

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Crab and Hammer South Quay Paignton Harbour TQ4 6DU

Wards Affected: **Goodrington with Roselands**

To: **Licensing Sub Committee** **8 July 2021**

Contact Officer: **Amanda Turner**

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## 1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence, in respect of the Premise detailed 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 merits having received details of the issues arising either at a hearing or by written Representation. 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.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

## **2. Application**

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:-

Recorded Music both indoors and outdoors from 08:00 until 23:00 7 days a week.

The Supply of Alcohol on the premises from 11.00 until 23:00 7 days a week.

To be open to the public from 07:00 until 23:30 7 days a week.

The Applicant have given the following description of the premises:-

"The Premises is located on the harbour side.

It will be classed as a crab shack ( Bistro ) which will be providing /serving food and drinks both alcoholic and non-alcoholic.

The premises will consist of a small bar area, kitchen / food preparation areas. It will house approximately 12 tables and appropriate seating. We will also have a small number of tables outside for external seating.

Disabled toilets / Male and female toilets.

They have a rowing club next door, followed by another restaurant and licensed premises."

The plan accompanying the application is shown as Appendix 2.

- 2.2 The Council as the 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. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale and have not been subsequently withdrawn.

We have received 1 Responsible Authority Representation from Torbay Council's Public Protection Officer responsible for public nuisance outlining his objections in relation to "The Prevention of Public Nuisance". This is shown as Appendix 3.

The Applicant has submitted a response with regard to Appendix 3, which is shown as Appendix 5.

We have also received 3 Representations from Interested Parties; namely persons who live or operate a business in the vicinity. These relate to the Licensing Objective "The Prevention of Public Nuisance". A copy of the Representations are attached at Appendix 4.

There have been no Representations received from any other Responsible

Authority or any other Interested Party other than those mentioned above.

- 2.3 The Authority is required to conduct a hearing under 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 Representation 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 Representation 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.

**Steve Cox**  
**Environmental Health Manager (Commercial)**

## **Appendices**

Appendix 1 Relevant sections of the application form

Appendix 2 Plan of the Premises

Appendix 3 Representation from Public Protection Officer responsible for Public Nuisance

Appendix 4 Representations from Interested Parties

Appendix 5 Supporting material from applicant with regard to the representation from Public Protection Officer

**Documents available in Members' rooms**

None

**Background Papers:**

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

Torbay Council Licensing Policy 2021-26