

APPENDIX 2

COPY OF REPRESENTATIONS AND OBJECTIONS

1. Police Scotland by letter dated 15th March 2023.
2. Licensing Standards Officer by email dated 29th March 2023.
3. Mr Alan Jackson: Representation received 29th March 2023.
4. Mr Graeme Coutts: Representation dated 17th March 2023.*
5. Mr William Gray: Objection by email dated 26th March 2023.
6. Mr Michael Wilson: Objection by email dated 2nd April 2023.
7. Dr and Mrs Shanks per Andrew Hunter, Solicitor, Aberdeen: Objection dated 3rd April 2023

* to be withdrawn upon sight of revised layout plan

1. Police Scotland by letter dated 15th March 2023.

15 March 2023

Your Ref:

Our Ref: 706972

Depute Clerk to the Licensing
Board
Aberdeenshire Council
Corporate Services
Legal and Governance
Viewmount
Arduthie Road
STONEHAVEN
AB39 2DQ



North East Division
Marischal College
Broad Street
Aberdeen
AB10 1AB

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
BANCHORY LODGE HOTEL, BANCHORY, KINCARDINESHIRE, AB31 5HS**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation consists of the following amendments to the Operating Plan, namely:

1. Amend Q.3 off sale hours from 1100 to 2200 hours daily to 1000 to 2200 hours daily;
2. Amend Q.4 Seasonal Variations with the wording provided;
3. Amend Q.5(a) to include Bar meals out with core licensed hours;
4. Amend Q.5(b) to include Receptions out with core licensed hours;
5. Amend Q.5(c) to include Recorded Music, Live Performances and Indoor/Outdoor Sports out with core licensed hours and include Theatre, Films and Gaming as described in the wording provided;
6. Amend Q.5(f) 'any other activities' with the wording provided;
7. Amend Q.6(b) Children & Young Persons Terms, Ages, Times and Parts with the wording provided;
8. Amend Q.7 capacity from 376 to 269 to accommodate the Cobbleheugh Annexe and all outdoor areas as described in the layout plan and with the wording provided.
9. Amend the layout plan to extend the outdoor drinking facilities with inclusion of the Cobbleheugh Annexe, lower and upper terraces and hotel garden areas as detailed in the layout plan and with the wording provided;

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


In respect of points 1 to 7, I have no adverse comment to make.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, at points 8 and 9, I wish to make representation to the application and recommend the following conditions are imposed on the licence in respect of the additional outdoor drinking facilities of the lower and upper terraces and hotel gardens areas:

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 2300 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 after 2300 hours.


This representation is submitted for your attention in considering this application.

Yours faithfully



Graeme Mackie
Chief Superintendent

For enquiries please contact the Licensing Department on



2. Licensing Standards Officer by email dated 29th March 2023.

Keith Simpson

29th March 2023 by email

Dear Colleague

I can confirm that the site notice has been displayed correctly.

In light of this application I wish to impose local conditions as follows:-

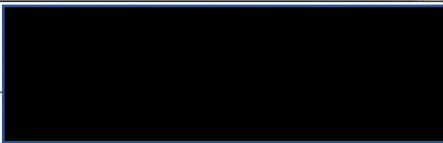
1-11 inclusive, 19,21,31,32,33,

Regards

Keith Simpson
Senior Civic Licensing Standards Officer

3. Mr Alan Jackson: Representation received 29th March 2023.

Licensing (Scotland) Act 2005, section 22 Notice of Objection or Representation	
If you are completing this form by hand, please write legibly in block capitals using ink.	
To: The Depute Clerk Aberdeenshire Licensing Board Legal & Governance Viewmount Arduthie Road Stonehaven AB39 2DQ	
<p>Any person may, by notice to the Licensing Board—</p> <p>(a) Object to the application on any ground relevant to one of the grounds for refusal specified in section 23(5), or</p> <p>(b) Make representations to the Board concerning the application</p> <ul style="list-style-type: none"> • If you are OBJECTING, please complete Part A of this form. • If you are MAKING REPRESENTATIONS, please complete Part B of this form. • All parties should complete Sections 1, 2 and Part C of this form. <p style="text-align: center;">YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM</p>	
<u>Section 1 – Application Details:</u>	
This objection/representation relates to the following Application:	
Applicant's name (if known):	
Name & Address of premises:	THE BANCHORY LODGE HOTEL DEE STREET BANCHORY AB31 5HS
This Application is for	<ul style="list-style-type: none"> • Premises Licence <input type="checkbox"/> • Provisional Premises Licence <input type="checkbox"/> • Variation of an existing Premises Licence <input checked="" type="checkbox"/> • Occasional Licence <input type="checkbox"/>
Application Number (if known)	LAPREM/00028/22

Section 2 – Objector/Representer Details:	
If you fail to complete this section, the objection or representation may not be considered	
(A) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION AS AN INDIVIDUAL	
Individual Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	JACKSON
First Name(s)	ALAN
Address (including postcode):	
Email address:	
(B) COMPLETE IF YOUR ARE OBJECTING OR LODGING A REPRESENTATION ON BEHALF OF AN ORGANISATION	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	
First Name(s)	
Address of person lodging objection/representation on behalf of organization (including postcode):	
Email Address:	
Name of Organisation:	
Nature of Organisation e.g. resident's association, ward councilor, trade association	
Address of Organisation (including postcode):	

PART B - REPRESENTATION

I/We wish to make these representations to the Board concerning the application: —

In support of the application.

As to modifications which should be made to the Operating Plan

THE OUTSIDE SPACES, WHICH INCLUDE THE TERRACES & PODS, SHOULD HAVE ALCOHOL SALES CORE HOURS RESTRICTED TO 10.30 PM ALONG WITH ANY MUSIC

As to conditions which should be imposed.

NO MUSIC AFTER 10.30 PM

Other representations

PART C: Additional Information/Supporting Documents

Please add here any additional comments you wish to make. If you are submitting any background written materials in support of your Objection/Representation it would be helpful if you could list them here:-

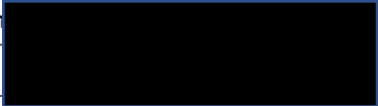
A LOT OF NOISE COULD BE GENERATED BY THE MUSIC, DRINKING & MERRIMENT IN THE OUTSIDE SPACES, ESPECIALLY THE TERRACES & PODS.
EVEN IF THE ALCOHOL LICENCE IS RESTRICTED TO 10.30 PM, THERE IS STILL A RISK THAT THE GENERATED NOISE MAY PROHIBIT RESIDENTIAL NEIGHBOURS FROM SLEEPING.

Please attach supporting documents/further pages as necessary. Please number all extra pages

I have read and understood the attached

Your Signature

Date



29/3/23

**YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM
GDPR**

**Any person who has supplied personal information as part of this application
MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE**

4. Mr Graeme Coutts: Representation dated 17th March 2023.


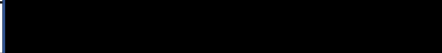
LAPREN/00025/22 - Dolsya.

Licensing (Scotland) Act 2006, section 22 Notice of Objection or Representation									
If you are completing this form by hand, please write legibly in block capitals using ink.									
To: The Depute Clerk Aberdeenshire Licensing Board Legal & Governance Viewmount Arduithie Road Stonehaven AB39 2DQ									
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(a) Object to the application on any ground relevant to one of the grounds for refusal specified in section 23(5), or									
(b) Make representations to the Board concerning the application									
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Section 1 – Application Details:									
This objection/representation relates to the following Application:									
Applicant's name (if known):	BANCHORY LODGE HOTEL LTD								
Name & Address of premises:	BANCHORY LODGE HOTEL BANCHORY, AB31								
This Application is for	<table border="0"> <tr> <td>• Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Provisional Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Variation of an existing Premises Licence</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>• Occasional Licence</td> <td><input type="checkbox"/></td> </tr> </table>	• Premises Licence	<input type="checkbox"/>	• Provisional Premises Licence	<input type="checkbox"/>	• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>	• Occasional Licence	<input type="checkbox"/>
• Premises Licence	<input type="checkbox"/>								
• Provisional Premises Licence	<input type="checkbox"/>								
• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>								
• Occasional Licence	<input type="checkbox"/>								
Application Number (if known)	AB-S-P002								

Section 2 – Objector/Representer Details:

If you fail to complete this section, the objection or representation may not be considered

(A) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION AS AN INDIVIDUAL

Individual Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	COUTTS
First Name(s)	GRAEME
Address (including postcode):	
Email address:	

(B) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION ON BEHALF OF AN ORGANISATION

Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	
First Name(s)	
Address of person lodging objection/representation on behalf of organization (including postcode):	
Email Address:	
Name of Organisation:	
Nature of Organisation e.g. resident's association, ward councilor, trade association	
Address of Organisation (including postcode):	

PART B - REPRESENTATION

I/We wish to make these representations to the Board concerning the application: —

In support of the application.

As to modifications which should be made to the Operating Plan

THE ATTACHED PLAN SUBMITTED WITH THE APPLICATION IS HIGHLY MISLEADING. THE PLAN OMTS RIVERSIDE RESIDENCE WHICH BORDERS THE HOTEL COURARDS.
(SEE ADDITIONAL NOTES)

As to conditions which should be imposed.

AS PER ATTACHED NOTES PAGE 6.

Other representations

PART C: Additional Information/Supporting Documents

Please add here any additional comments you wish to make. If you are submitting any background written materials in support of your Objection/Representation it would be helpful if you could list them here:-

(ADDITIONAL NOTES)

A CORRECTED PLAN IS ENCLOSED. NOTE THE AGREED BOUNDARY DRAWN ACROSS THE HOTEL LAWN. THIS IS THE BOUNDARY LIMIT AGREED DURING THE PREVIOUSLY SUCCESSFUL APPLICATION GIVING THE LICENSE EXTENSION FOR THE "FOX BOY" DRINKS TRAILER. UNDER NO CIRCUMSTANCES CAN ALCOHOL AND/OR TENTS ETC BE PITCHED BEYOND THIS POINT. BE SOLD

THIS WAS THE CONCESSION GIVEN AT THE ABOVE STATED APPLICATION AND MUST BE OBSERVED IN THE LICENSE.

FAILURE TO RESTRICT HAS ALREADY RESULTED IN NOISE, MESS & URINATING IN THE RIVER & WOODS. (SEE PREVIOUS OBJECTION)

ADDITIONALLY, PLEASE MAKE SURE EXTENDED LICENSE HOURS ARE IN HARMONY WITH OTHER PUBLIC HOUSES IN BANCHORY OTHERWISE THE HOTEL WILL BECOME THE GO-TO PLACE FOR THE INTOXICATED LATE NIGHT DRINKERS.

Please attach supporting documents/further pages as necessary. Please number all extra pages

I have read and understood the attached privacy notice

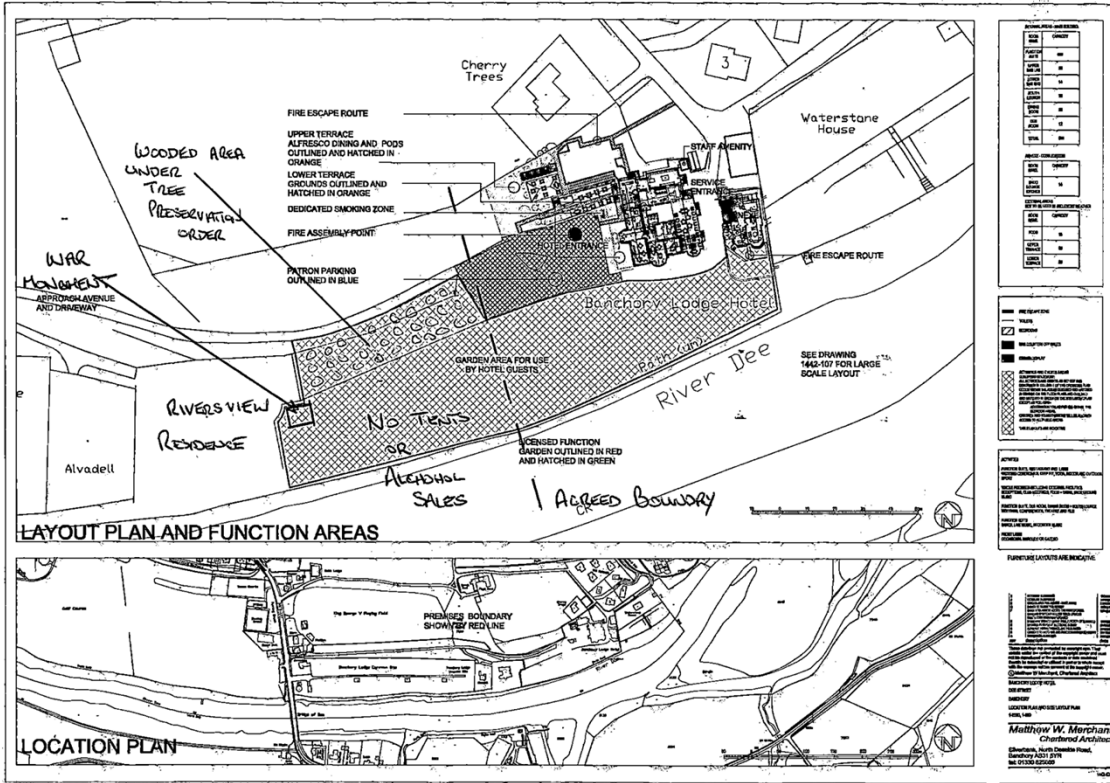
Your Signature

Date 17TH MARCH 2023.

YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM

GDPR

Any person who has supplied personal information as part of this application MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE



5. Mr William Gray: Objection by email dated 26th March 2023.

By Email dated 26th March 2023

Hello, Good afternoon,

please note the following objection of the Banchory Hotel Licence variation:-

1. The application conveniently fails to consider the location of new 5 House development immediately adjoining the Hotel.
2. See attached corrected location plan and photos which show the residential dwelling, 5 The Paddocks location in relation to the outdoor area.
3. The out door area, Pods, Pergola is currently under a planning application to remove its temporary status which was imposed following the illegal felling of several 'important' trees which were removed to enable the out door area to be built. The woodland is under TPO and despite being told by the Council officers that permission was required prior to felling the trees the Hotel went ahead anyway, ignoring and breaking the law.
4. The out door area generates a lot of noise and smell pollution, and the thought of this continuing to 11.00 pm plus clear-out times, ie probably midnight, is unthinkable for the residents immediately to the north of the boundary.
5. In October 2021, the Hotel were awarded temporary approval for the upper outdoor area due to the Directors being in breach of the TPO....ie they broke the law and are guilty of a Criminal offence. An offence which i do not see any penalty being imposed as of yet??? Is this law breaking not a consideration of the Licensing Board?

Extract from Scottish Planning Series: Planning Circular 1, 2011: Tree Preservation Orders:-

Offences and Penalties

29. It is an offence ¹⁷for any person in contravention of a TPO to cut down, uproot, wilfully destroy a tree or wilfully damage, top or lop a tree in such manner as to be likely to destroy it without the consent of the planning authority.
30. A person guilty of an offence shall be liable on summary conviction to a fine not exceeding £20,000 and on conviction of indictment to a fine.

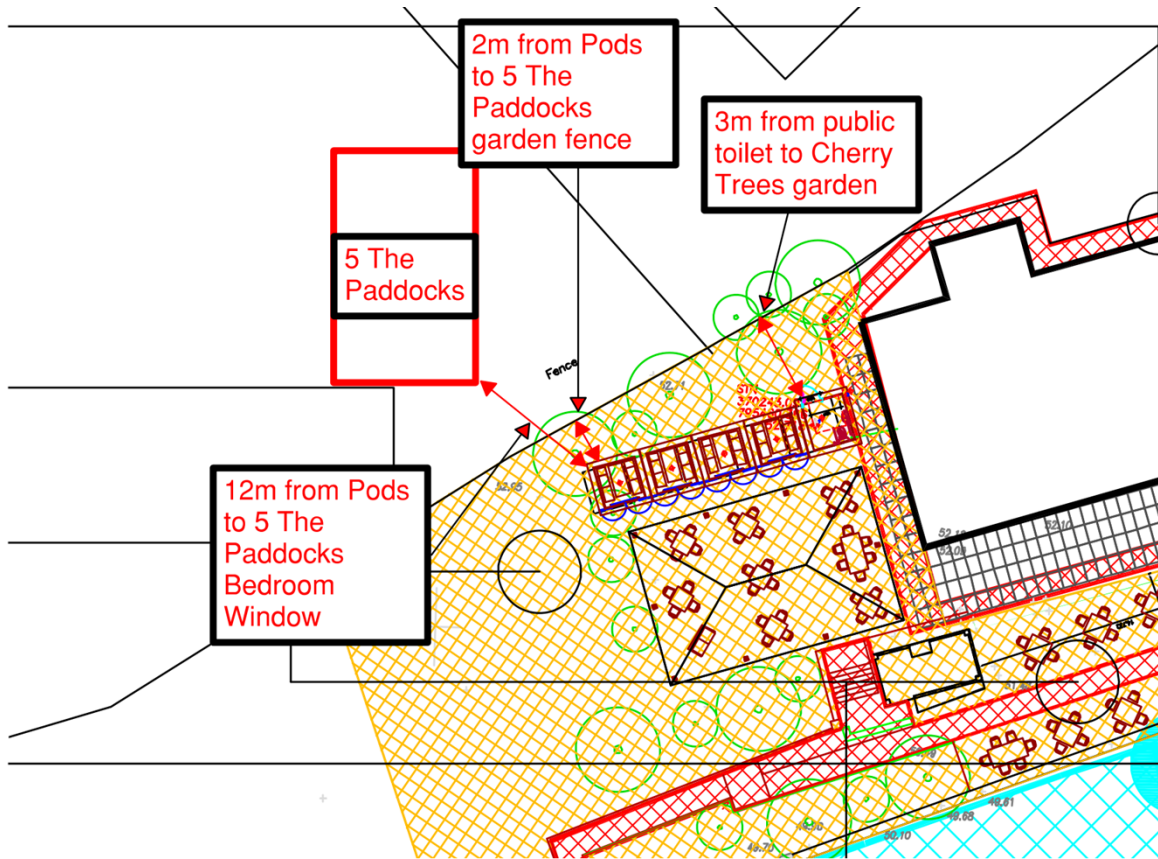
6. The Planning committee stated that the Hotel Directors had disregarded the planning policy on 3 occasions resulting in 3 retrospective planning applications and the Marr Committee Chairman to formally write to the Directors due to the seriousness of the matter.

I have to therefore ask if it is right for the license to include the out door area being able to be used until 11.00 pm as this will further exacerbate an already noisy and smelly situation for the residential neighbours; bearing in mind the upper outdoor area was required to be removed last February? If not then it seems to me that TPO's are irrelevant if not adhered to, and criminal charges are not brought and if the

above penalties are not imposed. Perhaps it is one law for the Directors and another for the General Public,

Yours sincerely

William N Gray





6. Mr Michael Wilson: Objection

Licensing (Scotland) Act 2005, section 22 Notice of Objection or Representation									
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To: The Depute Clerk Aberdeenshire Licensing Board Legal & Governance Viewmount Arduthie Road Stonehaven AB39 2DQ									
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Section 1 – Application Details:									
This objection/representation relates to the following Application:									
Applicant's name (if known):	CANAL FOWLER								
Name & Address of premises:	BANKHILLS LODGE HOTEL BANKHILLS AB31 5HS								
This Application is for	<table border="0"> <tr> <td>• Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Provisional Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Variation of an existing Premises Licence</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>• Occasional Licence</td> <td><input type="checkbox"/></td> </tr> </table>	• Premises Licence	<input type="checkbox"/>	• Provisional Premises Licence	<input type="checkbox"/>	• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>	• Occasional Licence	<input type="checkbox"/>
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• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>								
• Occasional Licence	<input type="checkbox"/>								
Application Number (if known)	L A PREM /00028/22								

Section 2 – Objector/Representer Details:	
If you fail to complete this section, the objection or representation may not be considered	
(A) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION AS AN INDIVIDUAL	
Individual Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	WILSON
First Name(s)	MICHAEL
Email address:	
(B) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION ON BEHALF OF AN ORGANISATION	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	
First Name(s)	
Address of person lodging objection/representation on behalf of organization (including postcode):	
Email Address:	
Name of Organisation:	
Nature of Organisation e.g. resident's association, ward councilor, trade association	
Address of Organisation (including postcode):	

PART A – OBJECTION							
I/we object to a premises licence being granted to the above premises, on the following grounds (delete any that do not apply):-							
(a)	The premises are excluded premises as defined in Section 123 of the Act.						
(b)	<p>The application must be refused under:-</p> <ul style="list-style-type: none"> Section 25(2) [the Licensing Board has refused a premises licence application in respect the premises less than a year before this application], Section 64(2) [Granting the application would have the effect of allowing alcohol to be sold on the premises during a continuous period of 24 hours or more] or Section 65(3) [Granting the application would have the effect of allowing alcohol to be sold for consumption off the premises before 10am, after 10pm, or both]. 						
(c)	<p>That, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a premises licence for the following reasons:</p> <p>- APPLICATION IS FOR LAND NOT OWNED BY HOTEL</p> <p>- BLH BREAK COVID RESTRICTIONS</p> <p>- BLH SOLD ALCOHOL WITHOUT A LICENCE PREVIOUSLY</p>						
(d)	<p>Granting the application would be inconsistent with one or more of the licensing objectives¹:-</p> <table border="1"> <thead> <tr> <th><u>Objective</u></th> <th><u>Explanation</u></th> </tr> </thead> <tbody> <tr> <td>Preventing crime and disorder</td> <td>BLH ARE UNABLE TO CONTROL THEIR GUESTS AND KEEP WITHIN THEIR BOUNDARIES</td> </tr> <tr> <td>Securing public safety</td> <td>BLH IS ADJACENT TO FAST RUNNING RIVER. THAT FLOODS WITH LITTLE WARNING.</td> </tr> </tbody> </table>	<u>Objective</u>	<u>Explanation</u>	Preventing crime and disorder	BLH ARE UNABLE TO CONTROL THEIR GUESTS AND KEEP WITHIN THEIR BOUNDARIES	Securing public safety	BLH IS ADJACENT TO FAST RUNNING RIVER. THAT FLOODS WITH LITTLE WARNING.
<u>Objective</u>	<u>Explanation</u>						
Preventing crime and disorder	BLH ARE UNABLE TO CONTROL THEIR GUESTS AND KEEP WITHIN THEIR BOUNDARIES						
Securing public safety	BLH IS ADJACENT TO FAST RUNNING RIVER. THAT FLOODS WITH LITTLE WARNING.						

¹ Please indicate which of the licensing objectives the application would be inconsistent with, along with a concise explanation why. Please delete any of the objectives that do not apply.

Objective	Explanation
Preventing public nuisance	WITHOUT BOUNDARIES OR ENTRY CONTROLS ANY PERSON CAN ENTER THE PREMISES & PURCHASE ALCOHOL INCLUDING CHILDREN
Protecting and improving public health	
Protecting children and young persons from harm	SEE ABOVE

(e) The premises are unsuitable for use for the sale of alcohol, having regard to²—

- (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.

Please explain why: BLH IS ADJACENT TO A FEASIBLE RIVER AND AT ALL TIMES FAST FLOWING WEIR

(f) Granting the application would result in overprovision of licensed premises, having regard to the number and capacity of—

- (i) licensed premises, or
- (ii) licensed premises of the same or similar description as the subject premises,

Please explain why:

.....

.....

² Please indicate which of the factors apply, with a concise explanation why. Please delete any that do not apply.

PART C: Additional Information/Supporting Documents

Please add here any additional comments you wish to make. If you are submitting any background written materials in support of your Objection/Representation it would be helpful if you could list them here:-

I WILL ALSO SEND PICTURES OF THE RIVER IN SPATE.

BLH DOES NOT OWN ALL THE LAND IT IS APPLICABLE FOR LITTERSOME OF IT IS MINE. SEE PREVIOUS APPLICATION. 2018/2019

BLH SOLD ALCOHOL IN BREACH OF CONDITIONS PREVIOUSLY.

Please attach supporting documents/further pages as necessary. Please number all extra pages

I have read and understood the attached privacy notice

Your Signature

Date

02/04/2023

**YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM
GDPR**

**Any person who has supplied personal information as part of this application
MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE**

7. Dr and Mrs Shanks per Andrew Hunter, Solicitor, Aberdeen: Objection dated 3rd April 2023

From Andrew Hunter on behalf of Dr and Mrs Shanks by email dated 3rd April 2023

Notice of Objection – Banchory Lodge AB-S-P002 Application for Variation of Premises Licence Objection by Dr and Mrs Shank, 3 The Mews, Banchory Lodge

We wish to object to the application for major variation for premises licence made by the Banchory Lodge Hotel, Dee Street, Banchory, AB31 5HS.

We confirm our objections are on the following statutory basis:

- 1 In terms of section 30(5)(b), the granting of the application would be inconsistent with one or more of the licensing objectives, namely preventing public nuisance and protecting and improving public health.
- 2 That in terms of section 30(5)(c) having regard to (i) the nature and activities or proposed to be carried on in the premises and (ii) the location, character and condition of the premises, the premises are unsuitable for the sale of alcohol in accordance with the proposed variation.

The Banchory Lodge Hotel ("the Hotel") is located in a quiet residential area of Banchory along the banks of the River Dee. Prior to the purchase of the Hotel by the present owners, the Hotel was operated for many years a quiet country hotel. The variation application, if granted, will cause an increase in activities at the Hotel which will lead to a significant change in character of the local area with the associated loss of amenity to the surrounding properties.

Variation of "Activities"

The proposal is extremely broad and general in nature, covering a whole host of activities both during and out with core licensing hours and, both inside and outside the Hotel. In particular, the operating plan sets out that certain activities will take place out with core hours but it does not restrict the operation of those hours. This causes us concern that certain activities would likely cause undue public nuisance when taking place during non-core hours.

When the draft operating plan and application for variation are considered, only the proposed external drinking area (within the terrace areas) has clearly defined operating hours. All other activities are unspecified in their hours. Bearing in mind that residents and their guests can lawfully consume alcohol on a 24/7 basis, we have real concerns that "other activities" could be carried out at all hours.

For example, unspecified indoor and outdoor sport may take place from 7am each day but with no specified terminal hour. Further, there is no specification as to what the external outdoor sports are. The premises have a large garden area. Is the sport taking place there? It was open to the applicant to say in clear terms what is proposed but they have chosen not to do. On the face of the application, the whole character of the Hotel could change.

We accordingly have a legitimate concern that public nuisance could arise as a result of such activities. Separately, late night games in the garden area by persons under the influence of alcohol would, in our view, be contrary to the public health objective.

Outdoor drinking Hours

We consider that external drinking until 11pm each night is too late and would be likely to cause undue nuisance and loss of amenity for us. We would respectfully suggest that the termination of outdoor drinking at 9pm. This would balance the interest of the Hotel as a commercial operator and us as neighbours who are entitled to enjoy peace and quiet in this residential area.

Our concerns are manifested by the fact that we have had cause complain to them directly about noise nuisance emanating from the function room. We do not consider the applicants can be entrusted to take sufficient measures to mitigate noise and nuisance if the premises licence allows late night consumption of alcohol in external areas. We do not consider it should be for us to police the use of external areas to ensure compliance.

For example, the current function room is neither soundproof or air conditioned. As a result of this, the windows and patio door are often open due to control the temperature within the Hotel. When live music is being played, we experience nuisance. We had previously raised this with the Hotel. Live music should only be permitted when doors and windows are closed. It is for the Hotel to take sufficient measures to control temperature, such as using air con, without causing nuisance.

If external drinking was permitted until 11pm (as proposed), we have significant concerns that the difficulties we have had in the past regarding loud music from the venue would be exacerbated by Hotel residents and their guests going back and forth from the premises and function area to consume alcohol outside. This could lead to doors being left open as customers go in and out causing unacceptable nuisance.

Our concerns about public nuisance are further exacerbated by the fact that terminal hour for live performances are not restricted in the operating plan and separately the operating plan proposes to play music in the external tenancy areas and pods. Playing music in the outdoor area until 11pm every night is, in our view, wholly unacceptable.

Outdoor Drinking Capacity

The draft operating plan states that the external area would have a total capacity of 65 persons, comprising 35 in the upper terrace and 30 in the lower terrace. However, the layout plan submitted with the application for variation would suggest that the larger areas could be used for external drinking.

For example, the drawing which appears to be numbered 1442-104 shows a section headed "layout plan and function areas" which would appear to show a vast expansive garden area delineated in red which would strongly suggest to us that this area could be used for the consumption of alcohol.

The whole garden area could support a capacity well in excess of 65 persons. As a result we have a significant concern that external drinking could take place for large numbers of persons in this area until 11pm at night as proposed or even later, since residents and their guests could consume alcohol lawfully on the premises 24/7 as well as other activities which have no restrictions in the operating plan!

Notwithstanding that it is a separate remit for the local authority planning department, we understand that planning permission for use of the upper terrace has expired. The Board should therefore delay any decision in respect of the outdoor areas until use of it has been permitted by the planning department.

Summary

Our objections are that the proposed use of the premises are contrary to the licence objectives of preventing public use and protecting and improving public health, and separately, the premises are not suitable for the totality of the changes proposed, having regard to the character and location of the premises.

- The majority of activities proposed out with core hours have no clear times, meaning that activities such as outdoor sports would take place through the night. With alcohol being available to residents and their guests on a 24/7 basis, we consider that nuisance is likely.
- Whilst the proposed operating plan limits alcohol consumption in the terrace and pods to 11pm at night, the layout plans seeks to authorise the whole garden ground as a licensed area. Residents of the hotel and their guests would be permitted to consume alcohol at all times and therefore we are concerned that use of the garden area could be during all hours of the day.
- Given that we have had cause to complain in the past about the use of the function area and loud music noise from it, we are concerned that the use of external areas to 11pm at night could cause undue nuisance and loss of amenity to us. The proposal seeks to play music in the external area is unacceptable. We would propose at the time of 9pm balances the interests of the Hotel and us as objectors.
- If the Hotel does not intend to undertaken "activities" at all hours of the day and night, the operating plan should be re-drafted to reflect what is intended and should not be open ended.