

ANGUS LICENSING BOARD – 16 MAY 2019

PROVISIONAL PREMISES LICENCE APPLICATION 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 provisional premises licence under the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine the application for a new 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 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 provisional 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 shall 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 the 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);

- (ba) 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;
- (c) that the Licensing Board considers that the granting of the application would otherwise 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 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;
- (e) 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.

In considering whether either of the grounds for refusal specified in subsection (5) (ba) and (c) applies, the Licensing Board must, in particular, take account of:

- (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)

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(a) SHELL FORFAR, QUEENSWELL ROAD, FORFAR, DD8 3JA

Names and Address of Applicant

Shell UK Oil Products Limited, Shell Centre, London, SE1 7NA

Type of Licence: Provisional Premises Licence – Off Sales

Confirmation Notice

If the confirmation notice is received before the Board date then this application will be dealt with. If the confirmation is not received the application may be deferred.

1. Description of Premises – Convenience store located on a petrol forecourt.

2. Core times - when alcohol will be sold for consumption **off** the premises:-

Monday to Sunday 10:00 to 22.00

The Board is asked to note that the hours requested are within Board's policy.

3. Activities to be provided -

- (a) The convenience store will operate outside and during core licensing hours selling confectionery, grocery products, drinks, tobacco, sandwiches etc.

4. Capacity - 3.693 m2

It is requested that the Board note that the Licensing (Scotland) Act 2005 provides that a Board must refuse an application for a premises licence if the subject premises are "excluded premises".

One category of excluded premises is premises used as a garage or which form part of premises which so used. Premises are used as a garage if they are used for one or more of the following:-

- (a) the sale by retail of petrol or derv;
- (b) the sale of motor vehicles; or
- (c) the maintenance of motor vehicles.

The premises to which this application relates sells petrol and derv.

The Act states that premises may not be classed as excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of :-

- (a) petrol or derv; or
- (b) groceries (where the premises are, or are to be , used also for sale by retail of groceries).