



Briefing Report No: **65/2011**

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Bay News, 76 Belgrave Road, Torquay**

Wards Affected: **Tormohun**

To: **Licensing Committee** On: **17 March 2010**

Contact Officer: **Karen Ellicott**
Telephone: **01803 208029**
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 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 Objective “The Prevention of Crime and Disorder”.
- 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 Representation, 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 Applicant, any 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 1a. Only the relevant pages of the application are shown.

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

To extend the licensed area and relocate the counter – proposed plan is attached to Appendix 1a.

Supply of alcohol for consumption off the Premises from 0700 to 2300 Monday to Sunday.

To be open to the public from 0630 until 2300 Monday to Sunday.

The premises are already licensed for the sale of alcohol from 0800 to 2300 from Monday to Saturday and 1000 to 2230 on Sunday and wish to remove the non standard timing for bank holidays.

- 2.2 There is a current Premises Licence in place which is shown as Appendix 1b.
- 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 amended Premises Licence, as a relevant Representation has been received from an Interested Party. 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.

There has been 1 letter of Representation from an Interested Party in relation to the Licensing Objective “The Prevention of Crime and Disorder”. This is shown as Appendix 2.

- 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 1a	Relevant parts of the application form
Appendix 1b	Copy of the current Premises Licence
Appendix 2	Copy of the 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:

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