

19 September 2011

Your Ref: WDLBPREM/0254

Our Ref: L/L300/GS/PEW



**STRATHCLYDE
POLICE**

CHIEF CONSTABLE

Stephen House QPM

The Clerk
West Dunbartonshire Council
Licensing Board
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Dear Sir

**LICENSING (SCOTLAND) ACT 2005, SECTION 36
PREMISES LICENCE REVIEW APPLICATION
PREMISES – LINNVALE GROCERS, 131 LIVINGSTONE STREET,
CLYDEBANK, G81 2RG
PREMISES NUMBER WDLBPREM/0254
PREMISES LICENCE HOLDER – NASEEM WAHEED, 269 NITHSDALE ROAD,
GLASGOW, G41 5AW
DESIGNATED PREMISES MANAGER – MOHAMMAD AFZAL, 269 NITHSDALE
ROAD, GLASGOW, G41 5AW**

In terms of Section 36(1) of the Licensing (Scotland) Act 2005, the Chief Constable hereby makes application to the Licensing Board for a review of the premises licence in respect of the premises known as Linnvale Grocers, 131 Livingstone Street, Clydebank, G81 2RG.

The Chief Constable makes application in terms of Section 36(3)(b) on grounds relevant to one or more of the licensing objectives as articulated at Section 4(1) of the 2005 Act, namely,

- preventing crime and disorder.

In support of this application, the following information is provided for your consideration.

Test purchasing provides police with an effective tool in the fight against underage sales and underpins the "no-proof no sale" provision which represents a vital safe-guard in tackling underage drinking and the resultant anti-social behaviour which adversely effects many communities.

Strathclyde Police employs stringent controls for the recruitment of test purchasers and the conduct of test purchase operations. Standard Operating Procedures which ensure operations are carried out safely, fairly and effectively were prepared only after consultation with the various stakeholders, including:

- Scotland's Commissioners for Children and Young People
- The Society of Chief Officers for Trading Standards in Scotland
- The Association of Chief Police Officers in Scotland
- The Convention of Scottish Local Authorities
- The Scottish Executive Enforcement Advisory Group on Age Restricted Sales and
- The Crown Office.

The young person – who must be between 16 and 16½ years of age at the time of test purchase operation – is continually assessed on their appearance, level of maturity and general character. Importantly, if, in the opinion of the lead officer, the young person looks older than 16½ years of age, the young person will **not be used in a test purchase operation**.

The test purchaser is told that all questions asked by the seller must be answered truthfully. In particular, if challenged, the test purchaser must state their correct age and, if the initial attempt to buy alcohol is refused, the test purchaser must not try to persuade or coerce staff to make a sale.

These steps are taken to minimise the likelihood of a careless mistake which should, in any event be less likely in licensed premises adhering to a challenge 25 policy and where all staff have received training in accordance with the legislative provisions. In all cases, training should cover offences under the Act, particularly those involving persons under the age of 18, proof of age under Section 102 and 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007 (8a). In short, licensed premises will pass a test purchaser operation if they simply challenge the test purchaser regarding his/her age.

A test purchase operation may be carried out on a premises for either of the following reasons:

- there is intelligence to suggest that alcohol is being sold illegally to persons under 18 years of age from specific licensed premises and/or
- there is intelligence indicating that persons under 18 years of age are consuming alcohol in the locality where the licensed premises are also situated.

Against that background, I would advise Your Honours there is intelligence from a wide number of sources including Police Officers and members of the community, indicating that young adults are regularly abusing alcohol in the Clydebank area. Furthermore, it is suspected that this alcohol is being sourced locally from offsales premises. In light of information gathered, it was decided to conduct test purchase operations for alcohol at six licensed premises identified within the Clydebank area.

At 7.15pm on Friday 29 July 2011, a test purchase was conducted at the subject premises and a test purchaser was sold a four can pack of Stella Artois lager without being asked for identification or being challenged as to their age. Consequently, the person who served the test purchaser, Mohammad Afzal, designated Premises Manager, is now the subject of a report to the Procurator Fiscal at Dumbarton, regarding the Contravention of Section 102 of the Licensing (Scotland) Act 2005.

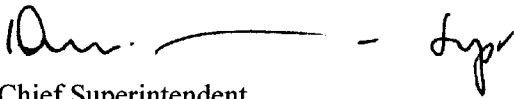
A test purchaser, assisting Strathclyde Police, on 29 July 2011, was 16½ years of age and conducted five other test purchase operations within the same locality that evening. In all other premises staff refused to sell alcohol to the test purchaser on the grounds that the test purchaser appeared to them to be too young to buy alcohol.

On the evening of Friday 19 August 2011, a second test purchase operation was conducted at the premises. On that occasion, alcohol was not sold to the test purchaser.

Whilst it is for Your Honours to consider the grounds and take appropriate action, it is the Chief Constable's position that as a consequence of the act and omissions I have detailed, the premises have not operated in terms of the crime prevention objective, which you will appreciate is one of the core principals of the 2005 Act.

If satisfied that a ground for review has been established, Your Honours may wish to consider appropriate action under the terms of Section 39(2) of the Act, for the purpose of the licensing objectives.

Yours faithfully



Chief Superintendent
Divisional Commander