

**North Ayrshire Licensing Board  
30 September 2013**

**Irvine, 30 September 2013** - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

**Present**

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, Ruth Maguire, Alex McLean, Alan Munro, Donald Reid and Robert Steel.

**In Attendance**

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

**Also In Attendance**

**Chair**

Councillor McNicol in the Chair.

**Apologies for Absence**

None.

**1. Minutes**

The Board were asked to confirm the Minutes of the Board Meeting held on 30 May 2013. The Chair proposed that the Minutes be adopted and this was seconded by Councillor Barr. The Board unanimously agreed to confirm and adopt the Minutes.

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

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

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

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

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

**A.1 Koh-I-Noor, 43 Main Street, Largs**

The Board considered an application for grant of a Provisional Premises Licence made by Kirpa Scotland Limited for the above premises. The Applicant was represented by Mr Hunter, Solicitor, and he was accompanied by Mr Jeer, a representative of Kirpa Scotland Limited. Mr Hunter explained that he was appearing on behalf of the principal agents, TLT Scotland Limited.

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

Mr Hunter addressed the Board regarding the background to the application. He referred to the Summary of Proposal detailed in Mr O'Brien's report and he confirmed that the intention

was to re-instate the licence. The business is a family run Indian restaurant and the Applicant was happy to agree an occupant capacity of 36 persons, and accept and work in accordance with the Board's Standard Conditions.

Councillor Marshall queried why the application contained a request for off sales.

Mr Hunter explained that off sales was being requested so that alcohol can be provided along with take away meals and meals supplied by home delivery, in accordance with the legislation.

Councillor Marshall said that the request for off sales meant that the application was verging on the issue of overprovision, given the proximity of other premises in that part of Largs.

Mr Hunter argued that the Applicant was proposing to run a very different type of operation in comparison to the Cooperative and Tesco, and although off sales is being requested, the display capacity required is actually zero.

Councillor Barr stated his concern regarding the proposal to deliver alcohol along with food.

Mr Hunter highlighted to the Board that the main aspect of the application is the request for an off sales facility. The Applicant would be willing to give up the proposal to deliver alcohol but would like to retain the ability for customers to purchase and take alcohol off the premises along with take away food.

The Board adjourned at 10.08 am and re-convened at 10.14 am.

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

The Chair said that the Board were pleased that the premises were going to re-open, however, the licence has been granted without a permission for off sales.

The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A and C.

## **A.2 Premises Licence 0007 Bar One, 55 Vernon Street, Saltcoats**

The Board considered an application for variations of a Premises Licence made by Bar One (Saltcoats) Ltd for the above premises. The Licence Holder was represented by Mr Mirner, Solicitor, and he was accompanied by Miriam Wyllie (Director, Bar One (Saltcoats) Ltd).

The Licence Holder was requesting the following variations:

1. Remove requirement that Children should be eating a meal.
2. Extend access to Children aged 0-4 years.
3. Extend under 18s access times on a Sunday.
4. Extend under 18s access to whole Premises.

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

Mr Mirner addressed the Board regarding the background to the application. He highlighted that the current licence does not allow for 3 particular circumstances. Firstly, the premises staff receive a large number of requests for children to enter the premises to use the toilets, particularly from people visiting Saltcoats, given the proximity of the premises to the train station. Secondly, Ms Wyllie requires to 'pop in' to the premises a lot and as things stands, she can't legally take her 6 year old daughter with her. Thirdly, there is a proposed arrangement in place for the premises to host the county darts tournament on 4 occasions per year. It would be a fully stewarded, family event with around 50 teams participating. A meal would be provided during the events and the premises would undertake to comply with the condition regarding the provision of baby changing facilities.

Mr Mirner added that the Licence Holder would be willing to inform the Police and the Board in advance, when the darts events are going to take place.

Ms Wyllie added that the variations being requested may seem a bit extreme, but the aim is that the premises are operated correctly in terms of the legal requirements of the Licensing legislation.

The Chair commented that he had recently visited the premises, with a view to the Board's consideration of this application. He noted that the premises were in good condition, there is a separate lounge for the darts proposals and the premises are well covered in terms of CCTV.

Mr Mirner then responded to questions and comments from Councillors Clarkson, Barr, Bruce, Maguire, and Marshall.

The Board adjourned at 10.35 am and re-convened at 10.47 am.

Having considered the terms of the report, and the submissions made, Councillor Reid moved that the Board decide to refuse variation 1, grant variations 2 and 3, and grant variation 4 on the terms that under 18s must be accompanied and supervised by a responsible adult. Councillor Bruce seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to refuse variation 1, grant variations 2 and 3, and grant variation 4 on the terms that under 18s must be accompanied and supervised by a responsible adult. The Board's Standard Conditions Edition 5 will now apply.

Regarding the darts events which will be held at the premises, the Chair informed Mr Mirner and Ms Wyllie that it is the direction of the Board that notice should be given to the Licensing Board and Police Scotland 14 days prior to each scheduled event.

### **A.3 Premises Licence 0067 Trisha's Bar, 69/71 Princes Street, Ardrossan**

The Board considered an application for variations of a Premises Licence made by Abacus Estates Ltd for the above premises. The Licence Holder was represented by Gary McKenna and Marion Small.

The Licence Holder was requesting the following variations:

1. Vary to add 'bar meals' to Operating Plan
2. Allow under 18s in dining area.
3. Change premises name to 'Latrobes'.
4. Vary Layout Plan

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

Mr McKenna addressed the Board regarding the background to the application and he responded to questions from the Chair and Councillor Reid. . He acknowledged that the premises have had a troublesome past and have been closed for a long time. Mr McKenna said that his intention was to restore the building back to its former glory and the proposals involve the installation of a very professional kitchen facility, to produce and serve Parisian style food, very different to the usual fare on offer in this area. It will be very much a food led operation, and the plan is to provide a venue that people will want to come to, both locals and visitors to the area.

Mr McKenna clarified that the proposals did not involve any kind of indoor or outdoor sports so that activity can be removed from the Operating Plan. Mr McKenna added that he is currently working closely with other Council Departments, such as Building Standards and Environmental Health, in relation to the proposals.

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

### **A.4 Premises Licence 0134 Newton Bar, 1 Glasgow Street, Millport**

The Board considered an application for variations of a Premises Licence made by the Partnership of Robert and Lesley Cunningham for the above premises. Robert Cunningham was present.

The Licence Holder was requesting the following variations:

1. Increase under 18s access: to 22:00 during normal trading.
2. Increase under 18s access: for full core hours if attending private functions.

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

Mr Cunningham addressed the Board regarding the background to the application. He highlighted that the Lounge area of the premises has a completely separate entrance of its own.

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

### **A.5 Premises Licence 0274 Routenburn Golf Club, Routenburn Road, Largs**

Councillor Marshall declared an interest in the case. He withdrew, left the Council Chambers, and took no part in the proceedings relating to Routenburn Golf Club.

The Board considered a Review Proposal under Section 37, relating to the above premises. The Licence Holder, Routenburn Golf Club, were represented by Mr Hunter, Solicitor, and he

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was accompanied by John McGown (Club Treasurer) and Eric Niven (Former Club Treasurer).

The Board considered the terms of a report by the Solicitor (Licensing) which set out and summarised the issues arising. With reference to the Board's previous consideration of the Club's application for variations, Mr O'Brien explained that at the meeting on 20 March 2013, variation 4 (Add 'live performances' to operating plan) and variation 5 (Add karaoke, race nights and tribute nights to operating plan) were granted for a trial period of 6 months, with no more than 6 events permitted in that period. The Board also decided to make a Premises Licence Review Proposal, under Section 37, in connection with the variations, with the grounds for review being the Preventing Public Nuisance and Protecting and Improving Public Health Licensing Objectives.

In total, 5 objections and 1 representation were lodged with the Licensing Section in relation to the application and all of the submissions were considered by the Board when the case initially called at the meeting on 6 February. Copies of the written submissions were again given to the Board Members. No objectors were present on this occasion.

The Board had regard to a report supplied by Paul Brennan, North Ayrshire Council Specialist Environmental Health Officer (Noise).

Mr Hunter addressed the Board on the issues arising. He said that there have been 5 events at the Club since the Board meeting in March. There have been 3 discos, 1 karaoke event, and 1 line dancing event. Premises staff have been monitoring the noise emissions and there has been a substantial reduction in the noise levels at the premises, and resultant complaints. Mr Hunter did acknowledge however, that 2 complaints were made to Environmental Health regarding noise levels at the premises, one in June and one just recently, on 20<sup>th</sup> September.

Mr Hunter explained that although the Club are keen to take further measures in relation to the prevention of noise nuisance, such as obtaining the advice of an acoustic consultant, at the moment they do not actually own the building so they are unable, at present, to proceed with anything that would alter the fabric of the building. The Club are in the process of trying to obtain ownership of the building. Mr Hunter suggested that the Board may consider granting a further trial period of 6 months, with 6 events permitted, or preferably an extended trial period of 12 months, during which 12 events would be permitted. Mr Hunter added that these events are vital in order to maintain the running of the Club.

Mr Hunter then responded to questions from the Chair, Councillor Bruce, Councillor Barr, Councillor Clarkson and Councillor Reid. .

Thereafter Mr Brennan responded to questions from Councillors Steel and McLean.

Having considered the terms of the report, and the submission made, Councillor Barr moved that the trial period in relation to variation 4 and variation 5 should be extended for a further 12 months, there should be no more than 12 events in that period, and the Board should continue consideration of the Premises Licence Review Proposal, with the Hearing to call at the end of the extended trial period, or sooner if required. The motion was seconded by the Chair. There was no counter motion, dissent or abstention. The motion was unanimously approved.

The Board adjourned at 11.30 am and re-convened at 11.35 am.

Councillor Marshall re-entered the Council Chambers and re-joined the meeting.

**3. Submission from the Licensing Forum**

The Board considered a submission by the Licensing Forum, together with a report by Grace Cullen, Licensing Standards Officer. The Forum's submission detailed the festive policies operated by East Ayrshire and South Ayrshire Licensing Boards, and questioned whether North Ayrshire Licensing Board may consider reducing the extent of its own festive policy, in terms of the number of extensions permitted. The LSO's report detailed all of the premises in North Ayrshire that have early opening hours.

Mrs Cullen briefed the Board regarding the content of both the submission and report. She explained that the Forum had concerns regarding the early licensed hours that some premises have in North Ayrshire. A lot of these early hours were obtained in the past for reasons which are now no longer applicable.

The Board considered the question raised by the Forum regarding the extent of the festive policy. Councillor Barr said that the Board should continue with the same policy as previous years and Councillor Maguire said that there was no obvious reason to curtail the number of extensions permitted. Councillor Reid said that he understood where the Forum were coming from, given that a lot of premises now have later hours permanently contained in their operating plan. Councillor Reid added that he thought that the 00.30 am curfew should be 'relaxed' to 1.00 am.

The Board acknowledged that they were being asked to consider and adopt their festive policy at the next agenda item. However, in response to the Forum's question, the Board decided that they would not wish to reconsider the extent of their festive policy, in terms of the number of extensions permitted, as there had been no complaints regarding this matter.

The Board then considered the issue of premises with early opening hours. Councillor Reid noted concerns regarding the early hours that some premises have and he asked the Licensing Solicitor how the Board would go about tackling this issue. Mr O'Brien said that although this may be a difficult issue to tackle, it would be possible to write to the relevant Licence Holders, detailing the Board's intention to limit their core hours back to a commencement time of 10.00 am, for example. All cases would come to the Board to be heard. If Licence Holders agree to the proposal then their licence would be altered accordingly. If a Licence Holder objected to the Board's proposal then a full Hearing would take place. Councillor Barr suggested that surely supply and demand would dictate whether these early hours were actually being operated. Councillor Munro agreed with Councillor Barr's comments, and added that such an exercise may incur unwelcome expense for small businesses. Councillor Maguire stated that she was wary of the Board taking no action in relation to this issue, now that it had been highlighted. Councillor Marshall said that he thought it was a good idea to review premises which have core hours prior to 10.00 am, and was this a do-able exercise. Mr O'Brien confirmed that it was do-able, and it may be that the exercise would be done in stages, starting with the premises with the very earliest hours.

Having considered the information contained in the LSO's report, the Board agreed that an exercise (to review premises with early opening hours) should be commenced and it was delegated to Mr O'Brien to proceed accordingly.

**4. Consideration of NALB Policy for Festive Period 2013-2014**

The Board considered a report by the Solicitor (Licensing) regarding Extended Hours during the Christmas and New Year period.

Having considered the report, Councillor Barr moved that the Board adopt the following policy:

- The festive period be split 1<sup>st</sup> December – 14<sup>th</sup> December (period 1), and 15<sup>th</sup> December – 4 January (period 2), and that 4 extensions are permitted in period 1 and 7 extensions are permitted in period 2
- Extended Hours are applied for and authorised in accordance with the Board's Festive Extension Policy Hours (detailed at Section 9.14 of the NALB Licensing Policy Statement)
- Christmas Eve and Hogmanay (both Tuesdays in 2013) should be regarded as if they are Saturdays (in terms of the Board's Festive Extension Policy Hours).
- A 00.30 am curfew shall apply to all premises (throughout the whole of North Ayrshire) open after 1.00 am, regardless of the nature of the Licence or permission which authorises opening after 1.00 am.

Councillor Clarkson seconded the motion. Councillor Reid moved, as an amendment, that the policy be adopted as proposed by Councillor Barr, except that a 1.00 am curfew should apply to all premises. Councillor Munro seconded the amendment.

There was then a roll-call vote. There were no abstentions. Councillors Barr, Clarkson, McNicol, Marshall, Bruce, McLean and Steel voted for the motion. Councillors Reid, Munro, and Maguire voted for the amendment.

The motion was accordingly carried and the policy adopted, with a 00.30 am curfew.

Christine Andrew, Senior Manager (Legal Services) departed the meeting.

## **5. Draft Licensing Policy Statement 2013-2016**

All Board Members were provided with a draft copy of the Licensing Policy Statement 2013-2016.

The Board then considered a report by the Solicitor (Licensing), informing the Board of the proposed procedure for amending and adopting the Licensing Policy Statement 2013-2016.

Having considered the report, the Board agreed to fully discuss and review the draft Policy Statement, at a special meeting, to be arranged prior to the next scheduled meeting on 19 November 2013. The Chair confirmed that he would liaise with the Licensing staff regarding a suitable date / time for the special meeting, and all Board Members would be informed of the arrangements in due course.

The meeting ended at 12.20 pm.