

Public Agenda Item: **Yes**

Title: **Hoburne Devon Bay, Grange Court, Grange Road, Paignton**

Wards Affected: **Goodrington with Roselands**

To: **Licensing Sub-Committee** On: **21 May 2020**

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 Objective of “The Prevention of Public Nuisance”.
- 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 Licensing Act 2003 (hereinafter referred to as '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 increase the hours for the Supply of Alcohol in the lower ground floor café to allow the Supply of Alcohol from 10:00 until 01:00 seven days a week. This café is presently licensed for the Supply of Alcohol from 11:00 until 19:00 seven days a week.

To licence the outdoor area adjacent to the clubhouse for the Supply of Alcohol from 10:00 until 22:00 seven days a week.

The application states the premises will be open from 06:00 until 01.30 seven days a week but the grounds are open 24 hours a day.

The applicant has proposed to remove the following conditions:-

Annexe 2, Prevention of Crime and Disorder, condition 1

"Intoxicating liquor shall only be served between 12 midnight and 01.00am to persons attending a bona fide private function".

Annexe 2, Prevention of Crime and Disorder, Condition 2

"The clubhouse shall only remain open between 12.30am and 01.30am for the purpose of hosting a bona fide private function and there shall be no admission or re-admission after midnight".

The applicant has proposed to amend Annexe 2, Prevention of Crime and Disorder Condition 5

From:-

"Alcoholic and soft drinks will only be served in plastic or toughened glass in the café area".

To:-

"Alcoholic and soft drinks will only be served in plastic or toughened glass in the café and outdoor areas. No glass shall be permitted around the swimming pool."

- 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 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) of the Act but is unable to issue the Variation to the Premises Licence, as relevant Representations have been received from members of the public and 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. Some additional maps have been attached to this Representation to assist the committee.

We have accepted 6 Representations from 9 members of the public who are objecting to this application. The Representations relate to the Licensing Objective "The Prevention of Public Nuisance". These are shown as Appendix 4.

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

- 2.4 The Licensing 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 this application.

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.