

## **Minutes of the Licensing Sub-Committee**

**20 May 2021**

**-: Present :-**

Councillors Atiya-Alla, Ellery and Mills

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### **1. Election of Chairman/woman**

Councillor Ellery was elected as Chairman for the meeting.

### **2. Minutes**

The Minutes of the meetings of the Sub-Committee held on 20 February, 21 May, 18 June, 23 July, 6 August, 8 October, 19 and 26 November, 3 and adjourned meeting on 3 December, 10 and 21 December 2020, 14 January, 18 February and 8 April 2021 were confirmed as a correct record and signed by the Chairman.

### **3. No 18, 18 Esplanade Road, Paignton, TQ4 6BD**

Members considered a report on an application for a Premises Licence in respect of No.18, 18 Esplanade Road, Paignton.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance' and 'The Prevention of Crime and Disorder'.	22 April 2021
Public Protection	Representation objecting to the application on the ground of 'Public Safety' and 'The Prevention of Public Nuisance'.	22 April 2021
Members of the Public	Representation objecting to the application on the ground of 'The Prevention of Public Nuisance'.	27 March, 6 April, 15, 16 and 18 April 2021

Additional Information:

Prior to the Hearing the Applicant requested the following documents be circulated:

- Proposed additional conditions to be added to the Licence, if granted;
- Plan showing internal dimensions of the premises; and
- Photos showing the outside space and exits.

In addition to the above, during the Hearing the Applicant's suggested the following changes/additional conditions that they would be happy to be added to their Licence, if granted:

- removal of off sales from the licence;
- to change the ratio of SIA Door stewards from 1 for every 100 persons to 1 for every 75; and
- to make the smoking area/beer garden no gathering after 1am and limit of maximum of 20 persons.

Oral Representations received from:

Name	Details
Applicant's	The Applicant's presented their application and responded to Members questions.
Police	The Police Representative presented their objection to the application and responded to Members questions.
Public Protection Officer	The Public Protection Officer presented their representation in respect of the application and responded to Members questions.
Members of the Public	The two Members of the Public presented their objections to the application.

### Decision

That the application for a Premises Licence in respect of No.18, 18 Esplanade Road, Paignton be refused.

### Reasons for Decision

Having carefully considered all the written and oral Representations, Members unanimously resolved to refuse the application before them.

In coming to that decision, Members considered the Independent Noise Report and Noise Management Plan submitted by the Applicants', dated 7<sup>th</sup> October 2019 and were impressed and pleased to note that they had thoroughly addressed the issue of potential noise outbreak from inside the premises. This coupled with the reassurances given by the Public Protection Officer that he had no concern in this regard, as was the case when the application was previously considered by a Licensing Sub-Committee hearing of the 24<sup>th</sup> October 2019, satisfied Members that noise outbreak from inside the premises would be eliminated by these measures.

However, on the evidence before them, Members were not able to gain the same level of reassurance they required in respect of ensuring that 'The Prevention of

Public Nuisance' licensing objective was promoted, when determining an application for a 3am licence.

Members had careful regard to Torbay Council's Licensing Statement of Principles P22, Paragraph 4 which states "Where applicants are completing Operating Schedules, they are expected to have regard to the location of the proposed or actual premises. In particular, consideration should be given to whether proposals may have a disproportionate impact in residential areas or near to sensitive premises such as nursing homes, older people's accommodation, hospitals, hospices, schools, childcare facilities or places of worship".

In doing so, Members noted that the immediate vicinity in which the premises were located, being surrounded by both private and commercial residential properties and determined, notwithstanding that contained in the Applicant's Dispersal Policy and that put forward by their representative at the hearing which included amendments to the original application, these residents would suffer a disproportionate impact, were a 3am licence be granted to these premises, in this location.

Members noted the submissions of the Interested Parties in that they had learnt to live with a 1am licence, albeit noise associated with these premises operations caused them and their guests disturbance beyond the closing time of 1.30am and to extend this known nuisance by a further two hours, seven days a week, would in Members opinion, undermine 'The Prevention of Public Nuisance' licensing objective. This echoed the submissions of the Public Protection Officer which stated that the current 1am licence has achieved a balance of acceptability between the residential community and the hotelier community and licensed premises; and that since a 1am licence was in operation, complaints about noise or anti-social behaviour had diminished.

Members further noted, with concern that the Applicants' has omitted to engage residents in the immediate vicinity in respect of this new application, some of which had made a representation in respect of the Applicants' previous application for a 3am licence, despite knowing who these were. Had they done so, Members were of the view that this would have assisted the Applicants' in either tailoring their application to address these concerns or to reassure residents that a nuisance would not occur. Instead, when considering the evidence before them, Members determined that little regard had been given to these residents in what they saw as a high likelihood of nuisance occurring.

Looking in more detail at the Dispersal Policy and the changes to the premises external layout which sought to address patrons leaving the area via Kernou Road, Members had specific regard to the submissions of the Public Protection Officer, in that it was his opinion that this Policy did not offer anything new that has not already been tried before and failed. Members also noted that despite this Policy being in place, Responsible Authority Officers had observed first hand, its implementation not being observed by patrons leaving the premises. In Members opinion, the insistence of staff and SIA door stewards trying to implement this Policy, could in itself lead to additional disturbance by those patrons whilst under

the influence of alcohol, wanting to choose an avenue of travel which is contrary to any direction given.

In respect of the internal layout and the concerns raised by the Police regarding pinch points, Members noted the revised plans showing minor widening of the corridor, an increase in the number of ladies toilets to six and the intention to have SIA Door Stewards at either end. However, Members were not satisfied that this had changed significantly from what was there previously. In forming this opinion, Members determined that there was still an issue of concern where patrons are queueing to use the toilets and those passing between the bar areas, particularly given the Applicants' proposed capacity of over 400 persons. In their oral submissions, the Applicants' tried to address how the flow of this area would be managed to avoid conflict between such patrons but failed to provide sufficient detail on how this would be effectively managed, with the other pressures intended to be placed on the SIA Door Stewards. In Members opinion, additional persons in this area, could contribute towards pinch points and gave Members further concern.

Whilst acknowledging the offer by the Applicants' to remove off-sales from the licence and add conditions to change the ratio of SIA Door stewards from 1 for every 100 persons to 1 for every 75; and to make the smoking area/beer garden no gathering after 1am and limit of maximum of 20 persons, Members remained concerned over how these premises would be managed and controlled with a 3am licence, given the proposed static position of SIA door stewards and the additional tasks being given to them in managing operations and what would happen to those static positions and tasks, should an incident occur inside the premises which required an immediate SAI response. This left Members with the view that the evolving proposals put forward by the Applicants' at the hearing, were not robust enough to reassure them that a 3am licence would not have a detrimental impact on the promotion of the licensing objectives and nearby residents.

In concluding, Members gave careful consideration as to what if any conditions could be added by them, as an alternative to refusal. However, Members resolved that with the lack of robust detail around specific numbers and locations of SIA Door Stewards, management and supervisory staff and how they would be utilised when responding to any incidents arising inside the premises whilst maintaining the demands of other duties, the minimum physical change to the internal layout of these premises in respect of pinch points, the human nature of individuals under the influence of alcohol and compelling them to follow direction and the history and geographical location to which these premises are situated, making it a high probability of disturbance from noise and anti-social behaviour, they could not be satisfied that this could be addressed via conditions to enable a 3am licence and therefore maintained that a refusal was appropriate and proportionate in these circumstances.