

Wednesday, 31 August 2022

LICENSING SUB-COMMITTEE

A meeting of **Licensing Sub-Committee** will be held on

Thursday, 8 September 2022

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor

Councillor Ellery

Councillor Barbara Lewis

Councillor Mills

Together Torbay will thrive

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Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

LICENSING SUB-COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the meeting.
2. **Apologies**
To receive apologies for absence, including notifications of any changes to the membership of the Sub-Committee.
3. **Minutes** (Pages 4 - 7)
To confirm as a correct record the Minutes of the meeting of the Licensing Sub-Committee held on 30 June 2022.
4. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
5. **Urgent items**
To consider any other items that the Chairman decides are urgent.
6. **Exclusion of the Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.

7. **Consideration of the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence**

(Pages 8 - 26)

To consider an exempt report on the fit and proper status of the holder of a dual Hackney Carriage and Private Hire Drivers' Licence.

Meeting Attendance

Please note that whilst the Council is no longer implementing Covid-19 secure arrangements attendees are encouraged to sit with space in between other people. Windows will be kept open to ensure good ventilation and therefore attendees are recommended to wear suitable clothing.

If you have symptoms, including runny nose, sore throat, fever, new continuous cough and loss of taste and smell please do not come to the meeting.

Minutes of the Licensing Sub-Committee

4 August 2022

-: Present :-

Councillors Barnby, Barbara Lewis and Chris Lewis

13. Election of Chairman/woman

Councillor Barbara Lewis was elected as Chairwoman for the meeting.

14. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillors Barnby and Chris Lewis instead of Councillors Ellery and Douglas-Dunbar.

15. Minutes

The Minutes of the meeting of the Sub-Committee held on 26 May 2022 were confirmed as a correct record and signed by the Chairwoman.

16. Licensing Act 2003 - An application for a Premises Licence in respect of The Still House, Unit 4 & 5 South Quay, Paignton, TQ4 6DT

Members considered a report on an application for a Premises Licence in respect of The Still House, Unit 4 & 5 South Quay, Paignton, TQ4 6DT.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation objecting to the application for a Premises Licence in respect of The Still House, Unit 4 & 5 South Quay, Paignton on the grounds of 'Prevention of Crime and Disorder and 'Public Safety.'	13 July 2022

Additional Information:

Members noted that an email had been received by the Police Representative giving their apologies for the hearing due to illness. They were aware that the Applicant had agreed to their three proposed conditions being added to their

Licence, if granted, and therefore did not feel it necessary to send an alternative representative to the hearing.

Oral Representations received from:

Name	Details
Applicant	The Applicant outlined the Application and responded to Members' questions.

Applicant's response to Representations:

At the hearing, the Applicant apologised for not seeing and responding to the Representation from the Police sooner, to confirm that they agreed to the following conditions being added to the Licence, if granted, as suggested by the Police, and noted that had they had a chance to do so, the Licence would have been granted with these additional conditions without the need to come before the Licensing Sub-Committee:

1. Persons using the outdoor seating area will be seated at all times.
2. The supply of alcohol to persons using the outside area shall only be permitted by way of table service, and waiting staff shall ensure that customers are seated and that empty glasses are cleared away promptly.
3. In the outside area, there shall be no consumption of alcohol, or other beverages, from glass bottles from which it is intended or likely that a person shall drink.

The Applicant confirmed their acceptance of these conditions at the hearing.

Decision:

That the application for a Premises Licence in respect of The Still House, Unit 4 & 5 South Quay, Paignton, TQ4 6DT be granted as applied for, subject to the following additional conditions:

1. Persons using the outdoor seating area will be seated at all times.
2. The supply of alcohol to persons using the outside area shall only be permitted by way of table service, and waiting staff shall ensure that customers are seated and that empty glasses are cleared away promptly.
3. In the outside area, there shall be no consumption of alcohol, or other beverages, from glass bottles from which it is intended or likely that a person shall drink.

Reason for Decision:

Having carefully considered all the oral and written Representations, Members resolved to grant the application having been satisfied that the operating schedule, along with the additional three conditions, would seek to ensure that the Licensing Objectives would be promoted.

In coming to their decision, Members had regard to the additional conditions suggested by the Police and agreed that the imposition of these additional conditions, was both appropriate and proportionate, to ensure that the outside area of the premises is managed in a responsible manner which will assist in promoting the licensing objectives 'the prevention of crime and disorder' and 'the promotion of public safety', and would alleviate the concerns raised by the Police.

Should any issues arise as a result of this grant, Members noted that a Review of the Premises Licence was available to any Responsible Authority of Interested Party.

17. Licensing Act 2003 – Determination of continuance of a Personal Licence

The Licensing Sub-Committee considered a report on the determination of the continuance of Personal Licence (PA0129) held by Ms D J Winstanley, following notification of a conviction of a relevant offence under Schedule 4 of the Licensing Act 2003. Members noted that Ms Winstanley had failed to inform the Licensing Authority of receipt of her conviction for a relevant offence, as required by her as a Personal Licence Holder. Devon and Cornwall Police had notified the Licensing Authority of the offence on 27 April 2022.

Members noted that the conviction related to an offence committed under the Road Traffic Act 1988 (c52) (b) Section 4 (driving etc. a vehicle when under the influence of drink or drugs). Ms Winstanley was ordered to pay a fine of £120, costs of £85, a victim surcharge of £34 and was disqualified from driving for an obligatory period of 14 months (the conviction would be spent on 26 June 2023).

The Licensing Authority had written to Ms Winstanley on 27 May 2022, at the address provided by her on her Personal Licence, to notify her that the Licensing Authority was considering suspending (for a maximum of six months) or revoking her licence and inviting her to make representations within 28 days of the date of the notice. Ms Winstanley failed to respond to this notice. The Interim Licensing Manager had since become aware that the address the Licensing Authority holds on file no longer exists, in that the name of the property had changed. Members noted that Ms Winstanley was under a duty under Section 127 of the Licensing Act 2003 to inform the Licensing Authority of any change to address and that a person commits an offence if they fail without reasonable excuse to comply with this requirement.

The Licensing Authority also wrote to Ms Winstanley on 25 July 2022 advising her of the date of the hearing and inviting her to attend the hearing and submit further information. This letter was sent to the address provided on her Personal Licence and a copy was also sent to an address provided by the Police, as given by Ms Winstanley in Court. No response was received to these letters and the letter sent to the address provided by the Police was returned to the Council offices on 3 August 2022 advising that she was not known at that address.

Members resolved to consider the continuance of a Personal Licence in the absence of Ms Winstanley, as she had failed to respond to any communications from the Licensing Authority, or to notify the Licensing Authority of a change of

address, having been satisfied in the circumstances, that it was in the public interest to determine this matter.

Decision:

That Ms D J Winstanley's Personal Licence be revoked in accordance with Section 138 of the Police and Crime Act 2017 and that this revocation shall have immediate effect.

Reasons for Decision:

Having carefully considered all the written and oral representations, Members resolved to revoke Ms Winstanley's Personal Licence having voted unanimously that in the absence of evidence to the contrary, they could not be satisfied that she was a suitable person to hold a Personal Licence.

In coming to their decision, Members noted Ms Winstanley's failure to report her change of address and conviction of a relevant offence to the Licensing Authority. She had also failed to respond to any communications from the Licensing Authority in respect of this matter and that, as a responsible person, she should have been aware of the requirements of her Personal Licence to keep the Licensing Authority informed. Members felt that Ms Winstanley's actions were not those of a responsible Personal Licence Holder and were not satisfied that she was a suitable person to promote the Licencing Objectives in respect of the sale of alcohol.

Members noted that Ms Winstanley had the right to appeal their decision at the Magistrates' Court.

Chairman/woman

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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