

ANGUS LICENSING BOARD – 19 JANUARY 2022

APPLICATIONS FOR AN OCCASIONAL LICENCE

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to present 8 applications for an occasional licence from the applicant Martin Brown under the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. RECOMMENDATIONS

It is recommended that the Board consider and determine each 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 8 applications for an occasional licence from Martin Brown in respect of the Angus Alchemy (Micro Distillery Visitor Centre) under the Licensing (Scotland) Act 2005 which require to be determined by the Board. The applications are detailed within **Appendix 1** of the Report.

3. LEGAL IMPLICATIONS

3.1 In respect of each application 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; or
- (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 each occasional licence application, a Report has been raised on behalf of the Licensing Standards Officer as detailed in **Appendix 1** of this report.

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 Tina Magson, Solicitor, acting on behalf of the Licensing Standards Officer, have been consulted in the preparation of this Report.

8. NOTIFICATION

The Applicants, and or their Agents or representatives, have been given a copy of this report and its appendices and been invited to attend the Board.

REPORT AUTHOR: Jennifer Burns, Solicitor

EMAIL DETAILS: LEGDEM@angus.gov.uk

**APPENDIX 1 TO REPORT LB2/23
ANGUS LICENSING BOARD – 19 JANUARY 2023**

(a) ANGUS ALCHEMY (MICRO DISTILLERY VISITOR CENTRE), WOODHILL, CARNOUSTIE, DD7 7SD - OCCASIONAL LICENCE APPLICATIONS - 6935, 6936, 6937, 6938, 6939, 6940, 6941 and 6942

Dates Requested:

19/01/2023 – 01/02/2023
02/02/2023 – 15/02/2023
16/02/2023 – 01/03/2023
02/03/2023 – 15/03/2023
16/03/2023 – 29/03/2023
30/03/2023 – 12/04/2023
13/04/2023 – 26/04/2023
27/04/2023 – 10/05/2023

On 30 November 2022 the agent for the applicant, Martin Brown lodged 10 applications for Occasional Licences for dates to commence from Thursday 22 December 2022 to Wednesday 10 May 2023.

Two of the said applications for dates ranging from Thursday 22 December 2022 to Wednesday 18 January 2023 were amended to remove the on sales element of the licence and were then granted under delegated authority.

The attached report from Tina Magson, Team Leader on behalf of the Licensing Standards Officer was submitted in advance of these amended applications being granted and therefore includes them.

The Board is now being asked to consider the remaining 8 applications listed above.

Occasional Licence Applications – Martin Robert Brown

Report applies to application references:

ANOCC6933, ANOCC6934, ANOCC6935, ANOCC 6936, ANOCC6937, ANOCC 6938, ANOCC6939, ANOCC6940, ANOCC6941 and ANOCC6942

Report on behalf of Licensing Standards Officer

Applicant Details

| | |
|----------------------------------|---|
| Applicant: | Martin Robert Brown |
| Applying as: | An Individual |
| Premises or area to be licenced: | Angus Alchemy (Micro Distiller Visitor Centre), Woodhill, Carnoustie, DD7 7SD |
| Times required: | |
| On sales: | Mon - Sun 10:00hrs-22:00hrs |
| Off sales: | Mon – Sun 10:00hrs-22:00hrs |

Comments on behalf of LSO for Licensing Board Consideration

I submit a representation for each occasional licence. The Angus Licencing Board Statement of Licensing Policy adopts, at 6.4, licensed hours generally permitted by the Board. For on sales, the hours are 11am to midnight on Monday, Tuesday, Wednesday, Thursday and Sunday and 11am to 1am on Friday and Saturday. The Applicant seeks to commence on sales at 10am which is contrary to Board policy.

Additionally, no mention is made of the Board's Occasional Licence Conditions insofar as they relate to children. Members of the Board may wish to make enquiry of the Applicant around compliance or not with the conditions.

Tina Magson, Team Leader – Legal and Democratic Services