

**SCOTTISH BORDERS COUNCIL  
SCOTTISH BORDERS LICENSING BOARD**

MINUTE of Meeting of the SCOTTISH  
BORDERS LICENSING BOARD held in  
Committee Rooms 2 and 3 on Friday, 16  
November 2018 at 10.00 am

-----

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

Apologies:- Councillors R. Tatler and T. Weatherston  
In Attendance:- Managing Solicitor (Property and Licensing), Licensing Services Team  
Leader, Licensing Standards and Enforcement Officers (I. Tunnah and M.  
Wynne), Democratic Services Officer (F. Henderson), Trainee Democratic  
Services Officer (E. Graham), Inspector C Wood – Police Scotland.

1. **MINUTE**  
The Minute of Meeting of 26 October 2018 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 11 October 2018 to 5 November 2018.

**DECISION  
NOTED.**

3. **LICENSING (SCOTLAND) ACT 2005:**  
**Section 29: Applications for Variation of Premises Licence**  
The Board considered the following application for variation of Premises Licences:-

**Greene King Retailing Ltd**

**County Hotel  
35 High Street  
Peebles**

Amendments to Operating Plan and Layout Plan:

- Change Core Hours

<u>Proposed On Sale</u>	<u>Current On Sale</u>
11.00am - 12.00midnight Sunday	12.00pm - 12.00midnight Sunday
<u>Proposed Off Sale</u>	<u>Current Off Sale</u>
11.00am - 10.00pm Sunday	12.00pm - 10.00pm
- Addition of outside drinking facilities during and outwith core hours and include the permitted street café permit to be part of the premises licence
- Amend Terms for Children and Young Persons access

Representations received:

Police Scotland - attached

Licensing Standards Officer - attached

- 3.2 There had been circulated copies of the application, current operating plan and proposed operating plan. Copies of the representations from Police Scotland, the Licensing Standards and Enforcement Officer and Scottish Borders Child Protection Committee had also been circulated. The Licensing Standards and Enforcement Officer advised of the observations and objections regarding the proposed variation to the operating plan and layout plan with particular reference to the children and young person's statement and proposed extension to the outside drinking area. In his submission, he confirmed that the amendment to commence on sale of alcohol at 11am on a Sunday is within the Board's policy. The request to add outside drinking facilities during core hours to take over part of a public footpath would require the authority of the Council's Roads Department and no such permit had been issued for the premises. In the event, that the applicant is granted a permit to use the outside area, he suggested that the use of the outside area should cease at 10pm. He expressed concern that the requested changes to the terms under which Children and Young Persons should be permitted access to the premises would, if granted, allow Children and Young Persons access with an adult consuming alcohol. He referred to the Board's Policy Statement which was clear that it was not considered appropriate for children and young persons to access premises when the main activity was the consumption of alcohol.
- 3.3 Adrian Howlett, legal agent for the applicant and Nicholas Passey, the Designated Premises Manager were in attendance. Mr Howlett advised that following discussion regarding the concerns highlighted in the representations circulated, a suggested compromise had been reached in relation to the wording of the children and young person's statement. He stated that Children and Young Persons would be permitted access if accompanied by an adult for the purpose of a light refreshment until 6pm, for the purpose of a meal until 10pm, or when attending a pre-arranged function for the duration of the function.
- 3.4 With regard to the proposal to include the outside drinking area in the on sale licensed footprint, Mr Howlett acknowledged that whilst permission had been previously granted by the Council's Roads Department and an extension sought, the position remained outstanding. Members raised concerns about the use of the public footpath and potential noise nuisance from patrons using the outside and there followed discussion and questions in relation to those concerns. Mr Howlett provided assurances that the outside area would not be used until written permission had been received. In addition, in response to the concerns regarding noise nuisance, he also stated that the terminal hour for outside drinking would be restricted to 10pm. Members noted the upgrading of the premises reflecting the small changes to the fixed seating and matrix from the layout plan and the area that currently forms part of the premises licence.

#### **DECISION GRANTED**

- (a) **subject to amendment of the wording of the children and young person's terms of access to the effect that both will be allowed on the premises when accompanied by an adult for the purposes of light refreshments, a meal or when attending a pre-arranged function. The times of access for both is amended to state that when attending for light refreshments only they will permitted until 6.00pm; for consumption of a meal until 10.00pm and for the full duration of any pre-arranged function; and**
- (b) **on condition that the outside area will not be used until written permission is received from the Council's Roads Department and the terminal hour will cease at 10.00pm.**
4. **SECTION 37: CONSIDER BOARD REVIEW OF PREMISES LICENCES**

There was tabled a copy of a list of unpaid annual premises fees for 2018/19. The Board were advised that a reminder letter had been sent to all premises licence holders required to pay their annual premises fees in September 2018. The letter notified them that payment of the annual fee was a mandatory condition of their premises licences which was due on or before 1 October 2018 and detailed the methods of payment available. Members were advised that the Board could initiate a review of those premises licences which remained unpaid and authorise officers to take the necessary steps to arrange for the hearings to take place at the next meeting. The Board were of the strong opinion that a firm stance required to be taken as licensees were required to pay their annual fee as a condition of Premises Licence and noted that many of the premises listed were well established and continued to trade. There followed considerable discussion when it was unanimously agreed that a strong message be sent to the licensees concerned that it was unacceptable for annual fees to remain unpaid. In response to a question from Members, it was noted that there was no recourse for the Board to apply any extra monetary penalty for late payment despite the additional burden on the Board and its officers in recovering outstanding fees.

#### **DECISION**

**AGREED** that under Section 37 of the Licensing (Scotland) Act 2005 should annual fees remain unpaid for any Premises Licence, review hearings would take place in respect of those premises at the Licensing Board on the 14 December 2018.

#### 5. **PRIVATE BUSINESS**

##### **DECISION**

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

#### **SUMMARY OF PRIVATE BUSINESS**

#### 6. **MINUTE**

The Board approved the Private Section of Minute of Meeting of 26 October 2018.

***The meeting concluded at 10.45 am***