

SOUTH AYRSHIRE LICENSING BOARD.

Minutes of a meeting in the County Buildings, Wellington Square, Ayr,
on 1st March 2012 at 10.00 a.m.

Present: Councillors Douglas Campbell (Chair), Ian Douglas, Ian Fitzsimmons, Ann Galbraith and Bill Grant.

Apologies: Councillors Andy Campbell, Alec Oattes and Tom Slider.

Attending: K. Briggs, Legal and Licensing Manager; M. Douglas, Licensing Policy Officer; C. Andrew, Licensing Standards Officer; and J. McClure, Committee Administrative Officer.

Also Attending: Sergeant U. Menzies, 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 Thursday, 29th March 2012 at 10.00 a.m.

2. Minutes of Previous Meeting.

The Minutes of the Meetings of South Ayrshire Licensing Board of 2nd February 2012 (issued) were submitted.

Decided: to note the Minutes of the previous meeting.

3. Update from Licensing Standards Officer.

There was submitted a report (tabled) by the Licensing Standards Officer advising

- (1) that she was pleased to note that since the last Board meeting on 2nd February 2012, she had now received information from all nightclub premises as requested which had enabled her to gain a picture of the current situation in relation to pricing and promotions which, along with information gathered from visits to off-sales premises, formed the basis of a discussion at a joint meeting of the Board and the Local Licensing Forum which had taken place on 24th February 2012;
- (2) that this information formed part of a much bigger picture of what was happening in Scotland, not just South Ayrshire and the need for change was not only reflected in the Scottish Government's discussions surrounding minimum pricing but also in a recently published document from Alcohol Focus Scotland entitled "Changing Scotland's Relationship with Alcohol";
- (3) that, whilst the Board currently had no power or remit to control alcohol pricing and indeed a minimum price had not been established by the Government, the information gathered in South Ayrshire highlighted the fact that it was possible to purchase a three litre bottle of cider for £2.99 containing a total of 22.5 units which exceeded the maximum weekly units of 21 recommended for a man;

- (4) that, comparatively, having considered the information provided by nightclubs, even with the £1 a drink and possibility of a student gaining free entry and purchasing £10 worth of alcohol, the maximum number of units they could consume would be 13.8 units;
- (5) that it was accepted that on-sale premises offered a supervised environment and drinking was controlled by specific measures, whereas drinking in the home having purchased off-sales offered the opportunity to consume larger measures; and
- (6) that the information gathered would be enhanced over the coming months and was currently being used for noting as the Board had no current remit to control price, however, this information would provide the Board with a baseline to consider any future projects or policies.

Decided: to note the report from the Licensing Standards Officer.

4. Request from Scottish Beer and Pub Association.

There was submitted a letter (issued) of 30th January 2012 from Hill Brown Licensing on behalf of the Scottish Beer and Pub Association

- (1) enquiring if it was the Board's intention to make a determination under the provisions of Section 67 of the Licensing (Scotland) Act 2005 in connection with Her Majesty's Diamond Jubilee on 5th June 2012;
- (2) advising that the Scottish Beer and Pub Association accounted for an estimated 20% of Scotland's on-sale licensed public houses and considered that the Diamond Jubilee was the sort of exceptional event of 'national significance' envisaged by Section 67 and that the statutory Guidance for Licensing Boards published under Section 142 of the 2005 Act specifically exemplified "the Royal Jubilee" as a "special event of local or national significance"; and
- (3) proposing that licensed hours should be extended by one hour on Sunday, 3rd June and Monday, 4th June 2012 which would afford the maximum benefit to their clients and customers.

Decided: to grant an additional one hour's opening on Sunday, 3rd and Monday, 4th June 2012 subject to the condition that all premises who were making use of this additional hour advise the Clerk to the Board.

5. **Variation in order of business.**

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

6. **Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 – Coming into Force 1st March 2012.**

There was submitted a letter (tabled) of 28th February 2012 from Roseanna Cunningham MSP, Minister for Community Safety and Legal Affairs advising

- (1) that the Scottish Parliament had passed the Offensive Behaviour at Football and Threatening Communications (Scotland) Act on 14th December 2011 with the Act coming into force on 1st March 2012;
- (2) that the Act criminalised behaviour which was likely to incite public disorder at a regulated football match and was threatening, hateful or otherwise offensive to a reasonable person, including offensive singing or chanting which was known to also take place in pubs, clubs and elsewhere that matches were broadcast, therefore, televised matches were covered by the Act to make clear that everyone watching football would be expected to behave within the confines of the law;
- (3) that she would expect all responsible licensees to respond to any problematic behaviour long before any risk of public disorder took place in accordance with current Licensed Trade guidelines, however, if such behaviour did occur on licensed premises it would be a matter for the Police and ultimately the Courts to decide whether such behaviour was an offence under the Act or breached other law or legislation;
- (4) that the clear message was that licensees across Scotland did not require to act differently as a result of the Act, they only needed to concern themselves with maintaining order within their premises;
- (5) that football was Scotland's national sport and it should reflect the best of Scotland with supporters who were renowned for their pride and passion and the Scottish Government was committed to ensuring that the focus of this pride and passion remained solely on football and that the vast majority of law abiding fans were protected from the small minority who wished to use football as an excuse for unacceptable behaviour; and
- (6) that a briefing note was available for issuing to licensed premises.

Having heard a Board Member enquire how this information would be made available to licensed premises, the Licensing Policy Officer advised that the briefing note would be published on the Council website and the LSO would also distribute copies when making visits to premises.

Decided: to note the introduction of this Act.

7. **Licensing (Scotland) Act, 2005.**

(a) **Application for Premises Licence.**

The Board considered the following application:-

<u>Applicant</u>	<u>Premises</u>
Hamilton Arms Hotel Limited	Hamilton Arms 22 Bridge Street Girvan

Retail Sale of Alcohol (On Premises) – Monday to Saturday inclusive from 11.00 a.m. to 1.00 a.m.; and Sunday from noon to 1.00 a.m.

Retail Sale of Alcohol (Off Premises) – Monday to Saturday inclusive from 11.00 a.m. to 10.00 p.m. and Sunday from noon 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 the whole of Girvan would be the appropriate locality for consideration of this application.

Having heard from the applicant and the Licensing Standards Officer, following questions from Members 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) **Application for Provisional Premises Licence.**

The Board considered the following application:-

<u>Applicant</u>	<u>Premises</u>
The Pinewood Restaurant (Prestwick) Ltd.	The Pinewood 172 Main Street Prestwick

Retail Sale of Alcohol (On Premises) – Monday to Thursday inclusive from 11.00 a.m. to midnight; Friday and Saturday from 11.00 p.m. to 1.00 a.m.; and Sunday from 11.00 a.m. to midnight.

Retail Sale of Alcohol (Off Premises) – every day from 11.00 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 Main Street, Prestwick and the premises at Prestwick Cross/Monkton Road, Prestwick would be the appropriate locality for consideration of this application.

Having heard from the applicant 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.

(c) **Application for Personal Licence.**

The Board considered the following application:-

<u>Application Number</u>	<u>Applicant</u>
SA/12/00006/LAPRS	Gregor Campbell

Having heard an observation from Strathclyde Police and the applicant in response, the Board granted the above application.

(d) **Applications for Occasional Licences.**

The Board considered the following applications:-

<u>Applicant</u>	<u>Premises</u>
(1) Alastair McClymont	The Lairidge Shed The County Auction Mart Whitefordhill Ayr

The Annual Ayrshire Association of Young Farmers' Clubs Rally Dance – 19/05/12 from 9.00 p.m. to 1.00 a.m.

Having heard from the Licensing Standards Officer, the Board granted the above application.

(3) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
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La Barrique Race Day and associated activities – 09/03/12 from 10.30 a.m. to 7.40 p.m.

(4) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
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Irish Race Day and associated activities – 10/03/12 from 10.30 a.m. to 7.40 p.m.

(5) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
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Scottish Grand National Race Day and associated activities – 20/04/12 from 10.30 a.m. to 7.10 p.m.

(6) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
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Scottish Grand National Race Day and associated activities – 21/04/12 from 10.30 a.m. to 7.35 p.m.

<u>Applicant</u>	<u>Premises</u>
(7) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
Spring Festival Race Day and associated activities – 30/05/12 from 10.30 a.m. to 7.25 p.m.	
(8) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
Spring Festival Race Day and associated activities – 31/05/12 from 10.30 a.m. to 7.35 p.m.	
(9) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
Saints and Sinners Race Day and associated activities – 22/06/12 from 3.00 p.m. to 11.00 p.m.	
(10) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
Scottish Sun Race Day and associated activities – 23/06/12 from 10.30 a.m. to 7.45 p.m.	
(11) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
Family Race Day and associated activities – 08/07/12 from 10.30 a.m. to 7.15 p.m.	
(12) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
Race Day and associated activities – 09/07/12 from 10.30 a.m. to 7.00 p.m.	
(13) Western House Catering Ltd.	Ayr Racecourse 2 Whitletts Road Ayr
Glasgow Fair Festival Race Day and associated activities – 16/07/12 from 10.30 a.m. to 7.30 p.m.	

Applicant

Premises

(14) Western House Catering Ltd.

Ayr Racecourse
2 Whitletts Road
Ayr

Race Day and associated activities – 23/07/12 from 10.30 a.m. to 7.30 p.m.

(15) Western House Catering Ltd.

Ayr Racecourse
2 Whitletts Road
Ayr

Summer Sizzler Race Day and associated activities – 30/07/12 from 10.30 a.m. to 7.30 p.m.

(16) Western House Catering Ltd.

Ayr Racecourse
2 Whitletts Road
Ayr

Ladies Night Race Day and associated activities – 11/08/12 from 2.00 p.m. to 10.30 p.m.

(17) Western House Catering Ltd.

Ayr Racecourse
2 Whitletts Road
Ayr

Wallaces Express Race Day and associated activities – 14/08/12 from 10.30 a.m. to 7.30 p.m.

(18) Western House Catering Ltd.

Ayr Racecourse
2 Whitletts Road
Ayr

Gold Cup Opening Race Day and associated activities – 20/09/12 from 10.30 a.m. to 7.20 p.m.

(19) Western House Catering Ltd.

Ayr Racecourse
2 Whitletts Road
Ayr

Gold Cup Ladies Day Race Day and associated activities – 21/09/12 from 10.30 a.m. to 7.40 p.m.

(20) Western House Catering Ltd.

Ayr Racecourse
2 Whitletts Road
Ayr

Gold Cup Race Day and associated activities – 22/09/12 from 10.30 a.m. to 7.40 p.m.

- | <u>Applicant</u> | <u>Premises</u> |
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| (21) Western House Catering Ltd. | Ayr Racecourse
2 Whitletts Road
Ayr |
| Race Day and associated activities – 02/10/12 from 10.30 a.m. to 7.30 p.m. | |
| (22) Western House Catering Ltd. | Ayr Racecourse
2 Whitletts Road
Ayr |
| Giles Insurance Race Day and associated activities – 11/10/12 from 10.30 a.m. to 7.30 p.m. | |
| (23) Western House Catering Ltd. | Ayr Racecourse
2 Whitletts Road
Ayr |
| John Smith's Race Day and associated activities – 03/11/12 from 10.30 a.m. to 5.30 p.m. | |

The Board heard the applicant's representative and the Licensing Standards Officer in relation to application numbers (3) to (23) above and granted the above applications.

The Board noted that the following application had been withdrawn:-

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| (2) Callum McKelvie | Maybole Town Hall
High Street
Maybole |
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Annual Maybole Fireman's Ball – 03/03/12 from 7.00 p.m. to 12.30 a.m.

(e) Review Hearing of Premises Licence Under Section 36.

The Board considered the following applications for review:-

- (i) Costley Inns and Wine Bars Limited, Souter Johnnie's Inn, 47 Main Road, Kirkoswald.**

Following a Request for Review from the Licensing Standards Officer (LSO) in terms of Section 36 (4)(a) and (b) of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There was submitted (issued) a report dated 2nd February 2012 by the LSO advising that the grounds for review were that, despite the issue of a Notice in terms of Section 14(2)(a) in relation to a breach of the Mandatory Conditions of the Premises Licence, matters had not been dealt with to her satisfaction, namely the training of staff; and outlining the history to the Review Request.

The representative for the premises then advised

- (1) that the Section 14(2)(a) Notice had been issued on 10th January 2012 and all matters had now been dealt with;
- (2) that various alterations had been made to Souter Johnnie's in the past two years and all alterations had been to the satisfaction of Building Standards, however, he had become aware of these alterations in January and had advised the Premises Manager of the requirement for an application for variation to be submitted to the Licensing Board;
- (3) that in relation to training, there had been some confusion on the company's part regarding what training was required for those staff selling alcohol, the LSO had provided guidance regarding this and eight out of the ten staff who were not personal licenceholders had now undergone training, with the other two members of staff being trained in due course as they were currently on sick leave;
- (4) that there had been a disappointing breakdown in communications regarding the matters outlined by the LSO and all of the LSO's observations had now been taken on board and all compliance issues were being dealt with; and
- (5) that he would be appearing in front of the Board on 29th March 2012 when the application for variation was being considered and, should the remainder of the training records not be available at that time, the Board could then impose a sanction it felt appropriate.

Questions were raised by Board Members in relation to staff turnover and frequency of training courses; how many visits the LSO had made to the premises; and the present situation with the training records and the representative for the premises and the LSO responded accordingly.

The LSO further advised

- (a) that she had re-visited the premises on Wednesday, 29th February 2012 and one member of staff who was a Personal Licenceholder did not have a copy of his Personal Licence at Souter Johnnie's as he advised that he normally worked in other premises;
- (b) that she had advised staff that copies of licences and training records should be retained in all premises that staff may be working to ensure that no matter where they worked, their licence and training records could be inspected should she or any other official visit;
- (c) that training records dated 29th February 2012 had been presented to the Board today which concerned her as the requirement for training had been in place since 2009 and the Premises Manager and Personal Licenceholders should be aware of this requirement as it was stated on the Premises Licence; and

- (d) that on her visit to the premises on 29th February 2012, the staff training had not taken place nor had any staff made her aware that it was imminent.

The representative for the premises responded to these points, advised that he had acted on behalf of the Costley Group for some time and had never previously been before the Board in this capacity and the LSO further advised that a Section 14(2)(a) Notice had been issued to the Beresford, another Costley Group premises on 10th October 2011, also regarding the lack of training, however, she had resolved this matter in conjunction with the Manager

The Board agreed to hold the hearing in relation to Peggy's Tearoom then adjourn to consider both reviews.

(ii) Costley Inns and Wine Bars Limited, Peggy's Tearoom, 43-45 Main Road, Kirkoswald.

Following a Request for Review from the Licensing Standards Officer (LSO) in terms of Section 36 4(a) and (b) of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There was submitted (issued) a report dated 1st February 2012 by the LSO advising that the grounds for review were that, despite the issue of a notice in terms of Section 14(2)(a) in relation to a breach of the Mandatory Conditions of the Premises Licence, the matters had not been dealt with to her satisfaction, namely the display of alcohol for consumption off the premises and the training of staff; and outlining the history to the Review Request.

The LSO advised

- (1) of the legal requirement for staff training to be carried out;
- (2) that when visiting the premises in January 2012 the display of alcohol for off-sales had been relocated to a different area outwith the one approved by the Board in the layout plan;
- (3) that a variation application had now been lodged for the relocation of the off-sales area, however, until this was granted this was not a designated alcohol area; and
- (4) that on visiting the premises on 29th February 2012 additional items were still being displayed in the alcohol area which she had previously advised staff was not permitted as only alcohol could be displayed.

The representative for the premises then outlined that all outstanding matters with signage had now been rectified; and that an application for variation had been lodged with regard to the change of area for displaying and selling off-sales.

Questions were raised by Board Members regarding who delivered the training course to staff; whether it was appropriate for a Personal Licenceholder to conduct training; and why training was not carried out more promptly following the serving of the LSO's Notice; and the LSO, representative for the premises and Premises Manager responded accordingly.

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

(i) **Costley Inns and Wine Bars Limited, Souter Johnnie's Inn, 47 Main Road, Kirkoswald.**

Upon reconvening, the Chair advised that the Board had taken time to discuss the evidence presented and had heard evidence regarding correspondence and meetings between the LSO and the Premises Manager; a failure over time to meet a range of legislative requirements and the late submission of training records and, in view of this, the Board agreed that the grounds for review had been established and that there were breaches of mandatory conditions.

In reaching this conclusion, the Board noted that the request made was in terms of a Premises Review but in hearing the evidence and discussing the issues it seemed that the matters related to the running of the premises and how management had not operated in terms of various mandatory conditions within the Act.

Decided:-

- (A) that it was appropriate to make a finding under Section 84 of the Act, that the actions of the personal licenceholder were inconsistent with the licensing objectives and the various mandatory conditions relating to that and, therefore, a suspension of six months was imposed on the Premises Manager; and
- (B) that with regard to the management of the premises, the Clerk to the Board should issue a written warning to the premises regarding the need to meet statutory obligations and licensing objectives and requiring that all staff be retrained.

(ii) **Costley Inns and Wine Bars Limited, Peggy's Tearoom, 43-45 Main Road, Kirkoswald.**

Decided: that consideration of this matter should be continued to the next Board meeting scheduled to be held on Thursday, 29th March 2012 to allow the Premises Manager to attend.

The meeting ended at 11.55 a.m.