



Wednesday, 17 October 2018

LICENSING SUB-COMMITTEE

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

Thursday, 25 October 2018

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Pentney
Councillor Thomas (J)

Councillor Thomas (D)

A prosperous and healthy Torbay

For information relating to this meeting or to request a copy in another format or language please contact:

Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

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. **Churston Court Hotel, Churston Ferrers, Brixham TQ5 OJE**
To consider an application for a Review of a Premises Licence in respect of Churston Court Hotel, Churston Ferrers, Brixham.

(Pages 3 - 65)



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Review of a Premises Licence for Churston Court Hotel, Churston Ferrers, Brixham TQ5 OJE**

Wards Affected: **Churston with Galmpton**

To: **Licensing Sub-Committee** **25 October 2018**

Contact Officer: **Mandy Guy**
Telephone: **01803 208124**
E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of a Premises Licence.
- 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 Public Nuisance” and “Public Safety”.
- 1.4 Under regulations to the Licensing Act 2003 (the Act) the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.

The Authority must have regard to the application and any relevant Representations and take one or more of the steps as detailed below as it considers necessary for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;
- (f) to do nothing;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

All Annex one conditions on the current Premises Licence, which are subject to under sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) and any of the mandatory conditions must remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

2. Introduction

- 2.1 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above.

A brief description of the Review is as follows:

The application concerns matters relating to the Licensing Objective “The Prevention of Public Nuisance” and has been submitted by a resident that lives in the vicinity of the Churston Court Hotel.

Details of the application are shown in Appendix 1.

A copy of the current licence, including the plan of the premises is attached as Appendix 2.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the Applicant is a person as defined under the Act as being entitled to make such application and that the application is not frivolous or vexatious. The Authority is also satisfied that the administrative requirements of Section 51(3) (a) and (b) have been met and that the application is therefore, properly made.

A Representation has also been received from the Public Protection Officer for Torbay Council in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 3.

A further 11 Representations have also been received from Interested Parties. 10 of these are from residents who live within the vicinity of the Premises and are in support of the Review application. 1 Representation is in support of the Premises and is from 2 people who are regular guests at the Premises. The Representations in support of the Review application relate to the Licensing Objectives “The Prevention of Public Nuisance” and “Public Safety”. These representations are shown as Appendix 4.

There have been no Representations from any other Responsible Authority or any other Interested Party.

- 2.3 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.
- 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 Representations and the procedure to be followed at the hearing.
- 2.5 Once the matter is determined, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
 - (a) the Applicant for the Review,

- (b) the holder of the Premises Licence, or
- (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have affect until the Appeal is either determined or withdrawn.

- 2.6 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 an order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1	Application for Review
Appendix 2	A copy of the Premise Licence
Appendix 3	Representation from Public Protection Officer
Appendix 4	11 Representations from Interested Parties

Documents available in members' rooms

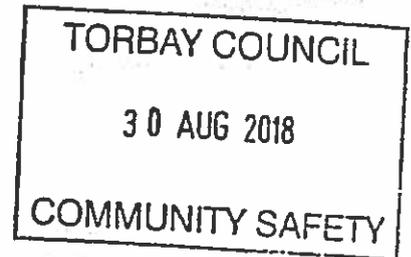
None

Background Papers:

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

Torbay Council Licensing Policy 2016.

FORM J



LICENSING ACT 2003

**APPLICATION FOR THE REVIEW
OF A PREMISES LICENCE OR
CLUB PREMISES CERTIFICATE**

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

Environmental Health Manager (Commercial)

**Torbay Council
Community Safety
C/O Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR**

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk

**Application for the review of a premises licence or club premises certificate
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I MRS HELEN GLAZEBROOK

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description CHURSTON MANOR, (Churston Court Hotel) CHURCH ROAD, CHURSTON FERRERS	
Post town CHURSTON FERRERS	Post code (if known) TQ5 0JE

Name of premises licence holder or club holding club premises certificate (if known) CHURSTON MANOR (CHURSTON COURT HOTEL) Gooseberry Inns (2016) LTD DPS: Mr Jonathan Frederick Smith
--

Number of premises licence or club premises certificate (if known) PL1061

Part 2 - Applicant details

I am Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete [A] or [B] below)
- 2) a responsible authority (please complete [C] below)
- 3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

GLAZEBROOK

First names

HELEN

I am 18 years old or over

Please tick ✓ yes

Current postal
address if
different from
premises
address

[REDACTED]

Post town

CHURSTON FERRERS

Post Code

[REDACTED]

Daytime contact telephone number

[REDACTED]

E-mail address
(optional)

[REDACTED]

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

There are regular performances of live and recorded music and film shows taking place in the garden grounds of Churston Manor (formerly Churston Court Inn). The frequency and volume of these performances are in contravention of the licensing objective "The Prevention of Public Nuisance"

1. The License holder and / or representative is creating a Public Nuisance by having frequent performances of live and recorded amplified music at a very high volume.
2. In between the music events there is a film showing on large screen TV, which is also played at high volume.
3. The staging of these events are in the garden of an historic building, with the stage and amplified music directed towards residential properties. There has been no thought or consultation with the local residents regarding the staging of any of the outdoor events which are causing a huge amount of disturbance both to properties in the immediate locality, and even being very loudly audible in more distant properties.

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

Churston Manor hotel states on their website that they are a

"Restaurant and bar in Churston Ferrers, South Devon is a celebration of luxury, style and service.

Situated in the historic village of Churston Ferrers close to Brixham and Paignton, Churston Manor is set in 2 acres of beautiful countryside, and offers an idyllic retreat from the stresses of busy lives.

This country house hotel, restaurant and bar provides contemporary standards of service whilst retaining the unique atmosphere of an ancient Manor House.

If you are marrying in church, we are immediately next door to Churston Parish Church.

BUSINESS - An Inspirational Setting

Escape the hustle and bustle of city life and hold your conference in the beautiful and tranquil surroundings of Churston Manor, close to Torquay"

There have been many outdoor live music /sport/film events at the idyllic, ancient Churston Manor set in 2 acres of beautiful countryside during the course of 2018.

The events that occurred during May and June, when the weather improved, were loud and could be clearly heard in your home and garden, but for a short duration of 2-3-4 hours.

The live outdoor events occurring during July and August are on a much more frequent basis and significantly increased in volume and duration.

The local residents have made frequent requests to the licensees both verbally and in writing for the volume and duration of the Noise to be decreased, but these requests were dismissed or ignored with arrogance up to now, enforcement of restrictions at any single event by the authorities also seems to fail to work.

These events are taking place usually on Friday and the weekend periods and also on most Bank holidays (but not always advertised so may occur any other day) which should be a relaxing time for family and friends to enjoy in their own homes and gardens. But you now try and cram in visits not to coincide with the events taking place at Churston Manor.

Due to this and not wishing to endure such a high level of intrusion in our daily living and the inability to have the entitled peace and quiet and enjoy our beautiful countryside, Torbay Council have been informed on a frequent basis (see event dates below) with the noise recording from several residents.

There have been a number of meetings we understand between Torbay Council and the License holders, which to date have not acted on the advice or requests to reduce the noise nuisance.

The latest event on Friday 17 August, very loud amplified live music for approximately 5 hours. On Saturday a repeat of the loud amplified music for 11 hours and Sunday the same for 5 hours.

The residents also had to navigate around cones and road restrictions imposed unilaterally and with no legal authority from the Highways's Agency by Churston Manor. The highway agency did not inform the residents of any road restrictions, which would have an impact for any emergency services having to use the road. When challenged by local residents, the "enforcers" employed by Churston Manor (we presume) were rude and obstructive.

The parking for these events was on a green agricultural field, which subsequently was used as a overnight camp site.

Several local residents have also had comments from residents in Brixham, (Cambridge Road) and Bascombe Road, Churston regarding the noise level and duration of the events Churston Manor.

The schedule of events is published on the Churston Manor website and Facebook pages.

As these live outdoor events are likely to continue and increase in number the Licensees must be responsible and reasonable and take into consideration the residents wellbeing and environment that Churston Manor is located in. If agreed in advance with Torbay Council, limits on noise levels and duration must be abided to.

THE FOLLOWING IS A CALENDAR OF EVENTS FOR WHICH TORBAY COUNCIL HAVE A NOISE RECORDING

1 & 15 & 22 JULY LIVE MUSIC OUTSIDE
28 JULY OUTDOOR SCREENING OF FILM
4 AUGUST REPEAT OUTDOOR SCREENING OF FILM
5 AUGUST LIVE MUSIC OUTSIDE
11 & 15 AUGUST OUTDOOR FILM SCREENING
17 AUGUST PRIVATE FUNCTION WITH EXTREMELY LOUD LIVE BAND OUTSIDE
18 & 19 STRAWBERRY FAYRE – BEER FESTIVAL EXTREMELY LOUD OUTDOOR LIVE MUSIC

THERE IS A CALENDAR OF EVENTS UPTO THE END OF DECEMBER 2018

Please tick ✓ yes

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

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

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

[Redacted Signature]

Date

30th August 2018

Capacity

Resident

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

Mrs Helen Glazebrook

[Redacted Address]

Post town
Brixham

Post Code

[Redacted Post Code]

Telephone number (if any)

[Redacted Telephone Number]

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

[Redacted E-mail Address]

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Licensing Act 2003
Premises Licence

1061

LOCAL AUTHORITY



Torbay Council
Licensing & Public Protection
c/o Town Hall
Castle Circus
Torquay
TQ1 3DR



Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Churston Court Hotel

Churston Ferrers, Brixham, Devon, TQ5 0JE.

Telephone 01803 842186

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Friday	10:00am	12:30am
	Saturday	10:00am	12:30am
	Sunday	Noon	Midnight
F. Playing of recorded music (Indoors)	Monday to Friday	10:00am	12:30am
	Saturday	10:00am	12:30am
	Sunday	Noon	Midnight
L. Late night refreshment (Indoors & Outdoors)	Monday to Friday	11:00pm	12:30am
	Saturday	11:00pm	12:30am
	Sunday	11:00pm	Midnight
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Friday	10:00am	Midnight
	Saturday	10:00am	Midnight
	Sunday	Noon	11:30pm



Licensing Act 2003
Premises Licence

1061

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Friday	10:00am	12:30am
Saturday	10:00am	12:30am
Sunday	Noon	Midnight
Non Standard Timings: On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Gooseberry Inns (2016) Limited
jf-smith@hotmail.co.uk

2 Stoke Gabriel Road, Galmpton, Brixham, TQ5 0NL.
Telephone 01803 661101

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Jonathan Frederick SMITH

Oversea, Bascombe Road, Churston Ferrers, Brixham, Devon, TQ5 0JW.

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PA3039

Issued by Torbay

Steve Cox
Environmental Health Manager
28 November 2016

ANNEXES

ANNEXE 1

MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

- 1) No supply of alcohol may be made under the premises licence:-
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3) (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:-

 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 4) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 5) (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-

 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
- 6) The responsible person must ensure that:-
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-



ANNEXES continued ...

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula $P = D + (D \times V)$

Where:-

- (i) P is the permitted price
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:-

- (i) The holder of the premises licence
- (ii) The designated premises supervisor (if any) in respect of such a licence, or
- (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

The Prevention of Crime and Disorder

- 1) All glasses and bottles will be cleared from the public areas when emptied or finished.
- 2) If any persons are acting in a disorderly manner they will be asked to leave the premises.

The Prevention of Public Nuisance

ANNEXES continued ...

- 1) No noise will emanate from the premises to cause local neighbours to be unreasonably disturbed.

The Protection of Children from Harm

- 1) A challenge 25 policy is in place and persons who look 18 and under will be asked for relevant ID i.e Driving Licence / passport.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None

ANNEXE 4

PLANS

Copy attached to Licence.

LOCAL AUTHORITY

Torbay Council
Licensing & Public Protection
c/o Town Hall
Castle Circus
Torquay
TQ1 3DR

Premises Details**POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION****Churston Court Hotel**

Churston Ferrers, Brixham, Devon, TQ5 0JE.

Telephone 01803 842186

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

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- any playing of recorded music
- provision of late night refreshment
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WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Gooseberry Inns (2016) Limited

2 Stoke Gabriel Road, Galmpton, Brixham, TQ5 0NL.

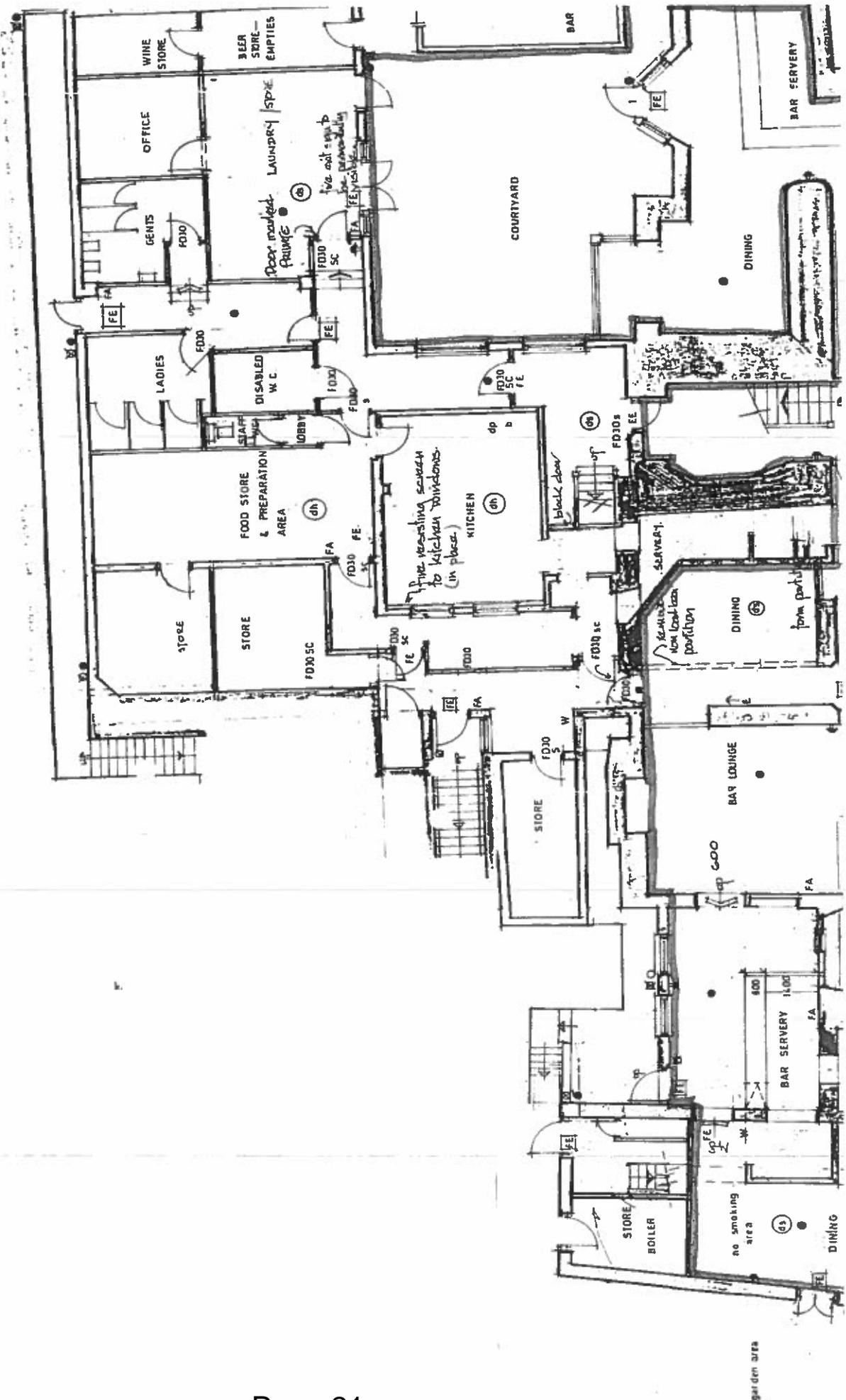
REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

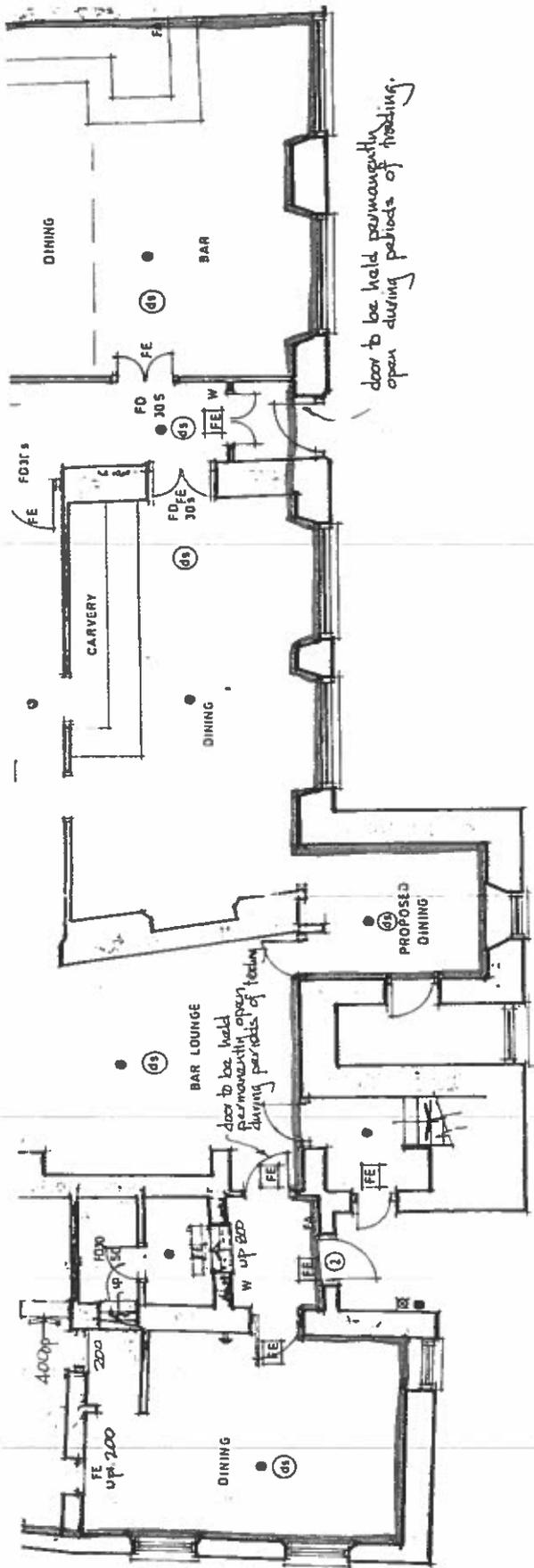
Jonathan Frederick SMITH

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Stephen Cox

Steve Cox
Environmental Health Manager
28 November 2016





ground floor

LEGEND

FD 30 min fire resisting doors fitted with self closing device and flexible door smoke seal with fluorescent strip.

FE illuminated fire exit signs 100mm high black lettering white on green background

FE as above but non-illuminated.

FE exit signs with directional arrows.

Emergency lighting point to BS 5266 Pt 1 1988, (L2 system) links to work on failure of local or primary system.

W a like type water extinguisher to be hung on wall brackets with handle 1.0m above ground level.

FA break glass call points

⑩ heat detectors

⑪ smoke detectors

Alarm sounders to be positioned following audibility tests. all above to be to BS 5839 Pt 1 1988

X external primary lighting points.

① Exit door to be fitted with a push bar device and not locked during periods of trading

② Door to be fitted with panic latch & push to open sign.

OP dry powder extinguisher

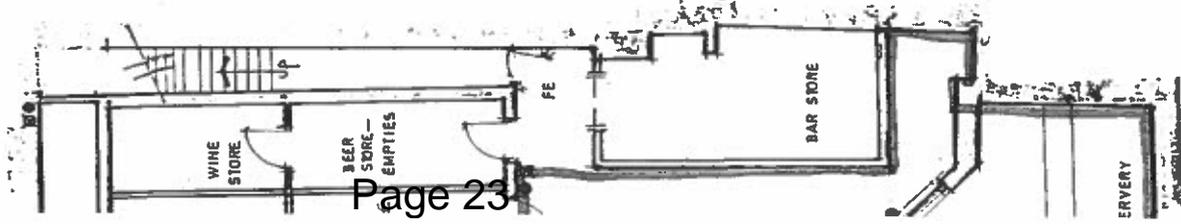
○ fire blanket.

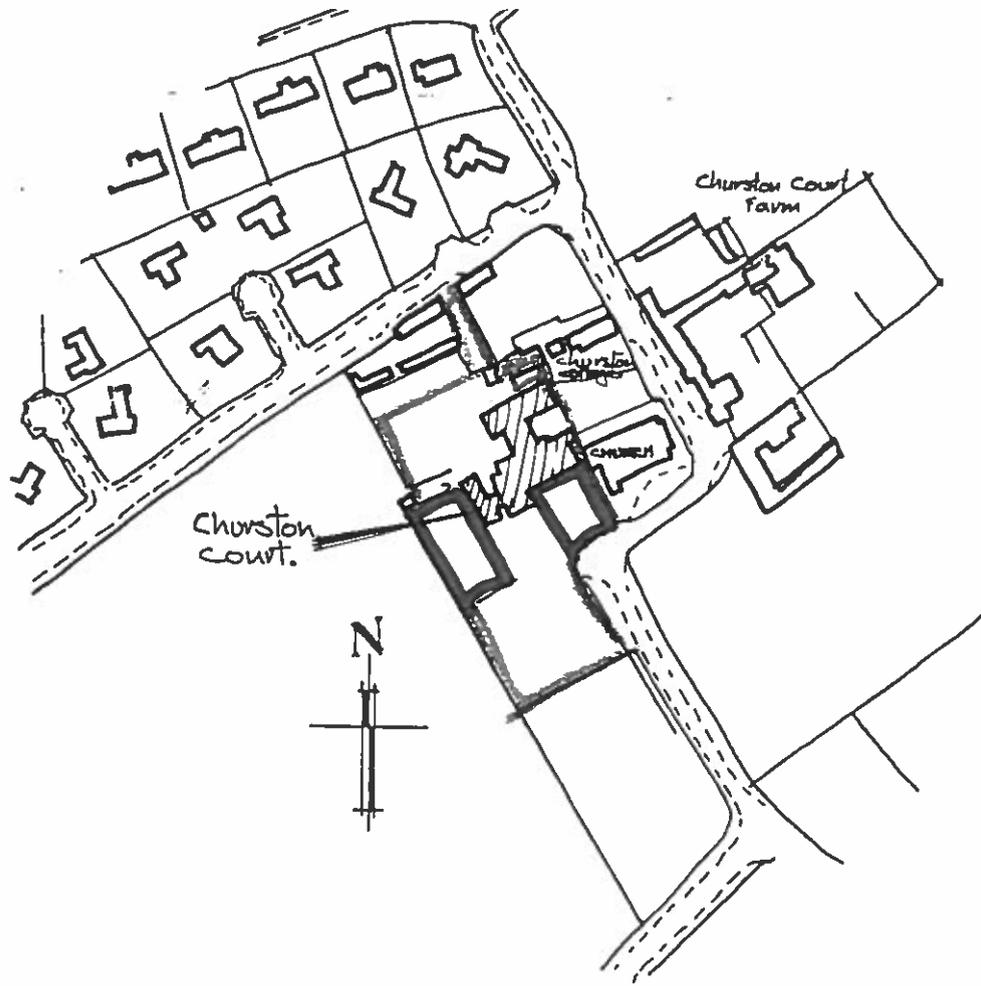
walls and ceilings to provide class 1 surface spread of flame

Escape routes to provide

Class 0 surface spread of flame.

□ indicates areas to





location plan 1:1250

Memorandum

To:		From :	Mr Karl Martin
c.c		Contact :	
c.c.		Ext :	01803 208025
c.c		My Ref :	1ZV SRU No: 246158
For the attention of:		Your :	
Mandy Guy, Licensing Officer		Ref :	
		Date :	27 th September 2018

**Subject: Review of Churston Court, Churston Ferrers, Brixham, TQ5 0JE.
Premise licence number PL1061**

1 Overview

- 1.1 Based on the evidence collected by officers of Torbay Councils Community Safety department and evidence submitted by residents I wish it to be known to the members of the Licensing Sub-Committee that in my capacity as the Responsible Authority for the licensing objection 'The prevention of Public Nuisance' I support the review of Churston court for reasons set out in this report.

2 Background

- 2.1 Churston Court (trading as Churston Manor) is a 16th Century grade II listed building situated in the village of Churston Ferrer's, please see appendix 1. The current owners stated the premises is a hotel, restaurant and bar.
- 2.2 In October 2016 the Premises licence was transferred to the current Licensee, Gooseberry Inn (2016) Ltd. Jonathon Smith, one of the Directors of the company acts as the Designated Premise Supervisor (DPS).
- 2.3 The Licence transferred to the 2004 Licensing regime under grandfather rights and does not have any permissions for regulated entertainment for any external areas. Instead the PLH (Premises Licence Holder) benefits from the Live Music Act 2012. Please refer to appendix 2 for an overview.
- 2.4 The premises is flanked on two side by a concentration of residential property in close proximity. Notably properties on Church Road and Green lane. Properties further away on Links close and Churston Road have also been affected by noise nuisance.

3 Noise complaints received to date

- 3.1 August 2017 the department received a noise complaint regarding the screening of a film in the garden area. The showing of films is not included in the scope of the Live Music Act 2012 and a PLH is required to submit a Temporary Event Notice (TEN) as this activity is not authorised by the current licence. Verbal advice was given to the PLH regarding TENS and noise nuisance.

- 3.2 A TEN was submitted for an outdoor showing of a film for the 30th September 2017 but not further noise complaints was received by the department for the remainder of 2017.
- 3.3 4th August 2018 the department received a second complaint regarding noise from outdoor film showing. The resident also described live music events hosted on Sunday afternoons was becoming a problem but the volume of the cinema night was unreasonably excessive. The complainant (review applicant) created an account with the noise app and submitted a number of recording during the evening of the 4th August 2018.
- 3.4 On the 7th August the Mr Smith was informed he needed to submit TENS for cinema events. On the 8th August Mr Smith submitted 4 TENS for cinema events running until the end of September 2018. Despite being able to object to these TENS the decision was made not to object as confidence was high that Mr Smith would remedy the nuisance.
- 3.5 On 14th August 2018 the department was made aware of the 'Strawberry fayre' event scheduled for the 18th and 19th August 2018 which involved more than a dozen live music acts performing over the weekend between midday and 11:00pm.
- 3.6 On the afternoon of the 17th August I spoke with Chris Hodson (Manager/owner) at the premises and advised they need to monitor sounds levels during the event. It was clear the event was going to cause significant disruption to the neighbourhood if sound levels were not carefully managed.
- 3.7 On the evening of the 17th August five further complaints were logged on the noise. Mr Smith revealed later this was a private Birthday party and not part of the strawberry fayre event.
- 3.8 During the course of the 18th and 19th August the Authority received a further 15 submissions via the noise app. In the following week the department received a further 7 new complaints from residents regarding the 'Strawberry Fayre' event.
- 3.9 On Thursday 23rd August evidence submitted from residents was reviewed and it was determined a Statutory Nuisance had occurred and would likely re-occur if further events involving amplified music took place in the external areas of the Churston Court Hotel.
- 3.10 On Friday the 24th August Mr Smith was written to informing he had 7 days to formally respond with proposals to abate the nuisance or an abatement notice would be served. Please see appendix 4.
- 3.11 27th August (Bank Holiday) 2018 further submissions made via the noise app. As on previous occasions live music in the outside beer gardens unreasonably disturbed nearby residents.
- 3.12 On 30th September 2018 a meeting took place with Mr Smith and Mr Hobson but also present where the organisers of Strawberry fair event. The meeting was a constructive and positive meeting and on the 31st I received a letter from Mr Smith, please see appendix 4, summarising the preventive steps he plans to take to prevent further nuisance occurring. This letter was accepted as suitable reassurance from the PLH that he was investigating measures to mitigate nuisance.
- 3.13 At the meeting on the 30th an event due to take place on Sunday the 2nd September was discussed. Ten live music acts performed in the beer garden between midday and

9pm. Mr Smith was advised he should not host any further live music events outside until mitigating measures had been put in place and proven to work.

3.14 On the same day the Council received an application for a review of the premises licence from a resident.

3.15 On Sunday the 2nd September 2018 the Council received further complaints regarding the excessive volume of live music emanating from the beer garden of the Churston Manor.

3.16 No further reports of noise nuisance made to the Council.

4 Conclusion

4.1 The Licensing Authority has no records of noise complaints from these premises prior to 2017.

4.2 The premises benefits from a sizeable outside area and naturally the owners would rightly seek to capitalise on this commodity. However at any event were amplified live or pre-recorded music is engaged, then the risk of nuisance must be carefully considered. For events such as the strawberry fayre a noise management plan should have been developed and implemented. It is an irresponsible and a serious management failing not to take into account the impact of noise from large events. Unfortunately the same failings occurred on the 2nd September 2018, despite being advised not to proceed with the event.

4.3 Consequently residents have felt marginalised as the PLH has ignored their statutory right to quiet and peaceful enjoyment of their homes and more profoundly disregarded the covenant of being a good neighbour. Mr Smith in correspondence has stressed 'community' is at the centre of the business model but repeated instances of uncontrolled live music has not been welcomed by a large section of the community living around the premises.

4.4 It must be noted summer 2018 the South West peninsula enjoyed a long stable period of unseasonable hot and dry weather. Many PLH's took advantage of this weather including the management of the Chelston Manor. The series of events outlined in this report may not manifest in future years, but it could and highlights deficiencies if performances of live music are permissible where there is no licensing regimes to protect the rights of those who do not wish to participate.

5 Recommendations

5.1 The current licence does not authorise Live or recorded music in any outside area. At the time of writing this report the only recommendation I duly ask members of the licensing sub-committee to consider is removal of the exemption offered by the Live Music by the addition of the following condition:-

5.2 'The exemptions under the Live Music Act 2012 shall be repealed in respect of these premises.'

6 Appendices

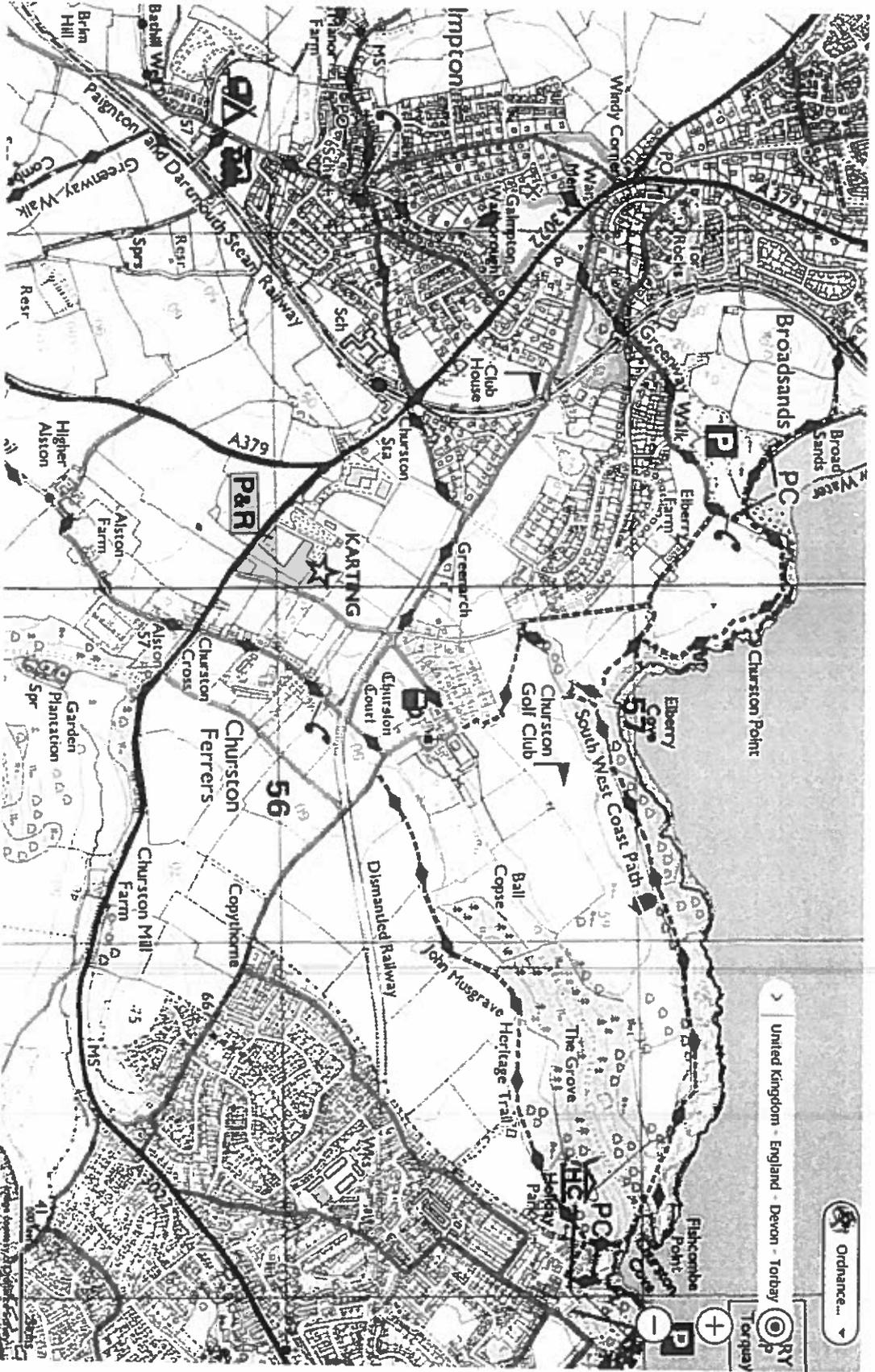
6.1 Please see attached documents.

**Karl Martin
Public Protection Officer
Licensing and Public Protection
Community Safety
Torbay Council**

Appendix 1 – Aerial view of Churston Ferries

1.1





Appendix 2 – Overview of the Live Music Act 2012

The Live Music Act took effect from 1 October 2012, and since 6th April 2015 now applies to recorded music, and covers larger audiences.

The Act disapplies live music related conditions if the following criteria are satisfied:

- There is a premises licence or club premises certificate in place permitting 'on sales';
- The premises are open for the sale or supply of alcohol for consumption on the premises;
- Live or recorded music is taking place between 8am and 11pm;
- If the live music is amplified or recorded, the audience consists of no more than 500 people

Live music also ceases to be classed as regulated entertainment under the Licensing Act 2003 if the above criteria are satisfied.

"Live Music" includes vocal and instrumental music and also karaoke singing. Pre-recorded videos played on karaoke machines are likely to require authorisation for "Films" but if only the words to the song are displayed then no authorisation is required.

The Act also creates a general exemption that live **unamplified** music provided **anywhere** shall not be regarded as the provision of regulated entertainment under the Licensing Act 2003 if it takes place between 8am and 11pm, regardless of the number of people in the audience.

There are a number of mechanisms for the protection of residents and these are:

- Upon a review of the premises licence the Licensing Authority can determine that conditions on the premises licence relating to live or recorded music will apply even between 8am and 11pm;
- If the Premises Licence doesn't presently authorise live or recorded music the Licensing Authority can add conditions to the Premises Licence as though the live or recorded music were regulated entertainment authorised by that Premises Licence, again to apply between 8am and 11pm
- The Licensing Authority can determine that live or recorded music at the premises is a licensable activity and live or recorded music can no longer be provided without permission on the Premises Licence or a Temporary Event Notice
- Other noise legislation, for example in the Environmental Protection Act 1990, will continue to apply.

The Live Music Act **does not** allow licensed premises to cause a noise nuisance

The Live Music Act removed the need to licence entertainment facilities completely - regardless of time or audience size. This means that dance floors, microphone stands, pianos made available for use by the public etc. will not be licensable once the Act comes into effect. Health & safety law will of course continue to apply.

The Live Music Act does not remove the requirement for permission to play live and recorded music from PPL PPR.

Appendix 3 – Noise app reports.



Source Address

Churston Court Hotel, Church Road, Churston Ferrers , TQ50JE

Reports

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 21:50pm	 Live Music	 Living Room	10/10	09:00:00
Comments " Need to get the business license revoked				

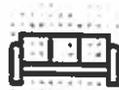
Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 21:13pm	 Live Music	 Living Room	10/10	09:00:00
Comments "				

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

02 Sep 2018
21:07pm



Live Music



Living Room

9/10

09:00:00

Comments

''

-

Date

Source

Location

Intensity
Rating

Duration

02 Sep 2018
21:02pm



Live Music



Living Room

9/10

10:00:00

Comments

''

Shut the business down enough is enough

Date

Source

Location

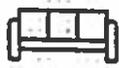
Intensity
Rating

Duration

02 Sep 2018
20:31pm



Live Music



Living Room

7/10

05:30:00

Comments

''

This is after they promised to keep the noise to a minimum

Date

Source

Location

Intensity
Rating

Duration

02 Sep 2018
20:02pm



Live Music



Garden

7/10

07:00:00

Comments

''

-

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 18:32pm	 Live Music	 Garden	5/10	00:00:00

Comments

” The notice from the lamppost has been removed can we have more to put up

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 16:53pm	 Live Music	 Garden	7/10	02:00:00

Comments

” The sound level was awful even though they had promised to keep to a very low level the parking is dangerous and the police have been informed by several people

Date	Source	Location	Intensity Rating	Duration
27 Aug 2018 16:30pm	 Live Music	 Living Room	8/10	02:00:00

Comments

” -

Date	Source	Location	Intensity Rating	Duration
27 Aug 2018 16:11pm	 Live Music	 Living Room	7/10	01:00:00

Live Music

Living Room

Comments

”

Date

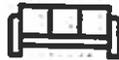
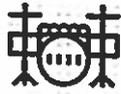
Source

Location

Intensity
Rating

Duration

27 Aug 2018
16:06pm



5/10

01:00:00

Live Music

Living Room

Comments

”

Date

Source

Location

Intensity
Rating

Duration

27 Aug 2018
15:17pm



6/10

00:45:00

Live Music

Garden

Comments

”

Date

Source

Location

Intensity
Rating

Duration

19 Aug 2018
16:57pm



5/10

02:55:00

Live Music

Garden

Comments

”

Date

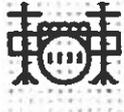
Source

Location

Intensity
Rating

Duration

19 Aug 2018
16:52pm



Live Music



Living Room

7/10

02:30:00

Comments

”

-

Date

Source

Location

Intensity
Rating

Duration

19 Aug 2018
15:12pm



Live Music



Living Room

6/10

01:00:00

Comments

”

Why does it have to be so loud?

Date

Source

Location

Intensity
Rating

Duration

19 Aug 2018
15:10pm



Live Music



Garden

7/10

01:00:00

Comments

”

-

Date

Source

Location

Intensity
Rating

Duration

18 Aug 2018
22:07pm



Live Music



Living Room

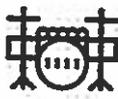
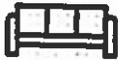
10/10

08:00:00

Comments

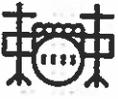
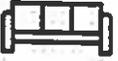
”

-

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 21:56pm	 Live Music	 Living Room	10/10	08:00:00

Comments

''

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 21:51pm	 Live Music	 Living Room	10/10	08:00:00

Comments

''

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 21:23pm	 Live Music	 Kitchen	10/10	07:00:00

Comments

''

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 21:04pm	 Live Music	 Living Room	10/10	07:00:00

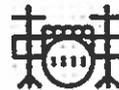
Comments

”

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 15:33pm	 Live Music	 Living Room	7/10	02:55:00

Comments

”

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 15:17pm	 Live Music	 Garden	7/10	02:45:00

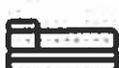
Comments

”

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 14:11pm	 Live Music	 Garden	7/10	01:00:00

Comments

”

Date	Source	Location	Intensity Rating	Duration
17 Aug 2018 23:00pm	 Live Music	 Living Room	5/10	02:00:00

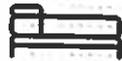
Live Music Bedroom

Comments

''

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

17 Aug 2018
22:57pm



10/10

02:00:00

Live Music

Bedroom

Comments

''

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

17 Aug 2018
22:51pm



5/10

02:00:00

Live Music

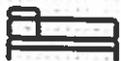
Bedroom

Comments

''

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

17 Aug 2018
22:31pm



10/10

02:00:00

Live Music

Bedroom

Comments

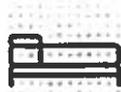
''

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

17 Aug 2018
22:16pm



Live Music



Bedroom

8/10

02:00:00

Comments:

” Very intrusive

Date

Source

Location

Intensity
Rating

Duration

15 Aug 2018
21:37pm



Loud Voices



Garden

7/10

02:00:00

Rate

Comments

” -

Date

Source

Location

Intensity
Rating

Duration

04 Aug 2018
22:41pm



Antisocial
Behaviour



Garden

10/10

02:00:00

Rate

Comments

” -

Date

Source

Location

Intensity
Rating

Duration

04 Aug 2018
22:39pm



Music



Garden

10/10

02:00:00

Rate

Comments

” -

Date	Source	Location	Intensity Rating	Duration
04 Aug 2018 22:33pm Online	 Live Music	 Garden	10/10	02:00:00
Comments	"			

Date	Source	Location	Intensity Rating	Duration
04 Aug 2018 22:29pm Online	 Loud Voices	 Garden	5/10	02:00:00
Comments	" Very disturbing			



Source Address

on, Brixham, TQ50JG

Reports

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 13:42pm	 Live Music	 Garden	10/10	02:00:00

Comments

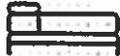
”



Source Address

Churston Manor, Church Road, Churston ferrers, TQ5 0JE

Reports

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 21:07pm	 Live Music	 Bedroom	8/10	07:00:00
Comments				
"				

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 15:01pm	 Music	 Garden	6/10	03:00:00
Comments				
"				
Can not sit in garden.				



Source Address

Churston Manor Hotel, Church Road , Churston Ferrers, TQ5 0JE

Reports

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 21:52pm	 Live Music	 Dining Room	9/10	10:00:00
Comments				
"				

Date	Source	Location	Intensity Rating	Duration
02 Sep 2018 21:06pm	 Live Music	 Dining Room	9/10	09:00:00
Comments				
"				
This is Sunday evening with punk rock !				

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

02 Sep 2018
14:41pm



Live Music



Dining Room

6/10

00:00:00

Comments

”

Date

Source

Location

Intensity
Rating

Duration

02 Sep 2018
14:39pm



Live Music



Dining Room

6/10

02:40:00

Comments

”

Very loud and also appalling musicians

Date

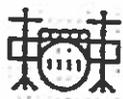
Source

Location

Intensity
Rating

Duration

02 Sep 2018
12:02pm



Live Music



Dining Room

6/10

00:10:00

Comments

”

It's us disturbing the peace of the area yet again

Date

Source

Location

Intensity
Rating

Duration

19 Aug 2018
16:56pm



Live Music



Dining Room

9/10

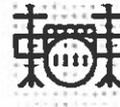
01:30:00

Comments

”

Following the live event yesterday from 1pm to 10.30 pm, here we go again! I cannot find a live music license for outside music at Churston Manor on your website?

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 22:13pm	 Live Music	 Dining Room	7/10	09:00:00
Comments				
"				

Date	Source	Location	Intensity Rating	Duration
18 Aug 2018 21:40pm	 Live Music	 Garden	8/10	08:30:00
Comments				
"				

Guy, Mandy

From:
Sent: 31 August 2018 15:57
To: Licensing
Subject: Ongoing Noise Nuisance at Churston Manor (Inn) Churston Ferrers

Dear Sir / Madam,

I'm emailing you in support of the recently served Review of Premises Licence notice posted against the licencees at Churston Court Hotel / Churston Manor (Inn).

I live in one of the properties that's part of the Churston Court Farm development, so very close to the Churston Manor inn. I've lived here for 4 years now, and in previous years and under previous management, have had no concerns about any nuisance noise from the inn, despite occasional outdoor events, wedding celebrations and private parties being held there.

This Spring/Summer of 2018, the current licence holders at the inn have embarked on a programme of (usually) pre-advertised outdoor events, mostly occurring on weekend afternoons / evenings. These usually take the form of either live music and / or a film showing.

Noise levels from those are loud and clearly audible both outside and within my property even with all the windows closed. I've been able to hear pretty much every word of the film speech tracks by standing outside. As they've tended be of limited duration, I've adopted a policy of "live and let live", although I wonder if they have a licence for showing films in this manner?

What's brought everything to a head is the events of the weekend of Friday 17th to Sunday 19th August. This was advertised as a beer and strawberries festival with live music.

To my surprise, there was loud music for most of the late afternoon and evening on Friday 17th, possibly from a private party. The sound system used was clearly much more powerful than was desirable for such an event, meaning that the volume audible even within my property was extremely loud.

Requests to the licencees to turn the volume down and be considerate to their neighbours were greeted with derision and rudeness. While they may claim virtually no one has ever complained to them, this is simply not true.

The Main Event, the beer festival on Saturday and Sunday, was a total nightmare for me as a local resident. I'll bullet point my main comments on it:

- Arbitrary closure of local access roads by means of cones and security staff—presumably not cleared with Highways Dept.—unpleasant response from "staff" when challenged on the legality of this
- Hundreds of people in and around the inn—totally unsuitable for rural setting and more like a festival
- Parking within a field nearby and overnight camping there—legal?
- Ear-splitting levels of music volume all day, getting louder as we moved into the evening. If there was any decibel restriction with the council, I can't conceive it was agreed at that level
- I've heard of people who attended but left because the noise level was just so uncomfortable. It was very audible in streets at some distance from the inn, not just in the immediate locality

- When contacted by phone to complain, licencees again just ignored complaints and basically said stop moaning
- Repeat of same on Sunday, with clearly no notice having been taken of complaints made about Saturday's events

In essence, the licencees clearly don't give a damn about the effect of their events on local residents, don't care about noise levels and restrictions, and for all I know may actually be holding events without proper licencing restrictions being abided with.

This is a peaceful rural area, and the antics of the licencees are destroying that. It's totally unacceptable for me to be unable to use my garden for a whole weekend because of ear-splitting noise levels, and to be unable to relax or even to get to sleep within my property because the volume is still so loud even indoors.

I'm sure there will be some support for the holding of such events from tourists and / or friends of the licencees. But the important issue here is protecting the reasonable expectation of permanent residents and neighbours to live in relative peace and quiet.

My strongest concern is that the licencees will seek to hold such events with even greater frequency, thus subjecting us on an even more regular basis to unacceptable noise levels with even more frequency than before.

I've eaten and drunk at the inn many times in the past years and always appreciated and enjoyed having such a lovely place accessible to me. It's such a shame that just to turn a quick buck, the current licencees are putting all of that local trade and goodwill at risk, seeming not to give a damn about those of us who also live here in this very small village.

Please take this complaint forward and do whatever you can to ensure that we don't all have to go through this kind of noise nuisance in future. Local patience with the inn and their behaviour has run out now after repeated instances of their intolerable and totally selfish behaviour.

Regards,

Sent from [Mail](#) for Windows 10

Guy, Mandy

From:
Sent: 11 September 2018 12:50
To: Guy, Mandy; Karl.Martin@torbay.gcxs.gov.uk; Martin, Karl; O'Shea, Gary
Subject: Prevention of Public Nuisance

3rd September 2018

Dear Mandy

I write this letter at 9.20pm on 2nd September (Sunday evening) still hearing the intrusive beat and straining vocals of the current live event at Churston Court/ Manor. It's not really supposed to be like this in Churston.

I would like the licensing committee to take into account my experience of excessive noise nuisance and to allow me to contribute to the license review process. The nuisance has been largely caused by the live events held regularly for several months. The duration of the events, particularly the recent Strawberry Fair, has caused us to be confined within our property, windows closed and unable to use our gardens without enduring the excessive noise nuisance. All this during one of the hottest summers on record.

I would like to list my complaints and concerns:

Sunday 1st July 2018 - live outdoor music event: excessive noise that continued for the afternoon and throughout the evening. Very loud music that kept us within our home for most of the day. Had family down from Leicestershire, but couldn't bbq in the garden.

Sunday 15th July 2018 - live music again outdoors. Had all windows shut to keep out the noise. Very warm day and extremely uncomfortable.

Saturday 28th July 2018 - outdoor cinema event from around 9pm to 11pm. Again a lovely warm night blighted by noise from Churston Manor.

Saturday 4th August 2018 - outdoor cinema with the same impact.

Sunday 5th August 2018 - another live music event which for us continued from around 2pm when we arrived home until 10.30. Again couldn't really use the garden and again closed the windows to keep the noise out. Lots of people parking in Green Lane.

Saturday 11th August 2018 - outdoor cinema. Loud and impactful in the garden.

Wednesday 15th August 2018 - outdoor cinema. Midweek as well!

Friday 17th August 2018 - live music event and surprise party. Extremely loud music, kept us indoors all evening again. Much shouting cheering and jeering.

Saturday 18th August 2018 - Strawberry Fair and Beer Festival. Outdoor music festival with live bands. Difficult to know where to start with this one. Extremely loud music all day to around 11pm. Huge number of cars parked all over the area. Access roads blocked off by Churston Manor security staff. Lots of drunk people in the area being in very high spirits and shouting. Very concerned about emergency vehicle access.

Sunday 19th August 2018 - part 2 of the music festival. Same issues! Extremely loud music till late. Lots of people, lots of cars, loud shouting.

Sunday 2nd September 2018 - extreme noise nuisance from a live music event. The usual pattern of very loud music, huge number of parked cars, with the event continuing from 11.55 for set up and band practice for around 20 minutes, then event started at 12.35 until around 10.30pm. Another night indoors with all the windows closed.

There have been a number of other occasions where there was a significant Public Nuisance described by our neighbours, but we were away and cannot comment on these events.

In Overview:

1. The amount of noise generated by the public address system installed has caused a serious nuisance and ensured we cannot enjoy our own land on many occasions and for extended periods.
2. Church Road was blocked off for large parts of the Strawberry Fair event, seemingly without Police or Council authority.
3. The security people employed appeared to be masquerading as TOR2 officials and were wearing council Hi Viz jackets. Security even asked my wife if she was lying when she tried to gain access to our road!
4. The attendees at events park regularly along Church Road, Green Lane and Bascombe Road causing access issues and also parked in private roads along Green Lane.
5. People leaving the events have been extremely loud and caused public order disturbances in the neighbourhood.
6. Unlicensed leafleting is taking place all over Torbay to attract large volumes of attendees, undermining Jonathan's claim the be a 'Community Pub'.

Without doubt, the events cause the neighbourhood to be dramatically changed in character during these periods. Their own website describes Churston Manor and the local area as being an idyllic retreat from the stresses of busy life. It also states that the hotel retains the unique atmosphere of an ancient Manor House. My idyllic retreat (my home) is being seriously compromised by these live outside activities and clearly Jonathan is misrepresenting the nature of Churston Manor in his advertising.

I attach a letter received from Jonathan Smith that describes the need for these events to assure the viability of the enterprise. Having our local area hugely degraded as a place to live, as the price for Jonathan's businesses survival is clearly unacceptable. Enterprises with advantages such as a stunning historic building, 18 bedrooms, restaurants, bars and a brilliant location should create a business plan that delivers success without causing this level of nuisance and blight.

I am also very concerned that Jonathan Smith is commissioning a private report from his audio consultant to advise whether a nuisance is being caused. I am very happy with the professional opinion of the local authority and the licensing authority as to what constitutes a disturbance and Public Nuisance. This action causes me to believe that Jonathan Smith has no real intention of stopping these live events and would hope that any limitations placed on this enterprise extend well into the future and not just for 2018.

I wish Jonathan's business well and we have personally supported many events at Churston Manor since the change of ownership and hope to continue to do so going forward. However, the noise levels, blight and nuisance from these live events is totally unacceptable.

I look forward to meeting with you and the licensing committee to resolve this intolerable situation that has been created by the current management of Churston Court/Manor.

Yours faithfully

CHURSTON MANOR

HOTEL . RESTAURANT . BAR

CHURSTON FERRERS DEVON

01803 842186 · ENQUIRIES@CHURSTONMANOR.CO.UK

CHURSTONCOURTHOTELWEDDINGS@GMAIL.COM · WWW.CHURSTONMANOR.CO.UK

31 August 2018

Dear Neighbour,

We met this week with representatives of Torbay licensing, who have made us aware of a number of complaints they have received in relation to loud music, or film audio. We were surprised to hear of this, as we have only received one single complaint directly in relation to each of music and films. However, we were more disappointed that our activities had caused a disturbance to our neighbours, which of course, is the last thing we wanted to do.

So first of all, please accept our sincerest apologies for any inconvenience we may have caused to date.

As you are aware, pubs and hotels have been closing at an alarming rate. Churston Manor came very close to meeting the same fate before we took it over. For this historic building and the jobs of 35 local people to survive, it has to "earn its keep". That is not to mention the tens of thousands of pounds we pay each year in business rates to support local amenities. One of the ways we have found vital to raise much needed income is to organise events in the grounds. But we fully understand this cannot be to the detriment of our neighbours.

To this end, we are commissioning a survey and report from an Audio Consultant, to advise us on how we can hold live events without causing a nuisance to our neighbours. This means that over the next couple of weeks, you may hear music coming from Churston Manor for around 15 minutes, and you may also see engineers with sound monitoring equipment in the neighbourhood. This will allow the consultant to measure what level of sound causes a disturbance and to test alternatives to stop it.

Once we have their findings, we will invite you to meet with us, together with Torbay Licensing, to discuss what we intend to do to alleviate any inconvenience.

We do not have any further live music scheduled, other than this coming Sunday when we have been asked to host a daytime charity fundraising event for the Coastguard Association, in memory of a young local girl who sadly lost her life at Berry Head.

We hope the above is clear and meets with your approval. Once again, please accept our apologies for any inconvenience we may have caused.

Yours sincerely


Jonathan Smith A.C.A.
Director

Guy, Mandy

From:
Sent: 19 September 2018 18:21
To: Licensing
Subject: Churston Manor

In response to the recently served Review of Premises Licence notice posted against the licencees at Churston Court Hotel / Churston Manor (Inn).

My wife and I live a 2 minute walk to the Churston Manor inn

We have lived here for about 6 or so years , in the previous years and under previous management, my wife and I have had no concerns about any nuisance noise from the inn, despite occasional outdoor events and parties being held there.

But when the weather improved in late spring of 2018, the current licence holders at the inn have embarked on a schedule outdoor events, mostly occurring on weekend during the afternoons and evenings. These usually take the form of either live music and or a film showing

Noise levels from these events are extremely loud and the audible both outside and within our property even with all the windows closed and the TV on.

What has brought everything to a head is the events of the weekend of Friday 17th to Sunday 19th August. This was advertised as a beer and strawberries Beer festival with live music.

However the loud music started for most of the late afternoon and evening on Friday 17th, possibly from a private party. The sound system used was clearly much more powerful than was desirable for such an event, meaning that the volume was very audible even within my property was very noticable.

The Main Event, the beer festival on Saturday was a total nightmare for my wife and I and we should imagine the same for other local residents.

As far as I am aware a Closure of church road using cones and security staff—presumably not authorised with Highways Dept.—unpleasant response from security people when challenged on the legality of this

Hundreds of people gathered in and around the inn—totally unsuitable for rural area with Extremely high levels of music volume all day, getting louder as the event progressed.

It was very audible in streets at some distance from the inn, not just in the immediate locality

Repeat of same on Sunday, with clearly no notice having been taken 2nd September and again all the traffic/parking issues causing safety problems whilst walking dogs etc etc

In summary , the licencees clearly doesn't have any consideration about the effect of their events on local residents and don't care about noise levels and restrictions,

This is a peaceful rural area which is being spoilt and is totally unacceptable for my wife and I to be unable to use our garden for a whole weekend because of the noise levels and no dought for

the local home owner's /resident's to be unable to relax or even to get to sleep within my property as the volume was so loud even indoors.

I walked my dog down church rd at about 10pm on the Sunday and the noise became increasingly nauseating to a point where I reached the graveyard entrance where I turned around and walked back home.

My big concern is that the licencees will seek to hold such events subjecting us to and home owners to unacceptable noise levels with even more frequency than before.

my wife and I with our family a friends have eaten at the inn many times in the past years and always appreciated the nice peaceful setting however the current licencees are putting all of that local trade and goodwill at risk, seeming not to give a damn about those of us who also live here in this very small village

Please note there was no notice posted to me regarding the event but apparently some resident had been informed.

Regards

please find my attachments to follow





Guy, Mandy

From:
Sent: 02 September 2018 18:50
To: Licensing
Subject: Fw: Churston Court Manor Hotel License Review

Sent: 02 September 2018 17:48
To: mandy.guy@torbay.gov.uk
Subject: Churston Court Manor Hotel License Review

I urge you to give this matter your most urgent attention.

The volume and frequency of outdoor live music and film events at Churston Court Manor Hotel have become unbearable for us in our own home. At this moment I have all my windows and doors closed and am distracted by the volume of live outdoor music.

The frequency and volume of these events show utter disregard by the Landlords towards us neighbours. It is no exaggeration to say that at these times it is absolutely impossible to sit in our garden. We are too ashamed to invite family or friends to our home and when we leave our home we utterly dread driving into Bascombe Road towards Green Lane and home.

This issue is causing massive distress to us and having a serious impact on our mental health and well-being. We really shouldn't be in the situation of planning to move out while these events take place, but sadly this is the case.

Our requests to lower the volume are repeatedly ignored by the Landlords.

Due to their advertising, both online and further afield these events are drawing in large crowds who behave in a raucous manner particularly when leaving the venue late at night. This has brought an element of anti social behaviour previously unknown to these country lanes surrounding the hotel. We would like you to be aware that these events sometimes last for up to ten hours.

This noise nuisance began last year but has increased to unbearable levels this year.

We request that you put a restriction of the License of the hotel that prevents them from holding outdoor music and film events that are audible beyond the boundaries of the hotel.

Thank you for your attention,

Guy, Mandy

From:
Sent: 03 September 2018 09:40
To: Licensing
Subject: Churston Manor

Dear Sir/Madam,

I am writing to you with regards to the above mentioned establishment which is our 'village hotel and pub' Since being taken over by the current tenants there has been a build up of outdoor events which have become more and more loud, frequent and intrusive to the extent that it has become unbearable and intolerable to ourselves and our community.

A couple of weeks ago there was the strawberry fair and beer festival which became something more akin to Glastonbury with our roads being closed off with many Tor2 cones, security guards with hi-viz jackets controlling the road, where I was questioned as to my intention to pass by and if I was asked if I was lying to them when I said I was a resident.

The field was opened to anyone to park and stay overnight (with what toilet facilities I don't know?) and the music carried on at an excruciating loudness for ten hours on two days (Saturday and Sunday) with the previous Friday added on for extra oomph!

Prior to that there were several days over the last few months when the music just started and didn't stop, impeding on our quality of life, leaving us having to close our windows and doors and not being able to use our own garden because it was too loud to bare, and we are just over a quarter of a mile away.

Then yesterday it started at 1155 am with the band warm up and carried on relentlessly until 1015 pm at a level so unacceptable that we were unable to go to bed to sleep.

I know that notices were issued last week that were taken down for yesterday, the roads on all sides of the hotel were filled to the brim with cars, making access difficult and people even parked in the roads in Green Lane itself, it was a shambles.

I understand from a resident in the Barns that a box of Roses or similar was taken round by way of a sweetener which wasn't accepted, and in fact is a complete insult.

This is causing so much upset and indeed health issues for some that it surely cannot be allowed to continue.

We bought our dream property here for a quiet life near the sea, and it is turning out to be a nightmare.

Please let me know at your earliest convenience what action is likely to be enforced, we can't take much more of this.

Many thanks and kind regards

Guy, Mandy

From:
Sent: 05 September 2018 13:25
To: Licensing
Subject: Re: Churston Manor - Churston

Dear Sir/Madam,

I am writing to complain about the excessive noise due to live events being held at the Churston Manor. Events have been held throughout the summer which has disturbed the whole of the village, with not just high levels of noise from live music but traffic and safety problems.

On Sunday I recorded the music on two occasions and sent it via an app to Torbay Council one recording in our garden in the afternoon and the other in our bedroom at approx 9.30pm, the music played for at least 10 hours. The music felt like it was being played from within our garden, we are actually at which is quite some way off the Churston Manor. This is a quiet small village and the events that are being held are not appropriate either in terms of noise and traffic parking safety.

I hope that action will be taken.

Guy, Mandy

From:
Sent: 06 September 2018 13:36
To: Licensing
Subject: Churston Manor Inn

FAO of Principle Officer

Reference the above subject, I have previously written to you to complain at the totally unacceptable noise levels from the recent Strawberry Fair. In the following week we received a letter from the Churston Manor Inn. In this letter they tried to excuse the situation by claiming they were protecting the locals pub and the livelihood of local employees, a comment that is annoying. In addition they claimed that the "charity" event that they held this past weekend (Sunday 2nd Sep) would be the last scheduled event, this contradicts their advertisement of further events as you have pointed out. The noise levels on Sunday 2nd Sep were again totally unacceptable, we had to shut all our doors and windows and 10.15pm we went to bed and the music was still "thumping".

Regards

Guy, Mandy

From:
Sent: 07 September 2018 09:36
To: Licensing
Subject: Excessive noise from Churston Manor

Following the recent outdoor event on Sunday 02-09-2018 at Churston Manor, I could quite easily hear the excessive noise, which disturbed me until after 22.30hrs.

I feel that we pay a lot of money to live in this area, and do not expect my peace and tranquility to be affected in this way.

I would also like to point out that the council have a duty of care to protect the residents' rights under the noise pollution act.

I sincerely hope that the council will take adequate steps to eliminate or substantially reduce this noise nuisance, and at least take steps to reduce the noise levels to a time that could be considered reasonable for outdoor events in a residential area.

I also appreciate that Churston Manor are trying to earn a living, but feel that they should keep noisy music to within the building, and this would seem to be a realistic solution to suit the majority of the local residents.

Guy, Mandy

From:
Sent: 12 September 2018 11:13
To: Guy, Mandy
Subject: Review of Premises Licence - Churston Manor Hotel.

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Mrs. Guy, I write again in respect of this Licence on behalf of my husband and I who are local residents:-

1). Noise levels. These are so high that we are unable to use and enjoy our garden. Even in the property with windows and doors closed the sound penetrates. On hot summer days and evenings this is quite unacceptable. One is forced to conclude that we are at the mercy of a local business for many hours well into the late evening. Enjoyment of our own homes is impossible. We are unable to entertain family or friends during these periods.

We moved to this delightfully quiet rural spot 12 years ago for the reasons of relaxation and peace in our retirement. Is that too much to ask?

2). Safety. During the Beer/ strawberry weekend many hundreds of vehicles were causing major congestion on our very narrow country lanes. My husband and I both have health issues which has at times necessitated calling the emergency services – eg Paramedics. If that was necessary during one of these “ festivals” I do not know how access would have been possible. We therefore live in fear of a health problem which in deed could be brought about by stress. We would be content to have these facts checked.

3) Public nuisance. Participants of the “ festivals” cause noise and nuisance when leaving the venue late at night. Leaving empty and soiled items around the verges encouraging rodents and large birds. To enjoy a country walk from our home is curtailed having to negotiate all the parked vehicles with opening doors and the possibility of dogs inside causing more noise. Together with the fact that these animals are let out to defecate which is then left on the verge or highway.

Is it too much to expect to be able to enjoy our home chosen because of the country setting and quiet ambience for the senior moments of our lives. I would suggest not.

I sincerely hope the committee will consider these comments which are strongly felt, when reviewing the Premises licence of Churston Court Manor.

Subject: RE - NOISE POLLUTION / CHURSTON MANOR
Date: 31 August 2018 at 15:58:38 BST
To: karl.martin@torbay.gov.uk

Since Churston Manor changed hands various changes have taken place there in order to draw in more customers.

Outdoor loud music, extremely loud music and outdoor film shows are the most intrusive at 85+ decibels, plus the concomitant of cars parking and blocking up the surrounding lanes to an unacceptable degree. Even adjacent fields seem to have been commandeered to cope with the excess overflow of vehicles, with also the erection of tents and people camping out overnight in those fields.

This is placing an unacceptable strain on this location, and obviously on all the other residents around us here. Week-ends and Bank Holidays are the main problem, sometimes overflowing into weekdays. The noise is so intrusive, hour after hour and non-stop from noon until late at night. If one wishes to enjoy one's garden in relative peace it's impossible because the noise is just so unavoidable it's implacable. Unfortunately the prevailing wind direction here is south-west so this exacerbates the problem, bringing the band's noisy efforts directly across the adjacent church to us; the direction the church flag blows corroborates this generality.

We should be most grateful if this matter could immediately be taken in hand by the Council so that the pollution of noise is ceased pending your investigative actions.

With thanks

Further to my e-mail to you of 31st August 2018 regarding the above, I have since received a "round robin" letter from Churston Manor which doesn't fill me with hope for a satisfactory resolution regarding noise pollution in this area emanating from the Churston Manor premises. It would seem that profitability for the two landlords/owners is synonymous with "live" events which is a contradiction in terms vis a vis their statement that these events should not be to the "detriment of our neighbours". They write of "alleviating any inconvenience", not the cessation of noise pollution over this whole area.

Charity fund raising events are very laudable generally but not when such events impose noise pollution upon all the local residents. We understand from a nearby neighbour that a notice put up by the Council relating to the noise pollution was taken down by someone at some time before the Charity event which took place last Sunday, 2nd September.

Perhaps the landlords of Churston Manor could observe the general precepts that keep most pubs profitably in business - excellent food standards and service in both the restaurant and the bar, a bar which regulars like to frequent and at reasonable prices.

Regards

Guy, Mandy

From:
Sent: 08 September 2018 10:12
To: Guy, Mandy
Subject: Re: Churston Manor

On 8 Sep 2018, at 10:02,

Begin forwarded message:

From:
Subject: Churston Manor
Date: 7 September 2018 at 13:48:39 BST
To: Karl.Martin@torbay.gcsx.gov.uk

Hi Karl Martin,

We are writing to you with much concern for the future of Churston Manor. As we are regular guests at the manor we can only offer praise for the current owners. We visited the Hotel whilst the previous owner was in residence and can only say there is simply no comparison with the way the establishment is now managed.

Chris and Jonathon have made massive improvements, their outside events have been truly well organised from a health and safety aspect to the most wonderful entertainment where many local folk and tourists can go along for free and enjoy the events that take place. We have stayed at the Hotel when many of these events have taken place and are aware of the care and concern the owners show towards us as guests and the surrounding areas/neighbours. The strawberry fair was wonderful, allowing all local people to enjoy this beautiful house and grounds and 1st class entertainment without cost. Children were well catered for thus bringing happiness to all concerned. It would be a great pity if these events were halted as a result of the minority. We feel the Torbay Council would not want to spoil obvious enjoyment and the possibility of allowing a business to suffer greatly because of your actions.

I look forward to your comments

Very concerned

07 September 22018