

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

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

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**Board Members Present:**

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

**Clerk of the Licensing Board:**

Mrs K MacNeill

**Attending:**

Mr R Fruzynski, Licensing Standards Officer  
Ms D Richardson, Licensing Admin Officer  
PC H Bowsher, Police Scotland  
Insp Harborow, Police Scotland

**Committee Clerk:**

Ms J Totney, Democratic Services Manager

**Apologies:**

Councillor W Innes  
Councillor P McLennan

**Declarations of Interest:**

None

At the suggestion of the Chair, the Board agreed to amend the order of business and hear item 4(i) on the agenda as the final item of business at today's meeting.

**1. MINUTES FOR APPROVAL – 24 OCTOBER 2013**

The minutes of the Licensing Board meeting of 24 October 2013 were agreed to be a true record. There were no matters arising.

**2. PROVISIONAL PREMISES LICENCE**

**The Johnnie Cope, Hawthorn Road, Prestonpans**

The Clerk advised that public objections had been received along with an objection from the operator of The Dasher public house.

The applicant, Mr Paul Kane, was present and was represented by Mr MacDonald of MacDonald Licensing. Mr Stephen McGowan, TLT Solicitors, was present to represent The Dasher public house. No public objectors were present.

The Police and the Licensing Standards Officer (LSO) indicated that they had nothing further to add to their respective letter and report.

Mr MacDonald provided background information and history regarding the premises and stressed that the premises would now be operating as a food outlet/bistro/cafe and not as a public house. He advised that there are no comparable premises in the immediate vicinity.

Mr Kane informed the Board that his objections related to overprovision; concerns about the suitability of the location; and based on past experience, the risk of public nuisance.

In response to Councillor McAllister, Mr MacDonald advised that off-sales had been included but could be limited to patrons purchasing take-away meals. He added that several items such as outdoor drinking areas, bingo/quiz/karaoke nights and TV sports could now be removed from the operating plan that had been submitted with the application; the terminal hour could be restricted to midnight on Thursdays, Fridays and Saturdays; the premises would be de-licensed until 4pm from Mondays to Thursdays as school children could be purchasing take-away lunches from the premises; and that the premises would close at 2pm and re-open at 4pm on these days. He informed the Board that alcohol displays would be covered up until 4pm from Mondays to Thursdays. He contested that there is no overprovision issue as the premises are not a public house.

Mr Kane pointed out that the building used to be metal-plated; that children used to converge at the back of the premises; and that this application presents the ideal opportunity to enhance the area.

The Board and the Clerk adjourned to debate the matter in private.

On returning to the meeting, the Chair stated that the operating plan before the Board is for a public house. The Clerk added that the public had therefore not had the opportunity to comment on what is actually being proposed for the premises.

### **Decision**

The Licensing Board agreed to decline the application but advised that the applicant could re-apply straight away with an operating plan which accurately reflects the proposal for the premises.

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

#### **(i) Amore Coast, 37 – 39 Quality Street, North Berwick**

The applicant Mr Frank Cucchi was present and was represented by Mr MacDonald of MacDonald Licensing.

The Clerk informed that Board that the Community Council is the sole objector and that the application seeks to vary the operating plan to include occasional live music

and televised sport. The Police had nothing to add to their letter and the LSO indicated that there had been no public complaints since the premises opened.

Mr MacDonald pointed out that the applicant is seeking to add these items to the operating plan to cover events such as Fringe by the Sea and for high profile sporting events such as the Golf Open or Wimbledon tennis. He stressed the occasional nature of this type of entertainment. He added that local residents had not raised any objections to the application.

The Chair, a local Ward Member, commented that the premises are well run and that the Board could review matters should there be any complaints in relation to noise.

### **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 had been carried forward from the October 2013 meeting and sought to vary the licence from a club licence to an open licence. She added that there had been a number of public objections and that a petition had been raised. A number of the public objectors/local residents were present at the meeting and reports had been received from the Police and the LSO.

Mr Iain McKenzie was present to represent Haddington Bowling Club (the Club). He indicated that the Club were agreeable to accepting the recommendation from the Police in relation to the hours of access for children and young people. The LSO reported that there had only been one complaint in relation to loud music within the last two years.

Mr McKenzie informed the Board that there would be no 18<sup>th</sup> birthday parties and that functions would only be held on Saturdays. He mentioned that a meeting had taken place with near neighbours to discuss the proposed changes to the licence and stated that the Club needs to generate income from functions to be able to survive financially. He outlined a number of measures which had been introduced to minimise any risk of disturbance.

Mr Joe Forte addressed the Board on behalf of local residents. He indicated that there is a very friendly relationship with the Club and pointed out that the letters of objection really related to concerns about the number and management of future social functions at the Club, in the event of a significant change in committee members.

The Clerk confirmed that, if granted, the licence would be permanent but that the Board could impose conditions, such as a restriction on the number of social functions that could be held, and could call for a review of the licence at any time.

Councillor Akhtar suggested that meetings with neighbours should be held more frequently.

The Chair confirmed that if there are any noise issues, then Board can, and would, review the licence.

## **Decision**

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

### **4. REVIEW OF PREMISES LICENCE UNDER S37 LICENSING (SCOTLAND) ACT 2005**

#### **Non payment of annual fee**

The Clerk informed the Board that the premises listed on the agenda at items 4 (ii) – 4 (vi) had been brought for review due to non-payment of annual fees. She informed that Board that these fees had all now been paid.

## **Decision**

The Licensing Board agreed that there is no requirement to review these premises licenses.

### **5. REVIEW OF PREMISES LICENCE UNDER S36 LICENSING (SCOTLAND) ACT 2005**

#### **Sportsman's Bar, 58 High Street, Musselburgh**

The Clerk advised that a review of the licence had been requested by Mr Rose, a member of the public, and that representations had been received from the Police and the LSO. Mr Rose was not present at the meeting.

Mr Stephen McGowan, TLT Solicitors was present to represent the applicant. Ms Donnelly, Green King Retailing Ltd, c/o Belhaven pubs and Mr Andrew McVey, Designated Premises Manager, were also present.

Mr McGowan indicated that unfortunately there has been no opportunity to engage with Mr Rose regarding the matters he has raised and that as a result, Mr Rose is unaware of recent extensive measures that have been put in place to reduce noise nuisance which include the removal of karaoke and the cessation of virtually all live music. He drew the Board's attention to the Police and LSO reports which evidence a high level of co-operation from his clients.

In response to Councillor McAllister's query regarding the number of reported incidents, Insp Harborow commented that it was encouraging that a number of these had been reported by the staff.

Mr McGowan advised that the current management has been instrumental in turning around the premises which do not now attract such difficult patrons. He talked about the letter that had been issued to local residents but stated that Mr Rose would not receive this due to the distance he lives from the premises. In response to Councillor Akhtar, he confirmed that he would be happy to write directly to Mr Rose. However, he did point out that to date, the LSO has been unsuccessful in making contact with Mr Rose. The LSO informed members that he had asked Mr Rose to consider suspending his request for a review of the licence to allow time for the measures to take effect, but that he had indeed received no response from Mr Rose.

Councillor Mc Allister commented that he was impressed with the measures that had been put in place at the premises; a view that was unanimously shared by all Board members.

**Decision**

East Lothian Licensing Board agreed to take no further action.

**6. APPLICATION FOR BETTING PREMISES LICENCE**

**(i) William Hill Organisation Ltd, 89 High Street, Tranent**

The Clerk tabled an application from Solicitors acting on behalf of William Hill seeking to determine the application without a hearing.

**Decision**

East Lothian Licensing Board agreed that no determination would be made without the applicant being present and that application should be added to the agenda of business for the meeting on 23 January 2014 and that the Clerk would advise the Solicitor accordingly.

**7. REVIEW OF PREMISES LICENCE UNDER S37 LICENSING (SCOTLAND) ACT 2005**

**(i) Fa'side Grocers, 2 Fa'side Buildings, Fa'side Avenue, Wallyford**

Although being heard in public, the Clerk made members of the Press aware of the sub-judice nature of this item for reporting purposes. She reminded Board members about the related business that had been heard at the October 2013 meeting of East Lothian Licensing Board and referred to the detailed information that had been presented at that time. She advised that reports had been received from the Police and LSO.

The licence holder, Mr S Naiker, was present and was represented by Mr MacDonald of MacDonald Licensing.

Insp Harborow referred to pertinent information in the letter from Police Scotland dated 30 October 2013 and stated that the Police view is that Mr Naiker is not a suitable person to hold a license. The LSO advised that his dealings had only been with the previous proprietor of the premises and confirmed that no alcohol has been sold since the date of the incident which gave rise to the licence review.

Mr Macdonald accepted that there is a case to answer and gave a very detailed account of all aspects of the circumstances leading up to and surrounding the incident. He stressed that there is no reason to consider that the actions taken by his client in relation to staff recruitment and training were anything other than completely genuine and bona fide. He added that his client, who is married with a young family, has taken additional paid employment to supplement his income as this business, for which he paid a lot of money, is generating less than half of the revenue he had anticipated.

The Clerk and members of the Board adjourned in private.

On returning to the meeting, the Chair advised that there had been a number of serious offences committed and that consideration had been given to completely revoking the licence, a course of action that had only been averted as a result of him exercising his casting vote.

**Decision**

East Lothian Licensing Board agreed to suspend the premises licence for six months with immediate effect with close monitoring thereafter by the Police and the LSO. The Board recorded that they expect no untoward activity at the premises, again with immediate effect, for the next six months.