

Briefing Report No: Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Review of a Premises Licence in respect of The Old Coaching Inn, 61 Fore Street, Brixham, TQ5 8AG

Wards Affected: **St Peters with St Marys**

To: **Licensing Sub-Committee** On: **28 March 2024**

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## **1. Key points and Summary**

- 1.1 To consider and determine an application, in respect of the Premises detailed above, for a Review of a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objective “The Prevention of Public Nuisance”.
- 1.4 Under Regulations to the Licensing Act 2003 (the Act), the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.
- 1.5 The Authority must have regard to the application and any relevant Representations and take one or more of the steps as detailed below, as it considers appropriate for the promotion of the Licensing Objectives.

The steps are –

- (a) to add or modify the conditions of the licence;
- (b) alter the hours of operation
- (c) to exclude a licensable activity from the scope of the licence;
- (d) to remove the Designated Premises Supervisor;
- (e) to suspend the licence for a period not exceeding three months;
- (f) to revoke the licence;
- (g) to do nothing;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

If the licence is subject to sections 19, 20 and 21 (requirement to include certain Mandatory Conditions in Premises Licences) they must remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on all Interested Parties and Responsible Authorities following the determination of the matter.

## **2. Introduction and application**

- 2.1 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premises detailed above.

The Review application has been received from the Environmental Health Authority as a Responsible Authority.

The grounds for the Review relate to:

- Noise from loud music and patrons using the premises causing disturbance to residents.
- Breach of permitted hours and the lack of co-operation from the DPS when offered guidance.
- Failure to manage the patrons that frequent the premises.

Full details of the application are shown in Appendix 1. Additional documents, a letter to the Premises Licence Holders 18<sup>th</sup> October 2023, emails and photographs have been submitted by the Applicant to support the complaints and incidents referred to in the application. These are shown in Appendix 2.

A copy of the current premises licence, including the floor plan is attached at Appendix 3.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the Applicant is a person as defined under the Act, as being entitled to make such application and that the application is not frivolous or vexatious. The Authority is also satisfied that the administrative requirements of Section 51(3) (a) and (b) have been met and that the application is therefore, properly made.

## **3. Consultation**

- 3.1 A notice stating a Review application had been made was issued by Torbay Councils Licensing Department and delivered by the Council's Licensing Officer, on 5 February 2024. Details of the Review have been advertised on the Council's website. The Notice advised of the grounds for the Review and requested representations should be made no later than 4 March 2024 to Torbay Council in writing. All Statutory consultees were served a copy of the Review application.

- 3.2 There has been 1 representation from a Responsible Authority in support of the application, from Olivia Gifford, Police Licensing Officer for Devon and Cornwall Police. The representation includes statements from the Police Licensing Officer and PC Randall, together with emails, and a transcript of video footage of incidents that occurred on the evening of the 9 December 2023, into the early hours of the 10 December 2023. This is shown at Appendix 4 and relates to the Licensing Objective “The Prevention of Crime and Disorder”. Further supporting information was received from the Police Licensing Officer in relation to “The Prevention of Crime and Disorder” and this is shown at Appendix 4a.
- 3.3 There are 3 representations from Interested Parties in support of the application, relating to “The Prevention of Crime and Disorder” and the “Prevention of Public Nuisance”. These are shown at Appendix 5.
- 3.4 The Premises Licence Holder has provided information in response to the Representations received, including copies of emails, photographs and a floor plan and this is shown at Appendix 6.

No other representations have been received from any other Responsible Authority or any other Interested Parties other than those stated above.

#### **4. Hearing**

- 4.1 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.
- 4.2 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.
- 4.3 Once the matter is determined, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
- (a) the Applicant for the Review,
  - (b) the holder of the Premises Licence, or
  - (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have affect until the Appeal is either determined or withdrawn.

- 4.4 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 an order as to costs as it thinks fit.

**Tara Harris**  
**Divisional Director Community and Customer Services**

## **Appendices**

Appendix 1 Application for Review

Appendix 2 Additional Supporting Documents from the Applicant

Appendix 3 Copy of the Current Premises Licence and plan

Appendix 4 Representation from a Responsible Authority

Appendix 4a Additional supporting information from a Responsible Authority.

Appendix 5 Representations from 3 Interested Parties

Appendix 6 Supporting Information from Premises Licence Holder

## **Documents available in members' rooms**

None

## **Background Papers:**

The following documents/files were used to compile this report:  
Torbay Council Licensing Policy 2021-2026.