

## FALKIRK COUNCIL

### MINUTE of MEETING of the LICENSING BOARD held in the COUNCIL CHAMBERS, MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 10 OCTOBER 2012 at 9.30 A.M.

**PRESENT:** Councillors Black, Buchanan, D Goldie, Hughes, McNally, Nicol, Nimmo, Ritchie and Turner.

**CONVENER:** Councillor Nicol.

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

#### **ALSO**

**ATTENDING:** Licensing Standards Officer (T Ross); Environmental Health Officer (S Henderson); Chief Inspector G Taylor and PC A Kane, Central Scotland Police.

#### **LB46. APOLOGIES**

An apology for absence was intimated on behalf of Councillor McLuckie.

#### **LB47. DECLARATIONS OF INTEREST**

No declarations were made.

**LB48.** The Convener advised that he intended to vary the order of business. The following items have been recorded in the order that they were taken at the meeting.

#### **LB49. MINUTE**

There was submitted and **APPROVED** Minute of Meeting of the Licensing Board held on 20 September 2012.

#### **LB50. Zetland Bowling Club, Drummond Place, Grangemouth**

There was submitted Report (circulated) dated 28 September 2012 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.

After discussion, and having heard from the applicant in support of his application, the Board **GRANTED** the following variations to the current licence:

- (1) the removal of the seasonal variation which refers to the different on-sales trading hours operated in winter and summer months;
- (2) the on-sales trading hours of the premises be varied to:

Sunday to Thursday                      1100 hrs to 2330 hrs

Friday and Saturday                      1100 hrs to 2400 hrs

(3) to vary the access arrangements and times for children and young persons as follows:

- children and young persons must be a junior/juvenile member of the club or a guest of a club member; must be supervised at all times by an adult member or a parent/guardian, and must comply with Club rules at all times;
- access during normal opening hours for children aged 0-12 years until 2100 hrs; children aged 13-15 years until 2200 hrs, and young persons aged 16 & 17 years until the terminal hour, and
- access during members' functions for children aged 0-5 years until 2100 hrs, and children aged 6-17 years until the terminal hour.

Councillor McNally entered the meeting during consideration of the foregoing item of business.

**LB51. Nisa Local, 5 Fleming Court, Denny, Falkirk**

There was submitted Report (circulated) dated 6 September 2012 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.

After discussion, and having heard from the applicant in support of his application, the Board **APPROVED** (1) a variation to the layout plan showing an increase in the size of the existing display area, and (2) a variation to the operating plan to reflect an increased capacity of 1.48 m<sup>3</sup>.

**LB52. Ali's Store, 5a Roughlands Drive, Carronshore**

There was submitted Report (circulated) dated 6 September 2012 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.

After discussion, and 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** the following variations to the current licence:

(1) to amend the current off-sales trading hours of the premises on Sundays to:

1000 hrs to 2200 hrs

(2) a change to the layout plan showing a decrease in the size of the existing display area, and

(3) a change to the operating plan to reflect a decrease in capacity of -1.08 m<sup>3</sup>.

**LB53. The Orchard Hotel, 2 Kerse Lane, Falkirk**

There was submitted Report (circulated) dated 28 September 2012 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.

Mr MacIver, agent for the applicant, was in attendance with his clients, Mr Crawford and Ms Lynch.

The Board **NOTED** that seven objections had been received in respect of the variation application and that a number of objectors were in attendance.

The Consumer Protection Manager advised that, given the number of objections lodged, authority had been sought, and consent given by Mr MacIver for these to be circulated to Members prior to the Board meeting.

Mr Pattenden, objector, was heard in support of his objection.

Mr Beattie, objector was then heard in support of his objection and in clarification of questions raised by Members.

The Board agreed to a short adjournment. The Board adjourned at 10.15 a.m. and reconvened at 10.40 a.m. with all Members present as per the sederunt.

Mr Beattie was heard further in relation to his objections and to complaints made by him to the Council's Environmental Health section.

Mr Henderson, Environmental Health Officer was heard in relation to the noise complaints, the visits carried out to the premises and the actions taken to address specific issues. He was also heard in clarification of questions raised by Members.

Mr Lumsden, objector, was then heard in support of his objection making reference to video footage which he had recorded and which he claimed substantiated his objection in relation to noise nuisance.

After discussion, the Board **AGREED** to **CONTINUE** the application to a future meeting of the Licensing Board to (1) allow an inspection of the premises to be carried out by Licensing Board Members, and (2) allow Members and the applicant's agent an opportunity to view the video footage to which Mr Lumsden referred.

Councillor Goldie left the meeting after consideration of the foregoing item of business.

**LB54. Amodo Mio, 104 Manor Street, Falkirk**

There was submitted Report (circulated) dated 6 September 2012 from the Clerk to the Licensing Board providing details of an application made in terms of section 23 of the Licensing (Scotland) Act 2005 for the grant of a provisional premises licence.

Having heard from the applicant's agent in support of her client's application, and in clarification of questions raised by Members, the Board **GRANTED** the application for a provisional premises licence.

**LB55. The Cotton House, 209 Glasgow Road, Longcroft, Falkirk**

There was submitted Report (circulated) dated 6 September 2012 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 her client's application, and in clarification of questions raised by Members, the Board **GRANTED** the following variations to the current licence:

- (1) a terminal hour for children and young persons of 2300 hrs
- (2) a change to the layout of the premises to accommodate new alcove seating and other minor layout changes as detailed on the proposed layout plan, and
- (3) the addition of recorded music to the list of approved activities.

The Board agreed to a short adjournment. The Board adjourned at 11.20 a.m. and reconvened at 11.40 a.m. with all Members present as per the sederunt, with the exception of Councillors Hughes and Ritchie.

**LB56. Premises Licence Review Application - Barrie Food Store, 40c Hawthorn Street, Grangemouth**

There was submitted Report (circulated) dated 28 September 2012 from the Clerk to the Licensing Board (a) summarising the review process in terms of section 36 of the Licensing (Scotland) Act 2005; (b) advising that an application had been received from the Chief Constable, Central Scotland Police to review the premises licence in respect of Barrie Food Store, 40c Hawthorn Street, Grangemouth, details of which were circulated as an Appendix to the Report; and (c) attaching as a further appendix to the Report, the Licensing Standards Officer's report in terms of section 38(4) of the 2005 Act.

Shagufta Bano, the premises licence holder and Shaa'ista Bano, personal licence holder were in attendance.

Chief Inspector Taylor 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 an unchallenged sale of alcohol was made to a 15 year old male by an employee of the premises.

Questions were then asked by Members of the Board.

There being no further questions to Chief Inspector Taylor, the Board invited Ms Bano to make her submission.

Questions were then asked of Ms Bano by Members of the Board and by Chief Inspector Taylor.

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 12.55 p.m. and reconvened at 1.15 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, protecting children from harm and securing public safety.

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 28 days from Thursday 1 November until Wednesday 28 November 2012 (both dates inclusive);
- (b) it made a variation of the premises licence by attaching thereto the following conditions:-
  - (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;
  - (ii) all sales of alcohol must be entered through a till with a facility to print itemised sales. Any such till must have a date and time facility and must be maintained in proper working order at all times. A print-out of relevant sales must be provided to a Police Officer or a Licensing Standards Officer on request at any reasonable time, and
  - (iii) a refusal book should be kept in a convenient location and be used by all staff, with entries accurately recorded and checked and signed by the licensee/ manager at regular intervals. This refusal register should be made available to the Police or a Licensing Standards Officer for inspection at any reasonable time.

Also, in terms of section 84(2) of the Licensing (Scotland) Act 2005, the Board made a finding that both Shagufta Bano and Shaa'ista Bano had acted, while working in the licensed premises at Barrie Food Store, 40C Hawthorn Street, Grangemouth, in a manner which was inconsistent with the foregoing licensing objectives.

The Board accordingly instructed the Clerk to arrange hearings under section 84(3)(a) in relation to Shagufta Bano's and Shaa'ista Bano's Personal Licences.