

ANGUS LICENSING BOARD – 1 FEBRUARY 2012

PREMISES LICENCES - REQUEST TO VARY PREMISES LICENCES
UNDER THE LICENSING (S) ACT 2005

REPORT BY THE CLERK

ABSTRACT

The purpose of this Report is to present applications to vary a premises licence(s) under the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine the application to vary a premises licence or premises licences as detailed in the attached **Appendix**, in terms of one of the following options:-

- (i) to grant the application, subject to Statutory Conditions and any other variation to the conditions to which the licence is subject that the Board may wish to impose;
- (ii) to defer the application to the next Licensing Board; or
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 3.

2. BACKGROUND

The Board has received applications to vary a premises licence or premises licences under the Licensing (Scotland) Act 2005 which require to be determined by the Board because the matters are not subject to delegation and shall only be discharged by the Licensing Board.

3. LEGAL IMPLICATIONS

A variation to a Premises Licence means any variation of:-

- (i) any of the conditions to which the licence is subject (other than the Mandatory Conditions),
- (ii) any of the information contained in the operating plan contained in the licence,
- (iii) the layout plan contained in the licence, or
- (iv) any other information contained or referred to in the licence,

If the variation sought is a minor variation, then the variation must be granted and powers have been delegated to the Clerk to approve these minor variation applications. Minor variations are:-

- (i) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan,
- (ii) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises; and
- (iii) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager).

The Board must hold a hearing and determine applications to vary which are not minor variations.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies and:-

- (a) if none of them applies, the Board must grant the application; or
- (b) if any of them applies, the Board must refuse the application.

The grounds for refusal are:-

- (a) that the application must be refused as the Board had previously refused the same variation to the premises licence in respect of the same premises within the preceding one year, alcohol would be sold for a continuous period of 24 hours from the premises, unless there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period), or if alcohol is to be sold for off sales purposes before 10am or after 10pm (or both);
- (b) that the Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives; and
- (c) that having regard to:
 - (i) the nature of the activities proposed to be carried on in the subject premises;
 - (ii) the location, character and condition of the premises; and
 - (iii) 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.

Where the Board grants the application, it may make a variation of the conditions to which the licence is subject.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

5. HUMAN RIGHTS IMPLICATIONS

In dealing with the applications as set out in this Report, the Board will have regard to any human rights issues in relation to the applicants.

6. EQUALITIES IMPLICATIONS

The issues contained in this Report fall within an approved category that has been confirmed as exempt from an equalities perspective.

7. CONSULTATION

The Head of Finance, the Director of Infrastructure Services and the Chief Constable, Tayside Police have been consulted in the preparation of this Report.

8. NOTIFICATION

The applicant(s) and the persons submitting representations have been notified of the terms of this Report. They have also been advised of their entitlement to attend the Board should they wish.

SHEONA C HUNTER
CLERK TO THE LICENSING BOARD

ANGUS LICENSING BOARD - SUMMARY OF APPLICATION

Names and Address of Applicant		Name and Address of Premises
The Royal British Legion Scotland Arbroath Branch Club Lochlands (Green Street) Arbroath DD11 3AB		The Royal British Legion Scotland Arbroath Branch Club Lochlands (Green Street) Arbroath DD11 3AB Type of Licence: On/Off Sales
MATTERS FOR THE BOARD TO CONSIDER		
APPLICATION FOR VARIATION OF PREMISES LICENCE		
Variation Sought		
Q3	Description of Variation Sought	<p>To vary the premises licence by determining that the premises are not a club for the purposes of Section 125 of the Licensing (Scotland) Act 2005 and as such is deemed a full premises licence to accommodate the demand from outside organisations and to negate the need for occasional applications.</p> <p>The Board are asked to note that the premises manager is Susan Nelson.</p> <p>To vary the statement in the operating plan at 6 (d) to include all local children's conditions and more specifically, to include condition 2 (a) (v) to apply in accordance with the activities or services provided on the premises.</p> <p>It is recommended that the Board apply local children's conditions.</p> <p>To vary the opening hours for on and off consumption on a Sunday from 12.30pm to 11am.</p> <p>The Board are asked to note that the hours requested are outwith policy.</p>

ANGUS LICENSING BOARD - SUMMARY OF APPLICATION

Names and Address of Applicant		Name and Address of Premises
The Royal British Legion (Arbroath) 8 Helen Street Arbroath DD11 3AP		The Royal British Legion (Arbroath) 8 Helen Street Arbroath DD11 3AP Type of Licence: On/Off Sales
MATTERS FOR THE BOARD TO CONSIDER		
APPLICATION FOR VARIATION OF PREMISES LICENCE		
Variation Sought		
Q3	Description of Variation Sought	<p>To vary the premises licence by determining that the premises are not a club for the purposes of Section 125 of the Licensing (Scotland) Act 2005 and as such is deemed a full premises licence to accommodate the demand from outside organisations and to negate the need for occasional applications.</p> <p>The Board are asked to note that the premises manager is Scott Berrie.</p> <p>To vary the statement in the operating plan at 6 (d) to include all local children's conditions and more specifically, to include condition 2 (a) (v) to apply in accordance with the activities or services provided on the premises.</p> <p>It is recommended that the Board apply local children's conditions.</p> <p>To vary the opening hours for on and off consumption on a Sunday from 12.30pm to 11am.</p> <p>The Board are asked to note that the hours requested are outwith policy.</p>

ANGUS LICENSING BOARD - SUMMARY OF APPLICATION

Names and Address of Applicant		Name and Address of Premises
Charles Henry Sands as Liquidator 67 St Ternans Road Newtonhill Stonehaven AB39 3PF		Central Bar 1-3 Brothock Bridge Arbroath DD11 3NQ Type of Licence: On Sales
If the confirmation notice is received before the Board date then this application will be dealt with. If the confirmation notice is not received the application may be deferred.		
MATTERS FOR THE BOARD TO CONSIDER		
APPLICATION FOR VARIATION OF PREMISES LICENCE		
Variation Sought		
Q3	Description of Variation Sought	To vary commencement hour for on sales to 11.00am on Sunday. The Board is asked to note that the hours requested are within Board's policy. To vary the capacity from 150 to 120.

ANGUS LICENSING BOARD - SUMMARY OF APPLICATION

Names and Address of Applicant		Name and Address of Premises
Sylvia Glendinning 10-12 Roods Kirriemuir DD8 4EZ		Roods Bar 10 Roods Kirriemuir DD8 4EZ Type of Licence: On Sales
MATTERS FOR THE BOARD TO CONSIDER		
APPLICATION FOR VARIATION OF PREMISES LICENCE		
Variation Sought		
Q3	Description of Variation Sought	<p>To vary commencement hour for on sales to 11.00am on Sunday.</p> <p>The Board is asked to note that the hours requested are within Board's policy.</p> <p>To vary the premises licence to allow entry to young persons as follows:-</p> <p>Terms</p> <p>Allowed in with a responsible person till 9pm, they will be seated at tables 4 metres from the bar. Young persons aged between 16-17 years only.</p> <p>Ages - 16 to 17 years</p> <p>Times – 11am to 9pm</p> <p>Parts of Premises – seated area 4 metres from bar, near front door entrance.</p> <p>The Board are asked to note that when the premises licence was granted by the Board on 10 December 2008, the applicant's sought the Boards approval to have children in the premises. The Board determined that no children were permitted on the premises with the exception of the licence holder's son.</p> <p>It is recommended that the Board apply local children's conditions.</p>

ANGUS LICENSING BOARD - SUMMARY OF APPLICATION

Names and Address of Applicant		Name and Address of Premises
Redwood Leisure Limited Suite B Dunsinane House Kilspindie Road Dundee DD2 3PW		Birkhill Inn Coupar Angus Road Birkhill By Dundee DD2 5PG Type of Licence: On/Off Sales
If the confirmation notice is received before the Board date then this application will be dealt with. If the confirmation notice is not received the application may be deferred.		
<p>MATTERS FOR THE BOARD TO CONSIDER</p> <p>APPLICATION FOR VARIATION OF PREMISES LICENCE</p>		
Variation Sought		
Q3	Description of Variation Sought	To vary commencement hour for on sales to 11.00am on Sunday. The Board is asked to note that the hours requested are within Board's policy.

ANGUS LICENSING BOARD - SUMMARY OF APPLICATION

Names and Address of Applicant		Name and Address of Premises
Asda Stores Limited Asda House Great Wilson Street Leeds LS11 5AD		Asda Store St James Road Forfar DD8 2ZP Type of Licence: Off Sales
<p>MATTERS FOR THE BOARD TO CONSIDER</p> <p>APPLICATION FOR VARIATION OF PREMISES LICENCE</p>		
Variation Sought		
Q3	Description of Variation Sought	<p>To vary the alcohol display area as follows:-</p> <ol style="list-style-type: none"> 1. To increase the alcohol display area to 55.44 m² from 50.105m². 2. To increase total floor area for beer, wines spirits to 129.4 m² from 99.1 m². <p>The Board is asked to note that the application seeks to correct an error in October 2011 whereby a minor variation was submitted and granted in respect of the above variation.</p>

ANGUS LICENSING BOARD - SUMMARY OF APPLICATION

Names and Address of Applicant		Name and Address of Premises
10 12-14 Castle Street Forfar DD8 3AD		10 12-14 Castle Street Forfar DD8 3AD Type of Licence: On/Off Sales
<p>The Board are asked to note that the application was deferred on 7 December 2011 to allow the applicant to lodge amended plans.</p>		
<p>MATTERS FOR THE BOARD TO CONSIDER</p> <p>APPLICATION FOR VARIATION OF PREMISES LICENCE</p>		
Variation Sought		
Q3	Description of Variation Sought	<p>1. Addition of upstairs bar.</p> <p>2. To extend Friday and Saturday terminal hour from 1.00am to 2.00am.</p> <p>3. To extend Sunday terminal hour from 12 midnight to 1.00am.</p> <p>The Board is asked to note that the hours requested are outwith Board's policy.</p>
	Police	Tayside Police submitted a letter dated 13 October 2011, a copy of which shall be circulated at the meeting.
	Neighbour	One objection has been received dated 8 October 2011, a copy of which shall be circulated at the meeting.