

ANGUS LICENSING BOARD – 4 OCTOBER 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) LICENCE NO. 323 - 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

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

For information the existing hours are:-

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

Members of the Board will recall that this application was considered at the Angus Licensing Board held on 16 August 2012.

At that meeting it was agreed to grant the additional activity of Poker nights and it was agreed to defer the decision of the variation which had been requested in respect of the operating hours for further clarification.

I can advise that the premises currently have the existing entertainment activities of recorded music, live performances and dance facilities.

The applicant's agent has confirmed that it is proposed that the premises will operate as hybrid premises operating as a public house daily and as an entertainment/nightclub premises from 9pm Friday and Saturday nights into Saturday and Sunday mornings.

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

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.

(b) LICENCE NO. 322 - SHARKY'S, 21 GEORGE STREET, MONTROSE, DD10 8EW

Names and Address of Applicant

Greene King Brewing and Retailing Limited, Westgate Brewery, Bury St Edmunds, Suffolk

Type of Licence: On/Off Sales

Description of Variation Sought

1. To vary the activities to include indoor / outdoor sports during core licensed hours only
2. To vary the operating hours as follows:-

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

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

For information the existing hours are:-

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

I can advise that the premises currently have the existing entertainment activities of recorded music, live performances and dance facilities.

The applicant has confirmed that it is proposed that the premises operation will be food led during the day and bars at night, with smaller more manageable late night disco / music / entertainment offerings at the weekend.

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

The applicant has advised that as the premises are proposing to trade after 1am, they will comply with the Late Night Conditions and will have SIA badged door security, CCTV, a Personal Licence holder and First Aider on duty, written policies for evacuation of premises and prevention of misuse of drugs, and regular toilet checks will take place.

Comments Received – TAYSIDE POLICE submitted a letter dated 5 September 2012, a copy of which shall be circulated at the meeting.

(c) LICENCE NO. 353 - ASDA, WESTWAY RETAIL PARK, ARBROATH, DD11 2NQ

Names and Address of Applicant

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

Type of Licence : 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(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	45.266m
Height of alcohol display unit	2800mm
Floor area taken up by alcohol display area	106.2m ²
Alcohol display frontage	126.744m ²

For information the current alcohol display area is:-

Linear measurements for alcohol display	45.396m
Floor area taken up by alcohol display area	106.2m ²

**(d) LICENCE NO. 272 - KEBAB MAHAL (FORMERLY ASHIANA), 98 HIGH STREET,
CARNOUSTIE, DD7 6AE**

Names and Address of Applicant

Mohammed Altaf Yasin, 200 Arbroath Road, Dundee, DD4 7RZ

Type of Licence: On Sales

Description of Variation Sought

1. To vary the operating hours as follows:-

Sunday to Thursday 11.00am to 12 midnight
Friday and Saturday 11.00am to 1.00am

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

For information the existing hours are:-

Sunday to Thursday 5.00pm to 11.00pm
Friday and Saturday 5.00pm to 12 midnight

2. To vary the activities to include restaurant facilities during core licensed hours only.

3. To reduce the capacity of the premises from 40 to 20 persons.

4. Various internal layout changes including reduction of the number of tables in the premises and the addition of a front kitchen.