



Wednesday, 9 July 2014

## LICENSING SUB-COMMITTEE

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

**Thursday, 17 July 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 Parrott

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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:

**Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207026**

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 - 3)  
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 15 May 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 Variation to a Premises Licence in respect of Park Lane, 1 Torwood Street, Torquay TQ1 1ED** (Pages 4 - 93)  
To consider an application for a Variation to a Premises Licence in respect of Park Lane, 1 Torwood Street, Torquay.



## Minutes of the Licensing Sub-Committee

15 May 2014

**-: Present :-**

Councillor Addis (Chairman)

Councillors Ellery and Pentney

### 1. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

### 2. Minutes

The Minutes of the meeting of the Sub-Committee held on 8 April 2014 were confirmed as a correct record and signed by the Chairman.

### 3. Licensing Act 2003 – An application for a Review of a Premises Licence for Seamus O’Donnells, 28 Victoria Parade, Torquay TQ1 2BD

Members considered a report on an application for a Review of a Premises Licence for Seamus O’Donnells, 28 Victoria Parade, Torquay TQ1 2BD.

Members noted that the application had been properly made and that the Applicant is an Interested Party and that the administrative requirements of Section 51 (3)(a) and (b) had been met and that the Representation had not been subsequently withdrawn and was not vexatious, frivolous or repetitious.

The Premises do fall within the Cumulative Impact Area.

#### Written Representations received from:

Name	Details	Date of Representation
Public Protection	Representation in relation to the Licensing Objective ‘The Prevention of Public Nuisance’ and a chronology of noise complaints and interventions.	31 March 2014

Interested Party with two signatures	Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance.'	11 April 2014
The Police	Statement from Devon & Cornwall Police.	15 April 2014

Members noted that there had been no additional Representations received from any other Responsible Authority and that although the Police had considered the application and had made a Statement, they were satisfied that the Premises currently met the Licensing Objective 'The Prevention of Crime and Disorder' and therefore did not make a Representation.

**Oral Representation received from:**

Name	Details
Public Protection	The Public Protection Officer outlined their Representation, as set out in the submitted documents, responded to Members questions and proposed additional conditions.
Police	The Police Licensing Officer outlined their Statement, as set out in the submitted documents and responded to Members questions.
The Respondents and Noise Consultant	The Respondents responded to Members questions and clarified information submitted by the Applicant. The Noise Consultant outlined the information circulated to Members as a late paper.

**Additional Information:**

Members noted that the Applicant and the Interested Party had not returned their Notice to attend, but were aware that the Committee hearing was taking place.

The Applicant had been contacted by the Public Protection Officer who advised Members that the Applicant had moved from the property. The Interested Party had also been contacted by the Senior Licensing Officer.

The Council's Senior Solicitor advised Members that despite the Applicant not being present, the Application for a Review was still required to take place as it had not been withdrawn and that there had been additional Representations from the Council's Public Protection Department and an Interested Party which had two signatures.

**Decision:**

That the application for a Review of a Premises Licence for Seamus O'Donnells, 28 Victoria Parade, Torquay TQ1 2BD be noted and that the Premises Licence be modified to include three additional conditions as follows:

1. Before and future structural change or refurbishment is commenced at the Premises, an evaluation of any noise breakout must be undertaken and a report submitted to the Environmental Health Department on the works to be undertaken to attenuate noise break out and those works must be implemented to the satisfaction of Officers of the department.
2. All regulated music on the First Floor must be played through a noise limiter to be set at a level as agreed with the Environmental Health Department; the limiter must be tamper proof and adjustments shall only be made with the consent of the Environmental Health Department.
3. No changes shall be made to the public address system on the first floor without prior consultation with the Environmental Health Department. This includes moving of speakers, addition or removal of any equipment and the use of guest acts or D.J's own equipment.

**Reason for Decision:**

Having carefully considered all the written and oral Representations, Members resolved to modify the licence, having been satisfied that the Applicant had unreasonably suffered from noise out break from the premises, as witnessed by the Council's Senior Environmental Health Officers on the 15<sup>th</sup> February 2014.

Members were reassured that since the Review had been called, that the Premises Licence Holder has engaged the services of a Noise Consultant and put in place measures to resolve noise out break from the premises. This is evident, by the current tenant confirming to the Council's Public Protection Officer that during the four weeks in which she had resided in the property previously occupied by the Applicant, that she had not been disturbed, despite being a light sleeper.

In concluding, Members are assured by the apparent responsible attitude of the Premises Licence Holders in their continued engagement with the Responsible Authorities, in that they have taken on board the concerns raised by them and sought to actively put in place measures to resolve these concerns.

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Chairman

# Agenda Item 6



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Park Lane, 1 Torwood Street, Torquay TQ1 1ED**

Wards Affected: **Tormohun**

To: **Licensing Sub- Committee** On: **17 July 2014**

Contact Officer: **Mandy Guy**  
Telephone: **01803 208025**  
E.mail: **Licensing@torbay.gov.uk**

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## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Variation to a Premises Licence. The Premises is situated in the Cumulative Impact Area.
- 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 “Public safety”.
- 1.4 The matter must be considered on its own merits having received details of the issues arising either at a hearing or by written Representations if all parties have agreed that a hearing is not necessary. Having regard to the Representations and issues arising, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are either:-
  - (a) to modify the conditions of the licence, or
  - (b) reject the application in whole or in part.

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

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

## 2. Introduction

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

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

To extend the area of the Premises by the provision of a roof garden on the lower roof at the front of the building. The application requests that the existing licensable activities and timings are extended to cover this area and that the existing licence conditions also cover this area. There has been no request to remove or amend any existing conditions and no additional conditions have been proposed to cover the use of this area.

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown in Appendix 2.
- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the variation to the Premises Licence, as relevant Representations have been received from Responsible Authorities and Interested Parties. The Licensing Authority is also satisfied that the Representations were received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have 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 4 Representations from Interested Parties in relation to the Licensing Objectives "The Prevention of Crime and Disorder", "The Prevention of Public Nuisance" and "Public safety". One of these Representations represents 8 people and another is in the form of a petition with 20 signatures. These are shown as Appendix 5.

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

- 2.4 The Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.6 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
- (a) The applicant for the variation of the licence against any decision to modify the conditions
  - (b) Any person who made a relevant representation in relation to the application who desires to contend

- (i) that any variation made ought not to have been made, or
- (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.

2.8 Following such Appeal, the Magistrates' Court may:-

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

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

### **Appendices**

Appendix 1	Relevant sections of the application form.
Appendix 2	Copy of the current Premises Licence.
Appendix 3	Representation from the Police.
Appendix 4	Representation from Public Protection.
Appendix 5	Representations from Interested Parties.

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

None

### **Background Papers:**

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

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





**Application to vary a Premises Licence under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

I/We Jam Leisure (PARK LANE)Ltd  
*(Insert name(s) of applicant)*

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

<b>Premises licence number</b> PL595
---

**Part 1 – Premises Details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Park lane 1 Torwood street			
<b>Post town</b>	Torquay	<b>Post code</b>	TQ1 1ED

Telephone number at premises (if any)	01803 [REDACTED]
Non-domestic rateable value of premises	£38400

**Part 2 – Applicant details**

<b>Daytime contact telephone number</b>	01803 [REDACTED]		
<b>E-mail address (optional)</b>	[REDACTED]		
<b>Current postal address if different from premises address</b>			
<b>Post Town</b>		<b>Postcode</b>	

**Part 3 - Variation**

Please tick yes

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

If not do you want the variation to take effect from

Day		Month		Year	
□	□	□	□	□	□

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

To extend the area of the premises for the consumption of alcohol and licensable activities to encompass a roof garden, located on the lower roof at the front of the of the building

Access to this roof garden will be via the existing internal stair case, and the existing and new fire escapes will provide means of escape.

All the existing licencing conditions will apply to this area. The Garden will only have a background music system, playing low volume music limited by the existing control system which only the management can alter.

Additional sound proofing walls will be installed and none reflective surfaces used where possible.

CCTV will be installed to cover the area .

An acoustic consultants report conculed this will have a positive impacted to nearby properties. (see attached)

(see attached Plan)

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

O

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon	1000	0330	
Tue	1000	0330	
Wed	1000	0330	
Thur	1000	0330	<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 5) Xmas eve, Newyears eve , 1000-0330
Fri	1000	0330	
Sat	1000	0400	
Sun	1000	0330	

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

No conditions to be removed

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

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

To comply with our existing conditions

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

To comply with our existing conditions

**c) Public safety**

To comply with our existing conditions

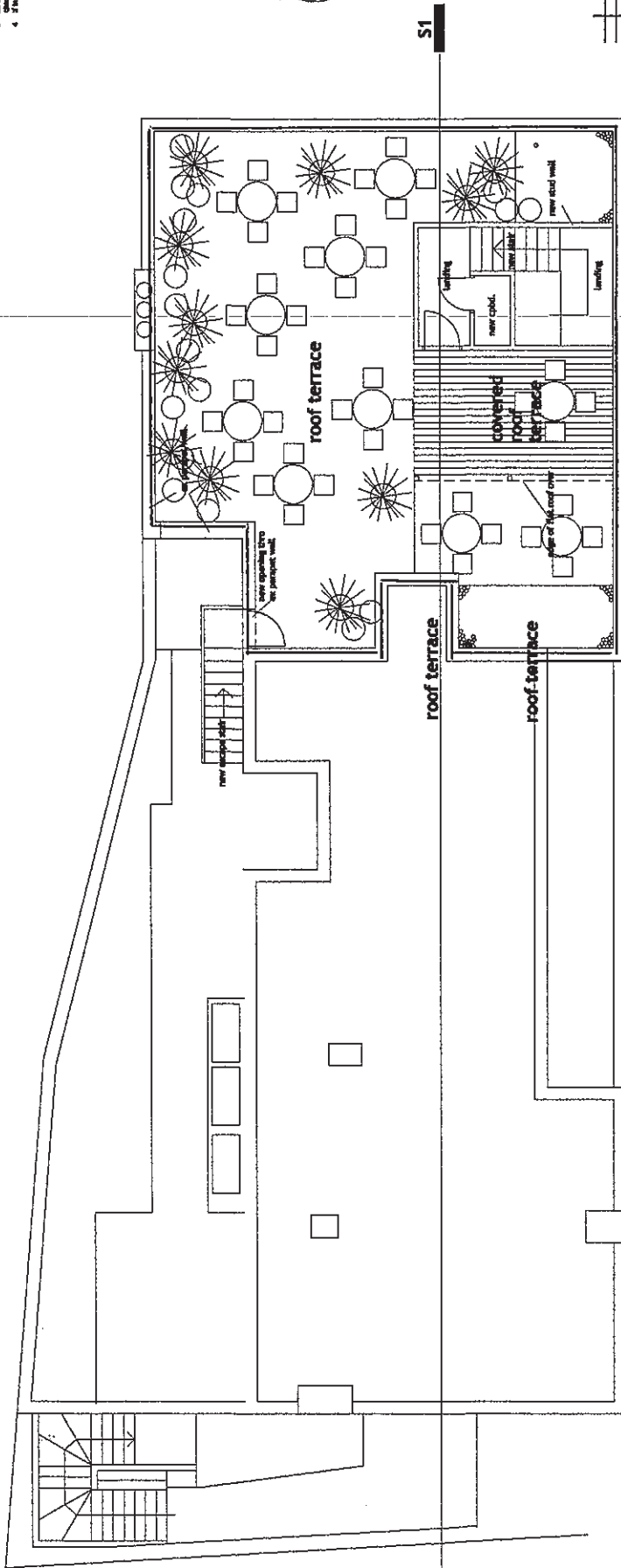
**d) The prevention of public nuisance**

To comply with our existing conditions

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

To comply with our existing conditions

- NOTES:**
1. This drawing is subject to the contract conditions.
  2. All dimensions are to be taken from the finished floor level unless otherwise stated.
  3. All dimensions are to be taken from the finished floor level unless otherwise stated.
  4. All dimensions are to be taken from the finished floor level unless otherwise stated.

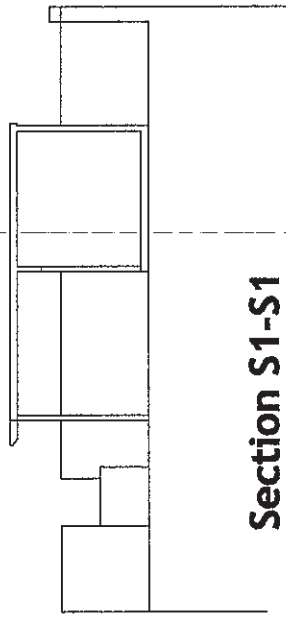


S1

S1

Scale	1:500
Date	Dec. 2013
Drawn by	GA
Checked by	CR
Job	"Pink Lane" Terwood Street Terway Drive
Drawing	Roof Level Plan As Proposed
Drawing number	6410.504 PRELIMINARY 2

# Roof Level Plan



## Section S1-S1



COLIN RITCHIE ARCHITECTS LTD.  
 222 VICTORIA PARADE TORQUAY TQ3 2BB  
 Tel: 01803 286411 Fax: 01803 209094  
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**PROPOSED TERRACE  
PARK LANE  
TORQUAY**


### **ENVIRONMENTAL NOISE REPORT**

**Reference: 5675/DO/pw**

**April 2014**

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Incorporated in the UK as Acoustic Consultants Limited. Reg. Office: Raleigh House, Wellsway, Keynsham, Bristol. Reg. No: 8544901

MEMBER OF THE ASSOCIATION OF NOISE CONSULTANTS 



**Proposed Terrace, Park Lane  
Environmental Noise Report**

**Client**

Jam Leisure Limited  
Park Lane  
Torwood Street  
Torquay  
TQ1 1ED

**Noise & Acoustic Consultant**

Acoustic Consultants Limited  
Raleigh House  
Wellsway  
Keynsham  
Bristol  
BS31 1HS

**Prepared By**

Daniel Oldaker BSc. (Hons), MIOA

**Checked By**

Blake Lucas BEng. (Hons), MIOA

**Issue Number**

1<sup>st</sup> Issue

**Date**

29<sup>th</sup> April 2014

**Proposed Terrace, Park Lane  
Environmental Noise Report****INDEX**

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## **1.0 INTRODUCTION**

Jam Leisure Limited appointed Acoustic Consultants Limited to assess the noise impact of patrons on a proposed roof terrace at Park Lane in Torquay.

The assessment considers the noise from people using the roof terrace and the change in noise levels from relocating the smoking area from at ground level on Park Lane to the managed roof top terrace.

The report limits itself to addressing solely on the environmental noise aspects as included in this report. We provide advice only in relation to noise and acoustics. It is recommended that appropriate expert advice is sought on all the ramifications (e.g., CDM, structural, condensation, fire, legal, etc.) associated with any proposals in this report or as advised and concerning the appointment.

The report has been prepared in good faith, with all reasonable skill and care, based on information provided or available at the time of its preparation and within the scope of work agreement with the client. We disclaim any responsibility to the Client and others in respect of any matters outside the scope of the above.

## **2.0 PROPOSED SCHEME**

The proposal is to create a terrace on the roof of Park Lane Bar and Grill. The aim is to provide an external smoking area within the realms and control of the premises to ensure patrons are under the management of the bar for the duration of their visit.

Park Lane Bar and Grill is located on the junction of Torwood Street and Park Lane in central Torquay. The premises operate as a bar and grill during the day and evening; and as a night club/late night bar until 03:00 hours.

At present there is no location within the premises where people can smoke so they are allowed off the premises and then are free to return. People tend to naturally congregate along Park Lane as there is little traffic and the buildings to either side provide protection from the weather.

The proposal is to create an external terrace area with seating on the roof of the premises. The terrace will include a small covered area to around the entrance and an acoustic barrier to the South and East separating the terrace from the nearby residential properties.

The terrace will enable patrons to smoke within the premises whilst under the control of the bar so that their behaviour can be managed in line with the premises licence. If customers leave the premises they will be made to pay to re-enter.

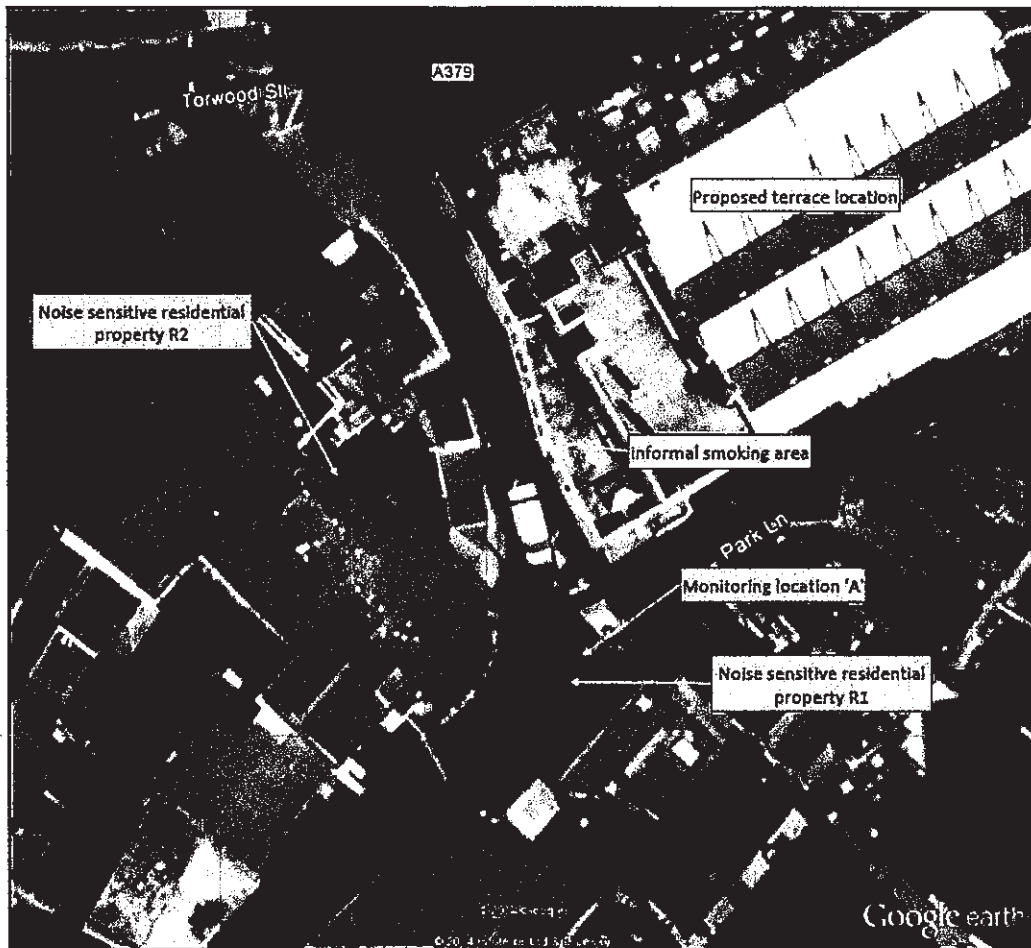


The terrace is, in the main, a seated area with tables and chairs covering most of the space. Amplified music will be played at a low level and limited so that it is not audible at the nearby noise sensitive properties. There will be no areas for dancing on the terrace, nor will the music be loud enough for this to be likely.

The nearest noise sensitive residential properties are at The Devon Arms (R1) 30 metres to the South and on Victoria Parade (R2) 20 metres to the West.

Figure 1 below shows the two noise sensitive properties, the proposed roof terrace, the area which is currently used by people smoking and the proposed terrace location.

**Figure 1: Site Location Plan**





### **3.0 CRITERIA**

#### **3.1 National Planning Policy Framework**

The National Planning Policy Framework was published in March 2012 and replaces the withdrawn Planning Policy Guidance Document 24 entitled 'Planning and Noise'. Section 11 entitled 'Conserving and enhancing the natural environment' addresses noise as a requirement of planning.

Paragraph 109 states:

*"109. The planning system should contribute to and enhance the natural and local environment by:*

- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability."*

Paragraph 123 states:

*"123. Planning policies and decisions should aim to:*

- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
- *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
- *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
- *identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason."*

The document does not prescribe any assessment methodology or criteria to assess the adverse affect of noise.

#### **3.2 Noise Policy Statement for England**

The NPPF refers to the Noise Policy Statement for England (NPSE). This was published in March 2010 and aims to provide clarity regarding current policies and practices to enable noise management decisions to be made within the wider context, at the most appropriate level, in a cost-effective manner and in a timely fashion and applies to all forms of noise including environmental noise, neighbour noise and neighbourhood noise.



The NPSE sets out the long term vision of Government noise policy. This long term vision is supported by three noise policy aims as follows:

*“Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life.”*

The NPSE introduces the concept of “Significant adverse” and “Adverse” impacts of noise which relate to the noise policy aims. These are applied as follows:

#### NOEL – No Observed Effect Level

This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

#### LOAEL – Lowest Observed Adverse Effect Level

This is the level above which adverse effects on health and quality of life can be detected.

#### SOAEL – Significant Observed Adverse Effect Level

This is the level above which significant adverse effects on health and quality of life occur.

The NPSE does not provide any assessment criteria for the noted effect levels.

With regard to where there is potential for noise impact it states the following in relation to the second noise policy aim:

*“The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.”*

### 3.3 Comparative Assessment

The proposed assessment methodology is to determine the impact of the proposed roof terrace in terms of the difference in noise levels at the noise sensitive residential properties between that caused by smokers in Park Lane and the same noise source level transferred to the roof terrace location.



In terms of noise level changes, withdrawn Planning Policy Guidance 24 states in the Glossary under dB (A) the following:

*“Measurements in dB (A) broadly agree with people's assessment of loudness. A change of 3 dB (A) is the minimum perceptible under normal conditions, and a change of 10 dB (A) corresponds roughly to halving or doubling the loudness of a sound. The background noise level in a living room may be about 30 dB (A); normal conversation about 60 dB (A) at 1 metre; heavy road traffic about 80 dB (A) at 10 metres; the level near a pneumatic drill about 100 dB (A).”*

The IOA/IEMA Working-Party Consultation Draft-2002 categorises the significant of a change in noise level. Although this is currently at a draft stage it provides some helpful guidance on the impact on the change in noise levels. The significant of changes in noise levels from the IOA/IEMA draft is as follows:

**Table 1: IOA/IEMA Noise Level Changes**

Noise Change (dB)	Category
0	No Impact
0 – 2.9	Slight Impact
3.0 – 5.9	Moderate Impact
6.0 – 9.9	Substantial Impact
10.0 and more	Severe Impact

#### **4.0 ON-SITE NOISE MEASUREMENTS**

A long term noise monitoring exercise was undertaken at monitoring location ‘A’, at first floor level in the flat above The Devon Arms on Park Lane.

Monitoring took place between the 21<sup>st</sup> and 31<sup>st</sup> March 2014. The purpose of the monitoring was to determine noise levels due to people congregating within Park Lane.

Sound pressure levels were measured using a Type 1 Svantek 959 Sound Level Meter. The monitoring equipment and calibration status was as follows:

**Table 2: Noise Measurement Equipment**

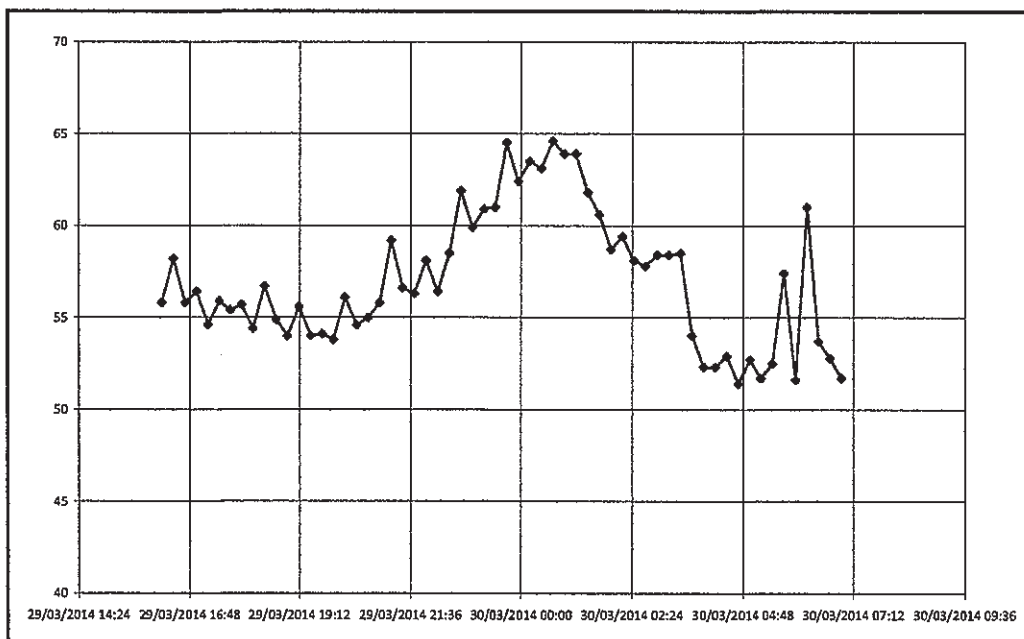
Equipment Description / Manufacturer / Type	Serial number	Date of calibration	Calibration Certification Number
Sound Level Meter, Svantek 959	14784	08/04/13	K020009
Calibrator, CEL, Type 110	045169	08/04/13	K020983
Microphone, GRAS 40AE	98073	08/04/13	K020009



The weather was inclement for much of the monitoring period. However, there were suitable conditions for the evenings of the 28<sup>th</sup> and 29<sup>th</sup> March 2014.

Figure 2 below shows the equivalent noise levels measured over 15 minute periods ( $L_{Aeq,15 \text{ minutes}}$ ) over the evening and night time of the 29<sup>th</sup> and 30<sup>th</sup> March 2014. The highest measured noise levels are between 23:45 hours and 01:15 hours, which relates to the peak times of the night club. It is reasonable to determine that the measured noise level was determined by customers of Park Lane.

**Figure 2: Measured Noise Levels**



From the measurement data a noise level of 64 dB  $L_{Aeq(1 \text{ hour})}$  has been determined at monitoring location 'A' as representative of noise from customers of Park Lane Bar and Grill congregating on Park Lane.



## 5.0 PREDICTED NOISE LEVELS

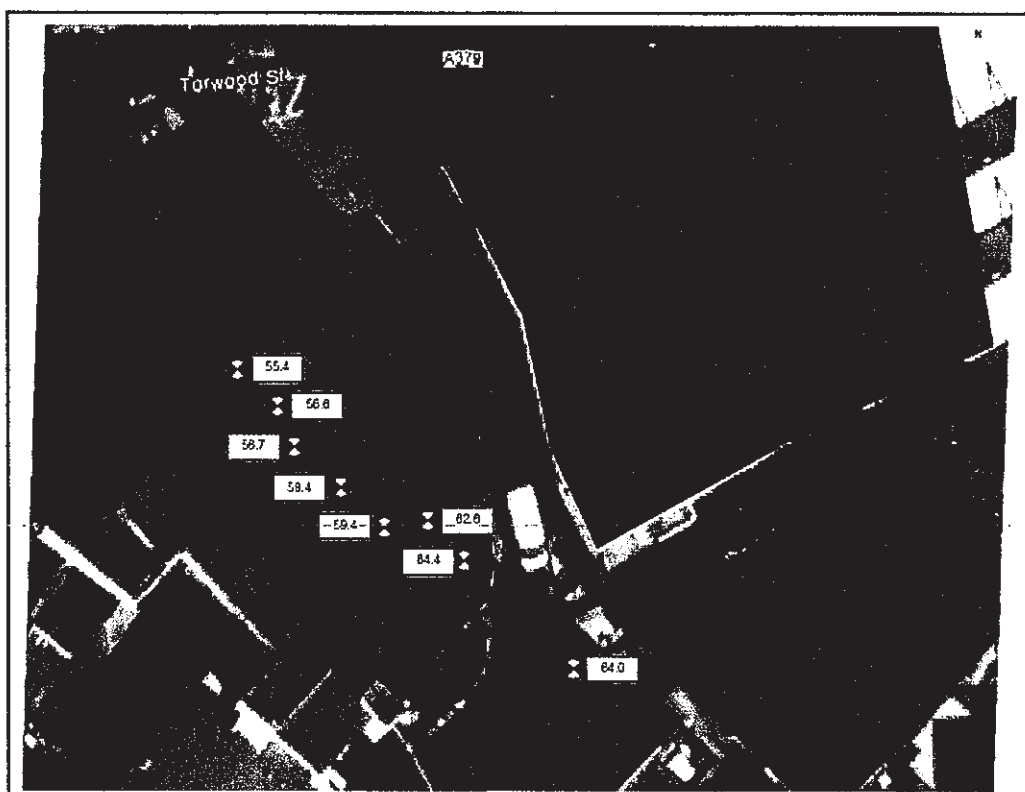
Noise modelling has been undertaken using noise mapping software Cadna:A by Datakustik. This uses the calculation method of ISO 9613 to predict noise levels.

The area and buildings have been created within a noise model using the drawings provided by the client and on site observations. An area source has been inserted on Park Lane at a height of 1.5 metres in the location used by people to congregate as described by the local residential who lives above The Devon Arms.

The Sound power level of the area source has been corrected so that the predicted noise level at Monitoring Location 'A' matches that measured during the monitoring survey. Noise levels at the top floor flats on Victoria Parade have also been predicted.

Figure 3 below shows the predicted noise levels at the noise sensitive properties due to noise from people on Park Lane.

**Figure 3: Predicted noise levels due to people on Park Lane**



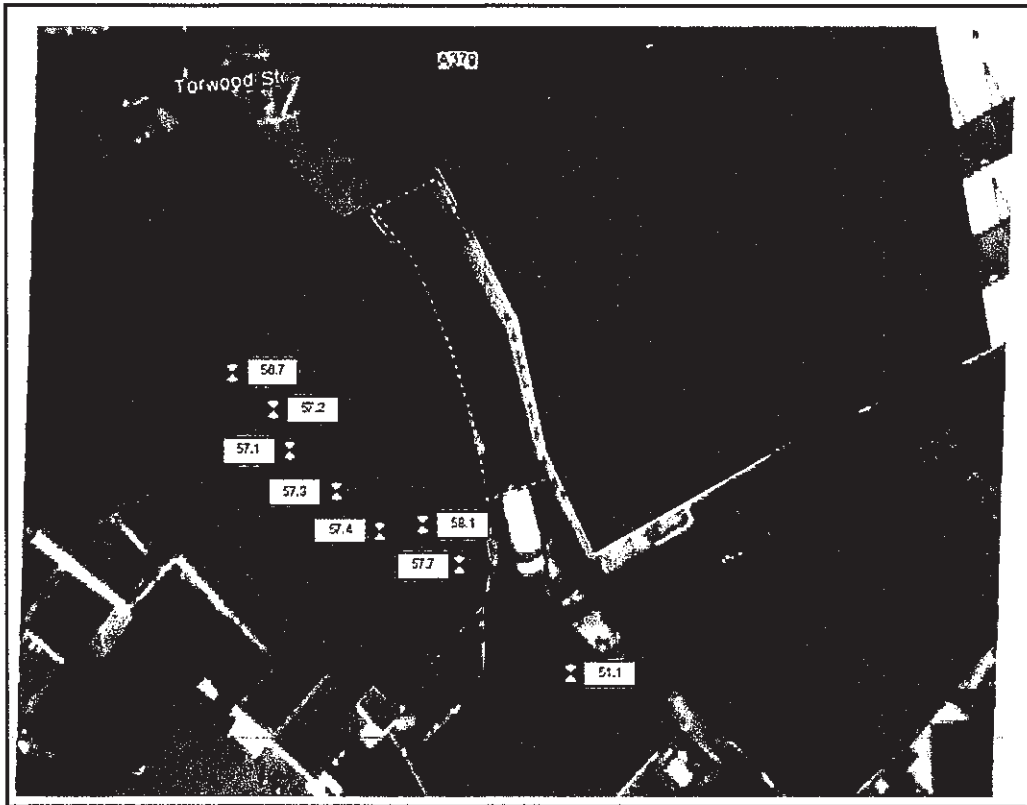


A second noise map has been created with an area source, with the same Sound Power Level, located at the proposed location of the roof terrace at a height of 1.5 metres above the roof.

The roof terrace is to include a solid timber barrier around the perimeter. The section of barrier between the roof terrace and residential properties on Victoria Parade is to be extended to the height of the existing chimney stack. The timber barrier is to have a density of at least 10 kilograms per metre squared with no gaps.

Figure 4 shows the predicted noise levels at the noise sensitive residential properties due to noise from the proposed terrace.

**Figure 4: Predicted noise levels due to people on Roof Terrace**







## **6.0 NOISE ASSESSMENT OF PROPOSED DEVELOPMENT**

Noise levels have been predicted due to people on Park Lane and people on the roof terrace to determine the difference in noise levels at the noise sensitive residential properties due to the proposed development. The assessment is based on both areas generating the same level of noise.

The predicted noise level at each location and the difference in noise level due to the change of location with the IOA/IEMA categorisation are provided in Table 3.

**Table 3: Predicted noise levels at noise sensitive properties**

Noise Sensitive Location	Predicted Noise Level - Existing	Predicted Noise Level - Proposed	Difference in noise level	IOA/IEMA Category
R2	55.4	56.7	+1	Slight
	56.6	57.2	+1	Slight
	56.7	57.1	+0	None
	58.4	57.3	-1	Slight
	59.4	57.4	-2	Slight
	62.6	58.1	-5	Moderate
	64.4	57.7	-7	Substantial
R1	64.0	51.1	-13	Severe

Moving people from Park Lane to the roof top terrace results in a change in noise level of between +1 decibels and -13 decibels.

An increase of 1 decibel is not considered significant as it will not be perceivable by people with normal hearing.

A reduction of -13 decibels is more than a subjective halving in noise level and this is considered to be a significant beneficial change.

The assessment is based on the same noise emission from the terrace as from people on Park Lane. The terrace is within the licensed premises of Park Lane Bar and Grill and can therefore its use can be controlled by the premises management to control behaviour, occupancy and noise level; this is not the case with people on the public highway on Park Lane.

On the basis of the above assessment the proposal, in environmental noise terms, is considered acceptable. The terrace is not expected to increase noise at the noise sensitive premises by a perceivable degree. The noise level at the residential premises above the Devon Arms will experience a reduction in noise greater than a halving in noise; this is considered a significant beneficial change.



## **7.0 LIMITATIONS**

The report limits itself to addressing solely on the environmental noise aspects as included in this report. We provide advice only in relation to noise and acoustics. It is recommended that appropriate expert advice is sought on all the ramifications (e.g., CDM, structural, condensation, fire, legal, etc.) associated with any proposals in this report or as advised and concerning the appointment.

The report has been prepared in good faith, with all reasonable skill and care, based on information provided or available at the time of its preparation and within the scope of work agreement with the client. We disclaim any responsibility to the Client and others in respect of any matters outside the scope of the above.

The report is provided for the sole use of the named Client and is confidential to them and their professional advisors. No responsibility is accepted to other parties.

It should be noted that noise predictions are based on the current information as we understand it and on the performances noted in this report. Any modification to these parameters can alter the predicted level. All predictions are in any event, subject to a degree of tolerance of normally plus or minus three decibels. If this tolerance is not acceptable, then it would be necessary to consider further measures.

## **8.0 SUMMARY & CONCLUSIONS**

Jam Leisure Limited appointed Acoustic Consultants Limited to assess the noise impact of patrons on a proposed roof terrace at Park Lane in Torquay.

The assessment considers the noise from people using the roof terrace and the change in noise levels from relocating the smoking area from at ground level on Park Lane to the managed roof top terrace.

The proposal is to create a terrace on the roof of Park Lane Bar and Grill. The aim is to provide an external smoking area within the realms and control of the premises to ensure patrons are under the management of the bar for the duration of their visit.

The terrace is, in the main, a seated area with tables and chairs covering most of the space. Amplified music will be played at a low level and limited so that it is not audible at the nearby noise sensitive properties. There will be no areas for dancing on the terrace, nor will the music be loud enough for this to be likely.

Noise levels have been predicted due to people on Park Lane and people on the roof terrace to determine the difference in noise levels at the noise sensitive residential properties due to the proposed development. The assessment is based on both areas generating the same level of noise.



Moving people from Park Lane to the roof top terrace results in a change in noise level of between +1 decibels and -13 decibels at the nearby noise sensitive properties.

An increase of 1 decibel is not considered significant as it will not be perceivable by people with normal hearing. A reduction of -13 decibels is more than a subjective halving in noise level and this is considered to be a significant beneficial change.

On the basis of the above assessment the proposal, in environmental noise terms, is considered acceptable. The terrace is not expected to increase noise at the noise sensitive premises by a perceivable degree. The noise level at the residential premises above the Devon Arms will experience a reduction in noise greater than a halving in noise; this is considered a significant beneficial change.

# Agenda Item 6

## Appendix 2

Licensing Act 2003

# Premises Licence

# 595

### LOCAL AUTHORITY



**Torbay Council**  
Licensing & Public Protection  
c/o Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

### Part 1 - Premises Details

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

### Park Lane

1 Torwood Street, Torquay, Devon, TQ1 1ED

Telephone 01803 214446

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- provision of late night refreshment
- the sale by retail of alcohol

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To	
E. Performance of live music (Indoors)	Monday	10:00am	3:00am	
	Tuesday	10:00am	3:00am	
	Wednesday	10:00am	3:00am	
	Thursday	10:00am	3:00am	
	Friday	10:00am	3:00am	
	Saturday	10:00am	3:00am	
	Sunday	10:00am	3:00am	See below
	Christmas Eve	11:00am	3:30am	
	New Year's Eve	11:00am	3:00am	
	F. Playing of recorded music (Indoors)	Monday	10:00am	3:00am
Tuesday		10:00am	3:00am	
Wednesday		10:00am	3:00am	
Thursday		10:00am	3:00am	
Friday		10:00am	3:00am	
Saturday		10:00am	3:00am	
Sunday		10:00am	3:00am	See below

**THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued...**

Activity (and Area if applicable)	Description	Time From	Time To
<b>F. Playing of recorded music (Indoors) continued ...</b>			
	Christmas Eve	11:00am	3:30am
	New Year's Eve	11:00am	3:30am
	Bank Holiday Sunday - 02.00 am finish		
	British Summer Time - allow for additional hour when clocks move forward.		
<b>G. Performance of dance (Indoors)</b>			
	Sunday to Thursday	10:00am	3:00am
	Friday	10:00am	3:00am
	Christmas Eve	11:00am	3:30am
	New Year's Eve	11:00am	3:00am
<b>H. Entertainment of a similar description to that falling within E, F, or G (Indoors)</b>			
	Sunday to Thursday	10:00am	3:00am
	Friday	10:00am	3:00am
	New Year's Eve	11:00am	3:30am
	Christmas Eve	11:00am	3:30am
<b>I. Provision of facilities for making music (Indoors)</b>			
	Monday	10:00am	3:00am
	Tuesday	10:00am	3:00am
	Wednesday	10:00am	3:00am
	Thursday	10:00am	3:00am
	Friday	10:00am	3:00am
	Saturday	10:00am	3:00am
	Sunday	10:00am	3:00am
	Christmas Eve	11:00am	3:30am
	New Year's Eve	11:00am	3:30am
			See below
<b>J. Provision of facilities for dancing (Indoors)</b>			
	Monday	10:00am	3:00am
	Tuesday	10:00am	3:00am
	Wednesday	10:00am	3:00am
	Thursday	10:00am	3:00am
	Friday	10:00am	3:00am
	Saturday	10:00am	3:00am
	Sunday	10:00am	3:00am
	Christmas Eve	11:00am	3:30am
	New Year's Eve	11:00am	3:30am
			See below
<b>K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)</b>			
	Sunday to Thursday	10:00am	3:00am
	Friday	10:00am	3:00am
	Sunday	10:00am	3:00am
	Christmas Eve	11:00am	3:30am
	New Year's Eve	11:00am	3:30am
<b>L. Late night refreshment (Indoors)</b>			
	Monday	11:00pm	2:00am
	Tuesday	11:00pm	2:00am
	Wednesday	11:00pm	2:00am
	Thursday	11:00pm	2:00am
	Friday	11:00pm	2:00am
	Saturday	11:00pm	2:00am
	Sunday	11:00pm	2:00am
	Christmas Eve	11:00pm	Midnight
	New Year's Eve	11:00pm	Midnight

**THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES - continued...**

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday	10:00am	3:00am
	Tuesday	10:00am	3:00am
	Wednesday	10:00am	3:00am
	Thursday	10:00am	3:00am
	Friday	10:00am	3:00am
	Saturday	10:00am	3:30am
	Sunday	10:00am	3:00am
	Christmas Eve	11:00am	3:30am
	New Year's Eve	11:00am	3:30am

**THE OPENING HOURS OF THE PREMISES**

Description	Time From	Time To
Monday	10:00am	3:30am
Tuesday	10:00am	3:30am
Wednesday	10:00am	3:30am
Thursday	10:00am	3:30am
Friday	10:00am	3:30am
Saturday	10:00am	4:00am
Sunday	10:00am	3:30am
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:30am
Bank Holiday Sunday - 03.30am finish.		

British Summer Time - allow for additional hour when clocks move forward.

**WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES**

- M. The sale by retail of alcohol for consumption ON and OFF the premises

## Part 2

**NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Jam Leisure (Park Lane) Ltd

Park Lane, 1 Torwood Street, Torquay, Devon, TQ1 1ED

**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)****NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Adrian Michael HOBBS

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL**

Licence No. PA0232

Issued by Torbay

Licensing Act 2003

# Premises Licence

# 595

*Stephen Cox*

Steve Cox  
Environmental Health Manager  
24 April 2014



## ANNEXES

## ANNEXE 1

## MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

- 1) No supply of alcohol may be made under the premises licence:-
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3)
  - (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
    - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
      - (i) the outcome of a race, competition or other event or process, or
      - (ii) the likelihood of anything occurring or not occurring;
    - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti social behaviour or to refer to the effects of drunkenness in any favourable manner.
- 4) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 6)
  - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
  - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- 7) The responsible person shall ensure that -



**ANNEXES continued ...**

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

**MANDATORY CONDITION: DOOR SUPERVISION**

- 1) Where one or more individuals are carrying out security activities, each individual must be licensed by the Security Industry Authority.
- 2) But nothing in the aforementioned conditions requires such a condition to be imposed in respect of a) and b) and (b)(i) and (b)(ii)
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), are exempt.
  - (b) In respect of premises in relation to-
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
- 3) For the purposes of the aforementioned conditions:-
  - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**ANNEXE 2**

**CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

**Prevention of Crime and Disorder**

1. Warning notices shall also be placed at the entrance door indicating conditions of entry including regular identification checks, random searches and the use of metal detectors.
2. The Licensees shall carry on working with the local authority and support any seasonal and other advertising campaigns.
3. The number of persons admitted to the premises on any one occasion shall not exceed a safe occupancy. This is in agreement with the responsible authorities notably Devon Fire and Rescue and the Health and Safety team.
4. Persons leaving the premises shall be reminded to conduct themselves in an orderly manner and not cause annoyance to other members of the public or nearby residents.
5. A CCTV System must cover both inside and outside the premises in positions agreed with the Council and Police. All cameras are recorded to a high standard and kept for a minimum of 14 days and shall be made available to the police on demand.
6. All the door staff must be Security Industry Authority licensed.

**ANNEXES continued ...**

7. Each accredited door steward when on duty must wear distinctive dress, are all over the age of 18 and are trained to vet customers and keep public order.
8. A Night Net Radio must also be held at the Head Door Steward at the entrance and all instances of crime and disorder shall be reported to the police.
9. There must be a zero tolerance with drugs and have a drugs policy in force on the premises, with the objective of securing, as far as reasonably practical, the safety of others attending the premises.
10. A secure drug deposit bag approved by Devon & Cornwall Police shall be located on the premises for the safe storage of any drugs found or seized.
11. There must be provision of toughened safety glasses and plastic bottles. All glasses are stamped in accordance with Weights and Measures Legislation. No drinks, whether in glasses or bottles must be removed from the premises.
12. All the staff must be fully trained and at least one competent manager shall be on the premises whilst open to the public. All bar staff will be suitably trained to prevent the sale of alcohol to under 18's.
13. Adequate glass and bottle collection shall be undertaken throughout the premises.
14. Premises must join and maintain membership of the Torquay Night Time Economy Forum attending at least 2 meetings in each calendar year.
15. There must be no entry or re-entry after 2am.
16. A CCTV system of an evidential standard must be installed to the satisfaction of the police, and the system to be in operation at all times the premises are open to the public. All recordings from that system must be kept for a period of 14 days and the police to have access to recordings at any reasonable time.
17. Every door steward and member of management must carry effective two way radios with earpieces. This equipment is kept in good working order and is used at all times when the premises are open to the public.
18. At all times after 23.00 when the premises are open for licensable activities, an SIA registered door supervisor shall be employed at the entrance to the area to ensure compliance with the preceding restriction and to ensure that no unauthorized entrance to the premises takes place via the area.
19. Consumption of alcohol on the ground floor terrace shall be by persons seated, no alcohol shall be served in glass bottles within those areas from which it is intended or likely that a person shall drink.

**The Promotion of Public Safety**

1. The fire safety measures with which the premises are provided shall be maintained in good working order, and their adequacy shall be determined on a regular basis, by the carrying out of a fire risk assessment as required by and in accordance with the Fire Precautions Regulations.
2. The premises shall undertake to maintain a safe occupancy level.
3. A log book shall be kept upon the premises in which shall be entered particulars of inspections made: those required to be made by Statute, and information compiled to comply with any public safety condition attached to the premises licence that required the recording of such information. The log book shall be kept available and produced for inspection when required by persons authorised by the Licensing Act 2003 or associated legislation.
4. Adequate access must be provided for emergency vehicles.
5. Where crowd management measures are needed all reasonable steps shall be taken to ensure that such persons do not obstruct exits, yards, passageways, stairways and ramps and that portable barriers shall be provided to prevent crushing and keep queues in an orderly fashion.
6. Suitable and clearly identifiable areas for dancing must be set aside, and separate from the dance area suitable means of providing cool air/ventilation and adequate seating must be provided.
7. All fire exits, gangways, escapes, extinguishers, fire points etc shall remain free of obstruction and will be tested and

**ANNEXES continued...**

assessed on a regular basis. All exits are fitted with fixed automatic catches. Weekly fire alarm tests and fire certification as required by Fire Authority shall be carried out.

8. A Fire Risk Assessment shall be carried out monthly and Risk Assessments shall be carried out regularly.
9. Regular testing and certification of appliances and systems shall be carried out, including PAT and Electrical Testing.
10. All parts of the premises must be adequately illuminated from two independent sources and in the event of general lighting failure emergency lighting shall be immediately fully illuminated and the public shall be required to leave the premises forthwith.
11. In the event of evacuation caused by failure of general lighting, the public shall not be readmitted until the general lighting is fully restored.
12. Suitable and sufficient sanitary accommodation must be provided, clearly marked and in good order at all times.
13. The implementation of correct disposal of waste must be carried out on the premises at all times.
14. There must be provision of sufficient number of people on site to secure the safety of the premises at all times.
15. There must be use of toughened glasses and plastic bottles which reduces the risk of harm to the public.
16. Air management system within the premises shall be used during entertainment.
17. No explosive or highly inflammable material shall be brought into the premises.
18. No pyrotechnics shall be used on the premises.
19. Smoke machines shall be in a fixed position, protected against interference and manned by a competent operator at all times when in use. Non-toxic, non-flammable smoke shall be used and will be limited to areas where the public are admitted and not obscure exit signs.
20. Lasers must not be used on the premises without prior consultation with the Licensing Authority and compliance with HS(G) 95.
21. Staff shall be trained in first aid
22. The ratio of stewards to customers on the premises shall be no less than 1:100.

**Prevention of Public Nuisance**

1. Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed.
2. The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the Licensee/Management and the controlling mechanism shall be operated from a part of the Premises not accessible to the public.
3. Two noise limitation devices shall be installed to control both areas which have amplification equipment fitted. These devices shall be regularly maintained.
4. There shall be no use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas.
5. The placing of refuse such as bottles into skips outside the premises shall take place at times that will prevent disturbance to nearby properties and the movement of bins and rubbish outside the premises shall be kept to a minimum after 11pm.
6. Quieter/Mellow music shall be played towards the end of the evening to encourage calmness and an announcement shall be made prior to closing requesting patrons to leave the premises as quietly and quickly as possible.
8. Patrons shall be asked not to stand around talking in the street outside the premises and asked to leave the vicinity quickly and quietly.

**ANNEXES continued ...**

9. Door staff must be positioned at exits at closing times to ensure noise from patrons leaving is minimized.
10. Taxi operators shall be nominated for staff and customer use. The companies telephone numbers shall be advertised to customers.
11. The licensee shall ensure that staff leaving the premises after a late night shift will conduct themselves in a manner as not to disturb nearby residents.
12. Deliveries of kegs, bottles, food and other materials shall be carried out between the hours of 09.30am - 05.30pm weekdays.

**The Protection of Children from Harm**

1. No persons under the age of 18 shall be employed in connection with the sale of and supply of alcohol.
2. All bar staff shall be suitably trained to prevent the sale of alcohol to under 18's.
3. Persons under the age of 18 shall be required to vacate the bar by 21.00 hrs unless they are eating in which case they shall be required to vacate the bar by 21.30hrs, or unless they are attending an under 18 event.
4. Persons under the age of 18 shall not be allowed into the Nightclub on the first floor at anytime unless attending an under 18 event.
5. Suitable food and non-alcoholic beverages shall be available at all times children are allowed on the premises.

**Under 18 events may take place to which the following conditions shall apply:**

1. These events shall finish no later than 23.00 hours, after which there will be 30 minute period before reopening to over 18's.
2. The police shall be notified in writing or email at least 14 days prior to the event.
3. SIA door stewards must be employed throughout the event, which shall include at least one female steward. All stewards shall have undergone a criminal records bureau check.
4. All alcohol shall be locked and or obscured from view.
5. All gaming machines with prizes and cigarette machines shall be unplugged and locked.
6. All promotional material relating to alcohol shall be removed.
7. Any person refusing to be searched shall be refused entry.
8. Metal detectors shall be used random on entry .
9. The event shall be promoted to ages 14 years and above.
10. Foreign student events shall be restricted to foreign students only.
11. Throughout under 18 events, The DPS or personal licence holder must be present.

**ANNEXE 3**

**CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

**The Prevention of Crime and Disorder**

1. On every occasion that the premises sells alcohol after midnight and then closes at 12.30am, SIA door staff shall be employed from 10.00pm until closing.
2. All drinks must be served in shatterproof glasses and no alcohol shall be served in glass bottles from which it is

## ANNEXES continued ...

intended or likely that a person shall drink.

3. Premises must join and maintain membership of the Nitenet Radio Communications Scheme.
4. On every operational day when door supervision is required, then those SIA door supervisors employed in front of house duties must wear YELLOW high visibility jackets for the entirety of their duty.
5. In relation to the consumption of food and drink (alcoholic or non-alcoholic) on the ground floor terrace, there shall be no consumption after 2am on Friday and Saturday and after midnight from Sunday to Thursday.

**The Prevention of Public Nuisance**

1. Noise from the premises 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. Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment.
4. A senior member of staff (manager) shall assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/entertainment to ensure levels of noise have not increased.
5. Provision of mechanical ventilation and air conditioning system 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 variation to the existing premises license shall not be permitted until such time that the levels of noise limiters are set and agreed between the premises license holder or a nominated person by them and the Environmental Health Department so as not to unreasonably disturb nearby residents.
8. These levels shall be set and agreed by within 1 month of the application being granted.
9. Before any further refurbishment is commenced an evaluation of any noise breakout must be undertaken and a report submitted to the Environmental Health Department. Agreement must be reached with the Environmental Health Department on the works to be undertaken to attenuate noise break out and those works must be implemented to their satisfaction.
10. The volume of any regulated entertainment will be under the control of the management at all times. Should monitoring indicate that the volume should be reduced, management shall take steps to ensure that levels are reduced to those agreed in condition 1.
11. No changes to the Public Address system shall be made without prior consultation with the local Environmental Health Department; this includes moving of speakers, addition or removal of any equipment and the use of guest acts/DJ's own equipment.
12. Patrons of the premises shall be reminded by door staff to leave in a quiet respectful manner and the door staff shall take all reasonable steps to ensure that their patrons leave in a quiet manner.
13. Door staff will monitor the area outside their premises and take reasonable steps to ensure that patrons do not congregate outside the premises.
14. Announcements shall be made on the Public Address system prior to closing reminding patrons to leave in a quiet respectful manner.

**ANNEXES continued ...**

15. Cooking, noxious or persistent smells from the premises will not cause a nuisance to nearby properties.
16. A management scheme shall be put in place to prevent excessive queuing into the street and particularly into Park Lane.
17. From 23.00 on door staff shall monitor the external areas and ensure that patrons behaving in a noisy manner are either asked to leave or asked to return inside the building.
18. All regulated music should be played through a noise limiter which is to be set at a reasonable level as agreed with the local responsible authority for public nuisance; this is to be independently calibrated and copies of reports forwarded to the responsible authority for public nuisance within 21 days of any recalibration. It shall be sealed in a tamper proof box and adjustments shall only be made with the written permission of the responsible authority for public nuisance.
19. No changes shall be made to the public address system without prior written permission of the responsible authority for public nuisance.

**The Protection of Children from Harm**

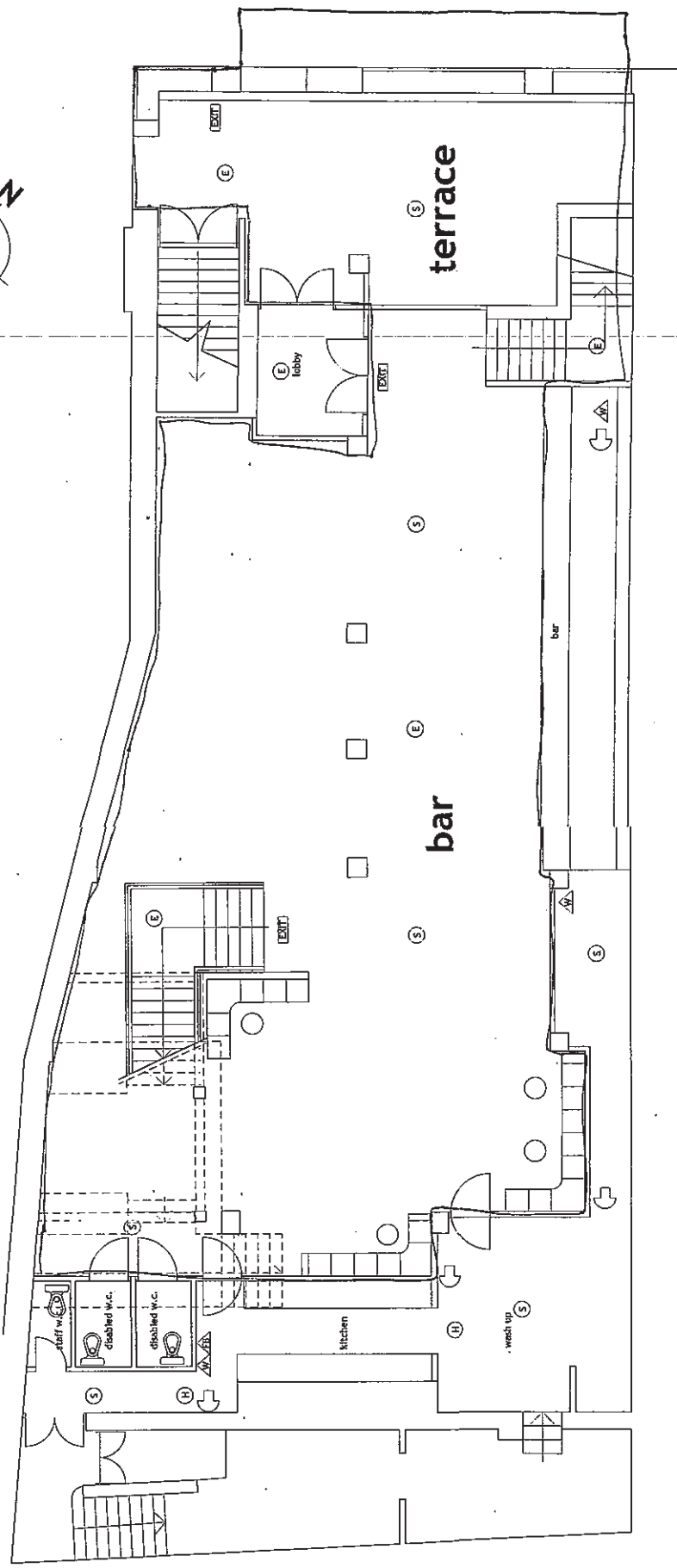
1. The premises shall operate a Challenge 25 Policy and any individual who appears to be under the age of 25 shall be requested to provide an approved form of identification bearing a photograph.

**ANNEXE 4**

**PLANS**

Copy attached to Licence.

- NOTES:
1. This drawing is subject to approval by the relevant authorities.
  2. Do not scale this drawing.
  3. All dimensions to be given in millimetres.
  4. If in doubt, please ask.



- KEY
- EXIT
  - illuminated emergency e sign
  - break glass alarm point
  - smoke detector
  - heat detector
  - emergency light
  - water fire extinguisher
  - dry powder fire extinguisher
  - fire blanket
  - L1150@A1
  - L1150@A1

NO.	DATE	DESCRIPTION

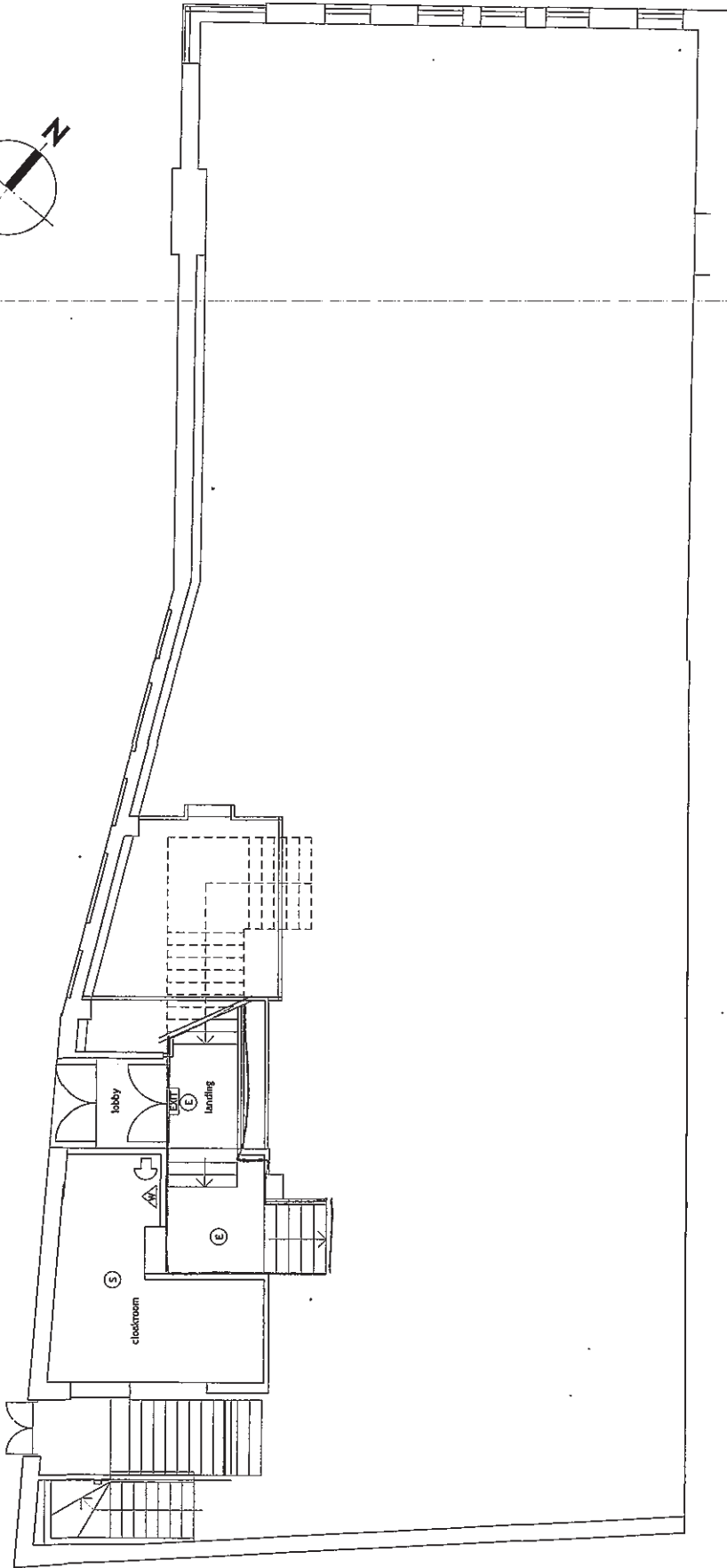
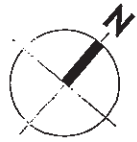
Scale: 1:150 @ A1  
 Date: Feb 2013  
 Drawn by: CR  
 Checked by:

Job:  
 "Park Lane"  
 Torwood Street  
 Torquay Devon

Drawing:  
 Ground Floor Plan  
 Licensing

Drawing number:  
**6410. 400**

Ground Floor Plan



Mezzanine Floor Plan

NOTES:

1. This drawing is subject to copyright.
2. No scale this drawing.
3. All dimensions are to be checked on site.
4. If in doubt, please ask.

KEY

- ☐ illuminated emergency exit sign
- ☐ break glass alarm point
- Ⓢ smoke detector
- ⓔ emergency light
- ⚠ water fire extinguisher
- ⚠ dry powder fire extinguisher
- ⚠ fire blanket

NO.	DATE	REVISIONS

Scale: 1:50 @ A1  
 Date: Feb. 2013  
 Drawn by: CR  
 Checked by:

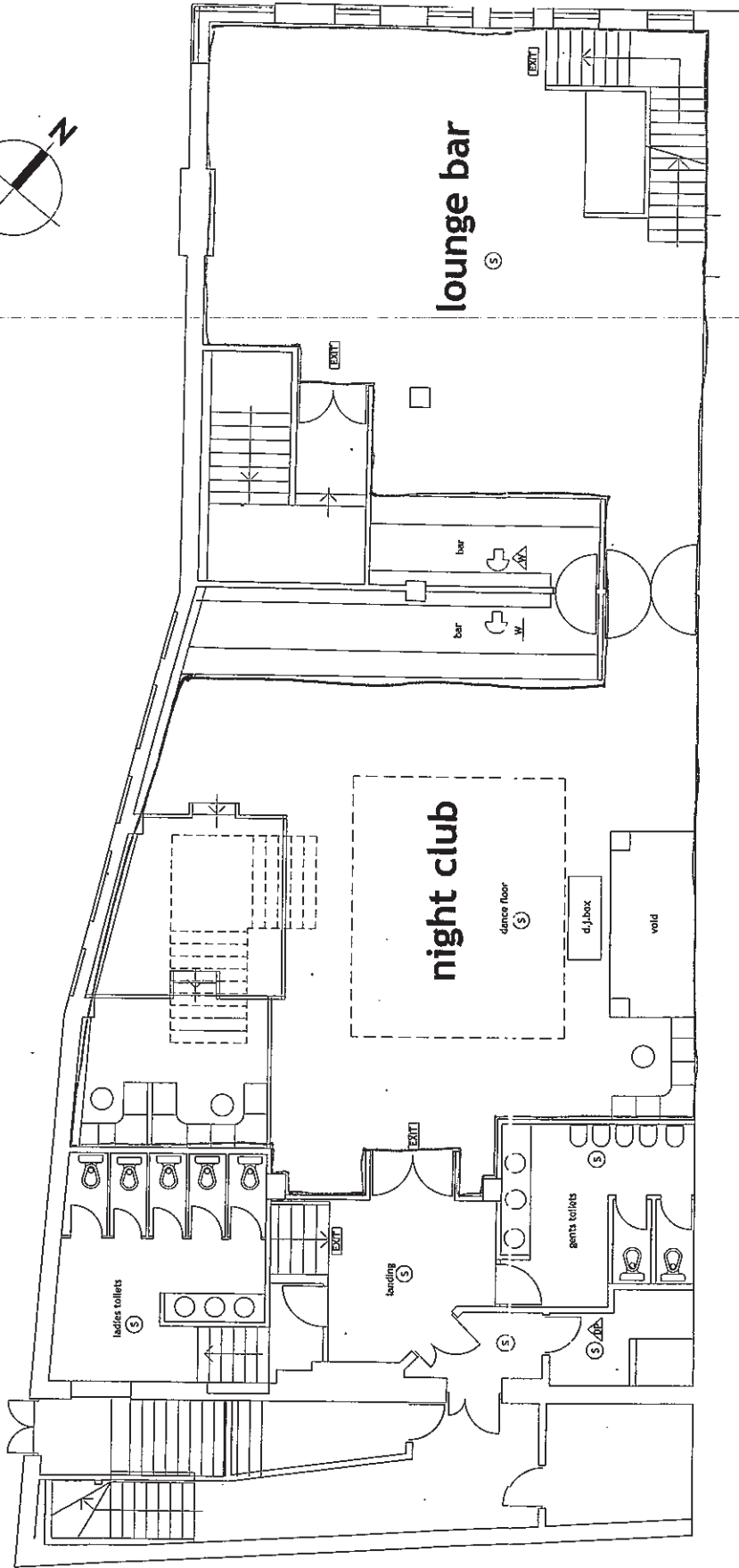
Job:  
 "Park Lane"  
 Torwood Street  
 Torquay Devon

Drawing:  
 Mezzanine Floor Plan  
 Flooring

Drawing number:  
**6410.402**



- NOTES:
- 1 This drawing is subject to contract.
  - 2 Do not scale this drawing.
  - 3 All dimensions to be checked against site.
  - 4 If in doubt, please ask.



- KEY
- Ⓢ illuminated emergency sign
  - Ⓢ break glass alarm point
  - Ⓢ smoke detector
  - Ⓢ emergency light
  - Ⓢ water fire extinguisher
  - Ⓢ dry powder fire extinguisher
  - Ⓢ fire blanket

Revisions

No.	Date	Description

Scales: 1:50 @ A1  
Date: Feb. 2013

Drawn by CR

Checked by

Job  
"Park Lane"  
Torwood Street  
Torquay Devon

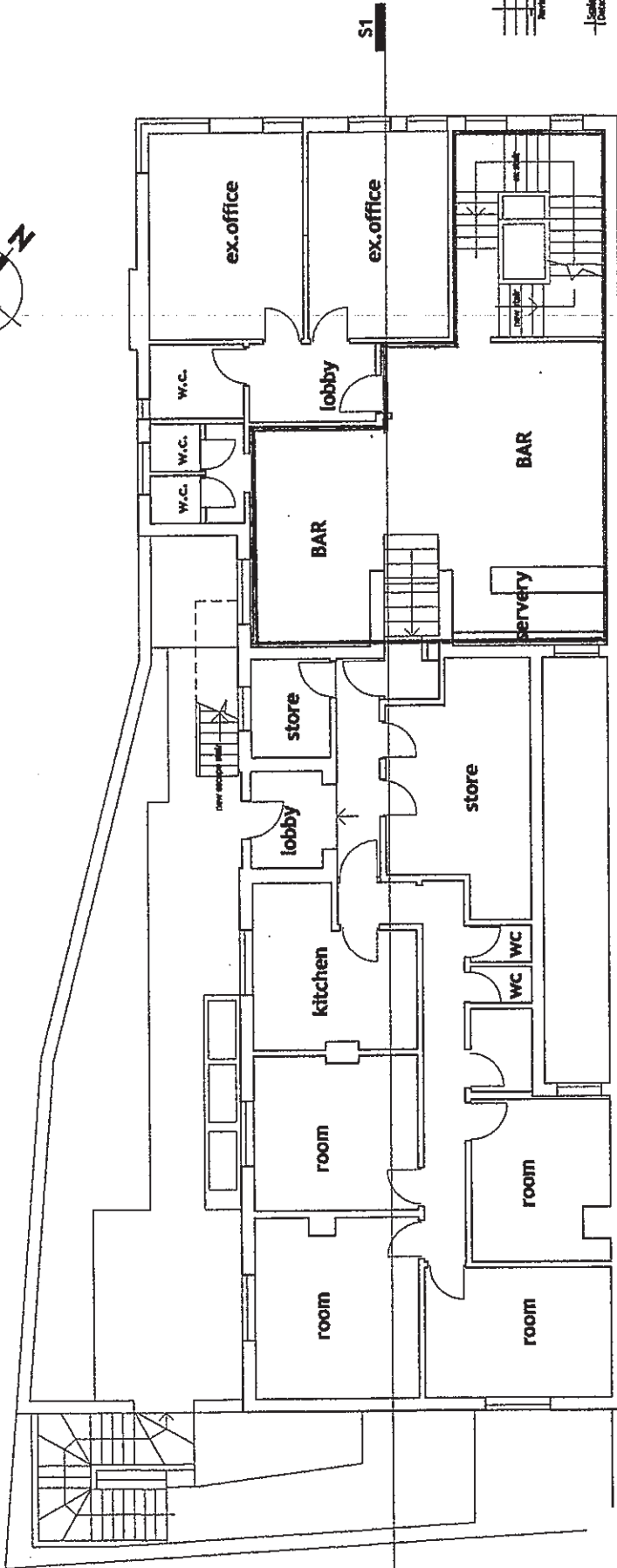
Drawing  
First Floor Plan  
licencing

Drawing number:  
**6410. 401**

First Floor Plan



- NOTES:**
1. This drawing is subject to copyright.
  2. It is not to be used without the written consent of the architect.
  3. All dimensions to be checked on site.
  4. If necessary, please ask.



Second Floor Plan

NEW LICENSED AREA

Author	
Checked by	
Date	

Scale: 1:50 @ A3  
(A3C - Dec 2013)

Drawn by  
CA

Checked by  
CA

Job  
"Park Lane"  
Ternwood Street  
Tisbury Street

Drawn by  
Second Floor Plan  
As Proposed

Drawing number:  
**6410.503**  
**PRELIMINARY 2**



COLIN RITCHIE ARCHITECTS LTD.  
22A VICTORIA PARADE TORQUAY TQ2 2BS  
Tel: 01803 29451 Fax: 01803 20994  
Email: colin@colinritchie.com



**DEVON & CORNWALL  
CONSTABULARY**

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

17 June 2014

Dear Sir/Madam

**Park Lane, 1 Torwood Street, Torquay**

I refer to an application for the Variation of the Premises Licence in respect of the above premises, submitted by the Premises Licence Holders, Jam Leisure (Park Lane) Ltd.

Having considered the application, and discussed the matter with Mr Adrian Hobbs, who is both a director of Jam Leisure (Park Lane) Ltd and the current Designated Premises Supervisor, the police make the following representation:

Park Lane is situated within the Torbay Council Cumulative Impact Area and currently consists of a ground floor terrace, ground floor bar, first floor bar and nightclub area, with an additional bar on the second floor. Due to the ground floor terrace not meeting the requirements of the smoking legislation, smoking is not permitted in this area and customers from Park Lane are directed to the road (also known as Park Lane) to smoke. This has led to complaints from residents concerning incidents and public nuisance issues and supervision issues for the premises as there is no defined/dedicated smoking area. In an attempt to address this issue, the Premises Licence Holders are now seeking, via this application, to include a roof top terrace within the Premises Licence.

Whilst recently conducting research in relation to recorded crime levels at the busiest late night licensed premises in Torquay, on 12 May 2014 my Police Licensing Officer, Mrs Julie Smart, identified that there has been a dramatic increase in recorded crime in

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



relation to Park Lane since the beginning of 2014 when compared to the figures for 2013. The Premises Licence Holder, Jam Leisure (Park Lane) Ltd, and the Designated Premises Supervisor, Mr Adrian Hobbs, were therefore requested to attend a meeting at Torquay Police Station on 14 May 2014 in order to discuss this matter. A copy of the minutes of that meeting are attached for your information, together with tables showing the recorded crime levels for 1 January - 31 December 2013, 1 January 2014 - 12 May 2014 and 1 January 2014 - 17 June 2014 (ie crime figures up to the date of this letter).

Park Lane is now the subject of a Police Problem Solving Profile, which indicates that this premises is considered to be a high risk premises and subsequently it will receive frequent monitoring in order to identify potential factors which may be contributing to the significant increase in crime at the premises and regular meetings with the Premises Licence Holder and Designated Premises Supervisor will take place in order to address any identified issues.

In relation to this variation application, it is noted by the police that despite Torbay Council's Licensing Statement of Principles 2011 stating that a variation would normally be refused unless the applicant has demonstrated in the operating schedule that there will be no negative impact on one or more of the Licensing Objectives, the applicant has not proposed any additional measures indicating how he will manage and supervise the proposed new roof top terrace. Due to issues currently being experienced by the police and residents regarding public nuisance issues in the road outside Park Lane, the police do not wish to object to this new roof top terrace, but due to escalating crime at the premises we wish to ensure that this area is adequately supervised and that where possible the number of customers smoking outside Park Lane is reduced. We therefore request that the following conditions be imposed on the licence:

1. In respect of the roof top terrace, CCTV camera's shall be installed in this area to the satisfaction of the police and there shall be a monitor situated behind the ground floor bar for viewing by staff.
2. At all times that the roof top terrace is open to the public after 2300 hrs, an SIA registered door steward shall be employed in this area.
3. From 12 midnight until the premises close, door stewards shall direct, as far as reasonably practicable, any customers wishing to smoke to the roof top smoking area.
4. Notices shall be prominently displayed within all bars of the premises informing customers that smokers should use the roof top terrace.

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

Yours faithfully

A handwritten signature in cursive script, appearing to read "C. Armes".

Superintendent C Armes  
LPA Commander

PARK LANE, TORWOOD STREET, TORQUAY

RECORDED CRIMES 2013

PREMISES	COMMON ASSAULT	S47 ABH	S18 GBH	S20 GBH	AFRRAY	ASSAULTS SUB-TOTAL	THEFT	DRUGS	OTHER	TOTAL
Park Lane	1	5	1	0	0	7	22	2	1	32

JANUARY – 12 MAY 2014

PREMISES	COMMON ASSAULT	S47 ABH	S18 GBH	S20 GBH	AFRRAY	ASSAULTS SUB-TOTAL	THEFT	DRUGS	OTHER	TOTAL
Park Lane	2	15	0	0	0	17	13	2	1	33

JANUARY – 17 JUNE 2014

PREMISES	COMMON ASSAULT	S47 ABH	S18 GBH	S20 GBH	AFRRAY	ASSAULTS SUB-TOTAL	THEFT	DRUGS	OTHER	TOTAL
Park Lane	2	17	0	1	0	20	16	2	1	39

## MINUTES OF MEETING

### TORQUAY POLICE STATION - 14 MAY 2014

Present: Sgt Mike Norsworthy – MN  
Mrs Julie Smart – JS  
Mr Adrian HOBBS – AH  
Mr Antony Jones – AJ  
James, Eliminate Risk Security – J

Those present were informed that this meeting had been called to raise police concerns with the Premises Licence Holder/DPS concerning the dramatic increase in crimes in relation to Park Lane. JS gave a breakdown of the figures, which showed that between March – December 2013 there were 32 recorded crimes which included 7 assaults, yet between January – 12 May 2014 there were already 33 crimes recorded in relation to Park Lane, of which 17 are assaults.

The Premises Licence Holder was asked if he was aware of any reasons why there had been such an increase in crime, and AH replied that there had been change in door stewards and perhaps their diligence had led to more positive reporting of offences. He further stated that now Bohemia has closed all the customers from there were attending Park Lane. It was pointed out that Park Lane had been consistently full to capacity throughout last year so the effect of Bohemia closing may not have had an impact. JS confirmed that if you add the assault figures for Park Lane and Bohemia for 2013 together they do correspond with the 17 assaults currently recorded in respect of Park Lane, however it is the responsibility of each individual premises to ensure that they do not impact on the licensing objective the Prevention of Crime and Disorder and recorded crime is likely to increase throughout the remainder of the year.

A number of L10's were discussed and a potential issue with CCTV coverage within Park Lane was highlighted. JS produced plans of the premises and AH marked the position of existing CCTV cameras and agreed to install additional cameras within various locations, including the search room, the lobby of the ground floor rear fire escape (through which persons are frequently ejected) and within the ground and first floor areas to ensure greater coverage.

A discussion followed concerning persons smoking outside of Park Lane and the proposed new roof top terrace. JS asked what the capacity for this area was intended to be and AH replied "About 100". JS asked how the premises will supervise this area and AH stated that there would be CCTV coverage with a monitor behind the 2<sup>nd</sup> floor cocktail bar. JS asked how the roof top would be supervised if the 2<sup>nd</sup> floor cocktail bar wasn't in use and AH stated he would place a monitor at the entrance for viewing by door stewards.

Discussion then took place concerning a proposed police initiative to obtain funding for 4 ID Scanners which would be sited within the 4 busiest late night premises within Torquay. These scanners will detect fake or fraudulently altered identification documents and will ensure increased vigilance for those premises where they are installed. Should sufficient funding be gained, it is proposed to install a scanner within Park Lane and A/Sgt Jeff Coe and Vicky Booty of Torbay Council will liaise accordingly with AH regarding this matter.

MN stated that it is likely that there will be an increase in licensing inspections over the forthcoming summer period and advised AH to ensure that the premises were complying with all conditions contained on the licence. JS highlighted that during a recent inspection at another premises several breaches of conditions were identified, these conditions concerned placement of posters etc and

although easy to rectify should have been complied with it all times. JS then read out a condition on the premises licence in relation to warning notices to be placed at the entrance door outlining conditions of entry, including ID checks, random searches and use of metal detectors. AH could not confirm that these notices were in place and was given suitable advice.

It was pointed out that the police are concerned re escalating crime levels at Park Lane, the premises will be closely monitored and should any further issues be identified they will be brought to the attention of the PLH/DPS.

---





**DEVON & CORNWALL**  
**CONSTABULARY**

Jam Leisure (Park Lane) Ltd  
Park Lane  
1 Torwood Street  
TORQUAY  
Devon  
TQ1 1ED

Licensing Department  
Devon and Cornwall Police  
Middlemoor HQ  
Exeter, EX2 7HQ

Telephone: 01392 452225

18 June 2014

Dear Sir/Madam

**Notification of High Risk Status**

Due to a significant increase in recorded crime, particularly with regards to assaults, at your premise, together with several complaints from residents concerning anti-social behaviour, noise nuisance and incidents involving your customers which have occurred in the road adjacent to your premise (also known as Park Lane), your premise has been identified as high risk by Devon and Cornwall Police.

The licensing officer for your area will meet with you to discuss the reasons for your premises being graded as such and the actions you need to take to reduce the level of risk currently attached to your premises.

You are advised that a lack of significant improvement in your premises may result in further action being taken in relation to your licence to provide Licensable Activities. A copy of this letter will remain on your file and a copy sent to the Licensing Authority for their records.

I am aware that you attended Torquay Police Station on 14 May 2014 to discuss the police concerns regarding the crimes levels at your premises and can inform you that this letter has been sent to you now due to changes in Police Licensing procedures which commenced on Monday 16 June 2014, where all high risk premises will be notified in writing of their status.

Please note that this letter has been re-sent to you due to the date being incorrect on the first letter and I apologise for this error.

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



If you have any further queries please do not hesitate to contact the licensing team on the number above or our email address below.

Yours Sincerely

A handwritten signature in black ink that reads "Phil Kennedy". The signature is written in a cursive style with a large, looping 'P' and 'K'.

---

Superintendent Phil KENNEDY  
Local Policing and Partnerships  
Devon & Cornwall Police



**DEVON & CORNWALL  
CONSTABULARY**

Mr A M Hobbs  
Designated Premises Supervisor  
Park Lane  
1 Torwood Street  
TORQUAY  
TQ1 1ED

Licensing Department  
Devon and Cornwall Police  
Middlemoor HQ  
Exeter, EX2 7HQ

Telephone: 01392 452225

18 June 2014

Dear Sir

**Notification of High Risk Status**

Due to a significant increase in recorded crime, particularly with regards to assaults, at your premise, together with several complaints from residents concerning anti-social behaviour, noise nuisance and incidents involving your customers which have occurred in the road adjacent to your premise (also known as Park Lane), your premise has been identified as high risk by Devon and Cornwall Police.

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



If you have any further queries please do not hesitate to contact the licensing team on the number above or our email address below.

Yours Sincerely

A handwritten signature in black ink that reads "Phil Kennedy". The signature is written in a cursive style with a large, looping 'K'.

Superintendent Phil KENNEDY  
Local Policing and Partnerships  
Devon & Cornwall Police

File No.:	Computer URN:	Minute No.:
-----------	---------------	-------------

To be completed for any incident or for information on any licensed premises. This form to be submitted to the Licensing Unit as soon as possible. Nominal and / or intelligence **MUST** be submitted via Source and Covert Intelligence System (CIS).

- Licensing objective:**
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.

Name of premises: Park Lane	
Address: Torwood Street Torquay	
Report type: <input type="checkbox"/> Visit <input checked="" type="checkbox"/> Incident <input checked="" type="checkbox"/> Other	Date: 23/11/2013 Time: 23:00 -
OIS Ref.:	Crime No.:
<p><b>Brief summary / action taken (if not recorded elsewhere):</b></p> <p>Parklane have changed their designated smoking area and have moved it to the front of the premises, during the evening the move a few poles and some red rope and corden off an area around 1 meter in front of the premises to the left of the property when looking at it.</p> <p>They then allow members of the public to smoke in this area until they close this area is on the main footpath and next to Sizzles Takeaway so you end up with a big group of people blocking the area around Parklane making it difficult to identify who has come out of the premises and who is just hanging around.</p> <p>Also I believe other premises have been stopped from using the footpath in this manner.</p>	
Submitted by: Name: Daniel Gouldthorpe	Force No.: 11697
Signed: D GOULDTHORPE	Date: 23/11/13 Time:
Action taken by Licensing Unit:	
Licensing officer:	
Forwarded to Daily Tasking:	

## Licensed Premises Visit Checklist

Any information from these checks to be included in 'Brief summary' overleaf.

<b>Officers present at inspection:</b>			
<b>Administration:</b>			
1. Designated Premises Supervisor (DPS) on the premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Name of DPS (or person in charge if no DPS):			
<input type="checkbox"/> Helpful <input type="checkbox"/> Unhelpful <input type="checkbox"/> Obstructive <input type="checkbox"/> Other:			
2. Premises Licence (summary displayed)? (It should be displayed in the public area)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3. Premises Licence (complete) produced to officers? (A constable can request to see full licence)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Crime and Disorder:</b>			
1. Any violence inside / outside premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Any public order inside / outside premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3. Any evidence of drugs found inside / outside premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
4. Any drinks promotions in operation at time of visit?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
5. Any evidence of excessive drunkenness?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Public Safety:</b>			
1. CCTV on premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Working at time of visit? <input type="checkbox"/> Yes <input type="checkbox"/> No
Incident captured?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Staff able to download? <input type="checkbox"/> Yes <input type="checkbox"/> No
Image quality?	<input type="checkbox"/> Good <input type="checkbox"/> Poor <input type="checkbox"/> Other:		
2. Door staff on duty?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, number:
SIA licensed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Licence displayed? <input type="checkbox"/> Yes <input type="checkbox"/> No
3. Do the premises look overcrowded?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
4. Method of checking the customer numbers:			
5. Radio system in use?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
6. Tables / glasses kept tidy?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
7. Any smoking inside premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Public Nuisance:</b>			
1. Any noise or nuisance outside of premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Any smokers standing outside of premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3. Any excessive litter / debris outside of premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Protection of Children:</b>			
1. Any underage offences detected on the premises?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
2. What proof of age policy is operated in the premises?			
3. How is this publicised?			
4. Do staff appear trained in proof of age?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	



## Alcohol / Licensing Information Form

File No.:		Computer URN:		Minute No.:	
-----------	--	---------------	--	-------------	--

To be completed for any alcohol related incident or for information on any licensed premises. When attending an incident please use the reverse of this form to record as much detail as operationally possible. This form to be submitted to the Licensing Unit as soon as possible. **Nominal and / or intelligence MUST be submitted via Source and Covert Intelligence System (CIS).**

- Licensing objective:**
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.

Report type: <input type="checkbox"/> Visit <input type="checkbox"/> Incident <input checked="" type="checkbox"/> Other	Date: 29/11/13 -1/12/13	Time:
OIS Ref.:	Crime No.:	
Name of premises (where applicable): Park Lane		
Address: Torwood Street, Torquay		
<b>Brief summary / action taken:</b>		
Designated Premises Supervisor (DPS) on the premises? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Name of DPS (or person in charge if no DPS): N/A		
<input type="checkbox"/> Helpful <input type="checkbox"/> Unhelpful <input type="checkbox"/> Obstructive Other:		
On Friday 29/11/13 A/PS 6777 Dutton spoke to the manager at Park Lane to discuss the smoking area which staff have created at the front of the building, he stated that the DPS had been directed by the council that they were happy for him to create a cordoned area on the pavement for customers to smoke in and that they could then return to the club even after 0200hrs.		
When visiting the club around 2100hrs 29/11/13 two males were observed stood in the middle of the covered seating area smoking.		
Submitted by: Name: A/PS DUTTON	Force No.: 16777	
Signed: E DUTTON	Date: 1/12/13	Time: 2300HRS
<b>Officers present at inspection:</b>		

## Licensed Premises Visit Checklist

Any information from these checks to be included in 'Brief summary' overleaf.

### Administration:

1. Premises Licence (summary displayed)?  Yes  No  
(It should be displayed in the public area)
2. Premises Licence (complete) produced to officers?  Yes  No  
(A constable can request to see full licence)

### Crime and Disorder:

1. Any violence inside / outside premises?  Yes  No
2. Any public order inside / outside premises?  Yes  No
3. Any evidence of drugs found inside / outside premises?  Yes  No
4. Any drinks promotions in operation at time of visit?  Yes  No
5. Any evidence of excessive drunkenness?  Yes  No

### Public Safety:

1. CCTV on premises?  Yes  No  
Incident captured?  Yes  No  
Image quality?  Good  Poor  Other:  
Working at time of visit?  Yes  No  
Staff able to download?  Yes  No
2. Door staff on duty?  Yes  No If Yes, number:  
SIA licensed?  Yes  No Licence displayed?  Yes  No
3. Do the premises look overcrowded?  Yes  No
4. Method of checking the customer numbers:
5. Radio system in use?  Yes  No
6. Tables / glasses kept tidy?  Yes  No
7. Any smoking inside premises?  Yes  No

### Public Nuisance:

1. Any noise or nuisance outside of premises?  Yes  No
2. Any smokers standing outside of premises?  Yes  No
3. Any excessive litter / debris outside of premises?  Yes  No

### Protection of Children:

1. Any underage offences detected on the premises?  Yes  No
2. What proof of age policy is operated in the premises?
3. How is this publicised?
4. Do staff appear trained in proof of age?  Yes  No

### Any other information:





## Alcohol / Licensing Information Form

File No.:		Computer URN:		Minute No.:	
-----------	--	---------------	--	-------------	--

To be completed for any alcohol related incident or for information on any licensed premises. When attending an incident please use the reverse of this form to record as much detail as operationally possible. This form to be submitted to the Licensing Unit as soon as possible. **Nominal and / or intelligence MUST be submitted via Source and Covert Intelligence System (CIS).**

- Licensing objective:**
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.

Report type: <input type="checkbox"/> Visit <input type="checkbox"/> Incident <input checked="" type="checkbox"/> Other	Date: 06, 07 and 08/11/13	Time:
OIS Ref.:	Crime No.:	
Name of premises (where applicable): Park Lane		
Address: Torwood Street, Torquay		

<b>Brief summary / action taken:</b>		
Designated Premises Supervisor (DPS) on the premises? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Name of DPS (or person in charge if no DPS): N/A		
<input type="checkbox"/> Helpful	<input type="checkbox"/> Unhelpful	<input type="checkbox"/> Obstructive
Other:		
<p>Park Lane's owner Adrian has implimented a new smoking area this weekend. After 0200hrs on both nights he created an area under on the covered balcony at the front of the premises. A 3ft high temporary barrier was put across the area in a diagonal line, Adrian claims this creates an area which has more than 50% open. This prevented the previous problem of people leaving the premises and re-entering after 0200hrs however I think the use of this area is in breach of smoking legislation. The balcony was used by customers for the period 0200hrs unti Park Lane closed.</p>		
Submitted by: Name: A/PS DUTTON	Force No.: 16777	
Signed: E DUTTON	Date: 8/12/13	Time: 1800HRS

<b>Officers present at inspection:</b>

## Licensed Premises Visit Checklist

Any information from these checks to be included in 'Brief summary' overleaf.

### Administration:

1. Premises Licence (summary displayed)?  
(It should be displayed in the public area)  Yes  No
2. Premises Licence (complete) produced to officers?  
(A constable can request to see full licence)  Yes  No

### Crime and Disorder:

1. Any violence inside / outside premises?  Yes  No
2. Any public order inside / outside premises?  Yes  No
3. Any evidence of drugs found inside / outside premises?  Yes  No
4. Any drinks promotions in operation at time of visit?  Yes  No
5. Any evidence of excessive drunkenness?  Yes  No

### Public Safety:

1. CCTV on premises?  Yes  No  
Incident captured?  Yes  No  
Image quality?  Good  Poor  Other:  
Working at time of visit?  Yes  No  
Staff able to download?  Yes  No
2. Door staff on duty?  Yes  No If Yes, number:  
SIA licensed?  Yes  No  
Licence displayed?  Yes  No
3. Do the premises look overcrowded?  Yes  No
4. Method of checking the customer numbers:
5. Radio system in use?  Yes  No
6. Tables / glasses kept tidy?  Yes  No
7. Any smoking inside premises?  Yes  No

### Public Nuisance:

1. Any noise or nuisance outside of premises?  Yes  No
2. Any smokers standing outside of premises?  Yes  No
3. Any excessive litter / debris outside of premises?  Yes  No

### Protection of Children:

1. Any underage offences detected on the premises?  Yes  No
2. What proof of age policy is operated in the premises?
3. How is this publicised?
4. Do staff appear trained in proof of age?  Yes  No

### Any other information:



## Licensed Premises Visit Checklist

Any information from these checks to be included in 'Brief summary' overleaf.

<b>Administration:</b>	
1. Premises Licence (summary displayed)? (It should be displayed in the public area)	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Premises Licence (complete) produced to officers? (A constable can request to see full licence)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Crime and Disorder:</b>	
1. Any violence inside / outside premises?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Any public order inside / outside premises?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Any evidence of drugs found inside / outside premises?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Any drinks promotions in operation at time of visit?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Any evidence of excessive drunkenness?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Public Safety:</b>	
1. CCTV on premises? <input type="checkbox"/> Yes <input type="checkbox"/> No	Working at time of visit? <input type="checkbox"/> Yes <input type="checkbox"/> No
Incident captured? <input type="checkbox"/> Yes <input type="checkbox"/> No	Staff able to download? <input type="checkbox"/> Yes <input type="checkbox"/> No
Image quality? <input type="checkbox"/> Good <input type="checkbox"/> Poor <input type="checkbox"/> Other:	
2. Door staff on duty? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, number:	
SIA licensed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Licence displayed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3. Do the premises look overcrowded? <input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Method of checking the customer numbers:	
5. Radio system in use? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
6. Tables / glasses kept tidy? <input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Any smoking inside premises? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Public Nuisance:</b>	
1. Any noise or nuisance outside of premises?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Any smokers standing outside of premises?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3. Any excessive litter / debris outside of premises?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Protection of Children:</b>	
1. Any underage offences detected on the premises? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2. What proof of age policy is operated in the premises?	
3. How is this publicised?	
4. Do staff appear trained in proof of age? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Any other information:</b>	
Whilst on duty outside Park Lane, Torquay there is a lane to the right hand side of the premises as you are looking at the front.	
This lane has become the space where smokers come out during the evening. The whole lane is becoming completely blocked by drunk persons. Moving said people is a time consuming process should emergency services require to get access to this lane.	
There have been a number of complaints from the public house at the top of this lane reference anti social behaviour. Also, on the evening a female was seen with a glass outside of the premises. whilst it was not seen if she came from Park lane I would suggest there was a high probability of this being the case.	
The lane itself runs directly on to the main road onto the clock tower. Due to the high numbers of people congregating in this lane there is no protection for those that are drunk and stumbling into the road where oncoming traffic are.	

From a visual point of view when passing this area it would appear very attractive to passing clientele as there are usually a large crowd of people. This attracts others to wonder over out of curiosity and further causes issues should access be required. Once people are let out of Park Lane premises there is no supervision of these persons by Park Lane staff. If Police officers are there it becomes their issue to resolve should disorder break out.

Park Lane do have a sheltered area at the front of the premises which potentially could be used as a smokers area, however due to legislation I am not sure that this would be possible to enforce?.

# Memorandum

To: Steve Cox

From : Mr Karl Martin

c.c

Contact :

c.c.

Ext : 01803 208025

c.c

My Ref : 1ZV SRU No:

For the attention of: Licensing  
Sub- committee members

Your :

Ref

Date : 18<sup>th</sup> June 2014



## Subject: Park Lane, 1 Torwood Street, Torquay

I refer to a variation application submitted by Jam Leisure on the 7<sup>th</sup> May 2014 in respect of the above named premises. The variation application seeks to extend the licensable area and activities to encompass a roof terrace.

Having considered the application as submitted I wish to make it known to the members of the Licensing Sub-Committee I am objecting to the proposed amendments to the existing licence.

The reasoning for objecting to this application are detailed in the following representation:

### Overview

Park Lane night club is a licensed premises situated at 1 Torwood Street, Torquay, within the Cumulative Impact Area. In the March 2013 the club was re-opened after a major re-fit as a self styled bar, grill and night club medley and licensed for the supply and sale of alcohol between the hours of 10:00am and 3:00am seven days week. Currently the floor is split over three floors. The ground floor is given over to a general bar and eatery whilst the second floor forms the main nightclub aspect and lastly the 3<sup>rd</sup> floor contains a small cocktail bar area and is marketed as a VIP chill out area.

The application submitted by Adrian Hobbs on behalf of Jam Leisure is to create a 4<sup>th</sup> floor roof garden to facilitate as an eating area during the day and evening and to act as a smoking area with seating at night. The consumption of alcohol will take place in this area throughout the permitted times. There is no current smoking area on the premises, instead patrons use the outside area on Torwood Street and in Park lane adjacent to the club, please see Appendix 1.

### The Variation application

There are 8 separate points I wish to draw the committee's attention to in respect of the application submitted by Jam Leisure:-

1. The variation application submitted by Jam Leisure has indicated in part 3 of the application the applicant is seeking an extension of all licensing activities to apply to the roof garden:-

*'To extend the area of the premises for the consumption of alcohol and licensable activities to encompass a roof garden, located on the lower roof at the front of the of the [sic] building'*

Currently the premises licence authorises licensable activities for indoors only.

Should this application be granted as applied for, these activities will automatically extend to outdoors. Please see Appendix 2.

Of most concern is that if this application is granted as applied recorded and live music will be authorised outside until 3:00a.m. The existing conditions do not reflect this significant change to the operation of the premises and offers no controls or restrictions on these two licensable activities. The same is true with all other licensable activities.

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2. The applicant in Part 3 has remarked the following:-

*'All the existing licensing conditions will apply in this area. The Garden will only have a background music system, playing low volume music limited by the existing control system which only the management can alter'*

Although this implies there will be a system of managing noise levels, no detail is given and the above statement is not a condition or has it been offered as a condition as part of this application.

Annex 3 'Prevention of Public Nuisance' condition 7 and 8 states:-

*7. 'The variation to the existing premises licensee shall not be permitted until such times that the levels of the noise limiters are set and agreed between the premises license holder or a nominated person by them and the Environmental Health department'*

*8. 'These levels shall be set and agreed by within 1 month of the application being granted'*

These conditions refer to a previous variation application for the internal renovation undertaken in 2013. Recorded music outside is a new activity at these premises and requires specific conditions to ensure playing of recorded music on the roof garden does not give rise to nuisance.

I recommend to the committee that no music of any kind takes place at this location, including background music. The reasons for this recommendation will become clear throughout this representation.

3. In Part 3 the applicant suggests:-

*'Additional sound proofing walls be installed and none[sic] reflective surfaces used where possible'*

The applicant has failed to enlighten committee members, the responsible authority or reassure members of the public of the exact physical specification noise attenuation measures will be installed.

An environmental report noise report prepared by Acoustic Consultants Ltd dated April 2014 on behalf of Jam leisure suggest:-

*'The roof terrace is to include a solid timber barrier around the perimeter. The section of barrier between the roof terrace and residential properties on Victoria Parade is to be*

*extended to the height of the existing chimney stack. The timber barrier is to have a density of at least 10 Kilograms per metre squared with no gaps.'*

The applicant has not made it clear if the recommendations of the acoustic consultants will be implemented. The applicant refers to additional sound proofing walls, is this solid timber barrier referred to in the acoustics report? No mention is made in the report of reflective surfaces, what are these? Where are they going and who is recommending the specification?

4. Planning permission, though not a consideration at a licensing hearing, has been applied for but not granted at the time of writing. The committee should be aware the roof garden will require planning permission. If planning permission is granted but the additional noise attenuation measures as outlined in point 3 are not approved this may have severe implications on the licensing objective 'Prevention of Public Nuisance'.

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5. The applicant has not stated how many customers are allowed on the roof garden at any one time. The existing licence does not offer any capacities either. The applicant does not state whether how many could be seated and how many standing? Will number be reduced during more noise sensitive times?
6. The expected norm is that SIA door steward's primary role is to manage security within a premises to ensure the licensing objective prevention of crime and disorder is upheld. A secondary role and arguably as important is that SIA door stewards are able to monitor and control customers whose behaviour in a manner likely to give rise to excessive noise. In the case of beer gardens surrounded by residential accommodation the presence and strict management by door staff is essential.

The applicant has not indicated arrangements for supervision of the roof garden. The applicant during previous conversation has indicated the intention to station door staff in the roof garden but does not describe these arrangements in the application.

Other than mandatory conditions an existing condition states:

*'on every occasion that the premises sells alcohol after midnight and then closes at 12:30, SIA door staff shall be employed from 10:00pm until closing'*

The condition requires door stewards but does not direct where they should be positioned and when. It should not be left to premises to undertake a risk assessment to determine when and where with regards to the roof garden as the roof garden will be operating in a noise sensitive area.

7. Annex 3 'Prevention of Public Nuisance' condition 4 states :-

*'A senior member of staff (manager) shall assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically through the activity/entertainment to ensure levels of noise have not increased'*

How will this condition be complied with as there is a large number of residential accommodation surrounding the proposed roof garden. The condition implies staff should enter nearby residential accommodation. Impractical and unenforceable and therefore the applicant is not offering any solution to monitoring noise from the beer garden arising from customers. Instead the applicant is relying on the acoustic consultant's report that the roof garden will not cause a noise nuisance.



8. The applicant has accepted customers using the surrounding streets as a smoking area are contributing to increased noise levels and indeed the acoustic report tells us noise levels at the weekends in this area are considerable higher than quieter week nights. The acoustic report assumes a comparison between noise on the street and predicted noise from the roof garden. The report argues a reduction of overall noise levels if customers are taken away from the street.

However the applicant has not offered any conditions or restrictions on how the outside area will be managed if this application is accepted as applied for. Will there be as many people outside if the roof garden is open as there is currently?

### **Smoking/ beer gardens in the harbour area**

9. The department has received numerous complaints over the years from a series of smoking areas/beer gardens along Victoria parade, notably from residents living along the Park Hill area. Residents whom have complained about noise from these beer gardens are often further away than the bulk of residential accommodation surrounding park Lane nightclub.
10. A running complaint currently under investigation relates to one such beer garden along Victoria Parade. The resident is elevated above the smoking area but is more than 100m from the source of the noise. This is enough to disturb their sleep at night.
11. A premises currently closed has a beer garden that caused numerous complaints and was only resolved when a premises operator agreed to reduce the size of the beer garden and its operating time to 11:00pm.

### **Analysis of the noise report provided by the applicant**

The applicant has submitted as part of the application an acoustic reports commission by the applicant and written by Acoustic Consultants Ltd.

I have commissioned Acoustic Associates South West Ltd to undertake a peer review of the report submitted by the applicant in order to provide a critical assessment of the findings made by Acoustic Consultants Ltd. A copy of this report will be circulated to members before the committee hearing.

The initial views of Environmental protection, Torbay Council and Acoustic Associates are outlined below:-

12. The report does suggest the roof terrace will have a positive impact on the noise environment around Park Lane, but the report does have some flaws in relation to the actual noise environmental residents are likely to experience.
13. There is no measurement of the Lmax figure given in the report and it is this that is often the source of complaints. An Lmax figure is the maximum noise created during a measurement sample, for example a scream or shouting. The report uses a LAeq(15 minute) figure, which equates to an average and the noise from a scream is lost within the average LAeq figure.
14. The report has not establish the true background levels. Instead using LAeq results in measures the ambient noise which would include passing busses, loud music from passing cars etc. The reports quietest reading of ambient noise is around 52dB, an educated estimate would put the true background noise level at around 5 dB lower. Therefore without the roof terrace or people on the street the background

noise levels would be somewhere in the region 47dB would be a typical reading of a quiet suburban street in Torquay.

15. Monitoring was undertaken in March when residents are unlikely to be opening windows for normal ventilation. The report has not provided any additional modelling to take this into account.
16. Park Lane is effectively a canyon and this is reflected in the report with lower noise levels recorded at the Devon Arms. However the department has received complaints from a resident living above the Devon Arms suggesting existing noise levels are giving rise to a potential statutory nuisance. Removing people from the lane would be expected to remove an element of noise as the report suggests. Yet the sampling criteria has not taken into account the short lived but louder noise that often gives rise to statutory nuisance as described in point 13.
- ~~17. Monitoring was undertaken for 10 nights between 21<sup>st</sup> March and the 31<sup>st</sup> March 2014. These dates included 2 weekends. Saturday night tends to be the busiest nights in the harbour area and it could be argued the data is based assumptions calculated on data obtained over 2 consecutive Saturdays.~~
18. The report is unclear if the modelling was undertaken with suggested barrier in place.
19. The analyst has used ISO 9613 to model noise attenuation. ISO 9613 describes a method for calculating the attenuation of sound during propagation outdoors in order to predict the levels of environmental noise at a distance from a variety of sources. Since the report was written the floor height in proposed roof terrace has been raised and this will affect the expected outcome. Measurements are taken at 1.5m above the surface being measured.
20. We don't know how many people were in the lane on each of the Saturday nights during the monitoring period. It's unlikely the numbers are representative of the busier and generally more noise sensitive times of the summer months.
21. The report hasn't modeled for any 'background' music, other than making reference this limit will be set so it can not be heard at the nearest residential property. The applicant has not made reference to setting limits for background music, who will set it. Is the applicant relying on conditions outlined in point 2. Music in this area will be difficult for the applicant to control and could result in complainants.
22. The report makes an assumption that there will be no people in the street if the roof terrace is in use. This is a very simplistic approach. It is not realistic to expect that no one will be in the street. The applicant has not made any reference in the application to where customers are to be allowed if the roof terrace is opened. I can only assume that customers will still be allowed to come and go as they please.

Currently the no re-entry after 2:00pm has been suspended by the Police for a trial period. It is likely and I suggest certain that large numbers will still gather in street and on the roof terrace. This will cancel out any reduction of noise levels as suggested by the report.

A large number of residents are shielded by noise from the lane because of the buildings in the area, including Park Lane. This natural shield from noise will not be there if customers are allowed on the roof terrace, especially at more noise sensitive times of the day. Much like the department has experienced along Park Hill Road it is certain residents further away that currently experience no noise from the night time economy area could be disturbed by noise from the roof terrace.

## **Previous management failings/history of noise complainants**

### Prior to April 2013

23. Prior to the renovation of the nightclub in 2013 the department had on numerous occasions over at least a 5 year period received and investigated noise complaints from residents in regards to noise breakout from Park lane.
24. On the 11<sup>th</sup> August 2011 a noise abatement notice under sec 80 was served on Jam Leisure requiring the operator to cease forthwith nuisance arising from amplified music (Appendix 3). On numerous occasions with the assistance of the department noise limiters were reset to reduce the noise breakout and significant weaknesses in the building was identified to the operator at the time. Although the operator made some progress to address the noise breakout the department continued to receive sporadic noise complaints. The view of the department at the time is this was due to unsatisfactory management and inadequate attenuation properties of the building.

### April 2013 onwards

25. More recently the renovation at Park Lane has resulted in an end to the noise breakout but the operator took more than 3 months to install a double door lobbied and thus not complying with a licensing condition designed to prevent noise breakout, and one that had been required and agreed by Licensing Sub Committee on the 28<sup>th</sup> March 2013. It took considerable effort by officers of Community Safety and a final warning, to get the work completed. It is accepted that there were some mitigating factors but it should never have taken this long.
26. As part of the renovation of Park Lane a terrace was created at the front of the premises leading to the main entrance. This area is used for seating a number of tables for the benefit of customers. Shortly after the club reopened in April 2013 the department starting receiving complaints about customers smoking in this area.

The operator was aware the terrace did not comply with the Smoke free legislation made under the Health Act 2006. Despite numerous warning by the Council and the Police the operator continued to allow smoking to take place in the area for over 3 months. Though the situation improved over the summer of 2013 the department most recently received a complaint about smoking in this area in December 2013 from a nearby business.

27. In January 2014 the department received new complaints about noise from Park lanes customers gathering in the Lane adjacent to the club and contributing to a significant noise nuisance experienced by nearby residents. During poor weather the lane acts as natural harbourage from the weather but also acts like a canyon with regards to noise.
28. A number of meetings with Police licensing, Torbay Council and the operator, Adrian Hobbs to address these concerns have resulted in the operator taking some action but the problem continues.
29. The variation application before you is an attempt by the operator to relieve noise on the street. It is accepted by the department not all of the people in the lane will be customers of Park Lane but a significant number will be. Residents report noise from people in the street was not significant problem until shortly after the club reopened in April 2013.

30. A number of significant fights have broken out in the lane in recent months resulting in injury and damage to property in addition to the associated noise disturbance. The majority of people involved in these fight appeared to have come from Park Lane.

#### Bohemia nightclub

31. Up until recently Jam leisure was operating other premises in Torwood Street known as Bohemia. This club was responsible for noise complainants from numerous residents going back 10 years.
32. On the 14<sup>th</sup> of December 2010 a noise abatement notice under sec 80 was served on Jam Leisure requiring the operator to cease forthwith nuisance arising from amplified music (appendix 4). The noise complainants never ceased despite long gaps between complaints until the Jam Leisure closed the club in the autumn of 2013.
33. Despite numerous occasions officers reset the limiters to the point where noise breakout could not be heard in complaints homes it was only a matter of months before noise breakout gradually returned. It was accepted the roof of Bohemia was an inadequate barrier and would cost upwards of £50k to remedy but the operator was aware if the roof id not replace then the noise levels would have to be carefully managed. The operator failed to manage noise levels effectively.
34. I wish to draw the attention to Members of the Licensing sub-committee Bohemia operated a small roof top smoking area that was enclosed by four walls and was source of numerous noise complaints. One complainant lived more than 200 metres away on Mead foot Lane. There was no music in this area and the complaints related to noise from customers using the smoking area.

#### Recommendations

35. I make one recommendation to the Members of the Licensing Committee if minded to do so and that is to reject outright to the application on the grounds the applications does not comply with Torbay Council Licensing Statement of Principles 2011 and therefore will undermine the licensing objection Prevention of Public Nuisance.
36. Torbay Council Licensing Statement of General Principles 2011 (p37) states:

*'The Licensing Authority will presume against the grant of a new premises licences or Licence Variations and Club Premises Certificates where there are extensions in operational hours, or the addition or extension of activities (regulated entertainment) that may cause public nuisance, where the applicant has not properly considered the issue of nuisance and sought appropriate sought advice from those with expertise in this field, in order to alleviate any concerns arising.*

*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'*

37. The applicant has not given due consideration to Torbay Councils Licensing Statement of Principles, especially the criteria laid out on p37-38. The applicant has sought advice from a professional in the field of noise but I would argue the

report is too simplistic and relies heavily on moving one source of noise to another would solve the existing noise nuisance and not create another. In the real world it is the random and unexpected noise that often leads to nuisance, more so if during noise sensitive times.

38. The department has worked with the applicant over many years and has formed the view that management failings especially during operating hours has led to many instances of noise nuisance arising from applicants premises. This view is reinforced by the operator's failure to remedy issues in a timely and permanent basis.

39. I have little confidence that if this application is granted in full as applied for the applicant will respond in a satisfactory approach to resolve the inevitable noise complainants the department will receive.

---

Karl Martin



Public Protection Officer  
Torbay Council

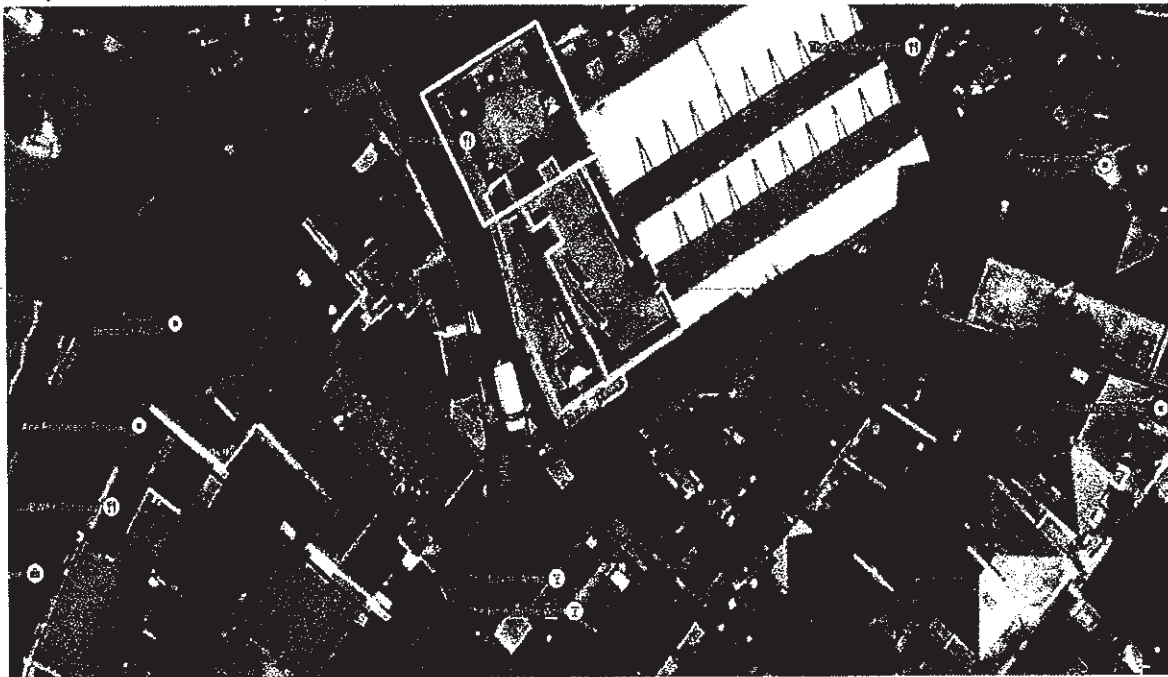
Park Lane Variation application

Appendix 1 --

Existing Smoking area in blue.



Proposed roof terrace in yellow and residential accommodation in red.



## Appendix 2 – Existing Licensing activities and timings

### Premises Open Hours granted

	Time From	Time To
Sunday – Friday	10:00am	3:30am
Saturday	10:00am	4:00am
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:30am

Bank Holiday Sunday - 03.30am finish.

British Summer Time - allow for additional hour when clocks move forward.

### Activities - Times granted

	Time From	Time To
<b>E. Performance of live music (Indoors)</b>		
Monday - Sunday	10:00am	3:00am
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:00am
<b>F. Playing of recorded music (Indoors)</b>		
Monday -Sunday	10:00am	3:00am
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:30am

Bank Holiday Sunday - 02.00 am finish

British Summer Time - allow for additional hour when clocks move forward.

### **G. Performance of dance (Indoors)**

Sunday to Thursday	10:00am	3:00am
Friday	10:00am	3:00am
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:00am

### **H. Entertainment of a similar description to that falling within E, F, or G (Indoors)**

Sunday to Thursday	10:00am	3:00am
Friday	10:00am	3:00am
New Year's Eve	11:00am	3:30am
Christmas Eve	11:00am	3:30am

### **I. Provision of facilities for making music (Indoors)**

Monday	10:00am	3:00am
Tuesday	10:00am	3:00am
Wednesday	10:00am	3:00am
Thursday	10:00am	3:00am
Friday	10:00am	3:00am
Saturday	10:00am	3:00am
Sunday	10:00am	3:00am See below
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:30am

### **J. Provision of facilities for dancing (Indoors)**

Monday	10:00am	3:00am
Tuesday	10:00am	3:00am
Wednesday	10:00am	3:00am
Thursday	10:00am	3:00am
Friday	10:00am	3:00am
Saturday	10:00am	3:00am

	<b>Time From</b>	<b>Time To</b>
Sunday	10:00am	3:00am See below
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:30am

**K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)**

Sunday to Thursday	10:00am	3:00am
Friday	10:00am	3:00am
Sunday	10:00am	3:00am
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:30am

**L. Late night refreshment (Indoors)**

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Monday	11:00pm	2:00am
Tuesday	11:00pm	2:00am
Wednesday	11:00pm	2:00am
Thursday	11:00pm	2:00am
Friday	11:00pm	2:00am
Saturday	11:00pm	2:00am
Sunday	11:00pm	2:00am
Christmas Eve	11:00pm	Midnight
New Year's Eve	11:00pm	Midnight

**M. The sale by retail of alcohol for consumption ON and OFF the premises**

Monday	10:00am	3:00am
Tuesday	10:00am	3:00am
Wednesday	10:00am	3:00am
Thursday	10:00am	3:00am
Friday	10:00am	3:00am
Saturday	10:00am	3:30am
Sunday	10:00am	3:00am
Christmas Eve	11:00am	3:30am
New Year's Eve	11:00am	3:30am





COMMUNITY SAFETY

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80  
Abatement Notice in Respect of Statutory Noise Nuisance

Notice No: 001393/KJM

To: Jam Leisure Limited  
Of: [REDACTED]

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 TORBAY COUNCIL ("the Council") being satisfied of the existence and likely recurrence of a statutory nuisance under section 79(1)(g) of that Act at:

**Park Lane, 1 Torwood Street, Torquay, TQ1 1ED**

within the district of the Council arising from **AMPLIFIED MUSIC EMITTED FROM THE PREMISES AT AN EXCESSIVE VOLUME**

**HEREBY REQUIRE YOU** as the person responsible for the nuisance **FORTHWITH** from the service of this Notice to abate the nuisance and prohibit its recurrence.

If without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be committing an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will liable to a fine not exceeding level 5 on the Standard Scale, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction.

A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance.

If you fail to comply with this Notice the Council may also abate the nuisance and do whatever may be necessary in execution of the Notice.

Signed ..... Dated .....

Mr Karl Martin  
Noise and Licensing Officer  
(Officer Appointed for this purpose)

Name, address and telephone number for all communications: Executive Head, Community Safety, Torbay Council,  
Roebuck House, Abbey Road, Torquay TQ2 5EJ Telephone: 01803 208091

Appeals under section 80(3) of the 1990 Act

- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case:-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates:-
- (i) is a nuisance falling within section 79(1)(a),(d),(e),(f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
- (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
- (iii) is a nuisance falling within section 79(1)(ga) (a) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,
- that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.
- (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of:-
- (i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
- (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
- (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
- (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);
- (h) that the abatement notice should have been served on some person instead of the appellant, being:-
- (i) the person responsible for the nuisance, or
- (ii) the person responsible for the vehicle, machinery or equipment, or
- (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
- (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being:-
- (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
- (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,
- and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being:-
- (i) a person also responsible for the nuisance, or
- (ii) a person who is also owner of the premises, or
- (iii) a person who is also an occupier of the premises, or
- (iv) a person who is also the person responsible for the vehicle, machinery or equipment,
- and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
- (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit:-
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above the court:-
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, where contractual or statutory, of any relevant tenancy and of the nature of the works required, and
- (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

Suspension of notice

- (1) Where:-
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and:-
- (b) either:-
- (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
- (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise
- (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met,
- the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where:-
- (a) the nuisance to which the abatement notice relates:-
- (i) is injurious to health, or
- (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice:-
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
- (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

**Please reply to:** Mr Karl Martin

Community Safety

Roebuck House

Abbey Road

Devon

TQ2 5EJ

---

The Company Secretary

Jam Leisure Limited

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**My ref:** NOU No: 001393

**Your ref:**

**Telephone:** 01803 208010

**Fax:** 01803 208854

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

**Date:** 11<sup>th</sup> August 2011

Dear Sir/Madam

**Section 80 Environmental Protection Act 1990**

**Abatement Notice NOU-001393**

**Park Lane, 1 Torwood Street, Torquay, TQ1 1DL**

As you are aware, this council has been investigating complaints alleging that noise breakout from your premises has been sufficient to amount to a statutory noise nuisance. On the night of the 30<sup>th</sup> of July 2011, between the hours of 11:30 pm – 00:30 am two Officers from this department witnessed, from inside local residential accommodation, noise breaking out from your premises sufficient to constitute a statutory noise nuisance. The noise breakout is mainly in the low frequency region but is clearly audible within nearby residential accommodation.

The enclosed notice requires you to abate the nuisance forthwith from the service of this notice.

If you would like to discuss methods of controlling the noise before you apply them I suggest that you contact me on the telephone number above.

**Should you need to contact us please quote the reference number above.**

Yours sincerely

Mr Karl Martin

---

Noise and Licensing Officer

Licensing and Public Protection



To: **Jam Leisure Limited**  
Of: [REDACTED]

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 TORBAY COUNCIL ("the Council") being satisfied of the existence and likely recurrence of a statutory nuisance under section 79(1)(g) of that Act at:

**Bohemia 41 Torwood Street Torquay**

within the district of the Council arising from **AMPLIFIED MUSIC EMITTED FROM THE PREMISES AT AN EXCESSIVE VOLUME**

**HEREBY REQUIRE YOU** as the person responsible for the nuisance **FORTHWITH** from the service of this Notice to abate the nuisance and prohibit its recurrence.

If without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be committing an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will liable to a fine not exceeding level 5 on the Standard Scale, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction.

A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance.

If you fail to comply with this Notice the Council may also abate the nuisance and do whatever may be necessary in execution of the Notice.

Signed ..... Dated .....

Mr Gareth Fudge  
Senior Environmental Health Officer  
(Officer Appointed for this purpose)

Name, address and telephone number for all communications: Executive Head, Community Safety, Torbay Council, Roebuck House, Abbey Road, Torquay TQ2 5EJ Telephone: 01803 208091

**N.B.** A person served with this notice may appeal against the notice to a magistrates' court within twenty-one days beginning with the date of service of the notice. See the notes on the reverse of this form.

Appeals under section 80(3) of the 1990 Act

- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case:-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
  - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
  - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - (e) where the nuisance to which the notice relates:-
    - (i) is a nuisance falling within section 79(1)(a),(d),(e),(f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
    - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
    - (iii) is a nuisance falling within section 79(1)(ga) (a) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.
  - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of:-
    - (i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
    - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
    - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
  - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);
  - (h) that the abatement notice should have been served on some person instead of the appellant, being:-
    - (i) the person responsible for the nuisance, or
    - (ii) the person responsible for the vehicle, machinery or equipment, or
    - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
  - (i) that the abatement notice might lawfully have been served on some person instead of the appellant being:-
    - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
    - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,and that it would have been equitable for it to have been so served;
  - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being:-
    - (i) a person also responsible for the nuisance, or
    - (ii) a person who is also owner of the premises, or
    - (iii) a person who is also an occupier of the premises, or
    - (iv) a person who is also the person responsible for the vehicle, machinery or equipment,and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- (a) quash the abatement notice to which the appeal relates, or
  - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
  - (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit:-
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above the court:-
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, where contractual or statutory, of any relevant tenancy and of the nature of the works required, and
  - (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

Suspension of notice

- (1) Where:-
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and:-
  - (b) either:-
    - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
    - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
  - (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met,
- the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where:-
- (a) the nuisance to which the abatement notice relates:-
    - (i) is injurious to health, or
    - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice:-
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
  - (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

**Please reply to:** Mr Gareth Fudge  
Community Safety  
Roebuck House  
Abbey Road  
Devon  
TQ2 5EJ

The Company Secretary

Jam Leisure Limited

**My ref:** NOU No: 001245

**Your ref:**

**Telephone:** 01803 208010

**Fax:** 01803 208854

**E-mail:** gareth.fudge@torbay.gov.uk

**Website:** www.torbay.gov.uk

**Date:** 17 December 2010

Dear Sir/Madam

## **Section 80 Environmental Protection Act 1990**

### **Abatement Notice NOU-01245**

**Bohemia Nightclub, 8 Queensway Crescent, Shiphay, Torquay, TQ2 6DH**

I refer to conversations with Mrs Karen Ellicott of my department and her letter dated 22<sup>nd</sup> of September 2010 advising yourselves that complaints have been received. I note from the departments files that complaints about this premises exist on file since 2000.

As you are aware, this council has been investigating complaints alleging that noise breakout from your premises has been sufficient to amount to a statutory noise nuisance. On the morning of the 12<sup>th</sup> of December, between the hours of 00:00 and 03:30, I witnessed noise breaking out from your premises sufficient to constitute a statutory noise nuisance. The noise breakout is mainly in the low frequency region but is clearly audible within nearby residential accommodation on both sides of the premises. At the time of my visits the music breakout was sufficient to cause nuisance when

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Schools and services for children and young people • social care and housing • recycling, waste disposal and clean streets • community safety • roads and transportation • town planning • tourism, harbours and economic regeneration • consumer protection and licensing • leisure, museums, libraries and arts

If you require this in a different **Page 77** language, please contact me.

the main doors were open and closed. The nuisance did not decrease as the morning progressed and was still an issue when I left the area at 03:30

The enclosed notice requires you to abate the nuisance forthwith from the service of this notice.

If you would like to discuss methods of controlling the noise before you apply them I suggest that you contact me on the telephone number above.

**Should you need to contact us please quote the reference number above.**

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Yours sincerely

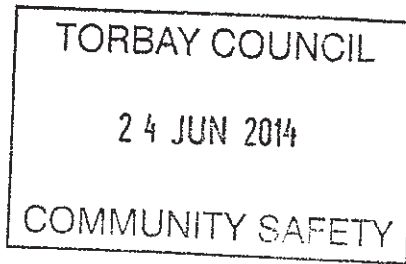
Mr Gareth Fudge

Senior Environmental Health Officer

Licensing and Public Protection



82W 203527



Solicitors

4th Floor  
64 North Row  
London W1K 7DA

Tel: +44 (0)20 7563 1000  
Fax: +44 (0)20 7518 8420  
DX: 42701 Oxford Circus North

www.brecher.co.uk

DATE: 23 June 2014

YOUR REF:

Torbay Council  
Licensing and Trading Standards Service  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR  
FAO: Mandy Guy, Licensing Officer

Via email on 23 June  
mandy.guy@torbay.gov.uk

OUR REF: RL/M30-29

Dear Mandy

**Representation/Objection in Respect of Variation Licence  
Park Lane 1 Torwood Street Torquay TQ1 1ED**

Please find attached an objection/representation in respect of the above Variation Licence application made by Jam Leisure (Park Lane) Limited to their existing premises licence in respect of Park Lane, 1 Torwood Street, Torquay, Devon. The objection enclosed is submitted on behalf of the parties and persons named in section 1 of the document.

Please can you keep me informed in respect of the committee date for hearing this Variation Licence. I understand at present this matter is scheduled for licensing committee on 17 July at 9pm. Could you also forward a copy of the committee report once it has been prepared and published in advance of the committee date.

Please do not hesitate to contact me if any further information is required.

Yours sincerely

  
**Brecher Solicitors**  




PARTNERS Andrew Brecher, Valerie Brecher, Jeremy Abram, Nicky Richmond, Michelle Brown, Redmond Byrne, Bradley Lee, Gillian Locke, Lisa Mantle, Michael Nee, Janice Northover, Bryn Robertson, George Saade, Belinda Solomon, Victoria Symons, Dominic Whelan.  
SENIOR CONVEYANCER Anita Michaelides.

**OBJECTION TO VARIATION LICENCE**  
**THE PARK LANE 1 TORWOOD STREET TORQUAY TQ1 1ED**

1. Objectors:

- a. [REDACTED] 1 name  
[REDACTED]
- b. [REDACTED] 2 names
- c. [REDACTED] 4 names  
[REDACTED]
- d. [REDACTED] 1 name

2. Variation Licence Application submitted by Jam Leisure (Park Lane) Limited to their existing Premises Licence in respect of Park Lane, 1 Torwood Street Torquay Devon TQ1 1ED for an application to vary the existing licence by reference to a plan to include an additional licensed area of the premises consisting of the roof top terrace (roof space at front of the building as a beer/smoking garden). It is suggested from the application as submitted, that this terrace could accommodate up to 100 people and be open during the operational hours of the premises till 3/4am, including playing amplified/ live music. ]

3. Grounds of Objection

We object to this application on the grounds of the detrimental impacts of noise and disturbance, potential smell for cigarettes, light intrusion that the use of an outdoor elevated area used in the late evening/early hours of the morning in close proximity to the residential flats at Queens Quay will cause.

Both Queens Quay and Park Lane are located within a mixed land use area. Most properties along Victoria Parade have commercial premises on the ground floor and residential or other uses at the upper floor levels of the buildings.

Queens Quay consists of commercial premises on the ground floor with residential flats above. Some of these residential flats are occupied full time by residents and others are used as holiday lets. Additionally further residential units are to be built at Queens Quay. The positioning of the buildings and the residential flats are in extremely close proximity to the Park Lane premises. Residents should expect a reasonable level of quiet and enjoyment in their homes particularly at the hours of the evening/early morning when residents should be able to sleep without interruption from external noise sources.

Park Lane is predominately an evening/early hours of the following morning club/venue. The Park Lane premises falls within the Cumulative Impact Area (CIA) as set out in Appendix 1 of Torbay Council's Licensing Statement of Principles 2011. The special saturation policy for the CIA area states "that a variation of an existing premises licence would normally be refused, where it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in the area,

*unless the applicant can demonstrate within their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives”.*

Extending the Park Lane premises activities to an elevated open area of the building (terrace) would be contrary to the guiding principles as set out in Torbay Council's Licensing Statement of Principles. In particular the use of the terrace area into the evenings would not promote the licensing objectives in respect of the prevention of public nuisance, public safety and the prevention of crime and disorder.

The grant of the licence variation would be contrary to paragraph 3.3 the Prevention of Public Nuisance a) (i) of the Licensing Principles in that the proposal would not prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. The measures in place under the current licence for sound proofing, sound limitation devices etc. cannot be used to control noise in an outside area. Even if music played on the terrace itself is low volume, noise travels and how will noise from the nightclub be contained if the door to the terrace area is constantly being opened? We fail to see how noise including any amplified music and human voices could be contained adequately in an open elevated area to not cause a nuisance to residents and occupiers of Queens Quay. The application needs to consider the potential for nuisance on both residential and holiday let accommodation at Queen Quays.

We note the contents of report on predicted noise levels from Acoustic Consultants Ltd dated 29 April 2014 but feel that this report contents and predictions need to be approached with a great deal of caution. The consultants have used drawings supplied for the proposed new roof terrace. Both the acoustic report and drawings are part of the planning application (not yet determined) (ref: 2014/0530) for the use of the roof area as a terrace. The reported monitoring measurements of noise levels was drawn from a single evening's sample recorded outside Park Lane during the night of 29/30 March 2014. We do not accept that this is a realistic basis to predict noise levels from the rooftop terrace at any time, but especially not during the summer months when local hotel occupation is greatest and residents will want to open windows, making vulnerability to noise nuisance all the greater.

The noise level measured by Acoustic Consultants Ltd was generated by smokers going outside for a quick cigarette on a chilly March night; it's highly unlikely that non-smoking friends would have joined them or that they would linger outside of the premises. Under the proposals however, things will be very different as tables, chairs and music would be provided on the terrace, not only encouraging smokers to stay out longer but also making it likely that non-smoking members of their group will come out with them, enjoying drinks and a break from dancing. We would as a result expect to find a much larger number of people on the terrace in warm weather, for much longer, than on the street in March.

A further cause for concern is that all the people on the terrace will have come directly from inside the nightclub premises playing loud music; they will inevitably have a tendency to shout as a result, something exacerbated by alcohol consumption. The noise from neighbouring conversations would have a cumulative effect, causing people to talk even louder, something witnessed inside any busy public place.]

The harbour side within the Cumulative Impact Assessment area is well documented for being an area where there are problems and the potential for problems associated with drinking of alcohol particularly in the evenings/early morning . The area is also an area where there can be issues associated with the activities from late night venue premises including the Park Lane in respect of public safety. The variation application is

also not in accordance with the licensing objectives in respect of the prevention of crime and disorder and the promotion of public safety.

The company that managed the holiday lets in Queens Quay on our behalf have reports from guests who have stayed in the apartments that there have been detrimental effects on their stay due to noise and disturbance in the area particularly in the late evening/early hours of the morning.

A predominately late night venue such as the Park Lane should have to adhere to its current licence requirements that restrict activities performance of live music, recorded music, dance, other entertainment of a similar description, facilities for making music and for dancing and entertainment to within the internal areas of the building where appropriate measures allow the activities to be properly controlled in accordance with the Licensing objectives.

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#### 4. Conclusion

The application to vary the licence should be refused. The application is contrary to the guiding principles as set out in Torbay Council's Licensing Statement of Principles. In particular the use of the terrace area into the evenings would not promote the licensing objectives in respect of the prevention of public nuisance, public safety and the prevention of crime and disorder.

**Brecher Solicitors**

**23/6/14**

~~3 Park Lane~~

~~Leaze 07476432706~~

[Redacted]

Ref. Licensing Application

Dear Sir/Madam,

R.E. Planning Permission for Outside smoking Terrace at Park Lane, Torwood Street

TORBAY COUNCIL  
23 JUN 2014  
COMMUNITY SAFETY

We and the neighbours of Park Lane, Torquay are writing to you to formally object to the Planning request for the above mentioned premises. Please find below our reasons /concerns regarding this...

- (i) We object to music being permitted on the smoking terrace due to Park Lanes Music volume already being at an unacceptable level until all hours of the morning. Having music in the outdoor smoking area will only exasperate this.
- (ii) The people capacity of the premises is already at a very high level with many of their customers spilling out on to the streets and up to park Lane. This spillage causes a major concern for residents in the lane due to noise levels and unacceptable behaviour which results in the police being called on a regular basis.
- (iii) We understand that the smoking shelter will deter people off of the street/Lane but Capacity will be increased and therefore smoking shelter and lower outside area will still continue to be used due to the high volume in customers. In recent weeks the police have been called to the Lane due to unacceptable and threatening behaviour by users of this club, this has now caused a major distress to many of the residents in the lane.

We would further like to add that responsibility needs to be taken by the owners of Park Lane in ensuring that serious measures are taken to protect and respect the residents who reside here and have to endure night after night shouting, noise and abuse which only continues to worsen coming into the busy summer months. Most of us who live in the lane have experienced criminal damage to our possessions and intimidation from customers of this venue. Serious action needs to be taken before any more planning permission is granted to this premises.

Please find attached a petition from residents who reside in and around Park Lane Nightclub who object to this Planning application.

We await your response,

Petition attached with  
20 Signatures

Yours Sincerely,

[Redacted signature]

TORBAY COUNCIL  
19 JUN 2014  
COMMUNITY SAFETY

19 June 2014

The Offices of the Executive Head of  
Community Safety,  
Torbay Council  
Roebuck House, Abbey Road  
TORQUAY  
Devon, TQ2 5EG

Dear Sirs

**Re: Application by Jam Leisure (Park Lane) Limited,  
Park Lane, 1 Torwood Street, Torquay, TQ1 1ED.**

We write to make the following representations against the application which has been submitted pursuant to the Licensing Act 2003 to vary the above named premises licence.

We write as Lifestyle Hospitality Group Ltd, the parent company of Cafe Mambo and the Apple and Parrott Public House situated on the Harbourside, Torquay.

As local business owners who operate in the vicinity of the premises which are subject to the application we make these representations to oppose the granting of the variation as it presently stands.

We do not do so for any commercial reasons but rather because the conditions which are attached on the numerous licenses in the Harbourside area are key to ensuring that the area remains a safe place for members of the public to go out and enjoy themselves in the evening without detriment to local residents.

In particular, having experience of a premises which has a roof terrace and a terrace at first floor level, we note in particular that the applicant seeks no alteration to their conditions which are presently attached to the licence in order to deal with the different issues which will foreseeably arise should the application be granted.

We have not had the benefit of the acoustic report which we understand has been prepared for the committee. We appreciate that it will be a matter for the committee to decide as to whether or not issues concerning noise nuisance may well arise as a result of any variation being granted.



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However, you will note by way of illustration conditions which are presently attached to our licence in order to uphold the licensing objectives. In particular the conditions attached to the use of our terrace in order to prevent noise nuisance, these conditions have been successful in assisting us to uphold the licensing objectives. Therefore it seems evident to us that the application as presently drafted does not adequately seem to reflect or deal with the issues that specifically arise in the use of a terrace, especially given the proximity of the terrace to adjacent residential properties.

The committee will be aware that the application is within an area subject to the cumulative impact policy established by Torbay Council. That being the case, you will no doubt be advised that there is a rebuttable presumption that any variation which is not deemed to be a minor one will be refused unless the applicant can show by their operating schedule that they are prepared to accept conditions which will ensure that the licensing objectives are in no way impinged.

As presently drafted, the application merely seeks to extend the existing conditions to that of a roof terrace.

We believe that the failure by the applicant to consider conditions which can be imposed to deal with the issue of the roof terrace can only lead to the conclusion that the application is flawed.

The fact that the application does not seem to appreciate the different manner in which a roof terrace needs to be operated, in our experience shows that they have not addressed their minds to the issues which open air drinking at height will have.

Furthermore there is no consideration given by the applicant to limiting the numbers of patrons who they anticipate will be able to use the terrace. This has been a key consideration for us in upholding the licensing objectives and no doubt the effective use of limitation of numbers through conditions attached to a licence should equally apply to this application as it does to our existing licence.

Presently the applicant is subject to a condition in relation to SIA Door Stewards which merely deals with matters concerning an overall ratio of stewards on duty.

We are only too aware, and no doubt the committee will appreciate, that open air drinking at height can cause its own difficulties and therefore such an area needs to be specifically stewarded as outlined in the conditions which we have upon our licence.

As presently drafted, the application would allow no particular increase in SIA Door Staff but more importantly no adequate supervision of the roof terrace because



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the conditions do not allow for there to be specific supervision of the terrace at all times whilst it is being used.

The fact that the applicant appears not to have considered this in their application, we submit also shows that they have failed to discharge the burden which is required in this application.

By way of example, and appreciating that each application needs to be dealt with on its own merits, we respectfully refer the committee to the conditions which are attached to our licence which reflect the fact that when one is dealing with a relatively old building and where there are stairs, different levels and different areas for the consumption of alcohol then specific attention needs to be addressed within the conditions to ensure that all patrons are properly supervised. A general 1:100 ratio is not specific enough. In order to uphold the licensing objectives staff need to be properly deployed in a consistent manner throughout the premises in order to deal with any issues as and when they arise.

The nature of a roof terrace creates its own problems and in particular concerning the conduct of customers which if not dealt with swiftly and under supervision can lead to an undermining of all four of the licensing objectives.

In this representation we do not seek to suggest the sort of conditions which ought to be applied to the premises, and no doubt the committee will wish to look in detail at the layout of the premises and the opportunity to ensure that the patrons at all times are supervised and safe.

However, by way of illustration we refer you to our premises licence at 652 of the Public Register which in particular not only deals with the number of SIA qualified staff but also where they should be positioned at the premises at certain times in order to ensure that the licensing objectives are upheld.

We therefore invite the committee to reject the variation on the basis that the applicant has not discharged their burden and alternatively should the committee be minded to grant the variation they do so by imposing specific conditions which will ensure the adequate supervision of all patrons of Park Lane.

Furthermore we submit that it would be appropriate in considering the need to uphold the licensing objectives to assess and apply conditions that would limit the use of the outdoor area to specific times; limit activities to smoking rather than drinking to specific hours; limit the number of patrons who are allowed onto the balcony; distinguish between those seated and standing; restrict the hours music can be played and establish control mechanisms for the control of numbers throughout the premises and on the balcony in particular.'



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We raise these issues in particular because of the need for all businesses to take their responsibilities seriously. Due to the fact of there being two roof terrace areas for the conduct of licensable activity potentially arising around the harbourside.

We submit that it is important that the local authority, in considering enforcement, is able to direct its attentions to where mischief is actually made as opposed to where it is perceived. This will ensure that all premises on the harbourside act according to the spirit as well as the letter of the law in this regard.

Yours faithfully



For and on behalf of  
Lifestyle Hospitality Group Ltd



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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 24 June 2014 10:02  
**To:** [REDACTED]  
**Subject:** FW: Park Lane objection  
**Attachments:** Queens quay windows - left.jpg; park lane proposed outside area 2 from queens quay.jpg; park lane proposed outside area from queens quay.jpg; park lane to the right of queens quay window.jpg

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**From:** [REDACTED]  
**Sent:** 15 June 2014 23:10  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Park Lane objection

Dear [REDACTED]

On Friday 13th June, we had a different set of busker /singers out, also heavy base music around the harbour, which I do not believe was offshore or shiraz. I noticed these venues regularly have all the chairs outside which does cause street noise until they appear to close ie, midnight, 1am. I believe by video evidence gave previously which was timestamped did show this.

[REDACTED]

Karl, could you forward the below revised representation for Park Lane, objecting to the opening of Park Lane roof top to 100 people, with alcohol and no doubt music.

Since we have lived at Queens Quay, from 2010, we have had numerous problems with associated premises in the harbour area, which are well documented by the council licensing committee, with many abatement notices being served, these include Park Lane, Mambos, and Shiraz.

The noise breakouts and continued problem put us off, and neighbours who have holiday rental from coming to Torquay due to the noise created from venues that are generally poor at dealing with noise breakout, and dealing with the foul mouthed shouting and chanting from 9pm until 4am, seven days a week.

To name a few problems that have led to action:

Noise from subway, resulting in signs being put up to respect the neighbours

Apple and Parrot, outside and bands, which resulted in abatement notice being served

Street noise from Trents and Park Lane, Trents now closed, Park Lane improved as smoking is not allowed in foyer area.

Music from Park Lane (exits the rear of the building and enters through the back of the apartments) - abatement notice was served - I have enclosed pictures showing the proximity.

Shiraz / Offshore live bands and pavement street noise - resulting in abatement notices being served and ongoing actions

Mambo - resulted in licence suspension due to noise, violence and inappropriate behaviour, the balcony areas where then reduced in times allowed for alcoholic beverages, with the top floor only allowed to open until 11pm.

I am unsure how many people spot these licence applications, but generally as neighbours are not written to, one has to keep checking the council website to see who is applying for what.

Living at [REDACTED] on a noisy night of venues breaking their licence conditions and not dealing with noise breakout, which in turn makes a noisier street, impacts us in the following way:

1) Sleep deprived, so a stay of 2-3 days means can be very tired, and then driving to work during the week very Hazardous, which ultimately puts us off staying along with other rental customers, affecting revenue, and enjoyment of the property, impacting spend brought into Torquay for shopping, restaurants etc

2) Most nights there is a disturbance of some sort, within the harbour

3) The council will be used our previous noise diary for Mambo before they were eventually shut down with tighter conditions before re-opening, where every weekend there would be a disturbance of some sort. I see Park Lanes proposal to be bigger and alot closer.

4) The licensing commitee needs to consider The harbour is in a mixed use area, of restaurants, holiday lets, residents, and clubs, and any decision should be consistent with the surrounding environment.

5) Imagine the noise of 100 people in a restaurant, but then multiplied by alcohol and potential music, within 20-30ft of your bedroom window. I have enclosed pictures to get the point across of how close, please be aware there are flats right next to Park Lane, and the proposed development of the rear of Queens Quay.

6) The venue, advertises on facebook as a 12am - 4am venue, outside places in other places such as cities in mixed areas are closed by 10/11pm at the latest, even so why would I want to eat my dinner with 100 people next door in an open area, with the potential to see in the windows, and the noise breakout.

7) Given we are in cummulative impact area, any expansion of facilities should be resisted, and the correct balance be given to residents, holiday makers, cafe culture etc. I do not see how a roof top until 4am fits within the town plan

8) I see this as an over-development of a premises, in which it looks like some works has already started.

9) Lets be clear the harbour gets rowdy behaviour during the day, how will any disturbances be managed.

10) the area looks very small for 100 people

Please note I do not have an objection for a seated eating area during the day time, as long as noise breakout, rowdy behaviour is managed effectively, ie licence for 20-30 seated, closing 5-6pm no music.

[REDACTED]

Best Regards

[REDACTED]







