

MINUTES of Meeting of the SCOTTISH BORDERS - LICENSING BOARD held in COMMITTEE ROOMS 2/3, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS on Friday, 22 September 2017 at 10.00 am

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Present:- Councillors J. Brown, D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol, G. Turnbull, T. Weatherston.  
Apologies:- Councillor J. Greenwell.  
In Attendance:- Managing Solicitor (Property and Licensing), Licensing Team Leader, Licensing Standards and Enforcement Officer (Mr I. Tunnah), Democratic Services Officer (F. Henderson), Inspector Wood, PC C. Lackenby, Police Scotland.

1.0 **CONVENER**

1.1 In the absence of the Convener, Councillor Turnbull, seconded by Councillor Richards proposed that Councillor Weatherston chair the meeting. There being no other nominations, Councillor Weatherston chaired the meeting.

**DECISION**

**AGREED that Councillor Weatherston, chair the meeting in the absence of the Convener.**

2.0 **ORDER OF BUSINESS**

2.1 The Convener varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

3.0 **MINUTE**

3.1 The Minute of Meeting of 18 August 2017 had been circulated.

**DECISION**

**APPROVED.**

4.0 **LICENCES DEALT WITH UNDER DELEGATED POWERS**

4.1 For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 5 August to 12 September 2017.

**DECISION**

**NOTED.**

5.0 **SCOTTISH BORDERS LICENSING BOARD FINANCIAL REPORT 2016/17**

5.1 There had been circulated copies of a report by the Clerk to the Licensing Board which invited the Board to approve the Annual Financial Report for 2016/17 set out in the Appendix to the report. The report explained that the Air Weapons and Licensing (Scotland) Act 2015 amended the Licensing (Scotland) Act 2005 (the "2005 Act") to introduce a requirement that Licensing Boards produce and publish annual functions reports and annual financial reports. The requirement to publish an annual functions report had not yet come into effect. The requirement to publish an annual financial report came into effect on 15 May 2017. Short notice was given to Boards that the first report which would be required would be in respect of financial year 2016/2017. The 2005 Act requires the Board's annual financial report to be published not later than three months after the end of each financial year. This means that the Board's report for financial year 2016/17 should have been published no later than the end of June 2017. However the

Scottish Government recognised that due to the short notice of this requirement coming into effect, together with the local government elections at the beginning of May 2017 which resulted in the creation of new Licensing Boards, the requirement to have financial reports published by the end of June 2017 was unrealistic. It was agreed therefore that Boards should be allowed some leeway but should strive to publish their financial report as soon as possible.

## **DECISION**

### **(a) AGREED:-**

**(i) to approve the annual financial report set out in the Appendix to the report; and**

**(ii) to authorise the Clerk to the Board to proceed with the publication of the annual financial report.**

### **(b) NOTED the contents of the report.**

#### **6.0 LICENSING (SCOTLAND) ACT 2005:**

**6.1 Section 20: Application for Premises Licence.** The Board considered the following application for Grant/Provisional Grant of Premises Licence:-

(i) Guiseppe & Simone Falcone	Santa Marina Italian Restaurant & Bar Teviot Crescent Hawick TD9 9RE <b>Provisional</b>
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Licensed Hours applied for:

#### Off Sale

Monday to Sunday 10.00 a.m. – 10.00 p.m.

There had been circulated copies of the Application and Operating Plan and the proposed layout plan was displayed at the meeting. The Licensing Standards and Enforcement Officer advised that the property had previously been a nightclub and then a bike shop and had been purchased for extensive development and investment into an Italian Restaurant and Bar.

Mr Simone Falcone was present at the meeting and explained that he had invested a considerable amount of money into the project. The conversion work was underway and was likely to be completed in 4/6 weeks.

## **DECISION GRANTED.**

**6.2 Section 29: Application for Variation of Premises Licence.** The Board considered the following applications for Variation of Premises Licence:-

(i) <b>Aldi Stores Limited</b>	Aldi Stores 31 -32 Commercial Road Hawick TD9 7AD <b>Provisional Premises</b>
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Amendments to Operating Plan and Layout Plan, to include an increase in the proposed capacity of the alcohol display area (from 31.54435m to 31.71486m).

There had been circulated copies of the Application, current operating plan and

proposed operating plan. The Licensing Standards and Enforcement Officer advised that the variation related to a very small increase in alcohol display only but any amendments to the area of alcohol required to come to the Board. There were no police objections

Mr Michael MacDougall, Solicitor, TLT and Zoe McPherson, Area Manager were present. Mr MacDougall confirmed the increase was as a result of changes to shelving configuration as building works at the premises were progressing.

**DECISION  
GRANTED.**

(ii) **Main Street Trading Co Ltd** Main Street Trading Company  
Main Street  
St Boswells

Amendments to Operating and Layout Plan detailing proposed new layout of the delicatessen area and additional off sale shelved alcohol display to 53.89square metres (currently 7.5square metres).

There had been circulated copies of the variation application, current operating plan and proposed operating plan. The Licensing Standards and Enforcement Officer advised that this was a young developing business, comprising bookshop, coffee shop/restaurant and delicatessen. The application was to re-arrange the delicatessen and Coffee Shop/Restaurant lay out to include an upgraded alcohol display within the delicatessen shop area and extension to counter area. There were no police objections.

Mr De La Hay was present on behalf of Main Street Trading Co Ltd and explained the increase would allow his business to develop further.

**DECISION  
GRANTED.**

(iii) **Henry Ballantyne Memorial Institute** Henry Ballantyne  
Memorial Institute  
28 Caberston Road  
Walkerburn EH43 6AT

Amendments to Operating Plan:

- a change to the core On Sale Hours –  

<u>Current On Sale Hours</u>	<u>Proposed On Sale Hours</u>
11.00am -11.00pm	11.00am – 12.00midnight
Sunday to Thursday	Sunday to Thursday
- Addition of Activities within Core Hours: Conference Facilities; Receptions etc; Club or other Group Meetings; Recorded Music; Indoor/Outdoor Sport and Televised Sport.
- Addition of Activities outwith Core Hours: Conference Facilities; Receptions etc; Club or other Group Meetings; Recorded Music; Indoor/Outdoor Sport and Televised Sport.
- Change explanation in respect of entries in Column 4 (outwith core hours).
- Change to more appropriate wording in Other Activities.
- Change terms of Children and Young Persons access.

There had been circulated copies of the variation application, the current

operating plan and the proposed operating plan. The Licensing Standards and Enforcement Officer advised that the operating plan had not been updated since transition in 2009 and it had evolved as a central point of the Community with the focus on sporting activities. There were no police objections.

Mrs Henderson, the Designated Premises Manager was in attendance and confirmed the Licensing Standards and Enforcement Officer's explanation for the variation.

**DECISION  
GRANTED.**

(iv) Kelso Golf Club  
Golf Course Road  
Kelso  
TD5 7SL

Amendments to Operating Plan:

- a change to the core On Sale Hours –

<u>Current On Sale Hours</u>	<u>Proposed On Sale Hours</u>
11.00am – 11.00pm Sun to Wed	11.00am – 12 midnight Sun to Wed
11.00am – 12 midnight Thurs	11.00am – 1.00am Thurs to Sat
11.00am – 1.00am Fri & Sat	

- addition to the permitted activities referred to in question 5 (column 4 – outwith core hours) of the Operating Plan, to include receptions (including weddings, funerals, birthdays, retirements etc); Club or other group meetings etc; recorded music; indoor/outdoor sports; televised sport and outdoor drinking facilities, without the sale of alcohol;
- a change to the explanation as to 'Yes' in column 4;
- a change to the explanation at question 5 (f) – any other activities and the removal of the full explanation relating to the Members Club status afforded under the terms of the Licensing (Scotland) Act 2005; and
- a change to the terms and conditions of access for Children and Young Persons.

There had been circulated copies of the application, the current operating plan and proposed operating plan. The Licensing Standards and Enforcement Officer advised that like many Members Clubs across the Borders, Kelso Golf Club wished to increase revenue to make the Club more viable by offering the use of the clubhouse to non-members for Weddings, Funerals, Parties etc and expand the catering and soft drinks provision. There were no police objections.

Mr Redpath, representing the Club confirmed the reasons for the variation as outlined by the Licensing Standards and Enforcement Officer.

**DECISION  
GRANTED.**

6.3 **Section 56: Application for Occasional Licence.** The Board considered an application from Hawick Angling Club for an Occasional Licence.

Hawick Angling Club  
Hawick Angling Club  
5 Sandbed  
Hawick  
TD9 0HE

There had been circulated copies of the application and a letter of representation dated 20 September 2017 from Police Scotland. The Licensing Standards and Enforcement Officer advised that the application was for an 18<sup>th</sup> Birthday Party to be held in the clubhouse. As 18<sup>th</sup> Birthday parties have historically been rowdy occasions, Police Scotland had requested conditions which were detailed in the Appendix to their letter of representation.

Inspector Wood confirmed the Police position that they wished additional conditions to be considered due to the nature of the event.

Mr Lackenby, representing The Angling Club, explained they were keen to increase revenue and were accepting of the conditions being requested. It was explained that trained Club Members would be serving at the bar.

### **DECISION**

**GRANTED an Occasional Licence to Hawick Angling Club with the following conditions:-**

- **Access to bar area should be restricted to persons of the age of 18 years and over i.e. no children or young persons to be permitted within 1 metre of the bar.**
- **Appropriate signage must be clearly displayed within the bar area, relative to age restrictions and the relevant conditions of the licence. Signage should clearly identify:**
  - \*No under 18's served alcohol**
  - \*Persons who appear to be under the age of 25 will be asked to provide identification**
  - \*The specific opening and closing times of the bar**
  - \*Responsible drinking message**
  - \*No smoking signs**
- **There should be a Personal Licence holder present within the bar area at all times and all staff involved in the sale and/or supply of alcohol should have received the two hours mandatory training, as required under the legislation.**
- **Plastic drinking containers should be used throughout the duration of the event.**
- **Children and Young Persons (0-17 years) may only gain entry to the event if accompanied by a responsible parent or guardian over the age of 25 years.**
- **Children may remain until 10 p.m. but only if supervised by a responsible parent or guardian over the age of 25 years.**
- **Young Persons may remain until 12.15 a.m. but only if supervised by a responsible parent or guardian over the age of 25 years.**
- **All reasonable requests made by the Police are complied with.**

7.0

### **REVIEW OF STATEMENT OF LICENSING POLICY**

7.1

The Clerk sought nominations for a short term Working Group to review the existing Statement of Licensing Policy. He explained it was a statutory requirement for a new Policy to be adopted before November 2018 involving a three month public consultation period.

### **DECISION**

**AGREED that**

- (i) **a short term Working Group be established to include the following Members as follows:-**

**Councillor Greenwell  
Councillor Richards  
Councillor Tatler  
Councillor Thornton-Nicol**

- (ii) **any other Members wishing to take part in the Working Group should notify their interest to Fiona Henderson by 13 October; and**
- (iii) **Working Group meeting dates will be confirmed at the next meeting.**

**8.0 FESTIVE SEASON EXTENDED HOURS POLICY**

8.1 There were circulated at the meeting copies of a briefing paper explaining which Festive Season days were incorporated into the Seasonal Variations and applied to the vast majority of Premises Licences (excluding nightclubs) i.e. Christmas Eve, Christmas Day, Boxing Day, New Years Eve and New Years Day. It was explained that normal core hours on a Sunday, Monday and Tuesday were restricted to midnight. However a large number of Premises Licences had a seasonal variation incorporated into their Operating Plan which allowed opening until 1 a.m. on these days. The briefing paper detailed the Boards current Licensing Policy Statement for Core hours and festive seasonal hours.

8.2 In relation to Nightclubs the briefing paper detailed the opening hours for the four Nightclubs over the Festive period and whether there were seasonal variations included in their operating plan. The Clerk went on to explain that there was a variance in core hours within existing Premises Licences, as two Nightclubs in the Scottish Borders were licenced until 3.00 a.m. on a Sunday (Christmas/New Years Eve) whilst two had seasonal variations incorporated into their Operating Plans until 2.00 a.m. for the other festive dates. In order to provide consistency for nightclubs, the Board considered the festive policy hours for those premises which did not already have a seasonal variation to allow applications to be dealt with under delegated powers.

8.3 The Licensing Standards and Enforcement Officer proposed that all premises be granted Licences with delegated powers to officers for their normal Saturday night core hours on. The five festive dates (24, 25, 26 and 31 December 2017 and 1 January 2018) all subject to submission of timely extended hours applications for those premises that do not have a seasonal variation in their current Operating Plan. As required by the Licensing (Scotland) Act 2005, where there are any representations or objections, such applications will require to be referred to the Board for a decision.

**DECISION**

**AGREED that:-**

- (a) **all premises be granted Licences, with delegated powers to officers for their normal Saturday night core hours on. The five festive dates (24, 25, 26 and 31 December 2017 and 1 January 2018) all subject to submission of timely extended hours applications for those premises that do not have a seasonal variation in their current Operating Plan.**
- (b) **as required by the Licensing (Scotland) Act 2005, where there are any representations or objections, such applications will require to be referred to the Board for a decision.**

**9.0 URGENT BUSINESS**

9.1 Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the items dealt with in the following paragraphs should be considered at the meeting as a matter of urgency, in view of the need to keep Members informed.

10.0 **JOINT BOARD/LOCAL LICENSING FORUM**

10.1 The Committee noted that the next scheduled date for the Local Licensing Forum was Wednesday, 6 December 2017.

**DECISION  
NOTED.**

11.0 **PREMISES LATE NIGHT VISITS**

11.1 The Clerk advised the Committee that Police Scotland had extended an invitation to the Licensing Board to attend premises late night visits. In the absence of the Convener, the Clerk agreed to e-mail proposed dates for consideration.

**DECISION  
NOTED.**

*The meeting concluded at 10.50 a.m.*