

Bath & North East Somerset Council

MEETING: **Licensing Sub Committee**

DATE: **Tuesday 29th April 2014**

AGENDA
ITEM
NUMBER

TITLE: **Application for permission to provide facilities on the highway for recreation/refreshment at The Porter, 2 Miles's Buildings, Bath BA1 2QS**

WARD: **Abbey**

AN OPEN PUBLIC ITEM

List of attachments to this report:

Annex A Application

Annex B Site Plan

Annex C Council's Standard Conditions

Annex D Highways Notice

Annex E Objections

1 THE ISSUE

- 1.1 An application has been received for permission to provide facilities on the highway in respect of **The Porter**, 2 Mile's Buildings, Bath BA1 2QS.

2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application.

3 RESOURCE IMPLICATIONS

- 3.1 The costs of processing licences are covered by the fees charged. The fee for this application is £246.

4 STATUTORY CONSIDERATIONS

- 4.1 Sections 115 A-K Highways Act 1980 give the Council discretion to grant permission to provide, maintain and operate facilities for recreation and/or refreshments on the highways subject to any reasonable conditions the Council thinks fit.
- 4.2 When making a decision consideration needs to be given to the Human Rights Act 1998.

- 4.3 An Equalities Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

5 THE REPORT

- 5.1 An application has been received for permission to provide facilities on the highway in respect of **The Porter**, 2 Mile's Buildings, Bath BA1 2QS (*Annex A*).
- 5.2 The application is for permission to place **16 tables** on the highway outside the premises along with appropriate seating, **boundary markers** and **3 planters** at basement level (site plan attached at *Annex B*).
- 5.3 The Council's standard conditions for permission to place tables and chairs on the highway are attached at *Annex C*.
- 5.4 The size of the area applied for is **11.5 m x 0.5 m** to the front of the premises (George Street) and **13.5 m x 2.3 m** to the side of the premises (Miles's Buildings).
- 5.5 The times applied for are:
Every Day from 10:00 to 23:00 hours
- 5.6 The existing permit which expired on 31st March 2014 permitted the following:
16 tables on the highway outside the premises, along with appropriate seating and **boundary markers**.

Size: **11.5 m x 0.5 m** to the front of the premises (George Street) and **13.5 m x 2.3 m** to the side of the premises (Miles's Buildings).

Times: **Every Day from 10:00 to 23:00 hours**
- 5.7 The **changes** from the last permit issued are therefore **3 planters** outside the basement entrance.
- 5.8 A notice was placed on the highway on 19th February 2014 (*Annex D*). The application was also placed on the Council's website.
- 5.9 Objections have been received from local residents, along with a joint objection from The Abbey Resident's Association (*TARA*) and The Circus Resident's Association (*CARA*). The grounds for objection allege obstruction of the highway and public safety issues.

(Copies attached at Annex E).

6 RATIONALE

- 6.1 As objections have been received the Licensing Sub Committee must determine the application in accordance with Part VIIA, Highways Act 1980.

7 OTHER OPTIONS CONSIDERED

7.1 None

8 CONSULTATION

8.1 In accordance with current Bath & North East Somerset Council policy, the Licensing Service consulted with the Police, the Council's Highways Maintenance Services, Property Services and Development Control Services, Ward Councillors and affected frontages. The Highways Agency was also consulted for applications involving trunk roads outside of the city centre.

8.2 This report has not been sent to the Trades Union because they would have no involvement in this application.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken in compliance with the Council's decision making risk management guidance.

10 ADVICE SOUGHT

10.1 The Council's Monitoring Officer (Divisional Director-Legal & Democratic Services), section 151 Officer (Divisional Director-Finance) and the Divisional Director have had the opportunity to input to this report and have cleared it for publication.

Contact person	Kirsty Morgan, Public Protection Officer Telephone: 01225 396719
Background papers	None
Please contact the report author if you need to access this report in an alternative format.	

APPLICATION

Bath & North East
Somerset Council

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART VIIA HIGHWAYS ACT 1980

PERMISSION TO PLACE AMENITIES ON THE HIGHWAY

PORTER PUBLIC HOUSE 2 MILES'S BUILDINGS BATH BA1 2QS

I/We CHILES THOMAS

hereby give notice that I/we intend to apply for a permit in accordance with the particulars in the attached Schedule.

NEW applicants only to complete the following section

- ☐ I/We enclose an illustration/photo of the type, colour and dimensions of the furniture
- ☐ I/We enclose a site plan indicating the dimensions of the area of highway upon which we wish to place the above furniture (all plans should be drawn to scale)

Applicants REAPPLYING only to complete the following section

(please check the attached application form and amend the details as necessary)

- ☒ I/We certify that there have been no alterations to the size of the area
- ☒ I/We certify that there have been no alterations to the number or style of the furniture
- ☐ I/We enclose the maps/diagrams and/or photographs illustrating change to area/furniture

ALL applicants to complete the following section

To make the payment please call us on and quote reference 14/00473/TABLE (NB there will be an additional charge of 2.5% for credit card payments).

- ☒ I/We are using tables and have paid the fee as follows:

- Application fee of £251
- 16 tables @ £67 each
- £34 if any other items are used

TOTAL FEE £1629

£1357.00

- ☐ I/We are not using tables and have paid the fee as follows:

- Application fee of £251
- 9 other items @ £34 each

TOTAL FEE £1629

(please specify e.g. chairs, parasols etc.)

£1357.00

- ☐ I/We declare that the information given in this application is true.

Signed by the applicant(s)

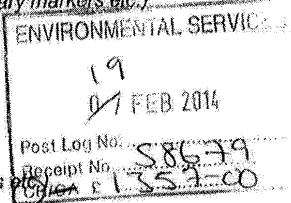
Dated

3 FEB 2014

Please email the completed application to licensing@bathnes.gov.uk

PLANTS
& Boundary Markers

please specify e.g. planters, boundary markers etc.)



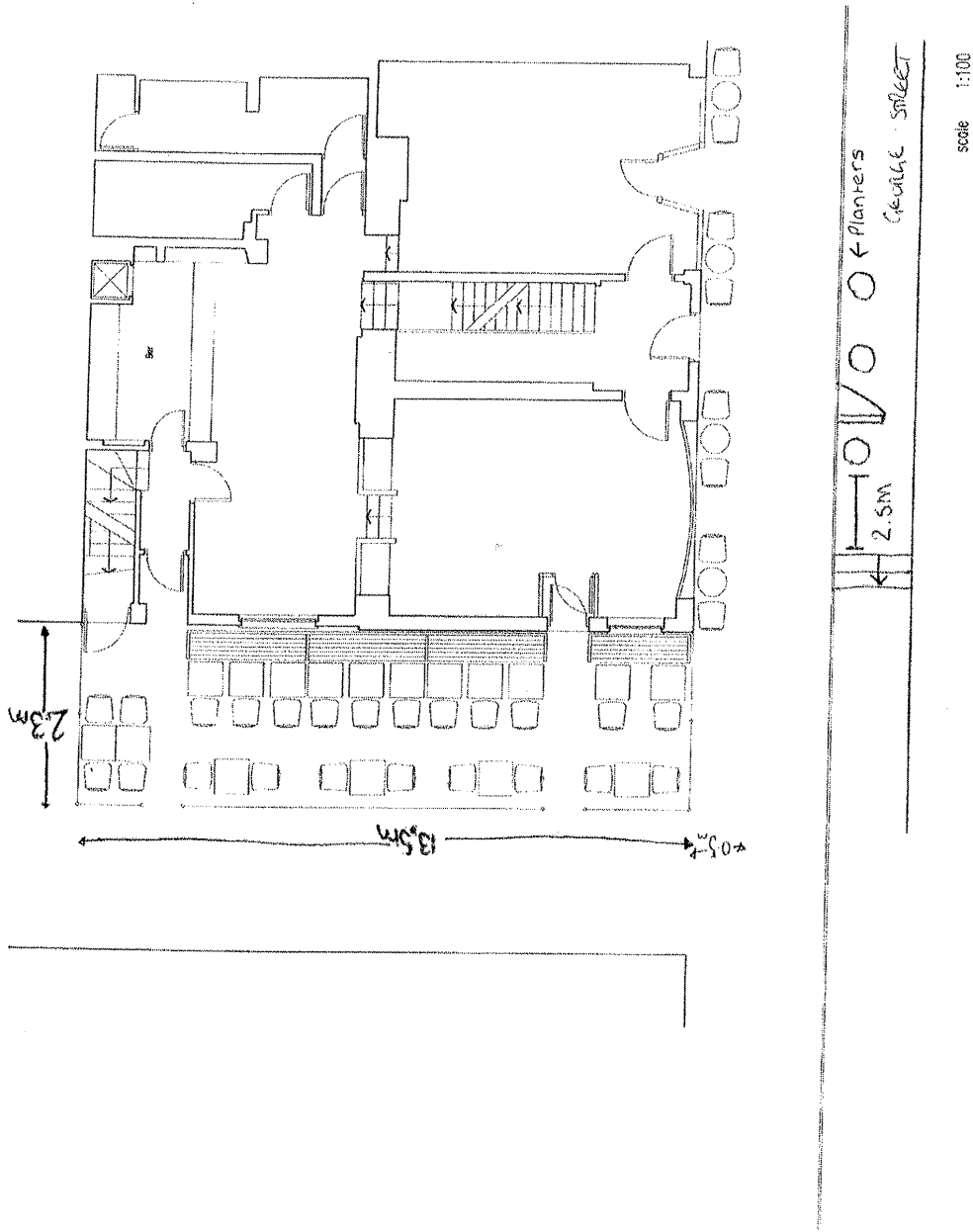
APPLICATION

**Bath & North East
Somerset Council**

Local Government (Miscellaneous Provisions) Act 1982
Part VIIA Highways Act 1980
Permission to Place Amenities on the Highway at Porter Public House
2 Miles's Buildings Bath BA1 2QS

1	Full name and address of each applicant	Mr Giles Thomas Charlcombe Grove Farm Charlcombe Bath BA1 9BQ
2	Contact telephone number	01225 424104
3	Period of time for which the permit is required (maximum one year)	From: 1 April 2014 To:
4	Number of tables	16
5	Number other items (e.g. planters, boundary markers)	9
6	If no tables used, number of chairs, parasols etc.	9
7	Size/Dimensions of area	11.5 m x 0.5 m to the front 13.5 m x 2.3 m to the side
8	The Council must notify any "affected frontagers" of this application. Please provide details of the adjoining premises.	Hole In The Wall 16 George Street Bath BA1 2EN Savilles Estate Agents 17 George Street Bath BA1 2EN Juice Recruitment Ltd 12 Miles's Buildings Bath BA1 2QS Timing Ltd 3 Miles's Buildings Bath BA1 2QS Moles Studios 14 George Street Bath BA1 2EN
9	Days of the week and hours of operation on those days	Every Day 10:00 - 23:00

APPLICATION



APPLICATION

Photographs of planters at basement level



NB. There are only 3 planters being applied for - The planter closest to the camera is not being applied for.

APPLICATION



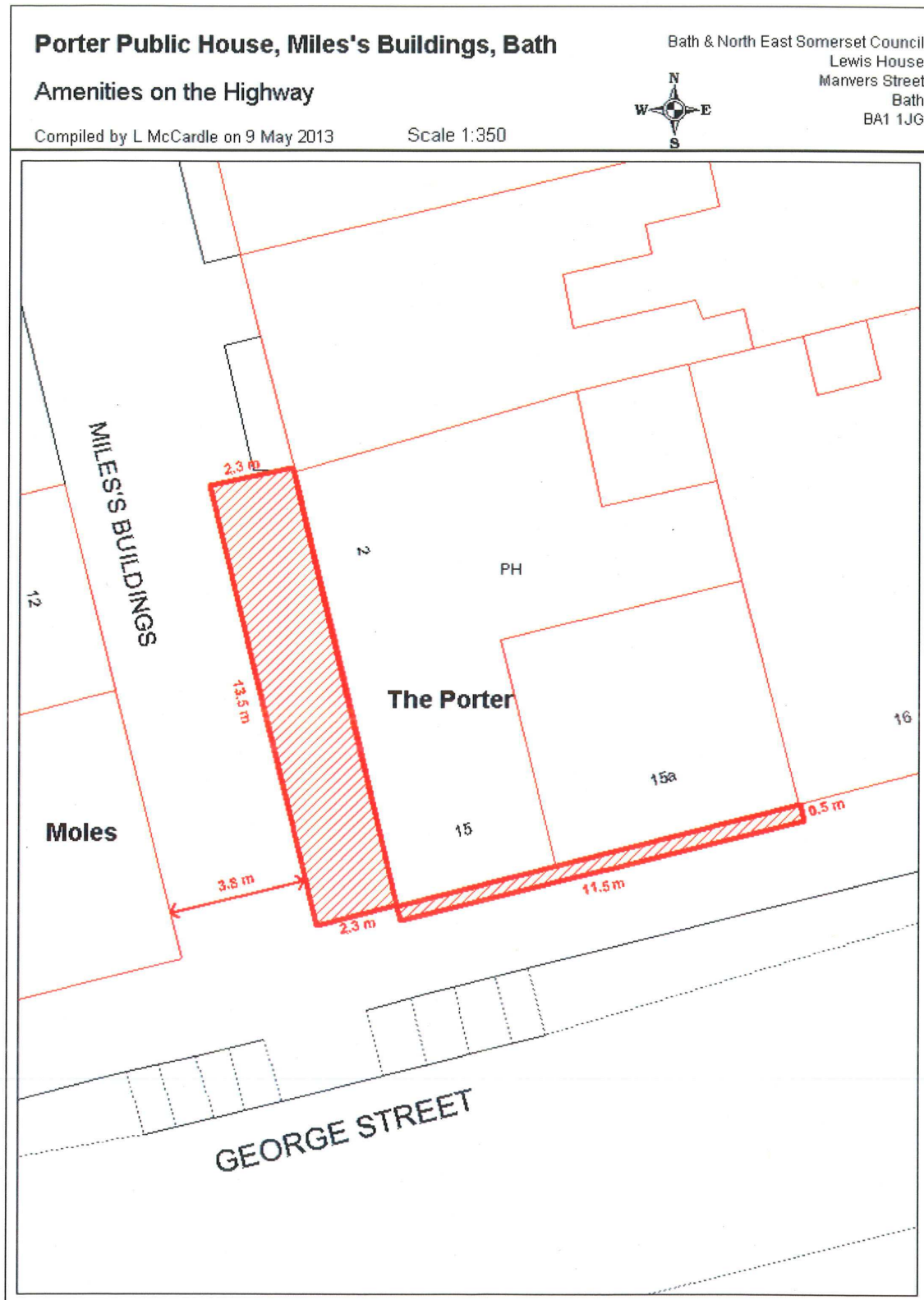
NB. There are only 3 planters being applied for - The planter closest to the camera is not being applied for.

APPLICATION



NB. There are only 3 planters being applied for - The planter closest to the steps is not being applied for.

SITE PLAN



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright License number 100023334
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**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART VIIA HIGHWAYS ACT 1980
PERMISSION TO PLACE TABLES AND CHAIRS ON THE HIGHWAY**

CONDITIONS

- 1 The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
- 2 The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Bath & North East Somerset Council.
- 3 The holder(s) shall return this Permission to the Service Manager immediately on revocation of this Permission.
- 4 The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
- 5 The holder(s) shall not use or suffer or permit any music playing music reproduction or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst exercising privileges granted by this Permission.
- 6 The holder(s) shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
- 7 The holder(s) shall not use the highway for any other purpose whatsoever nor at any time other than during the permitted hours, other than lawfully passing or re-passing thereover as (a) member(s) or the public.
- 8 The holder(s) shall not place on the highway any furniture or equipment or advertisement other than as permitted by the Council and must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.
- 9 Notwithstanding the specific requirement in Condition 5 above the holder(s) shall not do or suffer anything to be done in or on the highway which in the opinion of the Bath & North East Somerset Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the said Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
- 10 The holder(s) shall not assign, underlet or part with any interest or possession given by this Permission or any part thereof but the holder(s) may surrender it at any time.
- 11 The holder(s) shall observe and comply with any directions in relation to the use of the highway given by the Service Manager, or the Head of Engineering Services for the time being of the Bath & North East Somerset Council. Examples include the temporary removal of amenities during road closures, parades etc.
- 12 The holder(s) shall maintain the area shown on the plan attached to this Permission and edged in red, and the immediately adjacent area, in a clean and tidy condition during the permitted hours and shall leave the same in a clean and tidy condition and unobstructed, which shall include washing down the area, at the end of each daily period of use and on revocation or surrender of this Permission.

ANNEX C

- 13 The holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required by the Head of Engineering Services and ensure that the same are emptied daily.
- 14 The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the expiry, surrender or revocation of the Permission.
- 15 The holder(s) shall indemnify and save harmless the Bath & North East Somerset Council their agents, servants and workmen from and against all proceedings, claims, damages, costs or expenses in respect of any injury (including personal injury) in damage or loss which may be sustained by the Council or any person or persons, body or company whatever arising out of or in any way connected with the provision or use of facilities under this Permission, accept where such injury, damage or loss is attributable to the negligence of the Council.
- 16 This Permission may be revoked by the Bath & North East Somerset Council at any time and the Bath & North East Somerset Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder(s) in respect of such revocation.
- 17 Nothing herein contained shall be construed as the granting or purported granting by the council of any tenancy under the Landlord and Tenant Act 1954 or any permission under the Town and Country Planning Act 1971 or any statutory modification or re-enactment thereof for the time being in force.
- 18 The holder shall, whilst members of the public are using the facilities provided for the consumption of intoxicating liquor, provide and maintain in a prominent position, to the satisfaction of the Service Manager, notices in the form approved by him concerning the provisions of the Byelaw made by the Bath City Council on 30th January 1991 relating to the consumption of intoxicating liquor in public places.

Notes:

- 1 Section 115K of the Highways Act 1980 provides as follows:-
 - (1) If it appears to a council that a person to whom they have granted a permission under section 115E of this Act has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.
 - (2) If a person on whom a notice is served under sub-section (1) of this Act fails to comply with the notice, the council may take the steps themselves.
 - (3) Where a council have incurred expenses in the exercise of the power conferred on them by sub-section (2) of this Act, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under sub-section (1) of this Act was served.
- 2 Failure to comply with any Condition of the Permission will require the Council to consider whether any subsequent Permissions should be granted to the holder(s) of this Permission.

**BATH & NORTH EAST SOMERSET COUNCIL
ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES (BATH) ORDER 2004**

This Order is made under the Criminal Justice and Police Act 2001 and relates to the consumption of alcohol in a Public Place. For the purposes of the Order, your premises and the area covered by your permit are not a Public Place.

Where a constable reasonably believes that a person is, or has been, consuming alcohol in a designated public place or intends to consume alcohol in such a place. The constable may require the person concerned either not to consume in that place anything which is, or which the constable reasonably believes to be, alcohol; or to surrender anything in his possession which is, or which the constable reasonably believes to be, alcohol or a container for alcohol. A constable may dispose of anything surrendered to him in such manner as he considers appropriate.

A person who fails without reasonable excuse to comply with a requirement imposed on him under in such circumstances commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500).

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

PART VIIA HIGHWAYS ACT 1980

PORTER PUBLIC HOUSE 2 MILES'S BUILDINGS BATH BA1 2QS

NOTICE IS HEREBY GIVEN that an application has been made to Bath & North East Somerset Council by the proprietor of the abovementioned premises for permission to provide facilities for recreation or refreshment consisting of a number of tables and chairs in or on that part of the highway specified above until:

31 March 2015

and at the following times:


Every Day 10:00 - 23:00 hours

Further information about the above application, including the area of footpath or footway, may be obtained by calling at the address below.

If you wish to make any representations to the Council regarding the above application you should do so in writing to the undersigned within 28 days from the date of this notice.

Under the provisions of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, such representations will normally be made available for public inspection.

Dated 19 February 2014



Cathryn Humphries
Environmental Protection and Licensing Manager
Licensing Services
Bath & North East Somerset Council
Lewis House
Manvers Street
Bath BA1 1JG

Email: licensing@bathnes.gov.uk

OBJECTIONS

Sent: 20 February 2014 09:33

To: Licensing

Cc: Sally Rothwell; Lawrence Jones; Ian Perkins Brian Webber (Cllr); manda rigby

Subject: Tables and chairs at the Porter 14/00473/TABLE

I went onto the Council website and there appears to be no simple means to file an objection to this application so I am sending this e-mail instead.

I object to any granting of additional tables and chairs to be placed along George Street directly outside the Porter. The pavement is already narrow in front of The Porter and I note that the applicant, in an effort to squeeze in these chairs, states they will be placed up against the building protruding no more than 50cm. That will be impossible to achieve and realistically will not occur. People will not be prepared to sit with their clothing brushing against the stonework and it is inevitable that customers will move these tables away from the building and indeed place chairs facing the building causing an unnecessary bottleneck. Planning permission was refused in May 2013 for any tables and chairs to be placed along the front of the building 13/00848/FUL. During the planning hearing the applicant stated that these particular tables and chairs were only required for the morning trade but now their application seeks to allow these to be placed outside till 11pm each night. From 10pm onwards large noisy queues often form outside Moles frequently stretching passed these premises and the presence of these tables and chairs will ensure that this pavement will be totally blocked to the residents of Miles Buildings and pedestrians in general who will then have to cross the A4 twice to get to or from Gay Street, The Circus, Royal Crescent and all the residential areas around. As it is I believe the applicant is in contravention of his planning and possibly his license approvals as modern low height doors have now been installed from the lower ground/vault live music bar leading directly out into the busy main A4 traffic along George Street. It is just a matter of time before a drunken customer walks directly into the path of a vehicle. Furthermore this lower section of the pavement is now also totally blocked with planters and waste bins etc, belonging to the applicant ensuring that any customer or pedestrian taking the lower pavement route to avoid the top route passed these premises now has to step out into this busy main road.

This applicant already has a large number of tables and chairs placed on the public realm at virtually no cost but considerable financial gain and should not be granted yet more public space that will cause further congestion and potential safety issues particularly in the late evening.

Please would you acknowledge receipt of this objection. Thank you.

Robin Davies
18 Gay Street
Bath

OBJECTIONS

From: Brian Webber (Cllr)
Sent: 27 February 2014 08:57
To: Licensing
Subject: Porter Public House - 14/00473/TABLE

Licensing

I wish to object to the setting out of tables and chairs on the George Street frontage. This is an important pedestrian route and is narrow at this point, unlike the wide paved area further east towards Edgar and Princes Buildings. Tables and chairs inevitably creep when in use. Pedestrian flows in the city centre are increasing, and it is essential to protect its walkability.

Mr Thomas's establishment is an attractive one, which I enjoy visiting from time to time. I do not think it needs tables and chairs on this frontage to sustain its success.

(Cllr) BRIAN WEBBER
Abbey Ward

27 February 2014

OBJECTIONS

From: Lawrence Jones

Sent: 23 February 2014 19:28

To: Licensing

Subject: Tables and chairs at the Porter 14/00473/TABLE

Dear Sir

May I please endorse all the comments of Robin Davies in his EMail to you of 20 February objecting to this application I need not repeat all he says However I would add the following

It is not unreasonable for the restaurant premises in George St going east from Savills to have outside tables and chairs as the pavement there is considerably wider than that outside the Porter They do not in any way impede the pedestrian flow and in fact add to the attraction of this area

The Porter already have some 10 tables alongside their premises in Miles Buildings where again the pavement is considerable wider than that on George Street These tables never seem to be fully used

The suggestion of further tables in George Street would be a very major obstruction to the pedestrian flow

Robin Davies also refers to the entrance which has been created to the Porter basement 'night club' advertising drinks and music This entrance is immediately on George Street which is a very busy traffic street and is indeed creating a major accident risk as people leave the basement bar or mill around awaiting to enter Frankly I am quite amazed this entrance was ever agreed by the authorities

I fully accept that the new Porter restaurant has created an entirely different clientele to the old Porter public house but it was my understanding that the application to create this restaurant made no reference to a basement night time night club and it was the very core of the application that the NEW Porter would attract a different clientele who would be more suited to the residential area in Miles Buildings and the Circus The new night club is in direct conflict with this rationale and returns to the conflicts which previously existed and continue with the Moles late night disco It is sad the proprietors of the Porter have breached the confidence they claimed to seek from the adjoining residents

I hope that these comments alongside those of Robin Davies will be fully taken into consideration

Lawrence Jones

20 Gay Street

BATH BA1 2PD

OBJECTIONS

From: gillian ryan
Sent: 10 March 2014 19:35
To: Licensing
Subject: The Porter Public House - 14/00473/Table

Dear Sirs -

Re: The Porter Public House – license 14/00473/Tables

I live at No 7 Miles's Buildings near The Porter and take issue about the licensing for tables outside - currently only in Miles's Buildings and supposedly from 10 to 23 hours, although usually laid out several hours before and after. Their application for more tables around on the George Street side we all oppose for the following reasons:

- * This is a major passage way along George Street and any tables would inhibit those passing by;
- * With the Porter's 'Night Club' below on George Street itself there is frequent disruption, both up and down the stairway, with apparently no control of the those piling in and out, adding to the absurdity of having tables there as well.
- * As my house had a buyer recently, they withdrew their offer (confirmed by Hamptons) because of the noise and confusion erupting from the Porter's 'Night Club' on George Street. The addition of tables would merely aggravate this situation.

All of us in Miles's Buildings sincerely hope that this permission is not granted.

Yours sincerely
Gillian Kersley Ryan

OBJECTIONS

Reference: 14/00473/TABLE

Applicant Name:	Mr Giles Thomas
Type of Application:	Renewal of Tables and Chairs
Trading As:	Porter Public House
Address:	2 Miles's Buildings, Bath, BA1 2QS

We are objecting to the above application on behalf of both the Abbey (TARA) and Circus Area Residents' Associations (CARA).

The basis of our objection is both the risk of public nuisance and the risk to public safety.

Our objections are as follow:

Proposed hours:

The premises are located very close to a number of noise sensitive residential premises and the applicant has a poor track record on clearing tables and chairs away by the time designated in their license. We would therefore suggest an end time of 22:00.

Tables on George Street:

The usable pavement in front of these premises on George Street is extremely narrow and subject to high levels of pedestrian traffic both during the day, at night and into the early hours of the morning. The two large A board which the premises currently put in this area, we believe in breach of the council A-board policy, already cause problems at times of peak use. Tables and chairs would cause considerably more problems particularly for wheel chair and mobility scooter users.

Basement Planters:

It is a matter of considerable concern to us that these premises have decided to use the basement door a principal entry and exit point. We have observed large groups of often inebriated and distracted customers using this entrance and crowding on to the tiny area of pavement between it and the stairs from the upper pavement and the waste bins which the neighbouring premises store on the lower pavement. Crowd jostling and ill considered decisions to cross George Street often causes people to step off this small pavement area and into the road. This road is one of the major routes through Bath and is often used by emergency service vehicles travelling at high speed, traffic is often accelerating away from the blind bend junction with Gay Street and the stairs obstruct their view of people on the small area of pavement. We therefore view the suggestion that this small area should be further reduced by the addition of quite unnecessary planters as a significant issue of public safety.

In addition to the above we are advised by the Highway Authority that the lower pavement is subject section S142 of the Highways Act which makes them the licencing authority for the placing of shrubs and trees.

Ian Perkins Chairman TARA and Sally Rothwell Chairman CARA

Contact details: 11 Pierrepont Street, Bath, BA1 1LA