

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD – 28 JUNE 2023

LICENSING (SCOTLAND) ACT 2005

**APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE - HEARING
FRASERBURGH INDOOR LEISURE CENTRE**

1 Executive Summary/Recommendations

1.1 This report relates to an application for a major variation of premises licence where a representation has been received which requires consideration by the 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 representation made, the submissions made by the parties at the hearing and determine whether the application should be granted or refused in line with the legal test; and**
- (c) **If granting the application, to determine whether to attach the specific conditions as set out at Section 3.13 of this report and grant same subject to the local conditions set out at Section 3.15 of this report.**

2 Decision-Making Route

2.1 An application was lodged for a Major Variation of premises licence for Fraserburgh Indoor Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB. The application was lodged on 18th July 2022. A revised application form was subsequently lodged on 16th November 2022.

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

3.1 The premises licence was granted by the North Aberdeenshire Divisional Licensing Board on 1st September 2009. The licence number is AB-N-P142.

3.2 This variation is seeking:-

- 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

3.3 The table below shows the current and proposed Licensed hours:-

LICENSED HOURS				
CURRENT Licensed Hours			PROPOSED Licensed Hours	
	On Sales	Off Sales	On Sales	Off Sales
Mon	11:00 – 23:00	N/A	No change	11:00-22:00
Tue	11:00 – 23:00	N/A	No change	11:00-22:00
Wed	11:00 – 23:00	N/A	No change	11:00-22:00
Thur	11:00 – 23:00	N/A	11.00-23:30	11:00-22:00
Fri	11:00 – 00:00	N/A	No change	11:00-22:00
Sat	11:00 – 00:00	N/A	No change	11:00-22:00
Sun	11:00 – 23:00	N/A	11.00-22:00	11:00-22:00

Consultations

3.4 The Depute Clerk examined the application in detail and the Applicant then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk forwarded the application to the following persons or bodies as part of the consultation process:

- (a) Police Scotland;
- (b) Scottish Fire & Rescue Service;
- (c) The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council;
- (d) The Licensing Standards Officer;
- (e) The appropriate Community Council; and
- (f) Neighbouring Occupiers
- (g) Health Authority

3.5 At the same time as the application was consulted on, the applicant 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 to vary the Premises Licence had been made.

3.6 The Licensing Standards Officers checked to ensure the site notice had been appropriately displayed, and had been displayed for the correct time period, as part of the consultation exercise for the application.

3.7 The application was also advertised on the Council's website.

Objections and Representations

3.8 No objections or representations were made by any members of the public.

3.9 The following Consultees advised they had no comments on the application:

- 1. Planning Service
- 2. Building Standards
- 3. Environmental Health

3.10 The following Consultees lodged representations:

- 1. Police Scotland by letter dated 20th December 2022.
- 2. Licensing Standards Officer by letter dated 22nd December 2022.

3.11 The applicant was provided with a copy of the representation in an Observations letter dated 18th January 2023. Copies of the representations from the Licensing Standard Officer and Police Scotland are attached at **Appendix 2** to this report.

3.12 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.

Conditions

3.13 Police Scotland in their representation have recommended specific conditions in relation to the part of the major variation which seeks 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 recommended specific conditions are detailed below:-

1. Making the events ticketed;
2. During any event children and young persons to be accompanied by a responsible person aged 18 years or over;
3. No Children and Young Persons to be permitted at the bar areas;
4. A sufficient number of SIA licensed stewards to be on duty to ensure routine stewarding duties carried out, which support the five licensing objectives;
5. All refreshments to be decanted into a safety alternative to glass at the point of sale;
6. The Alcohol Management Plan, Drug Awareness Policy, Medical Plan, Event Plan, and Stewarding Plan must be submitted to Police Scotland within 12 weeks prior to the event and must be adhered to for the duration of the event.

3.14 The Board may attach conditions which are specific to the premises where required. The applicant has not agreed to these specific conditions recommended by Police Scotland, therefore it will be a matter for the Board to determine whether to attach these or not.

Local Conditions

3.15 It is recommended that if the Board grants the application, it is subject to the following local conditions, which have been agreed by the applicant in principle. These have been reduced slightly from those stated within the LSO representation, with the approval of the LSO.

- 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

3.16 **Appendix 3** contains the full list of available local conditions, as set out in the Board's Policy Statement.

Procedure

3.17 Each application should be considered on its own merits.

3.18 The legal test is attached as **Appendix 4** to this report.

3.19 The Applicant and those persons who made a representation/objected to the application have been invited to attend the Hearing.

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

- 3.21 The procedure to be followed is attached at **Appendix 5**.
- 3.22 In terms of the Board's procedure, any documentation/written submissions lodged by any of the parties, will be circulated to Members and all parties prior to the meeting taking place, where it is possible to do so. Such written documentation/submissions will form **Appendix 6** to this Report, if submitted.
- 3.23 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 additional conditions or to partially grant the application; or
 - (d) Determine that further evidence is required in which case the applications 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.
- 3.24 When coming to a decision the Board must consider the evidence provided and the contents of this report and 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.
- 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 1.6 of the Scheme of Delegation which provides that consideration of a major variation to a premises licence 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, Solicitor (Governance)

Date: 8th June 2023

IDOX REFERENCE NUMBER: LAPREM/00108/22

List of Appendices:

Appendix 1: Major Variation Application, Proposed Operating Plan, Layout Plan, Activities Matrix and Risk Assessment.

Appendix 2: Copy of Representations

Appendix 3: Local Conditions

Appendix 4: Legal Test

Appendix 5: Procedure for Hearing

Appendix 6: Written Submissions – where made