

**SCOTTISH BORDERS COUNCIL
SCOTTISH BORDERS LICENSING BOARD**

MINUTE of Meeting of the SCOTTISH
BORDERS LICENSING BOARD held in
Committee Rooms 2 and 3 on Friday, 14
December 2018 at 10.00 am

Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol and T. Weatherston

Apologies:- Councillors G. Turnbull
In Attendance:- Managing Solicitor (Property and Licensing), Licensing Officer (C. Watson),
Licensing Standards and Enforcement Officers (I. Tunnah and M. Wynne),
Chief Inspector A McLean – Police Scotland, Democratic Services Officer (F. Henderson), Trainee Democratic Services Officer

CHAIRMAN

The Chairman reminded Members to have their Policy Statement with them at all times.

1. **MINUTE**

The Minute of Meeting of 16 November 2018 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 6 November 2018 to 4 December 2018.

**DECISION
NOTED.**

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

3.1 **Section 20: Applications for Variation of Premises Licence**

The Board considered the following application for variation of Grant/Provisional Grant of Premises Licences:-

(a) **Bojangles Wedding Ltd**

Netherbyres House
Eyemouth
(Provisional)

Licensed hours applied for:

On Sale

Sunday to Wednesday 11.00am – 12.00midnight

Thursday to Saturday 11.00am – 1.00am

Off Sale

None

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to use the premises for weddings and corporate events. Alistair MacDonald, legal agent for the applicant and Michael Morgan the owner of the premises were present and explained that the recent care home Netherbyres House had been converted into a family home and should the Premises Licence be granted they would be able to offer the premises for weddings and corporate events.

**DECISION
GRANTED.**

(b) Martin Baird Butchers Ltd

Martin Baird Butchers Ltd
2-4 Market Square
Melrose
(Provisional)

Licensed hours applied for:

On Sale

None

Off Sale

Monday to Sunday

10.00am – 8.00pm

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to introduce the sale of a range of alcohol in the butcher shop. The applicant, Mr. Baird was present and explained that, if granted, there would be a small supply of wines and spirits for sale to complement the produce he currently sells.

**DECISION
GRANTED.**

(c) Cater Leisure Services Ltd

Refresh Cafe
Wilton Lodge Park
Hawick
(Provisional)

Licensed hours applied for:

On Sale

Monday to Sunday 11.00am – 11.00pm

Off Sale

None

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to offer the sale of a range of alcohol within the new café/restaurant at Wilton Park in Hawick. Julie Maguire, legal agent for the applicant and Ms Taylor, the manageress were present and explained that the café type premises in the Wilton Lodge Park offered a wide range of hot and cold meals, snacks, and if granted, to offer the sale of alcohol and cater for events on the premises within the core hours. Children would be allowed access when accompanied by an appropriate adult for the purposes of dining or partaking snacks or beverages or attending a pre-arranged private function.

**DECISION
GRANTED.**

(d) **Chun Kui Kwan**

Market Kitchen
52 Horsemarket
Kelso
(Provisional)

Licensed hours applied for:

On Sale

Monday to Sunday 11.00am – 12.00midnight
Friday and Saturday 11.00

Off Sale

None

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to allow the sale of a range of alcohol. Mr Kwan was present and explained that, if granted, the restaurant would serve alcohol by table service only.

**DECISION
GRANTED.**

3.2 **Section 29: Application for Variation of Premises Licence**

The Board considered the following applications for Variation of Premises Licences:-

(a) **Marmions (Scotland) Co Ltd**

Marmions Brasserie
5 Buccleuch Street
Melrose

Amendments to Premises Licence, operating and layout plan as follows:

- change to the core On and Off Sale Hours:

Current On Sale Hours	Proposed On Sale Hours
11.00am – 11.00pm Mon to Sat	11.00am – 12 midnight Mon to Sat
12.30pm – 11.00pm Sun	Sun
- Current Off Sale Hours
- Proposed Off Sale Hours
- 12.30pm – 10.00pm
- 11.00am – 10.00pm
- addition to existing Christmas Eve and New Year's Eve seasonal variation to include Christmas Day, Boxing Day and New Year's Day until 1.00am or within any other Licensing Board Policy;
- addition to activities to include club or other group meetings, live performances and dance facilities to be provided both during and outwith core hours
- addition to activities to include gaming, indoor/outdoor sports and televised sports during core hours
- amended explanation in relation to the additional activities to take place outwith core hours
- amended wording in relation to any activities other than those listed and proposed to take place on the premises
- amendment to the children and young person's statement in relation to the terms, times and parts of the premises access will be permitted, to allow accompanied children for the duration when partaking in light refreshments or a

meal and when attending a pre-arranged function with Young Persons for the same reasons and duration but without the requirement to be accompanied

- Increase in seating capacity from 50 to 110 people
- amendment to description in Premises Licence to include function room

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other – none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a variation of the existing provisional Premises Licence to offer the sale alcohol. The applicant, Eyup Kurt was present and explained that the business would be expanding into the wine theatre to operate as a small venue to accommodate bus, wedding and funeral parties.

**DECISION
GRANTED.**

(b) **Iceland Foods Ltd**

Iceland Foods Ltd
33/34 High Street
Galashiels

Amendments to operating and layout plan* as follows:

- change to core Off Sale Hours:

<u>Current Off Sale Hours</u>	<u>Proposed Off Sale Hours</u>
10.00am – 8.00pm Mon to Sun	10.00am – 10.00pm Mon to Sun
- remove reference to seasonal variation at question 4;
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Recorded Music during and outwith core licensed hours;
- change to explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'sale of groceries, including fresh and frozen foods and other non-food items to be provided both within and outwith the core licensing hours. But not before 7.00am or after 11.00pm. Activities outwith core licensed hours may occur as ancillary';
- change to explanation at question 5 (f) – any other activities – to read 'the sale of alcohol by retail consumption off the premises is ancillary to the sale of groceries and other non-food items. The above shall include deliveries made using our home delivery and ecommerce services, subject to compliance with Sections 119 and 120 of the Licensing (Scotland) Act 2005. The premises will also, on occasion, be used to launch new products, have product sampling and food tasting events and host 'family friendly' membership evenings'; and
- reduction in capacity of alcohol display area (from 6.6 m² to 4.4 m²).

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

(c) **Iceland Foods Ltd**

Iceland Foods Ltd
43 Victoria Road
Hawick

Amendments to operating and layout plan* as follows:

- a change to the core Off Sale Hours:

<u>Current Off Sale Hours</u>	<u>Proposed Off Sale Hours</u>
10.00am – 8.00pm Mon to Sun	10.00am – 10.00pm Mon to Sun
- remove reference to seasonal variation at question 4;
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Recorded Music during and outwith core licensed hours;
- change to explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'sale of groceries, including fresh and frozen foods and other non-food items to be provided both within and outwith the core licensing hours. But not before 7.00am or after 11.00pm. Activities outwith core licensed hours may occur as ancillary';
- change to explanation at question 5 (f) – any other activities – to read 'the sale of alcohol by retail consumption off the premises is ancillary to the sale of groceries and other non-food items. The above shall include deliveries made using our home delivery and ecommerce services, subject to compliance with Sections 119 and 120 of the Licensing (Scotland) Act 2005. The premises will also, on occasion, be used to launch new products, have product sampling and food tasting events and host 'family friendly' membership evenings'; and
- reduction in capacity of alcohol display area (from 11 m² to 6.6 m²).

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other – none.

There had been circulated copies of the Application and operating plan for both stores in Galashiels and Hawick. The Licensing Standards and Enforcement Officer advised that the application was for a variation of the existing provisional Premises Licence to extend the core hours from 8.00pm to 10.00pm. Niall Hassard, legal agent for the applicant and a representative for the applicant were present and explained that this would bring consistency within both stores.

**DECISION
GRANTED.**

4. **SECTION 37: REVIEW OF PREMISES LICENCES**

The Board carried out a review of the following Premises Licences on the basis that each of them was in breach of a condition to which the licences were subject namely Mandatory condition 10 of Schedule 3 to the Act, failure to pay the annual fee as required by regulation made under the terms of Section 136 of the Act.

(a) Allan Ramsay Hotel, Carlops

The Licensing Standards and Enforcement Officer advised that the business had ceased trading and the Premises Licence had now been paid. A letter had been received from Mrs Ramsay explaining the reason for the delay in making payment and asked if the matter could be dealt with in her absence.

DECISION

(a) **NOTED that the outstanding fee had been paid.**

(b) **AGREED that a written warning be hand delivered.**

- (b) Glentress Hotel, Innerleithen Road, Peebles
The Licensing Standards and Enforcement Officer advised that the fee had been paid and the premises had ceased trading. A representative, Mr Bony, was present who explained that the hotel was being sold. As Mr Bony was in attendance the Board were content that a verbal warning be given and Mr Bony acknowledged the warning accordingly.

DECISION

NOTED that the outstanding fee had been paid.

- (c) Craw Inn, Auchencrow
The Licensing Standards and Enforcement Officer advised that the fee had been paid and there had been no other communication. There was no one present at the meeting and it was agreed that a warning letter would be hand delivered to assess the situation.

DECISION

(a) NOTED that the outstanding fee had been paid.

(b) AGREED that a written warning be hand delivered.

- (d) Cross Keys, Greenlaw
The Licensing Standards and Enforcement Officer advised that the fee was still outstanding but the premises had appeared to have stopped trading with no response to any communication.

DECISION

AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.

- (e) Naba Tandoori, 8-10 Market Place, Eyemouth
The Licensing Standards and Enforcement Officer advised the fee is still outstanding with no response to any communication and the premises were still trading.

DECISION

AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.

- (f) Heatherlie House Hotel, Heatherlie Park, Selkirk
The Licensing Standards and Enforcement Officer advised the fees from this year and last year were still outstanding and the premises had ceased trading.

DECISION

AGREED that the Premises Licence be revoked with immediate effect.

- (g) New Happy Gathering Chinese, 31 West Port, Selkirk
The Licensing Standards and Enforcement Officer advised the fee was still outstanding. Mr Zheng was present and explained that there had been a misunderstanding and would pay the fee today.

DECISION

AGREED:-

(a) to accept the payment of the fee today; and

(b) that a written warning be issued with a view to ensuring that Mr Zheng fully understood the importance of paying the annual fee and the consequences of failing to do so.

- (h) Selkirk Football Club, Yarrow Park, Selkirk
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and no correspondence had been received.

DECISION

AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.

- (i) High Level Bar, 11 Green Terrace, Hawick
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and the bar was closed.

DECISION

AGREED that the Premises Licence be revoked with immediate effect.

- (j) Stags Head Bar, 13 Drumlanrig Square, Hawick
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and the bar was closed. It was understood that the current owner was endeavouring to sell the premises and therefore any revocation could hinder any future sale. In the circumstances the Board considered that a suspension may be more appropriate.

DECISION

AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.

- (k) The Taste of Bengal, 4 Station Buildings, Hawick
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and they appear to still be trading. Despite numerous attempts, no response had been received from any communication.

DECISION

AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.

- (l) Fletchers, Hillside Terrace, Selkirk
The Licensing Standards and Enforcement Officer advised the fee was still outstanding for a second year. It was understood that the premises were still trading but were not selling alcohol.

DECISION

AGREED that the Premises Licence be revoked with immediate effect.

The meeting concluded at 10.45 am