

**MINUTES of MEETING of ARGYLL AND BUTE LICENSING BOARD held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on TUESDAY, 26 FEBRUARY 2019**

**Present:**

David Kinniburgh (Chair)	Roderick McCuish
Rory Colville	Jean Moffat
Lorna Douglas	Sandy Taylor

**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  
Inspector David Quinn, Police Scotland

**1. APOLOGIES**

Apologies were intimated from Richard Trail, Robin Currie, Audrey Forrest and Gordon Blair.

**2. DECLARATIONS OF INTEREST**

Rory Colville declared an interest for items 5(a) and 5(d).

**3. APPROVAL OF MINUTES OF LICENSING BOARD MEETING OF 20TH NOVEMBER 2018**

The Minutes of the Meeting held on 20<sup>th</sup> November 2018 were submitted and approved.

**4. APPLICATION FOR GRANT OF A PREMISES LICENCE**

**(a) Taynuilt Hotel, Taynuilt, Oban, PA35 1JN**

Sandy Murray, Solicitor, Oban appeared on behalf of the applicant, Calum MacLachlainn, who was also present. Mr Murray explained that the premises had been licensed for many years and the premises licence was surrendered in 2017 but his client wanted to restore the premises to a hotel. Mr Murray noted that a food hygiene section 50 certificate was not yet available as the kitchen still required some work. He said that the small outside area, which was granted as part of the previous licence, would also be included. Mr Murray stated that children aged 15 years and under would be accompanied in the lounge by an adult until 9.00pm.

Eric Dearie, Licensing Standards Officer referred to his report (Appendix 1) and suggested the following statement be included at section 5 of the operating plan regarding activities taking place out with core hours: 'Breakfast is served from 8.00am and conferences and meetings can start from 9.00am'. Mr Dearie also suggested the standard wording for the outside area which was 8.00pm for children and young persons and 10.00pm for adults.

The Chair moved to grant the application as applied for, subject to the section 50 certificate in respect of food hygiene being received and as per the Licensing Standards Officer's report.

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

## **5. APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**

Rory Colville left the meeting.

### **(a) Caol Ila Distillery, Port Askaig, Isle of Islay, PA46 7RL**

David Hossack, Solicitor, Edinburgh appeared on behalf of the applicant. The premises manager, Leigh Aitken, was also present. Mr Hossack referred to the application which sought to include on-sales from 10.00am to 11.00pm, Monday to Sunday; to extend the off-sales terminal hour to 10.00pm; to amend the seasonal variation; to include various activities and to amend the wording at section 5 under 'any other activities'; to insert wording relating to children and young persons; to add on-sales capacity and to increase the off-sales capacity; change the layout and the description of the premises. Mr Hossack advised that the premises were a major tourist attraction holding special events such as the whisky festival. He explained that the premises would offer a high end range of whiskies hence the requirement for on-sales. He explained that the external area would be used on occasions for events and his client was looking for a terminal hour of 10.00pm for children and young persons but they would require to be accompanied by an adult. He added that the increased capacity of 1000 would only be applicable when events were taking place.

Eric Dearie, Licensing Standards Officer referred to his report regarding the children and young persons' terms (Appendix 1) and suggested that the revised wording of 'adult aged 18 years or over' be considered. He also suggested the standard terminal hour for the external drinking area of 10.00pm for adults and 8.00pm for children and young persons.

The Chair asked if the capacity of 1000 included both the inside and the external area and wondered how this would be monitored. Mr Hossack said this figure was the extra amount of patrons who would be attending events and advised that each event would be carefully controlled, ticketed and monitored by stewards.

Jean Moffat had concerns that a terminal hour of 10.00pm for the external area regarding children and young persons would set a precedent but Mr Hossack confirmed that this had been previously granted for Lagavullin Distillery.

The Chair referred to the seasonal variation and enquired about the policy on weather conditions. Mr Hossack said that when the weather is bad there would be no prospect of people getting to the island therefore no customer demand but the Chair thought that people would prefer indoor activities on wet and windy days. Leigh Aitken advised that the premises would only close occasionally if the weather was extreme. The Chair asked Ms Aitken if this was more for customer safety and she replied yes.

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

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

Rory Colville returned to the meeting.

**(b) Food from Argyll at the Pier, Oban Ferry Terminal, Oban, PA34 4BD**

Thomas Johnstone and Alison MacKay, directors of the Company appeared and spoke to the terms of the application which sought to add on-sales, Monday to Saturday 11.00am to 6.00pm and Sunday 12.00pm to 6.00pm; to change the layout of the premises to include an additional alcohol display area and to include a number of activities on the licence. Ms MacKay advised that the extra display area was a small fridge with wine and beers and the on-sales hours would be the existing opening hours for the café.

Eric Dearie, Licensing Standards Officer referred to his report (Appendix 1) and said that the description of the premises required to be amended due to the addition of the on-sales.

Roderick McCuish welcomed the application and asked if there was room for live performances within the premises. Ms MacKay said this was unlikely but provided an option for hired events.

The Chair moved to grant the application as applied for with the amended wording as per the Licensing Standards Officer's report.

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

**(c) Kitchen Garden, 14 George Street, Oban, PA34 5SB**

Sandy Murray, Solicitor, Oban appeared on behalf of the applicant, Calum MacLachlainn, who was also present. Mr Murray spoke to the terms of the application which sought to extend the on sales terminal hour from 6.00pm to 12 Midnight and the off sales terminal hour from 6.00pm to

10.00pm; amend the seasonal variation; to add various activities on the licence; amend the children and young persons' terms; to change the layout plan; to increase the capacity from 32 to 100 and change the name of the premises to 'Gelatoburger'. Mr Murray explained that there had been substantial alterations to the premises to convert them to a diner/restaurant and that they would be a useful addition to the town. He said that children and young persons were to be permitted at any time but after 8.00pm, children aged 14 and under would require to be accompanied by an adult.

Eric Dearie, Licensing Standards Officer reiterated that the proposed children and young persons' terms were out with the Board's Policy which stated a terminal hour of 10.00pm for restaurants.

The Chair enquired about live performances and Mr Murray advised that this would only be required for certain events like the Mod and therefore it would not be taking place on a daily basis.

Rory Colville advised that 15 years and under was the usual age range for children and Mr Murray confirmed he was happy to amend this accordingly.

Susan Mair, Depute Clerk clarified that children from birth to 15 years would usually be permitted until 8.00pm when accompanied by an adult and young persons, unaccompanied until 10.00pm. Mr Murray accepted this.

The Chair moved to grant the application as per the changes to the children and young persons' terms.

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

Rory Colville left the meeting.

(d) **Lagavulin Distillery, Port Ellen, Isle of Islay, PA42 7DZ**

David Hossack, Solicitor, Edinburgh appeared on behalf of the applicant. Leigh Aitken, the premises manager for Caol Ila Distillery was also present. Mr Hossack spoke to the terms of the application which sought to include bar meals; to amend the capacity to reflect additional external areas and upstairs in the Malt Mill and to cover special events and festivals; to add wording at section 5 to cover use at Islay Festivals and to change the layout plan.

Jean Moffat noted that restaurant facilities were already listed on the operating plan and asked why bar meals required to be included as a further activity. Mr Hossack explained that there was no clear definition between the two, therefore it provided more flexibility for his client.

Susan Mair, Depute Clerk asked if the catering was carried out within the premises or brought in from an external supplier. Leigh Aitken advised

that the food was prepared off site and then arranged in the kitchen.

The Chair moved to grant the application as applied for.

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

Rory Colville returned to the meeting.

(e) **Lidl Store, Soroba Road, Oban, Argyll, PA34 4HY**

Andrew Hunter, Solicitor, Glasgow appeared on behalf of the applicant and spoke to the terms of the application which sought to increase the capacity and amend the layout plan due to refurbishment.

Eric Dearie, Licensing Standards Officer said that the increase was only 4.64%.

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

(f) **Premier Inn, 56 Shore Street, Oban, PA34 4NT**

Chris Grunert appeared on behalf of the applicant together with 2 site managers from east coast premises. Mr Grunert spoke to the terms of the application which sought to add off-sales and change the layout plan. He explained that the off sales was predominantly required for customers taking away unfinished bottles of wine and a counter servery within the food and beverage area had been introduced.

Roderick McCuish 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.

(g) **Whisky Mac's, 4 Shore Street, Campbeltown, PA28 6BS**

It was noted that the applicant, Mary Wood, was not required to be present.

Eric Dearie, Licensing Standards Officer explained that the application sought to add takeaway meals and pizzas as additional activities between 10.00am to 9.00pm daily.

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

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

- (a) **Margaret Anne MacNab, 4 Tarsgeir, Port Ellen, Isle of Islay, PA42 7BT**

It was noted that the application had been withdrawn.

- (b) **Danielle MacIntyre, 10c Alma Crescent, Oban, PA34 4LT**

Susan Mair, Depute Clerk advised that the applicant was not present and had requested that the application be re-scheduled to a later Board meeting. Susan Mair added that the application had been continued from the previous Board meeting in November.

Roderick McCuish said he would be happy to continue the application but wanted it determined at the next Board meeting whether the applicant was present or not.

The Chair moved that the application be continued to the April Board Meeting and attendance would be required.

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

**7. APPLICATION FOR REVIEW OF A PERSONAL LICENCE**

- (a) **Michael Porter, Tigh Buidhe, Croft Road, Oban, PA34 5JN**

It was noted that the licence holder was not present.

Inspector David Quinn, Police Scotland referred to his report (Appendix 2).

The Chair asked if there was just one matter to be concluded from the report. Inspector Quinn advised that the second matter was still pending.

Rory Colville expressed his disappointment at the lack of attendance and wanted to make it clear that Mr Porter should be present at the next Board meeting and if not, the matter would be considered in his absence.

The Chair agreed and moved that the application be continued to the April Board Meeting and attendance would be required.

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

- (b) **Marko Curic, Flat 2/1, 24 Kennoway Drive, Glasgow, G11 7TY**

Susan Mair, Depute Clerk said that an email had been received from the licence holder advising that he would be out of the country at the time of

the Board Meeting.

Inspector David Quinn, Police Scotland stated that it was up to the Board Members on how they wished to proceed.

Jean Moffat thought that the matter be dealt with in the same way as the previous item.

The Chair said the Board would have no other alternative than to continue the matter to the next Board Meeting.

Rory Colville thought that there would be little point requesting Mr Curic to appear at the April Board Meeting if the case was not concluded.

The Chair advised that attendance be requested at the next meeting but Jean Moffat queried this and asked if the matter could appear sooner in Court due to the seriousness of the offence. Inspector Quinn said it might be a possibility but he would inform the Board of any updates.

Sandy Taylor asked if, the Procurator Fiscal chose not to proceed with the matter, would Police Scotland still be of the view that a review would be required. Inspector Quinn said this had happened in the past and it would be up to the Board to determine whether Mr Curic was a fit and proper person to hold a licence.

Susan Mair, Depute Clerk advised that due to the nature of the offence, the Board would require to be very careful on how to proceed with the matter.

The Chair suggested that the licence holder attend the next meeting to give the Board an opportunity to meet with him and hear his position regarding the matter.

Eric Dearie, Licensing Standards Officer confirmed that it was a requirement under the Licensing (Scotland) Act 2005 that the matter be placed before the Board.

The Chair moved that the matter be continued to the April Board Meeting and the licence holder would be required to attend.

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

(c) **Richard MacDougall, 13 Nelson Road, Oban, PA34 4DQ**

It was noted that the licence holder was not present.

Inspector David Quinn, Police Scotland said that it would be up to the Board on how to proceed with this.

The Chair advised that the case had been disposed of in Court but it was

not clear whether Mr MacDougall received the letter requesting attendance.

Eric Dearie, Licensing Standards Officer advised that Mr MacDougall owned Dunollie Stores in Oban and he would be happy to hand deliver the letter requesting appearance at the next meeting.

The Chair confirmed that the letter would be hand delivered by the Licensing Standards Officer and the matter would be continued to the April Meeting.

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

## **8. REVIEW OF PERSONAL LICENCES**

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.

## **9. CONSIDERATION OF A REVIEW OF A PREMISES LICENCE**

### **(a) The Logie Baird, 8 James Street, Helensburgh, G84 8AS**

The Chair advised that the Board required to consider whether there was sufficient evidence to hold a Review.

Rory Colville was surprised that the Board had not been informed earlier of the incidents.

Inspector David Quinn, Police Scotland explained that they had worked and supported the premises over a period of time and that there was some improvement but in the last 2 months there had been a dramatic decline, hence the reason for the request for a review of the premises licence (Appendix 4).

Susan Mair, Depute Clerk advised that the review would require to be held within the next 42 days. Ms Mair confirmed that the licence holder's solicitor had agreed to hold a preliminary review on Wednesday 20<sup>th</sup> March 2019 then continue the matter for a full review hearing to the April Board Meeting.

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



## **10. REVIEW OF PREMISES LICENCES - NON PAYMENT OF ANNUAL FEE**

The Chair referred to the list of premises who had failed to make an annual fee payment (Appendix 5). Susan Mair, Depute Clerk advised that failure to pay the annual fee was a breach of a condition of their premises licence. With regard to Cowal Golf Club, she said that an email had been received requesting further time to pay as there was a potential purchase of the club in the offing which would be confirmed by the end of the week if this was going ahead. She therefore suggested that the matter be continued to the next Board Meeting for an update. Ms Mair advised that every effort had been made to contact the licence holder of the Hunter's Quay Hotel but to date no payment had been received. She also noted that the remaining premises were closed and no longer trading.

After considering the foregoing, the Board agreed to continue Cowal Golf Club to the April Board meeting and revoke the premises licences of the Hunter's Quay Hotel and the remaining closed premises.

## **11. ANY OTHER BUSINESS**

### **(a) Equalities Outcomes (2019-2023)- report to follow**

Susan Mair, Depute Clerk referred to the Report.

Rory Colville moved that the Report be approved.

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

## **12. DATE OF NEXT MEETING**

The next meeting of the Licensing Board will be held on Tuesday 23<sup>rd</sup> April 2019 at 11.00am within the Council Chamber, Kilmory, Lochgilphead, PA31 8RT.