

**North Ayrshire Licensing Board
20 January 2014**

Irvine, 20 January 2014 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Ronnie McNicol, Tom Marshall, Robert Barr, Ian Clarkson, Catherine McMillan, Alan Munro, Donald Reid and Robert Steel.

In Attendance

C Andrew, Senior Manager (Legal Services), W O'Brien, Solicitor (Licensing), G Cullen, Licensing Standards Officer, C Pollock, Licensing Administration Officer, P Brennan, Specialist Environmental Health Officer (Noise).

Also In Attendance

Chief Inspector Hopkins and Sergeant McIntosh (Police Scotland).

Convenor

Councillor McNicol.

Apologies for Absence

John Bruce

1. Minutes

The Board were asked to confirm the Minutes of the Board meetings held on 30 September 2013 and 19 November 2013. The Convenor proposed that both sets of Minutes be adopted and this was seconded by Councillor Marshall. The Board unanimously agreed to confirm and adopt both sets of Minutes.

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

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

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

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

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

The Convenor confirmed that the Board would consider cases 1, 2, and 3 together.

A.1 Premises Licence 0171 The Market Bar, 35 Howgate, Kilwinning

A.2 Personal Licence NA0192 Marie McLaughlan

A.3 Personal Licence NA0193 Margaret Frearson

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Walcal Property Development, were represented by Mr Rock, Solicitor, and he was accompanied by Marie McLaughlan (Premises Manager) and Margaret Frearson.

The Review Application was made by the Chief Constable by a letter to the Board, dated 3 December 2013. Copies of the letter were given to Board Members and the content of the letter was summarised by Chief Inspector Hopkins.

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

The Board then considered the terms of a report by the Solicitor (Licensing) which set out the background to the Section 36 Review Application and summarised the issues arising. The Board also had regard to a report supplied by Grace Cullen, Licensing Standards Officer.

Thereafter Mr Rock addressed the Board on the issues arising. He explained that there were 2 members of staff on duty on the night in question and they were not expecting a sudden influx of 50 people at 11.45 pm. The staff were overwhelmed by the situation. When the Police entered the premises, patrons were still there as they were waiting for taxis.

Mr Rock said that this was an unfortunate, one off situation, and the appropriate action and steps have been taken to ensure that it does not happen again. The bar is now being closed at 12.30 am on a Saturday evening, a full 30 minutes before the terminal hour. All staff have been re-trained and refusals are now being recorded. The leaseholder, Jim Bryson, takes to do with all licensing matters and associated paperwork and he has re-briefed all staff about the licence paperwork and where it is kept on the premises.

Mr Rock highlighted that Ms McLaughlan and Ms Frearson have 35-40 years of experience working in licensed premises and along with Mr Bryson, they have never had any discretions in all those years.

Ms McLaughlan said that she had nothing to add to Ms Rock's comments, except that she wished to highlight that all of the staff at the premises have been working productively with Grace Cullen, Licensing Standards Officer.

Mr Rock then responded to questions and comments from the Convenor, Councillor Clarkson, and Councillor Steel.

The Convenor asked the Police if the premises have been well run in the past. Chief Inspector Hopkins confirmed that the Police had had no issues with this premises in the past.

The Convenor proposed that the Grounds for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Grounds for Review.

Having considered the terms of the report, information supplied by the Licensing Standards Officer, and the submissions made, Councillor Clarkson moved that the incident should be noted but no further action be taken. Councillor Barr seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

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

A.4 Premises Licence 0067 Latrobes, 69-71 Princes Street, Ardrossan

The Board considered an application for transfer of a Premises Licence, under Section 33, made by the Licence Holder, Abacus Estates Ltd, for the above premises. The Licence Holder had given authorisation for the proposed Transferee, Gary McKenna, to lodge the application. Mr McKenna was present.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's Notice under Section 33(6)(a)(i) of the 2005 Act and summarised issues arising.

Chief Inspection Hopkins advised the Board to have regard to all parts of the Notice and read out the section relating to the relevant offence: Mr McKenna had been convicted under the Section 4(3) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 and had been imprisoned for 13 years and nine months. He advised that Police Scotland recommended that for the purposes of the Preventing Crime and Disorder Licensing Objective, the application for transfer should be refused.

Mr McKenna said that he could not change the circumstances regarding his conviction in Guernsey. He added that clearly the Police were withholding information about him and he thought that was disrespectful to the Licensing Board.

Chief Inspector Hopkins confirmed that the Police did hold further information regarding Mr McKenna but due to its nature the information could not be discussed in a public forum.

Mr McKenna explained that the proposed business would be straight and honest and surely everyone deserves a second chance. The premises would be a safe environment, aimed at the over 30s market and if the Licensing Board did have any concerns about the premises in the future then they could initiate a Review procedure. Mr McKenna added that local jobs were at stake.

The Convenor commented that he had noticed that a lot of work had been done to the outside of the premises and he asked if work had been done inside of the building as well.

Mr McKenna confirmed that a lot of work had been done to the inside of the premises, including the installation of new fire systems and new kitchen facilities.

The Board adjourned to the Members' Lounge with the Solicitor (Licensing) at 10.30 am to deliberate in private and re-convened at 10.37 am.

Having considered the terms of the report, and the submissions made, Councillor Marshall moved that the transfer application be refused. Councillor Clarkson seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to refuse.

The Convenor confirmed to Mr McKenna that the application had been refused and that neither he, nor any of the other Board Members would comment any further regarding this case.

A.5 The Metro Nightclub, 2 Hamilton Street, Saltcoats

The Board considered an application for grant of a Provisional Premises Licence made by Jagir Singh for the above premises. Mr Singh was present and was accompanied by his Agent, Stephen McQuiston, and his son, Jagtar Singh Lalli.

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

Mr McQuiston addressed the Board regarding the application. He highlighted that the application is for a Provisional grant as the building has lain empty for some time and they are in the process of bringing it up to standard. The proposal is to provide a nightclub facility which will bring some vibrancy back to Saltcoats. He highlighted that there is currently no similar type of premises in the Saltcoats area.

Councillor Barr noted that the application did not contain any core hours Monday – Thursday. Mr McQuiston acknowledged that to be the case and he explained that at this time they were only requesting licensed hours on Friday, Saturday, and Sunday nights, but if their business plan changed in the future they would apply for a variation and come back to the Board in due course.

Mr Lalli then addressed the Board and responded to questions and comments from the Convenor, Councillor Marshall, and Councillor Clarkson. Mr Lalli highlighted that both he and his father already had a lot of experience in the licensed trade, gained from their off sales premises. They would be targeting an older clientele and there would not be any cheap drinks or promotions. There is definitely no intention for an outdoor drinking area and the reference to functions out with licensed hours is to be removed from the application as that was a mistake. Outside of the licensed hours, the premises would be closed.

Mr Lalli explained that both he and his father were in this for the long term and their long term plan is to demolish the building and rebuild it as a restaurant with a nightclub and function suite. He argued that the Saltcoats economy is currently 'dying', but if this proposal was granted it would provide a welcome benefit to a lot of local licensed premises and taxi operators.

The Convenor commented that there are existing nightclubs in Irvine and Largs, which are not that far from Saltcoats, plus other premises that are currently closed but still have a licence, so the Licensing Board may have to look at overprovision.

The Board adjourned to the Members' Lounge with the Solicitor (Licensing) at 10.54 am to deliberate in private and re-convened at 11.13 am.

Having considered the terms of the report, and the submissions made, the Councillor Munro moved that the Board decide to continue consideration of the application to the meeting on 3 March 2014. Councillor Barr seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to the meeting on 3 March 2014.

The Convenor informed Mr McQuiston that he should contact Mr O'Brien, the Licensing Solicitor, to discuss the submission of a more accurate and appropriate Operating Plan prior to the next Board meeting.

The Convenor confirmed that the Board would consider cases 6, 7, and 8 together.

A.6 Premises Licence 0082 Turf Hotel, 32 Eglinton Street, Irvine

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

A.8 Premises Licence 0085 Shielling Bar, 144 Main Street, Largs

The Board considered Review Proposals under Section 37, made in relation to the above premises. The Licence Holders, Greene King Retailing Ltd (for Premises Licences 0080 &

0085) and Greene King Brewing & Retailing Ltd (for Premises Licence 0082), were represented by Stephen McGowan, Solicitor, and he was accompanied by Mr Torrance and Mr Richardson, both local Area Managers for the licence holding companies.

The Board then considered the terms of a report by the Solicitor (Licensing) which set out the background to the Section 37 Review Proposals and summarised the issues arising.

Mr O'Brien referred to the Board's recent consideration and adoption of their Licensing Policy Statement for 2013-16. He highlighted that the Ground for Review is the existence of 'early hours' at each of the premises, and that this is a ground relevant to the protecting and improving public health Licensing Objective.

Thereafter Mr McGowan addressed the Board, making an extensive submission based upon 4 main points. He argued that the Review proceedings were a breach of the Licence Holder's human rights, that the Board's Policy was not evidenced based, that the rationale for the Policy is unclear, and that the proposed retrospective application of the Policy to existing premises is wrong.

The Board adjourned to the Members' Lounge with the Solicitor (Licensing) at 11.47 am to deliberate in private and re-convened at 12.15 pm.

Having considered the terms of the report and the submissions made by Mr McGowan the Convenor moved that no further action be taken in relation to the Review Proposals. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

The Convenor said that the Licensing Board reserve the right to Review these matters but will take further legal advice at this stage and may consider these Review Proposals again in the future.

The Convenor confirmed that given the Board's decision to take no further action in relation to cases 6, 7 and 8, then cases 9, 10, 11 and 12 would not be considered by the Board today, but may be considered in the future.

A.13 Premises Licence 0236 The Merrick Hotel, 31 Ardrossan Road, Seamill

The Board considered an application for transfer of a Premises Licence, under Section 33, made by the Licence Holder, Richard Waugh, for the above premises. The proposed Transferee, David McCulloch, was present.

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

Mr McCulloch confirmed that he took entry at the premises on 6 January 2014. His intentions are to completely restore the original building and he is not anticipating being able to open until October of this year. Mr McCulloch added that the proposed investment is in the region of £400,000.

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

A.14 Premises Licence 0410 Springside Bowling Club, Kyle Avenue, Springside

The Board considered an application for variations of a Premises Licence made by Springside Bowling Club for the above premises. The Licence Holder was represented by Duncan Lusk, Bar Convenor.

The Licence Holder was requesting the following variations:

1. Vary arrangements for access by Children.
2. Extend outdoor drinking area.

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

Mr Lusk addressed the Board regarding the application. He clarified that the Club are requesting that the extended children's' access applies for the extent of the licensed hours, all year round.

Having considered the terms of the report, and the submission made, the Convenor moved that both variations be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The extended access for children will apply for the extent of the licensed hours, all year round.

A.15 Premises Licence 0242 Castlehill Vaults, 2-6 Princes Place, Ardrossan

The Board considered an application for variations of a Premises Licence made by Rosemount Taverns Ltd for the above premises. The Licence Holder was represented by Frank Collins, Solicitor, and he was accompanied by Yvonne McClure (Premises Manager).

The Licence Holder was requesting the following variations:

1. Amend Layout Plan.
2. Add 'bar meals'.
3. Allow access by under 18s.

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

Mr Collins addressed the Board regarding the application. In relation to variation 3, Mr Collins confirmed that the application was being amended to add the requirement that children and young persons would be having a meal when accessing the premises. The Convenor acknowledged the amendment.

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

A.16 Premises Licence 0307 GSK Sports and Social Club, Shewalton Road, Irvine

The Board considered an application for variations of a Premises Licence made by GSK Sports and Social Club for the above premises. The Licence Holder was represented by Brian Surgeoner, Chairman, and David McFarlane, Bar Supervisor.

The Licence Holder was requesting the following variations:

1. Increase on sales hours.
2. Increase off sales hours.
3. Extend non-alcohol activities.
4. Grant exemption from '3 guest' rule for Clubs.

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

Mr Surgeoner addressed the Board regarding the application. He explained that the Club is used for different functions and activities, but bookings for use of the Club can only be made by Members.

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

A.17 Premises Licence 0367 Broomlands Supermarket, 35 Broomlands Gate, Broomlands, Irvine

The Board considered an application for variations of a Premises Licence made by Zulfiqar Ali for the above premises. Mr Ali was present.

The Licence Holder was requesting the following variations:

1. Increase off sales terminal hour Monday – Saturday from 8.00 pm to 9.00 pm.
2. Increase off sales terminal hour Sunday from 3.00 pm to 6.00 pm.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the results of consultations on the application and summarised the issues arising. Mr O'Brien informed the Board that the Licence Holder had not submitted the required Confirmation of Site Notice, meaning that the Board would not be able to consider the case today.

Mr Ali explained that due to a family bereavement he had been unable to attend to the completion and submission of the Confirmation of Site Notice and he requested that the Board continue consideration of this application to the next meeting.

The Convenor moved that the Board decide to continue consideration of the application to the meeting on 3 March 2014. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to the meeting on 3 March 2014.

A.18 Premises Licence 0436 Kiss Nightclub, 13 Bridgegate Square, Irvine

The Board considered a Review Application under Section 36 made by the Licensing Standards Officer relating to the above premises. The Licence Holder, Nicandro Arcaro, was not present or represented.

The Review Application was made by the Licensing Standards Officer by a letter to the Board, dated 16 December 2013. Copies of the letter were given to Board Members.

Ms Cullen highlighted to the Board that the Grounds for Review were that the Board's Standard Condition A.7, namely, 'Any annual or other recurring fee must be paid if required by the regulations', had been breached by the Licence Holder.

The Board then considered the terms of a report by the Solicitor (Licensing) which set out the background to the Section 36 Review Application and summarised the issues arising.

The Convenor proposed that the Grounds for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Grounds for Review.

Having considered the terms of the report, the Convenor moved that the Board decide to revoke the Licence, with immediate effect. There was no counter-motion and the Board unanimously agreed without dissent or abstention to revoke the Licence, with immediate effect.

3. Personal Licence Retraining

The Board considered a report by the Solicitor (Licensing) regarding whether only original documents should be accepted as evidence of the completion of Personal Licence re-training.

Having considered the report, the Board unanimously decided that only original certificates should be accepted as evidence that Personal Licence re-training has been completed.

The meeting ended at 12.44 pm.