

LICENSING BOARD

ABERDEEN, 2 February 2021. Minute of meeting of the LICENSING BOARD.
Present: Councillor Boulton, Convener; and Councillors Cameron, Lesley Dunbar, Grant, Greig, McLellan, Townson and MacKenzie.

MINUTES OF MEETING OF 8 DECEMBER 2020

1.

The Board had before it for its consideration the minutes of the meeting of 8 December 2020,

The Board resolved: -

To approve the minute.

MINUTES OF REVIEW HEARING 07/01/2021

2.

The Board had before it for its consideration the minutes of the meeting of 07 January 2021

The Board resolved: -

To approve the minute.

LIST OF APPLICATIONS

3.

The Board had before it for its consideration the applications as listed in 4-9

APPLICATION FOR PREMISES LICENCE - ALMONDINE, 15 CHAPEL STREET

4.

The Board heard from Alexander Munro, Depute Clerk, to the Board that there had been no objections or representations received in connection with the application. Thereafter the Board heard from Suzanne Horne on behalf of the applicant.

The Board resolved: -

To grant the application subject to the Drugs Policy Condition.

APPLICATION FOR PROVISIONAL PREMISES LICENCE - 21 CROWN TERRACE, ABERDEEN

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5.

The Board heard from Alexander Munro, Depute Clerk, to the Board that there Police Scotland's representation received in connection with the application had been withdrawn.

Thereafter the Board heard from Alistair McDonald on behalf of the applicant in support of the application.

Councillor Cameron noted that the licensed hours on Friday and Saturday were for 16 continuous hours and therefore outwith the Board's Policy. Mr MacDonald on behalf of the applicant agree to move the hours within policy i.e. commencing at 12:00 rather than 11:00.

The Board resolved: -

To grant the application as amended and subject to the following conditions:

1. Door Supervisor
2. Drugs Policy
3. Radio Link
4. Adult Entertainment and in addition to the standard condition; Live Performances and Adult Entertainment will consist of the following, namely Live and Recorded Music, including Live bands and DJs, and Cabaret. Adult Entertainment will require to be as part of a pre-booked event with no Under-18s present. The Adult Entertainment will consist of striptease by male or female performers for private pre-booked Parties. No Pole Dancing or Private Dancing will take place
5. Delivery Driver

**APPLICATION FOR PROVISIONAL PREMISES LICENCE - ALDI,
COUNTESSWELLS ROAD, ABERDEEN****6.**

The Board heard from Alexander Munro, Depute Clerk, to the Board that there had been no objections or representations received in connection with the application.

Thereafter the Board heard from Michael McDougall, Solicitor speak in support of the application.

The Board resolved: -

To grant the application subject to the CCTV and Delivery Driver Condition.

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APPLICATION FOR PROVISIONAL PREMISES LICENCE - 785 GREAT NORTHERN ROAD, ABERDEEN

7.

The Board heard from Alexander Munro, Depute Clerk, to the Board that there had been no objections or representations received in connection with the application. Mr Munro explain that the premises were excluded premises in terms of Section 123 of the Licensing (Scotland) Act 2005 and that the applicant required to show that persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of—

(a) petrol or derv, or

(b) groceries (where the premises are, or are to be, used also for the sale by retail of groceries).

The Board heard from Andrew Hunter, Solicitor, in support of the application.

The Board resolved: -

To grant the application subject to the CCTV condition.

APPLICATION FOR PROVISIONAL PREMISES LICENCE - UNIT 3, 9 BEACH ESPLANADE, ABERDEEN

8.

The Board heard from Alexander Munro, Depute Clerk, to the Board that there had been no objections or representations received in connection with the application. Mr Munro advised that an amendment had been made to the operating plan after comments were received from the LSO.

Thereafter the Board heard from Tony Dawson, Solicitor in support of the application.

The Board resolved: -

To grant the application as amended subject to the Outdoor drinking conditions and drugs policy.

APPLICATION FOR VARIATION OF PREMISES LICENCE - SANDMAN SIGNATURE HOTEL, ST ANDREW STREET, ABERDEEN

9.

The Board heard from Alexander Munro, Depute Clerk, to the Board that there had been no objections or representations received in connection with the application. Thereafter the Board heard from Tony Dawson, in support of the application.

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The Board resolved: -

To grant the application.

GAMBLING ACT 2005 - APPLICATION FOR BINGO PREMISES LICENCE, 181A UNION STREET

10.

The Board heard from Alexander Munro, Depute Clerk, to the Board that the application was for a Bingo Premises Licence under the Gambling Act 2005. He advised that the consultation process was slightly different under the Gambling Act, however, there had been no objections or representations received in connection with the application.

Thereafter the Board heard from Audrey Junner, Solicitor in support of the application.

The Board resolved: -

To grant the application subject the Mandatory and Default conditions for Bingo premises.

AC0791 - DYCE TANDOORI, 275 STONEYWOOD ROAD, ABERDEEN

11.

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £187.00. Mr Munro further advised that the Licensing Team had attempted to make contact on 2 email address and by social media.

The Convener moved: -To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

Councillor McLellan moved as an amendment: - to defer consideration of the review until a further meeting of the Board.

On a division there voted: - for the motion (7) the Convener and Councillors Cameron, Dunbar, Grant, Greig, Mckenzie and Townson. For the amendment (1) Councillor McLellan

The Board resolved: -

To adopt the motion.

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AC0171 - HOWIE'S, 50 CHAPEL STREET, ABERDEEN**12.**

The Board heard from Mr Munro, Depute Clerk to the Board that the fee had now been paid.

AC0186 - EXPRESS BY HOLIDAY INN, CLAYMORE DRIVE, ABERDEEN**13.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £600. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0327 - THE ROWAN TREE, 654 KING STREET, ABERDEEN**14.**

Mr Munro, Depute Clerk to the Board advised that the fee had now been paid.

AC0401 - THE BRENTWOOD HOTEL, 99 CROWN STREET, ABERDEEN**15.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £467. Mr Munro further advised that the Licensing Team had received correspondence asking that the licence be temporarily surrendered. The licence holder was advised that this was not possible and that the licence should either be surrendered, or the fee paid. No further correspondence was received.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

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AC0451 - NAWAABS RESTUARANT, 33 SUMMER STREET, ABERDEEN**16.**

Mr Munro, Depute Clerk to the Board advised that the fee had now been paid.

AC0594 - THE HIGHLAND HOTEL, 89 CROWN STREET, ABERDEEN**17.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £467. Mr Munro further advised that the Licensing Team had received correspondence asking that the licence be temporarily surrendered. The licence holder was advised that this was not possible and that the licence should either be surrendered, or the fee paid. No further correspondence was received.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0728 - PARK INN BY RADISSON ABERDEEN, 1 JUSTICE MILL LANE, ABERDEEN**18.**

Mr Munro, Depute Clerk to the Board advised that the fee had now been paid.

AC746 - GURKHA CHEF, 5 PALMERSTON ROAD, ABERDEEN**18.1.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £147. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

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AC722 - BELLA ITALIA, UNIT 6, BEACH RETAIL PARK, ABERDEEN**19.**

Mr Munro, Depute Clerk to the Board advised that the licence had been surrendered.

AC952 - ROHAAN CAFE BAR, ZARA HOUSE, BURNSIDE DRIVE, DYCE, ABERDEEN**20.**

Mr Munro, Depute Clerk to the Board advised that the fee had now been paid.

AC0031 CAMPBELL'S PUBLIC HOUSE, 170 SINCLAIR ROAD**21.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £170. Mr Munro further advised that the Licensing Team had received no response to its correspondence and that it is believed that the premises is closed.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0249 - BALACLAVA BAR, 31 LOCH STREET, ABERDEEN**22.**

Mr Munro, Depute Clerk to the Board, advised that a transfer for the premises had now been completed. The agent acting for the transferee had indicated that the payment of the annual fee had been made that morning, however the licensing team had not received confirmation of this. In the circumstances Mr Munro suggested that the review hearing be deferred to the next meeting of the Board.

The Board resolved: -

to defer the hearing to the next meeting of the Board.

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AC0280- FERRYHILL TAVERN AND DEVANHA LOUNGE 124 SOUTH COLLEGE STREET**23.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £187. Mr Munro further advised that the Licensing Team had received no response to its correspondence. Mr Munro further advised that it is believed that the premises are now operating as a Papa John's Pizza Premises.

The Board resolved: -

To revoke the licence.

AC0285 - THE MOUNTHOOLY SPORTS BAR, 70 HUTCHEON STREET, ABERDEEN**24.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £187. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0299 - DOUBLETREE BY HILTON, BEACH BOULEVARD, ABERDEEN**25.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £600. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

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To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0318 - BUDZ BAR, 419 UNION STREET, ABERDEEN**26.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £187. Mr Munro further advised that the Licensing Team had received no response to its correspondence and that the premises had been closed for a considerable time.

The Board resolved: -

To revoke the licence.

AC0490 - ABERDEEN HERO/PUMPKIN, ABERDEEN RAILWAY STATION, ABERDEEN**27.**

Mr Munro, Depute Clerk to the Board advised that the licence had been surrendered.

AC0506, BHAN THAI, 1ST FLOOR , 21 ROSE STREET , ABERDEEN**28.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £187. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0511 - LA BONNE BRASSERIE , 19 CORRECTION WYND, ABERDEEN

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29.

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £187. Mr Munro further advised that the Licensing Team had received no response to its correspondence. It is understood that there has been a change of operation.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0571 - HILTON GARDEN INN, ST ANDREW STREET, ABERDEEN**30.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £600. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC0584- DOUBLETREE BY HILTON ABERDEEN TREETOPS, 161 SPRINGFIELD ROAD, ABERDEEN**31.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £600. Mr Munro further advised that the Licensing Team had received no response to its correspondence. It was noted that the building had been demolished.

The Board resolved: -

To revoke the licence.

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AC0713 - HANDMADE BURGER COMPANY, UNIT FS16 UNION SQUARE

32.

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £600. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC771 - YO! SUSHI, UNIT 2, BON ACCORD CENTRE, ABERDEEN

33.

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £600. Mr Munro advised that premises ceased trading on 14 October 2018. At around the same time, they were handed back to the landlord so none of the Yo! Sushi companies has any interest in the premises and that the premises manager ceased to work at the premises on 14 October 2018.

The Board resolved: -

To revoke the licence.

AC867- B & M STORES, UNIT 5B, KITTY BREWSTER RETAIL PARK.

34.

Mr Munro, Depute Clerk to the Board advised that the fee had now been paid.

AC795 - LAS IGUANAS - UNIT FS1, UNION SQUARE

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35.

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £600. Mr Munro further advised that the Licensing Team had received no response to its correspondence.

The Board resolved: -

To vary the licence and operating plan by amending the operating hours of the premises to zero and to give delegated powers to the Depute Clerk to vary the hours back upon receipt of the payment.

AC918 -5 GREAT WESTERN PLACE, ABERDEEN**36.**

The Board heard from Mr Munro, Depute Clerk to the Board that the premises licence was being reviewed for a breach of Mandatory Condition 10 – failure to pay the annual fee. He advised that the fee was due by the 1 October and the amount outstanding was £220. Mr Munro further advised that the Licensing Team had received correspondence indicating that the licence would be surrendered but this had not been formally done. He added that the premises were now operating as a nail bar.

The Board resolved: -

To revoke the licence.

PREMISES LICENCE REVIEW HEARING, VICTORIA BAR, 1 -5 MENZIES ROAD, ABERDEEN**37.**

The Board had before them an application from Police Scotland seeking a review of the premises licence for the Victoria Bar, 1- 5 Menzies Road.

The Board heard from Mr Munro, Depute Clerk to the Board that, the Licensing Board may, if satisfied that a ground for review is established take any of the following steps if they consider action necessary; to issue a written warning to the licence holder, make a variation of the licence, suspend the licence for such period as the Board may determine or revoke the licence. Mr Munro also advised the Board that in the course of

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the hearing if the Board found that any personal licence holder had acted in a manner inconsistent with the licensing objectives they could hold a personal licence review hearing at a later date.

The Board heard from Sgt Flett, Police Scotland who summarised their application.

Thereafter the Board heard from Mr McGowan, Solicitor on behalf of the Licence holder. He commented that the premises had not come to the adverse attention of the Board previously. Mr McGowan added that it was a single incident and that there was no wider pattern of concern. Mr McGowan stated that neither the premises licence holder nor their tenant was aware of the actions of Ms Allison. He noted that Sgt Flett had confirmed that the tenant was absent on the evening that the incident took place and was in fact out of the country at the time. He further advised that the premises licence holder distanced themselves from the actions of the individuals mentioned in the Police letter. Mr McGowan reminded the Board that they were dealing with a premises licence review and asked the Board to separate the actions of the premises licence holder from those of the individuals involved. He advised the Board that the tenant had terminated the employment of Ms Allison. In terms of a premises licence review Mr McGowan asked the Board to consider the actions of the premise licence holder rather than those of Ms Alison. He stated that the licence holder could not be painted as a disinterested landlord when it came to observing the various Covid rules. Mr McGowan referred to the papers that had been submitted to the Board and stated that these showed that the licence holder had been very supportive of all of the pubs they operated and had been in constant contact with the pubs to ensure that they were aware of and following various rules including a communication advising of the 6pm cut off. He considered that the papers showed that the premises licence holder had been proactive to help and support tenants and these were the actions of a responsible landlord. Out of 110 pubs that the premises licence holder operates the Victoria Bar is the only premises where a breach of the Covid regulations has taken place.

Also, in the papers was a suite of documents which showed interactions specifically with the Victoria Bar and the due diligence and written reports by the Local Area Manager which showed a series of strong and significant communications with the premises. Mr McGowan considered that the premises licence holder nor the tenant could not have foreseen that the incident would occur. He added that if the Board accepted that the premises licence holder could not have foreseen the non-compliance, did they assume compliance with the 6pm rule or were they proactive? Mr McGowan considered that there was proactivity not just in connection with the 6pm rule but in relation to all the various changes related to Covid. The premises licence holder stands behind the tenant and consider that the is a good tenant and they wish to protect his business as well as the licence as an asset. The premises licence holder believes that their tenant was unaware of the incident and that he did not condone it. Mr McGowan gave an undertaking on behalf of the licence holder that every effort would be taken to ensure that such an incident doesn't happen again.

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Mr McGowan then raised the point about whether a breach of covid regulation was in fact a licensing matter. He made the observation that in this case it was not a licensing matter but more of an environmental health and police matter, however he stated that he wish the Board to put more weight on the wider point about the actions of the premises licence holder. Mr McGowan did not consider that the grounds of review had been established and that the Board could simply end the matter. He further considered that if the Board did feel that the grounds had been established that the proportionate response would be to take no action. He reminded the Board that it is open to them to conduct a review of the 3 personal licences of the individuals involved and it seemed to him that would be a more proportionate outcome.

The Board then asked questions of both Mr McGowan and Police Scotland.

The Board unanimously resolved: -

That the grounds for review had been established.

Having found that the grounds for review had been established;

The Board unanimously resolved:

To take no action.

The Board then heard from Mr Munro that the Board should now consider if any of the three named individuals should be subject to a review. Mr Munro advised that Ms Allison did not appear to hold a personal licence with Aberdeen City Licensing Board and stated that she may hold one with another authority. Sgt Flett confirmed that Ms Allison was not a personal licence holder. In the circumstances the Board were asked to consider if the 2 personal licence holders should be subject to a review.

The Board unanimously resolved:

Not to hold a personal licence review hearing.

APPLICATION FOR PERSONAL LICENCE - NP

38.

The Board had before them a letter dated 24 November 2020 from Police Scotland. Thereafter the Board heard from Sgt Flett in support of the letter and from the applicant.

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The Board resolved: -

to grant the application.

Councillor Grant left the meeting at this item.

APPLICATION FOR PERSONAL LICENCE - EK

39.

The Board heard from Mr Munro, Depute Clerk to the Board that the applicant was not present at the meeting.

The Board resolved: -

to defer consideration of the matter to a sub committee of the Board for a personal appearance.