



Briefing Report Public Agenda Item: **Yes**
No:

Title: Licensing Act 2003 – An application for a Variation to a Club Premises Certificate in respect of Brixham Conservative Club, 1 New Road, Brixham TQ5 8LZ

Wards Affected: **Berryhead with Furzeham**

To: **Licensing Sub-Committee** On: **20th December 2012**

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1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above, for a variation to a Club Premises Certificate.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 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 Crime and Disorder”.
- 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. Having regard to the representations, 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.

- 1.6 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 84 of the Act for a Variation to a Club Premises Certificate. 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 increase the hours of the following existing licensable activities to bring them in line and make them more consistent:-

Indoor Sporting Events from 1100 until midnight Monday to Friday and from midday to midnight on Sunday.

The Performance of Live Music from 1100 until midnight Monday to Friday and from midday to midnight on Sunday.

Recorded Music from 1100 until midnight Monday to Friday and from midday to midnight on Sunday.

Anything of a similar description to Performance of Live Music, recorded Music and Performance of Dance from 1100 until midnight Monday to Friday and from midday to midnight on Sunday.

The Provisions of facilities for Making Music from 1100 until midnight Monday to Friday and from midday to midnight on Sunday.

The Provision of Facilities for Dancing from 1100 until midnight Monday to Friday and from midday to midnight on Sunday.

The Provision of Facilities for entertainment similar to Making Music and Dancing from 1100 until midnight Monday to Friday and from midday to midnight on Sunday.

The Supply of Alcohol on and off the premises from 1100 until 0200 from Monday to Saturday and on Sunday from midday until 0200.

Hours of opening from 1030 until 0230 Monday to Saturday and from 1200 until 0230 on Sunday.

The existing Club Premises Certificate has varying hours for each of the above activities, some of which also vary on different days of the week. A copy of the current Club Premises Certificate is shown as Appendix 2.

To add the licensable activity 'Anything of a similar description to Performance of Live music, Playing of Recorded Music and the Performance of Dance' indoors.

To remove the Licensable Activity the 'Performance of Dance' as it is not required.

- 2.2 Torbay Council as Licensing Authority is satisfied that the applicant has met the administrative requirements of Section 85(1) but is unable to issue the amended certificate as a relevant representation has been received from a Responsible Authority. The Authority is also satisfied that the Representation has been received within the appropriate time-scale, has not been subsequently withdrawn and is not vexatious or frivolous.

We have received one Representation from the Police, relating to the Licensing Objective 'The Prevention of Crime and Disorder. This is shown as Appendix 3.

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

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 85(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 10(b) 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.
- 2.7 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
Executive Head Community Safety

Appendices

Appendix 1	Relevant parts of the application form
Appendix 2	Copy of current Certificate
Appendix 3	Representation from the Police

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 2011.