

WEST DUNBARTONSHIRE LICENSING BOARD

At a Special Meeting of West Dunbartonshire Licensing Board held in Meeting Room 3, Council Offices, Garshake Road, Dumbarton on Tuesday, 25 October 2011 at 10.05 a.m.

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

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

Also Attending: Sergeant George Stewart, Licensing Sergeant, Strathclyde Police.

Apologies: Apologies for absence were intimated on behalf of Councillors Gail Casey and Jonathan McColl.

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 at this point in the meeting.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Board held on 16 August 2011 were submitted and approved as a correct record.

AN UPDATE OF ALCOHOL SALES AND PRICE BAND ANALYSIS - REPORT BY NHS HEALTH SCOTLAND - AUGUST 2011

A report was submitted by the Clerk to the Licensing Board:-

- (a) advising of new data published by NHS Health Scotland in August 2011 detailing the volume of pure alcohol sold in premises across a range of price bands for main drink categories; and
- (b) providing information on trends.

Having heard the Clerk to the Licensing Board in further explanation of the report, the Board agreed to note that the report supported the conclusion of the overprovision assessment that most health related problems were driven by sales of cheap off-sales alcohol, the bulk of which was sold by large supermarket chains.

NON-PAYMENT OF ANNUAL FEES

In terms of Section 37 of the Licensing (Scotland) Act 2005, the Clerk to the Licensing Board provided an update on the position concerning the non-payment of annual fees and thereafter invited Members to consider whether to hold review hearings for those premises who had not paid annual fees.

After discussion and having heard the Clerk to the Licensing Board and the Licensing Standards Officer in further explanation of the report and in answer to Members' questions, the Board agreed:-

- (1) that all premises licence holders who had not yet paid annual fees for 2011/2012, would be cited to attend a hearing at the meeting of the Licensing Board on Tuesday, 8 November 2011; and
- (2) that should premises licence holders pay outstanding fees prior to the meeting of the Board on 8 November 2011, they would not be required to attend a hearing with the exception of a premises licence holder who habitually had not paid the annual fee within the required time period for 3 consecutive years.

PREMISES REVIEW FOR LINNVALE GROCERS, 131 LIVINGSTONE STREET, CLYDEBANK G81 2RG

In terms of Section 36(3)(b) of the Licensing (Scotland) Act 2005, the Licensing Board received notification from the Chief Constable of Strathclyde Police that Naseem Waheed, the Licence Holder in respect of the above premises, was in breach of the licensing objective of preventing crime and disorder.

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 the premises licence holder, Mrs Waheed and the Designated Premises Manager, Mr Mohammad Afzal, were in attendance;
- (c) that a copy of the letter from the Police authority and a report from the Licensing Standards Officer (LSO) 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 George Stewart was in attendance on behalf of the Chief Constable of Strathclyde Police.

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. Thereafter, the Board would hear from the LSO and then there would be a further opportunity for questions. The Board would then hear from the licence holder with a further opportunity for questions. Thereafter, the Board would debate the matter and should there be a motion to suspend the licence, then the licence holder would have the opportunity to address the Board on the period of the suspension. It was noted that a further and separate motion would be required on the period of suspension.

Following a request from the Chair, it was noted that there were no preliminary issues to be addressed.

The Board then heard from Sergeant Stewart in relation to the circumstances outlined in the Police letter dated 19 September 2011 and 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 thereafter both he and Sergeant Stewart were heard in answer to Members' questions concerning the lack of entries in the refusals register prior to August 2011 and the alleged removal of a refusals register from the premises by Strathclyde Police. It was noted that Sergeant Stewart, having no knowledge of the removal of a refusals register by the Police authority, would investigate the whereabouts of the missing refusals book.

Having heard the Chair, Councillor Brown, Mr Afzal was then given the opportunity to address the Board in relation to the aforementioned police report and in doing so, provided information on the circumstances which had led to the failed test purchase.

In response to questions from Members, Mr Afzal advised that he had been busy at his till on the evening in question and recalled that he had been of the opinion that the test purchaser was over the age of 18 years of age given his physical appearance and that admittedly, he had not asked for identification at the point of sale of the alcohol. He also answered questions concerning the training of staff at the premises in response to concerns from Members regarding the presence of a blank training manual which had been signed by an individual responsible for training at the premises.

Following discussion and having heard the Clerk to the Licensing Board in clarification of procedural issues, Councillor R. McColl, seconded by Councillor Brown, moved:-

that the premises licence be varied to amend the terminal hour for the sale of alcohol to 8.00 p.m. If the premises were fully compliant after 6 months, then an application could be submitted to the Board for enhanced hours

Councillor Calvert, having earlier proposed an amendment, withdrew his amendment in support of Councillor Black's undernoted amendment.

As an amendment, Councillor Black, seconded by Councillor Calvert, moved:-

that the premises licence be varied to amend the terminal hour for sale of alcohol to 8.15 p.m., that the Board's requirement for post 8.00 p.m. enhanced control measures be adhered to and that it be open to the applicant to submit an application to the Board to trade to 10.00 p.m. at any point.

On a vote being taken, 2 Members voted for the amendment (namely Councillors Black and Calvert) and 3 Members voted for the motion (namely Councillors Brown, Finn and R. McColl). The motion was accordingly declared carried.

Having heard the Chair, Councillor Brown, the Board considered whether to suspend the licence.

Councillor R. McColl, seconded by Councillor Finn, moved:-

that the premises licence be suspended.

As an amendment, Councillor Calvert, seconded by Councillor Black, moved:-

that the premises licence is not suspended.

On a roll call vote being taken, 2 Members voted for the amendment (namely Councillors Black and Calvert) and 3 Members voted for the motion (namely Councillors Brown, Finn and McColl). The motion to suspend the premises licence was accordingly declared carried.

Thereafter Mr Afzal was given the opportunity to address the Board on the period of suspension. It was noted that Mr Afzal considered a short suspension to be an appropriate period in the circumstances.

Councillor R. McColl, seconded by Councillor Finn, moved:-

- (i) that the premises licence be suspended for a period of 4 weeks;
- (ii) that Licensing Standards Officers be instructed to work with the premises licence holder to ensure that the premises become compliant with the Board's Licensing Policy Statement; and
- (iii) that the Board make a finding under Section 84 of the Licensing (Scotland) Act 2005 that Mr Mohammad Afzal, the Designated Premises Manager, while working at the premises, acted in a manner inconsistent with the licensing objective of preventing crime and

disorder. This would require a Hearing to be held before West Dunbartonshire Licensing Board to consider the Personal Licence held by Mr Afzal.

Councillor Calvert, seconded by Councillor Black, moved:-

That the licence be suspended for one day given that the premises had failed one test purchase and thereafter passed a second test purchase with the reprisal that should matters as regards the operation of the premises be remedied to the Board's satisfaction, then an application to revoke the suspension could be considered at a future meeting of the Board.

On a roll call vote being taken, 2 Members voted for the amendment (namely Councillors Black and Calvert) and 3 Members voted for the motion (namely Councillors Brown, Finn and McColl). The motion was accordingly declared carried.

Following discussion, the Board agreed:-

- (1) that a report proposing a mandatory condition that all off sales licensed premises must have suitable enhanced control measures in place regardless of their trading hours would be submitted to a subsequent meeting of the Licensing Forum for consideration as part of a review of the Board's Licensing Policy Statement; and
- (2) that, in future, a copy of the procedure for Hearings would be issued to Board Members and applicants/premises licence holders in advance of a hearing.

The meeting closed at 11.25 p.m.