

# ***THE ABERDEENSHIRE LICENSING BOARD***

**REPORT TO LICENSING BOARD HEARING – 21<sup>st</sup> April 2021**

**LICENSING (SCOTLAND) ACT 2005**

**APPLICATIONS FOR MAJOR VARIATIONS OF VARIATION OF PREMISES  
LICENCE – NON CONTENTIOUS APPLICATIONS**

## **1. Reason for Report/Summary**

1.1. This report relates to applications for major variations of premises licences which can only be determined by the Licensing Board.

## **2. Recommendations**

2.1. **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.**

## **3. Purpose and Decision-Making Route**

3.1. The applications referred to in **Appendix 1** of this report have not been previously considered by the Board.

3.2. 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.

## **4. Discussion**

## **Consultations**

- 4.1. 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.
- 4.2. 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.
- 4.3. The applications were also advertised on the Council's website.

## **Objections and Representations**

- 4.4. In relation to each of the applications to be considered by the Board –
- (a) There are no valid objections to the application.
  - (b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and

- (c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.
- 4.5. 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.
- 4.6. The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has listed the relevant conditions it is recommended that the Board apply to the licence in the table in **Appendix 1**. The Applicant has agreed to the proposed conditions in each case. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.
- 4.7. 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.
- 4.8. 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.
- 4.9. 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.

### **Implications**

- 4.10. 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.

4.11 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**

4.12 Each application should be considered on its own merits.

4.13 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.

4.14 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.

4.15 The legal test is attached as **Appendix 3** to this report.

## **5. Priorities, Implications and Risk**

5.1. The applications the terms of the Board's Policy.

5.2. The table below shows whether risks and implications apply if the recommendations are agreed:

**Table 1 Risks and Implications**

<b><i>Subject</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>N/A</i></b>
<i>Financial</i>		<b><i>X</i></b>	
<i>Staffing</i>		<b><i>X</i></b>	
<i>Equalities</i>		<b><i>X</i></b>	
<i>Fairer Scotland Duty</i>			<b><i>X</i></b>

<i>Town Centre First</i>		<b>X</b>	
<i>Sustainability</i>			<b>X</b>
<i>Children and Young People's Rights and Wellbeing</i>			<b>X</b>

5.3. An Equality Impact Assessment is not needed in this case because the Board is carrying out a quasi-judicial function and there will be no differential impact on the protected characteristics of any party to the proceedings.

5.4. There are no staffing and financial implications arising from this report.

## **6. Governance**

6.1. The Board can consider these applications in terms of paragraph 1.6 of the current Scheme of Delegation which provides that consideration of such applications is a matter reserved to the Board.

**Karen Wiles**  
**Clerk to the Board**

**Report Prepared by: Fiona M Stewart, Senior Solicitor (Democratic Services),  
Depute Clerk to the Board**  
**Date: 12<sup>th</sup> April 2021**

### **Appendices**

**Appendix 1 – List of Applications to be considered**

**Appendix 2 – List of Local Conditions**

**Appendix 3 – Legal Test**

**Licensing (Scotland) Act 2005, section 29**  
**APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**  
**LAPREM/05074/AdC**

<p><b>1. Name of Applicant/Agent name &amp; address (include postcode)</b></p> <p>Tat (FR) Ltd, 10 Fair Isle Drive, Fraserburgh, AB43 7FY.</p>	<p><b>2. Name &amp; address of premises (inc. postcode)</b></p> <p>Mace Supermarket, 139 West Road, Fraserburgh, Aberdeenshire, AB43 9NE</p>
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	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	N/A	10:00 – 18:00	No Change	10:00 – 17:30
<b>Tuesday</b>	N/A	10:00 – 18:00	No Change	10:00 – 17:30
<b>Wednesday</b>	N/A	10:00 – 18:00	No Change	10:00 – 17:30
<b>Thursday</b>	N/A	10:00 – 18:00	No Change	10:00 – 17:30
<b>Friday</b>	N/A	10:00 – 18:00	No Change	10:00 – 17:30
<b>Saturday</b>	N/A	10:00 – 17:30	No Change	10:00 – 17:30
<b>Sunday</b>	N/A	CLOSED	No Change	N/A

**3. Brief overview of the proposed change(s) to the premises licence**

**The applicant wants to:**

- Reduce terminal core hours (Off-sales) on Mondays to Fridays from 18:00 to 17:30
- Amend Seasonal Variations – to open on local holidays
- Add alcohol deliveries (for in-store customers only, no remote sales)
- Upgrade shop front on layout plan
- Change of business name to 'L&D Allan'

**Certificate of Confirmation**  
**The applicant has yet to submit the certificate of compliance relating to display of the site notice at the premises\*\***

**4. Representations were received from the LSO and Police Scotland recommending Local Conditions and specific additional conditions regarding Alcohol Deliveries.**

**Police Scotland**

Police Scotland recommended that a specific condition be attached to the variation of premises licence in respect of remote/online sales of alcohol and alcohol deliveries. The applicant has accepted this condition.

- There is a recorded age verification system in place in respect of any remote/online sale of alcohol and that 'Challenge 25' is carried out at any point of collection or delivery of alcohol.

The above is included in the recommended conditions below.

**LSO**

The LSO recommended that local and specific conditions be attached to the variation of premises licence. The specific conditions relate to Alcohol Deliveries. These conditions were accepted by the applicant.

- Local Conditions 1-4, 6, 19 and 21.

- Specific additional Conditions in respect of Alcohol Deliveries as follows:-
  1. Age Verification Policies for delivery drivers where the recipient of the alcohol is believed to be under the age of 25.
  2. Training for delivery drivers
  3. Requirement for the customer to sign on receipt of delivery of alcohol
  4. Delivery drivers to keep refusal registers
  5. Arrangements to ensure that orders are not left in nominated safe places
  6. Training for staff delivering alcohol to be the same level as staff who sell or supply alcohol within licensed premises.
  7. Furthermore, the applicant must acknowledge and implement procedures to comply with Section 119 of the Act, regarding Delivery of alcohol from Vehicles:
    - (a) a day-book must be kept on the premises from which the alcohol is dispatched; and
    - (b) a delivery book or invoice must be carried by the person delivering the alcohol.

Information referred in above must include:

- a) the quantity, description and price of the alcohol, and
- b) the name and address of the person to whom it is to be delivered to.

The above are included in the recommended conditions below.

**No other objections or representations were made in respect of the application.**

5. The applicant accepts all recommended conditions as noted below.

**6. Recommended Conditions for Licence**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Vulnerability – All Premises – Condition 19
5. CCTV – All Premises – Condition 21

**Conditions specific to the application:**

6. The Licence Holder shall ensure that
  - a. there is no sale of alcohol to passing trade,
  - b. no external advertisement to be displayed or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005 for the purpose of selling alcohol products from the premises.
7. The Licence holder shall ensure there is an age verification system in place in respect of on-line sales of alcohol
8. The Licence Holder shall ensure there is an age verification policy in place for delivery drives where the recipient of the alcohol is believed to be under the age of 25.
9. The Licence holder shall ensure that delivery drivers keep refusal registers
10. The Licence Holder shall ensure that customers sign on receipt of delivery of alcohol(requirement suspended during Covid restrictions)
11. The Licence Holder shall ensure that orders are not left in nominated safe places.
12. The Licence Holder shall ensure that delivery drivers are trained to the same level as staff who sell or supply alcohol within licensed premises.
13. The Licence Holder must acknowledge and implement procedures to comply with Section 119 of the Act, requires for Delivery of alcohol from Vehicles:
  - a. a daybook kept on the premises from which the alcohol is dispatched; and
  - b. a delivery book or invoice carried by the person delivering the alcohol.

Information referred in above must include:

- the quantity, description, and price of the alcohol, and
- the name and address of the person to whom it is to be delivered to.

**\*\*It is recommended that this application is granted in principle subject to receipt of the certificate of confirmation relating to display of the site notice at the premises.**



**Licensing (Scotland) Act 2005, section 29**  
**APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**  
**LAPREM/05104/20/AdC**

<p><b>1. Name of Applicant/Agent name &amp; address (include postcode)</b></p> <p>Lorna Hay, 4 Cowie Lane Stonehaven AB39 2FP.</p>	<p><b>2. Name &amp; address of premises (inc. postcode) (pulled from system)</b></p> <p>Market Bar, Market Buildings, Stonehaven, AB39 2BY.</p>
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	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Tuesday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Wednesday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Thursday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Friday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Saturday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Sunday</b>	12:30 – 00:00	N/A	11:00 – 00:00	11:00 – 22:00

3. Brief overview of the proposed change(s) to the premises licence

**The applicant wants to:**

1. Add Off-Sales 11:00 – 22:00 Monday - Sunday
2. Open earlier on Sundays for On-Sales, amend from 12:30 to 11:00
3. Serve Bar Snacks/Meals
4. Add Indoor/Outdoor sports - an indoor darts board

**Certificate of Confirmation**  
The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.

4. No objections or representations were made in respect of the application.

5. The Applicant has accepted the Local Conditions below which are recommended for all premises licences.

**Recommended Conditions for Licence:**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Vulnerability – All Premises – Condition 19
5. CCTV – All Premises – Condition 21

**There are no conditions specific to the application.**

**Licensing (Scotland) Act 2005, section 29**  
**APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**  
**LAPREM/05053/20/AdC**

<p><b>1. Name of Applicant/Agent name &amp; address (include postcode)</b></p> <p>Kessock Service Station Ltd, Kessock Service Station, South Road, Fraserburgh, AB43 8TJ.</p> <p>Per Janet Hood</p>	<p><b>2. Name &amp; address of premises (inc. postcode) (pulled from system)</b></p> <p>WATERMILL SERVICE STATION Watermill Filling Station Watermill Road Fraserburgh Aberdeenshire AB43 7ED.</p>
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	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Tuesday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Wednesday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Thursday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Friday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Saturday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Sunday</b>	N/A	10:00 – 22:00	No Change	No Change

3. Brief overview of the proposed change(s) to the premises licence

**The applicant wants to:**

- Change the internal layout with increased alcohol capacity from 4.78 m2 to 19.62 m2
- Shop to open at 06:00
- Reconfiguration of building layout: new entrance/exit door; existing storage area has changed; and addition of new storage unit
- Additional Activities to include a Service Station forecourt shop selling:- groceries, food, sundries, papers, lottery, newspapers, ancillary hot food takeaway, bakery, chilled food, soft drinks, water, costa coffee, car accessories and car care, gas, logs and kindling and also have Hermes parcel service – other goods commensurate with a shop serving locals and travellers alike.

**Certificate of Confirmation**  
The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.

4. Representations were received from the LSO recommending Local Conditions.

**LSO**

The LSO recommended, and the applicant accepted, that the following Local Conditions be attached to the variation of premises licence:

- 1-4, 6, 19 and 21.

The above are included in the recommended conditions below.

**No other objections or representations were made in respect of the application**

5. The Applicant accepts all recommended Local Conditions including Local Condition 5 which is recommended for all premises licences.

**Recommended Conditions for Licence:**









1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Vulnerability – All Premises – Condition 19
5. CCTV – All Premises – Condition 21





























**Conditions specific to the application**


**There are no conditions specific to the application.**


## APPENDIX 2 LOCAL CONDITIONS: PREMISES LICENCES








### A. THE ABERDEENSHIRE LICENSING BOARD

Local Conditions		Objective
<b>General Management for All Premises</b>		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.	PCD, SPS, PPN PIPH, PCYPFH 
2	Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	SPS, PPN 
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	PCD, SPS 
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – <ul style="list-style-type: none"> <li>• in writing</li> <li>• available for inspections by Police and Licensing Standards Officers</li> <li>• brought to the attention of and signed by all parties; and</li> <li>• enforced by the premises manager</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH 
<b>Noise – All Premises</b>		
5	Noise from amplified and non-amplified music, singing and speech sourced from licensed premises shall not be audible in adjoining properties after 11.00 p.m.	PPN 
<b>Lockfast Store – All Premises</b>		
6	All alcohol not on display within the premises must be kept within a designated lockfast store on the premises, and shown on the layout plan attached to the premises licence.	PCD, SPS 
<b>Children and Young Persons – On Sale Premises</b>		
7	Children under the age of twelve years, shall not have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.	PCYPFH 
8	The Licence Holder shall provide safe high chairs for the use of young children	SPS, PCYPFH 








9	The Licence Holder shall provide heating facilities for baby/toddler's food at no cost to the customer.	SPS, PCYPFH  
10	The Licence Holder shall provide containers for the disposal of soiled nappies	SPS, PPN, PCYPFH   
11	The Licence Holder shall ensure that heating sources are adequately protected.	SPS, PCYPFH  
<b>Premises Providing Late Night Entertainment – On Sale Premises</b>		
12	Alcohol shall be provided for consumption on the premises only.	PCD, SPS, PPN   
13	The entertainment to be provided shall be:XXX to be defined by the Board on a case-by-case basis	PCD, SPS, PPN   
14	The entertainment provided shall be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN   
15	All public notices or advertisements including social media shall contain the following information:- a. The name and address of the premises b. The entertainment to be provided on the premises c. The commencement time of the entertainment d. The price of entry e. The terminal hour for the premises. f. The time of the curfew, where operated, must be advertised.	PCD, SPS, PPN   
16	The Licence Holder shall display a notice at the entrances to the venue clearly defining the policy of the venue relating to the use of illegal substances and weapons within the venue and stating that criminal offences will be reported to Police Scotland	PCD, SPS, PPN, PIPH    
17	The premises shall have a dispersal policy to ensure patrons are not put in vulnerable situations after leaving the premises. The policy must be in writing. All members of staff shall be informed of the policy. The policy shall be made available to customers, and for inspection. The policy shall be reviewed regularly and a detailed record of reviews kept.	PCD, SPS, PPN, PIPH    
<b>Adult Entertainment – On Sale Premises</b>		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
<b>Vulnerability – All Premises</b>		
























19	<p>The Licence Holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication.</p> <p>The Licence Holder must ensure that all staff have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.</p> <p>The Licence Holder shall ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.</p>	<p>PCD, SPS, PPN PIPH, PCYPFH</p> 
<b>Door Supervisors – On Sale Premises</b>		






20	<p>The Premises Licence Holder must ensure that sufficient numbers of Security Industry Authority licensed stewards are on duty to ensure a safe and responsibly run premises. Such persons must be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Premises Licence Holder. They must be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <ul style="list-style-type: none"><li>a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</li><li>b. Identify and refuse entry to drunken persons</li><li>c. Identify and refuse entry to any persons banned through pubwatch or by any other means;</li><li>d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;</li><li>e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li><li>f. Be aware of the fire safety precautions and procedures and all other policies and practices;</li><li>g. Be aware of the premise's drug prevention policy;</li><li>h. Provide assistance to patrons, including customer care, directions to facilities and health and safety;</li><li>i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.</li><li>j. Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</li><li>k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises;</li></ul>	<p>PCD, SPS, PPN PIPH</p> 
<b>CCTV – All Premises</b>		

21	<p>Where a CCTV system is installed this must comply with the required standard and be maintained in working order and staff must be able to operate the system.</p> <p>Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request</p>	<p>PCD, SPS, PPN</p> 
<b>Members Clubs</b>		
22	<p>Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
23	<p>Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
24	<p>Where the Club has submitted draft constitution or rules with their application for a premises licence, they shall submit a copy of the approved constitution or rules to the Clerk to the Board within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
25	<p>Where the Club revises its constitution or rules in the future, the Club must submit a copy of the proposed revisions to the Board for approval and thereafter submit a copy of the approved revised constitution or rules to the Clerk to the Board, within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
26	<p>Where there are any changes to the list of connected persons in relation to the Club, the Club must submit details of the names, addresses, postcodes, dates and places of birth of the new connected persons and an updated list of all connected persons, to the Clerk to the Board, within 28 calendar days of the changes to connected persons being approved by the Club's governing body.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
27	<p>The Club must ensure that at all times, there at least two members of staff, or Committee Members, or volunteers involved in the management of the Club who are trained to the standard of a Personal Licence Holder. If the persons trained change at any time, evidence of an up-to-date training certificate must be submitted to</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 



	the Clerk within two months of change in personnel.	
28	Any person requiring to hold a training certificate for the purposes of condition 26 above, must complete a refresher training course within a period of 3 months of the 5-year anniversary of the date of the initial training certificate and submit a copy of the refresher training certificate to the Clerk within 28 calendar days of receipt of the updated certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.	PCD, SPS, PPN, PIPH, PCYPFH 
29	That up to 5 visitors per member shall be permitted in the club premises provided they are signed into the club by that member into a book kept for that purpose by the club. Such visitors must be bone fide guests of the member signing them in.	SPS, PPN 
30	All promotional materials, including the use of social media, must specify that events are open to Members and Guests only, unless an Occasional Licence is in place. Events must be advertised in the press as for “Members and Guests only”	SPS, PPN 
<b>Beer Gardens and Outside Drinking Areas</b>		
31	Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 11.00pm	PCD, SPS, PPN, PIPH, PCYPFH 
32	The Licence Holder must take reasonable steps to ensure that litter and, where used, glass and bottles are removed from beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH PCYPFH 
33	The Licence Holder shall consider the use of safe alternatives to glass containers and bottles in beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH 
<b>Hybrid Premises</b>		
34	Premises operating as “other premises” during the day and wishing to operate as Nightclubs thereafter must ensure that the premises are closed down and cleared of patrons, particularly children and young persons, for at least one hour prior to the commencement of operating as a nightclub at the premises	PCD, SPS, PPN PCYPFH 
<b>Festive Season Conditions for Premises opening after 1.00a.m.</b>		

35	A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	<b>SPS, PIPH, PCYPFH</b>   
36	A designated person who is the holder of a personal licence must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	<b>PCD, SPS, PPN, PIPH, PCYPFH</b>     
37	There must be written policies in existence concerning - <ul style="list-style-type: none"> <li>• The evacuation of the premises; and</li> <li>• The prevention of the misuse of drugs on the premises.</li> <li>• Duty of care ('Vulnerability through Intoxication')</li> </ul>	<b>PCD, SPS, PPN, PIPH, PCYPFH</b>     
38	There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.	<b>PCD, SPS, PPN, PIPH, PCYPFH</b>     
39	A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close.	<b>PCD, SPS, PPN, PIPH, PCYPFH</b>     

Key to objectives		
	PCD	Prevention of Crime and Disorder
	SPS	Securing Public Safety
	PPN	Preventing Public Nuisance
	PIPH	Preventing and Improving Public Health
	PCYPFH	Protecting Children and Young Persons from Harm

**NOTE:** Additional Conditions specific to individual licensed premises may be attached by the Board to premises licences depending on the circumstances of the particular application, over and above the pool conditions listed in this document.

## APPENDIX 3 LEGAL TEST

<p style="text-align: center;"><b>Licensing (Scotland) Act 2005</b> <b>Part 3 &amp; Sections 29-32</b> <b>Application for Variation of a Premises Licence</b></p>
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### LEGAL TEST

The legal test is set out in Section 30 of the Act.

- (1) A premises licence variation application received by a Licensing Board is to be determined in accordance with this section.
- (2) If the variation sought is a MINOR variation, the Board MUST grant the application.
- (3) In any other case, the Licensing Board MUST hold a hearing for the purposes of considering and determining the application.
- (4) Where a hearing is held under subsection (3), the Board MUST consider whether any of the grounds for refusal applies and,
  - (a) if none of them applies, the Board MUST grant the application, or
  - (b) if any of them applies, the Board MUST refuse the application.
- (5) The grounds for refusal are –**
  - (a) that the application must be refused under Section 32(2), 64(2) or 65(3)<sup>1</sup>**
  - (b) That the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the Licensing objectives.**
  - (c) that, having regard to –**
    - (i) the nature of the activities proposed to be carried on in the subject premises,**
    - (ii) the location, character and condition of the premises, and**
    - (iii) the persons likely to frequent the premises****The Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.**
  - (d) that the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking account of the variation) in the locality.**
- (6) Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.**
- (7) Where the Licensing Board REFUSES the application-**

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<sup>1</sup> Section 32(2) - where a previous variation application has been refused by the Board and before the expiry of the period of one year beginning with the date of the earlier refusal;  
Section 64(2) – where to grant the hours sought would result in alcohol being sold on the premises during a continuous period of 24 hours or more, unless the Board is satisfied that there are exceptional circumstances to justify a grant; and  
Section 65(3) that the hours for off sales would be before 10.00a.m. after 10.00p.m. or both

- (a) the Board MUST specify the ground for refusal, and**  
**(b) if the ground for refusal is that specified in Subsection (5)(b), the Board MUST specify the licensing objective or objectives in question.**

1. Section 4 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to premises licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance must give Ministers notice of that decision together with a statement of the reasons for it.