

ANGUS LICENSING BOARD – 26 NOVEMBER 2020

PROVISIONAL PREMISES LICENCES - APPLICATIONS UNDER THE LICENSING (S) ACT 2005

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present two applications for new provisional premises licences under section 45 of the Licensing (Scotland) Act 2005 (“the Act”) which require to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine each application for a new provisional premises licence as detailed in the attached Appendix, in terms of one of the following options:-

- (i) to grant the application, subject to Statutory Conditions and any other discretionary local conditions, which the Board may wish to impose;
- (ii) to propose a modification to the operating plan or layout plan (or both) and if the applicant accepts the proposed modification, request that the applicant amend the application and thereafter, grant the modified application with the proposed amendment, subject to the Statutory Conditions and any other discretionary or local conditions which the Board may wish to impose;
- (iii) to defer the application to the next Licensing Board; or
- (iv) to refuse the application on one or more of the grounds referred to in Paragraph 3.3.

2. BACKGROUND

The Board has received two applications for new provisional premises licences under section 45 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. LEGAL

3.1 A premises licence application may be made in relation to any premises despite the fact that, at the time the application is made, the premises are yet to be, or are in the course of being, constructed or converted for use as licensed premises. A premises licence application in respect of any such premises is referred to in the Act as a “provisional premises licence application”.

A premises licence issued in respect of any such premises does not take effect unless and until it is confirmed by the Licensing Board which issued it in accordance with section 46 of the Act.

If a premises licence issued in respect of any such premises is not confirmed before the end of the provisional period, then at the end of that period the licence is treated as revoked.

The provisional period, in relation to a provisional premises licence, is the period of 4 years beginning with the date of issue of the licence.

- 3.2 The Board must, in terms of section 23 of the Act, hold a hearing for the purposes of considering and determining the application. As part of this, the Board must take account of the documents which have been submitted accompanying the application. The Board must 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.
- 3.3 The grounds for refusal are:-
- (a) that the subject premises are excluded premises in terms of section 123 of the Act;
 - (b) that the application must be refused under Section 25(2) of the Act (the Board had previously refused 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);
 - (ba) that the Licensing Board consider, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;
 - (c) that the Licensing Board considers that the granting of the application would otherwise 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 subject premises;
 - (ii) the location, character and condition of the premises, and
 - (iii) the persons likely to frequent the premisesthe Board considers that the premises are unsuitable for use for the sale of alcohol;
 - (e) 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, in the locality.
- 3.4 In considering whether either of the grounds for refusal specified in subsection 3.3 (ba) and (c) above applies, the Licensing Board must, in particular, take account of:
- (a) any conviction, notice of which is given by the Chief Constable under subsection (4) (b) of section 21 of the Act; and
 - (b) any report given by the Chief Constable under section 24A (2) of the Act.
- 3.5 Section 23(7) of the Act provides that where the Licensing Board considers that they would refuse the application as made, but if a modification proposed by them were made to the operating plan (or layout plan, or both) for the subject premises accompanying the application, they would be able to grant the application, the Board must, if the applicant accepts the proposed modification, grant the application as modified.

3.6 Where the Licensing Board refuses an application, the Board must specify the ground for refusal and if any ground relates to the licensing objectives, the Board must state the relevant 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

4. **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this Report.

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ANGUS LICENSING BOARD – 26 NOVEMBER 2020

(a) TOLL HOUSE SPIRITS, UNIT 18, MATTHEW KERR PLACE, ARBROATH

Name and Address of Applicant

Toll House Spirits Ltd, 62 Dalhousie Road, Broughty Ferry, DD5 2UB

Type of Licence: Premises Licence – On and Off Sales

1. Description of Premises – Ancillary visitor centre shop, distribution point and tasting area situated within self-contained facility for production of craft gins and other distilled, brewed or fermented alcohol products.

2. Core times when alcohol will be sold for consumption **on and off** the premises: -

Monday to Sunday 10:00 to 21.00

The Board are asked to note the hours requested for on-sales are outwith Board Policy.

3. Activities

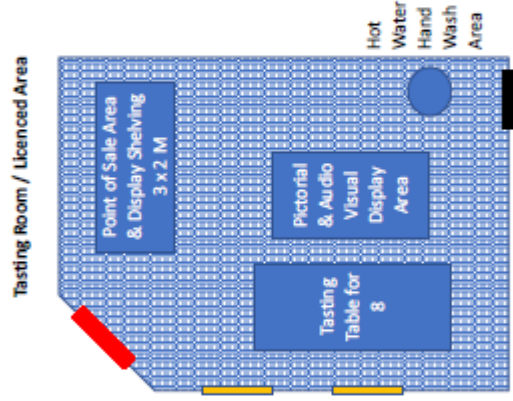
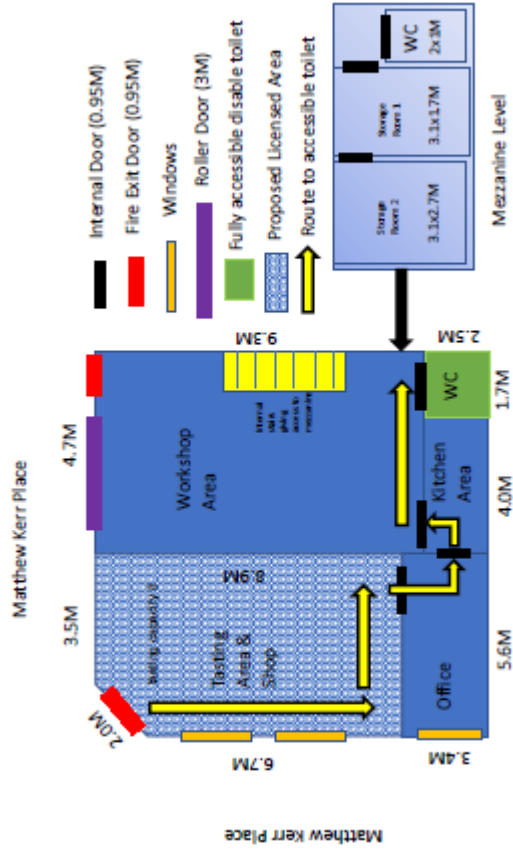
- (a) Distribution point for domestic and trade sales;
- (b) Ancillary visitor centre retail area /shop and tasting room;
- (c) Alcohol can be bought from visitor centre shop direct, or bought by persons taking part in on site virtual distillery visit, and via online and telephone sales;
- (d) Alcohol can be delivered from site by applicant and via post and dispatch companies - delivery policy attached to this application;
- (e) Alcohol can be collected from the site by online and telephone purchasers and can be purchased within the visitor centre directly by customers; and
- (f) Film showing distillery - making of spirits, blending of botanicals etc will be shown at all times.

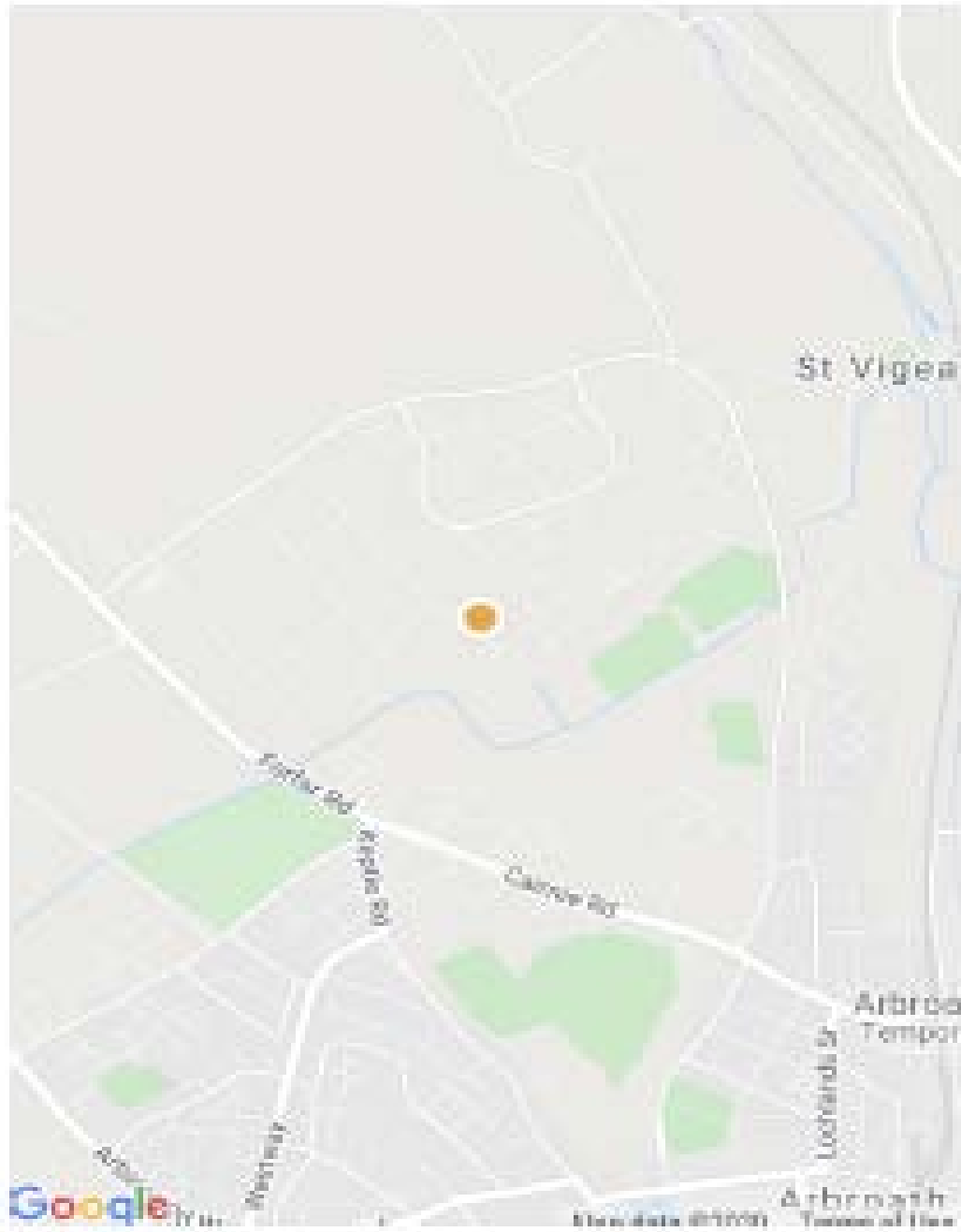
For the avoidance of doubt, tastings (free and paid for) will be the only form of on sale activity and these will be ancillary to the main use of the premises.

If the Board are minded to grant the application, the applicant has agreed as a condition of the licence that “*on-sales between 10am-11am shall be for tasting sessions only*”.

4. Capacity for tastings – 8.

The applicant has advised that premises comprise of a visitor and distillery information centre with ancillary retail/shop area and do not require to detail display area capacity.





(b) ARBIKIE DISTILLERY VISITOR CENTRE, DRUMBERTNOT FARM, LUNAN, MONTROSE, DD10 9TR

Name and Address of Applicant

Arbikie Distilling Limited, Arbikie Farm, Inverkeilor, Arbroath, DD11 4UZ

Type of Licence: Premises Licence – On and Off Sales

1. Description of Premises – A purpose-built Visitor Centre adjacent to the Arbikie Distillery comprising the following: -

- (a) On the ground floor a retail outlet selling alcohol produced in the distillery and related Arbikie branded merchandise together with a café/restaurant and a designated area for outside eating and drinking.
- (b) On the second floor a bar/restaurant together with three private areas which can be used for private dining and/or tasting rooms, one of which has an adjacent outside balcony area.
- (c) The principal kitchen is located on the ground floor with a second finishing kitchen upstairs.

2. Core times when alcohol will be sold for consumption **on** the premises: -

Sunday to Thursday	09.00 to 24.00
Friday and Saturday	09.00 to 01.00

Core times when alcohol will be sold for consumption **off** the premises: -

Monday to Sunday	10.00 to 22.00
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The Board are asked to note the hours requested for on-sales are outwith Board Policy.

The applicant has applied for pre-booked tasting sessions to commence from 9am. If the Board are minded to grant the application, the applicant has agreed as a condition of the licence that “on-sales between 9am-11am shall be for pre-booked tasting sessions only”.

3. Seasonal Variations – Christmas Eve, Christmas Day, Boxing Day, Hogmanay, New Year’s Day.

4. Activities

- (a) Within core hours - club or other group meetings, live performances, dance facilities and televised sport;
- (b) Within and outwith core hours – conference facilities, restaurant facilities, bar meals, receptions and recorded music;

The applicant would wish to be able to open from 9am daily for the service of teas, coffees, soft drinks and snacks;

- (c) Tastings to be provided following tours of the distillery marketed at tourists in particular. Tastings will principally be carried out on the first floor of the premises in either the bar area or one of the three private tasting rooms to which children and young persons will

not be permitted access and also in a cordoned off area on the ground floor. The applicant seeks to offer tastings from 9am daily for pre-booked visitors only; and

(d) Outdoor drinking facilities to be provided within and outwith core hours.

5. Children and Young Persons to be permitted –

- (a) Aged 0 to 17 years;
- (b) Access to the ground floor of the premises only (all public areas including toilets);
- (c) From opening time until 9pm daily; and
- (d) The applicant seeks a direction that the premises are located in a remote and rural area and provides services and facilities that substantially cater for tourism and that as such children and young persons will be permitted access to the premises without the requirement to be taking a meal.

6. Capacity - Total 276

Ground floor café/restaurant/retail area – 74

Outside eating/drinking area – 100

First floor bar area - 66

First floor private dining/tasting room - 24

First floor private lounge – 6

First floor tasting/quiet area – 6

COMMENTS RECEIVED

Building Standards provided comments dated 27/10/2020.

As this is a provisional application, we have no comment or objection to make. However, it should be noted that currently there is only a stage 1 Building Warrant in place for partial erection of the visitor centre.

Prior to a full premises application or occupation of the building, the applicant should have a stage 2 application (to Completion applied for and granted) and a full completion certificate accepted for the building.

LICENSING STANDARDS OFFICER VISIT REPORT

An application for a provisional premises licence has been received from Arbikie Distillery Limited in respect of

ARBIKIE DISTILLERY VISITOR CENTRE, DRUMBERTNOT FARM, LUNAN, MONTROSE, DD10 9TR

Background:

The application was received on 17th September 2020. The Licensing Board at their meeting on the 26th November 2020 will consider this application.

Licensing Standards Officer's Report:

Due to COVID-19 restrictions, I was unable to arrange a visit to the premises to meet with the applicant, John Stirling. I met with him via Microsoft Teams on 16th November 2020 at 3pm.

The applicant applied for tasting sessions to take place on the premises commencing at 9am. These will be pre-booked sessions only. I discussed with the applicant that this meant on-sales hours would need to commence from 9am, which is outwith policy. The applicant therefore agreed the following condition to be imposed on the licence:

"any on-sales between 9am-11am shall be for pre-booked tasting sessions only".

If members were minded to grant this application, I would ask Members to consider imposing this condition upon the licence in addition to the standard conditions.

I informed the Licence Holder that what was discussed would form part of a report to be placed before Board Members. I duly submit this report for consideration by Members.

Daniel J. Coleman

Licensing Standards Officer

Angus Council

First Floor Plan

