

AGENDA ITEM NO 4

REPORT NO LB 44/18

ANGUS LICENSING BOARD – 9 AUGUST 2018

PROVISIONAL PREMISES LICENCE APPLICATION UNDER THE LICENSING (S) ACT 2005

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present an application for a new provisional premises licence under the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine the application for a new licence 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 local conditions, which the Board may wish to impose;
- (ii) to propose a modification to the operating plan or layout plan (or both) 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 the 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 an application for a new provisional premises licence under the Licensing (Scotland) Act 2005 which requires 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);

- (ba) that the Licensing Board consider, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;
- (c) that the Licensing Board considers that the granting of the application would otherwise 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 subject premises;
 - (ii) the location, character and condition of the premises, and
 - (iii) the persons likely to frequent the premisesthe Board considers that the premises are unsuitable for use for the sale of alcohol;
- (e) 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, in the locality.

In considering whether either of the grounds for refusal specified in subsection (4)(ba) and (c) applies, the Licensing Board must, in particular, take account of:

- (a) any conviction, notice of which is given by the Chief Constable under subsection (4)(b) of section 21 and
- (b) any report given by the Chief Constable under section 24A(2)

REPORT AUTHOR: Dawn Smeaton, Licensing and Litigation Assistant
E-MAIL: LAWlicensing@angus.gov.uk

**(a) PUB RESTAURANT, DUNDEE ROAD, ARBROATH, DD11 1QD
(SITE OF FORMER SEAFORTH HOTEL)**

Names and Address of Applicant

Marston's Operating Limited, Marston's House, Brewery Road, Wolverhampton, WV1 4JT

Type of Licence: Provisional Premises Licence – On and Off Sales

1. Description of Premises – This is currently a development site and application is made for a Provisional Licence prior to construction of the proposed premises. The proposal by Marston's Operating Ltd is for a new build food lead pub restaurant offering substantial quality food and providing limited entertainment with a 150 (internal) cover pub restaurant and with an integrated Lodge providing some 27 letting bedrooms.

2. Core times when alcohol will be sold for consumption **on** the premises:-
Monday to Sunday 11:00 to 24.00

when alcohol will be sold for consumption **off** the premises:-
Monday to Sunday 11:00 to 22.00

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

3. Seasonal Variation additional hours during the festive period in the terms of the Board's policy.

4. Activities to be provided –

- (a) Accommodation, conference facilities, restaurant facilities, bar meals, receptions, club/group meetings, recorded music, live performances, dance facilities, films, gaming, televised sport and outdoor drinking facilities to be provided within and outwith core hours.

Outwith core hours - the premises may open earlier in the morning to accommodate early breakfasts and coffees with lunches. Restaurant facilities shall be available from 6am to accommodate a breakfast service associated with on-site accommodation and also for non-residents. Gaming via gaming machines, TV sports events and recorded music will operate throughout opening hours. Outdoor drinking facilities for breakfasts and early lunches. Dance facilities provided outwith core hours on one off basis for special occasions. Films in the context of information videos at conferences/meetings or replaying of on screen national events.

A lodge comprising 27 letting bedrooms and, co-located on site providing Hotel accommodation, will be integrated with the premises at first floor level. Lodge accommodation is included within the ambit of the Licence to facilitate the taking of drinks purchased from the licensed part of the premises into the letting bedrooms. The provision for consumption of alcohol outwith core hours to be permitted in accordance with S63 of the Licensing (Scotland) Act 2005.

- (b) Additional activities – internet facilities, quiz nights, charity nights both within and outwith core hours.

No alcohol to be sold outwith core hours.

5. Children and Young Persons to be permitted -

- (a) aged 0 to 17 years;
- (b) access to the whole premises;
- (b) resident children and young persons to be permitted at all times;

non-resident children allowed in the premises from 6am until the termination of the core hours under adult supervision; and

non- resident young persons allowed in the premises from 6am until 10pm without adult supervision at the discretion of the Duty Manager and until the termination of the core hours under adult supervision.

- (c) in accordance with the Model Local Conditions pertaining to children in respect of the restaurant and bar areas.

6. Capacity – Ground floor licensed area – 250 persons including the external area.
Lodge – 85 persons (based on c.3 person per bedroom maximum)

7. Layout Plan - site boundary colour (blue) has been reflected on the plans describing the demise of the property.

The external area will be fenced with a 1,100mm high timber picket fence.