

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Friday 15 November 2013 at 10.00am**

Present:

A Cooper A Duncan
G Smith C Smith
A Westlake

Apologies:

M Bell P Campbell
G Robinson

In Attendance (Officers):

S Brunton, Depute Clerk to the Board
M Sandison, Director of Infrastructure Services
P Wishart, Solicitor
C.I. A MacInnes
L Gair, Committee Officer

Chairperson

Mr G Smith, Convener to the Board, presided.

Circular

The circular calling the meeting was held as read. The Chair advised that item 6 would be considered as the third item on the agenda as any decisions made would inform the debate on items 3 and 4.

Declarations of Interest

The Chair declared an interest in the agenda item entitled "Alcohol Licensing for Halls at Up Helly Aa and Fire Festivals" as a Member of the Sandwick Social Club. However as this was a non financial interest he stated that he would remain in the Chair.

1 Applications under the Licensing (Scotland) Act 2005

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 1).

1. Applications for a Premises Licence

(a) San Vitesse Accommodation Barge

Members were advised that no objections had been received from the Licensing Standards Officer or the Police.

Members were advised that this application was in line with applications received from other barges, with the same opening hours being sought.

Mr Cooper referred to how applications had previously been reported demonstrating that premises inspections had been undertaken. He asked if an inspection had been done in this case or if applications were now treated differently. The Director of Infrastructure Services advised that Environmental Health inspects premises for licensing purposes as well as safe access, egress and food hygiene. She said that transition to the new 2005 Act saw all aspects being included in the inspection. Mr Cooper asked that future reports state that Officers have gone through an inspection process.

Ms Westlake stated that she had previously requested that Members be given the opportunity to see what premises are being granted licences and asked if a site visit could be arranged. Ms Westlake confirmed that she was happy to move the recommendations of the report, but said that it would be courteous for Members to be afforded the opportunity to view the barges.

Mr Johnson, representative for previous barge applications said that Members would be welcomed onboard the barges and it was agreed that the Clerk would write to Sodexo to request a site visit.

Mr Duncan seconded.

2. **Application for a Variation other than a Minor Variation of Premises Licence**

(a) **Monty's Bistro**

Members were advised that no objections had been received in respect of this application.

Mr Duncan moved that the Committee approve the application for a variation other than a minor variation of a premises licence, Mr C Smith seconded.

The Board RESOLVED to:

- grant the application for a Premises Licence in respect of the San Vitesse Accommodation Barge; and
- grant the application for a Variation other than a Minor Variation of Premises Licence in respect of Monty's Bistro.

2. **Chief Constable's Report to the Shetland Islands Area Licensing Board**

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 2) that attached a copy of the Chief Constable's Report for the period 1 April 2012 to 31 March 2013.

C.I. MacInnes introduced the report and explained that the document had been produced outwith Shetland using a national template. He explained that the focus of the report was on policies and working procedures in respect of alcohol related issues. C.I. MacInnes advised however that Appendix A was not correct and referred particularly to the Test Purchasing figures. He said that he would have the figures checked out and he would update Members in due course.

C.I. MacInnes advised that there was now more police visibility and he reported on a number of statistics that had fallen including violence, disorder, vandalism and reports of noise in the home. He explained that the police were attending the pubs in the late afternoon and engaging with the public while the customers were still sober. C.I. MacInnes said that he had spoken with the Health Board who reported a reduction of acute alcohol cases across the last three years. He stated however that alcohol continues to be an issue.

In response to a question relating to Shetland's drug problem, C.I. MacInnes said that this year there had been fewer people caught on the supply of illegal substances, however there had been a 105% increase in those who have been caught with amounts categorised as personal use. He said that it may be that people are getting wise to not carrying large amounts but compared to a year ago there were fewer big amounts being

found. In terms of “legal highs”, C.I. MacInnes said that these drugs cannot be controlled under the misuse of drugs act, but informed Members that these drugs are regularly tested and if found to contain illegal drugs they become an illegal substance. He said that what was worrying was that someone can do harm to themselves using these synthetic drugs and the message to get out is “what you are doing may be legal but you may kill yourself doing it”.

A Member said that they had heard a suggestion that with the influx of workers to Shetland, the locals were leaving the pubs by 11pm or staying at home. The Director of Infrastructure Services said that if this was the case she would expect more noise complaints but there had been a decrease in the number of noise complaints received.

Members commented that they were pleased to see improvements in the areas highlighted and this was good from all perspectives in the local trade and demonstrated the importance of the Police and Board working together. It was noted that the influx of workers could have presented problems but the Police have managed this well and the licensing trade have contributed to that.

Decision:

The Board **NOTED** the information contained in the report and Appendix.

3. New Three Year Policy Statement – 2013/2016 – Overprovision Assessment

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 3).

Members were advised that all interested parties were invited to comment on the draft Policy Statement however there was not sufficient opportunity for the the Licensing Forum to meet to discuss the Policy Statement in depth. The Forum had therefore submitted two comments relating to opening hours and general extensions and these changes were before the Board for consideration. The Chair added that the Board would endeavour to arrange a joint meeting with the Forum after today’s meeting.

In considering the opening hours, the question was asked why it was felt that people would disperse better at 3am rather than 2am. The Director of Infrastructure Services said that it is believed that if an individual is in an establishment longer they will go when they have had enough to drink rather than leave at closing time, effectively dispersing naturally over the night. Up Helly Aa was given as an example where people don’t stay to the end of the night. The Police asked if there would be an opportunity for a trial period to see if a late terminal hour does work in this way, but if it creates a problem where there are not enough staff on the premises or Police to observe, could that decision be revisited. The Board were advised that once the applications had been granted longer hours they would have those hours from then on.

A Member commented that there had been radical changes in Shetland in the last 20 years when there were once 5 Nightclubs to chose from. The Member held the view that Shetland people should not be persecuted for living on an island and adult drinkers should be allowed to enjoy themselves with licensing hours streamlined with the Scottish mainland.

During further discussion Member were reassured that if the changes to opening hours were made, the Police would change their shift patterns if necessary to meet the community needs. Members also commented on the health and wellbeing of the public and it was recognised that if there are no food outlets open at the time when people leave the pubs they are more likely to go home and start cooking, whilst under the

influence of alcohol. It was agreed that consideration of the Late Hours Catering Licensing Policy may require to be reviewed as a result of any changes to the opening hours made today.

In considering whether to apply for night club hours, Members recognised that it was up to the applicant whether the extra expense of providing the additional security measures required for the later terminal hour is justified. It was also noted that if the licensee is not operating to within the limitations of their operating plan they would be brought before a hearing of the Board.

Ms Westlake moved that the Board approve the recommendations with a terminal hour of 3am for night clubs. In seconding, the Chair summarised that this decision would also cover the Licensing Forum's proposal for a festive General Extension for the 2 week period during Christmas and New Year namely, from 21 December to 6 January inclusive. The generality of premises can stay open until 2a.m. on any night during that period and those premises which have been granted a nightclub terminal hour of 2am at weekends may stay open until 3 a.m. on any night during that period. Ms Westlake concurred.

(Mr Duncan declared an interest in Page 16 relating to the South Mainland Up Helly Aa as he is a Member of the Ness Boating Club)

Members unanimously agreed that the existing Up Helly Aa and Fire Festivals should be included in the Three Year Policy Statement and that Delegated Authority be given to the Clerk to approve applications if there is no change to the permissions granted in previous years. It was noted that any changes to applications or any new Festivals should be brought to the Board for consideration. The Depute Clerk to the Board advised that the wording would be changed and circulated to Members before the new policy was finalised.

The Chair summarised the Board's decisions and advised that a joint meeting of the Board and Forum would be arranged in early course to consider the new Three year Policy Statement.

Decision:

The Board RESOLVED to approve the recommendations contained in the report with the following amendments:

- That the New Three Year Statement of Policy Opening Hours includes a change to the terminal hour for nightclubs of 3am at weekends.
- That the General Extensions for the Christmas and New Year period this year, namely 21 December 2013 to 6 January 2014 inclusive will include a terminal hour of 2am for the generality of premises on any night during that period and those premises which have been granted a nightclub terminal hour of 2am at weekends may stay open until 3 a.m. on any night during that period.
- That the New Three Year Statement of Policy provide delegated authority to the Clerk to approve the details of General Extensions for existing Up Helly Aa and Fire Festivals but that any changes or application from new Fire Festivals be brought to the Board for consideration.
- A joint meeting of the Board and Licensing Forum be arranged as soon as possible to discuss the New Three Year Statement of Policy.

4. **Alcohol Licensing for Halls at Up Helly Aa and Fire Festivals**

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 4).

The Chair said that given the Board had just approved changes to the New Three Year Policy Statement he moved that the Board approve the recommendations contained in the report and that should any dates change but all other circumstances remain the same, delegated authority be given to the Clerk to approve a change in date. Mr Cooper seconded.

Decision:

The Board RESOLVED to grant the general extension as set out in the Appendix to the Report in respect of the Alcohol Licensing for Halls at Up Helly Aa and Fire Festivals but that delegated authority be given to the Clerk to approve a change in date, where all other circumstances remain the same.

5. **Christmas and New Year Licensing Hours**

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 5).

On the motion of Mr Cooper, seconded by Mr G Smith, the Board resolved to grant a General Extension for the festive period in line with the decision made at minute item 3 above.

Decision:

The Board resolved that the General Extensions for the Christmas and New Year period this year, namely 21 December 2013 to 6 January 2014 inclusive will include a terminal hour of 2am for the generality of premises on any night during that period and those premises which have been granted a nightclub terminal hour of 2am at weekends may stay open until 3 a.m. on any night during that period.

6. **Late Payment of Fees**

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 6).

The Board noted that although only 4 out of 140 premises licences remained unpaid, the Board were asked to consider whether they wished to proceed to a review hearing in respect of those listed in the appendix to the report. Members were informed that of the 4 Premises listed, Petrofac had now paid their fees and although North Bridge Stores had now closed, the fees would continue to be sought until the licence is surrendered.

Mr Cooper moved that the Board proceed with a review hearing of the 4 premises licence holders in respect of the following premises:

Alex Morrison Shop
North Bridge Stores
Petrofac Laggan Tormore Accommodation Facility
Pierhead Restaurant and Bar.

Mr C Smith seconded.

Members expressed concern that the process in seeking a decision from the Board effectively gives the Licence Holders up to a period of two months grace in which to pay their fees. Members questioned whether the process could be streamlined so that reports are presented and review hearings held more timeously. The Depute Clerk to

the Board advised that the schedule of meetings could be arranged so as to allow early consideration of unpaid fees.

Decision:

The Board RESOLVED that a review hearing of the 4 premises licence holders in respect of the following premises:

Alex Morrison Shop
North Bridge Stores
Petrofac Laggan Tormore Accommodation Facility
Pierhead Restaurant and Bar.

(The Board were advised that the following item had been marked as Exempt on the agenda however the hearing would have to be heard in public but if required the Board could agreed to move into private during their deliberations.)

7. **Hearing to consider and determine application for Personal Licence**

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 7).

The Police advised the Board that the previous convictions had not been recorded on the application form and described the offence committed.

Mr Watt was invited to address the Board. Mr Watt explained that when he submitted his application he advised that he had a misdemeanour but that he wasn't sure it was relevant. He said that the person he spoke to said that he should leave it blank. Mr Watt said that the application for a Personal Licence was work related as he worked at the bar in the Westings Hotel three nights a week. He said that the Licence Holder was selling the premises and had asked him to apply

In response to a question from a Member, the Depute Clerk advised that the Personal Licence is granted to an individual therefore if the premises were to be sold he could work there with the new owners and the Personal Licence would not be affected. She explained that the Personal Licence is transferrable to any licensed establishment.

Mr C Smith said that it was unfortunate that Mr Watt had not completed the form properly and said to Mr Watt that the responsibility lay with him for that. Mr C Smith moved that the Board approve the grant of a Personal Licence. Mr G Smith seconded.

A Member asked Mr Watt if he had anything to say in respect of the offence. Mr Watt said that it was the first and last time that such a thing would happen and that he had never been in trouble before.

Mr Duncan said that he was concerned about this case and moved that the Board reject Mr Watt's application for a Personal Licence in terms of the licensing objective to prevent crime and disorder. Mr Cooper seconded.

Following summing up, voting took place with a show of hands and the results were as follows:

Amendment (Mr Duncan)	2
Motion (Mr C Smith)	3

The Chair advised Mr Watt that the Personal Licence had been granted but highlighted how seriously the Board took his conviction and he urged Mr Watt to use his Personal Licence responsibly.

Mr Watt said that he could have waited and applied in June 2014 by which time the conviction would have been spent under the Rehabilitation of Offenders Act, but he chose to be honest with the Board.

Decision:

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

The meeting concluded at 11.20am.

Convener