

Cunninghame House,
Irvine.

18 June 2015

North Ayrshire Licensing Board

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, Cunninghame House, Irvine on **MONDAY 22 JUNE 2015** at **11.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

- 1. Election of Convenor - Licensing (Scotland) Act 2005, Schedule 1, Paragraph 6(2)**
Submit report to the Licensing Board to advise as to the resignation of the Board Convenor and to seek the appointment of a New Convenor (copy enclosed).
- 2. Minutes**
Confirm the Minutes of the Board Meeting held on 18 May 2015.
- 3. 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: Vacancy (Convenor)
Tom Marshall (Vice-Convenor)
Robert Barr
John Bruce
Ian Clarkson
John Easdale
Grace McLean
Catherine McMillan
Ronnie McNicol
Donald Reid

Chair:

Attending:

Apologies:

Meeting Ended:

North Ayrshire Licensing Board

Meeting on Monday 22 June 2015

Subject:	Election of Convener - Licensing (Scotland) Act 2005, Schedule 1, Paragraph 6(2)
Purpose:	To advise as to the resignation of the Board Convener and to seek the appointment of a new Convener
Recommendation:	That the Board elect a new Convener

1. Introduction

1.1. This report advises the Board of the vacancy in the Board arising since the last meeting.

1.2. Schedule 1 to the Licensing (Scotland) Act 2005 provides for Boards and their operations. While the Membership of the Board is elected by the Council itself, the position of Convener of the Board is to be filled by the Board from candidates who are Board Members. Where the position of Convener becomes vacant, the Board must fill the vacancy at the first available meeting after the vacancy arises.

2. Current Position

The Convener (Councillor McNicol) has intimated his resignation as Convener with effect from 17 June 2015. He will remain as an ordinary Member of the Board. He has also resigned as Chair of the Licensing Committee and will also remain a member of that Committee.

3. Proposals

3.1. As explained above, The Board requires to appoint a new Convener at the first meeting following the vacancy arising. Although not obligatory, it is usual practice for the same Members to serve on the Licensing Board and the Licensing Committee, and for the same person to Chair the Committee and Board. At the full Council Meeting held on 17th June, 2015 Councillor Clarkson was appointed as Chair of the Licensing Committee.

3.2. Since Councillor McNicol is remaining as a Member of the Board, and is only giving up the position of Convener, the Council does not require to appoint a new member of the Board.

4. Conclusion

The Board is invited to elect a new Convener.

Agenda Item 3

22 June 2015

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.

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

Clerk to the Licensing Board

Reference : WO'B/MC

*For further information please contact William O'Brien, Solicitor (Licensing)
, 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.	0471	Co-operative Group Food Limited 1 Angel Square Manchester M60 0AG	Co-operative Food 19 Cardiff Street Millport KA28 0AS	Application for Grant of Provisional Premises Licence - Section 45
2.	0386	Lidl UK GmbH 19 Worples Road Wimbledon London SW19 4JS	Lidl UK GmbH 2 Kilwinning Road Dalry KA24 4LA	Application for Variation of Premises Licence - Section 29
3.	0303	Lidl UK GmbH 19 Worples Road Wimbledon London SW19 4JS	Lidl UK GmbH 104 Boglemart Street Stevenston KA20 3EL	Application for Variation of Premises Licence - Section 29
4.	0472	Rosenwheel Property Limited 5 Oswald Street Glasgow G1 4QR	Restaurant 73 Main Street West Kilbride KA23 9AN	Application for Grant of Provisional Premises Licence - Section 45
5.	0333	Salma Hameed Manzur 88 Alyth Crescent Clarkston Glasgow G76 8PB	Londis 132 Hayocks Road Stevenston KA20 4DR	Application for Variation of Premises Licence - Section 29
6.	0127	The Wineport Partnership Cladach Brodict Isle of Arran KA27 8DE	The Wineport Cladach Brodict Isle of Arran KA27 8DE	Application for Variation of Premises Licence - Section 29
7.	0214	Matthew Dyson 28 Oldwood Place Livingston EH54 6UJ	The Kings Arms Hotel 115 High Street Irvine KA12 8AA	Application for Transfer of Premises Licence - Section 34
8.	NA/1937	Margaret Duncan Reilly 42 Gateside Street West Kilbride KA23 9BA		Application for Grant of Personal Licence - Section 74

- | | | | | |
|-----|------|---|--|---|
| 9. | 0468 | Acre Lettings Limited
6 Stanlane Place
Largs
KA30 8DA | Restaurant
17-19 Aitken Street
Largs
KA30 8AT | Premises Licence
Review Proposal -
Section 37 |
| 10. | 0432 | Summel & Summel Limited
46 Milgarholm Avenue
Irvine
KA12 0EJ | Gulab Brasserie
2A Stanecastle Road
Irvine
KA11 1AE | Premises Licence
Review Proposal
(Second Stage) -
Section 37 |

Application for Grant of Provisional Premises Licence - Section 45

Applicant	The Co-operative Group Food Ltd.
Premises	19 Cardiff Street, Millport, Isle of Cumbrae, KA28 0AS
Ref.	471

Preliminary

The Board are entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).

Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If they do, they must defer further consideration until the Report is produced.

This Report was prepared provisionally before the end of the Site Notice display period, which ends on 12 June 2015.

Only the 14 objections received to date are noted here. If there are others, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.

The Applicant should lodge the following Certificate. Until the Board has it, they cannot determine the Application: Display of Site Notice.

1. Summary of Proposal

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

The proposal is similar to, but not identical to, the Application which was refused by the Board on 2 March 2015. The Board granted the Applicant's request for a Direction under Section 25 (so as to permit a further Application within one year without the need for a material change of circumstances).

The proposal is for a small supermarket, part of a national chain, selling a broad range of products for consumption off the Premises.

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 act as 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. Objections and Representations

All addresses are in Millport.

Name	Address	Date Received	Late or OK
Angela Giorgetti	Nether Kirkton Farm	29/5/15	OK
Luigi Giorgetti	ditto	ditto	OK
James Thomson	6 Kirkton Crescent	3/6/15	OK
Mae Watson	27 Glasgow Street	4/6/15	OK
Margaret and Alexander Caldwell (by Solicitors)	Kames House	5/6/15	OK
Margaret and David Templeman	27 Cardiff Street	8/6/15	OK
Kyle Jamieson	42 George Street	10/6/15	OK
Valerie Nailor	12 Marine Parade	10/6/15	OK
Colin Whyte	23 Marine Parade	10/6/15	OK
Johanne Watson	21 Cardiff Street	11/6/15	OK
Alex Dobbin	8 St. Maura Gardens	11/6/15	OK
Darren McLachlan	16 Marine Parade	12/6/15	OK
Sharon Hagan	4 St Maura Gardens	12/6/15	OK
Derek Hagan	4 St Maura Gardens	12/6/15	OK

3. Detailed proposal**(a) Licensed Hours**

The Premises sell off-sales only. The request is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

(b) Capacity

On-Sales (persons)	n/a
Off-Sales (sq. mtr.s)	19.914 *

* The Application refused on 2 March 2015 requested an area of 25.75. The Operating Plan initially submitted with the second Application stated a capacity of 17.823, but it was pointed out to the Applicant by Board staff that that figure did not match the Layout Plan, and accordingly the Applicant substituted 19.914. The capacity now requested is about 77% of the first Application (the initial figure represented about 69% of the first Application).

4. Issues

The Board have a discretion to grant or refuse the Application. The Board should consider all the potential Grounds of Refusal set out below:

- (1) The Application may be inconsistent with Licensing Objective(s)
- (2) Overprovision may result if the Application is granted

If any Ground of Refusal applies, the Board must refuse. However, the Board are 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 none apply, the Board must grant: Section 23(4)-(5).

(1) The Application may be inconsistent with Licensing Objective(s)

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.

These include L.O. (d): 'protecting & improving public health'. The L.O. expressly states 'improving'. The creation of a new facility to sell alcohol cannot be said to improve public health. Opinions may differ as to whether:

- (i) it damages public health, or
- (ii) makes no difference (e.g. it might be said that adding a facility here does not increase the overall amount of alcohol consumed in society, but all that will happen is that the free market will operate so as to take business away from existing outlets);

but it is unlikely to improve it.

(2) Overprovision may result if the Application is granted

In addition, the Board must consider whether or not overprovision would arise if the premises were licensed.

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and

- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a new Premises licence or a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership). The Subject Premises are in Locality 1 : North Coast (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'. The Subject Premises are in Function Type 1 (Off-sales).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Additional Factor related to Locality does not apply;
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (anywhere in North Ayrshire, regardless of the Locality);

(d) other similar premises in the Locality

A statement will be produced and intimated to the Applicant.

Since the date of the previous decision there have been no new off-sale Licences granted in the "North Coast" Locality.

Since then the Board have made two Premises Licence decisions in that Locality:

1. Restaurant, 17-19 Aitken Street, Largs (on-sales capacity 50 customers): PPL granted on 2 March 2015;
2. Wetherspoon's Public House, Promenade, Largs (on-sales capacity 225 customers): Variation and Transfer granted on 18 May 2015.

Neither Premises have an off-sales facility.

5. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

- A (All Premises)
- B (Off-Sales)

Overprovision Assessment Report

Premises: Co-op, Millport KA28 OAS (NALB ref. 471)

A. The OA divides:

North Ayrshire into 6 'Localities', and
Premises into 6 'Function Types'.

B. The 'Localities' are:

1. North Coast
2. Three Towns
3. Kilwinning
4. Irvine and area
5. Garnock Valley
6. Arran

C. The 'Function Types' are:

1. Off-sales Premises
2. On-sales Premises principally providing entertainment (e.g. nightclubs)
3. Other on-sales Premises (e.g. public houses)
4. On-sales Premises (accommodation/meals/non-alcoholic refreshment)
5. Members' Clubs with Special Treatment (excluded from Overprovision)
6. Members' Clubs without Special Treatment ('Part K Clubs')

D. The Subject Premises are:

in 'Locality' : 1 (North Coast)
in 'Function Type' : 1 (Off-sales Premises)

E. In THIS Locality (North Coast):

People in this Locality: 24,722

ALL alcohol outlets in this Locality : 109 (of ALL FTs, except FT5 - Clubs) (or 4.4 per 1,000 people)

Total ON-SALES capacity: 9,633 customers (or 389 per 1,000 people)

Total OFF-SALES capacity: 409.8 sq.m. (or 16.6 per 1,000 people)

F. Premises of THIS Function Type in THIS Locality:

The number of Premises of the same Locality/Function Type : 20

sq.m.

These are:

1. Auchengree Farm Shop	KA14 3BU	2.2
2. Co-operative Food	KA23 9AL	27.6
3. Keystore	KA23 9AW	23.2
4. Nisa Stores	KA23 9DQ	25.6
5. Spar Convenience Store	KA23 9PL	20.5
6. A & M Dobbin Ltd t/a Millport's Premier Store	KA28 OAB	10.4
7. Crocodeli	KA28 OAJ	4.8
8. Caldwell	KA28 OAN	6
9. Deli-licious	KA29 OAD	4.2
10. Farm Shop	KA29 OEG	5.1
11. Sugar & Spice	KA30 8AB	7.5
12. Tesco Express	KA30 8AU	23.5

13. Co-operative Food	KA30 8BG	24.6
14. Hastie of Largs Ltd	KA30 8JJ	55.3
15. Morrisons	KA30 8JT	107.7
16. Haco Convenience Store	KA30 8LH	11
17. Day Today (ex Keystore, Costcutter Store, Bollywood)	KA30 8LW	11.4
18. McColls	KA30 9DD	12.7
19. Spar	KA30 9EL	13
20. J & S Dyer	PA17 5AH	13.1

These figures disregard:

1. Clubs which are entitled to special treatment under section 125 (FT=5)
2. Gantries in on-sales premises

Sources:

1. Licensing Policy Statement (2013-16) Annex E
2. Population from 'Scottish Neighbourhood Statistics' (SNS) 2011
3. NALB Premises Licences data as at 11 June 2015
(off-sales capacity rounded down to next 0.1 sq.m.)

Application for Variation of Premises Licence - Section 29

Applicant	Lidl UK Gmbh
Premises	2 Kilwinning Rd., Dalry, KA24 4LA
Ref.	386

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 12 June 2015:

1. *Until the Board has a Certificate of Display, it cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	Add 'Recorded Music'
2	Increase off-sales capacity from 37.13 sq.m. to 43.25 (about 16%)

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 have a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Add 'Recorded Music'

Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 2: Increase off-sales capacity from 37.13 sq.m. to 43.25 (about 16%)

Discretionary refusal

Notes:

Overprovision may result if the Application is granted.

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in

that Function Type is already sufficient,

- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership). The Subject Premises are in Locality 5 : "Garnock Valley" (Auchentiber, Barmill, Beith, Dalry, Glengarnock, Kilbirnie & Lugton).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'. The Subject Premises are in Function Type 1 (Off-sales).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Premises are in a Locality where Applications are especially unlikely to be granted (regardless of the Function Type);
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (regardless of the Locality);

(d) other similar premises in the Locality

If the Board wishes details of other similar Premises in the Locality, they might continue consideration to a later Meeting so that a Statement can be prepared and intimated to the Applicant.

3. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Lidl UK Gmbh
Premises	104 Boglemart St., Stevenston KA20 3EL
Ref.	303

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 12 June 2015]:

- 1. Until the Board has a Certificate of Display, it cannot determine the Application.*
- 2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	Add 'Recorded Music'
2	Increase off-sales capacity from 38.16 sq.m. to 44.28 (about 16%)

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 have a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Add 'Recorded Music'
Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 2: Increase off-sales capacity from 38.16 sq.m. to 44.28 (about 16%)

Discretionary refusal

Notes:

Overprovision may result if the Application is granted.

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- the existing number and capacities of Premises in that Locality and in

that Function Type is already sufficient,

- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership). The Subject Premises are in Locality 2 : "Three Towns" (Ardrossan, Saltcoats & Stevenston).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'. The Subject Premises are in Function Type 1 (Off-sales).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Premises are in a Locality where Applications are especially unlikely to be granted (regardless of the Function Type);
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (regardless of the Locality);

(d) other similar premises in the Locality

If the Board wishes details of other similar Premises in the Locality, they might continue consideration to a later Meeting so that a Statement can be prepared and intimated to the Applicant.

3. Licence Conditions

No variation of the Conditions is appropriate.

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Rosenwheel Property Ltd.
Premises	Restaurant, 73 Main St., West Kilbride, KA23 9AN
Ref.	472

Preliminary

The Board are entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).

Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If they do, they must defer further consideration until the Report is produced.

This Report was prepared provisionally before the end of the Site Notice display period, which ends on 12 June 2015.

No information about any objections or representations is noted here. If there are any, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.

The Applicant should lodge the following Certificate. Until the Board have it, they cannot determine the Application: Display of Site Notice

1. Summary of Proposal

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

The proposal is for an up-market cafe-bar-bistro (the Premises formerly traded as 'Romeo and Juliet').

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 act as 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. Detailed proposal

(a) Licensed Hours

The Premises sell on-sales only. The proposal is shown in the table below. Either the proposal 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 - 24.00	
Tuesday	"	
Wednesday	"	OK on
Thursday	11.00 - 1.00	all days
Friday	"	
Saturday	"	
Sunday	11.00 - 24.00	

(b) Capacity

On-Sales (persons)	70
Standing / Seated	25 / 45 (36% / 64%)

(c) Activities other than the sale of alcohol

	<i>Proposed</i>
Accommodation	
Conference facilities	x
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	x
Theatre	x
Films	x
Gaming	x
Indoor/Outdoor sports	
Televised sport	x
Outdoor Drinking	
Adult entertainment	

	Other activities
<i>Proposed</i>	None

(d) Access for Under-18s

Terms and Ages (OP 6(b) & (c))	Must be with adult. Requirement for meals.
Times (OP 6(d))	All under-18s allowed to 21.00.
Parts (OP 6(e))	All parts of Premises.

3. Issues

The Board have a discretion to grant or refuse the Application. The Board should consider all the potential Ground(s) for Refusal set out below:

- Overprovision may result if the Application is granted

If any Ground for Refusal applies, the Board must refuse. However, the Board are 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 none apply, the Board must grant: Section 23(4)-(5).

Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a new Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises

- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board have determined that there are 6 'localities' in their area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership). The Subject Premises are in Locality 1 : "North Coast" (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'. The Subject Premises are in Function Type 4 (On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment and the supply of alcohol for consumption is only ancillary to that purpose; 'meal' means a substantial meal eaten at a table, counter or other structure which serves the purpose of a table. Snacks and crisps are not considered to constitute 'meals'.).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the 'Locality' and the 'Function Type':

- (1) Locality: the Additional Factor related to Locality does not apply;
- (2) Function Type: the Premises are in FT4 (On-Sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment), so the Board is entitled to refuse the Application, but is not bound to do so by its Overprovision Policy;

(d) other similar premises in the Locality

If the Board wish details of other similar Premises in the Locality, they might continue consideration to a later Meeting so that a Statement can be prepared and intimated to the Applicant.

4. Observations

(a). OP includes 'Live Performances' and 'Dancing'. Applicant should advise Board what is intended. The Premises are small and have no dance floor.

(b). OP includes 'Theatre' and 'Films'. Applicant should advise Board what is intended, as Applicant may require Licences under the Theatres Act 1968 and Cinema Act 1985.

(c). The provisions of the Gambling Act 2005:

- allowing "Equal Chance Gaming" (such as Poker) without a Permit
- allowing the use of Gaming Machines without a Permit (called "the Automatic Entitlement")
- allowing the playing of Bingo without a Licence
- Licensed Premises Gaming Machine Permits

only apply during the Core Licensed Hours.

If the Premises are open outside these hours then there must be no gaming and any Gaming Machines should be switched off.

(d). Applicant should confirm that under-18s will be excluded from the area within 1 metre of the bar, and that the OP can be amended accordingly.

(e). Since the Premises are to admit children under 5, 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. Commonly such facilities are placed in the unisex 'disabled' toilet, but these particular Premises are in two parts, separated by the servery and kitchen, and only the rear part has such a toilet, so customers in the other part would not be able to access the toilet without first leaving the Premises and re-entering by another door.

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, the Board may consider that reasons to refuse exist:

- (a) Application is inconsistent with L.O. (d) ("protecting and improving public health");
- (b) Application is inconsistent with L.O. (e) ("protecting children from harm");
- (c) Premises are unsuitable for use for the sale of alcohol.

5. Licence Conditions

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

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

Application for Variation of Premises Licence - Section 29

Applicant	Salma Manzur
Premises	"Londis", 132 Hayocks Road, Stevenston
Ref.	0333

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 12 June 2015:

- 1. Until the Board has a Certificate of Display, it cannot determine the Application.*
- 2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	Change name of Premises to "Day to Day"
2	Amend Sunday Off-Sales hours from 12.30pm - 6.00pm to 10am – 10pm

2. Issues

Variation 1: Change name of Premises to "Day to Day"

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

Variation 2: Amend Sunday Off-Sales hours from 12.30pm – 6.00pm to 10am – 10pm

Discretionary Refusal

The Licensing Hours applied for are within the Board's Policy, and the Premises already have the full entitlement on the other 6 days (10a.m. - 10 p.m.).

The Board may consider that an increase in operating hours is inconsistent with Licensing Objective (d) ("protecting and improving public health"). The L.O. expressly states 'improving'. Opinions may differ as to whether an increase in the ability to sell and consume alcohol 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	The Wineport Partnership
Premises	"The Wineport", Cladach, Brodick, Isle of Arran
Ref.	0127

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 12 June 2015:

- 1. Until the Board has a Certificate of Display, it cannot determine the Application.*
- 2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

2. Summary of Variation Request(s)

No.	Variation
1	Permit use of outdoor drinking area from 8.00am

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: Permit use of outdoor drinking area from 8.00am

Discretionary Refusal

The premises are a restaurant which is open for service from 8.00am for breakfast, tea, coffee etc. The licensed hours do not commence until 11am.

The proposal is to allow the Outdoor Drinking Area identified on the layout plan to be in use from 8.00am for the service of breakfast tea, coffee, etc. Alcohol will not be served out with the permitted licensed hours.

The only representation received to date is from the Community Council, who support the proposal.

The Board have previously, on a case by case basis, allowed variations of this nature. The Board has to consider whether or not the proposal is inconsistent with any of the Licensing Objectives, and in particular L.O. (c): 'preventing public nuisance'. The Premises are not near residential accommodation.

Standard Condition C.5.2 applies to the outdoor drinking area:

"No drinks (alcohol or not) shall be taken into or consumed in such areas

earlier than 11.00am and later than 10.00pm"

The Board might amend the Condition by adding at the end:

"except that tea, coffee and other soft drinks may be served from 8.00am"

4. Licence Conditions

If the variation is granted Standard Condition C.5.2 will be amended as suggested, but otherwise there is no need for a variation of conditions.

Application for Transfer of Premises Licence - Section 34

Applicant and Transferee	Matthew Dyson
Licence Holder	Lapsed Licence, formerly held by Scott Hotels Irvine Ltd.
Premises	King's Arms Hotel, 115 High Street, Irvine KA12 8AA
Ref.	214

1. Background

1.1. There is a preliminary matter of competency. This is unusual - most Transfer Applications do not raise issues and are often dealt with under Delegated Powers. However, in this case the Clerk advises that the Transfer Application should be refused as incompetent, and that a new Premises Licence should be applied for. These issues have been raised with the Applicant, and the Board should consider any submissions made before determining the preliminary issue.

1.2. The Premises Licence was held by a limited company. That Company was "Scott Hotels Irvine Ltd.". That Company operated a business in a building owned by "Red Star Pub Company (WR III) Ltd.", who are a subsidiary of "Heineken (UK) Ltd.". The Applicant is Area Manager for Star Pubs and Bars, another subsidiary of "Heineken (UK) Ltd.".

1.3. The Licence Holder was the Tenant. The lease expired on 8 May 2015. The Company moved out, and the building was boarded-up. No business has traded from it since.

1.4. The circumstances are typical of the situation where the Owner-Landlord of a building does not hold the Premises Licence himself (appointing the Tenant as Premises Manager), but rather allows the Tenant to hold the Premises Licence. This choice places the Owner-Landlord at a disadvantage:

- the Tenant can surrender the Licence at will,
- the Tenant can fail to assist in the voluntary transfer of the Licence to a new Tenant.

Either leaves the Owner-Landlord to meet the expense and delay of applying for a new Licence.

1.5. The Owner-Landlord faces the possibility that a new Licence might be refused, e.g.

- the Board's Overprovision Policy might indicate refusal; and
- the Premises might in fact be below modern Building Standards. Many old buildings obtained their Licences during the Transitional Period. The 'grandfather rights' rules meant that they did not (then) have to meet modern

Building Standards. Premises applying for a new Licence have to meet modern standards, whether or not they have been licensed in the past.

1.6. For the Board's information: the Air Weapons and Licensing (Scotland) Bill now before the Scottish Parliament includes a proposal to amend the Transfer procedure. The proposal is that Transfers should proceed if either:

- the current Licence Holder gives a "consent statement" authorising the Transfer, or
- the Board to dispenses with his consent if satisfied that the transferee has taken all reasonable steps to obtain consent but has received no response.

That Bill reached Stage 2 of the Parliamentary Process on 27 May 2015 and may still be amended. In any case, it does not reflect the current Law. The Board should base their decision on the Law as it is, not on how the Law might be at some indefinite future date.

1.7. There are three issues:

- (a) The Licence has already fallen and there is nothing to Transfer;
- (b) The Licence ceased to have effect when the Premises closed;
- (c) there has been no 'business transfer'

(a) The Licence has already fallen and there is nothing to Transfer

At Common Law it is clear that a Licence falls when the Holder ceases to be entitled to occupy the Premises.

"A pre-requisite of a certificate empowering a particular person to sell liquor in particular premises is, it seems to me clear from the opinions of the Court in a variety of cases not precisely raising the present question, possession of the premises by that person. If, holding a certificate in respect of certain premises, he ceases from whatever cause to possess them, the sale of exciseable liquor in these premises becomes illegal unless and until authorised of new by the appropriate licensing authority."

Sheriff in West Wemyss United Services Club, 1948 SLT (Sh Ct) 33 (emphasis added).

(b) The Licence ceased to have effect when the Premises closed:

The scheme of the Act is that a Premises Licence is perpetual, but under Section 28 it will terminate in a number of events listed in Section 28(5). Read shortly, the list is:

- (a) The Premises Licence is Revoked by the Board
- (b) the Premises cease to be used for the sale of Alcohol

- (c) PLH dies or becomes incapable
- (d) PLH becomes 'insolvent' (includes Sequestration, Administration, Receivership and Liquidation);
- (e) PLH is dissolved
- (f) PLH surrenders Licence.

In cases (c)-(e) an Application for Transfer can be made within 28 days, and if Transfer is refused, the Licence ceases immediately (Sections 28(2) & (3)).

The Licence cannot be saved by 'Transfer' in cases (a), (b) and (f). Case (b) applies here:

"(b) the Licensed Premises in respect of which the Licence was issued cease to be used for the sale of Alcohol"

As a matter of fact, the Premises closed shortly after the former Tenants moved out, and the Premises have not traded in Alcohol since.

(c) there has been no 'business transfer'

In general, the Act permits a person who is not the holder of a Licence to request a Transfer to him of the Licence following certain events (e.g. such as the transfer of a business, or the Sequestration of the holder). A buyer can apply following a sale, and a Trustee in Sequestration can apply following the Sequestration.

The events are listed in Section 34(3). In each case, the person who is entitled to seek the Transfer is identified in The Licence Transfer (Prescribed Persons) (Scotland) Regulations 2007 No. 34.

Section 34(3) is:

"(3) The events referred to in subsection (1) are— ...

(d) the business carried on in the Licensed Premises to which the Licence relates is transferred (whether by sale or otherwise) to another person."

The person who can apply is determined by Regulation 7:

"any person to whom the business in question is transferred."

There are two issues:

- (i) there has been no transfer to Mr. Dyson or anyone else. No-one is entitled to seek a Transfer. The 'business' referred to in the Act is the one conducted by the Tenant. That business ceased when the lease ended and the Tenant moved out. The Premises have been boarded-up since. Had the Tenant wanted to do so, he might have chosen to 'transfer' it to another operator, who would be covered by Regulation 7. That Transfer would be his choice. It would not be something which could be imposed on him. It is not possible for a Landlord to order a Tenant to transfer his business to a nominee,

or to ask the Board to seize the Licence from him. If this was already an option for the Board, there would be no need for the proposed amendment.

(ii) The phrase 'whether by sale or otherwise' deals with the situation where the 'business' has been transferred by operation of law. A possible application of this might arise if the Licence was held by a partnership, one partner died, and the surviving partners carried on with the business. In the absence of an express provision in the original agreement dealing with the eventuality, it might be presumed that they had made a new partnership agreement. There is no Law that states that when a lease ends, any business carried on transfers to the Landlord. The difficulty which the present Applicant is in arises from the Owner-Landlord's choice not to hold the Licence in his own name.

The remainder of this Report is prepared to cover the possibility that the Board might accept that the Application is competent, so should be determined on its merits.

2. Initial Procedure

The Application has been intimated to the Chief Constable, who is obliged to respond to the Board with a Notice stating either that:

- (a) neither the Transferee nor any Connected Person has been convicted of any Relevant Offence or Foreign Offence, or
- (b) that there are such convictions.

In either case, the Chief Constable may recommend that the Board should refuse the Transfer Application, if he considers that it is necessary for the purposes of any of the Licensing Objectives (Sections 33(7) - (9) as substituted by Criminal Justice and Licensing (Scotland) Act 2010).

A copy of the Chief Constable's Notice will be given to the Applicant and will be given to Members.

3. Decision

If there are no relevant convictions and the Chief Constable has not recommended refusal, the Board is obliged to grant the Transfer Application. Otherwise the Board must hold a Hearing for the purpose of considering and determining the Transfer Application. The Board must have regard to the Notice, and

- (a) if satisfied that it is necessary to do so for the purposes of any of the Licensing Objectives, refuse the Transfer Application, but
- (b) if not so satisfied, grant it.

Application for Grant of Personal Licence - Section 74

Applicant	Margaret Reilly 42 Gateside Street, West Kilbride, KA23 9BA
Ref.	NA 1937

1. Summary

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 letter confirming whether or not the Applicant has been convicted of 'relevant or foreign offences'.

A copy of the letter will be given to Members.

The Chief Constable has reported that this Applicant has been convicted of one or more such offences.

The information was also supplied by the Applicant.

2. 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.

3. 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 Chief Constable's letter
- (b) any comments made by the Applicant.

4. 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.

5. 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. If 3 Endorsements are imposed within a 5-year period, the Board may Suspend or Revoke 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.

Premises Licence Review Proposal - Section 37

Premises	Restaurant, 17-19 Aitken St., Largs, KA30 8AT
Premises Licence Holder	Acre Lettings Ltd.
Ref.	468

1. Background

On 2 March 2015 the Board granted a Provisional Premises Licence. The Licence will not authorise the sale of alcohol until it is Confirmed, which may take place any time over the following 4 years. The Premises are Licensed for on-sales only and have a capacity of 50 customers.

The Board has received confirmation from the Chief Constable that John Corrigan, a Director of the Premises Licence Holder (and therefore a 'Connected Person') has been convicted of a 'relevant or foreign offence' (as prescribed by Regulation):

Date:	2/4/2015
Court:	Kilmarnock JP
Offence:	Assault to Injury
Disposal:	Fine £400

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 Chief Constable is entitled to make a recommendation under Section 44(5) that, having regard to that Conviction, it is necessary for the purposes of any of the Licensing Objectives that the Premises Licence should be Varied, Suspended or Revoked. The Chief Constable has not done so.

2. Board's Powers on Review

The Ground for Review relates to Licensing Objective (a) ("preventing crime and disorder"). The Board must hear the Licence Holder, and decide whether or not a Ground for Review is established.

If the Board are satisfied that the Ground for Review is established, the Board may take any one or more of the following steps if they consider necessary or appropriate for the purposes of that Licensing Objective:

- (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 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. While the Licence is suspended, Annual Fees continue to be charged.

If the Board impose a Suspension, then it should not have immediate effect unless this is considered necessary in the public interest; most Suspensions should be postponed to give the PLH the opportunity to appeal to the Sheriff Court. Any Board order takes effect immediately, and is not postponed by an appeal, but if appealing the PLH can ask the Sheriff to recall the Suspension pending appeal. The postponement is in the Board's discretion, but 7 days would be reasonable.

- (d) Revoke the Licence. Similar considerations apply to the question of whether or not the Revocation should have immediate effect.

The Board are not obliged to take any of these steps, and even if the Ground for Review is established, the Board may decide that no further action is required, or that a decision on what steps should be taken should be deferred.

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.

Premises Licence Review Proposal (Second Stage) - Section 37

Licence Premises	Gulab
Premises Address	2A Stanecastle Road, Irvine. KA11 1AE
Premises Licence ref.	0432

1. Procedure

On 18 May 2015 the Board had a Briefing Note prepared by Grace Cullen, Licensing Standards Officer, and conducted a preliminary consideration under Section 37:

"The Appropriate Licensing Board in respect of any Licensed Premises in relation to which a Premises Licence has effect may, on their own initiative, propose to review the Licence on any of the Grounds for Review."

The statute provides that the possible "Grounds for Review" are—

- (a) that one or more of the conditions to which the Premises Licence is subject has been breached, or
- (b) any other ground relevant to one or more of the Licensing Objectives.

2. The Complaints

The Briefing Note narrated complaints from neighbours of the Premises, the involvement of the LSO, NAC's Out-of-Hours Noise Team and Police Scotland. The complaints cover nuisances including:

- noise
- customer behaviour during licensed hours and at closing time, inside the premises, on their grounds outside, and in the outdoor smoking area (including customers urinating within the grounds of the premises)
- rubbish and glass from the premises ending up in Stanecastle Road and Castlekeep Gardens

The Briefing Note described interactions between the LSO, various agencies, and the PLH, and sets out measures agreed and put in place by the PLH:

- (a) A large fence was built and large planters placed to improve the privacy for neighbours
- (b) Karaoke was to cease at 00.30 a.m.
- (c) A member of staff was to clear the carpark and surrounding area of any rubbish, glass

- (d) All doors and windows were to be closed when karaoke or private function on
- (e) Communicate with karaoke presenter
- (f) Monitor noise from outside premises regularly
- (g) A member of staff would control noise from persons smoking and try and ensure customers smoke at the far end of the carpark away from the takeaway area
- (h) A member of staff would control persons leaving at closing time when waiting on taxis.

3. Initial Procedure

The Board considered the circumstances, including emails listed in the document "Gulab Emails" attached, and then decided:

- (a) to make a Proposal;
- (b) to state what the alleged "Grounds for Review" were (Section 37(4)):

"1. The operation of the Premises on the occasions and in the circumstances listed may have involved breaches of one or more of the Licence conditions;

2. The operation of the Premises may not be consistent with the 'preventing public nuisance' Licensing Objective;"

The fact that the Board, on a preliminary consideration without a Hearing, considered that "Grounds for Review" might exist should not be taken by any person as indicating:

- (a) that the Review should be upheld or
- (b) that any action (such as Suspension of the Licence) should be taken.

The Board would only make a decision on these after Hearing all parties.

4. The Premises Licence

(a) The Licensed Hours

The on-sales hours are:

Monday	11.00 - 24.00
Tuesday	11.00 - 24.00
Wednesday	11.00 - 24.00
Thursday	11.00 - 01.00

Friday	11.00 - 01.00
Saturday	11.00 - 01.00
Sunday	11.00 - 24.00

The Premises are also licensed for off-sales, with the same commencement hours and the terminal hour at 22.00 on all days.

(b) The Licensed activities

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

(c) The Licence Conditions

The Premises Licence is subject to the Board's Standard Conditions, which include:

"C.4 Noise and other nuisances"

C.4.1 The Licensee shall apply best practicable means to prevent persons outside the Premises or any Outdoor Drinking Area being subjected to nuisance from noise, vibration, smell or otherwise.

C.4.2 Signs will be displayed inside the building, near each exit (including any exit leading to an Outdoor Drinking Area), asking customers to respect the local neighbourhood and keep noise levels to a minimum while outside the building or at the entrances to the building. Each sign shall be of at least A4 size, in letters of not less than 12 points in height, and positioned so that is easily readable by customers or drivers.

C.4.3 The Licensee shall take reasonable steps to ensure that at all times that the Premises are open to the Public (and for 15 minutes after the Terminal Hour) customers do not cause nuisance to neighbouring occupiers or persons outside the Premises.

C.4.4 When any of the activities to which this Condition applies take place on the Premises after 22.00, the following requirements apply:

(a) All windows and doors (both external and internal) shall be kept closed, except that doors may be opened from time to time to permit the immediate passage of people provided that they are then again closed;

(b) Where equipment is used for the amplification, relaying or making of sound, the Premises shall, at the request of an Officer authorised by the Council, use sound limiter equipment set so that the equipment does not operate beyond sound levels agreed.

The activities to which this Condition applies are the playing of Recorded Music, karaoke, the giving of Live performances, Dancing, the performance of Theatre, the showing of Films, and the operation of Radio, Television or Jukebox."

5. Procedure

The Board will have a Report from the LSO, and the written representations from the complainer (in Members' Packs "Gulab Emails").

6. Additional Powers of inquiry

The Board are entitled by Section 38(5) to :

(a) obtain further information from such persons, and in such manner, as the Board thinks fit (the Board would be entitled to take into account information from the Police or from other residents describing the same incidents as are alleged), and

(b) consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Proposal. If the Board propose to do this, it should inform the Licence Holder of their intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must hear the Licence Holder, and decide whether or not a Ground for Review is established.

If the Board are satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if they consider these are 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 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.

If the Board impose a Suspension, then it should not have immediate effect unless this is considered necessary in the public interest; most Suspensions should be postponed to give the PLH the opportunity to appeal to the Sheriff Court. Any Board order takes effect immediately, and is not postponed by an appeal, but if appealing the PLH can ask the Sheriff to recall the Suspension pending appeal. The postponement is in the Board's discretion, but 7 days would be reasonable.

- (d) Revoke the Licence. Similar considerations apply to the question of whether or not the Revocation should have immediate effect.

The Board are not obliged to take any of these steps, and may decide that although a Ground for Review is established, no action is required, or that a decision on the Review should be deferred.

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.

8. Further Action

If the Board decide to Vary or Suspend the Licence, the Board are later entitled to revoke the order if the Holder requests this and the Board are then satisfied that, by reason of a change of circumstances, the order is no longer necessary. A decision to issue a Written Warning or to Revoke a Licence cannot later be revoked.

