



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Review of a Premises Licence for Churston Court Hotel, Churston Ferrers, Brixham TQ5 OJE**

Wards Affected: **Churston with Galmpton**

To: **Licensing Sub-Committee** **25 October 2018**

Contact Officer: **Mandy Guy**
Telephone: **01803 208124**
E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of 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 Public Nuisance” and “Public Safety”.
- 1.4 Under regulations to the Licensing Act 2003 (the Act) the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.

The Authority must have regard to the application and any relevant Representations and take one or more of the steps as detailed below as it considers necessary for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;
- (f) to do nothing;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

All Annex one conditions on the current Premises Licence, which are subject to under sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) and any of the mandatory conditions must remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 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 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above.

A brief description of the Review is as follows:

The application concerns matters relating to the Licensing Objective “The Prevention of Public Nuisance” and has been submitted by a resident that lives in the vicinity of the Churston Court Hotel.

Details of the application are shown in Appendix 1.

A copy of the current licence, including the plan of the premises is attached as Appendix 2.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the Applicant is a person as defined under the Act as being entitled to make such application and that the application is not frivolous or vexatious. The Authority is also satisfied that the administrative requirements of Section 51(3) (a) and (b) have been met and that the application is therefore, properly made.

A Representation has also been received from the Public Protection Officer for Torbay Council in relation to the Licensing Objective “The Prevention of Public Nuisance”. This is shown as Appendix 3.

A further 11 Representations have also been received from Interested Parties. 10 of these are from residents who live within the vicinity of the Premises and are in support of the Review application. 1 Representation is in support of the Premises and is from 2 people who are regular guests at the Premises. The Representations in support of the Review application relate to the Licensing Objectives “The Prevention of Public Nuisance” and “Public Safety”. These representations are shown as Appendix 4.

There have been no Representations from any other Responsible Authority or any other Interested Party.

- 2.3 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.
- 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 Representations and the procedure to be followed at the hearing.
- 2.5 Once the matter is determined, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
 - (a) the Applicant for the Review,

- (b) the holder of the Premises Licence, or
- (c) any other person who made relevant Representations in relation to the application.

In the event that an Appeal is entered, the determination will not have affect until the Appeal is either determined or withdrawn.

- 2.6 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 an order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1	Application for Review
Appendix 2	A copy of the Premise Licence
Appendix 3	Representation from Public Protection Officer
Appendix 4	11 Representations from Interested Parties

Documents available in members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2016.