



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 Tracie Smart

(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	
Devon Dumpling 108 Shiphay Lane	
Post town: Torquay	Post code (if known): TQ2 7BY

Name of premises licence holder or club holding club premises certificate (if known)
Matt Lyon

Number of premises licence or club premises certificate (if known)
PL0460

Part 2 - Applicant details

I am Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete [A] or [B] below)

- 2) a responsible authority (please complete [C] below)

- 3) a member of the club to which this application relates
(please complete (A) below)

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

Please tick ✓ yes

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

Surname

First names

Smart

Tracie

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
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 | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> ✓ |
| 4) the protection of children from harm | <input type="checkbox"/> |

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

- The premises is causing a public noise nuisance affecting people who live locally.
- Causing the reduction of the living amenity and environment of persons living within the area of the licensed premises.
- Causing the lack of enjoyment of a person's land as a result of negligence on behalf of the licensed premises.
- Failure to use best practicable means to keep noise nuisance down.

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

The noise nuisance coming from the licensed premises in question is having a profound effect, not only on the enjoyment of my own land and property but that of others in the surrounding properties. Due to the noise nuisance, I am unable to sleep as the noise from the premises continues until unreasonable hours; I am forced to make use of earplugs and close my windows in order to reach a degree of quiet, but still, this is not enough to totally block the noise out. Due to this I have not been able to go to work on a few occasions. There are often events with loud live music in the outside beer garden which adjoins my house. When these events are on, myself and my family are unable to enjoy our own garden as the noise is unbearably loud, leaving me unable to enjoy my garden, my hot tub and have family or friends to visit. One event, for instance, was for someone's birthday and involved pig racing with a man on a microphone screaming and shouting all sorts from 3:30pm until 10:30pm, not only is this a long time to endure noise like that but it was also incredibly loud and could be heard in the house all afternoon, evening and night even with windows closed and myself and my family if we were outside would have to shout to one another to communicate as that's how loud it was. The frequency of these types of events has only increased, with the pub's garden seemingly being used as a function space, rather than a beer garden. When these events aren't taking place there are still issues of high-level noise coming from the beer garden and pub carpark at unreasonable hours (past 11pm), which is what affects my ability to sleep and continue my life as normal. We are currently in the process of looking into getting thicker windows in my bedroom and en suite, which is something I don't think we should have to do as these issues could easily be resolved.

Myself and my husband have tried to resolve this with the license holder and manager directly by arranging a meeting, which was held on the 23rd of March 2022. This took 10 months to arrange because the licensee didn't seem to be interested in solving this matter, but with the help of the licensee's friend, Councillor Darren Cowell, a meeting was finally arranged. Councillor Cowell and Karl Martin from Torbay council also attended this meeting. In the meeting it was agreed upon that the top beer garden would be closed to the public at 9:30pm and the bottom part of the beer garden at 10:30pm. The first few days this was abided by but after that they returned to closing the beer garden at a time that suited them and not the ones agreed upon in the meeting, thus continuing to cause a nuisance. Continuous complaints to the pub have been made since then but have only resulted in hostile conversation from employees of the pub who on one occasion even stated that, "as we have a license until 12am we can do whatever we want until then," without any care as to how this is affecting our lives.

This is not only affecting my enjoyment of land and ability to live my life but also various other neighbours in the area. My elderly next-door neighbour has had to sleep in a different room in her house as the noise was causing her not to get enough sleep and continue her daily life.

I have kept a noise diary since these issues started occurring in March of 2021 and have

recordings of the various noise disturbances, all of which will be attached.

Since the submission of the first application, there has been further evidence gathered showing the extent of the noise issues up to 15th of October 2022.

If the beer garden were to close at 9:30pm it would allow myself and my neighbours a chance to enjoy the peace of our garden spaces for at least an hour on a summer evening and would also allow us to sleep at a time of our choosing, rather than being at the mercy of the pub's noisy patrons.

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

0	8	0	8	2	0	2	2
---	---	---	---	---	---	---	---

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

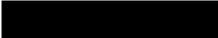
Please tick ✓ yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature 

Date **31/10/2022**

Capacity Applicant

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



Post town: 

Post Code: 

Telephone number (if any) 

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

Notes for Guidance

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