



Minutes of the Licensing Sub-Committee

5 February 2015

-: Present :-

Councillor

Councillors Addis, Bent and Ellery

34. Election of Chairman/woman

Councillor Addis was elected as Chairman for the meeting.

35. Minutes

The Minutes of the meeting of the Sub-Committee held on 8 January 2015 were confirmed as a correct record and signed by the Chairman.

36. Licensing Act 2003 – An application for a New Premises Licence in respect of Las Iguanas, Unit 4, Abbey Sands, Torquay TQ2 5FB

Members considered an application for a for a New Premises Licence in respect of Las Iguanas, Unit 4, Abbey Sands, Torquay TQ2 5FB.

Written Representations received from:

Name	Details	Date of Representation
The Police	Representation in relation to the Licensing Objectives 'The Prevention of Crime and Disorder' and 'The Protection of Children from Harm.'	18 December 2014
Public Protection	Representation in relation to the Licensing Objective 'The Prevention of Public Nuisance.'	24 December 2014
Interested Party	Representation in support of the new Premises Licence.	23 December 2014

Members noted there had been no additional Representations received from any other Responsible Authority or any other Interested Party.

The Chairman agreed to additional time to be allowed for the Oral Representations with a flexible limit of 20 minutes to ensure all parties could put their case forward.

Oral Representations received from:

Name	Details
The Applicant's Solicitor	The Applicant's Solicitor outlined the application, as set out in the submitted documents and responded to Members questions.
The Police	The Police outlined their Representation, as set out in the submitted documents and responded to Members questions and advised of proposed conditions.
Public Protection	The Public Protection Officer outlined their Representation, as set out in the submitted documents and responded to Members questions and advised of proposed conditions.

Members noted that in the Oral Representations of the Public Protection Officer and the Police Representative, that the Applicant had been advised to consult with the Responsible Authorities, but had submitted the complete application within 24 hours therefore only allowing a very small window of opportunity for consultation and suggested that the Applicant had failed to consult adequately prior to the submission of the application, as per the Licensing Statement of Principles, Torbay Council 2011, Section 3 Page 15.

Additional Information:

The Applicant's Solicitor provided colour photographs and presentations for Members, which had been circulated to them by e-mail prior to the meeting, which outlined the Las Iguanas Brand and ethos.

An e-mail between the Applicant's Solicitor and the Public Protection Officer was also circulated which outlined proposed conditions.

Members noted that the Police had proposed seven conditions, as per Appendix 3 of the submitted report. The Applicant's Solicitor confirmed that conditions 2, 3, 4 and 7 had been agreed and that Public Protection had proposed two conditions, as per Appendix 4 of the submitted report.

Decision:

That the application for a New Premises Licence in respect of Las Iguanas, Unit 4, Abbey Sands, Torquay TQ2 5FB be granted as applied for, subject to the following conditions.

Those proposed by the Police with the following amendments to conditions 1, 5 and 6 to read:

1. On any Friday and Saturday night that the premises remain open for the sale of alcohol after midnight and then closes after 0030 hrs between 1 April and 30 September, SIA door supervisors shall be employed on the premises from 2300 hrs until close, at a ratio of 1 supervisor per 100 customers. This condition shall apply on New Year's Eve and Bank Holiday Sundays.
5. All drinks must be served in toughened, strengthened, polycarbonate or plastic glasses after midnight. On any Friday and Saturday night when the premises remain open for the sale of alcohol after midnight, no alcohol shall be served in glass bottles from which it is intended or likely that a person shall drink after midnight. This condition shall also apply on New Year's Eve and Bank Holiday Sundays.
6. No under 18's shall be permitted on the premises after 2300 hrs. Those under 18 on the premises between 20.00 and 2300 hrs shall be permitted if accompanied by a responsible adult who is taking a table meal. An exception to under 18's being permitted on the premises after 2300 hrs shall be to attend a pre-arranged private function in the company of a responsible adult and where the premises are closed to the public.

Amendments to Operating schedule under the heading 'General – all four licensing objectives' to read:

All front of house staff shall receive in-house training around the sale of alcohol. Such training will be written in to a programme of ongoing review and shall be made available to a responsible authority on reasonable request.

Amendments to Operating schedule under the heading 'Protection of children from harm' to read:

All front of house staff shall through in-house training be made aware of the law regarding the refusal of service to any person who is drunk or is underage and how to seek an approved form of photographic identification from anyone who appears to be underage.

Additional conditions to read:

8. Patrons in the outside area consuming alcohol, shall be seated at all times after 2300 hrs.

9. After midnight patrons using the outside area shall be seated at tables directly next to the external wall of the premises.

10. No Regulated Entertainment shall be permitted after 11pm.

Reason for Decision:

Having carefully considered all the written and oral representations, Members resolved to grant the licence as decided; having been satisfied that the imposition of the proposed, amended and additional conditions would alleviate the concerns raised by the Police and Public Protection and promote the Licensing Objectives.

In coming to this decision, Members had careful regard to the type of premises that the Applicant sought the licence for, the location of the premises being directly under and in close proximity to residential and commercial residential properties and that raised by the Responsible Authorities orally at the hearing and in their written representations.

On balance Members had regard to the operational use of the premises as a commercially viable business but felt that it could not permit that applied for by the Applicant after midnight without appropriate conditions in place to prevent the Licensing Objectives being undermined.

Notwithstanding the assurances given by the Applicant's Solicitor as to why this operator did not require the usual conditions expected of a licensed premises, Members did in noting the close proximity of the residential premises and the out of town location, have regard to their local knowledge of the area and that historically this location had been a cause of concern for the Police, due to it being a thoroughfare for those staying at nearby commercial residential premises. Therefore without the additional and amended conditions being in place where this premise is to open and sells alcohol after midnight, there was in their mind a real risk of the Licensing Objectives being undermined if there was no SIA Door Stewards present at times stated in their decision.

In prohibiting regulated entertainment after 2300 hrs, Members gave due consideration to the Council's Licensing Statement of Principles 2011 and noted that the Applicant had failed in their application and in that orally presented by their Solicitor during the hearing, to sufficiently demonstrate how they will protect residential premises in close proximity to their premises from public nuisance. Given that residential premises were directly located above the premises, Members resolved that this condition was appropriate.

In prohibiting under 18's from the premises, as stated in their decision, Members resolved that this was appropriate as neither the Applicant's Solicitor nor the application made mention of a designated family dining area. Without this and no condition which restricted the sale of alcohol to those taking a table meal, gave rise to a concern for Members that under 18's would potentially be exposed to behaviour that would be detrimental to the Licensing Objective which seeks to protect children from harm.

In concluding, Members noted that whilst the Applicant has 38 other premises, they had not operated in Torbay previously and having been told by the Police at the hearing that Torbay has a higher rate of alcohol related incidents to that of Plymouth and Exeter, Members resolved that it was appropriate to put in place the conditions they had, given that being applied for.

Chairman/woman
