

ANGUS LICENSING BOARD

MINUTE of MEETING of the **ANGUS LICENSING BOARD** hosted at Angus House, Orchardbank Business Park, Forfar and held remotely on Thursday 17 September 2020 at 10am.

Present: Councillors CRAIG FOTHERINGHAM, RICHARD MOORE, BRIAN BOYD, COLIN BROWN BEM, BRENDA DURNO, DAVID FAIRWEATHER, ALEX KING, DAVID LUMGAIR and BETH WHITESIDE

Councillor FOTHERINGHAM, Convener, in the Chair.

1. APOLOGY

An apology for absence was intimated on behalf of Councillor Gavin Nicol.

2. DECLARATIONS OF INTEREST

Councillors Fotheringham and Fairweather each declared a non-financial interest in item 4 (c) (Report No LB 52/20) as they had both been contacted by the applicant but gave no advice. Both indicated that they would take part in any discussion and voting.

Councillor Fotheringham and Fairweather each declared a non-financial interest in item 5 (b) (Report No LB 53/20) as on occasions they frequented this licensing establishment. Both members indicated that they would take part in any discussion and voting.

3. MINUTE OF PREVIOUS MEETING

The minute of meeting of this Board held on 13 August 2020 was approved as a correct record and signed by the Convener.

4. NEW PREMISES LICENCES – UNDER THE LICENSING (SCOTLAND) ACT 2005

There was submitted Report No LB 52/20 by the Clerk on applications received for new licences under the Licensing (Scotland) Act 2005, which required to be determined by the Board as detailed in the Appendix to the Report.

(a) Rottal Steading, Rottal, Glen Clova, Kirriemuir

The Board considered an application from Dee Eamon Ward for the grant of a premises licence (on sales) in respect of premises at Rottal Steading, Rottal, Glen Clova, Kirriemuir.

Ms Small, representative for the applicant, addressed the Board.

The Board agreed that the application be granted.

(b) Lost Orchards, The Old Steading, East Adamston Farm, Muirhead, Dundee

The Board considered an application from Andrew Husband for the grant of a premises licence (off sales) in respect of premises at Lost Orchards, The Old Steading, East Adamston Farm, Muirhead, Dundee.

Mrs Hood, the applicant's agent addressed the Board after which she answered several questions from members.

The Board agreed that the application be granted.

(c) Treasures Tearoom and Boutique, 9 – 13 High Street, Arbroath

The Board considered an application from Charlene Whammond and Moira Milton for the grant of a premises licence (on/off sales) in respect of premises at Treasures tearoom and Boutique, 9 – 13 High Street, Arbroath.

Ms Whammond, the applicant, addressed the Board.

The Board then heard from Mrs Thom, Building Standards Manager who confirmed that she was happy with the capacity (45 indoors and 65 outdoors).

Mr Eason, Service Leader, Environmental and Consumer Protection then confirmed that a satisfactory noise management plan had been received.

The Board agreed that the application be granted.

5. PREMISES LICENCES – REQUEST TO VARY PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005

There was submitted Report No LB 53/20 by the Clerk on applications to vary premises licences under the Licensing (Scotland) Act 2005, which required to be determined by the Board, as detailed in the Appendix to the Report.

(a) Aldi, Craig O’Loch Road, Forfar

The Board considered an application from Aldi Stores Ltd to vary a premises licence (off sales) in respect of premises at Craig O’Loch Road, Forfar to allow them to vary their operating plan to: -

- (i) increase the alcohol display capacity to 32.920466m² with no additional seasonal adjustments;
- (ii) include the sale of other goods consistent with the business of a supermarket including out with core hours; and
- (iii) amend the layout of the premises by extending the footprint. Area currently labelled as warehouse to be part of the shop floor and an increased back of shop area being introduced at rear of premises. Additional tills to be installed and alcohol to be relocated to back wall.

Ms Loudon, the applicant’s agent addressed the Board.

The Board then heard from Mrs Thom, Building Standards Manager who advised that the proposed alterations were still ongoing and a completion certificate required to be verified prior to the extended area being utilised.

The Board agreed that the application be granted.

(b) 10 Café Bar, 12 – 14 Castle Street, Forfar

The Board considered an application from Caroline Hampton to vary a premises licence (on/off sales) in respect of premises at 10 Café Bar, 12 – 14 Castle Street, Forfar to allow them to vary their operating plan to provide outdoor drinking facilities within core hours for a capacity of 20 patrons.

The Board noted the contents of an objection received from the Chief Superintendent, Tayside Division, Police Scotland dated 21 July 2020.

Mr Hampton was present and addressed the Board during which he answered a number of questions from members.

The Board then heard from Mr Coleman, Licensing Standards Officer who advised that despite re-assurances from the applicant on a number of concerns he was of the opinion that the granting of this major variation would be inconsistent with the licensing objective of securing public safety. However, should the Board be minded to grant the application he recommended a number of additional conditions in connection with the outdoor drinking area.

The Board then heard from Constable Jamieson, Police Scotland who advised of their concerns in relation to the licensing objective of securing public safety and provided statistical information on a number of RTA’s within this area in Castle Street.

Mr Hampton then summed up.

COUNCILLOR MOORE, SECONDED BY COUNCILLOR KING, MOVED THAT THE APPLICATION BE REFUSED ON THE GROUNDS THAT IT WAS INCONSISTANT WITH THE LICENSING OBJECTIVES OF SECURING PUBLIC SAFETY AND PUBLIC NUISANCE.

Councillor Fotheringham seconded by Councillor Fairweather, moved as an amendment, that the application be approved subject to additional conditions.

On a vote being taken, the members voted: -

For the motion: -

Councillors Moore, Boyd, Durno, King, Lumgair and Whiteside (6)

For the amendment: -

Councillors Fotheringham, Brown and Fairweather (3)

The motion was declared carried and became the finding of the meeting.

(c) Arbroath United Cricket Club, Lochlands, Keptie Road, Arbroath

The Board considered an application from Arbroath United Cricket Club to vary a premises licence (on/off sales) in respect of premises at Lochlands, Keptie Road, Arbroath to allow them to vary their operating plan to provide outdoor drinking facilities within core hours. The area was to the front and side of the pavilion and was to be used during the cricket season. Children and young persons to have access.

Mr Burnett addressed the Board on behalf of the club.

The Board agreed that the application be granted.

(d) Lochside Bar, 84 – 86 Northesk Road, Montrose

The Board considered an application from William Cumming to vary a premises licence (on/off sales) in respect of premises at 84 – 86 Northesk Road, Montrose to allow them to vary their operating plan to: -

- (i) amend the terminal hours for on sales to be extended to 01.00 on Sunday to Thursday;
- (ii) amend the layout of the premises which included the relocation of main bar, snug area changing to kitchen, original kitchen removed, disabled and ladies' toilets relocated, function/dining room removed, and darts area relocated;
- (iii) provide outdoor drinking facilities; and
- (iv) to increase the capacity from 90 to 100 indoors. Outdoor capacity 50 (included in the indoor capacity).

The Board agreed that the application be deferred until the outcome of the premises licence review application for Lochside Bar, Montrose (item 7) was considered and dealt with.

6. NEW PERSONAL LICENCE APPLICATION – NOTICE OF CONVICTION

There was submitted Report No LB 54/20 by the Clerk informing members of correspondence received from the Chief Superintendent, Tayside Division, Police Scotland giving notice of a conviction in terms of section 73 (3) (b) of the Licensing (Scotland) Act 2005 in respect of a new personal licence application received on 13 July 2020 from James Morrison.

The members noted the contents of the correspondence received from the Chief Superintendent dated 22 July 2020 and agreed that in terms of section 74 (5A), to hold a hearing for the purposes of considering and determining the application.

7. PREMISES LICENCE REVIEW APPLICATION – LOCHSIDE BAR, MONTROSE

There was submitted Report No LB 55/20 by the Clerk advising members of an application for a review of a premises licence under Section 36 of the Licensing (Scotland) Act 2005 (“the 2005 Act”) which required to be considered by the Board.

The Board noted that a Premises Licence Review Application had been received from the Chief Superintendent, Tayside Division, Police Scotland, dated 30 July 2020 in respect of the Lochside Bar, Montrose.

The Clerk advised the Board that Police Scotland had requested a deferment on the application and the licence holder’s agent had agreed to this request.

The Board agreed that the premises licence review application be deferred.

8. PERSONAL LICENCE HOLDER – REPORT OF CONDUCT INCONSISTENT WITH A LICENSING OBJECTIVE – WILLIAM CUMMING

There was submitted Report No LB 56/20 by the Clerk informing members of correspondence received from the Chief Superintendent, Tayside Division, Police Scotland, dated 31 July 2020 advising that a Personal Licence Holder, William Cumming had acted in a manner which was inconsistent with three of the licensing objectives, namely preventing Crime and Disorder, Securing Public Safety and Protecting and Improving Public Health.

The Clerk advised the Board that Police Scotland had requested a deferment on the application and the licence holder’s agent had agreed to this request.

The Board agreed to defer consideration of the matter.

9. REVIEW OF BYELAWS

There was submitted Report No LB 57/20 by the Clerk advising members of the commencement of the process of reviewing the existing byelaws prohibiting the consumption of alcohol in public places as required by section 202(A) of the Local Government (Scotland) Act 1973 and to establish a Working Group which would take forward any proposals arising from the review.

The Report advised that due to the statutory requirement to review the byelaws, the Licensing Standards Officer had carried out an initial consultation between May and August 2020. This consultation was in relation to the review of the byelaws in force in Arbroath, Brechin, Carnoustie, Forfar, Kirriemuir, Monifieth and Montrose and took place with the Community Councils, the Angus Licensing Forum and Police Scotland to identify if the current laws were sufficient or if alterations were required. Due to the current Covid-19 pandemic, this consultation was done by way of writing out to these groups and asking for written feedback. Copies of the responses were detailed in Appendix 1 of the Report.

The Board agreed: -

- (i) to note the process of reviewing the existing byelaws prohibiting the consumption of alcohol in public places and the commencement of the review process as noted within the body of the report;
- (ii) to note the consultation responses received in relation to the initial stages of the review process as detailed in Appendix 1 to the Report;
- (iii) to establish a Working Group comprising Councillors Fotheringham, Moore, Lumgair and King, a representative from Police Scotland, the Licensing Standards Officer and one of the Deputy Clerks to the Licensing Board; and
- (iv) to note that the group would consider the consultation responses in detail, carry out further consultation with all Elected Members and report back to the Licensing Board between November 2020 and December 2020.

10. COVID-19

There was submitted Report No LB 58/20 by the Clerk advising the Board Members of the work undertaken remotely by officers as a result of the COVID-19 Pandemic and outlining the legislative changes and resultant impact on Board Business brought about by the Coronavirus (Scotland) Act 2020.

The Board agreed: -

- (i) to note the work undertaken remotely by officers since March 2020; and
- (ii) to note the legislative changes and resultant impact on Board Business brought about by the introduction of the Coronavirus (Scotland) Act 2020.

11. ANNUAL FUNCTIONS REPORT – SECTION 9A OF THE LICENSING (SCOTLAND) ACT 2005

There was submitted Report No LB 59/20 by the Clerk presenting the third Annual Functions Report to the Board.

The Report indicated that on 20 December 2017, Section 56 of the Air Weapons and Licensing (Scotland) Act 2015 had amended Section 9 of the Licensing (Scotland) Act 2005 and inserted a new Section 9A which obliged all Licensing Boards to produce an Annual Functions Report no later than 3 months after the end of each financial year ending on 31 March.

The Board agreed to note the terms of the third Annual Functions Report of Angus Licensing Board for the period 1 April 2019 to 31 March 2020 as detailed in Appendix 1 to the Report.

12. OCCASIONAL LICENCES – DELEGATED APPROVALS

There was submitted and noted Report No LB 60/20 by the Clerk detailing applications for Occasional Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 24 July 2020 to 3 September 2020, in accordance with the Scheme of Delegation appended to the Licensing Policy.

13. PREMISES LICENCES - MINOR VARIATIONS - DELEGATED APPROVALS

There was submitted and noted Report No LB 61/20 by the Clerk detailing applications for minor variations to premises licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 24 July 2020 to 3 September 2020, in accordance with the Scheme of Delegation appended to the Licensing Policy.

14. PERSONAL LICENCES – DELEGATED APPROVALS

There was submitted and noted Report No LB 62/20 by the Clerk detailing applications for Personal Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 24 July 2020 to 3 September 2020 in accordance with the Scheme of Delegation appended to the Licensing Policy.