

8. APPLICATION FOR VARIATION OF A PREMISES LICENCE - D LUXE,  
1 HAWK BRAE, LADYWELL, LIVINGSTON

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Andrew Thomson of MacGregor Thomson Solicitors accompanied by Mr Ritesh Randev. The objector Mrs Blaney was in attendance at the hearing.

The Chair informed the Board that there had been a site visit to the premises on 9 May 2016.

The Depute Clerk gave advice to the Board regarding Police Scotland's written representation regarding the application concerning the licensed hours for the premises. The Depute Clerk advised the Board that, under section 30 of the 2005 Act, the Board could either grant or refuse a variation application, and grant of a variation application could include a variation of the conditions to which the licence was subject, but that the Board could not otherwise alter the existing terms of the licence e.g. the licensed hours for the premises in determining a variation application.

Mr Thomson made submissions to the Board in support of the application. With regard to Police Scotland's representation he made the following amendment to the application:

- In the first sentence in the first paragraph in the box below the question 5 table of activities and services in the operating place the words "receptions and live performances" to be inserted between "facilities" and "can"

Mr Thomson confirmed that the application of the style children's conditions contained in the Board's current statement of licensing policy to the licence to replace the old children's conditions from the Board's previous policy was accepted.

Mrs Blaney made submissions to the Board regarding her objection to the application and answered a number of questions from Board members.

The Depute Clerk gave advice to the Board regarding its policy in relation to the terminal hour for use of outside areas by patrons and children and young persons. The Depute Clerk invited the Board to consider whether it wished to apply conditions requiring a different terminal hour for use of outside areas by patrons and children and young persons or whether the Board considered that the relevant terminal hour should be the same for all patrons including children and young persons. The Depute Clerk advised the Board that, as the 2005 Act was concerned with the sale and supply of alcohol, the Board's ability to regulate use of outside areas was concerned with the use of those areas for the sale, supply and consumption of alcohol.

Decision

The Board agreed unanimously to grant the application as amended subject to the following conditions:-

1. The premises licence holder and their staff (including the designated premises manager) shall ensure that children and/or young persons are supervised adequately by staff and by any adult(s) accompanying them at all times.
2. If the premises licence holder or their staff (including the designated premises manager) is not satisfied that children and/or young persons are being supervised adequately by any adult(s) accompanying them, the group of which they are part will be required to leave the premises.
3. If the premises licence holder or their staff (including the designated premises manager) is, due to the level of intoxication of any accompanying adult(s) concerned, not satisfied that requiring a group to leave the premises due to failure to supervise children and/or young persons adequately is sufficient to protect children and/or young persons from harm, they shall contact the police to report the matter accordingly.
4. A minimum of two registered SIA door stewards to be present during all birthday parties for persons aged 18 years or under held on the premises.
5. For the duration of any function held on the premises, a staff supervisor to be appointed to act as managerial liaison for the premises with the organiser of the function, and to monitor the function to ensure that its conduct is not inconsistent with the 5 licensing objectives.
6. Heating facilities in areas of the premises to which children and/or young persons have access shall be protected adequately.
7. A children's menu shall be available at all times when children are permitted to be on the premises or alternatively the main menu shall show that children's portions are available during such times
8. Baby food and bottle warming facilities shall be available
9. A minimum of two baby high chairs shall be available.
10. An adequate sized lidded bin to be provided in both the male and female toilet area for the disposal of soiled nappies and the bins should be clearly marked to indicate the purposes for which they are provided.
11. The terminal hour for consumption of alcohol in any of the outside customer areas which form part of the premises is 10pm.