



Briefing Report No: **101/2011**

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Mambo, 7 The Strand, Torquay TQ1 2AA**

Wards Affected: **Tormohun**

To: **Licensing Sub- Committee** On: **19 May 2011**

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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 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. Having regard to the Representation, 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 34 of the Act for a Variation to a Premises Licence. Details of the application are shown in Appendix 1. Only the relevant pages of the application are shown. The plan of the new 3rd floor is shown as Appendix 2

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

To extend the licensed area to permit all existing licensable activities on the current Premises Licence to a 3rd Floor and to provide for an additional Terrace.

There are no changes to the standard days and timings, but amendments have been made to the seasonal and non-standard timings:

An additional hour on the Sunday immediately before Bank Holiday Monday and on the morning British Summer Time begins to allow for clocks going forward at 0100hours.

On St Patrick's Day, St George's Day and St Valentine's Day from 0700 to 0400.

- 2.2 There is a current Premises Licence in place which is shown as Appendix 3.
- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the amended Premises Licence, as relevant Representations have been received from a Responsible Authority and an Interested Party. The Licensing Authority is also satisfied that 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 Public Protection in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown as Appendix 4

The Licensing Authority has also received a Representation from an Interested Party in relation to the Licensing Objective "The Prevention of Public Nuisance". Two other Licensing Objectives were stated within this Representation but due to the concerns raised not being Premises specific, Officer's have concluded to discard them. This is shown as Appendix 5.

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

- 2.4 The 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.

Frances Hughes
Executive Head Community Safety

Appendices

Appendix 1	Relevant parts of the application form
Appendix 2	Plan of the 3 rd Floor of the Premises
Appendix 3	Copy of the current Premises Licence
Appendix 4	Copy of the Representation from Public Protection
Appendix 5	Copy of the Representation from the Interested Party

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 2008 - 2011.