

ANGUS LICENSING BOARD – 16 MAY 2024

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 a new provisional premises licence under the Licensing (Scotland) Act 2005 which requires 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.

REPORT AUTHOR: Stuart McQueen, Team leader – Legal Team 1

E-MAIL: LEGDEM@angus.gov.uk

(a) UNIT 2, LAND AT ELLIOT INDUSTRIAL ESTATE, DUNDEE ROAD, ARBROATH

Name of Applicant

Aldi Stores Limited, Holly Lane, Atherstone, Warwickshire, CV9 2SQ

Type of Licence: Provisional Premises Licence – Off Sales

1. Description of Premises –

Purpose built supermarket within retail park, with car parking and associated facilities.

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. Activities

Recorded music within and out with core licensed hours.

4. Any other Activities

Sale of goods consistent with the business of a supermarket.

Home deliveries, click and collect service, and on-line sales may also take place.

5. Capacity

47.79801m²

Comments Received

Licensing Standards Officer commented - the Board may wish to add conditions regarding the delivery service. Details of the conditions will be provided in his report for the Board.

Building Standards commented - as this is a provisional application, they would have no comments to make.

However, it would be worth noting to the Applicant that a Completion Certificate will need to be submitted and accepted prior to a section 50 being issued by Building Standards in advance of the full premises license application. (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.)

LICENSING STANDARDS OFFICER REPORT

An application for a New Premises Licence was received from Aldi Stores Limited in February 2024 in respect of:

**Unit 2, Land at Elliot Industrial Estate, Dundee Road, Arbroath
Premises Licence Number: TBC**

Background: -

This is an application for a provisional premises licence. The premises will be located in Elliot Industrial Estate, Arbroath and is surrounded commercial properties. The application has been applied for as a company.

Licensing Standards Officer Report:

The provisional application is for a purpose-built supermarket and is for off sale hours only. The proposed operating plan includes 'home deliveries, click & collect service, and on-line sales may also take place'. As the premises are offering a home delivery service the Board may wish to include the following conditions on the licence:

1. Alcohol sold or dispatched from the premises will be delivered only to residential or business addresses.
2. The Licenceholder shall always check the age of customers or potential customers, be satisfied that they are aged 18 years of over before any sale is completed and otherwise shall comply with the age-related sale provisions in the Licensing (Scotland) Act 2005.
3. Sales of Alcohol may only take place within licensed hours. Any person submitting an order out with the licensed hours is to be advised that the order will be processed after the commencement of the next period of licensed hours.
4. The Licenceholder shall ensure that those persons who deliver the alcohol are aware of the provisions of, and restrictions on, the delivery of alcohol contained in the Licensing (Scotland) Act 2005.
5. A notice shall be affixed to every package containing alcohol dispatched from the premises stating that the package shall contain alcohol and that it is an offence to deliver it to a person under 18 years of age.

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