

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD – 28th June 2023

LICENSING (SCOTLAND) ACT 2005

APPLICATIONS FOR PREMISES/PROVISIONAL PREMISES LICENCES

NON-CONTENTIOUS APPLICATIONS

1 Executive Summary/Recommendations

1.1. This report relates to applications for the grant of premises/provisional 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** to this Report have not been previously considered by the Board.

2.2 The Depute Clerk has determined that the applications listed in **Appendix 1** are non-contentious applications and asks that the Board consider the same.

3 Discussion

Consultations

3.1 The Depute Clerk examined the applications in detail and the Applicant 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 each 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 If granted, certain mandatory conditions listed in the Licensing (Scotland) Act 2005 will attach to premises licences. The conditions attaching will depend on the activities listed in the operating plans of the premises.
- 3.7 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.
- 3.8 Any applicant who has taken issue with the representations made in respect of their application will have their application considered at a full hearing of the Board, which will be the subject of a separate report.
- 3.9 In line with the decision taken by the Board at their meeting on 12th August 2020, the applicants have not been asked to attend the Board.
- 3.10 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

- 3.11 If the Board determines that a licence should be granted, it will take effect from the date of grant and can be traded, where the application is for a full premises licence. Where a provisional premises licence is granted, the licence must be confirmed prior to the licence being able to be traded.

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 this application in terms of the paragraph 1.5 of the current Scheme of Delegation which provides that consideration of a premises licences is a matter reserved to the Board.

Karen Wiles

Clerk to the Board

Report Prepared by : Jill Joss, Senior Solicitor (Governance), Depute Clerk to the Board and Harriet Tevendale, Paralegal

Date: 15TH June 2023

List of Appendices:

Appendix 1 - Details of applications, consultation responses and recommended conditions

Appendix 2 – List of Board's Local Conditions

Appendix 3 – Legal Test

APPENDIX ONE

LIST OF NON-CONTENTIOUS APPLICATIONS

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
<p>1. The National Trust for Scotland Enterprises Ltd</p> <p>Agent: TLT Solicitors</p> <p>LAPREM/00181/22</p>	<p>Haddo House Methlick Ellon AB41 7EQ</p>	<p>An elegant and luxurious stately home designed by William Adam, comprising of Scottish stately home in the Palladian style, terrace garden, cafe, and shop, set out over three floors.</p> <p>The venue is situated within Haddo Country Park.</p> <p>Activities/services provided include accommodation, conference facilities, restaurant facilities, bar meals, receptions, including weddings, funerals, birthdays, retirements, clubs and other group meetings, recorded music, live performances, dance facilities, theatre, films, gaming, indoor/outdoor sports, televised sport, outdoor drinking areas.</p> <p>There will be an offering of sale of alcohol for consumption off the premises in addition to the on sales.</p> <p>Children and young persons will be permitted to access the premises.</p> <p>Seasonal variations as per the Licensing Boards Policy are included</p>	<p>Representations</p> <p>Police Scotland</p> <p><u>Outdoor Drinking Facilities</u></p> <p>Signage to be displayed indicating that alcohol is not to be removed from the licensed areas.</p> <p>Any amplified music to be played at what would be considered to be a reasonable level.</p> <p><u>Children and Young Persons Access</u></p> <p>All children and young persons to be allowed access to the premises as described and are to be excluded from all areas where gaming activities are taking place.</p> <p>All children and young persons are not to be permitted to attend at the main bar areas during times when alcohol is available for sale.</p> <p>Licensing Standards Officer</p> <p>The Licensing Standards Officer has recommended a number of local conditions as noted below (copy of local conditions is attached to the end of this letter).</p> <p>As there are multiple uses and multiple areas within the application the requested conditions may relate directly to some of these areas, the Licensing Standards Officer has highlighted some of these and made clarification points as marked by the asterisks.</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>1, 2, 3, 4, 5*, 6, 8, 9, 10, 11, 19, 20*, 21, 31*, 32, 33*, 35, 36, 37, 38, 39</p> <p>5* - Where events are held outside in the grounds where music is part of the celebration/event it is requested that Police and Licensing be notified at least 72 hours prior to the event and that appropriate consideration is given to neighbouring properties.</p> <p>20* - SIA stewards to be used as appropriate dependent on the function and/or event</p> <p>31* - It may be accepted that outside drinking is part of the event where it does not form the main part of the event, i.e., Weddings, celebrations, concerts etc. In these circumstances then outside drinking can only be until the terminal hour of the premises licence.</p> <p>33* - Consideration for use of glass alternatives where appropriate to the event.</p> <p>Building Standards – no comments to make Planning – no comments to make. Environmental Health - no comments to make Firemaster – standard observation submitted.</p>










Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>Certificate of Confirmation</p> <p>The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.</p> <p>Recommended Conditions for Licence:</p> <ol style="list-style-type: none"> 1. General Management for All Premises – Conditions 1-4 2. Noise – All Premises – Condition 5 * (where events are held outside in the grounds where music is part of the celebration/event it is requested that Police and Licensing be notified at least 72 hours prior to the event and that appropriate consideration is given to neighbouring properties) 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* (SIA Stewards to be used as appropriate dependent on the function and/or event) 7. CCTV – All Premises – Condition 21 8. Beer Gardens and outside Drinking Areas – Conditions 31 – 33 * (condition 31 – It may be accepted that outside drinking is part of the event where it does not form the main part of the event, i.e., Weddings, celebrations, concerts etc. In these circumstances then outside drinking can only be until the terminal hour of the premises licence)



























Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p data-bbox="1487 272 2045 373">** (Condition 33 – Consideration for the use of glass alternatives where appropriate to the event)</p> <p data-bbox="1440 381 2045 448">9. Festive Season Conditions for Premises opening after 1.00am – Conditions 35-39</p> <p data-bbox="1391 488 1843 517">Conditions specific to the application</p> <p data-bbox="1391 560 2045 627">In respect of the outside areas the following conditions be applied:</p> <ul data-bbox="1440 671 2045 879" style="list-style-type: none"> <li data-bbox="1440 671 2045 738">• Signage to be displayed indicating that alcohol is not to be removed from the licensed areas. <li data-bbox="1440 778 2045 879">• Any amplified music to be played at what would be considered to be a reasonable level. <p data-bbox="1391 959 1800 987">Children and Young Person Access</p> <ul data-bbox="1440 1031 2045 1318" style="list-style-type: none"> <li data-bbox="1440 1031 2045 1174">• All children and young persons to be allowed access to the premises as described and are to be excluded from all areas where gaming activities are taking place. <li data-bbox="1440 1214 2045 1318">• All children and young persons are not to be permitted to attend at the main bar areas during times when alcohol is available for sale.

APPENDIX 2

LOCAL CONDITIONS: PREMISES LICENCES

A. THE ABERDEENSHIRE LICENSING BOARD

Local Conditions		Objective
General Management for All Premises		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.	PCD, SPS, PPN PIPH, PCYPFH 
2	Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	SPS, PPN 
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	PCD, SPS 
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – <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 	PCD, SPS, PPN, PIPH, PCYPFH 
Noise – All Premises		
5	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.	PPN 
Lockfast Store – All Premises		
6	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.	PCD, SPS 
Children and Young Persons – On Sale Premises		
7	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.	PCYPFH 
8	The Licence Holder shall provide safe high chairs for the use of young children	SPS, PCYPFH 
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		

19

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.




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.









The Licence Holder **shall** ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.










**PCD, SPS, PPN
PIPH, PCYPFH**





Door Supervisors – On Sale Premises




20	<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"> Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations; Identify and refuse entry to drunken persons Identify and refuse entry to any persons banned through pubwatch or by any other means; Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001; Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked; Be aware of the fire safety precautions and procedures and all other policies and practices; Be aware of the premise's drug prevention policy; Provide assistance to patrons, including customer care, directions to facilities and health and safety; Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason. 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; Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises; 	<p>PCD, SPS, PPN PIPH</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	<p>Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.</p>	<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	PCD, SPS, PPN, PIPH, PCYPFH 
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.	PCD, SPS, PPN, PIPH, PCYPFH 
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.	PCD, SPS, PPN, PIPH, PCYPFH 
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 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.	PCD, SPS, PPN, PIPH, PCYPFH 
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 - Licensing (Scotland) Act 2005

Part 3 & Sections 17-28, 45

Grant Premises Licence or Provisional Premises Licence

LEGAL TEST

The legal test is set out in Section 23 of the Act.

- (1) An application for a premises licence is to be determined in accordance with this section.
- (2) The Licensing Board **must** hold a hearing for the purpose of considering and determining the application.
- (3) In considering and determining the application, the Board **MUST** take account of the application documents (as listed below)
- (4) The Board **MUST**, in considering and determining the application, 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 subject premises are excluded premises
 - (b) that the application **must** be refused under section 25(2), 64(2) or 65(3) [the applicant has been lodged within a period of 12 months of the date of a previous refusal]
 - (ba) that the Licensing Board considers, having regard to the licensing objectives that the applicant is not a fit and proper person to be the holder or a licence.
 - (c) That the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the Licensing objectives.
 - (d) 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.

- (e) 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 in the locality.
- (6) In considering whether either of the grounds for refusal specified in Section 23(5)(ba) and (c) applies, the Licensing Board **must** in particular take into account –
- (a) any conviction, notice of which is given by the chief constable under Section 21(4)(b), and
 - (b) any report given by the chief constable under Section 24A(2) (power of the Board to request the Chief Constable to provide an anti-social behaviour report)
- (7) Where the Licensing Board considers that –
- (a) they would refuse the application as made, but
 - (b) if a modification proposed by them were made to the operating plan, or layout plan, or both) for the subject premises accompanying the application, they would be able to grant the application,
- The Board **MUST**, if the applicant accepts the proposed modification, grant the application as modified.
- (8) Where the Licensing Board REFUSES the application-
- (a) the Board **MUST** specify the ground for refusal, and
 - (b) if the ground for refusal is that specified in Section 23(5)(ba) or (c), the Board **MUST** specify the licensing objective or objectives in question.

1. Section 4 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.