

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Quay Nightclub 26 Victoria Parade, Torquay TQ21 2BD

Wards Affected: **Tormohun**

To: **Licensing Sub Committee**

On: **17 June 2021**

Contact Officer: **Amanda Turner**

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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 Objectives “The Prevention of Crime and Disorder”, “Public Safety” and “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 appropriate 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 Licensing Act 2003 (hereinafter referred to as 'the Act') for a Variation to a Premises Licence. Details of the application are shown in Appendix 1.

A brief description of the proposed Variation is as follows:-

To increase the hours for Live Music indoors by 3 hours every day extending the time from midnight until 03:00. The premises is currently licensed for Live Music indoors from 10:00 until midnight seven days a week.

To increase the hours for Recorded Music indoors by 3 hours every day extending the time from midnight until 03:00. The premises is currently licensed for Recorded Music indoors from 10:00 until midnight seven days a week.

To increase the hours for Performance of Dance indoors by 3 hours every day extending the time from midnight until 03:00. The premises is currently licensed for Performance of Dance indoors from 10:00 until midnight seven days a week.

To increase the hours for anything of a similar description to live music, recorded music or performances of dance indoors by 3 hours every day extending the time from midnight until 03:00. The premises is currently licensed for anything of a similar description to live music, recorded music or performances of dance indoors from 10:00 until midnight seven days a week

To increase the hours for Late Night Refreshment indoors by 3 hours every day extending the time from midnight until 03:00. The premises is currently licensed for Late Night Refreshment indoors from 11pm until midnight seven days a week.

To increase the hours for the Supply of Alcohol, both on and off the premises, by 3 hours every day exceeding the time from midnight until 03:00. The premises is currently licensed for Supply of Alcohol on and off the premises from 10:00 until midnight seven days a week and from noon to midnight on the terraced area only.

The applicant has written the following description of the proposed variation which is shown on page 4 of the application form:-

1. *"Variation to licensing hours to 10:00 to 03:00 daily for the following licensable activities – Live Music, Recorded Music, Performances of Dance, Anything of a similar description to Live Music, Recorded Music of performance of Dance and Supply of Alcohol (all indoors).*
2. *Variation to licensing hours to 23:00 to 03:00 daily for the Late Night refreshment licensable activity.*
3. *Removal of the provision for the Recorded Music licensable activity outdoors.*
4. *Variation of opening hours of premises to 10:00 to 04:00 daily.*
5. *Amendment to Licensed Plan*
6. *Removal of Annex 2 conditions and replacement with new Operating Schedule conditions*

Please note that fire safety equipment is not yet installed and so is not shown on the proposed plans. The applicant is working with Consultancy and Design UK who are advising on all fire safety issues and final fire safety plans will be made available to the fire authority in due course".

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report.

A copy of the premises plan is shown at Appendix 3 of this report.

The exemptions under the Live Music Act 2012 apply to this licence.

- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) of the Act but is unable to issue the Variation to the Premises Licence, as relevant Representations have been received from members of the public and Responsible Authorities. 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 Police in relation to the Licensing Objective “The Prevention Crime and Disorder” and “The Prevention of Public Nuisance”. This is shown as Appendix 4.

We have received a Representation from Public Protection in relation to the Licensing Objective “Public Safety” and “The Prevention of Public Nuisance”. This is shown as Appendix 5.

We have accepted 2 Representations from members of the public who are objecting to this application. The Representations relate to the Licensing Objective “The Prevention of Public Nuisance”. These are shown as Appendix 6.

There have been no Representations received from any other Responsible Authority or any other Interested Party other than those mentioned above.

- 2.4 The Licensing Authority is required to conduct a hearing by the provisions of Section 35(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 Representations 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 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.

- 2.8 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.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1	Application form.
Appendix 2	Copy of the Premises Licence
Appendix 3	Plan of the Premises
Appendix 4	Representation from the Police.
Appendix 5	Representation from Public Protection.
Appendix 6	Representations from members of the public objecting to this application.

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 2021-2026.