

SCOTTISH BORDERS LICENSING BOARD

MINUTE of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in Committee Rooms 2 and 3 on Friday, 26 October 2018 at 10.30 am

Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol and G. Turnbull

Apologies:- Councillor T. Weatherston

In Attendance:- Clerk to the Scottish Borders Licensing Board, Managing Solicitor (Property and Licensing), Licensing Services Team Leader, Licensing Standards and Enforcement Officers (I. Tunnah and M. Wynne), Democratic Services Officer (F. Walling), Inspector A. Hodges - Police Scotland.

1. **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.

2. **MINUTE**

The Minute of Meeting of 24 August 2018 had been circulated.

DECISION APPROVED.

3. **SCOTTISH BORDERS LICENSING BOARD - FINANCIAL REPORTS 2017/18**

With reference to paragraph 3 of the Minute of 24 August 2018, there had been re-circulated copies of a report by the Clerk to the Scottish Borders Licensing Board now seeking approval of the Annual Financial Report. Following correction of a minor error within the Financial Report an amended version was attached as an Appendix. It was noted that the Annual Functions Report had been approved at the last meeting.

DECISION

(a) **APPROVED the Scottish Borders Licensing Board Annual Financial Report 2017/18 attached as Appendix 2 to the report; and**

(b) **AGREED to authorise the Clerk to the Board to proceed with the publication of the Scottish Borders Licensing Board 2017/18 Annual Functions Report and Annual Financial Report.**

4. **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 15 August 2018 to 12 September 2018 and 13 September 2018 to 10 October 2018.

DECISION NOTED.

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

(a) Section 29: Application for Variation of Premises Licences.

The Board considered the following applications for variation of Premises Licences:-

- | | | |
|------------|---------------------------------------|--|
| (i) | J D Wetherspoon (Scot) Limited | Hunters Hall
56/58 High Street
Galashiels |
|------------|---------------------------------------|--|

Amendments to operating and layout plan to increase occupancy capacity figure from 394 to 594 persons (premises extending into adjacent unit).

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the application and operating plan. The Licensing Standards and Enforcement Officer advised that he had no concerns about the proposal which was for refurbishment of the premises and expansion into an adjacent unit which was previously a retail butcher's shop. A drawing of the proposed layout was available at the meeting for Members to examine. J D Wetherspoon (Scot) Ltd representatives Mr Archie McIver of Brunton Miller, legal agent and Mr Alexander McTrusty were in attendance to speak in support of the application. Mr McIver explained that Hunters Hall was a well-regarded and successful outlet. However the building required refurbishment and it was also proposed to expand the size of the premises. There would be no change in the operating plan nor the concept of the business. There had been no adverse comments in response to a planning application which had been approved.

**DECISION
GRANTED**

Applications (ii), (iii) and (iv) by The Edinburgh Woollen Mill Limited

The Licensing Standards and Enforcement Officer, Mr Tunnah referred to all three applications from The Edinburgh Woollen Mill Limited, namely:-

(ii) the Edinburgh Woollen Mill, Jedburgh – off sale premises

(iii) Jedburgh Woollen Mill, Jedburgh – on and off sale premises; and

(iv) the Edinburgh Woollen Mill, Melrose – off sale premises.

He had no concerns about the proposed amendments to the licences and operating plans. Edinburgh Woollen Mill representatives Mr Niall Hassard, legal agent of TLT licensing practitioners and Ms Margaret Butkiss were in attendance to speak in support of the applications. Mr Hassard gave an overview of his client company's 535 stores, 60% of which were in Scotland and mostly located in tourist centres. The range of Scottish and local products offered were gift-led and included alcohol in the form of miniatures, collectables, craft gins etc. Within the company's outlets there were a range of licence activities and after a due diligence review action was being taken to harmonise the licences across the client estate and allow flexibility and consistency of operations. The extension requested for the core off-sale hours to the maximum 10 am to 10 pm was to respond to seasonal variations and provide flexibility for the tourist market e.g. for late afternoon arrival of coaches unable to purchase off sale products due to the current restricted core hours. The proposed addition of activities related to functions/receptions and appropriate music for events such as book launches, craft displays, exhibition of local products such as knitwear and promotion of specialist alcohol provided as an additional tourist attraction.

The following applications were then considered individually by the Board:-

(ii) The Edinburgh Woollen Mill Limited

**Edinburgh Woollen Mill
Bankend North
Edinburgh Road
Jedburgh**

Amendments to operating plan, as follows:-

- the deletion of the Seasonal Variation;
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Receptions (including weddings, funerals, birthdays, retirements etc); Club or other group meetings etc; and Live Performances, during and outwith core licensed hours;
- a change to the explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'these activities may be provided outwith core licensed hours, but no alcohol will be sold or supplied. No alcohol will be sold outwith core licensed hours'; and
- a change to the explanation at question 5 (f) – any other activities – to read 'the retail sale (during and outwith licensed hours) of a wide range of clothing, woollen goods, home wares, gifts and tourist items. The premises will also host events such as club meetings, parties, fashion shows, charity fundraisers and tastings. Santa's Grotto will be available throughout the months of November and December'.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the application and current and proposed operating plans.

**DECISION
GRANTED**

(iii) The Edinburgh Woollen Mill Limited

**Jedburgh Woollen Mill
Bankend North
Edinburgh Road
Jedburgh**

Amendments to the licence and operating plan as follows:-

- a change to the core On and Off Sale hours:-

Current On Sale Hours

11.00am – 8.00pm Mon to Sat
12.30pm – 8.00pm Sun

Proposed On Sale Hours

11.00am – 10.00pm Mon to Sun

Current Off Sale Hours

10.00am – 8.00pm Mon to Sun

Proposed Off Sale Hours

10.00am – 10.00pm Mon to Sun

- addition of a seasonal variation at question 4 - 'the premises would like to take advantage of any extension that the Board may grant from time to time';
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Receptions (including weddings, funerals, birthdays, retirements etc); Club or other group meetings etc; and Live Performances, during and outwith core licensed hours;

- a change to the explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'these activities may be provided outwith core licensed hours, but no alcohol will be sold or supplied. No alcohol will be sold outwith core licensed hours'; and
- a change to the explanation at question 5 (f) – any other activities – to read 'the retail sale (during and outwith licensed hours) of a wide range of clothing, woollen goods, home wares, gifts and tourist items. The premises will also host events such as club meetings, parties, fashion shows, charity fundraisers and tastings. Santa's Grotto will be available throughout the months of November and December'.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the application and current and proposed operating plans.

**DECISION
GRANTED**

(iv) **The Edinburgh Woollen Mill Limited** **The Abbey Mill
Annay Road
Melrose**

Amendments to the licence and operating plan as follows:-

- a change to the core Off Sale Hours –

<u>Current</u>	<u>Proposed</u>
10.00am – 6.00pm Mon to Sun	10.00am – 10.00pm Mon to Sun
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Receptions (including weddings, funerals, birthdays, retirements etc); Club or other group meetings etc; and Live Performances, during and outwith core licensed hours;
- a change to the explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'these activities may be provided outwith core licensed hours, but no alcohol will be sold or supplied. No alcohol will be sold outwith core licensed hours'; and
- a change to the explanation at question 5 (f) – any other activities – to read 'the retail sale (during and outwith licensed hours) of a wide range of clothing, woollen goods, home wares, gifts and tourist items. The premises will also host events such as club meetings, parties, fashion shows, charity fundraisers and tastings. Santa's Grotto will be available throughout the months of November and December'.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other – seven objections.

There had been circulated copies of the application and current and proposed operating plans. There had also been circulated copies of seven objections to the application from members of the public. With reference to the objections Mr Hassard re-emphasised, that

the addition of activities requested related only to low-key events on the premises such as book launches and receptions with appropriate music provided on occasion. The outlet was off-sales only so no alcohol would be consumed on the premises as part of these events. He added that the applicant was proud of its location in Melrose and aware of the character of the neighbourhood which must be protected. In a discussion of the application, Members took into account the objections received but also noted the assurances given by Mr Hassard about the applicant's intentions at this outlet and their acknowledgement of the concerns raised by objectors, which he stressed would not impact in the manner perceived by them.

**DECISION
GRANTED**

(b) Section 68: Application for Extended Hours.

The Licensing Standards and Enforcement Officer advised that the application from RBLs, 22 Park Street, Galashiels, for extended hours from 9.00am until 11.00am on 11 November 2018 for Remembrance Sunday had been withdrawn.

**DECISION
NOTED**

6. STATEMENT OF LICENSING POLICY 2018 TO 2023

6.1 With reference to paragraph 3 of the Minute of 20 April 2018, there had been circulated copies of a report by the Clerk to the Licensing Board requesting the Board to consider the responses to the consultation on the draft Statement of Licensing Policy, to approve the Statement and arrange for its publication. The report explained that, following a 12 week extensive consultation on the draft statement a revised Draft Final Version Statement had been prepared which was appended to the report. A further Appendix to the report detailed the consultation responses. A total of 35 responses had been received, 19 from individuals, 9 from Licensees and 7 from organisations including the Local Licensing Forum and Alcohol Focus Scotland. The report went on to give a summary of the responses in terms of whether there was agreement or disagreement with questions relating to the five licensing objectives, period of licensed hours and events involving children. Respondents were also asked if they had an opinion in relation to the proposed Draft Policy Statement and if so whether they wished to make comments or suggestions for inclusion in the final Policy. Officers had considered all responses and proposed the revisals shown to the draft Policy Statement put forward for consideration by the Licensing Board. An explanation of the revisals made and of those not incorporated in the amended Draft were highlighted in the Appendix.

6.2 The Clerk to the Licensing Board referred to the importance of the Working Group which had worked on the revision of the Statement of Licensing Policy and had produced the draft for consultation. She highlighted for Members the main changes to the draft policy which had now been proposed in response to that consultation. She drew attention in particular to comments made within the section on Overprovision and officers' response to those comments. Members recognised the value of the annually prepared Scottish Borders Alcohol Profile which formed an evidence base to which the Board could have regard when determining applications. Although evidence from the Alcohol Profile should therefore form the basis of decisions relating to Overprovision, Members agreed that the Board should also maintain flexibility within licensing policy to be able to take into account change on a case by case basis. After further discussion of the draft document the Board approved the Licensing Policy Statement as amended which was appended to the report as the Draft Final Version. The Clerk to the Licensing Board thanked the Working Group, and in particular the Licensing Standards Officers and Licensing Services Team Leader for their revision and preparation of the Board's Statement of Licensing Policy.

DECISION

AGREED:-

- (i) **to approve the Draft Final Statement and to adopt this as the Statement of Licensing Policy for the period from November 2018 to November 2023; and**
- (ii) **to request the Clerk to the Licensing Board to arrange for its publication.**

7. FESTIVE SEASON EXTENDED HOURS POLICY

7.1 There were circulated at the meeting copies of a briefing paper regarding a proposed Festive Season Extended Hours policy. The Licensing Standards and Enforcement Officer explained that the vast majority of licensed premises in the Scottish Borders had a seasonal variation included in their Operating Plans allowing a terminal hour of 1 a.m. on Christmas Eve, Christmas Day, Boxing Day, New Years Eve and New Years Day. As in previous years it would therefore seem appropriate to allow the premises which did not have this seasonal variation to apply for an extension to their core hours up to the same terminal hour on those days and for those applications to be dealt with under delegated powers, where no other objections or representations were received. If objections or representations were received the applications would be referred to the Board for a decision as required by the 2005 Act. It would also seem appropriate that the same policy be applied to events being catered for in unlicensed premises by way of Occasional Licences.

7.2 With regard to Night Clubs/Late Hours Premises, as in previous years and for consistency it was suggested that it would be appropriate to allow Night Clubs to apply for extensions to their existing hours on the days stated above allowing them to trade to their usual core weekend hours. This preserved the normal weekend time differential between specific late night venues and other licensed premises. Again any extended hours applications for the days stated would be dealt with under delegated powers where no other objections or representations had been received. Where objections and representations were received the applications would be referred to the Board for a decision as required by the 2005 Act. Any applications in respect of any premises for a terminal hour later than the days and times stated above would be referred to the Board for a decision on their own individual merits.

DECISION

AGREED:-

- (a) **applications be granted under delegated powers by officers, for an extension to their core hours up to the terminal hour of 1 a.m. on the five festive dates (24, 25, 26 and 31 December 2018 and 1 January 2019) for those premises that do not have a seasonal variation in their current Operating Plan;**
- (b) **applications in respect of Night Clubs/Late Hours premises be granted under delegated powers by officers, for an extension to their existing hours to their usual core weekend hours on the five festive dates (24, 25, 26 and 31 December 2018 and 1 January 2019); and**
- (c) **as required by the Licensing (Scotland) Act 2005, where there were any representations or objections to such applications, they would require to be referred to the Board for a decision.**

8. ANY OTHER ITEMS WHICH THE CONVENER DECIDES ARE URGENT

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 keep Members informed.

- 8.1 **Joint Scottish Borders Licensing Board/Local Licensing Forum meeting**
Members were informed that the annual joint Scottish Borders Licensing Board/Licensing Forum meeting would be held on Wednesday 5 December 2018 at 4 pm.

**DECISION
NOTED**

9. **ITEMS LIKELY TO BE TAKEN IN PRIVATE**

DECISION

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

SUMMARY OF PRIVATE BUSINESS

10. **LICENSING SCOTLAND ACT 2005: SECTION 72 - APPLICATION FOR GRANT OF PERSONAL LICENCE.**

The Board considered an application for Grant of Personal Licence and an objection letter from Police Scotland in respect of that application. Police Scotland drew attention to the applicant's conviction and a further pending case and recommended refusal of the application on the grounds of the preventing crime and disorder and securing public safety objectives. Having regard to the information provided by the police and the licensing objectives cited the Board agreed not to grant the application.

The meeting concluded at 11.20 am