

ANGUS LICENSING BOARD – 12 MAY 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.

REPORT AUTHOR: Dawn Smeaton, Licensing and Litigation Assistant
E-MAIL: LEGDEM@angus.gov.uk

(a) LICENCE NO. 280 PANMURE HOTEL, TAY STREET/PRINCES STREET, MONIFIETH

Name and Address of Applicant

Panmure Hotel Monifieth Limited, 2 Mill Place, Tarland, Aberdeenshire

Type of Licence: On/Off Sales

Description of Variation Sought

- 1. Capacity** – to increase function room capacity from 220 to 250. The increase is required to cover for events where a dance floor is not required and a further 3 tables of 10 people per table can be placed.
- 2. Outdoor Drinking Facilities** to be provided for a capacity of 50. No increase in total capacity of premises.

Comments Received

ENVIRONMENTAL & CONSUMER PROTECTION submitted a memorandum dated 26 April 2016.

The application is for variation to premises licence including the provision of outdoor drinking facilities during core licensed hours. This service has had complaints from residents in nearby residential properties regarding patron noise from these premises in the past and therefore have concerns that noise from this facility could give rise to noise complaints. 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 21.00hrs.
- No music or amplified sound shall be provided anywhere within the licensed premises with the intention of being heard within the external drinking area.