

ANGUS LICENSING BOARD – 25 NOVEMBER 2021

APPLICATIONS FOR AN OCCASIONAL LICENCE

CLIFFBURN HOTEL, CLIFFBURN ROAD, ARBROATH, DD11 5BT

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to present two applications 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 two applications in respect of occasional licences under the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

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 raised a Report as detailed in the attached Appendix.

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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**JACQUELINE S CARGILL, 63 LEONARD STREET, ARBROATH, DD11 1EZ
OCCASIONAL LICENCE APPLICATIONS 6286 & 6287**

Dates Requested: 17 December to 30 December 2021 and 31 December 2021 to 13 January 2022

Report by Licensing Standards Officer

Jacqueline Cargill, Personal Licence Holder, submitted, through an agent Janet Hood, 9 applications for Occasional Licences on 1 October 2021. These were to allow alcohol sales within the Clifftown Hotel as the premises licence had been surrendered in September by the last licence holder.

The applicant has requested that the licences run from 17th December until 13th January 2022 inclusive and are for on sale hours only. The hours requested as within Board policy and are Sunday to Thursday 11am until midnight; Friday and Saturday 11am until 1am.

The applicant has already been granted a total of 7 Occasional Licences which is more than the Board policy at Section 4.4.4. Having regard to the section of Statement of Licensing Policy noted above, the applicant is generally required to demonstrate that the Occasional Licence applied for is for a special event so that the Occasional Licence process is not being seen to circumvent the full Premises Licence process.

I have been advised that there will be a full premises licence application being submitted in due course and that section 50's have been applied for but not yet received.

Reason for Comments

I would ask the Members to consider these Occasional Licence applications for the following reasons:
- Having regard to the Board's own Statement of Licensing Policy at section 4.4.4, these applications bring their total number of Occasional licence applications to 9.

If the Board is minded to grant the application(s), I would recommend granting subject to the mandatory and local conditions and to be operated in line with the Risk Assessment which was lodged with the application and is attached as **Appendix 2** to the Report.

Nicky Corletto
Licensing Standards Officer
Angus Council