

EAST AYRSHIRE LICENSING BOARD

Minute of the virtual Meeting of East Ayrshire Licensing Board, held digitally through Microsoft Teams, on Tuesday 31 May 2022 at 10am.

SEDERUNT: Councillor Graham Barton, Councillor Stephen Canning, Councillor Elaine Cowan, 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), Sergeant Sheryl Syme (Police Scotland), Mrs Patricia Duncan and Ms Sheila Duncan (Licensing Board Administrators).

APOLOGIES : Councillor Lillian Jones.

1. SEDERUNT

Noted.

2. APPOINTMENT OF CHAIR

In terms of Schedule 1 of the Licensing (Scotland) Act 2005 a Licensing Board must, at their first meeting after the election of Members to the Licensing Board, elect one of their Members to the Chair.

Councillor Claire Leitch nominated Councillor Drew Filson to the Chair, which was seconded by Councillor Stephen Canning. There were no other nominations.

As there were no other nominations, Councillor Filson took the Chair.

The Depute Clerk advised the Members that Councillor Lillian Jones had still to complete the Licensing Assessment and should be available to take part in the next Licensing Board meeting on 28 June 2022.

3. MINUTE OF MEETING

The Minute of the meeting of East Ayrshire Licensing Board held on 19 April 2022 was agreed and noted.

4. APPLICATIONS CONSIDERED UNDER DELEGATED AUTHORITY

The Depute Clerk reported on the applications discharged under delegated authority by the Clerk to the Licensing Board between 11 April and 23 May 2022:-

Minor Variation	:	8
Confirmation of Provisional Licence	:	1
Grant of Personal Licence	:	12
Renewal of Personal Licence	:	2
Renewal of Small Society Lottery Registration	:	4
Grant of Small Lottery Registration	:	1

Automatic Entitlement of Gaming Machines	:	2
Occasional Licences	:	79
Extended Hours	:	8

The Depute Clerk reported that of the 79 Occasional Licences granted, 17 were granted to Club premises, 37 to Personal Licence holders 13 to Premises Licence holders and 12 to Voluntary Organisations. As of the date of the Report there were 1098 Personal Licence holders and 296 Premises Licence holders.

The Depute Clerk pointed out the significant number of occasional licence applications dealt with under delegated powers during the period, which resulted in significant amount of administrative work for an application fee of £10. The Depute Clerk advised that the Scottish Government were in the final process of reviewing the occasional licence procedure but that the £10 application fee would remain for the foreseeable future. The Depute Clerk pointed out that the Licensing Board were supposed to be self-funding and accordingly, any deficit would have to be subsidised by East Ayrshire Council.

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 11.30am.

LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR PERSONAL LICENCE

Kevin Stewart Davis

The Chair declared an interest in this application but it was not deemed sufficient to prevent him taking part in the consideration of the application.

Mr Davis was not present or represented.

The Depute Clerk advised the Members that this was the second meeting that Mr Davis had been requested to attend.

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

Sergeant Syme, Police Scotland, reported that on 23 September 2015, Mr Davis was convicted at Ayr Sheriff Court by a Jury of the offence of assault to severe injury and permanent disfigurement, with the sentence deferred to 21 October 2015, where Mr Davis was imprisoned for 14 months from the date of 4 June 2015. Sergeant Syme reported that the circumstances surrounding the incident was that on 3 January 2015 at Townhead, Dalmellington, Mr Davis did assault an 18 year old male and did repeatedly punch him on the head to his severe injury and permanent disfigurement.

Sergeant Syme, further reported that on 13 May 2016, at Ayr Sheriff Court, Mr Davis was convicted under the Criminal Justice & Licensing (Scotland) Act 2010 Section 38(1) and was imprisoned for 4 months. Sergeant Syme reported that the circumstances surrounding this incident was that on 8 May 2016 at 77 Merrick Drive, Bellsbank, Dalmellington, Mr Davis did behave in a threatening or abusive manner which was likely to cause a reasonable person to suffer fear or alarm in that he did shout, swear, utter offensive remarks and utter threats of violence contrary to Section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010.

Sergeant Syme concluded that the Chief Constable considered it was necessary for the purposes of the preventing crime and disorder licensing objective, that the application be refused.

Councillor Leitch pointed out that if the applicant had been present he could have spoken in support of his application and asked Police Scotland if they knew of any further incidents since 2016. Sergeant Syme stated that any ongoing cases could not be disclosed.

The Board Members adjourned to consider the matter further.

Upon returning Councillor Crawford moved that the application for personal licence be refused which was seconded by Councillor Kyle.

There being no other motion it was unanimously agreed to refuse the application.

The Depute Clerk confirmed that the application had been refused in terms of the licensing objectives of preventing crime and disorder and securing public safety.

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

C J Lang & Son Limited

Spar
25 Munro Avenue
Kilmarnock

Details of the variation:-

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

Gaming during and outwith the core hours; The premises may open for general trade prior to the commencement of the core hours. Recorded music may be played, such as Spar Radio, prior to the commencement of the core hours, as background music only. National lottery tickets/cards can be purchased prior to core hours.

The primary activity undertaken in the premises is the general retails sale of the following:- groceries, confectionery, bread & cakes, crisps/snacks, non-foods, toiletries, frozen and chilled foods, fruit/vegetables, flowers, news & magazines, toys, tobacco & cigarettes, beers/wines/spirits and other alcoholic products, non alcoholic drinks. Charity collection point and charitable events may take place. Food to go, click and collect, home deliveries, paypoint payments, national lottery outlet, external automated cash machine and sampling & promotional activities may take place within the premises.

The Depute Clerk outlined the application and advised that there were no objections or representations in respect of this application.

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

Ms Loudoun stated that all 85 Spar Stores were introducing a Food to Go section within their premises. Ms Loudoun further stated that the requirement for a variation of the premises licence had created an opportunity to update the wording of the Operating Plan. Ms Loudoun pointed out that the only gaming that would take place on the premises was the National Lottery. Ms Loudoun concluded that the Food to Go was introduced because of the Covid pandemic and that the application was a tidying up exercise of the operating plan and requested that the variation be granted as sought.

The Depute Clerk pointed out that this was the first Board Meeting for new Members and confirmed that the core licensed hours for off-sales were 10am until 10pm Monday to Sunday.

The Board Members agreed unanimously to grant the variation as sought.

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

C J Lang & Son Limited

Spar
14 Kilmarnock Road
Crosshouse

Details of the variation:-

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

Gaming during and outwith the core hours; The premises may open for general trade prior to the commencement of the core hours. Recorded music may be played, such as Spar Radio, prior to the commencement of the core hours, as background music only. National lottery tickets/cards can be purchased prior to core hours.

The primary activity undertaken in the premises is the general retails sale of the following:- groceries, confectionery, bread & cakes, crisps/snacks, non-foods, toiletries, frozen and chilled foods, fruit/vegetables, flowers, news & magazines, toys, tobacco & cigarettes, beers/wines/spirits and other alcoholic products, non alcoholic drinks. Charity collection point and charitable events may take place. Food to go, click and collect, home deliveries, paypoint payments, national lottery outlet, external automated cash machine and sampling & promotional activities may take place within the premises.

The Depute Clerk outlined the application and advised that there were no objections or representations in respect of this application.

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

Ms Loudoun again stated that all 85 Spar Stores were introducing a Food to Go section within their premises and dependent on whether the amendment led to an increase or decrease in the licensed area, either a minor or major variation application was required. Ms Loudoun further stated that the requirement for a variation of the premises licence had created an opportunity to update the wording of the Operating Plan. Ms Loudoun pointed out that the only gaming that would take place on the premises was the National Lottery. Ms Loudoun concluded that the Food to Go was introduced because of the Covid pandemic and that the application was tidying up exercise of the operating plan and requested that the variation be granted as sought.

The Board Members agreed unanimously to grant the variation as sought.

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 and outwith the core licensed hours.

The Depute Clerk advised that there were no objections or representations in respect of this application. The Depute Clerk pointed out that the increase of the licensed area went against the Licensing Board's Statement of Policy which stated that East Ayrshire was overprovided for in respect of off-sales. The Depute Clerk reminded Members that an applicant seeking to increase the capacity of an existing off-sales premises licence would require to provide robust and reliable evidence to the Board why the benefit to the licensing objectives through the grant of their application outweighed the detriment to the licensing objectives and the overprovision policy.

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

Ms Loudoun commenced her submission by stating that as in the previous two applications, this variation was to accommodate the introduction of the Food to Go, tidy up the wording of the operating plan and also to increase the licensed area from 29m² to 31.51m². Ms Loudoun stated that the amendment to the layout of the premises resulted in a minor increase to the licensed area. Ms Loudoun submitted that the premises were a traditional Spar Store with the provision of Beer, Wine and Spirits and that the applicant had made a considerable investment in the store and that even though it was a minor increase to the licensed area it was important to the layout of the store. Ms Loudoun concluded that the premises were responsibly operated and caused no problems and that the variation be granted as sought.

The Depute Clerk asked Ms Loudoun if the Members did not grant the increased area would the applicant wish the remainder of the application to be granted. Ms Loudoun confirmed that the applicant would wish the remainder of the application granted.

The Board Members had various questions regarding the requirement for the increased capacity and Ms Loudoun asked for an adjournment to further consult her client.

The Board reconvened at 11.25am.

Ms Loudoun requested that the application be continued to the next Licensing Board meeting to enable further consultation with the applicant regarding the layout of the premises.

The Board unanimously agreed to continue the application to the Licensing Board meeting on 28 June 2022.
