

**MINUTES of MEETING of ARGYLL AND BUTE LICENSING BOARD held by SKYPE
on TUESDAY, 22 FEBRUARY 2022**

Present:

Councillor David Kinniburgh(Chair)	Councillor Jean Moffat
Councillor Kieron Green	Councillor Richard Trail
Councillor Roderick McCuish	

Attending:

Susan Mair, Depute Clerk to the Board
Margaret MacLean, Admin Assistant
Kelly Coffield, Licensing Assistant
Eric Dearie, Licensing Standards Officer
Raymond Park, Licensing Standards Officer
Mark Parry, Environmental Health Officer
Sergeant Wendy Maginnis, Police Scotland

1. APOLOGIES

Apologies were intimated from Rory Colville, Gordon Blair and Sandy Taylor.

2. DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

**3. APPROVAL OF MINUTES FROM LICENSING BOARD MEETING OF 9TH
NOVEMBER 2021**

The minutes of the meeting held on 9th November 2021 were submitted and approved.

4. APPLICATIONS FOR A PREMISES LICENCE

(a) Carradale Community Shop & Post Office, Carradale, PA28 6QG

Jenn Lee, one of the Trustees of the Carradale Community Trust, attended and advised that part of the business plan moving forward was to include the sale of alcohol.

Raymond Park, Licensing Standards Officer said this was a well-established premises and there was a possibility they would also offer home deliveries of food and alcohol.

Having considered the foregoing, the Board agreed to grant the application as applied for including the addition of home deliveries.

(b) **Kilmartin Castle, Kilmartin, Lochgilphead, PA31 8RQ**

Stef Burgon attended and advised that the premises had been renovated in 2019 and had 5 bedrooms, 4 of which were used for bed and breakfast accommodation. Ms Burgon explained that 8 to 10 guests would also be able to hire the whole premises for their exclusive use and she also wanted to expand the business to include small-scale community events such as theatre and comedy shows. She added that the off-sales would be required for guests taking away unfinished bottles.

It was noted that a letter of objection had been received by email from Elaine Turner dated 8th February, 2022. Ms Turner was not in attendance. A letter of representation had been received from Dunadd Community Council dated 3rd February, 2022. No-one from Dunadd Community Council was in attendance.

Raymond Park, Licensing Standards Officer advised that there were a couple of issues related to the swimming pond and planning permission. Planning Services had commented that the use of the external area for events with a capacity of up to 120 persons may require express planning consent, depending on their nature and frequency and suggested the use of occasional licences in the meantime. The applicant, however, wanted this area licensed to enable the organisation of events at a later date. Mr Park emphasised that if the external area was licensed then occasional licence applications could not be submitted as you could not licence an area which already had a licence in place but he said this was up to the applicant.

Ms Burgon confirmed that she would like the external area licensed and advised that the capacity of 120 was based on the maximum number which was mainly for daytime events although she was happy to reduce this figure if necessary.

Richard Trail referred to the capacity figure and noted that there was a smaller figure stated on the application. Ms Burgon confirmed that approximately 50 guests would be coming and going for the external area and 10 to 12 for the internal area.

The Chair, in order to clarify, asked if the capacity should be 50 instead of 120. Ms Burgon said the figure of 120 was the maximum and it would be unlikely that number would be present at any one time.

Jean Moffat noted that there was no signage regarding the location of the premises. Ms Burgon advised that all guests booked in advance and they would be given directions prior to arrival.

The Chair asked Ms Burgon about parking. She advised that a maximum of 20 spaces would be available but did not see this as an issue as Kilmartin itself had adequate parking and the majority of guests would arrive on foot.

Richard Trail expressed his concern regarding the swimming pond when alcohol was available, especially at night. Ms Burgon stated that no-one

would be permitted to use the pond when events were being held and there would always be 2 first aiders present at each event.

The Chair asked if there would be a bar within the premises. Ms Burgon replied no, only bottles of wine would be sold and beer would be available in the garden only. The Chair enquired about the entertainment regarding theatres and comedy shows and whether it would create a lot of noise. Ms Burgon stated it would be for 2 hours maximum with only around 4 events per year.

Richard Trail asked who would be responsible for the premises and the alcohol when rented out for exclusive use. Ms Burgon advised that it would be self-catering and guests would bring their own alcohol.

Mr Park explained that although this was a 3 streamed business, the self-catering and events would not be permitted at present as only the bed and breakfast aspect had been given planning permission. The events would be subject to approval and there would be no control over the self-catering side.

The Chair referred to the report that had been provided by Nicole Hamilton, Environmental Health Officer in relation to the use of the swimming pond and the recommendations detailed therein. Ms Burgon confirmed that they would comply with and implement all the recommendations proposed by Environmental Health.

The Chair expressed concerns over the lack of control for self-catering and wondered how the use of the pond and noise levels would be monitored. Ms Burgon stated that the guests would be vetted and were mostly generational families. Parties were not permitted and the neighbours would inform the applicant of any noise issues. There would also be maintenance staff present and signage at the pond to advise accordingly.

Mr Park mentioned that self-catering was not stated on the operating plan and relevant permissions were still to be put in place. He therefore suggested granting the bed and breakfast aspect then the applicant could submit a major variation application in the near future to add small events and self-catering. The Chair asked if this would include the external area and Mr Park replied yes although it would require planning permission but at least the applicant would be able to commence the bed and breakfast business.

On that basis, the Chair asked Ms Burgon if she wanted to licence the bed and breakfast with the outdoor area which would be used by guests only or just licence the inside of the premises and occasional licence applications could be submitted for events. Ms Burgon said that she would rather have the external area for bed and breakfast guests and that she may not have events at all.

The Chair moved to grant the premises licence for bed and breakfast

guests only in respect of the castle and the outdoor area but no large scale events can take place. This was seconded by Jean Moffat.

Richard Trail asked if the capacity would be reduced to 10. The Depute Clerk, Susan Mair replied yes and in the event that the applicant submits an application for a major variation relating to larger events then this would be considered accordingly.

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

5. APPLICATION FOR A PROVISIONAL PREMISES LICENCE

(a) 108 George Street, Oban, PA34 5NT

The applicant Scott Gibson attended together with the tenants, Jean-Pierre Chauvin and Simone Korber. Mr Gibson explained that he wanted to bring the business up to a modern day standard with a high end wine emporium. Mr Chauvin added that there would be a dedicated off-sales area offering wines, whiskies etc although they would be focusing mainly on wine.

Eric Dearie, Licensing Standards Officer referred to his report (Appendix 1) and the alcohol display area of 42.2m². He confirmed that he had no issues with the application.

Richard Trail referred to the sample tastings and asked if they would be free of charge. Mr Chauvin replied yes.

Roddy McCuish and Kieron Green both welcomed the application.

The Chair moved to grant the application as applied for.

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

(b) 14 Sinclair Street, Helensburgh, G84 8SU

Archie MacIver, Solicitor, Glasgow attended together with the applicant, Gavin Espie. Mr MacIver explained that the premises were a former travel agents and his client wanted to sell craft ales and fine wines. He said his client would source, where possible, from local suppliers and that pricing would be on the upper level, therefore no cheap offers would be available. Mr MacIver advised that on-sales was required to cover the occasional tasting sessions as customers would be charged for these.

Jean Moffat noted that the on-sales was to commence at 10.00am and off-sales at 11.00am. Mr MacIver said that this was a slight error and confirmed it should be on-sales from 11.00am and off-sales from 10.00am.

The Chair welcomed the application and moved to grant with the

amended opening hours.

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

(c) **Lulabelles of Tarbert, Harbour Street, Tarbert, PA29 6UD**

The applicant, Catherine McGonaghy attended and advised that she took over the lease of the café last September and wanted to offer wine and beer with the menu. She advised that there was an outstanding issue with the building warrant and therefore she required to submit a provisional application at this time.

Eric Dearie, Licensing Standards Officer referred to his report (Appendix 1). He noted that the on-sales opening hour of 10a.m. was outwith the Board's Policy and that the seasonal variation had been withdrawn.

Jean Moffat referred to the on-sales opening hour of 10.00am and asked the applicant if this was necessary. Ms McGonaghy said that the premises opened at 10.00am and the off-sales was required for the picnic hampers but was happy to amend the on-sales to 11.00am. Jean Moffat suggested 11.00am for off-sales and 11.00am for on-sales. Ms McGonaghy confirmed her agreement.

The Chair referred to the withdrawal of the seasonal variation. Ms McGonaghy said she currently closed on a Monday and Tuesday but now wanted to open 7 days a week throughout the year.

The Chair referred to the revised wording relating to children and young persons. Ms McGonaghy stated that she was not aware of this. Mr Dearie referred to his report which stated 'children and young persons' require to be accompanied by an adult when taking meals until 8.30pm'. Ms McGonaghy confirmed that was happy with the amended wording.

The Chair moved to grant the application with an 11.00am opening time for on-sales and the amended wording as proposed by the Licensing Standards Officer regarding children and young persons.

Susan Mair, Depute Clerk asked the applicant what type of live entertainment would be held within the premises. Ms McGonaghy stated that it would be acoustic only and there would be no amplified music.

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

(d) **No. 17 The Promenade, Corran Esplanade, Oban, PA34 5AQ**

Sandy Murray, Solicitor, Oban attended on behalf of the applicant. Mr Murray advised that the premises were the former Wellpark Hotel and that his client was carrying out a complete refurbishment with each bedroom having a mini bar. He confirmed that both planning permission and building warrants had been obtained.

Eric Dearie, Licensing Standards Officer referred to his report (Appendix 1) and the proposed wording for children and young persons. Mr Murray said he was not aware of this. Mr Dearie advised that this required to meet the standard wording which was similar to the application:

‘Resident children and young persons shall be permitted in the bedrooms.

Resident and non-resident children and young persons will be permitted entry to all public areas on the ground floor including for the consumption of a meal. Children and young persons will not be permitted to remain within the vicinity of the bar counter.

Resident children and young persons will have access throughout their stay. Non-resident children and young persons will be permitted access to the public areas until 8.00pm or after 8.00pm to complete consumption of a meal or to attend a function until its conclusion.

Access to the outdoor terrace area will be no later than 8.00pm’.

Mr Murray confirmed that he was happy with the foregoing.

The Chair moved to grant the application with the proposed wording as per the Licensing Standards Officer’s report.

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

(e) **Garden Tap Ltd., 29 Lochside Street, Oban, PA34 4HP**

The applicant, Brian Simmonds attended and advised that his intention was to make the premises, which comprised 2 units, into a garden centre offering food and craft beer and a shop. There would be a terrace on top of the two modular units accessed by stairs at the side and table and chairs on the street level where customers could sit and enjoy their purchase. Mr Simmonds advised that there was some confusion over ownership of the frontage of the premises, therefore he may require to seek permission to use the area at a later date. The shop would open at 8.00am as well as the garden centre and he wanted to start online sales as well if permitted.

Eric Dearie, Licensing Standards Officer referred to the external area and asked if this was the brown shaded area on the layout plan and, if so, would it be delineated. Mr Simmonds confirmed that it was and the yellow area was the existing paved area. He advised that planters would be used to delineate the external area as access was required for loading and therefore it would not be possible to close it off entirely. Mr Dearie noted that customers would be walking within the garden centre with alcohol and asked the applicant if it would be possible to display signs to make them aware of the licensed area. Mr Simmonds confirmed that he would be able to do this. Mr Dearie requested confirmation of the capacity but Mr Simmonds advised that he could not provide this at present due to the requirement for further modifications to the floor plan.

The Chair asked what the capacity would be. Mr Simmonds said that there would be a limit of 60 internally, externally approximately 25 seating but may be up to 40 if seating was permitted at the side but could have up to a maximum of 150 at any one time. He said that he would come back with a figure once the final layout had been confirmed.

The Chair enquired about the type of live entertainment. Mr Simmonds advised that it would be mostly background music and occasionally some local artists playing traditional music which may be amplified.

Susan Mair, Depute Clerk advised that with amplified music there could be potential noise issues but Environmental Services would assist him with that. She emphasised that the external area required to be delineated as the bye-laws applied in Oban.

The Chair moved to grant the application with the proposed wording from the Licensing Standards Officer relating to children and young persons and subject to submission of final capacity figures for both on-sales and off-sales.

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

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(f) **Oban Escape Ltd., 113-115 George Street, Oban, PA34 5NT**

The applicant, Brian Simmonds attended and explained the Escape Room theme. The addition of off-sales was to allow the sale of locally produced beer and wine which would add to the experience. A reception waiting room would be available for customers afterwards to be able to buy alcohol and merchandise.

Eric Dearie, Licensing Standards Officer stated that the alcohol display area was 1.62 square metres with a capacity of 80 and he had no issues with the application.

Brian Simmonds added that the premises would comprise escape cubes measuring 3m x 3m x 3m rather than being built within the premises which meant they could be easily transported to other locations.

The Chair asked about the requirement for off-sales and Mr Simmonds advised that this was to provide more revenue. The Chair asked if similar ventures included off-sales. Mr Simmonds said that was the case in other countries but this one would be the first within Argyll and Bute to offer alcohol.

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

6. APPLICATION FOR MAJOR VARIATION OF A PREMISES LICENCE

(a) **Laphroaig Distillery Visitor Centre Shop, Port Ellen, Isle of Islay, PA42 7DU**

Danielle McKerrell, Premises Manager attended and spoke to the terms of the application which sought to; add an external drinking area; reduction in the terminal hour for on sales and off sales from 8.30p.m. to 6p.m. Monday to Sunday; amend the seasonal variation; change the wording at section 5(f) under any other activities; amend the children and young persons' terms and conditions; and change the alcohol display area. Ms McKerrell advised that there would be 6 benches outside which would each seat 8 persons.

Raymond Park, Licensing Standards Officer referred to his report (Appendix 1) and the suggested wording for children and young persons which Ms McKerrell had accepted. Mr Park added that the updated figure for the alcohol display area was 7.67 square metres and that an amended layout plan showing the proposed licensed area would be submitted. He had no issues with the application.

Having considered the foregoing, the Board agreed to grant the application with the proposed wording by the Licensing Standards Officer regarding the children and young persons' terms and conditions and subject to submission of a revised layout plan.

7. APPLICATION FOR GRANT OF A PERSONAL LICENCE

(a) **Dean Hammon, Loch Fyne Hotel & Spa, Shore Street, Inveraray, PA23 8XT**

Dean Hammon attended and advised that he had been promoted last year to the position of bar manager as a result of changes within the management. Mr Hammon admitted that he had made mistakes in the past which he very much regretted but he was now focused on his new role, having undertaken various training courses. He added that he had also been receiving specialist support.

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

Richard Trail referred to the offence which took place on 28th December 2019 and noted the conviction date of 30th December 2019. He asked if this was the first offence. Sergeant Maginnis advised that the 1st offence

took place on 25th November 2019 but the second offence in December was the first conviction.

Kieron Green asked Sergeant Maginnis if she could confirm the details of the drugs wipe test mentioned in the report. She stated that this was a Class A drug.

The Chair referred to the pending court case which was sub judice but asked if Mr Hammon was banned from driving at the time of the offence to which Sergeant Maginnis replied yes.

Mr Hammon said that 2019 was not a good year as his grandmother had passed away and as a result he became depressed and went off the rails.

Richard Trail asked Sergeant Maginnis to explain the three different sections of the Road Traffic Act. She advised that 5 (1) (A) was drunk driving; 5A (1) (A) was drug driving and the third section, 41A (B) was failure to comply with the use requirement for the hand brake. Richard Trail referred to the compensation and Sergeant Maginnis advised that it was unusual to impose this.

Jean Moffat asked if the applicant's employer was aware of his convictions. Mr Hammond confirmed that they were.

Richard Trail asked Mr Hammon if he was disqualified from driving at present and he replied yes. Richard Trail then asked how he travelled to work. Mr Hammon advised that he stayed within the premises Monday to Friday. Richard Trail noted he had been seeing a psychiatrist and wondered how he had progressed. Mr Hammond explained that this was due to his depression and it helped him considerably, with friends and colleagues noticing an improvement. Richard Trail asked Mr Hammon about the drug taking and he stressed that he no longer took drugs.

Roddy McCuish asked if the licence was granted, how long could it be granted for and could it be revoked. Susan Mair, Depute Clerk advised that once a personal licence is granted it would last for 10 years and could only be revoked if there was a subsequent conviction.

On summing up, Sergeant Maginnis referred to her report. Mr Hammon again admitted to his mistakes but that the personal licence would catapult his career and he wanted to continue to work in hospitality. Both confirmed that they had a fair hearing.

The Board adjourned to consider the matter further. On resuming, the Chair advised that having taken into account Mr Hammon had turned his life around and had been honest and genuine in his presentation to the Board, he moved to grant the application. The Chair also stated, however, that Mr Hammon may require to appear before the Board again depending on the outcome of the pending court case.

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

8. REVIEW OF A PERSONAL LICENCE

(a) **Caroline McShane, 52 King Street, Dunoon, PA23 7PE**

The licence holder Caroline McShane attended.

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

Caroline McShane explained that on the night in question, police officers entered the premises twice, once when she was removing a customer from the premises who had refused to leave then the second time when she had to remove the same customer off the premises. After that, she asked the remaining patrons to leave which had taken some time and questioned the police report which stated that officers entered the premises on four occasions. Ms McShane admitted being rude to the police officers but was stressed with everything that was going on at the time as she found out that the unwanted customer had been trying to sell drugs within the premises.

Roddy McCuish referred to the police report which stated that when officers entered the premises at 12:15 am there were 20 patrons still present. Ms McShane said this was incorrect as the bar had been closed at that time. Roddy McCuish said there were 2 other occasions, one when the officers returned at 12.27 am asked Ms McShane to tell the patrons to leave. Ms McShane explained that when 20 patrons were present, some of them had come from the lounge area. Mr McCuish asked if these patrons were still drinking and Ms McShane said some of them were but the bar was closed at 12 midnight.

Kieron Green asked how many staff had been on duty that night. Ms McShane replied 4 staff members but one had left at 10.00 pm and added that staffing had been a problem due to covid. Kieron Green asked why the other members of staff had not asked the patrons to vacate the premises and asked if they had specific roles.

The Chair wanted to know the precise time the premises closed. Ms McShane advised that the bar was shut at 11.45 pm then there was the drinking up time, at which time, the incident happened. She added that her premises were usually the first to close in the vicinity. The Chair asked at what time did the last customer leave and Ms McShane replied 12.30 am, just after officers attended. The Chair referred to the police report which stated the officers attended at 12.15 am but Ms McShane disagreed with this and confirmed that when the bar was closed no-one was served alcohol. It was just after this that the customer who was trying to sell drugs arrived at the premises then refused to leave, therefore she was distracted by this one customer. The Chair felt that the Procurator Fiscal had enough evidence to prosecute but Ms McShane stated that the Procurator Fiscal decided not to proceed with the charges but the incident would be held on file for 2 years. She emphasised that this situation would never happen again. The Chair expressed concern that 27 minutes after closing time, patrons had still been on the premises. Ms McShane said

that it was not a normal situation and had actually managed to vacate everyone from the premises by 12.30 am under the circumstances.

The Chair asked Sergeant Wendy Maginnis and Ms McShane if they had a fair hearing and both replied they had.

The Board adjourned to consider the matter. On resuming, the Chair said that given the circumstances of the event, he moved to suspend the personal licence for 6 months.

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

(b) Elaine Shaw, 1 Knapdale Terrace, Ardrishaig, PA30 8HR

It was noted that the licence holder, Elaine Shaw had not attended. Various attempts had been made to contact Ms Shaw and a further attempt by telephone was made at the meeting but was unsuccessful.

The Board agreed to consider the matter in her absence.

Sergeant Wendy Maginnis, Police Scotland referred to her report (appendix 3).

Richard Trail asked Sergeant Maginnis under what circumstances are vehicles stopped for document checks. Sergeant Maginnis advised that the Police have the right to stop a vehicle at any time.

On summing up Sergeant Maginnis referred to her report and confirmed that she had a fair hearing.

The Chair advised that the Board had 3 options- to endorse; suspend or revoke the personal licence.

Roddy McCuish asked if the licence was suspended, would it automatically be re-issued. Susan Mair, Depute Clerk replied yes. Roddy McCuish stated he was of the view that the licence should be revoked.

The Chair moved to revoke the licence and this was seconded by Roderick McCuish.

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

9. REVIEW OF PERSONAL LICENCES

(a) Revocation of Personal Licences where licence holders have not undertaken the refresher training.

The list of personal licence holders (Appendix 4) who had not undertaken the required refresher training within the prescribed timescale was noted and the Board agreed to revoke their personal licences.

(b) **Revocation of personal licences where licence holders have not applied to renew their licence.**

The list of personal licence holders (Appendix 5) who had not submitted an application to renew their licence was noted and the Board agreed to revoke their licences.

10. ANY OTHER BUSINESS

(a) **Payment of Annual Licensing Fees**

Susan Mair, Depute Clerk referred to the list of premises who have not yet paid their annual licensing fees and confirmed that to date, 63 annual fees were still outstanding. The normal practice would be to issue another letter giving a further period for payment of 14 days and, if payment had not been made, a review of the premises licence would take place at the April Board meeting. Ms Mair stated that two reminder letters had already been issued in August and November of last year.

The Chair moved that a final letter be issued with the 14 day notice period for payment and that a review hearing be held at the April Board meeting in respect of any premises where the annual fee remained outstanding.

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

11. NEXT LICENSING BOARD MEETING

The next meeting of the Licensing Board will be held by Skype on Tuesday 26th April 2022 at 11.00am.