

Public Agenda Item: **Yes**

Title: **Gio's Bar, 18 Esplanade Road, Paignton, TQ4 6BD**

Wards Affected: **Roundham-with-Hyde**

To: **Licensing Sub Committee**

2nd November 2017

Contact Officer: **Gary O'Shea**

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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 new Premises Licence.
- 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" 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 if all parties have agreed that a hearing is not necessary. 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 and Interested Parties following the determination of the matter.

2. Introduction

- 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 **Exhibition of Films, Indoor Sporting Events, Performances of Dance** and the **provision of anything of a similar description to Live Music, Recorded Music or Performances of Dance**, indoors, from **10:00 hours until 03:00 hours Daily**.

The provision of **Live Music, Recorded Music** and the **Sale of Alcohol** both indoors and outdoors from **10:00 hours until 03:00 hours Daily**.

A condition to be imposed that **Live Music on the outside Terrace will cease by 22:00 hours daily**.

Late Night Refreshment from 23.00 hours until 03.00 hours, both indoors and outdoors, daily.

To be **open to the public from 07.00 hours until 03.30 hours** daily.

- 2.2 The premises has previously benefitted from a Premises Licence under the name of Murphy's Roadhouse. This application is intended to replace that licence on a like for like basis following the lapse of that licence under provision of section 27 (1) (c) Licensing Act 2003. The full list of conditions pertaining to the original licence have been reproduced under **Appendix 2**, they form part of the application and will therefore be attached to any licence as may be granted by members of the Sub-Committee.

- 2.3 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 Representations have been received. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale, have not been subsequently withdrawn and are not vexatious or frivolous.

Representations have been received from two (2) Responsible Authorities, namely from the Police and the Council's Public Protection Officer in relation to the licensing objectives of "The Prevention of Crime and Disorder" and "Prevention of Public Nuisance". These are attached as **Appendix 3**.

There have also been a total of Eleven (11) representations received from other interested parties, which refer in the main to noise issues, however, also report incidents of potential crime or disorder. These are attached as **Appendix 4**. There have been no additional Representations received from any other Responsible Authority or any other Interested Party.

- 2.4 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.5 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation 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 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.
- 2.8 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 Details of the application.

Appendix 2 Conditions proposed by the applicant

Appendix 2 Representations from the Responsible Authorities.

Appendix 3 Representations from Other Persons

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2016.