

ANGUS LICENSING BOARD

MINUTE of MEETING of the **ANGUS LICENSING BOARD** held remotely on Thursday 9 June 2022 at 10am.

Present: Councillors BRENDA DURNO, KENNY BRAES, LINDA CLARK, CRAIG FOTHERINGHAM, ROSS GREIG, LLOYD MELVILLE, JILL SCOTT AND BETH WHITESIDE

Councillor DURNO, Convener, in the Chair.

The Clerk took the Chair for item 1(i).

1. APPOINTMENT OF CONVENER AND VICE CONVENER

(i) Appointment of Convener

The Board unanimously agreed that Councillor Durno be appointed Convener of the Angus Licensing Board.

(ii) Appointment of Vice Convener

The Board agreed that in light of Councillor Clark's resignation from the Angus Licensing Board due to workloads and other civic duties and the Board not having a full complement of members, the appointment of Vice Convener be not filled at present and be deferred for consideration at the meeting of this Board on 18 August 2022.

2. APOLOGIES

There were no apologies intimated.

3. DECLARATIONS OF INTEREST

Councillor Braes intimated that he was not declaring an interest but wished to express a connection in Item 7 (e) Arbikie Distillery Visitor Centre, as the applicant was known to him and indicated that he would participate in any discussion and voting on this item.

4. ANGUS LICENSING BOARD MEMBERSHIP

With reference to Article 8(b) of the minute of meeting of Angus Council of 26 May 2022, the Board agreed to note the members appointed to this Board. Councillor Clark intimated that due to workloads and other civic duties, she was resigning from the Angus Licensing Board, and it was noted that the vacancy would be filled at the Council meeting on 30 June 2022.

5. MINUTE OF PREVIOUS MEETING

The minute of meeting of this Board held on 24 March 2022 was approved as a correct record and signed by the Convener.

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

There was submitted Report No LB 26/22 by the Clerk on applications 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) Nisa Local, 25 Fisheracre, Arbroath

The Board considered an application from Family Shopper Ltd for the grant of a premises licence (off sales) in respect of premises at Nisa Local, 25 Fisheracre, Arbroath.

The Board noted that the layout plan for the premises required to be amended and agreed that the application be deferred.

(b) Turadh Distillery, 4 Bogardo Farm Steadings, Finavon, by Forfar

The Board considered an application from Anna Marie Robertson for the grant of a premises licence (off sales) in respect of premises at Turadh Distillery, 4 Bogardo Farm Steadings, Finavon, Forfar.

Ms Robertson addressed the Board and confirmed that she was happy to agree to additional conditions suggested by the Licensing Standards Officer.

Members then 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: -

- (i) Alcohol sold or dispatched from the premises will be delivered only to residential or business addresses.
- (ii) The Licenceholder shall always check the age of customers or potential customers, be satisfied that they are aged 18 years or over before any sale is completed and otherwise shall comply with the age-related sale provisions in the Licensing (Scotland) Act 2005.
- (iii) Sales of Alcohol may only take place within licensed hours. Any person submitting an order outwith the licensed hours is to be advised that the order will be processed after the commencement of the next period of licensed hours.
- (iv) The Licenceholder shall ensure that those persons who deliver the alcohol are aware of the provisions of, and restrictions on, the delivery of alcohol contained in the Licensing (Scotland) Act 2005.
- (v) A notice shall be affixed to every package containing alcohol dispatched from the premises stating that the package shall contain alcohol and that it is an offence to deliver it to a person under 18 years of age.

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

There was submitted Report No LB 27/22 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) Nonno Nando's, 1 Arbroath Road, Forfar

The Board considered an application from Lynart Shepherd Ltd to vary a premises licence (on/off sales) in respect of premises at Nonno Nando's, 1 Arbroath Road, Forfar to allow them to vary their operating plan to: -

- (i) add outdoor drinking facilities within and outwith core hours; and
- (ii) amend the layout plan to include outdoor drinking area with tables and chairs for 20 persons, broken down to 5 tables, 4 persons per table as per layout plan.

The Board noted that roads consent for the outdoor area had been approved.

Ms Demontis addressed the Board members on behalf of the applicant.

The Board agreed that the application be granted subject to the following 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.

(b) Smithies, 16 Keptie Street, Abroath

The Board considered an application from Patricia Smith to vary a premises licence (on/off sales) in respect of premises at Smithies, 16 Keptie Street, Abroath to allow them to vary their operating plan to: -

- (i) amend off sales hours to Monday to Sunday 10.00 to 22.00;
- (ii) add music and live performances, within core hours;
- (iii) add an outdoor drinking area;
- (iv) add children and young person's access to toilets;
- (v) amend the layout plan for the current premises at 16 Keptie Street to become all retail/shop area with a new access doorway to 18 Keptie Street to provide for the moving and extension of the seating/café area for the consumption of alcohol as per plans submitted and to include the outdoor seating area at 16 Keptie Street;
- (vi) to increase shelved alcohol display areas at 16 Keptie Street and the addition of an alcohol display in the window; and
- (vii) to increase the on sales capacity to 36, which is to include 4 persons in the outside area.

Ms Smith addressed the Board and answered a number of questions from members regarding the layout.

The Licensing Standards Officer advised that a new layout plan was required.

The Board agreed to defer the application.

(c) Spar Store, 43 Barry Road, Carnoustie

The Board considered an application from C J Lang & Son Ltd to vary a premises licence (off sales) in respect of premises at Spar Store, 43 Barry Road, Carnoustie to allow them to vary their operating plan to: -

- (i) add gaming within and outwith core hours to cover the use of the National Lottery outlet; and
- (ii) Amend activities outwith core hours to:

The premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio, prior to the commencement of core hours. This was background levels only. National Lottery tickets/cards can be purchased prior to core hours;

Add at any other activities:

The primary activity undertaken in the premises is the general retail sale of the following: groceries, confectionery, bread & cakes, crisps/snacks, non-foods, toiletries, frozen & chilled foods, fruit/vegetables/flowers, news & magazines, toys, tobacco & cigarettes, beer/wines/spirits, other alcoholic products and non-alcoholic drinks. Charity collection point and charitable events take place. Food to go. Click & collect. Home deliveries. Paypoint payment. National Lottery outlet. External automated cash machine. Sampling & promotional activities."

Mr McDougal, agent for the applicant addressed the Board.

The Licensing Standards Officer addressed the Board and suggested additional conditions be considered should the Board be minded to grant the application and advised that condition five was no longer required.

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

- (i) Alcohol sold or dispatched from the premises will be delivered only to residential or business addresses;
- (ii) The Licenceholder shall always check the age of customers or potential customers, be satisfied that they are aged 18 years or over before any sale is completed and otherwise shall comply with the age-related sale provisions in the Licensing (Scotland) Act 2005;
- (iii) Sales of Alcohol may only take place within licensed hours. Any person submitting an order outwith the licensed hours is to be advised that the order will be processed after the commencement of the next period of licensed hours; and
- (iv) The Licenceholder shall ensure that those persons who deliver the alcohol are aware of the provisions of, and restrictions on, the delivery of alcohol contained in the Licensing (Scotland) Act 2005.

(d) Stag Hotel, 140 – 144 Castle Street, Forfar

The Board considered an application from Graeme Campbell to vary a premises licence (on/off sales) in respect of premises at Stag Hotel, 140 – 144 Castle Street, Forfar to allow them to vary their operating plan to: -

- (i) Add outdoor drinking facilities within and outwith core hours.

Alcohol sales limited from	11.00 to 21.00
Non-alcohol sales from	09.00 to 21.00
- (ii) amend the layout plan and add external drinking area to the north of the premises as outlined on the plan attached to the Report.

Ms Campbell addressed the Board.

The Board agreed that the application be granted subject to the following 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.

(e) Arbikie Distillery Visitor Centre, Drumbertnot Farm, Lunan, Montrose

The Board considered an application from Arbikie Distilling Ltd, Inverkeilor, Arbroath to vary a provisional premises licence (on/off sales) in respect of premises at Arbikie Distillery Visitor Centre, Drumbertnot Farm, Lunan, Montrose to allow them to vary their operating plan to: -

- (i) amend “any other activities” by removing the reference to private tasting rooms and to now read: -

Tastings for visitors following tours of the distillery marketed at tourists in particular. Tastings will principally be carried out on the first floor of the premises to which children and young persons will not be permitted access

and also in a cordoned off area on the ground floor. The applicant seeks to offer tastings from 09.00 daily for prebooked visitors only.

(ii) amend the layout plan as follows: -

Ground Floor – left hand side alcohol display area space changed from a straight line to a semi-curve and right-hand side offices removed and bar area turned into an L shape.

First Floor – bar area top right hand side running left to right turned 90 degrees to be more central to the room.

Private dining areas opened up to be open plan.

(iii) reduce the capacity figure from 276 to combined total 228

Ms Anne McKeown, the applicant's agent was present and addressed the Board during which it was noted that the provisional premises licence had been confirmed. Mr John Stirling was also present.

The Board agreed to grant the application.

(f) Brechin City Football Club, Glebe Park, Trinity Road, Brechin

The Board considered an application from Brechin City Football Club to vary a premises licence (on sales) in respect of premises at Brechin City Football Club, Glebe Park, Trinity Road, Brechin to allow them to vary their operating plan to: -

(i) amend the following: -

(a) Add off sales: Saturday - 13.00 to 20.00

(b) Activities: - add conference facilities, receptions including (weddings, funerals, birthdays, retirements etc) and outdoor drinking facilities outwith core hours

(c) Children and young persons

Parts of premises: to include hospitality lounge as well as members club and boardroom.

(ii) amend the layout plan to incorporate 2 new portacabins which would be positioned within the ground. Both consisted of a lounge and kitchen area which would be utilised for providing a community facility. Community use would be based on demand but likely to be between 09.00 and 16.00 Monday – Friday but they would only be open if booked with no alcohol consumption. They may have the occasional community group usage in the evening but this would only be for meetings and unlikely to go beyond 20.00. The cabins would form part of the hospitality on a matchday and would open at 13.00 but be closed by 19.00 at the latest. There may be the odd occasion when there was a midweek game that they will be in use based on demand and will not go beyond the current full-time arrangements in relation to any football activity.

(iii) increase the capacity to 168

The Licensing Standards Officer addressed the Board and advised that an amended plan required to be submitted.

Mr Renilson, a representative for the Club addressed the Board and confirmed that only one portacabin was on site. He advised that the portacabin would be used at present for community meetings and no alcohol would be sold.

The Board agreed to defer the application to allow the applicant to submit new layout plans and take delivery of the second portacabin.

(g) Devitos, 11 Millgate, Arbroath

With reference to Article 4(e) of the minute of meeting of this Board of 25 November 2021, the Board considered an application from KWS Properties Ltd to vary a premises licence (on sales) in respect of premises at Devitos, 11 Millgate, Arbroath to allow them to vary their operating plan to: -

- (i) amend their core hours as follows: -
current on Sales hours

Friday	19.00 to 02.30
Saturday	19.00 to 02.30
Sunday	19.00 to 02.00

amend on Sales hours to: -

Friday	19.00 to 03.30
Saturday	13.30 to 03.30
Sunday	12.00 to 02.00

- (ii) add club meetings within core hours.
- (iii) add to other activities – opening for the “Arbroath Blues” event.
- (iv) amend the Children and Young Persons times to read: - from start of core hours – must vacate the premises by 22.00.

The Board noted the contents of an objection received from Chief Superintendent Phil Davison, Tayside Division, Police Scotland dated 20 May 2022.

The Board also noted that four letters of objection had been received which had been circulated to members prior to the meeting.

Mrs Hood, the applicant’s agent addressed the Board and explained the applicant’s reasons for applying to vary the licence operating plan with respect to children and young persons and the proposed additional events. She then responded to the objectors’ letters and addressed the objection received from Police Scotland.

Mrs Harrison, objector then addressed the Board on the contents of her objection.

The Board then ask Mrs Hood questions with regard to the request for extended operating hours. Mrs Hood advised that her client, Mr Sivewright who was present, was trying to make the premises economically viable as the nightclub industry had probably suffered more than other parts of the hospitality industry.

Sergeant Gordon addressed the Board and spoke on the contents of the letter from Police Scotland dated 20 May 2022 and gave details of a number of incidents which had taken place. He also addressed some comments made by Mrs Hood.

Mrs Hood then responded to the comments provided by Police Scotland.

The Board then heard from Inspector Gibson, who spoke on a number of matters and advised that increasing the terminal hour would impact Police resources.

At this point in the meeting (11.43am) the Board resolved to adjourn for 10 minutes to allow the opportunity for members to seek legal advice. Mrs Hood and Police Scotland left the meeting.

Mrs Hood then summed up.

COUNCILLOR DURNO SECONDED BY COUNCILLOR CLARK, MOVED THAT THE BOARD REFUSE THE REQUEST FOR THE 3.30AM TERMINAL HOUR ON A FRIDAY AND SATURDAY AS THIS WAS INCONSISTENT WITH THE LICENSING

OBJECTIVES OF SECURING PUBLIC SAFETY AND PREVENTING PUBLIC NUISANCE AND WOULD RESULT IN A BREACH OF THE LICENSING POLICY.

Councillor Fotheringham seconded by Councillor Melville moved as an amendment to amend the terminal hour on Friday and Saturday from 2.30am to 3am.

On a vote being taken, the members voted: -

For the motion: -

Councillors Durno, Braes, Clark, and Whiteside (4)

For the amendment: -

Councillors Fotheringham, Greig, Melville, and Scott (4)

There being an equality of votes the Convener exercised her casting vote in favour of the motion which was declared carried and became the finding of the meeting.

The Board thereafter agreed that the other parts of the application be granted.

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

With reference to Article 8 of the minute of meeting of this Board of 24 March 2022, there was submitted Report No LB 28/22 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 noted that the 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 had been withdrawn by the agent, on behalf of applicant.

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

There was submitted Report No LB 29/22 by the Clerk presenting the fourth Annual Functions Report to the Board.

The Report indicated that Section 9A of the Licensing (Scotland) Act 2005, placed a duty on Licensing Boards to prepare and publish 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 fourth Annual Functions Report of Angus Licensing Board for the period 1 April 2021 to 31 March 2022 as detailed in Appendix 1 to the Report.

10. ANNUAL FINANCIAL REPORT

There was submitted and noted Report No LB 30/22 by the Clerk presenting the Annual Financial Report to the Board.

The Board agreed to note and approve the Annual Financial Report of the Angus Licensing Board for the period 1 April 2021 to 31 March 2022 as detailed in Appendix 1 to the Report.

11. PERSONAL LICENCES – DELEGATED APPROVALS

There was submitted and noted Report No LB 31/22 by the Clerk detailing applications for Personal Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 2 March 2022 to 26 May 2022, in accordance with the Scheme of Delegation appended to the Licensing Policy.

12. OCCASIONAL LICENCES – DELEGATED APPROVALS

There was submitted and noted Report No LB 32/22 by the Clerk detailing applications for Occasional Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 2 March 2022 to 26 May 2022 in accordance with the Scheme of Delegation appended to the Licensing Policy.

13. PREMISES LICENCES - MINOR VARIATIONS - DELEGATED APPROVALS

There was submitted and noted Report No LB 33/22 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 2 March 2022 to 26 May 2022, in accordance with the Scheme of Delegation appended to the Licensing Policy.

14. EXTENDED HOURS – DELEGATED APPROVALS

There was submitted and noted Report No LB 34/22 by the Clerk detailing applications for extended hours under the Licensing (Scotland) Act 2005, which had been granted by the Clerk during the period 2 March 2022 to 26 May 2022, in accordance with the Scheme of Delegation appended to the Licensing Policy.

15. PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005 – LICENCES SURRENDERED

There was submitted Report No LB 35/22 by the Clerk presenting information on a premises licence which the licence holder had surrendered, as detailed in the Appendix to the Report.

The Board agreed to note that the premises licence detailed in the Appendix to the Report had been surrendered and had ceased to have effect in terms of the 2005 Act and that the licence for McColls, Unit 11, Abbeygate Centre, Arbroath be removed from the register.