



#plymlicensing

**Oversight and Governance**

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Published 20 July 18

**LICENSING SUB COMMITTEE**

Tuesday 31 July 2018  
10 am  
Council House, Plymouth

**Members:**

Councillors K Foster, Parker-Delaz-Ajete and Rennie.

**Fourth Member:** Councillor Fletcher

Members are invited to attend the above meeting to consider the items of business overleaf.

Please note that, due to the nature of this Committee, we may need to send 'to follow' documents which were not expected at the time of the agenda publication. These documents may be considered under part I or part II.

For further information on attending Council meetings and how to engage in the democratic process please follow this link - <http://www.plymouth.gov.uk/accesstomeetings>

**Tracey Lee**  
Chief Executive

## **LICENSING SUB COMMITTEE**

### **AGENDA**

#### **1. APPOINTMENT OF CHAIR AND VICE-CHAIR**

The Committee will appoint a Chair and Vice-Chair for this particular meeting.

#### **2. APOLOGIES**

To receive apologies for non-attendance submitted by Committee Members.

#### **3. DECLARATIONS OF INTEREST**

Members will be asked to make any declarations of interest in respect of items on this agenda.

#### **4. CHAIR'S URGENT BUSINESS**

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

#### **5. PLYMOUTH WATERFRONT TRADER APPLICATION - (Pages 1 - 6) MARSHMALLOW MAN**

Members will be provided with a Plymouth Waterfront Trader Application for consideration.

#### **6. VARIATION OF PREMISES LICENCE - THE CLARENCE, (Pages 7 - 18) 31 CLARENCE PLACE STONEHOUSE PLYMOUTH**

The Director for Public Health will submit a report in respect of The Clarence, 31 Clarence Place, Stonehouse, Plymouth for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

#### **7. VARIATION OF PREMISES LICENCE - LA ROUX, 33 (Pages 19 - 30) NOTTE STREET, PLYMOUTH PLI 2AZ**

The Director for Public Health will submit a report in respect of La Roux, 33 Notte Street, Plymouth for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

#### **8. EXEMPT BUSINESS**

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt

information as defined in paragraph(s) of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

## **PART II - PRIVATE MEETING**

### **AGENDA**

#### **MEMBERS OF THE PUBLIC TO NOTE**

that under the law, the Panel is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

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**PLYMOUTH CITY COUNCIL**

<b>Subject:</b>	<b>Plymouth Waterfront Trader Application</b>
<b>Committee:</b>	Licensing Sub Committee
<b>Date:</b>	31 July 2018
<b>Cabinet Member:</b>	The Leader
<b>CMT Member:</b>	Anthony Payne Strategic Director for Place
<b>Author:</b>	Emily Bullimore, Street Operations and Street Trading Manager
<b>Contact details</b>	Tel: 01752 304604 e-mail: Emily.bullimore@plymouth.gov.uk
<b>Ref:</b>	Plymouth Waterfront Street Trading 2018
<b>Key Decision:</b>	No
<b>Part:</b>	I

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**Purpose of the report:**

For Members of the Committee to consider an application by Mr Jason Wilkinson to become a new street trader in the Waterfront area. Site to be decided by the Street Trading Manager if approval given.

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**The Corporate Plan 2016 - 2019:**

This report links to the delivery of the corporate priorities defined in the Corporate Plan. In particular:

Confident Plymouth - We will work towards creating a more confident city, being proud of what we can offer and growing our reputation nationally and internationally.

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**Implications for Medium Term Financial Plan and Resource Implications:  
Including finance, human, IT and land**

Street Trading is operated under the Local Government (Miscellaneous Provisions) Act 1982. The Council's policy is to administer street trading as a trading account and to finance all expenditure from the Consent fees. The waterfront pitches were set in 2013, however to date there has only been one accepted application and this trader has since ceased trading. If this application was accepted then this would be a new potential income stream of £3k per annum for street trading and would hopefully encourage new street trader applications in the waterfront area.

The cost of administration is negligible as the Street Trading Manager has capacity within their current role to accommodate this, requiring no additional resources.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

The issuing of the Street Trading Consents under the Council's street trading policy ensures that all Consent holders are properly licensed and operate in a hygienic and safe manner within the street trading policy guidelines. It also finances the management of Street Trading enforcement.

**Equality and Diversity**

Has an Equality Impact Assessment been undertaken? No – Each application is assessed on its own merit

**Recommendations and Reasons for recommended action:**

It is recommended that:

1. The applicant, Jason Wilkinson is given approval to trade marshmallow treats from his trike set up on a static site on Hoe Road or Madeira Road, until 31 March 2019. The decision about the specific site to be delegated to the Street Trading manager if approval is given.

Reason for recommendations:

The reasons are so that the applicant can start to trade on Hoe or Madeira Road as soon as possible to both start the income stream for these pitches into Street Trading, to start the trading for Mr Wilkinson as soon as possible and to generate interest in Street Trading in the Waterfront area.

**Alternative options considered and rejected:**

Rejection of the application would result in a missed opportunity for new income generation.

**Published work / information:**

None

**Background papers:**

None

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	

**Sign off:**

Fin		Leg	30852/ag/l 7.7.18	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													

Has the Cabinet Member(s) agreed the contents of the report? Yes / No\* please delete as necessary

## **Introduction**

Street Trading is operated under the Local Government (Miscellaneous Provisions) Act 1982. The Council's policy is to administer street trading as a trading account and to finance all expenditure from the Consent fees.

To date there has only been one other acceptable application for these pitches.

There are 8 sites on Hoe Road and Madeira Road for the sale of food and non-food items. These pitches were set in 2013 and it was confirmed by the Licensing Committee at that time that all applications for new traders would be considered by the Licensing Sub Committee.

## **Proposal**

The application is for Mr Jason Wilkinson 'Marshmallow Man' to sell chocolate covered giant marshmallow treats from a purpose built trike see Appendix I. Jason will be dressed in a uniform fitting with the style of his unit. Jason Wilkinson has all of the food handling certificates and insurances that he requires and this has been checked by the Street Trading manager.

Jason is passionate about his new business idea, after a close family tragedy, he is determined that his new business venture will be a success and would love Plymouth Waterfront to be the location of his unit.

It is proposed that if the Licencing Sub Committee agrees that the application can proceed, that the consent term will run until 31 March 2019 to come into line with all other street trading consents with a view to be renewed 1 April 2019 – 31 March 2020.

## **Recommendation**

It is recommended that the licencing sub-committee grant permission for Jason Wilkinson to trade on the waterfront as Marshmallow Man.



**Appendix I**

The proposal is based around this trike as an example. Jason's will be the same but with his company logo on the box section. He is in the process of having the boxes made but he already has the trike body.



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**PLYMOUTH CITY COUNCIL**

**Subject:** The Clarence, 31 Clarence Place Stonehouse Plymouth  
Variation of Premises Licence

**Committee:** Licensing Sub Committee (Miscellaneous)

**Date:** 31 July 2018

**Cabinet Member:** Councillor Sally Bowie

**CMT Member:** Dr Ruth Harrell (Office of the Director of Public Health)

**Author:** Frederick Prout (Senior Licensing Officer)

**Contact details:** Tel: 01752 304792  
email: licensing@plymouth.gov.uk

**Ref:** ERS/LIC/PREM VAR

**Key Decision:** No

**Part:** I

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**Purpose of the report:**

An application has been received from Amy Magee in respect of The Clarence, 31 Clarence Place, Stonehouse, Plymouth for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

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**Our Plan – A City to be proud of.**

This report links to the delivery of the City and Council objectives and outcomes within the plan.

**A Growing City:** The Licensing Policy and system aims to provide a balance between the need to protect residents and to enable legitimate businesses to operate within a necessary and proportionate regulatory framework. This in turn makes a safer, more vibrant Plymouth to allow economic growth and opportunities for increased levels of employment.

**A Caring Council:** The Licensing Policy has put in place an appropriate framework to allow the effective control of alcohol supply and regulated entertainment to keep all members of society protected and feeling safe by focusing on prevention and early intervention. The licensing system minimise the burdens on business and to allow communities the opportunity to influence decisions.

See [Our Plan](#)

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**Implications for Medium Term Financial Plan and Resource Implications:  
Including finance, human, IT and land:**

Not applicable.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

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**Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? No

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**Recommendations and Reasons for recommended action:**

That Members consider this report.

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**Alternative options considered and rejected:**

None

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**Published work / information:**

For more information please see the below links.

[Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Revised guidance issued under section 182 of the Licensing Act 2003 - April 2018](#)

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Application										

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**Sign off:**

Fin		Leg	SD/3 0825 /11.7 .18	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													

**1.0 INTRODUCTION**

1.1 On the 06 June 2018 the licensing department received an application from Amy Magee for the Variation of a Premises Licence under Section 34 of the Licensing Act 2003 in respect of The Clarence situated at 31 Clarence Place, Stonehouse, Plymouth PL1 3JP

1.2 Details of variation

Current Licensable Activities	Variation Application
<p><b>(c) <u>Indoor Sporting Events</u></b></p> <p><b>Hours</b> Monday – Saturday 8.00pm to midnight Sunday 8.00pm to 11.30pm</p>	<p>No change</p>
<p><b>(e) <u>Live Music</u></b></p>	<p><u>(Indoors)</u></p> <p><b>Hours</b> Monday – Sunday 10.00am to 11.00pm</p> <p><b>Non Standard Timings.</b> New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day</p>
<p><b>(f) <u>Recorded Music</u></b></p>	<p><u>(Indoors)</u></p> <p><b>Hours</b> Monday – Sunday 10.00am to 11.00pm</p> <p><b>Non Standard Timings.</b> New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day</p>
<p><b>(j) <u>Supply of Alcohol for consumption ON and OFF the premises.</u></b></p> <p><b>Hours</b> Monday – Saturday 10.00am to midnight Sunday 12 midday to 11.30pm</p> <p><b>Non Standard Timings.</b> New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day</p>	<p>No change</p>
<p><b>(l) <u>Hours premises are open to the public</u></b></p> <p><b>Hours</b> Monday – Saturday 10.00am to 00.30am Sunday 12 midday to midnight</p>	<p>No change</p>

<b>Non Standard Timings.</b> New Year Eve: from the end of permitted hours on New Year Eve to the start of permitted hours on the following day	
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**1.3 Variation application**

The nature of the proposed variation is to remove condition 26 in Annex 3 of existing licence added following a review hearing by the Licensing Authority on the 01 August 2017 under the licensing objective of the prevention of public nuisance. (Appendix 1)

To permit live and recorded music as detailed above

Retrospective permission is also sought to move the location of the front entrance. There have been no representations in relation to this part of the variation.

1.4 Representations have been received in respect of this application.

**1.5 Cumulative Impact Policy**

This application does not fall within an area to which the Cumulative Impact Policy applies.

**2.0 RESPONSIBLE AUTHORITIES**

2.1 *Devon & Cornwall Police* – no representations.

2.2 *Environmental Health* – has made representation relating to the prevention of public nuisance which following mediation has agreed additional conditions (Appendix 2).

2.3 *Devon & Somerset Fire & Rescue Service* – no representations.

2.4 *Trading Standards* – no representations

2.5 *Planning Officer* - no representations.

2.6 *Child Protection* – no representations

2.7 *Health & Safety Executive* – no representations.

2.8 *Health Authority (ODPH)* – no representations.

2.9 *Licensing Authority* – no representations

**3.0 OTHER PARTIES**

One letter of representation has been received that is attached to this report (Appendix 3). Paragraph (6) of the representation refers to the premises being used for Karaoke without a licence being applied for. Having checked the licensing register the records show that 15 Temporary Event Notices have been granted for regulated entertainment since the 1 January 2018.

Further information has been requested from the other party with respect to the dates the problems referred to arose

## 4.0 CONSIDERATIONS

4.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision the Committee is also obliged to have regard to:

- the guidance issued under section 182 of the Licensing Act 2003 with the following paragraphs relevant to this application: 1.2 – 1.5, 1.16 – 1.17, 2.15 – 2.19, 9.3, 9.11- 9.12, 9.32 - 9.41 9.42 – 9.44 and 10.10,
- the Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Prevention of Public Nuisance (Page 9); Public nuisance (Page 17); Licensing conditions (page 20) the representations (including supporting information) presented by all the parties.

The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Modify the conditions of the licence and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
2. Reject the whole or part of the application;

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

**ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

**03/07/2017**

Application received for a summary review of the licence by Devon & Cornwall Police as they consider that the premises are associated with serious crime and serious disorder.

**Review hearing 01 August 2017**

Conditions added from Review:-

Prevention of Crime and Disorder

1. All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions.
2. Training shall be recorded in documentary form and those records will be available for inspection at the request at all reasonable times by an authorised officer from a relevant responsible authority. The records will be retained for at least 12 months.
3. An incident book shall be maintained to record any activity of a violent, criminal or anti-social nature. The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The incident book shall be available for inspection at all reasonable times by an authorised officer of the relevant responsible authority. The records will be retained for at least 12 months.
4. All staff shall be suitably trained in the operating procedures for refusing service to any person who is drunk or is under-age or appears to be under-age. Training shall be recorded in documentary form and those records will be available for inspection at the request at all reasonable times by an authorised officer from a relevant responsible authority. The records will be retained for at least 12 months.
5. The Premises Licence Holder will ensure that a CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document ([www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)) regarding installation of CCTV is provided at the premises.
6. The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
7. The CCTV system shall cover all areas of the premises to which the public have access including any outside areas.
8. Images shall be retained for a minimum of 28 days.
9. The CCTV system shall be capable of downloading images to a recognizable viewable format.
10. The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises.
11. If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the Designated Premises Supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police by the next working day. This information shall be contemporaneously recorded in an incident report register and shall include the time, date and means this was done and to



whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

12. The CCTV system covering any dedicated smoking area shall be fully operational and regularly monitored.

13. No customers carrying open or sealed bottles, cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.

14. No beverage purchased inside the premises may be consumed in the premises outside area.

15. The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.

16. The Premises Licence Holder and/or Designated Premises Supervisor shall ensure that any outside area included in the licence will be controlled in a safe and effective manner and will pay special attention to the impact that the use of the outside area has on the surrounding community.

17. The Premises Licence Holder or nominated person shall have a written drugs policy detailing the actions to be undertaken to minimize the opportunity to use or supply illegal substances within the premises. This policy must be available to inspection on request by an authorised officer of a responsible authority at any reasonable time.

18. The Premises Licence Holder or nominated person shall ensure that a clearly visible notice is displayed advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons.

19. Suitable and sufficient conspicuous signage shall be erected and maintained at the entrance to the premises advising patrons that causing any disturbance or disorder will result in admission being refused.

20. A designated, de-lineated and bordered smoking area will be allocated outside the premises.

21. The amount of patrons in this area will not exceed five (5) persons and shall be monitored at least every hour by a staff member.

22. Any outdoor areas to front the premises must not be used by customers or staff.

23. The Premises Licence Holder or nominated person shall ensure that suitable ash trays or similar vessels are available for smoking litter.

24. Staff must assist patrons by any means that enable them to leave the premises quickly and quietly and without delay.

25. At least two (2) members of staff will be on duty Friday and Saturday evenings if the capacity of the premises exceeds forty (40) from 20:00hrs until closing time.

### Prevention of Public Nuisance

26. No live or recorded music may take place on the premises and the exemption provisions within section 177A of the Licensing Act 2003 relating to live and recorded music no longer apply to this premises licence.

Dear Mr Prout,

Environmental Health would like to make representations to the licence variation for the Clarence, Clarence Place, Plymouth. Although negotiations have taking place regarding the application the Environmental Health Authority feel that section 177 should not be removed from the premises licence.

The representation is made under the licensing objective for the prevention of public nuisance.

For this reason the Environmental Health Authority believe a Licensing Committee hearing is necessary.

After negotiations the following conditions have been agreed;

1. Regulated entertainment is restricted to 2 nights per week.
2. The Licence Holder will control the sound levels of the music/entertainment. A noise-limiting device (the specification and design to be agreed with the Environmental Health Service) must be fitted so that all live amplified music including vocals and recorded music is channelled through the device(s). The maximum noise levels will be set by agreement with the Environmental Health Service and reviewed time-to-time, as appropriate. If the noise limiter is not working then no regulated entertainment is permitted.
3. Regulated entertainment is restricted to live and recorded music with 2 vocalists only. No instruments are permitted.

Regards

**Will Tomkins**

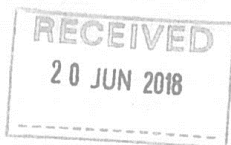
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Stonehouse  
Plymouth  
PL1 3JP  
16 June 2018

Ref: Change of Licence for The Clarence, 31 Clarence Place, Stonehouse, Plymouth.

Dear Sirs,

I am writing to **object** in the strongest terms possible to the Licence for The Clarence being changed to allow the performance of live music.

Background:

When I purchased my property in September 2016 the premises next door were not used as a public house, it was the Choux restaurant. We had no issues with the noise from or behaviour of the patrons of the restaurant which closed in the autumn of 2016. The premises were taken over by [REDACTED] and run up until the end of December 2016 as a cafe (Manor 31). In January 2017 without any warning the premises were converted back to a public house and renamed The Clarence. As you will know from previous licencing hearings there were numerous issues with drug taking, noise and anti social behaviour culminating in the death of one of the patrons on the premises. The current licencing conditions were imposed as a result of the issues experienced by the community and were supported by the police who had applied for the licence to be removed from the premises.

Grounds for Objection:

The current Licencee is Amy Magee who is very rarely at the premises, the daily running of the pub is performed by Maria who describes herself as the landlady. When the premises opened Maria and Amy spoke to myself and my partner about the running of the pub and we explained that the main issue had been the noise and the anti social behaviour of the patrons.

We have continued to experience problems with both the noise levels and behaviour of the patrons since Miss Magee took over the licence for the premises.

The current licence states that:

- (1) "No beverage purased inside the premises may be consumed in the premise outside area".  
The stipulation has not been adhered to and patrons have been drinking outside. We have CCTV photos to show when this has happened.
- (2) "Any outdoor areas to the front of the premises must not be used by by customers and staff".  
On a daily basis there are people stood outside the front of the premises smoking and talking in a loud manner with frequent use of bad language that can be heard within my property even though my windows are firmly closed. I have never witnessed any member of staff asking patrons to move or reduce the level of noise.
- (3) "A designated and delineated and boardered smoking area will be allocated outside the premises". This does not appear to have been done and is certainly not enforced.
- (4) "The amount of patrons in this area will not exceed 5 and shall be monitored at least every hour by a member of staff". Again this is not complied with as the majority of patrons stand outside the front of the premises on Clarence Place or sit on the wall outside my house.

- (5) "The Licence holder will ensure that suitable ashtrays or similar vessels are available for smoking litter". Again this has not been done as is evidence by the number of cigarette butts on the floor at the front of the premises. Photo enclosed.
- (6) "No live or recorded music may take place on the premises" The premises has a music system which is supposed to be played at an ambient level that cannot be heard outside the pub. This level of sound is not adhered to and the music can be heard inside my house. The premises also use the system for karaoke when they have not applied for a specific licence to do so. The singing of the customers can be heard within my property to the extent we can identify individual songs such as Sweet Caroline by Neil Diamond and We Will Rock You by Queen. This is even after the licensee has added sound proofing to the inside of the of the joint wall between the pub and my property. No sound proofing has been added to the single storey extension at the rear of the pub and the music is louder in the tenement part of my property where my children sleep. I have been round to the premises and asked both Maria and Amy to turn the sound down on various occasions. While they have always been polite the patrons have not. I am usually told by the customers sat at the bar to "fuck off" before I have a chance to speak to the licensee or their representative. And when I have mentioned the verbal abuse to them they have just said "that's the way they (the patrons) are and not to take any notice. When I ask for the music to be turned down the patrons tell me that "if I don't like the noise I shouldn't have bought a house next to a fucking pub and that I should just fuck off and fucking move somewhere else". When I politely explained that when I bought the property the premises was not trading as a pub I again was told to "fuck off". On one occasion I went into the pub to point out the music was unacceptably noisy the night before and that people were outside smoking and talking loudly where they are not supposed to be the customer sat at the bar made derogatory noises the whole time I was talking to Maria and said "I am having my wifes party here a week Friday and I don't care about the noise. It is going to be fucking noisy and I don't care what you think. We are going to make as much fucking noise as we like and there isn't a fucking thing you can do about it. So just fuck off 'cos we are going to be fucking noisy". Maria heard this conversation and said it's just him. I telephoned the council and explained what had happened when I went into the pub. They said that they would make a note of the complaint but if I wanted anything done about it formally I would have to contact the police. No specific licence as far as I am aware had been applied for on the Friday in question. The music was very loud drowning out the sound from our television. Because of the verbal abuse previously received in respect of this particular evening I did not feel it was safe for me to ask for the music to be turned down and telephoned the council environmental health department and spoke to Will who contacted The Clarence about the situation.
- (7) When the licensee applied for a specific licence to hold a party and have music the council visited our property and The Clarence while my partner was in the property and set a noise level that was acceptable. This level of noise has been exceeded on many occasions even when a specific entertainment licence has not been applied for. We have telephoned the council on several occasions since Miss Magee took over the licence regarding the unacceptable levels of noise from The Clarence.

In view of the fact that The Clarence has not adhered to the conditions of it's current licence and the fact that the patrons of the pub are the same people who used it's facilities when the previous anti-social behaviour occurred resulting in the conditions being imposed I do not feel that it will benefit anyone in the local residential community for live music to be played at this venue. It is not in keeping with the premises being attached to residential properties. I would also be deeply concerned for the safety of my children, as by Maria's own admission there has been a problem with drug dealers that she feels she is getting "a handle on". Past experience has shown that the drug problem will only get worse as live music has previously attracted drug dealers into the area.

There is also no real requirement for an additional live music venue in this area. The Office which is 400 yards down the road towards Stonehouse Bridge and the Tradesman's which is 400 yards in other direction both play live music and a very short distance away are all the pubs and clubs on Union Street.

I would therefore request that the application to change the conditions of Miss Magee's licence is refused.

If however, the change is allowed I would request that the following stipulations are made:

- (1) Miss Magee as licensee should be on the premises whenever any live music is played.
- (2) That the council licencing department visits both my property and The Clarence to agree what is an acceptable level of sound that must be strictly adhered to.
- (3) The licensee must adhere to the parts of her licence that state no more than 5 people should be outside the pub smoking at any one time. This should mean a designated smoking area at the side of the pub and that people should not be allowed to stand at the front of the pub or in the doorway that opens on to Clarence Place smoking. A policy that should be rigerously enforced by the licensee.

Yours faithfully



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**PLYMOUTH CITY COUNCIL**

**Subject:** La Roux, 33 Notte Street, Plymouth PL1 2AZ  
Variation of Premises Licence

**Committee:** Licensing Sub Committee (Miscellaneous)

**Date:** 31 July 2018

**Cabinet Member:** Councillor Sally Bowie

**CMT Member:** Dr Ruth Harrell (Office of the Director of Public Health)

**Author:** Frederick Prout (Senior Licensing Officer)

**Contact details:** Tel: 01752 304792  
email: licensing@plymouth.gov.uk

**Ref:** ERS/LIC/PREM VAR

**Key Decision:** No

**Part:** I

**Purpose of the report:**

An application has been received from La Roux Limited in respect of La Roux, 33 Notte Street, Plymouth for the Variation of a premises licence under Section 34 of the Licensing Act 2003.

**Our Plan – A City to be proud of.**

This report links to the delivery of the City and Council objectives and outcomes within the plan.

**A Growing City:** The Licensing Policy and system aims to provide a balance between the need to protect residents and to enable legitimate businesses to operate within a necessary and proportionate regulatory framework. This in turn makes a safer, more vibrant Plymouth to allow economic growth and opportunities for increased levels of employment.

**A Caring Council:** The Licensing Policy has put in place an appropriate framework to allow the effective control of alcohol supply and regulated entertainment to keep all members of society protected and feeling safe by focusing on prevention and early intervention. The licensing system minimise the burdens on business and to allow communities the opportunity to influence decisions.

See **Our Plan**

**Implications for Medium Term Financial Plan and Resource Implications:**

**Including finance, human, IT and land:**

Not applicable.

**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to

the need to do all that it reasonably can do to prevent crime and disorder in its area.

**Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? No

**Recommendations and Reasons for recommended action:**

That Members consider this report.

**Alternative options considered and rejected:**

None

**Published work / information:**

For more information please see the below links.

**Statement of Licensing Policy**

**Licensing Act 2003**

**Revised guidance issued under section 182 of the Licensing Act 2003 - April 2018**

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Application										

**Sign off:**

Fin		Leg	SD/3 0832 /16.7 .18	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? No													



**1.0 INTRODUCTION**

1.1 On the 14 June 2018 the licensing department received an application from La Roux Limited for the Variation of a Premises Licence under Section 34 of the Licensing Act 2003 in respect of La Roux situated at 33 Notte Street Plymouth.

1.2 Details of variation

<b>Current Licensable Activities</b>	<b>Variation Application</b>
<p><b>(f) <u>Recorded Music</u></b> (Indoors)  <b>Hours</b>                      Monday to Saturday 07.00am to midnight                      Sunday 08.00am to 10.30pm</p>	No Change
<p><b>(i) <u>Late Night Refreshment</u></b>  <b>Hours</b>                      Monday to Saturday 11.00pm to midnight</p>	No Change
<p><b>(j) <u>Supply of Alcohol for consumption ON and OFF the premises.</u></b>  <b>Hours</b>                      Monday to Saturday 07.00am to midnight                      Sunday 08.00am to 10.30pm</p>	No Change
<p><b>(l) <u>Hours premises are open to the public</u></b>  <b>Hours</b>                      Monday to Saturday 07.00am to midnight                      Sunday 08.00am to 10.30pm</p>	No change

**1.3 Variation application**

The nature of the proposed variation is;

To remove the Condition from the premises licence in Annex 3 - The supply of alcohol for consumption off the premises be restricted to Monday to Sunday 09.00hrs to 19.00hrs (Appendix 1)

To increase the licence area to include the outside decking area (Appendix 2)

To add the following condition – The sale and supply of alcohol on the decking area will cease at 10.00pm on all days.

1.4 Representations have been received in respect of this application.

**1.5 Cumulative Impact Policy**

This application does not fall within an area to which the Cumulative Impact Policy applies.

## **2.0 RESPONSIBLE AUTHORITIES**

2.1 No representations have been made by the responsible authorities in respect of this application.

## **3.0 OTHER PARTIES**

Two letters have been received that are attached to this report. (Appendix 3 and 4)

## **4.0 CONSIDERATIONS**

4.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision the Committee is also obliged to have regard to:

- the guidance issued under section 182 of the Licensing Act 2003 with the following paragraphs relevant to this application: 1.2 – 1.5, 1.16 – 1.17, 2.15 – 2.19, 8.35 - 8.37, 8.80 - 8.82, 9.3, 9.32 - 9.41 9.42 – 9.45 and 10.10, 14.64 - 14.65.
- the Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Prevention of Public Nuisance (Page 9); Public nuisance (Page 17); Licensing conditions (page 20) the representations (including supporting information) presented by all the parties.

The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Modify the conditions of the licence and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
2. Reject the whole or part of the application;

The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

**ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

**Steps that have been taken to promote the Four Licensing Objectives**

- CCTV to cover the entrance and counter
- Toughened glass used
- Alcohol sold as take away will be in closed containers
- The café entrance is well lit
- Regular checks of toilet facilities are made
- Drunks and excessive drinking will not be allowed
- Customer numbers limited to a maximum of 28 at any one time
- All building and fire regulations have been adhered to, (smoke/heat detection-visual/sound alarms-disabled access etc)
- Staff training for serving alcohol
- Minimal noise exposure, music kept at low volume
- The café has been sound proofed in excess of requirement
- The door is self closing/non-slamming
- Waste will be collected daily
- Litter bins provided
- Deliveries will use the loading bay
- Challenge 21 will operate
- Alco-Pops type drinks will not be sold
- Non-alcoholic drinks will be provided
- Serving will be by trained staff

Variation of Licence January 2016

Conditions agreed with the Environmental Health Authority

The Premises Licence Holder or nominated person shall control the sound levels of the music/entertainment

Noise from the licensed premises should not be audible outside the premises, so far as reasonably practical, at any time.

**ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

The supply of alcohol for consumption off the premises be restricted to Monday to Sunday 09.00hrs to 19.00hrs

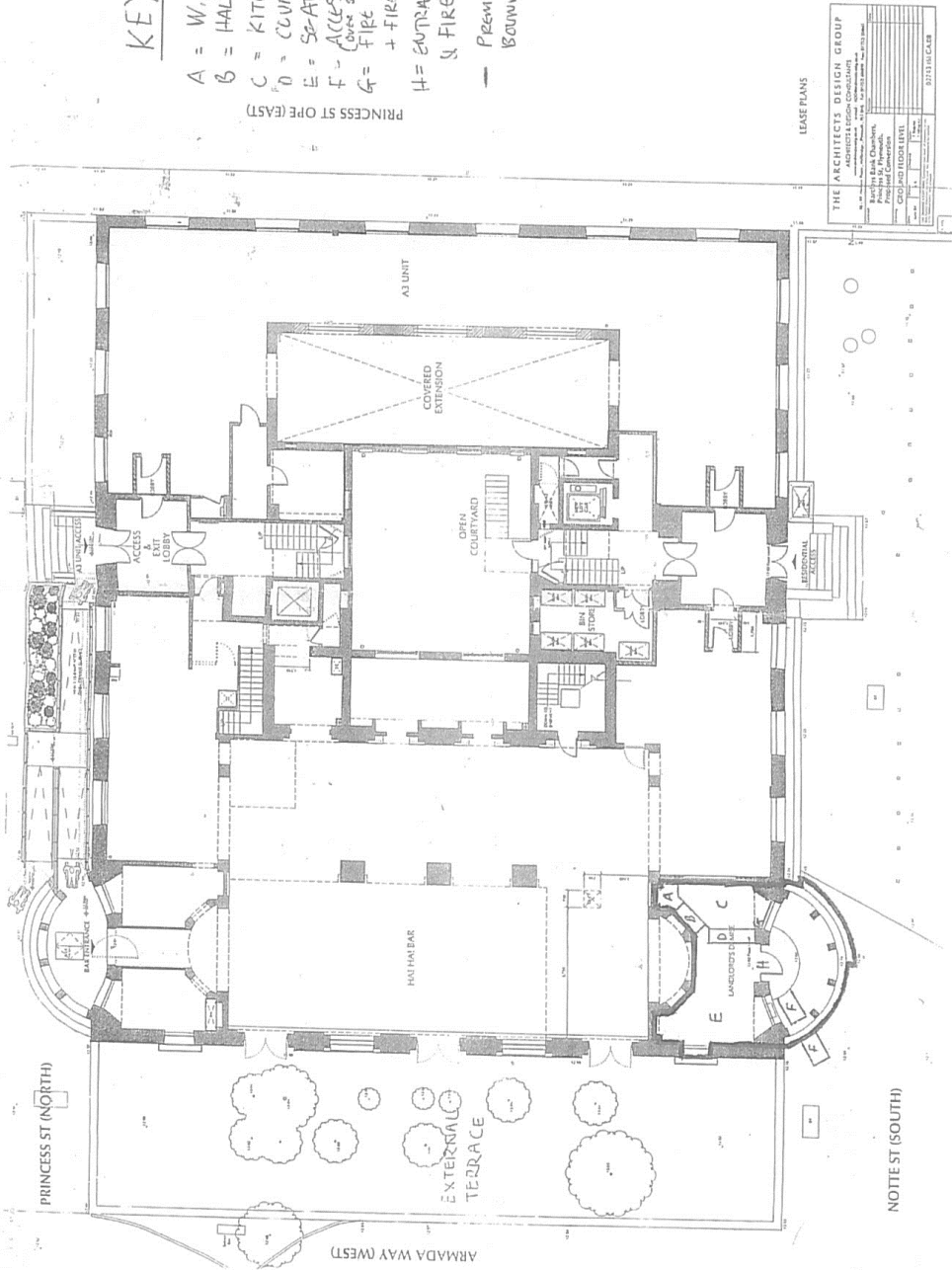
**Existing Plan**

Latest Plan details for application details here...

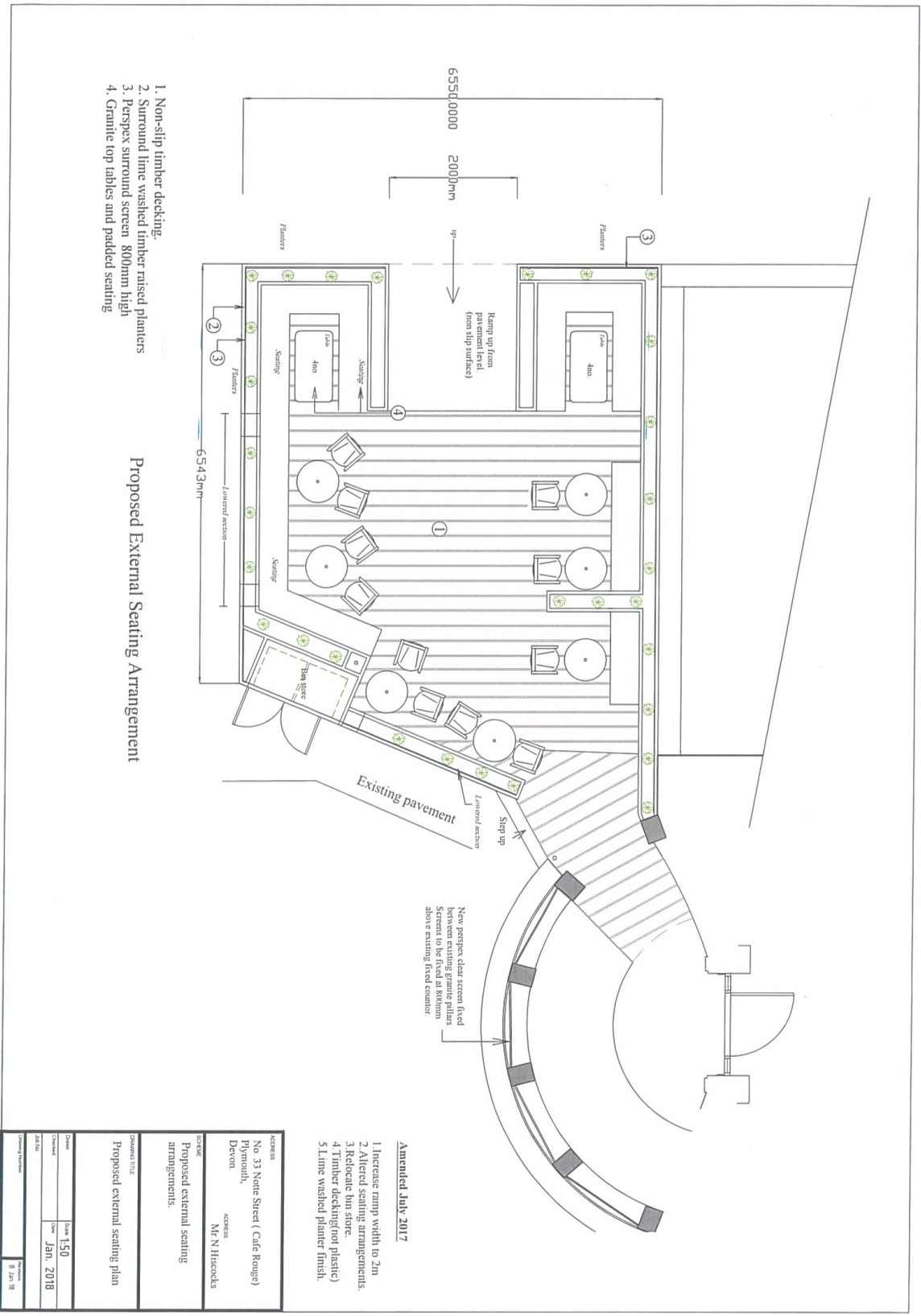
Details entered: 25 February 2016 at 17:58 by Lorraine Sheldon  
 Date requested: 25/02/2016  
 Date received: 25/02/2016  
 Appointment date: ok  
 Name: ok  
 Date commences:  
 Type of Application: Plan  
 Appointment time:  
 Result Date:  
 Number:  
 Date expires:

Notes:

**KEY**  
 A = W.C.  
 B = HALLWAY  
 C = KITCHEN  
 D = COUNTER  
 E = SEATING AREA  
 F = ACCESS RAMPS  
 G = FIRE ALARM  
 H = FIRE EQUIPMENT  
 I = ENTRANCE, EXIT  
 J = FIRE EXIT  
 — PREMISES  
 BOUNDARY



**Proposed increase to Licensed area**



Apartment

Berkeley Square

33 Notte Street

Plymouth

PL1 2AZ

05/07/18

To: Office of the Director of Public Health

Head of Public Protection Service

Plymouth City Council

Windsor House

Plymouth

PL6 5UF

Dear Sir / Madam

I am writing with reference to the recent Licence Variation Application for the La Roux bar in Notte Street, Plymouth.

I would like to object to the application as these changes to the licensing terms could have a very significant negative impact on me, my health & well-being, due to my very complex disabilities. The lounge & kitchen of my apartment is directly above the La Roux bar and therefore is the most affected by noise & other nuisance from the premises below. It has been noticed that the La Roux bar has already been playing music outside during the evenings which I believe is against the Planning details & clearly it's customers are still outside on the patio / decking area after 9.00pm which I believe also contravenes the planning & licensing for the premises.

I have Learning Disability / Autism, ( which includes acute sensory difficulties ) / Uncontrolled Epilepsy / and I am severely visually impaired. I do have support from staff but this ends, at 10.00pm evenings. After this time of night, there is nobody to help me with my difficulties, but this is often the time when the music & other noise bothers me most.

When I decided to buy my apartment, I did so on the understanding that the music license for the bars below was until 10.00pm. I did not feel that at this time, this would have been a problem for me. Since living here for nearly 4 years, I have already been significantly affected by music from the Slug & Lettuce bar (previously The Berkeley Bar) below which often goes on for up to 2 hours past the licensing time. There is also a considerable amount of other noise which happens after closing time, due to people leaving the bar below, being affected by alcohol. There is also considerable noise from staff closing up afterwards.

As I am severely visually impaired, I rely very much on my sense of hearing. As a result my hearing is much more acute than other people. Therefore noise which may not bother other people, often has a considerable negative impact on my life quality, health & well-being.

In addition to this, because I have Autism, I suffer very much with sensory difficulties. Again noise & certain sound frequencies which may not bother other people, can cause me extreme difficulties which other people do not experience. This can often lead to sensory overload, i.e. extreme stress & anxiety.

My sensory processing systems are such that what would be considered ordinary noise levels to others, can seem extremely loud to me, and this can be a very distressing experience. Stress & anxiety then have the effect of increasing the frequency & intensity of my epileptic seizures. This is very dangerous for my health & well-being.

In addition to this, I have an added difficulty. As my apartment is the closest to & directly above the Slug & Lettuce Bar & La Roux Bar, cigarette smoke from people outdoors on the patio areas / decking below, enters my flat frequently, if I have windows open. This means that I am often unable to have my windows open in the evenings. The building is extremely well insulated & my home is always very warm, because the windows are south facing. With the recent warm weather the temperature in my apartment has been well into the 80's & as high as 88 degrees (F). Unfortunately, high temperatures of 70 degrees or more & temperature changes are one of the biggest factors which increase the frequency & intensity of my epileptic seizures. If we cannot control the temperature of my apartment to around about 70 degrees or below my seizures become more frequent & more intense & this is very dangerous for me. Therefore it is imperative that I am able to have my windows open to keep my home cool, without external noise / cigarette smoke causing me stress & other difficulties, which can significantly impact on my health & well being.

I feel that by extending the licensing hours for music & alcohol in the La Roux bar, below my apartment, this would be very likely to have a significant negative impact on me, my health & well-being & it would be very much appreciated if you would consider this & refuse to grant the proposed changes to the license conditions & hours.

Yours faithfully

Berkeley Square Residents Association  
Berkeley Square  
Plymouth  
PL1 2AZ

5th July 2018



Office of the Director of Public Health  
Head of Public Protection Service  
Plymouth City Council  
Windsor House  
Plymouth PL6 5UF

Dear Madam/Sir,

**Representations Objecting to:- Application to Vary No 067937 - La Roux Ltd  
Premises License:- PA0733 La Roux Cafe, Notte Street, Plymouth**

Please note that as of the date of this letter the Application has not been displayed in the public domain on posts in the vicinity of Berkeley Square as required by Licensing Law. It has been fixed to the decking enclosure which is obscured by parked cars. This is unacceptable as residents living in the vicinity and the public are rendered unaware of the Application and therefore put at a disadvantage. We request that the hearing be postponed, please.

We are aware of the Application as we were told by word of mouth and found the application reference number for the Application on the Licensing Website.

We make representations to strongly object to all three items requested in the variation referenced above, those being to:-

1. Add the condition - sale of alcohol on the decking area will cease at 2200hrs,
2. Increase the licensable area to include the decking, and
3. Remove condition in Annex 3 of the Licence

**REASONS:-**

1. Add the condition - sale of alcohol on the decking area will cease at 2200hrs,  
The Application directly contravenes and seeks to overrule the Planning Consent Conditions granted to La Roux (The Premises) in 2017. Planning Application 17/00537/FUL for an outside decking area to The Premises was granted last year under the Town & Country Planning Act 1990 and subject to Conditions, inter alia, Conditions 5 below which for your ease of reference is quoted directly from the said Planning Consent:-

**Condition 5 - Hours of Use Restriction**



The use of the outdoor decked area hereby permitted shall not be used by customers outside the following times: 0800 hours to 2100 hours.

Reason:- To protect the residential and general amenity of the area from any harmful polluting effects, including noise disturbance likely to be caused by persons arriving at and leaving the premises and avoid conflict with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and paragraph 123 of the National Planning Policy Framework 2012.

## 2. Increase the licensable area

Berkeley Square is a block of residential apartments overlooking the Iconic Armada Way with bedroom and living room windows directly above and adjoining The Premises. The residents right to the quiet enjoyment of their apartments will be severely and unacceptably compromised by the Applicant increasing the licensable area to provide On and/or Off Premises Licensing to take place upon the decking which is directly beneath residents windows. Customers arriving at, queuing for drinks being dispensed on the decking and leaving The Premises will cause unacceptable noise pollution, disturbance and loss of amenity to the residents.

Further, it is suggested that the enclosed decking area, which from the street resembles the look of a partly built garden shed, where customers queuing for Off License drinks is unlikely to provide the impression to visitors that the Council should be hoping for with the fast approaching Mayflower Celebrations.

With permission, we mention that one of our residents has highly impaired sight resulting in extremely acute hearing therefore the noise and disturbance caused by customers queuing on the decking using the decking as an Off or On Licence area directly beneath the apartment windows will be extremely distressing for that resident and may detrimentally affect that resident's health.

## 3. Remove condition in Annex 3

Any use of the decking by customers after 2100hrs is in direct contravention of the aforementioned Condition 5 of the Planning Consent, which was put in place to protect residents rights to quiet enjoyment and to protect the residential and general amenity of the area from any harmful polluting effects, including noise disturbance likely to be caused by persons arriving, queuing for drinks and leaving the premises and avoid conflict with policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and paragraph 123 of the National Planning Policy Framework 2012. Residents will suffer loss of amenity, noise pollution and disturbance as well as loss of their right to quiet enjoyment.

The Applicant is aware of the Terms of Lease to The Premises. Permission has not been sought of the Freeholder and no permission will be granted. The Applicant is therefore knowingly and intentionally seeking to breach the Terms of the Lease with this Application. It is suggest that the Applicant should not be encourage to breach the terms of the Lease with the Application.

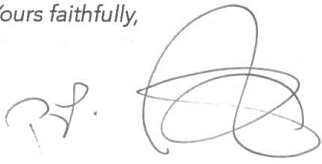
Members of the public are prohibited by law to contravene their planning consents and conditions. It is suggested that it would therefore be highly inequitable on the part of the Office of the Director of Public Health to assist the Applicant to knowingly and intentionally use the Application as an instrument to breach, undermine, contravene, ignore, override or otherwise

disregard the Planning Consent and Conditions as laid down in the Planning Application Officers Report.

The Planning Consent Conditions were set in place to afford the very necessary protection to the rights of the residents to quiet enjoyment as well as to protect the residential and general amenity of this prestigious and iconic area of Armada Way, where Berkeley Square is situated, from any harmful polluting effects, including noise disturbance, which are highly likely to be caused by persons arriving at, queuing for drinks on the decking and leaving The Premises. On this ground alone, it is suggested that the Application should be refused.

We urge the panel to refuse the Application to Vary in its entirety.

Yours faithfully,

A handwritten signature in black ink, consisting of a stylized 'R' followed by a large, circular flourish.

The Chairman of Berkeley Square Residents Association