



Wednesday, 4 May 2016

LICENSING SUB-COMMITTEE

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

Thursday, 12 May 2016

commencing at **10.30 am**

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

Members of the Committee

Members of the Licensing Sub-Committee will be determined at the Annual Council Meeting
on 11 May 2016

A prosperous and healthy Torbay

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

Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 3 - 6)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 21 April 2016.
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. **An application for a Variation to a Premises Licence in respect of Lime Tree, 9-11 Dartmouth Road, Paignton TQ4 5AA** (Pages 7 - 47)
To consider an application for a Variation to a Premise Licence in respect of Lime Tree, 9-11 Dartmouth Road, Paignton.



Minutes of the Licensing Sub-Committee

21 April 2016

-: Present :-

Councillors Manning (up to and including minute 47), Stocks, Thomas (D) and King

45. Election of Chairman/woman

Councillor Thomas (D) was elected as Chairman for the meeting.

46. Minutes

The Minutes of the meeting of the Sub-Committee held on 24 March 2016 were deferred until a future meeting.

47. Declarations of interests

Prior to consideration of Minute 48 Councillor Manning declared a pecuniary interest and left the meeting. In order for the meeting to be quorate, Councillor King took the place of Councillor Manning. The meeting was subsequently adjourned until 10 am to allow Councillor King time to read the papers for the meeting.

48. Application for a Variation to a Premises Licence in respect of the Bolton Hotel, New Road, Brixham

Members considered a report on an application for a Variation to a Premises Licence in respect of the Bolton Hotel, New Road, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Letter of representation objecting to the application on the grounds of the Licensing Objectives 'The Prevention of Crime and Disorder', 'The Protection of Children from Harm' and 'The Prevention of Public Nuisance'.	24 March 2016

Public Protection	Letter of representation objecting to the application on the grounds of the Licensing Objectives 'The Prevention of Public Nuisance'.	7 March 2016
Member of the Public	Letter of representation objecting to the application on the grounds of the Licensing Objectives 'Public Safety' and 'The Prevention of Crime and Disorder'.	16 March 2016
Member of the Public	Letter of representation objecting to the application on the grounds of the Licensing Objective 'The Prevention of Public Nuisance'.	21 March 2016
Member of the Public	Letter of representation objecting to the application on the grounds of the Licensing Objective 'The Prevention of Public Nuisance'.	5 March 2016

Additional Information:

Following the publication of the submitted report the Police Representative and Applicant's Legal Representative both submitted additional information which was considered by Members of the Sub-Committee.

The Chairman had received a request from the Police Representative to allow 15 minutes for Oral Representations, the Applicant's Legal Representative requested this be extended further to 30 minutes. The Chairman permitted the extension of time for Oral Representations to 30 minutes and advised that the same would be permitted to each party.

Oral Representations received from:

Name	Details
Applicant's Legal Representative	The Applicant's Legal Representative outlined the application and responded to Members questions.
Police Representative	The Police Representative outlined their objection to the application and responded to Members questions.
Public Protection Officer	The Public Protection Officer outlined their objection to the application and responded to Members questions.
Member of the Public	A member of the public outlined their objection to the application.

Decision:

That the application for a Variation to a Premises Licence in respect of the Bolton Hotel, New Road, Brixham be refused.

Reason for Decision:

Members carefully considered all the oral and written representations and unanimously resolved the following:

Punch Taverns have been the Premises Licence Holder of the Bolton Hotel for the last 16 years; therefore the history of the premises as well as that under the current Designated Premises Supervisor is a relevant consideration, especially given the number of Designated Premises Supervisors at this premise to date. In determining this and taking into account the submissions of the Applicant's Legal Representative and that of the Responsible Authorities that this is a premise with a chequered history, Members could not be satisfied that if this application was granted as applied for that the Licensing Objectives would not be undermined.

Whilst it was submitted that Punch Taverns take their responsibility seriously, Members were alarmed to hear their lack of any real involvement or consideration of the Licensing Objectives in submitting this application. Instead it appeared to Members that they did no more than instruct the Legal Representative and receive from them and forward to their management company an acknowledgement of the application being submitted. The merits and/or negative impact of the application had not evidently been considered by them; in fact they had left it to the Legal Representatives colleague who had completed the application with errors and without any consultation with the Responsible Authorities, as prescribed in the Council's Licensing Policy. This demonstrated to Members a lack of ownership or responsibility by the Premises Licence Holder to ensure that the Licensing Objectives would be upheld and therefore they could not be assured, given the history of these premises and the granting of such a license in predominantly residential area, would not have a negative impact on those residents.

In considering the submissions by the Applicant and their Legal Representative that the current conditions were sufficient to cover the additional hours being applied for, showed in Members minds little regard for upholding the Licensing Objectives. In determining this, Members were mindful that the measures in place to promote the Licensing Objectives at a premise which is situated in a predominantly residential area between 10 am and midnight are considerably different to that required of the same premise operating between the hours of midnight and 3 am. In consideration of this point, Members had regard to the Council's Licensing Policy where an Applicant does not sufficiently demonstrate how they will protect residential premises in close proximity to their premises.

Members noted and commend the efforts made by the current Designated Premises Supervisor to turn the premises around but with no understandable certainty of him remaining at the premises, given his three placements in a short period of time and the practice of the current management company to promote and move such managers around other of their premises, Members could not be assured that if granted the premises would not return to its chequered past with the addition of it now being a premises with a 3 am licence with conditions which did not sufficiently reflect that required of such an operation.

Whilst Members were encouraged by the submissions of the Applicant's Legal Representative in that conditions and policies could be put in place, Members were unable to determine the sufficiency of these, as they were not submitted with this application.

Members had regard to the submissions of the Responsible Authorities but where these lacked clear evidence, Members gave them no weight when coming to their decision.

In concluding, Members considered whether the application could be granted with additional conditions but given the lack of detail in the application and any consultation by the Applicant with the Responsible Authorities, they resolved that they were left with no choice but to refuse the application submitted.

Chairman/woman



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Lime Tree, 9-11 Dartmouth Road, Paignton TQ4 5AA**

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub-Committee** On: **12th May 2016**

Contact Officer: **Mandy Guy**
☎ Telephone: **01803 208025**
✉ E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

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

- 1.5 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.

forward thinking, people orientated, adaptable - always with integrity.

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 1. Only the relevant pages of the application are shown.

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

To allow the hours for the Sale of Alcohol on and off the Premises, Recorded Music and Live Music from 08.00 until 04.00 daily.

The existing licence allows the Sale of Alcohol, on and off the Premises, and Recorded Music from 11.00 until midnight Monday to Thursday, 9.00 until 2.00 Friday and Saturday and from noon until midnight on Sunday.

Live Music is permitted from 11.00 until midnight Monday to Saturday and from noon until Midnight on Sunday.

To allow Late Night Refreshment from 23.00 until 04.00 daily.

The existing licence allows Late Night Refreshment from 23.00 until 02.00 Friday until Saturday.

To allow the premise to be open from 07.00 until 04.30 daily.

The existing licence allows the premises to be open from 08.00 until 00.30 Monday to Thursday, 08.00 until 02.30 Friday and Saturday and from 08.00 until 12.30 on Sunday.

No additional conditions have been proposed in the operating schedule and there has been no request to amend or remove any of the existing conditions.

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report. Please note there has been a typing error on this licence which the Applicant's Solicitor, the Police and Public Protection have been made aware of. Where the licence states the timings for Recorded Music and Alcohol on Friday and Saturday are 9.00 until midnight, it should read 09.00 until 02.00.

- 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 variation to the Premises Licence, as relevant Representations have been received from Responsible Authorities. The Licensing Authority is also satisfied that the Representations were received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received a Representation from the Police in relation to the Licensing Objectives "The Prevention of Crime and Disorder", "The Prevention of Public Nuisance" and the Protection of Children from Harm". This is shown as Appendix 3 of this report.

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

There have been no Representations received from any other Responsible Authority or any other Interested Party.

- 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
Assistant Director (Community and Customer Services)

Appendices

Appendix 1	Relevant sections of the application form
Appendix 2	Copy of the current Premises Licence and Plan
Appendix 3	Representation from the Police
Appendix 4	Representation from Public Protection

Documents available in members' rooms

None

Background Papers:

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

The current Premises Licence for the above Premise.
 Torbay Council Licensing Policy 2016-2021.

Agenda Item 6

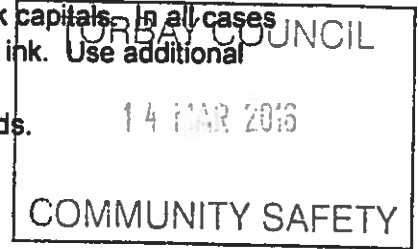
Appendix 1

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 Star Pubs & Bars Limited
(Insert name(s) of applicant)

Being the premises licence holder, apply to vary a premises licence under S34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises Licence Number 411

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Lime Tree 9-11 Dartmouth Road			
Post Town	Paignton	Postcode	TQ4 5AA

Telephone number at premises	
Non-domestic rateable value of premises	£33,000.00

Part 2 - Applicant Details

Daytime contact telephone number			
E-mail address (optional)			
Current postal address if different from premises address	3-4 Broadway Park South Gyle Broadway		
Post Town	Edinburgh	Postcode	EH12 9JZ

Part 3 - Variation

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

If not do you want the variation to take effect from

Day		Month		Year	
↓	↓	↓	↓	↓	↓

Please describe briefly the nature of the proposed variation (please read guidance note 1)

Application is made to amend the hours for all licensable activities to 08:00 to 04:00 daily, (late night refreshment 23:00 to 04:00) and also to amend the premises opening and closing times to 07:00 to 04:30.

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

--

Part 4 Operating Schedule

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

Provision of regulated entertainment

- | | Please tick yes |
|--|-------------------------------------|
| 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 L)

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

In all cases complete boxes K, L and M

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day				Start	Finish
				Outdoors	<input type="checkbox"/>
Mon	08:00	04:00	<u>Please give further details here</u> (please read guidance note 3)		
Tue	08:00	04:00			
Wed	08:00	04:00	<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4)		
Thur	08:00	04:00			
Fri	08:00	04:00	<u>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</u> (please read guidance note 5)		
Sat	08:00	04:00			
Sun	08:00	04:00			

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon	08:00	04:00	<u>Please give further details here</u> (please read guidance note 3)		
Tue	08:00	04:00			
Wed	08:00	04:00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Thur	08:00	04:00			
Fri	08:00	04:00	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat	08:00	04:00			
Sun	08:00	04:00			

Late night refreshment			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Standard days and timings (please read guidance note 6)				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon	23:00	04:00		<u>Please give further details here</u> (please read guidance note 3)	
Tue	23:00	04:00			
Wed	23:00	04:00	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4)		
Thur	23:00	04:00			
Fri	23:00	04:00	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat	23:00	04:00			
Sun	23:00	04:00			

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	08:00	04:00			
Tue	08:00	04:00			
Wed	08:00	04:00			
Thur	08:00	04:00			
			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 (please read guidance note 5)		
Fri	08:00	04:00			
Sat	08:00	04:00			
Sun	08:00	04:00			

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

NONE

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	07:00	04:30	
Tue	07:00	04:30	
Wed	07:00	04:30	
Thur	07:00	04:30	
Fri	07:00	04:30	
Sat	07:00	04:30	
Sun	07:00	04:30	

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)

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

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,e) (please read guidance note 9)

~~This application may be amended during the application period to reflect any agreements that may be reached with the responsible authorities and interested parties.~~

Given the extensive conditions currently on this Premises Licence, it is not considered that any further steps are necessary in order to promote the four Licensing objectives as a result of this variation.

b) The prevention of crime and disorder


c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

Licensing Act 2003
Premises Licence

411

LOCAL AUTHORITY	
	<p>Torbay Council Licensing & Public Protection c/o Town Hall Castle Circus Torquay TQ1 3DR</p>

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION
<p>Lime Tree 9/11 Dartmouth Road, Paignton, Devon, TQ4 5AA.</p>

WHERE THE LICENCE IS TIME LIMITED THE DATES
Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE
<ul style="list-style-type: none"> - a performance of live music - any playing of recorded music - provision of late night refreshment - the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES			
Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Saturday	11:00am	Midnight
	Sunday	Noon	Midnight
F. Playing of recorded music (Indoors)	Monday to Thursday	11:00am	Midnight
	Friday to Saturday	9:00am	Midnight 02.00
	Sunday	Noon	Midnight
	On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		
L. Late night refreshment (Indoors)	Friday to Saturday	11:00pm	2:00am
	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 Thursday	11:00am	Midnight
	Friday to Saturday	9:00am	Midnight 02.00
	Sunday	Noon	Midnight
	Non Standard Timings:	11:00am	Midnight
	St Georges Day, Bank and Public Holidays.		
	On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		

Licensing Act 2003
Premises Licence

411

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Thursday	8:00am	12:30am
Friday to Saturday	8:00am	2:30am
Sunday	8:00am	12:30am
On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		

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

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

Part 2

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

Star Pubs & Bars Limited
3-4 Broadway Park, South Gyle Broadway, Edinburgh, EH12 9JZ.
Telephone 0131 528 1000

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

Star Pubs & Bars Limited
SC250925

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

Tracey Anne WEBBER
The Limetree Pub, 9-11 Dartmouth Road, Paignton, Devon, TQ4 5AA.
Telephone 01803 390506 or 07796618369

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. PA1824
Issued by Torbay



Steve Cox
Environmental Health Manager (Commercial)
15 February 2016

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

Restrictions transferred from the On Licence

The restrictions related to permitted hours do not prohibit:

- (a) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- (b) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- (c) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the liquor is supplied at the expense of the employer or of the person carrying on or in charge of the business on the premises.

General

- 1. CCTV must be provided and maintained in good working order.

The prevention of crime and disorder

- 1. Must retain membership of the LVA.
- 2. An incident logging system must be maintained.
- 3. All employees must receive drug awareness training.
- 4. Regularly inspect outdoor drinking areas of the premises for empty drinks glasses and bottles.
- 5. Drunk and disorderly behaviour shall not be tolerated.
- 6. On Friday and Saturday after 11pm, 2 SIA trained door staff shall be provided.
- 7. No open glasses or bottles shall be allowed outside the premises after 11pm.

Public Safety

- 1. An incident logging system must be maintained.
- 2. Fire alarms shall be regularly tested, recorded and maintained.
- 3. Emergency lighting shall be tested regularly and recorded.
- 4. First aid box shall be kept on site.
- 5. Accident log book shall be kept on site.

ANNEXES continued ...

6. All fire exits shall be kept clear of obstruction.

The prevention of public nuisance

1. All doors and windows must be kept closed when entertainment is provided.
2. Customers must be reminded to respect neighbours when departing the premises at night.
3. A decibel meter shall be used each time music entertainment is provided and recorded in a log book.
4. Signage shall be provided asking all customers to leave quietly at the end of the night.

The protection of children from harm

1. Employees must be trained on underage sales procedures and policy.
2. All customers whom appear to be under the age of 21 must provide official proof of age identification.
3. Children must be supervised and accompanied by a parent or guardian at all times; if not entry shall be refused.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

The Prevention of Crime and Disorder

1. On every occasion that the premises sells alcohol after midnight and then closes after 12.30am, SIA door stewards shall be employed on the premises from 10pm until closing, on a ratio of 1 steward per 100 persons.
2. CCTV shall operate throughout the time the premises are open to the public and include recording facilities. Such system shall operate at all times to an evidential standard and recordings to be kept for a minimum of 14 days, during which time the police shall have access at any reasonable time.
3. The premises shall participate in the Nitenet Radio Communications Scheme that operates within Paignton.
4. Whenever the premises remain open after 12 midnight, all drinks must be served in toughened, strengthened, polycarbonate or plastic glasses from 10pm and no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink.
5. There shall be no entry/re-entry to the premises after 1.00am.
6. No under 18 year olds shall be in the premises after 10.00pm.
7. There shall be no consumption of any drinks in the outside licensed area after 11pm.

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 23.00hrs. The criteria applied, from boundary to nearest residential property are:
 - (a) Before 23.00 - Noise emanating from the premises will not be clearly distinguishable above other noise.
 - (b) After 23.00 - Noise emanating from the premises will not be clearly distinguishable above background levels of noise.
 - (c) The Local Authority will reserve the right in cases of tonal noise and where premises are attached to others to make further assessments from within the residential property.
2. All doors and windows shall remain closed during amplified live music and entertainment to reduce noise breakout. A management scheme will be in place to ensure this situation remains.
3. For amplified live music and entertainment, wind down music of a gentler nature shall be played during the period of 23:00 - 00:00hrs.

ANNEXES continued ...

4. A senior member of staff (manager) shall assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment to ensure levels of noise have not increased
5. No music or speech shall be relayed by external amplified speakers.
6. Bottle skips and bins containing cans or bottles shall not be emptied outside closing but will be dealt with the next day during normal business hours.

ANNEXE 4

PLANS

Copy attached to Licence.

LOCAL AUTHORITY



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

Premises Details

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

Lime Tree

9/11 Dartmouth Road, Paignton, Devon, TQ4 5AA.

WHERE THE LICENCE IS TIME LIMITED THE DATES

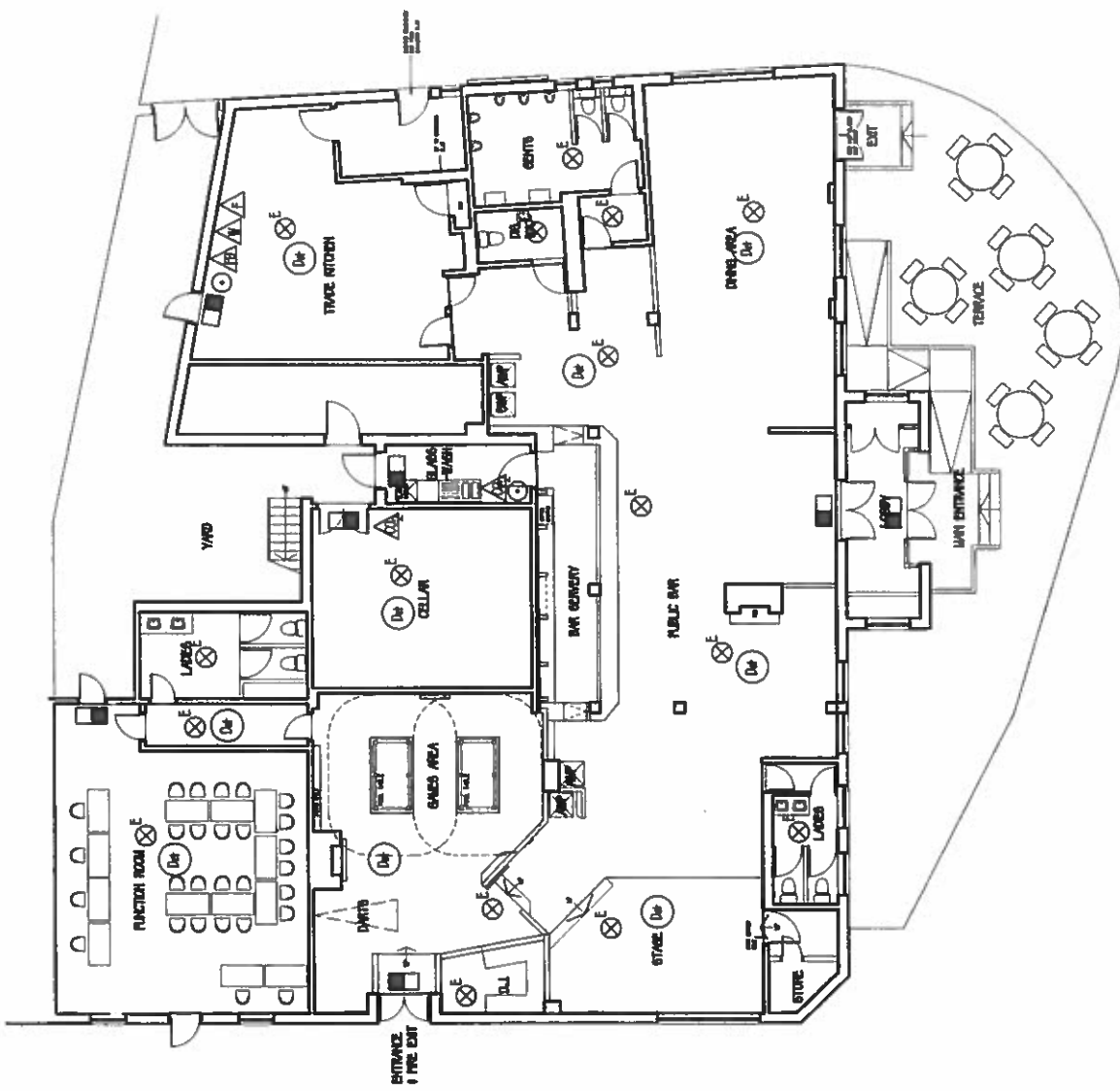
Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

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

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Saturday	11:00am	Midnight
	Sunday	Noon	Midnight
F. Playing of recorded music (Indoors)	Monday to Thursday	11:00am	Midnight
	Friday to Saturday	9:00am	Midnight
	Sunday	Noon	Midnight
	On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		
L. Late night refreshment (Indoors)	Friday to Saturday	11:00pm	2:00am
	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 Thursday	11:00am	Midnight
	Friday to Saturday	9:00am	Midnight
	Sunday	Noon	Midnight
	Non Standard Timings:	11:00am	Midnight
	St Georges Day, Bank and Public Holidays. On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		



FIRE LEGEND

☉	Exting. Manual Call Point
☐	Exting. Emergency Exit Light c/w legend (directional)
☐	Fire alarm panel
☐	Exting. Fire Extinguisher - Foam
☐	Exting. Fire Extinguisher - Co2
☐	Exting. Fire Extinguisher - Fire Blanket
☐	Exting. Fire Extinguisher - Dry Powder
☐	Exting. Fire Extinguisher - Wet Chemical
☐	Exting. Fire Extinguisher - Water
☐	Exting. Detector
☐	Exting. Sounder
☐	Exting. Emergency Light-fitting (Flourescent, Downlight or luminaire)
☐	LICENSABLE ACTIVITIES

Link
DESIGN CONSULTANTS LTD
22 BRADFORD ST, BRIMMINGHAM B3 6JX
Tel: +44(0)121 666 8728 Fax: +44(0)121 666 6487
Email: enquiries@link-design.co.uk Web: www.link-design.co.uk

STAR PUBS

THE LIME TREE PAIGNTON

PROPOSED PLAN

Date	Scale	Drawn By
09.14	1:100ea2	
Project No.	Drawing No.	Revision
1045	07	

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ITEMS SHOWN ON THIS PLAN WHICH ARE NOT PART OF THE STATUTORY REQUIREMENTS ARE SHOWN FOR INDICATIVE PURPOSES ONLY. THIS WOULD INCLUDE LOOSE OR FIXED FURNITURE IN CERTAIN CIRCUMSTANCES, THE POSITION OF TOILET CUBICLES, CCTV CAMERAS AND THE FIRE SAFETY EQUIPMENT NOT SPECIFIED IN THE REGULATION THESE ARE SHOWN UPON THE PLAN FOR ILLUSTRATIVE PURPOSES ONLY AND MAY BE MOVED AT THE DISCRETION OF THE LICENCE HOLDER.

THE CURRENT LOCATION OF THE FIRE EQUIPMENT AND OTHER SAFETY EQUIPMENT IS SHOWN. THESE MAY BE SUBJECT TO VARIATION IN THE FUTURE AS NECESSARY AND WHERE APPLICABLE IN LINEON WITH THE FIRE OFFICER.

Agenda Item 6

Appendix 3



Devon & Cornwall Police

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

Licensing Department East
Devon and Cornwall Constabulary
Force Headquarters
EXETER
EX2 7HQ

Telephone: 01803 218900

5 April 2016

Dear Sir/Madam

The Lime Tree, 9/11 Dartmouth Road, Paignton, Devon, TQ4 5AA

I refer to an application for the Variation of a Premises Licence in respect of the above named premises, submitted by Flint Bishop LLP on behalf of the applicant, Star Pubs and Bars Limited.

For your information, the Lime Tree currently has the benefit of Premises Licence Number PL0411 issued by Torbay Council.

The police have been advised that in relation to the existing Premises Licence PL0411, unfortunately a mistake has been made in relation to the permitted hours for the sale of alcohol. It has been confirmed by Flint Bishop LLP and Torbay Council Licensing Department that the licence actually allows the sale of alcohol between 11.00 am and midnight on Mondays to Thursdays, 9.00 am and 2.00 am on Fridays and Saturdays, and from noon to midnight on Sundays. The premises are also licensed for the provision of late night refreshment until 2.00 am on Fridays and Saturdays and the performance of live and recorded music but live music must cease at midnight each day, whereas recorded music can be played until midnight on Sundays to Thursdays and until 2.00 am on Fridays and Saturdays. The premises must close 30 minutes after these activities cease, ie 12.30 am Sundays to Thursdays and 2.30 am on Friday and Saturday nights.

This variation application has therefore been considered in conjunction with the above confirmed timings and not those illustrated on the Premises Licence which
Contact the police

Emergency 999

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

✉ 101@devonandcornwall.pnn.police.uk 101

Follow us DevonAndCornwallPolice DC_Police



accompanied the application form.

This variation application seeks to extend the provision of live and recorded music, late night refreshment and the sale of alcohol until 4.00 am every day of the week, with the premises closing at 4.30 am every day of the week. Furthermore it seeks to extend the time at which all licensable activities can commence from 9.00 am on Fridays and Saturdays, 11.00 am on Mondays to Thursdays, and noon on Sundays, to 8.00 am every day of the week.

For your information, the Lime Tree is situated at a busy junction within Paignton Town Centre. The surrounding area consists of a mixture of business and residential properties.

Prior to the submission of this application, the police were not consulted by Star Pubs and Bars Limited or Flint Bishop LLP concerning their proposed application, as they are strongly recommended to do within the Torbay Council Licensing Statement of Principles 2016-2021.

The police have examined the application and consider that the applicant has not given sufficient consideration to the Torbay Council Licensing Statement of Principles 2016-2021. As you will see from the boxes contained on Page M of the application form, the applicants have not outlined any additional measures they intend to take to ensure the Licensing Objectives are met. It is therefore apparent that they have not identified any additional risks associated with their proposed operation and they do not consider that allowing persons to consume alcohol for an additional 2 hrs on Fridays and Saturdays, or 4 hrs on Sundays to Thursdays, within their premises, prior to leaving at 4.00 am, will impact in any way on the Licensing Objectives.

It is the opinion of the police from our vast experience of dealing with licensed premises that those premises where alcohol sales cease at or around midnight occasionally come to the attention of police but generally do not impact on the Licensing Objections. Premises authorised to sell alcohol until 2.00 am may impact on the licensing objectives, particularly the Prevention of Crime and Disorder and the Prevention of Public Nuisance, but with suitable management and policies in place most of these concerns can be addressed. However in respect of premises which are authorised to sell alcohol until 4.00 am the risks significantly increase and irrespective of any conditions imposed on the licence, there is an extremely high likelihood of crime, disorder, anti-social behaviour and public nuisance issues.

In relation to this premises, it is the opinion of the police that whilst some of the conditions contained within the existing Premises Licence are appropriate for a premises which is authorised to sell alcohol until 2.00 am on two days of the week, they are not appropriate for a premises authorised to sell alcohol until 4.00 am every day of the week.

I now outline below a number of matters contained within the current Premises Licence that the police believe require further consideration in line with your Licensing Statement of Principles 2016-2021:

1. Condition 1 under the heading Annexe 3 The Prevention of Crime and Disorder relates to CCTV. The police consider that this condition is suitable but would request that when the CCTV system is inoperative the police and Licensing Authority be informed as soon as possible and immediate steps are taken to put the equipment back into action.
2. Condition 2 under the heading Annexe 3 The Prevention of Crime and Disorder. Whilst the police considered that this condition was acceptable and proportionate when the premises extended their closing time to 2.00 am on Friday and Saturday nights, we do not consider that a ratio of 1 steward per 100 persons is now appropriate. From experience it is apparent that premises where there are less than 100 persons present often only employ 1 steward who will be unable to check ID's and assess an individual's suitability to enter, ensure customers outside in the seating area behave in an appropriate manner whilst also monitoring internal areas of the premises and dealing with any incidents. Has the applicant carried out a risk assessment to identify any key areas within the premises which will affect the number of door stewards required? Will a female door steward be employed? Will all door stewards on 'front of house' duties wear a yellow high visibility jacket to ensure they are easily identifiable on CCTV? Will door stewards remain on duty after the premises have closed to assist with dispersing customers from the area in a quiet and orderly manner? Page 38 of the Licensing Statement of Principles deals with this matter. In addition, the police note that condition 6 on page 5 of the licence conflicts with the door stewarding condition on page 6 of the licence.
3. Condition 2 under the heading The Protection of Children from Harm within Annexe 2 indicates that the premises will operate a Challenge 21 Scheme. The Torbay Council Licensing Statement of Principles 2016-2021 (page 21) recommends the adoption of a Challenge 25 Policy.
4. Condition 1 under the heading the Protection of Children from Harm within Annexe 2 indicates that employees must be trained on underage sales procedures and policies. Will the premises comply with the recommended criteria outlined in paragraph e on page 22 of the Licensing Statement of Principles?

5. Condition 1 under the heading the Prevention of Crime and Disorder on page 5 of the licence relates to membership of the LVA (Licensed Victuallers Association). There is no LVA in Paignton, but the police would expect the premises to join and actively participate in local licensing meetings with the Police and Licensing Authority, by providing details of any individuals involved in violence or potential violence on the premises.
6. Condition 2 under the heading General The Prevention of Crime and Disorder on page 5 of the licence relates to an incident logging system being maintained. Does this meet the requirements outlined on page 38 of the Licensing Statement of Principles?
7. Condition 3 under the heading General The Prevention of Crime and Disorder on page 5 of the licence relates to all employees receiving drug awareness training. Again is this documented? Does the premises have a written drugs policy as recommended on page 14 of your policy?

In addition to the above, the applicants do not appear to have considered the below matters.

- a) What training will be provided to staff so that they understand the requirements of both the Premises Licence and the broad provisions of the Licensing Act 2003? Will they be required to hold the BIIAB Level 1 Award in Responsible Alcohol Retailing as recommended on page 17 of your policy?
- b) Bearing in mind this application is to extend the sale of alcohol by an additional 2 hours on Fridays and Saturdays, and an additional 4 hours on all other nights, what measures has the applicant considered in relation to identifying drunkenness within the premises? Has a breath-box been considered?
- c) What is the capacity of the premises?
- d) Will large numbers of person leaving the premises at the same time impact on nuisance issues to local residents?
- e) Does the premises have a Dispersal Policy and if so, what does it say?

For your information, the Premises Licence Holder, Star Pubs and Bars Limited, do not have a role in the day to day management of the premises. In fact Star Pubs and Bars Limited have appointed a holding company known as Pub Solutions to manage this premises, and it appears to be Pub Solutions who are responsible for selecting managers for the premises. Pub Solutions also have no involvement in the day to day management of the premises.

Since November 2014 there have been 6 variations of DPS at the Lime Tree and it does not appear that Star Pubs and Bars Limited and/or Pub Solutions can find a suitable DPS who is committed to spending a long period of time at the premises. The police have had to work closely with all previous supervisors of this premises in order to prevent and reduce crime and disorder in this particular area of the town during Friday and Saturday nights.

The Lime Tree has recently been closed to allow for some internal redecoration to take place and the premises re-opened on Friday 19 March 2016. On Thursday 24 March 2016 Mr Peter Cosby, my Police Licensing Officer, attended the premises in order to discuss this variation application with the DPS, Miss T. W., however on his attendance it was established that Miss W. had left the premises and no longer had any involvement in its management. Star Pubs and Bars Limited therefore were required to submit a Vary DPS application with immediate effect in order to allow alcohol sales to continue over the Easter period. The new DPS is Mr S.

Due to the constantly changing management of the premises, the police have concerns that should this application be granted, Mr S. may leave the premises and we may continue to see a regular change of DPS which will have serious implications on the management of the premises. I have attached a sheet outlining the numerous changes of DPS at the premises for your information.

I have also attached for your information copies of Form L10's received by the Licensing Department since January 2013, together with details of crimes and logs at the Lime Tree and the surrounding roads. These roads are Dartmouth Road, Commercial Road and Gerston Road. In respect of Commercial Road this consists of commercial premises, whereas Gerston Road consists entirely of terraced residential properties. These roads will be the dispersal routes from the premises and Gerston Road will be used by those customers attending Station Square in order to go to the taxi rank and/or takeaways. Furthermore a search of the police Unifi system shows that Gerston Road consists of approximately 100 addresses, the majority of which are residential properties.

I would refer you to the below paragraph which is contained within page 40 of the Licensing Statement of Principles:

'There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.'

Although this premises is currently licensed until 2.00 am on Friday and Saturday nights, they are now seeking to extend their hours for licensable activities until 4.00 am every day of the week, which carries a significant risk of impacting on the Licensing Objectives the Prevention of Crime and Disorder and the Prevention of Public Nuisance. As the premises are situated in an area consisting of both business and residential properties and the applicant has not given any consideration to the increased risk or proposed any mitigation measures, the police consider that this paragraph is applicable.

In conclusion, the police object to this application on the grounds that the granting of it will impact on the existing levels of crime and disorder and public nuisance both at the premises and in the area and, as the applicant has not identified any additional measures they propose to implement to ensure that the premises can satisfactorily meet the Licensing Objectives, the police respectfully request that the Licensing Authority refuse this application.

Should you require any further information, please do not hesitate to contact my Licensing Officer, Peter Cosby on 01803 218964.

Yours faithfully



Superintendent M Lawler
Territorial Policing & Partnership Department

LIME TREE, 9/11 DARTMOUTH ROAD, PAIGNTON – PL0411

HISTORY OF PREMISES:

28/08/14	Transfer	Premises Licence transferred to Star Pubs and Bars Limited DPS Timothy Glen Bradshaw
19/11/14	Change of Supervisor	To Emma Louise Corbett
09/02/15	Change of Supervisor	To Ms Robyn Lyne
04/03/15	Change of Supervisor	To Sarah White
18/06/15	Change of Supervisor	To Mr Lyndon James Shaw
14/10/15	Change of Supervisor	To Miss Tanya Adams
15/02/16	Minor Variation	Changes to plan, opening at 8.00 am with no amendment to licensable activities and to remove embedded restrictions that were no longer appropriate
18/03/16	Variation application	
30/03/16	Change of Supervisor	To James Shaw

LIME TREET, PAIGNTON

CRIMES AT THE PREMISES SINCE 28/08/14

CR/017411/15	01/08/2014 00:00	31/01/2015 23:59		THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/120497/14	02/10/2014 12:00	07/11/2014 12:30		THEFT - OTHER - INCLUDING THEFT BY FINDING
CR/008084/15	04/02/2015 01:30	04/02/2015 10:15	Wed	BURGLARY DWELLING - WITH INTENT TO STEAL
CR/053824/15	01/08/2015 23:20	01/08/2015 23:25	Sat	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
CR/055507/15	09/08/2015 01:00	09/08/2015 02:00	Sun	CRIMINAL DAMAGE TO PROPERTY UNDER £5000 - BUILDING NOT DWELLING
CR/078470/15	12/11/2015 17:30	12/11/2015 17:45	Thurs	COMMON ASSAULT
CR/078463/15	12/11/2015 17:30	12/11/2015 17:45	Thurs	CRIMINAL DAMAGE TO PROPERTY VALUED UNDER £5000
CR/005928/16	28/01/2016 13:53	28/01/2016 14:00	Thurs	COMMON ASSAULT
CR/010273/16	14/02/2016 23:40	14/02/2016 23:50	Sun	THEFT FROM THE PERSON OF ANOTHER

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3

01

LOGS AT THE PREMISES SINCE 28/08/14

DATE	TIME	LOG NO	DAY	DESCRIPTION OF INCIDENT
17/09/14	1844	0710	Wed	Ambulance service contacted police re alleged domestic assault at premises.
01/11/14	0037	0063	Sat	Male in drink contacted police to report that door steward at premises had been abusive towards him
07/11/14	1246	0320	Fri	DPS contacted police to advise that a recent audit has shown that money is down and she is being threatened by the company auditor and representatives to terminate her contract and requesting police attendance. Pub Solutions reported theft – CR/120497/14 above relates.
28/12/14	2317	0810	Sun	Caller reported that a drunk person on a mobility scooter nearly ran her over.
10/01/15	1706	0510	Sat	Very confused caller stated he was in premises and concerned re his mental health.
04/02/15	1134	0247	Wed	DPS reported that entry had been gained to her upstairs flat and CCTV hard drive had been stolen – CR/008084/15 above refers.
12/03/15	0028	0017	Thurs	Drunk 22 year old male kicking off (verbal). Reported by ambulance service.
30/05/15	1317	0400	Sat	DPS reported that an incident had occurred at premises the previous night but victim did not want to

					make a complaint. DPS provided information regarding the incident and her concerns re the individual involved.
01/08/15	1407	0544	Sat		Female reported that the previous night she was in the premises when her husband also attended in breach of his bail conditions.
01/08/15	2339	1070	Sat		CCTV Operator reported disorder at the premises. Officers attended and dealt with matter – CR/053824/15 refers.
03/08/15	1210	0303	Mon		Caller reported continued harassment from ex-wife. Log 0544 of 01/08/15 refers.
10/09/15	2344	0861	Thurs		CCTV operator reported possible fight on-going. Officers attended, all parties separated but likely to kick off again. Some customers then left. No offences.
22/09/15	1557	0505	Tues		Message received via Nitenet that a banned male was outside threatening to come back in.
17/10/15	0212	0070	Sat		Caller reported a possible drink driver. Vehicle collided with another and parked up near the Lime Tree.
12/11/15	1734	0593	Thurs		Reports of someone smashing up the pub. Male picked up a bar stool and its hit some optics. Male and female in premises had had a domestic argument. CR/078463/15 refers.
05/01/16	2039	0674	Tues		Caller reported a sighting of a possible gun in a car.
07/01/16	2320	0784	Thurs		Incident with a Stanley knife, male left with head injury. Offender made off.
09/01/16	0004	0009	Sat		Male refused entry and now kicking off and banging on windows.
28/03/16	1354	0373	Thurs		Assault, offender on scene. CR/005928/16 refers
11/02/16	1402	0382	Thurs		Male off his head on floor on pavement behind the Lime Tree. Male located, not causing any problems and left area.
23/02/16	0410	0056	Tues		Concern for vulnerable male who has run off from caller.

CRIMES IN SURROUNDING AREA BETWEEN 0000 AND 0600 HRS – 28/08/14 TO 29/03/16

GERSTON ROAD, PAIGNTON

CR/013999/15	28/02/2015 00:30	28/02/2015 01:30	Sat	COMMON ASSAULT	
CR/088278/15	24/12/2015 01:00	24/12/2015 03:00	Thurs	RAPE A WOMAN 16 YEARS OF AGE OR OVER - SOA 2003	
CR/008303/16	07/02/2016 05:00	07/02/2016 05:30	Sun	COMMON ASSAULT	

COMMERCIAL ROAD, PAIGNTON

CR/111786/14	04/10/2014 02:05	04/10/2014 02:10	Sat	DRIVER MOTOR VEHICLE WHEN ALCOHOL ABOVE LIMIT	
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DARTMOUTH ROAD, PAIGNTON

CR/124541/14 T	22/11/2014 00:15	22/11/2014 00:25	Sat	USE THREATENING / ABUSIVE / INSULTING WORDS	Male refused to leave bus, location on Dartmouth Rd not known
CR/12457/15	21/02/2015 04:05	21/02/2015 04:12	Sat	COMMON ASSAULT	At junction with Fisher Street
CR/15681/15 W	07/03/2015 00:01	07/03/2015 01:00	Sat	DRIVE MOTOR VEHICLE WHEN ALCOHOL LEVEL ABOVE LIMIT	At junction with Clennon Rise
CR/15801/15	07/03/2015 00:50	07/03/2015 02:00	Sat	POSSESS A CONTROLLED DRUG OF CLASS B - CANNABIS / CANNABIS RESIN	At junction with Clennon Rise
CR/039183/15	05/06/2015 00:05	06/06/2015 00:35	Fri	POSSESS KNIFE BLADE / SHARP POINTED ARTICLE IN A PUBLIC	At junction with Louville Road
CR/084420/15	05/12/2015 00:01	05/12/2015 00:15	Sat	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM	In taxi, location on Dartmouth Rd not known
CR/083698/15	05/12/2015 01:15	05/12/2015 01:20	Sat	DRIVE MOTOR VEHICLE WHEN ALCOHOL LEVEL ABOVE LIMIT	Location on Dartmouth Rd not known

CRIME IMMEDIATELY OUTSIDE LIME TREE

CR/002411/16	07/01/2016 11:00	07/01/2016 11:20	Thurs	AFFRAY	Two males had been playing pool in the Lime Tree. Fight occurred outside premises.
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LOGS FOR SURROUNDING AREA BETWEEN 0000 TO 0600 HRS – 28/08/14 TO 29/03/16

GERSTON ROAD

DATE	TIME	LOG NO	DAY	DESCRIPTION OF INCIDENT
16/08/15	0405	0164	Sun	Caller stated 5 youths in street being very noisy and squaring up to each other
21/03/16	0227	0122	Sun	Ambulance service reported first responder on scene trying to deal with a patient but a fight has broken out. Patient is a 21 yr old male possible intoxicated but severe abdominal pain. On police arrival all others had left area.

3
8

COMMERCIAL ROAD

No logs

DARTMOUTH ROAD

DATE	TIME	LOG NO	DAY	DESCRIPTION OF INCIDENT
20/02/16	0429	0160	Sat	PC 10755 reported concern for vulnerable male located near Waterside Shops.
19/02/16	0002	0005	Fri	Assault. Male located in bus station who said he had been assaulted and robbed near Winner Street.
12/02/16	0550	0084	Fri	Report of a vagrant male being very drunk and staggering around by railway station
03/08/15	0420	0091	Mon	Single vehicle road traffic collision at junction of Hookhills Drive and Saltern Road
14/06/15	0145	0087	Sun	Off duty PC report possible drink driver near Quaywest
10/06/15	0129	0030	Wed	Suspicious male reported by ambulance service near Cherrybrook
16/05/15	0547	0219	Sat	Caller reported males by train track throwing rocks near Goodrington
12/03/15	0007	0006	Thurs	Caller reported male in wheelchair being quite aggressive to people outside the Lime Tree

07/03/15	0100	0047	Sat	Road traffic collision
23/12/14	0223	0061	Tues	Vehicle crashed into central bollard, 4 people got out and ran towards Paignton town centre
30/11/14	0548	0271	Sun	2 lads acting in a suspicious manner outside Jack Sears House
18/09/14	0338	0103	Thurs	Caller came across a drunk male who was unsteady on his feet and offered assistance by walking male to train station however male became aggressive
29/08/14	0323	0110	Fri	Caller reported male lying on fence, appeared totally trashed, unable to walk, trying to get to Maple Court near Waterside Pub

Memorandum

To:		From :	Community Safety
c.c	<div style="border: 1px solid blue; padding: 5px; text-align: center;">TORBAY COUNCIL 08 APR 2016 COMMUNITY SAFETY</div>	Contact :	Mr Karl Martin
c.c.		Ext :	01803 208025
c.c		My Ref :	1ZV SRU No: 227285/KJM
For the attention of: Licensing Steve Cox		Your Ref :	
		Date :	8 th April 2016

Subject: Premises– Licensing Act 2003
**Premises Name & Address: Lime Tree, 9/11 Dartmouth Road,
Paignton, Devon, TQ4 5AA**

- a) I have no comments to make on the above application
- b) The application does not meet the following licensing objectives:
- i) Prevention of crime and disorder
 - ii) Protection of children from harm
 - iii) Public safety
 - iv) Prevention of public nuisance
1. I wish to object to the above named application as I do not believe the application promotes the licensing objective 'Prevention of Public Nuisance'.
2. The Lime Tree is situated at the junction of Commercial Road and Dartmouth Road Paignton. Please see appendix 1, fig 1.
3. The surrounding area is predominately residential accommodation, with a number of business occupying ground floors on both Dartmouth Road and Commercial Road. Gerston Road adjacent to Commercial Road is a long Street of residential properties where a number of residents have complained in the past. A number of flats directly attached to the Lime Tree on the Dartmouth Road side have also experienced noise disturbance emanating from the Lime Tree. Fig 2 highlights the nearest predominately residential accommodation in red. The blue box indicates a derelict former church building.
4. The Lime tree is a 'managed' public house. Stars Pubs & Bars Limited holds the license and employes a manager to run the premises whose duties include acting as the nominated Designated Premises Supervisor.

5. Stars Pubs & Bars Ltd applied for a transfer and was granted the premises licence in August 2014. I raise the concern since this time the premise has seen 6 different managers run this premises, with a 7th application currently being processed by the licensing section. The poor retention is concerning when considering how the premises will be managed in the future. Though I understand the premises has had a major refurbishment recently carried out and this may improve manager retention rates.
6. Fig 3 demonstrates how a given noise source will attenuate over a known distance. The red circles are plotted 10 meters apart. A conservative assumption live music inside the pub is playing at 95dB(A), the diagram demonstrates after an initial loss of 24dB(A) due absorption of the building for every doubling of the distance from the premises there is approximately a 3dB(A) attenuation. At a distance of 80m noise has reduced to 54dB(A).

At the times the applicant seeks to have regulated entertainment the background noise in the area surrounding the Lime Tree would expected to be around 45dB(A). Regulated entertainment at 80m from the premises would therefore be nearly 10dB(A) above background levels and at this level music would be audible.

Numerous other factors need to be taken into account to quantify the likelihood of noise complaints occurring but the figures shows there is sufficient risk of noise complaints. The Council has received 6 separate noise complaints since 2007 (see appendix 2, Fig 1) further re-enforcing future complaints are likely. The applicant needs to carefully consider how they intend to manage noise breakout.

7. The majority of noise complaints received in the past occurred during a lengthy management of one individual who marketed the premises as a live music venue. Complaints where received by residents in adjoining buildings and further a field in Gerston Road. This draws me to the conclusion this premises is not suitable as a live music venue due to the poor sound attenuation properties of the building and the close proximity of noise sensitive dwellings. If residents where disturbed by music at 11:00pm at night its highly likely noise will disturb residents at 4:00am.
8. A further concern relates to the increase noise from patrons leaving the premises at 4:30 am. The applicant has not offered any further conditions and has failed to contact the responsible authorities despite being advised by Licensing officers.
9. Applicants are encouraged to consult with all responsible authorities prior to submitting an application:-

'In order to reduce the risk of relevant representations and the cost and delay of a contested hearing, applicants are strongly recommended to consult with the relevant Responsible Authority...'

Licensing Statement of Principles, Torbay Council, 2016-21, s3 p14

Unfortunately the applicant has chosen to disregard this advice leaving little option but to submit this representation and thereby missing an opportunity to avoid a committee hearing. The applicant's agent advised the application as submitted would lead to representations and an opportunity was offered to withdraw the application to give time to consult with responsible authorities. The applicant was quoted as saying 'no' and 'lets put the application in and see what happens'. This is a reckless and irresponsible attitude of a licensees and that does not install confidence the applicant would work effectively with responsible authorities in the future when problems occur.

10. When considering an application for later hours an applicant must consider Torbay Councils Licensing Policy which leans towards refusing an application beyond 11pm in a residential area unless remedial measures can be demonstrated:-

'There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.'

Licensing Statement of Principles, Torbay Council, 2016-21 p40

Though this premise already operates beyond 11:00pm, this does not exempt them from the policy if they choose to further extend operating hours. The surrounding environs contain a significant enough density of residential accommodation for this requirement to apply and the applicant should have considered Torbay Council Licensing Statement of Principles when making this application. I have found no evidence in this application that the applicant has considered further mitigations measures.

11. Part M of the application offers applicants an opportunity to state additional steps they intend to take to promote the licensing objectives. The applicant has not offered any further steps or amended any existing conditions. In relation to live music which the applicant wishes to extend until 4:00am Monday to Sunday though this is at odds with a conditions the applicant has not sought to amend:-

'For amplified live music and entertainment, wind down music of a gentler nature shall be played during the period of 23:00 - 00:00hr'

This annex 3 conditions imposed by a licensing sub-committee implies that if this application is granted as applied for the licensee has to wind down music to a gentler level for one hour and then after midnight carry on as normal. This perhaps minor overlooked issue demonstrates this application has been poorly thought out with no regards the licensing principles or consideration of the need and wishes of local residents.

This contradiction has perhaps been overlooked by the applicant but again as no prior consultation took place before the application was submitted I cannot be sure of the applicant's intentions. Again this demonstrates the application been poorly considered.

12. Conditions 1 under Annex 3, The prevention of Crime and Disorder requires:-

'A senior member of staff (manager) shall assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment to ensure levels of noise have not increased'

How will the management ensure compliance with this condition? Will there be a written procedure in place? Will records be kept and available for inspection?

13. Conditions 2 under Annex 3, The prevention of Public Nuisance requires:-

'All doors and windows shall remain closed during amplified live music and entertainment to reduce noise breakout. A management scheme will be in place to ensure this situation remains'

The applicant wishes to extend the hours of regulated entertainment therefore I would expect the applicant to provide supporting evidence of how this condition will

be complied with. During various late night visits in the past it has been noted the outer door has always been open rendering the lobby ineffective. How will this be managed up till 4:30am in the morning.

14. Conditions 2 under Annex 2 requires:-

'Customers must be reminded to respect neighbours when departing the premises at night.'

How will customers be reminded? Will suitable signage be displayed? Will customers be reminded via the PA to respect neighbours and leave quietly?

No additional thought has been given to controlling noise from customers in the early hours of the morning. There is a likely risk some customers leaving the Lime Tree will disturb residents in Gerston Road as they make their way towards Station square which hosts the late night refreshment premises and the main taxi rank. The application has failed to identified these significant risks and offer suitable control measures?

15. Will the beer garden remain open until 4:30am? Will numbers be limited to reduce noise breakout? Will smokers be allowed to smoke on the street and how will they be monitored and managed? No thought has either been given to how dispersion of customers at 4:30am will be managed. A simple sign advising people to be respectful of neighbours at the exits is not enough. The premises is still accountable for the actions of its customers when they have left, a concept often not understood.

16. Condition 5 Annex 3 states:-

'There shall be no entry/re-entry to the premises after 1.00am'

This condition offers some much sought after reassurance the premises cannot accept anymore new customers after 1:00am but how will the smokers be managed? If they leave the premises to smoke outside this condition states they won't be allowed back in after 1:00am. I raise this as another example of a poorly consider application.

17. Conditions 3 under Annex 2 requires:-

'A decibel meter shall be used each time music entertainment is provided and recorded in a log book'

Can the applicant provide evidence of a log book? Have these checks been undertaken? Using decibel meters at best is only a guide and does not tell a licensee whether or not the music is causing a statutory nuisance. The right, calibrated noise limiter will offer more reassurance that someone holder a meter in the street.

18. There are no existing conditions nor has the applicant suggested any further conditions to manage noise from customers or from Live and recorded music, the applicant states under Part M (a):-

'Given the extensive conditions currently on this premises licence, it is not considered that any further steps are necessary in order to promote the four Licensing objections as a result of this variation'

Perhaps this statement might be the case under the existing licence but I strongly disagree with this casual statement when the applicant is applying for live and recorded music until 4:00am 7 days a week. The application as applied for falls

significantly short of addressing concerns of increase noise nuisance from music and Patrons.

Conclusion and Recommendations

19. The lack of prior consultation coupled with the consistent omissions in the application demonstrates neither the applicant or its agents have taken the implications of the proposed variation seriously. The 'see what happens' cavalier approach is not a redeemable quality for a manager wishing to open a premises until 4:00am 7 days a week.
20. To submit an application for live and recorded music until 4:00am in the morning that has failed to acknowledge the significant risks the changes will introduce and fail to identify remedial measures is nothing short of negligence.
21. The Lime Tree has been the subject of noise complaints in the last ten years and although in recent years the department has not received any noise complaints there is a tangible risk new noise complaints will be received if this application is granted. This is further compounded by the recent high turnover of managers.
22. The applicant has failed to submit a variation application that has considered Torbay Council Licensing Statement of Principles I therefore respectfully ask members of the licensing sub-committee to refuse outright the variation application as applied for on the grounds the application will undermine the licensing objectives 'The Prevention of Public Nuisance'.

Mr Karl Martin
Public Protection Officer

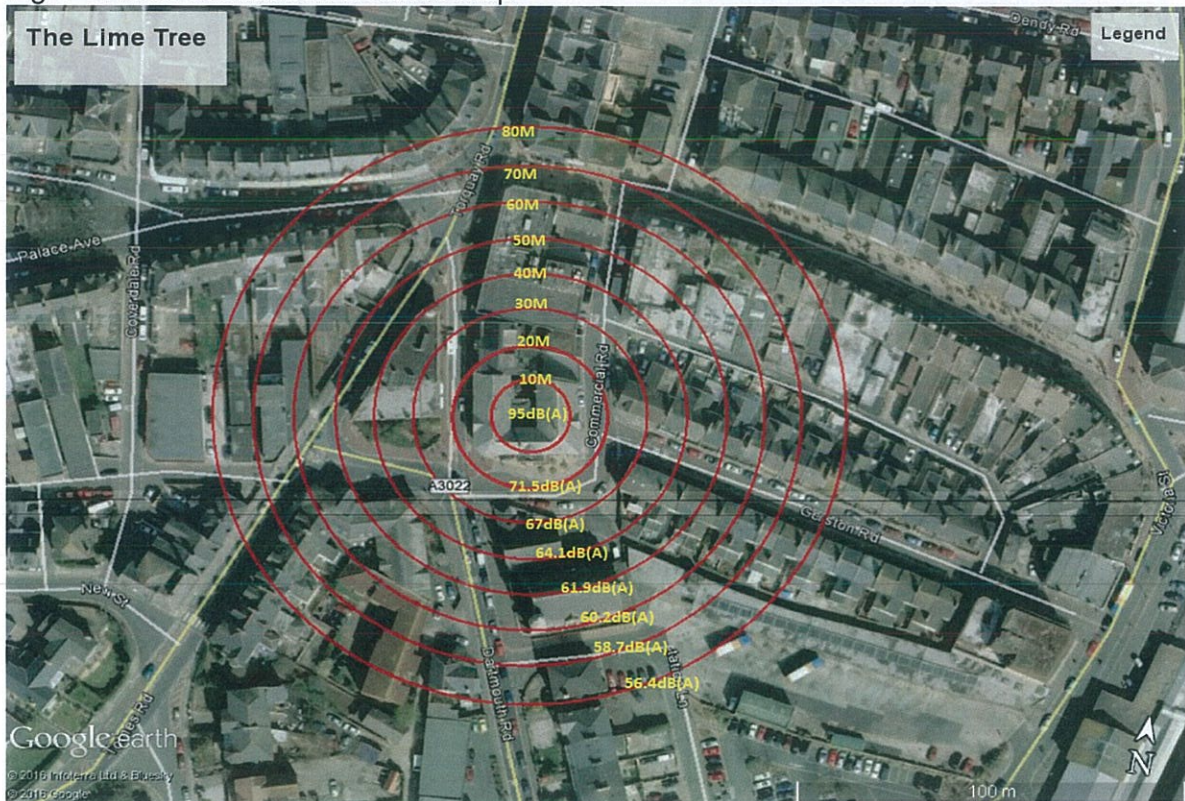
Fig 1 - Street view of the Lime Tree



Fig 2 - Aerial view. Yellow Box is the Lime Tree, red boxes nearest residential accommodation and Blue box is a proposed redevelopment of a former Church into residential accommodation.



Fig 4 – Noise attenuation distance map



Appendix 2

Fig 1 - History of noise complaints

9/9/08	Noise from amplified music
21/04/09	Noise from amplified music
20/05/09	Noise from amplified music
9/08/13	Noise from amplified music
8/10/13	Noise from amplified music
16/01/14	Noise from amplified music
6/8/14	Noise from amplified music

Fig 2 - Data from Lalpac licensing database – Since Star pubs acquired the premises licence

14/08/2014	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Transfer	PL0411	28/08/2014	28/08/2014	indefinite	Completed
14/08/2014	TLT SOLICITORS	Lime Tree	Notification of Intent to Have G...	Notice of Intent	GM0230	14/08/2014	14/08/2014	indefinite	Completed
18/11/2014	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Change Super...	PL0411	19/11/2014	19/11/2014	indefinite	Completed
01/12/2014	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Amendment	PL0411	01/12/2014	01/12/2014	indefinite	Completed
26/01/2015	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Change Super...	PL0411	09/02/2015	09/02/2015	indefinite	Completed
18/02/2015	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Change Super...	PL0411	04/03/2015	04/03/2015	indefinite	Completed
01/04/2015	WHEELER Susan	Lime Tree	Temporary Event Notice WITH...	Temp Event N...	TE2344	02/04/2015	02/05/2015	02/05/2015	Completed
05/06/2015	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Change Super...	PL0411	18/06/2015	18/06/2015	indefinite	Completed
03/09/2015	BRADSHAW Timothy ...	Lime Tree	Licensed Premises Gaming Ma...	Annual Fee	GMP0003	03/09/2015	19/08/2008	indefinite	Completed
16/09/2015	TLT SOLICITORS	Lime Tree	Notification of Intent to Have G...	Cancel/Surrend	GM0230	16/09/2015	14/08/2014	16/09/2015	Completed
30/09/2015	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Change Super...	PL0411	14/10/2015	14/10/2015	indefinite	Completed
14/12/2015	STAR PUBS & BARS ...	Lime Tree	Licensed Premises Gaming Ma...	Transfer	GMP0003	14/12/2015	14/12/2015	indefinite	Completed
02/02/2016	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Minor Variation	PL0411	15/02/2016	15/02/2016	indefinite	Completed
14/03/2016	STAR PUBS & BARS ...	Lime Tree	Premises Licence WITH Alcohol	Variation	PL0411				Open