

TORBAY COUNCIL

Briefing Report No:

Public Agenda Item: **Yes**

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

Wards Affected: **Tormohun**

To: **Licensing Sub-Committee**

On: **7 August 2025**

Contact Officer: **Julie Smart**
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1. Key points and Summary

- 1.1 An application has been received from a Responsible Authority seeking a Review of the Premises Licence in respect of Zakopane, 16 Market Street, Torquay. 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 and the Protection of Children from Harm.
- 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 Trading Standards Lead Officer for Age Restricted Products, Ms Melanie Walker, under Section 51 of the Act for a Review of the Premises Licence in respect of Zakopane, 16 Market Street, Torquay.

The grounds for the Review relate to:

- 1. The premises has been used for the storage of illegal tobacco and vaping products in contravention of S144 of the Licensing Act 2003 which has continued despite a warning being issued and advice given in 2023.

2. Alcohol was sold to a child during an underage sales test purchasing operation on 22 January 2025, in contravention of S146 of the Licensing Act 2003.

Full details of the application are shown in Appendix 1. Additional supporting information has been provided by the applicant. This is 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 19 June 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 16 July 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. This has been received from Ms Gita Patel, of Childrens Services for Torbay Council. This is shown at Appendix 4 and relates to the Licensing Objectives: The Prevention of Crime and Disorder and the Protection of Children from Harm.
- 3.3 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 Revised Guidance issued under section 182 of the Licensing Act 2003 (revised February 2025), with the following paragraphs relevant to this application:

- 2.28, 2.29, 2.35, 2.38

- 3.7
- 10.46 to 10.50
- 11.10, 11.27 and 11.28.

- 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 affect 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 information provided by the applicant

Appendix 3 Copy of the current Premises Licence

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

Documents available in members' rooms

None

Background Papers:

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

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