

NORTH ABERDEENSHIRE DIVISIONAL LICENSING BOARD

REPORT TO LICENSING BOARD HEARING – 28th February 2020 LICENSING (SCOTLAND) ACT 2005 APPLICATION FOR GRANT OF PREMISES LICENCE NON-CONTENTIOUS APPLICATIONS

1. Reason for Report/Summary

- 1.1. This report relates to applications for the grant of premises/provisional premises licences which can only be determined by the Licensing Board.

2. Recommendations

- 2.1. **It is recommended that the Board considers the materials before them and, in respect of each application in turn, –**
 - (a) **Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board meeting for further material to be made available; and**
 - (b) **Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made, to consider in respect of each of the applications made, whether said applications should be granted or refused.**

3. Purpose and Decision-making Route.

- 3.1. The applications referred to in Appendix 1 of this report have not been previously considered by the Board.
- 3.2. The Depute Clerk has determined that the applications for premises licences listed at Appendix 1 to this report are non-contentious applications and asks that the Board consider same.

- 3.3. Copies of the application forms, operating plans, risk assessments and layout plans will be available in the Council Chamber for perusal by Board Members on request.

4. Discussion

Proposal

- 4.1. In relation to each of the applications to be considered by the Board –
 - (a) there are no valid objections to the application;
 - (b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and
 - (c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.
- 4.2. If granted, certain mandatory conditions listed in the Licensing (Scotland) Act 2005 will attach to premises licences. The conditions attaching will depend on the activities listed in the operating plans of the premises. The Depute Clerk has drawn up a generic list of the mandatory conditions to attach to all licences.
- 4.3. The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has drawn up a generic list of the local conditions to attach to all licences. The Board approved revised local conditions at the Board which took effect from 1st November 2018.

Consultations

- 4.4. The Depute Clerk examined the applications in detail and the Applicants then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk forwarded the applications to the following persons or bodies as part of the consultation process:

- (a) Police Scotland;
- (b) Scottish Fire and Rescue Service;
- (c) The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council;
- (d) The Licensing Standards Officer;
- (e) The appropriate Community Council;
- (f) Public Health; and
- (g) Neighbouring Occupiers.

4.5. At the same time as the applications were consulted on, the applicants required to display a site notice at the premises, in a location where it could be easily read by members of the public, advertising the fact that an application had been made. The Licensing Standards Officers checked to ensure the site notices had been appropriately displayed, and had been displayed for the correct time period, as part of their consultation exercise for each premises.

4.6. The applications were also advertised on the Council's website.

Objections and Representations

4.7. No objections were received in respect of these applications.

4.8. In some cases, the Licensing Standards Officers, Police Scotland and Building Standards Officers made representations. These were copied to the applicants who have made the appropriate amendments to their applications in order to satisfy the representations made.

4.9. The applicant will be present at the hearing to outline the purpose of the licence application to the Board.

4.10. Any applicant who has taken issue with the representations made will have their application considered at a full hearing of the Board, which will be the subject of a separate report.

Implications

4.11. If the Board determines that the licence should be granted, it will take effect from the date of grant and can be traded, where the application is for a full premises licence. Where a provisional premises licence is granted, the licence must be confirmed prior to the licence being able to be traded.

Procedure

4.12. Each application should be considered, in turn, on its own merits.

4.13. The applicants have been requested to attend the Board.

4.14. Letters advising of the requirement to attend included a copy of this report, the legal background and a copy of the Board's Procedures for Hearings and were issued to all parties.

4.15. Members should follow the procedure outlined on page 4 of the Board's Procedures for Hearings

4.16. Members' options in disposing of each application are:-

- (a) To grant the application;
- (b) Refuse the application;
- (c) Grant subject to varied hours and/or additional conditions; or
- (d) Determine that further evidence is required in which case the applications should be referred to the next available Board Meeting in order that the applicants may present their case in full or further information can be obtained in the interim.

4.17. When coming to a decision the Board must consider the evidence provided and the contents of the legal background to this report. Supplementary advice and information can be made available by Officers, if required.

5. Priorities, Implications and Risk

5.1. The applications listed at Appendix 1 have been deemed to meet the requirements of the Boards' current Statement of Licensing Policy.

5.2. The table below shows whether risks and implications apply if the recommendations are agreed:

Table 1 Risks and Implications

<i>Subject</i>	<i>Yes</i>	<i>No</i>	<i>N/A</i>
<i>Financial</i>		<i>X</i>	
<i>Staffing</i>		<i>X</i>	
<i>Equalities</i>		<i>X</i>	
<i>Fairer Scotland Duty</i>			<i>X</i>
<i>Town Centre First</i>		<i>X</i>	
<i>Sustainability</i>			<i>X</i>
<i>Children and Young People's Rights and Wellbeing</i>			<i>X</i>

5.3. An Equality Impact Assessment is not needed in this case because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.

5.4. There are no staffing and financial implications arising from this report.

5.5. There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Board is considering the application as the Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation.

5.6. The Town Centre Principle does not apply in respect of this matter as the Board is considering the application as Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation

6. Governance

6.1. The Board can consider these applications in terms of paragraph 1.5 of the current Scheme of Delegation.

**Karen Wiles
Clerk to the Board**

**Report Prepared by: Fiona M. Stewart, Senior Solicitor (Democratic Services),
Depute Clerk to the Board
Date: 13th February 2020**

Appendices

Appendix 1 – Table of Applications to be considered

APPENDIX 1

<u>Applicant</u>	<u>Premises</u>	<u>Remarks (if any)</u>
1. Stephen Tokelove	95 Main Street Gardenstown AB45 3YP	<p>PROVISIONAL PREMISES LICENCE</p> <p>The applicant is seeking to operate a retails shop, convenience store with one entrance from Main Street, selling tinned, fresh and frozen goods. The business will include off sales of beer, wine and spirits.</p> <p>The applicant is seeking to operate 10 – 2200 Monday - Saturday and 12.00 – 2200 Sunday.</p> <p>The Fire Service made standard representations which do not affect the processing of the application.</p> <p>The Licensing Standards Officer noted that home deliveries would form part of the business and asked the applicant to clarify whether such deliveries would involve alcohol. The applicant confirmed that alcohol would NOT be included in deliveries. The Licensing Standards Officer subsequently withdrew her representation.</p>
2. Kessock Service Station Ltd	Victoria Service Station Boyndie Road Banff AB45 2JD	<p>PROVISIONAL PREMISES LICENCE</p> <p>The applicant operates a service station forecourt shop selling fuel, groceries, cash back facilities, hot and cold food & ancillary take away, car accessories, parcel collection and other similar goods.</p> <p>The applicant is seeking to operate 10.00 – 22.00 7 days a week</p> <p>The Board accepted the application as competent in terms of Section 123(5) of the Act at their December Board</p> <p>The Fire Service made standard representations which do not affect the processing of the application.</p> <p>The Licensing Standards Officer made the following representations</p> <ul style="list-style-type: none"> • S50 certificate from Planning Services required • Requirement in terms of local condition 6 – all alcohol not on display within the premises must be kept within a designated lock-fast store on the premises and shown on the layout plan attached to the premises licence. Nothing specifically marked on the layout plan. • Premises are open outwith core hours from 6am - request that reference is made to this effect in other activities at 5(f) of the operating plan. <p>S 50 certificate from Planning lodged Monday 10th February 2020</p> <p>Grant of application is subject to receipt of an amended layout plan showing a designated lock fast alcohol store on the premises</p> <p>Applicant has authorised additional wording to Section 5(f) of the operating plan to reflect the premises operate outwith core hours for sale of goods other than alcohol from 6am</p>

