AGENDA ITEM NO 5

REPORT NO LB41/23

ANGUS LICENSING BOARD - 17 AUGUST 2023

PREMISES LICENCES – REQUEST TO VARY UNDER THE LICENSING (S) ACT 2005

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. **RECOMMENDATIONS**

It is recommended that the Board considers and determines each application to vary a premises licence as detailed in the **Appendix**, in terms of one of the following options: -

- (i) to grant the application, subject to Statutory Conditions and any other variation to the conditions to which the licence is subject that the Board may wish to impose;
- (ii) to defer the application to the next Licensing Board; or
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 4.

2. BACKGROUND

The Board has received applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 ("the Act") which require 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. LEGAL

- 4.1 The Act provides that a variation, in relation to a Premises Licence, means any variation of: -
 - (a) any of the conditions to which the licence is subject (other than the Statutory Conditions);
 - (b) any of the information contained in the operating plan contained in the licence;
 - (c) the layout plan contained in the licence; or
 - (d) any other information contained or referred to in the licence,

and includes an addition, deletion or other modification

- 4.2. If the variation sought is a minor variation, then the variation must be granted and powers have been delegated to the Clerk to approve these minor variation applications. Minor variations are:-
 - (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan;

- (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises;
- (c) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and
- (d) any variation prescribed by the Licensing (Minor Variations) (Scotland) Regulations 2011 or otherwise.
- 4.3. Section 30 of the Act provides that if the variation(s) being sought are not minor, the Board must hold a hearing to determine the application.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal apply and: -

- (a) if none of them apply, the Board must grant the application; or
- (b) if any of them apply, the Board must refuse the application.
- 4.4. The grounds for refusal are: -
 - (a) that the application must be refused under Section 32(2) of the Act (the Board had previously refused an application for the same variation of the premises licence within the preceding one year), Section 64(2) of the Act (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) of the Act (if alcohol is to be sold for off sales purposes before 10am or after 10pm, or both);
 - (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,
 - (c) that, having regard to:
 - (i) the nature of the activities carried on or 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 premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation,

- (d) 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 (taking into account of the variation), in the locality.
- 4.5 Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.
- 4.6 Where the Licensing Board refuses the application, the Board must specify the ground for refusal and if the ground relates to a licensing objective, the Board must specify the objective or objectives in question.
 - (a) The licensing objectives are: -
 - (i) preventing crime and disorder
 - (ii) securing public safety

- (iii)
- (iv) (v)
- preventing public nuisance protecting and improving public health; and protecting children and young persons from harm

REPORT AUTHOR: Jennifer Burns, Solicitor– Legal Team 1E-MAIL: <u>LEGDEM@angus.gov.uk</u>

APPENDIX TO REPORT LB41/23

ANGUS LICENSING BOARD – 17 AUGUST 2023

(a) LICENCE NO. 387, GLENCADAM DISTILLERY, SMITHFIELD ROAD, BRECHIN, DD9 7PA

Applicant: Angus Dundee Distillers PLC

Type of Licence: Off Sales

Description of Variation

1. Operating Plan

Add on sales: Monday to Sunday - 11.00 to 17.00

Premises currently operate Off sales Monday to Friday – 10.00 to 17.00

Add off sales: Saturday and Sunday – 10.00 to 17.00

2. Children and Young Persons

- (a) **Terms** Accompanied by an adult over the age of 18. As licence forms part of the Distillery tour only children aged 10 or above will be permitted to have a tour
- (b) Ages As it is a Distillery visitors area children will be allowed into building if accompanied by an adult over the age of 18. No age restrictions of children except as the above regarding tours
- (c) **Times** Monday to Sunday 10.00 to 17.00
- (d) **Parts** Office, board room, toilets and visitors area

3. Layout Plan

- (a) Relocation of offices in the building, which will be located in the main block.
- (b) Addition of two further locations to sell alcohol for consumption.

4. Capacity

On sales - 12

Comments Received

Building Standards - apologised for being a day late in responding with their comments. This was due to leave and complexities with the application.

The Board are advised they will require to decide whether to accept the late comments. If comments are accepted these will be circulated at the Board.

Licensing Standards Officer - advised no objections, however he had been in contact with the applicant to request a new layout plan be submitted.

The Board are advised that a further layout plan has been submitted by the applicant.

LEGAL

Mandatory Condition 13 (*Display or promotion of the sale, of alcohol for consumption off the premises*) does not apply where the main function of premises is to provide:-

- (a) a visitor attraction, and
- (b) where -
 - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
 - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 27th June 2023 in respect of:

Glencadam Distillery, Smithfield Road, Brechin, DD9 7PA Premises Licence Number: 387

Background: -

As you will see from the location plan the premises are located on Smithbank Road in Brechin. The current premises licence holder is Angus Dundee Distillers Plc and the designated premises manager is Douglas Fitchett.

Major Variation:

The application is in respect of:

- 1. Addition of on sales Monday to Sunday 11:00hrs to 17:00hrs
- 2. Addition off sales Saturday and Sunday 10:00hrs to 17:00hrs
- 3. Addition of children and young persons
- 4. Amended layout plan

I visited the premises on Thursday 13th July 2023 where I discussed the proposed changes with the premises manager Douglas Fitchett.

Licensing Standards Officer Report:

On checking the system there have not been any complaints received in respect of these premises.

The major variation is to amend the existing licenced hours to add on sales from 11:00hrs to 17:00hrs Monday to Sunday and add off sales from 10:00hrs to 17:00hrs on Saturday and Sunday. It should be noted that the premises currently has off sale from 10:00hrs to 17:00 Monday to Friday. This variation of hours is within the Licensing Board's Statement of Licensing Policy.

I note from the application that children and young person's access is to be added. The proposed amendment is to allow children and young person's access to premises. The updated operating plan states that children and young person's access will be permitted if accompanied by an adult over the age of 18 and they are undertaking a distillery tour. Further to this the operating plan indicates that access will be for the Office, board room, toilets and visitors' area.

The board will note from the layout plan provided by the applicant that there is an additional area marked visitors' centre. During my discussion with the applicant, it was confirmed that this area is not currently in use and that works to renovate this area will commence in October of this year. The applicant also confirmed that he doesn't anticipate tours being any larger than 12 persons. The board may wish to seek further clarification on both the visitors centre and the proposed size of the tours.

As far as I am aware on checking the systems there have been no complaints made in respect of these premises. I am not aware of any objections in relation to this application.

I duly submit this report for consideration of Board Members.

Kevin Leith Licensing Standards Officer Angus Council





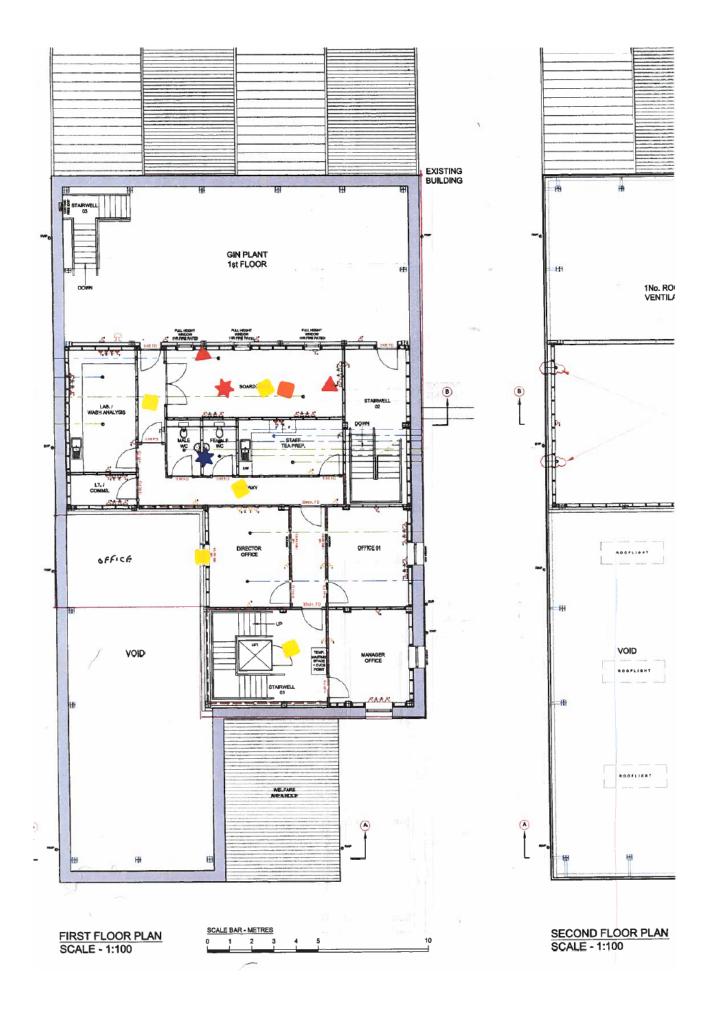
Photo 1 Picture of boardroom. To be used as part of the distillery tour.

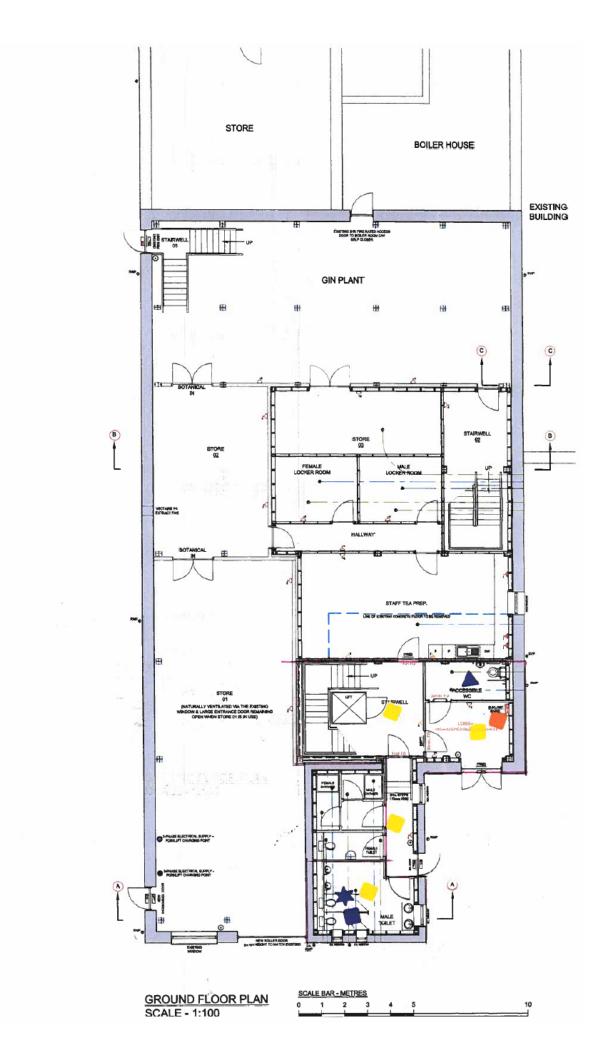
•

Photo 2 Picture of boardroom. To be used as part of the distillery tour.



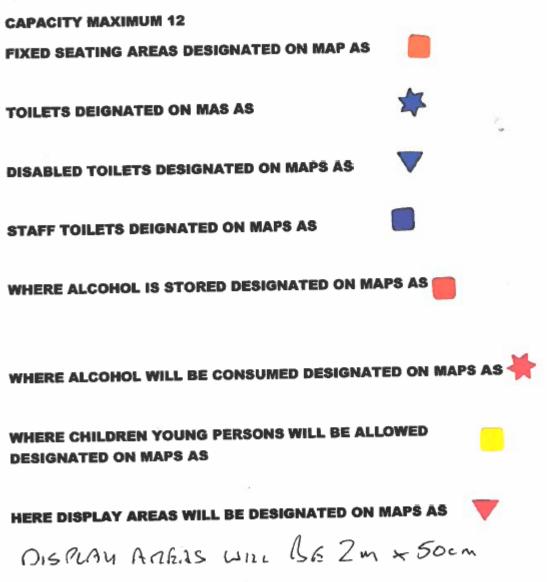
Photo 3 Picture of office / visitors area. To be used as part of the distillery tour.





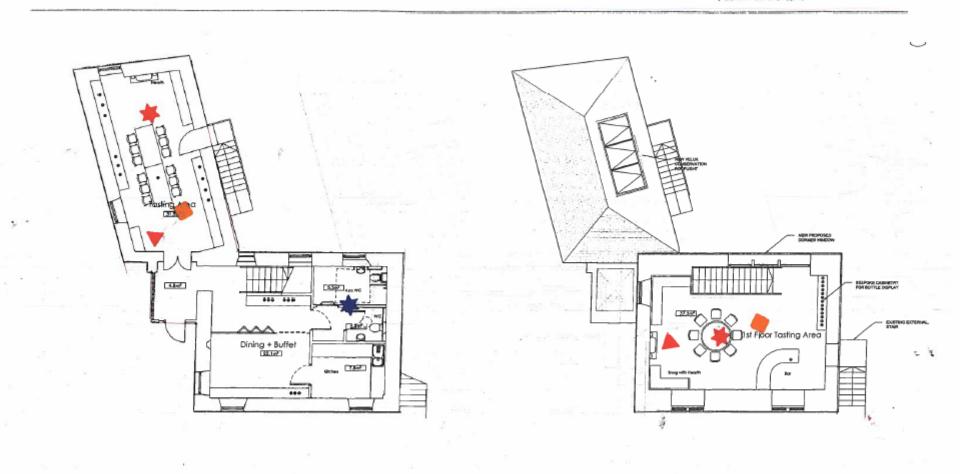
GLENCADAM

QUESTION 7



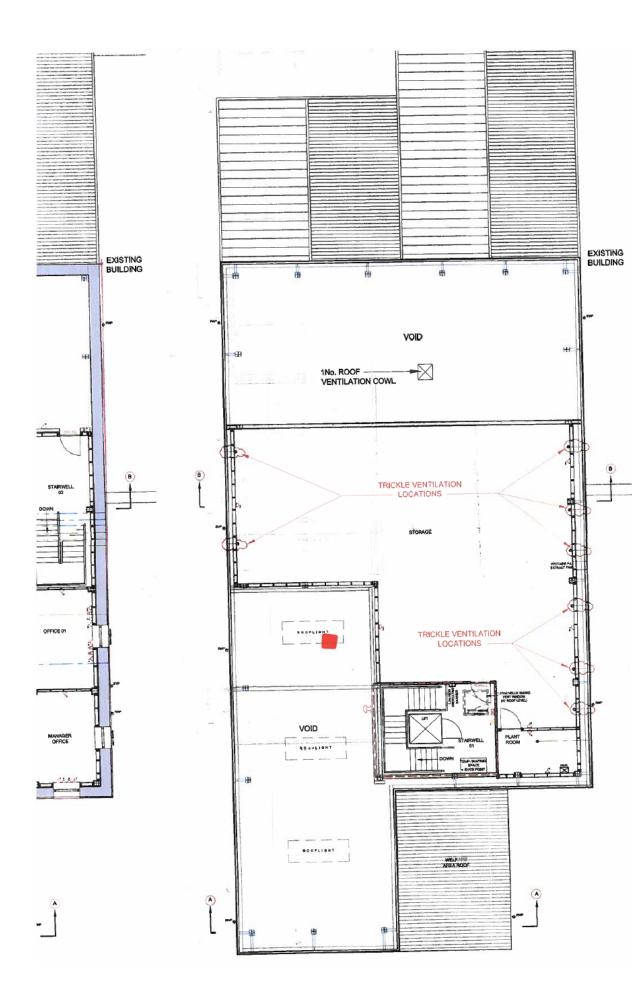
VIP SUITE

PROPOSED PLANS



1 Ground Floor Plan

1 First Floor Plan



APPENDIX TO REPORT LB41/23 ANGUS LICENSING BOARD – 17 AUGUST 2023

(b) LICENCE NO. 134, THE BRIDGEND BAR, 145 RIVER STREET, BRECHIN, DD9 7ES

Applicant: Scott Robert McNeil

Type of Licence: On and Off sales

Description of Variation

1. Operating Plan

a. Amend Sunday opening hour for both on and off sales to 11.00

The Board are asked to note the premises current on and off sales opening hour is 12.30

- b. Add conference facilities and films within core hours
- c. Add receptions, club meetings and recorded music outwith core hours
- d. Add outdoor drinking facilities within and outwith core hours.

2. Activities Outwith Core Hours - ADD

Funerals, christenings and group meetings may take place outwith core hours but no alcohol will be sold or supplied. Recorded music may be played both within and outwith core hours. The outdoor area may be used for breakfast service but no alcohol may be sold or supplied.

3. Layout Plan

Amend layout plan to show the recent internal alterations and the addition of the outdoor drinking area.

4. Children and Young Persons

Amend parts of the premises to which children and young persons are permitted entry to read: -

All public areas except the bar area.

The Board are asked to note that children and young persons are currently allowed access to the lounge, toilets and beer garden.

Comments Received

ENVIRONMENTAL AND CONSUMER PROTECTION

With reference to the above application, Environmental Health note that this application includes the provision of an outdoor drinking area and a stage, all of which appears to be retrospective. This service has previously received at least one noise complaint about these premises and advise that there is a residential property within 10m of the proposed beer garden/stage. Environmental Health are concerned about noise from these premises causing public nuisance and would therefore request that the applicants submit a detailed noise management plan which details all noise sources and how they are going to control noise from them to an adequate standard.

BUILDING STANDARDS - A Building Warrant would have been required for the alterations shown on the layout plan including the new glazed French doors/side screens and the attached lean-to structure. No Building Warrant could be found for these works recently completed and therefore a 'Completion Certificate Where No Warrant was Obtained' should be applied for with and required detailed information detailing compliance with the Building Regulations.

The Board are asked to note details of the above comments from Environmental Health and Building Standards have been forwarded to the applicant and a response has been received.

LICENSING STANDARDS OFFICER - I have no comments to make in respect of the application other than I will be requesting to the Board that the outdoor conditions be applied to the licence, if the application is granted, and which will be included in my report to the Board.

LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 27th June 2023 in respect of:

The Bridgend Bar, 145 River Street, Brechin, DD9 7ES Premises Licence Number: 134

Background: -

As you will note from the location map the premises are located on River Street where it is primarily surrounded by residential properties. The current premises licence holder and designated premises manager is Scott Robert McNeil.

Major Variation:

The application is in respect of:

- 1. Changing the on-sales opening hours on a Sunday from 12:30pm to 11:00am.
- 2. Changing the off-sales opening hours on a Sunday from 12:30pm to 11:00am.
- 3. Addition of conference facilities and films within core hours.
- 4. Addition of receptions and clubs or other group meetings to be provided out with core hours.
- 5. Addition of outdoor drinking both within core hours and out with core hours.
- 6. Amend children and young person's access.
- 7. Addition of music out with core hours.
- 8. Amend layout of the premises

Licensing Standards Officer Report:

On checking the system there have two complaints received in respect of these premises.

- 22 October 2013 Alleged underage drinking
- 8 August 2022 Noise Compliant in relation to outdoor area

These were investigated by the previous LSO's and the complaints were all closed as resolved.

The first noted major variation is to amend the existing opening time of both on sale and off sale from 12:30pm on a Sunday to 11:00am. This variation of hours is within the Licensing Board's Statement of Licensing Policy which is 11:00am and 10:00am respectively.

The major variation application also requests to add additional activities within the core hours specifically, the addition of conference facilities and films within core hours. I have discussed this with the applicant who has confirmed that on occasion they have held various meetings within the premises and this addition will allow them to continue to offer that service.

Further to this the major variation application has been made to amend and add receptions and clubs or other group meetings to be provided out with core hours. Again, this amendment was discussed with the applicant and this addition will allow the premises to offer various social functions and sports club meetings prior to their licenced hours.

The major variation application also requests to add outdoor drinking both within and out with core hours. I would suggest that if the Board are minded granting the application, then the three outdoor area conditions be attached to the licence. This is to keep the premises in line with other premises who have external drinking areas.

The three outdoor area conditions are as follows:

- 1. Patrons shall not be permitted to use the external drinking areas beyond 21:00.
- 2. No music shall be provided in the external drinking areas; and
- 3. No music of amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking areas.

I note from the application that children and young person's access is to be amended. The current premises licence allows children and young person's access to the lounge, toilet and beer garden however, the proposed amendment is to allow children and young person's access to all public areas of the premises with the exception of the bar area. The application states that the hours that children and young person's will be permitted will be as per the local children's conditions.

The major variation application has also been made to amend the music conditions to add music out with core hours. On discussing this with the applicant this was made in relation to music being played in the outdoor area and as such the board may want to seek clarity on this amendment.

A compliance visit was carried out at the premises earlier this year where I noted that all statutory notices and paperwork were in order. I do not have any issues with the application and duly submit this report for consideration of Board Members.

Kevin Leith Licensing Standards Officer Angus Council

Photo 1 This is the proposed outdoor drinking area.



Photo 2 This is the proposed outdoor drinking area.



Photo 3

Picture of the lounge. As per the current premises licence children have access to this area of the premises.



Photo 4 Picture of the Public Bar.

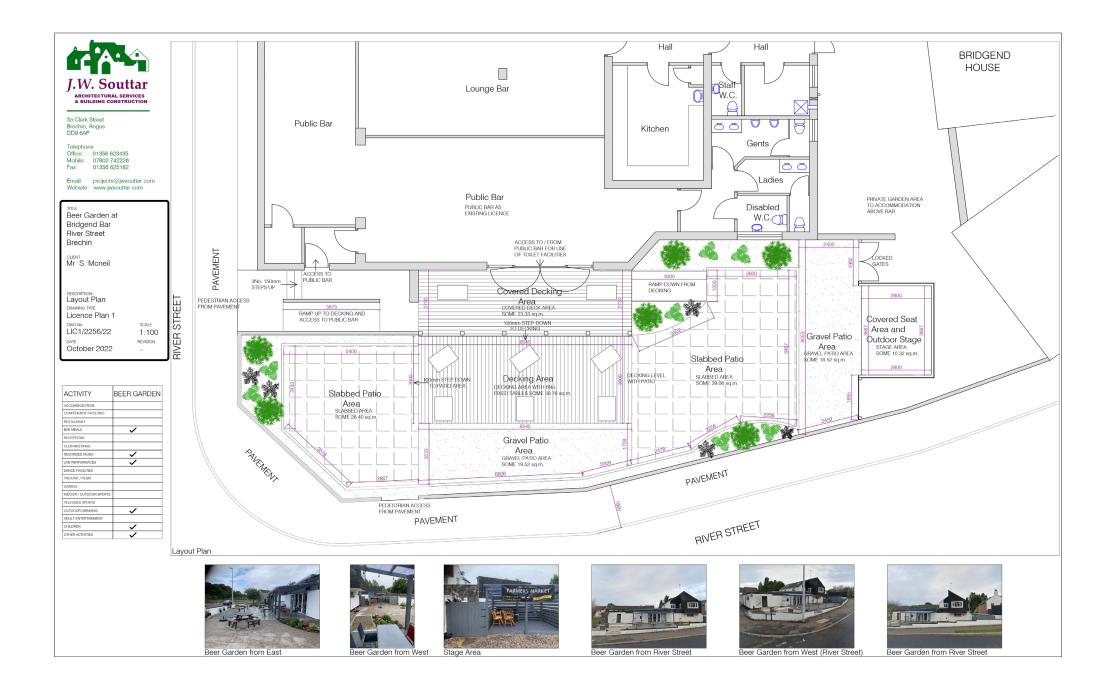


Photo 5 Picture of the Public Bar.



Photo 6 Picture of the Public Bar.





APPENDIX TO REPORT LB41/23 ANGUS LICENSING BOARD – 17 AUGUST 2023

(c) LICENCE NO. 18, GAIRIE INN, 1-3 SCHOOL WYND, KIRRIEMUIR, DD8 4BQ

Applicant: Ann Jamieson

Type of Licence: On and Off sales

Description of Variation

1. Operating Plan

Amend outdoor drinking terminal hour to 21.00

The Board are asked to note the current terminal hour for outdoor drinking is 19.00

2. Children and Young Persons

Add children and young persons on the premises

- a) **Terms –** Children and young persons will be permitted into the premises when accompanied by a responsible adult who will be required to supervise them at all times. Angus Council's conditions will be followed at all times in relation to children
- b) **Ages** Children and young persons of all ages will be permitted into the premises consuming a meal and when accompanied by a responsible adult
- c) **Times** Children and young persons will be permitted in the premises for the purpose of consuming a meal from 11.00 to 21.00 and only when accompanied by a responsible adult
- d) **Parts** Children and young persons will be allowed in all areas of the premises but will not be permitted to approach the bar

Comments Received

ENVIRONMENTAL HEALTH AND CONSUMER PROTECTION

Environmental Health note that the applicant seeks to extend the opening of the outside drinking area from 19:00 to 21:00hrs which would bring it in to line with a number of other licensed premises in the area. This service is not aware of any complaint history relating to the use of this area therefore this Service would not object to the application being granted. We would however ask that the standard condition relating to music not being played with the intention of being heard in the outdoor drinking area is attached to any consent granted if it is not already in place with the existing use.

The Board are advised the current premises licence does already have a condition regarding amplified music added which states -

No music of amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking area.

LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 29th June 2023 in respect of:

Gairie Inn, 1/3 School Wynd, Kirriemuir, DD8 4BQ Premises Licence Number: 18

Background: -

As you will see from the location plan the premises are located on school Wynd in Kirriemuir town centre where it is surrounded by commercial and residential premises. The current premises licence holder and designated premises manager is Ann Jamieson.

Major Variation:

The application is to vary the conditions to which the premises licence are subject to by extending the outdoor drinking area time until 21:00hrs and amending children and young person's access to allow children and young person's to access the premises and outdoor drinking area.

I visited the premises on Wednesday 12th July 2023 where I discussed the proposed changes with the premises manager Ann Jamieson. I have attached photographs of the outdoor drinking area which is currently in use.

Licensing Standards Officer Report:

I would highlight to the Board that the premises already has outdoor drinking conditions in place as outlined below and are seeking to extend their current hours until 21:00hrs. This change would bring the premises in line with other licenced premises in the area:

- 1. Patrons shall not be permitted to use the external drinking areas beyond 19:00.
- 2. No music shall be provided in the external drinking areas; and
- 3. No music of amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking areas.

I note from the application that children and young person's access is to be amended. The proposed amendment is to allow children and young person's access to premises and outdoor drinking area. The application states that children and young person's will be permitted access until 21:00hrs as per the local model conditions.

The annual fee for the premises has been paid and as far as I am aware on checking the systems there have been no complaints made in respect of these premises. I am not aware of any objections in relation to this application.

I duly submit this report for consideration of Board Members.

Kevin Leith Licensing Standards Officer Angus Council

Photo 1

This the outdoor drinking area at the rear of the premises which is well maintained with appropriate signage asking patron to be respectful of neighbouring properties.



Photo 2 This the outdoor drinking area at the rear of the premises.









Photo 5



APPENDIX TO REPORT LB41/23

ANGUS LICENSING BOARD – 17 AUGUST 2023

(d) LICENCE NO. 415, GIN EXPERIENCE, KIRKWYND, GLAMIS VILLAGE, BY FORFAR, DD8 1RT

Applicant: Gin Bothy Limited

Type of Licence: Off Sales

Description of Variation

1. Operating Plan

Add On Sales Monday to Sunday -11.00 to 22.00

The Board are advised the hours requested are within Board Policy

Add Seasonal Variation – the operator will take advantage of any general extensions of core hours approved by the Licensing Board

2. Activities - add

Conference facilities, receptions and club or other group meetings, live performances, theatre and films within core hours

3. Any Other Activities – amend to

Visitor centre shop, exhibition centre and tastings rooms show-casing the history of the locality and Scotland.

Craft skills, the sale of craft alcohol and other products and comestibles, branded gifts, books and other goods appropriate to a visitor centre.

Premises will be used for the distribution of all goods including alcohol for delivery to the public and trade via online and telephone sales in accordance with the off-site sales and delivery policy.

Tastings can be free or pre booked paid for as part of The Bothy Experience

Public will be permitted to sit in external courtyard area

Live performances, theatre and film – these three activities to permit / enhance information and explanation of history and nature of spirit making in Scotland

4. Children and Young Persons

Add children and young persons on the premises

- (a) **Terms –** Children 0-15 and young persons 16 and 17 will be permitted access to the premises tasting rooms and exhibition areas provided they are accompanied by a responsible adult no person under the age of 18 will be permitted to take part in alcohol tastings whether paid for or free
- (b) Ages Children 0-15, young persons 16 and 17
- (c) **Times** All times premises are open
- (d) **Parts** All public parts of the premises

5. Layout Plan –

Add additional areas – increase retail area to south of courtyard, two tasting rooms and two exhibition spaces. Increase storage areas to east of courtyard and permit public to sit in external area in fine weather.

6. Information Contained in Licence

Change of premises name to The Bothy Experience

Comments Received (to date)

Building Standards - are currently not in a position to provide comment on the application until the questions below have been clarified:

- 1. What premises licence consent is currently in place, is it off sales only and to which areas? Currently there appears to be differing information supplied in the application/supporting info and much of what is being applied for is currently already taking place (paid tastings etc). Any supporting information as to the current licence would be appreciated.
- 2. The operating plan states areas are to be used for on sales (paid tastings) however question 7 states it will be off sales only with no capacity noted for either on sales (linear meters) or off sales (occupancy capacities of each space). Please clarify.
- 3. 2 differing layout plans have been submitted, please amend as required.

The Board are asked to note with regards to point 1 Building Standards have now been sent a copy of the current premises licence and layout plan and the applicant's agent, Mrs Janet Hood has been emailed to advise of the information requested by Building Standards at points 2 and 3.

LEGAL

Mandatory Condition 13 (*Display or promotion of the sale, of alcohol for consumption off the premises*) does not apply where the main function of premises is to provide:-

- (a) a visitor attraction, and
- (b) where -
 - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
 - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 6th July 2023 in respect of:

GIN EXPERIENCE, KIRKWYND, GLAMIS VILLAGE, BY FORFAR, DD8 1RT Premises Licence Number: 415

Background: -

As you will see from the location plan the premises are located on Kirkwynd in Glamis. The current premises licence holder is Gin Bothy Ltd and the designated premises manager is Lynn Finlay.

Major Variation:

The application is in respect of:

- 1. Addition of On Sales Monday to Sunday 11.00hrs to 22.00hrs
- 2. Add Seasonal Variation
- 3. Add Conference facilities, receptions and club or other group meetings, live performances, theatre and films within core hours
- 4. Addition of children and young persons
- 5. Amended layout plan

Licensing Standards Officer Report:

On checking the system there have not been any complaints received in respect of these premises.

The major variation is to amend the existing licenced hours to add on sales from 11:00hrs to 22:00hrs Monday to Sunday. This variation of hours is within the Licensing Board's Statement of Licensing Policy. The application has also been made to add seasonal variations to the licensed hours.

I note from the application that children and young person's access is to be added. The proposed amendment is to allow children and young person's access to all public parts of the premises including the tasting rooms and exhibition areas. The updated operating plan states that children and young person's access will be permitted if accompanied by a responsible adult.

The major variation application also requests to add additional activities within the core hours specifically, the addition of live performances, theatre, and film within core hours. As the application states this is to allow for further information and explanation on the history and nature of spirit making in Scotland.

Further to this the major variation application has been made to amend and add receptions and clubs or other group meetings to be provided out with core hours.

As I am aware on checking the systems there have been no complaints made in respect of these premises. I am not aware of any objections in relation to this application.

I duly submit this report for consideration of Board Members.

Kevin Leith Licensing Standards Officer Angus Council



