

North Ayrshire Licensing Board
10 July 2014

Irvine, 10 July 2014 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Tom Marshall, Robert Barr, John Bruce, Catherine McMillan, Donald Reid and Robert Steel.

In Attendance

W O'Brien, Solicitor (Licensing), C Pollock, Licensing Administration Officer, G Kellas, Senior Clerical Assistant.

Also In Attendance

Convenor

The Convenor Councillor McNicol was absent due to ill-health.

The Solicitor (Licensing) advised the Board of 2005 Act, Sch. 1, Para. 6(5). Accordingly an election was held in public to elect another Member to chair the meeting.

Councillor Bruce proposed that Councillor Marshall (the Vice Convenor) be the Convenor for the meeting. This motion was seconded by Councillor Barr. The Solicitor (Licensing) enquired of Members if there was any counter-motion or dissent. There was none. The Motion was unanimously assented to, and Councillor Marshall took the Chair.

Apologies for Absence

Ronnie McNicol and Ian Clarkson

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 1 Appendix;

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

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

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

A.1 The Auld Brig, Rivergate Shopping Centre, Irvine

The Board resumed consideration of an application for grant of a Provisional Premises Licence made by J D Wetherspoon (Scot) Ltd for the above premises. The Applicant was not represented.

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 confirmed that an agreement had been reached and the barrier at the outdoor drinking area would be 1.5 m in height. It has also been confirmed by Environmental Health that the barrier will be opaque.

Having considered the terms of the report, and the update provided by Mr O'Brien, the acting Convenor moved that the remainder of the Provisional application be granted. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant the remainder of the Provisional application. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A, B, C and F.

A.2 News Buster, 1 Ladyha Court, Irvine

The Board resumed consideration of 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 John O'Dowd, Consultant in Public Health Medicine, NHS Ayrshire and Arran, and Irvine Community Council. Mr Hunter confirmed that he had seen a copy of the objections prior to the previous 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 Hunter addressed the Board regarding the application and issues arising. Mr Hunter presented the Board with 74 letters supporting the application and he reiterated his submissions from the previous Board meeting, highlighting that the application was based on community demand. Mr Anees's business was growing and there is a proposal to build a further 200 houses in the Lawthorn / Perceton area. There were currently no premises in the Lawthorn / Perceton area and no other licensed premises within the same post code area as Mr Anees's shop. Mr Hunter suggested that there is in fact an underprovision in the locality. Mr Hunter argued that the application was not inconsistent with any of the Licensing Objectives and he invited the Board to grant.

Ms Niven then addressed the Board. She wished to highlight that Mr Anees's shop is in an area which has amenity housing for the elderly and when the premises was previously licensed the elderly residents had a lot of trouble from youths congregating outside the shop. Referring to the letters of support submitted by Mr Hunter, Ms Niven assured the Board that there was a larger number of residents who did not want the premises to be granted a licence.

Ms Shepherd then addressed the Board, re-iterating the content of Dr O'Dowd'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 this policy. The relevant 'neighbourhood area' in this case has health data / indicators which is / are significantly worse than the Scottish average.

Ms Shepherd stated that alcohol was not an essential food group and it is concerning that anyone would support this application. She highlighted that in 2013 the Board refused an application from BP for an off sales display capacity of 5.4 sq.m. The BP premises is within the same Intermediate Zone as Mr Anees's shop, and his application is seeking a far larger off sales display capacity of 24.6 sq.m.

Ms Shepherd explained that there are 2 factors in any discussion of the link between health and alcohol consumption, price and availability. Price is a matter for the Scottish Parliament,

however, availability is a matter for Licensing Boards and alcohol related harm is directly related to availability.

Referring to the existing licensed premises in the area, Ms Shepherd said that a 10 minute walk to reach a premises is not excessive and she invited the Board to refuse the application.

Mr Hunter said that he heard what the NHS and Community Council had to say, however he noted that there were no personal objections to the application. The proposed licensed facility would be of benefit to local residents, including those living in the amenity housing. The premises would be well managed and controlled by Mr Anees, who would set a responsible example to the local community.

Councillor Barr and Councillor Marshall both queried Mr Hunter's comment regarding there being no other licensed premises in the same post code area as Mr Anees's shop. Mr O'Brien confirmed this to be the case, however, a full 7 digit post code covers only a very small area.

Councillor Marshall asked Mr Hunter if it was his submission that each full post code area should have its own licensed premises.

Mr Hunter said that was not what he had meant, rather that each community should have access to a licensed premises.

The Board adjourned to the Members' Lounge with the Solicitor (Licensing) at 10.22 am to deliberate in private and re-convened at 10.27 am.

Having considered the terms of the reports, and the submissions made, Councillor Barr moved that the Board refuse the application, on the basis of overprovision. Councillor Steel 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. There were no abstentions. Councillors Marshall, Barr, Bruce, Reid, and Steel voted for the motion. Councillor McMillan voted against the motion.

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

Mr Hunter requested a Direction under Section 25 which was granted by Councillor Marshall, acting Convenor.

Mr Hunter requested a Statement of Reasons.

A.3 David McLean (Application Ref NA 1716)

The Board resumed consideration of an application for a Personal Licence made by the above Applicant. Mr McLean was neither personally present nor represented.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's Notice under Section 73(3)(b) of the 2005 Act and summarised issues arising.

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

The Board refused the application under Section 74(6)(a) for the purposes of Licensing Objective (a) preventing crime and disorder.

The meeting ended at 10.33 am.