



Wednesday, 9 March 2011

## LICENSING COMMITTEE

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

**Thursday, 17 March 2011**

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 Addis (Chairman)

Councillor Amil  
Councillor Doggett  
Councillor Vic Ellery  
Councillor Excell  
Councillor Faulkner (A)  
Councillor Horne  
Councillor Hytche

Councillor Mills  
Councillor Parrott  
Councillor Pentney  
Councillor Scouler  
Councillor Stocks  
Councillor Thomas (J)

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**Our vision is for a cleaner, safer, prosperous Bay**

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For information relating to this meeting or to request a copy in another format or language please contact:

**Lisa Warrillow, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207064**

Email: [democratic.services@torbay.gov.uk](mailto:democratic.services@torbay.gov.uk)



# LICENSING COMMITTEE AGENDA

1. **Apologies**  
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 1 - 4)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 27 January 2011.
3. **Declarations of interest**
  - (a) To receive declarations of personal interests in respect of items on this agenda  
**For reference:** Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question). If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of personal prejudicial interests in respect of items on this agenda  
**For reference:** A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial 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 Democratic Services or Legal Services prior to the meeting.)
4. **Urgent items**  
To consider any other items that the Chairman decides are urgent.
5. **Statement of Licensing Policy for Sex Establishments** (Pages 5 - 38)  
To consider Report 64/2011 which seeks agreement of the Statement of Licensing Policy for Sex Establishments.

6. **Street Trading Re-designations** (Pages 39 - 68)  
To consider Report 67/2011 concerning a request by the Town Centres Company and Brixham Town Council to change the designations of streets and car parks within three town centre areas of Torbay and within St. Marychurch.
7. **Bay News, 76 Belgrave Road, Torquay** (Pages 69 - 90)  
To consider Report 65/2011 on an application for a Variation to a Premises Licence in respect of Bay News, 76 Belgrave Road, Torquay.
8. **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.
9. **Application for a Personal Licence** (Pages 91 - 106)  
To consider exempt Report 66/2011 on an application for a Personal Licence.

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## Minutes of the Licensing Committee

27 January 2011

-: Present :-

Councillors Addis, Baldrey, Doggett, Excell, Hytche, Parrott, Pentney, Scouler and Stocks

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### 471. Apologies.

Apologies for absence were received from Councillors Amil, Horne, Manning and Thomas (J).

### 472. Committee Membership.

It was reported that, in accordance with the wishes of the Liberal Democrat Group, the membership of the Committee had been amended for this meeting by including Councillor Baldrey instead of Councillor Faulkner (A).

### 473. Minutes.

The Minutes of the meeting of the Committee held on 2 December 2010 were confirmed as a correct record and signed by the Chairman.

### 474. Street Trading Re-designations.

Members considered Report 7/2011 which set out a request from the Town Centres Company and Brixham Town Council to change the designations of streets and car parks within the three town centre areas of Torbay and within St Marychurch. The Environmental Health Manager (Commercial) advised the Committee that the areas proposed for re-designation were within the existing or proposed Business Improvement Districts (BID) and sought changes from Prohibited to Restricted Consent Areas.

#### **Resolved**

That a public notice be placed in the paper to advise the public that Torbay Council intends to change the street trading designation for those streets in Appendix 2 to Report 7/2011, from Part A of the Street Trading Schedule (Prohibited Streets) to a Part B (Consent Street – Council permission required to trade from the land).

**475. Pavement Café Permit Application.**

The Committee considered the application for a Pavement Café Permit, full details of which are set out in Appendix 1 to these Minutes.

Chairman

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**APPENDIX 1**  
**to the Minutes of the Licensing Committee**  
**held on 27 January 2011**

**The Brixham Deli, 68a Fore Street, Brixham**

**Decision maker:**

The Licensing Committee at its meeting held on 27 January 2011.

**Details of application:**

Application for a Pavement Café Permit, under the Highways Act 1980, for The Brixham Deli, 68a Fore Street, Brixham, as set out in Report 8/2011.

**Written representations received from:**

<b>Name</b>	<b>Details</b>	<b>Date of Representation</b>
Member of the Public	Representation objecting to the Pavement Café Permit application in respect of The Brixham Deli, 68a Fore Street, Brixham as set out in Appendix 3 to Report 8/2011.	29 October 2010
Members of the Public (52 signatories)	Representation objecting to the Pavement Café Permit application as set out in Appendix 3 to Report 8/2011.	Date unknown
Police	Representation advising that the Police have no objections to the Pavement Café Permit application as set out in Appendix 3 to Report 8/2011.	1 November 2010
Brixham Town Council	Representation setting out the minutes of the meeting of Brixham Town Council's Planning Committee recommending refusal of the Pavement Café Permit application as set out in Appendix 3 to Report 8/2011.	22 November 2010

## APPENDIX 1 continued...

### Additional information:

The Anti Social Behaviour and Licensing Legal Advisor informed the Committee that the representation from Brixham Town Council dated 22 November 2010, was received after the deadline for receipt of representations and did not outline any issues or state any reasons for refusing the application and therefore Members should disregard the representation.

### Oral representations received from:

Name	Details
Principal Engineer	The Principal Engineer advised the Committee that Highways Officers believed the application would not compromise road user safety. He further advised that the current street furniture would be re-sited at a cost to the applicant and advised that there had not been any recorded injury from accidents in the last five years in the vicinity of the Brixham Deli. The Principal Engineer also responded to Members questions.
Applicant	The Applicant outlined the application and responded to Members questions.

### Applicant's response to representations:

With agreement from the Chairman, the Applicant circulated photographs showing the street scene outside the Brixham Deli, 68a Fore Street, Brixham.

### Decision:

**That the application for a Pavement Café Permit in respect of the Brixham Deli, 68a Fore Street, Brixham be granted in accordance with the plan set out at Appendix 1 to Report 8/2011.**

### Reason for decision:

Having carefully considered all the written and oral representations, the Committee noted the recommendation of approval as set out in Report 8/2011 by the Council's Highway's Department and the absence of an objection from the Police.

The Committee also noted the concerns raised in the representations however, resolved that following the recommendation of the Highway's Department these concerns would be alleviated.



Report No: **64/2011** Public Agenda Item: **Yes**

Title: **'Statement of Licensing Policy' for Sex Establishments**

Wards Affected: **All**

To: **Licensing Committee** On: **17 March 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Steve Cox**  
Telephone: **01803 208034**  
E.mail: **Steve.cox@torbay.gov.uk**

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## **1. What we are trying to achieve**

- 1.1 To agree the 'Statement of Licensing Policy' for Sex Establishments so that applicants have the guidance required to make applications.

## **2. Recommendation(s) for decision**

- 2.1 It is recommend that:

- (1) The 'Statement of Licensing Policy' for Sex Establishments is agreed.

## **3. Key points and reasons for recommendations**

- 3.1 By the provisions of the Local Government (Miscellaneous Provisions) Act 1982, Torbay Council is the Licensing Authority in respect of Sex Establishments within Torbay. Section 27 of the Policing and Crime Act 2009 amended Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, including a new type of Sex Establishment called Sexual Entertainment Venues. This new category was adopted by Licensing Committee on the 2<sup>nd</sup> December 2010.
- 3.2 With the adoption of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, the powers found within that Schedule came into force on 7<sup>th</sup> January 2011, 28 days after the publication of the first of two public notices.

3.3 A “Sexual Entertainment Venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

“Relevant entertainment” means—

(a) any live performance; or

(b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

3.4 As part of this new responsibility a draft ‘Statement of Licensing Policy’ for Sex Establishments was written which covers all three types of Sex Establishments, notably Sex Shops, Sex Cinemas and Sex Entertainment Venues. On the 2<sup>nd</sup> December 2010 the Licensing Committee agreed for the draft policy to go out to public consultation for a 12 week period. This ended on the 2<sup>nd</sup> March 2011.

3.5 This draft policy covers several key points that are an important part of the delivery of this licensing regime. The first is the location where these premises can apply and maybe be granted a licence. The second is the numerical limit of premises and the third is the conditions that would apply to those types of premises.

3.6 In total nine representations were made and a summary of these are included in Appendix 2. Only two representations were made on the new Sexual Entertainment Venues numerical limit, both stating it should be lower than the recommendation of two. This would suggest that two is a reasonable limit to set, so the recommendation is to set this at two.

3.7 There are no risks of an appeal at this stage as no applications are being considered today.

**For more detailed information on this proposal please refer to Appendix A.**

**Frances Hughes**  
**Executive Head Community Safety**

## Appendix A – Supporting information to Report 64/2011

### A1. Introduction and history

- A1.1 By the provisions of the Local Government (Miscellaneous Provisions) Act 1982, Torbay Council is the Licensing Authority in respect of Sex Establishments within Torbay.
- A1.2 Section 27 of the Policing and Crime Act 2009 amended Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, including a new type of Sex Establishment called Sex Entertainment Venues. This is in addition to the two existing types of Sex Establishments, namely Sex Shops and Sex Cinemas.
- A1.3 On 28<sup>th</sup> October 1982 Torbay Council adopted Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 and has licensed Sex Shops and Sex Cinemas since. On the 2<sup>nd</sup> December 2010 Torbay Council adopted, the amended Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 so to include Sexual Entertainment Venues.
- A1.4 A “Sexual Entertainment Venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

“Relevant entertainment” means—

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

However premises that provide this type of entertainment less frequently than once per month and therefore 11 or less times per year are not Sex Entertainment Venues for the purpose of the legislation.

- A1.5 With the adoption of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, the powers found within that Schedule come into force 28 days after the publication of the first of two public notices. These notices were published on the 10<sup>th</sup> and 17<sup>th</sup> December 2010 and therefore the adoption took effect from the 7<sup>th</sup> January 2011.
- A1.6 The 7<sup>th</sup> January 2011 is called the ‘first appointed day’. This gives Applicants, who apply for a Sexual Entertainment Venue Licence, 6 months in which to make such an application. The final date for those applications will be 7<sup>th</sup> July 2011 and is called the ‘second appointed day’. Torbay Council will then have 6 months until the ‘third appointed day’ to grant or refuse those applications. After the ‘third appointed day’ existing premises that undertake these types of entertainment and/or have conditions on their Premises Licences granted in accordance with 2003 Licensing Act, will have to cease these activities and those conditions will no longer apply. Those premises issued with the new licence issued under Local Government (Miscellaneous Provisions) Act 1982 can then operate under the new licence and the conditions that are attached to that new licence. There are no grandfather rights under this legislation.

A1.7 The adoption of the amended Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, does not affect the two existing premises which are Sex Shops. There are no Sex Cinemas licensed in Torbay.

A1.8 A draft 'Statement of Licensing Policy' for Sex Establishments was written to address the key issues around the licensing of Sex Establishments. This draft Policy covers all three types of Sex Establishments, notably Sex Shops, Sex Cinemas and Sex Entertainment Venues. A consultation draft was agreed on the 2<sup>nd</sup> December 2010 and went out to public consultation for a 12 week period ending on the 2<sup>nd</sup> March 2011. A final draft Policy that incorporates any amendments following the consultation is attached in Appendix 1. The amendments are highlighted for easy comparison to the draft agreed on the 2<sup>nd</sup> December 2010.

A1.9 This draft policy covers several key points that are an important part of the delivery of this licensing regime. The first is the 'characteristics of an area' where these types of premises could or could not operate. The second is the numerical limit which can be set for each type of premises and the third is the conditions that would apply to those types of premises.

A1.10 Within the legislation Torbay Council can refuse an application based upon the characteristics of an area. In the draft policy this is covered by the following paragraph. "Irrespective of the numerical limit, and whilst treating each application upon its own merits, the Council will not licence premises in the relevant locality to:

- (a) a residential area;
- (b) premises, areas or access routes to such premises or areas which are designed for or attract children or families, such as school, play areas, parks, children's centres, youth clubs, nurseries or leisure facilities, or any other similar establishment;
- (c) a place of public religious worship;
- (d) historic buildings, cultural attractions and tourist attractions;
- (e) educational establishments;
- (f) community facilities and public buildings;
- (g) an area with a history of social difficulties;
- (h) a gateway to an identifiable locality."

A1.11 The second key point is the numerical limits for each type of premises. In the draft policy this is covered by the following paragraph. "Torbay Council being the Licensing Authority in Torbay for the purposes of the Act recognises that it can set a quantity limit regarding the number of sex establishments in an area. For the purposes of the consultation this has been set as follows.

Sex Shops – Two (in line with the existing numerical limit)

Sex Cinemas – Nil

Sexual Entertainment Venues (Lap dancing and striptease) – Two"

A1.12 It is important to note that there is an existing numerical limit for Sex Shops of two. Since there are two Sex Shops operating in Torbay, it is likely that any change to this would be challenged by one or other operator. It is therefore recommended this remains the same. Both premises were consulted upon this but neither responded with a representation.

- A1.13 There is no existing numerical limit for Sex Cinemas, and it is recommended that this is set at zero.
- A1.14 Sexual Entertainment Venues is the new category and the proposed numerical limit of two had been set to generate debate. However with only two representations made on setting this as a numerical limit of lower than two, this would suggest that two is a reasonable figure, so the recommendation is to set this at two.
- A1.15 Within the draft 'Statement of Licensing Policy for Sex Establishments' Appendix C and D are the proposed conditions for Sex Shops and Sex Entertainment Venues respectively. Those for Sex Shops are very similar to those adopted by Licensing Committee in 2000, and so only reflect minor changes with modern day practice.
- A1.16 A meeting has been held with the existing operator of a Sexual Entertainment Venue after a detail submission, and the changes to Appendix D reflect that meeting.
- A1.17 In total nine representations were made, and a summary of these are included in Appendix 2. Minor alterations have been made to the draft policy to reflect these representations and as stated above these are highlighted with Appendix 1.
- A1.18 It is therefore recommended that this draft 'Statement of Licensing Policy' for Sex Establishments is agreed.
- A1.19 There are no risks of an appeal at this stage as no applications are being considered today.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

There are no risks associated with this report providing the policy is agreed, as firstly the adoption is a legal process and is very unlikely to generate any form of legal challenge that can be substantiated, providing that the legal process is followed. Secondly the only possible challenge would be from a judicial review, however this is unlikely at this stage as those who may have had reason to comment have had ample opportunity to do so due the 12 week consultation period.

If the policy was not agreed then it would be difficult to refuse applications in unsuitable locations or because of numerical limits.

## **A3. Options**

- A3.1
- (i) To agree the draft 'Statement of Licensing Policy' for Sex Establishments
  - (ii) To agree an amended draft 'Statement of Licensing Policy' for Sex Establishments
  - (iii) To refuse to agree the draft 'Statement of Licensing Policy' for Sex Establishments

#### **A4. Summary of resource implications**

A4.1 There are no significant additional resource implications that will derive from the implementation of this piece of legislation. The fees have been set to cover the costs of the work to deliver this adoption and any subsequent applications.

#### **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no equalities, environmental sustainability or crime and disorder implications.

#### **A6. Consultation and Customer Focus**

A6.1 There has been a 12 week public consultation on the draft 'Statement of Licensing Policy for Sex Establishments', during December 2010 to February 2011.

#### **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other business units relating to this report.

#### **Annexes**

Appendix 1 Draft 'Statement of Licensing Policy' for Sex Establishments

Appendix 2 Summary of consultation responses

#### **Documents available in members' rooms:**

Sex Entertainment Venues – Home Office Guidance for England and Wales.

Local Government (Miscellaneous Provisions) Act 1982 is available on line at:

[www.opsi.gov.uk](http://www.opsi.gov.uk)

#### **Background Papers:**

The following resources and documents were used to compile this report:

1 Sex Entertainment Venues – Home Office Guidance for England and Wales

2 Local Government (Miscellaneous Provisions) Act 1982



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# Statement of Licensing Policy for Sex Establishments

## Contents

	<b>Page</b>
<b>Foreword</b>	3
<b>1.0 Introduction</b> .....	4
Definition of Sex Establishment.....	4
Policy Development.....	4
Consultation.....	5
Exchange of Information.....	5
Further Information	6
<b>2.0 Primary Considerations</b> .....	6
<b>3.0 The Application and Determination Process</b> .....	6
Making an Application.....	6
Duration of Licences.....	7
Commenting on Licence Applications.....	7
Determination of Applications.....	8
Conditions.....	9
Refusal of Licences.....	9
Mandatory Grounds for Refusal.....	9
Discretionary Grounds for Refusal.....	9
Revocation of Licences.....	10
Cancellation of Licences.....	10
Appeals.....	11
<b>4.0 Complaints and Enforcement</b> .....	11
<b>Appendices</b>	
A Definition of Terms.....	12
B Requirements for Applying for Grant, Variation, Transfer or Renewal of a Sex Establishment Licence.....	15
C Standard Sex Shop Conditions	17
D Standard Sexual Entertainment Venue Conditions	21

**This Statement of Licensing Policy for Sex Establishment Policy was agreed by Licensing Committee on XXXXXX**

**If you or someone you know has difficulty in understanding or reading this policy, then help will be offered to meet your needs. Please ring on 01803 208126 or email [Licensing@torbay.gov.uk](mailto:Licensing@torbay.gov.uk)**

## Foreword

Torbay is situated on the South Devon coast, on the south west peninsular of England and comprises the three towns of Torquay, Paignton, and Brixham. Torbay is an outstanding coastal location including 22 miles of coastline which has shaped its economic and social development over time. Historically the local economy has focused on tourism, fishing and to a lesser extent manufacturing activities.

The three towns of Torbay and its environs have a combined population of 134,000, making Torbay the second largest conurbation to the south west of Bristol. Tourism in Torbay accounts for 1.45 million staying visitors plus 3.8 million day visitors, generating a direct and indirect spend of £442 million per annum. This represents around one third of the areas wealth and also one third of its jobs.

This Statement of Licensing Policy for Sex Establishments sets out Torbay Council's requirements for premises to be licensed as sex establishments within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009). This legislation shall be referred to thereafter as 'the Act'.

Section 2 of the Act provides that local authorities may resolve that Schedule 3 will apply to their area, which has the effect of requiring premises operating as sex establishments in that authority's area to be licensed. The adoption of Schedule 3 also allows the Council to set terms and conditions and fees for the grant, renewal, variation and transfer of such licences and the number of licences that may be issued in the area, which may be nil.

Schedule 3 was originally adopted for Sex Shops and Sex Cinema's on the 28<sup>th</sup> October 1982, and has subsequently been adopted for Sexual Entertainment Venues on the 2<sup>nd</sup> December 2010.

This policy therefore replaces all previous policies.

Torbay Council does not take a moral stand in adopting this policy. We recognise that parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a Licensing Authority to administer this licensing regime in accordance with the law.

## 1.0 Introduction

- 1.1 Torbay Council resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, providing that anyone wishing to operate a 'sex establishment' within the Borough must first obtain a licence from the Council.
- 1.2 This Statement of Licensing Policy for Sex Establishments sets out the Council's requirements for premises to be licensed as 'sex establishments' within the meaning of the Act.
- 1.3 The information contained in the appendices attached and referred to within this policy should be read as an inclusive part of this policy document.
- 1.4 Applicants are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act or schedules issued under the Act.

### Definition of Sex Establishment

- 1.5 A 'sex establishment' is defined under the Act as a 'sex shop', a 'sex cinema' or a 'sexual entertainment venue'. Full definitions of those and other relevant terms can be found in Appendix A. This appendix also provides detail on when a sexual entertainment venue is exempt from the provisions of the Act.
- 1.6 Sex establishments include any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

### Policy Development

- 1.7 This Statement of Licensing Policy sets out position the Licensing Authority will generally apply when making decisions on applications. This document explains the application process and provides information on what is expected of Applicants. In addition, the processes by which Representations may be made about an application are explained.
- 1.8 Whilst this policy stands alone, Applicants are advised to also have regard to the Torbay Council's Licensing Act 2003 Statement of Principles 2011 which may impact on an Applicant's application, particularly those wishing to undertake other licensable activities such as the retail sale of alcohol or **the provision of** regulated entertainment.
- 1.9 In addition to considering the requirements of the Act, consideration has been given to the following requirements in developing this policy:
  - (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the district;

## DRAFT ONLY

(b) The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and

(c) The Provision of Services Regulations 2009 to ensure requirements are:

- (i) non-discriminatory;
- (ii) justified by an overriding reason relating to the public interest;
- (iii) proportionate to that public interest objective;
- (iv) clear and unambiguous;
- (v) objective;
- (vi) made public in advance; and
- (vii) transparent and accessible.

1.10 At the time of adopting this policy, the Borough of Torbay Council has two licensed sex establishments, both sex shops, and at least four premises that have conditions on their existing premises licence which means they are likely to fall within the definition of sexual entertainment venue. However, at present only one of the premises operates as a sexual entertainment venue.

### Consultation

1.11 The consultation with regard to this document took place between 9th December 2010 and 2<sup>nd</sup> March 2011, in line with Her Majesty's Government Code of Practice on Consultation (published July 2008), which is available at [www.berr.gov.uk/files/file47158.pdf](http://www.berr.gov.uk/files/file47158.pdf). Consultation was conducted with local residents, the statutory responsible authorities under the Licensing Act 2003, the business community, Torbay Care Trust, Town Centre Company, English Riviera Tourism Company, Torbay Development Agency, Torbay Council's Children's Services, as well as representatives of holders of premises licences under the Licensing Act 2003 in the Borough.

### Exchange of Information

1.12 The Authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil its statutory objective of reducing crime in the area.

1.13 Details of applications and objections which are referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

1.14 The names and addresses of objectors will not be disclosed to Applicants or published in public reports in accordance with the Act. Such details will be made available to Councillors on the Licensing Sub-Committee.

## Further Information

- 1.15 Should you have comments regarding this policy please write to the Licensing and Public Protection Team, Community Safety, Torbay Council, Roebuck House, Abbey Road, Torquay, TQ2 5EJ or email [licensing@torbay.gov.uk](mailto:licensing@torbay.gov.uk)
- 1.16 Relevant legislation can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk).

## 2.0 Primary Considerations

- 2.1 Torbay Council being the Licensing Authority in Torbay for the purposes of the Act recognises that it can set a quantity limit regarding the number of sex establishments in an area. For the purposes of the consultation this has been set as follows.

Sex Shops – Two (in line with the existing numerical limit)  
Sex Cinemas – Nil  
Sexual Entertainment Venues (Lap dancing and striptease) – Two

- 2.2 Irrespective of the numerical limit, and whilst treating each application upon its own merits, the Council will not licence premises in **the locality of:**

- (a) a residential area;
- (b) premises, areas or access routes to such premises or areas which are designed for or attract children or families, such as school, play areas, parks, children's centres, youth clubs, nurseries or leisure facilities, or any other similar establishment;
- (c) a place of public religious worship;
- (d) historic buildings, cultural attractions and tourist attractions;
- (e) educational establishments;
- (f) community facilities and public buildings;
- (g) an area with a history of social difficulties;
- (h) a gateway to an identifiable locality.

## 3.0 The Application and Determination Process

### Making an Application

- 3.1 Whilst not required, the Council as the Licensing Authority would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.
- 3.2 The Licensing Authority expects that Applicants will have consulted with local residents, businesses and/or community groups in the vicinity of the premises so far as is reasonably practicable to do so.
- 3.3 Applicants are advised to consider the Licensing Authority's model conditions for each respective type of sex establishment, as these will be applied as

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conditions to each licence, unless Representations on these conditions are made and accepted to the contrary.

- 3.4 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must also state where it is to be used as a sex establishment.
- 3.5 Applications should be made in line with Appendix B, which details requirements such as notification to the Police, and the display and advertisement of public notices. Application forms can be downloaded from the Council's web-site, or are available upon request to the Licensing and Public Protection Team.
- 3.6 An application form and relevant documentation for the new licence, renewal, variation or transfer must be completed and returned with the appropriate non-returnable fee, as set out on the Council's webpage here: [www.torbay.gov.uk](http://www.torbay.gov.uk).
- 3.7 The fees are set in 2011-12 as follows

Application Fee - £5697  
Annual Fee - £5697  
Transfer fee - £5697

These will be reviewed annually so reference to future fee levels will be found in the Discretionary Fees and Charges for each year.

### **Duration of Licences**

- 3.8 Licences for sex establishments can be granted for up to one year.

### **Commenting on Licence Applications**

- 3.9 Unlike some other licensing regimes (such as for alcohol, regulated entertainment, or gambling), a wide range of people can raise objections about sex establishment licences. The Police are a statutory consultee for all applications.
- 3.10 Those making an Objection, must state in general terms the grounds of that objection. Objections should:
- be made in writing;
  - state the name and address of the person or organisation making the Objection;
  - state the premises to which the objection relates;
  - indicate the proximity of the premises to the residential/business address of the person making the Representation.
- 3.11 Objections may only be made within the period of 28 days following the date on which the application was given to the Licensing Authority.

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- 3.12 The Licensing Authority will not normally consider any objection that does not contain the name and address of the person making it.
- 3.13 Objections received that are frivolous or vexatious or which relate solely to moral grounds are likely to be given less weight by the Licensing Authority. A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason, such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 3.14 Where Objections are made the Licensing Authority will provide copies to the Applicant. Names and addresses of those making Representations will not be disclosed, except with written permission.

### **Determination of Applications**

- 3.15 When considering applications, the Licensing Authority will have regard to:
- The Local Government (Miscellaneous Provisions) Act 1982 (as amended);
  - Any supporting regulations;
  - This Licensing Statement of Principles;
  - Any supporting Government Guidance
- 3.16 This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its own merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.
- 3.17 When determining applications, the Licensing Authority will take account of all Representations made.
- 3.18 The Licensing Authority will take the following approach to deciding applications:
- Each case will be decided upon its own merits. The Licensing Authority will not apply a rigid rule to its decision making; and
  - Objectors can include individuals, residents'/tenants' associations, community associations, and trade associations. Councillors and MPs may also raise objections. Elected Councillors may represent Interested Parties, providing they do not also sit on the Licensing Sub-Committee determining the application in question; and
  - The Council as the Licensing Authority will give clear reasons for its decisions.
- 3.19 Where objections are made and not withdrawn, a hearing before a Licensing Sub Committee will normally be held within 20 working days of the end of the period during which Representations may be made.
- 3.20 Objections will be considered by a Licensing Sub Committee, where both the Applicants and objectors will be offered equal opportunity to state their case.

## Conditions

- 3.21 The Licensing Authority will attach all the relevant standard conditions to any licence. The Council recognises that each application should be considered on its own merits and as such will consider any Representations about the alteration to, addition to or removal from this standard list. However there will need to be good reason to depart from the agreed conditions found within the attached appendices C and D. **This will need to be agreed by Licensing Committee.** There are no standard conditions for Sex Cinemas, as the Council has a numerical limit of zero.

## Refusal of licences

- 3.22 Except where the Licensing Authority is prohibited from granting, renewing, varying or transferring a licence, the Council will not refuse a licence without first:
- Notifying the Applicant or holder of the licence in writing of the reasons;
  - Giving the Applicant or holder of the licence the opportunity of appearing and making Representations before a Licensing Committee.

## Mandatory Grounds for Refusal

- 3.23 The Licensing Authority must refuse to grant or transfer a licence to:
- (a) A person under the age of 18;
  - (b) A person who is for the time being disqualified from holding a licence;
  - (c) A person who is not resident in a European Union State or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
  - (d) A body corporate which is not incorporated in a European Union State;  
or
  - (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

## Discretionary Grounds for Refusal

- 3.24 An application for grant or renewal of a licence may be refused on one or more of the grounds shown below.
- 3.25 An application for transfer of a licence may be refused on either or both of the grounds shown in paragraphs (a) and (b) below.

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The grounds for refusal are:

- (a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the Council considers is appropriate for that locality (nil may be an appropriate number for these purposes).
- (d) That the grant or renewal of the licence would be inappropriate having regard to:
  - i. The character of the relevant locality;
  - ii. The use to which any premises in the vicinity are put; or
  - iii. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

### **Revocation of licences**

3.26 The Licensing Authority may revoke a licence:

- on any of the grounds specified under the paragraph entitled mandatory grounds for refusal;
- on either of the discretionary grounds specified in paragraph (a) and (b).

3.27 The Licensing Authority will not normally revoke a licence without first giving the holder of the licence the opportunity of appearing and making Representations before a Licensing Sub Committee.

### **Cancellation of licences**

3.28 The licence holder may surrender the licence at any time and may by written request ask the Licensing Authority to cancel the licence.

3.29 In the event of the death of a licence holder, the licence will be deemed to have been granted to his/her personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.

3.30 Where the Licensing Authority is satisfied that it is necessary for the purpose of winding up the estate of the deceased licence holder, it may extend or further extend the period in which the licence remains in force.

### **Appeals**

3.31 Section 27 of the Act permits appeals against the decisions of the Licensing Authority in relation to sex establishments. Appeals will be heard in the first

## DRAFT ONLY

instance by the Magistrate's Court. An appeal should be made within 21 days of the date of the receipt of the Licensing Authority's written decision.

3.32 An appeal can be made in the following circumstances:

- Refusal of an application for the grant, renewal or transfer of a licence.
- Refusal of an application to vary terms, conditions, or restrictions on or subject to which any licence is held.
- A grievance relating to any term, condition or restriction on or subject to which a licence is held.
- Revocation of a licence.

3.33 There is no right of appeal for objectors. There is a right of appeal against refusal on mandatory grounds, only where the appellant alleges that the ground(s) did not apply to them. There is no right of appeal against refusal on the grounds that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

3.34 A person wishing to appeal against a Licensing Authority decision on a sex establishment is strongly advised to seek legal advice prior to commencing any action in a Court of Law.

## 4.0 Complaints and Enforcement

4.1 Torbay Council as the Licensing Authority is responsible for the administration and enforcement of this licensing regime and will abide by Community Safety Enforcement Policy which has regard to the Department of Business Enterprise & Regulatory Reform's Regulators' Compliance Code and the Better Regulation Commission's 'Five Principles of Good Regulation'. The Council will carry out its regulatory functions in a fair, open and consistent manner. The Enforcement Policy is available from the Community Safety Department at Torbay Council.

4.2 Specifically, the Council will:

- (a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;
- (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
- (c) be consistent – to implement rules and standards fairly;
- (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
- (e) target its regulatory action at cases in which action is needed.

4.3 The Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence. However, proportionate but firm

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action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.

## Appendix A

### Definition of Terms

- **Definition of a ‘Sex Establishment’**

A ‘Sex Establishment’ is defined under the Act as a ‘Sex Shop’, a ‘Sex Cinema’ and a ‘Sexual Entertainment Venue’.

It includes any premises, vehicle, vessel or stall used as a sex establishment but does not include a private dwelling to which the public are not admitted.

- **Meaning of a ‘Sex Cinema’**

‘Sex Cinema’ means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:

- (a) Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:
  - (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity
- (b) Are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

- **Meaning of a ‘Sex Shop’**

‘Sex Shop’ means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- (a) Sex articles; or
- (b) Other things intended for use in connection with, or for the purpose of stimulating or encouraging:
  - (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity.

- **‘Sex Article’** means anything made for use in connection with, or for the purpose of stimulating or encouraging:

- (i) sexual activity; or
- (ii) acts of force or restraint which are associated with sexual activity

- (a) anything to which the sub paragraph below applies.

This sub paragraph applies –

- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- (b) to any recording of vision or sound, which:

## DRAFT ONLY

- (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity;
- (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to genital organs or urinary or excretory functions.

- **Sex Articles and Significant Degree**

Licences for sex shops are required where 18R films are being sold, or where there is a “significant degree” of “sex articles”.

The phrase ‘sex articles’ is defined in the 1982 Act, (as above) but the phrase ‘a significant degree’ is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:

- (a) the ratio of sex articles to other aspects of the business;
- (b) the absolute quantity of sales;
- (c) the character of the remainder of the business;
- (d) the nature of the displays in the business;
- (e) turnover;
- (f) other factors which appear to be materially relevant.

- **A ‘Sexual Entertainment Venue’ means**

“any premises at which relevant entertainment is provided before a live audience for financial gain of an organiser. For the purposes of the Act it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

- **‘Relevant entertainment’ means:**

- (a) Any live performance; or
- (b) Any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). An audience includes an audience of one.

- **A ‘display of nudity’ means:**

- (a) In the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) In the case of a man, exposure of his pubic area, genitals or anus;

- **An *organiser* means:**

Any person who is responsible for the organisation or management of;

- (a) The relevant entertainment; or
- (b) The premises.

- **Exempt Premises**

Notwithstanding the above, the following are not sexual entertainment venues for the purposes of this policy:

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- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment is such that:
  - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months;
  - (ii) no occasion has lasted for more than 24 hours; and
  - (iii) no occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided

For the purposes of this policy, relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser before an audience and involves partial or full nudity.

## Appendix B

### Requirements for Applying for Grant, Variation, Transfer or Renewal of a Sex Establishment Licence

#### Grant of a licence

- 1) To apply for the grant of a sex establishment licence an applicant must: -
  - a) send the council: -
    - i) a completed application form;
    - ii) a plan to the scale of 1:100 of the premises to which the application relates;
    - iii) a non-returnable application fee of £5697;
  - b) display a notice on or near the premises;
  - c) advertise the application in a local newspaper;
  - d) send a copy of the application and plan to the Chief Officer of Police, Paignton Police Station, PO Box1, Paignton, TQ3 2YF within 7 days of making the application to the Council.

#### Plan requirements

- 2) The plan shall show: -
  - a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
  - b) the location of points of access to and egress from the premises;
  - c) the location of escape routes from the premises;
  - d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
  - e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
  - f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
  - g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
  - h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
  - i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
  - j) the location of a kitchen, if any, on the premises.
- 3) The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

### **Public notices**

- 4) A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the Council, where it can be conveniently read from the exterior of the premises.
- 5) Where the premises cover an area of more than 50 square meters, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.
- 6) The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
- 7) The notice must state: -
  - a) details of the application and activities that it is proposed will be carried on or from the premises,
  - b) the full name of the applicant,
  - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
  - d) the date, being 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
  - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.
- 8) A similar notice must be published in a local newspaper or similar document within 7 days of giving the application to the council.

### **Variation of a licence**

- 9) The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 10) The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

### **Renewal of a licence**

- 11) The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
- 12) The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

### **Transfer of a licence**

- 13) A person may apply for transfer of a licence at any time.
- 14) The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## **Appendix C**

### **Standard Sex Shop Conditions**

- 1) Where any special conditions appear on any licence issued by the Council which appear to be inconsistent with these regulations, the regulations shall prevail.
- 2) The grant of a licence for a sex shop shall not be deemed to convey any approval or consent which may be required under any enactment, bye-law, regulation or order other than the Third Schedule to The Act.
- 3) Where marginal notes and headings have been inserted in these regulations, this has been done for the purpose of information and convenience only and shall not affect in any way the meaning or construction thereof.
- 4) The Council reserves the right from time to time in any special case to add to or modify these Licence Conditions.

### **OPENING TIMES**

- 5) Except with the prior consent of the Council, a Sex Shop shall not be open to the public before 9 am and shall not be kept open after 6 pm.
- 6) Sex shops must not operate on Good Friday, Easter Sunday, Christmas Day, and Boxing Day.

### **CONDUCT AND MANAGEMENT**

- 7) Where the Licensee is a body corporate or an incorporated body, any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
- 8) The Licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Shop in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the Premises during the whole time they are open to the public.
- 9) The name of the person responsible for the management of a Sex Shop at any particular time it is open to the public shall be prominently displayed within the premises throughout the time he or she is responsible for its conduct.
- 10) The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Shop in his or her absence and the names and address of all those employed in the Sex Shop. The Register is to be completed each day of the Sex Shop opening for

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business and is to be available for inspection by the Police and Authorised Officers of the Council.

11) The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.

12) The Licensee shall maintain good order in the Premises.

13) No person under the age of 18 years shall be admitted to the Premises or employed in any position with regard to the business of a Sex Shop.

14) The Licensee shall ensure that the public are not admitted to any part of the Premises other than those parts which have been approved by the Council.

15) The Licensee shall ensure that no part of the Premises shall be used by prostitutes (male or female) for soliciting or for any immoral purpose.

16) Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Shop by means of personal solicitation outside or in the vicinity of the Premises.

17) The Licensee shall comply with all statutory provisions and any regulations made there under.

18) The Licensee shall ensure that during the hours the Sex Shop is open for business, every employee shall wear a badge of a type approved by the Council indicating his or her name and that he or she is an employee.

19) The copy of the Licence and of these Regulations required by be exhibited in accordance with Paragraph 14(1) of Schedule 3 to the Act shall, if reproduced, be to the same scale as the originals issued by the Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and a copy of these regulations shall be retained in a clean and legible conditions.

## **USE**

20) A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.

21) The Premises shall only be used as a shop.

22) No residential use shall be made of any part of the Premises unless a separate access is provided from the outside of the Premises.

23) No change of use of any portion of the Premises from that approved by the Council shall be made until the Consent of the Council has been obtained thereto.

## **GOODS AVAILABLE IN SEX SHOPS**

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24) All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Premises the maximum prices to be charged.

25) All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the Sex Shop.

26) No film or video film shall be exhibited, sold or supplied unless it complies with the Videos Recording Act 2010 and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

27) The Licensee shall, without charge, display and make available in the Sex Shop such free literature on counselling in relation to sexual problems, published by any organisation as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all sale points in the Sex Shop.

28) No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except:-

(a) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a Licence granted by the Council.

(b) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.

29) The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises not visible to passers by.

30) Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have been suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This Regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

### **STATE, CONDITION AND LAYOUT OF THE PREMISES**

31) All parts of the Premises shall be maintained in good repair and in a clean and wholesome condition.

32) A lobby area shall be provided at the entrance to the shop to ensure that the inside of the shop is not visible when the front door is opened.

## DRAFT ONLY

33) Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Shop is open to the public.

34) The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-

(a) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "EXIT".

(b) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "PRIVATE".

(c) Save in the case of emergency, no access shall be permitted through the Premises to any unlicensed Premises adjoining or adjacent.

35) The external doors to the Sex Shop shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

36) The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.

37) No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.

38) Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.

### **SAFETY**

39) The Licensee shall take all reasonable precautions for the safety of the public and employees.

40) The Licensee shall comply with any fire precautions and safety measures that may be required of him by Torbay Council or the Fire Authority.

41) The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

## Appendix D

### Standard Sex Entertainment Venue Conditions

#### General

1) The Licensee must remain in personal control of the Premises at all times or nominate an individual in writing over the age of 18 with the authority to organise/arrange/facilitate activities within the Premises.

#### **Management Operation Manual (A guide to the safe operation of the venue including safety and security information)**

2) The Licensee must produce a Management Operation manual detailing all aspects of procedure when the Premise is operating the relevant entertainment. This document shall be regularly reviewed and be available for inspection by Torbay Council or Police Officers upon request.

3) Control measures must be in place as part of the Management Operation Manual to ensure the safety of performers when they leave the Premises following a period of work.

#### **Club Rules (A guide to the acceptable conduct of customers and performers)**

4) The Premises must provide a copy of its Club Rules or any revisions to the Council and the Police before the premises open under its Sex Establishment Licence.

5) The Licensee must ensure that all performers and staff, including door supervisors, shall be made aware of the Club Rules.

6) All dancers, staff and door supervisors shall read a copy of the Club Rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the Premises as part of their due diligence. They shall be available for inspection by Torbay Council or Police Officers upon request.

7) A clear copy of these conditions and the Club Rules shall be exhibited at all times in or near the performers' changing room(s) in such a manner as they can be read by the performers. These conditions shall be protected against theft, damage or defacement.

8) A large print copy of the club rules must be clearly displayed at the entrance/lobby of the premises and each customer shall be advised of the club rules prior to entry.

9) Club Rules on the performance of relevant entertainment will be displayed throughout the Premises and be clearly visible to customers. This will include any private individual booth area. The use of table/bar notices or prominent signage throughout the premises would be satisfactory.

## **Staff**

10) The Licensee shall ensure that all performers and all staff working within sexual entertainment venues hold the required Work Permit, if not a United Kingdom citizen.

## **Performers**

11) Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks using recognised photographic documentation, such as a passport or driving licence.

12) A log book shall be maintained on the Premises detailing the names, start and finish times, of the individual performers involved in all forms of adult entertainment.

13) Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.

14) No performer shall be allowed to work if, in the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.

15) Performers must get dressed at the end of each performance to the extent that their breasts and genitals are fully covered.

16) Performers shall not accept any telephone number, email address, address or contact information from any customer.

## **Performances**

17) Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed premises as may be agreed in writing with the Council.

18) There shall be no physical contact between customers and the performers except for the placing of money or tokens into the hands of the dancer at the beginning or conclusion of a performance.

19) Customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table or private dance.

20) A clear distance must be maintained between customers and performers at all times and this must be documented in the Management Operation Manual to ensure performers are aware of this requirement. A distance of 1 meter is recommended for all performances.

21) Performers must not

## DRAFT ONLY

- a) Climb onto any furniture unless provided as an on stage prop for the purpose of their performance.
- b) Simulate any sex acts
- c) Undertake any performance involving a sex act with any other performer, persons in the audience or any object.
- d) Use inappropriate, suggestive or sexually graphic language at any time.

22) In the event of the relevant entertainment being performed for private viewing, the customer shall be informed of the duration and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

### Door Supervisors

23) Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority or any replacement organisation.

24) An adequate number of registered Door Supervisors shall be on duty on the Premises whilst relevant entertainment takes place. There shall be at least one Door Supervisor on each entrance and in each separate part of the Premises. Provision must also be made for the security of performers, with either a door supervisor located at the entrance to the changing rooms or a secure entry mechanism such as a PIN door lock installed on the changing room door.

### Customers

25) No person under the age of 18 shall be admitted to the Premises. Customers who appear to be under the age of 25 must be asked to provide approved photographic proof of their age, i.e. passport, driving licence or pass-scheme. The Licensee must provide prominent notices at each entrance to the Premises to this effect.

26) No customer shall be admitted to the Premises if, in the judgement of the management or the SIA door staff, they appear to be intoxicated, or under the influence of illegal substances.

27) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.

28) Customers must remain appropriately clothed at all times.

### Closed Circuit Television (CCTV)

29) The Licensee shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Officers of Torbay Council.

- CCTV shall be installed in all private performance areas
- any images are retained for a period of at least 14 days, and

## DRAFT ONLY

- made available to a Police Officer or authorised officer of the Council for the purpose of their statutory duties.
- images shall be downloaded on request with a copy provided to a Police Officer or authorised officer of the Council.

30) A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the Premise is open until the premises are clear of customers, cleared of staff and closed.

31) The Premises will provide any footage upon request by the Police or Licensing Authority within 24hrs of the request.

32) Other than recordings made in accordance with the conditions relating to CCTV, no filming, recording or electronic transmission of performances shall take place without the prior consent of the Licensing Authority.

### **Layout of Premises and Safety of Performers**

33) The approved activities shall only take place in the areas designated by the Licensing Authority

34) A suitable system must be installed to ensure the safety of performers whilst in private booths. This should include a combination of CCTV and door supervisors and be fully documented as part of the Premises Management Operation Manual. Where the Premises is unable to satisfy Torbay Council and/or the Police that the measures in place adequately protect performers, then all dance booths used as part of the approved activities must be equipped with a panic alarm for safety. Procedures shall be put in place to ensure that this alarm system is monitored at all times during approved entertainment.

35) The Licensee shall ensure to the Council's satisfaction (including, where required, necessary planning or building control consents) that the interior of the premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.

36) The Licensee shall ensure that any occupancy limits set by Torbay Council are not exceeded whilst sexual entertainment takes place on the premises.

37) Information shall be clearly displayed within the internal exit areas of all sexual entertainment venues, reminding customers to behave in a responsible and appropriate way towards all persons, after leaving the venue.

### **Advertising**

38) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.

## DRAFT ONLY

39) Where the Council has given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

40) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.

41) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall distribute flyers direct to residential premises, advertising the venue.

### Documentation

42) The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

**Consultation Sex Establishment Policy 2011**

<b><u>Date of Receipt</u></b>	<b><u>Reference Number</u></b>	<b><u>Person or Body Making Representation</u></b>	<b><u>Form of Representation</u></b>	<b><u>Brief Synopsis of Representation</u></b>
14/12/10	001	Huw James (Trading Standards)	Email	Indicating need to change legislation date in policy
30/12/10	002	Carol A Franks	Email	Thinks such establishments should not be allowed in Torbay
10/01/11	003	A Trigg (Strategic Planning)	Email/Feedback Form	Supports policy, Unsure on some numerical limits and locations. Primary concerns are hours of operation and public safety (See representation)
14/01/11	004	A Vanstone (Paignton RFC)	Feedback Form	Supports policy but does not think SEV should be prevented near clubs
17/01/11	005	Brixham Town Council	Minutes	Supports policy
17/01/11	006	R Ede (Street Pastors)	Email	Age limits Query
28/01/11	007	Rob Newman (Kitsons)	Letter	Various Concerns with Appendix D (Acting for Tiffanys)
09/02/11	008	Geoffery and Lee Butt	Feedback Form	Support of Policy
24/11/10	009	Torbay Safeguarding Children Board	Minutes	Feels it cannot endorse policy. Should be Zero Sex cinemas and ideally zero sex establishments (if not then there should be no increase in existing numbers).

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Report No: **67/2011** Public Agenda Item: **Yes**

Title: **Street Trading Re-designations**

Wards Affected: **All**

To: **Licensing Committee** On: **17 March 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Steve Cox**  
Telephone: **01803 208034**  
E.mail: **Steve.cox@torbay.gov.uk**

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## **1. What we are trying to achieve**

**1.1** This report concerns the request by The Town Centres Company and Brixham Town Council to change the designations of streets and car parks within the three town centre areas of Torbay and within St Marychurch. These areas are within the existing or proposed Business Improvement Districts, and the changes are from Prohibited to Restricted Consent Areas.

## **2. Recommendation(s) for decision**

**2.1** It is recommend that:

- (i) The street trading designation for those streets included in annex 1 be re-designated from Part A of the Street Trading Schedule (Prohibited Streets) to a Part B (Consent Street – Council permission required to occupy the land).
- (ii) That the draft Street Trading Policy be approved.

## **3. Key points and reasons for recommendations**

**3.1** Under the Local Government (Miscellaneous Provisions) Act 1982, a Local Council may impose limitations on street trading within its area. Such limitations have been in place since 1983 when Torbay Council adopted Schedule 4 by way of a resolution, minute 836/10/82. This allowed the designation of Prohibition Streets and Consent areas.

- 3.2 There have been requests by The Town Centres Company and Brixham Town Council to change the designations of streets and car parks within the three town centre areas of Torbay and within St Marychurch. These areas are within the existing or proposed Business Improvement Districts, and the changes are from Prohibited to Restricted Consent Areas.
- 3.3 It is important to note that this re-designation is a legal process to facilitate street trading but it does not mean control is lost, as this remains with Torbay Council. Torbay Council's Street Trading Policy, which placed a framework around the management of these streets, will be amended accordingly and consulted upon before being brought to a future Licensing Committee for approval.
- 3.4 The required Public Notice was placed in the local paper on the 3<sup>rd</sup> February 2011. No representations were received.
- 3.5 Devon and Cornwall Constabulary and Torbay Council Highways have been consulted and no representations have been received.

**For more detailed information on this proposal please refer to the Supporting Information.**

**Frances Hughes  
Executive Head Community Safety**

## Supporting information to Report 67/2011

### A1. Introduction and history

- A1.1 Under the Local Government (Miscellaneous Provisions) Act 1982, a Local Council may impose limitations on street trading within its area. Such limitations have been in place since 1983 when Torbay Council adopted Schedule 4 by way of a resolution, minute 836/10/82. This allowed the designation of Prohibition Streets and Consent areas. Torbay Council subsequently sub-divided Consent areas in to two types, consent areas and restricted consent areas. Although these may appear to be the same, from a management point of view they are different, as restricted consent areas are all Council owned land, and therefore restrictions can be and are placed upon their use.
- A1.2 The three areas covered in the Street Trading Schedule (see Appendix 1), are Prohibited Streets (Part A), where no trading can take place except from a shop. Consent areas, (Part C), where such trading can only take place with a formal consent issued by the Local Authority. Thirdly, Restricted Consent areas, (Part B), where Torbay Council retains control, such as highways and open spaces. Part B will arise in relation to highways, car parks and open spaces which may be used for charitable purposes or other initiatives. Conditions can be imposed on such trading. As a general rule, street trading has in the past not normally been permitted in town centre areas and most of these streets are currently designated as Prohibited Areas.
- A1.3 In 2008 Torbay Council undertook a review of Prohibited, Restricted Consent and Consent areas which resulted in a number of amendments to the Street Trading Schedule. This resulted in a number of amendments to the designation of streets in the town centre areas, which was approved by a Licensing Committee on 4<sup>th</sup> December 2008. This had been undertaken with the support of the Chambers of Commerce within the town centre areas. It was decided not to alter significantly the street designations in Torquay town centre, as the work to agree a Business Improvement District (BID) was still in its early stages and it was agreed that this area would be revisited, if or once the BID was in place.
- A1.4 There have been ongoing discussions since the BID has been in place to pass responsibility for town centre activities to the Town Centres Company. As such, this has culminated in the written request from the Town Centres Company dated 22 December 2010. This request is to alter the designation of all streets from (Part A) Prohibition Streets to (Part B) Restricted Consent Streets within the existing and proposed BID districts in Torquay, Paignton and St. Marychurch, in Torquay. I attach a copy of this letter, see Appendix 2.
- A1.5 There have also been discussions with Brixham Town Council to undertake similar changes in Brixham Town Centre. The proposal there is covered in a letter dated 6 January 2011. This is to remove all (Part A) Prohibition streets to (Part B) Restricted Consent Streets. This would allow Brixham Town Council to manage activities and events that require Street Trading Consents, in conjunction with the Town Centres Company and the Chamber of Commerce. It is anticipated this would be within the proposed BID area, though the final decision is covered within Torbay Council's

Street Trading Policy, see paragraph A1.9 below. A copy of the letter is attached in Appendix 3.

- A1.6 At the Licensing Committee meeting on 27 January 2011 permission was given to advertise the proposed changes to street designations in Torbay as detailed Appendix 4. The details of the proposed changes are included in Appendix 5.
- A1.7 The legislation requires that, if approval is given, two more such Notices must then be advertised in successive weeks. The first to be published no later than 28 days before the re-designation is due to come into effect.
- A1.8 The legislation requirements to consult with Devon and Cornwall Constabulary and the Highways Authority have been undertaken, and no responses have been received. Additionally both the Town Centres Company and Brixham Town Council who work closely with the Chambers of Commerce and in the case of Torquay represent the businesses with the BID have consulted those they represent. This ensures that the Chambers of Commerce are aware of these proposed changes. No representations have been received.
- A1.9 The existing Street Trading Policy, which placed a framework around the management of Restricted Consent Areas, has been amended to reflect the fact that the management of these areas will be undertaken by the Town Centres Company and Brixham Town Council, in consultation and agreement with Torbay Council. These amendments have been consulted upon and they are included in the draft Street Trading Policy. All amendments to the existing policy agreed in October 2008 have been highlighted. See Appendix 6.
- A1.10 The Business Improvement District Maps are included as Appendix 7a, b c and d.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

- A2.1.1 There are no significant risks with re-designation as the control will always remain with the Council, as the proposed land is owned by the Council and as a result the Council will have the final decision.
- A2.1.2 There is no significant risk of legal challenge as the correct procedures have been followed regarding the re-designations and the policy is an internal document giving a framework to how land is used.

## **A3. Options**

- A3.1 The options with regard to the re-designation are:
- (i) to agree to re-designate those streets contained in appendix 2,
  - (ii) to agree to re-designate an amended list of streets, or
  - (iii) to refuse to re-designate any streets.
- A3.2 The options with regard to the Draft Street Trading Policy are:
- (i) to agree the policy
  - (ii) to amend the policy
  - (iii) to refuse the policy

#### **A4. Summary of resource implications**

A4.1 There are no significant resource implications.

#### **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no significant implications for equalities, environmental sustainability and crime and disorder.

#### **A6. Consultation and Customer Focus**

A6.1 There has been consultation with the trade by the Town Centres Company and Brixham Town Council. There has been a public notice advertised and no representations received.

#### **A7. Are there any implications for other Business Units?**

A7.1 There should be no implications for other Business Units, as any work associated with agreeing and running events, will be undertaken by the Town Centres Company and Brixham Town Council.

#### **Annexes**

Appendix 1 Existing Street Trading street designations

Appendix 2 Copy of Letter from Town Centres Company dated 22 December 2010

Appendix 3 Copy of Letter from Brixham Town Council dated 6 January 2011

Appendix 4 Copy of public notice advertised on the 3 February 2011

Appendix 5 Proposed changes to street designations

Appendix 6 Draft Street Trading Policy

Appendix 7 Business Improvement District (BID) Maps

#### **Documents available in members' rooms**

Minutes from the seven meetings & consultation documents

#### **Background Papers:**

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

None

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## CONDITIONS

The following conditions shall apply to all Street Trading Consents granted by the Council for use in Torbay

1. The Consent authorises the Holder to trade only in the goods described, between the times and in that Part of the Street Trading Schedule as so endorsed and, if necessary, so restricted, until the date of expiry unless previously surrendered or revoked.
2. No person other than the Holder shall be entitled to trade with this Consent unless and until that person's name shall first have been notified in writing to the Council and such particulars endorsed hereon.
3. The Consent does not relieve the holder, or any employee, of any obligation to comply with all other general and local legislation and, in particular, the Road Traffic Acts and any Orders or Regulations made thereunder, Food Safety Act, 1990 and any Orders or Regulations made thereunder, Town and Country Planning Acts, Control of Pollution Act 1974, Environmental Protection Act 1990 and Local ByeLaws. It shall be the obligation of the Holder to familiarise himself and his employees with such legislation and the Consent may be revoked upon breach of any such legislation in addition to any penalty which may be incurred thereunder. (Further information from Community Safety on 208010).
4. The Consent Holder shall provide a receptacle to hold litter whilst trading and the person so trading shall remove all litter before leaving the site.
5. The Consent shall be clearly displayed at the point of sale and produced for inspection at the request of an Authorised Officer of the Council or a Police Officer in uniform.
6. No vehicle, vessel or receptacle shall be used in the course of trading unless the details shall first have been submitted in writing to the Council and been specifically approved for use. The appropriate vehicle, vessel or receptacle must, before being approved for use on any grant or renewal of the Consent, be submitted for inspection by the Council's Environmental Health and Consumer Protection and shall not be used unless and until that Department shall have confirmed it's suitability.
7. No trading whatsoever may take place upon any ornamental or cultivated areas (except grassed areas) and no vehicle or wheeled appliance of whatever description may be taken onto such areas, including grassed areas.
8. Any person trading with the authority of a Consent shall move on when reasonably requested by an Authorised Officer of the Council or a Police Officer in uniform.

**STREET TRADING SCHEDULE** - N.B. A street also includes all adjacent paved, ornamental, cultivated and grassed areas including those in private ownership.

**PART A - Prohibited Streets where no trading may take place (excluding those areas detailed in Part B)**

### TORQUAY

- a. All Roads and Highways within the area bounded by Seaway Lane, Old Mill Road (from it's junction with Seaway Lane), Avenue Road (to Torre Station), Newton Road (to Old Woods Hill), Old Woods Hill, Barton Road (to it's junction with Audley Avenue), Audley Avenue, Higher Audley Avenue, Teignmouth Road (between Penny's Hill and Trumlands Road), Trumlands Road, Church Road, Fore Street (between Church Road and St. Catherine's Road), Barewell Road, Westhill Road (between junction with Barewell Road and Chatto Road), Chatto Road, Wright's Lane, Lymington Road (between Wright's Lane and Castle Circus), Castle Circus, Castle Road, Wellington Road, Ellacombe Road, Market Street, Pimlico, Post Office Roundabout, Fleet Street (to the junction with the Terrace), The Terrace, Meadfoot Road, Park Hill Road, Beacon Hill and Terrace, Vaughan Parade, Vaughan Road, Torbay Road (to it's junction with Seaway Lane).

- b. All Roads and Highways within the area bounded by Hampton Avenue (from Babbacombe Road To Cliffside Road), Higher Downs Road, Babbacombe Downs Road (to the junction with Babbacombe Road), Babbacombe Road (to the junction with Hampton Avenue).
- c. Shiphay Lane and Shiphay Avenue (from the junction with Newton Road to the junction with Dairy Hill).
- d. Meadfoot Sea Road from Hesketh Crescent to Ilsham Road (including the area of land between Meadfoot Sea Road and the cliff, not forming part of the highway).
- e. Lane at Gallows Gate (between the junction with Stanton Lane and Marldon Road).

## **PAIGNTON**

- a. All Roads and Highways within the area bounded by Fisher Street, Winner Street, Cecil Road (to the junction with Torquay Road), Torquay Road (between Cecil Road and Lower Polsham Road), Lower Polsham Road (between Torquay Road and Mead Lane), Mead Lane, Upper Morin Road, Morin Road, Seaway Road (between Morin Road and Marine Parade), Marine Drive and Promenade, The Esplanade, Esplanade Road, Roundham Road (between Sands Road and Cliff Road), Sands Road, Whitstone Road (over Railway Bridge to junction with Dartmouth Road), Dartmouth Road to it's junction with Fisher Street.
- b. Waterleat Road, Kings Ash Road (between Waterleat Road and Totnes Road), Brixham Road (between Totnes Road and Batterways Road), Batterways Road, Totnes Road (between Batterways Road and Waterleat Road).

## **BRIXHAM**

- a. The roads and highways hereafter listed and to include the area bounded by Fore Street, Middle Street, New Road (from Lower Manor Road to Bolton Cross), Middle Street, The Quay, Overgang Road (to the junction with North Furzeham Road), The Strand, King Street (to the junction with Berry Head Road), Fore Street, Bolton Street (to the junction with Windmill Hill).
- b. Greenway Road for some 200 yards either side of Churston Grammar School.

**ALL AREAS** - Miscellaneous - All Parks and Open Spaces, all Beaches and Coastal Lands, All Harbour Estates, All Off- Street Parking Places Listed in the Borough of Torbay (Off Street Parking Places) Order 1984 and any amendment thereof, All Coastal Footpaths, all other Public Footpaths, the Car Park Approach Road and Verges at St. Mary's Bay, Brixham.

**PART B - Restricted Consent Streets where, in addition to a Consent issued under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, the specific consent of Torbay Council as Landlord must have been obtained for the use of the land. In these circumstances, the terms imposed by the Landlord take precedence over the conditions imposed hereunder.**

### **Streets**

## **TORQUAY**

Brunswick Square, Torre

Castle Circus (paved area) in front of the Town Hall, Torquay

Fore Street (between St Marychurch Road to Petitor Road; St Dominics Close; Greenway Road; St Margaret's Road (between Fore Street and Priory Road) and Rowley Road (from Fore Street to the vehicle barrier near No. 2), St Marychurch

Lower Union Lane - Small area of land adjacent to the Highway situated between the Car Park Entrance ramp and pedestrian entrance door.

Reddenhill Road (between Babbacombe Road and Cary Avenue); St Anne's Road (between Reddenhill Road and St Albans Road) and Princes Street, Babbacombe.

Temperance Street - Small area of land adjacent to the Highway situated next to pedestrian entrance door at North West end of Car Park.

Victoria Parade; The Strand and all land bordered by The Strand, Cary Parade, Torbay Road and Torquay Harbour and the sea, along to a point in front of the commencement of Abbey Crescent. (This does not include Torbay Road or Cary Parade themselves)

Torquay Town Centre Areas – Union Street between Market Street and the post office roundabout, Fleet Street.

(All street trading in Torquay Town Centre consent areas are granted exclusively for organised events which are supported by Torbay Council. In any given event, no more than 20% of the stalls will be permitted as hot food takeaways. Hot food takeaway vehicles must not be larger than 4 square metres.)

## **PAIGNTON**

Eastern Esplanade; Marine Parade and promenade; North and South Quays on Paignton Harbourside; Palace Avenue; Palace Gardens; Victoria Street (between Torquay Road to Hyde Road); Torbay Road (between Esplanade Road and Great Western Road) Paignton.

### ***Parks and Open Spaces***

#### **TORQUAY**

Torre Abbey Meadows, Abbey Park, Babbacombe Downs, Cockington Court, Daddyhole Plain, Ellacombe Green, Torre Valley (North and South), Walls Hill, Princess Gardens.

#### **PAIGNTON**

Clennon Valley, Goodrington South Sands, Paignton Green, Queens Park, Torbay Park, Victoria Park.

#### **BRIXHAM**

St. Mary's Park, Upper Furzeham Green.

### ***Beaches, Sea Fronts, Coastal Lands, Harbours***

#### **TORQUAY**

Torre Abbey Sands, Inner Harbour Slipway and entrance to Beacon Quay.

#### **BRIXHAM**

The Strand, The Quay, The Old Fish Market

### ***Car Parks***

#### **TORQUAY**

The Terrace, Beacon Quay, Model Village, Kilmore (Meadfoot Sea Road).

#### **PAIGNTON**

Victoria Centre, Broadsands, Clennon Valley.

#### **BRIXHAM**

Galampton Warborough, Brixham Multi-Storey and adjacent surface car parks

**PART C - Consent Streets where trading may only take place under a formal Consent issued by the Council**

All other streets within the Borough of Torbay.

**Private land (across all of Torbay)**

Any area that the public have access without payment (this does not include private land to which the public have no right of access)

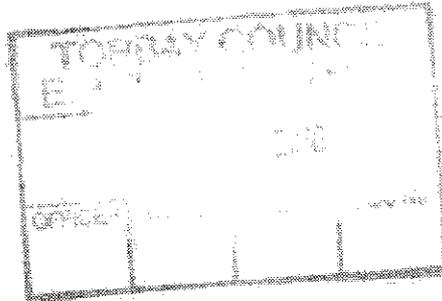
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*G: Data/Licence/Street Trading Standard Letters/ST006*

Mr S. Cox  
Environmental Health Manager (Commercial)  
Torbay Council,  
Roebuck House,  
Abbey Road,  
Torquay, TQ2 5EJ



Torbay Town Centres Company Ltd  
Unit 8, The Market Centre,  
Market Street, Torquay, TQ1 3AE  
T: 01803 212 270  
E: info@torbaytowncentrescompany.co.uk  
W: www.torbaytowncentrescompany.co.uk



22 December 2010.

Dear Steve

**Street Trading in the town centres of Torbay**

Following our meeting and discussions I am writing to ask if you would ask the Torbay council Licensing Committee to consider making the town centres of Torbay consent streets. In particular the entire areas of Torquay and Paignton town centres included within their respective Business Improvement Districts and the precinct area of St Marychurch.

We request this change of status in order to provide us with an opportunity to work with Torbay Council to establish some good quality, well managed and carefully selected street trading pitches in the town centres. These pitches will not only offer opportunities to introduce diversity to the current retail offer, they can be used to help start-up businesses to create a market and get established before taking on a permanent retail unit as well as generating additional income for both Torbay Council and Torbay Town Centres Company through pitch fees.

Torbay Town Centres Co is best placed to manage these sites given our relationship with existing retailers and our knowledge of the 'market place'. We would ensure that these traders work to the standards and compliance to Planning, Licensing and Health and Safety regulations as prescribed by Torbay Council and statute.

I am enclosing maps of each of the areas denoting their boundaries. On those maps I have also indicated the potential sites for both permanent, bespoke retail units provided by the Town Centres Company (see enclosed brochure) and street trading stalls provided by the vendor. We have identified arrange of sites in Torquay, Paignton and St Marychurch we do not anticipate using all these sites at the same time but would welcome the flexibility to use different pitches at different times appropriate to the occasion/ event.

We would welcome the opportunity to address the Licensing Committee at a date to be determined to present this proposal and to answer any queries.

Yours sincerely/

Lucy Ball, CEO, Torbay Town Centres Company

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# Brixham Town Council

Town Council Office, Brixham Town Hall  
New Road, Brixham, TQ5 8TA

01803 859678      brixhamparish@torbay.gov.uk

Town Clerk: Mrs Ki Barnes BA (Hons), CiLCA



Mr S Cox  
Environmental Health Manager (Commercial)  
Torbay Council  
Roebuck House  
Abbey Road  
Torquay TQ2 5EJ

Appendix 3 to Report 67/2011

6<sup>th</sup> January 2011

Dear Steve

## Street Trading Designations

Further to your recent meeting with Tracy Hallett, I write to request the removal of all designations for street trading in Brixham.

I understand it was agreed at the meeting that Brixham Town Council will manage the consented areas and we propose to do this by an application process. The application form will be set up specific for street trading in line with that presently used by Torbay Council. Once an application has been received, Brixham Town Council will consult the Chamber of Commerce and relevant stakeholders prior to accepting or declining the application.

We have been in contact with Brixham Chamber of Commerce and although they do not have a meeting planned in the foreseeable future, the Executive Committee has been asked for comments. I am pleased to confirm that we have received emails of support from members of the Chamber of Commerce Executive Committee, one of which is outlined below.

*"I am personally only too pleased to support the Council in their efforts. In fact as Chairman of Brixham Tourism Partnership, I am sure most of our members would approve."*

I trust the above meets with your approval and look forward to hearing from you in due course.

Yours sincerely



Mrs K Barnes  
Brixham Town Clerk

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Public Notices

TORBAY COUNCIL  
PUBLIC NOTICE  
STREET TRADING  
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

PURSUANT to Section 3 and Schedule 4 of the above Act, the Council of the Borough of Torbay hereby gives Notice that it intends to pass a Resolution on the 17th March 2011 in the form set out below to amend the designation of certain streets for the purposes of Street Trading.

PROPOSED RESOLUTION

That the following areas shall be re-designated from Prohibited Street (Part A) or Consent street (Part C) to Consent Street within Part B of the Street Trading Schedule (prior Council permission required as controller of the land)

Torquay

All highways within the Torquay Business Improvement District (BID) including Beacon Quay, Beacon Hill (between Victoria Parade and the entrance to The Imperial Hotel), The Clocktower roundabout, Torwood Street (from the Clocktower roundabout to the area outside number 99), The Terrace (from Torwood Street to Montpellier Road), The Strand, Cary Parade, Fleet Street, Swan Street, Union Street (from GPO roundabout through to Castle Circus but including the highway outside 1-8 Tor Hill House), Lower Union Lane, Temperance Street, Factory Row, Lymington Road (from Castle Circus to the area adjacent to Lymington Road car park to the rear of Torquay Town Hall), Market Street (from Union Street to Castle Lane) and Castle Lane.

That all highways within the proposed St Marychurch Business Improvement District (BID) including Fore Street (from outside 89 Fore Street to Manor Street/Hampton Avenue), Babbacombe Road (from Manor Street/Hampton Avenue to outside 35 Babbacombe Road), Hampton Avenue (adjacent to park on corner of Babbacombe Road), Manor Street (from Babbacombe Road/Fore Street to highway outside 18 and 18 Manor Street), St Dominic's Close, St Margaret's Road (from Fore Street to St Dominic's Close), Chilcote Close, Hampton Lane, Hampton Close, St Marychurch Road (from highway adjacent to number 16 to entrance to Chilcote Close).

All car parks within the Torquay Business Improvement District including Fleet Walk Car Park, Lower Union Street Car parks, Castle Lane Car Park and Lymington Road Car Park (to rear of Torquay Town Hall).

All car parks within the proposed Business Improvement District including Chilcote Close and Hampton Avenue.

Paignton

All highways within the proposed Business Improvement District (BID) including The Esplanade Road (adjacent to Multiplex cinema), Parkside Road, Garfield Close (from Torbay Road to Parkside Road), Queen's Road (From Torbay Road to Queen's Park Road), Queen's park Road (adjacent to 1-4 Torbay Road), Great Western Road, Hyde Road, Denny Road, The Gerstons, Commercial Road (from Victoria Street to Gerstons Road), Torquay Road (from Littlegate Road to Totnes Road), Totnes Road (from Torquay Road to outside number 4 Totnes Road), Palace Avenue, Coverdale Road (adjacent to properties on Palace Avenue), Winner Street and Church Street (from Winner Street to adjacent to 193 Church Street). All car parks within the proposed Business Improvement District including Victoria Street, Great Western Road and Hyde Road Car Parks.

Brixham

All highways within Brixham including the area bounded by Fore Street, Middle Street, New Road (from Lower Manor Road to Bolton Cross), Middle Street, The Quay, Overgang Road (to the junction with North Furzeham Road), The Strand, King Street (to the junction with Berry Head Road), Fore Street and Bolton Street (to the junction with Windmill Hill).

Dated this 3rd day of February 2011.

FRANCES HUGHES

Executive Head Community Safety  
Roebeck House  
Abbey Road  
Torquay TQ2 6EJ  
(Ref: Licensing)

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**Prague**

SPORT EXTRA +++ SPORT E



■ SILVER AND BRONZE: Elliot Barton (front right) in action in Indoor Rowing Championship at Manchester Velodrome

**South Devon medals in M**

**INDOOR ROWING By HILARY BASTONE**

BOTH of South Devon's entrants at the English Indoor Rowing Championship held at the Manchester Velodrome returned with medals and an enhanced reputation at national level.

Commonwealth sculling gold medallist Elliot Barton (26) of Dart Totnes competed at Men's Open lightweight at both 2000 metres and 500 metres.

At 2000 metres he was up against the British Lightweight Champion Ben Gittus-Smith and the race turned into a real nail biter. Gittus-Smith of Stratford Upon Avon led over the first 500 metres but Elliot came back and led through 1000 an 1500 metres only for Gittus-Smith to pull back to win gold in 6:26.0. Elliot took silver in 6:28.2.

Just forty minutes later Elliot was taking on the



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Recommended Changes to Schedule 1

Restricted Consent Highways In Torquay:

Recommended changes from existing Schedule 1 – That all highways within the Business Improvement District (BID) including Beacon Quay, Beacon Hill (between Victoria Parade and the entrance to The Imperial Hotel), The Clocktower roundabout, Torwood Street (from the Clocktower roundabout to the area outside number 99), The Terrace (from Torwood Street to Montpellier Road), The Strand, Cary Parade, Fleet Street, Swan Street, Union Street (from GPO roundabout through to Castle Circus but including the highway outside 1-8 Tor Hill House), Lower Union Lane, Temperance Street, Factory Row, Lymington Road (from Castle Circus to the area adjacent to Lymington Road car park to the rear of Torquay Town Hall), Market Street (from Union Street to Castle Lane) and Castle Lane be re-designated into restricted consent areas.

[Other highways within the BID are already restricted consent areas.]

St Marychurch – That all highways within the proposed Business Improvement District (BID) including Fore Street (from outside 89 Fore Street to Manor Street/Hampton Avenue), Babbacombe Road (from Manor Street/Hampton Avenue to outside 35 Babbacombe Road), Hampton Avenue (adjacent to car park on corner of Babbacombe Road), Manor Street (from Babbacombe Road/Fore Street to highway outside 16 and 18 Manor Street), St Dominic's Close, St Margaret's Road (from Fore Street to St Dominic's Close), Chilcote Close, Hampton Lane, Hampton Close, St Marychurch Road (from highway adjacent to number 16 to entrance to Chilcote Close) be re-designated into restricted consent areas.

[Other highways within the proposed BID are already restricted consent areas.]

Restricted Consent Car Parks In Torquay:

Recommended changes from existing Schedule 1 – That all car parks within the Business Improvement District including Fleet Walk Car Park, Lower Union Street Car parks, Castle Lane Car Park and Lymington Road Car Park (to rear of Torquay Town hall) be re-designated into restricted consent areas.

[Other car parks within the BID are already restricted consent areas.]

That all car parks within the proposed Business Improvement District including Chilcote Close and Hampton Avenue be re-designated into restricted consent areas.

Restricted Consent Highways In Paignton:

Recommended changes from existing Schedule 1 – That all highways within the proposed Business Improvement District (BID) including The Esplanade Road (adjacent to Multiplex cinema), Parkside Road, Garfield Close (from Torbay Road to Parkside Road), Queen's Road (From Torbay Road to Queen's Park Road), Queen's park Road (adjacent to 1-4 Torbay Road), Great Western Road, Hyde Road, Dendy Road, The Gerstons, Commercial Road (from Victoria Street to Gerston Road), Torquay Road (from Littlegate Road to Totnes Road), Totnes Road (from Torquay Road to outside number 4 Totnes Road), Palace Avenue, Coverdale Road (adjacent to properties on Palace Avenue), Winner Street and Church Street (from Winner Street to adjacent to 195 Church Street)

[Other highways within the proposed BID are already restricted consent areas.]

Restricted Consent Car Parks In Paignton:

Victoria Street, Great Western Road and Hyde Road Car Parks.

Restricted Consent Highways In Brixham:

Recommended changes from existing Schedule 1 - That all highways within Brixham including the area bounded by Fore Street, Middle Street, New Road (from Lower Manor Road to Bolton Cross), Middle Street, The Quay, Overgang Road (to the junction with North Furzeham Road), The Strand, King Street (to the junction with Berry Head Road), Fore Street and Bolton Street (to the junction with Windmill Hill be re-designated into restricted consent areas.

## Torbay Council's Street Trading Policy

### Introduction

This policy has been written to give guidance and direction to those who have responsibility for implementing the Street Trading provisions adopted under schedule 4 Local Government (Miscellaneous Provisions) Act 1982. The current Street Trading Policy was approved XXXXXXXXX.

This policy should not in any way conflict with Torbay Council's obligation to comply with the Local Government (Miscellaneous Provisions) Act 1982, but if a conflict between the Act and this Policy arises, then the Act shall prevail.

### Consent and Prohibited areas.

In Torbay there are currently no licensed areas. However, there are consent and prohibited areas, 'within the meaning of the legislation' under paragraph 2 of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982. In addition, Torbay Council has included, within its Street Trading Schedule, areas called 'restricted consent areas'. Permitted use of these areas is granted by Torbay Council Officers, as Torbay Council is either the land owner or the administrators of such areas, with the exception of the following:

Torquay Town Centre Business Improvement District,  
St Marychurch 'proposed' Business Improvement District,  
Paignton 'proposed' Business Improvement District, and  
Brixham 'proposed' Business Improvement District.

This function is delegated to the Town Centres Company for Torquay, St Marychurch and Paignton and to Brixham Town Council in partnership with the Town Centres Company for Brixham. These delegations are made with the agreement and support of Torbay Council and the relevant designated Officers below and apply only while that agreement remains in place.

In the case of beaches, parks, open spaces, car parks and highways the final decision for permitted use of these areas, will be determined by the Executive Head Residents and Visitor Services or any subsequent replacement post, in consultation with any other relevant departments.

In the case of harbour land, the final decision for permitted use of this area will be determined by the Executive Head Torbay Harbour Authority or any subsequent replacement post.

Within the Street Trading Schedule the three types of consent areas are referred to as Part A, prohibited areas, Part B, restricted consent areas and Part C, consent areas.

### Restricted Consent Areas

In some areas, there will be additional restrictions, as listed below. These restrictions have been drawn up to assist Torbay Council and delegated Officers in making decisions, and to ensure that where such a conflict of interest arises, this is kept to a minimum, especially between the interests of existing traders and street trading. If an area is not listed below, then the discretion of that decision remains with the specified post holder above, dependant on the area being considered.

## DRAFT

The key purpose of encouraging 'high quality' markets or events into Torbay is to increase the areas footfall, with the knock on effect of those people using other services and retail outlets in Torbay. The key types of markets being encouraged should be craft, farmers, French and continental markets or anything of a similar nature which upholds the emphasis on 'high quality' produce. Although there may at times be an overlap in produce and therefore some potential conflict of interest between traders, Torbay Council's primary aim is for the overall benefit to Torbay's economy. Therefore, in some cases Torbay Council may not be able to reconcile such conflicts. Where an overlap in produce occurs, existing traders in Torbay should be given priority to trade from a stall ahead of those traders from outside the area.

Although a number of street trading pitches have already been allocated in certain areas, this will not prevent 'high quality' markets, events or fairs from operating in these areas, following the grant of the required permission.

Consultation must take place with the relevant Chamber of Commerce and the emergency services where there are proposals to have 'high quality' markets or events in the town centre areas of Torbay. This will provide an opportunity for them to consult with their members and colleagues.

Consultation must also take place with the Executive Head Torbay harbour Authority or any subsequent replacement post, should any activity impact on the harbour estate, for example the closure of Victoria Parade, Torquay.

### Consent Areas in Torbay

The list of Prohibited Areas, Consent Areas and Restricted Consent Areas are contained with Schedule 1 to this policy (see Annex 2). What follows is some additional guidance on the types of street trading that will be allowed on restricted consent land:

#### Restricted Consent Highways In Torquay:

All highways in Torquay **that** have restricted consent, **except the pitches** below, which are only available with regard to street trading for markets or events, as described in this document.

**Castle Circus, Torquay – Two pitches on pavement in front of Town Hall.**

**Market Street/Union Street junction, Torquay – Two pitches adjacent to number 55 Union Street.**

**Union Lane, Torquay – One pitch adjacent to 22 Union Street.**

**Union Street, Torquay – One pitch adjacent to Old Town Hall at junction with Abbey Road.**

**Fleet Street, Torquay – Up to ten pitches between GPO roundabout and Cary Parade.**

**Palk Street, Torquay – Single pitch.**

**Vaughan Road, Torquay – Single pitch.**

**The Strand, Torquay – Three pitches along the seaward side of The Strand.**

**Victoria Parade, Torquay – Up to six pitches along Victoria Parade.**

**Beacon Quay, Torquay – Single pitch at junction of Beacon Quay and Beacon Hill.**

Lower Union Lane and Temperance Street, Torquay – Single pitch at each site.

## DRAFT

Fore Street, St Marychurch – Up to five pitches.

### Restricted Consent Highways In Paignton:

All highways in Paignton that have restricted consent, except the pitches below, which are only available with regard to street trading for markets or events, as described in this document.

Victoria Street, Paignton – Up to five pitches between Torquay Road and Hyde Road.

Victoria Square, Paignton – Up to six pitches.

Torbay Road/The Esplanade junction, Paignton – Two pitches, one on each side of Torbay Road.

### Restricted Consent Highways In Brixham:

All highways in Brixham that have a restricted consent are only available with regard to street trading for markets or events, as described in this document.

### Parks and Beaches in Torbay:

There are no pitches in these areas, so the locations are only available with regard to street trading for markets or events, as described in this document.

Princess Gardens, Torquay – Two pitches close to the pavilions within the Torquay BID area.

Palace Avenue Gardens, Paignton – One pitch.

Victoria Park, Paignton – One pitch.

### Harbour Land in Torbay:

Inner Harbour Slipway and Entrance to Beacon Quay, in Torquay and The Strand, The Quay and The Old Fish Quay, in Brixham have a restricted consent. There are no restrictions for harbour land, except for the broad principles laid down in this policy. This remains the responsibility of the Executive Head Torbay Harbour Authority.

### Car Parks in Torbay

There are no pitches in these areas, so the locations are only available with regard to street trading for 'high quality' markets or events, as described in this document.

### **'High Quality' Markets and events**

All markets and events will be evaluated by Officers to ensure that stalls do not sell a similar range of produce as nearby traders, therefore reducing the likelihood of a conflict of interest arising. However, Torbay Council's primary aim is for the overall benefit to Torbay's economy and in some cases the Council may not be able to reconcile such conflicts.

Torbay Council, will liaise with the relevant Chamber of Commerce/traders representatives with regard to markets and similar events, to ensure that all aspects of the market/event have been taken into consideration.

### **Pitches**

## DRAFT

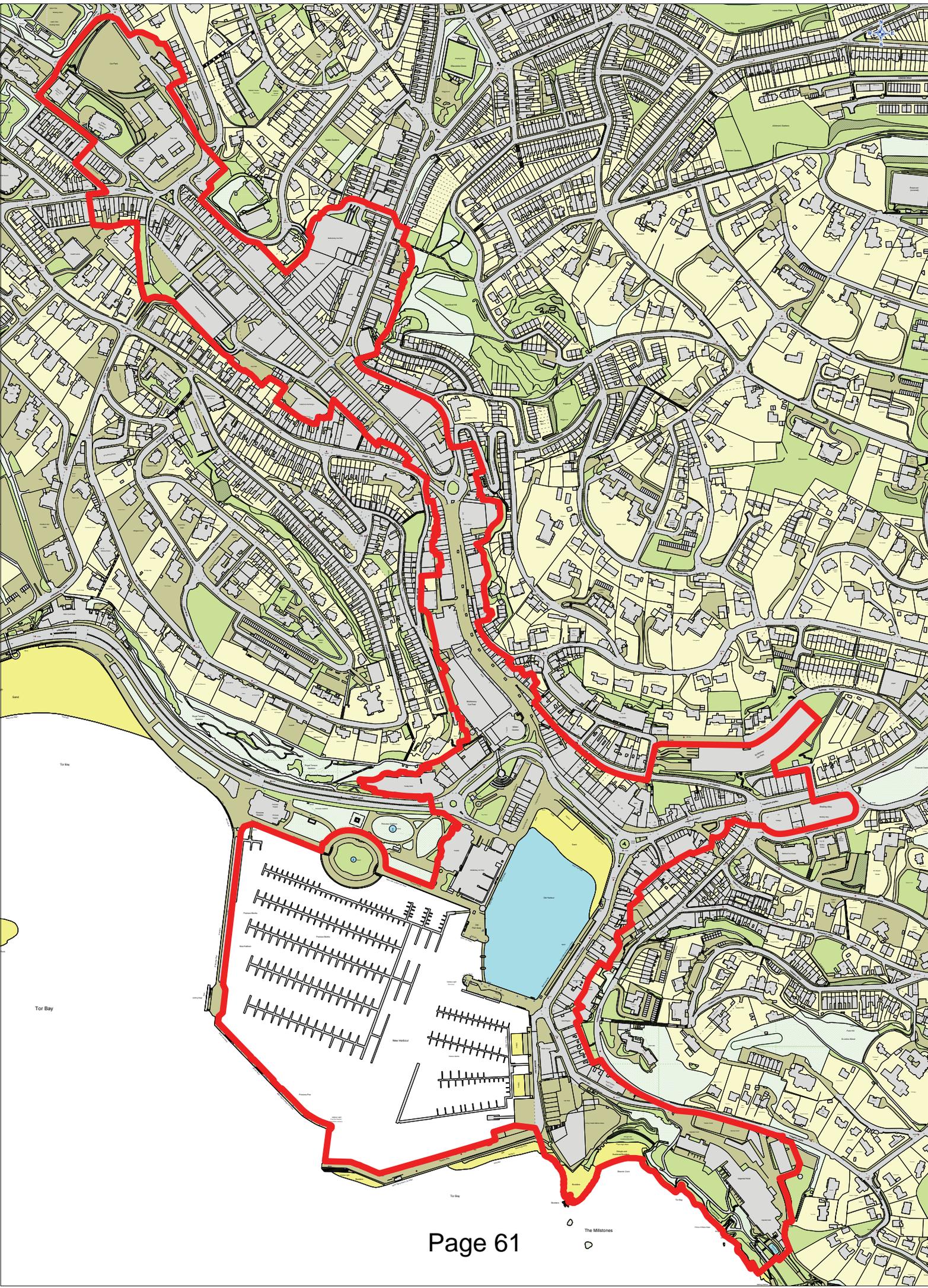
These need to be formally identified with a pitch number and/or location, with the agreement of the relevant Executive Head.

### **Tattooists, hair braiders, painters etc**

These types of trading are considered to be street trading, as defined by paragraph 1 of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982. From 1<sup>st</sup> January 2009 traders trading in this type of produce or anything deemed to be of a similar nature, will be required to apply for a Street Trading consent. The granting of such a consent will potentially only relate to events that such traders are invited to attend or in consent areas (Part C).

### **Fees**

The fees that are charged will be the annual discretionary fees, as set by Full Council on an annual basis. However, in cases where the event is predominately for charity (although if all the money generated is for charity, then the fee will be exempt) or where quality markets or events are new and the fees in the early days of setting up may act as a discouragement and there is a clear benefit for the economy of Torbay, then with the permission of the **Executive Head Community Safety** or any subsequent replacement post, these fees can be reduced or waived.



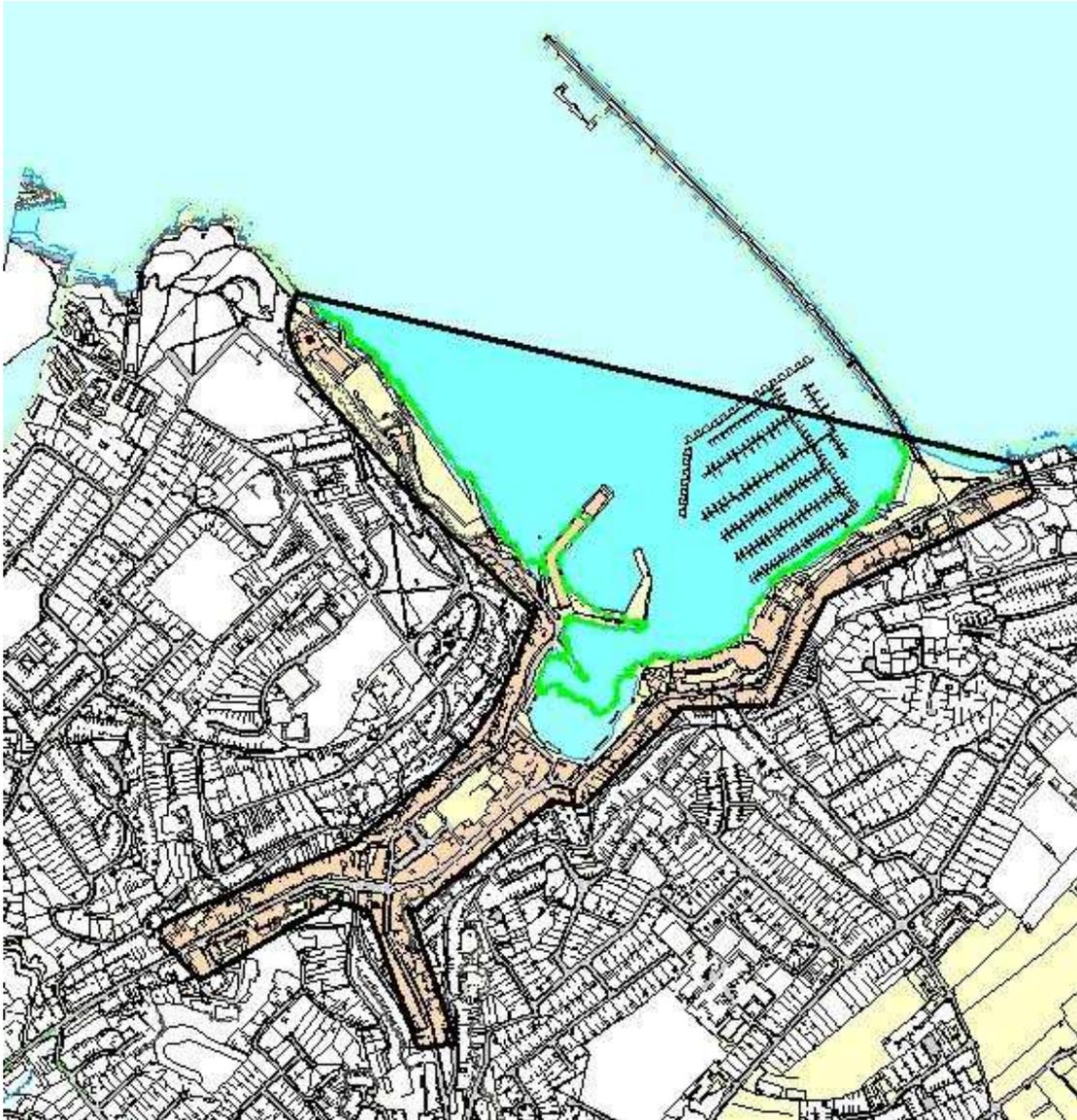
Tor Bay

The Millstones

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Briefing Report No: **65/2011**

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Bay News, 76 Belgrave Road, Torquay**

Wards Affected: **Tormohun**

To: **Licensing Committee** On: **17 March 2010**

Contact Officer: **Karen Ellicott**  
Telephone: **01803 208029**  
E.mail: **Licensing@torbay.gov.uk**

---

## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Variation to a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 As the Licensing Authority has no powers under the Act to raise a Representation, Officers are unable to make any recommendation.
- 1.4 The matters raised relate to the Licensing Objective “The Prevention of Crime and Disorder”.
- 1.5 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. Having regard to the Representation, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are either:-
  - (a) to modify the conditions of the licence, or
  - (b) reject the application in whole or in part.

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

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, any 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 Act for a Variation to a Premises Licence. Details of the application are shown in Appendix 1a. Only the relevant pages of the application are shown.

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

To extend the licensed area and relocate the counter – proposed plan is attached to Appendix 1a.

Supply of alcohol for consumption off the Premises from 0700 to 2300 Monday to Sunday.

To be open to the public from 0630 until 2300 Monday to Sunday.

The premises are already licensed for the sale of alcohol from 0800 to 2300 from Monday to Saturday and 1000 to 2230 on Sunday and wish to remove the non standard timing for bank holidays.

- 2.2 There is a current Premises Licence in place which is shown as Appendix 1b.
- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the amended Premises Licence, as a relevant Representation has been received from an Interested Party. The Licensing Authority is also satisfied that the Representation was received within the appropriate time-scale, has not been subsequently withdrawn and is not vexatious or frivolous.

There has been 1 letter of Representation from an Interested Party in relation to the Licensing Objective “The Prevention of Crime and Disorder”. This is shown as Appendix 2.

- 2.4 The 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.

**Frances Hughes**  
**Executive Head Community Safety**

### **Appendices**

Appendix 1a	Relevant parts of the application form
Appendix 1b	Copy of the current Premises Licence
Appendix 2	Copy of the Representations from Interested Parties

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton and Brixham and Torquay, Paignton, Churston and Brixham Libraries. Copies can also be obtained from the Democratic Services Office, Town Hall, Torquay.

### **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 2011.

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**Application to vary a premises licence under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

I/We Eve Watson

*(Insert name(s) of applicant)*

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

<b>Premises licence number</b> PL0020
--

**Part 1 – Premises Details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> 76 Belgrave Road			
<b>Post town</b>	Torquay	<b>Post code</b>	TQ2 5HY

<b>Telephone number at premises (if any)</b>	01803 213 512
<b>Non-domestic rateable value of premises</b>	£6427

**Part 2 – Applicant details**

<b>Daytime contact telephone number</b>	01803 213 512		
<b>E-mail address (optional)</b>	Glynne.watson@live.co.uk		
<b>Current postal address if different from premises address</b>			
<b>Post Town</b>		<b>Postcode</b>	

**Part 3 - Variation**

Please tick yes

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

If not do you want the variation to take effect from

Day		Month		Year	

**Please describe briefly the nature of the proposed variation (Please see guidance note 1)**  
The application is to extend the licensed area, relocate the counter and increase the licensed hours to 07:00-23:00 every day.

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

N/A
-----

**Part 4 Operating Schedule**

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

**Provision of regulated entertainment**

**Please tick yes**

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

**Provision of entertainment facilities:**

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

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

**Sale by retail of alcohol** (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

**M**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)</b>	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol (please read guidance note 4)</b> None		
Mon	0700	2300			
Tue	0700	2300			
Wed	0700	2300			
Thur	0700	2300			
Fri	0700	2300			
Sat	0700	2300			
Sun	0700	2300			

**N**

<p><b>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)</b></p> <p>None</p>
--

O

<b>Hours premises are open to the public Standard days and timings (please read guidance note 6)</b>			<b><u>State any seasonal variations</u> (please read guidance note 4)</b> None
Day	Start	Finish	
Mon	0630	2300	
Tue	0630	2300	
Wed	0630	2300	
Thur	0630	2300	
Fri	0630	2300	
Sat	0630	2300	
Sun	0630	2300	

**Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)**  
None

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking  
None

Please tick yes

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

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

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

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

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)**

No change to current operating schedule.

**b) The prevention of crime and disorder**

No change to current operating schedule.

**c) Public safety**

No change to current operating schedule.

**d) The prevention of public nuisance**

No change to current operating schedule.

**e) The protection of children from harm**

No change to current operating schedule.

Please tick yes

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	<i>B Barnes</i>
Date	21/1/11
Capacity	Agents

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

Miss Bryony Barnes  
Unit 1  
Weston Road  
Crewe  
Cheshire

Post town	Cheshire	Post code	CW1 6BP
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Telephone number (if any)	01270 614744
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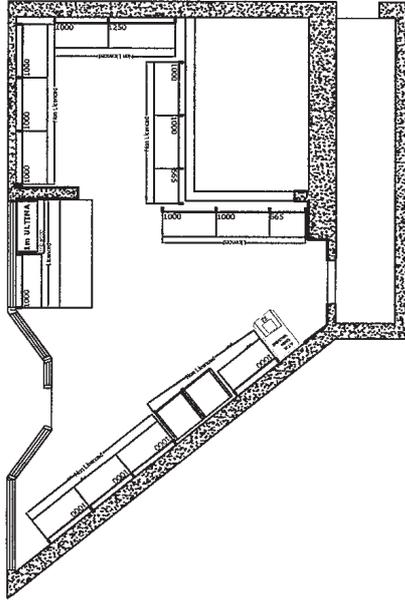
If you would prefer us to correspond with you by e-mail your e-mail address (optional)

KEY:

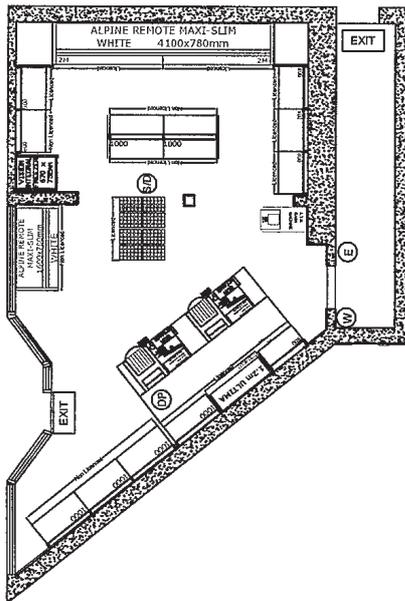
- █ LICENSABLE ACTIVITY (OFF SALES OF ALCOHOL)
- █ STORAGE AREA
- █ POINT OF SALE (ALCOHOL)

LEGEND

- (E) EMERGENCY LIGHTING POINT
- (DP) FIRE EXTINGUISHER (DRY POWDER)
- (M) FIRE EXTINGUISHER (WATER)
- (SD) SMOKE DETECTOR
- EXIT ILLUMINATED EXIT SIGN



EXISTING



Proposed

CLIENT:	MR MRS WATSON 78 BELGRAVE ROAD TORQUAY DEVON TQ2 8TY	REVISIONS:	DATE:
DRAWN BY:	ROB BUCKLEY	A:	
SCALE:	1:100	B:	
DATE:	17.12.10	C:	
		D:	
		E:	
		BRANCH NO:	
		SQ. FT:	485

IT IS THE RETAILERS RESPONSIBILITY TO ENSURE THAT THE SITE COMPLIES WITH THE DISABILITY DISCRIMINATION ACT 1995 PART 111 AND THAT ALL RELEVANT FIRE SAFETY EQUIPMENT, EMERGENCY LIGHTS AND SMOKE DETECTORS WHERE APPLICABLE ARE INSTALLED PRIOR TO OPENING.

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Licensing Act 2003  
**Premises Licence** No **20**

	<b>Licensing Section</b> Torbay Council Roebuck House Abbey Road TORQUAY DEVON TQ2 5EJ
---	--

Part 1 - Premises Details

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

**Bay News**  
 Belgrave Road, Torquay, Devon.

**WHERE THE LICENCE IS TIME LIMITED THE DATES**

Not applicable

**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

- 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
M. the sale by retail of alcohol for consumption OFF the premises only	Monday to Saturday	8:00am	11:00pm
	Sunday	10:00am	10:30pm
	Good Friday	8:00am	10:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	5:00pm	10:30pm

**THE OPENING HOURS OF THE PREMISES**

Description	Time From	Time To
Not Applicable:		

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

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

Part 2

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

Eve Watson	76 Belgrave Road, Torquay, Devon, TQ2 5HY. Telephone 01803 213512
------------	--

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



Licensing Act 2003

# Premises Licence

# 20

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

Eve WATSON

76 Belgrave Road, Torquay, Devon, TQ2 5HY.  
Telephone 01803 213512

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

Licence No. PA0066

Issued by Torbay

*F. K. Hughes*

Fran Hughes  
Assistant Director of Environmental Health and Consumer Protection  
12 November 2005



**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.

**ANNEXE 2**

**CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

None

**ANNEXE 3**

None

**ANNEXE 4**

**PLANS**

Copy attached to Licence.

## LOCAL AUTHORITY



Licensing Section  
 Torbay Council  
 Roebuck House  
 Abbey Road  
 TORQUAY  
 DEVON  
 TQ2 5EJ

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

**Bay News**

Belgrave Road, Torquay, Devon.

## WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

## LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- 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
M. the sale by retail of alcohol for consumption OFF the premises only	Monday to Saturday	8:00am	11:00pm
	Sunday	10:00am	10:30pm
	Good Friday	8:00am	10:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	5:00pm	10:30pm

## THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Not Applicable:		

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

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

## NAME (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Eve Watson

76 Belgrave Road, Torquay, Devon, TQ2 5HY.

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

Licensing Act 2003

# Premises Licence Summary

# 20

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

Eve WATSON

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

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

*F. L. Hughes*

Fran Hughes  
Assistant Director of Environmental Health and Consumer Protection  
12 November 2005





**Subject:** Licensing application

Dear Mr Cox

I wish to object to the licensing application for the extension of hours for Bay News in Belgrave Road. My main objection is because of the proximity of the premises to the Tor Abbey Inn, a mere 2 doors away. There have been constant incidents of violent behaviour here, two of very serious assaults. Many complaints have been made about the lack of control exercised by the landlord. I am not a timid person, but I will not go past this pub during the evening, but cross over the road. To have an off-license virtually next door is merely encouraging those over-indulging in alcohol to purchase more for their consumption on the streets, and incidentally, this is an alco-free zone. I know the licensee will not serve drunks, but we all know that much alcohol is purchased by those who have not been banned from a premises, for those who have. The surrounding area has many HIMOs, and unfortunately too many of the occupants have multiple addictions. We should be protecting not only the decent citizens who do not wish to be faced with drunks, but also those who do not have the will power to resist. I have walked out of my front door at 7am to find a man half way through a 2 litre bottle of cider. I constantly have to pick up empty cider bottles, cheap sherry bottles and cheap lager cans from the ancient Torre Churchyard. The only people I can see wanting to buy alcohol before 8am are those who cannot live without it. Let us design out anti-social behaviour by refusing to extend the licensing hours of Bay News.

Regards

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