

28 February 2017

Your Ref:

Our Ref: 209175

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



Philip Gormley QPM
Chief Constable

North East Division
Queen Street
Aberdeen
AB10 1ZA

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A
PROVISIONAL PREMISES LICENCE
ALL BAR ONE, UNIT B, MARISCHAL SQUARE, BROAD STREET,
ABERDEEN, AB10 1AJ
APPLICANT: MITCHELLS & BUTLERS RETAIL LIMITED, 27 FLEET STREET,
BIRMINGHAM, B3 1JP**

I refer to the above application and in terms of Section 21(4)(a)(i) and (ii) of the Licensing (Scotland) Act 2005, I have to advise you that neither the applicant nor any connected person has been convicted of any relevant offence.

I am unable to confirm the existence of any foreign offence in respect of the applicant or any connected person.

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, I wish to make the following representation in relation to the application.

The premises are currently under construction and this particular brand does not have any other, similar premises currently operating in Aberdeen. The applicant does however operate 'All Bar One' premises in Glasgow and Edinburgh. Police Scotland understands these existing premises operate as premises with both dining and bar facilities. Furthermore, it is understood that these premises are, particularly during early evening and weekends, enjoyed by customers seeking a 'bar' ambiance. It is therefore my view that the other 'All Bar One' premises in Scotland appear not to operate principally as a restaurant. I also understand that these premises do not have children on the premises after 2000 hours.

The operating plan which accompanies the application requests core 'on sale hours' of 1000 to 0000 on Sunday to Thursday inclusive and 1000 to 0100 on Friday and Saturday.

This exceeds the maximum guideline of 14 hours continuous trading in any 24 hours period, as contained at 20.6 of the Aberdeen City Licensing Board Statement of Licensing Policy 2013 - 2016.

At question 4 of the Operating Plan, the applicant has indicated that the premises intends to operate additional hours in conformity with Board's policy of festive and other extensions. If the 'on sales' hours requested were granted, then in accordance with 20.6 of the aforementioned policy, the applicant premises would not be entitled to enjoy the general directions in terms of Section 67 of the Act which is currently eight general extensions per annum.

The Operating Plan indicates that the premises will offer restaurant and bar meal facilities and a number of other activities, including recorded music and live performance.

At Question 6 of the Operating Plan, which relates to access by Children and Young Persons, the applicant has indicated, at 6(b), which relates to the terms, that children and young persons will be allowed access to the premises for the purpose of consuming food, a soft drink or attending a function and that children are required to be accompanied by an adult at all times. Young persons require to be accompanied by an adult after 9pm. At Question 6(d), which relates to the times during which children and young persons will be permitted entry, the applicant has indicated that children and young persons will be allowed entry to the premises at all times.

Contact was made with applicant's agent with regard to the intended use of the applicant premises and the applicant's agent indicated that there will be 260 covers within the premises and 46 outside and that the 'live performance' element would be occasional and limited.

Police Scotland has a concern that, based on the perceived operating model of the similar premises in other parts of Scotland, that the premises may be attractive to patrons who wish to use it for 'wet sales' whether that is seated or vertical drinking, particularly during the mid to later part of the evening.

It is my understanding that when granting Children and Young Persons' access to licensed premises beyond 2200 hours, the Licensing Board has only done so when satisfied that the premises involved are operating almost wholly as a restaurant, and in which, if there is a bar, it is small in relation to size of the premises and used only by customers who are awaiting a table within the premises.

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, the Chief Constable is of the opinion that the operating plan that accompanied the application, in its current form, should be modified to reflect the following points:

1. In relation to Question 5, which relates to outdoor drinking, the external area which is marked on the layout plan has barriers or other physical structure in place to demark it as same and is subject to a terminal hour of 2200 hours each day;
2. In relation to Question 6(b) relating to the terms in which children and young persons are permitted access, it is requested that this is amended to state: "Children and Young Persons are allowed access to the premises for the purposes of consuming food and or attending a pre-booked function. Children will be required to be accompanied by an adult aged 18 or over. Young Persons require to be accompanied by an adult over the age of eighteen after 2000 hours. Children and Young Persons will not be permitted to remain at the bar or any area adjacent to the bar, seated or non-seated, following the purchase of food or refreshments";
3. In relation to Question 6(d) relating to the times during which children and young persons are permitted access, it is recommended that the Board seeks to satisfy itself that the premises are to operate in such a manner that the principal attraction and facility offered is dining, otherwise, I recommend that children are permitted in the premises until 2000 hours and young persons until 2200 hours.

The applicant's agent has indicated that the applicant has accepted point 1 above.

This representation 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 306468