

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 10 NOVEMBER 2022

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. RECOMMENDATIONS

It is recommended that the Committee: -

- (i) accept the letter received from Gosschalks Solicitors, on behalf of their client Wm Morrison Supermarkets PLC, dated 27 October 2022, as an application for exemption from the requirement to hold a late hours catering licence;
- (ii) determine whether to grant the application to Wm Morrison Supermarkets Plc for exemption from the requirement to hold a late hours catering licence for Morrisons Petrol Filling Station, Hume Street, Arbroath, between 2300 and 0000 from Thursday 22 December 2022 to Friday 23 December 2022 inclusive; and
- (iii) if it agrees to grant the application, impose the Angus Council late hours catering conditions attached at **Appendix 2**, subject to a) the words "licence holder" being replaced with "applicant" and b) the word "licence" where otherwise appearing, being replaced with the word "exemption".

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 0000 from Thursday 22 December 2022 to Friday 23 December 2022 inclusive. 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.

REPORT AUTHOR:

E-MAIL: LEGDEM@angus.gov.uk

BY EMAIL AND POST
The Clerk to the Licensing Board
ANGUS COUNCIL
Angus House
Orchard bank Business Park
Forfar
DD8 1AN

Please ask for: [REDACTED]
Direct Tel: [REDACTED]
Email: arg@gosschalks.co.uk
Our ref: ARG / LBM / 109500.14330
#GS4857332
Your ref:
Date: 27 October 2022

Dear Sir/Madam,

**Re: Morrisons Petrol Filling Station, Hume Street, Arbroath, DD11 1UH.
Application for Exemption for Requirement of Late Hours Catering Licence
Section 42 (5) Civic Government (Scotland) Act 1982
Thursday 22nd December 2022 to Friday 23rd December 2022 inclusive**

We act for Wm Morrison Supermarkets Ltd in respect of the above premises.

Our client company is seeking to open this petrol filling station until midnight from Thursday 22nd December 2022 to Friday 23rd December 2022 inclusive.

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 these dates under Section 42 (5) Civic Government (Scotland) Act 1982.

If you require some form of formal application or fee in relation to the above, then please do not hesitate to contact us.

We look forward to hearing from you.

Yours faithfully,

[REDACTED]
GOSSCHALKS LLP

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