

ANGUS LICENSING BOARD – 10 AUGUST 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 applications to vary Premises Licences 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 applications to vary 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 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, 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,

(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. 86 JASMINE HOUSE, MONTROSE ROAD, ARBROATH, DD11 5RA

Name and Address of Applicant

Meadowbank Inn (2000) Ltd, Montrose Road, Arbroath, DD11 5RA

Type of Licence: On / Off Sales

Description of Variation Sought

1. **Vary** the name of the premises to World Buffet.
2. **Vary** the description of the premises from Chinese Restaurant to:-

World Buffet Licensed Restaurant selling Chinese and/or Indian food and such other foods commonly offered by a World Buffet.

(b) LICENCE NO. 161 LIDL UK GMBH, BRECHIN ROAD, MONTROSE, DD10 9BP

Name and Address of Applicant

Lidl UK Gmbh, 19 Warple Road, London, SW19 4JS

Type of Licence: Off Sales

Description of Variation Sought

1. **Capacity** – to increase alcohol display area for the period 1 December each year until 2 January of the following year.

The applicant seeks the increased capacity to allow them to adequately cope with increased seasonal demand around Christmas and New Year period.

The capacity during non-seasonal trading to remain at:-

Length 27.80m x Height 1.8m (Total Capacity 50.04m.²)

Additional capacity during seasonal trading (1 December each year to 2 January following year):-

Length 6.68m x Height 1.8m (Total Additional Capacity 12.02m.²)

Proposed maximum total capacity 62.06m² (50.04m.² +12.02m.²)

