



**MINUTES OF THE MEETING OF
EAST LOTHIAN LICENSING BOARD**

**THURSDAY 27 AUGUST 2015
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

Board Members Present:

Councillor J Goodfellow (Convenor)
Councillor S Akhtar
Councillor D Grant
Councillor W Innes
Councillor F McAllister

Clerk of the Licensing Board:

Mrs K MacNeill

Attending:

Mr R Fruzynski, Licensing Standards Officer
Ms D Elworthy, Licensing Officer
PC H Bowsher, Police Scotland
Ms M Allan, Police Scotland
Mr P Hamilton, Police Scotland

Committee Clerk:

Ms J Totney, Team Manager – Democratic Services

Apologies:

Councillor S Currie
Councillor T Trotter

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – 25 JUNE 2015

The minutes of the Licensing Board meeting of 25 June 2015 were agreed to be a true record.

2. APPLICATION FOR PREMISES LICENCE

(i) Archerfield Waterfront Event Centre, Dirleton

Mr G Arnott, Caledonian Heritable was present to represent the applicant. Mr Arnott advised the Board that following discussions with the Council's Licensing Standards Officer (LOS) his client is applying for a full licence instead of continuing to operate with occasional premises licences. He indicated that his client is happy to accept the comments from Police Scotland in relation to the licensing hours and children and young people.

Councillors Innes and Goodfellow commented that Archerfield is an asset to East Lothian.

Decision

East Lothian Licensing Board agreed to grant the variation to the premises licence subject to a commencement time of 11am for the on-sales of alcohol and that children and young persons should vacate the premises by 22.00 hours unless they are attending a private function when they can remain for the duration of the event.

3. APPLICATION FOR PROVISIONAL PREMISES LICENCE

(i) The Co-operative Food, Mid Road, Prestonpans

Ms A Junner, Hill Brown Licensing, was present to represent the applicant. Mr Murphy, The Co-Operative Food, was also present.

Ms Junner explained that the licence is for a new store in Prestonpans and is built on the site of a disused industrial unit. She anticipated that some business would be diverted from the Co-Operative's existing store in the town to this new store. Ms Junner acknowledged that the application is outwith the Board's policy regarding the over provision statement and referred to the supporting document that had been provided in advance to Board members.

The LSO referred the Board to his letter dated 31 July 2015.

PC Bowsher referred to the Police Scotland report dated 31 July 2015 and highlighted their concerns which included a high number thefts of alcohol from Co-Operative premises this year.

Mr Junner responded to questions from Councillor McAllister regarding the existing store in the town; the source of the business for the new store; the impact of the new store on alcohol consumption; and the proximity of the store to the railway station. She answered questions from other Board members about store security.

Councillor Innes remarked that while the site needs developed there is local concern that the new Co-Operative store will impact on other traders in Prestonpans.

Councillor Goodfellow, Convenor of East Lothian Licensing Board, stated that the lack of robust supporting evidence in relation to the over provision statement is a weakness in the application. He suggested that the application be resubmitted with stronger evidence, especially given that Prestonpans was one of the areas highlighted in the 2013 health and police statistics as being over provided for when it

came to alcohol outlets. Councillor McAllister shared the concerns about these statistics.

The Clerk advised that if the Board are minded to continue this item they should not express their intent or made a decision at this meeting.

Councillor Innes mentioned that the Board has to take a consistent approach to applications.

Councillor McAllister stated that on-sales and off-sales of alcohol do not have to be considered in the same way.

Councillor Goodfellow intimated that the Board is not minded to continue the application.

Decision

East Lothian Licensing Board agreed to grant the provisional premises licence.

4. VARIATION TO PREMISES LICENCE

(i) Event Space, Eskmills Park, Station Road, Inveresk

No one was present to represent the applicant.

The Clerk stated that the application seeks to vary the licence to include an outdoor drinking area. She advised the Board that ownership of the outside area has been clarified and that this area would be used for wedding receptions and not for bar drinks. The applicant has indicated that they are agreeable to a terminal hour of 22.00 hours and for the outside area to be delineated when in use.

The Clerk intimated that the applicant would be required to apply for the relevant planning permission.

Decision

East Lothian Licensing Board agreed to grant the variation to the premises licence subject to a terminal hour of 22.00 hours for the outside drinking area and that the area be clearly delineated to ensure no alcohol is taken from the area.

(ii) LIDL UK Stores, Newhailes Road, Musselburgh

(iii) LIDL UK Stores, 6 High Street, Prestonpans

Mr Hunter was present to represent the applicant. Ms T Broomfield, Licensing Manager of LIDL was also present.

The Board agreed to hear these two applications together.

The Clerk stated that the applications seek to vary the licence to alter the alcohol display capacity at both stores.

Mr Hunter advised that the increases were being requested to enable the stores to showcase wine on a small end-of-aisle display as part of international food and wine theme weeks and that the increases being sought are standard across all LIDL UK stores. He explained that both stores had previously had significantly higher alcohol

display capacities but that LIDL UK Stores has the policy of varying its licence to reflect variations in display capacity every time there is a change to the alcohol merchandising strategy.

Police Scotland and the LSO had no further comments to make to the reports they had already submitted in relation to both of these applications.

Mr Hunter answered questions from Board members regarding themed promotions and the use of the additional display capacity when there are no promotions.

Councillor Innes commended the applicant for their responsible attitude to alcohol marketing.

Decision

East Lothian Licensing Board agreed to grant the variation to the premises licences.

(iv) McColls, 61 High Street, Haddington

Mr A McIver, Brunton Miller Solicitors, was present to represent the applicant. He explained that a company representative was not available to attend.

The Clerk stated that the application seeks to vary the licence to alter the alcohol display capacity. She reminded Board members that the item had been continued from the June 2015 meeting of East Lothian Licensing Board.

Mr McIver advised that the shop had undergone a recent re-fit which had resulted in a small gap in the alcohol display area of 0.9m². He stressed that the additional display area is for aesthetic effect and is unlikely to generate increased sales of alcohol. Mr McIver acknowledged the comments from Police Scotland and the Community Council. In response to a request from the Board, Mr McIver issued a plan detailing the small area of overall floor space that is dedicated to the display of alcohol.

Police Scotland had nothing to add to their existing report and the LSO advised that he had no objection to the application.

Decision

East Lothian Licensing Board agreed to grant the variation to the premises licence.

(v) Railway Hotel, 70 Court Street, Haddington

Mr S McGowan, TLT Solicitors, was present to represent the applicant. Ms L Dickson, Designated Premises Manager, Railway Hotel, was also present.

The Clerk stated that the application seeks to vary the licence to allow children and young persons to remain on the premises until the end of a function.

Mr McGowan informed the Board that his client wants to encourage family friendly functions on the premises.

There were no objections from Police Scotland or from the LSO.

Decision

East Lothian Licensing Board agreed to grant the variation to the premises licence.

5. PERSONAL LICENCE APPLICATION

Grant D Dowie

The Clerk advised that this application has been continued from previous Board meetings. She further advised that the applicant's agent has sought a further continuation pending the outcome of court hearing to be heard on 31 August 2015.

Decision

East Lothian Licensing Board agreed to continue this application to the 24 September 2015 meeting of East Lothian Licensing Board.

6. AIR WEAPONS AND LICENSING SCOTLAND ACT 2015

A report was submitted by the Clerk of the Licensing Board to advise the Board of the main alcohol licensing provisions of the Air Weapons and Licensing (Scotland) Act 2015 (The Act) and to ascertain the Board's policy on what proof of training will be acceptable with application for Personal Licences.

The Clerk outlined the new and important changes to Licensing legislation and highlighted the salient points. In particular, she drew Board members' attention to the introduction of the 'fit and proper person' test to the granting of licences; a new provision making it a criminal offence to supply alcohol to young persons; and the requirement for a separate set of financial statements to be prepared and published annually for Licensing Boards.

Decision

East Lothian Licensing Board agreed:

- i. to note the new alcohol licensing provisions contained in the Act
- ii. that personal licence applications will only be accepted where the mandatory training was either undertaken less than five years before the date of the application or where it is accompanied by proof that refresher training has been undertaken within 1 year of the date of the application
- iii. that applications will not be accepted in any circumstances if the mandatory training was undertaken more than 10 years before the date of the application

7. STATEMENT OF PRINCIPLES – GAMBLING ACT 2005

A report was submitted by the Clerk of the Licensing Board. The Clerk advised that the Board is asked to approve the draft revised Statement of Principles 2016-2019 and to agree to proceed to consultation.

The Clerk pointed out that Licensing Boards should try and address gambling over-provision and that the Scottish Government is seeking more devolved powers in relation to gambling.

Councillor Innes raised the point that bookmakers were reportedly banning successful gamblers from their premises and enquired as to what the Board could do to deal with this. The Clerk advised that this could be written into the Board's policy but indicated that it might be difficult to enforce.

PC Bowsher advised that Police Scotland do not receive many calls from Bookmakers.

Councillor Goodfellow stated that the Board have serious concerns about the over provision of fixed odds betting terminals in vulnerable areas in East Lothian.

The Board requested that the Clerk issues a press release in relation to the report.

Decision

East Lothian Licensing Board agreed:

- i. to approve the draft Statement of Principles
- ii. that a consultation exercise should be commenced in accordance with s349(3) of the Gambling Act 2005
- iii. that the Clerk of the Board should collate responses to the consultation and report further to the Board so that the Board can consider those responses.
- iv. that the Clerk issues a press release in relation to the report.