

**ANGUS LICENSING BOARD – 31 MARCH 2016**

**PREMISES LICENCES - REQUEST TO VARY PREMISES LICENCES  
UNDER THE LICENSING (S) ACT 2005**

**REPORT BY SHEONA C HUNTER CLERK TO THE BOARD**

**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 4.

**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. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this Report.

**4. OTHER IMPLICATIONS**

**Legal**

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.

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**(a) LICENCE NO. 157 – 10 CAFÉ BAR, 12-14 CASTLE STREET, FORFAR**

**Name and Address of Applicant**

Caroline Hampton, Sunnysdene, 97a Glamis Road, Forfar, DD8 1DR

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

**Description of Variation Sought**

**Children and Young Persons** – to vary the operating plan to add permission for Young Persons aged 16 and 17 years to have access to the premises for the purpose of being employed as a glass collector / dishwasher.

The Board is asked to note that the premises currently permit access for Children and Young Persons, aged 5 to 17 years within the upstairs area of the premises during private hire functions only.

The applicant has confirmed that the dishwasher facilities are within the bar areas on both floors of the premises.

The hours requested for Young Persons aged 16 and 17 years to be employed as a glass collector or dishwasher on the premises is from **8pm until the terminal hour**.

The Board is asked to note that the terminal operating hours of the premises are:-

Sunday to Thursday 12 midnight

Friday and Saturday 1am

**(b) LICENCE NO. 194 – BUICK SOCIAL CLUB, LOCHLANDS STREET, ARBROATH**

**Name and Address of Applicant**

Brian Toner, 11 Monkbarns Drive, Arbroath, DD11 2DS

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

**Description of Variation Sought**

**1. Description** of premises to be amended from British Legion Members Club for ex-service men and women. The description is to be varied to public house. A copy of the constitution for the Buick Social Club has been provided.

**2. Activities**

- (a) add televised sport within and outwith core hours;
- (b) add receptions and meetings outwith core hours;
- (c) withdraw restaurant facilities, bar meals, masonic lodge meetings, area and country sports meetings, pipe band practice, dance classes, indoor/outdoor sports.

**The applicant has confirmed that no alcohol is to be provided outwith core hours.**

**3. Outdoor Drinking** - new facilities to be provided within 1.89m fenced area for a capacity of 40. No increase in total capacity of premises of 140.

**4. Children and Young Persons** to be permitted within the beer garden area in addition to the main hall, lounge and entrance hallways.

The Board is asked to note that the premises currently permit access for Children and Young Persons. It is requested that the Board also note that restaurant facilities and bar meals are to be withdrawn.

The applicant has confirmed that Children and Young Persons are to be permitted during functions. Outside catering is to be provided.

**It is requested that the Board applies the Children's Model Local Conditions and, in particular, to advise the applicant of the following:-**

2(a) (iii) WHERE ALCOHOL IS SOLD ANCILLARY TO A FUNCTION / ENTERTAINMENT

Children and young persons will only be permitted into licensed premises where the primary purpose of allowing them access is to attend a pre-booked private function or a ticketed function until the termination of the function.

2(a) (iv) WHERE NO FOOD IS SOLD

No children under the age of 16 will be permitted into any premises and young persons aged 16 or 17 will only be permitted in the licensed premises until 9.00pm.

## Comments Received

**COMMUNITIES, ENVIRONMENTAL & CONSUMER PROTECTION** submitted a Memorandum of Observation dated 7 March 2016.

The application includes the provision of outdoor drinking facilities to be used during core licensed hours, and it is noted from a site visit that there are residential properties close to the proposed site; in order to minimise any noise nuisance being caused by this facility I would respectfully ask that consideration be given to attaching the following conditions:--

- 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.
- Patrons shall not be permitted to use the external drinking area beyond 21.00.
- No music or amplified sound shall be provided anywhere within the licensed premises with the intention of being heard within the external drinking area.
- 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.
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**PLANNING & PLACE** submitted a Memorandum of Observation dated 7 March 2016.

A site visit was carried out to the premises and it was noted that the beer garden area would benefit from exit signage and signage relating to the means of operation of the ironmongery to the fire exit gate.

**4 OBJECTIONS** have been received dated 10 and 11 March 2016, copies of which shall be circulated to members prior to the meeting.