



Briefing Report  
No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Park Lane, 1 Torwood Street, Torquay, TQ1 1ED

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee**

On: **17<sup>th</sup> September 2015**

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## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Variation to a Premises Licence. The Premises is situated within the Cumulative Impact Area.
- 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”, “The Prevention of Public Nuisance” and “Public Safety”.
- 1.4 The matter must be considered on its own merits having received details of the issues arising either at a hearing or by written Representations if all parties have agreed that a hearing is not necessary. Having regard to the Representations and issues arising, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are either:-
  - (a) to modify the conditions of the licence, or
  - (b) reject the application in whole or in part.

For this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

## 2. Introduction

- 2.1 An application has been made under Section 34 of the Act for a Variation to a

Premises Licence. Details of the application are shown in Appendix 1. Only the relevant pages of the application are shown.

A brief description of the proposed Variation is as follows:-

Removal of a number of redundant or duplicated licensing conditions under Annex, 2 and 3, as outlined in Appendix 1 of the report.

A further 21 existing conditions amended, as outlined in Appendix 1 of the report.

4 New conditions proposed, as outlined in Appendix 1 of the report.

To reduce the sale of alcohol on and off the premises from 03:30am to 03:00am on a Saturday.

The licence presently allows the Sale of Alcohol on and off the Premises Monday to Friday between 10:00am and 3:00am, Sundays between 10:00am and 3:00am, Christmas Eve and New Years Eve between 11:00 am and 3:30am and Saturdays from 10:00 am until 03:30 am.

To increase the timings of Playing of Recorded Music on Friday and Saturday from 3.00am until 03:30.

The Licence authorises the Playing of Recorded Music presently from Monday to Sunday between 10:00am and 03:00am, Christmas Eve, New Years Eve 11:00am and 03:30am and Bank Holiday Sundays 10:00am until 02:00am. The licence allows an additional hour for British Summer Time changes.

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report.
- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the variation to the Premises Licence, as relevant Representations have been received from a Responsible Authority and Interested Parties. The Licensing Authority is also satisfied that the Representations were received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received a Representation from the Environmental Protection in support of the application in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown as Appendix 3 of this report.

We have received 1 Representation from a Solicitor acting on behalf of 4 Interested Parties in relation to the Licensing Objectives "The Prevention on of Crime and Disorder", "The Prevention of Public Nuisance" and "Public Safety". These are shown as Appendix 4 of this report.

There have been no Representations received from any other Responsible Authority or any other Interested Party.

- 2.4 The Authority is required to conduct a hearing by the provisions of Section 35(3)

unless all parties agree that this is not necessary.

- 2.5 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.
- 2.6 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.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
  - (a) The applicant for the variation of the licence against any decision to modify the conditions
  - (b) Any person who made a relevant representation in relation to the application who desires to contend
    - (i) that any variation made ought not to have been made, or
    - (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.
- 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 order as to costs as it thinks fit.

**Frances Hughes**  
**Executive Head Community Safety**

### **Appendices**

Appendix 1	Relevant sections of the application form.
Appendix 2	Copy of the current Premises Licence and Plan.
Appendix 3	Representation from Environmental Protection
Appendix 4	Representation from Interested Parties.

### **Documents available in members' rooms**

None

### **Background Papers:**

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

The current Premises Licence for the above Premise.  
Torbay Council Licensing Policy 2011.