

Minute

Orkney Islands Area Licensing Board

Thursday, 3 May 2018, 11:00.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Duncan A Tullock, Barbara Foulkes, Alexander G Cowie, Norman R Craigie, Robin W Crichton, J Harvey Johnston and Owen Tierney.

Clerk

- Gavin Mitchell.

In Attendance

Orkney Islands Council:

- Gillian Morrison, Executive Director of Corporate Services (for Items 1, 2, 4, 5 and 6).
- David Brown, Environmental Health Manager and Licensing Standards Officer.
- Elaine Sinclair, Legal Clerk.
- Hazel Flett, Senior Committees Officer.

Police Scotland:

- Acting Inspector Keith Bendall.

Observing

- Andrew McGinn, Convener, Local Licensing Forum.

Apology

- Steven B Heddle.

Declaration of Interest

- Barbara Foulkes – Item 3.

Chair

- Duncan A Tullock.

1. Draft Minute of Meeting held on 8 March 2018

After consideration of the draft Minute of the Meeting of the Orkney Islands Area Licensing Board held on 8 March 2018, copies of which had been circulated, the Board:

Resolved, on the motion of Robin W Crichton, seconded by Barbara Foulkes, that the Minute of the Meeting of the Orkney Islands Area Licensing Board held on 8 March 2018 be approved as a true record.

2. Appointment of Data Protection Officer

After consideration of a report by the Clerk to the Board, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Executive Director of Corporate Services, Orkney Islands Council, the Board:

Noted:

2.1. That the General Data Protection Regulation, which was due to come into force on 25 May 2018, replaced the Data Protection Act 1998 and made changes to the law in relation to the processing of personal information.

2.2. That the General Data Protection Regulation imposed an obligation on public authorities, including the Board, to appoint a Data Protection Officer.

2.3. That Article 39 of the General Data Protection Regulation prescribed minimum tasks of the Data Protection Officer, which were listed in section 6 of the report by the Clerk to the Board.

2.4. That, in order to ensure the Board's compliance with the General Data Protection Regulation by 25 May 2018, including all outstanding preparatory work that required to be undertaken, it was considered appropriate that a Data Protection Officer be appointed as soon as possible.

The Board resolved:

2.5. That Gavin Mitchell, the Clerk to the Board, be appointed as the Board's Data Protection Officer with immediate effect.

3. The Old Storehouse Ltd

Application for Variation of Provisional Premises Licence

Barbara Foulkes declared an interest in this item and was not present during discussion thereof.

David Spence and Judith Glue, representing the applicant, The Old Storehouse Ltd, were present during consideration of this item.

After consideration of a report by the Clerk to the Board, copies of which had been circulated, the Board:

Noted:

3.1. That, on 25 August 2016, the Board granted an application from The Old Storehouse Ltd for a provisional premises licence in respect of The Storehouse, Bridge Street Wynd, Kirkwall.

3.2. That, on 15 March 2018, The Old Storehouse Ltd submitted an application for a variation of the provisional premises licence, which sought the following:

- An increase in the on-sale capacity on the ground floor from 175 persons indoors and 10 persons seated in the outside area to 180 persons indoors and 10 persons seated in the outside area.
- An increase in the area to which children and young persons would have access on the ground floor, namely the area previously intended to be occupied by a micro-brewery/ distillery and food and drinks preparation area.

3.3. That no objections or representations had been received in respect of the application from The Old Storehouse Ltd for a variation of the provisional premises licence in respect of The Storehouse, Bridge Street Wynd, Kirkwall.

After hearing representations from David Spence in support of the application from The Old Storehouse Ltd for a variation of the provisional premises licence, the Board:

Resolved:

3.4. That the application from The Old Storehouse Ltd for a variation of the provisional premises licence in respect of The Storehouse, Bridge Street Wynd, Kirkwall, be granted, as follows:

- An increase in the on-sale capacity on the ground floor from 175 persons indoors and 10 persons seated in the outside area to 180 persons indoors and 10 persons seated in the outside area.
- An increase in the area to which children and young persons would have access on the ground floor, namely the area previously intended to be occupied by a micro-brewery/ distillery and food and drinks preparation area.

4. Ulrike and Kenneth Summers Partnership

Application for Variation of Premises Licence

After consideration of a report by the Clerk to the Board, copies of which had been circulated, the Board:

Noted:

4.1. That Ulrike and Kenneth Summers Partnership had submitted an application for a variation of premises licence held in respect of Peter Miller Shop, Surrigarth, Westray.

4.2. That a premises licence had been held at Peter Miller Shop, Surrigarth, Westray, since 26 August 2011, firstly by Mrs Wilma H Stout and then by Ulrike and Kenneth Summers Partnership.

4.3. That the premises were currently licensed for off-sale operating hours only, as follows:

- 10:00 to 18:00 on Mondays to Saturdays inclusive.
- 14:00 to 16:00 on Sundays.
- 10:00 to 20:00 on Mondays to Saturdays inclusive from 17 to 31 December each year.
- 14:00 to 17:00 on Sundays during Orkney Ferries' summer timetable, 1 May to 30 September each year.

4.4. That the application for variation of premises licence requested the following:

- Off-sale operating hours, which were within those permitted in terms of the Board's Statement of Alcohol Licensing Policy, as follows:
 - 10:00 to 22:00 on Mondays to Saturdays inclusive.
 - 10:00 to 20:00 on Sundays.
- Relocation of the off-sale alcohol display within the premises and an increase in the off-sales display capacity of three square metres.
- Provision of recorded music within the premises.

4.5. That no objections or representations had been received in respect of the application from Ulrike and Kenneth Summers Partnership for a variation of premises licence held in respect of Peter Miller Shop, Surrigarth, Westray.

4.6. That, although Ulrike Summers had advised that one of the partners intended to be present during consideration of this item, due to circumstances outwith their control, they were unable to attend.

The Board resolved:

4.7. That the application from Ulrike and Kenneth Summers Partnership for a variation of premises licence held in respect of Peter Miller Shop, Surrigarth, Westray, be granted, as follows:

- Off-sale operating hours as follows:
 - 10:00 to 22:00 on Mondays to Saturdays inclusive.
 - 10:00 to 20:00 on Sundays.
- Relocation of the off-sale alcohol display within the premises and an increase in the off-sales display capacity of three square metres.
- Provision of recorded music within the premises.

5. Review of Statement of Alcohol Licensing Policy – Overprovision

After consideration of a report by the Clerk to the Board, copies of which had been circulated, the Board:

Noted:

5.1. That, on 25 January 2018, the Board resolved that the Clerk to the Board should undertake statutory consultation on whether or not there was overprovision of alcohol licensed premises within the locality determined by the Board, namely Orkney as a whole.

5.2. That the statutory consultation process was undertaken during the period 30 January to 27 March 2018, with the outcome detailed in section 10 of the report by the Clerk to the Board.

The Board resolved:

5.3. That the consultation responses, referred to at paragraph 5.2 above, met the terms of the legislation and guidance issued by the Scottish Government.

5.4. That the results of the consultation on overprovision of licensed premises or licensed premises of a particular description had not produced “robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality”.

Barbara Foulkes, seconded by Norman R Craigie, moved that, as no evidence of overprovision of licensed premises or licensed premises of a particular description existed in the locality of Orkney, the statement on overprovision of alcohol licensed premises, attached as Appendix 8 to the report by the Clerk to the Board, be incorporated within the Board’s draft Statement of Alcohol Licensing Policy 2018.

Robin W Crichton, seconded by Owen Tierney, moved an amendment that determination of whether evidence of overprovision of licensed premises or licensed premises of a particular description existed within a certain locality in Orkney be deferred, to enable further consultation to be undertaken in respect of Orkney being sub-divided into the localities of Kirkwall, Stromness and the remainder of Orkney.

On a vote being taken 2 members voted for the amendment and 5 for the motion, and the Board:

Resolved:

5.5. That, as no evidence of overprovision of licensed premises or licensed premises of a particular description existed in the locality of Orkney, the statement on overprovision of alcohol licensed premises, attached as Appendix 1 to this Minute, be incorporated within the Board’s draft Statement of Alcohol Licensing Policy 2018.

6. Conclusion of Meeting

At 12:00 the Chair declared the meeting concluded.

Signed: Duncan A Tullock.