

## **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 29 May 2018 at 10am.**

**SEDERUNT:** Councillor Tom Cook (Chair), Councillor Fiona Campbell, Councillor John Campbell, Councillor William Crawford, Councillor Drew Filson, Councillor Ian Grant, Councillor Lillian Jones, Councillor George Mair and Councillor Jacqui Todd.

**ATTENDING:** Mr D Mitchell (Clerk to the Licensing Board), Sergeant Dougan and Ms D Hastings (Police Scotland), Mr B Roy (Building Standards), Mr I Hiles (Licensing Standards Officers) and Mrs P Duncan and Ms S Duncan (Licensing Board Administrators).

**APOLOGIES :** Councillor Claire Leitch.

### **1. SEDERUNT**

Noted.

### **2. MINUTE OF MEETING**

2.1 The Minute of the meeting of East Ayrshire Licensing Board held on 24 April 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 17 April until 21 May 2018:-

Minor Variation of Premises Licence	:	12
Variation on Transfer of Premises Licence	:	2
S33 Transfer of Premises Licence	:	1
Grant of Personal Licence	:	8
Small Lottery – Renewals	:	7
Occasional Licences	:	81
Extended Hours	:	8

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

### **4. EAST AYRSHIRE LICENSING BOARD : PUBLICATION SCHEME**

The Clerk to the Licensing Board reminded Members that The Freedom of Information (Scotland) Act, 2002 requires that all Scottish Public Authorities have a Publication Scheme approved by the Scottish Information Commissioner:-

- publishing the classes of information that they make routinely available;
- telling the public how to access the information and whether information is available free of charge or on payment.

A Licensing Board is a completely separate legal entity from the Council and therefore is included as a Scottish Public Authority under the Freedom of Information (Scotland) Act 2002.

The Clerk produced a revised Publication Scheme and Guide to Information for East Ayrshire Licensing Board, taking account of the updates from the Scottish Information Commissioner and invited the Board to approve same.

The Board agreed to approve East Ayrshire Licensing Board's revised Publication Scheme and Guide to Information as required by the Freedom of Information (Scotland) Act 2002 and authorised the Clerk to the Licensing Board to publish the revised Publication Scheme and Guide to Information.

## **5 MINIMUM UNIT PRICING**

Ian Hiles, LSO reported on the Licensing Standards Officers activity prior to the implementation of Minimum Unit Pricing (MUP) on 1 May 2018. As MUP is now a Mandatory Condition of the Premises Licence, it is the responsibility of the licence holder and designated premises manager to ensure that all alcohol sold on the premises is sold at a price equal to or above the MUP.

Mr Hiles reported that prior to the implementation of MUP guidance was provided to all 127 off-sale premises. This guidance provided details of how MUP should be calculated and how to prepare for the implementation of MUP on 1 May 2018. Following the implementation of MUP, visits were carried out to off-sale premises to ensure compliance and to provide further guidance to licence holders and their staff if required. As at the date of the report (21 May 2018) 103 off-sale premises had received a visit since implementation of MUP and it was proposed that the remaining 24 premises receive a visit over the next few weeks.

Mr Hiles advised that the majority of premises visited had been prepared well in advance of 1 May with no major issues identified. In circumstances subsequent to 1 May 2018 where a breach was identified, guidance was provided to the licence holder and staff in order that the breach could be rectified. Further visits will be carried out to premises which may require additional guidance in order to ensure compliance.

Visits to off-sale premises will continue to be undertaken at routine intervals at which time the MUP of random alcoholic products will be checked. Continued identified breaches to the MUP legislation will result in a Compliance Notice being served on the licence holder, which, if not rectified to the satisfaction of Officers, may result in a Premises Licence Review Request being submitted to the Board.

Mr Hiles concluded that the majority of off-sale premises are compliant with MUP legislation and that the few premises who struggle to administer MUP effectively will continue to receive guidance and frequent inspections will be carried out.

## **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 10.50am

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

Black Hay  
Solicitors  
45/57 Main Street  
Prestwick

The Portland Arms  
22-26 Kilmarnock Road  
Crosshouse  
KA2 0HA

Details of the variation:-

The variation comprises a general refurbishment of the restaurant and bar, including a new porch to the rear of the building, new internal layout to incorporate fixed seating/booths, fixed screens within the restaurant, a new linking corridor from the restaurant at the rear to the bar at the front, reconfiguration of the female toilets, cellar and kitchen and new fixed seating in the bar. The capacity of the premises will be increased from 160 to 364.

The variation is also to amend the terms children and young persons are permitted to the premises, as follows:-

Children and young persons from 0 – 17 years will be permitted entry to the restaurant area for the consumption of a meal between 12 Noon and 10pm when accompanied by an adult. Children from 0 – 15 years will be permitted entry to the bar area, apart from the pool table area, for the consumption of a meal and to wait for a table to be free in the restaurant, from 12 Noon until 8pm when accompanied by an adult. Young persons between 16 and 17 years will be permitted entry to the bar area, apart from the pool table area, for the consumption of a meal and to wait for a table to be free in the restaurant, from 12 Noon until 10pm when accompanied by an adult. Children and young persons from 0 – 17 years permitted within the whole premises, apart from the pool table area, for the duration of a private function for the duration of the function, when accompanied by an adult.

**Mr Brian Dunlop, Solicitor, appeared before the Board together with the licence holder, Alan Brown. Mr Dunlop advised that, at the time of submitting the application, an error had been made in the calculation of the proposed occupant capacity. This had now been rectified and a request had been made in writing to amend the application to show the capacity sought as being 184. The Board accepted the amendment.**

**Mr Dunlop submitted that his client had invested in the premises to change from a pub type premises to a restaurant, which was now described on the website for the premises as being richly decadent, stylish and very relaxed.**

**As no objections or representations had been received in respect of the application, Mr Dunlop moved that the variation be granted.**

**The Chair moved that the amended application be granted, which was seconded by Councillor Jones. The Board agreed unanimously.**

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

New City Homes Limited  
The Knowe  
42 Auchinleck Road  
Cumnock

The Box House  
New Bridge Street  
Tanyard  
Cumnock

Details of the variation:-

To increase the occupant capacity of the upstairs part of the premises to 240 and to reduce the occupant capacity of the downstairs part of the premises to 60.

**The Clerk to the Licensing Board advised that an objection to the application had been received from Police Scotland and that both the Scottish Fire & Rescue Service and the Council's Building Standards Section had advised that, based on means of escape, the occupant capacity of the upper floor should not exceed 157.**

**Mr George Glover, Director of New City Homes Ltd, was present at the meeting to speak in support of the application and accepted the Scottish Fire & Rescue Service and the Council's Building Standards Section calculation of the occupant capacity. He then requested that the application be amended to show the capacity sought as being 157 for the upper floor of the premises and 143 for the ground floor of the premises. The Board accepted the amendment.**

**Sergeant Dougan spoke in support of the objection and reported that the Chief Constable objected to the application on the following grounds:-**

**Since the premises re-opened on 15 December 2017 there had been 7 noise complaints and 2 incidents of fights occurring outside the premises. Six of the noise complaints were based on groups of people standing outside the premises smoking or gathering at closing time awaiting taxis, and 1 complaint was with regards to the volume of music being heard within.**

**The upper floor operates as a nightclub whereby the premises open at 10pm each Friday and Saturday with customers, on entry, gaining access to the upstairs part of the premises which closes at 2.30am. The lower floor operates as a bar but appears to be seldom open and has an earlier closing time of 1am on these days.**

**Sergeant Dougan submitted that it is the Chief Constable's opinion that an increase in capacity to the upper area would exacerbate noise complaints already being received due to the higher volume of people leaving the premises. There is also potential for higher levels of disorder and public nuisance due to a larger demand on local taxis.**

**Sergeant Dougan concluded that in terms of section 22(1)(a) of the Licensing (Scotland) Act 2005, the Chief Constable was of the opinion that the variation should be refused on the grounds that it would be inconsistent with the licensing objectives of preventing crime & disorder and public nuisance.**

**Addressing the objection, Mr Glover advised that the main cause of noise was from patrons waiting outside the premises for taxis as there was an insufficient number of taxis available when the premises closed. Mr Glover advised the Board that more taxis would now be available when the premises closed.**

**Sergeant Dougan asked how Mr Glover was going to organise more taxis.**

**Mr Glover advised that a local taxi company had been approached and was now able to provide**

more taxis.

Sergeant Dougan asked if Mr Glover knew which taxi company was to provide more taxis, however Mr Glover was unable to advise which taxi company.

The Chair asked Sergeant Dougan if any of the disturbances had resulted in patrons being charged outside the premises.

Sergeant Dougan advised that on 29 April 2018 two males had been fighting outside the premises and a male had been assaulted. A male had been charged, however on this occasion the matter had been dealt with by the issue of a fixed penalty.

Councillor Grant asked if the premises was a standalone building. Mr Glover advised that the premises was a standalone building, with a medical centre on one side and a garage on the other. He explained that the closest residential properties were approximately 50 yards away in Ayr Road.

Councillor Todd asked if it was possible to have any smoking area outside the premises moved to an area furthest away from the residential properties.

Mr Glover advised patrons were not encouraged to go outside the premises to smoke and that any noise was at the end of the night when the premises were emptying.

Councillor John Campbell asked if Stewards were on duty at 2.30am when the premises closed.

Mr Glover answered that the Stewards were on duty until the premises emptied.

The Clerk asked if Stewards could continue working to ensure that patrons moved on from the premises quickly at closing time.

Mr Glover gave assurances that arrangements would be made for Stewards to work on to ensure that patrons move on from the premises quickly at closing time, even if the variation application was refused.

Mr Hiles advised that it is a condition of the licence that:-

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00am (on any day when the premises are open at that time) until whichever is the earlier of:-
  - (a) The time at which the premises next close; and
  - (b) 5:00am
2. A designated person who is the holder of a personal licence must be present on the premises from 1.00am (on any day when the premises are open at that time) until whichever is the earlier of:-
  - (a) The time at which the premises next close; and
  - (b) 5.00am or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning-
  - (a) The evacuation of the premises; and
  - (b) The prevention of the misuse of drugs on the premises.
4. A CCTV system must be installed on the premises to the satisfaction of the chief constable and must be kept in good working order.

5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1.00am (on any day when the premises are open at that time) until whichever is the earlier of-
  - (a) The time at which the premises next close; and
  - (b) 5.00am or such other time as the Licensing Board may specify.

Mr Hiles advised that an inspection of the premises was carried out in March 2018. At that time a compliance notice was issued as no evacuation policy or drugs policy had been in place, however this was later rectified.

Mr Hiles explained that Mr Glover did not operate the premises but leased the premises to a third party.

The Clerk reminded Mr Glover that, as licence holder, he was responsible for the operation of the premises.

There being no further questions, the parties were given the opportunity to sum up.

Neither Sergeant Dougan nor Mr Glover had anything to add to their earlier submissions.

The Board adjourned to consider the application.

Upon returning the Chair noted that the objection from Police Scotland was in relation to the increase in occupant capacity of the upstairs part of the premises to 240. As the application had been amended to limit the proposed increase to occupant capacity to 157, the Chair moved that the amended application be granted. This was seconded by Councillor Grant. The Board agreed unanimously.

The Chair referred to the assurances given by Mr Glover that more taxis would be available when the premises closed and that Stewards would continue to work until all customers moved on from the premises and stressed that Mr Glover must ensure compliance. He reminded Mr Glover that Police Scotland could seek a Premises Licence Review if there continued to be problems with the operation of the premises, which Mr Glover accepted.

The Clerk explained that, having listened to the terms of the objection from Police Scotland and Mr Glover's willingness to address any noise issues, in view of the nature of the application, the Board have taken the view that there are no grounds to refuse the amended application. He advised Mr Glover that, as licence holder, he must ensure that his tenants comply with all requirements of the licence.

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

Craufurdland Ltd  
Craufurdland Castle  
Kilmarnock  
KA3 6BS

The Lairds Table  
Craufurdland Estate  
Kilmarnock

Details of the variation:-

The variation application is to amend the licensed hours of the café/restaurant area to include off-sales and permit off-sales from the farm shop area adjacent to the café/restaurant, as follows:-

Current Licensed Hours – On-Sales Café/Restaurant Area

Monday – Wednesday	11am – 10pm
Thursday – Sunday	11am – 12 Midnight

Proposed Licensed Hours – On and Off Sales Café/Restaurant and Farm Shop

<u>On-Sales</u>		<u>Off-Sales</u>	
Monday – Wednesday	11am – 10pm	Monday – Sunday	11am – 10pm
Thursday – Sunday	11am – 12 Midnight		

The application is also to increase the capacity in the restaurant/café area from 60 to 75.

**The Clerk to the Licensing Board advised that no objections or representations had been received in respect of this application.**

**Mr Simon Craufurd appeared before the Board and explained that the variation was sought to allow a small range of specialist local products to be sold off sale from the farm shop.**

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

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

The New Clansman Ltd.  
11 Portland Road  
Kilmarnock

Braehead Bar  
8 Langlands Street  
Kilmarnock

**As the applicant was not present or represented at the meeting, the Board agreed to continue consideration of the application to the next meeting.**

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GAMBLING ACT 2005  
APPLICATION FOR CLUB MACHINE PERMIT

Hurlford Bowling Club  
8 Main Road  
Crookedholm

Permission to make available for use, up to three gaming machines of Category B3A, B4, C or D (category B3A machines may not be made available for use in commercial clubs).

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

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