

FALKIRK COUNCIL

MINUTE of MEETING of the LICENSING BOARD held in the COUNCIL CHAMBERS, MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 23 JANUARY 2013 at 9.30 A.M.

PRESENT: Councillors Black, D Goldie, Hughes, McLuckie, Nicol, 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); Inspector D Gibson, and PC A Kane, 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.

LB83. APOLOGIES

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

LB84. DECLARATIONS OF INTEREST

No declarations were made.

LB85. MINUTE

There was submitted and **APPROVED** Minute of Meeting of the Licensing Board held on 12 December 2012.

LB86. PREMISES LICENCE REVIEW APPLICATION - THE LOCAL STORE, 18 NISBET DRIVE, DENNY

There was submitted Report (circulated) dated 8 January 2013 from the Clerk to the Licensing Board (a) summarising the review process in terms of section 36 of the Licensing (Scotland) Act 2005, and (b) advising that an application had been received from the Licensing Standards Officer to review the premises licence in respect of The Local Store, 18 Nisbet Drive, Denny, details of which were circulated as an Appendix to the Report.

Muhammad Choudhry, premises licence holder, was in attendance and accompanied by his agent, Mr Sandeman. An interpreter was also in attendance at the request of Mr Sandeman and to assist his client in understanding the proceedings.

Douglas Frood, Licensing Standards Officer was heard in amplification of the matters set out in his premises licence review request which focused on the alleged failure of the

premises licence holder to carry out sufficient training for members of staff concerned in the sale of alcohol on the premises.

Questions were then asked by Members of the Board.

There being no further questions to Mr Frood, the Board invited Mr Sandeman to make his submission on behalf of his client.

Questions were then asked of Mr Sandeman by Members of the Board and by the Licensing Standards Officer.

The Board agreed to a short adjournment. The Board adjourned at 10.40 a.m. and reconvened at 11.00 a.m. with all Members present as per the sederunt.

After further questioning by Members of the Board, both parties summed up.

The Board agreed to a short adjournment. The Board adjourned at 11.20 a.m. and reconvened at 11.30 a.m. with all Members present as per the sederunt.

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 & disorder, preventing public nuisance, protecting & improving public health and protecting children from harm.

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

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

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

LB87. BRIGHTONS INN, MADDISTON ROAD, BRIGHTONS

(a) Burns Night

There was submitted Report (circulated) dated 15 January 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 extended hours' authorisation.

The Board heard from the applicant's agent in support of her client's extended hours application and in clarification of questions raised by Members of the Board.

After discussion, the Board **GRANTED** one additional hour from 0100 to 0200 hrs within the lounge area only, on Saturday 26 January 2013 for a Burns Night.

(b) 40th Birthday Party

There was submitted Report (circulated) dated 15 January 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 extended hours' authorisation.

The Board heard from the applicant's agent in support of her client's extended hours application and in clarification of questions raised by Members of the Board.

After discussion, the Board **REFUSED** the extended hours application.

LB88. AVONSIDE INN, MAIN STREET, AVONBRIDGE

There was submitted Report (circulated) dated 4 January 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, the Board **GRANTED** the application for a new premises licence, subject to Question 6(d) in the operating plan being amended to reflect the following:

- children aged 0-15 years will be allowed entry until 2200 hrs
- young persons aged 16 & 17 years will be allowed entry until the terminal hour

Councillor Goldie re-joined the meeting after consideration of the foregoing item of business.

LB89. VICTORIA INN, 60 NORTH MAIN STREET, CARRONSHORE

With reference to Minute of Meeting of the Licensing Board held on 12 December 2012 (Paragraph LB79 refers), there was submitted Report (circulated) dated 4 January 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 December 2012 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 8 January 2013.

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

- (1) to allow children and young persons access to the premises as follows:
 - children aged 6 – 15 years and young persons will be allowed entry whilst accompanied by an adult
 - children and young persons will be allowed entry until 2030 hrs
 - children and young persons will be allowed entry to the lounge, pool room, outdoor drinking area and have access to and egress from toilets

LB90. CALLENDAR ARMS, 1 CALLENDAR ROAD, FALKIRK

There was submitted Report (circulated) dated 4 January 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.

After discussion, and having heard from the applicant's agent in support of his client's application, 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.

LB91. MARKS AND SPENCER, 59 HIGH STREET, FALKIRK

There was submitted Report (circulated) dated 4 January 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.

After discussion, and having heard from the applicant's agent in support of her client's 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 27.8m³.

The applicant's agent gave an undertaking to lodge an amended layout plan to reflect the deletion of the small free standing alcohol display unit.

LB92. PENNIES (UPSTAIRS), FORTH COMPLEX, GRANGEMOUTH ROAD, FALKIRK and PENNIES (DOWNSTAIRS), FORTH COMPLEX, GRANGEMOUTH ROAD, FALKIRK

There was submitted Reports (circulated) dated 4 January 2013 from the Clerk to the Licensing Board providing details of applications made in terms of section 29 of the Licensing (Scotland) Act 2005 for the grant of variations to the premises licences.

After discussion, and having heard from the applicant's agent in support of his client's applications, the Board **AGREED** to **CONTINUE** the applications to a future meeting of the Licensing Board to allow an inspection of the premises to be carried out by Licensing Board Members.

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

LB93. RAILWAY STAFF ASSOCIATION FOR SCOTLAND (GRANGEMOUTH BRANCH), BARRIE PLACE, GRANGEMOUTH

There was submitted Report (circulated) dated 4 January 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 and in clarification of questions raised by Members, the Board **GRANTED** the following variations to the current licence, namely:-

(1) to vary the trading hours as follows:

On-Sales:

Monday to Wednesday	1100 hrs to 2300 hrs
Thursday	1100 hrs to 2330 hrs
Friday and Saturday	1100 hrs to 0100 hrs
Sunday	1200 hrs to 2300 hrs

Off-Sales

Monday to Saturday	1100 hrs to 2200 hrs
Sunday	1200 hrs to 2200 hrs

- (2) the addition of an outdoor drinking area as detailed on the layout plan submitted with the application with a corresponding addition of outdoor drinking facilities within core hours to the list of activities in the operating plan, but subject to the condition that the terminal hour for outdoor drinking be 2200 hrs;
- (3) to the addition of the following activities to the list of approved activities:
 - outdoor drinking within core hours
 - car boot sales

The Board agreed to adjourn for lunch. The Board adjourned at 1.05 p.m. and reconvened at 1.55 p.m. with all Members present as per the sederunt with the exception of Councillors Goldie and Ritchie.

LB94. CRAIG ANDERSON

There was submitted Report (circulated) dated 7 January 2013 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.

Having heard from the applicant, the Board determined not to hold a hearing for the purpose of considering and determining the application.

Thereafter the application for a personal licence was **GRANTED** by operation of law.

LB95. PREMISES LICENCE REVIEW APPLICATION - THE PHOENIX, MANUEL TERRACE, WHITECROSS

There was submitted Report (circulated) dated 16 January 2013 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 Phoenix, Manuel Terrace, Whitecross, 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.

James Silvestro, premises licence holder and Sheena Woods, designated premises manager were in attendance and accompanied by their agent, Mr Williams.

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 the consumption of alcohol took place outwith licensed hours in the presence of the designated premises manager.

Questions were then asked by Members of the Board.

There being no further questions to Inspector Gibson, the Board invited Mr Williams to make his submission on behalf of his clients.

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

There being no further questions to Mr Williams, the Board invited both parties to sum up.

The Board agreed to a short adjournment. The Board adjourned at 2.35 p.m. and reconvened at 2.50 p.m. with those Members present as per the sederunt, with the exception of Councillors Goldie and Ritchie.

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 & disorder 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 24 January until Wednesday 20 February 2013 (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.

Also, in terms of section 84(2) of the Licensing (Scotland) Act 2005, the Board made a finding that Sheena Woods had acted, while working in the licensed premises at The Phoenix, Manuel Terrace, Whitecross 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 Sheena Woods' Personal Licences.