

SCOTTISH BORDERS COUNCIL LICENSING BOARD

MINUTES of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in Council Chamber, Council Headquarters, Newtown St Boswells - Blended on Friday, 1 March 2024 at 10.00 am

- Present: - Councillors M. Douglas (Convener), J. PatonDay, N. Richards, F. Sinclair, T. Weatherston.
- Apologies: - Councillor J. Cox, D. Parker, E. Small.
- In Attendance: - Managing Solicitor (Property and Licensing), Licensing Standards and Enforcement Officers (M. Wynne and John Scott), Licensing Officers – (S. Lackenby and T. Thomson), PC S Dishington, Democratic Services Officer (F. Henderson).

1.0 MINUTE

There had been circulated copies of the Minute of the Meeting held on 26 January 2024.

DECISION

APPROVED the minute for signature by the Convener.

2.0 LICENSES ISSUED UNDER DELEGATED POWERS

For Members' information there had been circulated copies of lists of licences dealt with under delegated powers for the period 16 January 2024 – 18 February 2024.

DECISION

NOTED.

LICENSING (SCOTLAND) ACT 2005

3.0 Section 20: Application for Grant/Provisional Grant of Premises Licence

3.1 Consider the following application for Grant of Premises Licence.

Verdant 2 Leisure Limited

**Coldingham Bay Leisure Park
School Road
COLDINGHAM
TD14 5NT**

Proposed business activity – These premises are located within a holiday home park where holiday accommodation is provided. The premise is a leisure facility and entertainment complex with a bar and restaurant.

Licensed hours applied for:

ON SALE

Sunday to Wednesday 11.00am – 12.00 midnight
Thursday to Saturday 11.00am - 1.00am

OFF SALE

Monday to Sunday
11.00am-10.00pm

Representations received:

Police Scotland - none.
Licensing Standards Enforcement Officer - none.
Health - none.
Other - none.

There had been circulated copies of an application for the grant of a Premises Licence. Mr Wynne, Licensing Standards and Enforcement Officer advised that the application was for the new Club House, the previous one having been demolished as a result of a fire in February 2020. The applicant had previously held a licence for the old premises and had been operating with occasional licences in the temporary accommodation since June 2021. The application was within policy and there had been no objections received. There were no objections from Police Scotland.

The Convener welcomed, the applicant Mr George Hope, Verdant Leisure and his representative Mr McGowan of TLT, Solicitors to the meeting via Teams. Mr McGowan explained that Verdant Leisure, was an experienced licence holder, who operated across the Country. Following the fire in 2021, the Company had invested in £2m in a new facility, creating 16 jobs in the height of the season. The Application was within policy and the Company were happy to accept the planning condition in terms of live music outdoors ceasing after 11 p.m. and an assessment had been undertaken and submitted.

Mr Wynne advised that the condition on the planning permission would be removed once the noise impact assessment had been reviewed. In response to a question about a disco continuing after 11 p.m. Mr Wynne confirmed that that disco music could continue as the volume was more manageable.

DECISION
AGREED TO Grant.

4. **ITEMS LIKELY TO BE TAKEN IN PRIVATE**
PRIVATE BUSINESS
DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 14 of Part I of Schedule 7A to the Act.

Summary of Private Business

6.0 **MINUTE**

The Board considered the Private Minute of the Meeting held on 26 May 2023.

4.0 **LICENSING (SCOTLAND) ACT 2005**
SECTION 72 – APPLICATION FOR GRANT OF PERSONAL LICENCE REVIEW OF PERSONAL LICENCE – JAMIE GENT

4.1 There had been circulated copies of an application for a Personal Licence from Jamie Gent, together with a letter dated 9 February 2024 from Police Scotland, together with a letter of reference from Terri Welsh and a copy of a basic disclosure dated November 2023, which did not list his conviction. Mr Gent, Applicant and Mr Conway, Shift Manager at Wetherspoons were present.

4.2 PC Dishington, Police Scotland reported that Mr Gent who worked for Weatherspoon's had applied for a Personal Licence and in terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005 (the 2005 Act) gave notice that, based on the information provided as

far as the Chief Constable was aware, the applicant had been convicted of Assault at Jedburgh Sheriff Court on 1 October 2019 and fined £300 and on 27 August 2019 for an offence under the Criminal Justice and Licensing (Scotland) Act 2010 Section 38(1) and fined £220. PC Dishington went on to advise that On Wednesday 10th June 2019, Mr Gent's ex-partner, their 10-month-old son and her friend (a male) were on Hawick High Street, walking towards her friend's car when they heard the applicant shouting at the friend to come back and speak to him. He also shouted at his ex-partner using abusive language. Despite their efforts to ignore the applicant and continue walking away, Mr Gent continued to follow them until he caught up with them. Mr Gent's ex-partner stood between her friend and the applicant, whilst holding their son in her arms, and told Mr Gent to go away. Mr Gent then threw a punch at the friend who ducked causing the punch to miss, however, it did connect with the Gent's son to the right side of the head. Mr Gent was restrained to prevent him from hitting out further and he was again told to go away, but he continued to try and punch the friend. A passing female member of the public shouted at Mr Gent causing him to stop and he thereafter walked away. He was later arrested, charged and convicted as stated.

- 4.3 It was further reported that the applicant had appeared at Aberdeen Sheriff Court on 27 August 2019 where he was fined £220. The detail was that at 0455 hours on Tuesday 30th July 2019, Mr Gent telephoned 999 several times to report that he had lost his phone, during these calls he shouted down the phone at the operator. Two police Officers attended at Castle Street, Aberdeen and Mr Gent, immediately on seeing the police officers, stormed over to their vehicle and began shouting and swearing at the Officers. The Officers had attempted to engage with Mr Gent, however he continued to shout incoherently at them due to his high level of intoxication. He then moved closer to them and began flailing his arms about and refusing to calm down. Mr Gent clenched both his fists and adopted a fighting stance and as a result was arrested and charged regarding a contravention of Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. Mr Gent continued to act in an aggressive manner towards officers whilst in custody and shouted/ swore with an anti-Pope and IRA perspective. Mr Gent was subsequently convicted as above. Neither of the stated convictions are rehabilitated under the Rehabilitation of Offenders Act. Mr Gent would not be fully rehabilitated for the most recent offence until after 01/10/2024. During the course of these incidents, he had been verbally abusive; violent; intoxicated; a danger his child, ex- partner, to the public, himself and the police; and had breached bail conditions during one of the offences. The police requested that Mr Gent serve the full term of his rehabilitation before any application from him be considered. In light of the above, the Chief Constable considered that it was necessary for the purposes of - Preventing Crime and Disorder - Securing Public Safety - Preventing Public Nuisance - Protecting Children and Young Persons from Harm licensing objective(s), to request that the application be refused in terms of section 73(4) of the 2005 Act.
- 4.4 On being invited to address the Committee, Mr Gent explained that at the time of his conviction, his wife had had an affair, but he was over it now and was a better person and had turned his life around. Mr Conway advised that he had known Mr Gent for 3 years as his shift Manager and considered him an outstanding Manager, who helped to create a safe environment for staff and customers and needed the opportunity to move on with his life. Mr Gent had also undertaken a lot of fundraising within the community and had been ranked 5th in the Company nationally for his fundraising.
- 4.5 A character reference had been received from Terri Welsh, who had been a personal licence holder for 15 years and had known Jamie for 10 years, working alongside him for 1 year. Mr Welsh, who worked for Wetherspoons in Peebles considered Jamie a highly respectable person, who was motivated, with a great integrity and work ethic and who had excelled within the Community.
- 4.6 In response to a question about why he had applied for the personal licence now when it was just 6 months until his conviction was spent, Mr Gent explained that it was part of a

training programme, which would enable him to apply for his own pub in the future. The Board were divided on whether to allow Mr Gent his personal licence or to defer until the conviction was spent. Following further discussion and taking into account the character reference and the support of his Shift Manager agreed to grant.

DECISION

AGREED that the application from Jamie Gent for a personal licence be granted.

5.0 SECTION 72 – APPLICATION FOR GRANT OF PERSONAL LICENCE REVIEW OF PERSONAL LICENCE – CAMERON DUNN

- 5.1 There had been circulated copies of an application for a Personal Licence from Cameron Dunn, together with a letter dated 30 January 2024 from Police Scotland. Mr Dunn, Applicant was present at the meeting.
- 5.2 Mr Wynne, Licensing and Enforcement Officer explained that Mr Dunn currently worked in three different Licensed premises in a managerial role although not as manager and had applied for his personal licence to allow him to move closer to his ambition of owning his own business.
- 5.3 PC Dishington, Police Scotland reported that Mr Dunn had applied for a Personal Licence and in terms of Section 73(3)(b) PC Dishington, Police Scotland reported that Mr Dunn had applied for a Personal Licence and in terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005 (the 2005 Act) and gave notice that, based on the information provide as far as the Chief Constable was aware, the applicant had been convicted of Embezzlement at Jedburgh Sherriff Court on 17 September 2019 and fined £800. PC Dishington went on to advise that Mr Dunn, whilst employed by the Ednam House Hotel, Kelso between the dates of 31/7/2018 and 25/11/2018, Mr Dunn, on 11 occasions, used his own and other staff members till log in details to withdraw money from the till as a cash refund and thereafter kept the money. The total amount taken was £655. Hotel management interviewed Mr Dunn, recovered the money from wages due to him and he was dismissed. The matter was thereafter reported to the police. Following enquiry Mr Dunn was charged with a single offence covering all the incidents and convicted as above. This was not considered a spent conviction as the full time for rehabilitation had not expired (five years from the date of conviction). This was a crime of dishonesty that took place over 4 months and within a licenced premises, which Mr Dunn had not declared this on his application and had written “None” despite this not being the case. The applicant was not considered to be a fit and proper person to be the holder of a personal licence in light of the above and the Chief Constable considered that it was necessary for the purposes of preventing crime and disorder licensing objective, to refuse the application in terms of section 73(4) of the 2005 Act.
- 5.4 On being invited to address the Committee, Mr Dunn explained that at the time of the offence, he was very young, he had been going through homelessness and had a gambling addiction. Mr Dunn acknowledged that his actions had been wrong, he had owned up to the crime and paid the fine but that it would haunt him forever. Mr Dunn went onto explain that since then he had been slowly getting his life back on track and had applied for his Personal Licence to aid his career and move forward, as he would like to own his own business in the future.
- 5.5 In response to a question about why he had applied prior to his conviction being spent, Mr Dunn explained that he had completed the Personal License course whilst employed at Ednam House and he understood that he had his licence and had initially applied to renew his Personal Licence, only to discover that he did not have one in the first place and had therefore decided to apply for it. The majority of the Committee raised concerns that the crime committed by Mr Dunn had been over a period of time, had therefore required forethought and had been a betrayal of trust. The Members raised concerns regarding the

wording of the application as this was not the first time an applicant had completed it incorrectly.

DECISION

AGREED:-

- (a) that the application from Cameron Dunn for a personal licence be refused.
- (b) that the wording on the application be reviewed and amended to make it easier to understand in terms of previous convictions.

The meeting concluded at 11.00 am