

MINUTE of MEETING of the SCOTTISH BORDERS
LICENSING BOARD held in Committee Rooms 2 & 3, Council
Headquarters, Newtown St Boswells on Friday 16 June 2017 at
10.00 a.m.

Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. Scott, T. Weatherston.
Apologies:- Councillors R. Tatler, E. Thornton-Nicol, G. Turnbull.
In Attendance:- Chief Legal Officer, Licensing Team Leader, Licensing Standards and Enforcement Officers (Mr I. Tunnah and Mr M. Wynne), Democratic Services Officer (F. Henderson), Inspector J. Scott, PC C. Lackenby, Police Scotland.

1.0 **APPOINTMENT OF CONVENER**

- 1.1 The Board considered the appointment of Convener. Councillor Weatherston, seconded by Councillor Richards, moved that Councillor Greenwell be elected. There were no other nominations and Councillor Greenwell was duly elected.

DECISION

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

2.0 **PRESENTATION OF MEMBER TRAINING CERTIFICATES**

- 2.1 The Convener explained that in order to sit on the Licensing Board, members were required to undertake specific training and an exam. The Convener presented the Members present with their Training Certificates.

**DECISION
NOTED.**

3.0. **MINUTE**

- 3.1 The Minute of Meeting of 21 April 2017 had been circulated.

**DECISION
APPROVED.**

4.0. **LICENCES DEALT WITH UNDER DELEGATED POWERS**

- 4.1 For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 13 April to 31 May 2017.

**DECISION
NOTED.**

5.0 **LICENSING (SCOTLAND) ACT 2005:**

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

Sykes Global Services Limited

Nether Road
Galashiels

Licensed Hours applied for:

On sale

Off sale

None

10.00 a.m. – 10.00 p.m. Monday to Sunday

There had been circulated copies of:-

(a) the Application, Operating Plan and proposed layout.

Mr Tunnah advised that the Industrial premises packaged products for clients and some of these contained amounts of alcohol.

Mr Iain Lindsay and Mrs Gail Wilson were present on behalf of Sykes Global and explained that Sykes was a long standing company and the application was to facilitate the remote sale of alcohol products to be packaged by them and dispatched on behalf of clients.

DECISION GRANTED.

- (b) **Section 34: Application for Transfer of Premises Licence with Variation.** The Board considered the following application for Variation of Premises Licence:-

Martin McColl Limited

Co-operative Food
Main Street
St Boswells

Amendments to Operating Plan:

- Question 5(f) – any other activities – to clarify the types of goods sold on the premises
- Change of store opening times to 6.00 a.m. – 11.00 p.m. (currently 8.00 a.m. – 10.00 p.m.)

There had been circulated copies of

(a) the Application together with current and proposed Operating Plans and (b) letters of objection to the proposed amended opening times submitted by adjoining neighbours J. Crombie, K. Davidson, T. Seymour-Smith and L. Molero

Mr Stephen McGowan, TLT Licensing and William Morison, Area Manager were present on behalf of Martin McColl Limited. Mr McGowan gave a brief summary of the application which he advised was one of a number of several Co-operative Food premises nationwide which had been transferred to Martin McColl Limited. He gave an explanation of the background to the relevant convictions declared in relation to his client's company. With particular regard to the 3 offences of underage sales of alcohol he provided details of the stringent measures established by his client company and explained that the offences had been as a result of an individual staff member not following set procedures.

With regard to the concerns raised by neighbours, he advised that after due consideration of those, he was instructed to amend the variation part of the application to reduce the opening times to 7.00am to 10.00pm.

There followed questions from Members which Mr McGowan responded to.

DECISION

GRANTED the application as amended.

- (c) **Section 56: Application for Occasional Licence.** The Board considered the following applications for Occasional Licence:-

Greenlaw Festival Trust

Marquee
The Green
Greenlaw

Friday 30 June 2017 7.00pm - 11.30pm
Saturday 1 July 2017 1.00pm - 11.30pm
Sunday 2 July 2017 1.00pm - 4.30pm

There had been circulated copies of:-

(a) letters dated 18th May 2017 from Police Scotland. Inspector Scott advised that in terms of Section 58(1) (b) (ii) of the Licensing (Scotland) Act 2015, the Police recommended it be granted subject to the conditions as indicated by an 'x' on the appendix attached to each of the letters. Inspector Scott went on to advise that on 30th June 2016, the Greenlaw Festival caused significant anti-social behaviour and disorder, to such an extent that although no Police resources had been dedicated to the event, a sergeant and six officers were deployed from various locations in the Scottish Borders to deal with the ongoing incidents and were required to remain there for the duration of the event. A summary of the incidents/issues were contained in the letters. In order to address these issues the organisers had been requested to attend Scottish Borders Council's Safety Advisory Group, which the Police Scotland Licensing Officer would attend. In addition to the conditions set out in the appendix to the letters, it was requested that the licensed area be restricted to the marquee where the bar was situated with no Off Sales, which could be appropriately stewarded.

On being invited to speak, Mr Tunnah advised that the applications for occasional Licence were for the period 30 June 2017 to 2 July 2017 in respect of the Annual Greenlaw Festival. He clarified that the applications were for on sale provision only within the Marquee and did not include a defined area outwith or any off sale facility. Mr Tunnah endorsed the Police opinion that SIA Stewards were required to ensure strict management and controlled access procedures in an attempt to reduce the potential for a recurrence of the issues referred to by Police Scotland the previous year.

Mr McGuinness and Mrs Renton, Event Organisers were present. Mrs Renton explained that the Festival had been running since 1960 and most of the problems experienced the previous year had been due to outsiders coming to the village by minibus. Mrs Renton further advised that the alcohol listed in the police letter had not been sold by the Organisers. In terms of the drunk steward, this was a mystery as the Bar Staff had been wearing pink polo shirts and all other Stewards were wearing yellow polo shirts. Mrs Renton further explained that the Organising Committee had been unaware of any issues regarding their event until they had visited the Council offices to ensure that all the paperwork was in order. They stated they had worked hard to meet all the requirements requested by the Police during their event and Stewards had been patrolling the area stopping people entering the bar area.

DECISION

AGREED that the applications be granted as follows:-

- (a) **30 June and 1 July - subject to the conditions requested by Police Scotland in**

the Appendix to their letters dated 18 May 2017; and

(b) 2 July – subject to the conditions requested by Police Scotland in the Appendix to their letter dated 18 May 2017 with the exception of Condition 6 thereof.

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

(i) Greene King Retailing Limited	County Hotel
	35 High Street
	Peebles
	Saturday 24 June 2017 8.00am - 11.00am
	Saturday 1 July 2017 8.00am - 11.00am
	Saturday 8 July 2017 8.00am - 11.00am

There had been circulated copies of a letter dated 12 May 2017 from Mr I Tunnah, Licensing Standards and Enforcement Officer. Mr Tunnah objected to the granting of the requested extensions on the following grounds (a) the hours applied for were outwith the Licensing Boards current policy statement, the premises currently operated with core hours for the On Sale of Alcohol commencing at 11 a.m. and terminating at 1 a.m. on the dates applied for. The Licensing Board Policy stated at section 7.3, 'the Board would not normally grant applications for more than 14 hours in any 24 hour period'. To grant the application would create a trading period for On sales of 17 hours on each of the dates applied for (b) the reason for extending the hours was to accommodate the viewing of the British Lions Test matches being played in New Zealand which had a kick off time of 8.35 a.m. UK time and there was no indication in the application to indicate the reason being anything other than to allow the consumption of alcohol while viewing the rugby, the applicant claimed that the sale of alcohol would be ancillary to the purchase of a breakfast, however it is difficult to see how this could be the case for the duration of the rugby match (c) there was no indication that access would be restricted, other than the requirement to purchase a breakfast which would obviously allow anyone whether interested in rugby or not to commence the consumption of alcohol at a time when no other premises in the Borders area are permitted.

There had been circulated copies of a letter dated 16 May 2017 from Police Scotland. In terms of Section 69(2) of the Licensing (Scotland) Act 2005, Police Scotland objected to the application on the following grounds (a) the premises was not affiliated to any rugby club and the premises would be open with no restriction, allowing anyone to attend and consume alcohol for any purpose (b) If granted, the commencement would increase the core hours from 14 to 16 hours that day, which would be outwith guidelines contained within the Licensing Board's Statement of Licensing Policy 2013-2016 (c) this would set a precedent which other licensed premises in Scottish Borders would be likely to seek to replicate.(d) any extension to the operating hours for the applicant premises, or any other premises enjoying similar licensed hours, would increase the likelihood of over consumption that often ends with crime and disorder.

There had been circulated copies of a letter from Peter Orr, Designated Premises Manager of the County Hotel, Peebles addressing the concerns of Police Scotland and the Licensing Standards and Enforcement Officer and seeking to justify why the Board should consider granting the applications because the screening of the British Lions test matches should be considered a nationally significant event. Mr Orr was present at the meeting and spoke to his written submission during which he withdrew

the application for 24 June under explanation it clashed with the Peebles Beltane Saturday.

There followed debate relating to the nature of the event, the relevant parts of the Board's Policy Statement cited in the objections and how appropriate it was to consider that the consumption of alcohol was essential to the enjoyment of patrons watching a televised sporting event.

VOTE

Councillor Weatherston, seconded by Councillor Richards moved that the application be refused on the grounds that the application did not meet the licensing objectives as stated in the objections.

Councillor Paterson moved as an amendment that the application be granted. There was no seconder and the motion was carried.

DECISION REFUSED.

Councillor Paterson requested that his dissent be recorded for the Minute.

(ii) Selkirk Conservative Club

Selkirk Conservative Club
Ettrick Terrace
Selkirk

Saturday 24 June 2017 8.00am - 11.00am
Saturday 1 July 2017 8.00am - 11.00am
Saturday 8 July 2017 8.00am - 11.00am

There had been circulated copies of a letter dated 6 June 2017 from Mr I Tunnah, Licensing Standards and Enforcement Officer. Mr Tunnah objected to the granting of the requested extensions on the following grounds (a) the hours applied for were outwith the Licensing Boards current policy statement, the premises currently operated with core hours for the On Sale of Alcohol commencing at 11 a.m. and terminating at 1 a.m. on the dates applied for. The Licensing Board Policy stated at section 7.3, 'the Board would not normally grant applications for more than 14 hours in any 24 hour period'. To grant the application would create a trading period for On sales of 17 hours on each of the dates applied for (b) the reason for extending the hours was to accommodate the viewing of the British Lions Test matches being played in New Zealand which had a kick off time of 8.35 a.m. UK time and there was no indication in the application to indicate the reason being anything other than to allow the consumption of alcohol while viewing the rugby, although the applicant stated that breakfast was to be served at half time. If granted the licence would have to obvious effect of allowing anyone whether interested in rugby or not to commence the consumption of alcohol at a time when no other premise in the Boards area were permitted.

There had been circulated copies of a letter dated 6 June 2017 from Police Scotland. In terms of Section 69(2) of the Licensing (Scotland) Act 2005, Police Scotland objected to the application on the following grounds (a) the premises did not appear to be affiliated to any rugby club and the premises would be open with no restriction, allowing members and bone fide guests to attend and consume alcohol for any purpose. (b) If granted, the commencement would increase the core hours from 14 to 17 hours that day, which would be outwith guidelines contained within the Licensing

Board's Statement of Licensing Policy 2013-2016 (c) this would set a precedent which other licensed premises in Scottish Borders would be likely to seek to replicate.(d) any extension to the operating hours for the applicant premises, or any other premises enjoying similar licensed hours, would increase the likelihood of over consumption that often ends with crime and disorder.

There had been circulated copies of a letter from Selkirk Conservative Club addressing the concerns of Police Scotland and the Licensing Standards and Enforcement Officer and seeking to justify why the Board should consider granting the applications because the screening of the British Lions test matches should be considered a nationally significant event which only occurred every 4 years. The Club did not intend to open in a free for all and the event would be a ticketed event for members and bone a fide guests only. The written submission further explained that SCC had operated a tightly managed 'Zero Tolerance' approach to any issues of bad behaviour for many years. Members were reminded that this not only applied to club premises , but also to any members' conduct outwith the club.

Mr James Terras was present representing Selkirk Conservative Club. He spoke in support of his written submission in particular the Club's long standing links to the RBS Six Nations through Members of the local Rugby Football Club. He stated his opinion that the application was materially different to that of an open public house and stressed that the premises would only be accessible by Members and guests. Having considered the objections, the Club was also willing to close early on the dates applied for in order to comply with the 14 hour trading period.

Members asked questions and debated the merits of the application in relation to the licensing objectives and their Policy Statement.

VOTE

Councillor Paterson, seconded by Councillor Weatherston moved as a motion that the application be granted.

Councillor Scott, seconded by Councillor Brown moved as an amendment that the application be refused.

On a show of hands Members voted as follows:-

Motion - 2 votes

Amendment - 4 votes

The amendment was accordingly carried.

DECISION REFUSED.

(iii) The Waverley Bar Limited

Waverley Bar
78 High Street
Hawick

Saturday 24 June 2017 8.00am - 10.00am

Saturday 1 July 2017 8.00am - 10.00am

Saturday 8 July 2017 8.00am - 10.00am

There had been circulated copies of a letter dated 16 May 2017 from Police Scotland. In terms of Section 69(2) of the Licensing (Scotland) Act 2005, Police Scotland objected to the application on the following grounds (a) the premises did not appear to be affiliated to any rugby club and the premises would be open with no restriction, allowing anyone to attend and consume alcohol for any purpose. (b) If granted, the commencement would increase the core hours from 14 to 17 hours that day, which would be outwith guidelines contained within the Licensing Board's Statement of Licensing Policy 2013-2016 (c) this would set a precedent which other licensed premises in Scottish Borders would be likely to seek to replicate (d) any extension to the operating hours for the applicant premises, or any other premises enjoying similar licensed hours, would increase the likelihood of over consumption that often ends with crime and disorder.

There had been circulated copies of a letter dated 12 May 2017 from Mr I Tunnah, Licensing Standards and Enforcement Officer. Mr Tunnah objected to the granting of the requested extensions on the following grounds (a) the hours applied for were outwith the Licensing Boards current policy statement, the premises currently operated with core hours for the On Sale of Alcohol commencing at 11 a.m. and terminating at 1 a.m. on the dates applied for. The Licensing Board Policy stated at section 7.3, 'the Board would not normally grant applications for more than 14 hours in any 24 hour period'. To grant the application would create a trading period for On sales of 17 hours on each of the dates applied for (b) the reason for extending the hours was to accommodate the viewing of the British Lions Test matches being played in New Zealand which had a kick off time of 8.35 a.m. UK time and there was no indication in the application to indicate the reason being anything other than to allow the consumption of alcohol while viewing the rugby, the applicant claimed that the sale of alcohol would be ancillary to the purchase of a breakfast, however it is difficult to see how this could be the case for the duration of the rugby match (c) there was no indication that access would be restricted, and would allow the consumption of alcohol at a time when no other premises in the Borders area are permitted.

There had been circulated copies of a letter from the Waverley Bar Limited which explained that the current Lion Tour had two borderers playing, one of which came from Hawick and it would be an opportunity for people with no sky contract to view the games. The Waverley showed all sporting events on the premises, at great cost (over £1600 per month) and the extended hours would be an opportunity to recoup some of this expense, while giving an enhanced service to their regular customers. The Waverley had been a family run business for 47 years and prided itself in having had no problems with any unsavoury trouble for many years. Mr Ian Hope, Bar Manager of the Waverley Bar spoke in support of the written submission and emphasised that the premises was well managed and in his opinion granting of the applications would allow its predominantly elderly clientele without access to Sky sports an opportunity to view the games.

Members debated how the applications could be considered in relation to the licensing objectives and their Policy Statement.

VOTE

Councillor Scott, seconded by Councillor Brown moved that the application be refused. Councillor Paterson, seconded by Councillor Weatherston moved as an amendment that the application be granted.

On a show of hands Members voted as follows:-

Motion - 4 votes

Amendment - 2 votes

The amendment was accordingly carried.

**DECISION
REFUSED.**

PRIVATE BUSINESS

6.0 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.

- 7.0 Licensing (Scotland) Act 2005: Section 72: Application for Personal Licence.** The Board granted a Personal Licence to Mr Jacob Grice.

The meeting concluded at 11.50 p.m.