

ANGUS LICENSING BOARD – 14 JUNE 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

ITEM 7 (a) - MONTROSE BOWLING CLUB, MONTROSE

Names and Address of Applicant		Name and Address of Premises
Montrose Bowling Club Western Road Montrose DD10 8LW		Montrose Bowling Club Western Road Montrose DD10 8LW Type of Licence: On Sales
The Board are asked to note that this item was adjourned at meeting on 18 April 2012.		
MATTERS FOR THE BOARD TO CONSIDER APPLICATION FOR VARIATION OF PREMISES LICENCE		
Variation Sought		
Q3	Description of Variation Sought	<p>Variation to include off sales hours.</p> <p>Hours – Monday to Sunday 11am to 10pm</p> <p>To change the restricted area within current operating plan to whole area within boundary wall as per layout plans attached.</p> <p>The applicant has confirmed that prior to 2009 the outside drinking area was permitted in the whole area within the boundary wall with the exception of half a metre of said surface.</p>

ITEM 7 (b) THE YARD, MONTROSE

Names and Address of Applicant		Name and Address of Premises
Scott Learmonth The Birches Rosemount Road Hillside Montrose DD10 9HL		The Yard 30 – 36 George Street Montrose DD10 8EW 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	<p>1. To vary the terminal hour for on sales to 2am on Monday, Tuesday and Wednesday. Late Night Opening conditions shall apply.</p> <p>The Board is asked to note that the hours requested are outwith policy.</p> <p>2. To amend the layout of the premises to create a VIP lounge and a food area. The capacity of the premises is unchanged.</p> <p>3. To add the activities prior to the commencement of core hours of conferences, receptions, club or other group meetings, recorded music, dance facilities, Indoor/outdoor sports and Televised sports.</p> <p>To add the activities within and outwith core hours of films and bar meals.</p> <p>The applicant has confirmed that no alcohol shall be provided outwith core hours.</p> <p>Variation to other activities to add training days; dance, fitness and exercise classes; music, band or other media practice and race nights, casino nights and other permitted gaming activities.</p>

		<p>Variation to other activities to add “under 18’s events” to permit discos and parties for children and young persons between the ages of 12 and 17 years. No alcohol will be permitted at these events.</p> <p>The under 18 party booking policy is attached.</p> <p>A safe home policy will be enforced and the names, addresses and contact numbers of parents and guardians will be sought from all young persons attending.</p> <p>Young persons and children will be monitored by stewards outside the premises during the hours the event takes place and to ensure their safe dispersal.</p> <p>The premises manager or responsible person will advise the police when special events are to take place.</p> <p>4. To vary the local children’s conditions as follows :-</p> <p>To reduce the ages of children permitted to allow children and young persons between the ages of 0 to 17 years for family events and private functions.</p> <p>It is requested that the Board confirm that baby changing facilities are available.</p>
	Police	<p>Tayside Police submitted a letter dated 8 May 2012, a copy of which shall be circulated at the meeting.</p>
	Building Standards	<p>Building Standards submitted a memorandum dated 23 April 2012 stating that the premises were the subject of a building warrant which was approved on 11 February 2011. Whilst work has started the work has not been the subject of a completion certificate submission/acceptance.</p> <p>The alterations are one of the reasons the Operational Plan is being amended.</p>
	ECP	<p>The Environmental and Consumer Protection Division has advised that they are unable to comment on this application as one of their officers tried unsuccessfully on several occasions to contact the applicant to ascertain his proposals to limit noise emissions from the premises.</p>

	Community Council	Montrose Community Council submitted a pro forma in connection with this application dated 9 May 2012, a copy of which shall be circulated at the meeting.
	Neighbour	<p>An objection was received from a neighbour on 23 May 2012. A notice of objection or representation was required to have been received no later than 18 May 2012 and this objection has therefore been received late.</p> <p>Where a Board considers that there are good reasons not to treat an objection or representation 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.</p>

ITEM 7 (c) COAST BAR AND NIGHTCLUB (UPPER LEVEL), ARBROATH

Names and Address of Applicant		Name and Address of Premises
K & N Leisure Limited 16B Applegate Arbroath DD11 1HX		Coast Bar and Nightclub (Upper Level) 4 Gravesend Arbroath DD11 1HT 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>Variation to other activities to add “under 18’s events” such as discos, talent shows etc under the general supervision of a responsible adult.</p> <p>Children aged 5 to 17 years will be permitted up to the terminal hour of 11pm and entry will be allowed to the upstairs level only for the purposes of such events.</p> <p>Alcohol will be screened/removed from bar areas where practicable.</p> <p>Measures will be in place to stop/deter under age drinking and to protect children from harm such as minimum levels of adult supervision, bags checked on entry where deemed appropriate, staff circulation throughout the premises during the event, external checks to deter drinking outside, no alcohol to be served in the upstairs part of the premises i. e. to adults for the duration of such events</p> <p>A minimum separation time of 30 minutes is proposed between under 18’s and 18 and over events.</p> <p>The applicants would be content to undertake to notify Tayside Police and Angus Licensing Board of the dates of any such intended events if deemed appropriate.</p>