

TORBAY COUNCIL

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Cru Torquay, 31 Ilsham Road, Wellswood, Torquay, TQ1 2JG

Wards Affected: **Wellswood, Torquay**

To: **Licensing Sub Committee**

29 August 2024

Contact Officer: **Julie Smart**

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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 Objectives the “Prevention of Crime and Disorder, the “Prevention of Public Nuisance”, and the “Protection of Children from Harm”
- 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.

A brief description of the application, is as follows:-

Late Night Refreshment on Good Friday from 1200 hrs to 0000 hrs, Christmas Day from 1200 hrs to 0000 hrs, and on New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

The sale by retail of alcohol for consumption both on and off the premises from 1100 hrs to 2300 hrs Monday to Sunday, Good Friday from 1200 hrs to 2330 hrs, Christmas Day from 1200 hrs to 2330 hrs, and on New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

In respect of recorded music, the Applicant has not ticked the box indicating that he is applying for Recorded Music (page 5 of the application form), however page 11 of the application contains a non-standard timing request for Recorded Music on Good Friday from 1200 hrs to 0000 hrs, Christmas Day from 1200 hrs to 0000 hrs, and on New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day. The application does not indicate whether this is to be indoors or outdoors. Upon querying this with the Applicant, this reference to non-standard timings has been withdrawn and a copy of the email confirming this can be found at Appendix 4.

The opening hours for the premises are 0800 hrs to 2330 hrs Monday to Sunday, Good Friday 1200 hrs to 0000 hrs, Christmas Day from 1200 hrs to 0000 hrs, and on New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

The Applicant has given the following description of the premises: -

“Freehold commercial retail until being the ground floor of 31 Ilsham Road, Wellswood, Torquay, aforesaid and comprising and laid out as a licensed restaurant and bar in accordance with the details show on the planned annexed hereto”.

The plan accompanying the application is shown in Appendix 2.

- 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 3 Representations from Interested Parties. These are shown in

Appendix 3.

No Representations have been received from any Responsible Authority or any other Interested Party.

- 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.

Rachael Hind
Regulatory Services Manager – Commercial

Appendices

- Appendix 1 Relevant sections of the application form
- Appendix 2 Plan of the Premises
- Appendix 3 Representations from Interested Parties
- Appendix 4 Email from the Applicant withdrawing the reference to non-standard timings for Recorded Music.

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2021-26