

WEST DUNBARTONSHIRE LICENSING BOARD

At a Meeting of West Dunbartonshire Licensing Board held in the Council Chambers, Council Offices, Garshake Road, Dumbarton on Tuesday, 8 November 2011 at 10.00 a.m.

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

Attending: Andrew Fraser, Clerk to the Licensing Board; Keith Bathgate, Planning Services Manager; John Stevenson, Section Head, Environmental Health; Colin Newman, Section Head, Building Control; Lawrence Knighton and Peter Clyde, Licensing Standards Officers 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

VICE CHAIR'S REMARKS

At the request of Councillor R. McColl, Vice Chair and having heard the Clerk in response, the Board agreed that item 14 entitled, 'Review Hearing for Non Payment of Annual Fees' would be considered later in the meeting to allow those licence holders who had not yet paid a final opportunity to pay.

Thereafter, the Board agreed:-

- (1) to note that the six premises licence holders, who had been cited to the meeting for non payment of annual fees, were not in attendance;
- (2) that LSOs be instructed to contact the six premises licence holders to advise them that they would be required either (a) to appear at the meeting of the Board scheduled to be held at 2.00 p.m.; or (b) to pay the outstanding annual fee prior to the commencement of the meeting at 2.00 p.m.; and
- (3) that should any of those premises licence holders fail to pay the outstanding annual fee, then the Board would hold a hearing to consider those premises.

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 Special Meeting of the Licensing Board held on 25 October 2011 were submitted and approved as a correct record.

WEST DUNBARTONSHIRE INTERMEDIATE DATA ZONES HEALTH STATISTICS

A report was submitted by the Clerk to the Licensing Board providing updated information on emergency admissions in 2010 and alcohol related deaths in 2008 to 2010 and comparing these to figures existing when the Board made its Overprovision Policy.

Having heard the Clerk to the Licensing Board in further explanation of the report, the Board agreed to note the alcohol related emergency admissions and alcohol related deaths across the 18 intermediate data zones of West Dunbartonshire for 2010 as detailed in the report.

ALCOHOL (MINIMUM PRICING) (SCOTLAND) BILL

A report was submitted by the Clerk to the Licensing Board providing information on the forthcoming Bill relating to minimum pricing and ascertaining whether the Licensing Board wished to submit evidence to the Scottish Parliament's Health and Sport Committee.

Having heard the Clerk to the Licensing Board in further explanation of the report, the Board agreed:-

- (1) to note the advantages and disadvantages of the Scottish Government's proposals on minimum pricing and the level at which this should be set;
- (2) to note the proposals detailed in paragraph 3.8 of the report and the Alcohol Focus Scotland proposals detailed in the report entitled 'Re-thinking Alcohol Licensing – report by Alcohol Focus Scotland and Scottish Health Action on Alcohol Problems';
- (3) that the Board should submit the factual evidence obtained during its overprovision assessment to inform Stage 1 of the Bill;

- (4) to authorise that the Clerk to the Licensing Board prepare and submit a submission to the Scottish Parliament's Health and Sport Committee, subject to consulting with the Members of the Licensing Board on the terms of the submission; and
- (5) that (i) a copy of this report, the draft minute and the Board's draft response would be forwarded to West Dunbartonshire Licensing Forum to inform their consideration; and (ii) that in the event that the Forum have a similar view to the Board, the Board authorises the submission to be a joint one from the Board and the Forum subject to consultation with the Convenor about any additions to the submission proposed by the Forum.

RE-THINKING ALCOHOL LICENSING – REPORT BY ALCOHOL FOCUS SCOTLAND AND SCOTTISH HEALTH ACTION ON ALCOHOL PROBLEMS

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

- (a) providing information on the operation of Scotland's licensing system and how it could more effectively regulate the availability of alcohol to reduce high levels of alcohol related harm; and
- (b) inviting the Board to consider which of the report's recommendations it wished to support.

Having heard the Clerk to the Licensing Board in further explanation of the report and following discussion, the Board agreed:-

- (1) that, given the poor alcohol related health figures for West Dunbartonshire, that a report be prepared for consideration at a future meeting of the Business Day for consideration by all Elected Members; and
- (2) that, following consideration of the report at a Business Day, a response be prepared by officers providing a response in relation to the recommendations detailed in the report.

CATEGORIES OF LICENSED PREMISES

A report was submitted by the Clerk to the Licensing Board concerning the categories of licensed premises adopted by West Dunbartonshire Licensing Board at the start of its consultation on overprovision and providing clarification of the categories of premises covered by the Board's overprovision policy.

Having heard the Clerk to the Licensing Board in further explanation of the report, it was agreed:-

- (1) that the Board amend its decision of 24 September 2009 and no longer consider the following as categories of licensed premises:-

- Adult entertainment venues
 - Mixed or chameleon premises in which the facilities offered during the day are markedly different from those provided in the evening with, for example a switch from a food led operation to a nightclub style of operation.
- (2) that where applications for either of these types of premises arise, they should be considered under the remaining categories, i.e. they would be considered by reference to their underlying use, e.g. restaurant, nightclub, public house etc.;
- (3) that clarification would be provided that the more detailed definition of the remaining categories would be by reference to the definitions contained in the Town and Country Planning (Use Classes) (Scotland) Order 1997. Therefore the categories would fall into the following uses:-
- Vertical drinking establishments – sui generis use as a public house, paragraph 3(5)(h) of the Town and Country Planning (Use Classes)(Scotland) Order 1997. This also includes use as a hotel or hostel licensed for the sale of alcoholic liquor to persons other than residents or persons other than consuming meals on the premises (exclusion from Class 7 Use Classes Order).
 - Restaurants – Class 3 Use Classes Order.
 - Nightclubs – Class 11(d) Use Classes Order.
 - Town Hotel – Class 7 Use Classes Order.
 - Large supermarkets – these are primarily Class 1 Use Classes Order but may contain other uses in addition.
 - Off-sales and local convenience stores – Class 1 Use Classes Order.

HEARING PROCEDURE FOR REVIEW OF PREMISES LICENCE

The Licensing Board's Hearing Procedure for Review of a Premises Licence was submitted and noted.

PREMISES REVIEW FOR VILLAGE STORE, 66 WHITECROOK STREET, CLYDEBANK G81 1QS

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 Mrs Shaneen Majeed, 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 Shaneen, the Premises Licence Holder was in attendance 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 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 Sergeant Stewart was 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 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.

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 the licence holder operated a refusals register at the premises although there was no requirement to do so given the licensed hours of operation at the premises.

Mr Macivor was then given the opportunity to address the Board in relation to the circumstances that led to the failed test purchase on Friday, 19 August 2011 and thereafter, answered questions from Members concerning procedures in place at the premises and the steps taken by his client to prevent any future underage sales of alcohol.

After consideration, 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; and
- (4) that the illegal sale of alcohol would be taken into consideration should there be any future breach of legislation or licensing policy.

**APPLICATION FOR TRANSFER OF PREMISES LICENCE
VILLAGE STORE, 66 WHITECROOK STREET, CLYDEBANK**

Ref: WDLBPREM/0251

Name and Address of Premises: Village Store, 66 Whitecrock Street,
Clydebank G81 1QS

Applicant/Licence Holder: Mrs Shaneen Majeed, 4 Firdon Crescent,
Old Drumchapel, Glasgow G15 6QQ

Following consideration, the Board agreed that the application be granted.

**PREMISES REVIEW FOR
THE RAILWAY INN, 109 DUMBARTON ROAD, BOWLING G60 5BQ**

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 respect of the premises known as The Railway Inn, 109 Dumbarton Road, Bowling G60 5BQ.

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 Miss Grace Shields, Designated Premises Manager and Ms Sandra Donnelly, Business Development Manager, Punch Partnership Limited were in attendance and were represented by Mr Stephen McGowan, Solicitor, Lindsays 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 Sergeant Stewart was 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 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.

Thereafter, at the request of the Chair, Councillor Brown, the Board heard a preliminary submission from Mr McGowan that the application for review was not competent given the recent decision of the Inner House of the Court of Session in the Brightcrew case. In his submission Mr McGowan advised that the application for review from Strathclyde Police was based on the breach of the licensing objectives of Preventing Crime and Disorder and Securing Public Safety. However, given the Brightcrew case, public safety could only be shown to be imperiled if related to the sale of alcohol and the link between imperilment and the sale of alcohol could not be made in this case. Mr McGowan advised that the request for review had not flowed from the sale of alcohol and that the issue of meter tampering at the premises was unconnected to the sale of alcohol. He further advised that the sale of alcohol had not led to the issue of meter tampering in this case.

Having heard from Sergeant Stewart in response and received advice from the Clerk, it was agreed that a potential link could be made to the Preventing Crime and Disorder licensing objective. In particular the Board noted that meter tampering was a relevant offence under the 2005 Act, a by-passed meter could potentially cause fire which could be more problematic to deal with given that customers would be under the influence of alcohol. By-passing a meter could also demonstrate a more cavalier attitude to the law, which might be replicated in breaches of licensing legislation. Thereafter the Board agreed to proceed with the hearing.

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 questions from Members. It was noted that an electricity by-pass device had been in place at the premises which meant that electricity supply for high use electrical units such as freezers at the premises was going unregistered to the supply meter and would not have been billed for by Scottish Power. It was noted that there was a high risk of death or fire involved in the assessment for danger due to the installation of the device at the premises. It was also noted that if the device had been installed

sometime within the previous 3 year period therefore it was not possible to establish which licence holder was responsible for the installation of the device. It was further noted that the current designated premises manager, Ms Grace Shields, had denied all knowledge of the device, having only taken over the lease on 5 May 2011.

The Board then heard from the Mr Lawrence 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 was heard in answer to questions from Members.

Mr McGowan was then given an opportunity to address the Board on behalf of Punch Taverns (Inns) Limited and Ms Grace Shields. In his submission, Mr McGowan advised that neither Ms Shields nor Punch Taverns Limited were responsible nor had knowledge of the meter tampering at the premises, that the Procurator Fiscal had taken no proceedings in relation to the matter and that the offence could not be linked causally nor indirectly to Grace Shields or Punch Taverns.

Thereafter, both Mr McGowan and Ms Donnelly were heard in response to questions from Members concerning the responsibility of utility bills and method of payment of utility bills at the premises.

Following discussion, Councillor R. McColl, seconded by Councillor Finn, moved that no action be taken in relation to the Review Hearing.

As an amendment, Councillor Calvert, seconded by Councillor Black, moved that a warning letter be issued to Punch Taverns Limited expressing the Board's concerns in relation to Punch Taverns Ltd's responsibilities in the sale of alcohol and urging them to review their business arrangements.

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 R. McColl). The motion was accordingly declared carried.

REQUEST TO REVOKE SUSPENSION OF PREMISES LICENCE – 148 MONTROSE STREET, CLYDEBANK G81 2PE

With reference to the Minutes of Meeting of the Licensing Board held on 16 August 2011, Members recalled that it was agreed that the premises licence at the above premises be suspended for a period of 4 months with the reprisal that should the 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 the meeting of the Board on 8 November 2011.

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

- (a) that in view of the request to revoke the suspension, Mrs Akbar had been invited to attend the meeting to address the Board;

- (b) that Mrs Akbar was in attendance at the meeting; and
- (c) that the LSO had provided a report updating the Board on the current compliance status at the premises.

The Board then heard from Mr Clyde, LSO who advised that the premises were now fully compliant with the matters previously reported to the Board. It was noted that all members of staff had now been trained to the full extent as required by the Licensing (Training of Staff)(Scotland) Regulations 2007, that the training had been carried out by an external trainer, that the member of staff who had failed the earlier test purchase was no longer employed on the premises and that the premises continued to operate a refusals book.

Thereafter the Board heard from Mrs Akbar who advised that the premises were now operating to the Board's required standard.

Following discussion, the Board agreed to revoke the suspension of the premises licence subject to the undernoted conditions:-

- (1) that the refusals book held at the premises would be continually kept up to date;
- (2) that refresher training be undertaken by staff at the premises on a quarterly basis; and
- (3) that LSOs would monitor the premises on a monthly basis to ensure that the premises remain fully compliant in all areas as required by the Board.

PERSONAL LICENCE REVIEW – MRS TUBASSUM AKBAR, 133 CROW ROAD, GLASGOW

With reference to the Minutes of Meeting of the Licensing Board held on 16 August 2011 and in terms of Section 84(3)(a) of the Licensing (Scotland) Act 2005, a report was submitted by the Clerk to the Licensing Board providing information to assist the Board in considering the Review of the Personal Licence held by Mrs Tubassum Akbar given the findings of the Licensing Board that Mrs Akbar's conduct had been inconsistent with the crime and disorder objective.

Having heard the Clerk to the Licensing Board in further explanation of the options available to the Board, it was noted that should the Board be minded to take no action against Mrs Akbar given the Board's decision to revoke the suspension of the premises licence held by Mrs Akbar, then there would be no requirement to hold a hearing.

Following discussion, the Board agreed to hold a hearing to consider the Personal Licence held by Mrs Akbar.

Thereafter, at the request of Mrs Akbar, it was agreed that the Hearing would be continued to the next meeting of the Licensing Board to enable Mrs Akbar's legal representative to attend.

APPLICATION FOR A PREMISES LICENCE IN TERMS OF THE LICENSING (SCOTLAND) ACT 2005 – CONTINUED APPLICATION FROM THE MEETING OF THE BOAD HELD ON 16 AUGUST 2011

An application for a Premises Licence was submitted by the undernoted applicant in respect of the undernoted premises:-

WDLBPREM/0266

Name and Address of Premises: Peking Cottage, 557 Glasgow Road,
Hardgate, Clydebank G81 6AU

Applicant/Licence Holder: Calum Chang, c/o Young & Partners LLP,
126 West Regent Street, Glasgow G2 2BH

Having heard the Clerk to the Licensing Board, it was noted that the application had been withdrawn by the applicant.

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/0159

Name and Address of Premises: The Ettrick, 159 Dumbarton Road, Old
Kilpatrick G60 5JQ

Applicant/Licence Holder: Pub Enterprises Ltd, c/o Brunton Miller
Solicitors, Herbert House, 22 Herbert
Street, Glasgow G20 6NB

The Board noted:-

- (a) that the applicant was represented by Mr Archie Macivor, Messrs Brunton Miller Solicitors;
- (b) that the proposed variation involved a change to the Operating Plan when alcohol would be sold for consumption off the premises on Monday to Sunday from 11.00 a.m. to 10.00 p.m.;

- (c) that a representation had been submitted in relation to the application concerning a tree located in the premises garden whose roots had extended under the nearby pavement causing it to break up;
- (d) that both the applicant and the objector had been invited to attend the meeting; and
- (e) that the objector was not in attendance at the meeting.

Having heard the Clerk to the Licensing Board in clarification of legal matters, the Board agreed:-

- (1) to reject the objection on the grounds that it was considered to be frivolous; and
- (2) that the application be granted.

(b) WDLBPREM/0253

Name and Address of Premises: Reds Snooker Club, Unit 36, 1st Floor,
Sylvania Way South, Clyde Shopping
Centre, Clydebank G81 1EA

Applicant/Licence Holder: Reds Snooker Club Ltd, Oakfield House
Business Centre, 31 Main Street Village,
East Kilbride G74 4JU

The Board noted:-

- (a) that the applicant was represented at the meeting by Mr Archie Macivor, Brunton Miller Solicitors; and
- (b) that the proposed variation involved (i) a change to the Operating Plan when alcohol would be sold for consumption on the premises from 11.30 a.m. to 12 midnight; and (i) a change to the Operating Plan to allow young persons access on the premises until 10.00 p.m. for the purposes of playing snooker and pool.

After consideration and having heard from Mr Macivor in further explanation of the application and in answer to Members' questions, the Board agreed that the application be granted.

APPLICATION FOR PROVISIONAL PREMISES LICENCE

An Application for a Provisional Premises Licence was submitted by the undernoted applicant in respect of the undernoted premises:-

Ref: WDLBPREM/0267

Name and Address of Premises: 2B Brucehill Road, Brucehill, Dumbarton
G82 4EW

Applicant: Kailash Bali, 7 Kessington Road,
Bearsden, Glasgow G61 2HL

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

- (a) that the applicant, Mr Bali was in attendance and was represented at the meeting by Mr Archie Macivor, Brunton Miller, Solicitors;
- (b) that 3 letters of objection and a petition from tenants and residents of Brucehill had been received including a letter from the MSP for the area and a letter from the local Elected Member for the area;
- (c) that in view of the above objections, both the applicant and the objectors had been invited to attend the meeting in order that a hearing could take place;
- (d) that of those objectors present at the meeting, Ms Kate Pilkington would address the Board in relation to a letter of objection that had been signed by a number of residents in Brucehill; and
- (e) that the application would need to be justified under the Board's Overprovision Policy.

Thereafter, the Clerk outlined the procedure which the hearing would follow. It was noted that the Board would consider any preliminary issues. The Board would then hear from Strathclyde Police in relation to their representation which would be followed by an opportunity for questions. Thereafter the Board would hear from the LSO and then there would be an opportunity for the licence holder and the Board to ask questions. Thereafter, the Board would hear from Ms Pilkington, on behalf of the objectors and there would then be an opportunity for questions of the objector by the applicant and the Board. The Board would then hear from the licence holder with a further opportunity for questions. Thereafter, the Board would debate the matter.

At this point in the meeting Ms Pilkington asked to distribute photographs to the Board and the applicant showing a person to be heavily under the influence of alcohol and unable to walk. Ms Pilkington advised that the recent photo was taken at daytime outside premises at Costcutters and that local school children had had to pass the intoxicated person on their journey from school. The Board agreed to accept the photographs.

Having heard the Chair in relation to the procedure to be followed, both Ms Pilkington and Mr Macivor advised that there were no preliminary issues to be raised.

The Board then heard from Sergeant Stewart in relation to the letter of representation from Strathclyde Police dated 21 October 2011. Sergeant Stewart was then heard in answer to questions from Members. It was noted that since the premises had stopped selling alcohol the figures for anti social behaviour crime had dramatically decreased.

At this point, the Clerk referred to the Board's Overprovision Policy and advised that Brucehill was an area of overprovision having regard to the high figures for crime and disorder in the area and confirmed that the updated health figures for alcohol related emergency admissions and alcohol related deaths for the area for 2010 had been considered by the Board earlier in the meeting.

Thereafter the Board noted that the LSO had no formal comments to make in relation to the application.

The Board then heard from Ms Pilkington who addressed the Board in relation to the objection signed by residents in the Brucehill area. In her submission, Ms Pilkington referred to the high levels of alcohol related crime and anti-social behaviour in the Brucehill area without a licensed premises in the area and the granting of a licence would only exacerbate the problem. She also referred to the high levels of crime and disorder within the immediate locality of the premises when a licensed premises had previously operated from the applicant premises. She also spoke of the residents fears of increased youth disorder and crime should the licence be granted.

Mr Macivor then addressed the Board in support of the application and in response to the objections received. In his submission, Mr Macivor referred to Mr Bali's unblemished record and good character and advised that there were a limited number of off sales currently operating in the area and that given the wide and relatively barren area, the small area of Brucehill was not provided for by licensed premises which meant that residents of Brucehill had to travel 1-2 mile to the nearest licensed premises.

Mr Macivor then addressed the Board on the application in relation to the 5 licensing objectives, advising that his client would cease selling alcohol at 8.00 p.m., would operate a refusals book and that a sophisticated CCTV system was in operation at the premises. He further advised that Mr Bali did not intend to sell high strength fortified wine and would accept a condition not to sell alcohol to anyone under the age of 21.

A letter and signed petition of 125 signatures in support of the application was submitted. It was noted that 17 signatures of residents who were not in favour of the application was also included.

Thereafter, Mr Macivor answered questions from Members and from the objector having regard to the licensing objectives and the anti social behaviour figures submitted by Strathclyde Police.

Following discussion and having heard the Clerk to the Licensing Board, the Board agreed that the application be refused in terms of Section 23(5)(c) and (e) as the Board considered that granting the application would be inconsistent with one or more of the licensing objectives as undernoted:-

- Preventing crime and disorder
- Protecting and Improving Public Health
- Securing public safety and preventing public nuisance
- Having regard to the number and capacity of licensed premises at the same or similar description as the subject premises, namely off-sales, in the locality in which the premises are situated, the Board considered that if the application was to be granted there would, as a result, be overprovision of licensed premises of that description in the locality.

APPLICATION FOR EXTENDED HOURS

With reference to the Board's Policy on Extended Hours, an application for Extended Hours was submitted in respect of Lodge Cochno Social Club, 29 Glasgow Road, Hardgate, Clydebank requesting hours beyond the Board's approved Policy hours.

It was noted:-

- (a) that the applicant was requesting extended hours on 31 December 2011 from 1.00 a.m. to 2.00 a.m. in connection with a ticketed New Year Party for members and invited guests only; and
- (b) that Mr MacFarlane was in attendance on behalf of the licence holder.

The Board agreed that the application be granted to 2.00 a.m. on condition that it was a pre-ticketed function, with last admission at 11.30 p.m.

Following discussion and having heard the Clerk to the Licensing Board in relation to the availability of additional hours on 31 December 2011, the Board agreed:-

- (1) that a terminal hour of 3.00 a.m. could be granted by the Clerk under delegated powers for Hogmanay should applications for extended hours be submitted to the Board for pre-ticketed and organised functions only; and
- (2) that any such applications would be subject to the condition that guests would only be permitted entry up until 11.30 p.m.

DATE OF NEXT MEETING

It was agreed that, if required, a Special Meeting of the Licensing Board be scheduled to be held on Wednesday, 7 December 2011 at 2.00 p.m. to consider any applications for Extended Hours for the festive period that fall outwith the Board's Policy.

It is also agreed that a meeting of the Board be held on Tuesday, 14 February 2012 at 10.00 a.m. in Meeting Room 3, Council Offices, Garshake Road, Dumbarton to deal with the future business of the Board.

ADJOURNMENT

The meeting adjourned at 1.19 p.m. and thereafter resumed at the scheduled time of 2.00 p.m. with those Members and Officers listed on the sederunt present and continued with the business of the meeting as hereinafter minuted.

APPLICATION FOR PROVISIONAL PREMISES LICENCE

Name and Address of Premises: Angelino's, 1 Montrose Street, Clydebank
G81 2LQ

Applicant: Senex Investments Ltd, 4 Lynedoch Crescent,
Glasgow G3 6EQ

The Board considered the application for grant of a Provisional Premises Licence submitted by the above applicant in respect of the above premises.

Given the number of objectors present at the meeting in relation to the application, the Clerk to the Licensing Board provided an overview of the procedure that he expected the hearing to follow and thereafter a copy of the Procedure Note – Applications with Objections was distributed at the meeting.

Thereafter, having heard the Clerk in explanation of the number of preliminary issues that required to be addressed, it was noted:-

- (a) that Mr Colin Beattie, Managing Director, was in attendance on behalf of the applicant Senex Investments Ltd and was represented at the meeting by Mr Peter Lawson, Hill Brown Solicitors;
- (b) that 154 letters of objection to the application had been received;
- (c) that in view of the above objections, both the applicant and the objectors had been invited to attend the meeting in order that a hearing may take place;
- (d) that of the 154 letters of objection which had been circulated to the Board in advance of the meeting; 3 of these were deemed to be incompetent objections, namely numbers 81, 121 and 147 in terms of the legislation; and 6 were identified as having been received late. The Board agreed that the late objections would be accepted as competent objections;

- (e) that having sought clarification from Mr Bathgate, Planning Services Manager, the applicant was prepared to accept a condition that the sale of alcohol would be ancillary to the principal use as a restaurant except where a person or persons were accompanying a party who were taking a meal;
- (f) that the applicant was prepared to accept a condition that there would be no hot food takeaway from the premises with the exception of de minimus takeaway use. De minimus use was a usage which did not result in any greater impact on the amenity of the area that would be expected from a restaurant without hot food takeaway use; and
- (g) that the applicant was prepared to withdraw the outside decking area from the application.

ADJOURNMENT

Following discussion and having heard the Clerk to the Licensing Board in answer to questions from both the Members and Objectors, and having heard Mr Lawson in response, the Board agreed to adjourn for a short period to allow the applicant to consider requests for removal of certain uses which were ancillary to the consumption of a meal and which were outwith the Section 50 Planning Consent granted by the Planning Committee.

The meeting resumed at 3.00 p.m. with all Members listed on the sederunt present.

Having heard the Clerk to the Licensing Board in clarification of the application's position at the preliminary stage, and having heard Mr Lawson in response, it was ascertained that the application had been amended and that the provision for ancillary use for hot food takeaway (with the exception of de minimus takeaway), use of the decking area within the licensed area and any ancillary use as a pub, nightclub or entertainment venue had been withdrawn from the application.

Following a request from the Chair in respect of comments from the LSOs and having heard Mr Clyde in response, it was noted that the LSOs had no formal comment to make in relation to the application. It was also noted that Strathclyde Police had no objections or comments to make in relation to the application.

At the request of the Chair, the Board then heard from Mr Bathgate, Team Leader (Development Management) who advised that the application had consent from the Planning authority for use as a restaurant and thereafter, answered questions from Members and objectors concerning access to the building, noise assessment and the provision of parking. Having heard Mr Bathgate and given the discussion that had taken place to clarify the nature of use of the application and the amendments to the use which were outwith the scope normally expected in a restaurant, it was noted that the Planning authority were now happy with the proposed use as a restaurant.

At the request of the Chair, the Board heard from Mr Stevenson, Section Head (Development and Environmental Services) who referred to the requirement for an updated Noise Impact Assessment and answered questions from the Provost who had concerns relating to the commencement of development in advance of the noise impact assessment. Following discussion on this issue and having heard from the Team Leader (Development Management), it was noted that it was not the practice of the Planning authority to detail every matter at the stage of issuing a Provisional Grant and that such matters would be picked up on prior to confirming the premises licence.

The Board then heard from the Clerk to the Licensing Board in clarification of the requirements of the Board in relation to Planning for the grant of a Provisional Licence and in doing so, advised that a remaining issue for the Board may be the particular concerns from objectors regarding noise.

Thereafter the Board heard from Mr Macivor, Brunton Miller Solicitors in relation to the objection submitted on behalf of two companies, Cloncarney Limited and MFM Management Limited. In his submission, Mr Macivor advised that the application, in its current form, was more akin to an application for a public house. He referred to the application as a back door attempt to apply for a premises licence for a public house operating to 2.00 a.m. in a largely residential area. Mr Macivor also advised that if the application was for a restaurant, it would not preclude the Board from considering it in terms of the Board's Overprovision Policy as there were currently 40 premises in the area providing off sales. He stated that the application should be refused, that his clients had concerns as to what the premises would operate as and was the wrong application in the wrong place. Mr Macivor then answered questions from Members concerning nuisance and lack of noise attenuation documentation and the potential for late night disturbance.

Following guidance from the Chair, the Board then heard from the Provost in relation to his objection, the main issue being potential noise disturbance to residents in the area. The Provost referred to the activities included in the application such as dinner dance and the potential for hot food takeaway which in turn could create problems due to lack of parking in the vicinity of the premises. The Provost advised that he was deeply concerned that work had been undertaken in the absence of the Noise Impact Assessment as requested by officers. The Provost stated that the application should be refused until the outstanding issues could be addressed. Thereafter, the Provost answered questions from Members.

The Board then heard from Mr Watt who advised that in light of the amendments to the application and the restrictions placed on the application, he had no further comments to raise.

The Board then heard from Mrs Douglas in relation to her objection. In her submission, Mrs Douglas referred to the human rights of residents in the area, the hours of operation (in particular the terminal hour of 3.00 a.m.) and the adverse affect this would have on residents in the area.

The Board then heard from Ms Vermilya who addressed the Board on behalf of Ms Scholar. Ms Vermilya sought to establish the capacity at the premises.

The Board then heard from Ms Clark who advised that most points in her objection had been resolved earlier in the meeting, however she requested that the application be further amended to remove live TV, Sky Sports and live music.

The Board then heard from both Ms Ungi and Mrs Douglas concerning the 8 parking spaces which would be made available at the adjacent Atlantis licensed premises and the associated parking issues given the location of the premises.

It was noted that Mr Lawson, in his submission on behalf of the applicant, would address the unanswered questions and issues raised by the objectors.

Mr Lawson, on behalf of the applicant, addressed the Board in support of the application and in response to the objections received. In his submission Mr Lawson advised that an inaccurate plan of the applicant premises and history of the premises had been circulated by the trade objector to residents and neighbouring premises in a bid to generate objections. He advised that the distribution of this information had been misleading and alarmist and had generated the unusually high number of 150 objection letters.

Mr Lawson then circulated a plan of the premises and advised that this showed an entirely different layout to that distributed to residents in the area. Mr Lawson explained that in terms of the Licensing (Scotland) Act 2005, applicants for premises licences were now required to detail all potential activities that may take place at the premises and for this reason only all possible options had been ticked in the statutory application form. He advised that a dance floor at the premises would only be created on occasion for functions. He also advised that it was never the intention to have televised sports shown at the premises and that in fact it was the application intention to show age appropriate television and televised marketing only, given that it would be a family friendly restaurant.

In relation to hours of operation, the applicant proposed to operate the premises on Sundays to Thursdays from 11.00 a.m. to 12 midnight and on Friday and Saturdays from 11.00 a.m. to 1.00 a.m. which was less than the standard restaurant hours as provided in West Dunbartonshire's Licensing Policy Statement. The applicant would accept a condition to this effect.

Mr Lawson advised that whilst there were parking concerns, the Planning authority was responsible for parking considerations and had agreed that the parking proposal were adequate.

In summary, Mr Lawson advised that the application proposed a family style restaurant suitable to all family members. He gave an assurance to the Board that it would not be a live music venue. He stated that a condition of the Planning authority was that live music, whilst permitted, could not be amplified which would alleviate concerns from objectors in relation to noise from the premises. In addressing the report from Environmental Health and the particular point concerning strobe lighting at the premises, Mr Lawson advised that there would not be strobe lighting at the premises and the equipment identified on the plan was in fact a sounder and fire safety equipment.

Thereafter, having heard the Chair, the applicant was heard in answer to questions from Members and objectors.

Following discussion and on the motion of Councillor Calvert, seconded by Councillor R. McColl, it was agreed that the application be granted subject to (i) withdrawal of the outside decking area from the licensed area; (ii) that there would be no amplified music on the premises at any time with the exception of television and background music within the building of the premises; (iii) that there would be no supply of hot or cold food to takeaway, other than use which would be classified as 'de minimus'; (iv) that there would be no ancillary use of the premises as a public house, nightclub or entertainment venue; (v) that patrons would not be permitted to take drinks into, nor drink in any external area of the premises, including the smoking area; and (vi) the hours granted would be Sundays to Thursdays 11.00 a.m. to 12 midnight and on Fridays and Saturdays from 11.00 a.m. to 1.00 a.m.

REVIEW HEARING FOR NON PAYMENT OF ANNUAL FEES

The Clerk to the Licensing Board provided an update on the position concerning outstanding annual fees.

Following discussion, the Board agreed:-

- (1) to note the updated position that outstanding annual fees had now been paid with the exception of one premises known as Platinum, 68 Dumbarton Road, Clydebank which was not currently trading;
- (2) the Board noted that the premises licence holder for Platinum had been cited to attend but was not present. The Board agreed to continue to hold a review hearing in relation to the premises licence at Platinum and, in relation to the failure to comply with a condition of the licence, namely to pay the annual fee. Having heard the Clerk and Licensing Standards Officer on the number of reminders sent to Platinum in relation to payment of the annual fee, the Board unanimously agreed that the ground of the premises review had been established, namely that a condition of the licence had not been complied with. In terms of Section 39(2)(c) of the Licensing (Scotland) Act 2005 the Board agreed to suspend the licence until the annual fee was paid or until 14 February 2012, whichever was the earlier. The Board also agreed that if the annual fee remained unpaid, the licence holder would be cited to attend a further premises licence review on 14 February 2012; and

- (3) that the licence holder for the premises known as Nisa Day to Day, 151 Mountblow Road, Clydebank who had paid late for the past three years would be cited to the meeting of the Licensing Board scheduled to be held on 14 February 2012.

The meeting closed at 4.55 p.m.