



MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

**THURSDAY 28 SEPTEMBER 2017
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

Board Members Present:

Councillor F Dugdale (Convener)
Councillor L Bruce
Councillor J Goodfellow
Councillor J Henderson
Councillor C McGinn
Councillor J McMillan

Clerk of the Licensing Board:

Mrs K MacNeill, Service Manager, Licensing, Administration and Democratic Services

Attending:

Mr R Fruzynski, Licensing Standards Officer
Mr C Grilli, Service Manager – Legal and Procurement
Ms G Herkes, Licensing Officer
Ms S McQueen, Planner, East Lothian Council (item 2)
Ms L Shearer – Senior Solicitor
Insp A Hill, Police Scotland
PC H Bowsher, Police Scotland

Present:

Mr G Hood, Convener of East Lothian Licensing Forum (part of the meeting)

Committee Clerk:

Ms J Totney, Team Manager – Democratic Services

Apologies:

None

Declarations of Interest:

None

The minutes of the East Lothian Licensing Board meeting of 24 August 2017 were approved as a true record.

2 GRANT OF OCCASIONAL LICENCE

Marquee & Stately Home, Broxmouth House, Broxmouth Park, Dunbar

Mr A D Williams, WS, was present to represent the applicant. Mr S Flame, applicant was not present as he was attending a business meeting. Mr I Stokes, Events Manager was present.

The Clerk advised that there had been repeated applications for occasional licenses from Broxmouth House and that this is outwith Board Policy. She reminded members that they had decided at their August meeting that the application should be re-presented to today's Board meeting, and that the applicant had also been requested to provide the Board with an update on planning matters. Ms S McQueen, Planner, was present to provide further information and answer any questions.

The Clerk stated that the application seeks an occasional licence for wedding events/reception on 13 October 7 pm – 1am, and 14 October 11am – 1 am, with children and young persons permitted at all times.

Mr Williams explained that there had been some progress with planning matters; that the application had been updated to reflect the criticism about the lack of information that had been provided; Mr Flame had engaged an experienced planning expert, Mr Bob Tait; and that a meeting had taken place with Ms McQueen on 1 September 2017. He reported that Ms McQueen is still of the view that there has been a material change of use of part of the ground floor of the house; that the planning application would be amended to only cover the marquee; that the planning application and full licence would be progressed over the winter; and that he does not envisage returning to the Board with further occasional licence applications.

Ms McQueen advised that Mr Flame does not believe that the planners have an accurate understanding of the situation and they are working together to try and clarify inaccuracies. She added that it is Mr Flame's desire that the Council reach a position where they do not feel that there has been a material change of use; there is more to consider than simply changing the planning application; and that she has been in dialogue with Mr Tait with a view to resolving the situation.

Mr Stokes answered questions from Councillor McMillan about management and supervision, and clarified that Mr Flame's role at wedding events is purely that of host.

In response to Councillor Henderson, Mr Stokes stated that it is his understanding that there is no attempt to hide the fact from clients that the business does not have a full alcohol licence. Councillor Henderson commented that it is a high risk strategy for the business to offer a service that it might not be able to deliver.

Mr Stokes advised Councillor McGinn that as it is Mr Flame who deals with prospective clients, he could not comment on whether these clients are made aware that the business is operating with occasional licences. Councillor McGinn expressed concerns that clients might not have the full facts about the situation regarding the alcohol licence and pressed Mr Williams on the aims of the business in relation to occasional licences. Mr Williams confirmed that the goal is to have a full premises licence and not occasional licences.

The Licensing Standards Officer (LSO) and Police Scotland had no comments to make.

The Board adjourned to consider matters in private.

Sederunt: *Mr G Hood joined the meeting*

On reconvening, members individually stated their views.

Councillor Goodfellow expressed extreme disappointment at a further occasional licence application from this applicant. Despite indicating at a previous Board meeting that he would not be minded to grant further occasional licences, it was his view that Broxmouth House has placed the Board in a difficult position, given that there is a wedding planned for the middle of October. He stressed that he considers it very disrespectful that Mr Flame has opted not to attend today's meeting and that the Board does not have clarity as to what clients think Broxmouth House is providing in relation to an alcohol licence. He made it very clear that the Board would take a serious view if there is any suggestion in promotional material that the business holds a full licence. Given that a wedding is booked he was minded to grant the application on this occasion only.

Councillor Henderson was reassured by the progress on planning matters. However, she asked Mr Williams to make Mr Flame aware that the Board has a duty to consider the fit and proper person rule when considering the application for a full licence. She suggested that some of Mr Flame's behaviours in relation to recent occasional licence applications do not meet the fit and proper person criteria in respect of his disregard for due process and the law. It was her view that the Board is being held to ransom. Given that the wedding has been booked, she would be minded to grant this application. However, she mentioned the need to remember trading standards considerations and wondered why it was more important that Mr Flame attended a business meeting rather than be present to deal with the actual business of Broxmouth House.

Councillor McMillan was minded to grant the application and re-iterated his points regarding management and professionalism. It was his view, that as the applicant, Mr Flame's role goes beyond that of host. He stressed that it is important that occasional licence applications never happen again.

Councillor McGinn commented that it speaks volumes that Mr Flame is not present at the meeting. While he appreciated the updated application form, he noted Mr Flame's lack of respect for the Board and expressed concern that potential wedding couples are not being advised about the situation regarding the alcohol licence. He acknowledged the intention to rectify planning and licensing matters over the winter but pointed out that this has been a stated intention for over two years. Despite feeling held to ransom he was minded to grant the application to avoid ruining a wedding day. He made it clear that applications for occasional licences had to end.

Councillor Bruce agreed with the comments from his fellow Board members, in particular that it was disrespectful that Mr Flame was not present at the meeting. He asked Mr Williams to stress to his client that it is Mr Flame who is personally responsible for the application. He stated that he was minded to grant this application but that would not be the case for future occasional licence applications.

Decision

East Lothian Licensing Board agreed to grant the occasional licence application.

**3 POLICE SCOTLAND, CHIEF CONSTABLE’S REPORT TO THE EAST
LOTHIAN LICENSING BOARD, 1 APRIL 2016 – 31 MARCH 2017**

Insp Hill, Local Community Inspector, Police Scotland, presented the report and invited questions from Board members.

Councillor McMillan asked about the risks and priorities around licensing for East Lothian.

Insp Hill spoke about the potential for anti-social behaviour and the character and qualifications of licensees. He added that the core priority is off-sales and dealing with how young people get access to alcohol.

A short debate took place about Police Scotland Youth Volunteers and Councillor McMillan congratulated local officers on their involvement in this initiative and also the Tomorrow’s Young Driver scheme.

Councillor Henderson asked about benchmarking opportunities. While there are no documented comparisons, P C Bowsher advised that it is a positive report compared to other areas.

Councillor Goodfellow suggested that additional figures could be added to show the number of incidents, in addition to the red/amber/green rating system. He stated that the report was very positive.

Councillor Dugdale commented that the report has been produced in a very readable format and was a testament to the work going on in the area. Councillor McGinn echoed this view, and pointed out the contribution made by bar staff, premises managers, Police Scotland, the LSO and licensing staff.

Decision

East Lothian Licensing Board agreed to note the report.

Signed

Councillor Fiona Dugdale
Convener of East Lothian Licensing Board