

# ANGUS LICENSING BOARD

MINUTE of MEETING of the **ANGUS LICENSING BOARD** held remotely on Thursday 24 March 2022 at 10am.

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

Councillor FOTHERINGHAM, Convener, in the Chair.

*It was noted that the Convener was having connection issues and Councillor Moore, Vice Convener took the chair.*

## 1. APOLOGIES

There were no apologies intimated.

## 2. DECLARATIONS OF INTEREST

The Board agreed to note that no declarations of interest were made.

## 3. MINUTE OF PREVIOUS MEETING

The minute of meeting of this Board held on 17 February 2022 was approved as a correct record and signed by the Convener.

## 4. NEW PREMISES LICENCE – UNDER THE LICENSING (SCOTLAND) ACT 2005

There was submitted Report No LB 15/22 by the Clerk on an application received for a new premises licence under the Licensing (Scotland) Act 2005, which required to be determined by the Board as detailed in the Appendix to the Report.

### (a) Rae's Restaurant, 79 High Street, Montrose

The Board considered an application from The Partnership of Helen and Wouter Margaroli for the grant of a premises licence (on/off sales) in respect of premises at Rae's Restaurant, 79 High Street, Montrose.

Mr Margaroli addressed the Board and confirmed that they were happy to agree to amend the operating plan so that the total capacity was 40 persons.

Members asked a number of questions in relation to the application.

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

- (i) patrons shall not be permitted to use the external drinking areas beyond 21.00 hours;
- (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.

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

There was submitted Report No LB 16/22 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) Arbroath Football Club, Gayfield Park, Dundee Road, Arbroath**

With reference to Article 4 (g) of the minute of meeting of this Board of 12 August 2021, the Board considered an application from Arbroath Football Club Ltd to vary a premises licence (on sales) in respect of premises at Arbroath Football Club Ltd, Gayfield Park, Dundee Road, Arbroath to allow them to vary their operating plan to: -

- (i) add off sales – Sunday to Monday 10.00 to 22.00;
- (ii) add seasonal variations – Boxing day;
- (iii) add restaurant facilities, receptions including weddings funerals, birthdays, retirements etc., club or other group meetings, recorded music, live performances, dance facilities, gaming, indoor/outdoor sports and televised sports outwith core hours.

Add films within and outwith core hours.

Amend activities outwith core hours statement to:

The club seeks to maximise the use of the facilities. Breakfast service may take place from 08.00 onwards and funerals, meetings, conferences, and the like may take place outwith core hours. Background music would be played both within and outwith core hours. Major sporting events are often televised outwith core hours and these may be shown subject to member demand. Although activities may take place outwith core licensed hours no alcohol would be sold or supplied unless under the authority of an extended hours certificate.

Amend other activities statement to:

Catering may be provided for various events such as sportsmen's dinners, hospitality events and the like and they may hold quiz nights, race nights, casino nights, fund raising events, birthday parties and the like but no alcohol would be sold or supplied unless under the authority of an extended hours certificate.

- (iv) increase the off sales capacity to 30m<sup>2</sup>;
- (v) amend the layout to incorporate a new merchandise shop and a redevelopment reception area; and
- (vi) amend the description of the premises to include – There would be a shop at the entrance of the premises which would sell football merchandise and a range of alcohol would be available for off sales.

Mrs Thom, Building Standard Manager addressed the Board and advised that the Building Warrant had not yet been approved.

The Licensing Standards Officer addressed the Board and Mr Reid, a representative for the club confirmed that gaming would consist of holding fundraisers such as race nights and raffles etc.

The Board agreed that the application be granted.

*At this point (10.20am) the Convener took the chair.*

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

With reference to Article 5 (b) of the minute of meeting of this Board of 16 September 2021, the Board considered an application from Framework Property Development Ltd, 5 Traill Drive, Montrose to vary a premises licence (on sales) in respect of premises at Grey Harlings Hotel, 5 Traill Drive, Montrose to allow them to vary their operating plan to: -

- (i) amend the core times to Sunday to Thursday 11.00 to 24.00 and Friday and Saturday 11.00 to 01.00;
- (ii) add off sales - Monday to Sunday 11.00 to 22.00;
- (iii) add seasonal variations to include Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Year's Day;
- (vi) amend the operating plan to include conference facilities, receptions including weddings, funerals, birthdays, retirements etc., club and other group meetings, indoor/outdoor sports and films within and outwith core hours. Bar meals, live performances and dance facilities within core hours. Recorded music outwith core hours.

Add to activities outwith core hours statement:

Conference facilities – business meetings may start prior to 11.00.

Bar meals and club meetings – to offer a service to the public.

Receptions – to allow for instances where a funeral reception may start prior to 11.00.

Recorded music – provision to allow music to be played in background prior to 11.00 operations (cleaning etc) throughout public areas inside the building.

Live performances – acoustic music may be provided.

Dance facilities – dancing at weddings, birthdays etc.

Films – to allow for presentations during meetings prior to 11.00.

Indoor/outdoor sports – to allow residents use of pool table prior to 11.00.

Activities may occur outwith core licensed hours however no alcohol would be sold or supplied at these times.

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

Mr Prudhoe, an objector addressed the Board and highlighted a number of issues to members. Ms Burns, Depute Clerk then addressed the Board and clarified a number of points.

Ms Henderson was then given the opportunity to sum up.

Discussion then took place and members asked a number of questions in relation to noise emanating from the premises.

Mr Easson, Service Leader, Environmental and Consumer Protection, addressed the Board and advised that a revised Noise Management Plan would require to be submitted.

The Board agreed that the application be granted, subject to the following additional condition: -

“Noise emanating from the premises shall be controlled in such a way that it is inaudible from within any neighbouring residential dwellinghouse between the hours of 21.00 and 07.00 hours”

## **6. PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005 - LICENCE REVIEW PROPOSALS**

With reference to Article 5 of the minute of meeting of this Board of 17 February 2022, there was submitted Report No LB 17/22 by the Clerk presenting two Premises Licences under the Licensing (Scotland) Act 2005 (“the 2005 Act”) which the Board determined to review as detailed in Appendices 1 and 2 to the Report.

The Board noted that despite the Clerk giving repeated notification to the premises licence holders that the premises annual fees were now overdue and the annual fees, as detailed in Appendix 1 to the Report, remained unpaid in respect of the following premises: -

**(a) The Workhouse, 37/43 West High Street, Forfar**

There was submitted a report from the Licensing Standards Officer in respect of the premises at The Workhouse, 37/43 West High Street, Forfar.

There were no representatives present and it was noted that the premises was now a hairdressers.

The Board agreed to revoke the licence with immediate effect.

**(b) Brown Horse, 62 Market Street, Brechin**

There was submitted a report from the Licensing Standards Officer in respect of the premises at The Brown Horse, 62 Market Street, Brechin.

The Board noted that the annual fee of £280 had now been paid and agreed to take no further action.

**7. APPEAL TO THE SHERIFF COURT**

With reference to Article 4 (h) of the minute of meeting of this Board of 12 August 2021, there was submitted Report No LB 18/22 by the Clerk advising the Board of an Appeal against a decision of the Board and the outcome of the Appeal.

The Board agreed: -

- (i) to note that an appeal was lodged at Forfar Sheriff Court against the decision of the Board at its meeting of the Board on 12 August 2021, to refuse to grant a variation of the premises licence by varying the terminal hour for the service of alcohol from 1am on Fridays and Saturdays to 2am on Fridays and Saturdays; and
- (ii) to note the decision of the Sheriff, having regard to the Joint Minute lodged in process, in respect of this matter.

*Having experienced connection issues at the start of the meeting, Councillor Fotheringham declared an interest in the following item as he had been contacted by the press on matters relating to the Licencing Board Policy. He indicated that that he would take part in any discussion and voting.*

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

With reference to item 7 above, there was submitted Report No LB 19/22 by the Clerk on an application to vary a premises licence under the Licensing (Scotland) Act 2005, which required to be determined by the Board, as detailed in the Appendix to the Report.

**(a) Bar 1320, 1 West Port, Arbroath**

The Board had before them a report regarding an application from Shahzaz Din to vary a premises licence (on/off sales) in respect of premises at Bar 1320, 1 West Port, Arbroath to allow them to vary their operating plan to amend their core hours as follows: - Friday and Saturday 11.00 to 02.00.

The Board noted that the agent for the applicant had requested that the application be deferred to allow him to attend.

The Board agreed that the application be deferred.

**9. OCCASIONAL LICENCES – DELEGATED APPROVALS**

There was submitted and noted Report No LB 20/22 by the Clerk detailing applications for Occasional Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 24 January 2022 to 1 March 2022 in accordance with the Scheme of Delegation appended to the Licensing Policy.

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

There was submitted and noted Report No LB 21/22 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 24 January 2022 to 1 March 2022, in accordance with the Scheme of Delegation appended to the Licensing Policy.

**11. PERSONAL LICENCES – DELEGATED APPROVALS**

There was submitted and noted Report No LB 22/22 by the Clerk detailing applications for Personal Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 24 January 2022 to 1 March 2022, in accordance with the Scheme of Delegation appended to the Licensing Policy.

**12. EXTENDED HOURS – DELEGATED APPROVALS**

There was submitted and noted Report No LB 23/22 by the Clerk detailing applications for extended hours under the Licensing (Scotland) Act 2005, which had been granted by the Clerk during the period 24 January 2022 to 1 March 2022, in accordance with the Scheme of Delegation appended to the Licensing Policy.

*At this point in the meeting, the Board resolved that the public and press be excluded from the meeting during consideration of the following items, so as to avoid the possible disclosure of sensitive information.*

**13. NEW PERSONAL LICENCE APPLICATION – DAVID CRIPPS**

There was submitted Report No LB 24/22 by the Clerk informing members of correspondence received from the Chief Superintendent, Tayside Division, Police Scotland giving notice of a conviction of a relevant offence in terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005, in respect of a new application for a personal licence.

The members noted the contents of the correspondence received from the Chief Superintendent dated 29 December 2021.

Mr Cripps was present and addressed the Board.

The Board then heard from Sergeant Gordon who clarified a number of points raised by members.

The Board agreed that the application for a personal licence be granted.

**14. PERSONAL LICENCE APPLICATION – NOTIFICATION OF CONDUCT INCONSISTENT WITH A LICENSING OBJECTIVE**

With reference to Article 12 of the minute of meeting of this Board of 17 February 2022, there was submitted Report No LB 25/22 by the Clerk informing members of correspondence received from the Chief Superintendent, Tayside Division, Police Scotland advising that the Personal Licence holder had acted in a manner which was inconsistent with licensing objectives, and required to consider and determine what Order, if any, required to be made in respect of the Personal Licence holder.

The members noted the contents of the correspondence received from the Chief Superintendent dated 2 February 2022.

The personal licence holder was present.

COUNCILLOR KING, SECONDED BY COUNCILLOR FAIRWEATHER, MOVED THAT THE BOARD DO NOT CONSIDER THE MATTER UNTIL THE DISPOSAL FROM THE COURT WAS RECEIVED.

Councillor Whiteside seconded by Councillor Durno, moved as an amendment, that the Board consider the matter today in light of the information contained in the Police letter dated 2 February 2022.

On a vote being taken, the members voted: -

For the motion: -

Councillors Fotheringham, Moore, Fairweather, King, Lumgair and Nicol (6)

For the amendment: -

Councillors Boyd, Brown, Durno and Whiteside (4)

The motion was declared carried and became the finding of the meeting.