



Briefing Report
No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Waterside Holiday Park, Dartmouth Road, Paignton TQ4 6NS

Wards Affected: **Churston with Galmtpon**

To: **Licensing Sub-Committee** On: **12th March 2015**

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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 Variation to a 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” and “The Protection of Children from Harm”.
- 1.4 The matter must be considered on its own merits having received details of the issues arising either at a hearing or by written Representations if all parties have agreed that a hearing is not necessary. Having regard to the Representations and issues arising, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are either:-
 - (a) to modify the conditions of the licence, or
 - (b) reject the application in whole or in part.

For this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 1.5 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 34 of the Act for a Variation to a Premises Licence. Details of the application are shown in Appendix 1. Only the relevant pages of the application are shown.

A brief description of the proposed Variation is as follows:-

To licence a new shop area being created inside the main building which is found on the lower level of the Club House, for the Sale of Alcohol..

To allow the Sale of Alcohol on and off the Premises, including the new shop area, from 08.00 until 01.00 7 days a week. The existing licence allows the sale of alcohol on and off the Premises from 10:00 until 01:00.

To allow the premises to be open to the public from 08:00 until 01:30 7 days a week.

To amend the following conditions on the licence: drinks not to be served in glass bottles (Annexe 2, Prevention of Crime and Disorder condition 1 and Annexe 3 condition 3); and Children not being allowed where intoxicating liquor is sold without a responsible adult (Annexe 2, Protection of Children from Harm condition 1.) Details are shown under section L of the application.

- 2.2 A copy of the current premises licence is shown in Appendix 2.

- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the variation to the Premises Licence, as a relevant Representation has been received from a Responsible Authority. The Licensing Authority is also satisfied that the Representation was received within the appropriate time-scale, has not been subsequently withdrawn and is 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.

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

- 2.4 The Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 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.
- 2.6 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.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates’ Court is

granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-

- (a) The applicant for the variation of the licence against any decision to modify the conditions
- (b) Any person who made a relevant representation in relation to the application who desires to contend
 - (i) that any variation made ought not to have been made, or
 - (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.

2.8 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	Relevant sections of the application form.
Appendix 2	Copy of the current Premises Licence.
Appendix 3	Representation from the Police.

Documents available in members' rooms

None

Background Papers:

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

The current Premises Licence for the above Premise.
Torbay Council Licensing Policy 2011.