

TORBAY COUNCIL

Public Agenda Item: **Yes**

Title: **Chubbs, 5 Babbacombe Road, Torquay, TQ1 3SB**

Wards Affected: **St Marychurch**

To: **Licensing Sub Committee** **18 May 2023**

Contact Officer: **Carrie Cottell**

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1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence, in respect of the Premise detailed above.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives the “Prevention of Crime and Disorder”, “Public Safety” and the “Prevention of Public Nuisance”.
- 1.4 The matter must be considered on its merits, having received details of the issues arising either at a hearing or by written Representation. A decision must be made, having considered the Representations, either:-
 - (a) to grant the licence subject to
 - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the Premises Supervisor;
 - (d) to reject the application.
- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

2. Application

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:-

The Supply of Alcohol for consumption both on and off the premises from 09:00 until 23:00 Monday to Sunday and from the end of permitted hours on New Year's Eve to 01:00 on the following day.

Premises opening hours from 07:00 until 23:30 Monday to Sunday and from the end of permitted hours on New Year's Eve to 01:00 on the following day.

The Applicant has given the following description of the premises: -

"The premises has indoor seating for approximately 14 people. There is a service counter with a kitchen and toilet at the rear of the premises. I wish to run a mediterranean style premises where people can come to eat and drink along with the ability to purchase food and wine to take away such as charcuterie and cheese along with the sale of alcohol for consumption on and off the premises. I intend to apply for a Pavement Café Permit to allow seating outside at the front of the premises. I plan promoting quality products at reasonable prices with sustainability in mind."

The plan accompanying the application is shown in Appendix 2.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as a relevant Representation has been received. The Licensing Authority is also satisfied that the Representation has been received within the appropriate time scale and has not been subsequently withdrawn.

We have received 8 Representations from Interested Parties, in relation to the Licensing Objectives, the "Prevention of Crime & Disorder", the "Prevention of Public Nuisance" and "Public Safety". These are shown in Appendix 3.

There have been no other Representations received from any other Interested Party or any Responsible Authority, other than that mentioned above.

- 2.3 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to the Applicant.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-

- (a) The holder of the licence against any decision
 - (i) to impose conditions on the licence, or
 - (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.

- (b) Any person who made a relevant Representation who desires to contend
 - (i) that the licence ought not to have been granted, or
 - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.

2.7 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 order as to costs as it thinks fit.

Rachael Hind
Regulatory Services Manager

Appendices

- Appendix 1 Relevant sections of the application form
- Appendix 2 Plan of the Premises
- Appendix 3 Representations from 8 Interested Parties

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2021-26