

THE MORAY LICENSING BOARD

THURSDAY 20 JUNE 2013

NOTICE IS HEREBY GIVEN that the Meeting of **THE MORAY LICENSING BOARD** is to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 20 June 2013 at 10.00am.


Rhona Gunn
CLERK

11 June 2013

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 2 May 2013 (copy attached)
 - (ii) Minutes of the Special Meeting held on 13 June 2013 (to be tabled)

The Licencing (Scotland) Act 2005

2. Application for New, Provisional and Variation of Premises Licence – Appendix 1
3. Personal Licence Review Hearing Following Application For Review by the Chief Constable (Case Number 2 of 2013) – Report by the Clerk (copy attached)
4. Personal Licence Review Hearing Following Application For Review by the Chief Constable (Case Number 5 of 2013) – Report by the Clerk (copy attached)

CONTACT PERSON:	Rhona Gunn
Telephone No:	01343 543451 Ext 3152- Direct Line: 563152
Room No:	102

THE MORAY LICENSING BOARD**SEDERUNT****COUNCILLOR J ALLAN****COUNCILLOR G ALEXANDER****COUNCILLOR S CREE****COUNCILLOR M HOWE****COUNCILLOR B JARVIS****COUNCILLOR A MCLEAN****COUNCILLOR M McCONACHIE****COUNCILLOR R H SHEPHERD****COUNCILLOR C TUKE****CLERK TO THE BOARD: Mrs R Gunn****Telephone No: 01343 543451 Ext 3152 - Direct Line: 563152****Room No: 102**

APPENDIX 1

Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED

Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. There may be ongoing negotiations to resolve problems.

YELLOW

Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.

GREEN

Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.

MORAY LICENSING BOARD LICENSING BOARD**MEETING, 20 JUNE 2013 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX****Licensing (Scotland) Act 2005****New Grant(s)**

	Premises	Applicant	Date Received	Comments
1	29 SOUTH STREET ELGIN IV30 1JZ	EMILY STALKER	26 April 2013	New licence application for restaurant. On sales core hours 11am to 11pm, off sales 11am to 10pm. No objs/reps. All paperwork in order.
2	THE HAVEN AT HOME HARDWARE 107-111 HIGH STREET FORRES IV36 1AA	WRIGHT HARDWARE LTD	21 May 2013	New licence application for coffee shop. On sales core hours 9am to 5pm. Awaiting section 50 certificates.

MORAY LICENSING BOARD LICENSING BOARD**MEETING, 20 JUNE 2013 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX****Licensing (Scotland) Act 2005****Provisional(s)****Premises****Applicant****Date Received****Comments**

3

CARDAMON SPICE
64-66 HIGH STREET
FORRES
IV36 0PQHASNA KHANOM
C/O LORNA MURRAY
45 CULDUTHEL ROAD
INVERNESS
IV2 4HQ

15 May 2013

Provisional licence application
for restaurant. On sales core
hours 12noon to 12midnight.
No objs/refs.
S50 planning received.

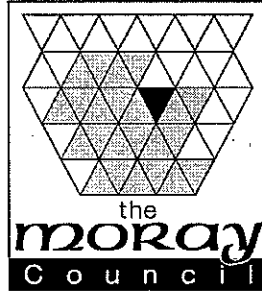
MORAY LICENSING BOARD LICENSING BOARD

MEETING, 20 JUNE 2013 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Variation (Major)(s)

	Premises	Applicant	Date Received	Comments
4	EASTBANK HOTEL 15-17 HIGH STREET ROTHES ABERLOUR AB38 7AU	ARTHUR ROBERT HUMPHREYS	21 May 2013	Variation to include off sales 10am to 6pm. Also add the activities of whisky tastings, exhibitions, functions and conferences mainly for groups of visitors from distillery. No objs/rebs. All paperwork in order.
5	GRANARY ELGIN 14-18 THUNDERTON PLACE ELGIN IV30 1BG	GREENE KING BREWING & RETAILING LTD C/O BELHAVEN PUBS ATRIUM HOUSE 6 BACK WALK STIRLING	8 April 2013	Variation to add table to outside area and increase smoker capacity outside to 10 from 5. No objs/rebs. All paperwork in order.



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REPORT TO: THE MORAY LICENSING BOARD 20 JUNE 2013

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PERSONAL LICENCE REVIEW HEARING FOLLOWING APPLICATION FOR REVIEW BY THE CHIEF CONSTABLE (CASE NUMBER 2 OF 2013)

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 The Licensing (Scotland) Act 2005 section 84A provides that the Chief Constable has the power to report conduct inconsistent with the licensing objectives.

1.2 This report is to notify the Board:

1.2.1 That the Chief Constable has provided a report under section 84A as he considers that the personal licence holder (case number 2 of 2013) has acted in a manner which is inconsistent with the licensing objectives of preventing crime and disorder, securing public safety and preventing public nuisance;

1.2.2 That, as a result, s. 84A(2) of the Licensing (Scotland) Act 2005 requires the Board to hold a hearing to consider and determine whether any further order should be made in respect of the personal licence for the purposes of any of the licensing objectives.

2. Recommendations

It is recommended that the Board:-

2.1 Note the requirement to hold a review hearing following the report by the Chief Constable;

2.2 Note any recommendations from the Chief Constable, hear from appropriate person(s), consider the matter and determine whether one of the possible orders set out in paragraph 3.4 is necessary for the purposes of any of the licensing objectives;

3. **Background**

- 3.1 On the 19th December 2013 the Clerk received a report under s 84A from the Chief Constable. On the 17th January 2013 the Board agreed to defer the hearing until 20 June 2013.
- 3.2 A copy of the report referred to in paragraph 3.1 above has been separately circulated to members. It should be noted that in this case the Chief Constable has included a recommendation for revocation.
- 3.3 This report is to notify the Board of the requirement under s. 84A(2) of the Licensing (Scotland) Act 2005 to hold a hearing as a result of receipt of the Chief Constable's report.
- 3.4 At the hearing the Licensing Board may, after giving the licence holder concerned, the Chief Constable and any other person(s) the Board consider appropriate an opportunity to be heard and if satisfied that it is necessary to do so for the purposes of any of the licensing objectives make one of the following orders:
- 3.4.1. revoking;
 - 3.4.2. suspending for such period, not exceeding 6 months, as the Board considers appropriate; or
 - 3.4.3. endorsing;
- the personal licence held by the licence holder concerned.
- 3.5 The Licensing (Scotland) Act 2005 provides for a system akin to driving licence endorsements whereby an endorsement will remain on the licence for 5 years from the date of endorsement. If at any time a licence holder amasses 3 endorsements then the Board must hold a further hearing to determine whether to suspend or revoke the licence.

4. **Implications**

(a) **Single Outcome Agreement / Service Improvement Plan**

In the exercise of functions under the Licensing (Scotland) Act 2005 the Licensing Board is to have regard to and promote the licensing objectives which are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the objectives of the Community Plan and are intended to promote community involvement and prevent the consumption of alcohol from being the source of nuisance, anti-

social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

With particular regard to relevant convictions the Board is to have regard to the crime prevention objective.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

None

(d) Risk Implications

With particular regard to relevant convictions the Board is to have regard to the crime prevention objective and whether the risk justifies further intervention on this ground.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

There are no issues in this case.

(h) Consultations

Consultation is not required.

5. Conclusion

5.1 It is proposed that the Board note the Chief Constable's report and the requirement to hold a review hearing;

5.2 It is proposed that the Board note any recommendations from the Chief Constable, hear from appropriate person(s), consider the matter and determine whether one of the possible orders set out in paragraph 3.4 is necessary for the purposes of any of the licensing objectives.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

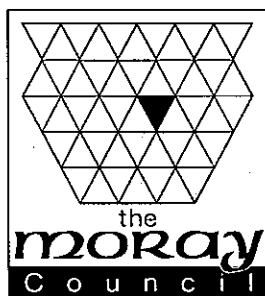
Background Papers: There are no background papers

Ref: SAH/TT

Signature

Designation Head of Legal and Democratic Services, Clerk to the Board

Name Rhona Gunn



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REPORT TO: THE MORAY LICENSING BOARD ON 20 JUNE 2013

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PERSONAL LICENCE REVIEW HEARING FOLLOWING APPLICATION FOR REVIEW BY THE CHIEF CONSTABLE (CASE NUMBER 5 OF 2013)

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 The Licensing (Scotland) Act 2005 section 84A provides that the Chief Constable has the power to report conduct inconsistent with the licensing objectives.
- 1.2 This report is to notify the Board:
- 1.2.1 That the Chief Constable has provided a report under section 84A as he considers that the personal licence holder (case number 5 of 2013) has acted in a manner which is inconsistent with the licensing objectives of preventing crime and disorder and securing public safety;
- 1.2.2 That, as a result, s.84A(2) of the Licensing (Scotland) Act 2005 requires the Board to hold a hearing to consider and determine whether any further order should be made in respect of the personal licence for the purposes of any of the licensing objectives.

2. RECOMMENDATIONS

It is recommended that the Board:

- 2.1 **Note the requirement to hold a review hearing following the report by the Chief Constable;**
- 2.2 **Note any recommendations from the Chief Constable, hear from appropriate person(s), consider the matter and determine whether one of the possible orders set out in paragraph 3.4 is necessary for the purposes of any of the licensing objectives;**

3. **BACKGROUND**

- 3.1 On the 28 January 2013 the Clerk received a report under s.84A from the Chief Constable. At their meeting on 7 March 2013 the Board agreed to defer the hearing until 20 June 2013.
- 3.2 A copy of the report referred to in paragraph 3.1 above has been separately circulated to members. It should be noted that in this case the Chief Constable has included a recommendation for revocation.
- 3.3 This report is to notify the Board of the requirement under s.84A(2) of the Licensing (Scotland) Act 2005 to hold a hearing as a result of receipt of the Chief Constable's report.
- 3.4 At the hearing the Licensing Board may, after giving the licence holder concerned, the Chief Constable and any other person(s) the Board consider appropriate an opportunity to be heard and if satisfied that it is necessary to do so for the purposes of any of the licensing objectives make one of the following orders:
- 3.4.1. revoking;
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- 3.5 The Licensing (Scotland) Act 2005 provides for a system akin to driving licence endorsements whereby an endorsement will remain on the licence for 5 years from the date of endorsement. If at any time a licence holder amasses 3 endorsements then the Board must hold a further hearing to determine whether to suspend or revoke the licence.

4. **IMPLICATIONS**

(a) **Council/Community Planning Priorities**

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With particular regard to relevant convictions the Board is to have regard to the crime prevention objective.

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Legal implications have been explained above.

(c) Financial Implications

None

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With particular regard to relevant convictions the Board is to have regard to the crime prevention objective and whether the risk justifies further intervention on this ground.

(e) Staffing Implications

None.

(f) Property

None.

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5. CONCLUSION

5.1 It is proposed that the Board note the Chief Constable's report and the requirement to hold a review hearing;

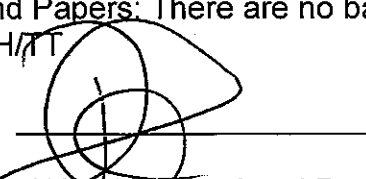
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Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TT

Signature



Designation Head of Legal and Democratic Services, Clerk to the Board

Name Rhona Gunn