

## **WEST DUNBARTONSHIRE LICENSING BOARD**

At a Special Meeting of West Dunbartonshire Licensing Board held in Meeting Room 2, Council Offices, Garshake Road, Dumbarton on Tuesday, 14 June 2011 at 10.00 a.m.

**Present:** Councillors George Black, Jim Brown, Geoff Calvert, Gail Casey, Jim Finn, Jonathan McColl and Ronnie McColl.

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

**Also Attending:** Chief Inspector Fraser Candlish and Sergeant George Stewart, Licensing Sergeant, Strathclyde Police.

**Apology:** An apology for absence was intimated on behalf of Councillor Douglas McAllister.

**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 the Meeting of the Licensing Board held on 10 May 2011 were submitted and approved as a correct record.

### **PREMISES REVIEW FOR SHELL GARAGE, 2333 GREAT WESTERN ROAD, CLYDEBANK G81 2XT**

In terms of Section 38(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 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 both Mr Stephen Harrison and Mr Gary Haugh, Company Directors of GS Kilmarnock Ltd, were in attendance on behalf of the applicant;
- (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; and
- (d) that Inspector Candlish and Sergeant Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police.

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 Officers and then there would be a further opportunity for questions. The Board would then hear from the applicant with a further opportunity for questions.

It was noted that there were no preliminary issues raised.

The Board then heard from Sergeant Stewart in relation to the circumstances outlined in the Police letter which had been submitted. Sergeant Stewart also provided an update from the Procurator Fiscal's office and in doing so, advised that the Procurator Fiscal had requested further information before deciding on the proceedings on the case.

Thereafter, Sergeant Stewart and the Licensing Standards Officers were heard in answer to questions from Members.

The Board then heard from Mr Peter Clyde, 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 was heard in answer to questions from Members. It was noted that Mr Clyde had carried out two compliance visits to the premises following the failed test purchase and that on both occasions, there were no issues of non compliance.

Mr Harrison was then given an opportunity to address the Board in relation to the aforementioned police report. Thereafter he answered questions from Members, advising that a new member of staff had made the sale on the evening in question which he felt had contributed to the failed test purchase. Mr Harrison then provided information on the age identification checks and training procedures in place at the premises. He also provided information on the steps taken to prevent any future sale of alcohol to underage persons.

After consideration and having heard Mr Harrison in answer to Members' questions, the Board agreed unanimously:-

- (1) to hold that the ground for review of preventing crime and disorder was established;
- (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 in respect of the failed test purchase advising of the serious view that the Board takes of licensees who fail to comply with the law, particularly when the contravention relates to the alleged sale or supply of alcohol to persons under the age of 18;
- (3) to vary the licence under Section 39(2)(b) of the 2005 Act to require that refresher training be undertaken by all members of staff at the premises every 3 months for the next 12 month period and that Licensing Standards Officers be instructed to monitor the refresher training; and
- (4) that the illegal sale of alcohol would be taken into consideration should there be any future breach of legislation or licensing policy.

**PREMISES REVIEW FOR DILLICHIP STORES,  
1 DILLICHIP TERRACE, BONHILL, ALEXANDRIA G83 9HZ**

In terms of Section 38(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 Mr Wiktor Januszz Karasinski, 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 Karasinski, the licence holder was in attendance and was represented by Mr John Gilmour, McArthur Stanton Solicitors;

- (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 copies had been received by the licence holder; and
- (d) that Inspector Candlish and Sergeant Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police.

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

The Board then heard from Sergeant Stewart who provided information on the circumstances relating to the offence where alcohol had been sold to a 16 ½ year old youth on 25 March 2011 during a test purchase operation. Sergeant Stewart also provided an update from the Procurator Fiscal's office and advised that a pleading diet for the pending case had been set for Thursday, 16 June 2011.

The Board then heard from the Mr Clyde, 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. It was noted that the LSOs had carried out two compliance visits to the premises in January 2010 and another in relation to the current review application. On both occasions there were issues of non-compliance.

Having heard Mr Clyde in answer to questions from Members, it was noted that the terminal hour for sale of alcohol at the premises was 8.00 p.m. and the failed test purchase operation had been carried out at 8.25 p.m. Mr Gilmour advised that it was his clients understanding that the terminal hour at weekends was 9 p.m. The Board noted that, during the test purchase operation, alcohol may have been sold outwith the permitted licensed hours.

After consideration of the new information concerning the possible sale of alcohol outwith licensed hours and having heard the Clerk to the Licensing Board in answer to questions from Members, the Board agreed:-

- (1) that the review hearing be continued to a future meeting to enable the Board to consider the new information concerning the sale of alcohol outwith licensed hours and to give the licence holder fair notice that this would be considered; and
- (2) that both the Licensing Officers and Strathclyde Police be instructed to investigate the sale of alcohol outwith licensed hours at the premises which had come to light during the hearing and report back to the Board.

**PREMISES REVIEW FOR AHMAD BROS (SPAR STORES),  
122 BARNS STREET, WHITECROOK, CLYDEBANK G81 2RB**

In terms of Section 38(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 the Firm of Ahmad Bros, 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 Hamad, the Premises Licence Holder was in attendance and was represented by Ms Karen Yule, PRG Partnership Solicitors;
- (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 copies had been received by the licence holder; and
- (d) that Inspector Candlish and Sergeant Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police.

It was noted that there were no preliminary issues raised.

The Board then heard from Sergeant Stewart in relation to the circumstances outlined in the Police letter which had been submitted.

The Board then heard from Mr Clyde, 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 was heard in answer to questions from Members. It was noted that there were no issues of non-compliance.

Ms Yule was then given the opportunity to address the Board in relation to the circumstances that led to the failed test purchase on 25 March 2011 and thereafter, answered questions from Members concerning the age identification policy and training procedures in place at the premises.

After consideration and having heard Ms Yule in answer to Members' questions, the Board agreed:-

- (1) to hold that the ground of review of preventing crime and disorder was established;
- (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 in respect of the failed test purchase advising of the serious view that the Board takes of licensees who fail to comply with the law, particularly when the contravention relates to the alleged sale or supply of alcohol to persons under the age of 18;
- (3) to vary the licence under Section 39(2)(b) of the 2005 Act to require that refresher training be undertaken by all members of staff at the premises every 3 months for the next 12 month period and that Licensing Standards Officers be instructed to monitor the refresher training;

- (4) to vary the licence under Section 39(2)(b) of the 2005 to include the requirement for a refusals book to be kept at the premises and that the upkeep of this be monitored by the LSOs;
- (5) to note the disappointment expressed by the Board given that the test purchase failure had been carried out by the Premises Licence Holder in this case and not a member of staff; and
- (6) that the illegal sale of alcohol would be taken into consideration should there be any future breach of legislation or licensing policy.

**PREMISES REVIEW FOR CHEERS LICENSED GROCERS,  
2 DALGLEISH AVENUE, DUNTOCHER, CLYDEBANK G81 6DU**

In terms of Section 38(1) of the Licensing (Scotland) Act, the Licensing Board considered an Application for Review of the Premises Licence from the Chief Constable of Strathclyde Police in relation to Anil Kumar Randev, 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 Anil Kumar Randev, the licence holder at the above premises was in attendance and was represented by Mr James Arrol, Solicitor, the Firm of Aamer Anwar & Co Solicitors;
- (c) that a copy of the letter from the Police authority dated 11 May 2011 and a report from the Licensing Standards Officer dated 25 May 2011 had been issued to Members of the Board in advance of the meeting; and
- (d) that Inspector Candlish and Sergeant Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police.

Mr Arrol confirmed that his client had received the letter from Strathclyde Police and report from the Licensing Standards Officer and there were no preliminary issues.

In this regard, the Board heard from Sergeant Stewart who advised that the pleading diet in relation to the charges against Mr Randev had been heard on 10 June 2011 at which Mr Randev had pled guilty and that the sentence had been deferred to 20 June 2012. As a result the matter was no longer subjudice and that further information could be provided by Strathclyde Police on the circumstances which led to the conviction.

The Board then heard from Mr Arrol concerning the agreed oration resulting from the case calling at Dumbarton's Justice of Peace Court on Friday, 10 June 2011. Thereafter, the Board noted that the wording of the conviction had been "you did assault a person unknown, and did repeatedly punch, kick and strike her on the head and body". The wording "push her to the ground" had been deleted from the charge.

The Board then heard from Sergeant Stewart who provided a summary of evidence from the case.

Councillor Jonathan McColl advised that having heard the submission from Sergeant Stewart he may know the main witness. He therefore declared a non-financial interest and left the room. Councillor Jim Finn advised that as well as shopping in the premises he might also know the witness. He also declared a non-financial interest and left the room. The meeting remained quorate.

Following discussion and having heard Sergeant Stewart and Chief Inspector Candlish in answer to Members' questions, it was noted that, to date, CCTV evidence from Mr Randev's shop had not been provided.

Thereafter Mr Arrol was given the opportunity to ask questions of Strathclyde Police. 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 Premises Licence. He then answered questions from Members, providing information on the issues of non-compliance at the premises and the affect of the flood in December 2010 on the lack of control measures at the premises.

Thereafter, the Board heard from Mr Arrol on behalf of the Licence Holder. Mr Arrol provided information on Mr Randev's account of the circumstances leading to his conviction and provided information on the steps taken to ensure all required control measures were in place at the premises. It was noted that Mr Randev had pled guilty to the offence and that the matter had been deferred for a period of 12 months for good behaviour.

Following consideration and having heard the Clerk to the Licensing Board in answer to Members' questions, the Board unanimously agreed that in light of the degree of loss of control and violence involved in the incident, the risk of further violent incidents and the extent of Mr Randev's involvement in the running of the premises, the ground of review of preventing crime and disorder was established. The Board also unanimously agreed that the premises licence be suspended on the ground relevant to the objective of preventing crime and disorder.

The Board then heard from Mr Arrol who addressed the Board on the period of suspension. It was noted that Mr Arrol considered a 3 month period to be an appropriate period of suspension in the circumstances.

Councillor Calvert seconded by Councillor Ronnie McColl moved that:-

- (1) the premises licence be suspended for 12 months; and
- (2) the Board make a finding in terms of Section 84 of the Licensing (Scotland) Act 2005 that Mr Randev, a personal licence holder who was working in the premises acted in a manner which was inconsistent with the licensing objective of preventing crime and disorder.

Councillor Black moved that the premises licence be suspended for a period of 6 months but failed to find a seconder. Subject to noting Councillor Black's dissent to the period of suspension, the Board following discussion unanimously agreed:-

- (1) that the ground of review of preventing crime and disorder had been established and that the premises licence be suspended for a period of 12 months in terms of Section 39(2)(c) of the Licensing (Scotland) Act 2005;
- (2) that in terms of Section 84(2) of the Licensing (Scotland) Act 2005 and having regard to item (1) above, that a Personal Licence Holder, Mr Anil Kumar Randev, had acted in a manner which was inconsistent with the licensing objective of preventing crime and disorder; and
- (3) that in terms of Section 84(3)(a) of the Licensing (Scotland) Act 2005, that a Hearing be held before West Dunbartonshire Licensing Board to consider the Personal Licence held by Mr Randev given the findings of the Licensing Board.

### **ADJOURNMENT**

Having heard the Chair, the Board agreed to adjourn for a period of 10 minutes. Thereafter the meeting reconvened at 12.30 p.m. with those Members listed on the sederunt with the exception of Councillors Casey, Finn and R. McColl.

### **PREMISES REVIEW FOR COLQUHOUN STORES, 1 DOVEHOLM AVENUE, DUMBARTON G82 2HJ**

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 Northkeel 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 Savjit Uppal, the Designated Premises Manager was in attendance on behalf of the applicant and was represented by Mr Archie Macivor, Brunton Miller Solicitors;
- (c) that a copy of the letter from the Police authority and a report from the LSOs had been issued to Members of the Board in advance of the meeting and that copies of both had been received by the licence holder; and
- (d) that Inspector Candlish and Sergeant Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police.

The Board then heard from Sergeant Stewart in relation to the circumstances outlined in the Police letter which had been submitted.

Both Sergeant Stewart and the Licensing Standards Officers were then heard in answer to Members' questions concerning the circumstances relating to the sale of alcohol to a 16 ½ year old youth at the premises on Friday, 4 March 2011 and the subsequent use by the premises of ultra violet note checker to identify any false proof of age materials.

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 premises licence and thereafter, answered questions from Members. It was noted that Mr Knighton had revisited the premises on 24 May 2011 and that the premises were found to be fully compliant with the requirements of both the Licensing (Scotland) Act 2005 and the Board's Licensing Policy Statement. It was further noted that the premises had also been fully compliant on previous visits to the premises on 11 January 2010 and 1 April 2011.

Mr Macivor was then given the opportunity to address the Board in relation to the aforementioned report. In his submission, Mr Macivor advised that it was Mr Uppal's intention to plead 'Not Guilty' to the charge pending against him. His defence would be that he had taken reasonable steps to establish the young person's age, having seen a driving licence on a previous occasion, and no reasonable person could have suspected from the young person's appearance that he was under 18. Thereafter, Mr Macivor provided information on the background relating to the offence and the steps taken to prevent any future sale of alcohol to underage persons.

With the permission of the Chair, Mr Macivor then distributed testimonials from local people in support of Mr Uppal and the service he provided to local people.

Following consideration, the Board unanimously agreed:-

- (1) to hold that the ground of review of preventing crime and disorder was established;

- (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 in respect of the illegal sale of alcohol advising of the serious view that the Board takes of licensees who fail to comply with the law, particularly when the contravention relates to the alleged sale or supply of alcohol to persons under the age of 18;
- (3) to vary the licence under Section 39(2)(b) of the 2005 to require that refresher training be undertaken by all members of staff at the premises every 3 months for the next 12 month period and that Licensing Standards Officers be instructed to monitor the refresher training;
- (4) that the illegal sale of alcohol would be taken into consideration should there be any future breach of legislation or licensing policy; and
- (5) to note that the Board had accepted an undertaking from the licence holder that a digital CCTV system, with a 31 day retention period, would be installed within the premises.

#### **NOTICE OF CONVICTION - PERSONAL LICENCE**

In terms of Section 83(7) of the Licensing (Scotland) Act, the Licensing Board considered a Notice of Conviction for Mr Scott Hastings, the holder of a Personal Licence following the receipt of a notice from Strathclyde Police in terms of Section 83(4)(b) confirming the existence of relevant convictions.

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

- (a) that in view of the letter from Strathclyde Police confirming the existence of relevant convictions in respect of the above personal licence holder; both the personal 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 Scott Hastings, the personal licence holder was in attendance, was represented by Ms Audrey Young, Hill Brown Licensing and accompanied by Mr Brian McLeod, Premises Manager of Morrisons, Partick;
- (c) that a copy of the letter from the Police authority 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 Candlish and Sergeant Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police.

The Board heard from the Clerk in the first instance who outlined the procedure which the hearing would follow. The Board would hear from the representative of the Police in relation to the relevant convictions and then there would be an opportunity for the licence holder and the Board to ask questions. Thereafter, the Board would hear from the licence holder and that there would be a further opportunity for questions.

It was noted that there were no preliminary issues raised.

The Board then heard from Sergeant Stewart in relation to the disposal of the relevant convictions outlined in the Police letter which had been submitted.

Thereafter, it was agreed that the further details on the circumstances leading to the convictions would be provided to the Board. The Board then heard from Sergeant Stewart who provided an analysis of the evidence from the offences.

Thereafter, Sergeant Stewart was heard in answer to questions from Members.

Ms Young was then given an opportunity to address the Board in relation to Mr Hastings' convictions. In doing so, she provided information on the steps taken by Mr Hastings to address his problem with alcohol and answered questions from Members.

With the permission of the Chair, Ms Young then distributed a letter of support from Dumbarton Area Council on Alcohol advising that Mr Hastings was attending counselling on a weekly basis to address his alcohol problem. Following consideration, the Board agreed:-

- (1) to make no order under Section 83(9) of the Licensing (Scotland) Act 2005;
- (2) to advise the licence holder of the serious view taken by the Board in relation to the circumstances of the offences and that it may well have viewed matters more seriously had Mr Hastings been employed in a vertical drinking establishment; and
- (3) to issue an informal warning letter to Mr Hastings advising that should there be any further relapses leading to further relevant offences, the Board would reserve the right to take any such offences and the circumstances giving rise to them into account in any subsequent Review Hearing.

#### **FOCUS GROUP DISCUSSION - EVALUATION OF THE IMPLEMENTATION OF, AND COMPLIANCE WITH, THE OBJECTIVES AND RELEVANT REQUIREMENTS OF THE LICENSING (SCOTLAND) ACT 2005**

The Board agreed that the Focus Group Discussion would be rescheduled to be held at a future date and time.

The meeting closed at 1.30 p.m.