

**Licensing Committee****10 June 2014****Harbour Fish and Chip Shop
Application to vary Late Hours Catering Licence to be Determined**

ES-07-14-F

**Patti Dinsdale
Environmental Health Officer****Infrastructure Services Department/
Environmental Services****1.0 Summary**

- 1.1 The Licensing Committee are asked to make a decision on an application to vary the Late Hours Catering Licence, as there have been adverse representations or objections to the granting of the application.

2.0 Decision Required

That the Committee resolve to:

- 2.1 Approve the application for variation to the Late Hours Catering Licence; or
- 2.2 Refuse the application.
The Licensing Authority should not refuse an application if concerns can be addressed by placing conditions on the Licence.

3.0 Detail

- 3.1 An application to vary a Late Hours Catering Licence has been received from the Harbour Fish and Chip Shop. The extension requested is to increase the terminal hours at weekends and other specified times from 3am until 4am. This is in response to the recent change in the Licensing Board policy to extend nightclubs terminal hours until 3am (instead of 2am).
- 3.2 In considering an application to vary a licence the Licensing Authority may make such reasonable enquiries as they think fit and include the results of these enquiries in matters they take into account in making their decision.

- 3.3 Objections have been received from Shetland Islands Council's Environmental Health department and Police Scotland.
- 3.4 Police Scotland object to the application due to their concerns about anti-social behaviour and disorder, reduction of service and delayed response provided to the wider community. Their objection is attached as Appendix 2. If the Committee decides to grant the variation to the licence Police Scotland wish to see additional conditions that would require the provision of trained door staff at the premises.
- 3.5 Environmental Health have objected to the application due to the terminal hours being outwith those approved for late hours catering premises by the Civic Government Licensing Sub- Committee on 6 July 2005.
- 3.6 A decision was made at the Licensing Committee meeting on 15 April 2014 to defer a decision on this application until a report considering the policy on late hours catering could be put before Shetland Islands Council on 14 May 2014.
- 3.7 The Council resolved on 14 May 2014 (SIC minute reference 25/14) that the terminal hours for late hours catering would remain the same as the current policy, namely 3am.
- 3.8 A Licensing Authority cannot reach a final decision on an application unless the persons who made the objections and the applicants have had the opportunity to be heard or provide their views on the objection in writing. The applicant and the persons who have submitted objections have been invited to appear at this meeting in person or provide their views in writing prior to the meeting.
- 3.9 Further detail is included in Appendix 1, Application for a variation of Late Hours Catering Licence.

4.0 Implications

Strategic

- 4.1 Delivery On Corporate Objectives – The Licensing Function helps to make Shetland Safer and Stronger an objective in the Single Outcome Agreement by maintaining Community Safety and reducing crime.
- 4.2 Community /Stakeholder Issues – The Police Scotland objection states a belief that approval of the licence would have a negative impact on the area in terms of anti-social behaviour and reduction and delays in service to the wider community.
- 4.3 Policy And/Or Delegated Authority – Appendix 2 of the Council's Scheme of Administration and Delegation states where the authorised officer receives an objection or adverse representation to a proposal under the above legislation and conditions cannot address the issues(s) raised; or the proposal is recommended for refusal for reasons other than a clear technical failure to comply with legislative requirements the matter will be referred to the Licensing Committee for determination.

It is Council policy that late hours catering should mean 11pm to Midnight Mondays to Thursdays; Fridays 11pm – Saturdays 3am; Saturdays 11pm – Sundays 3am; and Sundays 11pm – Mondays 3am.

4.4 Risk Management – There is a risk of reputational damage or complaints against the Council if the Committee approved a licence for operational hours outside its stated policy. There is a risk that the applicant could appeal against the decision of the Committee if they decide to refuse the licence.

4.5 Equalities, Health And Human Rights – None

4.6 Environmental – None

Resources

4.7 Financial – None

4.8 Legal – Late hours catering is governed by the Civic Government (Scotland) Act 1982 (“the Act”). The Act states that a licence, to be known as a late hours catering licence, shall be required for the use of premises between the hours of eleven o’clock in the evening and five o’clock the following morning for the sale to or consumption by the public of food.

4.9 Human Resources – None

4.10 Assets And Property – None

5.0 Conclusions

5.1 An application to vary the hours for a late hours catering licence has been received from Harbour Fish and Chip shop. The applicant wishes to vary the hours as follows:
11.00 pm and 4.00am Friday and Saturday (all year round)
11.00pm and 4.00am 2nd January
11.00pm and 4.00am Lerwick Up Helly Aa Hop Night
These hours are outside the hours of operation approved by Council Policy.

For further information please contact:

Patti Dinsdale, Team Leader – Environmental Health

Tel: 01595 744842 Email: patti.dinsdale@shetland.gov.uk

30 May 2014

List of Appendices

Appendix 1 – Application Details and discussion

Appendix 2 – Letter of Objection Police Scotland

Appendix 3 - E-mail objection Environmental Health – hours outwith Committee Resolution in 2005

Appendix 1

Application for variation of Late Hours Catering Licence

Mrs Yasmin Rasul

Harbour Fish and Chip Shop

7 Harrison Square, Lerwick, ZE1 0LL

Application number: LC/12/42/V1

Discussion:

This is an application to vary a Late Hours Catering Licence. The application from Harbour Fish and Chip shop requests that the terminal hours be extended from 3am to 4am to correspond to the extra hour added to the terminal alcohol licensing hours permitted for nightclubs of 3am.

Their current licence permits hours between:

11.00 pm and 3.00 am Friday and Saturday (all year round)

11.00 pm and 3.00 am 2nd January

11.00 pm and 3.00am Lerwick Up Helly Aa Hop night

There are objections from Police Scotland and Shetland Islands Council Environmental Health Section to the grant of this variation.

Police Scotland note that late hours catering premises encourage people to congregate in an area, increasing the risk of anti-social behaviour. Police Scotland, cite anti-social behaviour and disorder, significant reduction of service and delayed response provided to the wider community as their reasons to object. Police Scotland comment that there is less disorder associated with Harbour Fish and Chip Shop than other late catering establishments. Police Scotland has requested that should the committee support the application that a condition be attached that door staff are required to be present.

Environmental Health have objected to the variation of the licence because the hours requested are outwith the 2005 Council policy on terminal hours for late hours catering premises. A decision of this Committee on 15 April 2014 resulted in a recommendation to full Council that a change in policy should not be made. The full Council considered this recommendation and resolved on 14 May 2014 (SIC minute reference 25/14) that the hours remain the same as the 2005 Policy due to the additional operating hours causing community safety and public nuisance concerns. The objection from Environmental Health stands.

I recommend that the Committee either approve the application or refuse the application.

GPMS Classification: RESTRICTED - VETTING

09 January 2014

Your Ref: LC/12/42/V1

Our Ref: EG/HC NL/100/14

Kay Gardiner
 Environmental Health Department
 Charlotte House
 Commercial Street
 Lerwick
 Shetland
 ZE1 0LX



Shetland Area Command
 Market Street
 Lerwick
 Shetland
 ZE1 0JN

Tel No: 101
 Fax: 01595 693311
 E-mail: ShetlandLPP@scotland.pnn.police.uk
 Web Address : www.scotland.police.uk

Dear Ms Gardiner

Application to Vary Terms of Licence: Harbour Fish & Chip Shop**Applicant: Yasmin Rasul****Application Number LC/12/42/V1**

I refer to the above application and advise that on behalf of Police Scotland we will be raising an objection to the application for extending the opening hours of the above premises.

Highlands & Islands Policing Division (N Division) has adopted a position where there is no aversion to late night premises licensed to sell alcohol and late night catering establishments having the same terminating hours, provided that the terminating hour is no later than 3 am. In practice what this means is that if nightclubs in the area are open until 3am, then N Division policy is we do not object to applications for late catering hours until 3am. This policy is broadly reflective of the picture across Scotland.

From a local policing perspective the period from 0200hrs, the recent weekend closure time for nightclubs, through to 0300hrs, the current weekend closure time of the Harbour Fish and Chip Shop, is traditionally the most resource intensive period for the Police Service. It is a known fact that late night catering establishments are a congregational point for late night revellers and that there has been some recorded anti-social behaviour by customers in and around the premises. This does not include the three incidents whereby the owners/employees have been the subject of racial abuse, all of which were independently investigated and successfully reported to the PF.

scotland.police.uk  [@PoliceScotland](https://twitter.com/PoliceScotland)  [PoliceScotland](https://www.facebook.com/PoliceScotland)

GPMS Classification: RESTRICTED - VETTING

In the interests of public safety, the police have to have a presence in the vicinity until the premises are closed. Over the festive period, the nightclubs operated the extension until 0300hrs with operational officers reporting no problems with the same terminating hours and the crowd dispersing in an orderly fashion.

Should the operating hours for this premises like that of Tatties and Point be extended from 0300hrs to 0400hrs the net effect on the policing of Shetland as a whole during this golden hour will be to significantly reduce the service to the wider community whilst crowds around catering establishments are marshalled by the police to prevent disorder. This has implications for the victims of crime who could suffer delay in police attendance whilst officers are restricted to certain areas of Lerwick town centre.

It is accepted that the Harbour Fish and Chip Shop is seeking to maximise its profit by catering for patrons leaving nightclub premises, and it is noted that there is less disorder associated with this premises than other late catering establishments. However, the fact remains that if solely granted there may not be parity with other premises. This would result in a significant trading advantage with the likelihood of the crowd then congregating outside this premises and thus requiring a continued police presence.

As a Command Area we have worked hard to crack down on town centre violence from its peak in 2012 and we have been successful in this regard with far fewer incidents of assault and disorder being reported.

Should the licensing committee support the application, it is requested that a condition be attached that door staff are required to be present alleviating the potential for the Police to be utilised as private security and on the basis that the polluter pays.

I submit the foregoing objection for consideration at the next licensing board meeting scheduled for the 17th of January, should this application be on the agenda.

Yours sincerely

E Graham
A/Chief Inspector
Shetland Area Command

Gardiner Kay@Infrastructure Svs

From: Manson Dawn@Infrastructure Services on behalf of foodsafety
Sent: 05 December 2013 10:10
To: Gardiner Kay@Infrastructure Svs
Subject: RE: Licence Consultation LC/12/42/V1

Food Safety are objecting to this application because the time being applied for (4 am) is contrary to times agreed within the Report on Late Hours Catering Licensing produced in 2005, which states 3am at weekends.

Regards

Dawn Manson Ch.EHO MREHIS
 Lead Environmental Health Officer
 Infrastructure Services Dept
 Shetland Islands Council
 Charlotte House
 Commercial Road
 Lerwick
 Shetland
 ZE1 0LX

Direct Dial Tel:01595 744831
 Email: dawn.manson@shetland.gov.uk

Food Hygiene Information Scheme: Inspection result is 'Pass' Booking a Christmas meal - Look for the food hygiene 'Pass' on: food.gov.uk/ratings before you book.

-----Original Message-----

From: Gardiner Kay@Infrastructure Svs
 Sent: 04 December 2013 11:51
 To: Graham, Edwin; Planning Control@Development; foodsafety
 Subject: Licence Consultation LC/12/42/V1

Dear Sir/Madam.

Licence Application Number: LC/12/42/V1

Type of Licence: Late hours Catering (variation to closing hours)

Applicant: Mrs Yasmin Rasul, Harbour Fish & Chip Shop

This e-mail is a formal consultation under the Civic Government (Scotland) Act 1982

I would be grateful to receive any comments / objections by 24th December 2013 (consultation period is 21 days).

If no response has been received by this date we will assume you have no adverse comments and will process the application accordingly.

Consultation replies should be sent, using the same Subject heading to:
ehadmin@shetland.gov.uk

Regards

Kay Gardiner
 Administration Assistant - Environmental Health

**Licensing Committee****10 June 2014****Tatties and Point
Application to vary Late Hours Catering Licence to be Determined****ES-06-14-F****Patti Dinsdale
Environmental Health Officer****Infrastructure Services Department/
Environmental Services****1.0 Summary**

- 1.1 The Licensing Committee are asked to make a decision on an application to vary a Late Hours Catering Licence because adverse representations or objections have been received to the grant of the application.

2.0 Decision Required

That the Committee resolve to:

- 2.1 Approve the application for variation to the Late Hours Catering Licence; or
- 2.2 Refuse the application. The Licensing Authority should not refuse an application if concerns can be addressed by placing conditions on the Licence.

3.0 Detail

- 3.1 An application to vary a Late Hours Catering Licence has been received from the Zetland Partnership trading as Tatties and Point. The variations requested are to change the opening hours on Fridays and Saturdays from between 11pm to 3am to between 11pm to 4am. This is in response to the recent change in the Licensing Board policy to extend nightclubs terminal hours until 3am (instead of 2am).
- 3.2 In considering an application to vary a licence the Licensing Authority may make such reasonable enquiries as they think fit and include the results of these enquiries in matters they take into account in making their decision.

Objections have been received from Shetland Islands Council's Environmental Health department and Police Scotland to the application.

- 3.3 Police Scotland object to the application due to their concerns about anti-social behaviour and disorder, reduction of service and delayed response provided to the wider community. Their objection is attached as Appendix 2. If the Committee decides to grant the application Police Scotland wish to see additional conditions that would require the provision of trained door staff at the premises.
- 3.4 Environmental Health have objected to the application due to the terminal hours being outwith those approved for late hours catering premises by the Civic Government Licensing Sub - Committee on 6 July 2005.
- 3.5 A decision was made at the Licensing Committee meeting on 15 April 2014 to defer the decision on this application until a report considering the policy on late hours catering could be put before Shetland Islands Council on 14 May 2014.
- 3.6 The Council resolved on 14 May 2014 (SIC minute reference 25/14) that the terminal hours for late hours catering would remain the same as the current policy, namely 3am.
- 3.7 A Licensing Authority cannot reach a final decision on an application unless the persons who made the objections and the applicants have had the opportunity to be heard or provide their views on the objection in writing. The applicant and the persons who have submitted objections have been invited to appear at this meeting in person or provide their views in writing prior to the meeting.
- 3.8 Further detail is included in Appendix 1, Application for a variation of Late Hours Catering Licence.

4.0 Implications

Strategic

- 4.1 Delivery On Corporate Objectives – The Licensing Function helps to make Shetland Safer and Stronger an objective in the Single Outcome Agreement by maintaining Community Safety and reducing crime.
- 4.2 Community /Stakeholder Issues – The Police Scotland objection states a belief that approval of the licence would have a negative impact on the area in terms of anti-social behaviour and reduction and delays in service to the wider community.
- 4.3 Policy And/Or Delegated Authority – Appendix 2 of the Council's Scheme of Administration and Delegation states where the authorised officer receives an objection or adverse representation to a proposal under the above legislation and conditions cannot address the issues(s) raised; or the proposal is recommended for refusal for reasons other than a clear technical failure to comply

with legislative requirements the matter will be referred to the Licensing Committee for determination.

It is Council policy that late hours catering should mean 11pm to midnight Mondays to Thursdays; Fridays 11pm - Saturdays 3am; Saturdays 11pm – Sundays 3am; and Sundays 11pm – Mondays 3am.

- 4.4 Risk Management – There is a risk of reputational damage or complaints against the Council if the Committee approved a licence for operational hours outside its stated policy. There is a risk that the applicant could appeal against the decision of the Committee if they decide to refuse the licence.
- 4.5 Equalities, Health And Human Rights – None
- 4.6 Environmental – None

Resources

- 4.7 Financial – None
- 4.8 Legal – Late hours catering is governed by the Civic Government (Scotland) Act 1982 (“the Act”). The Act states that a licence, to be known as a late hours catering licence, shall be required for the use of premises between the hours of eleven o’clock in the evening and five o’clock the following morning for the sale to or consumption by the public of food..
- 4.9 Human Resources – None
- 4.10 Assets And Property – None

5.0 Conclusions

- 5.1 An application has been received to vary the hours for a late hours catering licence for Tatties and Point by extending their operating hours to between 11.00pm and 4am on Fridays and Saturdays (all year round). These hours are outside the hours of operation approved by Council Policy.

For further information please contact:
Patti Dinsdale, Team Leader – Environmental Health
Tel: 01595 744842 Email: patti.dinsdale@shetland.gov.uk
30 May 2014

List of Appendices

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Appendix 2 – Letter of Objection Police Scotland
Appendix 3 - E-mail objection Environmental Health – hours outwith Committee Resolution

Appendix 1

Application for a variation of Late Hours Catering Licence

Name and Address of Applicants and Premises:

Zetland Partnership T/A Tatties and Point

123 Commercial Street, Lerwick

Application Number: LC/13/01/V1

Discussion:

This is an application for to vary a Late Hours Catering Licence. The application from Tatties and Point requests the following variation to late hours opening times:

Friday 11pm – 4am, Saturday 11pm – 4am

Their current licence permits hours between:

11.00pm and 1.00am Monday to Thursday (all year round)

11.00 pm and 3.00 am Friday and Saturday (all year round)

The objection from Police Scotland states that they believe that late hours catering premises encourage people to congregate in the area, increasing the risk of anti-social behaviour. Police Scotland, cite an increase in anti-social behaviour and disorder and the consequential reduction in service and delayed response provided to the wider community as their reasons to object. Police Scotland have noted that there is a trend for juveniles to attend the premises in the early hours which has led to a number of recorded assaults on juveniles at 0300 hours in the morning. Police Scotland have requested that should the committee support the application that a condition be attached that door staff are required to be present.

Environmental Health have objected to the variation of the licence because the hours requested are outwith the 2005 Council policy on terminal hours for late hours catering premises. A decision of this Committee on 15 April 2014 resulted in a recommendation to full Council that a change in policy should not be made. The full Council considered this recommendation and resolved on 14 May 2014 (SIC minute reference 25/14) was that the hours remain the same as the 2005 Policy due to the additional operating hours causing community safety and public nuisance concerns. The objection from Environmental Health stands.

- I recommend that the Committee either approve the application or refuse the application.

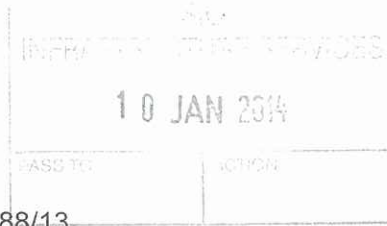
GPMS Classification: RESTRICTED - VETTING

07 January 2014

Your Ref: LC/13/01

Our Ref: EG/HC NL/6188/13

Kay Gardiner
 Environmental Health Department
 Charlotte House
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 ZE1 0LX



**POLICE
SCOTLAND**

Keeping people safe

Shetland Area Command
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Dear Ms Gardiner

Application to Vary Terms of Licence Tatties & Point
Applicant: Tatties & Point
Application Number LC/13/01

I refer to the above application and advise that on behalf of Police Scotland we will be raising an objection to the application for extending the opening hours of the above premises.

Highlands & Islands Policing Division (N Division) has adopted a position where there is no aversion to late night premises licensed to sell alcohol and late night catering establishments having the same terminating hours, provided that the termination hour is no later than 3 am. In practice what this means is that if nightclubs in an area are open until 3 am, then N Division policy is we do not object to applications for late night catering hours until 3 am. This policy is broadly reflective of the picture across Scotland.

From a local policing perspective the period from 0200 hours, the recent weekend closure time for nightclubs through to 0300 hours, the current weekend closure time of Tatties & Point, is traditionally the most resource intensive period for the Police Service. It is a known fact that late night catering establishments are a congregational point for late night revellers and that anti-social behaviour and disorder are often associated with such premises. In the interests of public safety, the police have to have a presence outside these premises until they close. Over the festive period, the nightclubs operated the extension until 0300 hours with operational officers reporting no problems with the same terminating hours and the crowd dispersing in an orderly fashion.

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GPMS Classification: RESTRICTED - VETTING

Should the operating hours be extended from 0300 hours to 0400 hours the net effect on the policing of Shetland as a whole during this golden hour will be to significantly reduce the service to the wider community whilst the crowds around catering establishments are marshalled by the police to prevent disorder. This has implications for the victims of crime who could suffer delay in police attendance whilst officers are restricted to certain areas of the town centre.

Whilst it is accepted that Tatties & Point is seeking to maximise its profit by catering for the patrons leaving nightclub premises, it should also be noted by the licensing committee that there is a trend for juveniles to attend at the premises in the early hours of the morning thereby joining a heavily intoxicated crowd. This has led to a number of recorded assaults on juveniles at 0300 hours in the morning.

As a Command Area we have worked hard to crack down on town centre violence from a peak in July 2012 and have been successful in this regard with far fewer incidents of assault and disorder being reported.

Should the licensing committee support the application, it is requested that a condition be attached that door staff are required to be present alleviating the potential for the Police to be utilised as private security and on the basis that the polluter pays.

I submit the foregoing objection for consideration at the next licensing board meeting scheduled for the 17th of January, should this application be on the agenda.

Yours sincerely

E Graham
A/Chief Inspector
Shetland Area Command

Gardiner Kay@Infrastructure Svs

From: Manson Dawn@Infrastructure Services on behalf of foodsafety
Sent: 29 November 2013 11:25
To: Gardiner Kay@Infrastructure Svs
Subject: RE: Late Hours Licence Consultation LC/13/01/V1 Zetland Partnership

Food Safety are objecting to this application because the time being applied for (4 am) is contrary to times agreed within the Report on Late Hours Catering Licensing produced in 2005, which states 3am at weekends.

Regards

Dawn Manson Ch.EHO MREHIS
 Lead Environmental Health Officer
 Infrastructure Services Dept
 Shetland Islands Council
 Charlotte House
 Commercial Road
 Lerwick
 Zetland
 ZE1 0LX

Direct Dial [Tel:01595 744831](tel:01595744831)
 Email: dawn.manson@shetland.gov.uk

-----Original Message-----

From: Gardiner Kay@Infrastructure Svs
 Sent: 19 November 2013 17:10
 To: Graham, Edwin; Planning Control@Infrastructure Svs; Brunton Susan@Legal Services; foodsafety
 Subject: Late Hours Licence Consultation LC/13/01/V1 Zetland Partnership

Mr Sir/Madam.

Licence Application Number: LC/13/01/V1

Type of Licence: Late Hours Catering

Applicant: Zetland Partnership T/A Tatties & Point

This e-mail is a formal consultation under the Civic Government (Scotland) Act 1982 I would be grateful to receive any comments / objections by 10th December 2013 (consultation period is 21 days).

If no response has been received by this date we will assume you have no adverse comments and will process the application accordingly.

Consultation replies should be sent, using the same Subject heading to:
ehadmin@shetland.gov.uk

Regards

Kay Gardiner
 Administration Assistant - Environmental Health