

LICENSING BOARD

ABERDEEN, 6 October 2015. Minute of meeting of the LICENSING BOARD.
Present: Councillor Boulton, Convener; and Councillors Cameron, Carle, Grant, Lawrence, Townson and Yuill.

STATEMENT BY DEPUTE CLERK

1. Lynn May, Depute Clerk, informed the Board that in light of a recent decision regarding an appeal against the Board's decision to refuse a provisional premises licence, the overprovision part of the Board's Statement of Licensing Policy would have to be reviewed. In the meantime she advised the Board that it should no longer have regard to over provision when considering applications for off sales premises.

ORDER OF BUSINESS

2. The Convener proposed that item 3.1 be considered as the first item on the agenda. (Article 3 of this minute refers).

The Board resolved:-
to agree to the proposal.

APPLICATION FOR A PREMISES LICENCE - COCOA OOZE, 24-28 BELMONT STREET

3. Mr Tyler, Solicitor, addressed the Board in support of the application. His client operates a coffee shop and bistro and is looking to sell alcohol for consumption both on and off the premises.

The Board resolved:-
to grant the application subject to the following local condition:-
(1) Drugs Policy as set out in the Board's Statement of Licensing Policy.

APPLICATION FOR A PROVISIONAL PREMISES LICENCE - R S MCCOLLS, PROVOST WATT DRIVE

4. The Board was advised that this application had previously been refused and on appeal had been remitted back to the Board for consideration anew.

As a preliminary point, Lynn May, Depute Clerk, advised the Board that NHS Grampian had submitted a late letter of objection to the application.

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Thereafter the Board heard from Mr Skinner, Advocate, on behalf of the applicant who asked the Board not to take the late letter into consideration.

The Board resolved:-

not to consider the late letter of objection.

Sergeant Flett advised the Board that Police Scotland were withdrawing their letter of representation. Diane Sande, Licensing Standards Officer (LSO) also withdrew her representation to the application.

The Board heard Robert Skinner, Advocate, speak in support of the application. He informed the Board that the premises currently operate as a newsagent but his client has developed a new business model and is converting many of its stores to operate as local convenience stores. The alcohol area will have a capacity of just 10 square metres but it is important for the viability of the store. It is very unlikely that people will travel to the shop from outwith the local community. The alcohol would not be particularly cheap and there was no suggestion that granting this application would prejudice public health therefore there could be no ground for refusal.

Councillor Townson moved:-

to grant the application on the basis that there were no objections and the business model would not be inconsistent with the health objective.

The Convener moved as an amendment:-

to refuse the application on the grounds that it is inconsistent with the licensing objective of protecting and improving public health.

On a division there voted:- for the motion (5) – Councillors Cameron, Carle, Grant, Lawrence and Townson; for the amendment (2) – the Convener and Councillor Yuill.

The Board resolved:-

to adopt the motion and grant the application subject to the following local condition:-
(1) the installation of a CCTV system to the standard as set out in the Board's Statement of Licensing Policy.

**APPLICATION FOR A PROVISIONAL PREMISES LICENCE - CO-OPERATIVE, 122 -
124 BROOMHILL ROAD**

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5. The Board was advised that this application had previously been refused. An appeal was lodged and in light of another judgement it was agreed that the Board would consider it anew.

The Board had before it a letter of representation from the Chief Constable, Police Scotland dated 22 December 2014, a representation dated 18 December 2014 from Tara-Erin Gilchrist, LSO, a letter of objection from NHS Grampian dated 19 December and 39 letters of objection and 3 representations in support of the application from members of the public.

Sergeant Flett advised the Board that Police Scotland were withdrawing their letter of representation. Diane Sande, LSO, withdrew the LSO representation to the application.

The Board heard from Jennifer Butler, Chairperson of Ashley and Broomhill Community Council who spoke to its letter of objection; from Lynn Campbell on behalf of Mr Dawson, one of the objectors and from Heather Wilson, NHS Grampian.

Thereafter the Board heard from Mr Skinner, Advocate on behalf of the applicant. He said his client was a well respected organisation whose primary function was to provide facilities to local communities. The proposed alcohol display area would account for less than 10% of the total sales area. It was his contention that there was no evidence that granting this application would have an adverse effect on public health.

Councillor Cameron moved:-
to grant the application.

Councillor Yuill moved as an amendment:-
to refuse the application on the ground that it is inconsistent with the licensing objective of protecting and improving public health.

On a division there voted:- for the motion (5) – Councillors Cameron, Carle, Grant, Lawrence and Townson; for the amendment (2) – the Convener and Councillor Yuill.

The Board resolved:-

to adopt the motion and grant the application subject to the following local condition:-
(1) the installation of a CCTV system to the standard as set out in the Board's Statement of Licensing Policy.

APPLICATION FOR A PROVISIONAL PREMISES LICENCE: ANGUS AND ALE, 55 SCHOOLHILL

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6. Mrs Hood, Solicitor, addressed the Board in support of the application. The premises operate as a restaurant and her client is seeking to sell alcohol for consumption on the premises.

The Board resolved:-

to grant the application subject to the following local condition:-

- (1) Drugs Policy as set out in the Board's Statement of Licensing Policy.

APPLICATION FOR A PROVISIONAL PREMISES LICENCE: R S MCCOLL'S, 2-4 BALGOWNIE CRESCENT

7. The Board had before it a letter of representation from Police Scotland dated 27 July 2015 and a letter of objection from NHS Grampian dated 06 August 2015.

Sergeant Flett advised the Board that Police Scotland were withdrawing that part of the representation relating to overprovision and had no adverse comment in respect of the applicant's relevant convictions.

The Board then heard from Heather Wilson, NHS Grampian. She withdrew NHS Grampian's representation regarding overprovision, but spoke to the objection to the application on the ground of the licensing objective of protecting and improving public health.

Thereafter Mr Skinner, Advocate, spoke in support of the application. The applicant's business model was changing from that of a newsagent to community stores offering convenience grocery goods. The applicant was seeking to offer a limited selection of beers and wines along with the groceries.

The Board resolved:-

to grant the application subject to the following local condition:-

- (1) the installation of a CCTV system to the standard as set out in the Board's Statement of Licensing Policy.

APPLICATION FOR A PROVISIONAL PREMISES LICENCE: R S MCCOLL'S, 207A UNION STREET

8. The Board had before it a letter of representation from Police Scotland dated 27 July 2015, a letter of objection from NHS Grampian dated 06 August 2015 and a letter of objection from Central North Aberdeen GP practices dated 07 August 2015.

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Sergeant Flett advised the Board that Police Scotland were withdrawing that part of the representation relating to overprovision and had no adverse comment in respect of the applicant's relevant convictions.

The Board then heard from Heather Wilson, NHS Grampian. She withdrew NHS Grampian's representation regarding overprovision, but spoke to the objection to the application on the ground of the licensing objective of protecting and improving public health. She stated that there are higher than average levels of referrals to the Integrated Alcohol Service from this postcode area and that the majority of alcohol purchased is from small shops rather than supermarkets.

Thereafter the Board heard Mr Skinner, Advocate, speak in support of the application. He stated that the purpose of the application is to serve commuters therefore customers would be drawn from a much larger area than the immediate locale as the premises was on a main commuter route. The capacity sought is 7 square metres. Mr Skinner stated that the NHS were seeking to say that the size of premises is important but it was his contention that for those persons with alcohol problems it is locale that is important not capacity.

Councillor Cameron moved:-
to grant the application.

The Convener moved as an amendment:-
to refuse the application on the ground that it was inconsistent with the licensing objective of protecting and improving public health.

On a division there voted:- for the motion (2) – Councillors Cameron and Townson; for the amendment (5) – the Convener and Councillors Carle, Grant, Lawrence and Yuill.

The Board resolved:-

to adopt the amendment and refuse the application.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: MUSA, 33 EXCHANGE STREET

9. The Board heard John Kelman, Premises Manager, speak in support of the application. The applicant was looking to vary the licence for on sales from 11:00 to 01:00 hours daily,

The Board resolved:-

to grant the application.

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APPLICATION FOR VARIATION OF A PREMISES LICENCE: WINE RAKS, 8 ST SWITHIN STREET, ABERDEEN

10. The Board heard Tony Dawson, Solicitor, speak in support of the application. The layout of the premises had changed since the act was introduced and this application was to rectify the discrepancy.

The Board resolved:-
to grant the application.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: BORSALINO'S, 337 NORTH DEESIDE ROAD, PETERCULTER

11. The Board had before it a letter of objection from NHS Grampian dated 18 September 2015 and a representation from Culter Community Council also dated 18 September 2015.

The Board heard Heather Wilson speak in support of the objection from NHS Grampian. No one from the Community Council attended the meeting.

Thereafter the Board heard Tony Dawson, Solicitor, speak in support of the application. The applicant was seeking to add a conservatory to the upper restaurant area and convert the lower level to a bottle shop for off sales.

The Board resolved:-
to grant the application.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: O'NEILL'S (GND FLOOR), 9 BACK WYND

12. The Board was advised that the application had been withdrawn.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: CO-OPERATIVE, LEWIS ROAD

13. As a preliminary point it was noted that contrary to Licensing Board policy the proposed capacity had not yet been agreed. Mr Dawson stated that he was confident that the figure calculated by David Kidd, Building Standards would be correct and a figure of 16.57 square metres was agreed.

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The Board heard Heather Wilson speak in support of NHS Grampian's letter of objection dated 14 September 2015. She had visited the store and was informed that the new display area would be an end of aisle display which gave her concern as evidence shows that marketing products at the end of aisle has a larger impact on sales.

Thereafter the Board heard Tony Dawson, Solicitor, speak in support of the application. He confirmed that the end of aisle display would contain promotions of beers and wines but that even when running a promotion prices would still be higher than those found in supermarkets.

The Convener moved to grant the application with the exception of the end of aisle display cabinet. Councillor Carle moved as an amendment to grant the application.

On a division there voted:- for the motion (2) – The Convener and Councillor Yuill; for the amendment (5) – Councillors Cameron, Carle, Grant, Lawrence and Townson.

The Board resolved:-

to adopt the amendment and grant the application.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: GHILLIES LAIR, GREAT SOUTHERN ROAD

14. The Board had before it a representation from Police Scotland dated 07 September 2015, which recommended the imposition of 3 local conditions should the application be granted. The Board was advised that the applicant would agree to these conditions being imposed.

Thereafter the Board heard Andrew Hunter, Solicitor, speak in support of the application which was to allow table service in the outside area.

The Board resolved:-

to grant the application subject to the following local conditions –

- (1) A sign stating 'Licensed Area under the terms of the Licensing (Scotland) Act 2005' must be displayed at the entrance to the external area. This area must be clearly delineated to prevent general access and egress by persons other than customers of the premises.
- (2) No alcohol is to be taken out with the external area and clear signs are to be displayed to that effect which should include wording advising that to do so would be an offence in terms of the Aberdeen City Council (Drinking in Public Places) Byelaws 2009.

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- (3) The terminal hour for the external area is restricted to 22:00 hours.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: LIDL, INVERURIE ROAD

15. The Board had before it a letter of objection from NHS Grampian dated 18 September 2015. The Board heard Heather Wilson, NHS Grampian speak in support of the letter. She stated that 4 out of the 5 data zones covered by the store show alcohol related hospital admissions more than 5% greater than the national average.

Thereafter Mr Hunter, Solicitor, spoke in support of the application. He informed the Board that the application is part of a national exercise his client is undertaking to introduce international theme weeks in its stores. Food and drink products would be highlighted in sections around the store. The alcohol would be an end of aisle display highlighting the promotion. He said that when this had been introduced in other stores operated by his client the promotions did not lead to consumers buying more alcohol rather they changed to buying what was on offer as part of the promotion. These theme weeks generally run 9 weeks out of 12. When the theme weeks are not in operation premium wines would occupy the end of aisle display.

Councillor Cameron moved to grant the application. The Convener moved as an amendment to grant with a local condition that the end of aisle display would be restricted to themed weeks.

On a division there voted:- for the motion (4) – Councillors Cameron, Carle, Lawrence and Yuill; for the amendment (3) – The Convener and Councillors Grant and Townson.

The Board resolved:-

to adopt the motion and grant the application.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: LIDL, WELLINGTON ROAD

16. The Board had before it a letter of objection from NHS Grampian dated 18 September 2015. The Board heard Heather Wilson, NHS Grampian speak in support of the letter.

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Thereafter Mr Hunter, Solicitor, spoke in support of the application. He informed the Board that the application is part of a national exercise his client is undertaking to introduce international theme weeks in its stores. Food and drink products would be highlighted in sections around the store. The alcohol would be an end of aisle display highlighting the promotion. He said that when this had been introduced in other stores operated by his client the promotions did not lead to consumers buying more alcohol rather they changed to buying what was on offer as part of the promotion. These theme weeks generally run 9 weeks out of 12. When the theme weeks are not in operation premium wines would occupy the end of aisle display.

The Convener moved to grant the application with a local condition that the end of aisle display would be restricted to themed weeks. Councillor Cameron moved as an amendment to grant the application.

On a division there voted:- for the motion (4) – The Convener and Councillors Grant, Lawrence and Townson; for the amendment (3) – Councillors Cameron, Carle and Yuill.

The Board resolved:-

to adopt the motion and grant the application with a local condition that alcohol would only be allowed on the end of aisle display during international theme weeks.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: LIDL, LANG STRACHT

17. The Board had before it a letter of objection from NHS Grampian dated 18 September 2015. The Board heard Heather Wilson, NHS Grampian speak in support of the letter.

Thereafter Mr Hunter, Solicitor, spoke in support of the application. He informed the Board that the application is part of a national exercise his client is undertaking to introduce international theme weeks in its stores. Food and drink products would be highlighted in sections around the store. The alcohol would be an end of aisle display highlighting the promotion. He said that when this had been introduced in other stores operated by his client the promotions did not lead to consumers buying more alcohol rather they changed to buying what was on offer as part of the promotion. These theme weeks generally run 9 weeks out of 12. When the theme weeks are not in operation premium wines would occupy the end of aisle display.

The Convener moved to grant the application with a local condition that the end of aisle display would be restricted to international themed weeks. Councillor Cameron moved as an amendment to grant the application.

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On a division there voted:- for the motion (3) – The Convener and Councillors Grant, and Townson; for the amendment (4) – Councillors Cameron, Carle Lawrence and Yuill.

The Board resolved:-

to adopt the amendment and grant the application.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: MILL OF MUNDURNO, BRIDGE OF DON

18. As a preliminary point Carolyn Harrison, Depute Clerk, addressed the Board on the requirements concerning the display of a notice in respect of the application.

The Board had before it, two reports from David McKane, Enforcement Officer, stating that on two occasions when he had visited the premises during the period the notice was to have been displayed there was no notice.

The Board heard from Michelle Hazlewood, Solicitor, who apologised on behalf of her client. A notice had been displayed but not where it could be seen by passers by.

The Board resolved:-

to defer consideration of the application to allow the applicant to display a further notice.

APPLICATION FOR VARIATION OF A PREMISES LICENCE: PREMIER INN, ARGYLL WAY, ABERDEEN AIRPORT

19. The Board heard Michelle Hazlewood, Solicitor, speak in support of the application. Her client was seeking to expand the premises and reconfigure the ground floor including an expansion of the existing rea

The Board resolved:-

to grant the application.

DECLARATION OF INTEREST

Councillor Grant declared an interest in article 20 as the applicant is known to him. He left the meeting room until the application was determined.

APPLICATION FOR A PERSONAL LICENCE: AC4161

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20. The Board had before it a notice of conviction from Police Scotland dated 12 June 2015 and heard Sergeant Skinner speak in support of the letter.

Thereafter the Board heard from the applicant.

The Board resolved:-
to grant the application.

APPLICATION FOR A PERSONAL LICENCE: AC4174

21. The Board was advised that this item had been deferred from its meeting on 25 August 2015 to allow the applicant to attend.

The Board had before it a notice of conviction from Police Scotland dated 21 June 2015 and heard Sergeant Skinner speak in support of the letter.

In the absence of the applicant.

The Board resolved:-
to refuse the application.

APPLICATION FOR A PERSONAL LICENCE: AC4141

22. The Board had before it a notice of conviction from Police Scotland dated 07 July 2015.

In the absence of the applicant.

The Board resolved:-
to defer consideration of the application to its meeting to be held on 08 December 2015.

PREMISES LICENCE REVIEW HEARING - NOOSE & MONKEY, ROSEMOUNT VIADUCT

23. The Board was advised that the request for a review hearing in respect of the premises licence had been withdrawn.

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MARIE BOULTON - CONVENER