



Briefing Report
No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a New Premises Licence in respect of Las Iguanas, Unit 4, Abbey Sands, Torquay TQ2 5FB

Wards Affected: **Tormohun**

To: **Licensing Sub Committee**

5th February 2015

Contact Officer: **Mandy Guy**

☎ Telephone: **01803 208025**

✉ E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above, for a new 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 Objectives “The Prevention of Crime and Disorder”, “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 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.
- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant and Interested Party 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 Premises 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 Provision of Live Music indoors from 23.00 until 01.00 on the morning following New Years Eve and every Bank Holiday Sunday. (Live music is not licensable between 08.00 and 23.00 at a premise which is licensed for on-sales and has less than 200 people attending.)

The Provision of Recorded Music indoors from 14.00 until 22.00 Sunday; 19.00 until 22.00 Monday to Thursday; 19.00 until midnight Friday and Saturday. To extend the finish time until 01.00 on the morning following New Years Eve and Every Bank Holiday Sunday.

The Sale of Alcohol on and off the premises from 09.00 until midnight Sunday to Thursday and from 09.00 until 01.00 on Friday and Saturday. To extend the finish time until 01.00 on the morning following New Years Eve and Every Bank Holiday Sunday.

The Provision of Late Night Refreshment indoors from 23.00 until 00.30 Sunday to Thursday and from 23.00 until 01.30 on Friday and Saturday. To extend the finish time until 01.30 on the morning following New Years Eve and Every Bank Holiday Sunday.

To be open to the public from 09.00 until 00.30 Sunday to Thursday and from 09.00 until 01.30 Friday and Saturday. To extend the finish time until 01.30 on the morning following New Years Eve and Every Bank Holiday Sunday.

A copy of the plan of the Premises is shown as 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 a relevant Representations have been received from Responsible Authorities and an Interested Party. 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 a Representation from the Police in relation to the Licensing Objectives “The Prevention of Crime and Disorder” and “The Protection of Children from Harm”. This is shown as Appendix 3.

We have received a Representation from Public Protection in relation to the

Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 4

We have received a Representation from an Interested Party in support of the application. This is shown as Appendix 5.

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 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.

Frances Hughes
Executive Head Community Safety

Appendices

- Appendix 1 Details of the application.
- Appendix 2 Plan of Premises
- Appendix 3 Representation from the Police.
- Appendix 4 Representation from Public Protection
- Appendix 5 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 2011.