

Shetland Islands Area Licensing Board
Auditorium, Museum and Archives, Hay's Dock, Lerwick
Monday 5 June 2017 at 10am

Present:

A Cooper C Smith
G Smith B Wishart

Apologies:

M Bell C Hughson
I Scott

In Attendance (Officers):

S Brunton, Team Leader - Legal
P Dinsdale, Licensing Standards Officer
Insp. D Livitt, Police Scotland
D Manson, Licensing Standards Officer
P Wishart, Solicitor
A Manson, Business Support Officer
L Malcolmson, Committee Officer

Chairperson

The Depute Clerk to the Board, presided.

Circular

The circular calling the meeting was held as read.

Appointment of Convener and Vice-Convener to the Shetland Islands Area Licensing Board

The Board considered a report by the Clerk to the Shetland Islands Area Licensing Board (SIALB) which presented a recommendation from the Shetland Islands Council's statutory meeting on 18 May 2017, that the Board consider appointing Mr I Scott and Mr G Smith as Convener and Vice-convener, respectively, in line with the office bearer appointments made to the Licensing Committee.

Mr Cooper moved that the Office Bearers of the SIALB be the same as the Office Bearers appointed to the Licensing Committee, Mr I Scott and Mr G Smith, as set out in paragraph 2.2 of the report. Mr C Smith seconded.

In the absence of the Convener, Mr G Smith, Vice-convener, assumed the Chair.

Declarations of Interest

None

1. Application under the Licensing (Scotland) Act 2005

1.	<u>Application for Variation other than a Minor Variation of Premises Licence</u>	<u>Decision</u>
(a)	<u>Monterey Jacks Lerwick Ltd</u> Members noted that Mr Fergie, Monterey Jacks Lerwick Ltd's representative was present. The Solicitor introduced the application, and highlighted a number of changes made by the applicant since the initial application had been received. Both the Police and Licensing	Granted

Standards Officer indicated their concerns regarding the designated outside area, in terms of staff being able to effectively manage the space, how the alcohol byelaw will be enforced and in terms safety due to the areas proximity to passing vehicles (Inspector Livitt presented photographs to demonstrate this). Inspector Livitt also noted that changes were sought regarding access for children and was also concerned that the intention to have live music in the upstairs bar area may cause noise disruption in a residential area.

The Solicitor advised Members that any restrictions in the road would be a matter for the Roads Service to consider when the application seeks a permit for the use of the area, therefore the distance between the area and the traffic is not a matter for the Board to consider.

Mr Fergie was invited to address the meeting. He stated that he wished to make further adjustments to the application. Concern was expressed by Members that the number of changes made it difficult for the Board to make a decision and Mr C Smith moved that the Board defer a decision on the application. The Solicitor explained that the only options open to Members namely, to either grant the application or refuse the application and advised that it was appropriate for adjustments to be made by the applicant during the course of the meeting.

The Chair said that the meeting would take a short adjournment to allow the Solicitor and the applicant to discuss the application so that the Board could be clear on what variations to the premises licence the applicant wished the Board to consider.

The meeting adjourned at 10.35am
The meeting reconvened at 10.40am

The Chair advised that the Board would meet in private to discuss the changes to the application and meet again in public thereafter to advise of the decision made.

(Members of the public left the meeting)

The Solicitor confirmed that he had discussed the further changes with the applicant and that the application for variation of the premises licence before the Board for consideration was now as follows:

- Change the name of the premises to Monterey Jacks
- Introduce challenge 25.
- Extend consumption of alcohol hours on the premises from 12-1am on all nights.
- Addition of live performances on the condition that the music is not amplified but acoustic only.

- Indoor/outdoor sports to be included (arcade game, not gambling machine).
- Children and young persons to be accompanied by an adult at all times and to vacate the premises by 12am.

The Solicitor also confirmed that the:

- Designated outdoor area was no longer requested.
- On sales was no longer requested.

Mr Smith withdrew his motion to defer consideration of the application. The Depute Clerk to the board explained that the applicant is entitled to make changes during the meeting and in this case the applicant was responding to the concerns of the Board to meet the terms of the Board's policy.

The Chair explained that the options available to the Board were to grant or refuse the application. Having received the adjustments described the Board were now to consider whether the adjustments satisfied the concerns of the Police and LSO. If however the Board consider that the application does not meet the terms of the Licensing principles it can refuse the application otherwise it is obliged to grant the application.

The Board agreed that a decision on the application would now be made and the Chair invited the members of the public to return.

(Members of the public returned to the meeting at 10.50am)

For the benefit of those present the Solicitor advised on the application as it now stood following adjustments by the applicant:

- Change of name of the premises to Monterey Jacks.
- Introduce challenge 25.
- Consumption of alcohol hours on the premises extended to 1am on all nights.
- Addition of live performances - music will not be amplified.
- Indoor/outdoor sports to be included (arcade game, not gambling machine).
- Children and Young Persons to be accompanied by an adult, at all times, and will vacate the premises by 12am.

The Solicitor asked the applicant to confirm that this was now the application for Variation before the Board for consideration. The applicant confirmed.

The Chair moved that the Board approve the grant of an application for a Variation other than a Minor Variation of a Premises Licence. He also advised that Mr Smith had

	withdrawn his earlier motion. Mr Cooper seconded.	
2	<u>Application for Premises Licence</u>	
(a)	<p><u>Walls Regatta Club</u></p> <p>Members noted that Mr Brett, representative for the Walls Regatta Club, was present.</p> <p>The Solicitor introduced the report advising that the application required a decision of the Board as it exceeded the 48 hour timeframe for occasional licences.</p> <p>The Police and Licensing Standards Officer had no further comment to make on the application.</p> <p>Mr Brett was invited to address the meeting and advised that the application had been made to take account of the weather. He explained that the occasional licence would allow the regatta to be held on either day were there to be too much or too little wind. In response to concern that the licence was to 1am on Monday morning with the public attending their work in the morning, Mr Brett said that it was not expected that the licence would be required on the second day and it was not anticipated that all hours would be used.</p> <p>Mr C Smith moved that the Board approve the application for the grant of an occasional licence, seconded by Ms Wishart.</p>	Granted

2. Gambling Act 2005 – New Three Year Policy Statement – 2016-19

The Board considered a report by the Depute Clerk to the Shetland Islands Area Licensing Board which presented an initial draft of the Three Year Policy Statement under the Gambling Act 2005.

The Depute Clerk introduced the report and advised that as there is only one gambling premises in Shetland she had not given the matter the same time as she had around liquor licensing. She also advised she had taken the opportunity to make other amendments and sought approval of the draft to be circulated for public consultation and presenting to the Board again in August.

In responding the specific questions relating to the gambling machines on the Northlink Ferries, in terms of enforcement when in port, the Depute Clerk advised that she did not have the detail of that but she would report to Members following the meeting.

Mr G Smith moved that the Board approve the draft document for public consultation. Mr Cooper seconded.

3. Hearing for a Personal Licence Holder (Section 83)

The Board considered a report by the Depute Clerk that advised of a Personal Licence holder, Mr Foote, who had relevant conviction that required to be considered by the Board.

The Depute Clerk introduced the report and explained the process to be followed. She advised that the Police had not sought that the Board refuse the application. The Depute Clerk sought a decision on whether the Board wished to consider the convictions as not relevant or to hold a hearing at a future meeting of the Board.

Mr Cooper moved that the Board seek clarification by holding a hearing for a Personal Licence Holder. Mr C Smith seconded.

The meeting concluded at 10.55am.

Convener