

Public Document Pack

NITHSDALE DIVISIONAL LICENSING BOARD

Meeting of Thursday 23 February 2023
at 10.30am – Remote Meeting

MEMBERS

Tony Beretti	-	Mid and Upper Nithsdale
John Campbell	-	Nith
Linda Dorward	-	Lochar
Ivor Hyslop	-	Lochar
Emma Jordan	-	North West Dumfries
Tracey Little	-	Lochar

VLAD VALIENTE
Clerk to the Licensing Board

Nithsdale Divisional Licensing Board

Meeting of Thursday 23 February 2023
at 10.30am – Remote Meeting

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Next Meeting Date: Thursday, 11 May 2023

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NITHSDALE DIVISIONAL LICENSING BOARD**Minute of Meeting of Tuesday 22 November 2022 at 10.30am
Remote Hearing****MEMBERS PRESENT**

Tony Beretti	-	Mid and Upper Nithsdale
John Campbell	-	Nith
Ivor Hyslop (Convener)	-	Lochar
Emma Jordan	-	North West Dumfries;
Tracey Little	-	Lochar

APOLOGIES

Linda Dorward	-	Lochar
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IN ATTENDANCE

Julia Farroll	-	Licensing Standards Officer
Inspector Hugh McCombe	-	Police Scotland
Cheryl Syme	-	Senior Licensing Officer
Caroline Treanor	-	Solicitor

VLAD VALIENTE
Clerk to the Licensing Boards

1. **SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION**

5 Members present via MS Teams with one apology from Councillor Dorward. The Convener approved Members' remote participation at the Hearing.

2. **DECLARATIONS OF INTEREST**

NONE

3. **MINUTE OF MEETING 26 AUGUST 2022**

Decision

AGREED

4. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR OCCASIONAL LICENCES AND EXTENDED HOURS (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

Decision

NOTED that the following Occasional Licences and Extended Hours had been granted under delegated powers during the period from **9 August 2022 until 7 November 2022**:

Occasional Licences : Applied for by a Personal Licence Holder

Total number issued 123

Occasional Licences : Applied for by a Premises Licence Holder

Total number issued 16

Occasional Licences : Applied for by a Voluntary Organisation

Total number issued 13

Extended Hours

Total number issued 2

5. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR MINOR VARIATIONS (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

Decision

NOTED that the applications in **Appendix 1** were granted under delegated authority

6. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR TRANSFER OF PREMISES LICENCE (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

Decision

NOTED that the applications in **Appendix 2** were granted under delegated authority

7. **LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR PROVISIONAL PREMISES LICENCE – ST MICHAELS SERVICE STATION, DUMFRIES – REPORT BY THE CLERK TO THE BOARDS**

Decision

Having heard from the applicant's agent, the Board **AGREED** to accept an amended increased capacity of 27.45m² notwithstanding that this increased capacity was not advertised and accordingly agreed to **GRANT** the application as detailed in **Appendix 3**

8. **LICENSING (SCOTLAND) ACT 2005: REVIEW OF PERSONAL LICENCE – LUCY FORTEATH – REPORT BY THE CLERK TO THE BOARDS**

Decision

Noting that the personal licence holder was not in attendance and that the Board had not received any notification from the licence holder whether she would attend, the Board decided to **DEFER** consideration of the matter to the next scheduled Hearing to allow more contact to be made with the personal licence holder to encourage her to attend in terms of natural justice.

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 29
APPLICATIONS FOR MINOR VARIATION OF PREMISES LICENCES
GRANTED UNDER DELEGATED AUTHORITY**

<u>Application No. 1 – Ref L.2/068N</u>	
Name & Address of Applicant or Agent	Poppleston Allen For Southernness Holiday Village Limited c/o Womble Bond Dickison (UK) LLP 2 Semple Street Edinburgh EH3 8BL
Name & Address of Premises	Southernness Holiday Village Southernness Dumfries DG2 8AZ
Nature of variation	Change of Designated Premises Manager to Fraser Cantley
Effective Date of Minor Variation	25 August 2022

<u>Application No. 2 – Ref L.2/085N</u>	
Name & Address of Applicant or Agent	TLT Solicitors For Melli Limited The Victory Offices 112 Victory Road Blackpool FY1 3NW
Name & Address of Premises	18-20 Queensberry Street Dumfries DG1 1HR
Nature of variation	Change of Designated Premises Manager to Carrie Carmichael
Effective Date of Minor Variation	31 August 2022

<u>Application No. 3 – Ref L.2/044N</u>	
Name & Address of Applicant or Agent	Milan Cvetkovic Buon Riposa Dock Park Dumfries DG1 2RY
Name & Address of Premises	The Riverside Bar Dock Park Dumfries DG1 2RY
Nature of variation	Change of Designated Premises Manager to Ann Magee
Effective Date of Minor Variation	2 September 2022

<u>Application No. 4 – Ref L.3/032N</u>	
Name & Address of Applicant or Agent	Laura Elizabeth Scott Mullen Bank Georgetown Dumfries DG1 4QP
Name & Address of Premises	The Bank Bar & Tapas 68 Whitesands Dumfries DG1 2RS
Nature of variation	Change of Designated Premises Manager to Laura Elizabeth Scott
Effective Date of Minor Variation	14 September 2022

<u>Application No. 5 – Ref L.2/013N</u>	
Name & Address of Applicant or Agent	Mark Robertson Ladypark View Lockerbie Road Dumfries DG1 3PF
Name & Address of Premises	Dickie's Bar 48 English Street Dumfries DG1 2BY
Nature of variation	Change of Designated Premises Manager to Mandy Little
Effective Date of Minor Variation	30 September 2022

<u>Application No. 6 – Ref L.6/104N</u>	
Name & Address of Applicant or Agent	Khalid Naqvi 169 Irish Street Dumfries DG1 2NN
Name & Address of Premises	Club Convenience 25 Glasgow Street Dumfries DG2 9BF
Nature of variation	Change of Designated Premises Manager to Khalid Naqvi
Effective Date of Minor Variation	10 October 2022

<u>Application No. 7 – Ref L.6/011N</u>	
Name & Address of Applicant or Agent	Khalid Naqvi 169 Irish Street Dumfries DG1 2NN
Name & Address of Premises	Cargenbridge Stores Cargenbridge Avenue Dumfries DG2 8LR
Nature of variation	Change of Designated Premises Manager to Francis Campbell
Effective Date of Minor Variation	10 October 2022

<u>Application No. 8 – Ref L.3/004N</u>	
Name & Address of Applicant or Agent	Tabussum Abbas 20 Woodgrove Avenue Dumfries DG1 1RR
Name & Address of Premises	India Palms 46-50 Buccleuch Street Dumfries
Nature of variation	Change of Designated Premises Manager to Tabussum Abbas
Effective Date of Minor Variation	13 October 2022

<u>Application No. 9 – Ref L.4/001N</u>	
Name & Address of Applicant or Agent	Poppleston Allen Licensing For Buzz Holdings Limited Unit 1 Castle Marine Road Nottingham NG7 1TN
Name & Address of Premises	Buzz Bingo Shakespeare Street Dumfries DG1 2JJ
Nature of variation	Change of Designated Premises Manager to Carol Brown
Effective Date of Minor Variation	13 October 2022

<u>Application No. 10 – Ref L.6/003N</u>	
Name & Address of Applicant or Agent	Executor of Abdul Salam 12 Georgetown Crescent Dumfries DG1 4EQ
Name & Address of Premises	Euroroute 185 Annan Road Dumfries DG1 3EY
Nature of variation	Change of Designated Premises Manager to Abdul Mannan
Effective Date of Minor Variation	25 October 2022

<u>Application No. 11 – Ref L.6/035N</u>	
Name & Address of Applicant or Agent	Marks & Spencers PLC Waterside House 35 North Wharf Road London W2 1NW
Name & Address of Premises	Marks and Spencers 59-65 High Street Dumfries DG1 2DB
Nature of variation	Change of Designated Premises Manager to Tracy Clifford
Effective Date of Minor Variation	27 October 2022

<u>Application No. 12 – Ref L.6/083N</u>	
Name & Address of Applicant or Agent	J & J Wilson (shops) Ltd Driftwood Lodge 36A Old Huntanton Road Hunstanton PE36 6HS
Name & Address of Premises	J & J Wilson Supermarket Gillfoot Southernness Holiday Park Southernness Dumfries
Nature of variation	Change of Designated Premises Manager to Ian Watson
Effective Date of Minor Variation	27 October 2022

<u>Application No. 13 – Ref L.6/044N</u>	
Name & Address of Applicant or Agent	Kokulabavan Jeyarasa 172A Irish Street Dumfries DG1 2NJ
Name & Address of Premises	Lincluden Superstore 40/42 Lincluden Road Dumfries DG2 0QB
Nature of variation	Change of Designated Premises Manager to Lionel Jesuthasan
Effective Date of Minor Variation	2 November 2022

<u>Application No. 14 – Ref L.6/098N</u>	
Name & Address of Applicant or Agent	Iceland Foods Limited Second Avenue Deeside Industrial Park Deeside Flintshire CH5 2NW
Name & Address of Premises	Iceland 165-171 High Street Dumfries DG1 2RD
Nature of variation	Change to layout plan, no increase to capacity
Effective Date of Minor Variation	7 November 2022

<u>Application No. 15 – Ref L.6/029N</u>	
Name & Address of Applicant or Agent	C J Lang & Son Limited 78 Longtown Road Dundee DD4 8JU
Name & Address of Premises	Spar Gillbrae Road Georgetown Dumfries DG1 4AT
Nature of variation	Change of Designated Premises Manager to Jason Frod
Effective Date of Minor Variation	9 November 2022

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005
APPLICATIONS FOR TRANSFER OF PREMISES LICENCES
GRANTED UNDER DELEGATED POWERS**

<u>Application No 1. – Ref L.4/012N – SECTION 33</u>	
Name & Address of Applicant or Agent	Simon Geoffrey Davidson Ivy Cottage Balmaclellan DG7 3QE
Name & Address of Transferee or Agent	Natalie Smith 68 Lochfield Road Dumfries DG2 9BG
Name & Address of Premises	Moat Brae 101 George Street Dumfries DG1 1EA
Effective Date of Transfer	22 September 2022

<u>Application No 2. – Ref L.2/061N – SECTION 33</u>	
Name & Address of Applicant or Agent	Keith Munn 82 Southwick Road Dalbeattie DG5 4HN
Name & Address of Transferee or Agent	Francis William Murray 3 Elder Avenue Lincluden Dumfries DG2 0NL
Name & Address of Premises	Victoria Inn 37 Friars Vennel Dumfries DG1 2RQ
Effective Date of Transfer	9 November 2022

Appendix 3

Applicant/Agent	TLT Solicitors Per St Michael's Services Limited 9 St Michael Street Dumfries, DG1 2QD
Address of Premises	St Michael's Services 9 St Michael Street Dumfries DG1 2QD
Description	The premises is a community store and garage forecourt in Dumfries.
Core Times	<u>Off Sales</u> Monday 10.00am – 10.00pm Tuesday 10.00am – 10.00pm Wednesday 10.00am – 10.00pm Thursday 10.00am – 10.00pm Friday 10.00am – 10.00pm Saturday 10.00am – 10.00pm Sunday 10.00am – 10.00pm
Activities	Add Recorded Music both within and outwith core hours Outwith core hours information – Recorded music may be played as background music only for staff and customers. Any other Activities – Retail sale of petrol, dev and LPG products 24 hours per day. Car wash and cleaning and valeting facility operating. Multi convenience store operating 24 hours per day selling groceries, car products, solid fuel (coal, kindlers and logs) sale of LPG for home use in sealed containers, newspapers, confectionery, household products, terminals for mobile phone top ups, rent, TV licences and utilities, lottery machine, cash dispenser, fax and photocopy service, provision for hot food to take away and cold food and hot drinks.
Children and Young Persons	N/A
Capacity	Off Sales – 27.45m ²
Last Date for Objections/Representations	Friday 7 October 2022

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 SECTION 56 AND 68
APPLICATIONS FOR OCCASIONAL LICENCES AND EXTENDED HOURS
GRANTED UNDER DELEGATED AUTHORITY**

For the information of the Licensing Board, during the period from 8 November 2022 until 5 February 2023 the following Occasional Licences and Extended Hours were granted:

Occasional Licences : Applied for by a Personal Licence Holder

Total number issued 88

Occasional Licences : Applied for by a Premises Licence Holder

Total number issued 16

Occasional Licences : Applied for by a Voluntary Organisation

Total number issued 15

Extended Hours

Total number issued 7

Cheryl Syme
Senior Licensing Officer (Board Services)
Licensing
Ext: 63353

Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

Date of Report: 15 February 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 29
APPLICATIONS FOR MINOR VARIATION OF PREMISES LICENCES
GRANTED UNDER DELEGATED AUTHORITY**

<u>Application No. 1 – Ref L.1/003N</u>	
Name & Address of Applicant or Agent	Nicola McAleese Upper Murthat Farm Beattock Moffat DG10 9PJ
Name & Address of Premises	The Auldgirth Inn Auldgirth Dumfries DG2 0XG
Nature of variation	Change of Designated Premises Manager to Andrew Ptolomey
Effective Date of Minor Variation	14 November 2022

<u>Application No. 2 – Ref L.6/100N</u>	
Name & Address of Applicant or Agent	Thileepan Veeravaku 51B Tarmachan Road Dunfermline KY11 8LA
Name & Address of Premises	Mr News Convenience Store 108-112 Friars Vennel Dumfries DG1 2RE
Nature of variation	Change of Designated Premises Manager to Rogika Kokulabavan
Effective Date of Minor Variation	22 November 2022

<u>Application No. 3 – Ref L.6/064N</u>	
Name & Address of Applicant or Agent	Wm Morrison Supermarkets Limited Hilmore House Gain Lane Bradford West Yorkshire BD3 7DL
Name & Address of Premises	Morrisons Brooms Road Dumfries DG1 2SH
Nature of variation	Change to layout plan and reduction in capacity to 209.59m ²
Effective Date of Minor Variation	30 November 2022

<u>Application No. 4 – Ref L.6/112N</u>	
Name & Address of Applicant or Agent	Dynamic Retail Limited 1598 Dumbarton Road Glasgow G14 9DR
Name & Address of Premises	Scotfresh Unit 1 78 Glasgow Street Dumfries DG2 9AQ
Nature of variation	Change of Designated Premises Manager to Elaine MacFarlane
Effective Date of Minor Variation	2 December 2022

<u>Application No. 5 – Ref L.3/020N</u>	
Name & Address of Applicant or Agent	Brainslav Mazic 20 Beck Avenue Dumfries DG2 7BJ
Name & Address of Premises	Pizzeria il Fiume Dock Park Dumfries DG1 2RY
Nature of variation	Change of Designated Premises Manager to Andrew Milroy
Effective Date of Minor Variation	12 December 2022

<u>Application No. 6 – Ref L.2/084N</u>	
Name & Address of Applicant or Agent	Peter George Patrick Houston Cottage Lockerbie Road Dumfries DG1 3PG
Name & Address of Premises	The Lantern 181-183 St Michael Street Dumfries DG1 2PP
Nature of variation	Change of Designated Premises Manager to Andrew Milroy
Effective Date of Minor Variation	20 December 2022

<u>Application No. 7 – Ref L.2/031N</u>	
Name & Address of Applicant or Agent	James Armstrong Robertson Lighthouse Leisure Southernness Dumfries DG2 8AZ
Name & Address of Premises	Mermaid bar Lighthouse leisure Southernness Dumfries DG2 8AZ
Nature of variation	Change of Designated Premises Manager to Nicholas Hunt
Effective Date of Minor Variation	21 December 2022

<u>Application No. 8 – Ref L.6/051N</u>	
Name & Address of Applicant or Agent	Scottish Midland Co-operative Society Ltd Hillwood House 2 Harvest Drive Newbridge EH28 8QJ
Name & Address of Premises	Scotmid 202/204 Lochside Road Dumfries DG2 0EB
Nature of variation	Change of Designated Premises Manager to Mandy Brockie
Effective Date of Minor Variation	12 January 2023

<u>Application No. 9 – Ref L.6/063N</u>	
Name & Address of Applicant or Agent	TLT Solicitors For C J Lang & Son Limited 78 Longtown Road Dundee DD4 8JU
Name & Address of Premises	Spar Convenience Store 1 Rosevale Street Dumfries DG1 2EP
Nature of variation	Change to layout plan to show decrease in capacity from 27.30m ² to 26.30m ²
Effective Date of Minor Variation	25 January 2023

<u>Application No. 10 – Ref L.2/066N</u>	
Name & Address of Applicant or Agent	The Belhaven Group Atrium House 6 Back Walk Stirling FK8 2QA
Name & Address of Premises	The Granary Dobies Building Loreburn Street Dumfries DG1 1HN
Nature of variation	Change of Designated Premises Manager to Caroline Best
Effective Date of Minor Variation	27 January 2023

<u>Application No. 11 – Ref L.6/051N</u>	
Name & Address of Applicant or Agent	Scottish Midland Co-operative Society Ltd Hillwood House 2 Harvest Drive Newbridge EH28 8QJ
Name & Address of Premises	Scotmid 202/204 Lochside Road Dumfries DG2 0EB
Nature of variation	Change of Designated Premises Manager to Michaela McQuinn
Effective Date of Minor Variation	2 February 2023

<u>Application No. 12 – Ref L.3/020N</u>	
Name & Address of Applicant or Agent	Branislav Mazic 20 Beck Avenue Dumfries DG2 7BJ
Name & Address of Premises	Pizzeria il Fiume Dock Park Dumfries DG1 2RY
Nature of variation	Change of Designated Premises Manager to Branislav Mazic
Effective Date of Minor Variation	9 February 2023

<u>Application No. 13 – Ref L.3/028N</u>	
Name & Address of Applicant or Agent	Paul O’Keefe Archbald Moffatt House Academy Road Moffat DG10 9HW
Name & Address of Premises	Thomas Tosh 19 East Morton Street Thornhill DG3 5LZ
Nature of variation	Change of Designated Premises Manager’s address
Effective Date of Minor Variation	9 February 2023

Cheryl Syme
Senior Licensing Officer (Board Services)
Licensing
Ext: 63353

Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

Date of Report: 15 February 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005
APPLICATIONS FOR TRANSFER OF PREMISES LICENCES
GRANTED UNDER DELEGATED POWERS**

<u>Application No 1. – Ref L.6/103N – SECTION 34</u>	
Name & Address of Applicant or Agent	Executor of Abdul Salam 185A Annan Road Dumfries DG1 3EY
Name & Address of Transferee or Agent	Abdul Mannan 24 Barkerland Avenue Dumfries DG1 4HR
Name & Address of Premises	Super Saver Store 64 Lincluden Road Dumfries DG2 0QB
Effective Date of Transfer	17 November 2022

<u>Application No 2. – Ref L.6/003N – SECTION 34</u>	
Name & Address of Applicant or Agent	Executor of Abdul Salam 185A Annan Road Dumfries DG1 3EY
Name & Address of Transferee or Agent	Abdul Mannan 24 Barkerland Avenue Dumfries DG1 4HR
Name & Address of Premises	Euroroute 185 Annan Road Dumfries DG1 3EY
Effective Date of Transfer	17 November 2022

<u>Application No 3. – Ref L.2/036N – SECTION 33</u>	
Name & Address of Applicant or Agent	Maureen Schneider Trebor 12 Cresswell Hill Dumfries
Name & Address of Transferee or Agent	Quanyi Chen 28 Lindom Avenue Chester-le-Street Durham DH3 3PP
Name & Address of Premises	The New Bazaar 28-39 Whitesands Dumfries DG1 2ES
Effective Date of Transfer	19 January 2023

Cheryl Syme
Senior Licensing Officer (Board Services)
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Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

Date of Report: 15 February 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 46
APPLICATION FOR CONFIRMATION OF PROVISIONAL PREMISES LICENCE
GRANTED UNDER DELEGATED POWERS**

<u>Application No 1. – Ref L.2/086N</u>	
Name & Address of Applicant or Agent	The Crichton Trust Grierson House The Crichton Estate Bankend Road Dumfries DG1 4ZE
Name & Address of Premises	Crichton Central Criffel View The Crichton Dumfries DG1 4ZZ
Date of Grant of Provisional Licence	15 September 2021
Effective Date of Confirmation	16 November 2022

Cheryl Syme
Senior Licensing Officer (Board Services)
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Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

Date of Report: 15 February 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 28(6)
SURRENDER OF PREMISES LICENCES**

<u>No. 1 – Ref L.7/010N</u>	
Name & Address of Licence Holder	Camerons Bar and Function Room Ltd Locharbriggs and District Social Club 22A Auchencrieff Road South Dumfries DG1 1XA
Name & Address of Premises	Locharbriggs and District Social Club 22A Auchencrieff Road South Dumfries DG1 1XA
Date Licence Surrendered	14 November 2022

Cheryl Syme
Senior Licensing Officer (Board Services)
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Ext: 63353

Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

Date of Report: 15 February 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005: SECTION 30

APPLICATION: MAJOR VARIATION

PREMISES: SPAR, 19 CASTLE STREET, SANQUHAR

PREMISES LICENCE HOLDER: C J LANG & SON LIMITED, 78 LONGTOWN ROAD, DUNDEE

1. Reason for Report

1.1 As this is a major variation application, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application received 7 December 2022 and detailed in **Appendix 1** to this report.

2. Background

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- Local Community Council
- NHS Dumfries and Galloway
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises).

2.2 In terms of the law, the Board is obliged to advertise notice of the application on its website for a continuous period of 21 days. The dates of display were **Friday 16 December 2022 to Saturday 7 January 2023**.

2.3 The applicant is also obliged to display a site notice of A4 size at or near the premises in a place and at a height where the notice can conveniently be read by the public on the same dates as the Board's notice.

2.4 On expiry of the 21 day advertising period the applicant must submit to the Board signed Confirmation of Site Notice before the Board may determine the application.

2.5 Signed Confirmation of Site Notice has been received.

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 6 January 2023**.

3.2 No Objections have been received

4. Responses

- LSO report: no adverse comments **Appendix 2**
- Police Scotland: no adverse comment
- Environmental Health: no objection
- Planning: no planning issues
- Building Standards: no adverse comments
- SFRS: no comments

5. Determining the application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

5.2 The Board must consider whether any of the grounds for refusal apply and

- (i) If NO ground of refusal applies, the Board must GRANT the application
- (ii) If ANY ground of refusal applies, the Board must REFUSE the application.

5.3 **The section 30(5) grounds for refusal are:-**

- The application must be refused under
 - Section 32(2) (where the Board has refused a premises licence variation application in respect of the same premises and seeking the same variation and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances justifying the sale of a 24 hour operation have not been proven)
 - Section 65(3) (the application is for off sales outwith 10am to 10pm)

- Licensing Objectives ground of refusal

The Licensing Board considers that the granting of the application *would be inconsistent with one or more of the licensing objectives* (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm)

- Unsuitability of the premises

That having regard to:-

- a) the nature of the activities proposed to be carried on in the premises
- b) the location, character and condition of the premises; and
- c) 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.

- Overprovision

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. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

15 February 2023

Nithsdale Divisional Licensing Board
Application for Variation of Premises Licence

Applicant/Agent	TLT Solicitors For C J Lang & Son Limited 78 Longtown Road Dundee DD4 8JU
Address of Premises	Spar 19 Castle Street Sanquhar DG4 6AB
Nature of Variation	<p><u>Operating Plan</u></p> <p>Q5) Add Gaming as an activity during and outwith core hours (to cover the use of the National Lottery outlet etc)</p> <p>Q5) amend and add the following wording – The premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio to the commencement of core hours. This is background level only. National Lottery tickets/cards can be purchased prior to the core hours.</p> <p>Q5f) The primary activity undertaken in the premises is the general retail sale of the following: Groceries; confectionery, bread and cakes, crisps/snacks, non-foods, toiletries, frozen and chilled foods, fruit/vegetables/flowers, news and magazines, toys, tobacco and cigarettes, beer/wines/spirits and other alcoholic products, non-alcoholic drinks. Charity collection point and charitable events take place. Food to Go. Click & Collect. Home Deliveries. Paypoint payment. National Lottery outlet. External automated cash machine. Sampling and promotional activities.</p> <p>Q7) amend capacity to 17.99m²</p> <p><u>Layout Plan</u></p> <p>Reconfiguration of store resulting in an increase in the alcohol display capacity to 17.99m²</p>
Last Date for Objections/Representations	Friday 6 January 2023

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**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005:
APPLICATION FOR VARIATION OF PREMISES LICENCE,
PREMISES: SPAR, 19 CASTLE STREET, SANQUHAR.**

1. This application has been submitted by TLT Solicitors acting on behalf of C J Lang & Son Ltd, seeking a number of variations to the existing premises licence.
2. The location is already established as a convenience store serving the local community between the hours of 07:00 (08:00 on Sunday) and 22:00 Monday to Sunday and offers the usual convenience store goods such as soft drinks, tobacco, newspapers, general convenience store items and services including PayPoint utility top-ups, mobile phone top ups and bill payments.
3. The application seeks the following amendments to the Operating Plan of the Premises Licence:
 - Add gaming as an activity during and outwith core hours. This request is to cover the use of the National Lottery outlet.
 - Amend and add the following wording – The premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio prior to the commencement of core hours. This is background level only. National Lottery tickets/cards can be purchased prior to core hours.
 - Amend and add the following wording – The primary activity undertaken in the premises is the general retail sale of the following: Groceries; confectionery, bread & cakes, crisps/snacks, non-foods, toiletries, frozen & chilled foods, fruit/vegetables/flowers, news & magazines, toys, tobacco & cigarettes, beers/wines/spirits and other alcoholic products, non-alcoholic drinks. Charity collection point and charitable events take place. Food to Go. Click and collect. Home Deliveries. PayPoint payment. National Lottery outlet. External automated cash machine. Sampling and promotional activities.
4. The application seeks to amend the alcohol display capacity to 17.99m² and in comparison, the overall size and layout of the existing premises, the display area is not deemed excessive.
5. The original convenience store at the premises has not presented any issues, problems or concerns from a licensing perspective. A visit undertaken on 4th

January 2023 to confirm the presence of the notice being displayed also demonstrated compliance with the display of statutory licensing signage.

6. The application was advertised on the Board's website page from Friday 16th December 2022, simultaneously a notice was displayed at the premises.

The notice was checked on Wednesday 4th January 2023 during which time it was found to be correctly displayed in the front display board located at the entrance to the store.

7. The application has been submitted in keeping with Nithsdale Divisional Licensing Board Policy.
8. There are no adverse comments to be made in respect of this application.

Emma Connelly
Licensing Standards Officer
9th January 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005 (2005 Act): SECTION 23

APPLICATION: NEW PREMISES LICENCE

APPLICANT: IZZET SENGUN, 10 EDINBURGH ROAD, DUMFRIES

**PREMISES TO BE LICENSED: MARMARIS TAKEAWAY, 20 WHITESANDS,
DUMFRIES**

1. Reason for Report

1.1 As this is an application for a new premises licence, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application received 8 December 2022 and detailed at **Appendix 1** to this report.

2. Background

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- NHS Dumfries & Galloway
- Community Council (Disestablished)
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises).

2.2 Satisfactory Section 50 Certificates for Planning, Building Standards and Food Hygiene have been received and a Disabled Access and Facilities Statement has also been received.

2.3 In accordance with statutory advertising requirements, the Board is required to display a notice on its website for a period of 21 days and the applicant is also required to display a site notice at or near the premises and in a place and height where it can conveniently be read by the public for the same period.

2.4 Notice of the application was published on the Board's webpage from **Friday 16 December 2022 to Saturday 7 January 2023**.

2.5 Signed Confirmation of Site Notice has been received.

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 6 January 2023**.

3.2 No objections have been received.

4. Responses

The following responses have been received:

- LSO Report – no adverse comments (**Appendix 2**)

- Police Scotland – clear report
- Planning – No planning issues
- Building Standards – no adverse comments
- Environmental Health – No objections
- SFRS – no comments

5. Determination of the Application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision and take into account the following:

5.2 The key consideration in reaching a decision is to determine whether or not a ground of refusal applies.

- (i) If no ground of refusal applies, then the Board must GRANT the application.
- (ii) If any ground of refusal applies, the Board must REFUSE the application

5.3 In terms of section 23 (5) the grounds for refusal are:-

- The premises are excluded premises);
- The application must be refused under
 - Section 25(2) (where the Board has refused a premises licence and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances have not been shown to justify that operation)
 - Section 65(3) (the application relates to off sales outwith 10am to 10pm)
- That the Licensing Board considers, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;
- The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives, namely: (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm);
- That having regard to:-
 - i) The nature of the activities proposed to be carried on in the premises
 - ii) the location, character and condition of the premises; and
 - iii) the persons likely to frequent the premisesthe Board considers that the premises are unsuitable for use for the sale of alcohol
- The Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises in the locality.

6. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

15 February 2023

Appendix 1

Applicant/Agent	Mr Izzet Sengun 10 Edinburgh Road Dumfries DG1 1JQ
Address of Premises	Marmaris Takeaway 20 Whitesands Dumfries DG1 2RR
Description	Hot food and alcohol for takeaway and delivery.
Core Times	<u>Off Sales</u> Monday 10.00am – 10.00pm Tuesday 10.00am – 10.00pm Wednesday 10.00am – 10.00pm Thursday 10.00am – 10.00pm Friday 10.00am – 10.00pm Saturday 10.00am – 10.00pm Sunday 10.00am – 10.00pm
Activities	Restaurant Facilities, Bar Meals, Recorded Music and Televised Sports both within and outwith core hours. <u>Activities Outwith Core Hours</u> Hot food, fast food takeaway with delivery service. Tv, Music, Youtube and sports. <u>Any Other Activities</u> Hot food, fast food takeaway and delivery service. Online ordering portals such as JustEat, Foodhub and Uber.
Children and Young Persons	N/A
Capacity	2.70m ²
Last Date for Objections/Representations	Friday 6 January 2023

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**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005:
APPLICATION FOR PREMISES LICENCE,
PREMISES: MARMARIS TAKEAWAY, 20 WHITESANDS, DUMFRIES**

1. This application has been submitted by Mr Izzet Sengun seeking a premises licence for an established takeaway premises to allow for off sales only.
2. The location has been an established takeaway premises for a number of years and currently offer takeaway and delivery services of pizzas, kebabs, burgers and main meals between 3pm and 1am.
3. The premises are expecting to primarily stock wine and beer to be sold exclusively with meal deliveries and takeaways between 10am and 10pm and are aware of their requirements to ensure sales of alcohol are completed by 10pm. Training will be provided to the drivers by Mr Izzet Sengun and potentially, dependent on the demand of the service, Mr Sengun is keen to consider full personal licence training for each of his drivers.
4. Currently the premises makes use of existing online order portals such as Just Eat, Food Hub and Uber and presence on these portals will be adapted to include an age verification step within the order process. The portals also suspend orders of alcohol at the terminal hour.
5. The premises also offer takeaway services and the premises licence application makes provision for alcohol to be sold from the premises at point of collection by the customer.
6. The premises are seeking the licence to have alcohol sales only as a secondary feature to their meals and will not be offering alcohol sales without a food order.
7. Within the premises, the alcohol will be kept behind the counter in fridges and a cupboard which cannot be viewed by the customer, although the alcohol being sold will be included on their menu boards in written format.
8. The storage area for the alcohol is made up of a fridge totalling 1.62m² and the cupboard at 1.08m² giving a total storage area of 2.7m². The premises are seeking the ordering area and all counters also be licenced alongside the storage areas making the total licenced area 36.3m² of which the customer has access to 9.33m².

9. The application was advertised on the Board's website page from Friday 16th December 2022, simultaneously a notice was displayed at the premises.

The notice was checked on Saturday 24th December 2022, during which time it was found to be correctly displayed.

10. The application has been submitted in keeping with Nithsdale Divisional Licensing Board policy.
11. There are no adverse comments to be made in respect of this application.

Emma Connelly
Licensed Standards Officer
2nd February 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005: SECTION 30

APPLICATION: MAJOR VARIATION

PREMISES: THORNHILL GOLF CLUB, BLACKNEST, THORNHILL

**PREMISES LICENCE HOLDER: THORNHILL GOLF CLUB, BLACKNEST,
THORNHILL**

1. Reason for Report

1.1 As this is a major variation application, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application received 4 January 2023 and detailed in **Appendix 1** to this report.

2. Background

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- Local Community Council
- NHS Dumfries and Galloway
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises).

2.2 In terms of the law, the Board is obliged to advertise notice of the application on its website for a continuous period of 21 days. The dates of display were **Friday 13 January 2023 to Saturday 4 February 2023**.

2.3 The applicant is also obliged to display a site notice of A4 size at or near the premises in a place and at a height where the notice can conveniently be read by the public on the same dates as the Board's notice.

2.4 On expiry of the 21 day advertising period the applicant must submit to the Board signed Confirmation of Site Notice before the Board may determine the application.

2.5 At the time of writing this report, no signed Confirmation of Site Notice has been received.

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 3 February 2023**.

3.2 No Objections have been received

4. Responses

- LSO report: no adverse comments **Appendix 2**
- Police Scotland: no adverse comment
- Environmental Health: no objection
- Planning: no planning issues
- Building Standards: no adverse comments
- SFRS: no comments

5. Determining the application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

5.2 The Board must consider whether any of the grounds for refusal apply and

- (i) If NO ground of refusal applies, the Board must GRANT the application
- (ii) If ANY ground of refusal applies, the Board must REFUSE the application.

5.3 **The section 30(5) grounds for refusal are:-**

- The application must be refused under
 - Section 32(2) (where the Board has refused a premises licence variation application in respect of the same premises and seeking the same variation and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances justifying the sale of a 24 hour operation have not been proven)
 - Section 65(3) (the application is for off sales outwith 10am to 10pm)

- Licensing Objectives ground of refusal

The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm)

- Unsuitability of the premises

That having regard to:-

- a) the nature of the activities proposed to be carried on in the premises
- b) the location, character and condition of the premises; and
- c) 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.

- Overprovision

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. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

15 February 2023

Nithsdale Divisional Licensing Board
Application for Variation of Premises Licence

Applicant/Agent	Thornhill Golf Club Blackness Thornhill DG3 5DW
Address of Premises	Thornhill Golf Club Blacknest Thornhill DG3 5DW
Nature of Variation	<p><u>Operating Plan</u></p> <ol style="list-style-type: none"> 1. Additional opening on-sales hours have been added to the operating plan. These are now 10am to midnight, Monday to Sunday, extending by one hour from 11pm to midnight, Monday to Sunday 2. Off sales hours have been added to the operating plan from 10am to 10pm Monday to Sunday 3. At 5b social functions have been added, these are receptions within core hours 10am to midnight, Monday to Sunday 4. At 5c add Recorded Music and Gaming within core hours, 10am to midnight Monday to Sunday 5. Add seasonal variations, To utilise additional licences as granted by the Divisional Licensing Board 6. Children and Young Persons, change of wording 0-17years <p><u>Layout Plan</u></p> <p>The layout plan shows in detail all of the areas where services will be provided, in the building or in outside seated areas. The layout plan legend has been adapted to include the outdoor area as a place where any live performances and dancing would be held.</p> <p>The new areas outdoors are,</p> <ol style="list-style-type: none"> 1. Primary area – to the right of the clubhouse (when facing the clubhouse), an area has been allocated for outdoor seating. This sits back from the course, providing a safe environment. The veranda in front of the clubhouse is part of the licensed area. 2. Secondary areas – area in front of the bungalow and to the left of the bungalow (when facing the bungalow) have been allocated as overflow outdoor seating areas, as and when required.

	<p>These new areas are outdoor drinking areas, the primary area seats up to 100. The secondary areas seat up to 15 in front of the bungalow and 6 to the left of the bungalow, as and when required. The veranda seats 10.</p> <p>Total inside – 100 Total Outside - 131</p>
Last Date for Objections/Representations	Friday 3 February 2023

**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005:
APPLICATION FOR VARIATION OF PREMISES LICENCE,
PREMISES: THORNHILL GOLF CLUB, BLACKNEST, THORNHILL.**

1. This application has been submitted by Beth Collins as Secretary of the Committee and on behalf of Thornhill Golf Club, Blacknest, Thornhill, DG3 5DW although it should be noted that there has since been a change in Committee and as such Anne Murphy is now the Secretary. The application seeks a variation to the current operating and layout plan for Thornhill Golf Club, Blacknest, Thornhill, DG3 5DW.
2. The location is set midst the golf course and is a semi-detached building although the adjoining building is a holiday home owned and operated by the Club. The premises currently offer licenced facilities from the bar and includes the lounge, dining area and veranda. The Club are seeking to include outdoor drinking areas to the left and right of the existing club. The area to the left is to be allocated as a secondary outdoor seating area only as an overflow to the primary area which is located to the right-hand side of the Club. This area currently has a marquee on site. Capacity of the primary area is 100 seats and the secondary area seats 15 in front of the holiday home and 6 to the left of the home. Currently the veranda seats 10 which would give a total outdoor capacity of 131 seats. The application proposes that the primary area would be place for live performances and dancing to be held.
3. In relation to the operating plan, the Club are seeking to increase their terminal hour from 11pm Monday to Sunday to 12midnight Monday to Sunday whilst maintaining their opening hour of 10am. The application also seeks a provision of off sales from 10am to 10pm Monday to Sunday which is expected to be utilised by members and those using the holiday home.
4. A further request for amendment to the operating plan is to include social functions to allow for receptions to be held within core hours of 10am to 12midnight Monday to Sunday. In addition, inclusion of recorded music and gaming within core hours.
5. The Club also seek to make use of seasonal variations as granted by Nithsdale Divisional Licensing Board.
6. A further variation requested is to change the current wording within their licence in relation to children to 0-17 years.

7. The application was advertised on the Board's website page from Friday 13th January 2023, simultaneously a request was made for the Club to display a notice at the premises.

The notice was checked on Monday 23rd January 2023 and was found to be on display within the bar area, contradictory to the request made to ensure the notice can be accessed by members of the public. As such, a request was made that the notice be moved and displayed in a more appropriate area.

This was checked on Monday 30th January 2023 and was found to be displayed in the car park area thus allowing those passing by or members of the public an awareness of the application.

8. The application has been submitted in keeping with Nithsdale Divisional Licensing Board policy.
9. There are no adverse comments to be made in respect of this application.

Emma Connelly
Licensing Standards Officer
30th January 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005: SECTION 30

APPLICATION: MAJOR VARIATION

PREMISES: N'DULGE, 8-10 ST ANDREW STREET, DUMFRIES

PREMISES LICENCE HOLDER: DONALD CRUIKSHANK, 107A EDINBURGH ROAD, DUMFRIES

1. Reason for Report

1.1 As this is a major variation application, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application received 7 December 2022 and detailed in **Appendix 1** to this report.

2. Background

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- Local Community Council
- NHS Dumfries and Galloway
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises).

2.2 In terms of the law, the Board is obliged to advertise notice of the application on its website for a continuous period of 21 days. The dates of display were **Friday 16 December 2022 to Saturday 7 January 2023**.

2.3 The applicant is also obliged to display a site notice of A4 size at or near the premises in a place and at a height where the notice can conveniently be read by the public on the same dates as the Board's notice.

2.4 On expiry of the 21 day advertising period the applicant must submit to the Board signed Confirmation of Site Notice before the Board may determine the application.

2.5 Signed Confirmation of Site Notice has been received.

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 6 January 2023**.

3.2 The following timeous Objections have been received:

- Objection 1 – Police Scotland (**Appendix 2**)
- Objection 2 – A Gatt (**Appendix 3**)
- Objection 3 – N Gatt (**Appendix 4**)
- Objection 4 – Sean Harper (has also submitted videos) (**Appendix 5**)
- Objection 5 – Graeme Robertson (**Appendix 6**)
- Objection 6 – Sheila Cameron (**Appendix 7**)
- Objection 7 – Peter Kormylo (**Appendix 8**)
- Objection 8 – Fiona Lees (**Appendix 9**)
- Objection 9 – Ewan McNaught (**Appendix 10**)
- Objection 10 – Anne Lindsay (**Appendix 11**)

3.3 The following Objection has been received after 6 January 2023 deadline:

- Dated 16 January 2023

Where an Objection is received outwith the statutory deadline, the Board may treat it as not made.

Where the Board considers that there are good reasons not to treat the objection as not made despite its being entitled to do so, the Board is to consider whether it is in the interests of justice to postpone or adjourn the hearing at which the application in question is to be determined.

4. Responses

- LSO report: no adverse comments **Appendix 12**
- Environmental Health: no objection
- Planning: no planning issues
- Building Standards: no adverse comments
- SFRS: no comments

5. Determining the application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

5.2 The Board must consider whether any of the grounds for refusal apply and

- (i) If NO ground of refusal applies, the Board must GRANT the application
- (ii) If ANY ground of refusal applies, the Board must REFUSE the application.

5.3 The section 30(5) grounds for refusal are:-

- The application must be refused under
 - Section 32(2) (where the Board has refused a premises licence variation application in respect of the same premises and seeking the same variation and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances justifying the sale of a 24 hour operation have not been proven)
 - Section 65(3) (the application is for off sales outwith 10am to 10pm)

- Licensing Objectives ground of refusal

The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm)

- Unsuitability of the premises

That having regard to:-

- a) the nature of the activities proposed to be carried on in the premises
- b) the location, character and condition of the premises; and
- c) 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.

- Overprovision

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. Recommendation

6.1 Members are asked to consider whether they wish to treat the Objection received 16 January 2023 as made or not made in terms of paragraph 3.3 above and

6.2 Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Council Offices
Municipal Chambers
Buccleuch Street, Dumfries

15 February 2023

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Nithsdale Divisional Licensing Board
Application for Variation of Premises Licence

Applicant/Agent	TLT Solicitors For Donald Cruickshank 107a Edinburgh Road Dumfries DG1 1JX
Address of Premises	N'Dulge 8-10 St Andrew Street Dumfries DG1 1BS
Nature of Variation	<u>Operating Plan</u> Q2) Allow a terminal hour of 4am Monday to Sunday
Last Date for Objections/Representations	Friday 6 January 2023

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OFFICIAL SENSITIVE: POLICE AND PARTNERS**Appendix 2**21st December 2022

Your Ref: L.2/079N

Our Ref: CGC/HJR/684955

**POLICE
SCOTLAND**

Keeping people safe

Democratic Services Manager
Nithsdale Divisional Licensing
Chief Executive Service
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

LICENSING (SCOTLAND) ACT 2005**APPLICATION FOR THE VARIATION OF A PREMISES LICENCE**

**PREMISES: N'DULGE, 8 ST ANDREW STREET, DUMFRIES, DUMFRIES & GALLOWAY,
DG1 1BS.**

LICENCE HOLDER:

DONALD CRUICKSHANK, 107A EDINBURGH ROAD, DUMFRIES, DG1 1JX

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 changing the Operating Plan to amend the terminal hour from 0300 hours to 0400 hours Monday through Sunday.

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

In terms of Section 22(1)(a) of the same Act, I make the following objection in relation to the Operating Plan.

With regards to the later terminal hours Monday through Sunday from 0300 – 0400 hours I submit that this is out with Nithsdale Licensing Board Policy which states:

The closing hour will be restricted to 1am at the latest except in premises where the sale of alcohol is considered by the Board to be ancillary to entertainment where the closing hour might be 2am.

The premise is currently licensed until 0300 hours Monday – Sunday with the provision of entertainment. As noted above, if entertainment is not provided the terminal hour for on sales will be 0100 hours.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

The premises is not part of the night time economy, it is not a Nightclub, That said it is already operating in exception to Board policy by benefiting from a terminal hour of 0300 hours, 7 days a week.

The premise is classified as a Public House or Bar as opposed to a late night opening venue and is located within an area with both commercial and residential properties. The terminal hour of 0300 hours is already in contravention of the Licensing Board Policy and to extend it further to 0400 hours only escalates the potential for increased noise pollution and associated anti-social behaviour and violence in the area. It is considered that any further extension to the terminal hour would undoubtedly increase complaints in this area.

The premises currently caters for functions out with core hours such as for weddings, funerals and birthdays. It also provides restaurant facilities again out with core hours as well as conference facilities. None of these functions form part of a night time economy plan, yet the applicant has stated that the application has been submitted for the purpose of generating extra business. The premises already opens for other business as noted above from 0800 hours. Further to this, if this application were to be granted their core hours would permit the consumption of alcohol on their premises for a straight 16 hours. It is also noted that the applicant has stated that door stewards will remain in place until 0400 hours if granted. However I submit the following information to the board, when door stewards are already in place.

Police Scotland have completed analytical work surrounding our licensed premises/hotels/disco-dance halls in the region over the past year. I should like the board to take note of the following data:

- N'Dulge has the highest number of crimes recorded than any other licensed premise in the Dumfries and Galloway region.
- of these crimes, Assault features most often – where the use of weapons and spiking incidents are recorded
- this is followed by Sexual Offences, Drug Offences and Weapons.

There have been 36 incidents at N'Dulge licensed premises in the previous 12 months, with 46 routine inspections carried out. It could be suggested then that this premise receives Police interaction or intervention on average every 4 days which is disproportionate to other premises.

To provide examples of the types of incidents recorded and culture within the premises in the preceding 12 months I refer to the below:

- 0300 hours, 20.02.2022
Approximately 200 persons in a mass disturbance outside the premises with persons assaulted.
- 0300 hours, 06.03.2022
The DJ working in the premise was found collapsed and semi-conscious. He was taken to hospital. He later admitted to having been drinking all night and to have taken controlled drugs whilst working.
- 0010 hours, 18.04.2022
Mass disturbance and fight outside the premises
- 2330 hours 28.05.2022
Patron sustained a head injury within the premises having been hit on the head by another patron.
- 0100 hours 25.06.2022
Male traced within the toilets of the premises (by door staff) having just consumed controlled drugs. On search this male was in possession of further controlled drugs and an offensive weapon.
- 0230 hours 19.09.2022
Male patron threw glass down the stair well of the premises.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

- 0245 hours 13.11.2022
Female patron sexually assaulted within the premises.
- 0130 hours 04.12.202
Serious assault outside the premises resulting in permanent disfigurement.

The location of the premise is such that there is a tendency for patrons to remain and linger in the area outside. This premise usually runs to capacity over the weekend which is 345 patrons. This combined with other nearby licensed premises can result in a crowd of approximately 1000 persons congregating in the area. This can cause a bottle neck immediately outside the premises. As such calls outside the premise continue to be of similar nature in terms of assault, drugs offences and a vast number of anti-social behaviour calls, shouting, swearing and urinating in residential and commercial doorways. Alongside this is the risk of vehicular traffic in the area. The strain this places on Police resources in one area of the town alone cannot be underestimated.

The analytical work providing this data is not available to the board as it is configured from Policing systems as a management tool, to provide proportionate responses to the various and conflicting demands placed on Police Scotland.

Reducing Violence and Anti-Social Behaviour continues to be a Policing priority in Nithsdale. An extension beyond what is currently in place introduces further risk to the public and staff for alcohol related, violence, disorder and anti-social behaviour beyond the risks we already have in providing a policing service to mitigate and to maintain public safety towards the current terminal hour of 0300 hours.

Any extension to the operating hours for the applicant's premises, or any other premises enjoying similar licensed hours introduces further unnecessary risk to public safety.

An additional operating hour until 0400 hours would also introduce the risk of increased consumption of alcohol within licensed premises and a risk to people's health. With this variation people would be able to consume alcohol for 19 hours per day in Dumfries Town Centre with the earliest licensed time being 0900 hours. This could present further risk to public health and place further unnecessary demand on NHS services.

Dumfries Town Centre continues to be a location where Police Officers are deployed to prevent and reduce anti-social behaviour and associated offences. However, this request could attract more people, especially of a younger demographic, into the area. Children of 15 years and under may be permitted to the premises provided they are accompanied. Whilst young person aged 16 and 17 years may be admitted unaccompanied. The presence of children and young persons in this premise not only introduces significant risk to themselves but also introduces further risk of anti-social behaviour and other offences into the area pre, during and post the time this variation is operating in the premises.

I believe this presents significant risk to the board's objectives.

In terms of section 22(1)(a) of the Licensing (Scotland) Act 2005, I am of the opinion that the variation should be refused on the grounds that it would be inconsistent with the licensing objectives of:

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting children and young person from harm

OFFICIAL SENSITIVE: POLICE AND PARTNERS

This objection is submitted for your attention in considering this application

Yours faithfully

Carol McGuire
Chief Superintendent

RECEIVED 04 JAN 2023

4 January 2023

Vlad Valiente
 Clerk to the Licensing Board
 Municipal Chambers
 Council Offices
 Buccleuch Street
 Dumfries
 DG1 2AD

Dear Sir

**LICENSING (SCOTLAND) AT 2005
 APPLICATION FOR VARIATION OF PREMISES LICENSE
 PREMISES: N'DULGE, 8-10 ST ANDREW STREET DUMFRIES**

I write to object in the strongest possible terms to this application which would allow the premises in question to open until 4am. My objection is on the basis that not only will the proposed license extension adversely impact my quality of life as a resident of Dumfries town centre, but it will also impact public health and safety in Dumfries. Moreover, the proposed license extension runs counter to a number of local and national harm-reduction initiatives, D&G Council's overarching planning aims, and has cost impacts which will not be borne by the licensee. Rather, these costs will be borne by the council-tax-payers of Dumfries and Galloway, and by society at large.

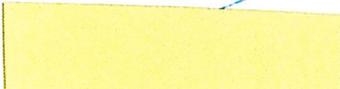
My specific objections are detailed as follows:

- The purpose of the license extension is - ipso facto - to sell more alcohol for consumption by the patrons of the establishment, increasing the availability of alcohol in Dumfries. It is clear that more alcohol consumption equals more harm to public health and safety. (<https://www.nhs.uk/live-well/alcohol-advice/the-risks-of-drinking-too-much/><https://www.nhs.uk/live-well/alcohol-advice/the-risks-of-drinking-too-much/>)
- An increase in noise nuisance (and the attendant mental stress) both from the establishment itself and its patrons on the way to and from the establishment, will be directly caused by granting of this license extension. This is bound to contribute to sleep disruption for residents nearby. Sleep deprivation is a significant problem for public health in the UK, with lower productivity levels and a higher risk of mortality resulting from sleep deprivation having a significant effect on the UK economy. <https://www.rand.org/news/press/2016/11/30/index1.html>
- An increase in noise nuisance both from the establishment itself and its patrons on the way to and from the establishment, along with other alcohol-fuelled anti-social behaviours, will be directly caused by granting of this license extension. Additional to the potential for sleep disturbance, the stress caused by these anti-social behaviours can induce or exacerbate health and wellbeing problems including cardiovascular disease, mental health problems, poor performance and learning, reduced quality of life, fear, anxiety and insecurity. <https://www.victimsupport.org.uk/crime-info/types-crime/antisocial-behaviour/>, <https://phw.nhs.wales/services-and-teams/environmental-public-health/environmental-noise-pollution/noise-pollution-accordion/what-are-the-health-risks-associated-with-noise-pollution/>
- The granting of this license extension is incompatible with nationwide alcohol harm-reduction initiatives, which are recently beginning to show positive outcomes. (<https://www.gov.scot/publications/alcohol-framework-2018-preventing-harm-next-steps-changing-relationship-alcohol/pages/3/>) Success in reducing harm from alcohol is measured in fewer lives ruined, fewer families disrupted, fewer careers curtailed, fewer communities blighted. Selling more alcohol in Dumfries would be counter to this, and will contribute to the undoing of some of the positive harm-reduction achievements which have so far been attained.

- Granting an extension to this licence would be incompatible with health aims of Dumfries and Galloway Council Plan 2023 - 2028 (<https://dumgal.gov.uk/media/27005/Draft-Council-Plan-2023-2028/pdf/DGC-Draft-Council-Plan-Dec.pdf?m=638067796628600000>) which aspires to "prevent problems from arising in the first place" and intends to "continue to promote positive health and wellbeing." Choosing to grant this license extension will be the same as choosing to undermine these aims.
- Granting an extension to this licence will increase pressure on already-stretched healthcare services. Alcohol is associated with 33% of major trauma patients and 25% of all trauma patients. (STAG Trauma Annual Report <https://www.stag.scot.nhs.uk/Publications/annual-report.html>). This is drawing healthcare resources away from other patients through no fault of their own. Moreover, alcohol has a devastating impact on chronic ill-health. Details are available on from the ScotPHO publication "Hospital admissions, deaths and overall burden of disease attributable to alcohol consumption in Scotland" <https://www.scotpho.org.uk/media/1597/scotpho180201-bod-alcohol-scotland.pdf>. The report makes for sobering reading. Pun intended. Granting this licence extension would be making a choice to exacerbate this already-alarming public health emergency.
- Increased alcohol consumption increases violent crime. 44% of violent crime is alcohol-related.(from Scottish Crime and Justice Survey 2019/20 <https://www.gov.scot/publications/scottish-crime-justice-survey-2019-20-main-findings/pages/7/>). This increases pressure on policing resources, which could be better deployed elsewhere. Granting this licence extension would be choosing to make life more difficult and dangerous for our police officers.
- Granting of this license extension would undermine efforts by D&G Council and other bodies to increase the residential population of the town centre. It is clear that granting this extension is not compatible with the aim of making the town centre a welcoming and safe place to reside. It would be choosing to make Dumfries town centre a less welcoming and more dangerous and stressful place to reside.
- It is clear that entertainment venues like that applying for this license extension are transient, "here today, gone tomorrow" enterprises, whereas - by contrast - the built heritage of Dumfries town centre is very much long-term. The initiatives underway to re-populate Dumfries town centre are in support of maintaining a sustainable way of life in the town centre, in its fine buildings which were designed for that purpose. Many of the town-centre living initiatives have the renovation and regeneration of the built environment as their central pillar. The granting of this license extension would, therefore, by undermining the liveability of the town centre, jeopardise the long-term sustainability of the beautiful built heritage and all the worthy efforts currently being made to maintain and enhance our town.
- The societal cost of alcohol-related harm (health and social care, crime and policing, productive capacity, premature mortality, and 3rd sector) to Dumfries and Galloway (albeit for the last time estimates were made, around 2010) is estimated to be in the range of ~£68m to ~£87m annually. (<https://www.alcohol-focus-scotland.org.uk/media/61444/The-Cost-of-Alcohol-Dumfries-and-Galloway.pdf>) The granting of this licence extension will increase these costs, adding to the burden on us all, through no fault of our own.

To sum up, I have detailed with references a number of objections, ranging from sleep deprivation, through town centre regeneration, to impacts on public health and societal costs, which should help you to conclude that the granting of the license extension in question is unacceptable. I therefore look forward to hearing that you have declined this application.

Yours sincerely,


A Gatt

RECEIVED 04 JAN 2023

4 January 2023

Vlad Valiente
 Clerk to the Licensing Board
 Municipal Chambers
 Council Offices
 Buccleuch Street
 Dumfries
 DG1 2AD

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To sum up, I have detailed with references a number of objections, ranging from sleep deprivation, through town centre regeneration, to impacts on public health and societal costs, which should help you to conclude that the granting of the license extension in question is unacceptable. I therefore look forward to hearing that you have declined this application.

Yours sincerely,



N Gatt

Dear Sir/Madam,

Your Ref: L.2/079N CS/003

I am writing to object to the N'Dulge application for variation of premise license for the reasons listed below.

My wife and I, and two other households have had noise complaints in with Licensing and Environmental health since July which are ongoing and unresolved. There are five residential properties on St. Andrew Street.

N'Dulge's amplified music is a major issue. Generally, they start to play music loudly from around 11 pm and gradually turn the music up as the night goes on. An extra hour of this music would add to our distress. I believe excessive noise from N'Dulge after 11pm is illegal and is a statutory nuisance as it interferes with the enjoyment of our home, causes distress, and disrupts our sleep. I've attached two clips taken on Christmas day and New years day as examples.

The doormen employed by N'Dulge are frequently very loud. Their raised voices, along with profanity can be heard up until closing time. I've attached a clip taken on Friday 16th December at midnight as an example.

Many of the customers entering and leaving the premises appear drunk. I believe an extra hour of drinking time will lead to increased crime and disorder due to increased levels of intoxication.

Customers entering and leaving the premises are extremely loud. An extension to 4 a.m. will mean this noise will carry on for an hour longer. I also think many customers from 'The Venue' which holds a capacity of 500 people will pour out at 3 a.m. and instead of going home will enter N'Dulge which I believe would be difficult to manage and could cause overcrowding issues.

Occasionally there is vomit on the street and in neighbouring doorways. An extra hour of drinking would lead to more vomit which doesn't get cleaned up by N'Dulge or the council.

St. Andrew Street is always in a dirty littered state in the mornings mainly due to cigarette butts, broken glass, chewing gum and discarded food. I believe extending the license an extra hour will increase the litter on the street.

If less police are available to be allocated to N'Dulge at 4 a.m. then I object for this reason also.

Yours faithfully,

Shaun Harper

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Syme, Cheryl

From:
Sent: 05 January 2023 09:15
To: Licensing
Cc:
Subject: EXTERNAL: OBJECTION Re Application of Premises Licence; Ref: L2/079N, N'Dulge, 8-10 St Andrews Street, DumfrieDecember 2023)

Dear Sir / Madam,

In reference to the application ref# L2/079N I wish to register my 'objection' to the proposed one hour extension to the current terminal hour of 03.00(am) across Monday to Sunday.

My rationale for this relates to;

- Noise and disturbance from patrons leaving the premises before and after 03.00 currently disrupts sleep frequently. This being most prominent in the form of shouting, singing, screaming, vehicle doors banging and often horns being sounded (sound travels further in the absence of daytime traffic noise)
- The premises is a public house and not a night club and therefore no reason to trade until 04.00 across seven days
- The area is becoming more residential
- We received no notification of the previous 03.00 extension across seven days and if so, this would have been objected to at the time

Comment

When buying a house within a central area it is expected that evening noise will occur with Friday and Saturday being the most prominent. Since the extension to 03.00 the level of noise experienced during weekday early mornings has greatly increased and now it is a regular occurrence that some form of disruption occurs.

I understand that the licensee cannot control the actions of patrons once they leave the premises, however by facilitating and offering a service which involves alcohol until these hours it is an unfortunate 'by-product' that disruption will be more likely occur, in turn impacting on local residents.

Other issues encountered are as below, however please note I am very aware that these cannot all be attributed to patrons of the premises. I can be very clear that these issues have significantly increased over the last few months during weekday early mornings since the 03.00 extension. We have lived in the property for five years and so we are very well aware of the noise patterns encountered.

- Urine on door or basement yard area (frequent)
- Sickness on doorstep (last week three times)
- Cars being used as leaning posts
- Property damage (pots and planting)

I have no opposition to occasional extension for 'one off, special or unique events' as long as prior notification is received.

Yours,

Syme, Cheryl

From: Licensing
Sent: 06 January 2023 11:57
To: Syme, Cheryl
Subject: FW: EXTERNAL: Ref L.2/079N CS/003 Application for Variation of premises licence - Premises N'Dulge 8-10 St Andrews Street Dumfries.

OFFICIAL

OFFICIAL

From:
Sent: 05 January 2023 19:52
To: Licensing <licensing@dumgal.gov.uk>
Subject: EXTERNAL: Ref L.2/079N CS/003 Application for Variation of premises licence - Premises N'Dulge 8-10 St Andrews Street Dumfries.

Ref L.2/079N CS/003

Dear Sirs

I wish to object to the proposal to allow a terminal hour of 4.am Monday to Sunday at N'Dulge 8-10 St Andrew Street Dumfries.

I think the proposal is detrimental to Dumfries Town Centre . I have to question - what is the need for this extension? Why is this proposal even going to the Licensing Board as I really can not see any requirement for this extension. If any of the members of the licensing board lived in the neighbourhood I am 100% certain they would Not approve this application.

The increase in **ANTISOCIAL** behaviour in Dumfries Town Centre is disgraceful and the Police seem impotent in doing anything about it . I live at _____ and in the last five years I have witnessed a dramatic decline in the area and increase in the antisocial behaviour more often than not fuelled by alcohol and drugs.

The **Noise** from the Burns Centre area is unacceptable. The volume of **music** coming from N'dulde and the Venue is far too high. The levels at the moment are far too high and to extend this further is completely unacceptable. Especially on a Saturday where the extension affects Sunday morning.

The **Noise** from the **drunken/ Drug filled** youths is unacceptable . The **screaming - shouting swearing** is intolerable and to extend this even further is ridiculous . To extend the hours would make matters worse.

The **Noise from Vehicles** ie Taxis - Police cars/vans and **Back firing young peoples cars** in Castle Street is unacceptable at the moment and again to extend this further makes matters worse.

The **Noise** from drunken/drug filled individuals using Castle Street as a **route to** George Street/ Nith avenue /and the **Bridge** across the Nith. There are frequently aggressive fights on this route.It is unacceptable and again if you extend the operating hours this will drag out the unacceptable antisocial behaviour .

The **antisocial behaviour** is ever increasing and I find it alarming that the situation is getting worse and nothing seems to be getting done about it. I think it is a minority of people but I wonder **why is the licensing Board pandering to a minority** of badly behaved youths?

Frequently I open my front door after a noisy weekend and encounter the residue of alcohol/ drug induced youths. My door step is used as a toilet and they urinate and "Poo " on my door step . They are sick at my entrance . There is frequently broken glass and rubbish thrown carelessly and dangerously away. I have seen youngsters climb on top of my car. I have had lipstick drawn all over my car. The rear of my car was smashed. The list goes on. I do not think anyone is taking any notice of the increase on antisocial behaviour as it is at the moment and to extend the licensing hours can do nothing but make matters worse. The licensing Board has a lot to answer for.

I moved into the centre of Dumfries approximately 5 years ago because I wanted to support the regeneration of Dumfries and encourage more people to live in town. My understanding is that upwards of 10million pounds is being spent by the town centre to Regenerate the area . No one seems to be tackling the increase in antisocial behaviour and a further extension to the licensing hours will further aggravate a totally unacceptable . Extending Licensing hours to unacceptable times can not be part of the town centre regeneration,.

If you allow the extension of this license does it not set a precedence to give other premises an extension.

If they stay open later - they will not come out until later and even the pub is making no more money.....

Why would you even consider it.

I would be grateful if you would acknowledge receipt of this email.

Yours Faithfully,

Miss Sheila Cameron

Syme, Cheryl

From: Syme, Cheryl
Sent: 09 January 2023 09:15
To: Syme, Cheryl
Subject: FW: EXTERNAL: 4.am. Licensing Application N'Dulge

OFFICIAL

OFFICIAL

From:
Sent: 04 January 2023 18:36
To:
Cc:
Subject: EXTERNAL: 4.am. Licensing Application N'Dulge

You don't often get email from [earn why this is important](#)

Licensing Application to Nithsdale Divisional Licensing Board

L.2/2/079N CS 003

N'Dulge, 8-10 St.Andrew Street, Dumfries

To; Tony Berretti, John Campbell, Linda Dorward, Ivor Hyslop (Convener), Emma Jordan, Tracey Little

Dear Ivor and Members of the Licensing Board,

None of you live within a stone's throw of the premises seeking this ridiculous application to extend opening hours, so I implore you to imagine what weekends presently mean for those of us who live within earshot of N'DULGE and Burns Square.

The N'DULGE premises is a public house not a nightclub.

You should be aware of the number of premises in Castle Street and George Street where residents now live-this allows us to underline that we are technically a residential area

Every weekend we put up with a 3 p.m. decanting of the pubs in The Burns Statue area.

This at present means EVERY weekend disruption to our sleep from the anti-social behaviour exercised by the outpouring of 'revellers' from these hostelrys.

Here are some of the common behaviours of those who presently exit at the 3.a.m. abnormal hour (about which we local residents were never consulted)

1. 'Revellers' shouting and arguing at the top of their voices in Burns' Square for the full hour after closing.
2. Unrestricted screaming and aggressive behaviour towards each other,
3. Waiting cars and taxis sounding horns, revving over loudly, some deliberately backfiring engines to cause a maximum amount of noise.
4. Drunken singing and loud anti-social behaviour all the way down Castle St., George St., Nith Ave. to the Greensands Bridge and into Sandside.
5. Urinating in private doorways
6. Throwing bottles onto the road, into our stairwells and basement areas (which smash).
7. Climbing onto parked cars.
8. Plants stolen from front doorways
9. Windscreen wipers torn from parked cars

None of the above behaviours are an exaggeration as police records will confirm.
Are you seriously going to allow these extended hours to disrupt the lives of law abiding neighbouring residents?

So the weekend behaviour now threatens to become nightly?

This is grossly unfair to all the peace-loving residents of the aforementioned streets who diligently pay their council tax.

How does this anti-social behaviour fit with the council's long term strategy of encouraging people to return to dwell in the centre of town?

If this application is approved by the licensing board can you please, immediately by return, inform us of the appropriate Ombudsman to which we residents can turn?

And finally are we allowed to attend your meeting?

RSVP

Yours sincerely,

Peter

Peter D. Kormylo PhD

Syme, Cheryl

From: Licensing
Sent: 09 January 2023 09:27
To: Syme, Cheryl
Subject: FW: EXTERNAL: Re: Ref L.2/079N CS/003 Application for Variation of premises licence - Premises N'Dulge 8-10 St Andrews Street Dumfries.

OFFICIAL

From:
Sent: 05 January 2023 20:28
To: Licensing <licensing@dumgal.gov.uk>
Subject: EXTERNAL: Re: Ref L.2/079N CS/003 Application for Variation of premises licence - Premises N'Dulge 8-10 St Andrews Street Dumfries.

Dear Sirs,

I live at _____ I support all that Sheila Cameron states below. We were encouraged to invest in Dumfries town centre to support regeneration and to create a pleasant residential environment , but are being rewarded by squalor and anti social behaviour caused by late night revelry, and day time come to that. What a great shame for a historic and beautiful town centre.

Fiona Lee

Subject: Ref L.2/079N CS/003 Application for Variation of premises licence - Premises N'Dulge [8-10 St Andrews Street Dumfries.](#)

Date: 5 January 2023 at 19:51:41 GMT

To: licensing@dumgal.gov.uk

Ref L.2/079N CS/003

Dear Sirs

I wish to object to the proposal to allow a terminal hour of [4.am](#) Monday to Sunday at N'Dulge [8-10 St Andrew Street Dumfries.](#)

I think the proposal is detrimental to Dumfries Town Centre . I have to question - what is the need for this extension? Why is this proposal even going to the Licensing Board as I really can not see any requirement for this extension. If any of the members of the licensing board lived in the neighbourhood I am 100% certain they would Not approve this application.

The increase in **ANTISOCIAL** behaviour in Dumfries Town Centre is disgraceful and the Police seem impotent in doing anything about it . I live at _____ and in the last five years I have witnessed a dramatic decline in the area and increase in the antisocial behaviour more often than not fuelled by alcohol and drugs.

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The **Noise** from drunken/drug filled individuals using Castle Street as a **route to** George Street/ Nith avenue /and the **Bridge** across the Nith. There are frequently aggressive fights on this route.It is unacceptable and again if you extend the operating hours this will drag out the unacceptable antisocial behaviour .

The **antisocial behaviour** is ever increasing and I find it alarming that the situation is getting worse and nothing seems to be getting done about it. I think it is a minority of people but I wonder **why is the licensing Board pandering to a minority** of badly behaved youths?

Frequently I open my front door after a noisy weekend and encounter the residue of alcohol/ drug induced youths. My door step is used as a toilet and they **urinate** and "Poo " on my door step . They are sick at my entrance . There is frequently **broken glass** and rubbish thrown carelessly and dangerously away. I have seen youngsters climb on top of my car. I have had lipstick drawn all over my car. The rear of my car was smashed. The list goes on. I do not think anyone is taking any notice of the increase on antisocial behaviour as it is at the moment and to extend the licensing hours can do nothing but make matters worse. The licensing Board has a lot to answer for.

I moved into the centre of Dumfries approximately 5 years ago because I wanted to support the regeneration of Dumfries and encourage more people to live in town. My understanding is that upwards of 10million pounds is being spent by the town centre to Regenerate the area . No one seems to be tackling the increase in antisocial behaviour and a further extension to the licensing hours will further aggravate a totally unacceptable . Extending Licensing hours to unacceptable times can not be part of the town centre regeneration,.

If you allow the extension of this license does it not set a precedence to give other premises an extension.

If they stay open later - they will not come out until later and even the pub is making no more money.....

Why would you even consider it.

I would be grateful if you would acknowledge receipt of this email.

Yours Faithfully.

Miss Sheila Cameron

OFFICIAL

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Syme, Cheryl

From: Licensing
Sent: 09 January 2023 09:26
To: Syme, Cheryl
Subject: FW: EXTERNAL: OBJECTION L2/079N Ndulge 8-10 St Andrew St

OFFICIAL

OFFICIAL

From:
Sent: 06 January 2023 16:38
To: Licensing <licensing@dumgal.gov.uk>
Subject: EXTERNAL: OBJECTION L2/079N Ndulge 8-10 St Andrew St

Dear Sir / Madam,

I wish to object to Ndulge's application for a proposed 4am terminal hour application, Mon - Sun.

Our grounds for objection are as follows:

A public house should not be open later (or to the same time) as a nightclub.

A public house has the opportunity to trade during the day, serve food and cater to families etc all day long, a nightclub has a limited time it can attract an audience, this being late at night.

The traditional 1 hour (and not too distant-ago, 2 hour) differential between public houses and nightclubs helped to guarantee the sustainable future of nightclubs. The Venue is a long established, large, local employer to the region. To allow the proposed application could jeopardise that.

We have already seen a downturn in the level of customers visiting the nightclub since the grant of Ndulge's 3am licence.

We initially did not object to the 3am application due to the applicant's personal promise to us of "not using" the extension and was merely to make the business "look more attractive to a prospective purchaser" however we have since found to be false.

We would also like to point out that Ndulge traded as a "Public House" rather than a "Nightclub" during Covid lockdowns, as they were able to (and did) trade freely when we were forced to close, to stop the spread of CoronaVirus, as there was a blanket prohibition on all dedicated nightclubs trading.

Lastly we feel that with us closing at 3am, as a 520 capacity Nightclub, we know from recent experience that the majority of our customers then travel to "Chancers" to enjoy the final hour until 4am. For ease, these customers would then most likely look to travel closer to enjoy a further hour and

this would become a public safety issue with 500+ patrons all descending an already full public house with a significant lesser capacity.

Best Regards,

Ewan McNaught
Director
The Venue
6-7 Church Place
Dumfries
DG1 1BW

Appendix 11**From:** Anne Lindsay**Sent:** 05 January 2023 11:47**To:****Subject:** EXTERNAL: L.2/2/079N CS 003 N'Dulge, 8-10 St Andrews Street, Dumfries

You don't often get email from ivananne@gmail.com. [Learn why this is important](#)

Dear Ivor Hyslop and Licencing Board members,

I wish to lodge an objection to the above captioned licensing application. Unfortunately the Loreburn Community Council is not scheduled to meet until the 17th of this month, leaving insufficient time to properly canvas its membership for their opinion on the matter. Therefore my objection cannot be considered a corporate objection. However, I am certain that other LCC members would raise the same objections as Peter Kormylo has to the N'Dulge proposal.

In addition to echoing Dr. Kormylo's observations and concerns I would like to add that whilst families who choose to live in or near a town centre must accept noise levels beyond that than a suburban or rural dweller, local authorities can endeavor to curtail excessive noise - through noise bylaws and enforcement teams. I'm not sure if our local authority possesses this capacity, or has sufficient staff to take consistent action when acceptable noise levels are exceeded. However, the local authority can scrutinize development proposals and take into account the noise pollution factor and decide against approval.

There is a large body of research on the deleterious impact of noise pollution on physical and mental health. Noise can be measured and its impacts on health can be measured. Has the submitter appended any impact studies to the proposal? In the same way antisocial behaviour, especially property damage, has a huge impact on neighbourhoods and the families forced to contend with the impact of such behaviour.

Residents should be able to feel safe in their own homes. Sadly that is sometimes not the case.

For these reasons I would ask that the N'Dulge proposal be rejected

Regards,

Anne Lindsay
Chair, LCC

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005 (2005 Act): SECTION 28
PREMISES CEASED TO BE USED FOR THE SALE OF ALCOHOL
PREMISES: ELMARGLEN, 11 WEST MORTON STREET, THORNHILL
LICENCE HOLDER: DAVID CLOTART, ELMARGLEN HOTEL, 11 WEST MORTON
STREET, THORNHILL**

1 Reason for Report

Members are asked to determine whether the above premises have ceased to be used for the sale of alcohol, the consequence of which is that the Premises Licence will cease to have effect.

2 Background

2.1 In terms of section 28 (5) (b) 2005 Act, a premises licence ceases to have effect if the premises to which the licence relates have ceased to be used for the sale of alcohol.

2.2 The effect of a premises licence ceasing to have effect is that it may not thereafter be resurrected. It cannot be transferred. It is therefore treated as 'void' in law.

2.3 There are also issues with regard to non payment of the annual fees.

2.4 When a premises licence is in effect or suspended, a mandatory condition of the licence is that the premises licence holder must pay the annual fee in accordance with the Licensing (Scotland) Fee Regulations 2007.

2.5 Annual fees for all premises are due on 1 October each year or, if that day is a Saturday or Sunday, they are due on the following Monday.

2.6 The full annual fee due in respect of Elmargin Hotel is £220 annually and the following annual fees remain unpaid in breach of a mandatory condition:

- 2022/23: outstanding annual fee of £220
- 2021/2022: outstanding annual fee of £220

2.7 With regard to outstanding fees, the following correspondence has been sent to the Licence Holder's address:

- Letter dated 8 September 2021: 2021/22
- Letter dated 30 November 2021: 2021/22 – **Appendix 1**
- Letter dated 2 September 2022: 2022/23 – **Appendix 2**
- Letter dated 15 December 2022: 2021/22 and 2022/23 – **Appendix 3 (returned by Royal Mail marked 'addressee gone away')**
- Letter dated 15 December 2022 the Board meeting – **Appendix 4 (returned by Royal Mail marked 'addressee gone away')**

2.8 LSO report with accompanying photographs: **Appendix 5**

2.9 Further attempts to contact the licence holder have been made unsuccessfully. Emails have been sent to the email address held on the licensing system and said emails have been returned as 'Undeliverable'. Calls have also been made to the telephone number held on the licensing system and the response has been number not available.

3 Considerations

3.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision.

3.2 Notwithstanding all the steps detailed above, the annual fees remain unpaid for the years 2021/22 and 2022/23.

3.3 Furthermore, no verbal or written correspondence has been received by the Licensing team in relation to the attached correspondence detailed at Appendices 1, 2, 3, 4 and 5.

4 Recommendation

4.1 Members are asked to make a determination as to whether they are satisfied that, based on all the information before them, that the premises have ceased to be used for the sale of alcohol and therefore the premises licence has ceased to have effect.

Vlad Valiente
Clerk to the Licensing Boards
Municipal Chambers
Buccleuch Street, Dumfries

15 February 2023

Your Ref:

Our Ref: L.1/013N/CS

30 November 2021

David Coltart
Elmarglen Hotel
11 West Morton Street
Thornhill
DG3 5ND

Licensing

Nithsdale Divisional Licensing Board
Municipal Chambers
Buccleuch Street
Dumfries DG1 2AD

Any enquiries please contact

Cheryl Syme

Direct Dial 01387 245903

E-mail cheryl.syme@dumgal.gov.uk

Dear Sir/Madam

LICENSING (SCOTLAND) ACT 2005

ANNUAL FEE 2021/22 – DUE 1 OCTOBER 2021

PREMISES: ELMARGLEN HOTEL, , 11 WEST MORTON STREET, THORNHILL, DG3 5ND

I wrote to you recently reminding you that in accordance with Regulation 9 of the Licensing (Fees) (Scotland) Regulations 2007 the annual fee for the above premises (£220) was due to be paid on or before 1 October 2021.

As I have not yet received the payment, I would be grateful if you could now arrange for this to be made. Payment can be made by one of the following ways:-

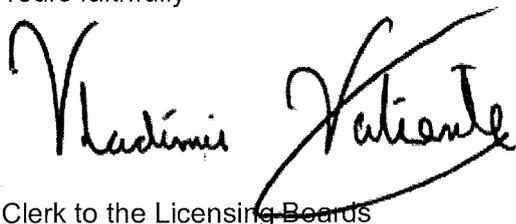
In Full – by cheque (made payable to Dumfries and Galloway Council) or Debit or Credit Card. We will not be accepting cash payments at this time.

On Invoice – you must contact the Licensing office on the above telephone number or email address to arrange for an invoice to be issued to you before payment is made. It would be helpful if you could provide an email address to ensure invoices are issued more efficiently.

Please do not make payment by BACS payment without asking for an invoice to be issued. This allows us to match your payment to our system and your customer account.

I would remind you that payment of the annual fee is a specific condition of the Premises Licence (Mandatory Condition 10).

Yours faithfully



Clerk to the Licensing Boards

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Your Ref:

Licensing

Our Ref: L.1/013N CS/022

Nithsdale Divisional Licensing Board

Municipal Chambers

2 September 2022

Buccleuch Street

Dumfries

DG1 2AD

Mr David Coltart
Elmarglen Hotel
11 West Morton Street
Thornhill
DG3 5ND

Any enquiries please contact

Licensing

Direct Dial 01387 245903

E-mail licensing@dumgal.gov.uk

Dear Sir

**LICENSING (SCOTLAND) ACT 2005
ANNUAL FEE 2022/23 – DUE 1 OCTOBER 2022
PREMISES: ELMARGLEN HOTEL, 11 WEST MORTON STREET, THORNHILL**

I am writing to give you notice in accordance with Regulation 9 of the Licensing (Fees)(Scotland) Regulations 2007, that the annual fee for the premises referred to above is £220 and is due for payment on or before 1 October 2022.

The annual fees may be paid by one of the following ways:-

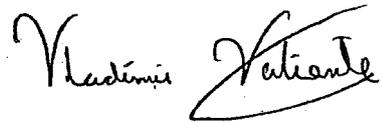
- In Full – by cheque (made payable to Dumfries and Galloway Council) or debit or Credit Card on or before 1 October 2022. We will not be accepting cash payments at this time.
- By direct debit – in 4 or 12 instalments over the course of the year. If you currently pay by direct debit, this will continue unless you advise me otherwise. If you do not pay by direct debit but would wish to do so, please contact the Licensing office at Licensing@dumgal.gov.uk to request a direct debit mandate form. It would be helpful to provide the email address where you would wish the invoices sent.
- On Invoice – you must contact the Licensing Office on the above telephone number to arrange for an invoice to be issued to you before payment is made. Again, it would be helpful if you could provide an email address to ensure invoices are issued more efficiently.

Please do not make payment by BACS payment without asking for an invoice to be issued. This allows us to match your payment to our system and your customer account.

I would/...

I would remind you that payment of the annual fee is a specific condition of the Premises Licence (Mandatory Condition 10).

Yours faithfully

A handwritten signature in black ink, appearing to read "Madeline Katiende". The signature is written in a cursive style with a large, sweeping flourish at the end.

Clerk to the Licensing Board

Your Ref:

Our Ref: L.1/013N CS/023

15 December 2022

Mr David Coltart
Elmarglen Hotel
11 West Morton Street
Thornhill
DG3 5ND

Licensing

Nithsdale Divisional Licensing Board
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Any enquiries please contact

Licensing

Direct Dial 01387 245903

E-mail licensing@dumgal.gov.uk

Dear Sir

LICENSING (SCOTLAND) ACT 2005

ANNUAL FEE 2021/22 – DUE 1 OCTOBER 2021

ANNUAL FEE 2022/23 – DUE 1 OCTOBER 2022

PREMISES: ELMARGLEN HOTEL, 11 WEST MORTON STREET, THORNHILL

I am writing regarding the outstanding annual fee payments shown above. In accordance with Regulation 9 of the Licensing (Fees)(Scotland) Regulations 2007, the annual fee for 2021/22 was due on 1 October 2021 and the annual fee for 2022/23 was due on 1 October 2022. The yearly annual fee is £220. The total amount owed is £440.00.

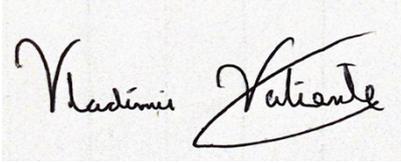
The annual fees may be paid by one of the following ways:-

- In Full – by cheque (made payable to Dumfries and Galloway Council) or debit or Credit Card. We will not be accepting cash payments at this time.
- On Invoice – you must contact the Licensing Office on the above telephone number to arrange for an invoice to be issued to you before payment is made. It would be helpful if you could provide an email address to ensure invoices are issued more efficiently.

Please do not make payment by BACS payment without asking for an invoice to be issued. This allows us to match your payment to our system and your customer account.

I would remind you that payment of the annual fee is a specific condition of the Premises Licence (Mandatory Condition 10).

Yours faithfully

A handwritten signature in black ink on a light-colored background. The signature reads "Vladimir Valiente" in a cursive script. The first name "Vladimir" is written in a standard cursive, while the last name "Valiente" features a large, sweeping flourish that loops back under the name.

Clerk to the Licensing Board

Your Ref:

Our Ref: L.1/013N CS/024

15 December 2022

Mr David Coltart
Elmarglen Hotel
11 West Morton Street
Thornhill
DG3 5ND

Licensing

Nithsdale Divisional Licensing Board
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Any enquiries please contact

Licensing

Direct Dial 01387 245903

E-mail licensing@dumgal.gov.uk

Dear Sir

LICENSING (SCOTLAND) ACT 2005

ANNUAL FEE 2021/22 – DUE 1 OCTOBER 2021

ANNUAL FEE 2022/23 – DUE 1 OCTOBER 2022

PREMISES: ELMARGLEN HOTEL, 11 WEST MORTON STREET, THORNHILL

I am writing regarding the premises licence for the Elmarglen Hotel, 18 West Morton Street, Thornhill. The annual fees for this premises have not been paid for 2021/22 and 2022/23 and investigations have led us to believe that you are no longer at the premises and that it is no longer being used for the sale of alcohol. As the premises licence is still current, as it has not been surrendered, a report will be put before the Nithsdale Divisional Licensing Board to consider whether the premises has ceased to be used for the sale of alcohol and to consider the unpaid annual fees.

The Board will consider this matter at a remote meeting of the Board to be held on **Thursday 23 February 2023 at 10.30am**. This meeting will be held remotely and you should be in attendance. Please confirm which of the following means of contact is your preference.

- Telephone;
- Written representations (stating your case via email to the Board) or
- Video conference.

I would advise you to take legal advice on these matters and it would be extremely helpful if you could contact the Licensing Department to update us on what is happening with the premises and to discuss outstanding matters with us. I have attached letters dated 30 November 2021, 2 September 2022 and 15 December 2022.

Yours faithfully

A handwritten signature in black ink, appearing to be 'M', enclosed within a thin black rectangular border.

Clerk to the Licensing Board

Appendix 5**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005:
OUTSTANDING ANNUAL FEES, PREMISES: ELMARGLEN, 11 WEST
MORTON STREET, THORNHILL, DG3 5ND**

1. Elmaglen is situated in Thornhill and currently holds a premises licence (No. L.1/013N) which was initially granted in August 2008.
2. When the licence was first issued, the premises operated as a 5 bedroomed hotel with public bar and beer garden with a 20 cover restaurant and facilities for fishing/shooting meetings in the lounge upstairs.
3. The current licence holder is recorded as being David Coltart with the contact address of Elmaglen, 11 West Morton Street, Thornhill, DG3 5ND.
4. The annual fee relative to the premises licence of £220, has not been paid for period 2021/22, in addition, there is an outstanding balance of £220 for period 2022/23.
5. The following written reminders were sent to the licence holder;
 - (a) 1st reminder sent out on 8 September 2021
 - (b) 2nd reminder sent out on 30 November 2021
 - (c) 1st reminder sent out on 2 September 2022
 - (d) 2nd reminder sent out on 15 December 2022

There has been no communication with the licensing office in respect of these reminders.

6. In March 2020 the licensed premises were forced to close in conjunction with to the UK Government response to the global Covid pandemic. At some stage thereafter, it became apparent that the owner had sold the premises.
7. The premises were visited on 18 November 2022 and was found to be vacant although there was clear works being undertaken within the property with a skip being noted outside. A further visit was undertaken on 23 January 2023 and the writer was able to speak with the new owners who confirmed they have purchased the property and it has been converted into a dwelling house. The new owners are currently seeking a change of use through the Local Authority.

8. The attached photographs confirm the current position with the premises.
9. The outstanding annual fees remain unpaid and from all the information available the premises are unlikely to reopen as licensed premises at any stage soon having been converted to a residential dwelling.

All efforts to track down the existing licence holders have been unsuccessful and from the evidence available, the business has ceased trading with no likelihood of reopening.

Emma Connelly
Licensed Standards Officer
7 February 2023









**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005 (THE 2005 ACT): SECTION 84A
CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: LUCY FORTEATH**

1. Reason for Report

1.1 On 7 October 2022, the Chief Constable, in terms of his power under section 84A the 2005 Act, submitted to the Board a report alleging that Lucy Forteath, the holder of a personal licence, has acted in a manner that is inconsistent with the licensing objectives of Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance. **(Appendix)**.

1.2 When the Board receives a section 84A report it must hold a Hearing.

2. Background

2.1 A Personal Licence issued by a Licensing Board authorises the licence holder to supervise or authorise the sale of alcohol.

2.2 This matter called before the Board at its Hearing on 22 November 2022. As Ms Forteath was not in attendance at that Hearing the Board decided to defer consideration of the matter to the next scheduled Hearing to allow more contact to be made with the personal licence holder to encourage her to attend in terms of natural justice.

2.3 Since 22 November 2022 Hearing, the licensing team has made the following attempts to contact Ms Forteath:

- letter and Notice of Hearing were sent to Ms Forteath by email on 25 November 2022 and via 1st class post on 28 November 2022;
- Same letter and Notice of Hearing sent to Ms Forteath again by email and 1st class post on 26 January 2023.

3. Determination

3.1 At its Hearing the Board may, after giving

- the licence holder concerned and
- such other persons as they consider appropriate an opportunity to be heard and
- if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order to:
 - a) revoke the licence;
 - b) suspend the licence for a maximum 6 month period as the Board considers appropriate; or
 - c) endorse the licence. (an endorsement expires after five years)

3.2 It is also open to the Board to take no action.

3.3 If, at the Hearing, the Board is satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence then the Board must make an order revoking the licence.

4. Recommendations

4.1 Members are asked to consider whether they wish to revoke, suspend, endorse the licence or take no action; and

4.2 Note that if a determination is made that the licence holder is not a fit and proper person to be the holder of the personal licence then the Board has no discretion as to which action it wishes to take as it must, in law, revoke the licence.

Vlad Valiente
Clerk to the Licensing Boards
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

15 February 2023

OFFICIAL SENSITIVE: POLICE AND PARTNERS**Appendix**

7th October 2022

Your Ref: DG/N/1059

Our Ref: CGC/COS

Head of Democratic Services
Nithsdale Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe

Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84A
REPORT OF CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: LUCY FORTEATH, 143 LOCHSIDE ROAD, DUMFRIES,
DG2 0EA**

LICENCE NO: DG/N/1059

The Chief Constable hereby reports to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Lucy Forteath, has acted in a manner which is inconsistent with the licensing objective(s) articulated at Section 4(1) of Act, namely:

- Preventing Crime and Disorder
- Securing Public Safety
- Preventing Public Nuisance

Lucy Forteath was granted her Personal Liquor Licence by Nithsdale Divisional Licensing Board on the 26th August 2022. On 11th July 2022 Police Scotland submitted an objection to this application due previous relevant offences.

Since being granted her licence Ms Forteath has come to Police Scotland's attention on several occasions.

Thursday 22nd September 2022

On Thursday 22nd September 2022 at about 0218 hours NHS contacted Police Scotland in relation to Lucy Forteath who was having concerning thoughts about keeping herself safe. This was due to a close relative who was having relationship problems. Lucy had thoughts of being violent to a person and possible thoughts of ending her life.

Ms Forteath was traced driving by Police and stopped. She informed the Officers that she had been angry with what had happened with the close relative. She made no mention of harming

OFFICIAL SENSITIVE: POLICE AND PARTNERS

herself and said that she had already contacted the CATS (Crisis Assessment and Treatment Services) Team about how she felt. Police provided her with a further consultation with the CATS Team and provided advice.

Wednesday 5th October 2022

On Wednesday 5th October 2022 at 1320 hours Lucy Forteath's mother contacted Police Scotland with concerns for her daughter. She stated that Lucy recently went missing and was traced in London and detained there under the Mental Health Act. She was thereafter transferred to Midpark Hospital, Bankend Road, Dumfries on Monday 3rd October 2022. Lucy's mother surmised that Lucy had discharged herself from the hospital as she had since received a telephone call from bar staff at the Hole in the Wa' Public House, High Street, Dumfries – Lucy's place of work. They stated that Lucy had attended there earlier that day but was refused service due to her being heavily under the influence. She left stating she was heading to the railway station with the intention to travel to Manchester to visit a relative. Lucy's mother stated there are no relatives who reside in Manchester and when she spoke with her daughter the previous evening Lucy had expressed suicidal thoughts.

Whilst on the call to Police Scotland Lucy's mother terminated the call stating that Lucy was trying to call her. It was later established by Police that Lucy had attended at her mother's home address and was found to be under the influence of alcohol but intimated that she had no intentions of harming herself. Lucy had disclosed to her mother that she was in a low mood due to her gambling heavily on online slot games. It is unclear if Ms Forteath has an addiction to gambling, however, working within a licensed premises environment could be construed to having a detrimental effect on her health and well being. She was left in the care of her mother to ensure safeguarding. However, Police Scotland is fully committed to safeguarding those vulnerable members of our communities and work in close partnership with adult support and protection colleagues including NHS and Local Authority to minimise the risk posed.

As highlighted in this matter, it is not only a mental health issue but appears to be alcohol related to the extent that her colleagues and peers have refused to serve her.

Friday 7th October 2022

A call was received from NHS advising that they were attending to Loch Etterick following a call from Lucy Forteath who stated that she was in her vehicle at the car park and had suicidal thoughts. Police attended and traced Ms Forteath within her motor vehicle parked about 5 meters away from the 6ft drop into the loch. Officers entered the vehicle at which point Ms Forteath released the handbrake, locking her arm down on the handbrake causing the vehicle to roll towards the loch. Officers' struggled with Ms Forteath in order to release her grasp on the handbrake with them having to drag her from the vehicle and apply the brake just in time avoiding the vehicle from entering the water with a police officer and Ms Forteath within. Ms Forteath was subsequently arrested for Culpable and Reckless Conduct and checked over by ambulance staff. Ms Forteath refused consultation with CATS and would not speak with officers. Ms Forteath has been charged with Culpable and Reckless Conduct and the case is currently marked as pending.

Of the several incidents mentioned above the latest incident, which could have ended in a very different manner had it not been for the attending officers quick reaction, throws serious concerns on Ms Forteath's ability to cope with the level of responsibility required by the holder of a Personal Licence. It is Police Scotland's position that the circumstances detailed above show that Ms Forteath is currently not a fit and proper person to hold a Personal Licence.

Police Scotland is committed to maximising the safety of our communities and minimising the risk to our Officers. On this occasion the actions of Ms Forteath has placed two Officers at

OFFICIAL SENSITIVE: POLICE AND PARTNERS

significant risk of injury or harm. The potential result of which may have resulted a detrimental effect on the services provided to other members of the community.

It is the Chief Constable's view is that the Board should consider all the options open to them under Section 84(7) or 84(7A) of the Act.

In signing this report, I confirm that this report is made under the authority of the Chief Constable of Police Service of Scotland:

Yours faithfully

Carol McGuire
Chief Superintendent

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005: SECTION 12A
CHIEF CONSTABLE'S ANNUAL REPORT 2021/2022**

1. Reasons for Report

1.1 In terms of section 12A Licensing (Scotland) Act 2005 (2005 Act), the Chief Constable must, as soon as reasonably practicable after the end of each financial year, send a report to the Board setting out the matters specified in paragraph 2 below.

1.2 The Chief Constable's report to the Board for the period 1 April 2021 to 31 March 2022 is to be found at the **Appendix**.

2. Content of Chief Constable's annual report

The report must set out:

- a) Chief Constable's views about matters relating to policing in connection with the operation of the 2005 Act in the Board's area during the period of 1 April 2021 to 31 March 2022 *and*
- b) any steps the Chief Constable
 - has taken during that year (2021/2022),
 - intends to take in the following yearto prevent the sale or supply of alcohol to children or young people in that area

3. Discussion of the report

3.1 If the Board so requests, the Chief Constable or his representative must also attend the Board's meeting to discuss the report.

3.2 A request has been made to the Police to attend the Hearing in the event that Members may wish the report to be discussed.

4. Recommendation

Members are asked to receive the Chief Constable's Report for 2020-2021 for the Nithsdale Divisional Board and to note its terms.

Vlad Valiente
Clerk to the Licensing Boards
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

15 February 2023

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NITHSDALE

Licensing Report

2021-2022



POLICE
SCOTLAND
Keeping people safe

OFFICIAL
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Foreword

It gives me great pleasure to provide the Annual Licensing Report for 2021/22, in accordance with Section 12(A) Licensing (Scotland) Act 2005. Throughout this year Local Authorities and Police Scotland worked hard to support licensed premises in their road to recovery as Covid-19 restrictions were being lifted.

Collaboration is vital to ensure these businesses can flourish, providing much needed employment for our communities as well as a safe environments for people to socialise. Police Scotland will continue to work closely with Local Authorities, as well as other stakeholders, to ensure there is a fair and consistent approach across all 32 Local Authorities throughout Scotland to aid this recovery. Preventing alcohol fuelled violence, disorder and antisocial behaviour remains a priority for Police Scotland and I believe that working together we can reduce this through early intervention and enforcement.

I would like to take this opportunity to thank our local partnerships and the good work they carry out. With their support Police Scotland and partners can continue to drive improvements in licensing. I will continue to ensure that all officers and staff recognise the importance of working together with key partners, including the Licensing Trade, in an effort to improve licensing standards nationally.

Iain Livingstone QPM

Chief Constable

Police Service of Scotland

Police Scotland Licensing Overview –

The Violence Prevention and Licensing Co-ordination Unit (VPLCU) sits within Safer Communities based at Dalnarnock Police Station, Glasgow.

The VPLCU upholds the two tier structure for licensing which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams as well as undertaking other specialist functions.

The Violence Prevention and Licensing Co-ordination Unit is a specialist department which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical advice to police licensing practitioners, operational officers, supervisors and policing commanders.

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The VPLCU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2021/2022, from a licensing perspective, our particular focus was on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Working closely with Licensed Premises and Scottish Government to navigate the challenges of the COVID-19 pandemic through the 4Es approach by engaging, explaining, educating and enforcing.
- Governance and ongoing development of the National ICT Licensing System, known as “Inn Keeper”, to increase the efficiency and effectiveness of liquor and civic licensing administration and management. Police Scotland are currently working on upgrade to the National ICT system to ensure compliance with GDPR legislation.

Each of the 13 Local Policing Divisions have a licensing team responsible for the day-to-day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises in their local area.

NITHSDALE LICENSING BOARD

The Nithsdale Licensing Board area is policed by Dumfries and Galloway Division.

The Local Police Commander is Chief Superintendent Carol McGuire, who has the responsibility for all day-to-day policing functions across the region.

The Local Area Commander for the Nithsdale board area is Chief Inspector Scott Young who is assisted by Community Policing Inspector Duncan Cameron.

Local Police Officers for Nithsdale are located at police stations in Dumfries, Sanquhar and Thornhill.

All licensing matters within the Nithsdale area are processed by Police Scotland via the Divisional Licensing Unit which is overseen by Chief Inspector Stephen Bell and managed on a day to day basis by Sergeant Julia McKie.

Within the Nithsdale board area there are 192 premise licenses and 539 personal licence holders.

Nithsdale Area is the most densely populated area in Dumfries and Galloway with a mix of both rural and urban areas with the night time economy primarily being focused

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within Dumfries which is the largest centre of population. Four premises operate within Dumfries which open until 0300 hours at weekends. Nearly all of the local towns and villages within the area support licensed premises whether they be a public house or licensed retail unit. Consequently there is easy access to alcohol within all communities.

The number of visitors to the area increases during the popular holiday season of March to October as a result of a number of holiday complexes in the wider Nithsdale area. This can see an increase of instances at and around licensed premises at these locations.

Local Policing Priorities

Following our public consultation process, the policing priorities for Dumfries and Galloway Division 2020 - 2023, within our Local Policing Plan are;

1. Violent Crime, Disorder and Anti-Social Behaviour
2. Acquisitive Crime
3. Substance Misuse
4. Road Safety and Road Crime
5. Protecting Vulnerable People at Risk of Harm

OPERATION OF THE LICENSING (SCOTLAND) ACT 2005

Police Scotland within Dumfries and Galloway Division work towards upholding the 5 licensing objectives set out in the Licensing Scotland Act 2005 and the 2018-2023 statement of licensing provisions issued by Dumfries and Galloway Licensing Boards.

The 5 objectives are:

1. Preventing Crime and Disorder
2. Securing Public Safety
3. Preventing Public Nuisance
4. Protecting and Improving Public Health
5. Protecting Children and Young Persons from Harm

All licensing enquiries within the Nithsdale board area are submitted to Police Scotland via the Divisional Licensing Unit, Cornwall Mount, Dumfries led by Sergeant Julia McKie. A standard methodical process ensures each application is run through numerous police systems and the findings assessed. Where further enquiry is deemed appropriate a local community officer is appointed to make contact with the applicant to establish further details. All information is returned to the divisional licensing unit for final assessment and formal response.

To ensure thorough overview of all licensing matters, the divisional licensing unit work closely with operational response and community officers. This allows the early

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identification of any issues with licensed premises or license holders which in turn permits a co-ordinated response to any interventions requirements.

In circumstances where an application presents concern or a premise or license holder becomes problematic in a sense that their licensing status should be reviewed, the divisional licensing unit will make a representation or objection to the licensing board.

Dumfries and Galloway Division have three officers stationed at Dumfries and Galloway Royal Infirmary, the posts being part funded by the NHS. These officers regularly engage with persons attending accident and emergency during peak night time economy hours where many attendees have consumed alcohol. This link is vital to ensure that NHS staff can work in a safe environment and any trends or concerns linked to alcohol consumption can be identified early.

Dumfries and Galloway division also have a substance misuse co-ordinator, who is part funded by the Dumfries and Galloway Alcohol and Drugs Partnership (ADP). The officer works with partner agencies and health professionals to identify areas of concern. They also focus on a number of joint campaigns aimed at raising awareness of drug and alcohol misuse within our licensed premises. Alcohol awareness week was held between the 15th and 21st of November 2021 raising awareness with services such as Scottish Drug and Alcohol Services and we are with you setting up drop in centres at their premises.

Additional talks in relation to drug and alcohol misuse with young adults took place in August 2021 at Hope Place, Dumfries by ADP and Community Police Officers.

Throughout the year, officers have attended at licensed premises with a view of identifying drug misuse and offering licensees a visual identification of areas within their premises which may present an opportunity for patrons to consume drugs. The use of 'cocaine wipes' which readily identifies cocaine residue has led to a number of preventative measures being put in place by licensees in order to combat the misuse of controlled drugs within their premises.

Anti-spiking initiative

As part of the V Division Festive Safety Plan this year there has been a particular focus on anti-spiking/drugging messages and promotion of anti-spiking kits. Community policing established a positive relationship with a national charity, Spike Aware UK, the founders of which live locally in Moffat which prompted them to set up the charity and work to raise awareness.

During the busy pre-Christmas period of high visibility patrols in relation to night time economy work was undertaken with Spike Aware UK to educate and raise awareness of spiking amongst the public, licensed premises staff and door stewards. Local funding was used to purchase anti-spiking kits which were

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publicised within premises and on social media and distributed to members of the public.

This was a very successful initiative which gained significant positive feedback and support from public and partners alike.

Taxi Marshalls

Taxi Marshalls were deployed over the festive period 2021/2022 and were effective from 17th December 2021 until 2 January 2022.

With the addition of Taxi Marshalls members of the public reported that they were a welcome addition and made them feel safer whilst waiting in the taxi rank. Taxi Marshalls worked alongside Police whilst utilising the radio link system ensuring that people got home safely whilst potentially under the influence of alcohol. Their presence was also a deterrent for antisocial behaviour that mostly occurs in and around the taxi rank areas. With the closure of nightclubs due to Covid-19 this played a big part in the night time economy. There were also fewer taxis available at the rank due to many of them diversifying during the Covid lockdowns which had the potential of longer waiting times and the increase of anti-social or violent behaviour.

COVID19

In March 2020 the World Health Organisation declared the COVID19 Coronavirus outbreak a pandemic. The subsequent Government restrictions placed upon the hospitality industry resulted in long periods of closure for on sales license premises and significant changes to the operating plans of many premises.

Throughout the pandemic Dumfries and Galloway Police division have worked closely with the Local Authority Licensing, Trading Standards and Environmental Health departments. These partnerships have provide the platform to provide support and advice to licensed premise to assist them with complying with the Scottish Government guidelines and legislation. Police Scotland Strategy followed the 4 E's – Engage, Explain, Encourage, Enforce approach towards compliance with the restrictions and regulations.

The Nithsdale board area has historically had a number of local and national events throughout the year where licensing is prevalent. Unfortunately due to the Coronavirus pandemic large gatherings were not permitted and this led to the cancellation of yearly events such as Youth Beatz, Guid Nychburris and Sanquhar Riding of the Marches.

As the country moves out of the coronavirus restrictions Police Scotland will continue to support the licensed premise trade to re-establish operations and will look to re-invigorate engagement and prevention work in this area.

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In order to work towards upholding the 5 licensing objectives Police Scotland also have involvement in a number of non-statutory partnerships and initiatives to support license holders and the wider community.

PROBLEM SOLVING

Incidents involving licensed premises and people linked with the licensing trade are monitored through the Police Scotland Inn Keeper database. This system is used to identify problem areas, repeat callers and crime trends in terms of violence and anti-social behaviour that can be directly linked to licensed premises or a location nearby.

Inn Keeper is a national system that records and retains information relating to licensed premises and personal licence holders. It is a reporting tool for operational officers to record licensed premises visits and incidents and raise any concerns that arise from such visits and interactions with the premises. Information from this system can be used to highlight issues to licensed premises to allow them to introduce preventative measures.

Dumfries and Galloway Division works closely with the Local Authority Licensing Team, to share information on licensed premises in the Board area. This includes concerns about poor management, disorder and compliance and enables a joint approach from both partners to share and address any licensing concerns.

This allows for problems to be identified early and remedial work to be undertaken with licensees prior to a request to the board to review a license. The Police uses a staged process with options available to assist in a problem solving approach that are flexible, ranging from

Communication – The lowest end of the scale which involves engaging with and advising licensees.

Monitoring – Tasked inspections and increased scrutiny of premises for a specific period of time.

Intervention – Increased interaction with premises and staff, with formal dialogue and the use of agreed ‘Licensing Intervention Plans’.

Problematic – This is the final stage and involves requesting a license review in response to more serious matters.

The proactive use of the above measures ensures that we are supporting licensees and reducing the requirement to present reviews to the board.

SUMMARY RELEVANT TO THE NITHSDALE BOARD AREA

During the roadmap out of the Coronavirus pandemic and in to Covid recovery some operating restrictions under the Coronavirus regulations remained in place for licensed premises. Indoor services resumed in May 2021 with various measures still in place

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including table service and the rule of six. In July 2021 nightclubs were allowed to reopen for the first time since March 2020 with the introduction of Covid passes in December 2021. Nightclubs however had to close again for three weeks from the 27th of December 2021 following fresh restrictions being placed on large events and hospitality venues.

Due to licensed premises having either been closed or subject to restrictions to close at 2230 hrs in 2020/2021 comparing the numbers and types of incidents committed during night time economy hours (Friday and Saturday 2300 hours to 0400 hours) to previous years is not feasible. The below figures represent all incidents that can be linked to licensed premises.

The majority of offences that can be linked with alcohol consumption and licensed premises are assaults and abusive behaviour. At peak times, policing resources are directed to carry out high visibility patrols to deter people from committing offences and to monitor patrons as they leave the area to go home. Police staffing at such times is increased with shift alterations and a longer shift crossover to ensure operational officers are available and visible.

Nithsdale Area	2019/20	2020/21	2021/22
Crimes specifically linked to licensed premises	96	6	4

Dumfries Town	2019/20	2020/21	2021/22
Crimes specifically linked to licensed premises	82	32	114

There have been additional incidents where the parties involved have been under the influence of alcohol, however, the location given for these incidents is not directly linked to licensed premises and as such have not been included in the above. It is known that alcohol purchased and consumed in private from off sales may contribute to intoxication levels prior to visiting licensed premises and this is an issue to consider but one that is very difficult to quantify.

Any drunkenness or disorder offences/incidents are dealt with robustly by operational officers at the time and thereafter reviewed by the licensing team. Local officers are routinely tasked with making visits to Licensed Premises, not only for visibility and reassurance purposes but also to ensure that Licensing Legislation is being complied with. Each visit, whether or not any offences or issues are identified, are recorded on the Inn Keeper system. All entries are reviewed by the Divisional Licensing Unit, and where necessary additional tasks or activities are allocated to deal with any

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inconsistent practices. Officers also attend licensed premises in the afternoon to ensure their visibility is present through the day.

All applications for Premises and Personal Licences received by the Licensing Board are examined by staff from the Divisional Licensing Unit and where relevant, objections and representations are made to the board. We endeavour to bring all relevant information to the board to allow for a full overview of the applications which can then be taken into cognisance during decision making.

In the last reporting year 2021/22 there were no personal license holders, premise licences or intervention plans put in place for any premises in this board area.

Given the unprecedented change in the operating of Licensed Premises due to the Coronavirus pandemic, accurate comparison of crime and offending with previous years is not achievable. The above details statistics however, do appear reflective across all boards within Dumfries and Galloway raising no cause for concern.

PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE

Alcohol misuse amongst children and young persons can also result in behavioural issues and offending; such as violence, and antisocial behaviour, as well as increasing vulnerability and susceptibility to exploitation.

Identifying young people that consume alcohol, or those on the periphery of offending through alcohol, or otherwise, will allow intervention and diversionary activities to be progressed. These complement ongoing enforcement activity within our communities.

Dumfries and Galloway Division have Youth Engagement Officers assigned to each Secondary School and Community Officers who liaise with primary schools across the region. These officers regularly provide talks to Children and Young Persons at school and in other environments. A benefit of this close link between children and these officer is that they are known and can be easily identified as being under age to consume alcohol.

Our Youth Engagement Officers also work closely with Dumfries and Galloway Youth Workers through the year. During school holidays these teams work together to tackle youth disorder which can often be linked to the misuse of alcohol. Diversionary activities are set up by the youth work teams and joint patrols of identified hot spot areas are conducted with a view to engaging with youths and encourage positive behaviours in a community setting.

The coronavirus pandemic has severely restricted our ability to carry out face to face group work with youths however the Youth Engagement Officers have continued to offer support and guidance to community groups and the education department. Maintaining and increased engagement with youths is vital to the supporting appropriate decision making and acknowledgement of risk taking behaviour by our younger communities.

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Dumfries and Galloway Division works closely with partner agencies to protect children from harm. Should a child or young person be found in possession of alcohol or identified as being at risk from alcohol consumption then a concern form is submitted and shared with partner agencies. This allows for a multi-agency approach to be commenced at an early stage and ensures that a whole systems approach to address the needs of the young person is undertaken.

In support of the 'Protection of Children from Harm' licensing objective, applications for premises licences and variations to premises licences go under close scrutiny and may result in a submission to the board in respect of an objection or more commonly representation, especially in relation to the times and terms in which children and young people can be on such premises.

SATURDAY NIGHT UNDER THE LIGHTS - DUMFRIES

This is a programme targeted at pupils of secondary school age who are vulnerable or at risk of committing crime/anti-social behaviour and is run both in school time and on Saturday nights during holidays by teachers and Dumfries Saints rugby club with involvement from the local Youth Engagement Officer. A number of young people have shown potential for the game and have gone on to train with Dumfries Saints out with school time.

Young people are encouraged to be involved in discussion around their responsibilities as a club representative and how anti-social behaviour in the community impacts others and the reputation of the club. This initiative has resulted in a reduction of problematic ASB involving particular groups of young people and helped them in making better choices in future.

The Scottish Rugby Union have evaluated this programme and used it as a case study having been very impressed with the model in Dumfries. It has shown value as both a diversionary tool and engagement opportunity in a positive setting. Proposals are being progressed to roll similar programmes out across other parts of Dumfries and Galloway during the coming year.

TACKLING SERIOUS AND ORGANISED CRIME

Dumfries and Galloway Division are satisfied that at this time there is not a serious issue with serious and organised crime groups operating within the licensed trade in the area. We are aware of the impact serious and organised crime groups have on our communities and we will continue to evaluate any intelligence which may show this to be the case and act accordingly.

Crime and intelligence systems are continually monitored to analyse any emerging trends. Any identified hot spots are brought to the attention of the divisional licensing unit who report directly to the service delivery Chief Inspector. The division have a robust daily review process which feeds in to tasking and co-ordinating procedures to

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ensure appropriate oversight and action on any developing issues. The local area commander maintains oversight of resource deployment in terms of response policing and enhanced community policing opportunities.

Should certain premises be identified as becoming problematic the divisional licensing Sergeant will liaise with the local Community Policing Inspector and ensure that the premises are monitored accordingly.

As a division one of Our Pro-active Criminal Investigation team look to reduce to the availability of drugs within our communities and combat acquisitive crime that may be linked to serious and organised crime groups. The Detective Chief Inspector has responsibility for oversight of all divisional activity linked to serious and organised crime groups and provides a link to national divisions. This ensures we are sighted on developing trends or groups who may look to infiltrate our local area with a view to targeting local communities.

The Substance Misuse Officer and Community Policing team are able to offer training to staff members in relation to identifying signs of drugs misuse.

If required we provide specific premise based crime reduction and security surveys to assist license premise to assist them with meeting their own responsibilities as licensees.

PROPOSED ACTIVITY FOR THE YEAR AHEAD

Dumfries and Galloway Division will continue a tasked and proactive approach to liquor Licensing.

We will continue to identify emerging issues and problematic areas and work in conjunction with licensed premises and licence holders to ensure that we can implement early intervention tactics to address areas of concern. This is something that is beneficial for all parties and is an important method to meet the licensing objectives.

We will continue close engagement with Partner Agencies to address any Licensing concerns at an early stage, to ensure that the licensing standards are maintained and any breaches are notified to the relevant boards. We will work in partnership with Licensing Standards to monitor results in this area.

We will ensure the continued use of social media to deliver key messages regarding the dangers of alcohol.

We will provide assistance and guidance to large organised events such as local gala events to ensure licensing objectives are adhered to.

Additionally, work will continue around identifying and reducing drug misuse in and around licensed premises with increased tasking and proactive work and working with licensees to introduce ways to reduce use.

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We would like to thank you for your continued support and stress the importance of this collaborative problem solving approach. This ensures that police, license holders and licensed premises staff have a better understanding of their responsibilities. We look forward to furthering this partnership over the coming year.

To conclude we would like to thank you for your continued support during what has been a challenging year for all. We have all had to adapt to a new way of working and ever changing circumstances which has been embraced by all.

We look forward to a safe and healthy 2022/2023.