

**North Ayrshire Licensing Board
21 November 2012**

Irvine, 21 November 2012 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Ronnie McNicol (Chair), Tom Marshall, Robert Barr, John Bruce, Alex McLean, Alan Munro, Donald Reid and Robert Steel.

In Attendance

C Andrew, Senior Manager (Legal Services), W O'Brien, Solicitor (Licensing), G Cullen, Licensing Standards Officer, C Simpson, Licensing Standards Officer, C Pollock, Licensing Administration Officer, P Brennan, Specialist Environmental Health Officer (Noise), Chief Superintendent Thomson and Sergeant McIntosh, Strathclyde Police.

Chair

Councillor McNicol in the Chair.

Apologies for Absence

Ian Clarkson and Ruth Maguire.

1. Minutes

The Board were asked to confirm the Minutes of the Board Meeting held on 22 August 2012. The Chair proposed that the Minutes be adopted and this was seconded by Councillor Marshall. The Board unanimously agreed to confirm and adopt the Minutes.

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

The Board considered a report by the Clerk to the Licensing Board on matters under the Licensing (Scotland) Act 2005. The Report, on this occasion, contained 1 Appendix;

A. Premises Licence applications or any other applications requiring a Hearing.

The Licensing Board agreed to dispose of the matters as follows;

A. Premises Licence applications or any other applications requiring a Hearing

A.1 Premises Licence 0327 The Carrick, 112-114 High Street, Irvine

The Board resumed consideration of a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Greene King Brewing and Retailing Ltd, was represented by Andrew Hunter, Solicitor, and he was accompanied by Brian Flanagan (Premises Manager).

The Review Application was made by the Chief Constable by a letter to the Board, dated 25 April 2012.

Mr Hunter addressed the Board on the issues arising. He highlighted the occurrence of two Review Hearings. In addition to the Section 36 Premises Licence Review application, the Police had also reported to the Board, under Section 84A, in relation to the conduct of Brian Flanagan (Agenda Item 2). Mr Hunter requested, on behalf of the Licence Holder and Mr Flanagan, that both Reviews are continued until after the court trial, which is set for January 2013.

Chief Superintendent Thomson confirmed that the Police were content to agree to Mr Hunter's request. He confirmed that the court trial date had been set for 24 January 2013.

Having considered the submissions made, the Chair moved that the Board decide to continue consideration of the Review Application until the meeting on 6 February 2013. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the Review Application to the meeting on 6 February 2013.

A.2 Personal Licence PK0504 Brian Flanagan

The Board resumed consideration of a Personal Licence Review Hearing in relation to Brian Flanagan. In addition to the Section 36 Premises Licence Review Application (in relation to The Carrick), the Police had also reported to the Board, under Section 84A, in relation to the conduct of Brian Flanagan, as a Personal Licence Holder. Mr Flanagan was present and was represented by Andrew Hunter, Solicitor.

The Report was made by the Chief Constable by a letter to the Board, dated 25 April 2012.

Mr Hunter referred to his comments for the previous agenda item, and requested that this Review also be continued until after the court trial in January 2013.

Chief Superintendent Thomson confirmed that the Police were content to agree to Mr Hunter's request.

Having considered the submission made, the Chair moved that the Board decide to continue consideration of the Personal Licence Review until the meeting on 6 February 2013. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the Personal Licence Review to the meeting on 6 February 2013.

A.3 Premises Licence 0395 Bothan Bar, Broomlands Gate, Bourtreehill

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Bothan Lic Ltd, was represented by Joanna Millar, Solicitor, and she accompanied by Daljit Kaur Sangha (Director, Bothan Lic Ltd, and Premises Manager).

The Review Application was made by the Chief Constable by a letter to the Board, dated 2 October 2012. Copies of the letter were given to Board Members and the content of the letter was summarised by Chief Superintendent Thomson.

The Chief Superintendent stated that it was the view of the Police that the Licence Holder had failed in their duty to prevent crime and disorder and prevent public nuisance.

Chief Superintendent Thomson said that, from a Divisional Commander's perspective, the Bothan Bar was the most troubling premises in the whole of Ayrshire. He added that the Police had now recorded 19 alleged incidents in relation to the premises, including 9 further incidents than were referred to in the Police letter.

The Board then considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's Notice and summarised the issues arising. The Board also had regard to a report supplied by Claire Simpson, Licensing Standards Officer.

As a preliminary matter, Ms Millar stated that she had a major issue with the Chief Superintendent's reference to a further 9 alleged incidents, which were not detailed in the Review Application letter. She said that she had had no prior notice of those 9 incidents and it would be a breach of natural justice for the Board to consider matters beyond those detailed in the Police letter. Ms Millar advised that she would have to seek a continuation of the Hearing unless the Board confirmed that its attention would be confined to the letter.

With the Chief Superintendent's agreement, the Chair confirmed that the Board, for the purpose of today's Hearing, would ignore the additional 9 alleged incidents.

Thereafter Ms Millar addressed the Board on the issues arising. She took issue with the Police assertion that there had been as many as four meetings between the Licence Holder and the Police. She herself was only aware of two meetings, one of which (13 June 2012) she herself had been at with her client. At that meeting her client was encouraged to contact the Police, and this was presented by the Police as a support mechanism. Ms Millar commented that it was odd that, because the Premises Manager had in fact availed herself of this support mechanism, this was seen by the Police as a failing which should then form part of a Review Application.

With regard to the meetings between her client and the Police, Ms Millar said that she had not seen the further correspondence the Police referred to.

Ms Millar said that door stewards were dismissed because they were not doing their jobs - at least one of them was singing along with karaoke. She suggested that the door stewards were unhappy with her client because of their dismissal, and that this might have coloured their statements to the Police.

In relation to the Chief Superintendent's comment that the Bothan Bar was the most troubling Premises in Ayrshire, Ms Millar said that she would need to know how that comparison was made.

Chief Superintendent Thomson confirmed and reiterated his view that these Premises were the most problematic in Ayrshire. He advised the Board that the Licensing Sergeant for the Ayrshire area (Sergeant McIntosh) was sitting beside him today, and that he had assured the Chief Superintendent of this view.

The Chief Superintendent added that the correspondence referred to was internal to the Police, and it consisted of other officers' reports to him.

Ms Millar said that she was entitled to have regard to internal Police correspondence.

Ms Millar then made submissions in relation to each of the 13 incidents detailed in the Police letter. Thereafter she responded to questions from Councillors Barr, Reid and the Chair, and

she also replied to comments made by Councillor Reid in relation to management issues at the premises.

Councillor Marshall asked Mr Brennan if there was an Environmental Health noise report.

Mr Brennan highlighted a complaint made by local residents on 25 May 2012. Officers attended at 11.30 pm and it was noted that there was excessive loud music, the Premises doors were held open, and patrons were outside. On that occasion the officers spoke to Daljit Kaur Sangha.

On 29 May 2012 there was a joint visit by the Licensing Standards Officer and officers of Building Standards and Environmental Health. Following this, a letter was sent to the Mrs Sangha warning of an Abatement Notice.

Ms Millar submitted that no case for Review had been made out, whether in relation to the Premises Licence or Mr Sangha's Personal Licence. Her client has made a big effort to change and improve the premises, which are located in an area where anti-social behaviour is widespread.

Ms Millar again said that she did not accept that the Board could infer that "these are the worst Premises in Ayrshire". Should the Board decided to uphold the Review, she suggested that a Written Warning would be the most appropriate outcome.

Chief Superintendent Thomson said that there were significant concerns with the Premises. The Police do provide support to Licence Holders, but they also expect to see improvements, which have not occurred in this situation. He acknowledged that there were issues in the wider area in which the Premises are located, but there remained significant concerns with the Bothan Bar.

The Board adjourned at 11.27 am and re-convened at 11.55 am.

Councillor Marshall, seconded by Councillor Barr, proposed that the Grounds for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Grounds for Review.

Having considered the terms of the report, information supplied by the Licensing Standards Officer, and the submissions made, Councillor Barr moved that it was appropriate to Vary the Premises Licence as follows: that for the period of 28 days, effective from 21 November 2012, the terminal hour will be 11.00 pm, Monday – Sunday. Councillor Bruce seconded the motion and there was no counter-motion. A roll-call vote was conducted, and there were no abstentions. Councillors McNicol, Marshall, Barr, Bruce, Steele and McLean voted for the motion, and Councillors Reid and Munro voted against. Accordingly the motion was carried to Vary the Premises Licence so that for the period of 28 days, effective from 21 November 2012, the terminal hour will be 11.00 pm, Monday – Sunday.

The variation is made under Section 39(2)(b) of the 2005 Act for the purpose of Licensing Objectives (a) preventing crime and disorder, and (c) preventing public nuisance.

A.4 Personal Licence NA1336 Daljit Kaur Sangha

The Board considered a Personal Licence Review Hearing in relation to Daljit Kaur Sangha. In addition to the Section 36 Premises Licence Review Application for the Bothan Bar, the Police had also reported to the Board, under Section 84A, in relation to the conduct of Daljit Kaur Sangha as a Personal Licence Holder. Mrs Sangha was present and was represented by Joanna Millar, Solicitor.

The Report was made by the Chief Constable by a letter to the Board, dated 2 October 2012.

Chief Superintendent Thomson said that his comments for the previous agenda item were also applicable for this case.

The Board then considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's report and summarised the issues arising.

Thereafter Ms Millar addressed the Board on the issues arising. She stated that her submissions made in relation to agenda item 3 were also applicable to this case. Ms Millar submitted that no case for Review had been made out in relation to her client's Personal Licence, and that Mrs Sangha did not deserve a black mark on her Personal Licence.

Councillor Marshall, seconded by Councillor Steele, proposed that the Grounds for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Grounds for Review.

Having considered the terms of the report and the submissions made, Councillor Reid moved that Daljit Kaur Sangha's Personal Licence be suspended for 21 days, effective from 21 November 2012, under Section 84(7)(b) of the 2005 Act. Councillor Bruce seconded the motion. There was no counter-motion and the Board unanimously agreed, by means of a roll-call vote, without dissent or abstention to suspend Daljit Kaur Sangha's Personal Licence for 21 days, effective from 21 November 2012.

A.5 Premises Licence 0080 The Waterside, 14 Bath Street, Largs

The Board resumed consideration of a Review Application under Section 36 made by Mr Paul Brennan, North Ayrshire Council Specialist Environmental Health Officer (Noise), relating to the above premises. The Licence Holder, Greene King Retailing Ltd, was represented by Andrew Hunter, Solicitor, and he was accompanied by Brian Purdie (Premises Manager).

The Review Application was made by Mr Brennan by a letter to the Board, dated 7 August 2012. Copies of the letter were given to Board Members. Mr Brennan was present.

At this point the meeting was interrupted by a member of the public who identified himself as Mr McEachan from Largs. Despite the Chair making numerous requests for order, Mr McEachan proceeded to create a disturbance by acting in an unruly and disruptive manner. The disturbance was brought to an end when Mr McEachan was removed from the Council Chambers by Sergeant McIntosh and Police Constable McLean of Strathclyde Police.

The meeting then resumed and the Board considered the terms of a report by the Solicitor (Licensing) which set out and summarised the issues arising. The Board also had regard to a report supplied by Grace Cullen, Licensing Standards Officer.

Mr Hunter addressed the Board on the issues arising. He explained that works have been taking place at the premises in order to resolve the noise issues that have occurred in the past. The works are ongoing and as such Mr Hunter requested that consideration of the Review Application be continued to a meeting of the Board to be arranged for December 2012, by which time the works should be completed. Mr Hunter also requested the removal of the undertaking (that amplified music will terminate at 11.00 pm), which was given by the Licence Holder, and accepted by the Board at the meeting on 22 August 2012.

Mr Brennan said that Environmental Health had no objection to Mr Hunter's request for a continuation of the Review Application until a Board meeting in December. The work that has been done so far has already had a significant impact on the emission of noise from the premises. However, Environmental Health could not make a further, definitive report until the works at the premises had been completed.

Mr Brennan then responded to questions from Councillors Reid and Marshall.

Mr Hunter said that it was his view that the 11.00 pm restriction on amplified music was an undertaking given by the Licence Holder which could subsequently be withdrawn by the Licence Holder.

The Chair asked if the undertaking was removed, what times would amplified music be played to.

Mr Hunter said that the Licence Holder would operate in accordance with the condition imposed by the Board at the meeting on 26 June 2012. Therefore, amplified music or noise would cease at 12.30 am on a Friday and Saturday night and 11.30 pm on a Sunday night.

Having considered the terms of the report, information supplied by the Licensing Standards Officer, and the submissions made, the Chair moved that the Board decide to continue consideration of the Review Application until a meeting in December 2012 (exact date to be confirmed), and that the undertaking given by the Licence Holder at the meeting on 22 August 2012 be removed. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the Review Application to the meeting in December 2012, and remove the undertaking previously given by the Licence Holder.

A.6 Premises Licences 0040, 0181, 0235, 0304 & 0411 Tesco Stores Ltd

On the basis of information initially received from the Licence Holder's agent, and subsequently confirmed by the Chief Constable, Tesco Stores Ltd were cited to attend the Board for a Section 37 Review Proposal. The Licence Holder was not represented.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's Notice and summarised the issues arising. The Board also had regard to a report supplied by Grace Cullen and Claire Simpson, Licensing Standards Officers.

Having considered the terms of both reports, the Chair moved that no action be taken. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no action against the Licence Holder.

A.7 Premises Licences 0111 & 0161 Asda Stores Ltd

On the basis of information initially received from the Licence Holder's agent, and subsequently confirmed by the Chief Constable, Asda Stores Ltd were cited to attend the Board for a Section 37 Review Proposal. The Licence Holder was represented by Mr Taylor, Solicitor.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's Notice and summarised the issues arising. The Board also had regard to a report supplied by Grace Cullen and Claire Simpson, Licensing Standards Officers.

Having considered the terms of both reports, the Chair moved that no action be taken. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no action against the Licence Holder.

A.8 39/41 Rowanside Terrace, Ardrossan

The Board considered an application for grant of a Provisional Premises Licence made by Niceday Store Ltd for the above premises. The applicant was represented by Reid Hamilton, and he was accompanied by Mr Haifeez (Director, Niceday Store Ltd).

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

In total, 5 objections had been lodged with the Licensing Section in relation to the application.

Mr Hamilton addressed the Board regarding the background to the application, and he also confirmed that he had seen a copy of the objections prior to the Board meeting. However, he wished to highlight that 4 of the objections had not been made timeously (by the 26 October 2012) and none of the late objections specifically refer to Section 23(5) of the Act. Mr Hamilton highlighted that the Board do have the power not to hear objections that have not been made in a timeous manner.

Mr O'Brien asked Mr Hamilton if he was going to request a continuation in relation to this matter, or did he agree that all of the objections could be heard by the Board today.

Mr Hamilton confirmed that he did agree, on behalf of the applicant, that all of the objections could be heard by the Board today. Copies of the written objections were given to Board Members. Objectors Maureen Adamson, Karen Allan and Pamela McGlynn were present.

Mrs Allan, Mrs Adamson and Mrs McGlynn then addressed the Board, re-iterating the content of their written objections.

Thereafter Mr Hamilton addressed the Board on the issues raised by the objectors and he responded to questions from Councillors Barr, Reid and the Chair. Mr Hamilton stated that the applicant fully intended to run the premises and supervise the sale of alcohol in accordance with the legislation. With reference to figures detailing the number of current off sales premises in Ardrossan, compared to the number of licensed off sales premises in the town under the previous licensing legislation, Mr Hamilton argued that there had been a reduction in numbers in recent years, and therefore there was no overprovision in this case. He invited the Board to grant the application.

In response to Mr Hamilton's submission, Mrs McGlynn stated that although there had been an overall reduction in off sales shops in Ardrossan in recent years, there are still 4 or 5 of this type of premises in the locality which includes Rowanside Terrace.

The Board adjourned at 12.45 pm and re-convened at 12.55 pm.

Having considered the terms of the report, and the submissions made, the Chair moved that the Board decide to continue consideration of the application to the meeting on 6 February 2013, to allow for the provision of detailed overprovision information and statistics. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to the meeting on 6 February 2013.

A.9 Dalry Multifunction Centre, 1 The Cross, New Street, Dalry

The Board considered an application for grant of a Provisional Premises Licence made by Mohammed Rafi for the above premises. Mr Rafi was present.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Thereafter Mr Rafi addressed the Board on the issues arising and he responded to a question from the Chair. Mr Rafi confirmed that work on the premises has ceased at present, awaiting the grant of a Building Warrant, and his realistic target for opening the premises is Easter 2013. In relation to 'indoor/outdoor sports', Mr Rafi confirmed that the only activities proposed are soft play and bouncy castle. He also confirmed that baby changing facilities will be installed prior to opening.

Having considered the terms of the report, and the submissions made, the Chair moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.10 13 Bridgegate Square, Irvine

The Board considered an application for grant of a Provisional Premises Licence made by Nicandro Acaro for the above premises. Mr Acaro was present and was represented by Gordon Robertson, Solicitor.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Thereafter Mr Robertson addressed the Board on the issues arising, including the issue of overprovision. Mr Robertson concluded that it was his confident submission that, in this case, there is no overprovision. Referring to Section 3 of Mr O'Brien's Board report, Mr Robertson added that his client would be willing to remove any reference to 'adult entertainment' in the application if the Board regarded it as an issue.

The Chair confirmed that the Board would accept Mr Robertson's offer, to remove 'adult entertainment' from the application. The request for 'adult entertainment' is to be regarded as deleted and the application will be amended accordingly.

Having considered the terms of the report, and the submissions made, the Chair moved that the amended application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.11 Bilslands, Shore Road, Brodick, Isle of Arran

The Board considered an application for grant of a Premises Licence made by the Partnership of Alastair and Alison Bilsland for the above premises. The applicant was not represented.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Having considered the terms of the report, and the submission made, the Chair moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.12 Premises Licence 0316 Beith Golf Club, Threepwood Road, Beith

The Board considered an application for variations of a Premises Licence made by Beith Golf Club for the above premises. The Licence Holder was represented by Iain McDonald (Vice Chairman).

The Licence Holder was requesting the following variations:

1. Remove Conditions as to the playing of pool and darts in areas admitting Children under 16.
2. Add Outdoor Drinking.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Having considered the terms of the report, the Chair moved that the variations applied for be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. Standard Conditions C.10.3 (d) and (e) are disapplied.

A.13 Premises Licence 0046 Glenisle Hotel, Lamlash, Isle of Arran

The Board considered an application for variations of a Premises Licence made by Arran Hotels Ltd for the above premises. The Licence Holder was represented by Timothy Billings (Director, Arran Hotels Ltd, and Premises Manager).

The Licence Holder was requesting the following variations:

1. Vary Sunday on-sales opening hour from 12.30 pm to 11.00 am.
2. Vary Sunday off-sales opening hour from 12.30 pm to 10.00 am.
3. Extend O.P. to allow 'Dance Facilities' and 'Theatre'.
4. Extend O.P. to allow meal service from 7.00 am.
5. Allow 'Receptions' outside alcohol Core Hours.
6. Allow occasional use of TV in public areas for major sporting events.
7. Allow use of Outdoor Drinking Area from 8.00 am. for meals & soft drinks.
8. Increase Outdoor seating to 48 for normal use and 148 for functions.
9. Allow playing of board games inside premises and in O.D.A.
10. Allow hotel and third parties to sell goods [clarify-non-alcohol].
11. Allow resident under-18s to occupy a room alone.
12. Allow under-18s (resident or not) in restaurant 7 – 23.
13. Increase internal capacity from 70 to 119 (in addition to the outdoor capacity of up to 148).

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Thereafter Mr Billings addressed the Board on the issues arising. To accompany his submission he provided Board Members with a hand out, containing additional detail in relation to the variations applied for. In response to a question from Councillor Reid, Mr Billings confirmed that the outdoor drinking area is fully enclosed and that children would not

be able to run out onto the road from that area. He also clarified that the area(s) intended to be used for dancing were the central restaurant area and dining conservatory, and these areas would be fully cleared of all tables and chairs prior to any dancing taking place.

Councillor Bruce commented that he was fully supportive of all of the variations being applied for, and the Chair said that it was his view that variation 11 (allow resident under 18s to occupy a room alone) should definitely be granted, as a move towards this type of permission has been a long time in coming.

Mr Billings asked the Board if Standard Condition C.5.1 could be disapplied for two local community events (which take place at the premises) per year, one of which being the Lamlash Community Christmas event.

Having considered the terms of the report, and the submission made, the Chair moved that all variations applied for be granted, and that Standard Condition C.5.1 be disapplied as per Mr Billings request. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant, and to disapply Standard Condition C.5.1 on two occasions per year for local community events, one of which being the Lamlash Community Christmas event. The Board's Standard Conditions Edition 5 will now apply.

Standard Condition C.5.2 is amended to read:

'No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 am and later than 10.00 pm, except that on the patio area to the south of the hotel soft drinks and hot beverages may be consumed from 8.00 am each day'.

A.14 Premises Licence 0065 VG Store, 22/24 Guildford Street, Millport

The Board considered an application for variations of a Premises Licence made by A & M Dobbin Ltd for the above premises. The Licence Holder was represented by Alexander Dobbin (Director, A & M Dobbin Ltd) and Stephen Dobbin (Director, A & M Dobbin, and Premises Manager).

The Licence Holder was requesting the following variations:

1. Remove Conditions requiring CCTV. (Withdrawn by the Licence Holder)
2. Increase off-sales display area.
3. Increase Sunday Hours.
4. Change store's name.
5. Increase Hours 7 days a week.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Thereafter Stephen Dobbin addressed the Board on the issues arising. He confirmed that the request for variation 1 (remove conditions requiring CCTV) had been withdrawn from the application.

The Chair acknowledged Mr Dobbin's comments. The request to remove conditions requiring CCTV is to be regarded as deleted and the application will be amended accordingly.

Having considered the terms of the report, the Chair moved that variations 2-5 be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Board's Standard Conditions Edition 5 will now apply.

A.15 Premises Licence 0268 Ladeside of Kilbirnie Bowling Club, 6 Mill Road, Kilbirnie

The Board considered an application for variations of a Premises Licence made by Ladeside of Kilbirnie Bowling Club for the above premises. The Licence Holder was represented by John Turner (Club Secretary).

The Licence Holder was requesting the following variations:

1. Surrender Special Status as a 'Club'.
2. Designate a Premises Manager.
3. Amend Operating Plan to include Bingo, Poker, Pool and Quiz Nights.
4. Remove Conditions as to the playing of pool and darts in areas admitting Children under 16.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Thereafter Mr Turner addressed the Board on the issues arising. In relation to variation 2, he informed the Board that he would be appointed the Premises Manager at the Club.

Having considered the terms of the report, and the submission made, the Chair moved that all variations applied for be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. Part I of the Board's Standard Conditions will be replaced by Part K. Standard Conditions C.10.3 (d) and (e) are disapplied.

A.16 Premises Licence 0169 Non Such Snooker Club, 35 Windmill Street, Saltcoats

The Board considered an application for variation of a Premises Licence made by J & S Bingo for the above premises. The Licence Holder was represented by Gemma Keenan, a staff member at the premises.

The Licence Holder was requesting the following variation:

1. Increase on-sales closing time on Thursday from midnight to 1.00 am.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Having considered the terms of the report, the Chair moved that the variation be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.17 Premises Licence 0157 Keystore, 67/71 Ashgrove Road, Ardrossan

The Board considered an application for variation of a Premises Licence made by A C Currie Ltd for the above premises. The Licence Holder was not represented.

The Licence Holder was requesting the following variation:

1. Increase off-sales capacity from 20.0 sq.m. to 28.2 sq.m.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Having considered the terms of the report, the Chair moved that the Board decide to continue consideration of the application to the meeting on 6 February 2013. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to the meeting on 6 February 2013.

A.18 Premises Licence 0359 Ormidale Hotel, Brodick, Isle of Arran

The Board considered an application for variations of a Premises Licence made by Thomas Gilmore for the above premises. The Licence Holder was not represented.

The Licence Holder was requesting the following variations:

1. Add activities: conference facilities; receptions; club meetings; theatre; films.
2. Alter under – 18 access.
3. Remove Conditions as to the playing of pool and darts in areas admitting Children under 16.
4. Add off-sales.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Having considered the terms of the report, the Chair moved that all variations applied for be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Board's Standard Conditions Edition 5 will now apply. Part B of the Standard Conditions is added and Standard Conditions C.10.3 (d) and (e) are disappled.

A.19 Premises Licence 0337 Stevenston Post Office, 3 Townhead Street, Stevenston

The Board considered an application for variation of a Premises Licence made by Jaspreet Bawa for the above premises. Mrs Bawa was present and was accompanied by her husband, Mr Bawa.

The Licence Holder was requesting the following variation:

1. Increase in off-sales capacity from 23.52 sq.m. to 26.36 sq.m.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Councillor Munro stated that there were parking issues at the premises which needed to be resolved. The Chair said that he had been in touch with the Roads Department and they were looking into the issues.

Having considered the terms of the report, the Chair moved that the variation be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.20 Premises Licence 0222 Moorpark House Hotel, School Road, Kilbirnie

The Board considered an application for variations of a Premises Licence made by Graham Conrathe for the above premises. Mr Conrathe was present and was represented by Archie McIver, Solicitor.

The Licence Holder was requesting the following variations:

1. Amend Layout Plan to add Outdoor Drinking Area – North Terrace.
2. Amend Layout Plan to add Outdoor Drinking Area – West Terrace, Croquet Lawn and West Garden.
3. Amend Layout Plan to add Outdoor Drinking Area – South Terrace.
4. Vary Condition C.5.2 so as to permit use of North Terrace until 24.00 for the consumption of alcohol and smoking.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

An objection to the application had been lodged with the Licensing Section by David Wilson of Woodhill, School Lane, Kilbirnie. Mr Wilson was present and was represented by Ian Hunter, Solicitor. Copies of the written objection were given to Board Members. Mr McIver confirmed that he had seen a copy of the objection prior to the Board Meeting.

Mr McIver addressed the Board on the issues arising. He explained the background to the application and highlighted that Mr Conrathe, and his staff, has had difficulties with Mr Wilson for some time. Mr Conrathe has taken a number of measures in an attempt to accommodate Mr Wilson and resolve his complaints. However, the situation has now reached a stage whereby interdict proceedings have had to be raised against Mr Wilson due to his continued abusive behaviour towards hotel staff and guests.

Mr Hunter then addressed the Board on the issues arising. In response to Mr McIver's comments regarding the civil action raised against Mr Wilson, Mr Hunter stated that Mr Wilson would be vigorously defending the action. Mr Hunter referred to the letter of objection and to e-mails from Mr Wilson to Claire Simpson, Licensing Standards Officer, and he said that it was hoped that by bringing this application to the Board, Mr Conrathe would now realise, and operate in accordance with, the conditions attached to his licence. Mr Hunter stated that the nature of what was being requested would, if granted, have a severe and detrimental impact on Mr Wilson and his family, and as such he invited the Board to uphold the objection.

Mr Wilson requested an opportunity to address the Board. Following on from Mr Hunter's submission he said that all 3 outdoor drinking areas had already been operating for the last 4 years. He was not objecting to these areas being used. He was specifically objecting to the request to vary Condition C.5.2 (variation 4) and he was highlighting that the outdoor drinking areas should be clearly defined and delineated, and that patrons should remain within these specified areas.

Mr McIver stated that the drawings submitted with the application show a clear delineation of the areas being requested. With reference to variation 4, he highlighted that wedding guests, if simply walking around the hotel gardens, would not be subject to a time constraint in relation to this type of activity. Mr McIver added that the only complaints received are made by Mr Wilson. A Mr Kolonko occupies a property which is a similar distance from the hotel to

Mr Wilson's property, yet Mr Kolonko has never made any complaints or objections in relation to Moorpark House Hotel.

In response, Mr Wilson said that it would not be correct to compare his objections with a lack of objections from Mr Kolonko. Mr Wilson said that it was his belief that Mr Kolonko was in fact biased towards Mr Conrathe.

The Chair sought further information from the Licensing Standards Officer. Claire Simpson then reported on the extensive background to the case and to several previous attempts to mediate between the parties.

Councillor Bruce asked if Environmental Health had any comments or views regarding this case.

Mr Brennan said that Environmental Health had been sent an audio recording by Mr Wilson of a recent firework display which took place at Moorpark House Hotel. Mr Brennan explained that there are a number of factors to be taken into account when determining whether a statutory noise nuisance exists. In the case of the recent firework display, it was the view of Environmental Health that there was no such nuisance.

Referring to the audio recording of the firework display, Mr McIver highlighted that the event took place at 8.30 pm on 3 November, the closest Saturday to 'Guy Fawkes night', which, he argued, was hardly an unreasonable action on the part of Mr Conrathe.

Mr Wilson disagreed with Mr McIver and said the firework display being referred to had actually occurred the previous weekend, on 27 October, not 3 November.

The Chair asked if the hotel was just open for weddings.

Mr Conrathe said that Moorpark House Hotel is an exclusive wedding venue and weddings account for 99% of his business. So far this year there have been 106 weddings at the premises.

The Board adjourned at 2.15 pm and re-convened at 2.30 pm.

Having considered the terms of the report, and the submissions made, Councillor Marshall moved that firstly, variations 1, 2 and 3 be granted, and that secondly, variations 4 be refused, citing an inconsistency with the Licensing Objectives, in particular Licensing Objective (c) Preventing public nuisance. The motions were seconded by Councillors Bruce and Barr respectively. There were no counter-motions and the Board unanimously agreed, by means of a roll call vote, without dissent or abstention, to grant variations 1, 2 and 3, and refuse variation 4.

A.21 Premises Licence 0375 Dundonald Links, Ayr Road, Irvine

The Board considered an application for variations of a Premises Licence made by Loch Lomond Golf Club Ltd for the above premises. The Licence Holder was represented by Archie McIver, Solicitor.

The Licence Holder was requesting the following variations:

1. Amend status of Club to gain 'Special Status'.
2. Delete Mandatory Conditions 4 & 5.
3. Delete appointment of Premises Manager.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Having considered the terms of the report, the Chair moved that all variations applied for be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Board's Standard Conditions Edition 5 will now apply. Part I of the Standard Conditions is added.

A.22 Premises Licence 0163 Morrisons, Kilwinning Road, Stevenston

The Board considered an application for variation of a Premises Licence made by Wm Morrison Supermarkets PLC for the above premises. The Licence Holder was represented by Mr Taylor, Solicitor, and he was accompanied by James Reid (Premises Manager).

The Licence Holder was requesting the following variation:

1. Increase off-sales display from 173.63 sq.m. to 191.4 sq.m.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Having considered the terms of the report, the Chair moved that the variation be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.23 Garnock Valley Boxing Club – Walker Hall, Main Street, Kilbirnie

The Board considered an application for an Occasional Licence (803/12) made by Thomas Payne on behalf of Garnock Valley Boxing Club for the Walker Hall, Kilbirnie on 8 December 2012. Mr Payne was present.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising.

Thereafter Mr Payne addressed the Board on the issues arising. He highlighted that the Club is affiliated to the Scottish Amateur Boxing Association and, if granted, the event would be run in compliance with all of the applicable conditions.

Councillor Barr commented that he had attended a number of Garnock Valley Boxing Club events in the past, and they are always very well run.

Having considered the terms of the report, and the submissions made, the Chair moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.24 Brian Green – Volunteer Rooms, Irvine

The Board considered an application for an Occasional Licence (855/12) made by Brian Green for the Volunteer Rooms on 30 November 2012. The applicant was represented by Desmond Harkin of the martial arts organisation responsible for organising the boxing show.

The Board considered the terms of a verbal report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising.

Thereafter Mr Harkin addressed the Board on the issues arising. He highlighted that bouts would be equally arranged (in terms of experience and height), no under 16s would be involved, a full medical team would be in attendance, and the event would be stewarded by fully badged security staff. He added that his martial arts club were affiliated with the appropriate governing body.

Having considered the terms of the report, and the submissions made, the Chair moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

The Chair stated that Case 25, (an Occasional Licence application made by Alexander Mair) had been removed from the agenda as the event was cancelled.

A.26 Premises Licence 0080 The Waterside, 14 Bath Street, Largs

The Board considered applications for Extended Hours (884/12, 885/12 & 886/12) made by Brian Purdie (Premises Manager) for the above premises. The Licence Holder was represented by Andrew Hunter, Solicitor, and he was accompanied by Brian Purdie.

With reference to Case 5, the Chair moved that the Board also decide to continue consideration of the Extended Hours applications until the meeting in December 2012. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the Extended Hours applications to the meeting in December 2012.

3. Consideration of the Board's draft Statement of Principles 2013-2016 (Gambling Act 2005, Section 349).

The Chair moved that the Board decide to continue consideration of this matter until the meeting in December 2012. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the matter to the meeting in December 2012.

The meeting ended at 2.35 pm.