

SCOTTISH BORDERS COUNCIL SCOTTISH BORDERS LICENSING BOARD

MINUTES of Meeting of the SCOTTISH BORDERS LICENSING BOARD held VIA Microsoft Teams on Friday, 18 September 2020 at 10.00 am

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

Apologies:- Councillors R. Tatler, G. Turnbull.

In Attendance:- Managing Solicitor (Property and Licensing), Licensing Services Team Leader, Licensing Standards and Enforcement Officer (M. Wynne), Inspector J. McGuigan, PC Sharon Lackenby - Police Scotland, Democratic Services Officer (F. Henderson).

CONVENER

The Convener opened the meeting and welcomed Members of the Licensing Board and members of the public to Scottish Borders Licensing Board's open on-line meeting. He explained the meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place due to the Covid-19 pandemic.

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.

1.0 MINUTE

The Minute of Meeting of 31 July 2020 had been circulated.

DECISION APPROVED.

LICENCES DEALT WITH UNDER DELEGATED POWERS

2.0 For Members' information there had been circulated copies of lists of licences dealt with under delegated powers for the period 6 February to 31 August 2020.

DECISION NOTED.

3.0 POLICE SCOTLAND ANNUAL REPORT

The Licensing Team Leader advised that consideration of the Police Report had been deferred until the next meeting.

DECISION NOTED.

4.0 LICENSING (SCOTLAND) ACT 2005:

(a) **Section 20: Application for Variation of Premises Licence.** Consider the following application for Provisional Grant of Premises Licence (applicant cited to attend).

(i) **Mosspaul Holdings Ltd**

Mosspaul Inn

Teviothead
Hawick
(Provisional)

Proposed business activity - A single room office space on the ground floor of the former MossPaul Inn to operate as a distribution point for online and telephone orders of predominately specialist wines and spirits.

Licensed hours applied for:

On Sale

N/A

Off Sale

Mon to Sun 10.00am – 10.00pm

Representations received:

Police Scotland - none

Licensing Standards Officer - none

Health – none

Other – representation/objection attached.

There had been circulated copies of an application for a provisional grant of a premises licence together with the proposed Operating Plan and letter of objection dated 18 March 2020. Mr Wynne, Licensing Standards and Enforcement Officer advised that the proposed business activity would be held within the former MossPaul Inn and would be a distribution point for the sale of specialist wines and spirits and was within policy. The Clerk confirmed that Members had read the letter of objection. There were no objections from Police Scotland. The Convener welcomed Mr Barker, Applicant who joined via Microsoft Teams. Mr Barker explained that the business was on-line sales of specialist whisky and he would be using Amazon as the main distributor. Mr Barker explained that the access was owned by MossPaul Inn and that the objecting Neighbour had a right of access to his property and that there would be one courier van visiting the property at any one time. The objector was not present. Following discussion, Members unanimously agreed to grant the Licence.

**DECISION
GRANTED.**

DECLARATION OF INTEREST

Councillor Paterson declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Meeting during the discussion.

(ii) Punjabi Grill Ltd

39-41 High Street
Hawick
(Provisional)

Proposed business activity - Ground floor bistro/restaurant premises in town centre location. Alcohol will be generally but not exclusively sold to accompany meals for consumption on the premises.

Licensed hours applied for:

On Sale

Sun to Wed 11.00am to midnight

Thurs to Sat 11.00am – 1.00am

Off Sale

Mon to Sun 11.00am – 10.00pm

Representations received:

Police Scotland - none.

Licensing Standards Officer - none

Health - none.

Other – representations/objections 1 - 3 and SBC Environmental Health – attached

There had been circulated copies of an application for a provisional grant of a premises licence together with the proposed Operating Plan, Layout Plan and letters of objection. Mr Wynne, Licensing Standards and Enforcement Officer advised that the proposed business activity was a Bistro-Restaurant where wine would be sold in the lounge bar and with meals and was within policy. There were no representations from Police Scotland although there had been letters of objection submitted from Neighbours and Environmental Health. The Clerk confirmed that Members had read the letters of objection and advised that the objection submitted by Environmental Health had been withdrawn. The Convener welcomed Mr Kumar, Applicant who joined via Microsoft Teams. Mr Kumar explained that the Bistro/Restaurant was a family run business and would be catering to families and as such would not operate past 10 p.m. Tuesday – Sunday. Members highlighted that concerns had been raised in terms of rubbish and cigarette butts being left outside the premises by Patrons and Staff. Mr Kumar advised that as soon as this issue had been raised he had spoken with Staff about littering and provided more outside bins. There were no objectors present. Following discussion, Members unanimously agreed to grant the Licence.

DECISION GRANTED.

(iii) Tweed Valley Distilling Co Ltd

6 Caley Cottages
Peebles
(Provisional)

Proposed business activity – end terraced cottage to be used as a dispatch point only for remote sales (internet and telephone) of the company's alcohol products.

Licensed hours applied for:

On Sale

None

Off Sale

Mon to Sun 10.00am – 10.00pm

Representations received:

Police Scotland - attached

Licensing Standards Officer - none

Health – none

Other – none

There had been circulated copies of an application for a provisional grant of a premises licence together with the proposed Operating Plan, letter of representation from Police Scotland dated 28 July 2020 and a Security Policy. Mr Wynne, Licensing Standards and Enforcement Officer advised that the property was occupied by Mr Glasgow and his young family. The sales of the gin would be by phone and internet. Police Scotland had made a representation in terms of section 22(1)(b)(iii) of the Licensing (Scotland) Act 2005 and requested that the the following condition be imposed on the licence – The room used for storage of alcohol pending distribution has adequate security measures in place to prevent uninvited persons, or children and Young Persons gaining access. The Convener welcomed Mr Glasgow, Applicant who joined via Microsoft Teams. Mr Glasgow explained that the business from the

cottage was bottling and labelling of small amounts of craft gin which was manufactured elsewhere for sale via phone and internet. Following the police concerns, Mr Glasgow had produced a security policy which covered all aspects and had been accepted by Police Scotland and advised that there would be no alcohol stored on the premises when unoccupied. Inspector McGuigan confirmed that the security policy produced by Mr Glasgow was acceptable to the Police and Members were satisfied that the application could be approved.

**DECISION
GRANTED.**

(iv) **Bloodline Spirits Ltd** Unit 9
Southpark Industrial Estate
Peebles
(Provisional)

Proposed business activity – single storey industrial unit within a small industrial estate predominantly a commercial distillery producing craft gin. Distillery tours, talks and demonstrations will be offered with tasting sessions.

Licensed hours applied for:

On Sale

Mon to Sun 11.00am – 10.0pm

Off Sale

Mon to Sun 10.00am – 10.00pm

Representations received:

Police Scotland - none

Licensing Standards Officer - none

Health - none

Other – representation/objection attached

There had been circulated copies of an application for a provisional grant of a premises licence together with the proposed Operating Plan and letter of objection. Mr Wynne, Licensing Standards and Enforcement Officer advised that the application was for Off Sales only and the premises would be licenced to allow alcohol to be dispatched from the Industrial Unit following online or telephone orders and was within policy. Although this was the business model there may be a limited occasion when an individual, having made an order would necessitate collecting in person. The Clerk confirmed that Members had read the letter of objection. There were no objections from Police Scotland. Neither the Applicant nor the Objector were present at the meeting. Whilst the letter of objection was considered, the Committee were of the opinion that as it related to the roads infrastructure and not to licensing objectives the licence be granted.

**DECISION
GRANTED.**

(v) **Oxton Community Development Ltd** Oxton Community
Shop
Station Road
Oxton
(Provisional)

Proposed business activity - Village convenience store (portacabin) with off sale alcohol provision situated adjacent to Village/Community Hall in Station Road, Oxton. Alcohol sales capacity 1.2m x 0.4m.

Licensed hours applied for:

On Sale

None
10.00pm

Off Sale

Mon to Sun 10.00am –

Representations received:

Police Scotland - none
Licensing Standards Officer - none
Health – none
Other - none

There had been circulated copies of an application for a provisional grant of a premises licence together with the proposed Operating Plan. Mr Wynne, Licensing Standards and Enforcement Officer advised that the proposed business activity would be held within the existing portacabin and was within policy. There were no representations and the Licence was granted.

**DECISION
GRANTED.**

(b) Section 29: Application for Variation of Premises Licence. Consider applications for Variation of Premises Licence:

(i) Co-operative Group Food Limited

Co-op
Jewellers Wynd
38 High Street
Jedburgh

Amendment to Operating Plan:

- Change current wording at question 5(f) to read:
'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provision of the Licensing (Scotland) Act 2005'.

Representations received:

Police Scotland - none
Licensing Standards Officer - none
Health - none
Other – none

There had been circulated copies of an application for variation of Premises Licence, together with current and proposed Operating Plans. Mr Wynne, Licensing Standards and Enforcement Officer advised that the application was a variation to the existing licence to bring it in line with other Co-op Stores and was within the policy. The Convener welcomed via Microsoft Teams, Audrey Junner from Hill Brown, the Co-op's representative who confirmed that the application was to bring the store in line with stores across the Country and all provisions were in place. There were no representations and the application was granted.

**DECISION
GRANTED**

(ii) WM Morrison Supermarkets PLC

Mart Street

Amendment to Operating Plan:

- Change current wording at question 5(f) to read:
Products other than alcohol will be sold and ancillary consumer services provided (including a customer café) during all or part of the period between 06:00 and 24:00 hours each day, subject to customer demand and other statutory consents where these are required. A home delivery shopping service and a click and collect service may be operated from the store.

Representations received:

Police Scotland - none
Licensing Standards Officer - none
Health - none
Other – none

There had been circulated copies of an application for variation of Premises Licence, together with current and proposed Operating Plans. Mr Wynne, Licensing Standards and Enforcement Officer advised that the application was a variation to the existing licence to allow alcohol to be delivered. The Convener welcomed Alex Green from Gosschalks Solicitors and Christopher Monaghan, Store Manager who joined the meeting via Microsoft Teams. Mr Green advised that deliveries containing alcohol would be made between 10 a.m. and 10 p.m. and all provisions were in place including training for the drivers and identification being a requirement, the alcohol being removed should adequate identification not be provided. There were no representations and the application was granted.

**DECISION
GRANTED.**

PRIVATE BUSINESS

Before proceeding with the private business, the following motion should be approved:

“That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 14 of Part 1 of Schedule 7A to the aforementioned Act.”

SUMMARY OF PRIVATE BUSINESS

5. LICENSING SCOTLAND ACT 2005: Section 72: Grant of Personal Licence

The Board considered an application for the grant of a Personal Licence. The Applicant was present via Microsoft Teams. After hearing both parties, the Committee agreed that the application be refused.

6. LICENSING SCOTLAND ACT 2005: Section 84A: Revocation of Personal Licence

The Board considered a request dated 9 September 2020 from Police Scotland for the revocation of a Personal Licence. The Applicant and his representative were present via Microsoft Teams. After hearing both parties, the Committee agreed that no action be taken at the present the application be refused.

At the conclusion of the Private Business, the Board moved back in to Public Business.

PUBLIC BUSINESS

7. Section 29: Applications for Variation of Premises Licence.

(iii) **Punch Partnership Ltd** Besom Inn
75-77 High Street
Coldstream

Amendments to Operating Plan and Layout Plan:

- Amend On Sale and Off Sales opening hours on Sunday to commence at 11.00am (currently 12.30pm)
- Include following activities outwith core hours:
Bar meals; receptions; club meetings; recorded music; live performance; dance; gaming; indoor/outdoor sport; tv sport
- Include outside drinking during and outwith core hours
- Amend further information – activities for breakfast may commence before core hours but not before 8.00am and column 4 activities (outwith core hours) will be ancillary
- Amend question 6(e) to children and young persons will be allowed access to the dining areas, toilets, outside areas and the function room
- Addition of outside drinking areas
- Addition of carry out food facility

Representations received:

Police Scotland - none

Licensing Standards Officer - none

Health - none

Other – none

There had been circulated copies of an application for variation of Premises Licence, together with current and proposed Operating Plans. Mr Wynne, Licensing Standards and Enforcement Officer advised that the application was a variation to the existing licence to bring it up to date following a recent re-furbishment and it was within policy. There were no representations and Mr McDougal, solicitor from TLT representing the applicant provided an overview of the basis for the application. Following a brief discussion members were content that the application be granted.

DECISION GRANTED

(iv) **Verdant Leisure 2 Ltd** Scoutscroft Holiday Park
St Abbs Road
Coldingham

Amendments to Operating Plan and Layout Plan:

- Amend On Sale and Off Sales opening hours on Sunday to commence at 11.00am (currently 12.30pm)
- Include following activities outwith core hours: bar meals; receptions; live performance; and gaming outwith core hours
- Amend seasonal variation: the premises may take advantage of any general extension granted by the Board in terms of its Policy
- Include Off Sale capacity of 10m²
- Addition of shop within main building and reconfiguration of unlicensed Family Entertainment Centre
- Change description of premises to: detached holiday complex in a small busy rural village comprising of 2 public bars – one with external patio area, both with

attached lounges, one restaurant area and a small shop

Representations received:

Police Scotland - none

Licensing Standards Officer - none

Health - none

Other – representations/objections 1-14 attached

There had been circulated copies of an application for variation of Premises Licence, together with current and proposed Operating Plans. Mr Wynne, Licensing Standards and Enforcement Officer advised that the application was a variation to the existing licence to bring it up to date to include On Sales and Off Sales and was within policy. The Clerk confirmed that the Board had read the letters of objection received.

The Convener welcomed via Microsoft Teams, Mr McDougall - TLT Solicitor, Karen Hampshire – Holiday Park Manager, Mr McKie, Legal Agent, Anderson Strathern representing Kay Barnes and Kay Barnes - Resident and objector.

Mr McDougall explained that the holiday park consisted of 150 holiday homes and had been in existence for 30 yrs, being taken over by Verdant Leisure 2 years previously. A high level of refurbishment had been undertaken and at least 20 local people were employed at the Holiday Park. There were no objections from Environmental Health and the main theme of the objections were planning and traffic matters and not Licensing matters. The possibility of the proposed on site shop competing with the Village Shop was again not a licensing matter. The Holiday Park was not trying to stop Patrons using the Village Shop but was merely responding to feedback from their Patrons. Mr McDougall went on to explain that the Holiday Park employed a Day Manager and an Evening Manager and police had not been called to the Holiday Park in relation to Licensing matters. Mr McDougall confirmed that there was an annual 2 day event held for fundraising purposes which was organised with the locals to minimise disruption. Mr McDougall advised that the application was modest and within Licensing objectives. The Manager had been very disappointed and surprised to hear of the complaints and concerns raised by the Objectors and was keen to work with the Community to resolve the concerns raised.

Mr McKie on behalf of Kay Barnes advised that his client lived in the closest residential property to the premises and had been subjected to increasing amounts of anti-social behaviour from the operators, occupiers and patrons of the holiday park and requested that the Board refuse the application. Mr McKie went on to describe numerous outdoor discos and karaoke events focused on the patio area, with excessive noise levels, unsupervised drinking and possible underage drinking taking place. This had seriously affected the amenity of the Objector's home and the village more generally. The police had been called out on many occasions and should have kept accurate records of the unacceptable conduct. In Mrs Barnes opinion the premises lacked proper management and supervision and the absence of an onsite manager seriously exacerbated this. Mr McKie alleged that the Applicant had not complied with its existing Premises Licence and Operating Plan and this was a matter that the Board should investigate immediately and initiate a statutory review. The application to vary the Licence would, in his opinion lead to an exacerbation of this unacceptable conduct and misbehaviour. Mr McKie doubted that the Applicant had adequate planning permission for all the activities currently being undertaken. In terms of the objectors Mr McKie stated that these were all separate complaints and would have liked the opportunity to speak to the Board. In the Objectors opinion the site had changed completely since Verdant Leisure had taken over with the installation of Glamping pods and many Community events being held there i.e. Birthday Parties and Celebrations and fundamentally the premises lacked effective management and control.

Ms Barnes objected to the application in terms of the grounds of refusal under Section 23(5) of The Licensing (Scotland) Act 2005 ("2005 Act"). The Clerk then sought clarity from McKie with regard to his submission that the Board should be carrying out a statutory review of the applicant's existing licence. In particular, the clerk enquired if McKie, on behalf of his client was seeking a review under Section 36 of the 2005 Act. Upon checking with his client, Mr McKie confirmed that he was.

The Meeting was then adjourned in order to enable the Board to consider whether to continue to determine the application before it or continue consideration of the application to a later date following a review.

The meeting adjourned at 12.45 p.m. and reconvened at 13.05 p.m.

The Clerk explained to the parties the nature of the Board's discussion during the adjournment and that it had considered that as there was a formal process for lodging and considering review applications then it could only consider the application that was currently before it. Following discussion, Mr McKie on behalf of Ms Barnes and Mr McDougall on behalf of the applicant were invited to make final submissions.

Members were of the opinion that as there had not been any complaints received with regard to the premises a review of the premises licence was inappropriate. Councillor Weatherson, seconded by Councillor Brown moved that the application be granted.

**DECISION
GRANTED.**

The meeting concluded at 1.20 pm