



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Premises Licence  
Hollicombe Park, Torbay Road, Paignton**

Wards Affected: **Cockington with Chelston**

To: **Licensing Sub Committee** **21 July 2011**

Contact Officer: **Karen Ellicott**  
Telephone: **01803 208029**  
E.mail: **Licensing@torbay.gov.uk**

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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 new Premises Licence.
- 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 Objectives “The Prevention of Crime and Disorder” and “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. 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.

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

## **2. Introduction**

- 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, as follows:

Films, Live Music, Recorded Music, Performance of Dance, Anything of a Similar Description, Provision of Facilities for Making Music and Dancing, Provision of Facilities of Anything Similar (all Indoors & Outdoors) and Indoor Sporting Events from 09:00 until 23:00 Monday to Sunday.

Late Night Refreshment from 23:00 until 23:30 Monday to Sunday

To be open to the public from 09:00 until 23:30 Monday to Sunday.

The Applicant has stipulated that there shall be no more than 10 days of events per year.

- 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 a relevant Representation has been received from a Responsible Authority and two relevant Representations from Interested Parties. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received one Representation from the Police in relation to the Licensing Objective "The Prevention of Crime and Disorder". This is shown as Appendix 2.

We have received two Representations from Interested Parties in relation to the Licensing Objectives "The Prevention of Crime and Disorder" and "The Prevention of Public Nuisance". These are shown in Appendix 3.

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

- 2.3 The Authority is required to conduct a hearing by 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.

**Frances Hughes**  
**Executive Head Community Safety**

### **Appendices**

Appendix 1 Details of the application.

Appendix 2 Details of the Representation from the Police.

Appendix 3 Details of the Representations from the Interested Parties.

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

None

### **Background Papers:**

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

Torbay Council Licensing Policy 2008 - 2011.