

Item: 4

Orkney Islands Area Licensing Board: 5 March 2020.

Licensing (Scotland) Act 2005.

Application for Occasional Licence.

Steven Bruce – Scottish Community Drama Association Scottish Final 2020 and Social Events at Orkney Theatre, The Meadows, Kirkwall – 23/24, 24/25 and 25/26 April 2020.

Report by Clerk to the Board.

1. Purpose of Report

To consider an application from Steven Bruce for an occasional licence for the Scottish Community Drama Association Scottish Final 2020 and Social Events at Orkney Theatre, The Meadows, Kirkwall, on 23/24, 24/25 and 25/26 April 2020.

2. Recommendations

It is recommended:

That the Board determines the application from Steven Bruce for an occasional licence for the Scottish Community Drama Association Scottish Final 2020 and Social Events at Orkney Theatre, The Meadows, Kirkwall, on 23/24, 24/25 and 25/26 April 2020.

3. Policy Aspects

3.1.

In terms of its Statement of Licensing Policy, the Board has delegated to the Clerk authority to determine the following description of application under the Licensing (Scotland) Act 2005 (the Act) in consultation with those members of the Board who may be available by telephone or email at any given time and at no time less than five members:

- occasional licence – outwith the Board's normal licensing hours policy – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and any report by the Licensing Standards Officer does not recommend refusal.

3.2.

The Clerk may elect not to exercise delegated powers in a particular case and has determined not to do so in this case, taking into account concerns expressed by Members in the past regarding consideration of applications meeting the criteria referred to at section 3.1 above.

3.3.

The Board's Statement of Alcohol Licensing Policy generally permits:

- Commencement on-sale operating hour of 10:00 each day.
- Terminal on-sale operating hours of 24:00 Sundays to Thursdays and 01:00 Fridays/Saturdays and Saturdays/Sundays.
- For local events such as annual agricultural shows, local festivals and private functions, a terminal on-sale operating hour of 01:00 any morning.
- For weddings, a terminal on-sale operating hour of 01:30 any morning.
- For the festive season, being 24/25 December until 2/3 January each year, a terminal on-sale operating hour of 01:00 any morning.

3.4.

The full policy document is available from the Related Downloads section of the following Council webpage:

<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

4. Application

4.1.

Steven Bruce (the applicant) is the holder of a personal licence and is entitled to apply for occasional licences.

4.2.

On 17 January 2020, the applicant submitted an application for an occasional licence in respect of the Scottish Community Drama Association Scottish Final 2020 and Social Events at Orkney Theatre, The Meadows, Kirkwall, on 23/24, 24/25 and 25/26 April 2020.

4.3.

The application is for on-sale operating hours only from:

- 17:00 on Thursday 23 April to 01:00 on Friday 24 April 2020.
- 17:00 on Friday 24 April to 01:00 on Saturday 25 April 2020.
- 17:00 on Saturday 25 April to 02:00 on Sunday 26 April 2020.

4.3.1.

The operating hours requested on 23/24 April and 25/26 April 2020 are outwith those permitted in terms of the Board's Statement of Alcohol Licensing Policy.

4.4.

The applicant has submitted supporting information about the events, which is attached as Appendix 1 to this report.

4.4.1.

The applicant states within his supporting information that if the application for a terminal hour of 01:00 on 23/24 April 2020 is not granted, he seeks a terminal hour of 24:00 on that date. A terminal hour of 24:00 is within those permitted in terms of the Board's Statement of Alcohol Licensing Policy.

4.4.2.

The applicant states within his supporting information that if the application for a terminal hour of 02:00 on 25/26 April 2020 is not granted, he seeks a terminal hour of 01:00 on that date. A terminal hour of 01:00 is within those permitted in terms of the Board's Statement of Alcohol Licensing Policy.

4.5.

The applicant was advised that his application would require to be considered at the meeting on 5 March 2020. He was asked to attend the meeting.

5. Consultation

5.1.

The required notices were issued to the statutory consultees, being Police Scotland and the Licensing Standards Officer (LSO), on 17 January 2020. The application was published on Orkney Islands Council's website from 18 January 2020. The last date for objections or representations to be received from Police Scotland or the public was 24 January 2020.

5.2.

An LSO may, within 21 days of receipt of a notice of an application for occasional licence, prepare and submit to the Board a report setting out the officer's comments on the application.

5.3.

By email dated 19 January 2020, Police Scotland advised that they had no objection or observations in relation to the application.

5.4.

No response to the public consultation was received.

5.5.

By email dated 22 January 2020, the LSO advised that he had no objection to the application.

6. Financial Implications

The appropriate application fee of £10 has been paid.

7. Legal Aspects

7.1.

In terms of the Act, the Board may, on the application of the holder of a premises licence, holder of a personal licence or a representative of any voluntary organisation, in relation to any premises (other than licensed premises) within the Board's area, issue a licence referred to as an occasional licence authorising the sale of alcohol on the premises.

7.2.

An occasional licence has effect for such period of not more than 14 days as the Board may determine.

7.3.

Any person may, by notice to the Board, object to an application for occasional licence on any ground relevant to one of the grounds for refusal specified in the Act or may make representations to the Board, including representations in support of the application or as to conditions which the person considers should be imposed.

7.4.

The Board must consider whether any of the grounds for refusal applies. If none of them applies, the Board must grant the application. If any of them applies, the Board must refuse the application.

7.5.

The grounds for refusal under the Act are as follows:

7.5.1.

The premises to which the application relates are excluded premises. These are essentially garages or garage shops, but there is an exemption for premises which are the principal source, in their community, for groceries as well as petrol or derv.

7.5.2.

The application must be refused if, generally, to grant it would result in the applicant exceeding the statutory limit on the numbers of days permitted for occasional licences; or it seeks generally banned 24 hour opening or prohibited off-sale hours.

7.5.3.

The 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.

7.5.4.

Having regard to:

- The nature of the activities proposed to be carried on in the premises to which the application relates,
- The location, character and condition of the premises or
- The persons likely to frequent the premises,

The Board considers that the premises are unsuitable for use for the sale of alcohol.

7.6.

In determining the application, the Board must take into account any report from the LSO.

8. Contact Officers

Gavin Mitchell, Clerk to the Board, extension 2233, email gavin.mitchell@orkney.gov.uk.

Lillian Rendall, Legal Clerk, extension 2229, email lillian.rendall@orkney.gov.uk.

9. Appendix

Appendix 1 – Supporting information from applicant.

Supporting Information relating to Late Licence.

The Scottish Community Drama Association National Finals will be held in Orkney this year. This will be the second time that the event has been held in the Orkney Theatre, the event will draw the winning teams from all over Scotland. The event is held over three nights with public performances of the plays followed by a social event each night, although the social event is open to all theatre goers, it is unusual for them to stay behind and the events are usually only attended by the competing teams and committee members.

After the performances the teams will receive feedback from the competition adjudicator. At previous competitions it has been around 11:30pm by the time the teams have received this feedback and are freed up to attend the social event

An extension to 1am is requested for the Thursday when the Welcome Party will take place. The late licence is to allow the social event to be run without the bar having to close before the end of the event. On Friday a Quiz Night will be run and a 1am licence is requested for this too.

On the Saturday night we have the additional award of trophies, which is likely to make the start of the After-Show Party 12:00. The After-Show party will also include the provision of hot food. A licence until 2am has been requested to allow teams and committee to wind down after the competition.

The Licencing Board require us to have regard to the following five Licencing Objectives

Preventing crime and disorder

Each night a team of front of house staff will be on duty for the evening, they will manage the attendees at the event.

Securing public safety

The theatre building is well out of the town centre and it is not anticipated that attendees will come in contact with the general public. Although the theatre building is in a more residential area it is still away from housing. Closing time will see the bulk of the attendees leaving at the same time, a lot of them will be visitors to Orkney and will be taking Taxis or designated drivers will take small groups home.

Preventing public nuisance

The events will take place within the foyer of the theatre and it is not anticipated that any public nuisance will take place, A designated smoking area will be set up outside the main entrance, the front of house staff will monitor the smoking area

Protecting and improving public health

The late licence will enable attendees to drink responsibly without encouraging binge drinking as the perception of a limited time for drinking will be avoided.

protecting children and young persons from harm

Young people will be part of the event, with the possibility of competing teams being youth teams. The bar area will be off limits to under 18's and we will be implementing a challenge 25 policy.

The Scottish Finals will bring a great many visitors to the County both a competitors and audience members. The late licence will enable the event to be enjoyed without the need to rush through things to make it to the bar on time.

Alternative Licence

If the Licencing Board are not minded to grant the application for 1am on Thursday and 2am on Saturday, we would request that the application is considered based on midnight for Thursday 23rd April and 1am for Friday 24th and Saturday 25th April