

7 June 2016

Your Ref:

Our Ref:

Legal and Democratic Services
Corporate Governance
Aberdeen City Council
Business Hub 6 L1S
Marischal College, Broad Street
Aberdeen
AB10 1AB



**POLICE
SCOTLAND**

Keeping people safe

Philip Gormley QPM
Chief Constable

North East Division
Queen Street
Aberdeen
AB10 1ZA

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
GAELIC LANE COFFEE HOUSE, 1-3 GAELIC LANE, ABERDEEN, AB10 1JF**

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 requested consists of the following requests, namely:

1. Changing the layout plan to show a café bar on the ground floor, a conference facility on the first floor for events and functions and the availability of seven bedrooms on the second floor;
2. Varying the core 'on-sales' hours of the ground floor café bar from 1100 to 2300 hours on Sunday to Thursday and 1100 to 0000 hours on Friday and Saturday to 1100 to 2300 hours on Sunday to Thursday and 1100 to 0300 hours on Friday and Saturday;
3. The inclusion of core 'on sales' hours for the first floor conference facility/function room between 1100 and 0100 hours on Monday to Sunday;
4. Changing the operating plan to include accommodation on the second floor, conference facilities and bar meals on the first floor, during and outwith core licensed hours;
5. Changing the operating plan to include dance facilities, theatre and gaming during licenced core hours;

6. Inclusion of the external pavement area to provide outdoor drinking facilities;
7. Changing the operating plan to permit children and young persons entry, providing they are accompanied by an adult, until 2200 hours on the ground floor and to all other parts of the premises at the discretion of the management.

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

In respect of points 1, 3 and 4 I have no adverse comment to make.

In respect of point 2, in terms of Section 22(1)(a) of the Act, on behalf of the Chief Constable, I make the following objection to this element of the application.

In respect of the café bar part of the premises, the applicant is seeking core 'on sales' hours on Friday and Saturday of 1100 to 0300 hours.

This would result in continuous 'on sales' trading of 16 hours on those days, which would exceed the guideline of a maximum of 14 hours continuous trading in any 24 hour period, as stipulated at 20.3 of Aberdeen City Licensing Board's Statement of Licensing Policy 2013 - 2016.

Appendix 4 and 20.8 of the aforementioned Policy provides guideline operating hours for licensed premises and states:

Premises in the City that provide significant entertainment (to the satisfaction of the Board) may apply and be granted hours until 02.00 Sunday – Thursday and 03.00 on Fridays and Saturdays. The Board regards significant entertainment to be entertainment which is of such a nature to be the principal attraction for patrons to attend the premises and where alcohol is served to patrons only as an ancillary accompaniment to their attendance and /or participation in the entertainment provided. The Board considers in these cases that the entertainment is the principal reason for patrons attending the licensed premises and that the consumption of alcohol would therefore be ancillary to such entertainment in order to be consistent with the licensing objectives. This would apply to premises such as nightclubs (with dance floor areas/facilities included in their operating plan and detailed in their layout plan) where recorded or live music for dancing is provided.

Other examples of where significant entertainment may apply are discos, DJs, adult entertainment, and live music for concerts, cabaret and theatrical plays. Some examples where the Board does not consider there to be significant entertainment are pool, darts, dominoes, leisure facilities and background music.

The Board are entitled to distinguish between premises of different descriptions offering different facilities or activities. e.g. Section 27(9) of the 2005 Act allows the Board to impose conditions in relation to the sale of

alcohol on a premises to which a licence relates or any other activity carried on in such premises.

In light of the evidence before the Board on the levels of alcohol consumption in the city and the levels of alcohol related crime the Board wish to promote in terms of the objectives the types of premises which can operate where the service and sale of alcohol is not the primary objective thus contributing to the positive night time economy in the City but not adding to the health or crime related harms associated with premises which focus wholly or mainly on alcohol consumption.

The application form does not indicate what form of significant entertainment is to be offered other than inclusion of the words 'food and acoustic entertainment'. The operating plan which accompanies the application, at the section which relates to 'other activities or services' states that there will be 'acoustic, live and amplified music and entertainment during core hours'.

The provision of amplified music and entertainment would be at odds with a local condition currently attached to the licence which states, 'It is a condition that any live performances which take place on the premises will only be acoustic and will not include the use of amplified musical instruments and/or vocals'.

The application additionally requests the inclusion of dance facilities (see point 5 above) and whilst I have no objection to that request per se, it is my opinion that dance facilities can only be properly provided in the first floor conference/function room part of the premises, the requested terminal hour of which is 0100 hours.

The ground floor café bar has, to be explicit, all the characteristics of a café. That part of the premises to which the public have access is fully furnished with tables. There is no dance floor or area that could be defined or considered as such, and it is arguable whether by virtue of removing furniture, this part of the premises could be considered as having 'dance facilities' as, if that were the case, then almost every 'on sales' licensed premises could create 'dance facilities' merely by reason of removal of some furnishings and I suggest that this is not in keeping with the spirit in which such a facility was intended to be so described.

Taking cognisance of the overall requirement to provide significant entertainment which should be the principal attraction for patrons attending premises, with alcohol consumption ancillary to this, and the local condition attached to the licence, Police Scotland question how the premises can be considered as offering 'significant entertainment' and thus enjoy a terminal hour of 0300.

The premises is situated within the area of overprovision known as 'the Belmont Street Locality' as defined within said Statement of Licensing Policy in which it is recognised that there is overprovision of 'on sales' licensed premises in respect of entertainment, public house and so called hybrid premises types in that defined locality.

As a statutory consultee in the overprovision assessment process, Police Scotland provided Aberdeen City Licensing Board with detailed analytical data in

respect of crimes and offences connected to licensed premises, and other crimes where the consumption of alcohol by either the perpetrators or victims of crime was a key factor, all of which impacted significantly on the Preventing Crime and Disorder licensing objective.

However, in addition to the above points, more significantly, the applicant is seeking an additional three hours of 'on sales' hours on the trading days of both Friday and Saturday.

Alcohol fuelled violence and disorder continues to be a problem in Aberdeen city centre, particularly in the late evening and the early hours.

In almost every crime of assault or serious assault recorded by the Police, which has taken place within the city centre, the perpetrator, victim, or both, have been under the influence of alcohol which was consumed within licensed premises. Recorded crime figures demonstrate that the longer and later licensed premises are open, the higher the likelihood of crimes of violence occurring.

Any extension to the operating hours for the applicant premises, or any other premises enjoying similar licensed hours, may exacerbate this and could result in an increase in crime and disorder and it is for this reason, and in support of the Preventing Crime and Disorder licensing objective, that the Chief Constable objects to the grant of this element of the variation.

In respect of point 5, which relates to the inclusion of dance facilities, theatre and gaming, the application provides no indication of what gaming activities may take place in the premises, however the applicant's agent has advised that whilst such an activity takes place within the premises no person under the age of 18 will be admitted to the premises.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, I make the following representation on behalf of the Chief Constable and with reference to my comments already stated about the location of 'dance facilities', I recommend that the Operating Plan be modified to reflect that these activities relate to the first floor conference/function room part of the premises.

In respect of point 6, which relates to the inclusion of the external pavement area to provide outdoor drinking facilities, the application gives no indication as to terminal hour to be applied to that area.

The proposed outdoor area is currently operating under a Pavement Permit. Unlike other licensed premises in the locality which have a licensed outdoor area, the proposed area is not contained within the curtilage of the building or property but is, in fact, the pavement part of a public road.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, and in support of the Preventing Crime and Disorder and Preventing Public Nuisance licensing objectives, I make the following representation on behalf of the Chief Constable and recommend that the Operating Plan which accompanies the application be modified to indicate that the outdoor drinking area will be enclosed by barriers

during the core licensed hours and will be subject to a terminal hour of 2200 hours.

In respect of point 7, which relates to children and young person's access to the various parts of the premises, the application seeks access by children until 2200 hours whilst accompanied by an adult on the ground floor of the premises and at all times to the first floor part of the premises and also young persons to have access to all parts at all times at the discretion of the management.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, and on behalf of the Chief Constable I recommend that the Operating Plan which accompanies the application be modified at the sections which relate to the terms and parts of the premises under which children and young persons are allowed entry to reflect that young persons are to be accompanied by a person aged 18 or over after 2200 hours in all parts of the premises and in any case, not beyond 0100 hours and in relation to the proposed outdoor drinking area, young persons, in addition to children, are to be accompanied by a person aged 18 or over after 1800 hours and until the terminal hour of that part of the premises.

This letter is submitted for your attention when considering this application.

Yours faithfully

Philip Gormley QPM
Chief Constable

For enquiries please contact the Licensing Department on 01224 304152.