

Briefing Report No:

Public Agenda Item: **Yes**

Title: Licensing Act 2003 – An application for a Premises Licence in respect of Tomo Burger, South Quay, The Harbour, Paignton, TQ4 6DT

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub Committee**

31 July 2025

Contact Officer: **Julie Smart**

✉ Email: **licensing@torbay.gov.uk**

1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence made under Section 17 of the Licensing Act 2003 (the Act), in respect of the Premise detailed above.
- 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” and the “Prevention of Public Nuisance”.
- 1.4 The matter must be considered on its merits, having received details of the issues arising either at a hearing or by written Representation. A decision must be made, having considered the Representations, either:-
 - (a) to grant the licence subject to
 - (i) such conditions as are consistent with the submitted operating Schedule modified to such extent as the authority considers appropriate for the promotion of the licensing objectives; and
 - (ii) any condition which must under Section 19, 20 or 21 be included in the licence;

(Such conditions may differ in respect of different parts of the Premises and/or different activities).
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the Premises Supervisor;
 - (d) to reject the application.

- 1.5 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Applicant, Responsible Authorities and all Interested Parties, following the determination of the matter.

2. Application

- 2.1 An application has been made under Section 17 of the Act for a Premises Licence to permit licensable activities at the Premise detailed above. The application is shown in Appendix 1.

A brief description of the application, is as follows:-

The sale by retail of alcohol for consumption both on and off the premises from 1200 hrs to 2200 hrs Monday to Sunday.

The opening hours of the premises are 0730 hrs to 2230 hrs Monday to Sunday.

The Applicant has given the following description of the premises:-

“Previously licensed as The Crab and Hammer. The premise closed down and I am the new leaseholder. I wish to provide a restaurant focusing on gourmet burgers and providing local beers and spirits. The premises consists of a split level ground floor with seating and a bar. Kitchen to the rear. WC’s are upstairs. There is outside seating for 6 people directly outside the premises on the decking. Further outdoor seating is adjacent to the premises with space for 3 tables for up to 12 people”.

The plan accompanying the application is shown in Appendix 2.

- 2.2 The Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 17(5) but is unable to issue the Licence, as relevant Representations have been received. The Licensing Authority is also satisfied that the Representations have been received within the appropriate time scale and have not been subsequently withdrawn.

We have received two Representations from Interested Parties who object to the application. We also received a Representation from Mr Tom West, Public Protection Officer. These are shown in Appendix 3.

No Representations have been received from any other Responsible Authority or any other Interested Party, other than that mentioned above.

- 2.3 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 2.4 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.
- 2.5 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.
- 2.6 If the application is granted, a Right of Appeal to the Magistrates’ Court is granted

by Section 181 of the Act and, by Paragraph 2(1) of Schedule 5 to:-

(a) The holder of the licence against any decision

- (i) to impose conditions on the licence, or
- (ii) to take any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.

(b) Any person who made a relevant Representation who desires to contend

- (i) that the licence ought not to have been granted, or
- (ii) that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions or taken any step to exclude a licensable activity or refuse to specify a person as Premises Supervisor.

2.7 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 Application Form

Appendix 2 Plan of the Premises

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 2021-26