

## PART 2

### WEST DUNBARTONSHIRE LICENSING BOARD CONSULTATION ON OVERPROVISION OF LICENSED PREMISES

#### Introduction

West Dunbartonshire Licensing Board wishes to consult on the following areas as detailed below:-

- (a) Whether there is an overprovision of premises within West Dunbartonshire licensed to sell alcohol.
- (b) If there is such overprovision, in which geographical areas is there overprovision?
- (c) If there is overprovision, in what types of premises is there overprovision?
- (d) If there is overprovision, why is there such overprovision?
- (e) Do you agree that the Board should refine its policy to consider the positive health benefits associated with increased employment opportunities as a factor that applicants can demonstrate in support of their application and a factor that may rebut such a presumption?

#### Background Information

One of the functions of West Dunbartonshire Licensing Board is to decide whether to grant or refuse applications for licenses to allow premises in West Dunbartonshire to sell alcohol. The Board requires to have a Licensing Policy Statement which will set out the Board's policies on how it intends to exercise its powers. Section 7 of the Licensing (Scotland) Act 2005 requires the Licensing Board to include in its policy statement:-

"A statement as to the extent to which the Board considers there to be an overprovision of –

- (a) Licensed premises; or
- (b) Licensed premises of a particular description, in any locality within the Board's area".

The current Guidance issued by the Scottish Ministers contains the following key points:-

- ☐ There needs to be robust and reliable evidence which suggests that a saturation point has been reached, or is close to being reached, always provided that a dependable casual link can be forged between that evidence and the operation of licensed premises in a locality.

- The guidance states that the Board cannot take into account:-
  - o the manner in which individual premises are managed.
  - o any concerns as to the quality of management of individual premises.
  - o the need or demand for the licensed premises in the locality. Commercial considerations are irrelevant to a policy which is designed to protect the wider interest.
  - o hours during which the premises in the locality trade.
  - o members' clubs, providing they meet the criteria made under Section 125 of the Act.
- Proper regard needs to be given to the contrasting styles of operation in different licensed premises and the differing impact they are likely to have on the promotion of the licensing objectives. In other words, if crime, health etc problems are caused by one or two types of licensed premises, the Board can make an overprovision finding in respect of these types of premises, leaving scope to allow other types of premises.
- The Board needs to consider both the number and capacity of premises in a locality which is to be the subject of an overprovision assessment.

On 11 June 2013 West Dunbartonshire Licensing Board considered information provided by West Dunbartonshire Alcohol and Drugs Partnership, NHS Greater Glasgow and Clyde and West Dunbartonshire Environmental Health Services. The report is entitled "Overprovision" What does the evidence say? May 2013 and is at Appendix 2 of the Board's papers of 11 June 2013. Copies of these reports are accessible at:-

<http://wdccmis.west-dunbarton.gov.uk/cm5/Committees/May2012toPresent.aspx>

This report provided the Licensing Board with figures for the alcohol related death rate, alcohol related hospital admissions/discharge rate, alcohol related mental health admissions/discharge rate, alcohol related brain damage admissions/discharge rate, alcohol aggravated crimes, alcohol specific crimes rate, public disorder incidents, domestic incidents involving alcohol and density of licensed premises, crimes and incidents. These provided for 18 separate intermediate data zones/areas or localities commonly known as the following:-

Whitecrook - population 4,548

Dalmuir - population 4,569

Drumry/Linnvale/North Kilbowie - population 5,668

Parkhall/Radnor Park - population 4,532

Mountblow/Parkhall - population 5,527

Goldenhill/Hardgate/Parkhall - population 3,534

Old Kilpatrick - population 5,379

Faifley/Hardgate - population 5,347

Dumbarton Central/Silverton/Townend - population 6,152

Duntocher - population 4,439

Dumbarton East - Dumbarton East/Barnhill/Crosslet/Milton/Bowling - population 4,266

Dumbarton West - Dumbarton West/Brucehill/Dennytown/Kirktonhill - population 5,640

Dumbarton North East - Dumbarton North East/Bellsmyre/Silverton East - population 4,918

Bonhill - population 5,235

Renton - population 5,295

Jamestown/Old Bonhill - population 4,668

Alexandria/Balloch - population 5,320

Balloch North East - Balloch North East/Gartocharn/Mill of Haldane - population 5,323

Figures were also provided for alcohol related fires and fire fatalities in West Dunbartonshire as well as details of noise complaints received by Environmental Health in relation to licensed premises.

### **Scope of the Consultation**

In light of the data provided to it on 11 June 2013, the Licensing Board decided to consult on whether there was overprovision of certain types of licensed premises in certain areas or localities.

1. The types of licensed premises which the Board wishes to consult about to ascertain if there is overprovision are the following on and off sales premises:-

- ☐ Public houses ("Pubs").
- ☐ Night clubs.
- ☐ Large supermarkets.
- ☐ Off-Sales and local convenience stores.

2. The areas or localities the Board wishes to consult about are:-

Whitecrook.

Dalmuir.

Drumry/Linnvale/North Kilbowie.

Parkhall/Radnor Park.

Mountblow/Parkhall.

Goldenhill/Hardgate/Parkhall.

Faifley/Hardgate.

Dumbarton Central/Silverton/Townend.

Duntocher.

Dumbarton East - Barnhill/Crosslet/Milton/Bowling.

Dumbarton West - Brucehill/Dennytown/Kirktonhill.

Dumbarton North East - Bellsmyre/Silverton East.

Bonhill.

Renton.

Jamestown/Old Bonhill.

Alexandria/Balloch.

Balloch North East - Gartocharn/Mill of Haldane.

The Board wishes to consult on whether there is overprovision of the foregoing types of premises in these areas. The Board is keen to get the views on:-

- (a) Whether there is overprovision of premises within West Dunbartonshire licensed to sell alcohol.

Yes

(b) If there is such overprovision, in which areas is there overprovision?

**The Forum was happy with the areas of overprovision identified by the Board in the consultation, as undernoted:-**

**Whitecrook  
Dalmuir  
Drumry/Linnvale/North Kilbowie  
Parkhall/Radnor Park  
Mountblow/Parkhall  
Goldenhill/Hardgate/Parkhall  
Faifley/Hardgate  
Dumbarton Central/Silverton/Townend  
Duntocher  
Dumbarton East – Barnhill/Crosslet/Milton/Bowling  
Dumbarton West – Brucehill/Dennytown/Kirktonhill  
Dumbarton North East – Bellsmyre/Silverton East  
Bonhill  
Renton  
Jamestown/Old Bonhill  
Alexandria/Balloch  
Balloch North East – Gartocharn/Mill of Haldane**

(c) If there is overprovision, in what categories or types of premises is there overprovision?

**The Forum suggested keeping all categories or types of premises with the exception of restaurants and hotels as undernoted:-**

**Large supermarkets  
Off sales and local convenience stores  
Night clubs  
Public houses**

(d) If there is overprovision, why is there such overprovision?

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Reasons for overprovision must be relevant to the licensing objectives of:-

- ☐ preventing crime and disorder;
- ☐ securing public safety;
- ☐ preventing public nuisance;
- ☐ protecting and improving public health; and
- ☐ protecting children from harm.

The current overprovision policy at Part 4 of the Statement of Licensing Policy <http://www.west-dunbarton.gov.uk/law-and-licensing/west-dunbartonshire-licensing-forum/licensing-guidelines-policies/> creates a strict rebuttable presumption that the onus is very clearly on the applicant to show that the grant of the application would not undermine the licensing objectives such as the protecting and improving public health and prevention of crime and disorder objectives etc. The Board wishes also to consider whether a refinement to its existing policy is required to the terms of the current rebuttable presumption to consider formally in its policy the health benefits associated with increased employment opportunities. This would allow applicants to demonstrate such to the Board in support of their application and with close regard to the health objective. The full rationale behind such is set out in the Board report dated 11 June 2013 entitled "Licensing Policy Statement - Overprovision" The Board has referenced academic research in this regard "Is Work Good for You" by Waddell and Burton. <http://wdccmis.west-dunbarton.gov.uk/cm5/Committees/May2012toPresent.aspx> at paragraphs 4.17 - 4.20.

The Board is, accordingly, keen to get the views on:-

- (e) Do you agree that the Board should refine its policy to consider the positive health benefits associated with increased employment opportunities as a factor that applicants can demonstrate in support of their application and a factor that may rebut such a presumption?

**Forum members voted that the Board should not refine its policy to consider the positive health benefits associated with increased employment opportunities as a factor that applicants can demonstrate in support of their application and a factor that may rebut such a presumption.**

**Concerns articulated by members included the point that the creation of jobs could result in job losses elsewhere. It was also described as a side issue to addressing overprovision and could be used as another 'in' for an applicant's solicitor to convince the Board to grant in an area of overprovision. A point was made that the counter argument to the positive health benefits associated with increased employment would be left to objectors and many lawyers could lead the debate one way and objectors, ie health representatives, community associations would not have the**

**foresight into the argument put forward by a solicitor with licensing expertise ie solicitors for national operators or larger supermarkets.**

### **Further Steps**

At the end of the consultation, a report will come back to West Dunbartonshire Licensing Board who will decide whether to include an overprovision policy in respect of any area or types of premise in its Licensing Policy Statement. The effect of an overprovision policy is that there will be a presumption that the Board will not grant a new licence within any area and category of premise covered by the overprovision policy, subject to the refinement above.