

Public Agenda Item: **Yes**

Title: **Churston Court Hotel, Churston Ferrers, Brixham TQ5 0JE**

Wards Affected: **Churston with Galmpton**

To: **Licensing Sub- Committee** On: **28 March 2019**

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 Variation to 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 of “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance”, “Public safety” and “The Protection of Children from Harm”

1.4 The matter must be considered on its own merits having received details of the issues arising either at a hearing or by written Representations if all parties have agreed that a hearing is not necessary. Having regard to the Representations and issues arising, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are:-
(a) to modify the conditions of the licence, or
(b) reject the application in whole or in part, or
(c) to grant the application as applied for

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

1.5 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 An application has been made under Section 34 of the Act for a Variation to a Premises Licence. Details of the application are shown in Appendix 1. Only the relevant pages of the application are shown.

A brief description of the proposed Variation is as follows:-

To add the performance of unamplified and amplified Live Music outdoors at the premises between 10:00 and 23:00 on any day.

To add the performance of Recorded Music outdoors at the premises between 10:00 and 23:00 on any day.

To add the showing of Films both indoors and outdoors at the premises between 10:00 and 23:00 on any day.

To increase the Sale of Alcohol both on and off the premises on Sunday to allow alcohol to be sold from 10:00 which is an additional 2 hours in the morning.

To increase the Opening Hours on Sunday to allow the premises to open at 10:00 which is 2 hours earlier than presently on the licence.

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report.

The Premises are presently licenced for the following:-

The Performance of Live Music, indoors only, Monday to Saturday 10:00 until 00:30 and Sunday noon until midnight.

The Performance of Recorded Music, indoors only, Monday to Saturday 10:00 until 00:30 and Sunday noon until midnight.

Late Night Refreshment, indoors and outdoors, Monday to Saturday 23:00 until 00:30 and Sunday from 23:00 until midnight.

The Sale of Alcohol, on and off the premises, Monday to Saturday 10:00 until midnight and Sunday noon until 23:30.

The Opening Hours are Monday to Saturday 10:00 until 00:30 and Sunday noon until midnight.

The exemptions under the Live Music Act 2012 apply to this licence.

- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the variation to the Premises Licence, as relevant Representations have been received from 50 members of the public and 2 Responsible Authorities. The Licensing Authority is also satisfied that the Representations were received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received a Representation from the Police which relates to the Licensing Objectives “The Prevention of Crime and Disorder”. This is shown as Appendix 3.

We have received a Representation from Public Protection in relation to the Licensing Objectives “Public Safety” and “The Prevention of Public Nuisance”. This is shown as Appendix 4.

We have received 40 Representations from members of the public, with 49 signatures, who are objecting to the application. The Representations relate to the Licensing Objectives of “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance”, “Public safety” and “The Protection of Children from Harm”. These are shown as Appendix 5.

We have received 10 Representations from members of the public, with 11 signatures, who are supporting the application. The Representations relate to the Licensing Objectives of “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance”, “Public safety” and “The Protection of Children from Harm”. These are shown as Appendix 6.

There have been no Representations received from any other Responsible Authority or any other Interested Party other than those mentioned above.

- 2.4 The Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 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.
- 2.6 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.
- 2.7 If the application is granted, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
 - (a) The applicant for the variation of the licence against any decision to modify the conditions
 - (b) Any person who made a relevant representation in relation to the application who desires to contend
 - (i) that any variation made ought not to have been made, or
 - (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.
- 2.8 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	Copy of the Premises Licence and Plan.
Appendix 3	Representation from the Police.
Appendix 4	Representation from Public Protection.
Appendix 5	Representations from members of the public objecting to the application.
Appendix 6	Representations from members of the public supporting the application.

Documents available in members' rooms

None

Background Papers:

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

The current Premises Licence for the above Premise.

Torbay Council Licensing Policy 2016-2021.