



Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – Review of a Premises Licence following the serving of a Review Notice, as in accordance with section 53A of the Licensing Act 2003 in respect of Mambo/The Beach Hut, 7 The Strand, Torquay

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee**

On: **22<sup>nd</sup> June 2012**

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## 1. Key points and Summary

- 1.1 To consider and determine a Review of a Premises Licence following an Expedited/Summary Review which was heard by the Licensing Sub-Committee on the 31<sup>st</sup> May 2012. 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 The matters raised relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance”, “Public Safety” and “The Prevention of Children from Harm”.
- 1.4 The Authority must hold a hearing to consider the application and any relevant Representations.

The Authority must, having regard to the application and any relevant Representations, take such of the steps as detailed below, if any, as it considers necessary for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

If the licence is subject to sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) they remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Responsible Authorities at the determination of the matter.

## **2. Introduction**

- 2.1 Following an application by a Senior Member of Devon and Cornwall Constabulary under section 53A of the Licensing Act 2003, the Council must within 28 days of its receipt, Review that Licence in accordance with section 53C of the Act and reach a determination of that Review.

The following information is provided to assist Members in reaching a determination of that Review:

Decision of the Licensing Sub-Committee held on the 31<sup>st</sup> May 2012 is shown in Appendix 1.

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

The Police have submitted a Representation with further supporting information which relates to the Licensing Objectives “The Prevention of Crime and Disorder”, “Public Safety”, “The Prevention of Public Nuisance” and “The Prevention of Children from Harm”. The information provided includes the original documents submitted to the Licensing Sub-Committee on 31<sup>st</sup> May 2012. This is shown in Appendix 3 and 4.

- 2.2 Torbay Council as the Licensing Authority has received Representations during the consultation period from Responsible Authorities and Interested Parties and is satisfied that the Representations have been received within the appropriate time scale, have not been subsequently withdrawn and are not vexatious, frivolous.

Public Protection have made a Representation relating to the Licensing Objectives “The Prevention of Public Nuisance” and “Public Safety”. This is shown as Appendix 5.

Torbay Safeguarding Children Board have made a Representation relating to the Licensing Objective “The Protection of Children from Harm”. This is shown as Appendix 6.

The Licensing Authority has received 2 Representations from Interested Parties in relation to the Licensing Objectives “The Prevention of Crime and Disorder” and “The Prevention of Public Nuisance”. These are shown as Appendix 7.

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

The Respondent has submitted information in response to the Review following the Expedited/Summary Review Hearing. This information is shown as Appendix 8

and 9.

- 2.3 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.
- 2.4 Once the matter is determined, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
- (a) the Applicant for the Review,
  - (b) the holder of the Premises Licence, or
  - (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have affect until the Appeal is either determined or withdrawn.

- 2.5 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 an order as to costs as it thinks fit.

**Frances Hughes**  
**Executive Head Community Safety**

## **Appendices**

Appendix 1	Decision of the Licensing Sub-Committee held on 31 <sup>st</sup> May 2012
Appendix 2	A copy of the Premises Licence
Appendix 3 and 4	Representation and supporting information from the Police
Appendix 5	Representation from Public Protection
Appendix 6	Protection Representation from Torbay Safeguarding Children Board
Appendix 7	Representations from Interested Parties
Appendix 8	Information from Mambo/The Beach Hut in response to the Review
Appendix 9	Information from Mambo/The Beach Hut in response to the Review (Confidential Information)

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.