

ABERDEENSHIRE LICENSING BOARD NORTH DIVISION

Minutes of Meeting of the LICENSING BOARD for the NORTH DIVISION OF ABERDEENSHIRE held within the COUNCIL CHAMBER, BUCHAN HOUSE, ST PETER'S STREET, PETERHEAD On WEDNESDAY, 26 JUNE, 2019 at 10:00 a.m.

Present: B. Topping, I. Taylor, M. Roy, A. Forsyth, S. Calder, A. Duncan

In Attendance: Fiona M Stewart (Depute Clerk to the Licensing Board), Lauren Cowie (Depute Clerk to the Licensing Board), Sergeant Gill Flett, Police Scotland, Sarah Ward, Licensing Standards Officer.

1. APOLOGIES FOR ABSENCE

G. Reynolds, A. Stirling

2. DECLARATIONS OF INTEREST

None

3. STATEMENT OF EQUALITIES

In making decisions on the following items of business, the Board AGREED, in terms of Section 149 of the Equality Act, 2010:-

- (1) The Board would have due regard to the need to:-
 - (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) Foster good relations between those who share a protected characteristic and persons who do not share it.
- (2) Where an Equality Impact Assessment was provided, to consider its contents and take those into account when reaching their decision.

4. MINUTES FOR APPROVAL - (COPY TO MEMBERS ONLY)

The Minutes of the Licensing Board Meetings on 18th and 24th April 2019 were approved as correct.

5. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE – NON-CONTENTIOUS APPLICATIONS - HEARING

Following consideration of a Report by the Depute Clerk in relation to non-contentious Premises Licences lodged in terms of Section 17 Part 3 of the Licensing (Scotland) Act 2005 the Board decided the application as below.

1. Stephen McGowan, Solicitor, Glasgow represented the applicants. Maureen Hendry, manager of the Peterhead store was also in attendance.
2. The Board heard the submissions of the applicant's agent in respect of both applications.
3. Members were afforded an opportunity to ask questions of the applicant's agent.
4. The applicant's agent was afforded an opportunity to make concluding remarks.

5. Mr Roy, seconded by Mr Forsyth, moved as a motion that both applications be approved subject to the terms of the operating plans being amended to properly reflect actual core hours and delivery hours.
6. No amendment was proposed.
7. The motion was passed unanimously on a show of hands.
8. The decision of the Board for each application was therefore as follows:-

<u>Name of Applicant</u>	<u>Name and Address of Premises</u>	<u>Remarks (if any)</u>
Iceland Foods Ltd	Iceland 1-5 Broad Street Fraserburgh AB43 9AE	GRANTED subject to the terms of the operating plan being amended to reflect the actual core hours and delivery hours.
Iceland Foods Ltd	Iceland 25-31 Marischal Street Peterhead AB42 1BS	GRANTED subject to the terms of the operating plan being amended to reflect the actual core hours and delivery hours.

6. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR GRANT OF PERSONAL LICENCE – SEAN ALEXANDER DUNCAN - HEARING

- 1) The applicant was neither present nor represented at the meeting.
- 2) Sergeant Gill Flett represented the Chief Constable at the meeting.
- 3) As a preliminary matter, the Board determined to consider the application in the absence of the applicant.
- 4) The Board heard Sergeant Flett's submission.
- 5) Members were afforded an opportunity to ask questions of Sergeant Flett.
- 6) Sergeant Flett was afforded an opportunity to make concluding remarks but declined to do so.
- 7) Mr Roy, seconded by Mr Forsyth, moved as a motion that the application be refused in terms of Section 74 (6A)(a) of the Licensing (Scotland) Act 2005 by reason of the fact that the applicant's convictions demonstrated a pattern of behaviour which was contrary to the prevention of crime and disorder, preventing public nuisance and securing public safety licensing objectives and therefore the applicant was not a fit and proper person to be the holder of a personal licence.
- 8) No amendment was proposed.
- 9) The motion was proposed unanimously on a show of hands.
- 10) The Convenor therefore confirmed the Board's decision as refusal of the application in terms of Section 74(6A)(a) of the Licensing (Scotland) Act 2005.

7. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR REVIEW OF PERSONAL LICENCE – KENNETH CHARLES HAWKINS – HEARING

- 1) Sergeant Gill Flett represented the Chief Constable at the meeting.
- 2) Mr Hawkins was present at the meeting.
- 3) The Board heard Sergeant Flett's submissions.
- 4) The Board heard Mr Hawkin's submissions.
- 5) The Board afforded Sergeant Flett an opportunity to respond.
- 6) Board members were afforded an opportunity to ask questions of both parties.
- 7) Mr Hawkins was afforded an opportunity to make concluding remarks.
- 8) Sergeant Flett was afforded an opportunity to make concluding remarks.
- 9) Mr Forsyth, seconded by Mr Duncan, moved as a motion that Mr Hawkin's licence be endorsed by reason of his conduct being inconsistent with the licensing objectives of preventing crime and disorder and protecting children and young persons from harm in terms of Section 83(a)(c) of the Licensing (Scotland) Act 2005.
- 10) Mr Topping, seconded by Mr Taylor, moved as an amendment that, having regard to the protecting children and young persons from harm licensing objectives, Mr Hawkins' conduct meant he was no longer a fit and proper person to be the holder of a personal licence and that the licence be revoked in terms of Section 83(9A) of the Licensing (Scotland) Act 2005.
- 11) On a division there voted:-

<u>For the Motion</u>	<u>For the Amendment</u>
S. Calder	B. Topping
M. Roy	I. Taylor (2)
A. Forsyth	
A. Duncan (4)	
- 12) The Convenor accordingly declared the motion carried in terms and therefore the decision of the Board was that Mr Hawkin's licence be endorsed in terms of Section 83(a)(c) of the Licensing (Scotland) Act 2005

8. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR RENEWAL OF PERSONAL LICENCE – KENNETH CHARLES HAWKINS - HEARING

- 1) Mr Hawkins was present at the meeting.
- 2) Sergeant Flett represented the Chief Constable at the hearing.
- 3) As a preliminary matter, both the applicant and Sergeant Flett agreed to waive submissions in respect of this application, having given submissions to the Board on the same issues when the Board considered Item 7 on the agenda.
- 4) The Board had no further issues to raise with either party.
- 5) Mr Forsyth, seconded by Mr Calder, moved as a motion that the application to renew the personal licence be granted, notwithstanding the endorsement imposed on the licence.

- 6) Mr Topping, formally seconded by Mr Duncan, moved as an amendment that the application be refused in terms of Section 74(6A) of the Licensing (Scotland) Act 2005 on the basis that the applicant was no longer a fit and proper person to be the holder of a licence having regard to the protection of children and young persons from harm licensing objectives by reason of his conduct.
- 7) On a division there voted:-
- | <u>For the Motion</u> | <u>For the Amendment</u> |
|-----------------------|--------------------------|
| S. Calder | B. Topping (1) |
| M. Roy | |
| A. Forsyth | |
| I. Taylor | |
| A. Duncan (5) | |
- 8) The Convenor accordingly declared the motion carried in terms and therefore the decision of the Board was to grant the application for renewal of licence.

9. ADDITIONAL REPORTS

(i) SCOTTISH GOVERNMENT CONSULTATION ON OCCASIONAL LICENCE FEES

Having considered the terms of a report by the Depute Clerk relating to the Scottish Government Consultation reviewing the fee for occasional licences, dated 27th May 2019, copies of which had been circulated in advance:-

(1) In Respect of Occasional Licence Fees:-

- (a) Mr Forsyth, seconded by Mr Calder, moved as a motion that the Board recommend firstly that the fee be set at £50 with a link to indexation, failing which, to recommend secondly, that a flat fee of £75 with licensing boards being enabled to set a discretionary premium to apply to applications lodged late.
- (b) Mr Duncan, formally seconded by Mr Topping, moved as an amendment that the Board recommend a flat fee of £75 with no indexing and that licensing boards be enabled to set a discretionary premium to apply to applications lodged late.
- (c) On a division there voted:-

<u>For the Motion</u>	<u>For the Amendment</u>
B. Topping	A. Duncan (1)
S. Calder	
M. Roy	
A. Forsyth	
I. Taylor (5)	

- (d) The Convenor accordingly declared the motion carried in terms.

(2) Proposed Number and Duration of Licences:-

The Board unanimously agreed with the terms of the draft response prepared by the Depute Clerk.

- (3) The Board thanked Mrs Cowie for the amount of work put into analysing the costs of processing occasional licences to enable an evidenced response to be submitted to the Scottish Government.

(ii) LICENSING MATTERS EVENT – PLANNING MEETING REPORT

Following consideration of a report by the Depute Clerk in respect of the Licensing Matters Event 2019, dated 27th May 2019, copies of which had been circulated in advance, the Board made the following comments:-

- Board members to have a positive input
- Workshops/Breakout sessions were a good idea
- Keynote speaker to begin the event
- Options for alternative venues which would not restrict attendance to be considered
- Options for a joint event with Aberdeen City and/or Moray Licensing Boards

(iii) ABERDEENSHIRE LICENSING BOARDS FUNCTION REPORT 2018-19

Following consideration of a report by the Clerk in respect of the combined Functions and Finance Report for 2018-2019, dated 27th May 2019, copies of which had been circulated in advance, the Board:-

1. Approved the terms of the report
2. Authorised the Depute Clerk to publish the document on the Board's website and to provide the Scottish Government with a copy.

10. DATE OF NEXT MEETING - 30 AUGUST 2019

Noted.

Board Member Presiding over meeting

Print Name

Signature

Date

