



Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Park Lane, 1 Torwood Street, Torquay, TQ1 1ED

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee**

On: **19 April 2012**

Contact Officer: **Carrie Carter**

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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. The Premise is situated within the Cumulative Impact Area.
- 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” and “The Prevention of Public Nuisance”.
- 1.5 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.

- 1.6 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 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 extend the terminal hour for the sale of alcohol from 10.00 until 03.00 Sunday to Friday.

To extend the terminal hour for late night refreshment from 23.00 until 02.00 Sunday to Saturday.

To extend the terminal hour for live music, recorded music, the performance of dance from 10.00 until 03.00 Sunday to Friday.

To provide anything of a similar description to live and recorded music and the performance of dance from 10.00 until 03.00 Monday to Sunday.

To extend the terminal hour for the provision of facilities for making music and dancing from 10.00 until 03.00 Sunday to Friday.

To provide entertainment facilities similar to making music and dancing from 10.00 until 03.00 Monday to Sunday.

To extend the opening hours from 10.00 until 03.30 Sunday to Friday.

To make related changes to the Licence Conditions. These changes are referred to in Schedule 1 and Schedule 2 of the application shown as Appendix 1.

- 2.2 There is a current Premises Licence in place which permits live music, recorded music, making music, dancing, late night refreshment and the sale of alcohol. The timing of these permitted activities are varied, dependant on the day of the week. These timings are shown in detail in Appendix 2.

- 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 relevant Representations have been received from a Responsible Authority and Interested Parties. 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 Public Protection in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown as Appendix 3.

We have received 2 Representations from Interested Parties in relation to the Licensing Objectives "The Prevention of Public Nuisance", and "The Prevention of Crime and Disorder". These are shown as Appendix 4.

There have been no additional 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
Executive Head Community Safety

Appendices

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