

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of No 18, 18 Esplanade Road, Paignton, TQ4 6BD

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub Committee** **20th May 2021**

Contact Officer: **Amanda Turner**

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1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence, in respect of the Premise detailed above.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objective the “Prevention of Crime and Disorder” and the “Prevention of Public Nuisance”.
- 1.4 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation. A decision must be made, having considered the Representations, either:-
 - (a) to grant the licence subject to
 - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;(Such conditions may differ in respect of different parts of the Premises and/or different activities).
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the Premises Supervisor;
 - (d) to reject the application.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

2. Application

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

Additional documentation submitted by the Applicant in relation to Policies they have in place relating to Dispersal, Door Supervisor, Drugs and Noise reports and plans can be seen in Appendix 2.

A brief description of the application, as follows:-

“No 18 is planned to operate as an entertainment venue, with a mix of live music, dance, disco and televised sports. No 18 forms the basement of Hyde Dendy with its own entrance, outside area and facilities”.

Indoor Sporting Events from 08:00 until 03:00 the following morning indoors 7 days a week.

Live Music from 10:00 until 03:00 the following morning indoors 7 days a week.

Recorded Music from 08:00 until 03:00 the following morning indoors 7 days a week.

Provision of Performance of Dance from 08:00 until 03:00 the following morning indoors 7 days a week.

Provision of anything of a similar description to live music/recorded music or Performance of Dance from 08:00 until 03:00 the following morning indoors 7 days a week.

Late Night Refreshment both indoors and outdoors 23:00 to 03:00 7 days a week.

The Supply of Alcohol on and off the premises from 08.00 until 03:00 the following morning 7 days a week.

To be open to the public from 08:00 until 03:00 the following morning 7 days a week.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as relevant Representations have been received. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale and have not been subsequently withdrawn.

We have received 2 Responsible Authority Representations:

One from the Police in relation to the Licensing Objectives “Prevention of Crime and Disorder” and “Prevention of Public Nuisance”. This is shown in Appendix 3.

The second one from Torbay Councils Public Protection Officer responsible for public nuisance outlining his objections in relation to “The Prevention of Public Nuisance” and “Public Safety”. This is shown as Appendix 4

We have also received 5 Representations from Interested Parties; namely persons who live or operate a business in the vicinity. These relate to the Licensing Objectives “Prevention of Crime and Disorder” and “Prevention of Public Nuisance”. A copy of the Representations are attached at Appendix 5.

A previous application for this premises was refused by the Licensing Sub-Committee on 24 October 2019 and a copy of the decision notice is included in the Police’s Representation of Appendix 3.

- 2.3 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representation and the procedure to be followed at the hearing.
- 2.5 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.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to :-
 - (a) The holder of the licence against any decision
 - (i) to impose conditions on the licence, or
 - (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.
 - (b) Any person who made a relevant Representation who desires to contend
 - (i) that the licence ought not to have been granted, or
 - (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or taken any step to exclude a licensable activity or refuse to specify person as Premises Supervisor.
- 2.7 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 Additional documentation submitted by Applicant

Appendix 3 Representation from the Police

Appendix 4 Representation from Public Protection Officer responsible for Public Nuisance

Appendix 5 Representations from Interested Parties

Appendix 6 Plan of the Premises

Documents available in Members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2021-26