

Public Agenda Item: **Yes**

Title: **Anchorage Hotel, Aveland Road, Torquay TQ1 3PT**

Wards Affected: **St Marychurch**

To: **Licensing Sub-Committee**

On: **21 November 2019**

Contact Officer: **Mandy Guy**

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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.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives of “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:-
  - (a) to modify the conditions of the licence, or
  - (b) reject the application in whole or in part, or
  - (c) to grant the application as applied for

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 have Live Music indoors from 08.00 until midnight from Sunday to Thursday and on Friday and Saturday from 08.00 until 01.00.

To have Recorded Music indoors from 20.00 until midnight from Sunday to Thursday and on Friday and Saturday from 17.00 until 01.00.

Late Night Refreshment from 23.00 until 05.00 indoors seven days a week.

The Supply of Alcohol on the premises from 11.00 until midnight Sunday to Thursday and from 11.00 until 01.00 on Friday and Saturday.

To increase the opening hours of the premises to allow them to be open to the public from 08.00 until midnight Sunday to Thursday and from 08.00 until 01.00 Friday and Saturday.

To remove 2 conditions from the licence as indicated on page 14 of the application. The applicant has written the following: -

1. Door supervision – N/A
2. The Liquor Licensed Area Lounge 250 including Lounge and restaurant Music, Singing and Dancing shall be permitted between 2pm and 00:00 each Sunday to Thursday inclusive and between 2pm and 01:00 Friday and Saturday.

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report.

The Premises are presently licenced for the following:-

The Performance of Live Music, indoors only, Monday to Saturday 14.00 until 23.00.

The Playing of Recorded Music indoors only, Monday to Saturday from 14.00 until 23.00.

The Performance of Dance indoors Monday to Saturday from 14.00 until 23.00.

The Sale of Alcohol, on and off the premises, Monday to Saturday 10:00 until 23.00 and Sunday noon until 22:30. Good Friday noon until 22.30, Christmas day noon until 15.00 and 19.00 until 22.30, News Year's Eve 10.00 until 23.00 Except on a Sunday which will be noon until 22.30. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

The Opening Hours are Monday to Saturday 10:00 until 23.20 and Sunday

noon until 22.50. Good Friday noon until 22.50, Christmas day noon until 15.00 and 19.00 until 22.50, News Year's Eve 10.00 until 23.20 Except on a Sunday which will be noon until 22.50. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

The exemptions under the Live Music Act 2012 apply to this licence.

- 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 47 members of the public and 1 from a Responsible Authority. 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 42 Representations from members of the public who are objecting to the application. The Representations 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".

These are shown as Appendix 4.

We have received 5 Representations from members of the public who are supporting the application. The Representations relate to the Licensing Objectives of "The Prevention of Crime and Disorder", "The Prevention of Public Nuisance" and "Public Safety". These are shown as Appendix 5.

There have been no Representations received from any other Responsible Authority or any other Interested Party other than those mentioned above.

- 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.

**Steve Cox**  
**Environmental Health Manager (Commercial)**

### **Appendices**

Appendix 1	Relevant sections of the application form.
Appendix 2	Copy of the Premises Licence and Plan.
Appendix 3	Representation from Public Protection.
Appendix 4	Representations from members of the public objecting to the application.
Appendix 5	Representations from members of the public supporting the application.

### **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.