

**From:** [West, Thomas](#)  
**To:** [Smart, Julie](#)  
**Subject:** FW: Premises licence guidance  
**Date:** 26 April 2024 14:50:42  
**Attachments:** [image001.png](#)  
[A Quick Guide to Smoke Free Spaces.docx](#)

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**From:** West, Thomas  
**Sent:** Friday, March 8, 2024 1:24 PM  
**To:** [REDACTED]  
**Subject:** Premises licence guidance

Hi [REDACTED]

Many thanks for your time earlier.

As discussed, the bar area which isn't included in the current plan will require a variation to make it compliant.

This is because the Licensing act requires that objects or structures which may impact on the ability of individuals to use access and egress routes without impediment are to be included in the plan.

However, there are a few options available to you moving forward:

You may wish to submit a minor variation application:

<https://www.torbay.gov.uk/business/licensing/alcohol-and-entertainment/premises-licence/minor-variation/>

Given the complaint history, it's important to note that with this option, there is a chance you might receive objections to the application. If this is the case and those representations are deemed relevant, you risk losing the application fee that you paid.

The second option is for you to submit a full variation:

<https://www.torbay.gov.uk/business/licensing/alcohol-and-entertainment/premises-licence/full-variation/>

This will cover the changes you wish to make to the plan but as with any variation, the application will go out for consultation, and you might receive representations in response.

You may also wish to consider utilising temporary event notices (TEN's):

<https://www.torbay.gov.uk/business/licensing/alcohol-and-entertainment/ten/>



You can utilize TEN's to cover the events that you intend to hold for the outdoor bar throughout the year. You'll get a maximum of 15 TENs for the year, or 21 calendar days, whichever is reached first.

There's also the matter of the smoking shelter which by the looks of things just needs the roof removing in order to make it compliant under The Health Act 2006 and The Smoke-free (Premises and Enforcement) Regulations 2006 . I've attached a copy of some guidance for you to have a look at.

Any questions then please feel free to ask.

Many thanks,

Tom

<b>Title: Torbay Council</b> 	<b>Tom West</b>   Licensing Officer   Public Protection  Town Hall, Castle Circus, Torquay TQ1 3DR   <a href="http://www.torbay.gov.uk">www.torbay.gov.uk</a> <a href="#">Facebook</a>   <a href="#">Twitter</a>   <a href="#">LinkedIn</a>   <a href="#">Instagram</a>
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## A Quick Guide to Smoke Free Spaces

### **The law forbids smoking anything, including tobacco, such as:**

- manufactured cigarettes
- hand-rolled cigarettes
- pipes and cigars
- herbal cigarettes
- water or shisha pipes
- hookah

Smoking includes being in possession of lit tobacco or any other lit substance in a form in which someone could smoke it.

As a premises owner:

- you must not smoke in your enclosed premises
- allow others to smoke in your enclosed premises

### **Enclosed premises**

An enclosed premises:

- has a ceiling or roof (including any fixed or movable structures such as awnings) and except for doors, windows or passageways are wholly enclosed on a permanent or temporary basis
- has a ceiling or roof (including any fixed or movable structure such as awnings)
- has permanent openings in the walls which are less than half of the total areas of walls, including other structures which serve the purpose of walls and constitute the perimeter of the premises

Tents, marquees and similar structures are enclosed premises if they fall within the definition and tent panels will always be counted as being rolled down).

if you want to put up a smoking shelter, you may need:

### **The 50 percent rule**

If 50 percent or more of the walls are missing it is legal to smoke. If more than 50 percent of the walls are present it is illegal to smoke:

- when looking at the area of an opening you do not take into account doors, windows or other fittings that open or shut.
- if an opening or cover can be closed, you treat the openings as closed to work out the 50 percent rule
- In tents marquees and similar structures, treat the tent panels as being rolled down
- 

You can contact our Licensing team if you have any questions about smoking in enclosed spaces

### **The Calculation**

How do I know if my smoking area is 50% open and meets the Smoke Free legislation?

Businesses must calculate what percentage of their smoking area is open and what percentage is enclosed to be sure it complies with the smokefree legislation.

The calculation is as follows:

- I. Measure the area of the whole perimeter of the smoking area/shelter that falls beneath the roof/ceiling. Do not include the area of the roof or floor.

2. Measure the area of all the enclosed parts of the perimeter of the smoking area/shelter. This could be walls or other structures that serve the purpose of walls. Again do not include the area of the roof and floor but do include the area of all doors and windows as these are always counted as enclosed parts. This calculation will be part of the enclosed area of your smoking area/shelter.
3. Divide the enclosed area (E) by the perimeter area (P) and times by 100 as shown below:

$$E/P \times 100 = \% \text{ Enclosed}$$

**If your smoking area/shelter is more than 50% enclosed then it does not comply with Smoke free legislation and smoking cannot be permitted.**

**From:** [Smart, Julie](#)  
**To:** [mattlyor](#) [REDACTED]  
**Cc:** [West, Thomas](#)  
**Subject:** Devon Dumpling - Visit on 4 July 2024  
**Date:** 12 July 2024 11:50:00  
**Attachments:** [image001.png](#)  
[A Quick Guide to Smoke Free Spaces.docx](#)  
[image002.jpg](#)

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Good morning Matthew

Following the visit to your premises by Tom and me on 4 July 2024, I can advise you that I have spoken to my manager regarding the matters we discussed, and can update you as follows:

### The Cage – Smoking Area

This area does not comply with The Smoke-Free (Premises and Enforcement) Regulations 2006 as it is substantially enclosed, having a roof and more than 50% of the walls present. Therefore it is illegal to smoke, or allow people to smoke within this area. Owners and managers can be fined up to £2500 for failing to maintain a smoke-free area. You therefore need to ensure that, with immediate effect, this area is not used for smoking and appropriate no-smoking signage is displayed.

The attached information was forwarded to your manager by Tom West on 8 March 2024 (email below) to assist you in ensuring your premises is compliant with the smoke-free regulations. This can easily be achieved by removal of The Cage roof. If you do not wish to remove the roof, you will need to identify an appropriate, alternative area which is acceptable both to Tom West and the complainants. A variation of your premises licence will then be required to remove all conditions referring to The Cage and include alternative conditions.

Due to the conditions imposed by the Licensing Sub-Committee regarding the use of The Cage as a designated smoking area, and complaints of noise from customers outside the front of your premises, this leaves a problem of where your customers should smoke until this issue is resolved. I suggest that your customers temporarily use the patio adjacent to The Cage. However, we will only permit this for a limited period and request that you deal with this as a matter of urgency. I would be grateful if you could keep me updated in respect of this matter.

### Condition requiring patrons to be seated outside

During our visit on Thursday 4 July 2024 you stated that you have not been complying, and are unable to comply with condition 11 under the heading “Conditions Attached after a Review Hearing by the Licensing Authority” which states “Patrons using the outside area shall be seated and signage shall be prominently displayed in these areas notifying patrons of this”.

I have discussed this with Rachael Hind, who has advised that if you wish to remove this condition you will need to propose an alternative condition restricting the number of customers outside to reduce the likelihood of noise nuisance. This condition must satisfy both Tom West and the complainants. I recommend you discuss your proposed alternative condition with Tom,

who can then liaise with the complainants.

If you decide not to remove this condition, you must comply with it. Failure to comply with a condition on the premises licence is an offence under Section 136 of the Licensing Act and a person found guilty of such an offence is liable on summary conviction to an unlimited fine, up to 6 months imprisonment, or to both.

### Outside structure

As discussed during our visit, a variation application is required to amend the plan of the premises to show the structure you have erected in the beer garden. As recent complaints have been received in respect of noise from your premises, any variation of your premises licence is likely to impact on the licensing objective the prevention of public nuisance and therefore a full variation of your premises licence is necessary to deal with this.

Should you wish to move the location of your designated smoking area and/or remove the condition concerning customers being seated, these matters can be included within the same variation application.

Should you wish to discuss the above, please do not hesitate to contact me.

Kind regards

**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:** West, Thomas

**Sent:** Friday, March 8, 2024 1:24 PM

**To:** [REDACTED]

**Subject:** Premises licence guidance

Hi [REDACTED]

Many thanks for your time earlier.

As discussed, the bar area which isn't included in the current plan will require a variation to make it compliant.

This is because the Licensing act requires that objects or structures which may impact on the ability of individuals to use access and egress routes without impediment are to be included in the plan.

However, there are a few options available to you moving forward:

You may wish to submit a minor variation application:

<https://www.torbay.gov.uk/business/licensing/alcohol-and-entertainment/premises-licence/minor-variation/>

Given the complaint history, it's important to note that with this option, there is a chance you might receive objections to the application. If this is the case and those representations are deemed relevant, you risk losing the application fee that you paid.

The second option is for you to submit a full variation:

<https://www.torbay.gov.uk/business/licensing/alcohol-and-entertainment/premises-licence/full-variation/>

This will cover the changes you wish to make to the plan but as with any variation, the application will go out for consultation, and you might receive representations in response.

You may also wish to consider utilising temporary event notices (TEN's):

<https://www.torbay.gov.uk/business/licensing/alcohol-and-entertainment/ten/>

You can utilize TEN's to cover the events that you intend to hold for the outdoor bar throughout the year. You'll get a maximum of 15 TENs for the year, or 21 calendar days, whichever is reached first.

There's also the matter of the smoking shelter which by the looks of things just needs the roof removing in order to make it compliant under The Health Act 2006 and The Smoke-free (Premises and Enforcement) Regulations 2006 . I've attached a copy of some guidance for you to have a look at.

Any questions then please feel free to ask.

Many thanks,

Tom

---

**Title: Torbay Council**



**Tom West** | Licensing  
Officer | Public Protection

Town Hall, Castle Circus,  
Torquay TQ1 3DR



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**From:** [postmaster@outlook.com](mailto:postmaster@outlook.com)  
**To:** [mattlyor@](mailto:mattlyor@)  
**Subject:** Delivered: Devon Dumpling - Visit on 4 July 2024  
**Date:** 12 July 2024 11:51:11  
**Attachments:** [Devon Dumpling - Visit on 4 July 2024 .msg](#)

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Your message has been delivered to the following recipients:

[mattlyor@](mailto:mattlyor@)  
Subject: Devon Dumpling - Visit on 4 July 2024

**From:** [Smart, Julie](#)  
**To:** [info@\[REDACTED\]](mailto:info@[REDACTED])  
**Subject:** FW: Devon Dumpling - Visit on 4 July 2024  
**Date:** 25 July 2024 14:52:00  
**Attachments:** [image001.png](#)  
[A Quick Guide to Smoke Free Spaces.docx](#)  
[image002.jpg](#)

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Good afternoon Matt

Please see below email that I sent to you on 4 July 2024. I requested delivery and read receipts for this email, and have received confirmation that it has been delivered successfully, but I have not received a read receipt.

I am therefore sending this email to the email address on your facebook page for your immediate attention.

Kind regards  
Julie

---

**From:** Smart, Julie  
**Sent:** Friday, July 12, 2024 11:50 AM  
**To:** mattlyon@[REDACTED]  
**Cc:** West, Thomas [REDACTED]  
**Subject:** Devon Dumpling - Visit on 4 July 2024

Good morning Matthew

Following the visit to your premises by Tom and me on 4 July 2024, I can advise you that I have spoken to my manager regarding the matters we discussed, and can update you as follows:

#### The Cage – Smoking Area

This area does not comply with The Smoke-Free (Premises and Enforcement) Regulations 2006 as it is substantially enclosed, having a roof and more than 50% of the walls present. Therefore it is illegal to smoke, or allow people to smoke within this area. Owners and managers can be fined up to £2500 for failing to maintain a smoke-free area. You therefore need to ensure that, with immediate effect, this area is not used for smoking and appropriate no-smoking signage is displayed.

The attached information was forwarded to your manager by Tom West on 8 March 2024 (email below) to assist you in ensuring your premises is compliant with the smoke-free regulations. This can easily be achieved by removal of The Cage roof. If you do not wish to remove the roof, you will need to identify an appropriate, alternative area which is acceptable both to Tom West and the complainants. A variation of your premises licence will then be required to remove all conditions referring to The Cage and include alternative conditions.

Due to the conditions imposed by the Licensing Sub-Committee regarding the use of The Cage as a designated smoking area, and complaints of noise from customers outside the front of your premises, this leaves a problem of where your customers should smoke until this issue is resolved. I suggest that your customers temporarily use the patio adjacent to The Cage. However, we will only permit this for a limited period and request that you deal with this as a matter of urgency. I would be grateful if you could keep me updated in respect of this matter.

#### Condition requiring patrons to be seated outside

During our visit on Thursday 4 July 2024 you stated that you have not been complying, and are unable to comply with condition 11 under the heading “Conditions Attached after a Review Hearing by the Licensing Authority” which states “Patrons using the outside area shall be seated and signage shall be prominently displayed in these areas notifying patrons of this”.

I have discussed this with Rachael Hind, who has advised that if you wish to remove this condition you will need to propose an alternative condition restricting the number of customers outside to reduce the likelihood of noise nuisance. This condition must satisfy both Tom West and the complainants. I recommend you discuss your proposed alternative condition with Tom, who can then liaise with the complainants.

If you decide not to remove this condition, you must comply with it. Failure to comply with a condition on the premises licence is an offence under Section 136 of the Licensing Act and a person found guilty of such an offence is liable on summary conviction to an unlimited fine, up to 6 months imprisonment, or to both.

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Should you wish to move the location of your designated smoking area and/or remove the condition concerning customers being seated, these matters can be included within the same variation application.

Should you wish to discuss the above, please do not hesitate to contact me.

Kind regards

**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:** West, Thomas

**Sent:** Friday, March 8, 2024 1:24 PM

**To:** [REDACTED]

**Subject:** Premises licence guidance

Hi [REDACTED]

Many thanks for your time earlier.

As discussed, the bar area which isn't included in the current plan will require a variation to make it compliant.

This is because the Licensing act requires that objects or structures which may impact on the ability of individuals to use access and egress routes without impediment are to be included in the plan.

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Given the complaint history, it's important to note that with this option, there is a chance you might receive objections to the application. If this is the case and those representations are deemed relevant, you risk losing the application fee that you paid.

The second option is for you to submit a full variation:

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You can utilize TEN's to cover the events that you intend to hold for the outdoor bar throughout the year. You'll get a maximum of 15 TENs for the year, or 21 calendar days, whichever is reached first.

There's also the matter of the smoking shelter which by the looks of things just needs the roof removing in order to make it compliant under The Health Act 2006 and The Smoke-free (Premises and Enforcement) Regulations 2006 . I've attached a copy of some guidance for you to have a look at.

Any questions then please feel free to ask.

Many thanks,

Tom

<b>Title: Torbay Council</b> 	<b>Tom West</b>   Licensing Officer   Public Protection  Town Hall, Castle Circus, Torquay TQ1 3DR   <a href="http://www.torbay.gov.uk">www.torbay.gov.uk</a> <a href="#">Facebook</a>   <a href="#">Twitter</a>   <a href="#">LinkedIn</a>   <a href="#">Instagram</a>
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Mr Matthew Lyon,  
108 Shiphay Lane,  
Torquay  
Devon  
TQ2 7BY

**Please reply to:** Tom West  
Community Safety  
Town Hall  
Torquay  
TQ1 3DR

**My ref:** SR282308  
**Your ref:**

**E-mail:** [REDACTED]  
**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

**Date:** 02/10/24

---

Dear Mr Lyon,

**Environmental Protection Act 1990 – Statutory Nuisance**

**Licensing Act 2003 – Licensing Conditions**

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**Name of Premises: The Devon Dumpling**

**Nature of Complaint: Noise from premises**

I write with reference to a noise complaint received at this office. The complaint surrounds the following issues:

1. Noise from congregating patrons outside the premises around midnight.
2. The noise caused by congregating patrons appears to continue for some time and is unchallenged by staff at the premises.

I sent an E-mail to [REDACTED] on 17/09/2024 following the first noise complaint but I have not yet received a response. I have received video footage of the congregating customers outside the premises and would concur with the complainant that this level of unchallenged disturbance is unacceptable. The complainant states that this is an issue most weekends and the disturbance is getting later. Please can this issue be rectified with immediate effect. Should the problem persist or escalate then we would face no other option but to apply for a review of the licence.

As an aside to the above, you'll also remember that on 4<sup>th</sup> July 2024, my colleague Julie Smart and I met with you at The Devon Dumpling to discuss some noise complaints. Throughout the visit, the issue of the smoking area was raised. It was established that this wasn't complaint with current smoking regulations and alterations would need to be made to the area known as 'the cage' to make it compliant.

We recognise that condition 13 under annexe 3 of the licence stipulates this area as the smoking area and that smokers must use this as the designated area. As you would prefer not to remove the roof of

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



the structure to make it compliant, a full variation is required to propose a new designated smoking area. There is also the issue of the outside bar area which would need to be included in the variation.

My colleague Juie Smart wrote to yourself by way of E-mail on 12/07/2024 in your capacity as joint licence holder to advise you on what must be done to achieve compliance under the licensing act.

As some time has now passed since then, we are requesting that a variation is submitted in order to make the premises compliant under the Licensing Act. If we do not receive an application to vary the licence to reflect the appropriate changes by 18<sup>th</sup> October 2024 then we face no option but to consider a prosecution or review of the licence.

If you wish to discuss any of the above, then I would be happy to do so.

Yours faithfully

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

**Tom West**

Licensing Officer | Public Protection | Torbay Council.



# **TORBAY COUNCIL**

Mr Raymond Lyon  
The Devon Dumpling  
108 Shiphay Lane  
TORQUAY  
TQ2 7BY

**Please reply to:** Julie Smart Licensing Officer  
Community Services  
Torbay Council  
Town Hall  
Torquay TQ1 3DR

**My ref:**

**Your ref:** SRU 279555

**Telephone:** [REDACTED]

**E-mail:** [REDACTED]

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

**Date:** 11/10/24

---

Dear Mr Lyon

## **Licensing Act 2003**

**Premises Licence: PL0460 The Devon Dumpling, 108 Shiphay Lane, Torquay**

I am writing to you in your capacity of joint licence holder of the above premises licence.

On 4 July 2024, my colleague, Mr Tom West (Public Protection Officer), and I visited your premises and met with your son and joint licence holder, Mr Matthew Lyon, and your manager, [REDACTED]

At that it was identified that the area being used as your smoking area, known as the cage, is not compliant with the Smoke Free Regulations, despite there being a condition on your premises licence requiring this area to be used for smoking after 10.00 pm. This condition was imposed on the premises licence at the Review Hearing on 5 January 2023, however when the committee imposed this condition, they would not have been aware that the area was not compliant with the Smoke Free Regulations.

During this visit, Mr Matthew Lyon admitted that he had not been complying, and was unable to comply with a further condition imposed on the premises licence at the Review Hearing, which states “Patrons using the outside area shall be seated and signage shall be prominently displayed in these areas notifying patrons of this”. It was also apparent that a new structure had been erected within the outside area, which is not shown on the approved plan, which forms part of the premises licence.

Following this visit, I sent the attached email to Mr Matthew Lyon on 12 July and 25 July 2024, in which I advise him to address the issue of where smokers should smoke by removing the roof of the cage or identifying a suitable alternative that is satisfactory to Mr West and the persons who had previously complained of noise. I suggested that your customers temporarily use the patio adjacent to the cage, and advised that we would only permit this for a limited period, and requested he deal with this as a matter of urgency.

My email also refers to action required in respect of removing the condition requiring customers outside to be seated, and the new structure in the outside area.

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



As I had not received a response to my email or a variation application, I discussed the matter with my manager, Mrs Rachael Hind, and it was agreed that a deadline would be set for the submission of a variation application, or we would need to commence enforcement action.

Mr West subsequently wrote to Mr Matthew Lyon on 2 October 2024, in respect of a noise complaint he had received, copy attached. Within his letter, Mr West informed Mr Matthew Lyon that if no variation application was received by 18 October 2024, we would have no other option than to seek a prosecution for the offences committed or a review of the premises licence.

Unfortunately, despite being the joint licence holder of the premises, you were not sent a letter about this matter, and I apologise for this error.

In order to give you the opportunity to address these matters, I now extend the deadline for receipt of a variation application to Friday 25 October 2024. Should no variation application be received by this date, I shall seek either prosecution for any offences committed, or a review of your premises licence, but I hope this action will not be necessary.

A copy of this letter will be forwarded to Mr Matthew Lyon for his information.

Should you wish to discuss any of the above matters, please do not hesitate to contact me.

Yours sincerely



Julie Smart  
Licensing Officer

# **TORBAY COUNCIL**

**Please reply to:** Julie Smart Licensing Officer  
Community Services  
Torbay Council  
Town Hall  
Torquay TQ1 3DR

Mr Matthew Lyon  
[REDACTED]

TORQUAY  
Devon  
TQ2 7DQ

**My ref:**

**Your ref:** SRU 279555

**Telephone:** [REDACTED]

**E-mail:** [REDACTED]

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

**Date:** 11/10/24

---

Dear Mr Lyon

## **Licensing Act 2003**


**Premises Licence: PL0460, The Devon Dumpling, 108 Shiphay Lane, Torquay**

Please find enclosed a copy of a letter that has been sent to the joint licence holder of the above premises licence, Mr Raymond Lyon.

Please note that the deadline for receipt of a variation application in respect of the matters referred to within my emails to you dated 12 and 25 July 2024 (copy enclosed), has been extended to Friday 25 October 2024. Should no variation application be received by this date, I shall commence enforcement action, in the form of a prosecution for any offences committed or a review of the premises licence, but I hope that this action will not be necessary.

Should you wish to discuss this matter, please do not hesitate to contact me.

Yours sincerely



Julie Smart  
Licensing Officer

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



**From:** [matt lyon](#)  
**To:** [West, Thomas](#)  
**Cc:** [Smart, Julie](#)  
**Subject:** Re: Noise complaints | Devon Dumpling  
**Date:** 16 October 2024 15:19:13  
**Attachments:** [image001.png](#)

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Hi Tom ,  
11.30 is great  
Look forward to seeing you  
Kind regards  
Matt

---

**From:** West, Thomas [REDACTED]  
**Sent:** Wednesday, October 16, 2024 12:51 PM  
**To:** matt lyon <mattlyon@[REDACTED]>  
**Cc:** Smart, Julie [REDACTED]  
**Subject:** RE: Noise complaints | Devon Dumpling

Hi Matt,

Many thanks for your response.

I'm sorry to hear about your dad and I understand that he can't attend [REDACTED]

Tuesday works great but we wouldn't be able to do 10am I'm afraid as we're at another meeting.  
The earliest we could do is 11:30/mid-day. Does that work okay for you?

Many thanks,

Tom

---

**From:** matt lyon <mattlyon@[REDACTED]>  
**Sent:** 16 October 2024 13:40  
**To:** West, Thomas [REDACTED]  
**Subject:** Re: Noise complaints | Devon Dumpling

Good afternoon Tom,  
I'm really sorry but I didn't see the other email regarding a previous complaint and the nudge to sort out the licence, I guess it must have gone to the pubs email and not mine personally. I don't tend to look at the works one as it's normally for bookings.  
I'm sorry to hear that we have had another complaint as we are trying our best to control customers and noise.  
I really want to avoid the licence review as I'm feeling it won't go in our favour. I'm available next Tuesday but dad isn't [REDACTED] at the moment also going forward I would like to become DPS  
As dad's [REDACTED]

I'm free next Tuesday morning around 10am if that's good for you guys  
Kind regards  
Matt

---

**From:** West, Thomas <[REDACTED]>  
**Sent:** Wednesday, October 16, 2024 11:34 AM  
**To:** [mattlyon@\[REDACTED\]](mailto:mattlyon@[REDACTED]); [REDACTED]  
<[REDACTED]>  
**Subject:** Noise complaints | Devon Dumpling

Good afternoon Matt,

I write with reference to a further complaint received about the Devon Dumpling.

The complainant has provided supporting evidence upon request which shows large groups of customers congregating outside the front of the premises causing a lot of noise disturbance. It is evident that these customers are not being asked to move on. This occurred over Saturday 12<sup>th</sup> into the early hrs of Sunday.

I've tried phoning to discuss but cannot get through. I've also sent a letter about noise nuisance prior to this aswell as a request to submit a full variation by the 18<sup>th</sup> October.

In light of frequent and ongoing complaints aswell as the issue around conditions relating to the smoking area, I would propose we have an in person meeting to discuss. We are approaching a stage where we face no other option but to take the licence to review before the licensing sub-committee. I would urge you strongly therefore to consider these matters promptly.

Myself and my colleague Julie would be free next Tuesday for an in person meeting if this suits you? If not, then please suggest an alternative date. It's also important that Raymond is present in his capacity as DPS.

Kind regards,

Tom

---

**TORBAY COUNCIL**

**Tom West** | Licensing  
Officer | Public Protection

Town Hall, Castle Circus,  
Torquay TQ1 3DR



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**From:** [Smart, Julie](#)  
**To:** [matt.lyon](#)  
**Subject:** Minor Variation and Vary DPS Applications  
**Date:** 22 October 2024 16:57:00  
**Attachments:** [image001.jpg](#)  
[Devon Dumpling Vary DPS Application.pdf](#)  
[Minor Variation Application Form.docx](#)  
[Devon Dumpling Plan.pdf](#)  
[A Quick Guide to Smoke Free Spaces.docx](#)

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Hi Matt

Following on from our discussions today, the following action is required:

1. Your dad needs to sign the Vary DPS application on the last page.
2. Both you and your dad need to sign the Minor Variation application.
3. On the plan, you need to draw in the structure in the garden. Please also check the rest of the plan to make sure it is accurate. If it is not accurate, please amend as appropriate.

Once you have completed the above, please return all documents to me, and I will then ask [REDACTED] to ring you to collect the £23 fee for your Vary DPS application, and £89 for the Minor Variation.

I have discussed the Cage with Rachael Hind, our manager, and she advises that it is the premises responsibility to ensure that any area used for smoking meets the requirement of the Smoke-Free Regulations. I have therefore attached a guide, which contains advice and a formula for working out whether the area meets the requirements. Once you have calculated how much of the roof needs to be removed, please send me details of how you calculated this, ie the measurements for the perimeter and the measurements of the solid walls, and I will forward this to [REDACTED] for him to respond to you as to whether he is satisfied that it meets the requirements.

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

Kind regards

**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:** Raymond Lyon  
**Date:** 23 October 2024 08:09:00  
**Attachments:** [image001.jpg](#)

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Morning Matt

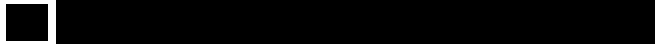
Please can you advise me if your dad has an email address so that we can send him copies of all correspondence please?

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:** [postmaster@outlook.com](mailto:postmaster@outlook.com)  
**To:** [matt.lyon](mailto:matt.lyon)  
**Subject:** Delivered: Raymond Lyon  
**Date:** 23 October 2024 08:09:59  
**Attachments:** [Raymond Lyon.msg](#)

---

Your message has been delivered to the following recipients:  
matt lyon (mattlyon [REDACTED])  
Subject: Raymond Lyon



# **TORBAY COUNCIL**

Mr Raymond Lyon,  
The Devon Dumpling  
108 Shiphay Lane,  
Torquay  
Devon  
TQ2 7BY

**Please reply to:** Tom West  
Community Safety  
Town Hall  
Torquay  
TQ1 3DR

**My ref:** SR282308  
**Your ref:**

**E-mail:** [REDACTED]  
**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

**Date:** 02/10/24

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Dear Mr Lyon,

## **Environmental Protection Act 1990 – Statutory Nuisance**

## **Licensing Act 2003 – Licensing Conditions**

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**Name of Premises: The Devon Dumpling**

**Nature of Complaint: Noise from premises.**

I write to you in your capacity as designated premises supervisor for The Devon Dumpling. I have not received an E-mail acknowledgement from Matthew Lyon or the manager [REDACTED]. The following provides an overview of the discussion that was had between myself, my colleague Julie and Matt and [REDACTED] at the premises on 22<sup>nd</sup> October 2024. This letter is for your reference and to outline the expectations moving forward.

Please be advised that my colleague Julie has not yet received an application to vary the licence as discussed. This needs to be submitted ASAP to ensure that the conditions on the licence are being adhered to. Failure to submit an application imminently could result in review of the licence. Please get in touch with us if you have any questions about this.

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



Dear Matt and [REDACTED]

Many thanks for your time yesterday. For your future reference I'm sending you an E-mail to provide a summary of our discussion at our meeting and to outline the expectations moving forward. It is important that I do so to ensure that you have all the available information needed to make the necessary adjustments required to prevent further issues from arising.

Over the past month or so there has been a significant increase in noise related nuisance at the Devon Dumpling. Complainants have come forward to express their concern over the situation and have provided evidence to support their allegations. Presently, we are in receipt of complaints from three separate individuals. These complainants are all nearby residents of the venue. At our meeting, I made you aware of two of these complainants, but I failed to provide you with information of the third. This third complainant has provided audio recordings of noise nuisance allegedly coming from the premises on dates and times which appear to coincide with one of the other complainants. Again, for your reference, I will provide the dates/times that the evidence relates to below:

Thursday 19th / Friday 20th September around 23:00hrs – This is a two-minute video recording taken within the complainant's property showing what appears to be three people congregating outside the premises. The audio appears to indicate high noise levels coming from customers. A request had been made to management to ask that someone is sent out to deal with this, however, the problem resolved itself before someone could go out to deal with it.

Saturday 28th September at from around 23:00hrs until approximately five minutes past midnight on Sunday 29th September – A one-and-a-half-minute clip showing a group of six or so people outside the front of the premises. The audio indicates high levels of noise from customers out the front.

Saturday 12th October around midnight. – Three short clips of around two minutes each showing a large number of people stood around congregating around the front of the premises. The audio indicated very high noise levels from customers which would almost certainly constitute noise nuisance.

Friday 25th October at approximately 23:10hrs – A short video clip showing a group of ten or so customers directly outside the premises. Again, the audio from the clip indicates a high level of noise which would likely cause considerable nuisance to residents.

Condition 6 under annexe 3 of your licence states the following:

A log shall be kept at the premises to record checks of the premises outside area, and is shall be recorded therein, where any action is taken. This log shall be available for immediate inspection by the Police or any Council Officer or agent visiting the premises, for a look-back period of at least one month.

Having reviewed this record, I noted that you had recorded no significant noise issues on any of the above dates/times provided by complainants. From the evidence provided by complainants, it is clear that from their perspective, there were noise issues of note. You did, however, acknowledge that the 12th October was particularly busy. You had mentioned this in the record and have also acknowledged in our meeting that the noise was unacceptable having consulted your CCTV.

From the discussion we'd had, it seems that one of the root causes of the issue is the absence of anywhere for smokers to go. I understand that you had locked the back area off temporarily to prevent noise from being created to the rear of the venue. This may have moved smokers out to the front of the premises which has contributed to the problem.

As you know we have had previous correspondence about this and have reminded you that alterations should be made to the smoking shelter to make it compliant or that a variation is submitted to cover this. My colleague Julie should be in touch with you about this soon. In the interim, I would suggest that an area directly outside the smoking shelter in the beer garden is used for smokers. Smokers should be directed toward this area until such time as a variation or alterations are made to make the smoking shelter compliant.

Whilst this process takes place, you have re-iterated your intention to have a staff member monitor areas outside the premises for noise issues/customers congregating. You state that you do this already, but I would suggest that in light of these complaints, you are extra vigilant about this. Checks should be done as often as necessary to ensure that noise isn't an issue, and where issues are identified, approaches should be made to customers to ask them to move on. These requirements are already covered by conditions on your licence. Please refer to condition 5 and 7 under annexe 3 of your licence.

I will E-mail each complainant to provide them some re-assurances that this is being done. I will, however, ask that they continue to monitor for any signs of improvement or otherwise. Should these issues persist, then I will request that evidence is sent to show this. I will review this and decide from there as to what the most suitable response is.

As I explained in our meeting, the only reasonable next step should these issues continue is to review the licence. We are very happy to work with you to ensure that this does not become the case, but there must be a significant improvement from the current situation to satisfy that outcome.

I must remind you that It is an offence under Section 136 of the Licensing Act to carry on or attempt to carry on a licensable activity not in accordance with an authorisation, ie your premises licence. A person found guilty on an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months, or to an unlimited fine, or to both.

You'll see that I have attached a copy of a noise record that I would recommend using instead of the current diary you have.

If you have any questions or concerns about any of the above, then please do reach out.

Many thanks,

Tom

# **TORBAY COUNCIL**

Mr Matthew Lyon  
The Devon Dumpling  
108 Shiphay Lane  
TORQUAY  
TQ2 7BY

**Please reply to:** Julie Smart, Licensing,  
Community Services  
Torbay Council  
Town Hall  
Torquay TQ1 3DR  
**My ref:** SRU 279555  
**Your ref:**  
**Telephone:** [REDACTED]  
**E-mail:** [REDACTED]  
**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

**Date:** 31/10/24

Dear Mr Lyon

**Premises Licence PL0460  
The Devon Dumpling, 108 Shiphay Lane, Torquay  
Minor Variation and Vary DPS Applications**

I am writing to you in your capacity of joint Premises Licence Holder of the above premises, following our meeting at the premises on Tuesday 22 October 2024.

As discussed at the meeting, you need to apply for a minor variation to amend the approved plan of the premises to show the new structure within the rear outside area.

On 22 October 2024 I emailed you a completed Minor Variation application form, a copy of the plan, a completed Vary DPS application and a guidance document in respect of the smoke-free regulations. I advised you to ask your father to sign the Vary DPS application, to both sign the minor variation, to draw the structure on the plan, and to send me details of your calculations in respect of the formula within the guidance document to ensure that the Cage meets the requirements of the smoke-free regulations.

On 22 October 2024, I sent you a further email requesting that you provide an email address for your father, so that Mr West and I can send him copies of all correspondence.

To date I have not received a response to either of the above emails, nor have you submitted your Vary DPS and minor variation applications, or provided your calculations in respect of the Cage.

I would take this opportunity to remind you that it is an offence under Section 136 of the Licensing Act 2003 to carry out licensable activities not in accordance with an authorisation, this being a Premises Licence. I would also remind you that a person found guilty of an offence under Section 136 is liable to an unlimited fine, up to 6 months imprisonment, or to both.

---

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



As the plan of the premises forms part of the Premises Licence, and this is not accurate, I consider that you are committing offences under Section 136 of the Licensing Act whenever you sell alcohol.

I am also not aware if you have removed the roof, or an appropriate portion of the roof, from the area known as The Cage to allow this area to be used for smoking. If the roof, or appropriate portion of the roof, has not been removed, and smoking is permitted in other areas, you are also breaching condition 13 under the heading Conditions attached after a Review Hearing by the Licensing Authority, which states:

“After 10pm patrons wishing to smoke, must use the designated smoking area, known as the cage”.

Copies of the minor variation and Vary DPS applications are attached. Please check these documents to ensure they are correct, sign them and send them to the below address, together with the plan showing the new structure in the outside area and a cheque to cover the application fees (£23 for the Vary DPS, and £89 for the minor variation) . In addition, please read the guidance document in respect of the smoke-free regulations and forward your calculations to the below address.

Julie Smart  
Licensing Team  
Torbay Council  
Community Safety  
C/O Town Hall  
Torquay  
TQ1 3DR

Please submit these documents by no later than Friday 8 November 2024 or we shall commence enforcement action, but hope that this will not be necessary.

Should you wish to discuss this matter, please do not hesitate to contact me.

Yours faithfully



Julie Smart  
Licensing Officer

# **TORBAY COUNCIL**

Mr Raymond Lyon  
The Devon Dumping  
108 Shiphay Lane  
TORQUAY  
TQ2 7BY

**Please reply to:** Julie Smart, Licensing,  
Community Services  
Torbay Council  
Town Hall  
Torquay TQ1 3DR

**My ref:** SRU 279555

**Your ref:**

**Telephone:** [REDACTED]

**E-mail:** [REDACTED]

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

**Date:** 31/10/24

Dear Mr Lyon

**Premises Licence PL0460  
The Devon Dumping, 108 Shiphay Lane, Torquay  
Minor Variation and Vary DPS Applications**

I refer to my letter to you dated 11 October 2024 in respect of the need for you and your joint licence holder, Mr Matthew Lyon, to submit a minor variation application.

Subsequent to sending you this letter, my colleague, Mr Tom West, informed me that he had received further noise complaints in respect of the Devon Dumping, and we therefore decided to arrange a meeting with you and Mr Matthew Lyon. Mr West emailed Mr Matthew Lyon requesting that you both meet with us on Tuesday 22 October 2024, and Mr Matthew Lyon responded to this email indicating that Tuesday 22 October 2024 was acceptable to him, but that you would not be able to attend due to being unwell, and he also indicated that he wished to be nominated as the Designated Premises Supervisor.

On Tuesday 22 October 2024, Mr West and I attended the Devon Dumping where we met with Mr Matthew Lyon and [REDACTED] your manager.

Mr West discussed the noise complaints he had received. Mr Matthew Lyon stated that as The Cage could not be used for smoking due to it not meeting the requirements of the smoke-free regulations, all smokers had been directed to smoke outside the front entrance of the premises, which had led to the recent noise complaints received.

Mr Matthew Lyon stated that he wished to avoid a Review of the Premises Licence, and discussions took place as to what action could be taken to make The Cage area compliant with the regulations. He was advised to read a guidance document which was emailed to him on 12 July 2024.

As it was Mr Matthew Lyon's intention to make the Cage area compliant with the smoke-free regulations, I advised him that a minor variation to remove the condition in respect of that area would not be required.

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



We then discussed condition 11 under the heading Conditions attached after a Review Hearing by the Licensing Authority 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.”

As Mr Matthew Lyon previously stated on 4 July 2024 that he had not been complying, and was unable to comply with this condition, I advised him at that time that he would need to apply for a minor variation to remove this condition, and request a suitable alternative condition to restrict the number of people using the outside area. On discussing this condition with Mr Matthew Lyon on 22 October 2024, he stated he had been complying with this condition but admitted at times it was difficult to ensure customers are seated, as sometimes they go from one table to another to talk to acquaintances, and it is not easy to monitor. Mr Lyon stated that he will ensure this condition is complied with going forward. Due to this, I advised Mr Lyon that if this condition is complied with, a minor variation to remove this condition and substitute with an alternative condition is not required.

I then advised Mr Lyon that a minor variation is still required to amend the approved plan of the premises to show the structure erected within the outside area.

We also discussed your role at the premises, with Mr Matthew Lyon indicating that although you are unwell, you wish to remain as joint premises licence holder, but as Mr Matthew Lyon is responsible for the day to day control and management of the premises, he should be nominated as Designated Premises Supervisor. As I had already prepared a Vary DPS application in anticipation of this, I asked Mr Matthew Lyon to sign the application form and consent form, which he did.

Later that day, I sent Mr Matthew Lyon an email with the Vary DPS attached, advising him that you also need to sign the application. I also prepared a minor variation application and sent this to Mr Matthew Lyon, together with a copy of the approved plan, advising him to ask you to sign the minor variation application, and to draw the structure on the plan. I also attached a copy of the guidance document in respect of the smoke-free regulations, asking Mr Matthew Lyon to use the formula provided within this document to establish how much of the roof needs to be removed to make The Cage compliant, and send me details of this so that my colleague, [REDACTED] can consider the matter.

I further emailed Mr Matthew Lyon on 22 October 2024, requesting that he provides an email address for you, to enable Mr West and I to send you copies of all correspondence in respect of the Devon Dumpling.

To date Mr Matthew Lyon has not responded to my two emails dated 22 October 2024. Furthermore, no Vary DPS or minor variation applications have been submitted. This is despite me completing the forms on his behalf and sending to him for signature, and previously advising you both in writing that we required the minor variation to be submitted by 25 October 2024, or we would consider taking further action. Additionally, I have not received Mr Matthew Lyon's calculations in respect of the smoke-free regulations.

I would take this opportunity to remind you that it is an offence under Section 136 of the Licensing Act 2003 to carry out licensable activities not in accordance with an authorisation, this being a Premises Licence. I would also remind you that a person found guilty of an offence under Section 136 is liable to an unlimited fine, up to 6 months imprisonment, or to both.

As the plan of the premises forms part of the Premises Licence, and this is not accurate, I consider that you are committing offences under Section 136 of the Licensing Act whenever you sell alcohol.

I am also not aware if Mr Matthew Lyon has removed the roof, or an appropriate portion of the roof, from the area known as The Cage to allow this area to be used for smoking. If the roof or appropriate portion of the roof, has not been removed, and smoking is permitted in other areas, you are also breaching condition 13 under the heading Conditions attached after a Review Hearing by the Licensing Authority, which states:

“After 10pm patrons wishing to smoke, must use the designated smoking area, known as the cage”.

Copies of the minor variation and Vary DPS applications are attached. Please check these documents to ensure they are correct, sign them and send them to the below address, together with the plan showing the new structure in the outside area and a cheque to cover the application fees (£23 for the Vary DPS, and £89 for the minor variation) . In addition, please read the guidance document in respect of the smoke-free regulations and forward your calculations to the below address.

Julie Smart  
Licensing Team  
Torbay Council  
Community Safety  
C/O Town Hall  
Torquay  
TQ1 3DR

Please submit these documents by no later than Friday 8 November 2024 or we shall commence enforcement action, but hope that this will not be necessary.

Should you wish to discuss this matter, please do not hesitate to contact me.

Yours faithfully



Julie Smart  
Licensing Officer



**From:** [West, Thomas](#)  
**To:** [Smart, Julie](#)  
**Subject:** FW: The Devon dumpling  
**Date:** 28 November 2024 08:15:02

---

Hi Julie. See below E-mail I received this morning from Matt at the Devon Dumpling. Might explain why the variation hasn't yet been submitted. Ill respond asking for a timeframe unless you wish to discuss prior?

-----Original Message-----

From: matt lyon [REDACTED]  
Sent: 27 November 2024 22:29  
To: West, Thomas [REDACTED]  
Subject: The Devon dumpling

Hi Tom,

Just a quick email to see if everything is ok as we have been very busy making sure noise is Kept to a minimum. we are waiting for a contractor to confirm the roof area we need to remove from the outdoor area but as soon as we do we can sort the licence and get things back on Track .have you had any more complaints from the neighbours as we have had staff sat at the door on weekends Kind regards Matt Sent from my iPhone

Photo 1 – Taken at 2202 hrs 29/11/24



Photo 2 – Screenshot taken from video which commences at 2204 hrs

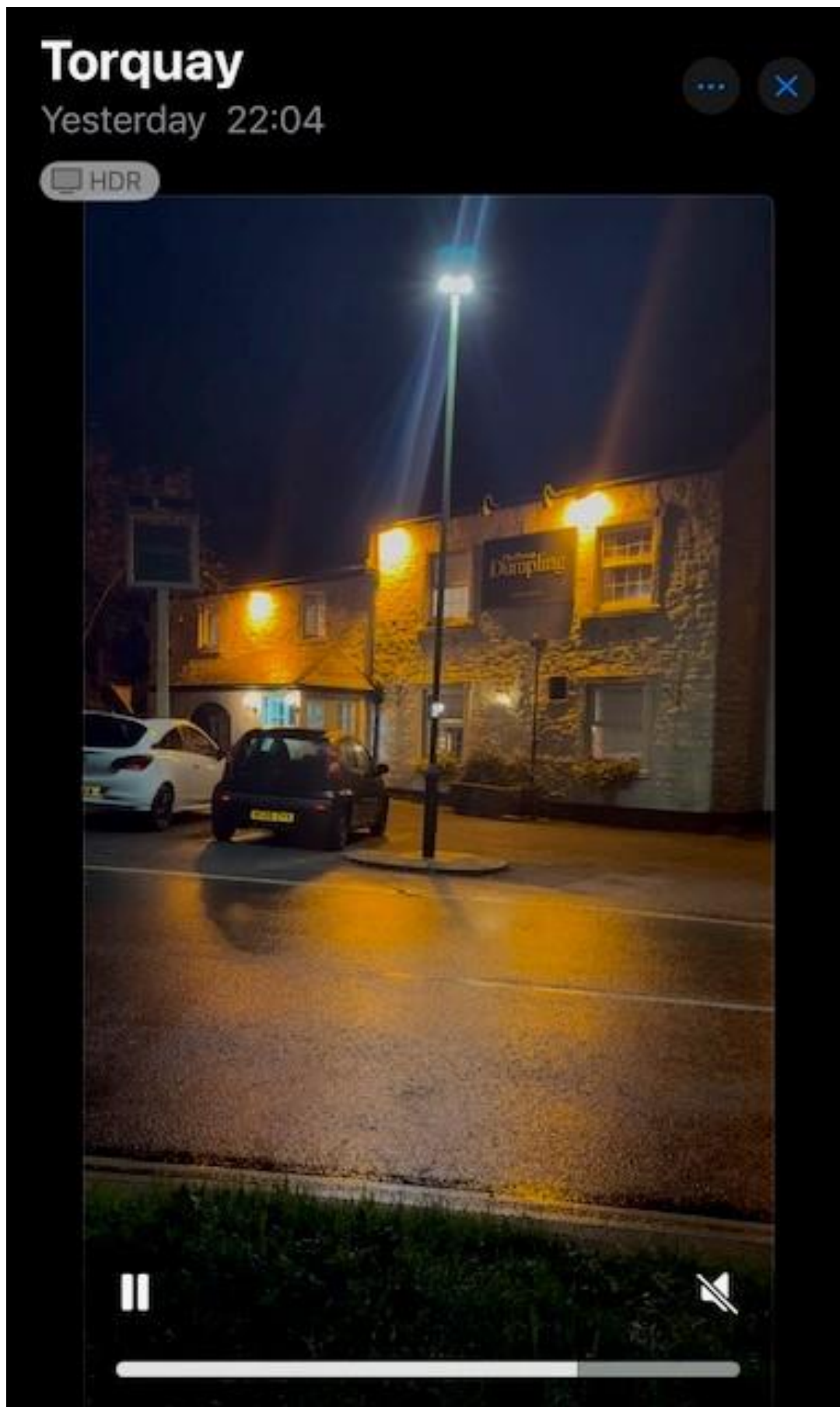


Photo 3 – taken at 2212 hrs on 29/11/24





Photo 4 – taken at 2213 hrs on 29/11/24



Photo 5 – taken at 2214 hrs on 29/11/24 through the metal bars of the cage

