

: Public Agenda Item: **Yes**

Title: **Hennessey Cocktails, 2 King Street, Brixham**

Wards Affected: **St Peter's with St Mary's**

To: **Licensing Sub-Committee** On: **23 July 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 Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance” 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 appropriate 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 Recorded Music indoors by 3 hours every Friday and Saturday evening extending the time from midnight until 03:00. The Applicant would also like these additional hours on Christmas Eve, Boxing Day and each Bank Holiday weekend from Friday until Monday.

The premises is currently licensed for Recorded Music from 09:00 until midnight seven days a week and also on from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

To increase the hours for Late Night Refreshment indoors and outdoors by 3 hours every Friday and Saturday evening extending the time from midnight until 03:00. The Applicant would also like these additional hours on Christmas Eve, Boxing Day and each Bank Holiday weekend from Friday until Monday.

The premises is currently licensed for Late Night Refreshment from 23:00 until midnight seven days a week and also on from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

To increase the hours for the Supply of Alcohol, both on and off the premises, by 4 hours (1 hour in the morning and 3 hours in the evening), every Friday and Saturday evening. This would extend the time from midnight until 03:00 and starting time from 10:00 to 09:00. The Applicant would also like these additional hours on Christmas Eve, Boxing Day and each Bank Holiday weekend from Friday until Monday.

The Applicant would also like the Sale of Alcohol for an additional hour in the morning from 09:00 until 10:00 every Sunday to Thursday.

The premises is currently licensed for the Supply of Alcohol from 10:00 until midnight seven days a week and also on from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day

The applicant has proposed to remove the following condition:-

Annexe 2, Prevention of Crime and Disorder, condition 4

On any Friday and Saturday night that the premises remains open for the sale of alcohol and then closes after 00:30hrs, SIA door supervisors shall be employed on the premises from 22:00hrs until close at a ratio of 1 supervisor per 100 customers (this condition shall also apply on Christmas Eve and New Year's Eve when they do not fall on a Friday or Saturday). On all other occasions the Premises Licence holder shall risk assess the requirements for door supervisors and employ such door supervisors, if at all, in such numbers and at such times determined by that risk assessment.

The applicant has written the following description of the proposed variation which is shown on page 3 of the application form:-

*"To extend our opening times, and our time in which we are able to sell alcohol, late night refreshment and to play recorded music. Proposal is from 00:00 to be extended to 03:00am on Saturday and Sundays only and bank holidays/Christmas Eve and Boxing Day if they don't fall on a Saturday or Sunday.*

*To adapt our premises licence plan to show the addition of outside seating.*

*To add off sales to the existing licence.”*

- 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 Responsible Authorities. 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 the Police in relation to the Licensing Objective “The Prevention Crime and Disorder” and “The Prevention of Public Nuisance”. This is shown as Appendix 3.

We have received a Representation from Public Protection in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 4.

We have accepted 11 Representations from members of the public who are objecting to this application. The Representations relate to the Licensing Objectives “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”. 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 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 the Police.
Appendix 4	Representation from Public Protection.
Appendix 5	Representations from members of the public objecting to this 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.