

# ANGUS LICENSING BOARD

MINUTE of MEETING of the **ANGUS LICENSING BOARD** held remotely on Thursday 16 September 2021 at 10am.

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

Councillor FOTHERINGHAM, Convener, in the Chair.

## 1. APOLOGIES

An apology for absence was intimated on behalf of Councillor Alex King.

## 2. DECLARATIONS OF INTEREST

Councillor Durno declared a non-financial interest in item 9 (Report No LB 43/21) as the applicant was known to her. She indicated that that she would not take part in any discussion and voting and would leave the meeting during consideration of this item

Councillor Nicol declared an interest in item 5 (f) (Report No LB 39/21) Strathmore Rugby Football Club as in past years he had been a member of the Club. He indicated that he would take part in any discussion and voting.

## 3. MINUTES OF PREVIOUS MEETINGS

The minutes of meetings of this Board held on 5 August and 12 August 2021 were approved as correct records and signed by the Convener.

## 4. PROVISIONAL PREMISES LICENCE - APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

There was submitted Report No LB 38/21 by the Clerk on applications received for new provisional 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) Petrol Filling Station & Convenience Store, Bridge Street, Montrose

The Board considered an application from TG Convenience Stores Ltd for the grant of a premises licence (off sales) in respect of premises at Petrol Filling Station & Convenience Store, Bridge Street, Montrose.

Mr Clancy, agent for the applicant, was present and addressed the Board during which he spoke on the findings of a survey which had recently taken place to ascertain the needs of their customers and from this survey there had been collated sufficient evidence to prove that person's resident in the locality were, or were likely to become, reliant to a significant extent on the premises as the principal source of petrol or derv; or groceries.

The members of the Board asked a number of questions of Mr Clancy with regards to the sale of alcohol and took into consideration the findings contained within the survey.

Mr Clancy summed up.

The Board agreed to grant the provisional premises licence application subject to the Statutory Conditions.

### (b) Petrol Filling Station & Convenience Store, Cairnie Street, Arbroath

The Board considered an application from TG Convenience Stores Ltd for the grant of a premises licence (off sales) in respect of premises at Petrol Filling Station & Convenience Store, Cairnie Street, Arbroath.

Mr Clancy, agent for the applicant, was present and addressed the Board during which he spoke on the findings of a survey which had recently taken place to ascertain the needs of their customers and from this survey there had been collated sufficient evidence to prove that person's resident in the locality were, or were likely to become, reliant to a significant extent on the premises as the principal source of petrol or derv; or groceries.

The members of the Board asked a number of questions of Mr Clancy with regards to the sale of alcohol and took into consideration the findings contained within the survey.

Mr Clancy summed up.

The Board agreed to grant the provisional premises licence application subject to the Statutory Conditions.

**(c) The Montrose Playhouse, Cinema & Arts Centre, The Playhouse, The Mall, Montrose**

The Board considered an application from Montrose Playhouse Project Ltd for the grant of a provisional premises licence (on & off sales) in respect of premises at The Montrose Playhouse, Cinema & Art Centre, The Playhouse, The Mall, Montrose.

Mrs Hood, agent for the applicant, was present and addressed the Board during which she explained the reasons for the extended opening when showing film premiers. She also confirmed that door stewards would be used if the premises were busy.

*At this point (10.49am) it was noted that the Convener was having connection issues and the Vice Convener took the chair for the remainder of this item.*

Discussion took place and many members welcomed this ambitious project but expressed concerns at the request to open the premises until 3am.

Mrs Hood then summed up.

The Board agreed to grant the provisional premises licence as detailed in the Report but subject to the statutory conditions and the following amendments: -

- (a) on no more than twelve occasions per annum the Premises Operators shall be permitted to open for the showing of film premiers commencing at midnight and the sale of drinks both alcoholic and non-alcoholic and food and snacks until 2am - last orders for food and drink to be at 1.30am. The Clerk and Police Scotland to be given seven clear days' notice of these type of events;
- (b) the Film Festival would feature several premier film showings some of which would commence at midnight until 2am and would be in addition to the 12 other premiers proposed to be shown throughout the year. The festival would include all day showings of film, and/or director/film star Q&A's and other special events including educational events relating to performances, live music, talks etc - the premises operators have the option to remain open until 2am to facilitate these events. Food, soft and alcoholic drinks and beverages would be on offer with last orders being 1.30am;
- (c) that the Children and Young Persons conditions be amended to allow unaccompanied Children 12 – 15 years and young person's 16 – 17 years access to the premises to view age appropriate films or take part in arranged activities until 22.00 or the end of the film; and
- (d) that the following additional conditions apply for the external drinking area: -
  - (i) patrons shall not be permitted to use the external drinking areas beyond 21.00;
  - (ii) no music shall be provided in the external drinking area; and

- (iii) no music or amplified sound be provided anywhere within the licensed premises with the intention of it being heard within the external drinking area.

*At this point in the meeting, the Convener took the Chair.*

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

There was submitted Report No LB 39/21 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) Sunny's Bar & Kitchen, 2 Mattocks Road, Wellbank, Dundee**

With reference to Article 4 of the minute of meeting of this Board of 12 August 2021, the Board considered an application from M S Catering Dundee Ltd, 2 Mattocks Road, Wellbank, Dundee to vary a premises licence in respect of premises at Sunny's Bar & Kitchen, 2 Mattocks Road, Wellbank, Dundee to allow them to vary their operating plan to: -

- (i) amend the core hours to: -
  - (a) On sales
    - Monday 11.00 to 23.00
    - Tuesday to Thursday 11.00 to 23.30
    - Friday 11.00 to 24.00
    - Saturday 11.00 to 01.00
    - Sunday 11.00 to 23.00
  - (b) include off Sales
    - Monday to Sunday 10.00 to 22.00
- (ii) reduce the on sales capacity from 341 to 221 persons and add an off sales capacity of 16.88m<sup>2</sup>;
- (iii) amend the layout plan which altered the existing function hall to include retail unit; and
- (iv) change the name of the premises to Tour & Taste.

Mrs Thom, Building Standards Manager advised members that an application for a building warrant had now been received from the applicant, but no site inspection had taken place.

Ms Hayat, the applicant, addressed the Board and advised that when taking over the premises she had been unaware of the outstanding issues with the works and did not realise that she required a building warrant.

The Board agreed that the application be granted subject to the works being completed to the satisfaction of the Building Standard Services.

### **(b) Grey Harlings Hotel, 5 Traill Drive, East Links, Montrose**

With reference to Article 4 (k) of the minute of meeting of this Board of 12 August 2021, the Board considered an application from Framework Property Development Ltd, 5 Traill Drive, East Links, Montrose to vary a premises licence (on sales) in respect of premises at Grey Harlings Hotel, 5 Traill Drive, East Links, Montrose to allow them to vary their operating plan to: -

- (i) amend the core times to: -
  - Monday to Thursday 11.00 to 23.00
  - Friday to Sunday 11.00 to 24.00;
- (ii) amend the layout to extend the area currently licensed as gazebo to include the decked area it sits on and extend the outdoor licensed seating area to

include benches on grass within a portion of the grassy area as per layout plan;

- (iii) amend the Children's Conditions as follows: -
  - (a) terms currently state - "non-resident children would be permitted in the restaurant, lounge, inner and outer halls and the guest house grounds" – amend terms to now be "accompanied by a responsible adult";
  - (b) times currently state – "non-resident children and young persons would be allowed entry to the guest house between 07.00 and 21.00" – addition to include – and hotel grounds 07.00 to 21.00; and
  - (c) apply local children's conditions in accordance with activity/service provided on the premises.
- (iv) increase the capacity from 30 persons to 150 persons

Mr Watson and Ms Henderson, the applicants addressed the Board and answered a number of questions from members regarding the outside area.

Mrs Birrell, agent for the objectors addressed the Board and informed them that the increase in capacity and the extension to the outdoor area would significantly impact on the neighbours and should be refused on the licensing objectives of securing public safety, preventing crime and disorder and preventing a public nuisance.

Discussion then took place during which members noted that the fence was a planning matter.

The Board agreed that the application be granted, subject to the following additional conditions for the external drinking area: -

- (i) patrons shall not be permitted to use the external drinking areas beyond 21.00;
- (ii) no music shall be provided in the external drinking area; and
- (iii) no music or amplified sound be provided anywhere within the licensed premises with the intention of it being heard within the external drinking area.

*Councillor Moore requested that his dissent be recorded from the forgoing decision.*

*Councillor Boyd left the meeting at this stage. (12 noon)*

**(c) Brown Horse Hotel, 62 Market Street, Brechin**

The Board considered an application from Southesk Developments, 46/48 Clerk Street, Brechin to vary a premises licence (on/off sales) in respect of premises at Brown Horse Hotel, 62 Market Street, Brechin to allow them to vary their operating plan to: -

- (i) amend the core hours to: -
  - (a) On sales
    - Monday to Thursday 11.00 to 23.00
    - Friday and Saturday 11.00 to 01.00
    - Sunday 12.00 to 23.00
  - (b) Off Sales
    - Monday to Saturday 11.00 to 22.00
    - Sunday 12.00 to 22.00
- (ii) amend the activities by adding a beer garden to 1/3 of the car park as per the layout plan and to remove accommodation;

- (iii) add possible charity/fundraising activities, quiz, disco and annual music festival;
- (iv) amend the children's conditions as follows: -
  - (a) amend the times to read from 12.00 to 14.30 and 17.00 to 20.30 for meals only;
  - (b) amend the ages to read "infant to 17 years old";
  - (c) amend parts of the premises to read restaurant, toilets and car park/beer garden; and
  - (d) amend the terms in addition to "accompanied by a responsible adult" and add in for food only outside for charity/fund raising matters – parental supervision needed.
- (v) increase the capacity from 205 persons to 220 persons.

Mr Renilson, the applicant addressed the Board and advised that only 20 persons would be allowed in the outside area which would be defined by plant pots.

The Board agreed that the application be granted, subject to the following additional conditions for the external drinking area: -

- (ii) patrons shall not be permitted to use the external drinking areas beyond 21.00;
- (ii) no music shall be provided in the external drinking area; and
- (iii) no music or amplified sound be provided anywhere within the licensed premises with the intention of it being heard within the external drinking area.

**(d) Old Masons Arms, 135 – 139 East High Street, Forfar**

The Board considered an application from Maria Stewart to vary a premises licence (on/off sales) in respect of premises at Old Masons Arms, 135 – 139 East High Street, Forfar to allow them to vary their operating plan to: -

- (i) amend their core hours for on sales on Friday and Saturday from 01.00 to 02.00; and
- (ii) include karaoke, pub quiz, psychic nights and poker nights.

The Board noted the contents of an objection received from Chief Superintendent Phil Davidson, Tayside Division, Police Scotland dated 13 July 2021.

The applicant was not present.

The Board agreed that the application be deferred to the Board meeting on 25 November 2021 to allow the applicant to attend.

**(e) Thrums Hotel, 25 Bank Street, Kirriemuir**

The Board considered an application from the Firm of D & S Clark to vary a premises licence (on/off sales) in respect of premises at Thrums Hotel, 25 Bank Street, Kirriemuir to allow them to vary their operating plan to:-

- (i) amend the core hours on a Sunday to commence from 11am for on and off sales;
- (ii) amend the activities as follows: -
  - (a) to include within and out with core hours: -
    - (i) conference facilities
    - (ii) theatre

- (iii) indoor/outdoor sports
- (iv) outdoor drinking

- (b) to include out with core hours: -
  - (i) restaurant;
  - (ii) bar meals;
  - (iii) receptions;
  - (iv) club meetings;
  - (v) recorded music; and
  - (vi) televised sport.

All activities out with core hours to be capable of commencing at 7.30am

- (iii) include other activities such as: -
  - (a) comedians and magicians;
  - (b) business meetings;
  - (c) service of breakfasts, teas, coffees and takeaway food - till end of food service; and
  - (d) pool for indoor sports.
- (iv) amend children and young persons to include:-
  - (a) Times:** - residents all times premises are open; and accompanied non-resident children and young persons until 21.00; and
  - (b) Parts:** - whole premises except no access to bar servery.
- (v) note that the addition of the external area shall not increase the capacity of the premises and they shall remain at a total of 160 persons. (45 persons external).
- (vi) include within the layout the addition of a permanent external area.

Mrs Hood, the applicant's agent addressed the Board and advised members that her client was happy to accept additional conditions for the outside area. She also advised that her client had now submitted a Building Warrant application and would await the Completion Certificate.

The Board noted the contents of a representation received from Chief Superintendent Phil Davidson, Tayside Division, Police Scotland dated 26 August 2021 and Constable Jamieson addressed the Board.

The Board agreed that the application be granted, subject to the following additional conditions for the external drinking area: -

- (i) patrons shall not be permitted to use the external drinking areas beyond 21.00;
- (ii) no music shall be provided in the external drinking area; and
- (iii) no music or amplified sound be provided anywhere within the licensed premises with the intention of it being heard within the external drinking area.

**(f) Strathmore Rugby Football Club, Inchmacoblie, Forfar**

The Board considered an application from Strathmore Rugby Football Club to vary a premises licence (on sales) in respect of premises at Inchmacoblie, Forfar to allow them to vary their operating plan to: -

- (i) amend their core hours as follows: -
  - On Sales
  - Sunday to Thursday 11.00 to 24.00
  - Friday and Saturday 11.00 to 01.00
  - Off Sales

Monday to Sunday 11.00 to 22.00

(ii) add the following activities out with core hours

- (a) restaurant
- (b) bar meals
- (c) recorded music
- (d) live performances
- (e) dance facilities
- (f) theatre
- (g) films
- (h) gaming
- (i) indoor/outdoor sports
- (j) outdoor drinking

All activities out with core hours to commence from 7am.

Any outdoor drinking out with core hours would only relate to non-alcoholic drinks.

The applicant had requested "To enable viewing of major Rugby Football events Rugby World Cup and 6 Nations - should games be scheduled in advance of core hours to permit sale of alcohol in conjunction with sale of substantial breakfast offering, access to club to be restricted to club members and their families by ticket booked and paid for in advance."

(iii) to include other activities such as: -

- (a) Yoga, marathon training and other sports and keep fit activities etc;
- (b) Service and consumption of food and drink over whole of licensed area;
- (c) Food and drink promotions, matchings and tastings;
- (d) Karaoke, band practice;
- (e) Permit occasional markets and other activities in club premises including car park area for the purposes of assisting club fundraising. Non-members to be signed in by club members;
- (f) Promoting sponsors, supporters and club members, local businesses, local producers and local; and
- (g) Retailers and local makers, charity events to permit community activities commensurate with a family friendly locally based club.

(iv) amend children and young persons as follows: -

- (a) **Terms** - always accompanied by an adult who may include coach, trainers or other members the club or visiting teams or other responsible adult.

Permit access to youth and young/child players before and after games, training and practice sessions and team players and opposing team players access to the premises for pre and/or post training or pre and/or post-match snacks and refreshments until 22.00 for 14 -17 year olds and until 18.00 for 5 -13 year olds. To recognise that under 18s would in all cases be under the care and supervision of club members, coaches, trainers and other responsible adults. Permit access to whole premises except the long side of the server bar. Access for purchase or ordering of non-alcoholic drinks, beverages and food to be at dedicated under 18s part of the servery - short end of bar servery marked with an X on layout plan.

- (b) **Times** - 07.00 to 22.00 or end of club functions

- (c) **Parts of Premises** - to permit access to whole premises except the adult side of the server bar, access for purchase or ordering of non-alcoholic drinks, beverages and food to be at dedicated under 18's part of the bar servery marked with an X on layout plan.

(v) increase the capacity from on sales 140 to: -

Capacity internal 239

Capacity external 530

External capacity was usually only reached on major game match days when extra portaloos toilet provision would be made.

Mrs Hood, the applicant's agent addressed the Board and requested that the application be deferred to allow her to meet with officials on 20 September 2021.

The Board agreed that the application be deferred to the Board meeting on 25 November 2021.

## **6. APPLICATIONS FOR AN OCCASIONAL LICENCE**

There was submitted Report No LB 40/21 by the Clerk detailing 10 applications for occasional licences from 4 different applicants under the Licensing (Scotland) Act 2005 which required to be determined by the Board, as detailed in the Appendix to the Report.

### **(a) Royal Hotel, Castle Street, Forfar**

The Board considered an application from Donald Stewart requesting two occasional licences in respect of the roof top terrace of the Royal Hotel, Forfar from 22 September to 5 October and 6 October to 19 October 2021. It was noted that three previous applications for this area had been granted under delegated powers however, due to a noise complaint being received the Board required to consider these applications.

The Licensing Standards Officer addressed the Board and advised that previous applications had been granted under delegated powers with additional conditions in relation to the outdoor area.

The applicant was not present.

The Board agreed that both applications be approved subject to the mandatory and local conditions and the additional conditions detailed in the Report.

### **(b) Stag Hotel, 142 Castle Street, Forfar**

The Board considered applications from Susan Campbell requesting two occasional licences in respect of their beer garden using the garden area to the north of the Stag Hotel, Forfar from 27 September to 10 October 2021 and 11 December to 24 December with on sales only from 11am until 9pm each day.

The applicant was not present.

The Board agreed that the applications be approved subject to the mandatory and local conditions and the additional conditions detailed in Appendix 2 to the Report but there was an expectation that a major variation application be submitted by the applicant for future use of this area.

### **(c) Market Arms, 95 High Street, Montrose**

The Board considered applications from William Dorward requesting two occasional licences in respect of their pavement Café which was located on the pavement outside the Market Arms, Montrose from 28 September to 11 October and 12 October to 25 October 2021 with on sales from 11am until 9pm each day.

The Report advised that the applicant had been granted permission by the Roads Authority to use the pavement area however, a condition had been attached to the road permission that the area could only be used until 8pm.

Mrs Hood, the applicant's agent addressed the Board.

The Board agreed that the two applications be approved for on sales from 11am to 8pm each day subject to the mandatory and local conditions as well as the additional conditions detailed in Appendix 2 to the Report but there was an expectation that a major variation application be submitted by the applicant for future use of this area.



*At this point, the Convener intimated that he would be leaving the meeting and the Vice Convener took the chair for the remainder of the business.*

*Councillor Brown left the meeting at this stage.*

**(d) Jonathan Calder, 24 Sanderson Place, Newbigging**

The Board considered four applications from Jonathan Calder, Personal Licence Holder requesting occasional licences in respect of a business involving preparing cocktail packs to be delivered to people in their homes from 25 September to 10 December 2021 with off sales from 10am to 10pm each day.

Mr Calder was present and addressed the Board.

The Board agreed that the applications be approved subject to the mandatory and local conditions as well as the additional conditions detailed in Appendix 2 to the Report with the exception of conditions 1,2,7,11,12 and 13 on the basis that it was an off sales delivery service but there was an expectation that a major variation application be submitted by the applicant.

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

There was submitted Report No LB 41/21 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 2020 to 31 March 2021 as detailed in Appendix 1 to the Report.

**8. CHIEF CONSTABLE'S REPORT TO ANGUS LICENSING BOARD**

There was submitted and noted Report No LB 42/21 by the Clerk which presented the Chief Constable's Report to the Angus Licensing Board for the period 1 April 2020 to 31 March 2021 attached as an Appendix to the Report.

*At this point it was noted that Councillor Fairweather was having connection issues.*

*Having declared an interest at Article 2 above, Councillor Durno left the meeting prior to consideration of the following item.*

*The Board agreed to adjourn the meeting for 15 minutes to seek advice from officers with regards the quorum.*

*The meeting resumed at 1.15pm and the Clerk intimated that under the Coronavirus (Scotland) Act 2020 the quorum for the Board had been amended to 4.*

**9. PERSONAL LICENCE APPLICATION – NOTICE OF CONVICTION**

There was submitted Report No LB 43/21 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 83 (4) (b) of the Licensing (Scotland) Act 2005 in respect of a personal licence holder, Faisal Naseem.

The members noted the contents of the correspondence received from the Chief Superintendent dated 24 August 2021 and agreed that in terms of section 83 (7A), to hold a hearing on 30 September 2021 in relation to the conviction.

*Councillor Durno rejoined the meeting.*

**10. OCCASIONAL LICENCES – DELEGATED APPROVALS**

There was submitted and noted Report No LB 44/21 by the Clerk detailing applications for Occasional Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 2 July 2021 to 25 August 2021 in accordance with the Scheme of Delegation appended to the Licensing Policy.

**11. PREMISES LICENCES - MINOR VARIATIONS - DELEGATED APPROVALS**

There was submitted and noted Report No LB 45/21 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 2 July 2021 to 25 August 2021, in accordance with the Scheme of Delegation appended to the Licensing Policy.

**12. PERSONAL LICENCES – DELEGATED APPROVALS**

There was submitted and noted Report No LB 46/21 by the Clerk detailing applications for Personal Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 2 July 2021 to 25 August 2021, in accordance with the Scheme of Delegation appended to the Licensing Policy.

**13. MEMBERSHIP OF THE ANGUS LICENSING BOARD**

With reference to Article 9 of the minute of meeting of Angus Council of 9 September 2021 when changes were made to the membership of the Civic Licensing Committee to comply with the principles of political balance, the Board noted that Councillor Nicol had been appointed as a member of Angus Licensing Board following the Board's membership being increased to 10.