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LICENSING BOARD

MINUTES OF MEETING

MONDAY 30th JULY 2018

Members present: Councillors Norman Work (Convener); Catherine Fullerton; Joanna Mowat; Callum Laidlaw; Nick Cook; Gillian Gloyer; Mary Campbell

Apologies: Councillors Cammy Day; Lezley Marion Cameron; David Key

Police Officer: Sergeant John Young

Council Officers present: Tom Veitch (Licensing Standards Manager); Colin McCulloch (Building Standards)

NHS Lothian: Jim Sherval

Depute Clerk: Morag Leck

1. Minutes of meeting of 25th June 2018

The minutes of the meeting of 25th June 2018, together with the decision list, were agreed.

Decision: minutes and decision list agreed.

2. Applications for variation of existing premises licences, new premises and provisional premises licences, personal licences, etc. – as detailed in separate list

The Board considered five applications for variation of premises licences, eight applications for provisional and premises licences and four applications for personal licences, the decisions for which are as detailed in the list appended to these minutes.

Declarations of interest: None

Divisions:

Variation of premises licence application – 2. Civerino's Homeslice Limited- 81/85 St Leonard's Street

Councillor Work, seconded by Councillor Fullerton moved grant of the application. Councillor Mowat seconded by Councillor Laidlaw proposed as an amendment that the application be partially granted with that part of the application which related to the new condition for amplified music and vocals refused.

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Decision: Following a division, the application was partially granted with that part of the application which related to the new condition for amplified music and vocals refused.

Variation of premises licence application- 4. Vans Restaurant Limited, Unit 54 Ocean Terminal, 98 Ocean Drive

Councillor Mowat, seconded by Councillor Fullerton, proposed that the application be continued to allow for a site visit and further discussions between the applicant and consultees. Councillor Cook, seconded by Councillor Campbell, moved as an amendment that the application be refused.

Decision: Following a division, the application was continued to allow for a site visit and further discussions between the applicant and consultees.

NHS Lothian representations:

- | | | | |
|----|-----------------------|-------------------------|-------------------------|
| 1. | Continued Provisional | Linden Wilkinson | 31 Market Street |
| 5. | New Provisional | Holyrood Distillery Ltd | 71-73 St Leonard's Hill |

3. Update report – Preparing Statement of Licensing Policy

At the outset, the Depute Clerk explained that it may be preferable if the Board considered the report on the Assessment of Overprovision before then considering the report on general policy. The Board agreed with this approach.

The Depute Clerk explained that both reports proposed that further reports be brought to an additional meeting of the Board and this was agreed provisionally for 13th August 2018 subject to the Depute Clerk confirming members' availability.

The Depute Clerk also advised that a late consultation response had been received from the North East Edinburgh Action on Alcohol Group shortly before the meeting. The Board agreed that the letter should be circulated to members for the next meeting.

Following consideration of Agenda item four the Board resumed consideration of this report.

The Depute Clerk referred to the terms of her report on the Statement of Licensing policy consultation.

Thereafter detailed discussion took place on the terms of the draft policy. The Board considered the following issues in particular: - .

Children and Young Persons' Access The Board agreed that it would be helpful to provide examples of indicative hours for children and young persons'

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access to encourage engagement on this issue from consultees. It was further agreed that a separate "Key Questions/ issues" document be produced for the next meeting setting out example hours which could accompany the draft revised policy for formal consultation.

Use of outdoor drinking areas The Board agreed that the draft policy should not be updated prior to formal consultation as set out in the report.

Pop up bars The Board noted that the draft policy had been amended to include a reference to the Council's Protocol on the use of Public Spaces and reflect a more robust approach to the licensing of "pop up bars" by updating the delegation to the Convener and agreed this amendment.

Extended use of occasional licences The Board noted the amendments to the draft policy and also agreed that it may be appropriate for the policy to indicate the number of consecutive applications for occasional licences which would be accepted by the Board and where thereafter any further applications may be referred to a Board meeting for determination. The Board agreed that views on an indicative number should be included in the "key questions" document.

Extended hours The Board agreed that the draft policy should take account of the matters detailed in the report including examples of major events where extended hours have been granted. A question should be added to the "key questions" document to seek public views on the inclusion of types of major national or local events.

Amplified music The Board discussed this issue in some detail. Board members were of the view that a considerable number of applications had been received to vary existing premises licences to the "new" noise condition although it had been anticipated at the time of the initial policy review that the number of applications received would be limited. The Board also discussed the type of premises for which variation applications were being received which were not primarily live music venues. It was agreed the Clerk should include reference to the policy in the final draft which could indicate that the Board intended to gather information and review such information with a view to possibly reviewing the policy.

Licensed hours The Board were of the view that the policy statement would require to be reviewed in this regard as it was clear from a number of consultation responses that there was no longer general satisfaction with the trading hours for different types of premises set out in the current policy. The Board agreed that a suggested revised wording for this part of the policy would be provided for the next meeting.

Toughened glass

Theft of alcohol

Licensing Forum

Suggested action by the Board in respect of trade waste, flyposting, smoking etc

The Board noted the terms of the report in relation to the above mentioned items

Board's administrative procedures. The Board noted that the agreement of pool conditions for occasional licence applications may assist with addressing some of the processing times referred to by trade representatives in responses. The Board also noted that the Scheme of Delegations had been updated in the draft revised policy to

All statutory references to Licensing (Scotland) Act 2005, unless stated otherwise

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include a further delegation to the Convener to consider the preliminary stage of an application for review as regards whether an application was to be considered frivolous or vexatious. Board members also noted further consideration could be given to the current scheme of delegation during the formal consultation and additional amendments made if appropriate.

Personal licences The Board noted the terms of the report in this regard.

Last lodging dates The Board agreed with the suggestion in the report that the Board would wish to be clear on the views of applicants as regards last lodging dates.

Layout of the Board's current policy statement The Board noted the terms of the report in this regard. It was also noted that brief explanatory notes would be provided at the start of each Chapter which the Board considered would be helpful.

The Board noted that in relation to all of the above issues the Board, could seek the views of the Licensing Forum during the formal consultation period.

The Board discussed other issues set out in the draft policy including statutory requirements in relation to definitions of “notifiable interest” and “Linear metres” and separately, the position on duty to trade. The Board also noted, as advised by the Depute Clerk, that extensive work had been carried out by LSOs in relation to the Board’s recovery of annual fees which had identified a number of premises in Edinburgh where trading had ceased completely and these premises licences had been revoked. The Board also discussed fees noting only certain fees could be fixed by the Board as the majority of fees were set by Scottish Government. The Board requested reference to this be included in the final draft of the policy.

Members thereafter agreed the recommendations as set out in the report.

Decision: The Board

- a) considered the written responses received to the informal consultation on the Board’s Statement of Licensing Policy detailed at Appendix Three and Five of the report.
- b) considered the summary detailing oral evidence provided to the Board during hearings held following written responses received to the informal consultation detailed at Appendix Four of the Report.
- c) considered the terms of the proposed draft revised policy for formal consultation attached at Appendix One of the report; and
- d) considered if there were any other matters relating to the draft policy which the Board may wish to consult on;
- e) agreed that a further report, including a finalised draft revised Policy reflecting all of the views set out by the Board during its meeting together with a “key questions” document be provided to the Board at its next meeting for the purpose of formal consultation.

4. Update report – Assessment of Overprovision

The Depute Clerk referred the Board to the terms of her report on the Statement of Licensing Policy – Assessment of Overprovision.

The report included reference to work carried out to date and further steps required in connection with the Board's statutory duty to assess overprovision. (The Depute Clerk confirmed to the Board that the responses referred to at Appendix Two of the report were already published online following the Board's meeting in January 2018).

The report set out details of the outcome of the initial consultation, specifically regarding responses from consultees on the subject of overprovision both in favour of and against extending the current policy. The Board had received responses from the Edinburgh Alcohol and Drug Partnership (EADP), Police Scotland and NHS Lothian on particular geographical areas (Intermediate Data Zones (IDZs)) within the Board's area which they considered suggested possible overprovision of licensed premises and they had provided statistical information in support.

The report further set out that it was for the Board to decide on specific localities for the purposes of consultation on its assessment of overprovision and suggested next steps which included the Board forming a preliminary view in relation to the identification of possible proposed localities using the information available. Thereafter individual plans could be provided showing the possible proposed localities if agreed by the Board and the plans could include the current area of overprovision. These could include the current area of overprovision and other possible proposed localities including the 23 areas identified by the EADP, Police Scotland and NHS Lothian. Details of number and capacities of premises including a breakdown of on and off sales for these areas could be provided for the next Board meeting. The report also suggested that information could be obtained from Council officers as regards any noise nuisance issues in the localities suggested by EADP, Police Scotland and NHS Lothian.

The Board discussed the terms of the report in detail including views on the 23 areas suggested by the EADP, Police Scotland and NHS Lothian. The Board also discussed the additional 15 areas suggested by NHS Lothian and had regard to the statistical information provided in relation to all of those areas. The Depute Clerk advised that it was open to the Board to seek further information about the additional 15 areas in order to determine whether they should be included in the formal consultation.

After further discussion the Board agreed that it would wish to seek further information as set out in the report regarding plans and details of numbers and capacities in relation to both the current area of overprovision and possible proposed localities to include the 23 IDZ areas detailed in the report and also the further 15 IDZ areas proposed in the response submitted by NHS Lothian.

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The Board also agreed information on noise nuisance should be requested as suggested in the report.

Members thereafter agreed the recommendations as set out in the report.

Decision: The Board

- (a) considered the written responses received to the informal consultation on the Board's Statement of Licensing Policy detailed at Appendix Two and Five where those responses specifically related to overprovision ;
- (b) considered the summary of the Board's workshop on overprovision detailed at Appendix Three;
- (c) considered the summary detailing oral evidence provided to the Board during hearings held detailed at Appendix Four;
- (d) considered the information provided by consultees and in particular, the statistical information from EADP, NHS Lothian and Police Scotland and agreed a preliminary view on possible proposed localities; namely the 23 IDZs suggested by EADP, Police Scotland and NHS Lothian together with a further 15 IDZs suggested by NHS Lothian.
- (e) instructed the Clerk and his deputes to provide further statistical information on the current area of overprovision and possible proposed localities as agreed by the Board to include numbers and capacities of licensed premises in those 38 localities together with plans thereof.
- (f) instructed the Clerk and his deputes to obtain information from the Council on possible noise nuisance in those localities.
- (g) agreed a further report would be provided to the Board at its next meeting to assist with the Board's determination of the localities to be formally consulted upon.

5. Scottish Government Consultation – Renewal Fee for Personal Licences

<https://consult.gov.scot/criminal-justice/alcohol-personal-licence-renewal-fee/>

Continued to next meeting

Councillor Norman Work
Convener of the Licensing Board