

**North Ayrshire Licensing Board
19 January 2015**

Irvine, 19 January 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, Ian Clarkson, Catherine McMillan, Donald Reid and Robert Steel.

In Attendance

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

Also In Attendance

Chief Inspector Shaw, Sergeant McIntosh and PC McLean (Police Scotland).

Convenor

Councillor McNicol.

Apologies for Absence

None

1. Minutes

The Board were asked to confirm the Minutes of the Board meeting held on 17 November 2014. 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. Public Health Reports

The Board considered a report by the Solicitor (Licensing) which explained that since the adoption of the Board's current Licensing Policy Statement on 19 November 2013, two further, relevant public health reports have been published, one in October 2014 and one in December 2014. Mr O'Brien invited the Board to consider these reports, and accordingly decide whether or not to instruct a process of consultation which would lead to the publication of a Supplementary Licensing Policy Statement.

Having considered Mr O'Brien's report, the Convenor moved that the Board decide to continue this matter, without limit of time. There was no counter-motion and the Board unanimously agreed without dissent or abstention to continue the matter without limit of time.

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

The Board considered a report by the Clerk to the Licensing Board on matters under the Licensing (Scotland) Act 2005 and the Gambling 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 Scott's Corner, 35-47 Main Road, Springside

The Board resumed consideration of an application for grant of a Provisional Premises Licence made by Swinton LIC Ltd for the above premises. The Applicant was represented by Joanna Millar, Solicitor, and she was accompanied by James Wilson of Swinton LIC 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 made by Dr Sonya Scott, Consultant in Public Health Medicine, NHS Ayrshire and Arran, Harbans Summel and Jaswant Summel.

Copies of the written objections were given to the Board Members. Ruth Shepherd of NHS Ayrshire and Arran was present. Harbans Summel and Jaswant Summel were also present.

Ms Millar addressed the Board regarding the application and issues arising. She noted the amended overprovision report, incorporating the alcohol display capacity at J & A Quinn. Ms Millar referred to the Board's recent site visit. She then submitted updated proposed store layout plans and photographs and explained that although the shop does not have a confirmed layout at this stage, the photographs show the finalised layout of a similar store.

Regarding the NHS objection, Ms Millar argued that there must be a causal link between evidence presented to the Board and the licensed premises in question. Ms Millar noted that the Scottish Government Guidance is somewhat out of date. She then quoted the case 'Galloway v Western Isles Licensing Board' and said that Boards must take a number of things into account when they are considering applications for new licences, including the positive benefits that may result. The premises will generate 20 jobs and it has now been confirmed that the Post Office would be incorporated into the new shop. Fresh fruit / veg will account for over 20% of the premises layout. However, Ms Millar stated that the proposal is simply not viable without a licence. She explained that studies show that shopping is habitual. That does not mean that customers will buy alcohol on every visit, however, if a product cannot be purchased on one visit, then customers are not likely to frequent premises again in the future.

Ms Millar explained that the proposed shop has the backing of CJ Lang, who operate an extensive staff training programme. Mr Wilson and his family will be running the shop themselves. Mr Wilson, and his mother and sister all have Personal Licences. Ms Millar concluded that she had highlighted benefits that the proposed premises can bring to the local community and she re-iterated that the Board were obliged to consider them.

The Convenor asked Ms Millar for clarification regarding the proposed store layout plan that she submitted along with the photographs. He noted that the plan had been

updated to remove display areas 4 and 5. Therefore, the Convenor asked Ms Millar to confirm that the application was now for an alcohol display capacity of 13.5 sq. m. Ms Millar confirmed that to be the case.

Ms Shepherd then addressed the Board. She did not intend to repeat her previous submission from the last Board meeting. However, in response to Ms Millar comments, Ms Shepherd argued that the application should be considered in terms of the Licensing Objectives, not the other ancillary factors which were detailed by Ms Millar. Ms Shepherd highlighted the financial costs of alcohol related harm. Excess alcohol consumption has an adverse effect on productivity and causes absenteeism from the workplace. Ms Shepherd quoted a figure of £791/person as being the cost of alcohol related harm in 2010.

In response to Ms Shepherd, Ms Millar argued that the NHS submission contains generalisations. The application relates to a convenience store, which is not comparable to large supermarkets. Ms Millar added that Licensing Boards are required to consider the potential benefits that a new licence could bring to a local economy / community.

Jaswant Summel then addressed the Board. He said that he fully agreed with Ms Shepherd comments. The additional costs of alcohol related harm are relevant. There is an overprovision of licensed premises in Springside and the answer is not to grant a further licence to provide more alcohol in the area.

Councillor Barr said that he was very impressed at the Board's site visit to the proposed premises. The building has been dilapidated for some time and the proposed business would be a boost to the area and give local people a greater choice.

Councillor Clarkson asked Ms Shepherd how up to date was the cost figure of £791 / person. Ms Shepherd said that information was from 2010. She acknowledged that the numbers of alcohol related deaths and hospital admissions were coming down, however we cannot be complacent as the figures are still far too high, and far worse than they were 20 years ago.

Councillor Clarkson said that 20 years ago in Springside there was a busy pub and additional off sales premises. He asked Ms Shepherd if she would accept therefore that less alcohol is bought and consumed in Springside at the present time, compared with 20 years ago. Ms Shepherd said that she did not accept that assertion because consumption habits have changed substantially over the last 20 years. From a health perspective, it would be preferable that alcohol was consumed primarily in an on sales environment, as there are more protective measures in that type of environment. However, it is clear that there has been significant % shift towards off sales consumption over that time period.

Councillor Reid queried the job creation figures quoted by Ms Millar and he also noted concern that customers, including potentially vulnerable people, were being encouraged to queue in the alcohol display area.

Ms Millar said that once the post office was incorporated into the premises there would be 5 or 6 full time positions with the remainder of the posts being part time. She also described the intentions regarding the queuing system. The queuing system would not enter the alcohol display area, however, it was true that customers standing in a queue would be able to view the alcohol on display.

Councillor Marshall stated that the Board would be going against their policy if they were to grant the application. However, the Board might consider the matter in terms of viability. Councillor Marshall asked Ms Millar what was minimum alcohol display capacity that would render the shop viable. Ms Millar said that they were just about at that viability figure with the current proposed display capacity. She added that the main consideration was shopping habits. For viability reasons there needs to be a provision of beers, wines and some spirits. Ms Millar argued that if the licence were granted there would not be an increase in alcohol purchased, rather there would be a re-location of alcohol purchases.

Ms Shepherd said that it was a fact that increased availability does lead to increased consumption.

Ms Millar re-stated her position that if the licence was granted, the result would be increased competition and choice for consumers, resulting in a relocation of alcohol purchases. She commended the application and requested that the Board consider a balance of factors when making their decision.

The Convenor noted that the proposal is to locate spirits in 2 of the display areas. He asked Ms Miller if her client would consider reducing this to 1 area. Ms Miller confirmed that this is something her client would consider.

Councillor Steel asked if the intention was to re-furbish to whole building. Ms Millar confirmed that was the case, and that there has been strong interest in relation to the other business units available at the site.

The Board adjourned to Committee Room 4 with the Solicitor (Licensing) at 10.44 am to deliberate in private and re-convened at 11.05 am.

Having considered the terms of the report, and the submissions made, Councillor Barr moved that the Board grant the application, with an alcohol display capacity of 13.5 sq. m. Councillor Clarkson seconded the motion. Councillor Marshall moved, as an amendment, that the application be granted, limiting the alcohol display capacity to 10 sq. m. Councillor Reid seconded the amendment.

There was then a roll-call vote. There were no abstentions. Councillors Barr, Bruce, Clarkson, McMillan and Steel voted for the motion. Councillors Marshall, McNicol and Reid voted for the amendment.

The motion was accordingly carried and the Provisional Premises Licence granted with an alcohol display capacity of 13.5 sq. m.

A.2 Premises Licence 0336 J & A Quinn, 34B Main Road, Springside

The Board considered an application for variations of a Premises Licence made by the Licence Holder, J & A Quinn, for the above premises. Stephen Quinn, representing the Licence Holder, had been present but had left the meeting during the Board's consideration of the previous agenda item. Mr Quinn left word that he had had to leave due to work commitments and he requested that his apologies be noted. Mr Quinn also left written confirmation that he was happy for the case to be heard in his absence.

The Licence Holder was requesting the following variations:

1. Increase in off sales capacity from 6 sq. m to 6.75 sq. m

2. Alter Layout Plan.
3. Increase licensed hours to 10.00 – 22.00, 7 days.

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.

An objection to the application had been made by Dr Sonya Scott, Consultant in Public Health Medicine, NHS Ayrshire and Arran. Copies of the written objection were given to the Board Members. Ruth Shepherd of NHS Ayrshire and Arran was present.

Ms Shepherd then addressed the Board, re-iterating the content of Dr Scott's objection. Ms Shepherd reminded the Board of its Overprovision Policy, which concluded that all areas within North Ayrshire were overprovided for. NHS Ayrshire and Arran fully support and endorse this position. Ms Shepherd highlighted that the application was seeking a significant 12.5 % increase in alcohol display area.

Councillor Clarkson commented that the proposed increase from 6 sq. m to 6.75 sq. m is minimal in comparison to the alcohol display areas at other premises in the area.

Having considered the terms of the report, and the submissions made, Councillor Clarkson moved that the application be granted. Councillor Barr seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to grant. The Board's Standard Conditions Edition 5 will now apply.

A.3 Premises Licence 0260 Coach and Horses, 102 Dickson Drive, Irvine

The Board considered a Review Proposal under Section 37, relating to the above premises. The Licence Holder, Iona Pub Partnership Ltd was represented by Stephen McGowan, Solicitor, and he was accompanied by Eleanor Collier and Paul Wishart of Iona Pub Partnership Ltd, and Craig McLaughlin, Tenant. Apologies were submitted on behalf of Gillian Ireland, Premises Manager.

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 17 November 2014, having considered a Section 36 Review Application made by the Chief Constable, the Board decided 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 initial Review Application.

Chief Inspector Shaw then gave an update, confirming that the Police have nothing of a negative nature to report to the Board in relation to the premises.

Grace Cullen, Licensing Standards Officer, informed the Board that she visited the premises in November and her resulting report was favourable.

Thereafter Mr McGowan addressed the Board on the issues arising. He submitted the premises refusals book and training record documentation to the Board. Mr McGowan also informed the Board that Mr McLaughlin had been in place as the tenant since the start of November and all parties are very happy with the progress made at the premises thus far.

Councillor Barr asked if the CCTV system at the premises was now fully operational and Councillor Clarkson asked how many cameras the system had and how long images were retained for. Mr McGowan confirmed that the CCTV system was fully operational, there were 12 cameras, some of which were located outside, and the system retained images for 28 days. Furthermore, all of the recommendations detailed in the Police Review Application letter, have been implemented.

Councillor Reid commented that he was still very concerned given that the training records and record of refusals only commence from November 2014.

Mr McLaughlin explained that he had been in place, as the tenant, since 4 November 2014. He has conducted a thorough review of the procedures at the premises, which appear to have been 'lax' in the past. Mr McGowan added that Iona's procedures have also been tightened up and 'lessons have been learned'.

The Convenor commented that, in his opinion, the progress made at these premises was a 'success story' and that the Board should be looking to the future with regard to this licence.

Councillor Barr asked Mr McLaughlin if there had been problems as a result of having to refuse individuals who have been the cause of trouble in the past. Mr McLaughlin said that there have been a few instances, but nothing that could not be managed. Mr McLaughlin informed the Board that he has significant experience of turning round problem premises which are located in problem areas. He explained that it can and has been done, although changing culture does take time.

Councillor Clarkson observed that a fresh start at the premises would be in keeping with the refurbishment of its surrounding area.

The Convenor 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.4 Premises Licence 0141 Royal Blossom, 44/48 Townhead, Irvine

The Board considered a (Second Stage) Review Proposal under Section 37, made in relation to the above premises. The Licence Holder, May Lok, was not present or represented.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the background to the Section 37 Review Proposal and summarised the issues arising. Mr O'Brien highlighted that the Ground for Review was that the Board's Standard Condition A.7, namely, 'Any annual or other recurring fee must be paid if required by the regulations', had been breached by the Licence Holder. The fee, £280 in this case, remains unpaid and there has been no contact or response from the Licence Holder regarding the matter.

Councillor Barr proposed that the Ground for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Ground for Review.

Having considered the terms of the report, Councillor Barr moved that the Board decide to revoke the Licence, with immediate effect. Councillor Marshall seconded

the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to revoke the Licence, with immediate effect.

A.5 Premises Licence 0198 Glencairn Bar, 42 New Street, Stevenston

The Board considered a (Second Stage) Review Proposal under Section 37, made in relation to the above premises. The Licence Holder, Kylie McBlane, was present.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the background to the Section 37 Review Proposal and summarised the issues arising. Mr O'Brien highlighted that the Ground for Review was that the Board's Standard Condition A.7, namely, 'Any annual or other recurring fee must be paid if required by the regulations', had been breached by the Licence Holder.

Ms McBlane then addressed the Board on the issues arising. She apologised for not having paid the fee on time. Ms McBlane explained that she was heavily pregnant at the time the fee was initially due, and had not been keeping well at that time. She undertook to pay the fee immediately at the Licensing Department, and to pay all future fees on time.

The Convenor proposed that the Ground for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Ground for Review.

Having considered the terms of the report, and Ms McBlane's submission and undertaking, the Convenor moved that no further action be taken. Councillor Barr seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

A.6 Premises Licence 0370 The Keys at Irvine Harbour, 142 Harbour Street, Irvine

The Board considered a (Second Stage) Review Proposal under Section 37, made in relation to the above premises. The Licence Holder, Gary MacCulloch, was represented by Jamie Murray of The Ship Inn.

The Board considered the terms of a report by the Solicitor (Licensing) which set out the background to the Section 37 Review Proposal and summarised the issues arising.

Mr O'Brien highlighted that the Ground for Review was that the Board's Standard Condition A.7, namely, 'Any annual or other recurring fee must be paid if required by the regulations', had been breached by the Licence Holder. Mr O'Brien updated the Board that the outstanding fee was paid by Mr Murray on 9 January 2015.

Mr Murray then addressed the Board on the issues arising. He explained that an application will be lodged imminently to transfer the licence to the Murray family and this will ensure prompt payment of all future fees.

The Convenor proposed that the Ground for Review be upheld. There was no counter proposal and the Board unanimously agreed to uphold the Ground for Review.

Having considered the terms of the report, and Mr Murray's submission, the Convenor moved that no further action be taken. Councillor Barr seconded the

motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to take no further action.

A.7 Arrin Andrew Guthrie (Reference NA 1822)

The Board considered an application for a Personal Licence made by the above Applicant. Mr Guthrie was present.

The Board considered the terms of a report by the Solicitor (Licensing) which referred to the Chief Constable's Notice under Section 73(3)(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 summarised by Chief Inspector Shaw.

Mr Guthrie was given the opportunity to address the Board on the issues arising. He said that he did not declare the convictions because, mistakenly, he did not think they were relevant to the application. Mr Guthrie said that he had mis-interpreted the question. It was a mistake on his part. The Convenor and Councillor Clarkson both commented that question 6 on the Personal Licence application form was perfectly clear. Mr Guthrie explained that he works for Morrisons supermarket and it is proposed that he will take on a promoted role, however this is entirely dependent on whether or not he is granted a Personal Licence.

Mr Guthrie said that his actions in 2011 which resulted in the convictions, were stupidity, and served as a huge 'wake up' call for him.

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

A.8 Premises Licence 0122 The Crown Inn, 38/40 Main Street, Dregghorn

The Board resumed consideration of an application for variations of a Premises Licence made by the Licence Holder, Walcal Property Development Ltd, for the above premises. The Licence Holder was represented by Iain Hunter. Authorisation for Mr Hunter to act as the Licence Holder's representative was provided in a letter by Hamish Walker to the Board, dated 17 January 2015.

The Licence Holder was requesting the following variations:

1. Sunday hours to change from 12.30 pm to 11.00 am (on and off sales).
2. Extend under 18 access from Restaurant / Function Room ('Lounge') only to include Public Bar.

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 Hunter addressed the Board regarding the application. In relation to variation 2, he explained the request was to assist existing customers. The intention is that children can accompany adults within the premises for a relatively short period of time before they board coaches to go to football matches. Outwith this intention, the Licence Holder does not want to encourage people to bring children into the premises. The proposal is that under 18s would be accommodated in a designated

area at the left hand side of the public bar area, just as you enter the premises. This designated area is well away from the bar and pool/darts area.

Having considered the terms of the report, and the submission made, 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 Board's Standard Conditions Edition 5 will now apply.

A.9 Personal Licence NA0135 – Pawitar Singh

On the basis of information provided by the Licence Holder, and subsequently confirmed by the Chief Constable, Mr Singh 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 10 November 2014 at Glasgow City JP Court. Mr Singh was present and was represented by Gordon Robertson, Solicitor.

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 summarised by Chief Inspector Shaw.

Mr Robertson was given the opportunity to address the Board on the issues arising. He highlighted that Mr Singh had been a Licence Holder for 25 years and had never had any previous problems. This was an uncharacteristic lapse and it was Mr Singh who brought the matter to the attention of the Board. Mr Robertson requested that the Board note the conviction and take no further action.

Having considered the terms of the report, and the submissions made, Councillor Barr 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.10 The Forum Centre, Bridgegate, Irvine (Reference NAFECGMP 8)

The Board considered an application for grant of a Family Entertainment Centre Gaming Machine Permit made by Iveagh Leisure 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 legal position and summarised the issues arising. Mr O'Brien informed the Board that the Gambling Commission had submitted a letter, detailing their observations in relation to applications made under the Gambling Act 2005 for this type of permit. Copies of the letter were given to the Board Members.

Having considered the terms of the report, and the Gambling Commission's written submission, Councillor Clarkson moved that the application be refused as incompetent. Councillor McMillan seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to refuse the application.

4. Records Management Plan

The Board considered a report by the Solicitor (Licensing), recommending that the Board delegate authority to the Clerk to prepare, submit and implement a Records

Management Plan. The deadline for submission of the Plan to the Keeper of the Records of Scotland is 31 March 2015.

Having considered the report, the Board unanimously decided to adopt the recommendation. Accordingly, authority is delegated to the Clerk to prepare, submit and implement the required Records Management Plan.

5. Annual Meeting with Local Licensing Forum

<http://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/local-licensing-forum.aspx>

The meeting ended at 11.59 am