

MINUTES OF THE MEETING OF EAST LoTHIAN LICENSING BOARD

**THURSDAY 28 FEBRUARY 2013
SALTIRE ROOMS, JOHN MUIR HOUSE, HADDINGTON**

Board Members Present:

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

Clerk of the Licensing Board:

Mrs M Ferguson

Attending:

Mr R Fruzynski, Licensing Standards Officer
Mr J Murdoch, Building Standards Manager
Mr F Mackay, Environmental Protection Manager
Ms E Smyth, Senior Environmental Health Officer
Insp A Harborow, Lothian & Borders Police
PC H Bowsher, Lothian & Borders Police
Ms D Richardson, Licensing Admin Officer

Committee Clerk:

Ms J Totney, Democratic Services Manager

1. MINUTES FOR APPROVAL – 24 JANUARY 2013

The minutes of the Licensing Board meeting of 24 January 2013 were agreed to be a true record.

2. STATEMENT OF OCCASIONAL EXTENDED HOURS – THE OPEN 2013

The Clerk introduced the item per the statement in the meeting papers and Councillor Goodfellow advised that in terms of Section 67 of the Licensing (Scotland) Act 2005, the Board had determined to grant a general extension of licensed hours for the Open Championship 2013. This extension will apply to Sunday 21 July 2013 with a terminal hour of 1am and will only apply to on-sales and not to off-sales of alcohol. He added that there would be no general extensions beyond this although any applications for extended hours received by 31 May 2013 would be considered on a case-by-case basis.

Decision

The Licensing Board agreed the occasional extension of licensing hours for the Open Golf 2013.

3. CONSULTATION RESPONSE ON FURTHER OPTIONS FOR ALCOHOL LICENSING

The Clerk introduced the item and referred to the draft proposed response to the Scottish Government that is contained in the committee papers and indicated that the Board has already discussed this matter.

Councillor Goodfellow particularly welcomed the suggestion to remove the requirement in Section 44(7) to hold a hearing following notification of a relevant offence, eg Health and Safety offences, where this relates to a premises or incident outwith the Board's area and to give the Board discretion to decide whether or not a hearing is required in these circumstances.

Decision

The Licensing Board approved the draft consultation response and asked that it be submitted to the Scottish Executive.

4. GRANT OF PROVISIONAL PREMISES LICENSE

(i) Loretto School, 1-7 Linkfield Road, Musselburgh

Mr Macdonald was present to represent the applicant. The Clerk advised that no objectors were present and that this application has outstanding issues relating to planning matters, building standards and checks in respect of the Governors and connected persons. In the circumstances, Mr Macdonald agreed to continue this item to the meeting of the Board in April 2013.

(ii) 121 Salters Road, Wallyford

The applicant, Mr M Mahmood, was present with his representative Mr Macdonald. The Clerk advised that there had been one public objection but that the objector was not present. This is a provisional application for an off-sales licence for a shop.

Mr Macdonald advised that the applicant currently works in the off-sales trade, has a personal licence and is fully aware of his obligations in relations to licensing objectives. Mr Macdonald indicated that Mr Mahmood wishes to add wine to the range of products available to purchase in these premises. He acknowledged the objection that had been received, commented that there are residential properties in the area but was firmly of the view that no anti-social behaviour problems would arise in the neighbourhood as a consequence of this licence. He advised that CCTV was already installed at the premises and that the alcohol would be placed in such a way as to discourage theft.

In response to Councillor McAllister, Mr Mahmood advised that he is seeking a provisional licence as the lease has not yet been completed on the premises and that the shop is therefore not fully fitted out with shelving etc.

Insp Harborow advised that the Police have no objections to the application and that Community Response Officers will monitor the premises in respect of under-age sales and anti-social behaviour.

Decision

The Licensing Board agreed to grant the provisional premises licence.

5. VARIATIONS OF PREMISES LICENCE

(i) Musselburgh Rugby Football Club, 3a Stoneyhill Farm Road, Musselburgh

The Clerk advised that the application seeks to change the licence to an open licence, change the core hours for on-sales by amending the terminal hour on Thursday to be 1am (previously 11pm) and the hours on Sunday to 11am to Midnight (previously 12.30pm to 11pm), amending the hours for off-sales to commence at 11am on Sunday (previously 12.30pm) and include an outdoor drinking area on the east side of the pitch adjacent to the clubhouse.

No one was present to represent Musselburgh Rugby Football Club.

The Clerk indicated that the Police had requested a terminal hour for the outside drinking area of 10pm, had asked that the use of plastic glasses be considered outside and that there is delineation of the outside drinking area which should be monitored by stewards. The Clerk advised that the applicant has agreed to the terminal hour and that the plans show removable barriers delineating the outside drinking area.

The Licensing Standards Officer indicated that he had no objections to the application.

Decision

The Licensing Board agreed to grant the variation to the premises licence, subject to a 10.00pm terminal hour for use of the outside area but dismissed the recommendation that plastic glasses be used.

(ii) Riverside Bar, 1 Mall Avenue, Musselburgh

The Clerk advised that the application seeks to vary the Premises Manager, add off-sales and add access for children and young persons between the ages of 5 and 17 to be permitted in all public areas.

The Applicant, Mr Reynolds was present.

The Clerk advised that the Police are of the view that the premises are not suitable for children's access. Insp Harborow advised the Board that the premises has no specific facilities for children and referred to a previous serious assault incident and occasions of vandalism at the premises.

The Licensing Standards Officer informed that Board that he had no objections to the application.

Mr Reynolds stated that the variations being requested were primarily in response to demands during Musselburgh Festival week for children to use the toilets in the

premises and commented that the assault referred to by the police did not occur outside the premises. He stressed that he anticipated that children's access to the premises would likely just apply to Musselburgh Festival week. However, he added that one of the members of the premises' darts team is only 17 years old and that the premises are used by football supporters before the football buses leave for matches. Many of the supporters have children with them who currently have to stand outside the premises.

In response to Councillor McAllister, the Clerk advised that an Occasional licence could not be granted for the period of Musselburgh Festival week as the premises is already licensed.

Councillor Innes indicated that he was not keen to support the extension of access for children and young persons given that there are no facilities on the premises for young people. However, Councillor Grant was minded to support the application if due monitoring processes, via the Police, were in place.

In response to Councillor Akhtar, Mr Reynolds advised that there is little or no space in the premises to create a 'child friendly' area. He stressed that children would vacate the premises by 7pm and that there would be a terminal hour of 11pm for young people.

Two members were minded to support allowing children access to the premises to use the toilets but the Clerk pointed out that the Board have to grant or refuse the application in its entirety unless Mr Reynolds is agreeable to altering the application.

Councillor Goodfellow suggested that the item be continued to the April meeting to allow more meaningful discussion. The Clerk made it clear that if the item were to be continued then none of the elements of the variation could be granted at the meeting today

Decision

The Licensing Board agreed to continue the item to the end of today's meeting.

5 (iii) Tower Inn, 128-130 Church Street, Tranent

The Clerk advised that the application seeks to add live performances, amend times to allow young persons to stay on the premises until 11pm (currently all children and young persons have to vacate the premises by 8pm) and to amend the layout plan to provide for live performances in the public and lounge bar.

Caroline Loudon of Lindsays was present to represent the applicant, Greene King Retailing Ltd. John Reynolds, who is the tenant of the premises, was also present.

The Clerk advised that 3 objections had been received but that no objectors were present at the meeting.

Insp Harborow indicated that the Police do not consider this to be suitable premises for children. However, the Licensing Standards Officers advised that he had no objections to the application.

Ms Loudon explained that Mr Reynolds had over 20 years' experience in the licensed trade and that the application sought to seek separate hours of access for young persons aged 16-17, particularly to enable them to participate in pool tournaments.

She stressed that young people in this age group would not be served alcohol. Regarding the matter of live performances, Ms Loudon advised that this would be restricted to the occasional acoustic/vocalist music events in the back lounge area of the premises and reiterated the Licensing Standards Officer's comments that there is no history of disturbance at these premises.

Councillor Innes commented that the premises have been well-run for generations but that he was nonetheless concerned that the Board was being asked to grant access for unaccompanied 16-17 year olds. The Clerk reassured Board members that it would still be a condition of the licence that young people in this age group must be accompanied by an adult.

Councillor Grant concurred that the premises had been exceptionally well run for many years. He indicated that he would support the application and welcomed Mr Reynolds' assurances that any live performances would not be noisy events.

However, Councillor Innes pointed out that once the Board had granted approval for live performances this could in future include bands and amplified music. He added that he did not anticipate this being a problem and that any issues would be addressed. Despite his reservations about access for 16-17 years olds, Councillor Innes stated that he was more comfortable with the fact that they would require to be accompanied by an adult at all times.

Insp Harborow confirmed that when visiting premises, the Police can ascertain the appropriate adult who is accompanying young persons.

Decision

The Licensing Board agreed to grant the variations to the premises licence.

5 (iv) Cockenzie and Port Seton Bowling and Recreation Club, Port Seton

The Clerk advised that the application seeks to change the license to an open licence.

No one was present to represent Cockenzie and Port Seton Bowling and Recreation Club.

The Clerk informed the Board that the applicant has accepted the Police recommendation that the terminal hour for children, accompanied by an adult, be set at 10pm.

The Licensing Standards Officer advised that he has no objections to the application.

Decision

The Licensing Board agreed to grant the variation to the premises licence subject to the restriction on a terminal hour for children as requested by the police.

6. GRANT OF TEMPORARY PREMISES LICENCE

6 (i) Seton Sands Holiday Village, Temporary Shop, Seton Sands, Longniddry

The Clerk advised that a temporary licence was granted in March 2010 for the shop premises while the original shop property was being demolished and rebuilt. This

was subsequently extended and now expires in March 2013. This application represents a fresh application for a temporary licence for the same premises and no objections have been received. She commented that a temporary licence can be granted for up to 2 years in the first instance.

Mr G Wood, Premises Manager, and Ms A Watson, General Manager, were present to represent Seton Sands Holiday Village.

Ms Watson advised that there is a 5 year development plan for the holiday village complex but that matters were delayed due to issues with their planning permission. She mentioned that it is not known yet if the new shop will be in phase 1 or phase 2 of the development works and that a further 2 year temporary licence was therefore being sought.

Decision

The Licensing Board agreed to grant the temporary licence.

VARIATIONS OF PREMISES LICENCE

5(ii) Riverside Bar, 1 Mall Avenue, Musselburgh (cont)

Ms Loudon informed the Board that she had now spoken with the applicant and he was agreeable to removing the variation in respect of children and that the application now sought access for young persons aged 16-17 only on an accompanied basis.

The Clerk clarified that the terminal hour for accompanied 16-17 year olds would be 11pm.

Although consistent with the decision made in respect of the Tower Inn premises in Tranent, Councillor McAllister commented that he had concerns about this and the setting of a precedent.

However, Councillor Innes highlighted that the Board had just set the precedent in granting the variation at the Tower Inn, Tranent and made it clear that he still had reservations about permitting access to licensed premises for young persons aged 16-17. He added that he would have preferred to consider the matter as a policy development issue and not just as 2 individual applications.

Councillor McAllister suggested that any future applications be considered on a case-by-case basis, taking account of factors such as premises size, location and premises management history.

The Clerk clarified the amendments to the application. The Board voted: For – 4. Against – 2.

Decision

The Licensing Board agreed to grant the variations to the licence as amended – the variation of the designated premises manager, the addition of off-sales and accompanied young persons aged 16-17 to be permitted in all public areas until 11pm.