

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

**THURSDAY 25 APRIL 2013  
SALTIRE ROOMS, JOHN MUIR HOUSE, HADDINGTON**

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**Board Members Present:**

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

**Clerk of the Licensing Board:**

Mrs K MacNeill

**Attending:**

Mr M Ferguson, Corporate Legal Adviser  
Mr R Fruzynski, Licensing Standards Officer  
Mr D Irving, Planner  
Mr D Johnson, Food Safety Officer  
Mr J Murdoch, Building Standards Manager  
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

**Apologies:**

Councillor P McLennan

### **STATEMENT OF OCCASIONAL EXTENDED HOURS – THE OPEN 2013**

Prior to the start of the agenda business, Councillor Goodfellow advised that in terms of Section 67 of the Licensing (Scotland) Act 2005, the Board has determined to grant a further general extension of licensed hours for the Open Championship 2013. This extension will apply from Monday 15 July to Wednesday 17 July inclusive and will allow an extension of the terminal hours for the sale of alcohol until 1am. This extension will only apply to on-sales and not to off-sales of alcohol. He added that any applications for extended hours outwith the general extension which are received by 31 May 2013 would be considered on a case-by-case basis.

#### **1. MINUTES FOR APPROVAL – 28 FEBRUARY 2013**

The minutes of the Licensing Board meeting of 28 February 2013 were agreed to be a true record.

## **2. GRANT OF PROVISIONAL PREMISES LICENSE**

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

This item had been continued from the meeting on 28 February 2013.

Mr A Macdonald of Macdonald Licensing was present to represent the applicant.

The Clerk advised that representations had been received from the Council's building standards department and that there were public objections; however, the objectors were not present.

Mr Macdonald advised that several occasional licences had been issued for previous functions and that Loretto School was now seeking to obtain a permanent licence. This would reduce the administration associated with occasional licences, remove the uncertainty surrounding the granting of an occasional licence at the time a function is booked and enable the school to increase the number of functions held on the premises. He stressed that the venue would only be used by people who had a current or previous connection with Loretto School. As the premises would not be generally available for public use, he commented that the venue would not be competing with Musselburgh Racecourse and other establishments for business.

Mr Macdonald mentioned that some technical issues had been raised by the Council's building control and environmental services departments and acknowledged that these would require to be satisfactorily addressed before a permanent licence could be granted. He also acknowledged the Police comments regarding the external area/s which would be licensed and stressed a personal preference for the outside area at the front of Pinkie House to be included in the licence; indicating that his client would be agreeable to a terminal hour of 10pm for this outside area. He made it clear to the Board that the Police had no objection to the walled garden being included in the licence.

At the request of Board members, the Clerk clearly pointed out the external areas under consideration on the plans which had been submitted.

Insp Harborow indicated that the Police would not support licensing the complete school grounds but had no objection in principle to licensing specific buildings and specific area. He informed the Board that checks had now been completed in respect of the Governors and connected persons, enquired if there had been any progress in reducing the terminal hour, advised that the operating plan has yet to be amended to reflect the erection of a marquee in the walled garden and that absolute clarification was required regarding the outside areas that are to be licensed.

Mr Macdonald confirmed that the operating plan had now been amended in respect of the marquee, acknowledged that a terminal hour of 11pm (Monday, Tuesday and Wednesday) is in line with the Council's licensing policy and re-iterated that outside drinking will be restricted to delineated areas within the grounds. He offered to amend the plans if the delineated areas are not sufficiently clear; Insp Harborow indicated that it is still the opinion of the Police that the plans are not sufficiently clear.

Mr Fruzynski, Licensing Standards Officer, advised that he had nothing to add to the report which he had already submitted.

Mr Murdoch, Building Standards Manager, stated that he had made the applicant aware of the issues in order to raise their awareness of the significant works required. He added that he had no objection in principal to the application on the proviso that all the issues raised are satisfactorily addressed.

In response to Councillor McAllister, Mr Macdonald advised that the delineated area is to the front of Pinkie House; an area which would be used for taking photographs. He commented that guests would likely mingle there with a glass of champagne, hence the request that this area be included in the license; an approach that was more favourable to his client than the suggestion by the Police of taking drink into that (unlicensed) area of the grounds on an off-sale basis.

Councillor Innes commented that he had no concerns regarding the delineation. However, he would be looking for a terminal hour of 11pm on Monday, Tuesday and Wednesday as recommended by the Police, with any extensions to be applied for as an occasional extension to operating hours.

Mr Macdonald advised that he would be happy to amend the terminal hour to 11pm and to 10pm in the outside area.

Insp Harborow confirmed that the Police are agreeable to a terminal hour of 10pm in the external delineated area to the front of Pinkie House; to be clearly outlined in amended plans.

Mr Macdonald provided an assurance that the items raised by Mr Murdoch would be addressed

#### **Decision**

The Licensing Board agreed to grant the provisional premises licence subject to a terminal hour of 11pm on Monday Tuesday and Wednesday; a terminal hour of 10pm for the outside drinking area.

**Comment [WU1]:** Debbie could you check the licence issued to ensure it has these conditions in place

#### **(ii) Shop – 53 High Street, Musselburgh**

The applicant, Mr Sajid Iqbal, was present with his representative Mr Macdonald

The Clerk advised that no objections or comments had been received.

Mr Macdonald informed the Board that his client had operated the premises for around 6 years and is fully aware of his responsibilities as he is already a personal license holder. He added that it would be beneficial to have a licence to meet customer demand.

#### **Decision**

The Licensing Board agreed to grant the provisional premises licence.

### **3. VARIATIONS OF PREMISES LICENCE**

#### **(i) Convenience Store – 136 Salters Road, Wallyford**

The Clerk advised that the application seeks to change the premises to an off-sales premises, to change the store name to Convenience Store, delete on-sales hours

and amend off-sales hours to 10am to 10pm daily, amend the operating plan to show off-sales only, to allow recorded music and remove all other activities presently listed, and create a new layout plan.

Mr N Hassard of Lindsays was present to represent the applicant, Kast Ltd. Mr Haslam, the Director of Wallyford Day-2-Day store, and the proposed Designated Premises Manager, was also present.

Mr Hassard stated that the premises were formerly the Fa'side Inn which is already has a license and which will be turned into a small-scale supermarket. He stressed that the tills in the store will recognise if alcohol purchases are attempted outwith licensed hours and that the premises are covered by 28 CCTV cameras. He indicated that staff, who will be recruited locally, will receive mandatory training and that it is the intention that the store will have a minimum of three personal licence holders. He referred to the fact that there had been no objections and referred to the report that had been received from the Council's Environmental Services.

Mr Murdoch, Building Standards Manager, confirmed that an issue regarding food hygiene legislation had been discussed with the applicant and has been satisfactorily resolved.

Councillor Innes welcomed the introduction of higher quality services for the community, a view which was supported by Councillor Grant. Councillor Akhtar commented on the local employment opportunities and Councillor Goodfellow remarked that the in-store ATM/cash machine would be a beneficial additional facility for local residents.

**Decision**

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

**(ii) Eskmills Bowling Club – 4 Station Road, Musselburgh**

The Clerk advised that the application seeks to change from a club licence to an open licence. No one was present to represent the applicant.

The Clerk advised that the applicant had agreed to the request from the Police that children and young people are only on the premises after 9pm if they are attending a private function and are accompanied by an adult/guardian.

**Decision**

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

**(iii) Levenhall Arms – 3 Ravensheugh Road, Musselburgh**

The Clerk advised that the application seeks to add off-sales to the operating plan.

The applicant, Mr Edward Ritchie, was present.

The Clerk advised that no objections had been received. She added that part of the business is an Indian food take-away and that customers are now looking to purchase beer/wine at the same time.

Mr Ritchie confirmed that the terminal hour for the off-sales licence would be 10pm.

**Decision**

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

**(iv) Off-Sales – 121 Salters Road, Wallyford**

The Clerk advised that the application seeks to increase the alcohol display area to 10.7m x 0.75m at its widest, from the previous dimensions of area 1: 700 x 1980cm; area 2: 700 x 2850cm. She informed the Board that no objections had been received.

Mr Macdonald was present to represent the applicant and advised that the additional space would be used for the display of wine.

**Decision**

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

**(v) The Crown & Kitchen – 25-27 Bridge Street, East Linton**

The Clerk advised that the application seeks to change the premises name to The Crown and Kitchen, to vary the operating plan for outside core hours, conferences, bar meals, receptions, club/group meetings, recorded music, live performances and televised sport. She indicated that a letter of support had been received from the local community council, a copy of which was contained in the committee papers.

The applicant, Mr William Robertson, was present and was represented by Mr Macdonald.

Mr Macdonald advised that the premises were formerly a hotel with rooms and informed the Board that his client is now separating the ground floor from the upper floor and it is anticipated that the rooms will be let out for short-term lets. He indicated that his client was also the builder on the project and was in partnership with his son (William Robertson Jnr), who had many years' experience in the licensed trade. He stated that building work is at advanced stage and that his client hoped to open the property in three or four weeks and referred to the fact that the Council appears to have some concerns about the proposals. However, he stressed that focus of the meeting should be on the changes to the licence. He added that this did not negate his client's responsibility to obtain the necessary permissions and certificates from the Council's Building Standards Department and pointed out that he was aware that the Building Warrant could not be granted until outstanding issues are addressed and that the premises could not open until all the paperwork is in order and in place.

The Licensing Standards Officer advised that he had no objection to the application but did express some concern that the only exit from the outside beer garden is via the premises. He commented that he would support the application if the beer garden had a second exit and if all Building Standards requirements are satisfied.

Mr Murdoch responded that this is a complicated situation and referred to his detailed email to Mr Macdonald dated 24 April 2013. He made it clear that a Building Warrant is required for the changes to the building and informed the Board that despite numerous conversations with Mr Robertson and his surveyor, the Council had still not obtained definitive proposals for the upper floor. He provided a detailed input on his concerns regarding the lack of clarity of the proposed use; the treatment of the internal stair; split applications; the separation requirements if the upper floor is to be for residential use; and the fire exit arrangements from the beer garden. He pointed out that building work should not have started until a building warrant had been

obtained and until the Licensing Board had agreed to grant the variations to the licence.

Mr Daryth Irving, Planner, informed the Board that if the upper floor is to be independently occupied then it is classed as a residential dwelling which would not be an acceptable use under Planning Policy. However, he advised that it would be acceptable use if the upper floor were used for holiday lets and stated that this option had been offered to the applicant. He commented that planning permission is therefore not being granted at the moment and added that the outside beer garden area is not part of the planning application as it is already in existing use.

Mr Macdonald restated his view that the Board should only be focusing on the licensing requirements and that the upper floor was irrelevant in the context of the licence application.

For clarification, the Clerk advised that the current licence includes the internal staircase.

Mr Murdoch and Mr Robertson debated the issue of the beer garden fire exit at some length. Mr Murdoch expressed concern that the only exit route is via the open plan area in the premises building. Mr Robertson advised that the exit arrangements have been discussed and agreed with a Council Fire Officer.

Mr Macdonald acknowledged that there were clearly issues that needed to be resolved and that the premises could not open until these were addressed. He asked that the Licensing Board agree in principle to grant the application and emphasised that this would not supersede his client's obligations to the Council's Planning and Building Control Departments.

Mr Robertson stated that he had tried to do everything correctly regarding the changes to the property and that he had had engineers on site. He made the Board aware that he had invested a lot of money in the project and wanted all the issues ironed out as soon as possible.

In response to questions from Board Members, Mr Murdoch advised that despite several communications from the Council, Mr Robertson had not provided compliant drawings and other information required for the issue of a building warrant.

Councillor Innes advised that he would not be happy to make a decision at this meeting as he would need to be satisfied that the variations sought are competent and safe. He added that he would be agreeable to arranging a special meeting of the Licensing Board if all outstanding matters are resolved before the next planned meeting in May as he did not wish the premises opening to be unnecessarily delayed.

*(Mr Robertson Jnr joined the meeting)*

Mr Macdonald commented that matters had come to a head just this week and that he had not had time to act on the email that he had received yesterday from Mr Murdoch. He added that it was unlikely that all matters would be resolved before the May meeting of the Board.

Councillor Grant suggested that there had been a refusal to engage with the Council Officers and added that the proposals for the upper floor have a direct impact on the licence.

**Decision**

The Licensing Board agreed to continue this item.

**4. TRANSFER OF ADULT GAMING PREMISES LICENCE**

**(i) Seton Sands Holiday Village - Longniddry**

The Clerk advised that a public objection had been received.

Mr Paul McGhee, Operations Manager, Inspired Gaming, was present to represent the applicant. Mr McGhee advised that the transfer of the application is happening across their operation due to a national buy-out. With regard to the objection which had been received, he confirmed that the company operates under the Gambling Act 2005 which covers the protection of children and young people and that all team members are appropriately trained.

**Decision**

The Licensing Board agreed to grant the transfer of the licence.