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## Licensing Board

**Wednesday, 09 February 2022**

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Licensing Board** is to be held at **Remote Locations via Video Conference**, on **Wednesday, 09 February 2022** at **14:00**.

### BUSINESS

1. Sederunt
  
2. Minute of the Meeting of 8 December 2021 5 - 8
  
3. Report on Review of Premises Licences for Non Payment of Fees 9 - 12  
Report by the Clerk to the Board
  
4. Application List 9 February 2022 13 - 16
  
- 4a. 21-01735-GAMMAC - Silver Sands - Application Form
  
- 4b. 21-01641-PREVMA - Pinefield Service Station - Application Form

Moray Council Committee meetings are currently being held virtually due to Covid-19. If you wish to watch the webcast of the meeting please go to:  
[http://www.moray.gov.uk/moray\\_standard/page\\_43661.html](http://www.moray.gov.uk/moray_standard/page_43661.html)  
to watch the meeting live.



## 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 Gordon Cowie (Chair)  
Councillor James Allan (Depute Chair)

Councillor David Bremner (Member)  
Councillor Frank Brown (Member)  
Councillor Ryan Edwards (Member)  
Councillor Maria McLean (Member)  
Councillor Louise Nicol (Member)  
Councillor Amy Taylor (Member)

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

**Minute of Meeting of the Licensing Board**

**Wednesday, 08 December 2021**

**Remote Locations via Video Conference**

**PRESENT**

Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Ryan Edwards, Councillor Louise Nicol, Councillor Amy Taylor

**APOLOGIES**

Councillor Gordon Cowie, Councillor Maria McLean

**IN ATTENDANCE**

Also in attendance at the above meeting were Sergeant Gill Flett, Police Scotland, Sean Hoath, Depute Clerk to the Board, Sana Sarwar, Legal Advisor and Lindsey Robinson, Committee Services Officer as Clerk to the meeting.

**1. Chair**

Councillor James Allan, as Depute Chair of the Licensing Board, chaired the meeting.

**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 20 October 2021**

The Minute of the Meeting of the Board on 20 October 2021 was submitted and approved.

**4. Review of Statement of Policy**

A report by the Clerk to the Board advised the Board with regard to the statutory obligation to develop, consult and publish a policy statement setting out the principles the propose to apply to the exercise of their functions under the Gambling Act 2005.

Following consideration, the Board agreed to:

- i. note the statutory obligation to develop, consult upon and publish a statement of licensing policy and note that a revised policy must be in place for January 2022;

- ii. note the terms of the final policy as reviewed and developed by the Board following research produced in Appendix 1;
- iii. note the policy has been the subject of formal consultation for the period of 11 October 2021 to 30 November 2021; and
- iv. approve a final policy statement for publication.

#### **5. 21-01452-PRELIC Highland Whisky Auctions**

The Legal Advisor introduced the application and advised the Board that all paperwork was in order, there were no objections or representations, all Section 50's have been received and the applicant had accepted the Police condition.

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

Following consideration, the Chair proposed granting the application and there being no one otherwise minded, the application was granted.

#### **6. 21-01620-PRELIC Speyside Whisky Auctions**

The Legal Advisor introduced the application and advised the Board that all paperwork was in order, there were no objections or representations, all Section 50's have been received and the applicant had accepted the Police condition.

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

Following consideration, the Chair proposed granting the application and there being no one otherwise minded, the application was granted.

#### **7. 21-01634-PROLIC Premier**

The Legal Advisor introduced the application and advised the Board that all paperwork was in order, there were no objections or representations, all Section 50's have been received and the applicant had accepted the Police conditions.

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

Following consideration, the Chair proposed granting the application and there being no one otherwise minded, the application was granted.

#### **8. 21-01518-PREVMA Silver Sands**

The Legal Advisor introduced the application and advised the Board that all paperwork was in order, there were no objections or representations, and the applicant has accepted the Police conditions.

The applicants representative addressed the Board and responded to the questions raised. She also stated that the applicant had been in the discussion with the Police with regards to background music being played on an occasional basis. She asked for this to be allowed and for that condition to be removed.

In response, Sergeant Flett advised that the matter was resolved and the condition had been removed.

Following consideration, the Chair proposed granting the application and there being no one otherwise minded, the application was granted.

**9. 21-01586-PREVMA Badenoch's**

The Legal Advisor introduced the application, and advised the Board that all paperwork was in order, and there were representations from the Licensing Standards Officer and Police Scotland.

The applicants representative address the Board and responded to questions. Sergeant Flett confirmed that there had been discussions with the applicant and the Police had withdrawn their representation.

Following consideration, the Chair proposed granting the application and there being no one otherwise minded, the application was granted.

**10. 21-01636-PRETOA Foggies Bar**

The Legal Advisor introduced the application and advised the Board that all paperwork was in order, there was representation from the Licensing Standards Officer but this had been withdrawn, and the applicant had confirmed acceptance of the Police conditions.

The applicant addressed the Board and confirmed acceptance of the Police conditions and responded to questions.

Sergeant Flett advised the Board that, as the conditions had been accepted, the Police representation would be withdrawn.

Following consideration, the Chair proposed granting the application and there being no one otherwise minded, the application was granted.

**11. Report for Next Meeting**

The Depute Clerk advised the Board that a report would be presented to the next meeting with regard to the differences in delegation between the Board and Officers.







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**REPORT TO: MORAY LICENSING BOARD ON 9 FEBRUARY 2022**

**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 to members separately.

**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 s.39(2) of the Licensing (Scotland) Act 2005.**

**3. BACKGROUND**

- 3.1 On 22 July 2010 (para 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 s.37(1) of 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 the 30 September the following year. Invoices are issued on the 27 August each year, in advance of the 1 October, to serve as written reminder to licence holders, as is required by Regulations.
- 3.3 By the delegated authority detailed in para 3.1 a premises licence review proposal in respect of each of the premises listed in the schedule has been made. Notice was sent by email (where possible as many premises are shut) or first class recorded post to all licence holders concerned on the week commencing 25<sup>th</sup> January 2022.
- 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 s.38(1), to consider and determine the proposal(s).
- 3.8 In the present case, grounds for review are made out both in terms of ss.36(3) (a) and (b) of the Act.
- 3.9 By the failure to pay the annual licence fees which became due on 1 October 2020, 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) 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 (Moray 2023) in relation to healthier citizens, a growing and diverse 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.

##### **(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) 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 s.39(2) of the Licensing (Scotland) Act 2005.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board  
Background Papers:  
Ref: SAH



## MORAY LICENSING BOARD

**MEETING, 09 February 2022 at 14:00hrs in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX**

### Licensing (Scotland) Act 2005

Type	Premises	Applicant	Date received	Comments
Major Variation	Silver Sands Leisure Park Lossiemouth Moray IV31 6SP  MO/PRM/0112	Park Holidays UK Ltd Glovers House Glovers End Bexhill On Sea East Sussex TN39 5ES	14.10.2021	Application for a Premises Licence under the Gambling Act 2005) for a Bingo Licence. Paperwork in Order. No objections or representations.
Major Variation	Pinefield Service Station, East Road, Elgin Moray IV30 1XU MO/PRM/399	Motor Fuel Limited Gladstone Place 36-38 Upper Malborough Road St Albans AL1 3UU	5.11.2021	Major Variation Application  Variation of the Off Sales capacity in Q7 of the Operating Plan from 8.41m2 to 8.9885m2 following small readjustment to the merchandising layout of the premises.  Paperwork in order No objections or representations No site visit



## Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED	Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. This should apply to all new premises/provisional licence applications. There may be ongoing negotiations to resolve problems.
YELLOW	Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.
GREEN	Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.

