

MINUTES OF THE MEETING OF EAST LoTHIAN LICENSING BOARD

**THURSDAY 24 OCTOBER 2013
SALTIRE ROOMS, JOHN MUIR HOUSE, HADDINGTON**

Board Members Present:

Councillor S Akhtar
Councillor D Grant
Councillor W Innes
Councillor F McAllister
Councillor P McLennan

Clerk of the Licensing Board:

Mrs K MacNeill

Attending:

Mrs M Ferguson, Corporate Legal Adviser
Mr R Fruzynski, Licensing Standards Officer
Ms E Smyth, Senior Environmental Health Officer
Ms M Winter, Licensing Admin Assistant
PC H Bowsher, Police Scotland
Insp Mackay, Police Scotland

Committee Clerk:

Ms J Totney, Democratic Services Manager

Apologies:

Councillor J Goodfellow (Chair)

Declarations of Interest:

None

In the absence of Councillor Goodfellow, Chair of the East Lothian Licensing Board, It was proposed by Councillor Innes, and seconded by Councillor McAllister, that Councillor Grant be appointed Chair for this meeting.

Councillor Innes indicated that he would need to excuse himself from the meeting at 11.30am.

1. MINUTES FOR APPROVAL – 26 SEPTEMBER 2013

The minutes of the Licensing Board meeting of 26 September 2013 were agreed to be a true record. There were no matters arising.

2. ADOPTION OF STATEMENT OF LICENSING POLICY 2013-2016

A report was submitted by the Clerk to the Licensing Board. The Clerk stated the purpose and recommendations within the report and highlighted that there were three options for the Board to consider in relation to the overprovision statement which is to be incorporated in the Draft Statement of Licensing Policy.

In response to Councillor Innes, the Clerk advised that minor changes could be made to the policy once implemented but that further consultation would be required for major changes. Councillor Innes stated that the figures and evidence used in relation to over provision statement require to be interrogated with more scrutiny given the implications for the licensed trade in East Lothian and asked that his view on this matter be formally recorded. He advised that he would be supporting Alternative B.

Councillor McAllister referred to both the data/statistics/formula used to inform the options and the consultation feedback and commented that Scotland has a disturbing relationship with alcohol. He stated that the original overprovision statement best supports the licensing objectives, as was borne out by the consultation responses and stressed that it is important to bear in mind the licensing objective in relation to the harm caused by alcohol.

Councillor Akhtar stated that the statistical information requires to be thoroughly scrutinised. In her view, the Board should agree to determine each application on its own merits in line with licensing objectives.

Councillor McLennan concurred with Councillor McAllister's view, stating that the statistics are well established and that the Board needs to seriously consider the wider responsibility of the damage caused by alcohol. He pointed out that the all the overprovision statement options state that each application still requires to be determined on its own merits and there may be exceptional cases where an applicant can be granted in exceptional circumstances.

Councillor Grant drew the debate to a close, commenting that it is important to consider the NHS and Police data, albeit he found the data somewhat surprising. He indicated he would be supporting Alternative B as moved by Councillor Innes.

In response to Councillor McLennan, the Clerk advised that the Board must adopt a policy at this meeting but that the Board could revisit the statistics and data discuss this at a later meeting.

The Chair moved to vote on the overprovision statement to be incorporated into the draft policy statement and thanked members for their contributions. Board members voted: 3 votes for Alternative B, 2 votes for the original option and 0 votes for Alternative A.

Decision

East Lothian Licensing Board agreed to:

- note the outcome of the public consultation on the Draft Statement of Licensing Policy as set out in appendix 1 to the report.
- incorporate overprovision statement, Alternative B, into the Draft Statement of Licensing Policy

- approve the Draft Statement of Licensing Policy 2013-16, attached as appendix 2 to the report, as the Board's Statement of Licensing Policy for the three year period beginning 1st November 2013, with the proviso that the Board review/scrutinise the statistics/data in six months' time.

3. STATEMENT ON OCCASIONAL EXTENDED HOURS OVER THE FESTIVE PERIOD

The Clerk read out the proposed statement in relation to grant a general extension of licensed hours for the festive period.

'This extension will apply from 13th December 2013 until 5th January 2014 inclusive and will allow an extension of the terminal hour for the sale of alcohol during that period until 2am. This extension will only apply to on-sales and not to off-sales of alcohol. There will be no general extensions beyond this although any applications for extended hours outwith the general extension will be considered on a case-by-case basis. It should be noted that such applications will require to be submitted no later than 1st December. There is no need for licensees to apply for the general extension to 2am. On sales premises can utilise these hours to the extent they consider appropriate.'

Decision

East Lothian Licensing Board agreed the suggested statement for the general extension of licensed hours for the festive period 2013/14.

4. PROVISIONAL PREMISES LICENCE

The Johnnie Cope, Hawthorn Road, Prestonpans

The Clerk advised that this item would be carried forward to the November 2013 meeting of East Lothian Licensing Board.

5. VARIATIONS OF PREMISES LICENCE

(i) East Lothian Indoor Bowling Club – Meadowmill, Tranent

No one was present to represent the applicant.

The Clerk informed that Board that no objections had been received. She advised that the application seeks to change to an open licence to include children 0 – 4 years (currently 5 – 17 years) and to add conference facilities to the operating plan.

Decision

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

(ii) Haddington Bowling Club, Wemyss Place, Haddington

The Clerk advised that this item would be carried forward to the November 2013 meeting of East Lothian Licensing Board.

(iii) Horseshoe Tavern, 54 Newbigging, Musselburgh

Mr Niall Hassard of Lindsays was present to represent the applicant. The applicant, Ms Lorraine Lynch, operator of the licensed premises was also present. No objectors were present.

The Clerk informed that Board that objections had been received and referred members to the reports received from the Licensing Standards Officer (LSO) and Police Scotland. She advised that the application seeks to vary the operating plan to include outside drinking as an activity during core hours and to add an external drinking area to the rear elevated area of the garden.

Mr Hassard described the external site and plans for creating an outside drinking area in detail. He referred the Board members to photographs and acknowledged that the Police are correct in stating that the site is bounded by residential properties. He stated that the premises are well run, there have been no complaints about noise or anti-social behaviour and that a zero tolerance approach would be taken to any disruptive behaviour in the outside drinking area. He added that Mrs Lynch is highly involved in the local community. He addressed the points raised by objectors, referred to the report from the LSO and acknowledged that a lot of work would be required to bring the outside area up to standard if/once permission is principal has been granted. He indicated that the creation of an outside drinking area would be advantageous to the business and advised that an application to provide food would follow at a later date.

Inspector McKay informed the Board that even with fencing, the external site is not suitable for an outside drinking area.

The LSO advised he had nothing to add to the report he had already submitted.

Councillor McAllister commended Ms Lynch on her well run establishment but stated he was concerned that the outside drinking area is next to residential gardens where there might be children.

Councillor Innes acknowledged Ms Lynch's very credible reputation but stated that he has difficulty with the relationship between the external drinking area, private gardens and shared access. Due to this conflict, he advised that, unfortunately, he could not support this application.

Mr Hassard pointed out that the only access to the external drinking area would be via the licensed premises.

Councillor Grant indicated that on this occasion there are a few inconsistencies with the licensing objectives and that he could not support the application.

Decision

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

(iv) Old Aberlady Inn, High Street, Aberlady

No one was present to represent the applicant.

The Clerk informed that Board that no objections or representations had been received. She advised that the application seeks to vary children and young persons' access to allow them to remain on the premises, when attending a function, until the terminal hour.

Decision

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

(v) Railway Tavern, 129 High Street, Prestonpans

Mr Niall Hassard of Lindsays was present to represent the applicant. The applicant was not present.

The Clerk informed that Board that Police Scotland objections and a report from the LSO had been received. She advised that the application seeks to make a number of variations:

- Remove conditions – emergency lighting, smoke detection system and premises manager to obtain on conditions of buildings situated above/adjacent to the outside drinking area.
- Variation to operating plan to permit the sale of alcohol, on-sales and off-sales, from 11am on Sundays.
- Permit bar meals within & out with core hours, to permit premises to open from 8am for breakfasts, meetings, receptions, conference facilities, music, televised sport, and outdoor drinking facilities.
- To permit charity events, to trade extended hours permitted by the board over festival season.
- To permit children's & young person's access.

Councillor Grant requested that the Board be given a few minutes to review the papers which had been submitting just prior to the start of the meeting.

Mr Hassard advised the Board that this application seeks to remove obsolete building control conditions which are still on the licence and also to seek approval to introduce bar meals. He outlined the changes which would take place within the premises should permission be granted to serve food and introduce conference facilities. He commented that child access could be dropped from the current application and considered at a future date and that accordingly, a revised restricted application had been submitted.

Inspector McKay advised that the main concern from Police Scotland had been in relation to child access. The LSO advised that he would support the provision of bar meals, subject to the food safety and health conditions outlined in his report.

Councillor Innes supported the application, commented on this being a well-run establishment and hoped that the investment would be successful with a further application to allow family use coming before the Board in due course.

Mr Hassard acknowledged that planning permission would be required in respect of the outside drinking area.

Decision

The Licensing Board agreed to grant the variation to the premises licence on a revised basis which would exclude child access.

(v) The Gothenburg, 227-229 High Street, Prestonpans

No one was present to represent the applicant.

The Clerk informed that Board that no objections or representation had been received. She advised that the application seeks a variation to allow children to the Bistro and function room from 11am to 12 midnight.

Decision

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

6. EXTENSION TO LICENSED HOURS

Carberry Tower, Whitecraig, Musselburgh

The Clerk advised that this item had been withdrawn.

7. REQUEST FOR REVIEW HEARING FOR BREACH OF LICENCE CONDITIONS – UNPAID ANNUAL FEES

The Board agreed to deal with this as the next item of business.

The Clerk spoke to the report and advised that a number of premises had now paid their annual fees and that she anticipated that only a small number would be brought to review. She sought delegated power from the Board to remove from review, any premises that pay their annual fee before the November Board meeting and advised that reminder letters would be sent out. She asked that the LSO investigate if some of the establishments are still trading as no fee is due if they are no longer trading.

Decision

East Lothian Licensing Board agreed to:

- hold a review hearing in respect of the premises licenses where the annual fee for 2013/14 has not been paid by the time the Board next meets on 28 November 2013.
- delegate to the Clerk of the Board the authority to cancel any review hearings in respect of those premises that pay the annual fee prior to the date of the said hearing.
- That the LSO should investigate if a number of the premises are still trading and advise the Clerk accordingly, in advance of the November Board meeting.

8. TRANSFER OF PREMISES LICENCE

This item was held in private and members of the public and press left the meeting.

Decision

East Lothian Licensing Board agreed to grant the transfer of one premises licence and to review one premises licence at the Board meeting on 28 November 2013.