

Public Agenda Item: **Yes**

Title: **Farmhouse Tavern, 130 Newton Road, Torquay, TQ2 7AD**

Wards Affected: **Shiphay and the Willows**

To: **Licensing Sub-Committee** On: **5 July 2018**

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 Variation to a 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 Objective of "The Prevention of Public Nuisance".
- 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:-
 - (a) to modify the conditions of the licence, or
 - (b) reject the application in whole or in part, or
 - (c) to grant the application as applied for

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:-

To extend the timings of licensable activities by 2 hours at the beginning of permitted hours from the current commencement time of 11am to commence at 9am instead. The standard terminal hour to remain unchanged, for the following: Live Music, Recorded Music and the Sale of Alcohol.

The Opening Hours are presently 11.00am until 12:30am Monday to Sunday. The applicant has requested to extend the opening hour at the beginning of the day by 4 hours to commence at 7am in order to enable the service of breakfast. The terminal closing time of 12:30am to remain unchanged

The applicant has also requested that all conditions as listed on the current licence under Annex 2 and Annex 3 (shown in appendix 2) be removed and replaced with the conditions as shown in section M of the application (shown in appendix 1).

- 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 three (3) members of the public and one (1) Responsible Authority. 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 Public Protection Officer for Torbay Council in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown at **Appendix 3** of this report.

We have received three (3) Representations from members of the public, also in relation to the Licensing Objective "The Prevention of Public Nuisance". 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 Public Protect Officer has been in contact with the representatives for the applicant and has agreed certain matters as attached at **Appendix 5**, which may be included as conditions on any licence that Members may be minded to approve.
- 2.5 The Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.6 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.

- 2.7 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.
- 2.8 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.
- 2.9 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 order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1	Relevant sections of the application form.
Appendix 2	Copy of the current Premises Licence and Plan.
Appendix 3	Representation from Public Protection Officer
Appendix 4	Representation from members of the public
Appendix 5	Agreed position between Public Protection and Applicant

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 2016-2021.