

SCOTTISH BORDERS COUNCIL SCOTTISH BORDERS LICENSING BOARD

MINUTE of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in Committee Rooms 2 and 3, Council Headquarters, Newtown St Boswells on Friday 20 December 2019 at 10.00 am

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

In Attendance:- Managing Solicitor (Property and Licensing), Licensing Services Team Leader, Licensing Standards and Enforcement Officers (I. Tunnah, M. Wynne), Inspector J. McGuigan, PC J. Fortune - Police Scotland, Democratic Services Officer (F. Henderson), Trainee Democratic Services Officer

1. ORDER OF BUSINESS

The Convener varied the order of business as shown on the agenda and the Private Minute reflects the order in which the items were considered at the meeting.

2. MINUTE

The Minute of Meeting of 25 October 2019 had been circulated.

DECISION APPROVED.

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 10 October 2019 to 17 November 2019 and 18 November to 9 December 2019.

DECISION NOTED.

4. LICENSING (SCOTLAND) ACT 2005:

(a) **Section 20: Application for Premises Licence.** Consider the following applications for Grant/Provisional Grant of Premises Licence:

Milestone Garden and Leisure Ltd

Greenhouse Café
6 Buccleuch Street
Melrose
(Provisional)

Proposed business activity - Ground floor café/restaurant premises adjacent to the main car park serving Melrose Abbey. Alcohol would be generally but not exclusively sold to accompany meals and snacks for consumption within the premises and outdoor seated area.

Licensed hours applied for:

On Sale

Mon to Wed 11.00am to midnight

Thurs to Sat 11.00am – 1.00am

Sun – 11.00am to midnight

Off Sale

Mon to Sun 10.00am – 10.00pm

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - A Young.

There had been circulated copies of an application for provisional grant of premises licence, together with the proposed Operating Plan and layout plan. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the application was to allow the premises to operate to serve alcoholic drinks and the core times applied for would allow flexibility for the sale of alcohol for occasional events. The new premises had been developed recently and was operating successfully and the application would permit the sale of alcohol with meals. There had been one representation received where the main concern was the proposed business trading hours until 1.00am. The Convener welcomed the applicant's representative Leanne Charlton who explained that the premises currently operated as a café/restaurant with a wide variety of meals and snacks available and alcohol would generally but not exclusively be served to accompany food. Ms Charlton went on to explain that it was not intended to operate outside the hours or change the way the café was currently operating on a regular basis, but it would allow the opportunity for provision of alcohol with a meal. On an occasional basis the premises would host events and the core hours applied for will allow flexibility. There was one representation received which registered very serious concerns to the application as it would result in more noise and activity of people and vehicles. The Convener welcomed Ms A. Young who stated that the area would be in real danger of losing its unique charm and appeal for residents and visitors. Ms Young advised that she had no objection to the sale of alcohol but had concerns with regard to the proposed late opening times which potentially would cause noise and disturbance in a relatively quiet area of the town in a residential part of the street. The applicant reiterated that it was not the intention to remain open late every day but only on an occasional basis for special events. After a full discussion by Members, the application was granted with no objections received from the Police or concerns received from other residents in the area.

**DECISION
GRANTED.**

(b) Section 29: Application for Variation of Premises Licence. Consider applications for Variation of Premises Licence:

Partnership of Luigi & Paolo Crolla

Bar Sport (formerly H2O and
The Italian Restaurant)
88 Overhaugh Street
Galashiels

Amendment to operating plan:

- (a) Change question 5 existing listed activities – televised sport to take place outwith core hours.
- (b) Change question 5 listed activities to include gaming within core hours.
- (c) Change question 5 listed activities to include films and outdoor/indoor sports to take place both within and outwith core hours.
- (d) Change the explanation of activities outwith core hours and amend the statement under any other activities at question 5(f)
- (e) Change the children and young persons access statement to restrict children and young persons access to the ground floor lounge area only.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.
Health - none.
Other – N. Tait, A. Campbell

There had been circulated copies of an application for variation of premises licence, together with the current and proposed Operating Plans. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the application was for a change in operation to allow the premises to operate as a sports bar with a lounge bar on the ground floor and a dedicated pool hall with ten pool tables, a bar servery and seating in the area on the top floor. Mr Tunnah advised that there had been noise complaints received and work had been carried out with the neighbours to set levels for music. It was noted that the Police had no objections. Members noted that two objections had been received as a result of the public consultation, both raising concerns regarding noise nuisance from the premises. The Convener welcomed Mr Crolla who advised that the issues of music levels had only occurred since August and he had been working with licensing and environmental health to set the sound system at an acceptable level. He advised that the bar was situated in a noisy area of the town with night clubs in the same vicinity. In the absence of the objectors, Members considered their representations and Mr Tunnah submitted that it was possible to install a noise limiter to sound system which would prevent the music being played over the set level. Following discussion, Members unanimously supported installation of a noise limiter.

DECISION

GRANTED subject to the condition that a noise limiter be installed to a level agreed with environmental health officers.

- (c) **Section 56: Application for Occasional Licence.** Consider application for Occasional Licence:

Berwickshire Hunt

Manderston House, Duns
1 Feb 2020 10.30pm - 2.30am
Event - Hunt Ball

Representations received:

Police Scotland - attached.
Licensing Standards Officer - none.
Health - none.
Other - none.

There had been circulated copies of an application for occasional licence. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the application was to hold the Berwickshire Hunt Ball at Manderston House for approximately 260 people on Saturday 1 February 2020. The sale of alcohol consumption would be between 10.30pm to 2.30am. Activities held would be reels, disco, breakfast and casino. A letter submitted by Police Scotland dated 13 November 2020 stated that whilst there was no objection to the event for which the application applied, it was pertinent to be brought to the Board's attention that the terminal hour requested was outwith the Board's Policy which stated that the terminal hour for on-sales should not normally be extended beyond 0100hrs Thursday to Saturday and that applicants who had applied should state how any activity would be carried out on the premises was consistent with the licensing objectives. The Convener welcomed Neil Sanderson representing the applicant. He advised that it would be a private, ticket only event with doormen and security staff on duty at all times and further explained that there would be entertainment with a ceilidh band and disco with breakfast in the early hours. Therefore the sale of alcohol until 2.30am was required. Members considered the application and the Police submission and agreed to grant the application.

DECISION
GRANTED.

(d) Section 38: Review of Premises Licence.

There had been circulated copies of an application for review of premises licences from the Licensing Standards and Enforcement Officer dated 11 December 2019. The application cited a breach of mandatory Condition 10 – non-payment of annual fee, and provided details of unpaid annual fees for 2019/20 as well as detailing premises whose licences had already been suspended for non-payment of the previous year's fees who had also failed to make payment of their 2019/20 fee. Mr Tunnah went on to explain that it was a condition of all premises licence that the annual fee was payable on 1 October 2019. The Board's staff had issued statutory reminders in September 2019 and as a result of the fee not being paid by the due date, Compliance Notices under Section 14 of the Act dated 29 November 2019 had been issued to the licence holders of all the premises. However a number remained outstanding and it was in respect of those premises that an application for a review of premises licences was now requested. There followed a lengthy discussion and in response to Members questions, process for payment of the annual fee was clarified, the steps taken on the Board's behalf by officers to collect payments and the sanctions which the Board could consider were explained. In the circumstances, Members agreed it was necessary to carry out review hearings in respect of the premises licences detailed as follows:

- (i) Plough Inn, Lilliesleaf
The Licensing Standards and Enforcement Officer advised that the premises had ceased trading and was on the market for sale.

DECISION

AGREED that the Premises Licence be suspended with immediate effect until licence fees were paid

- (ii) Scots Pine, Eddleston
The Licensing Standards and Enforcement Officer advised that the fee was still outstanding.

DECISION

AGREED that the Premises Licence be suspended with immediate effect until licence fees were paid

- (iii) Walkerburn Rugby Club
The Licensing Standards and Enforcement Officer advised that the fee was still outstanding and to the best of his knowledge the premises was still operating.

DECISION

AGREED that the Premises Licence be suspended with effect from 10 January 2020 until the licence fees were paid

- (iv) Mandarin Garden Restaurant, Peebles
The Licensing Standards and Enforcement Officer advised that the fee was still outstanding and the premises was still operating.

DECISION

AGREED that the Premises Licence be suspended with immediate effect until the licence fees were paid

- (v) Costcutter, Duns
The Licensing Standards and Enforcement Officer advised that the fee was still outstanding and the premises had ceased trading.

DECISION

AGREED that the Premises Licence be suspended with immediate effect.

- (vi) Costcutter, Eyemouth
The Licensing Standards and Enforcement Officer advised that the fee was still outstanding and the premises had ceased trading.

DECISION

AGREED that the Premises Licence be suspended with immediate effect.

- (vii) Selkirk Football Club
The Licensing Standards and Enforcement Officer advised that the premises licence was already suspended for non-payment of the 2018/19 annual fee and no contact had been made in relation to the 2019/20 annual fee, therefore both are still outstanding and the premises is not operating.

DECISION

AGREED that the Premises Licence be revoked.

- (viii) Cross Keys, Greenlaw
The Licensing Standards and Enforcement Officer advised that the premises licence was already suspended for non-payment of the 2018/19 annual fee and no contact had been made in relation to the 2019/20 annual fee, therefore both are still outstanding and the premises is not operating.

DECISION

AGREED that the Premises Licence be revoked.

- (ix) The Taste of Bengal
The Licensing Standards and Enforcement Officer advised that the premises licence was already suspended for non-payment of the 2018/19 annual fee and no contact had been made in relation to the 2019/20 annual fee, therefore both are still outstanding and the premises is not operating.

DECISION

AGREED that the Premises Licence be revoked.

5. PRIVATE BUSINESS

Before proceeding with the private business, the following motion should be approved:

“That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 14 of Part 1 of Schedule 7A to the aforementioned Act.”

6. LICENSING SCOTLAND ACT 2005: Section 84A: Personal Licences

- (a) In the absence of the licenceholder, the Board continued consideration of a report of conduct inconsistent with licensing objectives received from Police Scotland.
- (b) The Board considered a report of conduct inconsistent with licensing objectives received from Police Scotland and following a hearing endorsed the licenceholder's Personal Licence.

7. MINUTE

The private Minute of Meeting of 20 October 2019 had been circulated.

DECISION

APPROVED.

The meeting concluded at 11:05am