

**North Ayrshire Licensing Board
4 February 2019**

Irvine, 4 February 2019 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Councillors Ronnie McNicol (Convenor), Todd Ferguson, Robert Barr, John Easdale, Donald L. Reid, Jean McClung, Scott Gallacher, and Angela Stephen.

In Attendance

W O'Brien, Solicitor (Licensing), G Cullen, Licensing Standards Officer and C Pollock, Licensing Administration Officer.

Also In Attendance

Convenor

Councillor McNicol.

Apologies for Absence

Davina McTiernan.

Declarations of Interest

Councillor Gallacher declared an interest in relation to Case 1 on Appendix A.

1. Minutes

The Board were asked to confirm the Minutes of the Board meetings held on 19 November 2018 and 10 December 2018. The Convenor proposed that both sets of Minutes be adopted and this was seconded by Councillor Ferguson. 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 0501 Irvine Rangers Supporters Club, 135 Rear High Street, Irvine

Having declared an interest in Case 1, Councillor Gallacher withdrew at 10.03 am and took no part in the proceedings relating to Irvine Rangers Supporters Club.

The Board considered an application for grant of a Provisional Premises Licence made by Irvine Rangers Supporters Club for the above premises. David Black, Club Chairman, 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. Mr O'Brien updated the Board on progress made against the observations set out in the report.

5 letters of objection or representation were submitted in relation to the application. No objectors were present and Mr Black confirmed that he had seen a copy of all objections and representations prior to the Board meeting. Copies of all the written submissions were given to the Board Members.

The Convenor confirmed that some of the Board Members had attended a site visit at the proposed premises last week and he asked Mr Black for his comments in response to concerns raised about parking and smoking.

Mr Black then addressed the Board. He read out a prepared submission detailing the Club's policies in relation to The Prevention of Crime and Disorder, Drunkenness, Public Safety, The Prevention of Public Nuisance, and The Protection of Children. Regarding smoking, Mr Black handed the Board a prepared Notice which instructed Club Members to refrain from causing noise nuisance outside the premises. All Members of the Club would be made aware of the Notice and policy detailed within it. In terms of parking, Mr Black explained that although the Club would be entitled to use the yard outside the premises for parking, they would not be doing so.

In response to questions from the Board Members, Mr Black confirmed that there would be CCTV both inside and outside of the premises, that the Club would give up the right to use the yard to assist access for others and the licensing hours applied for were to cover for all eventualities. In terms of a safe number of persons within the premises, Mr Black said that the maximum number would be 120. Occupancy would be monitored and recorded and once the number was reached a sign would go up at the door to confirm the premises were full. Stewards would be used when appropriate. Mr Black confirmed that children and young persons would be permitted access to the premises for private functions and more commonly for the football. The Club would be operating a refusals book and Mr Black said that he would personally ensure that the yard outside the premises, including any bins situated there, would be kept tidy.

The Convenor referred Mr Black to Section 7(e) of the Board report. Mr Black acknowledged the observations in Section 7 of the report and confirmed that the Club would agree and conform to all, including Standard Condition 1.2(g) and that the Club's Constitution would be amended accordingly.

The Board adjourned with the Solicitor (Licensing) at 10.19 am to deliberate in private and re-convened at 10.27 am.

Having considered the terms of the report, and the submissions made, Councillor Easdale proposed that the Board grant the application. Councillor Stephen seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A, C, F and I. The Convenor explained to Mr Black that the layout plan should be updated to reflect that no under 18's are permitted to be within 1 metre of the bar area. Furthermore, the Club's Constitution must be amended to include the '3 Guest Rule' and an updated copy should be provided to the Licensing Section.

Councillor Gallacher re-joined the meeting at 10.30 am.

A.2 0500 Iceland, Unit 3, Riverway Retail Park, Irvine

The Board considered an application for grant of a Provisional Premises Licence made by Iceland Foods Ltd for the above premises. The Applicant was represented by Niall Hazard, Solicitor, and he was accompanied by Darren Gardiner, Area Manager, Iceland Foods Ltd.

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.

An objection to the application had been submitted by NHS Ayrshire and Arran. No one from the NHS was present. Mr Hazard confirmed that he had seen a copy of the objection prior to the Board meeting. Copies of the written submission from the NHS were given to the Board Members.

Mr Hazard then addressed the Board. He provided background on Iceland as a company and their operations in Scotland. The application before the Board today is for a Food Warehouse premises, which is a concept that has seen rapid growth since 2015. Mr Hazard provided a handout to the Board which highlighted the differences between an Iceland High Street store and an Iceland Food Warehouse store. The deal for these proposed premises, which is the old Sports Direct unit, is subject to Planning and Licensing consents. Planning has now been granted so if the provisional premises licence were to be granted today the refit process would commence very soon.

Mr Hazard said that the retail jobs that would be created, should this project go ahead, would be good jobs as Iceland are one of the best companies to work for. There would be 9 full time and 21 part time jobs and this job creation would have positive ripple out effects for the whole retail park. Referring to the Waddell and Burton report, Mr Hazard stated that work is good for you and brings positive health benefits.

Mr Hazard informed the Board that Iceland are ahead of the curve in terms of social responsibility in a number of ways and they support many good causes through their charitable foundation. Iceland are accredited as grade 1 licensing trainers. Each store has a minimum of 3 personal licence holders, CCTV and security guards in operation. Each till has an in-built prompt system, 2 hour staff training is refreshed every 6 months and specialist training is given in relation to agency purchasing and the company operate a strict Challenge 25 policy. Mr Hazard suggested that given the retail park setting it is unlikely this operation would be the source of any public nuisance.

Mr Hazard explained that the intention of this application is the provision of an ancillary range of beers, wines and spirits, which would be located as far away from the front door of the shop as possible. It is proposed that only 4% of the total store layout would be alcohol. Data derived from the existing Iceland Food Warehouse stores confirms that 60% of alcohol sold in these stores is wine, and only 3.5% of total sales is alcohol.

Mr Hazard confirmed that he took no issue with any of the health data. However, his client, just like other retailers are aware of the 'halo effect' and that people are under pressure of time. As such, the intention is that these premises would become a destination venue and would be seeking to attract people to the store to do big shops.

Mr Hazard said that he hoped that he had highlighted to the Board a lot of positives which this proposal would bring and invited the Board to grant the application. He added that as refusals are logged electronically, and every till is covered by CCTV, should the Board be minded to

grant the application the Applicant was requesting the disapplication of Standard Condition B.4(c).

In response to questions from the Convenor, Mr Hazard confirmed that the store opening hours would probably be 8.00 am – 8.00 pm, with some later opening at seasonal times. Iceland currently have 7 Food Warehouse stores trading in Scotland, and with reference to there being an existing Iceland store in Irvine, Mr Hazard stated that the company were content that both stores could trade without impinging on one another.

In response to questions from Councillors Barr and Reid, Mr Hazard confirmed that there are currently no Food Warehouse stores trading without a licence, and if this application were to be refused Iceland would need to reassess this project.

Councillor Easdale commented that these proposed premises are within the area of Irvine Fullarton which has statistically very poor health data. He asked Mr Hazard how that married with his Client's health promotions. In response, Mr Hazard said that there was no 'silver bullet' to solve health issues, but it is the view of the Applicant that on balance this proposal, and all of the positive things that it would bring, would be seen as a good thing for the wider locality.

The Convenor asked Mr Hazard and Mr Gardiner to address their plans for alcohol advertising, whether Iceland would be procuring for the store locally and to explain the reason for the amount and area of alcohol display requested.

Mr Gardiner said that the relevant rules and regulations in relation to alcohol advertising and promotions are far tighter in Scotland. The company would operate in accordance with the regulations and none of their stores in Scotland have 'islands' or wine racks.

Mr Hazard said that the area requested was calculated as being just about right for what is needed in this set up where the provision of alcohol is ancillary.

Mr Gardiner confirmed that Iceland are moving towards expanding their range of local produce sourced in Scotland. There are currently 126 lines of locally sourced products on offer but the company want to expand on this.

The Board adjourned with the Solicitor (Licensing) at 11.05 am to deliberate in private and re-convened at 11.27 am.

Having considered the terms of the report, and the submissions made, Councillor Barr proposed that the Board refuse the application. Councillor Gallacher seconded the motion. Councillor McClung moved, as an amendment, that the application be granted. Councillor Easdale seconded the amendment.

There was then a roll-call vote. Councillors Barr and Gallacher voted for the motion. The Convenor and Councillors Ferguson, Easdale, McClung, Reid and Stephen voted for the amendment.

The amendment was accordingly carried and the Provisional Premises Licence granted. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A and B. Standard Condition B.4(c) is disapplied.

A.3 0502 Café Guzzi, 68 Gallowgate Street, Largs

The Board considered an application for grant of a Provisional Premises Licence made by Mrs Keren McClure for the above premises. Mrs McClure 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. Mr O'Brien updated the Board on progress made against the observations set out in the report.

Mrs McClure then addressed the Board regarding the application. She explained that the premises are situated in an ideal location and prime position in Largs. There is an intention to have an outdoor seating area but Mrs McClure confirmed that she was aware that Planning and Roads permissions would be required before the area could be used.

Mrs McClure confirmed that baby changing facilities are in place.

Having considered the terms of the report, and the submissions made, the Board unanimously agreed without dissent or abstention to grant.

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

Standard Condition C.5.2 is amended to read:

"No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 am and later than 10.00 pm, except that the consumption of tea, coffee and other non-alcoholic drinks is permitted from 10.00 am".

A.4 Premises Licence 0484 Niche, 106 Montgomery Street, Irvine

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Colin Malcher, for the above premises. Mr Malcher was present.

The Licence Holder was requesting the following variations:

1. Disapply Standard Condition C.5.1
2. Disapply Standard Condition C.8
3. Disapply Standard Condition C.12

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 Malcher then addressed the Board. He explained that the background music is soft, acoustic easy listening music appropriate for a restaurant. He said that the premises normally close at 9.00 pm, 10.00 pm at the latest.

In response to questions from the Convenor and Councillor Barr, Mr Malcher confirmed that the inspection and cleanliness of the toilets is a major priority and would still be done, but the disapplication of C.12 would make the process a bit easier for the staff at the premises. The standard of cleanliness at the premises is extremely high but on occasions, when the premises is really busy the staff may miss an hour of inspection.

Mr O'Brien suggested that perhaps the Board may wish to disapply C.12.2 only, and keep C.12.1 in force. Mr Malcher confirmed he would be happy to accept that.

Having considered the terms of the report, and the submissions made, the Board unanimously agreed without dissent or abstention to grant.

Standard Conditions C.5.1, C.8 and C.12.2 are all disapplied.

3. Consideration of the Board's draft Statement of Principles 2019-2022 (Gambling Act 2005, Section 349).

The Board considered a report by the Solicitor (Licensing) regarding the requirement, under the Gambling Act 2005, for the Board to adopt and publish a Statement of Principles for the period 2016-2019. Mr O'Brien briefed the Board on the report and recommended the draft Statement of Principles be adopted.

Having considered the report and the draft Statement, Councillor Barr proposed that the Board accept the recommendation and adopt the draft Statement as their Statement of Principles for the period 2019-2022. There were no counter proposals and the Board unanimously agreed without dissent or abstention to adopt the draft Statement as their Statement of Principles for the period 2019-2022.

The meeting ended at 12.02 pm.