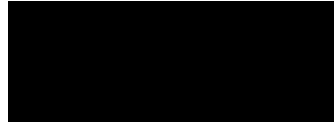




NOTICE OF MEETING

13 May 2024

A MEETING of the CLACKMANNANSHIRE LICENSING BOARD will be held via MS TEAMS on TUESDAY 21 MAY 2024 AT 9.30 AM.



DALE BELL

Depute Clerk to the Clackmannanshire Licensing Board

	Page No
1. Apologies	--
2. Declarations of Interest	--
<p>Elected Members are reminded of their obligation to declare any financial or non-financial interest which they may have in any item on this agenda in accordance with the Councillors' Code of Conduct. A Declaration of Interest Form should be completed and passed to the Committee Services Officer.</p>	
3. Confirm Minute of Meeting of the Clackmannanshire Licensing Board held On 23 April 2024 (Copy herewith)	03
4. Licensing (Scotland) Act 2005: Premises Licence Review Application for Clackmannan Bowling Club CC139 – Memo to the Chair of the Licensing Board from the Depute Clerk to the Licensing Board (Copy herewith)	07
5. AOCB	--

Clackmannanshire Licensing Board – Board Members 8 (Quorum 4)

Councillors

Wards

Councillor	Kenneth Earle (Chair)	4	Clackmannanshire South	LABOUR
Councillor	Darren Lee	1	Clackmannanshire West	CONSERVATIVE
Councillor	Graham Lindsay	1	Clackmannanshire West	SNP
Councillor	Mark McLuckie	1	Clackmannanshire West	LABOUR
Councillor	Donald Balsillie	2	Clackmannanshire North	SNP
Councillor	Martha Benny	2	Clackmannanshire North	CONSERVATIVE
Councillor	William Keogh	2	Clackmannanshire North	LABOUR
Councillor	Fiona Law	2	Clackmannanshire North	SNP

The quorum for the Board by virtue of Schedule 1 paragraph 12(1) of the Licensing (Scotland) Act 2005 is 4 members



MINUTES OF MEETING of the CLACKMANNANSHIRE LICENSING BOARD held in COUNCIL CHAMBERS, KILNCRAIGS, ALLOA, on TUESDAY 23 APRIL 2024 at 9.30 am.

PRESENT

Councillor Kenneth Earle (Chair)
Councillor Donald Balsillie
Councillor William Keogh (Teams)
Councillor Fiona Law
Councillor Darren Lee

IN ATTENDANCE

Paul Fair, Licensing Standards Officer
Dale Bell, Solicitor, Legal and Governance (Depute Clerk to the Board)
Lezli-Anne Sharp, Licensing Administrator
Melanie Moore, Committee Services (Minute)
Gillian White, Committee Services

1.0 APOLOGIES

Apologies were received from Councillor Mark McLuckie, Councillor Graham Lindsay and Councillor Martha Benny.

2.0 DECLARATIONS OF INTEREST

None.

3.0 MINUTES OF MEETINGS OF CLACKMANNANSHIRE LICENSING BOARD HELD ON 20 FEBRUARY 2024

The minutes of the meeting of the Clackmannanshire Licensing Board held on Tuesday 20 February 2024 were submitted for approval.

Decision

The minutes of the meeting of the Clackmannanshire Licensing Board held on Tuesday 20 February 2024 were agreed as a correct record and signed by the Chair.

4.0 LICENSING (SCOTLAND) ACT 2005

(i) Application for Non Minor Variation of Premises Licence – Woolpack Inn

Premises: Woolpack Inn, 1 Glassford Square, Tillicoultry, FK13 6AU
Applicant: Andrew Michie

Attending

Andrew Michie, Applicant
Ms Janet Hood, Licensing Consultant, Gilson Gray, Agent
Mr Paul Fair, Licensing Standards Officer

The Board heard representation from the Licensing Standards Officer and the Applicant's agent.

Motion

Having considered all of the information presented to it and having had opportunity for questions, that the Board grants the application for the Non Minor Variation of Premises Licence.

Moved by Councillor Donald Balsillie. Seconded by Councillor Darren Lee.

Decision

Having considered all of the information presented to it and having had opportunity for questions, the Board agreed unanimously to grant the application for the Non Minor Variation of Premises Licence for Woolpack Inn, Tillicoultry.

Action

Depute Clerk to the Board

(ii) Application for Non Minor Variation of Premises Licence – Morrisons Daily

Premises: Morrisons Daily, 93-95 Main Street, Sauchie, FK10 3JT
Applicant: Alliance Property Holdings Limited, Hilmore House, Gain Lane,
Bradford, BD3 7DL

Attending

Kenneth MacInnes, Applicant (via MS Teams)
Alex Green, Solicitor, Gosschalks, Agent (via MSTeams)
Mr Paul Fair, Licensing Standards Officer

The Board heard representation from the Licensing Standards Officer and the Applicant's agent.

Motion

Having considered all of the information presented to it and having had opportunity for questions, that the Board grants the application for the Non Minor Variation of Premises Licence subject to the conditions set out in Appendix A (page 29) of the Licensing Standards Officer's Report.

Moved by Councillor Kenneth Earle. Seconded by Councillor Donald Balsillie.

Decision

Having considered all of the information presented to it and having had opportunity for questions, the Board agreed unanimously to grant the application for the Non Minor Variation of Premises Licence for Morrisons Daily, Sauchie subject to the conditions set out in Appendix A of the Licensing Standards Officer's Report, namely:

1. A written Age Verification Policy (AVP) must be kept and applied to all sales of alcohol for delivery to any place off the premises. This AVP must set out the steps that are to be taken to establish the age of a person attempting to take delivery of alcohol ("the customer") if it appears to the person making delivery of the alcohol that the customer appears to be less than 25 years of age (or such older age as may be specified in the policy).
2. Information must be provided to customers whether online or in store that Alcohol will only be left at the delivery address with a person who can prove that they are over 18 years of age.
3. Premises Licence holders and Premises Managers must ensure that all persons involved in the delivery of alcohol from the premises have received appropriate training in the content and application of the Age Verification Policy to be applied to all deliveries.
4. A record of all persons trained in relation to the Age Verification Policy will be kept on the premises and made available to the Licensing Standards Officer and any Constable of Police Scotland.

5. A copy of the training record referred to in No 4 above should be supplied to delivery agent on completion of the training.
6. Licence holders and Premises Managers will ensure that all persons involved in the delivery of alcohol from the premises have received appropriate training to ensure that deliveries of alcohol are not made to persons who are or appear to be drunk.
7. Licence holders using Royal Mail, a private postal service, a courier service or independent delivery drivers will ensure that an age verified signed for delivery option is utilised that requires any package containing alcohol to be left with an adult over 18 at the specified delivery address and at no other place.
8. The premises licence holder will ensure that records of all alcohol deliveries are retained on the premises and that those records contain the following information, the forename and surname of the purchaser, the delivery address, the quantity and type of alcohol delivered and the purchase price.
9. All records, electronic or written made in relation to the delivery of alcohol will be kept on the premises for at least 12 months and will be made available on demand to a Licensing Standards Officer for the area where the premises are located or to a Constable of Police Scotland.

Action

Depute Clerk to the Board

(iii) **Section 28(5), Premises Licence Holder Dissolved – Weirs (Alloa) Social & Recreation Club**

The Licensing Board confirmed by declaration that premises Licence No CC137 is no longer in effect in accordance with the terms of Section 28(1)(b) of the Licensing Scotland Act, 2005.

Action

Depute Clerk to the Board

The Depute Clerk advised that the next item of business is exempt due to the sensitive nature of the papers and would be taken in private. All members agreed to this and there were no members of the public either in Council Chambers or on MS Teams.

(iv) **Application for Grant of Personal Licence – Shaun McAra**

Attending

Shaun McAra, Applicant
Mr Paul Fair, Licensing Standards Officer
Sergeant Malcolm O'May, Police Scotland

The Board heard representation from the Licensing Standards Officer, the Applicant and Police Scotland.

Following questions, the Chair asked members not connected to this item to leave Chambers and to give the Board the opportunity to discuss the outcome in private. Mr Fair, Mrs Sharp, Sergeant O'May and Mr McAra withdrew from Council Chambers at 10.22 hours. They re-joined the meeting at 10.41 hours with 5 members of the Board present.

The Chair advised that having listened to the evidence he was not convinced that the applicant had shown any meaningful remorse. He agreed with the statement of the Chief Constable that Mr McAra is not a fit and proper person to hold such a licence.

Motion

Having considered all of the information presented to it and having had the opportunity for questions that the Board refuse the application for a Personal Licence as the applicant is not a fit and proper person to hold such a licence.

Moved by Councillor Kenneth Earle. Seconded by Councillor Donald Balsillie.

Decision

Having considered all of the information presented to it and having had the opportunity for questions the Board agreed to refuse the application for a Personal Licence as the applicant is not a fit and proper person.

Action

Depute Clerk to the Board

5.0 AOCB

(i) Update on Publication of Statement of Licensing Policy (Verbal Update)

Mr Fair gave an update on the Statement of Licensing Policy. All the work had been finalised and published with a new photograph. All the consultees have been notified. There were very few changes and the final submission is now available on the Council website. Mr Fair will arrange for members of the Board to receive a finished copy of the policy.

Ends: 10:48 am



Partnership and Performance

Kilncraigs, Greenside Street, Alloa, FK10 1EB

Telephone: 01259 450000

Memo

**THIS PAPER RELATES TO
ITEM 4
ON THE AGENDA**

To: The Chair
Clackmannanshire Licensing Board
Kilncraigs
Alloa
FK10 1EB

From: Dale Bell, Depute Clerk

Extension: [REDACTED]

Email: [REDACTED]

Our Ref: PLRA/CC139

Your Ref: 15/00465/PREM4

Date: 10 May 2024

**Licensing (Scotland) Act, 2005
Premises Licence Review Application
Clackmannan Bowling Club CC139**

1. An application for a premises licence review has been received in relation to the abovenamed licensed premises located within the Clackmannanshire Licensing Board area.
2. The application has been made by a member of the public who resides in close proximity to the premises.
3. A copy of the text of the application is included
4. The review application discloses that the applicant has been affected for a long period by excessive noise emanating from the premises for a significant period of time – many years.
5. The applicant further suggests that the premises are operating in breach of the licensing conditions, and that the general conduct of the premises and its patrons creates conflict with the licensing objectives.
6. The Review application is competent in that it is dated, signed and the contact details of the author are contained within the application – These details have been verified by the Licensing Standards Officer.
7. The information available suggests that the application would not meet the criteria of vexatious or frivolous, and it does appear to disclose matter that relevant to a ground for review. (Licensing Scotland Act 2005 Section 36 (6) – extract included)
8. The Licensing Board are required to hold a hearing to consider and determine the premises licence review application –except where they reject the application.
9. The Board are required to follow the procedure as set out in the Licensing (Scotland Act), 2005 at section 38 (Extract included).
10. That procedure is to set a date for the “Review Hearing”, give notice of that date to the applicant, give notice of that date to the licence holder and the Licensing Standards Officer and provide a copy of the application to both.

11. Before the Hearing the Licensing Standards Officer (LSO) must prepare a report on the application. (It would be helpful to specify to the LSO the date by which that report should be available.)
12. The Licensing Board may for the purposes of the review hearing obtain further information from such persons and in such a manner as the Board thinks fit, and take that information into account.
13. In this case it is known that Officers from Clackmannanshire Council Environmental Health department hold a great deal of information relating to the matter and that Police Scotland may also hold details of incidents that are relevant to the "Review Hearing."
14. The Licensing Board should in accordance with Section 38(6) invite any appropriate officer, or officers, from Environmental Health to the hearing and request that they produce all relevant documents.
15. These documents would be required to be shared with the Licence holder, the LSO and the applicant and as such it would be helpful to set a date in advance of the hearing by which any requested reports or documents should be made available.
16. 14 days is the normally accepted notification period for any reports and documents.



Dale Bell
Depute Clerk
Clackmannanshire Licensing Board

Appendix A

Text of Premises licence Review Application

From: [REDACTED]
To: Licensing <licensing@clacks.gov.uk>
Date: 21/04/2024 21:28
Subject: Clackmannan Bowling Club - License Review

Hello,

My name is [REDACTED] and I reside at [REDACTED] Clackmannan, [REDACTED]. I am writing to you in relation to Clackmannan Bowling Club which is located next to my property. I wish to request a review of their licence as I do not believe they are adhering to the conditions of said licence. I have resided at the above address since October 2012 and have tolerated the noise nuisance from their premises for this time. I had tolerated it for several years as the events seemed more sparse therefore more tolerable however over recent years this has become more intolerable. I have made several complaints to licensing at Clackmannanshire Council alongside Environmental Health who have been liaising with myself and the bowling club attempting to resolve the issue furthermore, I have contacted the Police on some occasions. The bowling club often hold events that are unrelated to the sport itself in an attempt to generate revenue for its operations, this includes but not limited to private functions such as birthday parties, live entertainment including singers, comedy acts and DJ sets. These events have been advertised as open to members and non-members which I believe is not permission able under the licence terms as they are offering subsidised alcohol prices to non-members. A combination of these subsidised alcohol prices and DJs playing modern music attracts younger audience between the ages of 18-35 subsequently leading to higher levels of anti-social behaviour within a residential area. Whilst I understand that these premises offer other entertainment to the local community this cannot be at the complete disregard of the tenants residing within the area. The level of noise that is generated from these events are causing disruption to my life and impacting my ability to relax and sleep after work. My daughter who resides in the back bedroom of the property has trouble sleeping at the weekends as this music is entirely audible from her bedroom, she is probably the most affected by these events due to the bowling club being situated within our back garden. Once the event has finished there is usually an outpour of people under the influence hanging around our front garden waiting on taxis etc which generates a loud level of noise past midnight. I have also come across a woman urinating in my front garden and some of the attendees being sick in my garden. I have video evidence of some of these events to back my claims alongside my communications between the council and believe I have reasonable grounds to request a review of their licence going forward as I can no longer tolerate this.

I look forward to your response relating to this matter.

Kind regards,

Extract from Licensing (Scotland) Act 2005 – Section 36

36 Application for review of premises licence

(1) Any person may apply to the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect for a review of the licence on any of the grounds for review.

(2) An application under subsection (1) is referred to in this Act as a “premises licence review application”.

(3) The grounds for review referred to in subsection (1) are—

(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,

(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.

(4) A Licensing Standards Officer may make a premises licence review application on the ground specified in subsection (3)(a) only if—

(a) in relation to the alleged ground for review, the Officer or any other Licensing Standards Officer has issued to the licence holder a notice under section 14(2)(a)(i), and

(b) the licence holder has failed to take the action specified in the notice to the satisfaction of the Officer.

(5) A premises licence review application must specify the alleged ground for review, including in particular—

(za) where the ground is that specified in subsection (3)(za), a summary of the information on which the applicant's view that the alleged ground applies is based,

(a) where the ground is that specified in subsection (3)(a), the condition or conditions alleged to have been breached,

(b) where the ground is that specified in subsection (3)(b), the licensing objective or objectives to which the alleged ground of review relates.

(5A) A person making a premises licence review application may include in the application any information that the applicant considers may be relevant to consideration by the Licensing Board of the alleged ground for review including, in particular, information in relation to—

(a) the licence holder,

(b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or

(c) any person who is an interested party in relation to the licensed premises.]

(6) The Licensing Board may reject a premises licence review application if the Board considers the application—

(a) is vexatious or frivolous, or

(b) does not disclose any matter relevant to any ground for review.

38 Review hearing

(1) Where a Licensing Board—

(a) makes a premises licence review proposal, or

(b) receives a premises licence review application, the Board must hold a hearing for the purposes of considering and determining the proposal or application unless, in the case of a premises licence review application, the Board has rejected the application under subsection 36(6).

(2) A hearing under subsection (1) is referred to in this Act as a “review hearing”.

- (3) Where a review hearing is to be held, the Licensing Board must—
- (a) in the case of a premises licence review application, give notice of the hearing to the applicant, and
 - (b) give notice of the hearing and a copy of the premises licence review proposal or application to—
 - (i) the licence holder, and
 - (ii) any Licensing Standards Officer for the area in which the premises concerned are situated, unless, in the case of a premises licence review application, the applicant is such an Officer.
- (4) Where a Licensing Standards Officer receives under subsection (3)(b)(ii) a copy of a premises licence review proposal or application—
- (a) the Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal or application, and
 - (b) the Licensing Board must take the report into account at the hearing.
- (5) The Licensing Board may, for the purposes of the review hearing—
- (a) obtain further information from such persons, and in such manner, as the Board thinks fit, and
 - (b) take the information into account.
- (6) In particular, the Board may—
- (a) request—
 - (i) the attendance at the review hearing of any person for the purpose of providing information, and
 - (ii) the production at the review hearing by any person of any documents in that person's possession or under that person's control, and
 - (b) take into account any information relevant to any ground for review even though it is not relevant to any circumstances alleged in the review proposal or application under consideration.

