

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Brixham Gin Company, The Old Sail Loft, Overgang Road, Brixham, TQ5 8AR

Wards Affected: **St Peter's with St Mary's**

To: **Licensing Sub Committee**

On: **1 July 2021**

Contact Officer: **Steve Cox**

 Telephone: **01803 208093**

 E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine the application for a Variation to a Premises Licence in respect of the Premises named above.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objective: "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 steps are outlined below:
 - (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 is shown at Appendix 1.

A brief description of the proposed Variation is as follows:

- To increase the hours the Premises may supply alcohol from 09:00 to 23:00 Monday to Saturday and from 10:00 to 23:00 on Sunday. The Premises' current supply of alcohol hours are 10:00 to 23:00 daily.
- To increase the hours the Premises is open to the public from 09:00 to 23:30 Monday to Saturday and from 10:00 to 23:30 on Sunday. The Premises' current opening hours are 10:00 to 23:00 daily.
- To extend the area to which the Premises Licence relates.

The Applicant has written the following description of the proposed variation which is shown at page 3 of the application form:

"The proposed variation are:

To extend the area covered by the premises license to include the whole area we rent. The plan attached will show this.

The additional outside area is approximately 6mtrs x 9mtrs and will seat approximately 30 people.

Remove some conditions from the existing licence.

Addition of some new conditions.

Increase in the opening hours".

- 2.2 A copy of the extant 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. The Licensing Authority is also satisfied that the Representations were received within the appropriate timescale, have not been subsequently withdrawn, and are not vexatious or frivolous.

We have accepted 2 Representations from Interested Parties who are objecting to this application. The Representations relate to the Licensing Objective "The Prevention of Public Nuisance". These are shown at Appendix 4.

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

- 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	Plan of the Premises
Appendix 3	Copy of the Premises Licence
Appendix 4	Representations from Interested Parties 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 Premises.
Torbay Council Licensing Policy 2021-2026.