

Wednesday, 18 May 2022

LICENSING SUB-COMMITTEE

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

Thursday, 26 May 2022

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 Ellery

Councillor Barbara Lewis

Councillor Mills

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 Sub-Committee.

3. **Declarations of interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

4. **Urgent items**

To consider any other items that the Chairman decides are urgent.

5. **Licensing Act 2003 - An application for a Premises Licence in respect of Fishcombe Cove Café, Fishcombe Cove, Brixham, TQ5 8RA**

(Pages 4 - 19)

To consider an application for a new Premises Licence in respect of Fishcombe Cove Café, Fishcombe Cove, Brixham, TQ5 8RA.

6. **Exclusion of the Press and Public**

To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.

7. Application to Renew a Dual Hackney Carriage and Private Hire Drivers' Licence (Pages 20 - 43)

To consider an application to renew a Torbay Council issued dual Hackney Carriage and Private Hire drivers licence.

Meeting Attendance

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 whilst moving around the building (unless exempt), the face covering can be removed once seated 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. If you have symptoms, including runny nose, sore throat, fever, new continuous cough and loss of taste and smell please do not come to the meeting.

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



Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Fishcombe Cove Café, Fishcombe Cove, Brixham, TQ5 8RA

Wards Affected: **Furzeham with Summercombe**

To: **Licensing Sub Committee** **26 May 2022**

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 for a new Premises Licence, in respect of the Premise detailed above.
- 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 “Protection of Children from Harm” and “Public Safety”.
- 1.4 The matter must be considered on its merits, having received details of the issues arising either at a hearing or by written Representation. A decision must be made, having considered the Representations, either:-
 - (a) to grant the licence subject to
 - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the Premises Supervisor;
 - (d) to reject the application.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

2. Application

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:-

The Supply of Alcohol for consumption both on and off the premises from 12:00 until 21:30 Monday to Sunday.

Premises opening hours from 09:30 until 23:00 Monday to Sunday.

The Applicant has given the following description of the premises: -

“Refreshment kiosk/café.

Café with outside decking seating area for customers with 6 covers and 12 seats on decking area. Total area 74.58m²

Set back from the beach itself with tarmac access lane (accessible via permitted vehicles only) leading to TQ5 8RU and general road.

Café/kiosk operates daily with occasional events held during in summer months to raise awareness for local charities and projects such as educational talks for the marine life or fundraisers for groups.”

The plan accompanying the application is shown in Appendix 2.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as relevant Representations have been received. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale and have not been subsequently withdrawn.

We have received 1 Representation from a Responsible Authority. This is from Devon and Cornwall Police, in relation to the Licensing Objectives, the “Protection of Children from Harm” and “Public Safety”. This is shown in Appendix 3.

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

- 2.3 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.

- 2.5 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.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
- (a) The holder of the licence against any decision
- (i) to impose conditions on the licence, or
 - (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
- (b) Any person who made a relevant Representation who desires to contend
- (i) that the licence ought not to have been granted, or
 - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.
- 2.7 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 Plan of the Premises
- Appendix 3 Representation from 1 Responsible Authority

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2021-26

* required information

Section 1 of 21

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

Your reference 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

* Family name

* E-mail

Main telephone number

Other telephone number

Include country code.

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

Are you:

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 you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No

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

Is your business registered outside the UK? Yes No

Business name

If your business is registered, use its registered name.

VAT number

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

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

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

Section 2 of 21

PREMISES DETAILS

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

Premises Address

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

Further Details

Telephone number

Non-domestic rateable value of premises (£)

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APPLICATION DETAILS

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

Confirm The Following

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

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INDIVIDUAL APPLICANT DETAILS

Applicant Name

Is the name the same as (or similar to) the details given in section one?

- Yes No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

First name

Family name

Is the applicant 18 years of age or older?

- Yes No

Continued from previous page...

Current Residential Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes No

Building number or name	<input type="text"/>
<input type="text"/>	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text" value="Devon"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

Applicant Contact Details

Are the contact details the same as (or similar to) those given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes No

E-mail	<input type="text"/>
Telephone number	<input type="text"/>
Other telephone number	<input type="text"/>
* Date of birth	<input type="text"/> / <input type="text"/> / <input type="text"/> dd mm yyyy
* Nationality	<input type="text" value="BRITISH"/>
Right to work share code	<input type="text"/>

Documents that demonstrate entitlement to work in the UK
Right to work share code if not submitting scanned documents

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OPERATING SCHEDULE

When do you want the premises licence to start? / /
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end / /
dd mm yyyy

Provide a general description of the premises

Continued from previous page...

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.

REFRESHMENT KIOSK/CAFE

CAFÉ WITH OUTSIDE DECKING SEATING AREA FOR CUSTOMERS WITH 6 COVERS AND 12 SEATS ON DECKING AREA
TOTAL AREA 74.58m²

SET BACK FROM THE BEACH ITSELF WITH TARMAC ACCESS LANE (ACCESSABLE VIA PERMITTED VEHICLES ONLY) LEADING TO TQ5 8RU AND GENERAL ROAD.

CAFÉ/KIOSK OPERATES DAILY WITH OCCASIONAL EVENTS HELD DURING IN SUMMER MONTHS TO RAISE AWARENESS FOR LOCAL CHARITIES AND PROJECTS SUCH AS EDUCATIONAL TALKS FOR THE MARINE LIFE OR FUNDRAISERS FOR GROUPS.

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

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PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will you be providing plays?

- Yes No

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PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will you be providing films?

- Yes No

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PROVISION OF INDOOR SPORTING EVENTS

[See guidance on regulated entertainment](#)

Will you be providing indoor sporting events?

- Yes No

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PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will you be providing boxing or wrestling entertainments?

- Yes No

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PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Continued from previous page...

Will you be providing live music?

Yes No

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PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will you be providing recorded music?

Yes No

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PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will you be providing performances of dance?

Yes No

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PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will you be providing anything similar to live music, recorded music or performances of dance?

Yes No

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LATE NIGHT REFRESHMENT

Will you be providing late night refreshment?

Yes No

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SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

Yes No

Standard Days And Timings

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

Give 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.

Continued from previous page...

WEDNESDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="21:30"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="21:30"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="21:30"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="21:30"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="21:30"/>
Start	<input type="text"/>	End	<input type="text"/>

Will the sale of alcohol be for consumption:

- On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

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 the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

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

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Continued from previous page...

Name

First name

Family name

Date of birth / /
dd mm yyyy

Enter the contact's address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number (if known)

Issuing licensing authority (if known)

PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

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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

Give 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.

n/a

Continued from previous page...

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Give 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

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 in the column on the left, list below

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

Continued from previous page...

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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.

ALL STAFF TO BE TRAINED/UNDERSTAND/ABLE TO EXPLAIN OBJECTIVE & PREVENTION OF CRIME AND DISORDER UPON REQUEST

b) The prevention of crime and disorder

ALL STAFF WILL BE TRAINED NOT TO SERVE ANY MEMBER OF THE PUBLIC THAT APPEAR TO BE DRUNK/ UNDER THE INFLUENCE.
ALL STAFF WILL BE TRAINED IN THEIR RESPONSIBILITIES UNDER THE LICENSING ACT 2003 AND IN PARTICULAR IN RELATION TO UNDERAGE SALES OF ALCOHOL
CCTV IS INSTALLED COVERING THE CAFÉ AND LOCAL AREA

c) Public safety

EXTRA LIGHTING TO ENSURE THE PUBLIC CAN CLEARLY SEE THE PATHWAY WHEN THEY LEAVE THE DECKING
RISK ASSESSMENT TO BE CARRIED OUT FOR EACH EVENT

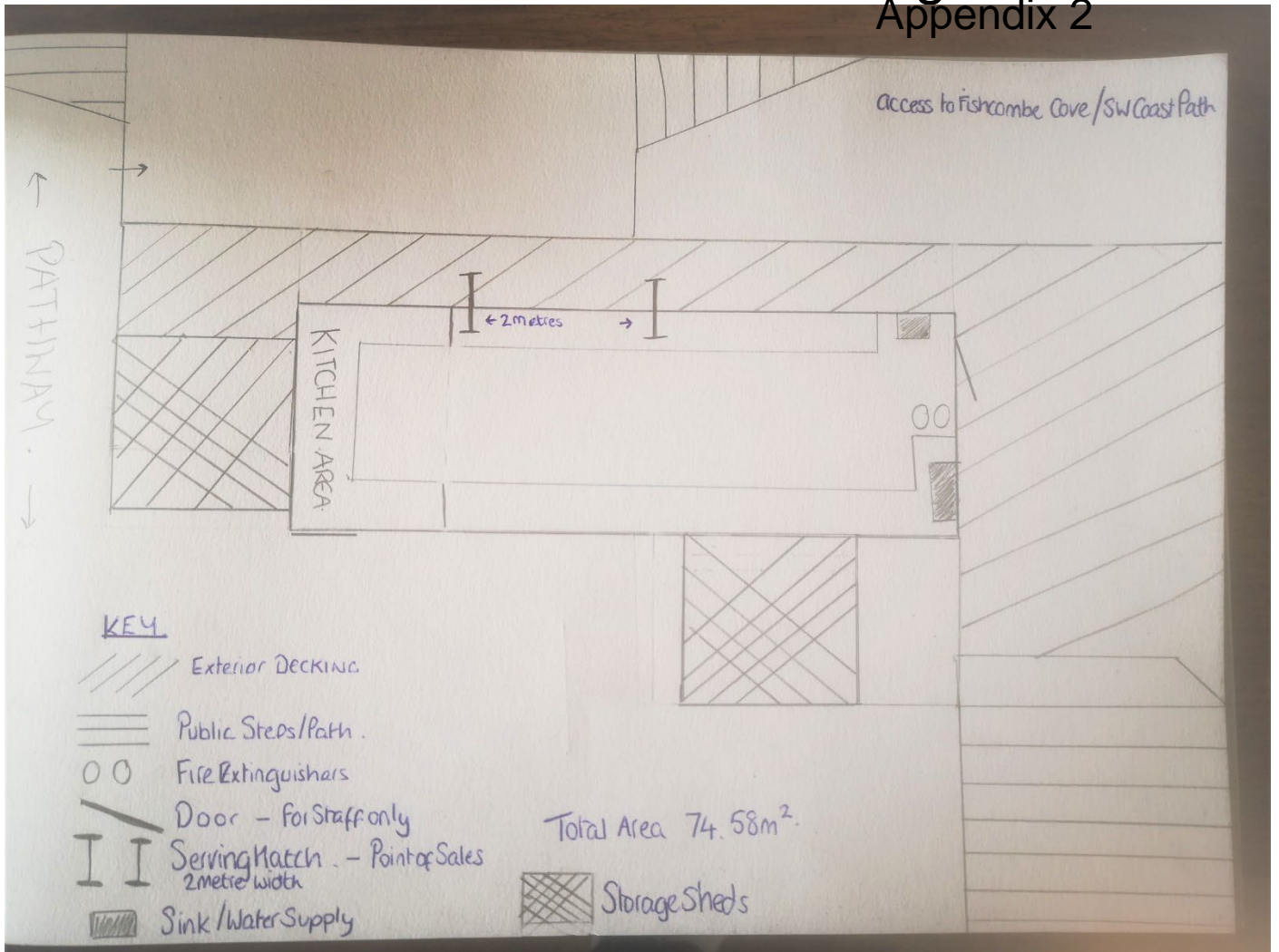
d) The prevention of public nuisance

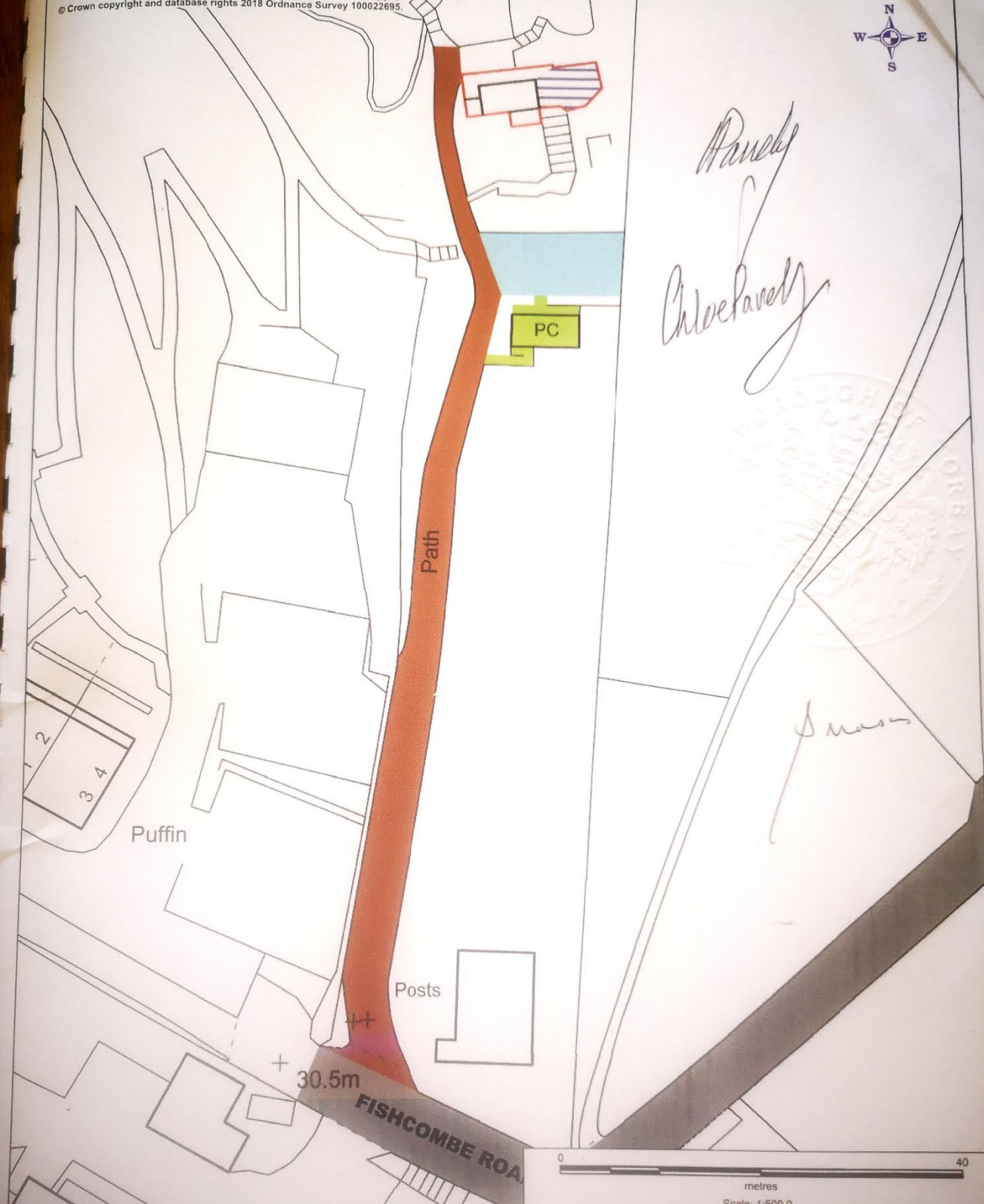
e) The protection of children from harm

THE PREMISE SHALL OPERATE A CHALLENGE 25 POLICY AND ANY INDIVIDUAL WHO APPEARS TO BE UNDER THE AGE OF 25 WILL BE REQUIRED TO PRODUCE AN APPROVED FORM OF PHOTOGRAPHIC ID AS OUTLINED WITHIN TORBAY OCUNCIL'S STATEMENT OF LICENSING PRINCIPLES
KEEP A REFUSALS BOOK
KEEP TRACK OF CCTV TO ENSURE YOUTHS ARE NOT PURCHASING VIA ADULTS

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NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK





EM Plan No: EM3029
Date: 4th January 2018
Title: Fishcombe Cove Cafe & Outside Seating Area, Brixham.

Asset No: B0323AA & ZZ
LR Title No: DN510943
Scale: 1:500
Area: 74.58m²



TORBAY DEVELOPMENT AGENCY - ASSET MANAGEMENT



Department Name [DevonAndCornwallPolice](#)
Police Headquarters, Middleport, Torquay, Devon, EX2 7HQ

- 📞 101 Non-urgent
- 📞 999 in an emergency
- 🌐 www.devon-cornwall.police.uk
- ✉️ 101@dc.police.uk
- 📘 [DevonAndCornwallPolice](#)
- 🐦 [@DC_Police](#)
- 📺 [dc_police.999](#)
- 📺 [DCPolice](#)

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

25 April 2022

Dear Sir/Madam

Fishcombe Cove Café, Fishcombe Cove, Brixham

I refer to an application for the Grant of a Premises Licence in respect of the above named premises submitted by Ms Chloe Pavely.

As this premises is situated at a beachside location, the police recommend that the below conditions are imposed on the licence:

1. Staff shall ensure that all drinks supplied for consumption off the premises will be served in cans or paper/plastic cups, with the exception of bottles of wine where paper/plastic cups will be provided.
2. At the end of each operational day, a member of staff must conduct a sweep of the immediate and surrounding area to collect and dispose of any waste attributable to the premises in an appropriate manner.
3. The premises must prominently display posters at the point of sale requesting that customers dispose of their waste in the receptacles provided by the premises.
4. Challenge 25 posters will be prominently displayed at the point of sale.

The police consider that these conditions are appropriate to ensure that this premises meets the licensing objectives The Promotion of Public Safety and Protection of Harm to Children.

Should you require any further information concerning this matter, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in cursive script that reads "Julie Smart".

Julie Smart - Police Licensing Officer

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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