

In the Torquay Magistrate's Court

**Ross Hennessey
Hennessey's Cocktails**

Appellant

-v-

Torbay Council

Respondent

Draft Consent Order

1. On 24th June 2021 the Licensing Committee of Torbay Council resolved to revoke the Premises Licence for the Appellant's premises known as Hennessey's Cocktails, 2 King Street, Brixham.
2. On 29th July 2021 the Appellant served a Notice of Appeal upon the Respondents for an appeal against revocation to be heard at Torbay Magistrates' Court. The Appeal is due to take place on ****
3. By way of consent, and as an alternative to the Appeal hearing, the parties hereto agree that:
 - Upon the Appellant transferring both:
 - i. the Premises Licence and
 - ii. the post of Designated Premises Supervisor to an approved and appropriate Licensee, then
4. The Respondent will agree to withdraw any opposition to the Appeal, thereby enabling the said Premises Licence to continue undisturbed, subject also to the Premises Licence being modified to include the following conditions:
 - 1) Mr Ross Hennessey, the previous Premises Licence Holder and Designated Premises Supervisor, be prohibited from entering the premises during operational hours.
 - 2) Mr Ross Hennessey, the previous Premises Licence Holder and Designated Premises Supervisor, shall not be involved in or influence the operation of these premises.
 - 3) The premises shall install, operate, and maintain comprehensive digital colour CCTV.
 - 4) All public areas of the licensed premises including entry and exit points will be covered by CCTV, including any outside areas under the control of the premises licence holder.
 - 5) The CCTV system must record clear images permitting the identification of individuals, enable facial recognition images (a clear head and shoulder image) of every person entering and leaving, in any light condition.

- 6) The CCTV system will continually record whilst the premises are open for licensable activities, at all times when customers remain on the premises and for 30 minutes after closing.
- 7) All CCTV equipment must have a constant and accurate time and date generation.
- 8) All CCTV recordings will be stored for a minimum period of 28 days with date and time stamping.
- 9) Viewable copies of CCTV recordings will be provided on request to the Police or Local Authority Officers as soon as is reasonably practicable and in accordance with the Data Protection Act 2018 (or any replacement legislation).
- 10) A staff member who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open; and this staff member must be able to provide an authorised officer of a responsible authority, copies of recent CCTV images or data with absolute minimum delay when requested, in accordance with the Data Protection Act 2018 (or any replacement legislation).
- 11) The CCTV system will be capable of downloading images to a recognisable viewable format.
- 12) Security measures shall be in place to ensure the integrity of the CCTV system, to prevent the tampering with or deletion of images.
- 13) Any identified defect in the CCTV system shall be logged at the premises and remedied as soon as reasonably practical.
- 14) The Police Licensing Officer or Police Licensing Team shall be notified by email of all defects in the CCTV system, the action required to rectify the situation and the time frame for such action, within 24 hours of the defect being identified.
- 15) After the premises close, staff and door stewards shall ensure that customers leave the area in a quiet and orderly manner.
- 16) All staff shall receive training regarding their responsibilities under the Licensing Act at the commencement of employment, with refresher training being provided at least once a year.
- 17) Records of all training shall be maintained and kept at the premises for a minimum period of 12 months.
- 18) Training records shall be made available to the Police or Local Authority Licensing Officers for inspection on demand.
- 19) Challenge 25 posters shall be prominently displayed within the premises.
- 20) Litter left outside the premises by customers, such as cigarette ends, shall be cleared by staff on a regular basis, at least once daily.
- 21) The exemptions under the Live Music Act 2012 shall be repealed in respect of these premises.
- 22) There shall be no Live music or DJ's mixing pre-recorded music inside or outside the premises at any time, including public holidays.
- 23) Recorded music shall be permitted inside the premises only.
- 24) Recorded music shall be permitted from 9.00am to 11:00pm, 7 days a week.
- 25) The volume of recorded music must not be audible above background levels at 5m or more from the frontage of the building.
- 26) The Premises Licence Holder shall maintain a written noise management plan which must include procedures for but not limited to: -
 - a. Noise Management Policy
 - b. Arrangements and procedures to ensure the noise limited is used and maintain.
 - c. List of PA equipment used.

- d. Records of complaints from residents or business.
 - e. Relevant staff/SIA noise monitoring log sheets.
 - f. Procedures for ensuring windows and doors are closed during regulated entertainment.
 - g. Employee/SIA staff training records and procedures in relation to noise management.
 - h. Procedures for monitoring and controlling noise from customers using the outside designated smoking area.
 - i. Dispersal policy.
- 27) A noise limiter shall be installed and used at the premises, with set levels agreed by Torbay Council's Licensing Team.
 - 28) The noise limiter shall be made tamper proof and any adjustments to sound levels, shall only be made in consultation with the Responsible Authority for public nuisance.
 - 29) There shall be no alterations or modifications to the existing PA system.
 - 30) Any structural changes to the premises must not take place without written approval from Torbay Council's Licensing Team.
 - 31) The main entrance must be installed with a suitable and sufficient secondary door to form a lobby. The lobby must be installed by the 30 April 2022.
 - 32) The written Noise Management Plan must contain procedures to ensure the lobby is used effectively, to reduce noise outbreak emanating from the premises.
 - 33) Windows shall be kept closed during regulated entertainment.
 - 34) After 10.00pm the designated smoking area shall permit no more than 6 patrons at any one time.
 - 35) After 10.00pm the designated smoking area shall be monitored at all times, by either an SIA door steward or a member of staff, to ensure that patrons using the area do not cause a nuisance to nearby residents.
 - 36) When off-sales are purchased from the premises, staff shall advise customers that the alcohol should not be consumed within the Public Space Protection Order area and refer them to the Public Space Protection Order map.
 - 37) A map of the Public Space Protection Order area shall be displayed in a prominent position close to the point of sale and the premises exits.
 - 38) Prominent, clear, and legible notices shall be displayed at all exits requesting the public to respect the needs of nearby residents and to leave the premises and the area, quietly.
 - 39) The placing of refuse such as bottles into receptacles outside the premises, must not take place before 8pm Mon-Sat and 9pm Sun and not later 10pm on any day.
 - 40) Patrons shall be asked not to stand around talking in the street outside the premises and shall be asked to leave the vicinity quickly and quietly.
 - 41) On calling last orders and at the end of regulated entertainment, an announcement shall be made requesting patrons to leave the area as quickly and quietly as possible.
 - 42) The Premises Licence Holder shall ensure that staff leaving the premises after the premises has closed, will conduct themselves in a manner as not to disturb nearby residents.
5. By way of consent, the parties hereto agree, that conditions set out in Annex 2 and 3 of the current Premises Licence, under the heading Prevention of Public Nuisance, shall be removed.

Dated this day of October 2021

Ross Hennessey – Appellant

Torbay Council – Respondent