

# **TORBAY COUNCIL**

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Narvo's, 26-27 Victoria Parade, Torquay, TQ1 1BD

Wards Affected: **Tormohun, Torquay**

To: **Licensing Sub Committee**

**13 July 2023**

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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".

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.

*forward thinking, people orientated, adaptable - always with integrity.*

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, is as follows:-

The provision of live music indoors and outdoors Monday to Sunday from 0800 to 0100 hrs

The playing of recorded music indoors and outdoors Monday to Sunday from 0800 to 0100 hrs

The provision of late night refreshments indoors and outdoors Monday to Sunday from 2300 to 0100 hrs

The sale of alcohol for consumption on and off the premises Monday to Sunday from 0800 hrs to 0100 hrs

The opening hours of the premises Monday to Sunday from 0800 to 0130 hrs.

In respect of all the above, the Applicant has also requested on New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

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

“3 storey building with a balcony and access to a roof garden on the 2<sup>nd</sup> floor.

Ground floor – licensed cocktail bar with facility for regulated entertainment, live & recorded music. Pavement licence to the front of the premises for consumption only.

1<sup>st</sup> floor – licensed for alcohol and regulated entertainment. Axe throwing and pool.

2<sup>nd</sup> floor – licensed for the sale of alcohol and regulated entertainment. An open games area to include pool, electronic darts, sitting football, shuffle board, basketball, table tennis, and a suspended DJ box. Seated area and bar.

Balcony – indoor street gold, 9 holes. Access stairs to be one way only.

2<sup>nd</sup> floor – access to the rooftop garden. This is to be partially covered for year-round use and the provision made for outdoor ice cream/bar and regulated entertainment.

Retail sale of alcohol, regulated entertainment to include recorded and live music”

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 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.

Due to concerns regarding the use of the outside area, agreement has been reached between Mrs Rachael Hind (on behalf of the Licensing Authority) and the Applicant that the application be amended as follows:

Performance of live music (indoors) Monday to Sunday 0800 to 0100 hrs  
Performance of live music (outdoors) Monday to Sunday 0800 to 2300 hrs  
Playing of recorded music (indoors) Monday to Sunday 0800 to 0100 hrs  
Playing of recorded music (outdoors) Monday to Sunday 0800 to 2300 hrs  
Late night refreshment (indoors) Monday to Sunday 2300 to 0100 hrs  
The sale by retail of alcohol for consumption on and off the premises Monday to Sunday 0800 to 0100 hrs

This is shown at Appendix 3.

We have received 2 Representations from Interested Parties. The second of these Representations has been submitted on behalf of 4 parties. These are shown at Appendix 4.

No Representations have been received from any Responsible Authority.

The Applicant has provided further information in respect of work undertaken in the outside area and this is shown at Appendix 5.

- 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 Representations 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.

**Rachael Hind**  
**Regulatory Services Manager (Commercial)**

### **Appendices**

- Appendix 1 Relevant sections of the application form
- Appendix 2 Plan of the Premises
- Appendix 3 Agreement between the Licensing Authority and Applicant
- Appendix 4 Representations from Interested Parties
- Appendix 5 Information in respect of work undertaken in the outside area

### **Documents available in Members' rooms**

None

### **Background Papers:**

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

Torbay Council Licensing Policy 2021-26