

ANGUS LICENSING BOARD – 23 MARCH 2023

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 the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

1. RECOMMENDATIONS

It is recommended that the Board considers and determines 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 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 can only be discharged by the Licensing Board.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

4. OTHER IMPLICATIONS

Legal

The Board must, in considering and determining each 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),

- (c) 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,
- (d) that the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the licensing objectives,
- (e) 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,
- (f) that 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.
- (g) in considering whether either of the grounds for refusal specified in (c) or (d) applies, the Licensing Board must in particular take into account—
 - (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).
- (h) Where the Licensing Board considers that: -
 - (a) they would refuse the application as made, but
 - (b) 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.

Where the Licensing Board refuses the application: -

- (a) the Board must specify the ground for refusal, and
- (b) if the ground of refusal is that specified at 4(c) or (d) above, the Board must specify the licensing objective or objectives in question.

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(a) FORFAR SUPERMARKETS LTD, 76 DUNDEE ROAD, FORFAR, DD8 1HW

Name of Applicant

Forfar Supermarkets Ltd., 76 Dundee Road, Forfar, DD8 1HW

Type of Licence: Provisional Premises Licence – Off Sales

1. Description of Premises –

Supermarket that will carry a limited selection of basic items, as packaged foods and drug store items and alcohol will be open long hours for the convenience of shoppers.

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

Monday to Sunday 10:00 to 22.00

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

3. Capacity

21.39m²

Comments Received

Building Standards commented - (I note the plan submitted relates to a previous application, I have therefore assumed that there are no completed or planned changes to layout or alcohol sales locations in the shop.)

Building Warrant application reference 19/00031/NDOM was received on 18th Jan 2019 for retrospective works to the store including installation of an ATM. This application has never been progressed and therefore no 'Completion Certificate Where no Warrant was Obtained' has been issued. Whilst the works do not have a direct impact on this application, the applicant should be made aware of the requirement to regularise the situation prior to use.

LICENSING STANDARDS OFFICER REPORT

An application for a New Premises Licence was received from Mohammed Misbahuddin and Juveria Ahmed, Forfar Supermarkets Limited on 16 January 2023 in respect of:

Forfar Supermarkets Ltd, 76 Dundee Road, Forfar, DD8 1HW
Premises Licence Number: TBC

Background: -

This is an application for a new provisional premises licence. The premises is located along Dundee Road and is surrounded by residential and commercial properties. The application has been applied for as a company.

Licensing Standards Officer Report:

The application is for a small supermarket and is for off sale hours only.

Statutory Checks

I have been unable to visit the premises but can confirm that no objections have been received regarding this application.

I do not have any issues with the application and duly submit this report for consideration of Board Members.

Kevin Leith
Licensing Standards Officer
Angus Council