

ABERDEENSHIRE LICENSING BOARD

North Division

REPORT TO LICENSING BOARD HEARING – 24th April 2019

LICENSING (SCOTLAND) ACT 2005

**APPLICATIONS FOR MAJOR VARIATIONS OF VARIATION OF PREMISES
LICENCE**

1. Recommendations

1.1. It is recommended that the Board considers the materials before them and, in respect of each application in turn –

(a) Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board Meeting for further material to be made available; and

(b) Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made, to consider in respect of each of the applications made, whether said applications should be granted or refused.

2. Background

2.1. The Depute Clerk has determined that the applications for major variation of premises licences listed at Appendix 1 to this report are non-contentious applications and asks that the Board consider same.

2.2. Copies of the applications will be available to Board Members in the Council Chamber for perusal by Board Members prior to the Board Meeting from 9.00a.m.

Consultations

2.3. The Depute Clerk examined the applications in detail and the Applicants then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk

forwarded the applications to the following persons or bodies as part of the consultation process:

- (a) Police Scotland;
- (b) Scottish Fire and Rescue Service;
- (c) The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council;
- (d) The Licensing Standards Officer;
- (e) The appropriate Community Council;
- (f) Public Health, and
- (g) Neighbouring Occupiers.

- 2.4. At the same time as the applications were consulted on, the applicants required to display a site notice at the premises, in a location where it could be easily read by members of the public, advertising the fact that an application had been made. The Licensing Standards Officers checked to ensure the site notices had been appropriately displayed, and had been displayed for the correct time period, as part of their consultation exercise for the premises.
- 2.5. The applications were also advertised on the Council's website.

Objections and Representations

- 2.6. No objections were received in respect of these applications.
- 2.7. In some cases, the Licensing Standards officers, Police Scotland and Building Standards Officers made representations. These were copied to the applicants who have made the appropriate amendments to their applications in order to satisfy the representations made
- 2.8. Any applicant who has taken issue with representations made will have their application considered at a full hearing of the Board, which will be the subject of a separate report.

Implications

2.9. If the Board determines that the application should be granted, the variation will take effect from the date of grant. An amended premises licence will be prepared and issued to the licence holder.

2.10. Where the Board refuses an application, the licence holder retains the premises licence as originally granted by the Board, or as previously varied by the Board, and can continue to trade that licence.

Procedure

2.11. Each application should be considered on its own merits.

2.12. Members' options in disposing of the applications are:-

- (a) To grant the application;
- (b) Refuse the application;
- (c) Grant subject to varied hours and/or additional conditions; or
- (d) Determine that further evidence is required in which case the application should be referred to the next available Board Meeting in order that the applicant may present their case in full or further information can be obtained in the interim.

2.13. When coming to a decision the Board must consider the evidence provided and the contents of this report. Supplementary advice and information can be made available by Officers, if required.

3. Governance

3.1. The Board can consider these applications in terms of paragraph 1.6 of the current Scheme of Delegation.

3.2. In light of the fact that these applications are considered to be non-contentious, they have been put to the Board for consideration without the applicants requiring to be present.

- 3.3. If the Board does not consider that this is a sufficient hearing to consider the application, then consideration of the application should be deferred to a future Board Meeting to allow for further information to be provided and/or to allow the applicant to be cited to attend.

4. Implications and Risk

- 4.1. There are no area, policy, finance, staffing or sustainability implications directly arising from this report.
- 4.2. An Equality Impact Assessment is not needed in this case because the granting or refusing of the applications will not have a differential impact on the protected characteristics of the applicants or any third parties.
- 4.3. There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Licensing Board is considering the application as the Licensing Authority in a quasi-judicial role and must determine each application on its own merits in accordance with the legal tests set out in the relevant legislation.
- 4.4 The Town Centre Principle does not apply in respect of this matter as the Board is considering the applications as Licensing Authority in a quasi-judicial role and must determine the applications on their own merits in accordance with the legal tests set out in the relevant legislation

Karen Wiles
Clerk to the Board

Report Prepared by: Fiona M. Stewart,
Depute Clerk, Senior Solicitor (Democratic Services)
Date: 9th April 2019
File Reference: Fiona/Major Variations/Non-Contentious

APPENDIX 1

Licensing (Scotland) Act 2005, section 29 APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE				
<p>1. Applicant/Agent name & address (include postcode)</p> <p>Iceland Foods Ltd</p>	<p>2. Name & address of premises (inc. postcode)</p> <p>Iceland, 1-5 Broad Street, Fraserburgh, AB43 9AE</p>			
	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	N/A	10.00am – 8.00pm	N/A	10.00am – 10.00pm
Tuesday	N/A	10.00am – 8.00pm	N/A	10.00am – 10.00pm
Wednesday	N/A	10.00am – 8.00pm	N/A	10.00am – 10.00pm
Thursday	N/A	10.00am – 8.00pm	N/A	10.00am – 10.00pm
Friday	N/A	10.00am – 8.00pm	N/A	10.00am – 10.00pm
Saturday	N/A	10.00am – 8.00pm	N/A	10.00am – 10.00pm
Sunday	N/A	10.00am – 8.00pm	N/A	10.00am – 10.00pm
<p>3. Brief overview of the current terms of the premises licence</p> <p>The current hours are as outlined above.</p>				
<p>4. Brief overview of the current proposed change(s) to the premises licence</p> <p>The applicant has</p> <ul style="list-style-type: none"> • Increased core hours for offsales • Removed seasonal variations • Amended activities to add recorded music 				
<p>5. Brief outline of representation made</p> <p>None</p>				
<p>6. Applicant's response to representations</p> <p>N/A</p> <p>Grant is subject to receipt of confirmation of display of site notice at the premises</p>				

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