

SOUTH AYRSHIRE LICENSING BOARD.

Minutes of a meeting in County Buildings, Wellington Square, Ayr,
on 3rd February 2011 at 10.00 a.m.

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; M. Houston, Senior Trading Standards Officer; and J. McClure, Committee Administrative Officer.

In Attendance: Superintendent J. McDougall and Sergeant U. Menzies, Strathclyde Police.

1. 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, 3rd March 2011 at 10.00 a.m.

2. Minutes of Previous Meeting.

The Minutes of the Meeting of South Ayrshire Licensing Board of 9th December 2010 (issued) were submitted.

Decided: to note the Minutes of the previous meeting.

3. Applications for Transfers Granted Under Delegated Powers.

There was submitted a report (issued) of 26th January 2011 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 Chase, 134 Hillfoot Road, Ayr;
The Twa Dugs, 4 Killoch Place, Ayr; and
Libertine, 7 River Street, Ayr.

Decided: to note the transfers granted under delegated powers.

4. Royal Wedding – General Extension of Licensed Hours.

The Chair advised that one additional hour would be granted to premises on Friday, 29th April 2011 for the Royal Wedding and that any licenceholder wishing to open for this extended period, should notify the Clerk to the Board by Thursday, 31st March 2011.

Decided: to grant one additional hour's opening on 29th April 2011 for the Royal Wedding.

5. Statement of Licensing Policy.

There was submitted a report (issued) by the Executive Director – Corporate Services dated 21st January 2011

- (1) advising on the consultation which had taken place on the Statement of Licensing Policy and that, following the further consultation, responses had been received from the Local Licensing Forum and from one operator; and
- (2) seeking approval for the Statement of Licensing Policy, attached as an Appendix to the report.

The Clerk to the Board advised of the minor amendments to the Policy following the further consultation.

Decided: to approve the Statement of Licensing Policy with the addition of:-

- (a) a link to the SIA website being included in Item 6.4 of Appendix 1 of the Policy entitled "Door Supervision"; and
- (b) the word "continuous" in item 7.2 of Appendix 1 of the Policy entitled "On Sales" so that the sentence should read "the Board considers that the maximum trading hours to be enjoyed by any premises shall not exceed fourteen and a half continuous hours".

6. Update Report by Licensing Standards Officer.

The Chair advised that there was no update report from the Licensing Standards Officer on this occasion.

Decided: to note that an update from the Licensing Standards Officer would be provided to a future Board meeting.

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

(a) **Application for Variation of Premises Licence.**

The Board considered the following applications:-

	<u>Applicant</u>	<u>Premises</u>
(1)	Booker Limited	Booker Cash and Carry Boundary Road Ayr

Amend Operating Plan as follows:-

Change answer to question 4 (seasonal variations) to "N/A"; change question 5(f) to specify maximum opening and closing times as actual hours of operation as currently specified are subject to change and move the statement in relation to alcohol sales to trade from question 4 to question 5(f); and change capacity figure from 301.34m² to 375m².

The Board granted the above application.

(2)	SLC Turnberry Limited	Turnberry Hotel Maidens Turnberry
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Consolidation of the Premises Licence for both the Hotel and the Health and Leisure Centre into one Premises Licence.

The Board granted the above application.

(3)	Sainsbury's Supermarkets Limited	Sainsbury's Store 125 Ayr Road Prestwick
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Increase off-sale capacity from 153.86m² to 158.36m².

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

(4)	Partnership of M. and S. Burnham	Lonsdale Bar 15 Portland Street Troon
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Amend On-Sale hours to open at 10.00 a.m. every day (currently 11.00 a.m. every Monday to Saturday inclusive and 12.30 p.m. on Sundays); provision of beer garden and smoking shelter with drinking allowed from opening time to 10.00 p.m.; to amend Operating Plan to allow dominoes/darts/televisions (non sporting programmes)/quiz nights/karaoke; and theme nights/charity functions/golf day/gaming machine/quiz machine/juke box.

The Board granted the above application.

Applicant

Premises

- (5) The Carrick Sports Club The Carrick Sports Club
8 Whitehall
Maybole

Amend On-Sale hours to close at 1.00 a.m. on Fridays and Saturdays (currently 12.30 a.m.); allow seasonal variation to close at 1.30 a.m. on Hogmanay; additional activities on premises – conference facilities, pipe band practice and tuition for children by local pipe band members, line dancing practice, bingo nights, race nights, psychic nights, quiz nights, Town Twinning Association events, St. Crispin Burns Club meetings and Burns Supper; change to children's access to permit children and young people in whole premises.

The Board heard the applicant, particularly in relation to that part of the application for extended opening until 1.00 a.m. on Fridays and Saturdays and the Licensing Policy Officer advise that the hours applied for complied with the Board's Policy; that when activities were taking place upstairs, the people attending the activities should not have access to the bar and anyone entering the downstairs bar required to be signed in as a guest by a member of the club.

Following questions regarding children's access to the premises and the Licensing Standards Officer advising that, following discussions with the applicant she was satisfied with the application, the Board granted the above application, subject to the following further local conditions being added to the licence:-

- (i) no alcohol is to be sold or displayed on the upper floor of the premises when the area is being used by other organisations unless an occasional licence is in force; and
- (ii) no-one attending an event on the upper floor of the premises when alcohol is not being sold or displayed in accordance with the foregoing condition is to be admitted to the ground floor bar in the premises unless they are in the company of a member and have been signed in, in accordance with the constitution.

- (6) Kincaidston and Belmont Kincaidston and Belmont Bowling Club
Bowling Club Bracken Park
Ayr

Amend On-Sale hours to every Monday to Saturday inclusive from 10.00 a.m. to 12.30 a.m. and every Sunday from 10.00 a.m. to 11.00 p.m. (currently every Monday to Thursday inclusive from 11.00 a.m. to 11.00 p.m. every Friday and Saturday from 11.00 a.m. to midnight and every Sunday from 11.00 a.m. to 11.00 p.m.); in the event of a function, allow children and young people aged fourteen years plus to stay until the end of the function; and to allow restaurant facilities from 9.00 a.m. for bowlers.

The Board granted the above application.

(b) Application for Provisional Premises Licence.

The Board considered the following applications:-

<u>Applicant</u>	<u>Premises</u>
(1) Tesco Stores Limited	Tesco Express 140-142 High Street 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 of the applicant premises would be the appropriate locality for consideration of this application.

The Board then heard an observation from Strathclyde Police and from the representative for the applicant in response and also advising that all issues raised by Strathclyde Fire and Rescue had now been resolved.

The Board took all submissions into account when determining the application, considered if any of the grounds for refusal applied and, having determined that no grounds for refusal had been established, the application was granted.

(2) Iain John Campbell and Shirley Mary Donaldson	The Garden Bistro 120 Main Street Prestwick
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Retail Sale of Alcohol (On Premises) – every Monday to Thursday inclusive from 11.00 a.m. to 11.00 p.m.; every Friday and Saturday from 11.00 a.m. to 11.30 p.m. and every Sunday from 11.00 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

The Board then heard from the applicant's representative in relation to this application.

The Board took all submissions into account when determining the application, considered if any of the grounds for refusal applied and, having determined that no grounds for refusal had been established, the application was granted.

<u>Applicant</u>	<u>Premises</u>
(3) The Station Hotel (Ayr) Limited	The Station Hotel Burns Statue Square Ayr

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 noon to midnight.

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 of the applicant premises would be the appropriate locality for consideration of this application.

The Board then heard from the applicant's representative and from the Licensing Standards Officer in relation to this application.

The Board took all submissions into account when determining the application, considered if any of the grounds for refusal applied and, having determined that no grounds for refusal had been established, the application was granted.

(c) Review of Premises Licence Under Section 38.

Lucy Blair Properties Ltd. for Dunure Inn, 9/17 Harbour Road, Dunure.

Following a Request for Review from Trading Standards under Section 38 of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

With reference to the Minutes of 9th December 2010 (Page 5, paragraph 4(f)(i)) when it had been decided to continue consideration of this matter to this meeting to allow the licenceholder to attend, there were submitted reports (issued to members only) of 30th November 2010 by the Executive Director – Corporate Services and of 1st November 2010 by the Trading Standards and Environmental Health Manager outlining the reasons for seeking the review.

The Board then heard the Senior Trading Standards Officer

- (A) outline that a test purchase had been carried out at the premises by Trading Standards Officers buying malt whisky which had revealed that the member of staff in question was providing short measures of the alcohol; that the bar person had poured the alcohol with her back to the Officers; and that prices of drinks were not displayed on the premises;
- (B) advise that, on interviewing the licenceholder, it was apparent that staff required further training and that, following a further visit by Trading Standards Officers, the licenceholder had agreed that all staff would be trained in relation to Trading Standards matters, in particular weights and measures, which had subsequently taken place in December 2010; and
- (C) report that a follow-up test purchase would be carried out shortly.

The Licensing Standards Officer further outlined

- (i) that she had advised the licenceholder that training of staff in Licensing matters was a priority and had provided the licenceholder with details of companies that could provide training manuals; and
- (ii) that on revisiting the premises she had found them closed, therefore, she was unaware if staff training in relation to the required Licensing aspects had now been undertaken.

The Premises Manager then advised

- (I) that the staff member in question had made a genuine mistake by assuming that malt whisky was a liqueur and had served a liqueur measure, however, all spirits and liqueurs were now served as 35ml measures, mostly in optics to avoid confusion;
- (II) that she had now reviewed the training programme and any new staff members would be trained using the CPL training book; and
- (III) that all current staff had now been trained and a note was kept of all training records.

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.

Decided:

- (aa) that the Board was satisfied that the grounds for the review had been established, namely that a member of staff had sold Trading Standards Officers short measures and that the staff member, although a personal licenceholder, was inadequately trained;
- (bb) to request the Clerk to the Board to issue a warning letter to the premises licenceholder regarding training and retaining proper training records;
- (cc) to note that the Licensing Standards Officer would revisit the premises to ensure that the appropriate training records were in place; and
- (dd) to note that Trading Standards Officers would also revisit the premises to carry out a further test purchase.

(d) Review of Premises Licence Under Section 36.

(i) Greene King Brewing and Retailing Ltd. and Kevin White for Rabbies, 23 Burns Statue Square, Ayr.

Following a Request for Review from Strathclyde Police under Section 36(1) of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There were submitted (issued to members only) a report dated 18th January 2011 by the Executive Director – Corporate Services outlining the background to this review and the options available for the Board; a letter from Strathclyde Police dated 14th December 2010 outlining the reasons for requesting the review; the initial information supplied by the premises advising how they would meet the licensing objectives; and a report from the Licensing Standards Officer dated 13th January 2011 reporting on the outcome of her visit to the premises.

The Board then heard Superintendent McDougall, Strathclyde Police in relation to the reasons for requesting the review and the Licensing Standards Officer advise that she was satisfied that all staff training records were available for inspection, that Belhaven training workbooks were available, that all outstanding matters were now rectified and that she had been provided with a print-out of the refusals which were undertaken through the till.

The licenceholder's representative then advised

- (A) that the staff member in question had admitted serving the under-age youth as he knew the people with the youth to be over 18 and had wrongly assumed that this person was also over 18;
- (B) that the staff member had previously been trained and the staff training booklet had been taken by Police Officers when he had been charged;
- (C) that the staff member had not been dismissed immediately, however, due to his poor performance at work he had later been dismissed; and
- (D) that CCTV was in operation within the premises, the number of personal licenceholders working for the premises had been increased from two to four; signage was now displayed appropriately; and the document provided to the Licensing Standards Officer outlined the increasing number of times ID had been sought and refusals made.

The Chair advised the licenceholder's representative that the Board's Policy outlined that the Board would expect a personal licenceholder to be on the premises at all times and the licenceholder's representative advised that, as four personal licenceholders worked on the premises, this would be possible and 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 decided that the grounds for the review had been established, namely that there had been a breach of the licensing objective Preventing Crime and Disorder, as alcohol had been sold to a young person under the age of 18 years.

Councillor Andy Campbell, seconded by Councillor Slider, moved that the licence be suspended for one day with immediate effect.

By way of an Amendment, Councillor Grant, seconded by Councillor Fitzsimmons, moved that the Board request the Clerk to issue a warning letter to the Premises Manager regarding the importance of requesting ID to ensure that alcohol was not sold to under-age persons; and reminding the Premises Manager of Section 6.1 of the Board's Statement of Licensing Policy outlining that the Board expected a personal licence holder to be on the premises at all times, also noting, however, that the Board recognised the good work carried out at the suggestion of the Licensing Standards Officer since the incident had taken place.

On a vote being taken by a show of hands, four members voted for the Amendment and four for the Motion. The Chair then exercised his casting vote in favour of the Amendment.

Decided: to request the Clerk to the Board to issue a warning letter to the premises licenceholder regarding the importance of requesting ID to ensure that alcohol was not sold to under-age persons; and reminding the Premises Manager of Section 6.1 of the Board's Statement of Licensing Policy outlining that the Board expected a personal licence holder to be on the premises at all times.

(ii) **BDC Fuels Limited and Brian Connolly for 84-96 High Street, Maybole.**

Following a Request for Review from Strathclyde Police under Section 36 of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There were submitted (issued to members only) a report dated 18th January 2011 by the Executive Director – Corporate Services outlining the background to this review and the options available for the Board; a letter from Strathclyde Police dated 14th December 2010 outlining the reasons for requesting the review; the initial information supplied by the premises advising how they would meet the licensing objectives; and a report from the Licensing Standards Officer dated 18th January 2011 reporting on the outcome of her visit to the premises.

The Board then heard Superintendent McDougall, Strathclyde Police in relation to the reasons for requesting the review and updating the Board on the recent Court case against the staff member concerned and the decision of the Court.

The Licensing Standards Officer then advised of her visits to the premises when no personal licenceholder was on duty which the Board would expect at all times; that some signage required attention; members of staff were unfamiliar with the forms of ID which should be accepted; and that staff training required to be revisited.

The representative for the licenceholder then

- (A) outlined the circumstances surrounding the sale to the person under 18 years of age and the resulting court case; and
- (B) advised
 - (I) that on the day the incident had taken place the till system had not warned the seller to check for ID as the central system had not updated the till;
 - (II) that the sale to the young person had been an inadvertent and honest mistake by a member of staff who had 30 years experience in the licensed trade;
 - (III) that all training records had now been examined by the Licensing Standards Officers and were found to be in order; and
 - (IV) that the premises operated a bottle marking system, refusals book and carrier bag marking.

Following questions from members of the Board, the Board 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 decided that the grounds for the review had been established, namely that there had been a breach of the licensing objective Preventing Crime and Disorder, as alcohol had been sold to a young person under the age of 18 years.

Decided:

- (aa) that the licence be suspended for three days, namely 4th, 5th and 6th February 2011 and all alcohol be removed from display; and
- (bb) to request the Clerk to the Board to issue a warning letter to the Premises Manager in relation to the range of issues highlighted in the Licensing Standards Officer's report including training of staff and advising that the summary premises licence must be displayed on the premises and a Section 110 Notice must be displayed at each place on the premises where sales of alcohol are made and be in a position which is readily visible to any person seeking to buy alcohol.

(e) Application for Personal Licence.

The Board agreed, at the request of the applicant, to continue consideration of this application to the next meeting of the Board, scheduled to be held on Thursday, 3rd March 2011:-

<u>Application Number</u>	<u>Applicant</u>
SA/10/00204/LAPRS	Alan Sharp

(f) **Review of Personal Licence.**

SA/90/00700/LAPRS – Carol Baird

There were submitted (issued to members only) a report by the Executive Director – Corporate Services dated 19th January 2011 advising of Ms. Baird's conviction; and a letter from Strathclyde Police dated 14th December 2010 outlining the offence committed.

The Board heard from the Police in relation to this review and the reasons for requesting the review.

Decided: to note the offence committed and to agree not to take any action.

8. **The Gambling Act, 2005.**

(a) **Application for Variation of Bingo Premises Licence.**

The Board considered the following application:-

Haven Leisure Limited	Atlantic Showbar Craig Tara Holiday Park Dunure Road Ayr
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Amended layout of seating area.

The Board granted the above application.

(b) **Applications for Club Machine Permit.**

The Board granted the following applications:-

	<u>Club</u>	<u>Address</u>
(1)	Tarbolton Masonic Social Club	67 Montgomerie Street Tarbolton
(2)	Prestwick Indoor Bowling Club	Bellevue Road Prestwick
(3)	Dundonald Bowling Club	Winehouse Yett Dundonald
(4)	Lodge St. James Social Club	26 Fullarton Street Ayr
(5)	Prestwick 1060 Club	43 Berelands Road Prestwick

	<u>Club</u>	<u>Address</u>
(6)	Prestwick Bowling Club	6 Midton Road Prestwick
(7)	Ayr Northfield Bowling Club	43 Northfield Avenue Ayr
(8)	Tarbolton Bowling Club	Montgomerie Street Tarbolton
(9)	Peter Boyle Bowling Club	Craigie Park Craigie Road Ayr
(10)	Cambusdoon Sports Club	Cambusdoon Ground 2 Burns Wicket Alloway

The meeting ended at 1.00 p.m.