

North Ayrshire Licensing Board
7 July 2016

Irvine, 7 July 2016 - At a meeting of the North Ayrshire Licensing Board at 11.00 am in the Garnock Committee Room, Cunninghame House, Irvine.

Present

Ian Clarkson, John Bruce, Grace McLean, Catherine McMillan and Donald Reid.

In Attendance

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

Convenor

Councillor Clarkson

Declarations of Interest

None.

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 application or any other application requiring a Hearing

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

A.1 Premises Licence 0121 Stag & Hound, 13 Howgate, Kilwinning

This Application for variations of a Premises Licence made by the Licence Holder, Buzzworks Inns Limited had called on the Agenda for the scheduled Board Meeting on 13 June 2016. The Applicants were not then present or represented, and the Board had continued the case until their next Scheduled Meeting in September. The Applicants had contacted the Board shortly after, advising that the non-appearance was caused by human error and that they were hoping to re-open the Premises in August. The Convenor agreed that a Special Meeting, during the Council Recess, should be held.

On 7 July 2016 the Board resumed consideration of the Application. The Licence Holder was represented by Mr. Brian Dunlop, Solicitor, and he was accompanied by Mr. Colin Blair and Ms. Nicola Watt.

The Licence Holder was requesting the following variations:

1. New Layout Plan
2. Change Name of Premises to 'Cornerhouse'
3. Increase Capacity to 150
4. Amend Sunday on-sale operating hours
5. Extension during Festive Season
6. To allow restaurant facilities outwith Licensed Hours for breakfast & soft drinks
7. Amend terms of access for Children and Young Persons
8. Amend OP: allow Films inside & outside Licensed Hours
9. Amend OP: allow Outdoor Drinking Area to be used inside & outside Licensed Hours

10. Amend Description of Premises

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. Dunlop apologised for non-attendance at the previous meeting and thanked the Board for convening this Special Meeting. Mr. Blair also thanked the Board for convening this meeting.

Mr. Dunlop then addressed the Board. He explained that the proposal was to create 'Cornerhouse' within the town centre of Kilwinning. Mr. Dunlop provided another copy of the Layout Plan outlining the restaurant areas in red, and the bar area in green. The proposal was to create 4 dining areas. He stressed that this was not an attempt to create a "super pub". These Premises would be run similarly to the other Buzzworks' Premises in Ayrshire.

Referring to issues raised in the Report:

Variation 5, 'Extension during Festive Season'

The Report raised the issue of the competency of this request, and Mr. Dunlop confirmed he was prepared to delete it.

Variation 3, 'Increase Capacity from 110 to 150'

He advised that this request arose from the expansion of the building.

Mr. Dunlop referred to Overprovision contained in the Board's Policy Statement with regards to 'Locality' and 'Function Type'. He emphasised that the statute invites comparison between the Subject Premises and other Premises of 'the same or similar description'. In his view, there were no comparable Premises in Kilwinning. In his view the Report's description of 'Function Type' did not do justice to the Subject Premises. He referred to the Board's Overprovision Assessment and discussed the data for the Intermediate Zones in the near area. He said that the present proposal would only add 40 more on-sales customers, which he said was only a 2% increase.

He acknowledged that there was a presumption of refusal, but suggested that this had been overcome here, and that the Premises could be treated as an exception to Policy.

He suggested that the Subject Premises, as varied, would actually be a benefit to Kilwinning. With regard to the Licensing Objectives, Mr. Dunlop confirmed that all the Licensing Objectives would be complied with. In particular, in relation to the "Public Health" Licensing Objective, he said that the main problem in society was with alcohol purchased from off-sales. In his view, it was better to have a drink with a meal in the regulated environment of on-sales.

He confirmed these would be high quality Premises with staff being well-trained. The Premises would be operated in a similar way to his clients' other 9 Premises in Ayrshire. The development involved an investment of over £1,000,000 and would create 35 new jobs.

Variation 9, 'allow Outdoor Drinking Area to be used inside & outside Licensed Hours'

Mr. Dunlop noted that there were no residential objections. He advised that the area would be fully supervised by trained staff and that his client will comply with the Board's Conditions in relation to the outdoor drinking area. This area would also be used for breakfasts and he accepted the proposed variation of the condition set out in the Report, adding to Condition C.5.2 words:

"except that the consumption of tea, coffee and other non-alcoholic drinks is permitted from 10.00."

Members asked questions.

Councillor Bruce asked for the emergency exits to be pointed out and sought clarification of the capacity of the outdoor drinking area. Mr. Blair highlighted 3 emergency exits on the layout plan and confirmed that there would be 16 covers in the outdoor drinking area. Mr. Blair advised the Board that the courtyard was in an effort to keep people wishing to smoke away from the front door area. Councillor McLean noted that this was similar to their Premises in Largs.

Mr. Blair then advised the Board that the Premises as varied were based on one of their existing style Premises in Stewarton which has a restaurant and a traditional style pub.

Responding to questions from the Convenor and Councillor Bruce, Mr. Blair confirmed that customers would enter the courtyard from the pub area and would use the outdoor area/courtyard, primarily for smoking. He thought it was better to have smokers in an internal court-yard than standing in the street in front of the Premises. He clarified that this area would be professionally managed and alcohol served in a controlled environment. He showed the Board a photograph of the door leading from inside and described it as "a glazed screen".

Cllr. Bruce asked Mr. Blair "was the Outdoor Drinking Area a 'beer garden'?". Mr. Blair replied that people could have a smoke and a coffee there.

Mr. Blair explained that the Applicants wished to co-exist with neighbours and referred to circumstances within other areas where they had worked with neighbours to resolve issues. He gave the example that the Applicants had paid for a neighbour's triple-glazing in Ayr.

He said that the position here was as he had described it to the other Ayrshire Boards: if there were problems with the outdoor area, the Applicants would close it themselves.

Councillor Reid noted that the proposal for the courtyard would be preferable to having customers smoking in the street at the front of the Premises.

The Convenor enquired of Members if there was any Motion. Councillor Reid moved that, with the removal of Variation 5, the Application should be granted. Councillor McLean seconded the Motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant.

The Convenor highlighted that tea/coffee and soft drinks could be served in the outdoor drinking area, with breakfasts, from 10 a.m. and all Members of the Board confirmed that Standard Condition C.5.2 (which relates to Outdoor Drinking Areas) should be amended to read:

"No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm., except that the consumption of tea, coffee and other non-alcoholic drinks is permitted from 10.00."

The meeting ended at 11.25 am.