

**FALKIRK COUNCIL**

**MINUTE of MEETING of the LICENSING BOARD held in the COUNCIL CHAMBERS, MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 12 DECEMBER 2012 at 9.30 A.M.**

**PRESENT:** Councillors Black, Buchanan, Hughes, 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 Officers (D Frood and T Ross); Chief Inspector G Taylor; Inspector D Gibson, and PC A Kane, Central Scotland Police.

**LB69. APOLOGIES**

Apologies for absence were intimated on behalf of Councillors McLuckie and McNally.

**LB70. DECLARATIONS OF INTEREST**

No declarations were made.

**LB71. MINUTE**

There was submitted and **APPROVED** Minute of Meeting of the Licensing Board held on 14 November 2012.

**LB72. DATES OF LICENSING BOARD MEETINGS: JANUARY TO DECEMBER 2013**

There was submitted Report (circulated) dated 3 October 2012 from the Clerk to the Licensing Board detailing the proposed Licensing Board dates from January to December 2013.

The Board **APPROVED** the dates for meetings of the Licensing Board from January to December 2013.

**LB73. APPLICATIONS FOR EXTENDED HOURS**

There was submitted Report (circulated) dated 3 December 2012 from the Clerk to the Licensing Board detailing in Appendix 1 to the Report, applications for extended hours submitted in terms of section 68 of the Licensing (Scotland) Act 2005.

After discussion, the Board **GRANTED** the extended hours for each application detailed in the Appendix to the Report, subject to (i) the inclusion of an application lodged by Casa Espanola, and (ii) the withdrawal of the application submitted by Lodge Callendar No.588.

**LB74. S & N GROCERS, 18 HOLYROOD PLACE, STENHOUSEMUIR**

With reference to Minute of Meeting of the Licensing Board held on 14 November 2012 (paragraph LB65 refers), there was submitted Report (circulated) dated 15 November 2012 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, and (b) advising that at the meeting of the Board on 14 November, the application was continued, without commencing consideration, as the applicant had failed to appear or be represented.

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

- (1) the trading hours of the premises be varied to:-  

Friday and Saturday	1000 hrs to 2200 hrs
Sunday	1000 hrs to 2100 hrs
- (2) to increase the size of the alcohol display area from 5.9 m<sup>3</sup> to 6.46 m<sup>3</sup>;
- (3) to the addition of recorded music within core hours to the list of approved activities, and
- (4) to change the name of the premises to Day to Day.

**LB75. AVONGRANGE HOTEL, KERSIEBANK AVENUE, GRANGEMOUTH**

There was submitted Report (circulated) dated 28 November 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 his client's application and in clarification of questions raised by Members, the Board **GRANTED** the following variations to the current licence, namely to:-

- (1) change the cocktail bar into a children's play area;
- (2) reposition the bar servery in the former restaurant area which is now a café;
- (3) permit children and young persons' access to the play area, and
- (4) the removal of all reference to the cocktail bar/lounge from the licence.

**LB76. CITY, PRINCES STREET, FALKIRK**

There was submitted Report (circulated) dated 14 November 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 and in clarification of questions raised by Members, the Board **GRANTED** the following variations to the current licence, namely:-

- (1) that the on sales trading hours on Sundays be varied to:  
  
1100 hrs to 0200 hrs
- (2) to the addition of the following activities to the list of approved activities:
  - inflatables
  - simulators (sit on/ride on e.g. “bucking bronco” or things of that nature)
  - hot tub
  - cheeky butlers
- (3) to the change of address for one of the Company Directors.

The Board also **AGREED** to attach the following conditions to the current licence:-

- that male and female stewards require to be in attendance at all times when a hot tub is in operation within the premises
- cheeky butlers will be appropriately attired
- no children or young person will be permitted access when activities listed at (2) above are in operation

The Board **NOTED** that any reference to the inclusion of adult entertainment within core hours would be deleted from the operating plan.

Given the Board’s concern to ensure that the hot tub activity was appropriately monitored and managed, the applicant gave an undertaking to invite the Licensing Board members to visit the premises when a hot tub was in operation.

The Board agreed to a short adjournment. The Board adjourned at 10.30 a.m. and reconvened at 10.40 a.m. with all Members present as per the sederunt.

**LB77. DENNY BOWLING CLUB, STIRLING STREET, DENNY**

There was submitted Report (circulated) dated 15 November 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 hearing from the applicant in support of his application, and in clarification of questions raised by Members, the Board **GRANTED** the following variation to the current licence, namely:-

- (1) that the on sales trading hours during 1 November to 31 March each year be varied to include:

Wednesday and Thursday 1900 hrs to 2300 hrs

**LB78. THE SCOTTS, WOOD STREET, GRANGEMOUTH**

There was submitted Report (circulated) dated 28 November 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 in support of her application and in clarification of questions raised by Members, the Board **GRANTED** the following variations to the current licence, namely:-

- (1) to change the layout plan to show the change of use of the lounge bar to a lounge, and
- (2) to vary the access times and arrangements for children and young persons to include access to the lounge area as follows:
  - children and young persons will be allowed entry when taking a meal or when attending a function whilst accompanied by an adult
  - children and young persons under 18 years of age will be allowed entry
  - children and young persons permitted entry until 2200 hrs when taking a meal and until the terminal hour when attending a function
  - children and young persons will be allowed entry to the bistro, function room, lounge, toilets and all routes of access thereto and egress therefrom

**LB79. VICTORIA INN, 60 NORTH MAIN STREET, CARRONSHORE**

There was submitted Report (circulated) dated 27 November 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 **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.

**LB80. REFINERY CONNECT, 176 BO'NESS ROAD, GRANGEMOUTH**

With reference to Minute of Meeting of the Licensing Board held on 14 November 2012 (paragraph LB61 refers), there was submitted Report (circulated) dated 27 November 2012 from the Clerk to the Licensing Board (a) providing details of an application for the grant of a new premises licence, and (b) advising that at the meeting of the Licensing Board on 14 November, the application was continued without commencing consideration, at the request of the agent.

Having heard from the applicant's agent in support of her client's application and in clarification of questions raised by Members, and having had regard to the information contained within the survey of persons in the locality using the premises, the Board determined that the premises were not excluded premises standing the terms of s.124(5) of the Act and accordingly **GRANTED** the application for a new premises licence.

**LB81. HEARINGS ON PERSONAL LICENCE NO. FC1160 – SHAGUFTA BANO AND PERSONAL LICENCE NO. FC1223 – SHAA'ISTA BANO**

Prior to consideration of the hearings on personal licences for Shagufta Bano and Shaa'ista Bano, the appellants' agent, Mrs Hamilton agreed to the suggestion made by the Convener that the hearings be conjoined.

There were submitted Reports (circulated) dated 27 November 2012 by the Clerk to the Licensing Board (a) referring to the Review Hearing of the premises licence for Barrie Food Store, 40c Hawthorn Street, Grangemouth held on 10 October 2012; (b) detailing the Board's finding in terms of section 84(2) of the Licensing (Scotland) Act 2005 that the personal licence holders, Shagufta Bano and Shaa'ista Banno, while working on the premises at Barrie Food Store, 40c Hawthorn Street, Grangemouth, had acted in a manner which was inconsistent with the licensing objectives of preventing crime and disorder, securing public safety and protecting children from harm, and (c) advising that in terms of section 84(3)(a) of the 2005 Act, the Board must now hold a Hearing on Shagufta Bano's and Shaa'ista Bano's personal licence.

Shagufta Bano and Shaa'ista Bano, personal licence holders, were in attendance and accompanied by their agent, Mrs Hamilton.

The Board heard from Mrs Hamilton in support of her clients and in relation to the preventative measures which her clients had put in place since the incident which had resulted in the premises licence review hearing.

Questions were then asked by Members of the Board.

After due consideration of the matter before it, and in accordance with section 84(6) of the Act, the Board **AGREED** that it was satisfied that it was necessary for the purposes of the licensing objectives of preventing crime and disorder, securing public safety and protecting children from harm to make Orders in terms of s.84(7) of the Licensing (Scotland) Act 2005 **ENDORISING** Shagufta Bano's personal licence FC1160 and Shaa'ista Bano's personal licence FC1223 issued by Falkirk Council's Licensing Board.

The Board agreed to a short adjournment. The Board adjourned at 11.30 a.m. and reconvened at 11.50 a.m. with all Members present as per the sederunt with the exception of Councillor Ritchie.

**LB82. PREMISES LICENCE REVIEW APPLICATION: ELPHINSTONE INN, THE CROSS, HIGH STREET, AIRTH**

There was submitted Report (circulated) dated 28 November 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 the Elphinstone Inn, The Cross, High Street, Airth, 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.

Douglas Hannigan, a Director of Hannigan Hotels Ltd, the company who currently hold the premises licence; Forbes Dewar, lease holder of the premises and the holder of a personal licence; and Sharon Burden, designated premises manager and the holder of a personal licence, were all in attendance.

Chief Inspector Taylor was heard in amplification of the matters set out in the Chief Constable's licence review request which focused on an alleged serious incident which had taken place on the premises. The review request outlined the incident and highlighted the alleged failure of the designated premises manager to report it to Central Scotland Police which, in the view of the Chief Constable, led to an escalation into a more serious incident.

Questions were then asked by Members of the Board.

There being no further questions to Chief Inspector Taylor, the Board invited Mr Hannigan, Mr Dewar and Mrs Burden to make their submissions.

The Board agreed to adjourn for lunch. The Board adjourned at 12.30 p.m. and reconvened at 1.25 p.m. with all Members present as per the sederunt with the exception of Councillor Ritchie.

Mr Hannigan, Mr Dewar and Mrs Burden were heard in clarification of questions raised by Members of the Board.

Chief Inspector Taylor summed up.

The Board agreed to a short adjournment to consider the submissions before them. The Board adjourned at 2.15 p.m. and reconvened at 2.30 p.m. with all Members present as per the sederunt with the exception of Councillor Ritchie.

The Convener advised that the Board were minded to continue the review hearing to a future date in order to give Mr Dewar an opportunity to obtain legal advice as he had not been formally cited to appear as a personal licence holder and therefore had not had notice of the potential for a section 84 finding being made against him. Mr Dewar declined the offer and confirmed that he wished the matter to proceed.

After further clarification of questions raised by Members, the Board agreed to a further short adjournment.

The Board adjourned at 3.00 p.m. and reconvened at 3.10 p.m. with all Members present as per the sederunt with the exception of Councillor Ritchie.

After due consideration of the matter before it, and in accordance with s.39 of the 2005 Act, the Board **AGREED** that grounds for review in terms of s.36(3)(b) of the 2005 Act were established relevant to the licensing objectives of preventing crime and disorder and securing public safety. While acknowledging the seriousness of events after the incident in the premises, the Board nevertheless noted the actions of the designated premises manager in disarming the customer within the premises and addressing the disorder therein. The Board also noted that there had been no direct contact between the police and either the premises licence holder or the leaseholder after the event. Further, the Board noted the undertakings from both persons to ensure that tighter procedures would be implemented in the premises whereby incidents of disorder would be brought to the attention of the police.

The Board in terms of s.39(2) of the 2005 Act accordingly took the following step which it considered necessary or appropriate for the purpose of the foregoing licensing objectives:-

- (a) to issue a written warning to the premises licence holder.

Also, in terms of s.84(2) of the Licensing (Scotland) Act 2005, the Board made a finding that both Forbes Dewar and Sharon Burden had acted, while working in the licensed premises at the Elphinstone Inn, The Cross, High Street, Airth, in a manner which was inconsistent with the foregoing licensing objectives.

Forbes Dewar and Sharon Burden both waived their right to notice and to the opportunity to seek legal advice prior to the Board holding hearings under s.84(3)(a) of the 2005 Act and requested that the hearings take place immediately.

After hearing from the Clerk on the validity of the request, the Board **AGREED** to hearings under s.84(3) of the 2005 Act taking place.

After due consideration of the matter before it, and in accordance with s.84(6) of the Act, the Board **AGREED** that it was satisfied that it was necessary for the purposes of the licensing objectives of preventing crime and disorder and securing public safety to make Orders in terms of s.84(7) of the Licensing (Scotland) Act 2005 **ENDORISING** Forbes Dewar's personal licence FC0151 and Sharon Burden's personal licence FC0128 issued by Falkirk Council's Licensing Board.