

## **WEST DUNBARTONSHIRE LICENSING BOARD**

At a Meeting of West Dunbartonshire Licensing Board held in Meeting Room 3, Council Offices, Garshake Road, Dumbarton on Tuesday, 16 August 2011 at 10.00 a.m.

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

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

**Also Attending:** Chief Inspector Fergus Byrne; Sergeant George Stewart, Licensing Sergeant and Karen Queen, Strathclyde Police.

**Apologies:** Apologies for absence were intimated on behalf of Councillors Douglas McAllister and Ronnie McColl.

**Councillor Jim Brown in the Chair**

### **DECLARATIONS OF INTEREST**

Councillors Finn and McColl declared a non-financial interest in the agenda item under the heading 'Review of Personal Licence – Mr Anil Kumar Randev', and advised that they would take no part in the Board's decision in relation to that item.

### **MINUTES OF PREVIOUS MEETING**

The Minutes of the Special Meeting of the Licensing Board held on 14 June 2011 were submitted and approved as a correct record.

### **LICENSING BOARD EQUALITY SCHEME 2011 – 2013**

A report was submitted by the Clerk to the Licensing Board seeking approval of the revised Licensing Board Equality Scheme 2011 - 2013 and the accompanying Action Plan.

After consideration the Board agreed to adopt the Equality Scheme and accompanying Action Plan.

## **EXTENSIONS TO LICENSING HOURS OVER THE FESTIVE PERIOD**

The Board heard from the Clerk to the Licensing Board in relation to extensions to licensing hours over the festive period 2011/2012.

Following discussion, the Board agreed:-

- (1) to note that the views of the Licensing Forum on the granting of extensions over the festive period would be sought at its meeting on 13 September 2011; and
- (2) that having sought the views of the Forum, to delegate authority for approval of a policy on the granting of extensions to licensing hours over the festive period to the Clerk to the Licensing Board in consultation with the Chair of the Board.

## **VARIATION IN ORDER OF BUSINESS**

Having heard Councillor Brown, Chair, the Board agreed to vary the order of business as hereinafter minuted.

## **APPLICATION FOR PREMISES LICENCE**

**Ref: WDLBPREM/0255**

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

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

It was noted that the applicant was in attendance and was represented at the meeting by Ms Joanna Brynes, Young & Partners LLP.

The Board then heard from Ms Brynes who requested consideration of a preliminary motion to have the above application continued given that an objection letter from Strathclyde Police had only been received by the applicant on the previous day.

Having heard the Chair and the Clerk to the Licensing Board in response, the Board agreed to continue consideration of the application to the meeting of the Licensing Board on 8 November 2011.

## **APPLICATIONS IN TERMS OF THE LICENSING (SCOTLAND) ACT 2005**

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

### **(a) WDLBPREM/0099**

Name and Address of Premises: Boundary Bar, 596-598 Glasgow Road,  
Clydebank G81 1JA

Applicant/Licence Holder: Punch Taverns (Inns) Limited, Jubilee  
House, Second Avenue, Burton on Trent  
DE14 2WF

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

(a) that the applicant was represented by Mr McGowan, Tods Murray Solicitors;

(b) that the proposed variation included:-

(i) a change to the Operating Plan when alcohol would be sold for consumption both on and off the premises as undernoted:-

Sunday – 11.00 a.m. to 12 midnight (on sales)

Sunday – 11.00 a.m. to 10.00 p.m. (off sales)

(ii) a change to the Operating Plan to open at 8.00 a.m. each day in order to serve breakfasts and non alcoholic drinks (no alcohol will be served until the start of core hours); and

(iii) a change to the Operating Plan to allow children and young persons access to the premises from 8.00 a.m. to 10.00 p.m. when dining or attending a function.

Having heard the Clerk to the Licensing Board in confirmation that the application complied with the Board's Policy, the Board agreed that the application be granted.

### **(b) WDLBPREM/0083**

Name and Address of Premises: The Stonefield, Dumbarton Road, Milton,  
Dumbarton G82 2TN

Applicant/Licence Holder: Mitchell & Butlers Retail Limited, 27 Fleet  
Street, Birmingham B3 1JP

It was noted:-

(a) that the applicant was represented by Ms Audrey Young, Hill Brown Solicitors;

- (b) that the proposed variation involved a change to the Operating Plan when alcohol would be sold for consumption both on and off the premises as undernoted:-

Sunday – 11.00 a.m. to 12 midnight (on sales)

Sunday – 11.00 a.m. to 10.00 p.m. (off sales)

The Board agreed that the application be granted.

**(c) WDLBPREM/0169**

Name and Address of Premises: Shop Smart, 194 Yokermill Road,  
Clydebank G81 4HT

Applicant/Licence Holder: Iftikhar Ahmad, 15 Duthill Street, Glasgow  
G13 4HT

It was noted:-

- (a) that the applicant, Mr Iftikhar Ahmad, was in attendance at the meeting;
- (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 10.00 a.m. to 10.00 p.m.

The Board agreed that the application be granted.

**(d) WDLBPREM/0136**

Name and Address of Premises: Rowantree, 258 Main Street, Jamestown,  
Alexandria G83 8PW

Applicant/Licence Holder: Pub Partners Limited, Virginia House, 62  
Virginia Street, Glasgow G1 1TX

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

- (a) that representatives of the applicant, Mr Stephen Burns, Designated Premises Manager and Mr Gary Patterson, Business Development Manager, Iona Pubs Limited were in attendance at the meeting;
- (b) that an objection to the application had been received, that the objector had intimated in advance of the meeting that she would be unable to attend the hearing and had requested that the application be continued to enable her to attend at a later date;

(c) that the proposed variation involved:-

(i) a change to the Operating Plan when alcohol would be sold for consumption on and off the premises as undernoted:-

Sunday – 11.00 a.m. to 12 midnight (on sales)

Sunday – 11.00 a.m. to 10.00 p.m. (off sales)

(ii) the inclusion of conference facilities;

(iii) the inclusion of an outdoor drinking area to the rear of the premises, with a fenced garden which would prevent customers gathering in the car park;

(iv) the inclusion of an outdoor drinking area at the front of the premises siting two small round tables (3 or 4 seats per table) on the privately owned paved area which would be fenced and screened with a temporary barrier to enable the tables and fence to be removed during closed hours; and

(v) an extension of the hours that children and young persons would be permitted to the premises and to allow them access to the public bar in addition to the lounge area (to allow customers to sit in the bar area with meals when the lounge was full to capacity); and

(d) that the applicant had not yet sought planning permission for the outside drinking areas.

The Board then heard from Mr Burns in support of the application and in answer to questions from both the Clerk and Members of the Board. Following a question from the Clerk concerning access to the proposed outside drinking area at the rear of the premises, it was noted that the applicant proposed to include a licensed walkway to enable customers to take drinks from the premises to the outside drinking area. Following discussion and having heard the Clerk to the Board in legal clarification, the applicant withdrew the outside drinking area to the rear of the premises from the application.

Following consideration, the Board agreed:-

(1) that parts (i), (ii), (iv) and (v) of item (c), as detailed above, be granted;

(2) that the outdoor drinking area at the front of the premises be granted subject to the applicants obtaining planning approval;

(3) to note that following withdrawal of part (c) (iii) of the application detailed above, a further application for Variation of a Premises Licence would require to be submitted to include the outside drinking area at the rear of the premises

and the licensed walkway which would enable customers to take drinks from the premises to the outside drinking area; and

- (4) that a site visit to the premises would be arranged for Members of the Board.

**APPLICATION FOR PROVISIONAL PREMISES LICENCE**

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

**WDLBPREM/0265**

Name and Address of Premises: The Brock and Social Club, Overburn Avenue, Dumbarton G82 2BY

Applicant/Licence Holder: The Brock and Social Club, Overburn Avenue, Dumbarton G82 2BY

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

- (a) that Mr William Neeson, Secretary, Brock and Social Club was in attendance on behalf of the applicant;
- (b) that the application was for a new premises which replaced the previously licensed Brock Bowling Club; and
- (c) that the proposed licensed hours remained the same as those granted for the previously licensed Brock Bowling Club.

Following discussion, the Board agreed:-

- (1) that the application be granted; and
- (2) to note that the licensed hour granted from 10.00 a.m. to 11.00 a.m. would be used solely in connection with bowling competitions.

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

With reference to the Minutes of Meeting of the Licensing Board held on 14 June 2011 and 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 (i) the review hearing held on 14 June 2011 had stemmed from a test purchase operation carried out on 25 March 2011; (ii) it became apparent at that hearing that the test purchase operation had taken place outwith the

licensed hours for the premises; and (iii) it was agreed to continue the hearing 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;

- (b) that in view of item (a) above and the letter from Strathclyde Police dated 12 July 2011 requesting a further 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 to consider both (i) the original failed test purchase and (ii) the sale of alcohol outwith licensed hours;
- (b) that Mr Karasinski, the licence holder was in attendance and was represented by Mr Gilmour, McArthur Stanton Solicitors;
- (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 Chief Inspector Byrne 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 LSOs and then there would be a further opportunity for questions. The Board would then hear from the applicant with a further opportunity for questions.

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 in relation to the circumstances outlined in the Police letter dated 11 May 2011 which had been submitted to the Board on 14 June 2011. Sergeant Stewart also provided an update from the Procurator Fiscal's office and in doing so, advised that a pleading diet had been set for 16 June 2011 and an intermediate diet had been set for 4 October 2011 with a possible trial date for 1 November 2011.

Thereafter, Sergeant Stewart was heard in answer to a question from Mr Gilmour concerning the intermediate trial date set for 4 October 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 and thereafter 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. On the first visit, carried out on 2 June 2011, there were two issues of non compliance and on the second visit, carried out on 21 July

2011, there was one issue of non compliance. It was noted that all issues of non compliance had now been rectified.

Mr Gilmour was then given an opportunity to address the Board on the circumstances which had led to the failed test purchase on 25 March 2011 and in relation to the sale of alcohol outwith licensed hours. Thereafter he advised that prior to September 2009 and before the introduction of the Licensing (Scotland) Act 2005, the premises had been licensed to sell alcohol until 9.00 p.m. on Fridays and Saturdays for a period of over 10 years. Mr Gilmour advised that following the introduction of the Licensing (Scotland) Act 2005, trading beyond 8.00 p.m. was an honest mistake on Mr Karasinski's part and was also a result of his poor understanding of written English at that time. Mr Gilmour advised that since 2009, Mr Karasinski's understanding of written English had improved considerably and now matched that of his understanding of spoken English. He had also taken steps to prevent any future sale of alcohol to underage persons and in doing so, had purchased a police approved thumb print identification scanner.

It was noted that Mr Gilmour had contacted the Procurator Fiscal concerning the charge of selling outwith licensed hours and was advised that a decision had been taken not to prosecute Mr Karasinski.

Thereafter Mr Gilmour was heard in answer to Members' questions and Mr Gil, a previous licence holder at the premises, provided an overview on the operation of the thumb print identification scanner and its ability to hold a register of the type of identification used by customers.

Following discussion, Councillor J. McColl, seconded by Councillor Calvert, moved:-

- (1) that the ground for review of preventing crime and disorder had been established in respect of both the sale to a person under the age of 18 and the sale of alcohol outwith licensed hours;
- (2) that a first 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) that a second 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 sale of alcohol outwith licensed hours;
- (4) that the licence be varied 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 the Licensing Standards Officers be instructed to monitor the refresher training; and

- (5) that should there be a further breach of the law, the Board would take further action against the licence holder.

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

- (1) that the ground for review of preventing crime and disorder had been established in respect of both the sale to a person under the age of 18 and the sale of alcohol outwith licensed hours;
- (2) that a single 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 both the failed test purchase and the sale or supply of alcohol to persons under the age of 18; and
- (3) that the licence be varied 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

On the advice of the Clerk, the Board agreed to proceed by way of a roll call vote.

On a vote being taken 2 Members voted for the motion (namely Councillors Calvert and J. McColl) and 4 Members voted for the amendment (namely Councillors Black, Brown, Casey and Finn) which was accordingly declared carried.

Following a request by Councillor Black, it was agreed that a procedural note for Licensing Board Hearings would be issued to all Members of the Board.

## **ADJOURNMENT**

Having heard the Chair, the Board agreed to adjourn for a period of 10 minutes. Thereafter the meeting reconvened at 11.40 a.m. with all those Members listed on the sederunt in attendance.

## **PREMISES REVIEW FOR 148 MONTROSE STREET, CLYDEBANK G81 2PE**

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 Tubassum Akbar, 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 Akbar, Premises Licence Holder and Mr Mohsam Mahmood, an employee at the premises were in attendance and were represented at the meeting by Ms Francesca Trainor, Solicitor, Trainor Alston Solicitors;
- (c) that a copy of the letter from the Police authority and a report from the 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 Chief Inspector Byrne 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 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 Ms Trainor under the Human Rights Act 1998 that having regard to Schedule 1, Article 6 of the European Convention on Human Rights, the Board could not consider the application for review as the applicant was not given the name and date of birth of the person to whom alcohol was sold. Ms Trainor advised that it would be contrary to justice to allow the hearing to proceed given that fair notice of this evidence had not been given to her client.

Having heard Chief Inspector Byrne in response and received advice from the Clerk, it was agreed that sufficient fair notice had been given and 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 dated 19 July 2011. Sergeant Stewart also provided an update from the Procurator Fiscal's office and in doing so, advised that a pleading diet had been set for 8 September 2011 with a possible trial date for 6 October 2011.

Sergeant Stewart was heard in answer to questions from Ms Trainor and thereafter, with the permission of Ms Trainor and in agreement with Mr Mohsam Mahmood, he provided details of a question and answer session carried out by Strathclyde Police

with shop assistant Mr Mohsam Mahmood concerning the circumstances where alcohol was sold to a 16 year old youth on 27 May 2011. It was noted from the interview that Mr Mahmood had seen the proof of age identification for the youth on a number of occasions however had not viewed the proof of age identification on the day when the offence occurred.

Thereafter, both Chief Inspector Byrne and Sergeant Stewart answered questions from Members.

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 and was heard in answer to questions from Ms Trainor and Members concerning refusals made at the premises.

A copy of the refusals book used at the premises was then passed to Members of the Board. Having heard both Ms Trainor and Mr Mahmood in answer to questions from Members, it was noted that there was a refusals books kept at each of the two tills at the premises.

Having heard the Chair, Councillor Brown, Ms Trainor was then given the opportunity to address the Board in relation to the aforementioned police report and in doing so, directed Members to Section 103 of the Act and advised that Mr Mahmood had not knowingly sold alcohol to a young person and had taken "reasonable steps" to establish the age of the young person. Thereafter, with the Board's permission, Ms Trainor asked questions of Mr Mahood concerning the night in question and thereafter, called upon an independent witness/regular customer who advised that he was familiar with the youth and had witnessed Mr Mahmood requesting identification from the youth on previous occasions at the premises. Ms Trainor advised that her client had already been dealt with in relation to the previous sales of alcohol and tobacco to persons under age and had been found not guilty in relation to the alleged offence occurring on 14 December 2007.

Thereafter, Ms Trainor answered questions from Members and in doing so, gave assurances that Mrs Akbar was prepared to take steps to prevent any future sale of alcohol to underage persons.

Following consideration, the Board unanimously agreed that the premises licence be suspended given that the premises were not being run to the required standard and that the ground of review of preventing crime and disorder had been established. The Board also took into account the previous history of non-compliance and previous underage sales occurring on 27 November 2009 and 4 June 2008. 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 Ms Trainor who addressed the Board on the period of suspension. It was noted that Ms Trainor considered a short suspension to be an appropriate period in the circumstances.

Following discussion and having heard the Clerk to the Licensing Board in answer to Members' questions, the Board agreed:-

- (1) that the premises licence 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; and
- (2) that the Board made a finding in terms of Section 84 (3)(a), that Mrs Akbar's conduct had been inconsistent with the crime and disorder objective and that at a Hearing be held before West Dunbartonshire Licensing Board to consider the Personal Licence held by Mrs Akbar, at its next meeting on 8 November 2011.

Councillor Black, having earlier proposed an amendment, withdrew his amendment in support of Councillor Calvert's motion. The decision was then unanimous.

### **DECLARATIONS OF INTEREST**

Councillors Finn and McColl declared a non-financial interest in the undernoted item and left the meeting.

### **REVIEW OF PERSONAL LICENCE – MR ANIL KUMAR RANDEV**

With reference to the Minutes of Meeting of the Licensing Board held on 14 June 2011 and in terms of Section 84(3)(a) of the Licensing (Scotland) Act 2005, the Licensing Board considered the Personal Licence held by Mr Randev in light of the findings of the Board in relation to the suspension of the Premises Licence for the premises known as Cheers Licensed Grocers, 2 Dalgleish Avenue, Duntocher, Clydebank.

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

- (a) that in view of the Board's decision under Section 84(3)(a), both Mr Randev 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 Randev, the personal licence holder was in attendance and was represented by Mr Gilmour, McArthur Stanton Solicitors;
- (c) that a copy of the Clerk's report had been issued to Members of the Board in advance of the meeting and that a copy had been received by the licence holder;
- (d) that Chief Inspector Byrne and Sergeant Stewart were in attendance on behalf of the Chief Constable, Strathclyde Police; and

- (f) that the Hearing would rely on the Board's findings in the Statement of Reasons rather than hear a repeat of evidence from Strathclyde Police which had been given at the hearing on 14 June 2011.

Strathclyde Police and the LSOs would be asked to provide further information and Mr Gilmour would be given the opportunity to ask any questions of Strathclyde Police and the LSOs. Mr Gilmour advised that he was happy with this procedure.

It was noted that there were no preliminary issues which required to be addressed and that neither the Police nor the LSOs wished to provide any further information. Mr Gilmour indicated that he did not wish to ask any questions.

The Board then heard from Mr Gilmour who addressed the Board on behalf of Mr Randev. Mr Gilmour provided detail on Mr Randev's good character, education and work experience and provided the Board with two excellent character references in support of Mr Randev in a position of responsibility. Mr Gilmour also advised that he had received 117 letters of support for Mr Randev and read out the positive comments in support of Mr Randev from four of the letters.

Thereafter Mr Gilmour provided a detailed account of the circumstances which led to Mr Randev's conviction. The account provided by Mr Gilmour differed from that provided by Mr Arrol at the Hearing on 14 June 2011. Mr Gilmour advised that Mr Arrol's account had been inaccurate in certain critical respects. He informed the Board that it had been the female concerned who had uttered profanities and racial abuse at Mr Randev. He advised that the female had attacked Mr Randev, by punching him. It was noted that Mr Randev did admit to kicking the female to the body twice and punching once and that he did not pursue a police complaint as he feared there would be repercussions for his family given that there had been a previous incident where his son and car had been attacked. Mr Gilmour advised that he was of the view that the Police report did not reflect the true facts of the case.

Mr Gilmour advised that in relation to the CCTV, only Mrs Randev could operate the CCTV at the premises and at the time of the incident, the CCTV was programmed to erase every 11 days which was the reason CCTV evidence was not available when requested by the Police. Mr Gilmour also advised that it was now kept for a period of 31 days. It was noted that Mr Gilmour had possession of 8 signed CCTV statements which all stated that the female entered the shop, was seen remonstrating with Mr Randev, then walked to the door, took something and walked out. Mr Randev then approached the female, was kicked and fell down.

Mr Gilmour informed the Board that he was of the view, had Mr Randev pleaded 'Not Guilty' and gone to trial on his assault charge, he would have been acquitted.

Following discussion on the facts of the case and having heard Mr Gilmour in answer to questions from Members, the Clerk to the Licensing Board referred to his notes from the meeting of the Board held on 14 June 2011 and provided clarity on the evidence given by Mr Arrol at the hearing.

Chief Superintendent Byrne provided clarity on the charge details from Strathclyde Police and in doing so, advised that reference to “pushed to ground” was disputed.

Following consideration and having heard the Clerk to the Licensing Board in answer to Members’ questions, the Board expressed concern at the differences in evidence given on behalf of Mr Randev, in circumstances where Mr Randev had been present at both hearings and had not raised any concern at inaccuracies. It also noted that Mr Arrol’s evidence had narrated the agreed facts which had been submitted by the Procurator Fiscal at the criminal trial, which were different from the version provided by Mr Gilmour. However both versions agreed that Mr Randev had kicked and repeatedly punched the female to an extent that showed a loss of control. The Board was concerned that such an assault on a patron of the premises during licensed hours, exacerbated by Mr Randev’s inability to control his temper created a risk that such behaviour could be repeated while selling alcohol in the premises. This is because patrons seeking to buy alcohol can be more difficult than those entering to buy other goods e.g. drunk or under-age customers. There would then be a risk of crime and disorder occurring in relation to the sale of alcohol in the premises. Accordingly the Board unanimously agreed:-

- (1) that it was necessary for the purposes of the licensing objective of preventing crime and disorder to make an order under Section 84(7)(c) of the Licensing (Scotland) Act 2005, endorsing the personal licence held by Mr Randev; and
- (2) to give notice of the order and of the reasons for making the order to East Dunbartonshire Licensing Board.

The meeting closed at 1.43 p.m.