

ANGUS LICENSING BOARD – 13 JANUARY 2022

PREMISES LICENCES – REQUEST TO VARY UNDER THE LICENSING (S) ACT 2005

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present six applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine each application to vary a premises licence as detailed in **Appendix 1**, in terms of one of the following options: -

- (i) to grant the application, subject to Statutory Conditions and any other variation to the conditions to which the licence is subject that the Board may wish to impose;
- (ii) to defer the application to the next Licensing Board; or
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 4.4.

2. BACKGROUND

The Board has received an application to vary a premises licence under section 29 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 can only be discharged by the Licensing Board.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

4. LEGAL

4.1 The Act provides that a variation, in relation to a Premises Licence, means any variation of: -

- (a) any of the conditions to which the licence is subject (other than the Statutory Conditions);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence; or
- (d) any other information contained or referred to in the licence,

and includes an addition, deletion or other modification

4.2. If the variation sought is a minor variation, then the variation must be granted and powers have been delegated to the Clerk to approve these minor variation applications. Minor variations are: -

- (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan;

- (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises;
- (c) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and
- (d) any other variation of such description as may be prescribed.

4.3. Section 30 of the Act provides that if the variation(s) being sought are not minor, the Board must hold a hearing to determine the application.

The Board must, in considering and determining the application, 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.

4.4. The grounds for refusal are: -

- (a) that the application must be refused under Section 32(2) of the Act (the Board had previously refused an application to vary 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);
- (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,
- (c) that, having regard to:
 - (i) the nature of the activities carried on or 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 premises,
 the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation,
- (d) that, 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 (taking into account of the variation), in the locality.

4.5 Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

4.6 Where the Licensing Board refuses the application, the Board must specify the ground for refusal and if the ground relates to a licensing objective, the Board must specify the 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

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APPENDIX 1 TO REPORT LB 2/22

ANGUS LICENSING BOARD – 13 JANUARY 2022

LICENCE NO. 37, OLD MASONS ARMS, 135-139 EAST HIGH STREET, FORFAR, DD8 2EQ

Name of Applicant – Maria Stewart

Type of Licence: On and Off Sales

The Board are asked to note this application for major variation of a premises licence called at the Angus Licensing Board on 16 September 2021. The Board deferred this application to allow the applicant to attend. The Application was then considered by the Board on 25 November 2021 and was deferred following a request from the applicant's agent.

Description of Variation

1. Core times –

Amend terminal hour on Friday and Saturday from 01.00 to 02.00

The Board are asked to note the hours requested are out with Board Policy.

2. Other Activities

To add: -

- (a) Karaoke
- (b) Pub Quiz
- (c) Psychic Nights
- (d) Poker Nights

Objection Received

A letter of objection received from Police Scotland dated 13 July 2021 will be submitted to members.

Seven late objections have been received. The Board will be required to determine, having heard from the objectors and the applicant, whether there are good reasons to permit the objections to be considered.

Environmental Health Comments

With reference to the above application, Environmental Health note that the application extends operating hours to 2am and adds Karaoke to the list of activities. The existing licence already includes live and recorded music which the licensee is already expected to control to acceptable levels. That being the case this service would not object to this variation.

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from Maria Stewart on 13 July 2021 in respect of:

Old Mason's Arms, 135-139 East High Street, Forfar, DD8 2EQ

Background: -

The application is for:

1. Amendment to operating plan:

- (a) Amend terminal hour from 1am to 2am Friday and Saturdays; and
- (b) and addition of Karaoke, pub quiz, psychic nights and poker nights as an activity

The Board are asked to note the hours requested are out with Board Policy.

Police Scotland have submitted an objection to the application based on the Licensing Objective Preventing Public Nuisance.

A noise nuisance complaint was recently received and there are now several late objections to this application.

I duly submit this report for consideration of Board Members.

Nicky Corletto
Licensing Standards Officer
Angus Council

Google Maps 135 E High St



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135 E High St

Forfar



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