

## CITY OF PLYMOUTH

**Subject:** Bac Bar 38-40 Drake Circus, Plymouth.  
Variation of Premises Licence

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

**Date:** 7 September 2010

**Cabinet Member:** Councillor Michael Leaves

**CMT Member:** Director for Community Services

**Author:** Peter Clemens, Senior Licensing Officer  
e-mail: licensing@plymouth.gov.uk

**Contact:** 01752 305465

**Ref:** ERS/LIC/PREM

**Part:** I

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### **Executive Summary:**

An application has been received from Thompson & Jackson Solicitors on behalf of Mr Sean Carter in respect of the Bac Bar, 38-40 Drake Circus, Plymouth for the variation of the premises licence under Section 34 of the Licensing Act 2003.

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### **Corporate Plan 2010- 2013:**

This report links to the delivery of the corporate improvement priorities. In particular:

1. Informing and involving residents.
  2. Improving culture and leisure activities.
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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: eg. Section 17 - Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.**

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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**Recommendations and Reasons for recommended action:**

That Members consider this report.

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**Alternative options considered and reasons for recommended action:**

None.

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**Background papers:**

Application.  
Licensing Act 2003.  
Guidance issued under Section 182 Licensing Act 2003.  
Council's Licensing Policy.

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**Sign off:**

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat Proc	
Originating CMF Member											

## 1.0 BACKGROUND

1.1 On the 23<sup>rd</sup> July 2010 the licensing department received an application from Thompson & Jackson Solicitors on behalf of Mr Sean Carter in respect of the Bac Bar, 38-40 Drake Circus, Plymouth for the variation of an existing licence under Section 34 of the Licensing Act 2003.

### 1.2 Details of variation

<b>Current Licensable Activities</b>	<b>Variation Application</b>
<p><b><u>(e) Performance of Live Music (Indoors)</u></b></p> <p>Hours Mon to Sun 10.00hrs to 04.00hrs</p> <p>Non Standard Timings. New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on the following day</p>	
<p><b><u>(f) Playing of Recorded Music (Indoors &amp; Outdoors)</u></b></p> <p>Days and timings including Non Standard Timings as above.</p>	As existing but (Indoors) only
<p><b><u>(g) Performance of Dance (Indoors)</u></b></p> <p>Days and timings including Non Standard Timings as above.</p>	
<p><b><u>(h) Anything of a Similar Description to that falling within (e) (f) or (g) (Indoors)</u></b></p> <p>Days and timings including Non Standard Timings as above.</p>	
<p><b><u>(i) Provision of Facilities for Making Music (Indoors)</u></b></p> <p>Days and timings including Non Standard Timings as above.</p>	
<p><b><u>(j) Provision of Facilities for Dancing (Indoors)</u></b></p> <p>Days and timings including Non Standard Timings as above.</p>	

<p><b><u>(k) Provision of facilities for entertainment of a similar description to that falling within (i) or (j) (Indoors)</u></b></p> <p>Days and timings including Non Standard Timings as above.</p>	
<p><b><u>(l) Late Night Refreshment (Indoors)</u></b></p> <p>Hours Mon to Sun 23.00hrs to 04.00hrs</p> <p>Non Standard Timings. New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on the following day</p>	
<p><b><u>(m) The Sale by Retail of Alcohol for Consumption ON and OFF the premises.</u></b></p> <p>Hours Mon to Sun 10.00hrs to 04.00hrs</p> <p>Non Standard Timings. New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on the following day</p>	
<p><b><u>(o) Hours premises are open to the public</u></b></p> <p>Hours Mon to Sun 10.00hrs to 04.30hrs</p> <p>Non Standard Timings. New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on the following day</p>	<p><b><u>(o) Hours premises are open to the public</u></b></p> <p>Hours Mon to Sun 10.00hrs to 04.00hrs</p> <p>Non Standard Timings. New Years Eve – from the end of permitted hours on New Years Eve to the start of permitted hours on the following day</p>

### 1.3 Variation application.

The nature of the proposed variation is;

1. To carry out minor internal alterations as per plan.  
Current plan (Appendix 1).  
New Plan (Appendix 2).
2. Vary the condition B1 to allow the use of the rear beer garden area for licensable activities (except music) until 04.00hrs each day and up to 24 hours New Years Eve.  
Current conditions (Appendix 3)

3. To include a condition for closed circuit television system.

1.4 Representations have been received in respect of this application.

### 1.5 **Cumulative Impact Policy**

This application does fall within an area to which the Cumulative Impact Policy applies and creates a rebuttable presumption that applications for new licences or variations to existing ones which are likely to add to the existing cumulative impact will normally be refused unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives if the application were granted.

## 2.0 **RESPONSIBLE AUTHORITIES**

2.1 Devon & Cornwall Constabulary – have made representation under the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance (Appendix 4).

2.2 Environmental Health – have made representation under Public Safety and the Prevention of Public Nuisance (Appendix 5).

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.

## 3.0 **INTERESTED PARTIES**

1 – letter of representation in support of the application has been received from a person not living within the vicinity of the premises.

## 4.0 **CONSIDERATIONS**

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

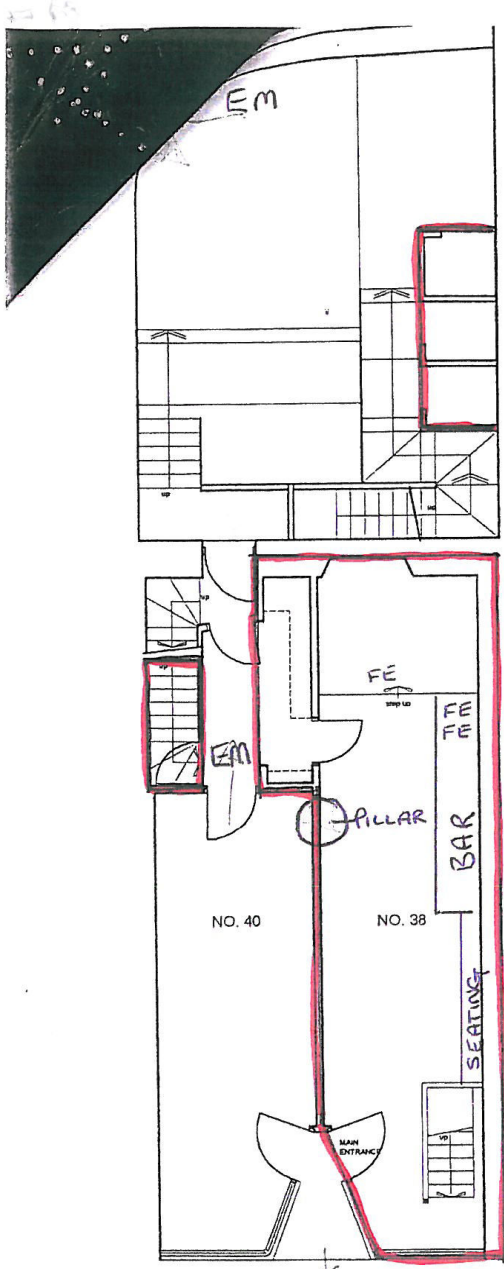
- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision the Committee is also obliged to have regard to the guidance issued under section 182 of the Licensing Act 2003 and the Council's own Licensing Policy and the representations (including supporting information) presented by all the parties.

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

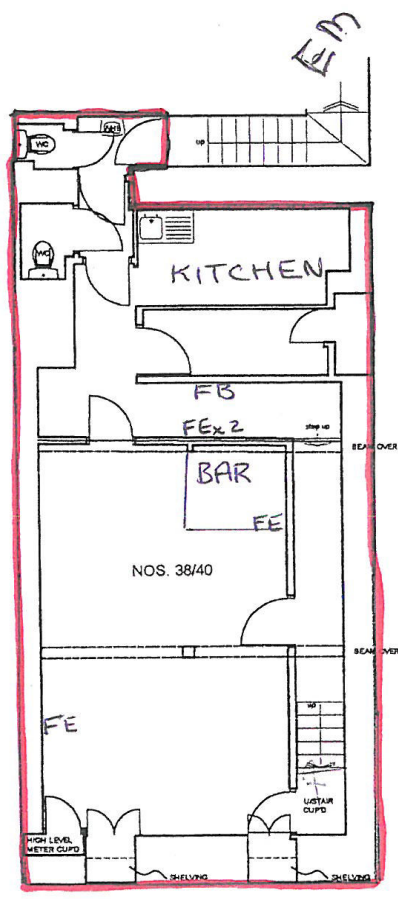
1. Modify the conditions of the licence
2. Reject the whole or part of the application;  
and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

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 necessary in order to promote the licensing objectives.



GROUND FLOOR LEVEL

EM = EMERGENCY EXIT  
 FE = FIRE EXTINGUISHER  
 FB = FIRE BLANKET  
 Bar Bar



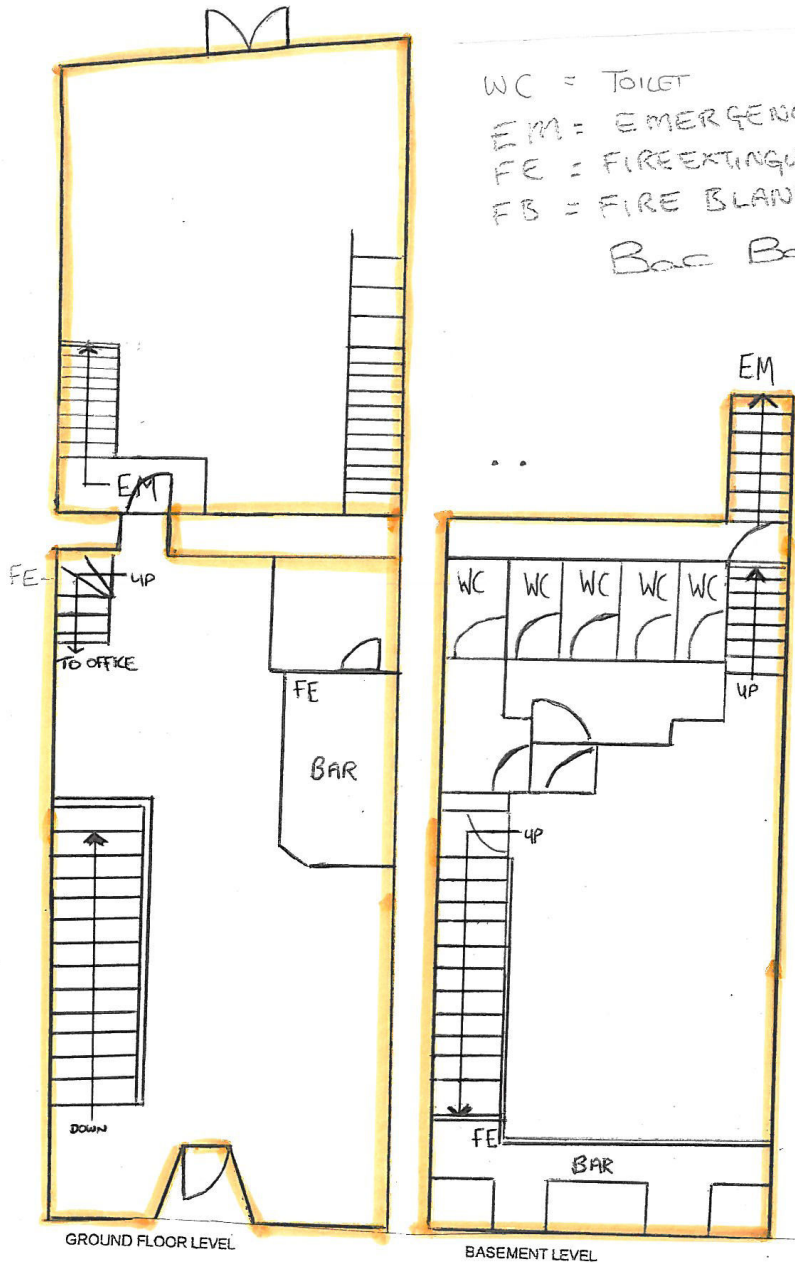
BASEMENT LEVEL

38 / 40 DRAKE CIRCUS

**WARDS**  
 CHARTERED SURVEYORS

Mayflower House  
 Armada Way  
 Plymouth PL1 1LD  
 Tel.: (01752) 256251  
 Fax: (01752) 227984

This plan is for identification purposes only.  
 Scale approximately 1:100



38 / 40 DRAKE CIRCUS

**WARDS**  
CHARTERED SURVEYORS

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**ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE****A Supply of alcohol**

- Any existing conditions attached to existing justices licence
- The authorised hours for the sale of alcohol do not prohibit:
  1. during the first twenty minutes after the end of authorised hours the consumption of the alcohol on the premises;
  2. during the first twenty minutes after the end of authorised hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
  3. during the first thirty minutes after the end of authorised hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
  4. consumption of the alcohol on the premises or the sale or supply of alcohol to any person residing in the licensed premises;
  5. the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
  6. the sale of alcohol to a trader or club for the purposes of the trade or club;
  7. the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
  8. the taking of alcohol from the premises by a person residing there; or
  9. the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
  10. the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
  11. the sale or supply of alcohol from the end of authorised hours on New Years Eve to the start of authorised hours on New Years day

**B Regulated Entertainment**

- Standard National conditions applying to the existing [public entertainment licence]
  - Existing special conditions.
    - a) The maximum number of persons to be permitted on the premises at any one time shall not exceed 150 persons.

Capacity - Ground Floor 90, Basement 60

**Steps taken to promote the four Licensing objectives**

1. No outdoor use after 23:30hrs

Building safer communities together



DEVON & CORNWALL  
CONSTABULARY

Our ref:  
2BCU/Lic/55474/dr

Your ref:

Mr P Clemens  
Licensing Department  
Plymouth City Council  
Civic Centre  
PLYMOUTH PL1 2AA

Licensing Department  
Charles Cross Police Station  
Hampton Street  
PLYMOUTH  
PL4 8HG

20 August 2010

Telephone: 01752 720469

Dear Mr Clemens

**Re: APPLICATION TO VARY PREMISES LICENCE – BAC BAR, 38-40 DRAKES CIRCUS, PLYMOUTH, PL4 8AB**

On 23<sup>rd</sup> July 2010 the Licensing Office at Charles Cross Police Station received a copy of the application to vary the Premises Licence as detailed above.

The Devon and Cornwall Constabulary wish to make representations to the Licensing Committee re this application for the following reasons

The premises are located within a Cumulative Impact Area as defined in Plymouth City Councils licensing policy and we would refer to the evidence produced by police that supported the introduction of this policy.

The policy was adopted in response to the level of Crime disorder and public nuisance reported in the area as a result of the number of licensed premises which remained open until the very early hours.

The police will produce evidence that the area in which the premises are situated is subject to a rising level of crime and anti social behaviour the majority of which occurs between the hours of 1900 and 0600hrs.

The police are unable to link all instances of crime and disorder or public nuisance to particular premises.

The police have examined the application in detail and liaison has taken place with Mr Carter prior to this application.

The police believe the removal of the existing condition B1 barring the use of the outside area (as defined on the plans held by Plymouth City Council ) after 2330hrs

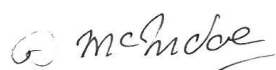


and the application to allow it to be used for licensable activity until 0400hrs currently does not demonstrate how the variation will not have an impact on the prevention of crime and disorder, public safety or the prevention of public nuisance

Both the Licensing act and the Plymouth City Council Licensing policy require any application for a material variation within a cumulative impact area to demonstrate how the applicant intends to ensure that the variation will not impact on the promotion of the four licensing objectives.

This application does not provide sufficient detail to demonstrate how it will not have a negative effect on the Licensing Objectives

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. McIndoe', with a stylized flourish at the end.

D. MCINDOE  
Alcohol Related Crime Reduction Officer  
Devon & Cornwall Constabulary

## Memorandum



**From:** Public Protection Service Manager  
**To:** HEAD OF LICENSING SECTION  
**FAO:** PETE CLEMENS  
**Date:** 30 July 2010  
**Our Ref:** EH.778264  
**Investigating Officer:** Stephen Crooks  
**Extn:** 4851

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**LICENSING ACT 2003**  
**ENVIRONMENTAL HEALTH REPRESENTATION**

**Premise:** Pit, 38/40 Drake Circus, Plymouth, PL4 8AB

**Name of Licensee:** Sean Carter

**Type of Application:** ~~Late Night Refreshment~~/Alcohol (~~On/Off/Both~~)/Entertainment Licence  
(delete as necessary)

**Report Prepared By:** Stephen Crooks

### Recommendations

- ~~1. That this department has no comments regarding the Application.~~
2. This department would like to make the following representation;

**LICENSING ACT 2003**  
**ENVIRONMENTAL HEALTH REPRESENTATION**

**Schedule Ref:** SRU: 778264

**Name:** Bac Bar

**Address:** 38/40 Drake Circus, Plymouth, PL4 8AB

**Report By:** Stephen Crooks

**Date of Inspection:** N/A

**The Text in bold are the conditions that this department will be putting before committee to be included in your operating schedule.**

*The text in italics is for your information.*

**Public Nuisance and Public Safety**

- **No objection with respect to the minor internal alterations**
- **No objection to condition requiring CCTV system**
- **Recommend refusal of application to amend condition B1 to extend the use of outside areas until 4am and for 24h period New Years Eve**

**Licensing Act 2003**  
**Supporting Information for Committee Hearing following the Environmental**  
**Regulation Service Representation**

**Premise Name:** Bac Bar, 38/40 Drake Circus, Plymouth, PL4 8AB

This department has made representation based on the following information.

The proposed application requests the removal of current licence condition B1 of Licence reference PA0158, and includes the revocation of recorded music outdoors and inclusion of CCTV system. The condition stipulates no outdoor use after 23:30hrs.

The premises are situated within a cumulative impact area. The special policy was adopted due to the overall levels of crime, disorder and nuisance that was prevalent in the area resulting from licensed premises which continue operating until the early hours of the morning which cannot be linked to a particular premises. With particular regard to the anti-social behaviour and nuisance behaviour of patrons leaving licensed premises and their impact on the surrounding neighbourhood in the early hours of the morning.

Responses from residents concerning the adoption of the special policy, strongly commented on how alcohol-related anti social behaviour and disturbance associated with the large numbers of patrons present in the vicinity of North Hill impacted on local residents. No representations were received from licensed premises operating in the area at the time of the consultation. Only one commercial property commented on the level of crime, but did not want to restrict commercial activity as a result.

The number of licensed premises in North Hill and surrounding areas remains high, largely consisting of vertical late night drinking establishments which predominantly focus on the student market, as it has done historically.

North Hill area of Plymouth continues to attract large numbers of people and remains busy beyond 6am on occasions, although this impact is reduced during period June to September when the University is closed. The North Hill and surrounding areas of Mutley Plain and Greenbank has a mixed residential and commercial use, serving a variety of domestic situations from student accommodation to residential homes.

The Cumulative impact policy was adopted to control various forms of and potential for alcohol-related public nuisance. In particular the operating schedule provided by the applicant fails to acknowledge the potential affect of noise from the use of the outside areas beyond 23:30hrs until close of business at 4am would have: and what measures would be taken to mitigate its affects on and off the premises.

This Department has been made aware of issues and have received complaints concerning a variety of nuisances in North Hill and surrounding areas.

Both businesses and residents living in the vicinity (including above the various premises) are likely to be affected by the proposed application. It is also of concern that people living in the vicinity of the North Hill, Mutley and Greenbank areas will also be further inconvenienced by noise from large numbers of patrons moving between; venues, food businesses, ATMs, taxi stands, and again when travelling home.

Residents of Mutley, North Hill and Greenbank have already raised complaints over the numbers of people returning home during early hours of the morning, citing complaints of; noise from people shouting and singing, vomit and food waste littering the streets, taxis engines idling, violence, and other incidents of crime and disorder such as fighting which has not been directly attributed to any specific licensed premises. The cumulative impact policy was put in place to mitigate these effects where there is a concentration of licensed premises.

This Department participated in 'Week of Action' between 14<sup>th</sup> and 16<sup>th</sup> May 2009 as part of a joint operation with the Police. This was in response to continued concerns of residents living in the North Hill and Greenbank areas. At this time it was noted that there was a high number of people moving through residential areas causing low level nuisance and anti-social behaviour, which was not attributed to any particular premises. The Police identified that noise from music reduced significantly after 3am.

The applicant has not demonstrated within the operating schedule submitted with the application how there will be no negative cumulative impact on one or more of the licensing objectives. The operating schedule fails to address how the potential impact from increased use of the outside area will be reasonably controlled to prevent any cumulative impact and noise creep from patrons using the area up to 4am.

The current terminal hours for licensable activities at these premises contribute towards a staggered dispersal scheme, reducing the potential impact of persons under drink leaving the vicinity during the early hours of the morning. The current restriction on the use of outside areas is also consistent with the principles of the dispersal scheme and work to reduce excess noise leading into the night-time (between 23:00 and 07:00hrs) periods where people living in the vicinity are more likely to be disturbed.

I can also confirm that a complaint was recently received (16 December 2009) concerning noise from this licensed premises alleging noise disturbance from both music provided at the venue, and from patrons making noise when using the smoking area late at night.

The potential effect of increased noise activity from extending the use of the outdoor area will in the opinion of this Department contribute further to cumulative impact on the local community. Taking this information into consideration, it is the recommendation of this Authority that the application to amend condition B1 is refused.