, but she asked if Mr Hennessey could attend in her absence. I have now been forwarded an email from Ms Sarah Clarke, Interim Licensing Manager of Torbay Council, which contains an email Torbay Council received from Miss Harley on 28 July 2021. A copy of this email is attached.

On Monday 2 August 2021 I reviewed all information in relation to the 3 incidents that had occurred at Jackz Bar, and prepared a list of matters that I wished to discuss with Miss Harley.

At 1142 hrs on Tuesday 3 August 2021 I rang Miss Harley but her phone went to voicemail and I left her a message asking her to contact me.

At 1320 hrs on Tuesday 3 August 2021 I received an email from Mr Hennessey advising me that Miss Harley will ring me at 3.00 pm when she finishes work.

At 1447 hr on Tuesday 3 August 2021 Miss Harley rang me. I asked her if there was any chance she could meet with myself and Sgt Curtis on Thursday 5 or Friday 6 August 2021, but she stated she was working until 5pm on both days. She mentioned that she might be able to meet with us on Monday but this was not convenient for me. I then advised Miss Harley that I had some matters I would like to discuss with her and she stated she was stood outside the doctors waiting to go in.

In respect of the CCTV provided for 11 July 2021, I asked why the police had only been provided with footage from the point where the male was dragged out of the front door, despite the door steward indicating that he was aggressive and had assaulted someone inside. She said she didn't know but would ask Mr Hennessey to see if that footage is still on the system and provide it if still available.

In respect of the stewards on duty on 11 July 2021 I asked what each persons role was on the night and she said that the 2 SIA stewards were swapping between working inside and outside as it was hot inside the premises. I asked her why the main door steward involved in the incident was not wearing a high visibility jacket and she said she didn't know. I asked her about the duties of the member of staff wearing the high visibility jacket, wearing a short sleeve T shirt, and she said he was being used as a

Covid Marshal and to stop customers taking drinks into the smoking area. I asked why he was wearing a high visibility jacket and she initially said she didn't know, but added so that staff could easily see him inside. I asked her what the condition on the licence states in relation to door stewards and she advised me that they should be wearing high visibility jackets. I advised her that as she had stated that the main steward involved in this incident had been responsible for manning the door, he should have been wearing a high visibility jacket.

I advised Miss Harley that I had only received an email containing one door steward's description of the incident and asked whether the other door steward involved had completed an incident report. She stated she didn't know.

During our discussions I asked Miss Harley if she was aware that the main door steward had a video of the incident on his phone that he was showing to other people. She stated she wasn't aware of this. I advised her to ensure that the CCTV system at the premises is password protected and that only herself and other appropriate staff have access to the system.

I also asked Miss Harley why the police had not been advised of this incident, which was potentially serious due to the male being knocked unconscious. She said she didn't know but suspected it was because the steward knew he had done something wrong.

I asked Miss Harley whether door stewards had split up the fight between the girls outside the premises on 25 July 2021 and she stated she was isolating at that time, so she didn't know. She stated that one of the girls involved, who she named, was causing problems at Hennessey Cocktails earlier in the evening and then attended Jackz Bar where she caused further issues. As a result of this the female is banned for life. She said that she would get Mr Hennessey to provide the CCTV.

We briefly discussed the incident on 31 July 2021 and Miss Harley stated she was present at the time of this incident, the male had been kicking things inside the premises so was ejected, and during the process he said that he would tell the police he had been assaulted by door staff. She said that she would discuss the matter with Mr Hennessey and ask him to provide the CCTV.

The phone call lasted just under 8 minutes and I felt rushed to work through the notes I had made.

Drunkenness appears to be an issue at this premises. The male involved in the incident on 11 July 2021 was clearly drunk as the CCTV footage shows him stumbling around, the police spoke to a group of 8-9 persons outside the premises on 25 July 2021 and describe them as very intoxicated, and on 31 July 2021 the ambulance service reported that they had been called to deal with a drunk male outside the premises who was alleging he had been assaulted.

It is my opinion that the current working arrangements of Miss Harley do not support the requirements of her roles as Premises Licence Holder and DPS as she is not available to be contacted or meet during the working week. Furthermore she does not appear to have a strong managerial presence when working at the premises. From discussions, it appears that Mr Hennessey is responsible for all licensing matters within the premises and not the licence holder/DPS.

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

No

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

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

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate **x**
- I understand that if I do not comply with the above requirements my application will be rejected **x**

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

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

Signature



.....

Date **04/08/21**

.....

Capacity Police Licensing Officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Julie Smart
Police Licensing Officer
Torquay Police Station
South Street

Post town
Torquay

Post Code
TQ2 5AH

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) julie.smart@devonandcornwall.pnn.police.uk

Notes for Guidance

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

From: [REDACTED]
To: [SMART Julie 50403](#)
Subject: Doorman report
Date: 15 July 2021 12:48:29

Incident date - Saturday 10th July to Sunday 11th July at 01:04am

Name - [REDACTED]

Location - Jackies Bar Brixham

Witnesses - Ross Hennessey, Holly Harley and [REDACTED]

On the night in question the male seen on the cctv in the red top became extremely aggressive to another customer inside jackz bar. Before we could intervene, this male began to assault the other customer.

At this point I quickly restrained the male and I proceeded outside in order to escort him from the premises. We have a zero tolerance for violence and will act accordingly to remove anyone that does not comply with these rules.

When we reached the bottom of the stairs the male tried to punch me in the face and proceeded to verbally abuse and threaten me. At which point another doorman [REDACTED] intervened and helped me to subdue the male on the floor. [REDACTED] then used reasonable force to drag the male out of the building to protect the safety of not only himself but our customers as well. This is our top priority when handling these situations. During this whole encounter the male was verbally abusive and made threats to "smash my face in" and he was "going to do me in"

The male was repeatedly told to go home and leave and told if he continued to approach the door staff we would assume he was trying to cause us harm and we would have to defend ourselves. The male repeatedly ignored any warnings and advice from the door team and continued to approach us and attempt to attack me. A by stander outside also tried to reason with the man and stop him from these aggressive attempts.

Unfortunately the male in red did not comply and did not seem interested in anything but fighting and after numerous threats and attempts of violence I stepped forward, grabbed him and threw him to the floor. The attempts and threats continued yet again and I felt like he was not going to be happy until he'd hurt someone. After more threats I used an open hand and shoved him on the side of the head in an attempt to warn him and hopefully make him think about continuing his violence. He fell to the ground again but got straight back up and came straight to me with purpose. I gave myself some distance by raising my arm as I spoke to him but he carried on threatening me. This time he started to play with his pocket and i believed there was a chance that he may have a weapon, immediately after this he lunged at me and started swinging punches at my head I threw him away and punched the man once fearing for my safety. I walked to the door to assess if he was a threat still and instructed the other door staff to check if he was ok and put him into the recovery position.

He was clearly breathing and appeared to be dazed from the punch but I believe I reacted in an appropriate manner and with reasonable force for the threat he was presenting. Of course watching it in slow time people may be able to say i could have done things better but I didn't have that luxury. I had an overly aggressive large male threatening me and potentially having a weapon and who was not going away until he had assaulted somebody.

I approached the male myself shortly after to ensure he was still ok and tapped his shoulder to wake him up. He did this and was asked if he was ok and was again instructed to go home. He walked off at this time under his own efforts so we returned to work.

Unfortunately the male proceeded to come back again with his fists clenched. Due to the nature of his earlier threats I acted quickly to reduce the risk of any harm coming to my staff and subdued the male on the floor followed by my staff of doorman. The man was held until he had calmed down and the on looker came over and helped remove the male from the area.

I can appreciate seeing any sort of violence is not desired by the public however I am employed to put myself in between these idiots/aggressors and the rest of the public trying to enjoy a night out. I have to act quickly and sometimes with force to stop a potential threat escalating. I believe I defended myself appropriately and

performed to job I was asked to do with minimal risk and as far as I am aware minimal/no injuries.

I acted purely in self defense against the violent male and using such force is the last resort when managing these situations. As the head doorman I took responsibility for handling this situation and protecting my staff members as they do not come to work to be not only verbally but physically abused when providing a duty of care. I used reasonable force on all occasions to try and diffuse this encounter and asked the male to leave the premises

The male was extremely intoxicated and the threats made towards my staff and to my life could not be taken lightly, my natural instinct was to protect myself and others around me and I feel that this was done so accordingly.

Kinds regards

[REDACTED]

Sent from my iPhone

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

From: [SMART Julie 50403](#)
To: [REDACTED]
Cc: [CURTIS David 16415](#)
Subject: RE: JACKZ BAR, BRIXHAM
Date: 15 July 2021 08:39:00
Attachments: [image001.png](#)
[image003.png](#)

Hi Holly

Sorry you have tested positive, I hope you aren't badly affected by it.

Thanks for the information below. Ross has emailed me to say the CCTV should be at Torquay Police Station today.

In relation to the allegation of someone brandishing a knife and threatening people in the premises, it is just an allegation and sometimes these are false and sometimes there is some truth in it, but my job is to advise you of what I've been told so you can ensure you monitor what is going on and put suitable measures in place to prevent incidents of this type.

I'm on annual leave from tomorrow until Monday 26 July 2021, so I have copied my sergeant into this email in case he needs to contact you about anything in my absence.

Kind regards
Julie

From: [REDACTED]
Sent: 14 July 2021 16:57
To: SMART Julie 50403 <Julie.SMART@devonandcornwall.pnn.police.uk>
Subject: RE: JACKZ BAR, BRIXHAM

Hi Julie,

Since our phone call yesterday I have tested positive for Covid 19 and will be in isolation from today for 10 days.

I have however spoken with all door and bar staff with regards to the drug dealing and they have all been told to be super vigilant with this and have a complete zero tolerance approach to it.

I believe Ross and [REDACTED] have sorted the CCTV and door staff reports for the incident on Saturday.

I have also spoken with all staff about the knife incident and everyone has said the same, nothing was seen or heard involving knives, we believe this is a false allegation.

Please let me know if I can help with anything else in regards to any of this.

Many thanks
Holly.

Sent from my Galaxy

----- Original message -----

From: SMART Julie 50403 <Julie.SMART@devonandcornwall.pnn.police.uk>

Date: 13/07/2021 16:05 (GMT+00:00)

To: [REDACTED]

Subject: JACKZ BAR, BRIXHAM

Good afternoon Holly

Further to our earlier discussions I would be grateful if you could download the CCTV footage of the incident involving your door steward on Saturday 10 July 2021, which I believe occurred between around 2300 hrs to 0000 hrs. Once you have downloaded it, please send it by Royal Mail 'Signed for' delivery to myself at the below address. As I am currently working from home, please can you let me know when you have sent the CCTV so I can attend Torquay Police Station to collect it.

Could you also enclose the door steward incident reports for that night please.

As discussed, I have received information that drug supply and use was taking place in the toilets of Jackz Bar during the evening Saturday 26th and/or Sunday 27th June 2021. I have now also received allegations in relation to two males who were brandishing knives and threatening people within the premises on Saturday 6 July 2021. Please discuss these matters with your staff and door stewards, and also check your CCTV to see if there is any evidence of this. If there is, please also download this footage and send to me in order that officers can investigate.

I have attached a document in relation to CCTV which I hope you will find useful in ensuring your CCTV meets police requirements.

Kind regards



Julie Smart

Alcohol Licensing Officer - Torbay

Tel: 07921 933974

Prevention Department

Devon and Cornwall Police, Police Station, South Street, Torquay, TQ2 5EF

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From: [Clarke, Sarah](#)
To: [SMART Julie 50403](#)
Subject: FW: Licensing committee in respect of Jackz Bar and the Lounge Bar
Date: 04 August 2021 13:20:53
Attachments: [image001.png](#)
[image004.png](#)

Dear Julie,

We discussed that Ms Harley indicated she would not be able to attend the hearing which was scheduled for 5 August 2021. You asked for information about Ms Harley's reasons indicating that she could not attend. I copy below an email from Ms Harley of 28 July 2021. The second document referred to in Ms Harley's email re a reference was passed to you in redacted format in previous correspondence and so I have not attached to this email.

Kind regards,
Sarah

TORBAY COUNCIL

Sarah Clarke | Interim Licensing Manager |
Community Safety
Office address, Torquay TQ1 3DR
sarah.clarke@torbay.gov.uk

Working hours: Mon 09:00-14:00 & Tues-Fri
09:00-13:30

www.torbay.gov.uk
[Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

From: [REDACTED]
Sent: 28 July 2021 21:17
To: Licensing <Licensing@torbay.gov.uk>; [REDACTED]
Subject: RE: Licensing committee in respect of Jackz Bar and the Lounge Bar

Dear [REDACTED]

As of yesterday I am once again isolating until the 5th August at 11.59pm.
Ross Hennessey will attend this meeting on my behalf if this is possible and relay all information back to myself.

I have attached the isolation request from the NHS app and a reference from my former employer and previous licensee of Jackz, [REDACTED]

Please let me know if you require any further information from myself before the hearing.

Many thanks
Holly

Sent from my Galaxy

----- Original message -----

From: Licensing <licensing@torbay.gov.uk>

Date: 21/07/2021 16:39 (GMT+00:00)

To: [REDACTED]

Subject: Licensing committee in respect of Jackz Bar and the Lounge Bar

Dear Ms Harley

Please find attached information regarding the committee hearing scheduled for Thursday 5 August 2021 to consider the following applications:

- Jackz Bar – transfer and vary DPS applications
- Lounge Bar – transfer application

Kind regards

Laura

TORBAY COUNCIL

Laura Wright | Admin, Finance and Performance
Leader | Community Safety
Town Hall, Castle Circus, Torquay TQ1 3DR
01803 208025 | licensing@torbay.gov.uk

www.torbay.gov.uk

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Licensing Act 2003
Premises Licence

878

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

Jackz Bar

Parkham Road, Brixham, Devon, TQ5 9BU.

Telephone 01803 855785

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- 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
E. Performance of live music (Indoors)	Monday to Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	8:00pm	Midnight Maximum of 2 performers
F. Playing of recorded music (Indoors)	Monday to Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	9:00am	2:30am
G. Performance of dance (Indoors)	Monday to Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	8:00pm	Midnight
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Thursday Friday Saturday Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	8:00pm 8:00pm Noon Noon	Midnight 1:00am 1:00am Midnight
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	9:00am	2:00am

Licensing Act 2003
Premises Licence

878

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises continued ...	On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	3:00am
On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.		

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 and OFF the premises

Part 2

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

Holly Georgina Harley

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

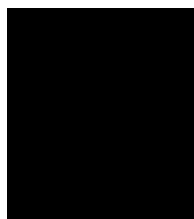
NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Holly Georgina HARLEY

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. PA1830

Issued by Torbay



Steve Cox
Environmental Health Manager (Commercial)
5 August 2021

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

1. There shall be no entry or re-entry after 1am.
2. Drinks shall be served in shatterproof glasses.
3. No bottles shall be served when open after midnight.

ANNEXES continued ...

The Prevention of Crime and Disorder

1. CCTV must be in good working order.
2. There shall be posters displayed regarding responsible drinking.
3. There shall be promotions against drink driving.
4. There shall be a wide range of soft drinks available.
5. There shall be a 30 minute winding down period.
6. SIA trained doorman shall be present at the premises.
7. No money shall be left on site after the business is closed.

Public Safety

1. There must be 4 exits available in case of emergency, 3 of which are on ground level.
2. All safety checks and systems shall be maintained.
3. SIA door supervisors shall be present to control and look after customer welfare.
4. Accident records shall be present and maintained.

The Prevention of Public Nuisance

1. There shall be a 30 minute wind down period at the end of permitted hours in order to ensure customers leave in orderly fashion.
2. Management shall monitor sound levels at all times.
3. All windows shall be closed after 8pm as air conditioning is installed.
4. There shall be volume controls behind the bar.
5. Deliveries and rubbish shall be before 7pm.
6. Secondary glazing shall be fitted on windows where Karaoke is played.

The Protection of Children From Harm

1. Bar staff and doorman shall be trained to be aware and alert to issues of underage drinking.
2. Identification in the form of ID cards with "PASS" hologram must be produced by anyone who appears to be under 21.
3. There shall be no children after 9pm and no under 18's after midnight.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

The Prevention of Crime and Disorder

1. A terminal hour of 3am shall only be acceptable where alcohol sales are terminated at 2am.
2. On every occasion that the premises sells alcohol after midnight and then closes after 12.30am, SIA door staff shall be employed from 10.00 pm until closing.
3. A CCTV system of an evidential standard shall be installed to the satisfaction of the police, and the system to be in operation at all times the premises are open to the public. All recordings from that system to be kept for a period of 14 days and the police to have access to recordings at any reasonable time.

ANNEXES continued ...

4. All drinks shall be served in toughened or strengthened glasses and no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink.
5. There shall be no entry or re-entry to the premises after 1.00am.
6. On every operational day when door supervision is required, then those SIA door supervisors employed on front of house duties shall wear high visibility reflective clothing for the entirety of their duty.

The Prevention of Public Nuisance

1. Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. Noise from the premises should not be audible within any dwelling with windows open for normal ventilation especially after 11pm. This shall be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that shall be applied are:
 - (i) Before 11pm. - Noise emanating from the premises shall not be clearly distinguishable above other noise.
 - (ii) After 11pm - Noise emanating from the premises shall not be distinguishable above background levels of noise.
 - (iii) The local authority shall reserve the right in cases of tonal noise and where premises are attached to others, to make further assessments from within the residential property.
2. 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.
3. Doors and windows that open towards noise sensitive properties (for example residential) shall be kept shut during entertainment. All other windows and doors to be kept shut after 8pm. A management scheme shall be in place to ensure this situation remains.
4. Provision of mechanical ventilation and air conditioning system shall not allow noise breakout from the premises or cause a nuisance by its operation.
5. Secondary glazing shall be installed within 28 days.

ANNEXE 4**PLANS**

Copy attached to Licence.

LOCAL AUTHORITY



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

Premises Details

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

Jackz Bar

Parkham Road, Brixham, Devon, TQ5 9BU.

Telephone 01803 855785

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- 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
E. Performance of live music (Indoors)	Monday to Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	8:00pm	Midnight Maximum of 2 performers
F. Playing of recorded music (Indoors)	Monday to Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	9:00am	2:30am
G. Performance of dance (Indoors)	Monday to Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	8:00pm	Midnight
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Thursday Friday Saturday Sunday On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.	8:00pm 8:00pm Noon Noon	Midnight 1:00am 1:00am Midnight
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	9:00am	2:00am

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises continued ...	On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	3:00am
On New Years Eve from the start of permitted hours on New Years Eve until the end of permitted hours on New Years Day.		

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 and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

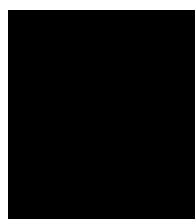
Holly Georgina Harley

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Holly Georgina HARLEY

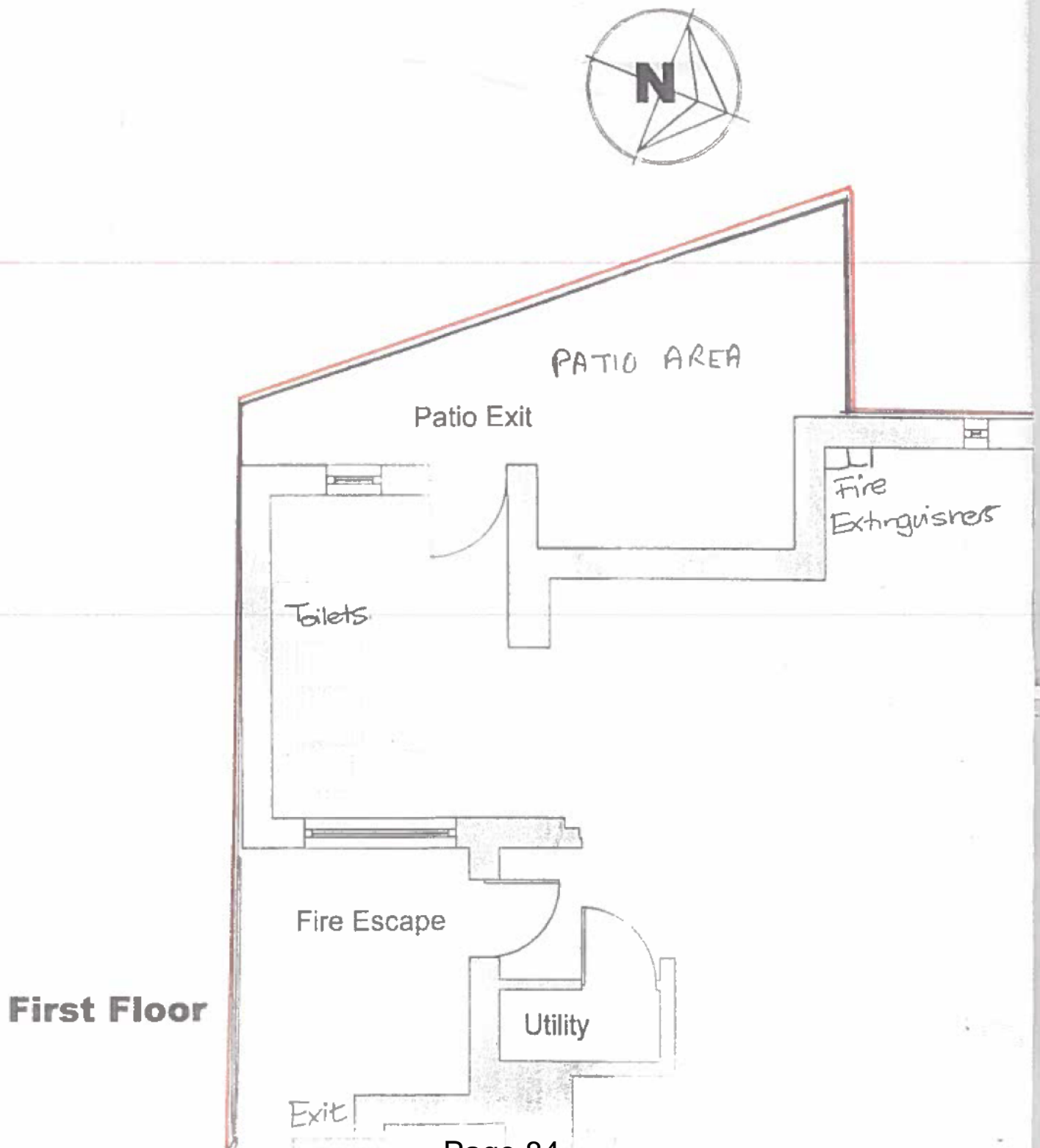
STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Access is restricted only under the terms of the Licensing Act 2003.



Steve Cox
Environmental Health Manager (Commercial)
5 August 2021

ANNEXE 4



First Floor

Author:

William-Johann Litherland BSc MSc

22 Primley Park
Paignton
Devon
TQ3 3JS

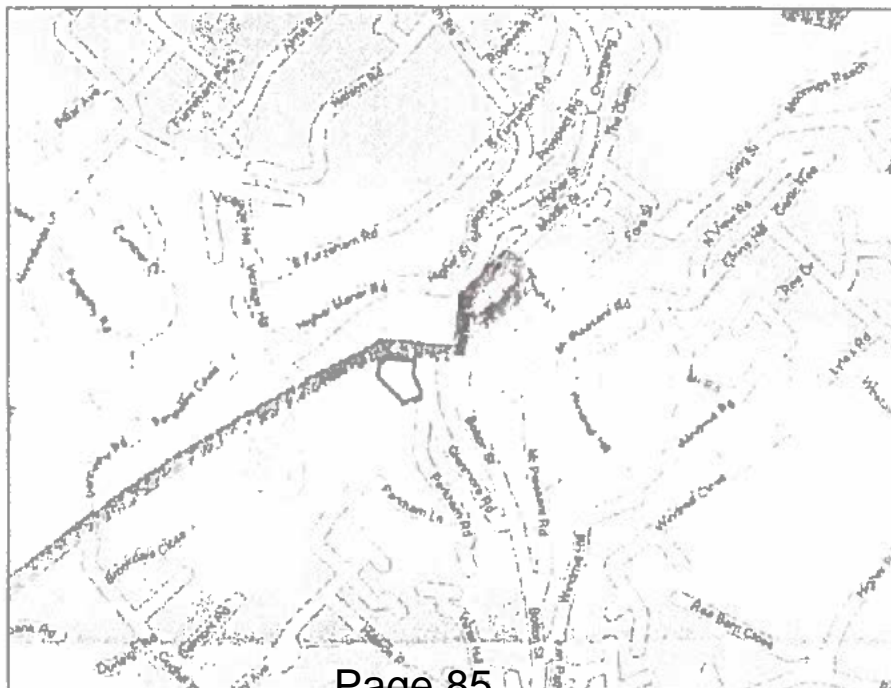
Mbl: [REDACTED]

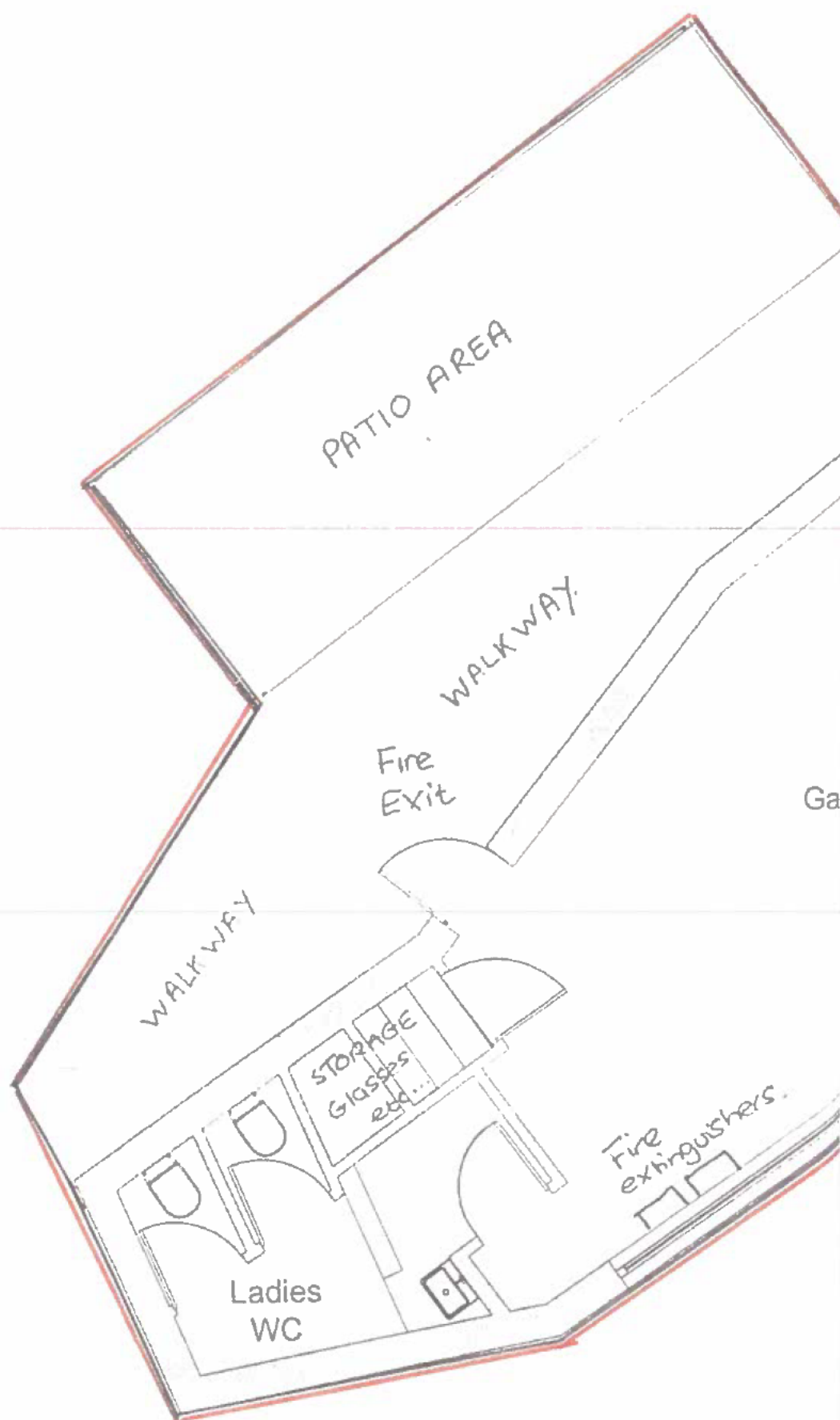
Tel: 01803 550613

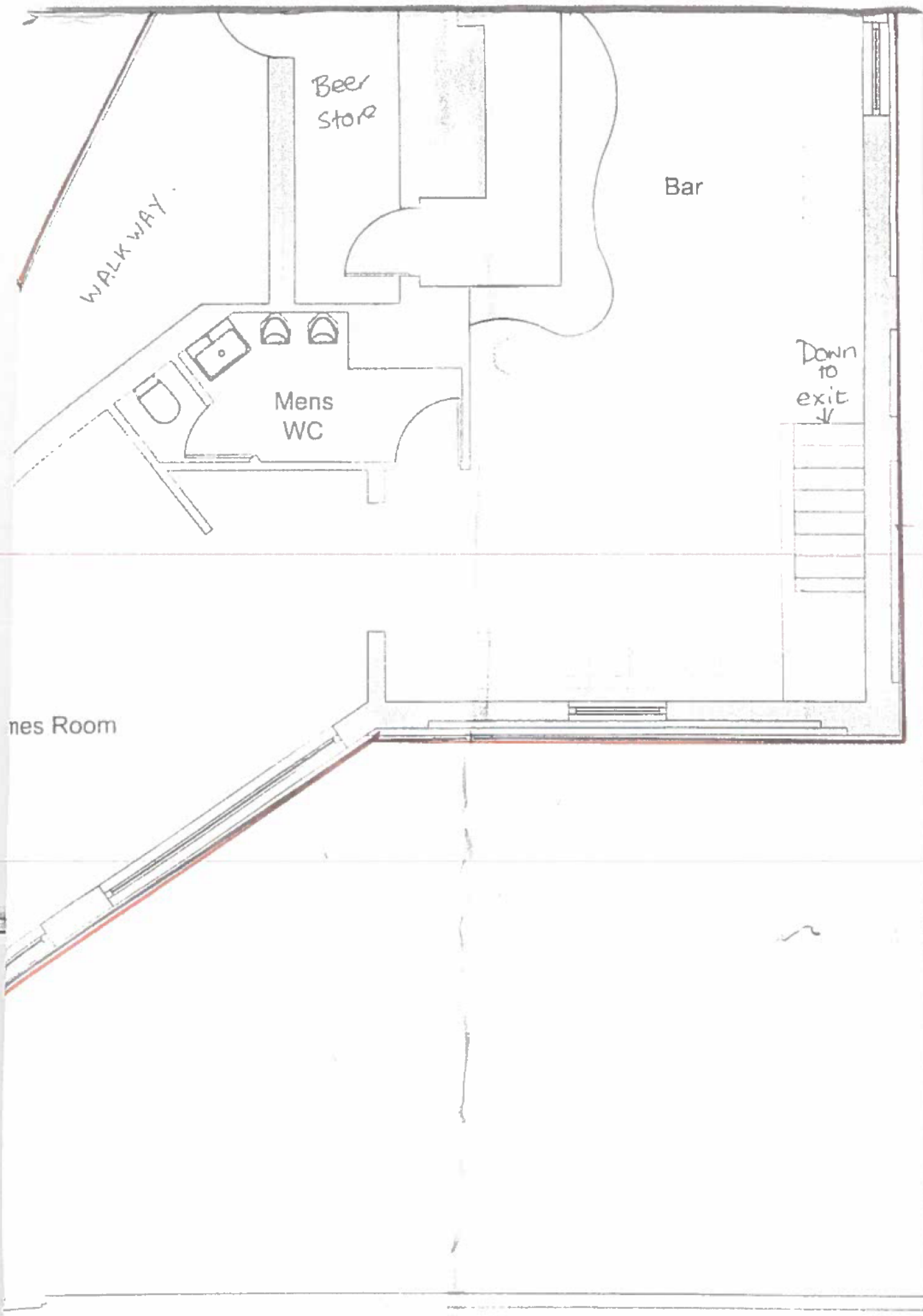
Fax: 01803 550613

Client: [REDACTED]**Site:**

Jackie's Pub
Parkham Road
Brixham
Devon
TQ5 9BU







Title:

Proposed Floor Plan

Scale: 1:50

Date: 04/12/2006

Drawing No: 2

Disclaimer

Drawing is for reference purposes only.

Although the information and recommendations in this document are presented in good faith and believed to be correct, the author William-Johann Litherland makes no representations or warranties as to the completeness or accuracy of the documentation.

This document may not reflect the standards and policy of CIAT. William-Johann Litherland is not a Chartered Architect and is not claiming to represent the Architectural Industry in any manner.

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Signed:



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/ReviewJackz
.		Your Ref	:	
For the attention of:		Date	:	31 st August 2021
Sarah Clarke				

Subject: Review application, Jackz Bar, Parkham Road, Brixham, Devon, TQ5 9BU

1. The Premises, known as Jackz, is situated in a mixed-use area (Please See Appendix 1) and has held a licence to serve alcohol for more than 20 years. Presently operating as a late-night venue which it has done so since at least 2004 (PL0878).
2. In that time, but as recently as 2018, the premises has been the subject of several noise nuisance investigations instigated by complaints from residents living in the surrounding area.
3. As typical of a late-night venue operating close to residential areas complaints have been raised in respect of:
 - Noise breakout from pre-recorded music (low to mid frequency).
 - Noise associated with customers arriving/leaving the main entrance.
 - Noise from customers using the designated smoking area.
4. Historically complaints did not occur over sustained periods of time, often problems were reported during the warmer months of the year. In most cases noise outbreak was remedied by the operator using management controls to monitor the volume of the music and using SIA door staff to manage the smoking area/outside public areas.
5. Careful and diligent management has worked in the past and the premises has not been subject to enforcement action such as a noise abatement notice or a Licensing Review.
6. The location is not ideal but the building itself is the not fit for purpose and requires careful management to avoid noise breakout. The premises is adjacent to residential properties and a large complex of retirement apartments overlooks the premises.
7. The current business owner is Mr Ross Hennessey. An application to transfer the Premises Licence (PL) and Designated Premises Supervisor (DPS) to himself was refused at Licensing Committee hearing in June 2021.
8. An application to transfer both the PL and DPS to Miss Holly Georgina Harley was accepted by the Licensing Authority in July 2021.

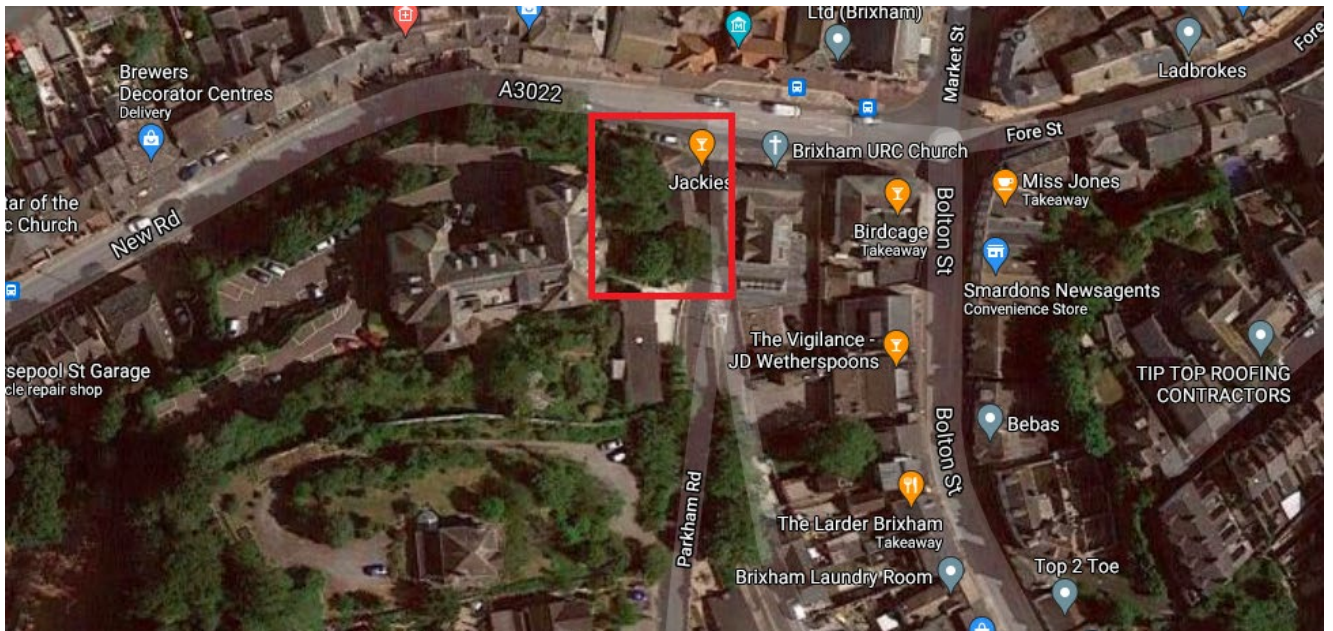
9. I do not have any experience to Miss Harley, however clearly her actions have resulted in Devon and Cornwall Police Constabulary calling a review of the PL.
10. The residents who experienced noise nuisance in 2018 still lives in the same property and it is encouraging they are not currently experiencing noise breakout from recorded music or noise associated with customers leaving/arriving.
11. The Authority is not currently investigating noise complaints in relation to Jackz Bar and consequently the Responsible Authority has not had to engage with the Premises Licence Holder in relation to Public Nuisance.
12. However, the Review submitted by the Police contains compelling evidence of poor management that has resulted in low confidence of the management to operate this business without undermining the Licensing Objectives.
13. The owner, Mr Hennessey was subject to a Review of Hennessey Cocktails in June 2021. Poor management and lack of confidence in his management of the premises where the underlining factors which led to the revocation of the PL for Hennessey Cocktails.
14. Mr Hennessey has been the owner of business since June 2021 and reopened the premises in line with the lifting of Government restrictions on nightclubs on the 21st June 2021. As no complaints have been received since this time it could unreasonable or disproportionate to seek revocation of licensable activities.
15. It is though compelling and reasonably foreseeable the risk of this premises causing further nuisance to the local community remains high at a time the Responsible Authorities have low confidence in the current management.
16. If new complaints are received in the future it is likely the complaints will be identical to those received in the past. Therefore, the most appropriate course of action to recommend to the licensing Committee is to consider the imposing of further licensing conditions that offer a level of reassurance that does not necessarily depend on effective management.
17. The Responsible Authority has spoken to the Business owner, Mr Ross Hennessey and advised further Licensing conditions are being sought and he has been asked to propose measures which could be implemented to prevent re-occurrence of noise nuisance.
18. The Responsible Authority expects a broad agreement on suitable conditions can be achieved ahead of the Review Hearing and members will be updated on progress shortly before the Review Hearing for their final consideration.



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

Appendix 1

Google map view of Jackz



Google street view

