

ANGUS LICENSING BOARD

MINUTE of the Special MEETING of the **ANGUS LICENSING BOARD** held in the Town and County Hall, Forfar on Wednesday 3 July 2019 at 10.22am.

Present: Councillors CRAIG FOTHERINGHAM, RICHARD MOORE, BRIAN BOYD, BRENDA DURNO, DAVID FAIRWEATHER, ALEX KING, DAVID LUMGAIR AND BETH WHITESIDE.

Councillor Fotheringham, Convener, in the Chair.

1. APOLOGIES

Apologies for absence were intimated on behalf of Councillors Colin Brown and Gavin Nicol.

2. DECLARATIONS OF INTEREST

The Board agreed to note that no declarations of interest were made.

3. PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005 – REVIEW OF PREMISES LICENCES

With reference to Article 8 of the minute of meeting of this Board of 10 June 2019, there was submitted Report No LB 38/19 by the Clerk presenting five Premises Licences under the Licensing (Scotland) Act 2005 (“the 2005 Act”) which the Board determined to review as detailed in Appendix 1 to the Report.

The Board noted that despite the Clerk giving repeated notification to the licensee’s that the annual fees were now overdue the fees remained unpaid in respect of the following premises:-

(a) Belmont Arms Hotel, Newtyle, Perthshire

There was submitted a report from the Licensing Standards Officer in respect of the premises at Belmont Arms Hotel, Newtyle, Perthshire.

The Board noted that the premises were now closed however, the annual fee of £220 was still outstanding and agreed to revoke the licence with immediate effect. The outstanding fees to be pursued by the Clerk.

(b) Broughty Golf Club, 6 Princess Street, Monifieth

There was submitted a report from the Licensing Standards Officer in respect of the premises at Broughty Golf Club, 6 Princess Street, Monifieth.

The Report advised that the Broughty Golf Club building appeared to be closed and a new club had formed now known as Broughty and Grange Golf Club within the Grange building.

The Board noted that the annual fee of £180 was still outstanding and agreed to revoke the licence with immediate effect. The outstanding fees to be pursued by the Clerk.

(c) Bowlers Lounge, 1-3 Ernest Street, Arbroath

There was submitted a report from the Licensing Standards Officer in respect of the premises at Bowlers Lounge, 1 – 3 Ernest Street, Arbroath.

The Board noted that the annual fee of £280 was still outstanding and agreed to revoke the licence with immediate effect. The outstanding fees to be pursued by the Clerk.

(d) Welbank Shop, 13 Kellas Road, Wellbank

There was submitted a report from the Licensing Standards Officer in respect of the premises at Welbank Shop, 13 Kellas Road, Wellbank.

The Board noted that although the shop no longer sold alcohol the annual fee of £220 was still outstanding and agreed to revoke the licence with immediate effect. The outstanding fees to be pursued by the Clerk.

(e) Bon Bon 9/13 High Street, Arbroath

There was submitted a report from the Licensing Standards Officer in respect of the premises at Bon Bon, 9/13 High Street, Arbroath.

The Board noted that the premises were now closed however, the annual fee of £280 was still outstanding and agreed to revoke the licence with immediate effect. The outstanding fees to be pursued by the Clerk.

4. NEW PERSONAL LICENCE – NOTICE OF CONVICTION

There was submitted Report No LB 39/19 by the Clerk informing members of correspondence received from the Chief Constable giving notice of a conviction in terms of section 73(3)(b) of the Licensing (Scotland) Act 2005 (“the 2005 Act”) in respect of a new application for a personal licence from Ashleigh Ross.

The Board agreed to hold a hearing on Thursday 8 August 2019.

5. PERSONAL LICENCE – REPORT OF CONDUCT INCONSISTENT WITH A LICENSING OBJECTIVE

With reference to Article 3 of the minute of meeting of this Board of 10 June 2019, there was submitted Report No LB 40/19 by the Clerk informing the members of correspondence received from the Chief Constable, Police Scotland dated 2 May 2019, advising that a Personal Licence Holder, Miss Xue He had acted in a manner which was inconsistent with a licensing objective.

Miss Xue He and her representative, Ms Yan Yang Laird, Interpreter, who would translate for the licence holder were present.

Constable Forbes addressed the Board on the contents of the Chief Constables letter dated 2 May 2019.

Ms Yan Yang Laird then addressed the Board on behalf of Miss Xue He and explained the circumstances of the events detailed in the letter from Police Scotland.

The Board then heard from the Licensing Standards Officer and various questions were asked of the licence holder and Constable Forbes.

Ms Yan Yang Laird then summed up on behalf of the licence holder.

The Board then adjourned to take legal advice and consider matters in private before resuming the meeting in public.

The Board agreed that having fully considered the terms of the Report and having heard from Police Scotland and the licence holder and fully considered same, determined that there had been behaviour, namely a failure to train staff members in the sale of alcohol as was mandatory in terms of the Licensing (Scotland) Act 2005 and a failure to keep appropriate training records, which is inconsistent with the following licensing objectives:-

- (i) securing public safety;
- (ii) protecting children and young people from harm; and
- (iii) protecting and improving public health.

The Board agreed to endorse the Personal Licence of Ms Xue He with immediate effect, which would stay on the licence for a period of 5 years.

6. PREMISES LICENCE REVIEW APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005 – IMPERIAL, 44 – 46 DUNDEE STREET, CARNOUSTIE

With reference to Article 4 of the minute of meeting of this Board of 10 June 2019, there was submitted Report No LB 41/19 by the Clerk advising members of an application for a review of a premises licence.

The Board noted that a Premises Licence Review Application had been received from the Chief Constable, Tayside Division, Police Scotland dated 1 May 2019 in respect of Imperial, 44 – 46 Dundee Street, Carnoustie, as detailed in Appendix 1 to the Report.

Miss Xue He and her representative, Ms Yan Yang Laird, Interpreter, who would translate for the licence holder were present and advised the Board that her client had received the application for a premises licence review.

The Board determined that the application was not vexatious or frivolous and that the grounds of review had been established and determined to hold a Premises Licence Review Hearing in respect of the Imperial Restaurant, Carnoustie.

Constable Forbes, Police Scotland addressed the Board on the contents of the Chief Constables letter dated 1 May 2019.

Ms Yan Yang Laird then addressed the Board on behalf of Miss Xue He and explained the circumstances of the events detailed in the letter from Police Scotland.

The Board then heard from the Licensing Standards Officer and various questions were asked of the licence holder and Constable Forbes.

Ms Yan Yang Laird then summed up on behalf of the licence holder.

The Board then adjourned to take legal advice and consider matters in private before resuming the meeting in public.

The Board agreed that having fully considered the terms of the Report and having heard from Police Scotland and the licence holder and fully considered same determined that there had been:-

- (a) a failure to train staff members in the sale of alcohol as is mandatory in terms of the Licensing (Scotland) Act 2005; and
 - (b) a failure to keep appropriate training records
- all of which was determined:-
- (a) a breach of one or more of the conditions to which the premises licence is subject; and
 - (b) a ground relevant to the following licensing objectives:-
 - (i) securing public safety;
 - (ii) protecting children and young people from harm; and
 - (iii) protecting and improving public health

The Board agreed to issue a written warning to the licence holder in respect of the above.

7. PERSONAL LICENCE – NOTIFICATION OF CONDUCT INCONSISTENT WITH A LICENSING OBJECTIVE – WENDY THOMSON

With reference to Article 5 of the minute of meeting of this Board of 10 June 2019, there was submitted Report No LB 42/19 by the Clerk informing the members of correspondence received from the Chief Superintendent, Tayside Division, Police Scotland, dated 21 May 2019, advising that a Personal Licence Holder, Miss Wendy Thomson had acted in a manner which was inconsistent with licensing objectives.

Miss Thomson was present.

Sergeant Ryan MacDonald addressed the Board on the contents of the Chief Superintendent's letter dated 21 May 2019.

Miss Thomson, Personal Licence Holder, then addressed the Board and spoke on the contents of the letter from Police Scotland and explained the circumstances of the complaints.

The Board carefully considered all the contents of the letter dated 21 May 2019 from Police Scotland, and during deliberations, questioned Miss Thomson and Sergeant MacDonald in full regarding the alleged incidents reported.

Miss Thomson then summed up and circulated to members information regarding a recent complaint. Sergeant MacDonald advised the Board that this incident was being dealt with by another section within Police Scotland.

At this point in the meeting, (the time being 12.52pm) the Board resolved, in accordance with the provisions of Standing Order 21(8) that the meeting continue to the conclusion of the business.

The Board then adjourned to take legal advice and consider matters in private before resuming the meeting in public.

The Board agreed that having fully considered the terms of the Report under section 84A of the Licensing (Scotland) Act 2005 and having heard from Police Scotland and the licence holder and having fully considered same, were satisfied that on the balance of probabilities there had been no behaviour which they considered to be inconsistent with the licensing objectives and in all the circumstances made no order in respect of the Report.

8. PREMISES LICENCE REVIEW APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005 – BUSBYS, 30 – 36 GEORGE STREET, MONTROSE

With reference to Article 6 of the minute of meeting of this Board of 10 June 2019, there was submitted Report No LB 43/19 by the Clerk advising members of an application for a review of a premises licence.

The Board noted that a Premises Licence Review Application had been received from the Chief Superintendent, Tayside Division, Police Scotland, dated 22 May 2019 in respect of Busbys, 30 – 36 George Street, Montrose, as detailed in Appendix 1 to the Report.

Mr Paul Gersok, premises licence holder was present.

The Convenor advised the Board that they required to consider, in the first instance, in terms of section 36(6) of the Act, whether to proceed with the hearing with regard to the statutory tests which were set out in the Report. The Convenor also advised the Board that before moving to hold the hearing, the Board had to determine whether the application before them was vexatious or frivolous or that it disclosed a matter relevant to any ground for review.

Considerable discussion then took place, following which:-

COUNCILLOR FAIRWEATHER, SECONDED BY COUNCILLOR BOYD, MOVED THAT THE PREMISES LICENCE REVIEW APPLICATION RECEIVED ON 22 MAY 2019 FROM POLICE SCOTLAND IN RESPECT OF BUSBYS WAS VEXATIOUS OR FRIVOLOUS AS THE CONTENTS WERE LARGELY SIMILAR TO THE PREVIOUS PERSONAL LICENCE REVIEW APPLICATION FOR THE SAID PREMISES.

Councillor Fotheringham, seconded by Councillor Moore, moved as an amendment, that the premises licence review application received on 22 May 2019 from Police Scotland in respect of Busbys was not vexatious or frivolous and that a hearing be conducted to review the Premises licence.

On a vote being taken, the members voted:-

For the motion:-

Councillors Boyd, Durno, Fairweather, Lumgair and Whiteside (5)

For the amendment:-

Councillors Fotheringham, Moore and King (3)

The motion was declared carried and became the finding of the meeting.

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