

ANGUS LICENSING BOARD – 16 MAY 2024

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 an application to vary a premises licence under section 29 of the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

**1. RECOMMENDATIONS**

- 1.1 It is recommended that the Board considers and determines the 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**

- 2.1 The Board has received an application to vary a premises licence under section 29 of the Licensing (Scotland) Act 2005 ("the Act") 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**

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

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**LICENCE NO. 14, AIRLIE ARMS HOTEL, 4 ST MALCOLMS WYND, KIRRIEMUIR, DD8 4HB**

**Applicant:** Dilys Joan Robertson

**Type of Licence:** On and Off Sales

**Description of Variation**

**1. Operating Plan**

**Core Times**

|                  |                     |                |
|------------------|---------------------|----------------|
| Current on Sales | Monday to Thursday  | 11.00 to 24.00 |
|                  | Friday and Saturday | 11.00 to 01.00 |
|                  | Sunday              | 12.30 to 01.00 |

The application seeks to amend Sunday on sales opening time from 12.30pm to 11am

|              |                     |                |
|--------------|---------------------|----------------|
| New on Sales | Monday to Thursday  | 11.00 to 24.00 |
|              | Friday and Saturday | 11.00 to 01.00 |
|              | Sunday              | 11.00 to 01.00 |

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

A Confirmation of Site Notice has been completed and returned by the applicant.

**No comments were received.**

## LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 10<sup>th</sup> April 2024 in respect of:

**Airlie Arms Hotel, 4 St Malcolms Wynd, Kirriemuir, DD8 4HB**  
**Premises Licence Number: 14**

### **Background: -**

The premises are located on St Malcolm Wynd in the town centre where it is surrounded by residential and commercial premises. The current premises licence holder and designated premises manager is Dilys Joan Robertson.

### **Major Variation:**

The application is to amend the on-sales opening time for the premises from 12:30pm on a Sunday to 11:00am.

### **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 opening time of 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 until 00:00am for the day in question.

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