



Minutes of the Licensing Sub-Committee

19 May 2011

-: Present :-

Councillors Addis, Mills and Stocks

(Also in attendance: Councillor Parrott)

659. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

660. Tor Abbey Inn, 80 Belgrave Road, Torquay

Members considered Report 97/2011 on an application for a Review of a Premises Licence in respect of Tor Abbey Inn, 80 Belgrave Road, Torquay.

Written representations received from:

Name	Details	Date of Representation
Police	Application (plus supporting documentation) for a Review of the Premises Licence on the grounds of 'The Prevention of Crime and Disorder', 'Public Safety' and 'The Prevention of Public Nuisance', as set out in Appendix 1 to Report 97/2011.	9 March 2011

Oral representations received from:

Name	Details
Police Solicitor	The Police Solicitor outlined the application for Review and proposed conditions to be added to the licence.
Respondents Solicitor	The Respondents Solicitor agreed to the conditions proposed by the Police Solicitor.

Additional Information:

The Respondents Solicitor welcomed the suggestion that the Police Licensing Officer and Designated Premises Supervisor meet regularly to discuss how to promote the Licensing Objectives.

Decision:

Having carefully considered all the written and oral representations Members resolved to modify the conditions of the Licence as follows:

- i) the terminal hours for the sale of alcohol be 11 pm Sunday to Thursday and 11:30 pm Friday to Saturday without exception. The premises shall close one hour later, without exception;
- ii) The performance of live music and playing of recorded music will cease at 11 pm apart from Sundays, when it shall remain at 10:30 pm;
- iii) The Designated Premises Supervisor must undertake the following courses as soon as possible, but within no longer than 28 days:-
 - a. the BIIAB Level 2 National Certificate for Designated Premises Supervisors, and
 - b. the BIIAB Level 2 Award in Conflict Management
- iv) A meeting between the Police Licensing Officer and Designated Premises Supervisor will take place within 14 days of completion of the above courses to discuss how the Designated Premises Supervisor is going to promote the Licensing Objectives.

Reason for decision:

We have taken note of the agreement reached between the parties to modify the conditions in order to promote the Licensing Objectives and we agree to modify the conditions as agreed as we believe this will promote the Licensing Objectives and alleviate the concerns of the Police.

We note the acceptance of the Designated Premises Supervisor's Solicitors that the Police will have the right to rely on the evidence supporting this Review in any future Review relating to these premises.

661. Old Brewery, 17 Lower Ellacombe Church Road, Torquay

Members considered Report 98/2011 on an application for a Review of a Premises Licence in respect of the Old Brewery, 17 Lower Ellacombe Church Road, Torquay.

Written representations received from:

Name	Details	Date of representation
Public Protection - Senior Environmental Health Officer	Application (plus supporting documentation) for a Review of the Premises Licence on the grounds of 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance', as set out in Appendix 1 to Report 98/2011.	10 March 2011
Police	Representation highlighting a number of issues relating to the Old Brewery, Lower Ellacombe Church Road, Torquay.	28 March 2011
12 Members of the Public	12 representations from individual Members of the Public in support of the Old Brewery, Lower Ellacombe Church Road, Torquay.	Various
Respondent	Representation and petition with 96 signatures in support of the Old Brewery, Lower Ellacombe Church Road, Torquay.	Date unknown

Additional Information:

Prior to the Sub-Committee, the Applicant requested 1 hour to present their application for Review. The Sub-Committee agreed to this extension of time at the hearing and informed the Respondent and Interested Parties that they too would be entitled to 1 hour when making their oral representation.

Written representations:

Name	Details
Senior Environmental Health Officer	The Senior Environmental Health Officer outlined the application for Review and provided evidence with assistance from four witnesses.
Police	The Police outlined their representation as set out in Appendix 6 to Report 98/2011.
Three Members of the Public	Three Members of the Public outlined their objection to the application for Review and responded to Members questions.

Respondent	The Respondent responded to the evidence provided by the Senior Environmental Health Officer and answered Members questions.
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Respondent's response to representations:

With the agreement of all parties present, the Respondent circulated a poster advising patrons to 'keep the noise down when smoking and using the patio area'.

Decision:

That the Premises Licence be revoked in respect of the Old Brewery, Lower Ellacombe Church Road, Torquay.

Reason for decision:

Having carefully considered all the written and oral Representations and answers to questions put by the Members, they resolved that this decision was proportionate and necessary for the following reasons:

Members were seriously concerned at the impact on the Licensing Objectives and on the complainant and her families' quality of life by Mr Martin's continued and apparent unwillingness or inability to manage his Premises. These concerns are reinforced by the evidence provided by Torbay Council's Senior Environmental Health and Licensing Officers and the Police.

Members are satisfied by the evidence before them that Mr Martin had been given extensive advice and guidance by Officer's of the Council and the Police in an attempt to assist Mr Martin to manage his Premises in an effective manner to promote the Licensing Objectives, to not carry out regulated entertainment for which his current Premises Licence does not permit and to alleviate the negative impact the running of his Premises is having on the quality of the life of the complainants.

Despite this advice, guidance and enforcement action by the Council, Members were seriously concerned that Mr Martin continued to allow amplified music to be played at his Premises which caused a significant nuisance to the complainants and is other than in accordance with his current Premises Licence. As such Members resolved that they could not be satisfied that Mr Martin would comply with any conditions and lawful activities in the future.

Although Members noted the Petition and the Representations from the Interest Parties in the benefit of having a community pub, which they found to be valid, Members resolved that this benefit should not be to the detriment of those living within the community, as supported by the case of R v Dennis (2003) EWCH 793 (QB), as referred to by Mr Fudge. Members also found merit in the submission by the Police and Mr Fudge that there were other community pubs within Torbay that existed and were not detrimental to nearby residents and that this was down to these Premises being managed effectively.

Members found that the measures taken by Mr Martin in his own admission that he had tried everything to be inadequate and flawed. In particular the keeping of a daily book which did not record evidence of Police visits which Members believed should have been relevant information to record so that he could have acted upon the concerns raised by the Police. In addition, the oral Representation by Mr Martin that he would welcome help from the Responsible Authorities as to what else he could do, did not alleviate their serious concerns as he had not acted upon previous advice or guidance offered by the Responsible Authorities to resolve historical and ongoing issues of concern.

Members noted with great alarm and empathy the audio evidence presented by Mr Fudge which demonstrated the continued impact this Premises is having on the complainant and her family's quality of life. This was noted in the knowledge of the evidence before them that Mr Martin was made fully aware of the noise nuisance, by Officer's in person and in writing. An aggravating feature of this evidence was that some of the audio evidence was recorded after the service of the Review Application and the service of an Abatement Notice on the Premises.

In concluding, Members considered all the options available to them to address the issues raised in this Review but found that adding conditions, curtailing what is already a limited Premises Licence, removing Mr Martin as the Designated Premises Supervisor and/or suspending the Premises Licence for a period of time to allow measures to be put in place to alleviate the concerns of the complainants and Responsible Authorities would in their opinion not be sufficient enough as Mr Martin's ongoing involvement in the Premises would result in the continuation of the Licensing Objectives being undermined, as evidenced and previously demonstrated.

662. Hooks Bar & Grill, 43 Torwood Street, Torquay.

Members considered Report 99/2011 on a Variation to the Premises Licence for Hooks Bar & Grill, 43 Torwood Street, Torquay.

Written representations received from:

Name	Details	Date of Representation
Senior Environmental Health Officer (Community Safety)	Representation objecting to the application for a Variation to the Premises Licence in relation to Licensing Objective "The Prevention of Public Nuisance".	17 March 2011
Member of the Public	Representation objecting to the application for a Variation to the Premises Licence in relation to Licensing Objectives "The Prevention of	3 April 2011

	Crime and Disorder”, “The Prevention of Public Nuisance” and “Public Safety”.	
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Oral representations received from:

Name	Details
Applicant Representative	The Applicant’s Representative outlined the details of the application, as set out in Report 99/2011 and confirmed that there were no significant objections to the conditions proposed, however it was commented that some of them could be clearer.
Senior Environmental Health Officer (Community Safety)	The Senior Environmental Health Officer outlined the objections to the application on the grounds of “The Prevention of Public Nuisance”. Amended with the agreement of the Applicant, wording to the condition set out in Appendix 3 to Report 99/2011 in respect of an announcement to patrons leaving the premises.
Member of the Public	Member of the Public confirmed that he had no fundamental objections to the application.

Decision:

That the application for a variation to the Premises Licence for Hooks Bar & Grill, 43 Torwood Street, Torquay be granted as applied for, subject to the conditions and amended condition proposed by the Senior Environmental Health Officer and agreed by the Applicant which reads as follows:

On calling last orders and at the end of Regulated Entertainment, an announcement will be made requesting patrons to leave the area as quickly and quietly as possible.

Reason for decision:

Having carefully considered all of the written and oral Representations, Members resolved to grant the licence subject to the conditions agreed, as they were satisfied that this would seek to promote the Licensing Objectives and it would not add to Crime and Disorder and/or Public Nuisance.

663. Coyote Café Bar, 3-5 Union Street, Torquay

Upon receiving information from the Senior Licensing Officer and advice from the Legal Advisor to the Sub-Committee, Members agreed to defer consideration of

the application for a Variation to the Premises Licence for Coyote Café Bar, 3-5 Union Street, Torquay until the 16 June 2011.

664. Mambo, 7 The Strand, Torquay

Members considered Report 101/2011 on an application for a Variation to a Premises Licence in respect of Mambo, 7 The Strand, Torquay.

Written representations received from:

Name	Details	Date of Representation
Senior Environmental Health Officer	Representation objecting to the application for a Variation on the ground of "The Prevention of Public Nuisance".	11 April 2011
Member of the Public	Representation objecting to the application for a Variation on the ground of "The Prevention of Public Nuisance".	3 April 2011

Oral representations received from:

Name	Details
Applicant's Representatives	The Applicant's Representatives outlined the details of the application, as set out in Report 101/2011, and the mitigating measures being proposed to alleviate the concerns around "The Prevention of Public Nuisance". A written version of part of the evidence was circulated to the Sub-Committee, with the agreement of all parties, along with a further plan for the new Terrace. Additional condition agreed with all parties restricting the use of the outside area from 1 a.m. to 2 a.m. for smoking only for a maximum of 20 people.
Safety and Licensing Officer	The Safety and Licensing Officer outlined the objections to the application on the ground of "The Prevention of Public Nuisance". Photographs of the area and a copy of a letter (dated 24 February 2011) from the Senior Environmental Officer to Lifestyle Enterprises (UK) Limited regarding noise nuisance arising from the playing of amplified music at Mambos, were circulated to the Sub-Committee, with the agreement of all parties.
Member of the Public	A Member of the Public outlined his objections to the application on the ground of "The Prevention of Public Nuisance" due to the noise emanating from the premises

	which could be heard at his residential property.
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Decision:

That the application for a Variation to the Premises Licence for Mambo, 7 The Strand, Torquay be granted as applied for, subject to the additional condition which reads as follows:

Access to and use of the 3rd Floor balcony after 1 a.m. and until 2 a.m. shall be as a designated smoking area only for no more than 20 persons with an SIA Door Steward in attendance, and no drinks shall be permitted in this area after 1 a.m.

Reason for Decision:

Having carefully considered all of the written and oral Representations, Members resolved to grant the application subject to the additional condition as they are satisfied that this would seek to promote the Licensing Objectives, and it would not add to Crime and Disorder and/or Public Nuisance.

Chairman