

Cunninghame House,
Irvine.

14 April 2016

North Ayrshire Licensing Board

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Irvine & Kilwinning Committee Room, Ground Floor, Cunninghame House, Irvine on **MONDAY 18 APRIL 2016** at **10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

1. Minutes

Confirm the Minutes of the Board Meeting held on 22 February 2016 (copy enclosed).

2. 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)

3. Junior Football and Alcohol Licensing

Submit report to the Licensing Board to give Members background information in order to consider and adopt a Policy in relation to alcohol licensing at Junior Football games (copy enclosed)

4. Queen's 90th Birthday Celebration

Clerk to report to the Licensing Board regarding Extended Hours and Occasional Licences in relation to the Queen's 90th Birthday Celebration weekend 10-11 June 2016

Licensing Board

Sederunt: Ian Clarkson (Convenor)
Tom Marshall (Vice-Convenor)
Robert Barr
John Bruce
John Easdale
Grace McLean
Catherine McMillan
Ronnie McNicol
Donald Reid

Chair:

Attending:

Apologies:

Meeting Ended:

**North Ayrshire Licensing Board
22 February 2016**

Irvine, 22 February 2016 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Ian Clarkson, Tom Marshall, Robert Barr, John Bruce, John Easdale, Grace McLean, Catherine McMillan and Donald Reid.

In Attendance

W O'Brien, Solicitor (Licensing), G Cullen, Licensing Standards Officer and M Champion, Administration Assistant.

Also In Attendance

Chief Inspector Shaw and Sergeant Griffiths (Police Scotland).

Convenor

Councillor Clarkson

Apologies for Absence

Councillor Ronnie McNicol.

Declarations of Interest

None.

1. Minutes

The Board were asked to confirm the Minutes of the Board meeting held on 11 January 2016. Councillor Bruce proposed that the Minutes be adopted and this was seconded by Councillor Barr. The Board unanimously agreed to confirm and adopt the Minutes.

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 News Buster, 1 Ladyha Court, Irvine

The Board considered an application for grant of a Provisional Premises Licence made by Muhammed Anees for the above premises. Mr Anees was present and was represented by Robert Jordan, Licensing Consultant.

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

Objections to the application had been made by Dr Joy Tomlinson, Consultant in Public Health Medicine, NHS Ayrshire and Arran, and Irvine Community Council. No objectors were present.

Mr Jordan addressed the Board on the application. He advised that his applicant is now only seeking an alcohol display capacity of 4.6m² and this would all be behind the counter at Area A on the layout plan submitted with the application. His client would like to further invest in the store so as to provide additional fresh vegetables and a chill area but the shop will not remain viable without the facility to provide alcohol. He confirmed that his client would not be selling single cans of alcohol, would not sell 1, 2 or 3 litre plastic bottles of beer and cider and that a Personal Licence Holder would be on duty at all times. At the moment there are CCTV cameras in the Premises but if granted an additional 3 extra cameras would be installed. The Premises is a 30 minute walk away from the nearest premises selling alcohol and trade is being lost as customers are going elsewhere to purchase goods along with alcohol.

Referring to the Health Board objection, Mr Jordan confirmed that his client would not be selling beer, lager or cider above 5% ABV and that all alcohol will be behind the counter which would prevent shoplifting of alcohol and a minimum purchase of 2 cans of alcohol would be applied.

Mr Jordan advised that Mr Anees would ensure that all his staff would be thoroughly trained so as to prevent agent sales and ensure Challenge 25 policy is in place.

Mr Anees explained the catchment area of his Premises and advised that there are 185 new houses planned with 45 already been built. He confirmed that his business would not be viable without the facility to sell alcohol. At the moment he is struggling to pay rent and goods are being wasted due to the decrease in customer footfall as they are going to other stores who have an alcohol facility. Mr Anees has operated these premises for nearly 10 years and advised that he is very responsible and has previously operated licensed premises in Kilmarnock. He lives in this area and if the licence be granted this would create at least 2 full time and 3 part time posts.

Mr Jordan noted that no objections had been received from neighbours as they are in support of this application. He confirmed receipt of the objection from the Community Council and the Anti-Social Behaviour Report from Police Scotland although this report did not link anti-social behaviour to alcohol. Referring to the Health Board objection in relation to Licensing Objective Protecting and Improving Public Health, Mr Jordan believed that the premises would promote public health and will have cash machine and lottery facilities available, it would not sell beer, lager or cider above 5% ABV nor would it sell 1, 2 or 3 litre plastic bottles of beer and cider, it would have CCTV and a Personal Licence Holder on duty at all times.

Councillor Bruce asked, as this is the third application for the same premises by the same applicant, what is the difference from this application to the previous 2 that were refused? Mr Jordan advised that on this occasion there is a reduction in the off-sales display capacity, will restrict alcohol over 5% ABV and will not sell single cans of beer or cider and all alcohol will be behind the counter area.

Councillor Easdale, who did not attend the previous site visit to the premises, asked if the intention was for all the 4.6m² of alcohol be behind the counter. Mr Jordan confirmed that this would be the case, that all alcohol would be inaccessible to the public.

The Convenor asked for clarification as the initial application submitted had a capacity of 22.08m². Mr Jordan advised that his client is now only looking for a total of 4.6m².

Councillor Easdale asked if staff would have in-house training or training from an outside organisation. Mr Anees advised that he previously employed 6-8 people in his premises in Kilmarnock and that he had trained all the staff. He will be in the premises most of the time and he would train the staff and provide them with regular on-going training. Councillor Easdale asked Mr Anees to clarify if this would be in-house training? Mr Anees advised that it would be in-house training. At the moment he also employs a part time member of staff with a Personal Licence and he would ensure that the premises are run smoothly. He would also ensure that youngsters would not hang around the outside of the shop. Mr Anees confirmed to Councillor Easdale that training records would be completed for all staff and that he would ensure staff had regularly weekly refresher training and would only accept passport and driving licence identification for everyone under the age of 25.

Councillor Easdale asked if the proposal was only 4.6m² of alcohol and that no single bottles or cans would be sold. Mr Jordan confirmed that single bottles would be sold but not single cans.

The Board adjourned with the Solicitor (Licensing) at 10.20 am to deliberate in private and re-convened at 10.25 am.

The Convenor brought to the attention of Mr Anees the issue that Building Standards referred to with the roller shutter door at the premises. Mr Anees advised the Convenor that on the day that Building Standards visited he had to rush with his child to hospital and at late notice had another member of staff open the shop, this person was late arriving to open the shop and did not open the roller shutter before opening the shop to the public. The Convenor highlighted that as this is a fire exit it is important to the staff and customers that this roller shutter is open. Mr Anees advised that he always opens the back shutter first before opening the shop except for this one occasion. Mr Jordan confirmed that his client would ensure that this does indeed happen.

Having considered the terms of the report, and the submissions made, Councillor Barr moved that the Board refuse the application, on the basis of overprovision. Councillor Marshall seconded the motion. Councillor McMillan moved, as an amendment, that the application be granted. Councillor Easdale seconded the amendment.

There was then a roll-call vote. Councillors Clarkson, Marshall, Barr, Bruce, McLean and Reid voted for the motion. Councillors McMillan and Easdale voted for the amendment.

The motion was accordingly carried and the Provisional Premises Licence refused.

Mr Jordan asked the Board for a Statement of Reasons. He also requested a Direction under Section 25, which was granted.

A.2 The Royal Blossom, 44-46 Townhead, Irvine

The Board considered an application for grant of a Provisional Premises Licence made by Fongs Property Ltd for the above premises. Mrs Kam Yin Fong, Director of Fongs Property Ltd was present and was represented by Mr Mitchell, Solicitor.

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

The Convenor noted that the premises has been empty for some time and asked if the applicant had recently taken over the building.

Mr Mitchell then addressed the Board. He confirmed that Mrs Fong has been the owner of the building since it was constructed in 2000, it had been leased out to tenants who allowed the licence to lapse. The Company now wish to re-open the premises. Mr Mitchell confirmed to questions from the Convenor and Councillor Barr that the premises has been unoccupied for about a year and a half. The building will be refurbished prior to opening and are aware that Section 50 Certificates will be required from Environmental Health and Building Standards.

With regard to the anti-social behaviour report from Police Scotland, the Convenor asked if the applicant was aware of anti-social behaviour at the entry from Townhead to the houses at the back of the building. Mr Mitchell advised that his Client was not aware of this as the premises have not been attended to. He did not see reference to this in the anti-social behaviour report. When the premises are operational again, his Client may look at fitting security cameras in the locale. When Mrs Fong previously operated the premises she was unaware of any issues and this may be a result of the building being unoccupied. Councillor Barr asked if it was possible for CCTV be installed in this area. Mr Mitchell asked if this is the area into Kiln Walk. The Convenor confirmed that the area was in fact at the side of the building in an enclosed walkway. Mr Mitchell advised that his Client could put a gate at the walkway.

Having considered the terms of the report, and the submissions made, Councillor Barr moved that if all the Conditions set by the Board are met that the application be granted. Councillor McLean seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. Mr Mitchell confirmed to Councillor Barr that there would not be any off-sales of alcohol. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A and C.

A.3 Premises Licence 0298 Irvine Water Sports Club, 66 Harbour Street, Irvine

The Board considered a Review Proposal under Section 37, relating to the above premises. The Licence Holder, Irvine Water Sports Club, was not represented.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's Notice and summarised the issues arising. Chief Inspector Shaw advised the Board that a Committee Member had received a conviction in relation to the Road Traffic Act 1988 Section 5(1)(a) disposed of by a fine of £400 and disqualified for 15 months. The Clerk advised that this is a 'Relevant Convictions' as defined by Regulations and that the individual is not a Personal Licence Holder.

Having considered the terms of the report, Councillor Barr 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.4 Premises Licence 0080 The Waterside, 14 Bath Street, Largs

The Board resumed consideration of a Variation Application of a Premises Licence made by the Licence Holder, Hillend Enterprises Ltd, for the above premises. Brian Purdie, Premises Manager was present.

The Licence Holder was requesting the following variation:

Add dance facilities to the Operating Plan

The Board had regard to a report supplied by Grace Cullen, Licensing Standards Officer. Ms Cullen's report detailed a site visit to the premises which took place on 10 February 2016 and was attended by Ms Cullen, Councillor Clarkson, Councillor Marshall and Councillor McMillan. They also had regard to the layout plans submitted showing the dance area. The Clerk advised that correspondence had been received from 2 of the objectors, Mr Castelvechi and Mr Findleton and they had been advised that the applicant was not doing anything new but was in fact bringing the licence up to date.

Councillor Marshall, who was on the site visit, recognised that Mr Purdie has spent a lot of money soundproofing the premises following difficulties in the past. The objectors to the application were mainly due to the request for late hours which have already been refused. Assurances were given by Mr Purdie that he would ensure his customers dispersed from the street as soon as possible after the terminal hour.

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

The meeting ended at 10.54 am

Agenda Item 2

18 April 2016

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 Applicant/Licence Holder No.	Premises	Comments
1.	0477 OMOA Limited 6th Floor Gordon Chambers 90 Mitchell Street Glasgow G1 3NQ	Tony Macaroni 9 Riverway Riverway Retail Park Irvine KA12 8AG	Application for Grant of Provisional Premises Licence - Section 45
2.	0478 North Ayrshire Council Cunninghame House Irvine KA12 8EE	Saltcoats Town Hall 18 Countess Street Saltcoats KA21 5HP	Application for Grant of Premises Licence - Section 20
3.	0048 Paul McMillan 17 Eglinton Street Beith KA15 1AB	Merchants Yarn 15/17 Eglinton Street Beith KA15 1AB	Application for Variation of Premises Licence - Section 29
4.	0462 Marston's Operating Limited Marston's House Brewery Road Wolverhampton WV1J 4JT	The Red Squirrel Lodge 1-3 Ashenyards Park Stevenston KA20 3EG	Application for Variation of Premises Licence - Section 29
5.	0036 Toni Dawson 3 Bath Street Largs KA30 8BL	Sugar & Spice 26/28 Main Street Largs KA30 8AB	Application for Variation of Premises Licence - Section 29
6.	0131 Fresco Coffee Limited 2 Main Street Largs KA30 8AB	Nardini at the Green Shutters 28 Bath Street Largs KA30 8BL	Application for Variation of Premises Licence - Section 29
7.	NA0529 Pavita Singh Shergill		Personal Licence Review Hearing - Section 83(7) & 86
8.	297/16 Largs Halkshill Bowling Club 15 Wilson Street Largs KA30 9AQ	Largs Halkshill Bowling Club 15 Wilson Street Largs KA30 9AQ	Application for Occasional Licence - Section 56 Clerk to Report

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Tony Macaroni
Premises	9 Riverway Park, Riverway Retail Park, Irvine, KA12 8AG
Ref.	477

Preliminary

The Board is 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 it does, it 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 8th April 2016.

No objections have been received to date. Any objections received prior to 8th April 2016 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 of them 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 Italian restaurant.

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 both on-sales & off-sales.

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

On-Sales

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

Off-sales

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)	
Standing / Seated	Total capacity is stated as 158. The applicant has not specified the ratio of seated to standing; however, as the premises are to operate as a restaurant, the Board may assume that all customers will be seated.
Off-Sales (sq. mtr.s)	Not stated. Applicant has failed to include this in the mandatory Operating Plan and must advise the Board of the correct figure either in writing or by attending the Board Meeting. Regulations require locations and dimensions of all Off-sales display areas. Dimensions required are length and height. The capacity figure will be added to O.P. 7 if the Licence is granted.

(c) Activities other than the sale of alcohol

	<i>Proposed</i>
Accommodation	
Conference facilities	
Restaurant facilities	X
Bar meals	X
Receptions (including weddings, funerals, birthdays, retirements, etc.)	X
Club or other group meetings	X
Recorded music	X

Live performances	X
Dance facilities	
Theatre	
Films	
Gaming	
Indoor/Outdoor sports	
Televised sport	X
Outdoor Drinking	
Adult entertainment	

	Other activities
Proposed	Provision of takeaway food/meals which have been prepared on the premises.

(d) Access for Under-18s

Terms and Ages (OP 6(b) & (c))	Children and young persons will be permitted access for the purpose of having food, ordering or collecting takeaways or for attending a private function. Children (0-15 years) must be accompanied by an adult,
Times (OP 6(d))	Children and young persons will be permitted access throughout the normal hours of the premises.
Parts (OP 6(e))	Children and young persons will be permitted access to all public areas of the premises.

3. Issues

The Board has a discretion to grant or refuse the Application. It is the Clerk's opinion that, apart from the question of Overprovision, there are no statutory reasons to refuse, and there is no breach of Board Policy.

The usual presumption of refusal does not automatically apply where Premises provide accommodation, meals or refreshment. If the Board wish to consider this issue further here then the Application should be continued and the Clerk will prepare the usual Report.

4. 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)

C (On-sale Premises)

Application for Grant of Premises Licence - Section 20

Applicant	North Ayrshire Council
Premises	Saltcoats Town Hall, 18 Countess St., Saltcoats KA21 5HP
Ref.	478

Preliminary

At the date of preparing this report, the Board does not have a Notice from the Chief Constable confirming whether or not the Applicant or any Connected Person has any Relevant or Foreign convictions. Until the Board has this Notice, the Board cannot decide the Application.

The Board is 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 it does, it 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 8 April 2016. No objections or representations had then been received. 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 Certificates. Until the Board has all of them they cannot determine the Application:

- 1. Display of Site Notice*
- 2. Building Control*

1. Summary of Proposal

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

The proposal is to License Premises which will cater for functions which would otherwise be Licensed under Occasional Licences. The area to be Licensed consists of function rooms which will be available for hire by the community on the upper floor of a building in Saltcoats Town Centre.

The proposed is to permit alcohol consumption in three areas:

- (a) Countess Suite (area 281 sq.m.)
- (b) Harbour Suite (area 128 sq.m.)
- (c) Sir John Lavery Room (area 32.5 sq.m.)

and in the corridors on that floor. There are bars in (a) and (b).

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

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

The Premises sell on-sales only.

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

	<i>Proposal</i>	<i>Policy</i>
Monday	11.00 - 24.00	
Tuesday	"	
Wednesday	"	OK on
Thursday	"	all 7 days
Friday	11.00 - 1.00	
Saturday	"	
Sunday	12.30 - 24.00	

(b) Capacity

On-Sales (persons)	250 (total of the function suites)
Standing / Seated	100% seated

(c) Activities other than the sale of alcohol

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

All activities may take place outside Licensed Hours, but no alcohol will be served then.

(d) Access for Under-18s

Terms and Ages (OP 6(b) & (c))	Must be with adult.
Times (OP 6(d))	All Core Hours
Parts (OP 6(e))	All parts of Premises (except near bar).

3. Issues

The Board have a discretion to grant or refuse the Application. It is the Clerk's opinion that there are no statutory reasons to refuse. The only potential reason to refuse the Application relates to the Board's Overprovision Policy.

Overprovision

In most cases, there is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2018, 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 Policy is only a guideline and does not set rigid quotas. It is always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

In the present case, the Board would be entitled to conclude that Overprovision is not a relevant consideration, and treat the present case as an exception to the Policy:

1. The proposal would not increase the amount of alcohol consumed in society. The proposal is to replace the procedure where functions are covered by individual Occasional Licences with a single Premises Licence. Occasional Licences are not included in a Board's Overprovision Assessment (Section 7(5)).
2. A factor in favour of the proposal is that it creates a community asset, and therefore the proposal may be seen to be consistent with the Licensing Objective "protecting and improving public health".
3. Even without making a special exception, the Overprovision Policy would not inevitably lead to a decision to refuse, given the "Function Type" of the Premises. See below.

Application of Overprovision Policy

The Board has determined that there are 6 'Localities' in the area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership). The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in:

Locality 2 : Three Towns (Ardrossan, Saltcoats & Stevenston).

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'.

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 all Applications are especially unlikely to be granted (regardless of the Function Type);
- (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 are entitled to refuse the Application, but is not bound to do so by its Overprovision Policy.

4. Observations

1. The Licensed Hours requested are within Policy, but the request is lower than Policy.

The Policy is:

Sun - Wed: 11.00 - 24.00

Thu - Sat: 11.00 - 1.00

There has not been a need to commence Sunday on-sales hours at 12.30 since the end of the Transitional Period in 2009. The Applicant may wish to ask the Board to allow the Application to be amended.

2. The Application (OP 6(e)) states that under-18s "will not be permitted to approach the bar for any service of any drinks." To increase certainty the Applicant should confirm that the OP can be amended by replacing those words with

"will not be entitled to approach within 1 metre of the bar."

3. It is a Mandatory Condition of a Premises Licence that Premises which are to admit Children under the age of 5 must have Baby-changing facilities accessible to persons of either gender (2005 Act, Schedule 3, Paragraph 12, added by Mandatory Conditions Regs 2007/457). Such facilities are often placed in a 'disabled WC'. The Layout Plan does not show a 'disabled WC' on the same floor as the function rooms, although there is such a WC on another floor. The Applicant should confirm to the Board that the public will have access to such facilities.

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)

Application for Variation of Premises Licence - Section 29

Applicant	Paul McMillan
Premises	Merchants Yarn, 15/17 Eglinton Street, Beith, KA15 1AB
Ref.	048

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 8th April 2016.

- 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	<i>Amend Sunday on and off Sale hours to commence at 11am</i>
2	<i>Amend Standard Condition C.5.2. to permit use of outdoor drinking area for non-alcoholic beverages and the service of food from 8am</i>
3	<i>Amend access terms and times for children and young persons</i>
4	<i>Amend Standard Conditions C.10.3 (d) and (e) to permit children access to the bar area, accompanied by an adult, for the purposes of playing pool.</i>

2. Changes

1. Amend Sunday Hours

The premises are currently licensed for on and off sales from 12.30pm on a Sunday. The Applicant is asking the Board to permit on and off sales from 11am on a Sunday. The requested hours are within the Board's Policy.

2. Amend Standard Condition C.5.2.

The premises have a licensed outdoor drinking area. Under Condition C.5.2 no drinks (alcoholic or not) shall be taken into or consumed in the outdoor drinking area earlier than 11.00 a.m. and later than 10.00 pm.

The Applicant is asking the board to permit the use of the outdoor drinking area from 8am but only for the service of food and *non-alcoholic* beverages.

No alcohol will be sold for consumption on or off the premises out with the premises' licensed hours

3. Variation of Terms of Access for Children and Young Persons.

Current Terms

Young Persons (16-17 years) are permitted access to all public parts of the premises at all times throughout the normal operating hours of the premises. Children are permitted access to all public parts of the premises with the

exception of the bar area at all times throughout the normal operating hours of the premises.

Proposed Terms

The Applicant is seeking to distinguish the times and terms of access for Children and Young Persons on the basis of whether or not they are staying at the premises as a resident of the hotel.

All Children and Young Persons (resident and non-resident) are to be permitted access to all public parts of the premises.

Non-resident Children and Young Persons must be accompanied by an adult and must be attending the premises for the purposes of consuming a meal. Resident Children and Young Persons do not require to be accompanied by an adult or to be attending the premises for the purposes of consuming a meal.

Non-resident Children and Young Persons are only to be permitted access to the premises between the hours of 8am and 10pm. Resident Children and Young Persons are to be permitted access throughout the full operating hours of the premises.

4. Amend Standard Condition C.10.3

Standard Conditions C.10.3(d) and (e) prohibit the playing of darts, pool, snooker or any other game in an area of the premises to which Children are admitted and prohibit dartboards, pool tables or other gaming facilities from being present in such areas.

The Applicant is asking the Board to dis-apply standard conditions C.10.3 (d) and (e) to permit children access to the bar area for the purposes of playing a game of pool provided they are accompanied by a responsible adult.

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: Amend Sunday Hours
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<i>Grant (no statutory reason to refuse, and no breach of Board policy)</i>

Variation 2: Amend Standard Condition C.5.2
--

<i>Grant (no statutory reason to refuse, and no breach of Board policy)</i>

Variation 3: Amend Terms of Access for Children and Young Persons
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<i>Grant (no statutory reason to refuse, and no breach of Board policy)</i>

Variation 3: Amend Standard Conditions C.10.3 (d) and (e)
--

<i>Grant (no statutory reason to refuse, and no breach of Board policy)</i>

4. Licence Conditions

If variation 2 is granted condition C.5.2 should be amended. If variation 4 is granted conditions C.10.3 (d) and (e) should be dis-applied. No further variations of the Conditions are appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Marston's Operating Ltd
Premises	The Red Squirrel Lodge. Ashenyards Park, Stevenston, KA20 3DE
Ref.	462

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 8th April 2016:

- 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)

The Applicant is asking the Board to amend Standard Condition C.5.2. to permit the use of outdoor drinking area for non-alcoholic beverages and the service of food from 9am

2. Changes

The premises have a licensed outdoor drinking area. Under Condition C.5.2 no drinks (alcoholic or not) shall be taken into or consumed in the outdoor drinking area earlier than 11.00 a.m. and later than 10.00 pm.

The Applicant is asking the board to permit the use of the outdoor drinking area from 7am but only for the service of food and *non-alcoholic* beverages.

No alcohol will be sold for consumption on or off the premises out with the premises' licensed hours

3. Issues

Grant. No statutory reason to refuse and no breach of Board policy

4. Licence Conditions

If the Variation is granted Standard Condition C.5.2.should be amended

Application for Variation of Premises Licence - Section 29

Applicant	Toni Dawson
Premises	Sugar & Spice, 26-28 Main Street, Largs, KA30 8AB
Ref.	036

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 8th April 2016:

- 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)

The Applicant is seeking to increase their on sales capacity from 8.61 square metres to 14.93 square metres.

2. Issues

If the variation is granted it will result in an increase in the total off-sales capacity within the Locality. There is therefore a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E) concerning overprovision.

The Board should consider whether the presumption of refusal should apply to the present case. In particular, the Board may wish to take into consideration the locality within which the premises are located and the nature and type of the business which operates from the premises

The locality is Locality 1: "North Coast (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride)". The Premises are not located within one of 4 Localities where Applications are especially unlikely to be granted ("Three Towns"; "Kilwinning"; "Irvine etc."; or "Garnock Valley").

The business which operates from the premises is a retail outlet supplying gift confectionary, ice cream, hand-made chocolates and gift wines and spirits. Alcohol makes up a relatively small portion of the premises' retail products and is primarily marketed and sold as part of a gift package or "hamper".

The Board may consider that, while the function type of the premises is an off-sales facility, the nature of the business operating from it is significantly different from a normal off-sales facility so as to justify a departure from the presumption of refusal of the variation on the grounds of overprovision.

3. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Fresco Coffee Ltd
Premises	Green Shutters, 28 Bath Street, largs, KA30 8BL
Ref.	131

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 8th April 2016:

- 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)

The Applicant is asking the Board to amend Standard Condition C.5.2. to permit the use of outdoor drinking area for non-alcoholic beverages and the service of food from 9am

2. Changes

The premises have a licensed outdoor drinking area. Under Condition C.5.2 no drinks (alcoholic or not) shall be taken into or consumed in the outdoor drinking area earlier than 11.00 a.m. and later than 10.00 pm.

The Applicant is asking the board to permit the use of the outdoor drinking area from 9am but only for the service of food and *non-alcoholic* beverages.

No alcohol will be sold for consumption on or off the premises out with the premises' licensed hours

3. Issues

Grant. No statutory reason to refuse and no breach of Board policy

4. Licence Conditions

If the Variation is granted Standard Condition C.5.2.should be amended

Personal Licence Review Hearing - Section 83(7) & 86

Licence Holder	Pavita Shergill
Ref.	NA0529

1. Background

The Board has received confirmation from the Chief Constable that the Personal Licence Holder was convicted on 18 January 2016 of a 'relevant or foreign offence'. Copies of the letter will be distributed to Members at the Meeting.

The information was not supplied by the Holder within one month after the date of the conviction. The Holder's failure to report the conviction to the Board without reasonable excuse is itself an offence under Section 82(5).

The Chief Constable is entitled to make a recommendation that the Personal Licence should be Revoked, Suspended or Endorsed, but has not done so.

2. Procedure

Under Section 83(7) the Board must, on receipt of that confirmation, hold a Hearing and give the Personal Licence Holder and the Chief Constable an opportunity to be heard.

At the Hearing, the Board must have regard to

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

3. Board's Powers on Review

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

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

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

4. Repeated Endorsement

Separate from the principal Review decision, the Board will have to consider a second question if they decide to Endorse, as that will be the third Endorsement within five years.

Under Section 86, where three Endorsements have been made in any Personal Licence, the Licensing Board which issued the Licence must hold a Hearing.

At the Hearing, the Licensing Board are required to give the Licence Holder, and such other persons as the Board considers appropriate, an opportunity to be heard.

If they consider it necessary to do so for the purposes of any of the Licensing Objectives they may then

(a) Suspend the Licence for up to 6 months, or

(b) Revoke the Licence.

Neither Suspension nor Revocation is obligatory. The Board may choose to make no further order apart from imposing the Endorsement.

Report to North Ayrshire Licensing Board

by

Solicitor (Licensing)

Subject	Junior Football and Alcohol Licensing
Purpose	To give Members background information
Recommendation	That Members consider the situation and adopt a Policy

Background

1. This is an issue which has been discussed by the Board and was raised by the Local Licensing Forum at their Joint Meeting with the Board on 11 January 2016. Following that meeting the Clerk contacted:

Scottish Junior Football Association (West Region)
All NA clubs
Police
Health Board

The Forum may also wish to contribute to the formulation of Policy.

Because the issue is of wider interest, the Clerks of East Ayrshire Licensing Board and South Ayrshire Licensing Board were told of the process, although no decision of NALB could affect those Boards and it would be for them to decide how they deal with the situation.

2. The Board are often asked to grant temporary 'Occasional Licences' ('OLs') for Football Clubs. If the Clubs sell alcohol without an OL they may be prosecuted for illegally trafficking in alcohol.

3. Most OLs for football are requested by or on behalf of Football Clubs. These are 'voluntary organisations', which means that they are limited by Law to the number and duration of OLs they can have (see Licensing (Scotland) Act 2005, Section 56(6)): put shortly, there is a limit of 12 OLs in a calendar year. These limits are created by the Law, and are not something the Board can change.

4. In the particular case of Junior Football there is a problem, because the arrangement of the fixture list sometimes prevents the Board from following the procedures laid down by Law. The results of one weekend's games may determine the fixtures for next weekend. This shortness of time causes problems.

5. When a person applies for an OL, the Board have to do three things:

- (a) Advise the Police
- (b) Advise the LSO

- (c) Advertise the application on the public website, so that third parties (e.g. neighbours) might object.

The usual period for advertisement is set by Law at 7 days. However, the Board are allowed to shorten the periods to a minimum of 24 hours if satisfied that the application requires to be dealt with quickly. The NALB Convenor has delegated authority to decide if an Application needs the "quick" treatment, and to determine the Application himself (i.e. without a Hearing), although if there are adverse reports (e.g. from the Police or objections from a neighbour the Applicant must be told and allowed 72 hours to make written or email comments within 72 hours.

6. Because of the usual 7 day rule, NALB has a practice commonly known as "three strikes and you're out", which means that we insist on at least 14 days' notice of an OL Application, but we ask for 28 days. If someone applies after 28 days, but before 14 days, we will treat him as 'late'. This means that if the same Applicant has been late twice or more in the past two years, the Application will be rejected. The Clerk is authorised to waive this rule in "exceptional circumstances", but since the issues with football might arise frequently, it would be better that the Board give a general instruction as to how short-notice football OLs should be dealt with, rather than repeatedly using an exceptional power.

7. Possible issues for consideration

- (a) Should the duration of the OL be limited, e.g. to an hour before and an hour after the match?

Although the 'overprovision' policy cannot apply to OLs, the Licensing Objectives do:

- (a) preventing crime and disorder,*
- (b) securing public safety,*
- (c) preventing public nuisance,*
- (d) protecting and improving public health, and*
- (e) protecting children from harm. ('children' under 16)*

- (b) Should the sale of alcohol be prohibited during the match?

The Police might have views about the Licensing Objectives, e.g. "preventing crime and disorder". The reason the Licence is asked for might be sale to 'spectators', so is it necessary to allow sale during the match?

- (c) Should children be allowed in the bar area?

8. Possible way of proceeding

The Board might approve the following approach: if the OL application states that the reason for it is to cater for a football match, staff can proceed on the basis that:

- (a) the Application requires the 'quick' procedure
- (b) the Notice Period has been reduced from the usual 7 days to 48 hours.

This means that to obtain an OL for next Saturday, this is the likely sequence of events:

Monday: the Applicant lodges the OL Application.

Tuesday: the Board must advertise and give notice to the Police and LSO.

Thursday: the 48 hour period expires. What happens next depends on whether or not there are any adverse issues (e.g. there is no Police objection):

(a) if there are no adverse issues, the OL is granted under Delegated Powers..

(b) if there are adverse issues (e.g. an objection), the Board's staff contact the Applicant by email or telephone to inform him and seek his comments. The case is referred to the Convenor for a decision.

Friday: if the OL was granted, it is issued, and the Police are told.

