

Present:

A Cooper C Hughson
S Leask I Scott
G Smith

Apologies:

M Bell C Smith
B Wishart

In Attendance (Officers):

P Wishart, Solicitor
P Dinsdale, Licensing Standards Officer
PC C Smith, Police Scotland
L Malcolmson, Committee Officer

Chairperson

Mr I Scott, 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**

1.	<u>Application for Extension of Licensed Hours</u>	<u>Decision</u>
(a)	<p><u>Brae Community Hall</u></p> <p>The Solicitor introduced the application and advised that Mr Farmer, Brae Community Hall Representative, was present.</p> <p>The Solicitor advised that this application had been presented at the Board's February meeting but a decision was deferred until a representative could be present. He advised that the LSO had responded indicating that the application was outwith the statement of licensing hours and the Police had no objections.</p> <p>During discussion, it was acknowledged that whenever an establishment closes its bar the facility can stay open for as long as it decides provided no alcohol is being consumed after drinking up time. The point was made however that there is no provision to extend drinking up time and a view was expressed that 15 minutes does not provide enough time to clear all drinks away from a busy venue. Therefore the later license to 2am, with an early close would allow establishments to clear tables in a manageable fashion whilst remaining within the law.</p>	GRANTED

	<p>It was noted that no such extension had been sought by the South Mainland Up Helly Aa and they had remained within the law and cleared up within the 15 minutes drinking up time.</p> <p>Reference was made to the Hillswick Hall who had a similar request and comment was made that the function had gone well and the Police had complimented the Hall, at the Community Council meeting, for their handling of their event.</p> <p>It was acknowledged that by granting an extension to 2am the Brae Community Hall could sell alcohol up to that time, and there was no point in the Licensing Standards Officers monitoring the event to ensure the bar closes at 1am as they have no power to enforce anything but what the Board approves.</p> <p>Mr Farmer was invited to address the Board and explain the intentions of the application. Mr Farmer advised that the bar will close at 1am. He said that the event relies on volunteers and it can be difficult to remove the volume of drinks from individuals within the 15 minute drinking up timeframe.</p> <p>Mrs Hughson moved that the Board approve the application for and Extension of Licensed hours. Mr Cooper seconded.</p> <p>Comment was made against the motion in terms of the precedent that such a decision would set, and that in approving the application the Board put trust in the event organisers.</p> <p>The Solicitor advised that a condition can be applied under Section 70A of the Act for a variation under subsection 1 if the Board were so minded.</p> <p>There followed further discussion on the terms of the application and there being no forthcoming amendment, the decision of the Board was to grant the application for Extension to Licensed hours.</p>	
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The Board agreed to reorder the agenda and to consider item 3 before item 2.

2 **Overprovision Assessment**

A report by the Depute Clerk was presented that informed the Board of the outcome of the Overprovision Assessment Public Consultation exercise to allow the Board to make a final decision on the question of whether they wish to highlight an area of overprovision of off-sales premises in Lerwick in their Statement of Licensing Policy.

The Solicitor introduced the report and advised that one response had been received from the consultation from Brudolf Hotels which stated that there was no overprovision in Lerwick. The Solicitor referred to guidance on overprovision from the Scottish Government that was currently under review, and advised that there was no timescale for

completion of that review. The Solicitor directed the Board to the decisions required in section 4 of the report.

During discussions the Convener advised that he had compared Shetland with other areas of Scotland and found a similar situation in Kirkwall and other areas. The Board noted that the effect of having an overprovision statement would not impact on existing providers and would not reduce the number of outlets selling alcohol, but it could affect future applications. It was also noted that the any application would have the right of appeal therefore the Board would have to be clear on their grounds for refusal when considering an application. The Board were advised that a statement of overprovision would provide a presumption against granting an application but if the statement was weak it could be challenged.

Reference was made to the letter from Brudolf Hotels and it was suggested that its content was anecdotal and had no legal base for its view. In response to a question, the Solicitor confirmed that the Lerwick Community Council would have been a consultee and no response had been received.

There followed a discussion about early intervention and education and the work being done in schools, and it was suggested that a statement of overprovision was unlikely to make a difference. It was noted that even with an overprovision statement the two largest outlets would continue to trade and availability would be the same. The Board acknowledged that educating individuals to use alcohol in a different way was important as there are more people consuming alcohol before they go out for the evening and an overprovision statement would not deal with the issue of consumption in Shetland.

The Board considered whether a decision should be deferred until the Scottish Government Guidance review was complete. It was advised however that the timescale of the review was unknown, and it would be possible for the Board to make a decision today and revisit the issue once the updated guidance was available.

Following further discussion, the Board unanimously agreed that the overprovision statement should remain the same and that the Board will reflect on the matter again once the Scottish Government advice is available.

The Solicitor advised that he would make a note within the Statement of Licensing Policy that the Board gave consideration to the matter of overprovision in Lerwick and that the decision was to leave the overprovision statement as it is and await the guidance from the Scottish Government to consider the matter again.

Decision:

The Board unanimously agreed that the overprovision statement should remain the same, that there is currently no overprovision in the Board's area, and that the Board will reflect on the matter again once the Scottish Government advice is available.

3 Hearing in Application for a Personal Licence (Section 74)

The Board considered a report by the Depute Clerk to the Board that presented the application for a Personal Licence from Calan Joe Watt, who has a relevant conviction.

The Board were asked to consider whether they wished to deliberate in private for the whole or part of the hearing process as allowed for in Schedule 1 of the Licensing

(Scotland) Act 2005. The Board were however advised that the decision must be made in public.

The Board unanimously agreed to deliberate in private, with the decision in public.

The Public and Media left the meeting.

The Solicitor introduced the report and advised of a revision to section 4 and circulated the amended wording (attached as Appendix 3a to the minute).

Members considered the report and asked questions of the applicant in regard to his role and responsibilities in holding a Personal Licence and in regard to convictions highlighted in the report. Mr Watt was invited to make a statement in support of his application.

(The Public and Media were invited to return to the meeting)

The Convener advised that following deliberations he moved that the Board approve the grant of a Personal Licence to Mr Watt. Mrs Hughson seconded and the Board concurred.

Decision:

The Board agreed to approve the grant of a Personal Licence to Mr Watt.

The meeting concluded at 12.50pm.

Convener