

Clerk: Amanda Coote
Telephone: 01803 207013
E-mail address: governance.support@torbay.gov.uk
Date: Tuesday, 06 July 2021

Governance Support
Town Hall
Castle Circus
Torquay
TQ1 3DR

Dear Member

LICENSING SUB-COMMITTEE - THURSDAY, 8 JULY 2021

I am now able to enclose, for consideration at the Thursday, 8 July 2021 meeting of the Licensing Sub-Committee, the following information which was unavailable when the agenda was printed.

Agenda No	Item	Page
4.	Urgent items Licensing Act 2003 – An application for a Premises Licence in respect of Zakopane, 16 Market Street, Torquay TQ1 3AQ	(Pages 42 - 64)
5.	Licensing Act 2003 - An application for a Premises Licence in respect of Crab and Hammer South Quay, Paignton Harbour, TQ4 6DU	(Pages 65 - 72)

Yours sincerely

Amanda Coote
Clerk

URGENT ITEM

Licensing Act 2003 – An application for a Premises Licence in respect of Zakopane, 16 Market Street, Torquay TQ1 3AQ

This is a convenience store that has applied to sell alcohol 'off' the premises between 0800 and 2200 Sunday to Thursday and between 0800 and 2300 on Friday and Saturday.

The application has a substantial number of proposed conditions.

There has been **one representation** from the Police requesting a slight alteration to one condition. The reason being that the premises is situated within the Torbay Council Cumulative Impact Area where there is evidence of concerns in relation to street drinkers. The above condition would allow the premises to sell bottles of high strength beer/cider/lager, including 2 & 3 litre bottles of these products, such as Frosty Jacks which has an abv of 7.5%. The majority of off sale premises within the area are prohibited from selling any beer/lager/cider with an abv of more than 6.0%.

This original condition

No cans of beers or ciders with an ABV of 6.5% or above will be stored or sold

To be replaced by this one

No beer/cider/lager with an abv of more than 6.0% shall be sold from the premises.

The applicant is agreeable to this and has stated so in writing.

The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary. Both parties, The Police and the applicant, do not feel a hearing is necessary. However as there is a representation on the table, the decision to grant must be made by the Licensing Sub-Committee.

Decision Required: That the Licensing Sub-Committee agreed to grant the application as is, with the exception that the application condition is replaced with the one proposed by the Police.

Torbay Council

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I/We Zakopane Turkish Ltd

(Insert name(s) of applicant)

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

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
Zakopane 16 Market Street			
Post town	Torquay	Postcode	TQ1 3AQ
Telephone number at premises (if any)		[REDACTED]	
Non-domestic rateable value of premises		£14,500	

Part 2 - Applicant details

Please state whether you are applying for a premises licence as

Please tick as appropriate

- | | | | |
|----|--|--------------------------|-----------------------------|
| a) | an individual or individuals * | <input type="checkbox"/> | please complete section (A) |
| b) | a person other than an individual * | | |
| | i as a limited company/limited liability partnership | X | please complete section (B) |
| | ii as a partnership (other than limited liability) | <input type="checkbox"/> | please complete section (B) |
| | iii as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| | iv other (for example a statutory corporation) | <input type="checkbox"/> | please complete section (B) |
| c) | a recognised club | <input type="checkbox"/> | please complete section (B) |
| d) | a charity | <input type="checkbox"/> | please complete section (B) |
| e) | the proprietor of an educational establishment | <input type="checkbox"/> | please complete section (B) |
| f) | a health service body | <input type="checkbox"/> | please complete section (B) |

- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a
 statutory function or
 a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth: over		I am 18 years old or over		<input checked="" type="checkbox"/>	Please tick yes
Nationality:					
Current residential address if different from premises address					
Post town		Postcode			
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth		I am 18 years old or over		<input type="checkbox"/>	Please tick yes
Nationality					
Current postal address if different from premises address					
Post town		Postcode			
Daytime contact telephone number					

E-mail address (optional)	
----------------------------------	--

(B) OTHER APPLICANTS

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

Name	Zakopane Turkish Ltd
Address	16 Market Street Torquay, TQ1 3AQ
Registered number (where applicable)	13306198
Description of applicant (for example, partnership, company, unincorporated association etc.)	Limited Company
Telephone number (if any)	[REDACTED]
E-mail address (optional)	[REDACTED]

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	M	YYY
0 1	0 7	2 0 2 1

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

DD	M	YYYY

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

Continental fresh food and general convenience grocery store situated on one of the main streets on the outside of the town centre.

The premises is currently trading and offering a wide range of fresh produce, with alcohol as ancillary to the goods being sold (approx. 5% of stock on display).

The clientele will be predominantly families who are shopping for European speciality foodstuffs and quality meats.

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

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

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

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- | | |
|---|--------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

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

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

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue			State any seasonal variations for performing plays (please read guidance note 5)		
Wed			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 6)		
Thur					
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 5)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)	
Day	Start	Finish		
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)	
Tue				
Wed				
Thur				<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Fri				
Sat				
Sun				

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 3)	
			Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4) State any seasonal variations for the performance of live music (please read guidance note 5) Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 6)	
Mon				
Tue				
Wed				
Thur				
Fri				
Sat				
Sun				

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
			State any seasonal variations for the playing of recorded music (please read guidance note 5)		
Tue					
			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 6)		
Wed					
Thur					
Fri					
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 3)	
			Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)	
Mon				
Tue				
Wed			State any seasonal variations for the performance of dance (please read guidance note 5)	
Thur				
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 6)	
Sat				
Sun				

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			Please give further details here (please read guidance note 4)		
Wed					
Thur			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 5)		
Fri					
Sat			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 6)		
Fri					
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>			
				Off the premises	<input checked="" type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)					
Mon	08.00	22.00						
Tue	08.00	22.00						
Wed	08.00	22.00						
Thur	08.00	22.00						
Fri	08.00	23.00						
Sat	08.00	23.00						
Sun	08.00	22.00						
						Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name		[REDACTED]
Date of birth:	[REDACTED]	Place of birth: [REDACTED] Nationality: [REDACTED]
Address		
[REDACTED]		
Postcode	[REDACTED]	
Personal licence number (if known)		
PA3693		
Issuing licensing authority (if known)		
Torbay Council		

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

None

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	08.00		<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)</p>
		22.00	
Tue	08.00		
		22.00	
Wed	08.00		
		22.00	
Thur	08.00		
		22.00	
Fri	08.00		
		23.00	
Sat	08.00		
		23.00	
Sun	08.00		
		22.00	

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

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

1: CCTV

1.1 The premise shall operate an effective CCTV system that will be maintained in good working order to the satisfaction of the Devon and Cornwall Constabulary.

The CCTV system shall cover all areas of the store including the entrance, point of sale and main alcohol displays.

Signage warning customers of The CCTV system shall be prominently displayed on the premises. The system will record whenever the premises is open for licensable activities.

1.2 The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering the premises and at the point of sale.

1.3 The location of cameras, will be recorded on the plan attached to the licence. If any additional cameras are requested/advised by the police, they will be fitted within a reasonable time.

1.4 The recording medium (e.g. discs / tapes / hard drive etc.) and associated images are to be retained and securely stored for a minimum period of 31 days and are to be made available to the Police Constable / Authorised Officer of the Licensing Authority upon request within a reasonable time.

1.5 The Premises Licence Holder or Designated Premises Supervisor will provide the Police with the contact details of at least one other member of staff who will be trained with the operation of the CCTV equipment so that they are able to provide copies of recorded data upon request and within a reasonable time, following a request from the Police Constable or an authorised officer from the Licensing Authority.

1.6 A full internal weekly check of the CCTV system will be made on a log book to ensure that the CCTV system is in good working order, all cameras are working and recordings with an accurate time stamped.

1.7 The Premises Licence holder / Designated Premises Supervisor must ensure that steps are taken to rectify any fault in the CCTV system immediately and a log of these steps will be entered into the Incident log book which will be available for inspection to a Police Constable or an authorised officer from the Licensing Authority.

1.8 When the DPS is not on duty, there will be another authorised person who will be contactable at all times and be able to attend the premises within one hour while the supply and sale of alcohol is being undertaken (whose identity

will be known to all other staff engaged in the supply or sale of alcohol) except in cases of emergency

b) The prevention of crime and disorder

As above plus

2.1 Roller shutters have been installed at the front of the premises on the inside of all windows.

2.2 2 security doors have been fitted to the external rear and side security/ fire exit doors.

2.3 All spirits will be 'stored and sold' from behind the counter inaccessible to the customers.

2.4 No cans of beers or ciders with an ABV of 6.5% or above will be stored or sold from the premises. Signage notifying customers will be displayed at the entrance to the premises and at the point of sale.

2.5 No single cans of beer, lager or cider will be sold from the premise. Signage notifying customers of this will be displayed at the entrance to the premises.

2.6 The premises will not store or sell any psychoactive substances known as 'legal highs', store or sell fireworks and knives of any size or description.

2.7 The names and contact details of all persons who has been authorised to sell alcohol whether paid or unpaid shall be maintained and kept on the premises. This document will be found at the front of the Training manual and shall be produced to a Police Constable or an Officer of the Local Authority upon demand.

2.8 The Designated Premises Supervisor and all members of staff when on duty shall ensure that all lawful instructions and /or directions given by the Police are complied with.

2.9 Signage to inform customers will be in place near the point of sale and exits warning customers of the Public Space Protection Order.

2.10 No credit will be given for the sale of alcohol

INCIDENT LOG

2.11 The premises shall maintain an incident book to record details of the following:-

- Any violence or anti-social behavior on or immediately outside the premises,
- Any other crime or criminal activity on the premises,
- Any call for police/ambulance assistance to the premises,

2.12 The log records shall be made immediately available on request to a Police Constable or an Officer authorized by the Licensing Authority. All records shall be retained on the premises for 12 months from the date of the incident.

2.13 A written record will be kept of all training carried out. These records will be stored on the premises and made available for inspection to a Police Constable or an Officer authorized by the Licensing Authority within a reasonable time.

c) Public safety

3.2 An adequate and appropriate supply of first aid equipment and materials shall be kept on site and available for use at any time the premises is open to the public.

d) The prevention of public nuisance

4.1 Prominent, clear and legible signage shall be displayed at the exits to the premises requesting the public to respect the needs of local residents, businesses and to leave the premises and the area quickly and quietly.

4.2 The Premises Licence holder / Designated Premises Supervisor will ensure that litter arising from people using the premises is cleared away on a regular basis.

4.3 The Premises Licence Holder will fix a waste bin outside the premises and empty this daily.

4.4 The Premises Licence Holder will ensure that no lighting or air conditioning units will cause any nuisance to another neighbouring property.

4.5 All trade waste will be stored in a commercial lidded waste container at the side of the premises and removed under contract by a registered waste collector.

4.6 The staff will observe the external frontage of the premises using the CCTV monitor and use their best endeavours to disperse any customers that appear to be loitering outside the premises.

e) The protection of children from harm

5.1 The premises will operate a "Challenge 25" proof of age policy which will require any person who appears to be under the age of 25 to produce identification to prove they are 18 or over.

5.2 Only a passport, photo-card driving licence, European Union ID, Armed Forces ID cards or a proof of age card bearing the official "PASS" accreditation hologram, a photograph of the individual and date of birth shall be accepted as proof of age.

5.3 Prominent, clear and legible Challenge 25 signage shall also be displayed at the entrance to the premises, and the point of sale advertising the scheme operated.

5.4 The premises is to maintain a refusals log book to record the details of all refusals of the sale of alcohol to persons suspected of being under the age of 18, appear to be drunk or suspected proxy sales.

5.5 The Premises Licence holder / Designated Premises Supervisor or nominated representative shall regularly monitor the entries in the log, sign and date when checked. The book must be made available to a Police Constable or an Officer authorised by the Licensing Authority upon request.

5.6 Any person who is authorised to sell alcohol at the premises will be provided with training. Training will include information on how to prevent underage sales, acceptable forms of ID, basic conflict management and Age Restricted Products.

5.7 A written record will be kept of all training provided and this record will be kept on the premises for inspection by a Police Constable or an Officer authorised by the Licensing Authority upon request.

5.8 No person under the age of 18 will be employed to work at the premises.

5.9 Alcohol refusals policies will be displayed at the entrance of the premises, the point of display and the point of sale.

5.10 Proxy notices will be prominently displayed at all places where alcohol is displayed and sold from and at the point of sale.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. X
- I have enclosed the plan of the premises. X
- I have sent copies of this application and the plan to responsible authorities and others where applicable. □
Electronic application
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. X
- I understand that I must now advertise my application. X
- I understand that if I do not comply with the above requirements my application will be rejected. X
- X
[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15).

It is an offence, under section 158 of the licensing act 2003, to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

It is an offence under section 24b of the immigration act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status. Those who employ an adult without leave or who is subject to conditions as to employment will be liable to a civil penalty under section 15 of the immigration, asylum and nationality act 2006 and pursuant to section 21 of the same act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified

Part 4 – Signatures (please read guidance note 11)

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

Declaration	<ul style="list-style-type: none"> • [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). • The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)
Signature	<i>Tony Clarke</i>
Date	2 nd June 2021
Capacity	Agent on behalf of the applicant

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

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14) Tony Clarke JMC Licensing Consultants 540 Antrim Road			
Post town	Belfast	Postcode	BT15 5GJ
Telephone number (if any)	07388 441720		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) securelicenses@gmail.co.uk			

(2) On the twenty-first day of November one thousand nine hundred and seventy-seven application was made to the Council for planning permission for the conversion of the ground floor of the said building for use as Ships Chandlers including equipment for maritime "outward bound" pursuits

(5) The Council decided to enter into negotiations with the Owners with a view to an Agreement being entered into pursuant to Section 52 of the 1971 Act and such negotiations have been completed

(6) The Council and the Owners have agreed to enter into this Agreement for the purpose of regulating the development and use of the ground and first floors of the said building

N O W T H I S D E E D W I T N E S S E T H as follows:-

1. T H I S Agreement is made pursuant to Section 52 of the 1971 Act

2. T H E Owners to the intent that this Agreement may be enforced by the Council under the provisions of Section 52 (2) of the 1971 Act hereby jointly and severally covenant with the Council as follows:-

(a) Not to use or permit or allow to be used the proposed new first floor of the said building or any part or parts thereof for the sale by retail or otherwise of anything whatsoever

(b) Not to use or permit or allow to be used the ground floor of the said building or any part or parts thereof for the sale by retail or otherwise of anything whatsoever other than

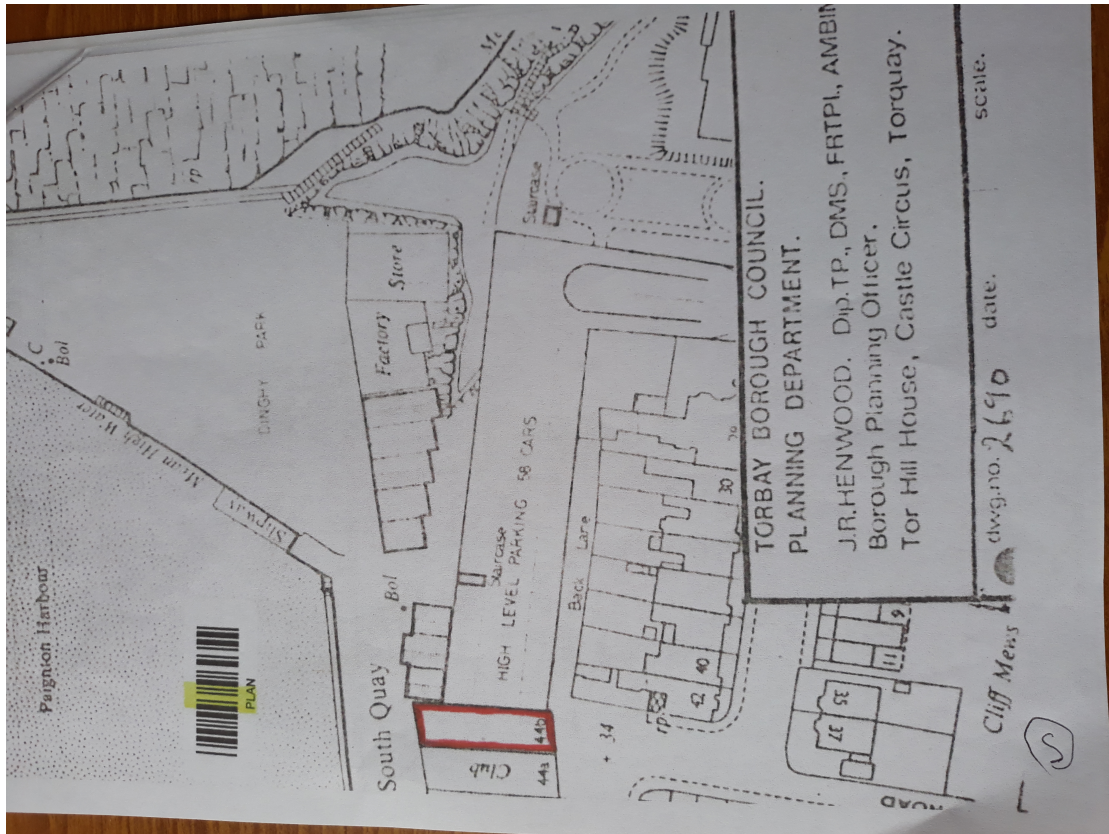
ises and the structure of the Ground Floor Store supporting the conveyed premises and will keep the Purchaser indemnified from and against all costs claims and demands in respect thereof and will not at any time make any whatsoever of the floor of the conveyed premises and in particular will make any attachments of any nature or affix any hoist or other hanging thereto except for the attachment of properly maintained wire and fittings for the supply of electric light for the retained premises.

4. THE Vendor as to the retained premises and the Purchaser as to the conveyed premises and so as to bind the respective premises but so that the Vendor and the Purchaser or the persons deriving title under them respectively shall not be personally liable except during the time of their ownership of the respective premises hereby mutually covenant each with other in manner following that is to say :-

- (a) The Vendor and Purchaser will not do or permit or suffer to be done or upon the retained premises or the conveyed premises respectively any which may be a nuisance or may or can tend to the reasonable annoyance of the Vendor and the Purchaser or their Tenants respectively. JM L
- (b) That the Vendor and Purchaser and their successors in title will in the respective part of the property owned by them against fire and cover the same to the full value thereof in a full comprehensive insurance and

COPY OF CONVEYANCE. 1957

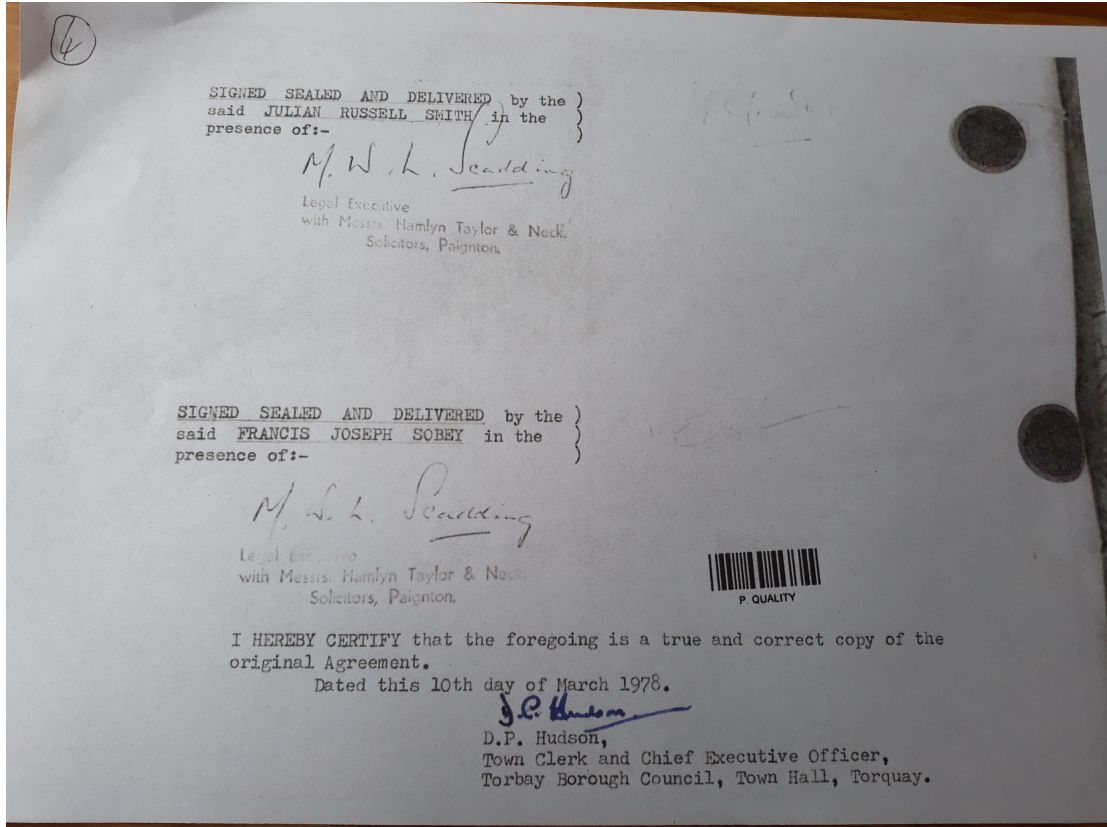
2



TORBAY BOROUGH COUNCIL.
PLANNING DEPARTMENT.
J.R.HENWOOD. Dip.T.P., DMS, FRTPI, AMBIM
Borough Planning Officer.
Tor Hill House, Castle Circus, Torquay.

dwg.no. 2690 date. scale.

Cliff Mens



Chief Executive Officer
Town Clerk and
[Signature]

THE COMMON SEAL OF THE COUNCIL
OF THE BOROUGH OF LORRAINE was
hereunto affixed in the presence of:-

year first herebefore written

here to and the Owners have hereunto set their respective hands and seals the day and

IN WITNESS whereof the Council has caused its Common Seal to be affixed
of this Agreement

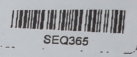
whatsoever whether under Statute or otherwise in respect of the implementation

(c) Not to claim or permit or allow to be claimed from the Council any compensation
"outward bound" pursuits

ships chandlers and other maritime items for use in connection with maritime
than the retail sale of items pursuant to and normally sold in the business of

③

HM Land Registry
Official Copy
This copy may not be the same size as the
original.



Copy

THIS AGREEMENT is made the twenty-seventh
One thousand nine hundred and seventy-eight Day of February
THE COUNCIL OF THE BOROUGH OF TORBAY (hereinafter called "the Council") of the one
part and JULIAN RUSSELL SMITH and FRANCIS JOSEPH SOREY both of Harbour Sports
South Quay The Harbour Paignton in the County of Devon (hereinafter called "the Owners"
which expression shall include their successors in title) of the other part

WHEREAS :-

- (1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1971 (hereinafter called "the 1971 Act") for the district within which the land and building known as The Harbour Stores South Quay Paignton aforesaid and shown edged round in red on Drawing Number 2690 annexed hereto is situated (hereinafter referred to as "the said building")
- (2) The Owners are the registered proprietors with title absolute under Title Number DN 40493 of the Lower Store of the said building Subject to the entries disclosed in the Register of the said Title but otherwise free from incumbrances
- (3) By a Decision Notice dated the Seventeenth day of January One thousand nine hundred and seventy-eight planning permission was granted by the Council (inter alia) for the construction of a new first floor in the Lower Store of the said building which work has not yet been carried out

From: [Martin, Karl](#)
To: [Cox, Steve](#)
Subject: Crab and Hammer - New application - additional information
Date: 05 July 2021 12:04:16

Good Morning Steve

Please could you circulate the following ahead of the committee hearing on the 8th July:-

- On the 28th June 2021 I met onsite with the applicant to discuss the proposed application.
- The premises occupies the ground floor and 1st floor.
- The 1st floor is not part of the licensable area. The first floor area consists of customers toilets, a private residence, office rooms and the plant room for the kitchen extraction.
- Applicant benefits from the Live Music Act, but transmission of noise from recorded music was discussed.
- The 1st floor provide enough space and mass between the ground floor and the second floor residences to mitigate noise from voices of those using the restaurant and other associated noise.
- Sound installation has been installed in the ceiling void of the 1st floor. The specifications would not be adequate for recorded music but will assist with the noise form human voices.
- The applicant intends only to employ back ground music (live music considered by applicant, but will be infrequent). Advice given about selection and location of PA equipment to prevent sound from traveling through the structure of the building.
- The kitchen extraction equipment is install, but not commissioned at the time of the visit. The applicant was advised to seek feedback from residents at commissioning to ensure no vibration was detected in the residential properties above.
- The outside area was discussed and advice given about managing this area. A number of pavement café style operations have opened in the Paignton harbour in recent years. The applicant proposes to close the area at 11:00pm which is consistent with the other outside areas in the harbour.
- The applicant may wish to consider suppling a written noise management plan specifically for the outside area. The nearest residents overlook the area only 2 floors above. The likelihood of nuisance occurring is high but with careful management the risk remains low. The premises seeks to be a high end restaurant and generally complaints of noise from these premises is rare as the main inducement is food rather than alcohol.
- Planning permission for change of use is not required due to changes made by the Business and Planning Regulations 2020.

Kind regards

Karl.

TORBAY COUNCIL

Karl Martin | Public Protection Officer |
Licensing and Public Protection Team
Torbay Council, Community & Customer
Services, Lower Ground Floor, Town Hall,
Torquay TQ1 3DR
☎ 01803 208025 | karl.martin@torbay.gov.uk

www.torbay.gov.uk

[Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)