

Public Agenda Item: **Yes**

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

Wards Affected: **Tormohun**

To: **Licensing Sub Committee** **17 January 2019**

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## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of a Premises Licence. The Premises is in the Cumulative Impact Area.
- 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 Crime and Disorder” and “Public Safety”.
- 1.4 Under regulations to the Licensing Act 2003 (the Act) the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.

The Authority must have regard to the application and any relevant Representations and take one or more of the steps as detailed below as it considers appropriate for the promotion of the Licensing Objectives.

The steps are –

- (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 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.

- 1.6 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 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above.

A brief description of the Review is as follows:

The application has been submitted by the Police and concerns matters relating to the Licensing Objective "The Prevention of Crime and Disorder".

The grounds for Review as stated in the application are as follows:-

- 1) Breaches of the Premises Licence conditions were identified by the police and a member of staff from the Torbay Council Licensing Team only 2 weeks after the licence was granted.
- 2) The premises have been used for the sale and storage of a large quantity of smuggled goods, in contravention of Section 144 of the Licensing Act 2003.

Details of the application are shown in Appendix 1.

A copy of the current licence, including the plan of the premises is attached as Appendix 2.

- 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.

We have received a representation from Trading Standards in relation to the Licensing Objective "The Prevention of Crime and Disorder". This is shown as Appendix 3.

We have also received a Representation from Public Health in relation to the Licensing Objective "Public Safety". This is shown as Appendix 4.

There have been no Representations from any other Responsible Authority or any other Interested Party.

- 2.3 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.

- 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 Representations and the procedure to be followed at the hearing.

- 2.5 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.

- 2.6 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.

**Steve Cox**  
**Environmental Health Manager (Commercial)**

### **Appendices**

Appendix 1	Application for Review
Appendix 2	A copy of the Premise Licence
Appendix 3	Representation from Trading Standards
Appendix 4	Representation from Public Health

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

None

### **Background Papers:**

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

Torbay Council Licensing Policy 2016-2021.