

ANGUS LICENSING BOARD – 8 AUGUST 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 section 45 of the Licensing (Scotland) Act 2005 (“the Act”) which requires to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine the application for a new provisional 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 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 section 45 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 shall only be discharged by the Licensing Board.

3. LEGAL

3.1 A premises licence application may be made in relation to any premises despite the fact that, at the time the application is made, the premises are yet to be, or are in the course of being, constructed or converted for use as licensed premises. A premises licence application in respect of any such premises is referred to in the Act as a “provisional premises licence application”.

A premises licence issued in respect of any such premises does not take effect unless and until it is confirmed by the Licensing Board which issued it in accordance with section 46 of the Act.

If a premises licence issued in respect of any such premises is not confirmed before the end of the provisional period, then at the end of that period the licence is treated as revoked.

The provisional period, in relation to a provisional premises licence, is the period of 4 years beginning with the date of issue of the licence.

- 3.2 The Board must, in terms of section 23 of the Act, hold a hearing for the purposes of considering and determining the application. As part of this, the Board must take account of the documents which have been submitted accompanying the application. The Board must 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.
- 3.3 The grounds for refusal are:-
- (a) that the subject premises are excluded premises in terms of section 123 of the Act;
 - (b) that the application must be refused under Section 25(2) of the Act (the Board had previously refused a 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);
 - (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.
- 3.4 In considering whether either of the grounds for refusal specified in subsection 3.3 (ba) and (c) above 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 of the Act; and
 - (b) any report given by the Chief Constable under section 24A (2) of the Act.
- 3.5 Section 23(7) of the Act provides that where the Licensing Board considers that they would refuse the application as made, but 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.

3.6 Where the Licensing Board refuses an application, the Board must specify the ground for refusal and if any ground relates to the licensing objectives, the Board must state the relevant 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

4. **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this Report.

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(a) GRILL 21 MEDITERRANEAN RESTAURANT, COFFEE AND BAR, 264-268 HIGH STREET, ARBROATH, DD11 1JE

Names and Address of Applicant

TG 21 Limited, 268 High Street, Arbroath, DD11 1JE

Type of Licence: Provisional Premises Licence – On and Off Sales

1. Description of Premises – Bar facility serving Mediterranean style food cooked freshly on the premises in an open kitchen to the rear.

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

Sunday to Thursday 11:00 to 24.00

Friday and Saturday 11:00 to 01.00

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

Monday to Sunday 11:00 to 22.00

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

3. Seasonal Variation – additional hours approved by Angus Licensing Board in the terms of the Board's policy. (Christmas Eve, Christmas Day, Boxing Day, Hogmanay, New Years Day)

4. Activities to be provided -

- (a) Bar meals, receptions, club or other group meetings to be provided within core hours.
- (b) Recorded music to be provided within and outwith core hours.

The applicant would intend to open between the hours of 9am and 11am serving breakfasts, snacks, tea, coffee and hot drinks. Recorded background music may be played at this time.

Takeaway food and non-alcoholic drinks to be provided.

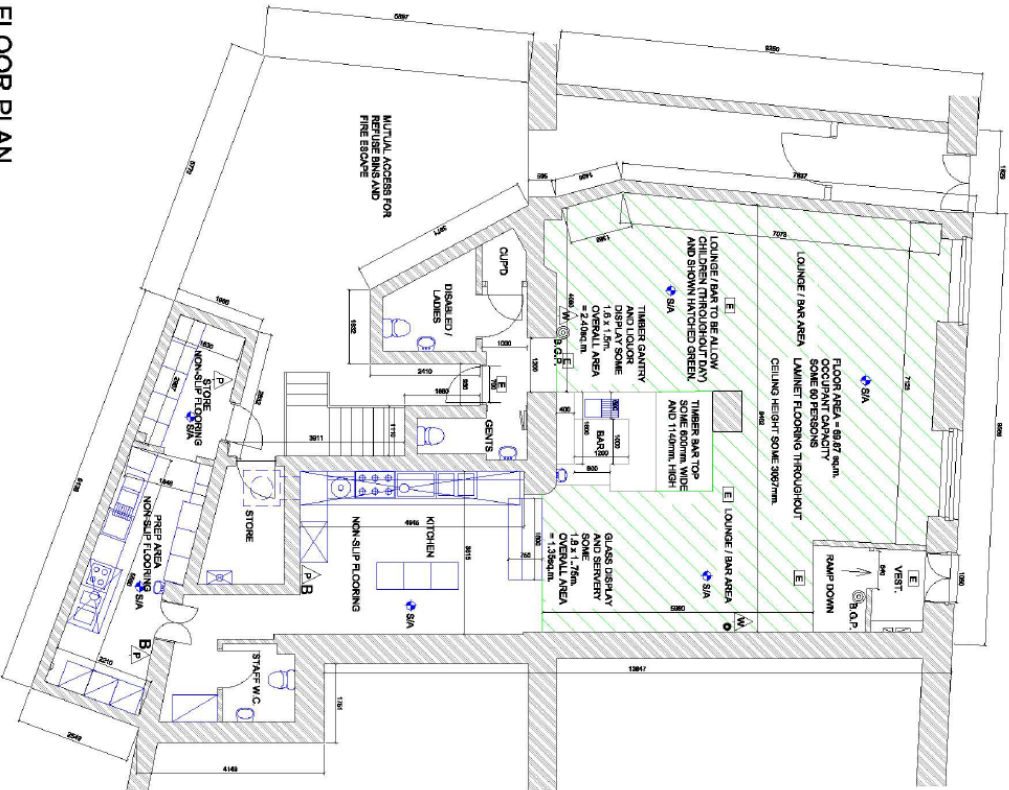
No alcohol to be provided outwith core hours.

5. Children and young persons:-

- (a) To be allowed entry to the premises in accordance with the terms of the local conditions relating to children and young persons.
- (b) Ages - 0 to 17 Years
- (c) To be permitted entry for the purpose of consuming a meal or snack from opening time until 1 hour after cessation of serving food in the group consuming the meal of which the child or young person forms part and during core hours.
- (d) To be permitted access to all public parts of the premises

6. Capacity - 70

FLOOR PLAN



KEY	
E	EMERGENCY LIGHT
B.G.P.	BREAK GLASS POINT
M	FIRE EXTINGUISHER WATER (9 LITRE)
P	FIRE EXTINGUISHER POWDER (2 KG)
B	FIRE BLANKET

PLAN PREPARED BY:
 CIVIL ENGINEER
 CIVIL DESIGN & BUILD

ACTIVITY	YES/NO	PUBLIC BAR RESTAURANT
ACCOMMODATION	NO	
CONFERENCE FACILITIES	NO	
RESTAURANT	NO	
BAR MEALS	YES	✓
RECEPTIONS	NO	
CLUB MEETINGS	NO	
RECORDED MUSIC	NO	
LIVE PERFORMANCES	NO	
DANCE FACILITIES	NO	
THEATRE / FILMS	NO	
GAMING	NO	
INDOOR / OUTDOOR SPORTS	NO	
TELEVIEWED SPORTS	NO	
OUTDOOR DRINKING	NO	
ADULT ENTERTAINMENT	NO	
CHILDREN	YES	✓
OTHER ACTIVITIES	YES	✓



M Design & Build

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 civil7@dmjll.com

THE
 Lounge Bar Layout at
 Grill 21
 Mediterranean Bar
 258 High Street
 Arbroath

CLIENT
 Mr S. Gull

DESCRIPTION
 Floor and Location Plan

DRAWING TYPE
 License Drawing 1

DRAWN BY
 L1 / SGHS1 / 19

SCALE
 1 - 100 / 1 - 1250

DATE
 February 2019