

ANGUS LICENSING BOARD – 4 OCTOBER 2012**APPLICATION FOR AN OCCASIONAL LICENCE****REPORT BY CLERK TO THE BOARD****ABSTRACT**

The purpose of this report is to present an application for an occasional licence under the Licensing (Scotland) Act 2005 which requires to be determined by the Board.

1. RECOMMENDATIONS

It is recommended that the Board consider and determine this variation in terms of one of the following options:-

- (i) to grant the application, subject to the Mandatory Conditions and any other discretionary or local conditions which the Board may wish to impose; or
- (ii) to refuse the application on one or more of the grounds referred to in Paragraph 3.

2. BACKGROUND

The Board has received an application(s) in respect of an occasional licence under the Licensing (Scotland) Act 2005 which require to be determined by the Board. The matters referred to in this report are not subject to delegation and must be determined by the Licensing Board.

3. LEGAL IMPLICATIONS

The Board must consider whether any of the grounds for refusal applies and—

- (a) if none of them applies, the Board must grant the application;
- (b) if any of them applies, the Board must refuse the application.

The grounds for refusal are—

- (a) that the premises to which the application relates are excluded premises,
- (b) that the application must be refused under section 64(2) (if application is granted it would allow alcohol to be sold in the premises for a continuous period of 24 hours) or 65(3) (Licensed hours – off-sales.
- (c) that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives,
- (d) that, having regard to—
 - (i) the nature of the activities proposed to be carried on in the premises to which the application relates,
 - (ii) the location, character and condition of the premises, and
 - (iii) the persons likely to frequent the premises, the Board considers that the premises are unsuitable for use for the sale of alcohol. In considering, for the purposes of the ground for refusal specified in subsection (c), whether the granting of the application would be inconsistent with the crime prevention objective, the Licensing Board must, in particular, take into account any notice given by the appropriate chief constable under section 57(2).

In determining any application which is to be determined in accordance with paragraph 3, the Board must take into account any report from a Licensing Standards Officer under section 57(3).

4. INFORMATION

The Licensing Standards Officer has raised a report (s) as detailed in the attached Appendix/Appendices.

5. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

6. HUMAN RIGHTS IMPLICATIONS

In dealing with the matters set out in this report the Board will have regard to any human rights issues to the applicant/applicants.

7. CONSULTATION

The Chief Constable of Tayside Police have been consulted in the preparation of this Report.

**SHEONA C HUNTER
CLERK TO THE LICENSING BOARD**

L&A/IMS

APPENDIX TO REPORT NO LB 51/12**(1) JOYCE McINTOSH, 62 MARKET STREET, BRECHIN, DD9 6BD**

An application has been received from Joyce McIntosh, 62 Market Street, Brechin, DD9 6BD requesting an Occasional Licence in respect of McConnechy's Garage Building, Clerk Street, Brechin. The application is in respect of Saturday 27 October 2012 from 7.00 pm to 12.30 am on Sunday 28 October 2012 on the occasion of the Halloween "Monster Ball".

Comments Received – TAYSIDE POLICE submitted a letter dated 13 September 2012, a copy of which shall be circulated at the meeting.

To assist the Board in determining this application a report has been submitted by the Licensing Standards Officer.

Licensing Standards Officer's Report

An occasional licence application has received from Joyce McIntosh, a personal licence holder, in respect of an occasional licence for a charity fundraising event, taking place on Saturday the 27 October 2012, in a disused garage at 45 Clerk Street, Brechin. The hours requested are: 7pm to 12.30am on the Sunday.

The fundraising event, organised by Brechin Business Association, is to be ticketed with a maximum capacity of 200, the target age group being 30 plus. A six or seven piece band will be playing on the evening and access to the venue will be controlled by door stewards.

Background:

I visited these premises on the 11 September 2012 and met with Mr W Sturrock and Mrs F Knowles of Brechin Business Association. During this visit I was accompanied by PC I McPherson, Tayside Police.

The premises identified in the application were previously used as a tyre garage and appears to have been empty for some time. It is situated between a Tesco Express shop and filling station and the car park entrance to the Brown Horse Hotel. There are residential properties near these premises. It is of single brick construction with a high "A" frame roof, the main entrance faces onto Clerk Street, there is a rear exit, however it leads to a fenced off area which is overgrown and includes various items of litter and waste. There is a large double sliding door at the front of the building which the organisers identify as an exit in case of fire. There is also an open trench, approximately 300mm deep by 750 mm wide by 5 metres long within the building. There is also sundry debris such as rubble, boxes wooden planks and wiring in and around the inside of the building.

Internally there are two toilets only; I was informed that permission has been granted for use of the toilets at The Brown Horse Hotel, approximately 28 metres from the premises and the Attic Youth Drop-in Centre at 19 Clerk Street, approximately 40 metres from the venue.

Reasons for comments

1. Securing Public Safety.
 - a. Emergency exits. Should the need arise for person to evacuate the building there is no clear access from the rear.
 - b. The trench and other debris within the building create a risk of injury.
 - c. Electrical Safety. There is an electrical switchbox in the building which was lying open. There did not appear to be many electrical sockets available for use for lighting and other requirements during the event.
2. Preventing Public Nuisance
 - a. Noise. Amplified music will be provided during the evening. There are no measures in place to control levels of noise during the evening. I am of the

opinion the building, given its construction and previous use has little or no specific sound proofing or sound deadening materials and noise escape, through open doors, walls and roof could cause nuisance to neighbouring residential properties.

- b. Toilet facilities. The lack of toilets facilities in the premises would require persons to use the toilets within the Brown Horse Hotel or the Attic Youth Drop-in centre. I have concerns, given distances and prevailing weather conditions on the evening, males would use the areas to the rear or car park side of the building instead.
 - c. Smoking area. A suitable smoking area requires to be identified to include bins for cigarette ends. As previously mentioned the area to the rear is overgrown and may be a fire risk if not appropriately cleared and tidied.
3. Prevention of crime and disorder.
- a. The area immediately outside of the premises is part of a byelaw area prohibiting the consumption of alcohol in public places and the organisers/applicant would need to have measures in place to ensure alcohol is not taken outside.

From the above I am therefore of the opinion that this building is not suitable for the planned event.

To assist the Board photographs of the premises are attached:

1. [View from the rear of the building](#)
2. [View to rear of building](#)
3. [View of trench in building](#)
4. [View of toilets](#)