

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD HEARING – 22nd February 2023

LICENSING (SCOTLAND) ACT 2005

**APPLICATIONS FOR MAJOR VARIATIONS OF VARIATION OF PREMISES
LICENCE – NON CONTENTIOUS APPLICATIONS**

1. Executive Summary/Recommendations

1.1. This report relates to applications for major variations of premises licences which can only be determined by the Licensing Board.

Recommendations

1.2. It is recommended that the Board considers the materials before them and, in respect of each application in turn, –

- (a) Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board meeting for further material to be made available; and
- (b) Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made, to consider in respect of each of the applications made, whether said applications should be granted or refused.

2. Purpose and Decision-Making Route

2.1. The applications referred to in **Appendix 1** of this report have not been previously considered by the Board.

2.2. The Depute Clerk has determined that the applications for major variation of premises licences listed at **Appendix 1** to this report are non-contentious applications and asks that the Board consider same.

3. Discussion

Consultations

- 3.1. The Depute Clerk examined the applications in detail and the Applicants then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk forwarded the applications to the following persons or bodies as part of the consultation process:
- (a) Police Scotland;
 - (b) Scottish Fire and Rescue Service;
 - (c) The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council;
 - (d) The Licensing Standards Officer;
 - (e) The appropriate Community Council;
 - (f) Public Health, and
 - (g) Neighbouring Occupiers.
- 3.2. At the same time as the applications were consulted on, the applicants required to display a site notice at the premises, in a location where it could be easily read by members of the public, advertising the fact that an application had been made. The Licensing Standards Officers checked to ensure the site notices had been appropriately displayed, and had been displayed for the correct time period, as part of their consultation exercise for the premises.
- 3.3. The applications were also advertised on the Council's website.

Objections and Representations

- 3.4. In relation to each of the applications to be considered by the Board –
- (a) There are no valid objections to the application.
 - (b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and

- (c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.
- 3.5. In some cases, the Licensing Standards officers, Police Scotland and Building Standards Officers made representations. These were copied to the applicants who have made the appropriate amendments to their applications in order to satisfy the representations made.
- 3.6. The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has listed the relevant conditions it is recommended that the Board apply to the licence in the table in **Appendix 1**. The Applicant has agreed to the proposed conditions in each case. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.
- 3.7. Any applicant who has taken issue with representations made will have their application considered at a full hearing of the Board, which will be the subject of a separate report.
- 3.8. In light of the fact that these applications are considered to be non-contentious, they have been put to the Board for consideration without the applicants requiring to be present.
- 3.9. If the Board does not consider that this is a sufficient hearing to consider the application, then consideration of the application should be deferred to a future Board Meeting to allow for further information to be provided and/or to allow the applicant to be cited to attend.

Implications

- 3.10. If the Board determines that the application should be granted, the variation will take effect from the date of grant. An amended premises licence will be prepared and issued to the licence holder.

3.11 Where the Board refuses an application, the licence holder retains the premises licence as originally granted by the Board, or as previously varied by the Board, and can continue to trade that licence.

Procedure

3.12 Each application should be considered on its own merits.

3.13 Members' options in disposing of the applications are:-

(a) To grant the application;

(b) Refuse the application;

(c) Grant subject to varied hours and/or additional conditions; or

(d) Determine that further evidence is required in which case the application should be referred to the next available Board Meeting in order that the applicant may present their case in full or further information can be obtained in the interim.

3.14 When coming to a decision the Board must consider the evidence provided and the contents of this report. Supplementary advice and information can be made available by Officers, if required.

3.15 The legal test is attached as **Appendix 3** to this report.

4. Priorities, Implications and Risk

4.1 The Board must determine this matter on its own merits in accordance with the legal tests set out in the relevant legislation. The Board is a separate legal entity to Aberdeenshire Council and therefore the Council's priorities do not apply to this report.

4.2 The applications are within the terms of the Board's policy.

4.3 The table below shows whether risks and implications apply if the recommendations are agreed:

Table 1 Risks and Implications

Subject	Yes	No	N/A
Financial		X	
Staffing		X	
Equalities and Fairer Scotland Duty		X	
Children and Young Peoples' Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

- 4.4 An Integrated Impact Assessment has not been carried out as the processing of the applications has not identified any issues that would fall within the remit of the IIA and the Board must determine this matter in line with the legal test.
- 4.5 There are no staffing and financial implications.
- 4.6 The Council's Corporate and Directorate Risk Registers do not apply to the Licensing Board as it is a separate legal entity.
- 4.7 The Council's Town Centre Principle does not apply in respect of this matter as the Licensing Board is a separate legal entity.

5. Governance

- 5.1. The Board can consider these applications in terms of paragraph 1.6 of the current Scheme of Delegation which provides that consideration of such applications is a matter reserved to the Board.

Karen Wiles
Clerk to the Board

Report Prepared by: Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board

Date: 7th February 2023

Appendices

Appendix 1 – List of Applications to be considered

Appendix 2 – List of Local Conditions

Appendix 3 – Legal Test

Licensing (Scotland) Act 2005, section 29

APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE

LAPREM/00144/22/ADEC

1. Name of Applicant/Agent name & address (include postcode)

Whyte and Mackay Limited
4th Floor St Vincent Plaza
319 St Vincent Street
Glasgow
G2 5RG

Janet Hood (agent)

2. Name & address of premises (inc. postcode) (pulled from system)

Fettercairn Distillery Café Shop and Visitor Centre
Distillery Road
Fettercairn
Laurencekirk
Aberdeenshire
AB30 1YB

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
Tuesday	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
Wednesday	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
Thursday	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
Friday	10:00 – 17:30	10:00 – 17:30	10:00 – 01:00	10:00 – 22:00
Saturday	10:00 – 17:30	10:00 – 17:30	10:00 – 01:00	10:00 – 22:00
Sunday	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00

- Brief overview of the proposed change(s) to the premises licence

The applicant wants to:

- Amend On-Sales core hours: from Monday to Sunday 10am to 5.30pm to Monday -Thursday 10am to midnight, Fridays & Saturdays 10am to 01:00am, and Sundays 10am to midnight.
- Amend Off-Sales core hours from: Monday to Sunday 10am to 5.30pm to Monday to Sunday 10am to 10pm.
- Add the following new activities: Conference facilities, Restaurant facilities, Bar meals, Receptions (including wedding, funeral, birthdays, retirements etc), Club or other group meetings etc, Live performances, Dance facilities, Theatre, Films.
- Amend the details of activities to be provided outwith core licensed hours to the following: Tasting and sampling of whiskies can take place during core hours. There will be no overlap of activities so no requirement for shutdown as per Board Policy. Food will be supplied as and when required for events by local businesses with Food Safety PASS certificate. All activities in column 4 can commence at 06:00am to include set up and continue through core hours.
- Amend any other activities Q5(f) to read as follows:

THE PREMISES ARE DESIGNED TO BE USED AS A DISTILLERY VISITOR CENTRE - in terms of Licensing (Scotland) Act 205 Schedule 3 paragraph 13(3) the premises form part of a larger site which is used principally for the production of alcoholic drinks, and (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

The premises will be open to the general public for distillery visits/tours, whisky tastings, markets and promotions otherwise all activities will be pre booked.

Whisky tastings as part of distillery visits/tours will be in 20ml measures and can be offered in the visitor centre, warehouse number 2 and such other places as from time to time may be appropriate for such activities.

Alcohol products made by the premises licence holder will be on display in the visitor centre which will offer information concerning the history, attributes and provenance of the products on sale..

The premises will not operate in the manner of a public house and no alcohol will be sold for on sale consumption or served for on sale consumption except when there is a distillery tour, distillery visits/tours, except as detailed below.

In order to benefit the local community and ancillary to the main use of the visitor centre - the premises can be booked from time to time for events including without prejudice to the generality markets, events such as corporate and private dinners, weddings, whisky tastings, food and drink matchings.

Off sales of whiskies and other products can take place during normal off sales hours from within the visitor centre.

1. Film in conjunction with whiskey tours, conferences or other events as and when required.

- Amend Off-Sales Capacity from 15.8806m2 to Visitor Centre off sales display area NIL SUBJECT TO Licensing (Scotland) Act 2005, Schedule 3 paragraph 13(3) no capacity for off sales.
- Amend On-Sales Capacity from Maximum number of people at any one time will be 45 to Visitor Centre – 60 and maximum number for whisky tastings in Warehouse No.2 – 10.*
**(10 revised to 15 - see sections 3 and 4 below.)*

Certificate of Confirmation

The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.

3. Brief outline of representations made

Police Scotland

A representation was received stating:

The variation requested consists of the following modifications to tastings and the Visitor Centre operating plan:

1. A change in core licensed hours for on sales from 1000 to 1730 hours daily to 1000 to 0000 hours Sunday to Thursday and from 1000 to 0100 hours Friday and Saturday;
2. Amend core licensed hours for off sales from 1000 to 1730 hours daily to 1000 to 2200 hours daily;
3. Inclusion of Conference facilities, Restaurant/Bar Meals, Receptions, Club Meetings, Live Performances, Theatre and Films as per the wording provided;
4. Amend terms, times and parts of the premises for children and young persons with the wording provided;
5. Increase the licensed area and amendment to capacity, to include the premises marked as the Warehouse No.2 and Visitor Centre and the interlinking corridor, as per the layout plan provided.

In terms of Section 29(5) this request can be considered a variation.

I have no adverse comment to make regarding the variation proposed.

LSO

A representation was received stating:

- I have no adverse comments to make nor additional conditions to impose.
- I can confirm that the site notice has been displayed correctly.

Building Standards

A representation was received stating:

- I can confirm that Building Standards have no objections to the above application.
- The maximum occupancy capacity is 60 people.

Following clarification that the proposed On-Sales capacity was 60 in respect of the Visitor Centre and 10 for the Warehouse No. 2 building, Building Standards stated they would accept an increased capacity for the Warehouse No. 2 building to accommodate staff accompanying a tour party from 10 to 15.

Mearns Community Council

A representation was received stating that Mearns Community Council had no objection to this variation of licence.

Planning

A representation was received stating that Development Management had no comments.

NHS Grampian

An acknowledgement of the consultation was received but no representation or further comment was received.

Environmental Health

No representation or comment was received.

No other objections or representations were made in respect of the application.

4. Applicant's response to representations

- The Applicant's Agent accepted Building Standards' suggestion to increase the capacity for the Warehouse No.2 Building from 10 to 15. Police Scotland and the LSO confirmed they had no adverse comments to make on this and there were no further comments from other consultees. The Agent submitted a revised Operating Plan and Layout Plan.
- The Applicant's Agent has indicated that they are willing to comply with the local conditions noted below which are recommended by the Licensing Service.

Recommended Conditions for Licence:

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Children and Young Persons – Conditions 7-11
5. Vulnerability – All Premises – Condition 19
6. CCTV – All Premises – Condition 21

Conditions specific to the application:

There are no conditions specific to the application.

Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
LAPREM/00203/22/LK

<p>1. Name of Applicant/Agent name & address (include postcode)</p> <p>Aldi Stores Limited Holly Lane Atherstone Warwickshire CV9 2SQ</p> <p>Agent: TLT Solicitors, Glasgow</p>	<p>2. Name & address of premises (inc. postcode) (pulled from system)</p> <p>Aldi Ythan Terrace Ellon AB41 9LJ</p>
--	---

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	N/A	10:00 - 22:00	No Change	No Change
Tuesday	N/A	10:00 - 22:00	No Change	No Change
Wednesday	N/A	10:00 - 22:00	No Change	No Change
Thursday	N/A	10:00 - 22:00	No Change	No Change
Friday	N/A	10:00 - 22:00	No Change	No Change
Saturday	N/A	10:00 - 22:00	No Change	No Change
Sunday	N/A	10:00 - 22:00	No Change	No Change

3. Brief overview of the proposed change(s) to the premises licence

The applicant wants to:

- Add seasonal variations namely to increase their alcohol display from 1 to 31 December annually and for a week prior to Easter Sunday (as it falls) for a duration of 21 days
- Add recorded music as an activity during and outwith core hours and amending Operating Plan to provide that: "Background music may be played during and outwith core hours"
- Add click and collect/delivery service as an activity
- Add "Deposit Return Scheme" facility as an activity
- Increase permanent off-sale display capacity to 29.00676m2 and seasonal display to 7.200m2
- Change in layout plan to reflect change in display and capacity

Certificate of Confirmation

The applicant has yet to submit the certificate of compliance relating to display of the site notice at the premises.

4. Brief outline of representations made

Police Scotland

- A representation was submitted with no comment on the majority of the changes proposed. In respect of the proposal to add a Click and Collect/Delivery service, Police Scotland recommended that the application be granted subject to a condition that a recorded age verification system is in place in respect of any remote/online sale of alcohol.

LSO

- The LSO made no adverse comments and recommended that the current conditions on the licence carry over to the amended licence.

No other objections or representations were made in respect of the application

5. Applicant's response to representations

- The applicant has indicated that they are willing to comply with the condition proposed by Police Scotland, the local conditions noted below which are recommended by the Licensing Service as well as a Specific Condition, also noted below and recommended by the Licensing Service.

Recommended Conditions for Licence:

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Vulnerability – All Premises – Condition 19
5. CCTV – All Premises – Condition 21

Conditions specific to the application:

1. The licence holder should incorporate the following control measures to the operation of the business:
 - a) Age verification policies for Click and Collect workers/delivery drivers where the recipient is believed to be under the age of 25
 - b) Click and Collect workers and Delivery drivers to keep refusal registers
 - c) Arrangements to ensure that orders are not left in nominated safe places
 - d) Training for staff delivering alcohol/working at Click and Collect points to be at the same level as staff who sell or supply alcohol within licensed premises
 - e) To comply with section 119 of the Licensing (Scotland) Act 2005 in relation to keeping day and delivery books

It is recommended that this application is granted in principle subject to receipt of the certificate of confirmation relating to display of the site notice at the premises.

Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
LAPREM/00173/22/ADEC

1. Name of Applicant/Agent name & address (include postcode)

Duff House Royal Golf Club
The Barnyards,
Banff
Aberdeenshire
AB45 3SX

By Mr Kenneth John White (Head Steward)

2. Name & address of premises (inc. postcode) (pulled from system)

Duff House Royal Golf Club
The Barnyards,
Banff
Aberdeenshire
AB45 3SX

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	10:00 – 00:30	N/A	09:00 – 00:30	No Change
Tuesday	10:00 – 00:30	N/A	09:00 – 00:30	No Change
Wednesday	10:00 – 00:30	N/A	09:00 – 00:30	No Change
Thursday	10:00 – 00:30	N/A	09:00 – 00:30	No Change
Friday	10:00 – 00:30	N/A	09:00 – 00:30	No Change
Saturday	10:00 – 00:30	N/A	09:00 – 00:30	No Change
Sunday	10:00 – 23:00	N/A	09:00 – 23:00	No Change

3. Brief overview of the proposed change(s) to the premises licence

The applicant wants to:

- Amend the Club's Constitution (addition of new Rule IV Management 8: overturn/amend a sub-committee or Ladies or Seniors Committee decision).
- Amend Core Opening Time on Mondays to Sundays from 10:00 to 09:00.
- Amend Seasonal Variations during 1st October to 31st March, to extend 'Club or private function' to Mondays to Thursdays, and change the terminal hour on Fridays and Saturdays from 23:00 to 23:30.
- Amend Activities to extend the restaurant closing time on Fridays to Sundays during 1st October – 31st March, and on Mondays to Sundays during 1st April to 30th September from 20:00 to 21:00; and, in respect of 'Televised Sport', to include 'subscription service and/or box office sporting events'.
- Add a second outside Drinking Area.
- Increase the capacity of the outside areas A and B from 20 to 30 (only one area to be used at any one time).
- Change the terms for children's and young persons' access to include 'Club function' and extend the time for children's and young persons' access from 21:00 to 22:00.

Certificate of Confirmation

The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.

4. Brief outline of representations made

Police Scotland

A representation was received stating recommending the following conditions:

In respect of Children and Young Persons:

- Children from 0-15, will only be allowed entry until 2200 hours or in respect of private function until terminal hour and accompanied by a responsible adult at all times;
- Young people 16-17, to be accompanied by a responsible adult after 2200 hours.
- Terminal hour of 2200 for all outdoor drinking areas.

In respect of the Outside Areas:

- No amplified music to be played in all outdoor areas.
- Where there is no existing delineation/boundary, the areas to be delineated by barrier or similar.
- Children be allowed entry accompanied by a responsible adult at all times.

The above are included in the recommended conditions below.

LSO

A representation was received stating that the LSO had no objection subject to recommending the following conditions:

- Local Conditions 1-4, 5, 6, 7-11, 19, 20, 21, 22-30 and 31-33.
- A terminal hour of 10pm for the Beer Gardens
- No amplified music within either of the outside areas used as Beer Gardens.

The above are included in the recommended conditions below.

Building Standards

A representation was received stating that the Building Standards has no comments on the application.

Planning

A representation was received stating that the Planning Service has no comments on the application.

NHS Grampian

An acknowledgement of the consultation was received but no representation or further comment was received.

No other objections or representations were made in respect of the application

5. Applicant's response to representations

- The applicant has indicated that they are willing to comply with the conditions proposed by Police Scotland, the local conditions noted below which are recommended by the Licensing Service as well as Specific Conditions, also noted below and recommended by Police Scotland and the Licensing Service.

Recommended Conditions for Licence:

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Children and Young Persons – Conditions 7-11
5. Vulnerability – All Premises – Condition 19
6. Door Supervisors – Condition 20
7. CCTV – All Premises – Condition 21
8. Members Clubs – Conditions 22 - 30
9. Beer Gardens and outside Drinking Areas – Conditions 31 – 33*

***Condition 31 to have a terminal hour of 22:00 hours**

Conditions specific to the application:

In respect of Children & Young Persons the following conditions be applied:

1. Children from 0-15, will only be allowed entry until 22:00 hours or in respect of private function until terminal hour and accompanied by a responsible adult at all times;
2. Young people 16-17, to be accompanied by a responsible adult after 2200 hours.

In respect of the Outside Areas the following conditions be applied:

1. Terminal hour of 2200 for all outdoor drinking areas.
2. No amplified music to be played in all outdoor areas.
3. Where there is no existing delineation/boundary, the areas to be delineated by barrier or similar.
4. Children be allowed entry accompanied by a responsible adult at all times.

Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
LAPREM/00119/22/JJ

<p>1. Name of Applicant/Agent name & address (include postcode)</p> <p>Raemoir Garden Centre Ltd Raemoir Road Banchory AB31 4EJ</p>	<p>2. Name & address of premises (inc. postcode)</p> <p>Raemoir Garden Centre Raemoir Road Banchory AB31 4EJ</p>
--	---

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Tuesday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Wednesday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Thursday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Friday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Saturday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Sunday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00

Notes:
Restaurant*,
Café **

3. Brief overview of the proposed change(s) to the premises licence

The applicant wants to:

- Propose to vary opening times for the restaurant to 10:00 – 16:00 Monday to Sunday (previously 0900-16.00) with alcohol served from 11:00-16.00. See proposed licensed hours in table above.
- Propose to vary opening times for the café to 10.00– 17:00 Monday to Sunday (previously 0900-17.30) with alcohol served from 11:00- 17.00. See proposed licensed hours in table above.
- To amend hours for sale of alcohol for consumption off premises to 10:00 - 17:00 (previously 10:00 – 18:00). See proposed licensed hours in table above.

- Propose to alter the seating for both the restaurant and the café. In the restaurant, propose to extend the existing restaurant area to include a covered outdoor seating area. This would increase the amount of seating available in the restaurant area as shown on the layout plan from 100 to 110.
- A new indoor counter and server area is proposed in the restaurant. In the café, propose to decrease the amount of indoor seating and to extend an outdoor seating area to the front of the building. The overall amount of café seating will remain the same.
- Propose to remove the previous café server area to increase the retail area.
- The area for alcohol off-sales is proposed to include an additional display area for seasonal off-sales as detailed in the layout plan. This additional off-sale area would be used from October to December.
- Propose to relocate the existing off sales display. This will not increase the size of the display but will simply alter its location.
- Previous seasonal variations are no longer required.
- It is intended to start selling alcohol by delivery as part of online ordering service.

Certificate of Confirmation

The applicant has submitted the certificate of compliance relating to the display of the site notice at the premises.

4. Brief outline of representations made

Police Scotland

A representation was received, and the following specific conditions were recommended to be attached:

In terms of the Outdoor Drinking facilities:

1. The area to be delineated by a physical barrier or similar;
2. The area is subject to a terminal hour of 1700 hours daily;
3. Signage to be displayed indicating that no alcohol is to be removed beyond the licensed area;
4. No amplified music to be played therein.

In respect of the online sale of alcohol and in particular to the element relating to the delivery of alcohol, Police Scotland recommended that the variation be granted with the condition that there is a recorded age verification system in place in respect of remote/online sales and that 'Challenge 25' is carried out at any point of collection or delivery of alcohol.

The above are included in the recommended conditions below

LSO

A representation was received and the LSO noted that in the Operating Plan, the applicant has stated that the premises will be open until 20:00 hours for Cardholder discount days and sought confirmation whether on sales and/or off sales will take place during these times. If so, then the LSO advised that this should be confirmed in the Operating plan.

Recommended Local conditions:- 1,2,3,4,19,21,32 and 33.

Recommended additional specific conditions:

1. If there are to be deliveries of alcohol to non-trade sales, the licence holder should incorporate the following control measures to the operation of their business:
 - • Age verification policies for delivery drivers where the recipient is believed to be under the age of 25
 - • Delivery drivers to keep refusal register
 - • Arrangements to ensure that orders are not left in nominated safe places
 - • Training for staff delivering alcohol to be at the same level as staff who sell or supply alcohol within licensed premises

- To comply with Section 119 of the Licensing (Scotland) Act 2005 in relation to keeping day and delivery books

The above are included in the recommended conditions below

Building Standards

Noted that the floor layout of the premises is being altered and seating areas extended. The floor plan provided with the application does not concur with the approved Building Warrants and drawings; further, completion certificates are not in place. Building Standards advised that all works carried out should be regularised, Building Warrants amended and approved as necessary and completion certificates sought. They confirmed that they do not think there is a need to hold things up for the licence, but the omissions may affect the Insurance cover for the premises.

No other objections or representations were made in respect of the application

5. Applicant's response to representations

- The applicant agreed to the local conditions and specific conditions. The applicant's agent provided an amended Operating Plan, in response to the LSO representation and confirmed that that no on-sales will take place after normal licensed hours during these events and Off-sales only will take place after normal licensed hours. The applicant's agent advised that the applicant is already in touch with Building Standards regarding their comment and the matters are being addressed. Police Scotland and the LSO withdrew their representations.

Recommended Conditions for Licence:

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Vulnerability – All Premises – Condition 19
5. CCTV – All Premises – Condition 21
6. Beer Gardens and outside Drinking Areas – Conditions 32 – 33

Conditions specific to the application

1. In respect of the outside areas the following conditions be applied:

- a) The area to be delineated by a physical barrier or similar;
- b) The area is subject to a terminal hour of 1700 hours daily;
- c) Signage to be displayed indicating that no alcohol is to be removed beyond the licensed area;
- d) No amplified music to be played therein.

2. If there are to be deliveries of alcohol to non-trade sales, the licence holder should incorporate the following control measures to the operation of their business:





























- a) Age verification policies for delivery drivers where the recipient is believed to be under the age of 25
- b) Delivery drivers to keep refusal register
- c) Arrangements to ensure that orders are not left in nominated safe places
- d) Training for staff delivering alcohol to be at the same level as staff who sell or supply alcohol within licensed premises
- e) To comply with Section 119 of the Licensing (Scotland) Act 2005 in relation to keeping day and delivery books


3. There will be a recorded age verification system in place in respect of remote/online sales

APPENDIX 2 LOCAL CONDITIONS: PREMISES LICENCES


A. THE ABERDEENSHIRE LICENSING BOARD







Local Conditions	Objective
General Management for All Premises	
1	<p>The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.</p>
2	<p>Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.</p>
3	<p>Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers</p>
4	<p>The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is –</p> <ul style="list-style-type: none"> • in writing • available for inspections by Police and Licensing Standards Officers • brought to the attention of and signed by all parties; and • enforced by the premises manager
Noise – All Premises	
5	<p>Noise from amplified and non-amplified music, singing and speech sourced from licensed premises shall not be audible in adjoining properties after 11.00 p.m.</p>
Lockfast Store – All Premises	
6	<p>All alcohol not on display within the premises must be kept within a designated lockfast store on the premises, and shown on the layout plan attached to the premises licence.</p>
Children and Young Persons – On Sale Premises	
7	<p>Children under the age of twelve years, shall not have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.</p>
8	<p>The Licence Holder shall provide safe high chairs for the use of young children</p>








9	The Licence Holder shall provide heating facilities for baby/toddler's food at no cost to the customer.	SPS, PCYPFH  
10	The Licence Holder shall provide containers for the disposal of soiled nappies	SPS, PPN, PCYPFH   
11	The Licence Holder shall ensure that heating sources are adequately protected.	SPS, PCYPFH  
Premises Providing Late Night Entertainment – On Sale Premises		
12	Alcohol shall be provided for consumption on the premises only.	PCD, SPS, PPN   
13	The entertainment to be provided shall be:XXX to be defined by the Board on a case-by-case basis	PCD, SPS, PPN   
14	The entertainment provided shall be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN   
15	All public notices or advertisements including social media shall contain the following information:- a. The name and address of the premises b. The entertainment to be provided on the premises c. The commencement time of the entertainment d. The price of entry e. The terminal hour for the premises. f. The time of the curfew, where operated, must be advertised.	PCD, SPS, PPN   
16	The Licence Holder shall display a notice at the entrances to the venue clearly defining the policy of the venue relating to the use of illegal substances and weapons within the venue and stating that criminal offences will be reported to Police Scotland	PCD, SPS, PPN, PIPH    
17	The premises shall have a dispersal policy to ensure patrons are not put in vulnerable situations after leaving the premises. The policy must be in writing. All members of staff shall be informed of the policy. The policy shall be made available to customers, and for inspection. The policy shall be reviewed regularly and a detailed record of reviews kept.	PCD, SPS, PPN, PIPH    
Adult Entertainment – On Sale Premises		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
Vulnerability – All Premises		




























<p>19</p>	<p>The Licence Holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication.</p> <p>The Licence Holder must ensure that all staff have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.</p> <p>The Licence Holder shall ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.</p>	<p>PCD, SPS, PPN PIPH, PCYPFH</p> 
-----------	--	---






Door Supervisors – On Sale Premises

<p>20</p>	<p>The Premises Licence Holder must ensure that sufficient numbers of Security Industry Authority licensed stewards are on duty to ensure a safe and responsibly run premises. Such persons must be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Premises Licence Holder. They must be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <ol style="list-style-type: none"> a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations; b. Identify and refuse entry to drunken persons c. Identify and refuse entry to any persons banned through pubwatch or by any other means; d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001; e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked; f. Be aware of the fire safety precautions and procedures and all other policies and practices; g. Be aware of the premise’s drug prevention policy; h. Provide assistance to patrons, including customer care, directions to facilities and health and safety; 	<p>PCD, SPS, PPN PIPH</p> 
-----------	--	---

	<p>i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.</p> <p>j. Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</p> <p>k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises;</p>	
CCTV – All Premises		
21	<p>Where a CCTV system is installed this must comply with the required standard and be maintained in working order and staff must be able to operate the system.</p> <p>Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request</p>	<p>PCD, SPS, PPN</p> 
Members Clubs		
22	Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
23	Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
24	Where the Club has submitted draft constitution or rules with their application for a premises licence, they shall submit a copy of the approved constitution or rules to the Clerk to the Board within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
25	Where the Club revises its constitution or rules in the future, the Club must submit a copy of the proposed revisions to the Board for approval and thereafter submit a copy of the approved revised constitution or rules to the Clerk to the Board, within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
26	Where there are any changes to the list of connected persons in relation to the Club, the Club must submit details of the names, addresses, postcodes, dates and places of birth of the new	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 

	connected persons and an updated list of all connected persons, to the Clerk to the Board, within 28 calendar days of the changes to connected persons being approved by the Club's governing body.	
27	The Club must ensure that at all times, there at least two members of staff, or Committee Members, or volunteers involved in the management of the Club who are trained to the standard of a Personal Licence Holder. If the persons trained change at any time, evidence of an up-to-date training certificate must be submitted to the Clerk within two months of change in personnel.	PCD, SPS, PPN, PIPH, PCYPFH 
28	Any person requiring to hold a training certificate for the purposes of condition 26 above, must complete a refresher training course within a period of 3 months of the 5-year anniversary of the date of the initial training certificate and submit a copy of the refresher training certificate to the Clerk within 28 calendar days of receipt of the updated certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.	PCD, SPS, PPN, PIPH, PCYPFH 
29	That up to 5 visitors per member shall be permitted in the club premises provided they are signed into the club by that member into a book kept for that purpose by the club. Such visitors must be bone fide guests of the member signing them in.	SPS, PPN 
30	All promotional materials, including the use of social media, must specify that events are open to Members and Guests only, unless an Occasional Licence is in place. Events must be advertised in the press as for "Members and Guests only"	SPS, PPN 
Beer Gardens and Outside Drinking Areas		
31	Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 11.00pm	PCD, SPS, PPN, PIPH, PCYPFH 
32	The Licence Holder must take reasonable steps to ensure that litter and, where used, glass and bottles are removed from beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH PCYPFH 
33	The Licence Holder shall consider the use of safe alternatives to glass containers and bottles in beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH 

Hybrid Premises		
34	Premises operating as “other premises” during the day and wishing to operate as Nightclubs thereafter must ensure that the premises are closed down and cleared of patrons, particularly children and young persons, for at least one hour prior to the commencement of operating as a nightclub at the premises	PCD, SPS, PPN PCYPFH    
Festive Season Conditions for Premises opening after 1.00a.m.		
35	A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	SPS, PIPH, PCYPFH   
36	A designated person who is the holder of a personal licence must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	PCD, SPS, PPN, PIPH, PCYPFH     
37	There must be written policies in existence concerning - <ul style="list-style-type: none"> • The evacuation of the premises; and • The prevention of the misuse of drugs on the premises. • Duty of care (‘Vulnerability through Intoxication’) 	PCD, SPS, PPN, PIPH, PCYPFH     
38	There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.	PCD, SPS, PPN, PIPH, PCYPFH     
39	A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close.	PCD, SPS, PPN, PIPH, PCYPFH     

Key to objectives		
	PCD	Prevention of Crime and Disorder
	SPS	Securing Public Safety
	PPN	Preventing Public Nuisance
	PIPH	Preventing and Improving Public Health
	PCYPFH	Protecting Children and Young Persons from Harm

NOTE: Additional Conditions specific to individual licensed premises may be attached by the Board to premises licences depending on the circumstances of the particular application, over and above the pool conditions listed in this document.

APPENDIX 3 LEGAL TEST

<p style="text-align: center;">Licensing (Scotland) Act 2005 Part 3 & Sections 29-32 Application for Variation of a Premises Licence</p>

LEGAL TEST

The legal test is set out in Section 30 of the Act.

- (1) A premises licence variation application received by a Licensing Board is to be determined in accordance with this section.
- (2) If the variation sought is a MINOR variation, the Board MUST grant the application.
- (3) In any other case, the Licensing Board MUST hold a hearing for the purposes of considering and determining the application.
- (4) Where a hearing is held under subsection (3), the Board MUST consider whether any of the grounds for refusal applies and,
 - (a) if none of them applies, the Board MUST grant the application, or
 - (b) if any of them applies, the Board MUST refuse the application.
- (5) **The grounds for refusal are –**
 - (a) **that the application must be refused under Section 32(2), 64(2) or 65(3)¹**
 - (b) **That the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the Licensing objectives.**
 - (c) **that, having regard to –**
 - (i) **the nature of the activities proposed to be carried on in the subject premises,**
 - (ii) **the location, character and condition of the premises, and**
 - (iii) **the persons likely to frequent the premises****The Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.**
 - (d) **that the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking account of the variation) in the locality.**
- (6) **Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.**
- (7) **Where the Licensing Board REFUSES the application-**

¹ Section 32(2) - where a previous variation application has been refused by the Board and before the expiry of the period of one year beginning with the date of the earlier refusal;
Section 64(2) – where to grant the hours sought would result in alcohol being sold on the premises during a continuous period of 24 hours or more, unless the Board is satisfied that there are exceptional circumstances to justify a grant; and
Section 65(3) that the hours for off sales would be before 10.00a.m. after 10.00p.m. or both

- (a) the Board MUST specify the ground for refusal, and**
(b) if the ground for refusal is that specified in Subsection (5)(b), the Board MUST specify the licensing objective or objectives in question.

1. Chapter 8 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to premises licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance must give Ministers notice of that decision together with a statement of the reasons for it.

