

# Public Document Pack



## LOCAL LICENSING FORUM TUESDAY, 3 OCTOBER 2017

A MEETING of the LOCAL LICENSING FORUM will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS, TD6 0SA on TUESDAY, 3 OCTOBER 2017 at 4.00 pm

J. J. WILKINSON,  
Clerk to the Council,

26 September 2017

<b>BUSINESS</b>		
1.	<b>Apologies for Absence.</b>	
2.	<b>Appointment of Convener</b>	5 mins
3.	<b>Order of Business.</b>	
4.	<b>Declarations of Interest.</b>	
5.	<b>Minute</b> (Pages 1 - 4)  Minute of meeting of the Local Licensing Forum of 24 January 2017 to be approved (copy attached).	2 mins
6.	<b>Review of Scottish Borders Licensing Board Policy Statement - Update</b>  Please see link to existing Board Statement <a href="https://www.scotborders.gov.uk/downloads/file/467/policy_statement_2013-2016">https://www.scotborders.gov.uk/downloads/file/467/policy_statement_2013-2016</a> .	10 mins
7.	<b>Alcohol Profile</b>	10 mins
8.	<b>Police Report</b>	10 mins
9.	<b>Joint Licensing Board/Local Licensing Forum meeting</b>  Discuss Annual Report for Joint Licensing Board/Licensing Forum meeting being held on 6 December 2017 at 4 pm in the Council Chamber, Council HQ.	10 mins
10.	<b>Update on National Licensing Forum</b>	5 mins
11.	<b>Scottish Borders Licensing Board Minutes</b> (Pages 5 - 46)	5 mins

	Copies of the following Minutes attached: - 20 January 2017, 17 February 2017, 17 March 2017, 21 April 2017, 16 June 2017, 21 July 2017, 18 August 2017.	
12.	<b>Any Other Items Previously Circulated.</b>	
13.	<b>Any Other Items which the Convener Decides are Urgent.</b>	

**NOTES**

1. **Timings given above are only indicative and not intended to inhibit Members' discussions.**
2. **Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

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**Membership of Committee:-** S. Bell, M.W. Hay, Inspector A. Hodges,  
R. Mackay, A. Maybury, Dr T. Patterson, G. Todd, I. Tunnah S. Walker, M. Wynne.

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Please direct any enquiries to Fiona Walling 01835 826504  
email [fwalling@scotborders.gov.uk](mailto:fwalling@scotborders.gov.uk)

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## SCOTTISH BORDERS LOCAL LICENSING FORUM

MINUTE of Meeting of the LOCAL LICENSING FORUM held in the Council Chamber, Council Headquarters on Tuesday, 24 January 2017 at 4.00 pm

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Present:- I. Tunnah (Convener), M. W. Hay, PC Lackenby (Police Scotland),  
A. Maybury, J. Taylor, G. Todd, S. Walker, M. Wynne.  
Apologies:- S. Bell, Councillor Torrance.  
Also present:- Councillor Archibald (Convener Scottish Borders Licensing Board).  
In Attendance:- N. McKinlay (Chief Legal Officer), T. Thomson (Assistant Licensing Officer),  
F. Walling (Democratic Services Officer).

### 1. APPOINTMENT OF CONVENER

Mr Tunnah welcomed members of the Forum to the meeting and drew attention to the first item of the agenda which was to appoint a Convener for the forthcoming year. He confirmed that he was not available for re-election to the position. As no members of the Forum indicated an interest in taking on the role of Convener Mr Tunnah asked for further consideration to be given to this before the next meeting. He advised that, in the meantime, members should elect a person from amongst those present to chair the Forum on a meeting by meeting basis until a Convener was formally appointed. Members unanimously agreed that Ms Susan Walker should chair the current meeting. Ms Walker thanked Mr Tunnah, on behalf of the members, for his hard work and commitment in his role as Convener of the Local Licensing Forum.

#### **DECISION AGREED**

- (a) to give urgent consideration before the next meeting to the appointment of a Convener for the forthcoming year; and
- (b) that Ms Susan Walker chair the current meeting.

#### **RESIGNATION**

Mr Tunnah advised that, with regret, he had received a resignation from Neil Gillies and had sent a letter of thanks to him for his work on the Forum.

#### **DECISION NOTED**

### 2. MINUTE

There had been circulated copies of the Minute of the meeting held on 4 October 2016.

#### **DECISION APPROVED the Minute for signature by the Convener.**

- 2.1 With reference to paragraph 5 of the Minute, regarding the Scottish Borders Statement of Licensing Policy, Mr Tunnah confirmed that he had written to the Licensing Board with a copy of the Forum's suggested amendments to the Statement and that the Convener of the Licensing Board had confirmed that these recommendations would be kept on record in preparation for a review of the Policy once the new Licensing Board was in place. Members agreed with Ms Walker's suggestion that the short life working group, set up by

the Forum to look at the Statement, be re-convened later in the year in order to be of assistance to the new Board.

#### **DECISION**

**AGREED that the short-life working group, set up to identify areas of change relevant to the new Statement of Licensing Policy, be re-convened later in 2017 in order to be of assistance to the new Licensing Board.**

- 2.2 With reference to paragraph 8 of the Minute, although the actions were outstanding these were being progressed. Mr Wynne advised that a draft action plan (2017-18) should be available to circulate to the Forum for comment by the end of February. Mr Tunnah agreed to take forward the action to contact Mark Smith, in order to raise awareness of licensing issues with children and young people to help support the current project they were completing on agent purchasing as well as increasing knowledge within Community Learning and Development.

#### **DECISION NOTED**

3. **JOINT LICENSING BOARD/LOCAL LICENSING FORUM MEETING - REVIEW**  
A discussion was held on the annual joint meeting of the Licensing Board and the Local Licensing Forum which took place on 22 November 2016. Members agreed that the joint meeting had been useful and it was felt that the Board had responded positively to the report from the Forum. However, there was a general view that the meeting had been quite short and that in future this would be a good opportunity to include additional content and enable more discussion. There was agreement with the suggestion made to include a session to focus on joint Continuing Professional Development (CPD) for the two bodies. This would be especially relevant and useful for the 2017 meeting when a new Licensing Board would be in place.

#### **DECISION**

**AGREED to recommend to the Licensing Board that part of the agenda for the next joint meeting with the Local Licensing Forum be allocated for a joint CPD session.**

#### **4. POLICE REPORT**

There had been circulated copies of a Police Scotland report, covering the period from 1 October to 31 December 2016. PC Lackenby summarised the main points. A graph within the report showed the number and type of offences that had taken place on licensed premises within the period. There was a small decrease in the number of thefts. These were predominately from off sales premises and supermarkets in particular. PC Lackenby explained that Police Scotland did provide advice to supermarkets but that the opportunity for theft was often increased due to layout of the stores and low staffing levels. Stores were also targeted by organised gangs. In a discussion of this issue, there was agreement with Mr Taylor's point that, although thefts occurred across the range of goods, supermarkets had a particular responsibility to take action to reduce thefts of alcohol due to the link to alcohol-related harm. With regard to securing public safety, PC Lackenby explained that there had been 4 incidents on premises where poor management was identified as a causal factor. There had been 2 further interventions to deal with staff failing and the premises had been subject to tasked inspections. The interventions were designed to deal with the issues and negate the need to seek a review of the premises licence. Nationally Police Scotland had sought 11 reviews in 2016 which resulted in positive action being taken by Licensing Boards. There had been a higher number of alcohol related anti-social behaviour incidents in and around licensed premises in this quarter. Some of this was due to the festive season, which always saw a spike in this type of incident. However the number of incidents reported at licensed premises, particularly at Hogmanay, had reduced this year. Police continued to record positive incidents and of the 23 incidents in the quarter there were 2 identified as being positive in Galashiels and Peebles. However there were also 7 incidents which were identified as

having a negative aspect to how they had been handled by the premises. With regard to the role of protecting children from harm, for various reasons Police Scotland had not been able to carry out any test purchase operations prior to the festive season but hoped to run operations in February/March of this year. Following the application in July for an occasional licence for a children's entertainment show in Galashiels, which was refused by the Licensing Board, the applicant applied again for the same event. The application again received objections from the LSO, Health and Police and was subsequently refused by the Licensing Board. Police Scotland had processed 283 occasional licence applications and there had been 47 personal licence applications. There were 3 premises licence applications which had been granted by the Licensing Board and a further 3 premises licences granted that had been pending for various reasons. There had also been 32 variation applications processed with representations being submitted for 2, which were subsequently amended at the Licensing Board hearing.

## **DECISION**

**NOTED the report.**

### **5. ALCOHOL PROFILE SUMMARY**

There had been circulated copies of the draft Alcohol Profile Summary 2015-16 for approval by the Forum. Ms Walker thanked those members who had responded when the document had previously been circulated to the Forum and Licensing Board for comment. The Profile aimed to provide an update on the information available from Police Scotland, NHS Borders, Scottish Borders Council and Scottish Public Health Observatory. Ms Walker explained that the summary had been built on the previous full Alcohol Profile for 2014-15 and should be considered alongside this. Information was presented in a similar format to previous years and could be linked to the Licensing Objectives which were: preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children and young people from harm. Ms Walker noted that the summary reported on positive trends across several indicators including:

- decreasing rates of alcohol-related antisocial behaviour
- lower than national average rates of alcohol related deaths
- lower than national average rates of alcohol related hospital stays

The Profile compared indicator data across geographical areas and averages. This method inevitably meant that areas were ranked and therefore it would always be the case that one or more areas would be 'most' or 'least' affected. Members noted the improvements in recent years and welcomed the positive data which was reflected in the summary.

## **DECISION**

**APPROVED the Alcohol Profile Summary 2015-16 for publication on the Local Licensing Forum website.**

### **6. CONSULTATION ON PROPOSED ESTABLISHMENT OF A NATIONAL LICENSING FORUM**

- 6.1 The Local Area Forum was being asked to consider a proposal to establish a National Licensing Forum. This was being put forward by the Chairman of East Ayrshire Local Licensing Forum following a joint West of Scotland Licensing Forum event held on 20 October 2016. There had been circulated copies of a letter from the Chairman of East Ayrshire Local Licensing Forum, a report to the Joint Licensing Forum Event and a questionnaire on the proposal. It was explained that the event had been attended by 23 members representing seven Local Authority areas. Also in attendance at the event were Peter Reid, Licensing Team Leader from the Scottish Government and Linda Bowie from Alcohol Focus Scotland. The impetus for the event arose from the experience of the East Ayrshire Local Licensing Forum who felt that Licensing Forums were not working effectively in the way they were set up in legislation and that changes were required. The conclusion of the joint meeting was unanimous agreement that Forums were not working in the way in which they were set up and that they had no real influence on Licensing

Boards. It was therefore agreed that the re-establishment of a National Forum would be beneficial as this could act as a sounding board for Licensing Forums to exchange best practice ideas and discuss the way forward.

- 6.2 In the ensuing discussion the general feeling was that, as Licensing Forums were set up on a local basis and that as areas within Scotland differed significantly, it would not be appropriate to have an overarching National Licensing Forum. However there was unanimous recognition of the potential value of a national advisory or liaison group to share information, examples of good practice and to co-ordinate national thought on licensing issues to feed towards the Scottish Government. It was also suggested that it would be more effective and easier logistically, in terms of numbers, to have Local Licensing Forums linked to regional groups which would then send representatives to the national steering group. Bi-annually was considered an appropriate frequency to meet and, assuming these were organised on a regional basis, it was suggested that the local forums would fund their own transport to meetings and also bear the costs of hosting a regional meeting in turn. With concurrence on this approach Ms Walker took members systematically through the questionnaire and the responses for each question were agreed.

**DECISION**

**AGREED:-**

- (a) **not to support the establishment of a National Licensing Forum but instead to suggest the formation of a national advisory/steering body for Local Licensing Forums organised on a regional basis with each regional group sending representatives to the national body.**
- (b) **that Ms Susan Walker complete the questionnaire with the responses agreed at the meeting and circulate the draft for approval or comment before submission.**
7. **SCOTTISH BORDERS LICENSING BOARD MINUTES**  
There had been circulated, for information, copies of the Scottish Borders Licensing Board Minutes of 23 September 2016, 21 October 2016, 18 November 2016 and 16 December 2016.

**DECISION**

**NOTED the Minutes.**

*The meeting concluded at 5.15 pm*

MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in the Council Chamber,  
Council Headquarters, Newtown St Boswells on Friday  
20 January 2017 at 10.00 a.m.

Present:- Councillors W. Archibald (Convener), J. Campbell, B. Herd, G. Logan,  
D. Paterson, T. Weatherston, B. White.  
Apologies:- Councillors J. Greenwell, R. Stewart, J. Torrance.  
In Attendance:- Solicitor (Caroline Kubala), Licensing Team Leader, Licensing  
Standards and Enforcement Officers (Mr I. Tunnah and Mr M.  
Wynne), Democratic Services Officer (K. Mason), Inspector T.  
Hodges, PC P. Robertson, PC C. Lackenby – Police Scotland.

**1. MINUTE**

The Minute of Meeting of 16 December 2016 had been circulated.

**DECISION  
APPROVED.**

**2. LICENCES DEALT WITH UNDER DELEGATED POWERS**

For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 8 December 2016 to 11 January 2017.

**DECISION  
NOTED.**

**3. LICENSING (SCOTLAND) ACT 2005:-**

(a) **Section 29: Application for Variation of Premises Licence.** The Board considered the following application for Variation of Premises Licence:-

**Park Resorts Limited**

Driftwood Bar  
Eyemouth Holiday Park  
Fort Road  
Eyemouth

Amendments to operating plan and layout plan:

- Addition of films inside and outside the buildings within the whole site;
- Amend times children permitted within licensed areas to:  
9.00am to the end of core hours (outwith core hours 9.00am to 11.00am for  
childrens entertainment only)
- Increase capacity to 239 persons
- Relocation of main entrance to Boathouse and general opening up of  
Boathouse
- Creation/relocation of the arcade
- Extension of the Boathouse
- Creation of new kitchen and relocation of toilets

There had been circulated copies of representations received from B. Prater, J Korczowski, I and E King, Mr and Mrs B Bremner, K Palmer, W Hay. Those submitting representations expressed concerns in relation to the following:- (a) that showing films outside the buildings would cause considerable annoyance to the residents of Barefoots Crescent and the rest of Barefoots Estate; (b) amendments which would result in an increase in noise pollution, also the increased capacity meant increased

capacity for noise; (c) increased foot traffic which could impact both the enjoyment of neighbouring houses and gardens during the day and at night; and (d) road safety issues.

Mr Lorenz, Designated Premises Manager and Mr Robinson, Regional Operations Director Scotland, were present on behalf of the applicant, Park Resorts and were legally represented by Audrey Junner, Hill Brown Licensing. Ms Junner advised that the application had been lodged in support of a general refurbishment and improvement of the premises. A significant investment had been made. Although the application stated that films would be held in external areas, following discussions and consideration of neighbour representations, it had been agreed to remove the external element, therefore there would be no showing of films outdoors. Ms Junner advised that all but one or two of the objectors had been contacted to enlist proactive engagement to try to reach solutions to the concerns raised.

Mrs Barbara Prater was present. She gave background information relating to the development of the two fields at the top of Fort Road in Eyemouth. She had resided in Barefoots Crescent for 10 years. She explained that the original refreshment building, beside the caravan site gate remained, much expanded and was still next to the field edge, but no longer next to what was formerly a cow field, but the back doors and windows of the residents of the Barefoots Estate. She stated that she considered the "entertainments block" was currently situated in the worst possible position on the whole of the site – in terms of its close proximity to the homes and gardens of local residents. She acknowledged that the caravan site was part of the town's economy and that Park Resorts had been generous in supporting local charities and festivals. However, she believed that the distantly located Park Resorts employees, making the decisions to change the site, did not have any idea of the impact these changes would have on those living nearby. She stated that the Barefoots Estates residents already endured a considerable level of noise from the open fire exits when any activity was held in the Bar. She referred to communication between Brian Frater, Service Director Regulatory Services for Scottish Borders Council who had advised John Lamont MSP that "a Licensing Standards Officer had visited the site and given advice on minimising noise disturbance". She asked in what way had this advice been implanted and how did this sit with Driftwood Bar's application to the Licensing Board to increase the capacity of the entertainment centre to 239 guests. She asked what steps would be taken to soundproof the indoor area in which films would be shown and how would they control the noise generated by children allowed within licensed areas immediately adjacent to our residential properties. She urged the Board to refuse the application for variation of premises licence to: amend times children were permitted within licensed areas, increase capacity to 239 persons, relocation of main entrance to Boathouse, general opening up of Boathouse and creation/relocation of the arcade extension of boathouse where she noted that the on-site building work was already quite well advanced, on the grounds that these would initiate even greater noise nuisance, and further prevent local residents enjoying their outside space in the future.

Mr Tunnah was asked if there had been issues raised with him in relation to the operation of the premises licence and advised the last complaint received in early summer 2015 had been in connection with noise. At that time, he had liaised with management of the premises regarding the complaint, however no complaints had been received since then. Inspector Hodges advised that the last noise report Police Scotland had dealt with had been in 2015. There had been two calls relating to disorder in 2016 but these did not amount to anything that would be of concern to the Board. Mr Griffiths, Head of Estates, Park Resorts Limited, was also present and advised that the old building had no sound proofing but reported that all walls and the roof of the new building were insulated. He also advised that because the old building



didn't have any air conditioning this resulted in the fire doors being opened but this would no longer happen because of the installation of design ducting which allowed for mechanical air replacement. Members were reminded by Mr Tunnah that Scottish Borders Council had established procedures for dealing with noise issues should these occur. In response to a question raised about disturbance from ball games, Mr Robinson advised of measures in place which meant that the area where ball games were played would no longer be accessible.

**DECISION**

**GRANTED as amended taking into account the withdrawal of part of the application relating to the addition of films outside the buildings within the whole site.**

- (b) **Section 68: Application for Extended Hours.** The Board considered the following application for Extended Hours:-

**Jeremy Osborne**

Cringletie House Hotel  
Edinburgh Road  
Peebles  
Monday 6 March 2017  
(Wedding)  
12.00midnight to 1.00am

There had been circulated copies of a letter dated 4 January 2017 from Mr M Wynne, Licensing Standards and Enforcement Officer. Mr Wynne advised that the premises occupied a secluded rural position and the event was entirely for private guests by invitation only, however the hours applied for were outwith the Boards Policy as regards core hours. He went on to confirm that the premises had not come to the attention of the Licensing Standards and Enforcement Officers previously. If the Board were minded to grant the extra hour applied for, Mr Wynne suggested that the following might be an appropriate condition to consider applying to the licence – 1. A personal Licence Holder should be present throughout the event.

Mr Jeremy Osborne was present. He advised that after the wedding breakfast another 10 guests would join the party which would take the form of a Ceilidh commencing at 7.00 p.m. This was a private, exclusive event and he did not expect there to be any problems. He confirmed he was the holder of a Personal Licence and would be present throughout the event.

**DECISION**

**GRANTED subject to the following condition – a Personal Licence Holder should be present throughout the event.**

- (c) **SECTION 37: REVIEW OF PREMISES LICENCES.**

**The Board considered a paper providing information on Annual Fees unpaid for 2016/27 by the following premises:-**

(i) Naba Tandoori, 9/10 Market Place, Eyemouth

The Licensing Team Leader advised that the outstanding fee had now been paid and therefore no further action was needed.

**DECISION**

**NOTED.**

**The Board considered a paper providing information on Premises Licences Currently Suspended for Non Payment of Previous Year's Annual Fees:-**

(ii) The Abbotsford Arms Hotel, 63 Stirling Street, Galashiels

The Licensing Team Leader advised that the fee remained outstanding. There followed a debate which related to the poor condition of the building and Members' were informed that they had no additional control of the premises if it remained licensed. Inspector Hodges undertook to deal Members' concerns about the poor condition of the building.

**DECISION**

(a) **AGREED to revoke the licence with immediate effect.**

(b) **NOTED that Inspector Hodges would take forward Members' concerns about the poor state of the building.**

(iii) Empress of India, 6 Roxburgh Street, Kelso

The Licensing Team Leader advised that the fee remained outstanding. The Licence Holder had advised the Licensing Team that he was no longer associated with the premises.

**DECISION**

**AGREED to revoke the licence with immediate effect.**

*The meeting concluded at 10.45 p.m.*

MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2 & 3,  
Council Headquarters, Newtown St Boswells on Friday  
17 February 2017 at 10.00 a.m.

Present:- Councillors W. Archibald (Convener), J. Campbell, J. Greenwell, G. Logan, D. Paterson, J. Torrance, T. Weatherston, B. White.  
Apologies:- Councillors B. Herd, R. Stewart.  
In Attendance:- Managing Solicitor Property and Licensing, Licensing Team Leader, Licensing Standards and Enforcement Officer ( Mr M. Wynne), Democratic Services Officer (K. Mason), Inspector J. Scott, PC C. Lackenby – Police Scotland, Borders Alcohol and Drug Partnership (S. Walker).

**1. MINUTE**

The Minute of Meeting of 20 January 2017 had been circulated.

**DECISION  
APPROVED.**

**2. LICENCES DEALT WITH UNDER DELEGATED POWERS**

For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 12 January to 7 February 2017.

**DECISION  
NOTED.**

**3. LICENSING (SCOTLAND) ACT 2005:-**

(a) **Section 20: Application for Premises Licence.** The Board considered the following application for Provisional Grant of Premises Licence:-

**Aldi Stores Limited**

Aldi  
31 - 32 Commercial Road  
Hawick  
TD9 7AD

Operating Plan includes provision of off sale facility –

There had been circulated copies of:-

(a) a letter dated 23 January 2017 from Police Scotland. Inspector Scott advised in terms of Section 21(4)(b)(i) of the Licensing (Scotland) Act 2005 that the applicant had been convicted of the following relevant offence – 24 February 2016 – Teeside Crown Court – Health and Safety at Work Act 1974, Section 2 – Fine £100,000.00, Costs £5,295.61.

(b) a letter dated 2 February 2017 from Dr Tim Patterson, Interim Joint Director of Public Health, Scottish Borders Council/NHS Borders Dr Patterson was represented at the meeting by Ms Walker who advised that in regard to over provision, as Board Members would be aware, alcohol had never been as widely available in communities as it was today. She highlighted to the Board that this application came at a time where there was already alcohol widely available within Hawick with 17 off-sale premises in Hawick and five in the immediate area of Commercial Road (Sainsburys, Lidl, Spar, Iceland and Premier). She was aware that Lidl had also submitted an application to increase their alcohol display

area. The Summary Alcohol Profile 2015-16 showed that Hawick North was the Intermediate Geography which had higher than average rates of off-sale premises per head of population. She asked that consideration be given to how this proposal differed from what already existed in the area and whether this constituted overprovision.

The Licensing Standards and Enforcement Officer advised Aldi Stores Limited intended to provide a full range of goods and services which would include the sale of alcohol of which the area allocated for provision of alcohol was 1.1% of the total floor space available.

Mr John Anderson, Area Manager, Aldi Stores Limited was present and was legally represented by Mr Michael McDougall, TLT Solicitors. Mr McDougall gave background information relating to the circumstances of the relevant offence when injuries occurred to people using a smoking shelter which had not been secured to the ground. Aldi Stores Limited had pled guilty to the offence and maintenance managers had received additional training.

**DECISION  
GRANTED.**

- (b) **Section 29: Application for Variation of Provisional Premises Licence.** The Board considered the following application for Variation of Provisional Premises Licence:-

**Lidl UK GMBH**

Lidl Store  
Wilton Path  
Hawick  
TD9 7DS

Amendments to the Operating Plan and Layout Plan, to include the following:-

- (i) an increase in the proposed capacity of the alcohol display area (from 43.63 m<sup>2</sup> to 48.72 m<sup>2</sup>).

There were no representations.

Mr Lewis Kemp, Harper Macleod Solicitors was present. He advised that the alcohol representative of Lidl UK GMBH was unable to attend today's meeting because their attendance was required at a series of store openings in Edinburgh and Stirling. Mr Kemp explained that the application to increase the capacity of the alcohol display area was to accommodate a new merchandising scheme which had been developed since the previous application had been granted

The Licensing Standards and Enforcement Officer confirmed the variation resulted in an increase of 0.25%, meaning the total alcohol display area of the premises shop floor would be in the region of 3.4%.

**DECISION  
GRANTED.**

*The meeting concluded at 10.20 a.m.*



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MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2 & 3,  
Council Headquarters, Newtown St Boswells on Friday  
17 March 2017 at 10.00 a.m.

Present:- Councillors W. Archibald (Convener), J. Greenwell, B. Herd, G. Logan, D. Paterson, T. Weatherston, B. White.  
Apology:- Councillors J. Campbell, R. Stewart, J. Torrance.  
In Attendance:- Managing Solicitor Property and Licensing, Licensing Team Leader, Licensing Standards and Enforcement Officers (Mr I. Tunnah and Mr M. Wynne), Democratic Services Officer (K. Mason), Inspector T. Hodges, Police Scotland.

1. **MINUTE**

The Minute of Meeting of 17 February 2017 had been circulated.

**DECISION  
APPROVED.**

2. **LICENCES DEALT WITH UNDER DELEGATED POWERS**

For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 8 February to 7 March 2017.

**DECISION  
NOTED.**

3. **LICENSING (SCOTLAND) ACT 2005:-**

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

- |  |   |
|--|---|
| (i) Partnership of Stephen Davies<br>and Lisa Davies | Caddon View Hotel<br>14 Pirn Road<br>Innerleithen |
|--|---|

Amendments to Operating Plan and Layout Plan:

- Change Core Hours  
ON SALE: 11.00am – 12.00midnight Monday to Sunday (currently 11.00am - 11.00pm Monday to Saturday and 12.30pm – 11.00pm Sunday).  
OFF SALE: 10.00am – 10.00pm Monday to Sunday (currently none)
- Change statement to indicate alcohol consumption both On and Off the premises
- Addition of Activities within Core Hours: Club or other Group Meetings, Live Performances Gaming and Outdoor Drinking Facilities.
- Addition of Activities outwith Core Hours:  
Receptions etc, Club or other Group Meetings, Recorded Music and Live Performances
- Include appropriate explanation of Additional and Other Activities
- Include standard Christmas and New Year Seasonal Variation
- Change terms of Children and Young Persons access
- Change Layout Plan to include outside lawn area within the licensed footprint

No representations had been received.

Mr Tunnah advised that Mr Davies had contacted him for guidance in relation to the operating plan. He explained that all proposals were within the Board's current policy and the proposals would bring the operating plan up to date to accommodate this evolving business.

Mr Davies was present. He advised that the purpose of the application was to allow guests to consume alcohol within the garden area of the guest house. It would also enable guests to take wine home with them if the bottle was unfinished. This was a tidying up exercise and would ensure that the operating plan was up to date.

**DECISION  
GRANTED.**

(b) Phoenix Kyle Properties Limited

The Wheatsheaf  
Main Street  
Swinton

Amendments to Operating Plan and Layout Plan:

- Change Core Hours  
ON SALE: 11.00am – 12.00midnight Sunday to Thursday and 11.00am – 1.00am Friday and Saturday  
(currently 12.00noon – 11.00pm Sunday; 11.00am – 11.00pm Monday and Tuesday; 11.00am – 11.00pm Monday and Tuesday and 11.00am – 12.00midnight Wednesday to Saturday).  
OFF SALE: Sunday to Saturday 11.00am – 10.00pm  
(currently Monday to Saturday 11.00am – 10.00pm and Sunday 12.00noon – 10.00pm)
- Addition of Activities within Core Hours: Live Performances, Indoor/Outdoor Sports, Televised Sports; Outdoor Drinking; Dance Facilities and Gaming
- Addition of Activities outwith Core Hours:  
Accommodation, Conference Facilities, Restaurant Facilities, Bar Meals, Receptions etc, Club or other Group Meetings, Live Performances, Indoor/Outdoor Sports, televised Sport and Outside Drinking Facilities
- Include appropriate explanation of Additional and Other Activities
- Change Terms and Conditions regarding Children and Young Persons Access
- Change Layout Plan (ground floor) to show licensed outside area.

No representations had been received.

Mr Tunnah advised that the licenceholder, Mr Lawrence had contacted him for guidance in relation to the operating plan. He explained that all proposals were within the Board's current policy which would bring the operating plan up to date to reflect the needs of the ongoing business and allow customers to consume alcohol outside.



Mr Lawrence advised he had taken over the small 8 bedroomed hotel in June He wished to serve alcohol in a small patio area and he considered the amendments to the operating plan would future proof the business moving forward.

**DECISION  
GRANTED.**

(c) Cheers Group Limited

The Queens Head Hotel  
24 Bridge Street  
Kelso

Amendments to Operating Plan:

- change to the core On Sale Hours:

Current On Sale Hours

11.00am – 12.00midnight Mon to Thurs  
Wed

11.00am – 1.00am Fri & Sat  
Sat

12.00noon – 12.00midnight Sunday

Proposed On Sale Hours

11.00am – 12.00midnight Sun to

11.00am – 1.00am Thurs, Fri &

- change to the core Off Sale Hours:

Current Off Sale Hours

11.00am – 10.00pm Mon to Sat

12 noon - 10.00pm Sun

Proposed Off Sale Hours

11.00am – 10.00pm Sun to Sat

- addition to the permitted activities referred to in question 5 (column 4 – outwith core hours) of the Operating Plan, to include conference facilities, restaurant facilities; bar meals; receptions (including weddings, funerals, birthdays, retirements etc); club or other group meetings; recorded music; live performances; indoor/outdoor sports; and televised sport, without the sale of alcohol;
- addition of dance facilities to the permitted activities referred to in question 5 (columns 2 and 3) of the Operating Plan;
- addition of outdoor drinking facilities to the permitted activities referred to in question 5 (columns 2, 3 and 4) of the Operating Plan;
- a change to the explanation as to ‘Yes’ in column 4 (outwith core hours); and
- a change to the terms and conditions of Children and Young Persons access at question 6 of the Operating Plan.

There had been circulated copies of:-

- (a) a notice of objection/representation received from the Spread Eagle House Owners and Residents Group advising that the Spread Eagle House was a listed building within a conservation area and adjacent to Kelso Abbey. The area was mixed residential/commercial – often with residential properties being located above shops. Whereas the front of Spread Eagle House was identified by the Local Plan as part of the Town Centre Core Activity area, the rear of the Spread Eagle House was located adjacent to the quiet Parish Graveyard. Details of the Local Development Plan were also listed in the objection/representation. The existing situation was explained where the Queen’s Head Hotel was already the cause of significant nuisance to the residents of Spread Eagle House. Although the Residents Group recognised that residents and businesses need to co-exist,

they wished to object to the extension of the Queen's Head Hotel's licensing hours where this disrupted the peace and spoiled the pleasant historic environment of the peace late at night when residents wished to sleep.

- (b) a notice of representation from Tony Huggins-Haig Gallery, Bridge Street Kelso advising that they wished to know how the amendments to the operating plan would be policed, asking if there would be physical barriers erected between the cobbled strip (where there would be table and chairs) and the tarred highway? How would drivers using the loading bay be able to open doors next to the barriers or seating area – was there ample space available? Concern was expressed in relation to customers of the Queens Head using the outdoor seating on their premises and that there would be broken glass, empty tins, cigarettes and vomit to clear up on their ground.
- (c) an email from Mark Hay, Cheers Group. Mr Hay referred to the representations/objections received and advised he agreed everything was not perfect living next to any licensed premises but the Cheers Group did their best to work with everyone especially neighbours. In relation to the bins, this had been dealt with in the past and continued to be dealt with and staff had been reminded not to put bins out after 10pm.

He stated that loud music was not played and at present there was only live music on New Year's day and it was not anticipated that would change in the near future. He acknowledged that the Hotel was busy and had guests living above and around. The alleyway between the Hotel and Spread Eagle House was shared and at the moment the Queens Head was the only one who kept it clean and also cleared the blocked drains which backed up along the back of the said building as well as the alleyway, due to the build up of debris and leaves. Staff did stand outside the rear of the building and smoked along with the hotel staff opposite, the other shops below the Spread Eagle building as well as the beauty salon across the road, however, Mr Hay advised they cleared up everyone's litter and kept noise to a minimum.

He went onto advise that the kitchen closed at 10pm and extractors were switched off and kitchen staff left so any noise from smokers or pedestrians passing by or loitering in the street could not be pointed solely in the direction of the Queens Head. It was in their own interest to be as quiet as possible as guests would be sleeping above the bins, kitchen and the area in question and there was rarely complaint from the 3 rooms above as well as the 3 rooms in the alleyway.

With regard to the issues raised in relation to the extractions system, he stated it had been in the alleyway for decades if not longer. It was upgraded to an up to date carbon filter system and as well as being regularly deep cleaned and maintained it was the best available and was suggested at the time by their environmental health officer. It was cleaned daily.

In relation to the back of the hotel it was intended that the uneven ground which belonged to the hotel - 1.5metres - and install new drainage and singular tables along the back of the hotel but only 50% of the length in tables and chairs approx 8-10 people? This would add to the new doors which were being installed floor to ceiling height that folded back and created an outdoor indoor feeling. Although a planning application would be lodged for a canopy and a balustrade so people did not walk out beyond the hotel boundary. The whole idea was to encourage more daytime cafe culture opposed to a drinking area. The area would not be

used beyond 10pm both for noise and for management and to look after their guests and neighbours.

Cheers Group had requested the layby and it was only granted with the use of their part of the ground, but it was anticipated it would still be wide enough for its intended use and not for the adjoining businesses to use as a parking bay. Once work was completed, depending on finances in the next 12 to 18 months, the bins would move to the other end of their building as would the kitchen and extractor system of which it was hoped could be installed using an existing chimney thus any odours would be high enough to disperse and there were no flats or accommodation at this end apart from Mr Hays. Having the kitchen and the bin storage at this end would also help to alleviate the galleries concerns as there would not be anywhere for anyone to hang around or direct access from their area. In conclusion Mr Hay advised he was always available so anyone could come directly to him with any issues at any time, He would take all comments on board and at every opportunity and to the best of his capabilities try and rectify immediately any problem or observations.

Mr Tunnah advised that Mr Hay had contacted him seeking guidance in relation to the operating plan. He explained that all proposals were within the Board's current policy. The business was evolving and he advised that most of the comments from neighbours could be resolved by having appropriate dialogue and Mr Hay was already in discussion with his neighbours.

Mr Hay was present. He referred to plans and advised that the kitchen would be moved to another area which would alleviate some of the issues that neighbours had commented on. He explained it was in the interests of his business to deal with and resolve all complaints received.

Inspector Hodges took the opportunity to acknowledge that The Queens Head had recently been awarded a Gold Best Bar None Award and had been nominated for their national award.

## **DECISION GRANTED.**

### **PRIVATE BUSINESS**

#### **4. 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.**

#### **5. Licensing (Scotland) Act 2005 Personal Licence.**

With reference to paragraph 6(ii) of the Minute of the Licensing Board of 21 October 2016, the Board agreed that Mr Paul McCrindle's Personal Licence be revoked with immediate effect.

*The meeting concluded at 10.20 a.m.*

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MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2 & 3,  
Council Headquarters, Newtown St Boswells on Friday  
21 April 2017 at 10.00 a.m.

Present:- Councillors W. Archibald (Convener), J. Campbell, J. Greenwell, B. Herd, G. Logan, D. Paterson, J. Torrance, T. Weatherston, B. White.  
Apology:- Councillor R. Stewart.  
In Attendance:- Managing Solicitor Property and Licensing, Licensing Team Leader, Licensing Standards and Enforcement Officers (Mr I. Tunnah and Mr M. Wynne), Democratic Services Officer (K. Mason), Inspector T. Hodges, PC C. Lackenby, Police Scotland.

1. **MINUTE**

The Minute of Meeting of 17 March 2017 had been circulated.

**DECISION  
APPROVED.**

2. **LICENCES DEALT WITH UNDER DELEGATED POWERS**

For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 8 March to 12 April 2017.

**DECISION  
NOTED.**

3. **LICENSING (SCOTLAND) ACT 2005:**

- (a) **Section 45(7):** The Board considered the following application to Extend Period of Provisional Premises Licence:-

Martin McColl Ltd

27 The Square  
Kelso

1 year extension granted June  
2016

There had been circulated copies of a letter dated 13 April 2017 from DWF, LLP asking the Licensing Board to authorise a further extension of the time available to their client, Martin McColl Limited to apply for Confirmation of Provisional Premises Licence. The letter explained that the Licensing Board had granted an extension last year until 22 June 2017 on the basis of estimates as to completion of agreed works with Building Standards and Planning to cover the works and take into consideration the requirement for Listed Building Consent. All these were now granted although rather than being resolved before Christmas it took until March 2017 to finalise. A further small change was required to the licence plan to reduce the display area to 6.2m<sup>2</sup> and an application for a Minor Variation had been drafted for submission to the Board.

Mr David Crank, Solicitor DWF, LLP was present accompanied by Mr Morrison, Area Manager, Martin McColl Ltd. Mr Crank confirmed that a further extension was being applied for because there were various outstanding issues and Section 50 certificates were still to be obtained. It was noted that fire safety measures in the basement had now been resolved. Members discussed the application and it was agreed to grant an extension for a further 9 months rather than the 6 months applied for.

**DECISION**

**AGREED to extend the period of provisional Premises Licence from 22 June 2017 for a further 9 months.**

(b) **Section 29:** The Board considered the following applications for Variation of Premises Licence:-

- (i) **The Contented Vine (Kelso) Ltd**                      The Contented Vine Restaurant  
60 Horsemarket  
Kelso

Amendments to Premises Licence and Operating Plan:

- a change from solely on sale premises to both on and off sale
- a change to the core on sale hours -  

<u>Current On Sale</u>		<u>Proposed On Sale</u>
11.00am - 12midnight Mon to Thurs		11.00am -12midnight Sun to Thurs
11.00am - 1.00am Fri and Sat		11.00am - 1.00am Fri and Sat
12noon - 12midnight Sunday		
- inclusion of core off sale hours - 10.00am - 10.00pm Monday to Sunday
- addition to the permitted activities referred to in question 5 (column 4 - outwith core hours) of the Operating Plan, to include restaurant facilities; receptions (including weddings, funerals, birthdays, retirements etc); recorded music; and televised sport, without the sale of alcohol;
- addition to the permitted activities referred to in question 5 (columns 2 and 3) of the Operating Plan, to include live performances; gaming; and indoor/outdoor sports;
- addition to the permitted activities referred to in question 5 (columns 2, 3 and 4) in the Operating Plan, to include club or other group meetings;
- a change to the explanation as to ‘Yes’ in column 4 (outwith core hours); and
- a change to the explanation in question 5(f) as to other activities.

No representations had been received.

Mr Tunnah advised that the proposed amendments to the operating plan were all within the Board’s Policy.

Mr James Knox was in attendance representing his company’s application. He advised that he planned to sell presentation bottles of select wines and spirits by remote sales. If granted the variation would also allow customers to take unfinished bottles of wine home with them.

**DECISION GRANTED.**

(ii) **Christopher Lambton**

Laurel Bank Tea Room &  
Bistro Bar  
Broughton  
Biggar

Amendments to Operating Plan and Layout Plan:

- Change Core Hours:  
On Sale - 11.00am - 12.00midnight Sunday to Thursday and 11.00am - 1.00am Friday and Saturday (currently 11.00am -11.00pm Monday to Saturday and 12.00pm - 11.00pm Sunday).  
Off Sale - 10.00am - 10.00pm Monday to Sunday (currently 11.00am - 10.00pm Monday to Saturday and 12noon - 10.00pm Sunday)
- Change No to Yes in seasonal demand and explanation as per Licensing Board policy.
- Addition of Activities within Core Hours: Theatre, Films, Gaming, Indoor/Outdoor Sports and Televised Sport.
- Addition of Activities outwith Core Hours: Televised Sport.
- Change explanation in respect of activities outwith core hours.
- Change terms of Children and Young Persons access.
- Change capacity of premises from 50 persons to 46 maximum.

There had been circulated copies of two letters of observation from P. Middlemass and M. Brownlie advising there were no objections in principle but raising their concerns in regard to noise emanating from the premises which they had experienced and seeking assurances it would be kept to a reasonable level.

Mr M. Wynne referred to the application and the alterations taking place within the premises which had resulted in the opportunity for updating and future proofing the operating plan, all in accordance with the Board's Policy.

Mr C. Lambton was present. He briefed Members on how the establishment had grown organically since 2004 and stated he felt it was now time for a rethink on how everything fitted together. A new kitchen was being constructed in a new build extension to the rear of the building and the bar was being relocated to the space currently occupied by the existing kitchen, with walls and ceilings stripped out to form one large bar/coffee lounge. He acknowledged the concerns raised by neighbouring premises and confirmed that he would ensure measures were in place to address the concerns raised.

**DECISION  
GRANTED.**

(c) **Section 20:** The Board considered the following applications for Grant/Provisional Grant of Premises Licence:-

(i) **Fatheha Khanom**

The Taste of Bengal  
4 Station Buildings  
Dovemount Place  
Hawick  
**Grant**

Licensed Hours applied for:

On Sale

Sunday to Thursday 11.00am - 12.00midnight

Friday & Saturday 11.00am to 1.00am

Off Sale

Monday to Sunday 11.00am - 10.00pm

There had been circulated copies of:-

(a) a letter dated 7 March 2017 from Police Scotland. Inspector Hodges advised that in terms of Section 21(4)(a)(i) and (ii) of the Licensing (Scotland) Act 2005, neither the applicant or any connected person had been convicted of any relevant offence. Police Scotland was unable to confirm the existence of any foreign offence in respect of the applicant or any connected person. Inspector Hodges further advised that concerns regarding the layout plan had now been addressed to the satisfaction of Police Scotland.

(b) letters of objection from Ann Napier and Andrew Aitken expressing concerns regarding loud music, swearing, crowds gathering to drink and to smoke in the street along with general anti-social behaviour caused by drunkenness.

Mr Tunnah advised that the premises closed around the time of transition. Mr Khanom had now resurrected the premises as a restaurant and wanted his business to be licensed.

Mr Aitken was present. He stated that he was against licensing the business until 1.00am and referred in detail to the terms of his letter.

Mr Khanom was present. He explained that his business did not operate until 1.00am and generally closed at 10.30pm during the week and at 11.30pm during the weekend. Customers usually had one drink with a meal. He was not offering a huge amount of alcohol and would be selling lager and wine. The premises was a small restaurant with 28 seats. He went on to explain that at the moment because the premises was not licensed customers could bring their own alcohol to the restaurant and consume as much as they wished. He felt that he would be able to control the amount of alcohol consumed on the premises if it was licensed and that would lead to less disruptive behaviour by patrons as they left.

Members acknowledged the concerns raised by Mr Aitken and Ms Napier and stressed the need for strict measures to be put in place by the licence holder to ensure their concerns were dealt with.

**DECISION  
GRANTED.**

(ii) **Motor Fuel Limited**

Shell Service Station  
Edinburgh Road  
Jedburgh  
**Provisional**

Licensed Hours applied for:

On Sale

None

Off Sale

Monday to Sunday 10.00am - 10.00pm



There had been circulated copies of a letter dated 27 March 2017 from Police Scotland. Inspector Hodges advised in terms of Section 21(4)(a)(i) of the Licensing (Scotland) Act 2005, the applicant had not been convicted of any relevant offence. Further in terms of section 21(4)(b)(ii) of the Licensing (Scotland) Act 2005, Jeremy Clarke – a connected person – had been convicted of the following foreign offence:- 7 June 2013 - Court of Preliminary Investigation No. 5, Marbella, Spain – Driving a Mechanically Propelled vehicle while unfit through drink or drugs – Fine 10.00 Euros per day for 4 months - Disqualified from driving.

Mr Tunnah explained that whilst the premises were exempt in terms of the 2005 Act, he was of the opinion that they met the requirement to be granted a licence because it was the main source of fuel and groceries in the local area

Ms Stephanie Hands, Solicitor, Hill Brown Licensing was present, she was accompanied by Danny Wright, Area Manager for the premises licence holder. Ms Hands gave background information relating to Motor Fuel Limited. With reference to the Licensing (Scotland) Act 2005 she submitted that the local community was reliant on the premises as a principal source of either fuel or groceries, therefore the premises fitted into the exemption criteria. She referred to the survey already circulated to Members which had been undertaken by her last week to evidence this. The application had been submitted to enable the Company, which provided a vital resource to the local community, to diversify. In response to Members' questions, it was noted that the parking area was obvious to members of the public using the premises. Ms Hands referred to Jeremy Clarke's conviction and explained that Mr Clarke regretted his actions; this had been a serious error of judgement. Mr Clarke was a founding Director of the Company and he was not involved in the day to day running of the business.

**DECISION  
GRANTED.**

(iii) **Christopher Grindell**

Magnums and More Ltd  
Station Yard  
Sprouston Road  
Kelso  
**Provisional**

Licensed Hours applied for:

On Sale

None

Off Sale

Monday to Sunday 10.00am -  
10.00pm

No representations had been received.

Mr Tunnah advised that the business would take the form of remote sales, specialising in bottles the size of a magnum and above.

Mr Grindell was present. He advised the business would operate as a distribution centre for online and telephone orders.

**DECISION  
GRANTED.**

(iv) **R & A Peebles Ltd**

Panna Restaurant  
Dean Park/Northgate  
Peebles  
**Provisional**

Licensed Hours applied for:

On Sale

Monday to Sunday 11.00am - 12midnight

Off Sale

None

There had been circulated copies of letters of objection from Mr Iain Gordon, Mr Sam and Mrs Evelyn Ferguson, Councillor Catriona Bhatia and Matt and Mariella Cunliffe. The objections related to the on sale hours applied for because they were considered to be excessive and unreasonable given the residential nature of the surrounding area. Concerns were also expressed relating to noise and disturbance for the residents of Dean Park.

Despite being cited to attend, the applicant was not present and it was agreed that consideration of the application be continued to the next meeting of the Board.

**DECISION**

**AGREED that consideration of the application be continued to the next meeting of the Board.**

(v) **Scottish Borders Brewery Ltd**

Born In the Borders  
Transport Interchange  
Stirling Street  
Galashiels  
**Provisional**

Licensed Hours applied for:

On Sale

None

Off Sale

Monday to Sunday 10.00am -  
10.00pm

There had been circulated copies of a letter dated 7 April 2017 from Police Scotland. Inspector Hodges advised in terms of section 21(4)(a)(i) and (ii) of the Licensing (Scotland) Act 2005, that neither the applicant nor any connected person had been convicted of any relevant offence. Police Scotland were unable to confirm the existence of any foreign offence in respect of the applicant or any connected person. Under the terms of Section 22(1)(a) of the Licensing (Scotland) Act 2005, the Chief Constable made the following objection in relation to the application. The premises is in the terminal building for the local bus service and the Borders Railway in the town centre of Galashiels. Within the building there is a waiting area and a small café. As such the building is busy at all times of the day with a cross section of the public and is a popular meeting place for local youths. Since the building opened in 2015, there had been a significant number of incidents of anti-social behaviour including a number of violent crimes. The issues resulted in the Local Authority, who owned and ran the building trialing a pilot scheme with a private security company to assist staff at the building to deal with the daily incidents reducing the need to contact the Police on every

occasion. The pilot ran from October 2016 – January 2017 between the hours of 8.00 pm and 1.30am (when the last bus left). Nevertheless because of the number and severity of incidents the Police were called to attend and deal with matters on a frequent basis. A copy of an anti-social behavior report was also circulated which evidenced the concerns raised. It was the Police position that a number of these incidents were directly related to alcohol consumption. The addition of an Off Sale facility would provide an on-site source of alcohol that neither the staff nor the building owners could deal with without significant changes to the policies and procedures currently being employed. The sale of alcohol would allow those attending or waiting for transport to purchase alcohol, which could exasperate the problem for bus or train companies. Whilst it was appreciated that the public could buy alcohol elsewhere in the vicinity, from the various current off sale premises, and bring it with them, the desire of the applicant to sell alcohol did not mean that there was a requirement for such a facility. There was also a safety concern given that the rail platform was not staffed and no supervision was available to those who might purchase alcohol and choose to consume it. Again it was appreciated that alcohol could be purchased elsewhere, however if granted this facility would prove further access to alcohol that would not normally be available. Having consideration for the Preventing Crime and Disorder and Securing Public Safety Licensing Objectives the Chief Constable respectfully requested the Board to carefully consider the objection to the application.

Mr Tunnah advised that the applicant intended to sell and showcase draft beers and other alcohol products in line with his Born in the Borders theme. The alcohol would form a small display and there would be quite a premium on the price. He confirmed the application was in line with the Board's Policy and Licensing objectives.

Mr Henderson the applicant was present. He referred to Galashiels being a centre of excellence for brewing and distilling and he wished to make available locally produced alcohol to tourists and commuters. He advised that the sale of alcohol would not extend after 6.00pm and it was not his intention to exacerbate anti-social behaviour.

Mr Henderson answered questions from Members of the Board relating to his application. He stated that the hours applied for were to allow flexibility on an occasional basis but given the concerns raised submitted that his application be amended for core hours to terminate at 6.00pm.

#### **VOTE**

*Councillor White, seconded by Councillor Greenwell, moved that in terms of the Preventing Crime and Disorder licensing objective of the Licensing (Scotland) Act 2009 that the licence be granted between 10.00am and 6.00pm.*

*Councillor Herd, seconded by Councillor Logan, moved as an amendment that taking into account the Preventing Crime and Disorder and Securing Public Safety objectives of the Licensing (Scotland) Act 2009, the licence be refused.*

*On a show of hands, Members voted as follows*

<i>Motion</i>	-	7
<i>Amendment</i>	-	2

*Accordingly the application was granted.*

**DECISION**

**GRANTED as amended from 10.00am – 6.00pm.**

(vi) **Scottish Borders Brewery Ltd**

Born In the Borders  
Tweedbank Kiosk  
Tweedbank Railway Station  
Tweedbank, Galashiels  
**Provisional**

Licensed Hours applied for:

On Sale

None

Off Sale

Monday to Sunday 10.00am -  
10.00pm

There had been circulated copies of a letter dated 7 April 2017 from Police Scotland. Inspector Hodges advised that in terms of section 21(4)(a)(i) and (ii) of the Licensing (Scotland) Act 2005, neither the applicant nor any connected person had been convicted of any relevant offence. He was unable to confirm the existence of any foreign offence in respect of the applicant or any connected person. Under the terms of Section 22(1)(a) of the Licensing (Scotland) Act 2005, the Chief Constable made the following objection in relation to the application. The premises is a portable structure at Tweedbank rail station, which was erected to provide tea / coffee and light refreshments. The station is not staffed and there is no regular supervision of the area including the platform. The application raised safety concerns should alcohol be available to purchase on an Off-Sale basis and could then be consumed immediately while there was free movement around the platform. While it was appreciated that alcohol could be purchased elsewhere, it would not normally be available at this location. Having consideration for the Securing Public Safety Licensing Objective the Chief Constable respectfully requested the Board to carefully consider the objection to this application.

Mr Tunnah advised that the application was in similar terms to the previous application. A refreshment kiosk was now located at Tweedbank Train Station and Mr Henderson's intention was the same as the above application.

Mr Henderson answered Members' questions and advised that his staff would be well trained; the site was open and transparent and CCTV cameras were in operation. He acknowledged the concerns raised by Police Scotland and amended the terminal core hour to 6.00pm.

**DECISION**

**GRANTED as amended from 10.00am – 6.00pm.**

- (d) **Section 56: Application for Occasional Licence.** The Board considered the following application for Occasional Licence:-

Christopher Lightfoot

3 Kirkbrae, Ettrick Terrace, Selkirk  
15 June 2017 - 12.00noon -  
1.00am  
16 June 2017 - 10.00am - 1.00am  
(Selkirk Common Riding)

There had been circulated copies of

(a) a letter dated 22 March 2017 from Police Scotland. Inspector Hodges advised that in terms of section 58(1)(a) of the Licensing (Scotland) Act 2005, the applicant sought to operate a licensed entertainment marquee with an open bar between Thursday 15 and Friday 16 June 2017 with operating hours of Thursday 15 June 12.00 midday to 01.00am, Friday 16 June 10.00am to 01.00am. The location of the marquee was a private garden in Selkirk town centre, which was surrounded by residential properties. This posed a risk of public nuisance from the disco, live music and patrons dispersing from the venue. The applicant had used an old application form which did not seek additional information in relation to the description of activities and children and young people which was contained in the current application form. As a result there was no indication as to the expected numbers attending the venue or of the children and young people expected to attend. Also there was no indication if SIA stewarding would be in place, which would be expected in these circumstances. The garden area had a 20' drop at one side and although there were railings in place, there appeared to be no measures in place to ensure that anyone attending could not access that section of the garden area, which could pose a risk if any intoxicated person leaned over the railing. In relation to the licensed hours the application was confusing, the applicant had stated in section 5 of the application that local singers and festival music would take place from 08.00am and in section 6 that children and young persons would be present from 08.00am. This was in conflict with the licensed hours the applicant stated in section 4. The Scottish Borders Licensing Board Statement of Licensing Policy, paragraph 7.3 detailed the circumstances when the Board would consider an application for hours commencing prior to 11.00am and in excess of 14 hours in a 24 hours period. However, paragraph 7.5 required applicants to show how they would comply with the Licensing Objectives for such applications. Given the early start and the location being in a residential area, the application was inconsistent with the Preventing Public Nuisance licensing objective. Finally paragraph 12 of the Board Policy stated that the Board should consider the impact of occasional licence applications in relation to the Licensing Objectives and its Overprovision Statement. There were five licensed premises in close proximity to the venue, which might impact on overprovision. For these reasons, and in terms of Section 58(1)(a) of the Licensing (Scotland) Act 2005, Police Scotland objected to the application specifically in relation to the grounds for refusal at Section 59(6)(c) of the same Act in respect of the Securing Public Safety, and preventing Public Nuisance licensing objectives. Further it had come to the attention of Police Scotland that Mr Lightfoot failed to inform the Licensing Board that he had completed his five year refresher training as required by the Act. As a result his personal licence was revoked in 2015. Therefore, on the date stated on the application he was not a competent applicant for the licence applied for. Since this information came to light he had submitted a new application for a personal licence on 22 March 2017.

(b) a letter dated 30 March 2017 from Mr M Wynne. Mr Wynne advised

he objected to the granting of the licence on the following grounds:- in his opinion serious consideration should be given as to this being an appropriate venue for such an event even if the event was thought to be in any way appropriate. The area was surrounded by predominantly residential properties with a few retail outlets. It was situated just off Market Place, Selkirk with at least five other fully licensed premises in the close proximity. The open side of the proposed marquee would look directly across the road to the windows of residential flats. It would be difficult to see how the obvious noise levels would not cause extreme nuisance or disturbance. There was a drop of approximately 20 feet from the proposed location onto the A7 main arterial road with a metal railing along the edge of the garden area. This measured approximately 4 feet high. This caused considerable concern in relation to the safety of the persons attending the event or indeed items falling from the elevated position onto the pavement or roadway below. The main entry to the proposed venue would require customers passing through a residential area with a sheltered housing complex nearby. It would be difficult to see how any noise containment could be achieved. The proposed event was not part of the Official events linked to the Common Riding Celebrations. The applicant stated that he had run a similar event in the past as a private party with no sale of alcohol. In Mr Wynne's opinion a private party in this garden/car park area might well have caused no reported issues in the past. However to try and compare a private party, with those attending being predominantly invited, to an open door event with proposed free entry, free hog roast and the sale of alcohol, is most certainly not a comparable situation. There was adequate fully licensed on-sale premises in the immediate vicinity of the town centre to be able to accommodate those involved in the common riding celebrations. If the entertainment was to be live and discotheque music, Mr Wynne considered it extremely difficult to envisage such an event taking place without a considerable number of complaints from residents in the surrounding properties. The application also indicated Children and Young Persons access with no reference to numbers likely to be attending or whether or not they would be supervised. The hours applied for children and young person's access were 08.00am until 08.00pm. Children and Young Person's access to most licensed premises in the Board's area would be subject to conditions such as dining or attending a pre-arranged private function. In Mr Wynne's opinion Children and Young Person's access to this open event would be inappropriate. Mr Wynne respectfully suggested that granting this licence would be contrary to the Licensing Objectives - Protecting Children From Harm, Preventing Public Nuisance and Securing Public Safety. He concluded by advising that the location was totally inappropriate and not fit for purpose.

(c) letters from Vivien Ross (whose garden was accessed from Chapel Street Car Park Just outside Mr Lightfoot's house) and Mrs Margaret Holroyd (who lived next door to Mr Lightfoot) in support of the application.

Mr Lightfoot was present. The Managing Solicitor advised that Mr Lightfoot wished to table late submissions in the form of brief letters from neighbours supporting the application.

### **ADJOURNMENT**

The meeting adjourned at 11.30am to enable Members to read the additional correspondence.

Mr Lightfoot referred to private parties which had taken place in previous years at the same venue during the common riding. There was no difference in his intentions, although the numbers attending might be less, the entertainment

would be the same. Granting a licence would ensure the event was more controlled. In the past there had been no complaints regarding music or the overspill of people leaving the party. Previously there were no limitations on how much drink those attending could consume. If a licence was granted there would be more control over the sale and consumption of alcohol. He referred to concerns about the safety of the premises and advised although the railings were 4 feet high, he was willing to put in extra precautions if requested. He confirmed that SIA Stewarding would be in place. Members discussed the application.

#### VOTE

*Councillor Weatherston, seconded by Councillor Paterson, moved that the licence be granted with appropriate policies/conditions in place.*

*Councillor Logan, seconded by Councillor White, moved as an amendment that taking into account the Protecting Children from Harm, Preventing Public Nuisance and Securing Public Safety objectives of the Licensing (Scotland) Act 2005, that the licence be refused.*

*On a show of hands, Members voted as follows*

<i>Motion</i>	-	4
<i>Amendment</i>	-	5

*Accordingly the application was refused.*

#### DECISION

**AGREED that the application be refused.**

#### PRIVATE BUSINESS

4. **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.**

5. **Minute.** The Board approved the Private Section of Minute of Meeting of 17 March 2017.

*The meeting concluded at 12.25 p.m.*

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MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2 & 3, Council  
Headquarters, Newtown St Boswells on Friday 16 June 2017 at  
10.00 a.m.

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

1.0 **APPOINTMENT OF CONVENER**

1.1 The Board considered the appointment of Convener. Councillor Weatherston, seconded by Councillor Richards, moved that Councillor Greenwell be elected. There were no other nominations and Councillor Greenwell was duly elected.

**DECISION**

**AGREED that Councillor Greenwell be appointed as Convener of the Scottish Borders Licensing Board.**

2.0 **PRESENTATION OF MEMBER TRAINING CERTIFICATES**

2.1 The Convener explained that in order to sit on the Licensing Board, members were required to undertake specific training and an exam. The Convener presented the Members present with their Training Certificates.

**DECISION  
NOTED.**

3.0. **MINUTE**

3.1 The Minute of Meeting of 21 April 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 13 April to 31 May 2017.

**DECISION  
NOTED.**

5.0 **LICENSING (SCOTLAND) ACT 2005:**

(a) **Section 20: Application for Premises Licence.** The Board considered the following application for Grant of Premises Licence:-

Sykes Global Services Limited

Nether Road  
Galashiels

Licensed Hours applied for:

On sale

Off sale

None

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

There had been circulated copies of:-

(a) the Application, Operating Plan and proposed layout.

Mr Tunnah advised that the Industrial premises packaged products for clients and some of these contained amounts of alcohol.

Mr Iain Lindsay and Mrs Gail Wilson were present on behalf of Sykes Global and explained that Sykes was a long standing company and the application was to facilitate the remote sale of alcohol products to be packaged by them and dispatched on behalf of clients.

### **DECISION GRANTED.**

**(b) Section 34: Application for Transfer of Premises Licence with Variation.** The Board considered the following application for Variation of Premises Licence:-

Martin McColl Limited

Co-operative Food  
Main Street  
St Boswells

Amendments to Operating Plan:

- Question 5(f) – any other activities – to clarify the types of goods sold on the premises
- Change of store opening times to 6.00 a.m. – 11.00 p.m. (currently 8.00 a.m. – 10.00 p.m.)

There had been circulated copies of

(a) the Application together with current and proposed Operating Plans and (b) letters of objection to the proposed amended opening times submitted by adjoining neighbours J. Crombie, K. Davidson, T. Seymour-Smith and L. Molero

Mr Stephen McGowan, TLT Licensing and William Morison, Area Manager were present on behalf of Martin McColl Limited. Mr McGowan gave a brief summary of the application which he advised was one of a number of several Co-operative Food premises nationwide which had been transferred to Martin McColl Limited. He gave an explanation of the background to the relevant convictions declared in relation to his client's company. With particular regard to the 3 offences of underage sales of alcohol he provided details of the stringent measures established by his client company and explained that the offences had been as a result of an individual staff member not following set procedures.

With regard to the concerns raised by neighbours, he advised that after due consideration of those, he was instructed to amend the variation part of the application to reduce the opening times to 7.00am to 10.00pm.

There followed questions from Members which Mr McGowan responded to.

**DECISION**  
**GRANTED the application as amended.**

- (c) **Section 56: Application for Occasional Licence.** The Board considered the following applications for Occasional Licence:-

Greenlaw Festival Trust

Marquee  
The Green  
Greenlaw

Friday 30 June 2017 7.00pm - 11.30pm  
Saturday 1 July 2017 1.00pm - 11.30pm  
Sunday 2 July 2017 1.00pm - 4.30pm

There had been circulated copies of:-

(a) letters dated 18<sup>th</sup> May 2017 from Police Scotland. Inspector Scott advised that in terms of Section 58(1) (b) (ii) of the Licensing (Scotland) Act 2015, the Police recommended it be granted subject to the conditions as indicated by an 'x' on the appendix attached to each of the letters. Inspector Scott went on to advise that on 30<sup>th</sup> June 2016, the Greenlaw Festival caused significant anti-social behaviour and disorder, to such an extent that although no Police resources had been dedicated to the event, a sergeant and six officers were deployed from various locations in the Scottish Borders to deal with the ongoing incidents and were required to remain there for the duration of the event. A summary of the incidents/issues were contained in the letters. In order to address these issues the organisers had been requested to attend Scottish Borders Council's Safety Advisory Group, which the Police Scotland Licensing Officer would attend. In addition to the conditions set out in the appendix to the letters, it was requested that the licensed area be restricted to the marquee where the bar was situated with no Off Sales, which could be appropriately stewarded.

On being invited to speak, Mr Tunnah advised that the applications for occasional Licence were for the period 30 June 2017 to 2 July 2017 in respect of the Annual Greenlaw Festival. He clarified that the applications were for on sale provision only within the Marquee and did not include a defined area outwith or any off sale facility. Mr Tunnah endorsed the Police opinion that SIA Stewards were required to ensure strict management and controlled access procedures in an attempt to reduce the potential for a recurrence of the issues referred to by Police Scotland the previous year.

Mr McGuinness and Mrs Renton, Event Organisers were present. Mrs Renton explained that the Festival had been running since 1960 and most of the problems experienced the previous year had been due to outsiders coming to the village by minibus. Mrs Renton further advised that the alcohol listed in the police letter had not been sold by the Organisers. In terms of the drunk steward, this was a mystery as the Bar Staff had been wearing pink polo shirts and all other Stewards were wearing yellow polo shirts. Mrs Renton further explained that the Organising Committee had been unaware of any issues regarding their event until they had visited the Council offices to ensure that all the paperwork was in order. They stated they had worked hard to meet all the requirements requested by the Police during their event and Stewards had been patrolling the area stopping people entering the bar area.

**DECISION**  
**AGREED that the applications be granted as follows:-**

- (a) **30 June and 1 July - subject to the conditions requested by Police Scotland in**

**the Appendix to their letters dated 18 May 2017; and**

**(b) 2 July – subject to the conditions requested by Police Scotland in the Appendix to their letter dated 18 May 2017 with the exception of Condition 6 thereof.**

**(d) Section 68:** The Board considered the following applications for Extended Hours:-

(i) Greene King Retailing Limited	County Hotel 35 High Street Peebles
	Saturday 24 June 2017 8.00am - 11.00am
	Saturday 1 July 2017 8.00am - 11.00am
	Saturday 8 July 2017 8.00am - 11.00am

There had been circulated copies of a letter dated 12 May 2017 from Mr I Tunnah, Licensing Standards and Enforcement Officer. Mr Tunnah objected to the granting of the requested extensions on the following grounds (a) the hours applied for were outwith the Licensing Boards current policy statement, the premises currently operated with core hours for the On Sale of Alcohol commencing at 11 a.m. and terminating at 1 a.m. on the dates applied for. The Licensing Board Policy stated at section 7.3, 'the Board would not normally grant applications for more than 14 hours in any 24 hour period'. To grant the application would create a trading period for On sales of 17 hours on each of the dates applied for (b) the reason for extending the hours was to accommodate the viewing of the British Lions Test matches being played in New Zealand which had a kick off time of 8.35 a.m. UK time and there was no indication in the application to indicate the reason being anything other than to allow the consumption of alcohol while viewing the rugby, the applicant claimed that the sale of alcohol would be ancillary to the purchase of a breakfast, however it is difficult to see how this could be the case for the duration of the rugby match (c) there was no indication that access would be restricted, other than the requirement to purchase a breakfast which would obviously allow anyone whether interested in rugby or not to commence the consumption of alcohol at a time when no other premises in the Borders area are permitted.

There had been circulated copies of a letter dated 16 May 2017 from Police Scotland. In terms of Section 69(2) of the Licensing (Scotland) Act 2005, Police Scotland objected to the application on the following grounds (a) the premises was not affiliated to any rugby club and the premises would be open with no restriction, allowing anyone to attend and consume alcohol for any purpose (b) If granted, the commencement would increase the core hours from 14 to 16 hours that day, which would be outwith guidelines contained within the Licensing Board's Statement of Licensing Policy 2013-2016 (c) this would set a precedent which other licensed premises in Scottish Borders would be likely to seek to replicate.(d) any extension to the operating hours for the applicant premises, or any other premises enjoying similar licensed hours, would increase the likelihood of over consumption that often ends with crime and disorder.

There had been circulated copies of a letter from Peter Orr, Designated Premises Manager of the County Hotel, Peebles addressing the concerns of Police Scotland and the Licensing Standards and Enforcement Officer and seeking to justify why the Board should consider granting the applications because the screening of the British Lions test matches should be considered a nationally significant event. Mr Orr was present at the meeting and spoke to his written submission during which he withdrew

the application for 24 June under explanation it clashed with the Peebles Beltane Saturday.

There followed debate relating to the nature of the event, the relevant parts of the Board's Policy Statement cited in the objections and how appropriate it was to consider that the consumption of alcohol was essential to the enjoyment of patrons watching a televised sporting event.

VOTE

*Councillor Weatherston, seconded by Councillor Richards moved that the application be refused on the grounds that the application did not meet the licensing objectives as stated in the objections.*

*Councillor Paterson moved as an amendment that the application be granted. There was no seconder and the motion was carried.*

**DECISION  
REFUSED.**

*Councillor Paterson requested that his dissent be recorded for the Minute.*

(ii) Selkirk Conservative Club

Selkirk Conservative Club  
Ettrick Terrace  
Selkirk

Saturday 24 June 2017 8.00am - 11.00am  
Saturday 1 July 2017 8.00am - 11.00am  
Saturday 8 July 2017 8.00am - 11.00am

There had been circulated copies of a letter dated 6 June 2017 from Mr I Tunnah, Licensing Standards and Enforcement Officer. Mr Tunnah objected to the granting of the requested extensions on the following grounds (a) the hours applied for were outwith the Licensing Boards current policy statement, the premises currently operated with core hours for the On Sale of Alcohol commencing at 11 a.m. and terminating at 1 a.m. on the dates applied for. The Licensing Board Policy stated at section 7.3, 'the Board would not normally grant applications for more than 14 hours in any 24 hour period'. To grant the application would create a trading period for On sales of 17 hours on each of the dates applied for (b) the reason for extending the hours was to accommodate the viewing of the British Lions Test matches being played in New Zealand which had a kick off time of 8.35 a.m. UK time and there was no indication in the application to indicate the reason being anything other than to allow the consumption of alcohol while viewing the rugby, although the applicant stated that breakfast was to be served at half time. If granted the licence would have to obvious effect of allowing anyone whether interested in rugby or not to commence the consumption of alcohol at a time when no other premise in the Boards area were permitted.

There had been circulated copies of a letter dated 6 June 2017 from Police Scotland. In terms of Section 69(2) of the Licensing (Scotland) Act 2005, Police Scotland objected to the application on the following grounds (a) the premises did not appear to be affiliated to any rugby club and the premises would be open with no restriction, allowing members and bone fide guests to attend and consume alcohol for any purpose. (b) If granted, the commencement would increase the core hours from 14 to 17 hours that day, which would be outwith guidelines contained within the Licensing

Board's Statement of Licensing Policy 2013-2016 (c) this would set a precedent which other licensed premises in Scottish Borders would be likely to seek to replicate.(d) any extension to the operating hours for the applicant premises, or any other premises enjoying similar licensed hours, would increase the likelihood of over consumption that often ends with crime and disorder.

There had been circulated copies of a letter from Selkirk Conservative Club addressing the concerns of Police Scotland and the Licensing Standards and Enforcement Officer and seeking to justify why the Board should consider granting the applications because the screening of the British Lions test matches should be considered a nationally significant event which only occurred every 4 years. The Club did not intend to open in a free for all and the event would be a ticketed event for members and bone a fide guests only. The written submission further explained that SCC had operated a tightly managed 'Zero Tolerance' approach to any issues of bad behaviour for many years. Members were reminded that this not only applied to club premises , but also to any members' conduct outwith the club.

Mr James Terras was present representing Selkirk Conservative Club. He spoke in support of his written submission in particular the Club's long standing links to the RBS Six Nations through Members of the local Rugby Football Club. He stated his opinion that the application was materially different to that of an open public house and stressed that the premises would only be accessible by Members and guests. Having considered the objections, the Club was also willing to close early on the dates applied for in order to comply with the 14 hour trading period.

Members asked questions and debated the merits of the application in relation to the licensing objectives and their Policy Statement.

VOTE

*Councillor Paterson, seconded by Councillor Weatherston moved as a motion that the application be granted.*

*Councillor Scott, seconded by Councillor Brown moved as an amendment that the application be refused.*

*On a show of hands Members voted as follows:-*

*Motion - 2 votes*

*Amendment - 4 votes*

*The amendment was accordingly carried.*

**DECISION  
REFUSED.**

(iii) The Waverley Bar Limited

Waverley Bar  
78 High Street  
Hawick

Saturday 24 June 2017 8.00am - 10.00am

Saturday 1 July 2017 8.00am - 10.00am

Saturday 8 July 2017 8.00am - 10.00am

There had been circulated copies of a letter dated 16 May 2017 from Police Scotland. In terms of Section 69(2) of the Licensing (Scotland) Act 2005, Police Scotland objected to the application on the following grounds (a) the premises did not appear to be affiliated to any rugby club and the premises would be open with no restriction, allowing anyone to attend and consume alcohol for any purpose. (b) If granted, the commencement would increase the core hours from 14 to 17 hours that day, which would be outwith guidelines contained within the Licensing Board's Statement of Licensing Policy 2013-2016 (c) this would set a precedent which other licensed premises in Scottish Borders would be likely to seek to replicate (d) any extension to the operating hours for the applicant premises, or any other premises enjoying similar licensed hours, would increase the likelihood of over consumption that often ends with crime and disorder.

There had been circulated copies of a letter dated 12 May 2017 from Mr I Tunnah, Licensing Standards and Enforcement Officer. Mr Tunnah objected to the granting of the requested extensions on the following grounds (a) the hours applied for were outwith the Licensing Boards current policy statement, the premises currently operated with core hours for the On Sale of Alcohol commencing at 11 a.m. and terminating at 1 a.m. on the dates applied for. The Licensing Board Policy stated at section 7.3, 'the Board would not normally grant applications for more than 14 hours in any 24 hour period'. To grant the application would create a trading period for On sales of 17 hours on each of the dates applied for (b) the reason for extending the hours was to accommodate the viewing of the British Lions Test matches being played in New Zealand which had a kick off time of 8.35 a.m. UK time and there was no indication in the application to indicate the reason being anything other than to allow the consumption of alcohol while viewing the rugby, the applicant claimed that the sale of alcohol would be ancillary to the purchase of a breakfast , however it is difficult to see how this could be the case for the duration of the rugby match (c) there was no indication that access would be restricted, and would allow the consumption of alcohol at a time when no other premises in the Borders area are permitted.

There had been circulated copies of a letter from the Waverley Bar Limited which explained that the current Lion Tour had two borderers playing, one of which came from Hawick and it would be an opportunity for people with no sky contract to view the games. The Waverley showed all sporting events on the premises, at great cost (over £1600 per month) and the extended hours would be an opportunity to recoup some of this expense, while giving an enhanced service to their regular customers. The Waverley had been a family run business for 47 years and prided itself in having had no problems with any unsavoury trouble for many years. Mr Ian Hope, Bar Manager of the Waverley Bar spoke in support of the written submission and emphasised that the premises was well managed and in his opinion granting of the applications would allow its predominantly elderly clientele without access to Sky sports an opportunity to view the games.

Members debated how the applications could be considered in relation to the licensing objectives and their Policy Statement.

#### VOTE

*Councillor Scott, seconded by Councillor Brown moved that the application be refused. Councillor Paterson, seconded by Councillor Weatherston moved as an amendment that the application be granted.*

*On a show of hands Members voted as follows:-*

*Motion - 4 votes*

*Amendment - 2 votes*

*The amendment was accordingly carried.*

**DECISION  
REFUSED.**

**PRIVATE BUSINESS**

**6.0 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.

**7.0 Licensing (Scotland) Act 2005: Section 72: Application for Personal Licence.** The Board granted a Personal Licence to Mr Jacob Grice.

*The meeting concluded at 11.50 p.m.*



MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2 & 3,  
Council Headquarters, Newtown St Boswells on Friday  
21 July 2017 at 10.00 a.m.

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

1. **MINUTE**

The Minute of Meeting of 16 June 2017 had been circulated.

**DECISION  
APPROVED.**

2. **LICENCES DEALT WITH UNDER DELEGATED POWERS**

For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 1 June to 11 July 2017.

**DECISION  
NOTED.**

**ORDER OF BUSINESS**

The Chairman 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. **LICENSING (SCOTLAND) ACT 2005:**

(a) **Section 29: Application for variation of Premises Licence.** The Board considered the following applications for variation of Premises Licence:-

(i) Mary Fraiolo  
Bridge Function Suite  
34 North Bridge Street  
Hawick

Amendments to Operating and Layout Plans:

- Change of description of premises to remove the lower ground floor area from the defined licensed premises area, with the exception of the toilet facilities; and
- Reduction in the capacity of premises from 300 to 200 persons.

There had been circulated copies of the application, current operating plan, proposed operating plan and proposed layout plan of the premises.

Mr Tunnah advised that the amendments were required as premises were under new management and the lower ground floor was no longer included in the licensed area. There was no one in attendance on behalf of the applicant, however, in the absence of any representations, the Board agreed to consider the application.

## **DECISION**

### **AGREED that the application be granted.**

- (ii) JD Wetherspoon (Scot) Limited                              Bourtree  
   22 Bourtree Place  
   Hawick

#### **Amendments to Operating Plan:**

- Amend the relevant part of the Children and Young person's statement to allow access for Young Persons unaccompanied for the purpose of consuming a meal and to permit them access to the bar area for the of ordering food but not remain after the order is placed, all at the discretion of the management; and
- Extend the terminal hour for Children and Young Persons access to 10 p.m. every night (currently 10 p.m. Sunday – Thursday and 8 p.m. Friday and Saturday)

There had been circulated copies of an application, current operating plan, proposed operating plan and a letter of representation dated 6 July 2017 from Police Scotland.

Mr Tunnah advised that the variation proposed related to the Children and Young Persons statement to extend access until 10 p.m. every night. Chief Inspector McLean advised that the Police had no objection to the extension as such, however to minimise the exposure of 16/17 yr. olds to alcohol, requested that the times be altered to allow an extension until 9 p.m. on a Friday and 8 p.m. on a Saturday with 10 p.m. on the other nights of the week.

Mr Archie McIver, Brunton Miller and Mr Phil Buckley, Area Manager were in attendance. Mr McIver advised that more than half of the intake was from food and pubs nowadays had a very different culture. He stated that many families go out later to enjoy some food and have to be moved out at 8 p.m. Supervision in the premises was very high and opening until 10 p.m. 7 days per week would provide consistency and all better management policies to be adhered to.

There was general agreement with Mr McIver's submission although as a compromise to both parties, Councillor Brown moved that the premises be allowed to open until 9 p.m. on Friday and Saturday. There was no seconder.

## **DECISION**

### **Agreed that the application be granted.**

- (iii) JD Wetherspoon (Scot) Limited                              Hunters Hall  
   High Street  
   Galashiels

#### **Amendments to Operating Plan:**

- Amend the relevant part of the Children and Young Persons statement to allow access for Young Persons unaccompanied for the purpose of consuming a meal and to permit them access to the bar area for the purpose of ordering food but not remain after the order is placed, all at the discretion of the management.

There had been circulated copies of an application, current operating plan, proposed operating plan, a letter of representation dated 6 July 2017 from Police Scotland and an e-mail dated 23 June 2017 from the Health representative.

Chief Inspector McLean advised that the premises were located in the town centre of Galashiels and was regularly busy with a variety of patrons. The premises was one of the cheapest on sale premise in the town and while it was appreciated the sale of food played a large part of the business, in comparison to the applicant's premises in Hawick, alcohol sales were more prominent, particularly from early evening through to closing time. Chief Inspector McLean went on to advise that while the premises were generally well managed, there were incidents of drunkenness, disorder and violence. These incidents occurring during the afternoon, evening and later at night. The Police were of the opinion that the premises changed from being food driven to being alcohol driven in the early evening and requested that the times young people were permitted whilst unaccompanied be restricted to 8.00 p.m. Monday to Thursday and 6.00 p.m. on Friday to Sunday. The police further requested that conditions be imposed in respect of a seating area identified for unaccompanied young people who would be constantly observed and a specific area of the bar be identified for use by unaccompanied young people for ordering meals and soft drinks. Ms Walker, Health agreed that the times young people were permitted whilst unaccompanied be restricted to 8.00 p.m. Monday to Thursday and 6.00 p.m. on Friday to Sunday as there were higher admissions to A&E.

Mr Archie McIver, Brunton Miller and Mr Phil Buckley, Area Manager were in attendance. Mr McIver acknowledged the concerns of Police Scotland and agreed with their interpretation of the shift from a food led premises to predominantly a drinking establishment in the evening. He advised that due to the layout of the premises, a separate seating area would be difficult to introduce. However, he went on to advise that an App had been introduced by Wetherspoon's which could be used to order food and drink which would assist with a reduction in young person's having to go to the bar as the order was then brought to the table.

### **DECISION**

**Agreed that the application be granted, following an amendment that the Young People are permitted unaccompanied to 8 p.m. Monday – Thursday and to 6.00 p.m. on Friday – Sunday.**

(iv) Verdant Leisure 2 Limited

Coldingham Bay Leisure Park  
School Road  
Coldingham

Amendments to Operating and Layout Plans:

- Change Core Hours
  - On Sale 11.00 am – 12.00 midnight Sunday to Friday and 11.00 am – 1.00 am Saturday (currently 11.00 am - 12.00 midnight Monday to Saturday and 12.30pm -12.00 midnight Sunday)
  - Off Sale 11.00 am – 10.00pm Monday to Sunday (currently 11.00am – 10.00pm Monday to Saturday and 12.30 pm - 10.00pm Sunday)
- Change seasonal demand explanation as per Licensing Board policy
- Addition of Activities within Core Hours: Restaurant, Theatre, Films, Televised Sport and Outdoor Drinking Facilities
- Addition of Activities outwith Core Hours: Restaurant, Bar Meals, Recorded Music, Live Performances, Dance Facilities, Theatre, Films,

- Gaming, Indoor/outdoor Sports and Outdoor Drinking Facilities
- Change explanation in respect of entry in Column 4 (activities outwith core hours)
- Change details of other activities provided
- Change terms of Children and Young Persons access, times, age and areas
- Change layout plan to include creation of Outdoor Drinking Area.

There had been circulated copies of application, current operating plan and proposed operating plan.

Mr Tunnah advised that Verdant Leisure 2 Limited had recently acquired Coldingham Bay Leisure Park and the variation was to bring it in line with the Business Plan.

Niall Hassard, Solicitor, TLT and Mr Stephen Tokely, Manager were present at the meeting. Mr Hassard advised that Verdant Leisure had a number of Leisure Parks, one of which was at Pease Bay which had recently been successfully re-furbished and the Coldingham Bay would be re-furbished in January 2018. The venues were very family orientated and well supervised, with CCTV coverage.

**DECISION**  
**AGREED TO grant the application.**

- (b) **Section 56: Application for Occasional Licence.** The Board considered the following application for Occasional Licence:-

Lauderdale Hotel Ltd	Gin Bar/Tent
	Lauderdale Hotel Garden
	Lauder

Saturday 5 August 2017 10 a.m. – 10 p.m. for Lauder Common Riding

There had been circulated copies of the application and a letter of objection dated 3 July 2017 from Police Scotland.

Mr Tunnah advised that the Lauderdale Hotel had recently changed hands and the Tent in the garden was to alleviate pressure on the Bar within the Hotel and keep patrons to the rear of the property rather than congregating at the front of the property next to the A68.

Chief Inspector McLean explained that the application was for the purpose of the Lauder Common Riding festivities, including live music. There was no indication of any stewarding arrangements, children and young people would be present and the number attending was unknown but it was anticipated that they would be in family groups and the commencement of 10 a.m. was outside current Licensing Board Policy. Historically Lauder has had issues with alcohol related disorder during their Common Riding, resulting in a significant commitment of resources into the early hours and any application to increase the amount of alcohol available was a concern. He went on to advise that the Lauderdale Hotel was already a gathering point and was busy front and rear, throughout the day with people who had clearly been drinking spilling onto the road, which was the A68 main trunk route. The Police were of the opinion that the premises had adequate facilities to provide the services detailed in the application without the

additional supply of alcohol in the garden. Should the Board grant the application, there would require to be SIA Stewards for public safety.

Moira Ainslie and Nicola Batchelor were in attendance representing the Lauderdale Hotel and explained that the Common Riding Committee had approached the Hotel as there would not be a bar at the Park as there had been in past years. The idea of the Gin Bar in a Tent in the Garden was to relieve pressure on the main bar within the Hotel where the live music would be held between 3 p.m. and 7 p.m. They were of the opinion that dispersing patrons throughout the hotel and into the garden would allow adequate monitoring and reduce potential for them to congregate at the front of the premises near the main A68.

**DECISION**

**AGREED that the application be granted, with the addition of a condition that adequate and appropriate SIA Stewards were in attendance.**

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

(i) R & A Peebles Ltd	Panna Restaurant Dean Park/Northgate Peebles <b>Provisional</b>
-----------------------	--

Licensed Hours applied for:

<u>On sale</u> Monday to Sunday 11 a.m. – 12 midnight	<u>Off sale</u> None
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There had been circulated copies of the Application, Operating Plan and proposed layout and letters of objection from neighbouring properties owned/occupied by I. Gordon, M. Cunliffe, Mr and Mrs S Ferguson, C. Bhatia.

Mr Ahmed was present. No objectors were in attendance.

**DECISION  
GRANTED.**

(ii) Jarvis Pickle Limited	Jarvis Pickle Limited Food Store 1 Acredale Eyemouth <b>Provisional</b>
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Licensed Hours applied for:

<u>On sale</u> None	<u>Off sale</u> Monday to Sunday 10 a.m. – 8 p.m.
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There had been circulated copies of the Application, Operating Plan and proposed layout plan. The Board were advised that the Applicant had broken down on her way to the meeting and was not present. The application was considered in her absence.

**DECISION  
GRANTED.**

**URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

**4.0 DAY OF MEETING**

- 4.1 Due to the fact that some Members were unavailable to attend meetings on a Friday, consideration had been given to amending the meeting day from a Friday to a Wednesday. The response from Members had been mixed and after noting that it would not be possible to hold all meetings on a Wednesday due to other bookings already confirmed, it was agreed to continue to meet on a Friday.

**DECISION**

**AGREED** that the Licensing Board and Civic Government Licensing Committee would continue to meet on a Friday.

**PRIVATE BUSINESS**

**5.0 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.

**6. Minute**

The Private Minute of the Meeting held on 16 June 2017 was approved.

*The meeting concluded at 11.50 p.m.*

MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2 & 3,  
Council Headquarters, Newtown St Boswells on Friday  
18 August 2017 at 10.00 a.m.

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

**1.0 MINUTE**

1.1 The Minute of Meeting of 21 July 2017 had been circulated.

**DECISION  
APPROVED.**

**2.0 LICENCES DEALT WITH UNDER DELEGATED POWERS**

2.1 For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 12 July to 4 August 2017.

**DECISION  
NOTED.**

**3.0 CHIEF CONSTABLE ANNUAL REPORT**

3.1 There had been circulated copies of the Chief Constable, Police Scotland Annual Report to the Scottish Borders Licensing Board for the period 1 April 2016 to 31 March 2017. The report outlined the activity undertaken over the past twelve months for Scottish Borders, and provided an outline of how Police services would be delivered over the coming year. Despite continual increasing demands against the backdrop of a challenging financial environment, Police Scotland would continue to work in partnership at local and national level to ensure that communities were safe. There had been success in the preventative problem solving approach, with officers and staff resolving issues proportionately and at the earliest opportunity. In the year ahead Police Scotland would continue to be based on prevention and collaboration to ensure the most efficient and effective service delivery.

**DECISION  
NOTED.**

**4.0 LICENSING (SCOTLAND) ACT 2005:**

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

(i) George McDonald	Shop Unit Queen Elizabeth Drive Melrose Gait Galashiels <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.

Mr McDonald was present.

**DECISION  
GRANTED.**

*The meeting concluded at 10.15 a.m.*