

PREMISES LICENCES – REQUEST TO VARY UNDER THE LICENSING (S) ACT 2005

REPORT BY 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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E-MAIL: LAWLICENSING@angus.gov.uk

(a) LICENCE NO. 316 - MORRISONS, HUME STREEET, ARBROATH, DD11 1UH

Name and Address of Applicant

Wm Morrison Supermarkets PLC, Hilmore House, Gain Lane, Bradford, BD3 7DL

Type of Licence: Off Sales

Description of Variation

1. Activities

Restaurant facilities to be provided within and outwith core licensed hours.

Products other than alcohol will be sold and ancillary consumer services provided during all or part of the period between 6.00am and 12 midnight each day subject to customer demand and other statutory consents where required.

The premises licence holder may offer occasional free samples / tastings of alcohol products to it's customers over 18 within the alcohol display area during core licensed hours.

(b) LICENCE NO. 8 - THE MEADOWBANK INN, MONTROSE ROAD, ARBROATH, DD11 5RA

Name and Address of Applicant

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

Type of Licence: On and Off Sales

Confirmation Notice

If the confirmation notice is received before the Board date then this application will be dealt with. If the confirmation is not received the application may be deferred.

Description of Variation

- 1. Premises Description** - amend description by deletion of the words “and adjacent coffee shop”.
- 2. Hours** - Amend Sunday opening times for both On and Off Sales from 12.30 to 11.00.
- 3. Layout** - Removal of the coffee shop from the licensed premises area.
- 4. Capacity** - Reduction in capacity from 358 to 270 following removal of coffee shop.

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(c) LICENCE NO. 18 - GAIRIE INN, KIRRIEMUIR

Name and Address of Applicant

Shirley Ann Jamieson, 1-4 School Wynd, Kirriemuir, DD8 4BQ

Type of Licence: On and Off Sales

Description of Variation Sought

1. **Hours** - vary the On Sales operating hours for Friday and Saturday from the existing terminal hour 01.00 to 02.00.

The Board is asked to note that the hours requested are outwith Board Policy.

The current on sales operating hours are:-

Monday to Thursday	11.00 to 24.00
Friday to Saturday	11.00 to 01.00
Sunday	12.30 to 24.00

2. **Vary** the premises licence to add Off Sales during the hours

Monday to Saturday	11.00 to 19.00
Sunday	12.30 to 19.00

The Board is asked to note that the hours requested are within Board Policy.

3. **Activities** to include:-

(a) Bar Meals within core hours.

(b) Outdoor Drinking Facilities within core. No increase in capacity of premises.

4. **Children and Young Persons** to be permitted within the premises

(a) Ages of Children and Young Persons 0 – 17 years. Baby changing facilities are to be provided.

(b) Children and young persons to be allowed access to the function room.

(c) Children and young persons to be allowed access until 19.00 or if attending a function, for the duration of the function.

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

COMMENTS RECEIVED

ENVIRONMENTAL AND CONSUMER PROTECTION submitted a memorandum of observation dated 13 August 2018.

With reference to the above application, Environmental & Consumer Protection would advise as follows:

- Extension of operating hours on Fridays and Saturdays to 02:00 (currently 01:00) – this division has received no recent complaints associated with noise from these premises therefore this division would not object to the extension of the operating period to 0200.
- Outside drinking area - with regards to the outside drinking area the applicant has advised that he intends to close this at 19:00 rather than 21:00 stated in the standard condition for external drinking areas. However, due to the close proximity of residential properties to the premises, this division would not object subject to a condition which prohibited the use of the external drinking area after 1900hrs and a condition which required the operator to submit a noise management plan for the approval of the Environmental Health Service.

1 OBJECTION has been received, a copy of which is attached to this Report.

From: Angus Council [<mailto:noreply@angus.gov.uk>]

Sent: 23 August 2018 10:46

To: LAWLicensing

Subject: Premises licence - objections or representations form received - FS-Case-85737556

Contact:

First Name	Surname	Postcode	House	Street	Town	County	UPRN
Graham	Douglas	DD10 9LY	9	Basin View Crescent	Montrose	Angus	000117118541

Name of applicant: Ann Jamieson

Address of premises: Gairie Inn
1/3 School Wynd
Kirriemuir

Application details: Application to vary terminal hour to 2am on Fridays and Saturdays

I want to lodge: an objection

Please give details of objection/representation: I wish to Object to the 2am terminal hour on Fridays and Saturdays on the grounds that Angus Licensing board stated at a previous meeting that no other 2am license would be granted to a public house in Angus unless they had another license to hand in .

