

Minutes of the Licensing Sub-Committee**23 July 2020****-: Present :-**

Councillors Ellery, Foster and Kennedy

33. Election of Chairman/woman

Councillor Ellery was elected as Chairman for the meeting.

34. Hennessey Cocktails, 2 King Street, Brixham

Members considered a report on an application for a Variation to a Premises Licence in respect of Hennessey Cocktails, 2 King Street, Brixham.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation objecting to the application on the grounds of 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance'.	30 June 2020
Public Protection	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	29 June 2020
11 Members of the Public	11 representations from members of the public objecting to the application on the grounds of 'The Prevention of Crime and Disorder', 'The Prevention of Public Nuisance' and 'The Protection of Children from Harm'.	Various

Additional Information:

With the agreement of the Chairman the time permitted for oral representations was extended to 20 minutes.

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined his application and responded to

	questions from Members.
Police	The Police outlined their representation.
Public Protection Officer	The Public Protection Officer outlined their representation and responded to Members questions.
Member of the Public	A member of the public outlined their representation and responded to Members questions.
Member of the Public	A member of the public who was registered to address the Committee lost connection to the virtual meeting, despite efforts to reconnect him, the member of the public was unable to do so. The Sub-Committee proceeded in the absence of the member of the public and took into account his written representation and hearing summary.

Decision

That the application for a Variation to a Premises Licence in respect of Hennessey Cocktails, 2 King Street, Brixham be granted as follows:

- i) The Premises Licence shall be permitted to sell alcohol from 9 am until midnight, seven days a week.
- ii) Off-sales shall be permitted from 9 am to 8 pm, seven days a week.
- iii) When off-sales are purchased from the premises, staff shall advise customers that the alcohol should not be consumed within the Public Space Protection Order area and refer them to the Public Space Protection Order map.
- iv) A map of the Public Space Protection Order area will be displayed in a prominent position close to the point of sale and the premises exits.

All other aspects of the application are refused.

Reasons for Decision

Having carefully considered all the written and oral Representations, Members resolved to grant the application before them in part, having been satisfied that to grant the application in full, would undermine one or more of the Licensing Objectives.

In coming to that decision, Members noted the concerns of the Responsible Authorities and Interested Parties in respect of the Licensing Objective 'The Prevention of Public Nuisance' and resolved to refuse the application in respect of the elements of the application that sought to extend licensable activities beyond the terminal hours contained within the existing Licence.

Members were of the view that the application lacked sufficient detail and consideration to Torbay Council's Licensing Statement of Principles 2016-2021; and how the Applicant would mitigate the impact of having a later licence on residents living and commercial guests staying in premises which are in close proximity to his premises.

The measures put forward by the Applicant, were in Members opinion insufficient and unworkable, given the historical complaints, the loose arrangement with a taxi operator and the use of an SIA door steward which, in Members opinion, would undermine other measures put forward by the Applicant to mitigate impact.

Members also noted the inherent weakness in the structure of the building and its ability to attenuate noise, the potential noise issues given the location of the premises and despite having been provided with advice from the Responsible Authorities, it was a concern to Members that the Applicant had not at least commissioned a noise assessment or submitted a noise management plan. Instead, informing Members that he would put in place measures should the application be granted but had not been set out in the application; and any measures that Members felt appropriate. This demonstrated to Members that the Applicant was a reactive rather than proactive licensee, concurring with the Responsible Authorities view that the Applicant presents problems with the expectation that somebody else would provide the solution.

Members were made aware of a history of noise complaints and accepted that the premises have been shut for most of 2020, in part due to Covid-19 but were further concerned that the Applicant could not demonstrate recent appropriate management of the premises, especially given the Applicant's admission that he had historically failed to promote the Licensing Objectives by not operating within the terms of his current authorisation and that in March 2019, following continued concerns in respect of noise complaints, the Applicant was notified by the Police that his premises licence could be subject to a Review.

As such, Members could not be satisfied on all the evidence before them that the Applicant could operate a later licence, without undermining one or more of the Licensing Objectives.

However, Members were minded to grant the application in respect of earlier opening times, given the absence of evidence or concerns by the Responsible Authorities to suggest that the premises opening an hour earlier would undermine the Licensing Objectives.

In respect of off-sales, Members resolved to cease the sale of off-sales at 8 pm. Noting that the premises were located within an area covered by a Public Space Protection Order and not being satisfied that if the premises were at capacity of 150 patrons after 8pm, that staff or the management had the ability to ensure that they were complying with measures put in place to uphold the requirements of the Public Space Protection Order and the Licensing Objectives.

Should issues arise as a result of granting this application, Members noted that a Review of the premises licence was available.