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9 October 2014

Your Ref:

Our Ref: AD/DASU/SID35155/9211/14

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Sir Stephen House QPM
Chief Constable

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Dear Sir

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
THE ABBOTT, PROVOST WATT DRIVE, ABERDEEN, AB12 5BT**

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 application consists of the following requests:

1. Amend commencement of 'on sales' hours on Sunday to 1100 hours.
2. Amend commencement of 'off sales' hours on Sunday to 1100 hours.
3. Amend question 5(d) within the Operating Plan for the premises to include outdoor drinking during core licensed hours.
4. Amend the wording at question 7 of the Operating Plan to include the wording "which includes a capacity of 40 persons for outside area".

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

In relation to points 1 and 2 above I have no adverse comment to make.

In relation to points 3 and 4 above, in terms of Section 22(1)(a) of the same Act, I make the following objection on behalf of the Chief Constable.

Officers from the Aberdeen City Division's Divisional Co-ordination Unit have visited the premises to view the area intended to be used for outdoor drinking and observed the following.

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The premises are situated on a busy road within a large residential area.

To the east of the premises, divided by the access road only, are residential flats, many of which will be occupied by families with young children and older persons. Immediately to the west of the premises is Provost Watt Drive. A very short distance away is a primary school.

To the north of the premises there are a number of shops and retail units which serve the local community.

Situated between the premises and the retail units are two car parking areas. The north-most parking area provides parking for customers of the retail units; the other is the car park attached to the premises.

Vehicular access to the premises car park is via a slip road, allowing only one point of entry and access. Opposite this entry point (at Provost Watt Drive) is a break in the boundary wall which permits pedestrian access from Provost Watt Drive into the car park and thereafter through to the residential streets and primary school. The premises' car park provides a through route for persons walking from the residences at the east of the premises to the retail unit or to Provost Watt Drive, and vice versa, and for school children walking to and from school and to the retail units at lunchtimes.

The application does not indicate that there is an earlier terminal hour for the outdoor drinking area than that which the premises currently enjoy, i.e. midnight Monday to Sunday.

The scaled plan which accompanied the application shows the area which is intended for outdoor drinking. This area is effectively within the car park of the premises.

The application makes no mention of how this area is to be defined or if there are any physical boundaries to effectively define and divide licensed premises from a thoroughfare used by the general public, including children.

If physical structures were to be erected, this would in fact amount to three separate areas, as access to the two doors into the premises are not included in the area to be licensed on the scaled plan. Even if such structures were to be erected (such as fencing) residents within the flats which are only metres away from the premises would be affected by noise emanating from the outdoor drinking area.

During the visit to the premises, the designated premises manager was present and stated that, in her opinion, when the weather is favourable, the premises lose business to other premises which have beer gardens (which are generally in the city centre) but given the location of the proposed outdoor drinking area, she had misgivings about the application.

It is for the reasons articulated above that the Chief Constable is of the view that grounds for refusal exist in terms of Section 30(5)(b) of the Act in that the outdoor drinking area at the proposed location is inconsistent with the

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Preventing Public Nuisance and Protecting Children from Harm licensing objectives and also in terms of Section 30(5)(c)(i) and (ii) of the Act, in that having regard to the nature of the activity proposed to be carried out and the location and character of the premises, it is unsuitable for such use.

In terms of section 22 (1)(a) of the Licensing (Scotland) Act 2005 and for the reasons articulated above, the Chief Constable objects to this part of the variation requested on the grounds that it would be inconsistent with the Preventing Public Nuisance and Protecting Children from Harm licensing objectives.

Yours faithfully

Murray Main
Chief Inspector

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