



Monday, 28 May 2012

LICENSING SUB-COMMITTEE

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

Thursday, 7 June 2012

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 Pentney

Councillor Brooksbank

Our vision is for a cleaner, safer, prosperous Bay

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

Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207013

Email: democratic.services@torbay.gov.uk



LICENSING SUB-COMMITTEE AGENDA

1. Election of Chairman/woman

To elect a Chairman/woman for the meeting.

2. 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.)

3. Urgent items

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

**4. Licensing Act 2003 – An application for a Premises Licence –
Asda Supermarket, Borough Road, Paignton TQ4 7EP**

To consider an application for a Premises Licence – Asda Supermarket, Borough Road, Paignton, TQ4 7EP.

(Pages 1 -
15)



Briefing Report No: Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence – Asda Supermarket, Borough Road, Paignton TQ4 7EP

Wards Affected: **Tormohun**

To: **Licensing Sub Committee** **7th June 2012**

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 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”.
- 1.4 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation 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.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant and Interested Parties 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 are shown in Appendix 1.

A brief description of the application, as follows:

To permit the Supply of Alcohol from 06.00 until midnight seven days a week.

To provide Late Night Refreshment from 23.00 until midnight seven days a week.

To be open to the public from 06.00 until midnight seven days a week.

A copy of the plan of the Premises is shown as Appendix 2.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as relevant Representations have been received from two 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 two Representations from Interested Parties in relation to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”. These are shown as Appendix 3.

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

- 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 of Premises.

Appendix 3 Two 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.

Agenda Item 4

Appendix 1

Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 - Schedule 2, regulation 10

LIC2

Insert name and address
of relevant licensing
authority and its
reference number
(optional)

TORBAY COUNCIL
LICENSING UNIT & PUBLIC PROTECTION
COMMUNITY SAFETY
ROEBUCK HOUSE
ABBEY ROADTORQUAY TQ2 5EJ

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 **ASDA STORES 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	
ASDA SUPERMARKET BOROUGH CLOSE PAIGNTON	
Post town TORBAY	Post code TQ4 7EP

Telephone number at premises (if any)

TBC

Non-domestic rateable value of premises

£ 330,000.00

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick Yes

- a) an individual or individuals* please complete section (A)
- b) a person other than an individual*
- i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)

Part 3 - Operating Schedule

When do you want the premises licence to start?

Day		Month		Year	
A	S	A	P		

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

Day		Month		Year	

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

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

SUPERMARKET SITUATED AT BOROUGH CLOSE, PAIGNTON.

What licensable activities do you intend to carry on from the premises?
(Please see sections 1 and 14 of the Licensing Act 2003 and Schedule 1 and 2 to the Licensing Act 2003)

Please tick Yes

Provision of regulated entertainment

- 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)

In all cases complete boxes N, O and P

K

Provision of facilities for entertainment of a similar description to that falling within I or J Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u>		
Day	Start	Finish	Will the entertainment facility be indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors	
Mon				Outdoors	
				Both	
Tue			<u>Please give further details here (please read guidance note 3)</u>		
Wed			<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within I or J (please read guidance note 4)</u>		
Thur					
Fri					
Sat			<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 (please read guidance note 5)</u>		
Sun					

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both - please tick ✓ (please read guidance note 2)	Indoors	
Day	Start	Finish		Outdoors	
Mon	2300	2400		Both	✓
Tue	2300	2400		<u>Please give further details here (please read guidance note 3)</u>	
Wed	2300	2400	<u>State any seasonal variations for the provision of late night refreshment (please read guidance note 4)</u>		
Thur	2300	2400			
Fri	2300	2400	<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 (please read guidance note 5)</u>		
Sat	2300	2400			
Sun	2300	2400			

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) ✓ (please read guidance note 7)	On the premises	
				Off the premises	✓
				Both	
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	0600	2400			
Tue	0600	2400			
Wed	0600	2400			
Thur	0600	2400			
Fri	0600	2400			
Sat	0600	2400			
Sun	0600	2400			

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

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)

The premises will be constructed in accordance with plan no 11.101.A(100)00_01 (proposed ground floor plan) as served with the application or in the case of alteration to those plans any further plans served on the responsible authorities and licensing authority prior to the opening of the premises. / All staff shall be trained in ASDA procedures which include liquor licensing and all checkout operators and their team trainers shall have additional training in the sale of alcohol

b) The prevention of crime and disorder

The premises to have internal & external CCTV cameras. The CCTV system will be registered in accordance with the data protection act. The system will be capable of continuously recording and copies of such recordings shall be kept for a period of not less than 31 days and handed to a police constable or authorised person upon request. The system shall be maintained in working order & recordings will be made for each trading period conducted at the premises. / Adoption of challenge 21 (or any greater age that ASDA adopts) or similar proof of age scheme which is recognized by the police. The proof of age scheme shall be effected by the inspection of a recognized form of photographic identification such as passport, photo driving licence, proof of age card or any other form of identification agreed with the police. Notices are to be prominently displayed advising customers of the challenge 21 (or similar scheme) policy

c) Public safety

ASDA seeks to comply with the requirements of the health and safety legislation.

d) The prevention of public nuisance

External CCTV system in place to deter anti-social behaviour


e) The protection of children from harm

All stores will have a till prompt system for age restricted products. Adoption of challenge 21 (or any greater age that Asda adopts) or similar proof of age scheme which is recognized by the police. The proof of age scheme shall be effected by the inspection of a recognized form of photographic identification such as passport, photo driving licence, proof of age card or any other form of identification agreed with the police. If the appropriate proof of age is not produced there will be no sale. Notices are to be prominently displayed advising customers of the challenge 21 (or similar scheme) policy

Fire signage for fire exit from sales floor:



Fire action



Push bar to open



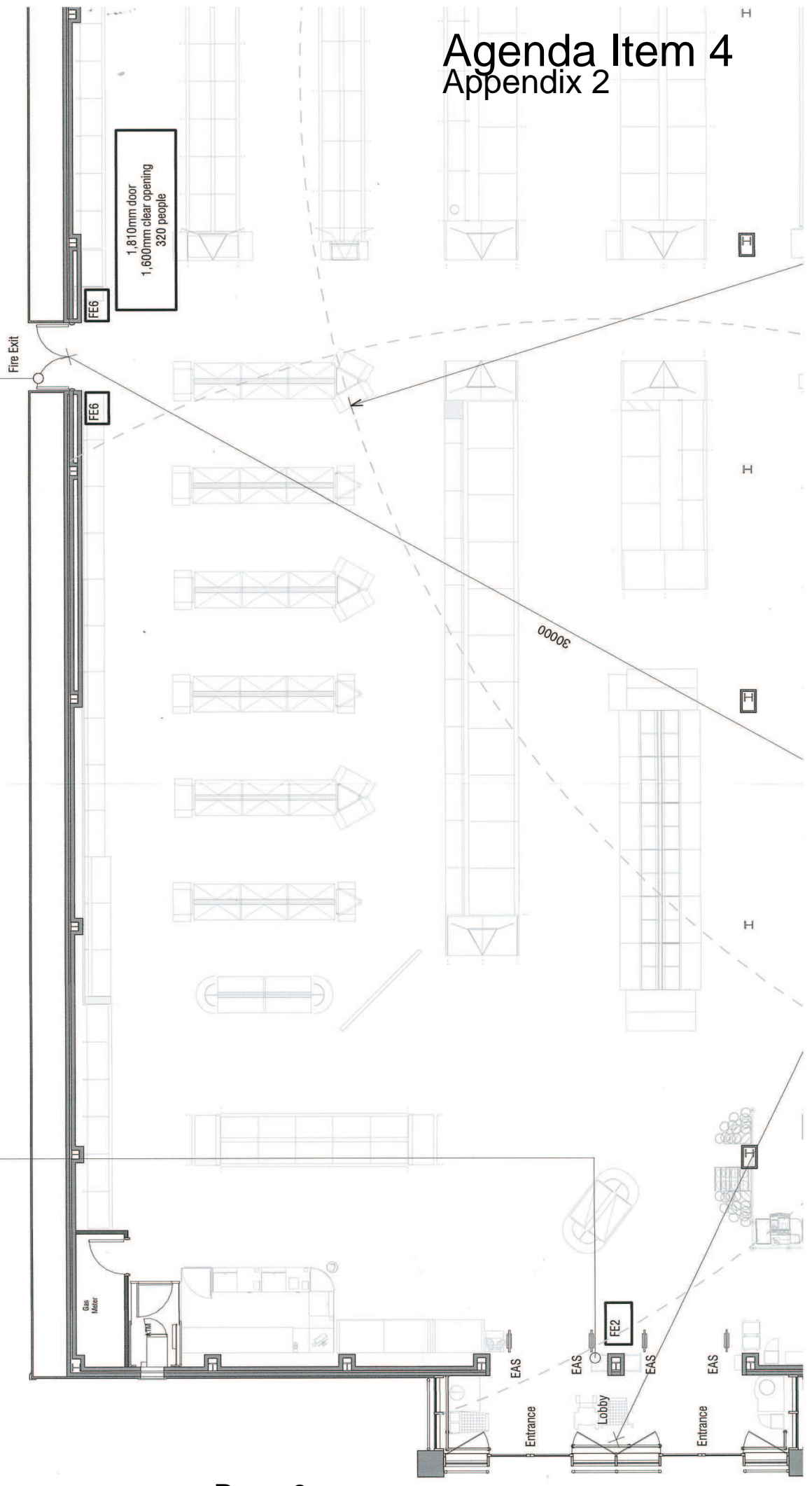
Fire exit
Keep clear

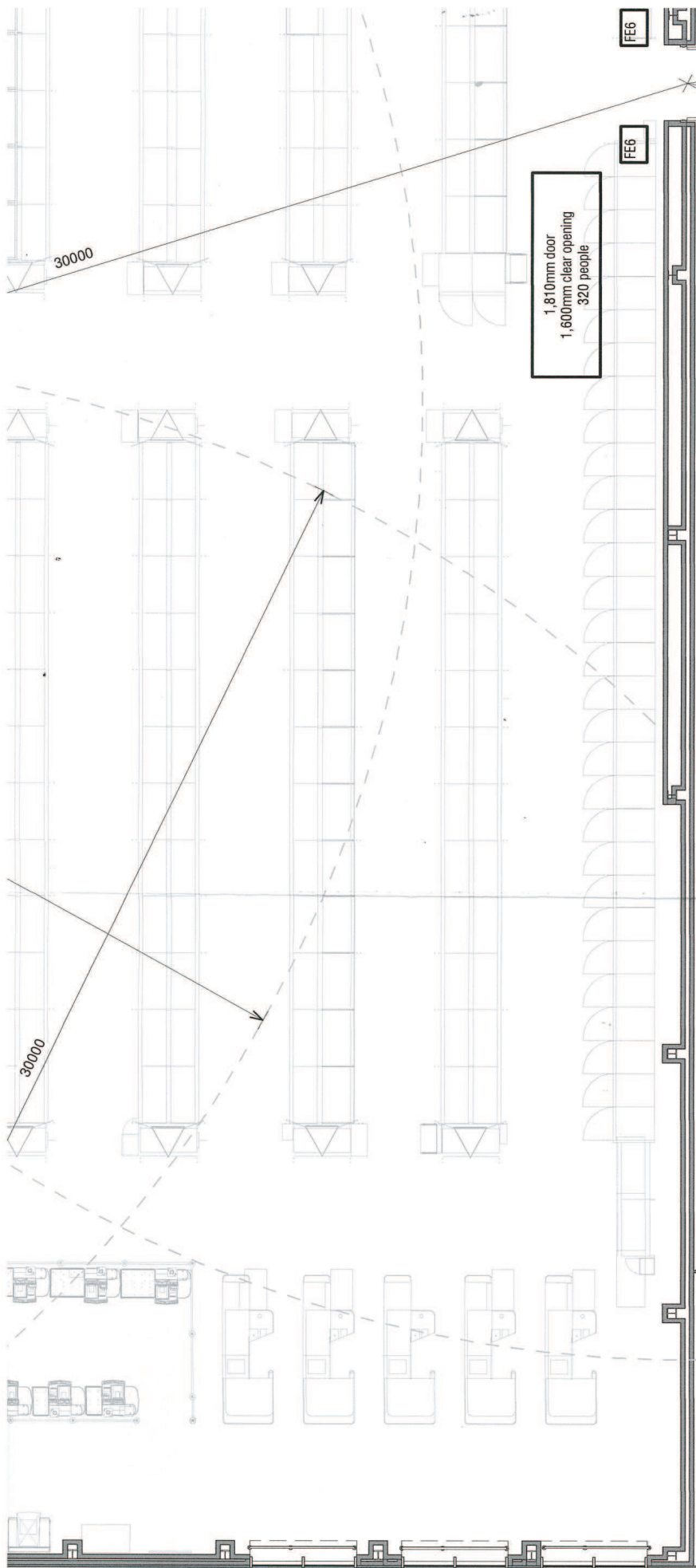


Fire signage for fire exit from sales floor:



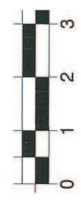
Fire action





1,810mm door
1,600mm clear opening
320 people

Fire signage for fire exit from sal



Licensing Plan Scale 1:100

NOTES:

Rev	Date	Description	By	PM

LICENSING APPLICATION

NOTES:

PROTECTION AND WARNING:

The fire alarm and detection system will be designed and installed in accordance with BS 5839: Part 1:2002. For details refer to M&E consultant's drawings and specification. Manual call points will be provided to the Sales Floor with automatic detection provided to all other areas of the store. The fire alarm system will be activated by one of the following alarm cues:

- Activation of a manual call point.
- Activation of a smoke/ heat detector head.

For details of emergency lighting, smoke and heat detectors refer to M&E consultant's drawings and specifications.

FIRE EXITS AND MEANS OF ESCAPE:

Travel distances within the Sales Floor are based on 45m in two directions. For the purpose of the Fire Strategy Plan direct distances (2/3rds of travel distance) have been used.

All fire exit doors to be fitted with 'push bar' panic release mechanisms and self adhesive emergency exit signage. Illuminated fire exit sign to be installed above all fire exit doors at 4200mm above finished floor level. All fire signage on glazed escape doors to be double sided.

FIRE EXTINGUISHERS:

Fire extinguishers are to be located on the sales floor, adjacent all fire exits and escape routes, within the Warehouse area, customer/colleagues restaurants, Bakery, Home shopping area and colleagues offices.

All fire extinguishers to be on stands with carrying handle approx. 1000mm above finished floor level. Locations shown are indicative only, final location of all extinguishers to be co-ordinated with sales floor plan and all other fittings.

OCCUPANCY (Sales Floor):

Occupancy levels to the Sales Floor area are based upon gross floor area divided by 4sq.m per person.

18,880sq.ft (gross sales area) = 1,754sq.m
1,754sq.m / 4sq.m = 438 persons.

SALES FLOOR DOOR WIDTH CALCULATION:

5mm per person x Sales Floor Occupancy.
5 x 438 = 2,190mm total clear exit width (TCW) required (discounting main entrance doors).

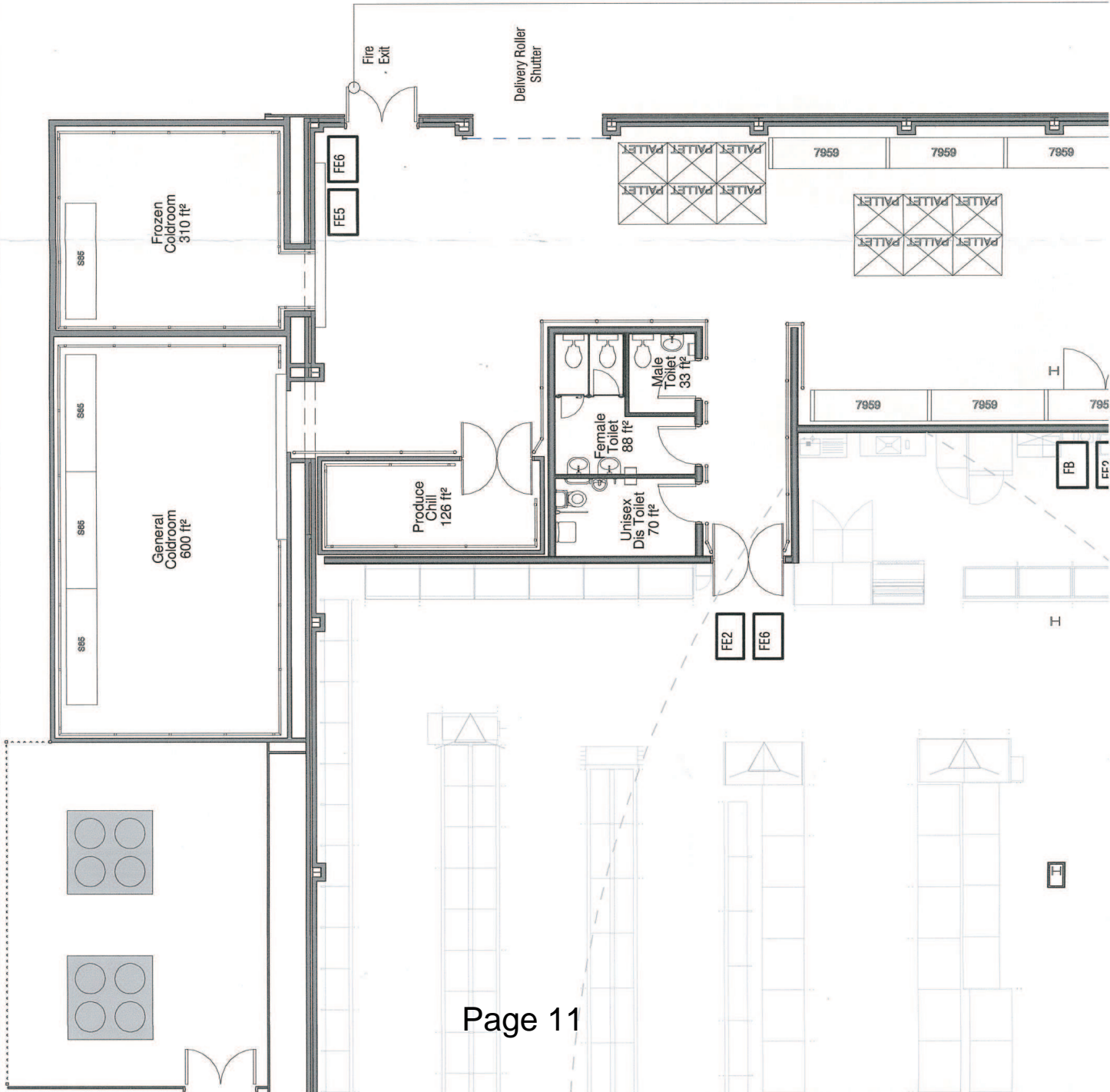
LEGEND:

[FE2] CO2 fire extinguisher (2kg).

[FE5] CO2 fire extinguisher (5kg).

[FE6] Foam fire extinguisher.

[FEF] Wet chemical (Class F) fire extinguisher (6 Litres).



fire exit

FIRE SAFETY SIGNAGE:



600x400mm internally illuminated exit, positioned central above exit doors. top of sign to be 4200mm above finished floor level.



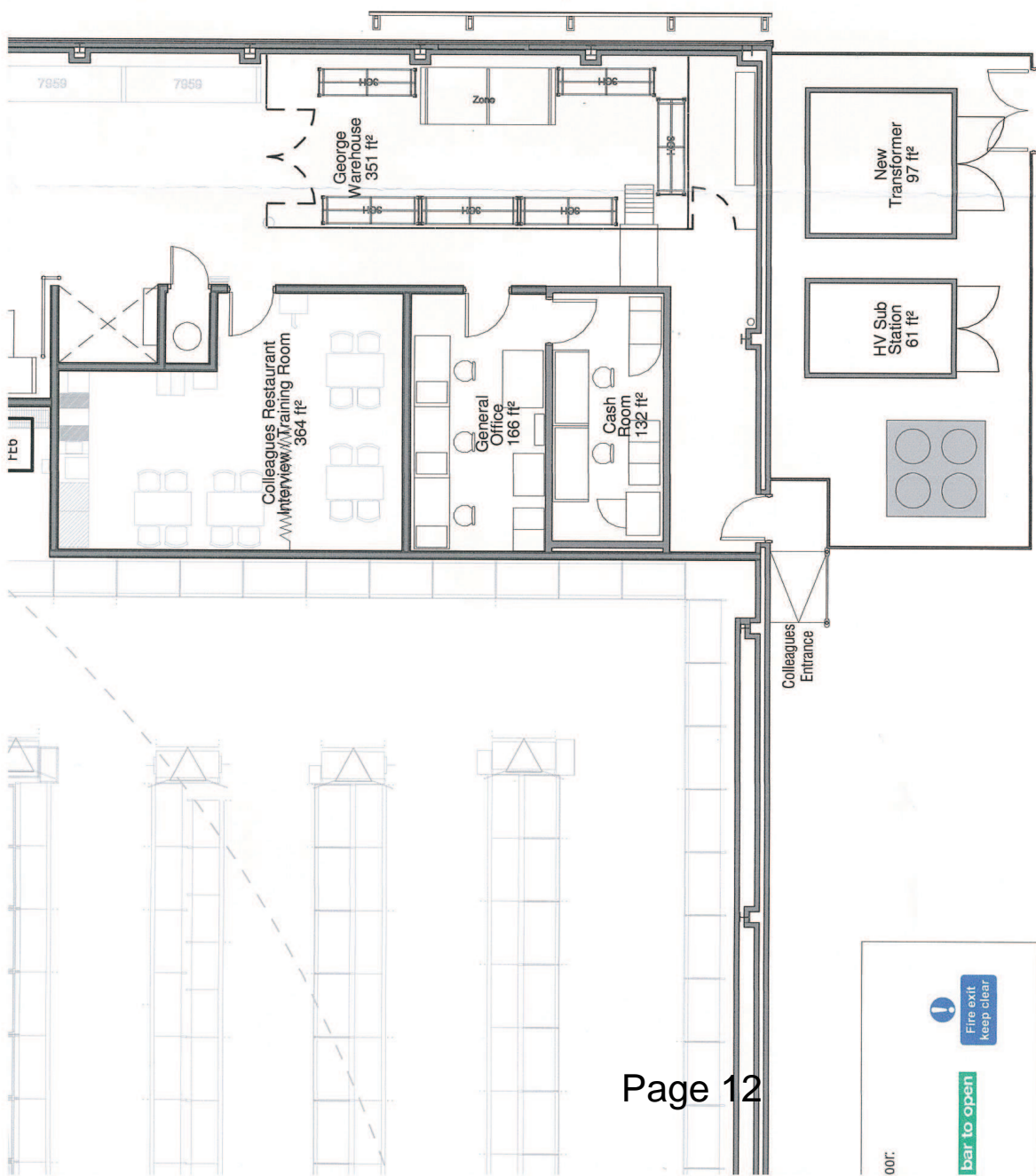
200x300mm rigid plastic 'fire action sign', screwed to wall adjacent fire exit doors. Centre of sign to be 350mm from edge of door frame and 1380mm above finished floor level.



600x100mm self adhesive vinyl 'push bat to open' sign, positioned central to door leaf directly above panic bar.



250x 125mm self adhesive vinyl 'fire exit keep clear' sign, positioned central to door leaf. Centre of sign to be 1500mm above finished floor level.



HGP
ARCHITECTS

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Check dim. on site.

CLIENT
ASDA STORES LTD

TITLE
Asda Paignton

Proposed Ground Floor Plan
BWS Licensing Plan

Revision: 0

Scale: As indicated @ A1
Date: Feb 2012 ©

Drawn by: BF
Checked by: SPG

Drawing No.: 11.101_A(100)00_01

001: bar to open

Fire exit keep clear

4 5m

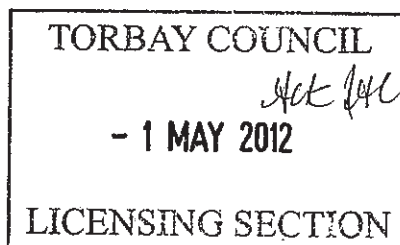


HOUSE OF COMMONS

Steve Cox
Principal Safety and Licensing Officer
Torbay Council
Roebuck House
Abbey Road
TQ2 5EJ

LONDON SW1A 0AA

SW/ns
26th April 2012



Dear Steve

I have been approached by interested parties as defined under the Licensing Act 2003 who would like me to represent them and support their objections to the application made by Asda, of Yalberton Tor Industrial Estate to have a late liquor license allowing them to sell alcohol from early in the morning to late at night.

Sale of alcohol commencing at 6.00 am may encourage street drinking, which can adversely affect the quality of life for residents by causing noise, litter and general nuisance. There is a high risk of disturbance to those residents bordering the premises.

This site is also close to numerous schools, including: Paignton Community and Sports College, South Devon College, Roselands Primary School and Hayes Primary School. Children will undoubtedly be passing by this site on their way to school and early access to alcohol will only encourage underage drinking.

Selling alcohol at the same time children are on their way to school normalises alcohol as if it were part of everyday behaviour. This is unacceptable and potentially damaging to children. I would like to emphasise the danger to children from exposure to alcohol related anti social behaviour and it is a well known fact that children may ask adults to purchase alcohol for their consumption.

Having been a police forensic examiner for Devon and Cornwall Police, I know firsthand that victims of crime are often the result of alcohol fuelled behaviour.

Contd.....



If the application is granted, I feel conditions should be put in place;

- A personal license holder should be on the premises at all times
- Strong beer and cider should not be sold during the extended hours
- There should be no advertising of cheap alcohol outside the premises
- Refusal register to be maintained
- License limited to part of the premises
- Challenge 25

I feel taking into the consideration the wider spirit of the alcohol strategy, when reviewing this application would be sensible.

Please can you confirm that my objections have been registered by replying to my Constituency Office at Station Road, Totnes, TQ9 5HW.

Yours sincerely,

Dr Sarah Wollaston MP

Cc: To all members of the Licensing Committee

- Councillor Pete Addis (Chairman) pete.addis@torbay.gov.uk
- Councillor Nicole Amil nicole.amil@torbay.gov.uk
- Councillor Jane Barnby jane.barnby@torbay.gov.uk
- Councillor Neil Bent neil.bent@torbay.gov.uk
- Councillor Stephen Brooksbank Stephen.brooksbank@torbay.gov.uk
- Councillor Dave Butt (Vice-Chair) dave.butt@torbay.gov.uk
- Councillor Darren Cowell darren.cowell@torbay.gov.uk
- Councillor Ian Doggett ian.doggett@torbay.gov.uk
- Councillor Vic Ellery vic.ellery@torbay.gov.uk
- Councillor Alan Faulkner alan.faulkner@torbay.gov.uk
- Councillor Michael Hytche michael.hytche@torbay.gov.uk
- Councillor Matthew James matthew.james@torbay.gov.uk
- Councillor Julien Parrott julien.parrott@torbay.gov.uk
- Councillor Ruth Pentney ruth.pentney@torbay.gov.uk
- Councillor Cindy Stocks cindy.stocks@torbay.gov.uk

Brixham Town Council would like to object to the above application under the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

Below is an extract from our minutes of Monday 23rd April 2012:

120047 To consider any license applications.

Application 029033 for a Premises Licence for Asda Stores Limited, Borough Close, Paignton, Devon, TQ4 7EP.

It was resolved to recommend refusal for the sale by retail of alcohol for consumption OFF the premises for the period 6am until midnight. Councillors resolved that an acceptable licence period would be 10am until 10pm due to concerns that customers would take alcohol into the neighbouring estates late at night to consume and cause public nuisance. It was feared that due to this the volume of crime and disorder incidents in the area would escalate and an increased amount of damage would be caused to the neighbouring properties. Concerns were also raised on public health through the sale of alcohol following the new alcohol strategy which seeks to turn the tide against irresponsible drinking.

Cllr M James abstained from voting due to being on the Torbay Council Licensing Committee.

Regards

Tracy Hallett

Assistant to the Town Clerk, Brixham Town Council

01803 859678

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