

Cunninghame House,
Irvine.

21 June 2012

North Ayrshire Licensing Board

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, 3rd Floor, Cunninghame House, Irvine on **TUESDAY 26 JUNE 2012** at **10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

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

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

Licensing Board

Sederunt: Ronnie McNicol (Chair)
 Tom Marshall (Vice-Chair)
 Robert Barr
 John Bruce
 Ian Clarkson
 Ruth Maguire
 Alex McLean
 Alan Munro
 Donald Reid
 Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Agenda Item 2

26 June 2012

North Ayrshire Licensing Board

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

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

Recommendation: That the Licensing Board determines the applications.

1. Introduction

- 1.1 The Licensing Board is responsible for determining applications made under the Licensing (Scotland) Act 2005, and for determining questions under that Act.
- 1.2 The Board has previously approved a Scheme of Delegation whereby certain matters can be delegated. In addition, applications for Premises Licences can be granted by the Board via a List.
- 1.3 The Scheme of Delegation also delegates the grant or renewal of a Personal Licence where the applicant has not been convicted of a "relevant offence" or "foreign offence". In those cases where the Police report that the applicant has such convictions, the Board itself must determine the application.

2. Current Position

- 2.1 The applications before the Board are set out in the attached appendices. Each appendix contains reports prepared by licensing staff for each individual case before the Board. i.e.

Matters under the Licensing (Scotland) Act 2005:

- Appendix A: Provides details of Premises Licence applications or any other applications requiring a Hearing.
- 2.2 In the case of appendix A, the applications have been considered by officers. Correspondence with the applicants has often resulted in amendments to resolve issues. Recommendations in respect of each individual application are contained in the appended reports.
 - 2.3 Where relevant the reports have been copied to the applicants and any persons making objections or representations. Any objections or representations have been copied to the applicants, so that a response might be made at the Board Hearing.

3. Proposal

- 3.1 It is proposed that the Licensing Board determines each matter as recommended.

4. Implications

- 4.1 If the Licensing Board makes a decision, in some cases the applicant, licensee and persons making objections and representations may appeal to the Sheriff or Sheriff Principal.

5. Consultation

- 5.1 Appropriate consultation has taken place with Strathclyde Police and with the Council's Building Standards and Planning Sections.

6. Conclusion

- 6.1 The Licensing Board requires to determine applications and questions under the Licensing (Scotland) Act 2005.

Clerk to the Licensing Board

Reference : WO'B/KA

For further information please contact William O'Brien, Depute Clerk to Licensing Board , on 01294 324305.

APPENDIX A

Premises Licence Applications or any other Applications requiring a Hearing

Case No	Licence No	Applicant/Licence Holder	Premises	Comments
1	0184	Taylors Hotel Scotland Ltd 28-30 North Street Dalry KA24 5DW	Taylors 68-78 Byres Road Kilwinning KA13 6JU	Review Application - Section 36
2	0237	Ms Margaret Bradford 26 Hawthorn Court Kilwinning KA13 6DN	Tower Inn 37 Main Street Kilwinning KA13 6AN	Review Application - Section 36
3	0327	Greene King Brewing & Retailing Ltd, c/o Belhaven Pubs Atrium House 6 Back Walk Stirling FK8 2QA	The Carrick 112-114 High Street Irvine KA12 8AH	Review Application - Section 36
4	0346	Sant Limited 8 Loach Avenue Irvine KA12 0EX	Irvine Snooker Club 53 East Road Irvine KA12 0BT	Review Application - Section 36
5	0080	Greene King Retailing Ltd c/o Belhaven Pubs Atrium House 6 Back Walk Stirling FK8 2QA	The Waterside 14 Bath Street Largs KA30 8BL	Review Application - Section 36
6	0040, 0181, 0235, 0304, 0411	Tesco Stores Ltd Tesco House Delamare Road Cheshunt Hertfordshire EN8 9SL	Various premises	Review Proposal - Section 37.
7	0197	Linnpinn Ltd c/o James Perman & Company, 2 Bellman's Close Largs KA30 8AP	Room 48-52 Gallowgate Square Largs KA30 8LX	Application for Variation of Premises Licence - Section 29.

8	0246	Mr Gurpreet Singh Batth 2a Stanecastle Road Irvine KA11 1AE	The Burns Tavern 34-36 High Street Irvine KA12 0AY	Application for Variation of Premises Licence - Section 29. Continued from 16/04/12.
9	0124	Mrs Balbir Kaur 5 Lyle Gardens Irvine KA11 4DR	Costcutter Store 20-22 Nelson Street Largs KA30 8LW	Application for Variation of Premises Licence - Section 29.
10	0229	Ms Rajwinder Kaur Nijjer 2 Dalry Road Kilbirnie KA25 6HY	Newhouse Mini Market 4 Dalry Road Kilbirnie KA25 6HY	Application for Variation of Premises Licence - Section 29.
11	0257	Punch Partnership Ltd Jubilee House Second Avenue Burton on Trent DE14 2WF	Pierhead Tavern Main Street Lamlash Isle of Arran KA27 8JN	Application for Variation of Premises Licence - Section 29.
12	0281	Skelmorlie Bowling Club The Crescent Skelmorlie PA17 5DX	Skelmorlie Bowling Club, The Crescent Skelmorlie PA17 5DX	Application for Variation of Premises Licence - Section 29.
13	0381	Mr David Castelveccchi 37 Walkerston Avenue Largs KA30 8EP	Graze Restaurant Crossroads Barkip By Dalry KA24 4JF	Application for Variation of Premises Licence - Section 29.
14	0431	J D Wetherspoon (Scot) Ltd Wetherspoon House Central Park Reeds Crescent Watford WD24 4QL	Proposed Public House at Rivergate Shopping Centre, Rivergate Irvine KA12 8EH	Application for Grant of Provisional Premises Licence - Section 45.
15	0432	Summel & Summel Ltd 46 Milgarholm Avenue Irvine KA12 0EJ	Gulab Brasserie 2a Stanecastle Road Irvine KA11 1AE	Application for Grant of Premises Licence - Section 20.
16	0433	Mr Davinder Summel 10 Piersland Place Girdle Toll Irvine KA11 1QF	Le Raj Restaurant 32a Bank Street Irvine KA12 0AD	Application for Grant of Premises Licence - Section 20.

- | | | | | |
|----|--------|---|--|---|
| 17 | NA1365 | Mr Calum Gibb
78 Darg Road
Stevenston
KA20 3AZ | | Application for Grant of
Personal Licence - Section
74. |
| 18 | 421/12 | Mr Gerald Michaluk
30 Haggswood Avenue
Glasgow
G41 4RH | Isle of Arran Brewery
Cladach
Brodick
Isle of Arran
KA27 8DE | Application for Occasional
Licence - Section 56. |

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"Taylor's Hotel", 68 Byres Road, Kilwinning KA13 6JU
Premises Licence Holder	Taylor's Hotel (Scotland) Ltd
Ref.	0184

1. Background

By letter of 22 May 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the 'preventing crime and disorder' Licensing Objective.

3. Licensed Hours

The Premises are Licensed for both on-sales and off-sales.

The Premises consist of

- (a) a 'sports bar', restaurant and function room
- (b) a lounge bar which operates as a nightclub

On 4 October 2011 the Board granted variations related to a proposed reconstruction of the Premises. That reconstruction has not in fact taken place. The Board varied the Operating Hours as follows. On 29 November 2011 the PLH gave an undertaking that the nightclub would close at 2.00 and not 2.30 as previously licensed.

As varied by the Board, the operating hours are:

On-sales:

- (a) 'sports bar', restaurant and function room

Mon	10.00	24.00
Tue	"	"
Wed	"	"
Thur	10.00	1.00
Fri	"	"
Sat	"	"
Sun	10.00	24.00

(b) lounge bar (nightclub)

Mon	10.00	24.00
Tue	"	"
Wed	"	"
Thur	10.00	2.00
Fri	"	"
Sat	"	"
Sun	10.00	24.00

Off-Sales (parts (a) & (b)):

Mon	10.00	22.00
Tue	10.00	22.00
Wed	10.00	22.00
Thur	10.00	22.00
Fri	10.00	22.00
Sat	10.00	22.00
Sun	10.00	22.00

4. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, and to any Personal Licence Holder named in this Report, with the date, time and place of the Hearing.

5. Additional Powers of inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5) and (6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;

- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

6. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

7. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Report to the North Ayrshire Licensing Board

From

Claire Simpson, Licensing Standards Officer

Subject: Premises Licence Review, Taylors, Byres Road, Kilwinning.

Purpose: To advise the Board of the LSO's position regarding the premises.

Recommendation: That the Board have regard to the information provided in reaching its decision in the Premises Licence Review.

1. Introduction

I am unable to comment on the particular circumstances related to the Premises Licence Review as it has been instigated by the Chief Constable and is based on incidents in which I had no involvement.

2. Current Position

I met with Mr Graeme Kerr, Premises Licence Holder and Designated Premises Manager on 4th June 2012.

I conducted an inspection of compliance with Premises Licence Conditions; several matters were found to be outstanding, which were highlighted and detailed in my Inspection Report and a re-visit was arranged for 25th June 2012 to follow up on these issues.

In relation to the Chief Constable's application, Mr Kerr stated the following:

- His reasons for directly employing Stewards were to achieve consistency of approach within the premises and to improve the standard of service being delivered.
- At 1st April 2011, Mr Kerr was not aware of the requirement to hold the appropriate SIA Licence.
- Since he became aware of this requirement, he has applied on 2 occasions and has had his application refused on the grounds of improper completion of the application forms.
- Mr Kerr has requested a 3rd application pack from the SIA and is awaiting these documents.

3. Conclusion

I am unable to offer further comment on the Premises Licence Review at this time.

Personal Licence Review Hearing - Section 84A

Applicant	Graeme Kerr, 5 Gullane Place, Kilwinning KA13 6TR (D.O.B. 16/9/78)
Ref.	NA1199

1. Background

The Personal Licence Holder is the Premises Manager of "Taylor's Hotel", 68 Byres Road, Kilwinning (NALB 184).

Section 84A entitles the Chief Constable to report to the Board where he considers that any Personal Licence Holder has acted in a manner which is inconsistent with any of the Licensing Objectives.

By letter of 22 May 2012 the Chief Constable reported certain circumstances relating to the Personal Licence Holder. Copies of the letter will be distributed to Members at the Meeting.

2. Procedure

Under Section 84A(2) the Board must, on receipt of that Report, hold a Hearing and give the Personal Licence Holder and the Chief Constable an opportunity to be heard.

At the Hearing, the Board must have regard to

- (a) the Report,
- (b) any comments made by the Personal Licence Holder,
- (c) any comments made by the Chief Constable.

3. Board's Powers on Review

If the Board it considers it is necessary for any of the Licensing Objectives, the Board may:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An Endorsement lasts 5 years. If a holder gets 3 Endorsements in a 5 year period, then there is a further Hearing, at which the Licence might be Suspended (for up to 6 months) or Revoked.

The Board is not obliged to take any of these steps, and may decide to take no further action. The Personal Licence Holder can appeal to the Sheriff against any decision taken at a Hearing.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"Tower Inn", 37 Main St., Kilwinning. KA13 6AN
Premises Licence Holder	Margaret Bradford
Ref.	0237

1. Background

By letter of 31 May 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the 'preventing crime and disorder' Licensing Objective.

3. Licensed Hours

The Premises are Licensed for both on-sales and off-sales. The operating hours are:

On-sales:

Mon	10.00	24.00
Tue	"	24.00
Wed	"	24.00
Thur	"	1.00
Fri	"	1.00
Sat	"	1.00
Sun	12.30	24.00

Off-Sales:

Mon	10.00	22.00
Tue	"	22.00
Wed	"	22.00
Thur	«	22.00
Fri	«	22.00
Sat	«	22.00
Sun	12.30	22.00

4. Capacity etc.

The Premises have a capacity of 167 customers, and an off-sales display capacity of 13.7 square metres.

Activities other than the sale of alcohol:

- (a) Generally: Restaurant facilities, Bar Meals, Receptions, Club or other group meetings.
- (b) Entertainment: Recorded Music, Gaming, Indoor/outdoor Sports, Televised Sport. Soup and Sandwiches are provided during football games.
- (c) The Premises do not have Outdoor Drinking Facilities.
- (d) The Premises allow under-18s of all ages only:
 - to the upper floor (restaurant), and
 - if accompanied by adult
 - to 21.00.

5. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and

have been intimated to the Premises Licence Holder with the date, time and place of the Hearing. The LSO will attend the meeting and give an oral report.

6. Additional Powers of inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5) and (6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;

- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Personal Licence Review Hearing - Section 84A

Applicant	Margaret Bradford, 26 Hawthorn Court, Kilwinning, KA13 6DN (D.O.B. 9.12.60)
Ref.	NA0429

1. Background

The Personal Licence Holder is the Premises Manager of "Tower Inn", 37 Main St, Kilwinning, KA13 6AN (NALB No. 237).

Section 84A entitles the Chief Constable to report to the Board where he considers that any Personal Licence Holder has acted in a manner which is inconsistent with any of the Licensing Objectives.

By letter of 31 May 2012 the Chief Constable reported certain circumstances relating to the Personal Licence Holder. Copies of the letter will be distributed to Members at the Meeting.

2. Procedure

Under Section 84A(2) the Board must, on receipt of that Report, hold a Hearing and give the Personal Licence Holder and the Chief Constable an opportunity to be heard.

At the Hearing, the Board must have regard to

- (a) the Report
- (b) any comments made by the Personal Licence Holder,
- (c) any comments made by the Chief Constable.

3. Board's Powers on Review

If the Board it considers it is necessary for any of the Licensing Objectives, the Board may:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An Endorsement lasts 5 years. If a holder gets 3 Endorsements in a 5 year period, then there is a further Hearing, at which the Licence might be Suspended (for up to 6 months) or Revoked.

The Board is not obliged to take any of these steps, and may decide to take no further action. The Personal Licence Holder can appeal to the Sheriff against any decision taken at a Hearing.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"The Carrick", 112-114 High Street, Irvine KA12 8AH.
Premises Licence Holder	Greene King Brewing and Retailing Ltd (t/a Belhaven Pubs)
Ref.	0327

1. Background

By letter of 25 April 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the 'preventing crime and disorder' Licensing Objective.

3. Licensed Hours

The Premises are Licensed for both on-sales and off-sales. The operating hours are:

On-sales:

Mon	9.00	24.00
Tue	"	24.00
Wed	"	24.00
Thur	"	1.00
Fri	"	1.00
Sat	"	1.00
Sun	10.00	24.00

Off-Sales:

Mon	10.00	22.00
Tue	10.00	22.00
Wed	10.00	22.00
Thur	10.00	22.00
Fri	10.00	22.00
Sat	10.00	22.00
Sun	10.00	22.00

4. Capacity etc.

The Premises have a capacity of 408 customers, and an off-sales display capacity of 27.5 square metres.

Activities other than the sale of alcohol:

- (a) Generally: Bar Meals, Receptions, Club or other group meetings.
- (b) Entertainment: Recorded Music, Live Performances, Gaming, Televised Sport, quiz nights, dominoes and charity nights.
- (c) The Premises have Outdoor Drinking Facilities.
- (d) The Premises allow under-18s of all ages if accompanied by adult, for meals, either:
 - (i) until 21.00, or
 - (ii) until the end of a function.

5. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, and to any Personal Licence Holder named in this Report, with the date, time and place of the Hearing.

6. Additional Powers of inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5) and (6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;

- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Report to the North Ayrshire Licensing Board

From

Claire Simpson, Licensing Standards Officer

Subject: Premises Licence Review, The Carrick, High Street, Irvine.

Purpose: To advise the Board of the LSO's position regarding the premises.

Recommendation: That the Board have regard to the information provided in reaching its decision in the Premises Licence Review.

1. Introduction

I am unable to comment on the particular circumstances related to the Premises Licence Review as it has been instigated by the Chief Constable and is based on incidents in which I had no involvement.

2. Current Position

I met with Mr Brian Flannigan, Designated Premises Manager at the premises on Friday 8th June 2012.

I conducted an inspection of compliance with Premises Licence Conditions and found there to be a high standard of compliance throughout the premises. (A copy of the Inspection Report can be made available to Members.)

In relation to the Chief Constable's application, Mr Flannigan stated the following:

- Toilet Checks were completed regularly throughout the day of the incident and records of these checks were maintained. There was no evidence to suggest that the individual concerned had been using illegal drugs or secretly drinking alcohol etc, whilst within the premises toilets. Mr Flannigan confirmed that had he suspected such activities, he would have contacted the Police immediately.
- Mr Flannigan has been cited to Court on 21st June 2012 to enter his plea.

3. Conclusion

I can offer no further comments on the Premises Licence Review at this time.

Personal Licence Review Hearing - Section 84A

Applicant	Brian Flannigan, 33 Glenearn Road, Perth, PH2 0NW (D.O.B. 7.4.78)
Ref.	PK 0504

1. Background

The Personal Licence Holder is the Premises Manager of "The Carrick", 112-114 High Street, Irvine KA12 8AH (NALB 327).

Section 84A entitles the Chief Constable to report to the Board where he considers that any Personal Licence Holder has acted in a manner which is inconsistent with any of the Licensing Objectives.

By letter of 25 April 2012 the Chief Constable reported certain circumstances relating to the Personal Licence Holder. Copies of the letter will be distributed to Members at the Meeting.

2. Procedure

Under Section 84A(2) the Board must, on receipt of that Report, hold a Hearing and give the Personal Licence Holder and the Chief Constable an opportunity to be heard.

At the Hearing, the Board must have regard to

- (a) the Report
- (b) any comments made by the Personal Licence Holder,
- (c) any comments made by the Chief Constable.

3. Board's Powers on Review

If the Board it considers it is necessary for any of the Licensing Objectives, the Board may:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An Endorsement lasts 5 years. If a holder gets 3 Endorsements in a 5 year period, then there is a further Hearing, at which the Licence might be Suspended (for up to 6 months) or Revoked.

The Board is not obliged to take any of these steps, and may decide to take no further action. The Personal Licence Holder can appeal to the Sheriff against any decision taken at a Hearing.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"Irvine Snooker Club", 53 East Road, Irvine, KA12 0BT
Premises Licence Holder	Sant Ltd
Ref.	0346

1. Background

By letter of 18 April 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the following Licensing Objectives:

"(a) preventing crime and disorder"

"(e) protecting children from harm."

3. Licensed Hours

The Premises are Licensed for on-sales only. The operating hours are:

Mon	11.00	24.00
Tue	11.00	24.00
Wed	11.00	24.00
Thur	11.00	1.00
Fri	11.00	1.00
Sat	10.00	1.00
Sun	11.00	24.00

4. Capacity etc.

The Premises are subject to the appropriate parts of NALB's Standard Conditions (A,C & F), but with some conditions (as to the position of pool tables) disapplied.

The Premises have a capacity of 150 customers.

Activities other than the sale of alcohol:

- (a) Generally: None
- (b) Entertainment: Gaming, Indoor/outdoor Sports and Televised Sport.
- (c) The Premises do not have Outdoor Drinking Facilities.

- (d) The Premises do not allow Children under 5.

Under-18s only allowed at the bar to buy soft drinks and snacks, and may not sit at the bar.

Access conditions:

(i) Children (5-9 years)

if accompanied by adult, until 22.00.

(ii) Children and Young People (10-17 years)

No need to be accompanied by adult.

If not accompanied, until 22.00. If accompanied, for whole Core Hours.

5. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, and to any Personal Licence Holder named in this Report, with the date, time and place of the Hearing.

6. Additional Powers of inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5) and (6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;
- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the

Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Report to the North Ayrshire Licensing Board

From

Claire Simpson, Licensing Standards Officer

Subject: Premises Licence Review, Irvine Snooker Club, 53 East Road, Irvine.

Purpose: To advise the Board of the LSO's position regarding the premises.

Recommendation: That the Board have regard to the information provided in reaching its decision in the Premises Licence Review.

1. Introduction

I am unable to comment on the particular circumstances related to the Premises Licence Review as it has been instigated by the Chief Constable and is based on incidents in which I had no involvement.

2. Current Position

I visited the premises with Mrs Grace Cullen, Licensing Standards Officer, on Wednesday 6th June 2012 to conduct an inspection of compliance with Premises Licence Conditions. On this occasion, the staff member on duty was Ms Michelle Cook and Mr Jatinder Singh was present for some of the visit.

A number of matters were found to be outstanding, which were highlighted in discussion, in my Inspection Report and an accompanying letter and a re-visit was arranged for 25th June to follow up on these issues. (Copies of both Inspection Reports can be made available to Members.)

The Designated Premises Manager, Baldev Singh was not present and therefore not able to comment on the circumstances pertaining to the Review application.

3. Conclusion

I am unable to offer further comment on the Premises Licence Review at this time.

Personal Licence Review Hearing - Section 84A

Applicant	Ravinder Singh, 8 Loach Ave, Irvine, KA12 0EX (DOB 17/5/80)
Ref.	NA1115

1. Background

By letter of 18 April 2012 the Chief Constable reported certain circumstances relating to 10 March 2012. The Personal Licence Holder was then the Premises Manager of Irvine Snooker Club, 53 East Road, Irvine (NALB ref. 346). On 23 March 2012 a Variation application was lodged seeking the substitution of Baldev Singh (Personal Licence NA 0554, same home address) as Premises Manager with immediate effect. This was granted under delegated powers.

Section 84A entitles the Chief Constable to report to the Board where he considers that any Personal Licence Holder has acted in a manner which is inconsistent with any of the Licensing Objectives.

Copies of the letter will be distributed to Members at the Meeting.

2. Procedure

Under Section 84A(2) the Board must, on receipt of that Report, hold a Hearing and give the Personal Licence Holder and the Chief Constable an opportunity to be heard.

At the Hearing, the Board must have regard to

- (a) the Report
- (b) any comments made by the Personal Licence Holder,
- (c) any comments made by the Chief Constable.

3. Board's Powers on Review

If the Board it considers it is necessary for any of the Licensing Objectives, the Board may:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An Endorsement lasts 5 years. If a holder gets 3 Endorsements in a 5 year period, then there is a further Hearing, at which the Licence might be Suspended (for up to 6 months) or Revoked.

The Board is not obliged to take any of these steps, and may decide to take no further action. The Personal Licence Holder can appeal to the Sheriff against any decision taken at a Hearing.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"The Waterside", 14 Bath Street, Largs
Premises Licence Holder	Greene King Retailing Ltd (t/a Belhaven Pubs)
Ref.	0080

1. Background

By letter received at the Board on 23 May 2012, Paul Castelvechi, Flat H, The Moorings, 18 Main St, Largs made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

The letter was submitted with a Petition signed by 16 other residents of the area and copies of correspondence between the Applicant and the LSO Grace Cullen. (Re Petition - see Para. 6 'Additional Powers of Inquiry' below).

2. Basis of Review

Although the Application does not identify the 'Grounds for Review' involved, these appear to be:

The operation of the Premises is inconsistent with the following Licensing Objectives:

- (a) preventing crime and disorder
- (b) securing public safety
- (c) preventing public nuisance
- (d) protecting and improving public health

3. Licensed Hours

The Premises are Licensed for both on-sales and off-sales. The operating hours are:

On-sales:

Mon	8.00	24.00
Tue	"	24.00
Wed	"	24.00
Thur	"	1.00
Fri	"	1.00
Sat	"	1.00
Sun	11.00	24.00

Off-Sales:

Mon	10.00	22.00
Tue	"	"
Wed	"	"
Thur	«	«
Fri	«	«
Sat	«	«
Sun	11.00	22.00

4. Capacity etc

The Premises have a capacity of 96 customers, and an off-sales display capacity of 11 square metres.

Activities other than the sale of alcohol:

- (a) Generally: Bar Meals, Receptions, Club or other group meetings.
- (b) Entertainment: Recorded Music, Live Performances, Gaming, Indoor/outdoor Sports, Televised Sport, and quiz nights, dominoes and charity nights.
- (c) The Premises do not have Outdoor Drinking Facilities.
- (d) The Premises allow under-18s of all ages if accompanied by adult either:
 - (i) until 21.30, or
 - (ii) until the end of a meal or function.

5. Procedure

Under Sections 36(6)-(8), the Board may reject a Review Application if the Board considers the Application—

- (a) is vexatious or frivolous, or
- (b) does not disclose any matter relevant to any of the statutory "Grounds for Review".

If the Board rejects the Application it must give notice of the decision, and the reasons for it, to the Applicant.

The Board is entitled (but not obliged) to order that the Applicant should pay the Board's expenses. If it does so, it should specify the sum due.

Having received an Application and not rejected it, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the communication from the Applicant, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, with the date, time and place of the Hearing.

6. Additional Powers of Inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5)-(6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;
- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

The Petition itself should be disregarded as it is unspecific, being headed 'Petition by local residents affected by vandalism and noise pollution' (e.g. it does not specify if the signatories raise issues about the particular premises, as opposed to problems in Largs Town Centre). If the individual signatories are present and wish to speak, the Board should proceed as in (d) before deciding to hear them.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Human Rights

The Board requires to balance competing rights:

- (a) Regularly exposing neighbours to noise and other nuisances may breach neighbours' human rights to respect for private life, family life and home under ECHR Article 8. If the Board was being asked to permit nuisance (by granting or varying a Licence), its decision might be the basis of a claim for compensation by them against the Board (such a claim has been recognised by the European Court of Human Rights - Gomez v Spain [2004] ECHR 633).
- (b) The Licence Holder has a right to free enjoyment of his possessions (the Licensed Premises): ECHR, Protocol 1, Article 1.

Neither right is absolute. There is no precedent for a Board having liability for failing to prevent a nuisance. The Board is obliged to have regard to Licensing Objective (d): 'protecting & improving public health', but the duty is solely to 'have regard' to it.

It is not conclusive, and does not oblige the Board to close the Premises or to impose such a substantial variation that the Premises become uneconomic.

Where the Board takes a Review action (e.g. suspension), that decision may be appealed against on the grounds that it is 'disproportionate in all the circumstances', but this appeal ground does not exist if the Board fails to take such action (Section 131(3)(b)).

9. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Report to North Ayrshire Licensing Board

From

Grace Cullen, Licensing Standards Officer

Subject: Premises Licence Review, 26th June 2012: The Waterside, 14 Bath Street, Largs.

Purpose: To advise the Board of the LSO's interaction with the Licensee/Premises Manager.

Recommendation: That the Board have regard to the information provided in reaching its decision in the Premises Licence Review.

Introduction and History:

This review application was made by Mr Castelvechi, being spokesperson for other residents within the vicinity of these premises. The alleged noise disturbances span back to July 2010. The present Premises Manager, Mr Brian Purdie was not in place until March 2011.

Since then, I have met with Mr Purdie several times in relation to complaints from Mr Castelvechi. The Out of Hours Noise Team reported these complaints to myself and on some occasions were able to visit the premises when they witnessed loud music emanating from the premises and at other times no noise was heard on approach to the premises. The Noise Team issued a warning letter to the licence holders, Greene King, copied to Mr Purdie in relation to a complaint on 13th March 2011. This letter was acknowledged by Greene King and the following measures were taken to address noise issues:

1. A handheld monitor was purchased to assess levels of noise
2. Doors and gaps were sealed
3. Spoke with Acoustic Consultants

Since March, there were further complaints. I arranged a meeting (14th September 2011) with Mr Castelvechi, Mrs Mulholland, (complainants), Mr Purdie, Mr Dunn, Business Development Manager, Greene King and myself to try to mediate the situation.

Every Friday is Karaoke, Saturday, Live Bands and Sunday is open mic night. All parties discussed the series of complaints and the Out of Hours Team involvement. Mr Dunn suggested cutting back hours to Midnight, but this was not received well as Mr Purdie said it would have a negative impact on trade. Mr Purdie proposed closer monitoring of the smoking area and to put staff in charge of noise checks prior to the bands starting. Mr Purdie also suggested walking around the buildings to monitor noise levels outside. A policy was drawn up in relation to noise control and this would be adhered to every time live entertainment was scheduled. A copy of this policy is available. Mr Castelvechi suggested a separate set of doors at the entrance. This would be very expensive, but Greene King agreed to support the Premises Manager in looking into this, although it may take some time. With all these measures being agreed, the meeting ended with an understanding that if the noise levels were excessive, the complainants would in the first instance call Mr Purdie, then the Out of Hours Noise Team, then the LSO, then Mr Dunn.

On 19th September, Mr Castelvechi contacted me advising that the previous Saturday had been really bad. He did not call the Premises Manager as agreed as he didn't feel comfortable about this. I advised that he should contact Mr Dunn and the Out of Hours Team earlier, if possible, in order that they would have more time to visit the premises.

On 5th January 2012 I visited the premises whilst in the area to confirm with Mr Purdie that no complaints regarding noise issues had been made directly to him, as I had heard nothing since September 2011. He advised that there were no concerns.

On 22nd April 2012, I received information from Mr Castelvechi that he had been away from home since the 9th December 2011 and had just returned 4 days ago and that he needed to speak with me on a very important matter. A meeting was set for 4th May.

During this meeting Mr Castelvechi advised of more noise issues and disturbances within the vicinity of the premises. He said there are several other neighbours who are of the same opinion and are willing to speak to the Licensing Board. At this stage, he was not interested in further mediation and wished to make a review application.

Current Position:

Upon receipt of the review application, I visited the premises on 7th June 2012 to carry out a compliance inspection. I met with Mr Brian Purdie, Designated Premises Manager. All signage was appropriately displayed, personal licences and training records were available and records were maintained for refusals, capacity and toilet checks. There are 2 personal licence holders and another 2 members of staff have recently gone through the training and will be applying for personal licences shortly. There are written operating policies in place for noise control and drugs. Notices are displayed throughout the premises.

In relation to the review application made, Mr Purdie was visibly upset. He advised that he and his staff are very careful and adhere to their noise control policy strictly whenever there is live entertainment. He discusses his policy with the bands a week before the gig to let them know and understand the requirements. At times this results in the band bringing less equipment with them. Prior to the start of their performance, the staff do a sound check with the band and the level is set at a reasonable limit. On a Friday night there are 2 members of staff on and 3 on a Saturday. Mr Purdie is also on duty at the weekends and he or another member of staff walk round the perimeter of the building checking noise levels. He advised he has applied for a grant for double glazing and is always conscious of noise levels.

As well as notices displayed at entrances and exits asking customers to consider the neighbours by keeping noise to a minimum, Mr. Purdie has displayed 2 large wooden plaques stating this in the smoking area. This area is also monitored by staff every 15 – 20 minutes.

Mr Purdie stressed that all these measures are adhered to and the only measure discussed that has not been put in place was the additional set of doors.

After meeting with Mr Purdie, I telephoned the Licensing Police for any additional information they may have. I spoke with PC Karen Ritchie. She advised there were two calls logged:

1. 3rd March 2012: this was an out of hours notification: loud music. Officers visited. Complainants address some distance from bar. Officers witnessed moderate level of music. No further action. (Complainant not on petition list)

2. 19th May 2012: 2 separate calls on behalf of elderly neighbours. Local Police visited and spoke with a member of staff. No further action.

Conclusion:

I can offer no further comments.

Review Proposal - Licensing (Scotland) Act 2005, Section 37:

Premises	Tesco Metro, Saltcoats (Board ref: 040) Tesco Store, Kilbirnie (181) Tesco Extra, Irvine (235) Tesco Express, Kilwinning (304) Tesco Express, Largs (411)
Premises Licence Holder	Tesco Stores Ltd

1. Background

The Board has received confirmation from the Chief Constable that the Premises Licence Holder has been convicted of a 'relevant or foreign offence' (as prescribed by Regulation):

Date:	2 March 2012
Court:	Leicester Magistrates Court
Offence:	Health and Safety at Work Act, Section 3 (breach of H & S Regulations)
Disposal:	Fine £20,000

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

The information given by the Police is limited to that given above, and does not contain details of the charge, e.g. place, date, circumstances. However, the 1974 Act is the basis of many Regulations about things like the safety of customers and employees. These Regulations have little or nothing to do with the sale of alcohol.

2. Action

Given

- (a) that the conviction relates to Premises outside North Ayrshire and is unlikely to have a bearing on Premises within the Board's area, and
- (b) the likelihood that the conviction relates to the operation of a food shop as opposed to the selling of alcohol,

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

Report to the North Ayrshire Licensing Board

From

Grace Cullen and Claire Simpson, Licensing Standards Officers

- Subject:** Review Proposal - Licensing (Scotland) Act 2005, Section 37,
Tesco Store, Bridgend, Kilbirnie, KA25 7DJ
Tesco Extra, Riverway Retail Park, Irvine, KA12 8AY
Tesco Express, 78 Main Street, Kilwinning, KA13 6AG
Tesco Express, 6 Aitken Street, Largs, KA30 8AU
Tesco Metro, High Road, Saltcoats, KA21 5RP
- Purpose:** To advise the Board of the LSOs' position regarding the premises.
- Recommendation:** That the Board have regard to the information provided in reaching its decision in the Premises Licence Review.

We are unable to comment on the particular circumstances related to the Premises Licence Reviews as they are based on incidents in which we had no involvement.

Application for Variation of Premises Licence - Section 29

Applicant	Linnpinn Ltd
Premises	"Room", 48-52 Gallowgate Square, Largs, KA30 8LX
Ref.	0197

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13 June 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No response yet
Health Board	No response yet
Other Objections or Representations?	No response yet

2. Summary of Variation Request

No.	Variation
1	Increase under-18 access from 20.00 to 22.00

3. Issues

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

Variation 1: Increase under-18 access from 20.00 to 22.00
Grant (no statutory reason to refuse, and no breach of Board policy)
Notes: The proposal is to continue with the existing condition, requiring under-18s to be accompanied by an adult. They have access to all public areas. Under the 1976 Act the Premises had a Children's Certificate, permitting accompanied Children under 14 to be present until 20.00 for meals. No Licensing Objective issues arise.

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Gurpreet Singh Batth
Premises Name	The Burns Tavern
Premises Address	34-36 High Street, Irvine
Ref.	0246

CONTINUED FROM 16/04/12

Documents:

Police	No objection
Community Council	No objection
Fire	No objection
Health Board	No objection
Other Objections or Representations?	None

Summary of Variation request

The proposal is to extend the hours of the second floor function suite, so that on Fridays and Saturdays the premises can be used as a nightclub between 21.00 and 2.30. Otherwise the second-floor would continue to be used as a function suite (already Licensed).

There are already three similar 'nightclub' premises in the locality:

- (a) "King's Arms", 115 High Street (NALB 214): The premises are divided into a nightclub part ("Viva") and a bar/restaurant. The Operating Plan gives different hours for both. The Capacity is 470 for the whole premises.
- (b) "Pitcher's", 18 Bank Street (NALB 243): The premises are divided into a nightclub part (ground floor & mezzanine) and a public bar (first floor). The Operating Plan gives different hours for both. The Capacity is 498 for the whole premises.
- (c) "Descent", 10A Rivergate Centre Sub-basement (NALB 394): "Descent" is the nightclub linked to the "Old Argyle" public house (basement) (NALB 393). The Licences are held by Punch Taverns (Inns) Ltd.. Both are currently closed, but since the Licences remain in force they could re-open at any time. "Descent" has a capacity of 430, in addition to "Old Argyle" which has 216.

Issues

The Board has a discretion to grant the Variation requested, grant it with modifications, or refuse it.

1. The Board should note that the Applicant also proposes activities (Recorded music; Live performances; Dancing) outside Licensed Hours. The Applicant should clarify this, e.g. is it proposed to have music and dancing after 2.30 a.m.?

2. The Board requires to consider whether or not the proposed Variation is consistent with the following Licensing Objectives (Section 30(5)(b)):
 - (a) 'preventing crime and disorder': The Applicant should address the Board on the level of stewarding and CCTV coverage. The proposed closing time (2.30 a.m.) is the same as that for the existing Premises nearby, so there may be an increase in the number of customers in the Town Centre in the early hours, or waiting for taxis at the stance outside "Pitcher's" in Bank Street.

 - (b) 'securing public safety': The capacity of the area is not stated. The whole premises have a capacity of 666. The Board is not obliged to set a maximum capacity on the 'nightclub' during the extended hours, but it is entitled to do so. If the Board proposes to do so, it may wish a report from the Chief Building Standards Officer before determining the Application, or the Applicant may undertake to ask the CBSO to set a figure and to keep to it.

 - (c) 'protecting & improving public health': The Board should consider this L.O. whether or not the Health Board or any other party raises it. The statute expressly states 'improving'. An increase in the ability to sell or consume alcohol cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it.

3. The Board requires to consider whether or not the proposed Variation would make the Premises unsuitable for the sale of Alcohol. Section 30(5)(c) is

"that, having regard to—

 - (i) the nature of the activities carried on or proposed to be carried on in the Subject Premises,

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

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

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

The Board is not obliged to inspect the Premises before determining the Application, but is entitled to do so (Section 137).

4. The Board requires to consider whether or not the Application should be refused due to Overprovision. Section 30(5)(d)) is:

"that, having regard to the number and capacity of—

(i) Licensed Premises, or

(ii) Licensed Premises of the same or similar description as the Subject Premises (taking account of the proposed Variation),

in the locality in which the Subject Premises are situated, the Board considers that, if the Application were to be granted, there would, as a result, be Overprovision of Licensed Premises, or Licensed Premises of that description, in the locality."

Comparision with other 'nightclub' Premises in the locality

- (a) Nightclub capacity:

Burns	Viva	Pitchers	Descent
666	470	498	430

- (b) Nightclub hours:

	Burns Request	Viva	Pitchers	Descent
Mon	-	10.00 - 24.00	-	11.00 - 1.00
Tue	-	"	-	"
Wed	-	"	-	"
Thu	-	10.00 - 2.30	11.00 - 2.30	11.00 - 2.00
Fri	10.00 - 2.30	10.00 - 2.30	11.00 - 2.30	11.00 - 2.00
Sat	10.00 - 2.30	10.00 - 2.30	11.00 - 2.30	11.00 - 2.00
Sun	-	10.00 - 2.00	11.00 - 2.00	12.30 - 1.00

- (c) Non-nightclub Hours:

	Burns	Kings	Pitchers	Old Argyle
Mon	10.00 - 24.00	10.00 - 24.00	12.00 - 24.00	10.00 - 24.00
Tue	"	"	11.00 - 24.00	"
Wed	"	"	"	"
Thu	10.00 - 1.00	10.00 - 1.00	11.00 - 1.00	10.00 - 1.00
Fri	"	"	"	"
Sat	"	"	"	"
Sun	10.00 - 24.00	"	12.30 - 24.00	12.30 - 24.00

Licence Conditions etc.

If the Variation is granted:

- (a) the Licence Conditions should be amended to include the relevant parts of the NALB Standard Conditions: Parts D, E and X.1 (CCTV), which already apply to the existing 'nightclubs' in the locality: (Section 30(6)).
- (b) the licence documentation will be amended to distinguish the hours (and capacity, if the Board so directs) for the nightclub part (second floor) from the remainder of the building.

Application for Variation of Premises Licence - Section 29

Applicant	Balbir Kaur
Premises	Costcutter Store, 20-22 Nelson Street, Largs
Ref.	0124

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 22 June 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No response yet
Health Board	No response yet
Other Objections or Representations?	See below

Name	Address	Date Received	Late or OK
Douglas Stewart	30c Nelson Street, Largs KA30 8LW	8/6/12	OK
Norman MacKinnon	8 Cumbrae Court, Nelson Street, Largs, KA30 8LG	12/6/12	OK

2. Summary of Variation Requests

No.	Variation
1	To increase capacity from 13.2 to 25.03 sq.m.
2	To amend Layout Plan

3. Issues

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

Variation 1: To increase capacity from 13.2 to 25.03 sq.m.**Discretionary refusal****Notes:**

1. This is the second Variation Application for these Premises since they were granted a Premises Licence on 16 June 2009. At that time the Premises were a Restaurant and a separate take-away fish and chip shop. On 22 March 2011, Board granted a Variation to permit use as a Licensed Grocer with a separate take-away. That proposal received many objections from residents, and after hearing them and the Applicant, the Board decided to grant the Variation. There was no court challenge to that decision. The Application for the present Variation was intimated to the previous objectors.

2. The Premises have not traded since before the first Variation decision, and the second Variation is sought to amend the plans to accommodate a change in the Licence Holder's proposals. The first Variation Application changed the character of the Premises, from a Restaurant with take-away food shop to a Convenience Store, i.e. from 'on-sales with meals' to 'retail off-sales'. The present variation Application does not change the character of the Premises. The proposal is to remove the fast-food shop and kitchen, and to use the space freed to increase the retail space.

3. The objections previously raised included some matters which were outside the Board's powers, and the Board was prohibited from dealing with them. Sections 27(7) and (10) are:

"(7) A Licensing Board may not impose a condition under subsection (6) which—

(c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

(10) Where, under any provision of this Act, a Licensing Board has power to make a Variation of the conditions to which a Premises Licence is subject, the power may not be exercised so as to have the effect of imposing a condition which the Board could not have imposed under this section on the granting of the Licence."

For example, issues about parking and traffic obstruction are for the Police under the Road Traffic legislation, and the Board has no powers.

4. Issues about Licensing Objectives, particularly 'preventing crime and disorder' (L.O. (a)) were considered by the Board when the first Variation was applied for. Only one L.O. issue is raised by the current Variation.

5. There are two potential Grounds for Refusal (Section 23(5)):

(a) the granting of the Application would be inconsistent with Licensing Objective (d): 'protecting & improving public health'

The L.O. expressly states 'improving'. An increase in the ability to sell alcohol cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it. It may be claimed that the increase simply increases consumer choice. and will

not lead to an overall increase in consumption. This argument has been disapproved by the Scottish Parliament, which has limited off-sale displays and alcohol advertisements.

(b) the Variation may create Overprovision

There is a presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement. If the Board is minded to refuse for this reason, it should continue consideration of the Application to a later Meeting, when a detailed statement of the Board's policy, with information as to the population and capacity of similar Premises in the locality, will be prepared.

Variation 2: To amend Layout Plan

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

Notes:

If Variation 1 is refused, Variation 2 operates as authorising a different shelf layout, but the capacity for selling alcohol would be unchanged. Therefore Applicant should undertake to provide the Board, within 28 days of the Meeting:

1. a revised Layout Plan (4 copies) showing the alcohol display
2. the height and width of the display.

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Rajwinder Kaur Nijjer
Premises	"Newhouse Mini Market", 4 Dalry Road, Kilbirnie, KA25 6HY
Ref.	0229

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 22 June 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No response yet
Health Board	No response yet
Other Objections or Representations?	No response yet

1. Summary of Variation Request

No.	Variation
1	Amend Layout Plan, increasing capacity from 25.7 to 27.5 sq.m.

2. Issues

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

Variation 1: Amend Layout Plan, increasing capacity from 25.7 to 27.5 sq.m.
Discretionary refusal
Notes: the Premises are being rearranged and this results in a slight increase in the off-sales alcohol display. However, this increase is inconsistent with <ul style="list-style-type: none"> (a) the Board's Policy on Overprovision. The Premises are in the 'Garnock Valley' Area, and this location is significant. (b) the 'protecting & improving public health' Licensing Objective.

(a) Overprovision

There is a presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement. If the Board is minded to refuse for this reason, it should continue consideration of the Application to a later Meeting, when a detailed statement of the Board's policy, with information as to the population and capacity of similar Premises in the locality, will be prepared. It will be open to the Applicant to seek to persuade the Board to treat him as an exception to the Policy.

Annex E, Paragraph 2.5 of the L.P.S.:

"The Board, when considering an Application for the Grant or **Variation** of a Premises Licence: ...

(b) is not likely to License new Premises for the sale of alcohol for consumption off the Premises:

(i) if the Premises are in the Areas of 'Irvine and area' and '**Garnock Valley**' (given that the existing provision in those Areas is substantially above the average for the whole Board area - see the 'Summary' in Table 5); or

(ii) wherever the Premises are within the Board's area, where the display area exceeds 10 per cent of the total sales area of the Premises (measured on the horizontal plane); for this purpose, 'display area' means the footprint of any display and the floor adjacent to the display and extending one metre from it;

'New Premises' includes existing Licensed Premises where the Licence is **Varied to increase capacity** and/or add new facilities."

(b) Licensing Objective

The L.O. expressly states 'improving'. An increase in the ability to sell alcohol cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it.

3. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Punch Partnership Ltd
Premises	Pierhead Tavern, Main St, Lamlash, Isle of Arran, KA27 8JN
Ref.	0257

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13 June 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No objection
Health Board	No response yet
Other Objections or Representations?	No response yet

2. Summary of Variation Requests

No.	Variation
1	Add Outdoor Drinking Area
2	Extend times 0-17 year olds are admitted, from 20.00 to 22.00
3	Allow 0-17 year olds at bar
4	Modify NALB condition on Children and use of darts and pool tables

3. Issues

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

Variation 1: Add Outdoor Drinking Area
Discretionary refusal
Notes: The Board should consider whether or not the proposal is inconsistent with Licensing Objectives (if the proposal was refused, the building itself would remain licensed).

(A) Narrative

The Premises face onto the Main Road in Lamlash (the A841 Road which circles the island). The proposed Outdoor Drinking Area is the area about 3m wide between the front of the building and the roadway. There is no pavement, and no wall or fence separating the seats from traffic. The Layout Plan states 'Children allowed'.

During the Transitional Period, the Licence Applicant (Punch Taverns, per Ford & Warren, Solicitors) initially included the same area in the proposal for a Licence under the 2005 Act. Board staff pointed out that this proposal appeared to be inconsistent with the Licensing Objectives, and was not licensed under the 1976 Act. The Applicant withdrew that proposal and gave an undertaking to the Board Meeting on 18 August 2009 that an amended Layout Plan would be substituted. The Licence was granted without that area. The new LP referred to 'Patio (not licensed for external drinking)'.

The area currently has four 'picnic' benches. Applicant should state:

- (a) the proposed capacity of the area,
- (b) whether it is proposed that standing customers should be accommodated as well as seated,
- (c) whether table service of alcohol is proposed (as opposed to customers taking drinks which they have already bought outside). Board practice prohibits table service.

(B) Operating Hours

The building itself has licensed hours until 24.00 (Sun - Wed) and 1.00 (Thur - Sat). Notwithstanding these hours, Board practice is to limit the operation of an Outdoor Area by Standard Conditions:

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

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

The Application seeks to use the Outdoor Drinking Area throughout Core Hours (i.e to 24.00 or 1.00). The Board has never permitted this in North Ayrshire.

(C) Possible Grounds for Refusal

The Licensing Objectives which may be considered relevant are:

(a) L.O. (a): 'preventing crime and disorder'

The failure to separate the proposed area from public ground compromises the enforcement of the Byelaws against drinking in public (this was suggested to the

lawyers in 2009).

(b) L.O. (b): 'securing public safety'

The closeness of the proposed area to a busy road endangers customers.

There is no pavement so pedestrians require to walk on the road to get past.

(c) L.O. (c): 'preventing public nuisance'

The conditions C.5.1 and C.5.2 are based on this L.O..

Variation 2: Extend times 0-17 year olds are admitted, from 20.00 to 22.00

Discretionary refusal

Notes:

Children (aged 0-15) and Young People (16-17) are admitted with an adult. There is no requirement that they be taking a meal.

The Board may consider that the Application is not consistent with the Licensing Objective (e): 'protecting Children from harm'. This L.O. relates to 'Children' aged 0-15 years, and not to older 'Young Persons' (aged 16-17). The Board treats Premises on a case-by-case basis, but commonly expects 'Children' (aged 0-15), or at least younger children, to leave Licensed Premises by 20.00. The Board may wish the Applicant to state different time limits for different age groups.

Variation 3: Allow 0-17 year olds at bar

Discretionary refusal

Notes:

The Board has never permitted this anywhere in North Ayrshire.

The Board may consider that the Application is not consistent with Licensing Objectives (a) and (e):

L.O. (a): 'preventing crime and disorder'

The Board may consider that the presence of under-18s at the bar increases the risk of under-age drinking.

L.O. (e): 'protecting Children from harm'

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

Variation 4: Modify NALB condition on Children and use of darts and pool tables

Discretionary refusal

Notes:

The Premises are divided into a Restaurant and a Bar. The only route to the customer toilets on the Premises is through the Bar, and then a doorway close to the pool table.

The conditions are:

"C.10.3 In the area(s) of the Premises to which Children are admitted: ...

- (d) The playing of darts, pool, snooker or any other game is prohibited;
- (e) There shall be no dartboard, pool table or other facilities for such activities in those area(s);"

These conditions are justified by two Licensing Objectives:

L.O. (b): 'securing public safety'

L.O. (e): 'protecting Children from harm'

The Board would have to be satisfied that the proposed variation was not inconsistent with those L.O.s.

4. Licence Conditions

No variation of the Conditions is appropriate apart from Variation 4.

Note:

Applicant has still not stated off-sales capacity, or supplied dimensions (written to lawyers 24.7.2009).

Application for Variation of Premises Licence - Section 29

Applicant	Skelmorlie Bowling Club
Premises	Club Premises, The Crescent, Skelmorlie, PA17 5DX
Ref.	0281

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 22 June 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No objection
Community Council	No objection
Fire	No response yet
Health Board	No response yet
Other Objections or Representations?	No response yet

2. Summary of Variation Request

No.	Variation
1	Allow use of seats outside, around bowling green, for drinking.

3. Issues

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

Variation 1: Allow use of seats outside, around bowling green, for drinking.
Grant (no statutory reason to refuse, and no breach of Board policy)
Notes: Many other bowling clubs have been allowed outdoor drinking around the playing green. The Board requires to consider the Licensing Objectives but none of them appear relevant, except for L.O. (c): 'preventing public nuisance'. The playing green here is around 30m from the nearest house, and is surrounded by thick vegetation, so the risk of public nuisance is slight.

Board may consider that its Standard Conditions are sufficient:

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

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

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	David Castelvechi
Premises	Graze Restaurant, Crossroads, Barkip, by Dalry, KA24 4JF
Ref.	0381

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13 June 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No objection
Health Board	No response yet
Other Objections or Representations?	No response yet (no neighbours within statutory notification radius)

2. Summary of Variation Request

No.	Variation
1	Increase on-sales terminal hours from 7.00 p.m. to 10.00 p.m., all seven days

3. Issues

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

Variation 1: Increase on-sales terminal hours from 7.00 p.m. to 10.00 p.m., all seven days
Grant (no statutory reason to refuse, and no breach of Board policy)
Notes:

4. Licence Conditions

No variation of the Conditions is appropriate.
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Application for Grant of Provisional Premises Licence - Section 45

Applicant	J.D.Wetherspoon (Scot) Ltd
Premises	Rivergate Shopping Centre, Irvine KA12 8EH
Ref.	0431

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13 June 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Summary of Proposal

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

The proposal is to create a Public House type of Premises in two parts:

- (a) principally inside the Rivergate Centre at the foot of the escalators (with the kitchen in what was formerly a camera shop) - tables with 138 seats;
- (b) a 'pavement cafe area' with 36 seats outside the Centre but under the existing canopy.

The Applicant states the on-sales capacity as 365 customers, so there would be about 47% seated and 53% standing.

The procedure is similar to the 'Provisional Grant' under the 1976 Act. The PPL relates to Premises which are to be constructed or converted for use as Licensed Premises, and is valid for a period of four years. During this period, the Applicant can request the Board to Confirm the PPL, or to extend the period.

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

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

2. Initial Procedure

In general, Applications must be intimated to:

- (a) occupiers of land within 4 metres of the boundary of the Licensed Premises;
- (b) the local Community Council;
- (c) North Ayrshire Council;
- (d) the Chief Constable, and
- (e) the Fire Enforcing Authority,
- (f) the Health Board,

and also the Board requires to put an advertisement of the Application on its public website. All appropriate intimation and publication has been carried out.

In addition, the Applicant requires to display a Site Notice at or near the Premises for 21 days, and then give the Board a Certificate confirming that display.

3. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No response yet
Health Board	No response yet
Other Objections or Representations	No response yet

4. Detailed proposal

(a) Licensed Hours

Either the request is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

On-Sales

	<i>Proposal</i>	<i>Policy</i>
Monday	10.00 - 24.00	11.00 - 24.00
Tuesday	"	"
Wednesday	"	"
Thursday	10.00 - 1.00	11.00 - 1.00
Friday	"	"
Saturday	"	"
Sunday	10.00 - 24.00	11.00 - 24.00

Off-sales

	<i>Proposal</i>	<i>Policy</i>
Monday	10.00 - 22.00	OK
Tuesday	"	all 7 days
Wednesday	"	
Thursday	"	
Friday	"	
Saturday	"	
Sunday	12.30 - 22.00	

(b) Activities other than the sale of alcohol

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

(c) Access for Under-18s**(i) Access for 'Children' (aged 0-15)**

Terms (OP 6(b))	Must be with adult. No requirement for meals.
Times (OP 6(d))	Children of all ages allowed until 22.00.
Parts (OP 6(e))	All parts of Premises

(ii) Access for 'Young Persons' (16-17)

Terms (OP 6(b))	No requirement for adult.
Times (OP 6(d))	Until 22.00.
Parts (OP 6(e))	All parts of Premises

(d) Capacity

On-Sales (persons)	365
Off-Sales (sq. mtr.s)	39.5

5. Recommendation

Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted below.

Discretionary decision to Grant or Refuse (see 'Issues' below).

6. Issues**(a) Board Policy**

The Application is not consistent with the Board's Licensing Policy Statement re Licensed Hours: (LPS Part 9). The policy is that on-sales Premises should not open before 11.00. The Board has allowed earlier opening in the past for the provision of breakfasts. The Applicant's intention is to sell alcohol before 11.00 a.m..

(b) Possible Grounds of Refusal

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

In addition, the Board must consider two other potential grounds of refusal:

- (a) unsuitable premises, and
- (b) overprovision,

and decide whether or not these apply.

The Board should consider all the potential grounds of refusal set out above. If any apply, the Board must refuse. If none apply, the Board must grant: Section 23(4)-(5).

However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential ground for refusal: Section 23(7).

If the Application is to be granted, it should be subject to the parts of the Standard Conditions described below.

Reason 1: L.O. (a): 'preventing crime and disorder'

The Board may consider that the absence of adult supervision of under-18s increases the risk of under-age drinking.

It is not clear from the Layout Plan whether or not the proposed Outdoor Drinking Area is separated from the adjacent pavement. If it is not, there would be nothing stopping:

- (i) customers from leaving the Area with drinks, breaching the Byelaws about drinking in public
- (ii) customers supplying alcohol to non-customers.

Reason 2: L.O. (b): 'securing public safety'

The Premises have 174 seats (including the outdoor area) but a proposed capacity of 365, i.e. 191 customers will be standing. The Layout Plan shows tables over most of the floor and close to the Bar, so it is not clear where the standing customers would be.

The Board may wish to inspect the Premises or have a LSO report before determining this Application.

Reason 3: L.O. (c): 'preventing public nuisance'

The Board's Standard Conditions include conditions about 'Outdoor Drinking Areas', including:

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

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

If the Board wishes to prohibit all use of the Area (e.g. even for smoking), it may choose to attach Condition X.4.

The Applicant should state whether the Area is to contain such devices. Condition C.5.2 prevents drinking outside before 11.00 a.m., even if the Board has agreed to depart from its Policy to permit drinking inside earlier.

Reason 4: L.O. (d): 'protecting & improving public health'

The L.O. expressly states 'improving'. An increase in the number of drinking places cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it.

Reason 5: L.O. (e): 'protecting Children from harm'

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

The Board may consider that the proposal to allow Children (aged 0-15) on the Premises after 20.00 is not consistent with this L.O..

If the Board wishes to limit access for under-16s to Children consuming a meal before 20.00, it may choose to attach Condition X.5.

Reason 6. The Premises are unsuitable for the sale of Alcohol

See Reason 2.

Reason 7. Overprovision may result if the Application is granted

Having regard to the description of the Subject Premises, there is a presumption of refusal due to:

- (a) Scottish Government guidance, and
- (b) the Board's own Licensing Policy Statement.

If the Board is minded to refuse for this reason, it should continue consideration of the Application to a later Meeting.

In the interval, a detailed statement of the Policy will be prepared and copied to the Applicant, containing information as to the population of the locality, and the number and capacity of similar Premises in the locality.

It will then be for the Applicant to persuade the future Board Meeting that Overprovision would not result if the Application was granted.

7. Observations

1. OP describes 'seasonal variations' - catering for functions or social events at particular times of the year (e.g. Christmas/New Year period). These are not covered by the Premises Licence now being applied for, but will require later application for Occasional Licences or Extended Hours.
2. The Mandatory Condition requiring Baby-Changing Facilities accessible by both genders applies (Sch. 3, Para. 12, SC C.3). The Application does not indicate where these facilities would be.

Applicant should:

- (a) state where such facilities will be, or
- (b) amend OP to exclude children under 5; or
- (c) give Board an undertaking that the Premises will not open until necessary facilities are in.

Without such facilities, or without children under 5 being excluded, reasons to refuse may exist:

- (a) the Application is inconsistent with L.O. (d): "protecting and improving public health";
 - (b) the Application is inconsistent with L.O. (e): "protecting children from harm";
 - (c) Premises are unsuitable for use for the sale of alcohol.
3. LP does not show locations and dimensions of Off-sales display area. Dimensions required are length and height.

8. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5):

- A (All Premises)
- B (Off-Sales)
- C (On-sale Premises)
- F (Entertainment)

Board should also consider whether these additional Conditions should be applied:

- X.4 (No use at all of Outdoor Drinking Area)
- X.5 (Children only permitted while both consuming meal and before 8 pm)

Application for Grant of Premises Licence - Section 20

Applicant	Summel & Summel Ltd.
Premises	Gulab Brasserie, 2a Stanecastle Road, Irvine KA11 1AE
Ref.	0432

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13 June 2012.

The Applicant must also lodge Certificates as to:

- (1) Planning*
- (2) Building Standards*
- (3) Food Hygiene*

Until the Board has all four documents, it cannot determine the Application.

1. Summary of Proposal

The Applicant has applied for the Grant of a Premises Licence.

The Premises were previously licensed and had operated for many years, but the Licence lapsed on 8 February 2012 as a result of the Sequestration of the then Premises Licence Holder. The Premises were sold to a Limited Company, but since the Licence had lapsed, the Licence could not simply be transferred. Instead the new owner requires to apply for a new Licence.

The proposal is to operate much as the previous Premises: a lounge bar, restaurant and hot food take-away. To the front of the Premises is open ground and the Stanecastle Roundabout, and the Premises are surrounded by residential property on the other three sides.

The Board decision on the Licence relates only to alcohol licensing legislation, and does not indicate permission or certification under other legislation, such as Planning or Building Control.

Until the present Licence Application is granted, the Premises are temporarily operating under a series of Occasional Licences, and accordingly the restaurant and take-away do not need a Late Hours Catering Licence to operate in the period 23.00 to 05.00 (under Civic Government (Scotland) Act 1982, Section 42).

2. Initial Procedure

In general, Applications must be intimated to:

- (a) occupiers of land within 4 metres of the boundary of the Licensed Premises;
- (b) the local Community Council;
- (c) North Ayrshire Council;
- (d) the Chief Constable, and
- (e) the Fire Enforcing Authority,
- (f) the Health Board,

and also the Board requires to put an advertisement of the Application on its public website. All appropriate intimation and publication has been carried out.

In addition, the Applicant requires to display a Site Notice at or near the Premises for 21 days, and then give the Board a Certificate confirming that display.

3. Objections and Representations

Police	No response yet
Community Council	No response yet
Fire	No objection
Health Board	No response yet
Other Objections or Representations	No response yet

4. Detailed proposal

(a) Licensed Hours

Either the request is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

On-Sales

	<i>Proposal</i>	<i>Policy</i>
Monday	11.00 - 24.00	
Tuesday	"	
Wednesday	"	OK
Thursday	11.00 - 1.00	all 7 days
Friday	"	
Saturday	"	
Sunday	11.00 - 24.00	

Off-sales

	<i>Proposal</i>	<i>Policy</i>
Monday	11.00 - 22.00	
Tuesday	"	
Wednesday	"	OK
Thursday	"	all 7 days
Friday	"	
Saturday	"	
Sunday	"	

(b) Activities other than the sale of alcohol

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

Other activities
Receptions etc. - include private party nights, Recorded Music - includes juke box, Live Performances - includes comedy and psychic nights, In addition, on one night each month the Applicant will operate karaoke night. Films will be televised. Gaming - holds relevant permission to operate AWP Machine. Indoor Sports - the Premises operate a pool table, darts and dominoes. Poker - Max. stake £5 per person per game, poker league games Quiz nights

(c) Access for Under-18s**(i) Access for 'Children' (aged 0-15)**

Terms (OP 6(b))	<p><u>(1) Restaurant & buffet area</u></p> <p>Must be with adult if under 10 or 12 (unclear - OP 6(b) contradicts 6(d))</p> <p>Must be consuming meal</p> <p><u>(2) Takeaway area</u></p> <p>May order and receive takeaway meals.</p> <p>Position with adult supervision contradictory.</p> <p><u>(3) Rear Bar</u></p> <p>Not allowed.</p>
Times (OP 6(d))	<p><u>(1) Restaurant & buffet area</u></p> <p>Until 21.00 or 24.00 (OP 6(d) states both).</p> <p><u>(2) Takeaway area</u></p> <p>Until Terminal Hour (24.00 or 1.00).</p> <p><u>(3) Rear Bar</u></p> <p>n/a</p>
Parts (OP 6(e))	All parts of Premises (except Rear Bar).

(ii) Access for 'Young Persons' (16-17)

Terms (OP 6(b))	No requirement for adult or meals.
Times (OP 6(d))	All opening times.
Parts (OP 6(e))	All parts of Premises (except Rear Bar)

(d) Capacity

On-Sales (persons)	350
Off-Sales (sq. mtr.s)	Not stated. Applicant must advise the Board of the correct figure, either in writing or by attending the Board Meeting.

5. Recommendation

Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted below.

Discretionary decision to Grant or Refuse (see 'Issues' below).

6. Issues

The proposed O.P. is similar to that previously in force, e.g. the same hours.

The Application is consistent with the Board's Policy.

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives. In addition, the Board must consider two other potential grounds of refusal:

- (a) unsuitable premises, and
- (b) overprovision,

and decide whether or not these apply.

It is the Clerk's opinion that none of the potential grounds of refusal apply, except as noted below. If the Board considers that any issues could be addressed by amendments to the O.P., and the Applicant agrees to these, the Board would be obliged to grant.

The issues are:

1. L.O. (a): 'preventing crime and disorder':

- (a) Unaccompanied Children aged 10 and over are allowed in the Restaurant.
- (b) Unaccompanied Young People (aged 16-17) are allowed in the Take-Away to both order and receive meals.

The Board may consider that the absence of adult supervision of under-18s increases the risk of under-age drinking.

2. L.O. (e): 'protecting Children from harm'

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

The Board may consider that the proposal to allow Children (aged 0-15) on the Premises after 20.00 is not consistent with this L.O..

If the Board wishes to limit access for under-16s to Children consuming a meal before 20.00, it may choose to attach Condition X.5.

7. Observations

OP describes 'seasonal variations' - catering for functions or social events at particular times of the year (e.g. Christmas/New Year period). These are not covered by the Premises Licence now being applied for, but will require later application for Extended Hours.

8. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5):

- A (All Premises)
- B (Off-Sales)
- C (On-sale Premises)
- F (Entertainment)

and possibly

- X.5 (Children only permitted while both consuming meal and before 8 pm)

Application for Grant of Premises Licence - Section 20

Applicant	Davinder Summel
Premises	"Le Raj Restaurant", 32A Bank Street, Irvine, KA12 0AD
Ref.	0433

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13 June 2012.

The Applicant must also lodge Certificates as to:

- (1) Planning*
- (2) Building Standards*
- (3) Food Hygiene*

Until the Board has all four documents, it cannot determine the Application.

1. Summary of Proposal

The Applicant has applied for the Grant of a Premises Licence.

The proposal is to operate a restaurant on the first floor of a building at the corner of Bank Street and East Road. The Premises will serve both customers eating a meal and also take-away food. Takeaway food is also delivered to customers' homes. The Premises are not seeking an off-sales Licence, so no alcohol will be sold with take-aways.

The Premises were previously Licensed but the then owner surrendered the Licence in March 2012. The Premises have been acquired by the present Applicant.

The Board decision on the Licence relates only to licensing legislation, and does not indicate permission or certification under other legislation, such as Planning or Building Control.

2. Initial Procedure

In general, Applications must be intimated to:

- (a) occupiers of land within 4 metres of the boundary of the Licensed Premises;
- (b) the local Community Council;
- (c) North Ayrshire Council;

- (d) the Chief Constable, and
- (e) the Fire Enforcing Authority,
- (f) the Health Board,

and also the Board requires to put an advertisement of the Application on its public website. All appropriate intimation and publication has been carried out.

In addition, the Applicant requires to display a Site Notice at or near the Premises for 21 days, and then give the Board a Certificate confirming that display.

3. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No response yet
Health Board	No response yet
Other Objections or Representations	No response yet

4. Detailed proposal

(a) Licensed Hours

Either the request is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

	<i>Proposal</i>	<i>Policy</i>
Monday	11.00 - 23.00	
Tuesday	"	OK all
Wednesday	"	7 days
Thursday	"	
Friday	"	
Saturday	"	
Sunday	18.30 - 23.00	

(b) Activities other than the sale of alcohol

Accommodation	
Conference facilities	
Restaurant facilities	x
Bar meals	
Receptions (including weddings, funerals, birthdays, retirements, etc.)	x
Club or other group meetings	
Recorded music	x
Live performances	
Dance facilities	

Theatre	
Films	
Gaming	
Indoor/Outdoor sports	
Televised sport	
Outdoor Drinking	
Adult entertainment	

Other activities
None.

(c) Access for Under-18s**(i) Access for 'Children' (aged 0-15)**

Terms (OP 6(b))	Must be with adult who is having meal.
Times (OP 6(d))	Children up to 10 allowed until 22.00. Children aged 11 to 15 allowed for whole Core Hours.
Parts (OP 6(e))	Dining room and toilets.

(ii) Access for 'Young Persons' (16-17)

Terms (OP 6(b))	No requirement for adult. Allowed if taking meal. No alcohol sold and age checked.
Times (OP 6(d))	Whole Core Hours.
Parts (OP 6(e))	As for 'children'.

(d) Capacity

On-Sales (persons)	90
Off-Sales (sq. mtr.s)	n/a

5. Recommendation

Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted below.

Discretionary decision to Grant or Refuse (see 'Issues' below).

6. Issues

The proposal is similar to what the Board has allowed previously.

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives. In addition, the Board must consider two other potential grounds of refusal:

- (a) unsuitable premises, and
- (b) overprovision,

and decide whether or not these apply.

It is the Clerk's opinion that none of the statutory reasons for refusal apply.

7. Observations

1. The O.P. in fact divides the day into two, up to 14.00 and from 16.00, but this is not a requirement of the 2005 Act. If the Premises are Licensed 11.00 - 23.00, they can still close for 2 hours.

2. O.P. describes 'seasonal variations' - catering for functions or social events at particular times of the year (e.g. Marymass & Christmas/New Year period). These are not covered by the Premises Licence now being applied for, but will require later application for Extended Hours.

8. Licence Conditions

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

Application for Grant of Personal Licence - Section 74

Applicant	Calum Gibb, 78 Darg Road, Stevenston, KA20 3AZ (D.O.B. 6.3.85)
Ref	NA1365

1. Summary of Proposal

The Applicant has applied for a Personal Licence. The Application is not advertised and the only consultation involves the Chief Constable, who is to provide the Board with a Report. The Board has received confirmation from the Chief Constable that this Applicant for a Personal Licence has been convicted of a 'relevant or foreign offence' as follows:

Date	13/09/07
Court	Kilmarnock Sheriff
Offence	Misuse of Drugs Act 1971, Section 5(2) (Possession of Controlled Drug)
Disposal	Fine £70

2. Disclosure

The information was not supplied by the Applicant, who wrote 'none' in response to the inquiry on the form.

3. Police Recommendation

If the Chief Constable considers that it is necessary for the purposes of any of the Licensing Objectives that the Application should be refused, he may recommend this under Section 73(4). He has not done so.

4. Procedure

A copy of the Police letter and of this Report has been sent to the Applicant, together with Intimation of the Board Hearing.

At the Hearing, the Board must have regard to

- (a) the conviction
- (b) any comments made by the Applicant.

5. Board's Powers

If the Board is satisfied that it is necessary to refuse the Application for the purposes of any of the Licensing Objectives, it must do so. Otherwise, it must grant the Application.

All Personal Licences are valid for 10 years, and can be renewed indefinitely at 10 year intervals. The Board cannot limit the length of the grant or attach conditions.

6. Subsequently

The Applicant can appeal to the Sheriff if the Application is refused. The Chief Constable cannot appeal if the Application is granted.

After a decision to grant, if any of these occur:

- (a) the Licence Holder is convicted of an offence during the currency of the Licence, or
- (b) the Board, while dealing with a Premises Licence Review, makes a finding that the Holder has acted in a manner which was inconsistent with any of the Licensing Objectives, or
- (c) the Chief Constable considers that the Holder has acted in a manner which is inconsistent with any of the Licensing Objectives,

the Board will be entitled to hold a Hearing which may lead to the Revocation, Suspension for up to 6 months, or the Endorsement of the Licence.

The Holder must obtain a fresh Licensing Qualification every 5 years, failing which the Licence is automatically revoked without Board discretion or Appeal to the Sheriff.

Application for Occasional Licence - Section 56

Applicant	Gerald Michaluk
Premises	Beer Stand, Ormidale Park
Address	Ormidale Park
O.L. Ref.	421/12

Preliminary

This Report has been prepared provisionally as the Application has not yet been advertised for seven days on the Board's website.

Until the objection period has expired, the Board cannot determine the Application.

1. Summary of Proposal

An O.L. is granted temporarily for Premises which are not otherwise Licensed. In addition to consulting the Police and LSO (who may comment within 21 days), the Board gives public notice by advertising on its website for 7 days; and anyone can object in that time.

A single period covered by an O.L. costs £10, in contrast to the fee for permanent commercial Premises (where the initial fee is in the range £800 to £2,000, and further an Annual Fee in the range £220 to £900 is due).

O.L.s are not counted for Overprovision purposes, and Overprovision itself is not a valid reason for refusing an O.L.

Most O.L.s are granted under delegated powers, subject to NALB Licence Conditions (see Part 5 below). The particular Applicant has asked that some of these Conditions should be varied on this occasion, so the delegation does not apply. A copy of the Applicant's letter will be given to Members. The Board will have to decide whether or not the variation is consistent with the Licensing Objectives.

The Board agreed to a similar variation for the event held on 6 August 2011.

2. Consultation

Police	No objection
LSO	No objection
Other objections or representations	No response yet

3. Detailed proposal

Date and times requested	Saturday 4 August 2012, 11.00 am - 6.00 pm
Occasion	Brodict Highland Games
Sale of alcohol	on-sales only
Children (0-15 years)	Not permitted
Young Persons (16-17)	Not permitted

4. Possible decision

Grant (no statutory reason to refuse, and no breach of Board policy)
Notes: the only reason the case is being referred to the Board is the request to modify Conditions. Apart from that, there appears to be no reason to refuse the Application.
Draft Beer will be sold in plastic 'glasses'. The Beer Stand is in a sports park where entry is limited to paying customers.

5. Licence Conditions

Unless the Board agrees to vary the Conditions, the Licence will be subject to Parts A and H of the current NALB Standard Conditions, including:

H.7 Temporary Structures (such as a marquee or tent):

Alcohol may only be consumed within either that structure or a roped area beside it reserved exclusively for drinking (where the roped area is no more than 50% of the area of the structure).

H.9 Supervision

- (a) adequate stewarding must be provided;
- (b) all staff who sell or serve alcohol either hold a Personal Licence or have received the same training as is required of staff in Licensed Premises;
- (c) the Licence Holder or that trained member of staff must be present for the duration.

H.10 Conduct

- (a) Children under 14 years must be excluded from the bar area;
- (b) no alcohol is to leave the Licensed Area (if a Temporary Structure is used, this means the that structure or roped area - see H.7)

- (c) No glasses shall be used. All drinks (alcoholic or not) shall be decanted into paper or plastic containers.

