

AGENDA ITEM 5

REPORT NO LB15/18

ANGUS LICENSING BOARD – 22 FEBRUARY 2018

LICENCE REVIEW UNDER THE LICENSING (SCOTLAND) ACT 2005

REPORT BY THE CLERK

ABSTRACT

The purpose of this report is to advise of a premises licence review application. The premises to which the review relates is Forbes of Kingennie Country Resort. The holder of the premises licence is The Partnership of Michael and Gail Forbes, T/A Kingennie Fishings, Omachie Farmhouse, Kingennie DD5 3RF.

1. RECOMMENDATIONS

It is recommended that the Board agrees:-

- (i) to note that an application for review of a premises licence in respect of Forbes of Kingennie Country Resort has been received from a member of the public;
- (ii) to determine whether the application is vexatious or frivolous or does not disclose any matter relevant to any ground for review; and
- (iii) if the Board determines that the application is not vexatious or frivolous and does disclose any matter relevant to any ground of review, to appoint a date for a hearing to consider and determine the premises licence review application.

2. BACKGROUND

The Clerk received an application for a review of a premises licence under the Licensing (Scotland) Act 2005 (“the Act”) on 29 September 2017 from Mr Christopher Byres in respect of Forbes of Kingennie Country Resort. The application is attached as **APPENDIX 1** to this Report.

Report LB 54/17 was placed before Members at the 2 November 2017 Angus Licensing Board. Prior to consideration of the Report, parties intimated that they had agreed between them that the matter be continued to the Licensing Board of 4 January 2018. On that basis, Members decided to defer the matter as per parties’ agreement.

Report LB 3/18 was placed before Members at the 4 January 2018 Angus Licensing Board. After hearing parties and Mr Easson, Service Manager, Environmental Health, the Board agreed that the application for a review of the premises be deferred to the Board meeting on 22 February 2018 to allow Environmental Health to conduct further noise nuisance tests and report back on the findings.

Section 36 of the Act provides that:

“Any person may apply to the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect for a review of the licence on any of the grounds for review.”

The grounds for review are:

- (za) that, having regards to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence;
- (a) that one or more of the conditions to which the premises licence is subject has been breached; and

- (b) any other ground relevant to one or more of the licensing objectives.

The licensing objectives are:-

- (a) preventing crime and disorder;
- (b) securing public safety;
- (c) preventing public nuisance;
- (d) protecting and improving public health; and
- (e) protecting children and young persons from harm.

The Licensing Board may reject an application if the Board considers the application is vexatious or frivolous or does not disclose any matter relevant to any ground for review. Otherwise, the Board must hold a hearing for the purposes of considering and determining a premises licence review application.

Ordinarily, a review hearing is to be held no later than 42 days after the date on which the Board received the premises licence review application.

If the Board decides to hold a hearing for the purposes of considering and determining the premises licence review application, a date should be identified as soon as possible.

4. HUMAN RIGHTS IMPLICATIONS

In dealing with the matters set out in this report the Board will have regard to any human rights issues.

5. CONCLUSION

The Board is asked to note receipt of the application for review of a premises licence and, if considered appropriate, to appoint a date for a hearing to consider the premises licence review application.

**SHEONA HUNTER
CLERK TO THE LICENSING BOARD**

NOTE: The background papers (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:-

The Licensing (Scotland) Act 2005

Licensing (Procedure) (Scotland) Regulations 2007

Received
Legal & Democratic Services

29 SEP 2017

Time 9:30 Ints UM

Mr Christopher Byres
5 Osprey Place
Kingennie
DD5 3PS
20th September 2017

Sheona C Hunter
Clerk of the Licensing Board
Head of Legal and Democratic Services
Place Directorate
Angus Council
Angus House
Forfar
DD8 1AN

Dear Madam,

Further to my communication with Mark Gillespie, I am writing to request that the licence for music at Forbes of Kingennie be suspended \ revoked pending them resolving the issue of music \ noise at my property under the grounds of preventing public nuisance.

I moved to the property in April and within a few weeks I had been through to discuss the matter of music that was VERY loud at our property at night when they had functions on. I was assured that they knew of the issue and were doing all they could to resolve it. This was in mid April.

I was promised continually that something was being done, but when nothing changed and we were unable to get to sleep at least three nights per week, every week, and we could see there was in fact nothing being done, I contacted Angus Council.

I had initial communication with Louise Ackroyde and she visited my home to discuss the issue. She left me with a dairy to complete of all noise issues and she reported back to me that she had gone through and advised the management that they should put temporary measures in place with immediate effect. Again nothing changed.

I submitted my dairy along with recordings I had made to Louise and a visit was arranged for herself and another council member to attend. I think it was someone from licencng but I am not positive of that. They came to the house at night when there was a function on.. They made recordings and agreed that it was unacceptable.

I am aware that they have a license condition regarding music not being audible at my property. I have also been informed that this was also a detail of the planning consent they were given to extend the events room hall.

We have waited to see if they would implement any of the changes required but this is now causing serious problems. I am awake at least three nights per week with music at a ridiculous level.

In my opinion, Forbes of Kingennie are making no effort to resolve this. They simply state that they have a license when we complain.

Given that Angus Council has now attended my home and witnessed first hand the problem along with the fact that in over 4 months Forbes of Kingennie have made no changes whatsoever to solve the problem, I would ask that their license for music is suspended until they have put measures in place to stop the disturbance of peaceable possession of my home.

Today I have received a list from them explaining the dates when they have functions on next month. This is a monthly letter they put through my door to tell me when to expect noise. They have 12 functions booked for September.

I would request that this matter be dealt with as soon as possible so I can get sleep and enjoy my home.

Thank you

Sincerely

A solid black rectangular box used to redact the signature of the sender.
