

FALKIRK COUNCIL

**Minute of Meeting of the Licensing Board held in the Council Chambers,
Municipal Buildings, Falkirk on Tuesday 11 June 2019 at 9.30 a.m.**

COUNCILLORS:

David Balfour
Lorna Binnie
Robert Bissett
Allyson Black
Niall Coleman

OFFICERS:

Alison Barr, Consumer Protection Manager
Arlene Fraser, Committee Services Officer
Colin Moodie, Chief Governance Officer (Clerk)

ALSO ATTENDING:

Lindsay Fyfe, Licensing Standards Officer (LSO)
Thomas Ross, Licensing Standards Officer (LSO)
Sergeant C Mackenzie, Police Scotland

LB1. Apologies

Apologies were intimated on behalf of Provost Buchanan; Depute Provost Ritchie and Councillor Patrick.

LB2. Declarations of Interest

There were no declarations of interest.

LB3. Minute

The minute of meeting of the Licensing Board held on 20 March 2019 was approved.

LB4. Election of Convener

Prior to consideration of this item, Councillor Black advised of her resignation as Depute Convener of Falkirk Licensing Board.

The Clerk sought nominations for the position of Convener.

Councillor Balfour nominated Councillor Coleman.

There being no further nominations, Councillor Coleman was duly appointed Convener of Falkirk Licensing Board.

Councillor Coleman then assumed the Chair and sought nominations for the position of Depute Convener.

Councillor Black nominated Councillor Bissett.

There being no further nominations, Councillor Bissett was duly appointed Depute Convener of the Falkirk Licensing Board.

**LB5. Application for the Grant of a Premises Licence
Earlsgate Distribution Centre, Westmains Industrial Estate, Grangemouth**

The Board considered a report by the Clerk of 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 premises licence.

The Board heard from the applicant's representative in respect of the application and in clarification of questions raised by members.

Decision

The Board granted the premises licence.

**LB6. Application for the Grant of Temporary Premises Licence
Scotmid, 66 Linlithgow Road, Bo'ness**

The Board considered a report by the Clerk of the Licensing Board providing details of an application made in terms of section 47 of the Licensing (Scotland) Act 2005 for the grant of a temporary premises licence.

The Board heard from the applicant's agent in respect of the application and in clarification of questions raised by members.

Decision

The Board granted the temporary premises licence.

**LB7. Application for Non Minor Variation to a Premises Licence
The Temple (formerly Warehouse), Burnbank Road, Bainsford**

The Board considered a report by the Clerk of the Licensing Board providing details of an application made in terms of section 30 of the Licensing (Scotland) Act 2005 for variation to a premises licence namely The Temple (formerly Warehouse), Burnbank Road, Bainsford. The application had been continued from the meeting on 20 March, to allow the applicant to make changes to the premises, and thereafter, a further site visit by members.

At the meeting on 20 March, the Board had considered the representation which had been received from the Chief Constable, Police Scotland in respect of the application. A further copy of the letter was circulated to members.

The applicant's agent was heard in relation to the changes undertaken at the premises since the meeting of the Board on 20 March.

The applicant's agent was further heard in respect of the application and in clarification of questions raised by members.

The Board agreed to a short adjournment. The Board adjourned at 10.45 a.m. and reconvened at 10.55 a.m. with all members present as per the sederunt.

Decision

The Board granted the following variations to the current licence, namely to:-

- (1) to the addition of gaming to the list of approved activities within core operating hours;**
- (2) to the addition of the following to the list of approved activities outwith core operating hours:**
 - bar meals
 - club or other group meetings, etc
 - theatre
 - films
 - indoor/outdoor sports
 - televised sports
- (3) to the addition of the following to the list of other approved activities:**
 - the premises will be used as a multifunctional space, particularly in the day time. It will be available for hire and use by various community and other groups for activities including but not restricted to, exercise classes, community events, children's entertainment, fayres, Big Fish Little Events (children's raves) and events run by similar external companies and targeted at families, etc. A hot food stand may be located in the venue at various times.
- (4) to the addition of children and young persons access to the premises as follows:**
 - children and young persons will be allowed on the premises when accompanied by an adult;
 - children aged 0-15 years and young persons aged 16 & 17 years will be allowed access;
 - children under 14 years will have access for private functions and family or children orientated events until 2300 hrs provided they are accompanied by an adult;
 - children 14 years and above and young persons will have access for private functions, family or children orientated events until

2300 hrs provided they are accompanied by an adult and for a gig until 2300 hrs provided they are accompanied by an adult;

- **private functions; family or children orientated events attended by children and/or young persons will be terminated prior to the premises opening as a nightclub;**
- **children and young persons will have access to all public parts of the premises**

(5) to amend the layout plan to show the following changes:

- **where children and young persons have access**
- **location of hot food stall which may vary, and**
- **removal of cash desk at entrance to premises**

The Board agreed to attach the following conditions to the current licence, namely:-

- (1) that no alcohol will be sold at events which are aimed at children e.g. Big Fish Little Fish, or children's entertainment, and**
- (2) that all reasonable steps will be taken to avoid any obvious promotion of alcohol during these events.**

LB8. Application for Non Minor Variation to a Premises Licence

The Board considered a report by the Clerk of the Licensing Board providing details of an application made in terms of section 30 of the Licensing (Scotland) Act 2005 for the non variation to a premises licence, namely (1) Sandher Off Licence, 69 Duke Street, Denny, (2) Iceland, Unit C5/C6, Callendar Square, Falkirk, (3) Iceland, 1 York Square, Grangemouth and (4) Iceland, 2 Cruickshank Court, Glasgow Road, Denny.

Sandher Off Licence, 69 Duke Street, Denny

The Board heard from the applicant in respect of the application and in clarification of questions raised by members.

Decision

The Board granted the following variations to the current licence, namely to:-

- (1) increase the approved operating hours as follows:**
 - **Monday to Sunday 10 am until 10 pm**
- (2) the addition of recorded music within and outwith core operating hours to the list of approved activities;**
- (3) amend the layout plan to show the increased alcohol display area;**

- (4) amend the operating plan to reflect the increase in capacity from 4.8m³ to 8.258 m³, and**
- (5) change the name of the premises from Sandher Off Licence to Mohammad Ali Licensed Grocer.**

Iceland, Unit C5/C6, Callendar Square, Falkirk

The Board heard from the applicant's agent in respect of the application and in clarification of questions raised by members.

Decision

The Board granted the following variations to the current licence, namely to:-

- (1) the addition of recorded music to the list of approved activities within and outwith core operating hours;**
- (2) the addition of the following to further details with regard to approved activities outwith operating hours:**

"Sale of groceries, including fresh and frozen foods and other non food items to be provided both within and outwith the core licensing hours, but not before 7 am or after 11 pm. Activities outwith core hours may occur as ancillary."

- (3) amend the wording for question 5(f) - any other activities - with the following:**

"The sale of alcohol by retail for consumption off the premises is ancillary to the sale of groceries and other non food items. The above shall include deliveries made using our home delivery and ecommerce services, subject to compliance with sections 119 and 120 of the Licensing (Scotland) Act 2005. The premises will also, on occasion, be used to launch new products, have product sampling and food tasting events and host friends and friendly membership evenings."

Iceland, 1 York Square, Grangemouth

The Board heard from the applicant's agent in respect of the application and in clarification of questions raised by members.

Decision

The Board granted the following variations to the current licence, namely to:-

- (1) the addition of recorded music to the list of approved activities within and outwith core operating hours;**
- (2) the addition of the following to further details with regard to approved activities outwith operating hours:**

“Sale of groceries, including fresh and frozen foods and other non food items to be provided both within and outwith the core licensing hours, but not before 7 am or after 11 pm. Activities outwith core hours may occur as ancillary.”

- (3) amend the wording for question 5(f) - any other activities - with the following:**

“The sale of alcohol by retail for consumption off the premises is ancillary to the sale of groceries and other non food items. The above shall include deliveries made using our home delivery and ecommerce services, subject to compliance with sections 119 and 120 of the Licensing (Scotland) Act 2005. The premises will also, on occasion, be used to launch new products, have product sampling and food tasting events and host friends and friendly membership evenings.”

Iceland, 2 Cruickshank Court, Glasgow Road, Denny

The Board heard from the applicant's agent in respect of the application and in clarification of questions raised by members.

Decision

The Board granted the following variations to the current licence, namely to:-

- (1) increase the approved operating hours as follows:**

Monday to Sunday 10 am to 10 pm

- (2) the addition of recorded music to the list of approved activities within and outwith core operating hours;**
- (3) the addition of the following to further details with regard to approved activities outwith operating hours:**

“Sale of groceries, including fresh and frozen foods and other non-food items to be provided both within and outwith the core licensing hours, but not before 7 am or after 11 pm. Activities outwith core hours may occur as ancillary.”

- (4) amend the wording for question 5(f) - any other activities - with the following:**

“The sale of alcohol by retail for consumption off the premises is ancillary to the sale of groceries and other non-food items. The above shall include deliveries made using our home delivery and ecommerce services, subject to compliance with sections 119 and 120 of the Licensing (Scotland) Act 2005. The premises will also, on occasion, be used to launch new products, have product sampling and food tasting events and host friends and friendly membership evenings.”

LB9. Premises Licence Review - The Star Inn, 150 Grahams Road, Falkirk

The Board considered a report by the Clerk of the Licensing Board (a) advising that an application had been received from a member of the public to review the premises licence in respect The Star Inn, 150 Grahams Road, Falkirk 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, and (c) attaching as an appendix to the report, the Licensing Standards Officer's report in terms of section 38(4) of the 2005 Act.

The Convener advised that a request had been received to continue the matter to a future of the Licensing Board to allow the complainant an opportunity to be in attendance.

Decision

The Board agreed to continue the matter to a future meeting of the Licensing Board.

The Board agreed to a short adjournment. The Board adjourned at 11.20 am and reconvened at 11.40 am with all members present as per the sederunt.

**LB10. Premises Licence Review Application - Costcutter, 1a Central Avenue, Grangemouth
Personal Licence Report of Conduct Inconsistent with Licensing Objectives**

The Board considered a report by the Clerk of the Licensing Board (a) advising that an application had been received from the Chief Constable, Police Scotland to review the premises licence in respect Costcutter, 1a Central Avenue, Grangemouth 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) advising that a report of conduct inconsistent with licensing objectives in relation to a personal licence holder, had also been received from the Chief Constable, Police Scotland.

Amran Ali, premises licence holder and personal licence holder, was in attendance and was accompanied by his agent, Andrew Thomson.

Sergeant Mackenzie was heard in amplification of the matters set out in the Chief Constable's premises licence review request.

There were no questions to Sergeant Mackenzie from Mr Thomson.

A question was asked by a member of the Board to Sergeant Mackenzie.

The Licensing Standards Officer was then heard in relation to her report.

The Board invited Mr Thomson to respond to the concerns raised in the premises licence review and to make his submission on behalf of his client.

There were no questions to Mr Thomson from Sergeant Mackenzie.

Questions were asked by members of the Board to Mr Thomson.

Both parties were invited summed up.

The Board agreed to a short adjournment. The Board adjourned at 12.15 p.m. and reconvened at 12.30 p.m. with all members present as per the sederunt.

Decision

The Board agreed:-

- (1) 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; preventing public nuisance, and protecting and improving public health;**
- (2) in terms of section 39(2) to take the following action which it considered necessary or appropriate for the purposes of the foregoing licensing objectives, namely:-**

to suspend the premises licence for a period of 12 weeks which suspension would commence on 12 June 2019

Mr Thomson was then heard in response to the concerns raised in the report of conduct inconsistent with licensing objectives relating to his client's personal licence.

The Board agreed to an adjournment at 12.35 p.m. and reconvened at 12.50 p.m. with all members present as per the sederunt.

Decision

The Board agreed that it was satisfied that it was necessary, for the purposes of the licensing objectives, to make an Order in terms of s.84(7) of the Licensing (Scotland) Act 2005 endorsing personal licence No.FC0411 issued by Falkirk Licensing Board.

LB11. Personal Licence – Notification of Conviction

The Board considered a report by the Clerk of the Licensing Board providing details of a notification of conviction in relation to a personal licence holder.

Sergeant Mackenzie was heard in relation to the matters set out in the Chief Constable's Notification of Conviction.

Decision

In terms of s.83(5)(a) & (b) of the Licensing (Scotland) Act 2005, the Board were satisfied that it was necessary, for the purposes of the licensing objectives of preventing crime and disorder and securing public safety, to revoke personal licence No. FC1773.

LB12. Statement of Licensing Policy – Festive Trading General Extension of Hours Dates

The Board considered a report by the Consumer Protection Manager updating members of the proposed dates for general extension of hours over the Festive Period 2019/20 and to seek their approval in accordance with the Licensing Board's Statement of Licensing Policy on Festive Trading.

Decision

The Board agreed the dates for general extension of hours over the Festive Period 2019/20 in accordance with the Licensing Board's Statement of Licensing Policy – Festive Policy.

LB13. The Licensing (Fees) (Scotland) Regulations 2007 Premises Licences – Annual Fees Statutory Annual Income and Expenditure Report 2018/19

The Board considered a report by the Consumer Protection Manager providing details of the income and expenditure of the Board for 2018/19, and proposing the annual fee levels for premises licences, which were set out in appendix 1. Approval was also sought of the proposed Statutory Annual Income and Expenditure report 2018/19, which was set out in appendix 2. Details of a draft response to the Scottish Government's consultation on occasional licences was provided in appendix 3.

Decision

The Board:-

- (1) noted the report;**
- (2) agreed that officers prepare a report for the first available meeting after the 1 October 2019 listing the premises licence holders that had failed to pay the annual fee prior to the statutory deadline;**

- (1) agreed to adopt the Premises Licences Annual Fee levels for 1 October 2019 as detailed in Appendix 1 to the report;**
- (2) approved the Statutory Annual Income and Expenditure Report 2018/19 proposed in Appendix 2 to the report; and**
- (3) approved the draft response to the Scottish Government's consultation on occasional licences as proposed in Appendix 3 to the report.**

LB14. Statutory Functions Report 2018/19

The Board considered a report by the Consumer Protection Manager seeking approval of the Statutory Annual Functions Report 2018/19.

The report outlined the requirement for Licensing Boards to prepare and publish an annual functions report by no later than 3 months after the end of the financial year.

The following information must be included in the functions report:-

- details of how, in the exercise of their functions under the Act during the financial year, the Board has had regard to the licensing objectives and their licensing policy statement, including any supplementary policy statement and the Board's overprovision statement, and
- a summary of decisions made by or on behalf of the Board during the financial year and stating the number of licences held under the Act in the Board's area, including the number of occasional licences issued during the year.

The Board's information was set out in Appendix 1 attached to the report.

Decision

The Board:-

- (1) noted the contents of the report, and**
- (2) approved the Statutory Functions report 2018/19.**