

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Torquay Thai Restaurant, 171 St Marychurch Road, Torquay, TQ1 3HP

Wards Affected: **Torquay**

To: **Licensing Sub Committee** **31<sup>st</sup> March 2022**

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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” and “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:-

Provision of Films Indoors from 17:00 to 24:00 Monday to Saturday and from 17:00 to 23:00 on Sunday

Provision of Live Music Indoors from 17:00 to 24:00 Monday to Saturday and from 17:00 to 23:00 on Sunday

Provision of Recorded Music Indoors from 08:00 to 11:00 and then from 16:00 to 24:00 Monday to Saturday and from 17:00 to 23:00 on Sunday.

Provision of anything of a similar description to live music, recorded music or performance of dance Indoors from 08:00 to 11:00 then again from 16:00 to 24:00 Monday to Saturday and from 17:00 to 23:00 on Sunday.

The Supply of Alcohol for consumption on the premises from 17:00 to 24:00 Monday to Saturday and from 17:00 to 23:00 on Sunday.

Late Night Refreshment Indoors from 23:00 until 00:00 Monday to Saturday.

Premises opening hours from 08:00 to 11:00 then again from 16:00 to 24:00 Monday to Saturday and from 16:00 to 23:00 on Sunday.

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

“Small Ground Floor Restaurant, serving food and drinks as a table service, with seating at tables for between 25 to 40 persons, situated in a row of shops, takeaways, a public house and other restaurants”.

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 2 Representations from Interested Parties outlining their objections in relation to “The Prevention of Public Nuisance”. These are shown as Appendix 3 and Appendix 4.

There have been no Representations received from any 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 Copy of the application form
- Appendix 2 Plan of the Premises
- Appendix 3 Representation from Interested Party
- Appendix 4 Representation from Interested Party

**Documents available in Members' rooms**

None

**Background Papers:**

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

Torbay Council Licensing Policy 2021-26