

ANGUS LICENSING BOARD – 24 MARCH 2022

NEW PREMISES LICENCE UNDER THE LICENSING (S) ACT 2005

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present an application for a new premises 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 for a new 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 4.

2. BACKGROUND

The Board has received an application for a new premises licence under the Licensing (Scotland) Act 2005 which requires 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. OTHER IMPLICATIONS

Legal

The Board must, in considering and determining each premises application, consider whether any of the grounds for refusal applies and:-

- (a) if none of them applies, the Board must grant the application, or
- (b) if any of them applies, the Board must refuse the application.

The grounds for refusal are:-

- (a) that the subject premises are excluded premises,
- (b) that the application must be refused under Section 25(2) (the Board had previously

refused a premises licence within the preceding one year), Section 64(2) (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) (if alcohol is to be sold for off sales purposes before 10am or after 10pm, or both),

- (c) 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,
- (d) that the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the licensing objectives,
- (e) 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 premises

the Board considers that the premises are unsuitable for use for the sale of alcohol,

- (f) 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, in the locality.

Where the Licensing Board refuses the application –

- (a) the Board must specify the ground for refusal, and
- (b) if the ground of refusal is that specified (c) or (d) above, the Board must specify the licensing objective or objectives in question.

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ANGUS LICENSING BOARD – 24 MARCH 2022

(a) RAE'S RESTAURANT, 79 HIGH STREET, MONTROSE, DD10 8QY

Name of Applicant: The Partnership of Helen & Wouter Margaroli, Barnhead House, Barnhead, Montrose, DD10 9LL

Type of Licence: Premises Licence: On and Off Sales

1. **Description of Premises:** Restaurant seating 40 which is located on the High Street in Montrose with a terrace seating 20.

2. **Core times:**

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

The Board are asked to note the hours requested are within Board Policy.

3. **Activities:**

Within and outwith core hours:

Receptions including weddings, funerals, birthdays, retirements etc, club or other group meetings and recorded music

Within core hours only:

Restaurant facilities, bar meals, live performances, and outdoor drinking

4. **Any Other Activities:**

Activities may be provided but no alcohol will be sold or supplied outwith core licensing hours

5. **Children and Young Persons:** Yes

(a) Terms under which they will be allowed:

Children must be accompanied by a supervising adult for the purpose of having a meal or attending a private function.

Young person can be allowed unaccompanied but only for the purpose of having a meal or attending a private function

(b) Ages children and young persons allowed:

Children aged 0-15 years
Young Persons aged 16 & 17 years

(c) Times children and young persons allowed:

Children will be allowed on the premises until 9pm but they must be accompanied by a supervising adult.

Young persons will be allowed unaccompanied on the premises until 10pm

(d) Parts of the premises children and young persons allowed:

All public parts of the premises

6. Capacity:

Inside 40

Outside when weather permits 20

Comments Received

Environmental Health, after receiving a noise management plan advised that they had no objections to the proposed development subject to the standard outdoor drinking area conditions prohibiting the use after 9pm and no playing of music being applied.

Building Standards, internal occupancy capacity for 40 persons is acceptable under the Technical Handbooks (Non-Domestic) for the internal area. Due to limited sanitary provision requirements, it would be recommended the 20 persons intended for the external area should not be in addition to the total number of 40 persons for the premises.

LICENSING STANDARDS OFFICER REPORT

An application for a New Premises Licence was received from The Partnership of Helen & Wouter Margaroli on 16th February 2022 in respect of:

Rae's Restaurant, 79 High Street, Montrose, DD1 8QY
Premises Licence Number: TBC once application is granted

Background: -

This is an application for a new premises licence. The premises are located on the High Street and there are both residential and commercial premises within this location. The premises previously used to be a café/coffee shop.

Licensing Standards Officer Report:

Wouter Margaroli contacted me in November last year to discuss his plans for the restaurant and how to apply for a new premises licence. I have spoken with Wouter Margaroli on a few occasions and provided guidance in respect of this. As Wouter Margaroli had an opening date of 1 March, and he could not get his full premises application to a Board meeting before then, he submitted occasional licence applications to allow him to trade from the 1 March 2022. Neither the Police or I had any objections to the occasional application, and I don't envisage there to be any issues moving forward.

Statutory Checks

I have been unable to visit the premises and as these premises are not currently licensed and the premises have not been trading, no complaints have been received.

The premises are seeking to licence the outdoor terrace area and the Board may wish to include the following conditions on the licence:

1. Patrons shall not be permitted to use the external drinking areas beyond 21:00 hours
2. No music shall be provided in the external drinking area
3. No music of amplified sound should be provided anywhere within the licenced premises with the intention of being heard within the external drinking area

I do not have any issues with the application and duly submit this report for consideration of Board Members.

Nicky Corletto
Licensing Standards Officer
Angus Council