

ANGUS LICENSING BOARD – 12 MAY 2016

APPLICATION FOR AN OCCASIONAL LICENCE

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to present an application for an occasional licence under the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

1. RECOMMENDATIONS

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

2. BACKGROUND

The Board has received an application(s) in respect of an occasional licence under the Licensing (Scotland) Act 2005 which require to be determined by the Board. The matters referred to in this report are not subject to delegation and must be determined by the Licensing Board.

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 premises to which the application relates are excluded premises,
- (b) that the application must be refused under section 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.
- (c) that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives,
- (d) that, having regard to—
 - (i) the nature of the activities proposed to be carried on in the premises to which the application relates,
 - (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 considering, for the purposes of the ground for refusal specified in subsection (c), whether the granting of the application would be inconsistent with the crime prevention objective, the Licensing Board must, in particular, take into account any notice given by the appropriate chief constable under section 57(2).

In determining any application which is to be determined in accordance with paragraph 3, the Board must take into account any report from a Licensing Standards Officer under section 57(3).

4. INFORMATION

The Licensing Standards Officer has raised a report (s) as detailed in the attached Appendix/Appendices.

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.

7. CONSULTATION

The Divisional Commander, Tayside Division of Police Scotland has been consulted in the preparation of this Report.

**SHEONA C HUNTER
CLERK TO THE LICENSING BOARD**

ANGUS LICENSING BOARD – 12 MAY 2016

(a) ENCLOSED OUTDOOR AREA, THE PICTURE HOUSE, 12 HUME STREET, MONTROSE

An application has been received from Greene King Retailing Limited requesting an Occasional Licence on Saturday 28 May 2016 and Sunday 29 May 2016 in respect of an enclosed outside area at The Picture House, 12 Hume Street, and Montrose for the Montrose Music Festival.

The hours requested when alcohol will be sold for consumption on the premises are between 11.00 and 21.00 hours.

To assist the Board in determining this application a report has been submitted by the Licensing Standards Officer.

LSO Comments for Licensing Board Consideration

An application has been received from Greene King Retailing Ltd for an occasional licence for an external area outside the Picture House on Hume Street, Montrose for Saturday 28th May and Sunday 29th May 2016 for the Montrose Music Festival. The street requested is part of a byelaw area where the consumption of alcohol is prohibited unless an occasional licence is in operation.

The hours requested are from 1100hrs to 2100hrs on both days and the applicants have confirmed that part of the area will be seated. The 16m x 5m area will have a capacity of 120. The applicant has confirmed that SIA badged stewards will control access to the outdoor area and ensure that alcohol is not removed from the licensed area into the surrounding byelaw zone.

The outdoor area is for the consumption of alcohol only with all sales taking place in the Picture House. All drinks will be decanted into plastic containers at the point of sale.

Roads Department have advised that a prohibition of driving on the carriageway on Hume Street will be in force over the period however the public right of passage along the footway must be maintained. This will result in patrons with alcohol having to cross a preserved pedestrian access which is within the byelaw area.

Reason for Comments

I would ask the Board to consider this application for the following reasons:

1. The area requested for alcohol consumption is in a byelaw zone where the consumption of alcohol is prohibited in public places, these bye laws supporting the licensing objectives of preventing public nuisance and securing public safety.
2. As a consequence of having to maintain the public footway, the outdoor licenced area will require to be situated on the road requiring patrons to cross the footpath. I would therefore need to object to this application on the grounds of preventing crime and disorder.

(b) ENCLOSED OUTDOOR AREA, HARRY'S BAR, 2 HUME STREET, MONTROSE

An application has been received from Henry Cruickshank requesting an Occasional Licence on Saturday 28 May 2016 and Sunday 29 May 2016 in respect of an enclosed outside area at Harry's Bar, 2 Hume Street, Montrose for the Montrose Music Festival.

The hours requested when alcohol will be sold for consumption on the premises are between 12 noon and 20.00 hours.

To assist the Board in determining this application a report has been submitted by the Licensing Standards Officer.

LSO Comments for Licensing Board Consideration

An application has been received from Mr H Cruickshank for an occasional licence for an external area outside Harry's Bar on Hume Street, Montrose for Saturday 28th May and Sunday 29th May 2016 for the Montrose Music Festival. The street requested is part of a byelaw area where the consumption of alcohol is prohibited unless an occasional licence is in operation.

The hours requested are from 12 noon to 20.00hrs on both days and the applicant has confirmed that part of the area will be seated. The 7m x 10m area will have a capacity of 70. The applicant has confirmed that SIA badged stewards will control access to the outdoor area and ensure that alcohol is not removed from the licensed area into the surrounding byelaw zone.

The outdoor area is for the consumption of alcohol only with all sales taking place in Harry's Bar. All drinks will be decanted into plastic containers at the point of sale.

Roads Department have advised that a prohibition of driving on the carriageway on Hume Street will be in force over the period however the public right of passage along the footway must be maintained. This will result in patrons with alcohol having to cross a preserved pedestrian access which is within the byelaw area.

Reason for Comments

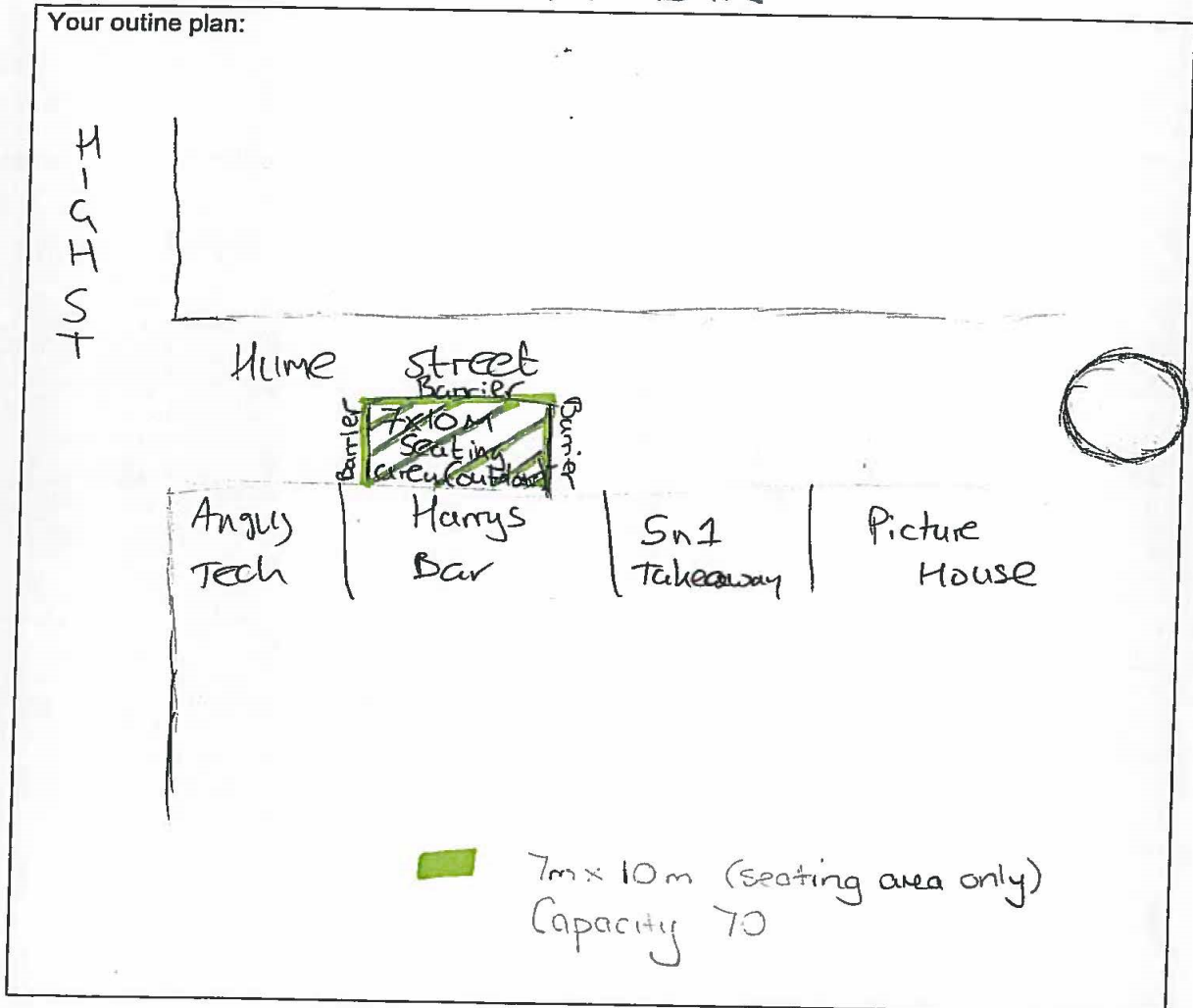
I would ask the Board to consider this application for the following reasons:

1. The area requested for alcohol consumption is in a byelaw zone where the consumption of alcohol is prohibited in public places, these bye laws supporting the licensing objectives of preventing public nuisance and securing public safety.
2. As a consequence of having to maintain the public footway, the outdoor licenced area will require to be situated on the road requiring patrons to cross the footpath. I would therefore need to object to this application on the grounds of preventing crime and disorder.

OCCASIONAL LICENCE APPLICATIONS
AREA PLAN/SKETCH MAP for OUTDOOR EVENTS

To assist in progressing your application when an outside area and/or a temporary structure, such as a marquee/beer tent/mobile bar is to be licensed, please provide an outline plan/sketch of the location where the occasional licence is to have effect. Details to include measurements: (length x breadth) of this proposed area and how this area will be clearly defined, for example by use of suitable fencing.

HARRY'S - BAR



Applicants may prefer to use a map of a suitable scale showing the area requested.

(c) ENCLOSED OUTDOOR AREA, MARKET ARMS, 95 HIGH STREET, MONTROSE

An application has been received from William Dorward requesting an Occasional Licence on Saturday 28 May 2016 and Sunday 29 May 2016 in respect of an enclosed outside area at The Market Arms, 95 High Street, Montrose for the Montrose Music Festival.

The hours requested when alcohol will be sold for consumption on the premises are between 11.00 and 19.00 hours.

To assist the Board in determining this application a report has been submitted by the Licensing Standards Officer.

LSO Comments for Licensing Board Consideration

An application has been received from Mr W Dorward for an occasional licence for an external area on Montrose High Street opposite the market Arms public house, 95 High Street, Montrose, for Saturday 28th and Sunday 29th May 2016 for the Montrose Music Festival. A plan with dimensions of the requested area is attached. The street requested is part of a byelaw area where the consumption of alcohol is prohibited unless an occasional licence is in operation.

The hours requested are 11.00 – 19.00 both days and the applicant confirmed that the area will be seated, with a capacity of circa 100. Children will not be permitted access and SIA badged stewards will be on duty to control entrance and exit as well as patron's behaviour within the licensed area (2 within the licensed area and 2 at the entrance to area and entrance to Market Arms). The area is for the consumption of alcohol only with all sales taking place in the Market Arms. All drinks served in the Market Arms over the MoFest weekend will be decanted into plastic containers at the point of sale. To reach the outside area patrons with alcohol will be required to cross a preserved pedestrian access which is within the byelaw area.

The Board are asked to note that a request has been lodged for the High Street and surrounding areas to be traffic free for the times and dates requested. A Public Entertainment Licence has been granted by Angus Council for the Montrose Music Festival Event and a meeting has taken place between Angus Council's Event Planning Team and the MoFest organisers.

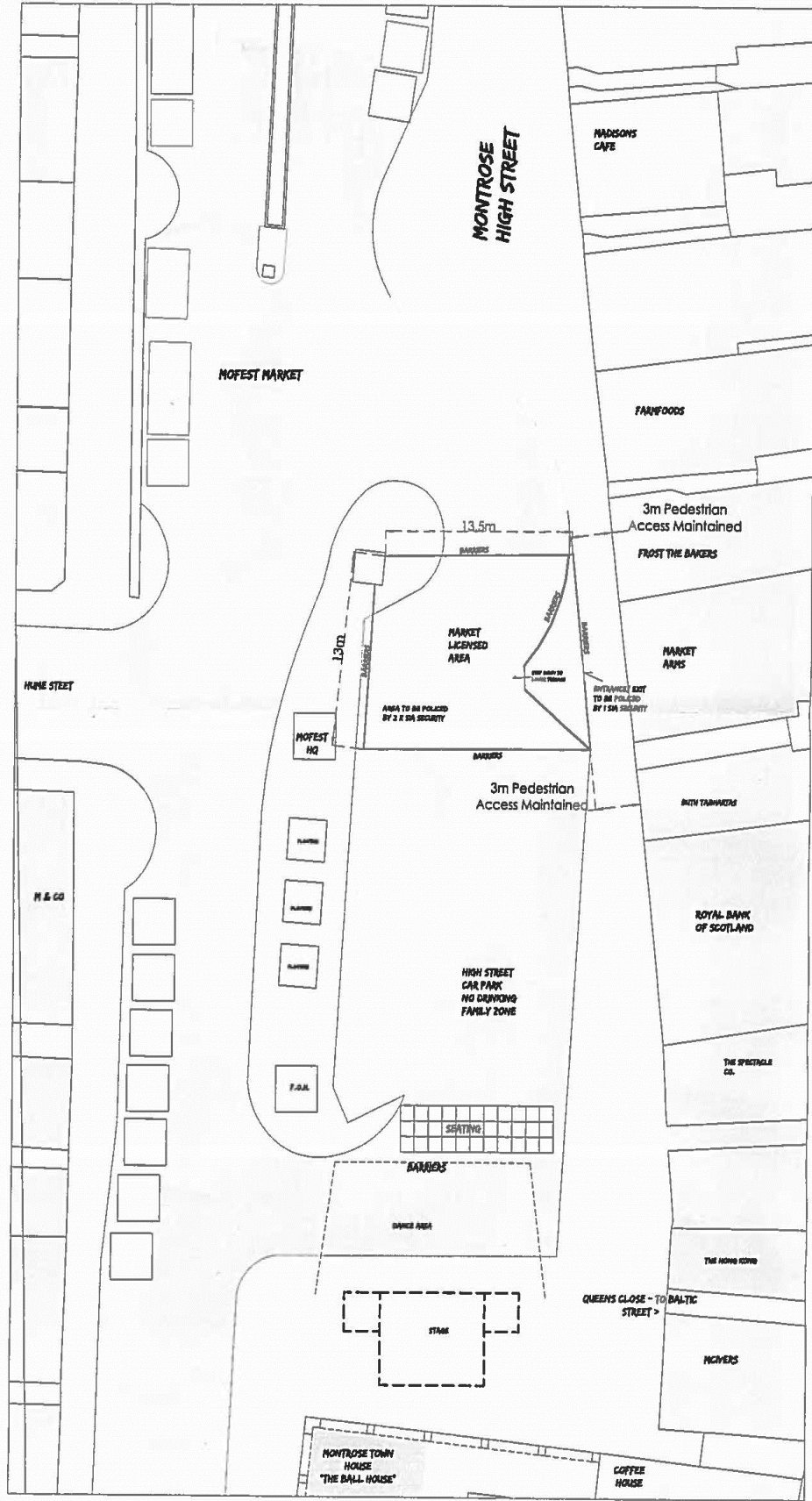
Reason for Comments

I would ask the Board to consider this application for the following reasons:

1. The area requested for alcohol consumption is in a byelaw zone where the consumption of alcohol is prohibited in public places, these byelaws supporting the licensing objectives of preventing public nuisance and securing public safety.
2. Not covered in the application is the preserved pedestrian access area to and from the Market Arms to the outside area requested for the consumption of alcohol. The consumption of alcohol in this area is an offence, therefore, I would object to this application on the grounds of preventing crime and disorder.
3. If the Board are mindful to grant this application I would recommend that the alcohol management plan attached to this report, is made a condition of the licence.
- 4.

M GILLESPIE
Licensing Standards Officer

ΠΙΣΤΟΧΙΣΤΕΙ ΕΒΕΝΙ-- MARKET ARMS
1:250



Market Arms - Alcohol Management Plan.

Aim

The aim of this alcohol management plan is to assist in ensuring compliance with the Licensing (Scotland) Act 2005 and the 5 licensing objectives: Preventing crime and disorder, Preventing public nuisance, Securing public safety, Protecting and improving public health and Protecting children from harm by ensuring that alcohol is sold safely and responsibly during the period of the Montrose Music Festival (MoFest) High Street Event on Saturday 28th & Sunday 29th May 2016 at the outdoor drinking area for The Market Arms.

Management Statement

Following on from the success of last year's introduction of a outdoor drinking area on Montrose High Street at our premises the Market Arms, we intend to keep this feature moving forward but with some slight modifications.

Within the Car Park at the Town Piazza we will have a licenced area (delineated in blue on the enclosed map) consisting of a Beer Garden outside the Market Arms. The beer garden, will be an area where people can stand/sit to consume drinks purchased from the Market Bar only with dispensed drinks into plastic glasses.. This licenced area will be cordoned off from the rest of the High Street with 1 accessible entrances/exits for the public which will be manned at all times by SIA security and directly opposite the Market Arms Entrance. Entrance to this area will be restricted to over 18s only. Only alcohol purchased from The Market Arms will be allowed to be consumed within the licenced area and no-one will be allowed to leave the licenced area with an alcoholic beverage. This has all been agreed with the Montrose Music Festival committee.

For this event The Market Arms and our security team Specific Security Ltd will adhere to the following guidelines: -

1. The licence holders will comply with the mandatory conditions applicable to all occasional licences and any local conditions expected by the Licensing Board.
2. SIA Licensed Door Supervisors to only allow access to patrons thought suitable to enter, carry out random bag searches, carry out ID checks, we have strict zero tolerance policies for violence and controlled substances, monitor and control behaviour in and around the licensed and non licensed areas.
3. Specific Security team will be stationed at the entrance to beer garden area and within to monitor and control behaviour in and around the licensed and non licensed areas.
4. To secure public safety we will carry out evacuation procedures with all staff working at the event.
5. Restricting people to drink within one area will allow us to keep a close eye on the public. Issues in the past have been people downing drinks in one pub to get to another, thus people get drunk quicker. By allowing a safe area for drinking we can prevent this from happening, have bottled water available, sell non alcoholic

beverages at reasonable prices, have qualified first aid staff and tent on site, the public address system will be in good working order.

6. Security staff will be in place to monitor and control behaviour as well as prevent crime and disorder by creating a safe and secure environment. Detecting underage drinking is one of their main priorities and will be monitored from the beginning of the event to the end. They have UV lights that detect fraudulent ID cards. We have a good relationship with the security team and authorities working at the event and feel confident that together we can control underage drinking as a team of well trained staff.
7. A personal licence holder will supervise all bar sales.
8. No-one will sell or serve alcohol without first receiving the relevant training.
9. The sale and consumption of alcohol to be limited to the areas approved by the Licensing Board.
10. SIA badged staff to be used to control access to and from licensed area.
11. Persons who are drunk will not be served or allowed into licensed area.
12. The occasional licence holder and sufficient responsible persons are to be present throughout the event to ensure compliance with the Licensing (Scotland) Act 2005
13. All alcohol to be decanted in to plastic containers at the point of sale.
14. Only plastic (PET) bottles to be offered for sale
15. Challenge 25/age verification will be employed. Identification will be by way of a passport or driving licence
16. Challenge 25 signage will be displayed at both alcohol vendors.
17. Alcohol sales to be restricted to a maximum of 2 drinks (plastic containers or bottles) per order per person at any one time. Signage to be displayed at bar.
18. Staff to be briefed and alert to the potential for agency buying (person over 18 buying for persons under 18) and refuse service or confiscate alcohol if they think this is happening
19. No alcohol to be brought into High Street area.
20. Members of the public are forbidden access behind the event bars at all times.
21. The Licence Holder will ensure that sufficient staff are on duty throughout the event to operate the bar and to supervise licenced areas.

Suggested occasional licence holder duties:

Responsible For: Operating a bar, ensuring that the Licensing Objectives are complied with:
Prevention of crime disorder

Prevention of public nuisance

Securing Public Safety

Protecting and Improving Public Health

Protection of children from harm

Main Duties: Effective management of staff in a bar

Minimize risk of loss of cash

Operate the Challenge 25 scheme and ensure staff are trained briefed and managed accordingly

Comply with the conditions of the occasional licence

National mandatory licence conditions

The following are the mandatory conditions which every Occasional Licence is subject to in accordance with the Licensing (Scotland) Act 2005, Section 60(1) and Schedule 4.

Interpretation

1. In this schedule, “the premises” means, in relation to any occasional licence, the premises specified in the licence.

Compliance with licence

2. (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.
(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in Section 63(2).
3. Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

Authorisation of sales of alcohol

4. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.
(2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

Voluntary Organisations

5. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.
(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation’s activities.

- 5B (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.
(2) Sub-paragraph (1) applies –
 - (a) only where each of the alcoholic products is for sale on the premises separately, and
 - (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
(3) In this paragraph, “alcoholic product” means a product containing alcohol and includes the container in which alcohol is for sale.

Pricing of alcohol

6. Where the price at which any alcohol sold on the premises for consumption on the premises is varied:-
- (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation
- 6A Where the price at which any alcohol sold on the premises for consumption off the premises is varied:-
- (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) no further variation in the price at which that alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Irresponsible drinks promotions

7. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it:-
- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
 - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
 - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink.,
 - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
 - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
 - (f) is based on the strength of any alcohol,

(g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or

(h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

(3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph(2) or (3) so as to:-

(a) add further descriptions of drinks promotions.

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of non-alcoholic drinks

8. (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Age verification policy

9. (1) There must be an age verification policy in relation to the sale of alcohol on the premises.

(2) An “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

(3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

Additional licence conditions imposed by Licensing Board

Angus Licensing Board Local Conditions

A. General

The occasional licence holder must operate within the boundaries of the premises as they are described in the occasional licence and in accordance with the terms of the occasional licence.

B. Display of Notice

The occasional licence holder shall display at all times during the operation of the licence the statutory notice (under-age purchase etc. offences) at each place on the premises where sales of alcohol are made and in a position where it is readily visible to any person seeking to buy alcohol.

C. Access to Licensed Premises (On Sales) by Children and Young Persons

Children under the age of 16 and young persons aged 16 or 17 will only be permitted to access and remain within the part/s of the premises identified in the occasional licence as part/s to which children or young persons are permitted entry. In addition one of the following control measures will require to be in place:-

(a) (i) WHERE FOOD IS SOLD ANCILLARY TO ALCOHOL

Children and young persons will only be permitted into the licensed premises where the primary purpose of allowing them access is to consume a meal (except where paragraph (iii) below applies). Children and young persons will only be permitted in the premises until 9.00pm or one hour after cessation of serving of food to the individual person or group of persons consuming the meal, whichever is the earlier where food is sold ancillary to alcohol.

(ii) WHERE ALCOHOL IS SOLD ANCILLARY TO FOOD

Children and young persons will only be permitted into the licensed premises where the primary purpose of allowing them access is to consume a meal, (except where paragraph (iii) below applies). Children and young persons will be permitted in the premises until one hour after the cessation of serving food to the individual person or group of persons consuming the meal where alcohol is sold ancillary to food.

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

Children and young persons will only be permitted into the 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.

(iv) **WHERE NO FOOD IS SOLD**

No children under the age of 16 will be permitted into the licensed premises and young persons aged 16 or 17 will only be permitted in the licensed premises until 9.00pm where no food is sold (except where paragraph (iii) above applies).

(b) Children and young persons are not permitted to be present at or in the immediate vicinity of any bar or bar counter.

(c) Children and young persons must be accompanied by and kept under the direct supervision of a responsible adult (not less than the age of 18) who must keep proper control of the children at all times.

(d) The part or parts of the licensed premises where children and young persons are permitted should be free of category A, B or C gaming machines and gaming, unless the gaming is equal chance prize gaming which children and young persons are permitted to participate in under the Gambling Act 2005.

(e) Gaming, category C and greater gaming machines and cigarette vending machines should not be located in walkway areas, must be sited in a location where their use can be monitored by staff (including volunteer staff) and no children and young persons will be permitted to operate said machines.

(f) Where televisions or screens for live or pre-recorded entertainment or games are intended to be used in areas where children are permitted, the programmes or video games must be of a type suitable for family and children's viewing.

(g) Male and female toilets must be readily accessible from the area/s where children are allowed and remain open at all times when children are in the premises.

(h) Where children and young persons are permitted access for the primary purpose of consuming a meal a children's menu shall be made available at all times during which children or young persons are permitted to be on the premises. This would not be satisfied by the provision of soft drinks or snacks but would require plated food from a varied menu, which may include sandwiches. There is no requirement to provide a children's menu at a wedding or other pre-booked private function or ticketed function.

(i) Electrical sockets within the part or parts of the premises to which children have access should, when not in use, have plug caps thereon.

(j) Where open fires, electrical or gas fires or radiators are within part or parts of the premises to which children have access, it is expected that such fires and radiators etc. will be securely guarded or otherwise protected.

(k) Occasional licence holders must ensure that stringent measures are in place to ensure that neither children nor young people purchase or consume alcohol on the premises (unless such consumption by a young person is permitted in terms of the restricted provisions of Section 105(5) of the Licensing (Scotland) Act 2005).

(l) Occasional licence holders must ensure that stringent measures are taken to prevent the operation of the occasional licence resulting in children and young persons being exposed to strong language, violence or disorder.

D. Premises operating as a restaurant under an occasional licence, unless the Board allows otherwise, will only be able to authorise the sale or supply of alcohol to persons taking table meals for consumption as an ancillary to the meal and no bar counter service should be available.

E Marquees

- i) Where the premises operating under an occasional licence include a marquee, any area adjacent to the marquee where patrons are permitted to consume drinks outside, must be clearly defined by suitable fencing.
- ii) Except in the case of weddings, plastic glasses must be used instead of glass ones, and drinks will be poured from beer bottles etc. into plastic glasses.

(d) ROSELY HOTEL, FORFAR ROAD, ARBROATH

An application has been received from Annamaria Palmieri requesting an Occasional Licence on Saturday 16 July 2016 in respect of a wedding marquee in the grounds of the Rosely Hotel, Forfar Road, Arbroath.

The hours requested when alcohol will be sold for consumption **on** the premises are between 13.00 hours and 01.00 hours.

To assist the Board in determining this application a report has been submitted by the Licensing Standards Officer and comments submitted by Communities, Environmental & Consumer Protection.

LSO Comments for Licensing Board Consideration

An application has been received from Ms Palmieri for an occasional licence for a marquee in the grounds of the Rosely Hotel, Forfar Road Arbroath. The application is from 1300hrs to 0100hrs and the applicant has requested that live music be played until midnight.

Environmental and Consumer Protection have advised that a site visit has been carried out and that the licence be approved with the condition that music from the vent is only permitted between the hours of 13.00 and 23.00. A copy of the email can be found below.

Ms Palmeiri has since requested that music cease at midnight.

The wedding meal will be attended by approx. 50 guests with a small additional amount attending during the evening reception.

Reason for Comments

In light of the advice from ECP I object to this application on the grounds that music played after 2300 will cause public nuisance.

Communities, Environmental & Consumer Protection submitted comments dated 15 April 2016.

This service would not object to this application subject to the following condition being attached.

1. Music from the event is only permitted between the hours of 13.00 to 23.00