

APPENDIX 2 TO REPORT LB 54/19

ANGUS LICENSING BOARD – 12 SEPTEMBER 2019

ITEM 4 (c) - LICENSING STANDARDS OFFICERS REPORT

An application to vary a premises licence has been received by Laird Brothers Ltd in respect of:

Foresterseat Restaurant, Arbroath Road, Forfar, DD8 2RY

The Licensing Standards Officer visited the premises on 26th August 2019 ahead of the Licensing Board meeting on 12th September.

Background:

An application to vary a premises licence application was received on 26th April 2019. The Licensing Board at their meeting on the 12th September will consider this application.

The Licensing Standards Officer visited the premises on 26th August 2019 to meet with the Designated Premises Manager, Eden Sinclair, to discuss this application. Mr Sinclair's wife, Lucy, was also present.

Licensing Standards Officer's Report:

I visited the premises on 27th August 2019 at 11am and met with Mr Eden Sinclair, Designated Premises Manager, and his wife Lucy. Mr Sinclair holds a Personal Licence. I was there to ascertain the facts in terms of the capacity of the premises and the layout of the premises.

Attached to this Report is an **Appendix** showing a number of photos in connection with the application.

The Premises is located off a single track road next to Foresterseat Caravan Park outside of Forfar. The access road is shown in photo one.

I spoke to the proprietor concerning the capacity of the premises. They assured me that 100 is the correct figure as the outdoor drinking area is not forming part of the overall capacity. To that end, as the report indicates, the capacity will be broken down as 50 in the restaurant (noted as "main dining area" and "Mezzanine" on the layout plan"), 30 in the café area (noted as "café area" on layout plan") and 20 in the shop area (noted as "shop" on layout plan).

The area labelled Mezzanine no longer has an upstairs area and all tables and chairs are on ground level (as per photo two). This, as far as I could see, was the only inconsistency with the layout plan. However, the shape of the building and ground has not changed. Merely the mezzanine has been removed.

The outdoor drinking area is pictured in photo number three and will not form part of the overall capacity. Given the secluded nature of the property, I have no concerns of noise problems from the outdoor drinking area.

The proposed shop area is as outlined on the layout plan. Its entrance can be seen in photo five and its layout in photo six.

I also took the opportunity to undertake my statutory checks for the premises and identified the following issues:

- 1) The mandatory sign as prescribed by Section 110 of the Licensing (Scotland) Act 2005 was not displayed. The notice must be displayed at all times where the sale of alcohol is made in a

position that is visible to anyone purchasing alcohol. The notice must contain the following statements:

"It is an offence for a person under the age of 18 to buy or attempt to buy alcohol on these premises. It is also an offence for any other person to buy or attempt to buy alcohol on these premises for a person under the age of 18. When there is doubt as to whether a person attempting to buy alcohol on these premises is aged 18 or over, alcohol will not be sold to the person except on production of evidence showing the person to be 18 or over."

I left a copy to be displayed and it was done so immediately.

- 2) The mandatory conditions attached to a premises licence prescribe that there is to be displayed, so it is reasonably visible to customers entering the premises, a sign of at least A4 size which states the premises under 18s admission policy. This notice was not displayed. I left a copy to be displayed and it was done so immediately.
- 3) Section 93 of the Licensing (Scotland) Act 2005 requires personal licence holders to produce their personal licence for inspection when working on any licensed premises. Mr Sinclair was unable to do this. I advised him that in future he must have his personal licence with him when he is working.

Prior to my visit, I carried out my due diligence check of Mr Sinclair's Personal Licence. I noted that his refresher training was due by 24th June 2019. To that end, he has until 24th September to notify us he has undergone this training.

However, after speaking to Mr Sinclair, it became evident that he has not undergone the refresher training and has missed the 24th June deadline. As a result, his Personal Licence will be revoked on 25th September 2019. This will mean Forresterseat Restaurant will not have a Designated Premises Manager as Mr Sinclair will not hold a Personal Licence come that date.

I advised him that he will need to undertake the full day personal licence training in order to apply for another one. Given how close we are to the 25th September, the chances of Mr Sinclair being able to attend a training day and successfully apply for a personal licence in that timeframe are remote. Therefore, I also advised that another method of rectifying this situation is by means of minor variation and substituting in a person who has a personal licence. I wrote to Mr Sinclair after my visit to this effect.

I also wrote to the Premises Licence Holder, Laird Brothers Ltd, advising them of this situation and informing them of the procedure outlined in Section 54 of the 2005 Act. This states that if within 7 days of their Designated Premises Manager's licence being revoked, they inform the Licensing Board of the revocation (which in this case would be by 2nd October 2019) and then by 6th November 2019 submit a minor variation to insert a new Designated Premises Manager on the Premises Licence, any breach of the conditions mandatory conditions in respect of a Designated Premises Manager will be disregarded.

At the time of writing, it is not clear which of these options this premises will choose to take. I shall have an update for the Board on the date of the meeting.

Should the above matters be rectified, which both 1 and 2 already have been, I have no concerns about how this premises will operate.

Daniel J. Coleman
Licensing Standards Officer