

FALKIRK COUNCIL

MINUTE of MEETING of the LICENSING BOARD held in the COUNCIL CHAMBERS, MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 15 AUGUST 2012 at 9.30 A.M.

PRESENT: Councillors Black, Hughes, McLuckie, Nicol and Nimmo.

CONVENER: Councillor Nicol.

APOLOGIES: Councillors Buchanan, D Goldie, McNally, Ritchie and Turner.

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

ALSO

ATTENDING: Licensing Standards Officer (D Froom); Superintendent G Lawrie and Sergeant P Rollo, Central Scotland Police.

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

1. DECLARATIONS OF INTERESTS

No declarations were made.

2. MINUTES

There were submitted and **APPROVED:-**

(a) Minute of Meeting of the Licensing Board held on 13 June 2012, and

(b) Minute of Meeting of the Licensing Board held on 27 June 2012.

3. Coral, 3 La Porte Precinct, Grangemouth

There was submitted Report (circulated) dated 26 July 2012 from the Clerk to the Licensing Board advising on an application made in terms of the Gambling Act 2005 for the grant of a Premises Licence – Betting (Other).

Having heard from the applicant's agent in support of his client's application, the Board **GRANTED** the application for a new Premises Licence – Betting (other).

4. Gala Club, 1-3 Kerse Lane, Falkirk

There was submitted Report (circulated) dated 25 July 2012 from the Clerk to the Licensing Board advising on an application made in terms of Section 187 of the Gambling Act 2005 for the grant of a variation of the Premises Licence.

After hearing from the applicant's agent in support of his client's application and in clarification of questions raised by Members, the Board **APPROVED** a variation to the current premises licence to reflect a modernisation scheme to be carried out at the premises and the provision of an external smoking shelter, as detailed on the plan submitted with the application.

The Board agreed that the variation would take effect from 1 September 2012.

5. Camelon News, 336 Main Street, Camelon, Falkirk

There was submitted Report (circulated) dated 3 July 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 his client's application and in clarification of questions raised by Members, the Board **GRANTED** the application for a provisional premises licence.

The Board noted the applicant's clarification and modification to question 6(f) of the Operating Plan to reflect the following:

the premises will be open for the provision of non-alcoholic goods such as groceries, newspapers etc. Monday to Sunday from 0500 hrs to 2200 hrs.

6. Asda, Hallam Road, Stenhousemuir, Falkirk

There was submitted Report (circulated) dated 3 July 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 of 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 **APPROVED** (1) a variation to the layout plan showing an increase in the height of the existing display area to permit the storage of alcohol, and (2) a variation to the operating plan to reflect an increased capacity of 20.3 m³.

The Board imposed the following conditions;

- notices shall be displayed in a prominent position in the alcohol display area advising customers that the alcohol on the additional shelf is not for sale, and
- prices will not be shown against the alcohol stored on the additional shelf

7. Asda, Newmarket Street, Falkirk

There was submitted Report (circulated) dated 6 July 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 of 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 **APPROVED** (1) a variation to the layout plan showing an increase in the height of the existing display area to permit the storage of alcohol, and (2) a variation to the operating plan to reflect an increased capacity of 78.3 m³.

The Board imposed the following conditions;

- notices shall be displayed in a prominent position in the alcohol display area advising customers that the alcohol on the additional shelf is not for sale, and
- prices will not be shown against the alcohol stored on the additional shelf

8. Larbert Bowling Club, Pretoria Road, Larbert

There was submitted Report (circulated) dated 3 July 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 of the premises licence.

The Board **NOTED** that one objection had been received in respect of the variation application. The objector had been invited to attend but was not in attendance.

The applicant, Mr Hunter, advised that he had no preliminary matters to raise concerning the validity of the objection. Accordingly, a copy of the objection was circulated to Members.

Members asked questions of the applicant in relation to concerns raised in the objection. Superintendent Lawrie, Central Scotland Police was heard in clarification of matters within the objection.

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 variation to the current licence:

- (a) to vary the times during which children and young persons have access as follows:
- children and young persons will be allowed entry whilst attending a *bona fide* private function –
 - Children aged 0 – 5 years until 2200 hrs
 - Children aged 6 -15 years and young persons 16 & 17 years until the terminal hour
 - Children and young persons until 2100 hrs for bowling games or spectating

- (b) to vary the on sales trading hours as follows:

Monday to Thursday	1100 hrs to 2400 hrs
Friday	1100 hrs to 0100 hrs
Saturday	1230 hrs to 0100 hrs
Sunday	1230 hrs to 2400 hrs

- (c) to include a seasonal variation from 1 April to 30 September as follows:

Saturday	1000 hrs to 0100 hrs
Sunday	1000 hrs to 2400 hrs

9. Mill Inn, 2 Thornhill Road, Falkirk

There was submitted Report (circulated) dated 3 July 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 of the premises licence.

After hearing from the applicant in support of his application, the Board **GRANTED** the following variation to the current licence:

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

1100 hrs to 2400 hrs

The Board agreed to a short adjournment. The Board adjourned at 11.00 a.m. and reconvened at 11.20 a.m.

10. Greig McGuinness

There was submitted Report (circulated) dated 3 July 2012 from the Clerk to the Licensing Board providing details of an application for a Personal Licence submitted in terms of Section 72 of the Licensing (Scotland) Act 2005 and the Personal Licence (Scotland) Regulations 2007.

After determining to hold a hearing and thereafter hearing from the applicant in support of his application and in clarification of questions raised by Members, the Board **GRANTED** the application for a personal licence.

11. The Licensing (Fees) (Scotland) Regulations 2007 – Premises Licences: Annual Fees

There was submitted Report (circulated) dated 29 June 2012 by the Clerk to the Licensing Board advising of the requirement of the Licensing Board to (a) set the annual fees for Premises licences for the period from 1 October 2012 to 30 September 2013; (b) set the level of discretionary fees for various miscellaneous applications, and (c) attaching as an Appendix to the Report, a fee table setting out the proposed premises licences' annual fees.

After discussion, the Board **AGREED** to adopt the Premises Licences – Annual Fee levels as set out in Appendix 1 to the Report, with effect from 1 October 2012 and to permit payment by instalments. In reaching this decision, the Board acknowledged that the cost of providing the licensing service exceeded the fee income but nevertheless expressed concern about the impact of annual fees on licence holders. The Board accordingly called on officers to provide a more detailed analysis of the cost of the service and the cross subsidy by Falkirk Council in advance of setting the fee level for 2013/14.

12. **M&S Licensed Grocers, 7 Kings Road, Grangemouth**

There was submitted Report (circulated) dated 2 August 2012 from the Clerk to the Licensing Board (a) advising that the Premises Review Application had called before the Board on 28 March 2012 and 27 June 2012, but had been continued; (b) summarising the review process in terms of Section 36 of the Licensing (Scotland) Act 2005; (c) advising that an application had been received from the Chief Constable, Central Scotland Police to review the premises licence in respect of M&S Licensed Grocers, 7 Kings Road, Grangemouth, details of which were circulated as an Appendix to the Report, and (d) attaching as a further Appendix to the Report, the Licensing Standards Officer's report in terms of Section 38(4) of the 2005 Act.

Mandeep Bassi, the premises licence holder was in attendance and accompanied by his agent, Mr Travers.

Superintendent Lawrie 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 17 year old male by an employee of the premises.

Questions were then asked by Members of the Board.

There being no further questions to Superintendent Lawrie, the Board invited Mr Travers to make his submission on behalf of his client.

Questions were then asked of Mr Travers and Mr Bassi by Members of the Board and by Superintendent Lawrie.

The Board agreed to a short adjournment. The Board adjourned at 12.00 noon and reconvened at 12.10 p.m.

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

Both parties summed up.

The Board adjourned at 12.30 p.m. and reconvened at 12.40 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 they 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 16 August until 30 August 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 Mandeep Bassi had acted, while working in the licensed premises at M & S Licensed Grocers, 7 Kings Road, Grangemouth, 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 Mr Bassi's Personal Licence.

The Board adjourned at 12.50 p.m. and reconvened at 2.15 p.m.

13. Naeem Mirza

There was submitted Report (circulated) dated 2 August 2012 by the Clerk to the Licensing Board (a) referring to the Review Hearing of the premises licence for Bowhouse Mini Market, 2 Bowhouse Square, Grangemouth held on 28 March 2012 and 27 June 2012; (b) detailing the Board's finding in terms of Section 84(2) of the Licensing (Scotland) Act 2005 that the personal licence holder, Naeem Mirza, while working on the premises at Bowhouse Mini Market, had acted in a manner which was inconsistent with the licensing objectives of securing public safety, preventing crime & disorder and protecting children from harm; (c) advising that in terms of Section 84(3)(a) of the 2005 Act, the Board must now hold a Hearing on Naeem Mirza's personal licence, and (d) highlighting that Mr Mirza's personal licence already carries an endorsement as a result of an Order made by Falkirk Council Licensing Board in terms of Section 84(7) of the 2005 Act on 16 March 2011.

Naeem Mirza, personal licence holder, was in attendance and accompanied by his agent, Mr Travers.

The Board heard from Mr Travers in support of his client and in relation to the preventative measures which his client 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.

The Board agreed to a short adjournment. The Board adjourned at 2.35 p.m. and reconvened at 2.45 p.m.

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 an Order in terms of Section 84(7) **ENDORISING** Naeem Mirza's personal licence NL0920.

14. Sarfraz Ali

There was submitted Report (circulated) dated 2 August 2012 by the Clerk to the Licensing Board (a) referring to the Review Hearing of the premises licence for GKR Store, 2 Loanhead Avenue, Charlotte Dundas, Grangemouth held on 28 March 2012 and 27 June 2012; (b) detailing the Board's finding in terms of Section 84(2) of the Licensing (Scotland) Act 2005 that the personal licence holder, Sarfraz Ali, while working on the premises at GKR Store, 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 Sarfraz Ali's personal licence.

Sarfraz Ali, personal licence holder was in attendance and accompanied by his agent, Mr Sandeman.

The Board heard from Mr Sandeman in support of his client and in relation to the preventative measures which his client 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.

The Board agreed to a short adjournment. The Board adjourned at 3.00 p.m. and reconvened at 3.05 p.m.

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 an Order in terms of s.84(7) **ENDORISING** Sarfraz Ali's personal licence FC 0397.