

## **WEST DUNBARTONSHIRE LICENSING BOARD**

At a Special Meeting of West Dunbartonshire Licensing Board held in the Meeting Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 7 March 2012 at 2.00 p.m.

**Present:** Councillors George Black, Jim Brown, Jonathan McColl and Ronnie McColl.

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

**Also Attending:** Sergeant George Stewart, Licensing Sergeant, Strathclyde Police and Karen Queen, Strathclyde Police.

**Apologies:** Apologies for absence were intimated on behalf of Councillors Gail Casey and Jim Finn.

**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.

### **PREMISES REVIEW FOR CHANDLERS, 2 KILBOWIE ROAD, CLYDEBANK**

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 Trust Inns 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 Kathleen Chalmers, the Premises Licence Holder and Mr Anthony Dolan, Personal Licence Holder, were in attendance and were represented by Ms Joanna Brynes, Young & Partners LLP;
- (c) that a copy of the letter from the Police authority and a report by 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 Sergeant Stewart and Mrs Karen Queen were in attendance on behalf of the Chief Constable, 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.

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 that had been submitted. Sergeant Stewart read the letter from Strathclyde Police dated 3 February 2012 and provided an update from the Procurator Fiscal's office. In doing so, he advised that there would be no proceedings on the case given that any further action would be disproportionate to the offence.

The Board then heard from Mr Clyde, LSO who read from his report dated 28 February 2012, providing 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 there were no questions for the LSO.

Ms Brynes was then given the opportunity to address the Board in relation to the circumstances of the offence and in support of the Premises Licence Holder and her staff at the premises. She advised that Mr Dolan, the Personal Licence Holder and chargehand on duty at the premises when the offence occurred, was completely remorseful of the incident and was now fully aware of his responsibilities in terms of the Act. Ms Brynes provided information on the steps taken by management to discipline staff involved in the incident and also advised of the good character of Mr Dolan, giving examples of both charity work and community work undertaken by Mr Dolan in recent years. Thereafter, Ms Brynes answered questions from Members concerning training of staff following the offence at the premises and advised that staff had been re-trained by the Premises Licence Holder and that the updated training records had now been signed.

After consideration and having heard the Clerk to the Licensing Board in clarification of legal matters, the Board agreed:-

- (1) to hold that the ground of review for 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 offence advising of the serious view that the Board takes of licensees who fail to comply with the law;
- (3) that LSOs be instructed to carry out a check on the updated and signed training records for those staff at the premises who had been involved in the offence; and
- (4) to make a finding that Mr Dolan acted in a manner that was inconsistent with the Crime and Disorder Objective and that a Hearing under Section 84(3)(a) of the Licensing (Scotland) Act 2005 would be held to consider Mr Dolan's Personal Licence.

At the request of Mr Dolan, it was agreed that the Hearing to consider the Personal Licence held by Mr Dolan would take place at the meeting. It was noted that Mr Dolan was represented by Ms Brynes.

The Clerk then outlined the procedure that the Hearing to consider the Personal Licence held by Mr Dolan would follow. It was noted that firstly the Board would consider any preliminary issues. Thereafter, the Board would hear any further submissions from the Police in relation to the review of Mr Dolan's Personal Licence and then there would be an opportunity for the licence holder and the Board to ask questions. Thereafter, the Board would hear any further submissions from the LSO and then there would be a further opportunity for questions. The Board would then hear from licence holder with a further opportunity for questions. Thereafter, the Board would debate the matter and decide if any action was necessary.

It was noted that there were no preliminary issues raised.

Having heard from Sergeant Stewart, it was noted that the Police had no comment to make in relation to the Review of the Personal Licence.

Having heard from Mr Clyde, it was noted that Licensing Standards Officers had no comment to make in relation to the Review of the Personal Licence.

Ms Brynes was then given the opportunity to address the Board in relation to the review of Mr Dolan's Personal Licence and in doing so, re-iterated the points made previously in relation to the good character of Mr Dolan, advising that there had been no sale of alcohol at the premises on the evening in question and, furthermore, that there had been no intention to open the premises to the public on that evening.

Following discussion, the Board agreed:-

- (1) to make no order under Section 83(9) of the Licensing (Scotland) Act 2005; and

- (2) to issue an informal warning letter to Mr Dolan advising that should there be any 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.

The meeting closed at 2.35 p.m.