



Wednesday, 22 January 2014

## **LICENSING SUB-COMMITTEE**

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

**Thursday, 30 January 2014**

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 Bent

Councillor Stocks

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**Working for a healthy, prosperous and happy Bay**

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

**Teresa Buckley, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 20702613**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

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

# LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**  
To elect a Chairman/woman for the meeting.
2. **Apologies**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 1 - 2)  
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 9 January 2014.
4. **Declarations of interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**  
To consider any other items that the Chairman decides are urgent.
6. **Licensing Act 2003 – An application for a Premises Licence in respect of (Torquay) New Build, Newton Road, Torquay Edginswell, Torquay** (Pages 3 - 33)



## Minutes of the Licensing Sub-Committee

9 January 2014

-: Present :-

Councillors Addis, Brooksbank and Ellery

### 45. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

### 46. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Brooksbank and Doggett instead of Councillor Barnby and Stocks respectively.

### 47. Licensing Act 2003 – An application for a Premises Licence in respect of Taj India, 47 Abbey Road, Torquay TQ2 5NQ

Members considered a report on an application for a Premises Licence in respect of Taj India, 47 Abbey Road, Torquay. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Letter of Representation suggesting conditions if the Licence was granted.	10 December 2013

Oral Representations received from:

Name	Details
Applicant	The applicant responded to Members questions.
Police	The Police outlined the conditions they would like adding to the Premises Licence if the Premises Licence was granted.

Applicant's response to Representations:

The Applicant advised Members of the Licensing Sub-Committee that he agreed to the inclusion of the conditions suggested by the Police.

Decision:

That the application for a Premises Licence in respect of Taj India, 47 Abbey Road, Torquay be granted as applied for, subject to the following additional conditions:

- i) Alcohol shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as ancillary to their meal;
- ii) Alcohol permitted for consumption off the premises shall be that which had been purchased ancillary to a table meal and shall be carried from the premises in a sealed container;
- iii) Any person who appears to members of staff to be drunk or acting in a violent manner shall be refused entry to the premises; and
- iv) The premises shall operate a Challenge 25 Scheme, where acceptable forms of photographic identification, as outlined in the Torbay Council Licensing Statement of Principles shall be requested from any person who appears to members of staff to be under the age of 25.

Reason for Decision

Having carefully considered all the written and oral representations, Members resolved to grant the licence, having been satisfied that with the additional conditions, the licensing objectives would not be undermined.

Members had regard for the Council's Licensing Statement of Principles 2011 and resolved that to grant the licence as it did, the licence would not add to crime and disorder or public nuisance.

Members also had regard to the Applicant's intention to sell alcohol to those who purchased takeaway meals. In consideration of this intention which Members felt had not been made clear by the Applicant in their application form and had only come to light during the Applicant's oral submission, Members noted that the premises are within the Cumulative Impact Area and that the area in which the premises is located is covered by an Alcohol Consumption in Designated Public Places 2003 Central Torquay Order.

As such Members resolved that the Applicant had not sufficiently demonstrated to them what measures would be put in place to ensure that The Prevention of Crime and Disorder Objective would not be undermined and therefore prohibited the sale and supply of alcohol otherwise than to persons taking table meals at the premises and for consumption by such a person, as ancillary to their meal.

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Chairman



Briefing Report Public Agenda Item: Yes  
No:

Title: Licensing Act 2003 – An application for a Premises Licence in respect of (Torquay) New Build, Newton Road, Torquay Edginswell, Torquay TQ2

Wards Affected: **Shiphay with the Willows**

To: **Licensing Sub Committee** **30<sup>th</sup> January 2014**

Contact Officer: **Mandy Guy**  
Telephone: **01803 208124**  
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 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”, “Public Safety” and “The Prevention of Public Nuisance”.
- 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 Party 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 provide Films (indoors); Indoor Sporting Events; Live Music (indoors); Recorded Music (indoors and outdoors) and Performance of Dance (indoors) for the following times:-

Monday to Thursday 10.00 until 00.00

Friday and Saturday 10.00 until 01.00

Sunday 11.00 until 00.00

Late Night Refreshment (on and off the premises) for the following times:-

Sunday to Thursday 23.00 until 00.00

Friday and Saturday 23.00 until 01.00

The Sale of Alcohol (on and off the premises) for the following times:-

Monday to Thursday 10.00 until 00.00

Friday and Saturday 10.00 until 01.00

Sunday 11.00 until 00.00

To provide all of the above until 01.00 on Friday, Saturday, Sunday and Monday at bank holiday weekends, Christmas Eve and Boxing Day. On New Year's Eve commencing 10.00 until 01.00 on the 2<sup>nd</sup> January.

To be open to the public for the following times:-

Monday to Thursday 07.00 until 00.30

Friday and Saturday 07.00 until 01.30

Sunday 07.00 until 00.30

Also to be open to the public until 01.30 on Friday, Saturday, Sunday and Monday at bank holiday weekends, Christmas Eve and Boxing Day. On New Year's Eve commencing 10.00 until 01.30 on the 2<sup>nd</sup> January.

In addition the applicant has requested the following:-

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the Police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

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. 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 received a representation from the Police in relation to the Licensing Objective "The Prevention of Crime and Disorder". This is shown as Appendix 3.

We have received a representation from Public Protection in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown as Appendix 4.

We have received 3 representations from members of the public in relation to the Licensing Objective "The Prevention of Public Nuisance". These are shown as Appendix 5.

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

- 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 Representation 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 Representation from the Police.
- Appendix 4 Representation from Public Protection
- Appendix 5 3 Representations from members of the public.

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

None

### **Background Papers:**

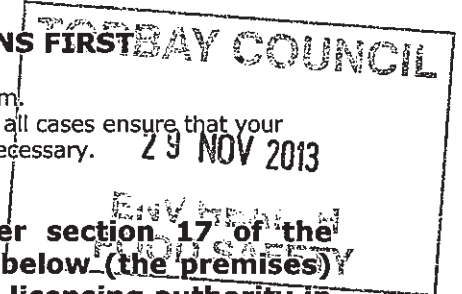
The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2011.



**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.



**We Marston's PLC apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and 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  Torquay (New Build), Newton Road, Edginswell,	
Post town Torquay	Post code TQ2

Telephone number of premises (if any)

Non-domestic rateable value of premises

**Part 2 - Applicant Details**

Please state whether you are applying for a premises licence as

- Please tick ✓
- 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)

**(B) OTHER APPLICANTS**

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

Name Marston's PLC
Address Marston's House, Brewery Road, Wolverhampton, WV1 4JT
Registered number (where applicable) 31461
Description of applicant (for example, partnership, company, unincorporated association etc.) Public Limited Company
Telephone number (if any) 01902 711300
E-mail address (optional)

**Part 3 – Operating Schedule**

When do you want the premises licence to start?

Day    Month    Year

0	1	0	5	2	0	1	4
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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.

N/A
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**Please give a general description of the premises (please read guidance note 1)**

The applicant is proposing to construct licensed premises within the Edginswell Park Development. The premises will be accessed from Newton Road and will be located adjacent to the Tesco Store and near to commercial premises and offices within the Edginswell Park Development.

It is intended that the Applicant's premises will have in the order of 150 covers internally. The proposed premises will open as a public house providing a substantial quality food offering and limited regulated entertainment. The extent of the development is illustrated on the deposited plans along with the location of the site. Application will be made for a permit for AWP machines once the Licence is granted.

Application for Planning Permission has been submitted.

The premises has residential accommodation which includes the Manager's accommodation on the first floor.

The layout is proposed in accordance with the plans deposited with the Licensing Authority with this application, being: -

- Site layout plan – drawing no. 2744/L104
- Ground floor licensing plan - drawing no. 2744/L105 – identifying all internal and external areas to be licensed at this site and forming the principal plan therefore for licensing purposes.
- First floor licensing plan - drawing no. 2744/L106

All licensable activities are to take place internally in the area outlined in red. The licensable activities limited to sale by retail of alcohol, late night refreshment and recorded music only are proposed to be permitted to the external areas.

The premises seek to be able to sell to residents and supply their bona fide guests 24 hours per day, as per the non standard timing sought in accordance with the usual permission permitted historically.

The premises is to have the benefit of external areas which are identified on the site layout plan and in particular comprise of two terraced areas, first to the front of the premises adjacent to the children's play area and which is envisaged to be used predominantly by families. The second to the side of the premises which is adjacent to landscape garden area which will have the benefit of additional seating, temporary structures providing shelter and shade and is anticipated to be utilised by more mature diners.

For the sake of simplicity the children's play area has been incorporated within the licensed area along with landscaped gardens. All external licensed areas are to have the benefit of waitress service (as appropriate) however the terraced areas will have a similar level of service to that provided internally.

On opening the premises will trade under one of the applicant's brands as a quality food lead outlet. There will be high levels of service and some waitress provision to the dining areas.

Other licensable activities, in particular regulated entertainment will be ancillary to the provision of food and alcohol. It is anticipated that any such regulated entertainment will be provided on an occasional basis only and limited to 12 occasions per year, although likely to be significantly less.

Appropriate noise attenuation measures are included within the structure of the new build and it is not anticipated that any issues will arise in relation to noise to local residents. The Operating Schedule has been completed on this basis.

The name of the premises will be provided in due course.

Consequently, the following permitted licensing hours for these premises would apply for on and off sales on opening are: -

Monday to Thursday 10:00 to 00:00  
Friday / Saturday 10:00 to 01:00  
Sunday 11:00 to 00:00

This application seeks to obtain authorisation under the Licensing Act 2003 for the following activities: -

- 1) To permit regulated entertainment comprising live music and amplified voice, recorded music by juke box and music systems, compares for functions and quizzes and similar forms of entertainment, indoor pub games comprising a sporting event in the presence of an audience, exhibition of a film principally video entertainment on screens and TV screens and amusement machines.
- 2) To permit sale of alcohol and such regulated entertainment until 01:00 the following morning on Friday, Saturday, Sunday and Monday at Bank Holiday weekends, Christmas Eve and Boxing Day.

New Years Eve to operate from 10:00 on the 31<sup>st</sup> December until 01:00 on the 2<sup>nd</sup> January, thereby providing extended hours.

Christmas Day to operate without a break in operational hours.

- 3) To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours as identified in Box M such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the Police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.
- 4) To allow sale of alcohol and such regulated entertainment as follows: -  
Mon/Tue/Wed/Thurs 10:00 – 00:00  
  
Fri/Sat 10:00 – 01:00 following  
Sun 11:00 – 00:00
- 5) To permit provision of refreshment after 23:00.

For customers hours of opening are from 07:00 through until 30 minutes after the cessation of licensable activities so as to facilitate the provision of breakfast.

**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)  | <input type="checkbox"/>            |
| b) Films (if ticking yes, fill in box B)  | <input checked="" type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C)   | <input checked="" 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 checked="" type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/>            |

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

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

**In all cases complete boxes K, L and M**

**A**

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).	Indoors	
Day	Start	Finish		Outdoors	
				Both	
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed					
Thur			State any seasonal variations for performing plays (please read guidance note 4)		
Fri					
Sat					
Sun			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		

**B**

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).	Indoors	✓
Day	Start	Finish		Outdoors	
				Both	
Mon	10:00	00:00	Please give further details here (please read guidance note 3)  Exhibition of film principally video entertainment on screens and TV screens. There shall be no films show to a close seated audience.		
Tue	10:00	00:00			
Wed	10:00	00:00			
Thur	10:00	00:00	State any seasonal variations for the exhibition of films (please read guidance note 4)  N/A – save as below		
Fri	10:00	01:00			
Sat	10:00	01:00			
Sun	11:00	00:00	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 (please read guidance note 5)  When hours for sale of alcohol are extended hereunder these hours are also extended (see box J below)		

**C**

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3)  As stated in Part 3 above and restricted to traditional pub games in the presence of an audience, including (but not limited to) darts, pool, snooker, dominos and similar
Day	Start	Finish	
Mon	10:00	00:00	State any seasonal variations for indoor sporting events (please read guidance note 4)
Tue	10:00	00:00	
Wed	10:00	00:00	N/A – save as below
Thur	10:00	00:00	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 (please read guidance note 5)  When hours for sale of alcohol are extended hereunder these hours are also extended (see box J below)
Fri	10:00	01:00	
Sat	10:00	01:00	
Sun	11:00	00:00	

**D**

Boxing or wrestling entertainment Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick {Y}(please read guidance note 2).	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 3)	Both	
Tue					
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)		
Thur					
Fri			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 (please read guidance note 5)		
Sat					
Sun					

**E**

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).	Indoors	✓
				Outdoors	
				Both	
Day	Start	Finish			
Mon	10:00	00:00	Please give further details here (please read guidance note 3) Live music and amplified voice as stated in part 3 above.		
Tue	10:00	00:00			
Wed	10:00	00:00	State any seasonal variations for the performance of live music (please read guidance note 4) N/A – save as below		
Thur	10:00	00:00			
Fri	10:00	01:00	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5) When hours for sale of alcohol are extended hereunder these hours are also extended (see box J below)		
Sat	10:00	01:00			
Sun	11:00	00:00			

**F**

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).	Indoors	
				Outdoors	
				Both	✓
Day	Start	Finish			
Mon	10:00	00:00	Please give further details here (please read guidance note 3) Recorded music, including juke box, with or without a DJ, during normal business hours or as part of functions and including audience participation as specified in part 3 above.		
Tue	10:00	00:00			
Wed	10:00	00:00	State any seasonal variations for playing recorded music (please read guidance note 4) N/A – save as below		
Thur	10:00	00:00			
Fri	10:00	01:00	Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed in the column on the left, please list (please read guidance note 5) When hours for sale of alcohol are extended hereunder these hours are also extended (see box J below)		
Sat	10:00	01:00			
Sun	11:00	00:00			

**G**

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).	Indoors	✓
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3) As stated in Part 3 above		
Mon	10:00	00:00			
Tue	10:00	00:00	State any seasonal variations for the performance of dance (please read guidance note 4)		
Wed	10:00	00:00			
Thur	10:00	00:00	N/A – save as below		
Fri	10:00	01:00			
Sat	10:00	01:00	Non standard timings. Where you intend to use the premises for the performance of dance entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun	11:00	00:00			
			When hours for sale of alcohol are extended hereunder these hours are also extended (see box J below)		

**H**

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).	Indoors	
				Outdoors	
Mon				Both	
Tue			Please give further details here (please read guidance note 3)		
Wed					
Thur			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Fri					
Sat			Non standard timings. Where you intend to use the premises for the entertainment of similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun					



**I**

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 {Y} (please read guidance note 2).	Indoors	
				Outdoors	
				Both	✓
Day	Start	Finish	Please give further details here (please read guidance note 3) As stated in Part 3 above		
Mon	23:00	00:00			
Tue	23:00	00:00	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Wed	23:00	00:00			
Thur	23:00	00:00	N/A – save as below		
Fri	23:00	01:00	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)		
Sat	23:00	01:00			
Sun	23:00	00:00	When hours for sale of alcohol are extended hereunder these hours are also extended (see box J below)		

**J**

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box Y) (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	10:00	00:00			
Tue	10:00	00:00	Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		
Wed	10:00	00:00			
Thur	10:00	00:00	To permit sale of alcohol and such regulated entertainment as authorised hereunder until 01:00 on Friday, Saturday, Sunday and Monday at bank holiday weekends, Christmas Eve and Boxing Day.		
Fri	10:00	01:00			
Sat	10:00	01:00	To permit the sale of alcohol and such regulated entertainment authorised hereunder on New Years Eve commencing 10:00 until 01:00 on the 2 <sup>nd</sup> January.  To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the Police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.		
Sun	11:00	00:00			

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

**Name:** Steven John Roberts  
**Address:** c/o Marston's House, Brewery Road, Wolverhampton  
**Postcode:** TQ2  
**Personal Licence number (if known):** 1840/PERS/2013/020  
**Issuing licensing authority (if known):** Wychavon Council

**K**

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

NONE save for the presence of AWP machines already authorised the use of which is not permitted by persons under the age of 18

**L**

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variation (please read guidance note 4) Please see box J above
Day	Start	Finish	Non standard timings. Where you intend to use the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)  The premises will close 30 minutes after the end of the non-standard timings identified in box J above.
Mon	07:00	00:30	
Tue	07:00	00:30	
Wed	07:00	00:30	
Thur	07:00	00:30	
Fri	07:00	01:30	
Sat	07:00	01:30	
Sun	07:00	00:30	

**M**

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)**

This is an application for a new Premises Licence to be constructed on land off Newton Road and at the entrance of Edginswell Development Park. The site will be situated adjacent to Tesco. The layout is more particularised on the plans and has the benefit of substantial parking facilities and will offer food both internally and externally.

Marston's Plc have constructed many premises of this nature and on this occasion it is intended that the premises will operate under the brand of Two for One which will be supported by family friendly facilities including both internal and external play areas.

The premises are located a significant distance away from residential accommodation and are within a commercial area. It is not envisaged that any problems will arise in connection with noise or in respect of crime and disorder.

The above is provided by way of explanation and not intended to be converted into conditions.

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

The applicant has undertaken a risk assessment in connection with the operation of this unit taking into consideration the area in which it is located and their previous experience of units of this nature and their operation and impact on the immediate vicinity.

With regards to the prevention of crime and disorder the applicant would offer the following steps in order to address this issue: -

1. Alcoholic drinks may not be removed from the premises in open containers saved for consumption in external areas provided for that purpose.
2. No customers carrying opened bottles of alcoholic drink upon entry shall be admitted to premises at anytime the premises are open to the public.
3. It is considered that for the nature of the operation door supervisors will not be required however, the Designated Premises Supervisor will undertake a risk assessment should unusual events takes place and if they consider it appropriate will employ the same.
4. Any persons exercising security (as defined by paragraph 21a of schedule 2 of the Private Security Act 2001 shall be licensed by the Security Industry Authority).
5. Such person will be employed at the premises at the discretion of the designated premises supervisor/holder of the premises licence.
6. Internal CCTV to cover bar servery and main point of access and egress, such images to be retained for a period of 30 days and be available to the Police and Licensing Officer on their reasonable request.

**c) Public safety**

The applicant has undertaken a risk assessment with regard to public safety.

As this is a New Build all equipment will be to the latest standard and will be British Standard approved.

The applicant will ensure that fixtures and fittings provided to the premises will be of an appropriate nature.

The applicant undertakes to comply with reasonable requirements of the Building Control Officer. In any event, the approval of these statutory authorities will be required before the premises can open to the public.

Proposed condition :-

1. The Premises Licensee will comply with the reasonable requirements of the Fire Officer from time to time

**d) The prevention of public nuisance**

The applicant has undertaken a risk assessment with regards to public nuisance.

The applicant proposes conditions as follows: -

1. Where appropriate prominent and legible notices shall be displayed at all exists requesting the public to respect the needs of the local residents and to leave the premises and area quietly.
2. The doors and windows to the premises are to be double glazed.

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

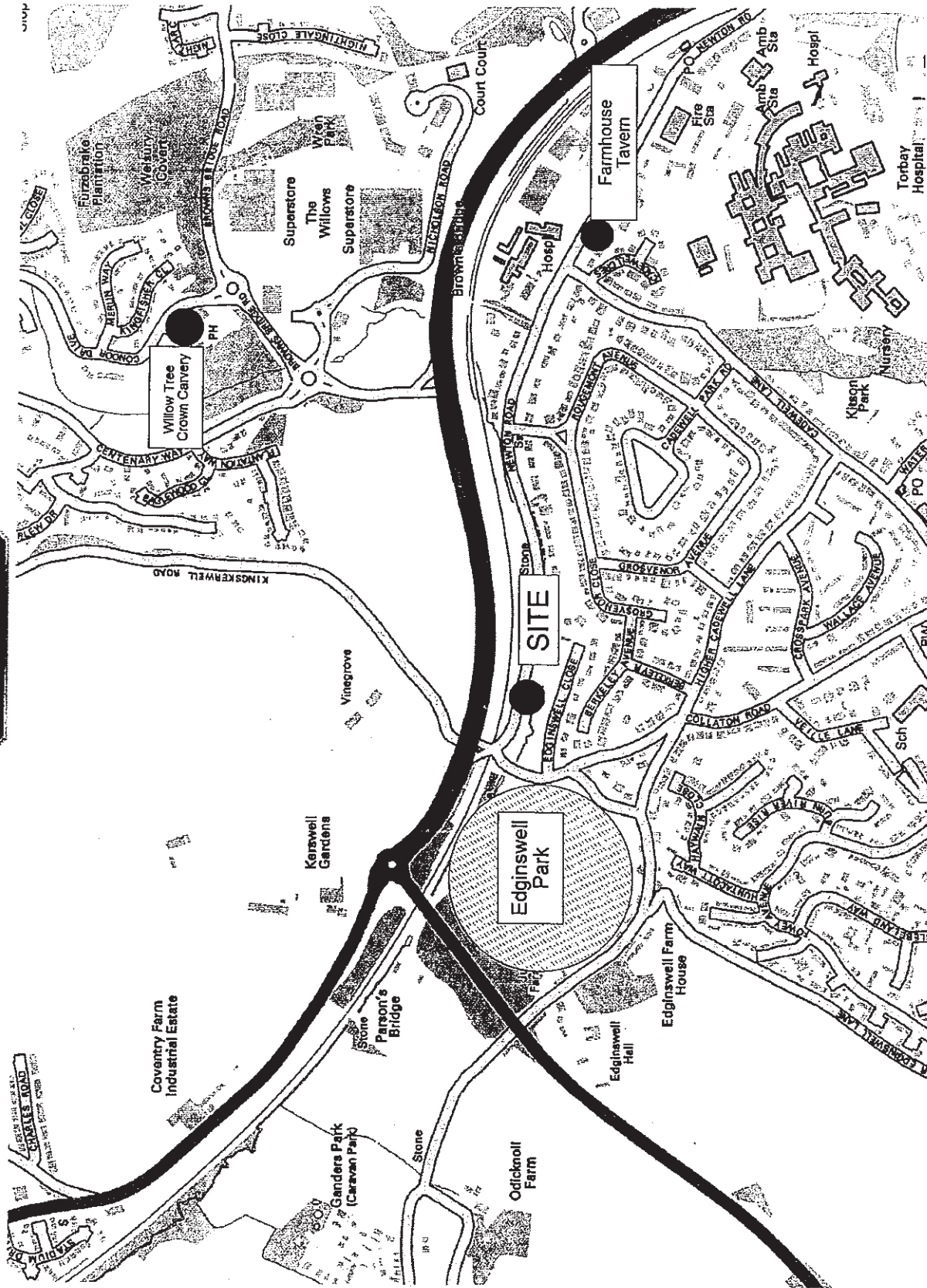
The restrictions set out in the Licensing Act 2003 will apply. No unusual or additional risk of harm to children have been identified.

1. No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/Local Authority certification.
2. Children under the age of 16 shall not be permitted to enter or remain at the premises after 22:00 unless resident, dining with an adult or attending a pre booked function.

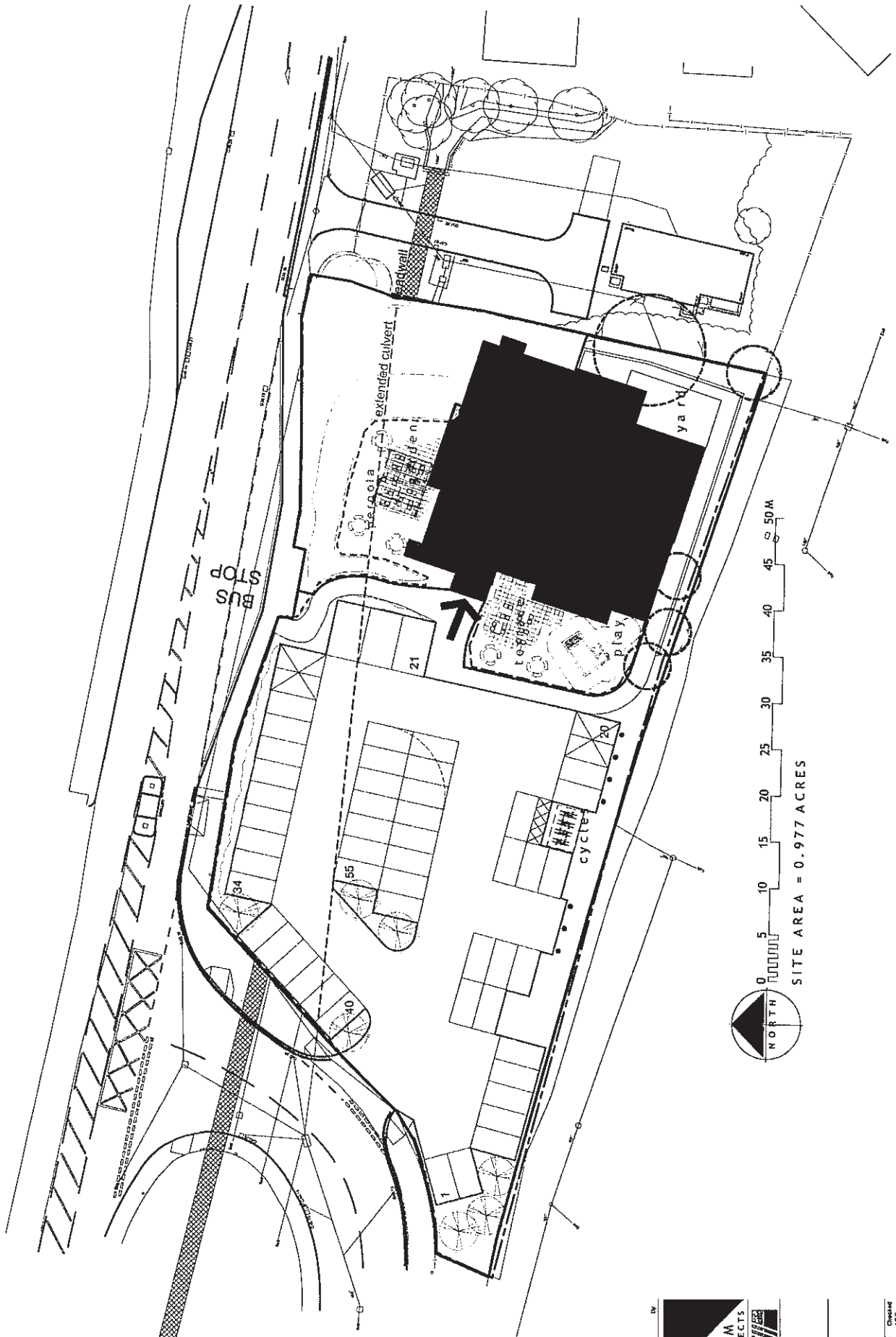
Please tick ✓ Yes

- 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

# Agenda Item 6 Appendix 2



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**AXIOM ARCHITECTS**  
 ARCHITECTS

PROJECT:  
 150 COVER PUB RESTAURANT  
 EDGINSWELL  
 TORQUAY  
 Drawing:

Scale: 1:200 @ A1  
 Status: LICENCE  
 Date: 20.11.13  
 Drawn: MD  
 Checked: ACR  
 Revision:

**2744/JL104**





**Devon & Cornwall Police**  
Building safer communities together

Licensing Team  
Torbay Council  
C/O Torquay Town Hall  
Castle Circus  
TORQUAY  
TQ1 3DR

Licensing Department East  
Devon and Cornwall Constabulary  
Force Headquarters  
EXETER  
EX2 7HQ

Telephone: 01392 452225

18 December 2013

Dear Sir/Madam

**Torquay (New Build), Newton Road, Edginswell, Torquay, TQ2**

I refer to an application for the Grant of a New Premises Licence in respect of premises to be built at the above location, submitted by John Gaunt and Partners on behalf of their clients, Marston's PLC.

For your information, building work in respect of this premises has not yet commenced and I understand that Marston's PLC are currently in the process of applying for Planning Permission. Should such permission be granted, it is the intention of Marston's PLC to build and operate the premises as a food led family friendly venue, with the benefit of 150 covers for food but also allowing for customers to consume alcohol without the requirement to have a meal.

Having considered the application, the police make the following representation:

1. The police request that the part of the application detailed at point 3) on page 5 of the application is refused, ie:

"To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours as identified in Box M such opening times for this purpose to be confirmed upon 7 days prior notice in writing to Police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown".

The police view this as a way to circumvent the Licensing Act 2003 as it will

[licensingeast@devonandcornwall.pnn.police.uk](mailto:licensingeast@devonandcornwall.pnn.police.uk)

101 [www.devon-cornwall.police.uk](http://www.devon-cornwall.police.uk)



negate the need for the premises to submit Temporary Event Notices when they wish to operate outside their standard permitted hours. By circumventing the Licensing Act in such a way, the police would have no facility to make representations or object to the premises opening in such a manner. Whilst the police appreciate that it is the aim of the Premises Licence Holders to run a family friendly food led environment, it must be borne in mind that some sporting events are deemed high risk events by the police and as such we would wish to receive a Temporary Event Notice with a legal process in place to deal with any concerns. In addition to this, the police need to consider the long term future of the premises, whilst Marston's may intend to run the premises as a family friendly venue, should the licence be transferred at some point in the future, the conditions imposed on the licence will remain in place until the licence is surrendered, lapses or is subject of a Review.

For your information during the transition period for the implementation of the Licensing Act 2003, the police in Torbay received numerous applications which contained similarly worded clauses for sporting events. The police objected to each of these applications and the relevant parts of the applications were not granted.

My Police Licensing Officer, Julie Smart, has discussed this matter with Mrs Michelle Hazelwood of John Gaunt and Partners who has indicated that her clients, Marston's PLC, will agree to not to proceed with this part of their application.

Should you require any further information, please do not hesitate to contact Julie Smart on 01803 218900.

Yours faithfully



Superintendent C Armes  
LPA Commander



# Memorandum

<b>To:</b>	<b>From</b> :	<b>Community Safety</b>
<b>c.c</b>	<b>Contact</b> :	Mr Karl Martin
<b>c.c.</b>	<b>Ext</b> :	01803 208025
<b>c.c</b>	<b>My Ref</b> :	1ZV SRU No: 180209/KJM
<b>For the attention of: Licensing Steve Cox</b>	<b>Your Ref Date</b> :	  20 September 2012

**Subject: Premises– Licensing Act 2003**  
**Premises Name & Address: Marstons PLC, Newton Road,  
 Edginswell, Torquay.**

- 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 wish to object to the above named application as I do not believe the application supports the licensing objective 'Prevention of Public Nuisance'.

This is an application for a purpose built licenced bar and restaurant on existing vacant scrub land. Please see Figure 1 & 2.

The proposed site is flanked by residential accommodation to the south and southwest of the site. The north and east of the site consists of scrub land, rail and road networks.

Due to the proximity and density of residential accommodation this site can be regarded a residential area. Torbay Councils Licensing Policy leans towards refusing an application beyond 11pm in a residential area unless remedial measures can be demonstrated:-

*'There will be an assumption however that Licensed Premises in residential areas, or where there is proximity to residential properties, will only be allowed to undertake Licensable Activities until 11pm unless detailed consideration and mitigation measures have been proposed to address those concerns. A simple application with no supporting material can be expected to be refused, where relevant representations have been received.'* **Licensing Statement of Principles, Torbay Council, 2011, p37-38.**

The applicant has not convinced me the application has considered Torbay council Licensing Statement of Principles sec 3.3. p.19-20. This is evident by the lack of clarity in how the applicant is going to control noise nuisance arising from the proposed activities being applied for. These concerns are also mirrored by representations made by local residents. Specifically the applicant has failed to address the following points:

1. The operating schedule refers to appropriate noise attenuation measures are included in the structure, but the applicant offers no supporting documentation to the nature of this attenuation methods. I cannot therefore make an informed view that the proposed application will meet the licensing objection 'Prevention of Public nuisance'.
2. Furthermore the applicant makes reference to a risk assessment with regard to public nuisance but has not offered supporting information by way of the operating schedule on the control measures and licensing conditions the applicant can provide to prevent noise nuisance.
3. Live music has been applied for indoors up to 1:00a.m. No evidence has been provided to demonstrate mitigation of noise outbreak.
4. No consideration given to noise from a children's play area adjacent to a boundary with residential accommodation.
5. A proposed condition refers to double glazing windows being provided but stops short of offering windows and doors should be closed during regulated entertainment.
6. Applicant is seeking authorisation for recorded music outside until midnight Monday to Thursday and 1:00 am Friday and Saturday. I find this unacceptable given the residential nature of the area.
7. The applicant has not offered any remedial measure for controlling noise from vehicles using car parking facilities. The car park is adjacent to the boundary with residential accommodation.
8. No consideration given to taxi arrangements or people arriving and leaving the premises.
9. The operating schedule does not mention noise from extractor or air ventilation systems.
10. No suggested conditions or timings of when bottles should be emptied or any measures for controlling deliveries.

This applicant in making this application has not considered how the premises will impact on the local community especially as this is a new build. The resident presently experience no nuisance or activity associated with the land the proposed premises will be built on. Therefore I have concluded this application does not promote the licensing objective 'The prevention of public nuisance'. In accordance I recommend the Licensing Sub-Committee give their due consideration to the following recommendations:

1. Refuse the application on the grounds the application does not promote the licensing objective 'The prevention of public nuisance' in accordance with Licensing statement of principles.

Alternatively:

2. Reduce supply of alcohol and all requested licensable activities to 11:00p.m. Monday to Sunday.
3. No recorded music, except background, after 9:00p.m. outside the premises.
4. Reduce operating times of the children's play area and beer garden next to the residential accommodation to 9:00 Monday – Sunday.
5. Attached necessary and/or appropriate conditions to the license to address concerns of the local community and Environmental Protection.
6. Suggested conditions:-
  1. Noise from licensable activities shall not be audible within any dwelling with windows open for normal ventilation especially after 11pm. This shall be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that shall be applied are:-
    - (i) Before 11pm - Noise emanating from the premises shall not be clearly distinguishable above other noise.
    - (ii) After 11pm - Noise emanating from the premises shall not be distinguishable above background levels of noise.
    - (iii) The local authority shall reserve the right in cases of tonal noise and where premises are attached to others, to make further assessments from within the residential property.
  2. Doors and windows must be kept shut during entertainment to reduce noise breakout. A management scheme will be in place to ensure this situation remains.
  3. Suitable and sufficient means of ventilation must be provided and maintained in accordance with the manufactures guidelines.
  4. Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.
  5. Provision of mechanical ventilation or similar shall not allow noise breakout from the premises or cause a nuisance by its operation.
  6. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
  7. The volume of any regulated entertainment will be under the control of the management at all times.

**Mr Karl Martin**  
Public Protection Officer

Figure 1



Figure 2



From: [REDACTED]  
Sent: 24 December 2013 17:25  
To: Guy, Mandy  
Subject: Premises licence objection Marston's Plc, Newton Rd, Torquay

> Dear Ms Guy

>>

>> I write further to our recent conversation and would therefore like to submit a formal objection to the premises license application for Marston's Plc, Torquay (new build) Newton Road, Edginswell.

>>

>> I would like to submit an objection on the grounds of public nuisance. My justification and reasoning behind this are as follows.

>>

>> The proposal states that a license has been requested until 1.00 a.m. on a Friday and Saturday night for live music and also music outside. The premise will therefore close after this time. Due to the very close proximity of neighbouring residence and the quiet nature of the area, it is considered that this would affect local residents and cause a nuisance. I personally will over look the property from an elevated position and hence any noise would not be attenuated in any way.

>>

>> It is therefore considered appropriate that the hours of live music and operation be restricted to those more in keeping with a residential area, so that local residents are not affected by the outside noise, both by individuals leaving the premises and also music. It is therefore felt more appropriate that the premises closes no later than 11.00 p.m. and any music ceases before such time.

>>

>> Any music outside the premises i.e. live or recorded should be concluded well before this hour. If appropriate under licensing conditions, all windows should be close to reduce any breakout noise and an appropriate lobby installed as to contain any noise from individuals entering or leaving the premises.

>>

>> There are also two patio areas outside the premises and a children's play area. These should be managed appropriately and their use limited, so as not to cause a nuisance at anti social hours.

>>

>> There is a public right of way with a flight of steps up to Grosvenor Close from Newton Road, just along from the proposed premises. This will be used as a short cut for individuals leaving. The hours of operation should therefore also take this into consideration, as this increased footfall would be adjacent to a number of property's who will be disturbed.

>>

>> The plans also suggest that delivers are to be made to the rear of the premises. There is no access road for this, so one can only assume this will be made by trolley from Newton Road. This will be very noisy and hence it would be appropriate for restriction to be applied for delivery hours, so as to not be too early or late and not cause a nuisance early in the morning.

>>

>> As food is to be served at the premises there will be an extraction system installed. Although there will be the ability to limit any noise from this system, the hours of operation once again should take this into account.

>

> I therefore feel that this clearly illustrates that if the proposed premises licence were to be issued based on its current criteria, it would cause a public nuisance to a significant number of individuals.

>

> Regards

>

>

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Vodafone in partnership with Symantec.

**From:** [REDACTED]  
**Sent:** 23 December 2013 15:53  
**To:** Guy, Mandy

Dear Ms Guy,

Re Torquay (New Build) Edginswell.

I would suggest that the very close proximity to the residents in Edginswell Close and Edginswell Lane and the associated noise, smells from food preparation, and light pollution will constitute a public nuisance. The licencing hours should I feel address this. The application is for far in excess of other local pub/restaurants.

Thank you,

[REDACTED]

# Licensing and Trading Standards Customer Contact Web Form

Enquiry type	Alcohol & Entertainment Licenses
Customer's enquiry	New Build / Newton Road/Orchard Way, Marstons. I am the Secretary of the Edginswell Residents' Association. At a recent meeting , called to consider this Pub/Restaurant planning application, concerns were expressed at the parking, traffic, noise, smell and lighting impact on neighbours, some of whom are extremely close to this site. We also had very serious concerns regarding the timing of opening hours because of this inevitable impact. It would seem reasonable that licensing hours should reflect the neighbourhood in which the applicant chooses to operate. Since this is a residential area we therefore request that opening times are restricted to 11.00 am - 11.00 pm on Mondays to Saturdays and from 11.00 am to 10.30pm on Sundays. We shall be very happy to meet Members or Officers if this would help in your considerations.
Title	Mr
Contact Forename	[REDACTED]
Contact Surname	[REDACTED]
Contact Phone	[REDACTED]
Customer Address	[REDACTED]
Post Code	[REDACTED]
Email	[REDACTED]
Notes	



**From:** [REDACTED]  
**Sent:** 20 December 2013 15:28  
**To:** Guy, Mandy  
**Subject:** New Build /Torquay/ Marstons / Edginswell

Dear Mandy, thank you for your helpful response to my earlier submission in connection with this application.

In support of those concerns already shared with you on behalf of members of the Residents ' Association I wish to add the following:

1. Prevention of Crime and Disorder

When this application was submitted to Planning for consideration great emphasis was laid on the 'Family' element of the establishment . In fact the hours applied for are much later than other local licensed premises and will, potentially, prove an attraction for enthusiasts to 'move on' to Edginswell when other local pubs close. This will create a potential focus for late drinkers and those still in search of alcohol at very late hours and the problems that can ensue.

2. Prevention of public nuisance

No public plans have been issued by the applicant which show both the Pub and Edginswell Close on the same map. This is presumably a strategy to minimise the awareness of the proximity of residential properties to the Pub. I attach a copy of the Pub site Plan which shows the boundary in red. That boundary is very clearly shown on the other map I attach which shows Edginswell Close and the Pub Site as open land. I feel sure that a site visit will leave members in no doubt at all of the inevitable nuisance to be caused by noise, light pollution and smell from these premises. The Children's Play area, the pathway for the conveyance of bins for rubbish collection and the kitchen storage area are all within 5 metres of the boundaries of the Edginswell Close properties. The site map from Land Registry also shows the residential housing in very close proximity in Newton Road which will also be affected. To the south of Edginswell Close, at a higher level but still within earshot is Berkeley Avenue, another entirely residential road which will benefit from noise, light and smell pollution until these premises close each evening.

The provision of this facility will adversely affect the way of life of all local residents and as a Community we look to the Licensing Committee to consider these concerns and to minimise this impact by restricting the opening hours as requested in our original submission with an additional earlier limit to drinking outside the premises.

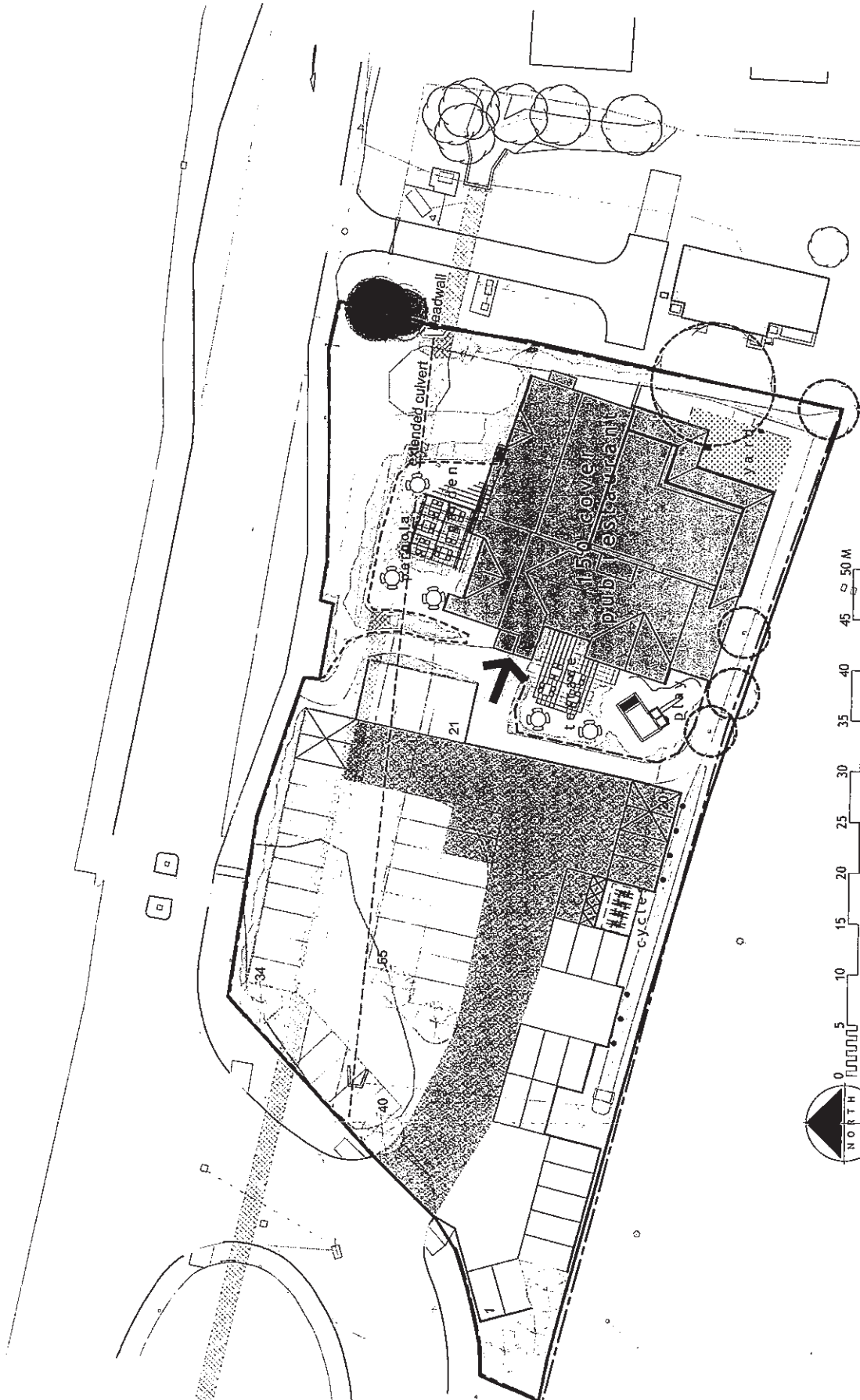
[REDACTED]  
(Secretary)

Plans attached X 2

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**KEY**

- Soft Landscaping  
See Separate Drawing
- Tarmac Surface to Aisles & Paths with Thermoplastic White Lining
- Tarmac Surface to Road Suitable for HGVs
- Flagstone Style Concrete Set (Block Paving) with 40mm Buff Coloured
- Concrete Slab with a Brushed Surface
- Post & Rail Fence to boundary
- Stained 1100mm Timber Picket Fence
- Knee Rail fence
- Ballards



Rev. Date Description  
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 Southover Light Street  
 www.axiomarchitects.co.uk  
 BNT 1HU

By  
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 Client

Project  
**MARSTONS  
 150 COVER PUB RESTAURANT  
 TORQUAY**

Drawn  
**27444/P104 B**

Scale  
 1:200 @ A1  
 Drawing No.  
 Revision

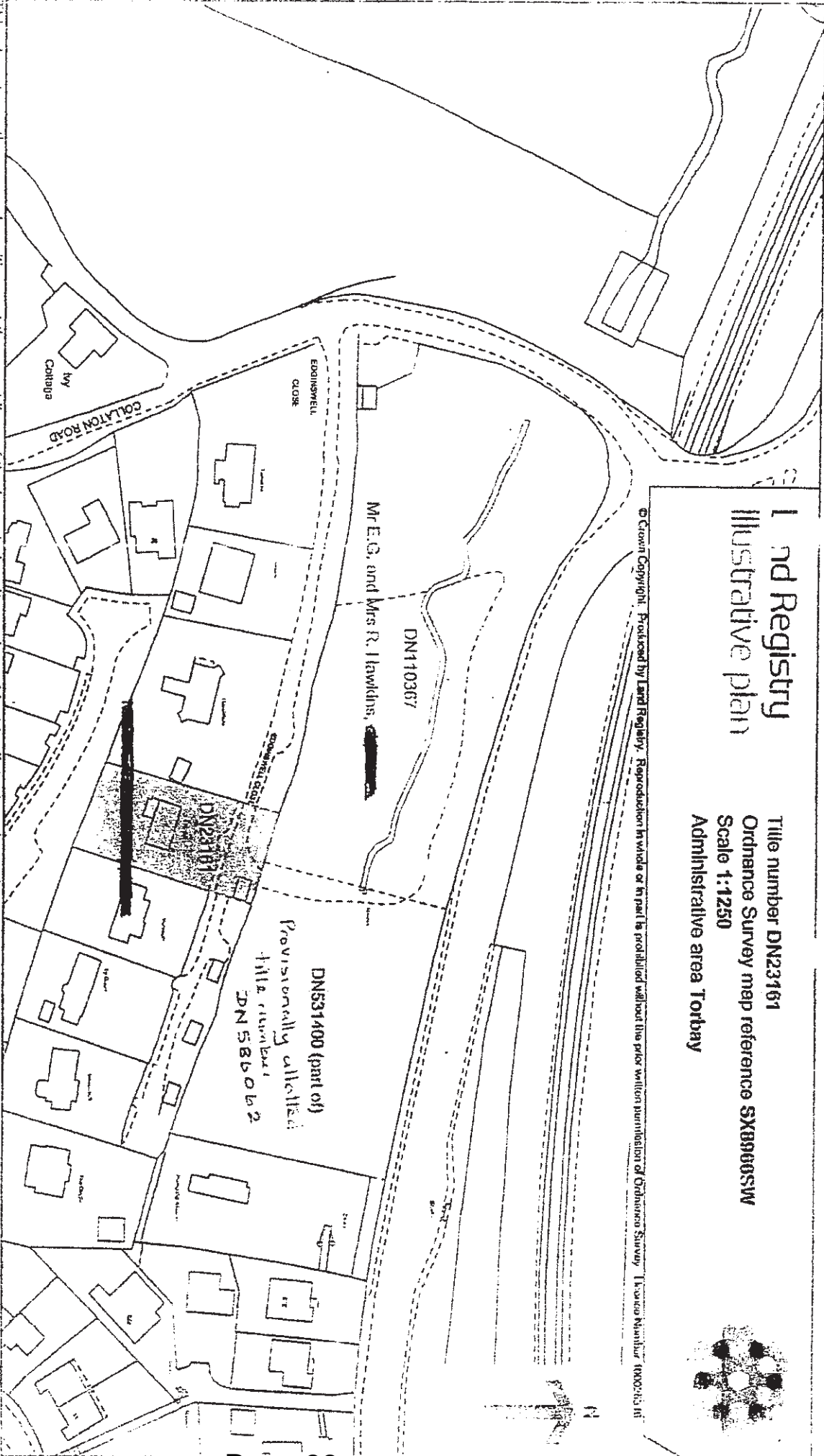
Sheet  
 31.8.13  
 Date  
 31.8.13  
 Drawn  
 ACB  
 Checked  
 ACB

**SITE LAYOUT**

# 1<sup>st</sup> Land Registry Illustrative plan

Title number DN23161  
Ordnance Survey map reference SX8966SW  
Scale 1:1250  
Administrative area Torbay

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This plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.