

# Bath & North East Somerset Council

MEETING: **Licensing Sub Committee**

DATE: **Tuesday 7<sup>th</sup> January 2014**

AGENDA  
ITEM  
NUMBER

TITLE: **Application for permission to provide facilities on the highway for recreation/refreshment at The Nest 7 Bladud Buildings Bath BA1 5LS**

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  
Annex F Supporting statement from applicant

## 1 THE ISSUE

- 1.1 An application has been received for permission to provide facilities on the highway in respect of The Nest 7 Bladud Buildings Bath BA1 5LS.

## 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 Nest 7 Bladud Buildings Bath BA1 5LS (Annex A).
- 5.2 The application is for permission to place 2 tables on the highway outside the premises, along with appropriate seating (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 3m 67cm x 1m 50cm.  
The times applied for are:  
  
Every Day from 11:00 to 22:00 hours
- 5.5 A notice was placed on the highway on 22 October 2013 (Annex D). The application was also placed on the Council's website.
- 5.6 Objections have been received from the Vineyards Residents' Association and a local resident. The grounds for objection allege that public nuisance, in particular noise issues will occur.  
  
(Copies attached at Annex E).
- 5.7 A supporting statement has been received from the applicant; this can be found in Annex F.

## **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 SORT

- 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.

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

## APPLICATION

**Bath & North East  
Somerset Council**

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

**PERMISSION TO PLACE AMENITIES ON THE HIGHWAY**

BAROQUE NIGHTCLUB 7 BLADUD BUILDINGS BATH BA1 5LS

I/We RODERICK JOHNSON

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**

- I/We enclose the fee as follows:

Application fee		£246.00
▪ Number of tables	<u>2</u> @ £66 per table	<u>£132.00</u>
▪ Number of other items (e.g. planters, boundary markers)	_____ @ £33 per item	_____
OR IF NO TABLES USED		
▪ Number of chairs, parasols, etc.)	_____ @ £33 per item	_____

**Total enclosed**

£378.00

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

Signed by the applicant(s)

\_\_\_\_\_

Dated 22/10/13

Dated ENVIRONMENTAL SERVICES

Please return the completed application to:

Licensing Services, Lewis House, Manvers Street, Bath BA1 1JG

22 OCT 2013

Post Log No: \_\_\_\_\_  
Receipt No: 40910  
CH/CA e... 378.00 13/10/2013/TABLE

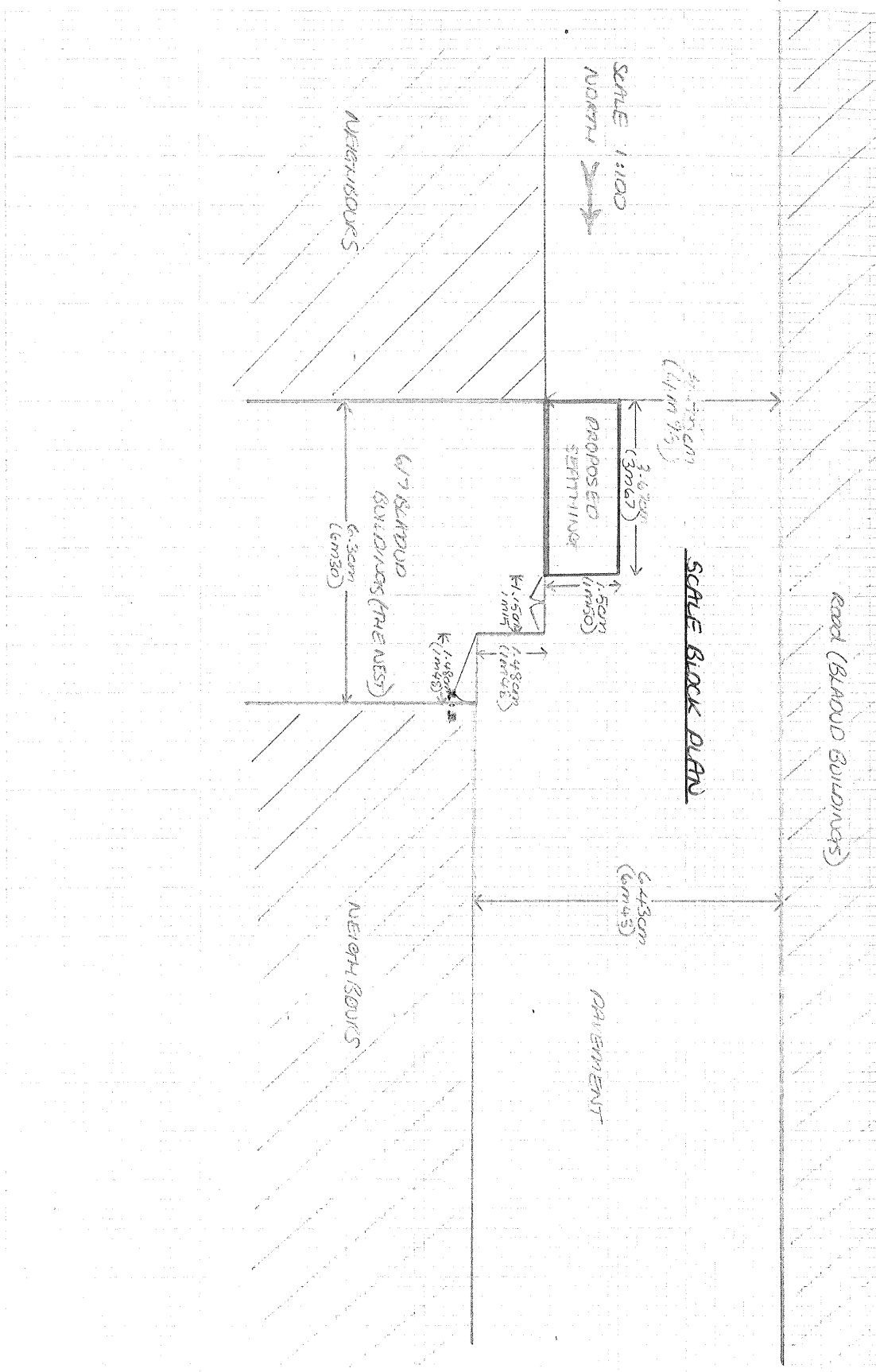
## APPLICATION

**Bath & North East  
Somerset Council**

Local Government (Miscellaneous Provisions) Act 1982  
Part VIIA Highways Act 1980  
Permission to Place Amenities on the Highway at Baroque Nightclub  
7 Bladud Buildings Bath BA1 5LS

1	Full name and address of each applicant	RODERICK JOHNSON 18 KELSTON BATH BA1 9AG
2	Contact telephone number	0788 4077334
3	The date or dates, or the period of time for which the permit is required (maximum one year)	From: 1/11/13. To: 31/03/14
4	Number of tables Number of barriers/planters	2
5	Size/Dimensions of area	3m 67c x 1m50cm
6	The Council must notify any "affected frontages" of this application. Please provide details of the adjoining premises.	6 Bladud Blds - 8 Bladud Blds - Vacant shop
7	Days of the week and hours of operation on those days	7 Days a week <del>###</del> From 11am to 10pm
8	Specific part of the premises proposed to be used	FRONT
9	Alcohol permitted	YES
10	If yes, please state your premises licence number	13/00801/LAPRE

APPLICATION



APPLICATION



2 x Tables — 600mm Diameter  
8 x Chairs

APPLICATION





SITE PLAN

**The Nest, 7 Bladud Buildings, Bath**

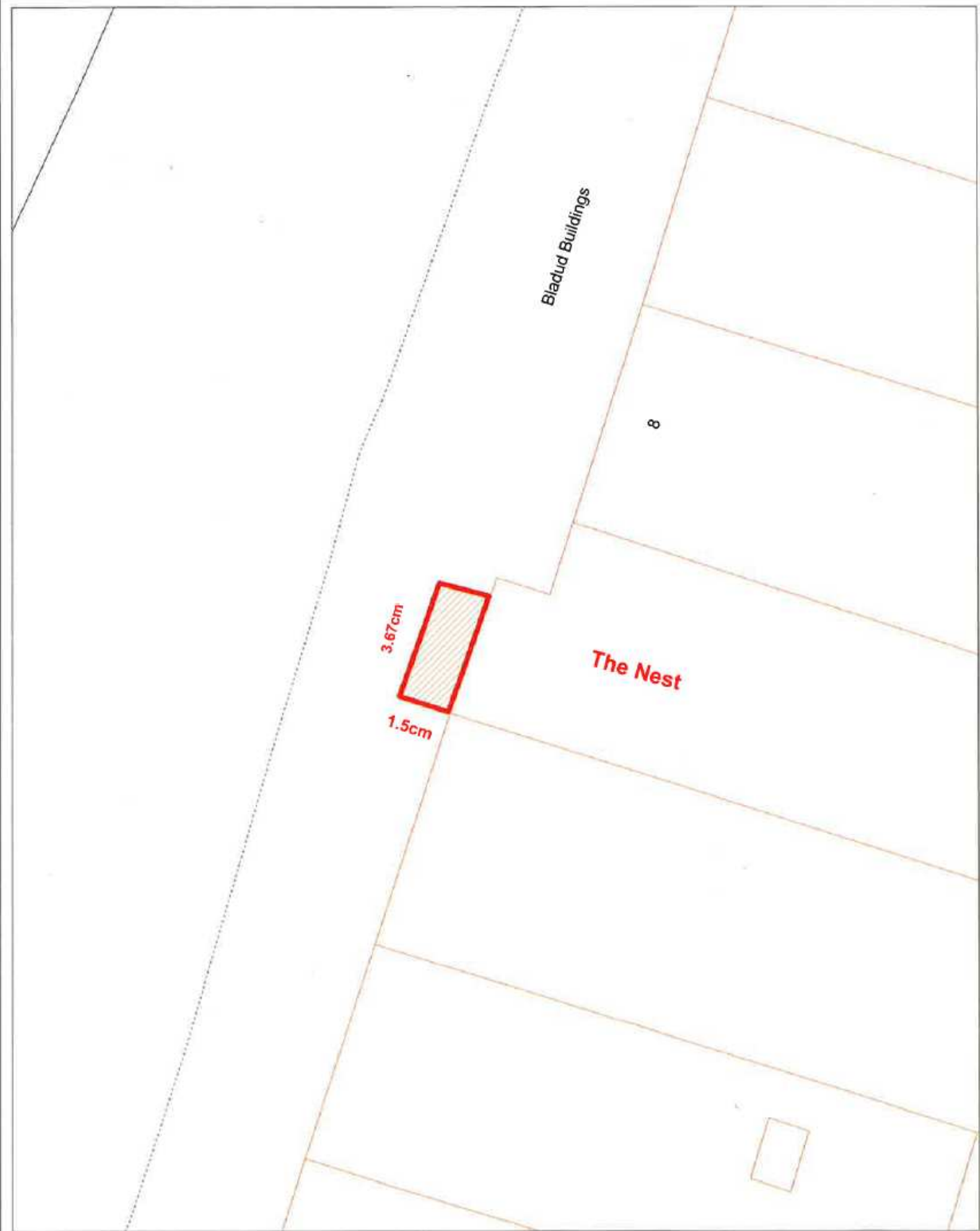
Amenities on the Highway



Bath & North East Somerset Council  
Lewis House  
Manvers Street  
Bath  
BA1 1JG

Compiled by Kirsty Morgan on 9 December 2013

Scale 1:2500



**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 Office of the Head of Environmental and Consumer Services 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 Head of Environmental and Consumer Services, or the Head of Engineering Services for the time being of the Bath & North East Somerset Council.
- 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, except 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 Council's Head of Environmental and Consumer Services, notices in the form approved by him concerning the provisions of the Byelaw made by the Bath City Council on 30<sup>th</sup> 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**

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**THE NEST 7 BLADUD BUILDINGS BATH BA1 5LS**

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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 2014**

and at the following times:

**Every Day 11:00 - 22:00 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 22 October 2013



Andrew Jones  
Environmental Monitoring and Licensing Manager

Licensing Services  
Bath and North East Somerset Council  
Lewis House  
Manvers Street  
Bath BA1 1JG

**OBJECTIONS**

**From:** Patrick Rotheram [<mailto:vineyards@btinternet.com>]  
**Sent:** 19 November 2013 14:27  
**To:** Licensing  
**Subject:** Licensing Application Reference: 13/02059/TABLE

The Vineyards Residents' Association objects to this application on the grounds of the detriment to residential amenity.

This club is surrounded by residential houses. Residents at the south end of Vineyards already suffer noise and disturbance from people using the club. People mill around noisily outside late at night. Having a table outside would encourage more people to remain outside in daytime and evenings and create additional disturbance to residents.

Yours sincerely  
Patrick Rotheram  
Chairman, Vineyards Residents' Association

## OBJECTIONS

**From:** Paul Golden  
**Sent:** 19 November 2013 14:34  
**To:** Licensing  
**Subject:** Application reference: 13/02059/TABLE  
**Importance:** High

Dear Ms Stokes

I wish to object to the application by Mr Roderick Johnson t/a The Nest at 7 Bladud Buildings, Bath, BA1 5LS to locate two tables plus chairs at the front of the premises from 11am-10pm every day - application reference: 13/02059/TABLE

Since these premises opened there has been an increase in anti-social behaviour on The Paragon/The Vineyards, including urine/vomit on the street, glasses being left on walls, steps and railings (often broken) and higher noise levels, especially later at night. The Nest has already appropriated part of the pavement for its use by roping it off for customers to use as a smoking area. This has led to continuous, high levels of noise in the street between 10pm and 3am. During the summer, customers were allowed to drink outside in this area and the doors were left open, further raising noise levels.

The noise generated by customers of The Nest is exacerbated by people gathering outside at closing time waiting for taxis. No attempt is made to disperse these groups or to minimise the noise they make and this has already been the location of one serious assault as reported in the Bath Chronicle on 25 October - see <http://www.bathchronicle.co.uk/Man-suffers-broken-jaw-attack-outside-Nest/st>

In my opinion the staff and management of The Nest have made no effort to minimise the disturbance caused by its clientele and I am concerned that if customers are further encouraged to drink outside, life for residents will become miserable all day. The Paragon/The Vineyards is a residential area with a considerable number of young families living on either side of the road. Placing tables outside these premises at night will merely further increase already excessive levels of noise and general anti-social behaviour.

Should you wish to discuss any aspects of this objection in more detail, please don't hesitate to contact me.

Kind regards

Paul

Paul Golden  
8 Vineyards  
Bath  
BA1 5NA  
[paulfgolden@gmail.com](mailto:paulfgolden@gmail.com)

**SUPPORTING STATEMENT BY APPLICANT**

Dear Sirs

**Application Reference: 13/02059/TABLE**

Regarding the objections to our application for two tables and eight chairs to be situated at the front of our premises from 11:00hrs to 22:00hrs by The Vineyards Association. We are a bar that is at the end of a row of shops including a restaurant, hairdressers and book shop with two estate agents opposite so we would see ourselves as part of the shopping, cafe and bar area at the end of George Street and therefore would hope to enjoy the same rights as Jika Jika, Adventure Cafe and Revolutions Bar all of which have tables and chairs at the front of their premises and all of which are no more than thirty yards from The Nest.

We are wanting to attract customers to our bar earlier in the day especially in the summer months as we get the sun on our building all afternoon and evening. In the immediate future we will be getting a coffee machine installed so people can enjoy hot drinks as well as cold ones. We will then look to open at 13:00hrs on Saturdays with a view to doing food in the future.

As you may already know the pavement at the front is very wide and will easily accommodate passing footfall and our tables and chairs.

At 22:00hrs the tables and chairs will be taken in by the staff, the area swept and all drinks prohibited from being taken outside thereafter.

If you are concerned about this still I would be happy to have the license granted till 20:00hrs with a view to extending it to 22:00hrs in the future if the various parties are happy with it.

I hope our application is to your satisfaction.

Kind Regards

Roderick Johnson