

From: [matt lyon](#)
To: [Smart, Julie](#)
Subject: The Devon dumpling
Date: 06 January 2025 10:41:41

Hi Julie

I've re sent everything this morning

I had to send the bigger form in a few emails as the file was struggling to send due to the size of it

We completed the work on the cage roof before Christmas to make it compliant with the smoking regulations.

Kind regards

Matt

Sent from my iPhone

From: [Smart, Julie](#)
To: [matt.lyon](#)
Subject: RE: Minor Variation
Date: 07 January 2025 14:55:00

Hi Matt

Ok I'll discuss that with my manager as I'm not an expert on smoking areas, and I'll let you know what she says.

Thanks

Julie

From: matt lyon <[REDACTED]>
Sent: 07 January 2025 14:52
To: Smart, Julie <[REDACTED]>
Subject: Re: Minor Variation

Hi Julie

It's just less than half

We measured the side wall and found that area then removed the roof to the same amount

Matt

Sent from my iPhone

On 7 Jan 2025, at 2:46 pm, Smart, Julie <[REDACTED]> wrote:

Hi Matt

Thank you for the photo. It's a bit difficult to see how much of the roof has been removed but I'll be in Torquay on Thursday so if I have time I will pop in and have a look.

Yes I know Chris, and he has my contact details so no doubt will be in contact when convenient for him.

Thanks

Julie

From: matt lyon <[REDACTED]>
Sent: 07 January 2025 14:44
To: Smart, Julie <[REDACTED]>
Subject: Re: Minor Variation

Thank you Julie

I've just sent over a picture of the roof section removed and I will display the notice .

I think Chris hart will be in contact soon as he is acting for me at the hearing

(I think you know him)

Kind regards

Matt

Sent from my iPhone

On 7 Jan 2025, at 2:40 pm, matt lyon [REDACTED]

wrote:

<image0.jpeg>

Sent from my iPhone

On 7 Jan 2025, at 2:35 pm, Smart, Julie

[REDACTED] wrote:

Good afternoon Matt

I have accepted your minor variation application, and attach our acceptance letter.

The last date for consultation is 21 January 2025, and I will contact you immediately after this date to advise you of the progress of your application.

I have attached a completed site notice for you. This must be displayed at the premises until 22 January 2025.

Please send me a photograph of the site notice on display at the front of the premises.

I would also be grateful if you could send me some photographs of the cage showing that the roof has been removed.

If I can be of any further assistance, please do not hesitate to contact me.

Kind regards

Julie

<image001.jpg>

Julie Smart | Licensing Officer | Licensing and
Public Protection Team
Torbay Council, Community & Customer
Services, Lower Ground Floor, Town Hall,
Torquay TQ1 3DR



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<Acceptance Letter.pdf>

<Minor Variation Site Notice.doc>

<image001.jpg>

From: [Smart, Julie](#)
To: [matt.lyon](#)
Subject: The Cage
Date: 10 January 2025 13:35:00
Attachments: [image001.jpg](#)
[The_cage_1.jpg](#)
[The_cage_3.jpg](#)

Hi Matt

I have spoken to Rachael, my manager, about the cage and the section of roof you have removed.

She informs me that it is your responsibility to demonstrate to us that the cage is now compliant with the smoke free regulations. She asks that you take several photographs showing the entire roof area, which clearly show where the roof is still in place and where the roof has been removed, and forward these to me.

She also requests that you send us the below measurements:

The rear wall of the cage – width and height

Both side walls – width and height

The front of the cage – the width and height of the entire front area, the width each of the 3 pillars, the width and height of the beam across the top, and the width and height of the wall and wood shown at ground level in the attached photos.

Thanks

Julie



Julie Smart | Licensing Officer | Licensing and Public Protection Team
Torbay Council, Community & Customer Services, Lower Ground Floor, Town
Hall, Torquay TQ1 3DR



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From: [Smart, Julie](#)
To: [matt.lyon](#)
Subject: FW: The Cage
Date: 03 February 2025 09:59:00
Attachments: [The cage 1.jpg](#)
[The cage 3.jpg](#)
[A Quick Guide to Smoke Free Spaces.docx](#)
Importance: High

Good morning Matt

As you are probably aware I visited the premises on Thursday 30 January 2025 with a colleague from our Food Team.

This visit was necessary as you have not responded to my email below, and I will need to update the Licensing Sub-Committee about the matters contained within the review application at the hearing on Thursday of this week.

On looking at the cage, my colleague and I noted that an area of the roof has been removed. In your email of 7 January 2025 you indicated that you had removed just less than half of the roof, however we counted 9 Perspex areas between the beams, with the Perspex having been removed from 3 of these areas, meaning that a third of the roof has been removed. Our initial visual assessment of the cage concluded that it was not at least 50% open.

We then took approximate measurements of all aspects of the cage as follows:

Area	Measurements in m	Area
Rear wall	6.40 m x 3.13 m h	20.03 m
Whole Roof area	6.40 x 4.46	28.54m
Area of Roof open	2.28 x 4.46	10.17 m
Side walls	4.46 x 2.42 h at one end, but 3.13 h at other end: 4.46 x 2.42 = 10.8 3.13 – 2.42 = 0.71 4.46 x 0.71 = 3.16 / 2 = 1.58 10.8 + 1.58 = 12.38 per wall 12.38 per wall x 2 = 24.76	24.76 m
Front opening 1	1.53 x 1.60	2.44 m
Front opening 2	2.21 x 2.28	5.04 m
Front opening 3	1.60 x 1.53	2.44 m

Please refer to the attached Quick Guides to Smoke Free Spaces, and note the section titled “Enclosed Premises” on page 1. This clearly states that a premises is enclosed if it has a roof or ceiling, or there are permanent openings in the walls but these make up less than half the area of the walls.

The guide then refers to the 50% rule and explains how to calculate the percentage of the area

that is open and the percentage of the area that is closed. I have used the above measurements to calculate what percentage of the cage is enclosed in accordance with this guide, as follows:

1. Measure the whole perimeter (P): Back wall + front wall + side walls =

$$\begin{array}{r} 20.03 \\ + 20.03 \\ + 24.76 \\ = 64.82 \text{ m (P)} \end{array}$$

2. Measure all enclosed areas (E): Back wall + side walls + (front wall minus open areas) =

$$\begin{array}{r} 20.03 \\ + 20.03 \\ + (20.03 - 9.92) 10.74 \\ = 50.8 \text{ m (E)} \end{array}$$

3. Divide E by P and times x 100 = % enclosed

$$\begin{array}{r} 50.8 / 64.82 \times 100 = \\ 0.78 \times 100 = \mathbf{78.3\% \text{ enclosed and only 21.7\% open}} \end{array}$$

As you will see from the above calculation, the cage is 78.3% enclosed and therefore does not meet the requirements of the smoke free regulations. During my visit to your premises on Friday 29 November 2024, I noted that there was a no smoking sign on the rear wall of the cage, but on Thursday 30 January 2025 this sign was not present and the tables were covered in ash indicating that the cage had recently been used for smoking. Please put up a no smoking sign immediately, and ensure that your staff inform all customers that smoking is not permitted in this area.

We also noted that both the new structure within the outside area and the structure at the top of the garden, do not meet the requirement of being at least 50% open and therefore smoking is not permitted within either structure. I advised your female manager of this on Thursday 30 January 2025 and requested that appropriate signage is displayed. In respect of the structure at the top of the garden she advised me that there was a no smoking sign in this area previously, but she did not know when or why it was removed.

Whilst in the outside area, I further noted that there were no signs reminding customers that they must be seated at all times. I advised your female manager that I was sure the licence contains a condition requiring signage to be displayed but I would need to check the licence in respect of this. I would draw your attention to Annexe 3 Conditions attached after a Review Hearing by the Licensing Authority number 11, on your premises licence, which states:

“Patrons using the outside area shall be seated and signage shall be prominently displayed in these areas notifying patrons of this.”

It is therefore apparent that this condition was not being complied with and I would take this

opportunity to remind that it is an offence under Section 136 of the Licensing Act 2003 to carry out licensable activities not in accordance with an authority (ie premises licence) and that a person found guilty of such an offence is liable to an unlimited fine, up to 6 months imprisonment, or to both.

It is extremely disappointing that in a period of 11 months you have failed to make the cage compliant with the smoke free regulations, despite me having sent you the attached guide on 3 occasions. It is also disappointing that you have again failed to respond to an email I have sent to you (below), necessitating a further visit to your premises by myself and a colleague, and that a further breach of conditions has been identified.

Please address these matters immediately.

Kind regards

Julie

From: Smart, Julie

Sent: 10 January 2025 13:36

To: matt lyon [REDACTED]

Subject: The Cage

Hi Matt

I have spoken to Rachael, my manager, about the cage and the section of roof you have removed.

She informs me that it is your responsibility to demonstrate to us that the cage is now compliant with the smoke free regulations. She asks that you take several photographs showing the entire roof area, which clearly show where the roof is still in place and where the roof has been removed, and forward these to me.

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Thanks

Julie

TORBAY COUNCIL

Julie Smart | Licensing Officer | Licensing and Public Protection Team
Torbay Council, Community & Customer Services, Lower Ground Floor, Town

Hall, Torquay TQ1 3DR



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