



Wednesday, 26 October 2016

## **LICENSING SUB-COMMITTEE**

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

**Thursday, 3 November 2016**

commencing at **9.30 am**

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

### **Members of the Committee**

Councillor Stocks

Councillor Sykes

Councillor Thomas (J)

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**A prosperous and healthy Torbay**

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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](mailto:governance.support@torbay.gov.uk)

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

# LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**  
To elect a Chairman/woman for the meeting.
2. **Apologies**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 4 - 8)  
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 9 June 2016 and 7 July 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. **Licensing Act 2003 - An application for a Variation to a Premises Licence in respect of The Bierkeller, 7 Braddons Hill Road West, Torquay** (Pages 9 - 62)  
To consider an application for a Variation to a Premises Licence in respect of The Bierkeller, 7 Braddons Hill Road West, Torquay.
7. **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Murphy’s Roadhouse, 18 Esplanade Road, Paignton** (Pages 63 - 95)  
To consider an application for a Variation to a Premises Licence in respect of Murphy’s Roadhouse, 18 Esplanade Road, Paignton.



## Minutes of the Licensing Sub-Committee

9 June 2016

**-: Present :-**

Councillors Stocks, Thomas (J) and Tolchard

### 4. Election of Chairman/woman

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

### 5. Minutes

The Minutes of the meeting of the Sub-Committee held on 12 May 2016 were confirmed as a correct record and signed by the Chairman.

### 6. An application for a Premises Licence in respect of Ryders, 17 The Strand, Torquay, TQ1 2AA

Members considered a report on an application for a Premises Licence in respect of Ryders, 17 The Strand, Torquay. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Safeguarding and Reviewing Service	Letter of Representation suggesting conditions relating to the Licensing Objective 'Protection of Children from Harm'	13 May 2016

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined his application and responded to Members questions
Safeguarding and Quality Assurance Manager	The Safeguarding and Quality Assurance Manager, outlined their Representation and suggested conditions, should the application be granted.

Decision:

That the application for a Premises Licence in respect of Ryder's, 17 The Strand, Torquay be granted as applied for, subject to the second and third proposed condition in section e) of the application under the heading 'The protection of children from harm' being deleted and the following two conditions added:

- 1) No person under the age of 18 years shall be permitted on the premises; and
- 2) The premises shall display clear signage which states that no persons under the age of 18 years are permitted on the premises.

Reason for Decision:

Having carefully considered all the oral and written representations, Members resolved to grant the Licence having been satisfied that the Applicant had engaged with the Responsible Authorities, which had resulted in a comprehensive application and list of appropriate conditions to ensure that the operation of these premises do not undermine the Licensing Objectives.

Members were also reassured by the Applicants' responses to their questions. In considering these responses, Members resolved that the Applicant had thought out processes in place to ensure that the Premises would operate in a responsible manner.

In concluding, Members noted the absence of written representations by the Police and Public Protection and deduced that this was as a direct result of pre application consultation by the Applicant. The Senior Licensing Officer present and the Applicant confirmed this inference.

Chairman/woman

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## Minutes of the Licensing Sub-Committee

7 July 2016

-: Present :-

Councillors Doggett, Ellery and Stocks

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### 7. Election of Chairman/woman

Councillor Doggett was elected as Chairman for the meeting.

### 8. Apologies

In the absence of Councillor Barnby the membership of the Sub-Committee had been amended by including Councillor Stocks.

### 9. Minutes

The Minutes of the meeting of the Sub-Committee held on 10 December 2015 were confirmed as a correct record and signed by the Chairman.

### 10. Taxi Driver Report

Members considered a report that sought a review of a Torbay Council issued Driver's Licence.

At the Hearing, Members were informed that during the past four months Torbay Council had received five complaints regarding Mr Woolacott's conduct whilst on duty as a licensed driver, the complaints related specifically to Mr Woolacott losing his temper and on several occasions becoming aggressive.

Members had the opportunity to view CCTV footage of one of the incidents and were able to ask questions of both Mr Woolacott and his Legal Representative.

#### Decision

That Mr Rodney Woolacott's Torbay Council Driver's Licence be suspended for a period of three months, in accordance with Section 61(1)(b) of the Local Government (Miscellaneous) Provisions Act 1976 and that this suspension shall have immediate effect, in accordance with Section 61(2B) of the Local Government Miscellaneous Provisions Act 1976.

During the period of suspension, Mr Rodney Woolacott must undertake an anger management course and produce written evidence to that effect to Torbay

Council's Licensing Department. Failure to do so will result in Mr Rodney Woolacott's Torbay Council Driver's Licence being revoked with immediate effect.

Should Mr Woolacott complete the anger management course within a two month period from the date of the suspension and produce written evidence to that effect, then the period of suspension will be reduced by a period of one month.

### **Reason for Decision**

Having carefully considered all the oral and written representations, Members resolved to suspend Mr Woolacott's driver's licence having unanimously voted that Mr Rodney Woolacott did not remain a 'fit and proper person' to hold a Torbay Council Driver's Licence. In coming to that decision, Members applied the test set out in Appendix A, section 1.2 at page 26 of Torbay Council's current Hackney Carriage and Private Hire Licensing Policy.

Members took in to consideration that all incidents occurred whilst Mr Rodney Woolacott was on duty as a driver licensed by Torbay Council, the time frame in which the incidents occurred, the nature and number of those incidents and unanimously resolved that Mr Rodney Woolacott's conduct fell well below the standard reasonably expected by them of a driver licensed by Torbay Council.

In particular and despite evidence produced by Mr Rodney Woolacott to the contrary, Members were alarmed by Mr Rodney Woolacott's conduct during the incident which they believe did occur, given the detailed account of the event, as evidenced in the written complaint received by Torbay Council on the 23<sup>rd</sup> March 2016. In addition, and on viewing the CCTV footage of the incident which occurred on 24 February 2016, Members resolved that Mr Rodney Woolacott conduct was unnecessarily confrontational, aggressive and unprofessional, Instead, in the opinion of Members, Mr Woolacott should have taken the number plate of the driver who was parked illegally but not on the taxi rank, as submitted by Mr Woolacott and passed these details on to the responsible authorities. In Members opinion, Mr Woolacott inflamed and protracted an incident which they felt he had no need to involve himself in the manner in which he did. They further noted that the incident took place in front of members of the public and that he put the driver, himself and potentially other road users at risk by his unprofessional and unacceptable conduct.

In respect of the incident which involved Mr Rodney Woolacott being unable to take a customer with a wheelchair, as evidenced in the complaint received by Torbay Council on the 2 December 2015, Members found Mr Rodney Woolacott to be at fault in that he should not have agreed to store a customer's shopping in the boot of his vehicle, as this did not make him wholly available to ply for hire. In keeping with the pattern of conduct which formed, Mr Rodney Woolacott became aggressive towards another driver and again this occurred in front members of the public. Members resolved that Mr Rodney Woolacott's aggressive conduct in this incident fell well below that reasonably expected of them by a driver licensed by Torbay Council.

In considering the incident which resulted in a complaint being made to Torbay Council on the 26 February 2016, Members noted that Mr Rodney Woolacott was, as accepted by him, parked illegally and not in accordance with the agreed position whereby Hackney Carriage Drivers are permitted to wait in the bus bays opposite the Harbour side after midnight until a space becomes available on the rank in that area. Despite Mr Rodney Woolacott's submission that the general understanding that drivers do park in the bus lane before midnight and move on if a bus needs to use it, this is not the agreed position by the Torbay Council or the Bus Company and is therefore not accepted and should not be advocated in any circumstances..

In addition, Members noted that the complaint made reference to threatening conduct by Mr Rodney Woolacott. Whilst Mr Woolacott stated that he did not recall swearing, Members found his submitted comments to be both threatening and aggressive and fell well below that reasonably expected by them of a driver licensed by Torbay Council. Further Members did not accept Mr Rodney Woolacott's submission that he had a dry sense of humour and that this was 'banter'. Instead Members found his comments to be offensive, threatening and aggressive and again fell well below that reasonably expect by them of a driver licensed by Torbay Council.

In respect of the complaint dated 2 April 2016, Members noted that it is a criminal offence to refuse to carry a guide dog, unless the driver of that vehicle has in place an exemption certificate, as in accordance with the Equalities Act 2010. On this occasion Members found that Mr Rodney Woolacott was within his rights to challenge the customer, as the dog was not easily identifiable as a guide dog, in that it was not wearing its harness due to it being unwell.

In coming to the decision that Mr Rodney Woolacott's Driver's License should be suspended with immediate effect, as in accordance with section 61 (2B) of the Local Government Miscellaneous Provisions Act 1976, Members resolved that despite efforts by the Licensing Authority Mr Rodney Woolacott's unacceptable conduct has continued and if they did not impose the suspension with immediate effect as they have, there was in their opinion a real risk to the safety of the public and other road users..

In concluding, Members gave careful consideration to revoking Mr Rodney Woolacott's driver's licence but resolved that in light of the mitigating circumstance put forward by his legal representative, it was on this occasion appropriate to suspend his license for a period of three months and impose a requirement to undertake an anger management course.

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Chairman/woman

# Agenda Item 6



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of The Bierkeller, 7 Braddons Hill Road West, Torquay**

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee** On: **3<sup>rd</sup> November 2016**

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

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## 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. The Premise is located within the Cumulative Impact Area.
- 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.

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*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 remove the following 3 conditions:-

- i) On the ground floor of the premises alcohol will only be consumed by persons sat at tables having a table meal at the premises. The upper floor of the premises will be used for the consumption of alcohol by persons who are seated, provided that those persons have just consumed a table meal within the premises. (Annexe 2, The Prevention of Crime and Disorder, condition 1).
- ii) Performances of live music must be stage at the rear of the building. (Annexe 2, The Prevention of Public Nuisance, Condition 3).
- iii) To remove the wording for live music under the standard timings which states music can only be played on the stage at the rear of the premises.

There is also a change to the plan to show the new stage location.

- 2.2 A copy of the current premises licence showing the licensable activities, timings, conditions and the plan of the premise is shown at Appendix 2 of this report.
- 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” “Public Safety” and the Protection of Children from Harm”. This is shown as Appendix 3 of this report.

We have received a Representation from the Licensing Authority in relation to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance”, “Public Safety” and the Protection of Children from Harm”. 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 the Licensing Authority

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

None

### **Background Papers:**

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

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



**Torbay**  
**Application to vary a premises licence**  
**Licensing Act 2003**

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

\* required information

**Section 1 of 17**

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

System reference

Not Currently In Use

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

Your reference

Bierkeller V.1

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

Are you an agent acting on behalf of the applicant?

- Yes       No

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

**Applicant Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you work

Are you:

- Applying as a business or organisation, including as a sole trader  
 Applying as an individual

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

**Applicant Business**

\* Is your business registered in the UK with Companies House?

- Yes       No

\* Is your business registered outside the UK?

- Yes       No

\* Business name

None The Bierkeller (Torbay) LTD

If your business is registered, use its registered name.

\* VAT number

-

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

\* Legal status

Private Limited Company

Continued from previous page...

Non-domestic rateable value of premises (£)

### Section 3 of 17

#### VARIATION

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

Yes  No

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

Yes  No

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

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

#### Describe Briefly The Nature Of The Proposed Variation

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

To remove a condition under the prevention of crime and disorder relating to alcohol only being consumed with food and whilst seated. To remove a condition under the prevention of public nuisance in relation to the stage. To remove the wording for live music under the standard timings which states music can only be played on the stage at the rear of the premises'. *Change of plan of premises to show new stage location.*

### Section 4 of 17

#### PROVISION OF PLAYS

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

Yes  No

### Section 5 of 17

#### PROVISION OF FILMS

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

Yes  No

### Section 6 of 17

#### PROVISION OF INDOOR SPORTING EVENTS

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

<i>Continued from previous page...</i>	<input type="radio"/> Yes	<input checked="" type="radio"/> No
<b>Section 7 of 17</b>		
<b>PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS</b>		
Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
<b>Section 8 of 17</b>		
<b>PROVISION OF LIVE MUSIC</b>		
Will the schedule to provide live music be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
<b>Section 9 of 17</b>		
<b>PROVISION OF RECORDED MUSIC</b>		
Will the schedule to provide recorded music be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
<b>Section 10 of 17</b>		
<b>PROVISION OF PERFORMANCES OF DANCE</b>		
Will the schedule to provide performances of dance be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
<b>Section 11 of 17</b>		
<b>PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE</b>		
Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
<b>Section 12 of 17</b>		
<b>PROVISION OF LATE NIGHT REFRESHMENT</b>		
Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		
<b>Section 13 of 17</b>		
<b>SUPPLY OF ALCOHOL</b>		
Will the schedule to supply alcohol be subject to change if this application to vary is successful?		
<input type="radio"/> Yes <input checked="" type="radio"/> No		

Continued from previous page...

**Section 14 of 17**

**ADULT ENTERTAINMENT**

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

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

**Section 15 of 17**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

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

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

*Continued from previous page...*

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

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

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

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

Annexe 2 – Crime and Disorder – Condition 1 and Annexe 2 – Public Nuisance – Condition 3'

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

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

**Section 16 of 17**

**LICENSING OBJECTIVES**

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

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

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

b) The prevention of crime and disorder

Substantial food to be available between the hours of 11.00 and 21.00

Continued from previous page...

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

**Section 17 of 17**

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Variation Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at [http://www.voa.gov.uk/business\\_rates/index.htm](http://www.voa.gov.uk/business_rates/index.htm)

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £87000 £315.00

Band D - £87001 to £125000 £450.00\*

Band E - £125001 and over £635.00\*

\*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £125000 £900.00

Band E - £125001 and over £1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

\* Fee amount (£)

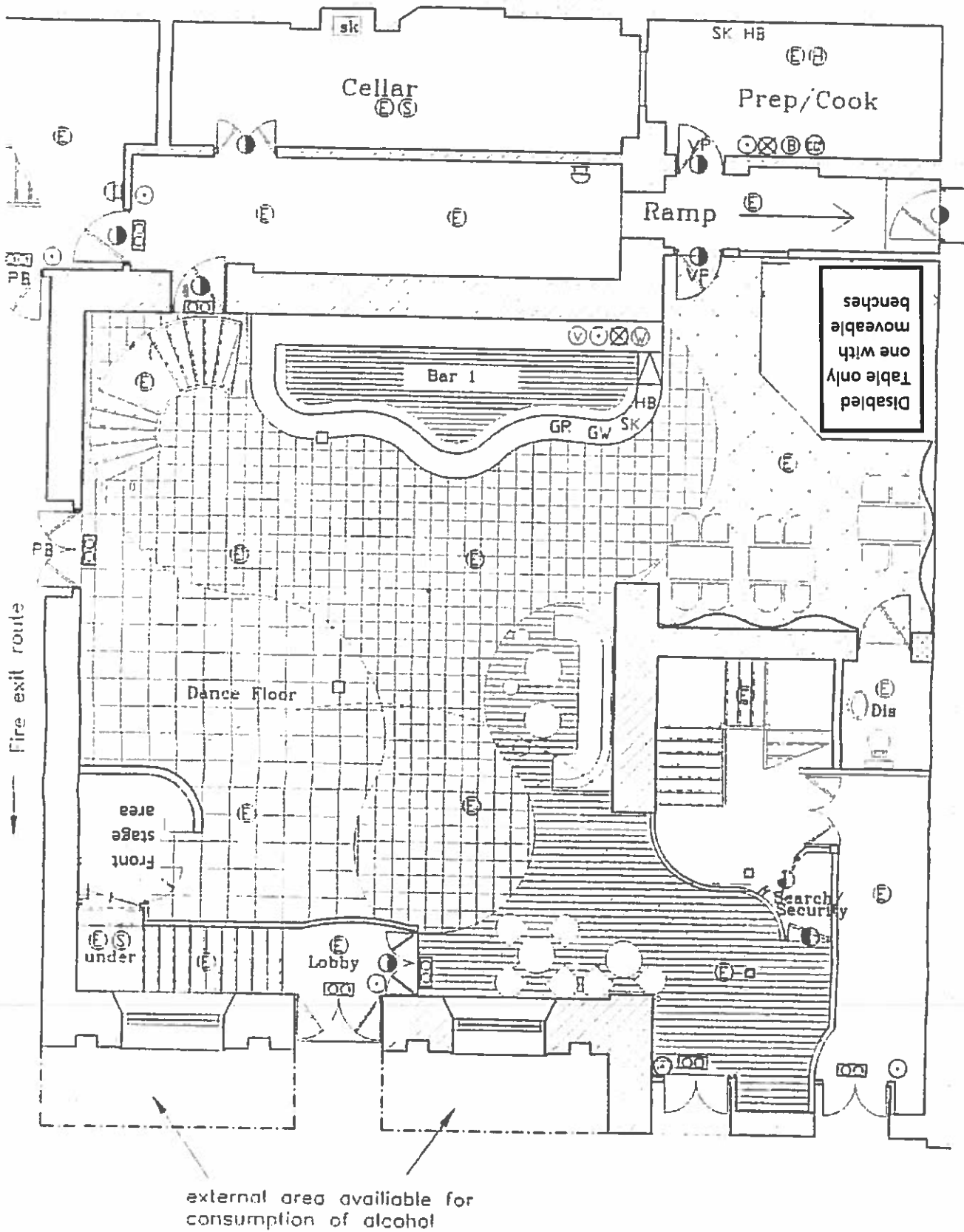
190.00

**ATTACHMENTS**

**AUTHORITY POSTAL ADDRESS**




# ANNEXE 4



GROUND FLOOR

Licensing Act 2003  
**Premises Licence** **1104**

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

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION
<p><b>The Bierkeller</b> 7 Braddons Hill Road West, Torquay, Devon, TQ1 1 BG.</p>

WHERE THE LICENCE IS TIME LIMITED THE DATES
<p>Not applicable</p>

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE
<ul style="list-style-type: none"> <li>- an exhibition of a film</li> <li>- a performance of live music</li> <li>- any playing of recorded music</li> <li>- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance</li> <li>- provision of late night refreshment</li> <li>- the sale by retail of alcohol</li> </ul>

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES			
Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Monday to Sunday	9:00am	12:30am
E. Performance of live music (Indoors)	Monday to Saturday Sunday	10:00am Noon	Midnight Midnight
Music will be amplified. Performances shall only be on the stage at the rear of the premises and at a volume which does not disturb outside of the premises.			
F. Playing of recorded music (Indoors)	Monday to Sunday	9:00am	12:30am
Recorded music shall be played through an amplified sound system. Music shall be at a volume which does not disturb outside of the premises.			
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Saturday Sunday	10:00am Noon	Midnight Midnight
Any amplification will be at a level which will not disturb those outside the premises.			
L. Late night refreshment (Indoors)	Monday to Sunday	11:00pm	Midnight
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	9:00am	Midnight

Licensing Act 2003  
**Premises Licence**

**1104**

**THE OPENING HOURS OF THE PREMISES**

Description	Time From	Time To
Monday to Sunday	9:00am	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**

The Bierkeller (Torquay) Limited  
[ashley@purpleangelmusic.co.uk](mailto:ashley@purpleangelmusic.co.uk)

7 Braddons Hill Road West, Torquay, Devon, TQ1 1BG.  
Telephone 01803 212223

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

The Bierkeller (Torquay) Limited

10288155

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

Michael SHEEHAN

180 Union Street, Torquay, Devon, TQ2 5QP.

**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. PA10550532

Issued by Derby



Steve Cox  
Environmental Health Manager  
31 August 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: EXHIBITION OF FILMS**

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

2) Where -

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this condition applies to the film in question,

**ANNEXES continued ...**

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

In the case of the aforementioned conditions

“children” means persons aged under 18; and

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

**ANNEXE 2**

**CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

**General**

- 1) The Regulatory Reform (Fire Safety) Order shall be adhered to at all times.

**The prevention of crime and disorder**

- 1) On the ground floor of the premises alcohol will only be consumed by persons sat at tables and having a table meal at the premises. The upper floor of the premises will be used for the consumption of alcohol by persons who are seated, provided that those persons have just consumed a table meal within the premises.
- 2) A CCTV system capable of providing images of an evidential standard in all lighting conditions, particularly with regard to facial recognition, shall operate throughout the times the premises are open to the public, with monitors behind all bars and a recording system. All recordings shall be kept for a minimum of 14 days and copies of recordings shall be supplied to the police within 7 days of any request.
- 3) Any identified defect in the CCTV system shall be logged at the premises and remedied as soon as reasonably practical. The Police Licensing Officer or Police Licensing Team shall be notified by email of all defects, the action required to rectify the situation and the time frame for such action within 24 hours of the defect being identified.
- 4) The Premises Licence holder or DPS shall carry out a risk assessment to determine whether any door stewards are required, and if so required employ them at such times and in such numbers as determined by that risk assessment.
- 5) The premises shall join the Nitenet Radio System and actively participate in this initiative.
- 6) Any persons employed at the premises in the sale and supply of alcohol shall attend and successfully complete the BIIAB Level 1 Award in Responsible Alcohol Retailing within 2 months of commencing employment.
- 7) The DPS must hold or complete the BIIAB National Certificate for Designated Premises Supervisors within 2 months of commencing employment at the premises.
- 8) A record of all staff training, including copies of all relevant BIIAB certificates, shall be kept at the premises for a minimum period of 12 months and be available to the police or Local Authority Licensing Officers for inspection on demand.
- 9) A Personal Licence holder shall be on duty at all times the premises sell or supply alcohol.
- 10) Notices regarding the refusal of sale of alcohol to persons who appear drunk shall be prominently displayed at all points of sale on each floor of the premises and at the entrance to the premises, for the attention of all customers.
- 11) 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.
- 12) The premises shall maintain a refusals log and record all reasons for refusing entry, and where practical, record details of all persons refused entry. This record 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.
- 13) The Premises Licence holder will ensure that the DPS or other nominated person shall attend at least two meetings of the Torquay Licensing Forum per calendar year, together with any other meetings arranged by the police in respect of high risk events.
- 14) All drinks shall be served in shatterproof glasses or plastic/polycarbonate vessels and no alcohol shall be served in

**ANNEXES continued ...**

glass bottles after 23:00 hrs from which it is intended or likely that a person shall drink.

- 15) The premises shall have a zero tolerance to controlled drugs and have a written drugs policy outlining what action will be taken in respect of individuals found in possession of drugs. A copy of this policy shall be retained on the premises and shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand.
- 16) The consumption of alcohol in the Pavement Cafe Permit area (if applicable) shall be restricted to the times indicated within the Permit and in compliance with all the terms and conditions specified therein.
- 17) The premises shall display clear signage which states when persons under 18 years are permitted on the premises.

**Public safety**

- 1) Free drinking water shall be available at all times.
- 2) When disabled people are present, adequate arrangements shall exist to enable their safe evacuation in the event of an emergency. Review and assessment of accessibility in line with the Disability Discrimination Act shall be complete and kept on the premises.
- 3) The licensees shall ensure that at all times there are adequate first aid arrangements. The arrangements for first aid provision include a first aid box, an adequate and appropriate supply of first aid equipment and materials to be used by patrons. Suitable protective equipment shall be provided to deal with hypodermic needles, blood spillages and other body fluids. Procedures shall be in place to ensure that body fluids are dealt with in a safe manner to avoid the risk of communicable diseases.
- 4) Means of addressing patrons during operating hours which must be heard about entertainment, or as a means of interrupting the entertainment and making important safety announcements, shall be available.
- 5) CCTV must be in operation in areas not visible from the bar.
- 6) A safe capacity of the whole premises and each floor of the premises shall be maintained at all times. Such capacities to be agreed with the Fire Authority.

**The prevention of public nuisance**

- 1) Noise from licensable entertainment shall not be distinguishable from the ambient noise on the street 10 meters or more from the premises. This shall be assessed from the street. However, should a complaint from a resident in the area be made, steps shall be taken to ensure that noise breakout is reduced to a level agreed with the Local Authority and the residents.
- 2) All regulated music should be played through a noise limiter which is to be set at a reasonable level as agreed with the local responsible authority for public nuisance; this is to be independently calibrated and copies of reports must be kept on site and available on request by an authorised officer. It shall be sealed in a tamper proof box and adjustments shall only be made with the written permission of the responsible authority for public nuisance.
- 3) Performances of live music must be staged at the rear of the building.
- 4) All doors and windows must be kept closed after 23:00 hrs. A written management scheme shall be in place to ensure this situation remains.
- 5) No changes that increase the level of volume to the Public Address system shall be made without prior consultation with the local Environmental Health Department; this includes moving of speakers, addition or removal of any equipment and the use of guest acts or DJ's own equipment.
- 6) Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.
- 7) Lobbies shall be constructed and operated in such a way to ensure that if regulated entertainment is being played inside the premises, only one door shall be opened at any one time to prevent noise breakout. These doors shall be fitted with automatic closers.
- 8) Where any proposed structural changes are made to the premises, agreement must be reached with Environmental Health Department that these works will not increase noise breakout before the works are commenced.

**ANNEXES continued ...**

- 9) Cooking, noxious or persistent smells from the premises will not cause a nuisance to nearby properties.
- 10) There shall be no exterior sited speakers or speakers in doorways and lobbies.
- 11) Suitable signage at exits requesting that patrons make as little noise as possible when leaving the premises shall be displayed.
- 12) Patrons shall be asked not to stand around in the street outside the premises and shall be asked to leave quickly and quietly.
- 13) Provision of mechanical ventilation and air conditioning system shall not allow noise breakout from the premises or cause a nuisance by its operation.
- 14) Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
- 15) Deliveries of goods shall be restricted to hours between 08:00 and 17:00 hrs.
- 16) The handling of beer kegs, bottles and similar items shall not take place in the late evening or during the early morning when the noise generated could cause a nuisance particularly outside buildings.
- 17) Skips and bins containing cans or bottles shall not be emptied after the premises close but shall be dealt with the next day during office hours.
- 18) The movement of bins and rubbish outside the premises shall be kept to a minimum after 17:00 hrs.
- 19) All rubbish produced by the premises shall be stored securely in the designated area or in a bin with tight-fitting lid to prevent litter being blown around.

**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 on the premises after 21:00 hrs unless they are consuming a table meal in the company of a responsible adult in which case they can remain until 22:00 hrs.
- 3) An exception to under 18s being permitted on the premises after 22:00 hrs shall be to attend a pre-arranged private function in the company of a responsible adult where the premises are closed to the public.
- 4) The premises shall display clear signage which states when persons under 18 years are permitted on the premises.

**ANNEXE 3**

**CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

None

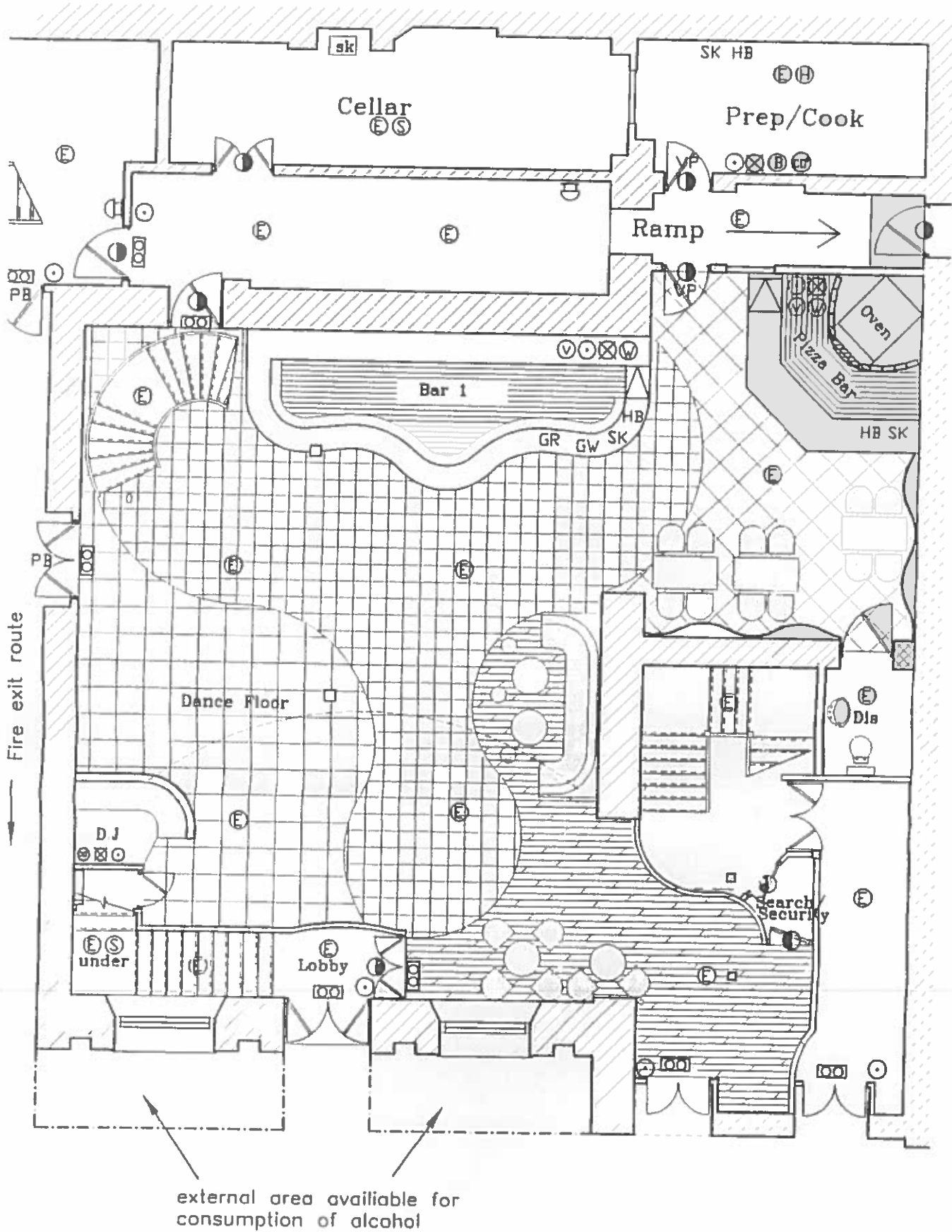
**ANNEXE 4**

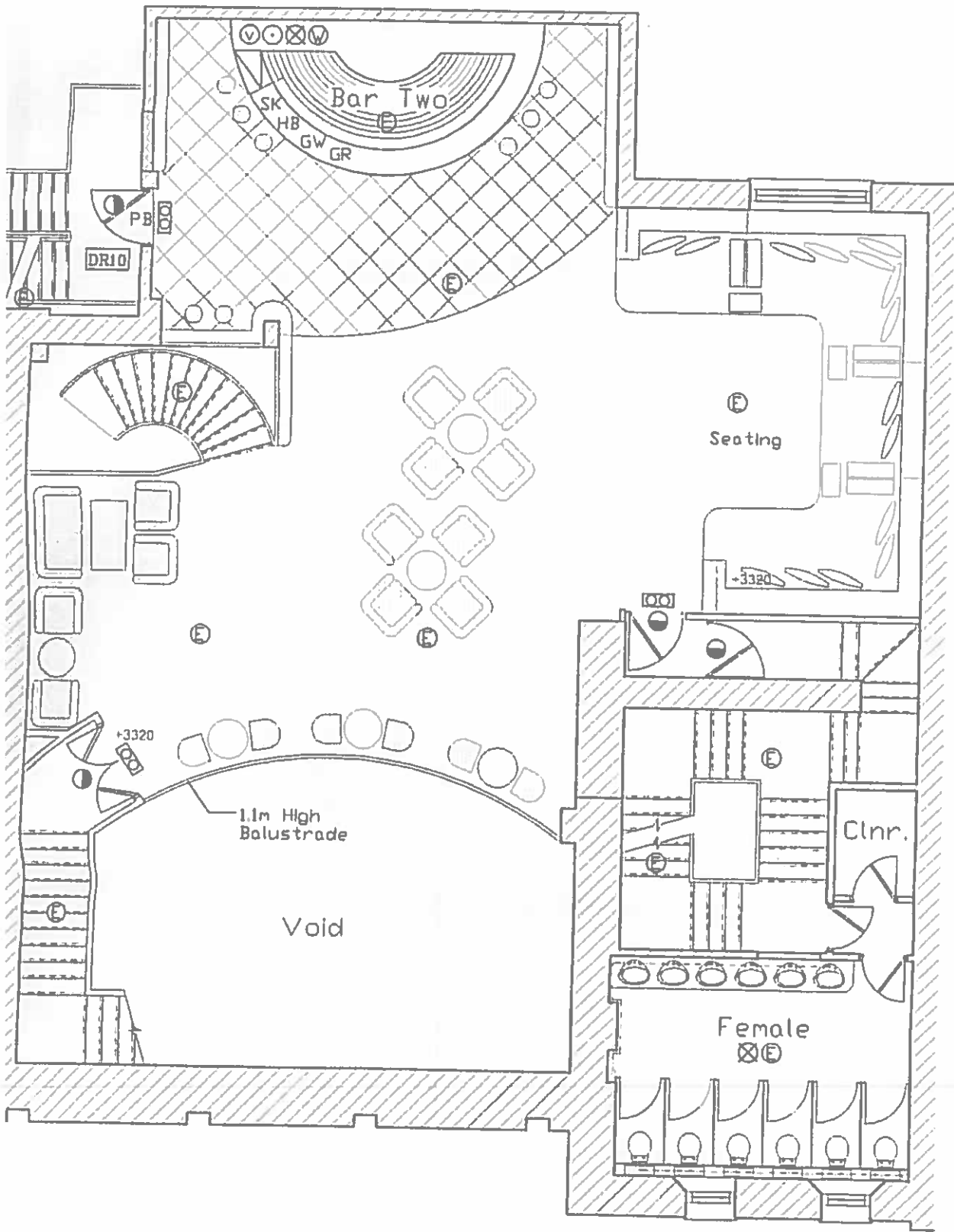
**PLANS**

Copy attached to Licence.



# ANNEXE 4





FIRST FLOOR



## 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

6 October 2016

Dear Sir/Madam

**The Bierkeller, 7 Braddons Hill Road West, Torquay, TQ1 1BG**

I refer to an application for the Variation of a Premises Licence in respect of the above named premises, submitted by the applicant, The Bierkeller (Torquay) Ltd, the directors of which are Mr Ashley Sims and Mr Keith Byron.

The Bierkeller currently has the benefit of Premises Licence Number PL1140 which was granted by Torbay Council on 26 August 2016.

This premises is situated within the Torbay Council Cumulative Impact Area and No Drinking Zone. This premises was previously known as Blu Cargo and the licence in respect of this premises was cancelled or surrendered on 31 December 2015.

For your information, Mr Sims and Mr Byron are also directors of Harbourside Leisure Ltd and this company is the Premises Licence Holder in respect of the Apple and Parrot, 17 The Strand, Torquay, TQ1 2AA.

### The Premises

In June 2016 my Police Licensing Officer, Mrs Julie Smart, was contacted by Mr Sims and he asked for her opinion as to whether the police would support an application for the grant of a new licence in respect of 7 Braddons Hill Road. Following receipt of this request, Mrs Smart consulted with Sergeant Mike Norsworthy (Licensing Sergeant – Devon) and a decision was made that the police would only support an application for a

Contact the police

Emergency 999

Non-emergency  [www.devon-cornwall.police.uk/reportcrime](http://www.devon-cornwall.police.uk/reportcrime)

 [101@devonandcornwall.pnn.police.uk](mailto:101@devonandcornwall.pnn.police.uk) 101

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The Government Standard  
Stock code 51615

restaurant type premises, with the sale of alcohol not exceeding midnight, and Mrs Smart prepared a document outlining some draft conditions for consideration by Mr Sims.

On 8 June 2016 Mrs Smart, Sgt Norsworthy and Mr Karl Martin (Public Protection Officer of Torbay Council) attended the Apple and Parrot, where they met with Mr Sims and his colleague, Mr Micky Sheehan. At that time Mrs Smart advised Mr Sims that the police would not support any application for a vertical drinking establishment within the CIA but that he was entitled to apply if he so wished, and the matter would be decided by a hearing of the Licensing Authority. Mrs Smart showed Mr Sims the draft conditions she had prepared and Mr Sims indicated that he was satisfied with the majority of those conditions, including that the consumption of alcohol on the ground floor would only be by persons seated and having a table meal, but he asked whether it would be possible for the upstairs of this premises to be used for the consumption of alcohol by persons once they had finished their meal downstairs. Mrs Smart and Sgt Norsworthy agreed to this and Mrs Smart amended the wording of the proposed condition in relation to this matter to reflect the agreement reached.

On 28 July 2016 a draft application for the Grant of a Premises Licence in respect of 7 Braddons Hill Road West was received by the police from a male named Mr Stephen Darke, a director of Harbourside Leisure Ltd, who indicated that Mr Sims had requested him to make the application. Whilst considering this draft application Mrs Smart noticed that numerous additional conditions had been included in the operating schedule and she formed the opinion that these had been copied from the Apple and Parrot licence. Mrs Smart subsequently forwarded Mr Darke her recommendations in respect of this matter. At that time Mrs Smart was also copied into an email Mr Martin sent to Mr Darke in respect of this application and within that email Mr Martin points out that it appeared that some of the conditions included within the draft application appeared to have been 'borrowed' from other licences and that they should only be included if the applicants were confident that they could comply with them. A copy of this email is attached (dated 28/07/16).

On 9 August 2016 a formal application for the Grant of a Premises Licence was received in respect of this premises and the last date for representations was 25 August 2016. As this application had been submitted in line with the agreement reached between the police and Mr Sims on 8 June 2016, and the advice provided by Mrs Smart on 28 July 2016 had been taken into consideration, the police did not make representation. The DPS in respect of this application was Mr Micky Sheehan.

On 23 August 2016 Mrs Smart and Mr Martin attended a meeting at the Apple and Parrot with Mr Byron, Mr Sheehan and the DPS of that premises, Ms Sweeney, in order to discuss a number of issues in respect of the Apple and Parrot. At that time discussions moved on to the Bierkeller. Mrs Smart advised those present that she had seen on Facebook that a pool table had been installed in the Bierkeller and she asked

how they intended to manage the consumption of alcohol in the premises bearing in mind that the premises licence (when it was granted, ie 2 days later) would restrict the consumption of alcohol to persons who are seated throughout the entire premises. Mr Sheehan then stated that there had been a mistake on the application; they wanted customers to be able to stand up drinking and wished to remove the condition in relation to this matter and replace it with "Substantial food shall be available". Mrs Smart gave advice re this matter and wrote detailed notes concerning this meeting, which are attached for your information.

On 26 August 2016 the Premises Licence in respect of the Bierkeller was granted. On 1 September 2016 an application to Vary the DPS of the premises to Mr Thomas Crowe was received and this application was subsequently granted on 15 September 2016. The premises opened to the public on Friday 16 September 2016.

On 15 September 2016 an application to Vary the Premises Licence was received. This application seeks to remove condition 1 under the heading the Prevention of Crime and Disorder, which states "On the ground floor of the premises alcohol shall only be consumed by persons sat at tables and having a table meal at the premises. The upper floor of the premises will be used for the consumption of alcohol by persons who are seated, provided that those persons have just consumed a table meal within the premises". The applicant proposes within this application that an alternative condition of "Substantial food to be available between the hours of 1100 and 2100" be imposed on the licence. The application also seeks to remove condition 3 under the heading the Prevention of Public Nuisance to allow the stage area to be located in a different position within the premises.

On Wednesday 28 September 2016 Mrs Smart and Mr Martin attended the Bierkeller and met with the DPS, Mr Crowe. At that time Mrs Smart advised Mr Crowe that she had seen a photograph on Facebook of a male stood up drinking what appeared to be alcohol and numerous other photographs of customers within the premises and the outside area, the majority of whom do not appear to be eating meals. Mrs Smart then carried out a licensing inspection and identified that at least 16 conditions on the licence were not being complied with. As a result of this, letters were sent to the Premises Licence Holder, The Bierkeller (Torquay) Ltd, and the DPS, Mr Crowe. Copies are attached for your information. Mrs Smart advises me that whilst conducting these types of inspections it is usual to find 1 or 2 breaches of conditions, but in the 8 years that she has been a Licensing Officer she has never identified so many breaches as she did on this occasion.

On 28 September 2016 Mrs Smart also noted that the premises contained 2 pool tables, 4 gaming machines and some large screen TV's. The premises has also been advertising football matches to be shown on Sky Sports on their Facebook page and acts such as the Vinyl Avengers. The police do not consider that these facilities fit in

with the operation of a restaurant premises and it appears that the premises are promoting themselves as a sports bar.

On Wednesday 5 October 2016 Mrs Smart received information from a reliable source who stated that he and 3 other persons had recently attended the Bierkeller. On ordering drinks at the bar they were advised that alcohol could only be consumed if food was being ordered and it was therefore agreed that they would purchase 2 hotdogs to be shared between the 4 persons, and they would be charged a total of 40p for the food. This group then awaited the arrival of their food order but it never appeared. On leaving the premises they were advised by a member of staff that the hotdogs they ordered would be taken down to the harbourside and given to 'homeless' persons. This source indicated that whilst he was within the Bierkeller, he noticed that very few people were consuming food and several persons were consuming alcohol whilst stood up.

#### The Premises Licence Holders

As already mentioned, Mr Sims and Mr Byron, the directors of The Bierkeller (Torquay) Ltd, are also the directors of Harbourside Leisure Ltd, who is the Premises Licence Holder for the Apple and Parrot, Torquay.

For your information, the licence for the Apple and Parrot lapsed on 28 January 2016 due to the insolvency of the then Premises Licence Holders. In April 2016 Mr Sims contacted Mrs Smart and requested advice and assistance concerning him applying for a Premises Licence for this premises. After discussions, it was agreed that the police would support an application for the Grant of a Premises Licence in respect of this premises providing that the hours were no later than the hours stipulated within the Premises Licence that had lapsed and that a number of conditions were agreed. Harbourside Leisure Ltd subsequently applied for the licence and it was granted on 17 May 2016.

In respect of this application for the Apple and Parrot, the police deviated from our usual policy of objecting to any vertical drinking establishments within the CIA as the Apple and Parrot had never been a cause of concern for the police and the applicants had agreed to all conditions proposed by the police which we considered would ensure that the licensing objectives would be met.

However, since 17 May 2016 there have been a number of concerns in relation to this premises and Mrs Smart has produced a document providing full details of these, as attached.

In addition, Mrs Smart has also had dealings with Mr Sims in relation to an event he proposed to hold at Torre Abbey. In relation to this matter Mrs Smart saw an advertisement on Facebook on the 15 June 2016 for an Abbey Days Beer Festival to

take place at Torre Abbey on 3 and 4 September 2016. On the Facebook article there was a link to a website for the event and it was evident that tickets were already on sale. As beer festivals are deemed high risk events by the police Mrs Smart made contact with Mr Sims and requested that he send her a copy of his Event Management Plan. At that time Mr Sims indicated that the event was to be held under the authority of a Premises Licence held by Torbay Council and Mrs Smart gained the impression that he thought an Event Management Plan was not necessary due to this. Mrs Smart advised him that due to the nature of the event the police would require an Event Management Plan and for the event to be considered by the Public Safety Advisory Group.

There then followed various meetings, telephone discussions, and email correspondence between Mr Sims, Mr Sheehan, Mrs Smart, Mr Martin and representatives of Torbay Council Events Team in an attempt to obtain full details of the event, including how it will be managed. During this time Mr Sims and Mr Sheehan were given advice in relation to the documentation and information required by various persons.

On 14 July 2016 the Abbey Days event was discussed at PSAG and Mr Sims provided those present with a large pile of paperwork however this was inadequate and did not contain sufficient information in order for the event to be properly assessed.

On 21 July 2016 Mrs Smart received an email from Mr Sheehan which contained a link to a file containing what appeared to be an EMP and associated documents. However on reading through these documents some of them were templates which had not been filled in and in general Mrs Smart was not satisfied with the information provided.

On 17 August 2016 a meeting was held at Torre Abbey to discuss this event. On that date Mr Sims was unable to attend due to the birth of his baby that morning but Mr Sheehan was present. At that time Mr Sheehan could not answer any questions put to him and he stated that he could only pass on any comments to Mr Sims. At this meeting Mr Sheehan was advised to ensure that all the requested information was provided by no later than 22 August 2016.

On 24 August 2016 Mrs Smart was advised by Mr Phil Black of the Torbay Council Events Team that Mr Sims had cancelled the event.

From 15 June 2016 until 24 August 2016 it was apparent that Mr Sims and Mr Sheehan were either unable or unwilling to provide adequate documentation or information to enable the PSAG attendees to fully consider the impact of this event.

As you will see from above it is evident that the conditions on the licence for the Bierkeller have not been complied with. In respect of the Apple and Parrot there has been an increase of police concerns since Mr Sims and Mr Byron took over the

management of the premises. From Mrs Smart's dealing with Mr Sims and Mr Byron it appears that they do not heed her advice, despite indicating verbally that they will do so. At the current time the police are not satisfied with the management of the Bierkeller and the Apple and Parrot and we do not have any confidence that any future concerns in relation to these premises will be addressed to a satisfactory level.

As you will be aware, your Cumulative Impact Policy states that an application for variation will normally be refused, where it is anticipated that the application will add to the problems of crime and disorder and/or public nuisance in the area, unless the applicant can demonstrate within their Operating Schedule, that there will be no negative cumulative impact on one or more of the licensing objectives.

It is the opinion of the police that whilst the operating schedule does contain suitable conditions, these were merely copied over from the Apple and Parrot licence without the applicants giving any consideration as to their relevance in accordance with the operation and management of the premises, and in any case these have obviously not been complied with since the premises opened.

In addition, the removal of condition 1 under the heading the Prevention of Crime and Disorder will change the operation of this premises from a restaurant to a vertical drinking establishment. As I'm sure you are aware the likelihood of crime and disorder in a controlled restaurant environment is minimal and the capacity of the premises is restricted to the number of tables and chairs available. In a vertical drinking establishment the number of persons present in the building will be governed by the capacity as indicated in the Fire Risk Assessment. On 28 September 2016 Mr Crowe indicated to Mrs Smart that he believed the capacity to be around 300. Furthermore, in vertical drinking establishments where large numbers of persons may stand there is an increased likelihood of conflict, therefore leading to increased levels of crime and disorder. It is the opinion of the police that should this variation be granted, the premises will operate as a sports bar and this in itself carries a significant risk of increased levels of crime and disorder.

In considering this application, the police would remind you that Section 35(3)(b) of the Licensing Act 2003 states:

*"Where relevant representations are made, the authority must –  
(b) having regard to the representations, take such of the steps mentioned in subsection 4 (if any) as it considers necessary for the promotion of the licensing objectives.*

Section 35(4) states:

*The steps are –  
(a) To modify the conditions of the licence;*



*(b) To reject the whole or part of the application.*

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, the police respectfully request that the Licensing Authority refuse this application.

Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully



**Superintendent M Lawler**  
**Territorial Policing & Partnership Department**

**Guy, Mandy**

---

**From:** Martin, Karl [Karl.Martin@torbay.gcsx.gov.uk]  
**Sent:** 28 July 2016 12:07  
**To:** SMART Julie 50403; 'sj\_darke@'  
**Cc:** 'Micky Sheehan'; Rackley, Shaun; 'ashley@'  
**Subject:** RE: License application for The Bierkeller

Good Afternoon Steve

**Re: Prevention of Public Nuisance conditions**

Some of the conditions you have put forward seem very familiar! Some of these conditions are quite prescriptive and precise and as you have 'borrowed' them from other licences please ensure you are confident you can comply with them. You will be audited against these conditions and failure to comply could have serious consequences. That said however your proposed conditions in my view are appropriate for this premises and I have no further comments to make except you may wish to amend conditions 2 to read:-

All regulated music should be played through a noise limiter which is to be set at a reasonable level as agreed with the local responsible authority for public nuisance; this is to be independently calibrated and copies of reports forwarded to the responsible authority for public nuisance within 21 days of any recalibration. must be kept on site and available on request by an authorised officer. It shall be sealed in a tamper proof box and adjustments shall only be made with the written permission of the responsible authority for public nuisance.

Any questions please don't hesitate to get in touch.

Kind regards  
Karl.

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

01803 20 80 25

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**From:** Julie.SMART@devonandcornwall.pnn.police.uk [mailto:Julie.SMART@devonandcornwall.pnn.police.uk]  
**Sent:** 28 July 2016 10:33  
**To:** 'sj\_darke@'  
**Cc:** Walker, Dave; Martin, Karl; Jennings, Lisa; 'Micky Sheehan'; Rackley, Shaun; 'ashley@'  
**Subject:** FW: License application for The Bierkeller

Steve

Thanks for forwarding me your draft application. I've had a read through and would recommend the following:

I note on page 16 you have included a reference to Gambling machines – just a reminder that you need to submit the relevant notification/application under the Gaming Act in order to have these.

Remove all references to "an additional hour on the day that British Summer Time commences". This usually appears on the licences for premises that are open after 2.00 am as on the day that British Summer Time commences

the clocks go forward at 2.00 am and they lose an hours trading. As your premises will not be open at 2.00 am it is not relevant to your premises and therefore should not be included.

I recommend you remove all references to "For the nights preceding bank holidays, Christmas Eve and Boxing Day until 0200 (or 0130) the following morning". From my discussions with Ashley and Micky and in agreement reached with the police, the premises are to be run as a restaurant, ie alcohol only with a meal downstairs, but with the facility for some of these customers to have a further drink upstairs after their meal. It is the view of the police that customers will not be eating a table meal at your premises at 1.00 am in the morning and therefore we do not feel it appropriate to have this included on the licence. However, should you wish to open later on some occasions, you will of course be able to submit Temporary Event Notices, but the police would wish for your premises to trade for a period of time before further considering this matter. As your premises are within the Torquay Cumulative Impact Area, if you wish for this to remain within your application I would have to discuss this matter with my line manager (who is currently on 2 weeks leave) and Superintendent Hawley, and they may wish for me to object if they consider that the premises are to be run as a bar until 2.00 am on certain days and not as a restaurant.

In box b) The prevention of crime and disorder on page 18 remove "No persons aged 16 or 17 years shall be permitted on the premises after 2200 hrs. Any 16 or 17 year olds allowed entry to the premises before this time must be accompanied by a responsible adult and shall be required to vacate the premises at 2200 hrs". Whilst this condition does adequately deal with 16 and 17 year olds, how does this deal with younger children, for example 8 year olds. They would be allowed in the premises until closing time. However, you have outlined 2 conditions in relation to under 18's in box e) on page 18 and I am satisfied with these. Lisa Jennings of the Child Safeguarding Team also has responsibility for assessing all applications and I have therefore copied her into this email for her information.

You will see that I have also copied 3 members of staff at Torbay Council - Dave Walker as he has responsibility for Public Safety matters, Karl Martin, who has responsibility for noise issues and Shaun Rackley who ensures that all aspects of the application are correct. They will contact you if they identify any issues.

Should you wish to discuss any of the above, please do not hesitate to contact me.

Regards

Julie Smart  
Police Licensing Officer  
01803 218900  
07921 933974

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**From:** stephen Darke [mailto:[s.darke@devonandcornwall.pnn.police.uk](mailto:s.darke@devonandcornwall.pnn.police.uk)]  
**Sent:** 27 July 2016 17:37  
**To:** SMART Julie S0403 <[Julie.SMART@devonandcornwall.pnn.police.uk](mailto:Julie.SMART@devonandcornwall.pnn.police.uk)>  
**Subject:** License application for The Bierkeller

Hello Julie,

Ashley Sims has asked me to make the licence application for The Bierkeller (former Blu Cargo. Ashley said you may be good enough to check this for us.  
If you are happy to do so, please let me know what you think of the attached application and any amendments you feel should be made.

Many thanks,

Steve Darke

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SharePoint

Newsfeed OneDrive Sites SMART Julie 50403  

Force Licensing Team > Licensing Items – Active > Apple and Parrot and Bierkeller Torquay

Item Type	Other
Prem Name	Apple and Parrot and Bierkeller Torquay
Date Rec'd	23/08/2016
Date Due	
Event Start Date	23/08/2016 11:00
Event End Date	
Submitting Officer	SMART Julie 50403
Applicant Surname	
Applicant First Name	
Proposed DPS Surname	
Proposed DPS First Name	
Prem Street	
Prem District	
Prem Town	Torquay
Prem County	Devon
Prem Postcode	
Premises risk rating	
Hub Location	EAST - Exeter
Logic outcome	Fail
Licensing Office	Torbay
Allocated To	Julie SMART
Item Report Summary	Meeting at Apple and Parrot re Harbourside Leisure Premises.
Comments	<p>SMART Julie 50403 (25/08/2016 10:50):</p> <p>At 11.00 am on Tuesday 23 August 2016 myself and Karl Martin attended a meeting at the Apple and Parrot with Keith Byron, Micky Sheehan and Michelle Sweeney to discuss issues concerning customers consuming alcohol outside of the Apple and Parrot in breach of the licence and crowding of the pavement at the weekend which wasn't being managed by door stewards. Advised that in respect of the Pavement Cafe Permit area the premises must ensure that no customers are drinking outside until a variation has been granted to authorise this. Discussed 3 photos of Pavement Cafe Permit area from the weekend. Michelle stated that a group called Beans on Toast had been playing and when they finished lots of customers went outside to cool off and smoke. It was pointed out that these customers were blocking the pavement causing pedestrians to walk into the road and they were advised to ensure that door stewards</p>

make sure that an area of the footpath is kept clear at all times.

Discussed recent L10's and I explained that officers submit these reports either on the night or sometimes several days later and the report gives their impression of a situation but if the premises has a different opinion I am happy to hear it and note it on the relevant item on the computer. Michelle then outlined 2 such L10's where she wished to make comments, which have now been input onto this system

Also discussed issues around the proposed management of Abbey Days Festival, which is also being put on by Ashley Sims and Micky Sheehan. I explained that I was concerned that the Bierkeller would be opening on Friday 26 August 2016 but the following weekend Micky, the DPS, would be at Abbey Days for 2 days. Micky stated that he was also concerned about this. I also pointed out that the Event Management Guide for Abbey Days indicates that Michelle will be responsible for the bar staff at that event and I advised her that that caused me some concern as I felt she should be at the Apple and Parrot. Michelle stated that she wasn't aware that she was going to be at Abbey Days and I advised her that that is what Ashley has written in his event plan.

Whilst at this meeting I mentioned that I had seen on Facebook that Harbourside Leisure have put a pool table in the Bierkeller and I asked how they intend to manage the consumption of alcohol in that premises bearing in mind that the premises will have primarily a restaurant licence, ie all persons seated and alcohol only to be consumed by persons having a table meal. An application for this premises is currently in the consultation period and is due to be granted on 25/08/16. Micky stated that there had been a mistake on the application/licence and they want people to be able to stand up drinking. Keith stated that they would have staff on duty watching and CCTV would also cover the area but that there probably would be occasions when people would be stood up. They said as the premises were going to be a Bierkeller there could be conflict issues between staff and customers if customers keep standing up and are told to sit down and that the premises would point out to customers that the police won't allow standing up.

Micky also stated that the stage as shown on the plan on the application is in the wrong place and ideally he would like to move this to another position within the premises. This stage will be where the Oompah band are located. Karl gave advice re this matter.

I advised Keith and Micky that there was no mistake on the application, and that in fact Ashley had consulted with both the police and Karl before he submitted the application and he was advised that as the premises are within the CIA, the police would not support any application for vertical drinking but he was entitled to apply which would result in a hearing of the licensing authority. He was advised that the only type of application that the police would support would be for a restaurant licence with everyone sat down. Ashley stated that he would be happy with that and it was therefore agreed that the police would draft some conditions for his

consideration. At the meeting to discuss those conditions Ashley asked for a few minor amendments which the police agreed to but it was noted that when the application was actually submitted someone had copied most of the conditions from the Apple and Parrot licence onto that application. Karl stated that he had also noticed this and he actually sent an email to Ashley or Steve Darke (who put in the application on behalf of Harbourside Leisure) stating that the conditions were a bit onerous for a restaurant licence and he should be sure that the premises could comply with them.

Micky stated that he had looked at the licence of Salt and Pepper next door and wants to remove the condition on the Bierkeller licence and replace with "substantial food shall be available". I advised him that it was not quite as simple as that. The premises are within the CIA and the removal of the restaurant condition would completely change the type of premises which will become a pub. I also advised him that not only do the police need to consider the impact of this application with the current PLH we have to consider the lifetime of the licence and a pub is more likely to impact on the licensing objectives than a restaurant. I advised Micky that in my opinion the premises would need to apply for a full variation due to the substantial change in the operation of the premises and I advised Micky that I would need to discuss this matter with my managers but they were not going to be impressed that the premises aren't even open and the licence hasn't been granted but Harbourside Leisure were already seeking to move away from the original agreement.

Micky and Keith then advised me that if a customer enters and doesn't want any food they will give them free food in order to fulfil the requirement of the condition but they accepted that this may cause a few issues as all customers will be seated at long tables with mixed groups and it may become apparent that some customers had paid for food whilst others had been provided it free. Keith stated he had researched the meaning of a 'table meal' and he thinks this could be a sandwich with chips or similar and I said that it must be eaten with a knife and fork. I advised them that although this practice may be legal it could be viewed as an attempt to circumvent the conditions on the licence if customers weren't having a proper meal.

During discussions about the management of the Pavement Cafe Permit in respect of the Apple and Parrot, Micky mentioned that he was concerned about the Pavement Cafe area outside of the Cider Press, Salt and Pepper and the Bierkeller as this is a small through road and he thinks that there will be an accident there one day between a pedestrian and a vehicle.

I advised those present that in my opinion it appears that Ashley has too many projects on the go and whilst I can't fault him for his ideas and inspiration I feel he needs to slow down a bit and focus on one premises at a time, ensuring that it is being run in a professional way before taking on a new challenge. In respect of the Apple and Parrot Harbourside Leisure have now been responsible for the premises since the licence was granted in June 2016 but

there have been a number of issues, he's now applying for a licence for the Bierkeller, whilst at the same time trying to run a 2 day beer/music festival and his partner has recently had their first child. I also advised Keith that I think he and Ashley should undertake some licensing training as it is apparent that their knowledge in this area is poor and they need to better understand their responsibilities as Premises Licence Holders. Micky stated that he would arrange some on-line training for them

Also discussed an issue with the bins in the lane that runs beside the premises. Myself and Karl went to look at these bins and I noted that the bins for the Apple and Parrot were not locked and there were lots of glass bottles in the top of them. We went back into the premises and I asked what the position with the bin locks is (2 incidents recently where glass bottles had been taken out of these bins) and Micky advised that a key had been ordered. I pointed out that the key appeared to be the triangle type similar to gas and electric meters and Keith then stated that he would go to a hardware store and get some that day.

Discussed possible variation application for the Bierkeller with Sgt Norsworthy and decision made that we should object to any application based on concerns around the Apple and Parrot, lack of licensing knowledge of PLH, lack of confidence in Ashley and Micky following Abbey Days, and the fact that this will be a substantial change of operation, ie a pub.

Visit tasked NO  
LA Time Taken  
LO Time Taken 150  
Item Briefed  
Representation/Objection No  
Hearing No  
Status COMPLETE

Version: 1 0  
Created at 25/08/2016 10:50 by SMART Julie 50403  
Last modified at 25/08/2016 10:50 by SMART Julie 50403

Close



## Devon & Cornwall Police

The Bierkeller (Torquay) Ltd  
7 Braddons Hill Road West  
TORQUAY  
Devon  
TQ1 1BG

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

Telephone: 01803 218900

29 September 2016

Dear Sirs

**The Bierkeller, 7 Braddons Hill Road West, Torquay, TQ1 1BG**

I write to you in your capacities of Premises Licence Holder of the above premises, which has the benefit of Premises Licence Number PL1104 issued by Torbay Council.

At approximately 1045 hrs on Wednesday 28 September 2016 my Police Licensing Officer, Mrs Julie Smart, attended your premises in the company of Mr Karl Martin, Public Protection Officer of Torbay Council. At that time they met with your Designated Premises Supervisor, Mr Thomas Crowe, in order to introduce themselves and carry out a licensing inspection.

During the course of this inspection it was apparent to Mrs Smart and Mr Martin that many of the conditions contained within your Premises Licence were not being complied with. These breaches are now outlined below:

### **The Prevention of Crime and Disorder**

#### Condition 1

*On the ground floor of the premises alcohol will only be consumed by persons sat at tables and having a table meal at the premises. The upper floor of the premises will be used for the consumption of alcohol by persons who are seated, provided that those persons have just consumed a table meal within the premises.*

This condition stipulates that customers must be seated whilst consuming alcohol.

Furthermore, it is the opinion of the police that this condition restricts your premises to  
**Contact the police**

Emergency 999

Non-emergency [www.devon-cornwall.police.uk/reportcrime](http://www.devon-cornwall.police.uk/reportcrime)

[101@devonandcornwall.pnn.police.uk](mailto:101@devonandcornwall.pnn.police.uk) 101

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operating as a restaurant on the ground floor, ie customers can only consume alcohol whilst 'having a table meal'. Should customers wish to consume further alcoholic drinks within your premises after they have finished their table meal, they can only do so on the first floor of your premises. This condition also applies to the outside seating area of your premises. Mrs Smart advises me that she has a photograph of a male stood up drinking what appears to be alcohol within your premises. Mrs Smart states that your Facebook page contains photographs of customers within your premises, but the proportion of customers seen with food on the ground floor is much less than 50% and certainly lower than the number the police would expect to see in a restaurant type premises. In addition Mrs Smart has a photograph of your outside seating area which clearly shows customers consuming what appears to be alcoholic drinks but no food is visible.

#### Condition 2

*A CCTV system capable of providing images of an evidential standard in all lighting conditions, particularly with regard to facial recognition, shall operate throughout the times the premises are open to the public, with monitors behind all bars and a recording system. All recordings shall be kept for a minimum of 14 days and copies of recordings shall be supplied to the police within 7 days of any request.*

Mrs Smart checked behind the ground floor bar and there was no CCTV monitor present. On asking Mr Crowe about this matter he advised her that the premises did have monitors but they were located in a cupboard. However, immediately after this he asked what size monitors the police would prefer.

#### Condition 5

*The premises shall join the Nitenet Radio System and actively participate in this initiative.*

Mrs Smart asked Mr Crowe if the premises had a Nitenet Radio and he advised her that they don't, but that a radio would be arriving next week.

#### Condition 8

*A record of all staff training, including copies of all relevant BIIAB certificates, shall be kept at the premises for a minimum period of 12 months and be available to the police or Local Authority Licensing Officers for inspection on demand.*

Mrs Smart asked Mr Crowe if he had documents outlining staff training and he said that he did not. Mrs Smart asked Mr Crowe what training the staff had received on commencing employment and Mr Crowe stated that they had received Challenge 25 and Fire Safety training.

#### Condition 10

*Notices regarding the refusal of sale of alcohol to persons who appear drunk shall be prominently displayed at all points of sale on each floor of the premises and at the entrance to the premises, for the attention of all customers.*

Mrs Smart checked the ground floor area of the premises and could not find any such poster by the entrance. Behind the bar was a small black sign relating to underage sales and drunkenness however the writing on this is very small and in her opinion this notice is not 'prominently displayed'.

#### Condition 11

*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.*

Mrs Smart asked Mr Crowe if there had been any incidents at the premises and he said that there had not. Mrs Smart asked if he had an Incident Book ready for use if there was an incident and he stated that he did not.

#### Condition 12

*The premises shall maintain a refusals log and record all reasons for refusing entry, and where practical, record details of all persons refused entry. This record 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.*

Mrs Smart asked Mr Crowe if he had a Refusals Log ready for use and he stated he did not.

#### Condition 15

*The premises shall have a zero tolerance to controlled drugs and have a written drugs policy outlining what action will be taken in respect of individuals found in possession of drugs. A copy of this policy shall be retained on the premises and shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand.*

Mrs Smart asked Mr Crowe if he had written drugs policy and he advised her that he did not. It was however noted that there was a small notice positioned outside the entrance to the toilets regarding drug issues. Whilst it could be construed that a notice could be regarded as a written drugs policy, the police consider that such a policy is a statement of intent which outlines the procedure for staff to follow if drug use is suspected. In addition all staff should receive training on drugs issues on the commencement of their employment at the premises.

#### Condition 17

*The premises shall display clear signage which states when persons under 18 years are permitted on the premises.*

Mrs Smart checked the premises and could not find any such signage.

#### **Public Safety**

#### Condition 3

*The licensees shall ensure that at all times there are adequate first aid arrangements. The arrangements for first aid provision include a first aid box, an adequate and appropriate supply of first aid equipment and materials to be used by patrons. Suitable protective equipment shall be provided to deal with hypodermic needles, blood spillages and other body fluids. Procedures shall be in place to ensure that body fluids are dealt with in a safe manner to avoid the risk of communicable diseases.*

Mrs Smart asked Mr Crowe if the premises had a first aid box and he advised her that they did not.

#### Condition 5

*CCTV must be in operation in areas not visible from the bar.*

Mrs Smart had a look at the location of the CCTV cameras and established that on the ground floor, there is an area to the right of the front door as you enter, which leads to the stairs to the toilet area, which does not contain a CCTV camera. Mrs Smart stood in front of the bar and this area was not visible from that location.

## The Prevention of Public Nuisance

### Condition 2

*All regulated music should be played through a noise limiter which is to be set at a reasonable level as agreed with the local responsible authority for public nuisance; this is to be independently calibrated and copies of reports must be kept on site and available on request by an authorised officer. It shall be sealed in a tamper proof box and adjustments shall only be made with the written permission of the responsible authority for public nuisance.*

Mr Martin is aware that a noise limiter has been installed in the premises however he has not been consulted regarding the level this limiter should be set at, and therefore this condition has not been complied with.

### Condition 6

*Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.*

Mr Martin looked at the lobby and only the internal set of doors had automatic door-closers.

### Condition 7

*Lobbies shall be constructed and operated in such a way to ensure that if regulated entertainment is being played inside the premises, only one door shall be opened at any one time to prevent noise breakout. These doors shall be fitted with automatic closers.*

As above, only the internal lobby doors had automatic closers.

### Condition 11

*Suitable signage at exits requesting that patrons make as little noise as possible when leaving the premises shall be displayed*

Mrs Smart looked for the above signage at the exit door but no signage was present.

## The Protection of Children from Harm

### Condition 4

*The premises shall display clear signage which states when persons under 18 years are permitted on the premises.*

No signage on display within the premises.

In relation to your premises, Mrs Smart advises me that in June 2016 one of your directors, Mr Sims, contacted her regarding the possibility of applying for a licence for this premises. An agreement was reached that the police would support an application for a restaurant type premises on the ground floor but with customers consuming drinks on the first floor if they had consumed a table meal within the premises and are seated. At that point Mrs Smart supplied Mr Sims with a list of proposed conditions and these were agreed. However, Mrs Smart noted that when the application was submitted, you had proposed numerous other conditions which she believed you may have copied from the Apple and Parrot licence. At that time this matter was brought to your attention by Mr Martin who advised you that you should only include conditions on the licence if you were confident you could comply with them.

Mrs Smart further advises me that on 23 August 2016 she met with Mr Micky Sheehan (former DPS of the Bierkeller) and Mr Keith Byron (a director of Bierkeller (Torquay) Ltd) at the Apple and Parrot, in the company of Mr Martin. During discussions, Mrs Smart indicated that she had seen on Facebook that a pool table had been installed in the Bierkeller and she asked how Mr Sheehan and Mr Byron intended to manage the consumption of alcohol in the premises bearing in mind that the Premises Licence that had been applied for (but not yet granted) restricted the consumption of alcohol to persons who are seated. Mr Sheehan stated that there had been a 'mistake' on the application in relation to this specific condition and he was therefore advised of the agreement reached between Mr Sims and the police. Mr Byron indicated that staff would be on duty watching customers and CCTV would also cover the area but there probably would be occasions when people would be stood up drinking.

Mr Sheehan and Mr Byron then advised Mr Martin and Mrs Smart that if customers entered and didn't want any food they would be given a free meal in order to fulfil the requirement of the licence and they indicated that this may cause a few issues as it may become apparent to customers that some customers had paid for food but others had been given it free of charge. Mrs Smart advised them that whilst this practice may be legal it could be viewed as an attempt to circumvent the conditions on the licence, particularly if customers weren't having a proper table meal.

At the conclusion of the meeting on that date Mrs Smart advised Mr Byron that she thought he and Mr Sims should undertake some licensing training as it was apparent that their knowledge in this area was poor and as Premises Licence Holders it was imperative that they understood their responsibilities.

I must say that I am disappointed that despite an agreement being reached in relation to the licence, it had not even been granted when representatives of your premises were seeking to adopt operational practices that appear to be an attempt to circumvent the conditions on the licence.

I am aware that you have submitted a variation application to remove condition 1 under the heading the Prevention of Crime and Disorder on the licence. As previously mentioned at the beginning of this letter, the police consider that you are not complying with this condition. I would advise you that you must comply with all the conditions on the Premises Licence, including condition 1 under the heading the Prevention of Crime and Disorder, at all times.

In respect of the numerous breaches of the conditions on the Premises Licence, I am extremely disappointed by the lack of responsibility you have demonstrated in respect of this matter. Once the Premise Licence had been granted on 26 August 2016, your premises should not have commenced any licensable activities until yourselves and your DPS were confident that every condition stipulated on the licence was being complied with. For your information, failure to comply with the conditions on a Premises Licence constitutes an offence under Section 136 of the Licensing Act 2003 and a person found guilty of such an offence is liable on conviction to an unlimited fine, or 6 months imprisonment, or to both.

Mrs Smart advises me that she discussed the above matters with Mr Sims on Wednesday 28 September 2016 and he assured her that all the conditions would be complied with within the next 24 hours. However, he stated that it was difficult to stop customers walking away from the bar and sipping their drinks. Mrs Smart therefore advised Mr Sims to ensure all customers entering the premises are immediately requested to sit down, with orders for drinks and food being taken by waiter/waitress service and delivered to the table. I hope that you will bear this recommendation in mind.

I would also take this opportunity to advise you that Mr Martin and Mrs Smart noted that your premises contains 4 Category C gaming machines. For your information, in order to have these machines you need to apply for a Gaming Machine Permit, through Torbay Council. Until you have this permit in place you must ensure that these machines are switched off at all times.

I must advise you that my officers will continue to monitor your premises and if the circumstances warrant it, I will not hesitate in applying for a Review of your Premises

Licence and/or seeking a prosecution for any offences committed. I do hope that you will address the concerns raised and that this course of action will not be necessary. However, should it be necessary to apply for a Review, this letter will be used as part of our evidence. This letter may also be used as part of the police evidence in respect of any other licensing matters in respect of your premises.

As Premises Licence Holder and I would remind you that it is your responsibility to ensure that your premises is run in accordance with the conditions of your Premises Licence, in a manner that promotes the Licensing Objectives and within the confines of the law at all times.

A copy of this letter has been forwarded to the Torbay Council Licensing Team for their information.

Should you wish to discuss this matter further, please contact Mrs Smart on 01803 218900.

Yours faithfully



Superintendent M Lawler  
Territorial Policing & Partnership Department



## Devon & Cornwall Police

Mr T J Crowe  
Designated Premises Supervisor  
The Bierkeller  
7 Braddons Hill Road West  
TORQUAY  
TQ1 1BG

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

Telephone: 01803 218900

29 September 2016

Dear Sir

**The Bierkeller, 7 Braddons Hill Road West, Torquay, TQ1 1BG**

I write to you in your capacities of Designated Premises Supervisor of the above premises, which has the benefit of Premises Licence Number PL1104 issued by Torbay Council.

At approximately 1045 hrs on Wednesday 28 September 2016 my Police Licensing Officer, Mrs Julie Smart, attended your premises in the company of Mr Karl Martin, Public Protection Officer of Torbay Council. At that time they met with you, in order to introduce themselves and carry out a licensing inspection.

During the course of this inspection it was apparent to Mrs Smart and Mr Martin that many of the conditions contained within your Premises Licence were not being complied with. These breaches are now outlined below:

### **The Prevention of Crime and Disorder**

#### **Condition 1**

*On the ground floor of the premises alcohol will only be consumed by persons sat at tables and having a table meal at the premises. The upper floor of the premises will be used for the consumption of alcohol by persons who are seated, provided that those persons have just consumed a table meal within the premises.*

This condition stipulates that customers must be seated whilst consuming alcohol. Furthermore, it is the opinion of the police that this condition restricts your premises to

#### **Contact the police**

Emergency 999

Non-emergency [www.devon-cornwall.police.uk/reportcrime](http://www.devon-cornwall.police.uk/reportcrime)

101@devonandcornwall.pnn.police.uk 101

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operating as a restaurant on the ground floor, ie customers can only consume alcohol whilst 'having a table meal'. Should customers wish to consume further alcoholic drinks within your premises after they have finished their table meal, they can only do so on the first floor of your premises. This condition also applies to the outside seating area of your premises. Mrs Smart advises me that she has a photograph of a male stood up drinking what appears to be alcohol within your premises. Mrs Smart states that your Facebook page contains photographs of customers within your premises, but the proportion of customers seen with food on the ground floor is much less than 50% and certainly lower than the number the police would expect to see in a restaurant type premises. In addition Mrs Smart has a photograph of your outside seating area which clearly shows customers consuming what appears to be alcoholic drinks but no food is visible.

#### Condition 2

*A CCTV system capable of providing images of an evidential standard in all lighting conditions, particularly with regard to facial recognition, shall operate throughout the times the premises are open to the public, with monitors behind all bars and a recording system. All recordings shall be kept for a minimum of 14 days and copies of recordings shall be supplied to the police within 7 days of any request.*

Mrs Smart checked behind the ground floor bar and there was no CCTV monitor present. On asking you about this matter you advised her that the premises did have monitors but they were located in a cupboard. However, immediately after this you asked what size monitors the police would prefer.

#### Condition 5

*The premises shall join the Nitenet Radio System and actively participate in this initiative.*

Mrs Smart asked you if the premises had a Nitenet Radio and you advised her that they don't, but that a radio would be arriving next week.

#### Condition 8

*A record of all staff training, including copies of all relevant BIIAB certificates, shall be kept at the premises for a minimum period of 12 months and be available to the police or Local Authority Licensing Officers for inspection on demand.*

Mrs Smart asked you if you had documents outlining staff training and you said that you did not. Mrs Smart asked you what training the staff had received on commencing employment and you stated that they had received Challenge 25 and Fire Safety training.

Condition 10

*Notices regarding the refusal of sale of alcohol to persons who appear drunk shall be prominently displayed at all points of sale on each floor of the premises and at the entrance to the premises, for the attention of all customers.*

Mrs Smart checked the ground floor area of the premises and could not find any such poster by the entrance. Behind the bar was a small black sign relating to underage sales and drunkenness however the writing on this is very small and in her opinion this notice is not 'prominently displayed'.

Condition 11

*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.*

Mrs Smart asked you if there had been any incidents at the premises and you said that there had not. Mrs Smart asked if you had an Incident Book ready for use if there was an incident and you stated that you did not.

Condition 12

*The premises shall maintain a refusals log and record all reasons for refusing entry, and where practical, record details of all persons refused entry. This record 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.*

Mrs Smart asked you if he had a Refusals Log ready for use and you stated you did not.

Condition 15

*The premises shall have a zero tolerance to controlled drugs and have a written drugs policy outlining what action will be taken in respect of individuals found in possession of drugs. A copy of this policy shall be retained on the premises and shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand.*

Mrs Smart asked you if you had a written drugs policy and you advised her that you did not. It was however noted that there was a small notice positioned outside the entrance to the toilets regarding drug issues. Whilst it could be construed that a notice could be regarded as a written drugs policy, the police consider that such a policy is a statement of intent which outlines the procedure for staff to follow if drug use is suspected. In addition all staff should receive training on drugs issues on the commencement of their employment at the premises.

#### Condition 17

*The premises shall display clear signage which states when persons under 18 years are permitted on the premises.*

Mrs Smart checked the premises and could not find any such signage.

#### **Public Safety**

#### Condition 3

*The licensees shall ensure that at all times there are adequate first aid arrangements. The arrangements for first aid provision include a first aid box, an adequate and appropriate supply of first aid equipment and materials to be used by patrons. Suitable protective equipment shall be provided to deal with hypodermic needles, blood spillages and other body fluids. Procedures shall be in place to ensure that body fluids are dealt with in a safe manner to avoid the risk of communicable diseases.*

Mrs Smart asked you if the premises had a first aid box and you advised her that they did not.

#### Condition 5

*CCTV must be in operation in areas not visible from the bar.*

Mrs Smart had a look at the location of the CCTV cameras and established that on the ground floor, there is an area to the right of the front door as you enter, which leads to the stairs to the toilet area, which does not contain a CCTV camera. Mrs Smart stood in front of the bar and this area was not visible from that location.

## **The Prevention of Public Nuisance**

### **Condition 2**

*All regulated music should be played through a noise limiter which is to be set at a reasonable level as agreed with the local responsible authority for public nuisance; this is to be independently calibrated and copies of reports must be kept on site and available on request by an authorised officer. It shall be sealed in a tamper proof box and adjustments shall only be made with the written permission of the responsible authority for public nuisance.*

Mr Martin is aware that a noise limiter has been installed in the premises however he has not been consulted regarding the level this limiter should be set at, and therefore this condition has not been complied with.

### **Condition 6**

*Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.*

Mr Martin looked at the lobby and only the internal set of doors had automatic door-closers.

### **Condition 7**

*Lobbies shall be constructed and operated in such a way to ensure that if regulated entertainment is being played inside the premises, only one door shall be opened at any one time to prevent noise breakout. These doors shall be fitted with automatic closers.*

As above, only the internal lobby doors had automatic closers.

### **Condition 11**

*Suitable signage at exits requesting that patrons make as little noise as possible when leaving the premises shall be displayed*

Mrs Smart looked for the above signage at the exit door but no signage was present.

## The Protection of Children from Harm

### Condition 4

*The premises shall display clear signage which states when persons under 18 years are permitted on the premises.*

No signage on display within the premises.

In respect of this premises I note that you became Designated Premises Supervisor on 15 September 2016 and that the premises opened to the public on 16 September 2016. As you were not an employee of the company at the time that the licence was granted, I will now provide you with some information in relation to discussions that had taken place which may be of interest to you.

Mrs Smart advises me that in June 2016 one of your directors of The Bierkeller (Torquay) Ltd, Mr Sims, contacted her regarding the possibility of applying for a licence for this premises. An agreement was reached that the police would support an application for a restaurant type premises on the ground floor but with customers consuming drinks on the first floor if they had consumed a table meal within the premises and are seated. At that point Mrs Smart supplied Mr Sims with a list of proposed conditions and these were agreed. However, Mrs Smart noted that when the application was submitted, The Bierkeller (Torquay) Ltd had proposed numerous other conditions which she believed may have copied from the Apple and Parrot licence as Mr Sims and Mr Byron are also directors of the company that hold that licence. At that time this matter was brought to the company's attention by Mr Martin who advised them that they should only include conditions on the licence if they were confident the premises could comply with them.

Mrs Smart further advises me that on 23 August 2016 she met with Mr Micky Sheehan (former DPS of the Bierkeller) and Mr Keith Byron (a director of Bierkeller (Torquay) Ltd) at the Apple and Parrot, in the company of Mr Martin. During discussions, Mrs Smart indicated that she had seen on Facebook that a pool table had been installed in the Bierkeller and she asked how Mr Sheehan and Mr Byron intended to manage the consumption of alcohol in the premises bearing in mind that the Premises Licence that had been applied for (but not yet granted) restricted the consumption of alcohol to persons who are seated. Mr Sheehan stated that there had been a 'mistake' on the application in relation to this specific condition and he was therefore advised of the agreement reached between Mr Sims and the police. Mr Byron indicated that staff would be on duty watching customers and CCTV would also cover the area but there probably would be occasions when people would be stood up drinking.

Mr Sheehan and Mr Byron then advised Mr Martin and Mrs Smart that if customers entered and didn't want any food they would be given a free meal in order to fulfil the

requirement of the licence and they indicated that this may cause a few issues as it may become apparent to customers that some customers had paid for food but others had been given it free of charge. Mrs Smart advised them that whilst this practice may be legal it could be viewed as an attempt to circumvent the conditions on the licence, particularly if customers weren't having a proper table meal.

At the conclusion of the meeting on that date Mrs Smart advised Mr Byron that she thought he and Mr Sims should undertake some licensing training as it was apparent that their knowledge in this area was poor and as Premises Licence Holders it was imperative that they understood their responsibilities.

I must say that I am disappointed that despite an agreement being reached in relation to the licence, it had not even been granted when representatives of the premises were seeking to adopt operational practices that appear to be an attempt to circumvent the conditions on the licence.

I appreciate that at that point in time you were not the Designated Premises Supervisor and were not party to these discussions. However, it is apparent that since becoming the DPS, you have not taken adequate steps to ensure that the conditions on the Premises Licence are being met.

I am aware that The Bierkeller (Torquay) Ltd have submitted a variation application to remove condition 1 under the heading the Prevention of Crime and Disorder on the licence. As previously mentioned at the beginning of this letter, the police consider that you are not complying with this condition. I would advise you that you must comply with all the conditions on the Premises Licence, including condition 1 under the heading the Prevention of Crime and Disorder, at all times.

In respect of the numerous breaches of the conditions on the Premises Licence, I am extremely disappointed by the lack of responsibility you have demonstrated in respect of this matter. Once the Premise Licence had been granted on 26 August 2016, your premises should not have commenced any licensable activities until yourself and the Premises Licence Holder were confident that every condition stipulated on the licence was being complied with. For your information, failure to comply with the conditions on a Premises Licence constitutes an offence under Section 136 of the Licensing Act 2003 and a person found guilty of such an offence is liable on conviction to an unlimited fine, or 6 months imprisonment, or to both.

Mrs Smart advises me that she discussed the above matters with Mr Sims on Wednesday 28 September 2016 and he assured her that all the conditions would be complied with within the next 24 hours. However, he stated that it was difficult to stop customers walking away from the bar and sipping their drinks. Mrs Smart therefore advised Mr Sims to ensure all customers entering the premises are immediately requested to sit down, with orders for drinks and food being taken by waiter/waitress

service and delivered to the table. I hope that you will bear this recommendation in mind.

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I would also take this opportunity to advise you that Mr Martin and Mrs Smart noted that your premises contains 4 Category C gaming machines. For your information, in order to have these machines you need to apply for a Gaming Machine Permit, through Torbay Council. Until you have this permit in place you must ensure that these machines are switched off at all times.

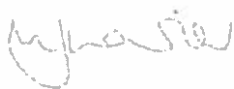
I must advise you that my officers will continue to monitor your premises and if the circumstances warrant it, I will not hesitate in applying for a Review of your Premises Licence and/or seeking a prosecution for any offences committed. I do hope that you will address the concerns raised and that this course of action will not be necessary. However, should it be necessary to apply for a Review, this letter will be used as part of our evidence. This letter may also be used as part of the police evidence in respect of any other licensing matters in respect of your premises.

As Designated Premises Supervisor and I would remind you that it is your responsibility to ensure that your premises is run in accordance with the conditions of your Premises Licence, in a manner that promotes the Licensing Objectives and within the confines of the law at all times.

A copy of this letter has been forwarded to the Torbay Council Licensing Team for their information.

Should you wish to discuss this matter further, please contact Mrs Smart on 01803 218900.

Yours faithfully



Superintendent M Lawler  
Territorial Policing & Partnership Department

## Memorandum

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To:		From	: Community Safety
c.c.	COMMUNITY SAFETY	Contact	: Mr Gary O'Shea
c.c.	0 7 OCT 2016	Ext	: 01803 208025
c.c.	TORBAY COUNCIL	My Ref	: 1ZV SRU No: 232492
	For the attention of: Licensing Mandy Guy	Your Ref	:
		Date	: 6 <sup>th</sup> October 2016

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**Subject: Premises– Licensing Act 2003**

**Premises Name & Address: The Bierkeller, 7 braddons Hill Road  
West, Torquay, TQ1 1BG**

1. The Licensing Authority (Torbay Council) in making this representation seeks not to make recommendations on the virtues of the Variation Application but instead to furnish members of the Licensing Committee with information that offers an overview of the Licensing Authority experiences with the premises and the Licence Holders.
2. At the time of writing this report the Licensing Authority is satisfied the premises known as 'The Bierkeller' is not operating in accordance with the authorisation of the licence, licence number PL 1140.
3. The Licence is issued to The Bierkeller (Torquay) Ltd. The directors of this company are Mr Ashley Sims and Mr Keith Byron. Mr Crowe is the DPS.
4. A joint Authority inspection with Devon and Cornwall Police Licensing and Torbay Council Public Protection Officer on Wednesday 28<sup>th</sup> September 2016 found the premises was in breach of 16 separate licensing conditions:-
  - 4.1 9 conditions under the 'Prevention of Crime and Disorder'  
2 conditions under the 'Prevention of Public Safety'  
4 conditions under the 'Prevention of Public Nuisance'  
1 condition under the 'Protection of Children from harm'
5. Consequently the Licence holders may be in breach of Sec 136 (1)(a) of the Licensing Act and thereby they are deemed by the Licensing Authority to be undermining the four Licensing Objectives.
6. At the time of writing this report a criminal investigation is not considered proportionate. Instead the Licensing Authority has written to the Licence holder to highlight concerns and provide opportunity to comply with the conditions of the premises licence (see appendix 1).



7. On 9<sup>th</sup> August 2016 following consultation with Responsible Authorities the Licensing Authority received a new application for a Premises Licence in respect of the Bierkeller (Torquay) Ltd. (See Appendix 1).
8. During consultation with Police licensing, Ms Julie Smart advised the applicants a licence for a vertical drinking establishment will not be supported by the Police as the proposed premises is situated in the Cumulative Impact Area (CIA).
9. Torbay Councils Licensing Statement of Principles 2016-21 lays out the Councils Special Saturation Policy. It states were applications are received for a premises licence in the CIA the application will normally be refused :-

*'The effect of this measure is to indicate that, where relevant representations have been made, an application for a new Premises Licence, or the variation of an existing Premises Licence, would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area, unless the Applicant can demonstrate within their Operating Schedule, that there will be no negative cumulative impact on one or more of the Licensing Objectives. For example, while a large nightclub or high capacity public house, or takeaway might add to problems, a small restaurant or theatre may not.'*

Appendix 1 p33

10. The application received by the Licensing Authority on the 9<sup>th</sup> August 2016 contained under the heading 'The Prevention of Crime and Disorder' the following condition:-

*'On the ground floor of the premises alcohol will only be consumed by persons sat at tables and having a table meal at the premises. The upper floor of the premises will be used for the consumption of alcohol by persons who are seated, provided that those persons have just consumed a table meal within the premises.'*

11. The Licensing Authority holds the view the addition of these conditions effectively promotes the premises as a 'restaurant'. Such premises contribute less to crime and disorder and Public nuisance as recognised by the Special Saturation Policy. It is worth noting the licence holder agreed to this condition despite being offered the option of a Licensing Committee hearing had they applied for a 'vertical' drinking establishment. In view of this agreement the police and other Responsible Authorities were satisfied that in operating as a Restaurant, the premises would not be likely to add to the cumulative impact on the licensing objectives and no representations were made.
12. On the 23<sup>rd</sup> August at a meeting with the Licence holders and the DPS, Mr Sheehan stated the condition outlined in point 9 was a mistake as they would like people to consume alcohol whilst stood and expressed to Ms Julie Smart they would instead replace the condition with 'Substantial food shall be available'.
13. On the 26<sup>th</sup> August having received no relevant representations from either Responsible Authorities or Interested Parties the Council granted the application for a New Premises Licence for the Bierkeller. Mr Sheehan was named as the DPS.
14. On the 1<sup>st</sup> of September an application was received by the Authority to transfer the DPS from Mr Sheehan to Mr Crowe. The Authority did not receive an objection from the Police and the application was granted on the 15<sup>th</sup> September.
15. On the 15<sup>th</sup> September the Authority received and accepted an application for a full variation. The application seeks to remove the following condition outlined in point 9 and replace it with:-

*'Substantial food to be available between the hours of 11:00 and 21:00'*

The application also seeks to amend the following condition:-

*'Performances of live music must be staged at the rear of the building'*

16. During the inspection on the 28<sup>th</sup> September 2016 Officers also noted the licences had installed two pool tables on the 1<sup>st</sup> floor. Four Category C gaming machines were also on site without the correct authorisation, though this was remedied by the Licence holder within 48 hours. Julie Smart also provided the Licensing Authority information about football matches being shown and live music Acts, although neither of these are unlawful under the terms of the Licensing Act 2003 as amended.
17. The Licensing Authority in highlighting these issues to the Licensing Committee seeks to demonstrate these premises are not operating in a manner consistent with a 'restaurant' licence.
18. This view is further reinforced by information provided to the Licensing Authority by Devon and Cornwall Police. The Licence holder appears to be attempting to circumnavigate conditions of the licence by offering cut price food which must be purchased by customers. It is further alleged, however, that the food is not provided either as a table meal or indeed at all to customers drinking alcohol on the premises but instead that a proportion (an unknown quantity) is being donated to the homeless. It is the Licensing Authority view that under terms of the current premises licence, substantial food must be both provided to and consumed by all customers when taking alcohol and that these customers should be seated at tables.
19. Police Licensing Officers and Torbay Councils Public Protection Officers have previously expressed their concerns to the Licensing Authority regarding other enterprises Mr Sims and Mr Byron are engaged in. Specifically The Apple and Parrot and the Abbey day's festival.
20. The Licensing Authority is concerned if the application as applied for is not granted then the premises licence holders may continue to attempt to circumnavigate the Licensing Act. This is clearly not a reason to grant the licence application, for which it remains the duty of the Council when acting under its role as licensing authority, to consider the individual merits of the application and to make determination based on these individual facts.
21. The applicants by their own admissions state the original application was mistake, however the Authority does not consider this an acceptable reason to not comply with conditions of a Alcohol Premises Licence.
22. As indicated in paragraph 1, the Licensing Authority in exercising its role as a responsible authority on this occasion is not objecting to the grant of the application as such. However, it is important that Members are furnished with a complete history and background relating to the premises and the Licence holders in order that an informed decision may be made. The key consideration being whether or not the proposed activity and conditions of licence (including any additional conditions that Members may consider appropriate) should the variation application be granted will be of a nature that will ensure promotion of all licensing objectives and not add to the cumulative impact on those objectives in the area.

Gary O'Shea  
Principle of Licensing

# Appendix 1



Please reply to: Mr Karl Martin  
Community Safety  
Town Hall  
Castle Circus  
TORQUAY  
Devon  
TQ1 3DR

Mr T J Crowe  
Designated Premises Supervisor  
The Bierkeller  
7 Braddons Hill Road West  
Torquay  
TQ1 1BG

My ref: R:233350/KJM  
Your ref:  
Telephone: 01803 208025  
Website:  
Date: 6<sup>TH</sup> October 2016

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Dear Mr Crowe

**RE: The Bierkeller, 7 braddons Hill Road West, Torquay, TQ1 1BG**

### **The Licensing Act 2003**

I write further to a meeting with you on Wednesday the 28<sup>th</sup> September 2016 at the above premises. Also Present at the meeting was Julie Smart, Police Licensing Officer for Devon and Cornwall Police. The purpose of the meeting was to introduce ourselves to you and to undertake an inspection following concerns from Police Officers that licensing conditions attached to Premises Licence PL1104 are not being complied with.

Unfortunately at the time of the visit it was noted by Julie Smart that 16 conditions were not being complied with. I refer you to the letter dated 29<sup>th</sup> September 2016 from Superintendent M Lawler which gives a detailed explanation of each condition but I reproduce those deemed not to be complied with which are as follows:-

### **Annex 2**

#### **The Prevention of Crime and Disorder**

1. On the ground floor of the premises alcohol will only be consumed by persons sat at tables and having a table meal at the premises. The upper floor of the premises will be used for the consumption of alcohol by persons who are seated, provided that those persons have just consumed a table meal within the premises.
2. A CCTV system capable of providing images of an evidential standard in all lighting conditions, particularly with regard to facial recognition, shall operate throughout the times the premises are open to the public, with monitors behind all bars and a recording system. All recordings shall be kept for a minimum of 14 days and copies of recordings shall be supplied to the police within 7 days of any request.

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

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

5. The premises shall join the Nitenet Radio System and actively participate in this initiative.
8. A record of all staff training, including copies of all relevant BIIAB certificates, shall be kept at the premises for a minimum period of 12 months and be available to the police or Local Authority Licensing Officers for inspection on demand.
10. Notices regarding the refusal of sale of alcohol to persons who appear drunk shall be prominently displayed at all points of sale on each floor of the premises and at the entrance to the premises, for the attention of all customers.
11. 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.
12. The premises shall maintain a refusals log and record all reasons for refusing entry, and where practical, record details of all persons refused entry. This record 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.
15. The premises shall have a zero tolerance to controlled drugs and have a written drugs policy outlining what action will be taken in respect of individuals found in possession of drugs. A copy of this policy shall be retained on the premises and shall be made available for inspection by a police officer, a police licensing officer or officers of the local authority on demand.
17. The premises shall display clear signage which states when persons under 18 years are permitted on the premises.

#### Public Safety

3. The licensees shall ensure that at all times there are adequate first aid arrangements. The arrangements for first aid provision include a first aid box, an adequate and appropriate supply of first aid equipment and materials to be used by patrons. Suitable protective equipment shall be provided to deal with hypodermic needles, blood spillages and other body fluids. Procedures shall be in place to ensure that body fluids are dealt with in a safe manner to avoid the risk of communicable diseases.
5. CCTV must be in operation in areas not visible from the bar.

#### The Prevention of Public Nuisance

2. All regulated music should be played through a noise limiter which is to be set at a reasonable level as agreed with the local responsible authority for public nuisance; this is to be independently calibrated and copies of reports must be kept on site and available on request by an authorised officer. It shall be sealed in a tamper proof box and adjustments shall only be made with the written permission of the responsible authority for public nuisance.
6. Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.

- 
7. Lobbies shall be constructed and operated in such a way to ensure that if regulated entertainment is being played inside the premises, only one door shall be opened at any one time to prevent noise breakout. These doors shall be fitted with automatic closers.
  11. Suitable signage at exits requesting that patrons make as little noise as possible when leaving the premises shall be displayed.

**The Protection of Children from Harm**

4. The premises shall display clear signage which states when persons under 18 years are permitted on the premises.

Failure to comply with the conditions attached to the licence is a matter the Licensing Authority takes seriously and you could find the licence being subject to a review by Torbay Councils Licensing Committee or enforcement action being taken. A person commits an offence under section 136(1) of the Licensing Act 2003 if he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation. A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to an unlimited fine, or to both.

Council officers and officers of Devon and Cornwall Police will continue to monitor the situation. I strongly recommend you ensure that you comply with the conditions of the licence at all times and provide the Council and the Police at the earliest opportunity the evidence that the 16 conditions are being complied with.

**Should you need to contact us please quote the reference number above.**

Yours sincerely

Mr Karl Martin  
Public Protection Officer  
Licensing and Public Protection

*Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.*

# Agenda Item 7



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Murphy’s Roadhouse, 18 Esplanade Road, Paignton TQ4 6BD**

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub-Committee** On: **3<sup>rd</sup> November 2016**

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

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## 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 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.

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*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 and 2. Only the relevant pages of the application are shown.

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

To remove 30 conditions from the current premises licence and to include 6 new conditions. These are listed in the application form (appendix 1).

To change the plan of the premises. The amended plan is shown as Appendix 2.

- 2.2 A copy of the current premises licence showing the licensable activities, timings, conditions and the plan of the premise is shown at Appendix 3 of this report.

- 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 a relevant Representation has been received from an 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” and “The Prevention of Public Nuisance”. This is shown as Appendix 4 of this report.

It is important to note that the Police only seek to object to the removal of Condition 13 of the current premises licence under the heading, ‘The Prevention of Crime and Disorder’ which states ‘No alcohol shall be consumed in the outside area after midnight’.

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 amended Plan
Appendix 3	Copy of the current Premises Licence and Plan
Appendix 4	Representation from the Police

### **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.





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.

We STEPHEN BUTCHERS + LESLEY BUTCHERS  
(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	PL0876
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Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
MURPHY'S ROADHOUSE 18 ESPLANADE ROAD			
Post town	PAISNTON	Postcode	TQ4-6BD
Telephone number at premises (if any)			
Non-domestic rateable value of premises			

Part 2 – Applicant details

Daytime contact telephone number	0		
E-mail address (optional)	les	com	
Current postal address if different from premises address			
Post town		Postcode	

**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)

CHANGE OF PLAN of PREMISES  
REMOVAL OF SOME CONDITIONS  
ADDITION OF NEW CONDITIONS

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

N/A
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L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5)          <b>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</b> (please read guidance note 6)
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

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.

PLEASE SEE ATTACHED

## **Murphys – Conditions to be Removed**

### **Annexe 2 – Conditions Consistent with the Operating Schedule**

#### **The Prevention of Crime and Disorder**

Condition 1 – The premises shall not have an adverse effect on the crime and disorder objective

Condition 2 – The premises shall promote the crime and disorder objective in accordance with the Section 182 Guidance

Condition 3 – The premises shall operate in accordance with all relevant legislation which promotes the crime and disorder objective

Condition 5 – A proof of age policy shall operate in relation to relevant licensable activities

Condition 7 – Any drinks promotions shall not adversely affect the promotion of responsible drinking

Condition 9 – Staff shall be trained to observe the measures necessary to promote the crime and disorder objective

Condition 13 – No alcohol shall be consumed in the outside areas after midnight

#### **Public Safety**

Condition 1 – The premises shall not have an adverse affect on the public safety objective

Condition 2 – The premises shall promote the public safety objective in accordance with the Section 182 Guidance

Condition 3 – The premises shall operate in accordance with all relevant legislation which promotes the public safety objective including, but not limited to, the Health & Safety at Work Act 1974 and associated regulations, the Food Safety Act 1990, the Regulatory Reform (Fire Safety) Order 2005 and the Disability Discrimination Act 1975

Condition 4 – The premises shall liaise and co-operate with the Responsible Authorities

Condition 5 – A zero tolerance towards illegal drugs shall operate at all times

Condition 6 – Any drinks promotions shall not adversely affect the promotion of responsible drinking

Condition 7 – Customers shall be encouraged to leave the premises in a quiet and orderly manner

Condition 8 – Staff shall be trained to observe the measures necessary to promote the public safety objective

### **The Prevention of Public Nuisance**

Condition 1 – The premises shall not have an adverse effect on the public nuisance objective

Condition 2 – The premises shall promote the public nuisance objective in accordance with the Section 182 Guidance

Condition 3 - The premises shall operate in accordance with all relevant legislation which promotes the public nuisance objective including but not limited to the Environmental Protection Act 1990 and the Noise Act 1996

Condition 4 – The premises shall liaise and co-operate with the Responsible Authorities

Condition 5 – Any drinks promotions shall not adversely affect the promotion of responsible drinking

Condition 6 – Staff shall be trained to observe the measures necessary to promote the public nuisance objective

Condition 7 – The premises shall be adequately ventilated to prevent nuisance

### **The Protection of Children from Harm**

Condition 1 – The premises shall not have an adverse effect on the protection of children from harm objective

Condition 2 – The premises shall promote the protection of children objective in accordance with the Section 182 Guidance

Condition 3 – The premises shall operate in accordance with all relevant legislation which promotes the protection of children objective

Condition 4 – The premises shall liaise and co-operate with the Responsible Authorities

Condition 5 – A proof of age policy shall operate in relation to the relevant licensable activities

Condition 6 – A zero tolerance towards illegal drugs shall operate at all times

Condition 7 – Staff shall be trained to observe the measures necessary to promote the protection of children objective

### **Annexe 3 – Conditions attached after a Hearing by the Licensing Authority**

#### **General**

Condition 3 – The smoking area shall not be brought into use until appropriate stepped access has been provided to the side which abuts the main entrance

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 10)

b) The prevention of crime and disorder

GLASSES WILL BE REGULARLY COLLECTED THROUGHOUT THE PREMISES WHILST TRADING.

PERSONS MUST BE SEATED AT TABLES IN THE OUTSIDE DESIGNATED AREA AFTER MIDNIGHT.

AFTER MIDNIGHT THERE SHALL BE A MAXIMUM OF 40 PEOPLE IN THE DESIGNATED OUTSIDE AREA UNTIL 2 AM.

c) Public safety

d) The prevention of public nuisance

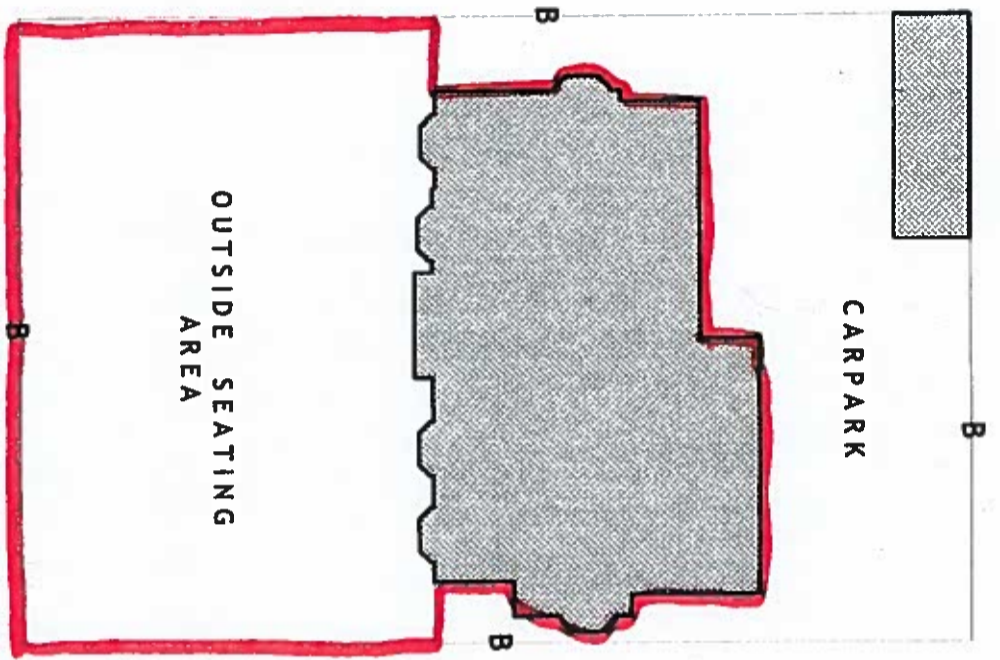
AFTER MIDNIGHT A WRITTEN NOISE MANAGEMENT PLAN FOR THE BEER GARDEN SHALL BE IN PLACE AND KEPT UNDER REVIEW.

e) The protection of children from harm

THE CHALLENGE 25 SCHEME SHALL BE IN PLACE. ANY PERSON WHO APPEARS TO BE UNDER THE AGE OF 25 SHALL BE ASKED TO PRODUCE PHOTOGRAPHIC ID IN THE FORM OF A PASSPORT OR DRIVING LICENCE. NO UNDER 18'S ON THE PREMISES AFTER 21.30 HOURS EXCEPT FOR THE HIRE OF FUNCTION ROOMS FOR PRIVATE PARTIES → THEN TO BE ACCOMPANIED BY A RESPONSIBLE ADULT.

*2 right*

**GROUND FLOOR PLAN**  
@ 1:100



**SITE PLAN**  
@ 1:500

KEY	DESCRIPTION
B	Boundary
EE	Entrance / Exit
SS	Steps / Stairs
WC	Toilet
SC	Self closing fire door
FF	Fired furniture
S	Smoke detector
H	Heat detector
E	Illuminated Emergency Exit Sign
●	Fire alarm call point
⚡	Audible warning
☂	Water fire extinguisher
☒	Dry powder fire extinguisher
☒	Carbon Dioxide Fire Extinguisher

*Whole Area licensed for all  
Licenseable activities*

Revisions

rev	date	description

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

Drawn by-  
JLP

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

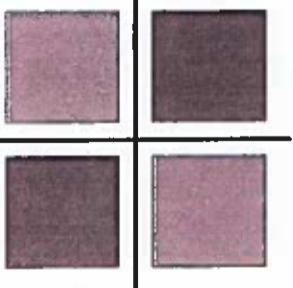
Drawing  
Floor Plans for  
Licensing Purposes

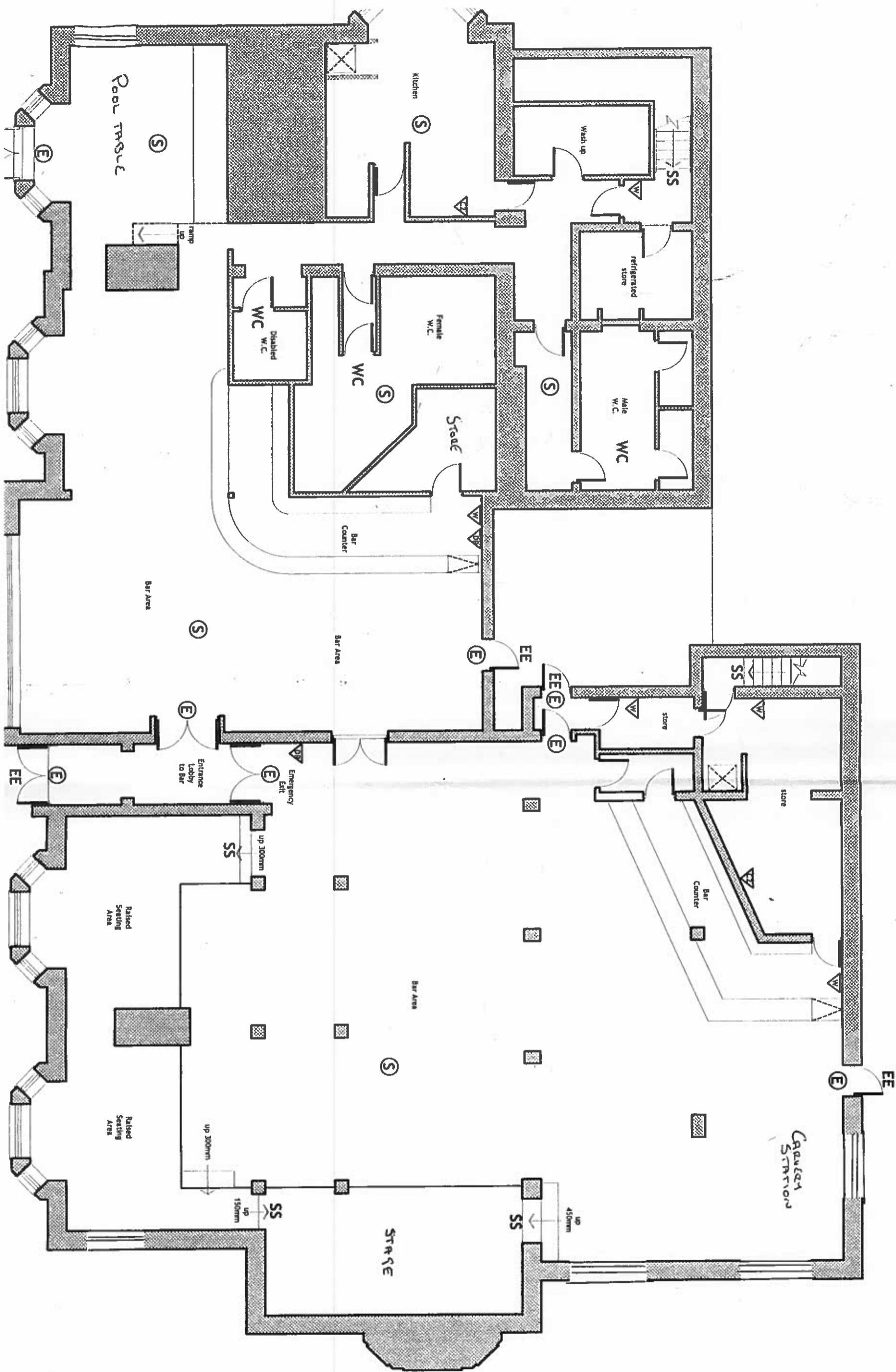
Drawing number.  
**6504 : 01A**

FOR LICENSING PURPOSES ONLY

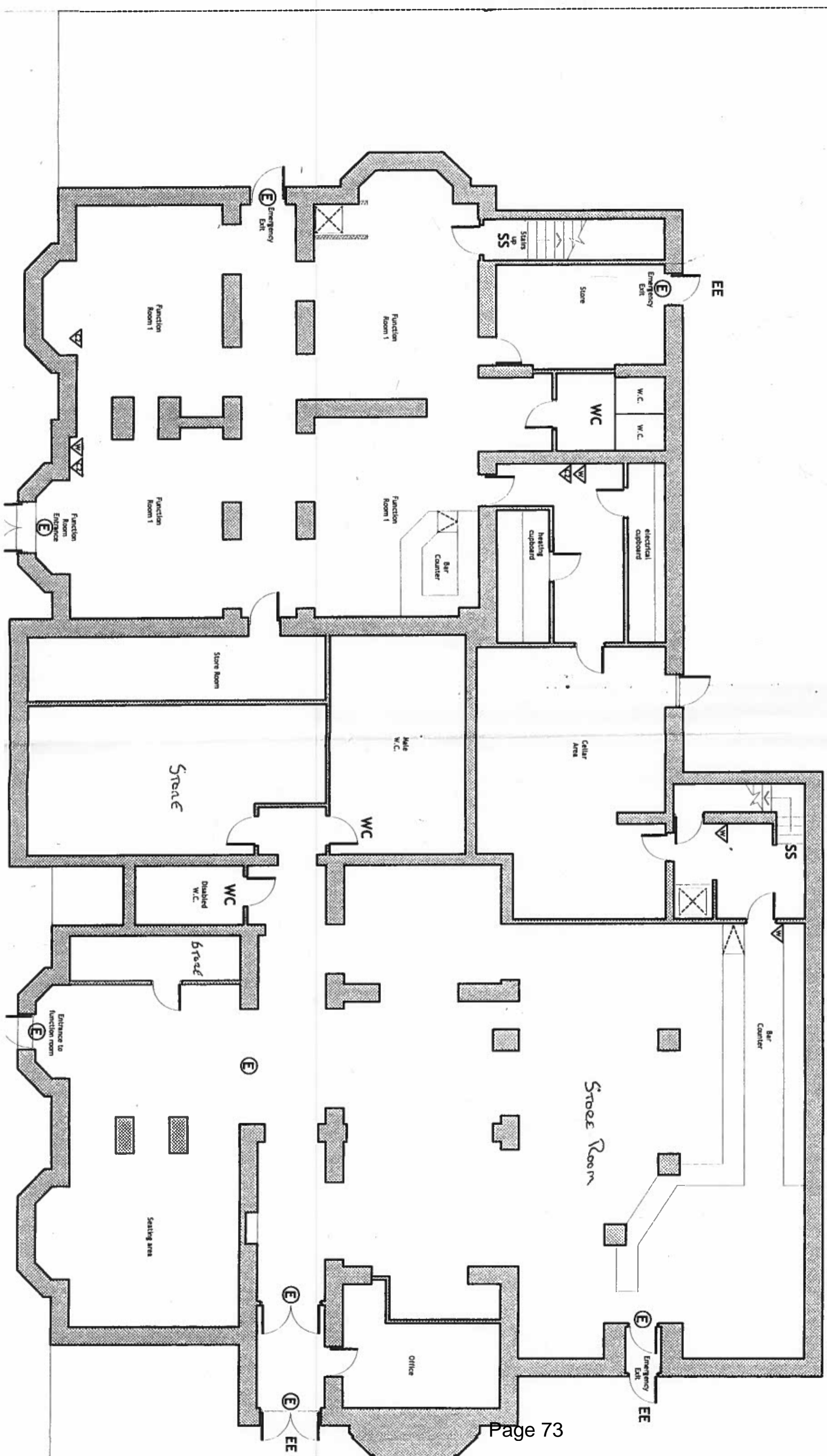
COLIN RITCHIE ARCHITECTS LTD.

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









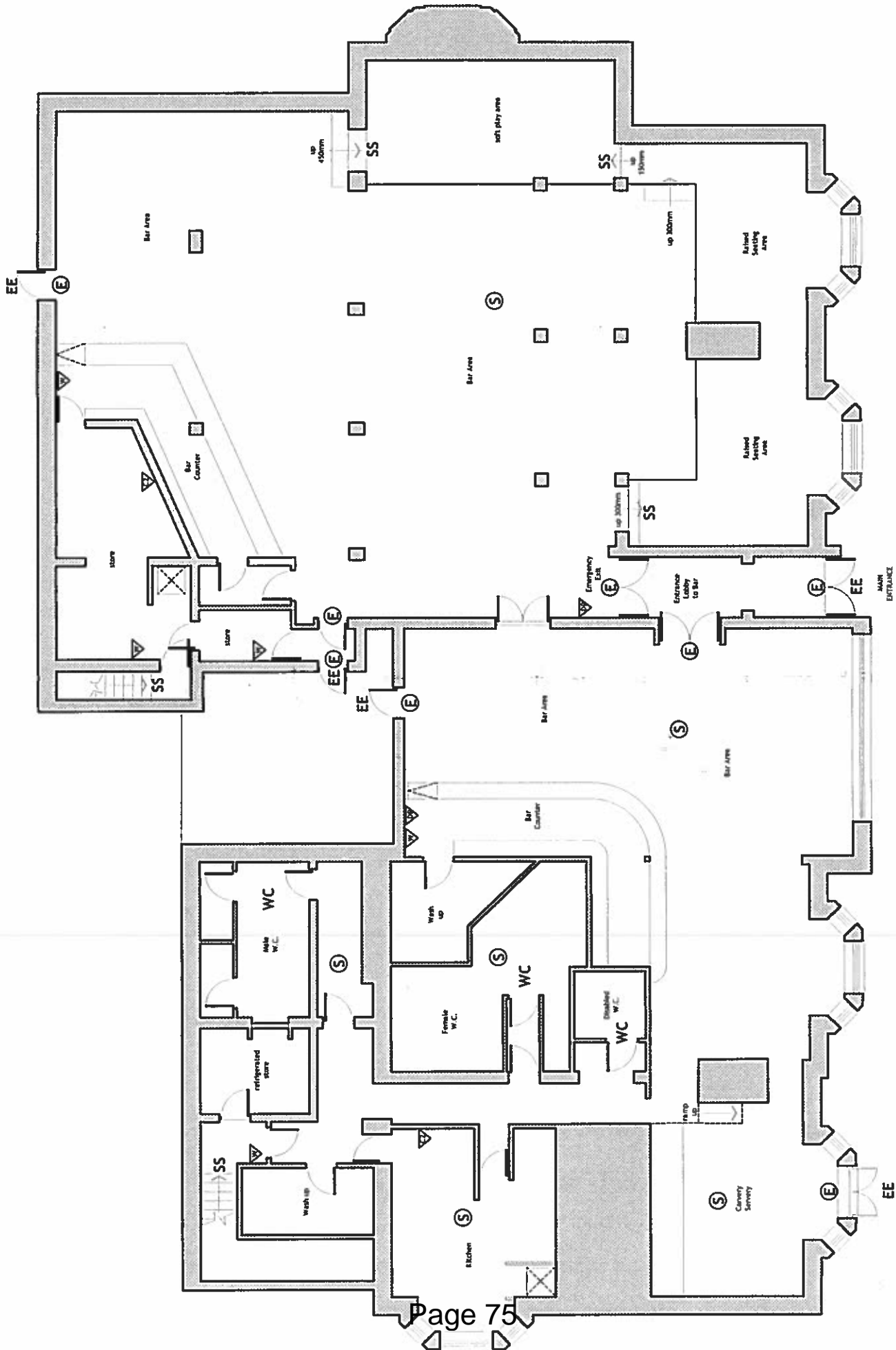
Sheet

Lower Ground Floor Plan

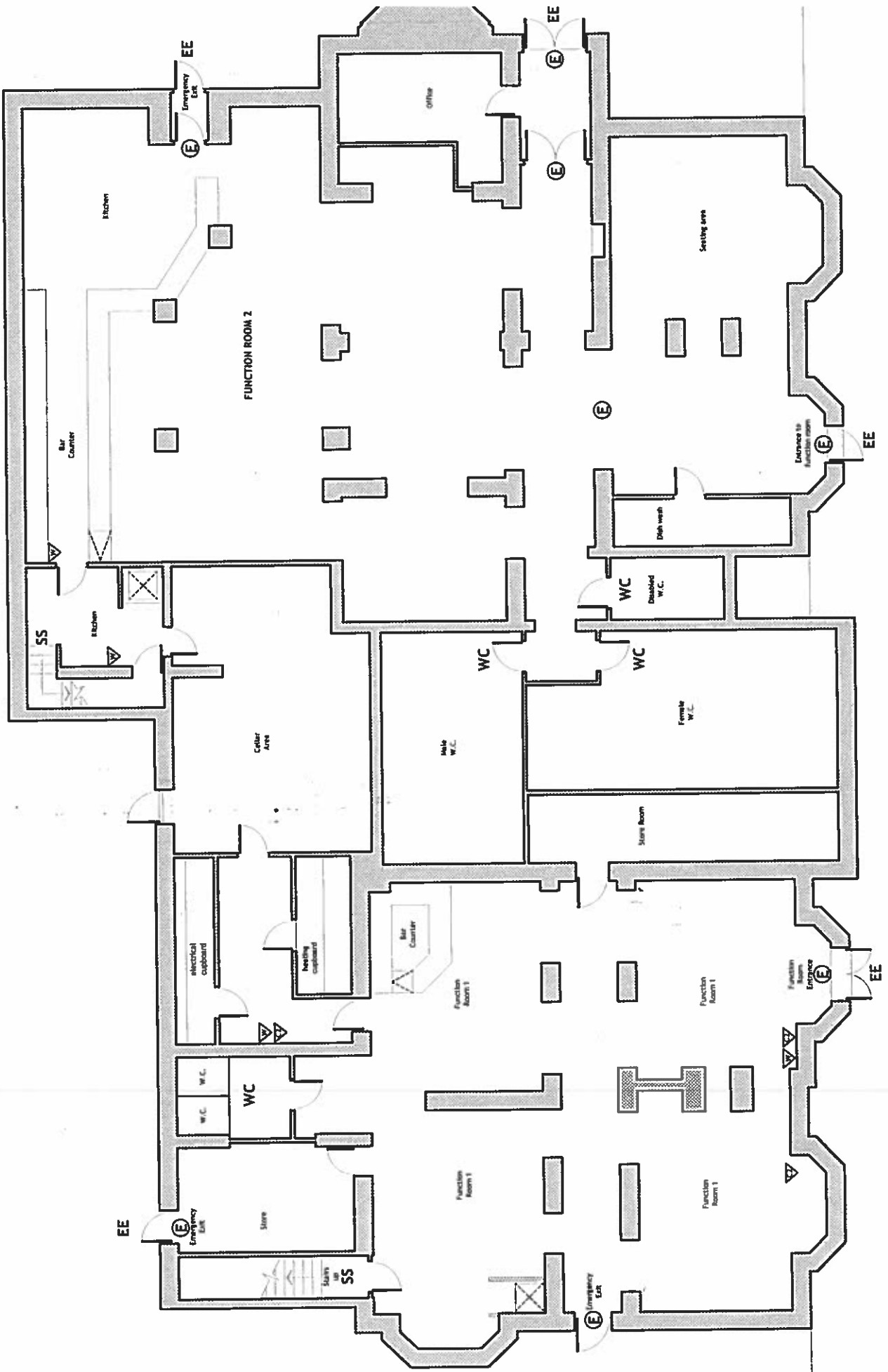
@ 1:100

OUTSIDE SEATING  
AREA

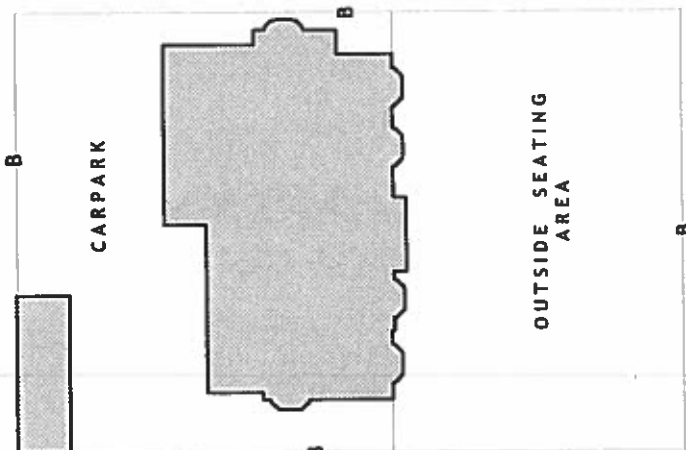
B



GROUND FLOOR PLAN  
@ 1:100



LOWER GROUND FLOOR PLAN  
 4.1.100



*Whole Area licensed for all  
Licenseable activities*

**SITE PLAN  
@ 1:500**

rev	date	description

KEY	Description
B	Boundary
EE	Entrance / Exit
SS	Stairs / Stairs
WC	Toilet
SC	Self closing fire door
FF	Fixed furniture
(S)	Smoke detector
(H)	Heat detector
(E)	Manual Emergency Exit Sign
(C)	Fire alarm call point
(A)	Audible warning
(W)	Water fire extinguisher
(D)	Dry powder fire extinguisher
(V)	Carbon Dioxide Fire Extinguisher

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

Drawn by-  
JLP

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

Drawing  
Floor Plans for  
Licensing Purposes

Drawing number.

**6504 : 01A**

**FOR LICENSING PURPOSES ONLY**

**COLIN RITCHIE ARCHITECTS LTD.**

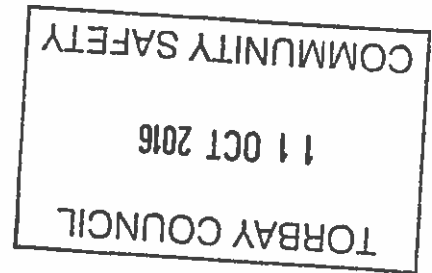
22a VICTORIA PARADE TORQUAY TQ1 2BB  
Tel. 01803 298431 Fax. 01803 200956  
Email. colin@colinritchiearchitects.fsnet.co.uk

# Agenda Item 7

## Appendix 4



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 218964

11 October 2016

Dear Sir/Madam

**Murphy's Roadhouse, 18 Esplanade Road, Paignton TQ4 6BD**

I refer to an application for the Variation of a Premises Licence in respect of the above named premises submitted by Mr Stephen and Mrs Lesley Butchers. For your information, Murphy's Roadhouse currently has the benefit of Premises Licence Number PL0876 issued by Torbay Council.

The premises is situated on Paignton Esplanade and form part of the late night economy so are likely to be subject to alcohol related crime, disorder, anti-social behaviour and public nuisance. Furthermore, the premises is located within an area which comprises of both commercial and residential properties.

The premises are currently licensed for sale of alcohol until 0300 hours, closing at 0330 hours every day of the week. The Premises Licence currently contains a condition that no alcohol shall be consumed in the outside areas after midnight.

This application seeks to amend the layout of the premises, remove some conditions and impose new conditions. The only part of this application that the police wish to object to is the removal of condition 13 under the heading the Prevention of Crime and Disorder that states "No alcohol shall be consumed in the outside areas after midnight". Whilst the police note that additional conditions have been proposed within the application in relation to the removal of this condition, it is the opinion of the police that the applicants have not given sufficient consideration to the likely impact of the removal of this condition.

**Contact the police**

Emergency 999

Non-emergency [www.devon-cornwall.police.uk/reportcrime](http://www.devon-cornwall.police.uk/reportcrime)

101@devonandcornwall.pnn.police.uk 101

Follow us DevonAndCornwallPolice DC\_Police



Whilst I recognise that the Torbay Council Public Protection Officer is the responsible authority for noise issues within Torbay, my officers are frequently contacted by residents in relation to noise issues, our call centre often receives noise complaints when local authority staff are not on duty, and we strive to assist both the local authority and residents wherever possible.

At 0210 hrs on the morning of Sunday 7 August 2016 my Police Licensing Officer, Mrs Julie Smart, was on duty and in the company of Mrs Mandy Guy (Senior Licensing Enforcement Officer of Torbay Council) and Mr Gary O'Shea (Principal Licensing Officer of Torbay Council). At that time they were in an unmarked police vehicle which was parked in Kernou Road, outside the doors to the Spinning Wheel Public House, monitoring noise levels from licensed premises in order to consider the impact of this upon residents in the area. At the time of this visit the Spinning Wheel Public House was closed, there was no background noise in the area and the weather was windy and drizzly.

Mrs Smart states that she witnessed drunkenness and noise issues from Murphy's which she believes was likely to impact on residents. Please find attached notes that Mrs Smart made following this visit.

At the current time all customers drinking outside at this premises must go inside at midnight, thereby minimising any impact of noise nuisance to the residents by limiting this to customers coming and going from the premises or smoking outside. Should this part of the application be granted, what will the impact of an additional 40 persons outside drinking at 2 am have on the residents?

For your information, Murphy's Roadhouse has been a licensed premises for many years and historically there have frequently been noise complaints in relation to this premises. A few years ago, at a time when Mr and Mrs Butchers were not responsible for this premises, the police considered applying for a Review of the licence due to the level of complaints received in relation to anti-social behaviour and noise from this premises. However, this was problematic due to the nature of the premises, as follows. In April/May with warmer evenings and the beginning of the holiday season, the number of persons attending this premises increased and complaints were forthcoming. Numerous meetings were held to address the issues and the premises were monitored throughout the following months. At the end of the summer the police considered that they were almost at the point of requesting a Review, however the weather deteriorated, customer attendance at the premises dropped significantly, the number and frequency of complaints decreased and therefore the police did not feel it appropriate to pursue a Review at that time.

The police therefore requests that the Licensing Committee considers the cyclical nature of this premises when making your decision.

In addition, 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.'*

This premises currently operates until 0330 hours every day of the week. They are now seeking to extend alcohol consumption outside until 0200 hours every day of the week, which carries a significant risk of impacting on the Licensing Objective the Prevention of Public Nuisance. The police do not consider that the applicants have given sufficient consideration to the impact of this matter or proposed satisfactory mitigation measures within their application, and as the premises are located in an area comprising of both commercial and residential properties, the police consider that this paragraph is applicable.

Attached for your information is a document outlining crimes and logs at Murphy's Roadhouse and in Kernou Road since 21 May 2013. Please note that in respect of Kernou Road, the police are not able to state how much, if any, of this is contributed to Murphy's Roadhouse, but it is purely intended to provide the Licensing Authority with an overview of reported incidents at that location.

In conclusion, the police object to the part of this application seeking to allow the consumption of alcohol in the outside area until 2.00 am every day of the week as it is likely to impact on the existing levels of crime and disorder and public nuisance in the area. The police respectfully request that the Licensing Authority refuse this part of the application.

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

Yours faithfully



Superintendent M Lawler  
Territorial Policing & Partnership Department





SharePoint

Newsfeed

OneDrive

Sites

SMART Julie 50403 ▾



Force Licensing Team &gt; Licensing Items – Active &gt; Murphys Paignton

Item Type	Visit - Multiagency
Prem Name	Murphys Paignton
Date Rec'd	10/08/2016
Date Due	
Event Start Date	07/08/2016 02:10
Event End Date	
Submitting Officer	SMART Julie 50403
Applicant Surname	
Applicant First Name	
Proposed DPS Surname	
Proposed DPS First Name	
Prem Street	
Prem District	
Prem Town	Paignton
Prem County	Devon
Prem Postcode	
Premises risk rating	
Hub Location	EAST - Exeter
Logic outcome	Pass
Licensing Office	Torbay
Allocated To	Pete COSBY
Item Report Summary	Multi-agency visit with Mandy Guy and Gary O'Shea
Comments	<p>COSBY Peter 55186 (03/10/2016 10:15):</p> <p>To remain open until decision over application submitted poss objection.</p> <p>COSBY Peter 55186 (19/09/2016 09:59):</p> <p>Joint visit with Local Authorities Thurs 22/9 now Steve and Lesley returned from holiday to discuss outside drinking to 0200.</p> <p>COSBY Peter 55186 (12/09/2016 09:53):</p> <p>9/9 Steve and lesley butcher away on holiday until 15/9. Spoke to bar manager Jack and although nothing officially could be resolved regarding the use of the garden area for consumption, he acknowledged the situation and agreed to draw back the times for the forthcoming weekend and LO to discuss further with DPS on return from holiday.</p>

Any change to the outside area for consumption must be done officially by licence variation.

Other matters were discussed like person possibly still leaving by the side exit as opposed to front esplanade area and during conversation he mentioned that CCTV is due to be increase and cameras will cover blackspot areas. Recent glass incident discussed which stem from spinning wheel late August.

I also discussed report from Licensing Officers late night visit Sat 6 Aug 2016 at 0250 which highlighted the above comments along with excessive drunkenness that was seen by persons leaving premises during this time.

This matter to be discussed with DPS on return from holiday.

COSBY Peter 55186 (09/09/2016 09:16):

Joint authority meeting arranged for 9/9 with Karl Martin Environmental and contents of report to be discussed in detail and rumours that they are using outside garden area and allowing consumption of alcohol until 2am in garden area.

COSBY Peter 55186 (11/08/2016 09:41):

LO in liaison with Karl Martin environmental in relation to conducting a joint visit. Suggested following noise review therefore meeting sometime after tuesday 16/8

SMART Julie 50403 (10/08/2016 12:17):

Parked up outside doors to Spinning Wheel, so about halfway between entrance of Murphy's and Berry Hotel. Murphy's was the only premises open on the sea front. Spinning Wheel was in darkness. Weather had changed from a warm dry evening and it was quite windy and drizzling. Mandy and Gary had the car windows down about an inch. My window was closed. Could not hear any music. A male came out of Murphys garden and vomited over the railings and onto a white van that was parked in Murphys. Another male was encouraging him to be sick and said "Let it all out" in a very loud voice. They went back into the garden area and then left again a bit later being loud, one of them climbed over the wall in Murphy's car park. Saw a couple of taxi's picking people up. When one taxi arrived a group were quite loud trying to deicde who was going in the taxi. 0250 and 0251 saw two lots of 5 people walk past us. They were both quite noisy talking and the second group were singing. One group went down the lane at the back of the Berry Hotel and the other group went along the lane behind Murphy's. There was no sign of any door stewards directing people or asking people to leave the area quietly. We left the area at about 0300 as the lights at the rear of the premises had been turned off and it was quiet

with no further people leaving. We drove around to the front of the premises and could see 2 people still in the front garden area but could not see any door stewards. Saw one person inside but the doors were closed and could not tell if this was a steward.

Whilst monitoring Murphys people could clearly be heard stood chatting and laughing in the front garden area of the premises and we discussed the fact that this would easily have been heard from any residential accommodation in the road at the rear of the premises. In respect of the Berry Hotel, I noted that there were several lights on and at least 3 windows were open.

Visit tasked NO  
LA Time Taken  
LO Time Taken 155  
Item Briefed  
Representation/Objection No  
Hearing No  
Status In Progress

Version 60  
Created at 10/08/2016 12:17 by SMART Julie 50403  
Last modified at 03/10/2016 10:15 by COSBY Peter 55186

Close

**MURPHYS, 18 ESPLANADE ROAD, PAIGNTON, DEVON, TQ4 6BD – PL0876**

**HISTORY OF PREMISES:**

02/08/07	New Application	<p>Application for grant of licence:</p> <p>Opening hours 0700 – 0230 daily  Exhibition of films 1000 – 0200 daily  Indoor sporting events 1000 – 0200 daily  Performance of live music (indoors) 1000 – 0200 daily  Playing of recorded music (indoors) 1000 – 0200 daily  Performance of dance 1000 – 0200 daily  Provision of facilities for making music 1000 – 0200 daily  Provision of anything similar 1000 – 0200  Late night refreshment 2300 – 0200  Sale of alcohol 1000 – 0200</p> <p>All the above with an additional hour for every Thursday, Friday, Saturday, Sunday and Monday for every Bank Holiday Weekend.  An additional hour on 24<sup>th</sup> and 26<sup>th</sup> December  An additional hour on the day that British Summer Time commences</p>
22/10/07	Variation	<p>Opening hours 0700 – 0330 daily  Exhibition of films 1000 – 0300 daily  Indoor sporting events 1000 – 0300 daily  Performance of live music (indoors) 1000 – 0300 daily  Playing of recorded music (indoors) 1000 – 0300 daily  Performance of dance 1000 – 0300 daily  Provision of facilities for making music 1000 – 0300 daily  Provision of anything similar 1000 – 0300  Late night refreshment 2300 – 0330  Sale of alcohol 1000 – 0300</p>

		All the above with an additional hour for every Thursday, Friday, Saturday, Sunday and Monday for every Bank Holiday Weekend. An additional hour on 24 <sup>th</sup> and 26 <sup>th</sup> December An additional hour on the day that British Summer Time commences
09/07/08	Change of Supervisor	
09/09/09	Change of Supervisor	
29/03/10	Transfer	
01/06/10	Transfer	
21/10/10	Internal Amendment/Variation	
19/12/12	Variation application	
21/06/13	Transfer	To Mr and Mrs Butchers, DPS Mr Steven Butchers
21/01/16	New Mandatory Conditions Imposed	

Highlighted text indicates the incident occurred after 2300 hrs

**MURPHY'S ROADHOUSE, PAIGNTON**

**CRIMES AT THE PREMISES SINCE 21/05/13 TO 10/10/16**

1	CR/061030/13	28/09/2013	18:15	28/09/2013	18:30	CRIMINAL DAMAGE TO PROPERTY UNDER £5000 - OTHER
2	CR/070927/14	09/02/2014	01:17	09/02/2014	01:20	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
3	CR/070928/14	09/02/2014	01:25	09/02/2014	01:35	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
4	CR/08040/14	12/04/2014	02:45	12/04/2014	02:50	COMMON ASSAULT
5	CR/051967/14	12/04/2014	02:45	12/04/2014	02:50	COMMON ASSAULT
6	CR/051985/14	15/04/2014	20:00	15/04/2014	20:21	BURGLARY OTHER THAN DWELLING WITH INTENT TO STEAL
7	CR/052002/14	17/04/2014	23:10	17/04/2014	23:20	COMMON ASSAULT
8	CR/064048/14	25/04/2014	23:55	26/04/2014	00:05	THEFT - OTHER - INCLUDING THEFT BY FINDING
9	CR/052074/14	26/04/2014	00:00	26/04/2014	00:30	THEFT - OTHER - INCLUDING THEFT BY FINDING
10	CR/075919/14	25/05/2014	01:10	25/05/2014	01:15	COMMON ASSAULT
11	CR/081863/14	15/06/2014	01:00	15/06/2014	01:00	THEFT - OTHER - INCLUDING THEFT BY FINDING
12	CR/089001/14	11/07/2014	22:30	11/07/2014	22:45	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
13	CR/102769/14	31/08/2014	02:00	31/08/2014	02:00	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
14	CR/120876/14	08/11/2014	22:40	08/11/2014	22:45	COMMON ASSAULT
15	CR/123034/14	08/11/2014	22:45	08/11/2014	22:50	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
16	CR/097382/15	01/02/2015	03:00	01/02/2015	03:15	THEFT - OTHER - INCLUDING THEFT BY FINDING
17	CR/019363/15	22/03/2015	01:30	22/03/2015	03:00	THEFT - OTHER - INCLUDING THEFT BY FINDING
18	CR/047109/15	03/07/2015	23:00	04/07/2015	02:55	THEFT - OTHER - INCLUDING THEFT BY FINDING
19	CR/049356/15	14/07/2015	20:30	14/07/2015	21:00	USE THREATENING / ABUSIVE / INSULTING WORDS / BEHAVIOUR WITH INTEN
20	CR/060198/15	26/08/2015	18:50	26/08/2015	19:00	COMMON ASSAULT
21	CR/080883/15	21/11/2015	01:15	21/11/2015	01:30	COMMON ASSAULT
22	CR/016801/16	14/03/2016	18:00	14/03/2016	18:55	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
23	CR/016803/16	14/03/2016	18:00	14/03/2016	18:55	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
24	CR/051028/16	23/07/2016	22:15	23/07/2016	22:35	WOUND / INFLECT GRIEVOUS BODILY HARM WITHOUT INTENT

Highlighted text indicates the incident occurred after 2300 hrs

LOGS AT THE PREMISES SINCE 05/07/16 – Logs before this date could not be viewed, in addition there were 2 other logs that could not be viewed due to the security rating of them

DATE	TIME	LOG NO	DAY	DESCRIPTION OF INCIDENT
16/06/13	01:59:00	0144	Sun	Male detained by door staff. Male detained on the floor of the beer garden being very aggressive. Male spoken to walking up the Esplanade, no offences and no complaints forthcoming.
05/07/13	22:21:59	1020	Fri	Caller states very loud music coming from premises. Unbearable tonight. The situation has been made worse by the fire doors all being open which he believes is illegal. On-going issues which he is pursuing with Licensing/EHO and Chief Constable.
22/08/13	00:41:27	0025	Thurs	Report of an assault. Police attended. Two casualties here, both very much in drink. One was unconscious on arrival, the other lapsed into unconsciousness shortly thereafter, both have now come round. Area search for offender. The offence occurred outside Shoreline Restaurant. There are spots of blood on the floor at this location. FP 13/02761 refers.
29/09/13	00:11:10	0019	Sun	Report that security at premises have two males detained and struggling to hold them. Male and female refused entry. Male got put on backside by doorstaff and female not happy with this. Both issued Section 27 s.
09/11/13	03:20:47	0127	Sat	Male alleging he was assaulted by door stewards at premises. Contact made with caller the following day and he said he didn't want to make a complaint and now considers this to be a lawful ejection not an assault.
18/11/13	18:20:55	0608	Mon	Male saying he has got a knife and murdered his mother. Walking towards Adelphi Road towards the car park. Area search, male not located. CCTV provided by premises.
28/11/13	21:59:17	0837	Thurs	Male person reported that whilst setting up the band they could hear loud bangs from the flat upstairs and then went quiet. Flat appears in darkness and blind appears to be hanging off but it was not like that half an hour ago. Concerned for welfare. No units available.
30/11/13	02:45:28	0096	Sat	Female assaulted staff at premises. Female was put into a taxi and left area. Spoke to staff and there were no offences. She was just being gobby and trying to push past staff. No complaint from any of the staff.
25/12/13	02:39:08	0131	Wed	Report of a customer refusing to leave. He keeps trying to fight people and falling over. Currently laying on the floor. They cannot get him to leave. Further call from reporting person indicating the male was been successfully ejected but is walking up the road and continuing to cause trouble. Male

Highlighted text indicates the incident occurred after 2300 hrs



							then caused damage in premises and door staff were trying to stop him leaving. Unit attended. Male was outside, purely passive resistance, no offences, no damage caused. Male walked off of his own accord.
10	09/02/14	01:27:13	0089	Sun			Ambulance service reporting alleged assault. 21 year old male alleging assault at hands of a doorman, allegation of punching to the ear. Male taken to hospital. FP/14/00486 refers
11	12/04/14	02:57:45	0119	Sat			Female detained for assault. FP/14/01197 refers
12	17/04/14	23:14:24	0967	Thurs			Report of angry males smashing glasses. Males are still on scene and it is heated argument. The lads have been told there is no more drink and they have started to smash glasses. They have spat at and hit the male here and he wants to make a complaint. Dealt with by restorative justice (apology and payment for damage). FP/14/01260 refers
13	17/04/14	23:12:13	0934	Thurs			Male reporting a fight. Cannot say how many involved, just a bunch. Reporting person says they are 17 years of age. Linked to log 0937 of same date
14	18/05/14	15:29:08	0575	Sun			Reporting person stated he was sat on the green by the sea front minding his own business, 2 males approached, one picked up his bag and they both ran off towards town centre. CR/074942/14 refers.
15	18/05/14	01:00:06	0078	Sun			Male detained for assault. Log updated "Not as first reported. Male has tried to gain access to the premises, they have touched via an arm only after doorstaff tried to block his way. Doorstaff have signed PNB (pocket note book) to that effect
16	16/06/14	02:04:56	0050	Mon			Male reported a fight in progress. 1 or 2 people involved. Caller stated he had been assaulted, lots of shouting from a female could be heard in background. Caller then said that someone had a knife. Police attended and spoke to caller who said he had witnessed someone being ejected and called on her behalf. He did not mention anything about a knife. Log updated 'Not as first reported. Female ejected from licensed premises. R/P made allegations of a knife to get officers there sooner'
17	11/07/14	22:56:23	1073	Fri			Staff reported premises had detained a male for assault, currently being restrained on the floor. CR/089001/14 refers.
18	20/07/14	18:36:35	0830	Sun			Staff at premises reported suspected drink driving. 3 very intoxicated males got into vehicle after being ejected.
19	02/08/14	21:37:09	0962	Sat			Male reported a DJ unit outside premises but still within premises perimeter. EHO advice given and details to be given to Licensing.
20	14/08/14	02:06:58	0071	Thurs			Staff reported 2 males refusing to leave. Both males out the front causing problems and threatening to take on door stewards. Officers dealt with matter and ensured they clear the area.
21	28/09/14	01:47:30	0137	Sun			Reporting person said there was a fight outside premises, then he said that bouncer had sorted it. One was sent off one way and the other was sent the other way. Officer liaised with door staff who

Highlighted text indicates the incident occurred after 2300 hrs

					stated a disagreement occurred between family members. Over very quickly and each party went their separate ways.
22	10/11/14	20:13:53	0683	Mon	Report of assault. Female was told to leave premises because of her language but she then started to kick off. Other male has left. Officers attended. Female very drunk and vulnerable. Log updated "I don't believe she has been assaulted and she has in fact fallen down the stairs".
23	03/02/15	23:50:41	0814	Tues	Ambulance Service contacted police re 75 year old drunk male. Male was becoming abusive and rude and he is a vulnerable adult. Officers attended and male left to go home.
24	11/02/15	04:53:10	0067	Wed	Report of premises still playing music. Caller thinks they have a licence until 0600 hrs only. He is trying to sleep but can't. Male requested an officer attend and find out what's going on. No units available. EHO advice given.
25	07/09/15	02:06:12	0086	Sat	Male reported that drug taking is going on in toilets of premises. Allocated to Neighbourhood Team.
26	15/04/15	20:21:34	0698	Tues	Male detained having broken into rear and attempting to steal alcohol. FP/14/01234 refers.
27	29/04/15	19:54:16	0652	Wed	Report of 2 males refusing to leave. Log states "The 2 males are down on business. They are naturally loud. Suitable advice given"
28	02/05/15	01:10:32	0043	Sat	Call received from Mrs Butchers. She said that 7 males had been ejected and they are outside and kicking off. Noise clearly heard in background. Officers attended but males had left area.
29	26/05/15	21:52:53	0817	Tues	Anonymous call. Big group just about to kick off outside. Officer updated log that "nothing going on here, they thought a fight was going to occur due to size of group but they have disbanded in different directions"
30	30/05/15	15:29:19	0509	Sat	Staff at premises called police and stated "Police and ambulance attended earlier for this male as he was passed out and then became abusive. He has returned and is in car park at the rear and will not leave. Male has been causing problems for last 4 hours". Male arrested for breach of peace.
31	30/05/15	13:57:43	0433	Sat	Ambulance service reported that a crew were on scene with a male thought to be under the influence of either drink or drugs. Male not compliant and appears to be intent on driving from scene. Male refused to go to hospital and was advised not to return to premises. Linked to log 0509 of same date.
32	20/06/15	02:09:31	0079	Sat	Call re very distressed female outside of premise. She is homeless, upset and crying.
33	02/07/15	01:34:32	0050	Thurs	Male refusing to leave. Unit attended. Log states "Male being taken home. He is very drunk again. Will go around tomorrow and issue him with a PND"
34	04/07/15	02:59:32	0150	Sat	Reporting person stated female has stolen her items. CR/047/109/19 refers.
35	14/07/15	21:34:10	0860	Tues	Reporting person stated there are 2 males who have assaulted him. He believes incident is related to a fatality that occurred 3 months ago. The 2 males are currently around the corner and requested a

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						unit attend. Male left area and then rang police to say the 'offenders' were in another licensed premises and he wants them arrested for threatening his life.
36	14/07/15	20:55:54	0826	Tues		Telephone call from male demanding a unit is sent as 2 males are making threats towards him – linked to log 0860 of same date. Reporting person stated that the males had thrown a glass at a member of staff. No units available to attend. CR/049356/16 refers.
37	23/08/15	01:04:41	0067	Sun		Alarm going off
38	04/09/15	22:18:08	0823	Fri		Noise complaint. Reporting person stated that is a lot of loud music coming from premises. They have currently having some building work which has made the music louder than usual.
39	11/09/15	22:49:56	0884	Fri		Noise complaint. Loud music coming from premise. They have building work going on. Last 2 weeks music noise has been escaping out of windows that are not fitted property and it's very loud. PCSO is aware and visited premise last week which helped a bit, last week wasn't as loud and didn't last so long. Reporting person indicated that premises has a licence until 3.00 am and hotel and guests are paying to listen to this and not getting any sleep. Telephone operator indicated music could be heard on the line and it is extremely loud.
40	14/03/16	18:57:14	0721	Mon		Male and female alleging they had been assaulted and were refusing to leave premises. Unit attended. CR/0168901/16 refers.
41	16/04/16	03:35:58	0133	Sat		Member of public reported that they have taken female victim into premises to protect her from a male outside who was beating her up. Unit attended and male arrested CR/024261/16 refers
42	11/06/16	13:57:20	0489	Sat		Report of unlicensed door staff on duty. Police unit did not attend.
43	16/06/16	01:16:03	0085	Sun		Report of assault on female. One female detained for common assault. CR/075919/14 refers.
44	23/07/16	22:38:00	1112	Sat		Mrs Butcher contacted police re a male who ran into the premises covered in blood and said he had been assaulted. Male went and got his friends and Lesley concerned that it may 'kick off outside' and concerned as children were in the premises. Officers attended, no offences disclosed, persons dispersed.
45	23/07/16	22:37:38	1110	Sat		Member of staff at premises contacted police requesting emergency assistance – linked to above log.
46	23/07/16	22:38:00	1112	Sat		Caller reported a male at the location with his mouth covered in blood. Said he had been assaulted. He has now gone to get his friends and they are all piling into the pub. All outside looking like it might kick off. Caller had children at the pub and was concerned. Unit attended. No offences, persons thinned out.
47	28/08/16	14:46:07	0582	Sun		Email complaint received from resident concerning premises playing loud music after 2300 hrs on the Friday and Saturday evening. Complainant indicated that they were in Adelphi Road, Paignton.

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48	24/09/16	01:09:26	0060	Sat	Call received from ambulance service. 20 yr old male broken nose and was knocked out by a group of youths. Ambulance enroute. On police arrival no one there but door stewards confirmed the matter had been dealt with. Unit attended hospital and spoke to aggrieved. Log indicates that this assault may not have occurred at Murphys. OR/068851/16 refers.
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CRIMES IN KERNOU ROAD, PAIGNTON BETWEEN 21/05/13 AND 10/10/16

1	CR/060596/13	23/08/2013	14:00	23/08/2013	14:20	COMMON ASSAULT
2	CR/060704/13	28/08/2013	17:00	28/08/2013	18:00	RACIALLY/RELIGIOUSLY AGGRAVATED HARASSMENT/ALARM/DISTRESS
3	CR/060779/13	08/09/2013	03:00	08/09/2013	03:05	FAIL TO PROVIDE SPECIMEN FOR ANALYSIS - VEHICLE DRIVER
4	CR/125532/13	07/09/2013	22:05	07/09/2013	22:12	USE THREATENING WORDS / BEHAVIOUR TO CAUSE HARASSMENT ALARM
5	CR/125533/13	08/09/2013	00:25	08/09/2013	00:30	DRUNK AND DISORDERLY IN A PUBLIC PLACE
6	CR/033418/14	16/02/2014	23:00	16/02/2014	23:15	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
7	CR/110999/14	28/09/2014	01:00	28/09/2014	01:30	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
8	CR/007668/15	02/02/2015	19:33	02/02/2015	20:05	DRUNK ON A HIGHWAY / IN A PUBLIC PLACE / ON LICENSED PREMISES
9	CR/021456/15	29/03/2015	11:00	29/03/2015	12:00	ROBBERY
10	CR/027450/15	23/04/2015	01:00	23/04/2015	01:15	DRUNK AND DISORDERLY IN A PUBLIC PLACE
11	CR/030079/15	29/04/2015	20:30	29/04/2015	21:00	AFFRAY
12	CR/008426/16	06/02/2016	23:50	06/02/2016	23:57	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
13	CR/008767/16	06/02/2016	23:50	06/02/2016	23:57	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
14	CR/008768/16	06/02/2016	23:50	06/02/2016	23:57	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM
15	CR/033566/16	23/05/2016	12:22	23/05/2016	12:22	USE THREATENING/ABUSIVE/INSULTING WORDS/BEHAVIOUR
16	CR/055936/16	13/08/2016	00:30	13/08/2016	00:44	SECTION 18 - GRIEVOUS BODILY HARM WITH INTENT
17	CR/068351/16	24/09/2016	00:00	24/09/2016	01:09	ASSAULT A PERSON THEREBY OCCASIONING THEM ACTUAL BODILY HARM

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LOGS IN KERNOU ROAD, PAIGNTON BETWEEN 21/05/13 AND 10/10/16

DATE	TIME	LOG NO	DAY	DESCRIPTION OF INCIDENT
06/08/16	04:31:09	0196	Sat	Vehicle on fire. Appears it has been involved in a heavy collision.
16/07/16	03:30:27	0161	Sat	Caller alleging he has just been assaulted. Is bleeding from head and has a lump on top right of head. Suspect has fled. Caller stated he would wait outside the Spinning Wheel. Caller stated he was sat on the floor and feels sick. CRV/048518/16 refers.
07/09/15	23:19:48	0926	Mon	Amb currently at scene treating a female who has been assaulted by her husband. Unit attended. CCTV viewed which shows she has not been assaulted but fell over whilst drunk.
02/02/15	21:37:06	0728	Mon	Caller is a support worker based in Wakefield. One of their service users has called him to say he is currently outside Murphys Pub in Paignton. Concern for welfare of vulnerable male. Unit attended Murphy's and provided assistance to male by organising overnight accommodation.
14/01/15	19:42:03	0681	Wed	Vehicle blocking the road. Resident unable to gain access to property.
26/10/14	19:22:01	0779	Sun	Caller not familiar with area but believes she is in Beach Road and can hear a female shouting "Get off me" in the road behind. Abandoned call received from female in Kernou Road. Unit attended.
12/08/14	14:15:35	0429	Tues	Fight in service lane between Torbay Road and Kernou Road.
09/08/14	20:05:28	0847	Sat	Report of an assault. Male with no shirt on accompanied by another male running down alley. Caller is a witness. Unit attended.
27/07/14	01:39:36	0164	Sun	Caller reported a fight just about to kick off approx 15 people. Location given as Victoria Car Park. Unit attended, no one there.
21/02/14	22:25:38	0877	Fri	Caller states there's a male covered in blood. Operator can hear commotion in background. Caller does not know what's happened, but possible altercation with a bouncer. Ambulance requested. Unit attended and spoke to door staff and manager of Spinning Wheel. CCTV viewed. Lawful ejection.
25/12/13	22:41:26	0539	Wed	Caller who lives in Esplanade Road stated not sure what's going on but lots of shouting and screaming in road. Log closed as this was matched with another log for Esplanade Road.
08/09/13	03:05:34	0147	Sun	Door stewards of Spinning Wheel detained male believed to be drink driving. Crime FP/13/3005 refers.
23/08/13	15:04:09	0513	Fri	Caller asked male to move as he was blocking driveway to her property. Driver got out and smalled the door into her and hit her.
16/08/13	10:13:35	0269	Fri	Damage to vehicle occurred between 1100 and 1545 hrs on 05/08/13.

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