

# MORAY COUNCIL

## Minute of Meeting of the Licensing Board

Thursday, 30 June 2022

### Remote Locations via Video Conferencing

#### **PRESENT**

Councillor James Allan, Councillor Neil Cameron, Councillor Tracy Colyer, Councillor Scott Lawrence, Councillor Ben Williams

Councillor Peter Gordon, Councillor David Gordon and Councillor Sonya Warren were present as observers

#### **IN ATTENDANCE**

Also in attendance at the above meeting were Sean Hoath, Depute Clerk to the Board, Jennifer Smith, Solicitor, Emma Rapley, Licensing Standards Officer, Lindsey Robinson, Committee Services Officer, as Clerk to the meeting, all Moray Council, and Sergeant Neil Grant, Police Scotland.

#### **1. Chair**

As it was the first meeting of the Board, a Chair was to be elected. It was noted that there were a number of Board Members who had not completed the training and therefore unable to vote. It was therefore proposed that as he had been a previous member of the Board, Councillor Allan would Chair this meeting, and that a decision on the new Chair would be taken at the next meeting. This was unanimously agreed.

#### **2. Declarations of Group Decisions and Members Interests**

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's Interests in respect of any item on the agenda.

#### **3. Minute of the Meeting of the Board 9 February 2022**

The Minute of the Meeting of the Licensing Board on 9 February was submitted and approved.

#### **4. 22 00178 PRELIC Dunphail Distillery**

The Depute Clerk to the Board introduced the application and advised the Board that as there was no Section 50 certificate from Building Standards in place the Board would be unable to grant the licence at this meeting.

The Board agreed to defer this application to the next meeting.

**5. 22 00619 PREVMA Orrin**

The Depute Clerk to the Board introduced the application and advised the Board that all of the paperwork was in order and that there were no objections or representation.

The applicant's representative addressed the Board and there were no questions from the Board.

Councillor Allan, seconded by Councillor Lawrence, moved to grant the application. There being no one otherwise minded, the application was granted.

**6. 22 00488 PREVMA Spar Burghead**

The Depute Clerk to the Board introduced the application and advise the Board that all paperwork was in order and that there were no objections or representations.

He further advised that the applicant's representative was unable to attend and read out a written submission on their behalf. There were no questions from members.

Councillor Allan, seconded by Councillor Lawrence, moved to grant the application. There being no one otherwise minded, the application was granted.

**7. 22 00266 PRELIC Threaplands**

The Depute Clerk to the Board introduced the application and advised the Board that as there was no Section 50 certificate from Building Standards the Board would be unable to grant the licence at this meeting.

The Board agreed to defer the application to the next meeting.

**8. 22 00800 PRELIC Highland Whisky**

The Depute Clerk to the Board introduced the application and advised the Board that all paperwork was in order and the police conditions have been accepted by the applicant.

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

Thereafter, Councillor Allan, seconded by Councillor Cameron, moved to grant the application. There being no one otherwise minded, the application was granted.

**9. Order of Business**

The Board agreed to vary the order of business set down on the agenda and take Agenda Item 3g application "22 00566 PREVMA Buckie Service Station" as the next item to allow the applicant time to join the meeting.

**10. 22 00566 PREVMA Buckie Service Station**

The Depute Clerk to the Board introduced the application and advised the Board that all paperwork was in order and there were no representations or objections.

The applicant's representative addressed the Board. There were no questions from members.

The Chair moved to grant the application. This was seconded by Councillor Lawrence and there being no one otherwise minded, the application was granted.

#### **11. 22 00838 PREVMA Keith Golf Club**

The Depute Clerk to the Board introduced the application and advised the Board that all paperwork was in order and there were no representations or objections as the police conditions have been accepted by the applicant.

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

Thereafter, Councillor Allan, seconded by Councillor Lawrence, moved to grant the application. There being no one otherwise minded, the application was granted.

#### **12. Order of Business**

The Board agreed to vary the order of business set down on the agenda and take Agenda Item 5 "Personal Licence Application - Case No.2 of 2022" as the next item on the agenda, as the applicant in respect to Agenda Item 4 "Personal Licence Review Hearing - Case No.1 of 2022" had not yet joined the meeting and both applications were to be held in confidence.

#### **13. Personal Licence Application Hearing - Case No. 2 of 2022 [Para 14]**

A report by the Clerk to the Board, notified the Board that notice of one or more relevant conviction(s) has been disclosed on an application for a personal licence. The Chief Constable's representative had confirmed to the Clerk that the applicant (reference case number 2 of 2022) had been convicted of one or more relevant offence(s) and the Chief Constable's representative had recommended that the application for the personal licence be refused. As a result, s.74(5) of the Licensing (Scotland) Act 2005 states the Board must hold a hearing to consider and determine whether the licence should be granted or refused.

The Board noted that the applicant was present. The Chief Superintendent was represented by Sergeant Neil Grant, Police Scotland.

On the invitation of the Chair, Sergeant Grant presented the letter from the Chief Superintendent and explained the convictions. There were no questions from the members.

On the invitation of the Chair, the applicant addressed the Board and gave details on how his life has changed since the convictions.

During consideration, Councillor Cameron sought clarification on the length of time a personal licence could be granted for.

In response, the Depute Clerk to the Board advised that personal licences differ from civic licences as they are either granted or refused. A personal licence will last for 10 years with the licence holder undertaking training every 5 years. If there are any convictions, or the police or Licensing Standards Officer have concerns then the licence would be brought back to the Board to review.

Thereafter, Councillor Allan, seconded by Councillor Lawrence, moved that the licence be granted. There being no one otherwise minded, the application was granted.

### **13. Personal Licence Review Hearing - Case No.1 of 2022 [Para 14]**

A report by the Clerk to the Board notified the Board that notice of relevant convictions has been received from a personal licence holder; that the Chief Constable had confirmed to the Clerk that the licence holder (reference case number 1 of 2022) had been convicted of one or more relevant offences and in terms of section 83 (5) (a)&(b) of the Act had made a recommendation that the Board consider all options open to them in respect of this personal licence. As a result, s. 83(7) of the Licensing (Scotland) Act 2005 requires the Board to hold a hearing to consider and determine whether any further order is necessary in respect of the personal licence.

The Depute Clerk to the Board introduced the report and confirmed to the Board the options available to them, as stated in paragraph 4.11 of the report.

The Board noted that the applicant was in attendance. The Chief Superintendent was represented by Sergeant Neil Grant, Police Scotland.

On the invitation of the Chair, Sergeant Grant addressed the Board and presented the letter and objections raised by the Chief Superintendent. There were no questions from members.

On the invitation of the Chair, the applicant addressed the Board and answered the questions raised.

During consideration, Councillor Lawrence sought clarification as to whether the Board were to just look at the convictions or if the Board were to take any mitigating circumstances into consideration.

In response, the Depute Clerk to the Board advised that the Board should take into account all of the evidence and any mitigating circumstances, and that these must be related back to the licensing objectives.

Councillor Lawrence further asked if it would be possible to add two endorsements on the personal licence as there were two convictions.

The Depute Clerk advised that as it was being heard as one review then it would be one endorsement, if that was what the Board decided.

Councillor Williams asked if there was an option to take the convictions as separate cases to allow the Board to apply two endorsements.

In response, the Depute Clerk to the Board advised that it was all classed as one case and could not be split.

Councillor Cameron, seconded by Councillor Colyer, moved that the licence should be endorsed, it being considered necessary to do so for the purpose of the licensing objective of preventing crime and disorder.

Councillor Lawrence moved an amendment that the licence be revoked, it being considered necessary to do so for the purpose of the licensing objective of

preventing crime and disorder. There being no seconder, Councillor Lawrence withdrew his amendment.

Councillor Allan, seconded by Councillor Lawrence, moved an amendment that the licence be suspended for 6 months, it being considered necessary to do so for the purpose of the licensing objective of preventing crime and disorder.

On a division there voted: -

For the Motion (2)                      Councillors Colyer and Williams

For the Amendment (3)      Councillors Allan, Cameron and Lawrence

Abstentions (0)

Accordingly the Amendment became the finding of the Meeting and the Board agreed to suspend the licence for 6 months.