

MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

**THURSDAY 22 JANUARY 2015
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Board Members Present:

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

Clerk of the Licensing Board:

Mrs M Ferguson (Clerk of the Licensing Board)

Attending:

Mr R Fruzynski, Licensing Standards Officer (LSO)
Mrs D Elworthy, Licensing Officer
Insp A Harborow, Police Scotland
PC H Bowsher, Police Scotland

Committee Clerk:

Ms J Totney, Team Manager - Democratic Services

Apologies:

Councillor S Currie

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – 27 November 2014

The minutes of the Licensing Board meeting of 27 November 2014 were agreed to be a true record.

2. VARIATIONS (MAJOR) TO PREMISES LICENCE

(i) Aberlady Bowling Club, High Street, Aberlady

Ms A Dyer was present to represent the club.

The Clerk informed the Board that the application seeks to change the status to an open licence and to vary the terminal hour on a Friday and Saturday from 11pm to 1am. The Club has provided a response in relation to the issue of overprovision and

this is included in the meeting papers. The Clerk advised that there are no objections from the public, Police Scotland or the Licensing Standards Officer (LSO).

Councillors Innes and Grant indicated that they would be happy to support the application.

Decision

East Lothian Licensing Board agreed to grant the variation to the premises licence.

(ii) Gullane Mini-Market, 2 Stanely Road, Gullane

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

The Clerk informed the Board that this is a major variation which seeks to increase capacity from 10.36m² to 14.04m² (which is lower than the figure stated in the application, which figure was provided by the applicant in error) and also to add deliveries and takeaways as activities; takeaways will be within licensed hours. The application also includes a proposed post office facility (subject to Post Office approval) and a new layout plan. She advised that there are no public objections and that Police Scotland have made a representation regarding the increased capacity and are seeking clarification in relation to deliveries and takeaways.

Mr Macdonald stated that he was unaware of the comments from Police Scotland. He outlined the family association with the community and spoke about the premises refurbishment and upgrade. He advised that there will be no hot food takeaways and that it is common for small shops to have arrangements in place to deliver to elderly clients or care homes, for example.

PC Bowsher noted that the capacity/display area is less than requested in the original application but commented that there is still an issue regarding overprovision. She re-iterated Police Scotland concerns about home deliveries of alcohol.

In response to Councillor Trotter, Mr Macdonald stated that he would not be agreeable to removing home deliveries of alcohol from the application. He added that these would be personal deliveries, unlike large supermarkets who delivered alcohol with no knowledge of the locality or occupants. He advised that his client, who is a Personal Licence Holder, will be likely to undertake the deliveries himself.

Sederunt: Inspector Harborow joined the meeting.

Councillor McAllister stressed that Police Scotland have concerns that children and young persons use home delivery to obtain alcohol, using an older sibling or friend to take receipt of it.

Mr Macdonald commented that there are strict rules for home deliveries and there is no evidence that his clients would breach the law. He considered it to be discriminatory to impose conditions on small businesses which do not also apply to large Supermarkets in relation to the home delivery of alcohol.

Councillor Innes sympathised with Mr Macdonald's point of view and mentioned that there is a record of sale with home deliveries. He considered this to be a positive aspect of the home delivery of alcohol.

The LSO commented that the premises are well run and no complaints have been received.

Inspector Harborow raised the issue of antisocial behaviour and the risk of supplying alcohol to younger people. He did not agree with Councillor Innes that home deliveries were safer than purchasing alcohol in a shop. He urged the Board to attach conditions if they grant the licence for home delivery of alcohol.

The Board debated the issue of home deliveries of alcohol and this particular application at some length. Bringing the debate to a close, Councillor Goodfellow stated that given the comments from Police Scotland, he remained concerned about the issue of home delivery of alcohol. He moved that this element of the application only be granted if there is a guarantee that proof of age will be obtained at the point of handover, the transaction is logged and the delivery is made by a personal licence holder.

Board members voted:

Grant the original application without conditions relating to deliveries: 2

Grant the application with conditions (as outlined by Councillor Goodfellow): 4

Decision

East Lothian Licensing Board agreed to grant the variation to the licence subject to the following conditions in relation to the home delivery of alcohol; proof of age must be obtained at the point of handover, the transaction is logged and the delivery is made by a personal licence holder.

Board members were agreeable to the request from Inspector Harborow that a date is agreed to have a wider conversation on the issue of home delivery of alcohol. Councillor Innes indicated that the matter would also be added to the Licensing Forum agenda.

(iii) Longniddry Royal British Legion, Links Road, Longniddry

No one was present to represent the applicant.

The Clerk advised that the application seeks to change to an open licence, amend the outdoor drinking area and extend the terms of access for children and young persons. She mentioned that there would be the requirement to apply for planning permission for the outside drinking area in due course. Police Scotland have commented on overprovision as a result of the increased capacity. However, the applicant disputes that the overprovision statement applies in this case and has not submitted a response in relation to overprovision.

Decision

Given the difference of opinion on overprovision, East Lothian Licensing Board agreed to request that the applicant attend the next Board meeting to present their case.

3. PREMISES LICENCE REVIEW

(i) Elphinstone Arms, Main Street, Elphinstone

Mr Macdonald of Macdonald Licensing was present to represent Elphinstone Arms.

The Clerk reminded Board members that the licence for Elphinstone Arms was suspended on 28 August 2014 and the Board could now consider if they wished a further review before the suspension expires on 28 February 2015. She advised that the premises have not been operating for the last five months.

In response to Inspector Harborow, Mr Macdonald was unable to provide clarification on his client's future intentions for the premises.

Inspector Harborow advised that Police Scotland would welcome a review of the premises licence before the premises re-open as they considered it imperative to protect the local community. On more than one occasion he expressed his ongoing concerns about the family connection with Elphinstone Arms. Inspector Harborow offered to provide additional information in private. However, Board members were not agreeable to this as East Lothian Licensing Board business must be conducted in public.

In response to Board members' requests for guidance, The Clerk advised that the Board may have difficulty in establishing grounds for a further review of the licence of closed premises. She added that there have been no reported incidents in relation to the premises since the licence was suspended. She recommended that the Board exercise caution as previous incidents could not be subject to a further review; they had been considered and dealt with at the last review, with the sanction of suspension imposed. She was of the opinion that if Police Scotland has information to justify a further review then the Police should request a review. She advised that change of ownership of the premises was not imposed by the Board as a condition at the last review.

Decision

East Lothian Licensing Board agreed not to hold a review of the licence of their own volition and thus the suspension of the licence would expire on 28 February 2015.