

**North Ayrshire Licensing Board  
26 June 2012**

**Irvine, 26 June 2012** - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

**Present**

Ronnie McNicol (Chair), Tom Marshall, Robert Barr, Ian Clarkson, Ruth Maguire, Alan Munro, and Donald Reid.

**In Attendance**

W O'Brien, Senior Solicitor, G Cullen, Licensing Standards Officer, C Simpson, Licensing Standards Officer, C Pollock, Licensing Assistant, Chief Inspector Ritchie and Sergeant Menzies, Strathclyde Police.

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

Alex McLean and Robert Steel

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

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

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

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

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

**A.1 Premises Licence 184 Taylors Hotel, 68 Byres Road, Kilwinning**

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Taylors Hotel (Scotland) Ltd, was represented by Graeme Kerr (Director of Taylors Hotel (Scotland) Ltd and Premises Manager).

The Review Application was made by the Chief Constable by a letter to the Board, dated 22 May 2012. Copies of the letter were given to Board Members and the content of the letter was summarised by Chief Inspector Ritchie.

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

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

Referring to her report, Ms Simpson informed the Board that she re-visited the premises on 25 June 2012 and noted that several matters remained outstanding. Two members of staff, who were Personal Licence Holders, had been required to apply for replacement licences, having misplaced (or otherwise) the originals. To date, one had applied but one was still to make contact with the Licensing Office regarding the matter.

Mr Kerr was given the opportunity to address the Board on the issues arising. He said that the issue first arose in April 2011. Up until that point he hadn't been aware of the requirement to hold a non-front line SIA licence. In fact, he had previously spoken with someone at the SIA who had said that he did not need to hold a licence. On becoming aware of the requirement, he completed and submitted an application form to the SIA. However, it transpired that he had omitted 2 letters or digits and the form was returned to him by the SIA. He subsequently had a conversation with Constable Ritchie of Strathclyde Police, during which Constable Ritchie mentioned that the SIA may be getting disbanded. Mr Kerr had since applied a second time but again for reasons of supposed incompleteness the form was returned to him by the SIA. He said that he had now addressed and rectified the issues highlighted by the SIA and he is now ready to re-submit the application form for a third time.

Mr Kerr highlighted to the Board that he employs his own stewards directly in order to achieve consistency of service at the premises. Previously, a reliance on external stewarding contractors resulted in different personnel being sent on a nightly / weekly basis which led to inconsistency of approach.

Chief Inspector Ritchie said that he was unaware of any intention to disband the SIA and that Constable Ritchie would not have told him otherwise. On the contrary, Constable Ritchie, and other Police staff, have consistently, on numerous occasions, told Mr Kerr of the need to apply for a SIA licence. Furthermore, Mr Kerr should follow the legislation and instructions of the Police, as opposed to taking the word of a member of staff at the SIA. Chief Inspector Ritchie added that in the interests of clarity, it was his information that Mr Kerr made his initial application to the SIA in February 2012. When that application was returned, he re-applied in March 2012 and that application was also returned. To date, Mr Kerr has not yet re-submitted his application.

Mr O'Brien highlighted to Mr Kerr that he had been cited today in relation to the occurrence of two Review Hearings. In addition to the Section 36 Premises Licence Review application, the Police had also reported to the Board, under Section 84A, in relation to Mr Kerr's conduct

as a Personal Licence Holder, requiring the Board to hold a Personal Licence Review Hearing.

Mr Kerr acknowledged the occurrence of two Review Hearings and he confirmed that he was happy for both matters to be considered at the same time. Mr Kerr then confirmed that he had no further comment to make at this stage.

Chief Inspector Ritchie confirmed that his previous comments stood in relation to both Reviews.

Councillor Clarkson asked Mr Kerr why the application had been returned by the SIA on the second occasion. Mr Kerr said that it transpired that he had not enclosed a utility bill with the application. He had not been aware of this requirement, and furthermore the SIA were now insisting on him completing the third application from scratch.

The Board adjourned at 10.15 am and re-convened at 10.25 am.

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

Having considered the terms of the report, information supplied by the Licensing Standards Officer, and the submissions made, the Chair moved that the Board decide to continue consideration of both the Premises Licence Review and the Personal Licence Review to the meeting in October 2012 (exact date to be confirmed). In addition, a new Review Proposal under Section 37 should be initiated by the Board itself, also to be heard at the meeting in October 2012. There was no counter-motion and the Board unanimously agreed, without dissent or abstention to continue consideration of both Reviews to the meeting in October 2012, and initiate and consider a new Review Proposal under Section 37 at the same meeting.

The alleged Grounds for Review, in relation to the new Review Proposal, are that the conduct of the Premises has been inconsistent with one or more of the Licensing Objectives, namely 'preventing crime and disorder', and 'preventing public nuisance'.

The Chair commented that the Board would expect Mr Kerr to have resolved his issues with the SIA, and be in possession of the appropriate licence, by the time the Board resume consideration of the Reviews.

## **A.2 Premises Licence 0237 Tower Inn, 37 Main Street, Kilwinning**

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Margaret Bradford, was present.

The Review Application was made by the Chief Constable by a letter to the Board, dated 31 May 2012. Copies of the letter were given to Board Members and the content of the letter was summarised by Chief Inspector Ritchie.

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

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

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Mr O'Brien highlighted to Ms Bradford that she had been cited today in relation to the occurrence of two Review Hearings. In addition to the Section 36 Premises Licence Review application, the Police had also reported to the Board, under Section 84A, in relation to Ms Bradford's conduct as a Personal Licence Holder, requiring the Board to hold a Personal Licence Review Hearing.

Ms Bradford was given the opportunity to address the Board on the issues arising. She acknowledged the occurrence of two Review Hearings and confirmed that she was happy for both matters to be considered at the same time.

Ms Bradford said that she had been a Licence Holder for 18 years and had never had to appear before the Board in these type of circumstances before. She explained that on the day in question her son in law was doing a shift behind the bar to allow her to catch up with some paperwork at the premises. Regarding the incident detailed in the Police letter, Ms Bradford said that she was aware that an 18 year old had produced identification and purchased some drinks but due to a distraction when he was walking away from the bar she did not become aware that there were other young males in his company. Ms Bradford said that she had had to go home briefly, to collect more paperwork, and whilst at home she received a phone call to say that the Police were at the premises, where they had discovered persons under the age of 18, drinking alcohol.

Chief Inspector Ritchie said that the report submitted by the Community Policing Team stated that the staff member on duty behind the bar, at the time of the incident, denied having any knowledge of training requirements or records, or indeed of being trained himself.

Ms Bradford said that there must have been a mix up because the individual concerned is fully trained and all the relevant training records are marked up to date. However, he has recently had an ear operation so perhaps there had been a breakdown or mix up in communication between himself and the Police Officers.

Councillor Clarkson asked how many Personal Licence Holders were employed at the premises. Ms Bradford said that the premises had 2 Personal Licence Holders and all other staff had been trained in accordance with the requirements.

Councillor Barr asked if the criminal cases had been heard at Court yet. Chief Inspector Ritchie confirmed that the cases had not been heard yet.

Councillor Reid asked if the premises operated a Challenge 25 policy. Ms Bradford confirmed that Challenge 25 was operated at the premises.

Councillor McNicol asked Ms Bradford if she knew the boys involved. Ms Bradford said that she knew one of the boys, through his Dad, but did not know the other individuals involved.

The Board adjourned at 10.35 am and re-convened at 10.45 am.

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

Having considered the terms of the report, information supplied by the Licensing Standards Officer, and the submissions made, Councillor Barr moved that a written warning be issued in relation to the Premises Licence Review, and that Ms Bradford's Personal Licence be given one endorsement. Councillor Marshall seconded the motion, there was no counter-motion and the Board unanimously agreed without dissent or abstention to issue a written warning to the Premises Licence Holder and endorse Ms Bradford's Personal Licence.

The written warning is issued under Section 39(2)(a) for the purposes of the following Licensing Objective: (a) preventing crime and disorder, and the endorsement is issued based on the Board's finding that Ms Bradford, as a Personal Licence Holder, did act in a manner which was inconsistent with that Licensing Objective.

**A.3 Premises Licence 0327 The Carrick, 112-114 High Street, Irvine**

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Greene King Brewing and Retailing Ltd, was represented by Andrew Hunter, Solicitor.

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

Mr O'Brien highlighted the occurrence of two Review Hearings. In addition to the Section 36 Premises Licence Review application, the Police had also reported to the Board, under Section 84A, in relation to the conduct of Brian Flannigan, the Premises Manager, as a Personal Licence Holder, requiring the Board to hold a Personal Licence Review Hearing.

Mr Hunter was given the opportunity to address the Board on the issues arising. He requested, on behalf of the Licence Holder, that both Reviews are continued until after the Court trial, which is set for November 2012.

Chief Inspector Ritchie confirmed that the Police were of the view that a continuation would be an appropriate course of action and were happy to agree to the request.

Having considered the submission made, the Chair moved that the Board decide to continue consideration of both Reviews until after the conclusion of the Court trial. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of both Reviews without limit of time.

**A.4 Premises Licence 0346 Irvine Snooker Club, 53 East Road, Irvine**

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Sant Ltd, was represented by Ian Hunter, Solicitor.

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

Mr O'Brien highlighted the occurrence of two Review Hearings. In addition to the Section 36 Premises Licence Review application, the Police had also reported to the Board, under Section 84A, in relation to the conduct of Ravinder Singh, the Premises Manager, as a Personal Licence Holder, requiring the Board to hold a Personal Licence Review Hearing.

Mr Hunter was given the opportunity to address the Board on the issues arising. Referring to the previous agenda item (The Carrick), Mr Hunter proposed that this was a similar situation and as such he requested that both Reviews are continued until after the Court trial.

Chief Inspector Ritchie said that the Police were of the view that this was a different situation, similar to agenda item A.2 (Tower Inn) and that it is a different situation to The Carrick, given the nature of offence alleged in each case. In his opinion, the Review application should proceed and be heard by the Board today.

Having considered the submissions made, the Chair moved that the Board decide to continue consideration of both Reviews until the meeting in August 2012 (exact date to be confirmed). There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of both Reviews to the meeting in August 2012.

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

The Board considered a Review Application under Section 36 made by Mr Paul Castelvechi, Flat H The Moorings, 18 Main Street, Largs, relating to the above premises. The Licence Holder, Greene King Retailing Ltd, was represented by Andrew Hunter, Solicitor, and he was accompanied by Mr Torrance of Greene King Retailing Ltd and Brian Purdie (Premises Manager).

The Review Application was made by Mr Castelvechi by a letter to the Board, received on 23 May 2012. Mr Castelvechi was present.

As a preliminary matter, Mr Hunter asked for some clarification regarding 2 points, namely, the Grounds for Review, and the petition that had been submitted. Mr Hunter argued that surely the Grounds for Review involved Licensing Objectives (c) preventing public nuisance and (d) protecting and improving public health, only, as opposed to the 4 Licensing Objectives listed in Mr O'Brien's report. Furthermore, referring to comments in section 6 of Mr O'Brien's report, Mr Hunter stated that it was his submission that the petition should be disregarded.

Mr O'Brien confirmed that the Grounds for Review involved Licensing Objectives (c) and (d) only, and that his advice to the Board is that the petition should be disregarded.

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

Mr Hunter was given the opportunity to address the Board on the issues arising. He confirmed that he had seen a copy of Mr Castelvechi's correspondence prior to the Board Meeting. Mr Hunter said that Mrs Cullen's report was extremely detailed and very helpful indeed. In September 2011, Greene King Retailing Ltd and Mr Purdie thought that the situation with the neighbours had been resolved. This perception was formed as a result of a productive mediation meeting which occurred on the 14 September 2011. Between 19 September 2011 and April 2012, as far as the Licence Holder and Premises Manager were aware, no complaints had been made in relation to the premises. As far as Mr Purdie was concerned, he was operating the premises well and he was surprised and upset when he was informed of further complaints and a Review Application having been made in April (2012).

Mr Hunter said that the premises are fully compliant with all aspects of the licensing legislation and the Licence Holder has ensured that good policies and procedures are in place. There are 2 Personal Licence Holders employed at the premises, with a further 2 members of staff in the process of obtaining a Personal Licence. Mr Hunter also highlighted that the Police have not raised any concerns about the premises.

Mr Hunter informed the Board that quotes had been obtained for double glazing at the front of the premises and triple glazing at the rear of the premises. Advice has also been sought regarding the entrance doors, and it would appear that installing double doors is unfortunately not an option.

## AGENDA ITEM 1

Mr Hunter proposed that the Grounds for Review are not established and should therefore not be upheld. If however, the Board do decide to uphold the Grounds for Review, then he suggested a period of monitoring would be an appropriate and proportionate course of action.

Mr Castelvechi was given the opportunity to address the Board on the issues arising. He said that a large number of households, in the region of 20, all agreed that there is an ongoing noise issue with The Waterside. The issue relates to excessive noise coming from the premises on a Friday, Saturday, and Sunday night. The main problem is that the noise emits from the front of the premises and echoes around the courtyard of the neighbouring properties. As recent as Saturday night (23 June 2012), the noise coming from the premises was horrendous and did not cease until 12.57 am. There is no respite from the noise for the neighbours.

Mr Castelvechi argued that the premises are not designed for the type of bands and entertainment that are provided by the Licence Holder / Premises Manager, and a permanent solution is needed in order to end the ongoing misery being experienced by the neighbours.

Mr Castelvechi added that the vast majority of the people who have signed the petition are reluctant to attend the Board today as they fear reprisals.

Responding to Mr Castelvechi's submission, Mr Hunter said that regarding last Saturday night, no direct complaints had been made to the premises, and with respect to Mr Purdie, he is certainly not an intimidating character who would cause anyone to be in a state of fear. Mr Hunter suggested that the complaint is being driven by Mr Castelvechi alone, as no complaints are received when Mr Castelvechi is away from his property. Steps have definitely been taken on the part of the Licence Holder to address the neighbours' concerns and further steps, such as better glazing, are in the pipeline.

Mr Hunter added that the premises have a clear management policy in relation to the provision of entertainment. The music stops at 12.30 am on a Friday and Saturday night and 11.30 pm on a Sunday night. Although this is a local policy, the Licence Holder would have no objection if this procedure were to be written into the licence by the Board, as an additional condition. Mr Hunter said that it remains his submission that the Grounds for Review should not be upheld, and if they are, a period of monitoring would be appropriate and proportionate. Mr Hunter also acknowledged the comments in section 6 and section 8 of Mr O'Brien's report, regarding the validity of the petition submitted and the consideration of Human Rights in this case.

Mr Castelvechi said that in periods when he was away from his property, complaints had been made by other neighbours, and these had been made to the Police. However, it is true to say that a lot of the other neighbours are apprehensive about making complaints against the premises. A lot of the neighbours are elderly and as such they are happy for Mr Castelvechi to take the lead regarding the submission of complaint(s) about excessive noise coming from The Waterside.

Mr Castelvechi added that he had been a licence holder himself for 40 years until he retired and he has no personal vendetta against Greene King Retailing Ltd or Mr Purdie, it is simply a case that the measures currently in place at the premises to prevent noise nuisance are not working.

The Chair asked if music was provided at the premises on Friday, Saturday and Sunday nights only. Mr Hunter confirmed that was the case and the entertainment provided is exactly as described in Mrs Cullen's report.

Councillor Clarkson asked how many complaints, made to the Out of Hours Team, had been upheld. Mrs Cullen referred to her report and said that of the numerous complaints made to the Team, some were found to be worthy of note, some were not.

Councillor Clarkson asked Mr Castelvechi how far away his property was from The Waterside. Mr Castelvechi said that there is approximately 10 feet between his property and the premises and he had lived there for 20 years.

Councillor Clarkson asked if the premises had changed direction / policy in recent years regarding the music and entertainment on offer and provided to customers. Mr Hunter confirmed that yes, there had been shift in the entertainment made available and in January 2011 the premises had started to provide amplified music.

The Chair asked Mr Hunter if the Licence Holder would be prepared to accept a curtailment to midnight, in relation to the provision of music and live performances on a Friday and Saturday night. Mr Hunter said that his client would not be able to accept such a curtailment, as it would be detrimental to their business and they don't believe they have a case to answer.

Councillor Marshall asked Mr Hunter and Mr Purdie if they had any knowledge of any recent disorder in the streets surrounding the premises. Local residents had approached him with regard to such concerns. Mr Hunter said that neither the Licence Holder nor Mr Purdie were aware of any such concerns as there had been no visits or contact from the Police to indicate that any incidents or occurrences were attributable to patrons of the premises.

The Board adjourned at 11.33 am and re-convened at 11.42 am.

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

Having considered the terms of the report, information supplied by the Licensing Standards Officer, and the submissions made, the Chair moved that the Board decide to vary the Premises Licence by adding the following condition:

'Amplified music or noise will cease at 12.30 am on a Friday and Saturday night and 11.30 pm on a Sunday night.'

There was no counter-motion and the Board unanimously agreed without dissent or abstention to vary the Premises Licence by adding the following condition:

'Amplified music or noise will cease at 12.30 am on a Friday and Saturday night and 11.30 pm on a Sunday night.'

The variation is made under Section 39(2)(b) of the Licensing (Scotland) Act 2005 for the purposes of Licensing Objectives (c) preventing public nuisance, and (d) protecting and improving public health.

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

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



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

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

**A.7 Premises Licence 0197 Room, 48-52, Gallowgate Street, Largs**

The Board considered an application for a variation of a Premises Licence made by Linnpinn Ltd for the above premises. The Licence Holder was represented by Stephen McDonald.

The Licence Holder was requesting the following variation:

1. Increase under 18 access from 20.00 to 22.00.

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

Mr McDonald was given the opportunity to address the Board on the issues arising. He explained that the application is being made in response to customer demand, and it would only apply to the Restaurant area, and not the Bar area.

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

**A.8 Premises Licence 0246 The Burns Tavern, 34-36 High Street, Irvine**

The Board resumed consideration of an application for a variation of a Premises Licence made by Gurpreet Singh Batth for the above premises. The Licence Holder was represented by Ian Hunter, Solicitor.

The Licence Holder was requesting the following variation:

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

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

Mr O'Brien highlighted that since the application first called at the Board on 16 April 2012, a letter of objection (to the application) had been received from Carruthers Curdie Sturrock & Co, on behalf of Irvine Leisure Limited, the Licence Holder at Pitchers Nightclub, Irvine. The letter was received at the Licensing Office on 22 June 2012. Reid Hamilton, Solicitor, of Carruthers Curdie Sturrock & Co was present.

Mr Hunter was given the opportunity to address the Board on the issues arising. He explained that he was appearing on behalf of Mr Batth's agent, D & J Dunlop, and his instructions were to reiterate a request for a continuation, which had been faxed to the Licensing Office yesterday, 25 June.

Mr Hamilton was given the opportunity to address the Board on the issues arising. Mr Hamilton confirmed that his client had no objection to Mr Hunter's request for a continuation, however, he requested some clarification on the Board's position with regard to the late nature of his own written objection.

Having considered the terms of the report, and the submissions made, the Chair moved that the Board decide to continue consideration of the application to the meeting in August 2012 (exact date to be confirmed). There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to the meeting in August 2012.

The Chair confirmed that Mr Hamilton's late objection would be considered as a preliminary matter when the case called at the August meeting.

#### **A.9 Premises Licence 0124 Costcutter, 20-22 Nelson Street, Largs**

The Board considered an application for variations of a Premises Licence made by Balbir Kaur for the above premises. The Licence Holder was represented by James Russell, Solicitor.

The Licence Holder was requesting the following variations:

1. To increase capacity from 13.2 to 25.03 sq mtrs.
2. To amend Layout Plan.

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

Objections to the application had been lodged with the Licensing Section by Douglas Stewart of 30c Nelson Street, Largs and Norman MacKinnon of 8 Cumbrae Court, Nelson Street, Largs. Neither objector was present. Copies of the written objections were made available to Board Members. Mr Russell confirmed that he had seen a copy of both objections prior to the Board Meeting.

Mr Russell was given the opportunity to address the Board on the issues arising. He confirmed that the intention is to dispense with the take away facility altogether in favour of a larger convenience store facility. Regarding comments on overprovision, contained in Mr O'Brien's Board report, Mr Russell said that his client would be willing to reduce the size of the proposed alcohol display area in order to comply with the Board's policy, in particular the '10%' criteria.

Councillor Marshall asked what the gross selling area of the premises was, once the fast food facility was removed / converted. Mr Russell said that he did not have that figure readily available, he would need to consult plans which he had on file.

Mr Russell stated that the premises were not ready to open yet, and they would not open, or be re-fitted until all permissions / licences had been obtained.

Mr O'Brien briefed the Board on the reference to overprovision within his report. He also briefed the Board on the Criteria relating to the Condition as to agreed area for Off Sales display (adopted by NALB 20 May 2008), including the '10%' criteria referred to by Mr Russell. Mr O'Brien highlighted to the Board the fluidity of the policy, and that as it wasn't rigid in nature, it was for the Board to apply, or not, on a case by case basis.

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

Having considered the terms of the report, and the submissions made, the Chair moved that all variations applied for be granted, on the basis that the alcohol display area conforms to the Board's '10%' policy. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant, on the basis that the alcohol display area conforms to the Board's '10%' policy. The Chair directed that revised layout plans should be lodged with the Licensing Office.

**A.10 Premises Licence 0229 Newhouse Mini Market, 4 Dalry Road, Kilbirnie**

The Board considered an application for a variation of a Premises Licence made by Rajwinder Kaur Nijjer for the above premises. The Licence Holder was represented by Ian Hunter, Solicitor.

The Licence Holder was requesting the following variation:

1. Amend layout plan, increasing capacity from 25.7 to 27.5 sq mtrs.

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

Mr Hunter was given the opportunity to address the Board on the issues arising. He explained that the application was in relation to a refurbishment of the premises. The shop will be able to offer more products for sale, which will be a benefit to the community. Overall, the total sales floor area will increase by between 40-50%. It is not proposed that the alcohol display area will increase by anywhere near that scale, and will be a fairly small increase in comparison.

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

**A.11 Premises Licence 0257 Pierhead Tavern, Main Street, Lamlash**

The Board considered an application for variations of a Premises Licence made by Punch Partnership Limited for the above premises. The Licence Holder was represented by Campbell Dorwood, who was accompanied by Matthew Roberts (Premises Manager).

The Licence Holder was requesting the following variations:

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.

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

Mr Dorwood was given the opportunity to address the Board on the issues arising. He explained that these variations were omitted from the transition application as an oversight

on the part of the Licence Holder, and he acknowledged that this application should have been made some time ago.

Mr Dorwood confirmed that variation 3 should be regarded as removed, as this was not what the Licence Holder intended in their application.

Regarding variation 2, Mr Dorwood said that operationally, the premises were looking to become as family friendly as possible. In addition, with Arran being a tourist destination, it is common for tourists and visitors to the island (some with children and young persons), to want to eat later in the evening, and the Licence Holder and Premises Manager want to be able to accommodate that particular market.

Mr Dorwood confirmed that variation 2 is being applied for under the terms that children and young persons are accompanied by an adult for the purposes of having a meal, and he requested that the Board amend the application accordingly.

Regarding the outdoor drinking area, Mr Dorwood explained that this is an area of raised decking, and he gave an undertaking to have the area roped off, in order to separate it from the road.

Councillor Reid asked if it was possible or conceivable for children to run directly from the outdoor area onto the road. Mr Dorwood said that he believed it would not occur, given that it hasn't for all the time the area has been in place, however, he obviously could not give a guarantee that it could never happen.

Regarding variation 4, Mr Dorwood explained that the request is simply to facilitate children being able to access the customer toilets at the premises, and that the disapplication of Standard Condition C.10.3 (e) only would be sufficient for this purpose.

Having considered the terms of the report, and the submissions made, the Chair moved that all variations applied for be granted, incorporating Mr Dorwood's amendments and undertakings, and that Standard Condition C.10.3 (e) be disapplied. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant, noting the amendments and undertakings given by Mr Dorwood. Standard Condition C.10.3 (e) is disapplied.

#### **A.12 Premises Licence 0281 Skelmorlie Bowling Club, The Crescent, Skelmorlie**

The Board considered an application for a variation of a Premises Licence made by Skelmorlie Bowling Club for the above premises. The Licence Holder was represented by John Jackson (Club Secretary) and Bill McCracken (Club Vice Chairman)

The Licence Holder was requesting the following variation:

1. Allow use of seats outside, around bowling green, for drinking.

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

Mr Jackson was given the opportunity to address the Board on the issues arising. He explained that the area around the bowling green had been landscaped, and there was a definite demand from club members and visitors to be able to use that area to enjoy a drink, including alcoholic drinks.

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

**A.13 Premises Licence 0381 Graze Restaurant, Crossroads Barkip, by Dalry**

The Board considered an application for a variation of a Premises Licence made by David Castelvechi for the above premises. The Licence Holder was represented by James Russell, Solicitor.

The Licence Holder was requesting the following variation:

1. Increase on-sales terminal hours from 7.00 pm to 10.00 pm, seven days.

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

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

**A.14 Wetherspoons, Rivergate Shopping Centre, Irvine**

The Board considered an application for grant of a Provisional Premises Licence made by J.D.Wetherspoon (Scot) Ltd for the above premises. The applicant was represented by Archie McIver, Solicitor and he was accompanied by Sarah Kyle of J.D.Wetherspoon (Scot) Ltd.

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

Mr McIver was given the opportunity to address the Board on the issues arising. He explained that the application is in connection with a proposed re-vamp of the front of the Rivergate shopping centre, within which Wetherspoons are intending to occupy unit 5, located at the bottom of the escalators. The intention is that the premises will be heavily food orientated with an approximate 50/50 split between wet and food sales.

Regarding the request for early hours, Mr McIver explained that it was to accommodate shoppers. In response to Mr O'Brien's observations regarding the accesses requested for under 18s, Mr McIver highlighted that these accesses are in place, and are managed appropriately and successfully, in numerous other premises throughout the Wetherspoons estate. However, Mr McIver stressed that if the Board had issues with any particular request(s) in relation to under 18s access, then the applicant would amend their application accordingly.

Regarding the external drinking area requested within the application, Mr McIver explained that the area would be formally delineated and would not cause an obstruction to people walking between the Rivergate Centre and Asda supermarket.

Councillor Clarkson said he would like to see more information regarding the proposed external area. Mr McIver provided Board Members with a copy of the proposed premises layout plan in an effort to provide further clarification regarding the area being requested for outdoor drinking.

## AGENDA ITEM 1

The Chair asked if the proposed outdoor area would also be used for smoking. Mr McIver confirmed that it would also be used for smoking.

The Chair commented on the large figure provided in relation to the capacity requested. Mr McIver explained that the number of persons requested, 365 in this case, was derived from an architect's calculation, and in practice, this figure usually bears scant resemblance to the actual number of people within the premises at any one time.

The Chair further commented that it was unusual for Wetherspoons to apply for recorded music and live performances. Mr McIver acknowledged this, however, he explained that the company wanted to have these options within their operating plan, just in case they may be required on a one off basis. It was not the intention of Wetherspoon to deviate from their normal, day to day operational policy by playing music within their licensed premises.

Councillor Clarkson stated that he did not have a problem with the application in general, however, he remained concerned about the area being proposed for external drinking. He suggested that the applicant should supply the Board with more information and detail regarding their proposals for the external area.

Mr McIver explained that the external area being requested extended to the end of the glass overhang / canopy which is there at present. He added that the proposals, including the external area, had already been granted Planning permission from North Ayrshire Council.

Mr O'Brien confirmed that Development Control had approved the proposals, including the proposed outdoor area.

Councillor Clarkson stated his surprise at this, as the area earmarked for an outdoor drinking area is currently a very busy walkway which people use to go between the Rivergate Centre and Asda, particularly in wet or inclement weather.

Councillor Reid said that the Board would expect a substantial barrier to be erected in order to separate the proposed outdoor drinking area and the remaining pedestrian area. Mr McIver said that Wetherspoons used waist height barriers, throughout their estate, which conform to the appropriate regulations.

The Chair suggested that perhaps permanent secure glass panel barriers may be more appropriate in this circumstance. Mr McIver said that it would be possible for Wetherspoons to install such permanent glass barriers, however, that may result in issues for the company in relation to Planning.

The Chair acknowledged Mr McIver's comments that a potential conflict with Planning may result if the Board were to enforce the installation of permanent glass barriers.

Mr McIver wished to highlight to the Board that he was in possession of a letter from the Landlord at the Rivergate Centre, which detailed their full support for the Wetherspoon proposals.

The Board adjourned at 12.25 pm and re-convened at 12.34 pm.

Having considered the terms of the report, and the submissions made, the Chair moved that the application be granted, with the proviso that further consideration be given by the Board to the proposal for the outdoor drinking area, prior to the licence being Confirmed. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant, on the basis that further consideration be given to the proposal for the outdoor drinking area, prior to the licence being Confirmed.

**A.15 Gulab Brasserie, 2a Stanecastle Road, Irvine**

The Board considered an application for grant of a Premises Licence made by Summel & Summel Ltd for the above premises. The applicant was represented by Ian Hunter, Solicitor and he was accompanied by Mr Summel of Summel & Summel Ltd.

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

Mr Hunter was given the opportunity to address the Board on the issues arising. He explained that the applicant was looking for an exact repeat of the licence (held by the previous owner) that was in place at the premises, until it lapsed in February of this year. However, Mr Hunter highlighted that Planning issues had arisen during the application process in relation to the public bar area within the premises. It has transpired that there is no Planning Permission in place for the public bar area, and hence the application should be regarded as amended, to remove any reference to the public bar area. Mr Hunter stated an undertaking that the area will not be used. The appropriate Planning application has now been lodged and a variation application, to request re-inclusion of the public bar area into the licence, will be lodged with the Licensing Office in due course.

Mr Hunter confirmed that amended layout plans, reflecting the removal of the public bar area from the application, would be lodged within 28 days, from today.

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

**A.16 Le Raj Restaurant, 32a Bank Street, Irvine**

The Board considered an application for grant of a Premises Licence made by Davinder Summel for the above premises. Mr Summel was present and was represented by Ian Hunter, Solicitor.

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

Mr Hunter was given the opportunity to address the Board on the issues arising. He explained that the applicant is looking for an exact repeat of the licence that was in place at the premises, until the previous owner surrendered it in March of this year.

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

**A.17 Calum Gibb (Reference NA 1365)**

The Board considered an application for a Personal Licence made by the above applicant. The applicant was neither personally present nor represented.

The Board considered the terms of a report by the Senior Solicitor which set out the Chief Constable's Notice under Section 73(3)(b) of the 2005 Act and summarised issues arising.

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

**A.18 Gerald Michaluk, Beer Stand, Ormidale Park, Brodick, Isle of Arran**

The Board considered an application for an Occasional Licence (421/12) made by Gerald Michaluk (Personal Licence GC00250) for a Beer Stand within Ormidale Park, Brodick, 11.00 am to 6.00 pm on 4 August 2012, in connection with Brodick Highland Games. The applicant was neither personally present nor represented.

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

Mr O'Brien highlighted a letter from the applicant, submitted with the application, in which a request is made for the disapplication of Standard Condition H. 7.2(a) for this event.

Having considered the terms of the report, and the written submission made, the Chair moved that the application be granted, and that Standard Condition H.7.2(a) be dis-applied in this case. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant and dis-apply Standard Condition H.7.2(a) in this case.

**2. Occasional Licences.**

The Board considered a report by the Senior Solicitor, suggesting and recommending an amendment to the Scheme of Delegation, which would enable a controversial occasional licence application to be considered and determined in the situation where there is no scheduled Board meeting prior to the proposed event.

Having considered the report, the Chair proposed that the Board adopt the Senior Solicitor's recommendation. There were no counter proposals and the Board unanimously agreed without dissent or abstention to adopt the Senior Solicitor's recommendation and amend the Scheme of Delegation accordingly.

The meeting ended at 12.52 pm.