

## **Minutes of the Statutory Licensing Sub-Committee**

**31 July 2025**

**-: Present :-**

Councillors Foster, Spacagna and Johns

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### **8. Election of Chairman/woman**

Councillor Spacagna was elected as Chairman for the meeting.

### **9. Apologies**

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Johns instead of Councillor Douglas-Dunbar.

### **10. Minutes**

The Minutes of the meeting of the Sub-Committee held on 3 July 2025 were confirmed as a correct record and signed by the Chairman.

### **11. Application for the Grant of a Premises Licence at Tomo Burger, South Quay, The Harbour, Paignton**

Members considered a report on an application for a Premises Licence in respect of Tomo Burger, South Quay, The Harbour, Paignton.

Written Representations were received from:

| Name                      | Details                                                                                                                                                                                 | Date of Representation |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| Member of the Public      | Representation objecting to the application on the grounds of the Licensing Objectives 'The prevention of crime and disorder', 'public safety' and 'the prevention of public nuisance.' | 13 June 2025           |
| Member of the Public      | Representation objecting to the application on the grounds of the Licensing Objectives 'the prevention of public nuisance.'                                                             | 8 July 2025            |
| Public Protection Officer | Report by Torbay Council as the Responsible Authority for Public and Statutory Noise.                                                                                                   | Undated                |

Oral Representations were received during the meeting from:

| Name                      | Details                                                                                                                                                                                                                                                                  |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant                 | The Applicant outlined his application for a Premises Licence and responded to Members' questions. As part of the Applicant's representations, they asked the Sub-Committee for permission to show a video, which was permitted and then presented to the Sub-Committee. |
| Public Protection Officer | The Public Protection Officer outlined his representation and responded to Members' questions.                                                                                                                                                                           |
| Member of the Public      | A Member of the Public outlined their objection to the application for a Premises Licence and responded to Members' questions.                                                                                                                                           |
| Member of the Public      | A Member of the Public outlined their objection to the application for a Premises Licence and responded to Members' questions.                                                                                                                                           |

**Decision:**

That the application for a Premises Licence in respect of Tomo Burger, South Quay, The Harbour, Paignton be refused.

**Reason for Decision:**

Having carefully considered all the written and oral representations, Members unanimously resolved to refuse the application, as they could not be satisfied on the evidence before them, that to grant the application as submitted, with that proposed by the Public Protection Officer by way of additional conditions, would result in all of the Licensing Objectives being promoted.

In coming to their decision, Members considered what if any additional conditions could be added to that proposed by the Public Protection Officer, as opposed to a refusal, and determined that without sufficient soundproofing in place between the premises and the residential properties immediately above, there were no conditions which could be added to mitigate the highest probability of noise breakout emanating from within the premises that would directly undermine the Prevention of Public Nuisance, Licensing Objective.

Members further noted that whilst the outside area was intended to be used by patrons, there were no conditions proposed for this area of operation and in of itself, would add to noise nuisance and the undermining of the Prevention of Public Nuisance Licensing Objective, given the immediate proximity of the neighbouring residential properties.

The video shown during the meeting by the applicant also evidenced to Members, that the premises had no sound proofing between the premises and the residential properties immediately above and having seen the footage, the Public Protection Officer confirmed that in his opinion that the premises did not have sufficient sound proofing and therefore this operation could cause a public nuisance.

Members considered the appropriateness of sound proofing and the applicant confirmed that as a Premises Licence Holder, this was not achievable for him to undertake, due to the level of work and cost associated.

Members noted that there was a period when the premises did operate as a licensed premises. The history of the complaints in respect of this premises operation were raised between 2021 – 2023. It appeared to Members that the concerns remained as reported in 2021 when the first premises licence was granted, and Members became aware on the evidence before them, the conditions whilst previously imposed, were not adhered to in accordance with the premises licence granted, by the previous occupant and Premises Licence Holder. This was resultant in noise emanating from within the premises to the residential properties above, due to the absence of required by condition for, sound proofing, prior to its operation as a licensed premises.

Noting the concerns raised, both in written representations and that heard orally at the hearing, and that the premises could accommodate between 70 and 80 patrons internally within the restaurant and with patrons drinking it is known that noise levels increase, Members could not be satisfied that the licensing objectives would be promoted and therefore unanimously agreed to refuse the application.

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Chairman

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