

ANGUS LICENSING BOARD – 14 SEPTEMBER 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,
- (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. 309 NINETEENTH HOLE, 8 FERRIER STREET, CARNOUSTIE, DD7 7HT

Name and Address of Applicant

Greene King Retailing Limited, Westgate Brewery, Bury St Edmonds, Suffolk, IP33 1QT

Type of Licence: On / 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.

Description of Variation Sought

1. **Description** to be amended to -

Hotel with lounge bar. Games area and outside drinking area. The premises provide alcoholic beverages, hot and cold beverages as well as hot and cold food.

The Board is asked to note that the current description is noted as:-

Hotel with four bedrooms, lounge bar, games area and outside drinking area. The premises provide alcoholic beverages, hot and cold beverages as well as hot and cold food.

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(b) LICENCE NO. 140 EAST END BAR AND NOVA SUITE, 91 MONTROSE STREET, BRECHIN

Name and Address of Applicant

Douglas Walker, 66 Montrose Street, Brechin, DD9 7DE

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 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.
2. **Seasonal Variation Dates** to include Christmas Eve
3. **East End Bar – Additional Activities**
 - (i) live performances within core hours**Nova Suite – Additional Activities**
 - (i) restaurant facilities within and outwith core hours
 - (ii) adult entertainment within core hours
4. **Children and Young Persons**
 - (i) ages to be amended from 0 to 17 years to 5 to 17 years as no baby changing facilities are provided.
 - (ii) children and young persons under the age of 16 to be permitted to the Nova Suite lounge area to play darts. The bar is to be closed with shutters down. No gaming machine in view. Alcohol served only in public bar during play. No access to public bar for Children. Children to be accompanied by an adult.
5. **Address** of Licence Holder and Premises manager to be amended.

Comments Received

COMMUNITIES, ENVIRONMENTAL & CONSUMER PROTECTION advised on 21 August 2017 that the applicant be required to submit an appropriate noise management plan to demonstrate how noise from live performances will be adequately controlled and managed before a decision is made on whether to grant the variation to the premises licence to allow live performance in the bar area.



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TITLE
EXISTING LAYOUT AT
NOVA SUITE AND
EAST END BAR AT
MONTROSE STREET,
BRECHIN

CLIENT
MRS. L. IRONSIDE

DESCRIPTION
GROUND FLOOR PLAN

DRAWING TYPE
EXISTING LAYOUT

DWG No.
ELI/1338/08

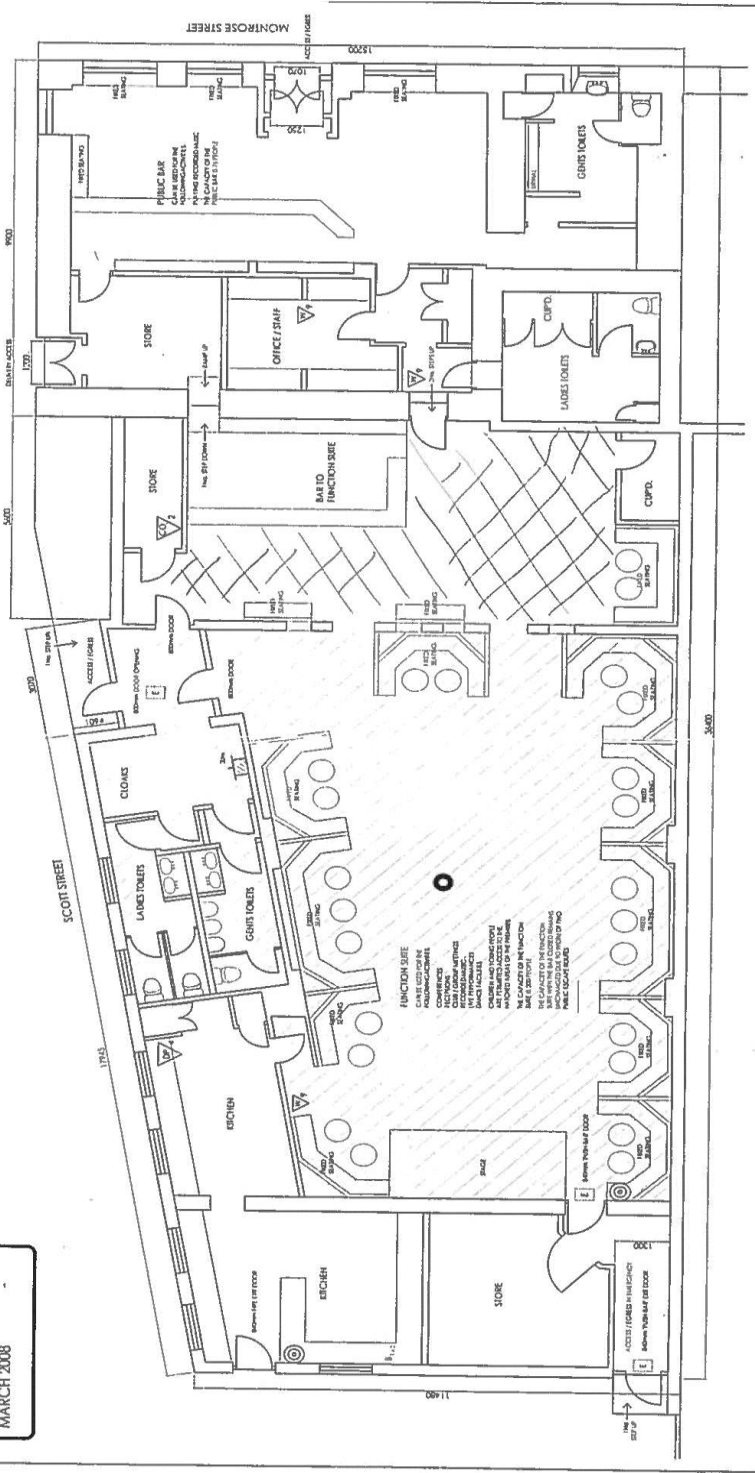
DATE
MARCH 2008

SCALE
1:100

REVISION
-

KEY:

- EMERGENCY LIGHTING
- FIRE EXTINGUISHER (FRESH WATER)
- FIRE EXTINGUISHER (CO₂ CARBON DIOXIDE)
- FIRE EXTINGUISHER (ABC DRY POWDER)
- FIRE EXTINGUISHER (A-JACKET)
- MANUAL CALL POINT
- EMERGENCY LIGHTING



XXXX - Area for Playing Darts
14-year olds + over