

## **WEST DUNBARTONSHIRE LICENSING BOARD**

At a Meeting of the West Dunbartonshire Licensing Board held in Committee Room 3, Council Offices, Garshake Road, Dumbarton on Tuesday, 29 October 2013 at 10.00 a.m.

**Present:** Councillors Jim Brown, Gail Casey, Jonathan McColl, Marie McNair, John Millar, John Mooney, Hazel Sorrell and Michelle McGinty.

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

**Also Attending:** Keith Redpath, Director of West Dunbartonshire CHCP and Gail McClymont, Chief Superintendent

**Apology:** Apologies for absence were intimated on behalf of Councillors Casey and McNair.

### **VARIATION IN THE ORDER OF BUSINESS**

The Chair, Councillor O'Neill, welcomed everyone present to the meeting and advised that the business would be varied as hereinafter minuted.

### **DECLARATIONS OF INTEREST**

Councillors McColl, Mooney and Sorrell declared a non-financial interest in the items of business entitled 'Review of Licensing Policy Statement', 'Application for Variation of Premises Licence – Boulevard Hotel and Nightclub' and 'Application for Variation of Premises Licence – Lucky Break Snooker Club'.

### **PROCEDURE FOR REVIEW OF A PREMISES/PERSONAL LICENCE**

A note of the Licensing Board's Hearing Procedure for Review of a Premises/ Personal Licence was submitted and noted by the Board.

## MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Board held on 17 September 2013 were submitted and approved as a correct record.

### REVIEW OF LICENSING POLICY STATEMENT - PRESENTATION

A joint presentation was provided by Keith Redpath, Director of the West Dunbartonshire Community Health & Care Partnership and Chief Superintendent Gail McClymont providing evidence and statistical information in support of an Overprovision Policy in West Dunbartonshire.

### APPLICATION FOR VARIATION OF PREMISES LICENCE IN TERMS OF THE LICENSING (SCOTLAND) ACT 2005 – THE BOULEVARD HOTEL AND NIGHTCLUB

Name and address of Premises: The Boulevard Hotel and Nightclub, 1710 Great Western Road, Clydebank G81 2XT.

Applicant/Licence Holder: Greene King Brewing & Retailing Ltd, c/o Belhaven Pubs, Atrium House, 6 Back Walk, Stirling FK8 2QA.

An application for variation of Premises Licence was submitted by the above applicant for the above premises.

In view of the letter of objection from West Dunbartonshire Community Health & Care Partnership, Ms Helen Weir, Strategy Manager/ADP Lead, Community Health & Care Partnership was heard in relation to the objection submitted. There was no appearance by or on behalf of the objector, Mr McHugh. Mr Andrew Hunter, Harper MacLeod Solicitors, accompanied by Mr Howlett and Ms Jackson, Greene King Brewing & Retailing Ltd, was heard on behalf of the premises licence holder.

Having heard the Clerk, Mr Hunter addressed the Board in terms of Section 30 of the Licensing (Scotland) Act 2005 given the concerns expressed in relation to the proposal to sell alcohol from 10.00 a.m. on Monday to Sunday. Following discussion, Mr Hunter agreed to amend the application and withdrew the proposal to sell alcohol from 10.00 a.m. from the application.

Thereafter, following consideration of all matters before the Board, it was agreed to grant the amended application subject to the following conditions:-

- (a) that children and young people must be accompanied when on the premises for the purposes of consuming a meal, attending a function or resident in the hotel; and

- (b) that the opening time for the nightclub part of the premises will remain at 11.00 p.m. on Thursday to Sunday inclusive when the premises is being used for the purposes of a nightclub.

**DECIDED:**

The Board agreed to grant the amended application subject to the following conditions:-

- (a) that children and young people must be accompanied when on the premises for the purposes of consuming a meal, attending a function or resident in the hotel; and
- (b) that the opening time for the nightclub part of the premises will remain at 11.00 p.m. on Thursday to Sunday inclusive when the premises is being used for the purposes of a nightclub.

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

**WDLBPREM/0096**

Name and address of Premises: The Lucky Break Snooker Club, 26/30  
Glasgow Road, Clydebank G81 1SE.

Applicant/Licence Holder: Indrigil Limited, c/o Blair & Bryden, 23  
Kilbowie Road, Clydebank G81 1TL.

An application for variation of Premises Licence was submitted by the above applicant for the above premises.

The Clerk referred to a letter from the applicant's solicitor advising that two of four variations were no longer being sought by the applicant. It was noted that the applicant wished to delete the request for the operation of the premises during non core hours on Monday to Wednesday inclusive from 12 midnight until 1.00 a.m. and also wished to restrict the request for access by children to the snooker hall from 11.00 a.m. until 8.00 p.m. as opposed to the hours requested in the application.

In view of the letter of objection from West Dunbartonshire Community Health & Care Partnership, Ms Helen Weir, Strategy Manager/ADP Lead, Community Health & Care Partnership was heard in relation to the objection submitted.

Sergeant Hendry was then heard in relation to the letter of representation from Police Scotland.

Mr Alex Gilmore, Blair & Bryden Solicitors, accompanied by Mr John Rea, Indrigil Ltd, was heard on behalf of the premises licence holder.

After consideration of all matters, the Board:-

**DECIDED:**

To agree, that the application as confirmed by Mr Gilmore, be granted.

**LICENSING POLICY STATEMENT 2013-2016**

A report was submitted by the Clerk to the Licensing Board seeking consideration of the consultation responses and thereafter approval of the terms of a new Licensing Policy Statement to operate from 30 November 2013 – 29 November 2016.

Having heard the Clerk, the Board determined its views on the nine issues previously identified by the Board at its meeting in June 2013 and on the consultation responses received following the public consultation as detailed below.

**Question 1 – Occasional Licences – Limit on the number that can be applied for by any one premises**

**DECIDED:**

- (a) that in repeated applications for the same premises, applicants should require to address the Board on why an application for a premise licence has not been submitted to the Board; and
- (b) that there should be no “cap” placed on the number of occasional licences as suggested by some consultees given that the terms of the Act only places a formal restriction on numbers for voluntary organisations.

**Question 2 – Occasional Licences – Training Requirement**

**DECIDED:**

- (a) that the Board, on balance, continues with its current policy to restrict training requirements to events that are identified as “high risk” or where the premises are effectively being run as a business;
- (b) to note that this would not disadvantage small scale one off events from applying by adding a layer of training requirements; and
- (c) to note that the Board had no evidence before it outlining problems with such occasional licences, however if such evidence is produced that such risks are present then this may be a matter that the Board could consider in a supplementary statement of licensing policy.

### **Question 3 and 4 – National and International Events and Special Events – Extended Hours Applications**

#### **DECIDED:**

- (a) to continue with the current definition of “special events”;
- (b) that the following wording be inserted to enable an event to be organised at short notice:  
  
“should the need for a special event arise at short notice, the Board will endeavour to hold a Special Meeting to enable the event to go ahead (should it be granted)”;
- (c) that St. Andrew’s Day be given automatic status, similar to St. Patrick’s Day, and allow the Clerk to grant applications under delegated powers.

### **Question 5 – Responsibility of Landlord/Parties that hold Premises Licences**

#### **DECIDED:**

- (a) That the Board would not seek to be prescriptive as to what the Premises Licence Holder requires to do but would flag up clearly, in its policy, its areas of concern and what it expects to be addressed on should such matters come to a review hearing;
- (b) that a wording would be included in the policy advising that the Premises Licence Holder should be able to demonstrate due diligence, as far as possible, with annual checks on utilities and regular checks to ensure that the premises are being run in a manner consistent with the licensing objectives.

### **Question 6 – Categories of Licensed Premises**

#### **DECIDED:**

That the Board formally states in its Licensing Policy Statement, the categories listed below (as specified in the report dated 11 June 2013), as they fall under in the Town and Country Planning (Use Classes)(Scotland) Order 1997, and given their relevance to the assessment for overprovision:-

- Public houses (“Pubs”) – article 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.
- In relation to mixed use or hybrid premises these will be considered by reference to their underlying use.

### **Question 7 – Home Deliveries**

#### **DECIDED:**

- (a) that all persons carrying out home deliveries are trained formally to “Challenge 25 requirements”; and
- (b) that no further references to the terms of the Act are required in policy.

### **Question 8 – Licensed Hours/Licensed Hours of Trading**

#### **DECIDED:**

That the Board’s current hours, as at point 20.2 of its policy, are sufficient with regards to both on and off sales.

### **Question 9 – Tourism**

#### **DECIDED:**

That the Board’s current policy is sufficient in relation to tourism and that each application requires to be dealt with by the Board on its own merits and without prior indication of what it may grant.

### **Miscellaneous and other Matters**

#### **DECIDED:**

- (a) that the minor and miscellaneous changes, as detailed in the report to the Board on 11 June 2013 entitled ‘Review of Licensing Policy Statement’ would be made to the Policy; and
- (b) to amend the existing policy to include a reference to children being accompanied by an adult whilst on the premises. It was noted that this commonly features in most operating plans and is the practice of most premises (members’ club have separate criteria) and the Board should reflect this clearly in its policy with the relevant licensing objectives considered.

## **REPORT ON LICENSING POLICY STATEMENT – OVERPROVISION**

A report was submitted by the Clerk to the Licensing Board seeking consideration of the consultation responses and thereafter approval of the terms of a new Licensing Policy Statement - Overprovision to operate from 30 November 2013 – 29 November 2016.

Having heard the Clerk, the Board determined its views on the nine issues previous identified by the Board at its meeting in June 2013 and on the consultation responses received following the public consultation.

**Question 2(a) – Whether there is overprovision of premises within West Dunbartonshire licensed to sell alcohol?**

**DECIDED:**

The Board agreed that there was an overprovision of licensed premises within West Dunbartonshire and that a similar approach be adopted to assess whether there is overprovision of licensed premises in the area, as had occurred in 2010.

**Question 2(b) – If there is such overprovision, in which area is there overprovision?**

**DECIDED:**

The Board agreed to adopt the 17 intermediate data zone areas chosen by the Board and identified from the ADP report and statistical evidence as specified areas that should be subject of an overprovision assessment.

**Question 2(c) – If there is overprovision, in what categories or types of premises is there overprovision?**

**DECIDED:**

The Board agreed that the four categories that formed part of the previous Statement of Licensing Policy, as undernoted, are the areas that the Board determine the types of premises which are overprovided for:-

Large supermarkets  
Off sales and local convenience stores  
Nightclubs  
Public houses

**Question 2(d) – If there is overprovision, why is there such overprovision?**

**DECIDED:**

The Board noted that the responses to such seemed to focus on the wide availability of alcohol which is indeed an issue nationwide.

**Question 2(e) – Do you agree that the Board should refine its current policy to consider the positive health benefits associated with increased employment opportunities as a factor that applicants can demonstrate in support of their application and a factor that may rebut such a presumption?**

**DECIDED:**

The Board agreed to incorporate a refinement into its policy on overprovision to consider the positive health benefits associated with increased employment opportunities as a factor that applicants can demonstrate in support of their application and a fact that may rebut such a presumption. However, it would still be for the Board in every application in front of it (in the areas and categories of overprovision) to apply the terms of Section 26 of its policy and determine whether there is robust and reliable evidence in front of the Board and what weight to place to this fact if applicants seek to argue the positive benefits associated with employment insofar as it relates to the licensing objectives.

**DECIDED:**

It was agreed that the policy would come into effect on 30 November 2013, subject to the equalities impact screening disclosing no significant adverse impact and the Chair of the Board being satisfied that the detailed wording of the policy reflected the decisions of the Board.

The meeting closed at 12.35 p.m.