



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

**THURSDAY 22 FEBRUARY 2018  
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

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**Board Members Present:**

Councillor F Dugdale (Convener)  
Councillor L Bruce  
Councillor J Goodfellow  
Councillor J Henderson

**Clerk of the Licensing Board:**

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

**Attending:**

Mr C Grilli, Service Manager – Legal and Procurement, and Depute Clerk of the Licensing Board  
Mr R Fruzynski, Licensing Standards Officer  
Ms C Shiel, Licensing Officer  
Ms G Herkes, Licensing Officer  
Insp A Harborow, Police Scotland  
PC H Bowsher, Police Scotland

**Committee Clerk:**

Ms J Totney, Team Manager – Democratic Services

**Apologies:**

Councillor C McGinn  
Councillor J McMillan

**Declarations of Interest:**

None

### **1 MINUTES FOR APPROVAL – 25 January 2018**

The minutes of the East Lothian Licensing Board meeting of 25 January were approved as a true record.

## **2 POLICE SCOTLAND INTELLIGENCE GRADING SYSTEM PRESENTATION**

The Clerk advised that apologies had been received from the officer due to give the presentation and that the item would be carried forward to a future meeting.

## **3 MAJOR VARIATION OF PREMISES LICENCE The Main Course, Main Street, Gullane**

The Clerk advised that the application seeks to increase the capacity to 87, vary the layout plan to show an extension to the premises for a kitchen, and to show the existing kitchen area as an increased seating area. She reported that no objections had been received from Police Scotland, the Licensing Standards Officer (LSO) or members of the public.

Mr A Macdonald, Macdonald Licensing, was present to represent the applicant. The Company Director/Premises Manager was also present.

Mr Macdonald provided background information about the premises, including the fact that the applicant also owns the flat above the premises. He confirmed to Councillor Goodfellow that refuse bins are not kept on the street.

There were no comments from Police Scotland.

The LSO remarked that the premises are well run and that he supported the application.

The Clerk confirmed that noise conditions form part of the standard conditions of the licence.

Councillor Henderson was satisfied that the increased capacity would not result in parking problems.

### **Decision**

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

## **4. PREMISE LICENCE REVIEWS**

### **4a Rasul Brothers, 96 Lochbridge Road, North Berwick**

Mr Manzoor Ahmed was present to represent the applicant, Mr Jabad Ahmed. He confirmed that he was authorised to represent the applicant who now wished the review to proceed in his absence.

The Clerk advised that the review had been requested by Police Scotland.

Insp Harborow referred to the Police Scotland letter dated 27 January 2018 and advised that the review has been requested following an alcohol test purchase failure. As this would be the first time many of the Board members had dealt with a test purchase failure, he provided very detailed information on how initial and follow-up tests are carried out. He explained that as the Procurator Fiscal rarely goes ahead with test purchase failure cases, it is important that there is enforcement by the Licensing Board. Insp Harborow pointed out that on this occasion, there was no

specific intelligence about the premises and the test was carried out as part of a wider activity in East Lothian at the time.

Mr Ahmed apologised that a test purchase failure had occurred. He explained his connection with the store and informed members that there has been a comprehensive review of procedures and that he takes the matter very seriously. He outlined the situation regarding staff training records and the plans for re-training following the test purchase failure; advised that in-house test purchase transactions are carried out by the parent company, NISA; that the member of staff involved had a lapse in concentration and is otherwise capable; explained that a refusal register is maintained by all staff; advised that staff will refuse to serve alcohol to customers if there is perceived alcohol abuse or a suspicion that alcohol is being obtained on behalf of young people; and acknowledged that a mistake had been made on this occasion. Mr Ahmed provided Board members with a copy of the training records and refusal register.

In response to questions from Board members, Mr Ahmed provided information on staff numbers and explained that even staff who do not work on the tills have received licensing training and have a training record.

The LSO invited questions about his report dated 5 February 2018.

In response to a question from Councillor Goodfellow, the LSO explained the checks that he carries out when visiting premises in relation to training records, Challenge 25 posters and refusal registers. He advised the Board that there were deficiencies in these areas when he has visited the premises.

Insp Harborow carefully outlined the five courses of action available to Board members if the Board is satisfied that grounds for a review of a premises licence have been established. He stated that he was not seeking for the licence to be suspended or revoked on this occasion. However, he requested that for a period of time, a Personal Licence Holder should be on site at all times when alcohol sales are taking place, and that a written warning is placed on the licence.

In response to the Convener, Mr Ahmed advised that he had nothing further to add.

Board members adjourned in private to debate the matter. On re-convening the Convener advised that the Board had listened to Mr Ahmed and considered the input from Police Scotland and the LSO. In the interests of the licensing objectives of preventing crime and disorder, and protecting children from harm, she stated that a written warning would be placed on the licence. Board members unanimously agreed to this course of action.

The Clerk advised that a new premises licence, containing the written warning, would be issued.

## **Decision**

East Lothian Licensing Board agreed that a written warning be issued and attached to the premises licence.

### **4. PREMISE LICENCE REVIEWS**

#### **4b Macmerry Miners Welfare Society & Social Club, Main Road, Macmerry**

The Clerk advised that the review had been requested by Police Scotland.

As no one was present to represent Macmerry Miners Welfare Society & Social Club (the Club), the Board debated whether to proceed with this item. The LSO stated that the Club were aware of the review and that there might have been communication issues as there had been a recent change of office bearers. PC Bowsher concurred the comments made by the LSO.

The Clerk was therefore satisfied that the Club were aware of the review and suggested that the Club members had chosen not to attend as they had no objection to the Police Scotland request for a review of the premises licence. In response to questions from members, she advised that conditions could not be placed on the licence today if the licence review is to be continued to a future meeting.

The Board unanimously agreed to continue with this item in the absence a representative from the Club.

Insp Harborow referred to the Police Scotland letter date 15 January 2018. He pointed out that the Club is in breach of the condition which had been placed on its licence requiring it to pre-notify all 18<sup>th</sup> and 21<sup>st</sup> birthday parties seven days in advance, and highlighted the grounds for requesting the review of the premises licence. He offered to assist the Club with their policies to improve safety and reduce anti-social behaviour in the community. The LSO provided historical information about the events that had resulted in this condition being placed on the Club's licence in 2012. He supported the additional conditions that are being proposed by Police Scotland.

A debate followed on the issues, and potential remedial measures, relating to drug misuse at the Club. Insp Harborow indicated that checks by Security Industry Authorised (SIA) door stewards can be a deterrent to drug taking in licensed premises.

Insp Harborow advised Councillor Goodfellow that there is no evidence that any issues have been due to under-age patrons.

Responding to the Convener, The LSO advised that CCTV could be used outside in an unobtrusive way, in the car park area. Insp Harborow confirmed that monitoring car parking areas is normal practice. Members engaged in a short debate on the capacity of the Club premises, and the procedures used for bag searches and ID checks.

Board members agreed unanimously that the licensing conditions of preventing crime and disorder, and preventing public nuisance, are grounds for a review of the premises licence.

## **Decision**

East Lothian Licensing Board agreed that:

- i the following conditions be imposed on the premises licence:
  - a) CCTV to be installed in the premises to the satisfaction of Police Scotland
  - b) SIA door stewards to be utilised for 18<sup>th</sup> and 21<sup>st</sup> birthday parties and all other private functions
  - c) Written policies in relation to dispersal of the premises, drug misuse on the premises, and search policies to be introduced to the satisfaction of Police Scotland and the LSO
  - d) A Personal Licence Holder to be present at 18<sup>th</sup> and 21<sup>st</sup> birthday parties and all other private functions

Condition a) is to be implemented within three months. Conditions b), c) and d) are to be implemented within two weeks.

- ii the Board can instruct a further review of the premises licence on the grounds of preventing crime and disorder

#### **4. PREMISE LICENCE REVIEWS**

##### **4c Pans Convenience Store, 5 Hawthorn Road, Presgtonpans**

Mr A Macdonald, Macdonald Licensing was present to represent Pans Convenience Store. Mr Abdul Nadeem, Premises Licence Holder, was also present.

The Clerk advised that the review of the premises licence has been requested by Police Scotland.

Insp Harborow referred to the letter from Police Scotland dated 7 February 2018 and advised that the review has been requested following an alcohol test purchase failure. He commented that the test purchase had been carried out as part of a wider activity in East Lothian at that time.

The LSO referred to his report dated 9 February 2018 and concurred with the information provided by Police Scotland.

Mr Macdonald provided background information regarding a previous review hearing in 2016 for an alcohol test purchase failure at the premises; provided information on Mr Nadeem's previous and current business premises; explained the circumstances relating to the December 2017 test purchase failure; provided reasons to mitigate the failure; advised that the member of staff involved is no longer employed at the premises; and outlined proposals for ongoing staff training, which included the suggestion that with effect from the beginning of April 2018, all staff selling alcohol could be Personal Licence Holders.

The LSO advised that there had previously been an arrangement in place where a Personal Licence Holder would be present on the premises at all times that alcohol is being sold. He confirmed that this was not a condition of the licence, but that Mr Nadeem had elected to do this as an additional safeguard.

Mr Nadeem advised the Board about the arrangements that are in place for Challenge 25 and explained that there are electronic sales records and till prompts for verifying and refusing alcohol sales.

Insp Harborow welcomed the proposal that all staff selling alcohol should be Personal Licence Holders, effective from the beginning of April 2018. He suggested that the Board should consider issuing a written warning in addition to any conditions that are imposed on the licence.

Mr Macdonald advised that his client apologises for the test purchase failure and is keen to work with the Police and the LSO to ensure that this does not happen again.

The Board adjourned in private to debate the matter. On re-convening the Convener thanked all parties for their contribution. She advised that having considered all of the representations, the Board has decided that there has been a breach of the licensing objectives of preventing crime and disorder, and protecting children from harm. She advised that further conditions would be placed on the premises licence and that a written warning would be issued and placed on the licence. Board members unanimously agreed to this course of action.

#### **Decision**

East Lothian Licensing Board agreed that:

- i the following conditions be imposed on the premises licence:
  - a) a Personal Licence Holder is to be present on the premises at all times during licensing hours
  - b) all staff involved in the sale of alcohol are to hold a personal licence, effective from 1 April 2018.
- ii a written warning is to be issued and attached to the premises licence.

Signed .....

Councillor Fiona Dugdale  
Convener of East Lothian Licensing Board