

**ANGUS LICENSING BOARD – 8 AUGUST 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 section 29 of 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 4.3.

**2. BACKGROUND**

The Board has received applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 (“the Act”) 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. LEGAL**

4.1 The Act provides that 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,

and includes an addition, deletion or other modification

4.2. 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.

4.3. Section 30 of the Act provides that if the variations being sought are not minor, the Board must hold a hearing to determine the applications.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal apply and:-

(a) if none of them apply, the Board must grant the application; or

(b) if any of them apply, the Board must refuse the application.

4.4. The grounds for refusal are:-

(a) that the application must be refused under Section 32(2) of the Act (the Board had previously refused an application to vary a premises licence within the preceding one year), Section 64(2) of the Act (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) of the Act (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.

4.5 Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

4.6 Where the Licensing Board refuses the application, the Board must specify the ground for refusal and if the ground relates to a licensing objective, the Board must specify the objective or objectives in question.

(a) The licensing objectives are:-

(i) preventing crime and disorder

(ii) securing public safety

(iii) preventing public nuisance

(iv) protecting and improving public health; and

(v) protecting children and young persons from harm

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**(a) LICENCE NO. 337 ARBROATH FOOTBALL CLUB, GAYFIELD PARK, DUNDEE ROAD, ARBROATH, DD11 1QB**

**Name and Address of Applicant**

Arbroath Football Club Limited, Gayfield Park, Dundee Road, Arbroath, DD11 1QB

**Type of Licence:** On Sales

**Description of Variation**

**1. Description of premises** - to incorporate a third purpose built function suite incorporating toilet facilities, a kitchen and disabled access.

Premises name to be amended from New Grandstand to Arbroath Football Club.

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

**3. Activities**

- (a) Business breakfasts and conference facilities to be provided from 8am daily. No alcohol to be served outwith core hours.
- (b) Third function suite to provide corporate entertaining and a pay bar facility before and after games on match days. Outwith these times, the suite is to be used for conferences, business breakfasts, private functions and fund raising events.

**4. Layout** to incorporate the third newly constructed function suite adjacent to the main grandstand incorporating male and female/disabled toilets and a fully equipped kitchen. Disabled access to the new function suite is available by means of a purpose built ramp.

**5. Children and Young Persons** to be permitted access to third function suite in addition to current access to entrance hallways, toilet facilities and hospitality suite.

**6. Capacity** to be increased from 150 to 200 to include the third hospitality suite (capacity 50).

**COMMENTS RECEIVED**

**BUILDING STANDARDS** provided comments dated 19 July 2019.

A Building Warrant (reference 19/00289/NDOM) for the siting of a building for hospitality suite use was received on the 18th April 2019. This application has not yet been approved after 2 subsequent letters from the assessing Officer requesting the appropriate information to approve it. Therefore, to date, no Building Warrant or Completion Certificate are in place for these works.

**LICENSING STANDARDS OFFICER** provided a supplementary information report dated 26 July 2019, a copy of which is attached. The applicant has been provided with a copy of this report.

**POLICE SCOTLAND** provided a letter of representation dated 26 July 2019. A notice of objection or representation was required to have been received no later than 24 July 2019. In accordance with Regulation 10 of the Licensing (Procedure) (Scotland) Regulations 2007 the Board are asked to note that this letter is out with the statutory time limit for objections and representations. Where the Board considers that there are good reasons not to treat the objection or representation as not made despite it being entitled to do so, the Board is to consider whether it is in the interests of justice to postpone or adjourn the hearing.



**(b) LICENCE NO. 39, THE FOUNDRY BAR, 5/7 EAST MARY STREET, ARBROATH, DD11 1PR**

**Name and Address of Applicant**

Christine Iveson, 5/7 East Mary Street, Arbroath, DD11 1PR

**Type of Licence:** On Sales

**Description of Variation**

- 1. Premises** - the Snug area to be divided in two to create a kitchen and separate dining room to the front of the premises
- 2. Activities** – restaurant and bar meals to be provided within core hours
- 3. Children and Young Persons** – to have access to all public areas.

The Board are asked to note the current additional conditions applied by the Angus Licensing Board on 5 November 2015 -

Notwithstanding the Board's Model Local Children's Conditions - Children and Young Persons will only be permitted into the premises where the primary purpose of allowing them access is to attend a pre-booked private function or a ticketed function until the termination of the function provided that food is provided by external caterers to the private function or ticketed function.

- 4. Layout** – alteration to The Snug to create a kitchen with a separate doorway entering from the hallway and a separate dining room to the front of the premises.
- 5. Capacity** – reduction in capacity to 90, reduced from 100 (Lounge – 60; Bar –20; Dining Room–10)

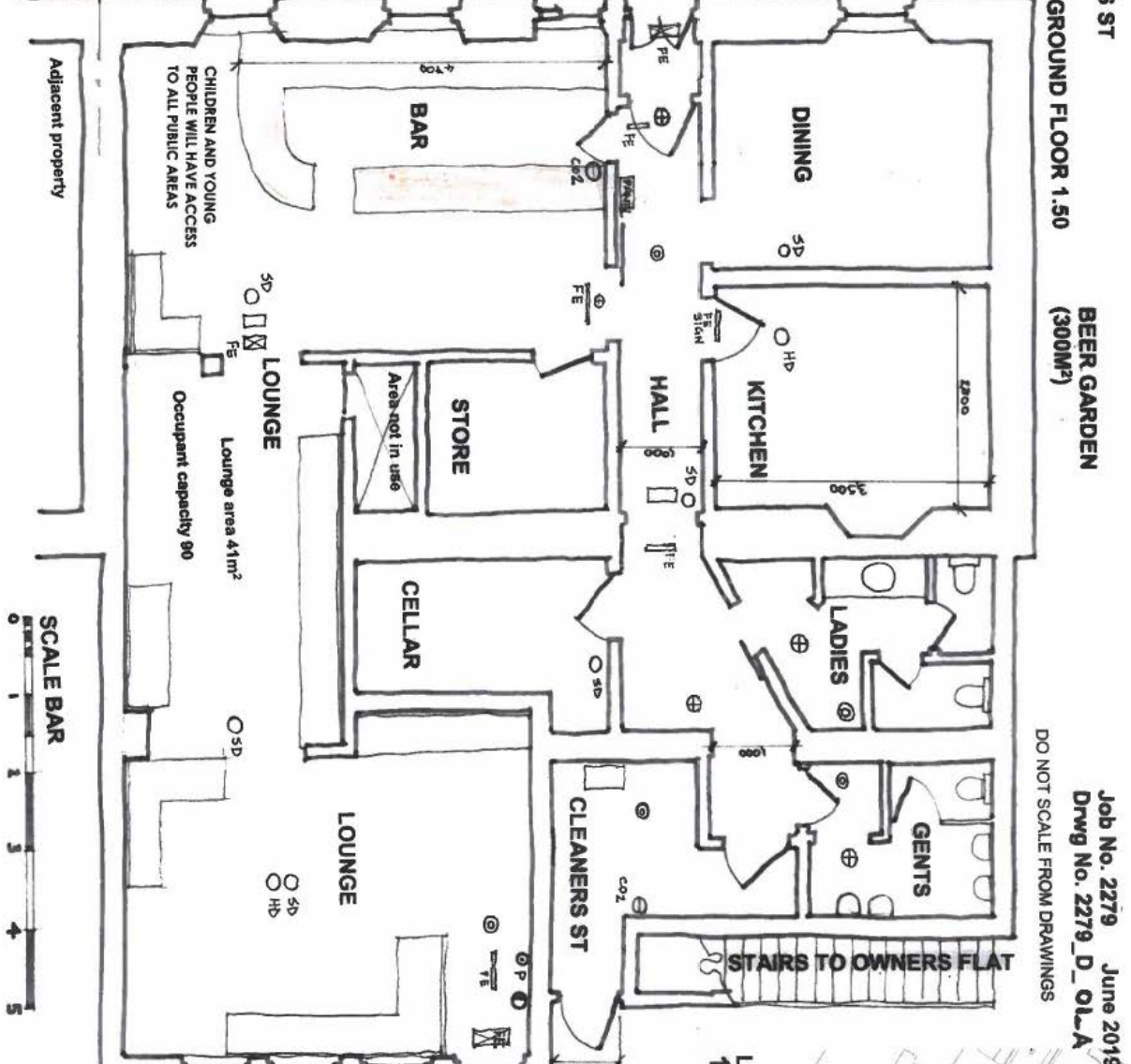
**COMMENTS RECEIVED**

**Building Standards** provided comments dated 12 July 2019.

The application and layout plan refers to work carried out to alter the layout of the premises. This work is covered under building warrant reference 17/00470/NDOM which was approved on the 11th August 2017. To date no Completion Certificate has been applied for or therefore accepted for these works. It is the Applicants responsibility to submit the Completion Certificate at the relevant time prior to occupation or use.

**Environmental and Consumer Protection** provided an observation dated 16 July 2019.

This Service has no objections to the application, however the kitchen will require to be inspected by an Environmental Health Officer prior to the provision of food being served within the premises.



Job No. 2279 June 2019  
 Drwg No. 2279\_D\_01.A  
 DO NOT SCALE FROM DRAWINGS



- LICENCING PLAN**  
**FOUNDRY BAR**  
 East Mary St Arbroath
- FE FIRE EXIT SIGN
  - SO SOUNDER
  - EL EMERGENCY LIGHT
  - FP FIRE ALARM PANEL
  - FE FIRE EXIT ILLUM.
  - EB EMERGENCY BELL RUSH
  - SD SMOKE DETECTOR
  - HD HEAT DETECTOR
  - Co2 FIRE EXTINGUISHER
  - EW WATER EXHAUSTER

**(c) LICENCE NO. 328, ARBROATH ARTISAN GOLF CLUB, THE CLUB HOUSE, ELLIOT, BY ARBROATH, DD11 1PE**

**Name and Address of Applicant**

Arbroath Artisan Golf Club, The Club House, Elliot, By Arbroath, DD11 2PE

**Type of Licence:** On Sales

**Description of Variation**

**1. Outdoor Drinking Facilities** to be provided within core hours with a capacity 24. Total capacity of premises to remain at 166. Children and Young Persons to have access to outdoor area.

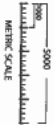
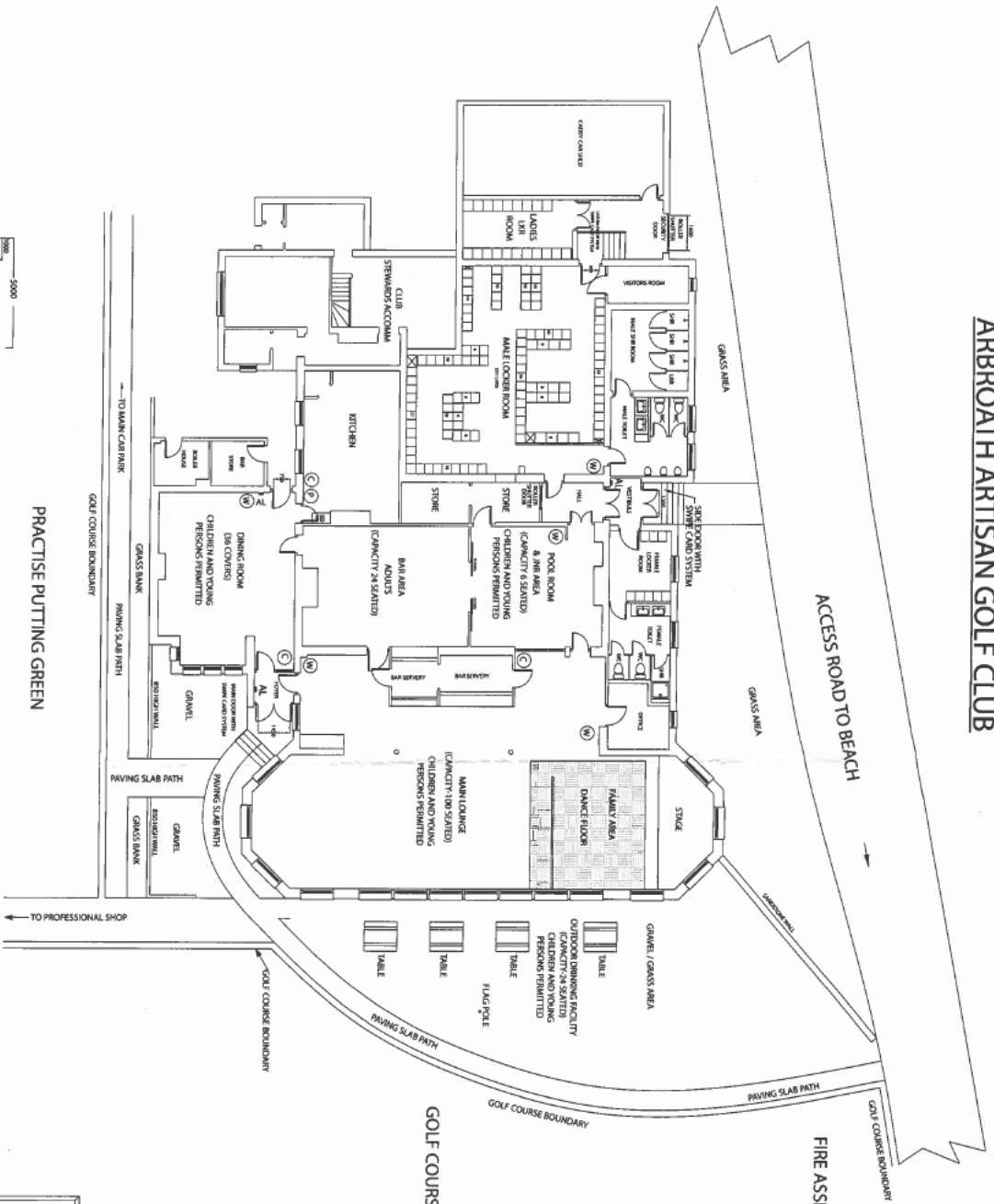
**Additional local conditions in respect of external drinking areas.**

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.

# ARRBROATH ARTISAN GOLF CLUB



ARRBROATH ARTISAN GOLF CLUB  
CLUBHOUSE  
ELLIOT  
BY ARBROATH  
DD11 2PE

- LEGEND**
- AL BREAK GLASS FIRE ALARM
  - FB FIRE BLANKET
  - WF WATER FIRE EXTINGUISHER
  - DP DRY POWDER FIRE EXTINGUISHER
  - CO2 CO2 FIRE EXTINGUISHER