



Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Club Premises Certificate in respect of Paignton Sea Anglers Association, Ravenswood, 26 Cliff Road, Paignton

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub-Committee** On: **20<sup>th</sup> October 2011**

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## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above, for a variation to a Club Premises Certificate.
- 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 Public Nuisance”.
- 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. Having regard to the representations, 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.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the interested parties and responsible authorities at the determination of the matter.

## 2. Introduction

- 2.1 An application has been made under Section 84 of the Act for a Variation to a Club Premises Certificate. 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 change the hours for the Supply of Alcohol to allow alcohol to be supplied from 1100 until midnight seven days a week. The existing Club Premises Certificate allows the Supply of Alcohol from 1000 until 2300 Monday to Saturday and from noon until 2230 on Sunday.

To change the Opening Hours to allow the Club to be open from 1100 until midnight seven days a week. The existing Club Premises certificate allows the Club to be open from 1000 until 2320 Monday to Saturday and from noon until 22.50 on Sunday.

A copy of the current Club Premises Certificate is shown in Appendix 2.

- 2.2 Torbay Council as Licensing Authority is satisfied that the applicant has met the administrative requirements of Section 85(1) but is unable to issue the amended certificate as relevant representations have been received from interested parties. The Authority is also satisfied that such representations have been received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received one Representation with 2 signatures and one petition with 16 signatures from Interested Parties living in the vicinity of the club, relating to the Licensing Objective 'The Prevention of Public Nuisance'. These are shown as Appendix 3.

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

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 85(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 10(b) 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.

- 2.7 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	Relevant parts of the application form
Appendix 2	Copy of current Certificate
Appendix 3	Representations from Interested Parties.

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.