

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

**THURSDAY 27 JUNE 2013  
SALTIRE ROOMS, JOHN MUIR HOUSE, HADDINGTON**

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**Board Members Present:**

Councillor J Goodfellow (Chair)  
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  
Insp S Broadhurst, Lothian & Borders Police  
PC H Bowsher, Lothian & Borders Police  
Ms M Winter, Licensing Admin assistant

**Committee Clerk:**

Ms J Totney, Democratic Services Manager

**Apologies:**

Councillor S Akhtar

**1. MINUTES FOR APPROVAL – 23 MAY 2013**

The minutes of the Licensing Board meeting of 23 May 2013 were agreed to be a true record.

**2. VARIATIONS OF PREMISES LICENCE**

**(i) Craigielaw Golf Club, Aberlady, East Lothian**

No one was present to represent the applicant.

The Clerk stated that the application seeks to extend the premises by way of a 25 bedroom two storey lodge extension, increase the kitchen area, add a semi-circular members' lounge, increase capacity and add retail activity within the Golf Professional's shop on site. She informed the Board that there are no objections and that the outstanding issue relating to the completion certificate had now been resolved to the satisfaction of the Council's Building Standards department.

**Decision**

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

**(ii) Lodge Nisbet No 1112 Social Club, Rannoch House, Ormiston Road, Tranent**

No one was present to represent the applicant.

The Clerk stated that the application seeks to vary the club licence to an Open Premises Licence. She informed the Board that there are no objections or comments.

**Decision**

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

**(iii) Musselburgh Miners Charitable Society (Incorp. Royal Musselburgh Golf Club), Prestongrange House, Prestongrange Road, Cuthill, Prestonpans**

Mr Stephen Cross and Mr Alistair Davie were present to represent the applicant.

The Clerk stated that the application seeks to change to an Open Licence and to include an outside drinking area. She indicated that as a result of comments received from the Police, the application for the outside drinking area on the north side of the building had been withdrawn. However, the Police have requested that the commencement time for the sale of alcohol be changed to 11am, rather than the current time of 10am granted during transition.

Insp Broadhurst informed the Board that the applicant had subsequently agreed to a commencement time of 10am for members and 11am for members of the public. He stated that the Police are agreeable to this proposal and confirmed that the Police have no outstanding issues.

**Decision**

The Licensing Board agreed to grant the Variation to the premises licence subject to the changes agreed at the meeting.

**(iv) The Clubhouse, Thurston Manor Leisure Park, Innerwick**

No one was present to represent the applicant.

The Clerk stated that the application seeks to vary the operating plan with a change of access for children and young persons and permission for seasonal variations as allowed by the Licensing Board policy. She added that the application also seeks to vary the layout plan to include new activities and extend the existing external licensed area. She informed the Board that Building Standards no longer have any objections.

**Decision**

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

**(v) The Mercat Grill (formerly Dolphin Inn), 10 Whitecraig Road, Whitecraig**

Mr Graham Blaikie and Mr Stuart Blaikie were present to represent the applicant.

The Clerk stated that the application seeks to change the name of the premises to The Mercat Grill and to vary the layout plan to remove the children's playground and extend the external licensed area to incorporate the area where the playground used to be. She advised the Board that there are no objections or comments.

**Decision**

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

**3. REQUEST FOR REVIEW OF PREMISES LICENCE**

**Macmerry Bowling Club, West Bank Road, Macmerry**

The Clerk stated that there had been a request to review the premises licence in respect of the above property. She stressed that this is not a hearing meeting but is solely to determine if grounds for a review can be established and reminded the Board of the grounds for holding a review.

All members confirmed that they had read the papers which had been issued in respect of this item.

Local Ward Member, Councillor Grant commented that the issues raised seem irrelevant to licensing objectives and that he would not support a review hearing.

Councillor Goodfellow, Chair of the Licensing Board, indicated that there was no relevant matter raised in terms of licensing legislation.

**Decision**

The Licensing Board agreed that there are no grounds to review the premises licence.

**4. REVIEW OF PERSONAL LICENCE (Continued)**

**John Middlemas Allison**

The applicant, Mr John Allison, was present and was represented by Mr Niall Hassard of Lindsays.

The Clerk stated that this item was first before the Board in February 2012, following a request from the Police for a review of Mr Allison's Personal Licence as a result of an incident at Lava and Ignite nightclub, 3 West Tolcross, Edinburgh. She reminded members that the matter had been continued by the Board, pending the outcome of court proceedings. These proceedings had now concluded and Mr Allison had been found guilty; details of the outcome of the case were included in the meeting papers.

Inspector Broadhurst summarised the Police account of the incident, per the report in the Board's meeting papers. In response to questions from the Board, he indicated that the fine imposed is at the top end of the monetary scale for an offence of this nature and confirmed that Mr Allison's conviction is only for one offence.

Niall Hassard addressed the Board and provided a very detailed account of Mr Allison's extensive experience and exemplary background in the licensed trade; his long working relationship with Luminar (who owned Lava and Ignite); the circumstances surrounding the incident; the history of problematic/troublesome incidents at the premises; the challenges that he had inherited as premises manager/personal licence holder; his positive and pro-active approach to due diligence and staff training; and the importance he placed on building relationships with customers and Licensing Officials.

Mr Hassard stated that Mr Allison had informed his current employer about the impending trial and that they had been very supportive and stressed that Mr Allison has a strong desire to remain, and progress, in the licensed trade. He reminded members that Mr Allison had voluntarily suspended use of his personal licence pending the outcome of the court case.

In summing up, Mr Hassard stated that Mr Allison had already been punished by the Courts and urged the Board to exercise leniency in any sanctions that members imposed, re-iterating that Mr Allison had an unblemished history in the trade up until this point.

In response to Councillor McLennan, Mr Allison outlined his duties and responsibilities on the night of the incident and Mr Hassard drew the Board's attention to the fact that many people had in fact been refused entry to the premises that night due to intoxication. Mr Allison added that staffing numbers had been increased on the night in question and that he had been unaware of the incidents occurring outside the premises, even after reviewing footage from more than 40 CCTV cameras.

Replying to Councillor Innes, Insp Broadhurst confirmed that nothing in Mr Allison's account of the circumstances could be challenged. Mr Hassard indicated that there had been no review of the premises licence as a result of this incident but from local knowledge, he believed that the premises licence had been reviewed previously. Insp Broadhurst was unable to confirm if there had been a previous review of the premises licence but commented that there had been many Police interventions at the premises which were regarded as a very troublesome Club.

The Board adjourned to deliberate the matter in private, at which point all other parties withdrew from the meeting.

The meeting reconvened with all original parties present. Councillor Goodfellow, Chair of the Licensing Board, stated that the matter had been considered very carefully and stressed that the role of the Board is to ensure that licensing objectives are upheld. He informed the meeting that consideration had been given to Mr Allison's long and unblemished record and that the Board members are unanimous in the view that there would be no benefit in taking any action against Mr Allison or placing any endorsement on Mr Allison's Personal Licence. He stated that the licensed trade needs strong managers and that taking action against Mr Allison could deter good managers from taking on difficult premises.

## **Decision**

The Licensing Board unanimously agreed that it is not necessary to impose any order in terms of Section 93 of the Licensing (Scotland ) Act 2005.