

SOUTH AYRSHIRE LICENSING BOARD.

Minutes of a meeting in the County Buildings, Wellington Square, Ayr,
on 25th April 2012 at 10.00 a.m.

Present: Councillors Douglas Campbell (Chair), Ian Douglas, Ian Fitzsimmons, Ann Galbraith, Alec Oattes and Tom Slider.

Apologies: Councillors Andy Campbell and Bill Grant.

Attending: V. Andrews, Clerk to the Board; M. Douglas, Depute Clerk to the Licensing Board; C. Andrew, Licensing Standards Officer; and J. McClure, Committee Services Officer.

Also Attending: Chief Superintendent J. Thomson; and C. Maxwell, Strathclyde Police.

1. Date of Next Board Meeting.

The Chair advised that the next Board meeting would be held in the County Hall, County Buildings, Ayr on a date to be confirmed following the Local Government Elections.

2. Minutes of Previous Meeting.

The Minutes of the Meetings of South Ayrshire Licensing Board of 29th March 2012 (issued) were submitted.

The Depute Clerk to the Board advised that with reference to Page 2, item 5(c) of the minutes, the application for the Forte Bar, Ayr should read:-

Retail Sale of Alcohol (On Premises) – every day from noon to 1.00 a.m.

Retail Sale of Alcohol (Off Premises) – every day from noon to 10.00 p.m.

Decided: to note the Minutes of the previous meeting and the amendment to the Minute.

3. Applications for Transfer Granted Under Delegated Powers.

There was submitted a report (issued) of 11th April 2012 by the Clerk to the Licensing Board advising of the following determinations of applications for Transfer of Licences between the last Board meeting and the present one:-

(1) The Balgarth, 8 Dunure Road, Ayr; and

(2) Kirkland Stores, 40 Kirkland Street, Maybole.

Decided: to note the transfers granted under delegated powers.

4. Report by Licensing Standards Officer.

With reference to the Minutes of 29th March 2012 (Page 3, paragraph 5(f)) when the Board had instructed the LSO to report to this Board meeting on the current situation in those premises owned by Costley Hoteliers and related companies in relation to training and any other matters that were considered appropriate, there was submitted a report (issued) of 16th April 2012 by the LSO outlining

- (1) that she had now had the opportunity to visit all premises within the Costley Hotels Group and have lengthy discussions with a Director representing the Company;
- (2) that she was now satisfied that documentation likely to be requested by the LSO or Strathclyde Police was now available along with documentation on training details for staff members likely to work on the premises; that training for personal licenceholders had been conducted in association with Bill McKay from Auchincruive; and in-house training would be undertaken by the Premises Manager from Brig O'Doon Hotel for any new staff;
- (3) that she had agreed a contact officer regarding any premises issues as well as highlighting these to the relevant Premises Managers;
- (4) that she was now satisfied with the new procedures in place provided that these were carried out as agreed; and
- (5) that she understood that the recent review hearings which had highlighted issues which had not been dealt with appropriately had been a huge concern to the operators who were keen to ensure that the situation did not arise again in the future.

The LSO outlined her sadness at the recent fire at Souter Johnnies and advised that she had recently met with a Director of the Company to discuss how to proceed.

Decided: to note the present position.

Variation in order of business.

The Board agreed to vary the order of business as hereinafter minuted.

5. Licensing (Scotland) Act, 2005.

(a) Application for Provisional Premises Licence.

The Board considered the following application:-

Applicant

Co-operative Group Food Ltd.

Premises

Co-operative Group Food Ltd.
Dunure Road
Greenan
Alloway
Ayr

Retail Sale of Alcohol (Off Premises) – every day 10.00 a.m. to 10.00 p.m.

The Board first considered the issue of locality for the purposes of this application and decided (with the agreement of the applicant) that a 500m radius of the applicant premises would be the appropriate locality for consideration of this application.

Having heard from the applicant's representative and having taken all submissions into account, the Board considered if any of the grounds for refusal applied and, having concluded that no grounds for refusal had been established, the application was granted.

(b) Applications for Variation of Premises Licences.

The Board considered the following applications:-

<u>Applicant</u>	<u>Premises</u>
(1) Filippo Mancini	Filippo's/Royal Cafe 11 New Road Ayr

To remove the local condition "sale shall be restricted to wine and bottled beers and no other alcoholic products" from the premises licence.

Having heard from the applicant, the Board granted the above application.

(2) Karen Morton	Harbour Bar 169-173 Templehill Troon
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Existing Licensed Hours

	<u>On Sales</u>	<u>Off Sales</u>
Monday	10.00 a.m. to 12.30 a.m.	10.00 a.m. to 10.00 p.m.
Tuesday	10.00 a.m. to 12.30 a.m.	10.00 a.m. to 10.00 p.m.
Wednesday	10.00 a.m. to 12.30 a.m.	10.00 a.m. to 10.00 p.m.
Thursday	10.00 a.m. to 12.30 a.m.	10.00 a.m. to 10.00 p.m.
Friday	10.00 a.m. to 12.30 a.m.	10.00 a.m. to 10.00 p.m.
Saturday	10.00 a.m. to 12.30 a.m.	10.00 a.m. to 10.00 p.m.
Sunday	10.00 a.m. to 12.30 a.m.	10.00 a.m. to 10.00 p.m.

Proposed Licensing Hours

	<u>On Sales</u>	<u>Off Sales</u>
Monday	10.30 a.m. to 1.00 a.m.	10.30 a.m. to 10.00 p.m.
Tuesday	10.30 a.m. to 1.00 a.m.	10.30 a.m. to 10.00 p.m.
Wednesday	10.30 a.m. to 1.00 a.m.	10.30 a.m. to 10.00 p.m.
Thursday	10.30 a.m. to 1.00 a.m.	10.30 a.m. to 10.00 p.m.
Friday	10.30 a.m. to 1.00 a.m.	10.30 a.m. to 10.00 p.m.
Saturday	10.30 a.m. to 1.00 a.m.	10.30 a.m. to 10.00 p.m.
Sunday	10.30 a.m. to 1.00 a.m.	10.30 a.m. to 10.00 p.m.

Change to core hours as above.

The Board granted the hours as outlined above.

<u>Applicant</u>	<u>Premises</u>
(3) Mark Beattie	The Minishant 28 Main Road Minishant

Change to layout of premises to include disabled toilet facilities.
To relocate kitchen and to increase floor space to allow additional tables.

The Board granted the above application.

(c) Application for an Occasional Licence.

The Board considered the following application:-

<u>Applicant</u>	<u>Premises</u>
(1) Costley & Costley Hoteliers Ltd.	Marquee on west lawn of Lochgreen House, Monktonhill Road, Troon

Hospice Summer Ball – 9th June 2012 – 7.00 p.m. to 1.00 a.m.

Having heard from the applicant's representative and the LSO, the Board granted the above application.

(2) Zachary Thomas Aitken	Station Hotel Burns Statue Square Ayr
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Friday Street Ayr Mod Rally 2012 – 5th and 6th May 2012 – 10.00 a.m. to midnight.

Having heard from the applicant and the Depute Clerk, the Board granted the above application.

(d) Applications for Extended Hours.

The Board considered the following applications:-

<u>Applicant</u>	<u>Premises</u>
(1) Robert Jardine	Westcliffe Hotel 15/16 Louisa Drive Girvan

Girvan Folk Festival – 4th to 6th May 2012
Friday and Saturday from 12.30 a.m. to 2.00 a.m.; and Sunday from midnight to 2.00 a.m.

Having heard from the applicant and the LSO, the Board granted the above application.

- (2) Nancy Rae
The Royal Hotel
36 Montgomerie Street
Girvan

Girvan Folk Festival – 4th to 6th May 2012
Friday and Saturday from 12.30 a.m. to 2.00 a.m.; and Sunday from
midnight to 2.00 a.m.

Having heard from the applicant, the Board granted the above application.

(e) **Requests for Review.**

The Board considered the following applications for review. The Chair advised that as the two reviews to be considered related to the same incident the Board would hear the evidence relating to both before reaching its decision on these.

(i) **Request for Review of Premises Licence Under Section 36.**

John Stewart for Victory Bar, 26 South Park Avenue, Girvan.

Following a Request for Review from Strathclyde Police under Section 36(3)(b) of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There was submitted a letter from Strathclyde Police dated 7th March 2012 (issued to Members only); a report by the Clerk to the Licensing Board dated 11th April 2012 (issued) outlining the background to this review and the reasons for requesting the review; and a document outlining how the Victory Bar proposed to meet the licensing objectives, which had been submitted with the premises licence application (issued).

The Board then heard Chief Superintendent Thomson, Strathclyde Police in relation to the reasons for requesting the review.

The LSO advised of the various visits she had made to the premises and discussions she had with the Premises Licenceholder.

The Premises Licenceholder's representative then advised the Board

- (A) that Mr. Stewart had operated in the Victory Bar for eight years with no difficulties;
- (B) that there had been shortcomings with administration matters but Mr. Stewart had addressed these and had now put procedures in place;
- (C) that on the day of the incident in question the individual barred from the premises had requested to use the toilet, Mr. Stewart had allowed this as the premises were quiet and when the individual had requested the return of his property Mr. Stewart had returned the bottle with no thought that he would use the bottle to perpetrate a crime;

- (D) that the victim had been brought back into the premises to be cleaned up and, as he did not want the Police or an ambulance, his parents were telephoned, who subsequently called Strathclyde Police; and
- (E) that Mr. Stewart had a good previous record, had co-operated with Strathclyde Police and had taken steps to rectify matters, therefore, proposed that any sanction imposed by the Board should be lenient.

Following questions from the Chair on CCTV evidence and advice given to licenceholders from Strathclyde Police, Chief Superintendent Thomson advised

- (I) that no CCTV evidence had been captured;
- (II) that it was inconceivable to him that an experienced licenceholder would not contact the Police when blood was splattered over the floor following such an incident and that cleaning up the blood had been detrimental to how the Police could investigate the case;
- (III) that Strathclyde Police Officers had visited the premises and had spoken to Mr. Stewart in detail regarding the fact that Strathclyde Police should be contacted when an incident occurred and that all staff were now aware of their responsibilities; and
- (IV) that he understood the difficulties in dealing with challenging individuals, however, a degree of negligence had occurred as the individual had been barred previously.

Following a question from the Chair on serious incidents in premises and best practice when an individual was barred, the LSO advised

- (aa) that Strathclyde Police had made it very clear that they expected licenceholders to contact them should an incident occur;
- (bb) that licenceholders had expressed concerns that should they contact Strathclyde Police this could be held against them, however they had been reassured that this was not the case; and
- (cc) that she had discussed with Mr. Stewart the barring of individuals and procedures around this,

and the licenceholder's representative advised that Mr. Stewart had made a wrong judgement call and that this would not recur.

A question was raised by a Member in relation to whether the other member of staff on duty on the night of the incident was a personal licenceholder and the licenceholder's representative advised that the member of staff was not a personal licenceholder.

(ii) **Request for Review of Personal Licence Under Section 84.**

Licenceholder

Licence Number

John Stewart

SA/09/00399/LAPRS

Following a Request for Review from Strathclyde Police under Section 84A(1) of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to personal licenceholder John Stewart.

There was submitted (issued to Members only) a letter dated 7th March 2012 from Strathclyde Police outlining the background to this review and the reasons for requesting the review.

The Board then heard Chief Superintendent Thomson, Strathclyde Police in relation to the reasons for requesting the review.

The LSO advised that Mr. Stewart was the Premises Manager at two premises, the Premises Licenceholder at another two premises and attended licensed trade meetings.

The personal licenceholder's representative then advised the Board

- (A) that Mr. Stewart was now well aware of the steps that should have been taken;
- (B) that the Board should take into account his previous good record, his co-operation with the Police and that the majority of the Police report was based on what he had advised them as he was open and honest; and
- (C) that a degree of leniency should be shown due to his previous good record.

The Board then adjourned for consideration of both applications for review.

Upon reconvening, with reference to the Review of the Premises Licence, the Board determined that the grounds for review had been established and outlined

- (I) that the key issue was the failure to report the incident to the emergency services; and
- (II) that the Board had expressed concerns regarding the lack of management procedures for the barring of individuals.

The Board decided:

- (I) that the Clerk to the Board should issue a warning letter to the premises licence holder outlining:-
 - (aa) that a barring policy should be introduced and ensuring that all staff were clear on the nature of the policy;

- (bb) that the management practice should be reviewed to highlight the responsibility on staff to call the emergency services when the need arose; and
 - (cc) that the local condition of the premises licence should be reviewed to ensure that the CCTV was to the satisfaction of Strathclyde Police; and
- (IV) that, in view of the serious nature of the incident when an individual had been struck to the head by a bottle and required medical attention, the licence should be suspended from Thursday, 26th April to Wednesday, 9th May 2012 with the entitlement to reopen on Thursday, 10th May 2012.

With reference to the Review of the Personal Licence, the Board determined that the grounds for review had been established and decided

- (I) to request that the Clerk to the Board issue a warning letter to the licenceholder outlining his responsibilities to call the emergency services as circumstances dictate; and
- (II) to endorse the licenceholder's personal licence.

6. Scottish Government Consultation on Proposals to Amend Proof of Age Regulations.

There was submitted a report (issued) of 20th April 2012 by the Executive Director – Corporate Services advising

- (1) of the current consultation on the proposal to amend the documents which could be used for proof of age in relation to alcohol, tobacco, etc.;
- (2) that at present the documents which could be used as proof of age to purchase alcohol were a passport, an EU photocard driving licence, and a photographic identity card approved by the British Retail Consortium for the purposes of its Proof of Age Standards Scheme (PASScard);
- (3) that other goods and services also required proof of age, e.g. tobacco, sunbeds, solvents, etc.;
- (4) that the consultation sought views on increasing the number of documents suitable as proof of age to include a Ministry of Defence Form 90 (Defence Identity Card); a National Identity Card issued by an EU Member State, Norway, Iceland, Lichtenstein or Switzerland; and a Biometric Residents Permit (BRP); and
- (5) that the consultation was seeking views on:-
 - (a) whether any of the above should be included on the list of acceptable documents;
 - (b) whether any other documents should also be included; and
 - (c) whether any further goods or services should be subject to age related regulations.

Decided: to request the Clerk to the Board to submit a response to the consultation on behalf of the Board by the deadline of 30th April 2012 including comments that a Provisional Driving Licence was identical to a full Driving Licence, however, a Provisional Licence could not be used to purchase goods which required proof of age.

The meeting ended at 11.20 a.m.