

ANGUS LICENSING BOARD – 16 AUGUST 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

**(a) ASDA, ST JAMES ROAD, FORFAR, DD8 2ZP**

**Names and Address of Applicant**

Asda Stores Limited, Asda House, Great Wilson Street, South Leeds, LS11 5AD

**Type of Licence :** Off Sales

**Description of Variation(s) Sought**

1. To vary the alcohol display area to increase the height of the existing alcohol display units to 2800mm to enable additional stock to be stored on top of that display unit. The effect of this is to increase the capacity figures in the operating plan as follows :-

Linear measurements for alcohol display	52.871m
Height of alcohol display unit	2800mm
Floor area taken up by alcohol display area	125.3m <sup>2</sup>
Alcohol display frontage	148.038m <sup>2</sup>

For information the current alcohol display area is:-

Linear measurements for alcohol display	55.44m
Floor area taken up by alcohol display area	129.4m <sup>2</sup>

**(b) ALDI, CRAIG O' LOCH ROAD, FORFAR, DD8 3JA**

**Names and Address of Applicant**

Aldi Stores Limited, Holly Lane, Atherstone, Warwickshire, CV9 2SQ

**Type of Licence:** Off Sales

**Description of Variation Sought**

1. To vary the alcohol display area as follows:-

Internal reconfiguration of off sales display area resulting in an increase in off sales capacity from 23.36 m<sup>2</sup> to 32.58 m<sup>2</sup>.

**Background**

1. On the 8 July 2009 the premises were granted an area for the display of alcohol of 18.54 metres length by 1.6 metres height by 880 millimetres width.
2. On the 10 May 2012 a variation was lodged to decrease and slightly amend the alcohol display area to 14.6 metres by 1.6 metres.
3. The current variation requests an increase in the alcohol display area to 18.1 metres by 1.8 metres height. No floor width is given and the Board may wish to confirm if the premises are keeping the original 880 millimetre floor space width granted in 2009.

**(c) THE CO-OPERATIVE FOOD, 10 GARDYNE STREET, FRIOCKHEIM, DD11 4SN**

**Names and Address of Applicant**

Co-operative Food Group Limited, New Century House, Manchester, M60 4ES

**Type of Licence:** Off Sales

**Description of Variation Sought**

1. To replace existing wording in relation to any other activities from “normal shop opening hours are 8am to 10pm” to “according to customer demand”.

**(d) THE CHANCE INN, 32 MAIN ROAD, INVERKEILOR, DD11 5RN**

**Names and Address of Applicant**

Chance Inn (Inverkeilor) Ltd, Reg Office Unit 3, Edward Street Mill, Forest Park Place, Dundee  
DD1 5NT

**Type of Licence:** On/Off Sales

**Confirmation Notice**

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.

**Description of Variation Sought**

1. To vary the entertainment to include Recorded Music and Live Performances during core licensed hours only.
2. Outdoor Drinking facilities to be provided during core licensed hours only.
3. To vary the commencement hour for on and off sales to 11.00am on Sunday.

**The Board is asked to note that the hours requested are within Board's policy**

**Comments Received**

**Environmental and Consumer Protection Division** have no objection to the application in principle; however they would strongly recommend that consideration be given to limiting the use of the outdoor drinking area to 9pm.

**(e) BAR CENTRAL, 116 CASTLE STREET, FORFAR, DD8 3HS**

**Names and Address of Applicant**

Maria Stewart, Turin Cottage, Suttieside Road, Forfar, DD8 3NG

**Type of Licence:** On/Off Sales

**Description of Variation Sought**

1. To vary the operating hours as follows:-

Friday	11.00am to 2.00am
Saturday	11.00am to 2.00am

For information the existing hours are:-

Friday	11.00am to 1.00am
Saturday	11.00am to 1.00am

**The Board is asked to note that the hours requested are outwith Board's policy.**

**It is requested that the Board note that Mandatory Late Night Opening Conditions shall apply to premises opening after 1.00am.**

2. Poker nights to be included as an additional activity.

The Clerk has been advised that the applicant is willing to accept the following conditions should the Board be minded to grant the application : -

1. Adequate stewarding (2- SIA badged) to be in place on Friday and Saturday Nights from 9pm – 30 minutes past terminal hour to ensure peaceful, safe and swift dispersal of patrons.
2. CCTV to be installed and maintained to satisfaction of Tayside Police and Angus Licensing Board.
3. No persons under 18 to be permitted in the premises when they are being utilised for the playing of poker.
4. Last entry to premises on Friday and Saturday nights 1am.
5. Any other reasonable conditions proposed by the Licensing Board.

**Comments Received**

**TAYSIDE POLICE** submitted a letter dated 18 June 2012, a copy of which shall be circulated at the meeting.