

MINUTES OF THE MEETING OF EAST LoTHIAN LICENSING BOARD

**THURSDAY 27 SEPTEMBER 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Board Members Present:

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

Clerk of the Licensing Board:

Mrs M Ferguson, Depute Clerk

Attending:

Mr J Murdoch, Building Standards Manager
Mr R Fruzynski, Local Licensing Officer
Insp A Harborow, Lothian & Borders Police
PC H Bowsher, Lothian & Borders Police
Ms D Richardson, Licensing Admin Officer

Committee Clerk:

Ms J Totney, Committees Assistant
Ms F Currie, Committees Assistant

Apologies:

Councillor P McLennan

Declarations of Interest:

None.

Councillor Goodfellow began by addressing a couple of matters not on the agenda. Firstly, he thanked the police for their annual report on licensing matters and expressed his pleasure at the low number of incidents recorded over the past year.

He then expressed his disappointment that a number of licence holders had so far failed to pay their annual fee in respect of their premises licence. He noted that 153 premises were in danger of having their licences reviewed due to their failure to pay and that the due date for payment was Sunday 30th September 2012.

1. MINUTES FOR APPROVAL – 30 AUGUST 2012

The minutes of the Licensing Board meeting of 30th August 2012 were approved.

2. PROVISIONAL PREMISES LICENCE

(i) Links Shopping Centre – Prestonpans, East Lothian

Mr McDonald, solicitor, was present to represent the Co-Operative Group Food Ltd. Mr A Gordon, the Area Operations Manager for the Co-Op, was also present.

The Depute Clerk advised that this application was for a provisional off- sales licence similar to that granted to the previous owners of these premises, including opening hours of 10am to 10pm Monday to Sunday. There were no issues relating to this application and no objections had been received.

Mr McDonald explained that the licence had previously been held by Haldanes. However, the company had gone into administration last year and the Co-Op had purchased some of their stores, including the premises at the Links Shopping Centre. The Co-Op was now seeking a licence similar to that previously issued to Haldanes.

The Police and Licensing Standards Officer had no objections to this application.

Decision

The Licensing Board agreed to grant the application.

3. VARIATION OF PREMISES LICENCES

(i) Co-Operative Group Food Ltd – 32 Hopetoun Drive, Haddington

Mr McDonald, solicitor, was present to represent the Co-Operative Group Food Ltd. Mr A Gordon, the Area Operations Manager for the Co-Op, was also present.

The Depute Clerk advised that the application for a variation of the licence was to amend trading hours to commence from 6am subject to customer demand. Currently the Operating Plan provides for the store opening at 8am. Objections to this application had been received from Haddington and District Community Council and Ms E Glass, both of whom were present at the meeting.

Mrs Margaret Ingle, Vice Chair of the Haddington and District Community Council, explained that the Community Council's objections were set out in Mrs Wilson's letter of 16 September 2012, namely: that the extension to the proposed opening hours would push the boundaries of what was appropriate for a residential area bringing

increased traffic and noise to local residents both early in the morning and late at night. Mrs Ingle indicated that the Community Council had received letters from residents who were concerned about the proposed changes. She also pointed out that as many of these residents were council tenants their opportunities for moving away from the area were limited.

Ms Elizabeth Glass explained that she was representing herself and her sister, as well as one of her neighbours who had written to Mr Stalker at the Council but had not been invited to attend this meeting. The Depute Clerk advised Ms Glass that Mr Stalker was dealing with the planning application related to this matter and not the licensing aspects. Accordingly, the Board could only hear her own objections and not those of her neighbour. Ms Glass explained that her objections centred on the early morning deliveries from Warburtons and other suppliers which often took place between 3.00 and 5.30am. She and her sister live adjacent to the shop and find the noise of lorries and vans parked with their engines running extremely intrusive. Rubbish – particularly loose packaging – was also a problem around the shop. Ms Glass made the point that although the shop's licensed opening hours were presently 8am to 11pm it had been opening as early as 6.30am for many years, including prior to the take-over by the Co-Op. Despite this practice, Ms Glass did not believe that there was sufficient passing trade to justify this early opening.

Mr McDonald stressed that this application to amend the opening time did not in any way relate to the sale or display of alcohol and was in line with many similar applications made by the Co-Op throughout the Lothians and Borders. He advised that this policy was in response to market demand for greater availability of shops and the majority of these applications had been granted without comment. Nevertheless, Mr McDonald emphasised that the Co-Op did take the objections raised very seriously. The company was keen to be viewed as a good neighbour and was well aware that local residents made up the majority of its customers. Mr McDonald confirmed that the shop had been opening earlier than the time set out in the Operating Plan since prior to the transition to the new licensing regime and apologised for the oversight in not reflecting the correct opening hours in the Operating Plan at the time of transition. However, Mr MacDonald pointed out that in practice this meant that the Co-Op was only seeking an extension of half an hour to the current opening time.

In response to the objections relating to early deliveries and questions from Members, Mr McDonald pointed out that most deliveries occurred after 9am but that two local deliveries – of bread and milk – did occur earlier in the morning. Both he and Mr Gordon indicated that the local suppliers had now agreed not to deliver prior to 6am. Mr Gordon also confirmed that the Co-Op had spoken to their drivers and reminded them that lorries should switch off their engines while deliveries were being made. On the issue of rubbish lying around outside the shop, Mr Gordon confirmed that there had been one incident of packaging being blown about outside the shop during some inclement weather but that this issue had also been addressed.

Councillor McAllister asked if the delivery agreement also related to Warburtons, who appeared to make separate deliveries, and whether such an agreement could be confirmed in writing and copied to Ms Glass. Mr Gordon agreed to seek written agreement from Warburtons and send a copy of this to Ms Glass.

Councillor Goodfellow asked why it had taken so long to address the apparent oversight regarding opening times. Mr McDonald indicated that he had been instructed by the Co-Op's solicitors in Glasgow and neither he nor they had acted for the Co-op at the time of transition so this had not been picked up earlier.

Councillor Innes enquired whether the original planning application had contained opening hours as part of its conditions. Mr Donald indicated that it was his understanding that the planning application contained a condition relating to deliveries rather than opening hours. Ms Glass quoted from a letter relating to the planning application which confirmed that a condition referred to timing of deliveries "between 6am and 11pm".

Councillor Akhtar asked if there could be a designated person within the shop who could deal with any further queries or concerns from customers or neighbours. Mr McDonald indicated that the shop manager, Stuart Cameron, would be the appropriate person to contact.

The Police and Licensing Standards Officer had no objections to this application.

Councillor Goodfellow sympathised with the issues raised by Mrs Ingle and Ms Glass and was pleased to note that the Co-Op had taken these on board. However, he explained that the Board's remit related to alcohol and as this application for a variation in opening times did not affect the sale or display of alcohol, there was little more they could do. However, the Depute Clerk advised that the Planning Department could take account of noise issues when considering applications and that there was an area within the Council which dealt specifically with complaints about noise nuisance. Mr Fruzynski agreed to provide Ms Glass with contact details.

Councillor Goodfellow concluded by expressing his disappointment that it had taken almost 5 years for the Co-Op to correct the oversight relating to opening times.

Decision

The Licensing Board agreed to a Variation of the Licence as outlined in the application.

(ii) Haddington Conservative Club – 7 Market Street, Haddington

There was no representative present on behalf of the Haddington Conservative Club.

The Depute Clerk advised that the application for a variation of the licence sought to change the premises from a club licence to an open licence.

The Police and Licensing Standards Officer had no objections to this application.

Decision

The Licensing Board agreed to a Variation of the Licence as outlined in the application.

(iii) Macmerry Miners Welfare & Social Club

Ruth Nisbet (Secretary) and Robert Nisbet (Vice President) were present.

The Depute Clerk advised that the application for a variation of the licence sought to amend this from a club licence to an open licence by removing the club conditions. At the time the agenda and papers were sent to Board members, no objections had been received. However, the licensing office had subsequently received a hard copy of a letter of objection from the Police that bore to have been emailed on

7 September 2012. The Depute Clerk explained that the applicants had only received a copy of the letter today and, under the terms of the legislation, were entitled to 7 days in which to consider the terms of the objection. This application could therefore be continued to the next meeting of the Board. However, the applicants had indicated that they may be content to waive their right to have 7 days notice and have the matter dealt with today.

Councillor Innes suggested that the item be adjourned to the end of the meeting while copying of the letter took place and to allow the applicants some time to consider what they wished to do. This was agreed.

Item adjourned.

**(iv) Longniddry Royal British Legion – Links Road, Longniddry
(Continued from 30th August Board Meeting)**

Mr G Rattray was present to represent the Longniddry Royal British Legion.

The Depute Clerk advised that this application had been continued from the Board's 30th August meeting. The application for a variation of the licence was to extend the current opening hours to an 11am start on a Sunday, a terminal hour of 1.00am on a Saturday and to create an outside drinking area. The Police and the Council had raised objections on safety grounds because the proposed drinking area was adjacent to the car park. However, it had been suggested that these might be addressed by screening off the drinking area in some way.

Mr Rattray indicated that it would be possible to close the car park on days when the outside drinking area was in use. The Police confirmed that, if the Club could ensure that there was no traffic in the car park, they would have no objections to the application.

The Licensing Standards Officer explained that the car park was quite small and that the disabled ramp into the building was already very close to the turning area for cars. He supported the closure of the car park while the outside drinking area was in use by Club Members.

The Building Standards Manager, Mr Murdoch, considered that, due to the existing conflict between cars and pedestrians, some kind of delineation of areas using bollards might be sufficient. However, he was also happy with the alternative proposal of closing the car park while the outside drinking area was in use.

Councillor Innes cautioned that if use of the car park had been part of the original planning approval for the Club, closing it while the building was in use may place the Club in conflict with the Planning Department. The Depute Clerk reported that the Planning Department had been consulted on the proposed changes to the licence and had raised no objections.

The Depute Clerk advised Members that should they be minded to grant the variation of the licence they would need to think about the wording of any conditions which might be attached to their approval.

Mr Rattray indicated that the Club would be content to arrange either the closure of the car park or delineation of the space using bollards.

The Police also requested that the outside area not be used after 10pm. Councillor Innes reminded Members that this was usually restricted to 9pm in predominantly residential areas. Mr Rattray advised that the club would be happy to agree to a 9.00pm limit.

Decision

The Licensing Board agreed to a Variation of the Licence subject to the following conditions:

1. The outside drinking area may only be used when the car park is not in use or when a physical barrier is in place delineating and separating the two areas.
2. The outside drinking area must not be used after 2100 hours.

(iii) Macmerry Miners Welfare & Social Club

Item resumed.

Ruth Nisbet (Secretary) and Robert Nisbet (Vice President) were again present on behalf of the Club.

The letter from Lothian & Borders Police dated 6 September 2012 had been circulated and read by those present. The Police expressed a number of concerns about the way the Club was being run, specifically that there continued to be signing in of guests by on-duty staff and Committee Members, the signing-in book had not been completed properly (address details missing) and that the Club had failed to give them notice of a 21st party - a breach of their current licence conditions. The Police reminded Members that at the Board's meeting of 12 July 2012 they had agreed to keep the Club under review until January 2013. The Police had agreed to monitor the Club and report back at the Board's January meeting. In the meantime, they asked the Board not to grant any further variation of the licence.

The Licensing Standards Officer had no objections to the proposed variation of the licence.

In response to a question from Councillor Goodfellow, Mrs Nisbet stated that she had in fact e-mailed both the Police and Licensing Standards Officer about the 21st party in question. Mr Fruzynski confirmed receipt of the e-mail; however, the Police could find no trace of it.

Councillor Goodfellow reminded the applicants that the conditions for signing in of guests should be properly adhered to. Mrs Nisbet responded that not all Committee Members present in the bar area were necessarily on duty. She also explained that if this application was refused it could mean the closure of the Club: additional revenue was required to pay for repairs and maintenance of the buildings and this could not be done without a change to the membership conditions. Mrs Nisbet concluded that, were the Club to close, it would be greatly missed within the village as it had already hosted a number of community events.

Councillor Grant acknowledged the concerns of the Police but commented that this Board had repeatedly encouraged Miner's Clubs and others to go down the route of open membership. He also pointed out that monitoring of the Club could still

continue until January and, in the meantime, he supported the application for variation of the licence.

Councillor McAllister concurred as did Councillor Innes who reminded the applicants that the Board would expect tight management and a good report from the Police in January.

Councillor Goodfellow reminded the applicants that the conditions relating to giving notice of 18th and 21st birthday parties and the appointment of a Licence Liaison Officer still applied.

Decision

The Licensing Board agreed to a Variation of Licence as outlined in the application.

Councillor Goodfellow concluded the meeting by reminding everyone that the Board would be considering extended hours for the Christmas season at its next meeting and he would appreciate comments before then if the police or LSO had any concerns arising from last year.