

**MINUTES of MEETING of ARGYLL AND BUTE LICENSING BOARD held in the COUNCIL
CHAMBERS, KILMORY, LOCHGILPHEAD
on TUESDAY, 25 JUNE 2019**

Present:

Councillor Rory Colville
Councillor Lorna Douglas
Councillor Audrey Forrest

Councillor David Kinniburgh (Chair)
Councillor Jean Moffat
Councillor Richard Trail

Attending:

Susan Mair, Depute Clerk
Margaret MacLean, Admin Assistant
Kelly Coffield, Licensing Assistant
Eric Dearie, Licensing Standards Officer
Raymond Park, Licensing Standards Officer
Sergeant Mairi Capaldi, Police Scotland

APOLOGIES

Apologies were intimated from Robin Currie, Roderick McCuish, Sandy Taylor and Gordon Blair.

2. DECLARATIONS OF INTEREST

Rory Colville declared an interest in respect of Item 6(b).

3. APPROVAL OF MINUTES OF LICENSING BOARD MEETING OF 23RD APRIL 2019

The Minutes of the Meeting held on 26th February 2019 were submitted and approved.

4. APPLICATIONS FOR GRANT OF A PREMISES LICENCE

(a) Winterton, Crinan Ferry, Lochgilphead, PA31 8QH

Stephanie Schwind-Parsons appeared and explained that the business was an upmarket bed and breakfast establishment with a 3 course dinner menu. Ms Parsons said she wanted to enhance the experience for her customers by offering alcohol within the garden area. Ms Parsons added that it was a small scale business with just 2 letting rooms operating from 11.00am to 11.00pm and was not suitable for children.

Eric Dearie, Licensing Standards Officer said this was a family home in a secluded area with a maximum capacity of 6. Mr Dearie suggested the usual terminal hour of 10.00pm for the external area.

Jean Moffat noted that the application stated 12 midday to 11.00pm. Ms Parsons confirmed she would like to open at 11.00am each day. Jean Moffat asked Ms Parsons the capacity of the premises, to which she replied 4.

Rory Colville enquired about functions and asked if a wedding was taking place, would the capacity still be 4 and wondered if Ms Parsons wanted to reconsider that figure. Ms Parsons considered that number practicable and thought that this would be the maximum capacity permitted.

Richard Trail asked Ms Parsons if the restaurant would be used by residents only and she confirmed it would be.

The Chair asked Ms Parsons of her intentions regarding small events. Ms Parsons explained that there would be private weddings with 2 witnesses and did not envisage any more than that. The Chair asked if alcohol would be served with meals and Ms Parsons replied no, only in the external area.

Susan Mair, Depute Clerk advised that the current planning consent was acceptable as there was only 2 letting rooms and she did not foresee any problem, on the odd occasion, that there may be additional people attending an event.

The Chair referred to the opening time of 11.00am. Susan Mair confirmed that the application stated 12 Midday, therefore it would need to remain at that time. The Chair advised the applicant that she would require to apply for a major variation to adjust the opening time.

The Chair moved to grant the application as applied for with a terminal hour of 10.00pm for the external area.

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

5. APPLICATION FOR GRANT OF A PROVISIONAL PREMISES LICENCE

(a) The Tower Digital Arts Centre & Scottish Submarine Centre, Corner of Sinclair Street and West King Street, Helensburgh, G84 8TG

The applicant, Brian Keating appeared and advised that the Cinema and Arts Centre was a converted church although renovations were still ongoing due to a limited budget, hence the submission of a provisional licence. He added that the premises had been running on occasional licences for some time. The submarine centre opened last year and was awarded the most innovative museum in the UK with 9,000 visitors attending. Mr Keating explained that the works were now in the penultimate stages and that there would be a Royal opening next month.

Raymond Park, Licensing Standards Officer said that there were a number of works ongoing and emphasised that the building standards

certificate related only to the cinema and did not include the submarine centre. They were two separate entities although would be under one premises licence. Mr Park confirmed that the works on the ground floor had been completed but a further certificate was required for the submarine centre. He added that work was needing to be carried out around the bar area.

Jean Moffat asked if the application was for the cinema only or the entirety of the ground floor. Mr Park confirmed that the applicant had received the planning certificate for the entire ground floor which was required for this type of application.

The Chair asked the applicant what his intentions were for the upper floor. Mr Keating said nothing at present as this required more funding and volunteers but hoped to move the seating there but no structural changes would take place. The Chair wondered if there would be bar on the upper floor and Mr Keating replied yes, in the near future and also a lift access would be available.

Rory Colville referred to the capacity of 330 and asked if this was for the whole premises and Mr Keating confirmed it was. Mr Colville thought that the number of toilets was insufficient for this capacity. Mr Keating said that more toilets would be built in time and plans had been submitted for these. He advised that the existing toilets were at the rear of the submarine centre and also in the arts centre, which included baby changing facilities.

Lorna Douglas enquired about the timescale for completion of works and Mr Park advised approximately 4 years. Ms Douglas asked the applicant if the bar area was in the corner and if it would be selling alcohol only. Mr Keating replied it was in the corner but it was also a shop selling confectionery as well although he would be looking to move the shop in the near future. He emphasised that the bar would not be open when an event was on, therefore would be a similar set up as the cinema. Ms Douglas thought that this was awkward and with numerous varied events, flexibility required to imposed in a responsible way.

The Chair said that this could mean children would be served at the same bar. Mr Park advised that children would not be permitted within the vicinity of the bar area. Mr Keating gave an assurance that in the new area there would be a separate counter area for children.

Richard Trail asked if children would only be permitted with a responsible adult aged 18 years or over. Mr Park referred to his report (Appendix 1) and the suggested wording:

‘Children will be permitted access to the premises when accompanied by an adult over the age of 18 years. Young persons will be permitted access to the premises’.

‘Children and young persons will be permitted access until 10.00pm unless attending a pre-booked function or event and may then remain for

the duration’.

Lorna Douglas wondered if any provision could be made for a separate bar. Mr Park said that he was liaising with the applicant to create a segregated section.

Richard Trail asked Mr Keating what type of activities would be held within the premises. He said it would be tribute acts; some dancing; full orchestra and ballet performances and national theatre. Mr Keating stressed that he was not interested in running the premises as a pub.

Rory Colville noted that tap water should be available when the bar was open. Mr Keating advised that water was brought in at present and was provided in jugs and that the glasses are washed in the sink in the kitchen. Mr Park said that the section 50 certificate from Environmental Services had still to be issued as there was no sink behind the bar area. Mr Colville said he had no issues with this but would like to view updated plans. Mr Keating said he would require to re-plumb the building at a huge cost but Mr Park stated that this was not required at present. Susan Mair, Depute Clerk suggested that a mobile unit would suffice meantime. The Chair asked Ms Mair if the premises would still need to operate under occasional licences and she replied that they would. Ms Mair advised that if the Board granted the cinema part today and a section 50 certificate from Environmental Services was received at a later date, the licence could be confirmed then a variation could be submitted for the submarine centre and considered accordingly. She suggested one licence for the whole premises but it would require to be a phased process. The Board adjourned to consider the application further.

On resuming, the Chair moved that on condition the Environmental Services section 50 certificate is received; the bar area is clearly delineated to separate the sale of alcohol and confectionery and an amended plan is submitted showing the cinema part of the premises, the application be granted.

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

6. APPLICATION FOR MAJOR VARIATION OF A PREMISES LICENCE

(a) Corran House Hotel t/a Markie Dans, 1 Victoria Crescent, Corran Esplanade, Oban, PA34 5PN

Lindsay McMillan appeared and spoke to the terms of the application which sought to increase the licensed area to the new patio area at the front of what was formally known as Ayres Guest House at 3 Victoria Crescent. Ms McMillan explained that she had purchased the next door property some time ago which was now known as Corran House. The intention was to have a maximum capacity of 28 for the external area and to keep the terminal hour of 10.00pm. Ms McMillan said there is a wall dividing the 2 properties, therefore to access the new external area,

patrons would require to go around the wall and considered making a walkway between the properties. Ms McMillan wanted children and young persons within the external area until 10.00pm as families seemed to be eating later.

Eric Dearie, Licensing Standards Officer referred to the bye-laws for Oban and advised that any person found carrying open containers from the outdoor area at Markie Dans to the outdoor area at Corran House, would be committing an offence as there was no connecting route.

Jean Moffat asked if the wall was listed and Ms McMillan said the premises were but was unsure about the wall.

Richard Trail enquired whether the footpath at Victoria Crescent was wide enough. Mr Dearie advised it was a walkway but was accessible by car. Ms McMillan added that this was a private road which was owned by the 4 guest house establishments.

The Chair asked Ms McMillan if you could enter one end and exit the other end of the road and she replied yes.

Rory Colville suggested delineating the drive way and asked if permission would be required for this. Ms McMillan said she would like to open up the wall and have a walkway . Mr Colville said that if all parties would be in agreement he did not see a problem with this. Mr Dearie explained that at the front of the terrace the drive way was shaped like a semi-circle and that this could be delineated up to Markie Dans but this area was still partly owned by the 4th premises which was next door to the guest house. Mr Colville asked Susan Mair, Depute Clerk if the application could be granted if the relevant permission was received and she replied it could.

Jean Moffat asked if, without delineation, was access given for Markie Dans and Corran House. Ms McMillan said there were bollards but it was open for access including emergency vehicles.

The Chair wondered if the bollards prevented vehicle access and Ms McMillan said no as it was a wide area and planters had been situated the whole way along to prevent people parking. Richard Trail asked if the planters could be used to delineate the area and Ms McMillan advised that if this was the case, the existing ones would need to be removed.

The Chair referred the terminal hour of 10.00pm for children and young persons. Rory Colville confirmed he was happy with this but Richard Trail said he wanted to go with the Board's Policy of 8.00pm. Audrey Forrest thought it would be difficult to comply as meals were being served later.

The Chair moved that the application be granted with a condition that planning advice be sought regarding the opening in the wall and a terminal hour for the external areas of 8.00pm for children and young persons and 10.00pm for adults. This was seconded by Richard Trail.

Rory Colville agreed to grant the 1st part of the motion but as an amendment to the 2nd part, moved to grant a terminal hour of 10.00pm for children and young persons which was seconded by Audrey Forrest.

After a show of hands, there were 2 votes for the motion and 4 votes for the amendment. As a result the amendment was carried.

Susan Mair advised that if planning permission was not feasible then a delineated access would be granted to the satisfaction of the Licensing Standards Officer.

Rory Colville left the meeting.

(b) Oban Distillery, Stafford Street, Oban, PA34 5NH

Archie McIver, Solicitor, Glasgow appeared on behalf of the applicant and spoke to the terms of the application which sought to include an external drinking area which was to be utilised during core hours; to increase the capacity of the premises and to change the layout plan. Mr McIver advised that his client wanted to reconfigure some areas due to a loss of business and it would only be permitted for patrons who had been on a tour. The capacity of 472 was the largest possible capacity envisaged by his client and would only be utilised for bigger events such as Oban Live. He added that consent had been received from Roads and Amenity Services but planning permission was still awaited.

The Chair noted the increase in capacity but Mr McIver stated that the original figure was extremely low and there had been further areas added, therefore the difference was not considerable. The Chair referred to the Board's Policy for the external area which was 8.00pm for children and young persons and 10.00pm for adults. Mr McIver confirmed his client would be happy with this.

The Chair moved to grant the application as applied for subject to receiving the relevant planning permission.

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

Rory Colville returned to the meeting.

(c) The Lorne, Stevenson Street, Oban, PA34 5NA

Sandy Murray, Solicitor, Oban appeared on behalf of the applicant. Calum MacLachlainn and Declan Curran were also present. Mr Murray explained that his client wanted a seasonal variation added to restrict the opening hours from October to April and to increase the capacity from 78 to 150.

Eric Dearie, Licensing Standards Officer enquired if building standards approval had been received. Susan Mair, Depute Clerk advised that building standards had commented on the number of female toilets which

appeared to be insufficient for the proposed capacity. Calum MacLachlainn stated that the premises had been operating with a capacity of 150 for 30 years and he had raised this point when the premises were purchased.

Richard Trail asked Mr MacLachlainn why this had only come to light recently. Mr MacLachlainn said Police Scotland had noticed it, therefore he wanted to amend the premises licence accordingly.

Rory Colville asked Mr MacLachlainn how the capacity was monitored and he advised that there was a risk assessment in place and door stewards kept a count.

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) Visitor Centre Shop, Bruichladdich Distillery, Isle of Islay, PA49 7UN

Ailsa Hayes, Premises Manager appeared on behalf of the applicant and spoke to the terms of the application which sought to add on sales hours on weekdays between 2.00pm and 5.00pm to cater for seasonal demand and to include children and young persons' conditions. Ms Hayes added that they wanted to improve the customers' experience.

The Chair moved to grant the application as applied for.

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

7. APPLICATION OF A MAJOR VARIATION (CONTINUED FROM A PREVIOUS MEETING)

(a) Feathers Bar, Cross Street, Campbeltown, PA28 6HU

It was noted that a further request by email was received on 22nd July 2019 to continue the application to the September meeting.

The Board agreed to continue the application.

8. APPLICATION FOR REVIEW OF A PERSONAL LICENCE

(a) Suzanne Tomsett, 10 Clyde Street, Dunoon, PA23 7HT

Susan Mair, Depute Clerk stated that a letter dated 22nd June 2019 had been received from Suzanne Tomsett which advised that she was unable to attend. Police Scotland were given a copy of the letter.

The Chair asked Sergeant Mairi Capaldi, Police Scotland if she had any comments to make regarding the non-attendance and she said that it was

a matter for the Board to decide. The Chair noted that Ms Tomsett did not mention the offence in the letter and suggested that she attend the next meeting.

Rory Colville referred to the offer of a character reference and wondered if this could be submitted.

The Chair said he would rather Ms Tomsett appear in person as it was a serious offence, therefore moved that she be requested to attend the September meeting and submit a character reference.

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

9. APPLICATION FOR REVIEW OF A PREMISES LICENCE

(a) The Bute Piper, 23 Marine Place, Rothesay, Isle of Bute, PA20 0LF

Susan Mair, Depute Clerk advised that an email had been received on 12th June 2019 from the licence holders' solicitor to request that the matter be continued.

The Board agreed to continue the matter to the Board Meeting on 3rd September 2019.

10. HEARING IN TERMS OF SECTION 40 OF THE LICENSING (SCOTLAND) ACT 2005

The Logie Baird, 8 James Street, Helensburgh, G84 8AS

Archie McIver, Solicitor, Glasgow appeared on behalf of the applicant. Cara Nikolic and Milan Nikolic, the premises manager, were also present.

The Chair explained the procedure.

Mr McIver referred to Section 40 of the Licensing (Scotland) Act 2005 which was an uncommon request, that a Licensing Board may, if satisfied, remove the variation if it was justified there was a change in circumstances, to restrict the terminal hour to 1.00am with a curfew of 11.00pm. Mr McIver said that attendances had fallen and on a Friday evening there were no patrons within the premises at all with Saturday evenings following suit, as a result the business was no longer sustainable. He explained that in April, when the decision to restrict the opening hours was made, the premises had been operating satisfactorily from the festive period up until that time, with one incident reported in May which involved a fight between 2 males. They were both charged and were added to the Pub Watch list barring them from certain premises for 2 years. Mr McIver advised that his clients had improved staff training; employed more male and female stewards and updated their CCTV. There were a number of matters still to be put in place such as scan net, which checks all ID and detects any false ID and then this

information is added into the system. He said that this would be expensive to install therefore it would only be worth it if patrons used the premises.

Mr McIver said that a membership scheme would be set up whereby members only would be permitted after 10.00pm and if there were any incidents then Police Scotland would have access to information relating to those individuals. He emphasised that his clients needed to have the opportunity to run a honest establishment and the early closure was having a ripple effect on other premises which had been recently having issues over unruly behaviour. Mr McIver said that if the Board was not in a position to vary the terminal hour to 2.00am, could they remove the curfew as the premises were now closed as the business was no longer viable. He referred to the letter from the landlords, which he was aware of but did not have any comments to make regarding this. He stressed that his clients had learnt from their mistakes.

Sergeant Mairi Capaldi, Police Scotland advised that the issue was the levels of intoxication. Mr McIver said that this was addressed previously and was not aware of any other incidents apart from the one in May. He confirmed that if a patron was intoxicated then they would not be permitted onto the premises again.

Milan Nikolic explained that the incident involved 2 patrons who became aggressive but they were not drunk and were immediately removed from the premises.

Sergeant Capaldi referred to the changes which would be put in place but thought that these would not change anything.

Raymond Park, Licensing Standards Officer suggested that a condition could be added regarding the implemented changes.

Richard Trail referred to the list of incidents and said that the majority of the narrative stated patrons were intoxicated. Mr McIver accepted this but these type of incidents had not happened since the festive period.

The Chair referred to the last recorded incident which took place on 20th January 2019. Mr McIver advised there were 2 incidents but it was nearly the end of June and nothing further, apart from May, had occurred. Mr Nikolic advised that the Procurator Fiscal decided not to proceed with one of the incidents.

Rory Colville reverted back to the implemented changes and asked how this would work for Navy Personnel as they changed constantly and how would the CCTV system, which was not always available, be managed.

Cara Nikolic said that it was the most comprehensive CCTV in the area and Police Scotland had requested, in the past, to view it in relation to other matters. She stated that the CCTV was out of order for one night but there had been no further issues with it. Ms Nikolic said that a

number of staff members had access to the CCTV before but now this number had been limited. Mr McIver referred to Navy Personnel and stated that they should have their own ID cards and if they did not have them or were unwilling to show them, they would not be allowed entry.

Lorna Douglas thought that the scan net would be more a security measure rather than a management one and had expressed her concerns regarding this. She asked if any recent incidents had taken place and said it was difficult to determine whether there had been any improvement as the premises had been closed. Sergeant Capaldi advised that they were vast premises but if stewarding was improved, it would make a difference.

The Chair asked if there had been any other reported incidents from other premises but Mr Park said it was more noise nuisance. Mr McIver added that at the last Pub Watch meeting in Helensburgh, it was mentioned that 2 patrons had been arrested outside the Clyde Bar for disorder on 30th May which was reported to Police Scotland. Sergeant Capaldi confirmed this but did not have any paperwork relating to the incident.

Lorna Douglas asked Ms Nikolic how many weekends had the premises been operating under the restricted terminal hour and she replied 7, traded for 3 weeks then closed on Friday evenings only then closed premises one week ago.

On summing up, Mr McIver said that his clients could only prove that the changes would work if they were given an opportunity to put them in place.

Ms Nikolic referred to incidents at other premises and added that military personnel were involved in the majority of incidents, therefore asked if the Board could contact the Navy to express their concerns.

Everyone agreed that they had a fair hearing.

The Board adjourned to consider the matter further. On resuming, the Chair moved that the curfew of 11.00pm be removed but the terminal hour of 1.00am remain and a condition to be added to change the stewards. This would be reviewed again at the November meeting

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

11. REVIEW OF PERSONAL LICENCES

The list of personal licence holders who had not undertaken the required refresher training within the prescribed timescale (Appendix 2) was noted and the Board agreed to revoke their personal licences.

12. ANY OTHER BUSINESS

(a) Review of Gambling Policy

The Board agreed to undertake a review of the Policy statement and initiated a consultation exercise.

13. DATE OF NEXT MEETING

The next meeting of the Licensing Board will be held on Tuesday 3rd September 2019 at 11.00am within the Council Chamber, Kilmory, Lochgilphead, PA31 8RT.