



Briefing Report  
No:

Public Agenda Item: **No**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor of O Pescador, 12 Victoria Parade, Torquay TQ1 2BB

Wards Affected: **Tormohun**

To: **Licensing Sub - Committee** On: **30<sup>th</sup> July 2015**

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## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above. The application relates to a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor in respect of which a notice has been received from the Chief Officer of Police, stating that the Crime Prevention Objective would be undermined if the application is granted.
- 1.2 The Sub Committee must consider the effects of the application against all the Corporate Priorities within the Community Plan.
- 1.3 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 either:-
  - (a) to grant the application or,
  - (b) having regard to the notice, reject the application if it is considered that it is necessary for the promotion of the crime prevention objective to do so.
- 1.4 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, the proposed Premises Supervisor and the Police on determination of the matter.
- 1.5 Where a Premises Licence has been issued under the Act to permit regulated activities to be provided at any Premises, one of which is the supply of alcohol, it is necessary for the holder of the Licence to also designate a Premises Supervisor. This can be the holder of the Licence or another person. In the latter case, the individual concerned must consent to the application being made.

1.6 This application includes a request that the Variation applied for should take immediate effect.

## **2. Introduction**

2.1 An application has been made under Section 37 of the Act for a Variation to a Premises Licence to Specify an individual as the Premises Supervisor at the Premises detailed above. Details of the application are shown in Appendix 1.

2.2 The Council as Licensing Authority, is satisfied that the Applicant has met the administrative requirements of Section 37(4) but is unable to grant the application as a Notice has been received from the Chief Officer of Police stating that exceptional circumstances are such that granting the application would undermine the Crime Prevention Objective. The Authority is also satisfied that such Notice has been received within the appropriate timescale and has not been subsequently withdrawn. Details of the Notice are shown in Appendix 2.

2.3 The Authority is required to conduct a hearing by the provisions of Section 39(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, 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 5(2) of Schedule 5 to The Chief Officer of Police who had given an appropriate notice which was not withdrawn.

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,

(d) and may make such order as to costs as it thinks fit.

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

**Appendices**

Appendix 1            A copy of the Application form.

Appendix 2            Details of the Representation received 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.