

Wednesday, 30 June 2021

LICENSING SUB-COMMITTEE

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

Thursday, 8 July 2021 commencing at **9.30 am**

The meeting will be held in the Town Hall for decision makers and all other interested parties are invited to attend via Zoom (meeting joining details can be found below

Join Zoom Meeting

<https://us02web.zoom.us/j/84097130002?pwd=bzk2WjVldWxtT1BWc1pFSlhGUmtOZz09>

Meeting ID: 840 9713 0002

Passcode: 673958

One tap mobile

+442039017895,,84097130002#,,,,*673958# The United Kingdom

+442080806591,,84097130002#,,,,*673958# The United Kingdom

Members of the Committee

Councillor Dart

Councillor Ellery

Councillor Mills

Together Torbay will thrive

Download this agenda via the free modern.gov app on your [iPad](#), [Android Device](#) or [Blackberry Playbook](#). For information relating to this meeting or to request a copy in another format or language please contact:

Amanda Coote, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - 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. **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.)
4. **Urgent items**
To consider any other items that the Chairman decides are urgent.

5. **Licensing Act 2003 - An application for a Premises Licence in respect of Crab and Hammer South Quay, Paignton Harbour, TQ4 6DU**

(Pages 5 - 40)

To consider and determine an application for a new Premises Licence, in respect of the Premise detailed above.

Instructions for the press and public for joining the meeting

To meet Covid-19 secure arrangements this meeting will be held via a hybrid system with the actual decision makers e.g. members of the Cabinet and key officers meeting in person, at the Town Hall, Torquay. All other people which includes persons who have registered to speak, are encouraged to attend remotely via Zoom.

People will not be prohibited from attending meetings in person but where that number exceeds our maximum Covid-19 secure numbers, the meeting will be adjourned to enable the meeting to continue safely in an alternative location.

Where persons would like to attend meetings in person, it is requested that they notify our Governance Support Team on (01803) 207087, so that arrangements can be made to ensure meetings are held, in accordance with Covid secure guidelines.

If you are joining remotely, via an iPad you will need to install Zoom which can be found in the App Store. You do not need to register for an account just install the software. You only need to install the software once. For other devices you should just be taken direct to the meeting.

Joining a meeting remotely via Zoom

Click on the link provided on the agenda above and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided above and follow the instructions. (**Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

You will be placed in a waiting room, when the meeting starts the meeting Host will admit you. Please note if there are technical issues this might not be at the start time given on the agenda.

Upon entry you will be muted and your video switched off so that only the meeting participants can be seen. When you join the meeting the Host will unmute your microphone, ask you to confirm your name and update your name as either public or press. Select gallery view if you want see all the participants.

If you have joined the meeting via telephone, your telephone number will appear on screen and will be displayed for all to see until the Host has confirmed your name and then they will rename your telephone number to either public or press.

Speaking at a Meeting

If you are registered to speak at the meeting and when it is your turn to address the Meeting, the Chairman will invite you to speak giving the Host the instruction to unmute your microphone and switch your video on (where appropriate) therefore please pause for a couple of seconds to ensure your microphone is on.

Upon the conclusion of your speech/time limit, the Host will mute your microphone and turn off your video.

Meeting Etiquette for Registered Speakers - things to consider when speaking at public meetings on video

- Background – the meeting is public and people will be able to see what is behind you therefore consider what you will have on display behind you.
- Camera angle – sit front on, upright with the device in front of you.
- Who else is in the room – make sure you are in a position where nobody will enter the camera shot who doesn't want to appear in the public meeting.
- Background noise – try where possible to minimise background noise.
- Aim to join the meeting 15 minutes before it is due to start.



Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Crab and Hammer South Quay Paignton Harbour TQ4 6DU

Wards Affected: **Goodrington with Roselands**

To: **Licensing Sub Committee** **8 July 2021**

Contact Officer: **Amanda Turner**

☎ Telephone: **01803 208112**

✉ E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence, in respect of the Premise detailed above.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objective the “Prevention of Public Nuisance”.
- 1.4 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation. A decision must be made, having considered the Representations, either:-
 - (a) to grant the licence subject to
 - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the Premises Supervisor;
 - (d) to reject the application.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

2. Application

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:-

Recorded Music both indoors and outdoors from 08:00 until 23:00 7 days a week.

The Supply of Alcohol on the premises from 11.00 until 23:00 7 days a week.

To be open to the public from 07:00 until 23:30 7 days a week.

The Applicant have given the following description of the premises:-

“The Premises is located on the harbour side.

It will be classed as a crab shack (Bistro) which will be providing /serving food and drinks both alcoholic and non-alcoholic.

The premises will consist of a small bar area, kitchen / food preparation areas. It will house approximately 12 tables and appropriate seating. We will also have a small number of tables outside for external seating.

Disabled toilets / Male and female toilets.

They have a rowing club next door, followed by another restaurant and licensed premises.”

The plan accompanying the application is shown as Appendix 2.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as relevant Representations have been received. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale and have not been subsequently withdrawn.

We have received 1 Responsible Authority Representation from Torbay Council’s Public Protection Officer responsible for public nuisance outlining his objections in relation to “The Prevention of Public Nuisance”. This is shown as Appendix 3.

The Applicant has submitted a response with regard to Appendix 3, which is shown as Appendix 5.

We have also received 3 Representations from Interested Parties; namely persons who live or operate a business in the vicinity. These relate to the Licensing Objective “The Prevention of Public Nuisance”. A copy of the Representations are attached at Appendix 4.

There have been no Representations received from any other Responsible

Authority or any other Interested Party other than those mentioned above.

- 2.3 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 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.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
 - (a) The holder of the licence against any decision
 - (i) to impose conditions on the licence, or
 - (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
 - (b) Any person who made a relevant Representation who desires to contend
 - (i) that the licence ought not to have been granted, or
 - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.
- 2.7 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.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1 Relevant sections of the application form

Appendix 2 Plan of the Premises

Appendix 3 Representation from Public Protection Officer responsible for Public Nuisance

Appendix 4 Representations from Interested Parties

Appendix 5 Supporting material from applicant with regard to the representation from Public Protection Officer

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2021-26



Torbay
Application for a premises licence
Licensing Act 2003

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

* required information

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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	Crab and Hammer	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	David	
* Family name	Markham	
* E-mail		
Main telephone number		Include country code.
Other telephone number		

Indicate here if you would prefer not to be contacted by telephone

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

Note: completing the Applicant Business section is optional in this form.

Registration number	04741730	
Business name	The Blue Sea Food Company Limited	If your business is registered, use its registered name.
VAT number	GB 825180049	Put "none" if you are not registered for VAT.
Legal status	Private Limited Company	

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 21

PREMISES DETAILS

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Further Details

Telephone number

Non-domestic rateable value of premises (£)

Section 3 of 21**APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

Confirm The Following

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

Section 4 of 21**NON INDIVIDUAL APPLICANTS**

Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.

Non Individual Applicant's Name

Name

Details

Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)

Continued from previous page...

The Blue Sea Food Company Ltd

Address

Building number or name	Unit 20
Street	Torbay Business Park
District	Paignton
City or town	Devon
County or administrative area	
Postcode	TQ4 7HP
Country	United Kingdom

Contact Details

E-mail	
Telephone number	
Other telephone number	
* Date of birth	<input type="text"/> / <input type="text"/> / <input type="text"/> dd mm yyyy

* Nationality	British
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Documents that demonstrate entitlement to work in the UK

Add another applicant

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OPERATING SCHEDULE

When do you want the premises licence to start?	<input type="text"/> / <input type="text"/> / <input type="text"/> dd mm yyyy
---	--

If you wish the licence to be valid only for a limited period, when do you want it to end	<input type="text"/> / <input type="text"/> / <input type="text"/> dd mm yyyy
---	--

Provide a general description of 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.

The Premises is located on the harbour side.

It will be classed as a crab shack (Bistro) which will be providing /serving food and drinks both alcoholic and non alcoholic. The premises will consist of a small bar area, kitchen / food preparation areas. It will house approx 12 tables and appropriate seating. We will also have a small number of tables outside for external seating.

Continued from previous page...

Disabled toilets / Male and female toilets.

They have a rowing club next door, followed by another restaurant and licensed premises.

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

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PROVISION OF PLAYS

See guidance on regulated entertainment

Will you be providing plays?

Yes

No

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PROVISION OF FILMS

See guidance on regulated entertainment

Will you be providing films?

Yes

No

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PROVISION OF INDOOR SPORTING EVENTS

See guidance on regulated entertainment

Will you be providing indoor sporting events?

Yes

No

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PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will you be providing boxing or wrestling entertainments?

Yes

No

Section 10 of 21

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will you be providing live music?

Yes

No

Section 11 of 21

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will you be providing recorded music?

Yes

No

Standard Days And Timings

Continued from previous page...

MONDAY

Start

End

Start

End

Give 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

Will the playing of recorded music take place indoors or outdoors or both?

- Indoors Outdoors Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

amplified background music.

State any seasonal variations for playing recorded music

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

Continued from previous page...

Non-standard timings. Where the premises will be used for the playing of recorded music at different times from those listed in the column on the left, list below

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

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PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will you be providing performances of dance?

Yes

No

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PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will you be providing anything similar to live music, recorded music or performances of dance?

Yes

No

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LATE NIGHT REFRESHMENT

Will you be providing late night refreshment?

Yes

No

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SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

Yes

No

Standard Days And Timings

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

Give 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.

Continued from previous page...

WEDNESDAY

Start 11:00

End 23:00

Start

End

THURSDAY

Start 11:00

End 23:00

Start

End

FRIDAY

Start 11:00

End 23:00

Start

End

SATURDAY

Start 11:00

End 23:00

Start

End

SUNDAY

Start 11:00

End 23:00

Start

End

Will the sale of alcohol be for consumption:

- On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

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

N/A

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

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

N/A

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Continued from previous page...

Name

First name

Family name

Date of birth / /
dd mm yyyy

Enter the contact's address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number (if known)

Issuing licensing authority (if known)

PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

Section 16 of 21

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

Give 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.

N/A

Continued from previous page...

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Give 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

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 in the column on the left, list below

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

Continued from previous page...

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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.

I shall ensure that all times when the premises are for any licensable activity, there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the license and for preventing crime and disorder. The Licensee shall ensure that all staff will undertake training in their responsibilities in relation to the sale of alcohol, particularly with regard to drunkenness and underage persons. Records will be kept of training and refresher training.

b) The prevention of crime and disorder

A clear and legible notice outside the premises indicating the normal hours under the terms of the premises license during which licensable activities are permitted.

Clear and conspicuous notices warning of potential criminal activity, such as theft, that may target customers will be displayed.

Should the C.C.T.V. equipment fail the relevant authorities will be informed immediately by telephone and immediate steps will be taken to put the equipment back into working order.

A notice will be displayed at the entrance to the premises advising that C.C.T.V. is in operation.

At least one C.C.T.V. camera will be in operation at the front of the premises at all times when the premises open.

We have a proof of age policy that has been formulated in discussion with the Police and the Licensing Authority.

Drinks Promotions

All-inclusive nights or other irresponsible drinks promotions will not be permitted.

The Designated Premises Supervisor or a Personal Licence holder will be in charge of the premises when any drinks promotions are taking place.

c) Public safety

A log book or recording system shall be kept upon the premises, in which shall be entered particulars of inspections made; those required to be made by statute, and information compiled to comply with any public safety condition attached to the premises licence that requires the recording of such information. The log book shall be kept available for inspection when required by persons authorised by the Licensing Act 2003 or associated legislation.

Adequate access is provided all times in and out of the building.

All parts of the premises and all fittings and apparatus therein, door fastenings and notices and the seating, lighting, heating, electrical, ventilation, sanitary accommodation, washing facilities and other installations, will be maintained at all times in good order and in a safe condition.

We have conducted a suitable Fire Risk Assessment at the premises and implemented the necessary control measures. All exit doors are easily operable without the use of a key, card, code or similar means. Exit doors are regularly checked to ensure they function satisfactorily.

Notices detailing the actions to be taken in the event of fire or other emergency are prominently displayed and maintained in good condition.

Continued from previous page...

d) The prevention of public nuisance

Prominent, clear and legible notices will be displayed at all exits requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.

Deliveries of materials necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.

The Licensee will ensure that staff who arrive early morning or depart late at night when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents.

Customers will be asked not to stand around talking in the street outside the premises; and asked to leave the vicinity quickly and quietly.

A specific taxi operator has been nominated for staff and customers use. The company's telephone number is advertised to customers. The operator, and all drivers, are aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines running unnecessarily.

The movement of bins and rubbish outside the premises will be kept to a minimum after 11.00pm. This will help to reduce the levels of noise produced by the premises.

Bright lights on or outside the premises will be positioned and screened in such a way so as to not cause a disturbance to nearby residents.

Adequate waste receptacles for use by customers will be provided in the local vicinity.

e) The protection of children from harm

The premises will operate a challenge 25 policy proof of age policy and any individual who appears under the age of 25 will be required to produce an approved form of photographic identification as outlined with the Torbay Council Licensing statement of principles.

Children have to be accompanied by an adult.

Alcohol will not be served to anyone under the age of 18 years old.

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NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

Continued from previous page...

Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

Continued from previous page...

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
 - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

Continued from previous page...

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

Home Office online right to work checking service

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

Section 20 of 21

NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- **Plays:** no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- **Films:** no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- **Indoor sporting events:** no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- **Boxing or Wrestling Entertainment:** no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- **Live music:** no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- **Recorded Music:** no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 21 of 21

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.

Premises Licence 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

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 your are required to pay a higher fee

Band D - £87001 to £125000 £900.00

Band E - £125001 and over £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event 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

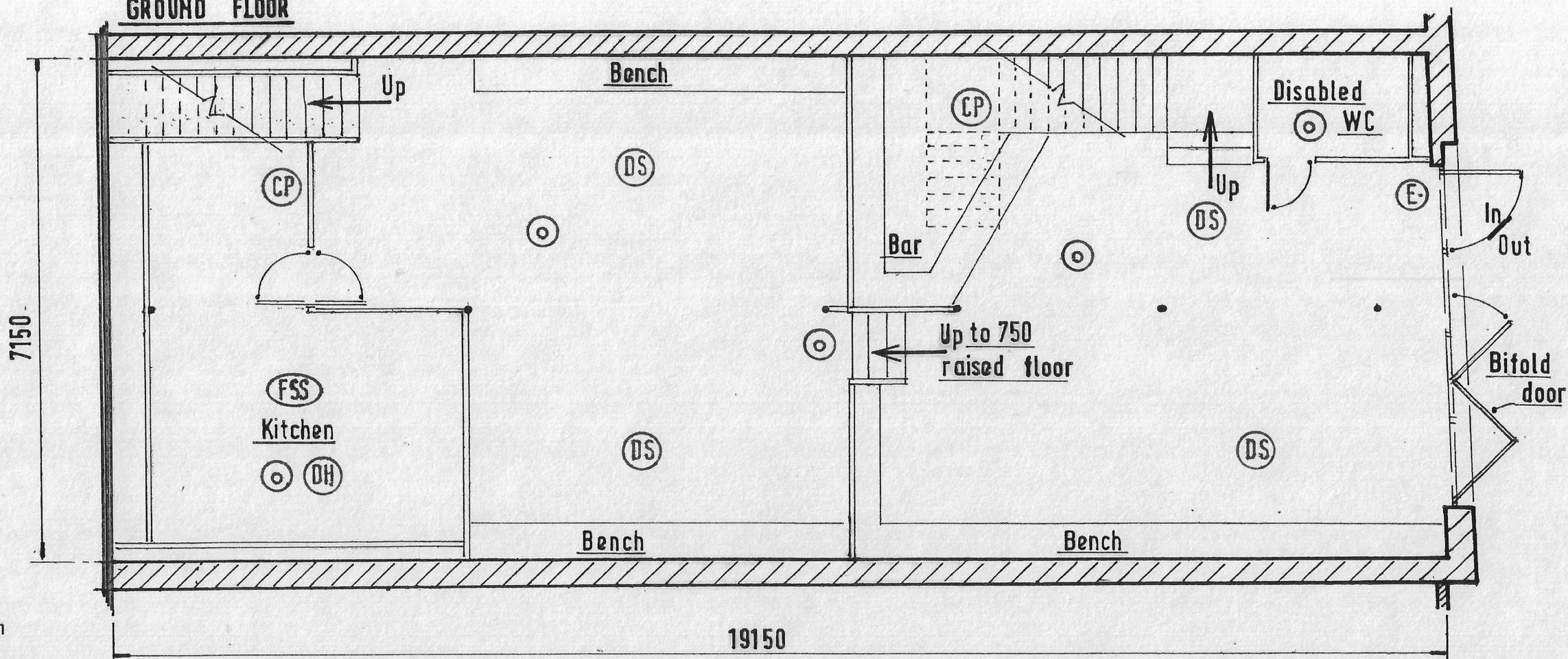
* Fee amount (£)

190.00

ATTACHMENTS

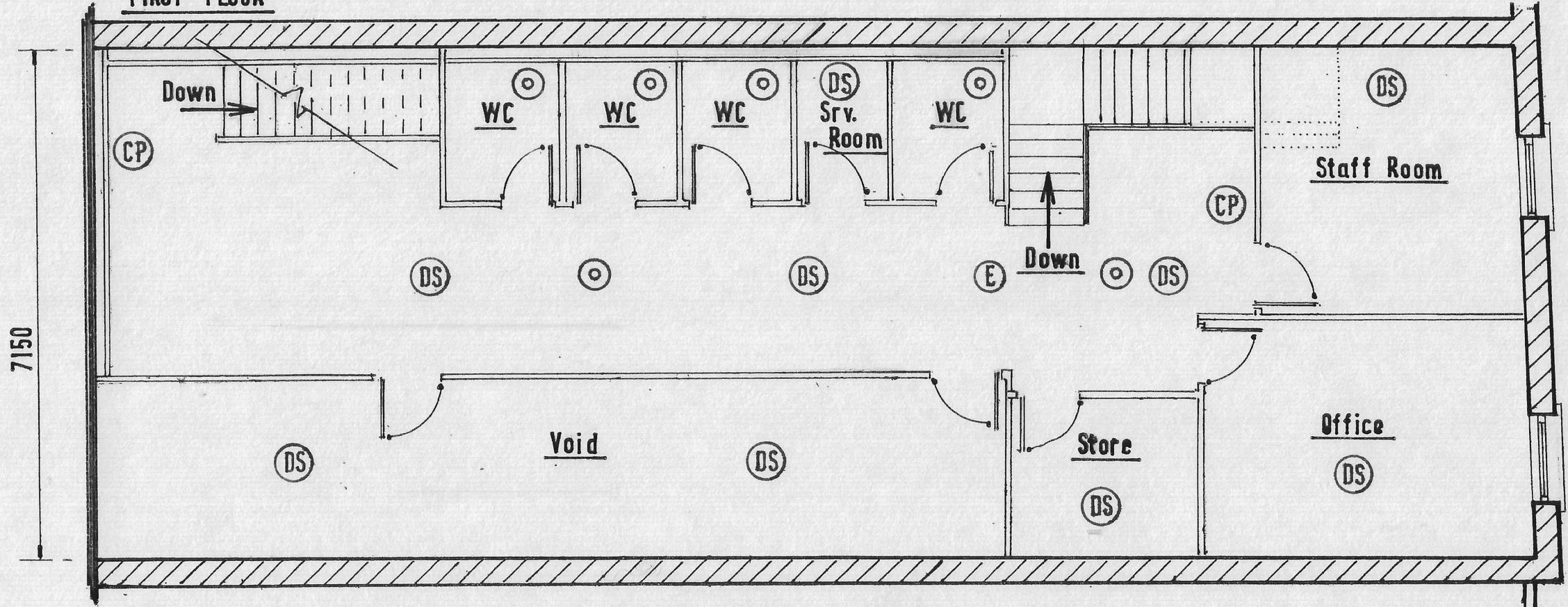
AUTHORITY POSTAL ADDRESS

GROUND FLOOR

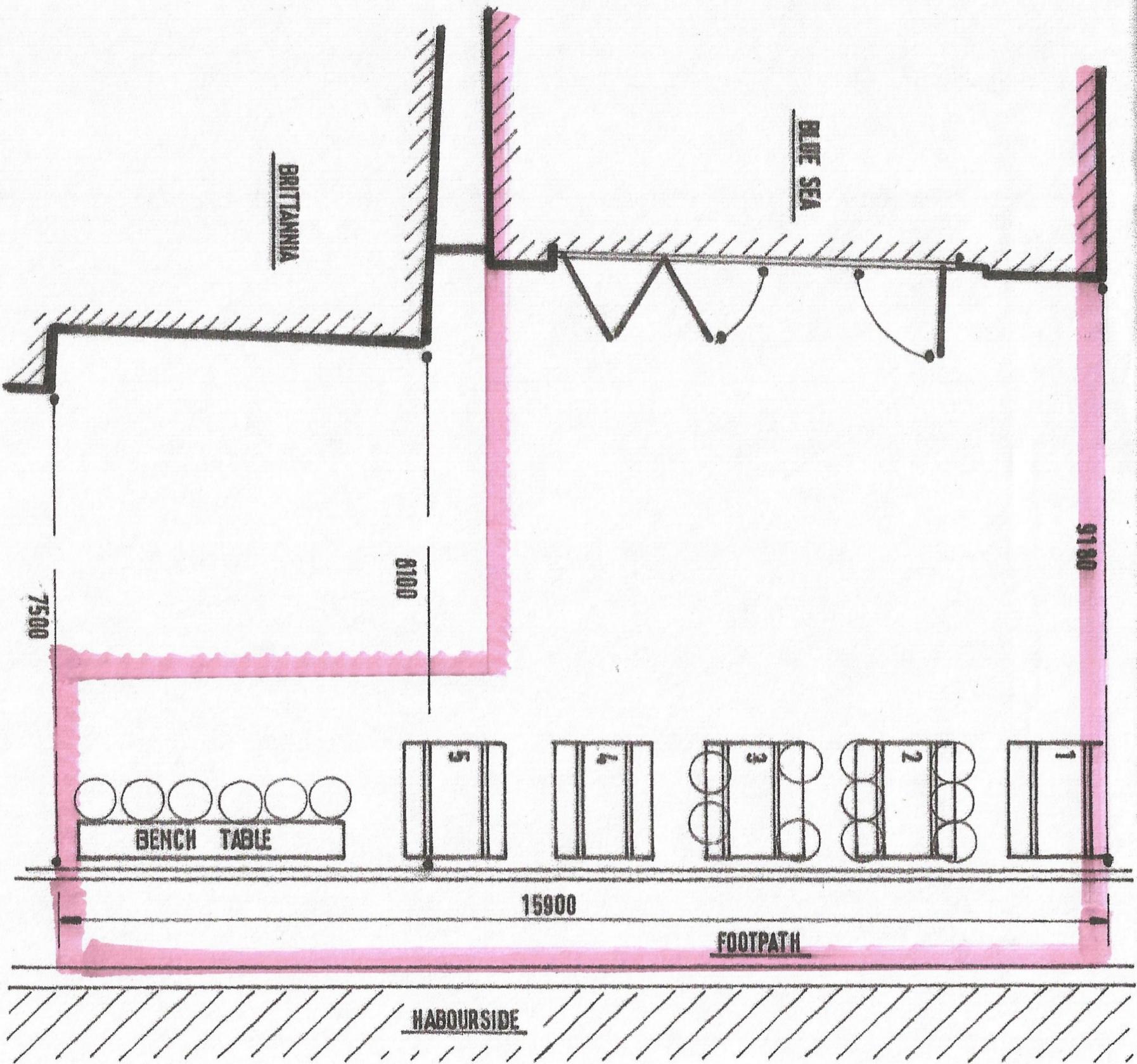


- CP** Call Point
- DS** Smoke Detector
- DH** Heat Detector
- Emergency Light
- E** Illuminated Exit sign
- FSS** Fire Supression System

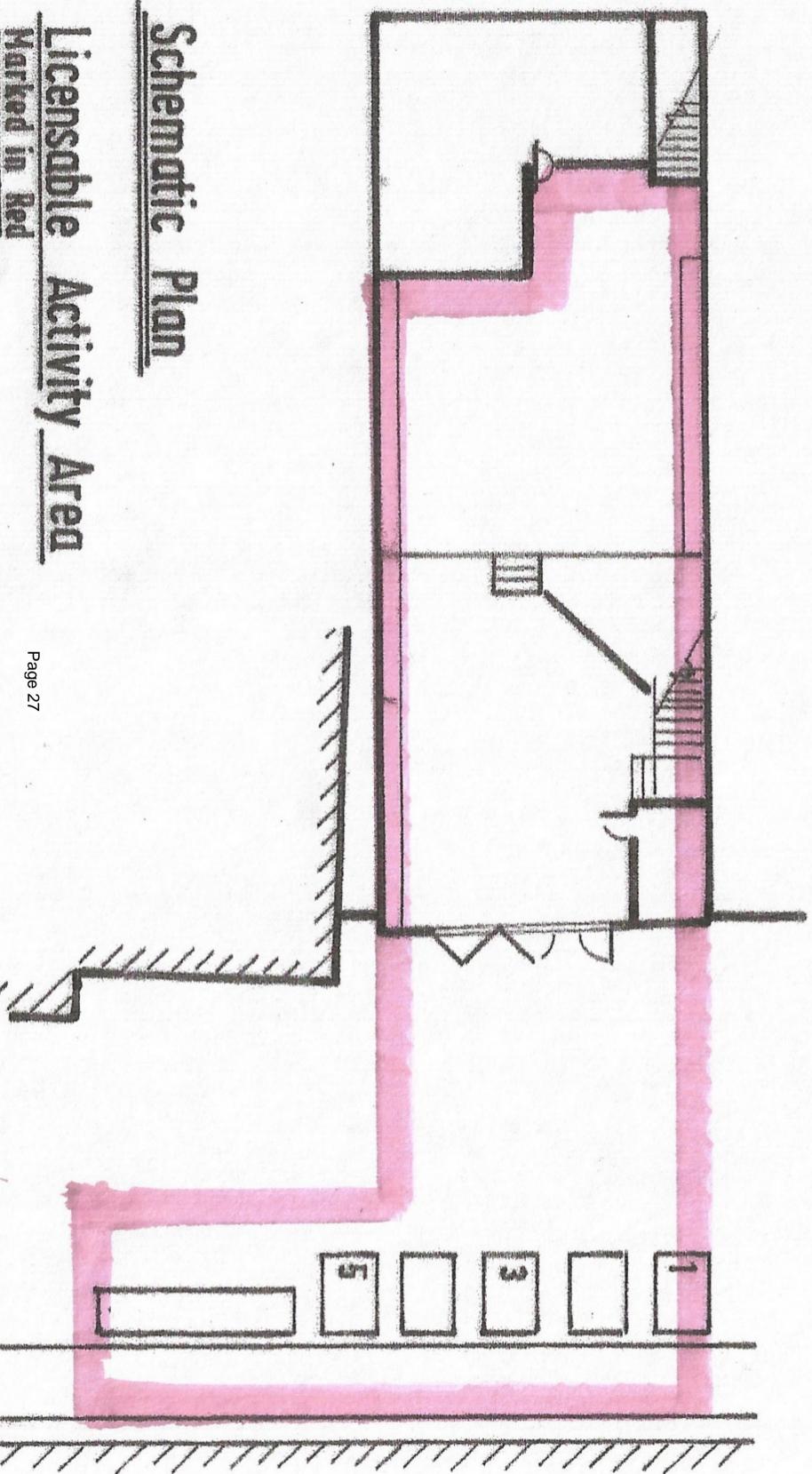
FIRST FLOOR



SOUTH QUAY



Schematic Plan
Licensable Activity Area
Marked in Red



Memorandum

To: Licensing Team	From :	Community Safety
c.c	Contact :	Mr Karl Martin
c.c.	Ext :	01803 208025
c.c	My Ref :	SRU/262774
.		
For the attention of: Sarah Clarke	Your Ref :	
	Date :	15 th June 2021

Premises Name & Address: Crab and Hammer, South Quay, Paignton Harbour, Paignton, TQ4 6DU

Subject: New application – Licensing Act 2003

- a) I have no comments to make on the above application
- b) The application does not meet the following licensing objectives:
- i) Prevention of crime and disorder
 - ii) Protection of children from harm
 - iii) Public safety
 - iv) Prevention of public nuisance

1. The premises, situated in Paignton Harbour, occupies the ground floor of a building with residential accommodation situated on the floors above and to the side. See Appendix 1.
2. The ground floor level has previously been used as an industrial unit. No record of any planning application for change of use was found on Torbay Council Planning portal. The applicant may wish to clarify if a planning application has been submitted.
3. In the past residents living in the flats above have mentioned to Officers they could hear noise from industrial unit on the ground floor, but as the operation was largely confined to the daytime no official complaints were received. However this does indicate the building may have poor sound attenuation properties that need consideration, particular for licensed premises.
4. I would expect as part of the application the applicant would have submitted documentation such as a noise consultant report to offer some reassurance to residents and the responsible authority that noise nuisance arising from the business has been considered.
5. Had a planning application been submitted, Environmental Health would have required a noise impact assessment to be undertaken by the applicant and any remedial works completed.
6. Torbay Councils Licensing Statement of Principles P22 Para 4 states: -

'Where Applicants are completing Operating Schedules, they are expected to have regard to the location of the proposed or actual premises. In particular, consideration should be given to whether proposals may have a disproportionate impact in residential areas or near to sensitive premises

such as nursing homes, older people's accommodation, hospitals, hospices, schools, childcare facilities or places of worship.'

There is no indication in the operating schedule that the applicant has considered noise transmission through the building and impact this may have on the existing residential properties.

7. The Responsible Authority notes the terminal hour for alcohol is at 11:00pm with a premises closure at 11:30. The applicant wishes to use the benefit of the Live Music Act 2012 and therefore this activity does not require authorisation, however this does not absolve the applicant from the requirement of the Environmental Protection Act 1990.
8. When the Council receive complaints about licensed premises situated underneath residential accommodation the lack of suitable sound insulation is often identified as the main cause. Most commonly experience by residents includes disturbance from music (even at a low volume), voices, doors closing, catering noise and noise from the movement of furniture.
9. Torbay Councils Licensing Statement of Principles P42 Para 5 states:-

Applicants with access to outdoor spaces, such beer gardens and designated smoking areas, may be asked to provide a written noise management plan if the location of outdoor spaces is adjacent to or in proximity of residential accommodation or hospitality services, such as hotels and B&Bs.

The operating schedule makes reference to an outdoor seating area, yet the operating schedule is silent on how this area will be controlled. An outdoor seating area situated directly under residential accommodation needs to be considered. I would urge the applicant to produce a suitable and sufficient noise management plan.
10. The operating schedule states deliveries will take place at a time to minimise disruption to residents, but what time will this be? Likewise emptying of rubbish is stated as 'will be minimised' after 11pm. The emptying of beer bottles into waste bins has been recorded as producing a peak level of 120dB and is often cited by residents as a nuisance.
11. The application is also silent on the matter of extraction equipment for the kitchen. Is there one? Has planning permission been applied for? What is the specification? Has it been designed to minimise noise and odour nuisance? How will it be maintained?
12. In summary licensed premises such as bistros, restaurants and Cafes generally do not cause public or Statutory nuisance. In cases where this type of premises do it is almost always because of the lack of sound insulation between the licensed premises and adjoining residential accommodation. Applicants must consider the impact of the proposed activity will have, especially in situations where a change of use is taking place.
13. At this time I will not make any formal recommendations as the applicant may wish to provide further supporting evidence to alleviate the concerns raised by residents and those contained in this report.

Mr Karl Martin
Public Protection Officer
Torbay Council



24 MAY 2021

COMMUNITY SAFETY

Planning Office

22.5.21

Agenda Item 5
Appendix 5

Carrie Cottell,

My wife & I are the owners of

(1984) our existing tenant

has been there for the last 16 years.

My son

is existing tenant

has been there also

for the past 16 years

Both flats are located directly

above the proposed restaurant 'Cafe'

Opposed, South Quay, Paignton Harbour

T/Q H6 JV (same building see photo)

We write to strongly object to P.T.O

As the application for full alcohol
licence in the proposed restaurant
(11am-11pm) if granted this would cause
a big public nuisance with noise from
the restaurant and outside seating
proposed directly below tenants lounge
windows. The disturbance would go on
long after 11 o'clock, possibly until the
early hours of the morning.

Our tenants should not have
to suffer this prolonged misery
especially with all the cooking smells
(Cafes etc.) after enjoying the
past many years there. We will be
demanding

We also would like to point
out we were not informed at all
from T/Q Planning Dept. as to our
status of the proposal of the change of

use from shop to restaurant.

When I inquired at TCO planning
I was informed that change of use
from shop to restaurant needed

A3 planning also we would like
to see the plans of the layout

1E fire escape and provisions

storage of Rochelle food waste bins.
What is the storage area to be?

(Smello & Pies) plus noise of large
exhaust fans & large fridges, this property
will be a public nuisance.

We ask for public protection
from this application.

Yours Sincerely
[REDACTED]

Licensing and Public Protection

Torbay Council

Town Hall

Torquay

TQ1 3DR



24th May 2021

Re: Alcohol Licence Application - Crab and Hammer, South Quay, Paignton

Dear Team

I am writing to register my objection to the application for a premises licence for the above. The basis for this opposition is that granting a licence for these premises will not promote the licensing objectives, particularly disorder and antisocial behaviour.

The application proposes that alcohol will be sold for consumption in and around the premises between the hours of 8.00 am and 11.00 pm seven days a week. Granting a licence would provide a further source of alcohol within a compact harbour area already heavily populated with licensed premises. At present there are seven licensed outlets in short proximity.

As residents, we currently suffer noise nuisance and bad behaviour so approving this application would add to this problem particularly as the premises in question are located directly below my lounge window.

The applicants have already demonstrated a lack of courtesy and respect for local residents as indicated in my letter to Mr Markham (see attached).

Torbay Council's Statement of Principles 2021-2026 –Licensing Act 2003, Section 1.19 covers my reasoning for objecting to this application.

In view of the above, I would urge the Licensing Authority to refuse this application.

Yours Sincerely

David Markham

Blue Sea Food Company

20, Torbay Business Park

Paignton

TQ4 7HR

22nd April 2021

Re: Crab and Hammer Restaurant Proposal

Dear Mr Markham

Your hand delivered letter relating to the above was gratefully received. Rumours and speculation have now thankfully been confirmed.

Naturally, the expected noise levels between the opening hours indicated of 8 am to 11 pm are a cause for concern but that will remain to be seen. We have in the past experienced high volumes of music levels and raucous behaviour from other establishments operating in the locality. It is hoped that your stated sound proofing will partially eliminate that possibility. However I have my doubts as the restaurant will be positioned directly below my lounge window.

The main concern that invokes me to write this correspondence leads me to express my disappointment that at no stage during the conversion work did anyone attempt to contact me to advise, or indeed apologise, for any disruption that might be incurred. Would not a form of advance notice been respectful and a demonstration of common courtesy to a neighbour?

We have certainly tolerated excessive noise and dust over the last few months arising from your alterations and I feel that a notification of intent would have been appropriate before any work had commenced.

Your claim to remain on good terms with the neighbours is iniquitous.

In conclusion, your plans for the unit will undoubtedly affect my quality of life and may even drive me towards vacating my home of the last sixteen years.

Yours Sincerely

TORBAY COUNCIL
26 MAY 2021
COMMUNITY SAFETY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

25th May 2021

Dear Sir or Madam,

Re: Crab and Hammer, South Quay Paignton, TQ4 6DU

Licence Application Number: 059397

I wish to object in the strongest terms to the above licensing application on the following grounds.

I live in one of two flats directly above the premises and I have already written to the managing director of The Blue Sea Company to express my concerns re noise.

My flat looks directly onto Paignton Harbour and the days and times of the licence application are causing my neighbour and myself great concern. From 7am until 11.30pm seven days a week, we find to be very upsetting. We would simply have no privacy and virtually no home life if this application was allowed to go through. The company started construction of the premises on February 1st of this year, with no prior warning or notification to the neighbours, which we feel is disrespectful. They then sent a letter after much persuasion, outlining this entire project which concerned us even more. The noise would be absolutely horrendous and would go on all day every single day of the week.

I am a disabled man and am at home 24 hours of everyday. The construction noise has been appalling to me 7 hours a day. This would not be so bad, if it were not for the fact that, when the premises is up and running, the noise will be worse. I would not be able to have any peace during the day or evening. I go to bed at 9pm at night and if this were allowed my sleep pattern and my life would be disrupted in a very big way.

I therefore wish to object to this application and hope you will reject it after considering my objection.

Yours sincerely

[REDACTED]

[REDACTED]



**Crab & Hammer
Premises License Application 059397
Response to Karl Martin's concerns**

The Blue Sea Food company is seeking to open the Crab & Hammer to celebrate the fantastic Devon Crab. Additionally, we are looking to join with other businesses, organisations and harbour users in regenerating what we think is the prettiest harbour in Torbay.

It is our understanding that, since there were no major investors interested in wholesale regeneration of Paignton Harbour, the council's aim was to encourage local businesses to organically develop the area in order to attract more visitors to a largely unknown but delightful area of Torbay. With the support of the council this regeneration has begun with the new Harbour Lights restaurant, improvements to the Harbour Inn and the new Molly's café. Alongside the fabulous existing establishments including TJ's, The Curious Crab Café and the rowing club these new businesses have started to attract a respectable crowd of locals and tourists alike. We hope that our destination restaurant will further add to the creation of a wonderful harbour atmosphere that can become a real gem of Torbay.

We are fully aware of our 4 obligations under the licensing act and particularly appreciate the concerns over nuisance. As a restaurant rather than a bar we expect to cause very little noise, we have previously explained to the owners and tenants of the flats above that we have added several layers of sound insulation to the restaurant and we will of course make sure our guests respect the local residents. However, the working harbour never has been and never will be a sanctuary of peace, indeed many locals and the council itself want to create a buzzing and lively harbour that will attract locals and visitors to the area. We appreciate that it is our job to balance this with the local residence need to enjoy their homes.

With regard to outside seating, the government recognizes that, as a society, we want more outside eating and now positively encourages the promotion of these spaces in towns and cities throughout the UK. There are many examples, even in Torbay, that mixes bars and restaurants with flats above, not least with the new Abbey Sands, Torr Abbey, development that has become a vibrant and attractive area that has lifted the entrance to Torquay.

In summary our aim is to promote our fantastic Devon Crab at the same time as helping to regenerate Paignton Harbour which has been left behind by the developments in Torquay and Brixham. Paignton Harbour has a long history with crab and indeed our live crab and lobster tanks are at the end of the quay, exporting around the world from China to the USA, it seems logical to lean on this great heritage and have a crab shack on the harborside.

In answer to the points raised by Karl Martin (Public Protection Officer):

1. The premises, situated in Paignton Harbour, occupies the ground floor of a building with residential accommodation situated on the floors above and to the side. See Appendix 1.



- a. The restaurant is on the ground floor of a 3-story building with the flats occupying the 3rd floor only. On the middle floor there is only toilets and offices
2. The ground floor level has previously been used as an industrial unit. No record of any planning application for change of use was found on Torbay Council Planning portal. The applicant may wish to clarify if a planning application has been submitted.
 - a. The part of the building being converted to a restaurant has class 1 shop license; we have been advised that there is no need for change of use application
3. In the past residents living in the flats above have mentioned to Officers they could hear noise from industrial unit on the ground floor, but as the operation was largely confined to the daytime no official complaints were received. However, this does indicate the building may have poor sound attenuation properties that need consideration, particular for licensed premises.
 - a. While this was used as a live crab facility, we have been aware of complaints from one of the tenants in the flats above through numerous text messages. The site was used outside normal working hours including late nights and early mornings to fit in with flight schedules for our crab shipments to Asia
 - b. While converting the premises to a restaurant we have added substantial sound insulation to both floors and we have informed the tenants and owner of the flats above of this. The insulation includes:
 - i. Between the ground floor restaurant and the 2nd floor: 18mm floor boards, 50mm Celotex and 18mm floorboards
 - ii. Between the 2nd floor and the tenants above: Rock mineral fiber pads over mineral tile ceiling:
 - i. "Rock Mineral Fibre insulation pads when used in conjunction with mineral fibre suspended ceilings can dramatically
 - ii. reduce sound breakout. Typically, a 50mm 45 kg/m³ pad correctly installed can achieve a up to 45db rating and a 50mm 60 kg/m³ pad can achieve upto a 48db overall rating, with a 100mm pad being able to offer upto 70db overall, and 150mm offering around 85db overall, in conjunction with a mineral tile ceiling."
 - iii. The fans for the extraction are housed in sound insulated boxes
4. I would expect as part of the application the applicant would have submitted documentation such as a noise consultant report to offer some reassurance to residents and the responsible authority that noise nuisance arising from the business has been considered.
 - a. While we did not include a noise consultant report in our application we did include: the below in our application:
 - b. The prevention of public nuisance
 - i. Prominent, clear and legible notices will be displayed at all exits requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.
 - ii. Deliveries of materials necessary for the operation of the business will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby residents.
 - iii. The Licensee will ensure that staff who arrive early morning or depart late at night when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents.
 - iv. Customers will be asked not to stand around talking in the street outside the premises; and asked to leave the vicinity quickly and quietly.
 - v. A specific taxi operator has been nominated for staff and customers use. The company's telephone number is



advertised to customers. The operator, and all drivers, are aware that they should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines running unnecessarily.

- vi. The movement of bins and rubbish outside the premises will be kept to a minimum after 11.00pm. This will help to reduce the levels of noise produced by the premises.
- vii. Bright lights on or outside the premises will be positioned and screened in such a way so as to not cause a disturbance to nearby residents.
- viii. Adequate waste receptacles for use by customers will be provided in the local vicinity.

c.

- 5. Had a planning application been submitted, Environmental Health would have required a noise impact assessment to be undertaken by the applicant and any remedial works completed.
 - a. We are of the understanding that no planning permission is required for the change of use from Class 1 shop to class 3 restaurant. However as described above we object to the notion that we have not considered the issue of nuisance to the flats above or indeed the wider residential community
- 6. Torbay Councils Licensing Statement of Principles P22 Para 4 states: -

'Where Applicants are completing Operating Schedules, they are expected to have regard to the location of the proposed or actual premises. In particular, consideration should be given to whether proposals may have a disproportionate impact in residential areas or near to sensitive premises such as nursing homes, older people's accommodation, hospitals, hospices, schools, childcare facilities or places of worship.'

There is no indication in the operating schedule that the applicant has considered noise transmission through the building and impact this may have on the existing residential properties.

- a. We strongly object to this assertion.
 - i. Firstly, in conjunction with other businesses and organisations on the harbour, including: Harbour Lights, Mollies, The Harbour Inn, TJ's, The Curious Crab Café, The Rowing Club, The Harbour Master and local councilors, Blue Sea is working hard (and spending money) on improving the harbour and wider area in order to make Paignton harbour a more attractive place for visitors and locals alike. This has begun with Blue sea and Bright & Brown jet washing the front of the carpark to clean up 30+ years of stains. We are working with other stakeholders to improve signage for our beautiful harbour and, in particular, to clean up the carpark to make it less intimidating to visitors. This will include engaging with the art college to commission murals of scenes of Torbay on the lower car park deck which will make the entrance to the harbour far more inviting while inevitably adding revenue for the council through greater use of a currently quiet car park.
 - ii. We have very much considered our impact on the residents above our restaurant; as previously discussed we have added substantial insulation on both levels of the building to minimize noise transfer
 - iii. The crab & Hammer is planning to open 7am to 11pm. The Rowing Club bar immediately adjacent to the flats above our restaurant has a license to operate until 12 am 7 days a week, they also have seating directly outside their building. The Curious Crab Café has a license to 11pm and also has seating outside. Harbour Lights and Harbour Inn (also on the harbour) are also open to 11pm with outside seating. We are a restaurant and not a bar and therefore expect to be quieter than other premises surrounding the harbour. We fully respect our neighbors desire



to keep the harbour quiet, however it is a working harbour and what we are trying to do with the Crab & Hammer is in line with the harbour master, local councilors and the wider Torbay council's desire to encourage local businesses to develop the area.

7. The Responsible Authority notes the terminal hour for alcohol is at 11:00pm with a premises closure at 11:30. The applicant wishes to use the benefit of the Live Music Act 2012 and therefore this activity does not require authorisation, however this does not absolve the applicant from the requirement of the Environmental Protection Act 1990.

a. We appreciate this and have no plans for regular live music. However, we note that other venues around the harbour have had live music at night. We have discussed the idea of coordinating any live music with other venues to ensure only one event takes place at any one time.

8. When the Council receive complaints about licensed premises situated underneath residential accommodation the lack of suitable sound insulation is often identified as the main cause. Most commonly experience by residents includes disturbance from music (even at a low volume), voices, doors closing, catering noise and noise from the movement of furniture.

a. As explained, we have added substantial sound insulation to two levels of our building. We are confident that this will mitigate the vast majority of the general noise from the restaurant including doors closing, catering noise and noise from the movement of furniture. In the summer months, should we have live music this is most likely to be outside or next to our bi-fold doors therefore if there is a disturbance this would more likely to come up and through the windows of the flats above. However, we reiterate that we are not intending to have live music regularly and when we do it would be of a nature befitting of a restaurant and not a bar, therefore it would be of a gentle form. As with other live music that currently appears on the harbour it is organized to encourage a lively but respectful clientele to our wonderful harbour

9. Torbay Councils Licensing Statement of Principles P42 Para 5 states:-

Applicants with access to outdoor spaces, such as beer gardens and designated smoking areas, may be asked to provide a written noise management plan if the location of outdoor spaces is adjacent to or in proximity of residential accommodation or hospitality services, such as hotels and B&Bs.

The operating schedule makes reference to an outdoor seating area, yet the operating schedule is silent on how this area will be controlled. An outdoor seating area situated directly under residential accommodation needs to be considered. I would urge the applicant to produce a suitable and sufficient noise management plan.

a. As with the Curious Crab Café and the Rowing Club immediately adjacent to where our seating will be, outside seating is essential for business and in line with the café culture that everyone wants these days. Indeed, it is positively encouraged by the government, especially in these covid times.

b. In our application we have explained that we will do all possible to ensure staff and guests alike respect local residents. Again, we are a restaurant and not a beer garden and therefore we expect lively chat rather than loader noise that may be associated with a bar. Should any guests become rowdy we will of course ask them to respect our residential neighbors.

10. The operating schedule states deliveries will take place at a time to minimise disruption to residents, but what time will this be? Likewise emptying of rubbish is stated as 'will be minimise' after 11pm. The emptying of beer bottle into waste bins has been recorded as producing a peak level of 120dB and is often cited by residents as a nuisance.



- a. Our team have experience working at local hotels and are fully aware of the potential nuisance of deliveries and particularly the disposal of bottles. We will agree not to take bottles outside after 2030 or before 0830 but we have no interest in causing noise for our neighbours or indeed those eating at our restaurant. We will aim for deliveries to also be made between 0830 and 2030 however business deliveries do need to consider the need to avoid general traffic during the day, especially in a busy place such as Torbay.
11. The application is also silent on the matter of extraction equipment for the kitchen. Is there one? Has planning permission being applied for? What is the specification? Has it been designed to minimise noise and odour nuisance? How will it be maintained?
 - a. Yes we will have extraction from the kitchen
 - b. The fan for the extraction is on the 2nd floor and housed in a sound insulated box, the ceiling above is again fitted with further sound insulation. The pipework vents above the roofs of neighboring buildings. We do not expect significant odors anyway and if there are some odors they will come nowhere near any residential premises. However, if additional filters are needed, we have incorporated space for these to be added at a future date. Having spent a great deal of money on our restaurant and the wider harbour area we would like to only add this if and when it is deemed necessary.
12. In summary licensed premises such as bistros, restaurants and Cafes generally do not cause public or Statutory nuisance. In cases where this types of premises do it is almost always because of the lack of sound insulation between the licensed premises and adjoining residential accommodation. Applicants must consider the impact of the proposed activity will have, especially in situations where a change of use is taking place.
 - a. We agree that we do not expect our restaurant to cause any **nuisance**, in fact we expect it to add significantly to the attraction of the harbour and indeed, as a destination restaurant, to the wider Torbay hospitality offering.
 - b. I hope that we have reiterated our understanding of our neighbours concerns regarding noise **nuisance** through our installation of several layers of sound insulation throughout the restaurant.
13. At this time I will not make any formal recommendations as the applicant may wish to provide further supporting evidence to alleviate the concerns raised by residents and those contained in this report.
 - a. We hope that the above goes far enough to demonstrate that the Crab & Hammer will not cause a nuisance and indeed will add to the regeneration of our beautiful harbour...

