



ABERDEEN CITY COUNCIL

Our Ref.
Your Ref.
Contact Garry Watson
Email gawatson@aberdeencity.gov.uk
Direct Dial 01224 523057
Direct Fax 01224 522965

13 November 2015

Clerk to the Licensing Board
Aberdeen City Council
Aberdeen
AB10 1AB

Democratic Services
Corporate Governance
Aberdeen City Council
1st Floor
Town House
Broad Street
Aberdeen AB10 1AQ

Tel 01224 522000
Minicom 01224 522381
DX 529451, Aberdeen 9
www.aberdeencity.gov.uk

Dear Sir

**Licensing (Scotland) Act 2005 - Section 22
Representations to the Board
Premises - Aberdeen Airport Petrol Filling Station, Argyll Road, Aberdeen
Application for Off Sales Licence**

At the Special Licensing Objections Sub Committee meeting on 12 November 2015, the Sub Committee resolved to make representations to the Licensing Board in relation to the above application. Accordingly, it is requested that this letter be put before the Board when it considers the above application.

It is the view of the Sub Committee that the premises in question may constitute Excluded Premises under section 123 of the Licensing (Scotland) Act 2005. As the Board will be aware, premises used as a garage or which form part of premises which are used as a garage will be an excluded premises unless section 123(5) is satisfied.

Section 123(5) is satisfied if persons resident in the locality are reliant on the premises to a significant extent as a principal source of petrol or derv or groceries. In the decision of Tesco Stores Ltd v Falkirk Council Licensing Board, unreported February 17, 2012, the Sheriff Principal commented that it must be considered whether residents "would properly consider themselves materially disadvantaged or inconvenienced were those shop premises not to provide the retail facilities which they do." The Sheriff Principal also commented that in relation to fuel "it is a pertinent question to ask how it could it be said that they 'would properly consider themselves materially disadvantaged or inconvenienced' were there to be other garage premises retailing fuel nearby."

RICHARD ELLIS
INTERIM DIRECTOR OF CORPORATE GOVERNANCE



100% Recycled



AGE POSITIVE
scotland



Choose products with the FAIRTRADE Mark



The Sub Committee understands that the premises are within a commercial area which only constitutes commercial units, the airport and hotels.

The Sub-Committee noted that an objection to the application had been lodged with the Licensing Board by Dyce and Stoneywood Community Council.

Accordingly, it is considered by the Sub Committee that, in determining whether the application should be granted, the following questions ought to be considered carefully:

1. Can customers of airport hotels be properly considered "persons resident in the locality"?
2. If customers of airport hotels are considered "persons resident in the locality", can customers of a hotel be deemed materially disadvantaged or inconvenienced by not having access to groceries at the premises?
3. If section 125(5) of the Licensing (Scotland) Act 2005 is deemed to be satisfied, given the transient nature of the clientele of the premises and having regard to the location and character of the premises, should the application be refused under section 23(d)?

The Sub Committee appreciates that the Board is best placed to determine what factors should be considered and therefore requests that this application is included in the forthcoming agenda. At the same time, it is requested that the Board considers the above questions when determining the application as this will alleviate any concerns that the Sub Committee may have.

Yours faithfully

A large black rectangular redaction box covers the signature area. A small, thin, dark mark resembling a pen nib or a stray stroke is visible above the top right corner of the redaction box.

Councillor Andrew Finlayson

Chairperson – Special Licensing Objections Sub-Committee