

# WEST DUNBARTONSHIRE LICENSING BOARD

## Report by Clerk to the Licensing Board

Licensing Board: 7 March 2023

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**Subject: Premises Licence at 6/8 Webster Street, Whitecreek, Clydebank G81 1AZ**

### **1 Purpose**

- 1.1 To submit information from the Licensing Standards Officer relating to the premises at 6/8 Webster Street, Whitecreek, Clydebank G81 1AZ (“the Premises”) detailing whether they are being used for the sale of alcohol.

### **2 Recommendations**

- 2.1 It is recommended that the Board:-
- (a) notes the terms of the information submitted by the Licensing Standards Officer in relation to the Premises;
  - (b) hear from the Licensing Standards Officer in further explanation of the report; and
  - (c) determine whether the premises licence ceases to have effect.

### **3 Background**

- 3.1 At its meeting on 15 February 2022, the Board considered a review application relating to the Premises owing to non-payment of the annual fee. The annual fee has not been paid for 2020/21 and 2021/22. The annual fee remains outstanding for 2022/23 and is subject of a further review application by the Licensing Standards Officer. The premises licence is currently suspended.
- 3.2 At the aforementioned meeting, the Board directed that the Licensing Standards Officer brings a report to the Board detailing whether these premises are no longer being used for the sale of alcohol in the context of Section 28(5)(b) of the Licensing (Scotland) Act 2005 (“the 2005 Act”). This report is contained at Appendix 1.

- 3.3 By way of further information, the Premises are licensed to sell alcohol for consumption off the premises only.

#### **4 Main issues**

- 4.1 A premises licence issued under the 2005 Act is of indefinite duration unless one of the events set out in Section 28 of the 2005 Act occurs or if the Board revokes the licence by way of the review process.
- 4.2 The terms of Section 28(5)(b) of the 2005 Act are of particular relevance in relation to the Premises. This statutory provision sets out that the licence ceases to have effect where the licensed premises in respect of which the licence was issued cease to be used for the sale of alcohol.
- 4.3 When considering whether the Premises have ceased to be used for the sale of alcohol, Members should note that licensed premises not trading is not a deciding factor. Licensed premises may not trade for a number of reasons and this would not necessarily mean that the event set out in Section 28(5)(b) has occurred. For example, the premises may have closed for works or to be marketed.
- 4.4 It is suggested that Members consider the additional factors outlined in the Licensing Standards Officer's report and in particular the fact that annual fees have not been paid for a number of years, the licence is currently suspended with no efforts made by the licence holder to lift this suspension, no contact has been received from the licence holder, and that no premises manager has been named on the licence since 2019. Members may take the view that these factors taken in their totality means that the premises are no longer used for the sale of alcohol.
- 4.5 Should Members determine that the Premises are no longer used for the sale of alcohol then the premises licence will cease to have effect. If the occupier of the Premises wishes to sell alcohol from the premises at a future date, a new premises licence application will be required.
- 4.6 Members should also note that if there is a determination as set out in paragraph 2(c) then the pending review application will fall. If there is no such determination, then Members will be required to consider the review application.

#### **5 People Implications**

- 5.1 The work involved in investigating the Premises has an impact on Licensing Standards Officers' resources.

## **6 Financial and Procurement Implications**

- 6.1 As the Premises has not made its annual fee payment for a number of years, the work undertaken in relation to the Premises is in effect unfunded.

## **7 Risk analysis**

- 7.1 Should the Board determine that the premises licence at the Premises has ceased to have effect then this could be challenged by the licence holder albeit there has been no contact from the licence holder for a number of years.

## **8 Equalities Impact Assessment (EIA)**

- 8.1 An EIA is not required.

## **9 Environmental Sustainability**

- 9.1 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 9.2 Under the provisions of the Local Government in Scotland Act 2003, the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 9.3 The information contained within this report has been considered under the Act. However, no action is required as the Act does not apply to the matters presented in this report.

## **10 Consultation**

- 10.1 No consultation is required for the issues raised in this report.

## **11 Strategic Assessment**

- 11.1 In terms of the Council's Strategic Priorities, the purpose of licensing is to make sure our communities are resilient and thriving.

**Alan Douglas**  
**Clerk to the Licensing Board**

**14 February 2023**

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Person to Contact: Michael McDougall, Depute Clerk to the Licensing Board, Regulatory and Regeneration, West Dunbartonshire Council, Municipal Buildings, Dumbarton G82 1NR  
e-mail: michael.mcdougall@west-dunbarton.gov.uk

Appendices: 1. Licensing Standards Officer's report

Background Papers: None

Wards Affected: Clydebank Waterfront