

Cunninghame House  
Irvine  
KA12 8EE

21 October 2020

**North Ayrshire Licensing Board**  
**(Coronavirus Procedures)**

You are requested to attend a Virtual Meeting of the Board to be held remotely on **Friday 23 October 2020 at 10.00 A.M.** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

- 1. Declarations of Interest**
- 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. Any Other Business**

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## Licensing Board

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Sederunt: Ronnie McNicol (Convenor)  
Todd Ferguson ( Vice-Convenor)  
Robert Barr  
John Easdale  
Scott Gallacher  
Jean McClung  
Davina McTiernan  
Donald L Reid  
Angela Stephen

Chair:

Apologies:

Meeting Ended:

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## Agenda Item 2

23 October 2020

### North Ayrshire Licensing Board

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| <b>Title:</b> | <b>Applications for Licences and other matters arising under the Licensing (Scotland) Act 2005.</b> |
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| <b>Purpose:</b> | To advise the Board of the Law and the factual background. |
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| <b>Recommendation:</b> | That the Board determines whether or not to grant the Applications listed. |
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#### 1. Executive Summary

- 1.1 The Licensing Board are responsible for determining Applications for Licences and other matters arising under the Licensing (Scotland) Act 2005.
- 1.2 The Board has approved a Scheme of Delegation whereby certain matters can be delegated to the Clerk and other licensing staff. Matters which cannot be delegated, or where the officers have declined to exercise the delegation, are referred to the Board.

#### 2. Background

- 2.1 During the Coronavirus Emergency many matters have been resolved under Delegated Powers, sometimes by the Convenor and sometimes by the Clerk.
- 2.2 There are a few cases where Delegated Powers are not available, where the decision has to be made by Board Members. Normally Board meetings are in public, but during the Coronavirus Emergency this has changed - the Board can determine that a meeting cannot be held in public for a reason relating to coronavirus, and have done so. This is why the Board are currently having meetings by online video-conferencing instead of in Council Chambers at Cunninghame House, Irvine. Accordingly this meeting will not be open to the public.

The legislation which permits this is the Coronavirus (Scotland) Act 2020, Schedule 5, Paragraph 4(5)(d), amending Licensing (Scotland) Act 2005, Schedule 1, Paragraph 12(2); the 2020 Act was extended to 31 March 2021 by the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2020 No. 299.

- 2.3. Some cases have been identified as suitable candidates for an 'Alternative Procedure'. These are cases where there have either:
- (a) been no objections, adverse representations or issues with Board Policy; or
  - (b) there have been objections, adverse representations or issues with Board Policy but the Applicant is satisfied that these can be adequately addressed by written submissions.
- 2.4. The Applications and other matters before the Board are described in the attached appendix.

In addition, prior to the Board meeting the Clerk will circulate to Board Members:

- (a) Background papers (Consisting, for each case, the various forms, objections or representations, letters and other documents); and
- (b) "Case Summaries" (a single document prepared by licensing staff for each case before the Board; this sets out the particular factual and legal issues which licensing staff consider arise in each case, and contains the Clerk's advice in each case).

### **3. Proposals**

- 3.1 In each case, after considering Background papers, "Case Summaries", and any submissions made by the Applicant and persons making objections or representations, the Board should determine whether or not to grant the Application or take other appropriate action:
- (a) If the Board are inclined to grant the Application, they may do so.
  - (b) If the Board are inclined to refuse the Application, they must continue consideration to a later date, in order that the Applicant might be alerted to the potential reason for refusal and be given the opportunity to address it. In no circumstances will Applications be refused without the Applicants or Licence-Holders having an opportunity to state their cases, unless refusal is the only course of action permitted by Law (for example, where the Applicant requested off-sales hours before 10.00 a.m. or after 10.00 p.m., which the Board would be obliged to refuse - Section 65). If an Application raised such an issue where refusal was mandatory, the Board would raise this with the Applicants or Licence-Holders beforehand, so that they might consider whether a suitable amendment would allow the Application to proceed.

Either way, the Board will contact the Applicants, Licence-Holders and other parties afterwards to tell them what the Board had decided.

#### 4. Implications/Socio-economic Duty

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| <b>Financial:</b>                    | There are possible financial implications in relation to any Licensing decision.   |
| <b>Human Resources:</b>              | None.  |
| <b>Legal:</b>                        | There are possible legal implications in relation to any licensing decision. Many Board decisions may be appealed against, but not all, and not all parties to a case have a right of appeal.  |
| <b>Equality/Socio-economic Duty:</b> | <p>Equality Act 2010 imposes duties on the Council:<br/>Section 1(1) ("Public sector duty regarding socio-economic inequalities"): the Council:</p> <p>"must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage".</p> <p>Section 149(1) ("Public sector equality duty") the Council:</p> <p>"must, in the exercise of its functions, have due regard to the need to-</p> <ul style="list-style-type: none"><li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [that Act];</li><li>(b) advance equality of opportunity between persons who share a "Relevant Protected Characteristic" and persons who do not share it;</li><li>(c) foster good relations between persons who share a "Relevant Protected Characteristic" and persons who do not share it."</li></ul> <p>The "Relevant Protected Characteristics" are age; disability; gender reassignment, pregnancy and maternity; race; religion or belief; sex; and sexual orientation.</p> <p>The Clerk has considered these Duties in preparing this Report and any specific impacts will be evaluated where appropriate. Unless the Clerk advises the Board otherwise in a particular case, there are no significant impacts to be considered.</p> |

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| <b>Children and Young People:</b>          | None.  |
| <b>Environmental &amp; Sustainability:</b> | None.  |
| <b>Key Priorities:</b>                     | An effective licensing system, for example monitoring the ‘fit and proper’ status of licence-holders and the suitability of premises, helps progress towards one Priority Outcome of the draft North Ayrshire Council Plan 2019-2024: “North Ayrshire’s residents and communities are safe”. |
| <b>Community Benefits:</b>                 | Not applicable, as the Report does not relate to tendering or procurement exercises.   |

## 5. Consultation

- 5.1 Consultation has taken place in line with statutory requirements. The requirements vary depending on the particular issue raised, and where appropriate these are detailed in the report for each case.

Aileen Craig  
Clerk

For further information please contact **William O'Brien, Solicitor (Licensing)**, on [licensing@north-ayrshire.gov.uk](mailto:licensing@north-ayrshire.gov.uk).

## Background Papers

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### **Appendix (List of cases)**

| <b>Case</b> | <b>Applicant</b>  | <b>Description of case</b>  |
|-------------|---|---|
| 1           | Isle of Cumbrae Distillers, Ltd., 11 Guildford Street Millport, Isle of Cumbrae KA28 0AE (Provisional Premises Licence 509) | <p>Type of Case: Application for Provisional Premises Licence</p> <p>Both on-sales and off-sales.<br/> On-sales: 7 days (11.00 - 24.00 each day)<br/> Off-sales: 7 days (11.00 - 22.00 each day)</p> <p>Gin distillery and shop, including meet and greet area, bottling and warehousing area and still room. Premises to cater for receptions and other functions.</p>   |
| 2           | Co-operative Group Food Limited, Laigh Road/Medine Avenue, Beith, KA15 2DJ (Premises Licence 219)                           | <p>Type of Case: Application for Variation of Premises Licence</p> <p>Variation(s) requested:</p> <ol style="list-style-type: none"> <li>1. Permit the playing of Recorded Music both inside and outside Licensed Hours.</li> <li>2. "Other Activities" in Operating Plan to be:<br/> "The sale of food, non-food items and other household goods, and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and compliance with the relevant provisions of the Licensing (Scotland) Act 2005."</li> </ol> |
| 3           | Co-operative Group Food Limited, Shore Road, Brodick, Isle of Arran, KA27 8LA (Premises Licence 219)                        | <p>Type of Case: Application for Variation of Premises Licence</p> <p>Variation(s) requested:</p> <ol style="list-style-type: none"> <li>1. Permit the playing of Recorded Music both inside and outside Licensed Hours.</li> <li>2. "Other Activities" in Operating Plan to be:<br/> "The sale of food, non-food items and other household goods, and the provision of ancillary consumer services within and outwith licensed hours. Home</li> </ol>  |

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|   |  | deliveries may be provided to customers. Alcohol will only be delivered in terms of and compliance with the relevant provisions of the Licensing (Scotland) Act 2005."  |
| 4 | Ailie Duncan - "Little Rock Cafe", Brodick, Isle of Arran, KA27 8AJ (Premises Licence 413)                         | <p>Type of Case: Application for Variation of Premises Licence</p> <p>Variation(s) requested:</p> <p>1) To change opening licensing hours at 12 pm to 10 am</p> <p>2) Permit off-licence</p> <p>3) Change layout</p>  |
| 5 | WM MORRISON SUPERMARKETS PLC MORRISONS, HAWKHILL FARM, KILWINING ROAD, STEVENSTON, KA20 3DE (Premises Licence 163) | <p>Type of Case: Application for Variation of Premises Licence</p> <p>Variation(s) requested:</p> <p>"PRODUCTS OTHER THAN ALCOHOL WILL BE SOLD AND ANCILLARY CONSUMER SERVICES PROVIDED DURING ALL OR PART OF THE PERIOD BETWEEN 6.00 AM AND 12 MIDNIGHT EACH DAY SUBJECT TO CUSTOMER DEMAND AND OTHER STATUTORY CONSENTS WHERE REQUIRED.</p> <p>THE PREMISES LICENCE HOLDER MAY OFFER OCCASIONAL FREE SAMPLES/TASTINGS OF ALCOHOL PRODUCTS TO ITS CUSTOMERS OVER 18 WITHIN THE ALCOHOL DISPLAY AREA DURING CORE LICENSED HOURS.</p> <p>A HOME DELIVERY SHOPPING SERVICE AND A CLICK &amp; COLLECT SERVICE MAY BE OPERATED FROM THE STORE."</p> |
| 6 | WM MORRISON SUPERMARKETS PLC - "MORRISONS", 4 IRVINE ROAD, LARGS, KA30 8JT (Premises Licence 164)                  | <p>Type of Case: Application for Variation of Premises Licence</p> <p>Variation(s) requested:</p> <p>"PRODUCTS OTHER THAN ALCOHOL WILL BE SOLD AND ANCILLARY CONSUMER SERVICES PROVIDED DURING ALL OR PART OF THE PERIOD BETWEEN 6.00 AM AND 12</p>   |



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|   |  | <p>MIDNIGHT EACH DAY SUBJECT TO CUSTOMER DEMAND AND OTHER STATUTORY CONSENTS WHERE REQUIRED.</p> <p>THE PREMISES LICENCE HOLDER MAY OFFER OCCASIONAL FREE SAMPLES/TASTINGS OF ALCOHOL PRODUCTS TO ITS CUSTOMERS OVER 18 WITHIN THE ALCOHOL DISPLAY AREA DURING CORE LICENSED HOURS.</p> <p>A HOME DELIVERY SHOPPING SERVICE AND A CLICK &amp; COLLECT SERVICE MAY BE OPERATED FROM THE STORE.”</p> |
| 7 | Asda Stores Ltd. - "Asda", Harbour Road, Ardrossan, KA22 8BZ (Premises Licence 111)  | <p>Type of Case: Application for Variation of Premises Licence</p> <p>Variation(s) requested:</p> <p>To vary the licensed area</p>   |
| 8 | Park Resorts Limited - Sandylands Holiday Park, "The Buccaneers", James Miller Crescent, Auchenhavie Park, Saltcoats KA21 5JN (Premises Licence 256) | <p>Type of Case: Application for Variation of Premises Licence</p> <p>Variation(s) requested:</p> <p>To add the facilities for off sales of alcohol Monday to Sunday 1000 to 2200 throughout the holiday park.</p>   |