

# **TORBAY COUNCIL**

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Briefing Report No: Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Review of a Premises Licence in respect of The Devon Dumpling, 108 Shiphay Lane, Torquay, TQ2 7BY

Wards Affected: **Shiphay**

To: **Licensing Sub-Committee** On: **3 July 2025**

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## **1. Key points and Summary**

- 1.1 An application has been received from an Interested Party seeking a review of the Premises Licence held by The Devon Dumpling public house. A copy of the application can be found in Appendix 1 to this report.
- 1.2 Members are asked to consider and determine this application. The matters raised relate to the Licensing Objectives: The Prevention of Crime and Disorder; Public Safety, and the Prevention of Public Nuisance.
- 1.3 Under the Licensing Act 2003 (the Act), the Licensing Authority (the Authority) before determining the application, must hold a hearing to consider the application and any relevant Representations.

In making its decision, the Committee is obliged to have regard to the application and any relevant representations and take one or more of the steps as detailed in the report, as it considers appropriate for the promotion of the four Licensing Objectives.

## **2. Introduction and application**

- 2.1 On 13 May 2025, the Licensing Department received an application from an interested party, Ms Rhiannon Smart, under Section 51 of the Act for a Review of the Premises Licence in respect of The Devon Dumpling, 108 Shiphay Lane, Torquay.

The grounds for the Review relate to *‘a breach of a previous amendment to the licence and for the prevention of public nuisance, the prevention of crime and disorder and public safety’*.

Full details of the application are shown in Appendix 1. An additional supporting statement and videos have been submitted by the Applicant to support the application. These are shown in Appendix 2.

A copy of the premises licence showing the activities, timings, and conditions is attached at Appendix 3.

- 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.

### **3. Consultation**

- 3.1 A notice stating a Review application had been made was issued by Torbay's Councils Licensing Department and delivered by the Council's Licensing Officer, on 14 May 2025. Details of the Review have been advertised on the Council's website. The Notice advised of the grounds for the Review and requested that representations should be made no later than 10 June 2025 to Torbay Council in writing. All Statutory consultees were served with a copy of the Review application.
- 3.2 We have received one representation from a Responsible Authority in support of the application which includes statements from two local residents who wish to remain anonymous. This has been received from Tom West, Public Protection Officer for Torbay Council. This is shown at Appendix 4 and relates to the Licensing Objective: The Prevention of Public Nuisance.
- 3.3 There is one representation from an Interested Party in support of the application, relating to the Prevention of Public Nuisance. Please see Appendix 5.
- 3.4 There is one neutral Representation received on behalf of an Interested Party who are the freehold owners of the premises. This is shown at Appendix 6.
- 3.6 No other Representations have been received from any other Responsible Authority or any other Interested Parties other than those stated above.

### **4. Legal and Policy Considerations**

- 4.1 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act and to do so in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 4.2 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.
- 4.3 In making its decision, the Committee are required to have regard to:
- the Representations (including supporting information) presented by all the parties; and

- the official guidance issued under section 182 of the Licensing Act 2003 (revised February 2025) with the following paragraph's relevant to this application:
  - 1.2 - 1.5, 1.9, 1.10, 1.12, 1.16, 1.17
  - 2.1 – 2.27
  - 11.1, 11.7, 11.9, 11.11 and 11.16 - 11.23
- The Council's own Licensing Policy with the following sections being relevant to this application:
  - Section 1: The guiding principles that will direct the Council in making licensing decisions (page 7-13)
  - Section 3: Additional considerations when an application is heard by a Licensing Committee (page 17-27)
  - Section 4: The Licensing Authority's rationale for issuing Premises Licences
  - Section 5: The role and influence of representations (page 30)
  - Appendix 2- Supplementary Information (page 40)

4.4 In making a determination, the Licensing Sub-Committee will consider each application on its merits.

4.5 Having had regard to the application and any relevant representations, the Licensing-Sub Committee must take such of the following steps, as it considers appropriate for the promotion of the licensing objectives:

- (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.

If the licence is subject to sections 19, 20 and 21 (requirement to include certain Mandatory Conditions in Premises Licences) they 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.

4.6 If consideration is being given to attaching new or amended conditions to the premises licence, Members should consider, are the proposed conditions:

- Appropriate
- Relevant
- Relevant to the activity/premises/venue
- Enforceable
- Precise
- Reasonable and

- Achievable
- 4.7 The Licensing Authority's determination of the licence review should be evidence-based. Any decision must be justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 4.7 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.
- 4.8 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 effect until the Appeal is either determined or withdrawn.

- 4.9 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.

**Rachael Hind**  
**Regulatory Services Manager**

## **Appendices**

Appendix 1 Application for Review

Appendix 2 Additional Supporting Document from the Applicant including videos

Appendix 3 Copy of the Current Premises Licence

Appendix 4 Representation from a Responsible Authority in support of the Application

Appendix 5 Representations from one Interested Parties in support of the Application

Appendix 6 Neutral Representation from one Interested Party

## **Documents available in members' rooms**

None

## **Background Papers:**

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

[Torbay Council Licensing Policy 2021-2026](#)

[Home Office Guidance to Licensing Authorities under s.182 of the Licensing Act 2003](#)