



Wednesday, 5 March 2014

LICENSING SUB-COMMITTEE

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

Thursday, 13 March 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 Brooksbank

Councillor Pentney

Working for a healthy, prosperous and happy 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 207026

Email: governance.support@torbay.gov.uk
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 - 4)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 30 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 Norwood Stores, 2A Hoxton Road, Ellacombe, Torquay TQ1 1JQ** (Pages 5 - 16)
To consider an application for a Premises Licence in respect of Norwood Stores, 2A Hoxton Road, Ellacombe, Torquay TQ1 1JQ.



Minutes of the Licensing Sub-Committee

30 January 2014

-: Present :-

Councillors Addis, Bent and Stocks

48. Election of Chairman

Councillor Addis was elected as Chairman for the meeting.

49. Minutes

The Minutes of the meeting of the Sub-Committee held on 9 January 2014 were confirmed as a correct record and signed by the Chairman.

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

Members considered a report on an application for a Premises Licence in respect of (Torquay) New Build, Newton Road, Torquay. The Premises do not fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Letter of representation requesting that point 3) on page 5 of the application be refused.	18 December 2013
Public Protection	Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance' suggesting that the original application be refused or be amended with a number of conditions.	20 September 2012
Member of the Public	Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance'.	23 December 2013
Member of the Public	Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance'.	24 December 2013
Member of the Public	Representation in relation to the Licensing Objectives 'The Prevention of Public Nuisance' and 'The Prevention of Crime	Undated 20 December 2013

	and Disorder'. A further representation was submitted providing clarity of their concerns.	
The Applicant's Legal Representative	Representation including: <ul style="list-style-type: none"> • The F Plan; • New Build Information; • Photographs of the Chalkhill Blue; • Rotisserie Menu; • Cross Brand Trading Details; • Proposed amended Operating Schedule/Conditions 	24 January 2014
Public Protection	Updated representation following consultation with the Applicant's Legal Representative on their proposed amended operating schedule/conditions and 10 Proposed Conditions.	23 January 2014

Additional Information:

With the agreement of the Licensing Sub-Committee, the following documents were circulated at the meeting:

- Colour copy of Marston's PLC additional information (which had already been provided to the Sub-Committee as part of their supplementary papers circulated on 28 January 2014);
- Googlemap showing the proximity of the site to the nearby residents;
- 2 plans of the area, photo showing the proximity of the houses behind the site and information regarding the opening times of four neighbouring licensed premises; and
- Large scale maps of the premises.

Request to extend the time for Oral Representations:

The Chairman agreed to the request from the Applicant's Legal Representative to allow 15 minutes for Oral Representations.

Oral Representations received from:

Name	Details
The Applicant's Legal Representative	The Applicant's Legal Representative outlined their case, as set out in the submitted documents and responded to Members questions.
Member of the Public	A Member of the Public outlined their objection to the application, as set out in Appendix 5 to the report and

	proposed that the opening hours be amended to 11.00 a.m. to 11.00 p.m. Mondays to Saturdays and 11.00 a.m. to 10.30 p.m. on Sundays.
Police	The Police Representative confirmed that they had no objection to the application, as the Applicant had accepted the removal of point 3) on page 5 of the submitted application in connection with licensable activities to show the broadcast of televised sporting events of national interest outside of normal operating hours from the application.
Public Protection	The Public Protection Officer outlined his further representation and proposed conditions which had largely been agreed by the Applicant and responded to Members questions.

Applicant's response to Representations:

The Applicant's Legal Representative outlined the proposed amendments to the operating schedule and new conditions, as set out in their representation dated 24 January 2014 and proposed the following additions/changes at the hearing:

1. Amend condition 1 (The Prevention of Public Nuisance) to read 'Where appropriate prominent and legible notices shall be displayed at all exits in the premises requesting the public to respect the needs of the local residents and to leave the premises and area quietly.'
2. Amend Condition 4 to read 'Use of the external terrace areas will cease at 11.00 p.m.'
3. New Condition 'No open receptacle to be taken outside of the Premises after 11.00 p.m.'
4. New Condition 'A designated smoking area to be established after 11.00 p.m. with a limit of 20 persons at one time (on the front terraced area).'
5. New Condition 'Private functions shall only be permitted if the whole building is reserved and door stewards to be risk assessed for each event.'
6. New Condition 'A noise management plan to be approved by Public Protection prior to the opening of the Premises.'
7. Amend section L - Hours premises are open to the public 'Friday and Saturday Finish 00:30.'
8. Licensable activities to finish at 00:00.

Decision:

That the application for a Premises Licence in respect of (Torquay) New Build, Newton Road, Torquay be granted as applied for and subject to the proposed amended operating schedule and additional conditions put forward by the Applicant's Legal Representative at the hearing, and the following two additional conditions felt appropriate by Members having heard from all parties:

1. Sale of alcohol after 23:00 may only be to persons taking a table meal; and
2. In respect of the Management Plan proposed by the Applicant's Legal Representative and to be approved by the Council's Public Protection

Department prior to the premises being open, it shall include the following areas: car park, external terraced areas, deliveries, waste, play area and smoking area in order to mitigate the potential impact of noise on nearby residents.

Reason for Decision:

Having carefully considered all the written and oral representations, Members resolved to grant the licence, having been satisfied that with the amended operating schedule and the additional conditions, the Licensing Objectives would not be undermined.

In considering the concerns raised by the Interested Parties in their written and oral Representations, Members had particular regard to the oral representation from the Public Protection Officer and his assurance that the proposed amended operating schedule and additional conditions did in his opinion, meet the criteria set out in the Council's Licensing Policy. This coupled with a condition to implement a Management Plan of the areas of specific concern which is to be approved by the Council's Public Protection Department before the premises could be open, further served to assure Members that the concerns raised would be alleviated and as such, they believed that the granting of this licence would not undermine the Licensing Objective in respect of The Prevention of Public Nuisance.

With regards to the concern raised that migration of persons from nearby drinking establishments after 23:00, Members were satisfied that by adding a condition to restrict the sale of alcohol to persons taking a table meal after 23:00 would seek to alleviate this concern from being realised, having accepted that there was a possibility of migration, and if unrestricted this could possibly lead to crime and disorder and public nuisance at premises in close proximity to residential properties.

Notwithstanding that each case is decided on its own merits, Members took in to account that there was no evidence of public nuisance or crime and disorder, as this is a new build property on land which is currently open space and considered this against the timings of similar premises located in this type of area and their impact, if any on those residential communities. In respect of this, Members noted the Police Licensing Officer's oral representation in that these type of premises were of no concern to the Police and that in the 5 years experience of the Officer present; she had only had cause to follow up an isolated incident at one of the four premises being considered, on one occasion.

In concluding Members had regard that whilst this is an application for a new build, there is available to Interested Parties and Responsible Authorities a recourse of Reviewing the premises licence, should when the premises begin to trade, a problem arise.

Chairman/woman



Briefing Report
No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Norwood Stores, 2A Hoxton Road, Ellacombe, Torquay TQ1 1JQ

Wards Affected: **Ellacombe**

To: **Licensing Sub Committee** **13th March 2014**

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 Objective “The Prevention of Crime and Disorder”.
- 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:

The Sale of Alcohol off the premises from 0700 until 2300 Monday to Sunday.

To be open to the public from 0700 until 2300 Monday to Sunday.

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 a relevant Representation has been received. The Licensing Authority is also satisfied that the Representation has been received within the appropriate time scale, has not been subsequently withdrawn and is 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.

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

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 6

Appendix 1



Application for a Premises Licence to be granted under the Licensing Act 2003

FORM B

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 NORWOOD 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			
2A HOXTON ROAD ELLACOMBE			
Post town	TORQUAY	Post code	TQ1 1JQ

Telephone number at premises (if any)	—
Non-domestic rateable value of premises	£ 3,700

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)

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

The premises are a freehold building at the junction of Hoxton Road and Etacombe Church Road. The premises consist of: a ground floor retail store; a separate upstairs flat with its own entrance; a rear yard; two outbuildings which serve as an office and storage. This application is for the retail store and rear warehouse.

There is an alley beside this building and the adjacent building which provides access to the rear yard.

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)

In all cases complete boxes N, O and P

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	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4) NONE		
Mon	0700	2300			
Tue	0700	2300			
Wed	0700	2300			
Thur	0700	2300			
Fri	0700	2300			
Sat	0700	2300			
Sun	0700	2300			
			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) NONE		

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

Name	
------	--

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

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	0700	2300	—
Tue	0700	2300	
Wed	0700	2300	
Thur	0700	2300	<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> (please read guidance note 5)
Fri	0700	2300	—
Sat	0700	2300	
Sun	0700	2300	

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)

- Initial and continuing staff training by DPS with reference to the Licensing Act 2003
- Monitoring and surveillance by CCTV and trained staff
- Challenge 25 Awareness Programme
- Refusals log Book
- Scanning control system

b) The prevention of crime and disorder

- CCTV monitoring of store
- Situation of licensable goods in secure and observable location within store and warehouse
- Refusals log Book to alert staff of disorder / attempts to purchase under-age or without ID

c) Public safety

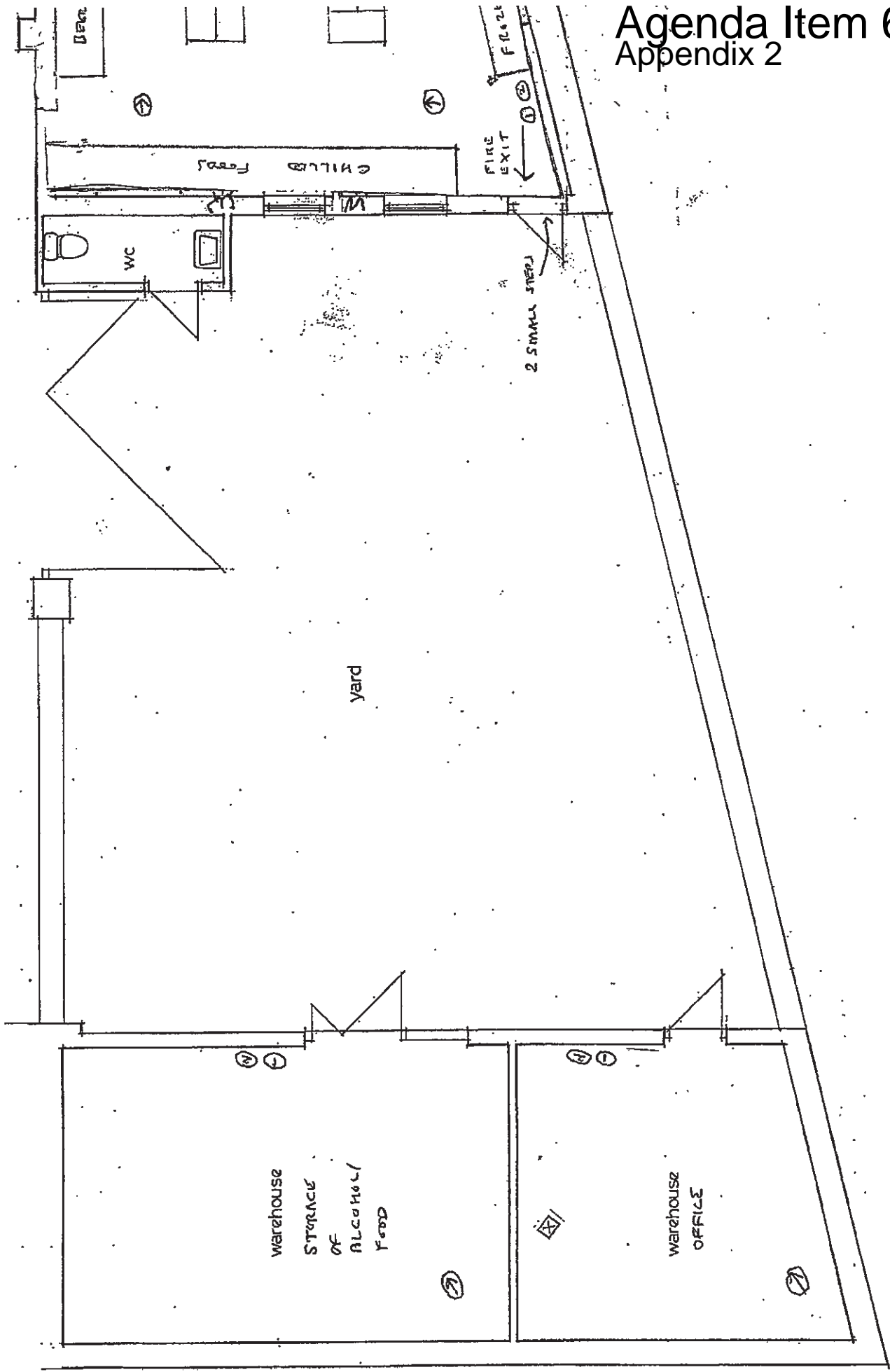
- CCTV monitoring
- Health & Safety – regular training and review by Store Manager / DPS with respect to Company Policy
- Store will be alarmed

d) The prevention of public nuisance

- CCTV monitoring
- Store Alarm
- Continuing Staff training especially in relation to Challenge 25 Awareness Programme

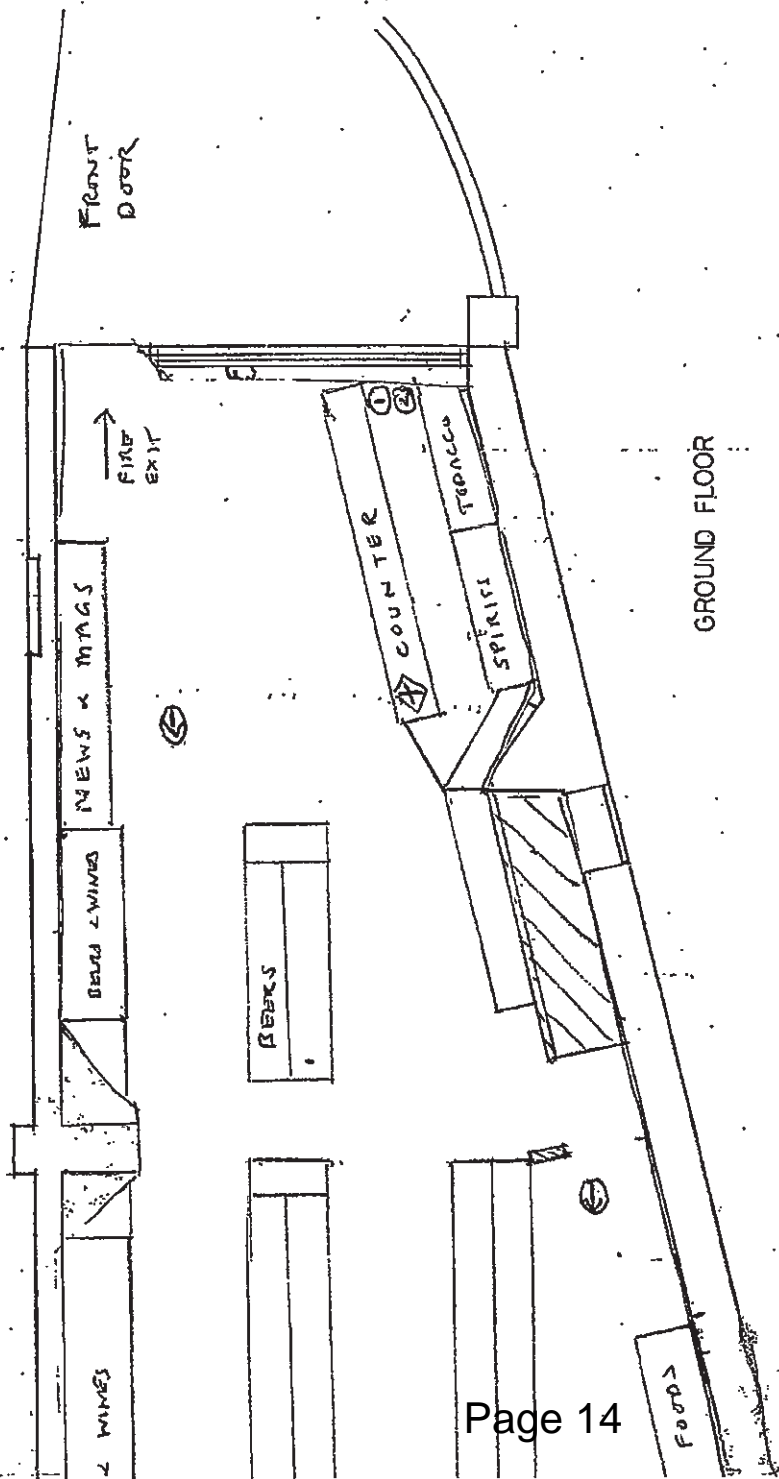
e) The protection of children from harm

- CCTV monitoring
- Situation of licensable goods in secure / observable + monitored location within the store
- Challenge 25 Awareness Programme
- Refusals log Book



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access lane



Revisions	Date	By

© copyright

- ⊕ = CCTV Camera and Direction
- ⊗ = CCTV Monitor
- ① = 2kg Powder Fire Extinguishers
- ② = 6 Lit Water Fire Extinguishers

Client
 NORWOOD SPICES

Job Title
 NEWS & MAGS
 2a Hoxton Road
 Ellacombe
 Torquay
 TQ1 1JG

Drawing Title
 Floor plans

Scale
 1:100

Date
 Jan 04
 Drawn by
 A.H.

Drwg No. ELL001	Rev.
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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

12th February 2014

Dear Sir/Madam

Licence Application NORWOOD STORES 2A Hoxton Road Torquay

I refer to an application for the issue of a new Premises Licence in respect of the above premises.

Having considered the application, and discussed the matter with the applicant the police request that the following condition is imposed on the licence:

“A CCTV system of an evidential standard shall be installed to the satisfaction of the Local Authority and the Police. The system shall be in operation at all times the premises are open to the public. All recordings must be kept for a minimum of 14 days and the Police shall have access at all reasonable times

The police consider that the application does not contain sufficient detail concerning CCTV provision at the premises and the requested condition therefore expands on this. For your information the applicant is aware of the Police request for change in the wording of the condition and is in agreement

The police consider the above step is appropriate to ensure that the licensing objectives are met.

licensingeast@devonandcornwall.pnn.police.uk

Should you require any further information, please do not hesitate to contact Barry Sleight
07736084178

Yours faithfully

A handwritten signature in black ink that reads "C. Armes". The signature is written in a cursive style with a large initial 'C'.

Superintendent C Armes
LPA Commander