

Cunninghame House,
Irvine.

14 March 2013

North Ayrshire Licensing Board

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, 3rd Floor, Cunninghame House, Irvine on **WEDNESDAY 20 MARCH 2013 at 10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

1. 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)

Licensing Board

Sederunt: Ronnie McNicol (Chair)
 Tom Marshall (Vice-Chair)
 Robert Barr
 John Bruce
 Ian Clarkson
 Ruth Maguire
 Alex McLean
 Alan Munro
 Donald Reid
 Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Agenda Item 1

20 March 2013

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 Strathclyde Police 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, Licensing Solicitor ,
on 01294 324305*

APPENDIX A

Premises Licence Applications or any other Applications requiring a Hearing

Case No.	Licence No.	Applicant/Licence Holder Premises	Comments
1.	0088/ 0117	Martin McColl Limited Martin McColl House Ashwells Road Brentwood Essex CM15 9ST	Various Premises Review Proposal - Section 37
2.	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
3.	0395	Bothan Lic Limited 36 Nithsdale Road Glasgow G4 2AN	Bothan Bar Broomlands Gate Bourtreehill Irvine KA11 1HB Application for Variation of Premises Licence - Section 29 Continued from 06/02/13
4.	NA1488	Ryan Reid 5 Kerr Avenue Saltcoats KA21 5PU	Application for Grant of Personal Licence - Section 74
5.	NA1482	Steven James Hall 7 West Bowhouse Head Girdle Toll Irvine KA11 1NN	Application for Grant of Personal Licence - Section 74
6.	0432	Summel & Summel Ltd Registered Office 46 Milgarholm Avenue Irvine KA12 0EJ	Gulab Brasserie 2A Stanecastle Road Irvine KA11 1AE Application for Variation of Premises Licence - Section 29
7.	0439	Simpsinns Limited 152A High Street Irvine KA12 8AN	Si Cafe, Bar & Restaurant 18 Kilwinning Road Irvine KA12 8RU Application for Grant of Provisional Premises Licence - Section 45 Continued from 06/02/13
8.	0284	Largs Halkshill Bowling Club 15 Wilson Street Largs KA30 9AQ	Largs Halkshill Bowling Club 15 Wilson Street Largs KA30 9AQ Application for Variation of Premises Licence - Section 29

- | | | | | |
|-----|--------|--|--|---|
| 9. | 0274 | Routenburn Golf Club
Routenburn Road
Largs
KA30 8QA | Routenburn Golf Club
Routenburn Road
Largs
KA30 8QA | Application for Variation
of Premises Licence -
Section 29
Continued from 06/02/13 |
| 10. | 044/13 | Kevin Scott
17 Archers Avenue
Irvine
KA11 2GB | Volunteer Rooms
High Street
Irvine
KA12 0AL | Application for
Occasional Licence -
Section 56
Clerk to report |

Premises Licence Review Proposal - Section 37

Premises	"R.S. McColl", 23 West Doura Ct., Kilwinning "McColls", 45-47 Moorburn Rd., Largs
Premises Licence Holder	Martin McColl Ltd
Ref.	117 and 088

1. Background

The Board has received confirmation from the Chief Constable that the Premises Licence Holder has been convicted of a 'relevant or foreign offence' (as prescribed by Regulation):

Date:	27 November 2012
Court:	West Hampshire Magistrates Court
Offence:	Regulatory Reform (Fire Safety) Order 2005, Articles 9(3), 11(1) and 14(2)(f)
Disposal:	Fines totalling £10,500

Under Section 44 the Board must, on receipt of that confirmation, make a Review Proposal under Section 37 (Review of Premises Licence on Licensing Board's initiative).

The information given by the Police is limited to that given above, and does not contain details of the charge, e.g. place, date, circumstances. The Order relates to fire risk assessments and safety arrangements. Art. 14(2)(f) prohibits the locking or fastening emergency doors. The offences reported have nothing to do with the sale of alcohol.

2. Action

Given

- (a) that the conviction relates to Premises outside North Ayrshire and is unlikely to have a bearing on Premises within the Board's area, and
- (b) that the conviction does not relate to the selling of alcohol,

the Board may wish to conclude the Review by taking no action. If the Board considers that Revocation or the other steps otherwise available may be appropriate, and wishes to be addressed by the Licence Holder, the case should be continued to a later meeting.

Application for Variation of Premises Licence - Section 29

Applicant	Toni Dawson
Premises	Sugar & Spice, 26-28 Main Street, Largs KA30 8AB
Ref.	PR036

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 8 March 2013. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Summary of Variation Request(s)

No.	Variation
1	Increase capacity from 3.19 to 7.51 sq.m.
2	Dis-apply Condition as to the retention period for CCTV recordings

2. Objections and Representations

Police	No objection
Community Council	No objection
Fire	No objection
Health Board	No response yet
Building Standards	No objection
Planning	No objection
Other Objections or Representations?	None

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: Increase capacity from 3.19 to 7.51 sq.m.
Discretionary refusal
Notes: The Premises are a shop which primarily sells gifts and sweets. The sale of alcohol is a minor part of the overall business. The present variation request is intended to cover the shop display window, which has in fact been used for many years as a display of goods, some of which are or contain alcohol.

The only issue is Overprovision, but the Board may consider that the display here is so small that an exception to its Policy can be made. Otherwise, there is a presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement. If the Board is minded to refuse for this reason, it should continue consideration of the Application to a later Meeting, when a detailed statement of the Board's policy, with information as to the population and capacity of similar Premises in the locality, will be prepared.

Variation 2: Dis-apply Condition as to the retention period for CCTV recordings

Discretionary refusal

Notes:

The Condition in question is B.5, which obliges off-sales to maintain CCTV coverage of all parts of the Premises and of entrances, and to keep these for one month (Condition X.1(d)).

The Condition is designed to promote the L.O.s (a) and (b) ('preventing crime and disorder', and 'securing public safety').

The purpose of requiring recordings to be retained is so that the Police can later view them, e.g. when investigating an alleged under-age sale. Given that the Police have no objection, the Board might take the view that the variation is not inconsistent with these L.O.s.

The Applicant should clarify whether she wishes to remove the Condition altogether, or simply to reduce the retention period.

4. Licence Conditions

The Licence was granted subject to Edition 1 of the Board's Standard Conditions - before the most recent revision. The existing Conditions should be replaced by the current Edition 5.

If Variation 2 is granted, the appropriate Condition X.1(d) should be either deleted or varied.

Application for Variation of Premises Licence - Section 29

Applicant	Bothan Lic Ltd
Premises	Bothan Bar, Broomlands Gate, Irvine KA11 1HB
Ref.	0395

CONTINUED FROM 06/02/13

1. Summary of Variation Request(s)

No.	Variation
1	<i>Additional wording for O.P. Q4 re intention to seek festive extensions</i>
2	<i>Various amendments to OP5 to allow activities outwith Core Hours</i>
3	<i>Clarify range of activities in OP 5(f)</i>
4	<i>Amend arrangements for under-18 access</i>
5	<i>Remove Conditions as to the playing of pool and darts in areas admitting Children under 16</i>

2. Objections and Representations

There are two comments:

- (a) Police
- (b) An anonymous letter objecting to the Application.

Before deciding whether or not to reject (b) under Section 22(4) as "frivolous or vexatious", the Board should give the Applicant the opportunity to comment on the preliminary matter (whether or not the Board should reject it).

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: <i>Additional wording for O.P. Q4 re intention to seek festive extensions</i>
Refuse
Notes: The Application states "Additional Hours are sought for Festive period in conjunction with hours determined annually by the Board. In addition any such other occasions – Easter Sunday, special local occasions etc are also sought in conjunction with the Board policy."

1. This Application is incompetent. The way for Premises to obtain extra hours is to apply to the Board for Extended Hours (an Occasional Extension) as and when the hours are requested; the individual request is then copied to the Police, who can make representations – as the Police did with the Bothan's request which was before the Board on 18 December 2012.

2. In any case:

(a) the request does not state what the Additional Hours are. In previous years the Board has treated the whole of December, until 2 January, as the 'Festive Period'. This does not mean that Premises can stay open for the whole month. Instead, it is for individual Premises to apply for grants under Section 68 for Extended Hours (i.e. Occasional Extensions) for specific dates - e.g. in 2012 the Board's policy was that Premises could apply for 4 periods of Extended Hours in the period 1-14 December 2012, and 7 periods in the period 15 December – 2 January, i.e. a maximum of 11 days, not 33.

(b) The Board has no policy of granting extensions at Easter, and the list in its Licensing Policy Statement (Para. 9.9) of days which are not considered to be suitable for extensions includes the Easter weekend.

(c) 'special local occasions' is too vague. If the Applicant later seeks an Occasional Extension, the Clerk will be unable to grant it unless it can be seen to be within the Board's policy.

The Applicant requires to include in OP Q4 her intention to seek extra hours, but this is only her intention. The ordinary Core Hours 7-days-a-week remain those stated in Q2/Q3, and the Applicant does not seek to change those.

Variation 2: Various amendments to OP5 to allow activities outwith Core Hours

Grant (no statutory reason to refuse, and no breach of Board policy)

Note:

The On-Sale Core Hours are:

11 – 24 (Mon – Wed)

11 – 1 (Thur – Sat)

12.30 – 24 (Sun)

The Premises already offer the following facilities within Core Hours:

Bar meals

Receptions (including weddings, funerals, birthdays, retirements, etc.)

Club or other group meetings

Recorded music

Live performances

Dance facilities

Gaming

Indoor/Outdoor sports

Televised sport

They wish to extend those facilities outwith Core Hours. The OP will state that no alcohol will be sold outwith Core Hours or and extension thereto.

Variation 3: Clarify range of activities in OP 5(f)

Grant (no statutory reason to refuse, and no breach of Board policy)

Notes: At present OP 5(f) ("any other activities") is:

"the only adult entertainment would be a kissogram organised as part of a private party."

The request is to add:

"Activities referred to will take place in all public areas of the premises. Other activities include but are not limited to – live bands, singers, disco and dancing, dj, cabaret, stand-up comedy, talent night, open mic nights, karaoke, party nights, dinner dances, race nights, poker nights, tea dances, children's events, charity and other community events, function hire, displays and shows, other entertainment etc, wine and other food and drink tasting evenings, product promotion evenings, seasonal events, seasonal promotions."

Variation 4: Amend arrangements for under-18 access

Discretionary refusal

Notes:

At present, Children and Young Persons ages 5-17 years are allowed until 20.00, on conditions:

The proposal is to grant access to Children and Young Persons of all ages (0-17 years) until 22.00, on conditions:

- (a) If under 14, the Child should either be taking a meal or attending a function.
- (b) If 14 or older, the Child/Young Person should be attending a function (there is no 'meal' limitation)

The proposal:

- (a) allows young children (0-4)
- (b) extends the access times from 20.00 to 22.00

The Board should consider whether or not:

- (a) this Application is inconsistent with Licensing Objective (e): 'protecting Children from harm'. This L.O. relates to Children and not to older 'Young Persons' (aged 16-17);

(b) whether or not the Premises would comply with the Mandatory Licence Condition requiring baby-changing facilities which are to be accessible to persons of either gender (2005 Act, Sch. 3, Para. 12).

Variation 5: Remove Conditions as to the playing of pool and darts in areas admitting Children under 16

Discretionary refusal

Notes:

The Applicant wishes Children and Young Persons to be allowed to play pool and darts.

Young Persons already are. As far as Children (aged 0-15 years) are concerned the Licence is subject to NALB Standard Conditions, including:

"C.10.3 In the area(s) of the Premises to which Children are admitted: ...

(d) The playing of darts, pool, snooker or any other game is prohibited;

(e) There shall be no dartboard, pool table or other facilities for such activities in those area(s);"

The Board should consider whether or not this Application is inconsistent with Licensing Objective (e): 'protecting Children from harm'. This L.O. relates to Children and not to older 'Young Persons' (aged 16-17).

The Premises consist of a Bar Lounge (which contains the pool table) and a Function Suite. Under-18s are permitted in both parts, and the toilets, except that they are not allowed in the Function Suite if a kissogram is taking place. The entrance to the Function Suite and the toilets is not near the pool table.

4. Licence Conditions

If Variation 5 is granted, the relevant Conditions should be deleted.

Application for Grant of Personal Licence - Section 74

Applicant	Ryan Reid, 5 Kerr Avenue, Saltcoats, KA21 5PU (D.O.B. 22.7.1984)
Ref.	NA1488

1. Summary

The Applicant has applied for a Personal Licence. The Application is not advertised and the only consultation involves the Chief Constable, who is to provide the Board with a letter confirming whether or not the Applicant has been convicted of 'relevant or foreign offences'.

A copy of the letter will be given to Members.

The Chief Constable has reported that this Applicant has been convicted of one or more such offences.

The information was not supplied by the Applicant, who wrote 'none' in response to the inquiry on the form.

2. Police Recommendation

The Chief Constable has made a recommendation under Section 73(4), that it is necessary for the purposes of a Licensing Objective that the Application should be refused. The Police recommendation is not binding on the Board.

3. Procedure

A copy of the Police letter and of this Report has been sent to the Applicant, together with Intimation of the Board Hearing.

At the Hearing, the Board must have regard to

- (a) the Chief Constable's letter
- (b) any comments made by the Applicant.

4. Board's Powers

If the Board is satisfied that it is necessary to refuse the Application for the purposes of any of the Licensing Objectives, it must do so. Otherwise, it must grant the Application.

All Personal Licences are valid for 10 years, and can be renewed indefinitely at 10 year intervals. The Board cannot limit the length of the grant or attach conditions.

5. Subsequently

The Applicant can appeal to the Sheriff if the Application is refused. The Chief Constable cannot appeal if the Application is granted.

After a decision to grant, if any of these occur:

- (a) the Licence Holder is convicted of an offence during the currency of the Licence, or
- (b) the Board, while dealing with a Premises Licence Review, makes a finding that the Holder has acted in a manner which was inconsistent with any of the Licensing Objectives, or
- (c) the Chief Constable considers that the Holder has acted in a manner which is inconsistent with any of the Licensing Objectives,

the Board will be entitled to hold a Hearing which may lead to the Revocation, Suspension for up to 6 months, or the Endorsement of the Licence. If 3 Endorsements are imposed within a 5-year period, the Board may Suspend or Revoke the Licence.

The Holder must obtain a fresh Licensing Qualification every 5 years, failing which the Licence is automatically revoked without Board discretion or Appeal to the Sheriff.

Application for Grant of Personal Licence - Section 74

Applicant	Steven James Hall, 7 West Bowhouse Head, Girdle Toll, Irvine, KA11 1NN (D.O.B. 9.10.1988)
Ref.	NA1482

1. Summary

The Applicant has applied for a Personal Licence. The Application is not advertised and the only consultation involves the Chief Constable, who is to provide the Board with a letter confirming whether or not the Applicant has been convicted of 'relevant or foreign offences'.

A copy of the report will be given to Members.

The Chief Constable has reported that this Applicant has been convicted of one or more such offences.

The information was also supplied by the Applicant.

2. Police Recommendation

If the Chief Constable considers that it is necessary for the purposes of any of the Licensing Objectives that the Application should be refused, he may recommend this under Section 73(4). He has not done so.

3. Procedure

A copy of the Police letter and of this Report has been sent to the Applicant, together with Intimation of the Board Hearing.

At the Hearing, the Board must have regard to

- (a) the Chief Constable's letter
- (b) any comments made by the Applicant.

4. Board's Powers

If the Board is satisfied that it is necessary to refuse the Application for the purposes of any of the Licensing Objectives, it must do so. Otherwise, it must grant the Application.

All Personal Licences are valid for 10 years, and can be renewed indefinitely at 10 year intervals. The Board cannot limit the length of the grant or attach conditions.

5. Subsequently

The Applicant can appeal to the Sheriff if the Application is refused. The Chief Constable cannot appeal if the Application is granted.

After a decision to grant, if any of these occur:

- (a) the Licence Holder is convicted of an offence during the currency of the Licence, or
- (b) the Board, while dealing with a Premises Licence Review, makes a finding that the Holder has acted in a manner which was inconsistent with any of the Licensing Objectives, or
- (c) the Chief Constable considers that the Holder has acted in a manner which is inconsistent with any of the Licensing Objectives,

the Board will be entitled to hold a Hearing which may lead to the Revocation, Suspension for up to 6 months, or the Endorsement of the Licence. If 3 Endorsements are imposed within a 5-year period, the Board may Suspend or Revoke the Licence.

The Holder must obtain a fresh Licensing Qualification every 5 years, failing which the Licence is automatically revoked without Board discretion or Appeal to the Sheriff.

Application for Variation of Premises Licence - Section 29

Applicant	Summel & Summel Ltd.
Premises	Gulab Brasserie, 2a Stanecastle Road, Irvine KA11 1AE
Ref.	432

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 8 March 2013. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Summary of Variation Request(s)

No.	Variation
1	Add Outdoor Drinking Area at front of Premises
2	Variation of arrangements for under-18 access, so as to permit persons of and over 12 in the Public Bar
3	Removal of Board Conditions as to the playing of pool and darts in areas admitting Children

2. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No objection
Health Board	No response yet
Building Standards	No objection
Other Objections or Representations?	See below

Name	Address	Date Received	Late or OK
Hugh A. Kennedy	3 Stanecastle Road	4 March	OK
Keith A. Robinson	2 Castlekeep Gardens	6 March	OK
Charles Thain	3 Castlekeep Gardens	7 March	OK
Kenneth Crombie	12 Castlekeep Gardens	7 March	OK
Nancy Crombie	12 Castlekeep Gardens	7 March	OK

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: Add Outdoor Drinking Area at front of Premises

Discretionary refusal

Notes:

The proposed area is at the front of the Premises (beside the south-west facing wall). The dwelling-houses in Castlekeep Gardens are to the north and east, on the other side of the Premises from the proposed area. There are two dwelling-houses to the south, in Stanecastle Road.

The Licence was granted on 26 June 2012 to the present owners. Prior to their acquisition, the Premises had been licensed for many years, operating as a restaurant and takeaway, with public bar, but that Licence lapsed due to the Sequestration of the previous owner. Initially, the 2012 Licence related only to the restaurant and takeaway, but on 22 August 2012 the Board granted a variation to extend the Licence to the public bar, following the grant of PP for it.

In considering the present Application for a different area, the Board would have to be satisfied that the proposals were not inconsistent with any of the Licensing Objectives, and in particular L.O. (c): 'preventing public nuisance'.

The Board is entitled to ask the Applicant to vary the proposal, e.g. to alter the times or locations of activities which might lead to noise or other nuisance.

If the Board allows Outdoor Drinking, and is later satisfied that this is inconsistent with any L.O. or that any Licence condition has been breached, it has the right to Vary the Licence so as to limit or remove the permission.

Board may consider that its Standard Conditions are sufficient:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

C.5.2 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.."

Planning and Parking

Residents have raised issues concerning planning and parking. These are not issues for the Licensing Board, which is expressly prevented from dealing with matters outside an alcohol licensing context. The Board can attach Licence Conditions under Section 27(6), but Section 27(7) is:

"A Licensing Board may not impose a condition under subsection (6) which— ...

(c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment."

Note to Applicant:

This is not an issue for the Licensing Board, but the Premises were granted Planning Permission on 13 August 2012 for 'change of use of rear store and cellar to form separate public bar facility and toilets and the erection of boundary fence (retrospective)'. This PP was subject to conditions including: 'no external areas outwith the footprint of the building ... shall be used for outdoor drinking, entertainment or other assembly purposes without the prior written agreement of NAC as Planning Authority.'

Accordingly, even if the Licensing Board grants the variation, the proposed area cannot be used unless and until the Planning Authority varies the condition.

Variation 2: Variation of arrangements for under-18 access, so as to permit persons of and over 12 in the Public Bar

Discretionary refusal

Notes:

The proposal is to allow Children of 12 and older, and Young Persons 16-17, in the Public Bar until 21.00 when accompanied by an adult.

In August 2012, when the Board approved the extension of the Licence to the Public Bar, it did so on the basis that no under-18s would be allowed (they are permitted in the restaurant and take-away).

The Board would have to be satisfied that the proposals were not inconsistent with any of the Licensing Objectives, and in particular L.O. (e): 'protecting Children from harm'. This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17). The Board may consider that the proposal to allow Children is not consistent with this L.O.. The Board may wish to inspect the Premises or have a LSO report before determining this Application.

Variation 3: Removal of Board Conditions as to the playing of pool and darts in areas admitting Children

Discretionary refusal

Notes:

The Licence is subject to NALB Standard Conditions, including:

"C.10.3 In the area(s) of the Premises to which Children are admitted: ...

(d) The playing of darts, pool, snooker or any other game is prohibited;

(e) There shall be no dartboard, pool table or other facilities for such activities in those area(s);"

The conditions were adopted after the Board considered Licensing Objective (e): 'protecting Children from harm'. This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17). The Board would have to be satisfied that the proposal was not inconsistent with that L.O.. The Board may wish to inspect the Premises or have a LSO report before determining this Application.

4. Licence Conditions

If Variation 3 is granted, the quoted Conditions should be deleted.

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Simpsinns Ltd.
Premises	'Si', 18 Kilwinning Road, Irvine, KA12 8RU
Ref.	439

This is an updated version of the Report which the Board had at its meeting on 6 February 2013. The Application was then continued to the Meeting of 20 March as the Applicant wished to include an Outdoor Drinking Area which had not been requested originally. This was to enable a second series of intimations to authorities and neighbours. Any person would be entitled to make objections or representations.

Residents have raised issues with NAC concerning Planning Permission and parking. These are not issues for the Licensing Board, which is expressly prevented from dealing with matters outside an alcohol licensing context. The Board can attach Licence Conditions under Section 27(6), but Section 27(7) is:

"A Licensing Board may not impose a condition under subsection (6) which— ...

(c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment."

1. Summary of Proposal

The Applicant has applied for the Grant of a Provisional Premises Licence (PPL).

The Applicant has built a stand-alone building on the site of the demolished Golf Hotel. The Premises will consist of a Cafe, Bar, Restaurant.

The PPL relates to Premises which are to be constructed 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 PPL itself does not authorise the sale of alcohol until the PPL is Confirmed – in the meantime, the Premises are operating under Occasional Licences. These are not normally granted for prolonged periods for ordinary trading, but the Board agreed to this when the case was first considered on 6 February.

The Licence-Holder will apply to the Board for Confirmation once the construction is complete, and after Certificates as to Building Control and 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 indicate 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, and can only operate consistently with any other permission or certification appropriate.

2. Objections and Representations

Police	No objection
Community Council	No response
Fire	No objection
Health Board	No response
Planning	No objection
Other Objections or Representations	None

3. Detailed proposal

(a) Licensed Hours

On-Sales

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

Off-sales

	<i>Proposal</i>	<i>Policy</i>
Monday	11.00 - 22.00	
Tuesday	"	
Wednesday	"	OK on
Thursday	"	all 7 days
Friday	"	
Saturday	"	
Sunday	"	

(b) Activities other than the sale of alcohol

Accommodation	
Conference facilities	X
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	X
Theatre	X
Films	X

Gaming	X
Indoor/Outdoor sports	X
Televised sport	X
Outdoor Drinking	X
Adult entertainment	

Other activities
<i>including but not limited to live bands, singers, disco and dancing, dj, cabaret, stand-up comedy, talent night, open mic night, karaoke, party night, dinner dances, race nights, poker nights, tea dances, children's events, charity & other community events, function hire, displays & shows, wine & other food & drink tasting evenings, product promotion evenings, seasonal events, seasonal promotions</i>

(c) Access for Under-18s

Terms (OP 6(b))	All ages (0-17) allowed. No requirement for meals or parent/adult.
Times (OP 6(d))	For whole Core Hours.
Parts (OP 6(e))	All parts of Premises (except near bar).

(d) Capacity

On-Sales (persons)	310
Off-Sales (sq. mtr.s)	<i>Not stated. Applicant must advise the Board of the correct figure, either in writing or by attending the Board Meeting.</i>

4. Issues

The Board has a discretion to grant or refuse the Application.

The Board should consider all the potential Grounds of Refusal (described below). If any apply, the Board must refuse. If none apply, the Board must grant: Section 23(4)-(5).

However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential ground for refusal: Section 23(7). Therefore, if the Board has concerns about any part of the proposal (e.g. the arrangements for under-18 access), the Board can invite the Applicant to modify the proposal.

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives.

It is the Clerk's opinion that there are no reasons to refuse the Application or seek modification, apart from:

- (a) the proposal to allow outdoor drinking,

- (b) the proposal to have unrestricted and unsupervised access by under-18s during all Core Hours.

The Applicant should also address the Observations (Part 5 below).

(a) Outdoor Drinking

Both the first-floor terrace and the proposed garden area are covered by the definition of 'Outdoor Drinking Area' in the Board's Standard Conditions:

"means any part of the Premises, or any ground near the Premises:

(a) which is enclosed by solid walls over less than fifty per cent of its perimeter (doors and windows are not counted as 'solid walls'); and

(b) which is available for the exclusive use of customers of the Premises,

and includes any shelters or structures on that part or that ground (for example: beer gardens, cordoned-off areas of pavement, smoking areas, play areas, car parks, access roads, temporary structures or queues);"

The OP states that Premises will sell hot drinks and soft drinks from 8.00 a.m. daily. This is not an issue inside the Premises, but the proposal for both the first-floor terrace and the proposed garden area contravenes the Board's Standard Condition C.5.2.:

C.5.2 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.."

Before the Board could vary that Condition it would have to be satisfied that the proposals were not inconsistent with any of the Licensing Objectives, and in particular L.O. (c): 'preventing public nuisance'.

The Board is entitled to ask the Applicant to vary the proposal, e.g. to alter the times or locations of activities which might lead to noise or other nuisance.

Board may consider that its Standard Conditions are sufficient:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

If the Board allows Outdoor Drinking, and is later satisfied that this is inconsistent with any L.O. or that any Licence condition has been breached, it has the right to Vary the Licence so as to limit or remove the permission.

Planning Permission

For the Applicant's information: The PP is not a matter for the Licensing Board, but the Applicant is reminded that the PP granted in March 2011 is subject to a Condition:

"The external seating area, including the beer garden and the first floor terrace, may be used for any purpose ancillary to the bar/restaurant hereby approved only between the hours of 11.00 and 23.00 on any day, unless otherwise agreed in writing with NAC as Planning Authority. For the avoidance of doubt, no amplified music shall be played externally."

The reason for the condition is in the interests of the amenity of the surrounding area.

Regardless of whether or not the Board agrees to vary the Licence Condition to permit use before 11.00, the area could not be used unless the PP Condition was varied, and vice versa.

(b) Access by Under-18s

The proposal is to allow all under-18s (0-17) in all public areas (except the bar area) during all opening hours. There is no requirement that the under-18 be taking a meal, or be under adult supervision.

There is no definition of "except the bar area". Since the Premises are several restaurants with a capacity of 310 (80% seated, 20% standing), the Board may be prepared to assume that no under-18s will in fact be allowed within one metre of the bar, and the Applicant may wish to confirm that this will be so.

The proposal raises issues with L.O.s.

L.O. (a): 'preventing crime and disorder'

The Board may consider that the absence of adult supervision of under-18s increases the risk of under-age drinking.

L.O. (e): 'protecting Children from harm'

This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17).

The Core Hours are until 24.00 or 1.00. The Board may consider that the proposal to allow Children (aged 0-15) on the Premises after 20.00 is not consistent with this L.O..

If the Board wishes to limit access for under-16s to Children consuming a meal before 20.00, it may choose to attach Condition X.5.

"X.5 Access by Children"

Where the Operating Plan permits a person aged under 16 to be admitted to any part of the Premises, that person shall only be allowed to enter or remain on the parts of the Premises which are described by the Operating Plan or Layout Plan as permitting such persons, and then only if all the following conditions are fulfilled:

- (a) the person shall only be on the Premises (or part) until 20.00;

(b) the person shall only be on the Premises (or part) for the purpose of the consumption by him of a meal sold or supplied on the Premises."

General

Apart from L.O. issues, the Board must consider two other potential grounds of refusal:

- (a) unsuitable premises, and
- (b) overprovision,

and decide whether or not these apply. It is the Clerk's opinion that neither applies.

Given that the principal activity of the Premises is the provision of meals or non-alcoholic refreshment, the presumption of refusal which would otherwise apply to new or varied Premises does not apply (Board's Licensing Policy Statement 2010, Annex E, especially Paragraph 2.4(b)).

5. Observations

(a) The Application states "Additional Hours are sought for Festive period in conjunction with hours determined annually by the Board. In addition any such other occasions – Easter Sunday, special local occasions etc are also sought in conjunction with the Board policy."

1. This Application is incompetent. The way for Premises to obtain extra hours is to apply to the Board for Extended Hours (an Occasional Extension) as and when the hours are requested; the individual request is then copied to the Police, who can make representations.

2. In any case:

(a) the request does not state what the Additional Hours are. In previous years the Board has treated the whole of December, until 2 January, as the 'Festive Period'. This does not mean that Premises can stay open for the whole month. Instead, it is for individual Premises to apply for grants under Section 68 for Extended Hours (i.e. Occasional Extensions) for specific dates - e.g. in 2012 the Board's policy was that Premises could apply for 4 periods of Extended Hours in the period 1-14 December 2012, and 7 periods in the period 15 December – 2 January, i.e. a maximum of 11 days, not 33.

(b) The Board has no policy of granting extensions at Easter, and the list in its Licensing Policy Statement (Para. 9.9) of days which are not considered to be suitable for extensions includes the Easter weekend.

(c) 'special local occasions' is too vague. If the Applicant later seeks an Occasional Extension, the Clerk will be unable to grant it unless it can be seen to be within the Board's policy.

The Applicant requires to include in OP Q4 the intention to seek extra hours, but this is only an intention. The ordinary Core Hours 7-days-a-week remain those stated in Q2/Q3, and the Applicant does not seek to change those.

(b) LP does not show dimensions of Off-sales display area. Dimensions required are length and height.

6. 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)
- F (Entertainment)

Application for Variation of Premises Licence - Section 29

Applicant	Largs Halkshill Bowling Club
Premises	15 Wilson St., Largs KA30 9AQ
Ref.	284

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 8 March 2013. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Summary of Variation Request(s)

No.	Variation
1	Increase Sunday Core Hours from 12.30 - 23.00 to 11.00 to 24.00
2	Vary arrangements for under-16 access
3	Permit non-alcoholic drinks in Outdoor Drinking Area

2. Objections and Representations

Police	No objection
Community Council	Letter will be handed to Members
Fire	No objection
Health Board	No response yet
Building Standards	No objection
Planning	No objection
Other Objections or Representations?	None

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: Increase Sunday Core Hours from 12.30 - 23.00 to 11.00 to 24.00
Grant (no statutory reason to refuse, and no breach of Board policy)
Notes: The 'permitted hours' under the 1976 Act were 12.30 on Sunday, so the Premises may have sought the same hours to keep to the 'grandfather rights' rules which applied at Transition. There is now no reason why Premises should not apply for the full hours allowed by Board Policy, which in the case of Clubs is 11.00 - 1.00 on all seven days.

Variation 2: <i>Vary arrangements for under-16 access</i>
Discretionary refusal
<p>Notes:</p> <p>At present 'Children' (aged 0-15) are permitted only until 20.00.</p> <p>It is proposed to increase this to Core Hours (24.00 or 1.00, depending on the day). This would be similar to the existing position for 'Young Persons' (16-17) who may be on the Premises for the whole Core Hours.</p> <p>There is no proposal to change other arrangements for under-18s:</p> <ul style="list-style-type: none"> - are not permitted in bar area, but - there is no requirement for adult supervision. <p>The Board may consider that the Application is not consistent with the following Licensing Objectives:</p> <p><u>L.O. (a): 'preventing crime and disorder'</u></p> <p>The Board may consider that the absence of adult supervision of under-18s increases the risk of under-age drinking.</p> <p><u>L.O. (e): 'protecting Children from harm'</u></p> <p>This L.O. relates to Children aged 0-15 years, and <u>not</u> to older 'Young Persons' (aged 16-17).</p> <p>The Board may consider that the proposal to allow Children (aged 0-15) on the Premises after 20.00 is not consistent with this L.O..</p>

Variation 3: <i>Permit non-alcoholic drinks in Outdoor Drinking Area</i>
Discretionary refusal
<p>Notes:</p> <p>The Licence is subject to Standard Conditions about Outdoor Drinking Areas, including:</p> <p style="padding-left: 40px;">"C.5.2 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.."</p> <p>The <u>general</u> justification for this Condition is Licensing Objective (c): 'preventing public nuisance'. Before the Board relaxes this condition, it would have to be satisfied that the operation of the <u>particular</u> Premises was not consistent with that L.O..</p>

The Applicant explains that the Bowling Green opens at 10.00 a.m. daily and that tea and coffee is drunk after then.

4. Licence Conditions

If Variation 3 is granted, Condition C.5.2 should be varied to read:

"C.5.2 No alcoholic drinks shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

Application for Variation of Premises Licence - Section 29

Applicant	Routenburn Golf Club
Premises	Routenburn Road, Largs
Ref.	274

CONTINUED FROM 06/02/13

1. Summary of Variation Request(s)

No.	Variation
1	Vary Layout Plan to add second Outdoor Drinking Area
2	Amend under-18s access
3	Permit Children in Rear Lounge (pool and darts)
4	Add 'live performances' to Operating Plan
5	Add karaoke, race nights and tribute nights to Operating Plan
6	Remove Board conditions re toilet monitoring and capacity checks

2. Objections and Representations

Police	No objection
Community Council	Letter will be handed to Members
Fire	No objection
Health Board	No response yet
Planning	No objection
Building Standards	No objection
Other Objections or Representations?	See below

Name	Address	Date Received	Late or OK
Mr. & Mrs. Jonathan Marshall (by Solicitors - two letters)	11a Routenburn Road	21 & 24 Dec 2012	OK
Fraser Graham & Lis Burton	5 Netherpark Crescent	31 Dec 2012	OK*
Stuart Boyd	6 Netherpark Place	3 Jan 2013	OK
Mr. & Mrs. Tristan Hlitter	7 Netherpark Crescent	3 Jan 2013	
William & Marjory Brown	11c Routenburn Road	4 Jan 2013	OK

* Date of email: confirming letter later sent

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.

General Comment:

The Board may wish to inspect the Premises or have a LSO report before determining any of the Variations and may consider that Variations 1, 4 and 5 are not consistent with Licensing Objective (c): 'preventing public nuisance'. The Board is entitled to ask the Applicant to vary the proposals, e.g. to alter the times or locations of activities which might lead to noise or other nuisance. If the Board allows any Variation, and is later satisfied that any new activity is inconsistent with any L.O. or that any Licence condition has been breached, it has the right to Vary the Licence so as to limit or remove the permission.

Variation 1: Vary Layout Plan to add second Outdoor Drinking Area
Discretionary refusal
<p>Notes:</p> <p>The Licence already includes one ODA. The club-house is to the south of the car park, and the golf course is on the north of the car park. The existing ODA is the putting green beside the shop, and has a single picnic table.</p> <p>The proposal is to use the ground lying to the south of the club-house, between the building and the footpath.</p> <p>Board may consider that its Standard Conditions are sufficient:</p> <p>"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in <u>Outdoor Drinking Areas</u>.</p> <p>C.5.2 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.."</p> <p><u>Comments</u></p> <p><u>Largs Community Council</u></p> <p>This representation refers to the ODA which is <u>already</u> licensed, and not the requested second ODA.</p> <p><u>Graham & Burton</u></p> <p>They request that the ODA should not be lit after 23.00: Condition C.5.2 means that, regardless of the licensed hours for <u>inside</u> Premises, no ODA may be used after 22.00.</p>

Variation 2: Amend under-18s access

Discretionary refusal

Notes:

The Premises consist of a Main Lounge, Rear Lounge and Dining Room (and toilets and locker rooms).

At present under-18s are not permitted in either Lounge unless accompanied by a parent or responsible adult, and then only until 20.00 unless attending a social function.

The proposal is to allow access to all areas, provided that 'a responsible adult is on the Premises', at all Core Hours:

(a) Since the Premises consist of several rooms, there is no guarantee that the adult would actually be able to supervise an under-18.

(b) the Core Hours are 11 - 24 (Sun - Thur) and 11 - 1 (Fri, Sat). The Board should consider whether or not this Application is inconsistent with Licensing Objective (e): 'protecting Children from harm'. This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17).

The Board may consider that the absence of adult supervision of under-18s increases the risk of under-age drinking, and that the proposal is inconsistent with L.O. (a): 'preventing crime and disorder'.

Variation 3: Permit Children in Rear Lounge (pool and darts)

Discretionary refusal

Notes:

As with Var. 3, the L.O. 'protecting Children from harm' is relevant here.

The Licence is subject to NALB Standard Conditions, including:

"C.10.3 In the area(s) of the Premises to which Children are admitted: ...

(d) The playing of darts, pool, snooker or any other game is prohibited;

(e) There shall be no dartboard, pool table or other facilities for such activities in those area(s);"

Variation 4: Add 'live performances' to Operating Plan

Discretionary refusal

Notes:

The Board should consider whether or not this Application is inconsistent with L.O. (c): 'preventing public nuisance'.

Variation 5: Add karaoke, race nights and tribute nights to Operating Plan

Discretionary refusal

Notes: see Var. 4.

Variation 6: Remove Board conditions re toilet monitoring and capacity checks

Discretionary refusal

Notes:

The conditions referred to are:

"C.8.1 The Licensee shall have monitoring arrangements in place to verify the number of persons present to ensure that the occupancy capacity set by the Board is not exceeded;

C.8.2 Monitoring shall take place at regular intervals and shall particularly focus on peak trading times.

C.12.2 Toilets and washing facilities must be maintained clean and tidy, and should be inspected by staff regularly;"

Inspection records must be kept and shown to the L.S.O.. The Conditions were amended in February and June 2009. Previously inspections were required not less than once an hour.

The Operating Plan of all Premises requires to state their capacity (these Premises have an on-sales capacity of 120 people).

The Board should consider whether or not this proposal is inconsistent with L.O. (b): 'securing public safety'. The object of the conditions is to ensure that Premises do not exceed their capacity and become overcrowded. The Board would have to consider whether or not it is sufficient to replace regular visits by the L.S.O. with occasional visits from officers of Strathclyde Fire and Rescue or NAC Building Standards.

4. Licence Conditions

If Variations 3 or 6 are granted, the relevant Conditions will be deleted.