



Licensing Board

Wednesday, 07 February 2024

NOTICE IS HEREBY GIVEN that a Meeting of the **Licensing Board** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Wednesday, 07 February 2024** at **14:00**.

BUSINESS

1. **Sederunt**
2. **Declaration of Member's Interests**
3. **Minute of the meeting held 15 November 2023** **5 - 8**
4. **Application List for Board 07 February 2024**
 - 4a. **The Capercaillie 23-02604-PRELIC**
 - 4b. **Food Vault Burger and Gril 23-02634-PROLIC**
 - 4c. **Macallan Distillery 24-00091 PREVMA**
5. **Review of Premises Licences** **9 - 12**

Report by Clerk to the Board

GUIDANCE NOTES

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

THE MORAY COUNCIL

Licensing Board

SEDERUNT

Councillor Peter Bloomfield (Chair)
Councillor Sonya Warren (Chair)

Councillor James Allan (Member)
Councillor Neil Cameron (Member)
Councillor Tracy Colyer (Member)
Councillor David Gordon (Member)
Councillor Scott Lawrence (Member)
Councillor Ben Williams (Member)

Clerk Name:	Lindsey Robinson
Clerk Telephone:	07966 120593
Clerk Email:	committee.services@moray.gov.uk

Minute of Meeting of the Licensing Board

Wednesday, 15 November 2023

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor James Allan, Councillor Peter Bloomfield, Councillor Neil Cameron, Councillor Tracy Colyer, Councillor David Gordon, Councillor Scott Lawrence, Councillor Sonya Warren

APOLOGIES

Councillor Ben Williams

IN ATTENDANCE

Sean Hoath, Depute Clerk to the Board; Jennifer Smith, Solicitor; Lindsey Robinson, Committee Services Officer, all Moray Council, and PC Mitchell Dickson, Police Scotland

1. Chair

Councillor Sonya Warren, as co-Chair of the Licensing Board, chaired the meeting.

2. Declaration of Member's Interests

The Board noted that there were no declarations of Member's interests.

3. Minute of the meeting held 6 September 2023

The minute of the meeting held 6 September 2023 was submitted and approved.

4. Cardhu Distillery 23-01695-PREVMA

Mr Hoath introduced the application as a major variation and advised the Board that all paperwork was in order and there were no objections and the applicant had accepted the Police representation.

PC Dickson confirmed that there was nothing more to add from Police Scotland.

The applicants representative addressed the Board and responded to the questions asked.

Thereafter Councillor Bloomfield moved that the variation be granted. This was seconded by Councillor Warren.

There being no one other wise minded the variation was granted.

5. Strathisla Distillery 23-01537-PREVMA

Mr Hoath introduced the application as a major variation and advised the Board that all paperwork was in order and there were no objections or representations.

PC Dickson confirmed that there was nothing more to add from Police Scotland.

Due to technical issues the online participants could not hear what was being discussed in the Chamber so at this juncture Councillors Colyer and Gordon left the meeting advising that they had no questions for the applicants representative and would be happy to approve the variation.

The Chamber could hear the applicants representative online and after sending him a message advising that the Board had no questions and would be happy to approve the variation, he confirmed that he had nothing further to add and was happy with the outcome.

Thereafter the Chair moved that the variation be granted and there being no one other wise minded the variation was granted.

6. Elgin Bridge Centre 23-02195-PRELIC

Mr Hoath introduced the application as a new premises licence and advised the Board that all paperwork was in order and there were no objections and no representations.

PC Dickson confirmed that there was nothing more to add from Police Scotland.

The applicant addressed the Board and responded to the questions asked.

Thereafter Councillor Bloomfield moved that the licence be granted. This was seconded by Councillor Warren.

There being no one other wise minded the licence was granted.

7. Catch 79 23-02238-PRETHA

Mr Hoath introduced the application as a variation to an existing licence as this was a transfer and variation but the transfer had already taken place. He advised the Board that all paperwork was in order and there were no objections or representations.

PC Dickson confirmed that there was nothing more to add from Police Scotland.

The applicant addressed the Board and responded to the questions asked.

Thereafter Councillor Bloomfield moved that the variation be granted. This was seconded by Councillor Cameron.

There being no one other wise minded the variation was granted.

8. Annual Review of Licensing Fees

The meeting had before it a report by the Clerk to the Board updating the board on the overall income versus expenditure for alcohol licensing for the last financial year.

During consideration Councillor Lawrence moved that fees should remain as they are until June 2024 so that trends can be analysed before a decision is taken. This was seconded by Councillor Warren.

Following consideration the Board unanimously agreed:

- i. to note the current fees attached at Appendix 1;
- ii. to note the financial report on income and expenditure at Appendix 2;
- iii. to publish the financial report; and
- iv. to keep the current fee structure until June 2024 when it would be reviewed.



REPORT TO: MORAY LICENSING BOARD ON 7 FEBRUARY 2024

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – REVIEW OF PREMISES LICENCES

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 To ask the Board to conduct a hearing to consider and determine the premises licence review proposal in respect of each of the premises listed in the schedule circulated separately to members.

2. RECOMMENDATION

- 2.1 **It is recommended that the Board consider and determine the premises licence review proposals having regard to the powers available to the Board under section 39(2) of the Licensing (Scotland) Act 2005.**

3. BACKGROUND

- 3.1 On 22 July 2010 (paragraph 4 of the minute refers) the Board delegated authority to the Clerk and his staff to make a premises licence review proposal in terms of section 37(1) of the Licensing (Scotland) Act 2005 (“the Act”) for any premises where the annual fee remained outstanding for a period of six weeks after the due date.
- 3.2 Annual fees are due each year on the 1 October. Fees are payable in advance for the period 1 October to 30 September the following year. Invoices were issued on 30 August 2023, in advance of 1 October, to serve as a written reminder to licence holders, as is required by Regulations.
- 3.3 By delegated authority detailed in paragraph 3.1 a premises licence review proposal has been made in respect of each of certain premises that will be listed in a schedule to be tabled at the meeting. The proposals have been made as a result of the fact the annual fee remains outstanding. Notice was sent by email (where possible) or first class recorded post to all relevant licence holders on the 23 January 2024.
- 3.4 In addition to the final premises licence review proposal referred to above licence holders have been provided with an invoice, at least one reminder for the invoice and a further letter requesting payment. The Licensing Standards Officer has also attempted to make contact with relevant premises licence holders.

- 3.5 The Clerk will update the schedule and withdraw the proposal in respect of any licence fee that is paid prior to the date of the hearing.
- 3.6 The review proposals must state the grounds for review. Section 36(3) of the Act states the grounds for review, which are (a) that one or more of the conditions to which the premises licence is subject has been breached, or (b) any other ground relevant to one or more of the licensing objectives.
- 3.7 A review proposal(s) having been made, the Board is obliged to hold a hearing, in terms of section 38(1) of the Act, to consider and determine the proposal(s).
- 3.8 In the present case, grounds for review are made out both in terms of section 36(3) (a) and (b) of the Act.
- 3.9 By failure to pay the annual licence fees which became due on 1 October 2023, the licence holders concerned are breaching a mandatory condition of the premises licence, which condition is imposed by paragraph 10(2) of Schedule 3 of the Act.
- 3.10 In addition, by the failure to pay the annual licence fees, the licence holders concerned have deprived the Board of revenue and this reduces the Board's ability to promote the licensing objectives.
- 3.11 At the review hearing section 39(2) of the Act confers on the Board the power to:
- i) Issue a written warning;
 - ii) vary the licence;
 - iii) suspend the licence for such period as the Board may determine including suspending the licence unless and until the fee is paid; or
 - iv) revoke the licence.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Local Outcomes Improvement Plan (LIOP)) in relation to changing our relationship with alcohol where people are healthier and experience fewer harms as a result of alcohol use, a growing, diverse and sustainable economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

(b) Policy and Legal

The Legal implications have been explained above.

(c) Financial implications

Loss of unpaid fees with the resultant impact on the Board's ability to promote the licensing objectives as set out above.

(d) Risk Implications

None.

(e) Staffing Implications

Additional administration is required in pursuing unpaid annual fees.

(f) Property

None.

(g) Equalities/Socio Economic Impact

In considering this matter the Board should have regard to the subject's rights under the European Convention on Human Rights and the Human Rights Act 1998.

(h) Climate Change and Biodiversity Impacts

None.

(i) Consultations

None required.

5. CONCLUSION

5.1 The Board should consider and determine the premises licence review proposals in respect of each premises listed in the schedule circulated separately to members having regard to the powers available to the Board under section 39(2) of the Licensing (Scotland) Act 2005.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board.

Background Papers: There are no background papers.

Ref: SAH

