

Cunninghame House,  
Irvine.

9 June 2016

## **North Ayrshire Licensing Board**

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, Ground Floor, Cunninghame House, Irvine on **MONDAY 13 JUNE 2016** at **10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

**1. Minutes**

Confirm the Minutes of the Board Meeting held on 18 April 2016 (copy enclosed)

**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. Board Policy in relation to Occasional Licence and Extended Hours Applications for Major Sporting Events**

Submit report by the Clerk to the Licensing Board on Extended Hours and Occasional Licence Applications in relation to Major Sporting Events



---

## Licensing Board

---

Sederunt: Ian Clarkson (Convenor)  
Tom Marshall (Vice-Convenor)  
Robert Barr  
John Bruce  
John Easdale  
Grace McLean  
Catherine McMillan  
Ronnie McNicol  
Donald Reid

Chair:

Attending:

Apologies:

Meeting Ended:



**North Ayrshire Licensing Board  
18 April 2016**

**Irvine, 18 April 2016** - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

**Present**

Ian Clarkson, Tom Marshall, Robert Barr, John Easdale, Grace McLean, Catherine McMillan, Ronnie McNicol and Donald Reid.

**In Attendance**

W O'Brien, Solicitor (Licensing), G Cullen, Licensing Standards Officer and M Champion, Administration Assistant.

**Also In Attendance**

Chief Inspector Shaw and Sergeant Griffiths (Police Scotland).

**Convenor**

Councillor Clarkson

**Apologies for Absence**

Councillor John Bruce

**Declarations of Interest**

None.

**1. Minutes**

The Board were asked to confirm the Minutes of the Board meeting held on 22 February 2016. Councillor Barr proposed that the Minutes be adopted. 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;

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 Tony Macaroni, 9 Riverway Park, Riverway Retail Park, Irvine**

The Board considered an application for grant of a Provisional Premises Licence made by OMOA Limited for the above premises. The Licence Holder was represented by Peter Lawson, Solicitor, and he was accompanied by John Miller, Property Manager.

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 Lawson then addressed the Board. The proposal is a family style Italian restaurant; OMOA Ltd currently operates a small chain of these restaurants. Mr Lawson referred to the Clerk's email with regards to take-away of alcohol. He confirmed, on behalf of his client, that if it was the Board's requirement he would be happy to accept off-sales of alcohol to be restricted to those who had eaten in the restaurant.

Referring to the Operating Plan, Councillor McNicol noted the request for Live Performances and televised sports and asked if televised sport would be showing football games. Mr Lawson confirmed that on occasions such as the World Cup football would be screened on the televisions. Mr Lawson also advised that these activities were part of the general operating of the Premises and would cover the occasional charity nights or the playing of a guitar. These activities would not be on a regular basis but his client would like this facility included in the Operating Plan.

Regarding off-sales, Councillor Reid referred to Mr Lawson's undertaking and asked if the Board were to restrict the off-sales of alcohol to 11am to fall in line with the on-sales hours, would this be acceptable. Mr Lawson confirmed on behalf of his client that this would be acceptable.

Having considered the terms of the report, and the submissions made, Councillor Reid moved that the Board grant the application on the basis that off-sales of alcohol will be available from 11am to 10pm and only sold to customers who have consumed a meal on the Premises. Councillor McLean seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant with off sales from 11am to 10pm and the Operating Plan 5(f) amended to include 'Alcohol will only be sold for consumption off the Premises if it is purchased by a customer who has ordered a meal for consumption on the Premises'. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A, B, C and F.

### **A.2 Saltcoats Town Hall, 18 Countess Street, Saltcoats**

The Board considered an application for grant of a Premises Licence made by North Ayrshire Council for the above premises. The Applicant was represented by Elaine Stevenson.

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.

Ms Stevenson then addressed the Board and advised that Saltcoats Town Hall will be used for Council events, community groups and private functions. The Convenor noted the intention to add Films, Gaming and Theatre to the Operating Plan and Ms Stevenson confirmed this request. Ms Stevenson confirmed to Councillor McNicol that the Premises would not be available to the public but would only be operating during private functions that have been pre-booked through Community Facilities. Councillor Reid advised that he is aware of Ms Stevenson's stewardship and had no issues with her leading the team and operating the Premises.

Having considered the terms of the report and the submissions made the Board unanimously agreed, without dissent or abstention, to grant the application. The Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A, C and F.

**A.3 Premises Licence 0048 Merchants Yarn, 15/17 Eglinton Street, Beith**

The Licensing Standards Officer advised the Board that at the request of the Premises Licence Holder the case is to be continued to a future Board. The Board unanimously agreed that the case be adjourned.

**A.4 Premises Licence 0462 The Red Squirrel Lodge, Ashenyards Park, Stevenston**

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Martson's Operating Limited, for the above premises. The Licence Holder was represented by Mr Grunert, Solicitor, and he was accompanied by Mark Watson, Premises Manager.

The Licence Holder was requesting the following variation:

- 1. Amend Standard Condition C.5.2 to permit the use of the outdoor drinking area for non-alcoholic beverages and the service of food from 7am.*

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 Grunert addressed the Board regarding the application. He advised the Board that the Premises are situated on the A78, opposite the large Morrisons, on its own site. The Premises have now been opened for 6 weeks and have been providing approximately 30-35 breakfasts a day. His client would like to offer customers, mainly residents of the lodge, breakfasts available in the patio area from 7am. He confirmed that the closest neighbour to the Premises was in fact their own lodge and that there would be no issues with noise. The use of this area will obviously be governed by the weather. Mr Grunert confirmed that no alcohol would be available out with licensed hours.

Councillor Reid noted that there would probably be more noise from the roundabout by cars than from this area.

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

Standard Condition C.5.2 (which relates to Outdoor Drinking Areas) is amended to read:

*'No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 7.00 am and later than 10.00 pm'.*

Mr Grunert advised the Board that although this site had only been trading for 6 weeks, it has been one of the busiest sites for Marston's, and that he wished to thank the Board's Officers for all their support and advice.

**A.5 Premises Licence 0036 Sugar & Spice, 26-28 Main Street, Largs**

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Toni Dawson, for the above premises. Ms Dawson was present.

The Licence Holder was requesting the following variation:

*1. Increase in off-sales display capacity from 8.61m<sup>2</sup> to 14.93m<sup>2</sup>*

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.

One objection had been received on behalf of Largs Community Council. The objector was not represented. Ms Dawson confirmed that she had seen a copy of the objection prior to the Board meeting. A copy of the written objection was given to the Board Members.

Ms Dawson then addressed the Board. She advised that she had owned the shop for 16 years and had a licence to sell alcohol for 12 years and never had any issues. Her intention is to develop the business further and has been working with consultants to change the growth and development of the business. The intention is to offer a more specialised range of alcohol. She is aware of the overprovision Policy in North Ayrshire and advised that approximately half of the alcohol display area is inaccessible to the public and is mainly a window display.

Councillor Barr asked the Licensing Standards Officer if she had visited the Premises recently. Ms Cullen advised that she has visited the Premises previously and confirmed that alcohol is mainly displayed in the window. The Premises sell sweets, jewellery and a small amount of specialist alcohol which would not be available in typical off-sales shops. Councillor McLean also confirmed that it was a completely different clientele that the Premises attracted.

Councillor Marshall noted that the Co-operative Food across the road also sold a different range of alcohol products, Councillor McLean noted that this Premises sold a high end range of products. Ms Cullen reiterated that it is specialist alcohol that is sold and there is no cheaper range of alcohol available.

Ms Dawson confirmed to Councillor Reid's question that the percentage of sales that related to alcohol in her Premises is approximately 20% with 50% relating to the sale of confectionary and the remainder from the sale of chocolate and ice-cream. She also advised that the jewellery available is actually stock from a gift shop she previously ran in the town that has subsequently closed. Councillor Reid asked Ms Dawson to clarify that confectionary targeted to children would not be next to the alcohol display area. Ms Dawson advised that she does sell a specialist range of confectionary but due to the recession she now supplies a range on confectionary more suitable to children but confirmed this will not be next to the alcohol display area.

Councillor McNicol asked for clarification on the alcohol display area. Ms Dawson confirmed that at present she has an accessible alcohol display capacity of 4.29m<sup>2</sup> and wished to add another area, 3.19m<sup>2</sup>. This area was previously used as an alcohol display area prior to a Variation back in 2014. She also would like to add another inaccessible window display area.

Having considered the terms of the report, Councillor McLean moved that the application be granted. Councillor Marshall seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

Ms Dawson thanked the Board and the Licensing Officers for their support.



**A.6 Premises Licence 0131 Nardini at the Green Shutters, 28 Bath Street, Largs**

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Fresco Coffee Limited, for the above premises. The applicant was not represented.

The Licence Holder was requesting the following variation:

1. *Add Outdoor Drinking Area*
2. *Vary Standard Condition C.5.2 to allow the use of the Outdoor Drinking Area for non-alcoholic drinks from 9am*

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.

The Convenor explained the application request was to offer alcohol with food in the outdoor area enclosed with glass screens, he advised that Roads Department have no issues with the use of this area.

Having considered the terms of the report, Councillor Barr moved that the application be granted. Councillor McLean seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Convenor confirmed that only the area enclosed with glass screens can be used for the consumption of alcohol.

Standard Condition C.5.2 (which relates to Outdoor Drinking Areas) is amended to read:

*'No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 9.00 am and later than 10.00 pm'.*

**A.7 Personal Licence NA0529 - Pavita Singh Shergill**

On the basis of information provided by the Chief Constable, Mr Shergill was cited to attend the Board for a Personal Licence Review Hearing. The information pertained to the Licence Holder being convicted of a relevant offence on 18 January 2016 at Kilmarnock Sheriff Court. Mr Shergill was present and was represented by Mr Russell, Solicitor.

The Board considered the terms of a report by the Solicitor (Licensing) which referred to the Chief Constable's Notice under Section 83(4)(b) of the 2005 Act and summarised issues arising. Copies of the Police letter were given to the Board Members and the content of the letter was summarised by Chief Inspector Shaw.

Mr Russell was given the opportunity to address the Board on the issues arising. He advised the Board that he did not have particular knowledge of Mr Shergill's previous conviction but was aware of the 2 endorsements on his Personal Licence.

Mr Russell advised the Board that his client was a 50 year old man who has operated a family shop in Galston since 2005. He does not have regular staff and only has occasional help from family members and his wife is the Premises Manager. Mr Russell explained that on the day of the offence Mr Shergill had received some distressing family news and that he apologised for the offence and for not notifying the Board. He also explained that the Solicitor who acted for Mr Shergill at court had not advised him of the requirement to notify the Licensing Board of the conviction.

The Convenor asked Mr Shergill if he had received any letters from the Board in the past regarding the requirement to notify the Board of any relevant offences. Mr Shergill advised he had not received any correspondence. The Convenor confirmed that letters had been issued in the past.

Councillor McNicol confirmed to Mr Shergill that the Board had dealt with a previous conviction on 21 August 2013, whilst he was the Convenor, at which time his Personal Licence was endorsed and a warning letter was issued. On this previous occasion Mr Shergill did not advise the Board of his Conviction, it was discovered in a local newspaper. Mr Shergill apologised for not reporting his conviction to the Board and explained his family circumstances.

The Board adjourned at 10.35 am and re-convened at 10.45 am.

Having considered the terms of the report, and the submission made, Councillor Marshall moved that Board endorse Mr Shergill's Personal Licence, for the purposes of Licensing Objective (a) preventing crime and disorder. Councillor McLean seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to endorse the Personal Licence.

The Convenor explained that under Section 86 where 3 endorsements have been made within 5 years to a Personal Licence, the Board are required to hold a hearing. Mr Russell on behalf of client apologised to the Board and advised that Mr Shergill was very contrite of his actions.

Having considered the terms of the report, and the submission made, Councillor McNicol accepted the apology and moved that the Board suspend Mr Shergill's Personal Licence for a period of 2 months from today, for the purposes of Licensing Objective (a) preventing crime and disorder. Councillor Reid seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to suspend the Personal Licence for 2 months.

Mr Shergill surrendered his Personal Licence to the Licensing Board.

### **A.8 Occasional Licence 297/16 – Largs Halkshill Bowling Club**

The Board considered an application for Occasional Licences for Largs Halkshill Bowling Club. Douglas McCracken, Secretary was present.

Mr O'Brien updated the Members on the application as this is out with the Board's Policy. The Board also had regard to a report by Grace Cullen, Licensing Standards Officer.

Mr McCracken then addressed the Board on the application. He explained that the event is for the Largs Players who are performing the Gallacher & Lyle musical Caledonia USA at the Vikingar from 20-23 April. The last performance is on Saturday and at the end of the show the performers would like to celebrate in the Bowling Club. The performance will not end until 11pm therefore the Club would like the facility to be open until 2am. The Club has organised a disco for the evening from 11pm until 2am but would have no reservation on stopping the music at 1am.

Councillor McNicol asked if there had been noise complaints from neighbours in the past. Mr McCracken confirmed that the Club have only had a 2am licence at New Year. He also advised that the Club had invested £6,000 in the past to insulate the building following

previous noise complaints. Councillor McLean noted that the Club was in fact well run and had attended functions in the past.

Councillor Marshall asked the LSO to update the Board on her views following visits to the Club. Ms Cullen confirmed that following her visits there has been no noise complaints only a few compliance issues and if music stopped at 1am then there would be less cause for noise complaints.

Having considered the terms of the report, and the submission made, Councillor McLean moved that the application be granted. Councillor Barr seconded the motion on the basis that music must cease at 1am. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant the Occasional Licence to 2am with music to cease at 1am.

### **3. Junior Football and Alcohol Licensing Policy**

Following the joint meeting of the Licensing Board and the Local Licensing Forum on 11 January 2016 regarding Junior Football Clubs and Occasional Licensing, the Board considered a report by the Solicitor (Licensing) in order to adopt a Policy.

Councillor McMillan declared that she is a member of a local junior football club. The Convenor said that the Board would not make a Policy that day.

Gordon Ronney, Secretary of Kilbirnie Ladeside Football Club, member of the Management Committee of the West Region of the Scottish Junior Football Association and representative of North Ayrshire Clubs was present and provided the Board Members with a proposal following a recent meeting of junior clubs.

He explained that these clubs are now run in a more professional manner from previous years but these are very onerous and they are also just keeping their heads above water. Clubs have only been selling alcohol in the last few years and this equates to approximately 3-5% of their income. Mr Ronney noted that the clubs would be sensible in submitting applications and would not apply for a licence for high profile games such as Kilbirnie Ladeside v Beith.

Difficulties the clubs face in applying for Occasional Licences are the requirement for 28 days' notice, the "3-strike" rule for late applications, and the requirement to have a Personal Licence Holder if they require more than 12 applications per year.

Explaining the difficulty in applying within the notice period, Mr Ronney advised that notification of some games is on a week-by-week basis. He explained that due to the notice period of games, during July to September there would be no issues in meeting the required period, during September to November fixtures have 10-14 days' notice, November to March notification can be 5 working days and March to May/June there is 2-3 weeks' notice.

The Junior Clubs proposed:

(a) Where possible as much notice of applications will be given of applications, but asked that during November to March could these be submitted with only 5-7 working days' notice?

(b) Clubs would endeavour to have a Personal Licence Holder within their committee;

- (c) Clubs would provide a lump sum to the Board to cover application costs and they would top-up this as necessary;
- (d) Removal of the late "3-strike" rule Policy;
- (e) Licence Hours to be 12.30 - 18.30pm with no alcohol served during the match;
- (f) Children to be supervised and sited in specific area of the premises away from the bar.

The Convenor advised that the Board would not be making a Policy today but gathering information. Councillor Barr and Councillor McNicol noted that this is an issue for all junior football clubs over Scotland and that the Board is only concerned with clubs within North Ayrshire. Mr Ronney advised that other Boards had such issues.

Councillor Reid suggested to Mr Ronney that the suggested licensed hours, 12.30-18.30 were excessive. He suggested that it would be better to link licensed hours to the actual time of the particular fixture, so that if there was an early kick-off then 18.30 would be an excessive terminal hour. Mr Ronney advised Councillor Reid that he would be happy to restrict licensed hours to 2 hours after the end of a game when there had been an early kick off.

The Convenor highlighted Police Scotland's proposal to limit sale to 'one hour before the match, half time and one hour after the match and not permitted during the match'.

Councillor McNicol referred to Mr Ronney's proposal regarding Personal Licence Holders and asked if all clubs would endeavour to have a Personal Licence Holder within their committee. Mr Ronney said that some clubs have only 3 or 4 members, so they could not afford a Personal Licence; the most SJFA could do would be to recommend. It would be up to the individual clubs. Mr Ronney confirmed that at the moment clubs are applying for Occasional Licences as "Voluntary Organisations" but was aware that if there was a Personal Licence Holder then more applications could be submitted.

Mr Ronney confirmed to Councillor McNicol that children are normally in a separate area and not in the bar area. He said the Police wanted a complete ban, whereas SJFA wanted supervised access.

In answer to that Councillor's question, Mr Ronney said that profits from the sale of alcohol would be about £3,500 per annum, or about 3% of the Clubs' income. He also confirmed to Councillor Reid that in his 35 years' experience of junior football games he had never seen pie stalls selling cans of alcohol and he could offer a 100% guarantee that this does not happen.

Councillor Barr referred to the recent meeting of junior clubs on 14 April 2016. Mr Ronney advised that 4-6 clubs attended and that he had communicated with all junior clubs with a proposal. He asked if they understood that a Personal Licence Holder would be taking responsibility, and Mr Ronney agreed.

Councillor McLean noted that she had lived opposite a junior club for over 20 years and had never witnessed any issues with alcohol.

Chief Inspector Shaw highlighted the issues and proposal for Police Scotland and referred to their letter of 14 April 2016. The Convenor noted that this response would form part of the overall consultation.

Chief Inspector Shaw although sympathetic to junior football had concerns with alcohol at sports grounds. This is from hard fact evidence and he referred to 2 incidents which took place at Saturday's games when up to 60 persons were involved and 30 officers had to be sent out and at another game the referee was assaulted.

Mr Ronney said clubs would have a sensible approach in applying for Occasional Licences, and would not apply for high profile games. He also confirmed that he personally had actually apprehended the person who assaulted the referee.

Councillor McMillan asked if the SJFA could not get the fixture list out to clubs in more time? Mr Ronney said that this was possible earlier in the year, but not later.

Councillor Barr said he'd been a supporter of junior football for many years, and asked Mr Ronney to clarify if alcohol would be available at Kilbirnie v Beith football games. Mr Ronney confirmed a sensible approach would be taken at these games and there would not be alcohol at either of these grounds whilst these games were played. Kilbirnie have in the past been reported to the SFA on a social issue.

Councillor McMillan asked Mr Ronney if more notice of fixtures could not be given to teams. Mr Ronney advised that during the period November to May there is 14 days' notice, but due to the weather some applications could be lost when matches are not played.

Referring to the football game Chief Inspector Shaw commented on, Councillor Marshall asked if this incident occurred at a high profile game. Chief Inspector Shaw said that the Police had attended the Kilwinning Rangers v Beith game. Alcohol was on sale. An Inspector, Sergeant and eight officers were allocated anyway, as the Police already regarded it as 'high profile', but it turned out the Police needed many more officers. There were 2 arrests. Police Scotland were disappointed at the events at this game.

Councillor Marshall asked how games were rated as 'high profile'. Mr Ronney indicated that it was games like semi-finals that had a high attendance and had a history of crowd disorder. Referring to the Occasional Licence application for the game at the weekend that had disorder, Councillor Marshall asked who decided that this match was not 'high profile' and applied for this licence. Mr Ronney advised that he himself did not apply for this licence, as the applicant would have been Kilwinning Rangers, and that each club must evaluate the risk themselves or put in place appropriate stewarding measures.

Due to the timescales in processing applications, Mr O'Brien advised that late applications only permit a limited time for Police Scotland to respond. Mr Ronney advised that there would be 2-3 weeks' notice for these particular games and both clubs were told to get Police attendance.

Councillor Barr asked Chief Inspector Shaw if there had been any instances at the first fixture. Chief Inspector Shaw confirmed that there had been issues with a number of younger supporters and that at half-time fans tore down a barrier.

Councillor McMillan asked if Police Scotland had any objection to the game that had the incident at the weekend. Police Scotland had no objection.

Mr Ronney said that it was important to recognise that the people who are taking hospitality are different from those who cause trouble. He said that Kilwinning Rangers would have applied for this licence to form part of their hospitality package.

Mr Ronney confirmed to Councillor Easdale that each individual club would administer any Policy themselves and that all clubs would be aware of the importance of this Policy even when office bearers in the clubs change.

Councillor McNicol said he was a junior football fan and said he understood the view of the Police. He said that he himself, when travelling through Largs at the weekend, saw crowds of football supporters gathered outside licensed premises following an earlier football game.

He said that 5 or 6 clubs attended the recent SJFA meeting. Those clubs just do hospitality, not sale to the public. He asked what clubs did hospitality?

Mr Ronney advised that the clubs who offered hospitality were Ladeside of Kilbirnie, Beith, Kilwinning Rangers, Irvine Victoria and Irvine Meadow. Some of these clubs have cabins separated from other areas of the ground. Councillor McNicol confirmed that Irvine Meadow do hold a Premises Licence, and asked if other clubs could not apply for a Premises Licence? Mr Rooney suggested that not all clubs could afford this.

Councillor McNicol proposed that the Board continue consideration of this Policy until a future date.

Councillor McMillan asked Mr Ronney if clubs allow all members of the public into their hospitality area, Mr Ronney advised that clubs are aware of their own supporters and clubs which have hospitality only cater for approximately 30 people.

Having considered the terms of the report, and the submission made, the Convenor moved that as this is a complex issue further consideration to this Policy be continued to a future Board. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of this Policy. The Convenor thanked Mr Ronney for the time in putting this proposal to the Board.

#### **4. Queen's 90<sup>th</sup> Birthday Celebration**

The Clerk advised the Board of correspondence received from Belhaven Brewery requesting the Board's Policy with regards to Extended Hours applications to celebrate the Queen's 90<sup>th</sup> Birthday.

The Convenor advised that Belhaven had been advised of the Board's Policy with regards to Extended Hours and moved that there be no deviation from their Policy. There was no counter-motion and the Board unanimously agreed without dissent or abstention to make no changes to their Policy.

#### **Additional Item – Bothan Bar (395)**

The Board conducted a Review Hearing following a Proposal made under Section 37.

The Board heard from the Premises Manager and asked her questions. The Premises Manager confirmed that she would agree to a variation to her Operating Plan relating to the access arrangements for under-18s based on the terms suggested to her, and the Board unanimously upheld the Review and thereafter unanimously determined:

- (a) that the Operating Plan should be varied as agreed, the variation to be effective for three months. During this period the Operating Plan (OP 6(d)) should read:

*"On 18 April 2016 the Board decided that for the period of 3 months commencing then Part 6(d) of the Operating Plan should read:*

*'(a) Except where (b) applies, 'Children' (aged 0-15) or 'Young People' (aged 16-17) are permitted to be on the Premises for the duration of a function, or until 8.00 p.m. at all other times. Under-18s must be accompanied by an Adult at all times.*

*(b) the children of the Premises Manager Daljit Kaur Sangha may be on the Premises if both:*

*- their parent (or another person with Parental Rights and Responsibilities) is present, and*

*- that person has been unable to arrange alternative child-care and there is no alternative but to have the children on the Premises."*

*(b) that on 18 July 2016 the Operating Plan should return to its earlier text:*

*" 'Children' (aged 0-15) or 'Young People' (aged 16-17) are permitted to be on the Premises for the duration of a function, or until 8.00 p.m. at all other times. Under-18s must be accompanied by an Adult at all times." "*

The meeting ended at 11.50 am.





---

## Agenda Item 2

13 June 2016

### 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 Police Scotland 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, Solicitor Licensing , 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.	0481	R Reid Ltd 139 Sillars Meadow IRVINE KA12 0LZ	86-88 High Street Irvine KA12 0AL	Application for Grant of Provisional Premises Licence - Section 45
2.	0480	Loch Lomond Golf Club Limited Rossdhu House Luss Alexandria G83 8NT	Dundonald Links Ayr Road Irvine KA12 8DJ	Application for Grant of Provisional Premises Licence - Section 45
3.	410/16, 411/16, 473/16 & 474/16	Loch Lomond Golf Club Limited c/o Brunton Miller 20 Colquhoun Street Helensburgh G84 8AJ	Buggy Zone A and B Dundonald Links Ayr Road Irvine KA12 8DJ	Applications for Occasional Licence - Section 56 Clerk to Report
4.	476/16	Glasgow Golf Club Marine Drive Gables Irvine KA11 5AE	Glasgow Golf Club Marine Drive Gables Irvine KA11 5AE	Application for Occasional Licence - Section 56 Clerk to Report
5.	0479	North Ayrshire Staff Association Littlestone Community Hall Littlestone Road Irvine KA11 2EX	North Ayrshire Staff Association Littlestone Community Hall Littlestone Road Irvine KA11 2EX	Application for Grant of Provisional Premises Licence - Section 45
6.	0094	Thomas Williamson Meikle Midkirkton Golf Road Millport KA28 0HB	Round Island Cafe 51-52 Stuart Street Millport KA28 0AG	Application for Variation of Premises Licence - Section 29
7.	0202	Rajbir Singh 1 Burnbrae Drive Irvine KA11 2DX	Keystore 8/10 Fullarton Place Stevenston KA20 3EH	Application for Variation of Premises Licence - Section 29

8.	0433	Davinder Summel 10 Piersland Place Girdle Toll Irvine KA11 1QF	The Original Gulab 32A Bank Street Irvine KA12 0AD	Application for Variation of Premises Licence - Section 29
9.	0121	Buzzworks Inns Limited 145 St Vincent Street 6th Floor Glasgow G2 5JF	Stag & Hound 13 Howgate Kilwinning KA13 6EN	Application for Variation of Premises Licence - Section 29
10.	0256	Park Resorts Limited 3 Bunhill Row London EC1Y 8YZ	The Buccaneers Sandylands Holiday Park James Miller Crescent Auchenharvie Park Saltcoats KA21 5JN	Application for Variation of Premises Licence - Section 29
11.	0474	Il Cardo Limited 6 Stanlane Place Largs KA30 8DA	Deli Il Cardo Limited 116/118 Main Street Largs KA30 8JN	Application for Variation of Premises Licence - Section 29
12.	0047 & 0086	Aldi Stores Limited Holly Lane Atherstone Warwickshire CV9 2SQ	Various Premises	Premises Licence Review Proposal - Section 37
13.	0040, 0181, 0235, 0304 & 0411	Tesco Stores Limited Tesco House Shire Park Kestral Way Welwyn Garden City Hertfordshire AL7 1GA	Various Premises	Premises Licence Review Proposal - Section 37
14.	0007	Bar One (Saltcoats) Limited Raleigh House 1 Golf Road Clarkston Glasgow G76 7HU	Bar One 55 Vernon Street Saltcoats KA21 5HN	Premises Licence Review Application - Section 36
15.	489/16 - 491/16	Greene King Brewing & Retailing Ltd c/o Belhaven Brewery Atrium House 6 Back Walk Stirling FK8 2QA	McCabes 80 Main Street Largs KA30 8AL	Application for Extended Hours - Section 68 Clerk to Report

## Application for Grant of Provisional Premises Licence - Section 45

Applicant	R. Reid Ltd.
Premises	86-88 High Street, Irvine, KA12 0AL
Ref.	481

**Preliminary**

*This Report was prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016.*

*No information about any objections or representations is noted here. If there are any, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.*

*At the date of preparing this report, the Board do not have a Notice from the Chief Constable confirming whether or not the Applicant or any Connected Person has any Relevant or Foreign convictions (Section 21(3)). Until the Board have this Notice, the Board cannot decide the Application.*

*The Applicant should lodge the following Certificates. Until the Board has all of them, they cannot determine the Application:*

- 1. Display of Site Notice*
- 2. Provisional Planning*

**1. Summary of Proposal**

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

The proposal is for a franchised American-style "Sports Bar", including outdoor seating in an enclosed area at the back, in the former Co-op supermarket. The Co-op's Licence was for off-sales only, and was surrendered in August 2013. The Premises are on the same side of the street as the Town House/Portal and is between that and Irvine Cross.

The PPL 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 Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

The requirement to lodge a Food Hygiene Certificate depends on whether or not there is a 'Food Business' within the Food Safety Act 1990. A FHC is needed even for a shop which sells tinned or packaged food, as well as for a restaurant or any Premises serving prepared food.

The Board decision on the PPL relates only to licensing legislation, and does not act as 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. The Applicant has recently applied for Planning Permission for the proposed Change of Use. The Licensing Board will not be entitled to determine the Licence Application until the Applicant is issued a certificate confirming that the Premises' Planning status is consistent with the proposed Licensed use.

## **2. Detailed proposal**

### **(a) Licensed Hours**

The Premises sell both on-sales & off-sales.

#### **On-Sales Hours**

The proposal is shown in the table below. Either the proposal is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

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

#### **Off-sales Hours**

The proposal is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

### **(b) Capacity**

<b>On-Sales (persons)</b>	Applicants' estimate: 350-400
<b>Standing / Seated</b>	55% standing / 45% seated
<b>Off-Sales (sq. mtr.s)</b>	<i>Not stated. Applicant has failed to include this in the mandatory Operating Plan and must advise the Board of the correct figure either in writing or by attending the Board Meeting. Regulations require locations and dimensions of all Off-sales display areas. Dimensions required are length and height. The capacity figure will be added to O.P. 7 if the Licence is granted.</i>

### **(c) Activities other than the sale of alcohol**

	<b><i>Proposed</i></b>
<b>Accommodation</b>	
<b>Conference facilities</b>	x
<b>Restaurant facilities</b>	x
<b>Bar meals</b>	x
<b>Receptions (including weddings, funerals, birthdays,</b>	x

retirements, etc.)	
Club or other group meetings	x
Recorded music	x
Live performances	x
Dance facilities	x
Theatre	
Films	
Gaming	x
Indoor/Outdoor sports	x
Televised sport	x
Outdoor Drinking	x
Adult entertainment	

	Other activities
<b>Proposed</b>	Pool, darts, karaoke

(d) Access for Under-18s

<b>Terms and Ages (OP 6(b) &amp; (c))</b>	Must be with adult. No requirement for meals.
<b>Times (OP 6(d))</b>	All under-18s allowed until 21.00.
<b>Parts (OP 6(e))</b>	All parts of Premises.

### 3. Issues

The Board have a discretion to grant or refuse the Application. As this Report was prepared on a preliminary basis before all consultation replies were prepared, only five issues are indicated:

#### Issue (a): Licensing Objective 'preventing crime and disorder'

Subject to any comments by the Police about anti-social behaviour.

#### Issue (b): Licensing Objective 'securing public safety'

There are two matters:

1. The Board will require to be satisfied that the proposed capacity is within the capacity set by NAC Building Standards. If the information is not available to the Board at the time of determination, the Board might direct that the Clerk is not to Confirm the PPL until a capacity has been set, with a figure not exceeding that being noted in the Operating Plan.

2. The proposal to admit Children (aged 0-15) to a place where darts or pool

is played infringes Board conditions C.10.3(d) and (e), which are based on this L.O..

Issue (c): Licensing Objective 'preventing public nuisance'

The proposal includes an outdoor seating area which is bounded on 3 sides by other properties.

The Board are 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 their 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.."*

If the Board wish to prohibit all use of the Area (e.g. even for smoking), they may amend the Layout Plan and attach Condition X.4.

Issue (d): Licensing Objective 'protecting & improving public health'

The L.O. expressly states 'improving'. The creation of a new facility to sell alcohol is not likely to improve public health. Opinions may differ as to whether:

- (i) it damages public health, or
- (ii) makes no difference (e.g. it might be said that adding a facility here does not increase the overall amount of alcohol consumed in society, but all that will happen is that the market will re-distribute supply);

but it is unlikely to improve it.

The factors relevant to this L.O. overlap with the issue of 'Overprovision' (see below).

Issue (e): Breach of the Board's Overprovision Policy

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2018, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that 'Locality' and in that 'Function Type' is already sufficient,



- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a new Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board have determined that there are 6 'localities' in their area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership). The Subject Premises are in Locality 4 : "Irvine and Area" (Irvine, Bourtreehill, Cunninghamhead, Dreghorn, Gateside, Girdle Toll, Springside & Torranryard).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'. The Subject Premises are in Function Type 3 (On-sales other than entertainment venues, e.g. public houses).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the 'Locality' and the 'Function Type':

- (1) Locality: the Premises are in a Locality where Applications are especially unlikely to be granted (regardless of the Function Type);
- (2) Function Type: The presumption of refusal applies to FT 2, 3 & 6 (nightclubs, pubs, and 'Part K' Clubs) - regardless of the Locality;

(d) other similar premises in the Locality

If the Board wish details of other similar Premises in the Locality, they might continue consideration to a later Meeting so that a Statement can be prepared and intimated to the Applicant.

**4. 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 Grant of Provisional Premises Licence - Section 45**

Applicant	Loch Lomond Golf Club Ltd.
Premises	Dundonald Links, Ayr Road, Irvine, KA12 8DJ
Ref.	480

**Preliminary**

*This Report was prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016.*

*No information about any objections or representations is noted here. If there are any, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.*

*At the date of preparing this report, the Board do not have a Notice from the Chief Constable confirming whether or not the Applicant or any Connected Person has any Relevant or Foreign convictions (Section 21(3)). Until the Board have this Notice, the Board cannot decide the Application.*

*The Applicant should lodge the Certificate of Display of Site Notice. Until the Board have it, they cannot determine the Application.*

**1. Summary of Proposal**

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

The Applicant is currently the Holder of a Premises Licence for the Club House (NALB ref. 375). The proposal is to replace that Club House with a new building, and to have that licensed on a similar basis to the existing Licence.

All PPLs are valid for four years, and during this period, the Applicant can request the Board to Confirm the PPL, or to extend the period, although it is likely that the Applicants here will seek Confirmation within a year of the Board's decision to grant.

The Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate 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 act as 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.

**2. Detailed proposal****(a) Licensed Hours**

The Premises sell both on-sales & off-sales.

On-Sales Hours

The proposal is shown in the table below. Either the proposal is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

	<b><i>Proposal</i></b>	<b><i>Policy</i></b>
<b>Monday</b>	10.00 - 23.00	
<b>Tuesday</b>	"	OK on all 7 days:
<b>Wednesday</b>	"	These hours are
<b>Thursday</b>	"	the same as the
<b>Friday</b>	"	current Licence.
<b>Saturday</b>	"	
<b>Sunday</b>	12.30 - 23.00	

Off-sales Hours

The proposal is for 10.00 - 22.00 on 6 days and 12.30 - 20.00. This coincides with the current Licence.

(b) Capacity

<b>On-Sales (persons)</b>	136
<b>Standing / Seated</b>	Not stated, although the LP shows 132 seats at tables plus 2 at the bar
<b>Off-Sales (sq. mtr.s) *</b>	9.0

*\* Note: this figure has been calculated by Board staff. Applicant has failed to include this in the mandatory Operating Plan, and this figure will be added to O.P. 7 if the Licence is granted. Regulations require locations and dimensions of all Off-sales display areas. Dimensions required are length and height.*

(c) Activities other than the sale of alcohol

	<b><i>Proposed</i></b>
<b>Accommodation</b>	
<b>Conference facilities</b>	x
<b>Restaurant facilities</b>	x
<b>Bar meals</b>	x
<b>Receptions (including weddings, funerals, birthdays, retirements, etc.)</b>	x
<b>Club or other group meetings</b>	x
<b>Recorded music</b>	x
<b>Live performances</b>	x
<b>Dance facilities</b>	x
<b>Theatre</b>	x
<b>Films</b>	
<b>Gaming</b>	
<b>Indoor/Outdoor sports</b>	x

<b>Televised sport</b>	x
<b>Outdoor Drinking</b>	x
<b>Adult entertainment</b>	

	Other activities
<b>Proposed</b>	

(d) Access for Under-18s

<b>Terms and Ages (OP 6(b) &amp; (c))</b>	Persons under-18 are allowed unaccompanied by an adult, provided that the person is either a Member or is accompanied by a Member.
<b>Times (OP 6(d))</b>	Under-18s of all ages are allowed until 22.00, or longer if consuming a meal or attending a pre-booked function.
<b>Parts (OP 6(e))</b>	All parts of Premises.

3. Issues

The Board have a discretion to grant or refuse the Application. It is the Clerk's opinion that there are no statutory reasons to refuse, and there is no breach of Board Policy. The Applicant is a Club with 'Special Status' under Section 125, and therefore the Board would not be entitled to consider Overprovision.

4. Observations

Having regard to the Licensing Objectives "preventing crime and disorder" and "protecting children from harm", Applicant should confirm that these words can be added to the Operating Plan (OP 6(e)):

"No persons under 18 will be permitted to remain within 1 metre of the bar."

5. 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)
- I (Clubs qualifying for special status under Section 125)



**Application for Grant of Provisional Premises Licence - Section 45**

Applicant	North Ayrshire Staff Association
Premises	Littlestane Community Hall, Littlestane Road, Irvine KA11 2DZ
Ref.	479

**Preliminary**

*This Report was prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016.*

*No information about any objections or representations is noted here. If there are any, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.*

*At the date of preparing this report, the Board do not have a Notice from the Chief Constable confirming whether or not the Applicant or any Connected Person has any Relevant or Foreign convictions (Section 21(3)). Until the Board have this Notice, the Board cannot decide the Application.*

*The Board are entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police, which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).*

*Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If they do, they must defer further consideration until the Report is produced.*

*The Applicant should lodge the Certificate of Display of Site Notice. Until the Board have it, they cannot determine the Application.*

**1. Summary of Proposal**

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

This PPL Application is different from the common PPL situation. In NASA's case, the Applicant's intention is to apply for Confirmation within three months of the Board's decision to grant the PPL.

The proposal is to establish a Members' Social Club in a single storey building owned by NAC. NASA were previously based at Perceton House and are applying for alternate Premises due to the sale of Perceton House.

PPLs are often used where Premises which are to be constructed or converted for use as Licensed Premises, and are 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 Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

The requirement to lodge a Food Hygiene Certificate depends on whether or not there is a 'Food Business' within the Food Safety Act 1990. A FHC is needed even for a shop which sells tinned or packaged food, as well as for a restaurant or any Premises serving prepared food.

The Board decision on the PPL relates only to licensing legislation, and does not act as 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.

## **2. Detailed proposal**

The details of the PPL (Hours etc.) are similar to those which applied to NASA's operation at Perceton House.

### **(a) Licensed Hours**

The Premises sell on-sales only. The proposal is shown in the table below. Either the proposal is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

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

### **(b) Capacity**

<b>On-Sales (persons)</b>	150
---------------------------	-----

### **(c) Activities other than the sale of alcohol**

	<b><i>Proposed</i></b>
<b>Accommodation</b>	
<b>Conference facilities</b>	
<b>Restaurant facilities</b>	
<b>Bar meals</b>	
<b>Receptions (including weddings, funerals, birthdays, retirements, etc.)</b>	x
<b>Club or other group meetings</b>	x
<b>Recorded music</b>	x
<b>Live performances</b>	x
<b>Dance facilities</b>	x
<b>Theatre</b>	



<b>Films</b>	X
<b>Gaming</b>	X
<b>Indoor/Outdoor sports</b>	X
<b>Televised sport</b>	X
<b>Outdoor Drinking</b>	
<b>Adult entertainment</b>	

	<b>Other activities</b>
<b>Proposed</b>	Raffles, quizzes, karaoke, dominoes, darts, disco, race nights, clairvoyant nights, poker, Christmas parties (Children), Christmas parties (Adults), Fundraising events for charities

(d) Access for Under-18s

<b>Terms and Ages (OP 6(b) &amp; (c))</b>	Must be with adult.
<b>Times (OP 6(d))</b>	At all Licensed Hours.
<b>Parts (OP 6(e))</b>	All parts of Premises (except near bar).

**3. Issues**

The Board have a discretion to grant or refuse the Application. It is the Clerk's opinion that there are no statutory reasons to refuse, and there is no breach of Board Policy. Since the Applicant is entitled to the 'Special Status' treatment given to Clubs by the legislation, the Overprovision rules do not apply.

**4. Observations**

(a) There is no Location Plan as required by NALB Guidance, so it is not clear what other properties are in the vicinity, particularly residential property and schools. The Applicant states that the Premises are a detached building with no residential properties in the immediate vicinity.

(b) The Applicant should ask the LSO if other Licences are required under other legislation, given the proposals for Gaming and the contents of OP 5(f) ('other activities'), e.g. raffles & poker.

(c) The provisions of the Gambling Act 2005:

- allowing "Equal Chance Gaming" (such as Poker) without a Permit
- allowing the use of Gaming Machines without a Permit (called "the Automatic Entitlement")
- allowing the playing of Bingo without a Licence

- Licensed Premises Gaming Machine Permits

only apply during the Core Licensed Hours.

If the Premises are open outside these hours then there must be no gaming and any Gaming Machines should be switched off.

(d) The Applicant should confirm that 'not near the bar' means 'not within 1 metre of the bar', and that the OP can be amended accordingly.

**5. 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)
- C (On-sale Premises)
- F (Entertainment)
- I (Clubs qualifying for Special Status under Section 125)

### Application for Variation of Premises Licence - Section 29

Applicant	Thomas Williamson Meikle
Premises	"Round Island Cafe", 51-52 Stuart St., Millport, Isle of Cumbrae, KA28 0AG
Ref.	0094

#### **Preliminary**

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016:*

*1. Until the Board has a Certificate of Display, it cannot determine the Application.*

*2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

#### **1. Summary of Variation Request(s)**

No.	Variation
1	Amend on-sales hours to 11.00 - 23.00 daily
2	Amend Operating Plan to include receptions (including weddings, funerals, birthdays, retirements, etc.) and Club meetings, and to remove Gaming

#### **2. Changes to activities**

	Current	Proposed
Accommodation		
Conference facilities		
Restaurant facilities	x	x
Bar meals		
Receptions (including weddings, funerals, birthdays, retirements, etc.)		x
Club or other group meetings		x
Recorded music	x	x
Live performances		
Dance facilities		
Theatre		
Films		
Gaming	x	
Indoor/Outdoor sports		

Televised sport		
Outdoor Drinking	x	x
Adult entertainment		

### **3. Issues**

#### **Variation 1: Amend Core Hours to 11.00 - 23.00 daily**

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

The Premises currently have:

11.00 - 22.00 (Mon - Thu)

11.00 - 23.00 (Fri, Sat)

11.00 - 12.30 and 18.30 p.m. - 23.00 (Sun).

The reason for the Sunday hours is is that the legislation in force till September 2009 divided Sunday, and it was a condition of Premises having 'grandfather rights' that they applied under the 'new' legislation for no more than the hours which they had under the 'old' legislation. Board Policy does not divide Sundays into two, and many Premises have been granted similar variations to the one requested.

#### *Note to Applicant*

*This does not affect the Licensing Board, but there is an issue for the Applicant under the separate Planning legislation. Planning Permission was granted on 20 March 2006 and a condition of that grant was that operation was limited to 10.00 - 22.00 daily. Although there is nothing to stop the Licensing Board granting longer hours, it would be no defence to a charge of breaking the Planning conditions that the Licensing Board had allowed longer hours. The Applicant is advised to contact NAC Planning or take independent legal advice before operating after 22.00.*

#### **Variation 2: Amend Operating Plan to include Receptions and Club meetings, and to remove Gaming**

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

The Application does not refer to "Club or other group meetings" but since the replacement Operating Plan submitted with the Application does the Board are entitled to treat this as part of the request.

### **4. Licence Conditions**

No variation of the Conditions is appropriate.

### Application for Variation of Premises Licence - Section 29

Applicant	Rajbir Singh
Premises	"Keystore", 8/10 Fullarton Place, Stevenston, KA20 3EH
Ref.	202

#### Preliminary

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016:*

1. *Until the Board has a Certificate of Display, it cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

#### 1. Summary of Variation Request(s)

No.	Variation
1	Increase off-sales capacity from 20.6 sq.m. to 27.75 sq.m. (about 34%)
2	Alter Layout Plan

#### 2. 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 have a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

##### **Variation 1: Increase off-sales capacity from 20.6 sq.m. to 27.75 sq.m. (about 34%)**

Discretionary refusal

Notes:

Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2018, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,

- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 2 : "Three Towns" (Ardrossan, Saltcoats & Stevenston).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in Function Type 1 (Off-sales).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Premises are in a Locality where Applications are especially unlikely to be granted (regardless of the Function Type);
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (regardless of the Locality).

<b>Variation 2: Alter Layout Plan</b>
---------------------------------------

Mandatory Grant : The request is for a 'Minor Variation'
--

Notes: This is a necessary consequence if the Capacity is varied.
---

**3. Licence Conditions**

No variation of the Conditions is appropriate.
--





### Application for Variation of Premises Licence - Section 29

Applicant	Davinder Summel
Premises	"Original Gulab", 32a Bank Street, Irvine, KA12 0AD
Ref.	0433

#### **Preliminary**

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016 :*

- 1. Until the Board has a Certificate of Display, it cannot determine the Application.*
- 2. No details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

#### **1. Summary of Variation Request(s)**

<b>No.</b>	<b>Variation</b>
1	<i>Change name of the Premises to "Bank Street Sports Bar"</i>
2	<i>Change description of Premises to "Sports bar situated on first floor of block of shops and retail outlets at Bank Street and East Road, Irvine"</i>
3	<i>Amend Operating Plan to include live performances, gaming and televised sport</i>
4	<i>Amend Operating Plan to include the following additional activities:</i> <i>(i) dart board</i> <i>(ii) pool table</i> <i>(iii) food prepared at Stanecastle Gulab to be available for delivery at the Premises and for consumption on or off the premises.</i>
5	<i>Remove children and young persons' access</i>

#### **2. Change to Operating Plan (activities)**

	<b>Current</b>	<b>Proposed</b>
Accommodation		
Conference facilities		
Restaurant facilities	x	
Bar meals		
Receptions (including weddings, funerals, birthdays, retirements, etc.)	x	x
Club or other group meetings		
Recorded music	x	x
Live performances		x
Dance facilities		
Theatre		
Films		
Gaming		x
Indoor/Outdoor sports		

Televised sport		x
Outdoor Drinking		
Adult entertainment		

	Other activities	
<b>Current</b>	None	
<b>Proposed</b>	(i)	dart table
	(ii)	pool table
	(iii)	food prepared at Stanecastle Gulab to be available for delivery at the Premises and for consumption on or off the premises.

### **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: Change name of Premises**

Mandatory Grant : The request is for a 'Minor Variation'

#### **Variation 2: Change description of the premises**

##### **Discretionary refusal**

Note: the Premises were licensed as a restaurant. The Board should be satisfied that the proposed operation of the Premises will not be inconsistent with any of the Licensing Objectives, and that the Premises (as varied) will be suitable for the sale of Alcohol.

Section 30(5) provides:

*"The grounds for refusal are— ...*

*(b) that the Licensing Board considers that the granting of the Application would be inconsistent with one or more of the Licensing Objectives,*

*(c) that, having regard to—*

*(i) the nature of the activities carried on or proposed to be carried on in the Subject Premises,*

*(ii) the location, character and condition of the Premises, and*

*(iii) the persons likely to frequent the Premises,*

*the Board considers that the Premises are unsuitable for use for the sale of Alcohol in accordance with the proposed Variation, ..."*

The Premises are to offer a take-away service. No off-sales facility is requested, and the original restaurant Licence did not have one. Although the Applicant requests that the Licence should be amended so as to exclude access by under-18s, it would still be possible for a person under 18 to order by telephone. The Applicant should confirm to the Board that no take-away orders will be taken for Alcohol.

**Variation 3: Amend Operating Plan to include live performances, gaming, and consumption on or off the premises of food prepared and delivered from Stanecastle Gulab**

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

*Note to Applicant*

*This is not an issue the Board will take into account when deciding whether or not to grant this Application, but for the Applicant's information:*

*The provisions of the Gambling Act 2005:*

- allowing "Equal Chance Gaming" (such as Poker) without a Permit
- allowing the use of Gaming Machines without a Permit (called "the Automatic Entitlement")
- allowing the playing of Bingo without a Licence
- Licensed Premises Gaming Machine Permits

only apply during the Core Licensed Hours.

*If the Premises are open outside these hours then there must be no gaming and any Gaming Machines should be switched off (see Gambling Act 2005, Section 278(1)(c)).*

**Variation 4: Amend Operating Plan to include additional activities: dart board, pool table and Bingo, Poker, Pool and Quiz Nights**

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

Note: Applicant should discuss his requirements with the Licensing Standards Officer to ensure that the appropriate Permits or Exemptions are in place prior to any Gambling taking place on the Premises.

**Variation 5: Remove terms of access for Under 18s: No children or young persons to be permitted on the premises**

Mandatory Grant : The request is for a 'Minor Variation'

Currently Children and Young Persons are permitted access to the Premises on certain terms and conditions, for example restricted to particular times or when

accompanied by an adult. The Variation will remove all access terms and conditions for Children and Young Persons: only persons 18 years of age and over will be permitted access to the Premises.

**4. Licence Conditions**

No variation of the Conditions is appropriate.

### Application for Variation of Premises Licence - Section 29

Applicant	Buzzworks Inns Limited
Premises	"Stag & Hound", 13 Howgate, Kilwinning, KA13 6EN
Ref.	0121

#### **Preliminary**

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 3<sup>rd</sup> June 2016:*

1. *Until the Board has a Certificate of Display, it cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

#### **1. Summary of Variation Request(s)**

<b>No.</b>	<b>Variation</b>
1	<i>New Layout Plan</i>
2	<i>Change Name of Premises to 'Cornerhouse'</i>
3	<i>Increase Capacity to 150</i>
4	<i>Amend Sunday on-sale operating hours</i>
5	<i>Extension during Festive Season</i>
6	<i>To allow restaurant facilities outwith Licensed Hours for breakfast &amp; soft drinks</i>
7	<i>Amend terms of access for Children and Young Persons</i>
8	<i>Amend OP: allow Films inside &amp; outside Licensed Hours</i>
9	<i>Amend OP: allow Outdoor Drinking Area to be used inside &amp; outside Licensed Hours</i>
10	<i>Amend Description of Premises</i>

#### **2. Changes to permitted activities**

	<b>Current</b>	<b>Proposed</b>
Accommodation		
Conference facilities		
Restaurant facilities		X
Bar meals		
Receptions (including weddings, funerals, birthdays, retirements, etc.)	X	X
Club or other group meetings	X	X
Recorded music	X	X
Live performances	X	X
Dance facilities		
Theatre		
Films		X
Gaming	X	X

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

### **3. Issues**

#### **Variation 1: New Layout Plan**

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

The Board may wish to defer dealing with this Variation until the other Variation requests have been determined.

#### **Variation 2: Change name of Premises to "Cornerhouse"**

Mandatory Grant : The request is for a 'Minor Variation'

#### **Variation 3: Increase capacity**

##### **Discretionary Refusal**

The existing licensed capacity is 110 customers. The proposal is to increase this to 150.

The Board should consider:

(a) whether or not the proposal is consistent with the Licensing Objective "protecting public safety" and whether or not the Premises (as varied) would be suitable for the sale of alcohol.

(b) the question of Overprovision.

##### **Overprovision**

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2018, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 3 : "Kilwinning" (including Pennyburn, Blacklands, Whitehurst Park, Woodside).

(b) the Function Type of the Premises

The Subject Premises are in Function Type 3 (On-sales other than entertainment venues, e.g. public houses).

(c) Additional Factors

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Premises are in a Locality where Applications are especially unlikely to be granted (regardless of the Function Type);
- (2) Function Type: The presumption of refusal applies to FT 2, 3 & 6 (nightclubs, pubs, and 'Part K' Clubs (regardless of the Locality);

**Variation 4: Amend the Sunday on-sales hours**

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

The current licensed hours start are 12.30 - 24.00. The proposal is 12.00 - 24.00.

**Variation 5: Extension during Festive Season**

Refuse as inconsistent with the Licensing Objective "Preventing crime and disorder"

The proposal is for one extra hour from 1st December to 2nd January.

It is not appropriate to request such a Variation under Section 29. The correct way to seek extra hours is to apply for "Extended Hours" under Section 68, for each period of Licensed Hours, as they are requested. Each year the Board sets a Policy applying allowing Premises throughout North Ayrshire to apply for "Extended Hours". This Policy never allows Premises to remain open for a whole month. If the present Premises were granted this Variation, it would place all other Premises in North Ayrshire (who comply with the Policy) at a disadvantage.

A Premises Licence potentially lasts forever. The Board cannot be expected to prejudge, in 2016, whether or not Extended Hours will be appropriate in 2026, and neither can the Police, who are part of the Extended Hours procedure.

The requirement of a PLH to state in his Operating Plan (OP 4) whether or not he has 'seasonal opening' does not mean that the Board are granting Extended Hours. When an Applicant completes OP 4, all that that means is that he is indicating a future intention to apply for Extended Hours. Commonly Applicants will say something like 'we propose to apply for Festive Extensions in accordance with the Board's Policy'.

**Variation 6: To allow restaurant facilities outwith Licensed Hours for breakfast & soft drinks**

Mandatory Grant : The request is for a 'Minor Variation'

**Variation 7: Amend terms of access for Children and Young Persons**

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

The Premises currently exclude under-18s. The proposal is to allow them for meals and functions until 22.30 (but not in the bar area).

The requirement for Adult accompaniment only applies to "Children" (under 16) and not to "Young People" (16-17).

The Board would have to be satisfied that this was consistent with the Licensing Objective "Protecting children from harm".

**Variation 8: Amend OP to allow Films inside & outside Licensed Hours**

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

**Variation 9: Amend OP: to allow Outdoor Drinking Area to be used inside & outside Licensed Hours**



**Discretionary Refusal**

The new layout includes an Outdoor Drinking Area. The proposal is to allow the use of this area outside Licensed Hours for hot beverages, food and non-alcoholic drinks.

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'.

It is not clear from the Layout Plan provided whether the area is close to any dwelling-houses or other noise-sensitive premises.

The Board are 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.

The Board may consider that their 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.."*

The reason that the phrase "alcoholic or not" is used is that the Board are unlikely to know that a container contained Alcohol, e.g. if the Board received a complaint, all that the complainer might be able to say was "I saw a customer drinking from a container" - without being able to say that there was Alcohol in it.

The Board have allowed early use of such areas in other cases, adding to C.5.2 words such as "except that the consumption of tea, coffee and other non-alcoholic drinks is permitted from 10.00."

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

**Variation 10: Amend Description of Premises**

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

As with Variation 1, the Board may wish to defer dealing with this Variation until the other Variation requests have been determined.

**4. Licence Conditions**

If Variation 9 is granted condition C.5.2 should be amended.



**Application for Variation of Premises Licence - Section 29**

Applicant	Park Resorts Limited
Premises	Sandylands Holiday Park, James Miller Crescent, Auchenhavrie Park, Saltcoats, KA21 5JN
Ref.	0256

**Preliminary**

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016:*

- 1. Until the Board have a Certificate of Display, they cannot determine the Application.*
- 2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

**1. Summary of Variation Request(s)**

<b>No.</b>	<b>Variation</b>
1	<i>Amend Operating Plan to include wrestling</i>
2	<i>Amend Operating Plan to include details of outdoor events including film screenings, charity events and family fun days</i>

**2. 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: Amend Operating Plan to include Wrestling**

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

**Variation 2: Amend Operating Plan to include details of outdoor events including film screenings, charity events and family fun days**

No action required.

Note: The Applicant has provided details of a number of outdoor events intended to be held at the Holiday Park including film screenings, charity events and family fun days. The events are to be held out with the extent of the premises' licensed area.

The Applicant has confirmed they are not seeking an extension of the licensed area and that no alcohol will be sold or consumed out with the premises' licenced area during the events. The variation is therefore not required as the activities do not relate to the licensed area.

### **3. Licence Conditions**

If Variation 1 is granted Conditions for contact sports (Part L) should be added.

The Board may consider, however, that the usual conditions are not required in the Applicant's case on the basis that the Applicant has advised that all wrestling events will be organised by an external third party who will hold the necessary insurance and will have undertaken the necessary risk and health and safety assessments.

**Application for Variation of Premises Licence - Section 29**

Applicant	Il Cardo Ltd.
Premises	Il Cardo Ltd., 116-118 Main St., Largs, KA30 8JN
Ref.	474

**Preliminary**

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 3 June 2016:*

1. *Until the Board have a Certificate of Display, they cannot determine the Application.*
2. *no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

**1. Summary of Variation Request(s)**

<b>No.</b>	<b>Variation</b>
1	Add on-sales (already licensed as off-sales)
2	Increase off-sales capacity
3	Add activities to Operating Plan

**2. Summary of proposed changes****(a) On-Sales Hours**

	<b>Current</b>	<b>Proposed</b>
Monday	n/a	11.00 - 22.00
Tuesday		on all 7
Wednesday		days
Thursday		
Friday		
Saturday		
Sunday		

**(b) Variation of Access terms for Under-18s**

	<b>Current</b>	<b>Proposed</b>
Terms (OP 6(b))	n/a	Under-18s must be with adult.
Times (OP 6(d))	n/a	All ages allowed until 20.00.
Parts (OP 6(e))	n/a	Seated area

(c) Variation of Capacity

	<b><i>Current</i></b>	<b><i>Proposed</i></b>
On-Sales (persons)	n/a	24
Off-Sales (sq. mtr.)	10.0	11.2

**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 have a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

**Variation 1: Add on-sales (already licensed as off-sales)**

## Discretionary refusal

## Notes:

The Board granted a PPL on 9 November 2015 for a shop trading as a delicatessen, with off-sales selling beer, wines and spirits, and that was Confirmed on 11 April 2016. The proposal now is to trade as a bistro as well.

There appear to be 4 possible reasons for refusal:

- (a) The Application is not consistent with the Licensing Objective: 'protecting & improving public health';
- (b) The Application is not consistent with the Licensing Objective: 'protecting Children from harm';
- (c) The Premises are not suitable for the sale of alcohol;
- (d) The Application is not consistent with the Board's Overprovision Policy;

**(a) L.O. 'protecting & improving public health'**

The L.O. expressly states 'improving'. Opinions may differ as to whether an increase in the ability to sell and consume alcohol damages public health, or makes no difference, but it is unlikely to improve it.

It may be claimed that the increase simply increases consumer choice, and will not lead to an overall increase in consumption. This argument has been disapproved by the Scottish Parliament, which has limited off-sale displays and alcohol advertisements.

**(b) L.O. 'protecting Children from harm'**

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

The Premises Licence is subject to Conditions. Some are "Mandatory" (required by Law: 2005 Act, Schedule 3). Some are discretionary. Mandatory conditions must be applied by Boards, who have no power to vary them or dispense with compliance. The only conditions which the Board can alter are those which the Board applied themselves.

Since the Premises are to admit children under 5, the Mandatory Condition requiring Baby-Changing Facilities accessible by both genders applies (Schedule 3, Paragraph 12). The Application does not indicate where these facilities would be.

Often Premises comply with this Condition by installing a baby-changing shelf in a toilet accessible by disabled people, but the toilet here is in a small room and there may not be sufficient room for a shelf.

The Applicant should satisfy the Board that the Premises will comply with this Condition. Without such facilities, or without children under 5 being excluded, the Board may consider that reasons to refuse exist:

- (i) Application is inconsistent with L.O. (d) ("protecting and improving public health");
- (ii) Application is inconsistent with L.O. (e) ("protecting children from harm");
- (iii) Premises are unsuitable for use for the sale of alcohol.

(c) Unsuitable Premises

The Board may wish to inspect the Premises to assess their suitability.

(d) Overprovision

When the Licence was originally granted, this was on the basis that the Premises would be off-sales only. The proposal now is to add 24 on-sales customers, all seated.

For the purposes of the Board's Licensing Policy Statement (LPS 2013-2018, Annex E), the proposal would place the Premises in "Function Type 4":

*"On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment and the supply of alcohol for consumption is only ancillary to that purpose; 'meal' means a substantial meal eaten at a table, counter or other structure which serves the purpose of a table. Snacks and crisps are not considered to constitute 'meals'."*

The Board are entitled to refuse the Application, but not bound to do so by the Overprovision Policy. Therefore this Report does not contain the usual level of detail which is appropriate where there is a clear breach of the Overprovision Policy. However, since the Board are entitled to consider this matter, they have the option

of continuing consideration of the Variation Application and instructing the Clerk to prepare an Overprovision Report on the "North Coast" Locality.

## **Variation 2: Increase off-sales capacity**

Discretionary refusal - breach of Board Policy

Note:

There are two issues:

- (a) The proposal might breach a Mandatory Licence Condition
- (b) The proposal may be regarded as a breach of the Board's Overprovision Policy

### (a) Mandatory Licence Condition

One of the Mandatory conditions is in Schedule 3, Paragraph 13(1):

*"Subject to sub-paragraph (3), Alcohol which is for sale only for consumption off the Premises may be displayed only in one or both of the following—*

*(a) a single area of the Premises agreed between the Licensing Board and the Holder of the Licence; or*

*(b) a single area of the Premises which is inaccessible to the public."*

Para. 13(1) was added to the Schedule by the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007 No. 546. The proviso in (3) has no relevance here, as it exempts from the 'single area' rule shops attached to distilleries.

To the extent that the Application involves a contravention of a Mandatory Condition:

(1) it is incompetent and must be refused. A Variation of Conditions is competent, but not in relation to Mandatory Conditions (Section 29(5)(a));

(2) Since the Variation would mean the Premises' operation would be inconsistent with the Licensing Objectives, the Board must refuse (Sections 30(4)(b) and 30(5)(b)).

The Variation is only competent if the Alcohol on display can be consumed on the Premises as well as off. The Applicant should advise the Board what is proposed.

### (b) Overprovision

The the Applicant applied originally, he requested 15.26 sq.m. of display space. At



the Hearing on 9 November 2015 Overprovision, and the presumption of refusal, was raised. The Board enquired if the Applicant would restrict his request to 10.0 sq.m. and the Applicant accepted that. The Board decided to grant the Application with a reduced capacity of 10.0 sq.m..

The Board are entitled to take the view that the Application breaches the Overprovision Policy. There is a rebuttable presumption of refusal due to Scottish Government guidance and it is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

While:

- the Policy is only a guideline,
- does not set rigid quotas, and
- it is always open to the particular Applicant to seek to persuade the Board that the Application should be granted,

the Board will expect Applicants who are seeking the grant of a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

#### Competency

The Application to increase off-sales capacity is technically competent since there has not been a Variation decision about off-sales capacity in the past year. The 2005 Act prevents a Board considering a further Application for a Grant within one year of refusing, unless the Board at the time gave a direction that the Applicant could re-apply earlier, or the Board were satisfied that there had been a material change of circumstances since the earlier refusal (Section 25). There is a similar rule about a further Application for the same Variation after a refusal (Section 32).

There is therefore nothing to stop the Applicant asking the Board to vary a decision made at the Grant stage under a year ago.

#### **Variation 3: Add activities to Operating Plan**

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

Note:

The current Licence has no authorised activities in addition to the sale of alcohol. The proposal is to add:

- 'restaurant facilities'
- 'recorded music'
- 'live performances'

#### **4. Licence Conditions**

If Variation 1 is granted, the Conditions for On-Sales (Part C) should be added.

If Variation 3 is granted, the Conditions for Entertainment (Part F) should be added.

**Premises Licence Review Proposal - Section 37**

Premises	Aldi, East Road, Irvine (Board Ref: 0047) Aldi, The Braes, Saltcoats (Board Ref: 0086)
Premises Licence Holder	Aldi Stores Limited

**1. Background**

The Board has received confirmation from the Chief Constable that the Premises Licence Holder has been convicted:

Date:	24 February 2016
Court:	Teesdale Crown Court
Offence:	Health and Safety at Work etc Act 1974, Section 2 (breach of H & S Regulations)
Disposal:	Fine £100,000 (plus costs of £5,295)

This is a "Relevant Offence" (as prescribed by The Licensing (Relevant Offences) (Scotland) Regulations 2007 No. 513).

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 Health and Safety at Work Act 1974 is the basis of many Regulations about things like the safety of customers and employees. The Regulations have little or 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) the likelihood that the conviction relates to the operation of a food shop as opposed 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.



### Premises Licence Review Proposal - Section 37

Premises	Tesco, Retail Park, Irvine (Board Ref: 0235) Tesco, 78 Main Street, Kilwinning (Board Ref: 0304) Tesco, High Road, Saltcoats (Board Ref: 0040) Tesco, 6 Aitken Street, Largs (Board Ref: 0411) Tesco, Bridgend, Kilbirnie (Board Ref: 0181)
Premises Licence Holder	Tesco Stores Limited

#### **1. Background**

The Board has received confirmation from the Chief Constable that the Premises Licence Holder has been convicted:

Date:	18 March 2013
Court:	Redhill Magistrates Court
Offence:	Health and Safety at Work etc Act 1974, Sections 2 (1) and 33(1)(a) (breach of H & S Regulations)
Disposal:	Fine £20,000 (plus costs of £5,295). To pay £4,400 to injured employee.

This is a "Relevant Offence" (as prescribed by The Licensing (Relevant Offences) (Scotland) Regulations 2007 No. 513).

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 Health and Safety at Work Act 1974 is the basis of many Regulations about things like the safety of customers and employees. The Regulations have little or 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) the likelihood that the conviction relates to the operation of a food shop as opposed 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.

## Premises Licence Review Application - Section 36

Premises	"Bar One", 55 Vernon St., Saltcoats
Premises Licence Holder	Bar One (Saltcoats) Ltd.
Ref.	007

**1. Background**

Mr. Graham Ferguson made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. The Applicant completed an "ASB Diary" form issued by the Board giving the basis of the Application. Copies of the letter and the ASB Diary will be distributed to Members at the Meeting.

**2. Ground(s) for Review**

The Applicant submits that there are Grounds for Review relevant to the following Licensing Objectives:

- (a) preventing crime and disorder
- (b) securing public safety
- (c) preventing public nuisance

**3. Capacity etc.**

The Premises are Licensed for both on-sales and off-sales, and have a capacity of 234 (Public Bar 104; lounge bar 130) customers, and an off-sales display capacity of 15 square metres.

Activities other than the sale of alcohol:

	<b><i>Permitted (x)</i></b>
Accommodation	
Conference facilities	
Restaurant facilities	
Bar meals	x
Receptions (including weddings, funerals, birthdays, retirements, etc.)	x
Club or other group meetings	
Recorded music	x
Live performances	x
Dance facilities	x
Theatre	
Films	
Gaming	
Indoor/Outdoor sports	x
Televised sport	x

Outdoor Drinking	x
Adult entertainment	

Other activities permitted
Darts, Quiz Nights, Dominoes, Poker, Cribbage, Backgammon and other social activities.

#### Access by Children and Young Persons

Under-18s are allowed if accompanied by adult for meals and until 20.00 (there is no meal requirement if the under-18 is a child of a Director of the PLH)

The operating hours are:

On-sales:

Mon	9.00	1.00
Tue	9.00	24.00
Wed	9.00	24.00
Thur	9.00	1.00
Fri	9.00	1.00
Sat	9.00	1.00
Sun	11.00	24.00

Off-Sales:

Mon	10.00	22.00
Tue	10.00	22.00
Wed	10.00	22.00
Thur	10.00	22.00
Fri	10.00	22.00
Sat	10.00	22.00
Sun	12.30	22.00

#### **4. Procedure**

Under Sections 36(6)-(8), the Board may reject a Review Application if the Board considers the Application—

(a) is vexatious or frivolous, or

(b) does not disclose any matter relevant to any of the statutory "Grounds for Review".



If the Board rejects the Application it must give notice of the decision, and the reasons for it, to the Applicant.

The Board is entitled (but not obliged) to order that the Applicant should pay the Board's expenses. If it does so, it should specify the sum due.

**5. Additional Powers of inquiry**

The Board are entitled by Section 38(5) to

- (a) obtain further information from such persons, and in such manner, as the Board think fit, and
- (b) consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application or Proposal. If the Board propose to do this, they should inform the Licence Holder of this intention and consider whether an adjournment is appropriate.

**6. Board's Powers on Review**

The Board must hear the Applicant and the Licence Holder, and decide whether or not a Ground for Review is established.

If so, the Board may take any one or more of the following steps if they consider necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
  - (i) the operating hours for the Premises (or any part);
  - (ii) the Premises Manager (if any) can be removed;
  - (iii) the activities which may be carried on on the Premises (or any part);
  - (iv) the terms for access by persons under 18 to the Premises (or any part);
  - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time. While the Licence is suspended, Annual Fees continue to be charged.

If the Board impose a Suspension, then it should not have immediate effect unless this is considered necessary in the public interest. Most Suspensions should be postponed to give the PLH the opportunity to appeal to the Sheriff Court. Any Board order takes effect immediately, and is not postponed by an appeal, but if appealing the PLH can ask the

Sheriff to recall the Suspension pending appeal. The postponement is in the Board's discretion, but 7 days would be reasonable.

- (d) Revoke the Licence. Similar considerations apply to the question of whether or not the Revocation should have immediate effect.

The Board are not obliged to take any of these steps, and even if a Ground for Review is established, the Board may decide that no further action is required, or that a decision on what steps should be taken should be deferred.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure.

## **7. Questions for the Board**

- (a) *"Should the Application be rejected because either*

*(i) it is vexatious or frivolous, or*

*(ii) it does not disclose any matter relevant to any of the statutory "Grounds for Review" ?*

If the answer is "No, the Application should proceed", ask (b).

- (b) *"Are the Board satisfied that a "Ground for Review" is established?"*

If "no", the Application should be discharged.

If "yes", ask (c).

- (c) *"What steps does the Board considers necessary or appropriate for the purposes of any of the Licensing Objectives?"*

The 'steps' are:

- (i) Revocation
- (ii) Suspension
- (iii) Variation
- (iv) Written warning
- (v) No action

- (d) *"What other orders should be made?"*

Revocation:

- when will the Order commence?

Suspension:

- How long will the Order last?
- When will it commence?
- When will it end?

Variation:

- What is to be varied?
- How long will the Order last?
- When will it commence?
- When will it end?



Report to North Ayrshire Licensing Board

by

Solicitor (Licensing)

<b>Subject</b>	<b>Extended Hours Applications</b>
<b>Purpose</b>	<b>To give Members background information</b>
<b>Recommendation</b>	<b>That Members consider the situation and adopt a Policy</b>

The Board are asked to give guidance to the Clerk on a Policy issue.

The "Scottish Open" Golf tournaments will be played at the Dundonald Links course from 2016.

Under Section 68 of the Licensing (Scotland) Act 2005 the Board are entitled to grant "Extended Hours" to Premises which already hold a Premises Licence in connection with

- (a) a special event or occasion to be catered for on the Premises, or
- (b) a special event of local or national significance.

The Board have approved a list of events in (a) and (b) which are likely to be accepted as appropriate for a grant of Extended Hours. The (b) list includes:

*"major sporting events such as the Olympic Games, Commonwealth Games or football World Cup Finals"*

An event which is not on the list may still be allowed Extended Hours if the Board is satisfied that it falls within the legislation.

An operator has enquired as to the Board's Policy. The Operator has two on-sales Premises in NALB's area, in Saltcoats and Irvine.

The Board are asked:

- (a) to confirm whether or not "Scottish Open" Golf tournaments are to be accepted as a reason for "Extended Hours" Applications; and if so
- (b) what the opening and closing hours may be.

