



Minutes of the Licensing Sub-Committee

30 January 2019

-: Present :-

Councillors Thomas (D), Thomas (J) and Tolchard

38. Licensing Act 2003 – An application for a Transfer of the Premises Licence for Zakopane, 16 Market Street, Torquay

Members considered a report on an application for a Transfer of the Premises Licence for Zakopane, 16 Market Street, Torquay. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Representation requesting the application be refused.	18 January 2019

Additional Information:

The start of the Hearing was delayed in order for the Applicant to attend. Having waited for 25 minutes, Members received oral representations from the Police in respect of whether the Hearing should continue in the absence of the Applicant.

Members resolved the Hearing should proceed in the absence of the Applicant having been informed that the Applicant was aware of the date and time of the Hearing and that to proceed was in the public interest.

Oral Representations received from:

Name	Details
Police	The Police outlined their representation and requested Members consider refusing the application.

Decision

That the application for a Transfer of the Premises Licence in respect of Zakopane, 16 Market Street, Torquay be refused.

Reasons for Decision

Having carefully considered the application, the evidence of the Police before them and the absence of any evidence from Mr Abdullah to the contrary, Members

unanimously resolved to refuse the application for a transfer of the Premises Licence.

In coming to that decision, Members noted the close links between Mr Abdullah and the previous premises licence holder to which the criminal investigation is associated to these premises. In addition it was of great concern to Members that the employee proposed by Mr Abdullah as an experienced licensee and would assist him in the management of these premises was also closely linked to the previous premises licence holder and had too been incriminated in similar criminal conduct at different licensed premises within the wider south west area. This coupled with evidence from the Police that the male employee who identified himself during a Police licensing inspection at the premises on the 14th January 2019 as Mr Abdullah's cousin, that he too had close links with the previous premises licence holder and had convictions against him for similar offences; resulted in Members resolving that a refusal of the application was the only appropriate decision in the circumstances.

In noting that the premises was located within the Licensing Authority's Cumulative Impact Area (CIA), an area where a new Premises Licence or the variation of a Premises Licence would normally be refused where it is anticipated that the application will add to the problems of crime and disorder and/or public nuisance in the area, Members could not be satisfied on the evidence before them that the premises would not add to crime.

Members were further concerned by Mr Abdullah's lack of understanding of the English language at a Licensing Sub-Committee hearing on the 17th January 2019 which resulted in an interpreter being arranged for this hearing and how this would potentially impact on his ability to turn these premises around and to ensure strong management and promotion of the licensing objectives of a premises within the Licensing Authority's CIA. Notwithstanding this, Members also has serious concerns about the poor judgement shown by Mr Abdullah in his choice of employees and that such a language barrier could result in those employees exploiting Mr Abdullah to use the premises for their own continued criminality which they both have previous form for.

In concluding, Members did consider what if any modifications could be made to the premises licence to enable a transfer and in turn ensure promotion of the licensing objectives but resolved on the evidence before them that there were none.

39. Licensing Act 2003 – An application for a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor of Zakopane, 16 Market Street, Torquay TQ1 3AQ

As a result of the decision in Minute 38 above, the application for a Variation to a Premises Licence to Specify an Individual as the Premises Supervisor of Zakopane, 16 Market Street, Torquay becomes invalid.

40. Licensing Act 2003 – An application for a Review of a Premises Licence for Zakopane, 16 Market Street, Torquay TQ1 3AQ

Members considered a report on an application for a review of a Premises Licence in respect of Zakopane, 16 Market Street, Torquay. The Premises do fall within the Cumulative Impact Area.

Written Representations received from:

Name	Details	Date of Representation
Police	Application for a Review of a Premises Licence	Received 22 November 2018
Trading Standards Officer	Representation in support of the Review of the Premises Licence.	Undated
Public Health	Representation in support of the Review of the Premises Licence.	13 December 2018
Police	Additional information in support of the Review of the Premises Licence.	14 January 2019

Additional Information:

Members sought oral representations from the Police and Trading Standards Officer on whether, in their view, the Hearing should proceed in the absence of the Respondent.

Members resolved the Hearing should proceed in the absence of the Respondent having been informed that the Respondent was aware of the date and time of the Hearing and that to proceed was in the public interest.

The Chairman permitted an extension of time for oral representations and advised that each party would be permitted 20 minutes for their representation. All parties present confirmed 20 minutes would be sufficient time to submit their oral representations.

Oral Representations received from:

Name	Details
Applicant (Police)	The Police outlined their application for a Review of the Premises Licence in respect of Zakopane, 16 Market Street, Torquay.
Trading Standards Officer	The Trading Standards Officer outlined their representation in support of the Review of the Premises Licence.

Decision

That the Premises Licence in respect of Zakopane, 16 Market Street, Torquay be revoked.

Reasons for Decision

The evidence presented by the Trading Standards Officer and Police Licensing Officer demonstrated, what in Members opinion, appeared to be a sophisticated and entrenched level of criminality at the premises, levels which officers with 18 years of experience had never witnessed before. Members themselves concurred with the sentiment of the officers noting, that in their limited experience by comparison, they too had never been presented with such evidence which demonstrated the level of criminal activity taking place at a premises licenced by Torbay Council.

It was clear to Members that the primary aim of this premise was the pursuit, concealment and sale of illegal goods. Members were greatly concerned to learn that some employees at the Premises were too involved in these illegal activities or would have known that the premises were participating in such illegal activities, given the scale of the criminal operation and the amount of goods seized from the premises by Her Majesty's Revenue and Customs. This in Members opinion, would have made it almost impossible for any member of staff employed at the premises to not have been aware that such activities were taking place and therefore, would have been condoning such activities, along with the Premises Licence Holder as there was no evidence before them to suggest that it was an employee who had notified the enforcement authorities.

Members gave consideration to placing additional conditions on the premises licence, as initially proposed at a previous hearing by the holder of the interim transferred licence before the Police had objected to the application and in turn, been refused by the Licensing Sub-Committee, but noted the evidence submitted by the experienced Trading Standards Officer that there were no conditions that could deter the level of criminality being carried out at these premises. This coupled with Members complete lack of confidence that the Premises Licence Holder, or staff employed by him, would comply with any additional conditions or uphold the Licensing Objective 'The Prevention of Crime and Disorder' led Members to conclude that revocation was the only appropriate option available to them in the circumstances so as to alleviate their concerns, that of the Responsible Authorities and to cease illegal activity from continuing at these premises.

Furthermore, Members had regard to section 11.27 and 11.28 of Revised Guidance issued under section 182 of the Licensing Act 2003 and the fact that the premises are situated within the Licensing Authority's Cumulative Impact Area, an area that already experiences higher levels of crime, disorder and public nuisance and in doing so, determined in the circumstances before them that revocation of the premises licence was in the interests of the wider community and appropriate.

In concluding, Members noted that the Premises Licence Holder was aware of the hearing date and his failing to attend showed a complete disregard for the seriousness of the situation, and in the absence of any evidence to the contrary which on that before them, would have been hard to disprove, resulted in Members determining that they had no confidence in the ability of the Premises Licence Holder to run a lawful premises which promoted the Licensing Objectives.

Chairman/woman
