

EAST AYRSHIRE LICENSING BOARD

Minute of the virtual Meeting of East Ayrshire Licensing Board, held digitally through Microsoft Teams, on Tuesday 28 June 2022 at 10am.

SEDERUNT: Councillor Drew Filson (Chair), Councillor Stephen Canning, Councillor William Crawford, Councillor Drew Filson, Councillor June Kyle, Councillor Claire Leitch, Councillor Kevin McGregor and Councillor David Richardson.

ATTENDING: Stuart McCall (Depute Clerk to the Licensing Board), Mrs Carolyn McEwan and Mr Ian Hiles (Licensing Standards Officers), Mrs Patricia Duncan and Ms Sheila Duncan (Licensing Board Administrators).

APOLOGIES : Councillor Graham Barton and Councillor Elaine Cowan.

1. SEDERUNT

Noted.

2. MINUTE OF MEETING

The Minute of the meeting of East Ayrshire Licensing Board held on 31 May 2022 was agreed and noted.

The Depute Clerk confirmed that the 10 members of the Licensing Board were now fully trained and thanked the Members for their co-operation in achieving a fully operational Board in the short timescale from being appointed as Board Members.

3. APPLICATIONS CONSIDERED UNDER DELEGATED AUTHORITY

The Depute Clerk reported on the applications discharged under delegated authority by the Clerk to the Licensing Board between 24 May and 19 June 2022:-

Minor Variation	:	7
Variation of Transfer of Premises Licence	:	1
S33 Transfer of Premises Licence	:	3
S34 Transfer of Premises Licence	:	3
Grant of Personal Licence	:	15
Renewal of Personal Licence	:	1
Renewal of Small Society Lottery Registration	:	3
Occasional Licences	:	65

The Depute Clerk reported that of the 65 Occasional Licences granted, 16 were granted to Club premises, 28 to Personal Licence holders 13 to Premises Licence holders and 8 to Voluntary Organisations. As of the date of the Report there were 1113 Personal Licence holders and 296 Premises Licence holders.

4. 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 pointed out that the Scottish Government only specified that the content of the Report must include a statement of the amount of relevant income received by the Licensing Board during the financial year; the amount of relevant expenditure incurred in respect of the Board's area during the year; and an explanation of how the amounts in the statement were calculated. The Depute Clerk confirmed that he had requested information from the Scottish Government on the purpose of the Report but to date had not received a response.

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 deficit of £30,142 in 21/22 had remain relatively the same to the deficit of £30,128 in 20/21. The Depute Clerk pointed out that the pre-covid deficit was £19,153 in 19/20. The Depute Clerk pointed out that the main income for the Licensing Board was the premises licence annual fees which were at the maximum level set by the Scottish Government. He further pointed out that there was no intention to increase these fees. The Depute Clerk stated that the deficit would probably continue meaning that the Council would be supporting the cost of operating the Licensing Board

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 the Licensing Board meetings only dealt with a small percentage of licensing business. The remainder of the business was reported to Members in the delegated powers report submitted to each Licensing Board meeting.

The Depute Clerk reported that here had been no appeals to the Sheriff Clerk on any of the Board's decisions.

The Depute Clerk pointed out that there was a curfew of 1.15am for nightclubs, which meant that no customers would be permitted to a nightclub after 1.15am. The curfew was introduced to prevent customers remaining in "pub" type premises and

everyone leaving to attend nightclubs at the same time. It was also introduced to help provide more business to nightclub premises.

The Depute Clerk referred to the Local Licensing Forum section within the Report and advised Members that it was a requirement for the Licensing Board to be represented on the local Licensing Forum. It was agreed by the Members that a representative would be appointed at the Licensing Board meeting on 23 August 2022.

The Depute Clerk pointed out that 4 premises licence reviews had been considered by the Board in terms of Section 44 of the Act, where the Board had received notification that the licence holder had been convicted of a relevant offence in terms of a breach in health and safety. The Depute Clerk advised that even though the breach did not take place within premises in East Ayrshire Licensing Board area, if the premises licence holder had premises within in this area, a review was required. The Depute Clerk advised that there was no action taken in all 4 reviews.

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

The Chair thanked the Licensing Board staff for all their work during the previous year.

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

5. APPLICATIONS

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

There being no other business the meeting ended at 11.07am.

LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR OCCASIONAL LICENCE

Morven Kerr

Idle Hands Shop & Bakery
44 Main Street
Dunlop

Sale of European alcohol to complement stock of cheese, meats, etc.

Off- Sale

14 – 24 July, 2022

Thursday & Friday	11am – 6pm
Saturday	10am – 6pm

The Depute Clerk stated that this application was for the off-sale of alcohol which breached the Licensing Board’s overprovision of off-sales policy. The Depute Clerk advised that there had been no comments or objections in respect of this application.

Morven Kerr attempted to remotely join the meeting but had technical difficulties connecting. Ms Kerr could hear the meeting but was unable to respond apart from through the chat facility within Teams.

The Depute Clerk advised that Ms Kerr had provided a statement in support of her application prior to the meeting, as follows :-

“We are a small artisan bakery and delicatessen style shop in Dunlop. Since opening three years ago, we have built up a good reputation for quality and service, with regular customers from the local area and much further afield.

As the summer months tend to be quieter for us, we aim to maintain sales by offering themed events and would like to start with a Bastille Weekend, based on the French Revolution with imported French gins and rums from small distilleries, alongside French craft beers and ciders and fresh juices from an apple farm in Normandy.

Our customers come to us for unusual products and gourmet gifts; fine cheese, charcuterie, foodstuffs from around Europe and we would like to offer a small amount of off-sales alcohol to compliment the food to allow them to have a full dining at home experience.

As with most of the food products we sell, we would propose to offer alcoholic drinks unavailable in the area, allowing our customers to shop locally instead of online for harder to find items.

Our customers are mainly 35+ with a high per-sale spend, who prefer quality over quantity.

Alcohol would be displayed behind the sales counter where only staff have access and our usual opening days are Thursday to Sunday.

I hope this allows you to look favourably at my application and we can continue to be an asset to retail in East Ayrshire.”

The Depute Clerk asked Ms Kerr if the application for an occasional licence was to ascertain the customer demand for the purchase of alcohol. Ms Kerr confirmed by the chat facility that it was a trial period with the possibility of applying for a full premises licence.

The Depute Clerk pointed out to Members that the application was contrary to their policy in terms of overprovision of off-sales and that a number of similar applications had previously been refused.

Councillor Jones asked for clarification of the number of themed events in the trial period prior to the submission of a premises licence application. Ms Kerr confirmed that she had intended to have 4 themed events in 2022.

The Members adjourned to the breakout room to consider the application further.

Councillor Kyle had difficulties joining the breakout room and rejoining the main meeting and took no further part in the meeting.

Upon returning to the main meeting, Councillor Leitch stated that the Board should stay with their overprovision policy and moved refusal of the application which was seconded by the Chair.

There being no further motion, it was unanimously agreed that the application be refused.

The Depute Clerk advised Ms Kerr that the Board Members were sympathetic with this type of application but at this time were unable to grant the application. Ms Kerr was advised that further information would be provided to her in respect of the Board’s policy on overprovision.

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

C J Lang & Son Limited

**Spar Store
18 Barbieston Road
Dalrymple**

Details of the variation:-

Increase alcohol display area from 29m² to 31.51m²;

Amend operating plan to include the following activities, to take place within the premises:-

All activities associated with a general convenience store including food to go, click and collect, home deliveries, paypoint payments, national lottery outlet, sampling and promotional activities, all of which may take place both within the outwith the core licensed hours.

Caroline Loudoun, Solicitor, TLT, appeared on behalf of the applicant.

The Depute Clerk reminded Members that this application had been continued from the previous Licensing Board meeting to enable Ms Loudoun to consult further with the applicant regarding the layout of the premises.

Ms Loudoun confirmed that the applicant had amended the layout of the premises to reduce the alcohol display area to 28.98m², which meant that there would now be no breach in the Board's overprovision policy. Ms Loudoun confirmed that the remainder of the application remained the same and requested that the variation be granted subject to the amendment.

The Board Members unanimously agreed to grant the variation subject to the reduction of the alcohol display area to 28.98m².

GAMBLING ACT 2005
APPLICATION FOR RENEWAL OF CLUB MACHINE PERMIT

Springhill Bowling Club
69 Fullarton Street
Kilmarnock

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

The Depute Clerk advised that Category B3A machines had a stake of £2 with a maximum payout of £500 and were only permitted within Members Clubs.

The Depute Clerk further advised that there were no comments or objections in respect of this application.

Councillor Jones moved that the application be granted which was seconded by the Chair. There being no further motions, it was unanimously agreed to grant the application as sought.