

AGENDA ITEM 4

REPORT NO LB38/21

ANGUS LICENSING BOARD – 16 SEPTEMBER 2021

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 three applications for a new provisional premises licence under the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine the applications 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 three applications for a new provisional premises licence under the Licensing (Scotland) Act 2005 which require to be determined by the Board because the matters are not subject to delegation and shall only be discharged by the Licensing Board. The Board should note that two of the applications are for petrol filling stations and information regards them being a category of excluded premises is noted below in the applicable Appendices under the heading "For Board Consideration".

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)

REPORT AUTHOR: Nannette Page, Team Leader

E-MAIL: LAWLicensing@angus.gov.uk

**APPENDIX TO REPORT LB38/21
ANGUS LICENSING BOARD – 16 SEPTEMBER 2021**

- (a) **PETROL FILLING STATION & CONVENIENCE STORE, BRIDGE STREET, MONTROSE, DD10 8AJ**

Name and Address of Applicant

T G Convenience Stores Limited, 3C Twyford Court, High Street, Dunmow, CM6 1AE

Type of Licence: Provisional Premises Licence - Off Sales

1. Description of Premises

Petrol filling station and convenience store

2. Core times

Monday to Sunday 10.00 to 22.00

3. Activities to be provided

None

Additional Information provided

This is a petrol filling station with convenience store and will be selling a mixed range of products with ancillary services tailored to meet customer demand. The store will feature an off-sales area (as shown on the layout plans), which will include chiller cabinets as appropriate.

An ATM machine may be provided for access by the public.

The store will also undertake such other activities as would traditionally be associated with a supermarket operation, as well as a petrol filling station.

It is intended that the premises will be open Monday to Friday 06.00 to 22.00, Saturday and Sunday 07.30 to 22.00 but opening and closing hours may fluctuate depending upon customer demand.

Market research data for this site has been submitted by the Applicant's Agents, Shepherd and Wedderburn Solicitors, and is attached.

4. Capacity

20.375m²

For Board Consideration: -

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).

Client Details
 SCN - MONTROSE
 SHELL GARAGE
 125 BRIDGE STREET
 MONTROSE
 SCOTLAND
 DD10 8AJ

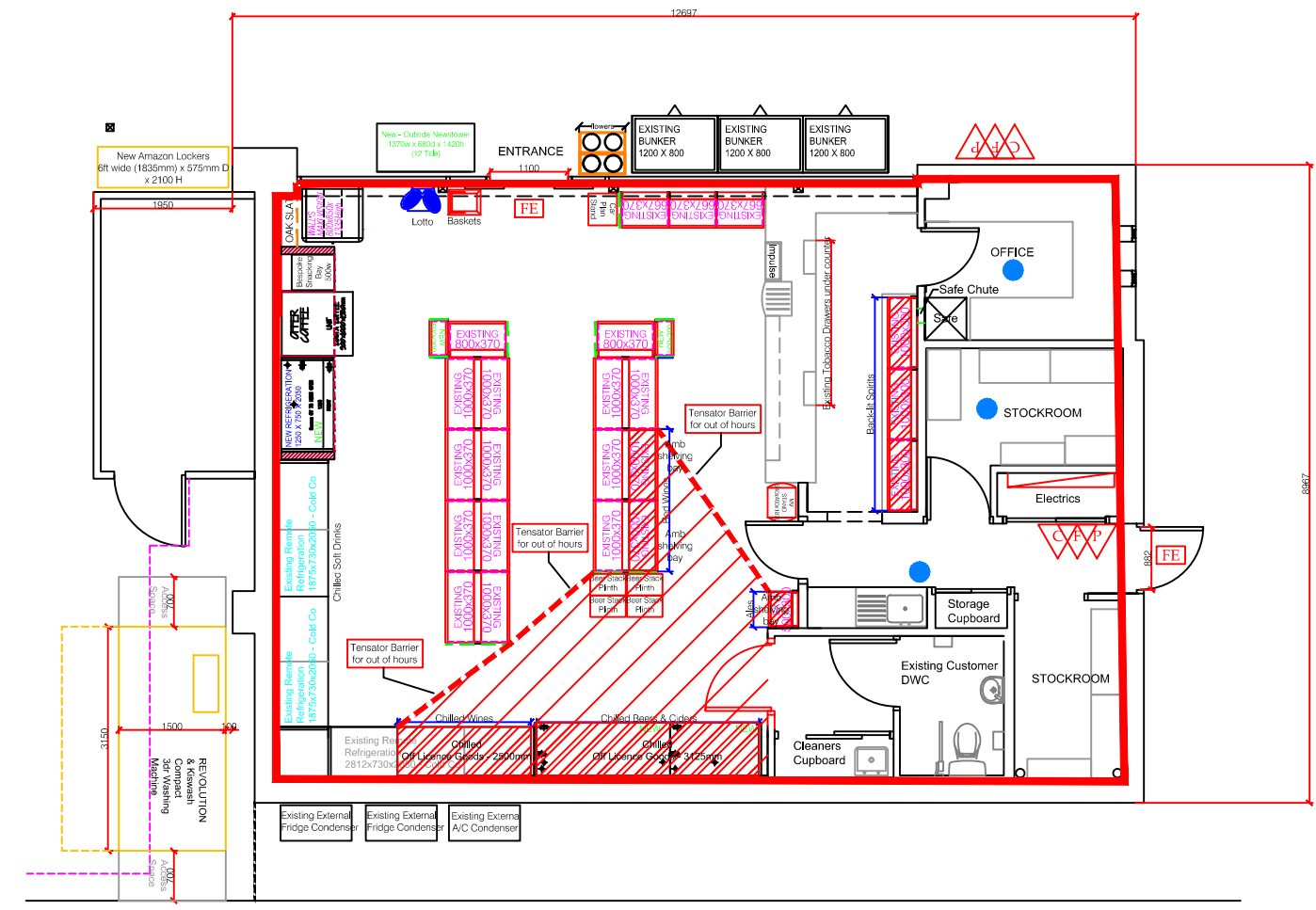
Notes

Drawing N° Proposed with Off Licence
Revision C
Date 14.12.20
Scale 1:100 @ A3 - (PDF)
Drawn By
Acceptance Signature

PROPOSED PLAN

With Off Licence.

BRIDGE STREET



ALCOHOL DISPLAY AREA

DISPLAY FRONTAGE - AREA ACCESSIBLE TO PUBLIC :-
 Chilled Cases Length = 5.625 M
 Chilled Case Height = 1.8 M
 Wall Shelving Length = 0.5 M
 Wall Shelving Height = 1.9M
 Gondola Shelving Length = 2 M
 Gondola Shelving Height = 1.5 M
 Beer Stack Plinths Length = 2 M
 Beer Stack Plinth Height = 1.5 M

ALCOHOL SHOP FLOOR AREA

CAPACITY (Accessible)=
 17.075 m2 of Total BWS area on Sales Floor.

DISPLAY FRONTAGE - AREA INACCESSIBLE TO PUBLIC :-
 Wall Shelving Length = 3 M
 Wall Shelving Height = 1.1 M

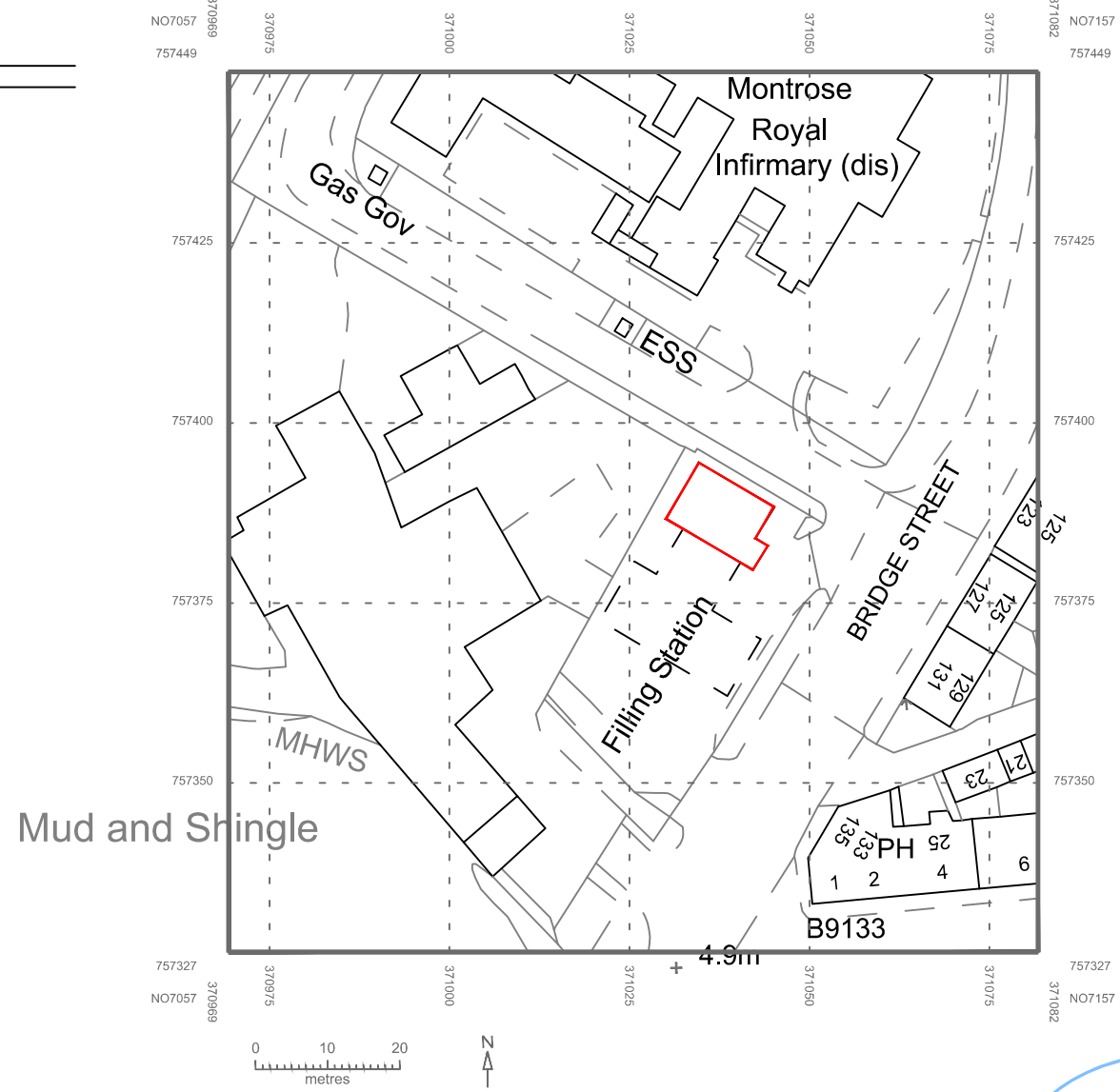
CAPACITY (Inaccessible) =
 3.3 m2 of Total BWS on Sales Floor.

TOTAL CAPACITY = 20.375 m2 of BWS on Sales Floor

--- TENSATOR BARRIERS FOR OUT OF HOURS

— LICENSED EXTENT LINE

- EXISTING SMOKE DETECTOR
- △ C EXISTING CO2 EXTINGUISHER
- △ P EXISTING DRY POWDER EXTINGUISHER
- △ F EXISTING FOAM EXTINGUISHER
- FE EXISTING FIRE EXIT NOTICE



TG Convenience Stores Limited
Petrol Filling Station, Bridge Street, Montrose

**Customer Profiling, Market Research Data, and
Analysis**

Licensing Board on 16 September 2021

Research undertaken by NEMS market research, 22-23 Manor Way, Billingham



SHEPHERD+ WEDDERBURN





SHEPHERD+ WEDDERBURN

Application for Premises Licence in terms of the Licensing (Scotland) Act 2005

Petrol Filling Station, Bridge Street, Montrose, DD10 8AJ

Customer Profiling and Market Research

1. Executive Summary

TG Convenience Stores Limited (“**TG**”) has submitted an application to the Angus Licensing Board (“**the Board**”) in relation to a convenience store which is the Petrol Filling Station (branded as a Shell Petrol Station) on Bridge Street, Montrose (“**the Premises**”). TG commenced operations from the Premises on 1 October 2020. TG and its parent company, SGN Retail Limited, are already the holders of premises licences in respect of other petrol filling stations in Scotland.

These Premises are also to be used as a garage within the meaning of section 123(4)(a) of the Licensing (Scotland) Act 2005 (“**the Act**”).

As such, the Premises may be considered “excluded premises” within the meaning of section 123(2)(b) of the Act.

However, in accordance with section 123(5) of the Act, and the decision of the Inner House of the Court of Session in *BP Oil (UK) Limited v The City of Edinburgh Licensing Board and The City of Glasgow Licensing Board* [2011] CSIH 29, a premises licence application of this type may still be granted by the Board.

In order to do so, the applicant requires to demonstrate that premises used for the sale by retail of petrol or derv, or which form part of premises so used, are not 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.

The Court of Session has interpreted section 123(5) of the Act as envisaging that there is a recognisable number of persons in the locality who, as a matter of their purchasing habits, see and treat the Premises as the principal source from which they might, in the ordinary course, obtain either groceries or fuel and who would properly consider themselves materially disadvantaged or inconvenienced were the retail facilities not provided from the Premises.

This document has been prepared in order to demonstrate that the requirements of the legislative test have been met for this application.

The methodology for the market research undertaken can be found at Section 3.

The analysis of the market research can be found at Section 4.

The conclusions can be found at Section 5.

The demographics of the market research can be found at Section 6.

2. TG Convenience Stores Limited

TG is an independently owned petrol forecourt and standalone convenience store operator trading across the UK. It is a subsidiary company of SGN Retail Limited ("**SGN**").

TG (and SGN) has three directors and one company secretary. Two of the directors, Graham Peacock and Susan Tobbell, were formerly directors (and the original founding directors) of MRH Limited, a company that owned multiple forecourts across the country. MRH Limited was sold in 2016.

SGN was founded in October 2016. TG was then incorporated in January 2017 by Graham and Susan, with the intention to take the founders' 25 years of petrol forecourt experience into the petrol filling station (PFS) market.

The starting point for SGN was entering the convenience store market, and thereafter entering the PFS sector with a Commission Operated and Direct Managed model. SGN is the parent company with two wholly owned subsidiary companies, TG and Global Fuel (UK) Ltd

At present, the Group now owns 74 sites across Scotland, England and Wales with multiple brand partners such as Jet, Esso, BP, Texaco, Shell, Costa, Ginsters, Subway, Best One, Costcutter, Nisa and Co-op.

In addition to the founding directors, Paul Courtney (as Commercial Director) leads the Commercial and Operations side of the business and Matt Copland (also ex-MRH) leads the Head Office team in Essex.

At management level, SGN and TG has a wealth of experience from the PFS and retail sectors with Ricardo Teresa and Saul Pullan as Operations Managers, together with Steve Turpin, Maneesh Sharma, Stuart Neil and Chris Wallace as Area Managers. The Operations Managers and Area Managers seek to lead by example in ensuring regulatory compliance across all aspects of the company's operations.

71 of the 74 sites have Premises Licences. Trish Bojczuk, as Central Operations Manager, together with 5 Field Staff, have day-to-day management and control over compliance with licensing legislation. In particular, Trish exercises strict control over initial induction training and quarterly refresher training for all staff in relation to the sale of age restricted goods. All staff must undertake induction and refresher training (the pass mark is 80%) before receiving sign-off to be permitted to authorise the sale of alcohol. These tests and documents are collated by Trish on a quarterly basis and held in central site files.

Monitoring and regular audits are also held at all sites to ensure that any and all restrictions and conditions contained in the individual Premises Licences are strictly adhered to at all times.

TG operates a strict Challenge 25 system, in accordance with Group policy. A daily Due Diligence book incorporates a Refusals Register and Incident and Accident report forms. All Incident and Accident reports are emailed immediately to Trish for action and the Refusals Register is inspected by the Field Staff on a fortnightly basis to ensure each store is compliant.

The Premises Licences are displayed in full view of the customer together with all statutory signage, which again is inspected by the Field Staff on a fortnightly basis ensuring legal compliance.

TG considers that the grant of an off-sales licence is both a privilege and a responsibility, and it is one which it takes very seriously. Its excellent compliance record speaks for itself. TG welcomes that its customers have the freedom to choose what they would like to purchase, and that includes age-restricted products. However, TG demonstrates a sustained commitment to upholding the licensing objectives, in striving on a daily basis to ensure compliance with the statutory requirements imposed by the 2005 Act, and in the level of training which it provides to staff.

3. Methodology

In order to demonstrate that persons resident in the locality of the Premises are, or are likely to become, reliant to a significant extent on the Premises as the principal source of petrol/derv or groceries, market research was undertaken on behalf of TG.

The following report sets out data obtained from a customer profiling and market research exercise undertaken between 18 December 2020 and 13 January 2021 (inclusive).

At the time the interviews were undertaken, the Premises were trading under the control of TG (with the petrol station element being branded as a Shell).

The Applicant took possession of the Premises (opening as a convenience store and petrol station) on 1 October 2020.

A research exercise was carried out **by telephone interview** in order to obtain data regarding the purchasing habits of persons resident in the locality of the proposed Premises.

200 structured telephone interviews were carried out in order to obtain a representative sample of persons resident in the locality and who may see and treat the Premises as the principal source from which they might, in the ordinary course, obtain either groceries or fuel and who would properly consider themselves to be materially disadvantaged or inconvenienced were such retail facilities not provided from the Premises.

It is submitted that this is well above a *de minimis* number and is a proportionate sample of the local population to permit reliable conclusions to be drawn concerning the section 123 test.

Persons resident in the locality were selected for telephone interview on the basis of postcode. In this way, it was possible to identify persons resident within the locality who were prepared to assist with the market research on the following basis:-

- a) **7 persons resident** within 250m of the Premises;
- b) **17 persons resident** between 251m and 500m from the Premises;
- c) **29 persons resident** between 501m and 750m from the Premises;
- d) **56 persons resident** between 751m and 1km from the Premises;
- e) **60 persons resident** between 1km and 1.25km from the Premises;
- f) **18 persons resident** between 1.25km and 1.5km from the Premises;
- g) **11 persons resident** between 1.5km and 1.75km from the Premises; and
- h) **2 persons resident** between 1.75km and 2km from the Premises.

In order to obtain 200 respondents, the market research extended to 2 kilometres from the Premises.

A structured questionnaire was then completed during the telephone interview. The questionnaire sought to identify whether the persons selected for interview, as a matter of their purchasing habits, purchased in the ordinary course fuel and / or groceries from the Premises.

Thereafter, the questionnaire sought to determine whether the persons selected for interview were reliant on the Premises as the principal or main source of fuel and / or groceries, and whether the persons would become materially disadvantaged or inconvenienced by retail facilities not being provided from the site.

The locality, for the purposes of section 123 of the Act, is defined as 1 kilometre from the Premises.

The application is presented on the basis that persons resident in the locality were reliant on the Premises as the principal or main source of fuel.

4. Analysis of Results – Fuel

i) Purchasing habits

The questionnaire first asked the question:

Q1: Firstly, do you ever purchase fuel from the Shell Petrol station Bridge Street, Montrose? (200 responses)

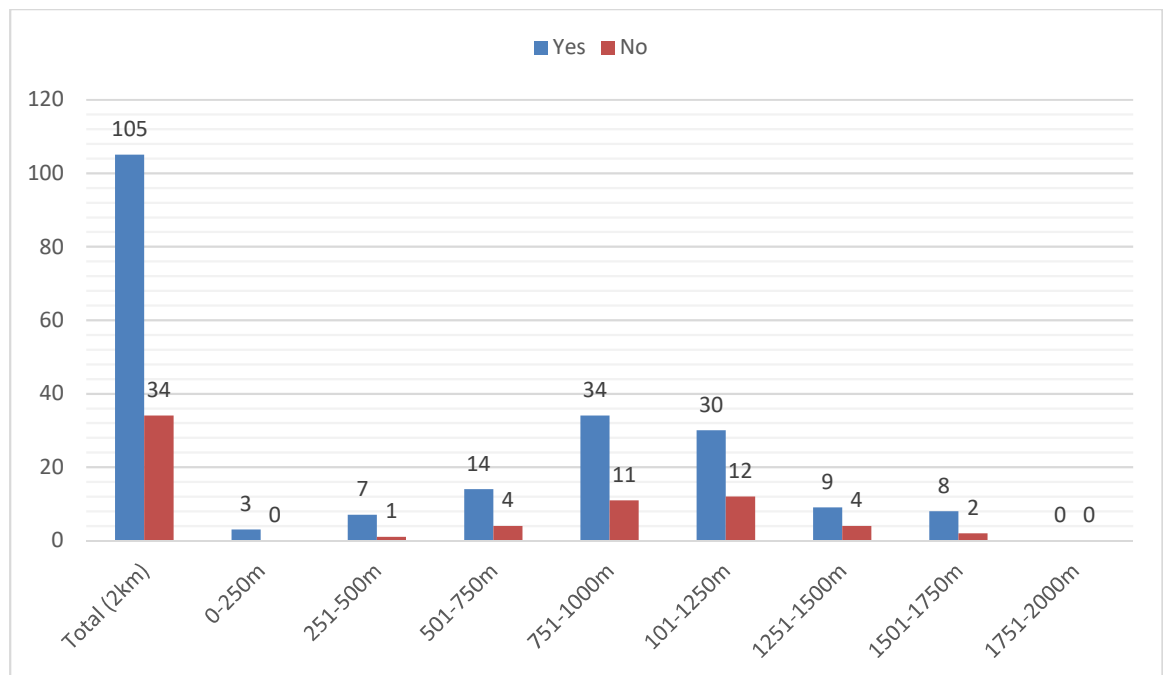
Of the 200 people who completed the questionnaire, 85 people (42.5%) said that they regularly purchased fuel from the PFS on Bridge Street, 54 people (27%) said that they sometimes purchased fuel from the PFS on Bridge Street, 12 people (6%) said that that they did not (and purchased fuel elsewhere), whilst 49 people (24.5%) never bought fuel as they did not own a vehicle.

ii) Principal or Main Source of Fuel

Q3: Do you consider this to be your principal or main source of fuel? (139 responses)

Of those individuals (139) who said that they purchased fuel from the petrol station, 105 people (75.5%) stated that they considered the site to be **their principal or main source of fuel**.

That data can be broken down on a locality basis as follows:-



iii) Reliance

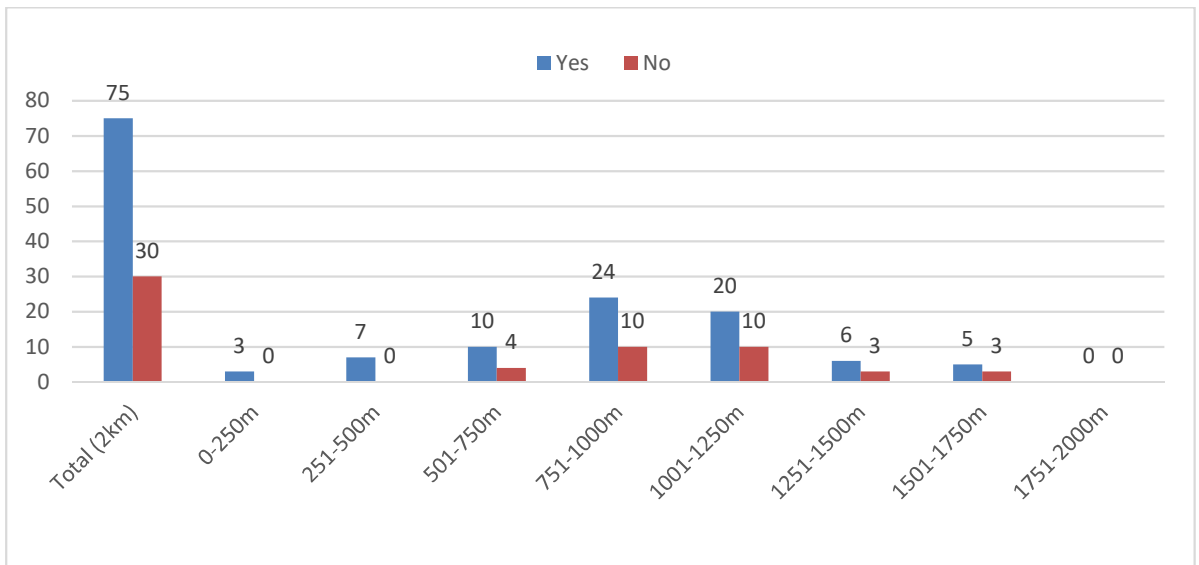
The 105 individuals who said that they considered the petrol station to be their principal or main source of fuel were also asked how reliant they were on the petrol station as their principal or main source of fuel.

The individuals were asked:

Q4: Would you say you are reliant on this petrol station as being your principal or main source of fuel? (105 responses)

YES 75 (71.4%) NO 30 (28.6%)

The data can be broken down on a locality basis as follows:



iv) Materially disadvantaged or inconvenienced

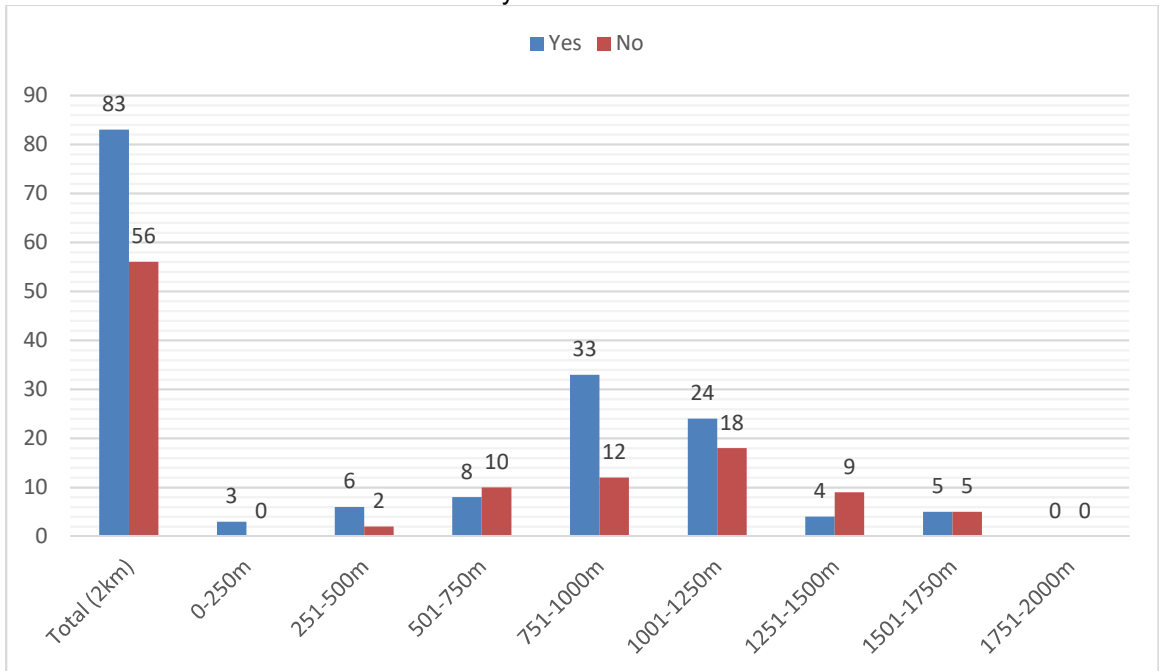
The 139 individuals who said that they purchased fuel from the petrol station were also asked to consider the issue of “materially disadvantaged or inconvenienced”.

The individuals were asked:

Q5: If this petrol station was to close, would you become materially inconvenienced or disadvantaged by having to go elsewhere to purchase fuel? (139 responses)

YES 83 (59.7%) NO 56 (40.3%)

That data can be broken down on a locality basis as follows:-



5. Conclusions

As a result of the analysis of the market research data, it is submitted that 200 telephone interviews of individuals resident within the locality of the Premises, and of which 109 individuals are resident within 1 kilometre of the Premises, demonstrates a sufficient and adequate representative sample of persons resident within the locality and who purchased petrol/derv and/or groceries from the Premises.

The resulting data and percentage figures do not constitute the totality of customers who are likely to purchase fuel and/or goods from the Applicant's Premises. Rather, the market research discloses a proportion of persons resident in the locality.

It is submitted that the resulting conclusions:

- 58 persons resident within 1 kilometre of the Premises considered the petrol station to be their principal or main source of fuel;
- 44 persons resident within 1 kilometre of the Premises considered themselves as being reliant on the petrol station as being their principal or main source of fuel;
- 50 persons resident within 1 kilometre of the Premises considered that if the petrol station was to close they would become materially inconvenienced or disadvantaged by having to go elsewhere to purchase fuel.

should be considered as being in excess of any *de minimis* figure, and certainly more than "just a handful" of residents in the locality (*BP Oil (UK) Limited v The City of Edinburgh Licensing Board and The City of Glasgow Licensing Board*).

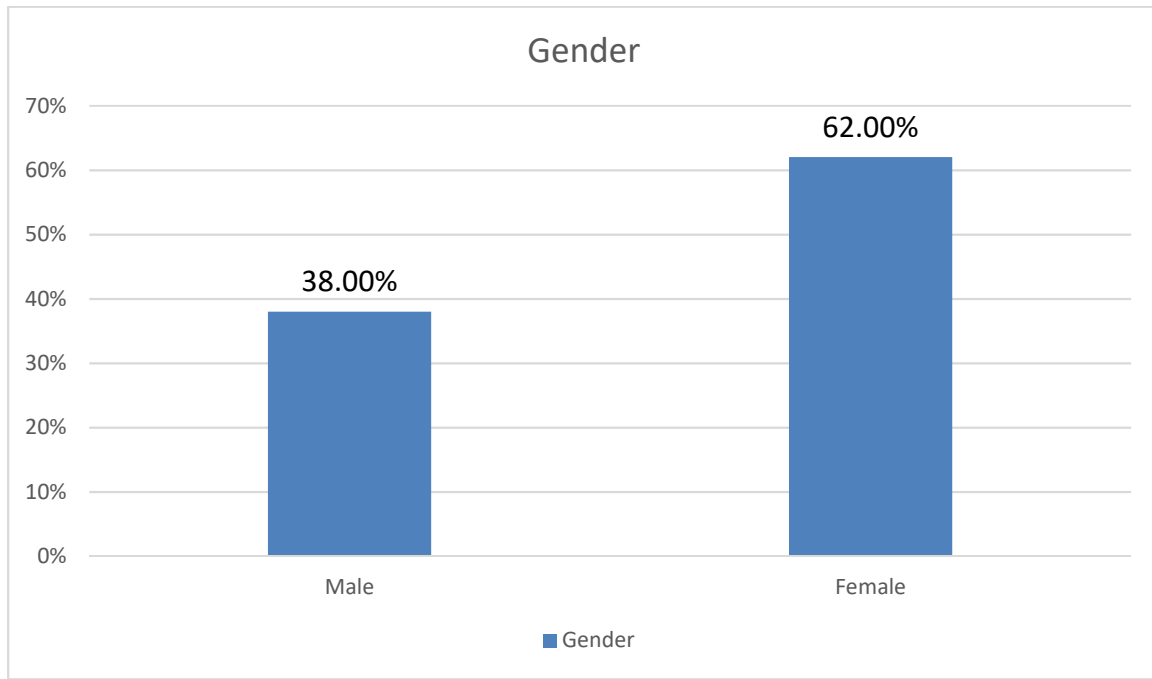
As such, the Board is invited to draw the conclusion that the market research discloses sufficient information to support the assertion that there is:

- a recognisable number of persons in the locality who, as a matter of their purchasing habits, see and treat the Premises as the principal source from which they might, in the ordinary course, obtain fuel; and
- who would properly consider themselves materially disadvantaged or inconvenienced were the petrol facilities not provided from the Premises.

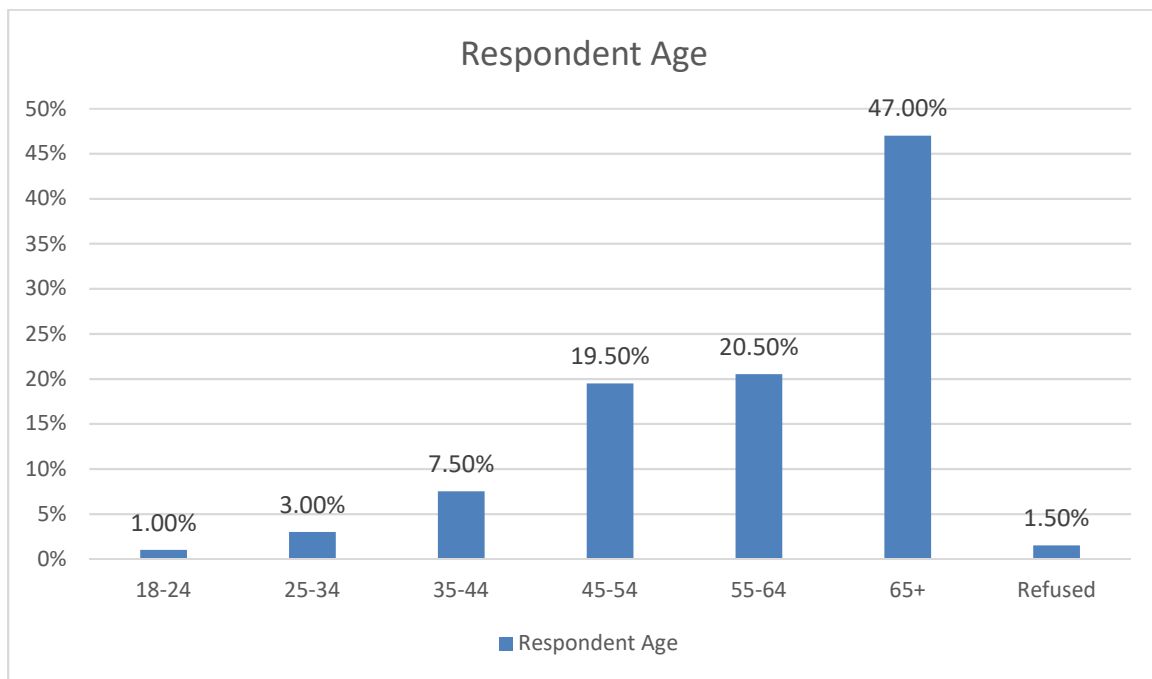
The Board is invited to conclude that the requirements of the legislative test have been met for this application.

6. Additional Data - Demographics

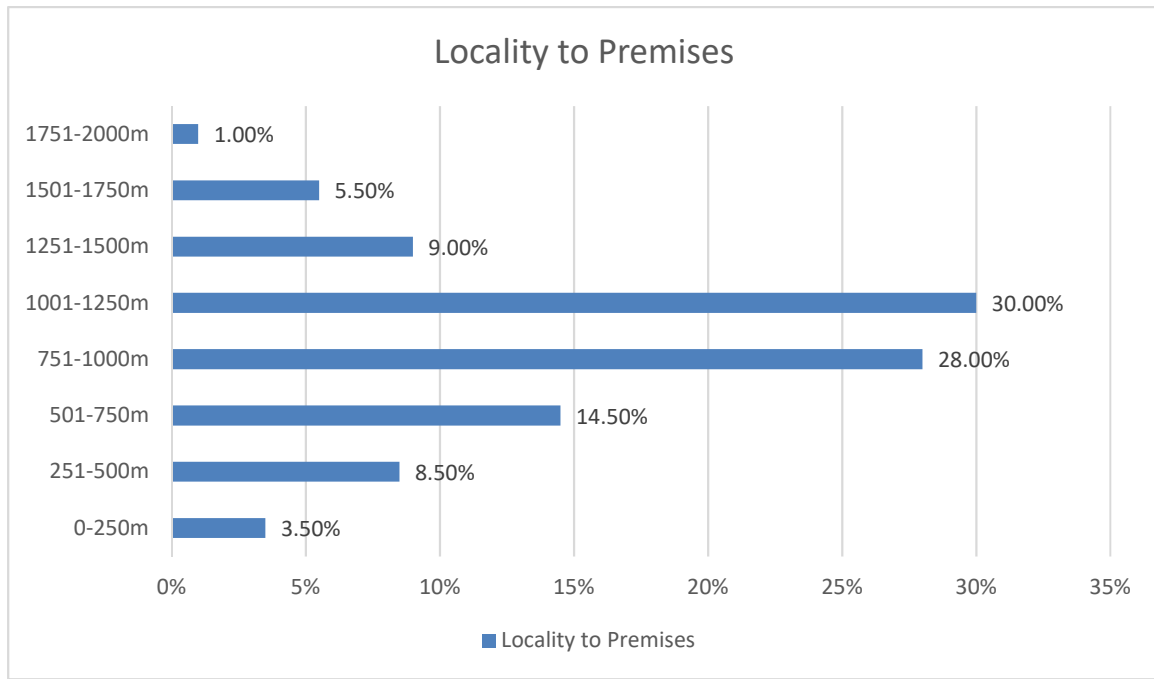
GENDER



AGE OF INTERVIEWEES



LOCALITY TO PREMISES



Shepherd and Wedderburn LLP

8 September 2021

**APPENDIX TO REPORT LB38/21
ANGUS LICENSING BOARD – 16 SEPTEMBER 2021**

- (b) **PETROL FILLING STATION & CONVENIENCE STORE, CAIRNIE STREET, ARBROATH, DD11 3DZ**

Names and Address of Applicant

T G Convenience Stores Limited, 3C Twyford Court, High Street, Dunmow, CM6 1AE

Type of Licence: Provisional Premises Licence - Off Sales

1. Description of Premises

Petrol filling station and convenience store

2. Core times

Monday to Sunday 10.00 to 22.00

3. Activities to be provided

None

Additional Information provided

This is a petrol filling station with convenience store and will be selling a mixed range of products with ancillary services tailored to meet customer demand. The store will feature an off-sales area (as shown on the layout plans), which will include chiller cabinets as appropriate.

An ATM machine may be provided for access by the public.

The store will also undertake such other activities as would traditionally be associated with a supermarket operation, as well as a petrol filling station.

It is intended that the premises will be open Monday to Friday 06.00 to 22.00, Saturday and Sunday 07.30 to 22.00 but opening and closing hours may fluctuate depending upon customer demand.

Market research data for this site has been submitted by the Applicant's Agents, Shepherd and Wedderburn, which is attached.

4. Capacity

14.04m²

For Board Consideration: -

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 :-

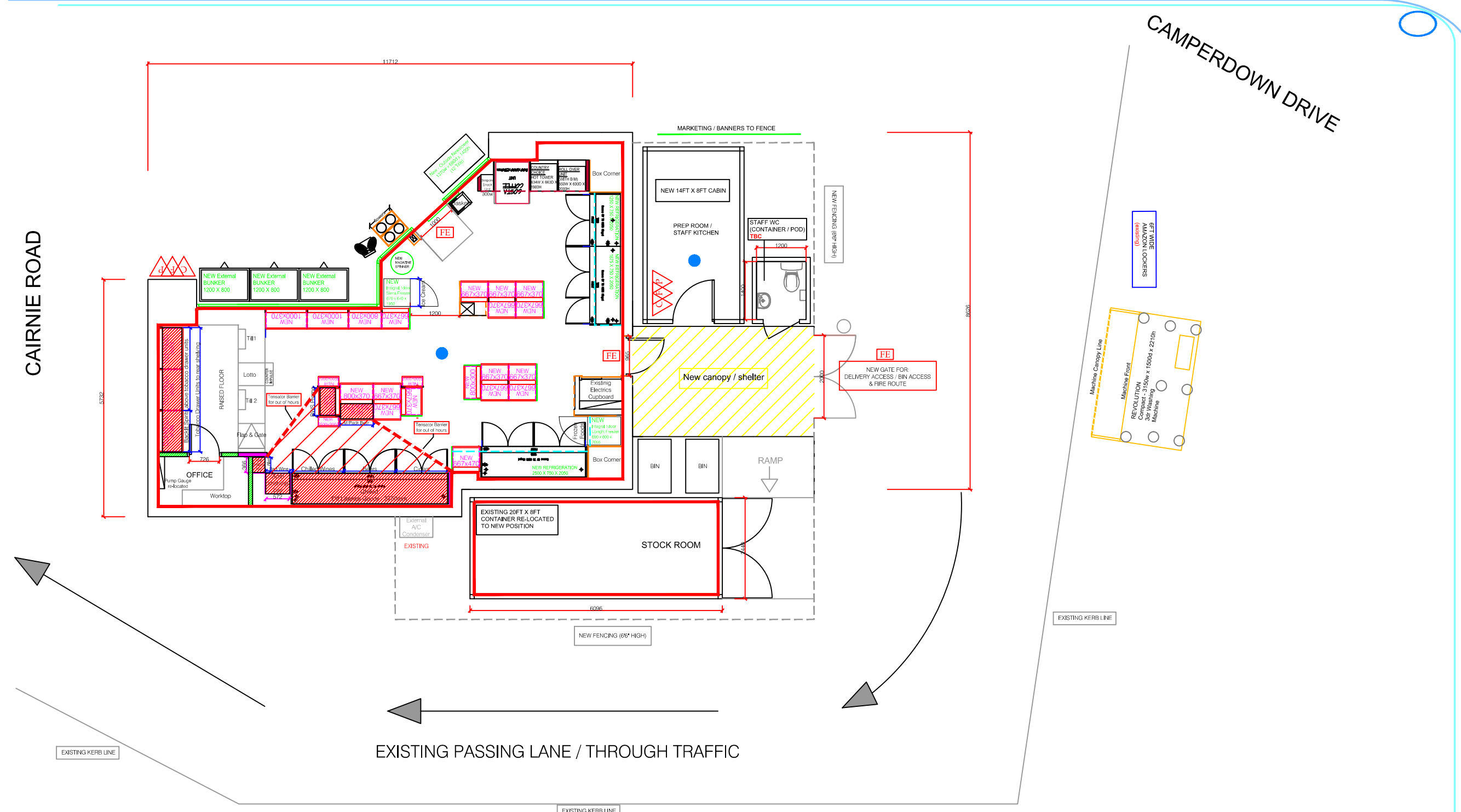
- (a) petrol or derv; or
- (b) groceries (where the premises are, or are to be, used also for sale by retail of groceries).

Client Details SCN - ARBROATH
 SHELL GARAGE
 CAIRNIE ROAD
 ARBROATH
 SCOATLAND
 DD11 3DZ

Notes

Drawing N° Proposed with Off Licence
Revision E
Date 28.04.21
Scale 1:100 @ A3 - (PDF)
Drawn By
Acceptance Signature

PROPOSED PLAN
With Off Licence.



	ALCOHOL DISPLAY AREA	DISPLAY FRONTAGE - AREA ACCESSIBLE TO PUBLIC :- Chilled Cases Length = 3.75 M Chilled Case Height = 1.8 M Wall Shelving Length = 0.94 M Wall Shelving Height = 1.9M Gondola Shelving Length = 1.47 M Gondola Shelving Height = 1.5 M
	ALCOHOL SHOP FLOOR AREA	CAPACITY (Accessible)= 10.74 m2 of Total BWS area on Sales Floor. DISPLAY FRONTAGE - AREA INACCESSIBLE TO PUBLIC :- Wall Shelving Length = 3 M Wall Shelving Height = 1.1 M CAPACITY (Inaccessible) = 3.3 m2 of Total BWS on Sales Floor. TOTAL CAPACITY = 14.04 m2 of BWS on Sales Floor

	TENSATOR BARRIERS FOR OUT OF HOURS
	LICENSED EXTENT LINE
	NEW SMOKE DETECTOR
	EXISTING CO2 EXTINGUISHER
	EXISTING DRY POWDER EXTINGUISHER
	EXISTING FOAM EXTINGUISHER
	EXISTING FIRE EXIT NOTICE



TG Convenience Stores Limited
Petrol Filling Station, Cairnie Road, Arbroath

**Customer Profiling, Market Research Data, and
Analysis**

Licensing Board on 16 September 2021

Research undertaken by NEMS market research, 22-23 Manor Way, Billingham



SHEPHERD+ WEDDERBURN





SHEPHERD+ WEDDERBURN

Application for Premises Licence in terms of the Licensing (Scotland) Act 2005

Petrol Filling Station, Cairnie Road, Arbroath, DD11 3DZ

Customer Profiling and Market Research

1. Executive Summary

TG Convenience Stores Limited (“**TG**”) has submitted an application to the Angus Licensing Board (“**the Board**”) in relation to a convenience store which is the Petrol Filling Station (branded as a Shell Petrol Station) on Cairnie Road, Arbroath (“**the Premises**”). TG commenced operations from the Premises on 29 September 2020. TG and its parent company, SGN Retail Limited, are already the holders of premises licences in respect of other petrol filling stations in Scotland.

These Premises are also to be used as a garage within the meaning of section 123(4)(a) of the Licensing (Scotland) Act 2005 (“**the Act**”).

As such, the Premises may be considered “excluded premises” within the meaning of section 123(2)(b) of the Act.

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In order to do so, the applicant requires to demonstrate that premises used for the sale by retail of petrol or derv, or which form part of premises so used, are not 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.

The Court of Session has interpreted section 123(5) of the Act as envisaging that there is a recognisable number of persons in the locality who, as a matter of their purchasing habits, see and treat the Premises as the principal source from which they might, in the ordinary course, obtain either groceries or fuel and who would properly consider themselves materially disadvantaged or inconvenienced were the retail facilities not provided from the Premises.

This document has been prepared in order to demonstrate that the requirements of the legislative test have been met for this application.

The methodology for the market research undertaken can be found at Section 3.

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2. TG Convenience Stores Limited

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Monitoring and regular audits are also held at all sites to ensure that any and all restrictions and conditions contained in the individual Premises Licences are strictly adhered to at all times.

TG operates a strict Challenge 25 system, in accordance with Group policy. A daily Due Diligence book incorporates a Refusals Register and Incident and Accident report forms. All Incident and Accident reports are emailed immediately to Trish for action and the Refusals Register is inspected by the Field Staff on a fortnightly basis to ensure each store is compliant.

The Premises Licences are displayed in full view of the customer together with all statutory signage, which again is inspected by the Field Staff on a fortnightly basis ensuring legal compliance.

TG considers that the grant of an off-sales licence is both a privilege and a responsibility, and it is one which it takes very seriously. Its excellent compliance record speaks for itself. TG welcomes that its customers have the freedom to choose what they would like to purchase, and that includes age-restricted products. However, TG demonstrates a sustained commitment to upholding the licensing objectives, in striving on a daily basis to ensure compliance with the statutory requirements imposed by the 2005 Act, and in the level of training which it provides to staff.

3. Methodology

In order to demonstrate that persons resident in the locality of the Premises are, or are likely to become, reliant to a significant extent on the Premises as the principal source of petrol/derv or groceries, market research was undertaken on behalf of TG.

The following report sets out data obtained from a customer profiling and market research exercise undertaken between 18 December 2020 and 13 January 2021 (inclusive).

At the time the interviews were undertaken, the Premises were trading under the control of TG (with the petrol station element being branded as a Shell).

The Applicant took possession of the Premises (opening as a convenience store and petrol station) on 29 September 2020.

A research exercise was carried out **by telephone interview** in order to obtain data regarding the purchasing habits of persons resident in the locality of the proposed Premises.

200 structured telephone interviews were carried out in order to obtain a representative sample of persons resident in the locality and who may see and treat the Premises as the principal source from which they might, in the ordinary course, obtain either groceries or fuel and who would properly consider themselves to be materially disadvantaged or inconvenienced were such retail facilities not provided from the Premises.

It is submitted that this is well above a *de minimis* number and is a proportionate sample of the local population to permit reliable conclusions to be drawn concerning the section 123 test.

Persons resident in the locality were selected for telephone interview on the basis of postcode. In this way, it was possible to identify persons resident within the locality who were prepared to assist with the market research on the following basis:-

- a) **16 persons resident** within 250m of the Premises;
- b) **39 persons resident** between 251m and 500m from the Premises;
- c) **47 persons resident** between 501m and 750m from the Premises;
- d) **70 persons resident** between 751m and 1km from the Premises;
- e) **24 persons resident** between 1km and 1.25km from the Premises; and
- f) **4 persons resident** between 1.25km and 1.5km from the Premises.

In order to obtain 200 respondents, the market research extended to 1.5 kilometres from the Premises.

A structured questionnaire was then completed during the telephone interview. The questionnaire sought to identify whether the persons selected for interview, as a matter of their purchasing habits, purchased in the ordinary course fuel and / or groceries from the Premises.

Thereafter, the questionnaire sought to determine whether the persons selected for interview were reliant on the Premises as the principal or main source of fuel and / or groceries, and whether the persons would become materially disadvantaged or inconvenienced by retail facilities not being provided from the site.

The locality, for the purposes of section 123 of the Act, is defined as 1 kilometre from the Premises.

The application is presented on the basis that persons resident in the locality were reliant on the Premises as the principal or main source of fuel.

4. Analysis of Results – Fuel

i) Purchasing habits

The questionnaire first asked the question:

Q1: Firstly, do you ever purchase fuel from the Shell Petrol station Cairnie Road, Arbroath? (200 responses)

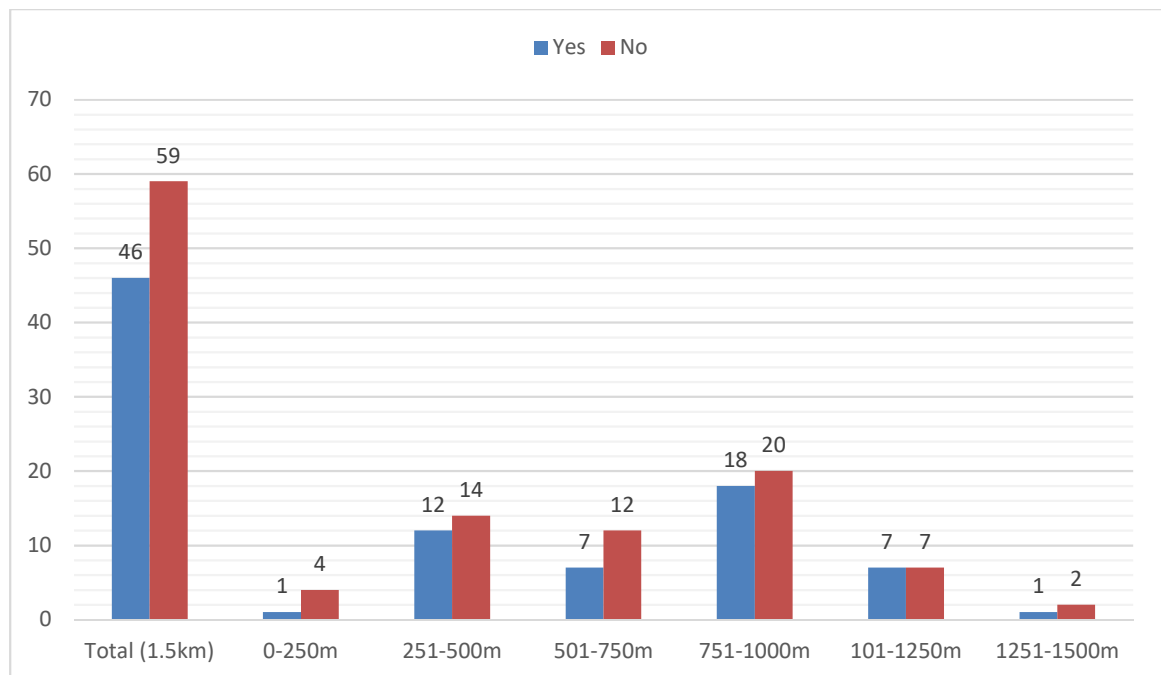
Of the 200 people who completed the questionnaire, 40 people (20%) said that they regularly purchased fuel from the PFS on Cairnie Road, 65 people (32.5%) said that they sometimes purchased fuel from the PFS on Cairnie Road, 62 people (31%) said that that they did not (and purchased fuel elsewhere), whilst 33 people (16.5%) never bought fuel as they did not own a vehicle.

ii) Principal or Main Source of Fuel

Q3: Do you consider this to be your principal or main source of fuel? (105 responses)

Of those individuals (105) who said that they purchased fuel from the petrol station, 46 people (43.8%) stated that they considered the site to be **their principal or main source of fuel**.

That data can be broken down on a locality basis as follows:-



iii) Reliance

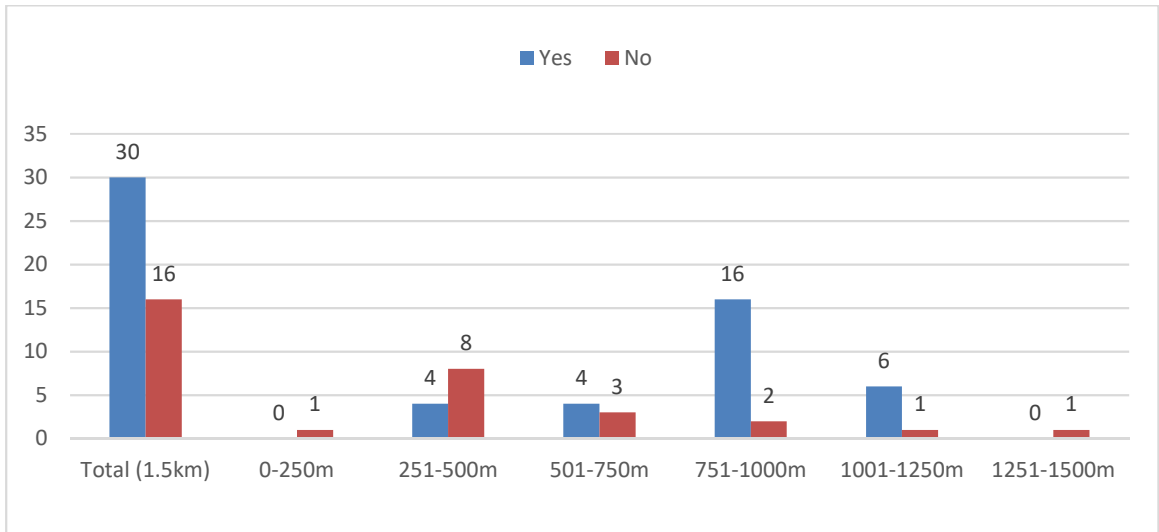
The 46 individuals who said that they considered the petrol station to be their principal or main source of fuel were also asked how reliant they were on the petrol station as their principal or main source of fuel.

The individuals were asked:

Q4: Would you say you are reliant on this petrol station as being your principal or main source of fuel? (46 responses)

YES 30 (65.2%) NO 16 (34.8%)

The data can be broken down on a locality basis as follows:



iv) Materially disadvantaged or inconvenienced

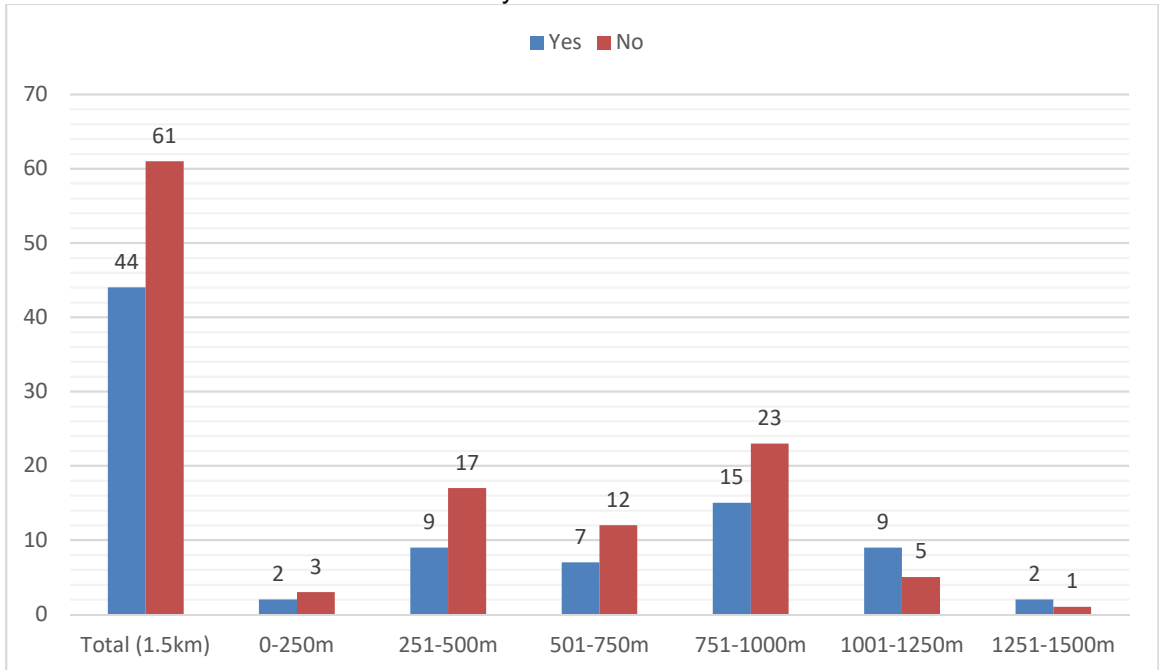
The 105 individuals who said that they purchased fuel from the petrol station were also asked to consider the issue of “materially disadvantaged or inconvenienced”.

The individuals were asked:

Q5: If this petrol station was to close, would you become materially inconvenienced or disadvantaged by having to go elsewhere to purchase fuel? (105 responses)

YES 44 (41.9%) NO 61 (58.1%)

That data can be broken down on a locality basis as follows:-



5. Conclusions

As a result of the analysis of the market research data, it is submitted that 200 telephone interviews of individuals resident within the locality of the Premises, and of which 172 individuals are resident within 1 kilometre of the Premises, demonstrates a sufficient and adequate representative sample of persons resident within the locality and who purchased petrol/derv and/or groceries from the Premises.

The resulting data and percentage figures do not constitute the totality of customers who are likely to purchase fuel and/or goods from the Applicant's Premises. Rather, the market research discloses a proportion of persons resident in the locality.

It is submitted that the resulting conclusions:

- 38 persons resident within 1 kilometre of the Premises considered the petrol station to be their principal or main source of fuel;
- 24 persons resident within 1 kilometre of the Premises considered themselves as being reliant on the petrol station as being their principal or main source of fuel;
- 33 persons resident within 1 kilometre of the Premises considered that if the petrol station was to close they would become materially inconvenienced or disadvantaged by having to go elsewhere to purchase fuel.

should be considered as being in excess of any *de minimis* figure, and certainly more than "just a handful" of residents in the locality (*BP Oil (UK) Limited v The City of Edinburgh Licensing Board and The City of Glasgow Licensing Board*).

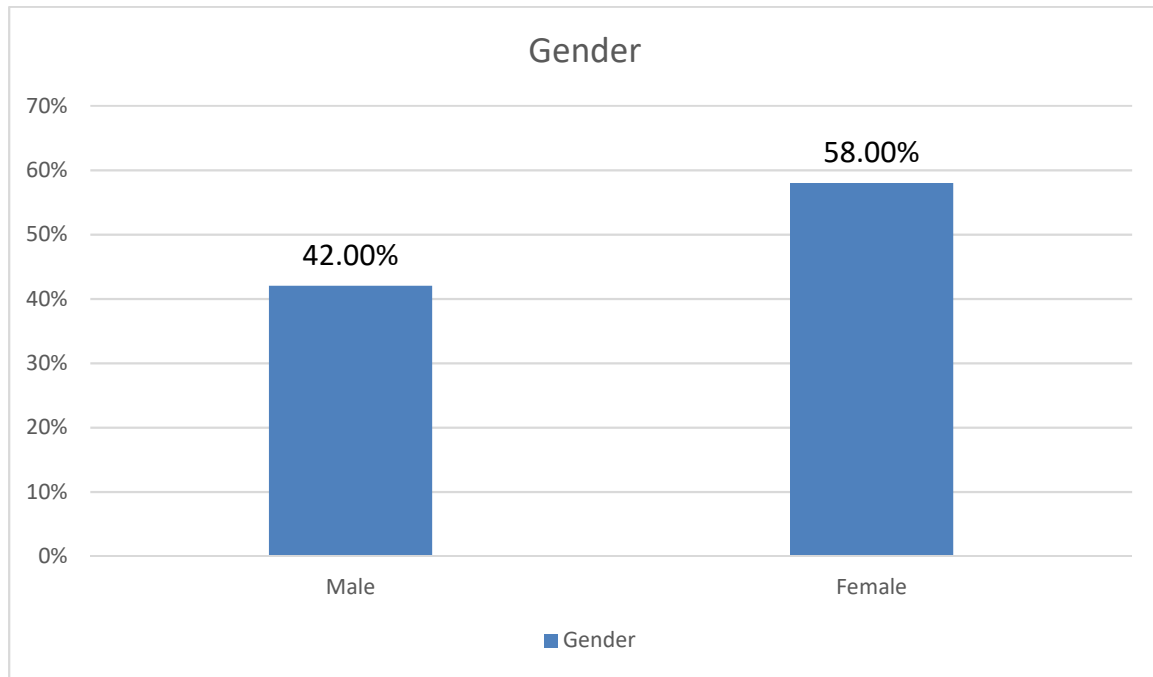
As such, the Board is invited to draw the conclusion that the market research discloses sufficient information to support the assertion that there is:

- a recognisable number of persons in the locality who, as a matter of their purchasing habits, see and treat the Premises as the principal source from which they might, in the ordinary course, obtain fuel; and
- who would properly consider themselves materially disadvantaged or inconvenienced were the petrol facilities not provided from the Premises.

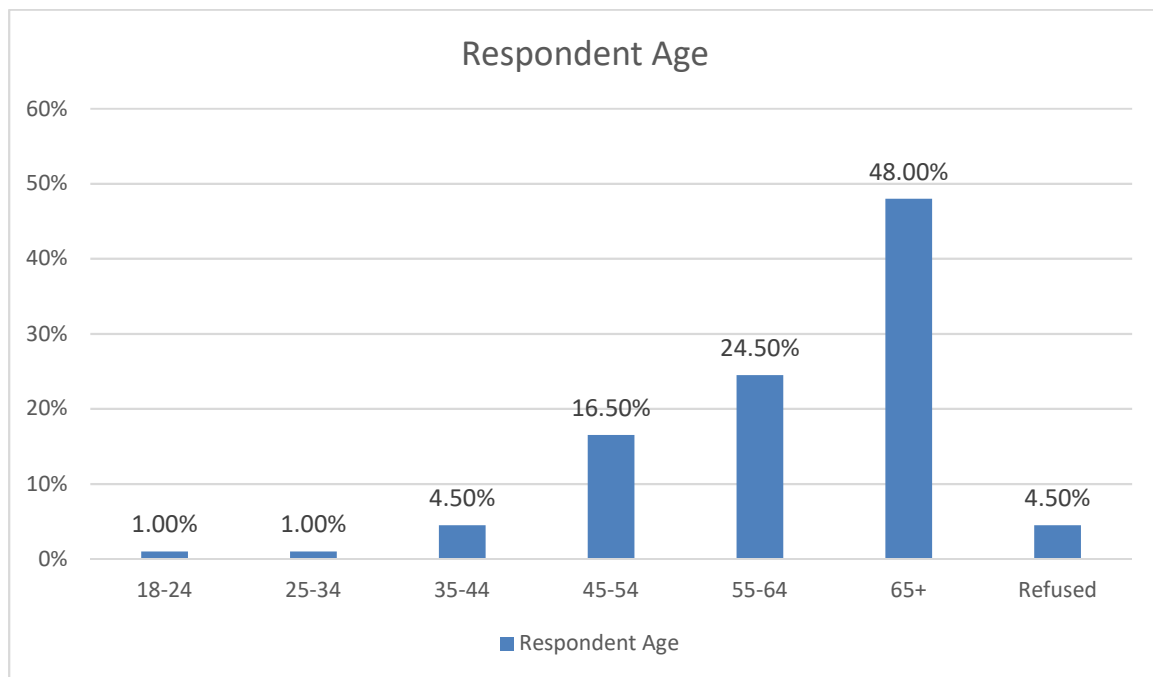
The Board is invited to conclude that the requirements of the legislative test have been met for this application.

6. Additional Data - Demographics

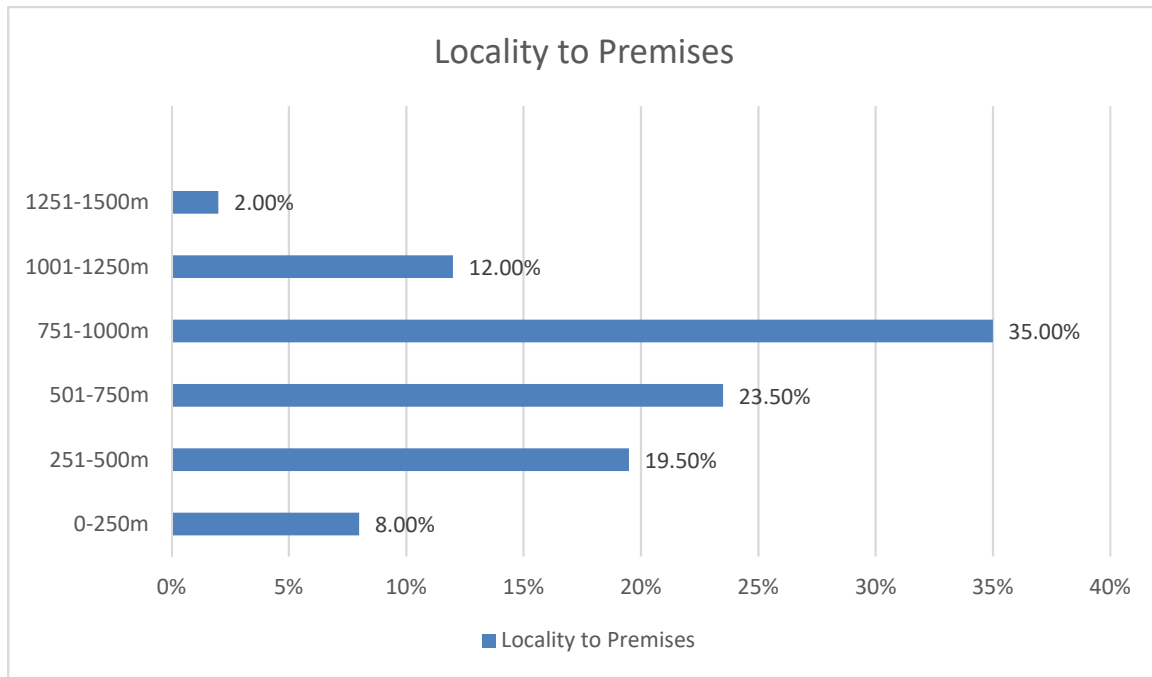
GENDER



AGE OF INTERVIEWEES



LOCALITY TO PREMISES



Shepherd and Wedderburn LLP

8 September 2021

**APPENDIX TO REPORT LB38/21
ANGUS LICENSING BOARD – 16 SEPTEMBER 2021**

(c) THE MONTROSE PLAYHOUSE, CINEMA & ART CENTRE, THE PLAYHOUSE, THE MALL, MONTROSE, DD10 8NN

Name of Applicant:

Montrose Playhouse Project Limited, The Coach House, Whites Place, Montrose, DD10 8RN

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

1. Description of Premises

Premises are situated just outside Montrose Town Centre and comprise a community facing 3 screen cinema, including entertainment & events space, and centre for the arts and arts education, restaurant and bar, café and activity centre. A community hub based in the heart of Montrose incorporating screening of film, live events including concerts, theatre, arts centre, education and centre for arts including live and performed art, rehearsal facility, restaurant and bar, café and activity centre.

2. Core times

On sales	Sunday to Thursday	11.00 to 24.00
	Friday and Saturday	11.00 to 01.00

Off sales	Monday to Sunday	10.00 to 22.00
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The Board are asked to note the hours requested are within Board Policy.

3. Seasonal Variation

Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Year's Day.

On no more than twelve occasions per annum the Premises Operators shall be permitted to open for the showing of film premiers commencing at midnight and the sale of drinks both alcoholic and non-alcoholic and food and snacks until 03.00. - last orders for food and drink to be at 02.30.

The operators will create and hold an annual Film Festival which will take place over the course of 1 to 2 weeks - this festival is to be held at the discretion of the operators who undertake to advise the authorities 3 months in advance of the start date.

The Film Festival will feature several premier film showings some of which will commence at midnight until 03.00 and would be in addition to the 12 other premiers proposed to be shown throughout the year. The festival will include all day showings of film, and/or director/film star Q&A's and other special events including educational events relating to performances, live music, talks etc - the premises operators have an option to remain open until 03.00 to facilitate these events. Food, soft and alcoholic drinks and beverages would be on offer with last orders being 02.30.

Gaming Events - international gaming events require competitors to be able to take part over a continuous 24-72hr period - these are events where computer gamers play competitions round the clock. The premises would remain open for the period of the event, however alcohol will only be served to observers during the normal core hours and otherwise the premises would remain open and be able to serve food, meals and snacks and non-alcoholic drinks and beverages to participants and observers.

All the above events would be suitably stewarded and the organisers will communicate at an appropriate time with local authorities and police to enhance compliance and the proper running of the events. It is anticipated that the majority of tickets sold for these events would be in advance however there may be capacity for ticket sales at the door. Patrons will be encouraged to book in advance.

The Board are asked to consider whether this kind of request should be allowed or whether the applicant should be invited to make Extended Hours applications in respect of such events or occasions.

4. Activities

The following activities are to take place within and outwith core hours - Conference facilities, restaurant facilities, bar meals, receptions, club or other group meetings, recorded music, live performances, dance facilities, theatre, films, gaming, indoor/outdoor sports, televised sport and outdoor drinking facilities.

The following activities may take place outwith core hours - Premises may open from 09.00 for the showing of matinees, service of teas coffees breakfasts and snacks from 07.00, activity room can be used from 07.00 for eg yoga, keep fit, meetings etc and premises may operate after core hours for the activities detailed in the seasonal variations

5. Other Activities

Main business of the facility is as a cinema however the operators also wish to encourage community use. Yoga, keep fit, dance, conferences, meetings, live music, theatre and other community activities will be able to take place in the activities room. Occasional race or casino nights may take place in the premises in conjunction with other events.

Late night film and film festival premises will be properly stewarded and most tickets will be sold in advance.

Special parent and baby films may be shown once per week during matinee period.

Film Festival, performance education and activities to encourage the arts, theatre, music, and film for all comers and sections of the community.

External areas may be used for service of food and drinks from 07.00 to 22.00.

Small shop selling sweets, crisps, popcorn and off sales which will comprise special possibly branded alcohols. Alcohol will be displayed in a lock fast glass fronted cupboard. Patrons will be permitted to purchase alcohol for off sales removal from premises prior to 22.00. Patrons will not be permitted to take off sale alcohol into cinema screening areas and any off sales purchased in advance of patrons entering the premises for film or other activities will be kept in the shop or other part of the premises and handed to the purchaser as they leave the premises.

6. Children and young persons: -

(a) Terms

Children from birth – 11 years will require to be accompanied by an adult to view age appropriate films until 22.00 or the end of the film or the end of a meal or private function to which they are invited.

Unaccompanied Children 12 – 15 years and young person's 16 – 17 years will be permitted to access the premises to view age appropriate films or take part in arranged activities until 22.00 or the end of the film.

Accompanied children and young persons will be permitted to access the premises to view age appropriate films and take part in other activities as from time to time occur in the premises until 22.00 or the end of the film or the end of a meal or private function to which they are invited.

No person under the age of 18 will be permitted to access the main bar and all persons under the age of 18 will be required to order food and drinks at the dedicated under 18 bar area shown on the layout plan.

Age verification checking will include Young Scot cards and other PASS cards, passports, driver's licences including provisional driver's licences.

Accompanied children and young person's performing in premises or taking part in computer gaming competitions will be permitted access to the premises for the period of the activity in addition to the hours stated above.

The Board are asked to note that part of the request is inconsistent with the Children and Young Person Conditions, in particular the part where unaccompanied access is allowed. The Board are asked to consider whether this request should be granted and whether parts of the conditions should be disapplied to allow this.

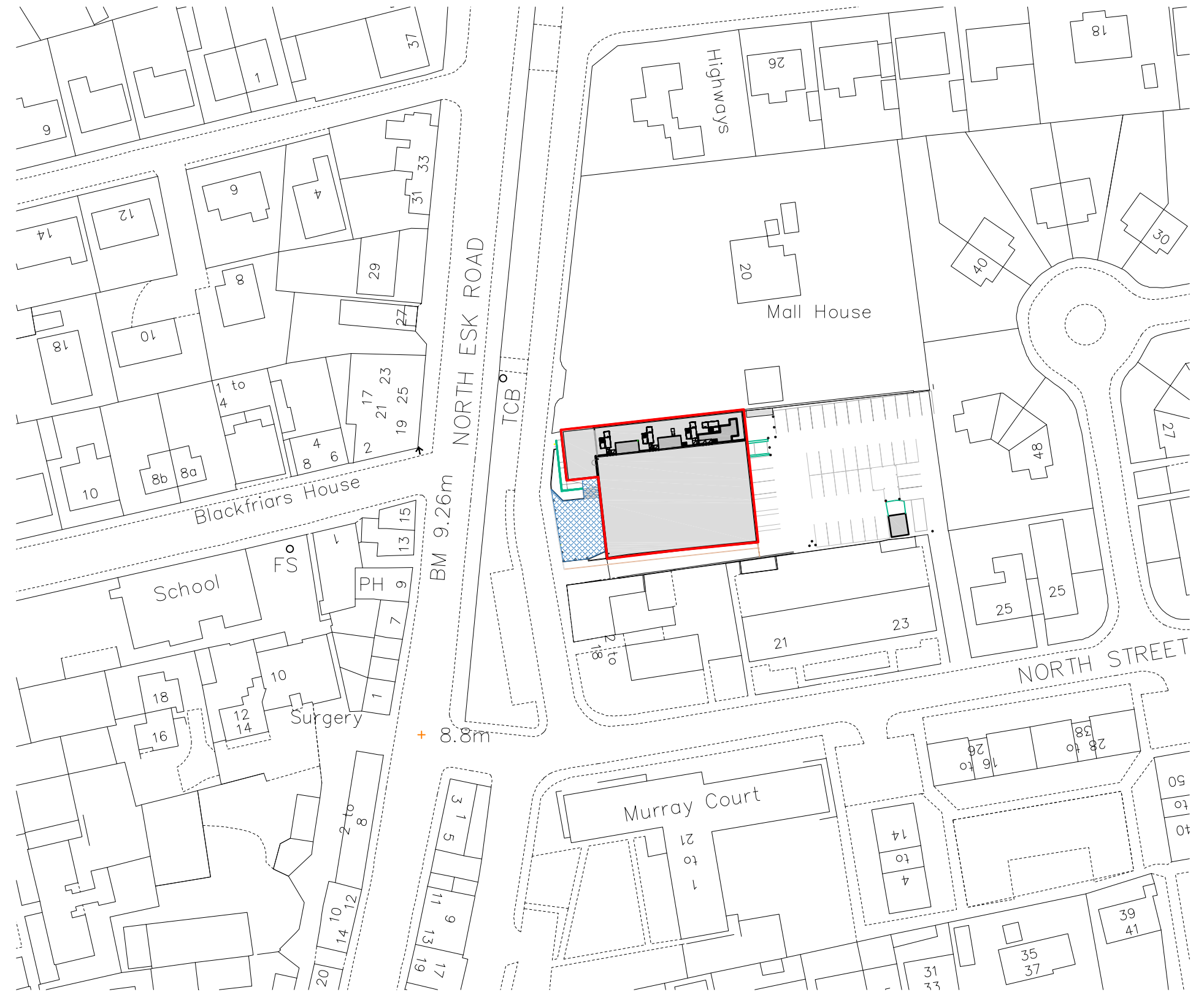
- (b) **Ages** - 0 – 17 years
- (c) **Times** - As per the terms above from 10.00 to 22.00
- (d) **Part of Premises** - All public parts of the premises

7. Capacity


Front Terrace	50
Reel bar	100
Screen 1	130
Screen 2	142
Screen 3	110
Activity room	80
Foyer	10
Total	622 persons.

Environmental Health Comments

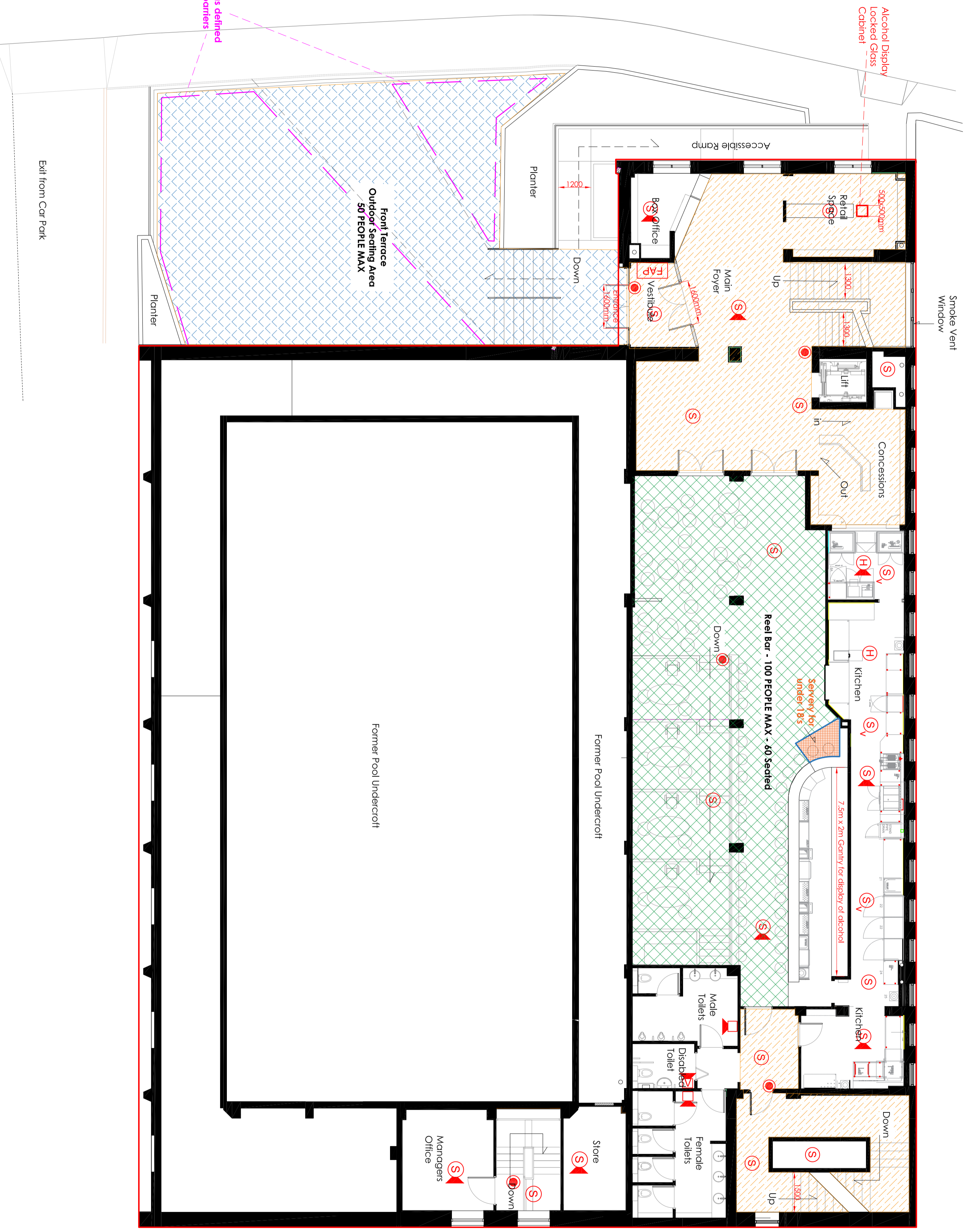
Environmental Health would have no objection to this application subject to standard conditions relating to the use of the outdoor drinking area being restricted after 21.00 and no music to be played or heard in the outside drinking area.



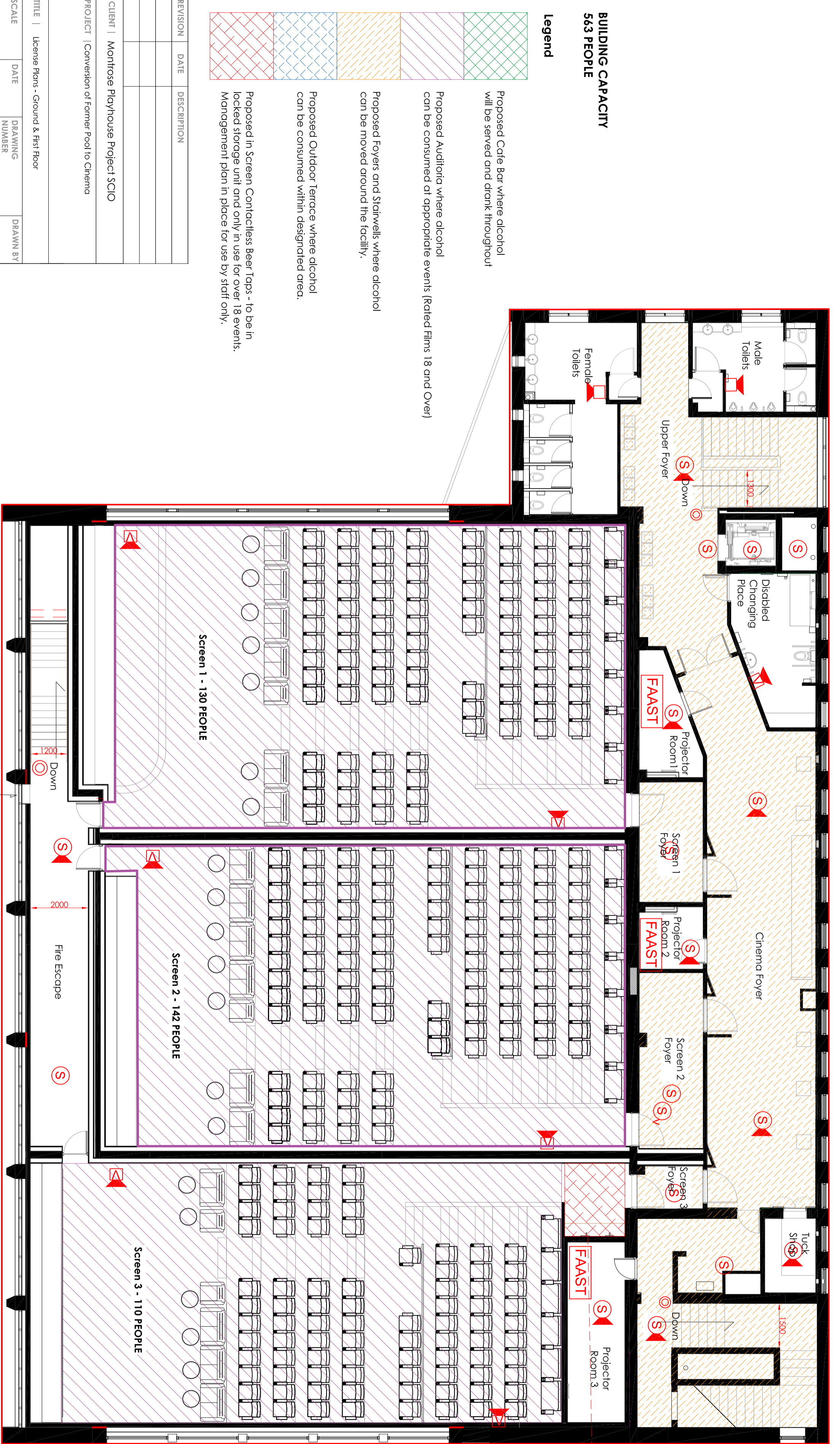
Proposed Location 1:1000

CLIENT Montrose Playhouse Project SCIO			
PROJECT Conversion of Former Pool to Cinema			
TITLE License Plans - Location Plan			
SCALE	DATE	DRAWING NUMBER	DRAWN BY
as per dwg	12.07.21	JDC/284/LP003	DP
This drawing is issued for the purpose of the status indicated below only			
<input type="checkbox"/> Sketch	<input type="checkbox"/> Outline Planning		
<input checked="" type="checkbox"/> Planning	<input type="checkbox"/> Building Warrant		
<input type="checkbox"/> Tender Issue	<input type="checkbox"/> Existing		
 john d crawford Ltd ARCHITECTURAL SERVICES 72 New Wynd Montrose Angus DD10 8RF email info@johndcrawford.co.uk tel 01674 672064 fax 01674 672126			

- FIRE DETECTION LEGEND:**
-  Manual Call Point
 -  Smoke Detector
 -  Smoke Detector in Vidd
 -  Spoke Detector with Sounder Base
 -  Smoke Detector with Sounder Becon Base
 -  Walkabouted
 -  Walkabouted Sounder Becon
 -  Fire Alarm Releaser
 -  Fire Alarm Releaser Door Hold Inlt




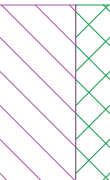
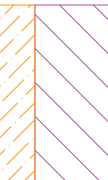


Proposed Ground Plan 1:100



Proposed First Floor Plan 1:100

BUILDING CAPACITY
543 PEOPLE

Legend

-  Proposed Cate Bar where alcohol will be served and drank throughout
-  Proposed Auditoria where alcohol can be consumed at appropriate events (Rotted films 18 and Over)
-  Proposed Foyers and Stairwells where alcohol can be moved around the facility.
-  Proposed Outdoor Terrace where alcohol can be consumed within designated area.
-  Proposed in Screen Contactless Beer Taps - to be in locked storage unit and only in use for over 18 events. Management plan in place for use by staff only.

REVISION	DATE	DESCRIPTION

TITLE | License Plans - Ground & First Floor

SCALE	DATE	DRAWING NUMBER	DRAWN BY
CS per DWG	31.05.21	JDC/284/LP001	DP

- The drawing is issued for the purpose of the status indicated below only
- Planning
 - Outline Planning
 - Building Warrant
 - Tender Issue