

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Franx Lifestyle Café, 343 Torquay Road, Paignton, TQ3 2EP

Wards Affected: **Preston**

To: **Licensing Sub Committee** **10 March 2022**

Contact Officer: **Carrie Cottell**

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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 Objectives the “Prevention of Public Nuisance”, the “Prevention of Crime and Disorder”.
- 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 indoors from 23:00 until 00:00 Friday and Saturday. On New Year's Eve from 23:00 until 01:00 on the following day.

Late Night Refreshment indoors from 23:00 until 00:30 Friday and Saturday.

The Supply of Alcohol for consumption both on and off the premises from 07:00 until 23:00 Sunday to Thursday and from 07:00 until midnight on Friday and Saturday. On New Year's Eve from 07:00 until 02:00 on the following day.

Premises opening hours from 07:00 until 23:30 Sunday to Thursday and from 07:00 until 00:30 on Friday and Saturday. On New Years Eve from 07:00 until 02:30 on the following day.

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

"After extensive development work this application is to allow the sale of Alcohol with Champagne Breakfasts, Lunches, afternoon teas & deliveries with hamper style packages . This includes an external garden/patio area.

This will be a limited range of pre-packaged drinks (eg, Prosecco, Beers, Wines, Mixers). The long hours reflect the need for flexibility and also covers delivery times for Hampers."

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 3 Representations from Interested Parties outlining their objections in relation to the Licensing Objectives the "Prevention of Crime and Disorder" and the "Prevention of Public Nuisance". These are shown as Appendix 3.

We have received 1 Representation from a Responsible Authority. This is from the Torbay Council's Public Protection Officer in relation to the Licensing Objective, the "Prevention of Public Nuisance". This is shown as Appendix 4.

There have been no other 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 Representations from Interested Parties
- Appendix 4 Representation from a Responsible Authority

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2021-26