



Briefing Report No: **379/2006**

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence for VIP Restaurant and Cocktail Lounge, 41 Torwood Street, Torquay.

Wards Affected: **Wellswood**

To: **Licensing Sub- Committee**

**14 December 2006**

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## **1. Key points and Summary**

- 1.1 To consider and determine the above application. The premise is situated within the Cumulative Impact Area.
- 1.2 The Sub Committee must consider the effects of the application against the Corporate Priorities of Making Torbay a Safer Place.
- 1.3 As the Licensing Authority has no powers under the Act to raise a representation, Officers are unable to make any recommendation.
- 1.4 The matters raised relate to the Licensing Objective “The Prevention of Public Nuisance”.
- 1.5 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.

- 1.6 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 17 of the Act for a Premises Licence to permit licensable activities at the premises detailed above. Details of the relevant pages of the application are shown in Appendix 1.

To provide Late night refreshment from 2300 until midnight seven days a week. (New Years Eve from 2300 until 0500 the following morning).

To sell alcohol from 1000 until 2400 seven days a week. (From 1000 hours on 31<sup>st</sup> December to 2400 hours on 1<sup>st</sup> January).

To be open to the Public from 1000 until 0030 seven days a week. (From 1000 on 31<sup>st</sup> December to 0030 on 2<sup>nd</sup> January).

- 2.2 The Council as Licensing Authority, is satisfied that the applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence as relevant representations have been received, either from an interested party or a responsible authority. The Authority is also satisfied that such representations have been received within the appropriate time scale, have not been subsequently withdrawn and are not vexatious or frivolous.

Details of representation from Environmental Protection are shown as Appendix 2.

There have been no comments from the other responsible authorities.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 18(3) unless all parties agree that this is not necessary.

- 2.4 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.

- 2.5 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.

- 2.6 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 representations 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.

- 2.7 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**  
**Assistant Director of Environmental Health and Consumer Protection**

### **Appendices**

- Appendix 1            Details of the application  
Appendix 2            Details of Environmental Protection Representations.

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton and Brixham and Torquay, Paignton, Churston and Brixham Libraries. Copies can also be obtained from the Democratic Services Office, Town Hall, Torquay.

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

None

### **Background Papers:**

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

Torbay Council Licensing Policy 2004.