

**North Ayrshire Licensing Board
22 February 2016**

Irvine, 22 February 2016 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

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

In Attendance

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

Also In Attendance

Chief Inspector Shaw and Sergeant Griffiths (Police Scotland).

Convenor

Councillor Clarkson

Apologies for Absence

Councillor Ronnie McNicol.

Declarations of Interest

None.

1. Minutes

The Board were asked to confirm the Minutes of the Board meeting held on 11 January 2016. Councillor Bruce proposed that the Minutes be adopted and this was seconded by Councillor Barr. 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 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 Robert Jordan, Licensing Consultant.

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 Joy Tomlinson, Consultant in Public Health Medicine, NHS Ayrshire and Arran, and Irvine Community Council. No objectors were present.

Mr Jordan addressed the Board on the application. He advised that his applicant is now only seeking an alcohol display capacity of 4.6m² and this would all be behind the counter at Area A on the layout plan submitted with the application. His client would like to further invest in the store so as to provide additional fresh vegetables and a chill area but the shop will not remain viable without the facility to provide alcohol. He confirmed that his client would not be selling single cans of alcohol, would not sell 1, 2 or 3 litre plastic bottles of beer and cider and that a Personal Licence Holder would be on duty at all times. At the moment there are CCTV cameras in the Premises but if granted an additional 3 extra cameras would be installed. The Premises is a 30 minute walk away from the nearest premises selling alcohol and trade is being lost as customers are going elsewhere to purchase goods along with alcohol.

Referring to the Health Board objection, Mr Jordan confirmed that his client would not be selling beer, lager or cider above 5% ABV and that all alcohol will be behind the counter which would prevent shoplifting of alcohol and a minimum purchase of 2 cans of alcohol would be applied.

Mr Jordan advised that Mr Anees would ensure that all his staff would be thoroughly trained so as to prevent agent sales and ensure Challenge 25 policy is in place.

Mr Anees explained the catchment area of his Premises and advised that there are 185 new houses planned with 45 already been built. He confirmed that his business would not be viable without the facility to sell alcohol. At the moment he is struggling to pay rent and goods are being wasted due to the decrease in customer footfall as they are going to other stores who have an alcohol facility. Mr Anees has operated these premises for nearly 10 years and advised that he is very responsible and has previously operated licensed premises in Kilmarnock. He lives in this area and if the licence be granted this would create at least 2 full time and 3 part time posts.

Mr Jordan noted that no objections had been received from neighbours as they are in support of this application. He confirmed receipt of the objection from the Community Council and the Anti-Social Behaviour Report from Police Scotland although this report did not link anti-social behaviour to alcohol. Referring to the Health Board objection in relation to Licensing Objective Protecting and Improving Public Health, Mr Jordan believed that the premises would promote public health and will have cash machine and lottery facilities available, it would not sell beer, lager or cider above 5% ABV nor would it sell 1, 2 or 3 litre plastic bottles of beer and cider, it would have CCTV and a Personal Licence Holder on duty at all times.

Councillor Bruce asked, as this is the third application for the same premises by the same applicant, what is the difference from this application to the previous 2 that were refused? Mr Jordan advised that on this occasion there is a reduction in the off-sales display capacity, will restrict alcohol over 5% ABV and will not sell single cans of beer or cider and all alcohol will be behind the counter area.

Councillor Easdale, who did not attend the previous site visit to the premises, asked if the intention was for all the 4.6m² of alcohol be behind the counter. Mr Jordan confirmed that this would be the case, that all alcohol would be inaccessible to the public.

The Convenor asked for clarification as the initial application submitted had a capacity of 22.08m². Mr Jordan advised that his client is now only looking for a total of 4.6m².

Councillor Easdale asked if staff would have in-house training or training from an outside organisation. Mr Anees advised that he previously employed 6-8 people in his premises in Kilmarnock and that he had trained all the staff. He will be in the premises most of the time and he would train the staff and provide them with regular on-going training. Councillor Easdale asked Mr Anees to clarify if this would be in-house training? Mr Anees advised that it would be in-house training. At the moment he also employs a part time member of staff with a Personal Licence and he would ensure that the premises are run smoothly. He would also ensure that youngsters would not hang around the outside of the shop. Mr Anees confirmed to Councillor Easdale that training records would be completed for all staff and that he would ensure staff had regularly weekly refresher training and would only accept passport and driving licence identification for everyone under the age of 25.

Councillor Easdale asked if the proposal was only 4.6m² of alcohol and that no single bottles or cans would be sold. Mr Jordan confirmed that single bottles would be sold but not single cans.

The Board adjourned with the Solicitor (Licensing) at 10.20 am to deliberate in private and re-convened at 10.25 am.

The Convenor brought to the attention of Mr Anees the issue that Building Standards referred to with the roller shutter door at the premises. Mr Anees advised the Convenor that on the day that Building Standards visited he had to rush with his child to hospital and at late notice had another member of staff open the shop, this person was late arriving to open the shop and did not open the roller shutter before opening the shop to the public. The Convenor highlighted that as this is a fire exit it is important to the staff and customers that this roller shutter is open. Mr Anees advised that he always opens the back shutter first before opening the shop except for this one occasion. Mr Jordan confirmed that his client would ensure that this does indeed happen.

Having considered the terms of the report, and the submissions made, Councillor Barr 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. Councillor Easdale seconded the amendment.

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

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

Mr Jordan asked the Board for a Statement of Reasons. He also requested a Direction under Section 25, which was granted.

A.2 The Royal Blossom, 44-46 Townhead, Irvine

The Board considered an application for grant of a Provisional Premises Licence made by Fongs Property Ltd for the above premises. Mrs Kam Yin Fong, Director of Fongs Property Ltd was present and was represented by Mr Mitchell, 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.

The Convenor noted that the premises has been empty for some time and asked if the applicant had recently taken over the building.

Mr Mitchell then addressed the Board. He confirmed that Mrs Fong has been the owner of the building since it was constructed in 2000, it had been leased out to tenants who allowed the licence to lapse. The Company now wish to re-open the premises. Mr Mitchell confirmed to questions from the Convenor and Councillor Barr that the premises has been unoccupied for about a year and a half. The building will be refurbished prior to opening and are aware that Section 50 Certificates will be required from Environmental Health and Building Standards.

With regard to the anti-social behaviour report from Police Scotland, the Convenor asked if the applicant was aware of anti-social behaviour at the entry from Townhead to the houses at the back of the building. Mr Mitchell advised that his Client was not aware of this as the premises have not been attended to. He did not see reference to this in the anti-social behaviour report. When the premises are operational again, his Client may look at fitting security cameras in the locale. When Mrs Fong previously operated the premises she was unaware of any issues and this may be a result of the building being unoccupied. Councillor Barr asked if was possible for CCTV be installed in this area. Mr Mitchell asked if this is the area into Kiln Walk. The Convenor confirmed that the area was in fact at the side of the building in an enclosed walkway. Mr Mitchell advised that his Client could put a gate at the walkway.

Having considered the terms of the report, and the submissions made, Councillor Barr moved that if all the Conditions set by the Board are met that the application be granted. Councillor McLean seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. Mr Mitchell confirmed to Councillor Barr that there would not be any off-sales of alcohol. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A and C.

A.3 Premises Licence 0298 Irvine Water Sports Club, 66 Harbour Street, Irvine

The Board considered a Review Proposal under Section 37, relating to the above premises. The Licence Holder, Irvine Water Sports Club, was not represented.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the Chief Constable's Notice and summarised the issues arising. Chief Inspector Shaw advised the Board that a Committee Member had received a conviction in relation to the Road Traffic Act 1988 Section 5(1)(a) disposed of by a fine of £400 and disqualified for 15 months. The Clerk advised that this is a 'Relevant Convictions' as defined by Regulations and that the individual is not a Personal Licence Holder.

Having considered the terms of the report, Councillor Barr moved that no action be taken. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no action against the Licence Holder.

A.4 Premises Licence 0080 The Waterside, 14 Bath Street, Largs

The Board resumed consideration of a Variation Application of a Premises Licence made by the Licence Holder, Hillend Enterprises Ltd, for the above premises. Brian Purdie, Premises Manager was present.

The Licence Holder was requesting the following variation:

Add dance facilities to the Operating Plan

The Board had regard to a report supplied by Grace Cullen, Licensing Standards Officer. Ms Cullen's report detailed a site visit to the premises which took place on 10 February 2016 and was attended by Ms Cullen, Councillor Clarkson, Councillor Marshall and Councillor McMillan. They also had regard to the layout plans submitted showing the dance area. The Clerk advised that correspondence had been received from 2 of the objectors, Mr Castelvechi and Mr Findleton and they had been advised that the applicant was not doing anything new but was in fact bringing the licence up to date.

Councillor Marshall, who was on the site visit, recognised that Mr Purdie has spent a lot of money soundproofing the premises following difficulties in the past. The objectors to the application were mainly due to the request for late hours which have already been refused. Assurances were given by Mr Purdie that he would ensure his customers dispersed from the street as soon as possible after the terminal hour.

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

The meeting ended at 10.54 am