

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 Winstons, Station Square, Paignton TQ4 5DS

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

To: **Licensing Sub Committee** **26th April 2018**

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1. Key points and Summary

- 1.1 To consider and determine an application 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 the 29th March 2018, having been satisfied that the premises is associated with serious disorder. The application is attached as Appendix 1. Interim steps were considered on 4th April 2018.
- 1.4 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.
- 1.5 The Sub-Committee is required to consider:
 - a) What steps 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.

1.6 The measures available to the Licensing Authority in addition to taking no action are:

- a) the modification of conditions on the Premises Licence; and/or
- b) the exclusion of the sale of alcohol from the scope of the licence; and/or
- c) the removal of the Designated Premises Supervisor; and/or
- d) suspension of the licence; or
- e) revocation of the licence

1.7 At the hearing on 4th April 2018, Members resolved to suspend the Premises Licence pending the Full Review hearing. The Interim Step will remain in force until the determination of any subsequent appeal, unless lifted at the Full Review hearing.

2.0 Introduction

2.1 Following the application by the 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 4th April 2018, whether interim steps were appropriate as required by virtue of regulations to the Licensing Act 2003 and determined to suspend the Premises Licence until the outcome of a Full Review hearing.

2.3 A brief description of the grounds of the section 53A application is as follows:

At 0044 hrs on the morning of Saturday 10 March 2019 Police received a call from a male (Male 1) who stated that he had been assaulted by the door staff of Winstons (log 43 of 10/03/18 refers). This male stated that the door staff had grabbed him and thrown him out of the premises and in the process they pushed him to the ground causing a head injury.

Upon Police arrival at 0049 hrs the aggrieved was located and it was apparent that he had 2 open wounds to the rear of his head that were bleeding. He stated he could not recall what had happened other than he was hit and fell backwards, hurting his head. He could not remember who had hit him or give a description of that person.

The details in the application from the Police continue to expand on the incident and other relevant information. It concludes with the following paragraph:-

Due to the serious nature of this incident, which could have resulted in serious injury or even a fatality, where the door stewards and DPS showed a total disregard to their duty of care towards their patrons, the police recommend that the licence is suspended with immediate effect in order to ensure the public safety licensing objective is met. This will then allow for the police to meet with the Premise Licence Holder, or his representative, in order to discuss the future management of the premises.

The full details are shown in the application from the Police which is shown as Appendix 1.

- 2.4 The current Premises Licence including hours of operation, permitted activities and current conditions is attached for information at Appendix 2.
- 2.5 The application was properly made and the Licensing Authority is satisfied that it was submitted at the appropriate level of authorisation as required by law i.e. Superintendent level or above. Advertisement of the application was conducted in accordance with Regulations.
- 2.6 There have been no Representations from any Responsible Authority or any Interested Party.
- 2.7 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.
- 2.8 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 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 affect until the Appeal is either determined or withdrawn.

- 2.9 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

Documents available in members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2016.