

SOUTH AYRSHIRE LICENSING BOARD.

Minutes of a meeting in the County Buildings, Wellington Square, Ayr,
on 29th September 2011 at 10.00 a.m.

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

Apology: Councillor Ann Galbraith.

Attending: K. Briggs, Principal Solicitor; G. Lauder, Senior Environmental Health Officer; M. Douglas, Licensing Policy Officer; C. Andrew, Licensing Standards Officer; and J. McClure, Committee Administrative Officer.

Also Attending: Chief Inspector N. Kerr and Constable K. Ritchie, Strathclyde Police.

1. Chair's Remarks.

The Chair advised

- (1) of the various changes to the licensing legislation from 1st October 2011 regarding the pricing of alcohol whereby promotions would be prohibited and bottles of wine/cases of beer required to be priced individually rather than, for example, three for £10;
- (2) that this change to the legislation would also affect how alcohol could be promoted and that alcohol could only be advertised within the alcohol sales area;
- (3) that the Challenge 25 Policy was being introduced within South Ayrshire from 1st October 2011 whereby licensees and their staff would be required to challenge any person who appeared to be 25 or under and the person would be required to supply appropriate photographic identification proving that they were over eighteen years of age;
- (4) that it was imperative that the Board reviewed certain aspects of its Licensing Policy Statement and that there would be changes to this Statement, including the requirement to consult with the Health Board on any new applications and the consideration of an annual report from the Chief Constable;
- (5) that initial work had been carried out by the Board in relation to reviewing the Licensing Policy Statement when it had been established that the main concern was the age verification policy causing confusion, especially for over 25s who would now be required to carry identification; and
- (6) that further information on the changes to the legislation could be found on the Council's website.

2. Date of Next Board Meeting.

The Chair advised that the next Board meeting would be held in the County Hall, County Buildings, Ayr on Thursday, 10th November 2011 at 10.00 a.m.

3. Minutes of Previous Meetings.

The Minutes of the Meetings of South Ayrshire Licensing Board of 22nd August 2011 (Special) and 1st September 2011 (issued) were submitted.

Decided: to note the Minutes of the previous meetings.

4. Application for Transfer Granted Under Delegated Powers.

There was submitted a report (issued) of 15th September 2011 by the Clerk to the Licensing Board advising of the following determination of an application for Transfer of a Licence between the last Board meeting and the present one:-

The Rupee Room, 26A Wellington Square, Ayr.

Decided: to note the transfer granted under delegated powers.

5. Update Report by the Licensing Standards Officer.

The Licensing Standards Officer advised

- (1) that a training event had been held on Monday, 26th September 2011, facilitated by the Licensing Section, updating the Trade on the requirement to operate a Challenge 25 policy from 1st October 2011 and offering further training and advice regarding identifying proxy or agent sales and refusing inappropriate sales;
- (2) that, as a result of funding secured through the South Ayrshire Alcohol and Drug Partnership, who were able to support the event as it matched in with the outcomes detailed in their strategy document, 110 delegates enjoyed presentations from Licensing Services, Alcohol Focus Scotland, Strathclyde Police and Trading Standards who provided advice and guidance on legislative updates, best practice, proof of age and refusing sales and a staff training book was given to every candidate to ensure they could pass on the new information;
- (3) that, although the full evaluation of the event was still being prepared, the event had been attended by 59 On-Sales representatives, 23 Off-Sales representatives, 13 persons from Members Clubs and colleagues from the Police, NHS, South Ayrshire Council and Young Scot;
- (4) that those in attendance had agreed that there had not been sufficient publicity in relation to the Challenge 25 requirement and members of the Trade were concerned that the public had not been made aware of this and they were anticipating problems as a result; and
- (5) that as the attendance at the event and feedback following it were pleasing, a future event was planned for six months time.

Decided: to note the report from the Licensing Standards Officer.

6. Occasional Licences and Extended Hours Applications.

There was submitted a report (issued) of 22nd September 2011 by the Clerk to the Licensing Board

- (1) advising
 - (a) that under the Licensing (Scotland) Act 2005 a personal licenceholder, a premises licenceholder or a voluntary organisation may apply for an occasional licence and a premises licenceholder may apply for extended hours to cater for a specific event;
 - (b) that a minimum of twenty eight days notice was currently required for an occasional licence application to allow the application to be advertised on the Council's website and for the statutory consultations to take place, however, in some cases this time limit had caused difficulty for applicants;
 - (c) that, with effect from 1st October 2011 the Criminal Justice & Licensing (Scotland) Act 2010 would amend the Licensing (Scotland) Act 2005 to allow that period to be waived to not less than twenty four hours "where the Licensing Board is satisfied that the application requires to be dealt with quickly" which would allow the Board to delegate the granting of an occasional licence to a member of staff;
 - (d) that, similarly the time limit for lodging extended hours applications was currently fourteen days but again from 1st October 2011 this period could be waived to not less than twenty four hours where the Licensing Board was satisfied that the application required to be dealt with quickly and the Board could delegate the granting of an extended hours application to a member of staff; and
 - (e) that, due to the number of occasional licence applications and extended hours applications received, it would be impossible for the Licensing staff to routinely deal with applications with less than the normal notice period of twenty eight days, therefore, it was proposed that the waiving of the notice period should only be used in exceptional circumstances; and
- (2) seeking approval for the Clerk to the Board and the Depute Clerk to the Board to be granted delegated powers to allow them to waive the notice period for occasional licence or extended hours applications to a period of not less than twenty four hours if satisfied that the application required to be dealt with quickly.

Decided: to grant delegated powers to the Clerk and Depute Clerk to the Board to allow them to waive the notice period for occasional licence or extended hours applications to a period of not less than twenty four hours if satisfied that the application required to be dealt with quickly.

7. **Licensing (Scotland) Act, 2005.**

(a) **Application for Provisional Premises Licences.**

The Board considered the following application:-

Applicant

Co-operative Group Food Ltd.

Premises

Co-operative Group Food Ltd.
65 Sandgate
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 300m radius from the application premises would be the appropriate locality for consideration of this application.

Having then heard the applicant's representative, the Board granted the above application.

(b) **Application for Variation of Premises Licences.**

The Board considered the following applications:-

Applicant

(1) Whitbread Restaurants Limited

Premises

Monkton Lodge Brewers Fayre &
Premier Inn
Monkton Lodge
Kilmarnock Road
Monkton

Change to Core On-Sale Hours:-

Existing

Monday 11.00 a.m. to midnight
Tuesday 11.00 a.m. to midnight
Wednesday 11.00 a.m. to midnight
Thursday 11.00 a.m. to midnight
Friday 11.00 a.m. to midnight
Saturday 11.00 a.m. to midnight
Sunday 12.30 p.m. to 11.00 p.m.

Proposed

Monday 10.00 a.m. to 12.30 a.m.
Tuesday 10.00 a.m. to 12.30 a.m.
Wednesday 10.00 a.m. to 12.30 a.m.
Thursday 10.00 a.m. to 12.30 a.m.
Friday 10.00 a.m. to 12.30 a.m.
Saturday 10.00 a.m. to 12.30 a.m.
Sunday 10.00 a.m. to 12.30 a.m.

Change to Core Off-Sale Hours:-

<u>Existing</u>	<u>Proposed</u>
Monday 11.00 a.m. to 10.00 p.m.	Monday 10.00 a.m. to 10.00 p.m.
Tuesday 11.00 a.m. to 10.00 p.m.	Tuesday 10.00 a.m. to 10.00 p.m.
Wednesday 11.00 a.m. to 10.00 p.m.	Wednesday 10.00 a.m. to 10.00 p.m.
Thursday 11.00 a.m. to 10.00 p.m.	Thursday 10.00 a.m. to 10.00 p.m.
Friday 11.00 a.m. to 10.00 p.m.	Friday 10.00 a.m. to 10.00 p.m.
Saturday 11.00 a.m. to 10.00 p.m.	Saturday 10.00 a.m. to 10.00 p.m.
Sunday 12.30 p.m. to 10.00 p.m.	Sunday 10.00 a.m. to 10.00 p.m.

To vary the seasonal variations (Christmas Eve and New Years Eve open until 2.00 a.m. – open until 1.00 a.m. on the two Friday nights preceding Christmas).

To include outdoor drinking facilities.

To vary access to children and young persons.

To include off-sales in relation to the capacity of the premises.

To remove and amend wording on plan.

The Board granted the above application.

Applicant

Premises

(2) Prestwick Indoor Bowling Club	Prestwick Indoor Bowling Club Prestwick Indoor Bowling Green Bellevue Road Prestwick
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Change to Core On-Sale Hours:-

<u>Existing</u>	<u>Proposed</u>
Monday 10.00 a.m. to midnight	Monday 10.30 a.m. to 1.00 a.m.
Tuesday 10.00 a.m. to midnight	Tuesday 10.30 a.m. to 1.00 a.m.
Wednesday 10.00 a.m. to midnight	Wednesday 10.30 a.m. to 1.00 a.m.
Thursday 10.00 a.m. to midnight	Thursday 10.30 a.m. to 1.00 a.m.
Friday 10.00 a.m. to midnight	Friday 10.30 a.m. to 1.00 a.m.
Saturday 10.00 a.m. to midnight	Saturday 10.30 a.m. to 1.00 a.m.
Sunday 10.00 a.m. to midnight	Sunday 10.30 a.m. to 1.00 a.m.

Addition of seasonal variation to cover festive season.

Additional activities – conference, bar meals, theatre, films, gaming.

Alteration of terms on which children and young persons admitted to premises and ages, hours and parts.

Addition of designated premises manager.

The Board heard the applicant's representative in relation to this application and agree to amend the commencement of core hours to 10.30 a.m. (currently 10.00 a.m.) and, following questions from Board Members, the Board granted the hours as outlined above subject to a report from the Licensing Standards Officer being submitted to the next Board meeting scheduled to be held on Thursday, 10th November 2011 outlining when children would be allowed on the premises.

(c) **Applications for Extended Hours.**

The Board considered the following applications:-

- | <u>Applicant</u> | <u>Premises</u> |
|-------------------------|---|
| (1) Haven Leisure Ltd. | Turnberry Gardens Restaurant
Craig Tara
Dunure Road
Ayr |
| | Special Caravan Owners Event – 08/10/11 – 10.00 p.m. to 2.00 a.m. |
| (2) Haven Leisure Ltd. | Turnberry Gardens Restaurant
Craig Tara
Dunure Road
Ayr |
| | Special Caravan Owners Event – 29/10/11 – 10.00 p.m. to 1.00 a.m. |

Having heard the Licensing Policy Officer, the Board granted the above applications.

The Board noted that the following application had been withdrawn:-

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|------------------------------------|---|
| (3) Parkdean Holiday Parks Limited | Sundrum Castle Holiday Park
Castle Drive
Sundrum |
| | Rugby World Cup
01/10/11 – 8.45 a.m. to 11.00 a.m.
08/10/11 – 5.45 a.m. to 11.00 a.m.
09/10/11 – 5.45 a.m. to noon
15/10/11 – 8.45 a.m. to 11.00 a.m.
16/10/11 – 8.45 a.m. to noon
21/10/11 – 8.15 a.m. to 11.00 a.m.
23/10/11 – 8.45 a.m. to noon |

(d) Applications for Occasional Licences.

The Board considered the following applications:-

- | <u>Applicant</u> | <u>Premises</u> |
|---|---|
| (1) Darren Mitchell | Hamilton Arms
22 Bridge Street
Girvan |
| Premises are an unlicensed hotel offering accommodation, restaurant facilities and bar meals. | |
| 15/10/11 to 28/10/11 | |
| On-Sale – 11.00 a.m. to midnight.
Off-Sale – 11.00 a.m. to 10.00 p.m. | |
| (2) Darren Mitchell | Hamilton Arms
22 Bridge Street
Girvan |
| Premises are an unlicensed hotel offering accommodation, restaurant facilities and bar meals. | |
| 29/10/11 to 11/11/11 | |
| On-Sale – 11.00 a.m. to midnight.
Off-Sale – 11.00 a.m. to 10.00 p.m. | |
| (3) Darren Mitchell | Hamilton Arms
22 Bridge Street
Girvan |
| Premises are an unlicensed hotel offering accommodation, restaurant facilities and bar meals. | |
| 12/11/11 to 25/11/11 | |
| On-Sale – 11.00 a.m. to midnight.
Off-Sale – 11.00 a.m. to 10.00 p.m. | |
| (4) Darren Mitchell | Hamilton Arms
22 Bridge Street
Girvan |
| Premises are an unlicensed hotel offering accommodation, restaurant facilities and bar meals. | |
| 26/11/11 to 09/12/11 | |
| On-Sale – 11.00 a.m. to midnight.
Off-Sale – 11.00 a.m. to 10.00 p.m. | |

The Board then heard from the applicant for the review regarding the noise and nuisance levels she had experienced, however, she acknowledged that the licenceholders had attempted to rectify the problems.

The Licensing Standards Officer advised

- (1) of the successful mediation meeting which had taken place with herself, the licenceholder and the applicant for the review;
- (2) of the position with regard to staff training, displaying of the required Notices, etc;
- (3) that Environmental Health had informed her that a noise limiter had been installed on the premises;
- (4) that the licenceholder had given her personal details to the immediate neighbours to ensure that the problem could be rectified immediately should one of the neighbours telephone her to report a problem; and
- (5) that the licenceholder had obtained an acoustic consultant's report and would be complying with the recommendations in the report.

The Senior Environmental Health Officer detailed the number of noise complaints made by the applicant for the review since 19th June 2009, the visits by Environmental Health Officers and the subsequent recommendations from Environmental Health to keep the noise to an acceptable level.

Chief Inspector Kerr, Strathclyde Police then outlined the cases, complaints and representations between 31st August 2009 and 31st August 2011 concerning anti-social behaviour within a 50 metre radius of the premises.

The licenceholder outlined

- (a) her disappointment at this matter being placed before the Board as she had not had an opportunity to rectify matters prior to the review application being submitted;
- (b) that she had always worked closely with the Licensing Standards Officer and had attended a mediation meeting where she had allayed some of the applicant's fears;
- (c) that, having been unsuccessful in gaining an HMO licence for these premises, it was now operating as a hotel which had resulted in a change of clientele which addressed part of the applicant's complaint;
- (d) that she had worked closely with the Environmental Health Noise Team who had assisted her in setting the noise limiter she had had installed which had subsequently been adjusted, however, Environmental Health Officers had been unable to gain access to the applicant's flat to monitor the noise levels from there;
- (e) that there had then been an eleven month gap when eighty eight events had taken place with no complaints being received from any neighbours, therefore, she had believed that the problem had been rectified; and

- (f) that, unfortunately the problem had not been rectified, therefore, she had obtained a report from an acoustics consultant and requested that Environmental Health Officers continue to monitor the sound after each piece of work had been carried out and that the applicant's flat also be monitored.

The Chair then informed the applicant that, as Environmental Health Officers required to carry out an inaudibility check on her premises, they would require access and that, if the noise remained at an unacceptable level, soundproofing would require to be carried out on the Amber House premises and the applicant advised that she would facilitate Environmental Health Officers gaining entry to her flat, however, with regard to the eleven month period the licenceholder referred to when no complaints had been made, she had still experienced problems with noise during this period but had not submitted a complaint.

The Board then agreed to continue consideration of this matter to a future Board meeting to allow the premises licenceholder to implement the recommendations from Environmental Health, namely:-

- (i) that no entertainment should be provided on the premises until such times as an acceptable level was set by Environmental Health with any level set not being capable of being tampered with;
- (ii) that, should it not be possible to reach a mutually suitable noise level, it would be required that the findings included in the Acoustic Consultant's report be carried out in order to reduce noise break-out from the premises to an acceptable level; and
- (iii) that arrangements should be made to ensure that the rear fire exit door and front doors leading into the premises were kept closed so far as was practicable as the rear fire exit door was currently used by smokers accessing the rear of the premises.

(f) Review Hearing of Personal Licence Under Section 83.

The Board considered the following application for review:-

<u>Application Number</u>	<u>Applicant</u>
SA/09/00001/LAPRS	Raibinder Singh Gill

There was submitted a report (issued to Members only) dated 12th August 2011 from Strathclyde Police advising of Mr. Gill's conviction.

The Board heard from Strathclyde Police in relation to this review and the reasons for requesting the review; and from the licenceholder's representative in response explaining the background to the conviction and outlining that it was an oversight that Mr. Gill had not reported his conviction to the Board and he apologised for this lapse; and the Board adjourned for consideration of this matter.

Upon reconvening, the Board agreed that the conviction be noted and that no further action be taken.

The meeting ended at 12.05 p.m.