

**North Ayrshire Licensing Board
5 September 2016**

Irvine, 5 September 2016 - At a meeting of the North Ayrshire Licensing Board at 10.00 am in the Council Chambers, Cunninghame House, Irvine.

Present

Tom Marshall (Vice-Convenor), 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, C. Pollock, Licensing Administration Officer, and M. Champion, Administration Assistant.

Also In Attendance

Chief Inspector Shaw and Sergeant Griffiths (Police Scotland).

Convenor

Councillor Marshall elected as Convenor for today (see Item 1).

Apologies for Absence

Ronnie McNicol.

Declarations of Interest

None.

1. Election of Convenor – Licensing (Scotland) Act 2005, Schedule 1, Paragraph 6(2)

The Board considered a report by the Solicitor (Licensing), confirming the resignation of the Board Convenor, Councillor (now Provost) Clarkson, and advising that the Board conduct an election for the position of Convenor in accordance with the Licensing (Scotland) Act 2005, Schedule 1, Paragraph 6(2).

Having considered the report, Councillor Barr moved that Councillor McNicol be elected as Convenor. Councillor Bruce seconded the motion. There were no countermotions or abstentions. Accordingly, the motion was unanimously carried and Councillor McNicol was elected as Convenor for all future meetings.

As Councillor McNicol submitted apologies for today's meeting, a second election was conducted to elect a Convenor for today's meeting. Councillor Barr moved that Councillor Marshall be elected as Convenor for today. The Board unanimously agreed to elect Councillor Marshall as Convenor for today's meeting.

2. Minutes

The Board were asked to confirm the Minutes of the Board meeting held on 7 July 2016. The Convenor proposed that the Minutes be adopted. The Board unanimously agreed to confirm and adopt the Minutes.

3. 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 Chefs Eye Limited, 33-35 Nelson Street, Largs

The Board considered an application for grant of a Provisional Premises Licence made by The Chefs Eye Limited for the above premises. Mr Faisal Rahman, Director, was present.

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.

One objection was received to the application by the Occupier, G/L 37 Nelson Street, Largs. The objector was not present.

Mr Rahman then addressed the Board. The proposal is to provide healthy eating, fusion style cuisine with alcohol being available along with food.

The Convenor referred to the Objection which raised issues with soundproofing in the Premises. Mr Rahman advised that he met with the objector and explained his proposals which appeared to satisfy the objector.

Mr Rahman confirmed to the Convenor that Planning Permission has now been approved to allow the Premises to trade until Midnight.

Having considered the terms of the report and the submissions made the Board unanimously agreed, without dissent or abstention, to grant the application. The Provisional Premises Licence is granted subject to Standard Conditions (Edition 5) Parts A and C.

A.2 Premises Licence 0189 Iceland Foods, 90/106 High Street, Irvine

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Iceland Foods Limited, for the above premises. The Licence Holder was represented by Mr McGowan, Solicitor, and he was accompanied by Stephen Caldwell, Premises Manager.

The Licence Holder was requesting the following variations:

1. Allow Off-sales on Sunday from 10.00 a.m.
2. Increase Off-sales Terminal Hour to 21.00 (all 7 days)
3. Amend Seasonal Demand
4. Add home delivery

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 McGowan addressed the Board regarding the application. The request for Seasonal Variations was no longer necessary, and therefore he wished to withdraw this from the application. Mr McGowan noted that the change to hours was within the Board's own Policy and the application had not received any objections. Regarding the facility to cover home-deliveries, Mr McGowan explained that Iceland are very experienced in home-delivery, they have day books, delivery books, and all delivery drivers have received the mandatory training and operate a 'Challenge 25' Policy. Iceland operate a home-delivery service across the country and have received no objections or adverse report to this.

Referring to a previous case for a new application for a home-delivery service which was refused by the Board, Councillor Barr asked what procedures would be in place when the delivery is made. Mr McGowan advised that he was not aware of the previous case referred to. Iceland's standard terms and conditions (5.3 and 5.4) states that all deliveries must be received by a persons over 18 years of age with 'Challenge 25' in force. He also explained the loyalty card scheme terms and conditions, paragraph 26 and 27 also covers this. Mr McGowan explained that all delivery drivers are Iceland employees and will all have the minimum 2 hours staff training as well as know the acceptable forms of identification under 'Challenge 25'. Iceland have a robust system in place to ensure they capture any issues which could arise.

Mr McGowan confirmed to Councillor Barr that orders could be placed online for food and alcohol. Councillor Reid asked if there was an alarm triggered if an online order was only for alcohol, Mr McGowan advised that there is no specific software for a trigger at the moment but there is a minimum order spend before an order can be processed and it would be very unusual for a sale to go through with only alcohol.

Referring to the Licensing Objective "Protecting Children from Harm", Mr McGowan confirmed to Councillor Reid that the store, which will have been opened 25 years next year, has never failed a test purchase as far as he is aware. Nor is he aware of any problems with underage persons or persons under the influence of alcohol. The product range of the store is not for immediate consumption as it mainly consists of frozen food. Mr McGowan advised that Iceland are a responsible operator and have hundreds of stores over the UK and as far as he is aware the company have no issues with Reviews or any other issues.

Councillor Barr asked for an adjournment and the Convenor motioned that the Board adjourn to deliberate in private. The Board adjourned to the Members Lounge with the Solicitor (Licensing) at 10.17 am and re-convened at 10.23 am.

Having considered the terms of the report, and the submissions made, Councillor Bruce moved that the application be granted. Councillor McLean seconded the motion.

Councillor Barr moved, as an amendment, that the application be refused. There was no seconder for the amendment.

The motion was accordingly carried and the application granted with the request in relation to Seasonal Demand withdrawn.

A.3 Premises Licence 0224 The Paddle Steamer, 1 The Promenade, Largs

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 Mr McIvor, Solicitor, and he was accompanied by Chris Harvey, Premises Manager.

The Licence Holder was requesting the following variations:

1. Amend Operating Plan to permit outdoor drinking where activities on the premises are to be provided out with the core licensed hours.
2. Amend Standard Condition C.5.2 to permit consumption of non-alcoholic drinks in the outdoor drinking area out with the core licensed 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.

Mr McIvor addressed the Board regarding the application. He advised that the Premises had now been open for a few months. They had the facility to provide alcohol in the external area from 11am, but were not able to provide tea/coffee in this area before 11am, as that is against the Board's Standard Condition. The external area is on the waterfront and is very popular with customers, so the Applicants requested the facility to provide tea/coffee and soft drinks with breakfasts before 11am.

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 C.5.2 (which relates to Outdoor Drinking Areas) is amended to read:

"No alcoholic drinks shall be taken into or consumed in the outdoor drinking area facing the Promenade earlier than 11.00 a.m. or later than 10.00 p.m.."

A.4 Premises Licence 0310 Skelmorlie Golf Club, Beithglass Road, Skelmorlie

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Skelmorlie Golf Club, for the above premises. The Licence Holder was represented by Graham Hutton, Club Captain.

The Licence Holder was requesting the following variations:

1. Permit live music performances
2. Increase terminal hour on Saturday from 23.00 to 24.00 hours
3. Dis-apply standard condition C.10.3 (d) & (e)

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 Hutton addressed the Board regarding the application. The club was struggling financially, and they wanted the facility to provide live music and to extend the terminal hour on a Saturday in order to increase the golf club's revenue. Next week the club would be

celebrating its 125th anniversary and their celebrations would like to include live music. Additionally the club is family-orientated and would like to permit children to use the pool table.

The Convenor congratulated the club on reaching its 125th anniversary.

Mr. Hutton confirmed that he accepted the variation of conditions suggested in the Report:

“Standard Conditions C.10.3 (d) and (e) will not apply, and Children will be allowed to enter the part of the Premises containing a dartboard, pool table or other facilities, on these conditions:

(1) if the Child is under supervision of an adult of 18 or over, the Child can use those facilities or remain in the area where those facilities are, or

(2) whether the Child is supervised or not, he/she can pass through the area for the sole purpose of immediately and necessarily travelling to or from the Premises’ toilets,

(3) The dispensation will only apply to the current Layout Plan. If the layout of the Premises changes, facilities are moved, or new facilities are added, a new request for dispensation will be needed, and the fact that the Board has agreed to the current one does not mean that a future dispensation will be agreed;

(4) The Board may from time to time, on one or more occasions, reconsider the question of dispensation and may withdraw or vary it.”

Having considered the terms of the report, and the submission made, Councillor McLean moved that the application be granted with the quoted variation to the Licence conditions. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant with the additional condition added to the Premises Licence:

A.5 Premises Licence 0296 Irvine Park Bowling Club, 2 Woodlands Avenue, Irvine

The Board considered an application for variations of a Premises Licence made by the Licence Holder, Irvine Park Bowling Club, for the above premises. The Licence Holder was represented by John Brown, Secretary.

The Licence Holder was requesting the following variations:

1. Surrender special status as a ‘Section 125 Club’
2. Appoint new Premises’ Manager

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 Brown addressed the Board regarding the application. The request to surrender the clubs status under Section 125 and adopt Part K of the Board’s Conditions was for similar reasons as the previous application: to help the club financially. It only came to light during a recent funeral that the club required an Occasional Licence for this and now, being restricted to 12 Occasional Licences a year, the club was finding this difficult.

Mr Brown confirmed to the Convenor that Warren Brown would be the Premises Manager.

Councillor Barr said that it was a difficult time but the club should ensure that all visitors sign their name and address in a visitors book. Mr Brown noted that the Club's Constitution only allowed 4 visitors per member.

Mr Brown confirmed to Councillor Bruce that baby-changing facilities were being fitted at the moment in order to comply with the mandatory Licence condition.

Having considered the terms of the report, and the submission made, Councillor McLean moved that the application be granted. Councillor Reid seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. Part I of the Board's Standard Conditions will be replaced by Part K.

4. Private Members Clubs

The Board considered a report by Grace Cullen, Licensing Standards Officer which provided information on how Private Members Clubs operate. Specifically "Part K Clubs" are holding events such as open days, fetes, charity events, fun days and similar types of events which are open to everyone and are outwith the scope of their licence.

The Convenor asked the Board to consider if these events should be permitted under Part K.

Ms Cullen explained to Councillor McMillan that Section 125 Clubs would require to apply for Occasional Licences when having events which are open to everyone, but "Part K clubs" are not permitted to apply for Occasional Licences. If "Part K clubs" wished to have these type of events, they would have to apply to the Board for a full Variation of their Premises Licence and Operating Plan.

Following questions from Councillors Barr and Reid, Ms Cullen confirmed to the Board that the charity nights referred to were being organised by the clubs themselves, and not organised by a charity under a 'let'. During a 'let' charity nights can be held either:

- (a) if the club is a "Part K Clubs" - as a pre-booked function, or
- (b) if the club is a "Section 125 club" - with an Occasional Licence.

If the club themselves organise these charity nights, the events are not a pre-booked private function. Ms Cullen also highlighted that clubs are advertising events such as this and say they are unaware that they are acting outwith their Licence.

Having considered the terms of the report, Councillor Bruce seconded by the Convenor moved that events organised by the club and authorised by the Office Bearers should be permitted under Part K. There was no counter-motion and the Board unanimously agreed without dissent or abstention that if a club is a "Part K Club", such events are permitted if they are both organised by the club and are authorised by the Club's Office Bearers.

5. Junior Football and Alcohol Licensing Policy

The Board continued consideration of a Report by the Solicitor (Licensing) concerning Junior Football Clubs and Alcohol Licensing in order to adopt a Policy. At its meeting on 18 April 2016, the Board considered submissions from Police Scotland and the Scottish Junior Football Association.

Chief Inspector Shaw highlighted the issues for Police Scotland and referred to their letter of 14 April 2016. Police Scotland would like consideration to be given to the following conditions for such applications:

- a) The sale of alcohol should only be permitted one hour before the match, at half-time and one hour after the match. It should not be permitted during the match.
- b) Alcohol should only be sold in a clearly designated area.
- c) Children should not be permitted in the bar area.
- d) If felt necessary by Police Scotland, the club should agree all policing costs prior to the Grant of a licence.

Mr O'Brien referred to the recent Occasional Licence granted to Irvine Meadow for a football match against Irvine Victoria. It had been suggested in the Press that the Board had acted illegally in granting this. He explained that the Board had acted legal, and that the rules about alcohol and senior football had no application to the cases the Board dealt with. He explained that the statutory procedure for processing Occasional Licence applications involved a report from both the Licensing Standards Officer and the Police. Without the Board stating a Policy, the LSO could not say whether or not the application was inconsistent with Board's Policy. The Police would be in a similar position. Therefore the application would be granted.

Mr O'Brien highlighted that most applications from junior football clubs were submitted with such short timescales that they were unable to be determined at a Licensing Board meeting. He said that an option for the Board was that they amend their Scheme of Delegations in order that these applications could be referred to the Convenor for determination, but this would require the Board to state a Policy on the issues that should be considered by both LSO and Convenor, and what Licence conditions should be applied, to ensure that the sale and consumption of alcohol at football matches was consistent with the Licensing Objectives.

The Convenor asked Board Members to consider if the Policy should be to allow alcohol at junior football matches and, if so, with what conditions. He highlighted that during the recent Olympic Games no alcohol had been present during these sporting events. The Convenor agreed with the Conditions proposed by Police Scotland.

Councillor McLean confirmed that this was a sensible approach and she would also support this.

Councillor McMillan also confirmed that junior football clubs should have the ability to apply for Occasional Licences if in accordance with the suggested Police conditions.

In agreeing with Councillor McMillan, Councillor Bruce noted that the Police letter was very good and that these recommendations should form the basis of the Board's Policy.

Councillor Barr declared an interest as a junior football supporter. He suggested Environmental Health should also be involved as some clubs have no proper facilities therefore no hand-washing facilities were available.

Referring to the notice period that junior football clubs submit their application within, the Convenor asked if this could be determined with less than 7 days' notice.

Chief Inspector Shaw advised that he is aware of the difficulties faced by the football clubs with late notice of fixtures but, as some games are problematic, short-notice applications can cause difficulties for Police Scotland. The Police require sufficient notice of the teams involved in order to look at previous behavioural issues and to assess if additional resources are required at the match. They do not have the ability to put procedures in place at very short

notice. Chief Inspector Shaw advised the Board that when Police presence is required at senior football matches, those clubs are required to pay for the policing. He said that therefore if junior football clubs require Police presence at matches then these clubs should pay for this.

Councillor Easdale would also accept the Policy based on the Police recommendations.

Councillor Reid suggested that an acceptable timescale for submitting these applications be 14 days in order to give the Police a reasonable notice period. If Clubs could not give 14 days' notice there should be no alcohol available.

Councillor Barr explained that senior football club fixtures are set for the whole year, except cup games, but junior clubs do not always have 14 days' notice.

In adopting a Policy, the Convenor asked the Board to consider:

1. Should junior football matches be licensed at all, or
2. Should the Board take the Police advice and adopt their conditions along with a reasonable notice period.

The Board adjourned to the Members Lounge with the Solicitor (Licensing) at 11.10 am and re-convened at 11.23 am.

Councillor Reid seconded by Councillor Easdale motioned that the Board's Policy should be:

- That Applications be submitted with a minimum of 14 days' prior notice
- Alcohol only to be sold or consumed one hour before and one hour after a match, but not during the match or at half time
- Alcohol must only be sold and consumed inside a designated area
- No children to be permitted in the bar
- If deemed necessary by Police Scotland Clubs will be liable to cover the costs of Policing the relevant fixture

There was no counter-motion and the Board unanimously agreed without dissent or abstention to adopt a Policy in accordance with Councillor Reid's motion. The Convenor stated that, as with all Policy, it is subject to future review. Mr O'Brien undertook to draft the resultant Policy and Conditions.

Additional Agenda Item 1 - Occasional Licence 738/16 Ardeer Thistle Football Club

The Board considered an application for Occasional Licence for Ardeer Thistle Football Club. Peter McBlane, Secretary was present.

Now that the Board have a Policy in relation to junior football clubs, Mr O'Brien updated the Members on the application for 24 September 2016 from 11am to 10pm. The Board also had regard to a report by Grace Cullen, Licensing Standards Officer.

Mr McBlane then addressed the Board. He advised that on the day there would be 12 Committee Members all wearing yellow jackets inside the ground and that in the 22 years that he has been Secretary the Club have only had one Police incident. He also confirmed that alcohol will not be permitted into the ground nor would children be permitted entry to the hospitality suite. He also advised that the club have a good relationship with the local Police.

The Convenor noted that this was a late application which was still to be consulted with the Police. Chief Inspector Shaw confirmed that the Police were not aware of this application.

Following the adoption of Board's Policy, the Convenor advised that the Policy is one hour before the match and one hour after the match. Mr McBlane advised that this would not allow the club to make much money.

The Convenor advised that if the Board stated today that they were prepared to grant the application, this would only be a decision 'in principle', as no decision to grant or refuse could in fact be made until the Police had responded and all statutory procedures had been completed.

Mr McBlane confirmed to Councillor Barr that the application is for a Scottish Cup home game.

Having considered the application, and the submission made, Councillor Barr moved that the application be granted in principle, but subject to the Board's new Policy. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant the Occasional Licence in principle subject to the response from Police Scotland and the completion of all statutory procedures. The Convenor advised Mr McBlane that the Board had made a decision in principle only to grant the application for one hour before the match and one hour after the match.

Additional Agenda Item 2 – Extended Hours Application 665/16 Tartan Bar, Millport

The Board considered an application for Extended Hours (665/16) made by Robert Clark for the above Premises. Mr Clark was not present. The Board also had regard to a report by Grace Cullen, Licensing Standards Officer.

The Convenor explained that the application is for one extra hour on Sunday 25 September for the Millport Illuminations.

Councillor Reid moved that as this was outwith the Board's Policy and was not an exceptional event then the application should be refused.

Ms Cullen explained that although this event is not a 'special event or occasion' nor 'a special event of local or national significance' within the Board's Policy, the event has been going on for many years and the Board may wish to consider adding this to their Policy.

Councillor McLean moved that as this is a very popular event, the Board should add this to their list of events of local and national significance within the Policy Statement. All Board Members with the exception of Councillor Reid confirmed their agreement with a motion to add this to the Policy Statement, and grant the Extended Hours Application.

6. Scheme of Delegations for Premises Licence Review Applications

The Board considered a report by the Solicitor (Licensing), recommending that the Board extend the existing Schemes of Delegations to include preliminary consideration of Premises Licence Review Applications under Section 36(6) of the Licensing (Scotland) Act 2005.

The Board considered the issues and agreed to extend the existing Scheme of Delegations by adding at the appropriate place:

"Where a Premises Licence Review Application is made by a person who is not

- the Chief Constable*
- the Licensing Standards Officer*
- another Council officer, or*
- an officer of any statutory body,*

the Convenor, failing whom the Vice-Convenor, failing whom any Member of the Board may, after discussion with the Clerk or any Solicitor with delegated functions including Licensing, decide that a Premises Licence Review Application should be rejected under Section 36(6) of the Licensing (Scotland) Act 2005."

The Board noted that even where the Application has not been rejected under this delegation, so that a Hearing would happen in the normal way, it would still be open to the Licence Holder to invite the Board to reject.

The meeting ended at 11.39 am.