

ANGUS LICENSING BOARD – 5 JANUARY 2017

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

REPORT BY SHEONA C HUNTER CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present an application/s to vary a Premises Licence/s under the Licensing (Scotland) Act 2005 which require/s 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 or 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 7.

2. BACKGROUND

The Board has received applications to vary a Premises Licence or Premises Licences under the Licensing (Scotland) Act 2005 which require/s 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, in relation to a Premises Licence, means any variation of:-

- (a) any of the conditions to which the licence is subject (other than the Statutory Conditions);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence; or
- (d) any other information contained or referred to in the licence.

5. 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:-

- (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan;
- (b) 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;
- (c) 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); and
- (d) any other variation of such description as may be prescribed.

6. 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.

7. The grounds for refusal are:-

- (a) that the application must be refused under Section 32(2) (the Board had previously refused an application to vary a premises licence within the preceding one year), Section 64(2) (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 Section 65(3) (if alcohol is to be sold for off sales purposes before 10am or 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; and

- (d) that, 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 the same or similar description as the subject premises (taking into account of the variation), in the locality.

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(a) LICENCE NO. 348 COAST BAR & NIGHTCLUB (LOWER LEVEL), 4 GRAVESEND, ARBROATH

Name and Address of Applicant

H & Co Leisure Limited, 1 Elgin Place, Arbroath, DD11 1HU

Type of Licence: On /Off Sales

Description of Variation Sought

1. **Vary** the On Sales operating hours for Friday and Saturday from the existing terminal hour 01.00 to 02.00.

The Board is asked to note that the hours requested are outwith Board Policy.

The current on sales operating hours are:-

Sunday to Wednesday 11.00 to 24.00
Thursday to Saturday 11.00 to 01.00

The Board is asked to note that a further condition was attached to the premises licence on 14 March 2012 as follows:-

Activities to include bar meals, soft drinks and restaurant facilities to be served within the premises for two hours beyond the terminal hour on Friday and Saturday nights. No alcohol to be served outwith core hours.

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- (b) LICENCE NO. 193 ARBROATH AND DISTRICT INDOOR BOWLING CLUB, THE STADIUM, CAIRNIE ROAD, ARBROATH, DD11 3DY

Name and Address of Applicant

Arbroath and District Indoor Bowling Club, The Stadium, Cairnie Road, Arbroath, DD11 3DY

Type of Licence: On /Off Sales Qualifying Club Premises

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. Vary the On Sales operating hours for Sunday from the existing opening hour 12.30 to 11.00.

The Board is asked to note that the hours requested are within Board Policy.

The current on sales operating hours are:-

Monday to Thursday	11.00 to 24.00
Friday and Saturday	11.00 to 01.00
Sunday	12.30 to 24.00

2. **Activities** to include:-

- (a) Club or other Group meetings within and outwith core hours.
- (b) Recorded music; live performances and gaming to be permitted within core hours

3. **Children and Young Persons**

- (a) Ages of Children and Young Persons to be varied from 8 – 17 years to 0 – 17 years. Baby changing facilities are to be provided.
- (b) Children and young persons to be allowed access to the bowling green and surrounding area; café dining area; and upstairs lounge / dining area.
- (c) Children and young persons to be allowed access to the café facilities during core hours.
- (d) Children and young persons to be permitted entry to play bowling or to watch scheduled bowling matches during core hours.
- (e) Children and young persons to be permitted on the premises after 9pm to play in or watch a scheduled bowling match and to use the café facilities during the scheduled bowling match. A small number of young bowlers have skills and ability to play in adult games, which can, on occasion, take place after 9pm, finishing no later than 10.30pm.

(c) LICENCE NO. 184 THE NORTHERN HOTEL, 2 CLERK STREET, BRECHIN, DD9 6AE

Name and Address of Applicant

P & J Properties (Scotland) Ltd, Commercial Bank buildings, 36-37 Market Square, Duns, TD11 3AL

Type of Licence: On 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. Vary the premises licence to add Off Sales during the hours

Monday to Saturday	11.00 to 22.00
Sunday	12.00 to 22.00

The Board is asked to note that the hours requested are within Board Policy.

2. Activities

- (a) Activities currently within hours only to be varied to also take place outwith core hours – conference facilities; restaurant facilities; bar meals; receptions; club or other group meetings; recorded music; dance facilities and televised sport.

The provision of teas, coffees and breakfasts to commence from 7am. Background music to be provided outwith core hours. Televised sport shall on occasion be screened to patrons outwith core hours.

- (b) Films to be added within core hours.
- (c) Gaming to be included within core hours only.
- (d) Premises to be used as a venue for Brechin Arts Festival.

3. Children and Young Persons aged 0 to 17 years

- (a) to have access to all public parts of the premises
- (b) to have access until 9pm without the requirement of taking a meal and to have an additional hour after cessation of serving of food, i.e. Children and Young Persons will be allowed access until 10pm for the enjoyment of taking a meal.

It is requested that the Board note that Local Children's conditions shall apply.