

FALKIRK COUNCIL

MINUTE of MEETING of the LICENSING BOARD held in the COUNCIL CHAMBERS, MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 14 AUGUST 2013 at 9.30 A.M.

PRESENT: Baillie Buchanan; Councillors McLuckie, Nicol, Nimmo and Ritchie.

CONVENER: Councillor M Nicol.

ATTENDING: Clerk; Consumer Protection Manager; Solicitor (P Gilmour); Licensing Co-ordinator (R Watson), and Committee Services Officer (A Fraser).

ALSO

ATTENDING: Licensing Standards Officers (D Frood and T Ross); Environmental Health Officer (A Hillis); Inspector Gibson and PC Kane, Police Scotland.

LB41. ORDER OF BUSINESS

The Convener varied the order of business. The following items have been recorded in the order that they were taken at the meeting.

LB42. APOLOGIES

Apologies for absence were intimated on behalf of Councillors Black, Hughes, McNally and Turner.

LB43. DECLARATIONS OF INTEREST

No declarations were made.

LB44. MINUTES

The minutes of the meetings of the Licensing Board held on 12 June and 19 June were approved.

LB45. Noble Leisure Company Limited, 77-79 High Street, Falkirk

There was submitted report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of the Gambling Act 2005 for the grant of a Bingo Premises Licence.

Having heard from the applicant's agent in support of his client's application and in clarification of questions raised by Members, the Board **AGREED** to **CONTINUE** the application to a future meeting of the Licensing Board to allow an inspection of the premises to be carried out by Licensing Board members.

LB46. Bonnybridge Service Station, 88 Main Street, Bonnybridge

There was submitted Report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of the Licensing (Scotland) Act 2005 for the grant of a new premises licence.

Having heard from the applicant's agent in support of his client's application and in clarification of questions raised by Members, and having had regard to the information contained within the customer poll of persons in the locality using the premises, the Board determined that the premises were not excluded premises standing the terms of s.123(5) of the Act, particularly with regard to the sale of petrol or derv, and accordingly **GRANTED** the application for a new premises licence.

LB47. Lauries Bar, 61 Main Street, Laurieston

There was submitted Report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of the Licensing (Scotland) Act 2005 for the grant of a provisional premises licence.

The Board **NOTED** that one objection and two representations had been received in respect of the variation application. The objector had been invited to attend but had intimated that he was unable to do so but wished his objection to be heard in his absence.

The applicant's agent, Mr Thomson, advised that he had no preliminary matters to raise concerning the validity of the objection and representations. Accordingly, copies of these were circulated to Members.

The applicant and his agent were heard in relation to concerns raised in the objection, to proposals to address specific issues and in clarification of questions raised by Members.

The applicant's agent was then heard in relation to the variation application.

After discussion, the Board **AGREED** to **CONTINUE** the application to a future meeting of the Licensing Board to allow an inspection of the premises to be carried out by Licensing Board members.

LB48. Shop at 1a Central Avenue, Grangemouth

There was submitted Report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of the Licensing (Scotland) Act 2005 for the grant of a provisional premises licence.

Mr Thomson, agent for the applicant, was in attendance with his client, Mr Ali.

The Board **NOTED** that two objections had been received in respect of the application and that the objectors and their agents were in attendance.

A map identifying off-licensed premises within Grangemouth was circulated to members.

Ms Miller, agent for C J Lang, objector, was heard in relation to her client's objection which was on the basis that a further premises licence in this locality would result in an

overprovision of licensed premises. Having regard to the number of other licensed premises or licensed premises of the same or similar description as the applicant premises in the locality in which the application premises are situated, it was her client's submission that, were the application to be granted, the result would be an overprovision of licensed premises, or licensed premises of that description, in the locality.

Mr McIver, agent for Jack Frew, objector, was then heard in support of his client's objection which focused on local knowledge of the area and observations that this area, already being well provided for in off licence premises within close proximity to the application premises, did not require another off sales premise and that an additional licence would result in overprovision in the locality.

Mr Thomson was heard in support of his client's application.

After hearing further from the objectors' agents and the applicant's agent in clarification of questions raised by Members, the Board **agreed** to a short adjournment. The Board adjourned at 11.30 a.m. and reconvened at 11.45 a.m. with all Members present as per the sederunt.

The Convener advised that, after due consideration of the matter before it, the Board were of the opinion that the appropriate locality was Grangemouth as a whole and that they would have regard to all of the licensed premises within that locality.

After hearing further from the applicant's agent on the application and how it was proposed that they would impact on the current premises licence for The Ellwyn, the Board determined that granting the application would not result in overprovision within the locality and accordingly **AGREED** to **GRANT** the application, in principle, for a provisional premises licence, subject to the decision yet to be taken on the following item.

LB49. Ellwyn Bar & Restaurant, 95 Newlands Road, Grangemouth

There was submitted report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of section 29 of the Licensing (Scotland) Act 2005 for the grant of a variation to the premises licence.

The applicant's agent was heard in relation to his client's application, with particular regard to the proposed alterations to the premises and the intention of the applicant to apply for a further non-minor variation to the premises licence to delete the public house element of the licence and to replace it with a restaurant on the first floor and a fish and chip shop on the ground floor. The agent also spoke in clarification of questions raised by Members.

After discussion, the Board **GRANTED** the following variations to the current licence, namely:-

- (1) to remove the part of the ground floor from the existing licence, which area is now subject to a provisional premises licence (See Item LB48, said decision now being purified);
- (2) to amend the trading hours as follows –

On Sales

Sunday to Thursday 1100 hrs to 2400 hrs

Friday and Saturday 1100 hrs to 0100 hrs

Off Sales

Sunday 1100 hrs to 2200 hrs

- (3) that the layout of the premises be altered resulting in a decrease in the size and capacity of the premises;
- (4) to vary the parts of the premises to which children and young persons will be allowed entry, namely
 - children and young persons shall be entitled access to the function rooms and the restaurant and the toilets when accompanied by an adult. Children and young persons do not have access to the public bar

In agreement with the applicant's agent, the Licensing Board **AGREED** to apply the following condition to the current licence:

- the premises will not trade the ground floor bar area until such time as a further non minor variation application for the premises is considered by the Licensing Board.

LB50. Spar, 241 Thornhill Road, Falkirk

With reference to Minute of Meeting of the Licensing Board held on 12 June 2013 (Paragraph LB29 refers), there was submitted Report (circulated) dated 31 July 2013 from the Clerk to the Licensing Board (a) providing details of an application made in terms of section 29 of the Licensing (Scotland) Act 2005 for the grant of a variation to the premises licence; (b) advising that the application was part heard on 12 June 2013 and continued to allow an inspection of the premises to be carried out by Members of the Board, and (c) confirming that Members of the Board had made a site inspection of the premises on 30 July 2013.

The Board **AGREED** to **CONTINUE** the application to a future meeting of the Licensing Board to allow the applicant to be in attendance.

LB51. Carronbridge Inn, 691 Carron Road, Falkirk

There was submitted report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of section 29 of the Licensing (Scotland) Act 2005 for the grant of a variation to the premises licence.

Having heard from the applicant's representative in support of the application and in clarification of questions raised by Members, the Board **GRANTED** the following variations to the current licence, namely:-

- (1) to amend the operating plan to include access for children and young persons as follows:-
 - for the purpose of having a meal or attending a private function and whilst accompanied by an adult

- children 0-15 years of age inclusive and young persons 16 & 17 years of age will be allowed entry
- children and young persons will be allowed entry, as follows –

Monday to Friday
1200 hrs until 2200 hrs

Saturday and Sunday
1000 hrs until 2200 hrs

- children and young persons will be allowed entry to the function room, toilets and beer garden

(2) to change the operating plan to include the following to the list of approved activities:-

- restaurant facilities and bar meals within and outwith core operating hours
- live performances within core operating hours

(3) that the layout of the premises be changed as follows and all as detailed on the revised layout plan submitted with the application –

- liquor store has been converted to a kitchen
- fixed seating has been replaced with tables and chairs in the function room
- the bar is in a new position in the function room
- the position of the ladies and gents toilets have been changed in the function room
- the staff toilet has been converted into a cleaner's cupboard.

LB52. Clachan Bar, 13-15 Main Street, Shieldhill

There was submitted report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of section 29 of the Licensing (Scotland) Act 2005 for the grant of a variation to the premises licence.

Having heard from the applicant's agent in support of his client's application and in clarification of questions raised by Members, the Board **GRANTED** the following variations to the current licence, namely:-

(1) to amend the operating plan to include access for children and young persons as follows:-

- whilst accompanied and supervised by a responsible adult
- young persons aged 16 and 17 years of age will be allowed entry
- young persons will be allowed entry until 2000 hrs

- young persons will be allowed entry to the public bar as shown on the layout plan and to the beer garden
- (2) to amend the on sales trading hours as follows –
- Sunday 1100 hrs to 2400 hrs
- (3) to the addition of an outdoor drinking area which will have a terminal hour of 2200 hrs for the consumption of alcohol
- (4) to the addition of the following on the list of approved activities:
- receptions
 - club or other group meetings
 - outdoor drinking facilities

The Licensing Board **AGREED** to apply the following conditions to the current licence:

- the outdoor drinking area must be separated from the car parking area by way of a fence or other like boundary treatment to ensure the safety of patrons
- no alcohol will be permitted in the outdoor drinking area after 2200 hrs

LB53. Equality Act 2010 – Draft Multi-Equality Strategy 2013

With reference to Minute of Meeting of the Licensing Board held on 15 May 2013 (Paragraph LB22 refers), there was submitted Report (circulated) dated 7 August 2013 from the Consumer Protection Manager (a) advising that the Equality Act 2010 replaces the existing equality legislation and consolidates anti-discrimination laws into a single Act; (b) setting out the range of actions required to be undertaken by public authorities to ensure compliance with the Specific Duties set out by Scottish Ministers, and (c) attaching as an appendix to the report, a copy of the draft Multi Equality Strategy 2013.

AGREED the remedial action as outlined in paragraph 2.2 of the report.

LB54. Nisa Local, 5 Fleming Court, Denny, Falkirk

There was submitted report (circulated) dated 30 July 2013 from the Clerk to the Licensing Board providing details of an application made in terms of section 29 of the Licensing (Scotland) Act 2005 for the grant of a variation to the premises licence.

Having heard from the applicant in support of his application, the Board **GRANTED** the following variations to the current licence, namely:-

- (1) a change to the operating plan to reflect an increase in capacity of 0.85 m³., and
- (2) the addition of recorded music within core operating hours to the list of approved activities.

The Board agreed to an adjournment. The Board adjourned at 12.40 p.m. and reconvened at 1.30 p.m. with all Members present as per the sederunt.

LB55. Premises Licence Review Application - Local Store, 18 Nisbet Drive, Denny

There was submitted Report (circulated) dated 31 July 2013 from the Clerk to the Licensing Board (a) advising that an application had been received from the Chief Constable, Police Scotland to review the premises licence in respect of Local Store, 18 Nisbet Drive, Denny, details of which were circulated as an Appendix to the Report; (b) summarising the review process in terms of section 36 of the Licensing (Scotland) Act 2005; (c) attaching as an Appendix to the Report, the Licensing Standards Officer's report in terms of section 38(4) of the 2005 Act, and (d) attaching as a further Appendix, the previous report by the Clerk which was submitted to the Licensing Board on the previous review application.

Mohammad Choudhry, the premises licence holder, was in attendance and accompanied by an interpreter to assist him in understanding the proceedings.

Inspector Gibson was heard in amplification of the matters set out in the Chief Constable's premises licence review request which focused on an incident whereby it was alleged that a person aged 16 years of age was sold alcohol by the premises licence holder during a Police Scotland Test Purchase Operation.

Questions were then asked by Members of the Board.

There being no further questions to Inspector Gibson, the Board invited Mr Choudhry to make his submission.

Questions were then asked of Mr Choudhry by Members of the Board..

The Licensing Standards Officer was then heard in clarification of questions raised by Members of the Board.

Both parties summed up.

The Board agreed to a short adjournment. The Board adjourned at 2.30 p.m. and reconvened at 2.55 p.m.

After due consideration of the matter before it, and in accordance with section 39 of the Act, the Board **AGREED** that grounds for review in terms of section 36(3)(b) of the Act were established relevant to the licensing objectives of preventing crime and disorder and protecting children from harm.

The Board in terms of section 39(2) accordingly took the following steps which it considered necessary or appropriate for the purposes of the foregoing licensing objectives:-

- (a) it suspended the premises licence for a period of 14 days from Thursday 15 August until Wednesday 28 August 2013 (both dates inclusive);
- (b) it made a further variation to an existing condition attached to the current premises licence, namely:-
 - (i) a CCTV system to a specification approved by the Chief Constable must be fitted and maintained in full working order at all times in accordance with guidance

provided by the Information Commissioner. Any system fitted must be operational at all times the premises are open for business and images must be made available to any Licensing Standards Officer or Police Officer on request for the purposes of the investigation and detection of crime;

Also, in terms of section 84(2) of the Licensing (Scotland) Act 2005, the Board made a finding that Mohammad Choudhry had acted, while working in the licensed premises at the Local Store, 18 Nisbet Drive, Denny, in a manner which was inconsistent with the foregoing licensing objectives.

The Board accordingly instructed the Clerk to arrange a hearing under section 84(3)(a) in relation to Mohammad Choudhry's Personal Licence.

The Board also requested that the Licensing Standards Officer undertakes the following:-

- to make regular visits to the premises
- to ascertain whether or not the premises licence holder has a maintenance agreement in place for the current CCTV system, and
- establishes whether the existing till has a prompt function or could be adjusted/modified to have a prompt facility.