

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Lime Tree, 9-11 Dartmouth Road, Paignton TQ4 5AA**

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub-Committee** On: **12th May 2016**

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 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”, “The Prevention of Public Nuisance”, “Public Safety” 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 allow the hours for the Sale of Alcohol on and off the Premises, Recorded Music and Live Music from 08.00 until 04.00 daily.

The existing licence allows the Sale of Alcohol, on and off the Premises, and Recorded Music from 11.00 until midnight Monday to Thursday, 9.00 until 2.00 Friday and Saturday and from noon until midnight on Sunday.

Live Music is permitted from 11.00 until midnight Monday to Saturday and from noon until Midnight on Sunday.

To allow Late Night Refreshment from 23.00 until 04.00 daily.

The existing licence allows Late Night Refreshment from 23.00 until 02.00 Friday until Saturday.

To allow the premise to be open from 07.00 until 04.30 daily.

The existing licence allows the premises to be open from 08.00 until 00.30 Monday to Thursday, 08.00 until 02.30 Friday and Saturday and from 08.00 until 12.30 on Sunday.

No additional conditions have been proposed in the operating schedule and there has been no request to amend or remove any of the existing conditions.

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report. Please note there has been a typing error on this licence which the Applicant's Solicitor, the Police and Public Protection have been made aware of. Where the licence states the timings for Recorded Music and Alcohol on Friday and Saturday are 9.00 until midnight, it should read 09.00 until 02.00.

- 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 relevant Representations have been received from Responsible Authorities. The Licensing Authority is also satisfied that the Representations were 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", "The Prevention of Public Nuisance" and the Protection of Children from Harm". This is shown as Appendix 3 of this report.

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 of this report.

There have been no Representations received from any other Responsible Authority or any other 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
Assistant Director (Community and Customer Services)

Appendices

Appendix 1	Relevant sections of the application form
Appendix 2	Copy of the current Premises Licence and Plan
Appendix 3	Representation from the Police
Appendix 4	Representation from Public Protection

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 2016-2021.