

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of John Bull, 68-70 Chatto Road, Torquay, TQ1 4HU

Wards Affected: **St Marychurch**

To: **Licensing Sub-Committee**

On: **25 June 2026**

Contact Officer: **Julie Smart**

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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 Variation to a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objective “The Prevention of Public Nuisance”.
- 1.4 The matter must be considered on its own merits having received details of the issues arising either at a hearing or by written Representations if all parties have agreed that a hearing is not necessary. Having regard to the Representation and issues arising, a decision must be made to take such steps as are appropriate for the promotion of the licensing objectives. These are:-
 - (a) to modify the conditions of the licence, or
 - (b) reject the application in whole or in part, or
 - (c) to grant the application as applied for

For this purpose, the conditions of the licence are modified if any of them is altered or omitted, or any new condition is added.

- 1.5 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 An application has been made under Section 34 of the Licensing Act 2003 (hereinafter referred to as 'the Act') for a Variation to a Premises Licence. Details of the application are shown in Appendix 1. Only the relevant pages of the application are shown. A copy of the proposed plan of the premises is shown in Appendix 2.

A brief description of the proposed Variation is as follows:-

To add a Beer Garden to the approved plan

To add conditions to the premises licence in respect of the use of the proposed Beer Garden, as below:

1. The beer garden will close at 2300 hrs.
2. No live music or streamed music will be played into the garden.
3. Access only through the pub and not via private apartment access.
4. There will be visible signs to remind customers of adherence to rules.
5. The beer garden shall be routinely monitored after 9pm in accordance with Annexe 3, condition 4. Anyone causing a nuisance shall be asked to come inside the premises, and where they refused to do so, they shall be asked to leave the premises immediately.

To move the Designated Smoking Area from bordering Chatto Road to Homestead Road.

To remove conditions 9 and 10 within Annexe 3, Conditions attached after a hearing by the Licensing Authority, the Prevention of Public Nuisance, as below:

1. Patrons using mobile phones after 10pm shall only be permitted to do so in the designated smoking area.
2. The outside seating areas shall be cleared and closed to all patrons by 10pm every night, save for the designated smoking area.

Please note that the applicant has now indicated that they wish to withdraw the part of the application in respect of moving the designated smoking area from Chatto Road to Homestead Road from the application.

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 3 of this report. A copy of the existing plan of the premises is shown at Appendix 4 of this report.

Please note that as the Applicant has withdrawn the part of the application in respect of the relocation of the smoking area, should the part of the application in respect of a beer garden be granted, the Applicant will be required to provide the Licensing Authority with an updated plan.

- 2.3 A street map showing the position of the John Bull in relation to residential properties is shown at Appendix 5.

- 2.4 Torbay Council as the Licensing Authority is satisfied that the Applicant has met

the administrative requirements of Section 35(1) of the Act but is unable to issue the Variation to the Premises Licence, as a relevant Representation has been received from an Interested Party. The Licensing Authority is also satisfied that the Representation was received within the appropriate timescale, has not been subsequently withdrawn and is not vexatious or frivolous.

We have received 1 Representation from an Interested Party in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown at Appendix 6 of this report.

No Representations have been received from any Responsible Authority.

- 2.5 Following receipt of the Relevant Representation, the Applicant has provided further information, which includes six photographs. However, as four of the photographs provided show the location of the Interested Party's property in relation to the John Bull, these have not been included in this report, but will be available for Members at the hearing. The Applicant's further information is shown at Appendix 7 of this report.
- 2.6 The Licensing Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.7 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.
- 2.8 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 12 February 2026) with the following paragraph's relevant to this application:
 - 8.35 to 8.37
- 2.9 If the application is refused, in whole or in part, 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.
- 2.10 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
 - (a) The applicant for the variation of the licence against any decision to modify the conditions
 - (b) Any person who made a relevant representation in relation to the application who desires to contend
 - (i) that any variation made ought not to have been made, or
 - (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.
- 2.11 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 order as to costs as it thinks fit.

Rachael Hind
Regulatory Services Manager

Appendices

Appendix 1	Relevant sections of the application form
Appendix 2	Proposed plan of the premises
Appendix 3	Copy of existing Premises Licence
Appendix 4	Copy of existing plan of premises
Appendix 5	Street map
Appendix 6	Representation
Appendix 7	Further information from Applicant

Documents available in members' rooms

None

Background Papers:

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

The current Premises Licence for the above Premise.

Torbay Council Licensing Policy 2026 - 2031

Official Guidance under section 182 Licensing Act 2003