

North Ayrshire Licensing Board
20 June 2022

Irvine, 20 June 2022 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Councillors Eleanor Collier (Convenor), Nairn McDonald, Christina Larsen, Jean McClung and Donald L Reid.

In Attendance

R Lynch, Clerk, G Cullen, Licensing Standards Officer, C Pollock, Licensing Administration Officer and M Champion, Admin Assistant.

Also In Attendance

Chief Inspector Alan Paterson and Sergeant Sheryl Syme (Police Scotland).

Convenor

Councillor Eleanor Collier.

Apologies for Absence

Councillor John Bell.

1. Declarations of Interest

There was no Declarations of Interest.

2. Minutes

The Board were asked to confirm the Minutes of the Board meetings held on 22 November 2021 and 28 March 2022. Councillor Reid proposed that both sets of Minutes be adopted and this was seconded by Councillor McClung. The Minutes were agreed and adopted.

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

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

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

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

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

A.1 Premises Licence 0060 Crofters, Shore Road, Brodick

The Board resumed consideration of an application for variations of a Premises Licence made by the Licence Holder, Crofters Arran Limited, for the above premises. The Premises Licence Holder was represented by Jo Godwin, Administrator.

The Licence Holder was requesting the following variations:

1. Allow market at the rear of the premises
2. Increase capacity from 46 to 120

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. An extensive email to the Premises Licence Holder from the Solicitor (Licensing) as well as a favourable representation from Arran Community Council and an objection from Mr Raeside, were all contained in their background papers. A copy of the representation and objection were provided to the applicant prior to the initial Board meeting. Neither Mr Raeside nor Arran Community Council were present.

Ms Godwin then addressed the Board. She confirmed the intention to have a market at the rear of the premises would allow them to diversify following the effects on the business from Covid. The market would have 9 table stalls and they would invite local businesses to sell their produce in addition to selling their own products as well as the ability to sell alcohol, made in their onsite distillery, for off-sales. She noted that there was a misunderstanding in relation to the increased capacity and confirmed 120 people would be in the outside area and not inside the building. There is no change to the capacity inside the premises.

The Clerk explained a separate Market Operators Licence would also be required. Ms Godwin explained that due to cashflow this would be applied for if the Variation Application is granted.

The Convenor highlighted that no one other than Crofters could sell alcohol within the market for off-sales and Ms Godwin confirmed other operators would mainly sell food, vegetables, and seasonal produce.

With regards to the marquee, Ms Godwin advised Councillor Reid that this would be open sided and in relation to potential noise issues, they have been in discussions with neighbours on their proposals. They have processes in place and are very aware of noise disturbance on neighbours and keen to maintain a positive relationship. Recent music events taking place have received supportive feedback.

Having considered the terms of the report, and the submission made, Councillor Reid proposed that the Board grant the application. Councillor McDonald seconded the motion. There was no Amendment. The Board unanimously agreed without dissent or abstention to grant.

The following will be added to the Operating Plan Part 5(f) ("Any other activities")

"The conduct of markets where the stall-holders will be third-parties (neither the Premises Licence Holder nor anyone acting on behalf of the PLH) to be conducted under a "Market Operator's Licence" under Section 40 of the Civic Government (Scotland) Act 1982.

The markets will take place between the hours of 11.00am and 9.00pm on the area to the rear of the building and will involve no more than 9 stalls, selling food, vegetables and seasonal produce.

The sales may include off-sales of alcohol by the Premises Licence Holder (and not by anyone else). These sales can only take place within the Licensed hours specified in Part 3 of the Operating Plan.

No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in the area while it is operating as a Market."

A.2 Premises Licence Allegria, 86 Gallowgate Street, Largs

The Board considered an application for variation of a Premises Licence made by the Licence Holder, Kadir Turbun, for the above premises. The Premises Licence Holder was represented by Maria Timis, Premises Manager.

The Licence Holder was requesting the following variations:

1. Add outdoor drinking
2. Amend Sunday commencement hours for on sales and off sales to 11.00am
3. Add Live Performances, Receptions including weddings, funerals, birthday, retirements etc
4. Amend Children and Young Persons access for functions

The Clerk updated the Board on the application.

Ms Timis then addressed the Board. She explained the current Operating Plan was restrictive for the family friendly restaurant and explained the background to the Variation requests. With regards to the concerns raised by the Convenor on the outdoor drinking area, Ms Timis provided photographs on her mobile phone to the Board. The area would be delineated with solid barriers on wheels with planters on top. Although the layout plan contained a capacity of 42 seats in the outdoor area there would only be 30 seats. If minded to granted, more jobs would be created by the proposal and it would encourage tourism to the area due to its location and views. Ms Timis noted that permission has already been received to use the pavement area from the Roads Authority.

Regarding CCTV, Ms Timis clarified to the Convenor that the area is covered by 2 CCTV cameras. She also confirmed to Councillor Larsen that the smaller side of the doorway would have 2 tables of 5 people and the larger side would accommodate 4 tables of 5, a total capacity of 30 persons outside.

The Clerk clarified the request to amend Sunday commencement hours to 11.00am was within the Board's Policy and confirmed that no loud speakers are permitted in the outdoor area.

Ms Timis confirmed to Councillor Reid the outdoor seating area barriers, which are on wheels, would be removed in wintertime.

Having considered the terms of the report, and the submission made, Councillor Reid proposed that the Board grant the application. Councillor Larsen seconded the motion. There was no Amendment. The Board unanimously agreed without dissent or abstention to grant.

Part F of the Board's Standard Conditions (Entertainment) was added to the Licence.

A.3 & Premises Licences 0115 Spar, 25 Holehouse Road, Largs &

A.4 0199 Spar Convenience Store, 8/12 Wheatley Road, Saltcoats

The Board considered applications for variations of Premises Licences made by the Licence Holder, C J Lang & Son Ltd, for the above premises. The Premises Licence Holder was represented by Caroline Loudon, Solicitor, and she was accompanied by Carol Wraith, Premises Manager at the Largs store. Ms Loudon asked that both applications be considered together as they are both identical except for one additional request for the Largs store.

The Licence Holder was requesting the following variations:

1. Amend the text at Q5 to include Recorded music and National Lottery tickets/cards available out with core hours
2. Add Gaming to cover the use of the National Lottery outlet etc.
3. Amend the text at Q5(f) Other Activities to include Food to Go, Click & collect, Home Deliveries, Paypoint payment, National Lottery outlet, External automated cash machine and sampling & promotional activities
4. Increase the alcohol display capacity from 13.01 m2 to 14.13 m2 (Largs store only)

The Clerk updated the Board on the application.

Ms Loudon then addressed the Board. She explained that as part of a Scotland wide update she has been tailoring the chain's Premises Licences so that they all read the same. Following the pandemic, with more people shopping locally and the addition of food to go as well as the Snappy Shopper home delivery app, Operating Plans are being tidied up for 'future proofing'. With regards to the Largs store, the home delivery app is not available yet but will be implemented in the future and an update of the store layout has resulted in the request for an increase in alcohol display capacity. She explained there are 16 CCTV cameras in the Largs store and there is no negative track record of the premises as well as her clients being well respected operators. Ms Loudon explained that she is aware of the Board's overprovision policy, however the increase is for a very small amount which will complement the existing produce already available.

Ms Loudon explained to Councillor Reid that if the increase in capacity request was not granted this would have a substantial impact, the area would be restocked with soft drinks. She advised the existing inaccessible alcohol area is a small basic spirits area, and the additional accessible area would not encourage people to buy more alcohol but provide more choice.

Both the Convenor and Councillor Reid highlighted the Board's Policy and their concerns.

Having considered the submission made, Councillor Reid proposed that the Board grant the Variations 1, 2 and 3 for both Premises and refuse Variation 4 (Increase the capacity from 13.01 m2 to 14.13 m2 (Largs store only)) on grounds of overprovision and inconsistency with the Licensing Objective 'Protecting and Improving Public Health'. The Convenor seconded the motion. There was no Amendment. The Board unanimously agreed without dissent or abstention to grant Variations 1, 2 and 3 for both Premises and refuse Variation 4.

Ms Loudon undertook to provide the Board with an amended Layout Plan for the Largs store.

A.5 0524 Fintry Bay Ltd, Fintry Bay House, West Bay Road, Millport

The Board considered an application for grant of a Premises Licence made by Fintry Bay Ltd Limited for the above premises. Beverley Callaghan, Director of Fintry Bay Ltd was present.

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.

Ms Callaghan then addressed the Board. She took over the Premises 2 and a half years ago and since then has opened the inside restaurant and the outside patio seating area. Since April the Premises have been operating on a BYOB basis. Ms Callaghan confirmed they will only provide table service and confirmed that under 18s will not be permitted to remain within 1 metre of any bar, she also confirmed that baby changing facilities are available in a disabled toilet.

Ms Callaghan confirmed to the Convenor that she sought an exemption to the Conditions in relation to the outdoor drinking area as there are no neighbours within 3 miles.

Having considered the terms of the reports and the submission made, Councillor McDonald proposed that the Board grant the Premises Licence application. Councillor Larsen seconded the motion. There was no amendment. The Board unanimously agreed without dissent or abstention to grant.

The Premises Licence is granted subject to Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions) Parts A, C and F with Condition C.5.1 disapplied and Condition C.5.2 amended to read: 'No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm except that the consumption of tea, coffee and other non-alcoholic drinks is permitted from 9.00am."

A.6 0525 The Clyde Kitchen, 31-33 Shore Road, Skelmorlie

The Board considered an application for grant of a Premises Licence made by Daniel McKinnon for the above premises. Daniel McKinnon was present.

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.

The Clerk updated the Board on the application.

Mr McKinnon then addressed the Board. After there being 7 owners in the last 10 years, he took ownership of the restaurant in April this year. He said that in order to make the business a success a licence is required to provide alcohol with meals. Until now Mr McKinnon has been operating on a BYOB basis and believes being able to sell alcohol would allow him better control over the consumption of alcohol. The restaurant will be table service only with no bar.

Mr McKinnon confirmed to Councillor McClung that he does receive a lot of enquires asking if alcohol is available with meals as well as customers presuming alcohol is available. He also advised Councillor Larsen that the outdoor drinking area is accessible by ramps and will close at 9.00pm with the last food service at 8.00pm although he would like to offer teas and coffees prior to 11.00am.

Ms Cullen, LSO confirmed to Councillor McDonald that as the Premises has never been licensed no complaints have been received.

With regards to neighbours, Mr McKinnon confirmed that he had a meeting with residents of Strathclyde House and of the 62 flats only 2 neighbours were against his proposals.

Concerning under 18s, Mr McKinnon advised the Convenor that there will be no bar only a counter with a cash till and cake display, all alcohol will be out of sight, and they will provide table service only. Baby changing facilities are available in a disabled toilet.

Having considered the terms of the reports and the submissions made, Councillor McClung proposed that the Board grant the Premises Licence application. Councillor McDonald seconded the motion. There was no amendment. The Board unanimously agreed without dissent or abstention to grant.

The Premises Licence is granted subject to Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions) Parts

A and C with Condition C.5.2 amended to read: "No alcoholic drinks shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 p.m.."

A.7 259/22 Daniel James Stirling - Application for Occasional Licence Sections 56-61, Making Waves Festival, Irvine Beach Park, 24-25 July 2022

The Board considered an application for Occasional Licence made by Daniel James Stirling. Mr Stirling was present and was accompanied by Fiona Anderson NAC Events and Tourism Officer.

The Clerk advised the Board on the application explaining that Occasional Licences are normally granted under Delegated Powers however this request is to disapply a Condition. He referred Members to the written submission by Ms Anderson contained within the Board's background papers.

Ms Anderson then addressed the Board. She explained it is a 2-day event comprising of activities along the harbourside as well as a ticketed event at the beach park on Saturday 23 July, 12 noon until 10.00pm and Sunday 24 July 12 noon until 6.00pm. The capacity is 3000 people, and the bar will be within a fenced ticketed area. The proposal is that alcohol can be consumed everywhere within the fenced area. There will be a total of 40 stewards consisting of a bar supervisor, 4 SIA stewards within the bar area and another 35 security stewards within the ticketed fenced area where alcohol will be consumed. Mr Stirling's staff will provide the alcohol.

Chief Inspector Paterson referred to the concerns from Police Scotland regarding stewarding at the event and confirmed he was satisfied with this undertaking.

Mr Stirling then addressed the Board and confirmed to the Convenor that he has been involved in many major events and ensures all legal requirements are adhered to. Mr Stirling also confirmed that there will be no glass bottles and that all drinks will be decanted into plastic containers.

Concerning first aiders, Ms Anderson confirmed to Councillor Reid there will be 8 first aiders present at all times and free tap water will be available.

Having considered the terms of the reports and the submissions made, the Convenor proposed that the Board grant the Occasional Licence application and disapply Standard Condition H.7. Councillor Reid seconded the motion. There was no amendment. The Board unanimously agreed without dissent or abstention to grant and disapply Standard Condition H.7.

The Occasional Licence is granted subject to the Board's Standard Conditions with Condition H.7 (Temporary Structures) disapplied.

A.8 204/22 Greene King Retailing Ltd - Application for Occasional Licence Sections 56-61, Pavement Area, The Carrick, 112-114 High Street, Irvine

The Board considered an application for Occasional Licence made by Greene King Ltd. The applicant was represented by Adrian Howlett and was accompanied by Catherine Blunn, General Manager and Premises Manager, The Carrick.

Chief Inspector Paterson read the content of a letter of objection from Police Scotland. If the Board were minded to grant the application, he suggested that the area be suitably cordoned off and the number of tables is limited to 4 with the number of patrons being 16 in total.

Mr Howlett then addressed the Board. He explained the request is for a licensed pavement café with occupant capacity of 26 at full capacity. The area will be protected by café barriers commonly seen throughout Scotland. CCTV cameras will monitor the area from the bar and the area is visible from inside the premises. The S59 pavement area consent has already been granted. As the dates on the application have now passed, he would like the licence to commence from today for 14 days and the ability to submit subsequent applications until such times as the Board determine the Major Variation application submitted for the use of the same area. He explained that the use of Occasional Licences for this area would give them the opportunity to show how successfully the area could be operated.

Acknowledging the objection from Police Scotland, Mr Howlett advised Ms Blunn has many years' of experience in the trade and returned to The Carrick in December 2021. Following the pandemic use of outdoor areas is more common and the pavement area will allow customers more choice to sit outside.

Mr Howlett confirmed that The Carrick currently have an outdoor drinking area at the back of the premises which is also currently being extended by way of Occasional Licences.

Chief Inspector Paterson highlighted that the pavement area is in an extremely busy bus route and barriers would not provide adequate protection.

Referring to the proposal to build amenity flats directly across from the area, Councillor Larsen highlighted the potential noise nuisance from an outdoor area.

Ms Blunn then addressed the Board. She advised that there is ample room on the pavement area for passers-by and noise pollution would be kept under control as it is inside the premises. She advised that tables would be removed from the pavement area at 8.00pm and there will be no standing permitted within the area. A member of staff would be on duty to monitor this area. The covered outdoor area at the back of the building is mainly used for smoking and no neighbour complaints have been received in relation to the use of that area.

During local events such as Marymass when the town is exceptionally busy, Ms Blunn confirmed to Councillor Larsen that the outdoor pavement area would not be used on these days. Tables and chairs will be removed every day and would not be used at Marymass time.

Referring to questions from Councillors Reid and Larsen, Ms Blunn advised that both food and drinks will be consumed in the outdoor pavement area, customers would not be time limited when frequenting the area, the area will be closely monitored and will provide a nice environment for customers to sit in.

The Clerk noted the intended barriers to be used has previously been agreed by the Board. Mr Pollock confirmed the agreement was 780mm high x 1600mm for the canvas banner and 980mm high x 300mm for the post.

Referring to the capacity, Mr Howlett advised the request for a capacity of 26 would be spread over 2 areas with 12 people on the right hand side of the doorway and 14 people on the left hand side of the doorway. Providing 1m² for each person.

Both the Convenor and Councillor Larsen noted the recommendation from Police Scotland for the maximum capacity to be 16 people.

The Board adjourned with the Clerk at 11.09 am to deliberate in private and re-convened at 11.39 am.

Councillor McDonald asked the LSO if there was any history of complaints for The Carrick. Ms Cullen confirmed there have been no complaints in a very long time.

Ms Blunn clarified to Councillor Larsen that extra staff will be in place and a staff member will be on duty at each section with extra checks in place in the outdoor area as well as it being all seated and subject to the use of plastic containers.

Councillor Reid highlighted the potential concern smoking in the outdoor pavement area could cause, Ms Blunn noted that customers currently use the outdoor area at the back for smoking and Mr Howlett advised they could not enforce no smoking on the pavement outdoor area. Ms Blunn intended the area would attract people on a nice day for food and drinks.

Mr Howlett confirmed to Councillor Reid their preference on the use of the area is from 11.00am until 10.00pm however noted that they would start to wind down at 8.00pm with the weather having a major impact on its use.

Councillor Larsen sought clarification on when tables would be removed. Ms Blunn had earlier advised tables would be removed at 8.00pm but Mr Howlett noted they would wind down from 8.00pm. Ms Blunn confirmed once they stopped supplying food they would intend to bring in the seating from outside so as not to encourage enhanced drinking facilities in this area.

Regarding the days the pavement area would not be used, Ms Blunn confirmed to Councillor Larsen as well as at Marymass time they would not use this area when other parades take place in the vicinity, during high profile football matches or at any time when it would cause an obstruction.

Mr Howlett advised Councillor Larsen they would prefer not to restrict the use of the outdoor pavement area for drinks only supplied with food, the premises are well run, and the Manager would control the outside as she does inside. Ms Blunn confirmed CCTV covers the full area and will be monitored behind the bar with images retained for 28 days.

Having considered the submissions made, the Councillor Larsen proposed that the Board grant the Occasional Licence application from 12noon until 8.00pm, with the capacity of 16 persons as recommended by Police Scotland and the area would not be set out and used during events such as Marymass and other parades, and during high profile football matches. Councillor McDonald seconded the motion. There was no amendment. The Board unanimously agreed without dissent or abstention to grant.

The Clerk acknowledged future Occasional Licence applications that mirror this would not require to be determined by the Licensing Board.

A.9 Premises Licence 0080, The Waterside, 14 Bath Street, Largs

The Board considered an application for Extended Hours (251/22) made by Hillend Enterprises Limited for the above Premises. The Premises Licence Holder was represented by Brian Purdie, Director and he was accompanied by Ms Mutter.

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. The Board also had regard to a report by Grace Cullen, Licensing Standards Officer, a representation from Police Scotland and letters received from neighbours.

Sergeant Syme read the content of the representation from Police Scotland noting that no complaints have been received by Police Scotland following the review of the Premises Licence on 21 November 2021.

Ms Cullen, LSO, read the content of her report.

The Clerk advised that no objectors were present, however the Board must consider the neighbour complaints.

Mr Purdie then addressed the Board. He advised there are 2 main complainers to his business. He confirmed that while bands are taking a break and no music is being played, he does allow the front door to remain open to allow fresh air to come in, the door is closed prior to bands restarting.

Referring to the photographs supplied to the Board, Mr Purdie advised the Convenor these were of band members who were taking a break. He confirmed the band members are young men who do not consume alcohol, he did try to enlarge the photographs, but it is not clear what the person is holding. He noted that at the Board meeting in November he did not have the time to look at these photographs in details. Following the Board's decision to vary his hours, Mr Purdie advised his business is uneconomical to run and he does intend to apply to the Board to have the hours varied. He advised the Board that he has spent £20,000 in sound proofing the premises and music cannot be heard outside his premises when bands are playing. He also advised that the area has over 200 residents.

The Convenor noted that 2 letters of recommendation had also been received and were contained in their background papers.

Ms Cullen, LSO, advised Councillor McClung that since the review, with entertainment now ceasing at 11.00pm, she has not received any complaints nor has Environmental Health or Largs Police. Previously she communicated with Mr Purdie on a regular basis but has not had any cause to recently.

Mr Purdie confirmed that since the review, he still has bands playing from 7.30pm until 10.30pm and if the Extended Hours is granted, they will play until 12.30am.

With regards to stewarding, Mr Purdie confirmed to the Convenor there would be 2 stewards on duty and he would be willing to accept a Condition that the door could not be left opened.

Referring to the sound levels while bands are playing, Mr Purdie advised Councillor Reid that even while 4 or 5 piece bands are playing music is not heard outside his premises due to its soundproofing.

Ms Cullen asked Mr Purdie to clarify the position regarding door stewards following the Condition by the Board that while live or amplified music is played a door steward (a person who holds a licence granted under Section 8 of the Private Security Industry Act 2001) would be employed. Mr Purdie confirmed this is the case.

Mr Purdie explained that he does have bands playing every week however more people will attend the local festival that he seeks Extended Hours for.

The Board adjourned with the Clerk at 12.11 pm to deliberate in private and re-convened at 12.32 pm.

Councillor McDonald asked Mr Purdie that if required, would he be able to provide the SIA registration number of the proposed door steward at his premises. Mr Purdie confirmed he could supply this.

Having considered the terms of the reports and the submissions made, Councillor Larsen proposed that the Board refuse the Extended Hours application. Councillor McClung seconded the motion. There was no amendment. The Board unanimously agreed without dissent or abstention to refuse.

The Clerk confirmed that the Board, having regard to the Licensing Objectives, decided to refuse the Extended Hours application.

The meeting ended at 12.34 pm.