

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Mr Favourite, 10 Victoria Street, Paignton, TQ4 5DL

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub Committee** **1st September 2022**

Contact Officer: **Carrie Cottell**
Telephone: **01803 207079**
Email: **licensing@torbay.gov.uk**

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 Crime and Disorder” and the “Prevention of Public Nuisance”.
- 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:-

The provision of Late Night Refreshment indoors from 23:00 until 02:00 Monday to Sunday.

Premises opening hours from 12:00 until 02:00 Monday to Saturday and from 16:00 to 02:00 on Sunday.

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

“Food take-away business. Hot food and soft drinks. No alcohol sold or consumed on the premises. No customer 'eat-in' facilities, take-away only. Basically we just want to close at 02:00 (2am) instead of 23:00 (11pm). The layout of the premises makes the area open to customers approximately a 5ft long x 10ft wide rectangle from the front door to the counter for ordering.”

The plan accompanying the application is shown in 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 a relevant Representation has been received. The Licensing Authority is also satisfied that the Representation has been received within the appropriate time scale and has not been subsequently withdrawn.

We have received 1 Representation from a Responsible Authority. This is from Devon and Cornwall Police, in relation to the Licensing Objectives, the “Prevention of Crime & Disorder” and the “Prevention of Public Nuisance”. This is shown in Appendix 3.

There have been no other Representations received from any other Responsible Authority or any Interested Party, other than that 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 Representation from 1 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