



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Tapas Bar, 11 -13 Abbey Road, Torquay TQ2 5HE**

Wards Affected: **Tormohun**

To: **Licensing Sub- Committee** On: **24 January 2013**

Contact Officer: **Mandy Guy**

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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 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 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.

- 1.5 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 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.

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

To amend the licensed hours for the Sale by Retail of Alcohol from midday until 23.30 from Monday to Saturday. The existing Premises Licence allows for this activity from 10.00 until 23.00 Monday to Saturday and from midday until 22.30 on Sunday. Therefore the Applicant is asking for additional 30 minutes for the Sale of Retail of Alcohol at the end of the evening Monday to Saturday but reducing the hours in the morning by starting 2 hours later. On Sunday there are no changes to the times.

To extend the Opening Times from 08.00 until midnight Monday to Saturday and from 08.00 until 23.00 on Sunday. The Opening Times on the existing Premises Licence are from 10.00 until 23.20 Monday to Saturday and from midday to 22.50 on Sunday. The Applicant is requesting an additional 2 hours and 40 minutes from Monday to Saturday and an additional 4 hours and 10 minutes on Sunday.

To change the plan of the premises to show the new location of the bar.

To remove some out of date and unenforceable conditions from the Licence.

2.2 The current Premises Licence is shown as Appendix 2.

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 variation to the Premises Licence, as relevant Representation has been received from a Responsible Authority. The Licensing Authority is also satisfied that the Representation was received within the appropriate time-scale, has not been subsequently withdrawn and is 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 3.

There have been no other Representations received from any other Responsible Authorities or any 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 sections of the application form
Appendix 2	Copy of the current Premises Licence
Appendix 3	Representation from Public Protection

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 2011.