



Briefing Report
No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Review of a Premises Licence for Rock Garden, 40-44 Swan Street, Torquay TQ2 5EZ

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee**

On: **6th November 2014**

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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 Review of a Premises Licence. The Premises is situated in the Cumulative Impact Area.
- 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 The Authority must hold a hearing to consider the application and any relevant Representations.

The Authority must, having regard to the application and any relevant Representations, take such of the steps as detailed below, if any, as it considers necessary for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

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

conditions in Premises Licences) they 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 the Interested Parties and Responsible Authorities at the determination of the matter.

2. Introduction

- 2.1 An application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above. Details of the application are shown in Appendix 1.

A brief description of the Review is as follows:

Mr Stuart Gibbons and Mr Daniel Burridge, both Interested parties, have sought a Review of the Premises Licence on the grounds relating to the Licensing Objective “The Prevention of Public Nuisance”.

A copy of the current Premises Licence is shown in Appendix 2.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the application has been properly made, that the Applicants are Interested Parties, and that the administrative requirements of Section 51(3)(a) and (b) have been met and that the Representation has not been subsequently withdrawn and is not vexatious, frivolous or repetitious.

We have received a Representation from Public Protection in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 3.

We have received 1 Representation from an Interested Party in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 4.

The Solicitor acting on behalf of the Licence Holder has submitted a representation in response to the Review. This is shown as Appendix 5.

The Police have considered the application and are satisfied that the Premises are currently meet the Licensing Objective “The Prevention of Crime and Disorder”, “The Protection of Children from Harm” and “The Promotion of Public Safety”. Therefore they are not making a representation in relation to this matter. However, they have provided a statement outlining historic concerns that they had and respectfully request that the Licensing Sub-Committee consider these and the remedial actions put in place to alleviate them when making their decision. This is shown as Appendix 6.

There have been no Representations 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 52(2).

- 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 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.

- 2.6 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.

Frances Hughes
Executive Head Community Safety

Appendices

Appendix 1	Details of the application for Review
Appendix 2	A copy of the Premises Licence
Appendix 3	Representation from Public Protection
Appendix 4	Representation from an Interested Party
Appendix 5	Representation from Solicitor representing the Licence holder
Appendix 6	Representation from the Police

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton and Brixham and Torquay, Paignton, Churston and Brixham Libraries. Copies can also be obtained from the Democratic Services Office, Town Hall, Torquay.

Documents available in members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2011.