

MINUTE of MEETING of the SCOTTISH BORDERS
LICENSING BOARD held in Committee Rooms 2 & 3,
Council Headquarters, Newtown St Boswells on Friday
23 September 2016 at 10.00 a.m.

Present:- Councillors W. Archibald (Convener), J. Campbell, J. Greenwell, G. Logan, D. Paterson, R. Stewart, B. White.
Apologies:- Councillors B. Herd, J. Torrance, T. Weatherston.
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. P. Robertson, Inspector T. Hodges - Police Scotland, Borders Alcohol and Drug Partnership (S. Walker).

1. **MINUTE**

The Minute of Meeting of 19 August 2016 had been circulated.

**DECISION
APPROVED.**

2. **CHIEF CONSTABLE'S ANNUAL REPORT**

There had been circulated copies of a report by Chief Constable, Police Scotland for the period 1 April 2015 - 31 March 2016. The Chief Constable acknowledged and thanked the Licensing Board for the contribution and excellent work undertaken during the past year throughout the licensing area business in Scotland, within the 32 Local Authorities. Police Scotland together with their licensing partners had faced and continued to confront many challenges, not least their budget constraints. However, this would not detract from their commitment to continuing to provide the very best and sustainable policing service to their communities across the country. He was especially keen to develop their local services to meet the varying licensing demands and expectations within diverse local communities, by listening to people and developing opportunities to improve, including the sharing of best practice and influencing positive attitudes and behaviours to reduced alcohol related crimes and anti-social behaviour. Police Scotland's licensing structure and function had recently undergone significant transition and now benefitted from improved governance, flexibility and support, with a real emphasis on quality of service. These changes were further enhanced through their commitment to investing and implementing a national I.T. database, (Innkeeper) which had significantly improved their management and the administration of all liquor and civic licences. Police Scotland and their licensing partners now benefitted from a consistent service with improved local delivery, decision-making and reporting process. With their licensing transition complete, Police Scotland were transforming their licensing service and central to this was their ability to continue to work closely with Local Authorities, the licensed trade and other key partners, with a main focus on prevention and vulnerability. It was recognised that problem solving was essential in achieving their mutual aims of public safety and a healthy community environment, while enforcement should only be used as necessary. Police Scotland would only achieve these aims together through consent and by legitimate means with the full support of all key licensing partners. The Chief Constable looked forward to the coming year where Police Scotland would continue to improve Licensing Standards, Reduce Violence and keep Communities and People Safe.

**DECISION
NOTED the report.**

3. **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 August to 14 September 2016.

**DECISION
NOTED.**

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

(a) **Section 20: Application for Premises Licence.** The Board considered the following applications for Grant/Provisional Grant of Premises Licence:-

- (i) **AS & P Robb** 11 Eastgate
Peebles
EH45 8AD
Provisional

Operating Plan includes provision of off sale facility

There had been circulated copies of a letter dated 1 September 2016 from Police Scotland. Inspector Hodges advised that he was unable to confirm the existence of any foreign offence in respect of the applicant or any connected person. He advised that the proposed layout plan, which accompanied the application, had three distinct alcohol sales areas marked. There was one which was not accessible to the public and one area of shelving against a wall. However there was a third area marked as "plinth" in the centre of the store, contrary to Schedule 3, paragraph 13(1) of the Licensing (Scotland) Act 2005. In terms of Section 22(1)(b)(ii) of the Licensing (Scotland) Act 2005, the Chief Constable was of the opinion that the application in its current form should be modified so that the "plinth" was either removed or the area added to the shelving against the wall.

Mr and Mrs Robb were present. They explained they were moving premises and their old licence would be surrendered. Discussions took place in relation to the "plinth" and Mr Robb said he would now prefer this to be removed from the layout plan.

DECISION

GRANTED, as amended, to remove the third area marked as "plinth" from the operating plan.

(b) **Section 29: Application for Variation of Premises Licence.** The Board considered the following applications for Variation of Premises Licence:-

- (i) **Srathmuir Holdings Limited** Windlestraw Lodge
Galashiels Road
Walkerburn
EH43 6AA

Amendments to operating plan:

- Addition of accommodation, conference facilities, restaurant facilities, receptions and outdoor drinking outwith core licensed hours
- Addition of recorded music and live performances within and outwith core

licensed hours

- All ages of children and young persons to be allowed entry to the premises
- Resident and non-resident children to be permitted access at all times subject to management discretion
- Children and young persons to be allowed entry to all public parts of the premises including the external area and hotel bedrooms

There were no representations.

Mr Campbell Corcoran, Hill Brown Licensing was present. He explained that his clients had taken over the quaint boutique 6 bedroomed hotel in 2015. This application was to enable the operating plan to be updated.

**DECISION
GRANTED.**

(ii) **DDZ Management Ltd**

Plough Inn
15 Main Street
Lilliesleaf
TD6 9JD

Amendments to operating plan and layout plan:

Changes to existing on and off sale core hours as follows:

Current On Sale

Monday to Thurs 11.00am - 11.00pm

Friday and Saturday 11.00am - 1.00am

Sunday 12.00noon - 12.00midnight

Current Off Sale

Monday to Saturday 11.00am - 10.00pm

Sunday 12.00noon - 10.00pm

Proposed On Sale

Monday to Thurs 11.00am -
12midnight

Friday and Saturday no change

Sunday 11.00am - 12.00midnight

Proposed Off Sale

Monday to Saturday no change

Sunday 11.00am - 10.00pm

- Delete existing wording of seasonal variation and replace with Christmas Eve, Christmas Day, Boxing Day, New Years Eve and New Years Day until 1.00am or within any other agreed Board policy
- Addition to listed activities – conference, outdoor drinking and dance facilities both during and outwith core licensed hours and films and gaming during core licensed hours.
- Extend existing listed activities namely, restaurant facilities, bar meals, receptions etc, club or other group meetings etc, recorded music, live performance, indoor/outdoor sport and televised sport to be provided outwith core licensed hours
- Amend the explanation of activities to be provided outwith core licensed hours
- Delete the existing wording in relation to any other activities and substitute a more suitable form of wording for activities relating to a hotel premises
- Amend the terms of access, times and parts permitted within the existing children and young persons statement
- Amendment to layout plan to change the position of the bar counter, seating areas and accommodation layout.

There had been circulated copies of a letter dated 1 September 2016 from Police Scotland. Inspector Hodges advised that the variation requested consisted of changes to core hours for on and off sales, changes to the seasonal variation, changes to permitted activities and changes to children and young persons access. In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005 the following representation was made on behalf of the Chief Constable. The premises were located in the centre of the village and was neighboured on both sides by residential properties. The application sought to add outdoor drinking facilities in the operating plan, however the area concerned was not clearly defined in the layout plan. Also there was no explanation in the relevant section of the operating plan as to how the applicant would operate the outdoor drinking facility. In terms of Section 22(1)(b)(ii) and (iii) of the Act the Chief Constable was of the opinion that the variation in its current form should be modified so that there was an explanation of the use of the outdoor drinking facility in the operating plan, the outside area should be clearly defined in the layout plan. If the variation, or an amended version was approved, the Chief Constable considered that conditions be imposed in respect of: the outside drinking area was subject to a terminal hour of 10.00 pm each day to prevent noise nuisance to neighbours.

Mr Martin Day was present. He advised that he did not have an issue with a terminal hour of 10.00 pm each day in relation to the outside drinking area. Mr Tunnah advised that the Plough Inn had been refurbished and the proposed operating plan would bring the plan up to date, bringing the bedrooms back into use.

DECISION

GRANTED, as amended, to reflect that the terminal hour of the outside drinking area would be 10.00 pm each day.

DECLARATION OF INTEREST

Councillors Paterson and Stewart 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.

(iii) Zing Enterprises Limited Base Nightclub

Baker Street
HAWICK
TD9 9BW

Amendments to operating plan:

- to increase the terminal hour on Fridays and Saturdays until 3.00am (currently 2.00am);
- With Question 4 (Seasonal Variations) in the operating plan being varied to read – ‘during the festive period, namely Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Years Day (regardless of which day of the week these festive days fall on), and at any other times throughout the year, as defined by the Scottish Borders Licensing Board, the premises will operate until 3.00am for the sale of alcohol in accordance with the Licensing Board’s policy in that regard’.

There had been circulated copies of:- (a) a letter dated 5 September 2016 from Police Scotland, (b) a letter dated 2 September 2016 from Mr I Tunnah, Licensing Standards and Enforcement Officer, and (c) a letter dated 29 August from NHS Borders.

Mr Neil Gillies was present. He advised that his Solicitor was unable to attend today's meeting owing to another commitment and requested that the application be continued to the next meeting of the Board.

DECISION

AGREED to continue the application to the next meeting of the Board.

(iv) The Shilling Group (Edinburgh) Ltd

The Border Hotel
The Green
Kirk Yetholm
Kelso
TD5 8PQ

Amendments to operating plan:

- change core hours to commence at 11.00am on Sundays (currently 11.30am) both On Sale and Off Sale core hours;
- addition to the permitted activities referred to in question 5 (column 4 - outwith core hours) of the Operating Plan, to include conference facilities, restaurant facilities, bar meals, receptions including weddings, funerals, birthdays, retirements etc, Club or other group meetings etc, live performances, dance facilities, televised sport activities and outdoor drinking facilities;
- addition to the permitted activities referred to in question 5 (columns 2 and 3) of the Operating Plan to include gaming;
- addition to the permitted activities referred to in question 5 (columns 2, 3 and 4) of the Operating Plan to include theatre, films and indoor/outdoor sports;
- a change to the explanation as to 'Yes' in column 4;
- a change to the explanation at question 5 (f) - any other activities; and
- a change to the terms and conditions of the Children and Young Persons access.

No representations had been received

Mr and Mrs Howe were present. Mr Tunnah advised that the application was to bring the operating plan up to date and there was nothing in the variation which was outwith the Board's Policy.

DECISION

GRANTED.

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

6. **Licensing (Scotland) Act 2005:**

(i) **Section 72: Application for Grant of Personal Licence**

The Board agreed to continue the application for Grant of Personal Licence to Mr Ian Couper to the next meeting of the Board.

(ii) **Section 84A: Personal Licence Review Application**

The Board agreed to continue the application for review of Mr Paul McCrindle's Personal Licence received from Police Scotland to the next meeting of the Board.

The meeting concluded at 11.30 a.m.