

## **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 25 June 2019 at 10am.**

**SEDERUNT:** Councillor Tom Cook (Chair), Councillor Fiona Campbell, Councillor John Campbell, Councillor William Crawford, Councillor Drew Filson, Councillor Ian Grant, Councillor Claire Leitch and Councillor George Mair.

**ATTENDING:** Mr S McCall (Depute Clerk to the Licensing Board), Mrs C McEwan and Mr I Hiles (Licensing Standards Officers) and Mrs P Duncan and Ms S Duncan (Licensing Board Administrators).

**APOLOGIES :** Councillor Lillian Jones and Councillor Jacqui Todd.

### **1. SEDERUNT**

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

2.1 Minute of the meeting of East Ayrshire Licensing Board held on 28 May 2019 was approved and noted.

### **3. APPLICATIONS CONSIDERED UNDER DELEGATED AUTHORITY**

The Chair noted the applications discharged by the Clerk under delegated authority from 23 May 2019 and 17 June 2019:-

Minor Variation	:	8
Variation on Transfer	:	1
Grant of Personal Licence	:	7
Renewal of Personal Licence	:	26
Extended Hours	:	10
Occasional Licences	:	71

Of the 71 Occasional Licences granted, 22 were granted to Club premises, 24 to Personal Licence holders, 12 to Voluntary Organisations and 13 to Premises Licence holders.

The Chair noted that as of the date of the Report, there were 1299 Personal Licences in force and 307 Premises Licences.

The Depute Clerk advised Members that he had recently attended a SOLAR Licensing Meeting and reminded Members that there was currently a Scottish Government Consultation in respect of occasional licence applications. The Depute Clerk reported that the view from the meeting was that there should be an increase in the application fee from between £10 and £100, the requirement for training should

be revised and the number of occasional licences granted per year should be capped which would stop premises trading under occasional licences.

#### **4. EAST AYRSHIRE LICENSING BOARD : ANNUAL FINANCIAL REPORT**

The Depute Clerk reminded Members that in terms of Section 56 of the Air Weapons and Licensing (Scotland) Act 2015, Licensing Boards must prepare and publish an Annual Financial Report, not later than three months after the end of each financial year.

The Depute Clerk stated that this was the third Annual Financial Report produced and that there was a possibility that the Annual Financial Report and the Annual Function Report may be combined in the future.

The Depute Clerk outlined the Report and pointed out that he had concerns that there was no guidance on how the financial figures were calculated and therefore no comparison could be made with other Licensing Boards.

The Depute Clerk recommended that Members approve and authorise the publication of the Annual Financial Report.

The Board unanimously agreed to approve the Report and authorised the Depute Clerk to proceed with the publication.

#### **5. EAST AYRSHIRE LICENSING BOARD : ANNUAL FUNCTION REPORT**

The Depute Clerk reminded Members that the Air Weapons and Licensing (Scotland) Act 2015 introduced a number of new measures in relation to alcohol licensing, including the requirement for Licensing Boards to produce an annual function report.

The Depute Clerk outlined the contents of the report and pointed out that Members were kept up-to-date by the report on applications granted under delegated powers submitted to each Licensing Board meeting.

The Depute Clerk stated that the Annual Function Report submitted in 2018 had received no adverse comments. Alcohol Focus Scotland reviewed all the Reports submitted by the Licensing Boards across Scotland and pointed out that East Ayrshire had received favourable comments.

The Board agreed unanimously to approve the Report and authorised the Depute Clerk to proceed with the publication.

#### **6. APPLICATIONS**

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

There being no other business the meeting ended at 11.05am.

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

Keystore  
11A Kilmarnock Road  
Mauchline

The variation is to increase the alcohol display area from 33m<sup>2</sup> to 44.11m<sup>2</sup>, an increase of 11.11m<sup>2</sup> (34% increase).

**The Depute Clerk advised the Board Members that the variation application stated that the alcohol display area was to be increased from 33m<sup>2</sup> to 44.11m<sup>2</sup>. The Depute Clerk further advised that the current alcohol display area on record was 23.175m<sup>2</sup>. The Depute Clerk asked for clarification from the applicant on the current alcohol display area.**

**Iftikhar Ahmed appeared before the Board on behalf of the Premises Licence Holder and stated that the 33m<sup>2</sup> submitted in the application had been a mistake and that the current alcohol display area was 23.175m<sup>2</sup>.**

**The Depute Clerk explained to Mr Ahmed that East Ayrshire Licensing Board's Statement of Policy created a rebuttable presumption against the grant of an application for off-sales premises or an increase in a premises alcohol licensed area. The Depute Clerk further explained that it was up to the applicant to provide robust and reliable evidence to the Board why the benefit to the licensing objectives through the grant of the application outweighed the detriment to the licensing objections and the Overprovision Policy. The Depute Clerk asked Mr Ahmed if he wished consideration of the application to be continued to enable legal advice to be sought due to the complexity of the process.**

**Mr Ahmed declined the opportunity to continue consideration of the application for legal advice and asked that the application be considered at this meeting.**

**Mr Ahmed stated that the premises were moving from a Keystore franchise to Premier franchise and that the increase in the alcohol display area was due to the refurbishment and extension of the premises. Mr Ahmed further stated that due to customer demand there was a requirement for an additional chiller cabinet to stock a higher range of beers. He also stated that the premises were on a main road and attracted a high number of passing customers.**

**Councillor Grant asked if there were any other licensed premises in the area. Mr Ahmed confirmed there were no other stores in the vicinity and the premises were a stand-alone building.**

**Councillor Leitch asked for confirmation if there were 2 off-sales premises round the corner from these premises and Mr Ahmed confirmed there were.**

**The Chair asked Mr Ahmed to explain to the Members why the Board should grant this application.**

**Mr Ahmed stated that there were no complaints with the operation of the premises and that the premises complied with all the licensing legislation.**

**Councillor Campbell asked if there would be a significant change in the operation of the premises due to the franchise change. Mr Ahmed confirmed that the whole shop would be the subject of a refit and that Premier were investing in the business.**

**The Depute Clerk asked the LSOs if there had been any problems with these premises and Carolyn McEwan, LSO, confirmed there had been no problems.**

**The Board Members adjourned to consider the application further.**

**Upon returning, the Chair advised that after a full discussion the Members did not think that the applicant had provided robust and reliable evidence to the Board why the benefit to the licensing objectives through the grant of the application outweighed the detriment to the licensing objections and the Overprovision Policy.**

**The Chair moved that the application be refused which was seconded by Councillor Grant. As there were no other motions it was unanimously agreed to refuse the application.**

**The Depute Clerk confirmed that the information presented to the Board Members was insufficient for them to depart from the Board's Policy Statement. The Depute Clerk further confirmed that the alcohol display area for the premises should remain at 23.175m<sup>2</sup>.**

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

Lifestyle Express  
45 Henrietta Street  
Galston

Details of the variation:-

Amend the core licensed hours:-

<u>Current Hours</u>	<u>Proposed Hours</u>
Monday – Thursday : 10am – 8pm	Monday – Sunday : 10am – 10pm
Friday & Saturday : 10am – 8.30pm	
Sunday : 10am – 5pm	

**Mr Shanaka Dissanayake, Premises Licence Holder, appeared before the Board to speak in support of his application.**

**The Depute Clerk stated that the application was to increase the licensed hours and was not contrary to the Board's Policy. The Depute Clerk confirmed that there were no objections or representations in respect of this application.**

**Mr Dissanayake stated that the increase in licensed hours was to enable the premises to compete with local businesses who operated the hours requested and also to cater for customer demand.**

**The Chair asked Mr Dissanyake if he would only be operating these hours when required and Mr Dissanayake confirmed he would only operate the additional hours if required due to customer demand.**

**The Board agreed unanimously to grant the application as sought.**

.....

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

Paris Match Cafe Bar  
7/9 Princes Street  
Kilmarnock

Details of the variation:-

Children and young persons are currently permitted entry to the premises from 11am until 8pm each day when accompanied by an adult for the consumption of a meal.

The application is to extend the times that children and young persons will be permitted entry to the premises to 11am until 10pm each day.

**Sunil Chauhan, Premises Licence Holder, appeared before the Board to speak in support of his application.**

**The Depute Clerk outlined the application and confirmed that there were no objections or representations in connection with the application and the application was not contrary to the Board's Policy.**

**Mr Chauhan stated that the lunch-time business at the premises was decreasing but that customers with families in the evenings had been increasing and the application was to extend the times children and young persons were able to remain on the premises.**

**The Chair asked if there were procedures in place to protect children and young persons.**

**Mr Chauhan confirmed strict procedures were in place and the premises operated Challenge 25.**

**Councillor Mair asked for confirmation on whether children and young persons were required to be accompanied by an adult and Mr Chauhan confirmed this.**

**The Board agreed unanimously to grant the application as sought.**

.....

GAMBLING ACT 2004

APPLICATION FOR VARIATION OF ALCOHOL LICENSED PREMISES GMP

The Garage  
36-40 Grange Street  
Kilmarnock

Details of the variation:-

Increase in number of gaming machines

Current machines

Category C : 2 machines  
Category D : 1 machine

Proposed machines

Category C : 5 machines  
Category D : 1 machine

**The Depute Clerk reminded Members that this application had been continued from the previous Board Meeting to enable the applicant to provide additional information in respect of the application.**

**Douglas Cunningham, Designated Premises Manager, appeared before the Board to speak in support of the application.**

**The Depute Clerk reminded Members of the Gambling Objectives in respect of Gambling Act 2005, which were:- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; ensuring that gambling was conducted in a fair and open way; and protecting children and other vulnerable persons from being harmed or exploited by gambling.**

**Mr Cunningham stated that the premises had recently been refurbished and the additional gaming machines were to increase the revenue of the business.**

**The Chair asked for confirmation from Mr Cunningham if there was a policy in place in respect of young and vulnerable persons.**

**Mr Cunningham confirmed that access was restricted to over 18 years only for the Category D machines, the area was supervised and Challenge 25 policy was operated.**

**Councillor Leitch asked Mr Cunningham what policies were in place to protect vulnerable people, as nationally it had been shown that even a small amount put into these types of gaming machines could have an impact on their lifestyle.**

**Mr Cunningham confirmed that they originally had the higher gaming machines granted by the Gambling Commission but no longer had these machines. Mr Cunningham further confirmed that the premises had a policy of intervention in place to stop any customers inputting large amounts of money into the machines.**

**The Chair asked for confirmation on whether the area where the machines were located was solely a gambling area or mixed entertainment area. Mr Cunningham confirmed that it was a mixed area with both gambling machines and simulators.**

**Councillor Grant asked if the increase in machines was likely to attract a greater number of customers or if the current customers would be spending a greater amount on the machines. Mr Cunningham stated that if a customer only had a certain amount of money to spend it would be irrelevant to the amount of machines available. Mr Cunningham further stated that the pool table was the biggest attraction for young persons and that Category C Machines were restricted to 18 years and over.**

**Councillor Grant pointed out that children and vulnerable people were able to move between different parts of the premises and asked how this was monitored. Mr Cunningham confirmed that staff monitored the area and if they were busy with other business then the Manager took over the monitoring.**

**Councillor Campbell asked for information in respect of Category C and D Machines and the Depute Clerk reported that Category C machines had a maximum stake of £1 with a maximum prize of £100. Category D Machines had a maximum stake of 10p with a maximum prize of £5.**

**The Board adjourned to discuss the application further.**

**Upon returning the Chair confirmed that after a full discussion of the application he was of the view that the applicant had not provided a clear detailed policy to protect children and other vulnerable persons and moved that the application be refused. The motion was seconded by Councillor Grant.**

**There being no further motion the Board unanimously agreed to refuse the application based on the gambling licensing objective of protecting children and other vulnerable persons from being harmed or being exploited by gambling.**

**The Depute Clerk confirmed the above decision of the Board and reminded the applicant that the premises' current permission for 2 Category C Machines and 1 Category D machine would remain in place.**

.....