



Wednesday, 27 July 2011

## LICENSING SUB-COMMITTEE

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

**Thursday, 4 August 2011**

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 Addis  
Councillor Ellery

Councillor Parrott

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**Our vision is for a cleaner, safer, prosperous Bay**

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

**Lisa Warrillow, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207064**

Email: [democratic.services@torbay.gov.uk](mailto:democratic.services@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 personal interests in respect of items on this agenda

**For reference:** Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question). If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(b)** To receive declarations of personal prejudicial interests in respect of items on this agenda

**For reference:** A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial 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 Democratic Services or Legal Services prior to the meeting.)

**4. Urgent items**

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

**5. Below Decks, Beacon Quay, Torquay, TQ1 2BG**

To consider the report on an application for a Variation to a Premises Licence in respect of Below Decks, Beacon Quay, Torquay TQ1 2BG.

(Pages 1 - 40)

**6. The Old market House, The Quay, Brixham**

(Pages 41 - 66)

To consider the report on an application for a Premises Licence in respect of The Old Market House, The Quay, Brixham.

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Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Below Decks, Beacon Quay, Torquay TQ1 2BG

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee** On: **4<sup>th</sup> August 2011**

Contact Officer: **Karen Ellicott**  
Telephone: **01803 208029**  
E.mail: **Licensing@torbay.gov.uk**

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## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Variation to a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 As the Licensing Authority has no powers under the Act to raise a Representation, Officers are unable to make any recommendation.
- 1.4 The matters raised relate to the Licensing Objectives “Public Safety” and “The Prevention of Public Nuisance”
- 1.5 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. Having regard to the Representation, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are either:-
  - (a) to modify the conditions of the licence, or
  - (b) reject the application in whole or in part.

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

- 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 An application has been made under Section 34 of the Act for a Variation to a Premises Licence. Details of the application are shown in Appendix 1.

A brief description of the proposed Variation is as follows:-

To permit Live Music, Recorded Music and Provision of Facilities for Dancing on Monday to Sunday from 0900 to Midnight.

To permit Late Night Refreshment on Monday to Sunday from 2300 to 0030

To extend the Sale of Alcohol on Monday to Sunday from 0900 to Midnight.

The Premises are currently licensed for the Sale of Alcohol on Monday to Saturday from 1000 to 2300 and on Sunday from Noon to 2230.

- 2.2 There is a current Premises Licence in place which is shown as Appendix 2.

- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the amended Premises Licence, as relevant Representations have been received from Interested Parties. The Licensing Authority is also satisfied that Representations were received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

The Licensing Authority has received 4 Representations from Interested Parties in relation to the Licensing Objectives "Public Safety" and "The Prevention of Public Nuisance". These are shown as Appendix 3.

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

- 2.4 The Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 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.
- 2.6 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
- (a) The applicant for the variation of the licence against any decision to modify the conditions
  - (b) Any person who made a relevant representation in relation to the application who desires to contend
    - (i) that any variation made ought not to have been made, or

(ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.

- 2.8 Following such Appeal, the Magistrates' court may:-
- (a) dismiss the appeal,
  - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
  - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such order as to costs as it thinks fit.

**Frances Hughes**  
**Executive Head Community Safety**

### **Appendices**

|            |   |
|------------|---|
| Appendix 1 | Premises Licence application form                       |
| Appendix 2 | Copy of current Premises Licence                        |
| Appendix 3 | Copy of the Representations from the Interested Parties |

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton and Brixham and Torquay, Paignton, Churston and Brixham Libraries. Copies can also be obtained from the Democratic Services Office, Town Hall, Torquay.

### **Documents available in members' rooms**

None

### **Background Papers:**

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

The current Premises Licence for the above Premise.  
Torbay Council Licensing Policy 2008 - 2011.

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**LICENSING ACT 2003**  
**APPLICATION**  
**TO VARY A PREMISES LICENCE**

**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](http://www.torbay.gov.uk)*

**Completed forms should be returned to:**

**Principal Safety & Licensing Officer**  
**Torbay Council**  
**Environmental Health and Community Safety**  
**Roebuck House**  
**Abbey Road**  
**Torquay**  
**TQ2 5EJ**

**Contact Details:**

**Tel: 01803 20 8126**

**Web: [www.torbay.gov.uk](http://www.torbay.gov.uk)**

**Fax: 01803 20 8854**

**Email: [licensing@torbay.gov.uk](mailto:licensing@torbay.gov.uk)**





Application to vary a Premises Licence 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 ADELE WANNIE FARRELL, GAILE JENNIFE  
 (insert name(s) of applicant) FARRELL & MICHELE FARRELL  
 being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

|                         |    |
|-------------------------|----|
| Premises licence number | 19 |
|-------------------------|----|

Part 1 - Premises Details

|  |   |  |  |
|--|---|--|--|
| Postal address of premises or, if none, ordnance survey map reference or description | BELOW DECKS<br>4 BEACON DWAY<br>TORQUAY |  |  |
|--|---|--|--|

|           |         |           |         |
|-----------|---------|-----------|---------|
| Post town | TORQUAY | Post code | TQ1 2BG |
|-----------|---------|-----------|---------|

|   |              |
|---|--------------|
| Telephone number at premises (if any)   | 01804 411106 |
| Non-domestic rateable value of premises | £10,400      |

Part 2 - Applicant details

|   |   |          |         |
|---|---|----------|---------|
| Daytime contact telephone number                          | 07899924402 (ADELE)                       |          |         |
| E-mail address (optional)                                 |   |          |         |
| Current postal address if different from premises address | STAMFORD COURT<br>PALERMO ROAD<br>TORQUAY |          |         |
| Post Town   | TORQUAY                                   | Postcode | TQ1 3NW |

**Part 3 - Variation**

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

If not do you want the variation to take effect from

| Day |  | Month |  | Year |  |
|-----|--|-------|--|------|--|
|     |  |       |  |      |  |

**Please describe briefly the nature of the proposed variation (Please see guidance note 1)**

change licensable times  
and add Entertainment

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend

#### Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

##### Provision of regulated entertainment

Please tick yes

- |  |                                     |
|--|-------------------------------------|
| 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 checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F)  | <input checked="" 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)<br>(if ticking yes, fill in box H) | <input type="checkbox"/>            |

##### Provision of entertainment facilities:

- |  |                                     |
|--|-------------------------------------|
| i) making music (if ticking yes, fill in box I)  | <input type="checkbox"/>            |
| j) dancing (if ticking yes, fill in box J)   | <input checked="" type="checkbox"/> |
| k) entertainment of a similar description to that falling within (i) or (j)<br>(if ticking yes, fill in box K) | <input type="checkbox"/>            |

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

##### Sale by retail of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

**A**

|   |       |        |  |          |                          |
|---|-------|--------|--|----------|--------------------------|
| <b>Plays</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>Will the performance of a play take place indoors or outdoors or both – please tick</b><br>(please read guidance note 2)  | Indoors  | <input type="checkbox"/> |
|   |       |        |  | Outdoors | <input type="checkbox"/> |
|   |       |        |  | Both     | <input type="checkbox"/> |
| Day   | Start | Finish |  |          |                          |
| Mon   |       |        | <b>Please give further details here</b> (please read guidance note 3)  |          |                          |
| Tue   |       |        |  |          |                          |
| Wed   |       |        | <b>State any seasonal variations for performing plays</b> (please read guidance note 4)  |          |                          |
| Thur  |       |        |  |          |                          |
| Fri   |       |        | <b>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</b> (please read guidance note 5) |          |                          |
| Sat   |       |        |  |          |                          |
| Sun   |       |        |  |          |                          |

**B**

|   |              |               |   |          |                          |
|---|--------------|---------------|---|----------|--------------------------|
| <b>Films</b><br>Standard days and timings (please read guidance note 6) |              |               | <b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 2)  | Indoors  | <input type="checkbox"/> |
|   |              |               |   | Outdoors | <input type="checkbox"/> |
|   |              |               |   | Both     | <input type="checkbox"/> |
| <b>Day</b>  | <b>Start</b> | <b>Finish</b> | <b>Please give further details here</b> (please read guidance note 3)   |          |                          |
| Mon   |              |               |   |          |                          |
| Tue   |              |               |   |          |                          |
| Wed   |              |               | <b>State any seasonal variations for the exhibition of films</b> (please read guidance note 4)  |          |                          |
| Thur  |              |               |   |          |                          |
| Fri   |              |               |   |          |                          |
| Sat   |              |               | <b>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</b> (please read guidance note 5) |          |                          |
| Sun   |              |               |   |          |                          |
|   |              |               |   |          |                          |

**C**

| Indoor sporting events<br>Standard days and timings (please read guidance note 6) |       |        | <b>Please give further details</b> (please read guidance note 3)   |
|---|-------|--------|--|
| Day   | Start | Finish |  |
| Mon   |       |        | <b>State any seasonal variations for indoor sporting events</b> (please read guidance note 4)  |
| Tue   |       |        |  |
| Wed   |       |        |  |
| Thur  |       |        | <b>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</b> (please read guidance note 5) |
| Fri   |       |        |  |
| Sat   |       |        |  |
| Sun   |       |        |  |

**D**

|  |       |        |   |          |                          |
|--|-------|--------|---|----------|--------------------------|
| <b>Boxing or wrestling entertainments</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>Will the boxing or wrestling entertainment take place indoors or outdoors or both - please tick</b> (please read guidance note 2)  | Indoors  | <input type="checkbox"/> |
|  |       |        |   | Outdoors | <input type="checkbox"/> |
|  |       |        |   | Both     | <input type="checkbox"/> |
|  |       |        |   |          |                          |
| Day  | Start | Finish | <b>Please give further details here</b> (please read guidance note 3)   |          |                          |
| Mon  |       |        | <b>State any seasonal variations for boxing or wrestling entertainment</b> (please read guidance note 4)  |          |                          |
| Tue  |       |        |   |          |                          |
| Wed  |       |        |   |          |                          |
| Thur   |       |        |   |          |                          |
| Fri  |       |        |   |          |                          |
| Sat  |       |        |   |          |                          |
| Sun  |       |        |   |          |                          |
|  |       |        | <b>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</b> (please read guidance note 5) |          |                          |



**E**

|  |       |        |   |          |                                     |
|--|-------|--------|---|----------|-------------------------------------|
| <b>Live music</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>Will the performance of live music take place indoors or outdoors or both – please tick</b><br>(please read guidance note 2)   | Indoors  | <input type="checkbox"/>            |
|  |       |        |   | Outdoors | <input type="checkbox"/>            |
|  |       |        |   | Both     | <input checked="" type="checkbox"/> |
| Day  | Start | Finish | <b>Please give further details here</b> (please read guidance note 3)   |          |                                     |
| Mon  | 09.00 | 00.00  |   |          |                                     |
| Tue  | 09.00 | 00.00  | <b>State any seasonal variations for the performance of live music</b><br>(please read guidance note 4)   |          |                                     |
| Wed  | 09.00 | 00.00  |   |          |                                     |
| Thur   | 09.00 | 00.00  | <b>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</b> (please read guidance note 5) |          |                                     |
| Fri  | 09.00 | 00.00  |   |          |                                     |
| Sat  | 09.00 | 00.00  |   |          |                                     |
| Sun  | 09.00 | 00.00  |   |          |                                     |

**F**

| <b>Recorded music</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>Will the playing of recorded music take place indoors or outdoors or both – please tick</b><br>(please read guidance note 2)   | Indoors  | <input type="checkbox"/>            |
|--|-------|--------|---|----------|-------------------------------------|
| Day  | Start | Finish |   | Outdoors | <input type="checkbox"/>            |
| Mon  | 09.00 | 00.00  | <b>Please give further details here</b> (please read guidance note 3)   | Both     | <input checked="" type="checkbox"/> |
| Tue  | 09.00 | 00.00  |   |          |                                     |
| Wed  | 09.00 | 00.00  | <b>State any seasonal variations for the playing of recorded music</b><br>(please read guidance note 4)   |          |                                     |
| Thur   | 09.00 | 00.00  |   |          |                                     |
| Fri  | 09.00 | 00.00  | <b>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</b> (please read guidance note 5) |          |                                     |
| Sat  | 09.00 | 00.00  |   |          |                                     |
| Sun  | 09.00 | 00.00  |   |          |                                     |

**G**

|   |       |        |   |          |                          |
|---|-------|--------|---|----------|--------------------------|
| <b>Performances of dance</b><br>Standard days and timings (please read guidance note 6) |       |        | <b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b><br>(please read guidance note 2)   | Indoors  | <input type="checkbox"/> |
|   |       |        |   | Outdoors | <input type="checkbox"/> |
| Day   | Start | Finish | <b><u>Please give further details here</u></b> (please read guidance note 3)  | Both     | <input type="checkbox"/> |
| Mon   |       |        |   |          |                          |
| Tue   |       |        | <b><u>State any seasonal variations for the performance of dance</u></b><br>(please read guidance note 4)   |          |                          |
| Wed   |       |        |   |          |                          |
| Thur  |       |        | <b><u>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</u></b> (please read guidance note 5) |          |                          |
| Fri   |       |        |   |          |                          |
| Sat   |       |        |   |          |                          |
| Sun   |       |        |   |          |                          |

**H**

|  |       |        |  |          |                          |
|--|-------|--------|--|----------|--------------------------|
| <b>Anything of a similar description to that falling within (e), (f) or (g)</b><br>Standard days and timings (please read guidance note 6) |       |        | <b><u>Please give a description of the type of entertainment you will be providing</u></b>   |          |                          |
| Day  | Start | Finish | <b><u>Will this entertainment take place indoors or outdoors or both - please tick</u></b> (please read guidance note 2)   | Indoors  | <input type="checkbox"/> |
| Mon  |       |        |  | Outdoors | <input type="checkbox"/> |
|  |       |        |  | Both     | <input type="checkbox"/> |
| Tue  |       |        | <b><u>Please give further details here</u></b> (please read guidance note 3)   |          |                          |
| Wed  |       |        |  |          |                          |
| Thur   |       |        | <b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 4)  |          |                          |
| Fri  |       |        |  |          |                          |
| Sat  |       |        | <b><u>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</u></b> (please read guidance note 5) |          |                          |
| Sun  |       |        |  |          |                          |

|  |       |        |   |                          |
|--|-------|--------|---|--------------------------|
| <b>Provision of facilities for making music</b><br>Standard days and timings (please read guidance note 6) |       |        | <b><u>Please give a description of the facilities for making music you will be providing</u></b>  |                          |
|  |       |        | <b><u>Will the facilities for making music be indoors or outdoors or both – please tick</u></b><br>(please read guidance note 2)  |                          |
| Day  | Start | Finish | Indoors   | <input type="checkbox"/> |
|  |       |        | Outdoors  | <input type="checkbox"/> |
|  |       |        | Both  | <input type="checkbox"/> |
| Mon  |       |        | <b><u>Please give further details here</u></b> (please read guidance note 3)  |                          |
|  |       |        |   |                          |
| Tue  |       |        | <b><u>State any seasonal variations for the provision of facilities for making music</u></b> (please read guidance note 4)  |                          |
|  |       |        |   |                          |
| Wed  |       |        | <b><u>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5) |                          |
| Thur   |       |        |   |                          |
| Fri  |       |        |   |                          |
| Sat  |       |        |   |                          |
| Sun  |       |        |   |                          |

**J**

|   |       |        |   |  |
|---|-------|--------|---|--|
| <b>Provision of facilities for dancing</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>Will the facilities for dancing be indoors or outdoors or both – please tick</b> (see guidance note 2)   | Indoors <input type="checkbox"/>         |
|   |       |        |   | Outdoors <input type="checkbox"/>        |
|   |       |        |   | Both <input checked="" type="checkbox"/> |
|   |       |        | <b>Please give a description of the facilities for dancing you will be providing</b>  |  |
| Day   | Start | Finish | <b>Please give further details here</b> (please read guidance note 3)   |  |
| Mon   | 09.00 | 00.00  |   |  |
| Tue   | 09.00 | 00.00  |   |  |
| Wed   | 09.00 | 00.00  |   |  |
| Thur  | 09.00 | 00.00  |   |  |
| Fri   | 09.00 | 00.00  |   |  |
| Sat   | 09.00 | 00.00  |   |  |
| Sun   | 09.00 | 00.00  | <b>State any seasonal variations for providing dancing facilities</b> (please read guidance note 4)   |  |
|   |       |        | <b>Non standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times to those listed in the column on the left, please list</b> (please read guidance note 5) |  |

**K**

|  |       |        |   |          |                          |
|--|-------|--------|---|----------|--------------------------|
| <b>Provision of facilities for entertainment of a similar description to that falling within i or j</b><br>Standard days and timings (please read guidance note 6) |       |        | <b><u>Please give a description of the type of entertainment facility you will be providing</u></b>   |          |                          |
| Day  | Start | Finish | <b><u>Will the entertainment facility be indoors or outdoors or both – please tick</u></b> (please read guidance note 2)  | Indoors  | <input type="checkbox"/> |
| Mon  |       |        |   | Outdoors | <input type="checkbox"/> |
|  |       |        |   | Both     | <input type="checkbox"/> |
| Tue  |       |        | <b><u>Please give further details here</u></b> (please read guidance note 3)  |          |                          |
| Wed  |       |        |   |          |                          |
| Thur   |       |        | <b><u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u></b><br>(please read guidance note 4)   |          |                          |
| Fri  |       |        |   |          |                          |
| Sat  |       |        | <b><u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5) |          |                          |
| Sun  |       |        |   |          |                          |

L

| Late night refreshment<br>Standard days and<br>timings (please read<br>guidance note 6) |       |        | Will the provision of late night refreshment<br>take place indoors or outdoors or both –<br><u>please tick</u> (please read guidance note 2)  | Indoors  | <input type="checkbox"/>            |
|---|-------|--------|---|----------|-------------------------------------|
| Day   | Start | Finish |   | Outdoors | <input type="checkbox"/>            |
| Mon   | 23.00 | 00.30  | <b>Please give further details here</b> (please read guidance note 3)   | Both     | <input checked="" type="checkbox"/> |
| Tue   | 23.00 | 00.30  |   |          |                                     |
| Wed   | 23.00 | 00.30  | <b>State any seasonal variations for the provision of late night<br/>refreshment</b> (please read guidance note 4)  |          |                                     |
| Thur  | 23.00 | 00.30  |   |          |                                     |
| Fri   | 23.00 | 00.30  | <b>Non standard timings. Where you intend to use the premises<br/>for the provision of late night refreshment at different times, to<br/>those listed in the column on the left, please list</b> (please read<br>guidance note 5) |          |                                     |
| Sat   | 23.00 | 00.30  |   |          |                                     |
| Sun   | 23.00 | 00.30  |   |          |                                     |



**M**

|   |       |        |   |                  |                                     |
|---|-------|--------|---|------------------|-------------------------------------|
| <b>Supply of alcohol</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>Will the supply of alcohol be for consumption (Please tick box)</b> (please read guidance note 7)  | On the premises  | <input type="checkbox"/>            |
|   |       |        |   | Off the premises | <input type="checkbox"/>            |
|   |       |        |   | Both             | <input checked="" type="checkbox"/> |
| Day   | Start | Finish | <b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)  |                  |                                     |
| Mon   | 09.00 | 00.00  |   |                  |                                     |
| Tue   | 09.00 | 00.00  |   |                  |                                     |
| Wed   | 09.00 | 00.00  |   |                  |                                     |
| Thur  | 09.00 | 00.00  |   |                  |                                     |
| Fri   | 09.00 | 00.00  |   |                  |                                     |
| Sat   | 09.00 | 00.00  |   |                  |                                     |
| Sun   | 09.00 | 00.00  |   |                  |                                     |
|   |       |        | <b>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</b> (please read guidance note 5) |                  |                                     |

**N**

**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 8) **NONE**

O

| <b>Hours premises are open to the public</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>State any seasonal variations</b> (please read guidance note 4)  |
|---|-------|--------|---|
| Day   | Start | Finish |   |
| Mon   | 08.00 | 00.30  | <b>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</b> (please read guidance note 5) |
| Tue   | 08.00 | 00.30  |   |
| Wed   | 08.00 | 00.30  |   |
| Thur  | 08.00 | 00.30  |   |
| Fri   | 08.00 | 00.30  |   |
| Sat   | 08.00 | 00.30  |   |
| Sun   | 08.00 | 00.30  |   |
|   |       |        |   |

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

SEE ATTACHED

Please tick yes

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence

**P** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)**

**b) The prevention of crime and disorder**

Premises are fully Alarmed.  
Disordley behaviour will not be  
TOLERATED.

**c) Public safety**

Risk Assessment Carried Out  
Annually  
Operate SFB

**d) The prevention of public nuisance**

SEC ATCC No.

**e) The protection of children from harm**

Premises will operate challenge 21  
ID will be requested by anyone  
believed to be under 21

**Pg 19**

**P**

**(d) The prevention of public nuisance:**

Noise or vibration will not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed. In general terms, noise from the premises should not be audible within any noise sensitive premises (e.g. dwelling) with windows open for normal ventilation especially after 11pm. This will be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that will be applied are;

- i. Before 11pm – Noise emanating from the premises will not be clearly distinguishable above other noise.
- ii. After 11pm – Noise emanating from the premises will not be distinguishable above background levels of noise.
- iii. The local authority will reserve the right in cases of tonal noise and where premises are attached to others (i.e. semi's and terraced properties), to make further assessments from within the residential property.

Faint vertical text or artifacts on the left side of the page.


Please tick yes

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- 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 5 – Signatures** (please read guidance note 10)

**Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent** (please read guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

|           |   |
|-----------|---|
| Signature |  |
| Date      |   |
| Capacity  | PROPRIETOR PARTNER  |

**Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent** (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

|           |  |
|-----------|--|
| Signature |  |
| Date      |  |
| Capacity  |  |

**Contact name (where not previously given) and address for correspondence associated with this application** (please read guidance note 13)

|  |  |           |  |
|--|--|-----------|--|
|  |  |           |  |
| Post town  |  | Post code |  |
| Telephone number (if any)  |  |           |  |
| If you would prefer us to correspond with you by e-mail your e-mail address (optional) |  |           |  |

## Notes for Guidance

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence you should make a new premises licence application under section 17 of the Licensing Act 2003.**

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or un-amplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.





Licensing Act 2003  
**Premises Licence**

19

**LOCAL AUTHORITY**



Licensing Section  
Torbay Council  
Roebuck House  
Abbey Road  
TORQUAY  
DEVON  
TQ2 5EJ

Part 1 - Premises Details

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

**Below Decks**

4 Beacon Quay, Torquay, Devon, TQ1 2BG.

Telephone 01803 292694

**WHERE THE LICENCE IS TIME LIMITED THE DATES**

Not applicable

**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

- 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 |                    |
|---|--|-----------|---------|--------------------|
| M. The sale by retail of alcohol for consumption ON the premises only | Monday to Saturday   | 10:00am   | 11:00pm |                    |
|   | Sunday   | Noon      | 10:30pm |                    |
|   | Good Friday  | Noon      | 10:30pm |                    |
|   | Christmas Day  | Noon      | 3:00pm  |                    |
|   | Christmas Day  | 7:00pm    | 10:30pm |                    |
|   | New Year's Eve   | 10:00am   | 11:00pm | Except on a Sunday |
|   | New Year's Eve   | Noon      | 10:30pm | Sunday             |
|   | On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day |           |         |                    |

**THE OPENING HOURS OF THE PREMISES**

| Description        | Time From   | Time To |                    |
|--------------------|---|---------|--------------------|
| Monday to Saturday | 10:00am   | 11:20pm |                    |
| Sunday             | Noon  | 10:50pm |                    |
| Good Friday        | Noon  | 10:50pm |                    |
| Christmas Day      | Noon  | 3:20pm  |                    |
|                    | 7:00pm  | 10:50pm |                    |
| New Year's Eve     | 10:00am   | 11:20pm | Except on a Sunday |
|                    | Noon  | 10:50pm | Sunday             |
|                    | On New Years Eve from the end of permitted hours on New Years 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 the premises only



Licensing Act 2003  
**Premises Licence**

**19**

Part 2

| NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE |  |
|---|--|
| Adele Joanne Farrell<br>adele@oddicombebeach.wanadoo.co.uk  | Stamford Court, Palermo Road, Torquay, Devon, TQ1 3NW.<br>Telephone 01803 316178 |
| Gayle Jennifer Farrell  | Glendorgan, Cary Avenue, Torquay, Devon, TQ1 3ND.                                |
| Michelle Farrell  | 1 St Andrew's Road, Paignton, Devon, TQ4 6AJ.                                    |

| 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 |  |
|--|--|
| Adele Joanne FARRELL   | Stamford Court, Palermo Road, Torquay, Devon, TQ1 3NW.<br>Telephone 01803 316178 |

| 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. PA0022   | Issued by Torbay |

*F. K. Hughes*

Fran Hughes  
Executive Head of Community Safety  
9 April 2009

**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.

**ANNEXE 2**

**CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

**Restrictions transferred from the On Licence**

The restrictions related to permitted hours do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) the sale of alcohol to a trader or club for the purpose of the trade or club.
- (g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (h) the taking of alcohol from the premises by a person residing there; or
- (i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- (j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the liquor is supplied at the expense of the employer or of the person carrying on or in charge of the business on the premises.

**Credit Sales**

**ANNEXES continued ...**

Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied:

- (a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;
- (b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation;
- (c) to a canteen or mess.

**Conditions Transferred from Full On (Restricted) Licence**

- 1. Substantial food and beverages other than intoxicating liquor shall be available throughout licencing hours.
- 2. The consumption of all alcohol shall be by persons sat at tables and there shall be no consumption of alcohol from glass bottles from which it is intended or likely that a person shall drink.

**ANNEXE 3**

None

**ANNEXE 4**

**PLANS**

Copy attached to Licence.

## LOCAL AUTHORITY



Licensing Section  
 Torbay Council  
 Roebuck House  
 Abbey Road  
 TORQUAY  
 DEVON  
 TQ2 5EJ

## Premises Details

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

**Below Decks**

4 Beacon Quay, Torquay, Devon, TQ1 2BG.

Telephone 01803 292694

## WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

## LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- 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                      |
|---|--|-----------|------------------------------|
| M. The sale by retail of alcohol for consumption ON the premises only | Monday to Saturday   | 10:00am   | 11:00pm                      |
|   | Sunday   | Noon      | 10:30pm                      |
|   | Good Friday  | Noon      | 10:30pm                      |
|   | Christmas Day  | Noon      | 3:00pm                       |
|   | Christmas Day  | 7:00pm    | 10:30pm                      |
|   | New Year's Eve   | 10:00am   | 11:00pm                      |
|   | New Year's Eve   | Noon      | 10:30pm                      |
|   | On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day |           | Except on a Sunday<br>Sunday |

## THE OPENING HOURS OF THE PREMISES

| Description   | Time From | Time To                      |
|---|-----------|------------------------------|
| Monday to Saturday  | 10:00am   | 11:20pm                      |
| Sunday  | Noon      | 10:50pm                      |
| Good Friday   | Noon      | 10:50pm                      |
| Christmas Day   | Noon      | 3:20pm                       |
|   | 7:00pm    | 10:50pm                      |
| New Year's Eve  | 10:00am   | 11:20pm                      |
|   | Noon      | 10:50pm                      |
| On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day. |           | Except on a Sunday<br>Sunday |

## 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 the premises only

# Premises Licence Summary

**NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE**

|                        |  |
|------------------------|--|
| Adele Joanne Farrell   | Stamford Court, Palermo Road, Torquay, Devon, TQ1 3NW. |
| Gayle Jennifer Farrell | Glendorgan, Cary Avenue, Torquay, Devon, TQ1 3ND.      |
| Michelle Farrell       | 1 St Andrew's Road, Paignton, Devon, TQ4 6AJ.          |

**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**

Adele Joanne FARRELL

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


Access is restricted only under the terms of the Licensing Act 2003

*F. K. Hughes*

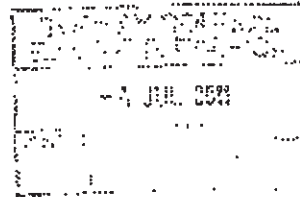
Fran Hughes  
Executive Head of Community Safety  
9 April 2009



500 163630



Executive Head of Community Safety  
Torbay Council  
Roebuck House  
Abbey Road  
Torquay, TQ2 5LJ



30<sup>th</sup> June 2011

Dear Sir/Madam

I wish to object to the proposed Licensing Application for the Below Decks Café Bar in the Harbour, as they only hold a restaurant license would customers have to order a meal and be sitting down to be able to obtain a drink.

I live as you can see in Beacon Terrace and when the Tanoy system are being used for the various boat race's I can hear them quite plainly in both my Living Room and Bedroom as these are situated in the front of the building.

I have secondary double glazing installed which is a great help but will not keep out the sound of Live Music being played, especially outside the café.

I also like to take a peaceful walk in the late evening as do many other people and I feel any late license would spoil what is a special place for both locals and tourist.

Yours sincerely,



520 113434

|                    |       |       |         |
|--------------------|-------|-------|---------|
| TORBAY COUNCIL     |       |       |         |
| EXECUTIVE DIVISION |       |       |         |
| - 5 JUL 2011       |       |       |         |
| OFFICE             | CLERK | PHONE | ROOM No |
|                    |       |       |         |



Executive Head of Community Safety  
Torbay Council  
Roebuck House  
Abbey Road  
Torquay  
TQ2 5EJ

Variation to the premises license for "Below Decks", 4 Beacon Quay, Torquay, TQ1 2BG

Dear Sir

 As an 'interested party', this letter is my formal representation to the above application, made by Adele Farrell, Gayle Farrell and Michele Farrell.

My representation is made on the following two Licensing Objectives identified in the Current Licensing Act; Prevention of Public Nuisance and Public Safety of which I've detailed a number of key points.

Beacon Quay is a working harbour for both commercial and leisure activities, with a unique ambience and safety record to be proud of. Thousands of users, ranging from the very young (many youth clubs including the Torbay Youth Sailing Trust), families enjoying valuable leisure time, to professional racing (such as the recently successful Laser SB3 world championships).

Since the Torquay Harbour regeneration and the redevelopment of Beacon Quay, the past few years have been unique in terms of successful continuity with the small businesses based on the Quay. Below Decks historically was a Café and should remain as such. Introducing live and amplified music would change the environment completely and would be detrimental to the survival of the now well established business community. These varied businesses have experienced challenging financial times over recent years and the thought of disorder and drunkenness (which is an unfortunate fact of venues that participate in live or amplified music) on the Quayside would have irreversible financial consequences.

The Torbay Harbour Byelaws clearly states in Section 24 that "No wireless, amplifier, gramophone or loud hailer shall be operated, from a vessel or otherwise, within an enclosed harbour so as to give reasonable cause for annoyance to other users of the harbour".



Itemised below are the facts that relate to my object to the application:

#### **Prevention of Public Nuisance**

A recent council report states "The harbour is recognised as a 'fantastic' natural environment which needs protection and is important to the Bay's appeal as a tourist destination." The ambience of the Quayside is unique and should remain. Granting this license would rescind on the authorities vision and Torquay Harbour Action Plan for the following reasons:

- Ambience of the quayside
- The layout of the premises and the detached seating area makes it impossible to contain the noise:

#### **Public Safety**

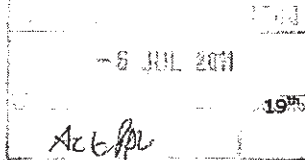
Public Safety is of paramount importance. Granting this license would seriously jeopardise public safety and questionably undermine all the hard work, initiated by Torbay Council, in trying to curtail the ever increasing drunkenness, disorder and alcohol related incidents. The reasons include:

- A combination of alcohol and live or amplified music is not conducive to proving a safe environment for the many users of the Quay.
- The over-stretched police force do not have the resource to police a remote venue such as Below Decks.
- The Harbour Authority are trained professionals in the marine industry and do not have the jurisdiction or expertise to manage an outdoor drinking and music venue.

It is clear that all of the above points would not only contravene the Licensing Objectives of the Licensing Act 2003, but also the Harbour bylaws and therefore I would suggest that Torbay Council have no option but to refuse the application.



SRD 163434



19<sup>th</sup> June, 2011.

Executive Head of Community Safety,  
Torbay Council,  
Roebuck House,  
Abbey Road,  
Torquay TQ2 5EJ

Dear Sirs,

Re: Below Decks, 4 Beacon Quay, Torquay TQ1 2BG  
Applicants: Adele Farrell, Gayle Farrell, Michele Farrell

Further to the listed application to provide live and recorded music Mon-Sun 09.00 – 00.00, and to extend the sale of alcohol Mon-Sun 09.00 – 00.00 at the above premises. We would like to lodge our objection to both of these applications on the following grounds:

Music Licence:

[Redacted] and have previous experience of live music being played from the cafe during the daytime. On those occasions it was impossible to conduct telephone calls or speak to our customers in the shop due to the noise of the music. The internal space of Below Decks is quite small, and their patio area is some distance from the cafe, therefore it is assumed that the volume will have to be set quite high in order for their customers on the patio area to hear it. We have a right to carry out our business in a quiet and peaceful environment, and would expect our neighbours not to infringe on our rights.

Extension of licensing hours:

Being located next door to Below Decks, we regularly have the inconvenience of [Redacted] next outside our shop during the day drinking alcohol, sometimes blocking access to our customers, and we can see no reason why a harbourside cafe establishment has a need to extend the drinking hours any further, we feel they are trying to be a public house, rather than a food outlet.

Yours faithfully





63434

Torbay Council  
Roebuck House  
Abbey Road  
Torquay  
TQ2 5EJ

|             |            |
|-------------|------------|
| SEARCHED    | SERIALIZED |
| INDEXED     | FILED      |
| 2011        |            |
| Torquay     |            |
| [Signature] |            |

REFERENCE: APPLICATION FOR VARIATION OF LICENCE FOR BELOW DECKS CAFE, HARBOURSIDE, TORQUAY. TQ1 2BE

Dear Sirs,

Reference is made to the application by Below Decks Cafe, Harbour side, Torquay for a full "pub" licence.

[Redacted] has various concerns over the application for a full "pub" licence and entertainment licence for Below Decks Cafe.

The creation of a full pub and entertainment venue on Beacon Quay is incongruous with the zone and will have a significant and possible serious detrimental impact on the ambience, safety and economy on the area.

1. The area around Beacon Quay is the location of significant sailing events for all ages and is the centre for Junior groups such as scouts, junior sailors etc.
2. The atmosphere and street scene is of a maritime genre. The pub and club scene is located around the inner harbour and not Beacon Quay.
3. The attraction of the Harbour side for visiting yachtsmen is the tranquillity and a safe environment. This new facility is growing .
4. The quayside is the location for storage of a significant number of valuable sailing dinghies.

We are aware of the noise and disturbance caused recently when the venue concerned ran a one night special event. Yachtsmen alongside the Town Dock complained at the disturbance. There is obviously an issue of noise pollution.

The WPC does not wish to be restrictive to appropriate enterprise in this area, but we feel the creation of an entertainment venue puts at risk the areas future.

1. Music late in to the night should not normally be allowed. At worst it should be occasional and limited until no later than 11.00pm.





2. Drinking, especially with glasses and bottles should not be allowed outside the premises, nor on the outside seating area. Broken glass could be a significant danger to children who use the area for sailing and water sport and often run around barefoot.
3. The area is generally safe. The incursion of significant drinking and partying on a regular daily basis could attract elements of the community that would make this a less safe area. There is significant value in dinghys and boats in the area and there is a fear that damage could be done by inebriated clients. ( This used to happen in the days of Coral Island / Lasers Nightclub) that used to disgorge onto the Harbourside.
4. The original lease and licences for the area were restricted to achieve the development of Beacon Quay/pub restaurant to ensure it did not become a night zone.
5. if a licence is allowed we feel there must be adequate security ( doormen) provided at the venue to ensure the control of people, drunkenness, noise, and security of the surrounding area including dinghies . Also a complete CCTV system should be installed and operated by the premises to cover the licensed areas both inside and outside. Noise monitoring equipment should be installed to monitor noise levels.
6. We feel the application raises the issue of public safety and public nuisance and would ask the Committee to seriously consider these issues in relation to a relatively quiet family area.



Figure 1

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of The Old Market House, The Quay, Brixham

Wards Affected: **Berry Head with Furzeham**

To: **Licensing Sub- Committee** **4<sup>th</sup> August 2011**

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 new Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 As the Licensing Authority has no powers under the Act to raise a Representation, Officers are unable to make any recommendation.
- 1.4 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “Public Safety”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”.
- 1.5 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made, having considered the Representations, either:-
  - (a) to grant the licence subject to
    - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
    - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;(Such conditions may differ in respect of different parts of the Premises and/or different activities).
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the Premises Supervisor;
  - (d) to reject the application.

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

## **2. Introduction**

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application and the plan are shown in Appendix 1 and 2 .

A brief description of the application, as follows:

The provision of Late Night Refreshment indoors from 2300 until 0015 7 days a week.

The sale of alcohol on and off the Premises from 1000 until midnight 7 days a week.

To be open to the public from 0800 until 0030 7 days a week.

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

We have received a Representation from Public Protection in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown as Appendix 3.

We have received five Representations from Interested Parties in relation to the Licensing Objectives "The Prevention of "Crime and Disorder", "Public Safety", "The Prevention of Public Nuisance" and "The Protection of Children from Harm". These are shown in Appendix 4.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.5 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
- (a) The holder of the licence against any decision
- (i) to impose conditions on the licence, or

- (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
- (b) Any person who made a relevant Representation who desires to contend
  - (i) that the licence ought not to have been granted, or
  - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.

- 2.7 Following such Appeal, the Magistrates' Court may:-
- (a) dismiss the appeal,
  - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
  - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such order as to costs as it thinks fit.

**Frances Hughes**  
**Executive Head Community Safety**

### **Appendices**

- Appendix 1            Details of the application.
- Appendix 2            Plan submitted with the Application
- Appendix 3            Details of the Representation from Public Protection
- Appendix 4            Details of Representations from Interested Parties

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton or Brixham and Torquay, Paignton, Churston or Brixham Libraries. Copies can also be obtained from the Democratic Services Office, Town Hall, Torquay.

### **Documents available in Members' rooms**

None

### **Background Papers**

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

Torbay Council Licensing Policy 2011.

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

**I/We** St Austell Brewery Company Limited

*(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<br>The Old Market House<br>The Quay |         |                  |         |
| <b>Post town</b>   | Brixham | <b>Post code</b> | TQ5 8AW |

|   |        |
|---|--------|
| Telephone number at premises (if any)   |        |
| Non-domestic rateable value of premises | £26415 |

**Part 2 - Applicant Details**

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

- |   |                                     |                             |
|---|-------------------------------------|-----------------------------|
| a) an individual or individuals *               | <input type="checkbox"/>            | please complete section (A) |
| b) a person other than an individual *          |                                     |                             |
| i. as a limited company                         | <input checked="" type="checkbox"/> | please complete section (B) |
| ii. as a partnership                            | <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 institution  please complete section (B)
- f) a health service body  please complete section (B)
- g) a person who is registered under chapter 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 respect of 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:

- Please tick yes
- 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)**

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

**SECOND INDIVIDUAL APPLICANT (if applicable)**

|                             |                              |                               |                             |                                |
|-----------------------------|------------------------------|-------------------------------|-----------------------------|--------------------------------|
| <input type="checkbox"/> Mr | <input type="checkbox"/> Mrs | <input type="checkbox"/> Miss | <input type="checkbox"/> Ms | Other Title (for example, Rev) |
| Surname                     |                              |                               | First names                 |                                |

|   |  |  |  |
|---|--|--|--|
| I am 18 years old or over                                 |  | <input type="checkbox"/> Please tick yes |  |
| 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<br>St Austell Brewery Company Limited   |
| Address<br>63 Trevarthian Road<br>St Austell<br>PL25 4BY   |
| Registered number (where applicable)<br>107021   |
| Description of applicant (for example, partnership, company, unincorporated association etc.)<br>Limited Company |
| Telephone number (if any)<br>(01726) 627219  |
| E-mail address (optional)  |

**Part 3 Operating Schedule**

When do you want the premises licence to start?

|     |       |      |
|-----|-------|------|
| Day | Month | Year |
| 0   | 9     | 0    |
| 7   | 2     | 0    |
| 1   | 1     | 1    |

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

|     |       |      |
|-----|-------|------|
| Day | Month | Year |
|     |       |      |
|     |       |      |
|     |       |      |

Please give a general description of the premises (please read guidance note1)  
Detached, two storey, food-led restaurant / bistro / bar situated between town-centre road and quayside with customer areas situated on ground and first floors, together with an exterior seating area

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

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

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

**Provision of regulated entertainment**

Please tick yes

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

**Provision of entertainment facilities:**

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

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

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

L

| Late night refreshment<br>Standard days and<br>timings (please read<br>guidance note 6) |       |        | Will the provision of late night refreshment<br>take place indoors or outdoors or both –<br>please tick (please read guidance note 2)   | Indoors  | <input checked="" type="checkbox"/> |
|---|-------|--------|---|----------|-------------------------------------|
|   |       |        |   | Outdoors | <input type="checkbox"/>            |
|   |       |        |   | Both     | <input type="checkbox"/>            |
| Day   | Start | Finish |   |          |                                     |
| Mon   | 23:00 | 00:15  | <b><u>Please give further details here</u></b> (please read guidance note 3)  |          |                                     |
|   |       |        |   |          |                                     |
| Tue   | 23:00 | 00:15  |   |          |                                     |
|   |       |        |   |          |                                     |
| Wed   | 23:00 | 00:15  | <b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 4)   |          |                                     |
|   |       |        |   |          |                                     |
| Thur  | 23:00 | 00:15  |   |          |                                     |
|   |       |        |   |          |                                     |
| Fri   | 23:00 | 00:15  | <b><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></b> (please read guidance note 5)<br>Flexibility for the period commencing at the terminal hour on New Year's Eve until 05:00 on New Year's Day each year |          |                                     |
| Sat   | 23:00 | 00:15  |   |          |                                     |
| Sun   | 23:00 | 00:15  |   |          |                                     |

**M**

|   |              |               |  |                  |                                     |   |  |  |
|---|--------------|---------------|--|------------------|-------------------------------------|---|--|--|
| <b>Supply of alcohol</b><br>Standard days and timings (please read guidance note 6) |              |               | <b>Will the supply of alcohol be for consumption (Please tick box)</b> (please read guidance note 7) | On the premises  | <input type="checkbox"/>            |   |  |  |
|   |              |               |  | Off the premises | <input type="checkbox"/>            |   |  |  |
|   |              |               |  | Both             | <input checked="" type="checkbox"/> |   |  |  |
|   |              |               |  |                  |                                     |   |  |  |
| <b>Day</b>  | <b>Start</b> | <b>Finish</b> | <b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)         |                  |                                     |   |  |  |
| Mon   | 10:00        | 00:00         |  |                  |                                     |   |  |  |
| Tue   | 10:00        | 00:00         |  |                  |                                     |   |  |  |
| Wed   | 10:00        | 00:00         |  |                  |                                     |   |  |  |
| Thur  | 10:00        | 00:00         |  |                  |                                     |   |  |  |
| Fri   | 10:00        | 00:00         |  |                  |                                     |   |  |  |
| Sat   | 10:00        | 00:00         |  |                  |                                     |   |  |  |
| Sun   | 10:00        | 00:00         |  |                  |                                     |   |  |  |
|   |              |               |  |                  |                                     | <b>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</b> (please read guidance note 5)<br>Flexibility for the period commencing at the terminal hour on New Year's Eve until the commencement hour on New Year's Day each year |  |  |
|   |              |               |  |                  |                                     |   |  |  |

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

|  |
|--|
| <b>Name</b><br>Ashley James RUDD                                       |
|  |
|  |
|  |
| <b>Issuing licensing authority (if known)</b><br>Plymouth City Council |

**N**

**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 8)**

Nil

**O**

| <b>Hours premises are open to the public</b><br>Standard days and timings (please read guidance note 6) |       |        | <b>State any seasonal variations</b> (please read guidance note 4)   |
|---|-------|--------|--|
| Day   | Start | Finish |  |
| Mon   | 08:00 | 00:30  | <p><b><u>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</u></b> (please read guidance note 5)<br/>Flexibility for the period commencing at the terminal hour on New Year's Eve until the commencement hour on New Year's Day each year</p> |
|   |       |        |  |
| Tue   | 08:00 | 00:30  |  |
|   |       |        |  |
| Wed   | 08:00 | 00:30  |  |
|   |       |        |  |
| Thur  | 08:00 | 00:30  |  |
|   |       |        |  |
| Fri   | 08:00 | 00:30  |  |
|   |       |        |  |
| Sat   | 08:00 | 00:30  |  |
|   |       |        |  |
| Sun   | 08:00 | 00:30  |  |
|   |       |        |  |

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

**a) General – all four licensing objectives (b,c,d,e)** (please read guidance note 9)

1. Management shall maintain close liaison with the Police Neighbourhood Beat Manager for the area in which the premises is situated
2. The premises shall be a member of any Pubwatch scheme operating in Brixham, and participate in any "Night-Net" scheme that might operate in the Town
3. Management, or a designated senior staff member, shall attend local licensing meetings arranged by the police or Licensing Authority
4. Overall, the sale of alcohol shall be ancillary to those of food and other beverages

**b) The prevention of crime and disorder**

1. Subject to any regulatory limitations placed on this listed building, a CCTV system shall be installed, operated and maintained having regard to advice received from the police Licensing Officer. Images obtained shall be of evidential standard, shall be retained for at least fourteen days and, subject to data protection or other primary legislation, shall be made available to the Responsible Authorities at any reasonable time
2. Glasses and bottles shall be removed from public areas as soon as practicable after they are finished with or emptied
3. Alcohol sold for consumption off the premises shall be in sealed containers only
4. Management shall display a prominent commitment to the deployment, where requested by the police, of equipment or resources directed by the police, and designed to prevent or detect drugs offences
5. Management shall, where they are operated, participate in schemes designed to facilitate communication with the police, CCTV control rooms or other licensed premises in the Town
6. In respect of the balcony area on the first floor and the outside seating area on the ground floor, all customers consuming alcohol shall be seated at all times, and all drinks must be served to customers in those areas in either toughened, shatter-proof, polycarbonate or plastic glasses
7. In respect of the balcony area on the first floor and the outside seating area on the ground floor, no drinks shall be served in glass bottles from which it is intended, or likely, that a person shall drink

**c) Public safety**

1. The fire safety measures with which the premises are provided shall be maintained in good working order and their adequacy shall be determined on a regular basis by the performance of a risk assessment
2. Management shall ensure that all staff are trained in relation to the premises' emergency evacuation procedure, and their role in the event of a fire or other emergency. A record of this training shall be maintained and produced to the Responsible Authorities
2. Suitable and sufficient first aid equipment shall be made available for the use of customers and staff

**d) The prevention of public nuisance** (P.T.)



1. Prominent, clear, and legible notices shall be displayed at all public exits requesting patrons to leave the premises, and the area, quietly
2. Bottles, or other glass waste, shall not be deposited into bins or other receptacles outside the premises after 21:00 or before 09:00
3. The outside area on the ground floor shall not be used for the consumption of alcohol after 22:00
4. Management shall take steps to minimise potential nuisance caused by taxis collecting customers from the premises

**e) The protection of children from harm**

1. The "Challenge 25" scheme shall be operated at the premises.
2. Staff engaged in the retail sale of alcohol who are not holders of a Personal Licence shall receive training in the legal and social responsibilities of such sales; details of this training shall be recorded and made available to officers of the Responsible Authorities
3. An alcohol sales "Refusals Register" shall be maintained, and shall be made available to officers of the Responsible Authorities


**Please tick yes**

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- 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 4 – Signatures** (please read guidance note 10)

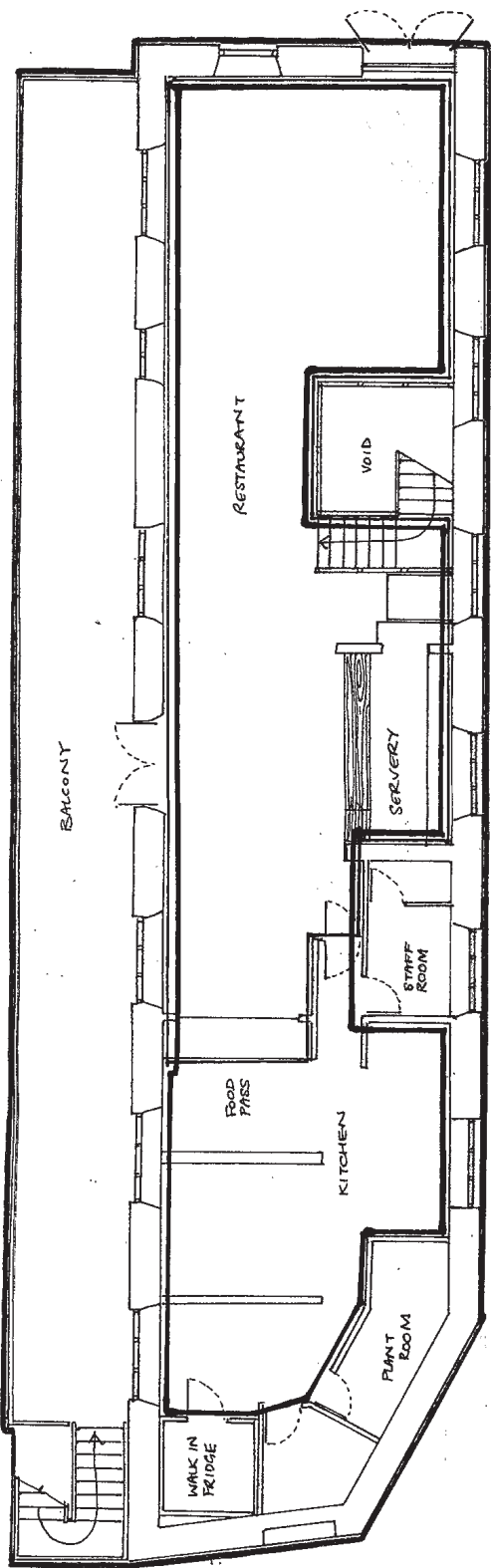
**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

|           |   |
|-----------|---|
| Signature |  |
| Date      | 9.6.2011  |
| Capacity  | Licensing Consultant / Legal Advisor  |

**For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent.** (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

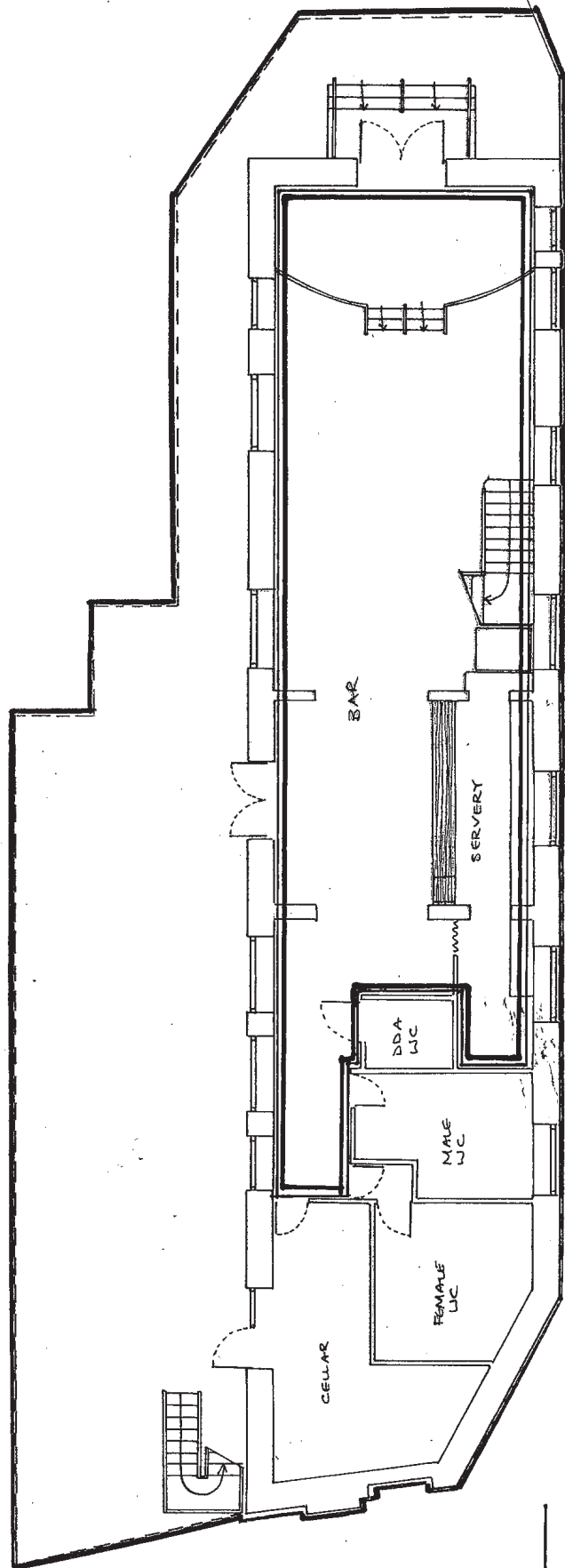
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OLD MARKET HOUSE  
BIRMINGHAM  
Scale 1:100



FIRST FLOOR

The location and type of any fire safety equipment is shown as at time of submission of application. This may be varied from time to time with the agreement of the fire officer or after a fire risk assessment



GROUND FLOOR

- Retail Sale of Alcohol
- Regulated Entertainment
- Late Night Refreshment
- Boundary of Premises

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# Memorandum

|  |                   |                        |
|--|-------------------|------------------------|
| <b>To:</b> Licensing                                 | <b>From</b> :     | Community Safety       |
| <b>c.c</b>   | <b>Contact</b> :  | Mr Gareth Fudge        |
| <b>c.c.</b>  | <b>Ext</b> :      | 01803 208010           |
| <b>c.c</b>   | <b>My Ref</b> :   | 1ZV SRU No: 163562/GDF |
| <b>For the attention of: Licensing<br/>Steve Cox</b> | <b>Your Ref</b> : |                        |
|  | <b>Date</b> :     | 11 July 2011           |

**Subject: Premises– Licensing Act 2003**

**Premises Name & Address: Old Market House Cafe, Old Market House, The Quay, Brixham, Devon, TQ5 8AW**

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

I have no objection to the above application, but having considered the objections provided by members of the public in the vicinity, I note their concerns that they will be disturbed by noise generated by patrons consuming alcohol outside. Although, the premises is in the harbour area of Brixham, there is a lot of residential accommodation in the area and I am a little concerned that if the external area is not managed, there is the possibility that residents will be disturbed.

I would therefore recommend that the following conditions be applied to the licence to alleviate the residents concerns.

“A responsible member of staff will take steps to monitor the outside drinking area and take all reasonable steps to minimise public nuisance from people drinking in the outside area particularly after 18:00. “

“Drinking will not be allowed in the external drinking area after 20:00.”

**Mr Gareth Fudge**  
Senior Environmental Health Officer

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Dear Licensing,

This application seems to be asking for many things all at once.

I object in full to an outside drinking license, plus also object to the late hours application, and also object to any license at all being given if it is not 'with food'. I also object to retail sales.

I have lived since 1999 at the above address in the residential flat fronting this application. My bedroom window looks over the 'Market House' full-on.

In the past few years I have had to call the police on a number of occasions in the late evening/night due to brawling in the street (The Strand) outside. The harbour area seems to attract the drunks.

I object to this application on the grounds of:

- 1) Late night crime & disorder would increase.
  - 2) Public nuisance. Drunk people are invariably noisy, and the harbour is a basin in effect, a natural amphitheatre, where all sounds are amplified due to the nature of the high sided cliffs all round. All the houses all the way round would also hear any noise from below in the harbour streets. As for my own bedroom, all
-

noise would carry straight in. People who have been drinking 'hang-around' the harbour after the premises are shut. I think a 'buffer-time for them to disperse would be acceptable. As a resident I would have no objection to a license until 11 pm, probably in keeping with other surrounding licensed restaurant premises.

- 3) By asking for such a late license, it suggests that the nature of the business is more a drinking establishment (pub) than a food and alcohol license. An 11pm cut-off would keep the nature more of a restaurant, not a rowdy pub. And rowdy outside it would be with an outside seating area and balcony. Residents have the right to quiet enjoyment after 10.30pm

To protect nearby residents the 'Old Brewery' application in Ellacombe Torquay (Nov 2010) had a noise management plan suggested by Gareth Fudge, Noise Abatement Officer of Torbay Council, and the plan was accepted, consisting of no customers outside after 10.30pm. May I suggest a similar plan be considered if the council feel it appropriate, to protect the noise in the whole harbour area and all the residents who look down on the harbour area, if a license is to be granted.

Brixham harbour is not a flat area!

- 4) Public safety: The harbour is a dangerous place for people who have been drinking. There are stone steps down to a deep harbour (when the tide is in) just outside the front of the Market House premises. These are dangerous to people drinking around outside, as indeed the whole harbour area is.
  - 5) The harbour is the focal point for tourism in Brixham. Many tourists are families. Children run around the pavements exploring while their parents sit and take in the view. Drinking allowed outside is not conducive to this, and can be deemed harmful to children in terms of bad language and raised voices due to drinking, and a bad example to see drinking in the street area. The Golden Hind attraction right outside the market House is a magnet to children.
  - 6) The majority of visitors outside of school holidays are older, retired people. People outside drinking on pavement level would be harmful to their feeling of safety.
-



Surely only alcoholic drinks with food prevents this premises from causing crime/disorder, public nuisance, public safety, & harm to children.

Retail sales are not necessary in the harbour area. The town is served with a supermarket open til 11pm selling alcohol already (Tesco). Retail sales in the harbour would encourage drinking around the harbour, which is not permitted. Who would be around to enforce this? The police cannot be called every time someone opens a can of beer as they walk round the harbour. There are no other retail shops in the vicinity for food/drink to consume at home, the harbour is not the right place for this.

All in all, please consider this application very carefully, as if there is any noise after 11pm from it, as a resident, and like I am sure other residents, if there is any noise or trouble if licenses are granted, I will be calling the Police and relevant authorities if there is due cause. Hopefully the licensing application being considered will take all my points if deemed relevant into account.

May I ask that fly-posting be forbidden if a license is granted, it would make a tourist area look untidy. I gather that such a restriction can be placed on a license.



4/7/9011

|              |     |
|--------------|-----|
| TO           | ... |
| FR           | ... |
| - 5 JUL 2011 |     |
| ...          | ... |
| ...          | ... |

I am writing to strongly object to a late night license for the sale of alcohol being granted to The Old Market House, The Quay, Buxham TQ5 5TW.

We have enough trouble & noise around the harbour at night with the present licensing times from the many public houses here already.

The area in question is used all the time by the people of Buxham for fêtes, church caravans & all sorts we do not want to turn it into another Newbury!

Also it is in the most beautiful part of Buxham, we all hold this area dear.

4<sup>th</sup> July 2011



Executive Head of Community Safety  
Torbay Council  
Roebuck House  
Abbey Road  
Torquay  
TQ2 5EG

|              |  |
|--------------|--|
| TQ...        |  |
| - 6 JUL 2011 |  |
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Dear Sir,

Ref. Premises Licence in respect of The Old Market House, The Quay, Brixham

I am writing to object to the application above. A late night licence with the outdoor seating area, together with the retail sales of alcohol from 10:00 until midnight every day will, in my view, completely change the nature of the harbour area for the worse. Part of Brixham's charm to which tourists are drawn, is the quiet and unspoiled nature of the town, especially round the harbour area. To alter this radically, as the proposed licence will undoubtedly do, is likely to irrevocably damage the town's tourism, and all of the other traders in the town are dependant on this tourism.

There is sufficient ill-feeling in the town regarding the sale of the building, which was left to the people of Brixham, as it is without further aggravating the situation with licencing arrangements which are unnecessary. I am also concerned for the people who reside on the quayside as I can imagine the noise generated by people sitting drinking outside is likely to be considerable, and that is without the provision of a late-night licence.



4<sup>th</sup> July 2011



Executive Head of Community Safety  
Torbay Council  
Roebuck House  
Abbey Road  
Torquay  
TQ2 5EG

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Ref: Premises Licence in respect of The Old Market House, The Quay, Brixham

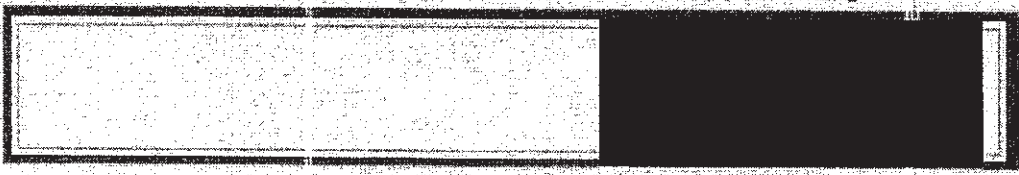
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Yours Faithfully,

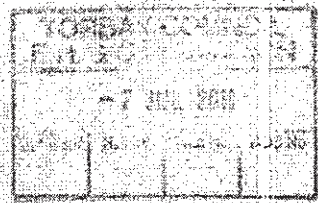


SKU 163562



4 July 2011  
Head of Community Safety  
Torbay Council  
Abbey Road  
Torquay  
TQ2 5EG

*The old market house*



Dear Council,

I am writing with regards to the application by St Austell Brewery for a license to retail the sale of alcohol from 10am till Midnight and late night refreshment from 11pm till 12:15am.

I am disappointed that when the approved permission for the development was granted it was for a high class restaurant but it appears now that the development is now a pub run by a Brewery serving food.

Having looked at the web site for St Austell Brewery why are they asking for longer opening hours than any of their other establishments. Have other councils realised the problems of late night drinking.

Having lived in the harbour for over 35 years I have seen the changes. Brixham's charm is being eroded by the late night consumption of alcohol/noise/behaviour after 11pm. Brixham has a large number of holiday lets and it is important that the visitors leave Brixham with a memory a quaint unspoilt Town. These visitors are our life blood in the winter.

Brixham Trawler race shows what can happen when people have the opportunity to drink inside and out all day. Shop windows were smashed. (prevention of crime and disorder)

In Brixham at night families can walk with their children on the harbor side pavement without being close to drinkers. I feel strongly that the consumption of alcohol should only be with in the walls of the market house. Already the public will be put at risk having to walk close to the balcony where glasses could be dropped accidentally.

With long opening hours in such a predominant area there is no guarantee that children will not be protected from excessive drinking or harm by possible drunks. Will the pub be required to employing security to reduce the risk of trouble? (Protection of children from harm)

Longer drinking hours often lead to the increase in criminal damage to surrounding areas and an increase of members of the public urinating in alley ways and storage areas. Considering the council closes toilets at an early time any license should consider this. (public safety)

When customers come out of a premise after drinking they are often loud and abusive not aware of their actions and the worry would be that an innocent member of the public might be pushed in to the harbour. (Prevention of public nuisance)

Brixham needs to survive and it is important that all of the businesses compete on an even playing field and that no one business is given an unfair advantage over any other.

Over the years pubs and restaurants have had to work with resections and if the council were to grant this license in its present state it would be the detriment to the other pubs and restaurant that are striving to survive.

This business already has had concessions given to it, from the scaffolding in the road to the retrospective planning application for knocking walls down in a grade 1 building. When the exhibition the Deep was running in these Market house premises before the owner was complaining about the restrictions on ladders and scaffolding when he wanted to do work.



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