

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – Full Review, following an application made under section 53A for a Summary (Expedited) Review of a Premises Licence for The Sporty's, 80 Belgrave Road, Torquay, TQ2 5HZ

Wards Affected: **Tormohun**

To: **Licensing Sub Committee** **21st December 2020**

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1. Key points and Summary

- 1.1 To consider and determine an application for a Full Review following the determination of a Summary (Expedited) Review in respect of the premises detailed above.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 An application for a Summary (Expedited) Review of a Premises Licence was submitted by the Police on 1st December 2020, as they were satisfied that the premises is associated with serious crime and/or disorder.
- 1.4 In accordance with Regulations, Interim Steps were considered, within the required timeframe of 48 hours following receipt of the application. This was done at a meeting of the licensing subcommittee, with the Licence Holder and the Applicant both present.
- 1.5 The Licensing Authority is now required by virtue of section 53A (2) (b) Licensing Act 2003 (the Act), to consider the application at a Full Review hearing within 28 days following the day upon which the application was received.
- 1.6 The Sub-Committee is required to consider:
 - a) What steps, if any, it considers appropriate for the promotion of the licensing objectives
 - b) Determine whether the Interim Step should cease to have effect or become the subject of any steps which it considers appropriate when making determination on the Review.

1.7 The options available to the Licensing Authority are:

- a) the modification of conditions of the Premises Licence;
- b) the exclusion of a licensable activity from the scope of the licence;
- c) the removal of the Designated Premises Supervisor from the Licence;
- d) the suspension of the licence for a period not exceeding 3 months;
- e) the revocation of the licence;
- f) to do nothing.

Modification of the conditions of the Premises Licence can include the alteration or modification of existing or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

If the licence is subject to sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) they remain.

2.0 Application

2.1 Following the application by the Chief Superintendent on behalf of the Chief Officer of Devon and Cornwall Police for the Torbay area, Members of the Licensing Sub-Committee considered and determined on 3rd December 2020, whether Interim Steps were appropriate as required by virtue of regulations to the Licensing Act 2003. Members' at that time determined to suspend the premises licence with immediate effect pending the outcome of the full review hearing.

2.2 The full details of the grounds for the Expedited (Summary) Review are shown in the application from the Police which is attached as **Appendix 1**. This also contains the Certificate as required under section 53A Licensing Act 2003 and outlines the reasons that the Police believe that the application met the test of serious crime, serious disorder or both.

2.3 The current Premises Licence is attached for information at **Appendix 2**.

2.4 The Licensing Authority is satisfied that the application has been submitted at the appropriate level of authorisation, as required by law i.e. Superintendent level or above. Advertisement of the application has been conducted in accordance with Regulations.

2.5 Since interim steps were considered on 3rd December 2020, additional written information has been received from the Police. This takes the form of a chronology of the history of interaction with Mr Lang, as the premises licence holder (attached at **Appendix 3**), a witness statement to accompany the chronology, written by the Police Licensing Officer, Julie Smart, following an incident in 2013 (attached at **Appendix 4**) and Witness statements written following recent visits to The Sporty's from PC Abercrombie and PC Thomas (attached at **Appendix 5** and **Appendix 6** respectively).

There have been no Representations received from any other Responsible Authority or any Interested Party at this time, however, given the restrictive statutory timeframes when dealing with an Expedited (Summary) Review

application, it has been necessary to publish this report prior to the close of the window for receipt of representations. In view of this, there is a possibility that one or more representations could be received within the permitted timeframe, which if so, will be published and circulated separately as an addendum to this report.

- 2.6 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.7 Once the matter is determined, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
- (a) the Applicant for the Summary Review,
 - (b) the holder of the Premises Licence, or
 - (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have effect until the Appeal is either determined or withdrawn. However, interim steps as taken on 3rd December 2020, will remain until such time as the appeal period has passed, or if an appeal is lodged, until that appeal is dispensed with.

- 2.8 Following such Appeal, the Magistrates' Court may:-
- (a) dismiss the Appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court, and may make such an order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1	Application for Summary (Expedited) Review
Appendix 2	A copy of the Premise Licence
Appendix 3	Additional information submitted by the Police
Appendix 4	Statement from J Smart
Appendix 5	Statement from PC Abercrombie
Appendix 6	Statement from PC Thomas

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016-2021