

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Tuesday 7 June 2016 at 10am**

Present:

M Bell P Campbell
A Duncan A Cooper
C Smith G Smith
A Westlake

Apologies:

G Robinson

In Attendance (Officers):

S Brunton, Depute Clerk
D Manson, Licensing Standards Officer
Insp. Daley, Police Scotland
L Gair, Committee Officer

Chairperson

Mr G Smith, Convener to the Board, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

None.

1. Applications under the Licensing (Scotland) Act 2005 – Variation other than a Minor Variation of Premises Licence, Occasional Licence

1.	<u>Application for Variation other than a Minor Variation of Premises Licence</u>	<u>Decision</u>
(a)	<p><u>Ollaberry Community Enterprises Ltd</u></p> <p>The Depute Clerk introduced the application.</p> <p>Mr Leach, Chair of Ollaberry Community Enterprise Ltd, and the shop manager/licensee was present.</p> <p>Mr Leach was invited to speak in support of the application. He explained that there is no intention of increasing the shop opening hours, beyond the current hours, on a regular basis, but this would reduce the administration burden of applying on the occasion of each event. He explained however there were a number of events during the year, including Christmas and Summer activities, such as the biker's rally, and having this variation would provide the shop with the flexibility to open on these special events. Mr Leach noted and agreed with the comments of the NHS, but noted that the nearest outlets were Hillswick Hotel and Brae which he said did not believe led to overprovision. Mr Leach said that he would be pleased to display cards and information as suggested by the NHS and advised that staff were well versed in dealing with issues in</p>	Granted

	<p>the shop and that the refusals book is also used.</p> <p>The Licensing Standards Officer and the Police confirmed that they had no comments in regard to this application.</p> <p>Mr Cooper moved that the Board approve the grant of a Variation other than a Minor Variation of Premises Licence, stating that this is a small rural shop under pressure from bigger shops which was meeting the many needs of the community and, reacting to local events in the proper way. Mr Bell seconded.</p> <p>Members commented on the shop being a well run community enterprise.</p>	
(b)	<p><u>Staney Hill Shop</u></p> <p>The Depute Clerk introduced the application.</p> <p>Mr Zebrauskas was present and was invited to speak in support of his application. Mr Zebrauskas advised that he ran a small community shop and to run a small business you need to extend in some areas. He said he could never compete with supermarkets but people have more choice and are able to stay safe in their own area.</p> <p>The Chair provided comparisons of the space allocated for alcohol displays in other community shops in Lerwick and advised that this increase remained at the lower end of that scale.</p> <p>Mr Bell moved that the Board approve the grant of a Variation other than a Minor Variation of Premises Licence. Ms Westlake seconded.</p> <p>Mr Zebrauskas advised that he was happy to display leaflets and discuss any of the issues raised by the NHS. The Chair encouraged Mr Zebrauskas to make contact with the NHS.</p>	Granted
(c)	<p><u>Sella Ness Accommodation and Worksite Facility</u></p> <p>The Depute Clerk introduced the application and advised that the Board had deferred a decision on the application from the last meeting in order that a representative of Shetland FM Limited could be present to answer Members questions.</p> <p>The Police and Licensing Standards Office confirmed that they had no further comments to make.</p> <p>During discussions, Member reiterated their concerns regarding the non attendance of a representative and during considerations the Depute Clerk sought and provided clarification to Members that the appropriate and timely correspondence had been sent to Shetland FM Limited</p>	Deferred

	<p>advising of the Board's wishes that they attend in person.</p> <p>In considering the application, Members continued to hold the view that their questions needed to be answered before making a decision on the application. The questions related to whether the venue would be open to the public, the nearby accommodation barge, and whether there would be overprovision as a result of this variation.</p> <p>Mr C Smith moved that the application be deferred until a future meeting of the Board and that it be made clear to Shetland FM Limited that a representative attend the meeting. Mr Duncan seconded.</p> <p>Members also considered making a decision on the application and were advised on the options available in regard to setting conditions or refusing the application and that the Board would have to be clear as to the grounds for any decision made.</p> <p>The Chair added that the letter to Shetland FM Limited and the minute should emphasis the Board's deep dissatisfaction at the company's non attendance at this meeting and that a decision would be made at the next meeting of the Board whether or not a representative of Shetland FM Limited is in attendance.</p>	
2	<u>Applications for Occasional Licence</u>	
(a)	<p><u>Burravoe Public Hall Committee</u></p> <p>The Depute Clerk introduced the application, and Members noted that the hours requested would bring the terminal hours outwith the hours permitted in the Board's Statement of Licensing Policy.</p> <p>Mr Bell moved that the Board approve the grant of an Occasional Licence within the hours permitted in the Board's policy, namely 1am. Mr C Smith seconded.</p>	Granted in Part
(b-f)	<p><u>Shetland Accordion and Fiddle Club</u></p> <p>The Depute Clerk introduced the application and advised that the hours requested were the same as previous years.</p> <p>Ms Westlake moved that the Board approve the grant of an occasional licence as requested, noting that the event had now been running for 32 years and was considered a significant local and national event in the dance and traditional music scene. Mr Campbell seconded.</p> <p>In response to a question, Insp. Daley confirmed that there had been no problems for the Police in the running of the event. Members congratulated the Committee in that regard.</p>	Granted

(g)	<p><u>Marquee at Linkshouse, Mid Yell</u></p> <p>The Depute Clerk introduced the application and advised that the application was for a period in excess of 48 hours and could not be approved under delegated authority.</p> <p>Mr Campbell moved that the Board approve the application for an occasional licence. Mr Bell seconded.</p>	Granted

2 Hearing for a Personal Licence Holder (section 98)

The Board were advised that Mr Watt and his representative, were present. The Depute Clerk introduced the report and explained that unlike taxi licences this Hearing would be heard in public but the Board could move into private session to deliberate the application before advising of their decision in public.

The Depute Clerk provided some background to the Personal Licence holder's conviction and confirmed that the Personal Licence Holder had made the required notification to the authority. The Depute Clerk provided guidance on the options available to the Board during their consideration, and drew attention to the detail of the conviction circulated at the meeting.

The Police confirmed that they had no comment on the application and advised that since the conviction there had been no complaints from the public on Mr Watt's fitness to continue being a Personal Licence holder and, for the purpose of crime prevention, there was no reason to believe there would be a recurrence of the crime.

Mr Watt and his representative, Mr Dowle, Solicitor, were invited to make representation to the Board. Mr Dowle explained that Mr Watt was one of three personal licence holders in Mr Watt's grocer and butcher business, which Mr Watt has run since 1980's and been the sole proprietor since 1992, and employs in excess of 40 employees between his Lerwick and Scalloway shops. Mr Dowle explained the circumstances in regard to the conviction and the outcome of the court proceedings where against his wishes, Mr Watt had pled guilty to two of the three charges. The reason for this plea was explained, and that Mr Watt had to consider the employees and the impact that a trial would have on them and the business. Mr Dowle advised that the Police said that there had been no complaints received from the public in relation to crime prevention and that in the papers provide it was stated that the chances of repeated behavior is nil. Following further comment, Mr Dowle asked that the Board consider the comments presented by the Police and his own representation and that it take no action to neither suspend nor endorse Mr Watt's personal licence.

Mr Watt was asked what effect his personal license being revoked or endorsed would have on the employment of staff. Mr Watt explained that there would be no reduction in staff but he would have to seek other staff to obtain personal licences.

In responding to a question the Depute Clerk explained that an endorsement is for a statutory period and would expire at the end of 5 years from the beginning of the date of the endorsement. She also advised that an endorsement would have no effect on the daily activity of Mr Watt as Personal Licence Holder but the endorsement would be taken into account should Mr Watt's conduct be unsatisfactory in the future.

The Chair ruled that the Board would move into private session whilst considering the information presented.

(Mr Watt, Mr Dowle, the press and Insp. Daley left the meeting)

The Board gave consideration to the information presented and on the motion of Mr Bell agreed that Mr Watt's Personal Licence will be endorsed. Mr C Smith seconded.

The Depute Clerk further advised that should a Personal Licence Holder receive three endorsements in 5 years their Personal Licence would be suspended.

(Mr Watt, Mr Dowle and Insp. Daley returned to the meeting)

The Chair advised Mr Watt and Mr Dowle of the decision of the Board.

The meeting concluded at 11.10 a.m.

Convener