

## **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 Friday 20<sup>th</sup> December 2019 at 10:00 a.m.

**Present:** B. Topping, I. Taylor, A. Duncan, A. Forsyth, S. Calder, M. Roy, A. Stirling, G. Reynolds

**In Attendance:** Fiona M Stewart (Depute Clerk to the Licensing Board), Lauren Cowie (Principal Solicitor, Legal & Governance), Amanda de Candia (Solicitor, Legal & Governance), Sergeant Gill Flett, Police Scotland, Trevor Lackie, Licensing Standards Officer, Sarah Ward, Licensing Standards Officer, Keith Simpson, Senior Licensing Standards Officer

### 1. APOLOGIES FOR ABSENCE

None

### 2. DECLARATIONS OF INTEREST

Mr Topping, Mr Duncan, Mr Taylor, Mr Reynolds, Mr Calder, Mr Forsyth, Mrs Stirling and Mr Roy all declared an interest in item 6(a) on the agenda by virtue of the fact that one of the applicants was a fellow Councillor. Having applied the objective test, all members of the Board concluded that the interest was remote and insignificant and therefore they remained and took part in the consideration of the item.

### 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 Meeting on 1<sup>st</sup> November 2019 were approved as correct.

### 5. LICENSING (SCOTLAND) ACT 2005 – SECTION 123 – PRELIMINARY HEARING OF APPLICATION FOR PROVISIONAL PREMISES LICENCE FOR PETROL STATION – VICTORIA SERVICE STATION, BANFF – HEARING BY WRITTEN SUBMISSIONS

Following consideration of a report by the Depute Clerk in respect of a preliminary matter relating to an application for a provisional premises licence for a petrol station, dated 2<sup>nd</sup> December 2019, copies of which had been circulated in advance and, having considered the terms of written submissions lodged by the applicant's agent in respect thereof, Mr Roy, seconded by Mr Reynolds, moved as a motion that the application be accepted in terms of Section 123(5) of the Licensing (Scotland) Act 2005, on the basis that

there was sufficient evidence to determine that the premises (a) were the principal source of petrol or derv in the locality and (b) residents in the locality were likely to become reliant to a significant extent on the premises as the principal source of groceries. No amendment was proposed. The motion was passed unanimously on a show of hands.

6. 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 applications as below.

<u>Name of Applicant</u>	<u>Name and Address of Premises</u>	<u>Remarks (if any)</u>
Peartree (Fraserburgh) Ltd	Peartree Coffee House & Bistro 59-61 High Street Fraserburgh AB43 9ET	Granted in principal. Issue of licence delegated to the Depute Clerk, following consultation with the Convenor, upon receipt of the Building Warrant
The Captain's Table (Fraserburgh) Ltd	Captain's Table 20 Seaforth Street Fraserburgh AB43 9BB	GRANTED
Richard Duncan	Asha's Indian Aroma 22A Queen Street Peterhead AB42 1TS	GRANTED

7. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR OCCASIONAL EXTENSION – FOUR CHAPEL STREET, PETERHEAD - HEARING

1. Mr and Mrs Hansen were present at the hearing.
2. Trevor Lackie, Licensing Standards Officer was present at the hearing.
3. The Depute Clerk had circulated additional papers submitted by the applicant's agent to all parties prior to the hearing and provided a printed copy to the applicants at the hearing.
4. The Board heard the submissions of the applicant.
5. The Board heard the submissions of the Licensing Standards Officer.
6. The Boards afforded the applicants an opportunity to respond to the submissions made by the Licensing Standards Officer.
7. An opportunity was given for Board Members to ask questions of both parties.
8. The Licensing Standards Officer was invited to make concluding remarks.
9. The applicants were invited to make concluding remarks.
10. No legal advice was required from the Depute Clerk.
11. Mr Duncan moved as a motion that a departure from policy was justified and that the application should be granted. The Depute Clerk sought clarification as to whether the motion related to the whole application or to the part relating to the Caley Bar only. Mr Duncan confirmed it related to the whole application. Mr Duncan could not provide a reason why a departure from policy was justified or on what basis the legal test for the application was met when asked to provide them by the Depute Clerk. Mr Duncan did not receive a seconder to his proposed motion. He therefore withdrew the motion.
12. Mrs Stirling, seconded by Mr Forsyth, then moved that the application for extended hours be refused on the basis that the application did not meet the requirements of the legal test set out in Section 68 of the Licensing (Scotland) Act 2005 in that the application did not relate to a special event or occasion to be catered for on the premises, nor did it relate to a special event of national or local significance, the Board having made it clear in their Statement of

Licensing Policy that, as Christmas and New Year occurred every year, they did not consider that to be justification for an occasional extension and the premises had already been granted the maximum additional hours provided in the Statement of Licensing Policy for the Festive Season.

13. No amendment as proposed.
14. The motion was passed by majority on a show of hands, Mr Duncan abstaining from the vote.

The Board therefore REFUSED the application.

8. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR OCCASIONAL LICENCE – MACBI COMMUNITY HUB – HEARING

1. The applicant was neither present nor represented at the hearing. The Board determined to proceed with the hearing in the absence of the applicant.
2. Trevor Lackie, Licensing Standards Officer was present at the hearing.
3. The Board heard the submissions of the Licensing Standards Officer.
4. The Board was afforded an opportunity to ask questions of the Licensing Standards Officer.
5. The Licensing Standards Officer was afforded an opportunity to make concluding remarks.
6. Mrs Stirling, seconded by Mr Forsyth, moved as a motion that the application be refused in terms of Section 59(6)(c) of the Licensing (Scotland) Act 2005 by reason of the application being contrary to the Protection of Children and Young Persons From Harm Licensing Objective as it was an event primarily aimed at children and young persons and therefore contrary to paragraph 4.18 of Supplementary Policy Statement 4 of the Board's current Statement of Licensing Policy.
7. No amendment was proposed.
8. The motion was passed unanimously on a show of hands.

The Board's decision was therefore to REFUSE the application.

9. LICENSING (SCOTLAND) ACT 2005 – REVIEW OF PREMISES LICENCE – UPPAL MINI MARKET, 2 GORDON STREET, ST COMBS, FRASERBURGH - HEARING

1. Trevor Lackie, Licensing Standards Officer was present at the hearing.
2. The Licence-holder was neither present nor represented at the meeting. The Board agreed to conduct the hearing in the absence of the Licence-holder.
3. The Board heard the submission of the Licensing Standards Officer.
4. The Board members were afforded an opportunity to question the Licensing Standards Officer but had no questions.
5. The Licensing Standards Officer made no concluding remarks.
6. The Board:-
  - (a) Determined that they had sufficient evidence before them upon which to make a decision.
  - (b) As a preliminary matter, concluded that, as the premises had ceased trading for more than three months, as set out in terms of paragraph 6.13 of Supplementary Policy Statement 6 of the Board's current Statement of Licensing Policy, the premises licence had ceased to have effect in terms of Section 28 of the Licensing (Scotland) Act 2005.
7. Having determined that the licence had ceased to have effect, no further action was required in respect of the application for review of the premises licence.

10. REQUEST FOR EXTENSION OF CLOSURE TO PREMISES – FJORD INN, FISHERFORD, INVERURIE

Following consideration of a report by the Depute Clerk relating to a request for an extension of closure of licensed premises, dated 4<sup>th</sup> December 2019, copies of which had been circulated in advance, the Board GRANTED an extension until the June Board 2020, acknowledged that the licence-holders had provided a great service to the local community over the years and wished them every success with their future endeavours.

11. LICENSING (SCOTLAND) ACT 2005 – REVIEW OF PERSONAL LICENCE – CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES – ZOE CLARK - HEARING

1. The Chief Constable was represented by Sergeant Gill Flett.
2. The Licence-holder was neither present nor represented at the Hearing. The Board agreed to conduct the hearing in the absence of the Licence-holder.
3. The Board heard Sergeant Flett's submissions.
4. The Board was afforded an opportunity to ask questions of Sergeant Flett.
5. Sergeant Flett had no concluding remarks to make.
6. Mr Forsyth, seconded by Mr Roy, moved as a motion that the Licence-holder's personal licence be revoked in terms of Section 84(6)(b) of the Licensing (Scotland) Act 2005, being satisfied that it was necessary to do so for the Prevention of Crime and Disorder Licensing Objective by reason of the Licence-holder's conviction.
7. No amendment was proposed.
8. The motion was passed unanimously on a show of hands.

The decision of the Board was therefore to REVOKE the personal licence.

12. ADDITIONAL REPORTS

(i) BOARD DATES 2020-2021

Agreed.

(ii) REVIEW OF LICENSING BOARD STRUCTURE IN ABERDEENSHIRE – CONSIDERATION OF OPTIONS

Following consideration of a report by the Depute Clerk relating to a review of the Licensing Board structure in Aberdeenshire, dated 20<sup>th</sup> November 2019, copies of which had been circulated to members in advance, the Board:-

1. Noted the importance of the report.
2. Acknowledged there would be a public consultation.
3. Noted that a further report would come back to the Board following public consultation.
4. Had the following initial comments to make but confirmed that they would keep an open mind on options in advance of the further report:-
  - Less business at Boards
  - Drastic changes in how licences are issued
  - A single Board should not be fixed to one location in Aberdeenshire
  - All areas of Aberdeenshire need to be represented.
  - There would be resource benefits in officer time.
  - Volume of applications would not diminish.
  - Expertise already in place must be retained and used appropriately and effectively.
  - Agreed to provide email submissions during the consultation period.

(iii) LICENSING FEES UPDATE REPORT

Noted and LSO's thanked for all their hard work.

13. DATE OF NEXT MEETING - WEDNESDAY 28<sup>TH</sup> FEBRUARY 2019

Noted.

**Board Member Presiding over meeting**

---

**Print Name**

---

**Signature**

**20/12/2019**

---

**Date**

