

Jacqui Wallace
Aberdeen City Council
Licensing Department
DX529450
ABERDEEN 9

Ref: GC.LT.47442.0002

Date: 18 February 2015

Dear Jacqui

Ask Entertainment Limited
Application for Variation of Premises Licence – 1-3 Diamond Street, Aberdeen

Thanks for your e-mail of 10th February sent at 16.54 hours in regard to the above Application for Variation of Licence. I also refer to our subsequent conversation and to the Police Letter of Representation dated 4th February which you have also copied to me.

First of all, I would propose dealing with the terms of your e-mail as follows:-

- 1) The first point you raise is in regard to the capacity of the subjects. I am aware that our clients' Architect Kerr Byers has responded directly to David Kidd of Building Standards on this point. However, the position regarding the seating and the tables in the area which is proposed to be used for restaurant use in our clients' premises is that they will be used in that position on a permanent basis.

The tables and chairs will serve a dual function namely in connection with the proposed restaurant use and also for watching the live entertainment referred to in Clause 2 below.

On occasion our clients may look to remove some of the tables and chairs in order to create a limited area to enable our clients' customers to dance to the live acts. However, it is envisaged at this stage that this would be a limited removal of the tables and chairs and this would only be appropriate for certain of the live acts. However, from the point of view of capacity our clients take the point of the reasons for calculating the capacity and for the purposes of computing this, the capacity should now be altered to a figure of 548. This figure has been calculated on the basis of a standing capacity. However, this figure is included for regulatory purposes and in reality there will never be anything approaching that number of people in the premises and subject to the above exception the tables and chairs in the restaurant area will in reality be fixed and will form an intrinsic feature of the premises.

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- 2) I also note that you have requested information as to the principal use of the premises should the Application be granted. You have also asked me to expand on how the premises are to be operated. Finally, you also asked for further clarification about the tables and chairs in the dance floor and I have mentioned this in Clause 1 above.

The first point to come back to you on is that at the moment the premises typically only open at approximately 10.30 pm and are used solely for nightclub use and for no other purpose whatsoever. The clientele which the premises attract are typically people in their late teens and early 20's and the entertainment in the premises is DJ music.

Our clients would wish to move away from the above type of operation and are looking to concentrate on providing a "softer" use aimed at an older and more mature type of clientele. First of all our clients would wish to operate the premises as a Restaurant until approximately 10.00 – 10.30 pm in the evenings. The plans which accompany the Application demonstrate that food will be taken to the premises by way of a dumb waiter leading from the adjacent premises at 150 Union Street known as the Eclectic Fizz Champagne Bar. Our clients also own that premises and they have been in touch direct with Raymond Morrison of Environmental Health in order to ensure that the operation of the dumb waiter and related matters are acceptable. I understand that good progress has been made by our clients in that regard.

The Operating Plan also states that live entertainment will be provided at the premises. Our clients preference would be to have 2 separate live entertainment acts with DJ music being provided between the 2 acts. When this type of entertainment is provided, it is intended that the first act would commence at approximately 10.30 pm and once that act was finished there would be a period where there would be DJ music. Thereafter, the second live act would appear and that would see the matters through until closing time. On other occasions the entertainment would comprise a combination of one live act and DJ music.

I would emphasise that our clients are looking to attract people to come for a meal earlier in the evening and for those people to remain for the live entertainment after finishing their meals. The clientele our clients are looking to attract are those in the age group from 35 to 55 years old.

In addition our clients also intend to market their operation to attract people into the premises to enjoy the live entertainment. Where practicable our clients will charge customers arriving after 1.00 am in order to reflect the position that they are paying to see the live entertainment. The live entertainment would also ensure that significant entertainment is being provided at the premises.

One of the main reasons behind this Application is that a good number of our clients' customers who attend the adjacent premises at 150 Union Street have suggested that this would be an appropriate use of the Application premises and they have indicated that if the Premises are to be converted into this use they would be willing to support the venture.

The tables and chairs shown on the plans will therefore be an intrinsic and very important part of the whole operation throughout the time the premises is open.

Our clients envisage that the amended use will attract a significantly older and mature audience.

Our clients are also of the view that this proposal has the effect of promoting the licensing objectives and they therefore hope that this is an approach which will be welcomed by the Licensing Board. I intend to expand upon this statement at the meeting.

I also require to refer to the Police letter of representation dated 4th February.. This letter states that the principal attraction "is Restaurant use". This is wholly incorrect and our clients are at a loss to understand why Police Scotland have arrived at this conclusion. This is an Application for Variation of Licence rather than an Application for the Grant of a Licence and of course the closing hours are not being altered. The type of entertainment which our clients propose to offer after 10.30 pm will be altered however.

Considerable focus was placed on the Restaurant use in the Application as this is a proposed use which is not contained in the current Premises Licence. However, the premises do have late hours and it is an intrinsic condition of this fresh proposal that these late hours remain.

In respect of point 1 contained within Police Scotland's letter they state that "the very nature of the Variation Application is to change the premises from a Nightclub, with the removal of the dance floor, to predominantly a Restaurant which therefore means that the principal attraction for patrons attending the premises is the provision of the meals and not any entertainment provided "significant" or otherwise."

I have to advise the Board that this conclusion which has been arrived at by Police Scotland is simply wrong. There is no effort or intention to scale down the significant entertainment aspect of the Premises Licence. What is changing is the type of significant entertainment which is to be provided and thereby our clients are looking to change the type of clientele they attract to the premises.

They are also looking to expand the use of the premises by including restaurant use as commented upon above. Essentially, our clients are therefore looking to provide a more rounded use for the premises in order that they are used for longer periods and by a broader cross-section of the public.

Our clients are quite happy to comply with the comments made by Police Scotland in point 2 of their letter.

- 3) I now refer to the final paragraph of your letter in which you state that consideration should be given for applying for an Application for Minor Variation of Premises in respect of 150 Union Street in order that the location of the dummy waiter can be shown on the layout plans for those premises.

Our clients are happy to agree to this course of action. In the meantime are you happy for this application to be submitted upon Grant of the Application or would you prefer this application to be submitted prior to the date of the meeting.

I hope that this letter adequately explains our clients' exciting and ambitious plans for taking these premises forward. In short our clients have thought long and hard about how best to use these premises for the benefit of the community. The proposal reflected in the application whereby there will be a period of restaurant use followed by significant entertainment is an exciting concept and one which our clients believe is worthy of the support of the Licensing Board. Accordingly, our clients are happy for this letter to be circulated to Board Members along with their Committee papers but in the meantime if you have any further observations to raise by all means get in touch with me.

Yours sincerely

A black rectangular redaction box covering the signature of Graham W J Cooper.

Graham W J Cooper
Partner – Ledingham Chalmers LLP