



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

**THURSDAY 28 MARCH 2024
ONLINE PLATFORM MEETING**

Board Members Present:

Councillor L Bruce (Convener)
Councillor N Cassini
Councillor G McGuire
Councillor J McMillan

Clerk of the Licensing Board:

Mr R Thompson, Solicitor (Acting Clerk)

Attending:

Ms C Aitken, Licensing Officer
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration
Ms K Harling, Licensing Standards Officer
Mr C Grilli, Service Manager – Governance
PC L Wilson, Police Scotland
Inspector A King, Police Scotland

Committee Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor F Dugdale
Councillor N Gilbert

Declarations of Interest:

Item 2 – Councillor McMillan, due to having worked with Mr Kinnoch on various community projects.

1. MINUTES FOR APPROVAL
East Lothian Licensing Board, 22 February 2024

The minutes were approved as an accurate record of the meeting.

Sederunt: Councillor McMillan left the meeting.

2. PREMISES LICENCE
Mazzoli Café, 6 High Street, Haddington

The application sought a premises licence for a continental-style café. There had been no objections from the police, Licensing Standards Officer (LSO), environmental health, planning, or the public. The LSO had submitted a report to recommend a standard condition relating to deliveries of alcohol.

Paul Kinnoch, applicant, spoke to the application. He described the café, its food and small alcohol offer, and partnership with Winton Brewery. He gave an account of his experience in the hospitality industry and said he was very familiar with procedures around the five licensing objectives.

Karen Harling, LSO, had visited the premises and found it to be fully compliant. She commented that Mr Kinnoch was very experienced within the industry, and advised that no complaints had been received about the premises while operating under occasional licences.

PC Wilson advised that Police Scotland had no objections to the grant of the premises licence, and said no concerns had been raised regarding the premises.

The Convener was pleased that the premises licence application had come forward, and noted that Mr Kinnoch was a good licensee with two well-run establishments. He encouraged other such premises to come forward to obtain a premises licence instead of running on occasional licences. He formally proposed the LSO's recommended condition relating to deliveries.

Councillor McGuire was also pleased to see the application come forward, and commented that Mr Kinnoch was a long-established trader in Haddington who contributed to the community. Councillor McGuire supported the operation and commented on the great fare on offer. He formally seconded the condition relating to deliveries.

The Convener then moved to a roll call vote, including the condition relating to deliveries, and Members unanimously supported the application.

Decision

The Board granted the premises licence, subject to the following:

- Should a service of delivery of alcohol to customers be conducted, the terms of the Licensing (Scotland) Act 2005 Section 119, and those of the Board's statement of licensing policy on deliveries of alcohol, should be complied with.

Sederunt: Councillor McMillan rejoined the meeting.

**3. MAJOR VARIATION OF PREMISES LICENCE
Eskmills Venue, Archibald Hope House, Eskmills Road, Musselburgh**

The application sought to add gaming to the operating plan within core hours. There had been no objections from the police, LSO, environmental health, planning, or the public.

Brian Galbraith spoke to the application. He advised that he sought to add gaming to the premises licence to support private events run by Bingo Loco, who had proposed four dates at Eskmills Venue throughout 2024.

The LSO said she had visited the premises in the previous year and found it to be well run. She advised that the only complaint had been in relation to an extractor fan and had been quickly remedied. She asked that Mr Galbraith clarify a matter relating to core hours. She reported that there had been no complaints received following a one-off bingo event run previously.

PC Wilson advised that there had been no calls to Police Scotland about the premises over the years it had been running. He had no concerns about the venue or objections to the application.

Mr Galbraith confirmed that the events would only take place within core hours, and were proposed to run from 6.30pm-11pm, and the Convener requested that this amendment be made to Section 5e of the application.

Responding to a question from the Convener, Mr Galbraith confirmed that Bingo Loco were fully licensed with the Gambling Commission. The Convener was content to support the application on this basis, and took comfort from the success of the previous event.

The Convener moved to a roll call vote and Members unanimously supported the application.

Decision

The Board granted the major variation of the premises licence.

**4. OCCASIONAL LICENCES
a. Gosford House, Longniddry
Blythe Ewert**

The application sought an occasional licence for a wedding on 10-11 May 2025 until 3am. The application had come before the Board on the basis of representation from the LSO who had recommended conditions due to the requested terminal hour being later than Board policy.

Blythe Ewert, applicant, spoke to the application, and was accompanied by her colleague Alison Bombail. Ms Ewert advised that the application had been made to host a wedding for a couple who sought a continental-style wedding which ran later in the day. She advised that two first aiders and two personal licence holders would be present throughout, and said she understood that CCTV would be required only for a premises licence rather than an occasional licence. She advised that checks would be made throughout the event and SIS stewards would be in place. Shuttles would also

from midnight to the close of the event. She advised that the couple would be flexible to move the terminal hour to 2am.

The LSO said that representation had been made due to the requested timings of the event which had been 12-noon to 3am, which represented 15 hours of drinking time, and because Board policy for the terminal hour on Saturday night was 1am. She noted the applicant's change to a terminal hour of 2am. She raised question about the children and young people access throughout the event, as although the facilities for children would be taken away at midnight, there had been no stipulation that young people would leave at midnight. She advised that the applicant's undertakings relating to SIA stewards, etc., would only be enforceable if added to the licence.

PC Wilson had submitted representation to highlight that the requested hours were outwith Board policy, but advised that the premises had run later events without issue. He highlighted the recommended conditions within the police letter, which had been raised due to the lateness of the event and the nature of the location. He supported the LSO's comments regarding conditions being added to the licence.

Responding to questions from Councillor McMillan, Ms Bombail advised that the bar staff would be directed to monitor guests' state of drunkenness. SIA stewards would also assist with the staggered departures. There would also be several unused rooms on site which could house a wellbeing station and first aider, if needed. Ms Ewert added that she did not foresee issues with the attendees, who would be international guests used to attending high-end events.

The Convener highlighted that only 14 hours of trading was considered reasonable, and asked how the applicants would achieve health and safety objectives. Ms Ewert advised that the couple had not yet confirmed their ceremony time; 12-noon had been requested to provide flexibility, but 4pm was expected. She advised that water and soft drinks would be available throughout and regular checks and floor walks would be conducted.

The Convener asked the applicants why the Board should break their 1am terminal hour policy, and enquired whether Gosford House was planning to apply for a premises licence. Ms Bombail explained that a barrier to making a premises licence application was that the owners were against having cameras permanently fitted in a family home. She said there was no plan to make an application this year unless a premises licence application was required to run future events. She advised that the wedding party would not drink prior to the ceremony. Following a suggestion about a fixed start time, Ms Ewert said she would be amenable to changing the start time to remain within Board policy, and Councillor McMillan commented that he understood the continental customs being for later weddings.

The Convener said that the Board preferred for a premises licence to be in place when events were happening regularly, such as at Gosford House. He reported that the Board was writing to the Scottish Government to highlight concerns around the use of occasional licences. He asked Ms Ewert to convey to the family at Gosford House that the requirement for CCTV for the grant of a premises licence was at the discretion of the Board.

The Convener called for an adjournment to allow the Board to discuss the application in private session.

Upon Members' return, the Convener acknowledged that weddings were celebrated differently in different cultures, but said that licensing laws and Board policy were clear and there was an expectation that events would have a terminal hour of 1am on a Saturday. He felt it was important that this policy be protected and enforced uniformly

across the county. He proposed that the occasional licence be granted with a terminal hour of 1am. He said that a similar message had been conveyed to other wedding venues, and the Board may consider alternative arrangements under a premises licence.

Councillor McGuire reiterated the Convener's comments, and said that although events were encouraged in East Lothian, he highlighted that similar applications for extended hours had been refused in recent months to enforce the terminal hour per Board policy. He formally seconded the Convener's proposal for a terminal hour of 1am.

The Convener moved to a roll call vote and Members unanimously voted to grant the occasional licence with an amended terminal hour of 1am.

Decision

The Board granted the occasional licence with the following amendment:

- The terminal hour would be 1am.

b. Seton Gardens, Seton Mains, Longniddry Craig Wood

The application sought sixteen occasional licences, The application had come before the Board on the basis of representation from the LSO.

Craig Wood, applicant, spoke to the applications. His company provided catering and bars to weddings across Scotland, and had worked for the last two years at Seton Gardens. He acknowledged previous discussions about moving to a premises licence and said that Seton Gardens would be keen to pursue this if required.

The LSO had submitted representation in relation to Board policy on repeated occasional licence applications from the same premises, and said that the premises ran weekly weddings during the peak season from a marquee.

PC Wilson advised that Police Scotland had no objection to the applications, and said there were no issues with the premises. He noted that all the applications were within Board policy.

Responding to a question from Councillor McGuire, Mr Wood said he was keen to take a multiagency approach and take advice to move towards a premises licence.

The Convener asked about the terminal hour for applications. Mr Wood clarified that there had been errors on three applications, and these three events would run until 12-midnight and not 11pm as stated. He also clarified that a midweek wedding would end at 11pm. He did not intend to run midweek weddings regularly, but was accommodating a couple whose event had been cancelled by another venue. The LSO advised that the three applications in question would have to be submitted again, as the revised hours would have to be readvertised. The Convener suggested that the Board delegate powers to officers to grant the three occasional licences in question following receipt of revised applications.

The Convener asked about complaints of noise from residents. Mr Wood explained the circumstances around the two noise complaints. He advised that one on occasion, the microphone level had been high in nine-piece band, and on other occasion, a DJ had

turned up their last three songs despite being told to turn the volume down. He reported that he had spoken with the complainant, and the premises now had a monitor set to 85 decibels and patrolled the area with a handheld noise monitor. He reassured Members that complaints were taken seriously, and said couples were told clearly that only one warning would be allowed before music would be turned off.

Responding to a question from Councillor McMillan, Mr Wood advised that he was always present during weddings, and any complainants could call him during the event.

The Convener reiterated earlier points about the importance of making an application for a premises licence, and formally proposed that officers could grant the three revised applications within terminal hours. Councillor McMillan seconded this proposal, and was minded to grant the applications.

Councillor McGuire commented that Mr Wood had great control over the operation, and a positive relationship with the LSO and Police Scotland.

The Convener moved to a roll call vote on the applications, including the proposal that the resubmitted applications could be granted under delegated powers. Members unanimously supported the applications on this basis.

Decision

The Board granted the occasional licences. They also delegated powers to officers to grant the three applications to be resubmitted with revised terminal hours.

5. REVIEW OF PREMISES LICENCE Newbigging Newsagents, 58 Newbigging, Musselburgh

The LSO had made application on 15 February 2024 in terms of Section 36(1) on the grounds specified in Section 36(3)(za), 36(3)(a) and 36(3)(b) of the Licensing (Scotland) Act 2005 ('the Act') to the Licensing Board to review the premises licence in respect of Newbigging Newsagents, 58 Newbigging, Musselburgh, and the application had been accepted by the Board.

Mohammad Hanif, premises licence holder, and his daughter Zakia Hanif were present at the hearing.

The LSO outlined the information relevant to the review as contained within her submitted report. She had made application for the premises licence review on all three grounds specified in Section 31(3) of the Act, namely that the licence holder was not a fit and proper person to be the holder of a premises licence, that premises licence conditions had been breached, and any other relevant ground, in this case, preventing crime and disorder and protecting children and young persons from harm.

The LSO turned to the breaches of the premises licence conditions and the actions of Mr Hanif. She advised that in 2008, Mr Hanif was the premises licence holder, the designated premises manager (DPM) was named as Abdul Nasar, and she reported that this had not changed. Police notified the Licensing Board that Mr Nasar had died on 19 October 2022, but no notification had been received from the premises licence holder within seven days of the event, as prescribed in the Act. The LSO advised that it had been agreed that this failing would be forgiven, given the difficult circumstances, and a six-week grace period was given to resolve the matter, ending on 22 December 2022.

The LSO visited the premises on 15 November 2022, and reported that Mr Hanif had been unaware that he was the premises licence holder, and said his brother had dealt with licensing. At this time, Mr Hanif did not know where the premises licence was, or that a new DPM required to be appointed. The LSO said she had advised Mr Hanif of the processes verbally and in an email so that his family could help him. The LSO reported that there were no staff training records, and said that Mr Hanif said his brother had done the training with him and others, and he would look for the records. The LSO said that, given the circumstances, and since there had been no previous issues reported about staff training, Mr Hanif was given time to locate the documents. He was also given guidance as to how to change his address on the premises licence.

The LSO reported that she returned on 23 November for a meeting with Mr Hanif and his daughter Zakia Hanif, where the LSO provided details on completing a personal licence qualification, and completing a minor variation. The LSO advised that she had questioned Ms Hanif's intention to complete a personal licence holder qualification and become the DPM given her full-time work in another job, but Ms Hanif had said she would be available to help with the management of the shop since it was a family-run business.

The LSO then gave an account of a period during which she enquired eight times about Ms Hanif's progress towards gaining a personal licence holder qualification. The LSO advised that a grace period of 13 weeks had been given in good will, given the circumstances and so as not to disrupt trade over the festive period, with a warning that a Section 14 Notice would be issued to cease the sale of alcohol in relation to Conditions 4 and 6 if Ms Hanif did not complete the qualification in this time and apply for a personal licence. Through personal circumstances and failure of the course exam, Ms Hanif was unable to complete the qualification, and on 13 January, the LSO issued a Section 14 Compliance Notice in relation to breach of Condition 4 (no DPM) and Condition 6 (staff training), which Mr Hanif said he understood. The LSO reported that Mr Hanif said his daughter had let him down, and the LSO explained that as premises licence holder, the situation was Mr Hanif's responsibility to remedy. Mr Hanif said he would comply by hanging signage to indicate that alcohol could not be sold, and correspondence ceased for a time as it appeared the premises was complying.

The LSO advised that a member of the public made a report on 13 January 2024 that alcohol was on sale and on display. The LSO and PC Wilson attended the premises on 24 January and found Mr Hanif in sole control of the store, with no signs in place indicating that alcohol could not be sold. Mr Hanif originally stated that he had only been sorting the covers. He said that the sale of alcohol on 13 January had been a mistake. The LSO reported that Mr Hanif later admitted that he had been selling alcohol, but did not say when sales of alcohol had recommenced. Mr Hanif also advised that his son, Omar Hanif, had been in the shop and had sold alcohol. The LSO advised that this had been a breach of Conditions 4, 5, and 6 and a failure to comply with the Section 14 Notice. The LSO reported that Mr Hanif informed them that his daughter had passed the personal licence holder course and he had been able to recommence the sale of alcohol on her authority. The LSO and PC Wilson found Mr Hanif's lack of competence and understanding to be seriously concerning. The LSO also noted that the premises licence was not at the premises, despite being asked to obtain a copy, and there were no training records, and signage was poor. At this time, PC Wilson advised Mr Hanif that the sales of alcohol were a criminal offence under Section 1 of the Act; sales must cease immediately, and all alcohol was to be removed from the premises within seven days to prevent any further offences. Also at this time, the LSO informed Mr Hanif that he had breached the statutory notice and she would make an application for a premises licence review, and advised Mr Hanif to seek legal advice.

The LSO advised that Ms Hanif made contact with her following this visit, and informed her that she had not completed the personal licence holder qualification. She said she had re-booked the exam and asked for more time. The LSO informed Ms Hanif that the premises licence would now be reported to the Licensing Board, and advised once more that Mr Hanif seek legal advice.

The LSO explained that it had come to her attention following her visit in January 2024, following a review of the layout plan which had been unavailable at the premises, that alcohol had been displayed outwith the display area at an increased capacity than was detailed on the operating plan. She referred to a submitted photograph, whereby alcohol had been displayed in an area marked on the layout plan as being for household items, and said Mr Hanif had been notified of this breach of Condition 13.

The LSO summarised that no action had been taken by Mr Hanif to address the issues and breaches of conditions in the 17 months since the issues were first raised, and there were still no training records available for review. She had serious concerns about Mr Hanif's ability to be the holder of a premises licence and asked the Board to consider whether Mr Hanif was a fit and proper person to hold a premises licence. She said that if sales *had* recommenced on the say-so of his daughter, this also demonstrated Mr Hanif's lack of competence and understanding. The LSO also felt that Ms Hanif was not knowledgeable enough or involved enough in the shop to take on the role of DPM, and was also concerned about the apparent lies about holding a personal licence. She noted that Mr Hanif and his son were untrained members of staff. She advised that she had asked Mr Hanif multiple times why he did not apply for a personal licence, and he had replied that he did not want to. The LSO said she was saddened to reach the point of premises licence review after the efforts made to help, but said that Mr Hanif had not taken responsibility over the past 17 months.

PC Wilson summarised his involvement in the circumstances surrounding the premises licence review. He had attended with the LSO on 24 January 2024 following concerns being raised over the running of the shop. He observed alcohol displayed for sale, which was unpriced. He reported that Mr Hanif had responded to questions by initially denying having sold any alcohol, but changed his stance and said that his daughter had told him he could sell alcohol again as she had obtained her personal licence. PC Wilson confirmed that Mr Hanif had not offered clarification as to when he had recommenced selling alcohol. He raised concern over Mr Hanif's lack of knowledge over staff training and DPM requirements. He reported that Mr Hanif appeared to be apologetic and completed requests to remove alcohol from the store, but PC Wilson said he was unaware of Mr Hanif having taken any steps to rectify the situation. PC Wilson questioned Mr Hanif's disregard for the matter, as evidenced by his lack of action, and questioned whether Mr Hanif had the required knowledge to sell alcohol in line with the licensing objectives.

Ms Hanif provided background information on the family business. She said she had been advised to take the personal licence holder exam. She said that her father was not confident with technology, and explained her late uncle had undertaken much of the business administration. She said that the exam had been difficult for her as she had never drunk alcohol; she had to learn about the industry from scratch, and medical issues had also been a barrier to taking exam re-sits. She advised of family dispute regarding shares in the shop, which was still underway, and she reported that the shop had closed for several months due to her father's medical issues.

With regards to sales of alcohol, Ms Hanif reported that her brother had not sold alcohol while it had been prohibited to do so, but said that a person had threatened to make a report about the shop if her brother would not sell alcohol to them. She said that she had to wait to obtain her personal licence holder certificate before alcohol could be sold, and said that her father had also never sold alcohol while it had been prohibited

to do so. She appreciated that a significant amount of time had gone by since the LSO had raised issues with the shop, but said there had been a lot going on. She also gave an account of her father's positive relationship with the community and his customers.

The Convener highlighted PC Wilson's and the LSO's reports that Mr Hanif had admitted to selling alcohol while it had been prohibited to do so. In response, Mr Hanif said that he had not been in the shop the day a woman had argued with his son and threatened to make a report if his son would not sell alcohol. Mr Hanif said that the stock and shelves needed to be cleaned as he had not wanted to keep alcohol on the premises until the premises licence issues were resolved, and said he had not purchased any alcohol from the cash and carry in this time. He said that he had only taken the covers off the alcohol to be able to clean the shelves. Responding to further questions from the Convener, Mr Hanif said he had decided to remove the alcohol from the shelves following an incident where someone had shouted racist abuse after staff refused to sell alcohol.

The LSO said that the person who had reported buying alcohol had been a 40-year-old male, which did not match Mr Hanif's account. She said that Mr Hanif's account had never been given to herself and PC Wilson, and reiterated that Mr Hanif had made a full admission that he had been selling alcohol.

Responding to questions from Councillor Cassini, Mr Hanif reiterated that he had been ready to clean the shelves and remove the alcohol, so that no one else could argue with staff over the sale of alcohol, when PC Wilson and the LSO had arrived at the shop.

Councillor McMillan asked whether Mr Hanif or his family had reported this abuse. Mr Hanif responded that he had been under a great deal of stress following bereavements, and he was only able to open the shop when he did not feel stressed. Responding to further questions from Councillor McMillan, Mr Hanif said that he did feel he was a fit and proper person to hold a premises licence, and just wanted to work and earn money, as he had done throughout his life. He said that anyone would agree that he was a fit and proper person.

The Convener asked for an update on the situation regarding Ms Hanif obtaining a personal licence, and about plans for the management of the premises. Ms Hanif reported that she had been advised by the course director to book the exam once more, and had needed another three-to-four weeks of studying to fully understand the material. She said the re-sit had been paid for and just had to be taken. She said she understood that she would obtain a personal licence to train staff, and have up-to-date training records available in the shop. She reported having asked her uncle's children whether previous training records could be found, but did not know where they were.

The LSO read from Section 142 guidance regarding DPMs. She thought it would be difficult, given Ms Hanif's other work commitments, for Ms Hanif to be able to run the premises, and said that training of other staff was not sufficient.

Responding to a question from Councillor McGuire, Ms Hanif gave a detailed account of the family's plans for the future of the building, whereby they wished to buy her uncle's family's share and rent the property to a tenant, but said this had not been agreed.

The Convener called for an adjournment to allow Members to discuss the premises licence review in private session.

On the Members' return, the Convener delivered a statement on behalf of the Licensing Board. He offered the Board's sympathy for the bereavement the family had

experienced, however, he highlighted that the premises licence had been in place without a DPM, and said there had been plenty of time to resolve this. He said this raised serious questions as to whether Mr Hanif was a fit and proper person to hold a premises licence, and also raised serious questions about the operation of the business. He addressed the various breaches, including: there being no premises manager in place; reports from a member of the public, the LSO, and PC Wilson of there being sales of alcohol while it was prohibited to do so; there being no training records for staff in the store; and alcohol displayed in an area marked under the layout plan for household items. He said that the issues had not been resolved in the time given, and thus Mr Hanif was not considered to be a fit and proper person to hold a premises licence. The Board therefore considered that their only option was to revoke the premises licence.

Councillor McMillan agreed with the Convener's comments. He was sympathetic towards the issues the family had experienced, but said that these persisted. He hoped that, following the revocation of the premises licence, the family would take time to review the business model, which needed a well-qualified and experienced DPM to deal with issues.

The Convener formally proposed that the premises licence be revoked, and Councillor McMillan seconded this proposal. The Convener then moved to a roll call vote and Members unanimously voted to revoke the premises licence.

Decision

The Board revoked the premises licence.

Signed

Councillor L Bruce
Convener of East Lothian Licensing Board