

LICENSING ACT 2003

APPLICATION FOR THE REVIEW

OF A PREMISES LICENCE OR

CLUB PREMISES CERTIFICATE

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)

Torbay Council

Community Safety

C/O Torquay Town Hall

Castle Circus

Torquay

TQ1 3DR

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk

FORM J



**Application for the review of a premises licence or club premises certificate
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I Stuart Gibbons & Daniel Burridge

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

**Rock Garden
40 - 45 Swan Street**

Torquay

TQ2 5ES

Mr D Walsh

PL 0576

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete [A] or [B] below)

✓

2) a responsible authority (please complete [C] below)

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

Gibbons

First names

Stuart

Please tick ✓ yes

I am 18 years old or over

Current postal address if different from premises address

[REDACTED]

Post town

Torquay

Post Code

[REDACTED]

Daytime contact telephone number

[REDACTED]

E-mail address (optional)

[REDACTED]

(B) DETAILS OF OTHER APPLICANT

Name and address

Mr D Blake

[Redacted address]

Telephone number (if any)

[Redacted telephone number]

E-mail address (optional)

[Redacted e-mail address]

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

Our grievance is under the licensing objective which relates to :-

THE PREVENTION OF PUBLIC NUISANCE

Please provide as much information as possible to support the application (please read guidance note 3)

The applicants have submitted in excess of 100 noise recordings since 11th July 2020, via the council's mobile application for submitting noise complaints (The Noise App). The complaints are in reference to the levels of noise emanating from the premises known as Rock Garden, 40-44 Swan Street, Torquay TQ2 5ES (Licence: PL0576).

Since the premises reopened on the 4th July 2020, the applicants have been subjected to excessive noise from the garden area of the above premises, whilst inside their residential homes. The noise ranges from loud voices, shouting, screaming and high levels of profanity, which the applicants believe is unreasonable.

A review of premises licence was conducted in 2014, under the prevention of public nuisance. Following the subsequent hearing, several additional conditions were attached to the premises licence to try and mitigate the noise emanating from the premises, in particular from the outside garden area.

The applicants accepted the outcome of the review in 2014, which reduced the hours permissible for the use of the garden, however, the noise levels continue to persist while the garden is in use.

Subsequent to these conditions being attached to the licence, the premises appears to have pursued a policy of applying for Temporary Event Notices (TENs) for extended opening hours in the garden, covering virtually every weekend throughout the Spring, Summer and into Autumn. Effectively, these TENs were circumventing the conditions attached at the earlier review. As neighbours, there was no notice of the intention to apply for the TENs received from the licensed premises or its designated premises supervisor and the understanding is that as neighbours there was no right of appeal the issuance of these TENs.

In December 2019 the premises applied to have some of the conditions attached from the previous review in 2014 removed, most notably to be permitted to utilise the garden up to 23:00, 7 nights per week. The applicants were disappointed with the removal of these conditions, as the premises continues to fail to control its patrons or take responsibility for the noise emanating from their premises.

Prior to the outside garden being built, the applicants had never raised any issues relating to noise emanating from the venue at 40 - 44 Swan Street under any of its previous owners, or indeed, a night club venue directly adjoining their homes. The problem of noise has arisen, and persisted since the garden was built by the current landlord of the premises, sometime between 2011 and 2013. This would appear to suggest that the outdoor space is not suitable for a premises licence due to its vicinity to the residential street and dwellings adjacent to the licensed premises.

Please tick ✓ yes

Have you made an application for review relating to the premises before



If yes please state the date of that application

Day Month Year

? / 11 / 2014

If you have made representations before relating to the premises please state what they were and when you made them

Noise diaries submitted to Torbay Council dating back to 2013.
Applied for a Licence Review which was conducted in November 2014.

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

Form is submitted electronically. Therefore will be forwarded to relevant authorities by Torbay Council



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

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature  Also signed on behalf of D Burrige & D Blake

Date 20th September 2020
.....

Capacity Applicant
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.