

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



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 KARL MARTIN - PUBLIC PROTECTION OFFICER, TORBAY COUNCIL

(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 SHIRAZ 2 VAUGHAN PARADE | |
| Post town TORQUAY | Post code (if known) TQ2 5EF |

| |
|---|
| Name of premises licence holder or club holding club premises certificate (if known) Mr Mohammed Javadi |
|---|

| |
|---|
| Number of premises licence or club premises certificate (if known) PL0415 |
|---|

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

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|--|
| Name and address KARL MARTIN PUBLIC PROTECTION OFFICER LICENSING AND PUBLIC PROTECTION TORBAY COUNCIL CASTLE CIRCUS TORQUAY TQ1 3DR |
| Telephone number (if any) 01803 20 80 25 |
| E-mail address (optional) KARL.MARTIN@TORBAY.GOV.UK |

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)

The licensee despite being offered advice and guidance by Officers of Torbay Council and Devon and Cornwall Police Constabulary, continues to woefully disregard the Licensing Act and its objectives and by doing so the licensee is undermining the licensing objective the 'Prevention of public nuisance'.

In making this application in the capacity as the designated responsible authority for public nuisance the following are stated as grounds for a review of premises licence number PL0415:-

- 1. The licensee is creating a public nuisance by knowingly allowing live performers to play music at a volume that is unreasonably disturbing nearby resident's wishing to benefit from their entitlement to quiet and peace.
- 2. In allowing the above the licensee breaches several conditions of licence number PL0415 further undermining the licensing objective 'The Prevention of Public Nuisance'.
- 3. The licensee regularly positions tables and chairs outside of the licensed area for the purpose of consuming alcohol by patrons and thereby breaching a further condition of the licence.

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

The following is a brief outline of the key events and interventions by Torbay Council. A detailed chronology and supporting information will be served on Torbay Council Principle licensing Officer within the 28 days consultation period:-

1. Shiraz is a licensed bar situated on Vaughan Parade, Torquay harbour. This location is within the Cumulative Impact Area and at the centre of the night time economy area.
2. The premise is only licensed for sale of alcohol on and off the premise and late night refreshment on and off the premises between the hours of 9:00am 2:30am 7 days a week.
3. The premises benefits from the deregulation of live music under The Live Music Act 2012 only if live music is performed to an audience of no more than 500 people between the hours of 8:00am and 11:00pm.
4. On April the 6th 2015 recorded music was deregulated in line with live music.
5. July 2011 Shiraz identified as one of a number of premises in the harbour area creating noise breakout from within the premises. Licensee written to giving advice and asking for co-operation.
6. Throughout the summers of 2011/12 a single complainant made occasional references to recorded music breaking out of Shiraz on Saturdays nights. Licensee advised he was not licensed for live music or recorded music (at the time). It was noted licensee allowed live music in the cafe permit area. Torbay Council Highways department informed, whom have enforcement responsibility for cafe permits.
7. September 2012 licensee submitted a minor variation to include live and amplified music but his Environmental Protection objected to the application and the minor variation application could not proceed. By the time the premises reopened after winter break live music had been deregulated.
8. February 2013, complaint received from a member of the public about live music outside of the premises on Sunday afternoons. Licensee written to giving advice and warning regarding the use of speakers in the street.
9. July – December 2013 numerous complaints from residents and reports from licensing officers during late night visits referring to live music being played after 11:00pm for which there is no permission on the licence. Additionally for the first time the authority received reports of live music causing a nuisance on Sundays afternoons
10. A number of visits made to the premises to speak with Licensee and DPS, throughout the time period above. This included an invitation to Mr Javadi to attend the Council offices for a more formal conversation. A number of letters to licensee were sent offering advice and warning of the consequences if the situation continues. Information about breeches of the cafe permit passed to Torbay Council highways department for their consideration.
11. May 2014 bank holiday department received a number of complaints from residents and a neighbouring business concerning the volume of live music from Shiraz and another venue know for live music. From accounts it appears the two businesses engaged in a self-indulgent competition of who could play music the loudest.
12. A Torbay Council officer observed the noise coming from Shiraz during this event and confirmed the music was excessively loud and provided a witness statement to the effect. On consideration of the evidence gathered it was decided the activities of Shiraz would be causing a statutory nuisance if

Officers were able to witness the music from within a resident's home or business.

13. As a result a noise abatement notice was served under sec 80 of the Environmental Protection Act 1990 under likely occurrence. Two notices served, one for the inside area and one for the external licensed areas. Information was passed to the highways department for their consideration regarding music being played in the cafe permit area.
14. The rest of the summer into winter 2014 the department received the occasional reports the licensee was still allowing musician to perform live music in the external area at the front of the premises. No further complaints were received by the department until December 2014.
15. December 2014 a diary sheet received from a member of the public again referring to the excessive volume of live music from Shiraz, namely on Sunday afternoons. Licensee written to reminding him of his obligations under the Licensing Act and the Environmental Protection Act 1991. Premises closed for January.
16. March 2015, complaint received from a neighbouring business regarding the volume of music from live performances in the cafe permit area at Shiraz.
17. In April – May 2015 a steady trickle of complaints from residents was received by Torbay Councils licensing department all stating live music outside Shiraz in the cafe permit area was unreasonably loud and preventing them from enjoying the peace and quiet of their homes.
18. During the same period Torbay Council Officer visited the harbour area on two separate occasions by two separate officers.
19. On both occasions Officers witnessed excessively loud music emanating from musicians performing live music and recorded music at Shiraz. On the first occasions the Officer was unable to assess a resident's home to witness breach of the abatement notice. However the officer noted the music would clearly be heard at a unreasonable volume had the officer been in a resident's home. The officer noted tables and chairs outside the cafe permit area and patrons consuming alcohol.
20. On the second occasion an Officer was able to witness statutory nuisance and confirmed breach of the abatement notice in the home of a resident. The Officer in addition witnessed patrons sat at tables outside the licensed area consuming alcohol. The Officer addressed the matter with the Mr Javadi, who turned the music off and removed the table and chairs positioned outside the licensed area approximately 30 minutes later.
21. No further reports received by the department regarding music or the use of unlicensed areas until mid May when the department started to receive complaints about excessively loud music on Sundays afternoon/evenings including reports of the unlicensed areas being used for the consumption of alcohol.
22. On the 20th of May 2015 two Officers whilst performing other duties noted the licensee had again positioned tables chairs in an unlicensed area for the purpose of allowing patrons to consume alcohol.
23. The licensee has no regard for residents living in the vicinity or indeed other businesses trying to make a living around the harbour area. Despite plentiful advice and guidance, the licensee Mr Javadi, continues to undermine the licensing objectives and regrettably this review is necessary.

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

Please tick ✓ yes

If yes please state the date of that application

| Day | Month | Year |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

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

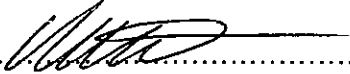
Please tick ✓ yes

- 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 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 

Date 21ST May 2015

Capacity Responsible Authority

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

See section C for details.

| | |
|------------------|------------------|
| 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.