



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Winstons, Station Square, Paignton TQ4 5DS**

Wards Affected: **Roundham with Hyde**

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

Contact Officer: **Mandy Guy**

☎ Telephone: **01803 208124**

✉ E.mail: **[Licensing@torbay.gov.uk](mailto:Licensing@torbay.gov.uk)**

---

## **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 Protection of Children from Harm”.
- 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 condition 9, Annexe 2, The Prevention of Crime and Disorder from:-  
'There shall be no entry or re-entry after 2am except for those customers who have left to use the designated smoking area and no drinks shall be permitted in that area at any time' to read instead as follows:-

'There shall be no entry or re-entry after 2.00am except for those customers who have left to use the designated smoking area.'

The application form shows two additional conditions proposed by the applicant, to go on the licence. These are shown in section M (b) of the application form, which is shown as Appendix 1 of this report.

A new plan has been provided to enable the smoking area to be included within the licensed area. This is shown at the end of Appendix 1.

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 Representations have been received from 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 Objectives "The Prevention of Crime and Disorder" and "Public Safety". This is shown as Appendix 3.

We have received a Representation from Torbay Safeguarding Children Board in relation to the Licensing Objective "The Protection of Children from Harm". This is shown as Appendix 4.

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

We have received an additional letter from the Applicant's Solicitor with regard to slight amendments to the operating schedule they have submitted in their application. This has been submitted after their discussions with the Police. This is shown as Appendix 5.

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 the Police
Appendix 4	Representation from Torbay safeguarding Children Board
Appendix 5	Additional letter from Applicant's solicitor.

### **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.