



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

**THURSDAY 24 APRIL 2025  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON  
& HYBRID MEETING FACILITY**

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**Board Members Present:**

Councillor C Cassini  
Councillor F Dugdale  
Councillor G McGuire  
Councillor J McMillan (Depute Convener)

**Clerk of the Licensing Board:**

Mr C Grilli

**Attending:**

Ms K Harling, Licensing Standards Officer  
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration  
Ms G Herkes, Licensing Officer  
Ms E Barclay, Committees Assistant  
PC S Gibson, Police Scotland

**Committee Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor L Bruce  
Councillor N Gilbert

**Declarations of Interest:**

None

The clerk advised that the meeting was being held as a hybrid meeting; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. She noted that the East Lothian Licensing Board was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for six months from the date of the meeting.

The committee clerk recorded the attendance of Board members by roll call.

**1. MINUTES FOR APPROVAL**  
**East Lothian Licensing Board, 27 March 2025**

Board members approved the minutes as an accurate record of the meeting.

**2. OCCASIONAL LICENCE APPLICATIONS**

**a. Paul Mitchell, Broxmouth Courtyard, Broxmouth Park, Dunbar (23 applications: 30 April to 1 July 2025)**

The occasional licence applications had come before the Board on the basis of Section 24.2 of the Board's Statement of Licensing Policy. Section 24.2 related to occasional licence applications coming from a premises with a provisional licence in place, and that had been last seen at the Licensing Board more than one year ago; such occasional licences could no longer be granted under delegated powers.

Simon Flame, owner, and Paul Mitchell, premises manager (DPM) spoke to the application. Mr Flame advised that the provisional licence was in place, and only the Section 50 certificate from Building Standards was required before the premises licence could be confirmed. He advised that all required information had been submitted to the Building Control Officer, and commented that the process had taken longer than anticipated. He spoke positively about the eventual effect of confirming the premises licence as causing less work for both the business and the Board.

PC Stephen Gibson confirmed that Police Scotland had no comment to make on the applications.

Karen Harling, Licensing Standards Officer (LSO) advised that the premises had previously appeared before the Board for a major variation in relation to opening times and adding deliveries. She advised that the current occasional licence applications had been brought before the Board so that the applicants could provide a progress update.

Councillors McMillan and McGuire expressed that they were minded to grant the applications, and hoped the work Mr Flame had outlined would be completed shortly.

Councillor McMillan moved to a roll call vote, and Board members unanimously indicated their support for the applications.

**Decision**

The East Lothian Licensing Board granted the occasional licence applications.

**b. Eric Linklater, Carfrae Farm Shop, Carfrae Farm, Haddington (six applications: 22 May 2025 to 13 August 2025)**

The occasional licence applications had come before the Board on the basis of Section 24.2 of the Board's Statement of Licensing Policy. Section 24.2 related to occasional licence applications coming from a premises with a provisional licence in place, and that had been last seen at the Licensing Board more than one year ago; such occasional licences could no longer be granted under delegated powers.

Trudi Cueto spoke to the application, and Eric Linklater, applicant, was also present. Ms Cueto advised that the business was in the process of applying for a building warrant for a Section 50 certificate, but there had been a delay in receiving sign off from the Scottish Fire and Rescue Service (SFRS). She reported that she had

contacted SFRS on three occasions, and awaited an update as to whether the fire hydrant on site would be suitable for the warrant to be cleared.

PC Gibson confirmed that Police Scotland had no comment to make on the applications.

The LSO advised that the applications had been brought before the Board because it had been 18 months since the last update on progress towards confirming the premises licence.

Responding to a question from Councillor McMillan, Ms Cueto advised that the shop adopted a Challenge 25 policy, that staff were trained, and the new till system included an age check. She reassured members that there had never been any issues, and the till system had been introduced to aid stock management and reporting. She advised that there were not high volumes of people in the shop at any time, and young children were supervised by their responsible adult. She welcomed suggestions of anything further the shop could be doing.

Councillor Dugdale supported the installation of the new till system. Councillor McGuire commented that the application was a further example of applications coming before the Board because of building control delays.

Councillor McMillan highlighted the part being played by the applicants around the rural economy and agritourism in East Lothian, and knew they dealt closely with colleagues in Economic Development. He would support the applications.

Councillor McMillan moved to a roll call vote, and Board members unanimously indicated their support for the application.

## **Decision**

The East Lothian Licensing Board granted the occasional licence applications.

### **c. Gregor Zielinski, Bellfield Brewery – Edinburgh Marathon Festival, Pinkie Playing Fields, Musselburgh**

The occasional licence application had come before the Board on the basis of Section 22.12 of the Board's Statement of Licensing Policy, which stated that any occasional licence applications which were outwith the Board's general policy on licensed hours for the sale of alcohol for consumption could not be granted under delegated powers. The application sought to begin on sales at the Edinburgh Marathon Festival (EMF) at 10am, which was one hour earlier than Board policy.

Alistair Brown and Gregor Zielinski were present to represent Bellfield Brewery, accompanied by Sandra Scott of EMF. Mr Brown advised that this was the second year Bellfield Brewery would operate the bars at EMF, and that a special low-alcohol beer had been brewed to celebrate the event.

PC Gibson confirmed that Police Scotland had no comment to make on the applications.

The LSO advised that the application had been brought before the Board in relation to the Board's on sales policy, since the application sought a commencement time outwith policy. She highlighted her recommended condition. She reported having

spoken at length with the applicants; some changes had been made to the Alcohol and Drug Management Plan, but she was now happy with the proposals.

Responding to questions from Councillor McMillan, Mr Brown confirmed he was content to accept the LSO's recommended condition, and that Bellfield Brewery's future plans for EMF would be similar in the coming years.

Councillor McMillan pointed out that very full explanations had been received to Board members' questions before the event in 2024. He suggested that if there were minimal changes, applications could be granted under delegated powers in future years. Carlo Grilli, Clerk of the Licensing Board, agreed that this would be possible. He advised that a directive from the Licensing Board was required because the requested hours were outwith Board policy. He asked that any delegation to officers for future determination of EMF applications in similar terms also require an Alcohol and Drug Management Plan as a condition. He pointed out that any change in hours, or issues from the LSO or Police Scotland, would have to come back to the Board.

Councillor McMillan proposed that future applications, which were in similar terms, be granted under delegated powers, as outlined by Mr Grilli. This was seconded by Councillor McGuire. Councillor McGuire added that he had been fully satisfied that the event had run well in 2024.

Councillors McMillan and Dugdale proposed and seconded, respectively, the LSO's recommended condition for the current application.

Councillor McMillan moved to a roll call vote on the current application, and Board members unanimously indicated their support.

Councillor McMillan then moved to a roll call vote on delegating the determination of future applications made in similar terms to officers, including the requirement for an Alcohol and Drug Management Plan. Board members unanimously supported the proposal.

## **Decision**

The East Lothian Licensing Board granted the occasional licence application, subject to the following condition:

- The Alcohol and Drug Management Plan and Event Plan submitted prior to the event to be adhered to for the duration of the event.

The East Lothian Licensing Board also agreed that future applications in similar terms could be granted under delegated powers. Future occasional licences would have the above noted condition attached.

***Sederunt:*** Councillor Cassini joined the meeting.

### **d. Haydn Thomas, East Linton Gala Association, East Linton Park, East Linton**

The occasional licence application had come before the Board on the basis of Section 22.14 of the Board's Statement of Licensing Policy, which stated that events which were predominantly organised for children should not necessarily attract the need for an alcohol licence to be granted in relation to it, and applicants would be required to justify why an alcohol licence was required.

Haydn Thomas, applicant and treasurer of the East Linton Gala Association, spoke to the application. He highlighted the submitted reasons for the licence application for the event, which was organised for the whole community. He advised that the focus of the event had shifted; as well as the opening parade, there was also a music and stall holder offering, in addition to the annual hill race. He pointed out that the hill race was only for adult competitors. He said the focus of the bar was to provide hospitality for the competitors, and to cater to adults so that they would not leave the event early to do other things.

PC Gibson reported that Police Scotland believed the events to be geared towards children and families, and highlighted Section 22.14 of Board policy. However, should the Board agree to grant the licence, then PC Gibson would question the height of the fencing. Mr Thomas explained that the bar area would be inside a marquee, and the area where alcohol would be consumed would be roped off. PC Gibson responded that Police Scotland recommended a fenced area to stop children seeing adults consuming alcohol, and suggested heras fencing with mesh.

The LSO said she had spoken with Mr Thomas to understand the planned changes since the 2024 gala day. She highlighted that the hill race would be for over-18s only. She acknowledged that there would be an element of the event directed towards children, but noted that the children's events would be completed by the time organisers sought to commence the sale of alcohol at 2pm. She gave an account of the plans for the marquee and roped off area. She noted that, having been refused an occasional licence, the gala had promoted bringing alcohol in 2024; this should not be a focus if an occasional licence was in place. She also highlighted her recommended conditions.

Responding to a question from Councillor McMillan, Mr Thomas explained that changes had been made to the format in response to feedback so that there was a shift in focus to events for adults in the second part of the day. He explained that two parts of the field would be delineated, with one part hosting market stalls next to the race event. He advised that there had been issues with littering in the previous year, but by having a bar as part of the event, the organisers felt that consumption of alcohol would be easier to manage. He felt a relatively small number of people would use the bar, and pointed out that it would be at the far end of the field. It was hoped that people could stand in the licensed area and support people crossing the finish line of the hill race. He questioned the proportionality of the full area having to be fenced off.

Councillor McMillan acknowledged the work of volunteers in bringing the community event together, and the very full presentation given by Mr Thomas.

Councillor Dugdale felt able to support the application because there had been consideration given to separating the children's events in terms of timing and location on the field. She asked whether the condition suggested by Police Scotland would have to be considered.

Councillor McGuire commended the volunteers for their work in producing such a comprehensive plan. He felt that people bringing their own alcohol was an avenue where underage young people would be able to access alcohol more easily.

Councillor McMillan felt that the proposals were for a family event, and that there was a balance to strike. He proposed that Police Scotland's condition recommending heras fencing be taken, and that the LSO's conditions also be accepted. Mr Thomas responded that the organisers were happy to accept the LSO's recommended conditions. He explained that he would need to check on the practicality of obtaining heras fencing. He felt he could agree to screen the area from the access and sight of children and young people, but raised issue with the suggested height of the fence.

Councillor McMillan noted Mr Thomas' questions about proportionality. He proposed that finding suitable fencing arrangements be delegated to the Clerk of the Board, and that the LSO's recommended conditions be added. Councillor Dugdale seconded this proposal.

Councillor McMillan moved to a roll call vote, and the Board members unanimously indicated their support for the application, including Councillor McMillan's proposal.

Mr Grilli indicated that officers would be in touch with the organisers regarding fencing arrangements.

### **Decision**

The East Lothian Licensing Board granted the occasional licence application, subject to the following:

1. The marquee/outside area must be clearly delineated with a barrier and stewarded by the organiser to ensure that no alcohol be taken from the area.
2. No glass or cans permitted. All drinks should be served in alternative containers, such as plastic or a reusable alternative.
3. Appropriate signage must be clearly displayed within the bar area, relative to age restrictions and relevant conditions of the licence. Signage should clearly identify:
  - A sign prohibiting the entry of persons under 18 to the licensed area.
  - A sign prohibiting the sale or supply of alcohol to persons under 18 to be clearly displayed.
  - Challenge 25 policy and signage must be used.
  - The specific opening and closing times of the bar.
  - Responsible drinking message.
4. The serving of alcohol by all staff must be undertaken in a responsible and safe manner.
5. The Alcohol and Drug Management Plan submitted prior to the event to be adhered to for the duration of the event.

In addition, responsibility for confirming fencing arrangements around the licensed area was delegated to the Clerk of the Board.

#### **e. Ross Murray, Aberlady Gala Committee, Aberlady Playing Fields, Aberlady**

The occasional licence application had come before the Board on the basis of Section 22.14 of the Board's Statement of Licensing Policy, which stated that events which were predominantly organised for children should not necessarily attract the need for an alcohol licence to be granted in relation to it, and applicants would be required to justify why an alcohol licence was required.

Stephen Polwart spoke to the application, and was accompanied by Ross Murray. Mr Polwart provided a detailed account of the day's events, which in the past had hosted more than 500 attendees. He advised that a programme of local musicians would play

from 2.30pm to 7.30pm in the larger marquee. There would also be an outdoor roped-off seated area adjacent to the marquee. He advised that all the children's and family events would be finished around 4pm or 4.30pm. He said that care had been taken to ensure the gala day was for the whole community. He advised that an exemption in the local bylaw permitted alcohol consumption on the site between 1pm and 7pm on gala day, but the organisers sought to contain alcohol consumption within the marquee. He advised that the event would be the same as it had been over the last three years, but with an expanded music section. He sought clarity on the type of barrier required, and whether the requirement for no cans was necessary. He also asked whether the whole marquee was considered to be the licensed area, thus prohibiting children being involved in any of the musical performances; in previous years, it had been the organisers' understanding that children were not allowed within 1.5m of the bar area.

PC Gibson reported that Police Scotland believed the events to be geared towards children and families, and highlighted Section 22.14 of Board policy. He thought that the Board should consider any comments the LSO had with regards to children in the licensed area. He advised that the outdoor drinking area barrier should be adequate to stop alcohol being handed to anyone under 18.

The LSO complimented the organisers on their engagement to improve: the service of alcohol; control measures; attention to detail in training volunteers; and adherence to conditions. She noted that the Board had previously moved the commencement of alcohol sales to 2.30pm from 2pm. She was content that the area be delineated as in previous years, using rope and bunting. She reported that she had visited the gala and found it to be well stewarded. She was also content for cans to be allowed. She asked that the reference to there being no entry to persons under 18 be removed, as this had been added in error. She advised that a condition on all East Lothian occasional licences stated that children should be 1.5m from the bar.

Responding to a query from Councillor Dugdale, Mr Polwart confirmed that the licensing objectives information meant to state that staff would refuse to sell alcohol to intoxicated guests.

Responding to a question from Councillor McGuire, Mr Polwart confirmed that the organisers would have no problem commencing alcohol sales at 2.30pm instead of 2pm.

Responding to a question from Councillor McMillan, the LSO confirmed that the floored area in Section 1 was quite large, and any children on the stage would be more than 1.5m from the bar. She commented that she had no concerns with the setup of the marquee.

Councillor Dugdale thanked the organisers for their detailed answers, and said she felt she had gained a good understanding of the proposals from the LSO's report. She was happy to support the amended conditions.

Councillor McGuire asked the reason for the suggestion that commencement be moved to 2.30pm. The LSO advised that she had no comment to make on the start time. Councillor McGuire responded that he was content for alcohol sales to begin at 2pm, and felt it was clear the applicants took their responsibilities seriously.

Councillor McMillan said that communities were fortunate to have such volunteers. He hoped people would support the events responsibly and that alcohol would be subsidiary to the day's events.

Councillor McMillan proposed that the LSO's conditions be added (amended to correct an error and to remove the reference to cans not being allowed). Councillor Dugdale seconded this proposal.

Councillor McMillan moved to a roll call vote, and the Board members unanimously indicated their support for the application, including the LSO's recommended conditions.

## **Decision**

The East Lothian Licensing Board granted the occasional licence application, subject to the following:

1. The marquee/outside area must be clearly delineated with a barrier and stewarded by the organiser to ensure that no alcohol be taken from the area.
2. No glass permitted. Drinks should be served in alternative containers, such as plastic or a reusable alternative.
3. Appropriate signage must be clearly displayed within the bar area, relative to age restrictions and relevant conditions of the licence. Signage should clearly identify:
  - A sign prohibiting the sale or supply of alcohol to persons under 18 to be clearly displayed.
  - Challenge 25 policy and signage must be used.
  - The specific opening and closing times of the bar.
  - Responsible drinking message.
4. The serving of alcohol by all staff must be undertaken in a responsible and safe manner.
5. The Alcohol and Drug Management Plan submitted prior to the event to be adhered to for the duration of the event.

**f. Sonia Bruce, Dirleton Fete and Games Committee, Dirleton Green, Dirleton**

The occasional licence application had come before the Board on the basis of representation from Police Scotland referring to Section 22.14 of the Board's Statement of Licensing Policy. Section 22.14 stated that events which were predominantly organised for children should not necessarily attract the need for an alcohol licence to be granted in relation to it, and applicants would be required to justify why an alcohol licence was required.

Sonia Bruce and Lucy Miller of the Dirleton Fete and Games Committee were present to speak to the application. Ms Bruce explained the importance of the event to Dirleton, which took place on a grassed area in the centre of the village. She described the day's events and activities, which included music, family races, a dog show, a large tea tent, and various stalls. She understood from the LSO that the application and Alcohol and Drug Management Plan had provided a good idea of the commitment to offering a community event that was safe for all ages, and which would manage the consumption of alcohol effectively. She advised that the manager of the Castle Inn would train volunteers, and that the volunteers had signed the Plan. She summarised that the robust application showed the organisers' commitment to a positive event.



PC Gibson reported that Police Scotland believed the events to be organised for children and families, and highlighted Section 22.14 of Board policy. He also asked whether there would be a specific drinking area. Ms Bruce responded that the licence application was for the whole of the green, where people could take alcohol around the green in plastic containers.

The LSO explained that she did not feel that the event fit into Board policy relating to children's events. She advised that a lot of concerns had been alleviated by the submission of the Alcohol and Drug Management Plan and stewarding plans. She had only recommended that the Alcohol and Drug Management Plan would be adhered to, which was taken from the Statement of Licensing Policy as a pre-approved condition to be added to the occasional licence under delegated powers. She had no further comment on the application.

Responding to questions from Councillor McMillan, Ms Bruce advised that the manager of the Castle Inn would train the volunteers to ensure they had knowledge of the Alcohol and Drug Management Plan. Ms Bruce advised that she had worked on the bar for a number of years, alongside volunteers, and she or other committee members would lead on the bar. She also described the signage which would be present around the bar area.

Councillor McMillan commented that he was minded to grant the application, and acknowledged the reassurance from the LSO.

Councillor McMillan moved to a roll call vote, and Board members unanimously indicated their support for the application.

### **Decision**

The East Lothian Licensing Board granted the occasional licence application, subject to the following pre-approved condition under licensing policy:

- The Alcohol and Drug Management Plan and Event Plan submitted prior to the event to be adhered to for the duration of the event.

#### **g. Craig Stevenson, Outdoor Area at Seton Sands Holiday Park, Seton Sands, Longniddry**

The application had been brought before the Board due to several noise complaints generated by the event in previous years. The LSO had therefore recommended that an Alcohol and Drug Management Plan and Noise Management Plan be adhered to during the event.

Niall Hassard, the applicant's agent, spoke to the application. He was also accompanied by two Haven representatives, Amanda White and Jamie McGovern, Head of Experience and Head of Food and Drink, respectively. Mr Hassard advised that his clients were happy to accept the LSO's recommended condition. He provided background information on Haven's operations, and explained that the application had been made for an annual invitation-only event for the site's caravan owners. He advised that the entertainment would finish at 9pm. He acknowledged that there had been four complaints made about offsite noise; he said his clients had been liaising with Environmental Health and the LSO, and a Noise Management Plan had been developed. He advised that a letter drop about the event had been made to all residents, which provided event details and a dedicated contact number. Staff had also

hosted open evenings so that residents could ask questions, and had invited residents to the event itself. He explained that the Noise Management Plan addressed the design and set up of the PA system. Proactive measurement of sound levels would be undertaken, with staff taking measurements on a rota. He advised that a dedicated phone number had been provided in the past; residents had previously not been satisfied with the response from security, but this would be improved. He highlighted that the LSO's report had no adverse comment otherwise.

PC Gibson confirmed that Police Scotland had no comment to make on the application.

The LSO explained that the Noise Management Plan was meant to limit the number of complaints. She was content with mitigations put in place, and highlighted that the condition was meant to ensure the premises put the plan into action.

Responding to a question from Councillor McMillan, Mr Hassard advised that the event would run from 12pm to 5pm on the Sunday. Ms White said that the site was keen to have a good relationship with its neighbours and had discussed the measures put in place with them. She hoped that neighbours would attend the event.

Councillor McMillan proposed the LSO's recommended condition, and this was seconded by Councillor McGuire. Board members then unanimously indicated their support for the application and condition by roll call vote.

### **Decision**

The East Lothian Licensing Board granted the occasional licence application, subject to the following condition:

- The Alcohol and Drug Management Plan and Noise Management Plan submitted prior to the event to be adhered to for the duration of the event.

### **3. PROVISIONAL PREMISES APPLICATION**

#### **a. Graze, 65 High Street, Dunbar**

The application sought a provisional licence for a café premises located on the high street. There had been no objections from Police Scotland, Planning, or the LSO. The LSO had submitted recommended conditions. Dunbar Community Council had submitted representation in support of the application.

Alistair Macdonald, the applicant's agent, spoke to the application, and was accompanied by his client, Martin Ferguson, the director of the applicant company. Mr Macdonald provided background information on the café, which had opened in 2006 and was well known locally. The café had recently decided to provide a small alcohol offering to guests. He advised that Mr Ferguson was a personal licence holder and would be the DPM, and would train the other staff. Mr Macdonald explained that the café did not anticipate selling alcohol during the day, but might stay open later into the evening. They had a deli counter with specialist items, and would offer wines, beers, and prosecco, but would not have draught beer. He highlighted that no adverse comments had been received from statutory consultees, and said that his client was happy to accept the recommended conditions. He also drew attention to a letter of support from Dunbar Community Council. He reported that the building standards certificate had recently been received, so the licence could be finalised quickly.

PC Gibson advised that Police Scotland had no comment to make on the application.

The LSO advised that Mr Ferguson had explained operations to her. She highlighted her recommended conditions and explained the reasoning behind each, with the 8pm terminal hour for the outdoor area being recommended because the courtyard to the rear shared communal access to with a flat. She advised that the residents in the flat were content with this use of the area.

Councillor Cassini asked about facilities for people with disabilities. Mr Ferguson advised that wheelchairs were able to get over the slight raised step through the main door, and there was also access through the yard at the back into the café area. There was an accessible toilet, and tables and chairs in most areas could be moved to situate a wheelchair.

Councillor McGuire said that his questions had already been covered. He commented that the Community Council's support showed how well Graze was thought of in Dunbar.

Councillor McMillan was pleased to hear that the building standards certificate had already been granted. He said that the Community Council's confidence that the well-run business would ensure no risk to neighbours had supported his decision to grant the application.

Councillor McMillan proposed the LSO's recommendations, and this was seconded by Councillor McGuire.

Councillor McMillan then moved to a roll call vote, and Board members unanimously indicated their support for the application, including the LSO's recommended conditions.

## **Decision**

The East Lothian Licensing Board granted the provisional premises licence, subject to the following conditions:

1. No public entertainment, amplified music, amplified vocals, or live music are to be played in the outdoor area to ensure the use would not cause nuisance to neighbouring residential properties.
2. The use of the outdoor area to cease by 8.00pm.

### **b. La Trattoria, 119 High Street, Tranent**

The application sought a provisional licence for a restaurant with takeaway facilities. There had been no objections from Police Scotland, Planning, Environmental Health, or the LSO. The LSO had submitted recommended conditions.

Mr Macdonald, the applicant's agent, spoke to the application, and was accompanied by his client, Natasha Pacitti. He reiterated some of the information presented to the Board at the previous meeting when occasional licence applications were considered. He advised that the soft opening had gone well and had been very busy, and it was felt that the restaurant was a welcome addition to Tranent. He pointed out that there had been no public objections or adverse comments made about the application, and his client was content to accept the LSO's recommended conditions. He advised that Ms Pacitti would be the DPM. He reported that the building standards certificate was still awaited, but there would be swift progress in finalising the licence.

PC Gibson advised that Police Scotland had no comment to make on the application.

The LSO advised she had visited the premises and spoken with Ms Pacitti. She highlighted that dining and bar meals were not overprovided for in any way in the area, with few other such premises nearby. She highlighted her ten recommended conditions, and noted that Ms Pacitti intended to establish the business before opening the outside area.

Mr Macdonald responded to a question from Councillor Dugdale. He advised that the restaurant did not anticipate running a 'bring your own bottle' (BYOB) policy at any point, but this had been requested to cover all situations because the new Statement of Licensing Policy required premises to ask permission for BYOB.

Responding to a question from Councillor McMillan, Ms Pacitti explained that she felt it would be unlikely that she would use the space outside because it was a windy corner. If she did use the space, she was content to cease using the area at 8pm instead of 10pm.

Councillor McGuire commented that the restaurant was a welcome return to Tranent, as shown by such a busy opening. Councillor Dugdale was happy to support the application, and welcomed the opening of the restaurant.

Councillor McMillan proposed the LSO's recommended conditions, but with an amended terminal hour for the outdoor area of 8pm. Councillor Dugdale seconded this proposal.

Councillor McMillan moved to a roll call vote, and the Board members unanimously indicated their support for the application and proposed conditions.

## **Decision**

The East Lothian Licensing Board granted the provisional premises licence, subject to the following conditions:

1. 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.
2. The outside area must only be used by persons occupying the seats provided by the premises.
3. The outside area must clearly be delineated by means of removable barriers.
4. The barriers, tables, and chairs must be removed at the end of the permitted hours for use of the outside area and stored securely in an area off the footpath.
5. The area must be capable of being monitored by staff either physically or via an efficient and functioning CCTV system.
6. No public entertainment, amplified music, amplified vocals, or live music played in the outdoor area to ensure the use would not cause nuisance to neighbouring residential properties.
7. The premises licence holder must ensure that the defined area and neighbouring areas are kept clear of all waste, including cigarette litter, associated with their business and that may have been dropped.

8. If the outside area is on Council land or a road/pavement, then a valid permit/authorisation issued from the East Lothian Council Roads Department must be in place.
9. An authorised officer of the Council or Police Scotland may suspend the use of the area for reasons of public safety.
10. The use of the outdoor area to cease at 8pm.

**c. Asda Express PFS, Haddington Retail Park, Haddington**

The application sought a provisional licence for an existing retail shop at a petrol filling station. There had been no objections from Police Scotland, Planning, Environmental Health, or the LSO. The LSO had submitted a recommended condition relating to deliveries.

Mr Hassard, the applicant's agent, spoke to the application, and was accompanied by Neil Allan, the general manager of the Asda Express store. Mr Hassard provided background information on Asda's acquisition of 350 petrol filling stations. He explained the context of the legal test whereby a petrol forecourt was deemed to be an excluded premises unless a recognisable number of persons in the locality treated the shop as the principal source of groceries or fuel, and therefore would consider themselves to be materially inconvenienced if the shop was not to provide groceries or fuel. Mr Hassard highlighted the market research, which had been included in the papers, which was submitted as evidence that the legal test had been met. He provided information on how the research was conducted, and reported that 12.9% of those surveyed said they would have been materially disadvantaged if they could not obtain fuel from the site. He also reported that 80% of respondents had started to use the store more now that it was an Asda and provided a broader offer.

Continuing, Mr Hassard described the store as thriving, busy, and as meeting local demand. He provided information about the alcohol display positioning, which was directly beside the till where there was a staff presence. He highlighted some of the store's other features, such as an EPOS till system, CCTV monitoring of the store and curtilage, and Asda's internal compliance requirement that a minimum of two personal licence holders be employed at the store. He advised that Asda also ran test purchasing to test Challenge 25 compliance. He submitted that there was a full product mix on offer. He pointed out that the store had a different offer to others nearby, and that parking immediately outside the store was a benefit to the convenience offer. He also highlighted that there had been no objections from the public or statutory consultees.

PC Gibson advised that Police Scotland had no comment to make on the application.

The LSO advised that she had requested market research; having considered the report, she was convinced that the store should not be considered an excluded premises. She highlighted other licensed premises within an 800m radius. She advised that any home deliveries would be via Asda's online platform. She also highlighted her recommended condition relating to deliveries.

Mr Hassard responded to questions from Board members. He advised that not all of Asda's 24 sites across Scotland would come forward for a licence because the market research showed that some of the stores were excluded premises. He reiterated that

there was a greater range of products available at this store than under the previous operator.

Councillor McMillan noted that there was customer choice with there being three other stores nearby. He recounted that he had voted against the retail park because he felt the high street had to be sorted out. He acknowledged the convenience of the site for those living nearby, and felt reassured by Asda's strategy. He would support the application in light of the evidence and persuasive arguments.

Councillor McGuire said he had concerns about the application. He noted that the fuel was more expensive than other local offers, and questioned whether the alcohol prices would seek to compete with other local stores.

Councillor McMillan called an adjournment to allow Board members to discuss the application in private.

Upon members' return, Councillor McMillan proposed the LSO's recommended condition, and this was seconded by Councillor Dugdale.

Councillor McMillan felt that the submitted market evidence research was convincing, and felt that Asda would be a safe pair of hands in running the store. Although not many people were using the store for groceries, changes had been seen, and he saw no reason to refuse the convenience store a licence. He noted Councillor McGuire's point about competition, but also felt the convenience aspect would provide for anyone making a last-minute purchase. Councillor McGuire agreed with Councillor McMillan's summary.

Councillor McMillan moved a roll call vote on the application, including the LSO's recommended condition, and Board members unanimously indicated their support.

## **Decision**

The East Lothian Licensing Board granted the provisional premises licence, subject to the following condition:

- 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.

### **d. Carlo's, 40e Links Road, Port Seton**

The application sought a provisional licence for a restaurant with takeaway facilities. There had been no objections from Police Scotland, Planning, Environmental Health, or the LSO. The LSO had submitted a recommended condition.

Mr Macdonald, the applicant's agent, spoke to the application, and was accompanied by his client, Carlo Andreucci. Mr Macdonald advised that business was divided fifty-fifty between the restaurant and takeaway. The family business would have Mr Andreucci's daughter and son-in-law as DPM and chef, respectively. He advised that the building warrant had been obtained before the pandemic, and there had been difficulty in ascertaining the current position because the previous architect had retired. He advised that Building Standards had provided a useful email detailing the history of the premises, and his client had now been invited to apply for a Section 50 certificate. He advised that deliveries would be carried out by the business' own staff. He noted that there had been no adverse comments from Police Scotland, or public objections,

and he indicated that his client was happy to accept the LSO's recommended condition.

PC Gibson advised that Police Scotland had no comment to make on the application.

The LSO had visited the premises and commented that the refurbishment looked good. She reported that there had been no complaints following operation under occasional licences. She advised that the off sales capacity was very small, with only one drinks fridge, and would only accompany the purchase of food. She noted that there were four other premises which sold alcohol in the vicinity, but suggested that these all had slightly different offers to this premises. She highlighted her recommended condition.

Councillor Cassini thanked the LSO for pointing out that no takeaway alcohol would be sold without food. Councillor McMillan echoed this point.

Councillor McMillan proposed the LSO's recommended condition, and this was seconded by Councillor Dugdale.

Councillor McMillan then moved to a roll call vote, and Board members unanimously indicated their support for the application, including the LSO's condition.

### **Decision**

The East Lothian Licensing Board granted the provisional premises licence, subject to the following condition:

- 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.

Signed .....

Councillor J McMillan  
Depute Convener of East Lothian Licensing Board