

North Ayrshire Licensing Board
18 May 2015

Irvine, 18 May 2015 - 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, Grace McLean, Catherine McMillan, and Donald Reid.

In Attendance

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

Also In Attendance

Chief Inspector Shaw and Sergeant McIntosh (Police Scotland).

Convenor

Councillor McNicol.

Apologies for Absence

Ian Clarkson and John Easdale.

Declarations of Interest

None

1. Minutes

The Board were asked to confirm the Minutes of the Board meeting held on 25 March 2015. The Convenor proposed that the Minutes be adopted and this was seconded by Councillor Marshall. The Board unanimously agreed to confirm and adopt the Minutes.

2. Licences and Applications under the Licensing (Scotland) Act 2005.

The Board considered a report by the Clerk to the Licensing Board on matters under the Licensing (Scotland) Act 2005. The report, on this occasion, contained 1 Appendix;

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

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

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

A.1 Premises Licence 0224 Lanes, 1 The Promenade, Largs

The Board considered an application for variations and transfer of a Premises Licence made by the Licence Holder, Lanes at Largs Ltd, for the above premises. J D Wetherspoon (Scot) Ltd were the Transferee. The Licence Holder and Transferee were represented by Archie MacIver, Solicitor, and he was accompanied by Mr Taylor of Lanes at Largs Ltd, and Ms Dumbreck, an Area Manager with J D Wetherspoon (Scot) Ltd.

The Licence Holder was requesting the following variations:

1. Amend description.
2. Amend address by deleting 'Lanes'
3. Amend OP1 from on-sales to both on- and off-sales.
4. Amend on-sales hours.
5. Add off-sales hours.
6. Add seasonal variations (referring to Board Festive Period policy).
7. Amend OP so Premises will not have restaurant facilities.
8. Amend OP so Premises will have bar meal facilities.
9. Amend OP so Premises will cater for Club or other group meetings.
10. Amend OP so Premises will not have dance facilities.
11. Amend OP so Premises will not cater for indoor or outdoor sports.
12. Amend OP so Premises will have televised sport.
13. Add to OP early opening to serve food but no alcohol.
14. Amend OP so as to delete other activities.
15. Amend OP as to terms of under-18 access.
16. Amend OP to increase under-18 access to 22.00.
17. Amend OP as to parts of premises for under-18 access.
18. Alter capacity.
19. Substitute revised Layout Plan.

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.

A list of all of the objections to the application was contained within the Board report. Scott Blair, Advocate, and James Russell, Solicitor, were present for objection number 118. Objector Archie Burleigh was also present. Mr MacIver confirmed that he had seen a copy of the objections prior to the Board meeting and copies of the written objections were given to the Board Members. Mr MacIver submitted that the objections numbered 128 to 132, and the letter from 'Largs Bid', were late and should be disregarded. Mr Blair confirmed he had no issue with Mr MacIver's submission. The Board unanimously agreed to treat these particular objections as 'not made', and accordingly they were not considered.

Mr MacIver then addressed the Board regarding the application and issues arising. He explained that this was a proposal to convert part of the existing licensed premises into a traditional public house. The project would receive an investment of £1.4 million and create 50 jobs.

Wetherspoons have 2 outlets in the Board's area, namely the Auld Brig in Irvine and the Salt Cot in Saltcoats. These premises do not cause any trouble and Mr MacIver highlighted that there was no Police objection to the Largs proposal. The premises would serve food and drink in a safe environment. There would be no live music, however it was Wetherspoons policy to have TVs on with muted noise.

Regarding the objections, Mr MacIver noted that they fell into several categories, and a major theme was overprovision. Clearly there had been a well-organised campaign from the local Trade. It was clear that many of the objection letters were pro forma.

Mr Maclver said that the Board's overprovision policy inverted the onus, by placing it on the Applicant to address the Board on the Section 4 Licensing Objectives. This was not new to Wetherspoons, as even before the 2005 Act introduced Licensing Objectives, Wetherspoons already operated a 'Code of Conduct' which largely mirrored the Licensing Objectives.

Mr Maclver then highlighted a number of Wetherspoons policies and procedures, as well as aspects of this application, all of which addressed the Licensing Objectives.

The premises would offer a full food menu and the kitchen would be open to 11.00 pm. Mr Maclver questioned whether it was appropriate to treat these particular premises as a public house, given that the premises would offer a 50/50 food/drink split.

The premises would be fully-tabled, and there would be little vertical drinking. The provision of food 'softened' premises. The premises would stock a wide range of soft drinks, and the strength of alcoholic drinks was stated. The company showed responsibility when marketing. The Trade objectors made a big issue about pricing. According to them, Wetherspoons was 'pile it high, sell it cheap', but this was just not so as the company sold at reasonable prices.

Staff training was not just the statutory minimum at the start, but was ongoing. The Company tended to retain its staff and staff turnover was 12% less than the Trade average, and about 75% of the Company's managers had started lower down the promotion ladder.

One of the Company's policies for staff was 'Don't do drunk' and customers are told when they would not be served any more. The premises would be fully covered by CCTV, and the recordings retained for 30 days. The premises would always use toughened glass.

The Company was prominent in the 'Pubwatch' scheme nationally and would help set one up locally if there wasn't one.

Regarding the preventing public nuisance Licensing Objective, Mr Maclver explained that towards closing time Wetherspoons premises raised lighting levels. There was a customer dispersal policy and customers would be directed away from the premises. The premises would start the 'drinking-up' procedure earlier than the statutory time. There would be between 15 and 60 mystery visits by senior staff or independent assessors each year and all premises get at least 5 such visits per month. The employees know how important it is to comply with Company policies as staff bonuses are linked to favourable reports. Mr Maclver added that any Outdoor Drinking Area would also be covered by CCTV.

Regarding other comments within the objections, Mr Maclver stated that pricing policy was not an issue for the Board. There was no Minimum Pricing legislation.

On the point raised about off-sales (Variations 3 and 5), for the avoidance of doubt this facility would be used to enable customers who had already purchased a bottle of wine to drink with their meal to have the bottle re-sealed so that they could take it home. He said that he would remove this part of the request if the Board had an issue with it.

Referring to the Board report and the proposal to have on-sales from 10.00 am instead of the Board policy time of 11.00 am (Variation 4), Mr Maclver confirmed that

the premises would comply with Board policy, and the application should be regarded as amended accordingly.

Mr Blair then addressed the Board. He referred to objection 118. Mr Blair stated that the focus was on overprovision. It was not enough to meet the Licensing Objectives. Even if an Applicant did that, there might still be overprovision.

At the heart of the issue was the risk of creeping erosion of the Licensing Objectives over time. This was especially the case with the Licensing Objective protecting and improving public health. He said that Mr MacIver did not touch on that.

The effects of alcohol were insidious. The Board had already said that the North Coast locality was overprovided. Even the best-run establishment eventually causes harm. Mr Blair agreed that price was not an issue for the Licensing Board, however, if you were to go through the Wetherspoons menu, there are examples of alcohol-related discounting.

The Board had to look at the underlying policy, and the evidence for it. The Board had had information from the NHS and MESAS (Monitoring and Evaluating Scotland's Alcohol Strategy). Andrew Fraser of West Dumbartonshire (now of North Ayrshire) had estimated harm. Wetherspoon's Salt Cot in Saltcoats opened in 1999, and in the following 10 years the hospital admissions rate for alcohol-related conditions in that area increased by 50%.

What is proposed here is a 350 customer public house. It lacked substance for Mr MacIver to estimate. It was easy to assert, and more difficult to prove. Wetherspoons would surely themselves keep comprehensive data on what they were selling, and yet Mr MacIver did not produce a till-roll. Mr Blair commented that the Board's own Policy was evidence-based, but there was no evidence for Mr MacIver's assertions. Even if the Applicant could satisfy the Board that the principal activity was the provision of food, he did not see Mr MacIver disputing the Board's approach that it was a public house rather than a restaurant, which are treated differently in the Board's overprovision policy - Function Type 3 vs. Function Type 4.

Mr Blair submitted that Mr MacIver did not address issues. Mr Blair accepted that the Board had, in their overprovision policy, treated the North Coast locality as having less serious alcohol-related problems from much of the rest of North Ayrshire, but the Board's policy also recognised that people would travel to one locality from another 'poorer' area. Largs did serve a wider area.

Mr Blair said price was relevant, in that reduced prices would create a downward spiral. Wetherspoons were a large capacity operation. The effect would be less if they had a capacity of only, say, 100. Mr Blair suggested that Mr MacIver should say more than "we're not the cheapest, nor the dearest". He should produce cogent material, as otherwise the Board was making a decision in the dark.

As to food, Mr Blair said that the Board should have clear information. How many meal customers would go on to order a drink, and how many would just order drink. He accepted that Wetherspoons promotions were not technically 'Irresponsible Drinks Promotions' (in the sense of the mandatory Licence Condition), but they were, he said, 'sailing close to the wind'. They were doing these things day in, day out.

Mr Blair said that, if the Board granted the variation now, there would be a clear risk of a loss of control. If an issue with the Licensing Objective preventing crime and disorder arose, one could readily identify it, since there would be Police statistics, but

it was different when it came to assessing health. In the course of the preparation of the Licensing Board's LPS in 2013, the Health Board had looked at data from years ago, especially the period 2005 to 2010. It already showed that there were issues, albeit not yet so bad in North Coast. It had taken the Health Board a long time to identify a trend. Mr Blair said it was simply impossible for the Applicant to assert that erosion would not continue.

Mr Blair agreed that the Board could not limit price, but the Board could limit availability. He referred to the scale of the proposal. The premises were simply too big. They were anonymous. They might be given a name with local connotations, but once you were inside you might as well be anywhere in Scotland. There was caselaw which made this relevant. The proposal offered Largs nothing different. There were already 8 pubs in Largs selling pub food.

In response, Mr MacIver reminded the Board that Mr Blair represented the Trade. He had represented Wetherspoons at many Boards across Scotland, and he wished he had a £1 for every time he'd heard such objections. Mr. MacIver pointed out that the Board was not there to protect other Trade.

If anything, the introduction of a Wetherspoons might actually lead to upgrading, as it would force neighbouring licensees to 'look to their laurels'. Mr MacIver recalled that a Wetherspoons opened in Helensburgh and other premises which had been closed then re-opened. He added that, despite their strong overprovision policy, West Dunbartonshire Licensing Board had agreed to grant a Wetherspoons in High Street, Dumbarton 2 years ago.

Mr MacIver highlighted that there was no objection from the Health Board. He knew there had been NHS objections in other cases where overprovision was an issue. He commented that North Ayrshire Licensing Board were at an advantage, since there were already two Wetherspoons premises in the Board's area.

In response to Mr Blair's comments about the menu, Mr MacIver pointed out that it would not just be alcohol that would be served with meals. The menu also contained lots of soft drinks. Wetherspoons were founder members of the Drink Aware Trust, and the menus contained an internet link to the Trust. The company also produced a newsletter called Wetherspoons News which included responsible drinking guidance. All meals on the menu were made with organic food.

Mr MacIver commended the proposal. He said that the premises would be attractive to the eye and it was a first-rate opportunity for Largs.

The Convenor noted that the application was seeking to remove the existing requirement for an adult to accompany 'Young People'. Mr MacIver said that the Applicant was in the Board's hands. Wetherspoons had in the past asked the Board to vary this, but he would delete the request if required.

Mr Blair described the application as 'opportunistic'. He referred to the fact that there was no representation from the relevant Health Board, NHS Ayrshire and Arran. Mr Blair suggested that this could be explained by the fact that the person at NHS Ayrshire and Arran who usually dealt with alcohol licensing had left and had not been replaced.

Mr O'Brien explained that the application was intimated to the Health Board as usual, and it had been confirmed to him by Dr Sonya Scott, Public Health Consultant, that the Health Board were not making any representations in this case.

Addressing everyone present at the meeting, the Convenor enquired if anyone had anything to add. He said that the Board would have regard to written comments anyway.

Mr Burleigh (objection 26) addressed the Board, re-iterating the content of his written objection.

Responding to comments from Councillor Barr and Councillor Marshall, Mr MacIver said that if the Board directed then his client was willing to drop the off sales part of the proposal.

Councillor Marshall asked Mr MacIver what reduced capacity figure would be acceptable to his client. Mr MacIver said that he could not give a figure as that should be set by the Council's Building Standards Department.

The Convenor informed Mr Blair that he represented the area which included the Salt Cot, and he said that the town of Saltcoats had only lost one Licensed Premises since the Salt Cot had opened.

Although there were indeed commercial issues, Mr Blair noted that the Scottish Ministers' Guidance was that the Board was supposed to look at the wider health issues. For every extra job that new premises created, there was an extra person with health issues.

Mr Blair referred to Councillor Marshall's question to Mr MacIver about acceptable capacity. He stated that this was defined by Section 147 of the Act and the Applicant could not change it. In his opinion, Mr MacIver was using a lot of guesswork, and it was for the Applicant to quantify risk. The Board should apply the precautionary principle, and err on the side of caution.

The Board adjourned to the Members Lounge with the Solicitor (Licensing) at 11.10 am to deliberate in private and re-convened at 11.47 am.

Having considered the terms of the report, and the submissions made, Councillor Reid moved that the Board determine the application for variations as follows:

1. Amend description. - Grant
2. Amend address by deleting 'Lanes' - Grant
3. Amend OP1 from on-sales to both on- and off-sales. - Grant, but only so as to permit on-sales (refusing off-sales)
4. Amend on-sales hours. - Grant with qualification, the hours to start at 11.00 am, on all 7 days
5. Add off-sales hours. - Refuse as unnecessary
6. Add seasonal variations (referring to Board Festive Period policy). - Grant
7. Amend OP so Premises will not have restaurant facilities. - Grant
8. Amend OP so Premises will have bar meal facilities. - Grant
9. Amend OP so Premises will cater for Club or other group meetings. - Grant
10. Amend OP so Premises will not have dance facilities. - Grant
11. Amend OP so Premises will not cater for indoor or outdoor sports. - Grant
12. Amend OP so Premises will have televised sport. - Grant
13. Add to OP early opening to serve food but no alcohol. - Grant
14. Amend OP so as to delete other activities. - Grant
15. Amend OP as to terms of under-18 access. - Grant, but requiring both Children and Young People to be taking food

16. Amend OP to increase under-18 access to 22.00. - Grant
17. Amend OP as to parts of premises for under-18 access. - Grant, with the condition that no under-18s should be allowed within 1 metre of the bar.
18. Alter capacity. - Grant, but restricting capacity to 225, not 350
19. Substitute revised Layout Plan. - Grant, but with a condition that a barrier should be built on the Promenade side, adjacent to the external drinking area, measuring 2 metres from pavement level.

Councillor McMillan seconded the motion. Councillor Barr moved, as an amendment, that all variations should be refused, citing health grounds and that the proposed premises were too large. Councillor McLean seconded the amendment, on the grounds of overprovision

There was then a roll-call vote. Councillors Bruce, Marshall, McNicol, McMillan and Reid voted for the motion. Councillors Barr and McLean voted for the amendment.

Accordingly the application for variations was determined as per Councillor Reid's motion.

With reference to Section 35(3), the Convenor asked of Mr MacIver if he accepted the Board's decision. Mr MacIver confirmed that he did.

The Board then turned to the transfer part of the application. The Convenor moved that this be granted, and this was seconded by Councillor Bruce. As an amendment, Councillor Barr, seconded by Councillor McLean, moved refusal.

Without a vote all Members expressed the same position as they had done in relation to the variations. Accordingly the transfer application was granted.

Mr Blair requested a Statement of Reasons.

A.2 Premises Licence 0341 Crown Inn, 162 High Street, Irvine

The Board considered a Review Proposal under Section 37, relating to the above premises. The Licence Holder, Hawthorn Leisure Limited, was represented by Stephen McGowan, Solicitor, and he was accompanied by Joanne Houston, Tenant and Premises Manager, and Ian McNally of Iona Hawthorn Leisure Limited.

The Board considered the terms of a report by the Solicitor (Licensing) which set out and summarised the issues arising. Mr O'Brien explained that on 25 March 2015, having received a report from the Chief Constable under Section 84A, the Board considered a Personal Licence Review Hearing in relation to Helen Deadman. Having considered the case, one of the Board's decisions was to make a Review Proposal under Section 37, with the Grounds for Review being the same as those cited by the Chief Constable within the Section 84(A) report of Helen Deadman.

The Board also had regard to a report by Grace Cullen, Licensing Standards Officer.

Thereafter Mr McGowan addressed the Board on the issues arising. He noted the background to the Review Proposal and acknowledged that given the Police had a number of issues with Helen Deadman, the previous Premises Manager, it was understandable that the Board were seeking to establish how Hawthorn Leisure are / have been dealing with the issues raised in the Personal Licence Review Hearing.

Mr McGowan explained that the management failings at the premises were identified to Hawthorn Leisure by the Police on 10 March 2015. Referring to his written submission lodged prior to the Board, he said that the Licence Holder had taken the matter very seriously and have taken a number of positive steps to address the failings, including the removal of Helen Deadman from her employment at the premises, effective from 6 May. Mr McGowan added that the previous management failings were unacceptable and Hawthorn Leisure and Joanne Houston have now implemented policies and procedures at the premises which ensure compliance with the Police recommendations. As the Premises Manager, Joanne Houston now works a minimum of 40 hours a week at the premises. All original Licensing related documents and records were then passed to the Board Members for their attention.

Mr McGowan said that there was no doubt that there had been management failings at the premises. However, all failings have been addressed by the Licence Holder and Helen Deadman's employment has been terminated. Mr McGowan noted the positive feedback from the Licensing Standards Officer and he had spoken with the Police, who are now much happier with the management of the premises. The Police also speak favourably of Joanne Houston, who has played a pro-active role to improve the communication and working relationship between the premises and the Police. Mr McGowan requested that the Board take all of this information into account.

Chief Inspector Shaw then gave an update. He said that he was happy to confirm all of Mr McGowan's submissions. The Police have noted significant improvements at the premises.

Mr McGowan then responded to questions from Councillor Reid and Councillor Bruce. He highlighted that neither Hawthorn Leisure nor Joanne Houston had any knowledge of Helen Deadman's apparent deliberate deletion of CCTV footage. All staff are now trained on the operation of the CCTV system. Mr McGowan added that door stewards are employed at the premises from 9.00 pm on Friday and Saturday nights.

The Convenor commented that he was pleased to see the Premises Licence Holder working positively with the Police and Licensing Standards Officer.

Councillor Marshall proposed that the Grounds for Review were not established and no further action should be taken. There was no counter-motion and the Board unanimously decided, without dissent or abstention, that the Grounds for Review were not established and no further action should be taken.

A.3 Personal Licence NA0546 – Shahid Ramzan

On the basis of information provided by the Licence Holder, and subsequently confirmed by the Chief Constable, Mr Ramzan 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 23 December 2014 at Kilmarnock JP Court. Mr Ramzan was not present or represented.

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 read by Chief Inspector Shaw.

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

A.4 Dreghorn Brewery (Former Dreghorn Primary School), Main Street, Dreghorn

The Board considered an application for grant of a Provisional Premises Licence made by Arran Brew Ltd for the above premises. The Applicant was represented by Stephen McGowan, Solicitor, and he was accompanied by Gerald Michaluk, Director, Arran Brew 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.

Objections to the application had been lodged with the Licensing Section by Mr John Watson and Mrs Elizabeth Young, both residents of Main Street, Dreghorn. Mr McGowan 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. Although neither objector was present, Mr Watson was represented by Professor William Banks. Professor Banks submitted a letter to the Board from Mr Watson, authorising Professor Banks to represent him at the Hearing.

Mr McGowan addressed the Board regarding the application and issues arising. He detailed the background of Mr Michaluk's company and explained that the overall proposal is to create the first Sake Brewery in the European Union. Once fully developed, the site will consist of a brewery, bottling plant and visitor centre, and it is intended to be a national and international tourist attraction. The former Primary School building is currently a dilapidated eyesore and the project will create 30 new jobs in due course.

Mr McGowan explained that although the plan, in the fullness of time, is for a brewery, bottling plant and visitor centre, the application before the Board today is only for the bottling plant, which requires an off sales premises licence due to the intention to dispatch alcohol from the facility. An application to licence the proposed brewery and visitor centre will be lodged at a later date. Mr McGowan added that the bottling plant would most likely operate between 9.00 am and 5.00 pm and there would be no public access to the facility out with organised tours. With reference to Section 2 of the Board report, Mr McGowan clarified that his client would like under 18s to be able to accompany adults on the proposed tours.

Regarding the objection made by Mr Watson, Mr McGowan said that the terms of the objection were mostly planning issues. Traffic, noise and congestion are not matters for the Licensing Board. He added that as this proposal will not be an off sales shop which is open to the public, it cannot be compared to other current premises licences. This proposal is the very definition of unique.

Professor Banks then addressed the Board. He referred to Mr Watson's written objection and said that although he had been helped slightly by Mr McGowan's submission, there were 4 reasons why the application should be refused.

The first reason was overprovision. With reference to the Board's current Licensing Policy Statement, Professor Banks suggested that the proposal met the refusal criteria in terms of overprovision. He highlighted that the area in which the proposed premises are to be located is particularly bad for crime and disorder and the objector, Mr Watson would not walk down the Main Street in Dreghorn on a Saturday night due to concerns for his safety. Referring to the function type and locality of the proposed premises, and the issues concerning alcohol consumption in an off sales environment, Professor Banks stated that he could only conclude that the application would have to be refused.

With reference to Section 23(5)(d)(i), Professor Banks said that the second reason for refusal was that the nature of the activities proposed to be carried out on the premises were not in line with the building next door, which is a church. The nature of the activities proposed is not in keeping with the ethos of the church.

Professor Banks explained that the location was the third reason for refusing the licence. There are some up market, desirable properties in the vicinity of the proposed premises, and if the licence is granted there will be no value or amenity added for these properties.

Professor Banks stated that a fourth reason for refusal was that ethically, the proposal before the Board today was not the best use for this building.

In response to the comments made by Professor Banks, Mr McGowan re-iterated that the application before the Board today is to cover the dispatch element of the bottling plant, so there will be no alcohol on display, hence the zero capacity figure. Alcohol bottled at the plant will be sold by mail order and distributed to the trade and other customers, worldwide, and therefore the amount of alcohol from the plant which is consumed in the local area is likely to be relatively very small indeed. Mr McGowan stated that amenity is an issue for Planning, the church next door to the proposed premises had not objected to the application, and given the current, dilapidated state of the building, the character of the premises will be positively transformed with the development.

In terms of overprovision, Mr McGowan said that consideration of overprovision is made with premises of the same or similar description. Not one other premises can be compared to this application, which is entirely unique. The beer produced and bottled at the facility in due course will be of high quality which is intended to be savoured, not binge consumed. Mr McGowan invited the Board to grant the application.

Professor Banks stated that he was concerned about the prospect of off sales 'creep'.

In response to a question from Councillor Reid, Mr McGowan detailed the measures taken by the company to prevent sales to underage persons.

Councillor Bruce said that as the facility was going to be a tourist attraction, in his opinion, there should be no age restriction in relation to the organised tours of the plant.

The Board adjourned to the Members Lounge with the Solicitor (Licensing) at 1.07 pm to deliberate in private and re-convened at 1.12 pm.

Having considered the terms of the report, and the submissions made, Councillor Marshall moved that the Board grant the application, with no age restriction for the proposed tours. Councillor Bruce seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A and B.

A.5 Public House, 11-13 Bridge Street, Kilbirnie

The Board considered an application for grant of a Provisional Premises Licence made by Arran Brew Ltd for the above premises. The Applicant was represented by Stephen McGowan, Solicitor, and he was accompanied by Gerald Michaluk, Director, Arran Brew 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.

A joint objection to the application had been lodged with the Licensing Section by Mr Marc Miller of Jennings Gardens, Kilbirnie, and Ms Patricia Miller of Bridge Street, Kilbirnie. A representation had also been made by Kilbirnie and Glengarnock Community. Mr McGowan confirmed that he had seen a copy of the objection and representation prior to the Board meeting and copies of the written submissions were given to the Board Members. Mr Miller was present. The Community Council were not represented.

Mr McGowan addressed the Board regarding the application and issues arising. He explained that the proposal is for Mr Michaluk's company to renovate dilapidated premises and invest within the local area. Similar to the previous case, this application, with its micro-brewery, is also very unique.

Regarding the objection, Mr McGowan noted that the concerns relate mostly to the external area. He confirmed that no activities are planned for that area, other than the consumption of food and alcohol. Mr McGowan highlighted that Mr Miller's letter ended on a positive note and he also noted the positive submission from the Community Council.

Mr Miller then addressed the Board, re-iterating the content of his written objection. He confirmed that his main source of concern was the fully enclosed outdoor area. There is only one access to and from the area which is dangerous if an incident were to occur. He noted a concern with smoking and potential anti-social behaviour in the outdoor area and added that a 'cursory sweep' of the area by staff would not be adequate in terms of supervision.

Mr Miller said that he did hope that the proposal was given the go ahead, although he had concerns regarding the outdoor area and would prefer if activity was focused to the front of the premises.

In response to Mr Miller, Mr McGowan provided an assurance that Mr Michaluk and his colleagues would be good neighbours. Mr Michaluk would ensure that all neighbours, including Mr Miller, were provided with direct contact telephone numbers for the premises management. The CCTV system would cover the external area and would be constantly monitored by staff at the bar, providing permanent supervision.

Mr McGowan suggested that the single access to and from the outdoor area was actually a good thing. It meant that people who were accessing the external area would already have been assessed by staff within the premises. Mr McGowan said that the premises will be deliberately marketed at families. Although they did not envisage any future issues, Mr McGowan acknowledged that his client was aware of the Review procedure and role of the Licensing Standards Officer, should they be required.

Having heard Mr McGowan's comments, Mr Miller said that he did not view the proposed measures, such as the CCTV proposals, as being very good.

Regarding the external area, Councillor Marshall suggested that a solution could be to limit use of the area to 9.00 pm.

Councillor Reid said that he was concerned about customers smoking at the front of the premises, as this would potentially be a bigger issue and source of disturbance.

Mr Miller said that to channel activity to the front of the premises would be in keeping with the town centre regeneration.

Councillor Barr departed the meeting at 1.35 pm.

In response to Councillor Marshall's suggestion, Mr McGowan confirmed that his client would agree to use of the external area between 11.00 am and 9.00 pm. Mr McGowan added that baby changing facilities would be installed in the disabled toilet.

The Board adjourned to the Members Lounge with the Solicitor (Licensing) at 1.37 pm to deliberate in private and re-convened at 1.43 pm.

Having considered the terms of the report, and the submissions made, Councillor Reid moved that the Board grant the application on the basis that under 18s must be accompanied by an adult and only be at the premises to take food, and that Standard Condition C.5.2 be amended as agreed. Councillor Marshall seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A, B, C and F. Standard Condition C.5.2 is amended to read:

'No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 am and later than 9.00 pm.'

A.6 Premises Licence 0413 Little Rock Cafe, Shore Road, Brodick

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

The Licence Holder was requesting the following variations:

1. Allow under 18s unaccompanied access to the premises.
2. Permit use of outdoor drinking area from 9.00 am.
3. Dis-apply NALB standard conditions relating to capacity and toilet checks.

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.

A representation in relation to the application had been made by Arran Community Council and copies of the written submission were given to the Board. The Community Council were not represented.

Having considered the terms of the report, and the written submission from the Community Council, 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.8, C.12.2, and C.12.3 are dis-applied and Standard Condition C.5.2 is amended to read:

'No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 am and later than 10.00 pm, except that tea, coffee and other soft drinks may be served from 9.00 am.'

A.7 Premises Licence 0464 The Harbour Lights, 15 Stuart Street, Millport

The Board considered an application for variations of a Premises Licence made by the Licence Holder, John McBride, for the above premises. Mr McBride was not present or represented.

The Licence Holder was requesting the following variations:

1. Variation of hours: amend daily core hours to 11.00 – 23.00.
2. Variation of activities: include receptions for weddings, funerals, birthdays etc.
3. Variation of access for under 18s: permit access during core hours.

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.

The meeting ended at 1.55 pm