

## **SOUTH AYRSHIRE LICENSING BOARD (SPECIAL)**

Minutes of special meeting in the County Buildings, Wellington Square, Ayr,  
on 22nd August 2011 at 10.00 a.m.

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

Apology: Councillor Bill Grant.

Attending: V. Andrews, Clerk to the Board; M. Douglas, Licensing Policy Officer; C. Andrew, Licensing Standards Officer; G. Lauder, Senior Environmental Health Officer; and A. Gerrish, Committee Administrative Officer.

### **1. Licensing (Scotland) Act, 2005.**

#### **Review of Premises Licences Under Section 38.**

The Board considered the following applications for review:-

#### **(1) Alan and Elaine Simpson, Scruffy Duffys, 111 Main Street, Prestwick.**

Following two requests for Review from neighbours of the premises under section 38 of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There was submitted a report (issued to members only) of 5th August 2011 by the Clerk to the Licensing Board outlining the background to this review and the options available for the Board.

The Board heard

- (a) the applicants for the Review in relation to these premises and the reasons for requesting the Review, which included loud music, excessive noise from outside the premises and visits made by police on several occasions;
- (b) the Licensing Standards Officer outline the contents of her report and clarifying the reason why no mediation meetings between the parties had taken place;
- (c) the Senior Environmental Health Officer reporting on the call-outs made by them in relation to loud music and noise emanating from the premises and the outcome of the visits made by the Out-of-Hours Noise Team; and
- (d) the Licenceholders' representative in response advising that it had not been made clear to his clients that there had been more than one complainant, that his clients had liaised with Environmental Health regarding noise levels and that they were now seeking advice from an acoustic noise consultant.

Questions and comments were raised by members of the Board in relation to loud music, noise and the letter sent by the Licenceholder to neighbours advising of legal action and the Licenceholders' representative responded.

The Board then adjourned for consideration of this matter.

Upon reconvening, the Chair advised that the Board had considered all reports submitted and the evidence heard and intimated that the Board had established an inaudibility test a number of years ago and this was the test used in reaching its decision, that Police visit all Licensed Premises as a matter of routine and in relation to the noise outside the premises, the Board suggested that a meeting take place between the Licensing Standards Officer and the Premises Manager to discuss best practices in exercising control over their patrons, especially late at night.

**Decided:** that the ground for review had been established in terms of Public Nuisance and agreed to vary the licence in terms that no music should be played on the premises until such time as any work recommended in terms of the report to be obtained from an acoustic noise consultant to be appointed by the licenceholder had been concluded, an acceptable noise level set by Environmental Health officers such that any music be inaudible within the applicant's home and the volume control on the sound equipment in the premises set and fixed at this level and, thereafter, to delegate authority to the Clerk to the Board to finalise and, if for any reason the work recommended by the acoustic noise consultant did not go ahead, the matter should be brought back to the Board.

(2) **Guisepppe Ippolito, Willie Wastle's, 30 New Bridge Street, Ayr**

Following a request for Review from a neighbour of the premises Under Section 38 of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There was submitted a report (issued to members only) of 15th August 2011 by the Clerk to the Licensing Board outlining the background to this review and the options available for the Board.

The Board heard

- (a) the applicant for the Review in relation to these premises and the reason for requesting the Review and outlined the previous background to this Review;
- (b) the Licensing Standards Officer advising that she had had no formal contact with either a representative from Willie Wastle's or the applicant for Review as it was an Environmental Health matter;
- (c) the Senior Environmental Health Officer reporting on the call-outs made by them in relation to loud music emanating from the premises and the outcome of the visits made by the Out-of-Hours Noise Team; and
- (d) the Licenceholder's representative in response advising that his clients had made a substantial effort and had carried out all of the instructions requested by the Board from previous meetings to reduce noise levels.

The Board then adjourned for consideration of this matter.

Upon reconvening, the Chair advised that the Board had considered all reports submitted and the evidence heard and had concluded that in relation to noise levels, some music from the equipment was louder than others and therefore the Board was satisfied that music was audible in the complainant's flat.

**Decided:** that the ground for review had been established in terms of Public Nuisance and agreed to vary the Licence in terms that no music shall be played on the premises after 10.00 p.m. as from today, until such time as it could be proven to the satisfaction of the Environmental Health team that any system put in place ensures that the music is inaudible in the complainant's flat.

The meeting ended at 12.10 p.m.