

WEST DUNBARTONSHIRE LICENSING BOARD

At a Meeting of West Dunbartonshire Licensing Board held in the Council Chamber, Clydebank Town Hall, Dumbarton Road, Clydebank on Tuesday, 16 November 2010 at 10.00 a.m.

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

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

Also Attending: Inspector Emma Grimason, Sergeant George Stewart, Licensing Sergeant and Karen Queen, Strathclyde Police.

Apology: An apology for absence was intimated on behalf of Councillor Jonathan McColl.

Councillor Jim Brown in the Chair

DECLARATION 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 Meeting of the Licensing Board held on 19 October 2010 were submitted and approved as a correct record.

APPOINTMENT OF DEPUTE CHAIR

The Board considered the appointment of Depute Chair to enable a depute to attend meetings in the absence of the Chair.

Thereafter, the Board agreed that Councillor Ronnie McColl be appointed Depute Chair.

**PREMISES LICENCE REVIEW FOR PEKING COTTAGE,
577 GLASGOW ROAD, HARDGATE, CLYDEBANK**

In terms of Section 36(1) of the Licensing (Scotland) Act 2005, the Licensing Board considered an application for review of the Premises Licence from the Chief Constable of Strathclyde Police in relation to Peking Cottage 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 Mrs Suet Fan Chan, Owner/Designated Premises Manager was in attendance on behalf of the applicant and was represented by Ms Celine Davenport, Licensing Consultants;
- (c) that a copy of the letter from the Police authority and a report from the Licensing Standards Officer 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
- (d) that Inspector Emma Grimason and Sergeant George Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police.

Thereafter, the Clerk advised that the procedure which the hearing would follow would be that the Board would hear from the representative of the Police in relation to the review hearing request and that there would be an opportunity for the Applicant and the Board to ask questions. Thereafter, the Board would hear from the Licensing Standards Officer and that there would be a further opportunity for questions. The Board would then hear from Mrs Chan and her representative Ms Davenport 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 in answer to Members' questions.

Sergeant Stewart also provided an update from the United Kingdom Border Agency (UKBA) in relation to the case and advised that the decision of the Civil Penalties Unit, Manchester was to issue a Notice of Liability for £25,000 to the employer at the premises.

Mrs Chan and her representative Ms Davenport were then given the opportunity to address the Board in relation to the aforementioned report. In her submission, Ms Davenport advised that Mrs Chan, as owner of the premises, accepted full responsibility for the employment of illegal immigrants at Peking Cottage, advising that she did not carry out the required checks on the eligibility of staff to work in the UK and therefore fully accepted the penalty imposed on her by the UKBA. When she had taken over the business the staff were already in situ and living above the

restaurant. Staff were paid in cash. Mrs Davenport further advised that Mrs Chan, by virtue of her other job in Falkirk Council, was fully aware of her requirements as an employer.

Thereafter, Ms Davenport circulated copies of immigration documentation for the eligibility of employees currently employed at the premises and documentation on the checks carried out on employees at the time of UKBA's visit to the premises.

The Board then heard from Mr Peter Clyde, Licensing Standards Officer 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 premises licence. It was noted that the LSOs had revisited the premises on 28 October 2010 and there were no issues of non compliance.

Thereafter Ms Davenport and Mrs Chan answered questions from Members, providing information on the circumstances outlined in the letter from the Police authority.

After consideration and having heard the Clerk to the Licensing Board in answer to Members' questions, Councillor R. McColl, seconded by Councillor Calvert, moved:-

That the premises licence be revoked on the grounds relevant to the licensing objective of preventing crime and disorder following consideration of the information provided in the letter from Strathclyde Police. The Board views the breach of immigration, PAYE and national insurance legislation, by a licence holder who admitted to being aware of this legislation, as a serious breach of this licensing objective.

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

That the review hearing be continued for a year to allow the premises to be kept under increased scrutiny in relation to the crime prevention objective. Given the financial penalty imposed by the UKBA, to completely remove the premises licence would be too heavy a sanction at this stage.

Having heard the Clerk to the Licensing Board, the Board agreed to proceed by way of a Roll Call Vote.

On a vote being taken, 3 Members voted for the amendment (namely Councillors Black, Finn and McAllister) and 3 for the motion (namely Councillors Brown, Calvert, and R. McColl).

There being an equality of votes, Councillor Brown exercised his casting vote in favour of the motion which was accordingly declared carried.

**PREMISES LICENCE REVIEW FOR NISA DAY TO DAY,
151 MOUNTBLOW ROAD, CLYDEBANK**

In terms of Section 36(1) of the Licensing (Scotland) Act 2005, the Licensing Board considered an application for review of the Premises Licence from the Chief Constable of Strathclyde Police in relation to Tamour Trading Limited, the Licence Holder in respect of the above premises.

The Board then heard from the Clerk to the Licensing Board in relation to a request from the agent for the licence holder for a continuation of the Review Hearing following advice that further checks were being carried out on the eligibility of the member of staff referred to in the Police letter to work in the United Kingdom. The Clerk advised that the same premises had been the subject of a separate Premises Review in May 2010 in relation to a drink driving offence in Troon and that the Hearing had been continued pending the outcome of the case. It was noted that the results of the case were now known and if the continuation was allowed, it would enable the Board to hold a Hearing to consider the outcome of that case as well as the current hearing in relation to the employment of an illegal immigrant at the premises.

Following consideration, the Board agreed that the hearing be continued to the next meeting of the Licensing Board.

NON PAYMENT OF ANNUAL FEES

The Clerk to the Licensing Board provided an update in relation to the non-payment of annual fees for 2010 - 2011. It was noted that cheque payments for outstanding annual fees had been received at the Board Meeting from Radnor Hotel and Naked Grape.

Following consideration, it was agreed that should there be any issue with the clearance of the cheques, then Review Hearings to consider non-payment of annual fees at these premises would be held at a Special Meeting of the Licensing Board on Monday, 6 December 2010.

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

Ref No: WD/0599

Name and Address of Applicant: Thomas Murray, 35 Oxhill Place,
Dumbarton G82 4EX

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

Having heard Councillor Brown, it was noted:-

- (a) that a letter dated 31 August 2010 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 the Licensing Sergeant were in attendance at the meeting in order that a hearing could take place.

The Board then heard from Sergeant Stewart who provided information on the offence as detailed in the letter from the Police and answered questions from Members.

The Board heard from the Applicant who was given the opportunity to address the Board in support of his application.

After consideration the Board agreed that the application be granted.

Note: Councillor Black left the meeting following consideration of the above item.

APPLICATIONS FOR VARIATION OF PREMISES LICENCE IN TERMS OF THE LICENSING (SCOTLAND) ACT 2005

Applications for Variation of Premises Licence were submitted by the undernoted applicants in respect of the undernoted premises:-

(a) WDLBPREM/0154

Name and Address of Premises: Dumbarton Harp Social Club, 141-143 High Street, Dumbarton G82 1LE

Applicant/Licence Holder: Dumbarton Harp Social Club, 141-143 High Street, Dumbarton G82 1LE

The Board noted:-

- (1) that the Designated Premises Manager, Mr Peter Conlin, was in attendance at the meeting; and
- (2) that the proposed variation involved a change to the Operating Plan when alcohol would be sold for consumption on the premises on a Sunday from 11.00 a.m. to 12 midnight.

The Board agreed that the application be granted.

(b) WDLBPREM/0205

Name and Address of Premises: The Tullie Inn, Balloch Road, Balloch
G83 8SE

Applicant/Licence Holder: Maclay Inns Limited, Unit 2/4, The E
Centre, Cooperage Way Business Village,
Alloa FK10 3LP

The Board noted:-

- (1) that the applicant was represented at the meeting by Mr Frank Collins, Brunton Miller Solicitors; and
- (2) (a) that the proposed variation involved a change to the Operating Plan as undernoted:-
 - (i) that alcohol would be sold for consumption on the premises on a Sunday from 11.00 a.m. to 12 midnight; and
 - (ii) that alcohol would be sold on Monday to Sunday from 10 a.m. for funerals only;
- (b) that the terms under which children and young persons will be allowed entry be amended to read as follows:-

“Children and Young Persons, **who are non-resident**, will be allowed access to the premises providing they are accompanied by an adult (i.e. a person over 18 years of age). **Resident Children and Young Persons will have unlimited access throughout the whole of the premises area**”.
- (c) that the first paragraph at question 5 of the Operating Plan be amended to read as follows as per the insertion of the highlighted wording:-

“The premises trade as a Hotel and therefore require to provide facilities for their residents on a twenty four/seven basis. In addition, they will host Conferences, Receptions and the like, some of which may commence prior to the commencement of the core licensed hours and facilities for delegates would require to be provided on those occasions. For the avoidance of doubt, alcohol (other than to residents and their guests in terms of Section 63 of the Licensing (Scotland) Act 2005 will be sold only **during the core licensed hours** and with the exception of funeral receptions when alcohol may be sold from 10.00 a.m.”

Mr Collins intimated the withdrawal of the variation relating to children detailed at 2(b) above. Thereafter, following consideration of the application and having heard Mr Collins in answer to Members’ questions, the Board agreed, subject to the Board’s Policy, that the application be approved as undernoted:-

- (i) that alcohol would be sold for consumption on the premises on a Sunday from 11.00 a.m. to 12 midnight;
- (ii) that alcohol would be sold on Monday to Saturday from 10.00 a.m. for funerals only in line with the Board's Policy;
- (iii) to note that paragraph (b) above was withdrawn by the applicant; and
- (iv) that paragraph (c) above be approved.

The meeting closed at 11.12 a.m.