

SOUTH AYRSHIRE LICENSING BOARD.

Minutes of a meeting in County Buildings, Wellington Square, Ayr,
on 11th November 2010 at 10.00 a.m.

For Items 1 to 10:

Present: Councillors Douglas Campbell (Chair), Andy Campbell, Ian Douglas, Ian Fitzsimmons, Ann Galbraith, Bill Grant, Alec Oattes and Tom Slider.

Attending: V. Andrews, Clerk to the Board; M. Douglas, Licensing Policy Officer; C. Andrew, Licensing Standards Officer; and J. McClure, Committee Administrative Officer.

In Attendance: Chief Superintendent J. Thomson; Chief Inspector J. Dillon; and P.C. K. Ritchie, Strathclyde Police.

For Item 11:

Present: Councillors Douglas Campbell (Chair), Andy Campbell, Ian Douglas, Ann Galbraith, Bill Grant and Tom Slider.

Apologies: Councillors Ian Fitzsimmons and Alec Oattes.

Attending: V. Andrews, Clerk to the Board; M. Douglas, Licensing Policy Officer; C. Andrew, Licensing Standards Officer; and J. McClure, Committee Administrative Officer.

1. Chair's Remarks.

The Chair advised that the Board would cease at 11.00 a.m. to observe the two minute silence in memory of those who had died in conflict.

2. Dates of Future Board Meetings.

The Chair advised

- (1) that the next Board meeting would be held in the County Hall, County Buildings, Ayr on Thursday, 9th December 2010 at 10.00 a.m.; and
- (2) that the Board meeting of May 2011 would now take place on 4th May 2011 and not 5th May 2011 as previously stated.

3. Minutes of Previous Meeting.

The Minutes of the Meeting of South Ayrshire Licensing Board of 30th September 2010 (issued) were submitted.

Decided: to note the Minutes of the previous meeting.

4. Applications for Transfers Granted Under Delegated Powers.

There was submitted a report (issued) of 28th October 2010 by the Executive Director - Corporate Services advising of the following determination of applications for Transfer of Licences between the last Board meeting and the present one:-

The Greenside, 5 Greenside, Maybole;
Spar, 19-21 Station Road, Mossblown;
Culzean Stores, 15A Queens Terrace, Maybole;
Shanghai Rendezvous, 5 Beresford Terrace, Ayr;
The Cornrigg, 21 Cornhill, Ayr; and
LA Bowl and Megazone.

Decided: to note the transfers granted under delegated powers.

5. Licences Surrendered.

There was submitted a report (issued) of 28th October 2010 by the Executive Director - Corporate Services advising that the following licences had been surrendered under Section 28(6) of the Licensing (Scotland) Act 2005 between the last Board meeting and the present one:-

130 Main Street, Prestwick;
Flloyds Hotel (formerly Burnbank Hotel), 49 Maybole Road, Ayr; and
Alloway Inn, Alloway, Ayr.

Decided: to note the licences surrendered.

6. Occasional Licence Fees – Response from The Scottish Government.

There was submitted a letter (issued) dated 20th October 2010 from the Criminal Law and Licensing Division of the Scottish Government in response to the Board's letter requesting a review of fees for occasional licences advising

- (1) that a review of the fee for an occasional licence would require to be carried out in conjunction with a full fee review and would necessarily involve both local authorities and the licensed trade in another time-consuming and perhaps costly process;
- (2) that the Scottish Government's view was that, given the present legislative activity on licensing, a further and full review of fee arrangements could not be taken forward in the short term; and
- (3) that the Scottish Government was grateful to this Board for highlighting the matter and hoped that the Board would take full part in any review of the licensing fees which might come about in the future.

Decided: to note the response from the Scottish Government.

7. Statement of Licensing Principles.

There was submitted (tabled) an updated draft revised Policy Statement and the Clerk to the Board advised that this document would be submitted for further consultation to the parties previously consulted with a cut-off date of end December 2010 with it being anticipated that the Board should be in a position to approve the Policy Statement by early February 2011.

The Chair further advised of previous discussions the Board had, specifically in relation to outdoor drinking and the associated noise; substantial entertainment; the Scottish Government's advice that premises should operate for a maximum of 14 hours per day; the Board's main purpose being to uphold the licensing objectives and not to regulate the trade; over provision; extended hours applications; and occasional licence applications.

Decided: to request that the Clerk to the Board issue the draft Licensing Policy Statement for further consultation with a closing date of end December 2010.

8. Update from Licensing Standards Officer.

The Licensing Standards Officer advised

- (1) that she had recently met with premises managers from premises in South Ayrshire which regularly enjoyed operating hours after 1.00 a.m. and were previously known as nightclubs;
- (2) that the purpose of the meeting had been to discuss her concerns that the price for alcoholic drinks had now dropped below £1, with some themed nights dropping drinks to as low as 80p;
- (3) that she had now met with the three individual operators in Ayr to discuss their future intentions and, although the Scottish Government had not set a minimum price for alcohol and neither she nor the Licensing Board would attempt to do so, it was widely accepted that alcohol being sold for less than £1 was extremely low, particularly when she had been advised that the actual purchase price was likely to be more and, therefore, the premises was making a loss;
- (4) that, with the current offers and pricing, a student, who was generally offered free entry, could go on a night out with £10 and purchase ten alcoholic drinks which, she would suggest, did not meet the 'Protecting and Improving Public Health' objective;
- (5) that she was still having discussions with the operators in question but, should they be unable to reach a solution, she would be requesting a premises review application for all or either of these premises on the basis of a breach of the 'Protecting and Improving Public Health' objective;
- (6) that she continued to visit Members' Clubs and, to date, had completed a thorough inspection of over half of those licensed in South Ayrshire and, on the whole, had found that the premises had generally been compliant with the requirements of the 2005 Act, however, she would remind the Board that, whilst having a personal licenceholder was not a specific requirement for clubs, it was only a holder of a personal licence (or a training provider) who could provide the two hours of required training and sign the relevant declaration;

- (7) that premises managers and staff had been reporting an increase in aggressive and challenging behaviour being shown by patrons, with many describing incidents of violence on a weekly basis and that she had recently noticed a difference in the frequency and type of complaints and also a great deal of negativity in general as well as an often aggressive attitude; and
- (8) that, following a recent article in the local press on an alleged assault within licensed premises at Craig Tara which suggested that the assailant had consumed too much alcohol on the premises, she was recommending that the Board consider a premises licence review hearing for the Atlantic Show Bar at Craig Tara as this incident might also have potentially breached the 'Protecting Children from Harm' licensing objective.

Questions were then raised by members of the Board in relation to the increase of violence and whether this could be attributed to excessive alcohol or to drugs; the liaison between Strathclyde Police and Licensing officers; and whether the cheap alcohol prices were being offered on various nights of the week and the Licensing Standards Officer and Chief Superintendent Thomson responded accordingly.

Decided:

- (a) to note the report from the Licensing Standards Officer (LSO); and
- (b) to agree to make a premises licence review proposal in respect of the Atlantic Show Bar at Craig Tara, Ayr on the grounds of the circumstances referred to in the LSO's report relating to the licensing objective 'Protecting Children from Harm' and to hold a review hearing at a future meeting of the Board.

9. Variation in order of business.

The Board agreed to vary the order of business as hereinafter minuted.

10. Licensing (Scotland) Act, 2005.

(a) Application for Variation of Premises Licence.

The Board considered the following applications:-

<u>Applicant</u>	<u>Premises</u>
(2) Helen Hood	Kyle Hotel 40-42 Joppa Coylton

To include part of the garden to allow outside drinking facilities; amend On and Off core hours to commence at 10.00 a.m. every Monday to Sunday inclusive (currently 11.00 a.m.); to allow seasonal variations (1st December to 2nd January close at 1.30 a.m.); and to allow funerals outwith core hours.

Having heard from the applicant, the Licensing Policy Officer and the Licensing Standards Officer, having considered the letter of objection and following questions from Board members, the Board agreed to grant the above application.

Applicant

Premises

- (3) Firm of Alan and Elaine Simpson
Scruffy Duffys
111 Main Street
Prestwick

To change On and Off core hours to commence at 10.00 a.m. every Monday to Sunday inclusive (currently 11.00 a.m. every Monday to Saturday and 12.30 p.m. on Sundays).

The Board agreed to grant the above application.

- (4) Crest Court Ltd.
Club de Mar
1-5 Arthur Street
Ayr

To vary the core hours to close at 2.30 a.m. on Wednesdays (currently 2.00 a.m.); and to allow under-age foam parties for 12-15 year olds from 7.00 p.m. to 9.30 p.m. with alcohol to be removed from display and soft drinks and water to be made available.

Having heard the applicant and following questions from Board members, the Board agreed to grant the variation to the core hours as outlined above.

In relation to the under-age foam parties for 12-15 year olds, Councillor Grant, seconded by Councillor Andy Campbell, moved that the application be granted.

By way of Amendment, Councillor Slider, seconded by Councillor Douglas Campbell, moved that the application be refused on the grounds that it was necessary to do so for the purposes of the Protecting Children from Harm licensing objective.

On a vote being taken by a show of hands, two members voted for the Amendment and six Members for the Motion which was accordingly declared carried and the application was granted.

At the request of the applicant, the Board agreed to consider this application at this point in the meeting:-

Applicant

Premises

- (1) Ultimate Leisure (Scotland) Ltd.
Cactus Jak's
17 Miller Road
Ayr

Amendment of core operating hours to increase terminal hour until 2.00 a.m. on Wednesdays, Fridays and Saturdays (currently 12.30 a.m.).

The Board heard the applicant in relation to the proposed entertainment being provided on the premises and heard questions from Board members.

The time being 11.00 a.m., the Board adjourned to observe the two minute silence to honour those who had died in conflict.

Having reconvened at 11.03 a.m., the Board then adjourned for consideration of this application.

Upon reconvening, the Chair advised that the Board had considered the submission made; that the current Board Policy allowed for extended hours if the applicant could demonstrate that there was substantial entertainment provided and that the sale of alcohol was ancillary to this; that the Board had heard of the forms of entertainment proposed for Fridays and Saturdays but not for Wednesdays; and that the Board had heard of the private functions which had taken place but did not receive information on whether mandatory conditions would be applied.

Councillor Douglas Campbell, seconded by Councillor Andy Campbell, moved that this application be refused on the grounds that it was not in accordance with the current Statement of Licensing Policy relating to On-Sales hours and that it was necessary to refuse the application for the purposes of the Preventing Crime and Disorder licensing objective as no information had been provided on whether mandatory conditions would be applied; and for the purposes of the Preventing Public Nuisance licensing objective.

By way of Amendment, Councillor Oattes, seconded by Councillor Slider, moved that the application be granted.

On a vote being taken by a show of hands, two members voted for the Amendment and six for the Motion which was accordingly declared carried and the application was refused.

The applicant then requested a Direction in terms of Section 32(3)(a) of the Act to allow him to reapply within a year and this request was granted.

(b) Review of Personal Licence.

SA/10/00012/LAPRS - Natalie Aird

Decided: in the absence of the licenceholder, to continue consideration of this application to the next Board meeting, scheduled to be held on Thursday, 9th December 2010 to allow her to attend.

(c) Applications for Provisional Premises Licences.

The Board considered the following applications:-

	<u>Applicant</u>	<u>Premises</u>
(1)	Tesco Stores Limited	Unit 4 49 Maybole Road Ayr

Retail Sale of Alcohol (Off Premises) – Every day from 10.00 a.m. to 10.00 p.m.

The Board first considered the issue of locality for the purposes of this application and decided (with the agreement of the applicant's representative) that a 500m radius of the applicant premises would be the appropriate locality for consideration of this application and the map outlining this radius was circulated.

Having then heard from the applicant's representative and Strathclyde Police, the Board granted the above application.

<u>Applicant</u>	<u>Premises</u>
(2) Mr. Hafsa Imran Saleen	Liberty News 88-90 High Street Maybole

Retail Sale of Alcohol (Off Premises) – every day from 10.00 a.m. to 10.00 p.m.

The Board first considered the issue of locality for the purposes of this application and decided (with the agreement of the applicant's representative) that the whole town of Maybole would be the appropriate locality for consideration of this application and the map outlining this was circulated.

The Board then heard from the applicant's representative, the representative for one of the objectors and from Strathclyde Police and, following questions from Board members, the Board adjourned for consideration of this application.

Upon reconvening, the Chair advised that, in determining the application the Board had to consider if any of the grounds for refusal applied and that, if they did not, the Board was required to grant the application; that the Board was required to address if any of the licensing objectives were likely to be breached and it had come to the view that none of the submissions led it to suppose that they would be breached; that the Board had heard arguments regarding over provision and reduced capacity of licensed premises within the locality and in the current Statement of Licensing Policy the Board had taken the view that Maybole was well served and there was a large number of premises in Maybole at present, however, over provision would not arise as a result of granting this application; that two undertakings had been given by the applicant's representative that the licenceholder would not undercut the Londis price structure and that certain alcoholic drinks which were popular with younger people would not be sold, with the list to be agreed with the Licensing Standards Officer.

The Board, therefore, agreed to grant the above application on an undertaking that the company's national price structure would not be undercut and that certain alcoholic drinks favoured by younger people would not be sold, as agreed with the Licensing Standards Officer

Adjournment.

The time being 12.35 p.m., it was agreed that the meeting be adjourned.

Resumption of meeting.

The meeting resumed at 2.00 p.m.

11. Licensing (Scotland) Act, 2005.

Application for Provisional Premises Licence.

The Board considered the following application:-

<u>Applicant</u>	<u>Premises</u>
(3) J. D. Wetherspoon Plc.	87 Main Street Prestwick

Retail Sale of Alcohol (On Premises) – every Monday to Saturday inclusive from 10.00 a.m. to 12.30 p.m.; and every Sunday from 10.00 a.m. to 10.00 p.m.

Retail Sale of Alcohol (Off Premises) – every day from 10.00 a.m. to 10.00 p.m.

The Board first considered the issue of locality for the purposes of this application and decided (with the agreement of the applicant's representative) that Prestwick Main Street would be the appropriate locality for consideration of this application and the map outlining this was circulated.

The Board heard from the applicant's representative who amended the application to remove that part of the application for the playing of recorded music; from various objectors and representatives of objectors; from Councillor Hugh Hunter, Local Member and from two of the supporters of the application and, following questions from Board members, the Board adjourned for consideration of this application.

Upon reconvening, the Chair advised that all submissions and objections had been taken into account; that in determining the application the Board had to consider if any of the grounds for refusal applied and that, if they did not, the Board was required to grant the application; that the Board had examined each licensing objective and had come to the conclusion that the application met all of the objectives; that the current Statement of Licensing Policy outlined that Prestwick Main Street was well served with licensed premises and that this had been taken into account, along with Building Standards figures for capacity; and that over provision had been considered in light of the five licensing objectives and on this basis no grounds for refusal had been established.

The Board then agreed to grant the above application.

A representative for one of the objectors then requested a Statement of Reasons and this request was granted.

The meeting ended at 4.30 p.m.