

**REPORT TO: LICENSING (SUB) COMMITTEE**

**Date of Hearing: 28 July 2017**

**Report of:** Environmental Health and Licensing Manager

**Type of Application:** Licensing Act 2003 application for the VARIATION of a premises licence in respect of THE TALLY HO! 2 COUNTESS WEAR ROAD, EXETER, EX2 6LG.

**Legislation:** Licensing Act 2003

**Ward Application Refers to:** PRIORY

**Applicant:** Edward C Borthen and Deborah L Borthen

**Premises:** The Tally Ho! 2 Countess Wear Road, Exeter, EX2 6LG

**1. What is the report about?**

1.1 The application attached as Appendix A together with the plan at Appendix B was received for the VARIATION of the premises licence at the above Premises on 9<sup>th</sup> June 2017. The existing premises licence and plan is attached at Appendix C.

1.2

**The existing licence provisions are as follows:**

**Opening Hours**

Monday to Saturday 10.00-23.30  
Sunday 12.00-23.00  
Christmas Eve 10.00-23.59  
New Year's Eve 10.00-23.00 (NYD)

**Supply of alcohol on and off the premises**

Monday to Saturday 10.00-23.00  
Sunday 12.00-22.30  
Christmas Eve 10.00-23.30  
New Year's Eve 10.00-10.00

**Regulated Entertainment**

Monday to Saturday 10.00-23.00  
Sunday 12.00-22.30  
Christmas Eve 10.00-23.30  
New Year's Eve 10.00-10.00

**Late Night Refreshment**

Monday to Saturday 23.00-23.30  
Christmas Eve 23.00-23.59  
New Year's Eve 23.00-05.00

### 1.3 The proposed variation:

#### **Opening Hours**

Monday to Thursday 08.00-00.00  
Friday & Saturday 08.00-01.00  
Sunday 10.00-00.00  
Christmas Eve 08.00-00.00  
New Year's Eve 08.00-10.00 (NYD)

#### **Supply of alcohol on and off the premises**

Monday to Thursday 10.00-23.30  
Friday & Saturday 10.00-00.30  
Sunday 11.00-23.30  
Christmas Eve 08.00-00.00  
New Year's Eve 08.00-10.00 (NYD)

#### **Live Music (indoors & outdoors)**

Monday to Thursday 08.00-00.00  
Friday 08.00-00.30  
Saturday 10.00-00.30  
Sunday 10.00-23.30  
Christmas Eve 08.00-00.00  
New Year's Eve 08.00-10.00 (NYD)

#### **Recorded Music (indoors & outdoors)**

Monday to Thursday 10.00-23.30  
Friday & Saturday 10.00-00.30  
Sunday 12.00-00.30  
Christmas Eve 08.00-00.00  
New Year's Eve 08.00-10.00 (NYD)

#### **Films & Indoor Sporting Events**

Monday to Thursday 08.00-23.00  
Friday & Saturday 08.00-00.00  
Sunday 10.00-23.00  
Christmas Eve 08.00-00.00  
New Year's Eve 08.00-10.00 (NYD)

#### **Boxing & Wrestling (Indoors & Outdoors)**

Monday to Thursday 08.00-23.00  
Friday & Saturday 08.00-23.00  
Sunday 10.00-23.00  
Christmas Eve 08.00-00.00  
New Year's Eve 08.00-10.00 (NYD)

#### **Plays (Indoors & Outdoors)**

Monday to Thursday 08.00-23.00  
Friday & Saturday 08.00-23.30  
Sunday 10.00-23.00  
Christmas Eve 08.00-00.00

New Year's Eve 08.00-10.00 (NYD)

**Performance of Dance (Indoors & Outdoors)**

Friday & Saturday 10.00-00.00

Christmas Eve 08.00-00.00

New Year's Eve 08.00-10.00 (NYD)

**Anything of a Similar Description: (To music and dancing)**

Monday to Thursday 10.00-00.00

Friday & Saturday 10.00-01.00

Sunday 10.00-00.00

Christmas Eve 08.00-00.00

New Year's Eve 08.00-10.00 (NYD)

**Late Night Refreshment (Indoors & Outdoors)**

Monday to Thursday 23.00-23.30

Friday & Saturday 23.00-00.30

Sunday 23.00-23.30

Christmas Eve 23.00-00.00

New Year's Eve 23.00-05.00 (NYD)

- 1.4 The Application includes the revised plan to clarify the area within which licensable activities may take place.
- 1.5 The Premises is situated in a residential area of Exeter by Countess Wear and has been operated by the Applicant since 8th July 2016.

**2. Are there any representations?**

- 2.1 There have been 30 representations objecting to the variation relating to the Licensing Objectives of the Prevention of Public Nuisance, the Prevention of Crime and Disorder and Public Safety. The objections are listed at Appendix D.
- 2.2 There are five letters of support letters listed at Appendix E.
- 2.2 In response to the objections the Applicant has provided a written submission offering amendments to the Application and this is attached at Appendix F.
- 2.3 Details relating to three noise complaints received by Environmental Health in respect of an event held at the Premises on 8<sup>th</sup> July 2017 are attached at Appendix G. An e-mail from the Applicant to the Licensing Authority dated 14<sup>th</sup> July 2017 explaining the event held at the Premises on 8<sup>th</sup> July 2017 is attached at Appendix H.
- 2.4 No representations have been received from Environmental Health, the Police or any other Responsible Authorities.

### **3. Report details:**

- 3.1 The application was advertised on the Premises and in the local newspaper on 22<sup>nd</sup> June 2017 in line with above legislation. The Premises advertisement is held at Appendix I and the newspaper advertisement is at Appendix J.

### **4. What are the legal aspects?**

- 4.1 The Licensing Sub-Committee are required to have regard to;

- 4.1.1 the representations (including supporting information) presented by all the parties; and
- 4.1.2 the Official Guidance issued under section 182 of the Licensing Act 2003 revised April 2017 which can be viewed at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627825/revised\\_182\\_guidance\\_05\\_04\\_17.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/627825/revised_182_guidance_05_04_17.pdf); and
- 4.1.3 the Licensing Authorities Statement of Licensing Policy which can be viewed at <https://exeter.gov.uk/media/1427/statement-of-licensing-policy-2015-2020.pdf>

- 4.2 In determining a licence application the Licensing Sub-Committee will consider each application on its merits.

- 4.3 The Licensing Sub-Committee, having regard to the representations, must take such of the following steps, if any, as it considers appropriate for the promotion of the Licensing Objectives.

- to modify the conditions of the licence; and/or
- to reject the whole or part of the application.

If the Licensing Sub-Committee considers that none of the above steps are appropriate for the promotion of the Licensing Objectives the Application shall be granted as applied for.

### **5. Recommendations:**

- 5.1 The Licensing Sub-Committee are required to identify what steps, if any, need to be taken to determine the application.

### **Environmental Health and Licensing Manager**

#### **Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

None

Contact for enquires:  
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