

EAST AYRSHIRE LICENSING BOARD

**Minute of the Meeting of East Ayrshire Licensing Board held within The Council Chambers,
Council Headquarters, London Road, Kilmarnock on Tuesday 21 August 2018 at 10am.**

SEDERUNT: Councillor Tom Cook (Chair), Councillor Ian Grant, Councillor Claire Leitch, Councillor George Mair and Councillor Jacqui Todd.

ATTENDING: Mr S McCall (Depute Clerk to the Licensing Board), Inspector C Shearer and Sergeant D Dougan (Police Scotland), Mrs C McEwan and Mr I Hiles (Licensing Standards Officers) and Mrs P Duncan and Ms S Duncan (Licensing Board Administrators).

APOLOGIES : Councillor Fiona Campbell, Councillor John Campbell, Councillor William Crawford, Councillor Drew Filson and Councillor Lillian Jones

1. SEDERUNT

Noted.

2. MINUTE OF MEETING

2.1 The Minute of the meeting of East Ayrshire Licensing Board held on 26 June 2018 was approved and noted.

3. APPLICATIONS CONSIDERED UNDER DELEGATED AUTHORITY

The Clerk provided details on the following applications, which were discharged by the Clerk under delegated authority from 19 June until 10 August 2018:-

Confirmation of Provisional Grant	:	1
Minor Variation	:	9
Variation on Transfer	:	2
S33 Transfer	:	4
S34 Transfer	:	4
Grant of Personal Licence	:	39
Automatic Entitlement (gaming machines)	:	5
Small Lottery – Renewals	:	11
Small Lottery – Grants	:	1
Occasional Licences	:	114
Extended Hours	:	14

The Board noted the content of the report for information purposes.

The Depute Clerk highlighted the number of Personal Licences granted during the period and reminded Members that Personal Licences were in effect for 10 years. Accordingly, as well as dealing with the grant of new Personal Licences, Personal Licences granted will require to be renewed from 31 August 2019. Licensing Boards await further information from the Scottish Government on the renewal of Personal Licences.

4. POLICE SCOTLAND : ANNUAL LICENSING REPORT 2017/18

Sergeant Dougan outlined the Chief Constable’s annual Licensing Report for 2017/18.

5. REVIEW OF PREMISES LICENCE

5.1 Review of premises licence for premises at Bingham’s Convenience Store, 97A Glaisnock Street, Cumnock in terms of the Licensing (Scotland) Act, 2005 for breach of mandatory licensing conditions.

The Depute Clerk advised that a request had been made by the licence holder of the above premises to continue the Licensing Review Hearing to a future meeting to allow him to celebrate Eid, which started on 21 August. The Depute Clerk referred to the Board’s Equalities Policy and Members agreed unanimously to continue the Review Hearing to the next meeting of the Board.

6. APPLICATIONS

Consider applications received under the Licensing (Scotland) Act 2005 and the Gambling Act 2005 – See Appendix I.

There being no further business, the meeting ended at 11.30am.

LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR PERSONAL LICENCE

James Watson
48D Fullerton Street
Kilmarnock

Mr Watson was not present or represented at the meeting, however the Depute Clerk reminded the Board that Members had already taken account of the conviction at the last meeting of the Board when considering the application for transfer of licence for The Braehead Bar, 8 Langlands Street, Kilmarnock as Mr Watson was the sole Director of the applicant company.

Sergeant Dougan reported that James Watson was convicted at Glasgow City JP Court on 17 October 2014 for an offence in terms of the Misuse of Drugs Act 1971, Section 5(2) AGG: Bail, MOD : Cocaine and was fined £150. The circumstances surrounding the conviction was that on 1 March 2014 at SECC, Exhibition Way, Glasgow, James Frank Wilson had in his possession a controlled drug or drugs, namely cocaine, a class A drug specified in Part I of Schedule 2 of the Misuse of Drugs Act 1971 in contravention of Section 5(1) of said Act, contrary to the Misuse of Drugs Act 1971, Section 5(2). Mr Wilson committed this offence while on bail, having been granted bail on 12 December 2013 at Kilmarnock Court.

The Depute Clerk reminded Members of Mr Watson’s submission at the last meeting of the Board that Mr Watson had been attending a boxing event at the SECC in Glasgow with a group of friends when it was decided that they would purchase cocaine prior to entering the event. The purchase was witnessed by Police and the drugs were confiscated. To avoid all of the group being charged with the offence, Mr Watson had taken responsibility.

As the conviction had already been considered by Members when dealing with the transfer application, and the transfer was granted, the Board agreed unanimously to grant the Personal Licence.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR PERSONAL LICENCE

Chloe Hart
56 Loudoun Road
Newmilns

As Ms Hart was not present or represented at the meeting, the Board agreed unanimously to continue consideration of the application to the next meeting of the Board.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR PERSONAL LICENCE

Nico Moore
12 Ardgour Place
Kilmarnock

As Mr Moore was not present or represented at the meeting, the Board agreed unanimously to continue consideration of the application to the next meeting of the Board.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION OF PREMISES LICENCE

Adil Ali Mukhtar
11 Stepend Road
Cumnock

Premier
9 Castle
New Cumnock

Details of the variation:-

Increase in alcohol display area within the premises from 33.5m² to 34m²

Adil Ali Mukhtar as not present or represented at the meeting.

The Depute Clerk advised that no objections or representations had been received in respect of this application.

As the variation involved only a very small increase to the alcohol display area, the Board agreed unanimously to grant the variation.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION OF PREMISES LICENCE

Rifat Bibi
9 Terringzean View
Cherrytrees
Cumnock

Craigens Road Post Office
34-36 Craigens Road
Netherthird
Cumnock

Details of the variation:-

Increase in alcohol display area within the premises from 9.60m² to 24.5m²

Rifat Bibi was not present or represented at the meeting.

As the variation involved a significant increase to the alcohol display area within the premises, the Board agreed unanimously to continue consideration of the application to the next meeting of the Board.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION OF PREMISES LICENCE

Bar Aussie LIC Limited
c/o Millar Campbell
Solicitors
116 Blythswood Street
Glasgow
G2 4EG

The Den
10 Titchfield Street
Kilmarnock

Details of the variation:-

The premises are currently a licensed restaurant and are being amended to a licensed bar/ restaurant. The purpose of the variation application is also to amend the licensed hours, as follows:-

Current Licensed Hours – On-Sales (only)

Sunday – Saturday 12 Noon – 12 Midnight

Proposed Licensed Hours – On and Off Sales

On-Sales

Off-Sales

Sunday – Thursday 11am – 12 Midnight
Friday and Saturday 11am – 1am

Sunday – Saturday 11am–10pm

The occupant capacity is to be increased from 64 to 135.

The variation application is also to amend the operating plan to include a seasonal variation, during the festive period and any other period where general extensions are granted as defined by East Ayrshire Licensing Board, the premises will operate additional hours for the sale of alcohol in accordance with the Board’s policy. The premises will offer conference facilities and restaurant facilities, bar meals, Club or other group meetings etc, recorded music, live performances, dance facilities, films, gaming, indoor/outdoor sports and televised sport which may take place out with core hours or any extension thereto. No alcohol will be sold out with core hours or any extension thereto. The premises will provide tastings, demonstrations, themed events and similar events.

The premises currently permit children entry for the purpose of consuming a meal accompanied by an adult and young persons permitted entry for the purpose of consuming a meal unaccompanied by an adult, both during the core hours. The variation is to amend the previous terms to add the times permitted to include “or any extension thereof”. The variation is also to permit children and young persons entry to the premises for the purpose of attending a function for the duration of the function or any extension thereof.

Ms Joanna Millar, Agent for the applicant, appeared before the Board, together with Andrew Anderson, Business Adviser.

Ms Millar referred to comments made by Building Standards regarding the occupant capacity of the premises and submitted that, following discussions with Building Standards, an occupant capacity of 90 had been agreed. This was confirmed by the Depute Clerk.

Ms Millar explained that the inclusion of off sales was to allow customers who may have purchased a bottle of wine with their meal and not finished the bottle, to take the unfinished bottle home. Staff were aware that off-sales hours were only until 10pm.

Ms Millar reported that there would be ten members of staff, five full time and five part time, and that all staff had undertaken the mandatory two hours training. She continued that three members of staff held Personal Licences, that Mr Anderson had undertaken the Personal Licence training course with the intention of applying for a Personal Licence and that it was intended that all staff would undertake the Personal Licence training course.

Addressing the request for other activities to be permitted, Mr Millar advised that these were to bring the premises in line with other public house type premises and to allow functions to be catered for. She stressed that televised sport was not requested purely to show football but for all televised sporting events such as Wimbledon, etc.

Ms Millar advised that CCTV was installed within the premises with four cameras operational inside the premises. CCTV was not available outside the premises, however one camera covered the entrance door to the premises.

Ms Millar advised that a Fire Risk Assessment had been requested by the Scottish Fire & Rescue Services, which had been provided. Ms Millar produced a copy for the Board's information.

Referring to the Bye-Law prohibiting the consumption of alcohol in designated public places, the Chair asked if there would be any issue taking an open bottle of wine from premises. Sergeant Dougan advised that, provided the bottle was re-sealed, there was no issue.

The Chair referred to the request to permit children and young persons entry to the premises for the purpose of attending a function and asked if children would be accompanied by an adult.

Ms Millar advised that the request was an extension of what was already granted and that children would require to be accompanied by an adult, however young persons should be unaccompanied.

There being no further questions, the Board adjourned to consider the application.

Upon returning the Chair moved that the variation be granted, subject to the occupant capacity of the premises being restricted to 90. The Board agreed unanimously.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION OF PREMISES LICENCE

Gosschalks
Solicitors
Queens Gardens
Hull
HU1 3DZ

Morrisons
West Langlands Street
Kilmarnock

Details of the variation:-

The premises are a licensed supermarket.

The purpose of this application is to amend the operating plan to reflect the fact that these premises feature a customer café and that restaurant facilities are provided both during the core licensed hours and out with licensed hours. The operating plan to be amended to state "The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and out with licensed hours.

The premises also propose to offer occasional free samples/tastings of alcohol products to customers over the age of 18 years within the alcohol display area during core licensed hours."

Claire Johnson, Agent for the applicant, appeared before the Board, together with Scott Goldie, Depute Store Manager.

The Depute Clerk advised that no objections or representations had been received in respect of this application.

Ms Johnson advised that following an audit of all Morrisons stores, it had been ascertained that a number of restaurant facilities had not been included on premises licences. This variation to include restaurant facilities on the operating plan as well as a food makers section within the store

for local produce and where occasional samples/tastings would take place. She continued that Challenge 25 signs would be in place and that the Portman Group guidelines would be followed.

The Chair moved that the variation be granted and the Board agreed unanimously.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR GRANT OF PROVISIONAL PREMISES LICENCE

JAGA Holdings Ltd
c/o The McKinstry Company
Queens Court House
39 Sandgate
Ayr
KA7 1BE

53 John Finnie Street
Kilmarnock
KA1 1BL

Proposed Licensed Hours – On - Sales

Monday – Wednesday	11.00am – 12 Midnight
Thursday – Saturday	11.00am – 2.30am
Sunday	11.00am – 2.00am

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

The premises consist of a ground floor bar which will offer the provision of meals and an upper floor private dining room/function area.

The premises will offer bar meals, receptions including weddings, funerals, birthdays, retirements etc, Club or other group meetings etc., recorded music, live performances, dance facilities and televised sport. The premises also intend to provide activities such as Karaoke, Hypnotist, Comedians, Live Bands, Funeral Teas, Parties, Children’s Parties and private functions.

Breakfast will be served from 10am Monday to Saturday, no alcohol will be available until 11.00am.

The premises intend to open until 3am for the maximum allowable number of occasions over the festive period of 11 December to 6 January each year.

Children aged between 0 – 14 years permitted entry to the ground floor designated seated area of premises for a meal when accompanied by an adult until 8.30pm but must leave the premises by 10.00pm each day. Children and young persons aged between 15 and 17 years permitted entry to the ground floor designated seated area of the premises for the purpose of a meal unaccompanied by an adult until 8.30pm but must leave the premises by 10.00pm each day.

Children and young persons between the ages of 0 – 17 years will be permitted entry to the upper floor of the premises when accompanied by an adult for the purpose of a private function for the duration of the function.

Disabled Access and Facilities Statement

The premises has disabled access and facilities – the premises are accessible on pavement level from John Finnie Street and in respect of the emergency exit to Grange Place. The premises will have accessible tables and disabled toilet facilities on the ground floor with grab rails, emergency alarm, hand wash facilities and accessible toilet.

Mr McKinstry, Agent for the applicant, appeared before the Board, together with Nicholas Livingstone, Director of JAGA Holdings Ltd.

The Depute Clerk pointed out that the proposed licensed hours and the proposed trading hours over the festive period were outwith the Board's policy.

Mr McKinstry submitted that no objections or representations had been received in respect of the application and that all statutory provisions had been approved. He advised that Mr Livingstone was 35 years of age and had 14 years experience in the licensed trade, working both in the UK and abroad. He continued that JAGA Holdings Ltd. was involved with premises in Prestwick, which operated very successfully and was a main focal point in Prestwick. It was intended to replicate this operation in Kilmarnock.

Mr McKinstry advised that it was intended to create a city centre experience where customers could enjoy a social evening. He advised that produce would be source locally in East Ayrshire and South Ayrshire and that the premises would not be used for a cheap late night out as prices would be at the higher end of the scale.

Mr McKinstry continued that between £450,000 and £500,000 had been invested in the premises and that, if the Board were minded to grant the licence, builders had been instructed to progress matters quickly. He explained that the intended clientele would be people who enjoy late hours dining and socialising. Addressing the operating hours sought, Mr McKinstry stated that the Board's Policy should not be set in stone.

Mr McKinstry concluded that all staff were fully trained and that the applicants had experience in the licensed trade and, in the absence to any objections or representations, moved that the licence be granted.

Councillor Leitch advised that she was familiar with the premises in Prestwick and asked why the proposed trading hours were sought, particularly the request to open until 2am on a Sunday.

Mr Livingstone explained that the hours sought were to allow flexibility. He advised that there were a few premises in Prestwick which remained open until 2am, however in his experience customers had to leave premises and go home to continue their night. He continued that there was a missing market for the more mature individual who did not want to go home at 1am but did not want to go to a nightclub.

The Chair asked if Mr Livingstone was aware of the additional conditions attached to nightclub type premises. Mr Livingstone stated that he was willing to comply with any reasonable condition the Board may wish to attach to the licence.

The Chair referred to the submission that Mr. Livingstone was trying to create a relaxed atmosphere but had requested permission for karaoke, etc.

Mr Livingstone explained that these activities were requested to cater for special events and would not be common practice within the premises. The operation would be food based with drinks in the evening.

The Chair referred to the proposed terms for children and young persons access to the premises and asked if children and young persons would require to be accompanied by an adult.

Mr Livingstone advised that children would require to be accompanied by an adult, however young persons could have access to the premises unaccompanied by an adult. He stated that young persons would not be served at the bar but would have table service and that non-alcoholic cocktails would not be sold in the premises as this may be seen as encouraging young persons to drink cocktails.

Referring to the proposed terms for children and young persons to have access to the premises the Depute Clerk pointed out that young persons were 16 and 17 year olds and it was agreed that the request would be amended to read:-

Children aged between 0 – 15 years will be permitted entry to the ground floor designated seated area of premises for a meal when accompanied by an adult until 8.30pm but must leave the premises by 10.00pm each day. Young persons aged 16 and 17 years will be permitted entry to the ground floor designated seated area of the premises for the purpose of a meal unaccompanied by an adult until 8.30pm but must leave the premises by 10.00pm each day.

Councillor Campbell asked if it was intended to provide off-sales and Mr Livingstone replied that it was not intended to provide off-sales.

There being no further questions, the Board adjourned to consider the application.

Upon returning, the Chair moved that the licence be granted, subject to the operating hours being within policy and the terms of access for children and young persons being amended as previously agreed. This was seconded by Councillor Leitch. The Board agreed unanimously.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR GRANT OF PREMISES LICENCE

Shahid Naveed
c/o Black Hay
45/47 Main Street
Prestwick

29 McLelland Drive
Kilmarnock

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

The premises will be a licensed convenience store. The proposed alcohol display area will be 6.35m².

Proposed Licensed Hours – Off Sale
Sunday – Saturday 10am – 10pm

Disabled Access and Facilities Statement

The premises has disabled access – there are flat level concrete pathways giving access to the premises from both McLelland Drive and Scott Road. Assistance dogs are welcome within the premises.

Mr Dunlop, Agent for the applicant, appeared before the Board to speak in support of the application.

Mr Dunlop explained that these premises previously held a licence, but that the licence had been revoked last year due to non payment of the annual fee.

Mr Dunlop submitted that Mr and Mrs Naveed have experience in the licensed trade and already operate a shop in Kilmarnock. He advised that three part time staff would be employed and that Mr Naveed, who holds a Personal Licence, would be the designated premises manager.

Mr Dunlop stated that the shop would provide a national lottery outlet and paypoint and would have a very modest alcohol display area.

The Chair asked if Mr Naveed had previously traded from the premises.

Mr Dunlop advised that the previous tenant had gone into liquidation and that his client was negotiating a lease of the premises but that the lease was subject to him obtaining a licence. Mr Dunlop added that the premises had traded as licensed premises from approximately 1992 until last year when the licence had been revoked.

The Chair asked the LSO's if there had been any issues previously with the operation of the premises and Mr Hiles replied that there had been no issues.

As no objections or representations had been received in respect of the application, the Board agreed unanimously to grant the licence.

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