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 Below Decks, 3-4 Beacon Quay, Torquay, TQ1 2BG		
Wards Affected:	**Tormohun**		
To:	**Licensing Sub-Committee**	On:	**03 December 2026**
Contact Officer: Email:	**Carrie Cottell** **Licensing@torbay.gov.uk**		

1. Key points and Summary

1.1 An application has been received from the Licensing Authority seeking a Review of the Premises Licence in respect of Below Decks, 3-4 Beacon Quay, Torquay, TQ1 2BG. 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, Public Safety, and The Prevention of Public Nuisance.

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 Sub-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 01 October 2026, the Licensing Department received an application from Julie Smart, Licensing Officer of Torbay Council, under Section 51 of the Act for a Review of the Premises Licence in respect of Below Decks, 3-4 Beacon Quay, Torquay, TQ1 2BG.

The grounds for the Review relate to:

Failure to comply with a condition on the premises licence which states “Staff will regularly monitor all outside areas and ensure that customers do not loiter in the road or prevent vehicular access to the harbour areas”.

Approximately 15 separate complainants have reported issues over a period of 3 years in respect of the licensing objectives, The Prevention of Public Nuisance and Public Safety. Please refer to the application and additional supporting information provided by the applicant, shown in Appendix 1 and 2.

A copy of the Premises Licence showing the activities, timings, and conditions is attached at Appendix 3.

The plan of the premises is shown at Appendix 4.

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 an 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 01 October 2026. 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 29 October 2026 to Torbay Council in writing. All Statutory consultees were served with a copy of the Review application.

3.2 We have received one Relevant Representation from a Responsible Authority in support of the Review application. This has been received from Tom West on behalf of Environmental Health and is shown in Appendix 5. The Representation relates to the Licensing Objective 'The Prevention of Public Nuisance'.

3.3 We have received one Relevant Representation from George O'Rourke at the Torbay Harbour Authority. He has stated that his representation is made on behalf of a Responsible Authority. Where an application relates to a vessel, Torbay Harbour Authority are classed as a Responsible Authority. In this instance, the review relates to a premises situated on the harbour and therefore we have accepted this representation as being from an Interested Party in support of the Review. This is shown in Appendix 6.

3.4 We have received one Relevant Representation from an Interested Party objecting to the Review. This is shown in Appendix 7.

3.5 The Premises Licence Holder has made a representation in response to the review application to support their case. This is shown at Appendix 8.

3.6 Mr Tom West, has provided additional supporting information on behalf of Environmental Health and this is shown in Appendix 9.

3.7 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 Sub-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 3rd November 2026), with the following paragraphs relevant to this application:

  - 2.1 to 2.10
  - 2.17
  - 2.20 to 2.26
  - 3.11
  - 8.14
  - 11.1 to 11.23
  - 16.1 to 16.9
  - 16.38 to 16.43; and

- Torbay Council's Statement of Principles 2026-2031:

  - 2.18 to 2.25
  - 3.1, 3.2, 3.7

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.

4.8 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.

4.9 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.

4.10 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 Plan of the premises

Appendix 5 Representation from Tom West on behalf of Environmental Health in support of the Review

Appendix 6 Representation from Torbay Harbour Authority as an Interested Party in support of the Review

Appendix 7 Representation from an Interested Party objecting to the Review

Appendix 8 Representation from the Premises Licence Holders in response to the review

Appendix 9 Additional Supporting information from Mr Tom West, Environmental Health.

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
Licensing Statement of Principles - Torbay Council
Licensing Act 2003