

WEST DUNBARTONSHIRE LICENSING BOARD

At a Meeting of West Dunbartonshire Licensing Board held in Meeting Room 3, Council Offices, Garshake Road, Dumbarton on Monday, 16 April 2012 at 10.00 a.m.

Present: Councillors George Black, Jim Brown, Jim Finn, Jonathan McColl and Ronnie McColl.

Attending: Andrew Fraser, Clerk to the Licensing Board; Raymond Lynch, Depute Clerk to the Licensing Board; Lawrence Knighton, Licensing Standards Officers; Marie McCran, Administrative Assistant and Nuala Borthwick, Committee Officer, Legal, Democratic and Regulatory Services.

Also Attending: Chief Inspector Ian Miller*, Sergeant George Stewart, Licensing Sergeant and Mrs Karen Queen, Strathclyde Police.

* Arrived later in the meeting.

Councillor Jim Brown in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in any of the items of business on the agenda.

MINUTES OF PREVIOUS MEETINGS

The Minutes of the Meetings of the Licensing Board held on 14 February 2012 (Ordinary) and 7 March 2012 (Special) were submitted and approved as correct records.

LICENSING BOARD HEARING PROCEDURE

A note of the Licensing Board's Hearing Procedure for Review of a Premises/Personal Licence was submitted for reference.

**PERSONAL LICENCE REVIEW –
MR MOHAMMAD AFZAL, 269 NITHSDALE ROAD, GLASGOW**

Having heard the Chair, Councillor Brown, it was noted that Mr Afzal was not in attendance at this point in the meeting. The Board agreed to continue this item to the end of the agenda in order to give Mr Afzal an opportunity to be present.

**REVIEW HEARING FOR NON PAYMENT OF ANNUAL FEES –
PLATINUM, 68 DUMBARTON ROAD, CLYDEBANK**

With reference to the Minutes of Meetings of the Licensing Board held on 8 November 2011 and 14 February 2012, a report was submitted by the Clerk to the Licensing Board concerning the Premises Licence Review for Platinum, 68 Dumbarton Road, Clydebank for non-payment of annual fees.

It was noted that the premises licence holder, Burnmuir Limited, were neither in attendance or represented at the meeting.

Having heard the Clerk in further explanation of the report, the Board agreed:-

- (1) to hold that the grounds for review of the licence had been established, namely the breach of the condition of the licence resulting from non payment of annual fees; and
- (2) to suspend the premises licence held by Burnmuir Limited with immediate effect until 1 October 2012.

**PREMISES LICENCE REVIEW
FOR BURGH BAR, 117 HIGH STREET, DUMBARTON**

In terms of Section 38(1) of the Licensing (Scotland) Act 2005, the Licensing Board considered an application for Review of a Premises Licence from the Chief Constable of Strathclyde Police in relation to GS Kilmarnock Limited, the licence holder in respect of the above premises.

Having heard the Clerk to the Licensing Board, it was noted:-

- (a) that in view of the letter from Strathclyde Police requesting a Premises Licence Review Hearing, both a representative of the licence holder and a representative of the Police authority had been invited to attend the meeting in order that a Hearing could take place;
- (b) that Mr Dorwood, Business Relationship Manager, Punch Taverns (Inns) Limited was in attendance on behalf of the licence holder and was represented by Mr Andrew Hunter, Messrs Harper Macleod Solicitors;

- (c) that a copy of the letter from the Police authority and a report by the Licensing Standards Officer had been issued to Members of the Board in advance of the meeting and that copies had been received by the licence holder;
- (d) that Sergeant Stewart, Licensing Sergeant and Karen Queen, Strathclyde Police were in attendance on behalf of the Chief Constable, Strathclyde Police; and
- (e) that Mr John Bundy, who had held the post of Designated Premises Manager at the premises until February 2012, and who held a Personal Licence issued by West Dunbartonshire Licensing Board, had not been cited to attend the Hearing but was also in attendance.

It was noted that there were no preliminary issues to be raised.

The Board then considered Mr Bundy's involvement in the Hearing given that he no longer held the lease for the premises and was no longer working at the premises.

Following discussion, on the motion by Councillor R. McColl, seconded by Councillor J. McColl, it was agreed that the Board would adhere to the standard hearing procedure consistently followed at previous meetings of the Board and therefore Mr Bundy would take no part in the Hearing to consider the premises licence held by Punch Taverns (Inns) Limited.

At this point Councillor Black proposed an amendment but failed to find a seconder to the amendment.

The Board heard from the Clerk who outlined the procedure which the Hearing would follow. It was noted that firstly the Board would consider any preliminary issues. Thereafter, the Board would hear from the representative of the Police in relation to the review hearing request and then there would be an opportunity for the applicant and the Board to ask questions. Thereafter, the Board would hear from the Licensing Standards Officer (LSO) and then there would be an opportunity for questions. The Board would then hear from the applicant with a further opportunity for questions.

The Board then heard from Sergeant Stewart in relation to the circumstances outlined in the Police letter which had been submitted and he was then heard in answer to questions from Members.

The Board then heard from Mr Knighton, LSO, who provided an update in terms of Section 38(4)(a) of the Licensing (Scotland) Act 2005 following the request for a review of the licence and he was heard in answer to questions from Members. It was noted that the LSO had no issues of non-compliance at the premises to report on.

Mr Hunter was then given an opportunity to address the Board in relation to the aforementioned Police report. Mr Hunter addressed the Board at length. He advised that Mr Bundy had left the Burgh Bar on 29 March 2012 following a protracted two month process to terminate his lease with Punch Taverns (Inns) Ltd for the premises. He advised that the premises were now under the stewardship of Mr McLeod and Mr O'Malley with a newly appointed premises manager. He also advised that there were presently 3 personal licence holders now employed at the premises and Mr Bundy no longer had any involvement with the premises. Mr Hunter explained that the new premises licence holder currently had no intention of using the large function area to the rear of the premises, which had previously been used for functions such as 18th birthday parties under Mr Bundy's management, and was happy to indicate that there was no intention to host 18th birthday parties for the foreseeable future. It was noted that the new lease holder now employed a security company to control the premises. Mr Hunter also explained that had Punch been made aware of the issues included in the Review application by Strathclyde Police at an earlier date or as they had occurred, they would have taken action to terminate the lease held by Mr Bundy at an earlier date. Mr Hunter accepted the factual basis of the Police letter and offered no comment on such other than to question, in terms of recent case law, the relevance of the electricity meter tampering to licensing objectives. He continued that, in any event, when the premises had been handed over to Mr Bundy in terms of the lease, they were in a condition that complied with electricity standards and layout plans etc.

Thereafter, both Mr Hunter and Mr Dorwood answered questions from Members concerning the monitoring systems in place for premises owned by Punch Taverns (Inns) Limited and the requirement to improve such systems to ensure premises are run to a standard as required by the Board. It was remarked by Councillor Black that this was the second occasion in West Dunbartonshire when there had been an incidence of electricity meter tampering at a premises leased by Punch (Inns) Taverns Limited.

After hearing the Clerk to the Licensing Board and following discussion, the Board agreed:-

- (1) to hold that the grounds for review of the licence, namely failure to comply with the undernoted licensing objectives, had been established:-
 - Preventing Crime and Disorder
 - Securing Public Safety
 - Preventing Public Nuisance
 - Protecting and Improving Public Service;
- (2) that a written warning letter, under Section 39(2)(a) of the Licensing (Scotland) Act 2005 and in terms of the Crime Prevention Objective, be issued to the premises licence holder advising that the Board takes a very serious view of licensees who fail to comply with the law;
- (3) to recommend that the premises licence holder put in place improved monitoring systems and have more regular contact with the tenant, LSOs and Strathclyde Police;

- (4) to note the licence holder's undertaking that 18th birthday parties would not be held at the premises for the foreseeable future; and
- (5) that the circumstances of the review would be taken into consideration should there be any future breach of legislation or licensing policy.

Thereafter, having heard the Clerk to the Licensing Board in relation to the Personal Licence held by Mr Bundy and following discussion, the Board agreed:-

- (i) that in terms of Section 84(2) of the Licensing (Scotland) Act 2005 and having regard to the above findings of the Board, that a Personal Licence Holder, Mr John Bundy, had acted in a manner which was inconsistent with the above licensing objectives; and
- (ii) that in terms of Section 84(3)(a) of the Licensing (Scotland) Act 2005, a Hearing would be held before West Dunbartonshire Licensing Board at its meeting on Thursday, 28 June 2012 to consider the Personal Licence held by Mr Bundy given the aforementioned findings of the Board.

Note: Chief Inspector Miller entered the meeting during consideration of the above item.

APPLICATIONS FOR A PERSONAL LICENCE IN TERMS OF THE LICENSING (SCOTLAND) ACT 2005

(a) Ref No: WD/0707

Name and Address of Applicant: Mr James Young Weir, 19 Jamieson Court, Hardgate, Clydebank G81 6PZ

With reference to the Minutes of Meeting of the Licensing Board held on 14 February 2012, an application for a Personal Licence was submitted by the above applicant.

Having heard the Clerk to the Licensing Board, it was noted:-

- (a) that a letter dated 6 January 2012 had been received from the Police authority providing information on a relevant conviction held by the applicant;
- (b) that copies of the letter from the Police authority had been issued to Members of the Board and the applicant in advance of the meeting;
- (c) that both the applicant and a representative of the Police authority had been invited to attend in order that a Hearing could take place; and
- (d) that the applicant had been unable to attend the February meeting of the Board and it had been agreed that the application would be continued to the present meeting of the Board to allow the applicant a further opportunity to attend.

The Board then heard from the Clerk who outlined the procedure which the Hearing would follow. It was noted that firstly the Board would consider any preliminary issues. Thereafter, the Board would hear from the representative of the Police in relation to the review hearing request and then there would be an opportunity for the licence holder and the Board to ask questions. The Board would then hear from the licence holder with a further opportunity for questions. Thereafter, the Board would debate the matter.

It was noted that there were no preliminary issues to be raised.

The Board then heard from Sergeant Stewart in relation to the circumstances outlined in the Police letter dated 6 January 2012 which had been submitted to the Board. Sergeant Stewart also provided an update on the offences, advising that a Procurator Fiscal fine of £140 had been issued in relation to the applicant's failure to declare previous convictions on his West Dunbartonshire Licensing Board Personal Licence application form. Thereafter, Sergeant Stewart answered questions from Members concerning the circumstances of the offences.

Mr Weir was then given the opportunity to address the Board in support of his application, answering questions from Members on the circumstances which had led to the sale of alcohol to a person under the age of 18 and commenting on the terms of the Police letter.

After consideration the Board agreed that the application be granted.

(b) Ref No: WD/0717

Name and Address of Applicant:	Ronald Greene, 10 Atlee Place, Clydebank G81 2SD
--------------------------------	---

An application for a Personal Licence was submitted by the above applicant.

Having heard the Clerk to the Licensing Board, it was noted:-

- (a) that a letter dated 14 March 2012 had been received from the Police authority providing information on a relevant conviction held by the applicant;
- (b) that copies of the letter from the Police authority had been issued to Members of the Board and the applicant in advance of the meeting; and
- (c) that both the applicant and a representative of the Police authority had been invited to attend in order that a Hearing could take place.

It was noted that the applicant was not in attendance at the meeting.

After consideration, the Board agreed that the application be continued to the next meeting of the Board to allow the applicant a further opportunity to attend.

**APPLICATION FOR A PREMISES LICENCE IN TERMS OF THE LICENSING
(SCOTLAND) ACT 2005**

WDLBPREM/0270

Name and Address of Premises: Peking Cottage, 577 Glasgow Road,
Hardgate, Clydebank G81 6AU

Name of Applicant: Suet Fan Chan, 3 Fulmar Crescent, Falkirk
FK5 4FW

Having heard the Clerk to the Licensing Board, it was noted:-

- (a) that the applicant, Mrs Chan, was in attendance and was represented by Ms Joanna Brynes, Young & Partners LLP;
- (b) that the previous premises licence held at the premises had been revoked by the Board in October 2010;
- (c) that the premises had been operating using Occasional Licences since the meeting of the Board held on 14 February 2012; and
- (d) that there were no Police representations or objections relating to the application.

After consideration, the Board agreed that the application be granted.

**APPLICATION FOR EXTENDED HOURS OUTWITH THE BOARD'S
POLICY - CAMERON HOUSE HOTEL AND COUNTRY ESTATE,
LOCH LOMOND**

With reference to the Board's Policy on Extended Hours, an application for Extended Hours was submitted in respect of Cameron House Hotel & Country Estate, Loch Lomond, Balloch requesting hours beyond the Board's approved Policy hours for Sunday, 17 June 2012 from 1.00 a.m. to 3.00 a.m.

It was noted:-

- (a) that the applicant, Cameron House Loch Lomond Ltd, was requesting extended hours on Sunday, 17 June 2012 from 1.00 a.m. to 3.00 a.m. to cater for a wedding reception; and
- (b) that Ms Lorraine Kelly, Solicitor, was in attendance on behalf of the applicant.

Following discussion, the Board agreed to grant the application for Extended Hours given the special circumstances of the case.

**APPLICATION FOR EXTENDED HOURS OUTWITH THE BOARD'S
POLICY - BOULEVARD COMPLEX, 1710 GREAT WESTERN ROAD,
CLYDEBANK**

With reference to the Board's Policy on Extended Hours, an application for Extended Hours was submitted in respect of the above premises for Sunday, 5 May 2012 from 3.00 a.m. to 4.00 a.m.

It was noted:-

- (a) that the applicant, the Boulevard (A Firm), was requesting extended hours on Sunday, 5 May 2012 from 3.00 a.m. to 4.00 a.m. to cater for the May Day holiday; and
- (b) that the applicant was not in attendance at the meeting.

Following consideration of the terms of the Licensing Policy, the Board agreed that the application be refused given that the application was not a special event of local or national significance.

TRAINING FOR LICENSING BOARD MEMBERS

Having heard the Clerk to the Licensing Board in explanation of the training requirements for Members appointed to the Licensing Board following the local government elections on 3 May 2012, Members noted:-

- (1) that the Licensing (Scotland) Act 2005 required that Licensing Board Members must complete accredited training each time they are elected to the Licensing Board;
- (2) that this must be done within 3 months of election to the Board and before Members participate in any Licensing Board meetings; and
- (3) that a date for Licensing Board member training had been scheduled to be held on Monday, 11 June 2012 to enable a Board meeting to be scheduled later in the month of June.

PROPOSED DATE FOR NEXT MEETING OF THE LICENSING BOARD

Members noted that the next meeting of the Licensing Board had been scheduled for Thursday, 28 June 2012 at 2.00 p.m. in Meeting Room 3, Council Offices, Garshake Road, Dumbarton.

**PERSONAL LICENCE REVIEW –
MR MOHAMMAD AFZAL, 269 NITHSDALE ROAD, GLASGOW**

With reference to the Minutes of Meetings of the Licensing Board held on 25 October 2011 and 14 February 2012, a report was submitted by the Clerk to the Licensing Board providing information to assist the Board in considering the Review of the Personal Licence held by Mr Mohammad Afzal given the findings of the Board that Mr Afzal's conduct had been inconsistent with the crime and disorder objective.

Having heard the Clerk to the Licensing Board, it was noted:-

- (a) that at the Board meeting held on 25 October 2011, the Board made a finding under Section 84 of the Licensing (Scotland) Act 2005 that Mr Afzal, whilst working at the premises acted in a manner that was inconsistent with the licensing objective of preventing crime and disorder given the failed test purchase operation;
- (b) that at the meeting of the Licensing Board held on 7 December 2011, it had been reported that the LSO had investigated the circumstances surrounding a blank signed training record held at the premises and had interviewed Mrs Gallacher, the Personal Licence Holder responsible for training at the premises, who in turned had advised that Mr Afzal, the Designated Premises Manager, was responsible for blank training records. It was therefore noted that this would be included in the grounds for review of the Personal Licence held by Mr Afzal;
- (c) at the meeting of the Board held on 14 February 2012, the LSO advised that the training record for Mr Arshad, which had previously been unavailable, had been available at the LSO inspection visit on 1 February 2012 and had been signed on the same date as the blank training record previously held at the premises. In clarification, the Clerk advised that the LSO, on his visit to the premises on 3 October 2011, had observed 2 training records: one for Mr Syed signed by Mrs Gallacher and another blank record signed by Mrs Gallacher. On this inspection no training record was available for Mr Arshad. Mrs Gallacher's statement, as provided to the Board at its meeting on 14 February 2012, advised that she had trained one member of staff at the premises and had not signed a blank training record. Therefore, the issue for the Board was to decide if the training record for Mr Arshad had been the original blank record that Mrs Gallacher stated she had not signed, or another training record, meaning that Mrs Gallacher had mistaken who she had trained;
- (d) that both the applicant and a representative of the Police authority had been invited to attend in order that a Hearing could take place;
- (e) that Mr Afzal was now in attendance at the meeting;
- (f) that a copy of the Clerk's report had been issued to Members of the Board in advance of the meeting and that a copy had been received by the licence holder; and

- (g) that Chief Inspector Miller, Licensing Sergeant Stewart and Mrs Karen Queen were in attendance on behalf of the Chief Constable, Strathclyde Police.

The Board then heard from the Clerk who outlined the procedure which the Hearing would follow.

It was noted that there were no preliminary issues to be raised.

The Board then heard from Sergeant Stewart who advised that a trial date of 26 June 2012 had been set for the failed test purchase operation which had taken place at the premises on 29 July 2011.

The Board then heard from Mr Knighton, LSO who advised that he had no further update and that his report, provided at the meeting of the Board on 14 February 2012, reflected the current situation at the premises.

Thereafter, Mr Afzal was given an opportunity to address the Board in relation to the failed test purchase and in so doing, advised of the steps taken to prevent any future sale of alcohol to underage persons at the premises. Mr Afzal also advised that it was his view that Mrs Gallacher had been mistaken in identifying who she had trained, advising that he had carried out the training for Mr Arshad.

Thereafter, Councillor J. McColl advised that he had recently been approached by youths outside Linnvale Grocers who had asked him to purchase alcohol for them by way of an agent purchase. Councillor J. McColl advised that he refused and immediately alerted Mr Afzal, who was working at the premises at the time, to this approach. Councillor J. McColl informed the Board that Mr Afzal had seemed dismissive of the incident and had not shown a willingness to take the situation seriously.

Thereafter, Councillor J. McColl questioned Mr Afzal on how seriously he took his responsibility to sell alcohol and on the steps taken to ensure that the premises did not sell to anyone under the age of 25 years old. In response, Mr Afzal advised that he was always vigilant whilst working at the premises in order to prevent agent purchases and did not sell to anyone who entered the premises with money that did not appear to belong to them. He also advised that he had phoned the police in response to youth disorder in the vicinity of the premises on several occasions. In response to a question concerning refusals of agent purchases, Mr Afzal advised that in future he would endeavour to record refusals of possible agent purchases in a register to be kept at the premises.

Following discussion and having heard the Clerk to the Licensing Board in further explanation and in answer to questions from Members, the Board unanimously agreed:-

- (1) that it was necessary for the purposes of the licensing objective of preventing crime and disorder to make an order under Section 84(7)(c) of the Licensing (Scotland) Act 2005, endorsing the personal licence held by Mr Afzal; and

- (2) to give notice of the order and of the reasons for making the order to the City of Glasgow Licensing Board.

The meeting closed at 11.45 a.m.