



Wednesday, 1 July 2015

LICENSING SUB-COMMITTEE

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

Thursday, 9 July 2015

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 Doggett

Councillor Manning

Councillor Thomas (D)

Working for a healthy, prosperous and happy Bay

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

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

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 1 - 3)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 25 June 2015.
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 Review of a Premises Licence for Shiraz, 2 Vaughan Parade, Torquay TQ2 5EG** (Pages 4 - 105)
To consider an application for a Review of a Premises Licence for Shiraz, 2 Vaughan Parade, Torquay TQ2 5EG.



Minutes of the Licensing Sub-Committee

25 June 2015

-: Present :-

Councillors Cunningham, Ellery and Manning

(Also in attendance: Councillor Thomas (D))

6. Election of Chairman/woman

Councillor Manning was elected as Chairman for the meeting.

7. Minutes

The Minutes of the meeting of the Sub-Committee held on 5 June 2015 were confirmed as a correct record and signed by the Chairman.

8. Licensing Act 2003 – An application for a Premises Licence in respect of The Dressed Crab, Vaughan Parade, Torquay TQ2 5EG

Members considered an application for a Premises Licence in respect of The Dressed Crab, Vaughan Parade, Torquay TQ2 5EG.

The Premises fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation received in respect of the Licensing Objectives 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance.'	1 June 2015

Members noted there have been no additional Representations received from any other Responsible Authority or any Interested Party.

Members also noted that in the Written Representation of the Police that as a Responsible Authority they had not been consulted prior to the submission of the application, as per the Licensing Statement of Principles, Torbay Council 2011, Section 3 Page 15.

The Senior Licensing Officer advised Members that the Police Licensing Officer had corresponded with the Applicant who confirmed that they agreed to adhere to the proposed conditions, as per the submitted report, and therefore would not be attending the hearing.

Oral Representations received from:

Name	Details
The Applicant	The Applicant outlined the application, as set out in the submitted documents, confirmed their acceptance of the proposed conditions out forward by the Police and responded to Members questions.

Decision:

That the application for a Premises Licence in respect of The Dressed Crab, Vaughan Parade, Torquay TQ2 5EG be granted as applied for, subject to the proposed and agreed conditions.

Reason for Decision:

Having carefully considered all the oral and written Representations, Members resolved to grant the licence having been satisfied that the conditions proposed by the Police would seek to promote the Licensing Objectives.

In addition, Members were assured that the granting of this Application would not add to Crime and Disorder and/or Public Nuisance and therefore saw just reason to depart from its Policy.

9. Licensing Act 2003 – An application for a Premises Licence in respect of Kids Party Room, 31 Abbey Road, Torquay TQ2 5NQ

Members considered an application for a Premises Licence in respect of Kids Party Room, 31 Abbey Road, Torquay TQ2 5NQ.

The Premises fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Interested Party	Representation received in respect of the Licensing 'The Prevention of Public Nuisance.'	June 2015

Members noted there have been no additional Representations received from any Responsible Authority or any Interested Party.

The Senior Licensing Officer advised Members that the Interested Party had returned their Notice advising that they would not attend the Committee hearing.

Oral Representations received from:

Name	Details
The Applicant	The Applicant outlined the application, as set out in the submitted documents and responded to Members questions.

Decision:

That the application for a Premises Licence in respect of Kids Party Room, 31 Abbey Road, Torquay TQ2 5NQ be granted as applied for.

Reason for Decision:

Having carefully considered all the written and oral Representations, Members resolved to grant the licence having taken into consideration the concerns raised by the Interested Party in their written Representation and the measures to be put in place by the Applicant, in that the recorded music volume level will be limited so as not to cause a nuisance to the residents situated above the premises. In doing so, Members were satisfied that the Licensing Objective, namely the Prevention of Public Nuisance would not be undermined.

Should issues arise as a result of this grant, Members noted that the Interested Party could seek a Review of this premises licence.

Chairman

Agenda Item 6



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

Title: Licensing Act 2003 – An application for a Review of a Premises Licence for Shiraz, 2 Vaughan Parade, Torquay TQ2 5EG

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee** On: **9th July 2015**

Contact Officer: **Mandy Guy**
☎ Telephone: **01803 208293**
✉ E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of a Premises Licence. The Premise is situated within 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 Public Nuisance” and “The Prevention of Crime and Disorder”.
- 1.4 The Authority must hold a hearing to consider the application and any relevant Representations.

The Authority must, having regard to the application and any relevant Representations, take such of the steps as detailed below, if any, as it considers necessary for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

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

If the licence is subject to sections 19, 20 and 21 (requirement to include certain

conditions in Premises Licences) they remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

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

2. Introduction

- 2.1 An application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above. Details of the application are shown in Appendix 1.

A brief description of the Review is as follows:

Matters relating to the Licensing Objective “The Prevention of Public Nuisance” have been brought by Torbay Council’s Licensing and Public Protection Team.

A copy of the current plan that is attached to Premises Licence is shown in Appendix 2. (A copy of the Premises Licence has been included in the additional information provided by the Applicant to support the Review Application).

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the application has been properly made, that the Applicant is a Responsible Authority and that the administrative requirements of Section 51(3)(a) and (b) have been met and that the Representation has not been subsequently withdrawn and is not vexatious, frivolous or repetitious.

We have received a Representation 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 an Interested Party in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 4.

The Solicitor acting on behalf of the Premises Licence Holder has submitted a Representation in response to the Review. This is shown as Appendix 5.

The Applicant has submitted some additional evidence to support the Review Application. This is shown as Appendix 6.

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

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 52(2).
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.5 Once the matter is determined, a Right of Appeal to the Magistrates’ Court is

granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-

- (a) the Applicant for the Review,
- (b) the holder of the Premises Licence, or
- (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have affect until the Appeal is either determined or withdrawn.

- 2.6 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 an order as to costs as it thinks fit.

Frances Hughes
Assistant Director (Community and Customer Services)

Appendices

Appendix 1	Details of the application for Review
Appendix 2	A copy of the plan of the Premise
Appendix 3	Representation from the Police
Appendix 4	Representation from an Interested Party
Appendix 5	Representation from the Licence Holders Solicitor
Appendix 6	Additional evidence from the Applicant to support the Review Application.

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

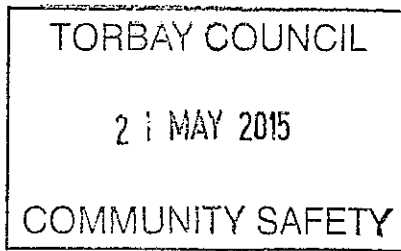
Documents available in members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2011.



LICENSING ACT 2003

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

NOTIFICATION

Information held by Torbay Council complies with and is held in accordance with the UK Data Protection Act 1998. The information that you provide on this form will only be used for this application form and will only be disclosed where necessary under any applicable legislation.

Information may also be shared for the prevention and detection of crime, for example with the police and other agencies as required by law, such as the Audit Commission under the National Fraud Initiative data matching exercise.

You have a right of access to your personal information. If you wish to access your personal information or exercise any of your rights under the legislation then please contact Torbay Council's Information Governance team on 01803 20 7467. Further information can be found on the Information Governance pages on Torbay Council's Internet site at, www.torbay.gov.uk

Completed forms should be returned to:

**Environmental Health Manager (Commercial)
Torbay Council
Community Safety
C/O Torquay Town Hall
Castle Circus
Torquay
TQ1 3DR**

Contact Details:

Tel: 01803 208025

Web: www.torbay.gov.uk

Email: licensing@torbay.gov.uk

**Application for the review of a premises licence or club premises certificate
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 KARL MARTIN – PUBLIC PROTECTION OFFICER, TORBAY COUNCIL

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
SHIRAZ 2 VAUGHAN PARADE	
Post town TORQUAY	Post code (if known) TQ2 5EF

Name of premises licence holder or club holding club premises certificate (if known) Mr Mohammed Javadi

Number of premises licence or club premises certificate (if known) PL0415

Part 2 - Applicant details

I am Please tick ✓ yes

1) an individual, body or business which is not a responsible authority
(please read guidance note 1, and complete [A] or [B] below)

2) a responsible authority (please complete [C] below) ✓

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address KARL MARTIN PUBLIC PROTECTION OFFICER LICENSING AND PUBLIC PROTECTION TORBAY COUNCIL CASTLE CIRCUS TORQUAY TQ1 3DR
Telephone number (if any) 01803 20 80 25
E-mail address (optional) KARL.MARTIN@TORBAY.GOV.UK

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

The licensee despite being offered advice and guidance by Officers of Torbay Council and Devon and Cornwall Police Constabulary, continues to woefully disregard the Licensing Act and its objectives and by doing so the licensee is undermining the licensing objective the 'Prevention of public nuisance'.

In making this application in the capacity as the designated responsible authority for public nuisance the following are stated as grounds for a review of premises licence number PL0415:-

1. The licensee is creating a public nuisance by knowingly allowing live performers to play music at a volume that is unreasonably disturbing nearby resident's wishing to benefit from their entitlement to quiet and peace.
2. In allowing the above the licensee breaches several conditions of licence number PL0415 further undermining the licensing objective 'The Prevention of Public Nuisance'.
3. The licensee regularly positions tables and chairs outside of the licensed area for the purpose of consuming alcohol by patrons and thereby breaching a further condition of the licence.

Please provide as much information as possible to support the application (please read guidance note 3)

The following is a brief outline of the key events and interventions by Torbay Council. A detailed chronology and supporting information will be served on Torbay Council Principle licensing Officer within the 28 days consultation period:-

1. Shiraz is a licensed bar situated on Vaughan Parade, Torquay harbour. This location is within the Cumulative Impact Area and at the centre of the night time economy area.
2. The premise is only licensed for sale of alcohol on and off the premise and late night refreshment on and off the premises between the hours of 9:00am 2:30am 7 days a week.
3. The premises benefits from the deregulation of live music under The Live Music Act 2012 only if live music is performed to an audience of no more than 500 people between the hours of 8:00am and 11:00pm.
4. On April the 6th 2015 recorded music was deregulated in line with live music.
5. July 2011 Shiraz identified as one of a number of premises in the harbour area creating noise breakout from within the premises. Licensee written to giving advice and asking for co-operation.
6. Throughout the summers of 2011/12 a single complainant made occasional references to recorded music breaking out of Shiraz on Saturdays nights. Licensee advised he was not licensed for live music or recorded music (at the time). It was noted licensee allowed live music in the cafe permit area. Torbay Council Highways department informed, whom have enforcement responsibility for cafe permits.
7. September 2012 licensee submitted a minor variation to include live and amplified music but his Environmental Protection objected to the application and the minor variation application could not proceed. By the time the premises reopened after winter break live music had been deregulated.
8. February 2013, complaint received from a member of the public about live music outside of the premises on Sunday afternoons. Licensee written to giving advice and warning regarding the use of speakers in the street.
9. July – December 2013 numerous complaints from residents and reports from licensing officers during late night visits referring to live music being played after 11:00pm for which there is no permission on the licence. Additionally for the first time the authority received reports of live music causing a nuisance on Sundays afternoons
10. A number of visits made to the premises to speak with Licensee and DPS, throughout the time period above. This included an invitation to Mr Javadi to attend the Council offices for a more formal conversation. A number of letters to licensee were sent offering advice and warning of the consequences if the situation continues. Information about breeches of the cafe permit passed to Torbay Council highways department for their consideration.
11. May 2014 bank holiday department received a number of complaints from residents and a neighbouring business concerning the volume of live music from Shiraz and another venue know for live music. From accounts it appears the two businesses engaged in a self-indulgent competition of who could play music the loudest.
12. A Torbay Council officer observed the noise coming from Shiraz during this event and confirmed the music was excessively loud and provided a witness statement to the effect. On consideration of the evidence gathered it was decided the activities of Shiraz would be causing a statutory nuisance if

Officers were able to witness the music from within a resident's home or business.

13. As a result a noise abatement notice was served under sec 80 of the Environmental Protection Act 1990 under likely occurrence. Two notices served, one for the inside area and one for the external licensed areas. Information was passed to the highways department for their consideration regarding music being played in the cafe permit area.
14. The rest of the summer into winter 2014 the department received the occasional reports the licensee was still allowing musician to perform live music in the external area at the front of the premises. No further complaints were received by the department until December 2014.
15. December 2014 a diary sheet received from a member of the public again referring to the excessive volume of live music from Shiraz, namely on Sunday afternoons. Licensee written to reminding him of his obligations under the Licensing Act and the Environmental Protection Act 1991. Premises closed for January.
16. March 2015, complaint received from a neighbouring business regarding the volume of music from live performances in the cafe permit area at Shiraz.
17. In April – May 2015 a steady trickle of complaints from residents was received by Torbay Councils licensing department all stating live music outside Shiraz in the cafe permit area was unreasonably loud and preventing them from enjoying the peace and quiet of their homes.
18. During the same period Torbay Council Officer visited the harbour area on two separate occasions by two separate officers.
19. On both occasions Officers witnessed excessively loud music emanating from musicians performing live music and recorded music at Shiraz. On the first occasions the Officer was unable to assess a resident's home to witness breach of the abatement notice. However the officer noted the music would clearly be heard at a unreasonable volume had the officer been in a resident's home. The officer noted tables and chairs outside the cafe permit area and patrons consuming alcohol.
20. On the second occasion an Officer was able to witness statutory nuisance and confirmed breach of the abatement notice in the home of a resident. The Officer in addition witnessed patrons sat at tables outside the licensed area consuming alcohol. The Officer addressed the matter with the Mr Javadi, who turned the music off and removed the table and chairs positioned outside the licensed area approximately 30 minutes later.
21. No further reports received by the department regarding music or the use of unlicensed areas until mid May when the department started to received complaints about excessively loud music on Sundays afternoon/evenings including reports of the unlicensed areas being used for the consumption of alcohol.
22. On the 20th of May 2015 two Officers whilst performing other duties noted the licensee had again positioned tables chairs in an unlicensed area for the purpose of allowing patrons to consume alcohol.
23. The licensee has no regard for residents living in the vicinity or indeed other businesses trying to make a living around the harbour area. Despite plentiful advice and guidance, the licensee Mr Javadi, continues to undermine the licensing objectives and regrettably this review is necessary.

Have you made an application for review relating to the premises before

Please tick ✓ yes

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to the premises please state what they were and when you made them

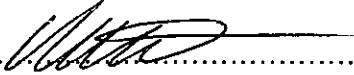
Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date 21ST May 2015

Capacity Responsible Authority

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

See section C for details.

Post town

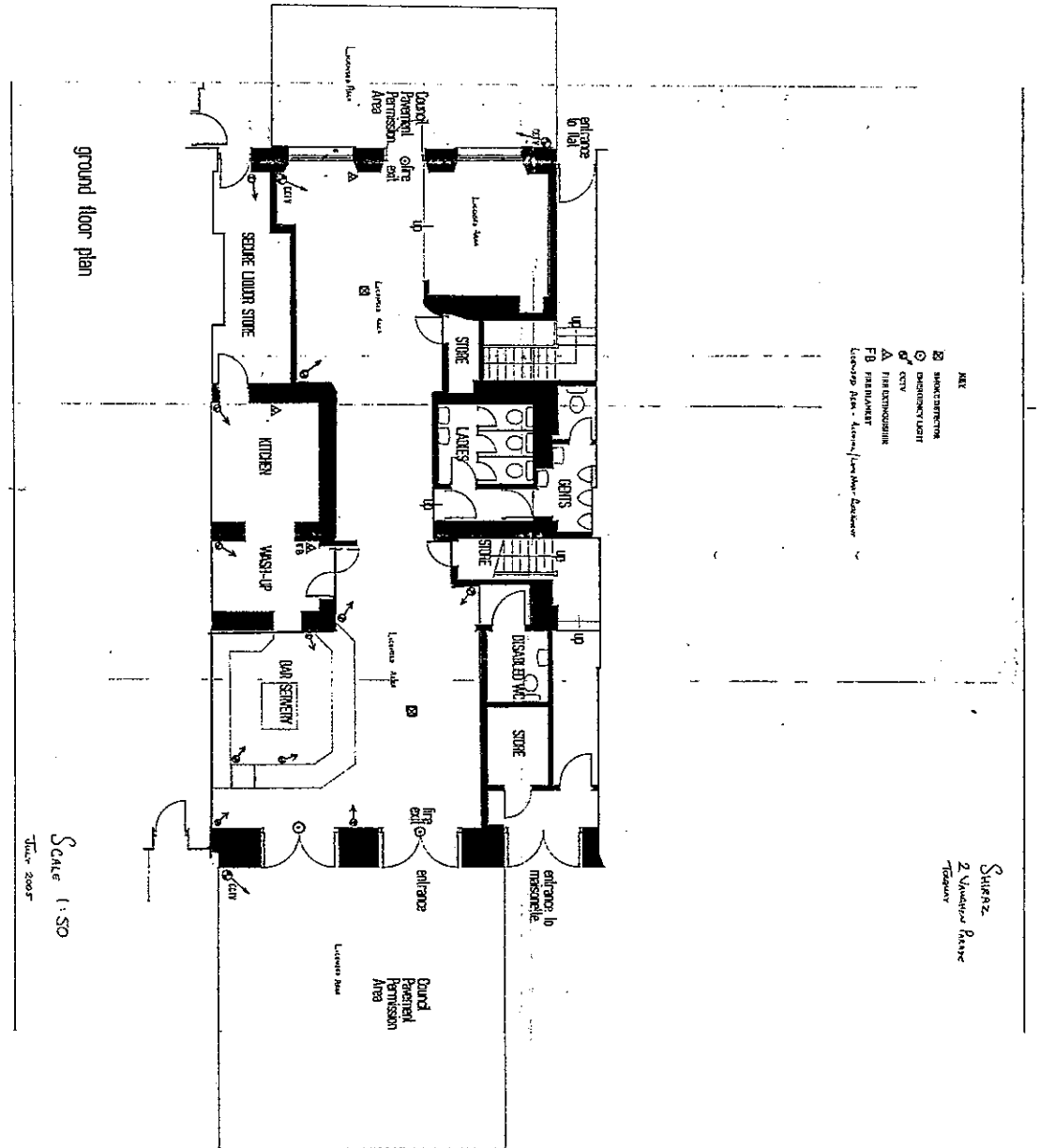
Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



Agenda Item 6

Appendix 3



Devon & Cornwall Police

Building safer communities together

Licensing Department
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: 01803 218900

4 June 2015

Dear Sir/Madam

Shiraz, 2 Vaughan Parade, Torquay, TQ2 5EF

I refer to the above premise and an application for the Review of the Premises Licence, submitted by Mr Karl Martin, Public Protection Officer of Torbay Council, in relation to the licensing objective the prevention of public nuisance.

This premise is situated within the Torbay Council Cumulative Impact Area, which has been identified as an area subject to high levels of alcohol related crime, disorder, anti-social behaviour and public nuisance.

Mrs Smart, my Police Licensing Officer, has researched all crime records and logs in relation to the premises and I am satisfied that the premises are adequately meeting the licensing objective the prevention of crime and disorder.

However, Mrs Smart has advised me that during the last 12 months she has identified breaches of the Pavement Cafe Permit at Shiraz on 4 occasions and despite receiving a letter from myself, a leaflet by your Highways Department and verbal advice from Mrs Smart and various members of staff from the Torbay Council Licensing Department, the Premises Licence Holder, Mr Javadi, does not appear to take any action in respect of advice given to him.

Furthermore, the premises licence in respect of Shiraz contains a condition restricting the consumption of alcohol to the premises and the Pavement Cafe Permit area. Whilst we do not have evidence that this condition has been breached, Mrs Smart informs me that it is highly likely that Mr Javadi is regularly committing an offence under Section 136 of the Licensing Act 2003.

julie.smart@devonandcornwall.pnn.police.uk



www.devon-cornwall.police.uk

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The Government Standard

Mrs Smart has made a statement concerning her observations in respect of Shiraz and this, together with photographs she has taken, is attached for your consideration at the Review hearing.

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

Yours faithfully

A handwritten signature in black ink, appearing to be 'G Mayhew', written over a horizontal line.

Superintendent G Mayhew
LPA Commander

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of **Julie Karen SMART** URN:

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Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Licensing Officer**

This statement (consisting of:~~3~~² pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: J K Smart.......... Date: 04/06/15

Tick if witness evidence is visually recorded (supply witness details on rear)

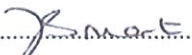
I am a Police Licensing Officer for the Devon and Cornwall Constabulary, stationed at Torquay, and I have held this position for the approximately 6½ years.

I am making this statement in relation to an application for the Review of the Premises Licence in respect of a premise known as Shiraz, 2 Vaughan Parade, Torquay, which has the benefit of Premises Licence PL0415 issued by Torbay Council. This application has been submitted by Mr Karl Martin, Public Protection Officer of Torbay Council, in relation to the licensing objective, the Prevention of Public Nuisance.

The Premises Licence Holder and Designated Premises Supervisor of Shiraz is Mr Mohammed Javadi and he has held this position since the premises licence was granted in November 2005.

Shiraz also has the benefit of a Pavement Cafe Permit issued by Torbay Council, which authorises the management of the premise to place tables and chairs on the highway for the consumption of food and drink by customers.

Vaughan Parade is located within the Torbay Council Cumulative Impact Area, and in basic terms this means that under the Licensing Act 2003 the area has been identified as experiencing high levels of crime, disorder and public nuisance based on evidence supplied by the police. This policy in effect places a higher degree of responsibility on the managers of

Signature: J K Smart.......... Signature witnessed by:

Continuation of Statement of Julie Karen SMART

licensed premises within that area to ensure that their premises can meet the licensing objectives.


In relation to Shiraz, I can provide the following information:

At 2047 hours on Sunday 8 May 2014 the police were contacted by a local resident in relation to a noise complaint in respect of Shiraz (log 0830 04/04/14 refers). The complainant stated that the premise had placed large speakers outside the premise and was 'blaring out loud music'. I subsequently passed this information to Mr Karl Martin, Environmental Health Officer of Torbay Council, via email.

At approximately 0100 hours on the morning of Sunday 13 July 2014 I was on duty carrying out licensed premises visits in the company of police officers. At that time I noticed that the tables and chairs were still in situ outside Shiraz and these were being used by numerous persons who were consuming drinks that appeared to be alcohol although this was not established. At that time I entered the premises and spoke to Mr Javadi and I pointed out to him that his Pavement Cafe Permit authorises the use of this outside area until 12 midnight and that at that time all tables and chairs must be removed from the highway. At my request Mr Javadi immediately started clearing the tables and chairs away. A photograph of this area in use was taken by myself (JKS/1) and as a result of this visit a letter was sent to Mr Javadi (JKS/2), copies of which were forwarded to Mr Tim Northway of Torbay Council's Highways Department on 15 July 2014 by email.

Whilst on duty that evening the manager of another licensed premises close to the harbourside was also spoken to by myself concerning breaches of the terms and conditions of the Pavement Cafe Permit at his premise. The details of this matter were also forwarded to Mr Northway by email and a letter was sent to the Premises Licence Holder/DPS outlining the breaches identified.

At 1400 hours on Wednesday 30 July 2014 I attended a meeting at Torbay Council's offices at Commerce House, Torquay where I met with Mr Tim Northway of the Torbay Council

Signature: J K Smart.......... Signature witnessed by:


Continuation of Statement of Julie Karen SMART

Highways Department, Mrs Mandy Guy and other officers of Torbay Council to discuss the enforcement of Pavement Cafe Permits. At this meeting I was advised by Mr Northway that he would send a letter/leaflet to a large number of permit holders, particularly those based in the town centres and harbourside areas of Torbay, reminding them to ensure they comply with the terms and conditions of the permit at all times. I was later advised by Mr Northway that these letters had been sent, but I do not know the date that this occurred.

Later that day, at approximately 2340 hours, I was again on duty, in the company of Sergeant Norsworthy and Mr Craig Noble, an officer of Torbay Council, conducting licensed premises visits. At that time we attended Shiraz in order to establish if the premises were complying with the requirements of the Pavement Cafe Permit. On attendance I noted that all customers were sat down and no bottles were seen, however tables and chairs were placed several metres beyond the yellow markers fixed to the surface of the highway to identify the extent of the Pavement Cafe Permit area. Myself and Mr Noble spoke to Mr Javadi concerning this matter and I subsequently sent an email to Mr Northway of Torbay Council's Highways Department on Tuesday 5 August 2014 outlining my observations.

At approximately midday on 2 October 2014 myself and Mrs Guy of Torbay Council Licensing Department were walking past Shiraz, having attended a Licensing Meeting at the Green Ginger, when we both noted that the tables and chairs outside of Shiraz were well beyond the yellow markers affixed to the surface of the highway. At that time myself and Mrs Guy entered the premises and spoke to members of staff on duty and advised them to move the tables and chairs to within the designated area as soon as customers had vacated them. I took 2 photographs of this area (JKS/3 and JKS/4) and subsequently forwarded them to Mr Northway of Torbay Council's Highways Department by email on Tuesday 7 October 2014.

During the summer of 2014 I received several complaints from managers of licensed premises situated in the harbourside area concerning other licensed premises that were clearly breaching the terms and conditions of their Pavement Cafe Permits. As a result of this frequent checks were carried out and several licensed premises were identified as not complying with the requirements. However, as a result of my discussions with these premises

Signature: J K Smart.......... Signature witnessed by:

Continuation of Statement of Julie Karen SMART

the majority heeded my advice and further checks established that they were complying with the requirements. Unfortunately I can not say the same in respect of Shiraz, where despite receiving advice from myself, Sergeant Norsworthy, and Mrs Guy and Mr Noble of Torbay Council as detailed above, further beaches have been identified.

At Torquay Police Station on Wednesday 8 April 2015 a routine licensing meeting took place, at which Mrs Mandy Guy, Senior Licensing Officer for Torbay, raised concerns regarding a complaint she had received that the management of Shiraz, 2 Vaughan Parade, Torquay were not complying with the terms and conditions of the Pavement Cafe Permit in that tables, chairs and A-boards were frequently positioned outside the permitted area, and the premises were causing a noise nuisance. I informed Mrs Guy that I would be visiting the harbourside area that afternoon to carry out some licensing enquiries and would attend Shiraz and obtain evidence if any breach was identified.

At 2.09 pm on Wednesday 8 April 2015, myself and Sergeant Michael Norsworthy (Police Licensing Sergeant for Devon) attended Shiraz and viewed the outside seating area. I pointed out to Sergeant Norsworthy the location of yellow marker discs affixed to the surface of the paving which I am aware are placed there by Torbay Council to determine the extent of the area covered by the Pavement Cafe Permit.

I noted that the tables and chairs outside Shiraz were placed in such a way so as to leave a clear pathway leading to the front doors of the premises. One of these yellow marker discs was located within this pathway and, when standing at this discs location, it was obvious that tables and chairs extended a distance I would estimate to be at least 2 metres beyond the yellow marker disc, in the direction of the harbour.

As a result of this I formed the opinion that the premises were in breach of their Pavement Cafe Permit and went into the premises in order to discuss this matter with Mr Javadi, the Premises Licence Holder and Designated Premises Supervisor. Unfortunately at that time Mr Javadi was not available.

Signature: J K Smart.....*Jnet*..... Signature witnessed by:


Continuation of Statement of **Julie Karen SMART**

Sergeant Norsworthy then stood immediately adjacent to this yellow marker disc and I took a photograph (JKS/5) of Sergeant Norsworthy which shows tables, chairs and an A-board clearly behind him outside the permitted area. In order to take this photograph I was stood with my back towards the entrance door to Shiraz looking out towards premises situated on The Strand and the yellow marker disc is clearly visible to the left of Sergeant Norsworthy's right foot.

A further yellow marker disc was located under a seat which was being occupied by a female with long dark hair wearing a white t-shirt. A photograph was taken of this marker disc (JKS/6). Unfortunately in the printed copy of this photograph the yellow marker disc is not easily visible, however I have retained this photograph (and JKS/5 and JKS/7) on my personal mobile phone and this can be viewed by the Licensing Committee and Mr Javadi at the Review hearing if they wish to do so. It is noted that within photograph JKS/6 there is a lady stood up with a pink backpack over her shoulder and seated at the table adjacent to the one at which the dark haired female is seated, is a female with long fair hair wearing a blue and white patterned top. In order to capture a photograph showing tables, chairs and A-boards beyond the yellow marker disc I took a further photograph (JKS/7) from the pathway leading to the entrance of Shiraz, which again shows the female with the pink backpack stood next to a seat, the female with fair hair wearing the blue and white top, and visible just above her head is the female with the dark hair and white t-shirt. This photograph clearly shows a whole row of tables and chairs outside the area designated under the Pavement Cafe Permit.

On Wednesday 29 April 2015 I attended a further meeting at Commerce House, Abbey Road, Torquay with Mr Northway, Mr Martin and Mr David Walker regarding issues in relation to Pavement Cafe Permits. At that time I again informed Mr Northway that I had identified a breach of the permit in respect of Shiraz and gave him copies of photographs JKS/5, JKS/6 and JKS/7.

The premises licence in respect of Shiraz contains a condition under the heading "Conditions Transferred from Full On Licence", which states "The consumption of intoxicating liquor shall be confined to the premises and the areas adjacent thereto designated under the terms of a Pavement Cafe Permit issued by the Local Authority whilst such permit is in force providing

Signature: J K Smart.......... Signature witnessed by:

Continuation of Statement of Julie Karen SMART

persons are seated at tables within the areas designated by such Permit". On several occasions that I have attended the premises and noted that tables and chairs are outside of the designated area, I have seen customers consuming drinks that appear to be alcohol, but without seizing the drinks and sending them off for analysis I cannot state that they definitely contain alcohol. An example of this can be seen in photograph JKS/4 where a male wearing a blue football type shirt has what appears to be a pint of lager or cider on the table in front of him. I am of the opinion that alcohol is regularly consumed by customers of Shiraz outside the area designated by the Pavement Cafe Permit and this constitutes a breach of the condition on the premises licence, which in turn is an offence under Section 136 of the Licensing Act 2003.

In addition, it should be borne in mind by the Licensing Committee that although Vaughan Parade is quite wide outside Shiraz, the footpath available for pedestrian traffic narrows as you walk towards the marina, and should tables and chairs extend beyond the areas designated by the Torbay Council Pavement Cafe Permits, pedestrian access around this area becomes congested, particularly if there are a number of pushchairs or wheelchairs in the area.

As already mentioned within this statement, during the summer of 2014 I received several complaints from other licensed premises that whilst they were complying with the terms and conditions of their Pavement Cafe Permit, it was apparent that Mr Javadi was not and in fact a further breach WAS identified in April of this year. I am concerned that if Mr Javadi does not comply with the terms and conditions of the Pavement Cafe Permit again over this summer season, I will receive similar complaints and furthermore I am not satisfied that Mr Javadi will heed any advice given to him in respect of this matter. In the interests of fairness, it is imperative that all premises around the harbourside abide by the terms and conditions of the permit and no premises should be seen to be flouting the rules without facing the consequences. Unfortunately, unless it can be ascertained that alcohol is being consumed outside the area authorised by the premises licence in respect of Shiraz, the police are unable to seek a prosecution, but this option will be considered should such evidence be obtained.

In relation to the levels of crime recorded at Shiraz I can provide the following information:

Signature: J K Smart.....

Signature witnessed by:

Continuation of Statement of Julie Karen SMART

2002 – 2 x theft, 1 x burglary, 1 x deception.

2003 –1 x theft, 1 x criminal damage.

2004 –2 x theft.

2005 – 1 assault ABH

2006 –1 x theft, 1 x harassment.

2007 – No crimes recorded.

2008 – 1 x criminal damage.

2009 – 1 x theft.

2010 – No crimes recorded.

2011 - 1 x theft.

2012 – No crimes recorded.

2013 – No crimes recorded.

2014 - 2 x assault ABH

2015 – to date no crimes recorded.

In relation to logs recorded by the police in respect of telephone calls received from the public in relation to Shiraz, I can state that there are 5 logs recorded since June 2013, these being as follows:

23/06/13 Log 0644 – Telephone call received from a female stating that she heard a loud bang and breaking glass. It transpired that a male with mental health concerns had smashed a glass on the floor of the premises and another customer had telephoned the police. However, no person was injured and staff dealt with the matter.

26/07/13 Log 0745 – Customer contacted police claiming she had been assaulted by a member of staff. Police attended and all parties were spoken to but no further action was taken.

04/05/14 Log 0830 – Noise complaint from member of the public who stated that speakers had been placed outside premises (this is the log referred to earlier in this statement).

Signature: J K Smart.....


Signature witnessed by:

Continuation of Statement of **Julie Karen SMART**

26/10/14 Log 0703 – Member of public reported that his 4 year old son had gone missing outside Shiraz. Child was located a few minutes later.

30/11/14 Log 0686 – Complaint of a male in Vaughan Parade harassing members of the public and swearing. There is no information indicating that this male was a customer of Shiraz.

As can be seen from the above figures, crime at the premises is low and therefore I am satisfied that the premise is meeting the licensing objective the prevention of crime and disorder.

Signature: J K Smart.......... Signature witnessed by:





JKS/2

**DEVON & CORNWALL
CONSTABULARY**

Mr M Javadi
Premises Licence Holder/DPS
Shiraz
2 Vaughan Parade
TORQUAY
TQ2 5EG

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

Telephone: 01803 218900

21 July 2014

Dear Sir

Shiraz, 2 Vaughan Parade, Torquay

I write to you in your capacity as Premises Licence Holder and Designated Premises Supervisor of the above named premises, which has the benefit of Premises Licence Number PL0415 issued by Torbay Council.

I would draw your attention to a visit to your premises by my Police Licensing Officer, Mrs Julie Smart, together with Sgt Mike Norsworthy (Licensing Sergeant for Devon) and Mr Karl Martin, Torbay Council Licensing Officer, at approximately 1.00 am on the morning of Sunday 13 July 2014.

At the time of this visit, they noted that customers were still using the tables and chairs on the street outside your premises. Photographs of this area were taken by Mrs Smart for future reference.

This matter was brought to your attention and as a result of discussions you instructed your door stewards to immediately clear this area.

I would take this opportunity to remind you of a condition contained within your Premises Licence that state:

The consumption of intoxicating liquor shall be confined to the premises and the areas adjacent thereto designated under the terms of a Pavement Cafe Permit issued by the Local Authority whilst such permit is in force providing persons are seated at tables within the areas designated by such Permit.

licensingeast@devonandcornwall.pnn.police.uk



I must advise you that as your Torbay Council Pavement Cafe Permit ceases at 12 midnight I consider that on this occasion you were carrying out licensable activities in breach of the above condition. I must warn you that failure to comply with the conditions of the Premises Licence constitutes an offence under Section 136(1) of the Licensing Act 2003 as follows:

- 1) *A person commits an offence if –*
 - a. *He carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation,*
or
 - b. *He knowingly allows a licensable activity to be so carried on.*

Subsection 4 of Section 136 of the Licensing Act 2003, also states:

"A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both."

I must advise you that your premises will be monitored by my officers and should any further concerns come to my attention I may consider applying for a Review of your Premises Licence or a prosecution for any offences committed, but I hope that this will not be necessary.

A copy of this letter has been sent to the Torbay Council Licensing Department and the Torbay Council Highways Department for their information.

Should you wish to discuss the contents of this letter, please do not hesitate to contact my Police Licensing Officer, Mrs Julie Smart, on 01803 218900.

Yours faithfully



Glen Mayhew, Superintendent
LPA Commander – South Devon





JKS15



JWS/6





Agenda Item 6

Appendix 6

SHIRAZ MUSIC

6/6/2015

DEAR SIRs ,

I WISH TO SUBMIT MY VEIWS ON THE ABOVE

FEEL THAT TORQUAY HARBOUR ON A SUNDAY AFTERNOON IS NOT
E PLACE FOR MUSIC PLAYED AT A VERY LOUD VOLUME, WHEN
ST PEOPLE JUST WANT A QUITE DRINK IN TY THE SUN NOT HAVE THEI
RS ASSAULTED BY THIS RACKET.

HE NOISE TAKES OVER THE WHOLE OF THE HARBOURSIDE ON ONE
CCASION I COULD HEAR IT BY THE BOWLING PLACE ON BABBOCOMBE
DAD,

IF IS CUSTOMERS WANT TO LISTEN TO THESE ACT WHY CANT THEY
AVE THEM INSIDE WITH THE DOORS CLOSED INSTEAD OF SUBJECTING E
EVERYBODY WITH WITH THE NOISE ,

IF THUIS ALLOWED THEN ALL THE BARS WILL BE ABLE TO PUT
N LOUD ACTS AT THE SAME TIME WHICH NOBODY WANTS

YOURS FAITHFULLY

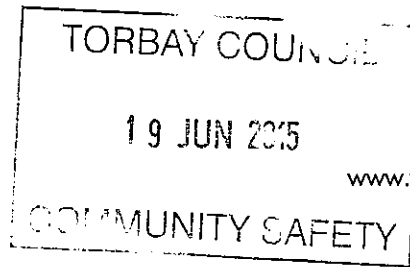

TERRY O O NEILL
OWNER

Wollen Michelmores

SOLICITORS

Our Ref : CDH/SDC/JAV0188/0013
Your Ref : R:218289/AJG

Licensing and Public Protection
Torbay Council
Town Hall
Castle Circus
Torquay
Devon TQ1 3DR



Carlton House
30 The Terrace
Torquay
TQ1 1BS
DX 59204 Torquay 2
Tel: 01803 213251
Fax: 01803 296871
www.wollenmichelmores.co.uk

By Email mandy.guy@torbay.gcsx.gov.uk

16 June 2015

Dear Sirs

Shiraz – 2 Vaughan Parade, Torquay, TQ2 5EG
Review of Premises Licence PL0415

We are instructed by Mr. Mohammed (Mac) Javadi, the premises licence holder and designated premises supervisor of Shiraz situated at 2 Vaughan Parade on Torquay's Harbourside.

We are instructed by Mr. Javadi to respond to the application for the review of the premises licence at Shiraz, and will be representing Mr. Javadi at the forthcoming hearing.

Mr. Javadi has operated licensed premises on Torquay Harbourside for 25 years including having operated Shiraz, very successfully, for the last 13 years. As you will know, Shiraz has a large cafe permit area both to the front (Vaughan Parade) of the premises and to the rear (Palk Street) which have also been operated successfully by Mr. Javadi. It is fair to say that the premises are enjoyed by residents and tourists alike, with the Vaughan Parade cafe permit area in particular being a great spot to enjoy the harbour ambiance.

With the deregulation of live music Mr. Javadi has, from time to time, and primarily on Sunday afternoons, employed live musicians outside his premises. This activity is in line with similar activities being carried out at other harbourside location premises where live music has been played, and continues to be played. Mr. Javadi has always been keen to promote Torbay as a tourist destination and has been keen to do whatever he can to improve the atmosphere on the harbourside for visitors. Music being played has been welcomed by many and indeed since the review application was commenced a large number of people have signed a petition at the premises calling for the playing of live music outside Shiraz to be continued. However, we should emphasise that Mr. Javadi only ever permitted music to be played during the afternoon and never during the evening.

Throughout our dealings with Mr. Javadi with regard to the review application, Mr. Javadi has been concerned with issues both of identity and fairness. As mentioned above, a number of other premises have also been playing live music and from some of the earlier chronology supplied by the Public Protection Officer within the review application, Mr. Javadi is sure that he is being blamed for the activities of others. For example, Mr. Javadi routinely closes his premises in January and February of each year, and therefore cannot be responsible for any noise complaints during these periods. In addition, there have been occasions when Mr. Javadi has been asked by others representing organisations (for example the Torquay Town Centre BID) to operate music for them. We have had sight of a bank statement showing a payment received from the BID in respect of one such occasion recently when Mr. Javadi agreed to arrange music on the harbourside for the BID. Mr. Javadi accepts that he is ultimately responsible for his own licence but nevertheless it is unfortunate that he is being blamed in such circumstances.

Since the review application was lodged we, together with Mr. Javadi, have had sensible and constructive discussions with the public protection team at Torbay Council, with a view to endeavouring to agree a way forward. We must emphasise, on behalf of Mr. Javadi, that he has no wish whatsoever to cause distress or upset to local residents, and accordingly he is prepared to accommodate the requests of the public protection team and to agree additional conditions to his licence in order to remove the risk of their being ongoing problems. In particular, he is prepared to agree not to play amplified music outside his premises and this assurance will alleviate the concerns set out within the review application. Mr. Javadi is also prepared to agree to noise limiter conditions in relation to the interior of his premises, notwithstanding the fact that there are no issues with regard to music noise from the inside area. Finally, he is prepared to agree to the setting up of a more defined boundary around his pavement cafe permit areas in order to try to prevent patrons from moving tables and chairs outside the designated area. Unfortunately, patrons move tables and chairs to take advantage of the sun, and in the past Mr. Javadi's attempts to define the area by ropes has resulted in a hazard being caused. However, Mr. Javadi will attempt to find an alternative solution as provided within the proposed condition.

Accordingly, at a recent meeting with Mr. Martin and Mr. Noble of Torbay Council, the following conditions were agreed and Mr. Javadi can confirm that he is content for these conditions to be added to his licence in order to alleviate the reported problems: -

1. Live amplified music is prohibited in the premises outside area, as shown on the premises plan at all the times the premises are authorised for the sale of alcohol.
2. Recorded amplified music is prohibited in the premises outside licensed area, as shown on the premises plan at all the times the premises are authorised for the sale of alcohol.
3. There shall be no exterior sited speakers on the premises or speakers in the premises doorways and lobbies.

4. Performance of live and recorded music in the internal licensed area must at all times be played through a noise limiter which is to be set and maintained at a level agreed with Torbay Council's Licensing and Public Protection Team.
5. The noise limiter must be installed and the levels agreed within 4 weeks of the review hearing.
6. No changes shall be made to the public address system or the noise limiter without prior written permission of Torbay Council's Licensing and Public Protection Team.
7. The premises boundary of the outside licensed area must be demarcated with a suitable and sustainable barrier when in use. The style and format of the barrier to be agreed with Devon and Cornwall Police Constabulary, Torbay Councils Highways department and Torbay Council's Licensing and Public Protection Team. Barriers to be installed within 6 weeks of the review hearing.

Finally, we will make a point with regard to fairness. We are unclear as to why Mr. Javadi has been the focus of attention in respect of this review application when there are a considerable number of other premises in the vicinity playing loud music in outside areas. We have seen video evidence of a number of other premises where the music is loud, persons are standing, or even dancing, and where access around pavement cafe areas is being blocked. A disc provided by our client showing certain recent recordings is enclosed with the hard copy of this letter. We trust that you will consider that Mr. Javadi has taken a reasonable and constructive approach to the review application being served upon him, and accordingly you can be sure that no amplified music will be played outside Mr. Javadi's premises. However the harbourside area, in particular, is a competitive commercial environment and we must be sure that you will treat other premises in the vicinity in the same way in the event of live music continuing to be played outside those premises. These issues have been brought to the attention of the public protection team.

Yours faithfully


WOLLEN MICHELMORE LLP

Memorandum

To: Licensing and Public Protection	From : Mr Karl Martin
c.c	Contact :
c.c.	Ext : 01803 208025
c.c	My Ref : 1ZV SRU No: 18 JUN 2015
For the attention of: Mandy Guy, Licensing Officer	Your Ref : COMMUNITY SAFETY
	Date :

Subject: Review of Shiraz, 2 Vaughan Parade, PL0415

Please find enclosed additional supporting documents I wish to submit as part of the review application for Shiraz bar, 2 Vaughan Parade. For convenience please find below a table of contents:-

Supplementary information

- Appendix 1 - Proposed additional conditions
- Appendix 2 - Aerial and street view of Shiraz bar
- Appendix 3 - Premise Licence PL0415
- Appendix 4 - Overview of the Live music Act and recorded music de-regulation
- Appendix 5 - Correspondence between Torbay Council and Mr Javadi since 2011
- Appendix 6 - Correspondence from local residents regarding noise complaints
- Appendix 7 - Witness statements from Torbay Council Officers.
- Appendix 8 - Cafe permit particulars.
- Appendix 9 - DVD Footage

Karl Martin
Public Protection Officer
Licensing and Public Protection
Community Safety
Torbay Council



Appendix 1

Proposed additional conditions for Premises licence PL0416. As of 17th June proposed conditions agreed with Mr Javadi:-

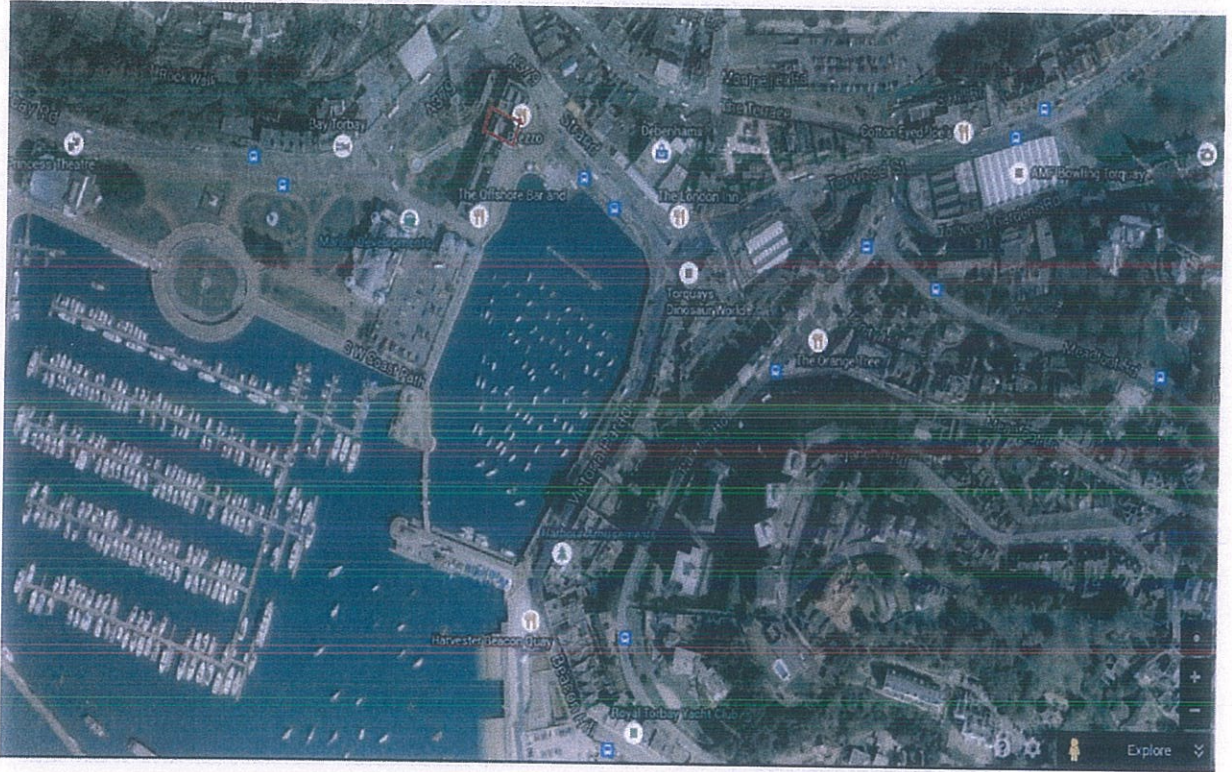
The Prevention of Public Nuisance

Conditions 1, 2, 3, 4 & 6 attached to premises licence PL0415 are in pursuant with s177A(4) of the Licensing Act 2003. s117A(1)&(2) of the Licensing Act 2003 does not apply to the aforementioned conditions:-

1. Live amplified music is prohibited in the premises outside area, as shown on the premises plan at all the times the premises are authorised for the sale of alcohol.
2. Recorded amplified music is prohibited in the premises outside licensed area, as shown on the premises plan at all the times the premises are authorised for the sale of alcohol.
3. There shall be no exterior sited speakers on the premises or speakers in the premises doorways and lobbies.
4. Performance of live and recorded music in the internal licensed area must at all times be played through a noise limiter which is to be set and maintained at a level agreed with Torbay Council's Licensing and Public Protection Team.
5. The noise limiter must be installed and the levels agreed within 4 weeks of the review hearing.
6. No changes shall be made to the public address system or the noise limiter without prior written permission of Torbay Council's Licensing and Public Protection Team.
7. The premises boundary of the outside licensed area must be demarcated with a suitable and sustainable barrier when in use. The style and format of the barrier to be agreed with Devon and Cornwall Police Constabulary, Torbay Councils Highways department and Torbay Council's Licensing and Public Protection Team. Barriers to be installed within 6 weeks of the review hearing.

Appendix 2

Aerial view of Shiraz – premise indicated by red boundary



Street view of Shiraz -



Licensing Act 2003
Premises Licence

NO

415

LOCAL AUTHORITY



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

Part 1 - Premises Details

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

Shiraz

2 Vaughan Parade, Torquay, Devon, TQ2 5EG.

Telephone 01803 200201

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- 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
L. Late night refreshment (Indoors & Outdoors)	Monday to Sunday	11:00pm	2:00am
	New Year's Eve	11:00pm	3:00am
M. the sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	10:00am	2:00am
	New Year's Eve	10:00am	3:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	2:30am
New Year's Eve	9:00am	3:30am

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

Mohammed Javadi

2a Vaughan Parade, Torquay, Devon, TQ2 5EG.
 Telephone 01803 200201 or 01803 200002

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)



Licensing Act 2003

Premises Licence

415

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mohammed JAVADI

2a Vaughan Parade, Torquay, Devon, TQ2 5EG.
Telephone 01803 200201 or 01803 200002

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. PA0941

Issued by Torbay

F. K. Hughes

Frances Hughes

Assistant Director of Environmental Health and Consumer Protection

21 December 2005



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.

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****General**

None

The Prevention of Crime and Disorder

1. Persons leaving the premises and using adjacent car parks and highways shall be reminded to conduct themselves in an orderly manner and not to cause annoyance to residents.
2. Custom must not be sought by means of personal solicitation outside or in the vicinity of the premises.
3. Where appropriate, sufficient numbers of suitably trained door staff/ stewards must be provided on the premises.
4. Door staff must be licensed with the Security Industry Authority (SIA).
5. Membership in the Nitenet Radio link must be maintained.



6. CCTV must be provided and maintained in good working order.
7. Staff must be trained appropriately in the prevention of the sale of alcohol to persons under the age of 18 years.
8. Regular glass and bottle collection must be undertaken throughout the premises.
9. Cigarette machines must be under the supervision of the management.
10. Cigarettes must not be sold to any person under the age of 16 and signage to this effect must be displayed.

Public Safety

1. Adequate access must be provided for emergency vehicles.
2. All parts of the premises and all fixtures, fittings and apparatus therein must be maintained in safe and good working order at all times.
3. Suitable and sufficient lighting to the toilets shall be provided.
4. Where the premises are made available for regulated entertainment at least one first aider must be present.
5. A member of staff shall be designated to manage any first aid emergency which may arise.
6. Emergency exits must remain free from obstruction at all times.
7. The hanging of clothing and storage of any article shall be prohibited in corridors, passageways, gangways or exits.
8. Seating must not obstruct access to any exit doors at any time.
9. All electrical installations must be inspected by a competent electrician every three years. The Certificate of Fitness obtained shall be produced to any authorised officer on demand.
10. Emergency lighting must be provided and maintained in good working order.
11. Fire equipment provided to the premises shall be managed by a competent, trained individual while the public are on the premises. This individual must be immediately available at all times.

The Prevention of Public Nuisance

1. Noise or vibration which may cause persons in the neighbourhood to be unreasonably disturbed must not emanate from the premises.
2. The handling of beer kegs, bottles and other similar items will not take place in the late evening, at night and during the early morning, when the noise generated could cause a nuisance particularly outside buildings.
3. Bottle skips and bins containing cans or bottles must not be emptied outside after closing but will be dealt with the next day during normal office hours.
4. The movement of bins and rubbish outside the premises must be kept to a minimum after 23:00hr.

The Protection of Children from Harm

1. Bar staff must be suitably trained to prevent the sale of alcohol to persons under the age of 18 years.

Conditions Transferred from Full On Licence

1. Full CCTV system to be maintained and used at all times the premises are open to the public and to include full recording facilities and a monitor behind the bar server for viewing by staff. All recordings to be kept for a minimum of 31 days during which period the police shall have access at any reasonable time.
2. The consumption of intoxicating liquor shall be confined to the premises and the areas adjacent thereto designated under the terms of a Pavement Cafe Permit issued by the Local Authority whilst such permit is in force providing persons are seated at tables within the areas designated by such Permit.



Restrictions transferred from the On Licence

The restrictions related to permitted hours do not prohibit:

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

Credit Sales

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

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

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

General

None

The Prevention of Crime and Disorder

1. A CCTV system of an evidential standard to 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 to be kept for a period of 31 days and the police to have access to recordings at any reasonable time.
2. On every occasion that the premises sells alcohol after midnight and then closes after 00:30hr, SIA door staff to be employed from 21:00hr until closing.
3. All drinks to be served in shatterproof glasses and no alcohol to be served in glass bottles from which bit is intended or likely



LOCAL AUTHORITY



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

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

Shiraz

2 Vaughan Parade, Torquay, Devon, TQ2 5EG.

Telephone 01803 200201

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- 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
L. Late night refreshment (Indoors & Outdoors)	Monday to Sunday	11:00pm	2:00am
	New Year's Eve	11:00pm	3:00am
M. the sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	10:00am	2:00am
	New Year's Eve	10:00am	3:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	2:30am
New Year's Eve	9:00am	3:30am

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

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Mohammed Javadi

2a Vaughan Parade, Torquay, Devon, TQ2 5EG.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)



Entertainment Legislative Reform Order Approved

Published Date: 28/Jul/2014

The Legislative Reform (Entertainment Licensing) Order 2014 together with an Explanatory Document that was laid before parliament on 8 July 2014 by the Department for Culture Media and Sport has now been approved by the Delegated Powers and Regulatory Reform Committee

This means that the entertainment deregulatory measures set out in the Legislative Reform Order will now certainly become law when the order comes into force on the 6th of April 2015.

The LRO will amend Schedule 1 and section 177A of the Licensing Act 2003 to deregulate certain types of regulated entertainment in defined circumstances, as summarised below.

Live music in relevant alcohol licensed premises and workplaces

The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day will be raised from 200 to 500.

Recorded music in relevant alcohol licensed premises

Any playing of recorded music in relevant alcohol licensed premises will be deregulated (on a conditional basis) when it takes place between 08:00-23:00 on the same day for audiences of up to 500.

Live and recorded music exemptions

Local authorities, health care providers and schools will be exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.

Community premises not licensed to supply alcohol will be exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500.

Agenda Item 6

Appendix 9



Please reply to:
Mark Maries, Legal Services,
Town Hall, Castle Circus
Torquay TQ1 3DR

Private and Confidential

Mr M Javadi
MGM Torbay Ltd
T/A Shiraz
2 Vaughan Parade
Torquay
TQ2 5EF

COPY

My ref: MSM/
Your ref:
Telephone: 01803 207165
Fax: 01803 207153
E-mail: Mark.Maries@torbay.gov.uk
DX No: 59006 TORQUAY 1
Website: www.torbay.gov.uk
Date: 11 June 2015

Dear Sir,

Re: Breach of Pavement Cafe Licence

I write further to your Pavement Cafe Licence and to the conditions contained within that Licence to which you are required to comply with, and by signing it you have agreed to comply with them.

The Council has evidence that you have breached some licence conditions and accordingly it is serving on you a Warning Notice together with appendices pursuant to Section 115K of the Highways Act 1980.

Please note that any future failure to comply with this Notice may result in your Licence being revoked pursuant to Condition 22 of your Licence. This letter along with the enclosed Warning Notice will be used as evidence in any future enforcement action should further breaches occur.

Yours faithfully,

A handwritten signature in blue ink that reads "Mark Maries".

Mark Maries
Senior Lawyer (Licensing, Litigation & Insurance)
Legal Services

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 format or language, please contact me.



**TORBAY COUNCIL
HIGHWAYS MANAGEMENT
(Highways Act 1980)**

Highways Management
Network Management
Lower Ground Floor
Town Hall
Torquay
TQ1 3DR

Tel: 01803 207719

Date 10 June 2015

**Notice of Contravention of S115F Conditions of Pavement
Café Licence Issued Under S115E Highways Act 1980**

To Mr M Javadi,
MGM Torbay Ltd T/A Shiraz,
2 Vaughan Parade,
Torquay
TQ12 5EF

It has been noted that you have not complied with the conditions associated with the pavement café licence issued to you in respect of the above premises or known as Shiraz. Namely:-

1. You have tables, chairs and umbrellas outside of the permitted 8 metre area located in Vaughan Parade and your customers are also eating and drinking food and drink purchased from your premises outside of the permitted area contrary to Conditions 5 (a), (b) and (d) of your Licence. Please see Appendix 1 Licence Plan and Appendix 2 Photograph taken on 19 April 2015 both attached.
2. Persons consuming alcohol purchased from your premises and sat at your table and chairs which are outside of the permitted area are committing an offence under The Torbay Council Alcohol Consumption in Designated Public Places 2003 Central Torquay Order (hereinafter referred to as "the Order") contrary to Condition 13 of your Licence. Please see Appendix 3 "the Order" also attached.

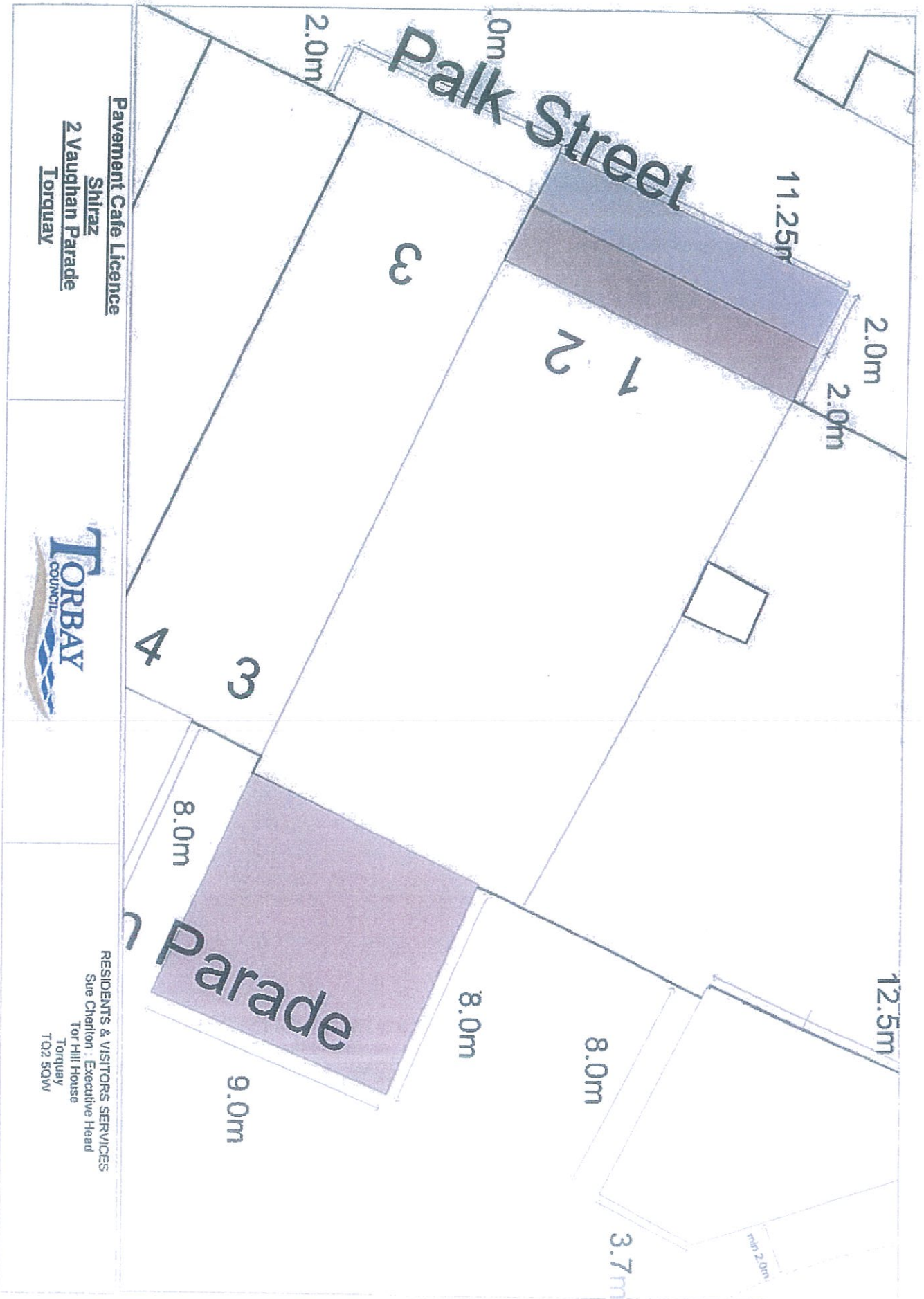
Torbay Council (hereinafter referred to as "The Council") as the Highway Authority in pursuance of the powers conferred by Section 115 of the Highways Act 1980 **HEREBY GIVE YOU NOTICE THAT YOU ARE REQUIRED IMMEDIATELY** to comply with this notice and ensure that no future breaches occur.

Please contact the Principal Engineer (Network Management) if you have any queries pertaining to this matter at Lower Ground Floor, Town Hall, Castle Circus, Torquay, TQ1 3DR, Telephone (01803) 207719.

Signature

Designation

Principal Engineer



Pavement Cafe Licence
Shiraz
2 Vaughan Parade
Torquay



RESIDENTS & VISITORS SERVICES
 Sue Cheriton : Executive Head
 Tor Hill House
 Torquay
 TQ2 5DW

Appendix 2 - Photograph
taken 19 April 2015



THE CRIMINAL JUSTICE AND POLICE ACT 2001

THE LOCAL AUTHORITIES (ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES) REGULATIONS 2001

THE TORBAY COUNCIL ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES 2003 CENTRAL TOROUAY ORDER

The Torbay Council (in this Order called "the Council") hereby make the following Order:-

1. The area of land including and bounded by the highways as described in Schedule 1 below and shown edged red on the Map attached to this Order, being land in the area of the Council which is land to which the Criminal Justice and Police Act 2001 applies, is hereby designated under Section 13 for the purposes of that Act as a public place where public drinking will be prohibited. In any conflict between Schedule 1 and the Map Schedule 1 shall prevail.

All highways described will include the entire highway, namely the outer perimeter of the highways and pavements. The Schedule 1 definition represents an outside boundary and anything within it is that is a public place within the meaning of the Act will be subject to the ban.

A "public place" under the Act means any place to which the public or any section of the public has access, on payment or otherwise as of right or by virtue of express or implied permission.

However, under the Act a place is not a designated public place or a part of such a place if it is:-

- (a) a licensed premises or registered club;
- (b) a place within the curtilage of any licensed premises or registered club;
- (c) a place where the sale of intoxicating liquor is for the time authorised by an occasional permission or was so authorised within the last 20 minutes;
- (d) a place where the sale of intoxicating liquor is not for the first time being authorised by an occasional licence but was so authorised within the last 20 minutes;
- (e) a place where facilities or activities relating to the sale or consumption of intoxicating liquor are for the time being permitted by virtue of permission granted under Section 115E of the Highways Act 1980 (highway related uses).

The effect of the Order is that the Police have power under Section 12 of the above Act to require a person in the Central Torquay Designated Area not to drink alcohol in that Area where the Officer reasonably believes that the person is, has or intends to do so and to surrender any alcohol containers (other than sealed containers) in the persons possession. Failure to comply with an Officer's requirements in respect of public drinking or surrender of alcohol there, without reasonable excuse, will be an arrestable offence. Any person committing such an offence will be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale (currently £500).

2. By virtue of Section 15 of the Act the Consumption of Intoxicating Liquor in Designated Places Byelaws which came into operation on the 10th April 1995 in respect of the Streets, Pleasure Grounds and Open Spaces described in Schedule 2 shall cease to have effect upon the operation of this Designation Order.
3. This Order may be cited as the Torbay Council Alcohol Consumption in Designated Places 2003 Central Torquay Order and shall come into force on 25th July 2003.

SCHEDULE 1

Starting from the main entrance at Torquay Police Station on South Street turn right and travel into Belgrave Road to its junction with Torbay Road. Turn left along Torbay Road extending to the South to include Princes Parade, Princess Pier and Vaughan Parade. Turn right along Victoria Parade into Beacon Hill to its junction with Park Hill Road, incorporating South Pier, Beacon Quay and Haldon Pier. Turn left into Park Hill Road, then right into Torwood Gardens Road to its junction with Babbacombe Road, incorporating Torwood Close. Turn left into Babbacombe Road and then right into Museum Road, continue into Montpellier Road and left into Braddons Hill Road West towards the General Post Office Roundabout. Continue into Pimlico turn right into Market Street and then Princes Road to its junction with Victoria Road. Turn left into Victoria Road to its junction with Hatfield Road and left into Ellacombe Road. Travel back down Market Street but incorporating Briary Lane, St Michael's Terrace and Union Square Car Park. Then right into Market Way incorporating the Union Square Shopping Centre to its junction with Union Street. Turn right into Union Street to Castle Circus. Incorporate all of Castle Circus to its junctions with Castle Road and St Marychurch Road. Travel along Lymington Road until one reaches its junction with Chatto Road. Travel back down Lymington Road, turn right into Upton Road crossing over Union Street and back into South Street until one reaches Torquay Police Station.

SCHEDULE 2

STREETS

Cary Parade	Whole Street.
Fleet Walk	Whole Street.
Market Street	Along its length from its junction with Union Street to its junction with Ellacombe Road and Princes Road.
Strand	Whole Street.
Tor Hill Road	From its junction with Abbey Road to Castle Circus.
Torwood Street	From its junction with Strand to its junction with Torwood Gardens Road.
Union Street	From its junction with Trematon Avenue along its length to GPO roundabout.
Vaughan Parade	Whole Street.
Victoria Parade	From its junction with Torwood Street to its junction with Beacon Hill.

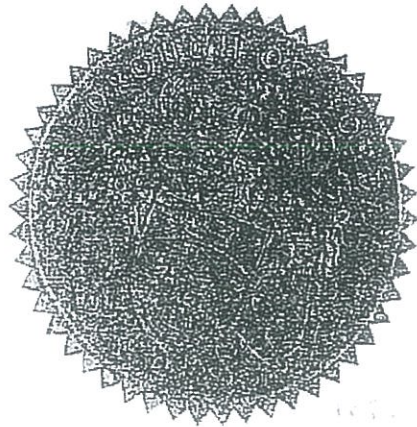
PLEASURE GROUNDS AND OPEN SPACES

- Ellacombe Green
- Memorial Gardens (Union Street)
- Torwood Gardens

THE COMMON SEAL OF THE COUNCIL OF THE BOROUGH OF TORBAY was hereunto affixed in the presence of:

25/6/51

Proper Officer and
Authorised Signatory



Designated No Drinking Areas





COPY

Mr Mohammed Javadi
2 Vaughan Parade,
Torquay,
Devon,
TQ2 5EG

Please reply to: Mr Karl Martin
Community Safety
Roebuck House
Abbey Road
Devon
TQ2 5EJ
My ref: U:001893/KJM
Your ref:
Telephone: 01803 208025
Fax: 01803 208854
E-mail: licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 23rd May 2014

Dear Mr Javadi

Re Section 80 Environmental Protection Act 1990

Statutory Noise Nuisance arising from the playing of amplified music at Shiraz 2 Vaughan Parade, Torquay, Devon, TQ2 5EG

I refer you to my letter dated 6th May 2014, regarding noise nuisance emanating from Shiraz.

Officers of this department are satisfied the existence of noise amounting to a statutory nuisance is likely to reoccur at the above premises. The enclosed abatement notice requires you as the licensee to cease immediately all activities likely to give rise to a nuisance.

If you would like to discuss ways of complying with this notice, I can be contacted on the telephone number above.

If you would like to discuss the enclosed notice, please do not hesitate to contact me on the telephone number above. **Should you contact the Council regarding this matter please always quote the reference number above.**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Karl Martin'.

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection

Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.

cc: Licensing Department East, Devon & Cornwall Police HQ, Middlemoor, Exeter, Devon, EX2 7HQ

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 format or language, please contact me.



To: Mohammed Javadi
Of: Shiraz, 2 Vaughan Parade, Torquay, Devon, TQ2 5EG

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the TORBAY COUNCIL being satisfied of the likely occurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at: Shiraz, 2 Vaughan Parade, Torquay, Devon, TQ2 5EG

within the district of the said Council arising from **THE PLAYING OF AMPLIFIED MUSIC**

HEREBY REQUIRE YOU as the owner or occupier of the premises for the said nuisance to prevent its occurrence forthwith.

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 be 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 abate the nuisance and do whatever may be necessary in execution of the Notice.

Signed
Mr Karl Martin
Public Protection Officer
(Officer Appointed for this purpose)

Dated 23rd May 2014
(time notice served)

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.

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

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: Karl Martin

Licensing and Public Protection

Community Safety, c/o Town Hall, Castle Circus,

Torquay

TQ1 3DR

My ref: SRU/203434

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 6 May 2014

Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EF

COPY

Dear Sir

Licensing Act 2003 - Unlicensed activities and alleged nuisance

Re: Shiraz Cafe Bar, 2 Vaughan Parade, Torquay, Devon, TQ2 5EF

The department has received a complaint about noise emanating from your premises. I am concerned about the nature of the complaint because you have been warned on numerous occasions for hosting licensable activities you are not authorised and that give rise to alleged noise nuisance.

The complainant alleges on Saturday 3rd of May 2014 between the hours 8:00pm and Midnight live music was heard emanating from Shiraz, including use of exterior speakers. Again on Sunday the 4th it is alleged a live band started playing at 6:50pm and continued to cause a nuisance for several hours.

I ask you to put in writing an explanation of the music you had over the weekend on Saturday and Sunday and tell me what measures you or your staff undertook to ensure the volume of music did not cause a nuisance.

The premise will be monitored by officers of this department to ensure compliance with the Licensing Act 2003 and the Environmental Protection Act 1990. Please reply in writing in the next 7 working days.

Yours sincerely

Karl Martin
Public Protection Officer
Torbay Council

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



SHIRAZ

2 Vaughan Parade
TORQUAY
TQ2 5EF

Tel: 01803 200201

Attn Karl Martin
Licensing and Public Protection
Community Safety
Town Hall
Castle Circus
Torquay
TQ1 3DR

15th May 2014



Dear Karl

Thank you for your letter of 6th May 2014,

I am a little surprised as to the contents of your letter as the entertainment was provided as part of the weekend event managed by the Torbay Town Centre Management Co and was organised in relation with them.

The music finished at 10pm one night and 10.30pm on the second night

The noise levels were monitored by myself and my senior staff at all times and at no time was any complaint received by us,

As in the past whenever live music is provided we will monitor the noise levels as necessary

Yours Sincerely

M Javadi
Director
MGM Torbay Ltd



Mr. M Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

COPY

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 17 September 2013

Dear Mr. Javadi

**Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance and breach of licensing Act at Shiraz Cafe Bar 2 Vaughan Parade
Torquay Devon TQ2 5EG**

I write in reference to a meeting with you at Commerce House on the 4th September, also present at the meeting was Dave Walker, Senior Environmental Health Officer, Torbay Council. The meeting was arranged to discuss with you a number of observations by Council Officers relating to the permitting of unauthorised licensable activities to take place at your premises. Specifically the following have been noted on more than one occasion as discussed during the meeting:

1. Knowingly or permitting amplified music (any music volume above background levels) to take place after 11:00pm, the time limit currently authorised by your premises licence and;
2. Knowingly or permitting acoustic or amplified live music to take place after 11:00pm. The Live Music Act 2012 allows live performances without authorization up to the time of 11:00pm. After 11:00pm you need authorisation which is not granted as per your premises licence.

Gareth Fudge, Senior Environmental Health Officer and I have written to you several times in the past two years warning you by undertaking these activities you are committing a criminal offence. Future infringements of the Licensing Act will not be tolerated and I will have no choice but to prepare a prosecution case for referral to the Environmental Health Manager for his consideration.

I will remind you under the Live music Act 2012 the performance of live music was deregulated, but only for performances between the hours 8:00am and 11:00pm with an audience of no more than 200 people. After 11:00pm live music becomes regulated again and you must be authorised by your licence. Your existing licence does not authorise you for live music beyond 11:00pm. You must not however allow any performances in your café permit area as this is prohibited under condition 8 at any time.

I will draw your attention to a number of conditions on your licence that you must observe at all times:

1. *Noise and vibration will not emanate from the premises such as to cause persons in the*

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neighbourhood to be unreasonably disturbed. In general terms, noise from the premises should not be audible within any noise sensitive premises (e.g. dwelling) with windows open for normal ventilation especially after 23:00hr. This will be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that will be applied are;

(a) Before 23:00hr- Noise emanating from the premises will not be clearly distinguishable above other noise.

(b) After 23:00hr- Noise emanating from the premises will not be distinguishable above background levels of noise.

(c) The local authority will reserve the right in cases of tonal noise and where premises are attached to others (i.e. semis and terraced properties), to make further assessments from within the residential property.

During the meeting we talked in detail about how you could vary your existing licence to include amplified and live music beyond 11:00pm. In order that I could agree to this variation I would be seeking additional conditions to be attached to your licence to satisfy the Council and members of the public the licensing condition 'Prevention of Public Nuisance' would be upheld.

I would anticipate the minimum I would be looking for is the following:-

Installation of a noise limiter - a device that limits the maximum volume of amplified sound so that the volume cannot exceed a level likely to give rise to a nuisance. The limit would be set by the Council with your input.

Door and windows closed at all times after 11:00pm – to minimise noise breakout.

Live music - the latest I would feel comfortable is midnight, amplified later if a noise limit level can be agreed.

Noise management plan – A written policy and procedure in place to ensure the above is implemented in additions to controls asking customers to leave quietly.

If you wish to proceed with the minor variation application please contact Karen Ellicot on 01803 208025, Ms Ellicot works Wednesday to Friday. If you wish to discuss the contents of this letter please call me on the same number quoting SR 192521

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,

Torquay
TQ1 3DR

COPY

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 15 August 2013

Dear Mr Javadi

Licensing Act 2003 and Environmental Protection Act

**RE: Alleged Nuisance arising and Breach of Licensing Conditions at Shiraz Cafe Bar 2
Vaughan Parade Torquay Devon TQ2 5EG**

I write to you as this department has recently collected evidence of continued breaches of licensing conditions at your premises. These breaches have led to noise complaints from nearby residents and the Council is obliged to take action where noise complaints are justified.

Licensing conditions are attached to your premise licence to ensure the premises are run to a standard that complies with the four licensing objectives. Evidence collected by Torbay Council Officers and evidence provided by local residents demonstrates you are not complying with the Licensing Objectives, specifically The Prevention of Public Nuisance.

Not complying with licensing conditions and causing nuisance is not a situation the licensing department can allow to continue. Therefore I formally invite you to a meeting at Torbay Council Offices to discuss the matter further with the intention of developing a written management plan to ensure this situation does not reoccur.

I strongly recommend you familiarise yourself with the premises licence and satisfy yourself that you are complying with all the conditions of your licence. I would like you to attend 1st Floor Commerce House, Abbey Road on Friday 22nd at 10:00pm. The meeting should not take more than 1 hour. If this time is not convenient please email me using the above email address with an alternative date.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection

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COPY

Mohammed JAVADI
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 4 July 2013

Dear Mr Javadi

**Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance arising from Shiraz Cafe Bar 2 Vaughan Parade Torquay Devon TQ2 5EG**

I write further to a meeting with you at the above premises on 3rd July 2013. David Walker, Senior Environmental Health Officer, Torbay Council was also present at the meeting.

I discussed with you during the meeting a complaint have received from a nearby resident regarding excessive noise from live music acts in your café permit area. Although I understand you have permission from the Highways department of Torbay Council to for a band to play outside of your café permit area on Sunday afternoon between the hours of 1pm-5:00pm, you do not have the suitable authorisation for Live music after 11:00pm Mon-Sun. You are not authorised for amplified music at any time, unless authorised by a Temporary Event Notice.

In addition condition 8 of your café permit prohibits the performance music (live or recorded) and have referred the matter to Steve Leatherland, Highways Department, Torbay Council for his consideration.

The Council has written to you on several occasions in the past reminding you that your premises is not licenced for amplified music. You should be aware that trading outside the conditions set by your licence is an offence under the Licensing Act 2003 for which you may either be prosecuted or for which a review of your licence may be sought. The Licensing Committee may decide to add conditions to your licence or may partially or completely revoke your licence.

Officer of this department will continue to monitor the situation over the coming months. If you wish to discuss further the contents of this letter please do not hesitate to contact me on the above number.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection

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COPY

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Gareth Fudge
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/186502
Your ref:
Telephone: 01803 208025
E-mail: licensing@torbay.gov.uk
Website:
Date: 5 February 2013

Dear Mr Javadi

Section 62 Control of Pollution Act 1974
The Operation of Loudspeakers in the Street

I have received a complaint alleging that over the Christmas period your premises was operating a loudspeaker in the street.

The above Act makes it an offence to operate a loudspeaker in the street for the purposes of advertising and for any purpose not connected with transport after the hours of 21:00. As the complainant indicated you were playing music after 21:00 you would have been committing an offence under the terms of the above Act.

Should I gain evidence that you are continuing to operate a loudspeaker in the street, I shall be left with no alternative but to refer the matter for prosecution. I am obliged to remind you that upon conviction, the maximum fine for operating a loudspeaker in the street is £5000.

It is therefore, in your interest to ensure that there are no further breaches.

Yours sincerely

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

cc: Licence holder if different to DPS
cc: Licensing Department East, Devon & Cornwall Police HQ, Middlemoor, Exeter, Devon, EX2 7HQ



Mr. M Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

COPY

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR
My ref: SRU/192521
Your ref:
Telephone: 01803 208025
E-mail:
Website:
Date: 17 September 2013

Dear Mr. Javadi

**Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance and breach of licensing Act at Shiraz Cafe Bar 2 Vaughan Parade
Torquay Devon TQ2 5EG**

I write in reference to a meeting with you at Commerce House on the 4th September, also present at the meeting was Dave Walker, Senior Environmental Health Officer, Torbay Council. The meeting was arranged to discuss with you a number of observations by Council Officers relating to the permitting of unauthorised licensable activities to take place at your premises. Specifically the following have been noted on more than one occasion as discussed during the meeting:

1. Knowingly or permitting amplified music (any music volume above background levels) to take place after 11:00pm, the time limit currently authorised by your premises licence and;
2. Knowingly or permitting acoustic or amplified live music to take place after 11:00pm. The Live Music Act 2012 allows live performances without authorization up to the time of 11:00pm. After 11:00pm you need authorisation which is not granted as per your premises licence.

Gareth Fudge, Senior Environmental Health Officer and I have written to you several times in the past two years warning you by undertaking these activities you are committing a criminal offence. Future infringements of the Licensing Act will not be tolerated and I will have no choice but to prepare a prosecution case for referral to the Environmental Health Manager for his consideration.

I will remind you under the Live music Act 2012 the performance of live music was deregulated, but only for performances between the hours 8:00am and 11:00pm with an audience of no more than 200 people. After 11:00pm live music becomes regulated again and you must be authorised by your licence. Your existing licence does not authorise you for live music beyond 11:00pm. You must not however allow any performances in your café permit area as this is prohibited under condition 8 at any time.

I will draw your attention to a number of conditions on your licence that you must observe at all times:

1. *Noise and vibration will not emanate from the premises such as to cause persons in the*

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neighbourhood to be unreasonably disturbed. In general terms, noise from the premises should not be audible within any noise sensitive premises (e.g. dwelling) with windows open for normal ventilation especially after 23:00hr. This will be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that will be applied are;

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(b) After 23:00hr- Noise emanating from the premises will not be distinguishable above background levels of noise.

(c) The local authority will reserve the right in cases of tonal noise and where premises are attached to others (i.e. semi and terraced properties), to make further assessments from within the residential property.

During the meeting we talked in detail about how you could vary your existing licence to include amplified and live music beyond 11:00pm. In order that I could agree to this variation I would be seeking additional conditions to be attached to your licence to satisfy the Council and members of the public the licensing condition 'Prevention of Public Nuisance' would be upheld.

I would anticipate the minimum I would be looking for is the following:-

Installation of a noise limiter - a device that limits the maximum volume of amplified sound so that the volume cannot exceed a level likely to give rise to a nuisance. The limit would be set by the Council with your input.

Door and windows closed at all times after 11:00pm – to minimise noise breakout.

Live music - the latest I would feel comfortable is midnight, amplified later if a noise limit level can be agreed.

Noise management plan – A written policy and procedure in place to ensure the above is implemented in additions to controls asking customers to leave quietly.

If you wish to proceed with the minor variation application please contact Karen Ellicot on 01803 208025, Ms Ellicot works Wednesday to Friday. If you wish to discuss the contents of this letter please call me on the same number quoting SR 192521

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,

Torquay
TQ1 3DR

COPY

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 15 August 2013

Dear Mr Javadi

Licensing Act 2003 and Environmental Protection Act

**RE: Alleged Nuisance arising and Breach of Licensing Conditions at Shiraz Cafe Bar 2
Vaughan Parade Torquay Devon TQ2 5EG**

I write to you as this department has recently collected evidence of continued breaches of licensing conditions at your premises. These breaches have led to noise complaints from nearby residents and the Council is obliged to take action where noise complaints are justified.

Licensing conditions are attached to your premises licence to ensure the premises are run to a standard that complies with the four licensing objectives. Evidence collected by Torbay Council Officers and evidence provided by local residents demonstrates you are not complying with the Licensing Objectives, specifically The Prevention of Public Nuisance.

Not complying with licensing conditions and causing nuisance is not a situation the licensing department can allow to continue. Therefore I formally invite you to a meeting at Torbay Council Offices to discuss the matter further with the intention of developing a written management plan to ensure this situation does not reoccur.

I strongly recommend you familiarise yourself with the premises licence and satisfy yourself that you are complying with all the conditions of your licence. I would like you to attend 1st Floor Commerce House, Abbey Road on Friday 22nd at 10:00pm. The meeting should not take more than 1 hour. If this time is not convenient please email me using the above email address with an alternative date.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection

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COPY

Mohammed JAVADI
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 4 July 2013

Dear Mr Javadi

Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance arising from Shiraz Cafe Bar 2 Vaughan Parade Torquay Devon TQ2 5EG

I write further to a meeting with you at the above premises on 3rd July 2013. David Walker, Senior Environmental Health Officer, Torbay Council was also present at the meeting.

I discussed with you during the meeting a complaint have received from a nearby resident regarding excessive noise from live music acts in your café permit area. Although I understand you have permission from the Highways department of Torbay Council to for a band to play outside of your café permit area on Sunday afternoon between the hours of 1pm-5:00pm, you do not have the suitable authorisation for Live music after 11:00pm Mon-Sun. You are not authorised for amplified music at any time, unless authorised by a Temporary Event Notice.

In addition condition 8 of your café permit prohibits the performance music (live or recorded) and have referred the matter to Steve Leatherland, Highways Department, Torbay Council for his consideration.

The Council has written to you on several occasions in the past reminding you that your premises is not licenced for amplified music. You should be aware that trading outside the conditions set by your licence is an offence under the Licensing Act 2003 for which you may either be prosecuted or for which a review of your licence may be sought. The Licensing Committee may decide to add conditions to your licence or may partially or completely revoke your licence.

Officer of this department will continue to monitor the situation other the coming months. If you wish to discuss further the contents of this letter please do not hesitate to contact me on the above number.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection

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COPY

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Gareth Fudge
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/186502

Your ref:

Telephone: 01803 208025

E-mail: licensing@torbay.gov.uk

Website:

Date: 5 February 2013

Dear Mr Javadi

Section 62 Control of Pollution Act 1974

The Operation of Loudspeakers in the Street

I have received a complaint alleging that over the Christmas period your premises was operating a loudspeaker in the street.

The above Act makes it an offence to operate a loudspeaker in the street for the purposes of advertising and for any purpose not connected with transport after the hours of 21:00. As the complainant indicated you were playing music after 21:00 you would have been committing an offence under the terms of the above Act.

Should I gain evidence that you are continuing to operate a loudspeaker in the street, I shall be left with no alternative but to refer the matter for prosecution. I am obliged to remind you that upon conviction, the maximum fine for operating a loudspeaker in the street is £5000.

It is therefore, in your interest to ensure that there are no further breaches.

Yours sincerely

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

cc: Licence holder if different to DPS

cc: Licensing Department East, Devon & Cornwall Police HQ, Middlemoor, Exeter, Devon, EX2 7HQ

COPY

Mr Javadi
Shiraz
2 Vaughan Parade
Torquay
TQ2 5EJ

Please reply to: Ms Mandy Guy
Community Safety
Roebuck House
Abbey Road,
Devon
TQ2 5EJ

My ref: SRU - 167496
Your ref:
Telephone: 01803 208025
Fax: 01803 208854
E-mail: Licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 19 October 2011

Dear Mr Javadi

Notice under Section 41(C) Licensing Act 2003

Application for a Minor Variation to a Premises Licence – PL0415 Shiraz, 2 Vaughan Parade, Torquay

I am writing to you regarding your application for a Minor Variation to a Premises Licence for Shiraz.

I can confirm that the application for a Minor Variation was rejected.

The reason for the rejection is that there was a representation made from an Interested Party, whose representation was considered relevant. Relevance is determined where the representation

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If you require this in a different format or language, please contact me.

clearly relates to the likely effect of the grant of the variation on the promotion of at least one of the Licensing Objectives. Where it is determined, as it was in this case, that the representation does effect the promotion of one or more of the Licensing Objectives then the application must be refused. In this case the representation was about the Licensing Objective the Prevention of Public Nuisance.

There are no appeal rights, however the Licensing Act 2003 allows for a Full Variation application to be made. This allows for the neighbours to make representations, but unlike the Minor Variation process this would generate a hearing in front of the Licensing Committee/Sub-Committee, who would make a decision on the application. For further advice visit the Torbay Council Webpage on Premises Licence – Full Variation. Link below:-

<http://www.torbay.gov.uk/index/buisness/licensing/licensingact2003/premiseslicencevariation.htm>

If you have any queries regarding this letter then please do not hesitate to contact me quoting the above reference number.

Yours sincerely

Ms Mandy Guy

Senior Licensing Officer

Licensing and Public Protection

Cc Licensing Department, Paignton Police Station, PO Box 1, Paignton TQ3 2YF

COPY

Mr Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EF

Please reply to: Mr Gareth Fudge
Licensing and Public Protection
Roebuck House
Abbey Road, Torquay, Devon TQ2 5EJ

My ref: SRU/168268 7FB
Your ref:
Telephone: 01803 208010
Fax: 01803 208854
E-mail: licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 25 October 2011

Dear Sir

Licensing Act 2003 – Playing of Amplified music

I refer to my colleague Ms Mandy Guy's letter of the 19th of October 2011.

I have received another complaint alleging that you are continuing to play music at your premises and that the level is such that it is causing a disturbance to local residents in the area.

I must remind you that you are not licensed to play amplified music and should you continue to play music on your premises you will be in breach of your licence. As such, you will be committing an offence. You are permitted to play background music which is not a licensable activity. Background music is music that is played to provide an ambience in a premises and would not interfere with speech within the premises and would certainly not be audible outside the premises.

Should I gain evidence that you are continuing to operate in breach of your licence, I will have no alternative but to refer the matter to our legal team for prosecution. You should be aware, that operating a licensed premises in a manner not in accordance with its premises licence is a serious matter carrying a maximum penalty of £20,000, six months in prison or both.

It is therefore in your interest to ensure that the playing of music ceases immediately.

If you wish to apply to add music to your licence, I suggest that you apply for a licence as detailed in my colleagues letter of the 19th of October 2011.

Yours faithfully

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

cc: Chief Superintendent of Police, c/o Licensing Team, Devon and Cornwall Police, PO Box 1

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If you require this in a different format or language, please contact me.

COPY

Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EF

Please reply to: Karl Martin
Licensing and Public Protection
1st Floor Roebuck House
Abbey Road
Torquay, TQ2 5EJ

My Ref: SRU No: 164529 2TH – Noise 1

Your Ref:

Telephone:

Fax: 01803 208854

E-mail: Environmental.Protection@torbay.gov.uk

Website: www.torbay.gov.uk

Date: 14th July 2011

Dear Sir

Environmental Protection Act 1990 – Noise breakout From Shiraz
Re: Shiraz Cafe Bar, 2 Vaughan Parade, Torquay, Devon, TQ2 5EF

As part of our work investigating complaints of noise from licensed premises on the harbour side, officers from this department visited the area last weekend to assess the level of noise coming from various premises on the harbour side.

It was noted during their time in the area there was noise breaking out of your premises. Although the Officers noted the music breaking out of your premises was not as significant as observed at other premises they felt it was adding to the general background noise in the local vicinity.

I appreciate we have not had any complaints from local residents specifically referring to Shiraz, however your assistance will greatly aid in helping to reduce the overall noise levels in the harbour area, particularly at the weekends.

I would like to point out your premises has not been singled out and there are many premises in the harbour area which are significantly contributing more to the noise levels than your premises. In turn we will be working closely with each premise in the coming months.

If you could monitor noise levels, particularly after 11pm and where necessary take remedial action. For example ensure all windows and doors are closed after 11pm, and turn the volume of music down after 11:00pm and/or reduce the bass. Alternatively you might wish to consider installing a limiter which can be kept under direct control of the management at.

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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 format or language, please contact me.

Thank you for co-operation and if I can be of any further assistance or you would like to discuss any details of this letter please do not hesitate to contact me on the number above.

Yours sincerely

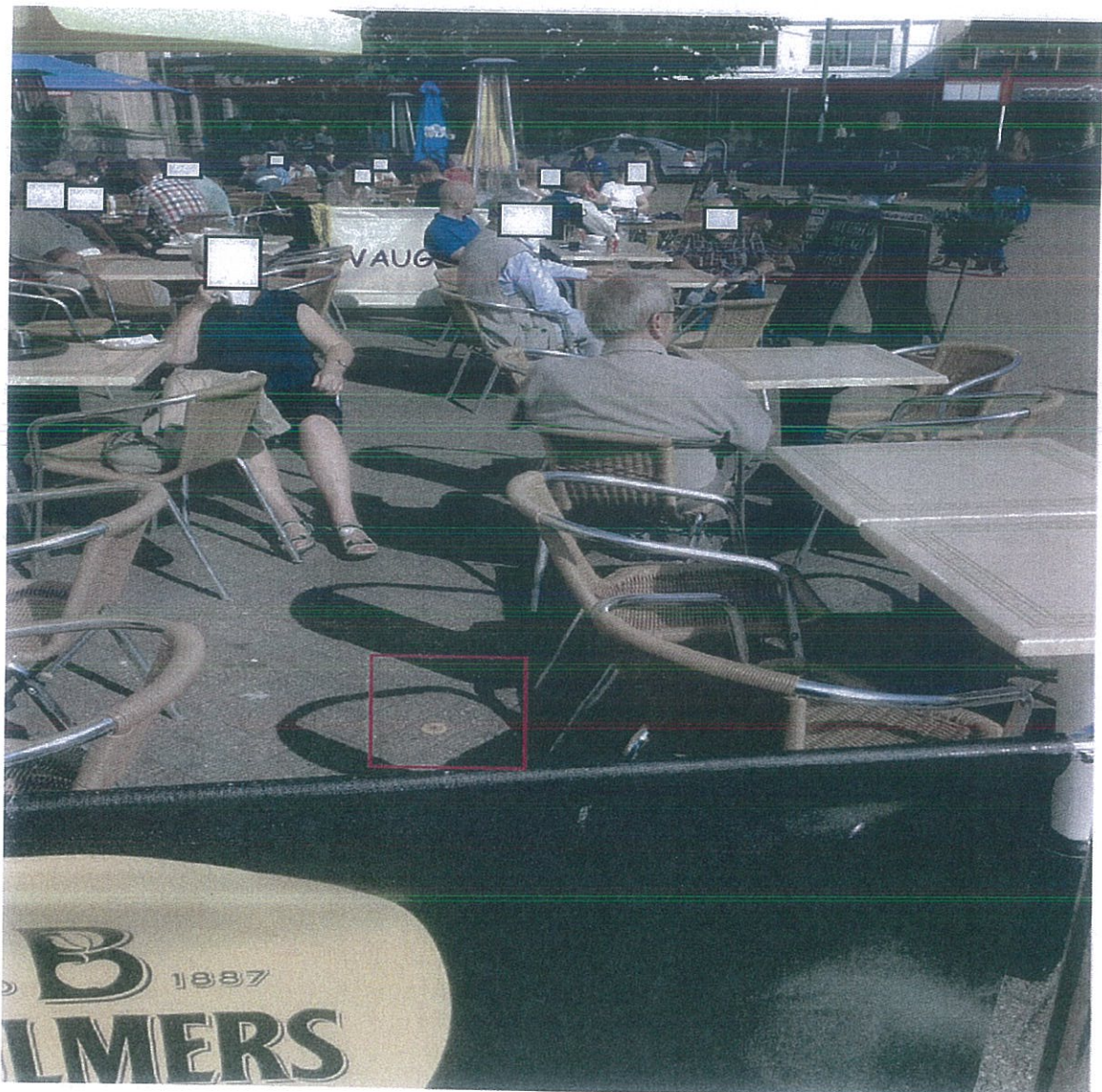
Karl Martin
Safety and Noise Officer
Licensing and Public Protection

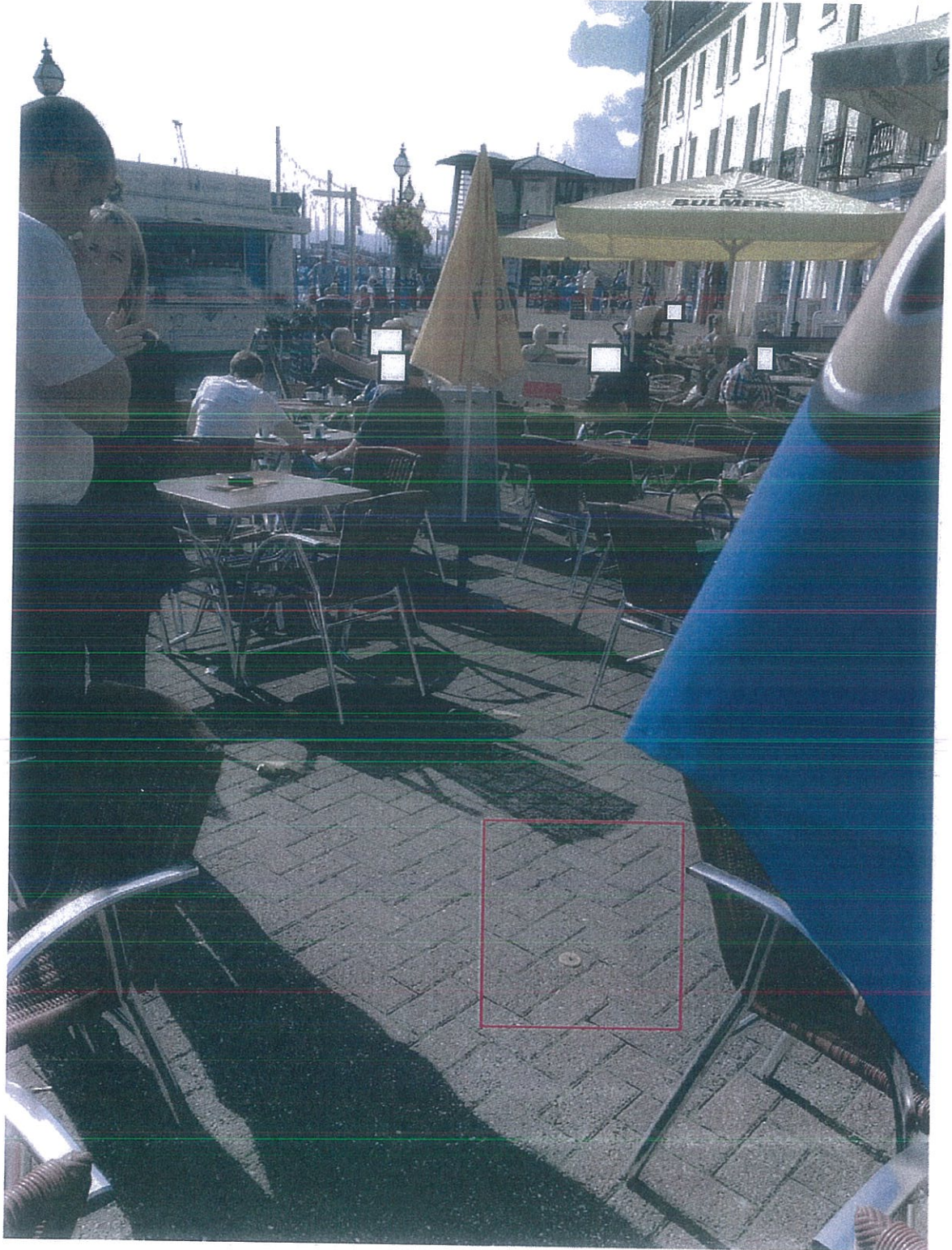
Email from Julie Smart, Police Licensing Officer, to Tim Northway, Torbay Council Highways Team.

At about midday on Thursday 2 October 2014 myself and Mandy Guy of Torbay Council Licensing Department, were walking along Vaughan Parade when we noticed, yet again, that Shiraz and Vaughans both had their tables and chairs well beyond the yellow markers on the pavement.

We went into both premises and advised them that they need to comply with the requirements of their Pavement Cafe Permits, and asked them to move their furniture to within the area as soon as customers had left the relevant tables.

I also took photographs of the area in which the yellow markers can be seen, which are attached for your information.





18th June 2015

A – boards and tables and chairs outside the cafe permit area.



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Mr Walker
Community Safety
C/O Town Hall
Castle Circus
Torquay
TQ1 3DR

TORBAY COUNCIL
12 DEC 2014
COMMUNITY SAFETY

Dear Mr Walker

RE: Nuisance noise from Shiraz cafe / bar reference number SRU211332

Further to our telephone conversation I started to record the titles of the songs, as you can see the songs being performed are clearly audible. The music has been getting increasingly louder since the summer months, to the point where I can hear it above the sound of the television; this is the loudest disturbance I have heard coming from the harbour side, considerably louder than on Friday and Saturday nights in the mid-season summer nights.

Please find enclosed the completed diary sheets from 19th November to 4th December 2014.

I hope this matter can be addressed with Shiraz as soon as possible, as I am sure you will understand the noise is very disrupting to family life.

I look forward to hearing from you soon.

Kind regards
Yours sincerely,

[REDACTED]

Home number: [REDACTED]
Mobile number: [REDACTED]

48-9

Dave Walker
ref: SED 211382.
208025



TORBAY COUNCIL
Torquay, TQ1 3DR
2 DEC 2014
COMMUNITY SAFETY

Case Reference:
Community Safety, C/o Town Hall, Castle Circus

Nuisance Diary Sheet

NOTE: PLEASE READ THE ATTACHED GUIDANCE BEFORE MAKING DIARY ENTRIES.

Your name and address		[REDACTED]	
Name and address of person / address being complained about	Start time	Finish time	Description of incident / noise nuisance
SHIROZ.	19/11/14 7:30pm	10:30pm	loud music, sounded like house disco music, singing - can hear words clearly - live music 103
[REDACTED]	20/11/14 5:30pm	6:00pm	loud music - some car audio - can hear words clearly - live music / car - loudest hour night before.
[REDACTED]	20/11/14 21:00	23:00	loud music - aware it's a Friday night, but can't hear words to songs & very loud bass - singing is almost like shouting
[REDACTED]	20/11/14 20:30	23:00	loud music (very loud) can hear words very clearly, bass, drums, lots of cousing, 'Yeah, ho very clear so when I belong to you, you belong to me, my sweet heart', again words very clear, it's a car stereo, I don't hesitate no more no more, one big family -> 'give me your kiss', you don't have to be nice to me, my mother I just want your extra pie & your kiss - can't fit all songs on here - up all night to be sun.
How did the incident / noise affect you?		Description of incident / noise nuisance	
irritating, small baby in noise - when waiting to have to turn up a lot.		loud music, sounded like house disco music, singing - can hear words clearly - live music 103	
irritating, have to turn up to hear it.		loud music - some car audio - can hear words clearly - live music / car - loudest hour night before.	
irritating - some car audio		loud music - aware it's a Friday night, but can't hear words to songs & very loud bass - singing is almost like shouting	
irritating, have to turn up to hear - car stereo baby sleep, baby waking up several times, trouble to sleep as music is so loud - have a young baby so can't go to bed late on Thursday, was stressed - very tired.		loud music (very loud) can hear words very clearly, bass, drums, lots of cousing, 'Yeah, ho very clear so when I belong to you, you belong to me, my sweet heart', again words very clear, it's a car stereo, I don't hesitate no more no more, one big family -> 'give me your kiss', you don't have to be nice to me, my mother I just want your extra pie & your kiss - can't fit all songs on here - up all night to be sun.	



Case Reference:
Community Safety, C/o Town Hall, Castle Circus, Torquay, TQ1 3DR

Nuisance Diary Sheet

NOTE: PLEASE READ THE ATTACHED GUIDANCE BEFORE MAKING DIARY ENTRIES.

Your name and address		[Redacted]	
Name and address of person / address being complained about		[Redacted]	
Date	Start time	Finish time	Description of incident / noise / nuisance
27/12/14	8:45 pm	22:00	PHONE, live singing - not too loud but wash but loud enough to be heard to be interesting. - can hear but can not make out songs.
4/12/14	5:15 pm		live music, guitar - sounds like electric classic guitar & singer. again can make out words & tune of song. - can hear words clearly. ① we found tone in a useless place.
			② soon it will be children's live - don't know the name of the song. ③ only you & me. we were young & wild & free - again don't know name of song.
			How did the incident / noise affect you? if watching - inhibiting - so you were - turn up to, it's a bit like sleep - it's like being at a music festival!

Date	Start time	Finish time	Description of incident / noise nuisance	How did the incident / noise affect you?
			1 'Bluelives', your a guitar player, you are the hottest witch in this area' - this has been the loudest it has ever been.	
27/11/14	5:30pm	7:00pm	1 I have it easy by people - very loud words. loud, loud words of guitar. Shouting by loud / singing kello. 2 'but I love you' - 'real love' - not sure of the song - that's - has a guitar solo in middle - small solo. 3 what's 'tell me the love' 'you in an early way' - again don't know name. lots of guitar & bass. 4 I got the best thing - don't know name of band who sang it. - loud guitar solo - electric.	Some of the loudest night - it's like listening in a music venue.
			5 'Go on my go, go, go' - again don't know band / it's is high note of song - can't be good - electric guitar solo - 6 'Love songs' - 'the things I have done' / played with you. - electric guitar solo.	
			7 'hey clown baby.'	
			8 - 'large electric guitar solo.'	
			9 'Sweet Home Alabama.'	
			10 'brown eyed girl.'	
			11 'Main Street Preachers - not sure the name of the song'	
			12 '74 74' - 'night rider' - all right now - with guitar ending.	
			13 'I'm a slant night' - some electric guitar - sounds terrible!!!	

(PTD)

Date	Start time	Finish time	Description of incident / noise nuisance	How did the incident / noise affect you?
4/12/14	continued.	80:15	<p>(4) the valerie - 'why don't you come on over valerie'.</p> <p>(5) Rear dartin'</p> <p>(6) I'm dreaming of a white christmas</p> <p>(7) need some body.</p> <p>(8) cheer up sleepy dean</p> <p>(9) talent show - not at sure on name of song. - 'what do it make anyway'.</p> <p>(10) but me be - again don't know name of song.</p> <p>(11) ston by me.</p> <p>(12) children playing having fun - merry christmas everyone!</p> <p>(13) big black horse & derry tree - not the right song - can't remember what it's called, - 'your no good for me'.</p> <p>(14) angels</p> <p>(15) edging in ladder.</p> <p>(16) like the one</p> <p>(17) lives like her</p> <p>(18) smooch in the address with you.</p> <p>(19) recuin' around the christmas tree.</p>	

A-Z Community Plan - Licensing

Call date: 19/03/2015 12:30:33

User: CSEB481

Contact number: [REDACTED]

Details: [REDACTED]

Home Phone: [REDACTED]

Document Number: 9384903

Licensing

Back office help line number.

8010 (Mon / Tue / Thu / Fri - 9am to 3pm)

8717 (all week - standard working hours)

8038 (Wed / Thu - standard working hours)

Licenses relating to Houses in Multiple Occupation

are administrated by Housing Standards.

Please refer to Housing Standards - HMO script

If customer enquiry relates to Taxi Licenses please use the Taxi Script

Is customer chasing progress?

No

Does enquiry relate to?

Street trading/Street Collections

If customer wishes to Trade within any of Torbays Town Centres

they need to contact Torbay Town Centres Company on

01803 212270 for authorisation.

Does the customer wish to make a payment?

No

Details of enquiry & Advice Given

wanted to make complaint about music coming from Shiraz in Torquay.

Music is so loud coming from Shiraz that it is having an effect on [REDACTED] business. He has read the regulations of his own ST license and it says no amplified music. He believes that Shiraz may be in breach of their ST license, could this be looked into. If cust needs to be contacted number is [REDACTED]

Name & Address of Business enquiry relates to.

Torquay

Please capture Callers Name for Reference.

incase back office need to contact them to discuss.

Callers Name

Does the customer wish to hand in an application form?

No

Did you need to ring Back Office

No

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	Mambos cafe
Offender Address	MAMBOS NIGHT CLUB 7 THE STRAND WELLSWOOD TORQUAY TORQUAY
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	No-one
Please enter details	
What effect does this have on your life?	Causing me irritation
Are there other people in your household affected in the following categories?	Children under 5
Details	The music for mambos has been getting progressively louder since the summer. It is now at the point on a Wednesday and Thursday night, when they seem to have live music, that it is starting to affect my 5month old baby, when the music is so loud with the drums its wakes him up. I can hear ever word to ever song, sounds like they are playing on the balcony. I am unable to go to sleep while the music is on as it is so loud and as a result am getting very tired. I am in the process of writing a diary and also have reported this before to the council, I will also report to the police.
What support do you have?	Friends/Family
Have you completed a diary of the problem?	Yes
	-1

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	Shiraz
Offender Address	SHIRAZ 2 VAUGHAN PARADE TORMOHUN TORQUAY TORQUAY
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	No-one
Please enter details	
What effect does this have on your life?	Causing me irritation
Are there other people in your household affected in the following categories?	Children under 5
Details	FAO Dave Walker Environmental Health ref number SRU211332. Dave following our conversation today I manage to get someone to look after my little one and went to have a look at the singing, and I am really sorry to say that it is not coming from Mambo but Shiraz! It is a one man band with two very powerful speakers. The music is very loud with a backing track, man is within the boundaries of the outside seating under one of the arches. Sorry again I got the wrong venue Regards [REDACTED]
What support do you have?	Friends/Family
Have you completed a diary of the problem?	Yes
Can you upload the diary now?	-1
Title	[REDACTED]
Contact Forename	[REDACTED]
Contact Surname	[REDACTED]
Contact Phone	[REDACTED]

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	
Offender Address	harbourside bars
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	Other
Please enter details	
What effect does this have on your life?	Causing me irritation
Are there other people in your household affected in the following categories?	Disability
Details	3 bars on harbourside playing live music on sat and sunday afternoons, offshore, shiraz and vaughns. Sound is applified accross the water making sound worse. Also Mambos playing loud music These ones are playing louder than other clubs, or seems that way.
What support do you have?	None
Completed	Internally
User id	CORP\cseb483
Contact no	
Title	Mr
Contact Forename	
Contact Surname	
Contact Phone	
Customer Address	
Post Code	
Email	
Notes	

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	Shiraz
Offender Address	SHIRAZ 2 VAUGHAN PARADE TORMOHUN TORQUAY TORQUAY
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	No-one
Please enter details	
What effect does this have on your life?	I am unable to sleep/constantly on edge
Are there other people in your household affected in the following categories?	
Details	thursday and sundays the noise is so loud and cant sleep pub is using very loud music and he can hear it with windows shut
What support do you have?	Friends/Family
Completed	Internally
User id	CORP/cseb456
Contact no	
Title	Mr
Contact Forename	
Contact Surname	
Contact Phone	
Customer Address	
Post Code	
Email	
Notes	Customer is 91 he will complete diarys and send in gave civic number for diary

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	Shiraz and Vaughns on harbourside playing live music outside
Offender Address	Harbourside Bars
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	No-one
Please enter details	
What effect does this have on your life?	Causing me occasional stress
Are there other people in your household affected in the following categories?	People over 65
Details	Harbourside bars playing live music outside through amplifiers causing noise, lots of noise. Thinks that with noise travelling accross water it makes it worse.
What support do you have?	None
Completed	Internally
User id	CORP\cseb483
Contact no	
Title	
Contact Forename	
Contact Surname	
Contact Phone	
Customer Address	
Post Code	
Email	
Notes	

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	Shiraz
Offender Address	2 VAUGHAN PARADE TORMOHUN TORQUAY TORQUAY
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	Other council department
Please enter details	
What effect does this have on your life?	I feel very stressed (it is making me ill)
Are there other people in your household affected in the following categories?	Children under 5
Details	Already have complaint with council about Shiraz, please find attached audio file taken on 11th December 2014 at 1930
What support do you have?	Friends/Family
Have you completed a diary of the problem?	Yes
Can you upload the diary now?	Yes
Title	
Contact Forename	
Contact Surname	
Contact Phone	
Customer Address	
Post Code	TQ1 2BZ
Email	
Notes	

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	Sharaz pub
Offender Address	Vaughan parade torquay
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	No-one
Please enter details:	
What effect does this have on your life?	Causing me irritation
Are there other people in your household affected in the following categories?	People over 65
Details	parents live above this property and are affected by this aswell
What support do you have?	None
Have you completed a diary of the problem?	Yes
Can you upload the diary now?	No
Title	
Contact Forename	
Contact Surname	
Contact Phone	
Customer Address	
Post Code	
Email	
Notes	

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from?	Yes
Name of the offender	shiraz bar
Offender Address	2 Vaughan parade torquay devon tq2 5eg
How often has the incident happened in the last 2 weeks?	More than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	Other council department
Please enter details	
What effect does this have on your life?	Causing me irritation
Are there other people in your household affected in the following categories?	People over 65
Details	every sunday at 3 or 4 shiraz caf� as a outside band playing they use amplification and the noise can be heard all over the harbour this is not good for a people that want a quite sunday afternoon ive phoned and complained about this but he carries on even though its against the conditions on the pavement licence he holds
What support do you have?	Friends/Family
Have you completed a diary of the problem?	Yes
Can you upload the diary now?	-1
Title	Mrs
Contact Forename	LUCY
Contact Surname	[REDACTED]
Contact Phone	[REDACTED]
Customer Address	[REDACTED]
Post Code	[REDACTED]
Email	[REDACTED]
Notes	

Nuisance Web Report

Field	Value
Type of nuisance	Business noise
Details (other)	
Do you know where the nuisance is coming from??	Yes
Name of the offender	Musicians at Inner Harbour
Offender Address	Inner Harbour area
How often has the incident happened in the last 2 weeks?	Less than 4 times
How long does each incident last?	More than 1 hour
To whom have you reported it already?	No-one
Please enter details	
What effect does this have on your life?	Causing me irritation
Are there other people in your household affected in the following categories?	People over 65
Details	On Sunday afternoons music is played at the Inner Harbour at a volume level that is quite unacceptable to local residents. It was particularly loud on 31 May and continued until about 8:30 at night. The noise is too great to be controlled with earplugs even at a distance of half a mile or so from the harbour. This nuisance should be brought under control so that the music can be heard locally in the harbour area but not in the entire surrounding area. particularly Warren Hill and Vane Hill.
What support do you have?	Friends/Family
Have you completed a diary of the problem?	No
Can you upload the diary now?	-1
Title	Mr



SW/WS1A

STATEMENT OF WITNESS C.J.A. Statement

(Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)

STATEMENT OF

Age of Witness (if over 18, enter "Over 18"):

This statement, (consisting ofpages), is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Dated the ...23/4/15.....day of.....20.....

Signed.....

I am employed as a Public Protection Officer by Torbay Council and have held this role for the past 11 years. I have a Bsc (Hons) in Environmental Risk Management and a NEBOSH post graduate diploma in Health and Safety. I have been investigating complaints of noise from licensed premises for the past 6 years. I had received a number of complaints from local residents about excessive volume of amplified live and recorded music emanating from the front forecourt of Shiraz. Mr David Walker, Senior Environmental Health Officer witness on the 12th April 2015 noise at a volume he believed could be a breach of the abatement noticed served on the owner of Shiraz, Mr Javadi on the 23rd May 2014. Mr Walker was not in position to visit any residents on the occasion. For this reason I visited the harbour area on Sunday the 19th 2015, having pre-arranged to meet with a resident. I arrived at approximately 16:00 hrs and parked my vehicle at Beacon Quay car park. On exiting my vehicle I noted I could hear music, though distorted, it was loud. I could not be sure where it was coming from. As I approached the harbour bridge I could hear more clearly an amplified male voice emanating from the direction of Shiraz, the vocals were clear and easy to make out recognisable words, though I did not recognise the song being played. At the bridge I could still hear distorted music now apparently coming from the direction of Victoria Parade. Due to the highly distorted nature of this unidentified sound I concluded the noise was emanating from Shiraz reflecting

Signed.....

4KA

of the building along Victoria Parade and picked up as a distorted echo from my current location. I continued on foot along the harbour wall towards the direction Offshore-Cafe. It was noted a performance of live music had clearly taken place as the musicians were in the process of packing up equipment. I carried on towards Shiraz bar and observed for a short period a male musician singer in the cafe permit area of Shiraz. Behind to each side of him were two large stand mounted speakers. I was satisfied this was the source of the music I could hear at Beacon Quay. The volume of music in my view was unreasonably loud and I considered the purpose music was not just for the benefit of those customers sat in the cafe permit area and felt it was the intention of the owner to broadcast the music across the harbour. I also noted customers sat consuming what appeared to be alcohol at tables and chairs positioned outside of the cafe permit area. I established this by locating a metal stud circled by a yellow disc directly opposite the main entrance to the premises. Other boundary studs could not be found as there were underneath tables and chairs. At approximately 16:20 I walked a circle around the harbours to confirm how loud the music appeared further away and confirmed no other premises was either playing music outside or inside at this time. The music was still in my view unreasonably loud at the clock tower. A short distance up Torwodd Street the music was less distinguishable due to the elevated background road noise. After completing loop of the harbour I returned to Shiraz at approximately 16:40 and took a number of photographs of the tables and chairs positioned outside of the cafe permit and licensed area. In addition a short 15 second movie clip of the male singer. At this point I noted the owner Mr Javadi sat with a group of people at a table. I approached Mr Javadi and pointed out to him the reason I was there was to investigate complaints of noise nuisance emanating from his premises disturbing residents in the vicinity. I also pointed I considered their complaint justified based on my experience that afternoon. I explained to him the music volume of music was likely to result in him being in breach of the abatement notice previously served on him. I added further he was in clear breach of his cafe permit conditions. Conversation was very difficult as both of us had great difficulty being understood because of the loudness of music. I advised Mr Javadi it would be to his benefit to remove chairs and table outside of the cafe permit area immediately and turn the music off. The playing of any form of music in a cafe permit area is also a breach of the cafe permit. Mr Javadi requested half an hour to do this. I left suggesting it his Mr Javadi choice what he does when I Leave. At approximately 16:55 I left the premises and visited a resident who lives on Park Hill road. I arrived at Park Hill road at approximately 17:10 and was greeted by one of several family members living at the house. I was greeted and walked through the house upon which I noted the same music I could hear at Shiraz I could hear in their home. The music was clear and intrusive. The day was warm, with little breeze and the family was enjoying the amenity of their garden. I stood with several family members in their garden for 10 minutes listening to the music coming from the male



SW/WS1A

singer outside Shiraz before the music stopped at approximately 17:30 hrs. During the Time I could hear the music I considered a statutory nuisance was being created, in the case a breach of the abatement noticed served on May the 23rd 2014. The volume was unreasonable and could not be escaped.. When it did I noted how little background noise from the harbour area was could be perceived at this location and elevation, approx 20-30 metres higher than street level. Performance of music I was witnessing had taken place ever Sunday for the last 5 weeks preventing this family from enjoying a relaxing opportunity to spend time together. I discussed various matters with the family before leaving the premises at approximately 17:40. I again walked towards Shiraz and noted tables and chairs had been moved back into the cafe permit area and the singer and the speakers had gone. The premises looked as if it was beginning to close. I noted this in my note book and returned to my vehicle at approximately 17:50 and left the area.

Signed.....

Signed.....

WITNESS STATEMENT

(CJ Act 1967, S.9 MC Act 1980, SS. 5A. (3a) and 5B MC Rules 1981, R. 70)

STATEMENT OF:	DAVID WALKER
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OCCUPATION:	SENIOR ENVIRONMENTAL HEALTH OFFICER
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AGE IF UNDER 18 (IF OVER 18 INSERT "OVER 18")	OVER 18
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THIS STATEMENT (CONSISTING OF 1 PAGE EACH SIGNED BY ME) IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND I MAKE IT KNOWING THAT, IF IT IS TENDERED IN EVIDENCE, I SHALL BE LIABLE TO PROSECUTION IF I HAVE WILLFULLY STATED ANYTHING WHICH I KNOW TO BE FALSE OR DO NOT BELIEVE TO BE TRUE.

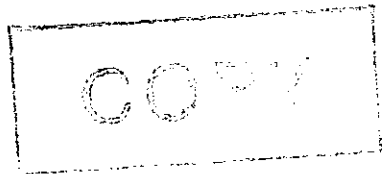
DATED THE 13th DAY OF APRIL 2015

SIGNATURE	<u>DH Walk</u>
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I am a Senior Environmental Health Officer currently employed in the Safety and Licensing Section of Torbay Council. On the afternoon of 12th April 2015, at approximately 16.30 I attended Torquay harbor side in relation to ongoing noise complaints from Shiraz on Vaughan Parade. Walking down Victoria Parade I became aware of amplified music coming from Shiraz which increased in volume as I approached the front of the Queens Hotel. Walking along the strand at approximately 16.40, I was able to clearly observe a number of individuals dancing in Shiraz's pavement café area, to pre-recorded amplified music coming from a pair of speakers located at the front of Shiraz. The track being played was the Black Eyed Peas "I gotta feeling" I observed this activity for approximately five minutes before walking up Fleet Walk. At approximately 17.00 I walked past Mambo's on The Strand and observed a middle aged entertainer singing to recorded music from between the two speakers at the front of Shiraz. A number of individuals were seen dancing in the pavement café area to Reggae type tracks and the song "Human" by The Killers. Moving towards the Queens Hotel, the music and singing was clearly audible above any background noise. It is my opinion that the music and singing observed was likely to cause a statutory nuisance in any residential properties in the Vaughan Parade, and Queens Hotel vicinities.

SIGNATURE: <u>DH Walk</u>	SIGNATURE WITNESSED BY:
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WITNESS STATEMENT

(CJ Act 1967, S.9 MC Act 1980, SS. 5A.(3a) and 5B MC Rules 1981, R. 70)

STATEMENT OF:	SHAUN ANDREW RACKLEY	
OCCUPATION:	LICENSING ENFORCEMENT OFFICER	
AGE IF UNDER 18 (IF OVER 18 INSERT "OVER 18")	OVER 18	

THIS STATEMENT (CONSISTING OF 2 PAGES EACH SIGNED BY ME) IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND I MAKE IT KNOWING THAT, IF IT IS TENDERED IN EVIDENCE, I SHALL BE LIABLE TO PROSECUTION IF I HAVE WILLFULLY STATED ANYTHING WHICH I KNOW TO BE FALSE OR DO NOT BELIEVE TO BE TRUE.

DATED THE 16TH DAY OF JUNE 2014

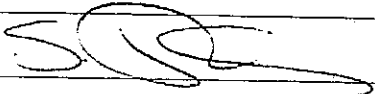
SIGNATURE	
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I am a licensing enforcement officer for Torbay Council who is responsible for processing premises licence applications and carrying out inspections of those licensed premises, to check compliance of conditions relating to the four licensing objectives and I have been employed in this position for 5 years. On Sunday the 15th June 2014, I was on a day off from work and was sitting on Torre Abbey Meadows, Torbay Road, Torquay. At 14:09 hrs I heard the sound of music, a guitarist and singer, coming from the direction of the Princess Theatre, Torbay Road, Torquay, this continued for approximately 15 minutes, only breaking when the song ended and a new song started. I could clearly hear word for word of each song at my location. At 14:55, I left Torre Abbey Meadows by car and drove along Torbay Road, in the direction of the Princess Theatre to see if I could find the source of the music for work purposes. With this information I would report back to the correct department and person. As I was driving along Torbay Road, I stopped for traffic at a roundabout just past Princess theatre and next to Torquay pavilions. At this time I had my car window wound down and could still hear the same type of music playing but louder than before. I then proceeded along Torbay Road onto the Strand, Torquay and then had to stop at the traffic lights on the Strand, directly outside Hoopers. At this point, the time was 14:56 hrs and I looked across in the direction of Vaughan Parade, Torquay and could see a man stood outside Shiraz within the pavement café area with a guitar in his hand, a microphone in front of him and a speaker either side of

SIGNATURE:	SIGNATURE WITNESSED BY:
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him, these speakers from what I could make out were approximately one and a half meters high, the singing and music was incredibly loud. The noise level was incredibly high that if you were to be sitting on the tables or chairs within the pavement café area, you would not have been able to hold a conversation. I witnessed this for approximately 30 seconds as I then had to carry on driving as the traffic lights changed to green. I could not see any other singers or musicians on Vaughan Parade or the Strand.



SIGNATURE: 	SIGNATURE WITNESSED BY:
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SW/WS1

**STATEMENT OF WITNESS
C.J.A. Statement**

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s. 5B)

STATEMENT OF Huw Thornton James

Age of Witness Over 18

(True age to be shown where witness is a juvenile or person involved in serious crime enquiry, otherwise "over 18" will suffice)

Occupation of Witness: Senior Trading Standards Officer

This statement, consisting of 1 pages each signed by me, is true to the best of my knowledge and belief, and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 13th day of October 2014.

Signed.....H. T. James.....

I am employed as a Senior Trading Standards Officer by Torbay Council based at Commerce House, Abbey Road, Torquay. On Sunday 12th October 2014 at approximately 16:30 I walked down Torwood Street, Torquay and onto The Strand. As I passed the Clock Tower I could clearly hear the amplified voice of a man singing to music coming from the direction of Vaughan Parade. As I walked past the pedestrian crossing on The Strand I could see loud speakers outside Shiraz Cafe Bar on Vaughan Parade and the man who was singing. As I walked up Fleet Street, I could still hear the "karaoke" style music for at least 15 metres. When I returned a few minutes later the man was still singing and I could hear him clearly until I got to the start of Torwood Street. If I was a resident of the Harbourside area, I would consider that the noise being generated from Shariz was excessively loud and intrusive.

H. T. James

Signed.....

Appendix 8.



Mr M Javadi
Shiraz
2 Vaughan Parade
Torquay
TQ2 5EF

Please reply to: Steve Leatherland
Highways Development and Traffic
4th Floor, Roebuck House
Abbey Road
Torquay TQ2 5TF
Your ref: SL/SM
Telephone: 01803 207736
Fax: 01803 207670
Website: www.torbay.gov.uk
Date: 1 September 2011

Dear Mr Javadi

Re: Pavement Café Licence

I have received a report from Neil Stanlake (Police Licensing Department), that on the Sunday 28th August your tables and chairs were still being used at 0400 on Monday 29th August in contravention of your Pavement Café Licence. I am writing to you today to remind you of the terms and conditions of your Pavement Café Licence, in that you are required to ensure that all tables and chairs are stored and unable to be used, outside your permitted hours.

If Torbay Council witnesses any further breaches of your Pavement Café Licence or complaints are received, you as the licence holder will be liable to a written notice under Section 115k of the Highways Act 1980 and failure to comply with such notice or any subsequent breaches of non-compliance of your licence could result in Torbay Council considering revoking your licence pursuant to condition 22.

Yours sincerely

Steve Leatherland
Environment Services Officer

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 format or language, please contact me.

Printed on 100% recycled paper

TORBAY COUNCIL

**PROVISION, MAINTENANCE AND OPERATION OF
A REFRESHMENT FACILITY ON A HIGHWAY**

HIGHWAYS ACT 1980 PART VIIA SECTION 115E

NAME OF HOLDER OF THIS PERMISSION - Mr M Javadi

ADDRESS - Shiraz, 2 Vaughan Parade, Torquay

TELEPHONE NUMBER - 01803 200201

CONDITIONS

1. Permitted hours, between - 8.00 a.m. and 12 Midnight

Permitted days - All week

Duration of permission, from 1st April 2011 to 31st March 2014


Permitted location as shown coloured pink on attached drawing - A 8m width strip adjacent to the frontage of the premises.

Permitted furniture or equipment - Tables, Chairs & Umbrellas

2. The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
3. The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Torbay Council.
4. The holder(s) shall return this Permission to the Offices of the Chief Executive at the Civic Offices, Torquay immediately on revocation of this Permission.
5. (a) The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
(b) The holder(s) shall ensure by means of signage of a type to be approved by the Strategic Director for Community Services that the permitted furniture or equipment is placed and remains within the permitted location at all times and shall inform his customers

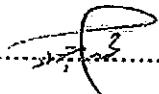
25. If the licence is to be transferred to a new named operator, or there is an alteration to the permitted hours at the operator's request, a new licence will be issued. A charge of £80.00 will be made for the transfer or alteration to the licence.
26. Torbay Council reserves the right to change or amend these Terms and Conditions without prior notice. This includes the right to increase the level of fees or charges referred to herein in order to reimburse the Council its reasonable expenses in connection with granting this Permission. Any changes will be notified and will apply with immediate effect. If you do not wish to accept the updated Terms and Conditions you should not continue to use this licence.

Dated the 29th day of March 2011

Signed.....

PROPER OFFICER
AND AUTHORISED SIGNATORY

I acknowledge receipt of a copy of this permit and agreed to abide by the condition herein.

Signed:- .....

Printed:-.....J. A. KADI.....

Dated:-21/3/11.....

Building better communities together



DEVON & CORNWALL
CONSTABULARY

Our ref: Dev/Lic/Tor/njs

Your ref:

Mr S Leatherland
Residents & Visitors Services
Highways Management
4th Floor Roebuck House
Abbey Road
TORQUAY TQ2 5TF

Licensing Department
Devon and Cornwall Constabulary
PO Box 1
PAIGNTON
TQ3 2YF

22 March 2011

Telephone: 01803 841327/841267

Dear Sir

Pavement Cafe Applications 2011 – 2014
Highways Act 1980 Part VIIA

I refer to your letter of 18 March 2011, received by my Licensing Department on the 21 March 2011, in relation to an application for the renewal of a Pavement Cafe Permit at Shiraz, Vaughan Parade and Park Street, Torquay, for the period 1 April 2011 to 31 March 2014.

The police have no objections to this application.

Should you require any further information, please contact Neil Stanlake of my Licensing Department on the above number.

Yours faithfully

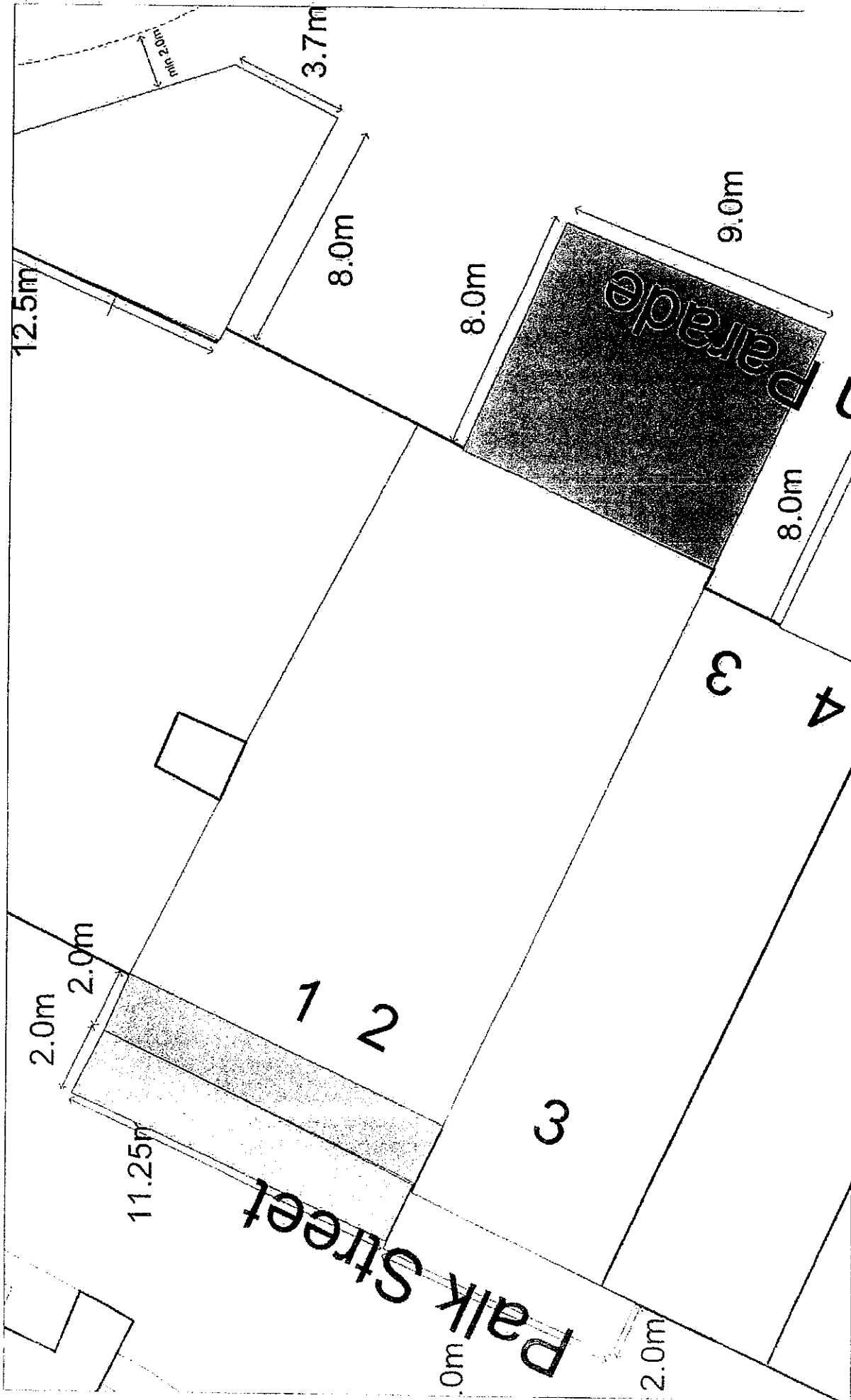
Superintendent J Nye
Geographic Superintendent – Torbay

www.devon-cornwall.police.uk



DEVON & CORNWALL
CONSTABULARY

SF 615



RESIDENTS & VISITORS SERVICES
 Sue Cherriton.: Executive Head
 Tor Hill House
 Torquay
 TQ2 5QW



Pavement Cafe Licence
 Shiraz
 2 Vaughan Parade
 Torquay

**Application for consent to place
Tables and Chairs on the Highway**
Under Section 115E of the Highways Act 1980



Part 1: Please Print Details

1. Applicant Details

Name: M. JAVADI
Capacity within Organisation: DIRECTOR
Address: SHIRAZ
VAUGHAN PARADE, 2, PALK ST
TORQUAY
Postcode: TQ2 5EF
Daytime tel. no: 01803 206221
Fax no: 01803 206022
Email: MGM.TORBAY@BT.COM.UK

2. Site Details

Name of establishment/business: SHIRAZ
Nature of business undertaken: RESTAURANT, BAR
Address of application site: 2 VAUGHAN PARADE / PALK ST
Proposed use of Highway: TORQUAY TQ2 5EF
TABLES CHAIRS UMBRELLAS

3. Ownership of Property

Owners Name and Address

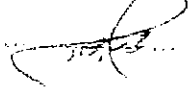
Name: M. JAVADI
Address: 2 VAUGHAN PARADE
TORQUAY
DEVON
Postcode: TQ2 5EF

Invoice Address

Name: SHIRAZ
Address: MGM TORBAY LTD
2 VAUGHAN PARADE
TORQUAY
DEVON
Postcode: TQ2 5EF

4. Declaration

I/We apply for permission to place tables and chairs in the defined area of the highway at the location stated above and confirm my/our agreement to comply with the conditions attached to any permit issued

Signature of Applicant/Agent: 
Date: 27/3/14