



Minutes of the Licensing Sub-Committee

14 August 2014

-: Present :-

Councillors Addis, Brooksbank and Doggett

(Also in attendance: Councillors Excell and Pountney)

7. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

8. Minutes

The Minutes of the meeting of the Sub-Committee held on 17 July 2014 were confirmed as a correct record and signed by the Chairman.

9. Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG

Members considered a report on an application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG.

The Premises do fall not within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation in relation to Licensing Objective 'The Prevention of Crime and Disorder' and 'The Protection of Children from Harm.'	15 July 2014
Public Protection	Representation in relation to Licensing Objective 'The Prevention of Public Nuisance.'	22 July 2014

Interested Parties	16 Representations in relation to Licensing Objectives 'The Prevention of Crime and Disorder,' 'The Prevention of Public Nuisance' and 'Public Safety.' One Representation was in the form of a petition with 38 signatures and the other 15 Representations have a total of 20 signatures. It is important to note that 6 Interested parties who sent individual Representations have also signed the petition with the 38 signatures.	Various dates
--------------------	---	---------------

Members noted that there had been no additional Representations received from any other Responsible Authority.

Oral Representation received from:

Name	Details
The Applicant's Legal Representative	The Applicant's Legal Representative outlined the application, as set out in the submitted documents and responded to Members questions.
Police	The Police outlined their objection, as set out in the submitted documents, outlined proposed conditions and responded to Members questions.
Interested Parties	The Interested Parties who had returned their Notices to attend, outlined their objections, as set out in the submitted documents and responded to Members questions.

Additional Information:

Members noted that 13 notices from Interested Parties had been received confirming they were not attending, but were aware that the Committee hearing was taking place and that a further 2 notices were returned stating they were not attending but enclosed an additional letter for the attention of the Committee. Members noted the additional letter was from 2 Interested Parties who had signed

the submitted petition and after consultation with the Senior Solicitor was not circulated to Members.

Members noted that the Police had proposed 11 conditions, as per Appendix 3 of the submitted report. The Applicant's Solicitor, with permission, circulated 11 updated conditions which the Police Licensing Officer confirmed had been agreed.

1. The sale and supply of alcohol between 12 midnight to 05:00, shall be restricted to service by staff through the serving hatch at the front of the premises.
2. No persons other than management, their staff, site service providers and members of the emergency services shall be allowed access to the premises, other than the forecourt between 12 midnight to 05:00.
3. All spirits shall be located behind the counter and shall be sold by counter service only.
4. Alcohol displays within the premises shall be located so that staff can view these displays at all times.
5. There shall be no alcohol displays within 2 metres of the store entrance.
6. There will be no sales or supply of beers, ales, lager, bitter or cider with an ABV of more than 6%.
7. No single cans of alcohol shall be sold from the premises.
8. The Premises Licence Holder or Designated Premises Supervisor shall ensure that a Refusals Register is maintained to include details of all alcohol sales that are refused and the reason for refusal. The register shall be retained for a period of 12 months and will be made available to the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.
9. Challenge 25 Posters shall be displayed in prominent positions within the premises and adjacent to the service hatch.
10. An Incident Book shall be maintained to record details of the dates, times and details of any incidents occurring on the premises. This Incident Book shall be retained for a period of 12 months and will be made available for inspection at any reasonable time by the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.
11. The Premises Licence Holder or Designated Premises Supervisor shall ensure that all members of staff employed in the sale of alcohol shall receive appropriate training, and regular refreshment training, with regards to the Challenge 25 Policy, the identification of persons who are drunk and refusing service. A record of such training will be maintained and kept on the premises for a period of 12 months and shall be available for inspection at any reasonable time by the Police Licensing Officer, and other authorised enforcement officers or Responsible Authorities on request.

Members were advised by the Interested Parties of historical and on-going problems with Public Nuisance, Crime and Disorder and Public Safety on and around the premises which is in close proximity to a high density of residential premises and noted in the supporting evidence of the Representations both orally and written that there was a consistent focus for disorder and disturbance.

Decision:

That the application for a Variation to a Premises Licence in respect of Abbey Service Station, Avenue Road, Torquay TQ2 5LG be granted to permit the sale of alcohol for consumption off the premises between the hours of 8am and 12 midnight, subject to conditions 3-11, as proposed by the Police and agreed by the Applicant. That late night refreshment be permitted, as applied for but restricted to hot drinks only, as proposed by the Applicant. That structural change be permitted, as proposed by the Applicant in their application.

Reason for Decision:

Having carefully considered all the written and oral Representations, Members resolved to grant a Variation to the Premises Licence but limited the terminal hour for the sale of alcohol for consumption off the premises to midnight for the following reasons:

In accordance with section 4.4 of the Council's Licensing Statement of Principles 2011, Members resolved that it was appropriate on the evidence before them in respect of anti-social behaviour, noise nuisance and concerns of street drinking, to limit the hours for the sale of alcohol for consumption off the premises, as the premise is situated in close proximity to residential premises and a number of commercial premises which provide seasonal accommodation.

Members noted the written submission by the Public Protection Officer, in that their department had in the last ten years only received one complaint about noise and rubbish in 2007. However on hearing oral evidence from the Interested Parties present, two of which lived directly opposite the premise and two who represented residents and Interested Parties that live in the direct vicinity, Members were satisfied that an historic and on-going noise nuisance was emanating from this premise, even though it has not been formally reported to that Responsible Authority. In coming to this view, Members also had regard to that submitted by other Interested Parties in their written representations

In respect of the oral and written representation of the Police, Members noted the Neighbourhood Inspector's concerns regarding street drinking in the area and the concerns of this issue raised by Interested Parties. Whilst Members considered that the conditions put forward by the Police and agreed by the Applicant may go some way to alleviate these concerns, Members were not satisfied that by granting a 24 hour licence to a premises in this area to sell alcohol for consumption off the premises that this would not increase the risk of this concern worsening.

In respect of the Police's oral submissions with regards to Police logs relating to the premises, Members resolved that this did not represent a true reflection of the problems being experienced by residents and Interested Parties. This was evident from the oral evidence of the Interested Parties present who submitted that they called the Police routinely, one of which said that he had called the Police ten times over a six month period but no one came out. Another said that they also

called the Police but by the time they arrived, the incidents were either over or the person(s) responsible had left premises.

In consideration of the written and oral representations of the Interested Parties, Members could not be satisfied that the Premises Licence Holder was addressing incidents of concern at their premises and by granting the variation as applied for, Members resolved that there would be a real risk that these incidents may increase, as this premise would be the only premise open with a 24 hr licence in Torquay. This is coupled with the fact that the service at this premise is manned at night by a single member of staff via a night hatch which Members viewed as wholly unsatisfactory when being asked to grant a 24hr license to sell alcohol from a premise in a residential area, albeit for consumption off the premises. The risk to this member of staff if they sought to challenge customers, who behaved in a way which undermined the Licensing Objectives, is likely to result in behaviours being unchallenged. This is evident from ongoing incidents of concern at the premises.

Members noted that the road in which the premise is situated is a main thoroughfare for cars and pedestrians and in doing so, carefully considered all of the written and oral representations and disregarded that said or written which could not be attributed to this premise.

In light of the evidence before them, Members resolved that to increase the sale of alcohol for consumption off the premises by a further 9 hours plus would add to anti-social behaviour and noise nuisance currently being experienced and would undermine the Licensing Objectives in respect of The Prevention of Public Nuisance and the Prevention of Crime and Disorder

In concluding, Members considered what if any conditions could be added to the licence to allow for the variation to be granted, as applied for without the Licensing Objectives being undermined. However they resolved after careful consideration that there were none, due to the type of the premises and the way in which it was staffed.

10. Conviction of Torbay Council Licensed Driver of Fraud

Members considered a report concerning a Torbay Council Licensed Driver and whether she remained a 'fit and proper person' to hold a Torbay Council Driver's Licence.

Members noted that they had received circulated late papers which were a letter from the respondent and character references in support of her case.

Decision:

To issue a warning in respect of the conviction and failure to notify the Local Authority of this conviction and this that Mrs Daulby seeks assistance in addressing her financial difficulties and that no further offending occurs during the duration of her Licence.

Reason for Decision:

Having carefully considered all the written and oral representations, Members are satisfied on the evidence before them that there is no risk to Public Safety.

Whilst Members had regard to the seriousness of the offence and that within the Policy, Members noted there were no previous concerns and by keeping her licence, this will allow her to make reparations to the public purse.

Chairman/woman