

OUR REF JVB/ADB/PRU0010.00001
YOUR REF

BY GUARANTEED NEXT DAY DELIVERY

The Clerk
Angus Licensing Board
Angus House
Orchardbank Business Park
Forfar
Angus
DD8 1AN

And by email to: SmeatonD@angus.gov.uk / gillespiem@angus.gov.uk

10 October 2017

Dear Madam

**LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE APPLICATION
GREY HARLINGS, 5 TRAILL DRIVE, EAST LINKS, MONTROSE**

We refer to the above and have been instructed by our clients Dr Kevin Prudhoe and Dr Tracy Prudhoe to lodge the enclosed objection to the application on their behalf. We should be grateful if you could kindly acknowledge receipt by email to jacqui.birrell@brodies.com.

Yours faithfully


On behalf of Brodies LLP

Enc

Dr Kevin and Dr Tracy Ann Prudhoe
Little Harlings
5A Traill Drive
MONTROSE
DD10 8SW

The Clerk
Angus Licensing Board
Angus House
Orchardbank Business Park
Forfar
Angus
DD8 1AN

By email: SmeatonD@angus.gov.uk / gillespiem@angus.gov.uk

10 October 2017

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 ("The Act")
PREMISES: GREY HARLINGS, 5 TRAILL DRIVE, EAST LINKS, MONTROSE
APPLICATION FOR A PREMISES LICENCE**

We refer to the above application for a Premises Licence and give notice that we object to the application in terms of Section 22(1) of the Act. Our grounds of objection are noted below however there are some preliminary matters:-

- We question the competence of the notice posted on the Board's website and at the location. The notice is wholly lacking in specification in that it fails to provide a brief overview of the business to be carried on at the Property. The notice simply provides "New Premises Licence (on sales only)". The fact that the application is on sales only can be discerned from the "Licensed Hours Applied For" section so, in effect, the brief overview of the nature of the business is "New Premises Licence". That wording does not fulfil the statutory requirements or the intention of the notice to give persons proper and adequate notice of the type of operation to which the application relates. Accordingly, as a minimum, this application should be continued to allow for proper notification to be given.
- The Premises are currently the subject of a planning application for change of use to hotel, restaurant and occasional function venue. It will be noted that the Operating Plan submitted as part of the Premises Licence application includes, at Question 5, the activity of "Restaurant facilities". We understand that the planning application has not yet been determined and query how a Section 50 Certificate of Compliance could have been issued to support the application.

We attach to this letter, copy letter dated 3 August 2017 from Alistair Gordon of AD Architecture and Design in respect of the planning application. This narrates that "it is the intention that any functions in the future will be small in scale and will be held within the interior of the building". We also attach the "Grey Harlings Mission Statement" which is available on the Council's planning portal where, in respect of functions, in contradictory terms it states that "all outside entertainment would cease prior to 10pm".

- The Operating Plan provides for outdoor drinking facilities and, whilst the extent of the outside area to be licensed is unclear on the copy layout plans received by us, it appears to cover the whole grounds

excepting the car parking area. If the intention is for guests to be able to consume alcohol in a specific limited outside area then that should be specified in line with the representations made in connection with the planning application.

Moreover, the said Mission Statement provides that it is not the intention to have live music and if so it will be played internally. The Operating Plan does not seek receptions, live performances or other entertainment that might be required in connection with functions and no additional activities are specified. This is in complete contradiction to the activities envisaged in terms of the Mission Statement.

The Operating Plan also provides for an occupancy capacity of 30 persons "including staff". We fail to see how any function could take place with such a limited occupancy capacity and the applicant should explain the position, particularly in view of the said Mission Statement noting that "function sizes not expected to exceed fifty people" and "a maximum seating capacity in the restaurant of forty people".

In terms of specific objections under Section 23 of the Act, we consider that the application should be refused in terms of Section 23(5)(d) of the Act in that the Property is unsuitable for use for the sale of alcohol (as detailed below) and/or the grant of the application would be inconsistent with the following licensing objectives:-

Preventing Crime and Disorder / Preventing Public Nuisance / Overprovision

Grey Harlings is located at the end of a row of residential homes and sits directly behind the eighteenth green of the fifth oldest golf course in the world and the activities which have already taken place and which are proposed have and will cause significant public nuisance. There is already a fully licensed restaurant, 3 licensed golf clubs within 50 metres of Grey Harlings with 2 large hotels and 1 public house within a 5 minute walk and we would question the need for another licensed premises in the area.

We purchased our new home December 2013 when Grey Harlings was operating as a quiet hostel providing accommodation only for up to 12 guests (Reference: 06/00325/FUL). The house provided a safe, quiet area for our then 3 year old son to play and enjoy and the perfect environment for a bigger family. Since then, Grey Harlings has morphed into a guest house, public restaurant, function venue, hotel. The premises has already been subject to enforcement action and a planning contravention notice has recently been issued with investigations currently underway, consequently, issuing of a premises licence at this time is premature.

The restaurant at the Property fully commenced trading on 5 May 2017. Our family home is immediately to the side of the Property and the provision of outdoor drinking will (and has in the past) resulted in disturbance and nuisance with increased noise levels from customers/guests drinking in this area. Customers frequently eat, drink alcohol and smoke in the patio area of the Property, which causes noise, nuisance, smoke and litter issues due to the disposal of cigarettes that are not appropriate for a residential area. This patio sits on the only access road to our home.

Over the past two years we have been increasingly disturbed by activities carried on at the Property (noise/light pollution/cooking smells/anti-social behaviour). We attach a Record of Events which notes the number of functions that we have been aware of and the impact of noise on our young family and ourselves. E.g. live bands, ceillidhs, music and bagpipes, often during anti-social hours. The Record of Events does not show effective and responsible management of premises to control drunkenness and noise nuisance.

Since 2015, we have been increasingly disturbed by activities relating to café/restaurant and function use. The Record of Events notes the number of functions that we have been aware of and the harmful impact of noise on our young family and ourselves. For example, there have been live bands playing in the garden until midnight immediately adjacent to our bedrooms, ceilidhs taking place in the lounge (again immediately adjacent to our bedrooms), music, the noise of bag pipes, noise of guests drinking in the garden, people swearing, noise from glass bottles being thrown out, often until anti-social hours. We have noted our concerns with the owner and manageress on more than one occasion, pointing out the harmful impact on our young family but we are still being subjected to antisocial noise. Following an event on 15 September a complaint was made to the environmental health on 19th September 2017, which included the disruption from alcohol related noise. In addition, a complaint made to the licensing standards officer has been forwarded to Police Scotland, Environmental and Consumer Protection as well as Planning.

Securing Public Safety

The Operating Plan notes that the restaurant will be used primarily by residents and their guests and this is again contradicted by the said Mission Statement. In any event, this has not been the case to date with the premises catering for up to 180 persons at a time. We believe that the addition of a public restaurant and use as a function venue will give rise to an increase in pedestrian access onto the blind corner of a busy single-track road with no footway or street lighting and create more parking issues in an area where cars are frequently grid locked in an effort to park. The large volume of traffic will create a serious safety risk to pedestrians on this narrow road, with no opportunity for opposing vehicles to pass without driving on the golf course and no pavements/area for pedestrian egress as well as no street lighting. These circumstances will only be exacerbated by pedestrians who have consumed alcohol.

Conclusion

There are very significant discrepancies between what is being applied for in terms of the Premises Licence and what is clearly intended in terms of the planning application and supporting documents.

We are greatly concerned that this application is a means of obtaining a Premises Licence which is consistent with the planning consent in place at the moment with the intention of increasing activities in the future if/when change of use consent is granted. In our view the business at the Property is not presently being operated as detailed in the Operating Plan with wedding receptions/parties/functions taking place, causing considerable noise nuisance and disturbance not only to ourselves but to other neighbours in the vicinity of the Property. The grant of a Premises Licence will only add to the current unacceptable situation.

In all the circumstances, with the apparent inconsistencies, contradictions and lack of transparency highlighted above, we would hope that the Board will scrutinise the applicant and its intentions. We trust that the Licensing Board shall give our objections due consideration.

Yours faithfully

Dr Kevin Prudhoe
Dr Tracy Ann Prudhoe

A.D Architecture and Design,

Tigh-na-Bruach,

Tayock,

Brechin Road,

Montrose, DD10 9LE,

03/08/2017,

RECEIVED

-7 AUG 2017

**PLANNING & PLACE
COUNTY BUILDINGS**

Grey Harlings, Traill Drive, Montrose DD10 8SW

Proposed change of use to hotel, restaurant and occasional function venue planning and change of use is sought to return this former 1920 hotel to its previous use as a hotel. The original building dates from 1903 or before and previous uses include a dwelling house, golf club, hotel, guest house and hostel, for oil related workers.

The building retains all the character and period details of the original building and it is the proprietors wish to retain the building in its original condition and promote the business as a 1920's styled hotel. A considerable amount of repair work has taken place over a period of several years to arrive at the buildings present excellent state of repair. It is felt that the promotion of the business as a hotel and with the inclusion of a small café/restaurant will make the business a more viable proposal for the future and will allow a more flexible and enhanced service for guests and visitors. The enclosed site plan shows the existing car parking area enlarged to accommodate 20 parking spaces, including 2 disabled spaces. All vehicular access to the hotel, including deliveries, is to be via the driveway and car park, directly from Traill Drive. A parking area for cycles is existing, within the patio area.

Functions

The inclusion of a café and restaurant at Grey Harlings is intended as an alternative rather than additional to the hosting of larger functions. It is the intention that any functions in the future will be small in scale and will be held within the interior of the building.

Yours Faithfully

Alistair Gordon

Grey Harlings Mission Statement

Grey Harlings has been operating as a guest house for almost four years. The business has grown since first opening its doors and welcoming the first paying guest and is now a busy, well established guest house known for its high quality service and accommodation.

With the successful growth of the business and now being firmly established, it is important that the business continues to naturally evolve to allow it to thrive in the current competitive market place.

The intention is to increase services offered at Grey Harlings and transition in to a full hotel with nine operating guest rooms. This will include offering a café with teas and coffees throughout the day, the expansion of the food offered at the premises and the application for a premises liquor licence to complement the restaurant and requirements of our guests.

With the growth of the business there will be inevitably certain changes which will be pro-actively managed to prevent any unnecessary disruption to any surrounding property or businesses. The increase in the frequency of deliveries to the premises will be an obvious change as things progress. All suppliers delivering to the premises have been and will continue to be instructed to enter through the car park and not to use the side street as a drop off point. Many suppliers will or have already carried out risk assessments regarding access for delivery drivers, the car park is the preferred and safest route for all concerned. The most noticeable change as the business grows will be the increased foot fall, as with deliveries to the premises the general public will be encouraged to use the car park as the main entrance to the grounds and building and not to enter through other access points. As a business it is to our advantage to know where our customers will be entering and exiting from, allowing us to offer a greater and more comprehensive level of service. This should eliminate any additional vehicles and foot traffic using the road alongside the premises and causing any unwanted disruption to neighbouring property and business. The current car park has twenty spaces for resident guests and visiting guests at the premises, as the business grows and the need is required, the car park can be extended to allow for additional parking to prevent any over spill in to surrounding areas.

It has never been intended or foreseen that the premises would operate or advertise as a public bar.

The premises may be used as a venue for functions, such as small weddings and birthday parties etc., but on these occasions the attendance would be low with function sizes not expected to exceed fifty people. If any function had the fortune of a sunny Scottish day, all outside entertainment would cease prior to 10pm, with all remaining guests being asked to use the lounge in the premises. The restaurant and extended food offering is an important area for the growth of the business. The main use of the building will be to continue providing high quality sleeping accommodation with food initially being auxiliary to the accommodation, allowing an additional service for any guest staying at the premises. This may grow and expand to include many of the general public using the restaurant on a regular basis, with a maximum seating capacity in the restaurant of forty people the number of non-resident persons using the premises will continue to be limited.

All music played in the premises is to be background music at a low level. It is not the intention to have live music and if so will be played internally within the building at a low level as not to disturb our main use of the premises as sleeping accommodation for our guests.

Percentage of expected business breakdown.

Rooms/Accommodation	80%
Café/restaurant	15%
Functions i.e. small weddings and parties	5%

RECORD OF EVENTS

Date	Event	Description
19 Jul 2015	New decking area	New decking area installed for restaurant, planning permission finally given after enforcement action was taken. July 2017.
24 Jul 2015	Wedding	First evidence of functions taking place at what had been a hostel. People on patio area and on access road to our house. Guests were milling around on the access road with drinks in hand getting their pictures taken.
9 Aug 2015	Birthday function	80 th birthday party
15 Aug 2015	Wedding and reception	<p>Large scale disruption during this event with 180 guests. Marquee in garden directly next to our garden and bedrooms. An outdoor bar was available as well. Portaloos for wedding guests were also outside. The owner assured us that speakers would be directed away from our house. A live band HEIDRUM played until midnight. The noise from the band was so horrendous our windows and walls were vibrating on the side of house next to Grey Harlings. During the wedding I called the owner and the manageress into the house so they could appreciate the noise levels. Although they did admit the noise was intolerable and the owner did say "I wouldn't stand for this", nothing was done to alter the volume. Our young son had to be taken from his bedroom and put to sleep on camping mats in a room at the other end of the house, to enable him to get some rest. Even so the music was too loud. Our next door neighbours could not hear their television due to the noise levels.</p> <p>During the day, there was a piper, noises from guests, speeches, and glass bottles breaking, photos taken outside our house. We have video footage illustrating the disturbance, which can be supplied if required.</p> <p>There was a week of disruption prior to the event as beer barrels, chairs, the marquee was delivered. Blocking the access road to our property, meaning I missed meetings at work as I could not get back after lunch. Some drivers had to drive over the 18th green of the golf course to get past the deliveries.</p>
15 Aug 2015	Outside bar installed	The outside bar was installed in preparation for wedding on the 15th August 2015 and has been there ever since. All plans submitted show this as a temporary feature, yet it still remains. Whenever this is used it creates significant noise disturbance.
06 Sep 2015	Flyer	Flyer posted on Grey Harlings Facebook advertising cafe opening soon, parties, weddings and outside bar, refer to Appendix II.
24 Sep 2015	Wedding function	A school night for our son. He had just started P1 and was struggling with tiredness and he had to contend with the following noise: the noise from an outside bar in the garden area next to our garden and bedrooms. Laser pens were being pointed at

		our windows, the noise of people drinking, glass bottles being disposed of until 11 ish at night.
16 Oct 2015	Function	Party in outdoor gazebo and outside bar, refer to Appendix II. Again loud music, noise of people partying, swearing, people outside. Carried on until 3am in the morning.
17 Oct 2015	Concerns raised	We went to speak to the owner and manageress the following morning. We pointed out the unacceptable levels of noise, swearing, music, and noise of glass bottles. We have been quite tolerant with regard to functions but requested that during any future events, people are kept indoors, away from our back garden and consider that we have a young son who has just started school and it was unfair to keep him up when he was already shattered. Despite our reservations, they still planned to have weddings and spoke of using sound proofed marquees.
15 Dec 2015	Outdoor LED lights	LED light strips attached to gable and have been a permanent feature ever since. Not in keeping with the listed building.
15 Dec 2015	Indoor bar	Installation of indoor bar.
05 Feb 2016	Planning permission for café/hot food takeaway/ restaurant	Planning permission was applied for by Grey Harlings. 15/01143/FULL. An objection was raised by ourselves, the other two residents on the same spur of Traill Drive as Grey Harlings, a Montrose Golf Links season ticket holder and a member of the Mercantile Golf Club. Concerns were raised by the head of technical and property services at Angus Council over parking as well as the greenkeepers regarding the impact on parking and road use.
05 Feb 2016	Occasional licence	Grey Harlings put in a request for an occasional licence AN/OCC/3031 for a wedding. We placed an objection, however due to the closing dates on Tell Me Scotland being wrong, it was not accepted. We went to the licencing offices, Forfar, in person and raised the issue with Blair Mitchell.
30 Jan 2016	Function	Wedding
06 Mar 2016	Private function	Disco
20 Mar 2016	Function	Tea party
16 Apr 2016	Wedding	Parking and road/pedestrian safety were compromised due to wedding guests parking on the surrounding roads. Photos were taken and a complaint made to the planning case officer Damian Brennan as well as Adrian Gwynne, head of technical and property services, referencing the planning application for the cafe/restaurant.
11 Jun 2016	Wedding	A wedding that was taking place in the lounge area of Grey Harlings, which is the area of the building closest to our home, caused severe noise disruption. Police were called around 11 pm due to excessive noise in our bedrooms from a ceilidh.

July 2016	Excessive noise	A bird scarer was in use. Starting around 9 pm and going on until 4 am. Although illegal in several countries because of its impact on young children and women, it was in use for several weeks. The police were eventually called and it was switched off, following a visit from Environmental Health. We have video footage of the noise, which was heard over a thunderstorm directly over our house, from our bedrooms. This can be supplied if required.
08 Jul 2016	Phone call	Phone call to Damian Brennan regarding the appearance of an application for a certificate of lawfulness for a guest house at Grey Harlings. Damian informed us that the planning application 15/01143/FULL had been withdrawn at the tail end of June as it could not proceed as they had to prove it was a guest house. I raised concerns that this was a back door approach to get their planning permission. He assured me this was not the case and they would have to apply for further planning permission to operate as a cafe/restaurant. We were also informed that we could not make representations against the certificate of lawfulness.
07 Aug 2016	BBQ	A BBQ was held in the gazebo area for Bryan Adams concert crew, creating cooking smells.
24 Aug 2016	Wedding and reception	Grey Harlings put in a request for an occasional licence AN/OCC/3365 for a wedding on the 24 September 2016. The event was to be in a marquee, using the outside bar, 100 guests. An objection was placed. I attended the meeting to express my concerns; the manager denied having had any previous complaints about noise and denied that guests could leave Grey Harlings property onto the road leading to our house as there was not gates/access onto that road. This is not the case. However, prior to the meeting the function proposal changed at the request of the bride and became an indoors wedding with a smaller number of guests. However the original proposal clearly indicated that Grey Harlings had not taken our previous complaints of impact upon our residential amenity on board. Occasional licence was approved.
09 Oct 2016	Restaurant	Missy Mustards, refer to Appendix III
23 Oct 2016	Restaurant	Missy Mustards, refer to Appendix III
06 Nov 2016	Birthday function	70 th birthday party
Feb 2017	Complaint	A complaint was made to the council regarding the certificate of lawfulness and the use of the guest house as café/restaurant, clearly stating that the guest house was class 7 and café/restaurants would be class 3. The complaint was made using the online portal, complaint references 1, 1942031; 2, 1942032; 3, 1942030. The point was also made that changes to a listed property had also been made, without planning permission.
26 Feb 2017	Restaurant	Missy Mustards, Mexican pop up

18 Apr 2017	Enforcement email	An email was received from Robert Parry, planning enforcement officer regarding a breach of planning control at Grey Harlings, Traill Drive (Planning Enforcement Case ref: 17/00042/UNWRKS), informing us of the planning application 17/00281/FULL for replacement timber fences and garden gazibo.
21 Apr 2017	Planning permission	Grey Harlings have applied for planning permission for replacement timber fences and garden gazibo reference 17/00281/FULL.
24 Apr 2017	Opening restaurant	Grey Harlings announce on their Facebook page that their café/restaurant will be opening at 12 noon on Friday the 5th May 2017 and their intention of applying for a drinks licence.
01 May 2017	Large signs populated	Large signs outside Grey Harlings have been populated. All prior to planning permission being received.
05 May 2017	Restaurant open	Restaurant opens. 7 days a week. Since the opening of the restaurant, we frequently get smells of cooking, which means we have to close our windows. In warm weather this is not the favoured option. My children have to travel past people eating, drinking alcohol and smoking on the patio, along the only access road to our house.
08 May 2017	Opening hours	A post of the opening hours is in place.
08 May 2017	Pedestrians in road	Whilst driving out of our access road onto Traill Drive, I am met with pedestrians leaving Grey Harlings through the main entrance onto Traill Drive. They are in the middle of the road before they recognise that I am there. There is no footway on Traill Drive for pedestrians leaving Grey Harlings. Upon my return, as I turn into the access road, I am met with pedestrians wandering on the road (again there is not pavements) again oblivious to my presence. They appear to be looking for an entry into the building, eventually they are given entry through the reception gate and are taken safely off the road.
19 May 2017	Cooking smells	Smells of cooking at the weekend during the evening, meaning closing of windows
24 May 2017	Pedestrians in the road	Whilst driving into our access road, I had to stop due to two people reading the Grey Harlings sign. They were oblivious to the fact the car was there. Eventually they did notice and moved to the side of the road.
22 May 2017	Metal gates in use	The metal gates at reception on the private access road are now open and in use. This point of access has never been used before.
25 May 2017	Flashing open sign	Flashing open sign is being used at the patio window on the private access road. Clearly encouraging people into Grey Harlings from this side.

26 Jun 2017	Function	21 st birthday function
08 Aug 2017	Planning permission	Planning permission for change of use to hotel/restaurant/function venue and additional parking submitted by the applicant.
11 Aug 2017	Function	Guests are milling around in the garden area of Grey Harlings, creating noise, disrupting our privacy.
02 Sep 2017	Wedding function	Bagpipes were played intermittently during the afternoon, awaking our baby who was asleep in her pram in the garden. Noise from guests who were in the courtyard and garden.
06 Sep 2017	Email regarding enforcement case	Response from G Edward regarding enforcement case 17/00042/UNWRKS. Informing us the case will remain open and the operators were advised on the 6 th June 2017 that any use of the development site as a café/restaurant' above an ancillary level requires planning permission and they <u>should not operate in a way that is over and above that level.</u>
15 Sep 2017	Outdoor and indoor function, road blocked	MSG events were unloading on the access road at side entrance 10.40 am, blocking the road to traffic. Outside bar was uncovered and tables and chairs set up, refer to Figure 6. Inflatables were set up in the garden. Refer to Appendix IV for pictures from MSG events. A gazebo containing barbeque was in use. Compressor noise, general party noise and screaming noises until 9 pm at night. We have an audio file of the noise, available on request. Both children did not get to bed until 9 pm. This impacted our youngest as they were then tetchy the next day due to lack of sleep.
16 Sep 2017	Road blocked	At 11 am MSG events were loading at the side entrance, to the rear of Grey Harlings. Refer to Figures 8 and 13 for pictures of the side entrance and loading of the van, which blocked the road.
17 Sep 2017	Road blocked	The access road was blocked as people got out of their car to read the menu on the access road.

001Appendix II

Flyer dated 06 Sep 2015, showing the outside bar, intention of use for café/functions



Grey Harlings Guest House

5 Traill Drive, Montrose DD10 8SW, telephone Linda on 01674 674789 / 07738 762405

<i><u>On the golf course</u></i>	<i><u>Bedrooms</u></i>	<i><u>Café opening soon</u></i>
		
<i><u>Parties</u></i>	<i><u>Weddings</u></i>	<i><u>Outside Bar</u></i>
		
<i><u>Our Luxury apartment on the golf course, also available for booking</u></i>		
		

Appendix III - Missy Mustards pop up menus, 09 Oct and 23 Oct 2016 as well as opening hours
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Missy Mustards
Pop Up Menu £25 Per Person

Marinated olives in garlic and chili with bread, oil and balsamic vinegar.

Starters

Tomato basil bruschetta
Arbroath smokie pate
Prosciutto rolls filled with chicken, cheese and herbs

Mains

Spaghetti with homemade meatballs in a tomato sauce
(Quorn option available)
Penne with garlic mushrooms in a pesto cheese and cream sauce
Spaghetti with herb chicken in a white wine sauce
Seafood risotto with mussels, king prawns and salmon

Desserts

Lemon cheesecake
Tiramisu with biscotti
Sticky cinnamon figs with yogurt

 **Grey Harlings Guest House** added 7 new photos.
23 June · 6

Come along and taste some over our tasty dishes served daily from 12 noon until 9pm, telephone 01674 674789 or just pop in. Free slush or ice cream with every kids meal.



MM
Missy Mustards

For 2 Nights Only
Missy Mustards Pop Up Restaurant
Hosted by
Grey Harlings Guest House


Grey Harlings
Guest House

5 Traill Drive, East Links, Montrose, DD10 8SW
Italian Menu- 9th October 2016
From 2pm-9pm
Tapas Menu- 23rd October 2016
From 2pm-9pm
£25 per person

For more information and to reserve a table call
01241 877233
No walk ins available, book now to avoid disappointment

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Appendix IV – Use of garden for functions



Note the close proximity to our home (our bedrooms are on this side of the building). The chairs and tables are sitting directly in front of the outside bar.