

Wednesday, 21 February 2024

LICENSING SUB-COMMITTEE

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

Thursday, 29 February 2024

commencing at **9.30 am**

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Johns

Councillor Barbara Lewis

Councillor Tolchard

Together Torbay will thrive

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

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

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Sub-Committee.
3. **Minutes** (Pages 3 - 10)
To confirm as a correct record the minutes of the meetings of Sub-Committee's held on 26 October and 14 December 2023.
4. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Birdcage, New Road, Brixham, TQ5 8LT** (Pages 11 - 44)
To consider an application for a Variation to a Premises Licence in respect of Birdcage, New Road, Brixham, TQ5 8LT

Minutes of the Licensing Sub-Committee

26 October 2023

-: Present :-

Councillors Barbara Lewis, Tolchard and Chris Lewis

14. Election of Chairman/woman

Councillor Barbara Lewis was elected as Chairman for the meeting.

15. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Chris Lewis instead of Councillor Douglas-Dunbar.

16. Minutes

The Minutes of the meeting of the Sub-Committee held on 14 September 2023 were confirmed as a correct record and signed by the Chairman.

17. Application for Torbay Council Driver's Licence

Members considered a report that set out relevant facts relating to a applicant for a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence. Members were requested to determine based on the facts before them, whether or not the applicant of the dual Hackney Carriage and Private Hire Driver's Licence was a fit and proper person to hold such licence.

At the Hearing the Applicant addressed Members and responded to their questions.

Decision:

Subject to the successful completion of the Knowledge Test and any other outstanding requirements under the Hackney Carriage (Taxi) and Private Hire Policy the Applicant's application for a dual Torbay Council Driver's Licence, be approved.

Reasons for Decision:

In coming to that decision, Members carefully consideration having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get

into a vehicle with the Applicant alone. An unequivocal and unanimous answer by Members to this question, was 'yes'.

Members were reassured by the Applicants oral presentation, his openness, honesty, and clear and concise manner in which he set out the circumstances of the offence which resulted in him having 6 penalty points on his licence. Members further noted that other than the 6 penalty points for the one incident the Applicant had an otherwise clean licence.

Following questioning the Applicant around the circumstances of the offence Members were concerned that the Applicant did not pull his vehicle over onto the hard shoulder and come to a complete stop before attempting to retrieve and reposition his fallen telephone, however accepted that the Applicant's automatic and instinctive reaction was to want to immediately remove the potential hazard from the drivers footwell. Members further noted the Applicants view that, upon reflection, to have pulled over would have been safer course of action.

Given the severity of the offence and the impact that a conviction for a driving offence could have upon a professional driving career, Members were surprised that the Applicant did not chose to prioritise attending Court to plead mitigating circumstances above his other pressing commitments, however, did not feel that this was cause for concern.

Whilst concerns were raised as to the Applicants failure to read the Hackney Carriage (Taxi) and Private Hire Policy prior to making his application for a Torbay Council Drivers Licence, Members accepted that this was an oversight due to having previously worked as a taxi driver and assuming, albeit mistakenly, that the criteria and process had not changed. The Applicant confirmed that he had now read the Policy, and Members were reassured by the Applicants commitment in all other respects.

In concluding, Members all agreed that they found the Applicant to be believable in his account and that this was an isolated incident. It was clear that the Applicant viewed the incident as regrettable and were satisfied having heard the Applicant's oral representation that he would uphold the professional standards they expect of a driver licensed by them and therefore saw reasonable justification to depart from the Hackney Carriage and Private Hire Licensing Policy and grant the application for a dual Torbay Council Driver's Licence.

18. Application for Torbay Council Driver's Licence

Members considered a report that set out relevant facts relating to a applicant for a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence. Members were requested to determine based on the facts before them, whether or not the applicant of the dual Hackney Carriage and Private Hire Driver's Licence was a fit and proper person to hold such licence.

At the Hearing the Applicant and his employer addressed Members and responded to their questions.

Decision:

That the Applicant's application for a dual Torbay Council Driver's Licence, be refused.

Reasons for Decision:

In coming to that decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with the Applicant alone. The answer by Members to this question, was a unanimous and unequivocal 'no'.

After thorough and careful deliberations, Members could not be certain that the Applicant was a fit and proper person to hold a Torbay Council Drivers Licence. Members noted that the Applicant had not provided a written submission before the hearing, despite having had the opportunity and being asked to do so by the Licensing Officer and gave no explanation for this omission at the hearing. Omitting this opportunity in Members opinion, did not support the Applicants assertion that he had been missing doing a job which he loved. Additionally, in Members opinion, the driver appeared unprepared in his attendance at the hearing which they could reasonably have expected, given his assertion.

Furthermore, Members were unconvinced by the remorse voiced by the Applicant, and whilst he stated that he had learnt a lot since having his Torbay Council Drivers Licence revoked in December 2021, and believed himself to be a better driver in that he is more considered and careful on the road, Members could not be satisfied on the evidence before them that the Applicant would not repeat the conduct which fell well below the standard reasonably expected by them of a driver licensed by Torbay Council, and which also led to his revocation after holding the licence for less than five months to include three speeding offences on 2 August 2021, 13 September 2021 and 19 September 2021, expiring on 2 August 2024, 13 September 2024 and 19 September 2024 respectively.

Whilst Members noted that the Applicant had not received any further penalty points since September 2021, having 9 penalty points currently, a further speeding conviction would result in the Applicant losing his DVLA issued driving licence, which was considered by Members to no doubt provide a strong deterrent, but in of itself, provided no reassurance to Members that the Applicant was fit and proper when determining public safety, which is and remains, their primary consideration.

Members gave due consideration to the Applicant's positive character references and were pleased to note that after losing his Torbay Council Drivers Licence, he had been retained by his employer in a non-driving capacity and had found additional employment as a takeaway delivery driver. However, Members were not convinced from the Applicants brief oral representation that he had fully reflected upon the severity of the incidents that led to his revocation, and neither had he taken any action which would have demonstrated his commitment to becoming a licensed driver again and to his self-improvement. Such as, undertaking and completing successfully, an

approved advanced driving course before making his application which may have provided Members with the reassurance they would be satisfied with, as to his fit and properness.

In concluding, Members could not be satisfied that the Applicant was a fit and proper person and did not feel that they had sufficient justification to deviate from Torbay Council's Hackney Carriage and Private Hire Drivers Policy, which states at Appendix A: paragraph 7.4

In the case of a licensed driver accumulating nine or more penalty points on their driving licence, the Licensing Authority may refuse to renew, suspend, or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least one year free from conviction or at least one year since the completion of the sentence (whichever is longer).

Members therefore determined that to refuse the application, was in line with the Policy, and both proportionate and appropriate in the interests of public safety.

19. Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence

Members considered a report that set out relevant facts relating to a holder of a Torbay Council dual Hackney Carriage and Private Hire Driver's Licence. Members were requested to determine based on the facts before them, whether or not the applicant of the dual Hackney Carriage and Private Hire Driver's Licence remained a fit and proper person to hold such licence.

At the Hearing the Respondent addressed Members and responded to their questions.

Decision

That Mr Mohammed be formally warned in writing and that this warning shall remain in situ for a period of 18 months and that should any further issues of concern arise within that 18-month period which requires Mr Mohammed to appear again before a Licensing Committee, Members of that Committee shall be made aware of this written warning; and

That Mr Mohammed read and familiarises himself with the contents of Torbay Council's Hackney Carriage (Taxi) and Private Hire Policy, as issued to him and that he keeps a copy of the said Policy in the licensed vehicle at all times when on duty as a licensed driver for future reference.

Reason for Decision:

In coming to that decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get

into a vehicle with Mr Mohammed alone. An unequivocal and unanimous answer by Members to this question was 'yes'.

Members of the Committee heard from the Licensing Officer that Mr Mohammed had held his Torbay Council Drivers Licence since October 2021, having previous to that been licensed from 2012 to 2018. In August 2023 Devon and Cornwall Police had contacted them in relation to a speeding offence committed in Plymouth at 22.02 hours on 16 April 2023 where Mr Mohammed, the registered proprietor of the vehicle, had nominated out a different driver stating that he had given permission for this person to have access to the vehicle.

The Authority's records showed that this person did not hold a Torbay Council Drivers Licence and therefore in lending out his vehicle Mr Mohammed was in contravention of the Taxi Policy, and in doing so committed an offence under the Town Police Clauses Act 1847.

In his oral submissions, Members heard from Mr Mohammed how he had become too poorly to work during his shift that day and had to return home to go to bed. He then allowed a friend who was visiting his partner to use his licensed vehicle to collect some pre-ordered shopping from a specialist Mediterranean food store in Plymouth, which was to close at 11pm. Mr Mohammed described this as a family emergency. Mr Mohammed further described thereafter being too unwell to work for a period of 3 days, which is supported by his card machine payment records.

Having heard Mr Mohammed's representation and explanation of the circumstances, and by his own admission, Mr Mohammed had clearly misunderstood Torbay Council's Hackney Carriage and Private Hire Licensing Policy in not only having confirmed that he was unaware that no other person apart from himself was permitted to drive the licensed vehicle, but also in that removing the plate from the vehicle, as suggested by Mr Mohammed, would have been acceptable, which is not the case.

Members had regard to the fact that the Respondent had in his written reply to the Licensing Officer, admitted to the oversight and appeared remorseful before them, However, resolved in their opinion, that whilst his actions were likely unintentional, they showed a disregard for the Taxi Policy with which he is expected to have read and understood. Members did not accept Mr Mohammed's opinion that food collection constituted a family emergency.

In concluding, Members considered the mitigating circumstances put forward by the Respondent and the seriousness of the offence being a not only a breach of Policy but additionally, an offence under Town Police Clauses Act 1847, however noted Mr Mohammed's clean driving licence and whilst aware of a historic complaint, relating to his conduct, which was not pursued, saw no reason to consider Mr Mohammed to be a risk to public safety and therefore determined, that it was both appropriate and proportionate to formally warn Mr Mohammed on this occasion.

Minutes of the Licensing Sub-Committee

14 December 2023

-: Present :-

Councillors Douglas-Dunbar, Tolchard and Long

20. Election of Chairman/woman

Councillor Douglas-Dunbar was elected as Chairwoman for the meeting.

21. Application for Torbay Council Driver's Licence

Members considered a report that set out relevant facts relating to an applicant for a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence. Members were requested to determine based on the facts before them, whether or not the applicant of the dual Hackney Carriage and Private Hire Driver's Licence was a fit and proper person to hold such licence.

At the Hearing the Applicant addressed Members and responded to their questions.

Decision:

That Mr Woodall's application for a dual Torbay Council Driver's Licence, be approved.

Reason for Decision

In coming to that decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with Mr Woodall alone. An unequivocal and unanimous answer by Members to this question, was 'yes'.

After consideration of Mr Woodall's advanced written submission, and upon hearing his oral submission at the sub-committee meeting, Members were impressed by Mr Woodall's openness, honesty, and the clear and concise manner in which he set out the circumstances that, whilst traumatic for him, had resulted in his positive change of mindset and had caused him to assess his priorities since his conviction in June 2014.

Members heard that the events experienced by Mr Woodall, particularly in recent years, had been the catalyst for change and considered that he had shown genuine focus and commitment to providing for his family and moving away from what Mr Woodall described as 'Jack the Lad' behaviour.

Members noted that Mr Woodall had a clean driving licence and that seven and a half years had elapsed since his conviction in June 2014, during which he experienced events, that for some, would have negatively impacted their behaviour. However, these events by Mr Woodall's own admission, acted as a wakeup call and spurred him on to reflect, change, and focus on his children and to support and provide for them in their higher education.

Members were also impressed by Mr Woodall's level of commitment to becoming a licenced taxi driver, by having recently voluntarily undertaken, and successfully completed, an advanced driving course and in having arranged finance to purchase a vehicle. Members further noted Mr Woodall's career of 35 years as a self-employed plasterer, recognising that he would have been in a position of trust working within people's homes, and fully accepted Mr Woodall's reason for a change of career in that he was becoming less physically able.

Members all agreed that they found Mr Woodall to be genuine and forthcoming when sharing the events that had taken place in his life, and concluded, having heard Mr Woodall's oral representation that he would uphold the professional standards they expect of a driver licensed by them, that he was a fit and proper person to hold a Hackney Carriage Drivers Licence and therefore saw reasonable justification to depart from Torbay Council's Hackney Carriage and Private Hire Licensing Policy, in approving this application.

In concluding, Members were also reassured that should Mr Woodall fail to comply with the Torbay Council Hackney Carriage and Private Hire Licensing Policy, that a review of his licence could be called.

Chairman/woman

TORBAY COUNCIL

Briefing Report No: Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Birdcage, New Road, Brixham, TQ5 8LT

Wards Affected: **Furzeham with Summercombe**

To: **Licensing Sub-Committee** On: **29 February 2024**

Contact Officer: **Carrie Cottell**
Telephone: **01803 207079**
Email: Licensing@torbay.gov.uk

1. Key points and Summary

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

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

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

2. Introduction

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

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

To increase the hours for the Supply of Alcohol, on and off the premises, from 08:00 until 01:00 on Friday and Saturday. Currently the Supply of Alcohol is from 08:00 until 24:00 on Friday and Saturday.

To increase the hours for Live Music indoors from 08:00 until 01:00 on Friday and Saturday. Currently the Live Music indoors is from 08:00 until 24:00 on Friday and Saturday.

To increase the hours for Recorded Music indoors from 08:00 until 01:00 on Friday and Saturday. Currently Recorded Music indoors is from 08:00 until 24:00 on Friday and Saturday.

Please note that we have been advised by the Solicitor acting on behalf of the applicant, that they now wish to remove the request for extended hours for live and recorded music from the application.

The addition of Late Night Refreshment indoors from 23:00 until 24:00 on Sunday to Thursday and from 23:00 until 01:00 on Friday and Saturday.

To increase the hours that the premises is open to the public from 08:00 until 01:30 on Friday and Saturday. Currently the premises is open to the public from 08:00 until 00:30 on Friday and Saturday.

The Applicant has proposed to remove the following condition:-

Annexe 2, Prevention of Public Nuisance, Condition 13
"Amplified live music until 00:30 hrs shall be limited to Friday and Saturday."

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

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

- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) of the Act but is unable to issue the Variation to the Premises Licence, as 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.

We have received 1 representation from an Interested Party in relation to the Licensing Objectives “The Prevention of Crime and Disorder” and “The Prevention of Public Nuisance”. This is shown at Appendix 3 of this report.

There was 1 other Representation received from an Interested Party, however that has since been withdrawn after the solicitor for the applicant advised that the regulated entertainment was no longer part of this application. There have been no Representations received from any Responsible Authority.

- 2.4 The Licensing Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.6 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
 - (a) The applicant for the variation of the licence against any decision to modify the conditions
 - (b) Any person who made a relevant representation in relation to the application who desires to contend
 - (i) that any variation made ought not to have been made, or
 - (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.
- 2.8 Following such Appeal, the Magistrates’ Court may:-
 - (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,and may make such order as to costs as it thinks fit.

Rachael Hind
Regulatory Services Manager

Appendices

Appendix 1	Relevant sections of the application form.
Appendix 2	Copy of the Premises Licence
Appendix 3	Representation from 1 Interested Party
Appendix 4	Supporting information from the Applicant

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 2021 - 2026

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 Punch Taverns Limited

(Insert name(s) of applicant)

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

Premises licence number 445

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
Birdcage New Road			
Post town	Brixham	Postcode	TQ5 8LT

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£15,500 (£190)

Part 2 – Applicant details

Daytime contact telephone number			
E-mail address (optional)			
Current postal address if different from premises address	Jubilee House Second Avenue Burton-on-Trent		
Post town	Staffordshire	Postcode	DE14 2WF

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? Yes No

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

DD	MM	YYYY

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

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

This is an application to extend the sale of alcohol, recorded music and live music Fridays & Saturdays until 01:00hrs the following morning. (Currently permitted until 00:00).

To add late night refreshments Sunday – Thursday 23:00 – 00:00 and Friday & Saturday 23:00 – 01:00.

To allow the premises to open for additional 30 minutes following the end of licensable activities.

To remove condition 13 under annex 2 –

“Amplified live music until 00:30hrs shall be limited to Friday and Saturday”.

All other condition on the licence to remain unaltered.

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:

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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 see guidance note 3) | Please tick all that apply |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

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

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

In all cases complete boxes K, L and M

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	Please give further details here (please read guidance note 5)					
Mon								
Tue								
Wed						State any seasonal variations for the performance of live music (please read guidance note 6)		
Thur								
Fri						Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 7)		
	08:00							
Sat		01:00						
	08:00							
Sun		01:00						

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here (please read guidance note 5)</u> <u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 6) <u>Non standard timings. Where you intend to use the premises for</u> <u>the playing of recorded music at different times to those listed in</u> <u>the column on the left, please list (please read guidance note 7)</u>		
Mon					
Tue					
Wed					
Thur					
Fri					
	08:00				
Sat		01:00			
	08:00				
Sun		01:00			

1

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5) <u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 6) <u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 7)		
Mon		00:00			
	23:00				
Tue		00:00			
	23:00				
Wed		00:00			
	23:00				
Thur		00:00			
	23:00				
Fri		00:00			
	23:00				
Sat		01:00			
	23:00				
Sun		01:00			
	23:00				

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<p><u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 6)</p> <p><u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 7)</p> <p>As per the existing premises licence.</p>		
Mon					
Tue					
Wed					
Thur					
Fri					
	08:00				
Sat		01:00			
	08:00				
Sun		01:00			

K

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

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon			<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)</p>
Tue			
Wed			
Thur			
Fri			
	08:00		
Sat		01:30	
	08:00		
Sun		01:30	

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.

Amplified live music until 00:30hrs shall be limited to Friday and Saturday.

Please tick as appropriate

- 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 not enclosed the premises licence or relevant part of premises licence.

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

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

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

Checklist:

Licensing Act 2003
Premises Licence

445

LOCAL AUTHORITY

**TORBAY
COUNCIL**

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

Part 1 - Premises Details

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

Birdcage

New Road, Brixham, TQ5 8LT.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Sunday	8:00am	Midnight
	An additional hour on New Year's Eve		
F. Playing of recorded music (Indoors)	Monday to Sunday	8:00am	Midnight
	An additional hour on New Year's Eve		
G. Performance of dance (Indoors)	Monday to Thursday	10:00am	11:30pm
	Friday to Saturday	10:00am	12:30am
	Sunday	11:00am	11:30pm
	A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend.		
	A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend.		
A further additional hour every Christmas Eve.			
A further additional hour every Boxing Day.			
On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.			
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	8:00am	Midnight
	An additional hour on New Year's Eve		



THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday An additional hour on New Year's Eve	8:00am	12:30am

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

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

Part 2

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

Punch Taverns Limited Jubilee House, Second Avenue, Burton-on-Trent, Staffordshire, DE14 2WF.
[REDACTED]

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

Punch Taverns Limited 03752645

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

Adam David RICHARDSON [REDACTED]

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

Licence No. [REDACTED] [REDACTED] [REDACTED]

R.A Hind

Rachael Hind
Regulatory Service Manager (Commercial)
3 August 2023



ANNEXES**ANNEXE 1****MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

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



ANNEXES continued ...

available to customers in the following measures:-

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

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

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

Minimum Drinks Pricing

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

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

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

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

Where:-

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

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

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

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

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

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

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

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

MANDATORY CONDITION: DOOR SUPERVISION

1) Where one or more individuals are carrying out security activities, each individual must be licensed by the Security Industry Authority.

2) But nothing in the aforementioned conditions requires such a condition to be imposed in respect of a) and b) and (b)(i) and (b)(ii)

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), are exempt.

(b) In respect of premises in relation to-



ANNEXES continued ...

- (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
- 3) For the purposes of the aforementioned conditions:-
- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

ANNEXE 2**CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE****General**

None

The Prevention of Crime and Disorder

1. All alcohol and soft drinks shall be decanted and served in toughened glass.
2. There shall be a burglar alarm system in place.
3. Crime prevention posters shall be displayed on the premises.
4. A banning policy shall be in place.
5. No drunkenness or anti-social behaviour shall be tolerated on the premises.
6. The premises shall have a zero tolerance to controlled drugs and have a written drugs policy outlining what action will be taken in respect of individuals found in possession of drugs, the confiscation and storage of any seized items which will be handed to the police at the earliest opportunity. A copy of this policy shall be retained on the premises and shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand. Suitable posters in relation to drug misuse shall be displayed at the premises.
7. Where a Pub Watch scheme exists, the premises shall join and actively participate by providing details of all individuals involved in violence on the premises.
8. On every operational day when door supervision is required, then those SIA door supervisors on front of house duties shall wear high visibility clothing for the entirety of their duty and remain on duty until customers have left the area in a calm fashion.

Public Safety

1. The pub shall promote a licensed taxi service to facilitate its customers making onward journeys.
2. The external areas of the premises should be well lit up.

The Prevention of Public Nuisance

1. There shall be lockable/closed windows.
2. The fabric of the building shall retain sound.
3. A sound limiting device must be installed in the premises.
4. The sound limiter device must be set at a level by a suitably qualified person and in consultation with Torbay Council's Licensing team.



ANNEXES continued ...

5. If substantiated noise complaints cannot be resolved by use of the sound limiter, then amplified music must cease until such times as sound insulation is installed at the premises.
6. No adjustments to the noise limiting device or any associated public address equipment shall be made without prior consultation with Torbay Council's Licensing team. A minimum of 7 days notice must be given in writing.
7. No independent sound system or similar shall be brought on to the premises and used for amplified entertainment within the premises.
8. All performers must use the noise limiting device and the premises in-house public address system.
9. The noise limiter must not be overridden or interfered with at any time.
10. A sign must be clearly displayed, advising musicians a limiter is in operation at the premises and that they must use it.
11. A written noise management plan must be implemented and kept on site.
12. The noise management plan must be reviewed periodically or when significant changes are made to either the building or entertainment arrangements.
13. Amplified live music until 00:30hrs shall be limited to Friday and Saturday.
14. Amplified live music until 23:30hrs shall be limited to not more than three evenings per week (Sunday - Thursday).

The Protection of Children from Harm

1. Any person under the age of 18 must be accompanied by a responsible adult at all times.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

The Prevention of Public Nuisance

1. Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. Noise should not be audible within any noise sensitive premises with windows open for normal ventilation especially after 11pm. The criteria applied, from boundary to nearest residential property are;
 - (i) Before 11pm - Noise emanating from the premises shall not be clearly distinguishable above other noise.
 - (ii) After 11pm - Noise emanating from the premises shall not be distinguishable above background levels of noise.
 - (iii) The Local Authority shall reserve the right in cases of tonal noise and where premises are attached to others (i.e. semi's and terraced properties) to make further assessments from within the residential property.
2. Doors and windows shall be kept shut during regulated entertainment to reduce noise breakout. A management scheme shall be in place to ensure this situation remains.
3. The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the licensee/management.
4. During amplified music and entertainment the door lobbies shall be effectively used throughout the time of entertainment to prevent noise breakout.
5. The premises shall have and adhere to a Noise Management Plan. This Plan shall be agreed by Torbay Council's Public Protection Team and shall have particular regard to regulated entertainment, dispersal of patrons and designated smoking areas.

CONDITIONS ATTACHED AFTER A REVIEW HEARING BY THE LICENSING AUTHORITY

The Prevention of Crime and Disorder

1. A CCTV system capable of providing images of an evidential standard, in all lighting conditions, and particularly in relation to facial recognition, shall be installed to the satisfaction of the police. The system will cover all areas of the



ANNEXES continued ...

premises not visible from the bar, including entrances and exits, and external smoking area. The system shall be in operation at all times the premises are open to the public. All recordings shall be retained for a minimum of 14 days. Recordings shall be provided to the police or other responsible authorities within 7 days of any request. The premises will supply all recording media and ensure that supplies are kept on the premises. The DPS or duty manager must be able to operate the system. Should the system be inoperable this will be recorded in the incident book and the system will be repaired as soon as reasonably practicable.

2. Substantial food in the form of table meals shall be available throughout the Premises from the time of opening until 9pm 7 days a week.
3. The DPS shall ensure that an Incident Book is kept on the premises and that all incidents are recorded therein on a daily basis. This record shall include the full names of all persons involved, if possible or practical to do so. The incident Book shall be made available for inspection by a police officer, a police licensing officer or Officers of the local authority on demand, and such records shall be kept at the premises for a minimum of 12 months.
4. The DPS or other nominated person shall attend at least two meetings of the Torbay Licensing Forum per calendar year, together with any other meetings arranged by the police in respect of high risk events.
5. The Premises Licence Holder and/or DPS shall ensure that all staff receive training as to their responsibilities under the Licensing Act 2003, at the commencement of employment, with refresher training taking place on at least an annual basis. A record of all training will be kept and be available for inspection by representatives of responsible authorities on request. These records will be kept on the premises for at least 12 months.
6. The Premises Licence Holder/DPS shall risk assess the requirement for door supervisors, taking the layout of the premises and any proposed activities to take within the premises, into account and employ such door supervisors, if at all, in such numbers and at such times determined by that risk assessment. Risk assessments will be recorded, retained on the premises for at least 12 months and produced to representatives from responsible authorities on request.

The Protection of Children from Harm

1. The premises shall operate a Challenge 25 Policy and any individual who appears to be under the age of 25 will be required to produce an approved form of photographic identification as outlined within the Torbay Council's Licensing Statement of Principles.
2. No persons under the age of 18 years shall be permitted in the premises after 2200 hrs. Any under 18's allowed entry to the premises before this time must be accompanied by a responsible adult and shall be required to vacate the premises at 2200hrs.

ANNEXE 4**PLANS**

Copy attached to Licence.



Licensing representation	
Name of the premises:	The Birdcage - Punch Taverns Limited
Support/Object to application	Object
Address of the premises:	Bolton Street Brixham TQ5 8LT

Applicant Details

In what capacity are you applying?	Any other person
First name:	██████
Last name:	██████
Contact number:	██████████
Email address:	██████████████
Address:	██ ██████████████████████████████████████

Representation

Which of the following Licensing Objectives is this representation relevant to?

This representation is relevant to the following Licensing Objectives	The prevention of crime and disorder The prevention of public nuisance
The reason for your representation:	With living behind The Birdcage at Saxon Heights my flat is ground floor facing the The Birdcage and I can currently hear all live music when played and can also hear people shouting and exuberance of them enjoying themselves when they are outside in the smoking area. I am fine with the noise on the current licence hours, but with this wanting to be extended, it is not fair to the residents living in the area as the noise can be really loud and it would definitely stop people being able to sleep at a reasonable time, myself included and all of the 31 flats in Saxon Heights
Is there any reason why you do not want your personal details to be passed on to the premises license holder?	████
Would you like to include any documentation in support of your representation	No
Uploaded Files	

Confirmation

I confirm I have read the representation guidance notes and agree that a copy of my representation will be given to the premises license holder.	1
Full name:	[REDACTED]

Agenda Item 6 Appendix 4

From: [Matthew Phipps](#)
To: [Carrie Cottell](#)
Subject: Birdcage
Date: 19 February 2024 16:23:18

You don't often get email from matthew.phipps@bt.com. [Learn why this is important](#)

Carrie

Good afternoon

Please find 3 photographs below of the interior of the Birdcage. For incorporation within the licensing committee papers please.

Matthew





Dear Carrie

I have had a review of the application with my clients, and we have reflected on the two representations.

Whilst my client does want to move forward with the extension to the hours on Friday and Saturday nights, this can be limited to the sale of alcohol and late-night refreshment (hot food and hot drink) only.

The two regulated entertainment elements, recorded music and live music, part of the application for Fridays and Saturdays, can be withdrawn.

We would like to convey this to the two representors, would you like me to draft an email to send across or you will engage with them direct?

Please can this be reflected in the licensing committee report.

Many thanks

Yours sincerely

Matthew Phipps
Partner
Head of Licensing England and Wales
for TLT LLP

Dear Carrie

We act for the applicant for the licence variation and I am authorised to write on their behalf.

We have reflected on the two representations.

As you are aware the application has a couple of elements. In so far as regulated entertainment is concerned, namely recorded music and live music, with the request that this be extended on Fridays and Saturdays, this can be withdrawn.

My client does want to move forward with the extension to the hours on Friday and Saturday nights, however this will be limited to the sale of alcohol and late-night refreshment (hot food and hot drink) only.

Stevie, the manager is keen to ensure the premises does not cause any issues for residents, and will be carefully managing and supervising the outside areas and the departure of customers. If the residents would like to have direct contact details for Stevie then she is very happy to pass these along, so that any issues or concerns can be brought to her attention directly.

Please can you convey this amendment to the representors.

Yours sincerely

Matthew

Matthew Phipps
Partner
Head of Licensing England and Wales
for TLT LLP

From: [Matthew Phipps](#)
To: [Cottell, Carrie](#)
Subject: Birdcage submissions - [TLT-TLT.FID9788114]
Date: 21 February 2024 09:41:22

Dear Carrie

Submission

This submission is aimed at assisting the Torbay Council licensing subcommittee, and the remaining local resident objector who are party to the above matter, now listed for determination on 29 February. In essence it summarises the submissions that the applicant will make to the licensing committee and introduces the documents that will be before the committee.

Variation

The variation seeks to permit an additional hour on Fridays and Saturdays only. Having reflected on the representations the applicants have now indicated to the authority that their proposal that regulated entertainment be extended, is to be withdrawn. The licensing officer kindly conveyed that information to the two resident objectors and one subsequently withdrew. It is not any part of this application, nor any part of future plans, that the Sunday-Thursdays permission will be extended beyond the existing midnight proposal. The only Sunday to Thursday element of this application, for late night refreshment, is to allow that permission to "catch up" with the existing alcohol and opening permission.

Birdcage

The development of the Birdcage has been prolonged. For the last 2+ years it has operated to good effect under the same management team. It has developed itself as an inclusive environment, for all ages with a strong food proposition, sport on television and occasional entertainment, on the weekends. On Fridays and Saturdays, it is particularly popular with others who work in the hospitality sector, with a number attending later in the evening, after their work.

For the two years before Stevie took occupation the previous operator ran the premises to good effect. The offer was mainly focused on a premium food offering with occasional mid evening entertainment. James Farmer, the business development manager for Punch Taverns, has had responsibility for the premises for two and a half years and has not had any reported disturbances or complaints against the pub during that period.

Photographs

Photographs disclosing the interior of the premises are included within the committee papers. A menu is also attached.

Blue Anchor

Punch Pubs own a significant number of public houses throughout England and Wales. James also has responsibility for the Blue Anchor public house. This pub has been run responsibly by Punch Pub's managed partner there for the last four years and has no history of issues or difficulties.

Stevie (The DPS and operator)

Stevie grew up in Brixham, is qualified as a primary school teacher but has worked in the hospitality industry for a number of years. Although new to the Birdcage, she has managed a popular local wet-let pub, to good effect, for a number of years.

She is knowledgeable about the local history and the people of Brixham, has good relationships with many of the young people who frequent the pubs in Brixham and has good relations with many of the other pubs and licensed premises in Brixham including the Blue Anchor, the Manor, the New Quay and the Bulls.

Stevie is familiar with the Jackie's premises and recognises and respects the concerns that have been articulated within the representations. She is also aware that other premises locally have had issues and difficulties and in one case, premises has been closed.

Pubwatch

Stevie has been an active participant in Pubwatch with the licensing officer Olivia Gifford leading, she is keen to collaborate with other licensed premises and the officers so as to ensure that if someone is identified as being troublesome that they do not then gain access to the Birdcage.

Contact details

Stevie is happy to have her direct contact details (mobile phone number and/or email) distributed to surrounding neighbours, including the representors, so that there can be an ongoing direct engagement if any issues arise.

Departure of customers

The management and the applicant are aware that managing noise for neighbours is of critical significance. On departure customers now leave via the Brixham Theatre side door, with other doors being kept closed after 12 midnight.

Acoustic lobbies

There are double doors at both entrances and during any live music or entertainment at least one of those sets of doors will be closed, save for access and egress.

Monitoring and supervision

On Fridays and Saturdays Stevie will have enough staff to allow her to "patrol" the whole of the premises throughout the evening. This worked to good effect at the Manor public house which she previously managed. This allows for early identification of issues or concerns and allows customers to see that management are in and around the public parts of the premises, at all times. She will also take a lead in ensuring that people move on and depart the immediate vicinity at the end of a night, as well as monitoring and supervising the outside areas, with particular regard so as to ensure that noise levels are managed and appropriate. Whilst it is right that some groups do hang around the town centre after other licensed premises have closed, this has not been an issue at the Birdcage.

Antisocial behaviour

The representations fairly articulate that there can be antisocial behaviour in and around Brixham, but we submit that that this is likely to be ameliorated by these premises being permitted a more gradual departure period rather than the slightly "hard stop" at midnight, that many other public houses operate.

Outside areas

There is a rear courtyard to the pub, but the area is limited and will be supervised and monitored at all times. This courtyard is away from residential flats opposite the pub, there is housing on the street behind but not until further up the street or on opposite side. Regular patrols will be by staff and management to ensure nuisance does not occur, cameras also operate in this area.

Departure

Although many will walk home provision for taxis is managed by the premises. Taxi cards available in bar and staff are able to call taxis, a Taxi rank and bus stops are across the road. Customers may wait inside the pub whilst waiting for transport .

First floor

Whilst historically the first floor of the public house had residential letting rooms, the first-floor space is now given over to the manager's accommodation and no rooms are let out at all.

Live music/regulated entertainment

It is not intended that the premises will have live music every day of its permission, nor every weekend. It is anticipated that this will likely be once a month and/or on key event days such as St Patrick's Day or similar.

Previous application

These premises have made applications to the licensing committee before now. In 2017 there was an application to amend hours and revise (and update) the licence conditions. The extensive conditions that the committee will see on the face of the existing licence appear drawn from that 2017 variation. This 2017 variation application drew a representation from the Devon and Cornwall

Constabulary, but agreement was reached, moderating the application in line with the discussions. Following the withdrawal of the police representation we believe that the matter was granted under delegated authority (without the necessity for a licensing hearing).

Conditions

The operating schedule for these premises is extensive. Conditions include but are not limited to: Prevention of crime and disorder – glassware, crime prevention advice, banning policy, zero tolerance, pub watch engagement, high visibility clothing for SIA supervisors. Public safety- taxi management and lighting. Prevention of public nuisance –retention of sound, signage, noise management plan, a prohibition on unaccompanied children, doors and windows being closed, amplified sound under managements control, CCTV, incident book, training, risk assessment for door supervisors. Protection of children from harm- challenge 25, no under 18's after 10pm.

Responsible Authorities

The responsible authorities do not object to this application. The licensing committee will be familiar with section 9:12 of the national guidance issued under section 182 of The Licensing Act 2003. This states: *Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.*

Licensing Policy

The following elements of the licensing policy appear to us to merit comment:

1.4 – The Authority acknowledges the important role which pubs and other licensed premises play in both tourism and in local communities. The Authority therefore believes that providing licensed premises operators compliant, well regulated businesses and that their management act responsibly in promoting the licensing objectives, they make a positive contribution toward building local communities and supporting cultural development and Torbay's tourism offer. It is also important to appreciate that alcohol does play an important and inherent role within the leisure and entertainment industry.

8 – The Authority does not consider that it is reasonable for local residents and compliant businesses to suffer because of a small number of irresponsible poorly managed operators.

6 – The Policy therefore seeks to provide a necessary balance between providing a platform upon which compliant, well regulated businesses may operate and contribute toward a successful business and night time economy, and ensuring that the quality of life of those who live and work in the Bay are protected through our robust licensing procedures. We believe these aims are achievable, if all parties work together.

1.7 – Whilst the Authority will not use Licensing conditions to control anti-social behaviour by individuals once they are away from the licensable premises or place and beyond the direct control of the Licensee, where there is a cause or link between the behaviour complained of and patrons of the licensed premises, it is expected that the Premises Licence holder will take immediate steps to mitigate such impact within the vicinity of their premises....Premises Licence holders will be required to demonstrate that they have taken and intend to take appropriate action in his respect.

2.4 – The Authority will actively encourage a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays.

1.28 – The Authority recommends that all applicants seeking to supply alcohol should have regard to the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks.

3 – Where there have been relevant representations the Authority will consider the content of any application with respect to the following matters. The adequacy of measures proposed to prevent

crime and disorder and the history or any previous relevant enforcement action particularly ...the measures the applicant is taking or proposes to take to improve security or public safety, for example by: CCTV, risk assessment, SIA door stewards, safe capacities, bag sizes, cloak room facilities, metal detectors.... Working to reduce the likelihood of violence or public disorder.... Implementing the outcomes of consultations with the Police.... Attendance and participation at local Licensing Forums.

Steps taken by or proposals of the applicant to (variously)...Prevent noise escape including music and human voices, such measures may include the installation of sound proofing, air conditioning, acoustic lobbies and sound limitation devices.....Managing the outside spaces notably beer gardens, designated smoking areas, car park areas to prevent noise from patrons and entertainment creating a public nuisance to nearby neighbours.....Prevent disturbance by patrons arriving at or leaving the premises, or in the vicinity of the premises especially when smoking.

Temporary event notices

Our clients applied for and obtained two temporary event notices to broadly mirror the proposed application. These were across the weekend of 3 and 4 February and the weekend of 27 and 28 January. The premises operated those permissions, until 1am on Fridays and Saturdays, to good effect. They demonstrate, we submit, that the premises can correctly manage its affairs so as to avoid any undermining of the licensing objectives, in line with the proposed variation.

Conclusion

This application strikes the right balance between proportionate, appropriate, sustainable, necessary growth that promotes the licensing objectives so as to ensure that the impact upon residents, neighbours and others is managed and manageable.

We will be in attendance before the licensing committee to support the application and to develop these points.

Matthew Phipps
Partner
Head of Licensing England and Wales
for TLT LLP

[Redacted signature block]

[Redacted line]

[Redacted line]

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[Redacted line]

[Redacted line]

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Food Menu

BAR SNACKS

ANY 3 FOR £15.99

CRISPY KING PRAWNS 6.75

Marinated in a blend of South Asian spices with tandoori mayo (†)

ONION RINGS & DIP 5.75

Crispy battered onion rings with a choice of dip
Stilton mayo (v), spicy mayo (v), sweet chilli (ve)

MOZZARELLA STICKS 6.75

With sweet chilli sauce (v)

CHICKEN WINGS 6.75

With a salt & chilli rub (†)

CALAMARI 6.75

With a dill & pickle mayo (†)



STARTERS

SOUTHERN-FRIED CHICKEN STRIPS 6.75

With Southern-style gravy

TREAT YOURSELF! ADD 2 MORE STRIPS FOR AN EXTRA £2

TOMATO & BASIL SOUP 5.75

Served with warm sourdough (v) (ve option available)

GARLIC BREAD 4.50

Oven-baked garlic sourdough (v)

ADD CHEESE £1

PUB CLASSICS

STEAK & ALE PIE 13.50

With a choice of buttery mash or skin-on chips, garden peas and gravy

PORK SAUSAGE & MASH 10.99

With a Yorkshire pudding, garden peas and roast onion gravy

VEGETARIAN SAUSAGE & MASH 10.99

With a Yorkshire pudding, garden peas and roast onion gravy (v)

SCAMPI & CHIPS 11.50

With a choice of garden or mushy peas, tartare sauce and lemon (†)

HUNTER'S CHICKEN 12.50

Chargrilled chicken breast with bacon, melted cheese and BBQ sauce, served with skin-on chips and salad

BEEF LASAGNE 13.50

Slow-cooked in a red wine & tomato sauce, topped with Cheddar and pesto, served with salad

ADD SKIN-ON CHIPS £2.50

ADD GARLIC SOURDOUGH £2.50

CHICKEN TIKKA MASALA 13.50

With pilau rice, naan bread and poppadom

BEER-BATTERED FISH & CHIPS 12.99

With a choice of garden or mushy peas, tartare sauce and lemon (†)



MUSHROOM & TARRAGON PUDDING 13.50

With sautéed potatoes, garden peas and gravy (ve)

10oz GAMMON & EGGS 13.99

With skin-on chips, grilled tomato and garden peas

ADD CRISPY ONION RINGS £2

ADD SCAMPI £3

ADD CHICKEN WINGS £3

BURGERS

Served in a toasted brioche-style bun with skin-on chips

UPGRADE TO SALT & CHILLI CHIPS 50p



HUNTER'S CHICKEN BURGER 13.99

Chargrilled chicken breast with bacon, BBQ sauce and cheese

CHEESE & BACON 12.50

Two 3oz beef patties with bacon, cheese, caramelised red onion and burger sauce

SOUTHERN-FRIED CHICKEN 11.99

Hand-coated Southern-fried chicken with garlic mayo

THE LOUISIANA 12.50

Southern-style cornbread coated patty with pickled gherkins, BBQ sauce and mayo (ve)

LOAD YOUR CHIPS FOR AN EXTRA £3

CRISPY CHILLI CHICKEN

SOUTHERN-FRIED CHICKEN

BREADED MOZZARELLA (v)

TOP YOUR BURGER

BACON £1.50

CHEESE (v) £1.00

BEEF PATTY £1.99

BURGER SAUCE (v) 50p

LOADED CHIPS

CRISPY CHILLI CHICKEN 7.99

Skin-on chips topped with sweet chilli chicken, cheesy nacho sauce and Southern-style gravy

SOUTHERN-FRIED CHICKEN 7.99

Skin-on chips topped with crispy fried chicken, cheesy nacho sauce, Southern-style gravy and garlic mayo

MOZZARELLA 7.99

Skin-on chips topped with breaded mozzarella, cheesy nacho sauce and sweet chilli sauce (v)

ON THE SIDE

CRISPY ONION RINGS (ve) 3.75

SKIN-ON CHIPS (ve) 3.75

SALT & CHILLI SKIN-ON CHIPS (ve) 4.25

BREAD & BUTTER (v) 1.99

DESSERTS

HAND-MADE STICKY TOFFEE PUDDING 5.99

From award-winning Cartmel, with your choice of creamy custard or vanilla ice cream (v)

SALTED CARAMEL CHOCOLATE BROWNIE 6.25

With salted caramel sauce and vanilla ice cream (v)

LOTUS BISCOFF SUNDAE 5.99

With vanilla ice cream, Lotus Biscoff sauce, whipped cream and Lotus biscuits to finish (v)

CHERRY SUNDAE 5.99

With coconut ice cream, cherry sauce and Belgian waffle (ve)



DIETARY REQUIREMENTS

We don't claim to be a 'free from' restaurant but tell us your specific allergen requirements and we will check everything and take extra care with your meal. Scan the QR code for our allergens guide and calorie information or visit: <https://links.digitalpubs.co.uk/xxxxxx>. A printed copy of the allergy information is also available from a team member. All weights stated are approximate uncooked weights.

(v) vegetarian (ve) vegan (h) may contain bones or shells. Cartmel is a registered trademark of Cartmel Sticky Toffee Pudding Co Ltd. Biscoff is a registered trademark of Lotus Bakeries