

MINUTE of MEETING of the WEST LOTHIAN LICENSING BOARD of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 9 SEPTEMBER 2016.

Present – Councillors George Paul (Chair), Harry Cartmill, Jim Dickson, Mary Dickson, Jim Dixon, Anne McMillan, Jim Walker

Apologies – Councillors Tony Boyle, John Muir

Absent – Councillor Frank Toner

1. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

The order of business was as per the agenda.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made.

3. MINUTE

The Board confirmed the Minute of its meeting held on 12 August 2016 as a correct record. The Minute was thereafter signed by the Chair.

4. APPLICATION FOR VARIATION OF PREMISES LICENCE - SCOTMID, 32 WEST MAIN STREET, ARMADALE

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Scott Flanagan of Anderson Strathern Solicitors.

Mr Flanagan made submissions to the Board in support of the application.

The variation sought in the application was as follows:-

- To vary the answer to question 5(f) in the operating plan to state that the trading hours for the premises are 6am to 10pm seven days a week; and
- To vary the description of the premises by deleting the words “RS McColl occupies the adjacent shop premises”

Inspector Robertson confirmed that Police Scotland had no objection or representation to make regarding the application.

Decision

The Board agreed unanimously to grant the application.

5 APPLICATION FOR VARIATION OF PREMISES LICENCE - THE PAVILION BINGO & SOCIAL CLUB, 19 GEORGE PLACE, BATHATE

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Jim Carlin, on behalf of TLT Solicitors.

Mr Carlin made submissions to the Board in support of the application.

The variation sought in the application was as follows:-

- to vary the licensed opening hour for sale of alcohol to customers for consumption on the premises from half past midday to 11am on a Sunday;
- to vary the licensed terminal hour for sale of alcohol to customers for consumption on the premises from 11pm to midnight Monday to Sunday;
- to vary the answer to question 4 in the operating plan to state that the licence holder intends to operate according to seasonal demand by way of any additional hours which may be available in terms of the Board's statement of licensing policy including the festive season;
- to vary the answer to question 5(a) in the operating plan to include restaurant facilities as an activity during core hours; and
- to vary the layout plan in order to comply with the requirements of the Premises Licence (Scotland) Regulation 2007.

Inspector Robertson confirmed that Police Scotland had no objection or representation to make regarding the application.

Decision

The Board agreed unanimously to grant the application.

6. APPLICATION FOR PROVISIONAL PREMISES LICENCE - YANG SING, 3 MANSE ROAD, WHITBURN

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Andrew Williams, Solicitor.

Mr Williams made submissions to the Board in support of the application.

Mr Williams confirmed on behalf of the applicant that they accepted the application of the ten style conditions contained in section 11.4 of the Board's statement of licensing policy (protecting children from harm) to their licence.

Inspector Robertson confirmed that Police Scotland had no objection or representation to make regarding the application.

Decision

The Board agreed unanimously to grant the application subject to the following conditions:-

1. The premises licence holder and their staff (including the designated premises manager) shall ensure that children and/or young persons are supervised adequately by the adult(s) accompanying them at all times.
2. If the premises licence holder or their staff (including the designated premises manager) is not satisfied that children and/or young persons are being supervised adequately, the group of which they are part will be required to leave the premises.
3. If the premises licence holder or their staff (including the designated premises manager) is, due to the level of intoxication of the accompanying adults concerned, not satisfied that requiring a group to leave the premises due to failure to supervise children and/or young persons adequately is sufficient to protect children and/or young persons from harm, they shall contact the police to report the matter accordingly.
4. A minimum of two registered SIA door steward to be present during all birthday parties for persons aged 18 years or under held on the premises.
5. For the duration of any function held on the premises, a staff supervisor to be appointed to act as managerial liaison for the premises with the organiser of the function, and to monitor the function to ensure that its conduct is not inconsistent with the 5 licensing objectives.
6. Heating facilities in areas of the premises to which children and/or young persons have access shall be protected adequately.
7. A children's menu shall be available at all times when children are permitted to be on the premises or alternatively the main menu shall show that children's portions are available during such times.
8. Baby food and bottle warming facilities shall be available.
9. A minimum of two baby high chairs shall be available.
10. An adequate sized lidded bin to be provided both in the male and female toilet area for the disposal of soiled nappies and the bins should be clearly marked to indicate the purposes for which they are provided.

7. APPLICATION FOR PREMISES LICENCE - M & M CONVENIENCE STORE, 3 MEADOWHEAD TERRACE, ADDIEWELL

The Depute Clerk referred the Board to the report on the application. The applicant was Mr Murtaza Shabir, was present and unrepresented.

The Depute Clerk asked Mr Shabir to confirm that he wished to vary the answer to question 7 in his application (capacity) to 9.66 square metres based on the width and height of the frontage of the alcohol display areas proposed in the application and Mr Shabir confirmed this.

Mr Shabir made submissions to the Board in support of the application.

Inspector Robertson confirmed that Police Scotland had no objection to the application.

Decision

The Board agreed unanimously to grant the application.

8. APPLICATION FOR PROVISIONAL PREMISES LICENCE - 2 MAIN STREET, FAULDHUSE

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Alistair Macdonald of Macdonald Licensing, accompanied by the applicant Giovanna Crolla.

Mr Macdonald made submissions to the Board in support of the application.

Inspector Robertson confirmed that Police Scotland had no objection or representation to make regarding the application.

Decision

The Board agreed unanimously to grant the application.

9. APPLICATION FOR VARIATION OF PREMISES LICENCE - U SAVE GROCERS, 93 MAIN STREET, STONEYBURN

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Jim Carlin of Sneddon Morrison Solicitors, accompanied by the licence holder Ms Yasmin Mohammed.

Mr Carlin made submissions to the Board in support of the application.

The variation sought in the application was as follows:-

- to vary the licence to change the name of the premises from U Save Grocers to “One Stop Trading with Stoneyburn Community”.
- to vary the description of the premises contained in the licence from “single storey main street shop unit – semi-detached” to

“single storey main street detached shop unit”,

- to vary the licensed opening hour for sale of alcohol to customers for consumption off the premises on a Sunday from half past midday to 10am;
- to vary the answer to question 5(f) in the operating plan by deleting the current wording regarding what the premises sell in addition to alcohol and what the trading hours of the premises are other than for the sale of alcohol and replacing it with:

“the premises operate as a general grocers and convenience store selling a range of products and items consistent with premises of this nature. Opening hours are -

Monday to Saturday 07:00 until 22:00

Sunday 08:00 until 21.00”

- to vary the capacity for the premises from 9 to 18.44 square metres, based on the internal reconfiguration shown on the proposed new layout plan; and
- to vary the layout plan for the premises as shown on the proposed new layout plan.

Inspector Robertson confirmed that Police Scotland had no objection or representation to make regarding the application.

Decision

The Board agreed unanimously to grant the application.

10. APPLICATION FOR VARIATION OF PREMISES LICENCE - NINETEENTWELVE, 2 SOUTH BRIDGE STREET, BATHGATE

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Jim Carlin of Sneddon Morrison Solicitors accompanied by the licence holder Mr David Stein.

Mr Carlin made submissions to the Board in support of the application.

The variation sought in the application was as follows:

- to vary the description of the premises to state that there is an outside seating area at the premises which forms part of the licensed area;
- to vary the answer to question 5(d) in the operating plan to permit outdoor drinking facilities during core hours.
- To vary the layout plan for the premises by adding a page showing the outside seating area.

Mr Carlin advised that his client accepted that the Board, if minded to grant the application, may wish to apply a condition restricting the terminal hour for consumption of alcohol by customers in the outside seating area to 9pm, in accordance with its statement of licensing policy. In his submissions in support of the application he invited the Board to make the terminal hour for this activity 10pm.

Mr Carlin confirmed on behalf of the licence holder that they accepted the application of the ten style conditions contained in section 11.4 of the Board's statement of licensing policy (protecting children from harm) to their licence.

Mr Carlin also confirmed that the licence holder accepted the application of the conditions contained in section 13.3 of the Board's statement of licensing policy (outside seating areas) to their licence.

Inspector Robertson confirmed that Police Scotland had no objection or representation to make regarding the application.

The Chair moved to grant the application subject to the conditions contained in sections 11.4 and 13.3 of the Board's statement of licensing policy and a condition restricting the terminal hour for consumption of alcohol in the outside seating area to 10pm. The motion was seconded by Councillor McMillan. Councillor Walker moved to amend to refuse the application on the ground that grant of the application would be inconsistent with the licensing objective of preventing public nuisance.

The Board adjourned to deliberate in private. Following the adjournment the Depute Clerk provided a summary of the legal advice given to the Board during the adjournment, Mr Carlin advised that he agreed with the legal advice given.

The Chair moved to grant the application subject to the same conditions as his previous motion. The motion was seconded by Councillor McMillan.

Councillor Walker moved to amend to refuse the application on the same ground as his previous amendment. Councillor Walker's amendment was seconded by Councillor Jim Dickson.

Decision

The Board decided by a majority of 4:3 to grant the application subject to the following conditions:-

1. The premises licence holder and their staff (including the designated premises manager) shall ensure that children and/or young persons are supervised adequately by the adult(s) accompanying them at all times.
2. If the premises licence holder or their staff (including the designated premises manager) is not satisfied that children and/or young persons are being supervised adequately, the group of

which they are part will be required to leave the premises.

3. If the premises licence holder or their staff (including the designated premises manager) is, due to the level of intoxication of the accompanying adults concerned, not satisfied that requiring a group to leave the premises due to failure to supervise children and/or young persons adequately is sufficient to protect children and/or young persons from harm, they shall contact the police to report the matter accordingly.
4. A minimum of two registered SIA door steward to be present during all birthday parties for persons aged 18 years or under held on the premises.
5. For the duration of any function held on the premises, a staff supervisor to be appointed to act as managerial liaison for the premises with the organiser of the function, and to monitor the function to ensure that its conduct is not inconsistent with the 5 licensing objectives.
6. Heating facilities in areas of the premises to which children and/or young persons have access shall be protected adequately.
7. A children's menu shall be available at all times when children are permitted to be on the premises or alternatively the main menu shall show that children's portions are available during such times.
8. Baby food and bottle warming facilities shall be available.
9. A minimum of two baby high chairs shall be available.
10. An adequate sized lidded bin to be provided both in the male and female toilet area for the disposal of soiled nappies and the bins should be clearly marked to indicate the purposes for which they are provided.
11. The outside area must be clearly delineated by means of removable barriers.
12. The outside area must only be used by person occupying the seats provided.
13. The barriers, tables and chairs must be removed at the end of the permitted hours for use of the outside area and stored securely in an area off the footpath.
14. The area must be capable of being monitored by staff either physically or via an approved CCTV system.
15. No amplified music shall be permitted outside the premises.
16. The premises licence holder must ensure that the defined area is kept clear of all waste, including cigarette litter, associated with their business.

17. Access to any public utility plant or fire hydrant in the area must be made available when required.
18. An authorised officer of the council or Police Scotland may temporarily suspend the use of the area for reasons of public safety.
19. A permit from the council to occupy the footpath must be obtained if required by the council.
20. The terminal hour for consumption of alcohol in the outside seating area is 10pm

11. APPLICATION FOR VARIATION OF PREMISES LICENCE - THE BENTSWOOD INN, 62 MAIN STREET, STONEYBURN

The Depute Clerk referred the Board to the report on the application. The licence holder Mr John Reidy was present and unrepresented.

Mr Reidy made submissions to the Board in support of the application.

The variation sought in the application was as follows:

- to vary the licensed opening hour for sale of alcohol to customers for consumption on the premises on a Sunday from 12.30pm to 11am;
- to vary the answer to question 5(d) in the operating plan to permit outdoor drinking facilities from 11am to 8pm Monday to Sunday;
- to vary the capacity for the premises contained in the operating plan from 80 persons to 147 persons in the lounge area and 97 in the bar to correct an anomaly in the current operating plan rather than based on any change to the layout of the premises; and
- to vary the layout plan to include an additional page showing a beer garden to the front of the premises.

The Board agreed unanimously to consider a late representation to be circulated.

Inspector Robertson confirmed that Police Scotland had no objection or representation to make regarding the application.

Mr Reidy confirmed that he accepted the application of the ten style conditions contained in section 11.4 of the Board's statement of licensing policy (protecting children from harm) to his licence. He also confirmed that he accepted the application of the conditions contained in section 13.3 of the Board's statement of licensing policy (outside seating areas) to his licence.

Decision

The Board agreed unanimously to grant the application subject to the following conditions:-

1. The premises licence holder and their staff (including the designated premises manager) shall ensure that children and/or young persons are supervised adequately by the adult(s) accompanying them at all times.
2. If the premises licence holder or their staff (including the designated premises manager) is not satisfied that children and/or young persons are being supervised adequately, the group of which they are part will be required to leave the premises.
3. If the premises licence holder or their staff (including the designated premises manager) is, due to the level of intoxication of the accompanying adults concerned, not satisfied that requiring a group to leave the premises due to failure to supervise children and/or young persons adequately is sufficient to protect children and/or young persons from harm, they shall contact the police to report the matter accordingly.
4. A minimum of two registered SIA door steward to be present during all birthday parties for persons aged 18 years or under held on the premises.
5. For the duration of any function held on the premises, a staff supervisor to be appointed to act as managerial liaison for the premises with the organiser of the function, and to monitor the function to ensure that its conduct is not inconsistent with the 5 licensing objectives.
6. Heating facilities in areas of the premises to which children and/or young persons have access shall be protected adequately.
7. A children's menu shall be available at all times when children are permitted to be on the premises or alternatively the main menu shall show that children's portions are available during such times.
8. Baby food and bottle warming facilities shall be available.
9. A minimum of two baby high chairs shall be available.
10. An adequate sized lidded bin to be provided both in the male and female toilet area for the disposal of soiled nappies and the bins should be clearly marked to indicate the purposes for which they are provided.
11. The outside area must be clearly delineated by means of removable barriers.
12. The outside area must only be used by person occupying the seats

provided.

13. The barriers, tables and chairs must be removed at the end of the permitted hours for use of the outside area and stored securely in an area off the footpath.
14. The area must be capable of being monitored by staff either physically or via an approved CCTV system.
15. No amplified music shall be permitted outside the premises.
16. The premises licence holder must ensure that the defined area is kept clear of all waste, including cigarette litter, associated with their business.
17. Access to any public utility plant or fire hydrant in the area must be made available when required.
18. An authorised officer of the council of Police Scotland may temporarily suspend the use of the area for reason of public safety.
19. A permit from the council to occupy the footpath must be obtained if required by the council.

12. APPLICATION FOR VARIATION OF PREMISES LICENCE - EQHQ, ALMONDSIDE, LIVINGSTON

The Depute Clerk referred the Board to the report on the application. The applicant was represented by Mr Archie MacIver of Brunton Miller Solicitors.

The variation sought in the application was as follows:-

- To vary the current conditions of the licence to permit the premises to operate a curfew of 2am instead of 1am.

Inspector Robertson made submissions to the Board regarding Police Scotland's representation in respect of the application and answered a number of questions from Board members.

Mr MacIver made submissions in support of the application and answered a number of questions from Board members

Mr MacIver advised that he agreed that whether or not the Board granted the application, the following wording in the conditions of the licence should be deleted:-

"WHERE THE TERMINAL HOUR OF THE PREMISES IS 2AM OR LATER, THERE SHALL BE NO ADMITTANCE TO THE PREMISES AFTER 1AM".

Mr MacIver advised that the variation sought in the application was therefore to condition 23 of the licence which currently read:-

“Where premises are open after 1am there shall be strictly to admittance to the premises after 1am which prevents persons leaving to smoke outwith the premises being readmitted”.

Mr MacIver also advised that the licence holder wished to restrict their application to vary the conditions of their licence to permit the premises to operate a curfew of 1.30am where the premises are open after 2am.

Inspector Robertson gave a summing up regarding Police Scotland’s representation in relation to the application.

Mr MacIver gave a summing up on behalf of the applicant regarding the application.

The Board had an opportunity to question Mr McIvor.

Inspector Robertson was given an opportunity to question Mr McIvor.

The Chair moved to refuse the application on the ground that grant of the application would be inconsistent with the licensing objectives of preventing crime and disorder and preventing public nuisance. The motion was seconded by Councillor McMillan.

Councillor Dixon moved to amend to grant the application. Councillor Dixon’s amendment was seconded by Councillor Cartmill.

Decision

The Board decided by a majority of 4:3 to grant the application by varying the condition of the licence as follows:-

1. To delete the words “WHERE THE TERMINAL HOUR OF THE PREMISES IS 2AM OR LATER, THERE SHALL BE NO ADMITTANCE TO THE PREMISES AFTER 1AM” where they currently appear in the conditions; and
2. To vary condition 23 of the licence to read “Where the premises are open until 2am there shall be strictly no admittance to the premises after 1am, which prevents leaving to smoke outwith the premises being readmitted. Where the premises are open after 2am there shall be strictly no admittance to the premises after 1.30am, which prevents persons leaving to smoke outwith the premises being readmitted.

13. APPLICATION FOR PERSONAL LICENCE - ANN MARIE MCCORMACK).

The Depute Clerk referred the Board to the report on the application. The applicant Anne Marie McCormack was present and accompanied by Mr Alan Blair the designated premises manager for the Crown Inn, 24 East Main Street, Blackburn.

Ms McCormack advised that she wished to proceed without representation and was ready to proceed. She advised that she did not dispute the contents of Appendix A to Police Scotland's letter of objection to her application.

Ms McCormack answered a number of questions from the Board members regarding her application. Mr Blair made submissions to the Board in support of the application.

The Depute Clerk advised the Board that although Ms McCormack had advised that she did not dispute the contents of Appendix A to Police Scotland's letter of objection, she had provided further information in relation to the contents of Appendix A which Police Scotland may wish to respond to. He advised that, as the information had been provided in the course of the hearing, Police Scotland may require time to respond and that the Board had discretion to adjourn the hearing.

Inspector Robertson advised that he was happy to proceed on the information before the Board and did not wish to request an adjournment.

Ms McCormack was invited to give a summing up regarding her application.

The Chair moved to grant the application. The Chair's motion was seconded by Councillor McMillan. Councillor Jim Dickson moved to refuse the application on the ground that it was necessary to do so for the purposes of the licensing objective of securing public safety. Councillor Jim Dickson's amendment was seconded by Councillor Dixon.

Decision

The Board decided by a majority of 5:2 to grant the application.