

ANGUS LICENSING BOARD

MINUTE of SPECIAL HYBRID MEETING of the **ANGUS LICENSING BOARD** held in the Town and County Hall, Forfar on Tuesday 20 June 2023 at 10.40am.

Present: Councillors GEORGE MEECHAN, LLOYD MELVILLE, KENNY BRAES, LINDA CLARK, BRENDA DURNO, CRAIG FOTHERINGHAM, ROSS GREIG, GAVIN NICOL, JILL SCOTT and BETH WHITESIDE.

Councillor MEECHAN, Convener, in the Chair.

1. APOLOGIES

There were no apologies intimated.

2. DECLARATIONS OF INTEREST AND STATEMENTS OF TRANSPARENCY

There were no declarations of interest or statements of transparency made.

3. PREMISES LICENCE – NOTICE OF CONVICTION

There was submitted Report No LB 36/23 by the Clerk advising the Board of correspondence in relation to a premises licence received by the Clerk giving notification of a conviction which required to be determined by the Board as detailed in the Appendix to the Report.

Mr Taylor, agent for Wm Morrison Supermarkets Ltd addressed the Board following which members asked some questions.

The Board considered the correspondence received from the Premises Licence Holder's agent dated 13 April 2023 giving notice of the conviction and the notice from the Chief Superintendent dated 6 June 2023.

The Board agreed to take no further action in relation to the conviction.

The Board agreed, in accordance with the provisions of Standing Order 37(2), that the order of business be varied from that published and it was considered in the following order.

At this point in the meeting, the Board agreed that the live stream of the meeting be stopped during consideration of items 4 & 5, so as to avoid the possible disclosure of sensitive third party information however, it was noted that the meeting was open to the public.

4. PREMISES LICENCE REVIEW APPLICATION

With reference to Article 10 of the minute of meeting of this Board of 15 September 2022, there was submitted Report No LB 38/23 by the Clerk providing updated information and asking the Board to consider and determine what Order, if any, required to be made in the Premises Licence Review Application hearing under Section 36 of the Licensing (Scotland) Act 2005, ("the 2005 Act").

The Board noted that a Premises Licence Review Application had been received on behalf of the Chief Constable dated 22 August 2022 in respect of Buick Lounge Bar, Arbroath, as detailed in Appendix 1 to the Report. Further supplementary information was received on the 28 March 2023 from Police Scotland informing the Clerk of the conclusion and outcome of the court proceedings.

The Board had previously determined that the application was not vexatious or frivolous, that a matter relevant to one of the grounds of review had been disclosed and determined to hold a Premises Licence Review Hearing in respect of the premises.

Constable Thomson-Craig, Police Scotland addressed the Board on the contents of the letter dated 22 August 2022 and it was noted that the premises licence had now been transferred. The Board then viewed CCTV footage from Police Scotland of the incident.

The Licensing Standards Officer then addressed the Board.

The current premises licence holder then addressed the Board and explained the circumstances of the events detailed in the letter from Police Scotland dated 22 August 2022.

The Board then heard from Mr Brown, the previous licence holder.

Inspector Gibson addressed the Board and confirmed a number of points raised.

Discussion took place and members asked various questions of the previous premises licence holder. The current licence holder was given the opportunity to sum up. Police Scotland then summed up.

At this stage in the meeting, the Board adjourned for 20 minutes to take legal advice in private.

The meeting resumed at 12noon.

COUNCILLOR GREIG, SECONDED BY COUNCILLOR FOTHERINGHAM MOVED TO DETERMINE THAT NO FURTHER ACTION BE TAKEN.

Councillor Braes, seconded by Councillor Melville, moved as an amendment to issue a written warning to the licence holder.

On a vote being taken, the members voted: -

For the motion: -

Councillors Meechan, Clark, Durno, Fotheringham, Greig, Nicol and Scott (7)

For the amendment: -

Councillors Melville, Braes and Whiteside (3)

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

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

With reference to Article 13 of the minute of meeting of this Board of 18 May 2023, there was submitted Report No LB 39/23 by the Clerk informing members of correspondence received on behalf of the Chief Constable in terms of Section 84A of the Licensing (Scotland) Act 2005 dated 22 August 2022 and further correspondence received from Police Scotland dated 28 March 2023 advising that a Personal Licence holder had acted in a manner which was inconsistent with three of the licensing objectives, namely Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance and to consider what Order, if any, required to be made in respect of the Personal Licence.

The members noted the contents of the correspondence received on behalf of the Chief Constable dated 22 August 2022 and 28 March 2023. Constable Thomson-Craig, Police Scotland addressed the Board and gave further details.

The personal licence holder was present and addressed the Board and members asked various questions.

The licence holder and Police Scotland were then given the opportunity to sum up.

COUNCILLOR BRAES, SECONDED BY COUNCILLOR WHITESIDE MOVED TO SUSPEND THE LICENCE HOLDER'S PERSONAL LICENCE AS THE LICENCE HOLDER'S CONDUCT WAS INCONSISTENT WITH THREE OF THE LICENSING OBJECTIVES, NAMELY PREVENTING CRIME AND DISORDER, SECURING PUBLIC SAFETY AND PREVENTING PUBLIC NUISANCE.

Councillor Greig, seconded by Councillor Scott, moved as an amendment, to endorse the personal licence held by the licence holder concerned.

On a vote being taken, the members voted: -

For the motion: -

Councillors Meechan, Melville, Braes, Clark, Durno and Whiteside (6)

For the amendment: -

Councillors Fotheringham, Greig, Nicol and Scott (4)

The motion was declared carried and became the finding of the meeting resulting in the Board imposing a suspension order.

The Board then gave the personal licence holder the opportunity to address the Board in relation to the length of the suspension order.

The Board agreed to suspend Mr Brown's personal licence with immediate effect for a period of 4 months from 20 June 2023 until 20 October 2023.

In accordance with the provisions of Standing Order 16(11)(ii) Councillor Greig requested that his dissent be recorded in relation to the foregoing decision.

At this point in the meeting, the live stream of the meeting recommenced.

6. REVIEW OF STATEMENT OF LICENSING BOARD POLICY

With reference to Article 8 of the minute of meeting of this Board of 19 January 2023, there was submitted Report No LB37/23 by the Clerk advising members of the responses received to the initial consultation exercise undertaken on the review of the Board's Statement of Licensing Policy as detailed in Appendices 1 - 4 to the Report and asked members to determine further procedure.

The Board noted responses received from the Angus Local Licensing Forum and others, as detailed in Appendix 1 to the Report and considered comments provided by the Scottish Grocer Federation as detailed in Appendix 1(i) to the Report. Members also considered comments received from Mrs Janet Hood, Training and Consulting Ltd which were attached as Appendix 1(ii) to the Report.

Dr Kirsty Licence, Consultant in Public Health Medicine, NHS Tayside was present and addressed the Board on the contents of the document entitled "The Public Health and Social Impact of Alcohol availability in Angus" which had previously been circulated to members in advance of the meeting. This information was noted by members.

Inspector Gibson, Police Scotland then addressed the Board on the figures provided by Police Scotland, as detailed in Appendix 2 to the Report showing recorded crime in Angus where alcohol had been identified as a contributing factor. He advised that the statistical information provided for the period 2018/2019 – 2022/2023 had shown a decrease in alcohol related incidents across Angus apart from Carnoustie which had shown an increase. He advised that he would continue to work with the locality Inspector for this area to help reduce the figures. The information was noted by members.

The Convener thanked both speakers for their contributions.

At this point in the meeting the Clerk gave advice on the revised guidance issued by the Scottish Government to Licensing Boards and advised members that their first objective was to determine the Localities on which the Board would base its Overprovision Assessment, followed by the draft Overprovision Assessment itself and the Board's Statement of Licensing Policy for consultation. Ms Burns also informed members that the statutory guidance advised that the decision making must be evidence based and that the Board required to be able to justify any decisions made.

She advised that Angus Council had provided further statistical information which showed changes in on/off sales premises numbers for the 5 year period from 2018 to June 2023. The Board agreed that the additional information be circulated to members for consideration.

The Board noted that the information detailed on/off sales figures for the seven burghs and elsewhere and highlighted that the number of on sales had reduced from 172 to 86 over the 5 year period and the number of off sales had reduced from 92 to 91 over the same period.

At this point in the meeting, (the time being 12.59pm) the Board resolved, in accordance with the provisions of Standing Order 21(8), that the meeting continue until the conclusion of the business.

Discussion took place on the localities and the Board agreed that the localities for assessment of overprovision would remain unchanged, for consistency and as these localities were the most logical as they were based on the seven towns within the rural setting of Angus.

Discussion then took place on the assessment of overprovision within the localities. The Board agreed that the statistical figures circulated showed that there had been a considerable reduction in on/off sales premises within Angus during the past 5 year period and that there was no overprovision in any of the localities.

The Clerk then advised that the draft Statement of Licensing Policy as detailed in Appendix 4 of the Report had been track changed to incorporate changes since the current policy had been prepared and showed some of the suggestions received during the consultation period.

The Board agreed: -

- (i) to consider and note the responses and comments received in relation to the initial consultation on the Board's Statement of Policy, Overprovision Assessment and Localities review including comments received from the Angus Local Licensing Forum as detailed in Appendix 1 to the Report;
- (ii) to consider and note the information received from the Chief Constable, Police Scotland as detailed in Appendix 2 to the Report;
- (iii) to consider and note the information about the licensed premises in the Board's area received from Angus Council as detailed in Appendix 3 to the Report and the further information circulated to the Board;
- (iv) to consider and note the information received and circulated from NHS Tayside;
- (v) that no further information was required to enable the localities, for assessment of overprovision, to be confirmed; and thereafter the Board confirmed that the localities should remain unchanged;
- (vi) that no further information was required to enable Overprovision Assessment and the draft Overprovision Statement to be readied for formal consultation; and agreed that the draft Overprovision Statement for consultation should be the same as that detailed within the current policy;
- (vii) that no further information was required to enable the draft Statement of Licensing Policy to be readied for formal consultation; and agreed the Statement, subject to amendment at (vi) above.
- (viii) that the organisation suggested by Mrs Hood be included as a consultee in addition to those already listed in Appendix 1 to the Report and that they should be formally consulted upon regarding the Statement of Licensing Policy; and
- (ix) that the Clerk formally consult upon the agreed Statement of Licensing Policy over the summer recess period and report back to the Board on the findings.