

**EAST LOTHIAN**

**Meeting 23 October 2014 at 10:00am in Council Chambers, Town House, Haddington**

**Licensing (Scotland) Act 2005**

Variation (Major)(s)	Premises	Applicant	Date Received	Comments
1	PAN CONVENIENCE STORE 5 HAWTHORN ROAD PRESTONPANS EAST LOTHIAN EH32 9QW	MOHAMMED YOUNIS C/O WHITE LAW ASSOCIATES KITLEYBRIG CARLOPS PENICUIK EH26 9NJ	20 May 2014	Variation to Terminal core hours - Monday to Sunday - 10pm (previously 8pm). Variation to opening hours on a Sunday to 10am (was 12.30pm). Minor changes to shelving.

EAST LoTHIAN LICENSING BOARD

PC  
RF  
ENV  
FIRE  
C.L  
NEWH  
NHS  
C.C

LICENSING (SCOTLAND) ACT 2005, SECTION 29  
APPLICATION FOR VARIATION OTHER THAN MINOR VARIATION

This application should only be completed by the Licence Holder of the appropriate Premises Licence or their Agent.

SECTION 1: TYPE OF VARIATION

This application for Variation other than a Minor Variation of Premises Licence is made under Section 29(5) of the Licensing (Scotland) Act 2005 in order to vary-  
(Tick all relevant boxes)

Any of the Conditions to which the Premises Licence is subject

Any of the information contained within the Operating Plan

The Layout Plan

Any other information contained or referred to in the licence (including any addition, deletion or other modification).

(Provide Details)

.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL0146

2(b) Name and Address of Premises

Pan Convenience Store  
5 Hawthorn Road  
Prestonpans

East Lothian Council  
Licensing  
20 MAY 2014  
Received

Post Code	EH32 9QW	Phone No.	07875 382508
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2(c) Full Name and Address of Current Licence Holder

Mohammed Younis  
213 Guardville Terrace

Post Code	EH17 7SL	Phone No.	07440 786750
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### SECTION 3: NATURE OF VARIATION

Complete the relevant section(s) regarding the variations sought:-

#### 3(a) Variation to the Conditions to which the Premises Licence is subject

Provide details of the Condition(s) to be varied and the variation being sought

#### 3(b) Variation to the information contained within the Operating Plan of the Premises Licence

Provide a copy of the proposed operating plan and highlight below the proposed changes. (See Note 1)

alter Sunday opening time from 12.30 to 10.00  
MONDAY TO SUNDAY TERMINAL HOUR 8pm TO 10pm.

#### 3(c) Variation to the Layout Plan of the Premises Licence

7 Copies of the proposed Layout Plan **must** accompany this application. (See Note 2)

In addition please provide details below of the proposed change to the layout of the Premises.

minor change to shelving

**3(d) Variation to any other information contained or referred to in the licence**

Provide details below of any other variation sought to the Premises Licence  
(e.g. *Alteration to the description of the premises contained within the Premises Licence*)

**SECTION 4: LICENCE TO BE AMENDED**

(See note 3 below)

Does the appropriate Premises Licence accompany this application?

**YES**

If the answer is **NO**, please provide an explanation.

I am unable to produce the Premises Licence because...

The licence has not yet been issued by the Board

The licence has already been returned to the Board in respect of an earlier application for variation or transfer

Other (provide details)

.....

**SECTION 5: FEE PAYABLE**

The fee payable in respect of the application for variation is **£150**

If the application is submitted alongside an application for Transfer of Premises Licence then the combined fee for both applications will be **£170** (see note 4 below)

If submitted with an application for transfer, please specify the order in which the applications are to be considered-

Application for Transfer of Premises Licence followed by Application for Variation

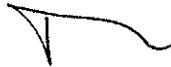
Application for Variation followed by Application for Transfer of Premises Licence

**DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT**

*If signing on behalf of the applicant please state in what capacity.*

I confirm that (a) the contents of this Application are true to the best of my knowledge and belief; and (b) the appropriate fee of £      is enclosed.

Signature



..... (See note 5 below)

Date            16 May 2014

Capacity: AGENT (delete as appropriate)

**If agent, please provide name, address,  
phone number and (if applicable) email address**

Tom Whitelaw, Kitleybrig, Carlops, Penicuik, EH26 9NJ 01968  
660452.....

.....

**Note 1:**

Please note that the proposed Operating Plan **must** contain any aspects of the current Operating Plan that are to be preserved should the variation be granted. (e.g. If the current Operating Plan allows a premises to have 'live performances' but this is not requested on the proposed Operating Plan then the Licensing Board would view such an omission as a request to have 'live performances' deleted from the Operating Plan of the Premises.)

**Note 2:**

Please refer to Paragraph 5 of the Premises Licence (Scotland) Regulations 2007 regarding the format of Layout Plans.

**Note 3:**

The appropriate premises licence (including summary licence, operating plan and layout plan) must be returned to the Licensing Authority in order that the licence documents can be updated to reflect the details of the variation. If you are in possession of the appropriate Premises Licence but unable to provide said licence with this application, you must ensure the licence is forward to the Licensing Authority within 14 days in order to complete the process of variation.

**Mohammed Younis**

**5 Hawthorn Road, Prestonpans, East Lothian, EH32 9QW**

**Variation Application**

**Statement on Licensing Objectives**

The following statement is in connection with the Application for a Variation at the above address, requesting additional hours.

Our client recently took over the premises and was aware of the fact that the Licence at the moment is only until 8pm and indeed there is no authority in the Operating Plan for the shop to remain open after that. There is another property, Scotmid, with 10pm along the road and our client would like to be able to offer a similar facility to their customers. The hours of course are within policy.

Our client would like to bring the permitted hours up to the policy hours, and those hours permitted by the Licensing (Scotland) Act 2005 ("the Act"). In terms of your Statement of Licensing Policy, it is requested that for an Application of this type that a Statement on the promotion of the Licensing Objectives should be lodged.

We would say that the premises are already operating and will simply do so for an additional two hours. We do not consider that this is covered by overprovision.

Our client has been in the licensed trade, in off sales premises, for around 15 years and has been involved in various shops, some of which are in your own area.

Taking each of these in turn we would identify possible issues under each Licensing Objective as follows:-

**Preventing Crime and Disorder**

- Underage drinking.
- Drunkenness on premises.
- Public drunkenness.
- Illegal possession and/ or use of drugs.
- Violent behaviour.
- Antisocial behaviour.
- Litter.
- Unauthorised advertising.

With regard to this matter, our clients have strict due diligence in place.

They are fully aware of Challenge 25 and maintain a refusals/ incident book.

They have extensive CCTV – 15 cameras, including 3 outside and one that is immediately above the till. They would be happy to provide footage to the Police, if required, and staff have been shown how to download footage.

Staff Training included identifying signs of drunkenness and how to refuse.

They have a zero tolerance with regard to drugs.

They are aware of dealing with violent behaviour, and that they have a duty of care to their staff and other customers, who should not be put at risk. Having said that, there have been no such incidents since they took over.

### **Securing Public Safety**

- The standard of maintenance of the building having regard to its age and the design and layout of the premises, including the means of escape and the event of a fire.
- The adequacy of vehicular access to the premises by the Fire and Rescue Service.
- The safety of gas and electrical installations.
- Customer profile.

Since taking over they have made substantial improvements to the shop and very much wish it to be the local shop that people feel welcomed and comfortable in.

Any perceived short comings are dealt with swiftly. Our client and his staff take great pride in their place of work.

### **Preventing Public Nuisance**

- The location of the premises and the proximity to residential properties.
- The design and layout of the premises and in particular the presence of CCTV.

These premises are in a row of commercial properties, but are surrounded by residential properties.

They are aware of their responsibilities in this respect, but the people living in these properties are their customers and they have already built up a very good (rapport?) with the local community.

They would be happy to become involved with any initiatives regarding alcohol and/ or drugs. They are not aware of any at present.

As explained there is substantial CCTV.

### **Protecting and Improving Public Health**

- Serving of patrons who have over consumed.
- Agency sales to people purchasing on behalf of drunk people.
- Duty of care to customers.
- Management/ staff being aware of concerns in Scotland regarding public health.
- The calculation of units of alcohol and advisable limits per day/ week.

With regard to public health, they are aware of issues regarding the concerns of overconsumption of people in Scotland. They are aware of their restrictions with regard to promotion, and they do not discount alcohol to ridiculous prices. They simply regard alcohol as an ancillary product which customers may wish to purchase with other items. That has been the experience so far.

This is not an increase in alcohol display – just the hours, but the reason for the increase in hours is not just to do with alcohol but all types of products. Most shops of this type stay open till 10pm now and customers expect that. Since they took over they have had many demands. Apparently they asked the previous people as well but they said that they were not interested in opening beyond 8pm.

As part of the community they are aware of whom may be considered vulnerable, and who they should take particular care with regard to in the sale of alcohol.

#### **Protecting Children from Harm**

- Underage sales.
- Agency sales to underagers.
- Suitability of staff being employed.
- Acceptance of only accredited forms of ID.

As explained before they have a rigorous Challenge 25 Policy and only accept the appropriate ID.

They are also aware of potential agency sales and would not hesitate to notify the Police if any adults were involved in the purchase of alcohol on behalf of children.

The staff have been trained accordingly and it has been made very clear to them that they must keep up the standard they consider they have already set.

They have had very few attempts at underage sales. They had several people coming in to start off with but after the six months or so that they have been there they feel that the underagers and indeed agents acting on their behalf, are already aware of the fact that they will simply not sell to them.





**POLICE  
SCOTLAND**

Keeping people safe

East Lothian Council  
Licensing  
- 9 JUN 2014  
Received

Date: 6<sup>th</sup> June 2014

Your Ref:

Our Ref: J/LIC/3705/HB

The Lothians and Scottish Borders Division  
Dalkeith Police Station  
Newbattle Road  
Dalkeith EH22 3AX

The Clerk of the Licensing Board  
East Lothian Council  
John Muir House  
Haddington  
East Lothian  
EH41 3HA

Tel: +44 (0)131 663 2855  
Fax: +44 (0)131 654 5507  
Textphone: +44 (0)131 311 3944

Email: [LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk)

Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 - REPRESENTATION  
APPLICATION FOR VARIATION – SECTION 29  
APPLICANT: MOHAMMED YOUNIS, 213 GUARDVILLE TERRACE, EDINBURGH  
PREMISES: PAN CONVENIENCE STORE, 5 HAWTHORN ROAD, PRESTONPANS**

I refer to the above application and in terms of Section 22(1)(b) of the Licensing (Scotland) Act 2005, I make the following representation in relation to the application, with reference to the proposed variation.

The premises currently operates an 'off sale' Monday – Saturday – 1000 – 2000 hours and Sunday 1230 – 2000 hours

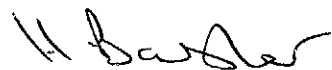
I note the applicant is wishing to increase the 'off sale' hours to 1000 – 2200 hours 7 days a week.

It is pertinent to point out that this major variation is out with Board Policy with regards to the overprovision statement and as such the applicant will be expected to demonstrate that the grant of this variation would outweigh the presumption against grant in terms of the overprovision statement.

There are already several 'off' and 'on sale' premises within the town of Prestonpans and any additional hours would be surplus to requirements in terms of provision.

Submitted for your attention in consideration of this application.

Yours faithfully

A handwritten signature in black ink, appearing to read "H. Barber". The signature is written in a cursive style with a long horizontal stroke at the end.

Divisional Licensing Officer

# **EAST LOTHIAN COUNCIL**

## **ENVIRONMENT ENVIRONMENTAL & CONSUMER SERVICES DIVISION**

### **Internal Memorandum**

**From: Rudi Fruzynski**  
**Licensing Standards Officer**

**per:**

**ref:**

**To: K. MacNeill**  
**Clerk to the Licensing Board**

**per**

**ref:**

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**Date: 04 Jun. 14**

**Subject: LICENSING SCOTLAND ACT 2005**  
**PREMISES LICENCE APPLICATION (MAJOR VARIATION) – JUNE 2014**

I refer to the above subject and can confirm that the undernoted premises have been visited and inspected in relation to application for a Premises Licence variation. I am satisfied that the Operating and Layout Plans are in accordance with the Licensing Board's policy, and the Act and, therefore, have no objections to the granting of the variation of licence.

**Premises Inspected:**

**Pans Convenience Store, Hawthorn Road, Prestonpans, East Lothian EH32 9QW**

Rudi Fruzynski  
Licensing Standards Officer

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EAST LoTHIAN

Meeting 23 October 2014 at 10:00am in Council Chambers, Town House, Haddington

Licensing (Scotland) Act 2005

Personal Licence Review(s)

Licence Holder	Applicant	Date Received	Comments
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2 PHILIPPA ISOBEL WHALEY

POLICE SCOTLAND

9 October 2014

Philippa Whaley

Dear Ms MacNeill  
Ref KM/GH/EN/L/PL

I refer to the ABOVE letter and that I was under the impression my personal license had been automatically revoked. I no longer work for Heineken or indeed in the license trade and therefore do not want to defend my license and am happy for it to be revoked. I am taking a completely new career path and do not intend to work in the trade again.

I therefore presume that I will no longer need to attend the meeting and, in any case, I will be away in Malta next week. I left the hard copy of my license on the wall in The Tyneside if it is needed, but it is possible the new tenants have disposed of it.

yours sincerely

EAST LoTHIAN COUNCIL  
LICENSING

15 OCT 2014

RECEIVED

Our Reference: KM/gh/EN/L/PL  
Your Reference:

Date: 8<sup>th</sup> October 2014

Ms Philippa Whaley  
12 New Winton Cottages  
Tranent  
East Lothian  
EH33 2NH

Dear Madam

**Licensing (Scotland) Act 2005  
Personal Licence No EL939**

I enclose a copy of a letter of 24<sup>th</sup> September 2014 received from Lothian and Borders Police asking East Lothian Licensing Board (as the 'relevant Board' in terms of S84(A) of the above Act) to consider whether there are grounds for finding that your recent behaviour has contravened the Licensing Objective of Preventing Crime and Disorder.

In terms of S84A of the above Act, the Board must hold a hearing into this matter. That hearing will take place at the Licensing Board Meeting on Thursday 23<sup>rd</sup> October 2014 at 10am in the Council Chambers, Town House, Haddington.

You are hereby cited to attend the above meeting where you will be given an opportunity to be heard regarding the matters raised in the letter from the police.

An agenda will follow in due course.

Yours faithfully

KIRSTIE MACNEILL  
Clerk to the Licensing Board

Direct Dial: 01620 827217/827867/820114  
Direct Fax: 01620 827253

**REPORT TO:** EAST LoTHIAN LICENSING BOARD

**MEETING DATE:** 23 October 2014

**BY:** Clerk of the East Lothian Licensing Board

**SUBJECT:** Request for Reviews of Premises Licences

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## **1 PURPOSE**

- 1.1 To seek the Board's agreement to instigate review proceedings in respect of Premises Licences where the Annual Fee for 2014/2015 remains unpaid, that being a breach of the Mandatory Conditions attached to those Premises Licence.

## **2 RECOMMENDATIONS**

That the Board agrees:-

- 2.1 To hold a Review Hearing in respect of the Premises Licences listed in Appendix 1 on the basis that the Annual Fees for 2014/2015 have not been paid and this constitutes a breach of Mandatory Condition number 10 and is a ground for Review Hearings, at the Board's initiative in terms of Section 37 of the Licensing (Scotland) Act 2005.
- 2.2 To delegate to the Clerk of the Board the authority to cancel any Review Hearings in respect of those premises who pay the annual fee prior to the date of the said Hearing.

## **3 BACKGROUND**

- 3.1 In terms of Condition 10 of the Mandatory Conditions attached to Premises Licences in terms of Section 27(1) of the Licensing (Scotland) Act 2005, the holder of a Premises Licence must pay the annual fee in respect of the licence in terms of the appropriate regulations.
- 3.2 All holders of Premises Licences in East Lothian were sent a letter advising of the Annual Fee due in respect of their licence on 4 August 2014 and payment was requested by 1 October 2014. The holders of the Premises Licences for the premises listed in Appendix 1 have failed to make payment. All other licence holders throughout East Lothian have paid.

- 3.3 In terms of Section 37 of the Licensing (Scotland) Act 2005, the Board can undertake a review of a Premises Licence at its own initiative where it is satisfied that one of the grounds for review exists. In terms of Section 36(3) of the Act, one of the grounds for review is “that one or more of the conditions to which the Premises Licence is subject has been breached”.
- 3.4 Given that there is a competent ground for review, the Board is recommended to instigate reviews and hold a review hearing at the next scheduled Board meeting on 27<sup>th</sup> November 2014.
- 3.5 All of the premises listed in Appendix 1 will be sent a reminder on 13 October 2014 asking for immediate payment and a verbal update on those fees that remain outstanding will be given at the Board on 23<sup>th</sup> October 2014. It may therefore be unnecessary to decide to hold a review for those who have made payment by that date.
- 3.6 Should any payments be received before the date of the review hearing it is recommended that authority be delegated to the Clerk to cancel those reviews in order to minimise inconvenience to the Board caused by proceeding with reviews that may no longer be necessary.

#### **4 POLICY IMPLICATIONS**

- 4.1 It is in the interest of fairness and efficiency that all licence holders should pay the Annual Fee when it falls due and those who do not should be subject to the consequences set out in the Licensing (Scotland) Act 2005.

#### **5 RESOURCE IMPLICATIONS**

- 5.1 Financial – Not applicable.
- 5.2 Personnel – Not applicable.
- 5.3 Other - None

#### **6 BACKGROUND PAPERS**

- 6.1 Licensing (Scotland) Act 2005

<b>AUTHOR'S NAME</b>	Kirstie MacNeill
<b>DESIGNATION</b>	Clerk of East Lothian Licensing Board
<b>CONTACT INFO</b>	<a href="mailto:kmacneill@eastlothian.gov.uk">kmacneill@eastlothian.gov.uk</a> Telephone: 01620 827164 09 October 2014



premises05_Name	Address	Address_2	Address_3	AnnualFeeAmount
George Hotel (sent to New Admi)	91 High Street	Haddington	Chq in post (15th October)	£280.00
Way Inn	1 Cuthill	Port Seton		£280.00
Whispers	95 High Street	Tranent		£280.00
Golden Chopsticks (formerly 102)	102 New Street	Musselburgh		£280.00
Sung Sing	31 High Street	Haddington	To pay by BACS 15th October	£280.00
Haddington Conservative Club	7 Market Street	Haddington		£220.00
Linton Hotel	3 Bridge End	East Linton		£280.00

**REPORT TO:** Licensing Board

**MEETING DATE:** 23 October 2014

**BY:** Clerk of the Licensing Board

**SUBJECT:** Records Management

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**1 PURPOSE**

- 1.1 To advise the Board that it is to adopt the East Lothian Council Records Management Plan in accordance with the requirements of the Public Records (Scotland) Act 2011.

**2 RECOMMENDATIONS**

- 2.1 To note the Report

**3 BACKGROUND**

- 3.1 The Public Records (Scotland) Act 2011 came into force on 1<sup>st</sup> January 2013. It requires all named authorities to submit a Records Management Plan when invited to do so. East Lothian Licensing Board and East Lothian Council are both named authorities and have been required to submit a Plan by 31 October 2014. The Records Management Plan is to set out the current arrangements and any necessary improvements for records management practices.
- 3.2 All staff supporting the administration of the Licensing Board are employees of East Lothian Council and all manual and electronic systems used for store records of the Board are subject to the Council's general policies and procedures. It therefore makes sense simply to adopt the Council Records Management Plan rather than to prepare a separate document. This is the course adopted by all Licensing Boards that have to date been require to submit plans.
- 3.3 The Council Plan has been developed by a Records Management Steering Group chaired by The Head of Council Resources. The Clerk of the Licensing Board is a member of that Group. Records Management

for the Council also falls within the remit of the Clerk in her role as Service Manager – Licensing Administration and Democratic Services.

It is anticipated that the Council Plan will be approved at the meeting of the Council on 28<sup>th</sup> October.

#### **4 POLICY IMPLICATIONS**

4.1 None

#### **5 EQUALITIES IMPACT ASSESSMENT**

5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial – none

6.2 Personnel - none

6.3 Other - none

#### **7 BACKGROUND PAPERS**

7.1 None

<b>AUTHOR'S NAME</b>	Kirstie MacNeill
<b>DESIGNATION</b>	Clerk of the Licensing Board
<b>CONTACT INFO</b>	<b>kmacneill@eastlothian.gov.uk</b> 01620 827164
<b>DATE</b>	14/10/14