

TORBAY COUNCIL

Briefing Report No: Public Agenda Item: **Yes**

Title: Licensing Act 2003 – Application for the Grant of a Premises Licence at Bank, 6-8 Fleet Street, Torquay

Wards Affected: **Tormohun**

To: **Licensing Sub Committee** **30 January 2025**

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1. Key points and Summary

- 1.1 To consider and determine an application for a new Premises Licence, 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”, the “Prevention of Public Nuisance” and “Public Safety”.
- 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 necessary 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. Torbay Council Cumulative Impact Assessment

- 2.1 The premises subject of the application is situated within a Torbay Council Cumulative Impact Assessment (CIA) area.

The Torbay Council Cumulative Impact Assessment 2024-27 states:

“Cumulative Impact has been used a term to describe the stress that a large number of licensed premises can have on crime and disorder, nuisance and the demand on local services. The guidance describes cumulative impact as ‘the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area’. It is often not that licensed premises on their own are operating in a way that is detrimental to the licensing objectives, but it is the accumulation of the premises and the people attending them that creates the increased problems and demands on services.”

The Cumulative Impact Assessment creates a rebuttable presumption that applications for a new premises licence or club premises certificate or the variation of an existing licence or certificate in these area will normally be refused where:

- Representations have been received and it is anticipated that the application will add to the problems of crime and disorder or/and public nuisance in these areas.
- The applicant has been unable to demonstrate that, within their operating schedule, there will be no significant negative cumulative impact on one or more of the Licensing Objectives.

It is recognised that pubs, nightclubs, restaurants, hotels, theatres and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community where the amenity of local residents is being placed under severe pressure.

The Licensing Authority will consider the locality and local trading environment when assessing applications. For example, while a large nightclub or high-capacity public house might add to the problems, a small restaurant or theatre may not.

3. Application

- 3.1 An application has been made under Section 17 of the Licensing Act 2003 (the Act) for a Premises Licence to permit licensable activities at the Premise detailed above. Details of the relevant pages of the application are shown in Appendix 1.

A brief description of the application, as follows:-

The Provision of Late Night Refreshment on Fridays, Saturdays and Bank Holiday Sundays from 23:00 to 00:30 hrs, indoors only.

The Supply of Alcohol for consumption on the premises, on Sundays to Thursdays from 08:00 to 17:00 hrs, and on Fridays, Saturdays and Bank Holiday Sundays from 08:00 to 00:00 hrs.

Premises opening hours Sundays to Thursdays from 08:00 to 17:30 hrs, and on Fridays, Saturdays and Bank Holiday Sundays from 08:00 to 00:30 hrs.

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

“Bank is located in Torquay’s Fleet Street. It will serve non-alcoholic and alcoholic beverages during the day, closing around 1700 hrs, and intends to serve alcohol on a Friday and Saturday evening until midnight.”

The plan accompanying the application is shown in Appendix 2.

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

We have received one Representation from an Interested Party, in relation to the Licensing Objectives, the “Prevention of Crime & Disorder”, the “Prevention of Public Nuisance” and “Public Safety”. This is shown in Appendix 3.

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

- 3.3 The Authority is required to conduct a hearing under the provisions of Section 18(3) unless all parties agree that this is not necessary.
- 3.4 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.
- 3.5 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.
- 3.6 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 person as Premises Supervisor.

3.7 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 Relevant parts of the Application Form

Appendix 2 Plan of the Premises

Appendix 3 Representations from one Interested Party

Documents available in Members' rooms

None

Background Papers:

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

Torbay Council Licensing Policy 2021-26