

ANGUS LICENSING BOARD – 17 FEBRUARY 2022
PROVISIONAL LICENCE EXTENSION APPLICATION
REPORT BY THE CLERK

ABSTRACT

The purpose of this report is to advise the Board of an application to extend the duration of a provisional licence in terms of section 45 of the Licensing (Scotland) Act 2005 (“the 2005 Act”).

1. RECOMMENDATION

It is recommended that the Board considers the application and determine whether or not to extend the provisional period in terms of section 45(7A) or section 45(7) of the 2005 Act.

2. BACKGROUND

The Clerk has received an application from the provisional licence holder requesting that the duration of the provisional licence is extended. This is the first application by the licence holder to extend the provisional licence period and is made before expiry of the provisional licence. **A copy of the application dated 14 January 2022 is attached to the Report.**

3. LEGAL

3.1 A provisional licence does not take effect unless and until it is confirmed by the Licensing Board which issued it.

3.2 If a provisional premises licence is not confirmed before the end of the provisional period, then at the end of that period the licence is treated as revoked.

3.3 The provisional period is 4 years beginning with the date of issue of the provisional licence.

3.4 Section 45(7) of the 2005 Act provides that on the application of the provisional licence holder made before the expiry of the provisional period, the Licensing Board may, if satisfied as to the matter mentioned in subsection (8), extend the provisional period by such period as the Board considers appropriate.

3.5 The matter mentioned in subsection (8) is that—

- (a) completion of the construction or conversion of the premises to which the licence relates has been delayed; and
- (b) the delay has been caused by factors outwith the premises licence holder's control.

3.6 In addition, Section 45(7A) of the 2005 Act provides that on the first application of the provisional licence holder made before the expiry of the provisional period, the Licensing Board must extend the provisional period by 6 months if the Board—

- (a) is satisfied as to the matter mentioned in subsection (8); and
- (b) is satisfied that the reason for the delay is a reason relating to coronavirus.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. HUMAN RIGHTS IMPLICATIONS

In dealing with the applications as set out in this report the Board will have regard to any human rights issues in relation to the Applicant.

6. NOTIFICATION

The Applicant will be advised of their entitlement to attend the Board.

REPORT AUTHOR: Jennifer Burns

E-MAIL: LEGDEM@angus.gov.uk

Licensing Solicitors

Our Ref: CG/MAR-S/SEA46/2
Contact: Chris Grunert

Angus Licensing Board
Licensing Standards Officer
Angus Council
Angus House
Orcherdbank Business Park
Forfar
DD8 1AN

14 January 2022

Dear Sirs

**FORMER SEAFORTH HOTEL SITE, DUNDEE ROAD, ARBROATH, DD11 1QD
Provisional Premises Licence: 412 – Granted: 9th August 2018**

We represent Marston's Operating Limited, the holders of provisional Licence 412, issued by the Licensing Board on 9th August 2018.

Due to the global pandemic and restrictions on licensed premises across Scotland necessitated by the same, we regret to inform the Board that this project has not been able to advance in the past two years as our client would have otherwise hoped. As a result, our client has resigned itself that completion of this project will be considerably delayed beyond the 4th anniversary of the grant of this Provisional Licence. Further, our client recognises the uncertainty that has arisen repeatedly throughout this crisis resulting from the emergence of Covid variants and the potential for re-imposition or creation of new restrictions on the way sociality can work and operate.

By this letter, we are seeking from the Board an extension to the expiry date of this Provisional Licence.

Section 45(7) of the Licensing (Scotland) Act 2005 allows the Licensing Board to extend the provisional period by such period as they consider appropriate if an application is received before the expiry of the original term and that the Board is satisfied that the completion has been delayed due to the fact it is outwith the Premises Licence holder's control.

We hope that the Licensing Board will be in agreement with the Applicant that the reasons for the delays suffered have been entirely outwith their control.

In light of the loss of the almost two years of productive time, we would suggest that an appropriate period to extend the life of this Provisional Licence would be by a further two years to the 9th August 2024.

This extension would allow our client to proceed with confidence with planning the redevelopment of the site and provide a reasonable period for construction and confirmation of the provisional licence.

Tel: 0114 266 8664
Helpline: 0114 266 3400
Fax: 0114 267 9613
Email: info@john-gaunt.co.uk
www.john-gaunt.co.uk

Partners:

Tim Shield ⁽⁵⁶⁹⁷¹³⁾
Michelle Hazlewood ⁽⁵⁶⁹⁷¹⁴⁾
Christopher Grunert
Jon Wallsgrove
Jonathan Pupius

Practice Manager:

John Gaunt & Partners
Omega Court
372 - 374 Cemetery Road
Sheffield
S11 8FT

We should be grateful if this matter could be placed before the Board for mention at the next available juncture.

If our attendance before the Board to make further representations is required, please notify us accordingly and we will make ourselves available to address the Board.

It would not surprise the Board to learn that this issue is not unique to this project and this firm has dealt with a number of these enquiries across Scotland during the pandemic. Other Boards have dealt with this matter administratively but as stated above, if the Board would wish us to make further representations directly, we look forward to hearing from you.

We would be grateful if you could kindly acknowledge receipt of this correspondence and look forward to hearing from you by return.

Yours faithfully



Chris Grunert
John Gaunt & Partners
Email: cgrunert@john-gaunt.co.uk