

Cunninghame House,
Irvine.

25 February 2015

North Ayrshire Licensing Board

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, Cunninghame House, Irvine on **MONDAY 2 MARCH 2015** at **10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

1. Minutes

Confirm the Minutes of the Board Meeting held on 19 January 2015.

2. Licences and Applications under the Licensing (Scotland) Act 2005

Submit report by the Clerk to the Licensing Board on applications under the Licensing (Scotland) Act and 2005 (copy enclosed).

3. Chief Constable's Annual Report - Licensing (Scotland) Act 2005, Section 12A for year to 31 March 2014

Submit report to the Licensing Board by the Chief Constable of Police Scotland (copy enclosed).

Licensing Board

Sederunt: Ronnie McNicol (Convenor)
 Tom Marshall (Vice-Convenor)
 Robert Barr
 John Bruce
 Ian Clarkson
 Catherine McMillan
 Donald Reid
 John Easdale
 Grace McLean

Chair:

Attending:

Apologies:

Meeting Ended:

Agenda Item 2

2 March 2015

North Ayrshire Licensing Board

Subject: Licences and Applications under the Licensing (Scotland) Act 2005

Purpose: To inform the Licensing Board on the background to applications received under the Licensing (Scotland) Act 2005.

Recommendation: That the Licensing Board determines the applications.

1. Introduction

- 1.1 The Licensing Board is responsible for determining applications made under the Licensing (Scotland) Act 2005, and for determining questions under that Act.
- 1.2 The Board has previously approved a Scheme of Delegation whereby certain matters can be delegated.

2. Current Position

- 2.1 The applications before the Board are set out in the attached appendices. Each appendix contains reports prepared by licensing staff for each individual case before the Board.
- 2.2 Appropriate consultation has taken place with Police Scotland and with the Council's Building Standards and Planning Sections. Where relevant the reports have been copied to the applicants and any persons making objections or representations. Any objections or representations have been copied to the applicants, so that a response might be made at the Board Hearing.

Clerk to the Licensing Board

Reference : WO'B/MC

*For further information please contact William O'Brien, Solicitor (Licensing)
, on 01294 324305*

APPENDIX A

Premises Licence Applications or any other Applications requiring a Hearing

Case No.	Licence No.	Applicant/Licence Holder Premises	Comments	
1.	0465	Muhammad Anees 22 Speyburn Place Lawthorn IRVINE KA11 2BQ	Dirrans Store 24B Seymour Avenue Kilwinning KA13 7PQ	Application for Grant of Provisional Premises Licence - Section 45
2.	0466	Co-operative Group Food Limited 1 Angel Square Manchester M60 0AG	Co-operative Food 19 Cardiff Street Millport KA28 0AS	Application for Grant of Provisional Premises Licence - Section 45
3.	0467	Acre Lettings Limited 6 Stanlane Place Largs KA30 8DA	Acre Lettings Limited (Delicatessen) 23 Aitken Street Largs KA30 8AT	Application for Grant of Provisional Premises Licence - Section 45
4.	0468	Acre Lettings Limited 6 Stanlane Place Largs KA30 8DA	Acre Lettings Limited (Restaurant) 17-19 Aitken Street Largs KA30 8AT	Application for Grant of Provisional Premises Licence - Section 45
5.	0405	Ian Alistair Kirsop Lamlash Bay Hotel Shore Road Lamlash Isle of Arran KA27 8LU	Lamlash Bay Hotel Shore Road Lamlash Isle of Arran KA27 8LU	Application for Variation of Premises Licence - Section 29
6.	0426	Simpsinns Limited 152A High Street Irvine KA12 8AN	Waterside Inn Ardrossan Road Seamill West Kilbride KA23 9NG	Application for Variation of Premises Licence - Section 29
7.	0256	Park Resorts Limited 3 Bunhill Row London EC1Y 8YZ	The Buccaneers Sandylands Holiday Park James Miller Crescent Auchenharvie Park Saltcoats KA21 5JN	Application for Variation of Premises Licence - Section 29

8.	0428	Hamza Gunaydi Rowan Cottage Auchencar Machrie Isle of Arran KA27 8EB	Cafe Thyme Auchencar Machrie Isle of Arran KA27 8EB	Application for Variation of Premises Licence - Section 29
9.	0152	P/Ship of Springside Stores 13 Gullane Court Irvine KA11 4DN	Springside Stores 4 Overtoun Road Springside Irvine KA11 3BG	Application for Variation of Premises Licence - Section 29
10.	0088, 0117, 0154 & 0423	Martin McColl Limited Martin McColl House Ashwells Road Brentwood Essex CM15 9ST	Various Premises	Premises Licence Review Proposal - Section 37
11.	056/15 - 057/15	Donal Adam Boyle Shore Road Brodict Isle of Arran KA27 8AJ	Fiddlers' Shore Road Brodict Isle of Arran KA27 8AJ	Application for Extended Hours - Section 68
12.	110/15	Saltcoats Bowling Club Springvale Place Saltcoats KA21 5LS	Saltcoats Bowling Club Springvale Place Saltcoats KA21 5LS	Application for Extended Hours - Section 68

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Muhammad Anees
Premises	"Dirrans Store", 24b Seymour Avenue, Kilwinning, KA13 7PQ
Ref.	465

Preliminary

The Board is entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).

Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If it does, it must defer further consideration until the Report is produced.

This Report was prepared provisionally before the end of the Site Notice display period, which ends on 20 February 2015.

No information about any objections is noted here. If there are any, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.

The Applicant should lodge the following Certificate. Until the Board has it they cannot determine the Application: Display of Site Notice.

1. Summary of Proposal

The Applicant has applied for the Grant of a Provisional Premises Licence (PPL).

The proposal is for a convenience store.

The PPL relates to Premises which are to be constructed or converted for use as Licensed Premises, and is valid for a period of four years. During this period, the Applicant can request the Board to Confirm the PPL, or to extend the period.

The Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

The Board decision on the PPL relates only to licensing legislation, and does not act as permission or certification under other legislation, such as Planning or Building Control. If the PPL is granted, the Premises cannot operate until all other legislative requirements are met.

2. Detailed proposal

(a) Licensed Hours

The Premises sell off-sales only. The request is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

(b) Capacity

Off-Sales (sq. mtr.s)	17.5
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3. Issues

The Board has a discretion to grant or refuse the Application. The Board should consider all the potential Ground(s) of Refusal set out below:

- (1) The Application may be inconsistent with Licensing Objective(s)
- (2) Overprovision may result if the Application is granted

If any Ground of Refusal applies, the Board must refuse. However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential Ground for Refusal: Section 23(7).

If none apply, the Board must grant: Section 23(4)-(5).

(1) The Application may be inconsistent with Licensing Objective(s)

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives.

The L.O. which appears to apply is: (d): 'protecting & improving public health'

The L.O. expressly states 'improving'. The creation of a new facility to sell alcohol is not likely to improve public health. Opinions may differ as to whether:

- (i) it damages public health, or
- (ii) makes no difference (e.g. it might be said that adding a facility here does not increase the overall amount of alcohol consumed in society, but all that will happen is that the free market will operate so as to take business away from existing outlets);

but it is unlikely to improve it.

(2) Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any

interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a new Premises licence or a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 3 : Kilwinning (including Pennyburn, Blacklands, Whitehurst Park, Woodside).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in Function Type 1 (Off-sales).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

(1) Locality: the Premises are in a Locality where all Applications are especially unlikely to be granted (regardless of the Function Type);

(2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (anywhere in North Ayrshire, regardless of the Locality);

(d) other similar premises in the Locality

A statement will be produced and intimated to the Applicant.

4. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

A (All Premises)

B (Off-Sales)

Overprovision Assessment Report:

Premises: Dirrans Store, KA13 7PQ (NALB ref. 465)

A. The OA divides:

North Ayrshire into 6 'Localities', and
Premises into 6 'Function Types'.

B. The 'Localities' are:

1. North Coast
2. Three Towns
3. Kilwinning
4. Irvine and area
5. Garnock Valley
6. Arran

C. The 'Function Types' are:

1. Off-sales Premises
2. On-sales Premises principally providing entertainment (e.g. nightclubs)
3. Other on-sales Premises (e.g. public houses)
4. On-sales Premises (accommodation/meals/non-alcoholic refreshment)
5. Members' Clubs with Special Treatment (excluded from Overprovision)
6. Members' Clubs without Special Treatment ('Part K Clubs')

D. The Subject Premises are:

in 'Locality' : 3 (Kilwinning)
in 'Function Type' : 1 (Off-sales Premises)

E. In THIS Locality (Kilwinning):

People in this Locality: 15,081

ALL alcohol outlets in this Locality : 35 (of ALL FTs, except FT5 - Clubs) (or 2.3 per 1,000 people)

Total ON-SALES capacity: 2,542 customers (or 168 per 1,000 people)

Total OFF-SALES capacity: 190 sq.m. (or 12.6 per 1,000 people)

F. Premises of THIS Function Type in THIS Locality:

The number of Premises of the same Locality/Function Type : 9

These are:

		sq.m.
1. R.S McColl	KA13 6NQ	18
2. Keystore	KA13 6JA	29.6
3. KK Stores	KA13 6AQ	17.2
4. Pennyburn Premier Supermarket	KA13 6TA	7.9
5. The Co-operative Food (formerly Somerfield)	KA13 6EE	40.7
6. Woodwynd Stores	KA13 7AF	2.8
7. Corsehill Stores	KA13 7LW	19.3
8. Spar Convenience Store	KA13 7AP	28.1
9. Tesco Express	KA13 6AG	27

These figures disregard:

1. Clubs which are entitled to special treatment under section 125 (FT=5)
2. Gantries in on-sales premises

Sources:

1. Licensing Policy Statement (2013-16) Annex E)
2. Population from 'Scottish Neighbourhood Statistics' (SNS) 2011
3. NALB Premises Licences data as at 13 Feb 2015
(off-sales capacity rounded down to next 0.1 sq.m.)

This file was created:

1. on date/time: 16 Feb 2015:22:34:02
2. by program 'OVP-Locality' v0.23 (16 Feb 2015)

1 3A2

Application for Grant of Provisional Premises Licence - Section 45

Applicant	The Co-operative Group Food Ltd.
Premises	19 Cardiff Street, Millport, Isle of Cumbrae, KA28 0AS
Ref.	466

Preliminary

At the date of preparing this report, the Board does not have a Notice from the Chief Constable confirming whether or not the Applicant or any Connected Person has any Relevant or Foreign convictions. Until the Board has this Notice, the Board cannot decide the Application.

The Board is entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).

Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If it does, it must defer further consideration until the Report is produced.

This Report was prepared provisionally before the end of the Site Notice display period, which ends on 20 February 2015.

Only the 2 objections received to date are noted here. If there are others, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.

The Applicant should lodge the following Certificate. Until the Board has it, it cannot determine the Application: Display of Site Notice.

1. Summary of Proposal

The Applicant has applied for the Grant of a Provisional Premises Licence (PPL).

The proposal is for a small supermarket, part of a national chain, selling a broad range of products for consumption off the Premises.

The PPL relates to Premises which are to be constructed or converted for use as Licensed Premises, and is valid for a period of four years. During this period, the Applicant can request the Board to Confirm the PPL, or to extend the period.

The Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

The Board decision on the PPL relates only to licensing legislation, and does not act as permission or certification under other legislation, such as Planning or Building Control. If the PPL is granted, the Premises cannot operate until all other legislative requirements are met.

2. Objections and Representations

Name	Address	Date Received	Late or OK
Margaret and David Templeman	27 Cardiff Street	04/02/15*	OK
Margaret Caldwell	Kames House, Millport, KA28 0EA	10/02/15	OK

* : sent by email with a confirming signed letter (the 'date received' is the date the email was received)

3. Detailed proposal**(a) Licensed Hours**

The Premises sell off-sales only. The request is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

(b) Capacity

On-Sales (persons)	n/a
Off-Sales (sq. mtr.s)	25.75

4. Issues

The Board has a discretion to grant or refuse the Application. The Board should consider all the potential Ground(s) of Refusal set out below:

- (1) The Application may be inconsistent with Licensing Objective(s)
- (2) Overprovision may result if the Application is granted

If any Ground of Refusal applies, the Board must refuse. However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential Ground for Refusal: Section 23(7).

If none apply, the Board must grant: Section 23(4)-(5).

(1) The Application may be inconsistent with Licensing Objective(s)

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives.

These include L.O. (d): 'protecting & improving public health'. The L.O. expressly states 'improving'. The creation of a new facility to sell alcohol cannot be said to improve public health. Opinions may differ as to whether:

- (i) it damages public health, or
- (ii) makes no difference (e.g. it might be said that adding a facility here does not increase the overall amount of alcohol consumed in society, but all that will happen is that the free market will operate so as to take business away from existing outlets);

but it is unlikely to improve it.

(2) Overprovision may result if the Application is granted

In addition, the Board must consider whether or not overprovision would arise if the premises were licensed.

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a new Premises licence or a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 1 : North Coast (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in Function Type 1 (Off-sales).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Additional Factor related to Locality does not apply;
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (anywhere in North Ayrshire, regardless of the Locality);

(d) other similar premises in the Locality

A statement will be produced and intimated to the Applicant.

5. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

- A (All Premises)
- B (Off-Sales)

1. on date/time: 16 Feb 2015:22:34:42
2. by program 'OVP-Locality' v0.23 (16 Feb 2015)

2 32A2

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Acre Lettings Ltd.
Premises	Acre Lettings Ltd., 23 Aitken St., Largs, KA30 8AT
Ref.	467

Preliminary

At the date of preparing this report, the Board does not have a Notice from the Chief Constable confirming whether or not the Applicant or any Connected Person has any Relevant or Foreign convictions. Until the Board has this Notice, the Board cannot decide the Application.

The Board is entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).

Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If it does, it must defer further consideration until the Report is produced.

This Report was prepared provisionally before the end of the Site Notice display period, which ends on 20 February 2015. No details of objections are noted here. If there are any, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.

1. Summary of Proposal

The Applicant has applied for the Grant of a Provisional Premises Licence (PPL).

The proposal is for a single-fronted retail shop to trade as a delicatessen, with off-sales selling beer, wines and spirits.

The PPL relates to Premises which are to be constructed or converted for use as Licensed Premises, and is valid for a period of four years. During this period, the Applicant can request the Board to Confirm the PPL, or to extend the period.

The Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

The Board decision on the PPL relates only to licensing legislation, and does not act as permission or certification under other legislation, such as Planning or Building Control. If the PPL is granted, the Premises cannot operate until all other legislative requirements are met.

2. Detailed proposal

(a) Licensed Hours

The request is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

(b) Capacity

On-Sales (persons)	n/a
Off-Sales (sq. mtr.s)	14.04

3. Issues

The Board has a discretion to grant or refuse the Application. The Board should consider all the potential Ground(s) of Refusal set out below:

- (1) The Application may be inconsistent with Licensing Objective(s)
- (2) Overprovision may result if the Application is granted

If any Ground of Refusal applies, the Board must refuse. However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential Ground for Refusal: Section 23(7).

If none apply, the Board must grant: Section 23(4)-(5).

(1) The Application may be inconsistent with Licensing Objective(s)

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives.

The L.O. which appears to apply is: (d): 'protecting & improving public health'

The L.O. expressly states 'improving'. The creation of a new facility to sell alcohol is not likely to improve public health. Opinions may differ as to whether:

- (i) it damages public health, or
- (ii) makes no difference (e.g. it might be said that adding a facility here does not increase the overall amount of alcohol consumed in society, but all that will happen is that the free market will operate so as to take business away from existing outlets);

but it is unlikely to improve it.

(2) Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection

made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a new Premises licence or a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 1 : North Coast (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in: Function Type 1 (Off-sales).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Additional Factor related to Locality does not apply;
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (anywhere in North Ayrshire, regardless of the Locality);

(d) other similar premises in the Locality

A statement will be produced and intimated to the Applicant.

4. Observations

For the Applicant's information: As the current Application is only for a PPL, there is no need to state a Premises Manager yet. This need will arise when the PLH later requests Confirmation. The PLH is applying for PPLs for two separate Premises. Due to Section 19 they will have to have different people as Premises Managers.

5. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

- A (All Premises)
- B (Off-Sales)

CASE 3

Overprovision Assessment Report

Premises: Deli, 23 Aitken Street, KA30 8AT (NALB ref. 467)

A. The OA divides:

North Ayrshire into 6 'Localities', and
Premises into 6 'Function Types'.

B. The 'Localities' are:

1. North Coast
2. Three Towns
3. Kilwinning
4. Irvine and area
5. Garnock Valley
6. Arran

C. The 'Function Types' are:

1. Off-sales Premises
2. On-sales Premises principally providing entertainment (e.g. nightclubs)
3. Other on-sales Premises (e.g. public houses)
4. On-sales Premises (accommodation/meals/non-alcoholic refreshment)
5. Members' Clubs with Special Treatment (excluded from Overprovision)
6. Members' Clubs without Special Treatment ('Part K Clubs')

D. The Subject Premises are:

in 'Locality' : 1 (North Coast)
in 'Function Type' : 1 (Off-sales Premises)

E. In THIS Locality (North Coast):

People in this Locality: 24,722
ALL alcohol outlets in this Locality : 107 (of ALL FTs, except FT5 - Clubs) (or 4.3 per 1,000 people)
Total ON-SALES capacity: 9,358 customers (or 378 per 1,000 people)
Total OFF-SALES capacity: 405 sq.m. (or 16.3 per 1,000 people)

F. Premises of THIS Function Type in THIS Locality:

The number of Premises of the same Locality/Function Type : 20

These are:		sq.m.
1. Caldwell	KA28 OAN	6
2. Sugar & Spice	KA30 8AB	7.5
3. A & M Dobbin Ltd t/a Millport's Premier Store	KA28 OAB	10.4
4. Farm Shop	KA29 OEG	5.1
5. Keystore	KA23 9AW	23.2
6. Hastie of Largs Ltd	KA30 8JJ	55.3
7. McColls	KA30 9DD	12.7
8. Spar	KA30 9EL	13
9. Nisa Stores	KA23 9DQ	25.6
10. Day Today (ex Keystore, Costcutter Store, Bollywood)	KA30 8LW	11.4
11. Co-operative Food	KA23 9AL	27.6
12. Morrisons	KA30 8JT	107.7
13. Haco Convenience Store	KA30 8LH	11
14. Spar Convenience Store	KA23 9PL	20.5
15. J & S Dyer	PA17 5AH	13.1
16. Auchengree Farm Shop	KA14 3BU	2.2
17. Tesco Express	KA30 8AU	23.5
18. Co-operative Food	KA30 8BG	24.6
19. Deli-licious	KA29 OAD	4.2
20. Crocodeli	KA28 OAJ	0

These figures disregard:

1. Clubs which are entitled to special treatment under section 125 (FT=5)
2. Gantries in on-sales premises

Sources:

1. Licensing Policy Statement (2013-16) Annex E)
2. Population from 'Scottish Neighbourhood Statistics' (SNS) 2011
3. NALB Premises Licences data as at 13 Feb 2015
(off-sales capacity rounded down to next 0.1 sq.m.)

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232A2

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Acre Lettings Ltd.
Premises	17-19 Aitken St., Largs, KA30 8AT
Ref.	468

Preliminary

At the date of preparing this report, the Board does not have a Notice from the Chief Constable confirming whether or not the Applicant or any Connected Person has any Relevant or Foreign convictions. Until the Board has this Notice, the Board cannot decide the Application.

The Board is entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).

Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If it does, it must defer further consideration until the Report is produced.

This Report was prepared provisionally before the end of the Site Notice display period, which ends on 20 February 2015.

No objections received to date are noted here. If there are any, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.

The Applicant should lodge the following Certificate. Until the Board has it, it cannot determine the Application: Display of Site Notice.

1. Summary of Proposal

The Applicant has applied for the Grant of a Provisional Premises Licence (PPL).

The proposal is for a retail shop to be used as a restaurant.

The PPL relates to Premises which are to be constructed or converted for use as Licensed Premises, and is valid for a period of four years. During this period, the Applicant can request the Board to Confirm the PPL, or to extend the period.

The Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

The Board decision on the PPL relates only to licensing legislation, and does not act as permission or certification under other legislation, such as Planning or Building Control. If the PPL is granted, the Premises cannot operate until all other legislative requirements are met.

2. Detailed proposal**(a) Licensed Hours**

The Premises sell on-sales only. The request is for 11.00 - 24.00, 7 days a week. This is within NALB Policy.

(b) Capacity

On-Sales (persons)	50
Standing / Seated	all seated

(c) Activities other than the sale of alcohol

	Proposed
Accommodation	
Conference facilities	
Restaurant facilities	x
Bar meals	
Receptions (including weddings, funerals, birthdays, retirements, etc.)	x
Club or other group meetings	
Recorded music	x
Live performances	x
Dance facilities	
Theatre	
Films	
Gaming	
Indoor/Outdoor sports	
Televised sport	
Outdoor Drinking	
Adult entertainment	

	Other activities
Proposed	(none)

(d) Access for Under-18s

Terms and Ages (OP 6(b) & (c))	Must be having a meal. If under 12, must also be with adult.
Times (OP 6(d))	under-18s allowed until 22.00.
Parts (OP 6(e))	All public parts of Premises.

3. Issues

The Board has a discretion to grant or refuse the Application. The Board should consider all the potential Ground(s) of Refusal set out below:

- (1) The Application may be inconsistent with Licensing Objective(s)
- (2) Overprovision may result if the Application is granted

If any Ground of Refusal applies, the Board must refuse. However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential Ground for Refusal: Section 23(7).

If none apply, the Board must grant: Section 23(4)-(5).

(1) The Application may be inconsistent with Licensing Objective(s)

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives.

- (a): 'preventing crime and disorder'
- (b): 'securing public safety'
- (c): 'preventing public nuisance'
- (d): 'protecting & improving public health'
- (e): 'protecting Children from harm'

(2) Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a new Premises licence or a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The

Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 1 : North Coast (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in Function Type 4 (On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment and the supply of alcohol for consumption is only ancillary to that purpose; 'meal' means a substantial meal eaten at a table, counter or other structure which serves the purpose of a table. Snacks and crisps are not considered to constitute 'meals'.)

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Additional Factor related to Locality does not apply;
- (2) Function Type: the Premises are in FT4 (On-Sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment), so the Board is entitled to refuse the Application, but is not bound to do so by its Overprovision Policy.

(d) other similar premises in the Locality

A statement will be produced and intimated to the Applicant.

4. Observations

1. For the Applicant's information: As the current Application is only for a PPL, there is no need to state a Premises Manager yet. This need will arise when the PLH later requests Confirmation. The PLH is applying for PPLs for two separate Premises. Due to Section 19 they will have to have different people as Premises Managers.

2. Since the Premises are to admit children under 5, the Mandatory Condition requiring Baby-Changing Facilities accessible by both genders applies (Sch. 3, Para. 12, SC C.3). The Applicant should say where these facilities would be.

5. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

- A (All Premises)
- C (On-sale Premises)

CASE 4

Overprovision Assessment Report

Premises: Restaurant, 17-19 Aitken Street, KA30 8AT (NALB ref. 468)

A. The OA divides:

North Ayrshire into 6 'Localities', and
Premises into 6 'Function Types'.

B. The 'Localities' are:

1. North Coast
2. Three Towns
3. Kilwinning
4. Irvine and area
5. Garnock Valley
6. Arran

C. The 'Function Types' are:

1. Off-sales Premises
2. On-sales Premises principally providing entertainment (e.g. nightclubs)
3. Other on-sales Premises (e.g. public houses)
4. On-sales Premises (accommodation/meals/non-alcoholic refreshment)
5. Members' Clubs with Special Treatment (excluded from Overprovision)
6. Members' Clubs without Special Treatment ('Part K Clubs')

D. The Subject Premises are:

in 'Locality' : 1 (North Coast)
in 'Function Type' : 4 (On-sales Premises (accommodation/meals/non-alcoholic refreshment))

E. In THIS Locality (North Coast):

People in this Locality: 24,722
ALL alcohol outlets in this Locality : 107 (of ALL FTs, except FT5 - Clubs) (or 4.3 per 1,000 people)
Total ON-SALES capacity: 9,358 customers (or 378 per 1,000 people)
Total OFF-SALES capacity: 405 sq.m. (or 16.3 per 1,000 people)

F. Premises of THIS Function Type in THIS Locality:

The number of Premises of the same Locality/Function Type : 14

These are:		cust.
1. Haylie Hotel	KA30 8EY	40
2. Nardini	KA30 8NF	270
3. Nardini at The Moorings	KA30 8AB	60
4. Braidwoods Restaurant	KA24 4LN	24
5. The Cumbrae Bistro	KA28 0AG	30
6. Nardini at the Green Shutters	KA30 8BL	40
7. The Bean & Leaf	KA30 8BG	40
8. Star of India	KA30 8LZ	50
9. The Rowan Tree Restaurant	KA22 8PG	100
10. Waterside Inn	KA23 9NG	322
11. Bosuns Table	KA30 8EZ	69
12. Koh - I - Noor	KA30 8AE	40
13. 39 Ritchie Street, West Kilbride	KA23 9HF	22
14. The Harbour Lights	KA28 0AJ	36

These figures disregard:

1. Clubs which are entitled to special treatment under section 125 (FT=5)
2. Gentries in on-sales premises

Sources:

1. Licensing Policy Statement (2013-16) Annex E)
2. Population from 'Scottish Neighbourhood Statistics' (SNS) 2011
3. NALB Premises Licences data as at 13 Feb 2015
(off-sales capacity rounded down to next 0.1 sq.m.)

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4 32A2

Application for Variation of Premises Licence - Section 29

Applicant	Ian Kirsop
Premises	Lamlash Bay Hotel, Shore Road, Lamlash, Isle of Arran KA27 8LU
Ref.	405

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 20 February 2015:

1. *Until the Board has a Certificate of Display, it cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	Add 'pavement cafe'
2	Alter layout by demolishing perimeter wall

2. Changes

The Premises are at the corner of the main A841 road around Arran and a minor road. At this point the pavement is over 5 metres wide. The PLH proposes to have a table area extending 3.0 metres from the line of perimeter wall. The table area would be 4.5 metres long.

There are three separate sets of legislation:

- (a) Licensing
- (b) Planning
- (c) Roads

The Licensing Board makes decisions based only on its own legislation, and the fact that the proposal has already been granted Planning Permission does not oblige the Board to follow what the Planning officer has determined.

The Planning situation is this: the PLH has Planning Permission for the proposed change, and in the course of obtaining PP there was consultation with NAC Transportation, who advised that they would not object provided that 2.0 metres was kept free for pedestrians. The proposal achieves this, and accordingly PP was granted on 4 September 2014, subject to the condition that the PLH provide details of the proposed cafe barriers to be erected around the area, and that prior to the coming into use of the proposed Outdoor Seating Area the approved barriers should be erected and maintained, unless otherwise agreed in writing by the Planning Authority.

The Roads situation is this: at the time of preparing this Report the Licence-Holder has not been granted the Consent of the Roads Authority under Roads (Scotland) Act 1984, Section 59.

Note to Applicant: this is not an issue for the Licensing Board, but regardless of:

- (a) *the grant of PP by the Planning Authority and*
- (b) *the Variation of the Alcohol Licence,*

the pavement cannot be used without the formal grant of Consent by the Roads Authority, and without complying with any conditions of that Consent.

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Add 'pavement cafe'
Discretionary refusal
Notes:
<p>The Board would have to be satisfied that the proposals were not inconsistent with any of the Licensing Objectives, and in particular L.O. (c): 'preventing public nuisance'.</p> <p>Section 30(4) and 30(5) of the Licensing (Scotland) Act 2005 provide:</p> <p><i>"(4) Where a Hearing is held under subsection (3), the Board must consider whether any of the <u>grounds for refusal</u> applies and—</i></p> <ul style="list-style-type: none"> <i>(a) if none of them applies, the Board must grant the Application,</i> <i>(b) if any of them applies, the Board must refuse the Application.</i> <p><i>(5) The grounds for refusal are—</i></p> <ul style="list-style-type: none"> <i>(a) ...</i> <i>(b) that the Licensing Board considers that the granting of the Application would be inconsistent with one or more of the Licensing Objectives,</i> <i>(c) that, having regard to—</i> <ul style="list-style-type: none"> <i>(i) the nature of the activities carried on or proposed to be carried on in the Subject Premises,</i>

(ii) *the location, character and condition of the Premises, and*

(iii) *the persons likely to frequent the Premises,*

the Board considers that the Premises are unsuitable for use for the sale of Alcohol in accordance with the proposed Variation,

(d) *..."*

Section 4(1) is:

"For the purposes of this Act, the Licensing Objectives are—

(a) preventing crime and disorder,

(b) securing public safety,

(c) preventing public nuisance,

(d) protecting and improving public health, and

(e) protecting Children from harm."

Considerations which are relevant to the Licensing Objectives may also be relevant to the 'unsuitable premises' Ground of Refusal:

(a) "preventing crime and disorder"

If the proposed variation is granted, the area would become part of the 'Licensed Premises', and therefore people within it would not be breaking the Byelaws about drinking in public.

The Board would require to be satisfied that the area would be monitored and managed so as to minimise the possibilities:

- that alcohol might be consumed outside the area
- that alcohol would only be consumed by seated customers (the Board has a general concern with 'vertical drinking' - LPS Para. 4.6)
- that there would be a suitable barrier separating the area from the rest of the pavement. Where the Board has considered permitting an Outdoor Drinking Area adjacent to a public walkway, it has sought a permanent barrier, not a removable one, e.g. where the Licence for the 'Auld Brig' in Rivergate Mall was to include an outside area under the existing canopy, the Board approved plans which confirmed that the barriers would be fixed, opaque and 970 mm high.

(b) "securing public safety"

The Application relates to a pavement on the A841 road. The proximity of drinkers

to traffic on a busy road creates a situation which is unique in North Ayrshire, in that the consumption of alcohol on pavements has not been permitted.

(c) "preventing public nuisance"

The Board should consider whether or not the proposal would cause nuisance to pedestrians and neighbouring occupiers.

The Board has Standard Conditions which are aimed at the common 'beer garden', i.e. an enclosed area adjacent to Licensed Premises and typically accessible only from the Premises:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

General

If the Board consider that the "grounds for refusal" in Sections 30(5)(b) and/or (c) may exist, the Board might continue the Application without limit of time and request the NAC Director of Physical Environment to report to the Board on the extent (if any) that the proposal might lead to congestion for pedestrians. The Board should not determine the Application without having such evidence and having made such an assessment.

If the Board allows Outdoor Drinking, and is later satisfied that this is inconsistent with any L.O. or that any Licence condition has been breached, it has the right to Vary the Licence so as to limit or remove the permission.

Variation 2: Alter layout by demolishing perimeter wall

Mandatory Grant : The request is for a 'Minor Variation'

4. Licence Conditions

If Variation 1 is granted, the Board should consider whether or not the existing conditions are appropriate for the particular proposal. A possible additional Condition:

"The tables, chairs and barriers shall be removed from the Outdoor Drinking Area on the pavement at 10.00 p.m. and not replaced before 11.00 a.m. the next day."

If the Board insist upon a permanent barrier, the condition would be edited. On a case-by-case basis the Board has sometimes allowed enclosed ODAs to operate earlier, for the provision of breakfast and soft drinks, but this has been on the basis that the location and the activities did not raise issues with the Licensing Objectives or the 'unsuitable premises' Ground of Refusal.

Application for Variation of Premises Licence - Section 29

Applicant	Simpsinns Ltd.
Premises	"Waterside", Ardrossan Road, Seamill, West Kilbride, Ayrshire, KA23 9NG
Ref.	0426

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 20th February 2015:

1. *Until the Board has a Certificate of Display, it cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	New layout plan
2	Variation of Sunday trading hours
3	Increase capacity
4	Change of Premises Manager
5	Permit use of outdoor drinking area from 7am
6	Variation of Access Terms for Under 18s

2. Changes

The Premises are currently a licensed pub-restaurant with an Outdoor Drink Area on the shore side, facing Arran. The Premises have been substantially expanded, and the present Variation covers several changes:

- (a) hotel accommodation (23 rooms)
- (b) function suite
- (c) "Si! Shack"
- (d) roof terrace

The licensed hours will remain the same, except for a slight change on Sunday (opening at 12.00 instead of 12.30).

The on-sales capacity is to increase from 322 patrons to 582.

3. Issues

Variation 1: New layout plan
Mandatory Grant : The request is for a 'Minor Variation'

Variation 2: Variation of Sunday trading hours

Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 3: Increase capacity**Discretionary refusal**

The Board is legally obliged to consider the issue of Overprovision. There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party. The Health Board had indicated that they will not be objecting here.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 1 : North Coast (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in Function Type 4 (On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment and the supply of alcohol for consumption is only ancillary to that purpose; 'meal' means a substantial meal eaten at a table, counter or other structure which serves the purpose of a table. Snacks and crisps are not considered to constitute 'meals'.)

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Additional Factor related to Locality does not apply;
- (2) Function Type: the Premises are in FT4 (On-Sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment), so the Board is entitled to refuse the Application, but is not bound to do so by its Overprovision Policy.

(d) other similar premises in the Locality

A statement will be produced and intimated to the Applicant.

Variation 4: Change of Premises Manager

Mandatory Grant : The request is for a 'Minor Variation'

Variation 5: Permit use of outdoor drinking area from 7am

Discretionary refusal

The proposal is to allow outdoor drinking areas identified on the new layout plan to be in use from 7.00 a.m. for the service of tea, coffee, soft drinks etc. Alcohol will not be served in these areas out with the permitted licensed hours.

On a case-by-case basis the Board has sometimes allowed enclosed ODAs to operate earlier, for the provision of breakfast and soft drinks, but this has been on the basis that the location and the activities did not raise issues with the Licensing Objectives or the 'unsuitable premises' Ground of Refusal.

If the Board grants Variation 1 above it will have to consider whether to vary Standard Condition C.5.2 and whether to do so would be inconsistent with any of the Licensing Objectives, in particular L.O. (c): 'preventing public nuisance'.

Standard Condition C.5.2 states:

"No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm."

The grant of this Variation will not permit alcohol to be served in the Outdoor Drinking Area outwith the permitted licensed hours.

The Board might retain the Condition but amend it, by adding at the end:

"except that tea, coffee and other soft drinks may be served after 7.00 a.m. to residents having breakfast meals."

Given that the Premises are not in close proximity to dwelling-houses or other noise-sensitive premises, the Board may consider that use of the Outdoor Drinking Area out-with the times stated in Standard Condition C.5.2 does not present cause for concern.

Variation 6: Variation of Access Terms for Under 18s

Grant (no statutory reason to refuse, and no breach of Board policy)
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Note: The amendments follow from the alteration of the Premises to a hotel, and raise no Licensing Objective issues.
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4. Licence Conditions

If Variation 5 is granted the Board may wish to consider whether Standard Condition C.5.2 should be varied as suggested.
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CASE 6

Overprovision Assessment Report

Premises: Bar-Restaurant-Hotel, 'The Waterside', Seamill (NALB ref. 426)

A. The OA divides:

North Ayrshire into 6 'Localities', and
Premises into 6 'Function Types'.

B. The 'Localities' are:

1. North Coast
2. Three Towns
3. Kilwinning
4. Irvine and area
5. Garnock Valley
6. Arran

C. The 'Function Types' are:

1. Off-sales Premises
2. On-sales Premises principally providing entertainment (e.g. nightclubs)
3. Other on-sales Premises (e.g. public houses)
4. On-sales Premises (accommodation/meals/non-alcoholic refreshment)
5. Members' Clubs with Special Treatment (excluded from Overprovision)
6. Members' Clubs without Special Treatment ('Part K Clubs')

D. The Subject Premises are:

in 'Locality' : 1 (North Coast)
in 'Function Type' : 4 (On-sales Premises (accommodation/meals/non-alcoholic refreshment))

E. Description of THIS Locality (North Coast):

People in this Locality: 24,722

ALL alcohol outlets in this Locality : 107 (or 4.3 per 1,000 people)
(of ALL FTs, except FT5 - Clubs)

Total ON-SALES capacity: 9,358 customers (or 378 per 1,000 people)

Total OFF-SALES capacity: 405 sq.m. (or 16.3 per 1,000 people)

F. Premises of THIS Function Type in THIS Locality:

The number of Premises of the same Locality/Function Type : 15

These are:

		cust.
1. The Rowan Tree Restaurant	KA22 8PG	100
2. 39 Ritchie Street, West Kilbride	KA23 9HF	22
3. Waterside Inn	KA23 9NG	322
4. Seamill Hydro Hotel	KA23 9NB	850
5. Braidwoods Restaurant	KA24 4LN	24
6. The Cumbrae Bistro	KA28 OAG	30
7. The Harbour Lights	KA28 OAJ	36
8. Haylie Hotel	KA30 8EY	40
9. Nardini	KA30 8NF	270
10. Nardini at The Moorings	KA30 8AB	60
11. Nardini at the Green Shutters	KA30 8BL	40
12. The Bean & Leaf	KA30 8BG	40
13. Star of India	KA30 8LZ	50
14. Bosuns Table	KA30 8EZ	69
15. Koh - I - Noor	KA30 8AE	40

These figures disregard:

1. Clubs which are entitled to special treatment under section 125 (FT=5)
2. Gantries in on-sales premises

Sources:

1. Licensing Policy Statement (2013-16) Annex E)
2. Population from 'Scottish Neighbourhood Statistics' (SNS) 2011
3. NALB Premises Licences data as at 13 Feb 2015
(off-sales capacity rounded down to next 0.1 sq.m.)

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Case 2

Application for Variation of Premises Licence - Section 29

Applicant	Park Resorts Ltd.
Premises	"The Buccaneers", Sandylands Holiday Park, James Miller Crescent, Auchenharvie Park, Saltcoats, KA21 5JN
Ref.	256

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 20th February 2015:

- 1. Until the Board has a Certificate of Display, it cannot determine the Application.*
- 2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	<i>Variation of Sunday on-sales operating hours</i>
2	<i>Variation of layout plan to include Outdoor Drinking Area</i>
3	<i>Variation of Activities to include conference facilities, restaurant facilities, receptions, club or group meetings and films</i>
4	<i>Variation of access terms for children and young persons</i>

2. Changes

Variation of Hours - On-Sales

	Current	Proposed
Monday	11.00 – 24.00	
Tuesday	11.00 – 24.00	
Wednesday	11.00 – 24.00	No change
Thursday	11.00 – 01.00	on 6 days
Friday	11.00 – 01.00	
Saturday	11.00 – 01.00	
Sunday	12.30 – 24.00	11.00 – 24.00

Variation of activities (changes shown '**')

	Current	Proposed
Accommodation	N	N
Conference facilities	N	Y *
Restaurant facilities	N	Y *
Bar meals	Y	Y
Receptions (including weddings, funerals, birthdays, retirements, etc.)	N	Y *
Club or other group meetings	N	Y *

Recorded music	Y	Y
Live performances	Y	Y
Dance facilities	Y	Y
Theatre	Y	Y
Films	N	Y*
Gaming	Y	Y
Indoor/Outdoor sports	Y	Y
Televised sport	Y	Y
Outdoor Drinking	N	Y*
Adult entertainment	N	N

	Other activities
Current	Coffee and family entertainment from 10am, giving access to gaming for over 18s, televised sport and pool tables
Proposed	Coffee and family entertainment from 10am, giving access to gaming for over 18s, televised sport and pool tables [<i>* DJs, face painters, yoga/keep-fit classes, themed events, bands, charity and/or fundraising events, fashion shows, art shows/exhibitions., displays and exhibitions.]</i>

Variation of Access terms for Under-18s

	Current	Proposed
Terms (OP 6(b))	Permitted access for bar meals, functions and entertainment. To be accompanied by a responsible adult at all times.	Permitted access for bar meals, functions and entertainment. Children will be accompanied by an adult. <i>Young Persons (16-17) may be unaccompanied.</i>
Times (OP 6(d))	From 11.00am until end of operating hours.	At all times during the premises' operating hours.
Parts (OP 6(e))	Buccaneers and amusement arcade, permitted access to the boathouse for functions.	All public parts of the premises.

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Variation of Sunday on-sales operating hours

Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 2: Amend Layout Plan to Include Outdoor Drinking Area**Discretionary Refusal**

The proposed area is an L-shaped strip (about 10 m. long and about 1 m. wide) around two sides of the 'Kids Play Area', accessed from the 'Beacon Clubroom'.

The Board would have to be satisfied that the proposals were not inconsistent with any of the Licensing Objectives, and in particular L.O. (c): 'preventing public nuisance'.

The Board should clarify with the Applicant the location and extent of the outdoor drinking area. The Board may wish to consider the proximity of the premises and the proposed area to any dwelling-houses or other noise-sensitive Premises. The Plan supplied does not show the site in relation such Premises.

The Board is entitled to ask the Applicant to vary the proposal, e.g. to alter the times or locations of activities which might lead to noise or other nuisance.

Board may consider that its Standard Conditions are sufficient:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

If the Board allows Outdoor Drinking, and is later satisfied that this is inconsistent with any L.O. or that any Licence condition has been breached, it has the right to Vary the Licence so as to limit or remove the permission.

Variation 3: Variation of Activities

Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 3: Variation of Access terms for Children and Young Persons**Discretionary Refusal**

The Board should consider whether or not this variation is inconsistent with Licensing Objective (e): 'protecting Children from harm'. This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17).

The Board may consider that removing the requirement for Young Persons to be accompanied by an Adult may be detrimental to this objective. The Board may consider that the absence of adult supervision of under-18s increases the risk of under-age drinking.

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Mr Hamza Gunaydi
Premises	Café Thyme, Auchencar, Machrie, Isle of Arran, KA27 8EB
Ref.	428

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 20th February 2015:

1. *Until the Board has a Certificate of Display, it cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	Extend operating hours
2	Amend under-18 access arrangements

2. Changes

	Current	Proposed
Monday	12.00 – 17.00	12.00 – 22.00
Tuesday	12.00 – 17.00	12.00 – 22.00
Wednesday	12.00 – 17.00	12.00 – 22.00
Thursday	12.00 – 17.00	12.00 – 22.00
Friday	12.00 – 22.00	12.00 – 22.00
Saturday	12.00 – 22.00	12.00 – 22.00
Sunday	12.00 – 17.00	12.00 – 22.00

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Extension of Licensing Hours

Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 2: Amend under-18 access arrangements

Grant (no statutory reason to refuse, and no breach of Board policy)

Note: the existing access arrangements are related to the current Licensed Hours, so, if Variation 1 is granted, the PLH asks the Board to make a corresponding change to the under-18 access arrangements. The Premises already open to 22.00 on two days a week (Fri and Sat), and the Board already permits under-18s to be on the Premises for the whole Licensed Hours, provided accompanied by an adult. Apart from Hours, no change to the terms of access is proposed.

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	P/Ship of Springside Stores
Premises	Springside Bargain Stores, 4 Overton Road, Springside, Irvine, KA11 3BG
Ref.	0152

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 20th February 2015:

1. *Until the Board has a Certificate of Display, it cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request

No.	Variation
1	Increase Sunday operating hours from 12.30-22.00 to 10.00-22.00

2. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Increase Sunday operating hours from 12.30-22.00 to 10.00-22.00
Grant (no statutory reason to refuse, and no breach of Board policy)
<p>Note:</p> <p>The hours applied for are within the Board's Policy, and are the maximum entitlement permitted by legislation.</p> <p>An objection has been received from the Health Board, citing "Overprovision".</p> <p>The question of "Overprovision" <u>only</u> arises where "capacity" (as defined by Section 147) is increased, e.g. the display area in off-sales. It is not relevant to the question of Licensed Hours.</p> <p>However, as a <u>general</u> issue - and not a determining factor in the present case - the Board may consider that an increase in operating hours is inconsistent with Licensing Objective (d): "protecting and improving public health". The Board have not previously shortened Licensed Hours and most off-sales shops in NALB's area <u>already</u> have 'policy' hours (10.00 to 22.00, 7 days a week).</p> <p>These Premises already have such hours on 6 days, but have 12.30 to 22.00 on</p>

Sunday. This arrangement is likely to be a legacy of the Transition. Under the previous legislation (the 1976 Act, which operated prior to 1 September 2009), the 'Permitted Hours' were different on Sundays from the rest of the week. For off-sales they were 12.30 to 22.00. The 2005 Act does not allot special significance to Sundays, but in practice many Premises which already had a 1976 Act Licence kept the earlier arrangements because doing so was a condition of the 'grandfather rights' legislation. After Premises obtained a 2005 Act Licence, they were free to ask the Board to Vary the hours, and this has often been done. The Board has invariably agreed to such a Variation.

The P.H.L.O. expressly states that the Application should be 'improving' Public Health. Opinions may differ as to whether an increase in the ability to sell and consume alcohol damages public health, or makes no difference, but it is unlikely to 'improve' it.

The Board is entitled to review Policy at any time, but if such a major issue as Licensed Hours is to be reviewed then this should be after a general review, rather than in connection with a specific Application. Any Applicant has a 'legitimate expectation' that the Board will keep to its present Policy, as expressed in its Licensing Policy Statement and regularly applied consistently, unless the Board consider that the particular circumstances of the case merit deviation from it.

The Board are entitled to direct the Clerk to commence consultation with a view to later adopting a Supplementary LPS dealing with the question of hours.

3. Licence Conditions

No variation of the Conditions is appropriate.

Premises Licence Review Proposal - Section 37

Premises	Shops at: 45-47 Moorburn Road, Largs (Board ref.: 088) 23 West Doura Court, Kilwinning (117) 21 Old Raise Road, Saltcoats (154) 16-18 & 22a Central Avenue, Ardrossan (423)
Premises Licence Holder	Martin McColl Stores Ltd

1. Background

The Board has received confirmation from the Chief Constable that the Premises Licence Holder has been convicted:

Date:	14 November 2014
Court:	Liverpool Crown Court
Offence(s):	S33(1)(a) Health and Safety at Work Act etc Act 1974 (Employer breach of general duty to employee) (6 offences)
Disposal:	Fine of £25,000 per offence and payment of £78,000 toward costs of prosecution

These are "Relevant Offences" (as prescribed by The Licensing (Relevant Offences) (Scotland) Regulations 2007 No. 513).

Under Section 44 the Board must, on receipt of that confirmation, make a Review Proposal under Section 37 (Review of Premises Licence on Licensing Board's initiative).

The information given by the Police is limited to that given above, and does not contain details of the charge, e.g. place, date, circumstances.

The Health and Safety at Work Act 1974 is the basis of many Regulations about things like the safety of customers and employees. These Regulations have little or nothing to do with the sale of alcohol.

The PLH's Solicitor had previously disclosed the convictions, and advised:

- the PLH had pleaded guilty to offences relating to four Premises in Wirral Borough Council's area (3 licensed and one not);
- these Premises had suffered robberies;
- that the offences related the PLH's Risk Assessments;
- since the convictions, the PLH has revised policies, and these apply to all U.K. stores, including those in NALB's area.

2. Action

Given

(a) that the conviction relates to Premises outside North Ayrshire and is unlikely to have a bearing on Premises within the Board's area, and

(b) the fact that the convictions do not relate to the sale of alcohol,

the Board may wish to conclude the Review by taking no action. If the Board considers that Revocation or the other steps otherwise available may be appropriate, and wishes to be addressed by the Licence Holder, the case should be continued to a later meeting.

Application for Extended Hours under Section 68

1. Premises

Premises name	Fiddlers'
Address	Shore Road, Brodick, Isle of Arran KA27 8QS
Premises Licence No.	60
E.H. Ref.	2015-56, 2015-57 (two Applications)

2. Application

Dates requested	Friday 5 June and Saturday 6 June 2015
Extended Hours requested	Two periods: 01.00 a.m. Saturday until 11.00 a.m. on Sunday 01.00 a.m. Sunday until 11.00 a.m. Sunday
Existing Licensed Hours	Friday: 11.00 to 01.00 Saturday: 11.00 to 01.00 Sunday: 11.00 to 24.00
Event	Arran Folk Festival
Sale of alcohol	on-sales only (see Issue 4(g) below)
Children (0-15 years)	(a) Children under 12 are admitted if accompanied by an adult, until 10.00 p.m. (b) Children of 12 and older are permitted until 10.00 p.m. if consuming meal or snack - without an adult
Young Persons (16-17)	Young Persons of all ages are permitted: (a) up to 10.00 p.m. - without an adult (b) after 10.00 p.m. - if both with an adult, and consuming meal or snack.

3. Consultation

Police	Letter will be given to Members
LSO	Report will be given to Members

There is no statutory obligation to give public notice or to allow representations.

4. Procedure

The legislation does not state criteria for granting or refusing Extended Hours, but the Board must consider

- (a) any Notice of Objection given by the Chief Constable, and

- (b) the LSO's report
- (c) the Licensing Policy Statement ("LPS") (which seeks to promote the Licensing Objectives)

(Sections 6(3)(a), 6(4) and 70)

The Board must, before determining the Application, ensure that the Applicant is given an opportunity to comment on any such Notice or Report (Section 70(3)).

5. Issues

- (a) Unpaid Fee
- (b) Board's Policy - type of event
- (c) Board's Policy - times requested
- (d) The Application breaches the prohibition on granting a 24-hour Licence without exceptional circumstances.
- (e) The Application is inconsistent with L.O. (d): 'protecting & improving public health'
- (f) The Application is inconsistent with L.O. (e): 'protecting Children from harm'
- (g) The Application breaches the prohibition on Off-sales before 10 a.m. and/or after 10 p.m.

(a) Unpaid Fee

The Applicant has used a single Application Form and has paid a single fee of £10 although the Form contains two separate Applications. The LPS includes:

"7.17. For the convenience of Licensees, the Board accepts a single Application Form covering several different days, although these are individual Applications. The prescribed fee per Application is £10, so an Application covering 4 days would cost £40."

Section 136(4) of the 2005 Act provides:

"Where regulations under subsection (1) provide for a fee to be charged in respect of any application made to a Licensing Board under this Act, the Board need not consider the application unless and until the fee is paid."

The Applicant should pay the remaining £10.

(b) Board's Policy - type of event

The event is included in the list of events which are likely to be accepted as appropriate for a grant of Extended Hours (LPS, Para. 7.16).

(c) Board's Policy - times requested

The effect of the Extended Hours would be that the Premises would open at 11.00 on Friday morning and remain open continuously to 24.00 midnight on the night of Sunday/Monday, i.e. 2 days and 13 hours.

The Board Policy allows one hour to be added to normal Licensed Hours (LPS Para, 7.20).

The Policy was adopted after consideration of Licensing Objectives—

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting Children from harm.

The Applicant should seek to persuade the Board why they should depart from their policy and treat the present case as an exception.

(d) The Application breaches the prohibition on granting a 24-hour Licence without exceptional circumstances.

Section 64 applies to Applications where:

"if the Application were to be granted, the Licensed Hours in relation to the Premises would be such as to allow Alcohol to be sold on the Premises during a continuous period of 24 hours or more.

The Licensing Board must refuse the Application unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of Alcohol on the Premises during such a period."

This applies to Extended Hours Applications: Section 64(1)(a)(iv).

Under Section 142 the Board must have regard to any guidance issued by the Scottish Ministers, and if a Board decides not to follow it they must give the Scottish Ministers notice of the decision together with a statement of the reasons for it.

The relevant part of the Guidance is:

"21. Ministers are of the view that Licensing Boards should consider "exceptional circumstances" to cover special events such as one-off local or national festivals. It is unlikely that "exceptional circumstances" would be constituted in the case of premises where there were routine requests to sell alcohol for 24 hours. In considering applications for licensed hours Boards may wish to consider applications for up to 14 hours as being reasonable but local circumstances and views of Local Licensing Forums should always be

considered. Any application for licensed hours for more than 14 hours should require further consideration to the effect of granting extra operating hours."

(e) The Application is inconsistent with L.O. (d): 'protecting & improving public health'.

The L.O. expressly states 'improving'. The extension of the ability to sell alcohol cannot be said to improve public health.

(f) The Application is inconsistent with L.O. (e): 'protecting Children from harm'.

This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17).

The provisions of the Operating Plan (OP 6) will continue to apply throughout any period of Extended Hours. The Applicant may wish to undertake to the Board that Children will not be admitted, and will be required to leave, during the Extended Hours.

(g) The Application breaches the prohibition on Off-sales before 10 a.m. and/or after 10 p.m..

The Premises already have permitted Licensed Hours for off-sales from 11.00 to 22.00, so the Extended Hours Application can relate only to on-sales.

Section 65(3) is:

"If the Off-Sales Hours proposed in the Application are such that Alcohol would be sold for consumption off the Premises—

(a) before 10am,

(b) after 10pm, or

(c) both,

on any day, the Board must refuse the Application."

The Board has no discretion.

6. Extra Conditions

If Extended Hours are granted, the conditions of the Premises Licence continue to apply, but the Board may make such variation, addition, or deletion to those Conditions as they consider necessary or expedient for the purposes of any of the Licensing Objectives (Section 70A). Such a Variation only operates during the Extended Hours, and not during the normal operating hours.

If Premises had Licensed Hours beyond 1.00 a.m. as part of their normal operation national Regulations would apply at least one additional condition:

"A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of–

(a) the time at which the premises next close; and

(b) 5:00 am. "

(The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007/336)

In addition, there are further mandatory conditions which apply to Premises where, broadly, there are more than 250 people standing, or dancing, or listening to loud music, or watching displays of 'adult entertainment'. The Premises have a capacity of only 46 so these extra Conditions would not apply.

The Board applies Part D of its Standard Conditions to Premises open beyond 1.00 a.m. as part of their normal operation:

D.1 First Aider

D.2 Plastic glasses in Late Opening Premises

D.3 Door Supervisors

D.4 Curfew (the normal curfew is 00.30 a.m.; it was extended to 1.00 only for the Festive Period 2014-15).

There is an exemption from the 'plastic glasses' condition in favour of Premises operated exclusively as a restaurant, and the Board should consider whether or not this exemption should be removed for the duration of the Extended Hours - is the kitchen to operate as normal throughout the Extended Hours? If the Premises would only make snacks available, as opposed to meals, it might be thought that the principal activity was the consumption of alcohol, so should not qualify for the 'restaurant' exemption.

The Board should decide whether there should be additional conditions, and if so what they should be. The Board may wish to apply all of the Part D conditions, and state that the 'restaurant' exemption from the 'plastic glasses' condition does not apply.

If the Board decide to impose the 'first aider' and 'Door Supervisor' conditions, the Applicant should tell the Board who will be engaged and what qualifications they hold.

Application for Extended Hours - Section 68

Applicant	Saltcoats Bowling Club
Premises	Clubhouse, Springvale Place, Saltcoats
Ref.	317

1. Extension request:

	Day, Date and Period	Board Ref
1	Sunday, 22 March 2015, 9.00 a.m. - 12.30 p.m.	110/15

Purpose of Extended Hours: Open Dart Competition

2. Current Licensed Hours

The Premises sell on-sales only.

	<i>On-Sales</i>	<i>Off-Sales</i>
Monday	2.00 - 24.00	
Tuesday	2.00 - 23.00	
Wednesday	"	n/a
Thursday	12.00 - 24.00	
Friday	2.00 - 1.00	
Saturday	11.00 - 1.00	
Sunday	12.30 - 24.00	

3. Consultation

When Extended Hours are applied for, the Board informs:

- (a) the Chief Constable, who is entitled to object if he considers it necessary to do so for the purposes of any of the Licensing Objectives.
- (b) the Licensing Standards Officer, who is obliged to comment.

Where there is no adverse comment from either, the Application is granted under delegated powers. There is no process of public advertisement and no scope for the public to object.

The Police have no objection.

4. Issues

The Board should be satisfied:

- (a) that the Extended Hours are requested to cover either:
 - (1) a special event or occasion to be catered for on the Premises, or

(2) a special event of local or national significance,

(b) that the Period of Extended Hours requested is reasonable. In deciding this, the Board is entitled to consider its Policy. The Policy should be seen as no more than a guideline and not a rigid rule. The Applicant is entitled to ask for an exception to be made.

In determining the Extended Hours Application, the Licensing Board must take into account—

(a) any Notice of Objection given by the Chief Constable, and

(b) the Licensing Standards Officer's report.

	Day, Date and Period	Board Ref
1	Sunday, 22 March 2015, 9.00 a.m. - 12.30 p.m.	110/15
(a)	<p>Application breaches Policy on 'special event or occasion':</p> <p>The Board has approved a list of events which are likely to be accepted as appropriate for a grant of Extended Hours (Licensing Policy Statement adopted on 19 November 2013, Paragraph 7.16). The list includes events which do fall within the category 'special event or occasion': birthday, christening or funeral, or the opening night of Licensed Premises. The event here is not on the 'approved' list.</p>	
(b)	<p>Application is inconsistent with Licensing Objective (e) ("protecting children from harm"):</p> <p>The Premises are already subject to NALB's Standard Conditions. Two of these are C.10.3(d) and (e):</p> <p><i>"In the area(s) of the Premises to which Children are admitted: ...</i></p> <p><i>(d) The playing of darts, pool, snooker or any other game is prohibited;</i></p> <p><i>(e) There shall be no dartboard, pool table or other facilities for such activities in those area(s);"</i></p> <p>At present, the Operating Plan admits Children to all parts of the Premises. If the Board granted the EH request, it would be allowing something which it has previously regarded as inconsistent with that Licensing Objective and which its own Conditions seek to prevent.</p> <p>If the Applicant expects to have regular darts tournaments he should consider applying for a permanent Minor Variation of the Licence. In the short-term, the Board may be prepared to grant the EH Application of receipt of a written undertaking as follows:</p> <p><i>"The Premises Licence Holder (Saltcoats Bowling Club, Premises Licence 317) undertakes that on the date for which Extended Hours are granted (Sunday 22 March 2015), no children (persons under 16) will be admitted to, or allowed to remain in, any part of the Premises where darts, pool, snooker or any other game are played or where there are facilities for such activities. This undertaking will apply throughout the Licensed Hours that day (until</i></p>	

	24.00 midnight), and not simply the length of the Extended Hours."
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5. Licence Conditions

Under Section 70A, when the Board grants an EH Application, it may make such variation, addition, deletion or other modification of the Premises Licence Conditions as it considers necessary or expedient for the purposes of any of the Licensing Objectives. Such a variation only applies during the period of extra hours, and the Conditions continue to apply for the rest of the Licensed Hours as they did before the EH were granted.

No variation of the Conditions is appropriate.
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Report

to

North Ayrshire Licensing Board

by

Solicitor (Licensing)

Subject:	Chief Constable's Annual Report - Licensing (Scotland) Act 2005, Section 12A for year to 31 March 2014
Recommendation:	That the Board note the Report

Under Section 12A of the 2005 Act (as inserted by the Alcohol etc. (Scotland) Act 2010) the Chief Constable must, as soon as practicable after the end of each financial year, send a report to the Board setting out—

(a) the Chief Constable's views about matters relating to policing in connection with the operation of the 2005 Act in the Board's area during that year and the following year, and

(b) any steps the Chief Constable—

(i) has taken during that year,

(ii) intends to take in the following year,

to prevent the sale or supply of alcohol to 'Children' or 'Young People' in that area.

The Chief Constable must also send a copy of the report to the Local Licensing Forum.

The Chief Constable of Police Scotland has therefore submitted the attached Report. If the Board so requests, the Chief Constable (or other constable nominated by the Chief Constable) must attend a meeting of the Board to discuss the Report.

The Board is not required to take any action. It will remain the case that if the Police have complaints about particular Licensed Premises, these will be raised using the Review procedures in Sections 36 (Premises Licence) and Sections 84 and 84A (Personal Licence).



**POLICE
SCOTLAND**

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE
NORTH Ayrshire LICENSING BOARD
FOR THE PERIOD
1ST April 2013 to 31st March 2014

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Foreword

It gives me great pleasure to present my Annual Report for 2013/14, in accordance with section 12 A Licensing (Scotland) Act 2005.

Since April 2013 Police Scotland has faced and overcome many challenges set against a backdrop of competing demands, budget constraints and organisational change. However, throughout this period we have remained focussed on delivering a local service that addresses local issues and needs, balanced against national priorities.

To date our success speaks for itself with crimes of violence now at its lowest recorded level in 38 years, in addition to a reduction in disorder and antisocial related offences. This is welcome news and means that there are now fewer victims of crime living and working in Scotland. However, there is no room for complacency and what is evident is that the link between alcohol misuse with incidents of crime and offending; victimisation and health related harm continues to negatively impact on individuals, families and communities on a daily basis.

Police Scotland can, however, continue to make a difference and working collaboratively with the licensed trade, partners and local communities we will continue to strive towards improved standards and compliance across the licensed trade; address business practices that result in excess alcohol consumption and vulnerability; address the sale and supply of alcohol to children and young people and identify and tackle localities most affected by the misuse of alcohol and related incidents of crime and offending. In addition, Police Scotland will continue to support both our partners, in terms of health promotion and improvement, and legitimate local traders who make a positive contribution to local economies and communities.

Throughout 2013/14 Police Scotland has been working steadily towards harmonising our approach towards licensing, balanced against the need to deliver a local service that reflects and addresses local issues and concerns. Our focus has centred on enforcement activity, complemented and supplemented by a number of supportive prevention and interventions measures, designed to improve licensing standards, reduce violence and positively influence behaviour and cultural attitudes across Scotland.

This report outlines what activity has been undertaken over the last twelve months for North Ayrshire and what steps we will take in 2014/5 to ensure we continue to improve on our performance and positively improve the lives of the people of Scotland - keeping people safe.

Sir Stephen House QPM
Chief Constable
Police Scotland

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Police Scotland Licensing Overview

Structure

Following the inception of Police Scotland in 2013; a two tier structure for Licensing was adopted, to support both national and local priorities and service delivery.

A national licensing policy unit (NLPU) which sits within Licensing and Violence Reduction Division has overall responsibility for determining and delivering national licensing strategy and policy. The NLPU also provides advice and support to Divisional Licensing teams as well as other specialist functions.

Dedicated Licensing teams are located in each of the 14 local Divisions and are responsible for the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises within their local area.

National perspective

Licensing and Violence Reduction Division.

Licensing and Violence Reduction Division (LVRD) is a specialist division which, as stated, exists to support each of the 14 divisions across Police Scotland. Working with divisional licensing teams we shape the policy and strategy around the police licensing function.

The licensing policy unit provide practical and tactical advice and support to operational officers, supervisors, commanders and police licensing practitioners on actions that can contribute to the safe and legitimate operation of premises licensed to sell alcohol.

We seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across each division and that all opportunities are taken to address the illegal or irresponsible sale, supply or consumption of alcohol. This is with the intention of preventing violent crime and disorder. The application of alcohol legislation continues to evolve through case law and statutory instruments. As such policing tactics require to be continually developing to keep pace with these changes.

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All of this activity is done in support of the National Police Scotland priorities;

National Priorities:

Reduce violence, disorder and antisocial behaviour

Protect the public

Increase road safety and reduce road crime

Tackle serious and organised crime and terrorism

Effectively police major events and threats

Maintain high levels of public confidence in policing

Deliver our equality and diversity outcomes

The licensing policy unit currently has a focus on the following priorities;

Effectively police major events and threats.

Events and festivals around the country where alcohol is supplied are placing increasing demands on policing. As we strive to protect the public it is recognised that the management of alcohol consumption is a crucial part of event management.

Experiences from events have informed the view that there should be a move towards agreed alcohol management plans which set out how alcohol sale and supply and alcohol risk are to be controlled.

It is intended that these plans should be made available to the licensing board and will form the basis of any enquiry the board make following an application. This will allow the board to set expectations around public safety and reduce the impact some events might have on the wider community.

Reduce violence, disorder and antisocial behaviour

LVRD will scrutinise the most serious incidents of violence and disorder linked to licensed premises to inform the tactics the police might develop and use to solve the underlying problems causing these incidents. Engagement with the affected licensed premises whilst attempts are made to identify the solutions to identified problems. This activity is reported to the Chief Constable on a weekly basis.

The NLPU are currently developing partnerships which will assist in a better understanding of the challenges faced by the licensed trade. Where possible there will be engagement with premises and companies which rarely come to the attention of the police. This is with the intention of identifying good practice and the hope that this can be shared across the trade. This approach will enable Police Scotland to further work together with local communities and key partners preventing alcohol related crime and offences

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Tackle serious organised crime and terrorism

LVRD identifies opportunities to impact on serious and organised crime groups who may seek to exploit the licensed trade, either by making attempts to become involved in the running of, or ownership of 'legitimate' enterprises, or by seeking to influence or intimidate legitimate operators in furtherance of their criminal enterprises.

The licensing policy unit has identified that there are considerable opportunities to impact on organised crime groups in our communities. There has been a concerted effort made to research and engage key stakeholders involved with the regulation of businesses such as HMRC and the Insolvency Service in order to map out how information gleaned by each agency can be fused together towards a focussed joined up disruption against SOCG licensed businesses.

Working in collaboration with the Police Scotland, Organised Crime and Counter Terrorism Interventions Unit, ways to deter serious and organised crime groups from gaining access to legitimate licensed premises have been identified as have methods of disrupting them within or depriving them of already established businesses.

To this end the Licensing Policy Unit has developed staff in terms of Intelligence and Financial Investigation disciplines in order to develop intelligence about organised crime groups involved in licensing and also to initiate money laundering enquiries where unlawful conduct and recoverable assets are identified through the licensing process. There is close liaison with the Civil Recovery Unit at the Crown Office where licensed premises have in the process of enquiries been identified as a vehicle for unlawful conduct and fraud.

Strategic Focus 2014- 2015

With the intention of harmonising licensing practice across the country, Police Scotland has introduced training and seminars which will ensure there is continuous professional development for staff in licensing departments.

Inn Keeper software has been purchased by Police Scotland and will be available for use across Scotland from late spring in 2015.

The licensing policy unit will continue to support the operational activity of licensing teams across Scotland as we look to develop a consistent standard in relation to reporting to licensing boards and the application of the Licensing (Scotland) Act 2005.

NORTH AYRSHIRE LICENSING BOARD AREA

The Licensing Board area is policed by Ayrshire Division.

Chief Superintendent Gillian MacDonald is the Local Police Commander who has the responsibility for all day-to-day policing functions.

Local Policing Priorities

Following our public consultation process, the policing priorities for Ayrshire Division, as set out in our Local Policing Plan are as follows;

- 1. Drug Use and Drug Dealing**
- 2. Drunk or Disorderly Behaviour**
- 3. Assault and Violent Crime**
- 4. Housebreaking and Other Theft**

Chief Inspector Brian Shaw is the Area Commander for North Ayrshire and is responsible for response policing, performance management and the daily management of personnel. He is supported by Chief Inspector Tim Ross who has responsibility for community engagement and partnership working. Both Brian and Tim are based at Irvine Police Office.

North Ayrshire has a population of approximately 136,000. It is located in the south-west region of Scotland covering 341 square miles and is bordered by the local authority areas of Inverclyde, Renfrewshire, East Ayrshire and South Ayrshire. The largest town, Irvine has an approximated population of 40,000. The area also contains the towns of Ardrossan, Beith, Dalry, Kilbirnie, Kilwinning, Largs, Saltcoats, Skelmorlie, Stevenston, West Kilbride, as well as the Isles of Arran and Cumbrae. This presents a diverse mixture of urban, rural and isolated towns and villages providing officers in the Command Area with a unique set of policing challenges. Building on existing partnerships, problems identified by community consultation are tackled to improve the quality of life for those within North Ayrshire

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OPERATION OF THE LICENSING (SCOTLAND) ACT 2005

Alcohol pervades across a wide range of issues in our society and is often a casual factor in violence, domestic abuse and anti-social behaviour; incidents that the Police Service of Scotland deals with every day in each area of the country.

Our focus is to improve safety and wellbeing of people, places and communities in Ayrshire by focusing on Keeping People Safe.

In the North Ayrshire Board Area during the reporting year there were three premises licence and one personal licence reviews submitted to the board by Police Scotland.

In the Redburn area of Irvine a store was found to have served two teenagers aged 14 and 15 alcohol. A review was submitted to the Licensing Board by Police Scotland. The grounds for review were established and the Licensing Board suspended the Premises Licence for 4 weeks. A test purchase operation (TPO) was carried out at the premises when the licence resumed which the premise passed and demonstrated that they had addressed the issue and were now operating properly.

An Ardrossan store failed two TPO's in quick succession and a Review was submitted to the Board by Police Scotland. The grounds for review were established and the Premises Licence was suspended for 4 weeks by the Licensing Board. Police Scotland also submitted a review regarding the Personal Licence of the staff member who had served the teenagers to the Licensing Board. The grounds for review were established by the Licensing Board who endorsed his licence for 5 years.

Within the Kilwinning area a bar was found to have persons consuming alcohol outwith the hours of their licence as well as not having proper control of the premises. Police Scotland submitted a review to the Board. The grounds for review were established by the Board however given the steps taken by the premises to address the issues, no action was taken. There have been no further issues.

Pubwatch

There is a successful Pubwatch scheme operating in Saltcoats town centre area which meet monthly and is presided over by a Chairperson from a member premises. A designated police officer from the town centre community policing attends to input on any ongoing trends, best practice or matters arising.

Partnerships

Police officers and members of staff within Ayrshire Division work with a number of partner agencies in addressing alcohol related issues including

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NHS, Education, Licensing Standards Officer, Licensing Forum, the list is not exhaustive.

Problem Solving

Within Ayrshire Division every crime and incident which occurs in and around a licensed premise is scrutinised and followed up. This results in a greater knowledge and understanding of potential problematic premises which allows a problem solving approach to take place in conjunction with the Premises Licence Holder and Designated Premises Manager. Ayrshire Division operates a Monitored/Problematic Premises list which allows our officers to focus their attention on the premises requiring the most support and attention.

PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE

Police Scotland can help make a difference on the future outcomes for children by addressing the sale and supply of alcohol to young people. We can address this by targeting problematic licensed premises.

Activity

In North Ayrshire 3 people have been reported to the Procurator Fiscal for contravention of section 105 Licensing Scotland Act 2005, which relates to the purchase of alcohol by or for a child or young person. Seven Test Purchase Operations were carried out on five premises where there intelligence indicating possible sale or supply of alcohol to young persons. Three premises failed the test purchase and as a result one premise was taken to review as they failed a second TPO. The introduction of Challenge 25 has however raised awareness to the Trade of the need to ask for identification and this has had a positive impact on the pass rate of Test Purchase Operations.

Proposed Activity

Test Purchase Operations will continue where there is information and/or intelligence to indicate that alcohol is being supplied or purchased from a specific premises. Case Law has indicated the use of this tactic and it is something which is only carried out where there is an indicator which supports the needs for a test.

TACKLING SERIOUS AND ORGANISED CRIME

Serious and Organised Crime (SOCG) presents a clear threat to the Ayrshire Licensing trade and legitimate economy. As a result, Ayrshire Division continues to target known criminality in this area as well as attempting to reduce the opportunity for individuals to exploit legitimate licensing opportunities for their own illegitimate means.

Ayrshire Division Licensing Department has increased its links with the

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Divisional Intelligence Department and further integration between this department and the Serious and Organised Crime Interventions function is developing. This will ensure greater oversight between both areas allowing the Division to act at the earliest opportunity in providing the Licensing Board with information which may prevent a license being issued or to coordinate disruption activity around an existing license holder more effectively.

At this current time, there are 14 SOCG being managed by the Division with some of these groups having a known interest in a business requiring some form of licence to operate.

This involvement in the licensing trade is often a direct result of the expertise or experience of an individual from their group in that business sector, and/or the chosen business presenting the ability to launder criminal proceeds.

Ayrshire Division continues to carry out targeted premises visits to ensure that all license conditions are being complied with. Such visits will also involve a range of partner agencies including; HMRC, DVSA, DVLA, Scottish Power, SEPA and more.

Within North Ayrshire, such continued scrutiny of problematic premises has had positive results.

As would be expected, detailed inspections of premises resulting in evidence based breaches of the Licensing Objectives will form the basis for matters to be brought to the attention of the Licensing Board with close working between all departments involved to present the best possible factual information.

Examples of SOCG Activity in the Board area -

In September 2013 an application was received by North Ayrshire Council to convert an empty shop into a licensed restaurant. Ayrshire Division Licensing were made aware and became suspicious about the application the applicant's partner had just been released from prison having been sentenced in 2003 to 13 years imprisonment. His sentence was in relation to the recovery of a commercial quantity of ecstasy.

Ayrshire Division Licensing referred the application to the Interventions Unit for further enquiry. Interventions identified that the applicant appeared to be acting as a front for her partner who would have been unlikely to have been awarded a premise licence due to his previous convictions.

It was established that he had applied for a building warrant to allow for the refurbishment of the premises and had obtained and signed the lease for the premises. Financial enquiries identified that a limited company was linked to the licensing application. The limited company had recently been incorporated with the applicant's partner listed as the sole director.

Police Scotland submitted an objection letter to North Ayrshire Council Licensing Board regarding the application for a premises licence. The Licensing Board refused the grant of the Premises Licence.

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PROPOSED ACTIVITY FOR THE YEAR AHEAD

Ayrshire Division will continue in the year ahead to build on the foundations set in year one of Police Scotland.

We will continue to work collaboratively with the licensed trade, partners and local communities to strive towards improved standards and compliance across the licensed trade.

We will address business practices that result in;

- excess alcohol consumption
- vulnerability due to excess alcohol consumption
- sale and supply of alcohol to children and young people
- incidents of crime and offending connect to sale of alcohol

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Appendix A

**Ayrshire Division – North Ayrshire
Summary of Policing in connection with the operation of the
Licensing (Scotland) Act 2005**

Disorder Offences		Total
Section 111 (1)	Drunk persons entering premises	1
Section 111 (2)	Drunk persons on premises	1
Section 113	Sale of alcohol to drunk persons	0
Section 114 (1)	Drunk in charge	0
Section 115 (1) (A)	Drunk and Disorderly	6
Section 115 (1)(B)	Drunk/Obscene language	1
Section 115 (2)	Responsible persons allowing disorderly/drunken behaviour	0
Section 116 (1)	Refuse to leave	10
Section 22	Objections and Representations	1
Section 94	Exclusion Orders	2
Section 97 –	Closure Orders	0
Test Purchase		3