

# SCOTTISH BORDERS COUNCIL LICENSING BOARD

MINUTE of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in the Council Chamber, Council HQ, Newtown St Boswells and via Microsoft Teams on 21 October 2022 at 10.00 am

- Present:- Councillors M. Douglas (Convener), J. Cox (from para 3.5), P. Brown, N. Richards, E. Small, F. Sinclair, T. Weatherston,
- Apologies:- Councillors D. Parker and J. PatonDay.
- In Attendance:- Managing Solicitor (Property and Licensing), Licensing Standards and Enforcement Officers (M. Wynne and J. Scott), Licensing Officer - S. Lackenby, Sergeant R. Stark, Democratic Services Officer (F. Henderson).

## 1.0 MINUTE

There had been circulated copies of the Minute of the Meeting held on 26 August 2022.

### DECISION

**APPROVED the minute for signature by the Convener.**

## 2.0 LICENCES DEALT WITH UNDER DELEGATED POWERS

For Members' information there had been circulated copies of lists of licences dealt with under delegated powers for the period 18 August – 6 October 2022.

### DECISION

**NOTED.**

### ORDER OF BUSINESS

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

### DECLARATION OF INTEREST

Councillor Sinclair 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.

## 3.0 LICENSING (SCOTLAND) ACT 2005:

- 3.1 **Section 20: Application for Premises Licence.** Considered the following application for Grant/Provisional Grant of Premises Licence.

Mark Hailay

Bird Gardens Scotland CIC  
Oxton  
Lauder  
TD2 6 RA  
**Provisional**

Proposed Business Activity – The premises consist of the Visitor Centre for Bird Gardens Scotland and contained a café, toilets operations office and meeting room/classroom. Licenced Hours applied for:

ON SALE

Monday to Sunday 11.00am –12.00midnight

OFF SALE

Sunday to Saturday 10.00am – 10.00pm

Representations received:

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

There had been circulated copies of an application for the grant of a provisional premises licence together with the proposed Operating Plan and Layout Plan. Mr Michael Wynne, Licensing Standards and Enforcement Officer advised that the application referred to the Café/ Shop located on site. The proposal was to sell alcohol on an on sale basis in the café and an off sale basis in the shop. The applicant had been granted occasional licences in the past with no issues. The application was within policy and no objections had been received. Police Scotland had no comments.

The Convener welcomed Mr. Haillay, who joined the meeting in person. Mr Haillay explained that the while the licence was until midnight for on sale and 10 p.m. Off sales this would not be the case and the premises would be closed in the evenings.

**DECISION**

**AGREED TO GRANT.**

3.2 Milne and Pickles Ltd

Milne and Pickles  
53 Northgate  
Peebles  
EH45 8BU  
**Provisional**

Proposed business activity - The premises are a retail terraced ground floor building. Retail properties neighbour on either side and residential flats above. The premises consist of ground floor delicatessen counter, display unit and a limited seating area. The basement consists of a staff toilet and storage area.

Licensed hours applied for:

ON SALE

Sunday to Saturday 11.00am – 10.00pm

OFF SALE

Sunday to Saturday 10.00am – 10.00pm

Representations received:

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

There had been circulated copies of an application for the grant of a provisional premises licence together with the proposed Operating Plan and Layout Plan. Mr Michael Wynne, Licensing Standards and Enforcement Officer advised that the application referred to the



Proposed Business Activity – The premises is a small industrial warehouse and office unit within a larger secure yard. The ground floor area is used for storage space, with offices on the first floor. The ground floor area will be used in part as a despatch /distribution operation associated with the company brewing business, with the other part being used for storage associated with their other business. The proposal being to licence the unit as a despatch point to sell alcohol on an Off Sale basis only.

Licensed Hours applied for:

ON SALE  
N/A

OFF SALE  
Sunday to Saturday 10.00am – 10.00pm

There had been circulated copies of an application for the grant of a provisional premises licence together with the proposed Operating Plan and Layout Plan. Mr Michael Wynne, Licensing Standards and Enforcement Officer advised that the proposal was to sell alcohol on an off sale basis. The application was within policy and no objections had been received. Police Scotland had no comments. In response to a question about restrictions, Mr Wynne confirmed that orders had to be received by 10 p.m.

The Convener welcomed Mr Paul McGreal, who joined the meeting via Microsoft Teams. Mr McGreal explained that the licence was required to dispatch beers via courier from the warehouse at Riverside Industrial Estate, Selkirk.

## **DECISION AGREED TO GRANT.**

### **MEMBER**

Councillor Cox joined the meeting.

### **3.5 Section 29: Application for a Variation of Premises Licence**

Considered the following applications for Variation of Premises Licence:

(i) **C J Lang & Son Limited**

Spar  
Lothian Road  
JEDBURGH  
TD8 6L

Amendments to Operating Plan to include the following:-

- Q.5 – reference Column 4, be amended to read:-

‘The premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio prior to the commencement of core hours. This is background level only. Gaming relates to National Lottery tickets/cards that can be purchased prior to core hours’.

- Q.5(f) any other activities – be amended to read:-

‘The primary activity undertake in the premises is the general retail sale of the following:- groceries; confectionery; bread & cakes; crisps/snacks; non-foods; toiletries; frozen & chilled foods; fruit/vegetables/flowers; news & magazines; toys; tobacco & cigarettes; beers/ wines/spirits and other alcoholic products; non-alcoholic drinks. Charity collection point and charitable events take place. Food to go. Click and collect. Home deliveries. Paypoint

payment. National Lottery outlet. External automated cash machine. Sampling and promotional activities’.

Representations received:

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

(ii) **C J LANG & Son Limited**

Spar  
Marigold Bank  
Galashiels  
TD1

Amendments to Operating and Layout Plans to include the following:-

- Q.5 - the addition to the permitted activities (columns 2, 3 & 4) of the Operating Plan, to include gaming as an activity during and outwith core hours (to cover the use of the National Lottery outlet etc).
- Q.5 – reference Column 4, be amended to read:-  
‘The premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio prior to the commencement of core hours. This is background level only. Gaming relates to National Lottery tickets/cards that can be purchased prior to core hours’.
- Q.5(f) any other activities – be amended to read:-  
‘The primary activity undertaken in the premises is the general retail sale of the following:- groceries; confectionery; bread & cakes; crisps/snacks; non-foods; toiletries; frozen & chilled foods; fruit/vegetables/flowers; news & magazines; toys;tobacco & cigarettes; beers/ wines/spirits and other alcoholic products; non-alcoholic drinks. Charity collection point and charitable events take place. Food to go. Click and collect. Home deliveries. Paypoint payment. National Lottery outlet. External automated cash machine. Sampling and promotional activities’.
- Q.7 – an increase in the alcohol display area from 15.50<sup>m<sup>2</sup></sup> to 21.40<sup>m<sup>2</sup></sup>

Representations received:

Police Scotland – none  
Licensing Standards Enforcement Officer – none  
Health – none.  
Other - none.

There had been circulated copies of applications for the variation of premises licence together with current and proposed Operating Plan and the Members agreed to consider the applications together. Mr Wynne explained that the variations for each premises were detailed above and would bring the operating plans up to date. The variations were within policy and no objections had been received. Police Scotland had no comments.

The Convenor welcomed Lynne Simpson, TLT Solicitors representing the Applicant. Ms Simpson explained that following a business wide review, the display units had changed and therefore the amount of alcohol for sale had increased.

**DECISION  
AGREED TO GRANT.**

### 3.6 Yetholm Community Shop Ltd

Yetholm Community Shop  
High Street  
Town Yetholm  
Kelso

Amendments to Licence, Operating and Layout Plans to include the following:-

- 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
- a change to the internal layout of the premises following the shop refurbishment/refit, including an increase in the alcohol display area to 22.44<sup>m</sup><sup>2</sup>

#### Representations received:

Police Scotland - none

Licensing Standards Officer - none

Health - none

Other - none

There had been circulated copies of an application for the variation of premises licence together with current and proposed Operating Plan. Mr Wynne explained that the application sought to amend the operating hours to allow flexibility and allow for the increase in the alcohol display area following some refurbishment. The variations were within policy and no objections had been received. Police Scotland had no comments.

The Convenor welcomed Mr Thurst, Chairman of Management Committee to the meeting. Mr Thurst explained that the shop had undergone a community buyout and following some renovations to change the layout, the alcohol display area had been increased. Mr Thurst further explained that whilst the hours were to 10 p.m. there was no intention to open the shop until 10 p.m.

#### **DECISION**

**AGREED TO GRANT.**

### 4.0 FESTIVE SEASON EXTENDED HOURS POLICY

- 4.1 There had been circulated copies of a letter which detailed proposed extensions for festive season opening hours. Mr Wynne explained that most licenced premises include seasonal variations in the Operating Plans allowing a closing time up to 1.00am on Christmas Eve, Christmas Day, Boxing Day, New Year's Eve and New Year's Day. The Festive season for 2022-23, Christmas Eve and New Year's Eve were on Saturdays, Christmas Day and New Years' Day being on a Sunday with Boxing Day being on a Monday. In relation to Christmas Eve, New Years' Eve and Boxing Day, as in previous years, it was proposed to allow the premises who do not have this seasonal variation, to apply for an extension to their core hours up to the same terminal hour (1am) on these days and for those applications to be dealt with under delegated powers where no other objections or representations were received. Where applications attract objections or representations, these would be referred to the Board for a decision as required by legislation. In addition, it was proposed that the same policy be applied to events being catered for in unlicensed premises by way of Occasional Licences.

4.2 As in previous years and with regard to consistency, it was proposed that nightclub premises be allowed to apply for extensions to their existing hours on Boxing Day allowing them to trade to their usual core weekend hours. This preserved the normal weekend time differential between specific late night venues and other licensed premises. Any extended hours applications for Boxing Day could be dealt with under delegated powers only where no objections or representations were received. In a case of an application attracting objections or representations, it would be referred to the Board for a decision as required by legislation. Any applications for a terminal hour other than for the days or late times stated above would be referred to the Board for a decision on their own individual merits.

**DECISION**

**AGREED that:-**

- (a) In relation to Boxing Day, premises who do not have the seasonal variation, be allowed to apply for an extension to their core hours up to the same terminal hour (1am) on this day;
- (b) that the same policy be applied to events being catered for in unlicensed premises by way of Occasional Licences;
- (c) Night Club premises be allowed to apply for extensions to their existing hours on Boxing Day allowing them to trade to their usual core weekend hours;
- (d) Authority to grant the above Licence be delegated to Licensing Officers; and
- (e) Any applications for a terminal hour other than for the days or late times stated above would be referred to the Board for a decision on their own individual merits.

**5.0 REVIEW OF STATEMENT OF LICENSING POLICY**

The Clerk sought nominations for a short term Working Group to review the existing Statement of Licensing Policy. He explained it was a statutory requirement for a new Policy to be adopted within 18 months following the appointment of a new Licensing Board, including a three month public consultation period.

**DECISION**

**AGREED that:-**

- (i) a short term Working Group be established to include the following Members:-

**Councillor Marshall  
Councillor Weatherston  
Councillor Brown**

- (ii) Working Group meeting dates will be confirmed at the next meeting

**6.0 CALENDAR OF MEETING DAYS/DATES**

With reference to paragraph 11 of the Scottish Borders Council Minute of 22 September 2022, the Clerk advised that the proposal was to move the meetings of the Licensing Board

and Civic Government Committee meetings to Wednesday instead of Friday. However this would result in one Member being unavailable and a replacement requiring to be trained at a cost of £495. Following discussion, the Members unanimously agreed to continue to meet on Fridays.

#### **DECISION**

##### **AGREED:-**

(a) that the meetings of the Licensing Board and Civic Government Licensing Committee remain a Friday; and

(b) The meetings dates as follows:-

**Friday, 18 November 2022**

**Friday, 16 December 2022**

**Friday, 27 January 2023**

**Friday, 24 February 2023**

**Friday, 31 March 2023**

**Friday, 28 April 2023**

**Friday, 26 May 2023**

**Friday, 23 June 2023**

**Friday, 21 July 2023**

#### **URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision or to keep Members informed.

#### **7.0 MEMBERSHIP OF LICENSING FORUM**

Mr Wynne Licensing Standards and Enforcement Officers reported that it was a legal requirement to maintain a Licensing Forum and until recently Scottish Borders Council had a thriving Licensing Forum. Through COVID the numbers had dwindled for a number of reasons, although still quorate, the Forum was seeking new Members. Despite two media campaigns the recruitment had been unsuccessful. Mr Wynne was therefore seeking assistance from elected members to encourage suitable candidates to apply. It was suggested that advertisement through the Area Partnerships may be beneficial also.

#### **DECISION**

**AGREED that Mr Wynne circulate to Elected Members and Area Partnerships information about the work of the Licensing Forum and becoming a member.**

*The meeting concluded at 10.37 a.m.*