

SPECIAL ANGUS LICENSING BOARD – 5 DECEMBER 2023

APPLICATIONS FOR AN OCCASIONAL LICENCE

COAST BAR AND RESTAURANT (LOWER LEVEL), 4 GRAVESEND, ARBROATH, DD11 1HT

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to present nine applications for an occasional licence under the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

1. RECOMMENDATIONS

It is recommended that the Board consider and determine the Applications in terms of one of the following options: -

- (i) to grant the applications, subject to the Mandatory Conditions and any other discretionary or local conditions which the Board may wish to impose; or
- (ii) to refuse the applications on one or more of the grounds referred to in Paragraph 3.2.

2. BACKGROUND

Ten applications in respect of occasional licences have been received under the Licensing (Scotland) Act 2005 for Coast (Lower Level), Arbroath. Nine of those applications require to be determined by the Board.

In terms of the Board's Licensing Policy section 4.4.3, one application has been considered under the delegated powers of the Board.

The premises licence previously granted in respect of the premises ceased to have effect by operation of law on 21 November 2022.

3. LEGAL IMPLICATIONS

3.1 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;
- (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 this application the Licensing Standards Officer has raised a Report as detailed in the attached **Appendix**. Police Scotland, in their response dated 10 November 2023, have confirmed there are no objections to the applications.

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 the Licensing Standards Officer have been consulted in the preparation of this Report.

8. NOTIFICATION

The applicant has been notified of the terms of this report and been invited to attend the Board.

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APPENDIX 1 TO REPORT LB 65/23
SPECIAL ANGUS LICENSING BOARD – 5 DECEMBER 2023

OCCASIONAL LICENCE APPLICATIONS – COAST BAR AND RESTAURANT (LOWER LEVEL), 4 GRAVESEND, ARBROATH, DD11 1HT

APPLICANT: - Nichola May Ferguson
OCCASIONAL LICENCE APPLICATIONS 8408, 8409, 8410, 8412, 8413, 8414, 8415, 8416, 8417

Dates Requested: -

15 December to 28 December 2023
29 December 2023 to 11 January 2024
12 January to 25 January 2024
26 January to 8 February 2024
9 February to 15 February 2024
16 February to 29 February 2024
1 March to 14 March 2024
15 March to 28 March 2024; and
29 March to 11 April 2024.

Report by Licensing Standards Officer

Nichola Ferguson, Personal Licence Holder, submitted, through an agent Janet Hood, 9 applications for Occasional Licences on the 9th and 10th November 2023. These are to allow alcohol sales within the Coast Bar and Restaurant (lower level) as the premises licence was revoked on 22 February 2023.

The applicant has requested that the licences run from 15th December 2023 until 11th April 2024 inclusive and are for on sale hours only. The hours currently requested are out with Board policy.

I have been advised that there will be a full premises licence application being submitted in due course.

Reason for Comments

I would ask the Members to consider these Occasional Licence applications for the following reasons:

The Applicant seeks to terminate on sales at 02:00am which is contrary to Board policy.

Having regard to the Board's own Statement of Licensing Policy at section 6.4. For Occasional Licences and general licensed premises (except for Off-sale licensed premises - see paragraph 6.1), the licensed hours which will generally be permitted by the Board will be:

- From 11.00am to midnight on Sundays
- From 11.00am to midnight, Monday to Thursday inclusive, and
- From 11.00am on Fridays and Saturdays to 1.00am on Saturdays and Sundays respectively

If the Board is minded to grant the application(s), I would recommend granting subject to the mandatory and local conditions and to be operated in line with Board policy.

Kevin Leith
Licensing Standards Officer
Angus Council