



Briefing Report No: **88/2011**

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Premises Licence in respect of Fiveways Store, 58-60 Westbourne Road, Torquay.**

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee**

**14 April 2011**

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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 new 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 Objectives “The Prevention of Crime and Disorder” “The Prevention of Public Nuisance” “Public Safety” and “The Protection of Children from Harm”
- 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. A decision must be made, having considered the Representations, either:-
  - (a) to grant the licence subject to
    - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
    - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the Premises Supervisor;
  - (d) to reject the application.

- 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 following the determination of the matter.

## **2. Introduction**

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:

The supply of alcohol for consumption off the Premises from 10:00hrs until 20:00hrs Monday to Saturday and from 10:00hrs until 16:00hrs Sunday.

The supply of alcohol for consumption off the Premises from 10:00hrs until 16:00hrs on all Public Bank Holidays.

To be open to the public from 07:00hrs until 20:00hrs Monday to Saturday and from 09:00hrs until 16:00hrs Sunday.

To be open to the public from 09:00hrs until 16:00hrs on all Public Bank Holidays.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as relevant Representations have been received from Interested Parties. The Licensing 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 6 Representations from Interested Parties in relation to the Licensing Objectives "The Prevention of Crime and Disorder" "Public Safety" "The Prevention of Public Nuisance" and "The Protection of Children from Harm". These are shown in Appendix 2.

We have not received any Representation from any of the Responsible Authorities.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 18(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 2(1) of Schedule 5 to :-
- (a) The holder of the licence against any decision
- (i) to impose conditions on the licence, or

- (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
- (b) Any person who made a relevant Representations who desires to contend
  - (i) that the licence ought not to have been granted, or
  - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.

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            Details of the application.

Appendix 2            Details of Representations from Interested Parties.

### **Documents available in Members' rooms**

None

### **Background Papers:**

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2011.