

ANGUS LICENSING BOARD – 14 FEBRUARY 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

The Board is asked to note that this application was deferred from the meeting of Angus Licensing Board on 10 January 2019.

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.

From: [kim.szmitz](#)
To: [LAWlicensing](#)
Subject: Objections to extending hours for maxibell Carnoustie
Date: 11 December 2018 22:11:04

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. 405, CARNOUSTIE GOLF CENTRE, LINKS PARADE, CARNOUSTIE

The Board is asked to note that this application was deferred from the meeting of Angus Licensing Board on 10 January 2019.

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,