

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD HEARING – 28th June 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 Jill Joss, Senior Solicitor (Governance), Depute Clerk to the Board and Harriet Tevendale, Paralegal.

Date: 15th June 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/00234/22/HT

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

Balmoral Estates
Balmoral Castle
Crathie
Ballater
Aberdeenshire
AB53 5TB

Per Raeburn Christie & Wallace Solicitors

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

Balmoral Estate
Ballater
Aberdeenshire
AB53 5TB

	EXISTING LICENSED HOURS Plan A: 1 st April – 31 st July		EXISTING LICENSED HOURS Plan B: 1 st August – 31 st March	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Tuesday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Wednesday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Thursday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Friday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Saturday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Sunday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700

	PROPOSED LICENSED HOURS	
	ON SALE	Off Sale
Monday	1000 - 0030	No Change
Tuesday	1000 - 0030	No Change
Wednesday	1000 - 0030	No Change
Thursday	1000 - 0030	No Change
Friday	1000 - 0030	No Change
Saturday	1000 - 0030	No Change
Sunday	1000 - 0030	No Change

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

The applicant wants to:

- Vary the core times that alcohol will be sold for consumption on the premises to Monday to Sunday 10am – 00:30am, through out the year. The premises will no longer operate in terms of 'Plan B' and all reference to that are deleted from the operating plan, including section 4. The premises will still operate as a lounge bar / function room, but will do so in terms of 'Plan A'.
- The terminal hour for on premises consumption will normally be restricted to 6:00pm during the periods of the year when the public has access. Rare organised events will use the later terminal hour of 00:30am. This change also necessitated a change to the terms/times under which children and young people have access. The change is not a relaxation of the terms/times as such, but is reflective of the changed on premises core hours.

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

Police Scotland have made a representation to the application and ask that the application be granted with the following conditions.

Children and Young Persons

1. Children from, 0-15 year, and young persons, 16-17 years, will only be allowed entry accompanied by a responsible adult aged 18 years, at all times.
2. No children or young people to be permitted at bar areas.

LSO

The LSO has recommended the following conditions be applied to the licence:

Local Conditions

- 1,2,3,4,5,8,9,10,11,19,21

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

5. Applicant's response to representations

- The Applicant has accepted all recommended conditions

Recommended Conditions for Licence: - Existing Conditions to be retained:

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
7. Beer Gardens and outside drinking areas – Conditions 31 – 33 ** Condition 31 to have a terminal hour of 2200

Conditions specific to the application

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

Existing Specific Conditions to be retained:

8. The Licence Holder shall ensure that –
 - The area is delineated by a physical barrier or similar
 - Signage is displayed indicating that no alcohol is to be removed beyond the licensed area
 - No amplified music to be played therein.

Specific Condition to be added:

Children and Young Persons

1. Children from, 0-15 year, and young persons, 16-17 years, will only be allowed entry accompanied by a responsible adult aged 18 years, at all times.
2. No children or young people to be permitted at bar areas.

**Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
LAPREM/00129/22/HT**

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

The Rustic Grill Ltd
Backburn
Woolmill Road
Turriff
AB53 4SD

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

The Rustic Grill
13-15 Balmellie Street
Turriff
AB53 4DW

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Tuesday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Wednesday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Thursday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Friday	10:00 – 00:00	10:00 – 22:00	No Change	No Change
Saturday	10:00 – 00:00	10:00 – 22:00	No Change	No Change
Sunday	10:00 – 23:00	10:00 – 22:00	No Change	No Change

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

The applicant wants to:

The applicant is adding live music within the current licenced hours to the activities on their operating plan and making amendments to their layout plan to reflect the proposed changes to their kitchen layout.

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.

LSO

The LSO has recommended the following conditions be applied to the licence:

Local Conditions:

1 - 11, 19 & 21

Environmental Health

Environmental Health have the following observations regarding the above noted Liquor Licence.

- Local Condition 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. to be applied.

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

5. Applicant's response to representations they have accepted all conditions stated.

Recommended Conditions for Licence: Existing Conditions to be retained:

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 – On Sale Premises – Condition 20
7. 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/00135/22 HT

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

Clerkhill Inns Limited
Clerkhill Inn
Baylands Crescent
Peterhead
AB42 2YA

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

Clerkhill Inn
Baylands Crescent
Peterhead
AB42 2YA

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00 -14:30 17:00 -23:00	N/A	No Change	11:00 – 14:30 17:00 – 22:00
Tuesday	11:00 -14:30 17:00 -23:00	N/A	No Change	11:00 – 14:30 17:00 – 22:00
Wednesday	11:00 -14:30 17:00 -23:00	N/A	No Change	11:00 – 14:30 17:00 – 22:00
Thursday	11:00 -14:30 17:00 -00:00	N/A	No Change 17:00 - 23.00	11:00 – 14:30 17:00 – 22:00
Friday	11:00 -00:30	N/A	11:00 – 00:00	11:00 – 22:00
Saturday	11:00 -00:00	N/A	No Change	11:00 – 22:00
Sunday	11:00 – 14:30 17:00 – 23:00	N/A	No Change	12:30 – 22:00

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

The applicant wants to:

- Reduction in core hours for on-sales on Thursday and Friday
- Addition of off-sales Monday to Sunday
- Changes to seasonal variations during public holidays and private functions and specially featured events held by the premises.
- Changes to activities to include provision of food at private functions/featured events during core and non – core hours.
- Change to children and young persons access to the premises.
- Addition of an outdoor drinking area
- Change to layout plan and activities matrix.

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

Wish to make representation to the application and recommend the following conditions are imposed on the licence in respect of the outdoor drinking facilities:

1. All outdoor drinking areas are to be suitably delineated by a physical barrier or similar.
2. These areas to be subject to a terminal hour of 2200 hours daily.
3. Signage to be displayed indicating that no alcohol is to be removed beyond the identified delineated outdoor drinking areas.
4. No amplified music will be played within the outdoor drinking areas

LSO

In respect of the attached application for variation by the Clerkhill Inn, Peterhead, can I please recommend the following Local Conditions for said premises.

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 19, 20, 21, 31*, 32 and 33

Additional Conditions.

Children and Young Persons must be accompanied by a responsible adult within the premises and the outside area (as per application Operating Plan)

*Outside Drinking area to close at 2200 hrs. (as per application Operating Plan)

Building Standards

Building Standards advise that the outside drinking area and its protective barrier should be designed in accordance with the following: -

1. Openings in the protective barrier should prevent the passage of a 100 mm diameter sphere and it should be designed so that it cannot be easily climbed by young children.
2. The barrier should be a minimum of 1100mm high.
3. Emergency lighting to the outside drinking area.

Building standards were satisfied with the response from the applicant and withdrew their representation.

Environmental Health

The proposed outdoor drinking area is in a close proximity to residential dwellings and consequently has the potential to cause noise disturbance to these noise sensitive receptors. To mitigate the noise impact, the Environmental Health Service would request that the following conditions are attached should the licence application be granted.

1. No amplified noise making equipment shall be used externally.
2. The outdoor drinking shall close no later than 22:00 Monday to Sunday.

Scottish Fire and Rescue*

Scottish Fire and Rescue Service have asked that, if not done so already, the applicant should complete a Fire Risk Assessment for the premises as required under the Fire (Scotland) Act 2005.

Such an assessment should ensure all reasonable steps are taken to ensure suitable fire safety measures are implemented to protect relevant persons from harm caused by fire. They have highlighted that the process of risk assessment should be ongoing and should be reviewed to ensure compliance with fire safety legislation.

***This is the standard representation made by the Scottish Fire & Rescue Service which we copy to the applicant. It does not form a condition of any Licence issued and does not prevent the Board from determining this application.**

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

5. **Applicant's response to representations** – The applicant has accepted all conditions stated.

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. Beer Gardens and outside Drinking Areas – Conditions 31 – 33 **Condition 31 to have a terminal hour of 22:00

Conditions specific to the application

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

In respect of the outside drinking facilities:

1. No amplified noise making equipment shall be used externally.
2. All outdoor drinking areas are to be suitably delineated by a physical barrier or similar.
3. Signage to be displayed indicating that no alcohol is to be removed beyond the identified delineated outdoor drinking areas.
4. No amplified music will be played within the outdoor drinking areas.

In respect of children and Young Persons:

5. Children and Young Persons must be accompanied by a responsible adult within the premises and the outside area.

**Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**

LAPREM/00254/22 HT

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

Alasdair Neil Cable
2 Jackson Street
Inverurie
AB51 3QB

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

Butchers Arms
14 West High Street
Inverurie
AB51 3SA

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Tuesday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Wednesday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Thursday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Friday	10:00 – 02:00	10:00 – 22:00	No Change	No Change
Saturday	10:00 – 02:00	10:00 – 22:00	No Change	No Change
Sunday	10:00 – 01:00	10:00 – 22:00	No Change	No Change

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

The applicant wants to:

- Adding accommodation as an activity
- Increasing capacity by 12 persons from 177 to 189 persons
- Amending terms, times, parts and conditions of children and young persons access to the premises.

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

Planning

In relation to the above premises licence, planning has spoken to the applicant, and it has been confirmed that the four en-suite letting rooms on the first floor are existing. However, planning permission should have been sought for a change of use from Use Class 9 (flat) to Use Class 7 (letting rooms).

Planning have advised the applicant that a Certificate of Lawfulness of Existing Use should be applied for to formalise the rooms.

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

5. Applicant's response to representations

- Applicant has accepted the representations and a certificate of lawfulness of existing use has been applied for.

Recommended Conditions for Licence:

These are the existing local conditions to be retained on the 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. Members Clubs – Conditions 22 - 30
7. Beer Gardens and outside Drinking Areas – Conditions 32

Conditions specific to the application : Existing Specific conditions

1. Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 22:00 hours. Only customers of the premises are permitted to use the area during core hours for the purpose of smoking. Customers should not be able to enter the premises by the outdoor area after 22.00 hours.
2. Noise from amplified and non-amplified music, signing and speech sourced from licensed premises (including the outdoor drinking area) shall not be audible in adjoining properties after 23:00.

**Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
LAPREM/00020/23 HT**

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

Café Boheme Restaurant Ltd
21-23 Windmill Brae
Aberdeen
AB11 6HU

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

Tolbooth Restaurant
Old Pier
Stonehaven
AB39 2JU

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	N/A	N/A	12:00 – 00:00	No Change
Tuesday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Wednesday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Thursday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Friday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Saturday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Sunday	12:00 – 20:00	N/A	12:00 – 00:00	No Change

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

The applicant wants to:

- Increase to core terminal hours when alcohol will be sold for consumption on the premises
- Addition of opening on a Monday
- Removal of seasonal variations to allow trading in January and on Sundays all year

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.

No objections or representations were made in respect of the application

5. Applicant has accepted all the conditions.

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

There are no conditions specific to the application.

Licensing (Scotland) Act 2005, section 29

APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE

LAPREM/00108/22 HT/JJ

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

Fraserburgh Indoor Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB

2. Name & address of premises (inc. postcode)

Fraserburgh Indoor Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00-23:00	N/A	No change	11:00-22:00
Tuesday	11:00-23:00	N/A	No change	11:00-22:00
Wednesday	11:00-23:00	N/A	No change	11:00-22:00
Thursday	11:00-23:00	N/A	11.00-23:30	11:00-22:00
Friday	11:00-00:00	N/A	No change	11:00-22:00
Saturday	11:00-00:00	N/A	No change	11:00-22:00
Sunday	11:00-23:00	N/A	11.00-22:00	11:00-22:00

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

The applicant wants to:

- Addition of pool room area (games room)
- Changes to seasonal variations to include closure on 3 January, removal of May Day and local holiday hours
- Add to seasonal variation that where a pool or darts competition is being held, bar is to open at 9am with a terminal hour of 12 am
- Changes to core terminal hours, increasing on Thursdays, decreasing on a Sunday
- Addition of off-sales (Monday to Sunday 11am to 10pm)
- Amendment to activities including activities outwith core hours and addition of films and adult entertainment
- Restrictions to children's access in terms of times and areas
- Increase capacity for pool rooms

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

Police Scotland submitted a representation recommending specific conditions in relation to the part of the major variation seeking to add a seasonal variation where a pool or darts competition is being held and the bar is to open at 9am with a terminal hour of 12 am. Police Scotland had no representations to make in relation to the other parts of the major variation. The applicant initially did not agree to the initial

conditions recommended, however following discussions between parties these were amended to the following specific conditions:-

In respect of all darts events only:

1. All darts events to be ticket only;
2. No Children or Young Persons are permitted to attend darts events;
3. A sufficient number of SIA licensed stewards to be on duty for the duration of all darts events to ensure routine stewarding duties carried out, which support the five licensing objectives;
4. All refreshments to be decanted into a safety alternative to glass at the point of sale.

Licensing Standards Officer

The Licensing Standards Officer submitted a representation as summarised:-

At Question 4 of the operating plan the following statement is entered twice:

- In respect of the hours required for pool competitions, where such events takes place, bar will open at 9am, with a terminal hour of 12am. These may take place any day of the week.

Recommend removal of one of the statements.

The layout plan reflects a Games room, however this is the New pool room, as stated in the variation application form and operating plan; please arrange for the layout plans to be updated to reflect name of room as "Pool Room" to avoid any confusion in respect of "Gaming / Games room".

Recommended local conditions which were subsequently amended to the following conditions in line with licensing boards policy:

- 1 - 11, 18 - 19,20 (only when management recognise the requirement for i.e. large events)
21, 35-39

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

5. Applicant's response to representations

In response to the Police representation, the applicant agreed to the revised specific conditions. Police Scotland have confirmed that this addresses their representation.

In response to the LSO representation, the applicant subsequently:-

- Amended the Operating Plan
- Amended the Activities matrix
- Accepted the recommended local conditions

The LSO has confirmed that these amendments addressed her representations.

Local Conditions for Licence:

- General Management for All Premises – Conditions 1 – 4
- Noise – All Premises – Condition 5
- Lockfast Store – All Premises – Condition 6

- Children and Young Persons – On Sale Premises – Conditions 7-11
- Adult Entertainment - Condition 18
- Vulnerability – All Premises – Condition 19
- Door Supervisors – Condition 20 (only when management recognise the requirement for i.e. large events)
- CCTV – All Premises – Condition 21
- Festive Season Conditions for Premises opening after 01:00 – Conditions 35 – 39

Conditions specific to the application:









In respect of all darts events only:





























1. All darts events to be ticket only;
2. No Children or Young Persons are permitted to attend darts events;
3. A sufficient number of SIA licensed stewards to be on duty for the duration of all darts events to ensure routine stewarding duties carried out, which support the five licensing objectives;
4. All refreshments to be decanted into a safety alternative to glass at the point of 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










20








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:
























- 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;
- i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.
- 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;
- k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises;

PCD, SPS, PPN
PIPH








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	<p>Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
24	<p>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>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
25	<p>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>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
26	<p>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.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
27	<p>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</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 

	the Clerk within two months of change in personnel.	
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. 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.