

EAST AYRSHIRE LICENSING BOARD

Minute of the virtual Meeting of East Ayrshire Licensing Board, held digitally through Microsoft Teams, on Tuesday 23 November 2021 at 10am.

SEDERUNT: Councillor Tom Cook (Chair), Councillor Fiona Campbell, Councillor John Campbell, Councillor William Crawford, Councillor Ian Grant, Councillor Claire Leitch, and Councillor Jacqui Todd.

ATTENDING: Stuart McCall (Depute Clerk to the Licensing Board), Ian Hiles (Licensing Standards Officer), Sergeant Farmer, Police Scotland, Mrs P Duncan and Ms S Duncan (Licensing Board Administrators).

APOLOGIES : Councillor Drew Filson, Councillor Lillian Jones and Councillor George Mair.

1. SEDERUNT

Noted.

2. MINUTE OF MEETING

Minute of the meeting of East Ayrshire Licensing Board held on 28 September 2021, was agreed and noted.

3. APPLICATIONS CONSIDERED UNDER DELEGATED AUTHORITY

The Chair noted the applications discharged under delegated authority by the Clerk to the Licensing Board between 20 September and 15 November 2021:-

Minor Variation	:	13
S33 Transfer	:	1
Confirmation of Provisional Licence	:	1
Grant of Personal Licence	:	21
Renewal of Personal Licence	:	4
Small Society Lottery Renewals	:	5
Small Society Lottery Grants	:	5
Automatic Entitlement to Gaming Machines	:	2
Occasional Licences	:	83
Extended Hours	:	2

The Chair noted that of the 83 Occasional Licences granted, 30 were granted to Club premises, 30 to Personal Licence holders, 7 to Voluntary Organisations and 16 to Premises Licence holders. The Chair also noted that as of the date of the Report there were 1159 Personal Licences and 298 Premises Licences in force.

The Depute Clerk pointed out that there were a number of minor variations to reduce off-sale capacity and confirmed to the Members that if in the future these premises were to increase their off-sales capacity they would require to submit a major variation

application and be subject to the Licensing Board's Statement of Policy in terms of overprovision of off-sales.

4. LICENSING BOARD MEETINGS

It was noted that due to Local Authority Elections in May 2022 that a new Licensing Board would be in place for the Licensing Board Meeting on 31 May 2021. The Depute Clerk advised that there were provisions in the Licensing Scotland (Act) 2005 legislation to enable new Board Members to take part in Licensing Board meetings prior to their training having been undertaken.

The proposed dates for Licensing Board meetings in 2022 were agreed and noted.

5. ANNUAL FINANCIAL AND ANNUAL FUNCTIONS REPORT

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.

The Depute Clerk confirmed that the financial information had been calculated using the formula agreed at the commencement of the requirement for this Report.

The Depute Clerk outlined the Report and confirmed that the licensing income was down due to the pandemic and that the deficit had increased from £19,153 in 2019/20 to £30,128 in 2020/21. The Depute Clerk hoped that the next financial year would show an increased income as the recovery from the pandemic continued.

The Chair asked for confirmation on whether the occasional licence application fee had been reviewed by the Scottish Government. The Depute Clerk confirmed that there had been no update on this from the Scottish Government.

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

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

Annual Functions Report

The Depute Clerk reminded Members that the Air Weapons and Licensing (Scotland) Act 2015 introduced the requirement for Licensing Boards to produce an annual functions 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 reported that the use of MS Teams to virtually conduct the business of the Licensing Board had been successful and that there had been positive feedback

on the process. The Depute Clerk reminded Members that a virtual Review Hearing had successfully taken place where the participant's first language was not English and that an interpreter was required.

The Depute Clerk reported that there had been an increase in Board business over the past year and that on a positive note there had been no appeals on any of the Board's decisions.

The Depute Clerk confirmed that the festive policy would be operated as in previous years.

The Chair agreed that the virtual Licensing Board meetings had been a success and thanked the Licensing team on behalf of the Board Members, for their work during the year, particularly the Licensing Standards Officers for their work during the COVID-19 pandemic.

Councillor Grant pointed out that the use of virtual meetings may be less intimidating for participants than appearing in person before the Board.

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

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

6. APPLICATIONS

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

7. PREMISES LICENCE REVIEW

Review of premises licence for AKO News, 97A Glaisnock Street, Cumnock in terms of Section 38 of the Licensing (Scotland) Act, 2005 for breach of a licensing condition, namely non payment of the annual licensing fee.

The Depute Clerk reported that the owner of AKO News had paid the annual fee prior to the meeting and that there was no longer a requirement for the Review. The Depute Clerk reminded Members that the premises licence was currently suspended and that the payment of the annual fee would not change the suspension.

Review of premises licence for The Granary, 6 Rigg Street, Stewarton in terms of Section 38 of the Licensing (Scotland) Act, 2005 for breach of a licensing condition, namely non payment of the annual licensing fee.

The Depute Clerk advised Members that the premises were currently closed and that the Premises Licence holder had confirmed that they would not be re-opening.

The Board Members unanimously agreed that due to the non-payment of the annual licensing fee that the premises licence be revoked.

Review of premises licence for Stewarton Social & Recreation Club, 35 Lainshaw Street, Stewarton in terms of Section 38 of the Licensing (Scotland) Act, 2005 for breach of a licensing condition, namely non payment of the annual licensing fee.

The Depute Clerk advised Members that the Premises Licence holder for Stewarton Social & Recreation Club had surrendered the premises licence and that there was no requirement for the Review.

Review of premises licence for Loudoun Arms, 69 Main Street, Newmilns in terms of Section 38 of the Licensing (Scotland) Act, 2005 for breach of a licensing condition, namely non payment of the annual licensing fee.

The Depute Clerk reported that the current premises licence holder, who did not own the premises, was no longer operating the premises. The Depute Clerk advised that there had been difficulty in contacting the owner of the premises to ascertain whether they wanted to pay the annual fee to retain the premises licence.

The Board Members unanimously agreed to continue the Premises Licence Review to the December Licensing Board meeting to enable contact to be made with the owner of the premises.

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

LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR OCCASIONAL LICENCE

Kerri Ann Keast

The Cracked Olive
13 Main Street
Kilmaurs

Between 6 and 19 December 2021 : from 10am until 6pm

Propose to sell locally produced small batch alcohol, including artisan Scottish gin gift sets, a small selection of Scottish malts and ale gift sets, to take advantage of the festive season market.

The Depute Clerk reported that an occasional licence application would normally be considered under delegated authority by the Clerk to the Licensing Board. The Depute Clerk confirmed that there were no objections to the application but that a Report had been received from the Licensing Standard Officer recommending that the application be considered by the Licensing Board as it was to provide off-sales.

Kerri Ann Keast joined the meeting via MS Teams.

The Depute Clerk advised Ms Keast that he would guide her through the process and asked if there were any procedural issues. Ms Keast stated there were no procedural issues.

Ms Keast submitted that the premises had been open since April 2021 and they operated a zero waste policy with customers bringing their own containers where possible. The premises were a deli offering local cheese, chutneys etc and that customers had been asking if there was a possibility of offering specialist alcohol. Ms Keast confirmed that her customers were mainly elderly and that she had previous licensed experience and would comply with all the licensing objectives and operate Challenge 25.

The Chair asked for confirmation from Ms Keast if she was only looking to licence the premises for 2 weeks, which Ms Keast confirmed.

The Board Members adjourned to consider the matter further.

Councillor Crawford had difficulty rejoining the Licensing Board meeting and took no further part in the meeting.

Upon rejoining the Chair stated that the application was inconsistent with the Protecting and Improving Public Health objective and moved that the application be refused. Councillor John Campbell seconded the motion.

As there were no other motions, it was unanimously agreed that the application be refused.

The Depute Clerk confirmed that the application had been refused on the Protecting and Improving Public Health objective and advised that the decision would be provided in writing to Ms Keast.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR PERSONAL LICENCE

Cameron Tower

The Depute Clerk confirmed that this application had been continued from a previous Licensing Board meeting at the applicant's request.

Mr Tower had previously indicated that he would be joining the meeting but did not appear.

The Board Members unanimously agreed to consider the application in the applicant's absence.

Sergeant Farmer, Police Scotland, reported that on 28 February 2017 at Kilmarnock Sheriff Court, Mr Tower was convicted under the Misuse of Drugs Act 1971, Section 4(3)(B) (supply for a controlled drug). Mr Tower's sentence was deferred to 29 March 2017, where he was sentenced to a Community payback order, one year supervision period and one year unpaid work, 200 hours within a 9 month period.

Sergeant Farmer, reported that the circumstances surrounding the conviction was that on 22 December 2015 at the A76, Kilmarnock, 75 Peatland Quadrant, Kilmarnock and elsewhere, the applicant along with another male, was concerned in the supplying of a controlled drug, namely cocaine, a Class A drug specified in part 1 of schedule 2 to the Misuse of Drugs Act 1971, to another or others in contravention of Section 4(1) of the aforementioned Act contrary to the Misuse of Drugs Act 1971, Section 4(3)(B).

Sergeant Farmer advised that he was unable to confirm the existence of any foreign offence in respect of the applicant.

Sergeant Farmer reported that in light of the above, the Chief Constable considered that it was necessary for the purposes of the preventing crime and disorder licensing objective, that the application be refused. The Chief Constable made a recommendation to that effect in terms of section 73(4) of the 2005 Act.

The Board Members adjourned to consider the matter further.

Upon rejoining the Chair pointed out that the conviction was in 2017 and there had been no further convictions. The Chair also pointed out that there was nothing to stop the applicant working in licensed premises and refusal of the application would only stop him being a manager. If the applicant had a personal licence there would be more control if there were any further incidents.

The Chair moved that the application for personal licence be granted which was seconded by Councillor Fiona Campbell.

There being no other motion the Board unanimously agreed to grant the personal licence.

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GAMBLING ACT 2005

APPLICATION FOR RENEWAL OF CLUB MACHINE PERMIT

Kilmarnock Masonic Social Club
45 London Road
Kilmarnock

The Depute Clerk confirmed there were no objections or representations in respect of this application.

The Board Members unanimously agreed to grant the club machine permit.

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