# TORBAY COUNCIL

Wednesday, 23 July 2025

# STATUTORY LICENSING SUB-COMMITTEE

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

# Thursday, 31 July 2025

commencing at 9.30 am

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Douglas-Dunbar

**Councillor Foster** 

Councillor Spacagna

# A Healthy, Happy and Prosperous Torbay

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

# STATUTORY 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 Sub-Committee.

#### 3. Minutes

To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 3 July 2025.

### 4. 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.)

### 5. Urgent items

To consider any other items that the Chairman decides are urgent.

 Application for the Grant of a Premises Licence at Tomo Burger, South Quay, The Harbour, Paignton To consider an application for a new Premises Licence in respect of Tomo Burger, South Quay, The Harbour, Paignton.

(Pages 7 - 28)

(Pages 3 - 6)

# **Minutes of the Statutory Licensing Sub-Committee**

3 July 2025

-: Present :-

Councillors Spacagna, Foster and Johns

# 3. Election of Chairman/woman

Councillor Spacagna was elected as Chairman for the meeting.

# 4. Minutes

The Minutes of the meetings of the Sub-Committees held on 30 January 2025 and 6 February 2025 were confirmed as a correct record and signed by the Chairman.

## 5. Licensing Act Review in respect of The Devon Dumpling, 108 Shiphay Lane, Torquay

Members considered a report on an Application for a Review of a Premises Licence in respect of the Devon Dumpling, 108 Shiphay Lane, Torquay.

Name	Details	Date of Representation
Applicant	Application and supporting correspondence for a Review of	9 May 2025
	the Premises Licence in respect	
	of the Devon Dumpling, 108	
	Shiphay Lane, Torquay.	
Public	Report by Torbay Council as the	Undated
Protection	Responsible Authority for Public	
Officer	and Statutory Noise.	
Member of the	Representation supporting the	Undated
Public	Application for a Review of the	
	Premises Licence.	
Member of the	Representation neither	23 May 2025
Public	supporting nor objecting to the	
	Application for a Review of the	
	Premises Licence.	

Written Representations were received from:

Oral Representations were received from:

Name	Details
Applicant	The Applicant outlined the Application for a Review of a
	Premises Licence and responded to Members' questions.
Public	The Public Protection Officer outlined his representation
Protection	and responded to Members' questions.
Officer	
The	The Respondent supported by his new Manager responded
Respondent	to the Application for a Review of a Premises Licence and
	responded to Members' questions.

#### Decision:

That the current Designated Premises Supervisor of the premises known as The Devon Dumpling, 108 Shiphay Lane, Torquay be removed with immediate effect.

And the following conditions to be amended:

#### Condition 3

'all windows and doors shall be kept closed during regulated entertainment after 10 pm with regular checking by staff'.

#### shall now read

'all windows and doors shall be kept closed during regulated entertainment with regular checking by staff'.

#### Condition 9

'that the pre-existing conditions around prevention of public nuisance at Annex 3, point 1 of the current Premises Licence shall be reinstated'

#### shall now read

'the live music exemption under section 177A of The Licensing Act 2003 shall be removed. Any conditions previously exempted under this provision are enforceable.

#### Condition 11

'lights in the outside area shall be turned off at 10pm but for the designated smoking area and the area leading directly to it'

#### shall now read

'lights in the outside seating area at the rear of the premises shall be turned off at 10pm but for the designated smoking area and the area leading directly to it'

And the following additional condition:

'The premises shall install a sign in the car park, reminding patrons to leave the premises quietly and respectfully, which during the hours of opening and closing shall be adequately lit to be reasonably seen by patrons.'

Reasons for Decision:

Having carefully considered all the written and oral Representations, Members unanimously resolved to remove the current Designated Premises Supervisor with immediate effect and to modify the Premises Licence as they could not be satisfied based on the evidence before them, that without such removal and modification, the Licensing Objectives; namely, The Prevention of Public Nuisance and The Prevention of Crime and Disorder would be promoted.

In coming to their decision, noting that this was the second review of the premises this year, the first having been brought by a Responsible Authority, Members gave serious consideration to revoking the Premises Licence, however on this occasion, concluded that the immediate removal of the current Designated Premises Supervisor, together with slight amendments to the existing conditions, and the imposition of an additional condition would achieve the required outcomes, alleviate concerns, and promote the Licensing Objectives.

Members heard from the Applicant how she and her family, with whom she lives, have suffered noise and disruption for the 6 years that they had lived at the property, and that this included harassment and intimidation from persons that they believed to be patrons of the premises, and that they had experienced anti-social behavior in recent months as detailed in her Review Application. Furthermore, she had witnessed drunk patrons leaving the premises in control of a vehicle, and that she believes that the premises does not sell alcohol responsibly. This was extremely concerning for Members to hear, though they were surprised to note that given the seriousness of the allegations that the Applicant had not reported these matters to the Police. When questioned in this regard this was not done due to the expectation that no action would be taken. The Applicant confirmed that neither had these concerns been raised with the Premises directly.

Members were played four videos recorded by the Applicant on her mobile phone from the garden of her home, which showed noise emanating from the car park when patrons were dispersing, and noise which appeared to be emanating from the beer garden of the premises. The timing of these recordings being 23.00 hours, 22.50 hours, 23.12 hours and 22.01 hours. Whilst it appeared from the footage that the noise could not be heard from inside the property, Members felt that such a level of noise nuisance as shown in at least one of the videos was unacceptable and were concerned that this behaviour appeared to be unmanaged and to go unchallenged by the premises at the time. It was however, noted by the Applicant that she had heard staff telling patrons to move inside on one occasion.

Members heard from the Public Protection Officer that since the last review hearing four complaints had been received relating to noise nuisance; two from live music and two from noise coming from the outside areas of the premises, and that the conditions amended at the previous Review Hearing of the Premises Licence were found not to have been complied with when he visited with a colleague almost four months later. This noncompliance placed the Premises Licence Holders in breach of their Premises Licence. The Public Protection Officer could see no benefit from adding further conditions, but as a Responsible Authority made recommendations to Members around clarifying the wording of those in place to assist the Premises with future compliance.

As part of his oral submissions, Members heard from the Respondent that he had misunderstood the decision of the last review and had been unclear of the date as to when the conditions had to be complied with, believing that the date for compliance specified in respect of one of the numbered conditions, applied to all. This explanation was not found to be feasible by Members. However, the Respondent did confirm that all conditions had now been complied with, and this was supported by the submissions of the Public Protection Officer, who confirmed that efforts had been made in this regard further to his visit.

Despite what appeared to be a high turnover of Managers at the Premises, which was a concern for Members, they were reassured to note that a new Manager was now in employment who, with a number of years' experience of managing various licensed premises, would be living onsite with his partner, enabling him to have greater operational oversight. Members heard that there was a vision to market the pub to a different clientele; to become more food led, and to return to the country pub that it once was.

Members were pleased to hear from the Respondent that since the last hearing, measures have now been put in place at the premises to ensure the quiet dispersal of patrons with a member of staff being present at the front of the property at closing time, and that noticeable improvements have been seen. However, the video evidence provided by the Applicant did not support this. Members were unanimous that the systemic issues at the Premises arose from poor management and had no confidence in the Respondent as the current Designated Premises Supervisor, who they found to show a lack of commitment and willingness to engage effectively with the Licensing Team or uphold the Licensing Objectives.

In concluding, Members noted that no Representation had been received from the Police and determined in accordance with the modifications to the conditions on the Premises Licence as recommended by the Public Protection Officer, the addition of a further condition to remind patrons to leave the Premises quietly and respectfully, and with full compliance by the Premises Licence Holder and successive Designated Premises Supervisor of all conditions of the Premises Licence going forward, that the Licensing Objectives would be promoted.

Members noted that should any issues arise, a further Review of the Premises Licence can be sought by a Responsible Authority or any other person.

Chairman

# TORBAY COUNCIL

Briefing Report No:	Public	c Agenda Item:	Yes
Title:	Licensing Act 2003 – An a respect of Tomo Burger, S TQ4 6DT		
Wards Affected:	Roundham with Hyde		
To:	Licensing Sub Committee	3	1 July 2025
Contact Officer: . ← Email:	Julie Smart licensing@torbay.gov.uk		

## 1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence made under Section 17 of the Licensing Act 2003 (the Act), 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 Objectives the "Prevention of Crime and Disorder" and 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 appropriate 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.

forward thinking, people orientated, adaptable - always with integrity.

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. The application is shown in Appendix 1.

A brief description of the application, is as follows:-

The sale by retail of alcohol for consumption both on and off the premises from 1200 hrs to 2200 hrs Monday to Sunday.

The opening hours of the premises are 0730 hrs to 2230 hrs Monday to Sunday.

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

"Previously licensed as The Crab and Hammer. The premise closed down and I am the new leaseholder. I wish to provide a restaurant focusing on gourmet burgers and providing local beers and spirts. The premises consists of a split level ground floor with seating and a bar. Kitchen to the rear. WC's are upstairs. There is outside seating for 6 people directly outside the premises on the decking. Further outdoor seating is adjacent to the premises with space for 3 tables for up to 12 people".

The plan accompanying the application is shown in 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 two Representations from Interested Parties who object to the application. We also received a Representation from Mr Tom West, Public Protection Officer. These are shown in Appendix 3.

No Representations have been received from any other Responsible Authority or any other Interested Party, other than that 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 Page 8

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 a 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.

# Rachael Hind Regulatory Services Manager

# Appendices

- Appendix 1 Application Form
- Appendix 2 Plan of the Premises
- Appendix 3 Representations

# Documents available in Members' rooms

# None

# **Background Papers:**

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

Torbay Council Licensing Policy 2021-26

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#### Application for a premises licence to be granted 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/We** Thomas Frederick Kembery

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 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

#### Part 1 – Premises Details

Postal addres Tomo Burger South Quay The Harbour	s of premises or, if none, ordnance survey map refe	rence or descrip	tion
Post town	Paignton	Postcode	TQ4 6DT

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£10,000

### Part 2 - Applicant Details

Please state whether you are applying for a premises licence as Please tick as appropriate

a)	an i	ndividual or individuals *	Х	please complete section (A)
b)	a p	erson other than an individual *		
	i.	as a limited company		please complete section (B)
	ii.	as a partnership		please complete section (B)
	iii.	as an unincorporated association or		please complete section (B)
	iv.	other (for example a statutory corporation)		please complete section (B)
c)	a re	ecognised club		please complete section (B)
d)	a cl	narity		please complete section (B)

e)	the proprietor of an educational establishment		please complete section (B)	)
f)	a health service body		please complete section (B)	)
g)	a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales		please complete section (B)	)
ga)	a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England		please complete section (B)	)
h)	the chief officer of police of a police force in England and Wales		please complete section (B)	)
* If yo	u are applying as a person described in (a) or (b) plea	se con	firm:	
Please	e tick yes			
	arrying on or proposing to carry on a business which i ensable activities; or	nvolve	s the use of the premises	х
I am n	naking the application pursuant to a			
	statutory function or			
	a function discharged by virtue of Her Majesty's prer	ogative	e	

# (A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr X	Mrs 🗌	] [	Miss		Ν	Ms 🗌		er Title (for mple, Rev)	
Surname Kembery									
Date of Birth				la	ım 18 y	ears old o	r over	· X Plea	ase tick yes
Nationality E	British								
Current residential address if different from premises address									
Post town	Paignt	on						Postcode	
Daytime con	Daytime contact telephone number								
E-mail addre (optional)	E-mail address (optional)								

### Part 3 Operating Schedule

When do you want the premises licence to start?

DD MM		YYYY
AS	ΑP	

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	)	MN	Λ	YΥ	ΥY	,

Please give a general description of the premises (please read guidance note 1)

Previously licensed as The Crab and Hammer. The premise closed down and I am the new leaseholder. I wish to provide a restaurant focusing on gourmet burgers and providing local beers and spirits.

The premises consists of a split level ground floor with seating and a bar. Kitchen to the rear. WC's are upstairs.

There is outside seating for 6 people directly outside the premises on the decking. Further outdoor seating is adjacent to the premises with space for 3 tables for up to 12 people.

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

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

<u>Prov</u>	rision of regulated entertainment (please read guidance note 2)	Please tick any that apply
a)	plays (if ticking yes, fill in box A)	
b)	films (if ticking yes, fill in box B)	
c)	indoor sporting events (if ticking yes, fill in box C)	
d)	boxing or wrestling entertainment (if ticking yes, fill in box D)	
e)	live music (if ticking yes, fill in box E)	
f)	recorded music (if ticking yes, fill in box F)	
g)	performances of dance (if ticking yes, fill in box G)	
h)	anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)	

# Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

# In all cases complete boxes K, L and M

# Α

<b>Plays</b> Standard days and timings (please read		ead	Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	
guidan	guidance note 7)			Outdoors	
Day	Start	Finish		Both	
Mon			Please give further details here (please read guid	lance note 4)	
Tue			-		
Wed			State any seasonal variations for performing pla guidance note 5)	<b>ays</b> (please rea	d
Thur			-		
Fri			Non standard timings. Where you intend to use the performance of plays at different times to th column on the left, please list (please read guida	ose listed in th	
Sat					
Sun			-		

Х

<b>Supply of alcohol</b> Standard days and timings (please read		nd	Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	
	guidance note 7)			Off the premises	
Day	Start	Finish		Both	Х
Mon	12:00	22:00	State any seasonal variations for the supply of a guidance note 5)	<b>Icohol</b> (please	read
Tue	12:00	22:00			
Wed	12:00	22:00			
Thur	12:00	22:00	Non standard timings. Where you intend to use the supply of alcohol at different times to those I column on the left, please list (please read guidan	<u>isted in the</u>	<u>or</u>
Fri	12:00	22:00	(processing ground 		
Sat	12:00	22:00			
Sun	12:00	22:00			

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

Name Thomas Kembery		
Date of Birth		
Postcode		
Personal licence number (if known) PA4076		
Issuing licensing authority (if known) Torbay Council		

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9). None

### L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	07:30	22:30	
Tue	07:30	22:30	-
Wed	07:30	22:30	Non standard timings. Where you intend the premises to be oper
Thur	07:30	22:30	to the public at different times from those listed in the column on the left, please list (please read guidance note 6)
Fri	07:30	22:30	- - -
Sat	07:30	22:30	
Sun	07:30	22:30	

**M** Describe the steps you intend to take to promote the four licensing objectives:

### a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

- 1. All staff engaged in licensable activity at the premises will receive training and information in relation to the following:
  - The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable.
  - The hours and activities permitted by the premises issued under the Licensing Act 2003 and conditions attached to the licence.
  - How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).
  - Recognising the signs of drunkenness.
  - The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase.
  - Action to be taken in the event of an emergency, including reporting an incident to the emergency services.

Training shall be recorded in documentary form and shall be regularly refreshed at no greater than 12 monthly intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority. Training records will be retained for at least 12 months.

## b) The prevention of crime and disorder

- 1. An incident log shall be kept and maintained at the premises which will include a log of the following, including pertinent details:
  - Any incidents of disorder or of a violent or anti-social nature
  - All crimes reported to the venue, or by the venue to the police
  - All ejections of patrons
  - Any complaints received
  - Seizures of drugs or offensive weapons
  - Any faults in the CCTV system
  - Any visits by a responsible authority (under the Licensing Act 2003) or emergency service.

Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.

2. The premises shall install operate and maintain a comprehensive digital colour CCTV system to the satisfaction of the Police and local authority:

i) All public areas of the licensed premises including entry and exit points will be covered, including any outside areas under the control of the premises licence holder.
ii) The system must record clear images permitting the identification of individuals, and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition.

iii) The CCTV system will continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises.

iv) All equipment must have a constant and accurate time and date generation.v) All recordings will be stored for a minimum period of 30 days with date and time stamping.

vi) Viewable copies of recordings will be provided on request to the Police and local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 1998 (or any replacement legislation) OR a staff member from the premises who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open. This staff member must be able to provide an authorised officer of a responsible authority, copies of recent CCTV images or data with absolute minimum of delay when requested in accordance with the Data Protection Act 1998 (or any replacement legislation).

vii) The CCTV system will be capable of downloading images to a recognisable viewable format.

viii) There will be security measures in place to ensure the integrity of the system to prevent the tampering with, and deletion of, images.

3. Alcohol is to be served ancillary to food.

4. The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.

## c) Public safety

1. A Fire risk assessment will be carried out and regularly reviewed.

# d) The prevention of public nuisance

- 1. Prominent, clear and legible notices must be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.
- 2. Regular maintenance must be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
- 3. The handling of beer kegs, bottles and other similar items must not take place in the late evening, at night or in the early morning, when the noise generated could cause a nuisance particularly outside buildings.
- 4. All rubbish produced by the premises must be stored securely in a designated area or in a bin with a tight fitting lid.

### e) The protection of children from harm

- The premises shall operate a Challenge 25 Policy and any individual who appears to be under the age of 25 will be required to produce an approved form of photographic identification i.e.
   A photo driving licence

   A passport
   An identification card carrying the PASS hologram
   Unless such identification is produced the sale of alcohol must be refused.
  - 2. The premises shall display prominent signage indicating in all areas where alcohol is located that a Challenge 25 scheme is in operation.
  - 3. An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:
    - the date and time of refusal
    - the reason for refusal
    - details of the person refusing the sale
    - description of the customer
    - any other relevant observations.

The refusals register will be made available for inspection and copying on request of an authorised officer of a responsible authority. All entries must be made within 24 hours of the refusal.

### Checklist:

#### Please tick to indicate agreement

•	I have made or enclosed payment of the fee.	х
•	I have enclosed the plan of the premises.	Х
•	I have sent copies of this application and the plan to responsible authorities and others where applicable.	
•	I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.	Х
•	I understand that I must now advertise my application.	Х
•	I understand that if I do not comply with the above requirements my application will be rejected.	Х
•	[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom	Х

(please read note 15).

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (see guidance note 12). If signing on behalf of the applicant, please state in what capacity.

Declaration	<ul> <li>[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)</li> </ul>	
Signature	Thomas Kembery	
Date	6 <sup>th</sup> June 2025	
Capacity	Owner	

For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

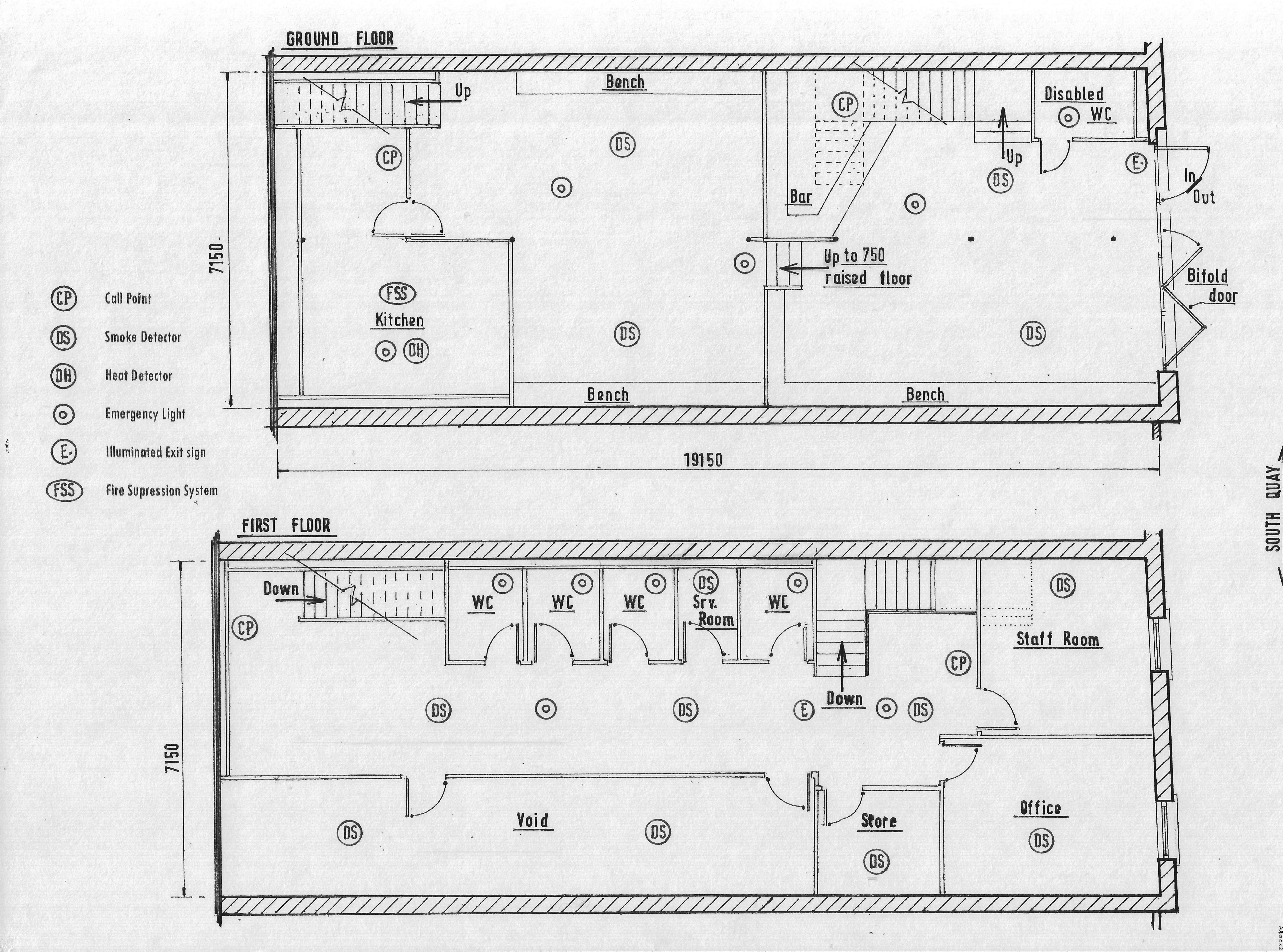
Signature	
Date	
Capacity	

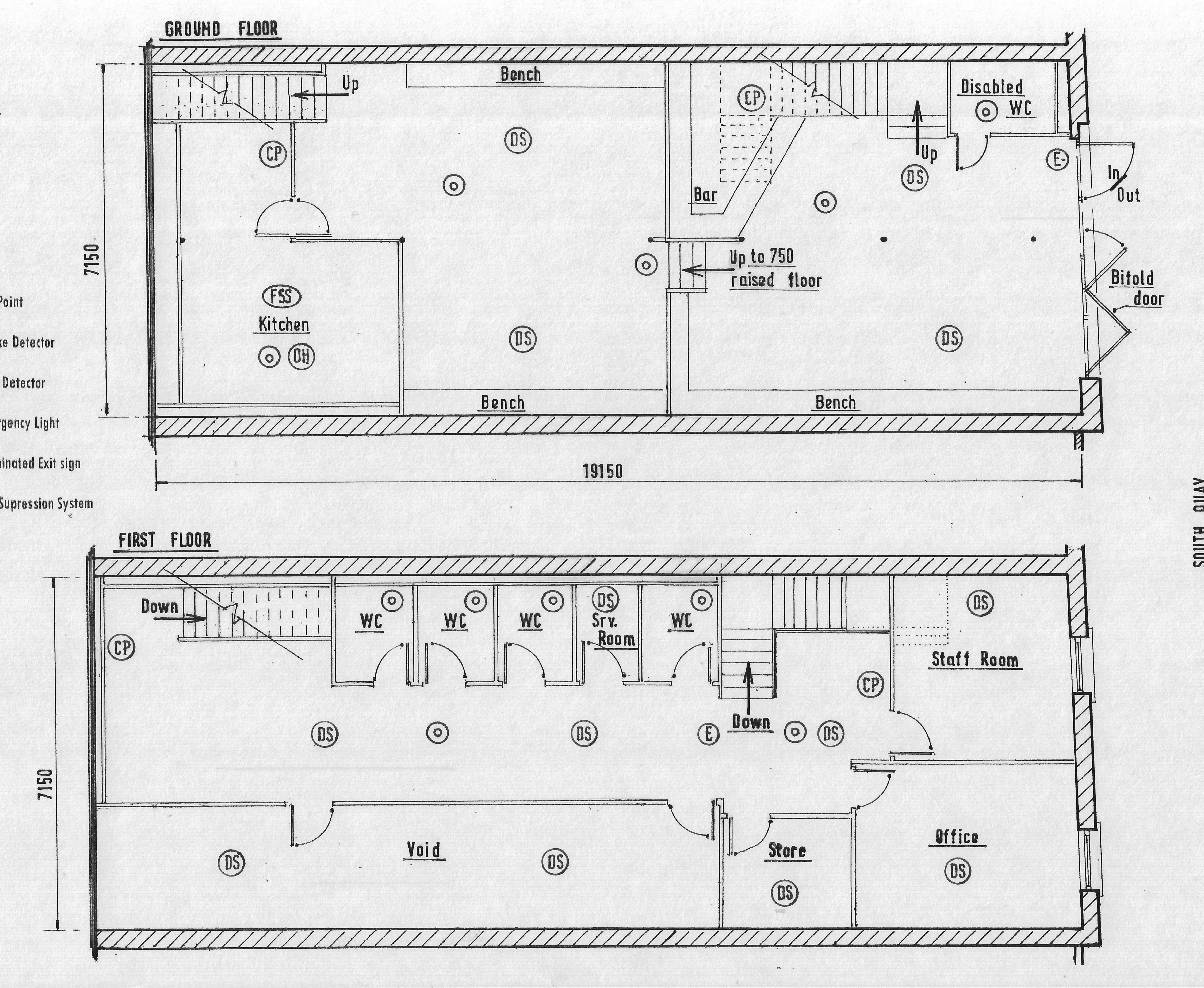
 Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)

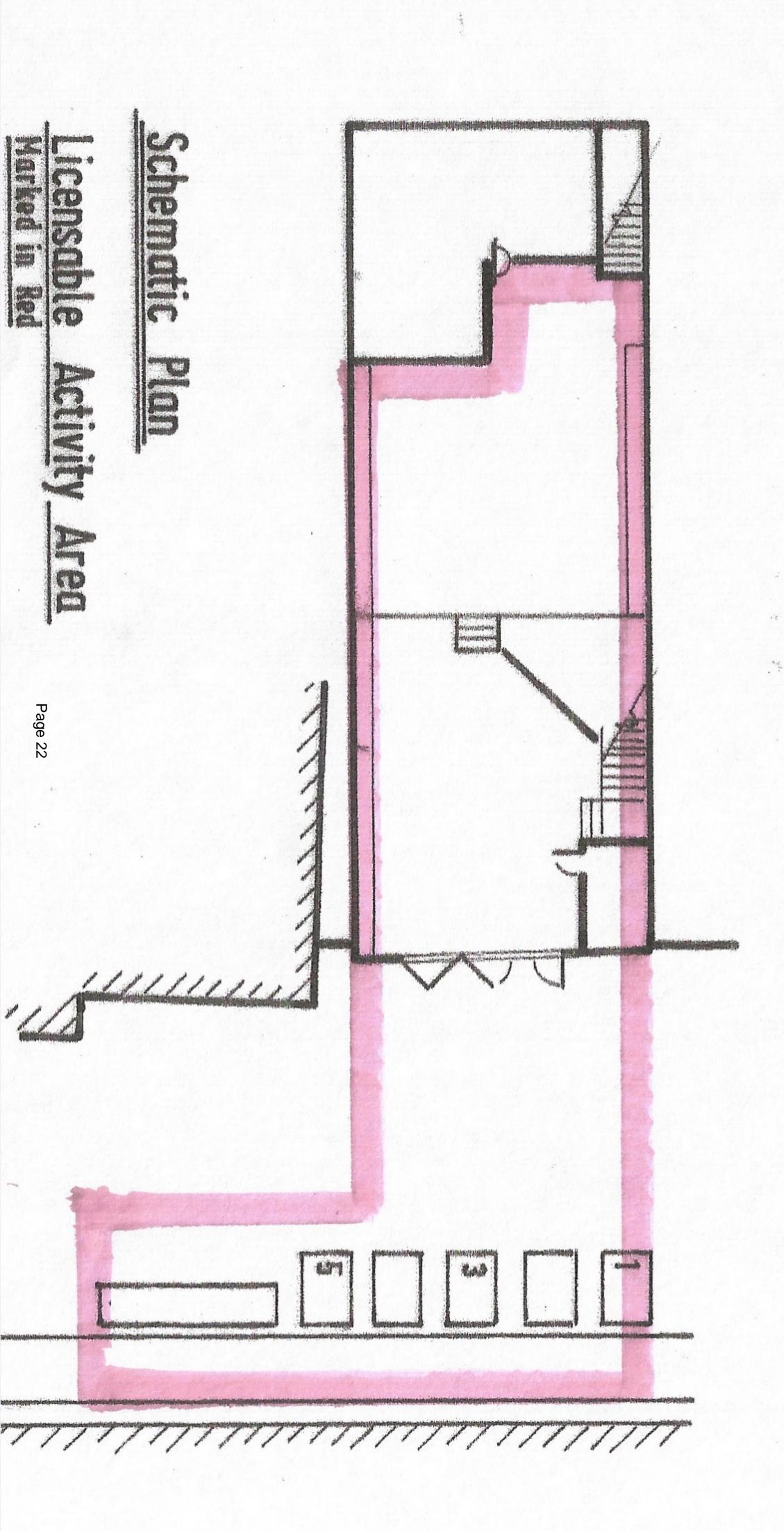
 Post town
 Postcode

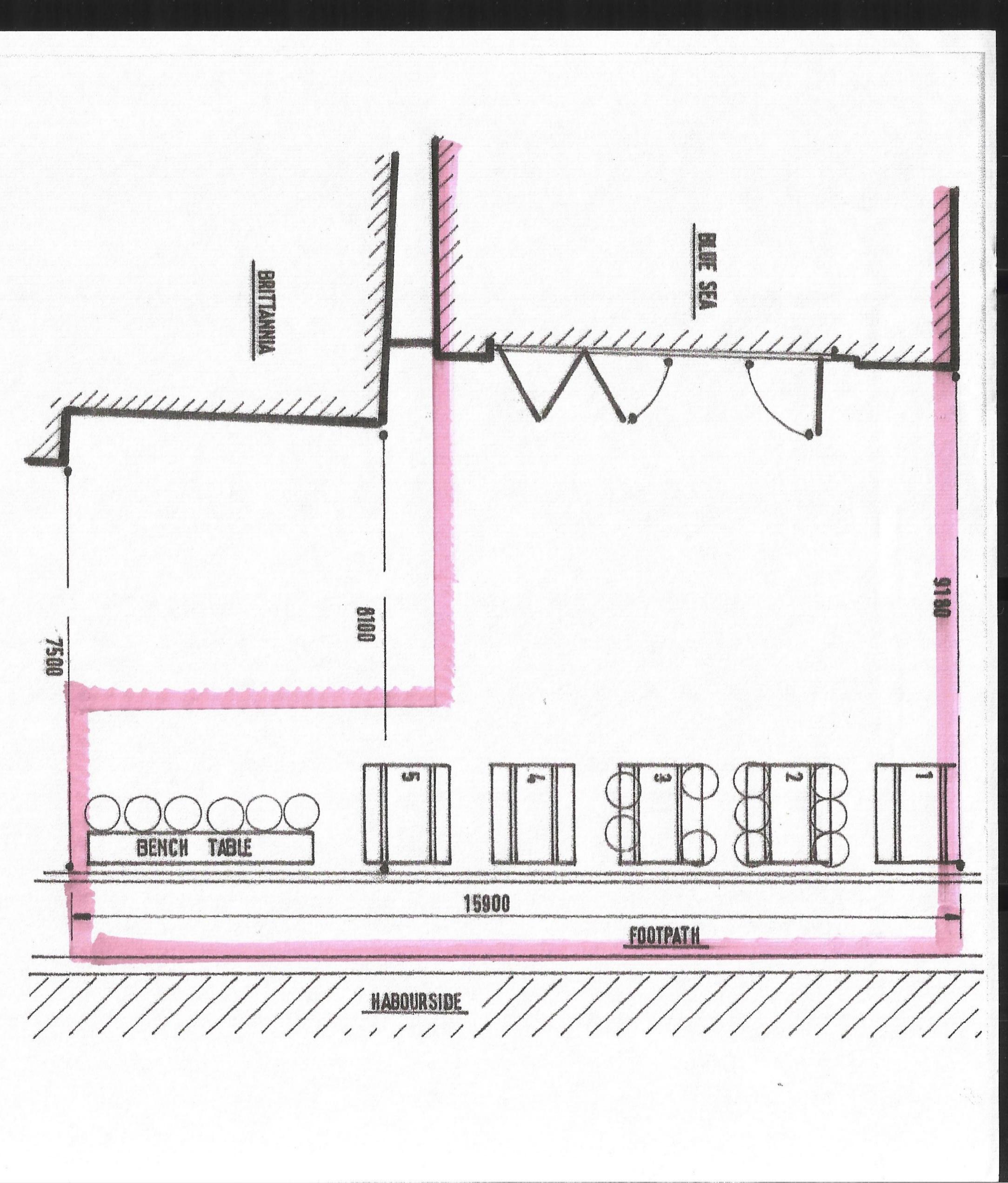
 Telephone number (if any)

 If you would prefer us to correspond with you by e-mail, your e-mail address (optional)









# Agenda Item 6 Appendix 3

Licensing representation		
Date and Time Submitted	13 June 2025 20:07:15	
Name of the premises:	Tomo Burgers	
Support/Object to application	Object	
Address of the premises:	South Quay Paignton	

# **Applicant Details**

In what capacity are you applying?	Any other person
First name:	
Last name:	
Contact number:	
Email address:	
Address:	CLIFF ROAD PAIGNTON TQ4 6DL

# Representation

Which of the following Licensing Objectives is this representation relevant to?

This representation is relevant to the following Licensing Objectives	The prevention of crime and disorder Public safety The prevention of public nuisance
The reason for your representation:	Noise from music and drunkeness I'm very concerned about noise as I live
Is there any reason why you do not want your personal details to be passed on to the premises license holder?	Νο
Would you like to include any documentation in support of your representation	Νο
Uploaded Files	

# Confirmation

[You don't often get email from https://aka.ms/LearnAboutSenderIdentification ]

. Learn why this is important at

Hello Carrie.

My objection to this licensing is based on two things. First noise.

I live in one of two flats directly above the premises. At the licensing hearing for the previous tenants, the Crab and Hammer, the agreement was granted with certain amendments made.

They stated they had built in noise reduction in the ceiling. They lied. There is no such soundproofing and the new tenant has stated he can hear everything from the flats and we can certainly hear him and everything from downstairs.

The second thing is hours. They plan to open at 7am and close after 10pm. The noise would be unbearable. I would be woken up and stopped from sleeping.

Then I am concerned with drunkenness. Outside the property by the harbour side and right outside my window. Anti social behaviour is rife already in the area. I would not like anymore.

The Crab and Hammer's tenancy was hell for us noise wise and this is the basis of my objection this time as no improvement or soundproofing has been made.

My thanks to you.

Best wishes from

Licensing representation		
Date and Time Submitted	08 July 2025 11:10:35	
Name of the premises:	Tomoburger	
Support/Object to application	Object	
Address of the premises:	South Quay Paignton TQ4 6DT	

# **Applicant Details**

In what capacity are you applying?	Any other person
First name:	
Last name:	
Contact number:	
Email address:	
Address:	CLIFF ROAD PAIGNTON TQ4 6DL

# Representation

Which of the following Licensing Objectives is this representation relevant to?

This representation is relevant to the following Licensing Objectives	The prevention of public nuisance
The reason for your representation:	A previous licence was granted to this property (Crab and Hammer) whereby we experienced late night drinking and excessive noise below our front window. My residence is directly above this property and any granting of a licence will again affect our quality of life. There are already six existing businesses offering/selling alcohol in close proximity to our home and another outlet will only add to our discomfort. Late night revelry means closing my front window to eliminate the noise. I therefore object to this application.
Is there any reason why you do not want your personal details to be passed on to the premises license holder?	Νο
Would you like to include any documentation in support of your representation	Νο

# Licensing Act 2003 Environmental Health Representation/Notice of Objection

# **Application Details**

Premises: Tomo Burger, South Quay, The Harbour, Paignton, TQ4 6DT
Name of Applicant: Thomas Frederick Kembery
Address: South Quay, The Harbour, Paignton, TQ4 6DT
Type of Application: Alcohol (Both)

# I consider the application to undermine the following licensing objectives:

The Prevention of Public Nuisance

## Representation: This department would like to make the following representation:

The following representation is made in respect of an application for a premises licence for Tommo Burger, (formally The Crab and Hammer), South Quay, The Harbour, Paignton.

Throughout the period between August 2021 and July 2023, we received a total of six complaints concerning noise. These complaints concern industrial and construction noise which cannot be taken into consideration as far as the Licensing Act is concerned. However, these complaints briefly mention noise emanating from smoking at tables in the outdoor seating area adjacent to the premises. The same point is raised in one of the representations.

I have since spoken with the applicant Mr Kembery, who himself has expressed concerns regarding noise and the impact this may have on the residents who live above. Having reviewed two representations made in objection to this application, I now consider that one of the conditions should be amended and several further conditions should be added in respect of the prevention of public nuisance. My recommendations look to address the potential for nuisance to occur from customers drinking or smoking outside when using the premises outdoor seating.

I recommend that the following conditions are added:

- No deliveries (in relation to licensable activities) to the premises shall take place between 09:00hrs and 21:00hrs.
- A sufficient number of suitable receptacles must be located in appropriate locations for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter, etc.
- The sale and supply of alcohol for consumption in any outdoor area of the premises shall be restricted to alcohol consumed at the outside tables and chairs and shall be by waiter or waitress service only.
- All outside areas must be closed and cleared of customers by 21:00 hrs.

I also recommend that the proposed condition that reads:

The handling of beer kegs, bottles and other similar items must not take place in the late

evening, at night or in the early morning, when the noise generated could cause a nuisance

particularly outside buildings.

Should be amended to read the following:

# The handling of kegs or bottles shall not take place before 09:00 hrs or after 21:00 hrs.

If the applicant agrees to amend the application to reflect my recommendations above, then I will consider withdrawing my representation.

Yours sincerely,

Tom West, Public Protection Officer, Torbay Council

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