

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Hotel Indigo, Torbay Road, Torquay, TQ2 6RH

Wards Affected: **Cockington with Chelston**

To: **Licensing Sub-Committee**

On: **9 July 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 Objectives “The Prevention of Crime and Disorder, The Prevention of Public Nuisance and Public Safety”.
- 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 brief description of the proposed Variation is as follows:-

To remove condition 1 of Annexe 3, Conditions attached after a hearing of the Licensing Authority, which states:

“The rooftop bar and rooftop terrace area to be restricted to hotel residents only.”

- 2.2 A copy of the current premises licence showing the licensable activities, timings and conditions is shown at Appendix 2 of this report.
- 2.3 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 relevant Representations have been received from Interested Parties. The Licensing Authority is also satisfied that the Representations were received within the appropriate timescale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received two Representations from Interested Parties in relation to the Licensing Objectives “The Prevention of Crime and Disorder,” “The Prevention of Public Nuisance” and “Public Safety.” These are shown at Appendix 3 of this report.

A response was received from Mr Jim Blackwell, Torbay Council’s Service Manager, Spatial Planning, confirming, to accord with the application received on the 18 March 2026, that the Local Planning Authority has permitted a variation at these premises for a one calendar year period for non-hotel guests to access the restaurant, roof top bar, spa and gym, to accord also with the plans and particulars submitted.

No Representations have been received from any Responsible Authority.

- 2.4 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.
- 2.5 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.
- 2.6 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 paragraphs being of particular relevance:

- 2.7 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.
- 2.8 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.
- 2.9 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 order as to costs as it thinks fit.

Rachael Hind
Regulatory Services Manager

Appendices

Appendix 1	Relevant sections of the application form
Appendix 2	Copy of existing Premises Licence
Appendix 3	Representations

Documents available in members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2026 - 2031

Official Guidance under section 182 Licensing Act 2003