

**North Ayrshire Licensing Board
22 August 2012**

Irvine, 22 August 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, Ian Clarkson, Ruth Maguire, Alex McLean, Alan Munro, Donald Reid and Robert Steel.

In Attendance

W O'Brien, Senior Solicitor, G Cullen, Licensing Standards Officer, C Simpson, Licensing Standards Officer, C Pollock, Licensing Assistant, P Brennan, Specialist Environmental Health Officer (Noise), Chief Inspector Ritchie and Constable Ritchie, Strathclyde Police.

Chair

Councillor McNicol in the Chair.

Apologies for Absence

None

1. Minutes

The Board were asked to confirm the Minutes of the Board Meeting held on 26 June 2012. The Chair proposed that the Minutes be adopted and this was seconded by Councillor Barr. 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 0346 Irvine Snooker Club, 53 East Road, 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, Sant Ltd, was represented by Ian Hunter, Solicitor.

The Review Application was made by the Chief Constable by a letter to the Board, dated 18 April 2012.

Mr Hunter was given the opportunity to address the Board on the issues arising. Mr Hunter confirmed that there had been no further proceedings in relation to the Court trial since the last Board meeting in June, and as such he requested that the case be continued again.

Chief Inspector Ritchie said that it was a matter for the Board to decide on the request for continuation, however, the Police are of the view that there is precedence for hearing Review Applications prior to the outcome of Court trials.

Having considered the submissions made, the Chair moved that the Board decide to continue consideration of the Review Application until the meeting on 3 October 2012. 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 3 October 2012.

A.2 Personal Licence NA1115 Ravinder Singh

Mr O'Brien highlighted the occurrence of two Review Hearings in relation to Irvine Snooker Club. 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 Ravinder Singh, the Premises Manager, as a Personal Licence Holder, requiring the Board to hold a Personal Licence Review Hearing. Mr Singh was not present but was represented by Ian Hunter, Solicitor.

The Report was made by the Chief Constable by a letter to the Board, dated 18 April 2012.

Mr Hunter was given the opportunity to address the Board on the issues arising. He reiterated his submission for Agenda Item A.1, and requested that this case also be continued.

Chief Inspector Ritchie said that his comments for the previous Agenda Item were also applicable for this case.

Having considered the submissions made, and with reference to the decision taken in the previous case, the Chair moved that the Board also decide to continue consideration of the Personal Licence Review until the meeting on 3 October 2012. 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 3 October 2012.

The Chair commented to Mr Hunter that his client(s) should be present when the Reviews are heard at the next Board meeting.

A.3 Premises Licence 0007 Bar One, 55 Vernon Street, Saltcoats

The Board resumed consideration of a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Bar One (Saltcoats) Ltd, was represented by Mr Mirner, Solicitor, and he was accompanied by Miriam Wyllie (Premises Manager).

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The Review Application was made by the Chief Constable by a letter to the Board, dated 21 June 2011. Copies of the letter were given to Board Members and the content of the letter was summarised by Chief Inspector Ritchie.

Chief Inspector Ritchie stated that it was the view of the Police that the Licence Holder had failed in their duty to prevent crime and disorder.

The Board then considered the terms of a report by the Senior Solicitor 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, Licensing Standards Officer.

Mr Mirner was given the opportunity to address the Board on the issues arising. Mr Mirner said that the fact that the incident occurred was not being disputed, however, the position of the Licence Holder was that the staff acted entirely properly and in accordance with their obligations to uphold the crime and disorder licensing objective. The unauthorised door steward referred to in the Police letter was in fact a barman who had decided to assist the properly licensed door steward because he knew the customer that was causing problems and he thought his involvement might help to bring the incident to a satisfactory conclusion. The barman was not operating as a door steward, he was merely assisting the fully authorised door steward. The barman was charged as detailed in the Police letter, but no prosecution was brought and no other action taken in relation to the charge. Mr Mirner added that, as he understood the legislation, it was perfectly competent for an SIA authorised steward to be assisted by a non SIA licensed member of staff.

Regarding the accusations and charges of serious assault, Mr Mirner said that medical assistance / the calling of an ambulance was offered to the individual but was refused. On leaving the locus of the Bar One, the individual went on to drink for a further 3 hours in another pub in Saltcoats that night and did not present himself at hospital until 3.30 am in the early hours of Sunday morning. Given these facts, Mr Mirner said that the Licence Holder disputed the charges of serious assault. There was CCTV footage available, which the Procurator Fiscal had access to, and indeed the Fiscal decided against proceeding with any prosecutions in relation to the charges of serious assault.

Mr Mirner noted that the Licensing Standards Officer had reported that the Licence Holder and premises staff are very co-operative. As a result of this incident, the staff at the premises are now operating a policy whereby they are reporting absolutely everything to the Police, which in a number of instances may well be a waste of Police time. The duty manager, who was shortly to become the premises manager, is a SIA authorised door steward, and the 3 other duty managers are also going to become SIA trained and licensed, all of which is well above and beyond what is required.

Mr Mirner concluded that, based on the content of his submission, the Grounds for Review had not been established, and he invited the Board to find accordingly.

Chief Inspector Ritchie was given the opportunity to address the Board on the issues arising. He confirmed that the premises staff were very helpful, however, during this incident, the individual concerned received a laceration to the head that required 8 stitches. That would constitute serious assault. It is the view of the Police that on this occasion the staff at the premises did not fulfil all of their obligations in relation to the crime and disorder licensing objective. This was a violent incident which went on for around 15 minutes without any call being made to the Police. Chief Inspector Ritchie said that the Police were unaware of why the Fiscal did not proceed with any prosecutions, however, it would be a guess to say that the decision was due to any viewing of the CCTV images.

Mr Mirner said that the individual fell at the Bar One premises. 4 ½ hours later he presented himself at hospital. There was nothing to confirm that the 2 facts were linked.

Mr Mirner added that he did not accept that a call to the Police would have led to a different outcome in this situation as Police response times can vary.

The Chair asked if Ryan Murray was still the Premises Manager.

Mr Mirner said that Ryan Murray was no longer the Premises Manager at the Bar One, however, he was still employed by the same company to manage another premises.

Councillor Reid asked if the Pubwatch scheme was in operation at the time of the incident.

Mr Mirner said that the scheme was not in operation at that time, however, it was subsequently started and the Bar One was one of the founder members. In fact, Ms Wyllie is the Chairperson of the Saltcoats Pubwatch initiative.

Councillor Barr asked if the individual concerned is now barred from the premises. The Chair also asked if that individual is barred from all of the premises within the Pubwatch scheme.

Ms Wyllie confirmed that the individual is definitely barred from the Bar One, however, as the incident occurred prior to formation of the Pubwatch scheme, she was not aware of him being barred from other licensed premises in Saltcoats.

Chief Inspector Ritchie said that he had further information to add with regard to the injury sustained by the male patron. He informed the Board that when the stewards were interviewed under caution, they stated that the individual was pushed and he fell, sustaining the head injury at that time.

The Board adjourned at 10.28 am and re-convened at 10.35 am

The Chair 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, the Chair moved that it was appropriate to take no further action. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

The Chair commented that the Board were happy with the measures which had been put in place at the premises, as described by Mr Mirner. Ms Wyllie is to be commended for her contribution to the setting up of the Saltcoats Pubwatch initiative, and the Board would encourage the practice, currently in place at the premises, of regular communication with the local Police.

A.4 Premises Licence 0241 Revels, 53-59 Main Street, Kilwinning

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Revels Sports Bar and Diner Ltd, was not represented.

The Review Application was made by the Chief Constable by a letter to the Board, dated 31 July 2012.

Mr O'Brien informed the Board that Steven Boyce, a Director of Revels Sports Bar and Diner Ltd, and also the Premises Manager, submitted a letter to the Licensing Office at 9.00 am today requesting that the Board continue consideration of the Review Application to a future meeting. Mr Boyce was requesting the continuation in order to be able to instruct a Solicitor to appear in his defence.

Mr O'Brien said that Mr Boyce has claimed that he only received 6 days notice of the Review Hearing. Claire Simpson, Licensing Standards Officer, informed the Board that she had delivered the citation letter to the Premises on 13 August 2012, giving Mr Boyce 9 days notice of the Review Hearing.

Having considered the written submission from Mr Boyce, and the information supplied by Mr O'Brien and Ms Simpson, the Chair moved that the Board decide to continue consideration of the Review Application until the meeting on 3 October 2012. 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 3 October 2012.

Councillor Reid commented that although he agreed with the Chair's motion, he wished to note his disapproval with the situation and Mr Boyce's decision not to attend the Board meeting.

A.5 Premises Licence 0364 The Buffs Tavern, 26 Main Street, Kilwinning

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder (and also the Premises Manager), Kenny Salmon, was present. Mr Salmon was accompanied by his wife, Andrea Salmon, a Personal Licence Holder and member of staff at the Buffs Tavern.

The Review Application was made by the Chief Constable by a letter to the Board, dated 18 July 2012. Copies of the letter were given to Board Members and the content of the letter was summarised by Chief Inspector Ritchie.

Chief Inspector Ritchie stated that it was the view of the Police that the Licence Holder had failed in his duty to prevent crime and disorder.

The Board then considered the terms of a report by the Senior Solicitor 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.

Mr Salmon was given the opportunity to address the Board on the issues arising. He explained that he had been off duty on the night in question and it transpired that his niece had taken unwell during that evening, and ended up at hospital. In fact his niece had taken unwell and collapsed outside the premises and Mr Salmon had been involved in helping his niece. He stated a belief that had he been on duty at the premises that night, he wouldn't be up in front of the Board today. He accepted that the staff member who had been left in charge, an 18 year old by the name of Ryan Mullen, was inexperienced and displayed a bad attitude towards the Police when they entered the premises.

Mrs Salmon said that the premises staff were at fault for not closing the doors when they should have. However, it was her view that there were still people in and around the premises when the Police arrived because people were concerned to find out how her niece was after she had collapsed outside the premises earlier in the evening.

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Councillor Munro commented that perhaps it was inappropriate for the Board to make a decision on the Review Hearing before the outcome was known of the criminal proceedings, referred to in the Police letter.

Chief Inspector Ritchie stated that the matters detailed in the Police letter are not Sub Judice, and therefore it is the view of the Police that the Board can deal with the Review Application prior to the outcome of the criminal charges referred to in the letter.

Councillor Steel asked if action had been taken to prevent a re-occurrence of the failures at the premises which were detailed in the Police letter.

Mrs Salmon said that all staff members have been re-trained in relation to the drinking up and closing of the premises procedures and regulations.

The Chair asked Mr Salmon how long he had been the Licence Holder at the Buffs Tavern.

Mr Salmon said he had been the Licence Holder at the premises for 11 years and he added that he was extremely sorry for what had happened.

Councillor Clarkson asked how many staff were on duty that night.

Mr Salmon said that only 1 member of staff was on duty that evening but another 3 members of staff (all Personal Licence Holders) appeared at the premises at 11.00 pm, having returned from being out for a meal. Mr Salmon added that there were only 10 persons in the premises that night.

Mrs Salmon said that she was one of the staff members who had appeared at the premises at 11.00 pm.

Councillor Reid asked Mr Salmon if there is CCTV at the premises.

Mr Salmon said that there is no CCTV at the premises.

Councillor Reid asked how long Mr Mullen had been working at the premises, whether he had explained to the Police who Mrs Salmon was, and whether Mrs Salmon attempted to intervene when Mr Mullen was not assisting the Police as required.

Mrs Salmon said that Mr Mullen had been working at the premises since 24 March 2012, he hadn't attempted to explain to the Police that Mrs Salmon was present and was a Personal Licence Holder and the wife of the Premises Licence Holder. She herself had attempted to intervene but the Police had told her to be quiet.

Councillor Reid noted from Ms Simpson's report that on the 8 May 2012, over 2 months from when Ryan Mullen started at the premises, there was no completed staff training record in place for Mr Mullen.

The Board adjourned at 10.54 am and re-convened at 11.04 am

The Chair 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, the Chair moved that it was appropriate to take no further action. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

The Chair commented that Mr Salmon should ensure that staff training records are kept up date, that he strongly consider deploying more trained / experienced staff behind the bar, and that he act in a more vigilant manner in his role as Premises Licence Holder.

A.6 Premises Licence 0315 North Ayrshire Staff Association, Perceton House Courtyard, Irvine

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder was represented by Mark Wilson (Club Chairperson and Treasurer).

The Review Application was made by the Chief Constable by a letter to the Board, dated 18 July 2012. Copies of the letter were given to Board Members and the content of the letter was summarised by Chief Inspector Ritchie.

Chief Inspector Ritchie stated that it was the view of the Police that the Licence Holder had failed in its duty to prevent crime and disorder.

The Board then considered the terms of a report by the Senior Solicitor 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.

Mr Wilson was given the opportunity to address the Board on the issues arising. Referring to the events described in the Police letter, Mr Wilson explained that the Club opened on the afternoon of the 9th June (2012) and as the day went on it was becoming obvious that the bar convenor (a Ms Maureen Irish) had consumed too much too drink and so steps were taken to close the bar. It was at this point that the assault occurred. A subsequent meeting of the Club Committee took place, during which the decision was taken to bar Ms Irish from the premises and remove her as a Member of the Club Committee.

Again referring to the Police letter of 18 July 2012, Mr Wilson stated that he disputed the allegation that the no drinks had been put through the till on that evening. Mr Wilson said that he had the till roll with him today and it showed transactions being made through the till on that evening.

The Chair asked the Police if there were any outcomes from the related Court proceedings.

Chief Inspector Ritchie said that there was a 'Not Guilty' outcome in relation to the alleged assault charge. There are, as yet, no outcomes in relation to the alleged Licensing offences. Chief Inspector Ritchie added that on reviewing the Police paperwork, it would appear that the officers who attended the Club on the evening of 9th June 2012, noted that no till roll was available to them for inspection.

Referring to Chief Inspector Ritchie's summary of the Police letter, Councillor Clarkson asked for some clarification regarding comments which appeared to suggest that the Club were operating out with their core hours.

Chief Inspector Ritchie apologised for theses comments, which were made in error, and he confirmed that there was no suggestion or allegation by the Police that the Club were operating outside their core hours.

Councillor Reid asked Mr Wilson what had been done to ensure that procedures were tightened up at the Club. Mr Wilson said that there had recently been a re-shuffle of the Club Committee, and the present Committee are now taking complete responsibility for all

licensing matters such as possessing and displaying the appropriate licence paperwork and signage, and the correct completion of training records and maintenance of the Club's visitor book.

The Chair asked Mr Wilson how many members the Club have and what fee is paid by the members on an annual basis.

Mr Wilson explained that the Club has 1600 members who are current NAC employees and 8 associated members. Each member pays a one off annual payment of £10.00 or they have the option of paying £1.00 per month which is deducted from their salary. Club members who operate as part of the Committee do so on a voluntary basis.

The Chair noted that annual revenue from membership fees must be in the region of £16,000.00, and he asked Mr Wilson what that money is used for.

Mr Wilson explained that the money is used to fund a number of things throughout the year including various social events for members as well as donations to worthwhile charities and good causes.

The Board adjourned at 11.20 am and re-convened at 11.25 am.

The Chair 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, the Chair moved that no further action be taken. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

The Board did not consider that any action under Section 84 should be taken in relation to any Personal Licence held.

The Chair commented that the Club Committee should work closely with Claire Simpson, Licensing Standards Officer, and ensure that the Premises is managed in a proper, responsible manner from now on.

The Chair also added that if the three persons, referred to as being the subject of separate reports to the Procurator Fiscal, are subsequently convicted in relation to the offences alleged then the Club will be re-cited to attend a future meeting of the Licensing Board.

A.7 Premises Licence 0080 The Waterside, 14 Bath Street, Largs

The Board considered 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 Adrian Howlett of Greene King Retailing Ltd and 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.

As Mr Brennan started to make his report, Mr Hunter interrupted and stated that a request for continuation had been made to Mr O'Brien prior to the meeting and would the Board please consider the request before the Environmental Health report is read, the content of which is one of his client's concerns.

Mr Brennan said that a noise limiter device had just been installed at the premises and a request for assistance had been made to Environmental Health. Despite the very short notice, Officers visited the premises yesterday and attempted to establish a suitable noise level. A noise level of 77db in the premises would result in a noise level of 50db in the street, and these would only be acceptable levels up until 11.00 pm, from an Environmental Health perspective.

Referring to the 2 Abatement Notices that had been issued by Environmental Health in relation to the premises, Mr Hunter explained that this was a fluid situation as appeals will be lodged with the Sheriff against both Notices. Both Notices refer to 'Excessive Noise', which is very much a subjective matter and the references to 'Excessive Noise' are without definition.

Mr Hunter explained that the Licence Holder and Mr Purdie, Premises Manager, want to engage and work with Environmental Health regarding these issues. A traffic light noise limiter has been purchased and the Licence Holder was hoping to have Environmental Health in attendance when an acoustic survey of the premises is conducted by noise consultants. Mr Hunter also highlighted that he only received a copy of Mr Brennan's report on Friday (17 August 2012). Mr Hunter added that the Licence Holder was re-looking at options for a double door at the front of the premises. Previously this had been ruled out as not being possible, but, having obtained further advice, it appears that it may now be a viable option.

The Chair said that surely the Licence Holder had had enough time between the Review Hearing on 26 June 2012 and now to deal with these issues.

Mr Hunter replied that, with respect, this was not the case. The Licence Holder and Premises Manager had complied with the condition imposed by the Board at the June Board meeting, however, from the Licence Holder's perspective the next development was not until 3 August 2012, when the first Abatement Notice was served by Environmental Health.

The Chair asked for Mr Brennan's comments.

Mr Brennan said that if Mr Purdie undertook to cancel the live bands or limit the noise to 77db (inside) / 50db (being the resultant noise level outside), and cease the bands and noise at 11.00 pm then there may not be an on-going problem.

Councillor Clarkson stated his surprise at Mr Hunter's request for a continuation.

Councillor Marshall said that he agreed with Councillor Clarkson and added that even a noise limit which resulted in 50db in the street was very loud.

Mr Hunter said that he apologised if it came across that he was trying to blame Environmental Health for the situation. On the contrary, the Licence Holder was looking to work with Environmental Health. However, the Noise Abatement Notices are completely subjective so there is no point in the Licence Holder making further investment on measures that may not be acceptable to Environmental Health. That is why they are seeking to engage Environmental Health in constructive dialogue, in order to achieve a lasting solution that is satisfactory.

Mr Brennan said that since February 2011, Mr Purdie has been given continued advice from Environmental Health Officers. The overriding issue is that the noise from the premises does not 'blend in' with the surrounding area, and it is not the responsibility of Environmental Health to solve the problem.

Councillor Steel asked if Environmental Health had been able to take readings of the noise levels in this case.

Mr Brennan explained that readings had been taken and these were detailed in his report. The readings that were taken were in contravention of the World Health Organisation guidelines. Mr Brennan explained that noise is both a subjective and an objective thing, but the relevant legislation does state that noise should not cause nuisance.

Mr Hunter said that this was all very well, however the information and detail contained in Mr Brennan's report was not provided to the Licence Holder until very short notice prior to the Board. In the absence of this detailed information it would have been extremely hard to achieve compliance before now.

The Chair stated that in his opinion the case should be heard in full today.

Councillor Reid said that he thought the Licence Holder had taken reasonable steps and that the request for continuation should be considered by the Board.

Councillor Maguire said that the Board should not delay as residents would continue to suffer. Councillor Clarkson agreed with Councillor Maguire's comments. The Chair stated that the Review Hearing would proceed.

Mr Brennan made his report. The Board then considered the terms of a report by the Senior Solicitor 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 was given the opportunity to address the Board on the issues arising. He said that he wished to renew the request for continuation, but this time with an undertaking. The undertaking being that until the case was next considered by the Board, a noise limiter will be set to cut off at 77db (noise level within the premises), and that amplified music will terminate at 11.00 pm. This would allow all options, such as the possible installation of double doors, to be explored in the interim period.

Councillor Clarkson stated that he was delighted with this change in approach from Mr Hunter, on behalf of the Licence Holder, and that he would now be in favour of the revised continuation request.

The Board adjourned at 12.05 pm and re-convened at 12.15 pm

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 the meeting on 3 October 2012, based on the undertaking given by Mr Hunter on behalf of the Licence Holder. 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 3 October 2012.

Until the Board direct otherwise, amplified music will terminate at 11.00 pm and up until 11.00 pm a noise limiter will be set to cut off at 77db (noise level within the premises), the maximum level deemed acceptable by Environmental Health.

A.8 Premises Licences 0088 & 0117 Martin McColl Ltd

On the basis of information initially received from the Licence Holder's agent, and subsequently confirmed by the Chief Constable, Martin McColl 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 Senior Solicitor which set out the Chief Constable's Notice and summarised 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.9 Premises Licence 0087 Bilslands, Shore Road, Brodick, Isle of Arran

The Board considered an application for Transfer of a Premises Licence, under Section 34, made by the Partnership of Mr Alistair Bilsland and Alison Bilsland, for the above premises. Mr Bilsland was present.

The Board then considered the terms of a report by the Senior Solicitor which set out and summarised the issues arising. Referring to the report, Mr O'Brien highlighted that Transfer applications are usually dealt with under Delegated Powers. However, in this case, and for the reasons set out in the report, it was Mr O'Brien's view that the matter had to be referred to the Board because the application was incompetent and should be refused.

Mr Bilsland was given the opportunity to address the Board on the issues arising. Mr Bilsland said that he was asking the Board to consider and grant a late application. He did not dispute the lateness of the application. When he initially contacted the Licensing Office regarding the situation, Mr Pollock had advised him to obtain legal advice as quickly as possible. Mr Bilsland said that he had done so but had encountered complications when it transpired that the prospective Premises Manager, Lynn Bowles, did not have a Personal Licence. This has since been rectified and for these reasons Mr Bilsland was requesting that the Board use their Dispensing Power, under Section 135 of the Licensing (Scotland) Act 2005, to allow the late application.

Mr Bilsland explained that he himself had built the premises years ago. Unfortunately, his most recent tenants, Mr and Mrs Hill, who were also the Licence Holders at the premises, had encountered financial troubles. Mr Bilsland was aware that the licence would need to be transferred, but other events took over and unfortunately the application was not made when it should have been. Mr Bilsland added that it was the view of his Solicitor that the Board do have Dispensing Powers under Section 135.

Referring to his report, Mr O'Brien explained that the Dispensing Power under Section 135 does not apply in this situation. The relevant and applicable section of the Act in this scenario is Section 34. It is clear that the required action (the submission of the Transfer application) was not taken within 28 days of the event, the event being the Renunciation of the Lease by Mr and Mrs Hill. Given these circumstances, the Licence has ceased to exist and cannot therefore be transferred or varied.

Councillor Bruce said that Bilslands is a significant retail business, which employs 26 people on the Island of Arran. Mr Bilsland had built the business up over many years. Mr and Mrs Hill have brought the business to its knees and Mr Bilsland has had to come out of retirement in order to rescue the business. Councillor Bruce described Bilslands as the 'Nardinis of Arran', and he stated that in these circumstances, if the Board do have the option of Dispensing Powers, then they should use them to help Mr Bilsland.

Councillor Munro asked Mr O'Brien if there was any positive advice that could be given or offered to Mr Bilsland.

Mr O'Brien reiterated his previous comments and highlighted that the Dispensing Power under Section 135 is not an available option for the Board in this situation. It is an unfortunate situation but there is no escaping the fact that the Licence had ceased to exist. In response to Councillor Munro question, Mr O'Brien explained that Mr Bilsland's agent had been advised in some detail about the requirement for a new application to be lodged.

The Board adjourned at 12.30 pm and re-convened at 12.44 pm.

Having considered the terms of the Senior Solicitor's report, and the submissions made, the Chair confirmed that the Board agreed with the view that the Licence had ceased to exist and therefore the Board have no discretion to allow a late application. The Chair said to Mr Bilsland that the Board did sympathise with his situation but the fact that the Licence had died meant that there were no options available to the Board. Mr Bilsland should contact Mr O'Brien at the Licensing Office to discuss the way forward regarding a new Premises Licence application.

Councillor Reid departed the meeting at 12.50 pm.

A.10 Premises Licence 0246 The Burns Tavern, 34-36 High Street, Irvine

The Board resumed consideration of an application for variation of a Premises Licence made by Gurpreet Singh Batth for the above premises. Mr Batth was present and was represented by Brian Dunlop, Solicitor.

The Licence Holder was requesting the following variation:

1. Extend the hours of the second floor function suite, so that on Fridays and Saturdays the premises can be used as a nightclub between 9.00 pm and 2.30 am. Otherwise the second-floor would continue to be used as a function suite (already Licensed).

The Board considered the terms of a report by the Senior Solicitor which set out the results of consultations on the application and summarised issues arising. The Senior Solicitor updated the Board on progress made against the observations set out in the report.

Mr O'Brien highlighted that since the application first called at the Board on 16 April 2012, a letter of objection to the application had been received (on 22 June 2012) from Carruthers Curdie Sturrock & Co, on behalf of Irvine Leisure Limited, the Licence Holder at Pitchers Nightclub, Irvine. It was agreed at the meeting on 26 June 2012 that the Board would consider whether to permit this late objection as a preliminary matter at the continued Hearing. Reid Hamilton, Solicitor, of Carruthers Curdie Sturrock & Co was present.

Mr O'Brien also informed the Board that a further late objection to the application had been received at the Licensing Office on 30 July 2012. The objection was submitted by a Mr Cameron of 21F High Street, Irvine. Mr Cameron was not present or represented.

Mr Dunlop was given the opportunity to address the Board regarding the 2 late objections. He confirmed that he had seen copies of both objections, and on behalf of his client, he was happy for both objections to be heard.

Copies of the objections were given to Board Members. Board Members were also given a pack by Mr Dunlop, containing information regarding the variation proposal.

Mr Dunlop explained that the application had been initially continued at the April Board meeting to allow Mr Batth the opportunity to provide further, additional information about the proposal. Mr Dunlop said that the premises are now running successfully as a public bar / lounge / restaurant operation. However, at the moment the premises is missing a nightclub facility, similar to facilities operated at Pitchers, in Bank Street, and the Kings, which is further up the High Street. The purpose of Mr Batth's application is to bring the Burns Tavern into line with Pitchers and the Kings.

Referring to page 2 of Mr O'Brien's report, Mr Dunlop stated that he wished to address any concerns the Board may have regarding the 3 licensing objectives mentioned in the report. Regarding 'crime and disorder', Mr Dunlop explained that the premises currently employ 2 SIA badged stewards and the premises are covered by 16 CCTV cameras. If the variation application is granted then an additional 3 SIA badged stewards would be employed and 5 additional cameras would be installed.

Regarding 'securing public safety', Mr Dunlop highlighted that Building Standards have now provided a breakdown of occupancy capacity figures. The figures provided are a 43% reduction in previous capacity and Mr Dunlop confirmed that the reduced figures would be acceptable to his client, regardless of whether the variation was granted or not. Mr Dunlop added that plastic glasses are currently used in the function room, and this would continue to be the case during the nightclub hours, if granted.

Mr Dunlop explained that the proposal is aimed at retaining customers who are already at the premises. If the nightclub facility was permitted it would reduce the movement of people around the town centre prior to the 12.30 am curfew, which would surely be a good thing in relation to the licensing objectives.

Regarding 'improving public health', Mr Dunlop explained that if the proposal was granted, there would be a reduction in operating hours, compared to the present situation.

Regarding the objection lodged by Mr Cameron, Mr Dunlop highlighted that neither the Police or Environmental Health have made any adverse comments, and Mr Cameron has never approached Mr Batth to notify his concerns. Mr Batth is mindful of the local residents and he has measures in place to ensure that the entertainment on offer at the premises does not impact on his neighbours. There was one 'noise' incident on 23 June this year that was caused by some customers leaving a fire exit door open. The incident was dealt with and it was the only incident / complaint received in the last 12 months, during which there has been around 40 private functions at the premises.

Regarding the objection lodged by Irvine Leisure Limited, Mr Dunlop said that such an objection used to be called a 'trade objection', submitted in a bid to gain protection from competition. Mr Dunlop highlighted sections 1.4 and 2.2 of the Board's own Licensing Policy Statement, and he also referred to Scottish Government Guidance which says that such objections should not be taken into account by Licensing Boards when they are considering and preparing overprovision assessments. Mr Batth is seeking to vary an existing licence, not applying for a new one.

Mr Dunlop said that one of the town centre nightclubs, Descent, has been closed for a long time, and that licence is perhaps regarded as a sellable asset. In comparison, Mr Batth is a Licence Holder who is wishing to make investment in his premises. The intention is not to attract patrons from the existing nightclubs, Pitchers and Viva (at the Kings), it is simply to retain the customers that are already at the premises. Mr Dunlop concluded his submission by inviting the Board to grant the application.

Mr Hamilton was given the opportunity to address the Board on the issues arising. Mr Hamilton said that when determining whether there is overprovision, there is a logical connection between provision and demand. Who is better to judge the demand in an area than an existing operator, such as the Licence Holder at Pitchers. Mr Hamilton then provided customer figures for Pitchers for Friday and Saturday nights in the early part of 2012, in comparison to the same type of figures collated recently. Mr Hamilton highlighted a reduction in customer numbers at Pitchers and said there was at present a lack of demand for nightclub facilities in Irvine, and as such he proposed that the Board reject Mr Batth's application.

Mr Dunlop said that the Irvine area has a population in the region of 50,000, and the current nightclub provision in the town, in terms of capacity, is actually 'under capacity' in comparison with other towns in Ayrshire.

Paul Brennan (Specialist Environmental Health Officer (Noise)), confirmed that a complaint was received on 23 June 2012 in relation to noise emanating from the premises. A letter of warning was issued to the Licence Holder and no further complaints have been received since.

Councillor Clarkson commented that the proposed nightclub is very close to the amenity housing on East Road.

Mr Dunlop said that Mr Batth had made contact with the residents in East Road some time ago and had provided them with his direct contact details in case they had any issues with the premises. He added that it was notable that the proposed nightclub area had been operating as a function suite for 12 months and no complaints had been made by any of the residents at the amenity housing on East Road during that time.

Councillor Clarkson said that there had been issues in the past with waste from the premises and had these issues been resolved?

Mr Batth confirmed that these issues have been resolved as there is now a contract in place for Lowmac to lift the waste from the premises twice a week.

Councillor Clarkson also asked if smokers (who were patrons of the nightclub) would have to leave the nightclub area and the premises to smoke.

Mr Dunlop confirmed that this would be the case.

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 3 October 2012. He said that the Board want to visit the premises prior to deciding whether to grant the application or not. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to the meeting on 3 October 2012.

The Chair informed Mr Dunlop that Mr O'Brien would be in contact with him in relation to the arrangements for the site visit.

A.11 Premises Licence 0243 Pitchers, 18 Bank Street, Irvine

The Board considered an application for variations of a Premises Licence made by Irvine Leisure Limited for the above premises. The Licence Holder was represented by Reid Hamilton, Solicitor, who was accompanied by John Duncan (Director, Irvine Leisure Limited).

The Licence Holder was requesting the following variations:

1. Extend nightclub opening to 1.00 am, Monday – Wednesday in festive period.
2. Extend first floor bar hours to 1.00 am on a Sunday.
3. Allow boxing.

The Board considered the terms of a report by the Senior Solicitor which set out the results of consultations on the application and summarised issues arising. The Senior Solicitor updated the Board on progress made against the observations set out in the report.

Mr Hamilton was given the opportunity to address the Board on the issues arising. In relation to variation 1, he explained that problems arose in December 2011 with regard to not being able to extend core that do not exist. This application is aimed at addressing that problem, so that in future years core hours exist for every day of the week, which can be extended during the festive period by means of the appropriate applications. With regard to variation 2, Mr Hamilton highlighted that there had been no Police objections, and he invited the Board to grant variations 1 and 2.

Mr Hamilton said that variation 3 was perhaps the most controversial of the variations being applied for. He then provided a number of details to the Board regarding the proposal for boxing. There would be only 3 events per year, all held in the afternoon, events would be all ticket, and spectators would not have access to the bar during an event. Boxing events would be for over 18s only and the Building Standards capacity figure of 200 is completely acceptable to the Licence Holder.

Mr Hamilton added that it was his understanding that all bouts would take place under the authority of the Scottish Amateur Boxing Association. A paramedic, paid for privately, would be on standby at the premises throughout the event. Local charities would benefit from the proposed boxing events and records would be kept detailing all costs and charitable donations made.

Councillor Barr said that it was his understanding that the proposal was for 200 spectators to be standing at events. He highlighted that he had been attending boxing events for 16 years and every event had always involved spectators being seated. Councillor Barr also added that the medical practitioner in attendance should be a General Practitioner.

Mr Hamilton commented that Building Standards did not have any issue or problem with the proposal for 200 persons to be standing.

Mr Duncan said that a reputable and experienced promoter would be in control of the boxing events, and the highest standards of operation would be ensured.

Mr Hamilton said that his client was happy to accept the draft conditions suggested by Mr O'Brien, and furthermore his client was more than happy for the Licensing Board to make a site visit to Pitchers if it would assist the Board in their consideration of this matter.

The Board adjourned at 1.55 pm and re-convened at 2.05 pm.

Having considered the terms of the report, and the submissions made, the Chair moved that variations 1 and 2 be granted and that the Board decide to continue consideration of variation 3 to the meeting on 3 October 2012. He said that a site visit would be required prior to deciding whether to grant variation 3 or not. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant variations 1 and 2 and continue consideration of variation 3 to the meeting on 3 October 2012.

In relation to variation 2, the following additional condition is added:

‘No customer shall be permitted entry (on payment or not) after 00.30 am’.

The Chair informed Mr Hamilton that Mr O’Brien would be in contact with him in relation to the arrangements for the site visit.

A.12 Premises Licence 0432 Gulab Brasserie, 2a Stanecastle Road, Irvine

The Board considered an application for variations of a Premises Licence made by Summel & Summel Ltd for the above premises. The Licence Holder was represented by Ian Hunter, Solicitor.

The Licence Holder was requesting the following variations:

1. Include Bar Area.
2. Permit ‘Games Nights’ such as playstation and Wii games.
3. Amend arrangements for under 18s access.

The Board considered the terms of a report by the Senior Solicitor which set out the results of consultations on the application and summarised issues arising. The Senior Solicitor updated the Board on progress made against the observations set out in the report.

Mr Hunter was given the opportunity to address the Board on the issues arising. Referring to the June Board meeting, he explained the background to the application and highlighted that the public bar area of the premises now has planning permission, and as such the Licence Holder was proposing to re-instate the public bar back into the premises licence.

Regarding variation 3, Mr O’Brien commented that the proposed accesses for under-18s are confusing to say the least.

Councillor Clarkson noted that the proposals, if granted, would permit young children to be at the premises till 1.00 am.

Mr Hunter said that the Licence Holder would be happy to restrict the access time for children, aged 0-11, to 10.00 pm for all parts of the premises.

The Chair confirmed that the Board would accept the restriction and the application will be amended accordingly.

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

Variation 3 is amended so that the latest access time for children, aged 0-11, is restricted to 10.00 pm for all parts of the premises.

A.13 Premises Licence 0186 Altachorvie, Shore Road, Lamlash, Isle of Arran

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

The Licence Holder was requesting the following variations:

1. Add Outdoor Drinking Area.

2. Amend Licence Condition to allow outdoor drinking before 11.00 am and after 10.00 pm.
3. Extend entertainment.
4. Appoint a new Premises Manager.

The Board considered the terms of a report by the Senior Solicitor which set out the results of consultations on the application and summarised issues arising. The Senior Solicitor 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 be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

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 11.00 pm, except that tea, coffee and soft drinks may be taken into or consumed at the front of the building after 9.00 am'.

A.14 Premises Licence 0414 Brodick Golf Club, Clubhouse, Brodick

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

The Licence Holder was requesting the following variations:

1. Allow weddings, funerals, birthdays etc.
2. Allow live performances.
3. Allow children in 'Casual Bar' and 'Games Room' to play pool.
4. Allow soft drinks, tea and coffee to be served on patio from 9.00 am.

The Board considered the terms of a report by the Senior Solicitor which set out the results of consultations on the application and summarised issues arising. The Senior Solicitor updated the Board on progress made against the observations set out in the report.

In relation to variation 3, Mr O'Brien highlighted that the Licence Holder had agreed to the suggested wording for the Operating Plan section 6(b), as detailed in the Board report. With regard to variation 4, Mr O'Brien also highlighted that the Licence Holder had agreed to the suggested variation of Standard Condition C.5.2, similarly detailed in the Board report.

Having considered the terms of the report the Chair moved that all variations 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.

Standard Conditions C.10.3 (d) and (e) are removed and 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 tea, coffee and soft drinks may be taken into or consumed on the terrace shown on the Layout Plan after 9.00 am'.

A.15 Premises Licence 0280 Dreghorn Bowling Club, 88 Main Street, Dreghorn

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

The Licence Holder was requesting the following variations:

1. Surrender Club 'Special Status'.
2. Appoint a Premises Manager.
3. Increase capacity from 150 to 200.

The Board considered the terms of a report by the Senior Solicitor which set out the results of consultations on the application and summarised issues arising. The Senior Solicitor 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. Part I of the Board's Standard Conditions will be replaced by Part K.

A.16 Premises Licence 0122 The Crown Inn, 38-40 Main Street, Dreghorn

The Board considered an application for variation of a Premises Licence made by Walcal Property Development Ltd for the above premises. The Licence Holder was not represented.

The Licence Holder was requesting the following variation:

1. Add Outdoor Drinking Area.

The Board considered the terms of a report by the Senior Solicitor which set out the results of consultations on the application and summarised issues arising. The Senior Solicitor 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. The Board's Standard Conditions Edition 5 will now apply.

3. Gambling Act 2005 – Consultation on Casinos.

The Board considered a report by the Senior Solicitor, recommending that the Board consider a response to questions asked by the National Casino Industry Forum.

Having considered the report, the Board agreed on a view that North Ayrshire is adequately provided for at present in terms of Casinos, by way of the premises licensed in other Scottish cities and large towns. The Senior Solicitor will send an appropriate response to The National Casino Industry Forum, reflecting the Board's view.

The meeting ended at 2.25 pm.