

**MINUTES of MEETING of ARGYLL AND BUTE LICENSING BOARD held in the BY SKYPE  
on TUESDAY, 26 APRIL 2022**

**Present:**

David Kinniburgh (Chair)	Jean Moffat
Rory Colville (Vice Chair)	Sandy Taylor
Kieron Green	Richard Trail
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  
Sergeant David Holmes, Police Scotland

**1. APOLOGIES**

Apologies were intimated from Gordon Blair.

**2. DECLARATIONS OF INTEREST**

Roderick McCuish declared a non-financial interest in Agenda item 7(a)- Application for Transfer of a Premises Licence (Dungallan Country House Hotel, Gallanach Road, Oban) and Agenda item 8- Application for Grant of a Personal Licence (Simon McCulloch, Dungallan Country House Hotel, Gallanach Road, Oban).

**3. APPROVAL OF MINUTES FROM LICENSING BOARD MEETING OF 22ND FEBRUARY 2022**

The minutes of the meeting held on 22<sup>nd</sup> February 2022 were submitted and approved.

**4. APPLICATIONS FOR A PREMISES LICENCE**

**(a) 42-44 George Street, Oban, PA34 5SF**

Alasdair MacDonald, Solicitor, Glasgow attended on behalf of the applicant and advised that the premises were previously licensed as a similar operation and had been trading under occasional licences. Mr MacDonald explained that the ground floor would be used for the alcohol display and online sales and deliveries would only be a small part of the business. He said that there were three display areas marked on the layout plan but would request that the Board consider the two stand-alone areas as one display area because one of them was positioned as such

that it would allow for disability access.

Raymond Park, Licensing Standards Officer advised that the Board would require to determine whether the area was classed as separate areas or as one area. Mr Park referred to his report (Appendix 1) and the terms of Mandatory Condition 13(1) which provides as follows-

*“Alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following-*

*(a) A single area of the premises agreed between the Licensing Board and the holder of the licence; or*

*(b) A single area of the premises which is inaccessible to the public.”*

He referred to the third area and asked if this would be behind the servery counter. Mr MacDonald replied yes and that an amended layout plan would be submitted to show this.

The Chair referred to Mr Park's comments and thought that the stand-alone areas appeared to be two separate areas. Mr MacDonald advised that areas do not require to be joined together and mentioned supermarkets as an example of this whereby the display areas are adjacent to each other. He added it would remove the aspect of impulse buying and would be the natural flow that customers would follow as it was the same area.

Mr Park said that it was for the Board to take a view on the matter and the measurement of the display area would require to be confirmed. Mr MacDonald advised that the total length of the shelving would be 2570mm x 400mm in height which was less than shown on the layout plan.

Richard Trail referred to the square shaped area near the entrance which was unusual as alcohol displays were generally nearer the back of the premises and asked if this was a separate area. Mr MacDonald advised that the area could be moved to the right, in line with the alcohol shelving and the plan would be amended accordingly. Richard Trail confirmed he was happy with this.

The Chair enquired if on sales was required for the tastings. Mr Park advised that there was no charge for these and therefore on sales was not required.

The Chair moved to grant the application with the existing alcohol display at the entrance to be moved to the right and a new layout plan to be provided showing the amendment.

Mr Park reminded the Board that a new capacity figure would be required. Mr MacDonald said he would liaise with him regarding this matter.

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

**(b) An Tobar Arts Centre, Back Brae, Tobermory, Isle of Mull, PA75 6NU**

Karen Ray, applicant attended and advised that the premises were open from 10.00am to 4.00pm at present providing music and poetry readings. Although occasional licences had been granted in the past, she wanted to extend the opening times and to offer alcohol with meals due to customer demand.

Eric Dearie, Licensing Standards Officer referred to his report (Appendix 1).

Rory Colville asked Ms Ray if the proposed hours would be used throughout the year to which she replied yes and that historically they used to close from September to January every year but wanted to provide a year round service for locals and tourists.

The Chair noted the 10.00am opening time for on sales which was outwith the Board's Policy of 11.00am. Ms Ray advised that the café opened at 10.00am but on sales would commence at 11.00am. The Chair asked Ms Ray to clarify the nature of the live performances and she confirmed that it would be traditional music, classical and jazz, both amplified and non-amplified and that this had been successful for the last 20 years with no complaints from neighbours.

The Chair moved to grant the application with on sales from 11.00am to 10.00pm and the suggested wording from the Licensing Standards Officer for children and young persons' terms.

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

## **5. APPLICATION FOR A PROVISIONAL PREMISES LICENCE**

**(a) 2 Argyll Street, Oban, PA34 5SG**

Andrew Walker and Daniel MacIntyre attended on behalf of the applicant. Mr MacIntyre explained that the premises had operated in the past as the "Mantrap" pub for a number of years and they wanted to re-install a small function room with a bar on the ground floor. He said that the premises were adjacent to The View but would be run separately for the benefit of locals, students and tourists.

Raymond Park, Licensing Standards Officer explained that The View was upstairs and the door joining the two premises would be used for staff access only. Mr Park advised that he had suggested a few changes regarding the children and young persons' terms which were agreed by the applicant.

The Chair moved to grant the application as applied for with the Licensing Standards Officer's suggested wording regarding the children and young persons' terms.

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

(b) **The Balaclava Byre, Balaclava Croft, Port Ellen, Isle of Islay, PA42 7DR**

It was noted that this application was to be continued to the Board meeting in June.

**6. APPLICATION FOR MAJOR VARIATION OF A PREMISES LICENCE**

(a) **Deer Island Distillers Limited, Unit 3, Pier Garage, Craighouse, Isle of Jura, PA60 7XS**

Charlotte Gillett attended and spoke to the terms of the application which sought to extend the commencement hour for on-sales to 10.00am and to add receptions and club or other group meetings as activities on the licence. Ms Gillett explained that due to early ferry arrival times, the premises wanted to offer tastings and the sale of alcohol to tourists.

Raymond Park, Licensing Standards Officer said that the 10.00am opening time was out with the Board's Policy of 11.00am but it was a matter for the Board, bearing in mind that some visitor centres and distilleries opened at 10.00am.

Rory Colville noted that the premises provided tours. Ms Gillett explained that the shop and production area were within the same space, therefore customers are able to see the processing stage and are provided with information regarding the products. She added that they would probably start the distillery process by the end of May.

Jean Moffat asked Ms Gillett if tastings were offered between 10.00am and 11.00am, to which she replied yes as it allowed the customer to taste before they buy. Jean Moffat thought a licence would be not be required if the tastings were free of charge. Mr Park confirmed this was the case but as the tastings may be included in the tour then a licence would be needed.

The Chair referred to the opening hours and wondered why they would not be utilising the hours up until 10.00pm. Ms Gillett said that this would be required for online sales.

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) **Islay Gin Ltd., Unit 4, Islay House Square, Bridgend, Isle of Islay, PA44 7NZ**

The director of the company, Audrey Gow attended and spoke to the terms of the application which sought to: add on-sales hours; amend off-

sales hours; add films and outdoor drinking within core licensing hours; add light snacks may be available under any other activities; add children and young persons' conditions; change the layout plan and amend the description of the premises.

Rory Colville asked if the requirement for off-sales was for online sales and Ms Gow replied that it was. She added that a mixture of wholesale and retail display of original stills would be provided along with videos and that occasional licences had been applied for in respect of the outdoor area over the last year which had proved to be successful.

The Chair moved to grant the application as applied for to include the suggested wording from the Licensing Standards Officer for the description of the premises and the children and young persons' terms.

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

(c) **Port Mor Community Cafe, Port Mor Centre, Port Charlotte, Isle of Islay, PA48 7UE**

After a number of attempts, it was not possible to make contact by telephone with the applicant, Rangasamy Dhamodharan and the Board agreed to consider the application in his absence.

Eric Dearie, Licensing Standards Officer referred to the application which sought to add live performances and dance facilities as activities on the licence. Mr Dearie said that he had no concerns regarding the application due to the remoteness of the premises.

The Chair moved to grant the application as applied for.

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

(d) **The Hebridean Lodge, Baliscate Estate, Salen Road, Tobermory, Isle of Mull, PA75 6QA**

The applicant, Helen Swinbanks attended and spoke to the terms of the application which sought to add takeaways of food and alcohol as activities on the licence and to amend the layout plan to include a chiller in the ground floor retail area.

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

(e) **The Machrie Hotel & Golf Links, Port Ellen, Isle of Islay, PA42 7AN**

The general manager, Edmund Richardson attended and spoke to the terms of the application which sought to: amend the description of the premises; include conference facilities, restaurant facilities, receptions, indoor & outdoor sports and outdoor drinking areas to be provided outwith

core licensed hours; amend the wording at Question 5(F) under any other activities; amend the layout plan to include the whole golf course as part of the outdoor drinking area and change the Premises Manager to Edmund Richardson. Mr Richardson explained that they wanted the outdoor drinking area to include the whole course to allow alcohol to be dispensed from a golf buggy which would be under the control of premises staff. It would generally operate between 11.00am and 3.00pm.

Richard Trail wanted to know how the golf buggy would operate. Mr Richardson said that it would be used ahead of play and would drive around the course allowing golfers to flag it down. He added that it would be stationary for a period of time.

Rory Colville asked if there was evidence regarding demand for this type of service. Mr Richardson stated that this was as a result of customer feedback as it took approximately four and a half hours to finish the course. He advised that there would also be food, snacks and non-alcoholic beverages available as well as a temporary bathroom which would be situated at the 9<sup>th</sup> hole.

The Chair moved to grant the application as applied for.

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

**(f) The Rhu Inn, 49 Garelochhead Road, Rhu, Helensburgh, G84 8LA**

Andrew Morgan and David Davidson attended. Mr Davidson spoke to the terms of the application which sought to: amend on sales opening time on a Sunday from 12.30pm to 11.00am; amend off-sales times to 10.00am to 10.00pm; include a seasonal variation; include restaurant and bar meals within core hours; include group meetings within and outwith core hours and amend the children and young persons' conditions.

Raymond Park, Licensing Standards Officer explained that the new owners wanted to make the premises more family friendly and to introduce food. Mr Park referred to his report (Appendix 1) regarding his suggested wording for the children and young persons' terms and confirmed he had no issues with the application.

The Chair referred to the seasonal variation whereby extended hours applications would require to be applied for. Mr Davidson confirmed that he was aware of this.

The Chair moved to grant the application as per the suggested wording in the Licensing Standards Officer's report.

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

**(g) Yellow Hare, Gott Pier, Isle of Tiree, PA77 6TN**

The applicant, Kate McLeod attended and spoke to the terms of the application which sought to: add on-sales hours; increase off-sales hours; add a seasonal variation; add restaurant facilities, recorded music and outdoor drinking as activities on the licence; add children and young person's conditions; change the layout plan to incorporate an outdoor drinking area and amend the description of the premises. Ms McLeod said there was a gap in the afternoons and she wanted to offer cocktails and wine and beer with food.

Eric Dearie, Licensing Standards Officer noted that the 10.00am opening time for on-sales was outwith the Board's Policy of 11.00am but he had no issues with the application.

Richard Trail asked Ms McLeod as to the reason for requesting an opening time of 10.00am for on-sales. She said that this was when they opened the premises but she was happy to amend it to 11.00am.

The Chair referred to the seasonal variation. Ms McLeod said that she would like to open around Christmas and also to have the occasional evening with cocktails.

Mr Dearie advised that this would be acceptable as Christmas meals would be within the operating hours.

Rory Colville asked if the seasonal variation could be amended to include this. Susan Mair, Depute Clerk advised that this would be an option and relevant wording could be suggested.

The Chair moved to grant the application to include the amended opening months and relevant wording to be agreed for the festive period.

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

## **7. APPLICATION FOR TRANSFER OF A PREMISES LICENCE**

**(a) Dungallan Country House Hotel, Gallanach Road, Oban, PA34 4PD**

Having declared a non-financial interest in this matter, Roderick McCuish left the meeting.

Simon McCulloch attended.

Sergeant David Holmes, Police Scotland referred to his report (Appendix 2).

Simon McCulloch referred to his previous convictions and asked that he should be given a second chance although this did not mean that he was

belittling the incidents. Mr McCulloch explained that he had worked his way up over the years and he had been allowed to oversee the renovation of the premises. He added that the hotel owner was aware of his past history.

Rory Colville referred to the training which Mr McCulloch would have undertaken and said that he should be aware of the five licensing objectives, one being 'to protect children from harm'. Rory Colville thought that the review due in 2024 would provide more assurance but wondered how Mr McCulloch could ensure children's safety. Mr McCulloch advised that children and young persons under 18 years of age would not be permitted within the premises and he was seen by his case officer once a month.

Rory Colville, having heard Mr McCulloch's submission, asked Sergeant Holmes if the Chief Constable would consider removing the objection. Sergeant Holmes replied no.

Kieron Green asked Sergeant Holmes if there was any further information relating to the offence for this type of business. Sergeant Holmes advised that when Mr McCulloch was a chef, he befriended a 14 year old and reiterated that he was still on the sex offender's register. Mr McCulloch admitted this and said he had made mistakes in the past but just wanted a chance to prove he had changed. Kieron Green asked Mr McCulloch what the impact would be if the licence was not granted and he said it would have a considerable detrimental effect.

Richard Trail had some sympathy but advised that the Board had a responsibility to the public and could not see how he could agree to grant the application while Mr McCulloch was still on the register. Mr McCulloch asked the Board for advice on how to move forward. The Chair said the Board were not in a position to give advice.

Sandy Taylor referred to the register and wondered if Mr McCulloch was removed in 2024, would Police Scotland still advise the Board of Mr McCulloch's history. Sergeant Holmes advised that if there were any further incidents then the Board would be notified.

The Chair referred to the police report and wanted to know what the review in 2024 would entail. Sergeant Holmes advised that if Mr McCulloch complies with the requirements of the register and there are no further incidents then he would be removed from the register in 2024.

The Chair referred to no under 18's permitted within the premises and asked Mr McCulloch if this was as a result of his background. Mr McCulloch replied partly but also due to the refurbishment.

On summing up, Sergeant Holmes said that, in light of the seriousness of the offences, he requested that the Board refuse the application.

Mr McCulloch wanted to thank the Board for the opportunity to be heard.

The Chair asked both parties if they had a fair hearing and they both replied that they had. The Board adjourned to consider the matter further.

On resuming, the Chair moved that the application be refused and, with no-one else being otherwise minded, this became the decision of the Board.

In light of this decision, the Chair asked Mr McCulloch if he wished to proceed with the following item, being his application for a personal licence. Mr McCulloch advised that he would wish to withdraw his application and this was noted by the Board.

## **8. APPLICATION FOR GRANT OF A PERSONAL LICENCE**

- (a) **Simon McCulloch, Dungallan Country House Hotel, Gallanach Road, Oban, PA34 4PD**

It was noted that the application was withdrawn.

## **9. REVIEW OF A PERSONAL LICENCE**

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

Dean Hammond attended.

Sergeant David Holmes referred to the previous letter (Appendix 2).

Dean Hammond said that he had previously advised he would plead guilty as he admitted responsibility for the incident.

The Chair noted the disposal of a community payback order of 120 hours and asked Mr Hammon if he had fulfilled this. He advised that he was undertaking the hours on his days off and so far he had carried out 18 hours of the 120 hours which were imposed.

On summing up, Sergeant Holmes asked for the licence to be revoked.

Dean Hammon said that he needed his licence, particularly now as he had been promoted and confirmed that he would complete the community payback order as soon as he possibly can.

The Chair asked both parties if they had a fair hearing and they both replied yes.

The Chair referred to the previous Board meeting in April at which Mr Hammon was extremely honest and had to appear again today as a result of the aforementioned offence. He explained that the Board had three options: to endorse, suspend or revoke the licence.

The Chair moved to endorse the licence.

This was seconded by Jean Moffat.

As there was no amendment to the motion, this became the decision of the Board.

## **10. 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 3) 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 4) who had not submitted an application to renew their licence was noted and the Board agreed to revoke their licences.

## **11. ANY OTHER BUSINESS**

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

The Chair referred to the list of unpaid annual fees. Susan Mair, Depute Clerk suggested that a final letter be issued requesting payment within 7 days and if payment is not received within that timescale, the licence would be revoked.

The Board agreed.

The Chair thanked everyone, including all officers, for their support and assistance over the past five years which had been difficult due to covid.

Susan Mair, Depute Clerk thanked all the Board Members and Licensing Standards Officers for all their help and support over the last five years.

## **12. NEXT LICENSING BOARD MEETING**

The next meeting of the Licensing Board will be held by Skype on Tuesday 28<sup>th</sup> June 2022 at 11.00am.