

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD – 28 FEBRUARY 2024

LICENSING (SCOTLAND) ACT 2005

APPLICATION FOR A PREMISES LICENCE - HEARING

DRUMTOCHTY CASTLE, LAURENCEKIRK

1 Executive Summary/Recommendations

- 1.1 This report relates to an application for a grant of a premises licence where the Licensing Board's Local Conditions could not be agreed by the applicant and therefore requires consideration by the Board. Premises Licences can only be determined by the Licensing Board.

Recommendations

- 1.2 It is recommended that the Board considers the materials before them and:-

- (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.**
- (b) **Where the Board has concluded that there is sufficient evidence to allow a decision to be made, to consider the application, the submissions made by the parties at the hearing and determine whether the application should be granted in line with the legal test, there being no legal basis upon which to refuse the application; and**
- (c) **Where granting the application, to determine whether to attach –**
 - i **The local conditions as recommended, as set out at Section 3. Of this report; or**
 - ii **Varied local conditions on the basis that the applicant has justified a departure to the Board's policy regarding local conditions; and**
 - iii **the specific condition as set out at Section 3.xx of this report.**

2 Decision-Making Route

- 2.1 An application was lodged for a grant of a premises licence for Drumtochty Castle, Auchenblae, Laurencekirk AB30 1TP. The application was lodged on 19th October 2023 by Drumtochty Estates Limited, Drumtochty Glen, Auchenblae, Laurencekirk AB30 1TP by their agent Neil Fraser, Partner of Raeburn Christie Clark & Wallace LLP.

Proposal

- 2.2 A copy of the Application including the proposed Operating Plan, proposed Layout Plan, proposed Activities Matrix and Risk Assessment are attached as **Appendix 1** to this report and referred to for their terms.
- 2.3 This application has not previously been before the Board.

3 Discussion

Consultations

- 3.1. The Depute Clerk carried out an initial examination of the application, following which, various matters required to be rectified by the applicant to enable the application to be processed. The application was then processed and the following bodies were consulted thereon:
- Police Scotland
 - Scottish Fire and Rescue Service
 - The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council
 - The Licensing Standards Officer
 - Public Health
 - The appropriate Community Council and
 - Neighbouring Occupiers.

- 3.2. At the same time as the application was 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 that the site notice had been appropriately displayed.
- 3.3. The application was also advertised on the Council's Website.

Implications

- 3.4. If the Board determines that the premises licence should be granted, and opts to grant an exception to standard local conditions being applied to the licence, those standard conditions will not apply. These local conditions relate to Children and Young Persons and the Beer Gardens & Outdoor Drinking Areas.

Conditions

- 3.5. Where granted, a set of mandatory conditions listed in the Licensing (Scotland) Act 2005 attach to all premises licences.
- 3.6. The Board also has a pool of local conditions which attach to any licence granted, agreed in advance with the applicant. The following local conditions have been recommended in respect of this application:
- General Management for All Premises – Conditions 1 – 4
 - Noise – All Premises – Condition 5
 - Lockfast Store – All Premises – Condition 6
 - Children and Young Persons – Conditions 7 – 11 (not agreed by the applicant)
 - Vulnerability – All Premises – Condition 19
 - CCTV – All Premises – Condition 21
 - Beer Gardens & Outdoor Drinking Areas – Conditions 31 – 35 (not agreed by the applicant)
 - Festive Seasons – Conditions 38 -42
- 3.7. The sole purpose of this hearing is to hear from the applicant to allow the Board to determine whether there is evidence to justify a departure to the Board's Policy and to grant the application without local conditions 7 – 11 and 31 – 35. All other aspects of the application have been agreed with the applicant and there is no legal basis upon which to refuse this application in terms of the Legal Test.

3.8. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.

3.9. The Board may also attach conditions which are specific to the premises where required. There is one specific condition to this application: -

- Any music to be played therein not to exceed what would be considered to be a reasonable level.

3.10 Local and specific conditions are recommended based on the consultation responses submitted by the statutory consultees, in this case Police Scotland and the Licensing Standards Officer.

Procedure

3.11 Each application should be considered on its own merits.

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

3.13 The Applicant has been requested to attend the Board

3.14 Those consultees who have lodged representations have been asked to attend the Board.

3.15 Copies of this report together with the Legal Test and Board's Guidance on procedures for Hearings, were issued to all Parties .

3.16. All parties have been given the opportunity to attend the Board Meeting by phone, to lodge written submissions or both. Any written submissions lodged will be circulated to all parties prior to the meeting and will form **Appendix 4** to this report.

3.17. Members should follow the procedure outlined at **Appendix 5** of this report.

3.18. Members' options in disposing of the application are:-

- (a) To grant the application;
- (b) Refuse the application;
- (c) Grant subject to varied hours and/or varied 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

applicants may present their case in full or further information can be obtained in the interim.

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

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. The application is out with the terms of the Board's policy.

4.2 The table below shows whether risks and implications apply if the recommendations are agreed.

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

4.3 An Integrated Impact Assessment (IIA) has not been carried out as the processing of the application 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.

- 4.4. There are no staffing and financial implications.
- 4.5. The Council's Corporate and Directorate Risk Registers do not apply to the Licensing Board as it is a separate legal entity.
- 4.6. 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 this application in terms of paragraph 1.5 of the Scheme of Delegation which provides that consideration of a premises/provisional premises licence is a matter reserved to the Board.

Karen Wiles

Clerk to the Board

Report Prepared by Fiona Stewart, Senior Solicitor (Governance), Depute Clerk to the Board and Harriet Tevendale, Paralegal

Date: 13th February 2024

IDOX REFERENCE NUMBER: LAPREM/00120/23

List of Appendices:

Appendix 1 – Application

Appendix 2 - Local Conditions

Appendix 3– Legal Test

Appendix 4 – Written Submissions – where made

Appendix 5 – Procedure for Hearing

