

**North Ayrshire Licensing Board
17 November 2014**

Irvine, 17 November 2014 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Ronnie McNicol, Tom Marshall, Robert Barr, John Bruce, Ian Clarkson, Catherine McMillan, Donald Reid and Robert Steel.

In Attendance

W O'Brien, Solicitor (Licensing) and C Pollock, Licensing Administration Officer

Also In Attendance

Chief Inspector Shaw and Sergeant McIntosh (Police Scotland).

Convenor

Councillor McNicol.

Apologies for Absence

None

The Convenor confirmed that the agenda running order was to be amended slightly. Item 2 would be considered first, followed by Appendix B. The agenda would then revert to the scheduled running order.

2. Personal Licence Refresher Training

The Board considered a report by the Solicitor (Licensing) which provided an update on the current position regarding Personal Licence refresher training.

The Convenor summarised the content of the report, and in particular he highlighted the information contained in the sections entitled Background and Publicity. He then reiterated that North Ayrshire Licensing Board strongly urged all affected Personal and Premises Licence Holders to take note of the requirements and take the required action prior to the statutory deadlines.

Mr O'Brien provided an update regarding North Ayrshire Personal Licence Holders who were required to obtain refresher training by 31 August 2014, and then present the resulting certificate to the Board by 30 November 2014. To date, 398 people have yet to comply with these refresher training requirements. 51 of these individuals are current Premises Managers. As detailed in the report, Mr O'Brien stated that unless the legal requirements are fully complied with, individuals face compulsory revocation of their Personal Licence. The Board have no discretion and the Licence Holder cannot appeal to the Sheriff Court.

Having considered the report, and Mr O'Brien's update, the Board noted the current position. Regarding Part 8 of the report, the Convenor moved that Revocations should be done by the Clerk as soon as practicable after the statutory deadline has passed. Councillor Reid seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention that Revocations should be done by the Clerk as soon as practicable after the statutory deadline has passed.

1. 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 2 Appendices;

- A. Premises Licence applications or any other applications requiring a Hearing.
- B. Personal Licence Applications requiring a Hearing

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

B. Personal Licence applications requiring a Hearing

B.17 Personal Licence Application NA 1787 Caroline McKenna

The Board considered an application for a Personal Licence made by the above Applicant. Ms McKenna was represented by Stephen McGowan, Solicitor.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the background to the application and summarised the issues arising.

Mr McGowan addressed the Board regarding the application. He referred to an e mail he had submitted prior to the meeting which explained why Ms McKenna had surrendered her initial Personal Licence, and is now re-applying for the Licence, having recently re-attained the appropriate full training qualification. Copies of Mr McGowan's e mail were given to the Board Members.

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

The Convenor also confirmed that it was the Board's direction that all future applications which are the same as Ms McKenna's, in terms of circumstance and the level of training qualification attained, should be delegated to the Clerk.

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

A.1 News Buster, 1 Ladyha Court, Irvine

The Board considered an application for grant of a Provisional Premises Licence made by Muhammed Anees for the above premises. Mr Anees was present and was represented by Ian Hunter, Solicitor.

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.

Objections to the application had been made by Dr Sonya Scott, Consultant in Public Health Medicine, NHS Ayrshire and Arran, and Irvine Community Council. Mr Anees

confirmed that he had seen a copy of the objections prior to the Board meeting. Copies of the written objections were given to the Board Members. Ruth Shepherd of NHS Ayrshire and Arran was present and June Niven was present to represent Irvine Community Council.

Mr Anees addressed the Board regarding the application and issues arising. He explained that he had operated the shop for many years and it was a business that was well respected by neighbours and customers. When his previous application for a Licence was refused his customers were very disappointed, as there is a demand for all products to be available under the one roof. Mr Anees stressed that it was a hard time to run a shop, with high running costs and decreasing customer footfall. He argued that it was unfair that he was not being allowed to realise the potential of the business. There are 140 new homes being built in the area, and if licensed, his premises would create 3 new jobs. Mr Anees said that he would be thankful if the Board were to look favourably on his application.

Ms Shepherd then addressed the Board, re-iterating the content of Dr Scott's objection. Ms Shepherd reminded the Board of its Overprovision Policy, which concluded that all areas within North Ayrshire were overprovided. NHS Ayrshire and Arran fully support and endorse this position.

Ms Shepherd explained that there are 2 factors in any discussion of the link between health and alcohol consumption, price and availability. Availability is a matter for Licensing Boards and alcohol related harm is directly related to availability.

Ms Shepherd stated that alcohol was not an essential food group. She highlighted that in 2013 the Board refused an application from BP for an off sales facility in the subject area, and of course also refused an application from Mr Anees for his premises as recent as July of this year.

Ms Shepherd stated that consideration of business potential is not one of the Licensing Objectives, however, Protecting and Improving Public Health is.

Ms Niven then addressed the Board. She explained that Irvine Community Council very much hope that the Board uphold their original position in relation to this premises. A number of customers and local residents do not wish alcohol to be sold from these premises. Ms Niven also highlighted that Mr Anees's shop is in an area which has amenity housing for the elderly, although to be fair to Mr Anees, Ms Niven confirmed that problems which occurred involving youths congregating outside the shop, did in fact occur a number of years ago, before Mr Anees operated the premises.

In response to the NHS and Community Council, Mr Anees said he was an experienced and responsible operator, who, if given the chance, could educate his customers regarding being responsible with alcohol. There would be no increase in the overall amount of alcohol consumed, just an increase in choice for customers. Mr Anees added that there had not been 1 single objection made by any individual in the local area, and previously a large number of letters supporting the proposal had been submitted to the Board.

Thereafter Mr Anees responded to questions from Councillor Barr, Councillor Marshall and the Convenor. He explained that his shop covers the Perceton / Lawthorn area and a number of the new houses currently being built will be ready in February / March 2015. He argued that the same amount of alcohol would be purchased in the area, regardless of whether his shop had a licence or not. If his

premises were to be granted a licence then it would simply increase choice and convenience for customers in the area.

The Board adjourned to Committee Room 4 with the Solicitor (Licensing) at 10.29 am to deliberate in private and re-convened at 10.34 am.

Having considered the terms of the report, and the submissions made, Councillor Steel moved that the Board refuse the application, on the basis of overprovision. Councillor Marshall seconded the motion. Councillor McMillan moved, as an amendment, that the application be granted. There was no seconder for the amendment.

There was then a roll-call vote. Councillor Clarkson abstained. Councillors Steel, Marshall, Barr, Bruce, Reid, and McNicol voted for the motion. Councillor McMillan voted against the motion.

The motion was accordingly carried and the Provisional Premises Licence refused.

Mr Anees requested a Direction under Section 25, which was refused by the Convenor.

A.2 Scott's Corner, 35-47 Main Road, Springside

The Board considered an application for grant of a Provisional Premises Licence made by Swinton LIC Ltd for the above premises. The Applicant was represented by Joanna Millar, Solicitor, and she was accompanied by James Wilson of Swinton LIC Ltd.

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

An objection to the application had been made by Dr Sonya Scott, Consultant in Public Health Medicine, NHS Ayrshire and Arran. A further 4 objections had been lodged with the Licensing Section in relation to the application. Ms Millar confirmed that she had seen a copy of the objections prior to the Board meeting. She noted that one of the objections was made by 'Member of the community' in a letter to the Board, dated 6 November 2014. Another of the objections, a letter dated 5 November 2014, was addressed to North Ayrshire Council Planning Department. Ms Millar requested that the Board reject both of these objections, as being not competent.

All of the Board Members present indicated that they were in favour of Ms Millar's request and the Convenor confirmed that the letter of objection made by 'Member of the community', and the letter addressed to the Planning Department were being rejected by the Board as not competent.

Copies of the remaining, competent written objections were given to the Board Members. Ruth Shepherd of NHS Ayrshire and Arran was present. Objectors Harbans Summel and Jaswant Summel were also present.

Ms Millar confirmed that display shelving numbered 5 on the layout plan is now deleted, amending the capacity to 15.1 sq m. The Convenor noted this information.

Ms Millar addressed the Board regarding the application and issues arising. She noted the Board's overprovision policy, however, in this case the 'locality' takes in a very large area with a population of 37738. It is very unlikely that would be the customer base for the proposed premises. Therefore Ms Millar said that she would address the Board on the area of Springside only, in which there are currently 2 other licensed premises. One of these, J & A Quinn has an alcohol display capacity of zero. The other premises, Springside Stores, are very basic in terms of its provision. The proposed premises, which would operate as a Spar, would provide a wide range of products.

Ms Millar said that she appreciated the Board's position regarding the previous case, however, with respect, every decision the Licensing Board takes does have a commercial aspect. The proposed Spar shop would not be viable without an alcohol licence. Ms Millar explained that there used to be a licensed premises at the site. Her client has ownership of the building outright and has already spent £300,000 on purchase and renovation costs. The development will bring fantastic facilities and employment opportunities to the Springside area.

Regarding the objections lodged by Harbans Summel and Jaswant Summel, Ms Millar argued that these were trade objections. The assertion that anti-social behaviour will result from the proposed premises is unfounded. Spar is a global brand with a local touch. Spar premises are well managed and staff are well trained and their premises do not result in anti-social behaviour. Ms Millar said that she had viewed the Local Area Action Plan, which is in favour of developments such as the one proposed by her client. There have been no objections from the local community, and indeed a number of local people have stated that they are looking forward to the development coming to fruition.

Ms Millar moved that the proposal does not contravene any of the Licensing Objectives. It is true that alcohol purchasing habits will change, in terms of where people buy their alcohol, however, the amount of consumption will not change, and an increased provision of alcohol does not necessarily mean an automatic increase in alcohol related harm. Spar would simply provide a far greater selection, locally. Ms Millar invited the Board to grant the application.

Ms Shepherd then addressed the Board, re-iterating the content of Dr Scott's objection. Ms Shepherd reminded the Board of its Overprovision Policy, which concluded that all areas within North Ayrshire were overprovided. NHS Ayrshire and Arran fully support and endorse this position.

Ms Shepherd highlighted that the proposed premises are in an area with very poor health data, which is significantly worse than the Scottish average. In fact, the data is worse in this case than for the area considered in the last application, which the Board refused. Ms Shepherd stated that there is a link between increased availability, whether it stems from capacity or hours, and increased alcohol related harm.

Ms Shepherd noted that the area set aside for fresh fruit and veg is less than the area set aside for alcohol. Ms Millar said that 8 sq m is set aside for the provision of fresh fruit and veg.

Harbans Summel then addressed the Board. He disagreed with Ms Millar's comments regarding there only being a very basic provision of products at present. He strongly requested the Board reject the application, on the basis that there are already 2 premises with an off sale licence which cater for the local community.

Mr O'Brien clarified that J & A Quinn do have an off sales capacity, it has just never been provided.

Ms Millar wished to clarify that the area set aside for the provision of fresh goods, including fresh fruit and veg, is actually 22 sq m, not 8 sq m. She informed the Board that if the licence was granted her client would remain on site for at least 1 year after grant and the resultant employment would be 10-12 jobs for local people, 4 of which would be full time posts.

Councillor Clarkson commended the Applicant for the regeneration work being undertaken at the site.

Councillor Marshall confirmed that the 'locality' as detailed in the Board's Licensing Policy Statement, is Irvine, not just Springside. Irvine has a huge amount of alcohol provision already and the health data provided for Springside is very poor indeed.

Councillor Bruce asked Ms Millar if the store would still go ahead even if the licence was not granted. She confirmed the Spar premises would not go ahead without a licence, it would not be viable to operate such a convenience store without a licence. Ms Millar acknowledged that if the 'locality' was Irvine then that did encompass a number of blackspots, however, there is nothing to say there is a problem in Springside itself. She highlighted that there was no Police or public objections, other than the trade objections from the Summels.

The Board adjourned to Committee Room 4 with the Solicitor (Licensing) at 11.11 am to deliberate in private and re-convened at 11.21 am.

Having considered the terms of the report, and the submissions made, Councillor Clarkson moved that the Board decide to continue consideration of the application to a future meeting, and that Board Members should make a site visit to the proposed premises. Councillor Barr seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to a future meeting and for the Board Members to make a site visit to the proposed premises.

The Convenor informed Ms Millar that Mr O'Brien would be in contact with her in relation to the arrangements for the site visit.

A.3 Provisional Premises Licence 0449 Metro, Hamilton Street, Saltcoats

The Board considered an application for Transfer of a Provisional Premises Licence, under Section 34, made by Jagtar Singh Lalli, for the above premises. Mr Lalli was present.

The Board considered the terms of a report by the Solicitor (Licensing) which detailed the background to the application, set out the Chief Constable's Notice under Section 33(6)(b)(i) of the 2005 Act, and summarised issues arising.

Copies of the Chief Constable's Notice were given to the Board Members and the content of the Notice letter was summarised by Chief Inspector Shaw.

Mr Lalli addressed the Board regarding the application and issues arising. He highlighted that the conviction was one that the Board were aware of and had dealt with in 2011. Mr Lalli then explained to the Board that the reason for the Transfer

application was that his father, Jagir Singh, had recently passed away. It was a very emotional time and unfortunately Mr Lalli omitted to note the conviction on the application.

Having considered the terms of the report, and the submission made, the Convenor moved that the Transfer be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

A.4 Premises Licence 0260 Coach and Horses, 102 Dickson Drive, Irvine

The Board considered a Review Application under Section 36 made by the Chief Constable relating to the above premises. The Licence Holder, Iona Pub Partnership Ltd was represented by Stephen McGowan, Solicitor, and he was accompanied by Eleanor Collier and Paul Wishart of Iona Pub Partnership Ltd, and Gillian Ireland, Premises Manager.

The Review Application was made by the Chief Constable by a letter to the Board, dated 27 August 2014. Copies of the letter were given to the Board Members and the content of the letter was summarised by Chief Inspector Shaw. Sergeant McIntosh confirmed that there was no further update regarding the proceedings being conducted by the Procurator Fiscal.

The Chief Inspector stated that it was the view of the Police that the Licence Holder had breached a mandatory licence condition, namely Standard Condition A.2(1)(a), and failed in their duty to prevent crime and disorder.

The Board then considered the terms of a report by the Solicitor (Licensing) which set out the background to the Section 36 Review Application and summarised the issues arising.

Thereafter Mr McGowan addressed the Board on the issues arising. Mr McGowan described the situation as an “unfortunate run of events”. He confirmed agreement with much of what the Police have, with minor exceptions.

Mr McGowan explained that the Licence Holder was a Scottish company with around 100 premises across Scotland. Their business model was to own premises but lease them to tenants, who would operate them. Iona do not themselves operate premises. Instead, the company hold the Premises Licences and have a system of due diligence to assess incoming tenants and provide support to assist tenants to run the premises. Mr McGowan then submitted to the Board documents entitled ‘Iona Pub Partnership Application Form’ and ‘Training Toolbox’. The ‘Training Toolbox’ was 200 pages in length. He explained that the ‘Training Toolbox’ was issued to new tenants and he drew the Board’s attention to specific sections of the document which covered Licensing topics. Mr McGowan said that Iona were trying to do their best, however the ‘Toolbox’ was of course a work in progress.

Referring to Page 2 of the Police Review Application, Mr McGowan stressed that the major issue throughout David Cannon’s tenancy was that Mr Cannon was not informing Iona when Premises Managers were leaving. Events culminated with the Premises being closed just prior to Christmas 2013, and remaining closed over the Christmas / New Year period. Responsibility for this period of closure sat firmly with the Licence Holder and Mr McGowan acknowledged that the Police did show considerable patience in January 2014 and chose not to pursue a Review Application at that time in favour of a policy of constructive dialogue with Iona in a bid to ensure that the company were fully complying with the legislation at all of their premises.

Police Scotland were informed that Iona had implement significant new procedures in a bid to ensure compliance with the licensing law.

Mr McGowan explained that problems then arose during Arthur Moore's tenancy with Lianne Robb's involvement. Undoubtedly, and with hindsight, the appointment of Mr Moore as Tenant was a mistake, particularly as it allowed Ms Robb to cause a number of problems during that period. Mr McGowan highlighted that Ms Robb had informed Iona that she herself held a Personal Licence. This was subsequently discovered not to be true. Mr McGowan then submitted to the Board a copy of an e mail sent on 6 June 2014 from Eleanor Collier, Iona's Business Development Manager, to Arthur Moore. He described this as a "robust" e mail and explained that Iona "did not sit on their hands" during Mr Moore's problematic tenancy, they were in constant contact with him.

Regarding reference to Stuart Watterson in the Police Review Application, Mr McGowan said that this was one point on which Iona have a different view from the account detailed by the Police. Iona do not have an issue with the Police, but they do take issue with what Mr Watterson had told the Police. Eleanor Collier met with Mr Waterson on 23 June 2014 to take his details and he was aware that he was to be the new Premises Manager at the Coach and Horses. Mr McGowan then submitted to the Board a 'Change of Premises Manager' form which was dated 23 June 2014 and did contain Mr Watterson's details. The Board noted that the form had not been signed by Mr Waterson.

Mr McGowan said that the focus for Iona is now on the way forward. The key aspect was to ensure the identification of a good tenant. It was accepted that the Licence Holder should have done better in this regard, however, the company have now implemented more robust due diligence processes. On the 6 November 2014, Craig McLaughlin was appointed as the new Tenant at the Coach and Horses. Mr McGowan said that Mr McLaughlin is a reputable Tenant with an "excellent pedigree". Furthermore, Gillian Ireland has been appointed as the Premises Manager. She has extensive experience and is regarded as a "safe pair of hands".

Referring to the recent periods of tenancy at the Coach and Horses, Mr McGowan explained that these were not the norm for Iona. Across their estate of licence premises the average tenure of Iona's Tenant is 6 ½ years. Mr McGowan noted that the Police had given a fair account, and in parts talk positively of their interaction with Iona. The Licence Holder would agree to all of the conditions requested by the Police, which in fact have all now been implemented. An e mail alert system has also been set up to inform people when applications have been made by Iona to nominate them as a Premises Manager. Iona has had to face difficulties and it was conceded that mistakes have been made and that lessons had been learned. As a Premises Licence Holder, Iona has the responsibility to ensure that all of their premises are run well, and Mr McGowan submitted that Iona Pub Partnership Ltd have responded positively to this situation.

Mr McGowan then responded to questions and comments from the Convenor, Councillor Clarkson and Councillor Reid. He described the requirements that Iona have now stipulated in relation to any incoming tenant.

Councillor Clarkson highlighted his opinion that the incompetence of the Premises Licence Holder detailed in this case was staggering. Mr McGowan said that he thought that was an unfair comment, given the actions of the Tenants in this case.

The Board adjourned to Committee Room 4 with the Solicitor (Licensing) at 12.08 pm to deliberate in private and re-convened at 12.22 pm.

Councillor Clarkson proposed that the Grounds for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Grounds for Review.

Having considered the terms of the report, and the submissions made, Councillor Clarkson moved that it was appropriate to vary the Premises Licence under Section 39(2)(b) of the 2005 Act, as follows: that for the period of twenty eight days, effective from 17 November 2014, the terminal hour will be 11.00 pm Monday – Sunday. Councillor Reid seconded the motion. There was no counter-motion and the Board unanimously decided, without dissent or abstention, to vary the Premises Licence to restrict the terminal hour to 11.00 pm Monday - Sunday for the period of twenty eight days, with effect from 17 November 2014.

The Board's decision was made for the purposes of North Ayrshire Licensing Board Standard Condition A.2(1)(a) and Licensing Objective (a) preventing crime and disorder.

The Board also unanimously decided to initiate a Premises Licence Review Proposal under Section 37, to be considered at the Board Meeting of 19 January 2015, on the same Grounds for Review as submitted by the Chief Constable within the Section 36 Review Application.

The Board did not consider that any action under Section 84 should be taken in relation to any Personal Licence held.

The Convenor requested that at the Review Hearing in January 2015, the Premises Licence Holder should produce records of staff training and refusals.

Mr McGowan confirmed that he had noted the Board's decision.

A.5 Personal Licence NA 1111 Liza Reid

The Board considered a Personal Licence Review Hearing in relation to Liza Reid. The Review Hearing was convened on the basis of information reported by the Chief Constable, in a letter to the Board, dated 8 September 2014. Mrs Reid was present and was represented Peter Lawson, Solicitor.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's report under Section 84A 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. The Chief Inspector confirmed that there was no update regarding the proceedings being conducted by the Procurator Fiscal.

Mr Lawson was given the opportunity to address the Board on the issues arising. He disputed a fact contained in the Police letter. Mr Lawson said that Mrs Reid had been shown a full driving licence, not a provisional, and had the Board been shown the CCTV images of the incident, they would confirm that the identification produced was a full driving licence. Mrs Reid did scrutinise the driving licence, in accordance with Challenge 25, however the individual concerned was 'bold as brass' and did not appear remotely phased by being requested for identification.

Mr Lawson highlighted that no action was taken against the Premises or, more notably, the individual making the purchase. This was concerning as individuals such as these were endangering other people's careers with their actions. Mr Lawson argued that Mrs Reid had taken reasonable steps to establish the individual's age, and he invited the Board to take no further action against Mrs Reid.

The Convenor asked Mr Lawson if Tesco had taken any action against Mrs Reid in relation to this matter. Mr Lawson confirmed they had not.

Councillor Reid noted that the accusation in the Police letter was that the picture on the identification did not resemble the individual attempting to purchase the alcohol.

Chief Inspector Shaw confirmed that the 16 year old individual had been reported through the appropriate channels.

The Board adjourned to Committee Room 4 with the Solicitor (Licensing) at 12.39 pm to deliberate in private and re-convened at 12.42 pm.

Having considered the terms of the report, and the submissions made, Councillor Bruce moved that no further action be taken. Councillor Marshall seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

A.6 Premises Licence 0062 Lochranza Hotel, Lochranza, Isle of Arran

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Lochranza Hotel Ltd, for the above premises. The Licence Holder was represented by George Stewart.

The Licence Holder was requesting the following variations:

1. Remove Licence Condition to allow use of Outdoor Drinking Area for teas, coffees and soft drinks before 11.00 am.
2. Remove Conditions as to the playing of pool and darts in areas admitting Children under 16.

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, and he also highlighted that Police Scotland had submitted a representation regarding the application. Copies of the written representation were given to the Board Members.

Mr Stewart addressed the Board regarding the application. Mr Stewart confirmed that he agreed with the Police recommendations, as detailed in their representation, and he gave an undertaking that they would be implemented at the Premises. The Board noted the undertaking.

Having considered the terms of the report, and the submissions made, the Convenor moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. Standard Conditions C.10.3 (d) and (e) are disappplied, on the basis of Mr Stewart's undertaking to implement the Chief Constable's recommendations.

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 11.00 am and later than 10.00 pm, except that the Outdoor Drinking Area may be used for teas, coffees and soft drinks before 11.00 am’.

A.7 Premises Licence 0355 Auchengree Farm Shop, Glengarnock, Beith

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Ann-Marie Beckett, for the above premises. Mrs Beckett was present.

The Licence Holder was requesting the following variations:

1. Variation of Sunday off sales hours to 11.00 -16.30.
2. Disapply standard condition B.5 in relation to CCTV.

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

Mrs Beckett addressed the Board regarding the application. She explained that Standard Condition B.5 had been brought to her attention by the Licensing Standards Officer. The premises are rural and do not sell a lot of alcohol.

Having considered the terms of the report, and the submission made, Councillor Barr moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. Standard Condition B.5 is disapplied.

A.8 Premises Licence 0122 The Crown Inn, 38/40 Main Street, Dreghorn

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Walcal Property Development Ltd, for the above premises. The Licence Holder was not represented.

The Licence Holder was requesting the following variations:

1. Sunday hours to change from 12.30 pm to 11.00 am (on and off sales).
2. Extend under 18 access from Restaurant / Function Room (‘Lounge’) only to include Public Bar.

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.

Given that no one was present to represent the Licence Holder, the Convenor moved that the Board decide to continue consideration of the application to a future meeting. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue consideration of the application to a future meeting.

A.9 Premises Licence 0024 Keystore, 81 Main Street, Dreghorn

The Board considered an application for variation of a Premises Licence made by the Licence Holder, Partnership of Pawitar Singh & Parminder Kaur, for the above premises. The Licence Holder was represented by Gordon Robertson, Solicitor, and he was accompanied by Mrs Parminder Kaur.

The Licence Holder was requesting the following variation:

1. Vary off sales terminal hour to 10.00 pm on all days.

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

An objection to the application had been made by Dr Sonya Scott, Consultant in Public Health Medicine, NHS Ayrshire and Arran. Mr Robertson confirmed that he had seen a copy of the objection prior to the Board meeting. Copies of the written objection were given to the Board Members. Ruth Shepherd, of NHS Ayrshire and Arran, was present.

Ruth Shepherd then addressed the Board. Referring to the content of the Health Board's written objection, Ms Shepherd acknowledged that although the increase being applied for is relatively minimal, the premises are in an area with very poor health data, which is significantly worse than the Scottish average. Ms Shepherd stated that an increase in on sales hours leads to an increase in availability, which results in increased levels of consumption, and alcohol related harm.

Councillor Barr asked whether the hours being requested were within the Board's policy. Mr O'Brien confirmed that they were within the Board's policy, which is set out in the Licensing Policy Statement.

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

A.10 Premises Licence 0278 Corsehill Bowling Club, 2 Moncur Road, Kilwinning

The Board considered an application for variations of a Premises Licence made by Corsehill Bowling Club for the above premises. The Licence Holder was represented by Connie Lewis, Club Secretary.

The Licence Holder was requesting the following variations:

1. Children to be permitted access, if accompanied by an adult, until 10pm, or for the duration of a private function.
2. Young persons to be permitted access until 10pm, or for the duration of a private function.

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.

Miss Lewis addressed the Board regarding the application. She explained that the Club's Junior Section consists of 8 to 16 year olds. She also confirmed that the Club would adopt and operate the one metre exclusion area around the bar, as detailed in Mr O'Brien's report.

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

A.11 Premises Licence 0376 The Salt Cot, 7 Hamilton Street, Saltcoats

The Board considered an application for variations of a Premises Licence made by the Licence Holder, JD Wetherspoon (Scot) Limited, for the above premises. The Licence Holder was represented by Archie McIver, Solicitor, and he was accompanied by Fiona Campbell, Premises Manager.

The Licence Holder was requesting the following variations:

1. Remove need for adult to accompany young persons (aged 16-17).
2. Require young persons to leave by 10.00 pm.
3. Increase access time for children (aged 0-15) from 8.00 pm to 10.00 pm.

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

An objection to the application had been made by Dr Sonya Scott, Consultant in Public Health Medicine, NHS Ayrshire and Arran. McIver confirmed that he had seen a copy of the objection prior to the Board meeting. Copies of the written objection were given to the Board Members. Ruth Shepherd, of NHS Ayrshire and Arran, was present.

Mr McIver addressed the Board regarding the application. He said that variations 2 and 3 were within the Board's policy and variation 1, the request for young persons to have unaccompanied access, is not a 'ground breaking' request. Wetherspoon's other premises in North Ayrshire, The Auld Brig, already has this permission and it works particularly well at that venue. Mr McIver acknowledged the NHS comments, although he suggested they were more of a representation than an objection. He confirmed that the Licence Holder has a number of robust measures in place in order to prevent underage sales.

Ruth Shepherd then addressed the Board. Referring to the content of the Health Board's written objection, Ms Shepherd highlighted that the premises are situated in an area with very poor health data, which is significantly worse than the Scottish average. Ms Shepherd stated that it is important that children and young people are afforded sufficient protection from harm in relation to alcohol.

Mr McIver explained that variation 1 was being sought in order to cover the scenario of a 16/17 year couple who wish to go out together for a meal.

The Convenor asked Mr McIver, if the Board were to grant variation 1, could schoolchildren be on the premises unaccompanied at lunchtime for example. Mr

McIver confirmed that if they were over the age of 16, then yes they could be on the premises unaccompanied.

Having considered the terms of the report, and the submissions made, Councillor McMillan moved that the Board grant the application. Councillor Barr seconded the motion. Councillor Reid moved, as an amendment, that the Board grant variations 2 and 3, and refuse variation 1. Councillor Steel seconded the amendment.

There was then a roll-call vote. There were no abstentions. Councillors McMillan, Barr, Bruce, and Clarkson voted for the motion. Councillors Reid, Steel, McNicol and Marshall voted for the amendment. As Convenor, Councillor McNicol had the casting vote. He re-iterated his vote for the amendment and accordingly variations 2 and 3 were granted, and variation 1 was refused.

Mr MacIver requested a direction under Section 32 in relation to the decision to refuse variation 1. The Convenor confirmed that the Board directed that subsection 32(2) would not apply in relation to any subsequent application made within one year, from 17 November 2014.

A.12 Premises Licence 0171 The Market Bar, 35 Howgate, Kilwinning

The Board resumed consideration of an application for variations of a Premises Licence made by the Licence Holder, Walcal Property Development Ltd, for the above premises. The Licence Holder was represented by Graeme Stewart.

The Licence Holder was requesting the following variations:

1. Add 'Live Performances' and 'Karaoke'.
2. Increase Sunday terminal hour from 23.00 to 24.00.

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.

Objections to the application had been made by Mrs Filby, 27 Howgate, Kilwinning, and Ms Goldie, 1B Byres Road, Kilwinning. Mr Stewart confirmed that he had seen a copy of the objections prior to the Board meeting. Copies of the written objections were given to the Board Members. Ms Goldie was present.

The Board were also provided with copies of comments regarding the application, submitted by Paul Brennan, Specialist Environmental Health Officer (Noise).

Mr Stewart addressed the Board regarding the application. He explained that the proposal had not been made clear enough initially. It is intended that the premises will hold no more than 6 karaoke events per year, and these would take place between the times of 4.00 pm and 8.00 pm. In fact, there would be no music at the premises after 8.00 pm. Mr Stewart stated that he would be more than happy for the Licensing Board to stipulate that there could be no more than 6 karaoke events per year.

Ms Goldie then addressed the Board, re-iterating the content of her written objection. She highlighted that she can hear a lot of noise from the premises and she is going to get a quote to sound proof her property, at her own expense. Ms Goldie was concerned that these proposals would affect the value of her property.

Councillor Bruce commented that whilst he did sympathise with Ms Goldie's situation, the fact was that she had moved into a flat above an existing pub.

Ms Goldie said that she did expect a level of noise, given that she lived above a pub, however, when the premises have karaoke events the level of noise is excessive.

Councillor Steel asked Mr Stewart, if the Board were minded to grant, stipulating a limitation of no more than 6 karaoke events per year, and Ms Goldie subsequently approached him directly with any concerns, would he work with her in an attempt to resolve her concerns. Mr Stewart confirmed that he would.

Having considered the terms of the report, and the submissions made, the Convenor moved that the application be granted, on condition that there will be no more than 6 Live Performance / Karaoke events per year, and such events will only take place between 4.00 pm and 8.00 pm. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant, on condition that there will be no more than 6 Live Performance / Karaoke events per year, and such events will only take place between 4.00 pm and 8.00 pm. The Board's Standard Conditions Edition 5 will now apply.

A.13 The Harbour Lights, 15 Stuart Street, Millport

The Board considered an application for grant of a Provisional Premises Licence made by Yildirim Guzelkabaagac for the above premises. Mr Guzelkabaagac was present and was represented by Ian Hunter, Solicitor.

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 O'Brien also informed the Board that the Chief Constable had given the Board a Notice, under Section 21(4)(b), specifying that Mr Guzelkabaagac had a conviction for a relevant offence. Copies of the Notice were given to the Board Members and the content of the Notice letter was summarised by Chief Inspector Shaw.

Mr Hunter addressed the Board regarding the application and issues arising. He said that the second offence detailed in the Police letter was not in fact a relevant offence in relation to this Licensing application. Regarding the actual incident, Mr Hunter explained that it had been a traumatic occurrence and there had been background and circumstances leading up to what happened. It was an unfortunate occurrence and Mr Guzelkabaagac sincerely hoped that it did not infer that he was a violent individual.

Regarding the application, Mr Hunter explained that the proposal is to replicate what was previously licensed when the premises were formerly known as Spice Island. The intention is purely for a restaurant type operation.

In response to a question from the Convenor, Mr Hunter confirmed that the intention is for a seafood type restaurant. Regarding Section 5 of the Board report, Mr Hunter explained that he had replied to Mr O'Brien by e mail, addressing the observations. The proposal is that young person have access until 8.30 pm and under 18s will be excluded from within 1 metre of the bar area.

Having considered the terms of the report, and the submissions made, the Convenor moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A and C.

A.14 Premises Licence 0348 Gailes Hotel, Marine Drive, Irvine

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Simpsinns Ltd, for the above premises. The Licence Holder was represented by Irene Leslie, General Manager, Simpsinns Ltd.

The Licence Holder was requesting the following variations:

1. Amend OP and LP as result of merger of two premises.
2. Appoint new Premises Manager (to be effective from 5 January 2015).

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

Mrs Leslie addressed the Board regarding the application. She confirmed that, if the Board were minded to grant variation 1, then the Temporary Premises Licence (58T) pertaining to North Gailes, would be surrendered with immediate effect.

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

A.15 Premises Licence 0036 Sugar & Spice, 26/28 Main Street, Largs

The Board considered an application for variation of a Premises Licence made by the Licence Holder, Toni Dawson, for the above premises. Ms Dawson was not present or represented.

The Licence Holder was requesting the following variation:

1. Increase in off sales capacity from 7.51sq.m to 8.61 sq m

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.

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

A.16 Site to the north of Pennyburn Roundabout, to be accessed from Stevenston Road, Kilwinning

The Board considered an application for grant of a Provisional Premises Licence made by Marston's Operating Ltd for the above premises. The Applicant was

represented by John Gaunt, Solicitor, and he was accompanied by Adrian Blackburn of Marston's Operating Ltd.

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

An objection to the application had been made by Dr Sonya Scott, Consultant in Public Health Medicine, NHS Ayrshire and Arran. Mr Gaunt confirmed that he had seen a copy of the objection prior to the Board meeting. Copies of the written objection were given to the Board Members. Ruth Shepherd, of NHS Ayrshire and Arran, was present.

Mr Gaunt addressed the Board regarding the application. Referring to Section 1 of the Board report, he explained that he did not intend to address the issue of overprovision today, however, he would of course make submissions on the subject at a future meeting if required.

Mr Gaunt informed the Board that Marston's currently have 7 premises trading in Scotland, with a further 5 sites planned and licensed and ready to be developed. Should the Board be minded to grant the application before them today then the company will start development work in February 2015 with an aim to open the proposed premises at the end of 2015. The proposal is for a food led pub / restaurant with 70% of revenue generated from food sales. Only 20% of revenue would derive from sales of alcohol only.

Mr Gaunt stressed that the provisional premises licence for the pub / restaurant is undoubtedly the key to unlock the development of the whole site. The proposals for the whole site include a hotel, a Costa outlet, and a KFC fast food facility. Development of the whole site will require a £10 million investment, of which £3 million will be allocated to the construction of the pub / restaurant premises. It is envisaged that the overall development will generate 100 new jobs in the area.

Mr Gaunt noted the NHS comments, however, he stressed that with this proposal alcohol will be ancillary to the provision of food. The Applicant is aware of the Board's policy on vertical drinking and Mr Gaunt also noted food led premises do not attribute much in terms disorder. Mr Gaunt highlighted that an undertaking had been given in relation to live or recorded music at the premises, the details of which are in Section 5 of the Board Report. Mr Gaunt confirmed the all of the Standard Conditions would be complied with and he invited the Board to grant the application.

Ruth Shepherd then addressed the Board. She strongly encouraged the Board to consider overprovision, as with any other new premises. Ms Shepherd also noted a concern that last orders for food would be between 9.00 pm and 10.00pm.

Mr Gaunt explained that last orders for food are customer driven, but generally the last order would be nearer 10.00 pm than 9.00 pm and there is certainly no intention for the premises to 'chameleon' into a bog standard pub type premises after 10.00 pm.

Referring to the proposal for a 27 bed hotel, Councillor Reid commented that North Ayrshire does need more hotel accommodation.

Councillor Barr commented that there has been discussion regarding the development of this site for about 7 years now, and yet nothing has come to fruition.

In response to Councillor Barr's comments, Mr Blackburn stated, on behalf of Marston's, that if the Board were to grant the provisional premises licence, then development on this site will definitely be commenced and the proposed premises will be opened by the end of 2015. It is a major commitment for Marston's and this project is the largest, independent, commercial development that the company have undertaken to date. Furthermore, the premises will be owned and managed by Marston's, who be 100% responsible and accountable for the operation.

Councillor Reid noted concern regarding the intention for young persons to be allowed unaccompanied access to the premises. Councillor Reid also asked the Board's Solicitor if the provisional period of 4 years could be reduced by the Board to 2 years, to encourage the Applicant to progress with the development.

Mr O'Brien confirmed that the 4 year provisional period could not be reduced as suggested by Councillor Reid.

Mr Gaunt concurred with Mr O'Brien, however, he re-iterated that, subject to the Board granting the application, Marston's are very anxious to progress with this development project.

Regarding unaccompanied access for young persons, Mr O'Brien suggested that the application be amended to require that all under 18s are accompanied by an adult at all times.

Mr Gaunt acknowledged the Board's decision in the Wetherspoons case (Case 11) regarding unaccompanied access for young persons, and as such he confirmed agreement with Mr O'Brien's suggestion. He also confirmed agreement with the suggested amendment in Section 4 of the Board report.

Having considered the terms of the report, and the submissions made, the Convenor moved that the application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A, C and F. The Applicant's undertaking in relation to live or recorded music will also be noted in the licence paperwork.

3. Annual Meeting with Local Licensing Forum

The Convenor confirmed that this matter was continued and the annual meeting with Local Licensing Forum would now take place on 19 January 2015.

The meeting ended at 2.06 pm