

EAST AYRSHIRE LICENSING BOARD

Minute of the Meeting of East Ayrshire Licensing Board held within the Council Chambers, Council Headquarters, London Road, Kilmarnock, and digitally through Microsoft Teams, on Tuesday 24 September 2024 at 10am.

SEDERUNT: Councillor Drew Filson (Chair), Councillor Stephen Canning, Councillor Elaine Cowan, Councillor June Kyle, Councillor Clare Maitland and Councillor Kevin McGregor.

ATTENDING: David Mitchell (Clerk to the Licensing Board), Sergeant Sheryl Syme (Police Scotland), Ms Carolyn McEwan and Mr Ian Hiles (Licensing Standards Officers) and Mrs Patricia Duncan (Licensing Board Administrator).

APOLOGIES: Councillor William Crawford, Councillor Claire Leitch and Councillor David Richardson.

1. SEDERUNT

Noted.

2. DECLARATIONS OF INTEREST

In relation to the variation application for The Clydesdale, 30 The Square, Cumnock, Councillor Kyle declared a non-financial interest and intimated that she intended to withdraw from the meeting for that item of business in accordance with paragraph 5.6 of the Councillors' Code of Conduct.

3. MINUTE OF MEETING

The Minute of the meeting of East Ayrshire Licensing Board held on 27 August 2024 was approved and noted.

4. ANNUAL LICENSING REPORT 2023-2024

The Chief Constable's Annual Licensing Report, outlining the work carried out by Police Scotland in the year 2023-2024, was presented by Sergeant Syme.

Sergeant Syme advised that, since the production of the report, Inspector Gail Fitzpatrick had taken up post as Head of the Licensing Department.

Sergeant Syme also advised that she would soon be retiring and that Sergeant David Markin would be appointed as Licensing Sergeant.

The Chair thanked Sergeant Syme for the informative report and wished her all the best in her retirement.

5. STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

The Clerk presented for approval, for the purpose of consultation only, a draft Statement of Principles for East Ayrshire Licensing Board in terms of Section 349 of the Gambling Act, 2005.

If the Board approved the draft Statement, the Clerk proposed to initiate an appropriate consultation exercise immediately following the Board meeting, with responses to be submitted no later than 12 November 2024. He advised that all comments received would be considered as part of the process of preparing a final Statement of Principles for presentation to the Board at a meeting on 10 December 2024, thereby meeting the statutory deadline of 31 January 2025.

The Board approved the draft Statement of Principles and remitted to the Clerk to carry out the necessary consultation and thereafter submit a further report to the Board meeting on 10 December 2024.

6. APPLICATIONS

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

There being no further business, the meeting ended at 10.50am

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

The Clydesdale Restaurant Ltd

The Clydesdale
30 The Square
Cumnock

Details of the variation:-

To amend the operating plan of the premises as follows:-

Amend operating hours as follows:

Current Hours - On Sale

Monday - Sunday : 11am - 12 Midnight

Proposed Hours - On Sale

Monday - Sunday : 10am - 1am

Off-Sale

Monday - Sunday : 10am – 10pm

Increase the capacity within the premises from 40 to 60, with a further 40 in the beer garden and 12 within the street café.

Permit club/group meetings within the premises and also provide dance facilities, theatre, films, televised sports all within the core licensed hours. Permit outdoor drinking facilities until 10pm each evening.

The Clerk reminded the Board that this application had been continued from the Licensing Board meeting on 27 August, to allow a site visit of the proposed outdoor drinking areas to be carried out, prior to consideration of the application.

The Chair advised that he had visited the premises on 13 September, together with Councillor Crawford and Ms McEwan, LSO.

The Clerk outlined the application, pointing out that the licensed hours sought, the request to provide off-sale and the proposed time for the outdoor drinking area were all outwith policy.

The Clerk reported that East Ayrshire Council's Building Standards had advised that the existing sanitary provision in the premises was based on a maximum occupancy of 40 persons (50/50 split in male/female) and any increase in occupancy would result in a shortage of female sanitary provision.

The Clerk advised that East Ayrshire Council's Environmental Health Service, LSO's and Police Scotland had expressing concerns with regards to the proposed outdoor drinking areas.

Leisa Hall, Director of the applicant company appeared before the Board to speak in support of the application, together with Stevie Hooper-Sanders.

Mr Hooper-Sanders advised that, when applying for the premises licence, a capacity figure of 40 had been requested as a trial, however he was unaware that the capacity of the premises had been restricted to 40. The Clerk advised that the comments received from Building Standards had been forwarded to the applicant prior to the meeting on 27 August and that the matter had also been addressed at that meeting. Mr Hooper-Sanders undertook to raise the matter with Building Standards.

The Clerk pointed out that the licensed hours sought and the proposed time for the outdoor drinking area were outwith policy. He continued that, no case had been made at the previous meeting to deviate from policy.

With regards to the request to provide off-sales from the premises, the Clerk submitted that this request was also contrary to policy, however should the Board wish to support this request, the provision of off-sales from the premises could be considered de minimis.

Mr Hooper-Sanders advised that the request for off-sale was to allow alcohol to be included with food deliveries and to allow customers who may not finish a bottle of wine, to take the remainder of the bottle home.

The Board adjourned to consider the application.

Upon returning the Chair moved that the licensed hours be restricted to policy, that the occupant capacity of the premises remain at 40, that off sales be permitted, subject to the condition that any alcohol deliveries being made must be accompanied with food. He continued that the outdoor drinking area to the rear of the premises be granted, subject to the use of the area being restricted to 9pm each evening, however moved that the proposed outdoor drinking area across the road from the premises, within The Square, Cumnock be refused due to safety concerns for staff and customers.

The Board agreed unanimously.

For the avoidance of doubt, the Clerk confirmed:-

- That the licensed hours had been restricted to policy - Sunday to Wednesday from 11am until 12 Midnight and Thursday to Saturday from 11am until 1am. The Clerk pointed out that the permitted hours were in relation to the sale of alcohol only and that the premises could open earlier to provide breakfasts, without supplying alcohol.
- That the occupant capacity of the premises be restricted to 40 as per Building Standard's recommendation.
- That off sales had been permitted, subject to the condition that any alcohol deliveries must be accompanied with food.
- That the outdoor drinking area to the rear of the premises had been granted, subject to the permitted use of the area being restricted to 9pm each evening.
- That the proposed outdoor drinking area within The Square had been refused, as the Board were not satisfied that the use of the area would be safe for staff or customers as they would require to cross a busy road.

Mr Hooper-Sanders asked for clarification as to whether the activities requested had been approved. The Board confirmed that the activities had been approved.

Subsequent to the Board meeting, and following clarification from Building Standards, it was agreed that the occupant capacity of the premises could be increased to 60, taking account of the fact that an accessible toilet was available for use by female customers.

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

Avenue Square Property Ltd.

Avenue Niteclub
6-8 Avenue Square
Stewarton

Details of variation:-

Amend the name of the premises to 6th Avenue Nightclub.

Amend Licensed hours :-

Current : On Sale

Monday - Thursday	:	6.30pm - 12 Midnight
Friday	:	6.30pm – 2am
Saturday	:	11.30am – 2am
Sunday	:	11.30am – 12 Midnight

Proposed : On Sale

Sunday - Wednesday	:	11am – 2am
Thursday – Saturday	:	11am – 2.30am

Mr Paul Moon, Director of Avenue Square Property Ltd., appeared before the Board to speak in support of the application.

The Clerk outlined the proposed variation and advised that a Notice of Objection had been received from a neighbour of the premises, in respect of the application. As the Notice of Objection was received after the last lodgement date of objections, as a preliminary matter, the Board would require to decide whether the objection should be considered.

As the objector was not present or represented at the meeting to offer an explanation as to why the objection was received late, the Board agreed unanimously that the Notice of Objection should not be taken into account when considering the application.

The Clerk advised that comments had been received from East Ayrshire Council's Environmental Health Service that, given the close proximity of the premises to residential accommodation, a strategy for management of noise

emanating from the premises and from patrons outside the premises should be submitted for consideration.

Mr Moon confirmed that a copy of the Notice of Objection, together with the comments made from Environmental Health, had been forwarded to him prior to the Board meeting.

Mr Moon continued that when refurbishing the premises, noise issues had been considered and acoustic wall boarding had been installed to reduce noise levels. An internal sound monitor system had been installed within the premises, which indicated when noise levels were too loud via a light warning. Should the DJ not take action, the system would cut out when noise levels went beyond 85dB. With regards to external noise, Mr Moon advised that managers and stewards would be in place to monitor customers outside and to ensure the premises were cleared quickly at the end of the night.

Mr Moon advised that he had spoken with Ian Hiles, LSO regarding a complaint made to Environmental Health regarding noise on the opening night of the premises and also advised that concerns had been raised via social media regarding noise from customers leaving the premises. As a result of these concerns, notices were placed within the premises asking customers to keep noise levels down when leaving the premises and to be respectful of neighbours, stewards were in place at the doors to ensure that they were kept closed and business cards of local taxi firms were made available within the premises. As a result of these steps, the person who had raised concerns had, via social media, complimented and congratulated the premises on the steps taken.

The Chair asked if taxis parked to the front of the premises when picking up customers. Mr Moon confirmed that taxis did park at the front of the premises.

The Chair asked if the LSO's had any issues with the operation of the premises.

Mr Hiles advised that, other than the complaint to Environmental Health mentioned earlier by Mr Moon, no further complaints had been received.

The Board agreed unanimously to grant the variation, subject to the condition that a strategy for management of noise emanating from the premises and from patrons outside the premises be submitted to East Ayrshire Licensing Board within 3 months, with all matters to be put in place within 3 months.
