

MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2/3, Council  
Headquarters, Newtown St Boswells on Friday, 20 May 2016  
at 10.15 a.m.

Present:- Councillors W. Archibald (Convener), J. Campbell, J. Greenwell, G. Logan,  
D. Paterson, T. Weatherston.  
Apologies:- Councillors B. Herd, J. Torrance, B. White.  
In Attendance:- Managing Solicitor – Property and Licensing, Licensing Team Leader,  
Licensing Standards and Enforcement Officers (Mr I. Tunnah and Mr M.  
Wynne), Democratic Services Officer (K. Mason), P.C. C. Lackenby, P.C. P.  
Robertson, Inspector M. Bennett - Police Scotland.

1. **MINUTE**

The Minute of Meeting of 22 April 2016 had been circulated.

**DECISION**

**APPROVED and signed by the Convener.**

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 14 April to 11 May 2016.

**DECISION**

**NOTED.**

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

(a) **Section 45(7):** The Board considered the following application to Extend Period of Provisional Premises Licence.

(i) Martin McColl Ltd

27 The Square

Kelso

Provisional granted 22 June 2012

Mr David Crank, Solicitor was present accompanied by Mr William Morrison, Area Manager, Martin McColl Ltd. In giving background information in relation to the application to Extend the period of the Provisional Premises Licence Mr Crank advised that a number of schemes had been put together, and mid to end of last year a further scheme had been devised taking into account the stairs within the premises. He advised that the Company was committed to making an investment to improve the premises which would result in great benefit to the store. It was noted that as a result of the configuration the alcohol sales area would be reduced and a minor variation would be applied for. The plans would need to be approved by Planning and Building Standards and an application would have to be lodged to obtain listed building consent. The relative Section 50 certificates would also need to be applied for and issued. It was anticipated that the renovations would take 6 – 8 months but this was outwith the control of Martin McColl Ltd. In the circumstances, Mr Crank asked that the Board extend the period of the Provisional Premises Licence in respect of 27 The Square, Kelso for a period of 12 months to allow sufficient time to complete the works and have the licence confirmed.

**DECISION**

**AGREED to extend the period of the Provisional Premises Licence in respect of 27 The Square, Kelso for a period of 12 months.**

(b) **Section 68:** The Board considered the following applications for Extended Hours:-

**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 Chamber during the discussion.

(i) Zing Enterprises Ltd	4 June 2016	10 June 2016	11 June 2016
Base Nightclub	2.00am - 3.00am	2.00am - 3.00am	2.00am - 3.00am
8 - 10 Baker Street	Denholm Ride-out	Common Riding	Common Riding
Hawick		Friday	Saturday

There had been circulated copies of

(a) a letter dated 4 May 2016 from Mr I Tunnah, Licensing Standards and Enforcement Officer. Mr Tunnah advised that the hours applied for were outwith the Board's current Policy which clearly stated that hours beyond 2.00am would only be granted in exceptional circumstances. He submitted that the Board took the decision to grant similar applications by the applicant for the Common Riding Celebrations in 2015. If the Board were minded to accept the reasons given for the applications were indeed exceptional circumstances, then the Licensing Standards Officer would seek guidance as to the requirement of bringing future similar applications for the specific events requested to the Board's attention as opposed to them being granted under delegated powers. He highlighted that the majority of the licensed premises within Hawick town centre area had hours terminating at 1.00 am on the nights in question. The annual common riding ball held in Hawick Town Hall on Friday 10 June was licensed by way of an occasional licence granted under delegated powers as an annual event with hours allowing the sale of alcohol between 6.30 pm and 3.00 am. and this was in line with the Board's Policy requiring a specific connection of the occasional licence to the local common riding or festival.

(b) an email dated 11 May 2016 from Mr Neil Gillies apologising for being unable to attend today's meeting. Mr Gillies' e-mail advised he had always felt it important to convey to the Board personally that all applications he put before the Board were each given careful consideration on their own merits and was never a frivolous act. Mr Gillies explained that in May 2015 BASE made 3 applications covering important dates within the Hawick Common Riding annual celebrations. The Board saw fit to grant these applications agreeing they did indeed meet with their interpretation of exceptional circumstances. The applications made today were for identical dates and nature. Mr Gillies felt given those events passed without a single incident and without a single complaint that it was not unreasonable to ask that similar events be held again this year. The applications in 2015 attracted opposition from Police Scotland who assumed additional hours meant additional problems however as was argued, Hawick Common Riding was for the whole community, including hundreds of Teries who returned from across the globe each year and hundreds more who visited the town to join the celebrations. Mr Gillies believed that staff at BASE had for years proved themselves capable and trustworthy and could point to an exemplary record within the trade. Should the Board see fit to again grant these annual applications Mr Gillies gave assurance that those standards would as always be maintained. Mr Gillies stated that Inspector Wood from Police Scotland commented within the local press on the lack of arrests last year and praised the whole town for good behaviour.

There followed debate in relation to the applications and Members noted that no representations had been received from Police Scotland. Councillor Weatherston, seconded by Councillor Campbell moved that the applications be approved. As an amendment Councillor Logan moved that the applications be not approved because he considered the extensions applied for were outwith the Board's Policy. Councillor Logan's amendment received no seconder and accordingly, the applications were granted. Councillor Logan asked that this dissent be recorded in the minute.

**VOTE**

*Councillor Weatherston, seconded by Councillor Campbell, moved that similar applications for the same events in future years should be dealt with under delegated powers.*

*Councillor Archibald, seconded by Councillor Logan moved as an amendment that similar applications for the same events in future years should continue to be determined by the Licensing Board.*

*On a show of hands members voted as follows:-*

*Motion - 3 votes*

*Amendment - 2 votes*

Accordingly it was agreed that similar applications for the same events in future years should be dealt with under delegated power where no representations or objections were received.

**DECISION**

**AGREED that**

- (a) the applications for 4 June, 10 June and 11 June from 2.00 am – 3.00 am be granted; and**
- (b) where no representations or objections were received, similar applications for the same events in future years were to be dealt with under delegated powers.**

(ii) The County Hotel  
35 High Street  
Peebles

22 May 2016  
12.00midnight - 1.00am  
Tweedlove Event

There had been circulated copies of a letter dated 4 May 2016 from Mr M Wynne, Licensing Standards and Enforcement Officer. Mr Wynne advised he was aware that the Board took the decision to grant a similar application by the applicant, celebrating the end of the Tweedlove Festival in 2015. If the Board was minded to accept the reasons given for the application, Mr Wynne sought guidance as to the requirement of bringing future similar applications to the Board's attention as opposed to them being granted under delegated powers. In addition, if the Board were minded to grant the extra hour applied for he suggested the following may be appropriate conditions to consider applying to the licence and were attached to the previously granted application in 2015 – (a) a Personal Licence Holder should be present throughout the event. (b) S.I.A. qualified door stewards should be employed at the entrances to the premises throughout the event and they should be particularly briefed to keep dispersal noise to a minimum at the conclusion of the event.

Mr Peter Orr, Designated Premises Manager was present and confirmed that he was willing to accept the additional conditions proposed and already had matters in hand to address these. Members were minded to approve the application.

**VOTE**

*Councillor Logan, seconded by Councillor Paterson moved that a similar application for the same event in future years should continue to be determined by the Licensing Board.*

*Councillor Weatherston, seconded by Councillor Campbell, moved as an amendment that similar applications for the same events in future years should be*

*dealt with under delegated powers where no representations or objections were received*

*On a show of hands members voted as follows:-*

*Motion - 3 votes*

*Amendment – 3 votes*

*The Chairman exercised his casting vote in favour of the amendment and accordingly it was agreed that where no representations or objections were received, similar applications for the same event in future years should be dealt with under delegated powers.*

#### **DECISION**

##### **AGREED that**

- (a) **the application for 22 May 2016 from 12 midnight to 1.00am be granted; and**
  - (b) **where no representations or objections were received, similar applications for the same event in future years were to be dealt with under delegated powers.**
- (c) **Section 36:** The Board considered the following application for Review of Premises Licence.

- (i) Virtual Golf Centre Ltd  
Virtual Golf Centre  
Channel Street  
Galashiels

There had been circulated copies of a report by the Licensing Standards and Enforcement Officer requesting a review of the premises known as Virtual Golf Centre, Channel Street, Galashiels. The report detailed that the annual licensing fee for the premises, £280 fell due on 1 October 2015. A reminder letter was issued to the licence holder, Virtual Golf Centre in September 2015. Arrangements were made to pay the fee by quarterly instalments with the first instalment being paid around the due date. The second instalment was also paid around the due date, however the third which had been due on 1 April 2016 had not been paid. As a result, a Compliance Notice under terms of Section 14 of the Act was issued to the licensee by the Licensing Standards and Enforcement Officer on 28 April. The licensee had not acknowledged receipt of the Compliance Notice and the fee remained unpaid. Members were advised that the premises was no longer trading.

#### **DECISION**

##### **AGREED to revoke the Premises Licence with immediate effect.**

- (ii) Bistro Eleven Ltd  
Bistro Eleven  
(formerly Borders Food Hall)  
Market Street  
Galashiels

There had been circulated copies of a report by the Licensing Standards and Enforcement Officer requesting a Review of a Premises Licence in respect of the premises known as Bistro Eleven, Market Street, Galashiels. The report detailed that the annual licensing fee for the premises, £280 fell due on 1 October 2015. A reminder letter was issued to the licence holder, Bistro Eleven Ltd (otherwise known as Borders Food Hall) in September 2015. Arrangements were made to pay the fee by quarterly instalments with the first instalment being paid around

the due date. The second instalment was also paid around the due date, however the third which had been due on 1 April 2016 had not been paid. As a result a Compliance Notice under terms of Section 14 of the Act was issued to the licensee by the Licensing Standards and Enforcement Officer on 28 April. The licensee had not acknowledged receipt of the Compliance Notice and the fee remained unpaid. Members were advised that the premises was no longer trading.

**DECISION**

**AGREED to revoke the Premises Licence with immediate effect.**

**4. DATE OF NEXT MEETING**

The Managing Solicitor advised that the next meeting of the Licensing Board would be held at 10.00 am on Monday 13 June 2016. Owing to meeting rooms at Headquarters being used for the forthcoming European Referendum, the meeting would be held in the Council Chamber, Galashiels.

**DECISION**

**NOTED.**

**PRIVATE BUSINESS**

**5. 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**

**MINUTE**

6. The private section of the Minute of 22 April 2016 was approved.

*The meeting concluded at 10.50 am.*