

FORM J

App 035333

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:

Principal Safety & Licensing Officer
Torbay Council
Environmental Health and Community Safety
Roebuck House
Abbey Road
Torquay
TQ2 5EJ

Contact Details:

Tel: 01803 20 8126

Web: www.torbay.gov.uk

Fax: 01803 20 8854

**Email:
licensing@torbay.gov.uk**

**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

Postal address of premises or, if none, ordnance survey map reference or description Rock Garden 40-42 Swan Street	
Torquay	TQ2 5ES

Name of premises licence holder or club holding club premises certificate (if known) Halix Ltd The Royal Exeter Hotel, Exeter Road, Bournemouth, BH2 5AG

Number of premises licence or club premises certificate (if known) PL0576

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises

- 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

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

Post town

Torquay

Post Code

TQ2 5SP

Daytime contact telephone number

01803 201401

E-mail address
(optional)

steamerquay@gmail.com

(B) DETAILS OF OTHER APPLICANT

Daniel Burrige
Flat 3 Steamer Quay
Rock Road
Torquay
TQ2 5SP

Tel 01803201401

E-mail steamerquay@gmail.com

(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

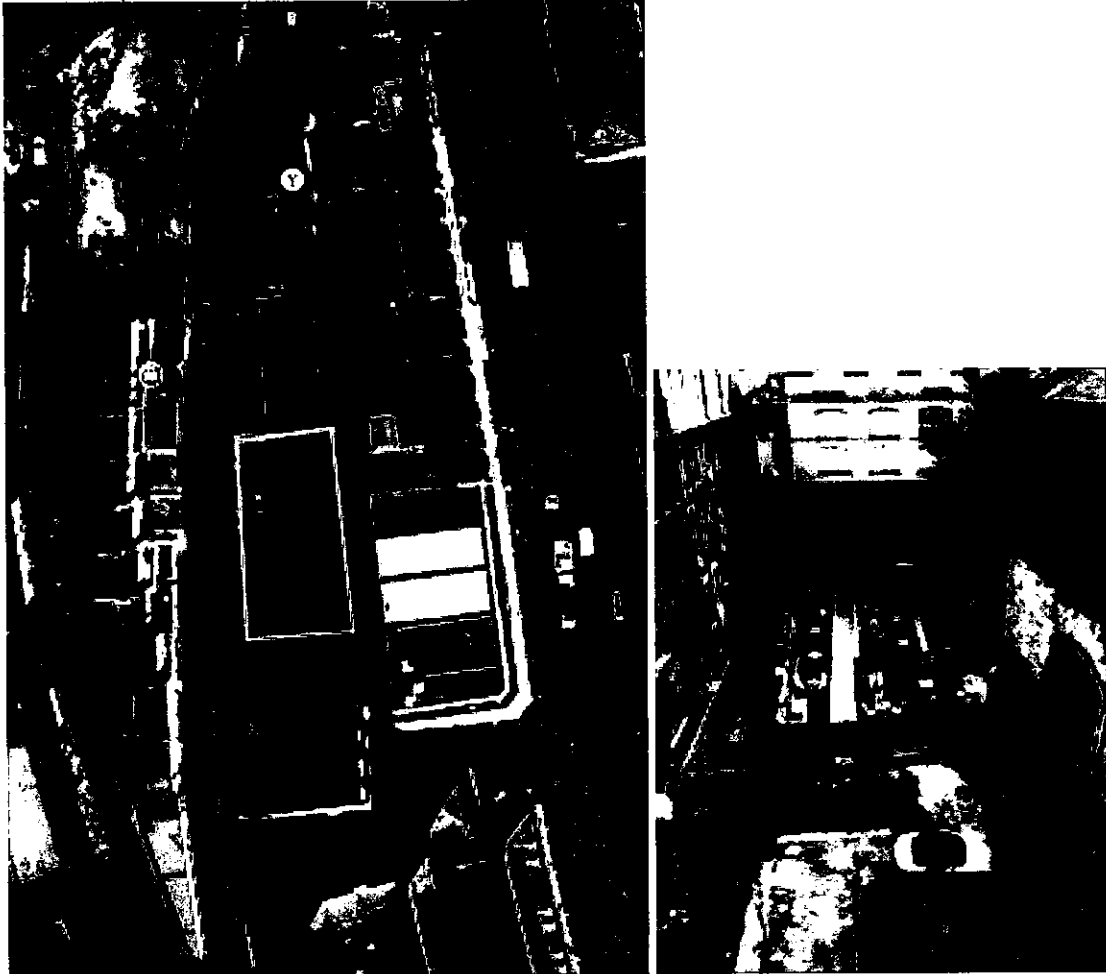
Please state the ground(s) for review (please read guidance note 1)
EXCESSIVE LOUD MUSIC FROM WITHIN THE PREMISES. EXCESSIVE
FOUL LANGUAGE AND NOISE FROM PATRONS IN THE BEER GARDEN.
EXCESSIVE FOUL LANGUAGE AND NOISE FROM PEOPLE LEAVING THE
PREMISES AND WHILE SMOKING IN SWAN STREET OUTSIDE THE
FRONT OF THE PREMISES. THIS CONSTITUTES A PUBLIC NUISANCE
AND INTOLERABLE DISTRESS TO RESIDENTS OF NEIGHBOURING
PROPERTIES.

Please provide as much information as possible to support the application
(please read guidance note 2)

THE PRESENT OWNERS OF THE PREMISES DEMOLISHED THE DERELICT BUILDINGS IN SWAN STREET ADJOINING STEAMER QUAY TO DEVELOP THE AREA INTO A BEER GARDEN. THIS HAD THE EFFECT OF CREATING A VAST OPEN AREA BETWEEN THE ROCK GARDEN PREMISES AND STEAMER QUAY. SEE ILLUSTRATION - STEAMER QUAY OUTLINED IN GREEN DEMOLISHED BUILDINGS IN RED ROCK GARDEN IN BLUE.

NEW GARDEN AREA IN WHITE

2ND PIC - VIEW FROM A BEDROOM WINDOW SHOWING SOUND REDUCING MEASURES TO DATE (AFTER 2 SUMMERS OF COMPLAINING).



OVER THE PERIOD SINCE ROCK GARDEN OPENED WE HAVE ON SEVERAL OCCASIONS CONTACTED THEM REGARDING NOISE FROM WASTE GLASS COLLECTION AT 5 - 5.30AM EVERY MONDAY. NOISE FROM EMPTYING GLASS BINS BY THE CLEANERS EVERY MORNING AT 7 - 7.30 AND ALTHOUGH THESE PROBLEMS HAVE TO A CERTAIN EXTENT BEEN RESOLVED, NOISE FROM LARGE CROWDS OF INTOXICATED PEOPLE IN THE GARDEN, SHOUTING AND USING FOUL LANGUAGE IS CONTINUING TO BE AN INTOLERABLE NUISANCE. AT PRESENT THE GARDEN CLOSES AT 10PM, (BY A VERBAL AGREEMENT WITH LICENSING). A CONDITION ON THE PREMISES LICENCE STATES A CLOSING TIME OF 11PM SUN-THURS & MIDNIGHT FRI & SAT NIGHTS. THESE CLOSING TIMES WOULD BE BEYOND ACCEPTABLE. DURING THE EVENING AND LATE AT NIGHT WHEN PATRONS ARE MORE INTOXICATED, THE NOISE LEVELS INCREASE TO AN UNACCEPTABLE ANDcont on next page

INTOLERABLE LEVEL. THIS IS CAUSING US AN INORDINATE AMOUNT OF DISTRESS AND WE ARE STARTING TO SUFFER UNACCEPTABLY HIGH STRESS LEVELS, DUE TO LACK OF SLEEP. WE ARE ALSO HAVING TO KEEP OUR WINDOWS CLOSED STOPPING FRESH AIR VENTILATION TO OUR FLAT.

AFTER THE GARDEN CLOSES, THE FRONT OF THE PREMISES IS USED AS A SMOKING AREA. THE RESULT OF THIS IS THE NOISE FROM CUSTOMERS CONTINUES FROM IN FRONT OF THE BUILDING UNTIL (AND SOMETIMES BEYOND) CLOSING TIME AT 2.30am. THE GARDEN IS FLANKED ON THREE SIDES BY RESIDENTIAL PROPERTIES, IN SWAN STREET, ROCK ROAD, COBURG PLACE, MELVILLE STREET AND THE THREE FLATS AT STEAMER QUAY.

SOON AFTER THE GARDEN WAS OPENED, A PETITION OF COMPLAINT ABOUT THE NOISE NUISANCE WAS SUBMITTED TO THE COUNCIL BY APPROXIMATELY 48 PEOPLE IN THE VICINITY. WE HAVE SUBMITTED "NOISE DIARIES" AND VIDEO EVIDENCE TO THE ENVIRONMENTAL PROTECTION TEAM OVER THE LAST 12 - 13 MONTHS. SEVERAL PROMISES OF IMPROVEMENT MEASURES HAVE BEEN MADE DURING THAT TIME BUT VERY FEW HAVE BEEN IMPLEMENTED.

SOME MEASURES HAVE BEEN PUT IN PLACE TO LIMIT BOTH THE EGRESS OF NOISE FROM WITHIN THE PREMISES AND TO REDUCE THE NOISE FROM THE GARDEN. THE OWNERS HAVE INSTALLED AN INNER DOOR TO THE GARDEN CREATING A LOBBY. THIS HAS VERY LITTLE EFFECT AS UPTO 150 OR MORE PEOPLE ARE CONSTANTLY GOING IN AND OUT OF THE PREMISES, THEREFORE BOTH DOORS ARE OPEN AT THE SAME TIME. ALSO ON SEVERAL OCCASIONS BOTH INNER AND OUTER DOORS ARE WEDGED OPEN. THE MAIN FRONT DOOR TO THE PREMISES DOES NOT HAVE A LOBBIED ENTRANCE, THEREFORE, LOUD MUSIC NOISE FROM WITHIN CAN BE HEARD EVERY TIME SOMEONE ENTERS OR LEAVES THE PREMISES. LICENSING OFFICERS, STREET WARDENS, AND COMMUNITY SAFETY HAVE VISITED OUR FLAT AND SAID IT IS NOT REASONABLE TO BE LIVING WITH THE VOLUME OF NOISE NUISANCE WE ENDURE. A SENIOR LICENSING OFFICER, WHILST ON THE PHONE TO US FROM SWAN STREET, WAS AMAZED WE COULD HEAR HER CONVERSATION WITH COLLEAGUES STANDING NEXT TO HER.

IT WAS A REASONABLY QUIET AREA BEFORE ROCK GARDEN OPENED. EVEN WHEN YATE'S AND THEN TENNISON'S HAD THE PREMISES THERE WAS NO ISSUE WITH SOUND NUISANCE.

WE ARE CONCERNED THAT THE NOISE ISSUES ARE HAVING A DETRIMENTAL AFFECT ON RENTAL/SALE VALUE OF OUR PROPERTIES. ONE OF OUR RESIDENTS HAS SAID THEY INTEND MOVING OUT IN PART BECAUSE OF THE NOISE FROM ROCK GARDEN. WE FEEL THAT WHATEVER STRUCTURAL MEASURES ARE TAKEN, THEY WILL HAVE LITTLE OR NO EFFECT ON NOISE REDUCTION, DUE TO THE GEOGRAPHIC LOCATION AND THE WAY THE WALLS AND STRUCTURES SURROUNDING THE GARDEN EFFECT SOUND VOLUME AT HIGHER LEVELS, I.E. VOLUMES ARE HIGHER AT 5TH OR 6TH FLOOR THAN AT GROUND LEVEL. WE ARE ABLE TO FOLLOW CONVERSATIONS OF PEOPLE SAT AT THE FAR END OF THE GARDEN WHEN ONLY THAT TABLE IS OCCUPIED.

WE WOULD LIKE TO POINT OUT THAT ALL OUR COMPLAINTS OF NUISANCE ARE IN CONTRAVENTION OF THE CONDITIONS ATTACHED TO THE PREMISES LICENCE :-

ANNEXE 2 THE PREVENTION OF PUBLIC NUISANCE 1. 2. & 3.

ANNEXE 3 THE PREVENTION OF PUBLIC NUISANCE 1.(i) & (ii) 7. 8. 9. 11. 12. 15. & 16.

AND ARE COVERED BY THE COUNCIL'S GUIDANCE NOTES "CONTROL OF NOISE FROM LICENCED PREMISES".

A DVD WITH SOME VIDEO EVIDENCE TAKEN BETWEEN AUGUST 2013 AND AUGUST 2014 IS INCLUDED WITH THIS APPLICATION. ALSO ON THE DVD ARE 2 PICTURES SHOWING BEFORE & AFTER DEMOLITION AND 1 SATELLITE VIEW OF THE AREA.

Please tick yes

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

If yes please state the date of that application Day Month Year

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

NOISE DIARIES AND VIDEO EVIDENCE TAKEN ON EQUIPMENT SUPPLIED BY COMMUNITY SAFETY TEAM. ALSO VIDEO EVIDENCE TAKEN ON A MOBILE PHONE, OVER THE LAST 12-13 MONTHS.

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 ✓

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 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

.....

11th Sept 2014

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
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)	

A DVD with photographs and video footage was submitted with this review application. Copies of the DVD were distributed with the applications to the premises licence holder and the consultees.

The photographs and video footage will be available to view at the licensing hearing.