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NITHSDALE DIVISIONAL LICENSING BOARD

Meeting of Friday 20 September 2024
at 10.30am – by Remote Meeting

Tony Berretti – Mid and Upper Nithsdale;
John Campbell – Nith;
Linda Dorward – Lochar;
Ivor Hyslop (Convener) – Lochar;
Emma Jordan – North West Dumfries;
Tracey Little – Lochar;

VLAD VALIENTE
Clerk to the Licensing Board

Nithsdale Divisional Licensing Board

Meeting of Friday 20 September 2024
at 10.30am – by Remote Meeting

- | | | |
|-----|---|---------|
| 1. | SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION | |
| 2. | DECLARATIONS OF INTEREST | |
| 3. | MINUTE OF MEETING 23 JULY 2024 | 5 - 8 |
| | FOR APPROVAL. | |
| 4. | LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR OCCASIONAL LICENCES AND EXTENDED HOURS (GRANTED UNDER DELEGATED AUTHORITY) - REPORT BY THE CLERK TO THE BOARDS | 9 - 10 |
| 5. | LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR MINOR VARIATIONS (GRANTED UNDER DELEGATED AUTHORITY) - REPORT BY THE CLERK TO THE BOARDS | 11 - 18 |
| 6. | LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR TRANSFER OF PREMISES LICENCE (GRANTED UNDER DELEGATED AUTHORITY) - REPORT BY THE CLERK TO THE BOARDS | 19 - 20 |
| 7. | LICENSING (SCOTLAND) ACT 2005: SURRENDER OF PREMISES LICENCE - REPORT BY THE CLERK TO THE BOARDS | 21 - 22 |
| 8. | LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR VARIATION OF PREMISES LICENCE - THE CLUBHOUSE BAR, BANKEND ROAD, DUMFRIES - REPORT BY THE CLERK TO THE BOARDS | 23 - 32 |
| 9. | LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR VARIATION OF PREMISES LICENCE - GREENS, ST MICHAELS STREET, DUMFRIES - REPORT BY THE CLERK TO THE BOARDS | 33 - 40 |
| 10. | LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR NEW PREMISES LICENCE - SUZIE'S PLACE, 3 CROWNS COURT, DUMFRIES - REPORT BY THE CLERK TO THE BOARDS | 41 - 48 |
| 11. | LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR PERSONAL LICENCE APPLICATION - EMMA JOHNSTONE - REPORT BY THE CLERK TO THE BOARDS | 49 - 54 |

- | | | |
|-----|--|----------|
| 12. | LICENSING (SCOTLAND) ACT 2005: PERSONAL LICENCE REVIEW - GARRY GIBSON - REPORT BY THE CLERK TO THE BOARDS | 55 - 58 |
| 13. | LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR PROVISIONAL PREMISES LICENCE - DUMFRIES BROOMS ROAD SERVICE STATION, BROOMS ROAD, DUMFRIES - REPORT BY THE CLERK TO THE BOARDS | 59 - 100 |

Next Meeting Date: Friday, 6 December 2024

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NITHSDALE DIVISIONAL LICENSING BOARD

**Minute of Meeting of Tuesday 23 July 2024 at 10.30am
Remote Hearing**

MEMBERS PRESENT

Ivor Hyslop (Convener)	-	Lochar
Tony Berretti	-	Mid and Upper Nithsdale
John Campbell	-	Nith
Linda Dorward	-	Lochar
Emma Jordan	-	North West Dumfries;
Tracey Little	-	Lochar

IN ATTENDANCE

Sharon Davidson	-	Licensing Manager
Stuart Davidson	-	Licensing Standards Officer
Caroline Treanor	-	Solicitor

VLAD VALIENTE
Clerk to the Licensing Boards

1. **SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION**

5 Members present via MS Teams, the Convener approved Members' remote participation at the Hearing.

2. **DECLARATIONS OF INTEREST**

NONE

3. **MINUTES OF MEETING 19 JUNE 2024**

Decision

AGREED

MEMBER – Linda Dorward joined the meeting via MS Teams prior to consideration of the following item – 6 Members present

4. **LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR VARIATION OF PREMISES LICENCE – JOLLY HARVESTER, CALSIDE ROAD, DUMFRIES – REPORT BY THE CLERK TO THE BOARDS**

Decision

NOTED:-

4.1 That 2 objections had been received and the objector detailed at Appendix 3 of the report was not present.

4.2 After hearing from the objector detailed at Appendix 2 of the report, the applicant's agent requested that the application be amended by removing the words in Any other activities of the operating plan, "Fireworks outdoors for special occasions and on demand events" and adding "Fireworks outdoors to take place on one occasion only between 1 and 10 November each year".

4.3 The Board **AGREED** to the proposed amendment to the application and having heard from the Licensing Standards Officer, the applicant's agent, the applicant's tenant and the objector detailed at Appendix 2 of the report, **AGREED** to grant the application detailed in **Appendix 1** to this minute.

Appendix 1

Nithsdale Divisional Licensing Board
Application for Variation of Premises Licence

Applicant/Agent	Flint Bishop LLP For Star Pubs & Bars Limited 3-4 Broadway Park South Gyle Broadway Edinburgh EH12 9JZ
Address of Premises	Jolly Harvester Calside Road Georgetown Dumfries DG1 4HB
Nature of Variation	<p><u>Operating Plan</u></p> <p>Change on sales opening times Monday-Wednesday to 11.00am (currently 12.00pm)</p> <p>Change off sales opening times Monday-Wednesday to 11.00am (currently 12.00pm)</p> <p>Add the following wording to Seasonal Variation information: ‘During the festive period as defined by the Licensing Board the premises will operate additional hours in accordance with Nithsdale Divisional Licensing Board policy’</p> <p>Add Restaurant Facilities within core hours</p> <p>Add the following wording to ‘Any other Activities’ information: ‘Karaoke nights according to business needs. Fireworks outdoors to take place on one occasion only between 1 and 10 November each year.’</p> <p><u>Change of wording to Children and Young Persons:</u></p> <p>TERMS – Children are permitted to access the premises when accompanied by an adult for the purposes of having a meal and Young Persons are permitted on the premises unaccompanied for the purposes of having a meal, unless attending a private function or event in which case they will be permitted on the premises until close and without the need to be consuming a meal.</p> <p>TIMES – Children and Young Persons are permitted on the premises during the following times when food is served: Monday to Sunday: 11.00am until 22.00pm unless attending a private function or event in which case they will be permitted on the premises until close and without the need to be consuming a meal.</p> <p>PARTS – Children and Young Persons are permitted to be in all public parts of the premises.</p>
Last Date for Objections/ Representations	Monday 3 June 2024

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 SECTION 56 AND 68
APPLICATIONS FOR OCCASIONAL LICENCES AND EXTENDED HOURS
GRANTED UNDER DELEGATED AUTHORITY**

For the information of the Licensing Board, during the period from 4 June 2024 until 4 September 2024 the following Occasional Licences and Extended Hours were granted:

Occasional Licences : Applied for by a Personal Licence Holder

Total number issued 181

Occasional Licences : Applied for by a Premises Licence Holder

Total number issued 39

Occasional Licences : Applied for by a Voluntary Organisation

Total number issued 22

Extended Hours

Total number issued 2

Cheryl Syme
Senior Licensing Officer (Board Services)
Licensing
Ext: 63353

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street
Dumfries

Date of Report: 12 September 2024

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 29
APPLICATIONS FOR MINOR VARIATION OF PREMISES LICENCES
GRANTED UNDER DELEGATED AUTHORITY**

<u>Application No. 1 – Ref L.6/112N</u>	
Name & Address of Applicant or Agent	Dynamic Retail Limited 1598 Dunbarton Road Glasgow G14 9DR
Name & Address of Premises	Scot Fresh Unit 1 78 Glasgow Street Dumfries DG2 9AQ
Nature of variation	Change of Designated Premises Manager to Fraser Scott
Effective Date of Minor Variation	11 June 2024

<u>Application No. 2 – Ref L.6/111N</u>	
Name & Address of Applicant or Agent	Shell UK Oil Products Limited Shell Centre London SE1 7NA
Name & Address of Premises	Shell Collin Annan Road Dumfries DG1 3SE
Nature of variation	Change of Designated Premises Manager to Farwa Iftikhar
Effective Date of Minor Variation	21 June 2024

<u>Application No. 3 – Ref L.6/051N</u>	
Name & Address of Applicant or Agent	Scottish Midland Co-operative Society Limited Hillwood House 2 Harvest Drive Newbridge EH28 8QJ
Name & Address of Premises	Scotmid 202/204 Lochside Road Dumfries DG2 0EB
Nature of variation	Change of Designated Premises Manager to Mandy Brockie
Effective Date of Minor Variation	21 June 2024

<u>Application No. 4 – Ref L.4/009N</u>	
Name & Address of Applicant or Agent	Guid of Players Theatre Royal 58-70 Shakespeare Street Dumfries DG1 2JH
Name & Address of Premises	Theatre Royal 58-70 Shakespeare Street Dumfries DG1 2JH
Nature of variation	Change of Designated Premises Manager's home address
Effective Date of Minor Variation	26 June 2024

<u>Application No. 5 – Ref L.3/012N</u>	
Name & Address of Applicant or Agent	Marco Fusi Drumlanrig Café Thornhill DG3 5LJ
Name & Address of Premises	Drumlanrig café & Restaurant 53-54 Drumlanrig Street Thornhill DG3 5LJ
Nature of variation	Change of Designated Premises Manager to Elvira Dear
Effective Date of Minor Variation	28 June 2024

<u>Application No.6 - L.6/038N</u>	
Name & Address of Applicant or Agent	Rasul Bros c/o Brooke and Brown WS 116 High Street Dunbar EH42 1JJ
Name & Address of Premises	Nisa Local 62-64 High street Sanquhar DG4 6BL
Nature of variation	Change of Designated Premises Manager to Jabad Ahmed
Effective Date of Minor Variation	1 July 2024

<u>Application No.7 - L.6/083N</u>	
Name & Address of Applicant or Agent	Licensing Matters Ltd For J & J Wilson (Shops) Ltd Driftwood Lodge 36A Old Hunstanton Road Hunstanton PE36 6HS
Name & Address of Premises	J&J Wilson Supermarket Gillfoot Southernness Holiday Park Southernness Dumfries
Nature of variation	Change of Designated Premises Manager to Scott Lloyd
Effective Date of Minor Variation	11 July 2024

<u>Application No.8 - L.1/031N</u>	
Name & Address of Applicant or Agent	Queensberry Event Hire Ltd Auchenlays Dumfries DG1 1RE
Name & Address of Premises	Manor Country House Hotel Torthorwald Dumfries DG1 3PT
Nature of variation	Change of Designated Premises Manager to Sophie Duncan and change of premises name to 'Torr House'
Effective Date of Minor Variation	1 August 2024

<u>Application No.9 - L.6/088N</u>	
Name & Address of Applicant or Agent	Suvethika Thinesh 35 Summerpark Road Dumfries DG1 3FT
Name & Address of Premises	Herries Court Dumfries DG1 3TL
Nature of variation	Change of Designated Premises Manager's address and change of name of premises to 'Premier'
Effective Date of Minor Variation	5 August 2024

<u>Application No.10 - L.6/112N</u>	
Name & Address of Applicant or Agent	Dynamic Retail Limited 78 Longtown Road Dundee DD4 8JU
Name & Address of Premises	Unit 1 78 Glasgow Street Dumfries DG2 9AQ
Nature of variation	Change of premises name to 'Spar' and change to layout plan (no change to capacity)
Effective Date of Minor Variation	5 August 2024

<u>Application No.11 - L.2/009N</u>	
Name & Address of Applicant or Agent	Whitbread Group PLC Whitbread Court Houghton Hall Business park Porz Avenue Dunstable Bedfordshire LU5 5XE
Name & Address of Premises	The Solway Gate Annan Road Dumfries DG1 3JX
Nature of variation	Change of Designated Premises Manager to Kishan Fernando
Effective Date of Minor Variation	21 August 2024

<u>Application No.12 - L.2/009N</u>	
Name & Address of Applicant or Agent	Whitbread Group PLC Whitbread Court Houghton Hall Business park Porz Avenue Dunstable Bedfordshire LU5 5XE
Name & Address of Premises	The Solway Gate Annan Road Dumfries DG1 3JX
Nature of variation	Change of Designated Premises Manager to Claire Dodds
Effective Date of Minor Variation	22 August 2024

<u>Application No.13 - L.5/008N</u>	
Name & Address of Applicant or Agent	Dumfries and Galloway Council Council Offices English Street Dumfries DG1 2DD
Name & Address of Premises	The Jaggy Thistle Robert Burns Centre Mill Road Dumfries DG2 7BE
Nature of variation	Change of Designated Premises Manager to Cassandra Howat
Effective Date of Minor Variation	29 August 2024

<u>Application No.14 - L.2/065N</u>	
Name & Address of Applicant or Agent	John Watson 89A Irish Street Dumfries DG1 2PQ
Name & Address of Premises	Liquid Lounge 87 Irish Street Dumfries DG1 2PQ
Nature of variation	Change of Designated Premises Manager to Brendan O'Donnell and change of premises name to 'Above and Below'
Effective Date of Minor Variation	9 September 2024

Cheryl Syme
Senior Licensing Officer (Board Services)
Licensing
Ext: 63353

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street
Dumfries

Date of Report: 12 September 2024

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005
APPLICATIONS FOR TRANSFER OF PREMISES LICENCES
GRANTED UNDER DELEGATED POWERS**

<u>Application No 1. – Ref L.3/012N – SECTION 33</u>	
Name & Address of Applicant or Agent	Marco Fusi 54 Drumlanrig Street Thornhill DG3 5LJ
Name & Address of Transferee or Agent	Elvira Dear 5 Milehouse Crescent Dumfries DG1 1JZ
Name & Address of Premises	Drumlanrig Café & Restaurant 53-54 Drumlanrig Street Thornhill DG3 5LJ
Effective Date of Transfer	28 June 2024

Cheryl Syme
Senior Licensing Officer (Board Services)
Licensing
Ext: 63353

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street
Dumfries

Date of Report: 12 September 2024

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 28(6)
SURRENDER OF PREMISES LICENCES**

<u>No. 1 – Ref L.6/113N</u>	
Name & Address of Licence Holder	The Dumfries Larder Ltd 170-172 High Street Dumfries DG1 2BA
Name & Address of Premises	The Dumfries Larder Ltd 170-172 High Street Dumfries DG1 2BA
Date Licence Surrendered	26 June 2024

<u>No. 2 – Ref L.3/009N</u>	
Name & Address of Licence Holder	Sharon Chan 6C Lincluden Road Dumfries DG2 0QG
Name & Address of Premises	Hong Kong Star 89 Friars Vennel Dumfries DG1 2RF
Date Licence Surrendered	9 July 2024

Cheryl Syme
Senior Licensing Officer (Board Services)
Licensing
Ext: 63353

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street
Dumfries

Date of Report: 12 September 2024

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005: SECTION 30

APPLICATION: MAJOR VARIATION

PREMISES: THE CLUBHOUSE BAR, BANKEND ROAD, DUMFRIES

PREMISES LICENCE HOLDER: CRAIG PATTERSON, 2 THE GROVE, HEATHHALL, DUMFRIES

1. Reason for Report

1.1 As this is a major variation application, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application received 19 June 2024 and detailed in **Appendix 1** to this report.

2. Background

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- Local Community Council
- NHS Dumfries and Galloway
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises). – No neighbouring properties

2.2 In terms of the law, the Board is obliged to advertise notice of the application on its website for a continuous period of 21 days. The dates of display were **Friday 28 June 2024 to Saturday 20 July 2024**.

2.3 The applicant is also obliged to display a site notice of A4 size at or near the premises in a place and at a height where the notice can conveniently be read by the public on the same dates as the Board's notice.

2.4 On expiry of the 21 day advertising period the applicant must submit to the Board signed Confirmation of Site Notice before the Board may determine the application.

2.5 A signed Confirmation of Site notice has been received.

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 19 July 2024**.

3.2 No Objections have been received

4. Responses

- LSO report: no adverse comments (**Appendix 2**)
- Police Scotland: no adverse comments
- Planning: comments (**Appendix 3**)
- Environmental Health: no objections
- Building Standards – no adverse comments
- SFRS: no comments

5. Determining the application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

5.2 The Board must consider whether any of the grounds for refusal apply and

- (i) If NO ground of refusal applies, the Board must GRANT the application
- (ii) If ANY ground of refusal applies, the Board must REFUSE the application.

5.3 **The section 30(5) grounds for refusal are:-**

- The application must be refused under
 - Section 32(2) (where the Board has refused a premises licence variation application in respect of the same premises and seeking the same variation and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances justifying the sale of a 24 hour operation have not been proven)
 - Section 65(3) (the application is for off sales outwith 10am to 10pm)

- Licensing Objectives ground of refusal

The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm)

- Unsuitability of the premises

That having regard to:-

- a) the nature of the activities proposed to be carried on in the premises
- b) the location, character and condition of the premises; and
- c) the persons likely to frequent the premises

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.

- Overprovision

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 (taking account of the variation), in the locality.

6. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street, Dumfries

12 September 2024

Nithsdale Divisional Licensing Board
Application for Variation of Premises Licence

Applicant/Agent	Craig Patterson 2 The Grove Heathhall Dumfries DG1 1TN
Address of Premises	The Clubhouse Bar Bankend Road Dumfries DG1 4TH
Nature of Variation	<p><u>Operating Plan</u></p> <p>Increase indoor and outdoor capacity. Capacity details to now read:</p> <p>Total – 180 Indoor – 140 Outdoor – 40</p> <p>Change of opening times Monday to Sunday 10am (currently 11am)</p> <p><u>Layout Plan</u></p> <p>Extend outdoor drinking area. From 3mx6m to 9mx7.2m.</p>
Last Date for Objections/Representation	Friday 19 July 2024

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**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005:
APPLICATION FOR VARIATION OF PREMISES LICENCE, PREMISES:
THE CLUBHOUSE BAR, BANKEND ROAD, DUMFRIES, DG1 4TH**

1. This application has been submitted by Craig Patterson, 2 The Grove, Heathhall, Dumfries, DG1 1TN. The application seeks a variation to the current operating and layout plan for The Clubhouse Bar, Bankend Road, Dumfries, DG1 4TH.

1.2 The premise is a standalone building known as The Clubhouse Bar, Bankend Road, Dumfries. It comprises of a tearoom area on entry and then a large function room with a bar all being on the ground floor, with a small outdoor drinking area to the rear. The premises also act as the hospitality for the golf club / clubhouse at the Crichton Golf Club.

1.3 The Crichton Golf Club relinquished itself from club status several years ago. The applicant is also the Designated Premises Manager, and he runs a catering / hospitality business from the premises. The premises are very busy catering for many functions, including birthday celebrations and funerals.

2. The premises currently has licensed hours for on sales.

- 11am to 1am, Monday to Sunday

The premises are licensed for off sales.

- 10am to 10pm, Monday to Sunday

3. The applicant is seeking a major variation as follows:

3.1 Increase indoor and outdoor capacity. Capacity details to now read:

Total	180
Indoor	140
Outdoor	40

3.2 Layout Plan - Extend outdoor drinking area. From 3m x 6m to 9m x 7.2m.

3.3 The capacity increase relates to an increase of 20 for indoor and 40 for the outdoor drinking area.

3.4 The outdoor area is a new extended patio at the rear of the premises and is now 9m x 7.2m from 3m x 6m. The patio has been modernised with barrier panelling on the outer edge and the area leads from patio doors in the function room. The outdoor area has 10 wooden benches and is a scenic seating area for golfers and / or patrons to sit either watching the nearby golf or taking in the outdoor views of the course. It will also be used as a smoking area for patrons.

3.5 This area is contained within the grounds of the clubhouse / golf course and would only be accessed by those attending the premises. This area will take the extra number of patrons easily, as will the increase of 20 indoors, the premises are very spacious.

3.6 There are no residential properties in the immediate vicinity of the premises and outdoor area, indeed the nearest dwelling is at the far end of the premises car park then waste land which will be about 400 metres away.

3.7 I made the applicant aware of the Nithsdale Policy regarding outdoor drinking at 1.16.15 in the Licensing Policy Statement. It is clear from dealing with the applicant, that he is extremely responsible, and he would hope to have the whole outdoor drinking area licensed until the current terminal hour of 1am, i.e. the patio at 9m x 7.2m. The previous smaller area (3m x 6m) is already licensed until the terminal hour.

4. The applicant is also seeking to change of opening times Monday to Sunday 10am (currently 11am).

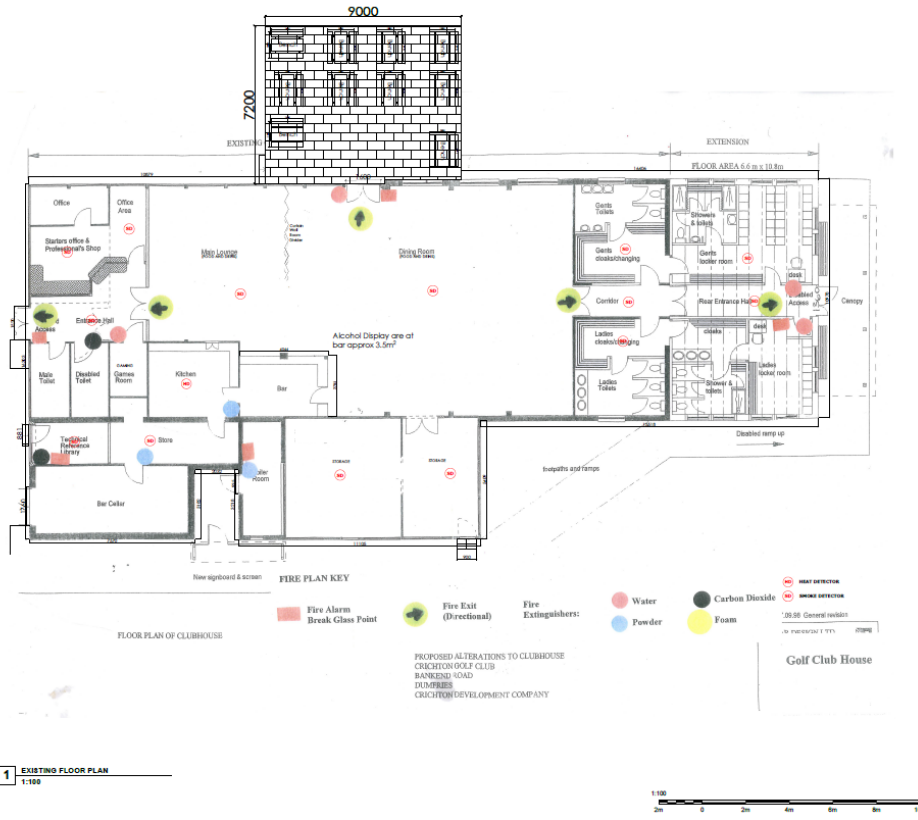
4.1 The earlier opening request is purely to meet business demand for the applicant.

5. I had met the applicant recently for a routine compliance inspection and I found him to be extremely professional and responsible with no issues or concerns highlighted.

6. The application was advertised on the Board's website page from **Friday 28th June 2024**, simultaneously a request was made for the applicant to display a notice at the premises. The notice was checked on Tuesday 2nd July 2024 and was found to be appropriately on display.

7. There are no adverse comments to be made in respect of this application.

Stuart Davidson
Housing and Licensing Standards Officer
02.07.24



3. Any discrepancies to be notified to McGowan Miller prior to commencement of works.
 4. All works to be carried out to current industry standards.
 5. To be used in conjunction with all relevant project information.

REVISIONS:		
REV	Date	Revisions
A	MARCH 24	Various Amendments



McGowan Miller
 Construction Consultants

98 George Street, Dumfries, DG1 1EH
 www.mcgowanmiller.co.uk
 e: info@mcgowanmiller.co.uk
 t: 01887 254283

RICS
 Registered by RICS - McGowan Miller Registered No. SC3179541

PROJECT:
 Crichton Club House
 Crichton Golf Course
 Bankend Road
 Dumfries
 DG1 4TH

CLIENT:
 Crichton Club House

DRAWING TITLE:
 FLOOR PLANS

SCALE	1:100 @ A2	DRAWING NO.
DATE	AUGUST 2023	CGC-02A
SIGNED	SM	
ISSUE	LICENSING PLAN	

1 EXISTING FLOOR PLAN
 1-100

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Internal Memo

Planning and Environment – Planning and Building Standards

20 June 2024

To: Licensing Department

Your ref:

Drop Point:

From: Lindsey Cameron, Team Leader, Planning
Applications, Militia House, English Street,
Dumfries, DG1 2HS

Our ref: LC3061

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION OTHER THAN A MINOR VARIATION
PREMISES: CRICHTON GOLF CLUB, CLUBHOUSE BAR, BANKEND ROAD,
DUMFRIES
APPLICANT: CRAIG DEREK PATTERSON**

I refer to your e-mail dated 19 June 2024 with attached appendix regarding the above and note that the site is located in the Conservation Area meaning that any external alterations at the site will require Planning Permission.

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005: SECTION 30

APPLICATION: MAJOR VARIATION

PREMISES: GREENS, 59 ST MICHAEL STREET, DUMFRIES

**PREMISES LICENCE HOLDER: STAR PUBS & BARS LIMITED, 3-4 BROADWAY
PARK, SOUTH GYLE BROADWAY, EDINBURGH**

1. Reason for Report

1.1 As this is a major variation application, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application received 20 June 2024 and detailed in **Appendix 1** to this report.

2. Background

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- Local Community Council (Disestablished)
- NHS Dumfries and Galloway
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises).

2.2 In terms of the law, the Board is obliged to advertise notice of the application on its website for a continuous period of 21 days. The dates of display were **Friday 28 June 2024 to Saturday 20 July 2024**.

2.3 The applicant is also obliged to display a site notice of A4 size at or near the premises in a place and at a height where the notice can conveniently be read by the public on the same dates as the Board's notice.

2.4 On expiry of the 21 day advertising period the applicant must submit to the Board signed Confirmation of Site Notice before the Board may determine the application.

2.5 Signed Confirmation of Site Notice has been received.

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 19 July 2024**.

3.2 No Objections have been received

4. Responses

- LSO report: no adverse comments (**Appendix 2**)
- Police Scotland: no adverse comments
- Planning: no planning issues
- Environmental Health: no adverse comments
- Building Standards – no adverse comments
- SFRS: no comments

5. Determining the application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

5.2 The Board must consider whether any of the grounds for refusal apply and

- (i) If NO ground of refusal applies, the Board must GRANT the application
- (ii) If ANY ground of refusal applies, the Board must REFUSE the application.

5.3 **The section 30(5) grounds for refusal are:-**

- The application must be refused under
 - Section 32(2) (where the Board has refused a premises licence variation application in respect of the same premises and seeking the same variation and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances justifying the sale of a 24 hour operation have not been proven)
 - Section 65(3) (the application is for off sales outwith 10am to 10pm)

- Licensing Objectives ground of refusal

The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm)

- Unsuitability of the premises

That having regard to:-

- a) the nature of the activities proposed to be carried on in the premises
- b) the location, character and condition of the premises; and
- c) the persons likely to frequent the premises

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.

- Overprovision

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 (taking account of the variation), in the locality.

6. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street, Dumfries

12 September 2024

Nithsdale Divisional Licensing Board
Application for Variation of Premises Licence

Applicant/Agent	Star Pubs & Bars Limited 3-4 Broadway Park South Gyle Broadway Edinburgh EH12 9JZ
Address of Premises	Greens 59 St Michael Street Dumfries DG1 2QB
Nature of Variation	<p><u>Operating Plan</u></p> <p>Q5f add following wording to 'Any other Activities':</p> <ul style="list-style-type: none"> - Community fun days held at premises and comprising activities such as children's games, bouncy castles, face painting, mini football and other fun activities - Barbeque – usually held on the fun day or by special demand i.e. fund raising day for local charities - Karaoke nights according to business needs - Live music events both internally and externally, with external music being capped to a maximum of 6 events per year. - Showing of live televised events both internally and externally, with any showing of live televised events externally being for major sporting events only - Children parties - Portable bar to be used in external beer garden area <p>Q7 'Capacity' increase in capacity outdoors, to now read:</p> <p>On-sales 410 (<i>currently 350</i>)</p> <p>Indoors 310 (<i>no change</i>) Outdoors 100 (<i>currently 40</i>) (overall capacity not to exceed – 310)</p> <p><u>Layout Plan</u></p> <p>To amend the layout plan to extend the existing beer garden and bring it into the licensable area</p> <p><u>Any other Changes</u></p>

	Change to description of premises to now read: Family friendly premises offering food and drink with licensed outdoor beer garden and smoking area.
Last Date for Objections/Representation	Friday 19 July 2024

**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005:
APPLICATION FOR VARIATION OF PREMISES LICENCE, PREMISES:
GREENS, 59 ST. MICHAEL STREET, DUMFRIES, DG1 2QB**

1. This application has been submitted by Start Pubs and Bars Limited, 3 – 4 Broadway Park, South Gyle Broadway, Edinburgh, EH EH12 9JZ. The application seeks a variation to the current operating and layout plan for Greens, 59 St Michael Street, Dumfries, DG1 2QB.

1.1 The premises are a mid-terraced Public House known as Greens, 59 St Michael Street, Dumfries, comprising public and lounge bars on the ground floor. There is a large area within the rear of the premises that is accommodated by pool tables and large screen televisions for sports viewing purposes. There is currently a small outdoor drinking area to the rear with four wooden benches, current capacity 40.

2. The premises currently has licensed hours for on sales.

- 11am to 12am, Monday to Wednesday
- 11am to 1am, Thursday to Saturday
- 11am to 12am, Sunday

2.1 The premises are licensed for off sales.

- 11am to 10pm, Monday to Sunday

3. The applicant seeks to vary the operating plan as follows:

3.1 Add the following wording to 'Any other Activities'.

- Community fun days held at premises and comprising activities such as children's games, bouncy castles, face painting, mini football and other fun activities.
- Barbeque – usually held on the fun day or by special demand i.e. fund-raising day for local charities.
- Karaoke nights according to business needs.
- Live music events both internally and externally, with external music being capped to a maximum of 6 events per year.
- Showing of live televised events both internally and externally, with any showing of live televised events externally being for major sporting events only.
- Children parties.
- Portable bar to be used in external beer garden area

3.2 The applicant confirms the above activities are to ensure all their business needs for the customer/patrons are being met within the operating plan. These activities ensure a full range of trade and entertainment activities are provided.

3.3 Greens Bar has a large garden area to the rear (see below at 4.0) and would be able to accommodate all the above activities.

3.4 The applicant also seeks to vary the operating plan at - Q7 'Capacity' increase in capacity outdoors, to now read:

On-sales 410 (currently 350)

Indoors 310 (no change)

Outdoors 100 (currently 40)

(overall capacity not to exceed – 310)

3.5 The applicant states the change in capacity is due to the new outdoor area that is requested at 4.

3.6 The premises indoor and outdoor is extremely spacious. The overall capacity shows as 310 on the application despite the indoor and outdoor adding to 410.

4. The applicant seeks to amend the layout plan as follows - To amend the layout plan to extend the existing beer garden and bring it into the licensable area. See new layout plan which is attached at the bottom of this report.

4.1 The applicant already has a smaller outdoor licensed area that leads from a side door of the premises to a small patio area with four benches. This then leads to the new outdoor area. The current smaller area is licensed to the terminal hour as detailed above at 2.

4.2 The new larger area is grassed and leads to the Dock Park at the bottom of the area. The outdoor area is bordered by a boundary made up from hedging, foliage and wall and is clearly separated from neighbouring dwellings either side. The applicant confirms the grass will be well maintained, and that extra permanent bins will be in place.

4.3 The new outdoor area is bordered by dwelling houses on either side and the applicant advises they are aware and conscious of neighbours living beside their premises. It was confirmed by the applicant that they are keen to work with neighbours to ensure their living environment is not disturbed.

4.4 I made the applicant aware of the Nithsdale Policy regarding outdoor drinking at 1.16.15 in the Licensing Policy Statement. The applicant advised that music within the outdoor drinking area would be always kept to a reasonable level. They will also have an acoustic singer from time to time and this or any other activities wouldn't be excessively nor go beyond any time that may disturb neighbouring properties.

4.5 The applicant confirmed that extra staff would manage the new outdoor area and that they would ensure glasses would not be taken from the rear exit that leads from the outdoor drinking area to the Dock Park.

5. The application seeks to change the descrion of the premies to read as follows.

Family friendly premises offering food and drink with licensed outdoor beer garden and smoking area.

6. The application was advertised on the Board's website page from **Friday 28th June 2024**, simultaneously a request was made for the applicant to display a notice at the premises. The notice was checked on Wednesday 3rd July 2024 and was found to be on display in accordance with the display guidance.

7. There are no adverse comments to be made in respect of this application.

Stuart Davidson
Licensing Standards Officer
19.08.2024

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005: SECTION 23

APPLICATION: PREMISES LICENCE

PREMISES: SUZIES PLACE, 3 CROWNS COURT, DUMFRIES

**APPLICANT: SUZANNE HOWAT, 3 HETLAND COTTAGES, CARRUTHERSTOWN,
DUMFRIES**

1. Reason for Report

1.1 As this is an application for a new premises licence, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application for a new premises licence received on 5 July 2024 and detailed at **Appendix 1**.

2. Background

2.1 As is required by law, a copy of the application was forwarded to the following:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- NHS Dumfries & Galloway
- Local Community Council
- Neighbours (those within 4 metres in any direction of any boundary of the premises)

2.2 Satisfactory Section 50 Certificates for Planning, Building Standards and Food Hygiene and a Disabled Access and Facilities Statement have been received.

2.3 In accordance with statutory advertising requirements, the Board is required to display a notice on its website for a period of 21 days and the applicant is also required to display a site notice at or near the premises and in a place and height where it can conveniently be read by the public for the same period.

2.4 Notice of the application was published on the Board's webpage from **Friday 12 July 2024 to Saturday 3 August 2024**

2.5 At the time of writing this report no signed Confirmation of Site notice has been received.

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 2 August 2024**

3.2 A Representation has been received (**Appendix 2**).

4. Responses

The following responses have been received:

- LSO report – no adverse comments (**Appendix 3**)
- Police Scotland – clear report
- Planning – no planning issues

- Environmental Health – no objections
- SFRS – no adverse comments

5. Determination of the application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision and take into account the following:

5.2 The key consideration in reaching a decision is to determine whether or not a ground of refusal applies.

- (i) If no ground of refusal applies, then the Board must GRANT the application.
- (ii) If any ground of refusal applies, the Board must REFUSE the application

5.3 In terms of section 23 (5) the grounds for refusal are:-

- The premises are excluded premises
- The application must be refused under
 - Section 25(2) (where the Board has refused a premises licence and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances have not been shown to justify that operation)
 - Section 65(3) (the application relates to off sales outwith 10am to 10pm)
- That the Licensing Board considers, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;
- The Licensing Board considers that the granting of the application would otherwise , be inconsistent with one or more of the licensing objectives, namely: (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm);
- That having regard to:-
 - i) The nature of the activities proposed to be carried on in the 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
- The Board considers that that, if the application were to be granted, there would, as a result, be overprovision of licensed premise in the locality.

6. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street
Dumfries
DG1 2HS

12 September 2024

Appendix 1

Applicant/Agent	Suzanne Howat 3 Hetland Cottages Carrutherstown Dumfries DG1 4JX
Address of Premises	Suzie's Place 2 Crowns Court Dumfries DG1 1HU
Description	Café serving hot and cold food and beverages on one floor with 42 covers, some seating outside.
Core Times	<p><u>On Sales</u></p> <p>Monday 11.00am – 11.00pm Tuesday 11.00am – 11.00pm Wednesday 11.00am – 11.00pm Thursday 11.00am – 11.00pm Friday 11.00am – 11.00pm Saturday 11.00am – 11.00pm Sunday 11.00am – 11.00pm</p> <p><u>Off Sales</u></p> <p>Monday 10.00am – 10.00pm Tuesday 10.00am – 10.00pm Wednesday 10.00am – 10.00pm Thursday 10.00am – 10.00pm Friday 10.00am – 10.00pm Saturday 10.00am – 10.00pm Sunday 10.00am – 10.00pm</p>
Activities	<p>Conference facilities, Restaurant Facilities, Bar Meals, Receptions, Club/Group Meetings, Recorded Music, Live Performances, Films, Gaming, Indoor/Outdoor Sports, Televised Sports and Adult Entertainment both within and outwith core hours.</p> <p>Outdoor Drinking within core hours.</p> <p><u>Further info 'outwith core hours'</u> – To provide hot/cold food and beverages, book club, play background music, markets, takeaway, activity night, funeral teas, bingo, quiz, dominos, darts etc before licensing times.</p>

	<p><u>Any other Activities:</u> Funeral teas, Bingo, Quiz Nights, Markets, Takeaway, Domino/Darts, Book Club, Activity Night.</p>
Children and Young Persons	<p>TERMS – Children - For the consumption of food and hot/cold drinks (non alcohol) at all times unaccompanied up until 5pm – no access to the bar. After 5pm they must be accompanied by an adult. Young Persons allowed in at all opening times unaccompanied.</p> <p>AGES – Children 0-15 years; Young Persons 16 to 17 years</p> <p>TIMES – Children will be allowed entry up until 5pm. Thereafter they must be accompanied by an adult. Young Persons allowed at all times unaccompanied.</p> <p>PARTS – Allowed entry in public parts of the premises except bar area.</p>
Capacity	<p>Onsales – 62 Indoors – 42 Outdoors – 20</p>
Last Date for Objections/Representation	Friday 2 August 2024

Appendix 2

From: Simon Jones <simon.jones831@yahoo.co.uk>
Sent: Tuesday, July 9, 2024 2:19 PM
To: Licensing <licensing@dumgal.gov.uk>
Subject: EXTERNAL: Premises Licence, Suzi's Place L.2/087N CS/004

Dear Nithsdale Divisional Licensing Board,

I am writing to you to express my support for this application. I think a family-friendly cafe open into the evening will greatly enhance our town centre.

I am writing in an individual capacity.

Kind regards

Simon Jones
158 St Michael's St, DG1 2PR

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**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR PREMISES LICENCE
PREMISES: SUZIE'S PLACE, 3 CROWNS COURT, DUMFRIES, DG1 1HU
APPLICANT: SUZANNE HOWAT, 3 HETLAND COTTAGES, DUMFRIES, DG1 4JX**

1. This application involves the provision of on and off sales in a small café near the town centre of Dumfries.
2. The cafe is set in Crown's Court, Dumfries. This is a small lane between Loreburn Street and Queensberry Street. It is a standalone building of one floor with some seating outside. The café currently serves hot and cold food and non-alcoholic refreshments.
3. The applicant is looking to add on and off sales alcoholic refreshments which would be mainly supplied with meals during core hours.
4. The hours applied for are: -

On Sales

Monday to Sunday 11.00am – 11.00pm

Off Sales

Monday to Sunday 10.00am – 10.00pm

all of which are within the Board's Licensing Hours Policy.

5. The applicant has experience in the catering trade, and she has managed the premises for over 18 months. The business will continue to operate with table service although there is a small bar/counter area that could be used for ordering / payment.
6. Other activities that are applied for are Conference facilities, Restaurant Facilities, Bar Meals, Receptions, Club/Group Meetings, Recorded Music, Live Performances, Films, Gaming, Indoor/Outdoor Sports, Televised Sports, and Adult Entertainment both within and outwith core hours. Outdoor Drinking within core hours.
7. Further info 'outwith core hours' – To provide hot/cold food and beverages, book club, play background music, markets, takeaway, activity night, funeral teas, bingo, quiz, dominos, darts etc before licensing times.
8. Any other Activities – Funeral teas, Bingo, Quiz Nights, Markets, Takeaway, Domino/Darts, Book Club, Activity Night.

It should be noted that the takeaway activities are for food only and not alcohol. The activities detailed are to ensure the business can expand if required within the operating plan applied for.

9. There is a small outdoor area with five benches and seating which is detailed within the layout plan. This area is to the front of the building and adjacent to the small roadway that runs past the premises.

10. I made the applicant aware of the Nithsdale Policy with regard to outdoor drinking at 1.16.15 in the Licensing Policy Statement. It is clear from dealing with the applicant, that she is extremely responsible and would only use the area until 10pm in any case. This outdoor area has commercial properties and dwelling flats in the vicinity.

11. Capacity for the premises

The capacity is – 62.

Indoors – 42

Outdoors – 20

12. Children and Young People - The applicant is looking to ensure that Children and Young People are allowed entry to the premises, as follows.

TERMS – Children - For the consumption of food and hot/cold drinks (non-alcohol) at all times unaccompanied up until 5pm – no access to the bar. After 5pm they must be accompanied by an adult. Young Persons allowed in at all opening times unaccompanied.

AGES – Children 0-15 years; Young Persons 16 to 17 years

TIMES – Children will be allowed entry up until 5pm. Thereafter they must be accompanied by an adult. Young Persons allowed at all times unaccompanied.

PARTS – Allowed entry in public parts of the premises except bar area.

The Children and Young person's terms applied for are within policy.

13. The application was advertised on the Board's website page from Friday 12 July 2024, simultaneously a notice was displayed at the premises. The Notice was checked on Thursday 18 July at which time it was correctly displayed.

I have no adverse comments to make.

Stuart Davidson
Licensing Standards Officer
18 July 2024

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 74
APPLICATION FOR A PERSONAL LICENCE
APPLICANT: EMMA JOHNSTONE**

1. Reason for Report

As the Board has received an application for a Personal Licence and the Chief Constable has submitted a Notice stating relevant offences and recommending that the application be refused, the Board must, in law, hold a Hearing.

2. Background

2.1 Emma Johnstone submitted an application for a Personal Licence on 27 October 2023.

2.2 A Personal Licence, issued by a Licensing Board, authorises the licence holder to supervise or authorise the sale of alcohol.

2.3 The pre-licence conditions that must be met in law before an application can be granted have been met. Namely, that the applicant:

- is aged 18 or over;
- possesses a licensing qualification;
- does not already hold a Personal Licence; and
- has not held a Personal Licence that has previously been revoked within the last five years (other than it being revoked for failure to produce to the Board evidence of renewed Personal Licence Holder training)

2.4 This matter called at the Nithsdale Divisional Licensing Board at its meeting on 19 June 2024 and, as the applicant was not in attendance and the Board had not received any notification from her as to whether she was attending, members agreed to defer consideration of the application to allow the applicant a further opportunity to attend.

3. Police Response

A copy of the application was forwarded to the Chief Constable and, within the 21-day statutory timeline, the Chief Constable responded with a Notice notifying relevant offences and recommending refusal of the application (**Appendix**). Updated police letter has been received stating the statutory provision which gives rise to the offence and this is included at the Appendix.

4. Determining the application

4.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

4.2 In terms of Section 74(6) of the Act, the Board must, after having regard to the Chief Constable's Notice:

- (a) if satisfied that a ground of refusal applies, REFUSE the application or
- (b) if not so satisfied, GRANT the application.

4.3 The grounds for refusal are:

- (a) That, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a Personal Licence;
- (b) That it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives (preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children and young persons from harm).

5. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street
Dumfries
DG1 2HS

12 September 2024

OFFICIAL SENSITIVE: POLICE AND PARTNERS**Appendix**16th November 2023

Your Ref: DG/N/1161

Our Ref: AR/HJR/769684

Legal and Licensing Manager
Nithsdale Divisional Licensing
Kirkbank House
English Street
Dumfries
DG1 2HS



Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A PERSONAL LICENCE**APPLICANT: EMMA JANE JOHNSTONE, 20/06/1990****ADDRESS: 154 ARMOUR DRIVE, LOCHSIDE, DUMFRIES, DG2 9EZ.**

I refer to the above application and in terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005, I give notice that, based upon the information provided and as far as the Chief Constable is aware, the application has been convicted of the following relevant offences.

Date	Court	Crime/Offence	Disposal
10.09.2021	Merseyside Magistrates Court	Drive a Motor Vehicle with the Proportion of Specified Controlled Drug above Specified Limit	Fine £120 Costs £85 Disqualified from Driving – Obligatory 12 months. Victim Surcharge £34

On 6th March 2021 the applicant was involved in minor road traffic collision on a motorway within the Merseyside area. An Ambulance crew attended who had concerns surrounding her potentially having blacked out and in relation to her apparent changeable presentation. Police carried out a roadside drugs wipe test with Ms Johnstone which showed a positive result for cocaine. Ms Johnstone was thereafter arrested and charged as above. As this offence was committed in England, we are unable to provide any further details regarding the circumstances.

Date	Court	Crime/Offence	Disposal
04.04.2023	Dumfries Sheriff Court	Criminal Justice & Licensing (Scotland) Act 2010 Section 38(1) – Domestic Stat-Dom – Golf Club	Non-Harassment Order 18 months and to refrain from contacting or attempting to contact a

OFFICIAL SENSITIVE: POLICE AND PARTNERS

			named male person in any way
--	--	--	------------------------------

About 0400 hours on 29th October 2022 the applicant Ms Johnstone's ex-partner was within his then partner's home address when they heard Ms Johnstone shouting within the communal stairwell.

About 0440 hours, same date, Ms Johnstone was heard banging and shouting at the front door, resulting in the occupants attending and observing Ms Johnstone standing with a golf club raised above her head. Damage was also noted to the door. Ms Johnstone was then observed to stumble back to her own property within the same block.

About 0515 hours, same date, Ms Johnstone contacted Police stating she was on the wrong side of a bridge on the A75 at Dumfries and referred to a domestic incident, alleging that she had been assaulted after she had attended with a golf club. Police traced Ms Johnstone and she was conveyed to Dumfries and Galloway Royal Infirmary for a mental health assessment prior to being formally cautioned and charged with the above offence within Loreburn Street Police Office.

I am unable to confirm the existence of any foreign offence in respect of the applicant.

With regards to this application, Police made several attempts to contact Ms Johnstone by telephone without success. Eventually an appointment was made to meet with her at her home address, however on attendance a note was left on the door stating she had an appointment to attend to. Police again attempted to phone her with no reply but left a message to return their call. The Enquiry Officers are of the opinion that Ms Johnstone was actively avoiding meeting with them.

Furthermore the applicant failed to disclose her convictions within her application and Police enquiries to trace her in respect of this matter are ongoing.

In terms of Section 73(5) of the 2005 the Chief Constable provides the following information in relation to the applicant which is relevant to the Board's consideration of the application:-

The applicant's convictions for the relevant offences detailed above highlights concerns surrounding her apparently violent, unpredictable character and lifestyle. She has also demonstrated a lack of co-operation with Police enquiries into this application and has failed to disclose relevant convictions, all of which indicates she is potentially not a fit and proper person to hold a Personal Licence.

In light of this, the Chief Constable considers that it is necessary for the purposes of the preventing crime and disorder and securing public safety licensing objectives, that the application be refused. The Chief Constable accordingly makes a recommendation to that effect in terms of section 73(4) of the 2005 Act.

Yours faithfully

John Cairns
T/Chief Superintendent

OFFICIAL SENSITIVE: POLICE AND PARTNERS16th November 2023

Your Ref: DG/N/1161

Our Ref: AR/HJR/769684

Legal and Licensing Manager
Nithsdale Divisional Licensing
Kirkbank House
English Street
Dumfries
DG1 2HS



Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A PERSONAL LICENCE**APPLICANT: EMMA JANE JOHNSTONE, 20/06/1990****ADDRESS: 154 ARMOUR DRIVE, LOCHSIDE, DUMFRIES, DG2 9EZ.**

I refer to the above application and in terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005, I give notice that, based upon the information provided and as far as the Chief Constable is aware, the application has been convicted of the following relevant offences.

Date	Court	Crime/Offence	Disposal
10.09.2021	Merseyside Magistrates Court	Road Traffic Act 1988 Section 4 - Drive a Motor Vehicle with the Proportion of Specified Controlled Drug above Specified Limit	Fine £120 Costs £85 Disqualified from Driving – Obligatory 12 months. Victim Surcharge £34

On 6th March 2021 the applicant was involved in minor road traffic collision on a motorway within the Merseyside area. An Ambulance crew attended who had concerns surrounding her potentially having blacked out and in relation to her apparent changeable presentation. Police carried out a roadside drugs wipe test with Ms Johnstone which showed a positive result for cocaine. Ms Johnstone was thereafter arrested and charged as above. As this offence was committed in England, we are unable to provide any further details regarding the circumstances.

Date	Court	Crime/Offence	Disposal
04.04.2023	Dumfries Sheriff Court	Criminal Justice & Licensing (Scotland) Act 2010 Section 38(1) – Domestic Stat-Dom – Golf Club	Non-Harassment Order 18 months and to refrain from contacting or attempting to contact a named male person in any way

OFFICIAL SENSITIVE: POLICE AND PARTNERS

About 0400 hours on 29th October 2022 the applicant Ms Johnstone's ex-partner was within his then partner's home address when they heard Ms Johnstone shouting within the communal stairwell.

About 0440 hours, same date, Ms Johnstone was heard banging and shouting at the front door, resulting in the occupants attending and observing Ms Johnstone standing with a golf club raised above her head. Damage was also noted to the door. Ms Johnstone was then observed to stumble back to her own property within the same block.

About 0515 hours, same date, Ms Johnstone contacted Police stating she was on the wrong side of a bridge on the A75 at Dumfries and referred to a domestic incident, alleging that she had been assaulted after she had attended with a golf club. Police traced Ms Johnstone and she was conveyed to Dumfries and Galloway Royal Infirmary for a mental health assessment prior to being formally cautioned and charged with the above offence within Loreburn Street Police Office.

I am unable to confirm the existence of any foreign offence in respect of the applicant.

With regards to this application, Police made several attempts to contact Ms Johnstone by telephone without success. Eventually an appointment was made to meet with her at her home address, however on attendance a note was left on the door stating she had an appointment to attend to. Police again attempted to phone her with no reply but left a message to return their call. The Enquiry Officers are of the opinion that Ms Johnstone was actively avoiding meeting with them.

Furthermore the applicant failed to disclose her convictions within her application and Police enquiries to trace her in respect of this matter are ongoing.

In terms of Section 73(5) of the 2005 the Chief Constable provides the following information in relation to the applicant which is relevant to the Board's consideration of the application:-

The applicant's convictions for the relevant offences detailed above highlights concerns surrounding her apparently violent, unpredictable character and lifestyle. She has also demonstrated a lack of co-operation with Police enquiries into this application and has failed to disclose relevant convictions, all of which indicates she is potentially not a fit and proper person to hold a Personal Licence.

In light of this, the Chief Constable considers that it is necessary for the purposes of the preventing crime and disorder and securing public safety licensing objectives, that the application be refused. The Chief Constable accordingly makes a recommendation to that effect in terms of section 73(4) of the 2005 Act.

Yours faithfully

John Cairns
T/Chief Superintendent

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A
CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: GARRY GIBSON**

1. Reason for Report

As the Board has received a section 84A report from the Chief Constable it must, in law, hold a Hearing.

2. Background

2.1 On 6 August 2024, the Chief Constable, in terms of his power under section 84A the Act, submitted to the Board a report alleging that Garry Gibson, the holder of a personal licence, has acted in a manner that is inconsistent with the licensing objectives, (1) Preventing Crime and Disorder and (2) Securing Public Safety (**Appendix**).

2.2 A Personal Licence issued by a Licensing Board authorises the licence holder to supervise or authorise the sale of alcohol.

2.3 In terms of procedure, both the letter and Notice of Hearing have been sent to the licence holder.

3. Determination

3.1 At its Hearing the Board may, after giving

- the licence holder concerned and
- such other persons as they consider appropriate an opportunity to be heard and
- if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order to:
 - a) revoke the licence;
 - b) suspend the licence for a maximum 6 month period as the Board considers appropriate; or
 - c) endorse the licence. (an endorsement expires after five years)

3.2 It is also open to the Board to take no action.

3.3 If, at the Hearing, the Board is satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence then the Board must make an order revoking the licence.

4. Recommendations
4.1 Members are asked to consider whether they wish to: <ul style="list-style-type: none">• revoke• suspend• endorse the licence or• take no action; and
4.2 Note that if a determination is made that the licence holder is not a fit and proper person to be the holder of the personal licence then the Board has no discretion as to which action it wishes to take as it must, in law, revoke the licence.

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
Dumfries

12 September 2024

OFFICIAL SENSITIVE: POLICE AND PARTNERS

6th August 2024

Your Ref: DG/N/1023

Our Ref: AP/HJR

Clerk of the Board
Nithsdale Divisional Licensing
Chief Executive Service
Kirkbank
Council Offices
English Street
Dumfries
DG1 2HS



Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84A
REPORT OF CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER:
GARRY GIBSON, MAI HABAR, MOSS ROAD, DALBEATTIE, DG5 4HY
LICENCE NO: DG/N/1023**

The Chief Constable hereby reports to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Garry Gibson, has acted in a manner which is inconsistent with the licensing objective(s) articulated at Section 4(1) of Act, namely:

- Preventing Crime and Disorder
- Securing Public Safety

Mr Gibson applied for a Personal Licence which Police Scotland received around the 30th July 2021, there was no objection submitted and the Personal Licence was granted on the 9th August 2021 with an expiry date of 8th August 2031.

On 30th September 2021, a Minor Variation was granted for the Anchor Hotel, Kippford, Dumfries, DG5 4LN for a new Designated Premises Manager, namely Garry Gibson.

On 22nd April 2023, Police Scotland received a complaint in relation to the conduct of Garry Gibson from an employee of the Anchor Hotel between April 2022 and December 2022.

The complaint related to allegations of communicating indecently, sexual harassment and sexual assault, all of which were reportedly perpetrated within the workplace during the period of employment there.

Following investigation, on 30th June 2023, there was sufficient evidence to charge Mr Gibson with Sexual Offences (Scotland) Act 2009 Section 7(1) (Communicate Indecently).

Mr Gibson On 4th June 2024 Mr Gibson appeared at Dumfries Sheriff Court in relation to the above charge and was found not guilty. On this day and prior to the court appearance, three witnesses were in attendance to provide evidence against Mr Gibson.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Whilst standing outside the premises and prior to attending court, Mr Gibson who was on his own walked past them calling them names and made threats of violence towards them after the court had finished.

This left the witnesses feeling vulnerable and threatened prior to providing their evidence.

Statements were obtained by Police from all three witnesses and sufficiency of evidence to charge Mr Gibson with Attempt to Pervert the Course of Justice which is a relevant offence.

As this matter is sub judice, I am unable to furnish any further specific information regarding the case without first seeking permission from COPFS.

The behaviour shown by Mr Gibson outside of court shows a complete lack of integrity and respect towards the law and court system. This behaviour is not what is expected of someone in a position of authority as a personal licence holder and is highly concerning given his interaction with the public and his own staff.

The Chief Constable's view is that a suspension of the Personal Licence is appropriate.

In signing this report, I confirm that this report is made under the authority of the Chief Constable of Police Service of Scotland:

Yours faithfully

Steven Meikle
Chief Superintendent

**DUMFRIES AND GALLOWAY LICENSING BOARDS
NITHSDALE DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005 (2005 Act): SECTION 45

APPLICATION: PROVISIONAL PREMISES LICENCE

APPLICANT: MOTOR FUEL LIMITED, 10 BRICKET ROAD, ST ALBANS

**PREMISES TO BE LICENSED: DUMFRIES BROOMS ROAD SERVICE STATION,
BROOMS ROAD, DUMFRIES**

1. Reason for Report

1.1 As this is an application for a provisional premises licence, the Board must in law hold a Hearing.

1.2 Members are asked to consider the application received 23 April 2024 and detailed at **Appendix 1** to this report.

2. Background

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- NHS Dumfries & Galloway
- Community Council
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises) – There were no neighbouring properties

2.2 Both Section 50(5) Provisional Planning Certificate and Disabled Access and Facilities Statement have been received.

2.3 In accordance with statutory advertising requirements, the Board is required to display a notice on its website for a period of 21 days and the applicant is also required to display a site notice at or near the premises and in a place and height where it can conveniently be read by the public for the same period.

2.4 Notice of the application was published on the Board's webpage from **Friday 3 May 2024 to Saturday 25 May 2024**.

2.5 Signed Confirmation of Site Notice has been received.

2.6 The applicant's agent has submitted a market research report in respect of the section 123(5) exception detailed at paragraph 5.3 below (**Appendix 2**).

3. Objections and Representations

3.1 The last date for objections/representations was **Friday 24 May 2024**.

3.2 No Objections have been received

4. Responses

The following responses have been received:

- LSO Report – clear **Appendix 3**
- Police Scotland – clear report
- Planning – No planning issues
- Building Standards – no adverse comments
- Environmental Health – no objections
- SFRS – no comments

4.1 The applicant's Delivery of Alcohol Policy is detailed at **Appendix 4**.

5. Excluded Premises

5.1 Section 123 (1) 2005 Act provides that no premises licence has effect to authorise the sale of alcohol on excluded premises.

5.2 In terms of section 123, the definition of excluded premises includes 'premises used as a garage or which form part of premises which are so used'.

5.3 Section 123(5) provides for a statutory exception to the above, whereby if the premises fall within the following definition then they are *not* excluded premises:

- 'premises used for the sale by retail of petrol or derv or which form part of premises so used are not excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of petrol or derv or groceries (where the premises are, or are to be, used also for the sale by retail of groceries).

5.4 If the above statutory exception is not met then the premises are 'excluded' and the application must be refused in law.

6. Determination of the Application

6.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision and take into account the following:

6.2 The key consideration in reaching a decision is to determine whether or not a ground of refusal applies.

- (i) If no ground of refusal applies, then the Board must GRANT the application.
- (ii) If any ground of refusal applies, the Board must REFUSE the application

6.3 In terms of section 23 (5) the grounds for refusal are:-

- The premises are excluded premises (see paragraph 5 above)
- The application must be refused under
 - Section 25(2) (where the Board has refused a premises licence and this is a subsequent application received within 12 months of the refusal)
 - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances have not been shown to justify that operation)
 - Section 65(3) (the application relates to off sales outwith 10am to 10pm)
- That the Licensing Board considers, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;

- The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives, namely: (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm);
- That having regard to:-
 - i) The nature of the activities proposed to be carried on in the 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
- The Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises in the locality.

7. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente
Clerk to the Licensing Boards
Kirkbank House
English Street
Dumfries

12 September 2024

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Appendix 1

Applicant/Agent	Motor Fuel Limited Per Harper Macleod LLP 45 Gordon Street Glasgow G1 3PE
Address of Premises	Dumfries Brooms Road Service Station Brooms Road Dumfries DG1 2SH
Description	<p>The premises are located at Brooms Road, Dumfries, DG1 2SH.</p> <p>The premises has a general convenience store adjacent to petrol/derv filling station forecourt. The site has car parking separate from the fuel pumps. The premises do not form part of the nearby retail supermarket premises.</p> <p>The petrol/derv filling station forecourt area is not part of the area to be licensed. The premises offer substantial general convenience separate from, and supplementary to, the offer of petrol/derv.</p> <p>The applicant considers that persons within the locality of the premises are reliant on the premises to a significant extent as a principal source of petrol or derv or groceries and thereby satisfy the criteria of Section 123(5) of the Licensing (Scotland) Act and as such are not excluded premises.</p>
Core Times	<u>Off Sales</u> Monday to Sunday 10:00 to 22:00 hours
Activities	<p>Include recorded music within and outwith core hours.</p> <p>The premises may play background music in the retail areas of the store. The premises may operate outwith alcohol licensing, up to 24-hour basis.</p> <p><u>Any other Activities</u></p> <p>The premises comprise of a general convenience store with off sale facility adjacent to petrol/derv filling station forecourt. The premises offer takeaway “food on the go”.</p>

	Customers may order groceries, food and drinks, including alcoholic drinks for home delivery from the premises.
Capacity	9.228m2
Last Date for Objections/Representation	Friday 24 May 2024



Dumfries Filling Station
Brooms Road, Dumfries, DG1 2DR
Customer Profiling Research Report
June 2024

Research & Reporting by



Introduction

The following report outlines the findings from a customer research interviewing program carried out between Wednesday 12th June and Saturday 22nd June at Dumfries Filling Station, Brooms Road, Dumfries, DG1 2DR. The research explored the buying behaviours of persons' resident in the locality of the site. Customers were asked to provide information on; their place of residence in relation to the premises, their means of travel to the premises and their purchasing behaviour in relation to fuel and groceries.

Key Research Objective

[Section 123(5) seeks to determine, as interpreted in the Opinion of the Inner House of the Court of Session in *BP Oil UK Limited v City of Glasgow Licensing Board and City of Edinburgh Licensing Board* (5th April 2011) whether a recognisable number of persons in the locality see and treat the said premises as the principal source from which they, in ordinary course, purchase groceries or fuel and who would properly consider themselves materially disadvantaged or inconvenienced were these retail facilities to no longer be provided from said premises.

Materially Disadvantaged or Inconvenienced?

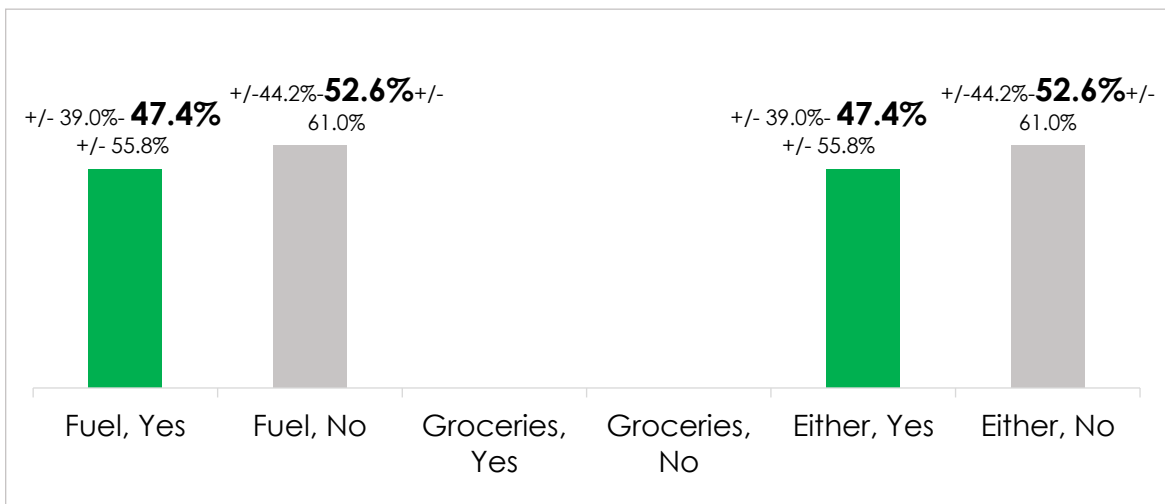


Figure 1: Fuel base = 135

Groceries base = 0

Either base = 135

Conclusion

The results show that a statistically significant* proportion of persons (47.4% (+/-8.42% in the locality) see and treat this service station at Brooms Road, Dumfries, as the principal source from which they, in ordinary course, purchase groceries or fuel and would properly consider themselves materially disadvantaged or inconvenienced were these retail facilities to no longer be provided from said premises.

Statistically significant - In statistics, a result is called **statistically significant if it is unlikely to have occurred by chance. The likelihood that a result or relationship is caused by something other than mere random chance.*

Contents Page

Executive Summary Page	Page 2
Introduction	Page 2
Key Research Objective	Page 2
Conclusion	Page 3
Contents Page	Page 4
Research Methodology	Page 5
Sample Size	Page 5
Population of Interest	Page 5
Defining the Population of interest	Page 6
Research Findings – Locality	Page 7
Locality to Premises	Page 7
Research Findings – Geo-mapping	Page 8
Research Findings – Demographics	Page 9
Research Findings – Premises Usage	Page 10
Research Findings – Inconvenienced	Page 11
Research Findings – Fully Inconvenienced	Page 13
Research Findings – Motor Fuel Group	Page 15
About TMcK	Page 17
About Market Research Society (MRS)	Page 17
Appendix 1 – Research Background	Page 18
Appendix 2 –Research Questionnaire	Page 20
Appendix 3 – Open Ended Responses	Page 25
Appendix 4 – Postcodes	Page 29

A quantitative research study was carried out between Wednesday 12th June and Saturday 22nd June at Dumfries Filling Station, Brooms Road, Dumfries, DG1 2DR with 548 customers (or 'participants'). All of whom were selected as they were exiting the store. Fieldwork was stratified to cover the core hours of off sale of alcohol on the premises 10am until 10pm.

The structured questionnaire (please see Appendix 2 for full questionnaire) was executed via Computer Assisted Personal Interviewing (CAPI) with the use of an iPad. The screen was shared with participants so that they could view all images and questions. All participants were asked to give their full postcode in order to help map travel time and distance to location.

Sample Size

All intercepts (interviews) were conducted as participants were exiting via the main front entrance/exit; participants were selected at random to ensure sampling confidence. Upon completion of each survey, interviewers were under strict instruction to approach the second customer that passed them. By completing 548 interviews with current service station users, we can be sure that the data and attitudes collected will be statistically representative of the customer base. Importantly this large number of 'base' participants allowed for statistical comparison of sub-groups.

An important sub-group within this research that will form the 'population of interest' are participants who live within the locality of the premises AND use the garage as their principal source for purchasing Fuel or Groceries [Base – 135]. This figure represents 24.6% of the entire customer population.

Population of Interest

This sub-group of 135 participants will be used to answer the key objective of the research. Whether a recognisable number of persons in the locality see and treat the said premises as the principal source from which they, in ordinary course, purchase groceries or fuel and who would properly consider themselves materially disadvantaged or inconvenienced were these retail facilities to no longer be provided from said premises.

Defining the Population of Interest

Dumfries Filling Station

Q2 – How far from this Station do you live? (Map 1)

Within 1 mile = continue

1 mile + = record postal code & close

Q7 – In the ordinary course of your purchasing habits, do you treat these premises as the principal source of: a) Petrol or DERV (Fuel)? b) Groceries?

Yes to a) or b) = Continue

No to a) and b) = Close



Map 1

Research Findings – Locality

Dumfries Filling Station

Locality to Premises

Q2 – How far away from this Service station do you live?

If codes 1-3 were selected (under 1 mile) then respondent was categorised as **living within the locality**.

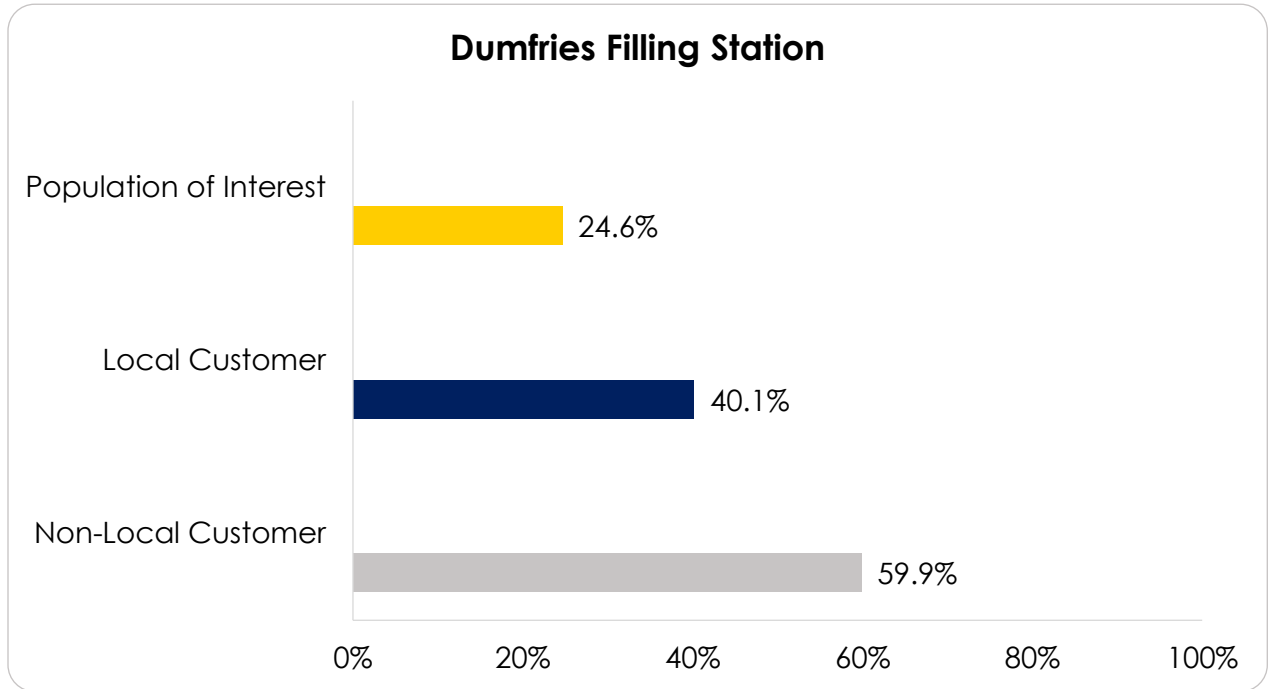


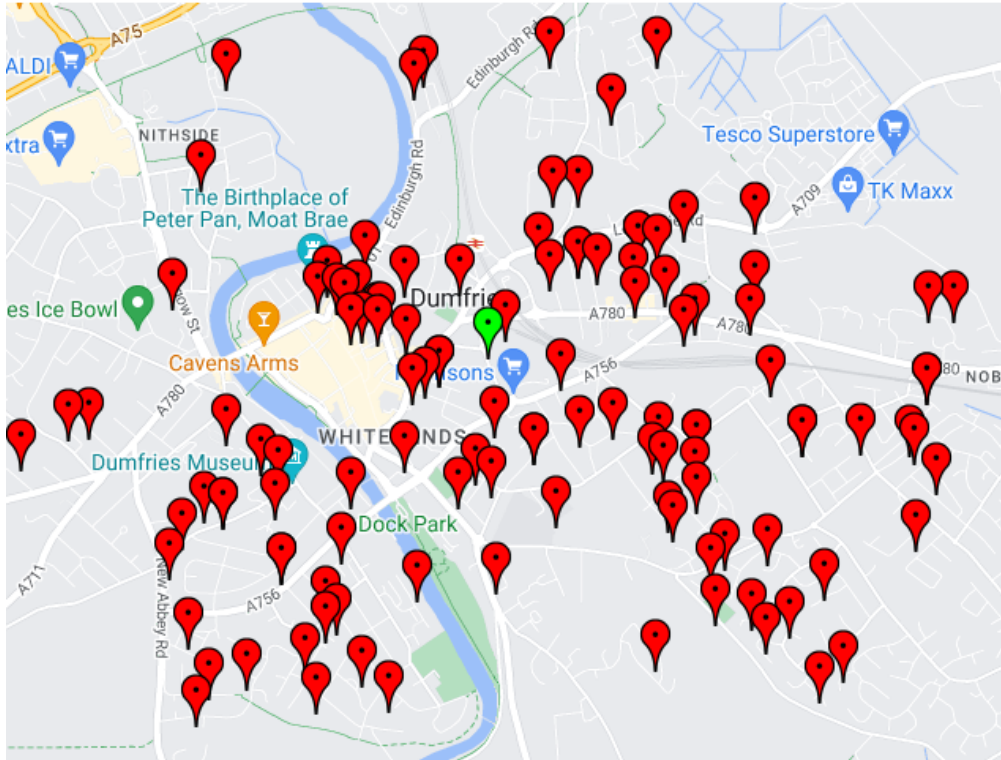
Figure 2: base = 548

Research Findings—Geo-mapping

Dumfries Filling Station

All participants were asked to provide their postcode in order to allow for them to be geo-tagged on a map. Out of the 135 participants who fell into **the population of interest**, 135 provided a full and complete postcode. They are represented below as red icons; in some cases, the same postcode has been given and will be represented by only 1 icon.

Average distance from service station – 0.54 miles

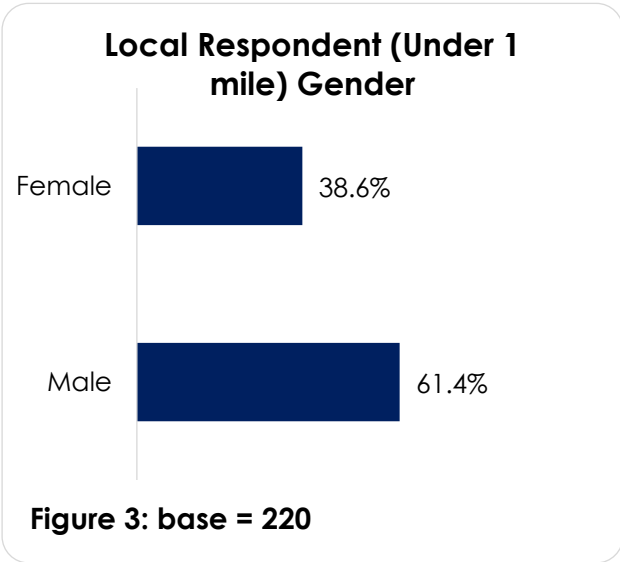


Map 2

Analysis of the postcode data has shown that the participants from the 'population of interest' live within a locality of 0.54 miles from the service station (green icon) on average.

Research Findings – Demographics

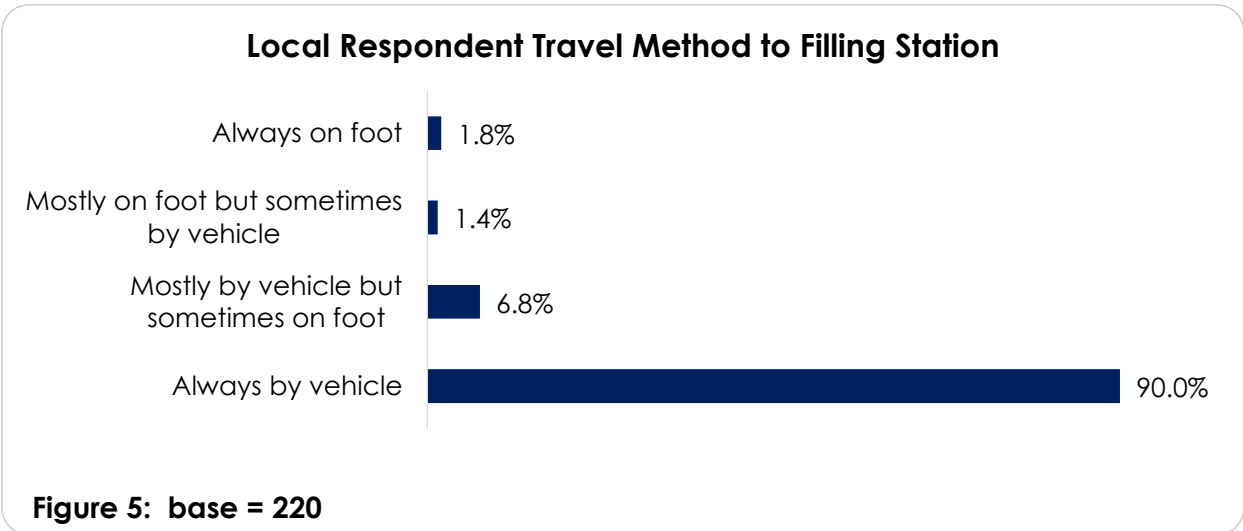
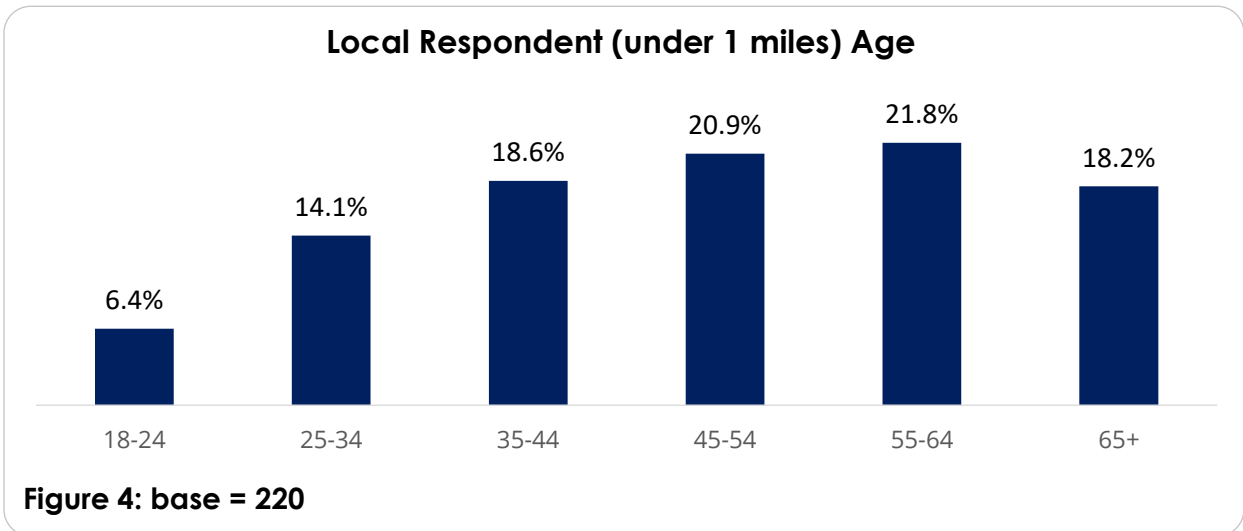
Dumfries Filling Station



Average visits per week (local users)

Grocery Shopping Base - 41	1.90 visits per week
Fuel Purchase Base - 214	1.27 visits per week
Morrisons Supermarket adjacent to Filling station Base - 208	1.66 visits per week

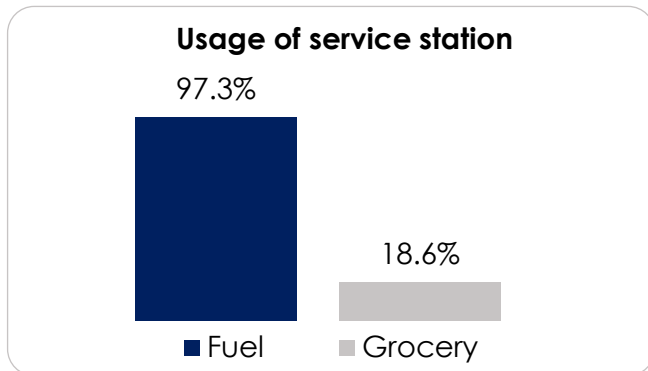
Table 1: Base Varied



Research Findings – Premises Usage

Dumfries Filling Station

How Dumfries Filling Station is being used



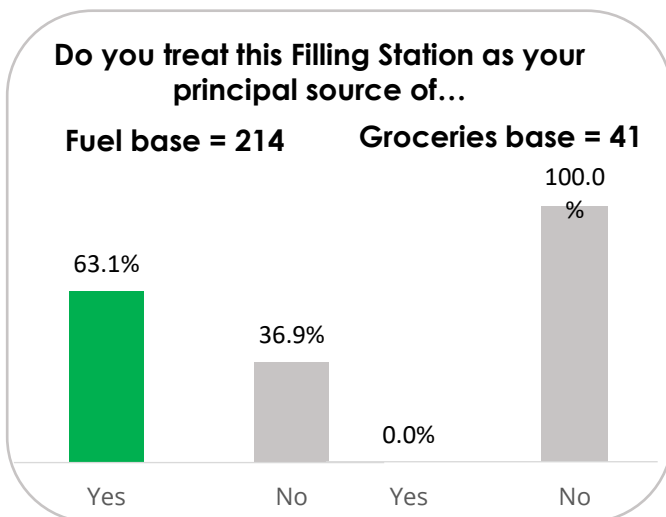
41 participants (18.6%)

Use service station as a source of **Groceries**

214 participants (97.3%)

Use service station as a source of **Petrol/DERV (Fuel)**

Figure 6: base = 220



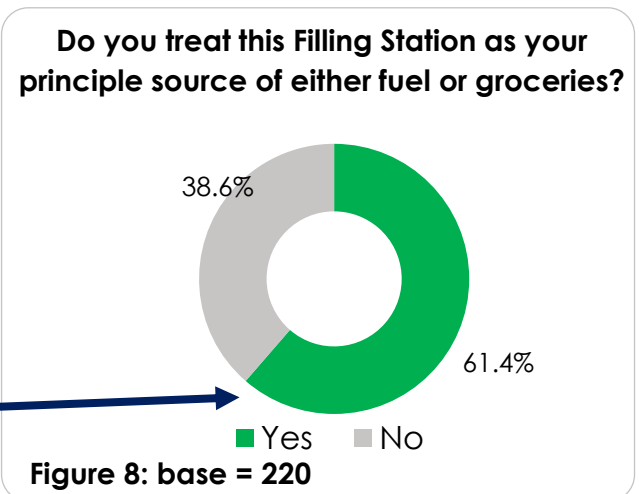
Participants, who live within the locality (within 1 mile) of the service station [220], were asked how they currently use the Service Station – **Figure 6**.

They were then asked if, in the ordinary course of their purchasing habits, they treated this Service Station as their principal source of Petrol/DERV or Groceries – **Figure 7**.

Figure 7: Base Varied

Defining the population of interest

135(61.4%) local customers (participants) answered ‘yes’ to treating the service station as their principal source of either groceries or fuel. This forms the population of interest as outlined in the introduction – **Figure 8**.



Population of interest
135 participants

Figure 8: base = 220

Research Findings – Inconvenienced

Dumfries Filling Station

Once the population of interest had been defined (Base 135), these participants were asked:

Would you consider yourself materially disadvantaged or inconvenienced were this premises to be unable to provide you with: a) Petrol or DERV (Fuel)? b) Groceries?

Materially Disadvantaged or Inconvenienced?

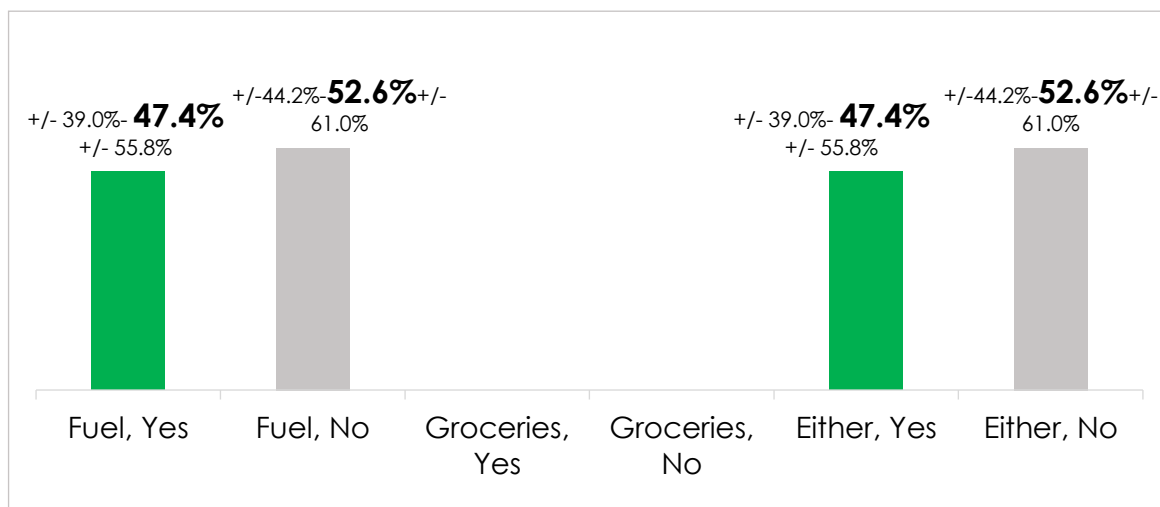


Figure 9: Fuel base = 135

Groceries base = 0

Either base = 135

The results show that a statistically significant proportion of persons in the locality (47.4%) see and treat the premises as the principal source from which they, in ordinary course, purchase groceries or fuel and that they would properly consider themselves materially disadvantaged or inconvenienced were any of these retail facilities to no longer be provided from said premises.

Bases Explained

Fuel: Overall, 135 participants from the locality stated that they used the station as their principal source of fuel, of these participants 47.4% (64) stated that they would be materially disadvantaged if the premises could no longer provide them with fuel.

Either: The combined base and response for fuel and groceries.

Research Findings – Inconvenienced

Dumfries Filling Station

FUEL: In order to qualify the result all participants who coded yes to being materially disadvantaged if the service station could no longer provide fuel were asked **'Would you have an alternative fuel source you could use?'** Base 64

Yes – 93.8% (60)

No – 6.3% (4)

Those who answered 'Yes' to having an alternative fuel source – 93.8% (60) were then asked: **Is this alternative fuel source available to you without causing you to be disadvantaged or inconvenienced in any way?** Base 60

Yes – 66.7% (40)

No – 33.3% (20)

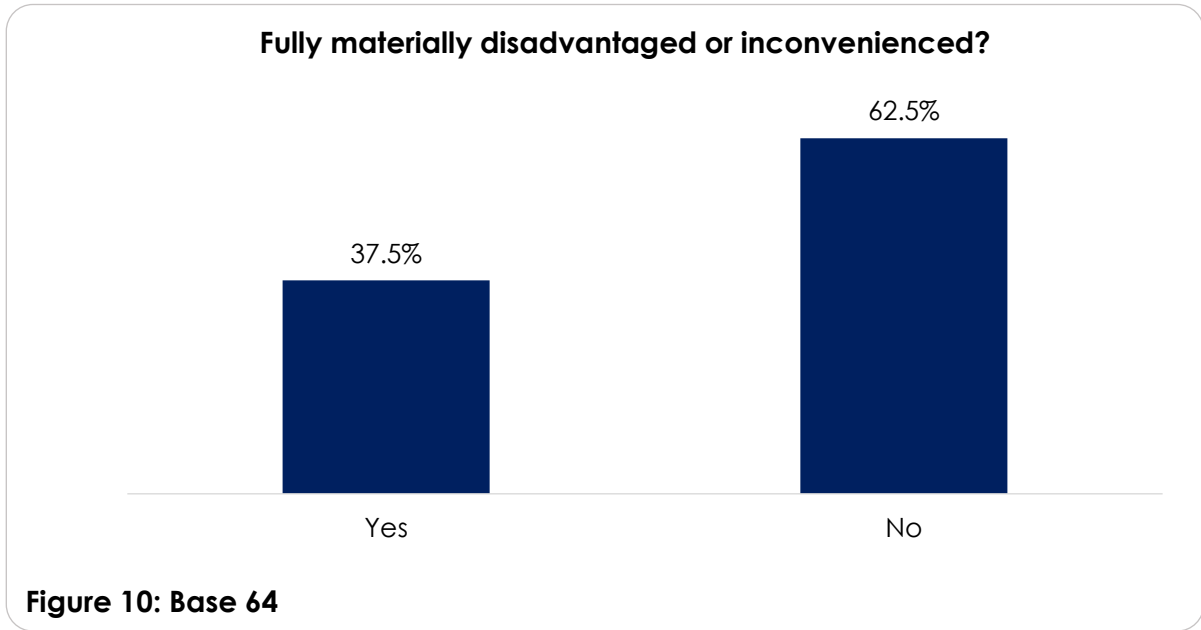
Results show that the alternative fuel sources available to 93.8% of participants would cause 33.3% of this group to be inconvenienced.

37.5% (24) of those materially disadvantaged (base 64) confirmed this was still the case after considering alternatives.

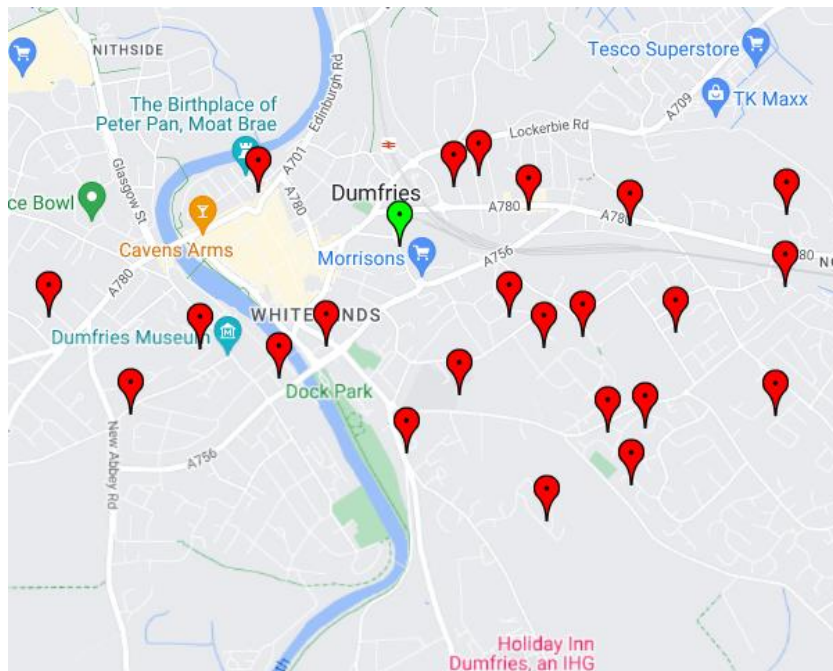
Research Findings – Fully Inconvenienced

Dumfries Filling Station

The graph below highlights participants who live locally and use the garage as their principal source of either fuel or groceries and who, after considering local alternatives, still feel they would be materially disadvantaged or inconvenienced if the premises could no longer provide them with either.



The geo-map below shows where all participants (24) who coded 'yes' live; on average 0.57 miles from the station, in some cases the same postcode has been given and will be represented by only 1 icon.

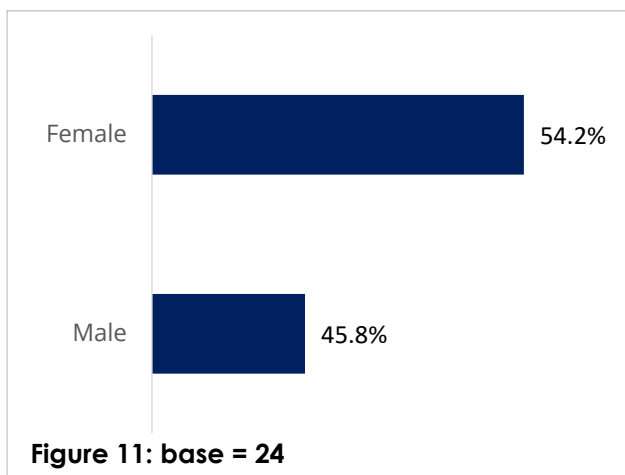


Research Findings – Fully Inconvenienced

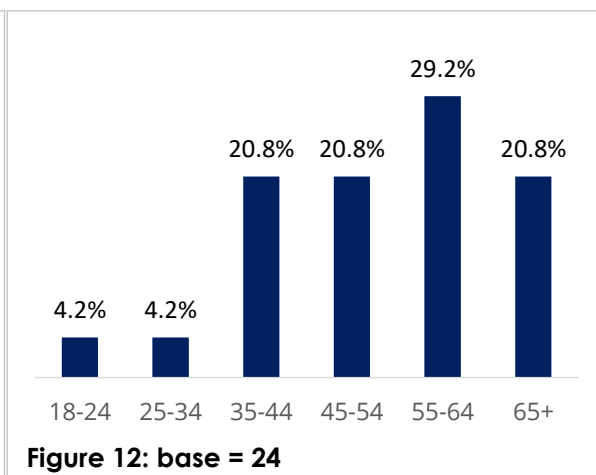
Dumfries Filling Station

The graphs below highlight the demographic of those who are materially disadvantaged or inconvenienced after having considered local alternatives.

Gender



Age



Average visits per week

Grocery Shopping Base - 9	1.34 visits per week
Fuel Purchase Base - 24	1.57 visits per week
Morrisons Supermarket adjacent to Filling station Base - 23	1.85 visits per week

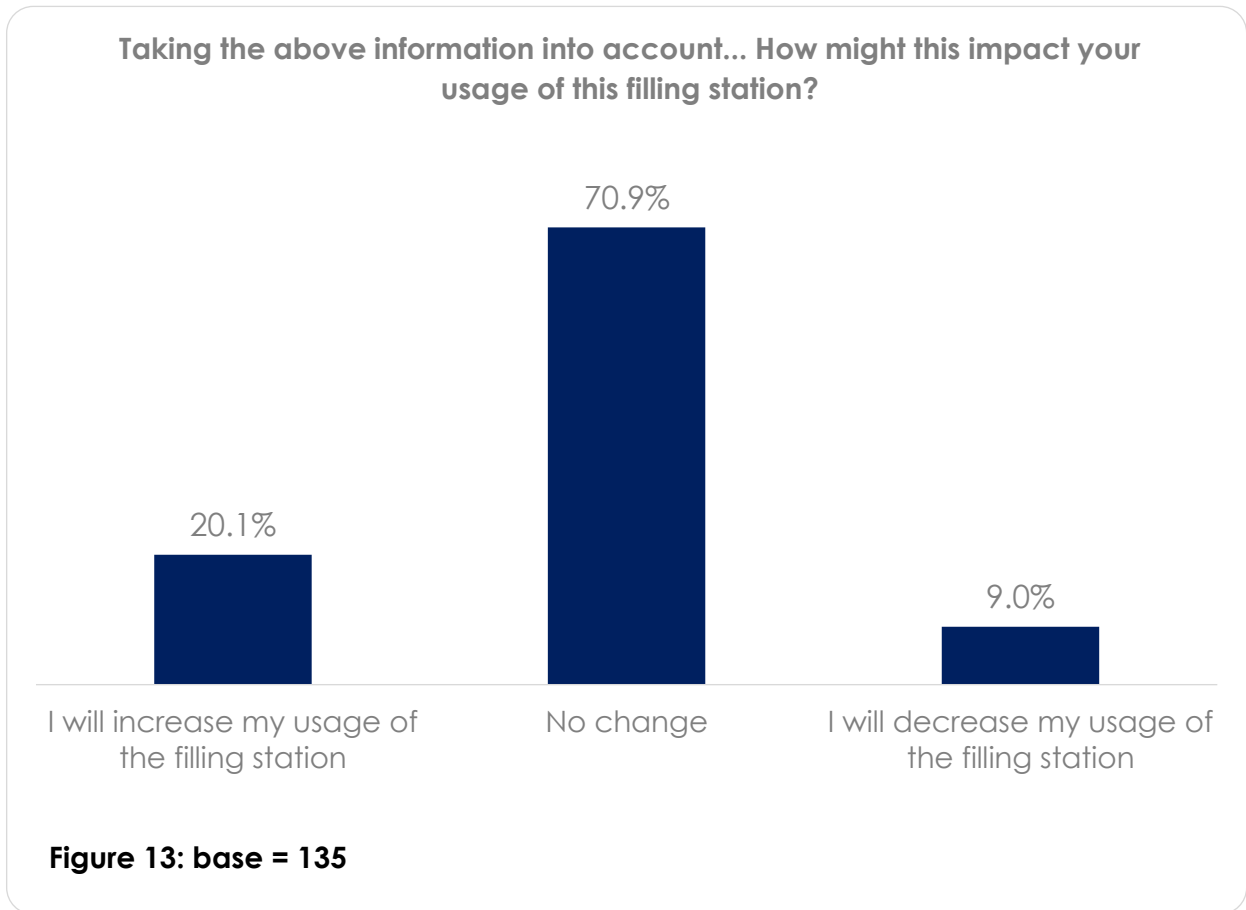
Table 2: Base Varied

Research Findings – Motor Fuel Group

Dumfries Filling Station

Those in the population of interest (base: 135) were introduced to the Motor Fuel Group with a brief description of the new forecourt and its offerings.

After reading about the new ownership of the forecourt, those in the population of interest, were asked how this change will affect their usage. 91.0% of those surveyed would either have no change to their usage or increase their usage following the change in ownership. 9.0% of respondents stated that they would reduce their usage of the filling station.



Research Findings – Motor Fuel Group

Dumfries Filling Station

Those in the population of interest (Base 135), were then asked again:

Would you consider yourself materially disadvantaged or inconvenienced were this filling station to be unable to provide you with: a) Petrol or DERV (Fuel)? b) Groceries?

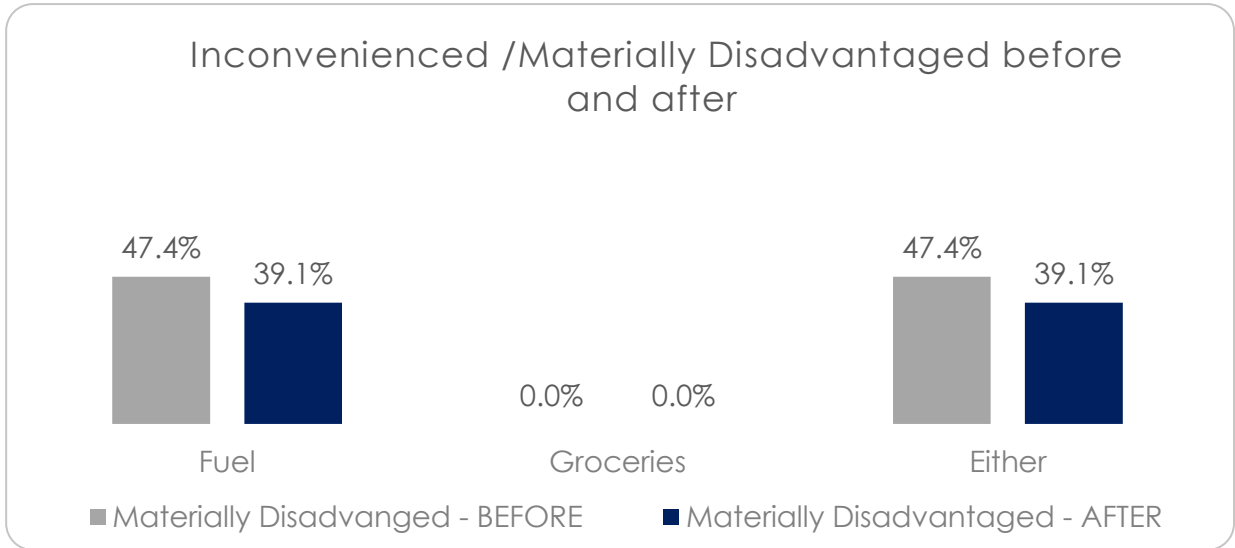


Figure 14: Fuel Base = 135

Groceries Base = 0

Either Base = 135

This shows that 39.1% of those who live locally and use this filling station for their principal source of fuel and/or groceries would be inconvenienced or materially disadvantaged if the new MFG filling station was no longer able to provide them with fuel and/or groceries. This is compared to 47.4% of those who would be inconvenienced or materially disadvantaged if the current filling station was no longer able to provide them with fuel and/or groceries.

About TMcK

Taylor McKenzie Research has been delivering high-quality market research services since 2001. We work closely with our clients and research participants across the UK and beyond, providing the services needed to inform decision-making and drive positive change. A proud family business, our focus is on building trusted partnerships and consistently delivering excellence.

At Taylor McKenzie Research, our mission is to provide our clients with the high-quality data they need to make informed decisions. Our highly skilled and approachable team serves as an extension of your own, delving into your research brief in the pursuit of answers. Since 2001, we have been blending innovative ideas with proven research techniques, resulting in a diverse portfolio of services to meet varied client needs.

[About Market Research Society \(MRS\)](#)

In the competitive world of market research, one name assures you of instant recognition and respect - that of MRS.

MRS is the 'voice of your profession'. Their role is to represent and communicate good practice in research to the business community, government and the public; to award accreditation and to provide support for our members.

Professional standards

All members of the Society must comply with the [MRS Code of Conduct](#) which is enforced through a disciplinary process. This is the primary means by which market research remains a self-regulated profession. A range of guidelines and advisory services provide support to members in practical implementation of the Code.

The *Code of Conduct* embodies the principles of confidentiality and transparency. It provides protection to research users, participants and to researchers themselves. The Code has the confidence of the business community, government and regulators. It embraces the principles of data protection legislation. Membership of MRS is your way of showing that you subscribe to these ethical and legislative principles.

Appendix 1 – Research Background

The Licensing (Scotland) Act 2005 defines premises that operate in whole or in part as a garage for the sale of petrol or derv as “excluded premises”. Subject to the provisions of section 123(5) of the Act, garage premises are “excluded premises”. Where premises are “excluded premises”, sale of alcohol is not permitted. The Client wishes to explore the motivations and buying behaviours of the consumers who visit affected forecourt premises with the purpose of ascertaining whether or not their forecourt premises fall to be determined as “excluded premises” or within the exception contain under section 123(5). Section 123(5) seeks to determine, as interpreted in the Opinion of the Inner House of the Court of Session in *BP Oil UK Limited v City of Glasgow Licensing Board and City of Edinburgh Licensing Board* (5th April 2011) whether a recognisable number of persons in the **locality**¹ see and treat the said premises as the **principal source**² from which they, in **ordinary course**³, purchase **groceries**⁴ or fuel and who would properly consider themselves **materially disadvantaged** or **inconvenienced**⁵ were these retail facilities to no longer be provided from said premises.

Should the research prove that a substantial % of a **representative sample**⁶ local residents who use the outlet as their principal source of groceries and would be materially disadvantaged or inconvenienced if the outlet stopped selling groceries then it would help to form a case to include the outlet as being ‘not excluded’ from the changing legislation.

¹ **Locality** will be defined on a premises by premises basis. This will be determined via respondent answering what will be Q1 (How far away from this station do you live?) and will be confirmed with geo-mapping postcode software. Those living within the chosen distance will be deemed suitable to represent persons living in the locality and they will be further questioned on purchasing habits. Those living out with the chosen distance will be asked for their postcode and interview will be terminated.

²⁻³ **Principal source / Ordinary course**; these points must be answered by asking each respondent a question that will be interpreted consistently and fully understood.

Generally speaking, do you treat this premises as your principal source for a) Petrol or DERV (a full description of DERV will be provided in Showcard to help understanding) b) Groceries. A simple yes or no answer will be collected. This will provide the research with its population of interest.

⁴ **Groceries**; will be defined as being food or other things used within the home.

⁵ **Materially disadvantaged or inconvenienced**; the term materially disadvantaged is perhaps not in the general diction of the average respondent, and we would not expect it to be used by a respondent if asked to describe how they felt about a retail outlet closing. However, when it is combined with the word inconvenienced in the Q. "Would you consider yourself materially disadvantaged or inconvenienced were this premises to be unable to provide you with a) petrol (DERV) b) Groceries?" we would expect a good understanding. An open question asking why participants would feel materially disadvantaged or inconvenienced will be asked if 'yes' is coded at either a) petrol (DERV) or b) groceries.

⁶ **Representative sample**; in quantitative market research studies which are to be conclusive it is very important that the data collected and the findings and recommendations made from the data are representative of the given population. In real terms this means that should the study be repeated at any given time then the results will be similar 95 times out of 100 and within an acceptable margin of error (+/-) %.

In order to achieve this, data collection should be stratified in terms of opening hours and weekend / weekday footfall and respondent selection should be entirely random.

Statistical Representation

In order for the findings to be conclusive it is very important that the data collected, the findings and recommendations made from the data are representative of the given population. In real terms this means that should the study be repeated at any given time then the results will be similar 95 times out of 100 and within an acceptable margin of error (+/-) %.

In order to achieve this, data collection was stratified in terms of opening hours and weekend / weekday footfall and respondent selection was entirely random.

The table below indicates achieved error thresholds for the overall base of participants and for the population of interest base. Error bars are present throughout each table to represent statistical relevance of each figure.

<u>Population</u>	%GIVING PARTICULAR ANSWER		
	10%/90%	30%/70%	50%
Total Base 548	± 2.51	± 3.84	± 4.19
Local Base 220	± 3.96	± 6.06	± 6.61
Pop of interest Base 135	± 5.06	± 7.73	± 8.43
Inconvenienced Base 64	± 7.35	± 11.23	± 12.25

Appendix 2 – Research Questionnaire

Good morning/afternoon my name is & I am work for Taylor McKenzie Research & Marketing Ltd, an independent Scottish research agency. We are here today to better understand how this filling station is being used by its customers. We only have a few questions to ask and it is important you help so that we can ensure a representative view of all customers. It should only take 2 minutes.

Q1 Interviewer select filling station

Dumfries Filling Station

Q2 How far away from this Service station do you live?

Showcard s2

- Within 1/4 of a mile Go to Q3
- Within 1/2 a mile
- Within 1 mile
- Within 1.5 miles
- Within 1.5 to 2 miles
- Within 2 to 10 miles (approx.) CLOSE
- More than 10 miles away (approx.) CLOSE

Q3 Which of these best describes how you travel to this station?

Showcard s3

- Always by vehicle Go to Q4
- Always on foot Go to Q4
- Mostly by vehicle but sometimes on foot Go to Q4
- Mostly on foot but sometimes by vehicle Go to Q4
- Other (write in) Go to Q3

Q4 Including today, in the past 6 months have you used this station as a source of ...

Showcard s4

Interviewer - Read out...

- Petrol or DERV (fuel) Go to Q5
- Groceries Go to Q6
- Both for Petrol or DERV (fuel) and Groceries Go to Q5

**Interviewer note - if respondent queries what qualifies as 'groceries' please give the following description -
Groceries - 'food or other things used within the home'**

Q5 How often do you visit this station for the purchase of petrol or DERV (fuel)?

Showcard s5

- Every day
- 4 - 5 times a week
- 2 - 3 times a week
- Once a week
- 2 - 3 times a month
- Once a month
- Once every 2 months
- 3 - 4 times a year
- Once a year
- Less often
- First visit**

Q6 How often do you visit this station for the purchase of groceries?

Showcard s5

- Every day
- 4 - 5 times a week
- 2 - 3 times a week
- Once a week
- 2 - 3 times a month
- Once a month
- Once every 2 months
- 3 - 4 times a year
- Once a year
- Less often
- First visit**

Q7 And how often, if at all, do you visit the Morrisons Supermarket adjacent to this filling station?

- Every day
- 4 - 5 times a week
- 2 - 3 times a week
- Once a week
- 2 - 3 times a month
- Once a month
- Once every 2 months
- 3 - 4 times a year
- Once a year
- Less often
- Never**

Q8 Generally speaking, do you treat this premises as your principal source for:

Showcard s6a & s6b

Interviewer - Read out full statement above for both petrol and groceries

	Yes	No
Purchasing Petrol or DERV (fuel)	<input type="checkbox"/>	<input type="checkbox"/>
Purchasing Groceries	<input type="checkbox"/>	<input type="checkbox"/>

Q9 Would you consider yourself materially disadvantaged or inconvenienced were this premises to be unable to provide you with:
Showcard s7

	Yes	No
Petrol or DERV (fuel)	<input type="checkbox"/>	<input type="checkbox"/>
<i>Would you have an alternative fuel source you could use?</i>	<input type="checkbox"/>	<input type="checkbox"/>
Is this alternative fuel source available to you without causing you to be disadvantaged or inconvenienced in any way?	<input type="checkbox"/>	<input type="checkbox"/>

If no: Why is this? (probe fully) _____

Q10 Would you consider yourself materially disadvantaged or inconvenienced were this premises to be unable to provide you with...
Showcard s7b

	Yes	No
Groceries	<input type="checkbox"/>	<input type="checkbox"/>
<i>Would you have an alternative grocery source you could use?</i>	<input type="checkbox"/>	<input type="checkbox"/>
Is this alternative grocery source available to you without causing you to be disadvantaged or inconvenienced in any way?	<input type="checkbox"/>	<input type="checkbox"/>

Q11 Taking the above information into account
How might this impact your usage of this filling station?

- I will increase my usage of the filling station*
- No change*
- I will decrease my usage of the filling station*

Q12 Earlier in the survey we asked you if you would consider yourself materially disadvantaged or inconvenienced were this filling station be unable to provide you with:

Petrol or DERV (fuel).
You had answered {Q9a}

Now that you know about the changes that are coming to this site as a result of the purchase by MFG. Please now consider the question again...

Would you consider yourself materially disadvantaged or inconvenienced were this filling station to be unable to provide you with:

	Yes	No
Petrol or DERV (fuel)	<input type="checkbox"/>	<input type="checkbox"/>

If yes: Why is this? (probe fully) _____

Groceries

If yes: Why is this? (probe fully)

Q14 Finally: How often do you personally purchase alcohol in a supermarket, shop or off lice nowadays?

Please select

- Weekly or more often
- Fortnightly
- Monthly
- Less Often
- Never

Q15 The operator of this site are looking to provide a wide range of alcohol for off-sale purc addition to the existing grocery/convenience offer.

If suitable alcohol products were available to purchase at this premises, how likely or i do you think you would be to purchase alcohol here?

- Very Likely
- Quite Likely
- Quite Unlikely
- Very Unlikely.....
- Don't know

Q16 You mentioned you would be likely to purchase alcohol products at this premises... Assuming you could find everything you needed...

Which of the following statements best describes you

- This alcohol purchase would replace a purchase from elsewhere
- This alcohol purchase would be in addition to a purchase elsewhere
- Unsure

Q17 Which of the following statements best describe why you are likely to purchase alcohol location...

Select ALL that apply

- Convenient
- Closer to where I live
- Closer to where I work
- Saves me making an additional journey
- I like shopping at this store
- Other: Please write in _____

Q18 Record Gender

- Male
- Female

Q19 Which of these age groups do you fall into?

Showcard s8

- 18-24.....
- 25-34.....
- 35-44.....
- 45-54.....
- 55-64.....
- 65+.....

Interviewer Say: Could you please tell me your home postcode, this is so we can get a better understanding of store catchment. This data will never be used for contacting you and will never be passed on personal information.

Interviewer please enter with a space, as follows.... e.g. G2 4EZ

Postcode

Appendix 3 – Open Ended Responses

Q9b - Would you consider yourself materially disadvantaged or inconvenienced were this premises to be unable to provide you with Fuel? If yes: Why is this?

"Use more card"

"It's local"

"Closest"

"On way to work"

"Local and also open good time and fuel good here"

"I get my points"

"Local"

"Local"

"Local"

"Get shopping next to here"

"Local"

"Close"

"Points local"

"Local"

"Local"

"Local"

"Local"

"Local"

"Local"

"Local"

"Local"

"Really so close"

"Have to drive further"

"Get coffee too"

"Is need to pay more"

"I am nurse in this area . This is central to community"

"I work next door and fuel.card"

"It's only one on way to work"

"Prefer here"

"Get shopping same time"

"Handy and price"

"Local"

"Local food pumps"

"Local"

"Local"

"Local"

"Local"

"Local"

"Local"

"Local"
"Local"
"Location and best price"
"Always used and easy to get"
"I know it a habit"
"Location and price"
"My business needs it here"
"Nicer people and price"
"Live round corner"
"This handy"
"Local"
"Local and cheapest"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local"
"Local and cheapest"

Q12b – Would you consider yourself materially disadvantaged or inconvenienced were this filling station to be unable to provide you with Petrol or DERV (fuel)? If yes: Why is this?

"I won't get Morrison's points anymore"
"Same"
"Closest"
"Most handy"
"Depends on fuel brand and price"
"Not if I don't get points"
"Local"
"Local"
"Local"
"Shop still here"
"Local"
"Dearer their changes"
"Local"
"Other petrol nearby"

"Local"
"Local"
"Local"
"Local"
"Local"

Appendix 4 – Postcodes of Population of Interest

DG1 4EQ	DG1 1BL	DG2 7BL
DG1 2JP	DG1 4ET	DG2 7JL
DG1 4DN	DG1 1AA	DG2 7JL
DG1 3HS	DG1 2QG	DG1 3HA
DG1 2PP	DG14QJ	DG2 7SW
DG1 2LT	DG1 3AG	DG1 3HR
DG1 2DA	DG1 1BA	DG1 4QE
DG2 7HB	DG1 1BF	DG2 7FD
DG1 3DD	DG1 3BW	DG2 7SA
DG1 3BH	DG2 7SW	DG1 3EW
DG1 4BG	DG1 4LW	DG2 7SB
DG1 4HU	DG2 7SD	DG2 7SQ
DG2 7RA	DG1 4YX	DG1 4ES
DG1 3EQ	DG1 2RZ	DG1 1ER
DG1 3AQ	DG1 1JF	DG2 7BH
DG1 2EU	DG1 4RY	DG1 4AA
DG1 2JL	DG1 3BE	DG2 7LE
DG1 4UY	DG1 2DA	DG2 7LE
DG1 1HE	DG1 3DA	DG12EE
DG1 4AA	DG1 4DB	DG1 4EN
DG2 7LZ	DG2 7SL	DG1 2LJ
DG1 4EN	DG1 4UP	DG1 1AA
DG1 4UY	DG1 3AG	DG1 2DP
DG1 2HG	DG1 4UT	DG1 4HR
DG1 4QF	DG2 7NU	DG1 4XD
DG1 4DB	DG1 2HG	DG2 9AG
DG1 4YX	DG1 4PF	DG2 0BP
DG1 2JL	DG2 7JL	DG1 4HT
DG1 1JN	DG2 7LH	DG2 0AR
DG1 2LH	DG2 7DE	DG1 2LH
DG1 4BH	DG1 1BD	DG1 3BE
DG1 1JL	DG1 1DE	DG1 1PA
DG1 1BD	DG1 1BH	DG1 1NB
DG1 2EU	DG1 4HY	DG2 7EW
DG2 7EJ	DG1 1LZ	DG1 2LH
DG1 4UJ	DG1 3AJ	DG1 2LS
DG1 4ET	DG1 1BA	DG1 2LS
DG2 7AX	DG1 1NT	DG1 3AQ
DG1 3UJ	DG1 4HQ	DG2 7NZ
DG2 9DL	DG1 1NJ	DG2 7SD
DG1 2JB	DG1 4AA	DG1 2DZ
DG1 1BS	DG1 4EH	DG2 7GZ
DG1 3EJ	DG2 7ES	DG1 2HD
DG1 1BZ	DG2 7HJ	DG1 4HT
DG1 4DE	DG2 7HY	DG1 1BT

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**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

**LICENSING (SCOTLAND) ACT 2005:
APPLICATION FOR PROVISIONAL PREMISES LICENCE**

**PREMISES: DUMFRIES BROOMS ROAD SERVICE STATION, BROOMS ROAD,
DUMFRIES, DG1 2SH**

**APPLICANT: MOTOR FUEL LIMITED, 10 BRICKET ROAD, ST.ALBANS, AL1
3JX**

1. The application relates to a general convenience store located adjacent to a petrol/derv filling station forecourt. This is a long-established business which has not previously been licensed for the sale of alcohol. The site has car parking separate from the fuel pumps. The premises do not form part of the nearby retail supermarket premises.

1.2 The petrol/derv filling station forecourt area is not part of the area to be licensed. The premises offer substantial general convenience separate from, and supplementary to, the offer of petrol/derv.

1.3 The application is made on behalf of the new owner, and they consider that persons within the locality of the premises are reliant on the premises to a significant extent on the premises as a principal source of petrol or derv or groceries and thereby satisfy themselves the criteria of Section 123 of the Licensing (Scotland) Act 2005.

1.4 Section 123 of the Licensing (Scotland) Act 2005 is relevant to this application.

1.4.1 This Section sets out two definitions of “excluded premises”:-

- Effectively premises forming part of a Motorway Service Area, and;
- “Premises used as a garage or which form part of premises which are so used”;
- A “garage” is defined as “used for one or more of the following-
 - The sale by retail of petrol or derv;
 - The sale of motor vehicles, or;
 - The maintenance of motor vehicles”.

1.4.2 Normally excluded premises cannot be the subject of a Premises Licence. If an application for a Premises Licence for excluded premises is lodged it must be refused.

1.4.3 However, where, as with this application, the excluded premises are “used as a garage or which form part of premises which are so used”, the premises are not be considered as excluded premises if:-

“persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of (a) petrol or derv or (b) groceries”;

and if the Board decides that this is the case, the application for a Premises Licence could competently be granted and operated.

2. The application was accompanied by a Section 50 Certificate from Planning and is for a Provisional Premises Licence.

2.1 Alcohol cannot be sold following the grant of a Provisional Premises Licence until such time as Confirmation of the licence has been approved.

2.2 The application for Confirmation would require to be accompanied by Section 50 Certificates from Building Standards and Food Hygiene.

3. There are two proposed alcohol display areas comprising of an area behind the counter inaccessible to customers and an area close to the counter as shown hatched on the attached plan.

4. The Off-sale hours applied for are:-

- Monday to Sunday 10am to 10pm.

These hours are within the Board's Licensed Hours Policy.

4.1 Current opening hours are Monday to Saturday 6am to 10.30pm and Sunday 8am to 8pm. These opening hours may change in the future.

5. The operating plan will allow customers to order groceries, food and drinks, including alcoholic drinks, for home delivery from the premises.

5.1 The Board's Licensing policy statement includes the following paragraph relating to home deliveries which include online purchases of alcohol:

The Board acknowledges concerns raised by NHS Dumfries and Galloway at individual meetings held August/ September 2023 with regard to increased levels of online sales of alcohol. The Board encourages applicants for premises licences which will include online sales to provide the Board with details of how the deliveries will operate and in particular :

- 1. the hours of delivery;*
- 2. the steps which will be taken to verify the age of the person ordering and accepting delivery of the alcohol ; and*
- 3. the use of age verification policies such as Challenge 25 or a similar verification scheme for all deliveries.*

5.2 Section 119 is relevant confirming it is an offence to deliver alcohol unless the following is in place:

1. a day book recording the order is kept on the premises from where the alcohol was despatched; and
2. a delivery book or invoice is carried by the person delivering the alcohol.

The information required to be entered in the book or invoice is:

1. the quantity, description and price of the alcohol; and
2. the name and address of the person to whom the alcohol is to be delivered.

5.3 It will be necessary for age verification to take place at the point of delivery.

5.3.1 The applicant's Agent has confirmed deliveries will be fulfilled by a third party and there is a policy in place to prevent delivery of alcohol to persons under 18 years of age.

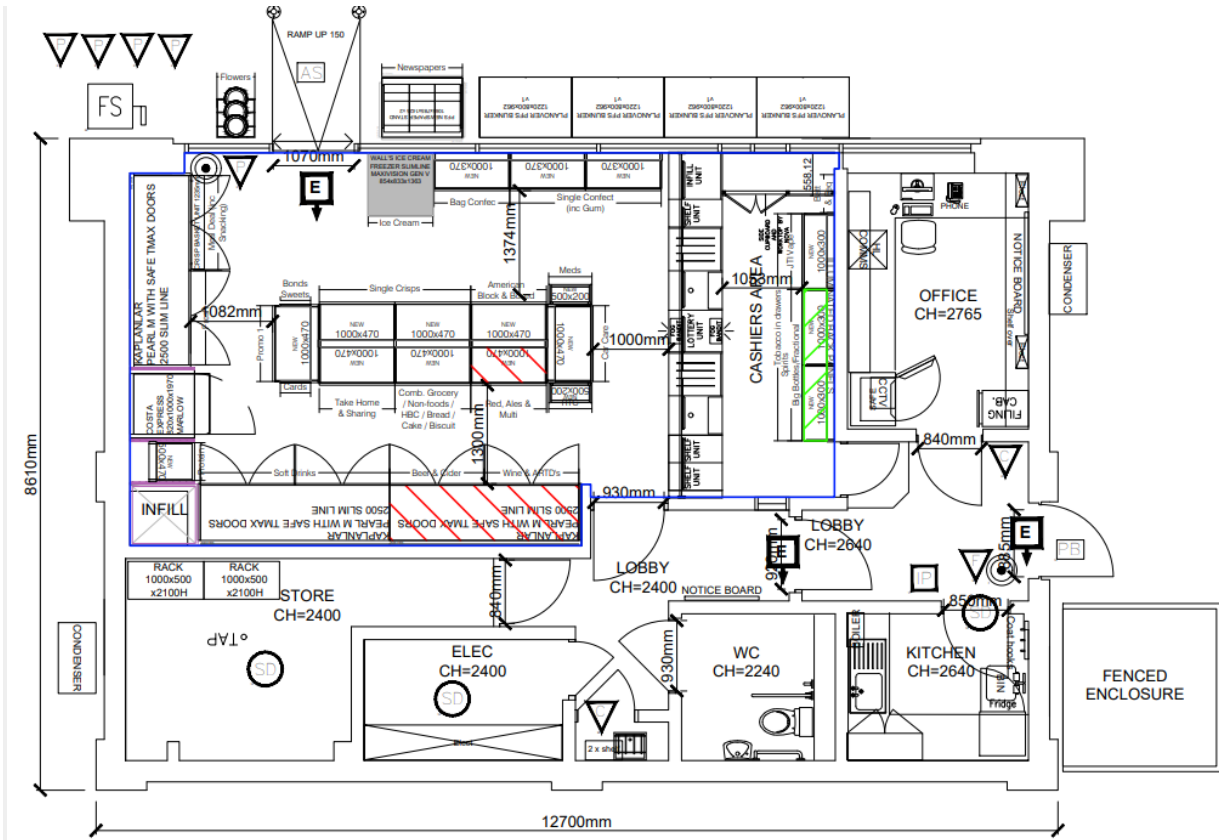
5.4 Section 120 prohibits delivery of alcohol to any premises (other than licensed premises) between the hours of midnight and 6am.

6. The application was advertised on the Board's website page from Monday 15 April 2024. At the same time a notice must be displayed at the premises.

6.1 A visit was made on 09.05.2024, at which time the notice was displayed in the window at the entrance of the premises.

Stuart Davidson
Licensing Standards Officer
9 May 2024





MOTOR FUEL LIMITED (MFG) – DELIVERY OF ALCOHOL POLICY**Prevention of sale of alcohol to under 18s (general)**

The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form or method of identification that complies with any mandatory condition that may apply to this licence.

Deliveries from the Premises - process

Customers may order alcohol (along with any other grocery products) from MFG premises via the Uber Eats (“Uber”) website or smartphone application (“App”).

Prior to using the Uber website or App, the customer requires to prove to Uber that they are over the age of 18 years by providing proof of age. When making a purchase of age restricted products, a system to confirm their date of birth warns the customer when placing that order that if it contains age restricted products. As such they are warned that they are required to produce ID and proof of date of birth at the door when receiving the delivery. The customer is advised that Uber will only deliver to the named ordering customer and that that ordering customer must show the ID required.

Where an order containing alcohol is made via Uber, the order is sent to MFG premises and then the products are “picked” for collection by MFG staff and then made ready for uplift from the premises by the delivery driver. As part of their standard diligence, the member of MFG staff will undertake challenge 25 for the driver to ensure that he or she is of a sufficient age to collect the alcohol. If for any reason the collection was refused, the refusal is recorded in the in-store register.

Delivery drivers are trained by Uber and only specific Uber drivers who “opt in” (who have received training in the delivery/age verification process) are permitted to uplift a collection which contains alcohol for delivery. Uber’s internal systems notify drivers of collections available but only trained drivers are notified of collections that contain alcohol.

Uber Eats retain records of all deliveries for a period of 12 months (electronically). All MFG premises have access to every single order that is sent to them by Uber. Therefore all orders can be searched and produced to licensing authorities and police as may be required.

Uber Eats operate a complete identification process in the sense that the ID must be of the account holder and ID must be produced on all occasions when alcohol is delivered. ID is required to be produced to the driver, on all deliveries, regardless of whether or not the customer is or appears to be over the age of 25 years.

Uber retain records of:

- Date and time of order
- Contents of Order
- Name and address of customer
- Cost
- Date and time of uplift
- Time of delivery
- Confirmation of ID show to delivery driver
- If refused, notes from delivery driver if refused and the delivery is marked "unfulfilled".

If the order is "unfulfilled", the order is cancelled and all products returned by Uber to MFG and the customer refund for the failed sale.