

ANGUS LICENSING BOARD – 18 MAY 2023

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 considers and determines 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 or 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 licence 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 premisesthe 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.
- (g) in considering whether either of the grounds for refusal specified in (c) or (d) applies, the Licensing Board must in particular take into account—
 - (a) any conviction, notice of which is given by the chief constable under subsection 4(b) of section 21 and
 - (b) any report given by the chief constable under section 24A(2).
- (h) Where the Licensing Board considers that—
 - (a) they would refuse the application as made, but
 - (b) if a modification proposed by them were made to the operating plan or layout plan (or both) for the subject premises accompanying the application, they would be able to grant the application,

the Board must, if the applicant accepts the proposed modification, grant the application as modified.

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.

REPORT AUTHOR: Jennifer Burns – Solicitor

E-MAIL: LEGDEM@angus.gov.uk

TRAILL PAVILION, TRAILL DRIVE, MONTROSE, DD10 8EL

Name of Applicant

Catherine Braes

Type of Licence - Premises Licence – On and Off Sales

1. Description of Premises – Beachfront tearoom and take-away and private hire venue

2. Core times

| | | |
|-------------|------------------|----------------|
| On Sales - | Monday to Sunday | 11.00 to 23.00 |
| Off Sales - | Monday to Sunday | 10.00 to 22.00 |

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

3. Activities

- I. Conference facilities, receptions, club or other group meetings, theatre and films to be provided within and outwith core hours.
- II. Restaurant facilities, bar meals, recorded music, live performances, dance facilities and outdoor drinking facilities to be provided within core hours

The applicant advises – We may want to show films or theatre outwith licensing hours and provide facilities for weddings etc before any alcohol will be sold.

4. Any Other Activities –The premises are to be operated as a café/restaurant and not as a pub. There will be no bar counter and will be for the provision of wine, spirits, beers and cocktails via table service to accompany meals. We also want to sell via off sales for craft spirits and beers from our gift shop.

The Board are asked to note that Licensing requested confirmation from the applicant whether the applicant proposed to display alcohol within the gift shop part of the premises. The applicant advised that the “Gift Shop” now marked “X” on the layout plan is used as a store area and that no alcohol is stored there. The applicant also requested that the sentence “We also want to sell via off sales for craft spirits and beers from our gift shop.” be removed from any other activities of the operating plan.

5. Children and Young Persons

- a) **Terms** – Children and young persons will be allowed entry up to 21.00 or one hour after finishing meal, whichever is earlier
- b) **Ages** – All ages permitted when accompanied by an adult
- c) **Times** – During opening hours or 21.00 latest and one hour after meal with an accompanying adult
- d) **Parts** – Children and young persons will be permitted entry to all areas when accompanied with an adult.

6. Capacity

On Sales – 40

No Comments Received

LICENSING STANDARDS OFFICER REPORT

An application for a new premises licence was received in respect of:

Traill Pavilion, Traill Drive, Montrose, DD10 8EL

The premises, as you can see from the plan attached, is the Traill Pavilion on Traill Drive, Montrose located on Montrose beachfront. The application is in the name of Catherine Braes.

Background: -

This is a new premises licence application for a café / restaurant located within the Traill Pavilion on Traill Drive on Montrose beachfront.

Licensing Standards Officer Report:

The application is for a café / restaurant and is for on and off sales with the core hours being within the Licensing Board's Statement of Licensing Policy.

I note from the application that children and young person's access is requested on the operating plan. The proposed conditions are in line with the Model Local Conditions – Children and Young People.

You will note that the applicant has requested that the sentence "We also want to sell via off sales for craft spirits and beers from our gift shop." be removed from any other activities of the operating plan.

Statutory Checks

I have been unable to visit the premises but can confirm that no objections have been received regarding this application.

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

Licensing Standards Officer
Angus Council

DO NOT SCALE FROM DRAWINGS

A.S. Rogers & Young Ltd
Chartered Architect & Surveyors
 9 Macgregor Street, Brechin
 Tel: 01356 622125 Fax: 622644
 Email: info@astrogersandyoung.com

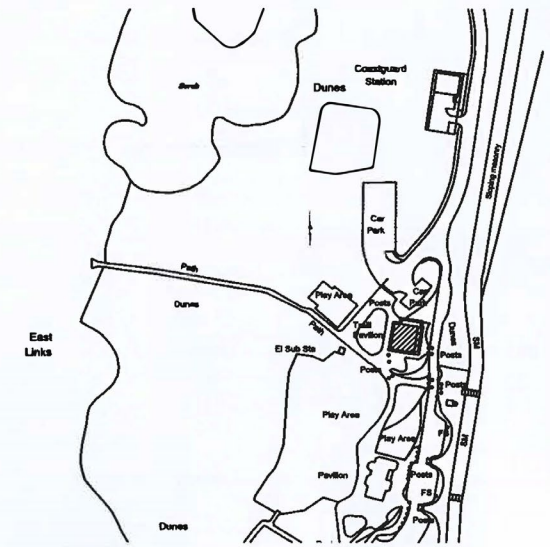
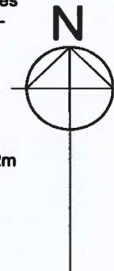
Job Title:
**Trail Pavilion,
 Trail Drive, Montrose**

| | |
|---------------------------------|------------------|
| Scale 1:100, 1:500, 1:2500 | Date Jun 2023 |
| Drawing Title Licensing Plan | Drawn By SWP |
| Drawing No. | Checked By |

Revisions:

| | |
|--|---------------------------|
| | Optical Smoke Detector |
| | Automatic Heat Detector |
| | Emergency Lighting Points |
| | Exit Boxes |
| | Fire Alarm Call Points |
| | "Fire Exit" signs |
| | General Fire Notices |

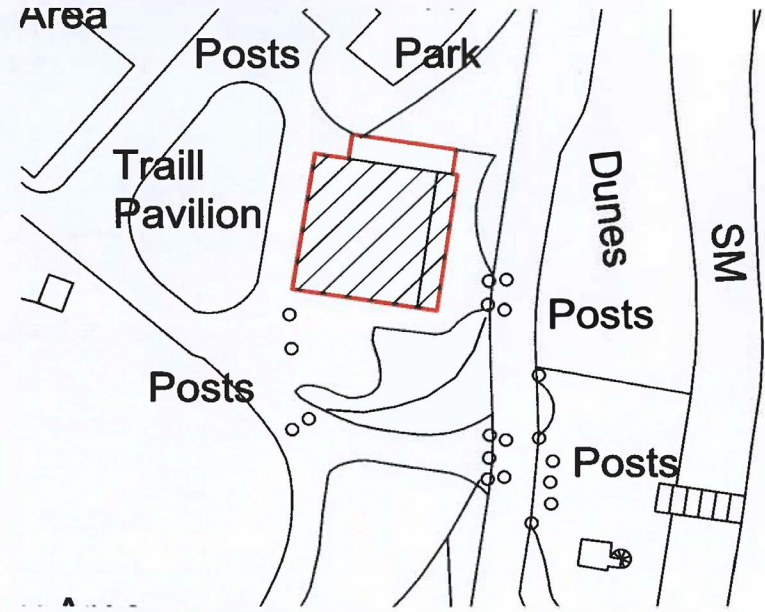
| | |
|--|--|
| | Hatched area indicates areas where children and young persons have access |
| | Red cross hatched area indicates fridge for Alcohol Display Area - 1.8m wide x 0.45m deep. |
| | Red single hatched area indicates 2No. shelves for Alcohol Display Area - 1.6m wide x 0.3m deep and 1.2m x 0.45m deep. |



Location Plan 1:2500



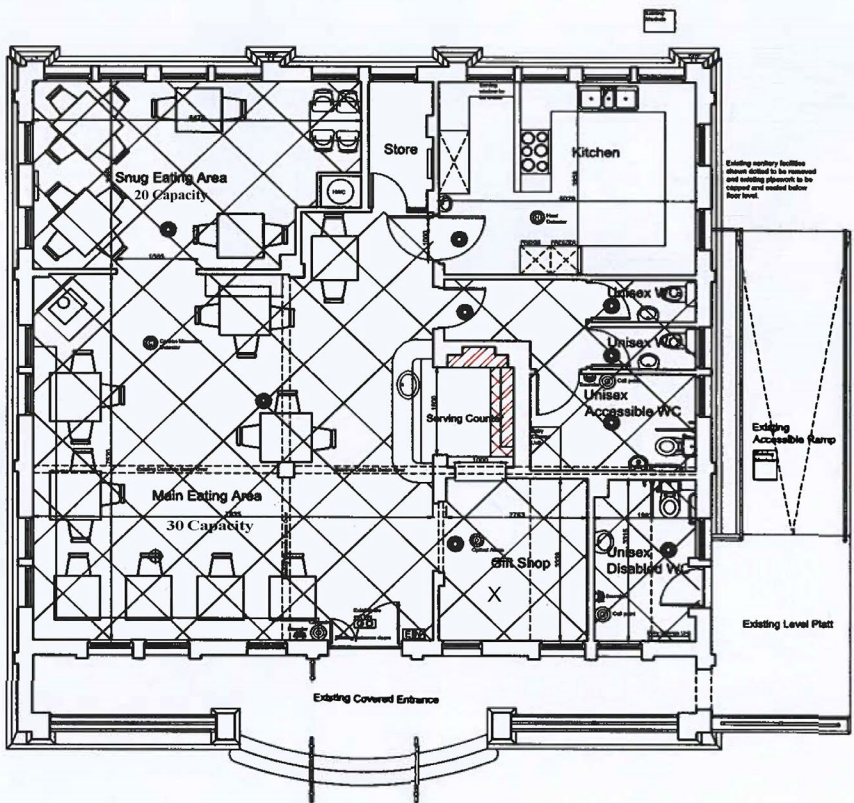
Plan Scale 1cm = 25m



Site Plan 1:500



Plan Scale 1cm = 5m



Ground Floor Plan 1:100 @ A3

