

THE MORAY LICENSING BOARD

THURSDAY 18 FEBRUARY 2016

NOTICE IS HEREBY GIVEN that a Meeting of **THE MORAY LICENSING BOARD** is to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 18 February 10.00am.

Alasdair McEachan
CLERK

11 February 2016

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 10 December 2016 (copy attached)
 - (ii) Minutes of the Special Meeting held on 12 February 2016 (to follow)

The Licencing (Scotland) Act 2005

2. Applications Section– Appendix 1
3. Review of Premise Licence – Report by Clerk (copy attached)

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| CLERK: | Alasdair McEachan |
|--------|-------------------|

THE MORAY LICENSING BOARD**SEDERUNT****COUNCILLOR J ALLAN****COUNCILLOR G COWIE****COUNCILLOR J DIVERS****COUNCILLOR M HOWE****COUNCILLOR G LEADBITTER****COUNCILLOR M McCONACHIE****COUNCILLOR A MCLEAN****COUNCILLOR R H SHEPHERD****COUNCILLOR D SLATER****COUNCILLOR C TUKE****CLERK TO THE BOARD: M A McEachan**

APPENDIX 1

MORAY LICENSING BOARD

MEETING, 18 February 2016 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

| Type | Premises | Applicant | Date Received | Comments |
|---------------------------------------|-----------------------------------------------------------------|-------------------------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Variation (Major) | Silver Sands Covesea West Beach Lossiemouth IV31 6SP | Silver Sands Leisure Park Ltd | 7 January 2016 | Increasing core hours to 1am for all areas with the exception of the shop. Change to layout and C&YP access. Police representation All other paperwork in order. Site visited. Applicant cited to attend. |
| Variation (Major) | Rehab 3 West Church Street Buckie AB56 1BN | Ian Ashley Leith | 25 November 2015 | Change to C&YP access to allow entry during a private function. Public representation. All other paperwork in order. Site visited. Applicant cited to attend. |
| Variation (Major) | The Braemou Inn 1 Cooper Street Hopeman IV30 5SD | Alison Claire Young | 19 January 2016 | To change C&YP access and providing meals. BS objection due to CC not being accepted. Site visited. Applicant cited to attend. |
| New Provisional | Shell Keith Regent Street Keith Moray AB55 5ED | Certas Energy UK Limited | 15 December 2015 | Off sales 10am to 10pm S50 planning certificate received. Police note. No objs/refs Site visited. Applicant cited to attend. |
| Variation (Minor) on Transfer (Other) | Akash Tandoori 21 South Street Elgin Moray IV30 1JZ | Ron Akass | 23 December 2015 | No objs from consultee. Hearing required as contested application. Applicant and current licence holder cited to the meeting. |

MORAY LICENSING BOARD

MEETING, 18 February 2016 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

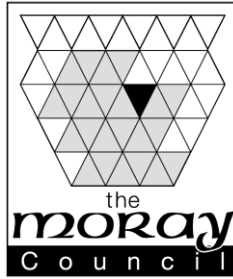
Licensing (Scotland) Act 2005

Transfer
(Other
Party)

Bowl 2000
2 Moycroft Industrial Estate
Elgin
IV30 1XZ

Darren Margach Pinz Bowling Ltd 11 November 2015

No objs from consultee.
Hearing required as contested
application.
Applicant and current licence holder
cited to the meeting.



REPORT TO: THE MORAY LICENSING BOARD 18 FEBRUARY 2016

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – REVIEW OF PREMISES LICENCE

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 To ask the Board to conduct a hearing to consider and determine the premises licence review proposal in respect of each of the premises listed in the schedule circulated to members separately.

2. RECOMMENDATION

- 2.1 **It is recommended that the Board consider and determine the premises licence review proposals having regard to the powers available to the Board under s.39(2) of the Licensing (Scotland) Act 2005.**

3. BACKGROUND

- 3.1 On 22nd July 2010 the Board delegated authority to the Clerk and his staff to make a premises licence review proposal in terms of s.37(1) of the Act for any premises where the annual fee remained outstanding for a period of six weeks after the due date.
- 3.2 By that delegated authority a premises licence review proposal in respect of each of the premises listed in the schedule has been made. Notice was sent by first class post to all licence holders concerned on the 18th November 2011. The Clerk will notify the Board and withdraw the proposal in respect of any licence fee that is paid prior to the date of the hearing.
- 3.3 The review proposal must state the grounds for review. Section 36(3) of the Act states the grounds for review, which are (a) that one or more of the conditions to which the premises licence is subject has been breached, or (b) any other ground relevant to one or more of the licensing objectives.
- 3.4 A review proposal having been made, the Board is obliged to hold a hearing, in terms of s.38(1), to consider and determine the proposal.
- 3.5 In the present case, grounds for review are made out both in terms of ss.36(3) (a) and (b) of the Act.
- 3.6 By the failure to pay the annual licence fees which became due on 1st October 2010, the licence holders concerned are breaching a mandatory condition of

the premises licence, which condition is imposed by paragraph 10(2) of Schedule 3 of the Act.

3.7 In addition, by the failure to pay the annual licence fees, the licence holders concerned have deprived the Board of revenue and this reduces the Board's ability to promote the licensing objectives.

3.8 At the review hearing section 39(2) confers on the Board the power to:

3.8.1 Issue a written warning;

3.8.2 Vary the licence;

3.8.3 Suspend the licence for such period as the Board may determine including suspending the licence unless and until the fee is paid; or

3.8.4 Revoke the licence.

4. SUMMARY OF IMPLICATIONS

(a) Moray 2023: A Plan for the Future/Service Plan

Licensing relates directly to priorities within the 10 Year Plan (Moray 2023) in relation to a growing and diverse economy and safer and healthier communities. The various licensed activities within industry all aid a growing economy in terms of production, retail and the positive effects on tourism. Regulation of the licensed activities contributes to a safer community by ensuring those providing licensed goods and services are fit to do so.

(b) Policy and Legal

The legal implications have been explained above.

(c) Financial implications

Loss of unpaid fees.

(d) Risk Implications

None

(e) Staffing Implications

Additional administration is required in pursuing unpaid annual fees.

(f) Property

None

(g) Equalities

None

- (h) **Consultations**
None required.

5. CONCLUSION

The Board should consider and determine the premises licence review proposals in respect of each premises listed in the schedule circulated separately to members having regard to the powers available to the Board under s.39(2) of the Licensing (Scotland) Act 2005.

Author of Report: Sean Hoath

Background Papers: There are no background papers

Ref: SAH/TT

Signature

Date : 11 February 2016

Designation Clerk to the Board

Name Alasdair McEachan