

Public Agenda Item: **No**

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

Wards Affected: **Tormohun**

To: **Licensing Sub - Committee** On: **30 January 2019**

Contact Officer: **Mandy Guy**
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✉ E.mail: **Licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premises detailed above, which is situated within the Cumulative Impact Area. The application relates to the Transfer of the Premises Licence in respect of which a Notice has been received from the Police Superintendent, stating that it is the opinion of the Police that there are exceptional circumstances in relation to the proposed Licence Holder and members of staff at the Premise. The Police believe these links may lead to the Crime Prevention Objective being undermined and they therefore request that this application is refused. The Notice is shown in Appendix 2.
- 1.2 The Sub-Committee must consider the effects of the application against all the Corporate Priorities within the Community Plan.
- 1.3 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. A decision must be made either:-
 - (a) to grant the application or,
 - (b) having regard to the Notice, reject the application if it is considered that it is necessary for the promotion of the Crime Prevention Objective to do so.
- 1.4 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, the proposed Premises Supervisor and the Police on determination of the matter.

forward thinking, people orientated, adaptable - always with integrity.

- 1.5 Where an application is received to Transfer a Premises Licence, it is necessary for the existing Licence Holder, where able to do so, to provide written consent to

give permission for the licence to be transferred. This consent forms part of the application form and therefore has been provided.

- 1.6 This application includes a request that the Transfer applied for should take immediate effect.

2. Introduction

- 2.1 An application has been made under Section 42 of the Act for a Transfer of the Premises Licence at the Premises detailed above. Details of the application are shown in Appendix 1.

- 2.2 The Council as Licensing Authority, is satisfied that the Applicant has met the administrative requirements of Section 42(5) but is unable to grant the application as a Notice has been received from the Police under Section 42(6). The Authority is also satisfied that such Notice has been received within the appropriate timescale and has not been subsequently withdrawn. Details of the Notice are shown in Appendix 2.

- 2.3 The Authority is required to conduct a hearing by the provisions of Section 44(5) 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, 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 6(2) of Schedule 5 to The Chief Officer of Police (who had given an appropriate Notice which was not withdrawn).

- 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,

(d) and may make such order as to costs as it thinks fit.

Steve Cox
Environmental Health Manager (Commercial)

Appendices

Appendix 1 A copy of the Application form.

Appendix 2 The Notice received from the Police.

Documents available in members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2016-2021.