

SCOTTISH BORDERS COUNCIL LICENSING BOARD

MINUTES of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in COMMITTEE ROOMS 2 AND 3, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS (Blended Meeting) on Friday, 24 June 2022 at 10.00 am

Present:- Councillors M. Douglas (Convener), P. Brown, D. Parker, N. Richards, E. Small, F. Sinclair, J. PatonDay, T. Weatherston,

Apologies:- Councillor J. Cox.

In Attendance:- Managing Solicitor (Property and Licensing), Licensing Standards and Enforcement Officers (M. Wynne. J. Scott), Sergeant R. Stark, PC S. Lackenby – Police Scotland, Democratic Services Officers (F. Henderson).

1. **APPOINTMENT OF CONVENER**

The Board considered the appointment of Convener. Councillor Weatherston, seconded by Councillor Small, moved that Councillor Richards be elected. Councillor Sinclair, seconded by Councillor Brown, moved that Councillor Marshall Douglas be appointed. Following a secret ballot Members voted as follows:-

Councillor Richards - 3 votes

Councillor Douglas - 5 votes

Councillor Douglas was duly elected.

DECISION

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

2. There had been circulated copies of the Minute of the Meeting held on 22 April 2022. Councillor Weatherston advised that he had been present at the meeting and sought an amendment to the Minute to reflect this.

DECISION

APPROVED the minute for signature by the Convener, subject to the inclusion of Councillor Weatherston in the attendance.

LICENSES DEALT WITH UNDER DELEGATED POWERS

3. For Members' information there had been circulated copies of lists of licences dealt with under delegated powers for the period 13 April – 14 June 2022.

DECISION

NOTED.

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

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

Market Square
Melrose TD6 9BN
Provisional

Proposed business activity - The premises are the retail shop area contained within the Trimontium Museum/Visitor Centre in Melrose Town Centre. The proposal being to sell alcohol on an Off-Sale basis only.

Licensed hours applied for:

On Sale
N/A

Off Sale
Mon to Sun 10.00am - 10.00pm

Representations received:

Police Scotland - none.
Licensing Standards Enforcement Officer - none.
Health - none.
Other - none.

There had been circulated copies of an application for the grant of a provisional premises license together with the proposed Operating Plan and Layout Plan. Mr Michael Wynne, Licensing Standards and Enforcement Officer advised that the application referred to the shop within the Trimontium Museum. The proposal was to sell alcohol on an on sale basis. The application was within policy and no objections had been received. Police Scotland had no comments.

The Convener welcomed Kay Callander, who joined the meeting via Microsoft Teams. Ms Callander explained that the Museum wished to sell a Trimontium gin in the shop and to progress to wine from Shropshire in the future. In response to a question, Ms Callander confirmed that there would be no consumption of the alcohol on the premises.

DECISION
AGREED TO GRANT.

4.2 **Section 56: Application for Occasional Licence**

Considered the following application for Grant of an Occasional Licence.

James McDevitt (Heart of Duns)

Volunteer Hall
Langtongate
Duns TD11 3AF

Friday 15 July 2022

(5pm to 7.15pm – On Sale)

Representations received:

Police Scotland – copy attached.
Licensing Standards Enforcement Officer – copy attached.
Health – copy attached.
Other - none.

There had been circulated copies of an application for the grant of a provisional premises license together with the proposed Operating Plan and Layout Plan. Also circulated were letters of objection from Mr Wynne, Licensing Standards and Enforcement Officer, Police Scotland and Health.

Mr Wynne advised that the objections received were in terms of the licensing objective 'protecting children from harm'. Mr Wynne advised that all the objectors considered the event to be a child centred event and the sale of alcohol to be inappropriate. Mr Wynne went onto explain that the applicant (Mr McDevitt) was a trustee of the voluntary group 'A Heart for Duns'

and on their behalf had applied for an occasional licence for the hours 1700 hrs till 1915 hrs on Friday 15th July 2022 to provide the sale of alcohol at a film showing within the Volunteer Hall, Duns. The film to be screened was likely to be the Walt Disney animated film 'Encanto' (or similar) and was targeted at a children/young person audience estimated at 50 children and 10 young persons. Scottish Borders Licensing Board statement of policy stated under the 'protecting children from harm' objective:

“ The board accepts many fund raising and community events benefit from granting of an occasional licence but would expect any organisation considering applying, to take into account whether or not it is appropriate to have the sale of alcohol forming a normal part of the event with particular regard to the Protecting Children from harm objective. This should be particularly considered for **child centred events**, related to school, youth or sporting organisations”.

A similar application was received from Mr McDevitt for a film evening on 11th March 2022, when the format of the film evening consisted of a film around 1700 hrs aimed at a young person/child audience followed by another film around 1900 hrs aimed at a more adult/young persons audience. Mr Scott, Licensing Standards and Enforcement Officer was consulted on the application and whilst the application did not state the films being shown he found that the early film was the Walt Disney animated production 'Encanto' with an estimated 50 children within the audience. Mr Scott considered this a child centred event and as such had concerns about the suitability of the sale of alcohol at the earlier film. He contacted the applicant and gave advice regarding child centred events and the Licensing Boards policy regarding them and the applicant had agreed to amend the application for a licence to commence at 7.15pm, to allow the sale of alcohol at the later film only.

Mr McDevitt applied again for an occasional licence to sell alcohol for a film-evening event at the same location on 15th April 2022. On that occasion Mr Wynne, Licensing Standards and Enforcement Officer was consulted on the application. The earlier film on that occasion was a cartoon/animated film 'Sonic the Hedgehog 2' with an estimated audience of 50 children. Mr Wynne was of the opinion that the earlier film was a child centred event and informed Mr McDevitt that he would object to his application under the licensing objective of 'Protecting Children and Young Persons from harm' and Mr McDevitt amended his application again to sell alcohol only at the later film.

Mr Wynne further explained that subsequently a number of emails had been exchanged between himself and Mr McDevitt in which he had rightly stated that previous film events, over several years, had been licensed through an occasional licence application for both films. The description of the event on these previous applications had been described as 'film evenings' or 'community film event', without detailing the nature of each film. These applications had been considered by a former Licensing Standards and Enforcement Officer and having liaised with this former colleague, he had advised that he was of the opinion the film evening incorporating both films were a 'family event' however he was unaware the content of the films showing. Having stated the aforementioned films 'Encanto' and 'Sonic the Hedgehog 2' he opined he would have considered this to be a 'child centred' event and would have referred the applications to the Licensing Board.

As the content of the earlier film was, in Mr Wynne's opinion, targeted at a children and young person audience, some of who may attend the event unaccompanied by an adult, he considered the event to be 'child centred' and did not consider it necessary or appropriate to sell alcohol at this showing and to grant a licence for this particular event would be contrary to the Licensing Boards policy statement and the licensing objective 'protecting children from harm'.

Police Scotland confirmed an objection on similar grounds

There was no representative from NHS Borders and the Clerk confirmed with the Board that they had received and read the submission by the Health Board.

On being invited to address the Board, Mr McDevitt explained that he had been involved in showing films for a numbers of year and had no previous issues in obtaining an occasional licence and had never been asked about the title of the film. The first objection had been from Mr Scott in December 2022¹ and he had agreed to obtain a licence for the later film only. Mr McDevitt confirmed that no children would be served at the bar and that tea, coffee and sweets were also available. Mr McDevitt had considered whether the event was children or family centred and had decided that it was family centred. . In response to a question about the later film, Mr McDevitt advised that there would not be a later film on 15 July as this was scheduled for 1 July.

The Board sympathised to a degree, however every application was considered on its own merit and this event was considered to be child centred and the granting of the licence would be against licensing objectives and was therefore refused.

DECISION

AGREED that the application for an occasional licence submitted by ‘Heart of Duns’ be refused.

PRIVATE BUSINESS

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

5.0 SECTION 72 – APPLICATION FOR GRANT OF PERSONAL LICENCE

The Board agreed that the application for the grant of a Personal Licence be refused.

6.0 MINUTE

The Board considered the Private Minute of the Meeting held on 22 April 2022.

The meeting concluded at 10.48 am