

# ANGUS LICENSING BOARD

MINUTE of MEETING of the **SPECIAL ANGUS LICENSING BOARD** held in the Town and County Hall, Forfar on Friday 17 June 2016 at 11.00am.

**Present:** Councillors CRAIG FOTHERINGHAM, ALEX KING, BRIAN BOYD, LYNNE DEVINE, DAVID FAIRWEATHER, IAIN GAUL, JIM HOUSTON AND DAVID LUMGAIR.

Councillor Fotheringham, Convener, in the Chair.

## 1. APOLOGIES

Apologies for absence were intimated on behalf of Councillors Bob Spink and Paul Valentine.

## 2. DECLARATIONS OF INTEREST

Councillor Fairweather declared an interest in Items 3 & 4 as he had been contacted by the applicant (for procedural advice) whom he passed on to the Licensing Standards Officer. He advised that he would not be taking part in any discussion and voting and would leave the meeting during consideration of the item.

*Councillor Fairweather, having declared an interest at Article 2 above, left the meeting during consideration of items 3 and 4.*

## 3. APPEAL TO THE SHERIFF COURT

With reference to Article 5 (b) of the minute of meeting of this Board of 31 March 2016, there was submitted Report No LB 40/16 by the Clerk advising members of an Appeal against a decision of the Board and the outcome of that Appeal.

The Report advised that having regard to the desire to minimise expenses, approaches had been made to the Appellants and agreement had been reached by way of a Joint Minute that the Board would not oppose the appeal against the decision of the Board on 31 March 2016. This was on the basis that the case would be remitted back to the Board for reconsideration of its decision and an award of expenses being made against the Board.

The Board agreed to note:-

- (i) that an appeal had been lodged at Forfar Sheriff Court against the decision of the Board, at its meeting on 31 March 2016, to refuse to grant a variation of the premises licence in terms of the external area, which was to be used as a Beer Garden, in respect of the Buick Social Club, Lochlands Street, Arbroath; and
- (ii) the decision of the Sheriff, having regard to the Joint Minute lodged in process, in respect of this matter.

## 4. PREMISES LICENCES – REQUEST TO VARY PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005

With reference to the Article above, there was submitted Report No LB 41/16 by the Clerk on an application to vary a premises licences under the Licensing (Scotland) Act 2005, which required to be determined by the Board as detailed in the Appendix to the Report.

### (a) Buick Social Club, Arbroath

The Board reconsidered an application from Brian Toner, 11 Monkbarns Drive, Arbroath to vary a premises licence in respect of premises at Buick Social Club, Lochlands Street, Arbroath to allow them to amend their operating plan to include:-

- (i) a new outdoor drinking facility to be provided within 1.89m fenced area for a capacity of 40. No increase in total capacity of premises of 140; and
- (ii) children and young persons to be permitted within the beer garden area in addition to the main hall, lounge and entrance hallways.

The Board noted that four letters of objection had been received which had been circulated to members prior to the meeting.

The Board noted that further correspondence had been received dated 14 and 16 May 2016 which was outwith the consultation period and had therefore been received late. There was no one present to advise of the reasons why the letters were received late.

In accordance with Regulation 10(3) of the Licensing (Procedure) (Scotland) Regulations 2007, the Board agreed that it was satisfied that there were no good reasons for the correspondence being received late and agreed to disregard the letters.

Ms McKeown, the agent for the applicant and Mr Tonner were present. Ms McKeown addressed the Board after which she answered questions from members regarding the outdoor drinking area.

Sergeant Bethway, Police Scotland then addressed the Board.

The Board then heard from four objectors namely, Mr Teviotdale on behalf of Ms Shannon Mackay, Mr Ian Grant, Mr Rogan Frith and Mrs Sharon Teviotdale who all expressed their concerns regarding the formation of the outdoor area. Members asked a number of questions of the objectors.

The Board also heard from Mr Steve Thomson, Senior Environmental Health Officer who gave advice on monitoring the noise levels emanating from the Premises.

Discussion then took place and the applicant's agent summed up.

At this point, the Board then adjourned to take legal advice and consider matters in private before resuming the meeting in public.

The Board agreed to grant the application, subject to the following conditions:-

- (a) that the premises licence holder shall construct, at the entrance/exit to the area licensed for the consumption of alcohol outdoors, a two door system of entry/exit to be constructed in accordance with plans to be submitted and approved by the Clerk to the Board in consultation with the Building Standards Service of Angus Council;
- (b) that the Clerk to the Board write to the Environmental and Consumer Protection Service requesting that the Service monitor noise levels emanating from the licensed premises (including from the area licensed for the consumption of alcohol outdoors) and report any concerns to the Clerk to the Board (and that such monitoring include the installation and use of appropriate noise level recording equipment in nearby residential properties);
- (c) prior to the external drinking area being utilised the applicant shall submit a noise management plan, designed to minimise any nuisance to neighbouring residents, for the written approval of the licensing authority;
- (d) patrons shall not be permitted to use the external drinking area beyond 21.00;
- (e) no music or amplified sound shall be provided anywhere within the licensed premises with the intention of being heard within the external drinking area; and
- (f) the use of the beer garden during any live or amplified events should be prohibited to prevent noise spilling out and causing nuisance to nearby residential properties.

*Councillor Fairweather re-joined the meeting at this stage.*

## **5. EXTENSION OF HOURS OVER THE FESTIVE PERIOD**

There was submitted Report No LB 41/16 by the Clerk inviting the Board to note the representations received by the Board in respect of extended hours over Christmas and New Year at the joint meeting of the Board and Angus Licensing Forum on 5 November 2015; and determine whether the Board should consider publishing a supplementary Statement of Licensing Policy in respect of extended hours over Christmas and New Year.

The Board agreed to:-

- (i) note the representations received by the Board in respect of extended hours over Christmas and New Year at the joint meeting of the Board and Angus Licensing Forum on 5 November 2015; and
- (ii) give consideration to publishing a supplementary Statement of Licensing Policy in respect of extended hours over Christmas and New Year following a consultation exercise which would be the subject of a press release with comments being invited on the "Have Your Say" section of the Council's website