

CLACKMANNANSHIRE LICENSING BOARD

MINUTE OF MEETING of the CLACKMANNANSHIRE LICENSING BOARD held within the Council Chamber, Kilncraigs, Greenside Street, ALLOA, FK10 1EB, on FRIDAY 6 JANUARY 2017 at 10.00 am.

PRESENT

Councillor Les Sharp (In the Chair)
Councillor Irene Hamilton
Councillor George Matchett, QPM
Councillor Graham Watt

IN ATTENDANCE

Paul Fair, Licensing Standards Officer
Stuart McQueen, Solicitor, Depute Clerk to the Board

1.0 APOLOGIES

Apologies for absence were received from Councillor Walter McAdam, Councillor Donald Balsillie, Councillor Kenneth Earle and Councillor Craig Holden.

In the absence of Councillor Walter McAdam (Chair of the Licensing Board), the meeting was chaired by Councillor Les Sharp (Vice Chair).

2.0 DECLARATIONS OF INTEREST

None

3.0 PREMISES LICENCE REVIEW PROPOSAL

Hearing to Consider a Premises Licence Review Proposal in terms of Section 38 of the Licensing (Scotland) Act 2005 in respect of the premises known as The Bottle Shop, 96 Stirling Street, Alva, FK12 5EH.

A review hearing in terms of Section 38 of the Licensing (Scotland) Act 2005 was held to consider and determine a Premises Licence Review Proposal in respect of the Premises Licence for the Bottle Shop, 96 Stirling Street, Alva, FK12 5EH, held by Mrs Angela Polley. Review of the licence was sought on the grounds specified in section 36(3) (a) and (b) of the Licensing (Scotland) Act 2005:

- (a) That one or more of the conditions to which the premises licence is subject has been breached, namely.

The Premises Licence Holder has breached Mandatory Condition 4(1)(a) which provides that alcohol is not to be sold on the premises at any time when there is no premises manager in respect of the premises; and

- (b) A ground relevant to one or more of the licensing objectives, namely:

The Premises Licence Holder has sold alcohol or knowingly allowed alcohol to be sold when there has been no premises manager in respect of the premises contrary to section 1(1) (a) of the Licensing (Scotland) Act 2005 which provides that alcohol is not to be sold on any

premises except under and in accordance with a premises licence granted under the 2005 Act in respect of the premises. The above circumstances constitute an offence in terms of section 1(3) of the 2005 Act. The Premises Licence Holder has accordingly acted in a manner inconsistent with the licensing objective of preventing crime and disorder.

A letter from Police Scotland dated 28 December 2016 was made available to the Board. The letter intimated that Police Scotland consider police involvement concluded as it is not in the public interest to pursue this matter further.

Attending

Mrs Angela Polley, Premises Licence Holder
Mr Gordon Polley, representing Mrs Angela Polley
Mr Paul Fair, Licensing Standards Officer

Having heard representation from the Licensing Standards Officer and the Licence Holder's representative and having had opportunity to put questions to both parties, the Board agreed to adjourn at this point in the proceedings (1020 hrs) to seek legal advice. When the Board resumed at 1035 hrs, 4 members remained present.

Motion (1)

Having considered all of the information provided and representations made, that the Board is satisfied that grounds for review are established and that it is both necessary and appropriate for the purposes of the licensing objective of preventing crime and disorder to (i) issue a written warning to the licence holder; and (ii) to include a condition requiring that the licence holder put in place procedures to cover similar circumstances in terms of the replacement of any Designated Premises Manager with such procedures being made available to the Licensing Standards Officer for examination.

Moved by Councillor George Matchett, QPM. Seconded by Councillor Graham Watt.

Motion (2)

Having considered all of the information provided and representations made, that the Board make a finding in terms of section 84(2) of the Licensing (Scotland) Act 2005, the Personal Licence Holder CC231 (Mrs Angela Polley) has acted in a manner which is inconsistent with the licensing objectives whilst working in her capacity as the premises licence holder.

Moved by Councillor Les Sharp. Seconded by Councillor George Matchett, QPM.

Decision

Having considered all of the information provided and representations made, the Board was satisfied that grounds of review had been established and agreed unanimously that it was necessary and appropriate for the purposes of the licensing objective of preventing crime and disorder to:

- (i) Issue a written warning to the Premises Licence Holder,
- (ii) Include a condition requiring that the Premises Licence Holder puts in place procedures to cover similar circumstances in terms of the replacement of any Designated Premises Manager with such procedures being made available to the Licensing Standards Officer for examination, and
- (iii) Make a finding in terms of section 84(2) of the Licensing (Scotland) Act 2005 that Personal Licence Holder CC231 has acted in a manner that is inconsistent with the licensing objectives whilst working in her capacity as the premises licence holder.

The Depute Clerk advised that in light of decision (iii) (above) a further Hearing will be convened to consider this finding and what, if any, sanction in regard to the Personal Licence

is appropriate. The Depute Clerk indicated that the date of this Hearing will be made known to the Personal Licence Holder as soon as practicable.

Action

Depute Clerk to the Board

Ends 1040 hrs

