



Briefing Report No: **100/2011**

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Coyote Café Bar, 3-5 Union Street, Torquay**

Wards Affected: **Tormohun**

To: **Licensing Sub- Committee** On: **19 May 2011**

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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. The Premise is situated within the Cumulative Impact Area.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 As the Licensing Authority has no powers under the Act to raise a Representation, Officers are unable to make any recommendation.
- 1.4 The matters raised relate to the Licensing Objective “The Prevention of Public Nuisance”.
- 1.5 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. Having regard to the Representation, 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.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the 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 increase the times for Films, Recorded Music, Performance of Dance, Provision of Facilities for Making Music, Provision of Facilities for Dancing, and the Supply of Alcohol both on and off the Premises. These activities are currently licensed from 1000 until midnight Sunday to Wednesday and from 1000 until 0100 Thursday to Saturday. The Variation requests these hours are extended to allow the activities to be licensed from 1000 until 0300 seven days a week. This is an extra 3 hours Sunday to Wednesday and an extra 2 hours Thursday to Saturday.

To increase the times for Late Night Refreshment from 2300 until 0300 7 days a week. The Premises is currently licensed for this activity from 2300 until midnight Sunday to Wednesday and from 2300 until 0100 Thursday to Saturday. This is an extra 3 hours Sunday to Wednesday and an extra 2 hours Thursday to Saturday.

To be open to the public from 0800 until 0330 7 days a week. The Premises is currently licensed to be open from 1000 until 0030 Sunday to Wednesday and from 1000 until 0130 Thursday to Saturday. This is an extra 5 hours Sunday to Wednesday and an extra 4 hours Thursday to Saturday.

- 2.2 There is a current Premises Licence in place which 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 amended Premises Licence, as relevant Representations have 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 additional Representations received from any other Responsible Authority 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 rejected, 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 parts of the application form
Appendix 2	Copy of the current Premises Licence
Appendix 3	Copy of the 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.