

**ANGUS LICENSING BOARD – 10 JANUARY 2019**

**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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**(a) LICENCE NO. 399, MAXIBELL LIMITED, 5 PARK AVENUE, CARNOUSTIE, DD7 7JA**

**Name and Address of Applicant**

Maxibell Limited, 1 Long Row, Westhaven, Carnoustie, DD7 6BE

**Type of Licence:** On Sales

**Description of Variation**

**1. Core times** - amend the hours when alcohol will be sold for consumption **on** the premises

Monday	12.00 to 24.00 (currently closed)
Friday	12.00 to 01.00 (currently 12.00 to 24.00)
Saturday	12.00 to 01.00 (currently 12.00 to 24.00)

**The Board is asked to note that these hours are within Board Policy.**

**2. Activities** - conference facilities, restaurant facilities, bar meals, receptions, club or other group meetings, recorded music and live performances are currently provided within core hours only. These activities to be provided outwith core hours also.

Teas, coffees, soft refreshments to be provided outwith core hours.

Soft background music to be provided within and outwith core hours.

Live performances, most likely in the form of live piano music to be provided within core hours and outwith core hours for the purpose of private functions.

**COMMENTS RECEIVED**

**OBJECTION** - An objection dated 11 December 2018 has been received, a copy of which is attached.

**Subject:** Objections to extending hours for maxibell Carnoustie  
**Date:** 11 December 2018 22:11:04

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To who this concerns, I'm emailing to object to the extension Maxi bell Carnoustie is applying for due to constant activity outwith closing times.

Being a resident there seems to be no consideration from the management regarding music away above level until 4.30 am on numerous occasions groups also drinking and the noise outwith the pub until early hours in the morning having to contact police on numerous occasions due to this ongoing.

I approached my landlord who contacted the owner regarding the ongoing matter but yet again Sunday 9th December police had to be called at 2.30 am again. I understand music and stuff until closing time but I have kids and work and I feel this would only encourage the situation by extending hours.

Thank you

Kimberley Szmitz

Sent from my iPhone

**(b) LICENCE NO. 152, THE ROO'S LEAP, 2 TRAILL DRIVE, MONTROSE, DD10 8SW**

**Name and Address of Applicant**

Firm of Robert and Thelma Beattie, The Roo's Leap, 2 Traill Drive, Montrose, DD10 8SW

**Type of Licence:** On Sales

**Description of Variation**

**1. Type of licence** - amend the licence to include the provision of **off sales**

Monday to Sunday      11am to 10pm

**2. Core times** - amend the opening time on a Sunday from 12 noon to 11am when alcohol will be sold for consumption **on** the premises

**The Board is asked to note that these hours are within Board Policy.**

**(c) LICENCE NO. 278, CARNOUSTIE GOLF COURSE HOTEL, THE LINKS, CARNOUSTIE**

**Name and Address of Applicant**

Oxford Hotels and Inns Management Limited, 30 City Road, London, EC17 2AB

**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. **Outdoor Drinking Facilities** to be provided within and outwith core hours.

The capacity of the outside area is 120.

**Standard conditions in respect of external drinking areas.**

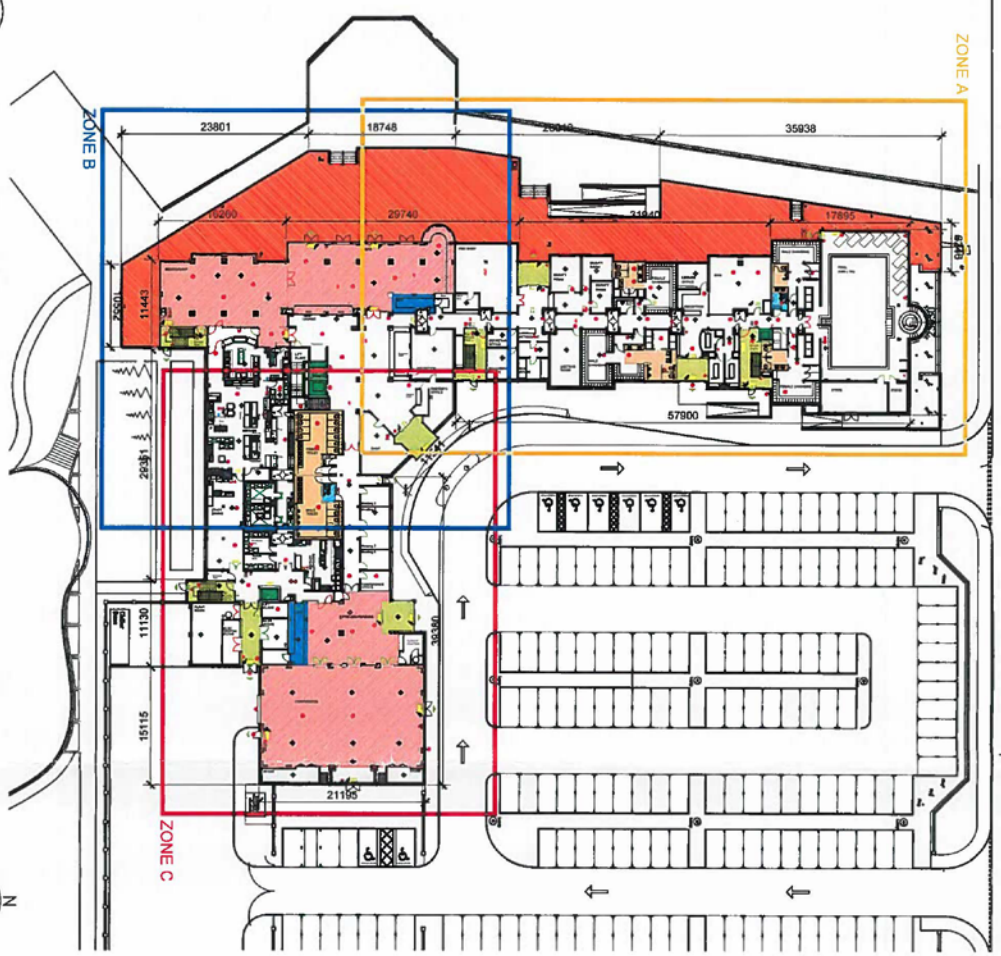
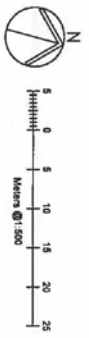
Patrons shall not be permitted to use the external drinking area beyond 21.00.

No music shall be provided in the external drinking area.

No music or amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking area.

01  
G(00)01

Licensing Plan - Zone Location  
1:500 @ A3



- LICENSING KEY**
- Areas for the consumption of Alcohol accessible by children & young persons
  - External Areas for the consumption of Alcohol accessible by children & young persons
  - Areas for the Sales & Display of Alcohol
  - Fire Escapes
  - Lifts
  - Accessible Toilets
  - Toilets
- GENERAL NOTE**  
For detailed licensing drawings please refer to:  
Zone A - G(00)02  
Zone B - G(00)03  
Zone C - G(00)04
- FIRE SYMBOLS**
- Smoke Detector
  - Heat Detector
  - Smoke Detector with Beacon
  - Smoke Detector Sounder
  - Break Glass Call Point
  - Green Guidance Fire Exit sign with Text "Push Bar to Open"
  - Green Guidance Fire Exit sign - Illuminated (3H Maintained)
  - Green Guidance Fire Exit sign - Illuminated (3H Maintained)
  - Emergency Light Fitting (3H - Maintained)
  - Fire Blanket
  - Fire Extinguisher (Water)
  - Fire Extinguisher (CO<sub>2</sub>)
  - Fire Extinguisher (Dry Powder)
  - Fire Extinguisher (Foam)
  - Fire Door, Self Closing with Fire Door Keep Shut Signage (FD30)
  - Fire Door, Self Closing with Fire Door Keep Shut Signage (FD30)

Number	Description	Date
<b>FOR APPROVAL</b>		

**WellwoodLeslie**  
CONSULTANTS

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Client  
Bespoke Hotels

Project  
Carnoustie Golf Course and Hotel  
Fire Risk  
Construction

Drawing Title  
Licensing Drawing - Ground Floor Plan  
Zone Location Plan

Client	Checked	Date	Appr	Date
RDC	AK	24/02/17		
AS No/4	23/01/18		A3	
AS No/5	G(00)01			

© The content of this drawing shall be considered private and confidential to the Client.

**(d) LICENCE NO. 405, CARNOUSTIE GOLF CENTRE, LINKS PARADE, CARNOUSTIE**

**Name and Address of Applicant**

CGLMC Limited, Registered Office, Thorntons Law LLP, Whitehall House, Yeaman Shore, Dundee

**Type of Licence:** On Sales

**Description of Variation**

**1. Type of licence-** to be amended to include the provision of **off sales**

Monday to Sunday      10am to 10pm

**2. Off Sales** provision to include mail and online ordering and supply of speciality wines and spirits.

**3. Activities** to include

(a) live performances during core licensed hours.

(b) parties for children aged 0 to 17 years subject to adult supervision in accordance with NSPCC guidelines.

**4. Children and Young Persons**

(a) The licensed premises substantially cater for family activities and recreation involving children and young persons (Model Local Conditions – Children 2(a) (v)) and as such children and young persons will be permitted to remain within the Licensed Premises during the hours when catering for family activities and recreation when accompanied by a responsible adult who is consuming tea, coffee or an alcoholic drink.

(b) Children and Young Persons aged 12 and over and who are there to participate in golf and/or coaching activities will be permitted into the licensed premises unaccompanied for the purpose of consuming a meal and soft drinks in the upstairs restaurant facility (The Rookery) with table service only.

(c) Children and Young Persons aged 0 to 17 years will be permitted into the Licensed Premises for the purpose of attending a children's party subject to adult supervision in accordance with NSPCC guidelines,