



Wednesday, 13 December 2017

LICENSING SUB-COMMITTEE

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

Thursday, 21 December 2017

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 Stocks

Councillor Thomas (J)

A prosperous and healthy Torbay

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

Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

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 4 - 13)
To confirm as a correct record the Minutes of the meeting of a Sub-Committee held on 2 November 2017 and 9 November 2017.
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. **Review of a Torbay Council Drivers' Licence** (Pages 14 - 40)
To consider a report that seeks a Review of a Torbay Council Drivers' Licence.
7. **Consideration of an Application for a New Dual Hackney Carriage and Private Hire Drivers' Licence** (Pages 41 - 48)
To consider an application for a new Dual Hackney Carriage and Private Hire Drivers' Licence.

- 8. Torquay Squash and Leisure Club, 78 Barton Road, Torquay TQ2 7NS** (Pages 49 - 78)
To consider an application for a Variation to a Premises Licence in respect of Torquay Squash and Leisure Club, 78 Barton Road, Torquay.
- 9. The Cabin, 13 Lucius Street, Torquay TQ2 5UW** (Pages 79 - 98)
To consider an application for a Premises Licence in respect of The Cabin, 13 Lucius Street, Torquay.



Minutes of the Licensing Sub-Committee

2 November 2017

-: Present :-

Councillors Doggett, Thomas (D) and Thomas (J)

60. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

61. Minutes

The Minutes of the meetings of the Sub-Committee held on 14 September 2017 and 20 October 2017 were confirmed as a correct record and signed by the Chairman.

62. Gio's Bar, 18 Esplanade Road, Paignton

Members considered a report on an application for a Premises Licence in respect of Gio's Bar, 18 Esplanade Road, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Devon & Cornwall Police	Representation in relation to licensing objectives of 'The Prevention of Crime and Disorder' and recommendations on conditions for the licence if granted.	Dated 6 October 2017
Public Protection Officer	Representation objecting to the application in relation to licensing objective 'Prevention of Public Nuisance'.	Dated 11 October 2017
Member of the Public	Representation objecting to the application on the grounds of 'The Prevention of Public Nuisance', 'Prevention of Crime and Disorder' and 'Public Safety'.	Undated

Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Received on 21 September 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Received on 25 September 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Dated 25 September 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Dated 5 October 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Dated 24 September 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Dated 3 October 2017
Member of the Public	Representation objecting to the application on the grounds of 'The Prevention of Public Nuisance'.	Undated
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Received 6 October 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	Dated 20 September 2017
Member of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance' and 'The Prevention of Crime and Disorder'.	Dated 6 October 2017

Prior to the commencement of the hearing, it was noted that application had not been duly signed by an authorised person of the company, nor the required Notice stating that the Designated Premises Supervisor or Manager present, were nominated to speak on their behalf.

There was a delay to the hearing start time to allow a representative of the company to attend the hearing.

Oral Representations received from:

Name	Details
Applicants	The Applicants outlined the application and responded to Members questions. During their oral representation, the Applicants proposed changes to their application to introduce a noise limiter, the licence to be until 03.00 hours in one area of the premises with a limit to 80 people in this area and the licence for the remainder of the premises to be until 01.00 hours.
Representative from Devon & Cornwall Police	The Representative from Devon & Cornwall Police outlined the Police's representation and responded to Members' questions.
Public Protection Officer	The Public Protection Officer outlined his representation and responded to Members' questions.

In light of the Applicants proposed changes and the subsequent oral representation from the Responsible Authorities which highlighted their concerns in respect of the lack of notification or opportunity to consider the impact of these changes, the Chairman adjourned the meeting to determine whether the hearing should be adjourned to a later date to enable the Responsible Authorities sufficient time to consider and respond to that now being put forward by the Applicants.

Decision:

That the application for a premises licence in respect of Gio's Bar, 18 Esplanade Road, Paignton shall be deferred until 23 November 2017.

Reasons for decision:

Following significant proposed changes to the application by the Applicants and the subsequent oral representations from the Responsible Authorities, Members resolved that they were unable at this stage to make an informed determination on this application which ensured that the Licensing Objectives would be promoted.

At this juncture the meeting was adjourned until Thursday 23 November 2017.

Members of the public who attended the hearing were thanked for their attendance and assured of the purpose for this adjournment.

Chairman



Minutes of the Licensing Sub-Committee

9 November 2017

-: Present :-

Councillors Ellery, Pentney, Thomas (J) and Doggett

63. Election of Chairman/woman

Councillor Thomas (J) was elected as Chairman for the meeting.

64. Apologies

It was reported that the membership for item 68 had been amended for this meeting by including Councillor Doggett instead of Councillor Ellery.

65. Minutes

The Minutes of the meeting of the Sub-Committee held on 27 July 2017 were confirmed as a correct record and signed by the Chairman.

66. Exclusion of Press and Public

Prior to consideration of the item in Minute 67 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Scheduled 12A of the Local Government Act 1972 (as amended).

67. The Globe Inn, 131 Winner Street, Paignton, Devon, TQ3 3BP

Members considered a report on an application for a review of a Premises Licence in respect of The Globe Inn, 131 Winner Street, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Applicant	Application setting out reasons for the application for review.	17 October 2017
Public Protection	Representation providing a history of the Premises and proposing conditions should the Licence be modified.	31 October 2017
Member of the Public	Representation supporting the application for Review.	1 November 2017

Additional Information:

At the Hearing, the Respondent requested an extension to the normal allowance of 10 minutes to present the application. The Chairman agreed to a total of 15 minutes.

Oral Representations received from:

Name	Details
Applicant	The Applicant presented their application and responded to Members questions.
Public Protection	The Public Protection Officer outlined their representation and responded to Members questions.
Respondent	The Respondent provided details of the steps they would be taking to address the concerns raised by the Applicant and Public Protection Officer and responded to Members questions.

Decision

That the Premises Licence in respect of The Globe Inn, 131 Winner Street, Paignton shall be suspended until the 31 January 2018 and will be subject thereafter to the following additional conditions:

- i) The exemptions under the Live Music Act 2012 shall be repealed in respect of these premises;
- ii) The Premises Licence Holder shall submit by 27 November 2017 a new plan of the premises which also clearly defines the licensable outside area, as proposed and agreed;
- iii) All amplified live and recorded music shall be played through a noise limiter;
- iv) The noise limiter shall be set at a level agreed by the Licensing Authority;
- v) The noise limiter shall be kept in a tamper proof container in a location where there is no public access;
- vi) A secure gate shall be in place to prevent unauthorised access to the premises licensable outside area;
- vii) The licensable outside area shall cease to be used by patrons after 8pm; and
- viii) A CCTV camera shall be located to monitor the outside licensable area by staff from within the premises main bar area.

Reasons for Decision

Having carefully considered all the written and oral Representations, Members resolved to suspend the Premises Licence with the agreement of the Respondents, as they were satisfied in the circumstances that the suspension was

appropriate and proportionate, given the long and troubled history of this premises.

In doing so, Members were confident that the suspension would allow the Premises Licence Holders sufficient time to refurbish the premises, maximise on the opportunity for a cultural change and to allow the premises time to distance itself from its own history which ensured that the premises future operation would promote the Licensing Objectives.

Members determined that the additional conditions should alleviate the concerns raised by the Responsible Authorities and those of nearby residents, who lives in their opinion on the evidence before them, had been detrimentally effected by the historical operation of these premises.

In concluding, Members were reassured by the Premises Licence Holders proposed future management and operation of this premise, given their considerable experience in operating similar challenging premises, their commitment to relocate from out of area and to financially invest further in to the premises to ensure that the premises would be managed in a responsible manner going forward.

68. Adjournment

At this juncture the meeting was adjourned until 2.00 pm on Thursday 9 November 2017.

69. Election of Chairman/woman

Councillor Doggett was elected as Chairman for the adjourned meeting.

70. Apologies

It was reported that the membership for item 71 had been amended for this meeting by including Councillor Doggett instead of Councillor Thomas (J).

71. Torbay Court Hotel, Steartfield Road, Paignton

Members considered a report on an application for review of a Premises Licence in respect of Torbay Court Hotel, Steartfield Road, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Applicant	Application for a Review of a Premises Licence.	14 September 2017
Public Protection	Representation in support of the application for a Review of the Premises Licence.	12 October 2017
Member of the Public	Representation in support of the application for a Review of the Premises Licence.	Undated

Additional Information:

Prior to the Hearing the Respondent's Representative provided additional information which was circulated to Members and Interested Parties.

During the hearing it became apparent that the applicant required an extension of time for their oral submissions, the extension of time was granted to all Interested Parties.

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined the reasons for the application for a Review of a Premises Licence and responded to Members questions.
Public Protection Officer	The Public Protection Officer outlined his support for the application for a Review of a Premises Licence, played some audio clips recorded via the 'noise app' and responded to Members questions.
Member of the Public	A Member of the Public outlined their support for the application for a Review of a Premises Licence and responded to Members questions.
Respondents Solicitor	The Respondents Solicitor asked questions of the Designated Premises Supervisor.

Decision

That the Premises Licence in respect of The Torbay Hotel, Steartfield Road, Paignton be amended to include the following additional conditions:

- i) The exemptions under the Live Music Act 2012 shall be repealed in respect of these premises;
- ii) All amplified live and recorded music shall be played through a noise limiter;
- iii) The noise limiter shall be set at a level agreed by the Licensing Authority;
- iv) The noise limiter shall be kept in a tamper proof container in a location where there is no public access;
- v) Any adjustments to the noise limiters level shall only be made in consultation with the Licensing Authority;
- vi) The premises shall have an in-house PA system or something similar to ensure that the agreed level set on the noise limiter is maintained;
- vii) All entertainers and performers using amplified equipment must use the premises in-house PA system or something similar to ensure that the agreed levels set on the noise limiter are maintained;

- viii) A suitable and sufficient ventilation system must be installed and maintained in the areas of the premises where regulated entertainment takes place by 31 May 2018;
- ix) There shall be no more than 6 persons associated with the Premises being permitted in the designated smoking area after 8 pm;
- x) Suitable and sufficient size signage agreed by the Licensing Authority shall be displayed in prominent positions within the Premises and its outside areas to remind guests to respect neighbours and keep noise to a minimum.

Reasons for Decision

Having carefully considered all the written and oral Representations, Members resolved to modify the Premises Licence having been satisfied that the premises operations were undermining the Licensing Objective 'The Prevention of Public Nuisance' and causing a nuisance to nearby residents.

In coming to that decision, Members were alarmed by the Designated Premises Supervisor (DPS) and the Premises Licence Holder's (PLH) Legal Representative impervious response to the concerns raised over a number of years by members of the public who live in the immediate vicinity and that of the Licensing Authority's Public Protection Officer, regardless of the written Representations and oral submissions of those present at the hearing and being presented with audio clips played by the Public Protection Officer of which the majority were taken from within the homes of three nearby residents.

In listening to these clips, Members noted that they could clearly hear exact numbers being called by a bingo caller and words of songs being played from within the premises and therefore in their opinion, determined that the noise emanating from these premises was having a detrimental impact on nearby residents so as to cause them a nuisance.

Despite being questioned in regards to this evidence and its effects, Members were seriously concerned as to the DPS's future ability to operate these premises in a responsible manner which ensured that the Licensing Objective, 'The Prevention of Public Nuisance' was promoted, given her continued opinion that there was no public nuisance and even if there was, she was not aware of this. This Members determined fell well below the standard reasonably expected by them of someone in a position of such authority.

Members resolved that the DPS's attitude and approach to the noise complaints was dismissive and irresponsible and on the evidence before them, were satisfied that the premises were aware of the historical and ongoing noise outbreak from the premises and its effects but had chosen not to address these, due to the perceived cost implications.

By the DPS's own written and oral submission, residents' concerns had been brought to her attention and as a result, she convened a meeting on the 2nd July 2016 in an attempt to resolve these. Members further noted the number of times complaints were raised directly with the premises and the prolonged period of this

by the person who had called the Review and others and that of the Licensing Authority's Public Protection Officer who had met with the DPS on a number of occasions following their receipt of noise complaints from nearby residents and had given advice and warnings to the premises in respect of noise outbreak. This was in addition to the findings of the Private Investigators report which was commissioned by the PLH and clearly showed other residents in the adjoining roads who he had spoken to could hear noise emanating from these premises, although they had chosen not to complain.

Notwithstanding that these premises were exempt under the Live Music Act 2012, Members noted the oral submission of the DPS that she was not aware of this and had continued to operate the premises in compliance with the conditions of the Premises Licence. This coupled with the premises written manual at point 6 under the heading 'Advice and Guidance which states that 'All windows and doors must be kept closed during all entertainment, regular sound checks around the outside of the building must be made to ensure no unacceptable noise outbreak and recorded should any action need be taken' and 'During any events using a Temporary Event Notice sound checks must be carried out every hour and logged on the events log', which too were submitted to have been complied with, resulted in Members determining that such action had not been undertaken effectively, if at all, given the evidence before them and the absence of sight of a record or events log.

In noting that the DPS and the Premises Legal Representative agreed to all of the conditions put forward, except to that of installing a PA system or something of a similar nature, Members resolved that without such a condition, a noise limiter would be ineffective and noise nuisance would continue to emanate from these premises. In their opinion and experience, Members resolved that installing such a system where the premises was in such close proximity to nearby residents was an appropriate and proportionate condition to ensure that 'The Prevention of Public Nuisance' Licensing Objective would be promoted, given the evidence before them.

In line with its Statement of Principles, Members gave careful consideration to removing and/or limiting licensable activities at these premises due to the close proximity of residential premises and the removal of the DPS but resolved on this occasion that the proposed conditions which were agreed in majority should alleviate the concerns raised by members of the public and the Responsible Authority.

Should issues of concern continue to arise as a result of this decision, Members would welcome a further Review of this Premises Licence so that a decision may be taken to address these.

Chairman/woman



Report No: Public Agenda Item: **NO**

Title: **Review of a Torbay Council Drivers' Licence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **21st December 2017**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Gary O'Shea**
Telephone: **01803 207631**
E.mail: gary.oshea@torbay.gov.uk

1. What we are trying to achieve

- 1.1 This report asks Members to consider a number of complaints and other information relating to the conduct of the holder of a dual Hackney Carriage and Private Hire drivers licence and to determine on the facts laid before them, whether or not the licence holder continues to be regarded as a 'fit and proper' person to hold such a licence.

2. Recommendation(s) for decision

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony. Therefore, there is no recommendations. The options available to Members however, are highlighted in paragraph A3.1 of Annex 1 to this report.

3. Key points and reasons for recommendations

- 3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- 3.2 Sections 51 and 59 of the 1976 Act in conjunction with section 46 of the Town Police Clauses Act 1847 make provision for the licensing of drivers and state that a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.

- 3.3 Section 51 (2) of the 1976 Act permits the Council to attach to the grant of a licence to drive a Private Hire vehicle 'such conditions as they may consider reasonably necessary'. This provision extends to enabling the attachment of conditions on a dual licence as is issued in Torbay.
- 3.4 There is no prescribed test for 'fit and proper' laid down in legislation and it is therefore left to the individual Licensing Authorities to assess drivers and applicants under their own criteria. However, there is a wide scope for such assessment and certain processes have evolved over time which have stood up to scrutiny in the Courts and are therefore commonly accepted practices amongst the majority of Licensing Authorities.
- 3.5 Torbay has adopted a number of common practices for testing the 'fit and proper' status of drivers and applicants. These include, a group 2 standard of medical fitness, an enhanced Criminal Records Disclosure (DBS), a driving standards test (DSA), scrutiny of DVLA penalty points and a test of the knowledge of both the area and conditions pertaining specifically to Torbay and local licensing Policy. A recent addition to this is the requirement to test the right to live and work in the United Kingdom.
- 3.6 Section 61 (1) of the 1976 Act states that a district council may suspend or revoke or refuse to renew the licence of a driver of a Hackney Carriage or a Private Hire vehicle on any of the following grounds:—
- (1) (a) that he has since the grant of the licence—
- (i) been convicted of an offence involving dishonesty, indecency violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
- (b) any other reasonable cause.
- 3.7 Section 61 (2) of the 1976 Act states:
- (2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him...
- (b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

- 3.8 Under Section 61 (2A) a suspension or revocation of a drivers' licence takes effect at the end of a period of 21 days beginning with the day on which the notice is given to the driver. However, under section (2B) any suspension or revocation may take immediate effect if it is deemed to be necessary in the interests of public safety. In such circumstances the notice given to the driver notifying of the suspension or revocation must include a statement and explanation as to why section (2B) has been deemed necessary.
- 3.9 This report follows receipt of a number of complaints relating to the alleged actions and demeanour of Mr Philip Johnston, who has been a licensed driver with this Authority since August 2004. The complaints are attached as **Appendix 1** to this report and a transcript of an interview conducted with Mr Johnston on 23 October 2017 where the allegations were discussed is attached at **Appendix 2**.
- 3.10 An email exchange has taken place with Mr Johnston since the interview that was held on 23 October 2017, where he has agreed primarily to the written account of interview (save for minor alterations that have been included) by virtue of the fact that no other alterations were requested. A transcript of this email exchange has been attached for information at **Appendix 3**.
- 3.11 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

For more detailed information on this proposal please refer to the Supporting Information.

Steve Cox
Environmental Health Manager (Commercial)

Annex 1 - Supporting information

A1. Introduction and history

A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.

A1.2 Sections 51 (in respect of Private Hire drivers) and 59 (in respect of Hackney Carriage drivers) of the Act state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.

A1.3 The test for 'fit and proper' as it applies in Torbay is outlined in paragraph 3.5 of the report.

A1.4 Since January 2016, there have been a total of nine (9) complaints made against Mr Johnston. Whilst ten (10) matters are highlighted in the interview transcript at Appendix 2, one of them was a notification of an incident made by Mr Johnston himself and from which no complaint followed, it is not therefore, recorded as a complaint. Due to the content and number of complaints received and notwithstanding the fact that some of these are unsubstantiated, this matter has been referred to Members in order that consideration may be given as to whether Mr Johnston remains a 'fit and proper' person to be the holder of a drivers' licence issued by this Authority.

A1.6 The full complaints that have been received since the warnings as outlined in paragraph A1.5 (above) are attached as **Appendix 1** and relate in the main to matters concerning Mr Johnston's behaviour, comments he has made and complaints about his manner of driving.

A1.7 Mr Johnston attended an interview at the Council offices, which took place on 23 October 2017. The interview was conducted by Gary O'Shea, Principal Licensing Officer and Craig Noble, a Licensing Enforcement Officer. Nobody else was present, however, the full content of the meeting was transcribed and sent to Mr Johnston, who agreed subsequently that it is a true reflection of the discussion that took place. This is attached at **Appendix 2**.

A1.8 Given the number of complaints and facts as outlined in Appendix 2, it is deemed appropriate that the relevance of these matters in relation to the 'fit and proper' status of Mr Johnston should be considered by Members of the Licensing Sub-Committee.

A1.9 Torbay Council's Hackney Carriage & Private Hire Licensing Policy states;

In setting out its Policy, the Licensing Authority seeks to promote the following objectives:

- *The safety and health of drivers and the public;*
- *Vehicle safety, comfort and access;*
- *To prevent crime and disorder and to protect the public;*
- *To encourage environmental sustainability.*

Public safety is paramount, and this Licensing Authority seeks to ensure through its licensing regime that all taxi and private hire vehicles are fit for purpose and that their drivers and/or operators are fit and proper persons.

A1.10 Torbay Council's Hackney Carriage & Private Hire Licensing Policy goes on to say;

1 General Policy

1.1 *Each case will be decided on its own merits.*

1.2 *The Licensing Authority has a duty to ensure, so far as possible, that applicants are 'fit and proper' persons to hold licences and in the absence of a judicially approved definition of "fit and proper", the Licensing Authority use the test of:*

"Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone"

The wording of this test originates from Button, J. T. H. (1999), Taxis – Licensing Law and Practice, Butterworths, London.

1.3 *The overriding consideration is the safety of the public. The Licensing Authority has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit. An aspect of this is the extent to which previous convictions, including but not limited to convictions of dishonesty, sexual offences, traffic offences, violence and drugs, indicate that a person is not a 'fit and proper' person and would not take advantage of passengers or abuse or assault them.*

A1.11 There is a right of Appeal to the Magistrates' Court against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 Under current Policy and in full consideration of the overriding requirement to protect the safety of the travelling public, this is a matter that Officers consider best suited to determination by Members of the Licensing Sub-Committee.

A2.1.2 There are risks both potentially to the public and to the Council if a key decision were to be taken without full consideration of the facts. By placing this matter before a Licensing Sub-Committee, such risks are reduced as full consideration may be given in an open and transparent manner of all relevant facts.

A3. Options

A3.1 The options are:

- (i) to formally warn Mr Johnston and/or to add conditions to the scope of his Torbay Council Driver's Licence;
- (ii) to suspend Mr Johnston's Torbay Council Driver's Licence, with or without immediate effect, as outlined in paragraph 3.8 of the report which may or may not include the addition of conditions to the scope of the licence as deemed appropriate;
- (iii) to revoke Mr Johnston's Torbay Council Driver's Licence with or without immediate effect as outlined in paragraph 3.8 of the report;
- (iv) to do nothing.

A4. Summary of resource implications

A4.1 There are some resource implications if there is an Appeal to the Magistrates' Court.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 There are no environmental sustainability issues. Whilst this report brings a number of matters to Members' of the Licensing Sub-Committees attention, there are no criminal convictions. In view of this, any crime and disorder impact is best assessed by the Licensing Sub-Committee having determined the facts. If any potential for crime and/or disorder on the balance of probability is deemed likely or possible, then this may lead Members to consider whether Mr Johnston meets the 'fit and proper' criteria. It is important to note however, this is not the only consideration.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation on this matter and there is no requirement for the Licensing Sub-Committee to consult the public in this matter.

A7. Are there any implications for other Business Units?

A7.1 There are no implications for other business units.

Documents available in members' rooms

None

Appendices

Appendix 1 – Complaints Received

Appendix 2 – Transcript of Interview with Mr Johnston

Appendix 3 – Email Exchange post interview

Background Papers:

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

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2016

Documents supplied by the applicant, as referred to above.

Complaint 1 – January 2016

Incident of reckless and dangerous driving by a licenced taxi driver

I want to report an incident of reckless and very dangerous driving by a Torbay licensed taxi driver.

Today 23/1215 time between 13:00 13:09. i was crossing the road just outside BHS with my daughter.

We were more than halfway across the road and almost near the curb when a speeding taxi driver appeared to drive at us we jumped onto the curb and out of the way. We were both clearly shocked and very shaken by the incident. It was distressing because I had a sensation of almost feeling the car as it very narrowly missed us. It appeared as if he was deliberately trying to run us down. Although I think his intention was speeding in towards the taxi rank lane which was empty of other taxis to pick up a fare. (this was indicated by the fact that once I had walk down towards the taxi rank he already had a gentleman in the car and was about to leave).

I was so distressed and shocked by his driving that I approached the person driving who had by now picked up a gentleman. I knocked on the window of his car and the gentleman opened the door. I explained to the driver that he was driving reckless and speeding in a built up area and that I am reporting him. He shouted at me to get off his car. His manner and behaviour was aggressive and in my view unsuitable and unnecessary.

A young man who witnessed the incident could see my level of distress and shock as I was so upset I couldn't even write down his number, fortunately between my daughter and the young man details were exchanged and he has offered his support as a witness to this shocking incident. He give me his telephone number and his email address. With CCTV footage in this area I am sure you will have a record of this extremely dangerous driving by the person.

Taxi driver details Reg: Y15PDJ.

Complaint 2 – February 2016

Speaking inappropriately to passengers. Received a lift from him recently and was talking lewdly about her daughter and then saying lewd things to the mother. Her daughter has had lifts with him before and refuses to get lifts with him now as made to feel so uncomfortable.

Another taxi driver (number given) has said that he also called another customer's wife a slag resulting in men looking for him to harm him.

Does not know Taxi Company or name of driver only know it is a taxi number 67 stationed on union street.

Complaint 3 – April 2016 - Hand Written – Attached at end of this document at Annex 1.

Complaint 4 – November 2016

Complaint from a Council Solicitor relating to an altercation over 'right of way' in Castle Road. There was limited room on the highway and space therefore only for one vehicle at any given time. Mr Johnston was the only vehicle travelling in his direction, whilst there were several (including a van) travelling the other way. The complainant was passing between parked cars when it was alleged that Mr Johnston drove straight at her. There was not room for two vehicles to safely pass through.

The complainant stopped her vehicle at which point Mr Johnston also stopped and turned off his engine. He (Mr Johnston) told her there was room and to move over. The complainant was clear that there was not room to pass without making contact. She (the complainant) got out of her vehicle to take the HC licence number of the Taxi. Mr Johnston's manner is said to have been aggressive and he was advised by the complainant that she considered his actions to be far below those expected from a licensed driver. Mr Johnstone continued to argue at which point the complainant identified herself as a Council solicitor and advised Mr Johnston that she would be putting in a complaint.

Mr Johnston also made a complaint to the licensing department, alleging that the Council Solicitor called him stupid and advised that he would lose his licence. The Council Solicitor strongly denied saying this and having viewed smart phone footage of the incident, Craig Noble (licensing officer) wrote to Mr Johnston giving words of advice.

The letter to Mr Johnston is attached as annex 2 below.

Complaint 5

Customer said that she was in a taxi on the way home from a night out on Saturday and another taxi overtook them doing around 60+ mph in a 30mph zone.

Complaint 6 – April 2017

Good afternoon; I am PC 2671 COLLINGS based at Torquay Police Station. On Saturday 1st April 2017 at approximately 1325hrs I was in company with another Police Constable driving an unmarked Police vehicle. As I approached Union Street from The direction of Castle Road I pulled out of the junction in order to turn left joining stationary traffic. A marked Taxi registration Y15 PDJ was to my right.

The driver was clearly not happy that a vehicle had pulled out in front of him into a yellow hatched box. The taxi drove forward in an aggressive manner stopping a short distance away from my vehicle. The male driver then began to gesticulate and point in an erratic manner towards me clearly not realising I was a uniformed Police Officer.

I stopped the driver on Union Street to offer words of advice in relation to his aggressive driving. The driver identified himself as Mr Philip JOHNSTON and provided me with a taxi licence number of LD0107. Mr JOHNSTON remained aggressive in his manner and at first refused to provide me with any form of identification.

This incident had been clearly witnessed by my colleague PC 159 METHERELL who also clearly observed Mr JOHNSTON'S aggressive and intimidating driving.

This is not the type of driving or behaviour expected of a professional driver and is clearly not the type of person suitable enough to be responsible for the carriage of passengers. Mr JOHNSTON clearly thought this behaviour was acceptable even after I had offered him words of advice. Mr JOHNSTON'S manner of driving was completely unacceptable.

What makes his behaviour even more concerning is that he is deemed to be a professional driver. I fear that the attitude and aggressive behaviour of Mr JOHNSTON on this occasion may be adopted by him on other occasions.

If you would like to contact me further about this incident please call 101 asking to speak with PC 2671 COLLINGS or contact me directly on my work number of xxxxxxxxxx. Kind regards PC 2671 COLLINGS

Complaint 7

Self-reported incident relating to an altercation with a van driver, whom Mr Johnston stated had been aggressive towards him but felt there may be a complaint made by the van driver. No such complaint ever followed and as such no complaint has been recorded against Mr Johnston and he has been advised that this is not a matter that has been considered as part of this particular investigation process.

Complaint 8 – July 2017

Whilst driving towards Torquay harbour, on 6/7/2017 I was undercut and blocked by a taxi at the Belgrade road traffic lights at approximately 19.25 - 19.30hrs. For some reason the taxi blocked the centre lane obstructing me from proceeding toward the lights. When I attempted to change lanes into the right, the taxi moved in front of my vehicle obstructing me again. After a few seconds of obstruction, he then drove all across the carriageway to the left hand side of the road and went up Belgrave road. I have no idea why this behaviour was displayed and find it concerning that this vehicle and driver are available for public hire. Unfortunately I did not get the taxi licence number.

Reg Number Y15 PDJ

Complaint 9 – September 2017

Conduct of taxi driver, deliberately driving towards children and a school teacher who was crossing the road, he made no attempt to stop, stating that we need to get out of his way he has right of way!

Teacher had to physically push pupils to safety. Had I not moved out of the way he would have continued driving into me! He then persisted to hurl abuse at the teacher in question and the students. He dropped his fare off and then came back up the street and hurled more abusive and threatening behaviour. He also contacted the school and was rude to the reception staff. He told our receptionist that he had done this before at another school! (Quite concerning)

Complaint 10 – October 2017

The incident occurred 12/10/2017 approximately 5:35pm. It was at the cross roads at the top of Tor Hill Road. The traffic was stationary at a red light and I cycled up the hill in the cycle lane and stopped at the junction, just beyond the cycle lanes give way lines. The cycle lane extends beyond the stop line for traffic to put the cyclist in clear view of drivers. The lights changed, and as I pedalled off, heading straight over the junction, the car at the front of the queue, who had stopped beyond the stop line but was still positioned well behind me, was driven at me with the drivers hand on the horn.

I instantly stopped and turned around to find out what was wrong. The car had stopped dangerously close to me. The car in question was a black Mazda 6 taxi. Registration plate Y15 PDG. The driver began to aggressively yell at me and I questioned him what was the issue. He then drove passed me and stopped in front of me telling me he had it all on camera. He then proceeded to get out his car and square up to me with his face in mine telling me I had hit his car and again he had it all on camera.

This is untrue as the camera footage will show. He was a man in his 40's or 50's with grey hair. With the driver still squaring up to me I went to take my phone out of my bag to record the confrontation as evidence but before I could remove my cycling gloves and unlock my phone he had got back in his car and sped off dangerously along Abbey Road.

Before I continued I allowed the car behind him to go around me. It was a gold/beige Honda Civic. The driver told me as he passed I should report the taxi driver but didn't stop to be a witness. I cycled over the junction to continue on my route and the driver of a black VW Golf offered to be a witness. I told him I didn't have the registration plate so felt I couldn't proceed with a complaint as there were no signs on the side to show who he was driving for.

It was then a group of 3 teenagers who had been stood on the opposite corner of the junction where the incident occurred told me they had seen it and memorised the plate. I stopped to take the details. By the time I had done this the VW Golf had left. I do hope the car had a dash cam installed as the evidence will be incriminating against the driver and show how aggressive he was. He created an incident out of nothing for no reason.

APRIL 2016

TORBAY COUNCIL
21 APR 2016
COMMUNITY SAFETY

[REDACTED]
[REDACTED]
[REDACTED]

Dear Sirs,

I write with a serious complaint about one of your licenced taxi drivers, No. 67, who has been rude on the three occasions I've been in his car.

The first time he snapped at me not to put a shopping bag on the seat, that it should be in the boot. I explained I had delicate fruit + veg + bags tend to fall over in the boot + got a surly response.

The second time he had the same surly manner from the start, snapping 'Where to?' after I paid him I couldn't see the door handle in the dark to which I got - 'It's right in front of you' - nastily.

I tried to avoid him after that + stood to one side if I saw him + took the next taxi. This next driver said 'You didn't fancy that one then?' I said no he was rude + he said 'You're not the only one to avoid him!'

The 3rd time I got in his taxi by mistake not realizing it was the rude one. I sat in the back with my bags + he set off + then snapped 'Put your seat belt on' before I had a chance to do it. I tried to do but explained it was difficult while moving as I have shoulder + wrist problems. 'Is it done now?' he snarled. I again said I was trying but the belt locks when jerked by lurching along + jolts my joints.

To this he said 'It's no different moving to stationary' - very aggressively. At the end I paid him under his glaring gaze, got out + looked to check the cab number discreetly. He saw me do it + went crazy, shouting that I had broken the law. I tried to calmly explain again so as not to be aggressive back but he went completely over the top + shouted loudly 'You're a liar, you're a liar!' + drove off at a furious, dangerous pace.

I'm pretty sure his number was 67 + he was probably 40 ish with greying cropped hair + ear studs. (Sid Vicious lookalike with manner to match!) The last occasion was Wed 30th March, approx 5pm. I have been a while writing due to ill health.

Yours faithfully,

[REDACTED]

My Phone No. [REDACTED] but PIN. only please, if you call. Thank you.

Tax, Licencing,
Community Protection,
TOWN HALL,
TORQUAY. Page 25

P.T.O. →

BY HAND.

I have to say that almost without exception all the other taxi drivers in Torquay are really nice & helpful.

Annex 2 – Letter of advice following the incident described as Complaint 4 (above)

Dear Mr Johnston

Re: Driving Complaint

As you know you made me aware of a situation which took place on Castle Road, Torquay on the 10th November 2016. You stated that the other party has stated that she was a Solicitor for Taxi Licensing.

You stated in your original email to me that she caused a traffic jam for no reason as there was ample room for her to her through. I have had the opportunity to view the video footage which she took on her mobile telephone and I have to say that the room on the highway was limited and you were the only vehicle travelling in your direction whilst there were several other vehicles all travelling the opposite direction.

It seems to me the easiest and most courteous thing for you to do was to pull over and allow the other vehicles through particularly as one of the vehicles in the opposite queue of traffic was a van which obviously required more space than the cars.

As a professional driver you should be aware of the conditions on the road at all times. You should also be acting in a professional and courteous manner at all times, in all circumstances. I realise that you say she said things to you which you deemed inappropriate and I have taken this matter up with her; I must say she denies calling you stupid and saying anything about losing you your licence as she is not in a position to do this.

There is no real need for me to receive this sort of complaint about any driver and simple courtesy should always be shown to other road users. Please ensure that you act in a professional manner at all times.

Torbay Council expects the highest standards of professionalism and courtesy at all times under all circumstances from all of its Licensed Drivers. Should we receive any further complaints you may find the matter will be dealt with by the Licensing Committee.

Should you require any further information please contact the Licensing Office on the telephone number above.

Yours sincerely

Mr Craig Noble

Licensing Enforcement Officer

Licensing and Public Protection

Interview – 23 October 2017 – Philip Johnston – Driver Number LD 0107

Present:

Philip Johnston (Licensed Driver) - PJ

Gary O’Shea (Principal Licensing Officer – Torbay Council) – GO

Craig Noble (Licensing Enforcement Officer – Torbay Council) - CN

GO advised PJ that the purpose of the meeting was to discuss a number of complaints that had been received over a period of time although in particular three complaints that have been received this year. The complaints listed dated back to January 2016, however, these were considered to have been dealt with at the time and were being referred to now only to illustrate what appears to be a pattern of complaints against PJ.

Given the number and nature of the complaints, it was important that PJ was made aware of them and given opportunity to confirm or deny them and were applicable and appropriate to give explanation as to the content and circumstances of each complaint.

On face value the number of complaints would appear to warrant an appearance at committee. Indeed 2 or 3 of them potentially on an individual basis leads GO to hold a view that committee may be the most appropriate course of action. However GO advised PJ that it is accepted that there are two sides to everything and that the purpose of the meeting is to hear any explanation and/or mitigation from PJ. On this basis GO stressed that no decisions have yet been made and only after the meeting would the matter be discussed/investigated further (as appropriate) and a decision made as to how the matters should be dealt with.

GO explained that the Licensing Authority has a duty to safeguard the travelling public as whilst we are always mindful of the rights of drivers and their need to work, we have to consider the safety of the public as our overriding objective and in matters such as these consider the ‘fit and proper’ status of drivers should there be substance in the complaints.

The purpose of this meeting was therefore to obtain any relevant account from PJ with a view to considering whether or not the matter should proceed to a Licensing Sub-Committee, or if not what if any other action should be taken.

The detail of the complaints was put to PJ as follows. The explanations given by PJ are printed in ***bold italics***:

Matters highlighted from 2016 but not discussed in order to illustrate the numbers of complaints received since January 2016:

- 1) 5 January 2016 – Complaint re dangerous driving in Union Street and an altercation that followed on the Rank. CCTV footage was unavailable and no evidence. Words of advice given and matter closed.
- 2) 16 February 2016 – Complaint relating to Lewd comments from PJ to a female passenger, complaint denied, no evidence available and no further action taken.
- 3) Three separate complaints in quick succession. Two from 25th April 2016 and one from 28th April 2016. Complaints related to aggressive comments and behaviour. Matter dealt with by CN by way of informal warning letter sent on 11 May 2016.
- 4) November 2016 – Complaint from Council Solicitor relating to abusive comments towards her following an incident over rights of way. Alleged by PJ that the Council Officer was the aggressor. No evidence independent available and no further action taken.

Matters discussed in more detail from this year as part of the determination as to how to proceed following the latest complaints:

- 5) Complaint as to excessive speed in a 30 MPH limit from a customer being conveyed in another licensed vehicle. Alleged that PJ overtook at around 60 MPH in a 30 MPH limit.

In relation to this complaint it is accepted by the licensing authority that whilst the customer may have been able to say that the vehicle overtook at speed, they could not have any way of knowing at what speed. This initially would be a Police matter (if caught) and failing that it is not a matter for the licensing authority to deal with. Complaint not withheld.

- 6) A complaint from a Police officer relating to an incident that occurred in April 2017.

It is alleged that on 1 April 2017, the Police Officer, driving an unmarked vehicle, pulled out of Castle Road into Union Street joining stationary traffic. Due to the traffic the officer stopped in a hatched yellow box in front of PJ's vehicle. The Officer alleges that PJ was not happy at this and drove forward in an aggressive manner stopping only a short distance from the Police vehicle. PJ is said to have gesticulated and pointed in an aggressive manner clearly not realising that the vehicle in front was occupied by a uniformed police officer. PJ's vehicle was then stopped on Union Street and continued in his aggressive manner when asked to produce documentation. Words of advice were offered.

GO asked PJ if he was aware of the incident and if so what he could tell us about it. In response PJ stated:

The Police Officer only complained to the licensing authority once he knew that I had put a complaint in to the Police about him. The police have actually sent me a total of three letters of apology.

The Officer pulled out in front of me onto a yellow hatched box, which is illegal. I pointed down towards the box to illustrate that he was stopped on the hatchings so as to point this out. The Officer then started to move forward and then brake for no apparent reason, stopping and starting as if trying to get me to go into the back of him. He then stopped me in Union Street and asked for my details, he was the one that was rude and taunting towards me. So shaken was I by this from a serving police Officer that I reported it to the Police and attended an interview upon my request to give my side.

I was asked what I wanted the outcome to be and I said that I wanted something done about it due to the intimidation and at least wanted an apology. I asked them if they could view the CCTV footage from Union Street and even obtained the number of the CCTV office myself. I asked them if there was any footage of the incident but they told me there wasn't as the cameras had been pointing towards Factory Row.

One of the letters of apology that I received even included a victim support leaflet, why would they have sent me that if they did not believe that I had been wronged. A WPC even told me that the Officer concerned had gone into the Police Station and told the desk Sergeant that he would likely be receiving a complaint about him.

All three letters that I received stated that they apologise for any inconvenience caused.

The first or second time that I phoned the Police I spoke with PC 6461 Stewart, he may be able to give some more indication as to what was done about my complaint.

GO asked PJ if the other officer in the police vehicle had been spoken to.

PJ replied that he had no idea whether he had been spoken to or not, however, PC Stewart might be able to give more information.

GO asked PJ if he could elaborate on the 'gesticulation' referred to in the Police officers' statement.

PJ advised that this must have been when he had been pointing at the yellow hatch box that the officer had stopped in. The Gesticulation was merely pointing at the box to illustrate the point.

CN asked PJ if he would be able to show us the letters of apology that he received from the Police.

PJ advised that unfortunately he had thrown them out when he moved home.

GO asked if the reason the Police car had been stop starting was because there was a queue of traffic in front.

PJ advised that the queue had dispersed by now and that the road in front of the police car was clear. There was therefore, no reason to keep stopping and starting.

GO advised that he would try to obtain copies of the letters from the Police and to see if there was any further information that they could provide concerning the incident and the outcome of the complaint.

- 7) This matter was not discussed as whilst it was printed off as a record from PJ's driver history, it is not a complaint. This relates to a notification to the licensing authority by PJ himself relating to an altercation with a van driver. PJ believed that the van driver may complain about him and wanted us aware given the history of complaints that had been made about him to date. No complaint was actually received and therefore no investigation was made and the matter was closed.
- 8) Complaint received in July 2017 from a member of the public which related to alleged dangerous and discourteous driving by PJ. An email was sent to PJ at the time by CN which informally warned of future conduct on the basis that it was one person's word against another. This was explored further as part of this interview given that there have been other complaints both before and since. In response PJ stated:

This occurred when I pulled up at the traffic lights by the Grand Hotel. I was stationary in the right hand lane as I intended to go straight on. The inside lane tends to be used mainly by vehicles intending to turn left. There was a car stopped next to me which, when the lights changed did turn left, as it did a second car drew level with me on the inside lane.

As we crossed the lights with me remaining in the left, we approached a row of parked vehicles, one of which was a camper van that due to its size was jutting out further than normal into the road. I was in the right lane and clearly had right of way as my lane was clear.

At this point the car to left began to beep his horn, I wasn't really sure why but it now seems obvious that he expected me to give way, when I was a fraction in front and in the correct lane, whilst he was undertaking. As we approached the camper van, the car to my left pulled around it behind my vehicle, however, as soon as we were passed it, he again pulled back into the left lane and drew level with me.

As he pulled level, even though the way in front was clear he decided to match speed for speed and started glaring across at me and gesticulating. I gave no reaction, but as I wanted to take the left turn at the next lights into Belgrave road I indicated left and slowed down so that he would go passed me to enable me to pull across to the left in readiness to turn. However, at this point the complainant also slowed further so as to continue matching my speed. I slowed even more and so did he. Eventually we came to the point where both vehicles were going extremely slowly, I would guess about 15 MPH and a long queue was now starting to form behind us. Despite my continuing to indicate left, the other driver would not give way.

Eventually I felt I had no choice with the next set of lights approaching and the queue forming behind but to speed up again and pull in front of the vehicle that was obstructing me. This I did, by which time the two lanes had become three so I moved into the far left lane having ensured that I was clear of the other vehicle and turned left into Belgrave road.

- 9) Details of a complaint received from a member of the public in September 2017, where the complainant alleged that PJ drove deliberately towards a group of School children and their teacher whilst they were crossing the road.

The complainant stated “He (PJ) made no attempt to stop, stating that we need to get out of his way as he has right of way! The teacher had to physically push pupils to safety. Had I not moved out of the way, he would have continued driving into me! He then persisted to hurl abuse at the teacher in question and the students. He dropped his fare off and then came back up the street and hurled more abusive and threatening behaviour. He also contacted the School and was rude to the reception staff. He told our receptionist that he had done this before at another School! (Quite concerning)”.

PJ stated:

I have a couple of issues with this. If I made no attempt to stop, how could I have stated anything? This is absolute fabrication. How would the complainant have possibly known that I would have carried on into them?

I had 2 passengers in the car one of whom was running late so I was dropping that passenger off first and then going back with the other. When driving along Hingston Road you can't drive fast because of all the pot holes. I was doing about 15 to 20 MPH when I saw a woman standing in the road facing my direction, with a group of School children who were crossing the road. As the last few children crossed she put her arm behind the last one as if to usher across. I by this time had slowed right down. However, she stayed in the road and so I stopped.

Another group of School children were approaching but were not crossing and not ready to cross at that moment in time. The woman, however, remained in the road. I then said to the woman, "You are not supposed to block the Queens Highway, can you please move"? At this point she begrudgingly moved aside and I moved forward but exaggeratedly steered the car around her so as to give plenty of room.

I dropped off my first passenger (the one who was running late) and went back the way I'd come. The teacher was still there and began pointing saying that she was going to report me. I said "what for"? To which she replied "for not letting the kids cross the road".

I explained that I did not have to stop and wait for children if they were not already crossing. The teacher would not accept this point and as I knew I was in the right (as I had checked the facts with another School in the past, where I thought a teacher was hazardous in the way that they 'guarded' their pupils as they crossed) I said I would phone the School in order to check on their procedures and to ensure that teachers were fully advised and conversant with those procedures.

I phoned the School later that day and asked to speak with somebody who would know about the procedures for children crossing the road. She replied "I don't think you'll find that any of our teachers are at fault". I asked nevertheless if I could speak with someone and she advised that they were all at lunch. I said "don't bother" and put the phone down.

10) The final matter put to PJ related to another complaint from a member of the public (a cyclist) which was received on 12 October 2017. The cyclist alleges that the vehicle driven by PJ was “driven at me with the drivers hand on the horn. I instantly stopped and turned round to see what was wrong. The car had stopped dangerously close to me”. Further details of the complaint are held and were put to PJ, who responded:

I was stopped at the crossroads coming up Tor Hill Road by the Casino. I was stationary and not over the line. The cycle lane extends beyond the stop line for cars. I was indicating left. A bike came up beside me and he must have seen my indicators. When the lights changed, the cyclist looked behind him to see presumably what I was doing. He started moving off but was very hesitant and slow probably moving at 1 MPH or thereabouts. I couldn't turn because he was in my way and I had absolutely no idea which way he was going.

At this point the lights went red again. The traffic going the other way started to move and the man behind me beeped his horn. Both my vehicle and the cyclist at this point were across the line and effectively in 'no man's land' so I beeped my horn and said to the cyclist “what are you doing? Are you going”? He didn't move so I pulled wide around him and turned left. As I went round him I heard a loud thump. I knew I was well clear and had not made contact so I pulled over and stopped.

It was evident that the cyclist had thumped my car as I move round him. I said “what are you doing you just thumped my car”? The cyclist replied that I had hit his elbow. I told him that I had not and that I had it all on camera which will show him thumping my car. I told him that he was lucky there was no damage and to grow up. Horns were blaring by now, I told him that he should not be thumping people's cars but because of the build-up of traffic and not wanting to cause unnecessary congestion I moved on.

As for alleging that I 'squared up' I simply got out of my car to see if there was any damage. It was the cyclist that came over to me to ask what I was doing. If anything he is the one who 'squared up' to me.

PJ was thanked for his accounts as given in response to the complaints received.

CN stated that we are concerned by the numbers of complaints that we have received particularly over the last year. Whilst PJ has viable explanations for all of the matters put to him, everything seems almost too coincidental. CN went on to say that out of nearly 550 licensed drivers it always appears to be PJ who is named in the complaint. CN asked if PJ had any explanation as to why this might be. This was a question that CN felt prudent to ask given the number of complaints, it in no way means that the account given by PJ is disbelieved rather than highlighting a point in order to understand the reasons for any complaints made.

PJ stated:

It is probably because I speak out if I believe that I'm in the right. I will stand up for myself and voice opinion if I think someone else is in the wrong. Other drivers may have similar circumstances occur to them but if they do not speak out then maybe they don't get complained about. People are quick to complain if they don't like something and when I do speak out I am an easy target because my vehicle is easily identifiable, my number plate is easy to remember and I have a licence number displayed on it too.

PJ accepted that by speaking out this in itself could lead to unnecessary confrontation. He advised that following the meeting he would make a concerted effort to take a few steps back and try not to become involved when situations arise.

GO once again thanked PJ and asked if there was anything else he wanted to add. PJ replied that there was not. GO therefore closed the meeting by advising that the notes would be written up and sent to PJ in the first instance for approval. Once they have been agreed as a true account (albeit not verbatim) by PJ then a decision would be made as to what if any action should be taken.

PJ had given an account of everything which requires possible further investigation and/or consideration but we would try to ensure in fairness to PJ that we arrive at a decision as quickly as possible and that this is advised to him at the earliest opportunity.

Email History in Chronological Order Following the Interview of 23 October 2017

1. Gary O'Shea to Philip Johnston

Dear Mr Johnston

Please find attached notes for your information and agreement.

I have not noted everything down verbatim, however, I believe that the attached gives an accurate and fair account of our meeting. Before I proceed to discuss with senior officers and make a decision on any further action I wanted you to have the opportunity of reading through and agreeing/suggesting any areas where you feel I may not have reflected exactly what you said and/or missed anything of significance.

In view of the above, please could I ask that you read through and email me back with any alterations/additions. If you could do so by email pointing out in the email the page and paragraph relevant to your comment I'd be grateful.

Kind regards

Gary O'Shea

Principal Officer - Licensing and Public Protection

2. Mr Johnston Reply

Dear sir,

Page 5 point 8, as I crossed the lights I was in the right hand lane. The complainant was glaring at me, not just glancing.

I gave my side to yourself honestly and as accurately as I could. In the meeting you described my explanations as "perfectly feasible" and, as they are the truth, I am upset to see them now described as "a bit too coincidental". I have a clean driving licence and full disclosure DBS and feel that I am a trustworthy person.

Philip Johnston

3. Response by Gary O'Shea to point 2 (above)

Dear Mr Johnston

I have made the alterations to the notes in line with my previous email.

Having now discussed the matter at senior level, the consensus is that it should be reviewed by a licensing subcommittee especially given the number of complaints received.

I have asked our committee services officers for a date, which is likely to be week commencing 18th December, however, I will write to you formally to notify of the exact date, time and venue once I know. The letter should go out to you therefore, by close of business tomorrow.

In taking this matter to sub-committee, I would point out that as officers we shall be making no recommendations. This will be for Members to consider the facts of the complaints, your explanations to them and to ask questions to clarify any points. The primary consideration of the Licensing Authority is public safety and a large part of this is ensuring that licensed drivers are (and remain to be) considered to be 'fit and proper' persons.

There will be a report written, which will contain details of the complaints and your responses to them and a range of options as permitted in law for consideration. You will be provided with a copy of the report and any relevant documentation no later than one week in advance of the hearing.

Please do not hesitate to contact me should you wish to discuss this matter further.

Kind regards

Gary O'Shea

Principal Officer - Licensing and Public Protection

4. Response to point 3 (above) from Mr Johnston

Dear sir,

In our meeting I was told that, in cases where it is one person's word against another without any independent proof, there could be no further action taken against anyone. I informed you that I have proof for one of the accusations against me. The police officer from a separate incident admitted being in the wrong.

In your communications and at the meeting you mention speaking to your superiors about this matter. I should like to know who they are. In any court or legal proceedings people are presumed innocent until proven guilty. That is not how I feel. I have been questioned at great length about these matters and even though I have been completely honest I feel that my future rests on somebody's opinion, not the facts.

Every person has an equal right to stand up for themselves which is all I have done. I have already said that I would do my utmost not to allow these sort of situations to arise in future. I recorded the whole two hours and seventeen minutes of questioning and as you said at the time, every point was fully explained.

Philip Johnston

5. Reply from Gary O'Shea to Mr Johnston

Dear Mr Johnston

We discussed the matter in detail as you state and I sent you the transcript (which you can check by all means against your recording) of the meeting, which was not verbatim but which you agreed (subject to a couple of small changes that I have subsequently made) was a fair reflection of the conversation that took place.

In the introduction I advised you that referring the matter to a sub-committee was a serious consideration, however, no decision had been made at that time given that it was important to speak with you before any such decision was made. I have reproduced the relevant paragraphs below:

'Given the number and nature of the complaints, it was important that PJ was made aware of them and given opportunity to confirm or deny them and were applicable and appropriate to give explanation as to the content and circumstances of each complaint.

On face value the number of complaints would appear to warrant an appearance at committee. Indeed 2 or 3 of them potentially on an individual basis leads GO to hold a view that committee may be the most appropriate course of action. However GO advised PJ that it is accepted that there are two sides to everything and that the purpose of the meeting is to hear any explanation and/or mitigation from PJ. On this basis GO stressed that no decisions have yet been made and only after the meeting would the matter be discussed/investigated further (as appropriate) and a decision made as to how the matters should be dealt with.

GO explained that the Licensing Authority has a duty to safeguard the travelling public as whilst we are always mindful of the rights of drivers and their need to work, we have to consider the safety of the public as our overriding objective and in matters such as these consider the 'fit and proper' status of drivers should there be substance in the complaints.

The purpose of this meeting was therefore to obtain any relevant account from PJ with a view to considering whether or not the matter should proceed to a Licensing Sub-Committee, or if not what if any other action should be taken'.

Please check your recording also for the part where you state that we advised "in cases where it is one person's word against another without any independent proof, there could be no further action taken against anyone". We certainly alluded to the fact that one person's word against another made it difficult to assess further action as we certainly would not take every complaint received on face value. This is why you were not asked to come in after the first few complaints. However, so many complaints, particularly in a relatively short amount of time tends to build a picture, which, in the interests of public safety, must seriously be looked at.

I have discussed the matter with my senior licensing officer Mandy Guy, with Craig Noble (who was present at the meeting), with Shaun Rackley another licensing officer and have made my immediate line manager, Steve Cox, aware of the situation. All are copied into this email. I have also revisited the accounts of some of the complainants.

I do not believe having assessed everything that that this can simply be dealt with by letter. The hearing will be conducted in private session (although you may be represented or accompanied and the Council may, should it chose to call witnesses) and the full agreed transcript of our interview and details of the complaints will be provided to Members of the sub-committee.

The Sub-Committee will ask questions and would be happy to see any proof i.e. the Police letters that you have, particularly evidence of where the Police Officer admitted to being wrong and the apology letter that you said you received from the Police, or listen to any witnesses as may be appropriate.

I would stress that the purpose of this hearing is not to determine any innocence or guilt rather than to look simply at the actions of you as a licensed driver and on the balance of probability to determine whether they are the actions of a 'fit and proper' person to hold a Torbay council drivers' licence.

The Committee have a wide range of options, which range from doing nothing to full revocation, however, there are options in between such as additional conditions, requiring you to attend a course and/or suspension. Committee will hear the matter independently of the licensing officers. I would again stress that no decision as to any action against your licence has been taken and any proof or corroboration that you can bring to the hearing will clearly assist you in this matter.

It has just been confirmed that the hearing will be on the morning of 21st December, however, I shall write to you separately with full details. You are at liberty to be accompanied and/or represented by anyone of your choosing, whether legally qualified or otherwise.

Kind regards

Gary O'Shea

Principal Officer - Licensing and Public Protection

Torbay Council

Town Hall

Castle Circus

Torquay TQ1 3DR



Public Agenda Item: **Yes**

Title: **Consideration of an Application for a New Dual Hackney Carriage and Private Hire Drivers' Licence**

Wards Affected: **All**

To: **Licensing Sub-Committee** On: **21st December 2017**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Gary O'Shea**
Telephone: **01803 207631**
E.mail: gary.oshea@torbay.gov.uk

1. What we are trying to achieve

- 1.1 This report asks Members to consider an application for a dual Hackney Carriage and Private Hire drivers licence, where the applicant does not meet with the requirements set out in the current Hackney Carriage and Private Hire Licensing Policy, by virtue of holding a current unspent conviction and to determine on the facts laid before them, whether or not the Applicant is to be regarded as a 'fit and proper' person to hold such a licence.

2. Recommendation(s) for decision

- 2.1 This matter must be determined on its individual merits and any supporting facts or testimony. Therefore, there is no Officer recommendation. The options available to Members however, are highlighted in paragraph A3.1 of Annex 1 to this report.

3. Key points and reasons for recommendations

- 3.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.
- 3.2 Sections 51 and 59 of the 1976 Act in conjunction with section 46 of the Town Police Clauses Act 1847 make provision for the licensing of drivers and states that a district council shall not grant a licence to drive a Private Hire or Hackney Carriage vehicle unless they are satisfied that the driver is a 'fit and proper' person to hold a driver's licence.

- 3.3 Section 51 (2) of the 1976 Act permits the Council to attach to the grant of a licence to drive a Private Hire vehicle 'such conditions as they may consider reasonably necessary'. This provision extends to enabling the attachment of conditions on a dual licence as is issued in Torbay.
- 3.4 There is no prescribed test for 'fit and proper' laid down in legislation and it is therefore left to the individual Licensing Authorities to assess drivers and applicants under their own criteria. However, there is a wide scope for such assessment and certain processes have evolved over time which have stood up to scrutiny in the Courts and are therefore commonly accepted practices amongst the majority of Licensing Authorities.
- 3.5 Torbay has adopted a number of common practices for testing the 'fit and proper' status of drivers and applicants. These include, a group 2 standard of medical fitness, an enhanced Criminal Records Disclosure (DBS), a driving standards test (DSA), scrutiny of DVLA penalty points and a test of the knowledge of both the area and conditions pertaining specifically to Torbay and local licensing Policy. A recent addition to this is the requirement to test the right to live and work in the United Kingdom.
- 3.6 Section 51 of the 1976 Act (with regard to Private Hire drivers) states:
- (1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:
- Provided that a district council shall not grant a licence—
- a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
 - b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.
- 3.7 Section 45 of the 1976 Act gives power to the Licensing Authority to apply the requirements of section 51 to Hackney Carriage drivers as well as to Private Hire drivers. Notwithstanding this, the licence issued by Torbay is a dual licence, which therefore permits the holder to drive both vehicle types.
- 3.8 This report follows receipt of an application from Ms Beverley Loader, which was made on 8 November 2017. In her application, Ms Loader has declared that she holds a current conviction where in the relevant section she has entered:
- Making a false statement representation 26 April 2017 unpaid work (min hours) court costs £85*
- 3.9 Ms Loader did approach the Licensing Authority prior to submission of the application to explain about her conviction. Craig Noble, Licensing Enforcement Officer, advised Ms Loader that whilst she was at liberty to make an application, it

would not be one that could be granted under officer delegated powers and that it could be refused given the conviction and the recent date and nature of that conviction.

- 3.10 There is a right of Appeal to the Magistrates' Court as provided under section 61 (3) of the 1976 Act against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

For more detailed information on this proposal please refer to the Supporting Information.

Steve Cox
Environmental Health Manager (Commercial)

Annex 1 - Supporting information

A1. Introduction and history

A1.1 Under provision of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles and their drivers within Torbay.

A1.2 Sections 51 (in respect of Private Hire drivers) and 59 (in respect of Hackney Carriage drivers) of the Act state that a district council shall not grant a licence to drive a Private Hire vehicle or Hackney Carriage unless they are satisfied that the driver is a 'fit and proper person to hold a driver's licence'.

A1.3 The test for 'fit and proper' as it applies in Torbay is outlined in paragraph 3.5 of the report.

A1.4 This report follows receipt of an application from Ms Beverley Loader, which was made on 8 November 2017. In her application, Ms Loader has declared that she holds a current conviction where in the relevant section she has entered:

Making a false statement representation 26 April 2017 unpaid work (min hours)
court costs £85

A1.5 As part of the application process, Ms Loader submitted an Enhanced Certificate from the Disclosure and Barring service (DBS), which corroborated the declaration made by Ms Loader on the application.

A1.6 The DBS provides the information that Ms Loader was convicted at South and West Devon Magistrates on 26 April 2017 for an offence which was committed on 4 July 2014 of making a false statement to obtain benefit, which was contrary to section 111A of the Social Security Administration Act 1992.

The disposal for the offence was:
A community order until 25 April 2018 (1 Year)
A costs award of £85
Unpaid Work Requirement
Victim Surcharge of £85
Rehabilitation Activity Requirement

A1.7 The Councils Hackney carriage and Private Hire Licensing Policy at paragraph 7.3 states:

Upon receipt of the enhanced DBS check, the Licensing Authority will assess whether any or all of the convictions and/or cautions are capable of having real relevance to the issue of whether or not the applicant or licensed driver is a fit and proper person to hold a licence. The Licensing Authority will also take into account any fixed penalty notices and other information, but only insofar as they are relevant to an application for a licence or impact on the continuance of an existing driver licence. In certain cases, the matter may be referred to the Council's Licensing Committee for determination.

A1.8 At 7.6 the Council's Policy says:

In relation to previous convictions, the Licensing Authority will have regard to the following:

- The nature of the offence/s;
- The age of the offence/s;
- The apparent seriousness, as gauged by the penalty applied.

A1.9 Torbay Council's Hackney Carriage & Private Hire Licensing Policy goes on to state;

In setting out its Policy, the Licensing Authority seeks to promote the following objectives:

- *The safety and health of drivers and the public;*
- *Vehicle safety, comfort and access;*
- *To prevent crime and disorder and to protect the public;*
- *To encourage environmental sustainability.*

Public safety is paramount, and this Licensing Authority seeks to ensure through its licensing regime that all taxi and private hire vehicles are fit for purpose and that their drivers and/or operators are fit and proper persons.

A1.10 **General Policy**

1.1 *Each case will be decided on its own merits.*

1.2 *The Licensing Authority has a duty to ensure, so far as possible, that applicants are 'fit and proper' persons to hold licences and in the absence of a judicially approved definition of "fit and proper", the Licensing Authority use the test of:*

"Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone"

The wording of this test originates from Button, J. T. H. (1999), Taxis – Licensing Law and Practice, Butterworths, London.

1.3 *The overriding consideration is the safety of the public. The Licensing Authority has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit. An aspect of this is the extent to which previous convictions, including but not limited to convictions of dishonesty, sexual offences, traffic offences, violence and drugs, indicate that a person is not a 'fit and proper' person and would not take advantage of passengers or abuse or assault them.*

A1.11 Convictions Policy

Dishonesty

- 2.1 *It is essential for the public to have trust in hackney carriage and private hire drivers. The practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers and operators. However, there is scope for a dishonest driver to defraud a passenger by demanding more than the legal or agreed fare or by taking a longer route to a destination. Tourists and overseas visitors are particularly at risk from an unscrupulous driver. For this reason, the Licensing Authority will take a serious view of any offences involving dishonesty. The Licensing Authority will not normally consider an application until a period of at least three years free from convictions has elapsed. More than one conviction for this type of offence within the last five years will raise serious doubts about the applicant's fitness to hold a licence. In such cases, the Licensing Authority may reject the application.*
- 2.2 *In the case of a licensed driver being convicted of an offence involving dishonesty the Licensing Authority may refuse to renew, suspend or revoke the licence. If a licence is revoked, no further application will be considered until a period of at least three years free from the date of conviction of this type has elapsed.*
- 2.3 *Offences of Dishonesty include:*
- *Theft*
 - *Burglary*
 - *Fraud including benefit fraud*
 - *Handling or receiving stolen goods*
 - *Forgery*
 - *Conspiracy to defraud*
 - *Obtaining money or property by deception*
 - *Other deception*
 - *Any similar offences of dishonesty where the conviction is less than three years prior to the date of application*

A1.12 There is a right of Appeal to the Magistrates' Court against the Licensing Sub-Committee decision. Such an appeal must be lodged within 21 days from the date of a Notice following the decision.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 Under current Policy and in full consideration of the overriding requirement to protect the safety of the travelling public, this is a matter that Officers consider best suited to determination by Members of the Licensing Sub-Committee.

A2.1.2 There are risks both potentially to the public and to the Council if a key decision were to be taken without full consideration of the facts. By placing this matter before a Licensing Sub-Committee, such risks are reduced as full consideration may be given in an open and transparent manner of all relevant facts.

A3. Options

A3.1 The options are:

- (i) to grant a three year licence on the basis that Members are satisfied that Ms Beverley Loader is a fit and proper person to hold such licence
- (ii) to grant a three year (or lesser term as deemed appropriate) licence with additional conditions, provided that Members are satisfied that Ms Beverley Loader (with or without conditions) is a fit and proper person to hold a licence
- (iii) to refuse to grant the application on the basis that Members are not satisfied that Ms Beverley Loader is a fit and proper person to hold such licence

Option (ii) would be most likely to apply where Members consider that circumstances were on the balance of probability such that whilst considered fit and proper a trial period and/or conditions would provide a means of ensuring that there was no repeat of any activity that may affect the decision to grant a licence.

A4. Summary of resource implications

A4.1 There are some resource implications if there is an Appeal to the Magistrates' Court.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 There are no environmental sustainability issues. Any crime and disorder impact is best assessed by the Licensing Sub-Committee having determined the facts. If any potential for future crime and/or disorder on the balance of probability is deemed likely or possible, or if the merits of this individual case are such that Members do not feel it appropriate to grant at this time, then this may lead Members to consider whether Ms Loader meets the 'fit and proper' criteria. It is important to note however, this is not the only consideration.

A6. Consultation and Customer Focus

A6.1 There has been no public consultation on this matter and there is no requirement for the Licensing Sub-Committee to consult the public in this matter.

A7. Are there any implications for other Business Units?

A7.1 There are no implications for other business units.

Documents available in members' rooms

None

Appendices

None

Background Papers:

The following documents/files were used to compile this report:
Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2016
Documents supplied by the applicant, as referred to above.



Public Agenda Item: **Yes**

Title: **Torquay Squash and Leisure Club, 78 Barton Road, Torquay TQ2 7NS**

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee** On: **21 December 2017**

Contact Officer: **Mandy Guy**
Telephone: **01803 208025**
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 Variation to a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder” and “The Prevention of Public Nuisance”.
- 1.4 The matter must be considered on its own merits having received details of the issues arising either at a hearing or by written Representations if all parties have agreed that a hearing is not necessary. Having regard to the Representations and issues arising, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are either:-
 - (a) to modify the conditions of the licence, or
 - (b) reject the application in whole or in part.

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

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

2. Introduction

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

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

To extend the hours for the Sale of Alcohol on Friday and Saturday from 10.00 until 01.00 which is an increase of an additional 2 hours at the end of the evening. The existing licence allows the sale of alcohol on Friday and Saturday from 10.00 until 23.00. The timings for the other days are to remain unchanged.

To extend the opening hours as follows:-

Friday from 7.30 until 01.30. The existing licence is from 10.00 until 23.20 so it is an additional 4 hours and 40 minutes;

Saturday from 09.00 until 01.30. The existing licence is from 10.00 until 23.20 so it is an additional 3 hours and 10 minutes;

Sunday from noon until 23.30. The existing licence is from noon until 22.50 so it is an additional 40 minutes;

Monday to Thursday from 07.30 until 23.30. The existing licence is from 10.00 until 23.20 so it is an additional 2 hours and 40 minutes.

The addition of 3 licensable activities. Indoor sporting events, Live Music and Recorded Music from 10.00 until 01.00 on Friday and Saturday.

The applicant has also requested to remove a number of conditions from the licence which are referred to in section L of the application form as shown in Appendix 1.

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

We have received a Representation from the Police in relation to the Licensing Objective "The Prevention of Crime and Disorder". There is also an email attached with the Representation which is an agreement from the Licence Holder to the condition proposed by the Police. This is shown as Appendix 3 of this report.

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

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

- 2.4 The Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.6 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
- (a) The applicant for the variation of the licence against any decision to modify the conditions
 - (b) Any person who made a relevant representation in relation to the application who desires to contend
 - (i) that any variation made ought not to have been made, or
 - (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.
- 2.8 Following such Appeal, the Magistrates' Court may:-
- (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such order as to costs as it thinks fit.

Frances Hughes
Assistant Director (Community and Customer Services)

Appendices

Appendix 1	Relevant sections of the application form.
Appendix 2	Copy of the current Premises Licence and Plan.
Appendix 3	Representation from the Police
Appendix 4	Representation from Public Protection.

Documents available in members' rooms

None

Background Papers:

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

The current Premises Licence for the above Premise.
 Torbay Council Licensing Policy 2016-2021.



**Application to vary a premises licence
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I/We RICHARD CURTIS

(Insert name(s) of applicant)

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

Premises licence number 506

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description TORQUAY SQUASH & LEISURE CLUB. 78 BARTON ROAD.			
Post town	TORQUAY	Postcode	TQ2 7NS
Telephone number at premises (if any)	01803 323491		
Non-domestic rateable value of premises	£24,250		

Part 2 – Applicant details

Daytime contact telephone number	01803 323491
E-mail address (optional)	
Current postal address if different from premises address	
Post town	TQ2 7NS

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? Yes
 No

If not, from what date do you want the variation to take effect? DD MM YYYY

--	--	--	--	--	--	--	--

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?
(Please see guidance note 1) Yes No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)
SPORTS AND LEISURE CLUB WITH BAR LOUNGE FACILITY VARIATION TO EXTEND THE LICENSING HOURS FOR THE SALE OF ALCOHOL, THE ADDITION OF INDOOR SPORTING EVENTS AND LIVE AND RECORDED MUSIC AND THE REMOVAL OF SOME OLD CONDITIONS RELATING TO THE OLD LICENSING LAWS.

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

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick all that apply

- | | |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input checked="" type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

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

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

In all cases complete boxes K, L and M

Live music Standard days and timings (please read guidance note 7)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4) Live amplified Band/Artist		
Mon					
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5)		
Thur					
Fri	10:00	01:00	<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 6) New Year's Eve From the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		
Sat	10:00	01:00			
Sun					

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4) Mobile DJ Amplified Music. Amplified Recorded Music.		
Mon					
Tue			State any seasonal variations for the playing of recorded music (please read guidance note 5)		
Wed					
Thur			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 6) New Years Eve New Year's Eve From the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		
Fri	10:00	01:00			
Sat	10:00	01:00			
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
Day	Start	Finish		Both	<input checked="" type="checkbox"/>
Mon	10:00	23:00	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Tue	10:00	23:00			
			Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6) New Years Eve New Year's Eve From the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		
Wed	10:00	23:00			
Thur	10:00	23:00			
Fri	10:00	01:00			
Sat	10:00	01:00			
Sun	NOON	22:30			

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	07:30	23:30	
Tue	07:30	23:30	
Wed	07:30	23:30	
Thur	07:30	23:30	
Fri	07:30	01:30	Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6) On New Years Eve from the end of permitted hours to the start of permitted hours on the following day.
Sat	09:00	01:30	
Sun	Noon	23:30	

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

Annexe 2 – Additional Conditions from the section 55 Licence – remove all, Annexe 2 – Restrictions transferred from the Licence – remove all and Annexe 2 – Credit Sales – remove all.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

M

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

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

b) The prevention of crime and disorder

NOTICE DISPLAYED INDICATING THE PERMITTED HOURS OF LICENSABLE ACTIVITIES UNDER THE TERMS OF THE PREMISES LICENSE. NUMBER OF PERSONS ADMITTED TO THE PREMISES SHALL NOT EXCEED THE MAXIMUM OCCUPANCY. BAR STAFF WILL BE SUITABLY TRAINED IN DEALING WITH UNDERAGE SALES AND RECORDS OF THIS TRAINING WILL BE RETAINED AT THE PREMISES.

c) Public safety

PREMISES ADEQUATELY ILLUMINATED. ADEQUATE ACCESS PROVIDED FOR EMERGENCY VEHICLES. QUALIFIED FIRST-AIDER PRESENT ON THE PREMISES. ALL DOORS AND FASTENINGS KEPT IN PROPER WORKING ORDER. GANGWAYS, EXIT ROUTES AND STEPS WILL BE MAINTAINED IN GOOD ORDER WITH NON-SLIPPERY AND EVEN SURFACES.

d) The prevention of public nuisance


NOISE OR VIBRATION WILL NOT EMANATE FROM THE PREMISES SUCH AS TO CAUSE PERSONS IN THE NEIGHBOURHOOD TO BE UNREASONABLY DISTURBED. THE VOLUME OF AMPLIFIED SOUND SHALL AT ALL TIMES BE UNDER THE SUPERVISION OF THE LICENSEE/MANAGEMENT. NOTICE DISPLAYED REQUESTING THE PUBLIC TO RESPECT THE NEEDS OF LOCAL RESIDENTS TO LEAVE THE PREMISES AND AREA QUIETLY.

e) The protection of children from harm

CHILDREN BELOW THE AGE OF 18 SHALL BE EXCLUDED FROM THE PREMISES OR PARTS THERE OF IF NOT ACCOMPANIED BY A PARENT OR RESPONSIBLE ADULT FOR THE DURATION OF A LICENCED EVENT. RESTRICTED ADMISSION OF CHILDREN AT SPECIFIED TIMES OR FOR PARTICULAR EVENTS OR REGULATED ENTERTAINMENT WILL BE CLEARLY SIGNPOSTED. THE PREMISES SHALL OPERATE A CHALLENGE 25 POLICY ANY INDIVIDUAL WHO APPEARS TO BE UNDER THE AGE OF 25 WILL BE REQUIRED TO PRODUCE AN APPROVED FORM OF PHOTOGRAPHIC IDENTIFICATION AS OUTLINED WITHIN THE TORBAY COUNCILS LICENSING STATEMENT OF PRINCIPLES.

Licensing Act 2003
Premises Licence

506

LOCAL AUTHORITY	
	<p>Torbay Council Licensing & Public Protection c/o Town Hall Castle Circus Torquay TQ1 3DR</p>

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION	
<p>Torquay Squash Centre Lascalles Hall, 78 Barton Road, Torquay, Devon, TQ2 7NS.</p>	<p>Telephone 01803 323491</p>

WHERE THE LICENCE IS TIME LIMITED THE DATES
Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE
- 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	
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Saturday	10:00am	11:00pm	
	From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.			
	Sunday	Noon	10:30pm	
	Good Friday	Noon	10:30pm	
	Christmas Day	Noon	3:00pm	
	Christmas Day	7:00pm	10:30pm	
	New Year's Eve	10:00am	11:00pm	Except on a Sunday
	New Year's Eve	Noon	10:30pm	Sunday
	From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.			

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To	
Monday to Saturday	10:00am	11:20pm	
From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.			
Sunday	Noon	10:50pm	
Good Friday	Noon	10:50pm	
Christmas Day	Noon	3:20pm	
	7:00pm	10:50pm	
New Year's Eve	10:00am	11:20pm	Except on a Sunday
	Noon	10:50pm	Sunday
From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.			

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

AUTHORISES THE SUPPLY OF ALCOHOL

PRIORITY OF PERSONAL LICENCE FOR THE SUPPLY OF ALCOHOL

Issued by Herefordsh

Steve Cox

Steve Cox
Environmental Health Manager
18 December 2015

ANNEXES

ANNEXE 1

MANDATORY CONDITION: WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

- 1) No supply of alcohol may be made under the premises licence:-
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3) (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 4) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 5) (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
- 6) The responsible person must ensure that:-
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:-

ANNEXES continued ...

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

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

- 1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula $P = D + (D \times V)$

Where:-

- (i) P is the permitted price
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:-

- (i) The holder of the premises licence
- (ii) The designated premises supervisor (if any) in respect of such a licence, or
- (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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.

ANNEXES continued ...

ANNEXE 2

CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Additional Conditions from Section 55 Licence

1. This licence is limited to the supply of intoxicating liquor to, or to the order of, members only and for the purpose of this condition, a person shall not be deemed a member unless:
 - a) There has been an interval of at least two days between the nomination or application for membership of such persons and the admission to membership, and
 - b) The name and address of such persons has been prominently displayed in the club premises for at least two days before admission to membership.
2. The licensee(s) is/are relieved of the necessity to comply with any enactments which require notices to be displayed on the licensed premises (Section 55(5) Licensing Act 1964).

Restrictions transferred from the 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;

ANNEXES continued ...

- 3) . (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti social behaviour or to refer to the effects of drunkenness in any favourable manner.
- 4) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 6) (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- 7). The responsible person shall ensure that -
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (ii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

ANNEXES continued ...

(c) to a canteen or mess.

ANNEXE 3

CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None

ANNEXE 4

PLANS

Copy attached to Licence.

LOCAL AUTHORITY

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

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION**Torquay Squash Centre**

Lascelles Hall, 78 Barton Road, Torquay, Devon, TQ2 7NS.

Telephone 01803 323491

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Saturday	10:00am	11:00pm
	From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		
	Sunday	Noon	10:30pm
	Good Friday	Noon	10:30pm
	Christmas Day	Noon	3:00pm
	Christmas Day	7:00pm	10:30pm
	New Year's Eve	10:00am	11:00pm
	New Year's Eve	Noon	10:30pm
	From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.		Except on a Sunday Sunday

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To	
Monday to Saturday	10:00am	11:20pm	
From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.			
Sunday	Noon	10:50pm	
Good Friday	Noon	10:50pm	
Christmas Day	Noon	3:20pm	
	7:00pm	10:50pm	
New Year's Eve	10:00am	11:20pm	Except on a Sunday
	Noon	10:50pm	Sunday
From New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day.			

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

Richard Curtis

Tudor Firs, Salisbury Road, Hungerford, West Berkshire, RG17 0LG.

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

Janet LAWLOR

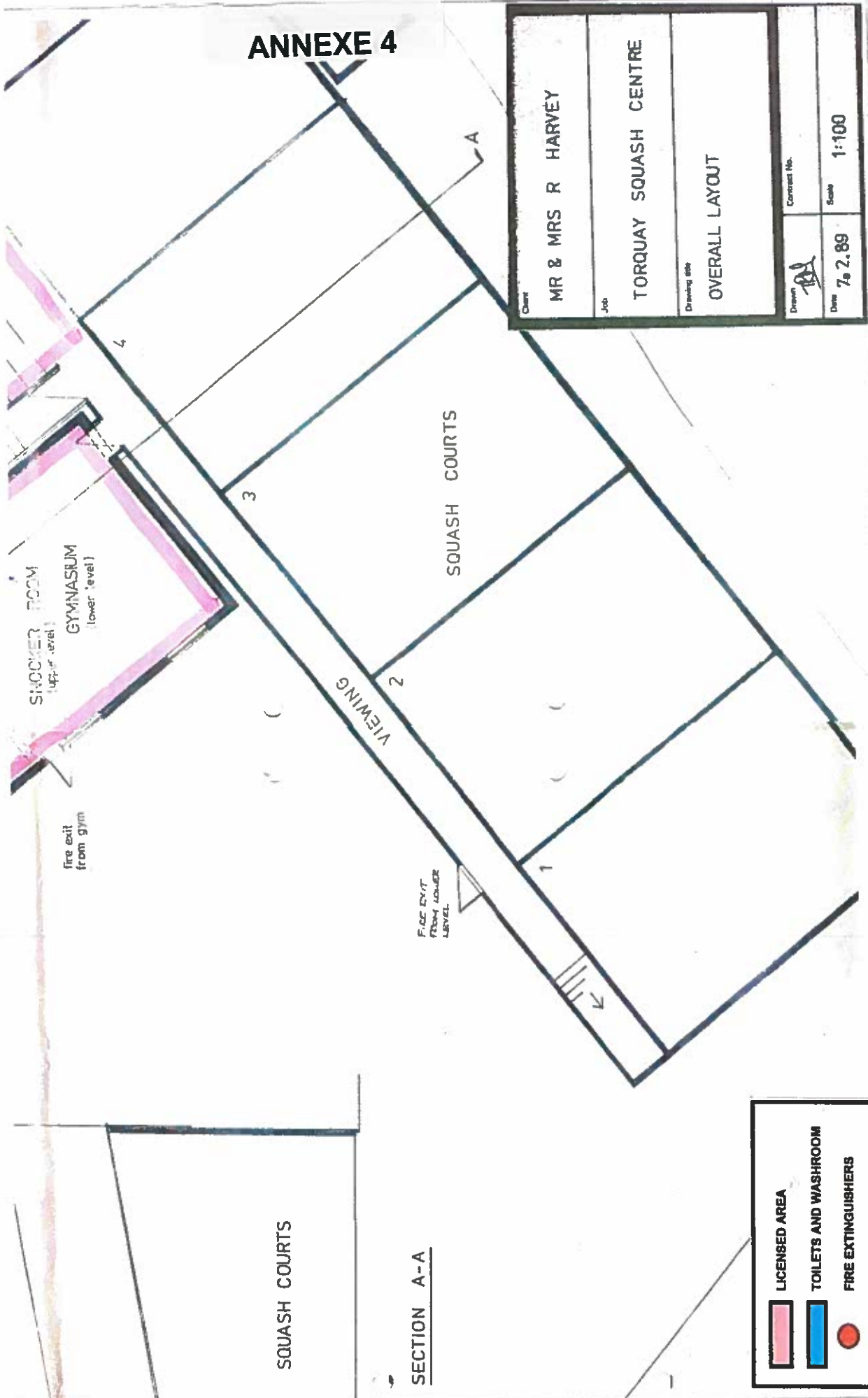
STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Access is restricted only under the terms of the Licensing Act 2003.

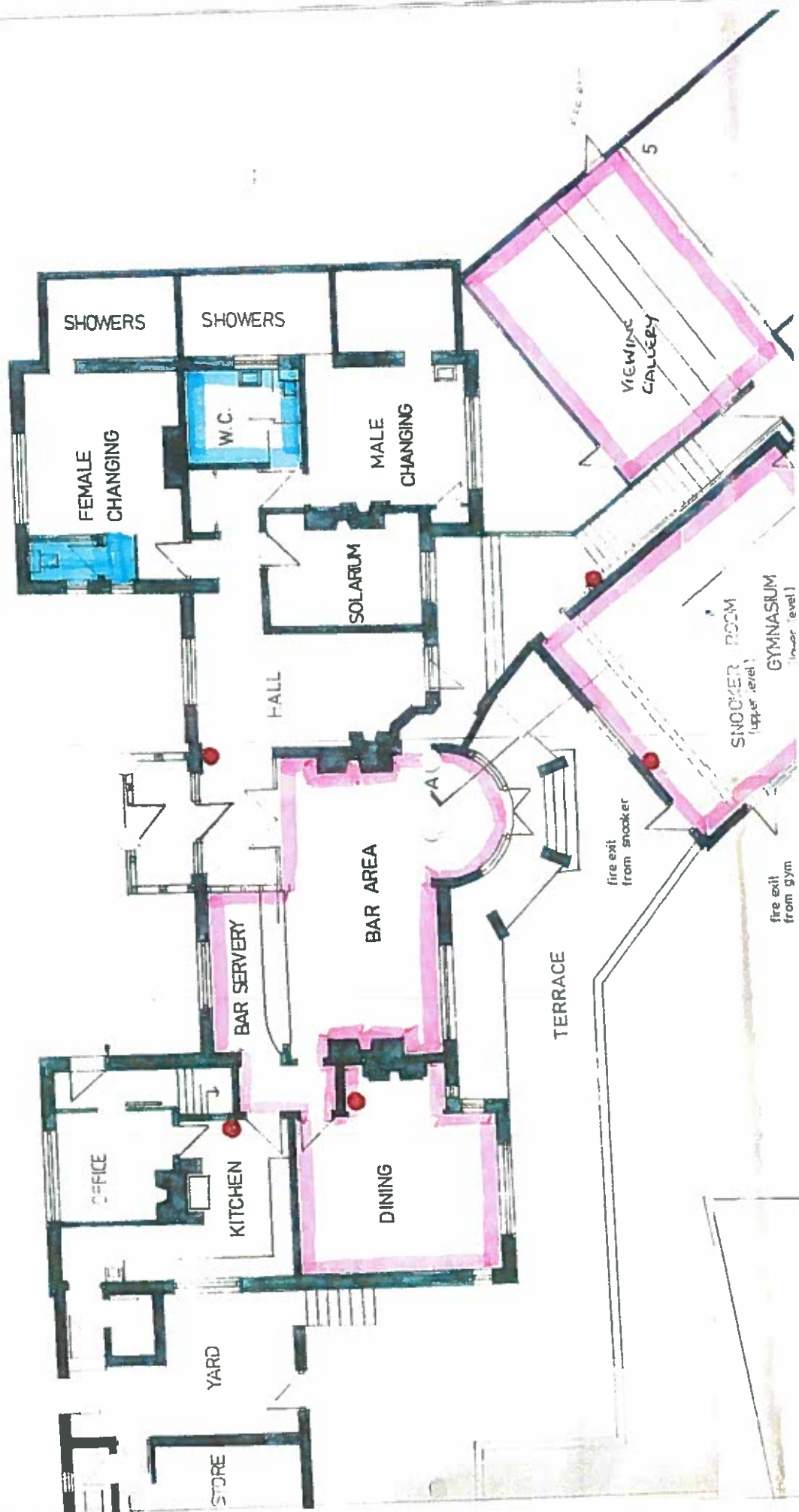


Steve Cox
Environmental Health Manager
18 December 2015

ANNEXE 4



Client	MR & MRS R HARVEY
Job	TORQUAY SQUASH CENTRE
Drawing title	OVERALL LAYOUT
Drawn	<i>[Signature]</i>
Date	7 th 2. 89
Contract No.	
Scale	1:100





Devon & Cornwall Police

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

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

Telephone: 01803 218964

24 November 2017

Dear Sir/Madam

Torquay Squash and Leisure Club, 78 Barton Road, Torquay, TQ2 YNS

I refer to an application for the Variation of a Premises Licence in respect of the above named premises, submitted by Mr Richard Curtis.

For your information this premises previously had the benefit of a Section 55 Club Licence under the Licensing Act 1964. This was converted to a Premises Licence by way of transitional arrangements when the Licensing Act 2003 came into force.

On Tuesday 21 November 2017, my Police Licensing Officer, Mrs Julie Smart, visited the premises in the company of Mr Karl Martin, Public Protection Officer of Torbay Council, where they met with Mr Curtis. Discussions took place concerning Mr Curtis' request to remove the section entitled "Additional Conditions from Section 55 Licence" from the Premises Licence which would mean that the premises could operate as a public house in the future. Mr Curtis assured Mrs Smart and Mr Martin that this was not his intention. He indicated that he wishes to continue to run the premises as a members club but with the facility to allow non-members to attend events and at other occasions, without the need for the premises to submit Temporary Event Notices.

As a result of those discussions, the police request that the below condition is added to the Premises Licence:

Primarily the Torquay Squash and Leisure Club will operate as a members club. However non-members shall be admitted to the premises for events and on other occasions.
Contact the police

Emergency 999

Non-emergency www.devon-cornwall.police.uk/reportcrime

101@devonandcornwall.pnn.police.uk 101

Follow us [f](https://www.facebook.com/DevonAndCornwallPolice) DevonAndCornwallPolice

[t](https://www.tiktok.com/@DC_Police) DC_Police

Page 75



occasions at the discretion of the management/DPS.

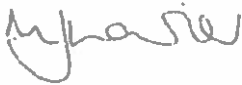
The police consider that this condition is appropriate to ensure that this premises does not have an adverse impact on any of the Licensing Objectives, particularly as we will support the premises in extending the terminal hour for the sale of alcohol until 1.00 am on Friday and Saturday nights, with the premises closing 30 minutes therefore.

As you will see by the attached email, Mr Curtis has indicated that he is satisfied with this condition.

As agreement has been reached in this matter, in accordance with Section 9.2 of the Revised Guidance issued under Section 182 of the Licensing Act 2003 (April 2017) the police do not consider that a hearing is necessary in relation to this application, unless contested representations are received from other responsible authorities.

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

Yours faithfully



Superintendent M Lawler
Head of Alliance Prevention Department

SMART Julie 50403

From:
Sent:
To:
Cc:
Subject: RE: TORQUAY SQUASH AND LEISURE CLUB

Hi Julie,

No problem – this is absolutely fine with us.

Thanks and regards
Richard.

From: SMART Julie 50403 [mailto:Julie.SMART@devonandcornwall.pnn.police.uk]
Sent: 24 November 2017 10:22
To: Richard Curtis (richard@tsandlc.co.uk) <richard@tsandlc.co.uk>
Subject: TORQUAY SQUASH AND LEISURE CLUB

Good morning Richard

Sorry I haven't got back to you sooner following our meeting on Tuesday.

As I indicated to you on Tuesday, the police wish to add the below condition onto your licence:

Primarily the Torquay Squash and Leisure Club will operate as a members club. However non-members shall be admitted to the premises for events and on other occasions at the discretion of the management/DPS.

If you are in agreement with the above condition, please can you confirm this by email as soon as possible.

Thanks

Julie Smart
Police Licensing Officer
01803 218900
07921 933974

This e-mail is intended for the named recipient(s) only and may contain privileged information, which is protected in law. If you have received this e-mail in error, please contact the sender to advise them and delete this e-mail. Unauthorised use, disclosure, copying or distribution is prohibited.

E-mail should not be regarded as a secure means of communication, we take all reasonable steps to ensure that e-mails are protected from malware, but cannot accept liability for any loss or damage, howsoever arising, as a result of their transmission to the recipients' computer or network.

For more information, or to contact us, please visit us at www.devon-cornwall.police.uk or www.dorset.police.uk or e-mail 101@devonandcornwall.pnn.police.uk or 101@dorset.pnn.police.uk

 Virus-free. www.avg.com

Memorandum

To:		From :	Community Safety
c.c		Contact :	Mr Karl Martin
c.c.		Ext :	01803 208025
c.c		My Ref :	1ZV SRU No: 239476/KJM
For the attention of: Gary O'Shea		Your Ref :	
		Date :	27 th November 2017

Premises Name & Address: Torquay Squash Club, 78 Barton Road, Torquay, TQ2 7NS

Subject: Premise licence variation application – Licensing Act 2003

Please accept this memorandum as notice I wish to object to premises licence application SRU239476 as the application currently does not promote the licensing objective 'The Prevention of Public Nuisance'.

However during a meeting with Mr Richard Curtis, the Premises Licence Holder (PLH), on the 21st November 2017 I suggested a number of amendments that if accepted by the PLH and Licensing Sub-committee then I believe the application would promote the licensing objective.

The following amendments and conditions have been accepted by the applicant:-

1. Live music indoors must cease at 11:00pm on Friday and Saturday nights, New Years Eve remains as applied for.
2. Live and recorded music outside must cease at 11:00pm. The application seeks 1:00am finish for both activities and the applicant has confirmed this was an error and a 11:00pm finish is acceptable.
3. In addition to conditions listed in box D, page 17 of the application the following conditions to be added:-

No emptying of glass bottles into bins outside of the premises between the hours of 9pm – 8:00am, Monday to Sunday.

Windows must be kept shut during amplified entertainment to reduce noise break out.

The authority has to date not received a single noise complaint. Therefore if this application is accepted as applied for subject to the additional amendments and conditions as outline above I believe the application will promote the Licensing objective 'Prevention of Public Nuisance'.



Mr Karl Martin
Public Protection Officer
Torbay Council



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for Premises Licence in respect of The Cabin, 13 Lucius Street, Torquay TQ2 5UW**

Wards Affected: **Tormohun**

To: **Licensing Sub Committee** **21 December 2017**

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 new Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objective “The Prevention of Crime and Disorder” and “The Prevention of Public nuisance”.
- 1.4 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made, having considered the Representations, either:-
 - (a) to grant the licence subject to
 - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the Premises Supervisor;
 - (d) to reject the application.

forward thinking, people orientated, adaptable - always with integrity.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant and Interested Party following the determination of the matter.

2. Introduction

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:

The Supply of Alcohol from 07.00 until 22.00 seven days a week off the premises.

To be open to the public from 07:00 until 22.00 7 days a week.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as Relevant Representations have been received. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received 5 Representation from Members of the Public in relation to the licensing objectives "The Prevention of Crime and Disorder" and "The Prevention of Public Nuisance". 2 of the Representations are against the application and 3 are in favour of the application. These are shown as Appendix 2.

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

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
- (a) The holder of the licence against any decision
 - (i) to impose conditions on the licence, or
 - (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
 - (b) Any person who made a relevant Representation who desires to contend
 - (i) that the licence ought not to have been granted, or
 - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.

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

Frances Hughes
Executive Head Community Safety

Appendices

Appendix 1 Details of the application.

Appendix 2 Representations from 5 Members of the Public.

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2016.



Torbay
Application for a premises licence
Licensing Act 2003

TORBAY COUNCIL

- 2 NOV 2017

COMMUNITY SAFETY

For help contact
<https://forms.torbay.gov.uk/ContactLicenseTrading>
Telephone: 01803 208025

* required information

Section 1 of 21

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you work for the applicant

Are you:

Applying as a business owner
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

Your Address

Address official correspondence should be sent to.

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

Section 2 of 21

PREMISES DETAILS

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

Address OS map reference Description

Postal Address Of Premises

Building number or name	THE CABIN
Street	LUCIUS STREET
District	
City or town	TORQUAY
County or administrative area	DEVON
Postcode	TQ2 5UW
Country	United Kingdom

Further Details

Telephone number	01803 400293
Non-domestic rateable value of premises (£)	4,200

Section 3 of 21

APPLICATION DETAILS

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

Confirm The Following

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

Section 4 of 21

INDIVIDUAL APPLICANT DETAILS

Applicant Name

Is the name the same as (or similar to) the details given in section one?

- Yes No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

First name

Family name

Is the applicant 18 years of age or older?

- Yes No

Continued from previous page...

Current Residential Address

Is the address the same as (or similar to) the address given in section one?

Yes No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name [

Street |

District

City or town

County or administrative area

Postcode

Country

Applicant Contact Details

Are the contact details the same as the previous applicant?

Yes

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail]

Telephone number]

Other telephone number]

* Date of birth

* Nationality _____

Documents that demonstrate entitlement to work in the UK

Add another applicant

Section 5 of 21

OPERATING SCHEDULE

When do you want the premises licence to start? [] / [] / []
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end [] / [] / []
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.

THE CABIN IS A CONVEINENCE/NEWSAGENTS, I INTEND TO TAKE OFF-SUPPLIES OF ALCOHOL TO IMPROVE MY BUSINESS AND BE INLINE WITH

Continued from previous page...

OTHER SHOPS IN THE AREA, I INTEND TO RUN THE BUSINESS WITH NO ADVERSE EFFECTS ON THE LOCAL COMMUNITY, all spirits will be displayed behind the counter and sold only by way of counter service, also no super strength beers lagers or ciders of 6.1% abv or above shall be sold on the premises. No single cans will be sold on the premises, CCTV in operation, Challenge 25 policy will be in place, Photo id only, staff training records will be kept, and a refusal and incident log will be kept.

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Section 6 of 21

PROVISION OF PLAYS

See guidance on regulated entertainment

Will you be providing plays?

- Yes No

Section 7 of 21

PROVISION OF FILMS

See guidance on regulated entertainment

Will you be providing films?

- Yes No

Section 8 of 21

PROVISION OF INDOOR SPORTING EVENTS

See guidance on regulated entertainment

Will you be providing indoor sporting events?

- Yes No

Section 9 of 21

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will you be providing boxing or wrestling entertainments?

- Yes No

Section 10 of 21

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will you be providing live music?

- Yes No

Section 11 of 21

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will you be providing recorded music?

- Yes No

Continued from previous page...

Section 12 of 21

PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will you be providing performances of dance?

Yes No

Section 13 of 21

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will you be providing anything similar to live music, recorded music or performances of dance?

Yes No

Section 14 of 21

LATE NIGHT REFRESHMENT

Will you be providing late night refreshment?

Yes No

Section 15 of 21

SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

Yes No

Standard Days And Timings

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

SATURDAY

Start 07:00

End 22:00

Start

End

SUNDAY

Start 07:00

End 22:00

Start

End

Will the sale of alcohol be for consumption:

- On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

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

Name

First name

LINDSAY

Family name

YOUNG

Date of birth

Continued from previous page...

Enter the contact's address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number
(if known)

Issuing licensing authority
(if known)

TORBAY COUNCIL

PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

Section 16 of 21

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

Section 17 of 21

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

TUESDAY

Start	<input type="text" value="07:00"/>	End	<input type="text" value="22:00"/>
Start	<input type="text"/>	End	<input type="text"/>

WEDNESDAY

Start	<input type="text" value="07:00"/>	End	<input type="text" value="22:00"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="07:00"/>	End	<input type="text" value="22:00"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="07:00"/>	End	<input type="text" value="22:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="07:00"/>	End	<input type="text" value="22:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="07:00"/>	End	<input type="text" value="22:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 18 of 21

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

Continued from previous page...

List here steps you will take to promote all four licensing objectives together.

CCTV in operation and regularly maintained covering both inside and outside of the premises. The CCTV will also cover the areas that will contain the stocks of alcohol. The CCTV system retains all data onto hard drive for 28 days and can be copied on request and appropriate authority to do so. Recognising, challenging and ensuring the conduct of persons purchasing products. Close liaison with law enforcement agencies to ensure legality, public safety and protection of children and young persons.. Trained staff with full understanding of the U25 policy that will be in force

b) The prevention of crime and disorder

Using local knowledge identifying offenders involved in crime and disorder and therefore restricting sales to these individuals, liaising and providing evidence when required with the local law enforcement and exchanging information. Ensuring the good conduct of customers entering and leaving this premises.

c) Public safety

Inappropriate and/or poor behaviour will not be tolerated, any person(s) acting unruly or inappropriately will be asked to leave the premises, details of such incidents will be recorded in a log and made available to any authorised officer of the Council or the Police for inspection upon reasonable request.

d) The prevention of public nuisance

A responsible person shall ensure that the area is maintained in a clean and smart manner by regular inspection and cleaning of the area in the immediate vicinity of the premises where appropriate
Discouraging congregating of persons close to the premises, Challenging poor conduct and behaviour

e) The protection of children from harm

The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photo card driving licence bearing a holographic mark or other form of identification bearing the customer's photograph, date of birth and the Proof of Age Standards Scheme (or similarly accredited scheme) hologram.

- All spirits shall be located behind the counter and shall be sold by counter service only.
- Alcohol displays within the premises shall be located so that staff can view these displays at all times.
- There shall be no alcohol displays within 2 metres of the store entrance
- There will be no sales or supply of beers, ales, lager, bitter or cider with an ABV of more than 6%.
- No single cans of alcohol shall be sold from the premises.
- The Premises Licence Holder or Designated Premises Supervisor shall ensure that a Refusals Register is maintained to include details of all alcohol sales that are refused and the reason for refusal. The register shall be retained for a period of 12 months and will be made available to the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.
- Challenge 25 Posters shall be displayed in prominent positions within the premises and adjacent to the service hatch.
- An Incident Book shall be maintained to record details of the dates, times and details of any incidents occurring on the premises. This Incident Book shall be retained for a period of 12 months and will be made available for inspection at any reasonable time by the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.
- The Premises Licence Holder or Designated Premises Supervisor shall ensure that all members of staff employed in the sale of alcohol shall receive appropriate training, and regular refreshment training, with regards to the Challenge 25 Policy, the identification of persons who are drunk and refusing service. A record of such training will be maintained and kept on the premises for a period of 12 months and shall be available for inspection at any reasonable time by the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.
- No persons other than management, their staff, site service providers and members of emergency services shall be allowed access to the premises other than the forecourt between 09:00 and 06:00 daily.

Continued from previous page...

The premises CCTV system will incorporate a camera covering the premises frontage and the serving hatch at the front of the premises.

Section 19 of 21

NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

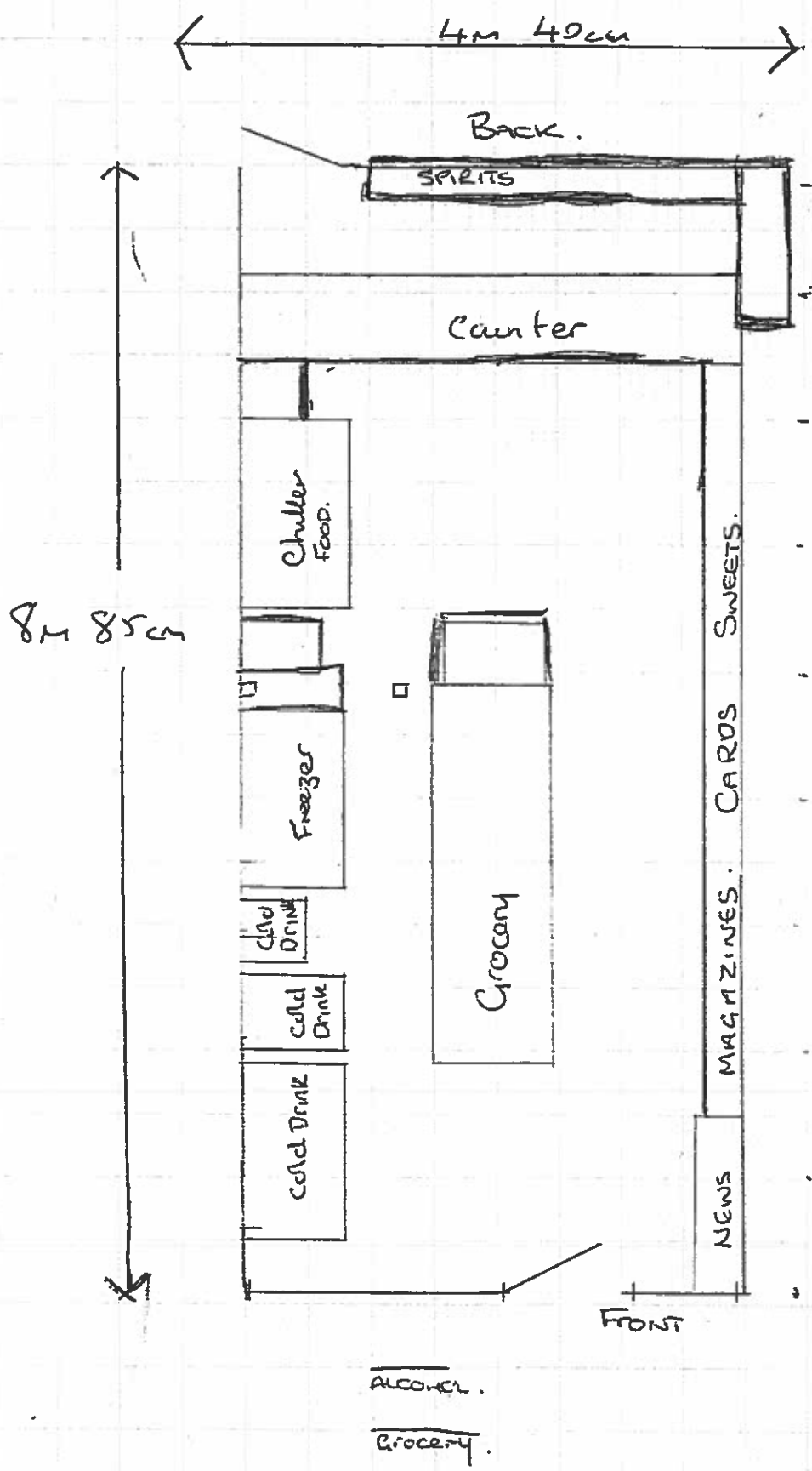
- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full birth** or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.



Scale 2cm = 1metre.

TORBAY COUNCIL

21 NOV 2017

15. 11. 2017

COMMUNITY SAFETY

Torbay Council Licensing
TORQUAY

I am writing this letter to strongly object to give a
Cabbins New on Lucius Street alcohol license.

I would like point that we got on this street one all ready
which is OFF LICENCE. I think if we gonna have another
one it will make more drunk people and drugs.

I'm very scary about my son (13 years old) when he
coming back from school. Drunk people are very aggressive.

My son was a few times stoped by drunk people and
been called a polish idiot. I dont think it this right.

Last summer lots of drunk people been sitting on the bench
and make a noise, we cant sleep. I was cleaning empty
bottles and cans out side my front door.

A few times drunk people been sleeping on my front door, and
I wasnt feel comfortable which this situation. The OFF LICENCE off

been very strick which and two who they are selling alcohol
and situation is much better now. If the Cabbins News will get the
alcohol licence this all will come back which we dont want two.

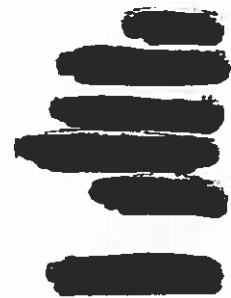
Everyone will think that the street is full of drunk people and drugs.

We want two feel secure. Is so many nice business here like:

barber shop, carpet shop, flower shop, furnishing shop. Another place
which will selling alcohol will bring the nice area gone.

The Cabin news always been a paper shop and top-up and it should stay

TORBAY COUNCIL
28 NOV 2017
COMMUNITY SAFETY



25 November 2017

Dear Sir Madam

Alcohol License Application 049300
Mrs Lindsay Young, The Cabin, 13 Lucius Street, Torquay

I have known Mrs Young since she took over ownership from the previous tenants of The Cabin. I endorse completely her application to hold a license to sell alcohol from the premises. Having worked in the area for many years, I am fully mindful of the customers that frequent the area. This includes residents from all levels of society, holiday makers, people who work in the area and passing trade. Obviously, Mrs Young is also cognisant of these facts and works assiduously to provide an excellent service to customers whilst being highly aware of all the challenges of running the business.

I visit the premises daily at various times and I am confident that the characteristics that she displays will be highly effective when she is provided with a license to sell alcohol.

I am happy for you to contact me, if you require further information.



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

Enc.

Guy, Mandy

From: [REDACTED]
Sent: 28 November 2017 17:29
To: Licensing
Subject: Licence Application The Cabin 13 Lucius Street FAO Laura

anr Laura

I run a nearby business in Lucius Street and would have no objection to a licence being granted to this business. I do know the applicant as a fellow business owner and have no doubt that they would manage the sale of alcohol responsibly as they do with their current operations.

--

Regards

[REDACTED]

[REDACTED]

[REDACTED]



TORBAY COUNCIL
27 NOV 2017
COMMUNITY SAFETY

[REDACTED]
[REDACTED]
[REDACTED]
22 November 2017.

Dear Sir or Madam.

Application for Liquor Licence

L. A. Young - Lucius Street, Torquay.

I write in support of the above application.

It is now the twenty first century, not the nineteenth and I should be able to purchase a bottle of wine for Sunday lunch when I collect the Sunday newspapers

The applicant is a hard working business owner who runs a small family business and is looking to increase footfall and build the business

These are the small business that should be supported in their attempts to revitalise our town centres and I implore you to grant the application.

Yours sincerely,

[REDACTED]

[REDACTED]

21 NOV 2017

14/11/2017

Torbay Council. Licensing
Torquay.

To whom it may concern I am writing this letter to strongly object to the Cabin News Torquay in Lucas Street being granted an alcohol license the area has been in strong decline due to drugs and alcohol. I feel that with more alcohol being offered in the area will increase this problem more. I am forever cleaning the road of beer bottles and cans and seeing violence and drunk people in the street also coming in my shop. We already have a public house the Bull and Bush and two off licences here we don't need anymore. The Cabin has always been a paper and grocery shop and that is how it should stay. Please do not cause us business owners here anymore unnecessary problems and bring the area down any more by allowing this to happen.

Yours Sincerely,