



Minutes of the Licensing Sub-Committee

23 April 2015

-: Present :-

Councillors Addis and Brooksbank

(Also in attendance: Councillors Amil and Pountney)

49. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

50. Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG

Members considered a report on an application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG.

The Premises do fall not within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation in relation to Licensing Objectives 'The Prevention of Crime and Disorder,' 'The Prevention of Public Nuisance' and 'Public Safety.'	1 April 2015
Interested Parties	8 Representations with 10 signatures in relation to Licensing Objectives 'The Prevention of Crime and Disorder,' 'The Prevention of Public Nuisance' and 'Public Safety.' One Representation was on behalf of the areas Community Partnership.	Various dates

Members noted that there had been no additional Representations received from any other Responsible Authority.

Oral Representation received from:

Name	Details
The Applicant's Legal Representative	The Applicant's Legal Representative outlined the application, as set out in the submitted documents and responded to Members questions.
Police	The Police outlined their objection, as set out in the submitted documents, outlined proposed conditions and responded to Members questions.
Interested Parties	The Interested Parties who had returned their Notices to attend, outlined their objections, as set out in the submitted documents and responded to Members questions.

Members noted that notices from Interested Parties had been received confirming they were attending, but were advised that one Interested Party had not arrived prior to the start of the hearing but was aware that the Committee was taking place. It was agreed that the Committee would be heard in their absence.

Additional Information:

Members of the Sub-Committee formed for today's hearing are the same three Members who sat on the Licensing Sub-Committee hearing on the 14 August 2014.

The Committee noted that a previous application for a Variation to the Premise Licence had been heard in August 2014 where a number of conditions had been imposed and the sale of alcohol was limited from 8am - midnight. The Committee's Senior Solicitor reminded Members that whilst there had been a previous application, each application must be considered on its own merits having regard to the written and oral Representations submitted or heard during this hearing.

Members noted that the Police had proposed 2 conditions, as per Appendix 3 of the submitted report. The Police Licensing Officer confirmed that these conditions had been agreed with the Applicant's Solicitor and an email confirming this agreement is set out at Appendix 5 of the submitted report.

Decision:

That the application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG be granted as applied for, subject to the conditions proposed by the Police and agreed by the Applicant and an additional condition which shall read:

The premises CCTV system will incorporate a camera covering the premises forecourt and the serving hatch at the front of the premises.

Reason for Decision:

Having carefully considered all the written and oral Representations, Members resolved to grant the application having been satisfied that there was insufficient evidence before them to refuse the application. As such, it is their opinion that the decision with the additional conditions is appropriate for the promotion of the licensing objectives and proportionate to what is intended to be achieved, when weighing up the risks and benefits of this application on all parties.

Whilst Members were mindful that each application is decided on its own merits, it did when coming to its decision carefully consider what was said at this hearing in respect of the Applicant's previous application for the same premises in August 2014, as each party present had made considerable submissions on this point. In doing so, Members resolved that the compelling oral evidence before them in August 2014 which demonstrated that a number of licensing objectives were and would be undermined was not before them today. Instead they heard that which Interested Parties feared would happen but there was no evidence to support that this had or was likely to happen and that incidents referred to, could not be directly attributable to this premises.

In weighing up these concerns and fears, Members noted both the oral and detailed written Representations of the Police and formed the view that as they were the main source of advice relating to matters of the crime and disorder licensing objective, as per the Guidance issued under Section 182 of the Licensing Act 2003 and that they had no objection to the grant of this application, if their two proposed and agreed conditions were inserted in to the Licence, then it would be unfounded of them to refuse the application where there is no actual evidence to demonstrate that this objective would be undermined.

In addition Members noted the absence of any Representation from Public Protection, despite clear guidance being given to the Interested Parties present at the conclusion of the 2014 hearing, most of who have made a further Representation for this application, to report their concerns about the premises to the Responsible Authorities. In noting this, Members drew an inference that they had no concerns in respect of this application. The essence of this inference is that in their knowledge as experienced Licensing Sub-Committee Members, Public Protection more often than not made Representations on licensing application, especially where they have concerns.

Members were initially concerned that there had not been a long enough period since the previous application to demonstrate that the licensing objectives would not be undermined. However, given the absence of any reported incidents during this time, the concerns raised not being directly attributable to this premises, the Representations of the Police and the absence of a Representation from Public Protection, Members granted the licence as they did, having been assured by the submissions of the Applicant's Legal Representative that his client had extensive experience and a significant number of similar premises licences which had never been subject to a Review.

Whilst not forming part of the Sub-Committee's decision, Members welcomed the offer of the Applicant's Legal Representative that his client would meet with the Police on a periodic basis to review any incidents that may arise as a direct result of this grant. This will ensure that matters are dealt with immediately and future reoccurrence is prevented, where possible. In addition members welcomed the Applicant's offer of regular litter collections in the immediate vicinity of the premises to alleviate the concerns of the Interested Parties that discarded packaging of items that may have been purchased from their premises is entering nearby gardens.

In concluding, Members noted that should future issues arise as a result of this grant; a Review of the premises licence is available to both Interested Parties and Responsible Authorities.

Chairman/woman