

EAST AYRSHIRE LICENSING BOARD

Minute of the meeting of East Ayrshire Licensing Board held within Meeting Room 1 on Tuesday 9 February 2010 at 10am

SEDERUNT : Councillor J Buchanan, Councillor J Campbell, Councillor H Coffey, Councillor G Cree, Councillor J McGhee, Councillor N McGhee, Councillor J McKay and Councillor H Ross

ATTENDING : Mr S McCall (Depute Clerk to the Licensing Board), Mr B Roy (Building Standards), Mr B Campbell (Environmental Health), Sgt. A Kelly and Mrs C McKenna (Strathclyde Police), Mrs C McEwan and Mr I Hiles (Licensing Standards Officers), Mrs P Duncan and Ms S Gillies (Licensing Board Administrators).

Councillors Dinwoodie submitted apologies that she was unable to attend the meeting.

Councillor Cuninghame was unable to attend the meeting.

1. SEDERUNT

Noted.

2. MINUTES OF MEETINGS

2.1 The Minute of the Licensing Board meeting held on 12 January 2010 was approved and noted.

3. APPLICATIONS

Consider applications received under the Licensing (Scotland) Act 2005, Licensing (Scotland) Act, 1976, as amended and the Gambling Act, 2005 – Appendix I.

There being no further business the meeting ended at 11.10pm.

LICENSING (SCOTLAND) ACT, 2005

REVIEW OF PREMISES LICENCE

Tesco Stores Ltd.
112 Glasgow Road
Kilmarnock

Tesco Stores Ltd.
West Shaw Street
Kilmarnock

Tesco Stores Ltd.
Main Street
Auchinleck

Mr R Hamilton, Solicitor, appeared on behalf of the licence holders.

The Depute Clerk reminded the Board that, in terms of Section 44 of the Licensing (Scotland) Act 2005, where a Licensing Board receives notification of a conviction from a licence holder, the Board must make a premises licence review proposal in respect of the premises licence. He advised that Strathclyde Police had confirmed that Tesco Stores Ltd. had been convicted of three relevant offences at Abertillery Magistrates Court on 6 August 2009, namely:-

- 1. Contravention of the Lifting Operations & Lifting Equipment Regulations 1998 – fined £3,200.**
- 2. Contravention of the Provisions & use of Work Equipment Regulations 1998 – fined £320.**
- 3. Contravention of the Management of Health & Safety at Work Regulations 1999 – fined £3,200.**

Mr Hamilton submitted that the three offences related to Health and Safety matters and that the licence holders had not breached any licensing legislation.

The Board agreed to take no action in respect of the convictions.

APPLICATION FOR PERSONAL LICENCE

Daniel Armour
22E Park Street
Kilmarnock

The Depute Clerk advised that Strathclyde Police had confirmed that the applicant had been convicted of two relevant offences. Referring to the first offence, he advised that Mr Armour had been convicted at Paisley Sheriff Court on 31 May 2002 of an offence in terms of the Road Traffic Act 1988, Section 5(1)(a) and fined £500, disqualified for 18 months and his licence had been endorsed.

In respect of the second offence, the Depute Clerk advised that Mr Armour had been convicted at Kilmarnock Sheriff Court on 12 February 2007 of an offence in terms of the Road Traffic

Act 1988, Section 5(1)(a) and fined £1000, disqualified for 4 years and his licence had been endorsed.

As Mr Armour was not present at the meeting, nor was he represented, the Board agreed to continue consideration of the application to the next meeting of the Board on 9 March 2010.

Swami Sharma
49 Glenmuir Crescent
Logan
Cumnock

The Depute Clerk reminded the Board that consideration of this application had been continued from the Board meeting on 3 November 2009 to allow the outcome of a pending case to be known. He advised that the case had been dealt with on 3 December 2009 at which time no proceedings were taken.

The Depute Clerk advised that the convictions to be considered were the original convictions, which had been accepted by Mr Sharma, namely that the applicant had been convicted at Ayr Sheriff Court on 16 October 2008 of (1) Assault to injury (aggravation of child) and fined £100 with a compensation order of £250 imposed; and (2) Assault (aggravation of child) and fined £100, with a compensation order of £200 imposed.

The Members had no questions to ask. Councillor Cree asked for a short adjournment.

Upon returning the Chair stated that the Board had serious concerns with regard to Mr Sharma's convictions however agreed to grant the licence. The Chair stressed that any future convictions obtained by Mr Sharma may lead to the licence being revoked.

APPLCIATION FOR TRANSFER OF PREMISES LICENCE

Orientan Ltd.
175 Main Street
Prestwick

4b John Finnie Street
Kilmarnock

APPLICATION FOR VARIATION OF PREMISES LICENCE

Urban Nightlife Kilmarnock Ltd
4b John Finnie Street
Kilmarnock

4b John Finnie Street
Kilmarnock

Brief overview of nature of the business proposed to be carried on in the premises:-

The premises will cater for conferences, receptions and club meetings. Restaurant facilities and bar meals will be available. Recorded music and live performances, gaming and televised sport will be available. Activities such as pool, D.J., bands, comedians, live acts (such as open mic nights, talent contests etc) karaoke and poker will be available. When requested to cater for an early morning funeral, birthday or christening the premises will remain open from 10.00am. The premises will remain open until 2.00am on 24 December and 31 December each

year. Children and young persons will be permitted entry, when accompanied by an adult, for the purposes of consuming a meal.

Details of the variation to licensed hours are:-

<u>Current Licensing Hours:</u>	<u>On-Sale</u>	<u>Off-Sale</u>
Monday – Friday	12 Noon – 11.00pm	
Saturday	12 Noon – 11.30pm	
Sunday	12 Noon – 11.00pm	

<u>Licensing Hours Applied For:</u>	<u>On-Sale</u>	<u>Off-Sale</u>
Sunday – Wednesday	12 Noon – Midnight	
Thursday – Saturday	12 Noon – 1.00am	

The Depute Clerk reminded Members that these applications had been continued from the Board meeting on 12 January 2010 to allow clarification to be obtained on the proposals for the premises, and in particular the basement of the premises, as the information provided by Mr Henry and Mr McDonald at the previous Board meeting had been unclear. He stated that, in addition, both Building Control and Environmental Health had required to gain access to inspect the premises.

Mr Campbell, Environmental Health, reported that officers had visited the premises on the 27 January 2010. At this time there were major structural works being carried out, which made it difficult to make an accurate assessment of the premises proposed purpose. It was noted that numerous structural defects would require to be addressed before the premises would be at a standard to comply with the current food hygiene regulations. At that time representatives present from Urban Nightlife advised that these were being addressed and wished to open the upper bar area first and finish off the kitchen and other lower areas later. Mr Campbell concluded that a revisit would require to be undertaken to determine completion of works and further determination of compliance.

Mr Roy, Building Standards reported that the premises were inspected on 27 January and the following issues were identified:-

1. All fire doors require servicing, closers to be adjusted or renewed.
2. Final exit door will require pushbar and removal of slipbolt.
3. Integrity of basement ceiling has been breached in numerous locations by services and investigative works etc.
4. It is intended to refurbish entire escape route to the basement exit, removing shelving and other projections, and replacing floor finishes to remove any trip hazards.
5. Certification still awaited for emergency lighting,
6. Escape signage still outstanding.
7. Works to drainage and wc's still incomplete, they were part of the pub's refurbishment.

Mr Roy stated that Mr MacDonald again confirmed that it was intended that no further works be carried out until the licence was approved, which would then release funding from the brewery. In addition, it was intended not to use the kitchen area initially, until that aspect of the works could be funded from bar sales and that the entire downstairs area would be subject to a refurbishment programme in due course.

The Depute Clerk referred to a letter which he had received the day prior to the Board meeting issued by the Health and Safety Executive with regard to fire safety within premises with basements. He advised that the letter specifically referred to the fire in an Edinburgh pub, where it was believed that the source of the fire had been in an office in the basement of the premises, in which a fire fighter had died. He stated that the letter highlighted the requirement for Fire Risk Assessments to be carried out on premises with basements.

The Depute Clerk submitted that, should the Board be minded to grant the transfer, the licence holders must liaise with Strathclyde Fire & Rescue with regard to the use of the basement.

Ms Joanna Brynes appeared on behalf of both Orientan Ltd. and Urban Nightlife Kilmarnock Ltd.

Referring to questions which had been asked at the meeting on 12 January regarding the three separate companies which were registered to 4b John Finnie Street, Ms Brynes explained that this was simply an address for correspondence. She suggested that her office become the registered address for correspondence, which would reduce the volume of mail being sent to the licensed premises, and undertook to take the necessary steps to change the registered address.

Ms Brynes advised that the basement of the premises would not be used for offices, but would be used for storage and a kitchen. Addressing the report from Environmental Health with regard to structural defects, Ms Brynes stressed that this referred only to fittings and that there were no structural defects with the actual building.

Ms Brynes stated that her clients intended to carry out work to the kitchen and toilets within the basement, however did not want to spend money to carry out the works until the licence was transferred. Ms Brynes suggested that, if the Board were minded to grant the transfer, a condition could be placed on the licence that the premises would not operate until satisfactory inspections had been carried out by the relevant consultees.

Ms Brynes concluded that the variation application was to change the operation of the premises to a bar with food.

The Depute Clerk stated that the premises had previously operated as a pub type premises.

Referring to the variation application, the Depute Clerk pointed out that it was the Board's policy to allow premises to open from 10am to cater for funerals, subject to prior notification to the Board, however pointed out that should the applicant wish to open earlier to cater for birthdays and christenings, then an extended hours application would require to be submitted.

Councillor Campbell asked for an approximate timescale to complete the outstanding works.

Mr McDonald replied that it would take from 3 weeks to 1 month to complete the works.

Ms Brynes stated that the main issues were with the kitchen and agreed with Mr McDonald's estimation of the timescale.

Councillor Campbell requested a short adjournment.

Upon returning Councillor J McGhee moved that the transfer be granted, as there was no legal basis to refuse the transfer, however moved that conditions be attached to the licence that the

premises would not operate until satisfactory inspections had been carried out by the relevant consultees.

The Chair stated that he had concerns with the granting of the transfer, however agreed that there was no legal basis to refuse the transfer. He expressed concerns with regard to the outstanding debts of related companies and recommended that the Council pay particular attention to these premises with regard to rates, etc. He also asked that the Licensing Standards Officers monitor the operation of the premises.

The Board agreed unanimously to grant the transfer and the variation, subject to the additional conditions that the premises would not operate until satisfactory inspections had been carried out by Building Standards, Environmental Health and Strathclyde Fire & Rescue.

APPLICATION FOR TRANSFER OF PREMISES LICENCE

Esan Limited
788 – 790 Finchley Road
London

41 Low Glencairn Street
Kilmarnock

The Depute Clerk advised that Strathclyde Police had confirmed that Jameel Hussain, the sole Director of the applicant company, had been convicted at Glasgow Sheriff Court on 21 January 2009 of 1) Breach of the Peace AGG : Domestic, MOD : Metal Bar, 2) Assault, 3) Assault AGG : Domestic. Sentence had been deferred until 18 February 2009 when Mr Hussain was placed on a probation order for 2 years in respect of all three charges.

Mr Hussain appeared before the Board and confirmed the existence of the convictions.

Councillor J McGhee requested a short adjournment.

Upon returning Councillor Cree moved that the transfer be granted, which was seconded by Councilor N McGhee. The Board agreed unanimously to grant the transfer.
