

MINUTE of MEETING of the SCOTTISH BORDERS  
LICENSING BOARD held in Committee Rooms 2 & 3,  
Council Headquarters, Newtown St Boswells on Friday  
17 March 2017 at 10.00 a.m.

Present:- Councillors W. Archibald (Convener), J. Greenwell, B. Herd, G. Logan, D. Paterson, T. Weatherston, B. White.  
Apology:- Councillors J. Campbell, R. Stewart, J. Torrance.  
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), Inspector T. Hodges, Police Scotland.

1. **MINUTE**

The Minute of Meeting of 17 February 2017 had been circulated.

**DECISION  
APPROVED.**

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 8 February to 7 March 2017.

**DECISION  
NOTED.**

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

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

- |  |   |
|--|---|
| (i) Partnership of Stephen Davies<br>and Lisa Davies | Caddon View Hotel<br>14 Pirn Road<br>Innerleithen |
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Amendments to Operating Plan and Layout Plan:

- Change Core Hours  
ON SALE: 11.00am – 12.00midnight Monday to Sunday (currently 11.00am - 11.00pm Monday to Saturday and 12.30pm – 11.00pm Sunday).  
OFF SALE: 10.00am – 10.00pm Monday to Sunday (currently none)
- Change statement to indicate alcohol consumption both On and Off the premises
- Addition of Activities within Core Hours: Club or other Group Meetings, Live Performances Gaming and Outdoor Drinking Facilities.
- Addition of Activities outwith Core Hours:  
Receptions etc, Club or other Group Meetings, Recorded Music and Live Performances
- Include appropriate explanation of Additional and Other Activities
- Include standard Christmas and New Year Seasonal Variation
- Change terms of Children and Young Persons access
- Change Layout Plan to include outside lawn area within the licensed footprint

No representations had been received.

Mr Tunnah advised that Mr Davies had contacted him for guidance in relation to the operating plan. He explained that all proposals were within the Board's current policy and the proposals would bring the operating plan up to date to accommodate this evolving business.

Mr Davies was present. He advised that the purpose of the application was to allow guests to consume alcohol within the garden area of the guest house. It would also enable guests to take wine home with them if the bottle was unfinished. This was a tidying up exercise and would ensure that the operating plan was up to date.

**DECISION  
GRANTED.**

(b) Phoenix Kyle Properties Limited

The Wheatsheaf  
Main Street  
Swinton

Amendments to Operating Plan and Layout Plan:

- Change Core Hours  
ON SALE: 11.00am – 12.00midnight Sunday to Thursday and 11.00am – 1.00am Friday and Saturday  
(currently 12.00noon – 11.00pm Sunday; 11.00am – 11.00pm Monday and Tuesday; 11.00am – 11.00pm Monday and Tuesday and 11.00am – 12.00midnight Wednesday to Saturday).  
OFF SALE: Sunday to Saturday 11.00am – 10.00pm  
(currently Monday to Saturday 11.00am – 10.00pm and Sunday 12.00noon – 10.00pm)
- Addition of Activities within Core Hours: Live Performances, Indoor/Outdoor Sports, Televised Sports; Outdoor Drinking; Dance Facilities and Gaming
- Addition of Activities outwith Core Hours:  
Accommodation, Conference Facilities, Restaurant Facilities, Bar Meals, Receptions etc, Club or other Group Meetings, Live Performances, Indoor/Outdoor Sports, televised Sport and Outside Drinking Facilities
- Include appropriate explanation of Additional and Other Activities
- Change Terms and Conditions regarding Children and Young Persons Access
- Change Layout Plan (ground floor) to show licensed outside area.

No representations had been received.

Mr Tunnah advised that the licenceholder, Mr Lawrence had contacted him for guidance in relation to the operating plan. He explained that all proposals were within the Board's current policy which would bring the operating plan up to date to reflect the needs of the ongoing business and allow customers to consume alcohol outside.

Mr Lawrence advised he had taken over the small 8 bedroomed hotel in June He wished to serve alcohol in a small patio area and he considered the amendments to the operating plan would future proof the business moving forward.

**DECISION  
GRANTED.**

(c) Cheers Group Limited

The Queens Head Hotel  
24 Bridge Street  
Kelso

Amendments to Operating Plan:

- change to the core On Sale Hours:

Current On Sale Hours

11.00am – 12.00midnight Mon to Thurs  
Wed

11.00am – 1.00am Fri & Sat  
Sat

12.00noon – 12.00midnight Sunday

Proposed On Sale Hours

11.00am – 12.00midnight Sun to

11.00am – 1.00am Thurs, Fri &

- change to the core Off Sale Hours:

Current Off Sale Hours

11.00am – 10.00pm Mon to Sat

12 noon - 10.00pm Sun

Proposed Off Sale Hours

11.00am – 10.00pm Sun to Sat

- 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; recorded music; live performances; indoor/outdoor sports; and televised sport, without the sale of alcohol;
- addition of dance facilities to the permitted activities referred to in question 5 (columns 2 and 3) of the Operating Plan;
- addition of outdoor drinking facilities to the permitted activities referred to in question 5 (columns 2, 3 and 4) of the Operating Plan;
- a change to the explanation as to ‘Yes’ in column 4 (outwith core hours); and
- a change to the terms and conditions of Children and Young Persons access at question 6 of the Operating Plan.

There had been circulated copies of:-

- (a) a notice of objection/representation received from the Spread Eagle House Owners and Residents Group advising that the Spread Eagle House was a listed building within a conservation area and adjacent to Kelso Abbey. The area was mixed residential/commercial – often with residential properties being located above shops. Whereas the front of Spread Eagle House was identified by the Local Plan as part of the Town Centre Core Activity area, the rear of the Spread Eagle House was located adjacent to the quiet Parish Graveyard. Details of the Local Development Plan were also listed in the objection/representation. The existing situation was explained where the Queen’s Head Hotel was already the cause of significant nuisance to the residents of Spread Eagle House. Although the Residents Group recognised that residents and businesses need to co-exist,

they wished to object to the extension of the Queen's Head Hotel's licensing hours where this disrupted the peace and spoiled the pleasant historic environment of the peace late at night when residents wished to sleep.

- (b) a notice of representation from Tony Huggins-Haig Gallery, Bridge Street Kelso advising that they wished to know how the amendments to the operating plan would be policed, asking if there would be physical barriers erected between the cobbled strip (where there would be table and chairs) and the tarred highway? How would drivers using the loading bay be able to open doors next to the barriers or seating area – was there ample space available? Concern was expressed in relation to customers of the Queens Head using the outdoor seating on their premises and that there would be broken glass, empty tins, cigarettes and vomit to clear up on their ground.
- (c) an email from Mark Hay, Cheers Group. Mr Hay referred to the representations/objections received and advised he agreed everything was not perfect living next to any licensed premises but the Cheers Group did their best to work with everyone especially neighbours. In relation to the bins, this had been dealt with in the past and continued to be dealt with and staff had been reminded not to put bins out after 10pm.

He stated that loud music was not played and at present there was only live music on New Year's day and it was not anticipated that would change in the near future. He acknowledged that the Hotel was busy and had guests living above and around. The alleyway between the Hotel and Spread Eagle House was shared and at the moment the Queens Head was the only one who kept it clean and also cleared the blocked drains which backed up along the back of the said building as well as the alleyway, due to the build up of debris and leaves. Staff did stand outside the rear of the building and smoked along with the hotel staff opposite, the other shops below the Spread Eagle building as well as the beauty salon across the road, however, Mr Hay advised they cleared up everyone's litter and kept noise to a minimum.

He went onto advise that the kitchen closed at 10pm and extractors were switched off and kitchen staff left so any noise from smokers or pedestrians passing by or loitering in the street could not be pointed solely in the direction of the Queens Head. It was in their own interest to be as quiet as possible as guests would be sleeping above the bins, kitchen and the area in question and there was rarely complaint from the 3 rooms above as well as the 3 rooms in the alleyway.

With regard to the issues raised in relation to the extractions system, he stated it had been in the alleyway for decades if not longer. It was upgraded to an up to date carbon filter system and as well as being regularly deep cleaned and maintained it was the best available and was suggested at the time by their environmental health officer. It was cleaned daily.

In relation to the back of the hotel it was intended that the uneven ground which belonged to the hotel - 1.5metres - and install new drainage and singular tables along the back of the hotel but only 50% of the length in tables and chairs approx 8-10 people? This would add to the new doors which were being installed floor to ceiling height that folded back and created an outdoor indoor feeling. Although a planning application would be lodged for a canopy and a balustrade so people did not walk out beyond the hotel boundary. The whole idea was to encourage more daytime cafe culture opposed to a drinking area. The area would not be

used beyond 10pm both for noise and for management and to look after their guests and neighbours.

Cheers Group had requested the layby and it was only granted with the use of their part of the ground, but it was anticipated it would still be wide enough for its intended use and not for the adjoining businesses to use as a parking bay. Once work was completed, depending on finances in the next 12 to 18 months, the bins would move to the other end of their building as would the kitchen and extractor system of which it was hoped could be installed using an existing chimney thus any odours would be high enough to disperse and there were no flats or accommodation at this end apart from Mr Hays. Having the kitchen and the bin storage at this end would also help to alleviate the galleries concerns as there would not be anywhere for anyone to hang around or direct access from their area. In conclusion Mr Hay advised he was always available so anyone could come directly to him with any issues at any time, He would take all comments on board and at every opportunity and to the best of his capabilities try and rectify immediately any problem or observations.

Mr Tunnah advised that Mr Hay had contacted him seeking guidance in relation to the operating plan. He explained that all proposals were within the Board's current policy. The business was evolving and he advised that most of the comments from neighbours could be resolved by having appropriate dialogue and Mr Hay was already in discussion with his neighbours.

Mr Hay was present. He referred to plans and advised that the kitchen would be moved to another area which would alleviate some of the issues that neighbours had commented on. He explained it was in the interests of his business to deal with and resolve all complaints received.

Inspector Hodges took the opportunity to acknowledge that The Queens Head had recently been awarded a Gold Best Bar None Award and had been nominated for their national award.

## **DECISION GRANTED.**

### **PRIVATE BUSINESS**

#### **4. 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.**

#### **5. Licensing (Scotland) Act 2005 Personal Licence.**

With reference to paragraph 6(ii) of the Minute of the Licensing Board of 21 October 2016, the Board agreed that Mr Paul McCrindle's Personal Licence be revoked with immediate effect.

*The meeting concluded at 10.20 a.m.*