

**SHETLAND ISLANDS AREA LICENSING BOARD – MEETING 16 JUNE 2008**

**(A) APPLICATIONS UNDER THE LICENSING (SCOTLAND) ACT 1976**

	<b>Name(s) Designation(s) and Address(es) of Applicants</b>	<b>Premises</b>	<b>Type of Licence</b>	<b>Hours</b>
<b>1.</b>	<b>Application for Regular Extension of Permitted Hours</b>			
(a)	Trustees of Shetland Amenity Trust, Garthspool, Lerwick and Mr Michael Skinner, Babylon, Braehead, Scalloway, Shetland	Shetland Museum & Archives Hay's Dock Lerwick Shetland	Public House	11pm – 1am Mondays to Saturdays  (Various events held within the building, the majority of which will be held in the Hay's Dock Café Restaurant)  <b>Granted</b>
<b>2.</b>	<b>Applications for Occasional Extension of Permitted Hours</b>			
(a)	Mrs Anna M Hepburn c/o Queens Hotel, 24 Commercial Street, Lerwick, Shetland	Douglas Arms 67 Commercial Road Lerwick Shetland	Public House	11pm – 3am Thursday 19 June 2008 to Sunday 29 June 2008  (Johnsma Foy, Bergen to Shetland Yacht Race & Flavour of Shetland)  In accordance with current policy, the Board agreed to grant the extension, restricted to 2am, for the dates stated.  <b>Granted in part.</b>
(b)	KGQ Hotels Limited, JWG plc, Gremista Industrial Estate, Lerwick and Mr George G Hepburn c/o Queens Hotel, 24 Commercial Street, Lerwick, Shetland	Grand Hotel 149 Commercial Street Lerwick Shetland	Hotel	11pm – 3am Thursday 19 June 2008 to Sunday 29 June 2008  (Johnsma Foy, Bergen to Shetland Yacht Race & Flavour of Shetland)

In accordance with current policy, the Board agreed to grant the extension, restricted to 2am, for the dates stated.

**Granted in part.**

- |     |   |   |              |
|-----|---|---|--------------|
| (c) | Thule Bar (Lerwick) Limited t/a Thule Bar, 25 Gremista Industrial Estate, Lerwick and Mr George G Hepburn c/o Queens Hotel, 24 Commercial Street, Lerwick, Shetland | Thule Bar<br>The Esplanade<br>Lerwick<br>Shetland | Public House |
|-----|---|---|--------------|

11pm – 3am Thursday 19 June 2008 to Sunday 29 June 2008

(Johnsma Foy, Bergen to Shetland Yacht Race & Flavour of Shetland)

In accordance with current policy, the Board agreed to grant the extension, restricted to 2am, for the dates stated.

**Granted in part.**

3. **Application for Occasional Permission**

- |     |  |  |
|-----|--|--|
| (a) | Mr Wilbert Henry, Anderlea, Gulberwick, Shetland | Islesburgh Community Centre<br>King Harald Street<br>Lerwick<br>Shetland |
|-----|--|--|

11am Thursday 9 October 2008 – 3am Friday 10 October 2008  
11am Friday 10 October 2008 – 3am Saturday 11 October 2008  
11am – 4pm Saturday 11 October 2008  
11am Sunday 12 October 2008 – 3am Monday 13 October 2008  
11am – 4pm Monday 13 October 2008

(Shetland Accordion & Fiddle Festival)

In accordance with current policy, the Board agreed to grant the extension, restricted to 2am, for the dates stated, and from 11am – 4pm on Monday 13 October.

**Granted in part.**

4. **Applications for Permanent Transfer of a Licence**

- |     |  |   |              |                |
|-----|--|---|--------------|----------------|
| (a) | Swan Island Hotels Limited, The Old School, St John's Lane, Dudley, Wolverhampton and Sharn Swan, The Baltasound Hotel, Baltasound, Unst | The Baltasound Hotel<br>Baltasound<br>Unst      | Hotel        | <b>Granted</b> |
| (b) | Brae Stores Ltd, Dury, North Nesting and Michael Ian Francis Starkey Cunynghame, Dury, North Nesting                                     | Captain Flints<br>Market Cross<br>Lerwick       | Public House | <b>Granted</b> |
| (c) | Brae Stores Ltd, Dury, North Nesting and Michael Ian Francis Starkey Cunynghame, Dury, North Nesting                                     | Ellesmere Stores Ltd<br>Market Cross<br>Lerwick | Off-Sales    | <b>Granted</b> |
| (d) | Mrs Caroline Alice McKenzie, The Sea Door, 14 Commercial Street, Lerwick   | The Scalloway Hotel<br>Main Street<br>Scalloway | Hotel        | <b>Granted</b> |

5. **Application for Confirmation of Transfer of a Licence**

- |     |   |  |               |                |
|-----|---|--|---------------|----------------|
| (a) | Trustees of Trondra Public Hall and Peter R Tait, North Ness House, Trondra | Trondra Public Hall<br>Grindidale<br>Trondra | Entertainment | <b>Granted</b> |
|-----|---|--|---------------|----------------|

**(B) APPLICATIONS UNDER THE GAMBLING ACT 2005**

1. **Application for Club Machine Permit**

- |     | <b><u>Applicant</u></b>                              | <b><u>Premises</u></b>                                |  |                |
|-----|--|---|--|----------------|
| (a) | Margaret Joan Pearson, Dambreezy, Symbister, Whalsay | Whalsay Boating & Sports Club<br>Symbister<br>Whalsay |  | <b>Granted</b> |

(C) **APPLICATIONS UNDER THE LICENSING (SCOTLAND) ACT 2005**  
 (See annexes for further details)

1. **Applications for Premises Licence**

	<b><u>Applicant</u></b>	<b><u>Premises</u></b>	<b><u>On-Sale/Off-Sale/Both</u></b>	
(a)	Ian Anthony Anderson	J & K Anderson Brugarth Whiteness	Off the premises	<b>Granted</b>
(b)	James Thomas Leask	Asta Golf Club Garth Burn Asta Scalloway	On the premises	<b>Granted</b>
(c)	Brae Garage (Shetland) Ltd	Brae Garage (Shetland) Ltd Brae	Off the premises	<b>Granted</b>
(d)	Pierre Dupont & Margaretha Dupont	Burrastow House Walls	On the premises	<b>Granted</b>
(e)	Philip Gordon Manson	The Lounge Bar 4 Mounthooly Street Lerwick	On the premises	The Depute Clerk to the Board advised that Building Standards had an outstanding issue with occupancy of the premises. In agreement with the applicant, the Board agreed on the motion of Mr C L Smith, seconded by Mr A T J Cooper, that the application should be deferred to allow clarification on the maximum occupancy numbers,  <b>Deferred</b>
(f)	Trustees & Committee of North Ness Public Hall	North Ness Public Hall Ulsta Yell	On the premises	<b>Granted</b>
(g)	P & T Coaches	P & T Coaches Unit 2	Off the premises	<b>Granted</b>

		Hagdale Industrial Estate Baltasound Unst		
(h)	William Arthur Anderson	Pierhead Restaurant & Bar Lower Voe Voe	Both on and off the premises	<b>Granted</b>
(i)	Andrea Isabel Manson	St Magnus Bay Hotel Hillswick	Both on and off the premises	The Depute Clerk to the Board advised that the plans lodged had not been complete in that the outdoor drinking area had not been included. The applicant has advised however that updated location plans would be submitted. Following consideration, the Board agreed to defer this application, on the motion of Mr J G Simpson, seconded by Mr G Robinson.

**Deferred**

2. **Applications for Personal Licence**

**Name and Address of Applicant**

(a)	Patricia Agutter, 28 Sandveien, Lerwick			<b>Granted</b>
(b)	Anne Roberta Anderson, 83 King Harald Street, Lerwick			The Depute Clerk to the Board advised of a previous conviction on 8/12/04, in relation to the Licensing (Scotland) Act 1976, relating to the sale of alcohol to persons under 18 years of age from Licensed premises. The applicant addressed the Board and provided information on the earlier conviction. Following consideration, the Board agreed to grant the licence, on the motion of Mr A J Cluness, seconded by Mr G Robinson.

**Granted**

(c)	Marjorie Ann Barrie, Greenrig House, Lerwick	<b>Granted</b>
(d)	Alan Burke, 123 Sandveien, Lerwick	<b>Granted</b>
(e)	Angus Duncan, Shetland Hotel, Holmsgarth Road, Lerwick	<b>Granted</b>
(f)	Samantha Erskine, 83 North Road, Lerwick	<b>Granted</b>
(g)	Iain I Grummitt, Brae Hotel, Brae	<b>Granted</b>
(h)	Iain Henderson, South Veister, Sandwick	<b>Granted</b>
(i)	Thomas P Henry, 86a Commercial Street, Lerwick	<b>Granted</b>
(j)	Philip Gordon Manson, 1 Bakland, Lerwick	<b>Granted</b>
(k)	Stella Jane Polson, 9a St Magnus Street, Lerwick	<b>Granted</b>
(l)	Yvonne Margaret Swift, Midtown, Bixter	<b>Granted</b>

## **ANNEX A**

### **Briefing Note and Further Details regarding Applications for Premises Licence under Licensing (Scotland) Act 2005**

#### **Applications**

Each application consists of an Application Form, accompanied by an Operating Plan and Layout Plan. Details from the Operating Plan for each application are set out below.

#### **Notification/Objections**

All the applications have been notified by the Clerk's office, under Section 21 of the 2005 Act, to neighbouring occupiers, the relevant Community Council, the Council (Environmental Health/Building Standards), Police and Fire services, and notified on the Licensing Board page of the Council's website.

No adverse comments and no formal objections have been received in relation to any of the applications presented to this meeting.

### **Determination of Application**

Section 23 of the 2005 Act sets out how the Licensing Board is to determine an application for a Premises Licence. This is summarised in the following bullet points:

- At hearing by Board
- To take account of operating and layout plan
- If no ground of refusal applies, must grant application
- If any ground of refusal applies, must refuse application
- Grounds of Refusal –
  - (a) excluded premises (garages – unless serving community need as principal source for petrol or groceries)
  - (b) must be refused under section 25(2) [repeat application within 1 year of earlier refusal], section 64(2) [24 hour opening] or section 65(3) [off-sales before 10am or after 10pm]
  - (c) inconsistent with one or more of licensing objectives, i.e. –
    - preventing crime and disorder
    - securing public safety
    - preventing public nuisance
    - protecting and improving public health
    - protecting children from harm
  - (d) unsuitable premises for sale of alcohol, having regard to
    - nature of activities
    - location, character and condition
    - persons likely to frequent premises

(e) overprovision

(not applicable in transition period to premises with “grandfather rights”, i.e. having made application by prescribed date and on a like-for-like basis to existing 1976 Act licence)

- Modification of Operating Plan –

Where Board would otherwise refuse application, can propose modification to operating plan which would make it acceptable, and if accepted by applicant Board must grant application as modified.

### Operating Plan Details

The following are some of the relevant details from the Operating Plan submitted with each application presented to this meeting:

(a) Premises - J & K Anderson

- Whether On/Off/Both On and Off Sale - Off Sale only
- Core Times

#### Off Sales

	Opening	Terminal
Mon	10am	7pm
Tue	10am	7pm
Wed	10am	7pm
Thurs	10am	7pm
Fri	10am	7pm
Sat	10am	7pm
Sun	12 Noon	5pm

- Seasonal Variations - None

- Other Activities - None
- Children or Young Persons admitted (On Sales only) - N/A
- Capacity - 9.775m<sup>2</sup>

**NB** Comment by Building Standards - 6.3 linear metres given to the display of alcohol

- Premises Manager - None specified

(b) Premises - Asta Golf Club

- Whether On/Off/Both On and Off Sale - On Sale only
- Core Times

On Sales

	Opening	Terminal
Mon	11am	11pm
Tue	11am	11pm
Wed	11am	11pm
Thurs	11am	11pm
Fri	11am	11pm
Sat	11am	11pm
Sun	11am	11pm

- Seasonal Variations - more activity during summer months, ie, competitions etc
- Other Activities - conference facilities; receptions; club meetings; recorded music; live performances; dance facilities; gaming; indoor/outdoor sport; outdoor drinking; private parties on request
- Children or Young Persons admitted (On Sales only) - Yes, any age

- Capacity - up to 65 persons

**NB** Comment by Building Standards - The scale of the plan is wrong. The dimensions show that the available space is 25 feet by 18 feet that gives 41m<sup>2</sup>. Assuming this is correct the occupancy figures given in the application are adequate.

- Premises Manager - James Thomas Leask

- 

(c) Premises - Brae Garage (Shetland) Limited

- Whether On/Off/Both On and Off Sale - Off Sale only

- Core Times

Off Sales

	Opening	Terminal
Mon	10am	9pm
Tue	10am	9pm
Wed	10am	9pm
Thurs	10am	9pm
Fri	10am	9pm
Sat	10am	9pm
Sun	12 Noon	9pm

- Seasonal Variations - None
- Other Activities - None
- Children or Young Persons admitted (On Sales only) - N/A
- Capacity - None specified

**NB** Comment by Building Standards - 4.5 linear metres given to the display of alcohol

- Premises Manager - Gary Hall Johnson

(d) Premises - Burrastow House

- Whether On/Off/Both On and Off Sale - On Sale only
- Core Times

On Sales

	Opening	Terminal
Mon	1pm	11pm
Tue	1pm	11pm
Wed	1pm	11pm
Thurs	1pm	11pm
Fri	1pm	11pm
Sat	1pm	11pm
Sun	1pm	11pm

- Seasonal Variations - Open April to November
- Other Activities - Accommodation; Restaurant facilities; receptions;
- Children or Young Persons admitted (On Sales only) - all ages, children have dinner with parents in guesthouse
- Capacity - 16 persons

**NB** Comment by Building Standards - The maximum occupancy of 16 seems reasonable

- Premises Manager - Pierre Dupont
- 

(e) Premises - The Lounge Bar

- Whether On/Off/Both On and Off Sale - On Sale only
- Core Times

On Sales

	Opening	Terminal
Mon	11am	1am
Tue	11am	1am
Wed	11am	1am
Thurs	11am	1am
Fri	11am	1am
Sat	11am	1am
Sun	11am	1am

- Seasonal Variations - None
- Other Activities - Conference facilities; receptions; club meetings; recorded music; live performances; dance facilities; gaming; indoor/outdoor sports; televised sport; darts, board games, card games and dominoes
- Children or Young Persons admitted (On Sales only) - Yes, all ages (with a parent or responsible person to play in music sessions)
- Capacity - 300 persons

**NB** Comment by Building Standards - The plan shows 36m<sup>2</sup> available in the Public Bar and 71m<sup>2</sup> in the lounge bar. This would give a maximum occupancy of 214 people.

- Premises Manager - None specified

(f) Premises - North Ness Public Hall

- Whether On/Off/Both On and Off Sale - On Sale only

- Core Times

On Sales

	Opening	Terminal

Mon	11am	1am
Tue	11am	1am
Wed	11am	1am
Thurs	11am	1am
Fri	11am	1am
Sat	11am	1am
Sun	11am	1am

- Seasonal Variations - Open as and when required
- Other Activities - conference facilities; restaurant facilities; bar meals; receptions; club meetings; recorded music; live performances; dance facilities; theatre; films; gaming; indoor/outdoor sports; televised sport; barbeques within hall boundary. Some events/activities may begin before 11am.
- Children or Young Persons admitted (On Sales only) - yes, all ages.
- Capacity - 120 persons

**NB** Comment by Building Standards - The occupancy figures given in the application are reasonable based on the plan given.

- Premises Manager - Fraser James Jamieson

(g) Premises - P&T Coaches

- Whether On/Off/Both On and Off Sale - Off Sale only
- Core Times

Off Sales

	Opening	Terminal
Mon	10am	6pm
Tue	10am	6pm

Wed	10am	6pm
Thurs	10am	6pm
Fri	10am	6pm
Sat	10am	6pm
Sun	10am	6pm

- Seasonal Variations - None
- Other Activities - Restaurant facilities
- Children or Young Persons admitted (On Sales only) - N/A
- Capacity - None stated

**NB** Comment by Building Standards - 4.6 linear metres given to the display of alcohol

- Premises Manager - None stated

(h) Premises - Pierhead Restaurant

- Whether On/Off/Both On and Off Sale - Both On and Off sale
- Core Times

On Sales

	Opening	Terminal
Mon	11am	1am
Tue	11am	1am
Wed	11am	1am
Thurs	11am	1am
Fri	11am	1am
Sat	11am	1am

Off Sales

	Opening	Terminal
Mon	10am	10pm
Tue	10am	10pm
Wed	10am	10pm
Thurs	10am	10pm
Fri	10am	10pm
Sat	10am	10pm

Sun	11am	1am
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Sun	10am	10pm
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- Seasonal Variations - None
- Other Activities - conference facilities; restaurant facilities; bar meals; receptions; club meetings; recorded music; live performances; dance facilities; outdoor drinking facilities;
- Children or Young Persons admitted (On Sales only) - yes, any age
- Capacity - 140 persons

**NB** Comment by Building Standards - The occupancy figures given in the application are reasonable based on the plan given.

- Premises Manager - Denise Anderson

(i) Premises - St Magnus Bay Hotel

- Whether On/Off/Both On and Off Sale - Both On and Off Sale

- Core Times

On Sales

	Opening	Terminal
Mon	11am	1am
Tue	11am	1am
Wed	11am	1am
Thurs	11am	1am
Fri	11am	1am
Sat	11am	1am
Sun	11am	1am

Off Sales

	Opening	Terminal
Mon	11am	10pm
Tue	11am	10pm
Wed	11am	10pm
Thurs	11am	10pm
Fri	11am	10pm
Sat	11am	10pm
Sun	11am	10pm

- Seasonal Variations - none

- Other Activities - accommodation; conference facilities; restaurant facilities; bar meals; receptions; club meetings; recorded music; live performances; dance facilities; indoor/outdoor sports; televised sports; outdoor drinking facilities;
- Children or Young Persons admitted (On Sales only) - yes, all ages
- Capacity - 220 persons

**NB** Comment by Building Standards - The occupancy figures given in the application are reasonable based on the plan given. The application form refers to a coffee shop; no coffee shop is shown on the plans provided.

- Premises Manager - Paul Bird

## **ANNEX B**

### **Briefing Note and Further Details regarding Applications for Personal Licence under Licensing (Scotland) Act 2005**

Application (section 72 and Personal Licence Regulations) – Application form can be submitted by anyone aged 18 or over, accompanied by two passport sized photos, and copy of licensing qualification.

Notification (section 73) - To Police, who are to respond with one of following:

- (a) Notice that as far as aware applicant not convicted of any relevant offence or foreign offence.
- (b) Notice specifying any convictions for such offences.

Determination of Application (section 74) –

- 3 Conditions for applicant –
  - (a) aged 18 or over
  - (b) possesses licensing qualification

- (c) no previous personal licence revoked within last 5 years
- If any condition not met, Board must refuse.
- If all conditions met, and Police give the (a) form of notice [i.e. no convictions], Board must grant.
- If all conditions met, and Police give the (b) form of notice [i.e. detailing any convictions], Board must hold hearing and
  - (a) if satisfied necessary to do so for crime prevention objective, Board must refuse application.
  - (b) if not so satisfied, Board must grant application.

Of the applications presented to this meeting for consideration, the applicant meets the 3 conditions set out above. In all but one case the Police have given notice that they are not aware of any relevant convictions. In one case, Anne Anderson, the Police have notified a relevant conviction, namely under section 67 and 68(1) & (7) of the Licensing (Scotland) Act 1976, but have not included a recommendation that the application be refused.

NOTE: All applications for personal licence which have been received and processed in time for this meeting have been presented to the Board for decision, this being the first meeting to consider applications under the 2005 Act. In future, it is proposed that only those applications which give rise to the need for a hearing, i.e. where the Police have given notice of any convictions for relevant or foreign offences would be presented to the Board. Applications where no notice of any such convictions are given would be determined by the Clerk (including such Depute as the Clerk may appoint) under the Scheme of Delegation approved on 26 November 2007 as part of the Board's Statement of Licensing Policy under the 2005 Act.