

## **The Draft Project**

### **Occasional Licence Application**

#### **Response to Comments Received by Aberdeen City Licensing Board**

##### **1 Introduction**

- 1.1 Members of the Board will hopefully forgive the fact that this response follows a similar format to that presented in respect of the Bielside Inn earlier in the week. That is because many of the concerns which arose in relation to the Bielside Inn apply equally to the Draft Project, and undoubtedly to every other venue which was showing the football on Thursday 12<sup>th</sup> November.
- 1.2 Covid 19 has brought many challenges to society in 2020, and the hospitality sector has been one of the worst affected, due to the inherent nature of hospitality requiring an element of social interaction.
- 1.3 The challenges that this has brought about have been significant, but the hospitality sector has worked tirelessly to find a way forward. Not just for the sake of retaining jobs and keeping businesses afloat, but providing an essential service to the public, both in terms of fulfilling basic needs of accommodation, and nourishment, and also an element of social interaction that so many people need for their own mental health.
- 1.4 The hospitality sector remains a vital part of society during the pandemic, and Aberdeen City Licensing Board has recognised this throughout, taking a very proactive and supportive approach to enable hospitality businesses to operate in a safe and compliant manner, in order to provide these essential services to members of the public.
- 1.5 The challenges faced by the sector have resulted in a number of excellent initiatives to enable the sector to adapt in line with government guidance, for the best protection of the public. This has included a significant increase in the number of outdoor licensed areas, which are considered to be far safer at containing the spread of the virus than indoor environments.
- 1.6 While not everyone may be on board with bus lanes and pavements being taken over by outdoor licensed areas, the Licensing Board have recognised the advantages of this in terms of providing a safer environment for the public.
- 1.7 Many businesses have invested significantly in adaptations to enable them to provide a far greater outdoor area to serve the needs of the public. This reflects both demand, and also in many cases is the only possible method that any of these premises can remain viable, allowing sufficient turnover to justify the retention of staff, opening of kitchens, etc. Without a doubt, many businesses in the hospitality sector will not survive the pandemic, and those that remain open are, without exception, all struggling to break even.
- 1.8 This sets the scene as to why it is essential to treat all hospitality business fairly when considering applications for occasional licences, especially when faced with complaints from those concerned about the impact of the spread of the virus.

- 1.9 Maintaining the hospitality industry prevents the alternative of people mixing in unregulated (and illegal) private gatherings, which bring a far greater likelihood of the transmission of the virus.

## **2 Investment**

- 2.1 Places like the Draft Project, the Bielside Inn, The Grill and Soul have not only led the way in investing in safer outdoor hospitality spaces, but have also inspired many other hospitality businesses to make similar adaptations, allowing them to re-open in an attempt to survive what is otherwise an incredibly challenging year for the industry.
- 2.2 Inevitably those businesses which make the biggest changes will face the biggest challenges in the court of public opinion. Through social media, everyone gets the opportunity to have their say, particularly when they see snapshots of a situation through a photograph, or a short video.
- 2.3 However it should also be recognised that these are the business which are investing in the city, investing in their own changes, and enabling and encouraging the hospitality sector to adapt and survive, as well as provide an essential service to many people in the city, in a safe and managed environment.
- 2.4 Covid has brought many changes, but by adapting and investing, certain premises have been able to continue to operate safely and effectively, in line with Government and local regulations.

## **3 Premises**

- 3.1 The Draft Project is a new pop-up bar that sits in the open air area to the rear of the former Bruce Millers shop. It was first opened in
- 3.2 The Draft Project is operated by PB Development Company Limited (PB Devco). PB Devco also operate Soul Bar, and there is a tie in between the two properties in terms of catering, however they operate as separate venues. The Board should not confuse complaints against Soul, with complaints raised in relation to the Draft Project.
- 3.3 Some of the complaints even include pictures of Soul taken in August, which we would suggest are not relevant to the current application.

## **4 Public Comments**

- 4.1 We have been provided with copies of the public comments which have been made to the Licensing Board in respect of the Draft Project.
- 4.2 These have all arisen as a result of the social media footage taken in the aftermath of Scotland's goal in the playoff for European Championship qualification.
- 4.3 These complaints can be grouped together under the following headings and we will respond to each of them.

#### 4.4 Mixed Households

- 4.4.1 Aberdeen is currently in Tier 2 of the Government's scale of protection levels. At present, a maximum of six people from two separate households can meet together. This is strictly upheld by the Draft Project.
- 4.4.2 Many people have a perception of one household being parents and children, However that is not the reality, and that is generally not the demographic that the Draft Project attracts. The Draft Project is frequented by many groups of young persons and students, who often share accommodation and therefore constitute one household.
- 4.4.3 Flatmates and siblings can all be members of the same household, even if they come across as a mixed group of youngsters.
- 4.4.4 The Board will appreciate that it is not always easy to identify whether people are from different households.
- 4.4.5 The instructions from Environmental Health were that they only required to question any "questionable groups" however the Draft Project will ensure they check with every group that they comply with the limit on two separate households.
- 4.4.6 This is also contained in the terms and conditions which all customers accept when they make a reservation through the app.
- 4.4.7 Environmental Health have advised licensed premises that they do not at this stage have to ask for proof of address to confirm the number of households. There is no Scottish Government requirement for them to do so, and no powers under regulations for the venue to do so. It is for the individuals to comply with this aspect of the regulations or face the consequences.
- 4.4.8 The Staff Training Procedures Guide, attached as Appendix 7 goes further in confirming to staff as follows:-
- "If customers decline to give their correct details, give false details or they are not the correct booking and household size according to Scottish Government guidance at the time, they will be turned away from the venue."*
- 4.4.9 Therefore the Applicants are doing everything they can to ensure compliance with this aspect of the regulations.
- 4.4.10 Despite the complaints which have been made, these are based purely on speculation and supposition. No actual evidence has been presented to the Board to suggest that the regulations have been breached in any way. It is not sufficient to say that it "looks" like there may be members of more than two households in attendance at a table. This has to be demonstrated and proved. The complaints have not been able to provide any actual evidence to substantiate their suggestion that there has been a breach of the regulations by the individuals involved.

#### **4.5 Lack of Physical Distancing / Customers Hugging Each Other**

- 4.5.1 Government guidance is that *“you should stay at least 2 metres apart from people from other households at all times, unless the venue is operating 1 metre distancing due to additional measures being in place to avoid transmission”*
- 4.5.2 In this venue the appropriate “additional measures” were all in place, such that the 1-metre social distancing rule applies.
- 4.5.3 The environmental health officers have had no concerns over the layout of the tables at the premises, which comply in full with the Council’s Guide for Business on Social Distancing.
- 4.5.4 No physical distancing is required between members of the same household, which as stated above, can include groups of students or flatmates who all share the same accommodation.
- 4.5.5 The Draft Project has always taken very seriously the requirements to enforce social distancing. Attached as Appendix 8 is the Customer Code of Conduct which The Draft Project expects its customers to comply with. It is made available via document and pictorial signage and states

*“Always observe current social distancing guidance, which we will clearly signpost for you. Remember that you must maintain this distance from people in another household even when you are meeting up as a group”*

- 4.5.6 It is very difficult to identify from the short videos shared on social media as to whether any of those individuals hugging each other were from the same household. While the footage taken in the immediate aftermath of a Scotland goal does not look good when viewed in isolation, it is quite possible that those who were seen to be hugging, were from the same household. It is not for members of the public viewing the footage on Fubar News to decide.
- 4.5.7 We should also highlight that one of the public comments was in support of the venue (attached as Appendix 5), stating:

*“As far as I can see, all the rules were followed last night. People booked tables, they accepted T&Cs agreeing to no more than 2 households / social distancing, and will have been asked to check in via the QR code. This has happened every time I have visited, and was checked by staff before ordering”.*

#### **4.6 Face Masks Not Being Worn**

- 4.6.1 Complaints have been raised regarding people not wearing masks. Government guidance states that *“the wearing of face-coverings (unless exempt) when not seated by all customers is mandatory in all hospitality venues.”*
- 4.6.2 Masks are not required when customers are sitting at their tables.
- 4.6.3 In addition, masks are not required when customers are exempt from wearing these for their own personal reasons.

4.6.4 Although the staff will encourage the wearing of masks, their instruction is that they should not challenge or refuse people who do not wear them.

4.6.5 The Customer Code of Conduct advises all customers to:-

*“Wear a face covering in the queue and inside premises, except when eating and drinking. You must wear your face covering if you leave your seat for any reason.”*

4.6.6 Despite the complaints which have been made, these are based purely on speculation and supposition. No actual evidence has been presented to the Board to suggest that the regulations have been breached in any way. Again, it is not sufficient to say that it “looks” like there has been a breach of regulations by some customers not wearing masks. It has to be demonstrated that even if there were customers not wearing masks, these individuals were not exempt. The complainers have not been able to provide any actual evidence to substantiate their suggestion that there has been a breach of the regulations by the individuals present.

#### **4.6.7 Football on the Television**

4.6.7.1 It is acknowledged the football was being shown on the one television screen. This had not been prohibited in terms of the occasional licence or Scottish Government guidance.

4.6.7.2 The only guidance to come from the Scottish Government on this was in the form of an answer to a question on the gov.scot website which stated that pubs and bars in levels 0 – 1 can still offer sport on TV, along with pool, darts and gaming machines. There is nothing elsewhere that expressly prohibits sport on TV in any higher levels.

4.6.7.3 Therefore, the showing of a football game is not, in itself, a breach of any terms of the occasional licence or the regulations.

4.6.7.4 A number of the complaints suggest the sound was on, and the commentary being played. That was not the case. The sound was off for the duration of the game, in line with the conditions of the occasional licence and Government requirements.

4.6.7.5 When the police attended, in terms of their Report attached as Appendix 1, they confirm that the television was on mute. There is no evidence that any sound was being broadcast from the television. Complaints based on a social media post will inevitably include a degree of hypothesising rather than providing any factual evidence.

4.6.7.6 The Board will be aware that the venue has since been served with a formal Notice to remove the screen, which they have done. The Board will also note the comment from Police Scotland, in their response, which we consider would adequately allay any fears that an incident such as this might happen again

*“the Board may wish to consider imposing an additional conditional to the effect that no high profile televised football fixtures will be shown”*

#### **4.6.8 Lack of Staff Intervention**

- 4.6.8.1 This is an interesting argument which has been put forward by certain complainers. The question of the extent to which the staff should have intervened.
- 4.6.8.2 While it is true that the social media footage provides a snapshot of people cheering and celebrating a goal, this was a very brief moment over the course of the evening, the rest of which customers remained compliant, sitting at the benches.
- 4.6.8.3 Attached as Appendix 3 are stills from the internal CCTV showing the layout of the premises that night, and the nature of the customers sitting at their tables.
- 4.6.8.4 Fourteen members of staff and four SIA authorised door staff had been on duty within the premises during the course of the evening. The ratio of staff to customers was entirely appropriate, and yet there remains very little that can be done in the immediate aftermath of such an important goal. In the following moments, the atmosphere returned to its normal level as can be evidenced from the CCTV stills contained in Appendix 3.
- 4.6.8.5 Any customers who were not prepared to comply with the strict regulations over the course of the evening were required to leave the premises, as detailed in the police report contained in Appendix 1.

#### **4.7 Serving Alcohol Without Main Meals**

- 4.7.1 As the Board will be aware, in outdoor premises in Tier 2, alcohol can be served without a main meal.

#### **4.8 Premises Open Beyond 10pm**

- 4.8.1 The venue is permitted to serve alcohol until 10pm. There follows a 15 minute period for drinking up and thereafter a further 15 minute period for people to leave the venue. This has been confirmed by the LSOs. Under the Tier 2 regulations, all customers must have left by 10.30pm, which is always the case.
- 4.8.2 According to Occasional Licence condition 6 – *“The 2230 hours terminal hour is to incorporate the 15 minutes ‘drink up’ time for customers not consuming a meal and 30 minutes for customers who are consuming a meal.”*

#### **4.9 Premises not Constituting an Outdoor Space**

- 4.9.1 The construction of the marquee is in accordance with the Council’s Guide for Business on Social Distancing, which was produced in order to support the reopening of all shops and businesses when it is appropriate to do so, in a way that minimises health risks in terms of limiting further transmission.

- 4.9.2 The premise comprise a marquee frame and roof erected on a timber floor. The far end of the marquee (closest to Bruce Millers) has a marquee wall. The two sides are, however, open. There is a gap between the exposed open sides, and the walls forming the extensions to the neighbouring buildings to the north and south.
- 4.9.3 The front of the marquee is open, and is used as the main entrance.
- 4.9.4 The structure complies with the definition of “Outdoors” in terms of the coronavirus regulations, which requires not less than 50% of the sides to be open. In this case the premises have 54.5% of the sides open to the elements, as confirmed in the email from the marquee supplier attached as Appendix 4.
- 4.9.5 Compliance has been established to the satisfaction of the environmental health team, and is not a matter for the Board.

#### **4.10 Lack of Track and Trace**

- 4.10.1 One of the comments states that the venue has not adhered to track and trace requirements. The venue operates a registration app which customers are required to use to upload their personal details using a QR code. The staff will then ask the tables to demonstrate that they have done so, by showing the confirmation on their phone.
- 4.10.2 For those who are unable to use the app, alternative provisions are in place for the manual taking of customer details in order to comply with the test and trace requirements.
- 4.10.3 Log books are maintained by the venue in strict accordance with the government requirements. The effectiveness of the system was tested previously at Soul, with all relevant information held being passed to the track and trace team.

### **5 Grounds for Refusal of an Occasional Licence**

- 5.1 Under Section 59(6) of the Licensing (Scotland) Act 2005 the grant of an Occasional Licence can only be refused by the Board on the following grounds:
- 5.1.1 the premises are excluded premises
- 5.1.2 there are no exceptional circumstances for allowing the sale of alcohol on the premises during a continuous period of 24 hours or more;
- 5.1.3 the application requests the sale of alcohol for consumption off the premises before 10.00, or after 22.00 or both on any day;
- 5.1.4 the granting of the application would be inconsistent with one or more of the licensing objectives; and

- 5.1.5 having regard to: the nature of the activities proposed, the location, character and condition of the premises and the types of people likely to visit the premises, it is decided that the premises are unsuitable for use for the sale of alcohol;
- 5.2 5.1.1 to 5.1.3 do not apply. The application is in line with the permitted operating hours, and the premises has benefited from a series of occasional licences since restrictions on opening were lifted in August.
- 5.3 The only grounds for refusal are therefore that the application is inconsistent with one or more of the licensing objectives, or that the premises are unsuitable for the sale of alcohol.

#### 5.4 Licensing Objectives

- 5.4.1 There is no suggestion that the premises have failed to comply with the objective of **Preventing crime and disorder**. This objective looks at the anti-social behaviour of an individual person, rather than in a wider sense.

No criminal activity took place that evening that warranted any action from the police. Hugging someone who may be from the same household does not constitute criminal behaviour. Cheering a goal does not constitute criminal behaviour.

The only possible ground would be if the board considered the additional noise caused by a specific individual, during a brief moment of celebration during a game of football constituted antisocial behaviour. We would certainly argue that this was not the case, and not to the extent that it justified the refusal of future occasional licences.

- 5.4.2 **Public Safety** is managed better in licensed premises than it is in many other environments due to the fact that it can generally be controlled. This is even more true during the Covid pandemic. The public safety headings in the Board's policy are all supported by the premises, and acted on accordingly. Notwithstanding the comments in some of the complaints, there is no enhanced risk to public safety through the operation of the premises.

Any customers who are unwilling to comply with the regulations are removed from the premises. This happened on the occasion of the Scotland game, and will always be the case. The snapshot of the footage after the goal was an isolated incident caused by people caught up in the excitement of the moment..

Environmental Health have confirmed that during their visits to the Premises, they "have found that the business is generally compliant with the requirements of the [regulations]".

Their response to the incident is contained at Appendix 6, and despite the complaints, raises no concerns other than to state that they issued a notice to remove the screens.



- 5.4.3 When it comes to **Public Nuisance** the board has to weigh up the strength and validity of any objections against the significant benefits in enabling the premises to operate and provide a service in the community. The complaints which the board has received do not relate to public nuisance, but more to concerns in relation to a very brief moment of behaviour in the aftermath of a goal being scored. This is not public nuisance. A brief moment of excitement in the aftermath of a goal, where people hug others who may be members of the same household, is not a public nuisance.
- 5.4.4 The Board's objective on **Protecting and Improving Public Health** relates to the wider concerns over the consumption of alcohol, and not specifically to the public health concerns of a pandemic. However it is relevant here, and therefore important to reiterate that the applicants have put in place all appropriate measures and remained fully compliant with the requirements of the Licensing Board imposed in each of their previous occasional licence applications.

## 5.5 Premises Unsuitable for the Sale of Alcohol

- 5.5.1 This ground for refusal relates to the physical condition of the premises.
- 5.5.2 The Draft Project erected the outdoor marquee in August in order to enable an outdoor licensed space at a time where the re-opening of indoor licensed areas was still prohibited.
- 5.5.3 An Event Plan was prepared by the applicants in line with the application procedure and submitted to the Licensing Board for approval. Comments were raised by both Police Scotland and the Licensing Standards Officers, in relation to the application, and these were taken on board, and conditions applied to the grant of the Occasional Licence.
- 5.5.4 The latest application also invited comments from Police Scotland, and these are attached as Appendix 1 annexed.
- 5.5.5 These comments and conditions reflect the fact that the Police do not consider the premises to be unsuitable for the sale of alcohol, with the only change to the conditions proposed by the Police as a result of the Scotland v Serbia game being that no high profile televised football fixtures should be shown.
- 5.5.6 The LSOs also provided their response to the application, which is contained at Appendix 2, again confirming the premises are not unsuitable for the sale of alcohol.
- 5.5.7 The fact that multiple occasional licences have previously been granted for the premises, that the premises comply with the Council's layout requirements in terms of the Guidance for Businesses on Social Distancing, and that the application is supported by both the Police and the LSOs all point to the fact that the premises are suitable for the sale of alcohol, and therefore this is not a reasonable ground to refuse the application.

## 6 Scotland v Serbia

- 6.1 Thursday 12<sup>th</sup> November saw one of the biggest games of Scottish football in two decades, with a place in the 2021 European Championships at stake. The significance of the game is reflected in the fact that according to Sky, it was the most watched EURO 2020 qualifier on Sky, with a peak of 2.6m viewers on Sky alone.
- 6.2 For many, the chance to watch this game on a big screen, in a social environment, subject to compliance with all covid regulations, was a great opportunity for many. Although the game was shown on terrestrial television, it was inevitable that a number of people would find enjoyment in watching this in a communal environment.
- 6.3 Those members of the public, as with all members of the public, would rightfully expect all covid measures to be in place, in order to maintain their own safety as well as those around them.
- 6.4 This is, after all, the reason why hospitality businesses have been permitted to re-open, when many other businesses have not. Measures can be put in place to keep people as safe as possible.
- 6.5 On the night of the game, the premises had an average of around 130 people present, out of maximum capacity of 180. The staff were eager to ensure that all measures were in place in terms of social distancing, use of sanitiser, restriction on household limits at tables, and use of face masks when not seated.
- 6.6 The conditions of the Occasional Licence under which the premises were operating did not permit amplified noise, and therefore there was no volume on the television. Notwithstanding that, the atmosphere was one of excitement, particularly when it could be seen that Scotland were playing relatively well. When Ryan Christie scored in the 52<sup>nd</sup> minute, the whole country celebrated, in houses, streets and bars throughout Scotland. This was a monumental occasion, that meant that Scotland may make their first major finals in 23 years.
- 6.7 The celebrations were evident, but they were also very brief. Any suggestion that this was either expected, or continuous throughout the evening is not correct. A sudden boiling over of passion that was over no sooner than it had started.
- 6.8 Part 2 of the Schedule attached contains a number of photos taken from the CCTV on the night, showing the social distancing in place, all in line with the covid regulations.
- 6.9 To jeopardise the potential future of the business based on complaints arising out of one isolated incident, caused by a brief outflow of happiness and celebration would appear to be entirely disproportionate.

## **7 Conclusion**

- 7.1 The applicants appreciate that complaints have been received, and that the Board must therefore give these some consideration in determining future applications for occasional licences.

- 7.2 The content of the complaints has been dealt with in detail above. The complaints are focussed on one brief moment in the immediate aftermath of a goal which has been shared widely on social media, which will not occur again, now the television has been removed.
- 7.3 Police Scotland, the LSOs and Environmental Health have not expressed any concerns with the venue continuing to operate, other than the removal of the screen, and suspending the viewing of “high profile sports”**
- 7.4 The Licensing Board is a separate entity from Aberdeen City Council for good reason. It is entitled to determine licensing matters in accordance with its own Statement of Licensing Policy without political influence.
- 7.5 The applications for determination before the Board can only be refused on the grounds that they are inconsistent with the licensing objectives or the premises are unsuitable for use for the sale of alcohol.
- 7.6 We have established above that the premises are suitable for the sale of alcohol, and therefore the only question before the Board is whether there is enough evidence to demonstrate that the application is inconsistent with the licensing objectives.
- 7.7 The Board has been supportive of new initiatives in the city, where licensed premises maintain the ability to operate in a new environment, taking into account the ever changing regulations imposed for public safety.
- 7.8 The applicants have always taken their responsibilities seriously, and will continue to do so. It is in their interest, as much as the Board’s to operate consistently with the Board’s licensing objectives.
- 7.9 We respectfully ask that the occasional licence application for The Draft Project is therefore once again approved, on the same terms as all previous successful applications, with the addition of the extra condition proposed by Police Scotland.

**Ledingham Chalmers LLP**

**20 November 2020**

## **Appendix 1**

### **Response from Police Scotland to the current application**

During the evening of Thursday 12 November 2020, the Scotland versus Serbia European Championships qualifying football fixture took place and was televised.

At 2100 hours, same day, a member of public contacted the Police to report having seen a video on social media of a large number so persons not socially distancing at an outdoor premises in Aberdeen however, that caller incorrectly identified the location.

At 2129 hours, three Police Officers attended at the applicant premises. The Officers saw that the football fixture was being shown on television, on mute. Staff advised the Officers they had issues with controlling customers who celebrated when Scotland scored a goal. The Police Officers walked through the premises and customers calmed down with the exception of a few, who were removed from the premises by staff. Several more patrons were thereafter removed from the premises due to not adhering to Covid Regulations, after being warned by staff.

As the football fixture drew to a close, it is estimated there were approximately 70 customers within. When Scotland scored the winning penalty, customers celebrated by jumping, hugging, shouting and chanting. Staff attempted to step in and break up the groups of people, however it was unachievable due to the number of people and the jubilant mood.

The premises was cleared of customers after the end of the fixture by staff and additional Police units attended to disperse the groups. This was recorded on Police Body Worn Video. It is understood that fourteen members of staff and four SIA authorised door staff had been on duty within the premises.

If minded to grant the application, I recommend it be granted subject to the following conditions:

1. A terminal hour of 2200 hours on all days requested;
2. No amplified music to be played therein (when or if music is permissible again);
3. Signage to be displayed indicating that alcohol is not to be removed from the licensed area.

In light of the above circumstances, the Board may wish to consider imposing an additional conditional to the effect that no high profile televised football fixtures will be shown.

## Appendix 2 – Response from the LSOs o the Current Application

**From:** Diane Sande [mailto:DSande@aberdeencity.gov.uk]

**Sent:** 19 November 2020 11:33

**To:** LicensingBoard <licensingboard@aberdeencity.gov.uk>

**Subject:** LSO OC4742 Occasional Draft project 21 November to 4 December 2020

The LSO has the following comments regarding this Occasional licence application.

1. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. Also, the business will ensure that the layout complies with the current regulations on physical distancing. The business must ensure that the layout complies with the current regulations on physical distancing
  2. Occasional licence to be available for the duration of the event.
  3. Section 110 notice to be on displayed for the duration of the Occasional licence event at the point of sale.
  4. Under 18 access notice to be displayed at the entrance to the area to advise the customer of the children and young persons terms of access.
  5. A notice will be displayed in regards to the 'drinking in public places' Byelaw. This must be displayed where customers can easily view the notice.
  6. The outdoor area is not to be used prior to 1000 hrs or after 22:30 Hours. The 2230 hours terminal hour is to incorporate the 15 minutes 'drink up' time for customers not consuming a meal and 30 minutes for customers who are consuming a meal.
  7. A delineation of the licensed area to be in place, the number of seats remain in line with the numbers proposed. Chalk or tape may be used, as long as this is not a permanent mark on any surface. The delineation must be in place for the duration of the Occasional licence.
  8. There shall be no music or noise emitted from the use of microphones/speakers or other forms of music entertainment within the outdoor drinking area.
  9. The Licensee will have an effective complaints procedure in place for dealing with any noise complaints should they arise.
  10. Any outdoor structure, such as a tent or marquee, to be used for the comfort of customers, must be approved by the appropriate Aberdeen City Council Services where necessary.
- Can these conditions be attached to the Occasional licence

### Appendix 3 - CCTV Stills

20.30pm Thursday 12<sup>th</sup> November



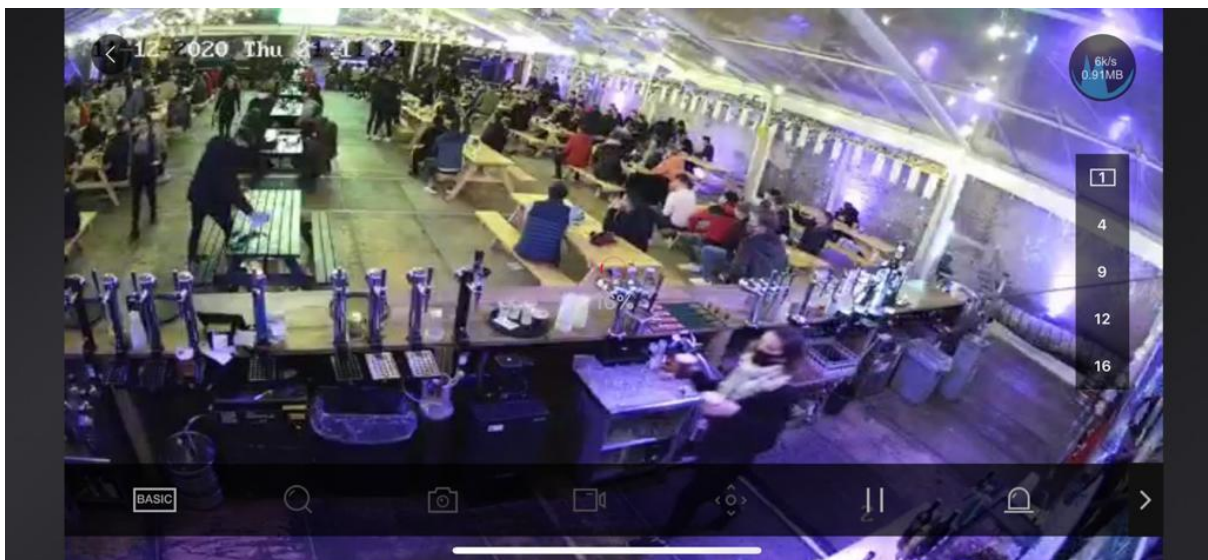
20.31pm Thursday 12<sup>th</sup> November



21.11 pm Thursday 12<sup>th</sup> November



21.11pm Thursday 12<sup>th</sup> November



21.11pm Thursday 12<sup>th</sup> November





## Appendix 4

### Email from Esslemont Marquees

**From:** "Dan Whiteford" <[dan@esslemontmarquees.co.uk](mailto:dan@esslemontmarquees.co.uk)>  
**Subject:** RE: Draft Project, ventilation concerns  
**Date:** 16 October 2020 at 13:28:05 CEST  
**To:** "Paul Clarkson" <[paul@pbdevco.com](mailto:paul@pbdevco.com)>  
**Cc:** <[stuart@pbdevco.com](mailto:stuart@pbdevco.com)>

Hi Paul & Stuart

Following on from your recent call regarding compliance of Draft project as an outdoor venue;

Total vertical wall area that is currently **closed** = 10 x 3m x 5m panels = **150 sqm**

Total vertical wall area that is currently **open** = 8 x 3m x 5m panels = **120 sqm**  
+ 2 x 30sqm gable panels = **60 sqm**

Total vertical wall area of structure **330sqm**

Total open vertical area = **180 sqm** – which equates to **54.5 % of the total vertical wall area being open.**

If you have any queries regarding the above then please do not hesitate to contact me.

Many thanks  
Best regards, Dan  
**Dan Whiteford**  
**Esslemont Marquees**  
**The Rock,**  
**Westfield,**  
**Contlaw Road,**  
**Milltimber,**  
**Aberdeen.**  
**AB13 0EX**  
**Tel: 01224 739188**  
**Mobile: 07729 875441**  
**Email: [dan@esslemontmarquees.co.uk](mailto:dan@esslemontmarquees.co.uk)**

## **Appendix 5**

### **Email of Support to Aberdeen City Licensing Board**

I have visited this venue several times since it opened, and every time I have been extremely impressed with the service and the safety measures in place. They have created a fun yet safe place for us to enjoy, and I believe they've done an excellent job - especially as they are being creative to make the limited experience with restrictions as fun and enjoyable as possible.

The positive impact this has had on the mental health of me and my friends has been huge.

As far as I can see, all the rules were followed last night. People booked tables, they accepted T&Cs agreeing to no more than 2 households / social distancing, and will have been asked to check in via the QR code. This has happened every time I have visited, and was checked by staff before ordering.

I also saw a video that showed a bouncer trying his best to break up the people who were breaking the rules.

It would be very negative for our city to lose such a fantastic venue that has followed all the rules and is proactively trying to bring new and exciting experiences to Aberdeen during such a tough year.

## Appendix 6 – Response From Environmental Health & Trading Standards

**From:** Del Henderson [mailto:DHenderson@aberdeencity.gov.uk]

**Sent:** 19 November 2020 20:18

**To:** Arlene Dunbar <ArDunbar@aberdeencity.gov.uk>

**Cc:** Andrew Morrison <AndrewMorrison@aberdeencity.gov.uk>; Andrea Carson <ACarson@aberdeencity.gov.uk>; LSO <LSO@aberdeencity.gov.uk>

**Subject:** ENV/Trading Standards - The Draft Project

Arlene,

In relation to the application for an occasional licence for The Draft Project, 363 Union Street I would like to make the following representations on behalf of Environmental Health & Trading Standards.

Officers from the Environmental Health & Trading Standards team have visited the premises on a number of occasions and have found that the business is generally compliant with the requirements of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 and the preceding regulations.

As a result of issues that occurred during the showing of the Scotland v Serbia football match on 12<sup>th</sup> November 2020 a total of 91 complaints were received by the service – this was from members of the public, councillors and MSPs. A spreadsheet is attached with details of these complaints. I have also attached some video clips that were received from some of the complainers.

As a result of issues seen in the video clips this service issued three directions under the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 to remove all television screens and any and any similar receiving equipment from the venue for a period of 21-days. This is to prevent an increased risk to public health during the televising of sporting and any other events, so as to ensure patrons maintain physical distancing from each other whilst on the premises. The directions were identical and were issued to Barry Clarkson, Paul Clarkson and PB Development Company Ltd. The restriction is from 1200 hours on 15/11/2020 and expires at 1159 hours on 06/12/2020.

Another allegation is that on 12<sup>th</sup> November the marquee at the Draft Project was an indoor venue and therefore should have closed by 2000 hrs. In normal use the gable ends of the marquee are removed which makes the walls 54% open and classifies the premises as 'outdoors'. The allegation is that at least one of the gable ends was covered but examination of the video footage is inconclusive. Investigations will continue into this allegation.

Any questions please let me know

Regards

Del

## **Appendix 7 - Staff Training Procedures Guide**

**Appendix 8 – Customer Code of Conduct**

**This is made available via document and pictorial signage**