

TORBAY COUNCIL

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Geo Park Café, Esplanade, Paignton, TQ4 6ED

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub Committee**

25 April 2024

Contact Officer: **Carrie Cottell**

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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 Crime and Disorder”, “Public Safety”, the “Prevention of Public Nuisance” and the “Protection of Children from Harm”.
- 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, is as follows:-

The Supply of Alcohol for consumption on the premises from 11:00 until 20:00 Monday to Sunday.

Premises opening Hours from 08:00 until 20:30 Monday to Sunday.

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

“Cafe with enclosed, seated decked area of approximately 8 tables of 4. We wish to provide the sale of alcohol to customers of the cafe to be sold and consumed within our licensed area. There is no seating inside the cafe, there is a kitchen. All seating is outside in our decked area.”

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.

We have received a Representation from Devon and Cornwall Police who have requested that some of the proposed conditions be amended, and additional conditions be added to the licence. The requested conditions relate to the licensing objectives the “Prevention of Crime and Disorder,” “Public Safety” and the “Protection of Children from Harm.” The applicant has indicated that the amended and additional conditions are acceptable to him.

The amended and additional conditions requested by the police; and the applicant’s agreement are shown in Appendix 3.

We have received 1 Representation from an Interested Party in relation to the Licensing Objectives the “Prevention of Crime and Disorder”, and the “Prevention of Public Nuisance”. This is shown in Appendix 4

There have been no other Representations received from any other Responsible Authority or any other 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.

Rachael Hind
Regulatory Services Manager
(Commercial)

Appendices

- Appendix 1 Relevant sections of the application form
- Appendix 2 Plan of the Premises
- Appendix 3 Requested Conditions from the Police and Applicant agreement
- Appendix 4 Representation from an Interested Party

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2021-26