

# **ANGUS LICENSING BOARD**

MINUTE of MEETING of the **ANGUS LICENSING BOARD** held remotely on Thursday 19 January 2023 at 10am.

**Present:** Councillors GEORGE MEECHAN, LLOYD MELVILLE, KENNY BRAES, LINDA CLARK, BRENDA DURNO, CRAIG FOTHERINGHAM, GAVIN NICOL, JILL SCOTT AND BETH WHITESIDE

Councillor MEECHAN, Convener, in the Chair.

**1. APOLOGIES**

There were no apologies intimated.

**2. DECLARATIONS OF INTEREST AND STATEMENTS OF TRANSPARENCY**

Councillor Durno made a statement of transparency in relation to Item 7(d) Report No LB3/23 in that the applicant was known to her. She indicated that she would take part in any discussion and voting.

**3. MEMBERSHIP OF THE ANGUS LICENSING BOARD**

With reference to Article 4(i) of the minute of meeting of Angus Council of 15 December 2022, the Board noted that Councillor Fotheringham had been appointed as a member of the Board bringing the membership of the Board to 10.

**4. MINUTES OF PREVIOUS MEETINGS**

The minutes of meetings of this Board held on 10 November 2022 and 12 December 2022 were approved as correct records and signed by the Convener.

**5. PROVISIONAL PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

There was submitted Report No LB 1/23 by the Clerk on applications received for new provisional 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) Park Orchardbank Service Station, Silvie Way, Orchardbank Business Park, Forfar**

The Board deferred the application from Park Garage Group PLC for the grant of a provisional premises licence (off sales) in respect of premises at Park Orchardbank Service Station, Silvie Way, Orchardbank Business Park, Forfar at the request of the agent in order for his client to attend or be represented.

**(b) Angus Alchemy (Micro Distillery Visitor Centre) Woodhill, Carnoustie**

The Board considered an application from Angus Alchemy Ltd for the grant of a provisional premises licence (on and off sales) in respect of premises at Angus Alchemy (Micro Distillery Visitor Centre) Woodhill, Carnoustie.

Mrs Hood, agent for the applicant was present and addressed the Board during which she advised that her client was happy to amend the hours from 10am to 11am Monday to Friday for both on and off sales. The delivery conditions were also acceptable to her client.

The Board agreed to grant the application subject to the statutory conditions, local Children's conditions and additional delivery conditions.

**6. OCCASIONAL LICENCES – ANGUS ALCHEMY, CARNOUSTIE**

The Board noted that Report No LB2/23 had been withdrawn as the occasional licences had now been granted by the Clerk under delegated authority in accordance with the Scheme.

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

There was submitted Report No LB 3/23 by the Clerk on applications 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) Lodge the Bruce 593 Masonic, 52 Gardyne Street, Friockheim**

The Board considered an application from Lodge the Bruce 593 Masonic to vary a premises licence (on sales) in respect of premises at Lodge the Bruce 593 Masonic, 52 Gardyne Street, Friockheim to allow them to vary their operating plan to include the following within activities: -

Add within core licensing hours – recorded music, live performances and gaming.

Mr Robbie, applicant was present.

The Board agreed that the application be granted.

**(b) Wellbank Village Hall, 3A Kellas Road, Wellbank**

The Board considered an application from Wellbank & District Amenities Association to vary a premises licence (on sales) in respect of premises at Wellbank Village Hall, 3A Kellas Road, Wellbank to allow them to vary their operating plan to include: -

(a) off sales: - Friday, Saturday and Sunday from 17.00 to 22.00

(b) Activities: -

Add accommodation, theatre, films and gaming within and outwith core hours

Add conference, restaurant, bar meals, receptions, club meetings, recorded music, live performances, dance facilities, indoor/outdoor sports, and televised sport outwith core hours.

(c) activities outwith core hours as detailed in the Report.

Mrs Gerrard, a representative on behalf of the Wellbank Village Hall, was present and addressed the Board.

The Board agreed that the application be granted.

**(c) Spar, 42 Lindsay Street, Kirriemuir**

The Board considered an application from CJ Lang and Son Limited to vary a premises licence (off sales) in respect of premises at Spar, 42 Lindsay Street, Kirriemuir to allow them to vary their operating plan to include: -

(a) Activities - add gaming within and outwith core hours.

(b) Further details of activities outwith core hours – add the following: -

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.

(c) Any other activities – add the following text: -

The primary activity undertaken in the premises was 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, beers/wines/spirits and 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.

- (d) Capacity – to increase off sales capacity from 12.49m<sup>2</sup> to 18.21m<sup>2</sup>

Ms Loudon, the applicant's agent was present and addressed the Board during which she confirmed that her client was happy with the proposed delivery conditions.

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 exercise due diligence to 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 out with 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, or electronic notice if it is a third party operator, 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.

**(d) Railway Inn, 1 Gardyne Street, Friockheim**

The Board considered an application from The Railway (Friockheim) Ltd to vary a premises licence (on/off sales) in respect of premises at Railway Inn, 1 Gardyne Street, Friockheim to allow them to vary their operating plan to include: -

**(a) Children and Young Persons**

- (i) amend terms from "Accompanied by a responsible adult" to: -  
Accompanied by a responsible adult between 11.00 and 21.00 daily
- (ii) amend ages from 16 -17 years to 5 -17 years old
- (iii) amend times from "Local Children's Conditions with the exception of condition 2(a)(v) shall apply in accordance with the activity or service provided on the premises" to: - 11.00 – 21.00 daily
- (iv) amend parts from "pool area, lounge seated area, not at bar" to: -  
Seating areas with tables in lounge, pool table, toilets. No seating at bar.

Mr Nicolas, the applicant was present and addressed the Board during which it was noted that the Local Children's Conditions were part of the licence.

The Board agreed that the application be granted.

## **8. REVIEW OF STATEMENT OF LICENSING BOARD POLICY**

With reference to Article 9 of the minute of meeting of this Board of 2 November 2017, there was submitted Report No LB 4/23 by the Clerk advising the Board of the requirement to review the Board's Statement of Licensing Policy and approve the review process.

The Report proposed that a press release would be issued via Facebook and Twitter advising the public of the review process and how to make comments or suggestions. The "Have your Say" area of Angus Council's website would be utilised as a means of advising of the consultation exercise and ingathering comments or suggestions.

The Clerk addressed the Board and advised that any comments or suggestions should be sent to the Clerk.

The Board agreed: -

- (i) to note the requirement for the Board to review its Statement of Licensing Policy;
- (ii) to approve the process for carrying out the review; and
- (iii) to identify any particular aspect of the Board's current Statement of Licensing Policy that it would, in particular, wish to be considered as part of the review in addition to the Ask Angela Initiative.

## **9. PERSONAL LICENCES – DELEGATED APPROVALS**

There was submitted and noted Report No LB 5/23 by the Clerk detailing applications for Personal Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 20 October 2022 to 5 January 2023, in accordance with the Scheme of Delegation appended to the Licensing Policy.

## **10. OCCASIONAL LICENCES – DELEGATED APPROVALS**

There was submitted and noted Report No LB 6/23 by the Clerk detailing applications for Occasional Licences under the Licensing (Scotland) Act 2005 which had been granted by the Clerk during the period 20 October 2022 to 5 January 2023 in accordance with the Scheme of Delegation appended to the Licensing Policy.

## **11. PREMISES LICENCES - MINOR VARIATIONS - DELEGATED APPROVALS**

There was submitted and noted Report No LB 7/23 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 20 October 2022 to 5 January 2023, in accordance with the Scheme of Delegation appended to the Licensing Policy.

## **12. PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005 – LICENCES SURRENDERED**

There was submitted Report No LB 8/23 by the Clerk presenting information on two premises licences which the licence holders had surrendered, as detailed in the Appendix to the Report.

The Board agreed to note that the two premises licences 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 The Railway, 48 Market Street, Forfar and The Smugglers Tavern, 65 Ladybridge Street, Arbroath be removed from the register.

## **13. TRANSFER OF PREMISES LICENCE UNDER SECTION 33**

There was submitted Report No LB 9/23 by the Clerk presenting an application for the transfer of a premises licence under sections 33(1) of the Licensing (Scotland) Act 2005 ("the 2005 Act") which required to be determined by the Board as detailed in the Appendix to the Report.

Members noted the contents of the correspondence received from the Chief Constable dated 8 December 2022.

The applicant's representative was present and addressed the Board.

Constable Thomson-Craig, Police Scotland then gave details of the conviction detailed in the letter dated 8 December 2022 after which the transferee addressed the Board.

The Board agreed to grant the application for transfer of the licence to the proposed transferee in accordance with paragraph 3.5 of the Report.

*At this point in the meeting, the Board agreed that the live stream of the meeting be stopped during consideration of the following items, so as to avoid the possible disclosure of sensitive information.*

#### **14. CURRENT PERSONAL LICENCE – NOTICE OF CONVICTION**

With reference to Article 4 of the minute of meeting of this Board of 12 December 2022, there was submitted Report No LB 10/23 by the Clerk informing members of correspondence received from the Chief Constable.

##### **(i) Eden Sinclair**

Members noted the contents of the Chief Constable's notice of conviction in terms of Section 83(4)(b) dated 25 November 2022, noting that no recommendation was included.

The Personal licence holder addressed the Board and answered questions from members.

Constable Thomson-Craig, Police Scotland then gave details of the conviction.

The licence holder then summed up.

Councillor Fotheringham seconded by Councillor Nicol, moved that the Board note the position and take no further action.

**COUNCILLOR WHITESIDE SECONDED BY COUNCILLOR CLARK, MOVED AS AN AMENDMENT THAT THE LICENCE HOLDERS LICENCE BE ENDORSED.**

On a vote being taken, the members voted: -

For the motion: -

Councillors Meechan, Fotheringham and Nicol (3)

For the amendment: -

Councillors Melville, Braes, Clark, Durno, Scott and Whiteside (6)

The amendment was declared carried and became the finding of the meeting resulting in the personal licence holder's licence being endorsed.

##### **(ii) David Harper**

The members noted the contents of the Chief Constable's notice of conviction in terms of section 83(4)(b) dated 7 November 2022, noting that no recommendation was included.

The Personal licence holder addressed the Board and answered questions from members.

Constable Thomson-Craig, Police Scotland then gave details of the conviction.

The licence holder then summed up.

The Board agreed to note the position and take no further action

**15. NEW PERSONAL LICENCE APPLICATION – NOTICE OF CONVICTION**

There was submitted Report No LB 11/23 by the Clerk informing members of correspondence received from the Chief Constable giving notice of a conviction in terms of Section 73 (3) (b) of the Licensing (Scotland) Act 2005 in respect of a new personal licence application received on 24 November 2022 from Benjamin Irving.

Members noted the contents of the correspondence received from the Chief Constable dated 30 November 2022 which made a recommendation in terms of Section 73(4) of the Act.

The applicant was present and addressed the Board.

Constable Thomson-Craig Police Scotland then gave details of the conviction.

At this point, the applicant left the meeting.

The Board agreed to refuse the application as the applicant was not a fit and proper person to hold a licence.

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

There was submitted Report No LB 12/23 by the Clerk informing members of correspondence received from the Chief Constable in terms of Section 84A of the Licensing (Scotland) Act 2005 dated 14 December 2022 advising that a Personal Licence holder had acted in a manner which was inconsistent with two of the licensing objectives, namely Preventing Crime and Disorder and Securing Public Safety and to consider what Order required to be made in respect of the Personal Licence.

The Clerk advised the Board that the personal licence holder had now surrendered his licence therefore the Board noted that the Report was withdrawn.