

MORAY COUNCIL

Minute of Meeting of the Licensing Board

Wednesday, 25 August 2021

remote locations via video conference,

PRESENT

Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Ryan Edwards, Councillor Amy Taylor

APOLOGIES

Councillor Maria McLean, Councillor Louise Nicol

IN ATTENDANCE

Also in attendance at the above meeting were: Sergeant Gill Flett, Police Scotland, Sean Hoath, Depute Clerk to the Board, Sana Sarwar, Solicitor, Emma Rapley, Licensing Standards Officer and Lindsey Robinson, Committee Services Officer.

1. Chair

The Meeting was chaired by Councilor Cowie.

2. Minute of the Meeting of the Board 9 June 2021

The minute of the Meeting of the Board on 9 June 2021 was submitted and approved.

3. Licensing (Scotland) Act 2005 - Annual Review of Licensing Fees

A report by the Clerk to the Board asked that the Board note the current fees and the financial report on income and expenditure, agree to publish the financial report, and consider whether to keep the current fee structure or revise the same and in the latter case proceed to nominate and instruct the policy sub group to consider proposals for change as the Board sees fit.

Following consideration Councillor Cowie proposed the recommendations be agreed and there being no one otherwise minded the Board agreed the recommendations.

4. Licensing Scotland (Act) 2005 - Annual Functions Report

A report by the Clerk to the Board asked the Board to note the draft annual functions report, amend the same if the Board considers appropriate and agree the final report, and instruct the Clerk to publish the agreed final report on the Board's web pages.

During consideration the Depute Clerk advised that the table of figures was incorrect, as two licences had been revoked (one premises licence and one

personal licence), and would be amended before the final report was published. The error arose as a result of the table of figures being produced by the licensing ICT system but not being picked up by the statistical function of the system.

Following consideration the Board agreed to publish the report with the above corrections included.

5. Licensing (Scotland) Act 2005 – Personal Licence Hearing Following Disclosure of Relevant Conviction by Licence Holder (Case Number 1 of 2021)

A report by the Clerk to the Board asked the Board to note the existence of a relevant conviction and the requirement to hold a review hearing following confirmation of the conviction and the making of a recommendation by the Chief Constable, and to note any recommendation(s) from the Chief Constable, hear from the parties, consider the matter and determine whether one of the possible orders is necessary for the purposes of any of the licensing objectives.

The Depute Clerk introduced the report and advised that the licence holder was unable to attend the meeting and has requested the case be deferred to the next meeting.

During consideration Councillor Coy sought clarification on what would happen if the licence holder was unable to attend the next meeting as it could not carry over indefinitely.

In response the Depute Clerk confirmed that only one deferral was generally allowed. The licence holder had indicated if he was unable to attend the next meeting he would send a representative. He would also have the options to attend by telephone or send written representations. If there was no representation at the next meeting it would be the Board's decision but the Board would be entitled to proceed in absence.

Following further consideration the Board agreed to defer the item to allow the licence holder to attend in person or for them to arrange a representative to attend on their behalf.

6. 21-00964-PRELIC Orrin - Application Form

The Depute Clerk introduced the application and advised that all relevant paperwork was in order to grant a provisional premises licence and that no objections had been received. The applicants representative introduced the application and confirmed that the Section 50 planning report had been received and the building warrant was due.

Following consideration Councillor Brown proposed granting the licence and there being no one otherwise minded the Board agreed to grant the new provisional premises licence.

7. PREVMA Lidl Forbes, Buckie and Elgin - Application Forms

The Depute Clerk introduced the application and advised that the applications for the three Lidl stores were identical so could be taken together if the Board was so minded.

The Board agreed that all three Lidl applications should be heard together.

The applicants representative introduced the three reports and gave an overview as to why the variation was being applied for and how it would impact on the stores.

Following consideration Councillor Cowie proposed granting the licences and there being no one otherwise minded the Board agreed to grant the three variations for the Lidl stores in Forres, Buckie and Elgin.

8. 21-00953-PREVMA Scotmid - Application Form

The applicant's representative introduced the application and answered questions from the Board.

Following consideration Councillor Coy stated that she was happy to grant the application. There being no one otherwise minded the Board agreed to grant the variation.

9. 21-01085-PREVMA Spar Shop West Road Service Station - Application Form

The Depute Clerk introduced the application and advised that all relevant paperwork was in order and no objections had been received. The applicant's representative introduced the application and invited questions from the Board.

Following consideration the Board agreed to grant the variation.

10. 21-00805-PREVMA Pinz Bowling - Application Form

The Depute Clerk introduced the application and advised that there were many reports attached to this application including an acoustic expert's report, a representation from Police Scotland and a report from the Licensing Standards Officer (LSO).

The applicant's representative introduced the application, gave background to the application and the variations sought as well as highlighting the importance of the acoustic report that had been submitted with the application.

Sergeant Flett and the Licensing Standards Officer both made representations to the Board.

The Board asked questions of the parties.

In response to questions the applicant's representative advised that they would gladly meet with Police Scotland and the Licensing Standards Officer to set a level from the outset and confirmed that a level of 70Db was proposed in the acoustic report. He also made the Board aware that his client would be prepared to voluntarily accept and indeed welcome a six month trial period with monthly reporting to Police Scotland and Licensing Standards Officer.

Each party summed up with the applicant's representative being the final party to address the Board.

Following debate, deliberation and consideration of all information presented Councillor Allan, seconded by Councillor Edwards, moved that the variation should be granted.

Councillor Brown, seconded by Councillor Coy, proposed that the variation should be refused as it went against current policy guidelines and so granting would be inconsistent with the licensing objectives of preventing public nuisance.

On a division there voted:-

For the Motion (3) Councillors Allan, Edwards and Cowie

For the Amendment (4) Councillors Brown, Coy, Bremner and Taylor

Abstentions (0).

The amendment therefore became the finding of the meeting and the variation was refused.

The applicant's representative requested that his client be allowed to re-apply for the variation prior to the usual 12 month restriction for re-application.

Following consideration, Councillor Edwards moved that the applicant should be allowed to re-apply within the next 12 months. There being no one otherwise minded the Board agreed that the application could be resubmitted within the next 12 months.

11. Review of Open Ended Occasional Licences

The Deputy Clerk to the Board gave a verbal update on the open ended occasional licences granted during the pandemic to premises who already hold a licence looking to utilise outside areas.

The Deputy Clerk proposed an end date for these licences as the end of the calendar year when those wishing to continue would need to apply for a major variation.

Following consideration the Board agreed that the open ended occasional licences would expire at the end of this calendar year and any premise that would like to permanently licence a specific area currently covered by an occasional licence should apply for a major variation to the premise licence. Any submissions must be with the Board 6 weeks before the hearing date. The next meetings are set for 20 October and 8 December 2021