

**North Ayrshire Licensing Board
8 April 2019**

Irvine, 8 April 2019 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Councillors Ronnie McNicol (Convenor), Robert Barr, John Easdale, Scott Gallacher, Jean McClung, Davina McTiernan, Donald L. Reid and Angela Stephen.

In Attendance

W O'Brien, Solicitor (Licensing), G Cullen, Licensing Standards Officer and M Champion, Admin Assistant.

Also In Attendance

Inspector Raymond Kerr and Sergeant Raymond Ferguson (Police Scotland).

Convenor

Councillor McNicol.

Apologies for Absence

Todd Ferguson.

Declarations of Interest

None.

1. Minutes

The Board were asked to confirm the Minutes of the Board meeting held on 4 February 2019. 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 0503 Lagg Distillery, Visitor Centre, Kilmory, Isle of Arran

The Board considered an application for grant of a Provisional Premises Licence made by Isle of Arran Distillers Ltd for the above premises. The Applicant was represented by Faye Waterlow and James McTaggart.

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.

Ms Waterlow then addressed the Board. She explained that this is a brand new distillery and visitor centre, owned by the same company as the existing distillery in Lochranza. The Premises will consist of a retail area, a downstairs café providing snacks and an upstairs dining area with balcony for use as an outdoor drinking area. Guided tours will also be provided.

In response to questions from the Convenor, Ms Waterlow confirmed the on-sales core hours applied for were 10.00 until 23.00 Sunday to Thursday and 10.00 until 01.00 Friday and Saturday with a capacity for 320 people. With regards to access by under 18's, Ms Waterlow confirmed they would be permitted access to the retail area and the cafe for snack lunches. The outdoor drinking area at the front of the building would potentially be used for a marquee to hold weddings or local festivals and the area at the back would be used by customers to have drinks outside.

Referring to Seasonal Variations, the Convenor highlighted to Ms Waterlow that Extended Hours applications would require to be submitted for late openings over the Festive period.

Ms Waterlow advised the Board the intended opening date of the distillery would be in May. She also confirmed to Councillor Barr the closest residential area is a farm approximately 200m from the distillery.

With regards to the use of the outdoor drinking area, the Convenor highlighted the Board's Standard Condition does not allow the use of the area before 11.00 am, Ms Waterlow asked the Board if the Condition could be amended in order to allow the use of the outdoor drinking area from 10.00 am.

Concerning children's access, Ms Waterlow confirmed to the Convenor that she would accept the wording "No person under 18 will be permitted to remain within 1 metre of any bar" being added to the Operating Plan.

Having considered the terms of the report, and the submissions made, Councillor Barr proposed that the Board grant the application, with use of the outdoor drinking area from 10.00 am. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A, B, C and F. The Convenor explained that no under 18's are to be permitted within 1 metre of the bar area. The Board's Standard Condition C.5.2 was amended to read: "No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 10.00 am and later than 10.00 pm."

Councillor Barr wished them success in their new adventure.

A.2 Premises Licence 0469 Public House, 11-13 Bridge Street, Kilbirnie

A.3 Premises Licence 0470 Brewery, 96 Main Street, Dreghorn, Irvine

The Board considered applications for Extensions of Provisional Period made by Arran Brew Ltd for the above premises. The Premises Licence Holder was represented by Gerald Michaluk, Director.

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

Mr Michaluk then addressed the Board. He explained that the original business plan was to have their site in Loch Earn up and running followed by the Dreghorn Brewery then upgrade their Arran site and finally the site at Kilbirnie. Due to vandalism at the Dreghorn site, they had to change their plans and upgrade the brewery in Arran, temporarily, rather than commence bottling in Dreghorn. Furthermore, delays have also been caused by a fire at the site in Loch Earn which still awaits an insurance settlement. The insurance claim could take 3 years to settle. Recently, some facilities were installed at the Dreghorn site but only last week it was broken into again causing considerable damage. They had been doing trials and had produced 5 cases of beer on the site. The vandals had put fire extinguishers through doors and smashed lots of bottles. The following day, while he was on site, the vandals returned. Mr Michaluk then explained that he had raised alternative funding following the sale of part of the Loch Earn site in order to get the projects back on track.

Referring to the recent break in at Dreghorn, Mr Michaluk advised Councillor Barr that the individuals were aged between 18-20 years old and ran off when he saw them. He advised that during this break-in the very expensive equipment on site was not damaged but during previous break-ins they smashed autoclaves resulting in approximately £7,000 worth of damage.

Councillor Easdale expressed his sympathy to the break-ins and hoped the vandals would be found by the Police.

Mr Michaluk confirmed to the Convenor that they had started the process of employing a caretaker and had received over 90 applicants. They also intended to create 5-6 jobs within the bottling hall. He explained that an extension period of 2 years for both sites would be sufficient for their needs.

Having considered the terms of the reports, and the submissions made, Councillor Reid proposed that the Board grant the extension applications for a further period of 2 years. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant the extension periods.

The Board wished Mr Michaluk the best of luck with the new ventures.

A.4 Premises Licence 0150 The Alton Inn, 57 Byres Road, Kilwinning

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Partnership of Allison Fullarton & Gary Fullarton, for the above premises. The Premises Licence Holder was represented by one of the Partners, Mrs Fullarton.

The Licence Holder was requesting the following variations:

1. Increase on-sales hours to NALB Policy
2. Increase off-sales hours to NALB Policy
3. Amend access arrangements for under-18s - increase the 'meal' period to 8.30 pm
4. Amend access arrangements for under-18s - increase the 'private function' period to Core Hours (midnight or 1.00 am, and with Extended Hours, 1.00 or 2.00 am)
5. Amend access arrangements for under-18s - to allow children of staff on the Premises
6. Open up cellar area - increase capacity from 60 to 80
7. Remove Conditions as to the playing of pool and darts in areas admitting 'Children' (under-16s)

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.

Mrs Fullarton then addressed the Board. She explained the request to have children of staff on the premises was mainly in case of emergencies, on occasions when she has had to deliver stock to the premises, this would allow her 2 children, aged 11 and 12, to accompany her. Additionally, there are staff members with children, who may also require to be on the premises for a short time due to an emergency situation. The request for young persons to be unaccompanied is to permit college students for meals. The increase in capacity is from opening the cellar area up, previously a piano bar many years ago, and creating a separate area for the playing of darts keeping them away from the bar area. They do run darts tournaments and have 2 teams based from the premises. Also, on occasion they have live bands playing and due to capacity may require to turn customers away. The request to amend the core hours is to cover party nights on occasion.

The Convenor explained that Variations 1, 2 and 3 are all within the Board's Policy. Variation 4 was discussed at length to allow children under 10 years of age, attending a private function, to be on the Premises until 12.00 midnight.

Mrs Fullarton confirmed to the Convenor the cellar area, although converted, was not opened yet. The intention is to put tables and chairs in this area giving more space and also creating a quiet area for when bands are playing. She confirmed in response to questions from Councillors McClung and Easdale that the snug area at the back of the premises is used for private functions and the cellar area is moved to the back door area.

Mrs Fullarton confirmed to Councillor McTiernan that currently children are permitted until 11.00pm and she would like them at a private function for an extra hour. She highlighted that during parties within the Premises she had to leave early with her children and would like to have them later at functions.

With regards to neighbours, Mrs Fullarton confirmed to Councillor Reid that they work hard to keep noise levels to a minimum and there has been a huge improvement in the relationship they have with neighbours.

Mrs Fullarton confirmed to the Convenor that the premises do not have an outdoor drinking area and advised Councillor Reid an emergency exit already exists in the former cellar area.

Councillor Barr noted his concerns regarding children in an areas where pool and darts are played, Mrs Fullarton confirmed darts are played on a Monday evening and no children are on the Premises at this time. Additionally, darts are played in a separate area from the bar area.

Referring to unaccompanied access of young persons, Mrs Fullarton advised the Convenor that this is to promote food for college students and all the staff are fully trained and operate Challenge 25.

Having considered the terms of the report, and the submissions made, the Board unanimously agreed without dissent or abstention to grant.

The existing Standard Conditions will be replaced by the current Edition 5.

Standard Conditions C.10.3 (d) and (e) do not apply, and Children will be allowed to enter the part of the Premises containing a dartboard, pool table or other facilities, on these conditions:

- (1) if the Child is under supervision of an adult of 18 or over, the Child can use those facilities or remain in the area where those facilities are, or

- (2) whether the Child is supervised or not, he/she can pass through the area for the sole purpose of immediately and necessarily travelling to or from the Premises' toilets,
- (3) The dispensation will only apply to the current Layout Plan. If the layout of the Premises changes, facilities are moved, or new facilities are added, a new request for dispensation will be needed, and the fact that the Board has agreed to the current one does not mean that a future dispensation will be agreed;
- (4) The Board may from time to time, on one or more occasions, reconsider the question of dispensation and may withdraw or vary it."

The following text to be added to the Operating Plan, Question 6(b) Terms:

Children under 10 years of age attending a private function should not be on the Premises after 12.00 midnight.

Children of staff members may be on the Premises until 8.30 pm if they are:

- accompanied by a parent or guardian.
- in a part of the Premises which is continuously under supervision by staff (either line-of-sight or by CCTV), or
- in the toilets.

This applies to Children (aged 0 to 15 years), and to Young Persons (aged 16 to 17 years) whose parent is on the staff of the Premises.

A.5 Premises Licence 0085 Sheiling Bar, 144 Main Street, Largs

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Rodger Property Ltd, for the above premises. The Premises Licence Holder was represented by Mark Rodger and Lucy Rodger, Directors.

The Licence Holder was requesting the following variations:

1. Formation of kitchen and add 'restaurant' and 'bar meals' to the licence
2. Amend access rules for under 18's
3. Change Description of Premises

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.

Mr Rodger then addressed the Board. He advised the intention is to provide restaurant facilities and turn the premises into a bistro/bar eatery/restaurant which is more family friendly. He confirmed to the Convenor that contractors are currently on site with the plan to complete works in the next week or two. They are looking to attract someone to operate the converted premises as a bar or bar/restaurant.

Referring to the Board Report, Mr Rodger confirmed that he undertook to accept the Conditions not to open to the public until these were all met and Environmental Health had inspected the Premises and reported directly to Licensing. He also confirmed that baby changing facilities would be available and a Premises Manager would be appointed.

Mr Rodger advised Councillor Easdale of the location of the premises and explained that it had been closed for some time.

In response to questions from the Convenor in relation to time scales for opening the Premises, Mr Rodger explained that he hoped the works would be completed within the next 2 weeks and he was in fact meeting the contractors after the Licensing Board meeting for an update. He confirmed phase one of the works included painting the outside and installing new floor to ceiling windows. He hoped to create a similar type of venue typical of a bistro in the West End of Glasgow with Planning Permission for the change of use to a Class 3 Premises granted in order to allow food.

Having considered the terms of the report, and the submissions made, the Board unanimously agreed without dissent or abstention to grant with the following Conditions:

The Premises will not open to the public until all these conditions are met:

(a) the Premises have been inspected by the Council's Environmental Health Department and that Department has told the Board that the Premises are suitable for the provision of food and drink to the public;

(b) the Premises have told the Board where Baby-Changing Facilities accessible by both genders will be (unless the Children access is limited to age 5 and older);

(c) the Premises Licence has been further varied by the appointment of a Premises Manager.

The Board wished Mr Rodger success in the venture.

A.6 Premises Licence 0243 Pitchers, 18 Bank Street, Irvine

The Board considered applications for Extended Hours (149 & 150/19) made by Signature Works (Scotland) Ltd for the above premises. The applications are for an extension of core hours to 2.30 am on Sunday 5 May and 26 May 2019 for the May Bank Holidays. The Premises Licence Holder was represented by Stephanie Kerr, Premises Manager.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the applications and summarised the issues arising. The Board also had regard to a report by Grace Cullen, Licensing Standards Officer.

Ms Kerr then addressed the Board with the background to the applications. She advised that on these occasions they will have 80's & 90's nights due to the May bank holidays, these events attract an older clientele. She confirmed to the Convenor there would be 5 stewards within the club and 7 members of staff on duty with only the downstairs area open.

Ms Kerr advised Councillor Reid that normally this type of event would attract between 100 and 150 customers and these nights would consist of a DJ playing 80's and 90's music.

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

A.7 Premises Licence 0060 Crofters, Shore Road, Brodick

The Board considered applications for Extended Hours (173 & 174/19) made by Crofters Arran Limited for the above premises. The applications are for an extension of core hours to 3.00 am on Friday 7 June and Saturday 8 June 2019 for the Arran Folk Festival. The Premises Licence Holder was represented by Donal Boyle, Director.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the applications and summarised the issues arising. The Board also had regard to a report by Grace Cullen, Licensing Standards Officer.

Mr Boyle then addressed the Board. He explained that in previous years Extended Hours were granted until 2.00 am for the Arran Folk Festival and had always ran smoothly without incident. He himself is a musician connected to the bands that will play.

Mr Boyle confirmed to the Convenor that the Premises have a capacity of 45 people and is run primarily a bistro. There has never been an issue with congestion otherwise it would spoil the enjoyment of the music. He explained the clientele would normally be over 30s and the Premises does not normally attract younger people. Only acoustic music is provided, including traditional festival fiddles, accordion and singers and in the past 5 years has never had any noise complaints. He also confirmed SIA trained security officers would provide security.

Having considered the terms of the report, and the submissions made, Councillor Barr moved that the applications be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant the Extended Hours applications. The Convenor advised that if these events go by without incident or complaint future applications for Extended Hours for this event could be determined using Delegated Powers.

3. The Equality Act 2010: Mainstreaming Report 2017-2019

The Board considered a report by the Solicitor (Licensing) on the Mainstreaming of duties under The Equality Act 2010: Mainstreaming Report 2017-2019. Mr O'Brien briefed the Board on the report and recommended the Mainstreaming Report be adopted.

Having considered the report, the Board unanimously agreed without dissent or abstention to accept the recommendation and adopt the Equality Act 2010: Mainstreaming Report 2017-2019 and publish this on the Board's web site.

4. Annual Joint Meeting with Local Licensing Forum

The Board held its annual joint meeting with the Local Licensing Forum, Minutes were recorded and are available at North Ayrshire Council, Licensing Section.

The meeting ended at 11.10 am.