

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 31 OCTOBER 2019

LATE HOURS CATERING LICENCE EXEMPTION APPLICATION

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this Report is to present an application requesting an exemption from the requirement to obtain a late hours catering licence for a particular occasion which requires to be determined by the Committee.

1. RECOMMENDATION

It is recommended that the Committee

- (i) accept the letter received from Gosschalks Solicitors, on behalf of their client Wm Morrison Supermarkets PLC, dated 25 September 2019 received 30 September 2019, as an application for exemption from the requirement to hold a late hours catering licence;
- (ii) grant the application to Wm Morrison Supermarkets Plc for exemption from the requirement to hold a late hours catering licence for Morrisons Daily Petrol Filling Station, Arbroath, between 2300 and 0030 on both Saturday 21 December 2019 and Monday 23 December 2019; and
- (iii) impose the Angus Council late hours catering conditions, under deletion of the word "licence holder" and insertion of the word "applicant" applicable to late hours catering licences attached at **Appendix 2** .

2. REPORT

- 2.1 A Late Hours Catering Licence is required for the use of premises between the hours of 2300 and 0500 for the sale to, or consumption by, the public of food in accordance with section 42(1) of the Civic Government(Scotland) Act 1982 ("1982 Act").
- 2.2 The Council has received an application under section 42(5)(a) of the 1982 Act for an exemption from the requirement to hold a late hours catering licence for a particular occasion, namely, Christmas, due to increased festive demand at the Petrol Filling Station between 2300 and 0030 on both Saturday 21 December 2019 and Monday 23 December 2019 . A copy of the letter which was submitted as an application for exemption is attached at **Appendix 1**. An exemption from the requirement to hold a late hours catering licence is permitted under section 42(5) of the 1982 Act in respect of any particular occasion or during a specified period not exceeding 2 months in any period for 12 months upon application to the local authority.
- 2.3 Angus Council has no prescribed application form or fee which requires to be completed or paid for this kind of application. The applicant has applied in writing through their solicitor and has requested that this letter be treated as their application for exemption.
- 2.4 In terms of the Angus Council Standing Orders there is no delegated authority for the Director of Legal and Democratic Services to grant this kind of exemption. Accordingly, this application requires to be determined by the Committee.

- 2.5 If the Committee are minded to grant the exemption application, they are able to impose conditions on the applicant in terms of section 42(6) of the 1982 Act which would apply throughout the exemption period specified.
- 2.6 The Committee has previously approved standard conditions which are routinely applied to late hours catering licences and it is recommended that the said conditions may be appropriate to apply in these circumstances. The conditions would apply throughout the exemption period. A copy of the said conditions is attached to the report at **Appendix 2**.

3. HUMAN RIGHTS

In dealing with the application the Committee will have regard to any human rights issues in relation to the applicant.

4. NOTIFICATION

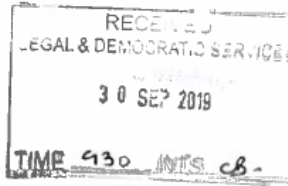
The applicant has been notified of the terms of this report. They have also been advised of their entitlement to attend the meeting should they wish.

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GOSSCHALKS
SOLICITORS

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Please ask for: Clare Johnson
Direct Tel: 01482 590243
Email: mcj@gosschalks.co.uk
Our ref: MCJ / VHT / 109500.10000
#GS2801199
Your ref:
Date: 25 September 2019

Dear Sir/Madam,

Re: Morrisons Daily Petrol Filling Station, Hume Street, Arbroath, D11 1UH
Application for Exemption for Requirement of a Late Hours Catering Licence
Section 42(5) Civic Government (Scotland) Act 1982
Saturday 21 December 2019 and Monday 23 December 2019

We act for Wm Morrison Supermarkets PLC who operate this petrol filling station which features a convenience store element that sells food.

Our client company is seeking to open this petrol filling station from 0530 to 0030 on Saturday 21 December 2019 and Monday 23 December 2019.

We would be grateful if you would accept this letter as an application for exemption from the need to hold a Late Hours Catering Licence for those dates under Section 42(5) Civic Government (Scotland) Act 1982.

If you require a formal application or fee then please do not hesitate to contact us.

We look forward to hearing from you.

Yours faithfully



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A list of partners is available for inspection at the above address.
This firm is authorised and regulated by the Solicitors Regulation Authority under number 61213



ANGUS COUNCIL

CONDITIONS APPLICABLE TO LATE HOURS CATERING LICENCES

1. The licence holder shall be permitted to trade in or from the premises named in the licence and no other premises.
2. The licence holder shall be permitted to trade during the hours specified in the licence for the sale of food.
3. The licence holder shall provide a litter receptacle within the premises and shall also provide such receptacles within a reasonable distance outwith the premises for the use of customers. The licence holder shall also ensure that litter from the licensed premises which has accumulated within a reasonable distance outwith the premises shall be cleared up after the close of licensing hours specified on the licence to which these conditions relate.
4. The licence holder shall store goods to be used in connection with his catering only in premises approved by the licensing authority from time to time.
5. The licence holder shall provide and maintain in proper working order equipment necessary for the proper cleaning and sterilising of all utensils and vessels used in connection therewith and comply at all times with the Food Safety Act 1990 and any regulations made thereunder.
6. The licence holder shall comply with any instruction given by any Constable for the prevention of annoyance to the public or to the occupiers of any premises or in connection with any emergency or disturbance (including an order or instruction to close the premises for a limited period) or on any occasion when such Constable in his discretion may consider it necessary in the public interest to give such order or instruction.
7. The licence holder shall not in any way alter, erase or deface his licence.
8. Any trader who ceases to act as such for the unexpired period of his licence or whose licence has been suspended by the licensing authority has expired shall, within seven days thereafter, deliver his licence to the Director of Legal and Democratic Services, Angus Council, Forfar.
9. The licensing authority may, at any time, vary the terms of a licence on any grounds which they consider reasonable. Notice will be given to the licence holder at least seven days before any proposed variation is considered. The licence holder will be given an opportunity to be heard before any variation is made.
10. The licensing authority may order the suspension of a licence if in their opinion:
 - (a) the holder of the licence or, where the holder is not a natural person, any director of it or partner in it or any other person responsible for its management, is not or is no longer a fit and proper person to hold the licence;
 - (b) the activity to which the licence relates is being managed by or carried on for the benefit of a person, other than the licenceholder, who would have been refused the grant or renewal of the licence under paragraph 5 (3) of Schedule 1 of the Civic Government (Scotland) Act 1982;
 - (c) the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
 - (d) a condition of the licence has been contravened.

These are the conditions referred to in licence No **X** issued to **XXXXXXXXXX XXXX**, in respect of premises at **XXXXXXXXXXXXXXXXXXXXXX** of even date herewith.

Date: **XXXXXXXXXX**

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Authorised Signatory