

ANGUS LICENSING BOARD – 13 AUGUST 2020

APPLICATION FOR AN OCCASIONAL LICENCE

THRUMS HOTEL, 25 BANK STREET, KIRRIEMUIR, ANGUS, DD8 4BE

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to present an application for an occasional licence under the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

1. RECOMMENDATIONS

It is recommended that the Board consider and determine the Application in terms of one of the following options:-

- (i) to grant the application, subject to the Mandatory Conditions and any other discretionary or local conditions which the Board may wish to impose; or
- (ii) to refuse the application on one or more of the grounds referred to in Paragraph 3.2.

2. BACKGROUND

The Board has received an application in respect of an occasional licence under the Licensing (Scotland) Act 2005 which requires to be determined by the Board because an objection from Police Scotland has been received in respect of the application. **A copy of the said objection shall be circulated to Board members prior to the meeting.**

3. LEGAL IMPLICATIONS

3.1 The Board must consider whether any of the grounds for refusal specified in Section 59(6) of the Licensing (Scotland) Act 2005 applies and –

- (a) if none of them applies, the Board must grant the application;
- (b) if any of them applies, the Board must refuse the application.

3.2 The grounds for refusal are: -

- (a) that the premises to which the application relates are excluded premises;
- (b) that the application must be refused under section 56(6A), (If the granting of an occasional licence application would result in the occasional licence limit being exceeded), 64(2) (If the granting of an occasional licence application would allow alcohol to be sold in the premises for a continuous period of 24 hours or more), or 65(3) (If the granting of an occasional licence application is such that the hours proposed in the application would permit alcohol to be sold for consumption off the premises before 10am, after 10pm, or both);
- (c) that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives;
- (d) that, having regard to:-
 - (i) the nature of the activities proposed to be carried on in the premises to which the application relates;
 - (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.

3.3. In determining any application which is to be determined in accordance with Paragraph 3.2, the Board must take into account any report from a Licensing Standards Officer under Section 57(3) of the Licensing (Scotland) Act 2005.

3.4. The Board must also, in determining any application, have regard to a notice made by any person to the Board under section 58 of the Licensing (Scotland) Act 2005 objecting to the occasional application on any ground relevant to one of the grounds for refusal specified at paragraph 3.2 above, and to any representations made to the Board concerning the application, including, in particular, representations –

- (i) in support of the application, or
- (ii) as to conditions which the person considers should be imposed.

The Board may reject a notice of objection or representation under Section 58 of the Licensing (Scotland) Act 2005 if the objection or representation is frivolous or vexatious.

3.5. Where the Board grants an Occasional licence, the Board may impose such other conditions (in addition to those to which the licence is subject by virtue of Schedule 4 of the Licensing (Scotland) Act 2005) as they consider necessary or expedient for the purposes of any of the licensing objectives.

The Board may not impose a condition which -

- (i) is inconsistent with any condition –
 - (a) to which the occasional licence is subject by virtue of Schedule 4,
 - (b) or prescribed
- (ii) would have the effect of making any such condition more onerous or more restrictive; or
- (iii) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

4. INFORMATION

To assist the Board in determining this application the Licensing Standards Officer has provided a **report which will be circulated to members prior to the meeting.**

5. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

6. HUMAN RIGHTS IMPLICATIONS

In dealing with the matters set out in this report the Board will have regard to any human rights issues pertaining to the applicant.

7. CONSULTATION

The Chief Constable of Police Scotland and the Licensing Standards Officer have been consulted in the preparation of this Report.

8. NOTIFICATION

The applicant has been notified of the terms of this report and been invited to attend the Board.

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