AGENDA ITEM NO 8
REPORT NO LB48/09

ANGUS LICENSING BOARD – 26 AUGUST 2009
REQUEST TO VARY PREMISES LICENCE - THE MARKET ARMS, MONTROSE

REPORT BY THE CLERK

ABSTRACT
The purpose of this Report is to present an application, from The Market Arms, 95 High Street, Montrose, for a non-minor variation to its operating plan under the Licensing (Scotland) Act 2005. The variation requested is to increase its current core hours on a Thursday by one hour, from 11am – midnight, to 11am – 1am.

1. RECOMMENDATION

It is recommended that the Board consider and determine this variation in terms of one of the following options:

(i) to grant the application, subject to the Mandatory Conditions and any other discretionary or local conditions which the Board may wish to impose;

(ii) to grant the application subject to a variation of the conditions to which the licence is subject

(iii) to defer the application to the next Licensing Board; or

(iv) to refuse the application on one or more of the grounds referred to in Paragraph 3.

2. BACKGROUND

The Premises Licence application, under the Licensing (Scotland) Act 2005 for the Market Arms was granted on the 10 September 2008.

On the 27 May 2009 the Licensing Board granted the Market Arms an additional hours trading on a Thursday under the Licensing (Scotland) Act 1976. This additional hour is only valid until 31 August 2009 when the new Act takes effect.

3. LEGAL IMPLICATIONS

The Board must consider whether any of the grounds for refusal applies and—

(a) if none of them applies, the Board must grant the application,

(b) if any of them applies, the Board must refuse the application.

The grounds for refusal are—

(a) that the application must be refused under section 32(2) (where Board has refused an earlier variation for same premises licence and same variation), 64(2) (if application is granted it would allow alcohol to be sold in the premises for a continuous period of 24 hours) or 65(3) (Licensed hours – off-sales. If off-sales hours proposed would allow alcohol to be sold for consumption off the premises: before 10am, after 10pm or both).

(b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,

(c) that, having regard to—

(i) the nature of the activities carried on or 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,

(d) that, having regard to the number and capacity of—

(i) licensed premises, or

(ii) licensed premises of the same or similar description as the subject premises (taking account of the proposed variation),

in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of that description, in the locality.

Where the Licensing Board refuses the application—

(a) the Board must specify the ground for refusal, and

(b) if the ground for refusal is that the application is inconsistent with one or more of the licensing objectives the Board must specify the licensing objective or objectives in question.

Regarding the number and capacity at (d) above, references to “licensed premises” do not include references to licensed premises in respect of which an occasional licence has effect.

4. INFORMATION

This application for an additional hours trading on a Thursday to 1am is outwith current the Licensing Board Policy for that day. The Board is requested to consider if they wish to grant this variation to operating hours.

5. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report

6. HUMAN RIGHTS IMPLICATIONS

In dealing with the matters set out in this report the Board will have regard to any human rights issues to the applicant/applicants

SHEONA C HUNTER
CLERK TO THE LICENSING BOARD

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