



Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Kingsway Minimart, 83 Kingsway Avenue, Paignton

Wards Affected: **Churston with Galmpton**

To: **Licensing Sub- Committee** **1<sup>st</sup> September 2011**

Contact Officer: **Mandy Guy**

☎ Telephone: **01803 208124**

✉ E.mail: **Licensing@torbay.gov.uk**

## **1. Key points and Summary**

1.1 To consider and determine an application, in respect of the Premise detailed above, for a new Premises Licence.

1.2 The application relates to all the Corporate Priorities within the Community Plan.

1.3 As the Licensing Authority has no powers under the Act to raise a Representation, Officers are unable to make any recommendation.

1.4 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “Public Safety”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”.

1.5 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.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities 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 Premise detailed above. Details of the relevant pages of the application and the plan are shown in Appendix 1 and 2 .

A brief description of the application, as follows:

The sale of alcohol on and off the Premises from 0700 until 2300, 7 days a week.

To be open to the public from 0700 until 2300, 7 days a week.

- 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 Representation has been received from an Interested Party. The Licensing Authority is also satisfied that the Representation has been received within the appropriate time scale, has not been subsequently withdrawn and is not vexatious or frivolous.

We have received one Representation from an Interested Party in relation to the Licensing Objectives “The Prevention of “Crime and Disorder”, “Public Safety”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”. This is shown in Appendix 3.

- 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 Representations 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 submitted with the Application                    |
| Appendix 3 | Details of the Representation from an Interested Party |

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton or Brixham and Torquay, Paignton, Churston or 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.