

EAST LOTHIAN

Meeting 26 February 2015 at 10:00am in Council Chambers, Town House, Haddington

Licensing (Scotland) Act 2005

Variation (Major)(s)	Premises	Applicant	Date Received	Comments
1	ASDA STORE ASDA STORES LIMITED SPOTT ROAD DUNBAR EAST LOTHIAN EH42 1BF	ASDA STORES C/O GOSSCHALKS SOLICITORS QUEENS GARDENS HULL HU13DZ	18 December 2014	To amend other activities to say ' The premises are supermarket premises and sell a wide range of products including groceries, household goods, clothing and toys - 6am to Midnight Monday to Sunday'. It was 8am to 10pm.
2	LONGNIDDRY ROYAL BRITISH LEGION LINKS ROAD LONGNIDDRY EAST LOTHIAN EH32 0NX	LONGNIDDRY ROYAL BRITISH LEGION	31 October 2014	Change to an open licence. Extend outdoor drinking area. Extend terms of Children & Young Persons Access.



3 (i)

**POLICE
SCOTLAND**

Keeping people safe

Date: 12th January 2015

Your Ref:

Our Ref: J/LIC/3705/HB

The Clerk of the Licensing Board
East Lothian Council
John Muir House
Haddington
East Lothian
EH41 3HA

The Lothians and Scottish Borders Division
Dalkeith Police Station
Newbattle Road
Dalkeith EH22 3AX

Tel: +44 (0)131 663 2855
Fax: +44 (0)131 654 5507
Textphone: +44 (0)131 311 3944

Email: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk

Web: www.scotland.police.uk

Dear Madam

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION – SECTION 29
APPLICANT: ASDA STORES LIMITED
PREMISES: ASDA STORE, SPOTT ROAD, DUNBAR**

I refer to the above application and in terms of Section 22(1)(b) of the Licensing (Scotland) Act 2005, I make the following representation in relation to the application, with reference to the proposed variation.

The applicant is requesting to increase their trading hours from 0800 – 2200 to 0600 – midnight.

There are no police objections to the grant of this variation.

Yours faithfully



Divisional Licensing Officer

East Lothian Council
Licensing

15 JAN 2015

Received

EAST LoTHIAN COUNCIL

ENVIRONMENT ENVIRONMENTAL & CONSUMER SERVICES DIVISION

Internal Memorandum

From: R. Fruzynski
Licensing Standards Officer

per:

ref:

To: K. MacNeill
Clerk of Licensing Board

per

ref:

Date: 24 Dec 2014

Subject: LICENSING SCOTLAND ACT 2005
PREMISES LICENCE APPLICATION (MAJOR VARIATION) – DECEMBER 2014

ASDA Store, Spott Road, Dunbar, East Lothian EH42 1BF

I refer to the above subject and can confirm that I have no objections to the granting of the variation of licence.

R. Fruzynski
Licensing Standards Officer

EAST LoTHIAN LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005, SECTION 29
APPLICATION FOR VARIATION OTHER THAN MINOR VARIATION

This application should only be completed by the Licence Holder of the appropriate Premises Licence or their Agent.

SECTION 1: TYPE OF VARIATION

This application for Variation other than a Minor Variation of Premises Licence is made under Section 29(5) of the Licensing (Scotland) Act 2005 in order to vary-
(Tick all relevant boxes)

- Any of the Conditions to which the Premises Licence is subject
- Any of the information contained within the Operating Plan
- The Layout Plan
- Any other information contained or referred to in the licence (including any addition, deletion or other modification).

(Provide Details)

.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL 049

2(b) Name and Address of Premises

ASDA STORE SPOTT ROAD DUNBAR. EAST LoTHIAN			
Post Code	EH42 1BF	Phone No.	01368 861100

2(c) Full Name and Address of Current Licence Holder

ASDA STORES LIMITED ASDA HOUSE SOUTH BANK. GREAT WILSON STREET LEEDS			
Post Code	LS11 5AD	Phone No.	

SECTION 3: NATURE OF VARIATION

Complete the relevant section(s) regarding the variations sought:-

3(a) Variation to the Conditions to which the Premises Licence is subject

Provide details of the Condition(s) to be varied and the variation being sought

3(b) Variation to the information contained within the Operating Plan of the Premises Licence

Provide a copy of the proposed operating plan and highlight below the proposed changes. (See Note 1)

THE APPLICATION SEEKS TO AMEND QUESTION 5(F) ON THE CURRENT OPERATING PLAN. THIS SPECIFIES THAT "THE PREMISES ARE SUPERMARKET PREMISES AND SELL A WIDE RANGE OF PRODUCTS INCLUDING GROCERIES, HOUSEHOLD GOODS, CLOTHING AND TOYS - 8AM - 10PM MONDAY TO SUNDAY." THE APPLICATION SEEKS TO REWORD THIS TO SPECIFY THAT THE MAXIMUM OPENING HOURS OF THE PREMISE WILL BE 6AM TO MIDNIGHT.

3(c) Variation to the Layout Plan of the Premises Licence

7 Copies of the proposed Layout Plan **must** accompany this application. (See Note 2)

In addition please provide details below of the proposed change to the layout of the Premises.

3(d) Variation to any other information contained or referred to in the licence

Provide details below of any other variation sought to the Premises Licence
(e.g. Alteration to the description of the premises contained within the Premises Licence)

SECTION 4: LICENCE TO BE AMENDED

(See note 3 below)

Does the appropriate Premises Licence accompany this application?

- YES NO

If the answer is **NO**, please provide an explanation.

I am unable to produce the Premises Licence because...

- The licence has not yet been issued by the Board
- The licence has already been returned to the Board in respect of an earlier application for variation or transfer
- Other (provide details)

.....

SECTION 5: FEE PAYABLE

The fee payable in respect of the application for variation is **£150**

If the application is submitted alongside an application for Transfer of Premises Licence then the combined fee for both applications will be **£170** (see note 4 below)

If submitted with an application for transfer, please specify the order in which the applications are to be considered-

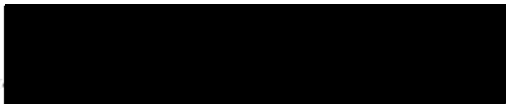
- Application for Transfer of Premises Licence followed by Application for Variation
- Application for Variation followed by Application for Transfer of Premises Licence

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

If signing on behalf of the applicant please state in what capacity.

I confirm that (a) the contents of this Application are true to the best of my knowledge and belief; and (b) the appropriate fee of £ is enclosed. |

Signature



(See note 5 below)

Date

17.12.2014

Capacity: ~~APPLICANT~~ / AGENT (delete as appropriate)

If agent, please provide name, address, phone number and (if applicable) email address

G.OSSCHALKS SOLICITORS.....

QUEENS...GARDENS,,HULL.....

H.U.1.3.D.Z...((01482).324252 .
rjt@gosschalks.co.uk

Note 1:

Please note that the proposed Operating Plan **must** contain any aspects of the current Operating Plan that are to be preserved should the variation be granted. (e.g. If the current Operating Plan allows a premises to have 'live performances' but this is not requested on the proposed Operating Plan then the Licensing Board would view such an omission as a request to have 'live performances' deleted from the Operating Plan of the Premises.)

Note 2:

Please refer to Paragraph 5 of the Premises Licence (Scotland) Regulations 2007 regarding the format of Layout Plans.

Note 3:

The appropriate premises licence (including summary licence, operating plan and layout plan) must be returned to the Licensing Authority in order that the licence documents can be updated to reflect the details of the variation. If you are in possession of the appropriate Premises Licence but unable to provide said licence with this application, you must ensure the licence is forward to the Licensing Authority within 14 days in order to complete the process of variation.

Please note also that once the variation is completed, any certified copies of the appropriate Premises Licence must also be updated to reflect the details of the variation.

Note 4:

This refers to an application to Transfer the Premises Licence made under either Section 33(1) or Section 34(1) of the Licensing (Scotland) Act 2005

Note 5:

Data Protection Act 1998

The information on this form will be used to update the Premises Licence of the appropriate premises. Accordingly, the information contained on this form may be held on an electronic public register which may be available to members of the public on request.

Contact Us:

East Lothian Licensing Board

Licensing Office

John Muir House

Haddington, East Lothian

EH41 3HA

Phone: 01620 827217 / 827867 / 820114

Fax: 01620 827253

Email: licensing@eastlothian.gov.uk

FOR OFFICE USE ONLY

<i>Received & Receipt No.</i>	<i>System Updated</i>	<i>Licence Issued</i>

RNO1216 - AT



GOSSCHALKS
SOLICITORS

E.L.C.
Customer Services
18 DEC 2014
RECEIVED

East Lothian Licensing Board
Licensing Office
John Muir House
Haddington
East Lothian
EH41 3HA

Our ref: RJT/LHK/84773-10030-9
Your ref:
Date: 17th December 2014
E-Mail: rjt@gosschalks.co.uk
Direct Fax: 0870 600 5958

Dear Sir/Madam

East Lothian Council
Licensing
18 DEC 2014
Received

re: Asda, Spott Road, Dunbar
Premises Licence Number: EL 049

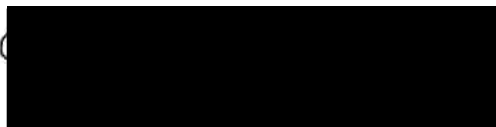
We act for Asda Stores Limited and have been in discussions with your colleagues with regard to the trading hours at this store. The store originally traded 8am until 10pm but recently has been opening from 7am to 11pm. In box 5(f) of the premises licence operating plan it is recorded that the store will operate from 8am to 10pm.

We thank you for confirming that an application for full variation is required to amend this but that the store may continue to trade between 7am and 11pm in the meantime. In the circumstances, we enclose herewith the following:-

1. Application for variation of the premises licence
2. Amended operating plan
3. Original premises licence - *sent to council with earlier variation*
4. Fee in the sum of £150

We look forward to receiving details from you with regard to the days between which notices must be displayed upon the premises.

Yours faithfully



GOSSCHALKS

Enc

Queens Gardens, Hull, HU1 3DZ ☎ 01482 324252 ☎ 0870 600 5984 ✉ info@gosschalks.co.uk 🌐 www.gosschalks.co.uk ☎ 11902 - Hull

Partners: Simon Lunt, Ian Lanch, Richard Llewellyn, Neil Johnson, Clare Johnson, Jonathan Beharrell, Nigel Beckwith, Zoë Carmichael, Mark Teal, Stephen Walker, Robert Hastie, Richard Taylor, Andrew Johnson, Jonathan Peet, James Phinn, Justin Graves, Matthew Fletcher, Andrew Tarbutt, Ted Flanagan, Kate Groves, Craig Beetham, Stephen Dillon, Chris Groves, Paul Plaxton, James Houston, Victoria Quinn, Andrew Bell, Charlotte Chilcott, Julia Williams, Rachel Garton

Associates: Phil Osborne, Nathalie Stewart

Partnership Secretary: Martin Haldenby

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THE ROYAL BRITISH LEGION SCOTLAND



**Longniddry Branch & Social Club
Links Road, Longniddry
East Lothian, EH32 0NQ
01875 853241**

29 December 2014

3(ii)

Clerk to the Licensing Board
Licensing Division, Room 1
John Muir House
Haddington
East Lothian
EH41 3HA

your ref KM/dc/EL244

For the attention of Kirstie MacNeill

Dear Sirs

Major Variation to License Application

I refer to your letter dated 21 November 2014 and apologise for the delay in responding.

I am not completely sure that I fully understand your letter but assume it refers to the possibility that by granting a further area where alcohol can be consumed, you would be affecting your overprovisions statement.

Our request to use a small "garden" area to the rear of the premises was to improve the areas available to smokers and allow greater choice to sit when trying to enjoy what warm weather we may see in the summer months. This area was overgrown with weeds and having been tidied up, looks to be a nice area to sit and enjoy the fresh air.

We would not expect the capacity numbers already noted on our license to be increased.

We would also advise that we already have a 21:00 hours deadline for using the outside seated areas that is well within the 22:00 hours requested by the Police..

If you have further queries, or if the above is insufficient for your purposes, please do not hesitate to contact me.

Yours faithfully


James W Eccles
Branch Secretary

East Lothian Council
Licensing
- 5 JAN 2015
Received

EAST LoTHIAN COUNCIL
LICENSING

21 NOV 2014

RECEIVED



**POLICE
SCOTLAND**

Keeping people safe

Date: 20th November 2014

Your Ref:

Our Ref: J/LIC/3705/HB

The Clerk of the Licensing Board
East Lothian Council
John Muir House
Haddington
East Lothian
EH41 3HA

The Lothians and Scottish Borders Division
Dalkeith Police Station
Newbattle Road
Dalkeith EH22 3AX

Tel: +44 (0)131 663 2855
Fax: +44 (0)131 654 5507
Textphone: +44 (0)131 311 3944

Email: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk
Web: www.scotland.police.uk

Dear Madam

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION – SECTION 29
APPLICANT: LONGNIDDRY ROYAL BRITISH LEGION
PREMISES: LONGNIDDRY ROYAL BRITISH LEGION, LINKS ROAD,
LONGNIDDRY**

I refer to the above application and in terms of Section 22(1)(b) of the Licensing (Scotland) Act 2005, I make the following representation in relation to the application, with reference to the proposed variation.

The applicant is requesting to change from a 'club licence' to an 'open licence'.

I note that they are also requesting children and young person access until 2200 hours normally and for the duration if attending a private function.

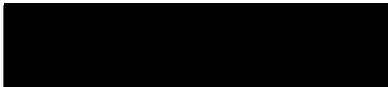
I also note that they are requesting an additional outside drinking area to the side of the building, which would result in an increase in the capacity of the licensed area. Whilst I have no objections to this, I would request that a terminal hour of 2200 hours for use of the area is imposed due to the close proximity of residential properties.

Due to the increase in capacity this major variation is out with Board Policy with regards to the overprovision statement and as such the applicant will be expected to demonstrate that the grant of this variation would outweigh the presumption against grant in terms of the overprovision statement.

This representation is submitted for your attention in consideration of this application.

There are no police objections to the grant of this licence.

Yours faithfully

A solid black rectangular box used to redact the signature of the Divisional Licensing Officer.

Divisional Licensing Officer

EAST LoTHIAN COUNCIL

ENVIRONMENT ENVIRONMENTAL & CONSUMER SERVICES DIVISION

Internal Memorandum

**From: R. Fruzynski
Licensing Standards Officer**

**per:
ref:**

**To: K. MacNeill
Clerk to the Licensing Board**

**per
ref:**

Date: 18 Dec 2014

**Subject: LICENSING SCOTLAND ACT 2005
PREMISES LICENCE APPLICATION (MAJOR VARIATION) – November 2014**

I refer to the above subject and can confirm that the undernoted premises have been visited and inspected in relation to application for a Premises Licence variation. I am satisfied that the Operating and Layout Plans are in order and, therefore, have no objections to the granting of the variation of licence.

Premises Inspected:

Longniddry Royal British Legion, Links Road, Longniddry, East Lothian EH32 0NQ

**R. Fruzynski
Licensing Standards Officer**

EAST LoTHIAN COUNCIL

Internal Memorandum

From: Development Control Manager **To:** Clerk to the Licensing Board
Per: Neil Millar **Per:** Licensing Board
Cc:

Date: 20th November

LICENSING (SCOTLAND) ACT 2005

Re: Consultation response

Address: The Royal British Legion, Longniddry
Application type: Variation other than a minor variation

I have no objection to the variations applied for as detailed in the application forms with regards to the above premise. Planning permission is not required for the sale of alcohol on the premises.

However, I can confirm that there are no records of a grant of planning permission for the use of a beer garden / external drinking area within the grounds of the premise.

It should therefore be noted that it is the responsibility of the licensee to confirm what planning permission is in place for this use or demonstrate that planning permission is not required for it. Otherwise I would advise that a planning application is sought, retrospectively, for the use of land as a beer garden/external drinking area.

EAST LoTHIAN COUNCIL
ENVIRONMENT
ENVIRONMENTAL HEALTH AND TRADING STANDARDS

Internal Memorandum

From: Environmental Health Partnership Manager
per: Darren Johnson
ref: DJ/AC

To: Litigation & Licensing
per: M Winter
ref:

Date: 17th November 2014

Subject: Licensing (Scotland) Act 2005
Section 29 Application for Variation other than a Minor Variation
Longniddry Royal British Legion, Links Road, Longniddry

I refer to the application dated 28th October 2014 received on the 14th November 2014 attaching a copy of the Application for Variation other than a Minor Variation together with the copy of the Operating Plan and Layout Plan drawing for the above named premises.

I have no objections to the application for "Variation other than a Minor Variation".

Darren Johnson
Food Safety Officer

EAST LoTHIAN LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005, SECTION 29
APPLICATION FOR VARIATION OTHER THAN MINOR VARIATION

This application should only be completed by the Licence Holder of the appropriate Premises Licence or their Agent.

SECTION 1: TYPE OF VARIATION

This application for Variation other than a Minor Variation of Premises Licence is made under Section 29(5) of the Licensing (Scotland) Act 2005 in order to vary-
(Tick all relevant boxes)

- X Any of the Conditions to which the Premises Licence is subject
- X Any of the information contained within the Operating Plan
- X The Layout Plan
- X Any other information contained or referred to in the licence (including any addition, deletion or other modification).

(Provide Details) We wish (i) to change to an open license, (ii) to increase the outside area where members and guests can consume alcohol and (iii) the times when young children are allowed on the premises.

.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL0244

2(b) Name and Address of Premises

Longniddry Royal British Legion
Links Road
Longniddry
East Lothian

Please note correct postcode...

Post Code	EH32 0NQ	Phone No.	01875 853241 during opening hours
-----------	----------	-----------	-----------------------------------

2(c) Full Name and Address of Current Licence Holder

Longniddry Royal British Legion
Links Road
Longniddry
East Lothian

Post Code	EH32 0NQ	Phone No.	01875 853241 during opening hours
-----------	----------	-----------	-----------------------------------

SECTION 3: NATURE OF VARIATION

Complete the relevant section(s) regarding the variations sought:-

3(a) Variation to the Conditions to which the Premises Licence is subject

Provide details of the Condition(s) to be varied and the variation being sought

- 1 We wish to change our license to an open license.**
- 2 We wish to allow alcohol to be consumed in other external areas.**
- 3 We wish to change terms and conditions of the times children and young persons are allowed on the premises.**

3(b) Variation to the information contained within the Operating Plan of the Premises Licence

Provide a copy of the proposed operating plan and highlight below the proposed changes. (See Note 1)

Change to an open license.

3(c) Variation to the Layout Plan of the Premises Licence

7 Copies of the proposed Layout Plan **must** accompany this application. (See Note 2)

In addition please provide details below of the proposed change to the layout of the Premises.

Additional areas of the external plan be included in the area where alcohol can be consumed.

3(d) Variation to any other information contained or referred to in the licence

Provide details below of any other variation sought to the Premises Licence

(e.g. Alteration to the description of the premises contained within the Premises Licence)

Access for children and young persons

SECTION 4: LICENCE TO BE AMENDED

(See note 3 below)

Does the appropriate Premises Licence accompany this application?

X YES **NO**

If the answer is **NO**, please provide an explanation.

I am unable to produce the Premises Licence because...

- The licence has not yet been issued by the Board
- The licence has already been returned to the Board in respect of an earlier application for variation or transfer
- Other (provide details)

.....

SECTION 5: FEE PAYABLE

The fee payable in respect of the application for variation is **£150**

If the application is submitted alongside an application for Transfer of Premises Licence then the combined fee for both applications will be **£170** (see note 4 below)

If submitted with an application for transfer, please specify the order in which the applications are to be considered-

- Application for Transfer of Premises Licence followed by Application for Variation
- Application for Variation followed by Application for Transfer of Premises Licence

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

If signing on behalf of the applicant please state in what capacity.

I confirm that (a) the contents of this Application are true to the best of my knowledge and belief; and (b) the appropriate fee of £ is enclosed.

Signature



..... (See note 5 below)

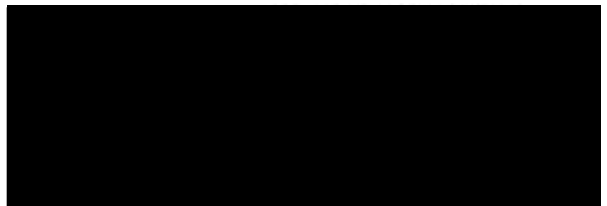
Date

28 OCTOBER 2014

Capacity: APPLICANT / AGENT (delete as appropriate)

**If agent, please provide name, address,
phone number and (if applicable) email address**

James W Eccles



Note 1:

Please note that the proposed Operating Plan **must** contain any aspects of the current Operating Plan that are to be preserved should the variation be granted. (e.g. If the current Operating Plan allows a premises to have 'live performances' but this is not requested on the proposed Operating Plan then the Licensing Board would view such an omission as a request to have 'live performances' deleted from the Operating Plan of the Premises.)

Note 2:

Please refer to Paragraph 5 of the Premises Licence (Scotland) Regulations 2007 regarding the format of Layout Plans.

Note 3:

The appropriate premises licence (including summary licence, operating plan and layout plan) must be returned to the Licensing Authority in order that the licence documents can be updated to reflect the details of the variation. If you are in possession of the appropriate Premises Licence but unable to provide said licence with this application, you must ensure the licence is forward to the Licensing Authority within 14 days in order to complete the process of variation.

Please note also that once the variation is completed, any certified copies of the appropriate Premises Licence must also be updated to reflect the details of the variation.

Note 4:

This refers to an application to Transfer the Premises Licence made under either Section 33(1) or Section 34(1) of the Licensing (Scotland) Act 2005

Note 5:

Data Protection Act 1998

The information on this form will be used to update the Premises Licence of the appropriate premises. Accordingly, the information contained on this form may be held on an electronic public register which may be available to members of the public on request.

Contact Us:

East Lothian Licensing Board
Licensing Office
John Muir House
Haddington, East Lothian
EH41 3HA

Phone: 01620 827217 / 827867 / 820114
Fax: 01620 827253
Email: licensing@eastlothian.gov.uk

FOR OFFICE USE ONLY

<i>Received & Receipt No.</i>	<i>System Updated</i>	<i>Licence Issued</i>

EAST LOTHIAN

Meeting 26 February 2015 at 10:00am in Council Chambers, Town House, Haddington

Licensing (Scotland) Act 2005

Personal Licence(s)

Applicant

Date Received

Comments

3 GRANT DOUGLAS DOWIE
C/O MACDONALD LICENSING
LIMITED
21A RUTLAND SQUARE
EDINBURGH
EH1 2BB

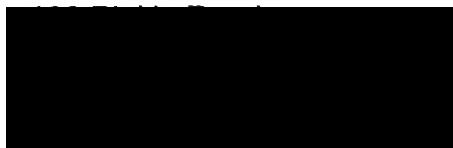
4 November 2014 Report from Chief Constable -
to be tabled.

Our Reference: KM/de/EN/L/PL
Your Reference:

Date: 1st December 2014

4

Mr. Grant Downie



Dear Sir

**Licensing (Scotland) Act 2005
Application for Personal Licence**

I write in connection with the Licensing Board meeting held on 27th November 2014 and the request from your agent to continue the application until the February Board Meeting. The Board agreed to continue your application.

You are hereby cited to attend the Board Meeting due to be held on Thursday 26th February 2015 at 10am in Council Chambers, Town House, Haddington, when you are required to attend.

An agenda will follow in due course.

Yours faithfully

Kirstie MacNeill
Clerk to the Licensing Board

c.c MacDonald Licensing – 21a Rutland Square, Edinburgh, EH1 2BB

**Direct Dial: 01620 827867 / 827217
Direct Fax: 01620 827253**



**POLICE
SCOTLAND**

Keeping people safe

Date: 10th November 2014

Your Ref:

Our Ref: J/LIC/3705/HB

The Clerk of the Licensing Board
East Lothian Council
John Muir House
Haddington
East Lothian
EH41 3HA

The Lothians and Scottish Borders Division
Dalkeith Police Station
Newbattle Road
Dalkeith EH22 3AX

Tel: +44 (0)131 663 2855
Fax: +44 (0)131 654 5507
Textphone: +44 (0)131 311 3944

Email: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk
Web: www.scotland.police.uk

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 – OBJECTION
APPLICATION FOR THE GRANT OF A PERSONAL LICENCE
APPLICANT: GRANT DOWIE, [REDACTED]**

I refer to the above application and in terms of section 73(3)(b) of the Licensing (Scotland) Act 2005, I have to confirm that the applicant has not been convicted of any relevant offence but has a pending case for a relevant offence, details of which are contained within the appendix to this letter.

As a result of the nature of the pending case, the Chief Constable recommends that the application for a personal licence be refused on the grounds of the following licensing objectives.

Preventing crime and disorder
Securing public safety and
Preventing public nuisance

I am unable to confirm the existence of any foreign offence in respect of the applicant.

Yours faithfully

PP H. Barber

Inspector Harborow

scotland.police.uk



@PoliceScotland



PoliceScotland

East Lothian Council
Licensing

13 NOV 2014

Received

Date: 12th February 2015

Your Ref:

Our Ref: J/LIC/3705/HB

The Clerk of the Licensing Board
East Lothian Council
John Muir House
Haddington
East Lothian
EH41 3HA

The Lothians and Scottish Borders Division
Dalkeith Police Station
Newbattle Road
Dalkeith EH22 3AX

Tel: +44 (0)131 663 2855
Fax: +44 (0)131 654 5507
Textphone: +44 (0)131 311 3944

Email: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk
Web: www.scotland.police.uk

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 – SECTION 36
PREMISES LICENCE REVIEW APPLICATION
ELPHINSTONE ARMS, MAIN STREET, ELPHINSTONE**

The Chief Constable, in terms of Section 36(1) of the Licensing (Scotland) Act 2005, hereby makes application to the Licensing Board in terms of Section 36(3)(b) of the Act, for a review of the premises licence in respect of the premises known as Elphinstone Arms, Main Street, Elphinstone.

The Chief Constable makes application on the grounds that in terms of Section 36(3)(b) of the Act, on grounds relevant to one or more of the licensing objectives as articulated at Section 4(1) of the 2005 Act, namely;

- ***Preventing Crime and Disorder***
- ***Securing Public Safety***
- ***Preventing Public Nuisance***
- ***Protecting and Improving Public Health***

The premises operates as a licensed public house and is licensed to sell alcohol

Monday to Wednesday – 1100 – 2300
Thursday to Saturday – 1100 – 0100
Sunday – 1100 - midnight

The premises are currently closed following an application for review made on behalf of the Chief Constable, which was heard at a Licensing Board Hearing on Thursday 28th August 2014. The Licensing Board were satisfied that the grounds for review was established and suspended the premises licence for 6 months.

The following information is provided in support of this review request:

East Lothian Licensing Board granted the transfer of the premises licence to 'Elphinstone Arms Limited' back in February 2010, Margaret and Scott Dodds were both listed as 'Directors' of the company according to Companies House records – SC368929.

In the interim period, this had changed, because on checking Companies House records on 24th February 2014 it showed William Dodds listed as the sole Director, Margaret Dodds and Scott Dodds having resigned from the company. East Lothian Council have not been informed of this change in 'connected persons' and so it is unclear as to when this actually happened but Companies House records indicate that it may have been around 28th February 2011.

Caledonian Heritable Limited are the 'guarantors' for the property in relation to the bank loan taken out by Scott Dodds who is currently the owner of the property.

In previous years the premises has not come to the attention of the police other than when on the 18th November 2011, officers had cause to visit the premises during a police operation, which involved swabbing of toilets within licensed premises for traces of controlled drugs. Police officers attended and swabbed the male toilets for traces of cocaine, this test proved positive on several surfaces in the male toilets and advice was provided to staff at the time, regarding preventative measures that could be carried out (Margaret and Scott Dodds).

On 30th December 2011, a similar police operation was carried out within the premises and in the ladies toilet, the test again, proved positive for traces of cocaine.

On 6th January 2012, acting on information from reliable sources, a search warrant was granted to search the home address of Scott Dodds, which was the dwelling directly at the rear of the premises, as well as the licensed premises, under the terms of the warrant. At this time a personal amount of diazepam was recovered from Scott Dodd's home address, to which he admitted ownership.

Over the weekend of the 22nd and 23rd February 2014 there were 2 incidents which occurred within the vicinity of and at the premises, details of which are as follows:

At 2242 hours on Saturday 22nd February 2014, a call was received from a member of the public stating that a male, (Scott Dodds) was being assaulted outside the Elphinstone Arms, Main Street, Elphinstone, by two males.

On police arrival the two males had made off but the injured party (Scott Dodds) was traced to within the Elphinstone Arms. An ambulance was contacted but Scott Dodds declined medical attention and refused to give any details to the police as to what had happened stating "he would sort it himself". Scott Dodds was also under the influence of alcohol, having been drinking in the Elphinstone Arms, so arrangements were made to speak with him the following day when he was sober. Subsequently Scott Dodds has refused to give any statement to the police in relation to this incident.

Enquiries were made with the designated premises manager, Margaret Dodds who was working in the Elphinstone Arms that night, she confirmed that whilst her son (Scott Dodds) was escorting two males away from the premises a short time later, whilst outside, Scott was attacked by two different males. It is unclear at this time, but it is assessed that the two males that had attacked Scott Dodds had been waiting outside the premises for Scott to make an appearance on the street before attacking him.

The following night at 1904 hours on Sunday 23rd February 2014, a call was received from a female member of the public (patron) reporting that there were approximately twenty males outside the premises with their faces covered, trying to get in. She believed they were in possession of weapons but no weapons had actually been seen. Police attended at 1914 hours but the males had left prior to their arrival.

Enquiries were made with Margaret Dodds, William Dodds and the patrons within the premises and it was established that 15 – 20 males, majority of whom were wearing balaclavas, had been seen coming along the road by a patron, who was standing outside the premises having a cigarette. He retracted back inside the premises and locked the doors. As the masked males approached the premises they started to bang on the door of the pub demanding to get in. They left a short time later, having failed to gain entry to the premises.

There were approximately 10 patrons within the premises at the time, who the attending police officers observed to be alarmed and visibly shaken by the incident. Margaret and William Dodds were also present but not Scott Dodds. Enquiries are still ongoing by CID officers in relation to this incident, and it has been established that both of the above incidents are related.

Following information received, it is assessed that these masked males were looking for Scott Dodds that night, and that if Scott had been within the premises, they would have gained entry. It was only when they realised Scott Dodds was not present, they left. The persons believed to be responsible for these incidents have a long history of violent offending and there is a real concern that they will continue with this feud, possibly returning to the premises, as Scott Dodds is known in the local community as having strong connections to the premises, placing the safety of members of the public in real danger. Scott Dodds continues to refuse to cooperate with the police in their enquiries.

On Monday 24th February 2014, licensing officers were made aware of the two incidents and on checking the premises licence it was discovered that 'Elphinstone Arms Limited' SC368929, who were the licence holders, had in fact dissolved, according to Companies House records, on 9th March 2012.

Later that day, following confirmation from East Lothian Council Licensing Department that no 'transfer' had been lodged, licensing officers attended at the premises and informed the designated premises manager, Margaret Dodds and her husband, William Dodds that the licence 'ceased to have effect' due to the company 'Elphinstone Arms Limited' being dissolved and lack of transfer application.

Scott Dodds was also present within the premises, his face badly swollen and both eyes bruised.

At the time of the visit there were approximately 6-8 patrons within the premises drinking and so Margaret Dodds cleared the premises and closed the doors. It was explained to her and her husband, William Dodds, that the premises could no longer sell alcohol.

Enquiry reveals that whilst Elphinstone Arms Ltd SC368929 was dissolved on 9th March 2012, a second company named 'The Elphinstone Inn Ltd' number SC413538 was incorporated on 21st November 2011 with William Dodds as Director.

The Board may be aware that on Friday 28th February 2014, a letter was received by East Lothian Council and forwarded to Police Scotland, Divisional Licensing Officer. This had been sent by a "Elphinstone Resident". Within the letter the author states:

"that since the pub opened with Margaret Dodds and her son Scott, the place has been a nightmare, Margaret is serving my son who is 15 years old with drink and her son Scott is giving all the young boys cocaine" it goes on to say that they think it *"should be shut for good because all the young men are getting hooked on drugs and it is not good for the village"*.

At 0900 hours on Thursday 6th March 2014, an arrangement was made for Margaret, William and Scott Dodds to attend at Dalkeith Police Station, where they were interviewed in relation to an offence under Section 1 of the Licensing (Scotland) Act 2005, with regards to the unlicensed sale of alcohol. William and Scott Dodds refusing to answer any questions put to them by licensing officers, however, Margaret Dodds did confirm that Scott Dodds owns the building that the Elphinstone Arms occupies and that Scott and William help out in the premises "on odd occasions". When asked who Malcolm Fleming was, Margaret Dodds stated he was a "friend of Scotts" but again she also refused to answer the majority of questions put to her by licensing officers.

At the conclusion of the interviews all three were then cautioned and charged with a contravention of Section 1 of the Licensing (Scotland) Act 2005 and a report was sent to the procurator fiscal.

On 8th April 2014, the Procurator Fiscal deemed that there was sufficient enough evidence to proceed with this but in the interests of justice gave a Fiscal's Warning to all three accused persons.

Scott Dodds has also in the past been charged with possession of cocaine back in June 2005, when he was seen by police officers to throw a wrap of cocaine from his vehicle window and attempted to drive off from the Granada Services, Musselburgh in an effort to evade detection. He was reported to the procurator fiscal for this offence and several

other Road Traffic offences but a plea of 'not guilty' was accepted for the drug possession.

Since the closure of these premises Margaret Dodds had applied to East Lothian Licensing Board to continue trading by way of occasional licences and as the Board members may be aware these occasionals were refused at the Licensing Board Hearing on 27th March 2014, on the grounds that they were inconsistent with one or more of the licensing objectives, namely 'preventing crime and disorder' and 'securing public safety'.

On 11th April 2014, The Elphinstone Inn Ltd SC413538 was dissolved and struck off at Companies House. It should be noted that at no time since 2010 have these premises submitted any accounts. In fairness to other operators within the licensed trade who have had to endure difficult trading conditions, details of this matter have been passed to HMRC and Inland Revenue for further enquiry.

Since then a new application for a premises licence was lodged, with the licence holder/applicant being a company called 'M F Publicans Ltd' the sole connected person listed as Malcolm Fleming, The Flat Elphinstone Arms, Main Street, Elphinstone.

Licensing Officers made contact with the applicant and on Tuesday 1st April 2014 Mr Fleming attended at Dalkeith Police Station, at the request of the police, to facilitate a routine interview in relation to the new premises licence application. Mr Fleming confirmed his name and date of birth but refused to confirm his home address, stating "no comment" when asked if he lived at the Flat, Main Street, Elphinstone. He stated at this time that he has been advised by a solicitor to "say nothing" and to answer no questions.

It was explained to Mr Fleming that this was a routine interview which is carried out with all new applicants, giving the police an opportunity to engage with licence holders and establish what experience etc if any the applicants have in the licensed trade. Mr Fleming maintained his stance of answering no further questions and stated that he wanted to leave the police station, which he did, along with the designated premises manager, Margaret Dodds, who had conveyed Mr Fleming to the meeting.

On Wednesday 2nd April 2014, licensing officers met with one of the directors of Caledonian Heritable, who confirmed that Mr Fleming leased the flat and the premises from Scott Dodds (landlord) for the sum of £1250.00 per month. M F Publicans Ltd was a new company set up to facilitate becoming the premises licence holder.

Companies House records showed that M F Publicans Ltd was set up on 4th October 2013 with Mr Malcolm Fleming as the sole director at that time.

On Thursday 24th April 2014, at a further Licensing Board Hearing, following an objection from the police, the Board granted Elphinstone Arms a new premises licence with Malcolm Fleming (MF Publicans Ltd) as the licence holder and Margaret Dodds as designated premises manager. At that hearing Malcolm Fleming, Margaret Dodds and her solicitor, gave assurances that Scott Dodds would not be allowed within the premises, that CCTV would be utilised and reassurances of full cooperation by the management, when dealing with the police.

On Wednesday 21st May 2014, a call was received from Margaret Dodds stating that someone had tried to set fire to the premises overnight. On police and fire attendance that morning it was noted that significant fire and smoke damage had been caused to the front door and the internal hall/vestibule of the premises. An internal fire door, which was closed, had prevented further damage to the remainder of the premises and the adjoining residential flat. Examination by the Fire Investigation Unit suggests that some form of accelerant had been poured into the letterbox and down the front door of the premises.

Following the recent Licensing Board Hearings the management assured the Board that CCTV had been fitted and would be utilised. On examination of the CCTV following the fire-raising overnight on 20th / 21st May 2014, it was established that the CCTV had not been recording.

On Friday 23rd May 2014, Police Scotland's Criminal Investigations Department visited the premises and spoke with Scott Dodds, who was repainting the front door of the premises. The premises manager Margaret Dodds was also spoken to and in conversation stated to the CID officers that Scott Dodds worked in the premises on a Monday, Tuesday and Thursday, "helping out". Neither Scott or Margaret Dodds knew who was responsible for this recent fire-raising but suggested that there was an ongoing feud with a local Tranent family which stemmed back several years.

On Tuesday 27th May 2014, the divisional licensing officer received a phone from the premises licence holder Malcolm Fleming, who stated that he had moved out the premises, including the adjoining flat, following the recent fire-raising. He stated he did not want anything more to do with the premises and that he wished to 'surrender' the premises licence. A check of the Companies House records related to M F publicans Ltd reveals that the previous day, Monday 26th May, Malcolm Fleming had terminated his Directorship and Margaret Dodds had been appointed as the sole Director.

Malcolm Fleming confirmed that he was resident and asleep within the adjoining flat when the fire-raising occurred and that he had a genuine fear for his safety, as a result of the ongoing issues connected to the premises. He also stated that he had been taken into hospital on Wednesday night following "severe chest pains".

On Wednesday 28th May 2014, an email was received from East Lothian Council Licensing Department with a copy of a letter from Malcolm Fleming attached, confirming that he had signed the directorship of MF Publicans Ltd over to Margaret Dodds and that he had nothing more to do with the company, lease or the premises, Elphinstone Arms. He also stated that he had moved out of the flat and was now residing with his sister in Tranent.

On Friday 30th May 2014, following the fire raising, an application for a 'Closure Order' was made to East Lothian Licensing Board, by the police. This was granted at the hearing, by the Board for a period of 3 months, pending a review hearing and at 1730 hours that same day the 'Closure Order' was served on Margaret Dodds at the premises.

On Friday 30th May 2014, later that night, Malcolm Fleming called the police to report that he had been threatened by Scott Dodds and that he had received several abusive phone calls, from both, Margaret and Scott Dodds, in relation to the premises being closed down. A statement was obtained from Malcolm Fleming, during which he states that Scott Dodds had threatened to “fucking kill him” during a telephone conversation and that Margaret Dodds is blaming him for the closure of the premises. Fleming also stated that Scott Dodds had turned up at his brother in law’s pub in Tranent, looking for him and also his place of work, in Midlothian. Fleming stated that he believed Scott Dodds would have the ability to carry out these threats and appeared genuinely concerned for his personal safety.

On Saturday 7th June 2014, in the early hours of the morning, a 999 call was received from Scott Dodds reporting that the premises were on fire. It is believed that a neighbour discovered the fire and in turn alerted the Dodds family who were within their home address. On police and fire attendance the premises were reported to be “well alight”. There was extensive damage caused to exterior as well as the interior of the building. An insurance claim has been submitted for an estimated £80,000 worth of damage. CCTV was seized from the premises following this second fire and an ongoing police investigation is being carried out in an effort to trace those responsible for starting the fire.

On Monday 16th June 2014, Scott Dodds was detained and interviewed in relation to the threats allegation towards Malcolm Fleming. Scott Dodds gave a ‘no comment’ interview with police and was later released from custody due to insufficient evidence to prefer any charges.

On Thursday 28th August 2014, following a request by Police Scotland, a review hearing was held in respect of the premises licence. The grounds for review were substantiated and the Licensing Board suspended the licence for 6 months. The chair suggesting that this would allow time for the premises to come under ‘new management’.

Police investigations into the second fire-raising, have been ongoing and have resulted in a DNA match from a sock, which was recovered near the premises. The DNA recovered belongs to a significant individual with connections to serious and organised criminality.

As the Board will be aware, Police Scotland’s objections about the ongoing running of these premises, the current management, the lack of cooperation with police and the significant concerns we have for the safety of all concerned and the residents of Elphinstone was raised at three previous Licensing Board Hearings. With these previous incidents in mind, the fire-raising, the connection made following the DNA recovery and the admission from both Margaret and Scott Dodds that they are currently involved in a long running dispute, it is felt that the likelihood of disorder on, or in the vicinity of the premises will continue, should this premises be allowed to re open.

Due to the very serious nature of the fire-raising incidents and the connection between the premises and Scott Dodds, and the evidence of an ongoing dispute remains unchanged from the previous Licensing Board hearings.

It is the view of the Chief Constable that these premises seek to re-open in a similar manner to their previous operation, with no amendments to their governance, having consistently failed to submit accounts and with a clear and present danger to the community due to the families conduct and animosity between the Dodds and others. It is our submission that there is an overwhelming body of information which clearly evidences that these premises have operated in a manner which is inconsistent with the following objectives as articulated within Section 4 of the Licensing (Scotland) Act 2005, namely;

- Preventing Crime and Disorder
- Securing Public Safety
- Preventing Public Nuisance
- Protecting and Improving Public Health

Only a wholesale regime change in the management and operation of these premises as suggested by the chair at the review hearing in August 2014 will ensure the community of Elphinstone have a facility that will enhance the village and provide a safe environment where alcohol can be sold responsibly without fear of disorder, violence or other significant concern.

The Chief Constable recommends that in order to further the licensing objectives specified above, the Licensing Board consider all options when considering this submission including the revocation of the premises licence.

Yours faithfully

Chief Inspector Andrew Clark