

ANGUS LICENSING BOARD – 4 AUGUST 2016

**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 an application for a new licence 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 for a new licence or new 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 discretionary or local conditions which the Board may wish to impose;
- (ii) propose a modification to the operating plan and if the applicant accepts the proposed modification, request that the applicant amend the application and thereafter, grant the modified application with the proposed amendment, subject to Statutory Conditions and any other discretionary or local conditions which the Board may wish to impose;
- (iii) to defer the application to the next Licensing Board; or
- (iv) to refuse the application on one or more of the grounds referred to in Paragraph 4.

2. BACKGROUND

The Board has received applications for new licence(s) 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

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 subject premises are excluded premises;

- (b) that the application must be refused under Section 25(2) (the Board had previously refused 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);
- (c) that the Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives; and
- (d) 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.

REPORT AUTHOR: Dawn Smeaton, Licensing and Litigation Assistant

E-MAIL: LEGDEM@angus.gov.uk

**(a) ASHGROVE MINI MARKET / FOOD STORE, 20 ASHGROVE, OFF BROOMHILL DRIVE,
MONIFIETH, DD5 4TD**

Names and Address of Applicant

Wallayz Ltd, 76-78 Gray Street, Broughty Ferry, Dundee, DD5 2BP

Type of Licence: Provisional Premises Licence – Off 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.

1. Description of Premises – Convenience Store / Retail Unit.

2. Core times when alcohol will be sold for consumption off the premises:-

Monday to Sunday 10.00 to 22.00

The Board is asked to note that the hours requested are within Board's policy.

3. Activities –

(a) Recorded music within and outwith core hours.

4. Capacity – alcohol display area capacity 11.68m²

2 OBJECTIONS have been received dated 6 and 11 July 2016, copies of which shall be circulated to members prior to the meeting.

Existing Ceiling:	-
Proposed Ceiling:	-
Depth of Frieze:	-
Wall Column Height:	-
Gondola Column Height:	-
Suspended Ceiling:	-
Floor Specification:	-
Lighting Specification:	-
Woodwork Finish:	-
Shelving Colour:	-
Kickplate Colour:	-
Ticket Rail Colour:	-
Dairy Trim Colour:	-
Statwall Finish:	-
Frieze Finish:	-



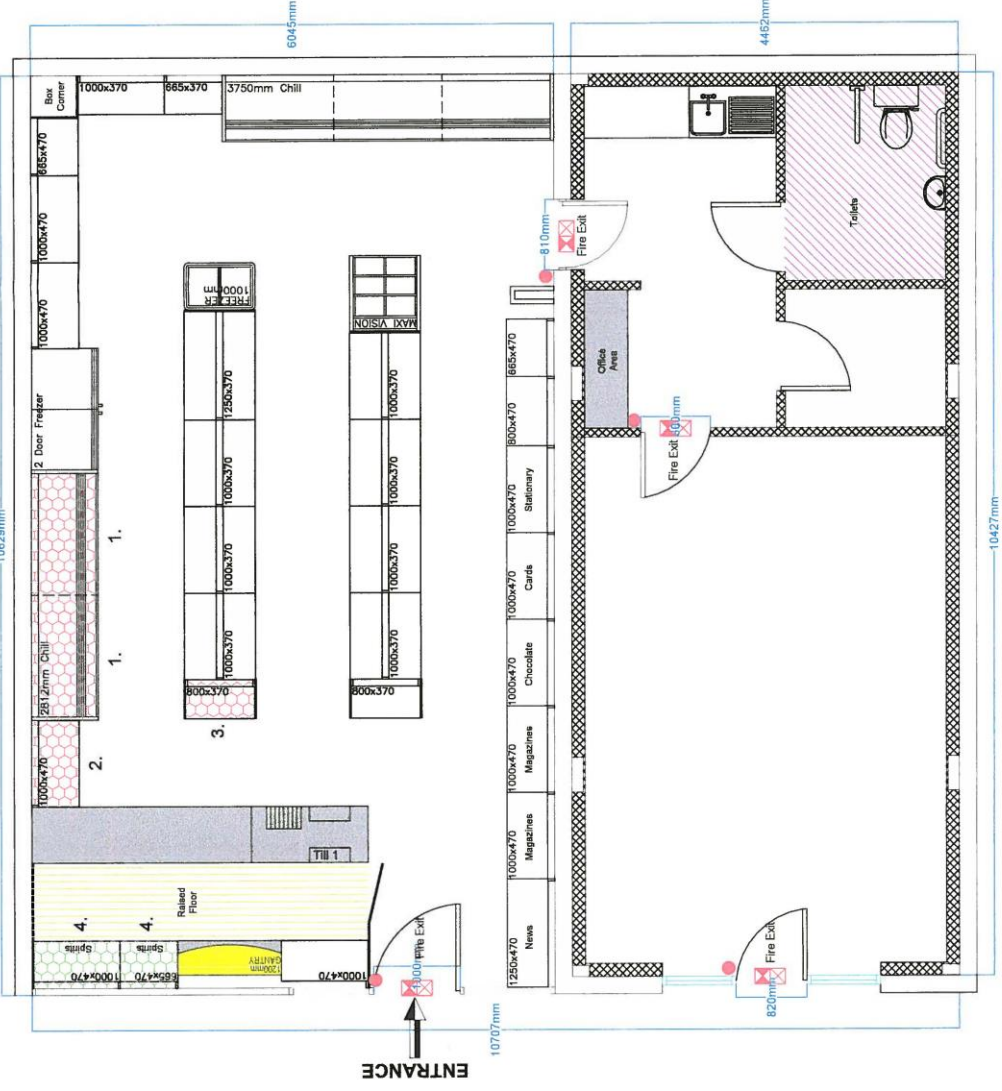
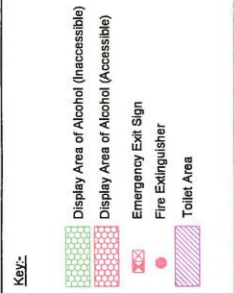
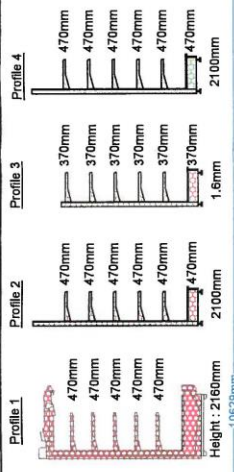
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 Kirkton Industrial Estate
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 Tel: 01241 878796
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 Email: info@vertexscotland.com

Project: Ashgrove Mini Market
 Monifieth
 DD5 4TD

Scale:	1:50@A3
Reference:	15-116 (License)
Date Drawn:	17/09/15
Drawn By:	JT/JT
Revision No:	C
Revision Date:	01/04/16
Revised By:	JT

Total Display Area of Alcohol (Inaccessible)
 Shelving - 2.0m (h) x 1.665m (w) = 3.3m²

Total Display Area of Alcohol (Accessible)
 Shelving - 2.0m (h) x 1.0m (w) = 2.0m²
 Shelving End - 1.6 (h) x 0.8m (w) = 1.28m²
 Chills - 1.8m (h) x 2.812m (w) = 5.1m²
 Total Display Area - 11.68m²



All Plans and quotations remain the property of the designer, who retain the copyright. Drawings are based upon site information supplied by third parties and as such their accuracy cannot be guaranteed. All features are approximate and subject to clarification. Therefore, no shop plan or shelving elevation example, may be copied or used as a basis for quotation by other persons or companies, without written permission from the proprietor of the company.
DO NOT SCALE

(b) MAXIBELL LTD, 5 PARK AVENUE, CARNOUSTIE, DD7 7JA

Names and Address of Applicant

Maxibell Ltd, 1 Long Row, Westhaven, Carnoustie, DD7 6BE

Type of Licence: Provisional Premises Licence – On Sales

The Board is asked to note that Premises Licence no. 54 was issued in respect of these premises in the name of The Golf Inn. The licence ceased to have effect and this was reported to the Board on 4 October 2012.

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.

1. Description of Premises – The building of which the premises form part comprises a basement and ground floor, in the ownership of the applicant, and two flats above which are in the ownership of third parties. The ground floor of the premises will comprise a restaurant and tapas bar. The restaurant will seat approximately 60 covers. The tapas bar will incorporate the bar and will provide additional seating with access to the external beer garden to the rear. The ground floor also incorporates the kitchen facilities and servery, with ladies and gents toilet facilities and a disabled toilet incorporating baby changing facilities. The basement will be used as a storage area only and to which only staff will have access.

2. Core times when alcohol will be sold for consumption on the premises:-

Tuesday to Sunday 12.00 to 24.00

The Board is asked to note that the hours requested are within Board's policy.

3. Seasonal Variations to include Christmas Eve, Christmas Day, Hogmanay and New Years Day.

4. Activities to be provided-

- (a) Within and outwith core licensed hours – conference facilities, restaurant facilities, bar meals receptions, club or other group meetings, recorded music and live performances.

With regard to the provision of recorded music and live performances, the Applicant wishes to be able to provide soft background music and live performances in the form of piano music during core hours and, where appropriate, outwith core hours for the purposes of private functions.

Tea, coffee and soft refreshments to be provided outwith core hours.

- (b) outdoor drinking facilities to be provided within and outwith core hours.

No alcohol is to be provided outwith core licensing hours.

4. Capacity – 136 (Restaurant area – 60; Lounge area – 60; Beer Garden – 16).

5. Children and Young Persons aged 0 to 17 years to be permitted in restaurant area and the seated area at the rear of tapas bar.

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

Comments Received

AN OBJECTION has been received dated 27 June 2016, a copy of which shall be circulated to members prior to the meeting.

COMMUNITIES, ENVIRONMENTAL & CONSUMER PROTECTION submitted a memorandum of observation dated 14 July 2016.

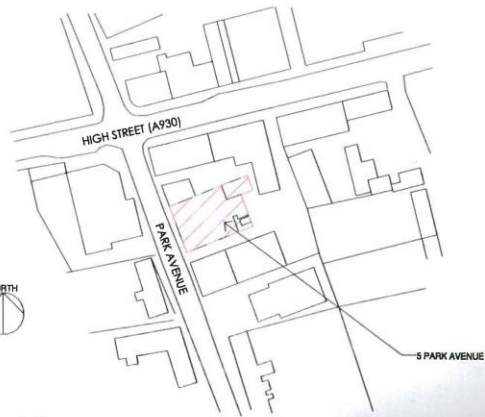
With regard to the above application for a provisional premises licence it is noted that an area to the rear of the premises is intended to be utilised as a beer garden during core hours. This division has concerns that due to the proximity of residential properties to this facility that its use during the entire period of the core hours could give rise to complaints regarding noise unless use of the facility is carefully managed by premises staff.

Accordingly I would respectfully ask if the Board is minded to approve this application 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 should be provided in this area and its use during live music events (if any) at the premises should be restricted.
- No music or amplified sound shall be provided anywhere within the licensed premises with the intention of being heard within the external drinking area.

A LATE NOTICE OF REPRESENTATION was submitted on 18 July 2016. A Notice of Objection or Representation was required to have been received no later than 15 July 2016 and this representation was therefore received late.

Where a Board considers that there are good reasons not to treat an objection or representation as not made despite its being entitled to do so, the Board is to consider whether it is in the interest of justice to postpone or adjourn the hearing at which the application in question is to be determined.



2 Location Plan | SCALE 1 : 1250



1 Ground Floor PLAN (licensing plan) | SCALE 1 : 100

REV	Description	Date
A	LICENSING PLAN CHANGES	14/06/16

Client: Maxibell Ltd

Project: Proposed New Restaurant
5 Park Avenue, Carnoustie

Sheet Name: LICENSING (GROUND FLOOR)

Drawing Number: 1936_WD_014 A



- public external seating/drinking area
- public circulation space
- public seating/drinking (Occupancy factor of 20 people)
- public seating/drinking (Occupancy factor of 30 people)
- public seating/drinking (Occupancy factor of 60 people)
- public toilet areas
- staff/storage area only
- ▲ public entrance
- ▲ staff entrance
- ▼ exit/fire exit
- SD smoke detector
- HD heat detector
- break glass point



1 Basement PLAN (licensing plan) | SCALE 1 : 100

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REV	Description	Date
A	LICENSING PLAN CHANGES	14/06/16

Client: Maxibell Ltd

Project: Proposed New Restaurant
5 Park Avenue, Carnoustie

Sheet Name: LICENSING (CELLAR)

Drawing Number: 1936_WD_015 A

Drawing No. A3 drawn by: Author checked by: Approver

(c) GREWAR'S FARM SHOP, DRONLEY FARM, MUIRHEAD, DUNDEE, DD3 0QJ

Names and Address of Applicant

Grewar's Farm Shop Limited, Dronley Farm, Muirhead, Dundee, DD3 0QJ

Type of Licence: Premises Licence – Off Sales

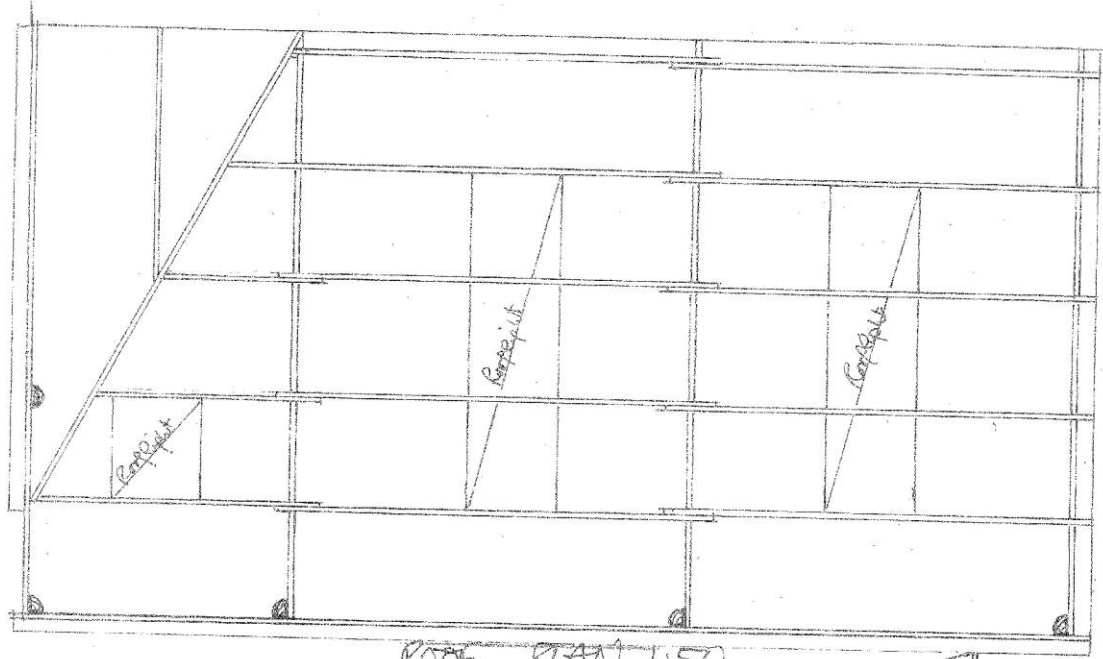
1. Description of Premises – Converted farm outbuilding in a semi-rural location operating as a farm shop for the sale of Scottish and locally sourced products.

2. Core times when alcohol will be sold for consumption off the premises:-

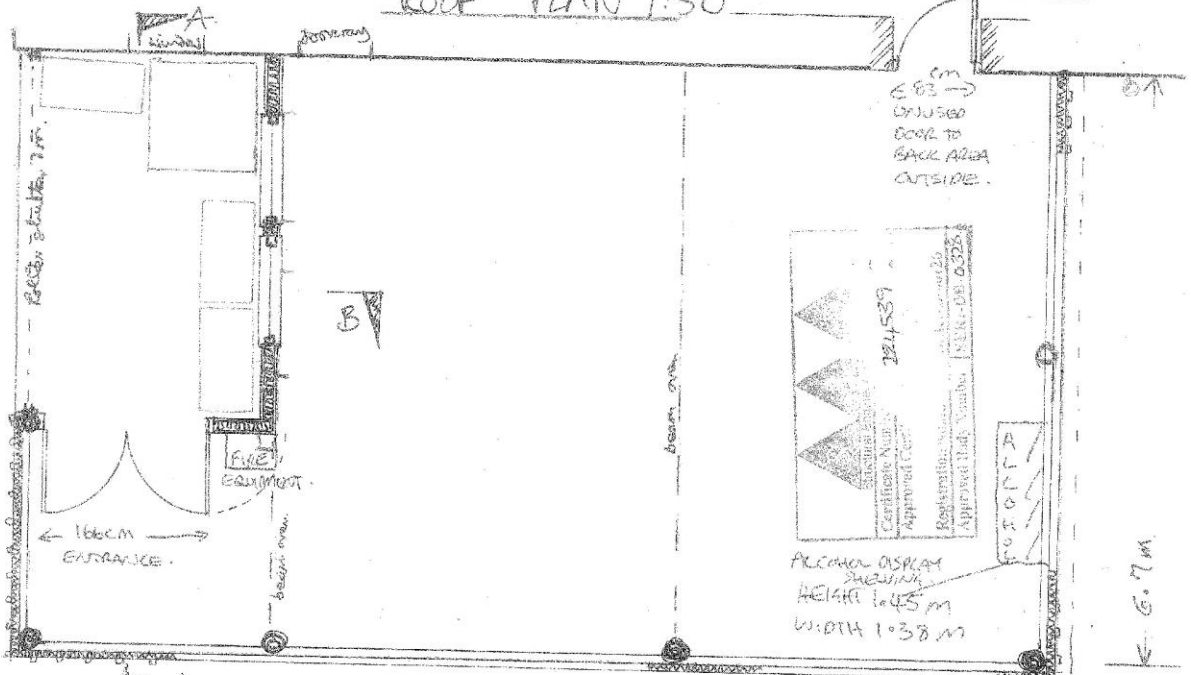
Monday to Sunday 10.00 to 19.00

The Board is asked to note that the hours requested are within Board's policy.

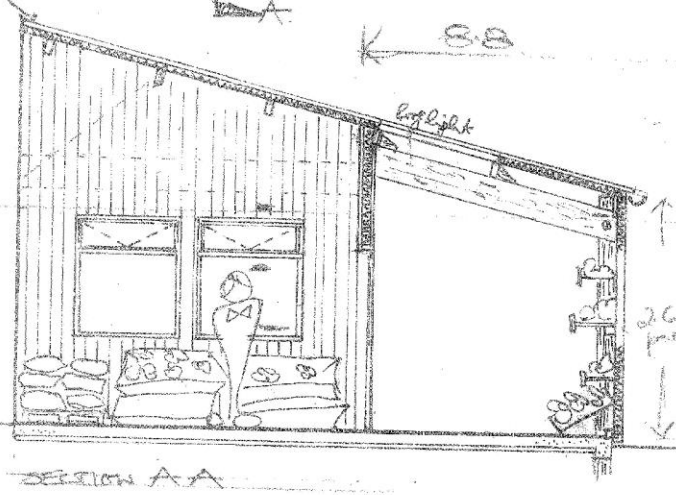
3. Capacity – alcohol display area capacity 145cm x 138cm



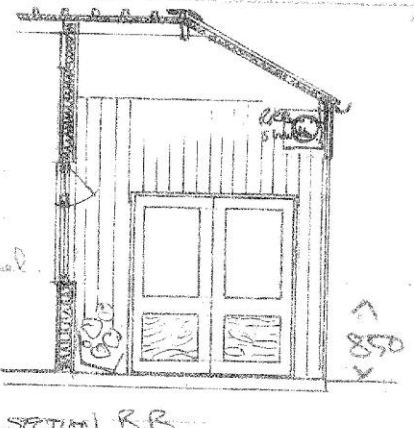
ROOF PLAN 1:50



FLOOR PLAN 1:50



SECTION A-A



SECTION B-B