



## Minutes of the Licensing Sub-Committee

17 September 2015

-: Present :-

Councillors Ellery, Manning (In place of Doggett) and Thomas (D) (In place of Lang)

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### 21. Election of Chairman/woman

Councillor Manning was elected as Chairman for the meeting.

### 22. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Manning instead of Councillor Doggett and Councillor Thomas (D) instead of Councillor Lang.

### 23. Minutes

This item was deferred until a future meeting.

### 24. Licensing Act 2003 - An application for a Variation to a Premises Licence in respect of Park Lane, 1 Torwood Street, Torquay, TQ1 1ED

Members considered an application for a Variation to a Premises Licence in respect of Park Lane, 1 Torwood Street, Torquay, TQ1 1ED.

The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Environmental Protection	Representation of support in relation to Licensing Objective 'The Prevention of Public Nuisance.'	27 August 2015
Interested Parties	1 Representation on behalf of 4 Interested Parties in relation to Licensing Objectives 'The Prevention of	26 August 2015

	Crime and Disorder,' 'The Prevention of Public Nuisance' and 'Public Safety.'	
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Members noted there have been no additional Representations received from any other Responsible Authority or any other Interested Party.

Oral Representation received from:

Name	Details
Applicant	The Applicant outlined the application, as set out in the submitted documents and responded to Members questions.
Environmental Protection	The Public Protection Officer outlined his Representation in support, as set out in the submitted documents and responded to Members questions.
Nominated Representative on behalf of 4 Interested Parties	The Representative acting on behalf of 4 Interested Parties mentioned the objection, by reference to the Solicitors letter dated 26 August 2015, presented the proposed future development of the building and where able, and responded to Members questions.

Additional Information:

For ease and clarity and with Members consent, the Senior Licensing Officer circulated a table which showed the premises licence current, proposed deleted and amended conditions.

Decision:

That the application for a Variation to a Premises Licence, in respect of Park Lane, 1 Torwood Street, Torquay TQ1 1ED be granted, subject to the following conditions:

### **The Prevention of Crime and Disorder**

1. A CCTV system of an evidential standard must be installed to the satisfaction of the police, and the system to be in operation at all times the premises are open to the public. All recordings from that system must be kept for a period of 14 days and the police to have access to recordings at

any reasonable time.

2. In respect of the roof terrace area, CCTV cameras shall be installed in this area to the satisfaction of the police and there shall be a monitor situated behind the ground floor bar for viewing by staff.
3. On any Wednesday, Friday, Saturday and Sunday nights SIA door stewards shall be employed from 2200 hours until closing time at a ratio of 2 stewards for the first 100 patrons, and thereafter 1 additional steward for each 100 patrons. This condition shall also apply to Christmas Eve and New Years Eve when they do not fall on a Wednesday, Friday, Saturday or Sunday. On all other occasions the Premises Licence Holder shall risk assess the need for door stewards and employ these as such numbers and at such times determined by that risk assessment.
4. SIA door steward, when on duty, must wear distinctive dress.
5. On every operational day when SIA door stewards are required, then those stewards who are employed for front of house duties must wear yellow high visibility jackets for the entirety of their duty.
6. Nominated SIA door stewards and members of management must carry effective two way radios with earpieces and used at all times after 2200 hours. This equipment is kept in good working order.
7. Subject to condition 3 above, on every occasion that the premises sells alcohol after midnight and then closes after 0030 hours, SIA door stewards shall be employed at the premises from 2200 hours until closing.
8. At all times that SIA door stewards are employed at the premises after 2200 hours, an SIA door steward shall be positioned at the entrance to the premises.
9. From 2300 hours until the premises close, members of staff and SIA door stewards shall direct patrons to the roof terrace area if they suspect that the patron(s) is leaving by the main entrance to smoke outside the premises.
10. At all times that the roof terrace area is open, regular checks are to be made by staff and after 2200 hours, an SIA door steward shall be situated in that area. Their duties will include, ensuring that persons using the roof terrace behave in an orderly manner, and that persons shouting, singing or acting in a way that may cause a noise nuisance will be asked to leave the roof terrace area and if necessary, the premises.
11. The premises will maintain membership and actively participate in the Nitenet Radio Scheme, with the radio being in the possession of either the Head SIA Door Steward (when SIA door stewards are employed on the premises) or the Duty Manager.
12. Notices shall be prominently displayed within all bars of the Premises informing patrons who wish to smoke to use the roof terrace area.

13. Consumption of alcohol on the ground floor terrace shall be by persons seated, no alcohol shall be served in glass bottles within those areas from which it is intended or likely that a person shall drink.
14. In relation to the consumption of food and drink (alcoholic and non-alcoholic) on the ground floor terrace, there shall be no consumption after 0200 on Friday and Saturday and after 0000 Sunday to Thursday.
15. Patrons leaving the premises for all purposes between 0000 hours on Saturday nights until 0200 hours on Sunday mornings will not be permitted back into the premises without paying an entrance fee.
16. There must be no entry/re-entry after 0200 hours.
17. The number of persons admitted to the premises on any one occasion shall not exceed a safe occupancy. This is in agreement with the responsible authorities notably Devon Fire and Rescue and the Health and Safety Team.
18. All bar staff will be trained in relation to their responsibilities in relation to the Licensing Act in respect of the sale/supply of alcohol. After 2200 hours at least one manager who holds a personal licence shall be on the premises whilst open to the public.

19. From 2300 hours all drinks must be served in toughened/strengthened glasses or polycarbonate/plastic vessels and no drinks will be served in glass bottles from which it is intended or likely that a person shall drink. All glasses are stamped in accordance with Weights and Measures Legislation.
20. Adequate glass and bottle collection shall be undertaken throughout the premises.
21. There must be a zero tolerance with drugs and have a drugs policy in force on the premises, with the objective of securing, as far as reasonably practical, the safety of others attending the premises.
22. A secure drug deposit box approved by Devon & Cornwall Constabulary shall be located on the premises for the safe storage of any drugs found or seized.
23. The DPS or member of the management team shall attend at least two Torquay Forum Meetings per calendar year, and any other meetings organised by the Police in relation to high risk events.
24. The Licensees shall work with the Local Authority and support any seasonal and other advertising campaigns.

#### The Prevention of Public Nuisance

1. Noise from the premises shall not be audible within any dwelling with windows open for normal ventilation especially after 2300 hours. This shall be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that shall be applied are:-
  - (i) Before 2300 hours – Noise emanating from the premises shall not be clearly distinguishable above other noise.
  - (ii) After 2300 hours – Noise emanating from the premises shall not be distinguishable above background levels of noise.
  - (iii) The local authority shall reserve the right in cases of tonal noise and where premises are attached to others, to make further assessments from within the residential property.
2. Noise or vibration shall not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed.
3. Doors and windows must be kept shut during entertainment to reduce noise breakout. A management scheme will be in place to ensure this situation remains.

4. The volume of amplified sound used in connection with the entertainment provided shall at all times be under the control of the licensee/management and the controlling mechanism shall be operated from a part of the premises not accessible to the public.
5. All regulated entertainment shall be played through a noise limiter which is set at a level as agreed with the local responsible authority for public nuisance. The noise limiter shall be made tamper proof and any adjustments to sound levels shall only be made in consultation with the responsible authority for public nuisance.
6. The level of amplified music shall be reduced automatically by 1/3 of the agreed level set by the noise limiter at 0300 hours until closing.
7. The volume of any regulated entertainment will be under the control of the management at all times. Should monitoring indicate that the volume should be reduced, management shall take steps to ensure levels are reduced immediately.
8. No changes that increase the level of volume to the Public Address system shall be made without prior consultation with the local Environmental Health Department; this includes moving of speakers, addition or removal of any equipment and the use of guest acts/DJ's own equipment.
9. Entrances must be provided with lobbies with automatic door-closers. The lobbies shall be in use throughout the time of entertainment
10. Lobbies shall be constructed and operated in such a way to ensure that if regulated entertainment is being played inside the premises, only one door shall be opened at any one time to prevent noise breakout. These doors shall be fitted with automatic closers.
11. Where any proposed structural changes are made to the premises, agreement must be reached with the Environmental Health Department that these works will not increase noise breakout before the works are commenced.
12. From 2300 hours until the premises closes, SIA door stewards shall monitor the external areas and ensure that patrons behaving in a noisy manner are either asked to leave or asked to return inside the premises.
13. SIA door stewards positioned at the exits shall take all reasonable steps to ensure that patrons leave the premises in a quiet respectful manner and do not congregate outside the premises.
14. A management scheme shall be put in place to prevent excessive queuing into the street and particularly into Park Lane.
15. Cooking, noxious or persistent smells from the premises will not cause a nuisance to nearby properties.

16. Provision of mechanical ventilation and air conditioning system shall not allow noise breakout from the premises or cause a nuisance by its operation.
17. Regular maintenance shall be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
18. The placing of refuse such as bottles in to skips outside the premises shall take place at times that will prevent disturbance to nearby properties and the movement of bins and rubbish outside the premises shall be kept to a minimum after 2200 hours.
19. Delivery of kegs, bottles, food and other materials shall be carried out between the hours of 0930 hours and 1730 hours weekdays.
  - a) The licensee shall ensure that staff leaving the premises after a late night shift will conduct themselves in a manner as not to disturb nearby residents.
20. There shall be no use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas.
21. The roof terrace will close at:

Sundays – midnight, except on Sundays of Bank Holiday Weekends when the terrace will close at 0300 hours on the Monday morning.

Monday and Tuesdays – midnight.

Wednesdays – the terrace will close at 0200 hours on the following day (i.e. Thursday).

Thursday - midnight

Fridays and Saturdays – the terrace will close at 0300 hours on the following days (i.e. Saturday and Sunday mornings)
22. Other than recorded background music, no live or amplified music shall be permitted on the roof terrace area at any time.
23. The volume of background music played on the roof terrace area must be set and maintained at a level that is agreed by a Torbay Council Environmental Health Officer.
24. Background music on the roof terrace area must cease at 0200 hours and shall switch off automatically.
25. After 2300 hours, the number of patrons permitted to use the roof terrace area shall be limited to a maximum of 80 patrons at any one time.

26. Patrons shall not be permitted to take drinks onto the roof terrace area after 2300 hours.
27. All patrons consuming drinks on the roof terrace area must cease doing so at 2300 hours and arrangements must be in place by the Premises Licence Holder for all glasses to be cleared from that area at 2300 hours. Those patrons wishing to continue drinking must be advised to do so inside the Premises.
28. Patrons who behave in a noisy or disorderly manner on the roof terrace area shall be removed from that area and where appropriate asked to leave the Premises. Details of this noisy or disorderly conduct shall be recorded in a log book and where appropriate, details of the patron(s) causing the noise or disorderly conduct shall be recorded in that log book too.
29. Signage must be displayed in the roof terrace area to remind patrons to keep noise to a minimum, warning customers who are excessively noisy or disorderly that they will be removed from that area and potentially the Premises.
30. If Torbay Council receives a complaint of noise nuisance emanating from the Premises and an Environmental Health Officer of Torbay Council deems noise nuisance to exist and the upholds the complaint, the Premises Licence Holder shall on receiving written confirmation of that complaint from Torbay Council:
  - (a) Co-operate with Torbay Council's Environmental Health Officers and implement remedial measures to the satisfaction of the Environmental Health Officers immediately or as reasonably practicable to do so, as determined by the Environmental Health Officer; and
  - (b) Where remedial action cannot be identified and remediated to the satisfaction of the Environmental Health Officer, the roof terrace area shall be closed to all patrons at 2000 hours until such time that the noise nuisance can be identified and the necessary remedial work can be carried out.
31. The roof terrace is to have a solid perimeter wall of at least eight feet, with the exception of the Torwood Street elevation where it shall be six feet. The wall is to have a density of at least 10 kilograms per square meter with no gaps.
32. Non sound reflective surfaces shall be used on the walls and floor where practically possible.

#### Public Safety

1. The fire safety measures with which the premises are provided shall be maintained in good working order, and their adequacy shall be determined on a regular basis by the carrying out of a fire risk assessment as required



by and in accordance with the Fire Precautions Regulations.

2. In the event of evacuation caused by failure of general lighting, the public shall not be readmitted until the general lighting is fully restored.
3. The premises shall undertake to maintain a safe occupancy level.
4. Where crowd management measures are needed, all reasonable steps shall be taken to ensure that such persons do not obstruct exits, yards, passageways, stairways and ramps and that portable barriers shall be provided to prevent crushing and keep queues in an orderly fashion.
5. Suitable and clearly identifiable areas for dancing must be set aside, and separate from the dance area suitable means of providing cool air/ventilation and adequate seating must be provided.
6. Suitable and sufficient sanitary accommodation must be provided, clearly marked and in good order at all times.
7. No explosive or highly inflammable material shall be brought into the premises.
8. No pyrotechnics shall be used on the premises.
9. Lasers must not be used on the premises without consultation with the Licensing Authority and compliance with HS(G) 95.

#### The Protection of Children from Harm

1. No persons under the age of 18 shall be employed in connection with the sale of alcohol after 2300 hours.
2. Persons under the age of 18 shall be required to vacate the premises by 2200 hours, unless they are attending an under 18 event.
3. Persons under the age of 18 shall not be allowed into the Nightclub on the first floor at anytime unless attending an under 18 event.
4. Suitable food and non-alcoholic beverages shall be available at all times that children are allowed on the premises.
5. All bar staff shall be suitably trained to prevent the sale of alcohol to under 18's.
6. The premises shall operate a Challenge 25 Policy and any individual who appears to be under the age of 25 shall be requested to provide an approved form of identification bearing a photograph.

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

- 7.1 These events shall finish no later than 2300 hours, after which there will be a 30 minute period before re-opening to over 18's.
- 7.2 The Police shall be notified in writing or email at least 14 days prior to the event.
- 7.3 SIA door stewards must be employed throughout the event, which shall include at least one female steward. All stewards shall have undergone Disclosure & Barring Service check.
- 7.4 All promotional material relating to alcohol shall be removed.
- 7.5 All alcohol shall be locked and or obscured from view.
- 7.6 All gaming machines with prizes shall be unplugged and locked.
- 7.7 Any person refusing to be searched shall be refused entry.
- 7.8 The event shall be promoted to ages 14 and above.
- 7.9 Foreign student events shall be restricted to foreign students only.
- 7.10 Throughout under18 events, the DPS or personal licence holder must be present.

**Reasons for Decision:**

Having carefully considered all the written and oral Representations, Members resolved to grant the licence having been satisfied that the 73 conditions stated in their decision would seek to promote the Licensing Objectives. In addition, Members did not anticipate that granting this application would add to the problems of crime and disorder and/or public nuisance in the area, as in accordance with the Licensing Authority's Licensing Statement of Principles 2011.

In coming to that decision, Members had regard to the written and oral Representation of Torbay Council's Public Protection Officer which supported the application and noted that the Applicant had engaged in significant consultation with this Officer prior to submitting his application, the contents of which included that recommended by the Officer.

Members also had particular regard to the Officers submission that following the grant of a previous variation application in July 2014, the department had received no complaints about the operation of these premises; that the Applicant had been operating the proposed changes in the application before them under Temporary Event Notices with no complaint and that there had been a number of representations made by Interested Parties who attended the hearing in 2014 and that it was a positive testament to the Applicant that none of those residents were here today.

Members also noted the absence of any Representation from Devon and Cornwall Constabulary's Licensing Department and accepted the submission of the Applicant that he had consulted with the relevant Officers of that department prior to submitting his application. In light of this, Members drew the inference that the Police had no concerns regarding this application.

Members gave careful consideration to the Representation submitted on behalf of the Interested Parties whose residential properties were in close proximity to the premises. Members resolved that the intention of the application to facilitate a winding down period was in their opinion, beneficial to such properties in respect of patrons being dispersed from a late night licensed premise which is situated in an area of mixed use and central to the Borough's night time economy.

Members also had specific regard to each relevant point submitted in the Brecher Solicitors letter dated 26 August 2015. In particular, that set out in section 3. When questioned in respect of this, the nominated representative was unable to give any real evidence of complaint, as he had only been asked to attend the meeting two days earlier. It was submitted by the representative that it was his clients' belief that the change will cause a problem and would hinder future development of the building. On the points that Members were able to alleviate such concerns, they were satisfied that the contents of the 73 conditions addressed this and were reassured that there was no evidence before them that the Applicant had breached his previous premises licence conditions.

In concluding, Members noted that should issues arise as a result of this grant, that both Interested Parties and the Responsible Authorities could call a Review of this Premises Licence.