

ANGUS LICENSING BOARD – 30 JUNE 2020

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 each application to vary premises licences as detailed in **Appendix 1**, in terms of one of 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 4.4.

2. BACKGROUND

The Board has received two 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 variation(s) being sought are not minor, the Board must hold a hearing to determine the application.
- 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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APPENDIX 1 TO REPORT LB23/20
ANGUS LICENSING BOARD – 30 JUNE 2020

(a) LICENCE NO. 316 MORRISONS, HUME STREET, 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 to include a home delivery shopping service and a click and collect service may be operated from the store

(b) LICENCE NO. 380, THE JUNCTION, FORMERLY ARTHUR JACKS, 1 ARBROATH ROAD, FORFAR, DD8 2HS

Name and Address of Applicant

Lynart Shepherd Limited, 23 Wyllie Street, Forfar, DD8 3DN

Type of Licence: Off Sales

Description of Variation

1. Premises to be renamed as “The Junction”.

2. Description of Premises - family friendly, dog friendly, mixed use café, restaurant, shop, community facility situated in heart of Forfar.

3. Add Off Sales - between the hours 10.00 to 22.00 daily. Alcohol to be displayed in glass fronted locked cupboard in retail area of premises.

4. Seasonal Variation dates for Christmas Eve, Christmas Day, Boxing Day, Hogmanay, New Year's Day to apply in accordance with the Board Policy.

5. Activities –

- (a) Addition of activities and entertainment within and outwith cores hours for conference facilities, bar meals [cafe/restaurant], live performances, dance facilities, theatre, films, indoor/outdoor sports, televised sports.
- (b) Addition of gaming within cores hours
- (c) Activities and entertainment currently within hours only to be extended outwith core hours for restaurant facilities, recorded music, meetings and receptions.
- (d) The premises are to open at 06.30 for service of and breakfasts; teas; coffees; snacks and all other suitable activities (no alcohol sales outwith core hours).
- (e) All activities and food to be served throughout core hours and any extensions granted - hot and cold food and beverage takeaway.
- (f) Food and alcohol deliveries (no delivery without food sale). Food delivery plan attached to the Report.
- (g) Additional activities - food and drink tastings and food and drink matchings product promotions, magicians, comedians, yoga, keep fit etc; race nights and casino nights for functions and charities [in discrete part of the premises - no under 18s permitted in part of premises where these activities are taking place]; children/ family activities, dogs to be permitted.

6. Children and Young persons –

- (a) 0 to 17 years to be permitted within whole public parts of the premises.
- (b) All children under 13 to be accompanied by an adult at all times.
- (c) children aged 13 – 15 years old and young person's aged 16 & 17 years old to be permitted access unaccompanied from opening time to 18.00 hours for the purpose of partaking of a meal or a snack.
- (d) All accompanied persons under the age of 18 years to be permitted on the premises till 22.00 or the end of a meal or private function ending at 01.00, access to be permitted in the whole public part of the premises.
- (e) All children and young persons to be able to use the shop part of the premises.

(f) All children and young persons will not be permitted in any part of the premises should gaming activities be taking place in that part of the premises.

7. Capacity - 60

8. Layout - complete internal alteration of entire premises to change to family friendly, dog friendly cafe/shop