

## Licensing Sub Committee



Report subject	<b>Full Variation of a Premises Licence The Topsy Cow – 37 Charminster Road, Bournemouth, BH8 8UE.</b>
Meeting date	12 August 2020
Status	Public Report
Executive summary	<p>Mr Alex Marshall made an application on behalf of South Coast Hospitality on the 1<sup>st</sup> June 2020 to vary the Premises Licence for The Topsy Cow.</p> <p>The application seeks to: Increase the existing licensed area to include a seating area to the rear of the premises. No other alterations to the current Licence have been requested.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <p><b>Members are asked to decide whether to: -</b></p> <ul style="list-style-type: none"> <li><b>a) Grant the variation application as made;</b></li> <li><b>b) Refuse the variation application;</b></li> <li><b>c) Grant the application subject to additional conditions.</b></li> </ul> <p>Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.</p>
Reason for recommendations	<p>The Licensing Authority has received four representations from other persons under the Licensing Objective 'The prevention of public nuisance'</p> <p>The Licensing Authority may only consider aspects relevant to the application that have been raised in the representation.</p> <p>Where representations have been received in relation to an application by a responsible authority or any other person, and the concerns have not been resolved through mediation between all parties, the Scheme of Delegation set out in the Council's Constitution states that these applications should be dealt with by the Licensing Sub-Committee.</p>

Portfolio Holder(s):	Councillor Lewis Allison - Tourism, Leisure and Communities
Corporate Director	Kate Ryan – Corporate Director for Environment & Community
Report Authors	Ms Michelle Fletcher  ☎ (01202) 451560 /  ✉ Michelle.fletcher@bcpcouncil.gov.uk
Wards	Talbot & Branksome Woods;
Classification	For Decision

## Background

1. On the 1<sup>st</sup> June 2020 an application was submitted to vary the Premises Licence BH084894 for The Topsy Cow of 37 Charminster Road, Bournemouth, under the Licensing Act 2003 as attached at Appendix 1. The application is to: Increase the existing licensed area to include a seating area to the rear of the premises. The premises licence already allows the supply of alcohol both on and off the premises. The area is located to the rear of the premise in what I believe to have been parking spaces alongside a private road. It has been constructed out of breeze blocks to a height of 2 meters and has no roof due to smoking regulations. The application outlines the consideration given to Licensing Objectives and the impact on the local area.

No other alterations to the current Licence have been requested.

2. A location plan is attached at Appendix 2.
3. A copy of the current Premises Licence BH084894 is attached as Appendix 3.
4. Mr Marshall has been involved with the Premises since December 2016 where he was named Designated Premises Supervisor.

## Consultation

5. On the 17<sup>th</sup> June the Licensing Authority received two objections from 'other persons' these are attached at Appendix 4.
6. On the 22<sup>nd</sup> June the Licensing Authority received notification that mediation had commenced between Environmental Health and Mr Marshall.
7. On the 22<sup>nd</sup> June I was advised by Mr Marshall he had written to the residents a copy is attached at Appendix 5.
8. On the 23<sup>rd</sup> June the Licensing Authority received two further objections from 'other persons' these are attached at Appendix 6.
9. On the 24<sup>th</sup> June the Licensing Authority received notification that Environmental Health had agreed conditions with Mr Marshall and would not be objecting to the application. A copy of the conditions are attached at Appendix 7.

10. On the 24<sup>th</sup> June I Michelle Fletcher sent a letter to the four 'other persons' advising them of the agreed conditions and asking if they would reconsider their objections. A copy of my letter is attached at Appendix 8.
11. At appendix 9 are the responses from the four 'other persons'.
12. I can confirm the application has prompted no other objections from any of the Responsible Authorities and that the Licensing Authority has received around seven letters of support these have been forwarded to Mr Marshall for him to review. The general theme of the letters is that customers would be able to enjoy eating outside without passing traffic and individuals begging for money and cigarettes disturbing their meals. I believe these to be ongoing problems for the small seating areas at the front of the premises.
13. The area in question has been operated under Temporary Event Notices on the following dates:  
  
08<sup>th</sup> to 17<sup>th</sup> July and 23<sup>rd</sup> to 26<sup>th</sup> July 2020 10:00 to 22:00 hours daily. A TEN was also submitted for the 18<sup>th</sup> to 25<sup>th</sup> July but this was rejected as there was not a clear 24hour gap between the notices.  
  
Premises are now permitted to supply alcohol off the premises; an automatic permission granted to the majority of premises licensed which were already licensed to supply on sales. This permission was granted by The Business and Planning Act 2020, which received royal assent and came into force immediately on the 22 July 2020. The Topsy Cow are currently using this unlicensed area, quite legitimately to allow customers who have purchased off-sales to consume those off sales.

### **Options Appraisal**

Before making a decision, Members are asked to consider the following matters:

- The representations made by the four other persons.
- The submissions made by or made on behalf of the applicant.
- The relevant licensing objectives, namely 'The prevention of public nuisance'
- The Licensing Act 2003, Regulations, Guidance and the Council's Statement of Licensing Policy.

### **Summary of financial implications**

14. N/A

### **Summary of legal implications**

15. The applicant has the right of appeal against the decision made by the committee to the Magistrates' Court within a period of 21 days beginning with the day that the applicant is notified, in writing, of the decision

### **Summary of human resources implications**

16. N/A

### **Summary of sustainability impact**

17. N/A

### **Summary of public health implications**

18. N/A

### **Summary of equality implications**

19. N/A

### **Summary of risk assessment**

20. N/A

### **Background papers**

Bournemouth Borough Council's Statement of Licensing Policy:

<http://www.bournemouth.gov.uk/Business/Documents/StatementofLicensingPolicyLA2003.pdf>

The Government guidance relating to Covid 19 and The Business and Planning Act

<https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill/alcohol-licensing-guidance-on-new-temporary-off-sales-permissions#does-the-extension-apply-to-outdoor-areas>

### **Appendices**

1. Copy of the application for the Variation
2. Location Plan
3. Copy of the current Premises Licence
4. Representations MT and MA
5. Letter to Residents
6. Representations SJ and LH
7. Agreed conditions with Environmental Health
8. Licensing Offers letter regarding agreed conditions
9. Responses from other Persons

RECEIVED - 1 JUN 2020

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

177398

## PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I/We SOUTH COAST HOSPITALITY T/A THE TIPSY COW BAR

(Insert name(s) of applicant)

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

Premises licence number	B4084894.
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## Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description 29 – 31 CHARMINSTER ROAD			
Post town	BOURNEMOUTH	Postcode	BH8 8UE

Telephone number at premises (if any)	01202 554511
Non-domestic rateable value of premises	£31000

## Part 2 – Applicant details

Daytime contact telephone number	
E-mail address (optional)	
Current postal address if different from premises address	
Post town	
Postcode	

### Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

☒ Yes

☐ No

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

DD	MM	YYYY

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

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

**Use of open air ( enclosed by block wall )area at rear of premises to provide outdoor seating solution as attached plan. The area will be used primarily between 1000 – 2300 to compensate for the loss of internal restaurant space due to Covid-19 distancing restrictions in order to allow the business to be able to continue to trade.**

**The proposal will provide fixed and casual external seating for approximately 25 covers, observing current social distancing requirements, and will be built of solid breeze block to a height of 2m to prevent noise disturbance to local residents, and will also reduce the impact on the business of antisocial behaviour from passers – by in the roadway behind the premises.**

**The existing fire exit route will be maintained with an appropriately compliant exit bar to allow emergency exit, along with extension of emergency lighting.**

**Licensing objectives will be maintained as the proposed area is visible to the kitchen and bar areas of the business and covered by existing CCTV cameras for security.**

**In line with the current premises licence condition, drinking of alcohol would not be permitted outside after 2300.**

**There is no compromise in the Licensing Objective of protecting children from harm as access and use of the proposed area is visible to staff and service is likely to be primarily attended table service with priority for customers eating. Formal enclosure of the rear area will also reduce the impact of antisocial behaviour to customers, the business, and local residents, from passers – by in the roadway on the perimeter due to increased security.**

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

N/A

#### Part 4 Operating Schedule

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

NO CHANGE REQUIRED

**Provision of regulated entertainment (Please see guidance note 3) Please tick all that apply**

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

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

☐

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

X

**In all cases complete boxes K, L and M**

I

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	1000	0100	Please give further details here (please read guidance note 5)  DRINKING OUTSIDE OF ALCOHOL TO TERMINATE @ 11 PM AS CURRENT LICENCE CONDITIONS	Both	<input checked="" type="checkbox"/>
Tue	1000	0100			
Wed	1000	0100	State any seasonal variations for the provision of late night refreshment (please read guidance note 6)		
Thur	1000	0100			
Fri	1000	0300	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 7)  CURRENT OPERATING HOURS FOR THE BUSINESS ARE 1000 - 000 MON - THURS, 10 - 01 FRI/SAT, 10 - 00 SUN AND WE DO NOT ANTICIPATE CHANGE		
Sat	1000	0300			
Sun	1000	0000			



J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 8)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 6)  N/A  23:00 outside		
Mon	1000	0100			
Tue	1000	0100			
Wed	1000	0100			
Thur	1000	0100	<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 7)		
Fri	1000	0300			
Sat	1000	0300			
Sun	1000	0000			

K

<b>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children</b> (please read guidance note 10).  NONE
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L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon	1000	0000	<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)</u></p>
Tue	1000	0000	
Wed	1000	0000	
Thur	1000	0000	
Fri	1000	0100	
Sat	1000	0100	
Sun	1000	0000	

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

NONE

Please tick as appropriate

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

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

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

PREMISES LICENCE AVAILABLE BY POST,  
IF REQUIRED, ALTHOUGH ADVISED TO  
SUBMIT ONLINE APPLICATION.

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

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)**

THE PROPOSED ADDITION IS TO INCREASE EXTERNAL EATING / DRINKING AREAS AND TO REPURPOSE AN UNUSED AREA CURRENTLY RESERVED FOR CAR PARKING. THIS PROPOSAL INCREASES OVERALL SAFETY AND SECURITY BY ENCLOSING THE AREA, AND AS BELOW

**b) The prevention of crime and disorder**

THE PROPOSED ADDITIONAL AREA IS ENCLOSED TO ALLOW ACCESS ONLY THROUGH THE EXISTING MAIN ENTRANCE, IS COVERED BY CCTV AND VISIBLE (AND WILL BE SUPERVISED) BY THE BAR. IT WILL BE FOR SEATED RATHER THAN VERTICAL DRINKING

**c) Public safety**

ENCLOSURE OF REAR AREA INCREASES SAFETY AND SECURITY AT REAR OF PREMISES AND ALLOWS ADDITIONAL OUTSIDE EATING SPACE (ALSO WITH PRIORITY FOR EATING). FIRE ROUTES ARE PRESERVED - EMERGENCY LIGHTING ETC TO EXISTING SPEC.

**d) The prevention of public nuisance**

CONSTRUCTION WITH HIGH DENSITY CONCRETE BLOCKS TO 1.8M + ENCLOSED BY FIRE SAFETY COMPLIANT GATE SO THAT ACCESS ONLY THROUGH MAIN BAR. ALLOWED TO STOP BEING CONSUMED OUTSIDE @ 11PM.

**e) The protection of children from harm**

CHILDREN ARE NOT PERMITTED IN THE BAR UNLESS EATING WITH AN ADULT <sup>AFTER</sup> BEFORE 9PM AND THIS WOULD CONTINUE WITH ADDITIONAL AREA, WHICH IS VISIBLE TO, AND SUPERVISED BY THE BAR WITH ADDITIONAL CCTV MONITORING.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee; or *PAYMENT BY DEBIT* ☐
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy. ☐
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I understand that I must now advertise my application. ☒
- I have enclosed the premises licence or relevant part of it or explanation. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 5 – Signatures** (please read guidance note 12)

**Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	<i>01.06.20</i>
Capacity	<i>ALEX MACDONALD - DIRECTOR / DBO</i>

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 14). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

**Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)**

Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			







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## Premises Licence Part A

Premises licence number: BH084894

**Postal address of premises, or if none, ordnance survey map reference or description:**

The Topsy Cow 27-37 Charminster Road

**Post town:** Bournemouth

**Post Code:** BH8 8UE

**Telephone number:** 01202554511

**Licensable activities authorised by the licence:**

Live Music

Recorded Music

Late Night Refreshment

Supply of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

**Live Music**

Monday - 10:00 to 01:00

Tuesday - 10:00 to 01:00

Wednesday - 10:00 to 01:00

Thursday - 10:00 to 01:00

Friday - 10:00 to 01:00

Saturday - 10:00 to 01:00

Sunday - 10:00 to 01:00

Performance of live music will take place indoors.

Non-standard timings for the performance of live music.

New Year's Eve – From 10:00 on New Year's Eve to 01:30 on 2nd January.

**Recorded Music**

Monday - 10:00 to 01:00

Tuesday - 10:00 to 01:00

Wednesday - 10:00 to 01:00

Thursday - 10:00 to 01:00

Friday - 10:00 to 01:00

Saturday - 10:00 to 01:00

Sunday - 10:00 to 01:00

Playing of recorded music will take place indoors.

Non-standard timings for the playing of recorded music.

New Year's Eve – From 10:00 on New Year's Eve to 01:30 on 2nd January.

**Late Night Refreshment**

Monday - 23:00 to 01:30

Tuesday - 23:00 to 01:30

Wednesday - 23:00 to 01:30

Thursday - 23:00 to 01:30

Friday - 23:00 to 03:00

Saturday - 23:00 to 03:00

Sunday - 23:00 to 01:30

Provision of late night refreshments will take place indoors.

Non-standard timings for provision of late night refreshments.

New Year's Eve – From 10:00 on New Year's Eve to 01:30 on 2nd January.

**Supply of Alcohol**

Monday - 10:00 to 01:00

Tuesday - 10:00 to 01:00

Wednesday - 10:00 to 01:00

Thursday - 10:00 to 01:00

Friday - 10:00 to 03:00

Saturday - 10:00 to 03:00

Sunday - 10:00 to 01:00

Non-standard timings for the supply of alcohol.

New Year's Eve – From 10:00 on New Year's Eve to 01:30 on 2nd January.

**The opening hours of the premises:**

Monday - 10:00 to 01:30

Tuesday - 10:00 to 01:30

Wednesday - 10:00 to 01:30

Thursday - 10:00 to 01:30

Friday - 10:00 to 03:30

Saturday - 10:00 to 03:30

Sunday - 10:00 to 01:30

**Where the licence authorises supplies of alcohol whether these are on and/ or off supplies:**

Alcohol will be consumed on and off the premises.

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

South Coast Hospitality Limited  
29-31 Charminster Road  
Bournemouth  
BH8 8UE

**Registered number of holder, for example company number, charity number (where applicable):**

11028037

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:**

Mr Alexander Marshall

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:**

Bournemouth Borough Council

## **Annex 1 – Mandatory conditions**

### Mandatory Conditions (Sections 19,20,21 LA 2003)

- 1.1. There shall be no sale or supply of alcohol when there is no designated premises supervisor in respect of this premises licence or at a time when the said premises supervisor does not hold a personal licence or when his/her licence is suspended.
- 1.2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 1.3. Any person used to carry out a security activity as required under condition 3.1 below must be licensed by the Security Industry Authority.

### The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

- 1.4.
  1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 1.5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 1.6.
  1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- (a) a holographic mark, or
- (b) an ultraviolet feature.

1.7. The responsible person must ensure that -

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### The Licensing Act 2003 (Mandatory Conditions) Order 2014

1.8.

4. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

5. For the purposes of the condition set out in paragraph 1 -

- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) “permitted price” is the price found by applying the formula —

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence -
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
6. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
7. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **Annex 2 – Conditions consistent with the operating schedule**

### Prevention of Public Nuisance

- 2.1. All windows and doors to be closed by 22:00 hours, except for immediate access or egress.
- 2.2. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.
- 2.3. Patrons permitted to leave and then re-enter the premises e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
- 2.4. After 23:00 hours, all the outside area shall only be used for smoking and shall be monitored.
- 2.5. A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. The telephone number is to be made available to residents and businesses in the vicinity.
- 2.6. The premises licence holder shall ensure that any patron drinking and or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure there is no public nuisance or obstruction of the public highway.
- 2.7. Notices shall be prominently displayed at all exits and external areas reminding patrons to respect the needs of local businesses and residents and leave area quietly.
- 2.8. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- 2.9. Arrangements shall be put in place to ensure that waste collection contractors do not collect refuse between 19:00 and 07:00 hours.
- 2.10. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
- 2.11. There shall be no live music at the premises after 01:00 hours.
- 2.12. Loudspeakers shall not be located in the entrance lobby or outside the premises building.

## Prevention of Crime and Disorder

2.13. An incident log shall be kept at the premises. The log shall include the date and time of the incident and the name of the member of staff who has been involved. and made available on request to an authorised officer of the Council or the Police, which shall record the following:

- (a) any complaints received
- (b) any incidents of disorder
- (c) any faults in the CCTV system / or searching equipment /or scanning equipment
- (d) any refusal of the sale of alcohol
- (e) any visit by a relevant authority or emergency service
- (f) all crimes reported to the venue
- (g) all ejections of patrons
- (h) all seizures of drugs or offensive weapons

This log to be checked on a weekly basis by the DPS of the premises.

2.14. A CCTV system, shall be installed to cover all entry and exit points enabling frontal identification of every person entering in any light condition.

2.14.1. The CCTV system shall continually record and cover areas where alcohol is kept for selection and purchase by the public, whilst the premises is open for licensable activities. It shall operate during all times when customers remain on the premises.

2.14.2. All recordings shall be stored for a minimum period of 31 days with correct date and time stamping. Recordings shall be made available immediately upon the request of Police or an authorised officer of the council throughout the preceding 31 day period.

2.14.3. The CCTV system shall be updated and maintained according to police recommendations.

2.14.4. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.

2.14.5. CCTV shall be downloaded on request of the Police or authorised officer of the council. Appropriate signage advising customers of CCTV being in operation, shall be prominently displayed in the premises.

2.14.6. A documented check of the CCTV shall be completed weekly to ensure all cameras remain.

## Protection of Children from Harm

2.15. Alcohol can only be sold/supplied for consumption off the premises when accompanied by a substantial main meal (not side orders).

2.16. All deliveries of alcohol shall be made by a member of staff who is a Level 2 Personal Licence holder.

2.17. No Persons under age of 18 shall be permitted on the premises after 01:00 hours on a Friday and Saturday.

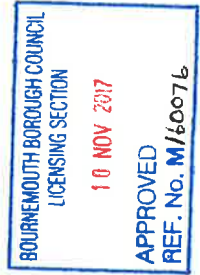
## **Annex 3 – Conditions attached after a hearing by the licensing authority**

3.1 Door supervision shall be provided on Friday and Saturday.

3.2 At all times the premises are open to the public, there shall be a minimum of 70 covers available for dining.

#### **Annex 4 – Plans**

This licence is issued in accordance with the plan M160076 dated 10 Nov 2017, as attached.







**Premises Licence  
Part B**

Premises licence number: BH084894

**Postal address of premises, or if none, ordnance survey map reference or description:**

The Topsy Cow 27-37 Charminster Road

**Post town:** Bournemouth

**Post Code:** BH8 8UE

**Telephone number:** 01202 554511

**Licensable activities authorised by the licence:**

Live Music, Recorded Music, Late Night Refreshment, Supply of Alcohol.

**The times the licence authorises the carrying out of licensable activities:**

**Live Music:** (Indoors) Monday - Sunday - 10:00 to 01:00

**Recorded Music:** (Indoors) Monday - Sunday - 10:00 to 01:00

**Late Night Refreshment:** (Indoors) Sunday - Thursday - 23:00 to 01:30, Friday - Saturday - 23:00 to 03:00

**Supply of Alcohol:** Sunday - Thursday - 10:00 to 01:00, Friday - Saturday - 10:00 to 03:00

Non-standard timings for all authorised licensable activities.

New Year's Eve – From 10:00 on New Year's Eve to 01:30 on 2nd January.

**The opening hours of the premises:**

Sunday - Thursday - 10:00 to 01:30, Friday - Saturday - 10:00 to 03:30

**Where the licence authorises supplies of alcohol whether these are on and/ or off supplies:**

Alcohol will be consumed on and off the premises.

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:**

South Coast Hospitality Limited. 29-31 Charminster Road, Bournemouth. BH8 8UE

**Registered number of holder, for example company number, charity number (where applicable):**

10367829

**Name of designated premises supervisor where the premises licence authorises the supply of alcohol:**

Mr Alexander Marshall

**State whether access to the premises by children is restricted or prohibited:**

See condition 2.17

Issued: 24 November 2005

Revised: 02 February 2018 [Transfer]

Mrs Nananka Randle  
Licensing Manager

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## Michelle Fletcher - Licensing

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**From:** MATTHEW THEODORE  
**Sent:** 17 June 2020 14:10  
**To:** Licensing Com  
**Subject:** Objection to licence at Topsy Cow Bar, Address: 29 - 31 Charminster Road, Bournemouth BH8 8UE

### Categories:

Dear Sirs, I would like to strongly object to the Topsy Cow Pub's application for an outdoor drinking and eating as well as the extension they are building noisily to accommodate this backing on to our family home. There are already many establishments that provide late night drinking on Charminster road and the Topsy Cow has been making applications to join them under various names for a number of years. I have been involved in previous appeals and it was concluded at the time that rear facing drinking areas were an unwelcome nuisance in a residential areas particularly for premises such as this that already have a front area. Also the loophole in contracting wall enclosed pergolas that become wells for noise against the 3 storey building is a clear loop hole in planning and is being rushed up at speed with no consultation and requires further investigation through planning. We were at no point consulted on this and only noticed the application by chance in the paper.

I welcome your response and log of this objection

Matt Theodore

[https://www.bournemouthecho.co.uk/announcements/public\\_notices/notice/131646.Premises Licence Application/](https://www.bournemouthecho.co.uk/announcements/public_notices/notice/131646.Premises_Licence_Application/)



### Premises Licence Application | Bournemouth Echo

Public Notices news from the Bournemouth Echo.  
Notice is given that South Coast Hospitality Ltd T/a The Topsy Cow Bar has applied to BCP Council for a premises licence under the Licensing Act 2003 ...

[www.bournemouthecho.co.uk](http://www.bournemouthecho.co.uk)

Sent from [Outlook](#)

## Michelle Fletcher - Licensing

---

**From:** Mark Allen  
**Sent:** 17 June 2020 23:24  
**To:** Licensing Com  
**Subject:** The Topsy Cow, Charminster Road

Dear Sirs

I understand the above pub has applied to use their rear yard as a garden for consumption of alcohol.

As owner of two flats backing onto the adjacent service road ( in Belvedere Road), I do not want my tenants to be disturbed in the evenings particularly as one works for the NHS. Bedrooms of both flats face the rear and any noise would be detrimental to all the other residential users in Belvedere Road and the flats above the shops adjacent the pub who access their flats from the rear service road.

I appreciate pubs have had a tough time and extended lock down, but this should not encourage you to permit an onerous use and occupation to the detriment of local residents.

Kind Regards

Mark Allen



Dear Neighbour

You may be aware that we have submitted an application to BPC Council to repurpose an area at the rear of our premises as an enclosed eating area. It's an essential part of our business plan for the year ahead, particularly in the light of the limitations placed on all of us due to the Covid-19 outbreak, and allows the business to continue to develop as a 'restaurant' rather than a 'bar'.

We have considered the potential impact of noise disturbance at the design and development stage to ensure that it is a benefit to the neighbourhood rather than a hindrance and I'd highlight the following points to reassure you :-

- 'The Cowshed' has been enclosed by a 7' high density concrete block wall which is designed to absorb ambient noise and will be 'landscaped' inside with additional noise absorbing surfaces to mitigate any undesirable impact on the neighbourhood
- We are only proposing to use it as an additional eating area, rather than drinking, and will provide seating for up to 16 diners with no provision for 'vertical drinking' – or standing about with a pint ! Realistically, this is pretty much the same number as a family barbecue
- We proposed voluntarily that there would be no outside music, and that The Cowshed would be closed from 11pm – our last orders for food are at 9 pm, and generally diners stay an hour to 90 minutes
- Operationally, we have put systems in place to ensure that the area is well – supervised to avoid disturbance and gone into detail to ensure no or minimal disruption – small things like rubber feet on chairs and tables to reduce noise, and re siting bins so that emptying them won't be a disturbance late at night.
- Most importantly, it will massively increase security in an otherwise grotty alleyway between Tesco Express and Bournemouth Bedding Centre, where we have struggled against the impact of anti-social behaviour since re-opening in 2016

As a neighbour, I hope you feel that The Topsy Cow is well – managed and a benefit to the neighbourhood – we've had no noise complaints in the time of my ownership, and work

hard with local residents, other local businesses and the Police and Council to ensure that Charminster remains a vibrant, interesting and commercially viable place to live and work.

The Council have suggested that we open 'The Cowshed' under the relaxation of existing regulations, which would enable use of outside spaces under Government Guidelines, which would allow us to trade through the valuable remaining summer months and I would hope that we can use this time to reassure you of no detrimental impact through the better use of outside space at The Topsy Cow, and the improvement to the local area.

If you have any concerns about the development at all, please do feel free to give me a call, or email, to discuss them, though, as we very much want to continue to work well with our neighbours, as well as to remain commercially viable in a trading year where restaurants and bars have been closed for longer than they have been open !

Most importantly, please do come and support your local businesses when they are allowed to re – open as we need you more than ever at the moment !

Kind regards

Alex Marshall

Mobile –

Email –

## Michelle Fletcher - Licensing

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**From:** Samantha Johnson  
**Sent:** 22 June 2020 18:32  
**To:** Licensing Com  
**Subject:** Objection to licence at Topsy Cow Bar, Address: 29 - 31 Charminster Road, Bournemouth BH8 8UE

### Categories:

To whom it may concern

I am writing to register my objection to the application made by The Topsy Cow Bar in Charminster for an outside drinking and eating area at the back of their premises. The basis of my objection is that granting this outside area will create an unwelcome level of noise disturbance and public nuisance. Sadly, my property is directly behind the Topsy Cow and residents within this area including myself already suffer noise nuisance, empty bottles and cans being thrown over the garden wall, defecation and urination alongside the fence. My partner and I are both Keyworkers who work 12 - 14 hour days and nights, and pre COVID could routinely hear other venues which are open late in Charminster as well as people who congregate in the lane at the back of my property and so having an open drinking area would undoubtedly exasperate the situation further and I feel would be extremely detrimental to our health and well being.

I urge you to take notice of the concerns raised above and reject the proposed application made by the Topsy Cow

Your sincerely

Samantha Johnson

## Michelle Fletcher - Licensing

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**From:** Leanne Hoskins  
**Sent:** 22 June 2020 13:33  
**To:** Licensing Com  
**Subject:** Objection to licence at Topsy Cow Bar, Address: 29 - 31 Charminster Road, Bournemouth BH8 8UE

### Categories:

To whom it may concern,

I have recently been made aware of the application by The Topsy Cow Bar in Charminster for an outside drinking and eating area at the back of their premises.

We live directly behind the Topsy Cow and we did notice the building of a wall which, until hearing of the planning application, we believed would be a secure bin storage area.

We strongly object to the application as a drinking and eating area situated to the rear of the property will create an unwelcome level of noise disturbance in this residential road.

Having been witness to the level of noise disturbance at the other end of Belvedere Road where a number of other premises have rear drinking and eating areas it further supports my opposition to this application. The alleyway, bricked off areas and three storey building create an area in which sound is amplified and reverberated throughout and this will become unbearable.

Whilst we wish for them, and all the businesses in our local area a successful reopening post lockdown, we do not wish for this area to be given the green light to go ahead and create such a nuisance and disturbance to our home life and that of the families surrounding us.

Charminster is a vibrant area, but this level of intrusion and disturbance is not welcome. Our house alone is a peaceful home to keyworkers who regularly work long hours in, 12-15hr days. The noise disturbance would be detrimental to our sleep as we can already hear everything without the encouragement of more people into a small area such as the one they are proposing to use.

Thank you for logging this objection and I welcome any response.

Kinds Regards

Leanne Hoskins



## Michelle Fletcher - Licensing

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**From:** Stephen Cox  
**Sent:** 24 June 2020 13:28  
**To:**   
**Cc:** Michelle Fletcher - Licensing  
**Subject:** The Topsy Cow, 37 Charminster - M177398 Full Variation Application

Dear Mr Marshall

I refer to our telephone conversation this morning and your email correspondence.

I understand that your intentions are to make use of the rear outside area for seating and eating only, initially to compensate for lost space during the Covid 19 restrictions but in the long term to move the premises towards a food led business rather than drinking and music. With this in mind I believe that the conditions below are compatible with your intentions and will minimise the risk of the area becoming a "noisy beer garden". Ultimately it will be down to yourself to manage the area in such a way to ensure that your intentions are realised. I would be grateful if you can confirm if the conditions below, in conjunction with the existing conditions are acceptable to yourself.

1. The rear outside area shall only be used between the hours of 10:00 - 22:00, (with the last seating up until 21:00).
2. The premises licence holder shall have arrangements in place to ensure any seats unoccupied in the outside rear area after 21:00 are taken out of use.
3. After 22:00 the outside rear area shall be vacated and not used for any purpose, including smoking.
4. No amplified or live music shall be played within the rear open area at any time.

Regards

Stephen Cox  
Senior Environmental Health Officer



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## Michelle Fletcher - Licensing

---

**From:** Michelle Fletcher - Licensing  
**Sent:** 24 June 2020 15:13  
**To:**  
**Subject:** Application M177398 Topsy Cow

Good afternoon

You are in receipt of this email as you have made representation against the above application.

I can confirm that Environmental Health have now agreed the following conditions and withdrawn their representation:

1. The rear outside area shall only be used between the hours of 10:00 and 22:00, (with the last seating up until 21:00).
2. The premises licence holder shall have arrangements in place to ensure any seats unoccupied in the outside rear area after 21:00 are taken out of use.
3. After 22:00 the outside rear area shall be vacated and not used for any purpose, including smoking until 10:00 the following day.
4. No amplified or live music shall be played within the rear open area at any time.

The following conditions are currently on the existing licence and would also include the rear area should the application be granted.

Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

Notices shall be prominently displayed at all exits and external areas reminding patrons to respect the needs of local businesses and residents and leave area quietly.

Loud speakers shall not be located in the entrance lobby or outside the premises building.

A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. The telephone number is to be made available to residents and businesses in the vicinity.

A CCTV system, shall be installed to cover all entry and exit points enabling frontal identification of every person entering in any light condition.

I ask you to consider the above information, please could you advise me if the added conditions offer you any reassurance and changes your stance on upholding your objections.

Please do not hesitate in making contact should you wish to discuss anything further.

Kind Regards

Michelle

**Michelle Fletcher  
Licensing Officer  
Communities**

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## Michelle Fletcher - Licensing

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**From:** Michelle Fletcher - Licensing  
**Sent:** 26 June 2020 16:04  
**To:** Samantha Johnson  
**Subject:** RE: Application M177398 Topsy Cow

Thank you for your response.

Once the last date for representations has passed, a hearing will be scheduled, and you will be invited to attend.

Please note that all matters raised at hearing must refer only to the original representations served on the Licensing Authority and it must be relevant to the four Licensing Objectives and other Legislation such as planning cannot be taken into consideration.

**Please note that impending changes to be announced by Government may mean this premises no longer requires permission in the short term to use this space.**

Regards

Michelle

[BCP Council Privacy Statement During COVID-19](#)



**Michelle Fletcher**  
**Licensing Officer**  
**Communities**

[bpcouncil.gov.uk](http://bpcouncil.gov.uk)

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**From:** Samantha Johnson  
**Sent:** 25 June 2020 21:20  
**To:** Michelle Fletcher - Licensing  
**Subject:** Re: Application M177398 Topsy Cow

Good afternoon Michelle

Thank you for your email. Sadly after reading the conditions proposed, I do not feel that this is sufficient enough to not infringe upon the residents living in this area. As the outside venue has already been constructed (which I originally thought was going to be a bin store) I feel that prior to the application views of the residents that live here have not been taken into account and so this leaves me extremely worried as to whether all said conditions will be actually honoured. I do feel that the Topsy Cow already has ample outside space for patrons on a busy public area, and stand by my original objection that to allow this outside space at the back of the Topsy Cow would be detrimental to the health and wellbeing for not only my own family but for other residents in the area.

Please accept this email as further confirmation of my objection to this application.

On Wednesday, 24 June 2020, 15:13:29 BST, Michelle Fletcher - Licensing <[michelle.fletcher@bpcouncil.gov.uk](mailto:michelle.fletcher@bpcouncil.gov.uk)> wrote:

**Michelle Fletcher - Licensing**

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**From:** Michelle Fletcher - Licensing  
**Sent:** 26 June 2020 16:05  
**To:** Leanne Hoskins  
**Subject:** RE: Application M177398 Topsy Cow

Thank you for your response.

Once the last date for representations has passed, a hearing will be scheduled, and you will be invited to attend.

Please note that all matters raised at hearing must refer only to the original representations served on the Licensing Authority and it must be relevant to the four Licensing Objectives and other Legislation such as planning cannot be taken into consideration.

**Please note that impending changes to be announced by Government may mean this premises no longer requires permission in the short term to use this space.**

Regards

Michelle

[BCP Council Privacy Statement During COVID-19](#)



**Michelle Fletcher**  
**Licensing Officer**  
**Communities**

[bcpcouncil.gov.uk](http://bcpcouncil.gov.uk)

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**From:** Leanne Hoskins  
**Sent:** 25 June 2020 18:22  
**To:** Michelle Fletcher - Licensing  
**Subject:** Re: Application M177398 Topsy Cow

Good afternoon,

Whilst I appreciate the efforts made to make amendments, I feel these continue to fall short of a reasonable adjustment and that there still remains a significant noise nuisance to the residential side of the premises. I continue to find that the proposed use of the rear enclosed area would be harmful to the living conditions of all us residents living nearby. I believe this would be contrary to the aims and objectives of Policies CS9 and CS38 of the Bournemouth Local Plan: Core Strategy (October 2012) insofar as they relate to noise nuisance and protecting the amenities of local residents.

None of the amendments suggested in your email have led to me alterI got my conclusion.

The rear enclosed eating and drinking area will be a noise nuisance that we will not welcome here.

Sadly, as you will see evidenced by human behaviour this week alone, people in such environments cannot always stick to the recommendations, rules and guidelines and this will be the case for the rear of The Topsy Cow and I remain in opposition to this application! There is ample room within the existing premises to cater for their customers without the addition of the rear area or disruption to the residents.

As I said before, I wish them all the success with reopening and will continue to support the venue...but I do not support this application.

Kind Regards

Leanne Hoskins

On 24 Jun 2020, at 15:13, Michelle Fletcher - Licensing wrote:

Good afternoon

You are in receipt of this email as you have made representation against the above application.

I can confirm that Environmental Health have now agreed the following conditions and withdrawn their representation:

1. The rear outside area shall only be used between the hours of 10:00 and 22:00, (with the last seating up until 21:00).
2. The premises licence holder shall have arrangements in place to ensure any seats unoccupied in the outside rear area after 21:00 are taken out of use.
3. After 22:00 the outside rear area shall be vacated and not used for any purpose, including smoking until 10:00 the following day.
4. No amplified or live music shall be played within the rear open area at any time.

The following conditions are currently on the existing licence and would also include the rear area should the application be granted.

Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

Notices shall be prominently displayed at all exits and external areas reminding patrons to respect the needs of local businesses and residents and leave area quietly.

Loud speakers shall not be located in the entrance lobby or outside the premises building.

A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. The telephone number is to be made available to residents and businesses in the vicinity.

**Michelle Fletcher - Licensing**

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**From:** Michelle Fletcher - Licensing  
**Sent:** 25 June 2020 10:19  
**To:** Mark Allen  
**Subject:** RE: Application M177398 Topsy Cow

Mr Allen

It is my understanding that the applicant has posted correspondence to the surrounding area explaining his intention and trying to offer some reassurance. He included direct contact details for residents to use, should they wish.

The applicant has also been in consultation with Environmental Health who have made visits to the site and as you know have agreed additional conditions that restrict the concerns you highlight below, for example:

The terminal hour has been reduced to 22:00 hours and this area will not be used after this time including smoking.

Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

No amplified or live music shall be played within the rear open area at any time.

All conditions on a Premises Licence must be adhered to and they are enforceable under the Licensing Act 2003, failure to comply with them could result in the Licence being reviewed and even revocation.

I take on board your comments and will schedule a hearing, as there are no objections from the Responsible Authorities who review all applications, as an objector you would be expected to attend the hearing. You will have opportunity to question the applicant and express your concerns before the Licensing Committee, it will then be down to the Licensing Committee to decide if they grant the licence, add further conditions or reject the application.

I have included the applicants details should you wish to make contact with him:

Alex Marshall

Mobile –

Email –

I will be in contact once a date for hearing has been confirmed, but please don't hesitate in contacting me should you wish to discuss the matter further.

Kind Regards

Michelle





**Michelle Fletcher**  
**Licensing Officer**  
**Communities**

1

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**From:** Mark Allen <bigbunny@ntlworld.com>  
**Sent:** 25 June 2020 09:40  
**To:** Michelle Fletcher - Licensing <michelle.fletcher@bcpcouncil.gov.uk>  
**Subject:** RE: Application M177398 Topsy Cow

Hi Michelle,

Your last letter/email suggested the applicant may contact me to try to mitigate the use of the rear yard. He has not.

As the Topsy Cow Bar is primarily a pub, on warm days the outside spaces will I am sure be used by drinkers rather than eaters. If busy or warm it is highly likely smokers and others will move outside with their drinks and unlikely they will be seated.

My tenants who have to keep their windows open particularly during the hot weather will be disturbed by any noise in evenings and this will make turnover and re-letting of the flats problematic.

No, I am not reassured and I still object to this detrimental use affecting the residential users mostly in Belvedere Road.

Regards

Mark Allen

**From:** Michelle Fletcher - Licensing  
**Sent:** 24 June 2020 15:13  
**To:** Michelle Fletcher - Licensing  
**Subject:** Application M177398 Topsy Cow

Good afternoon

You are in receipt of this email as you have made representation against the above application.

I can confirm that Environmental Health have now agreed the following conditions and withdrawn their representation:

1. The rear outside area shall only be used between the hours of 10:00 and 22:00, (with the last seating up until 21:00).
2. The premises licence holder shall have arrangements in place to ensure any seats unoccupied in the outside rear area after 21:00 are taken out of use.

**Michelle Fletcher - Licensing**

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**From:** MATTHEW THEODORE ✕  
**Sent:** 08 July 2020 13:57  
**To:** Michelle Fletcher - Licensing  
**Subject:** Re: Application M177398 Topsy Cow

Thank you Michelle, this is very helpful and I agree with your point on describing the space. Can you please confirm that the area will not be in use to serve until a hearing has happened concluded its findings and acted accordingly as this was not mentioned in point 2?

Best

Matt Theodore

Sent from [Outlook](#)

Sent from [Outlook](#)

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## Michelle Fletcher - Licensing

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**From:** Michelle Fletcher - Licensing  
**Sent:** 08 July 2020 11:57  
**To:** MATTHEW THEODORE  
**Subject:** RE: Application M177398 Topsy Cow

Mr Theodore

1. You can email [environmentalhealth@bcpcouncil.gov.uk](mailto:environmentalhealth@bcpcouncil.gov.uk). quoting the above reference M177398 to request further information relating to the mediation that took place between them and the applicant.
2. The Premises has the provision for ON and OFF sales of alcohol, meaning it can be consumed both ON the premises and taken OFF the premises by customers or delivered with food depending on conditions for example.
3. The area can be used prior to hearing by means of Temporary Event Notice or Impending changes made by Government relating to Covid19.

When you are addressing agencies, I don't feel it is fair to refer to the area outlined in the application as a rear alley it is misleading.

I hope this offers you some clarity.

Regards

Michelle

**From:** MATTHEW THEODORE  
**Sent:** 08 July 2020 11:28  
**To:** Michelle Fletcher - Licensing  
**Subject:** Re: Application M177398 Topsy Cow

Dear Michelle Fletcher, thank you for getting back once again. Your responses provide some detail however key questions I have still asked are still a little unclear? I have added to your response where this clarity is required, please forgive me as this has been lost in the many communications we have had and my lack of understanding in your area of professionalism.

1. The agreed conditions from environmental health were given to you on the 24 June 2020 at 15:13 – No report was submitted to the Licensing Department, simply the conditions as they were presented to yourself is how we received them.
- 1a. I have also advised you no other representations / or conditions from the other RAs have been received.

I am keen to see what impact assessment if any was conducted or what advice was acted upon in the formation of the terms of license you shared with me on the 24th of June. This is an important point and consideration that I would consider reasonable with a pub that is applying for a license to operate in a new area backing on to a residential garden. Is there a contact for example at environmental health I can have to assess this if it was not an assessment that was made by yourselves or other RA's.

2. I have also advised you of the process and that no decisions on the variation will be made now prior to hearing (Please don't forget they already have a licence and permission for off sales).

2a. I did also advise you this area could be used by the premises.

I am unclear whether or not the area can be used before a hearing has taken place on the licence still. Are you saying that they can operate the area for 'takeaway alcohol sales' or am I just confused here by the term 'off sales' which I am not familiar with. Please could you clarify both points.

3. The application is to vary the existing Premises Licence to include the external area, not temporary.

3a. There is no access to the alley from the premises other in emergencies, nor can anyone access the rear area from the alley.

3b. This is not a smoking area. I am not saying smoking will not take place in this area, but you have been provided with the conditions so you know, this is a tabled seating area only, seats must be removed if not occupied after 21:00 and after 22:00 the outside rear area shall be vacated and not used for any purpose, including smoking until 10:00 the following day.

I think there was some confusion here on your behalf. I have referred to the extension to the property to the rear as 'a rear alley drinking/smoking area' and was not questioning access (3a). I am still in disagreement with the conditions (3b) as they do not consider the impact that you propose to license for in any way.

I am sorry to be so persistent with this case, I am still very concerned that proper assessment of the nuisance this licence extension will cause has been considered in any way (having seen no report of any sort from a RA or yourself to this effect). I also now have experienced the reality of this having logged a first event yesterday using an environmental health tracking sheet that I will continue update before submitting.

Kind regard for your continued efforts to mediate

Matt Theodore

---

**From:** Michelle Fletcher - Licensing  
**Sent:** 08 July 2020 10:19  
**To:** MATTHEW THEODORE  
**Subject:** RE: Application M177398 Topsy Cow

Mr Theodore

In response to your email:

1. The agreed conditions from environmental health were given to you on the 24 June 2020 at 15:13 – No report was submitted to the Licensing Department, simply the conditions as they were presented to yourself is how we received them.
  - 1a. I have also advised you no other representations / or conditions from the other RAs have been received.
2. I have also advised you of the process and that no decisions on the variation will be made now prior to hearing (Please don't forget they already have a licence and permission for off sales).
  - 2a. I did also advise you this area could be used by the premises.
3. The application is to vary the existing Premises Licence to include the external area, not temporary.
  - 3a. There is no access to the alley from the premises other in emergencies, nor can anyone access the rear area from the alley.
  - 3b. This is not a smoking area. I am not saying smoking will not take place in this area, but you have been provided with the conditions so you know, this is a tabled seating area only, seats must be removed if not occupied after 21:00 and after 22:00 the outside rear area shall be vacated and not used for any purpose, including smoking until 10:00 the following day.

I hope that answers all your questions.

Regards

Michelle

**From:** MATTHEW THEODORE  
**Sent:** 08 July 2020 09:42  
**To:** Michelle Fletcher - Licensing  
**Subject:** Re: Application M177398 Topsy Cow

Dear Michelle Fletcher, thank you for your response and acknowledging the the work such an application has caused us. This was exasborated when the very thing we worried about came to fruition with loud adult drinkers swearing and shouting and making our garden unsuitable for our children and their bedtime having to exist around this noise for out 4 and 7 year old which left us really upset and frustrated.

I would like to simplify my request as clearly there is some confusion here which is unhelpful for us both.

1. I would like you to share with us the report that you presumably received as a licensing official from environmental health (or any other body that contributed to the decision you have made or are making) under the Freedom of information act.
2. I would like to know if a license has been granted to the Pub or will be or if we are still moving toward a hearing.
3. I would like to know if the license being considered is just a temporary measure for Covid or if there is a possibility this rear alley drinking/smoking area could ever become permanent?

I appreciate your time and efforts on this and have tried to remain calm and concise and hopefully by just putting these three key questions we can move forward in a constructive manner.

Matt Theodore

---

**From:** Michelle Fletcher - Licensing  
**Sent:** 08 July 2020 09:08  
**To:** MATTHEW THEODORE  
**Subject:** RE: Application M177398 Topsy Cow

Mr Theodore

I can appreciate this is a worrying time for you and your family and I have tried to keep an open line of communication throughout this process.

I am afraid I am at a loss trying to establish what you are referring to when you ask about the guidance I have received relating to this application and the impact it will have on your particular property and the reference you have made to the likely legal case under the Freedom of Information Act.

So, I will try and explain the process to you in the hope you can see I have been completely transparent with you.

No pre application consultation is required, anyone can apply for a premises licence for example you or I could apply for one at our residential address should we wish and anyone with a License can apply for it to be varied at any time.

The Application process has a very prescriptive statutory process that has to be adhered to as follows

- When the application is determined as complete and accepted by the Licensing Authority there then begins on the following day a 28-day consultation period.
- During this period conditions can be added and/or removed from the application if required. All this information has been shared with you to date, along with copies of any agreed conditions.
- On the same day the application is accepted a copy is sent to the nine Responsible Authorities :Police, Fire, Children's Services, Planning, Trading Standards, Environmental Health, Food Health & Safety, Immigration, Public Health England.
- A notice of the application is placed on the BCP Council website.
- A notice of the application is displayed by the applicant at the Premises for the 28 day consultation period..

- A notice of the application must be placed by the applicant in a local newspaper within 10 Working days.
- After the 28 days if there are no outstanding representations the Licence is automatically granted.
- If after the 28 days there are outstanding representation a hearing is scheduled, so the application and representations can be heard by the Licensing Committee.  
They then make the decision to either grant, refuse or add further conditions to the application. The Licensing Committee is made up of local councillors

At no point does the Licensing Department not make any decisions or recommendations in regard to any application. It is our role to process the application and ensure the legislation is being adhered to by all parties.

In this case there are no outstanding representations from any of the Responsible Authorities and I have accepted your representation as valid and you will be offered the opportunity to put your representation to the Licensing Committee for their consideration.

The Licensing Act 2003 is Government Legislation and all Local Authorities have to discharge its functions in the same manner.

As I have previously advised all conditions on a Premises Licence must be adhered to and failure to operate in accordance with their licence could result in the Licence being reviewed which could ultimately lead to revocation.

Regards

Michelle

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**Michelle Fletcher**  
**Licensing Officer**  
**Communities**

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**From:** MATTHEW THEODORE

**Sent:** 06 July 2020 19:08

**To:** Michelle Fletcher - Licensing

**Subject:** Re: Application M177398 Topsy Cow

Dear Michelle Fletcher, once again thank you for your detailed response. I hope you can appreciate however how frustrating the situation is to a family with their garden backing on to this new area. I am fully aware of the differences between planning and licensing, however these things are intrinsically linked in this case as the license will cover an area of the Pub which did not exist before the licence was applied for. All I am asking for is for you to do please share the guidance you have received on the impact this extension to licence

will have on my property as I feel there will be a hearing and likely a legal case here under the Freedom of Information act so that I can assess this.

Kind Regards

Matt Theodore

Sent from Outlook

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**From:** Michelle Fletcher - Licensing  
**Sent:** 06 July 2020 18:30  
**To:** MATTHEW THEODORE  
**Subject:** RE: Application M177398 Topsy Cow

Mr Theodore

This is not a planning application nor am I a planning officer and any impending changes to Legislation under the Licensing Act 2003 are at Government level and out of any Local authorities control.

I have also previously explained that planning and licensing are separate matters as they are dealt with by separate legislation and the consideration of need is not a matter for the licensing authority in discharging its functions.

The Environmental Health Department as a responsible authority has viewed the application from a noise perspective and consequently has agreed conditions.

I feel it is important for you to understand that that area could be used prior to a hearing due to any impending changes, not an intention to fuel a fire.

I have previously confirmed there are no representations for any of the nine Responsible Authorities involved in the application process. Once the last date for representations has passed I will be able to confirm how many representations both for and against the application have been made this information will also be in the agenda for the meeting.

Regards



Michelle

**From:** MATTHEW THEODORE

**Sent:** 06 July 2020 17:29

**To:** Michelle Fletcher - Licensing

**Subject:** Re: Application M177398 Topsy Cow

Hi Michelle, thanks for getting back. I am unsure why I did not receive the response response but am glad of receiving it now, however the key questions I asked within it remained unanswered and are important namely:

- I would also like to know your thoughts (as a planning officer in charge of this case) on the inevitable smoking, swearing and noise that a rear facing area backing on to our property where children play through their weekend (the new building being erected not 10 feet from our garden) and how you feel this is appropriate or fair?
- Why do you feel the extension of services to the rear is necessary for such a large-premises with extensive frontage as well as why this should not be an area enclosed if so, to protect neighbours from noise pollution?

I would be extremely disappointed if Licensing chose to allow this 'loophole' to create what will become a noise nuisance of adult drinkers in close proximity to family home and will do all that I can to legally challenge this if I must which is certainly the last thing I want to do.

All I am requesting here is that Licensing respond to the significant concerns or share the guidance they received in making a decision presumably to allow a License? Sadly your suggestion that 'impending changes to be announced by Government may mean this premises no longer requires permission in the short term to use this space' to nothing but add 'fuel to the fire' in this situation.

Finally I would like to request to know if there is further objection to this License as this must surely be an important consideration for all concerned.

Kind Regards

Matt Theodore

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**From:** Michelle Fletcher - Licensing  
**Sent:** 06 July 2020 15:37  
**To:** MATTHEW THEODORE  
**Subject:** RE: Application M177398 Topsy Cow

Mr Theodore

I believe I did respond I have cut and pasted the message below from my sent box.

I will be in contact once a hearing has been arranged but please note that impending changes to be announced by Government may mean this premises no longer requires permission in the short term to use this space.

**From:** Michelle Fletcher - Licensing  
**Sent:** 25 June 2020 17:33  
**To:** MATTHEW THEODORE  
**Subject:** RE: Application M177398 Topsy Cow

Mr Theodore

Each application has to be dealt with on its own merits and as the Licensing Officer managing this application it is important that I remain completely impartial.

The Environmental Health Officer as a responsible authority views the application from a noise perspective and consequently has agreed conditions to mitigate potential issues of this nature, this includes the restriction on the times and subsequently this area cannot be used for any purpose including a smoking area after 22:00 hours.

Unfortunately planning and licensing are separate matters as they are dealt with by separate legislation and the consideration of need is not a matter for the licensing authority in discharging its functions. Need is a commercial concern and is a matter for the planning authority and the current market.

I can confirm that I have accepted your previous correspondence as a representation (objection) to this application and will arrange for a hearing date so the application can be put before the Licensing Committee. I will update you in due course with the necessary information, however, currently due to the COVID 19 restrictions these are held remotely via Skype.

Regards

Michelle



**Michelle Fletcher**  
**Licensing Officer**  
**Communities**

T. 01246 812345

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Regards

Michelle Fletcher

**From:** MATTHEW THEODORE

**Sent:** 06 July 2020 15:21

**To:** Michelle Fletcher - Licensing

**Subject:** Fw: Application M177398 Topsy Cow

Dear Michelle Fletcher, I was wondering if you had time to consider my response and the questions I proposed (below) and if you had a date for the hearing for my diary?

Best

Matt Theodore

Sent from [Outlook](#)

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**From:** MATTHEW THEODORE

**Sent:** 25 June 2020 13:39

**To:** Michelle Fletcher - Licensing

**Subject:** Re: Application M177398 Topsy Cow

Dear Michelle, thank you for your speedy response which I am grateful of and which goes some way to addressing the concerns I have raised. I am also very concerned that Responsible Authorities and yourselves have perhaps not considered other cases of rear facing bar restaurants on the street that have become a nuisance in so far that it becomes harmful to the living conditions of all nearby residential occupiers. I would also like to know your thoughts on the inevitable smoking, swearing and noise that a rear facing area backing on to our property where children play through their weekend (the new building being erected not 10 feet from our garden) and how you feel this is appropriate or fair. Finally I am also keen for a comment from licensing as to why you feel the extension of services to the rear is necessary for such a large-premises with extensive frontage as well as why this should not be an area enclosed if so, to protect neighbours from noise pollution.

I look forward to hearing back from you on this, I am genuinely interested in your perspective in advance of the hearing that I will be attending with my family.

Matt Theodore

Sent from Outlook

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**From:** Michelle Fletcher - Licensing  
**Sent:** 25 June 2020 12:52  
**To:** MATTHEW THEODORE  
**Subject:** RE: Application M177398 Topsy Cow

Mr Theodore

Under the Licensing Act 2003 there is no requirement for an applicant to carry out pre consultation, I can't comment on individuals practices but we do see it as positive that the applicant has taken it upon himself to write to every residential address in the surrounding area. Each application runs for 28days to enable consultation.

To confirm this is not a new application, this is a variation of a Premises Licence.

Due to the nature of the premises the applicant is only required to put one notice in the front of the premises and advertise in the local Newspaper both of which have been complied with. The Licensing Authority do not feel any of the other windows on the front of the premises would have been suitable as there are railings preventing public view/access.

With regards to the Responsible Authorities who review each application they have all received the application. I can assure you Environmental Health who deal with noise and statutory nuisance have visited the premises on more than one occasion during this consultation period before suggesting the conditions I forwarded you yesterday and removing their objection. They would have also considered any previous or ongoing complaints.

They have reduced the terminal hour of this area to 22:00 and made it a seated only area. I have also received correspondence from Dorset Fire Service to say they have visited and have no comments to make. Dorset Police have since confirmed they will not be objecting to this application.

You question what will happen beyond Covid 19, the proposed and agreed conditions if granted would be on the Premises Licence and the only way they could be amended or removed would be by means of another variation being submitted.

I can assure you all conditions on a Premises Licence must be adhered to and they are enforceable under the Licensing Act 2003, failure to comply with them could result in a Licence being reviewed and even revocation.

I take on board your comments and will schedule a hearing, there are no objections from the Responsible Authorities who review all applications, as an objector you would be expected to attend the hearing. You will then have opportunity to express your concerns directly to the Licensing Committee, it will then be down to the Licensing Committee to decide if they grant the licence, add further conditions or reject the application.

I will be in contact once a date for hearing has been confirmed, but please don't hesitate in contacting me should you wish to discuss the matter further.

Kind Regards

Michelle Fletcher

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**Michelle Fletcher**  
**Licensing Officer**  
**Communities**

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**From:** MATTHEW THEODORE

**Sent:** 24 June 2020 17:15

**To:** Michelle Fletcher - Licensing <

**Subject:** Re: Application M177398 Topsy Cow

Dear Michell, thank you for writing to us in what feels like a genuine attempt to mediate. The Topsy cow also dropped off a polite letter as building works seem almost over and they are obviously keen to get the space open. Although I can sympathise with businesses wanting to make extra space, I am afraid that the revised solution offers no real reassurance nor changes our stance on our objection. It is also sad that the business failed to consult us at any point before beginning what has been a long and loud build outside that feels aggressive in its confidence. The notice of intention for the new licence was posted in the window of a dark bar that had been fully closed for a significant period of time due to COVID on a street with significantly reduced footfall and therefore had to be sought out rather than being in plain sight of those who would be interested in this information. I have lived in this house for 15 years now and seen multiple rear facing Bar/Restaurant/Smoking areas come and go, not one with a positive impact on the area being harmful to the living conditions of nearby residential occupiers and unnecessary. I have listed below my core objections:

- No consultation has taken place.
- No impact assessment has been considered or consulted.
- No review of similar ventures and the complaints they have attracted has been sought as these-rear facing eating areas have a long history in this alleyway.
- It will be impossible to stop smoking and swearing in rear facing area backing on to our property where children play (the new building being erected not 10 feet from our garden).
- Property in the area will become less desirable.
- The space is inappropriate (open roofed building where sound will fast travel up the walls or the three-storey building and echo back).
- What is the intended use in the future beyond Covid? Once planning is granted it will likely just become another bar area and apply for a later licence.
- The building already has significant outside space to the front and a large internal seating area. There is no real need for this area?

Subsequently the objection remains and none of the arguments that have been put to me alter my conclusion. Furthermore, I find that the proposed use of the rear enclosed area would be harmful to the living conditions of all nearby residential occupiers. This would be contrary to the aims and objectives of Policies CS9 and CS38 of the Bournemouth Local Plan: Core Strategy (October 2012) insofar as they relate to noise nuisance and protecting the amenities

of local residents.

I look forward to hearing back from you.

Matthew Theodore

Sent from Outlook

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**From:** Michelle Fletcher - Licensing <  
**Sent:** 24 June 2020 15:13  
**To:** Michelle Fletcher - Licensing  
**Subject:** Application M177398 Topsy Cow

Good afternoon

You are in receipt of this email as you have made representation against the above application.

I can confirm that Environmental Health have now agreed the following conditions and withdrawn their representation:

1. The rear outside area shall only be used between the hours of 10:00 and 22:00, (with the last seating up until 21:00).

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