

**MINUTES of MEETING of ARGYLL AND BUTE LICENSING BOARD held in the BY SKYPE
on TUESDAY, 8 SEPTEMBER 2020**

Present:

David Kinniburgh (Chair)	Roderick McCuish
Rory Colville	Jean Moffat
Lorna Douglas	Richard Trail
Gordon Blair	

Attending:

Susan Mair, Depute Clerk to the Board
Margaret MacLean, Admin Asssitant
Kelly Coffield, Licensing Assistant
Eric Dearie, Licensing Standards Officer
Raymond Park, Licensing Standards Officer
Sergeant Wendy Macginnis, Police Scotland

The Board was notified that the Chair was experiencing technical difficulties as a result of a local power cut therefore the Vice Chair would preside over the meeting.

1. APOLOGIES

Apologies were intimated by Audrey Forrest and Sandy Taylor.

2. DECLARATIONS OF INTEREST

It was noted there were no declarations of interest.

3. APPROVAL OF MINUTES FROM LICENSING BOARD MEETING OF 23RD JUNE 2020.

The minutes of the meeting held on 23rd June 2020 were submitted and approved.

4. APPLICATION FOR GRANT OF A PROVISIONAL PREMISES LICENCE

(a) No. 26 by the Sea, Corran Esplanade, Oban, PA34 5AQ

Susan Mair, Depute Clerk advised that 7 objections had been received as follows:-

- (1) Iain and Lindsay MacKechnie, MacKays Guest House, Corran Esplanade, Oban PA34 5AQ- Email dated 11/08/20
- (2) Mark Roberts,, Barriemore B&B, Corran Esplanade, Oban PA34 5AQ- Email dated 12/08/20
- (3) Jan Roberts, Ben Dorrان, Corran Esplanade, Oban PA34 5AQ- Email dated 12/08/20

- (4) James Strachan, Glenburnie House, Corran Esplanade, Oban PA34 5AQ- Letter received 13/08/20
- (5) Carol Harris, Altavona House, Corran Esplanade, Oban PA34 5AQ- Email dated 19/08/20
- (6) Iona MacKechnie, MacKays Guest House, Corran Esplanade, Oban PA34 5AQ- Email dated 24/08/20
- (7) William Russell, Corriemar House, Corran Esplanade, Oban PA34 5AQ- Letter received by email 24/08/20

The Depute Clerk also advised that emails had been received from Councillors Elaine Robertson (04/09/20) and Kieron Green (07/09/20) and these had been circulated to members.

A letter had also been received on 07/09/20 from the applicant, Paul Sloan, and this had also been circulated to members.

Catherine Crowe, Solicitor, Oban appeared to represent one of the objectors, Iona MacKechnie. It was noted that none of the objectors were in attendance.

Sandy Murray, Solicitor, Oban appeared on behalf of the applicant. Calum MacLachlainn was also present. Mr Murray explained that the premises were a former guest house which had undergone substantial renovations to a high standard. There was a terrace to the front and an upper and lower terrace to the rear. There was also a gym. Mr Murray advised that pictures of the interior of the premises had been submitted. He further advised that his client wished to remove the lower terrace area to the rear of the premises from the application and it would be dealt with by a variation application at a later date. He said it would be on sales only and the lounge would normally be closed at 11p.m. The bar would be a single cabinet and each guest would have a key and payments would be noted by way of a book.

Mr Murray referred to the objections and stated that there was only one other licensed premises along the Esplanade and stressed that it would be a boutique hotel with small scale events and a capacity of 18. He also referred to the letter submitted by the applicant which he felt addressed many of the concerns which had been raised. Alcohol would be ancillary to the accommodation and there would be no guests under 18 years of age. He confirmed that there would be no hot tubs and the indoor sports was limited to the gym which would be available for the use of guests.

Eric Dearie, Licensing Standards Officer referred to his report and added that there would be no walk ins from the public.

Sergeant Wendy Maginnis, Police Scotland advised that she had spoken to the applicant at length regarding the application and she had no issues with it but was seeking re-assurance regarding the hygiene aspects for the bar area. Mr Murray confirmed that measures would be put in place to ensure the area was kept clean.

Catherine Crowe referred to her client's objection which was received on

24th August 2020. The main issue was the provision for parking and access and the road had been blocked at one point. Her client also had concerns regarding the potential for noise pollution and anti-social behaviour with the use of the outdoor areas.

In response, Mr Murray explained that the area is a building site at present but, once completed, there will be space for 8 to 9 vehicles.

Roderick McCuish referred to the letter from the applicant which seemed to differ from what was being applied for and asked Mr Murray to clarify the position in respect of the following activities:-

Accommodation – yes

Conference facilities – generally not

Restaurant – there will be breakfast available in the dining room but there may also be occasional restaurant facilities, purely for guests. It was also intended to develop a cook school in the future.

Bar meals – no

Receptions – yes but small scale only

Clubs – unlikely

Music – background only

Live Entertainment – acoustic only

Indoor/outdoor sports – gym for guests

Televised Sports – in rooms only

Roderick McCuish referred to the decking area at the rear and wondered if there would be further seating. Mr Murray advised that there would only be seating for the 2 rear bedrooms.

Roderick McCuish noted that there would be weddings and sport facilities for guests only and thought this should be made clear. Mr Murray stated that his client had no intentions at present to hold such events.

Richard Trail asked if parking would be an issue regarding licensing.

Susan Mair, Depute Clerk stated that this would be a planning matter and confirmed that the relevant section 50 certificate had been received.

David Kinniburgh noted that there would be parking for 8 to 9 vehicles and referred to the word 'shuffling'. Mr MacLachlainn explained that there was less parking required now as there were less bedrooms and therefore no shuffling would be necessary.

David Kinniburgh asked Mr MacLachlainn where in the premises, would conferences be held. He said he would be happy to exclude conferences and remove this activity from the application. The Chair then enquired about other activities on the application and Mr MacLachlainn responded as follows:-

Bar meals – no

Receptions – not required

Gym – for guests and applicant only

David Kinniburgh asked about public access to the gym. Mr Murray said

he was not familiar with the layout of this area but there was a corridor which led to the gym which passed the owner's lounge and there was also access from the outside.

Susan Mair, Depute Clerk asked Catherine Crowe if she had any further comments to make and she replied by saying that the submitted proposal seemed to have changed substantially which was to allow for both guests and the public and wondered if the premises would be used for funerals. Mr MacLachlaine replied no.

The Vice Chair referred to the objections and suggested that a terminal hour of 8.00pm for the external drinking area at the rear may be more suitable. Mr MacLachlaine said that meals would still be served after that time, hence the reason the applicant applied for a later time of 10.00pm. The Vice Chair said that he was happy with this time for the front area but the rear of the premises was close to a built up area and therefore a terminal hour of 9.00pm would perhaps be more appropriate.

The Depute Clerk was asked to summarise the position in respect of the various activities which she did as follows:-

Accommodation – yes

Conferences – to be removed

Restaurant – yes, breakfasts in the dining room and occasionally restaurant facilities for guests and a cooking school

Bar meals – no

Clubs – no

Recorded music – yes

Live Performances – yes but acoustic only

Outdoor sports – no

Indoor sports – Televisions in rooms only and the use of a gym

Receptions – to be removed

Outdoor drinking – at the front of the premises and at the upper deck at the rear but the lower area at the rear to be removed

Jean Moffat asked if there were decked areas on any of the neighbouring properties. Mr MacLachlaine advised that he was not sure of the position. Jean Moffat stated that she was reluctant to allow outside drinking after 8.00pm for the area to the rear of the premises.

Eric Dearie, Licensing Standards Officer emphasised that the application was for a provisional licence and therefore no alcohol could be sold at present. Mr Murray confirmed that no alcohol would be sold in the interim and any guests would be made aware of this.

The Vice Chair moved that the application be granted as per the activities as previously clarified by the Depute Clerk with a terminal hour of 10.00pm for the external area to the front and 9.00pm for the area to the rear. Jean Moffat seconded the motion.

Richard Trail moved as an amendment that the application be granted as per the activities as previously clarified by the Depute Clerk with a

terminal hour of 10.00pm for both the front and rear areas. This was seconded by Gordon Blair.

Roderick McCuish advised that he was somewhat confused about what was being sought and suggested that the application be continued until further clarification could be obtained.

Susan Mair said that this would be reflected in the minutes and although initially general activities had been applied for, the applicant had clarified these by way of a letter.

David Kinniburgh stated that he had similar concerns as Roderick McCuish and reiterated what Mr Dearie had advised, that this was for a provisional licence and therefore the applicant would require to submit a confirmation application at a later stage to enable the sale of alcohol.

A vote was taken calling the roll.

Motion

Rory Colville
Jean Moffat
David Kinniburgh
Roderick McCuish

Amendment

Richard Trail
Gordon Blair
Lorna Douglas
Audrey Forrest

On there being an equality of votes, the Vice Chair issued his casting vote and the Motion was carried.

5. APPLICATION FOR MAJOR VARIATION OF A PREMISES LICENCE

(a) Ben Cruachan Inn, Lochawe, by Oban, PA33 1AQ

Tracey Peedle, premises manager appeared and spoke to the terms of the application which sought to add off-sales from 10.00am to 10.00pm; to include takeaways as an activity and to amend the children and young persons' terms. Ms Peedle explained the premises had been operating since 2017 and was mainly a food led business but wanted to include a takeaway menu and picnics with alcohol to offer their customers.

Having considered the foregoing, the Board agreed to grant the application as applied for.

(b) **Cardross Inn, Main Road, Cardross, G82 5JX**

Andrew Morgan, premises manager attended and spoke to the terms of the application which sought to amend the off sales opening time from 11.00am to 10.00am and to include dance facilities, outdoor drinking and home deliveries as activities. Mr Morgan said the premises had been operating under occasional licences to incorporate functions and that home deliveries had proved successful. He advised that the change in children and young persons' terms was to accommodate future functions.

Raymond Park, Licensing Standards Officer said that the application was to bring the operating plan up to date and that a lot of work had been carried out in the car park to enable outside drinking. He confirmed that a noise management plan would be put in place.

Sergeant Wendy Maginnis, Police Scotland referred to her report (Appendix 2).

David Kinniburgh asked Mr Morgan if staff used the car park and he replied yes but it was only one member of staff. David Kinniburgh stated that the parking had improved but asked if tables would be removed to allow access. Mr Morgan replied yes. The David Kinniburgh expressed his concerns regarding the access but Mr Morgan said the issue required to be managed by staff and maintained by them at all times. David Kinniburgh said that he had no issues with the application apart from the outdoor drinking area and moved to continue this aspect of the application to enable the licence holder to liaise with planning and roads services and to submit an amended layout plan in respect of the outdoor areas.

Susan Mair, Depute Clerk advised that the Board could grant part of the application and consider the outside area at a further meeting.

Richard Trail seconded the motion.

With no-one being otherwise minded, parts, 1, 2 and 3 of the application were granted and part 4 relating to the location and extent of the outdoor areas was continued to the next Board meeting on 10th November.

(c) **The Argyll Hotel, Front Street, Inveraray, PA32 8XB**

Drew Anderson, premises manager attended and spoke to the terms of the application which sought to change the premises name; to include an outdoor drinking area and to amend the capacity to include the proposed area. Mr Anderson explained that the outdoor area used to be a car park for the premises.

Richard Trail referred to the current capacity of 815 and asked if the premises ever accommodated this number. Mr Anderson said he did not know where this figure came from as the capacity was approximately 200. Eric Dearie, Licensing Standards Officer suggested that this figure may have been carried over at the time of transition. He asked Mr Anderson if the premises were full, would it come close to current capacity and he

replied no and that the maximum would be about 250. Mr Dearie suggested that the capacity be amended to 300 which included the outside drinking area. David Kinniburgh wondered if Mr Morgan could enquire about a more accurate capacity figure and asked if planning permission had been applied for regarding the external area. Mr Morgan agreed and confirmed that planning had been applied for 10 days ago.

The Vice Chair moved to grant the application subject to planning permission being granted and the submission of an updated capacity figure.

With no-one else being otherwise minded, this became the decision of the Board.

(d) **The Port Bannatyne Inn, 44 Marine Road, Port Bannatyne, Isle of Bute, PA20 0LW**

The applicant, Rhona Watson attended. David Alderson also attended. Ms Watson spoke to the terms of the application which sought to convert the premises to a post office, shop and café; change the description, layout and the name of the premises; amend the children and young persons' terms and reduce the capacity from 120 to 70. Ms Watson said she not only wanted to offer a wider range of groceries but wanted to expand the business in general.

Raymond Park, Licensing Standards Officer explained there was demand for this type of premises and suggested that the area to be used for bed and breakfast, be included in the children and young persons' terms as well as adding the wording 'at all times while resident' when having a meal.

Richard Trail asked if the premises would still open until 1.00am each evening. Mr Alderson said that these hours would normally be used in the summer months and for functions but he did not want to amend the terminal hour. Mr Park advised that the premises were mainly a restaurant not a bar and suggested that the operating hours may be reduced, then if required, extended hours applications could be applied for.

The Vice Chair said he wanted consistency regarding the opening hours. Susan Mair, Depute Clerk confirmed that there were options to reduce the operating hours. Richard Trail asked if this could be added to the seasonal variation and Ms Mair replied yes. The Vice Chair suggested that occasional or extended hours applications be applied for if and when required. Mr Alderson stated he would be happy with this and would amend the terminal hour to 10.00pm then submit the appropriate applications for future events. Mr Park thought that 11.00pm would be more suitable as 10.00pm may interfere with customers having meals later in the evening. Mr Alderson agreed.

The Vice Chair said he had no issues with a seasonal variation of 11.00am to 11.00pm from 1st November to 31st March including the

wording from the Board's policy of 'opening one hour later and/or closing one hour earlier' if there was no demand.

David Kinniburgh queried the term 'acceptable behaviour' in the children and young persons' terms and asked if this could be removed. Mr Alderson said he was happy to do so.

Ms Mair clarified the points for consideration which were: the suggestions made by Mr Park regarding the areas/times for the children and young persons' terms including the removal of 'acceptable behaviour' and the addition of a seasonal variation of 11.00am to 11.00pm from 1st November and 31st March.

The Board agreed to grant the application to include the points set out above.

6. APPLICATION FOR GRANT OF A PREMISES LICENCE (CONTINUED FROM A PREVIOUS MEETING)

(a) The Whisky Connection (formerly 9 Woodside), 9 Woodside, Craighouse, Isle of Jura, PA60 7YA

The applicant, David MacLean attended and spoke to the terms of the application which sought to set up an online prize competition whereby members of the public could answer a question and, if correct, would be given a prize of a bottle of whisky which in turn would be sent out to the winner.

It was noted that this application had been continued from the Board meeting on 23rd June 2020 to enable the applicant to make enquiries through the Gambling Commission if a gambling licence would be required for this type of business. Mr MacLean had submitted information regarding this matter.

Richard Trail said that he had no issues with the application but reminded the applicant that it was his responsibility to ensure he had all necessary permissions for such an operation.

Susan Mair, Depute Clerk confirmed that other relevant permissions may be required but the Board could only deal with the licensing aspects of the application.

The Vice Chair moved that the application be granted subject to the applicant obtaining any relevant permissions if required.

With no-one else being otherwise minded, this became the decision of the Board.

**7. APPLICATION FOR MAJOR VARIATION OF A PREMISES LICENCE
(CONTINUED FROM A PREVIOUS MEETING)**

(a) Commercial Inn, Cross Street, Campbeltown, PA28 6UH

David Leishman, Solicitor, Campbeltown attended on behalf of the applicant and referred to the application which sought to include an external drinking area. Mr Leishman explained that the application had been continued from the previous meeting on 23rd June 2020 so that an amended layout plan for the extended area could be submitted. He confirmed that Roads Services had no objections and requested that the application be granted subject to the required planning consent.

Eric Dearie, Licensing Standards Officer noted that the amended plan still included the area around the corner which was a concern at the previous meeting and although the Roads Department had no issues with it, it was worth noting.

The Vice Chair referred to the nib area and the area at the rear of the premises and queried what the Board was actually approving. Mr Leishman stated it was the nib area to the west which was the questionable part of the application as it was narrow but if there were any major issues he said his client would be happy to remove this area. The Vice Chair said he would not be happy to approve this area and enquired about the area at the rear.

Eric Dearie advised that this was a new amendment along the back of the premises accessed by a pavement. Mr Dearie asked Mr Leishman if the flat at the rear was part of the premises and if not, there may be a noise issue. Mr Leishman was unsure about this and could not be certain if it was used for residential access.

The Vice Chair said he would be happy to grant the section at Cross Street but suggested that the rear area be continued to the November meeting to find out about the residential matters.

Susan Mair, Depute Clerk advised that the Board could exclude the nib area and grant the section at Cross Street then continue the application if they wish or remove the nib area from the application.

Mr Leishman asked if the matter could be granted under delegated powers in order that the area could be used as soon as possible. Susan Mair advised that if the Board agreed in principle, then they could grant the application subject to planning consent being received.

The Vice Chair wanted clarification on the relevant permissions and the occupancy of the flats at the rear of the premises, therefore moved to grant the application, subject to the relevant planning consent, for the section at Cross Street, excluding the nib area; to continue consideration at a further meeting for the area at the rear subject to Roads approval and the confirmation of occupancy of the flats above the premises.

With no-one being otherwise minded, this became the decision of the

Board.

8. APPLICATION FOR GRANT OF A PERSONAL LICENCE (CONTINUED FROM A PREVIOUS MEETING)

(a) Tarlok Singh, 10 John Street, Upper Flat, Dunoon,

Tarlok Singh attended. The Vice Chair explained that the matter was continued from the previous Board meeting on 23rd June 2020 to enable Mr Singh to attend.

Sergeant Wendy Maginnis Police Scotland referred to the report (Appendix 3).

The Vice Chair asked if the matter could still be reviewed as the convictions had now been spent.

David Kinniburgh advised that at the time of the original review in June, the convictions were still live and as the matter was continued, it should still be considered.

Susan Mair, Depute Clerk said that the convictions had not been disclosed on the application form.

Mr Singh explained that he had been drinking the day before when he was stopped by Police Scotland. He added that someone else had filled in the form but genuinely thought the conviction had been spent. David Kinniburgh noted that the offence was in 2013, therefore Mr Singh might have mistakenly thought, as this was more than 5 years ago, the conviction was spent but stated this period was from the date of the conviction, not when the offence occurred.

The Vice Chair said that as Mr Singh had attended and the conviction was now spent, he was minded to grant the application.

With no-one else being otherwise minded, this became the decision of the Board.

9. ANY OTHER BUSINESS

(a) Festive Hours Policy 2020

Susan Mair, Depute Clerk advised that an updated festive policy would normally be agreed at this time but, due to the current circumstances, the Board may wish to agree the policy subject to Government guidelines.

Richard Trail moved to adopt a policy subject to Government guidelines and restrictions.

David Kinniburgh agreed but asked that the Board's Policy should be

adhered to when submitting applications whereby they would require to be received 35 days prior to any event.

Having considered the foregoing the Board agreed to the new festive policy with the addition of 'subject to Government guidelines and restrictions' and 'applications require to be submitted 35 days prior to the event'.

(b) Covid-19 and the Licensing Sector: Regulatory Services Update

Alan Morrison, Regulatory Services Manager referred to his report (Appendix 4) which explained what had been carried out to ensure that premises were Covid safe. He advised that Police Scotland were regulating measures and as an Environmental Services approach, in terms of enforcement, it was working well. Mr Morrison added that there were a number of recommendations to consider.

Jean Moffat thought that rather than being informed of each incident, it would be more appropriate to be advised of any repeated breaches.

Mr Morrison advised that only repeated incidents would be reported to the Board as Environmental Services had its own enforcement measures to address individual issues.

David Kinniburgh thanked all parties for their ongoing work in relation to this matter. He referred to point C of the report and suggested that any issues arising be put to the Depute Clerk and himself in the first instance and they would then decide on the most appropriate next steps. It was noted that Point B had been picked up by the Licensing Standards Officers in their regular newsletters.

The Board agreed with David Kinniburgh's suggestion.

10. NEXT LICENSING BOARD MEETING

The next meeting of the Licensing Board will be held by Skype on Tuesday 10th November 2020 at 11.00am.