

SCOTTISH BORDERS COUNCIL SCOTTISH BORDERS LICENSING BOARD

MINUTES of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in via Microsoft Teams on Friday, 26 March 2021 at 10.00 am

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

In Attendance:- Managing Solicitor (Property and Licensing), Licensing Services Team Leader, Licensing Standards and Enforcement Officers (I. Tunnah and M. Wynne), Inspector M Bennett and 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.

1.0 **MINUTE**
The Minute of Meeting of 19 February 2021.

**DECISION
APPROVED.**

2.0 **LICENCES DEALT WITH UNDER DELEGATED POWERS**
For Members' information there had been circulated copies of lists of licences dealt with under delegated powers for the period 10 February 2021 to 16 March 2021.

**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.

3.0 **LICENSING (SCOTLAND) ACT 2005:**
Section 20: Application for Provisional Grant/Grant of Premises Licence.
Consider the following applications for Provisional Grant/Grant of Premises Licence (applicants cited to attend.) (Copies attached).

(a) **Simon Rutherford** Chestnut Lodge (Office)
Chirnside Station
Chirnside
Duns
Provisional

The premises is a single room office/unit in the garden ground of Chestnut Lodge. The proposal was to use the office/unit as a distribution and storage point for online

and telephone orders relating to the small-scale production of compounded Craft Spirits, mainly naturally flavoured gins.

Licensed hours applied for:

On Sale

None

Off Sale

Mon to Sun 10.00am - 10.00pm

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of an application for the provisional grant of a premises licence together with the proposed Operating Plan and layout plan. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the office, which was to be used as a distribution and storage point was situated within the garden of the applicant's home address. The distribution point was to be used for online and telephone orders relating to the small scale production of compounded Craft Spirits and required to be licensed. No objections had been raised.

The Convener welcomed Mr Rutherford, Applicant to the meeting via Microsoft Teams. Mr Rutherford re-iterated what Mr Tunnah had advised.

DECISION GRANTED.

(b) **John Faichney**

Apples for Jam
High Street
Earlston
Provisional

Ground floor café/ bistro premises located in Earlston town centre.

Licensed hours applied for:

On Sale

Mon to Sun 11.00am to midnight

Off Sale

Mon to Sun 10.00am - 10.00pm

Representations received:

Police Scotland – none.

Licensing Standards Officer - none.

Health - none.

Other - neighbour representation.

There had been circulated copies of an application for the provisional grant of a premises licence together with the proposed Operating Plan and layout plan. Representations had been received from a neighbour and these had been circulated. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the premises was an established business having previously operated as a café and was situated next to the chip shop on Earlston High Street. The application was to allow beers and wines to be served with light lunches and in order to operate as a bistro on specified evenings during the week. The core hours applied for 11 a.m. – 12 midnight were to allow flexibility in the operating of the café. The Applicant had initially requested a licence for bring your own bottle, however Mr Tunnah advised that the applicant would have more control with specified hours. Police Scotland had no objections. Mr Tunnah

further explained that there had been one objection from a neighbour whose house was situated above and to the side of the café premises.

The Convener welcomed Mr and Mrs Faichney, Applicants and Miss Claire Falconer, Objector to the meeting via Microsoft Teams. Mr Faichney advised that the café in Earlston was one of two businesses they operated within the Borders, the other in Melrose. The proposal was to serve wines and beers with open sandwiches and Bistro food to enhance what was available in the local area mainly to their core customers and holiday makers. The café would open as a Bistro for two nights per week in the summer only and it was expected to run until 9.30 p.m. and the core hours were for flexibility only, there was no intention to open every evening. Mr Faichney stressed that this was a Café and not a drinking Den.

Miss Falconer advised that the basis for her objection was that her house was situated beside and above the café/bistro. She raised concerns about no sound/fire proofing in the walls or ceiling, intoxicated customers and the potential for anti-social behaviour, inconsiderate parking and the noise and odours from the Café. Miss Falconer advised that from within her house she could hear the fan which was very noisy and there appeared only to be a stud wall between the properties where there was originally a door and claimed that she could hear word for word conversations which take place in the cafe on the other side of the wall/ceiling. She also claimed that there was not one room in the house which was not affected by the noise, however her bedroom above the café, hall and sitting room were the worst affected and this happened during their normal opening hours (8am-4pm) 7 days per week, which didn't include opening and closing of the premises and the hours applied for (11am to midnight) significantly extended these hours and therefore the potential for disturbance. Miss Falconer raised concerns about the introduction of alcohol onto the premises and the potential for intoxicated customers and inappropriate behaviour having a negative impact on her home life as she felt that it was unrealistic to expect that customers, especially after a few drinks to be respectful of the neighbours or local community. She estimated that the longer the period of alcohol was available, the higher the risk of antisocial behaviour. She was not convinced that customers would exit the premises quietly or leave right away. In terms of odour from cooking Miss Falconer claimed that smells travelled throughout her house and garden even with the windows and doors closed.

Mr Faichney acknowledged the concerns raised by Miss Falconer, however some of these were not related to the licensing application. Mr Faichney confirmed that they would not be trading until 9.30 p.m. every night or on 7 days per week. The proposal was for the Bistro opening was Friday and Saturday evenings until 9.30 p.m. in the summer only. Mr Faichney highlighted that Miss Falconer had purchased the property with the existing business and confirmed that the Fire Service had inspected the premises and were satisfied with the fire resistance. He stressed that he wanted to work with his neighbours and would be kind and considerate to make it work for everyone.

The members thereafter discussed both the application and the objections prior to reaching the decision to grant. .

DECISION GRANTED.

4.0 **Section 29: Application for Variation of Premises Licence.** Consider the following application for Variation of Premises Licence (applicant cited to attend.) (Copies attached)

(a) Naureen Ashiq

Keystore Lauder
4/6 Market Place

Amendment to operating and layout plans:-

- Increase in alcohol display capacity from 10.018 metres square to 15.45 metres square.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of an application for the variation of premises licence. Mr Tunnah, Licensing Standards and Enforcement Officer explained that the variation was a result of a refurbishment of the premises and extension of the alcohol display. There were no objections.

The Convener welcomed Mr Ashiq and his representative Mr Millar to the meeting via Microsoft Teams. Mr Millar confirmed that there had been extensive re-furbishment of the premises to modernise and accommodate changes in demand with increased the chiller cabinets and alcohol display.

**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

5.0 LICENSING SCOTLAND ACT 2005: Section 33

Transfer of Premises Licence

The Board considered information from Police Scotland in respect of the transfer of the Premises Licence. The licence holder was present via Microsoft Teams. After hearing both parties, the Board agreed that the transfer be granted.

6.0 LICENSING SCOTLAND ACT 2005: Section 36(4)

Review of Premises Licence

The Board considered a request from Mr Tunnah, Licensing Standards and Enforcement Officer to review premises licences under Terms of Section 14 of the Licensing Scotland Act 2005. After consideration the Committee agreed action to be taken in respect of each Premises.

The meeting concluded at 11.10 am