

EAST LOTHIAN

Meeting 23 April 2015 at 10:00am in Council Chambers, Town House, Haddington

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises	Applicant	Date Received	Comments
1 WEST BARNES AND DISTRICT BOWLING CLUB WEST BARNES BOWLING CLUB EDINBURGH ROAD WEST BARNES DUNBAR	WEST BARNES AND DISTRICT BOWLING CLUB	3 March 2015	To change to an 'open club'. Extension to function room increasing capacity from 60 to 90 persons. Adding Premises Manager.
51 ASDA 151-157 HIGH STREET TRANENT EAST LOTHIAN EH33 1LP	ASDA STORES LTD. C/O GOSSCHALKS SOLICITORS QUEENS GARDENS HULL HU13DZ	4 March 2015	variation to opening times of the store from 8am - 10pm to 6am to 11pm. The store also operates a challenge 25 scheme and proof of age will be sought for any person who appears to be under 21.

2(i)
2(ii)

EAST LoTHIAN COUNCIL
LICENSING

17 MAR 2015

RECEIVED

Date: 16th March 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



2(i)

**POLICE
SCOTLAND**

Keeping people safe

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: WEST BARNS BOWLING CLUB
PREMISES: WEST BARNS BOWLING CLUB, EDINBURGH ROAD, WEST BARNS,
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 change from a 'club licence' to an 'open licence'.

The premises currently operate 'on sales' from 10am on a Saturday and Sunday morning. Should the 'open licence' be granted, I would request that this be changed to 11am to fall in line with all other 'on sales' in the area and the current Board Policy.

I note that they are requesting an increase in capacity following an extension to their function room from 60 to 90 people. The capacity of the entire premises is currently 130 and I would ask that the applicant break this down to the individual rooms/areas of the licensed building.

The premises has an outside licensed area around the bowling green and I would request that the use of this area be limited to 2200 hours due to the close proximity of residential properties etc.

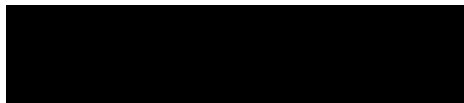
Should the 'open licence' be granted I would also request that children and young persons are only permitted on the premises until 2100 hours, as suggested by the applicant, unless that are attending a private function and are suitably supervised by parents or guardians.

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

Elworthy, Debbie

From: Herkes, Gillian on behalf of Licensing
Sent: 24 March 2015 10:21
To: Elworthy, Debbie
Subject: FW: West Barns Bowling Club Open Plan Application

From: [REDACTED]
Sent: 24 March 2015 10:16
To: Licensing
Subject: West Barns Bowling Club Open Plan Application

Good Morning

Regarding the letter from Police Scotland we are in agreement with the following statements.

Change of on sales licence from 10.00am to 11.00am, Saturday and Sunday
The breakdown of the capacity is Lounge Bar 40, function room 90.
The outside licence area be limited to 22.00
Children and young persons only permitted on the premises to 21.00

I hope this meets with your approval. Thank you

Yours sincerely
Kenneth Borthwick
Club Secretary

Elworthy, Debbie

From: Fruzynski, Rudi
Sent: 02 April 2015 12:19
To: Elworthy, Debbie
Subject: RE: Major Variation - West Barns Bowling Club

No objection.

Rudi Fruzynski
Licensing Standards Officer

-----Original Message-----

From: Elworthy, Debbie
Sent: 09 March 2015 14:58
To: [REDACTED]; Fruzynski, Rudi;
Environmental Health/Trading Standards; Environment Reception,
[REDACTED]
Subject: FW: Major Variation - West Barns Bowling Club

Sorry forgot to attach layout plans!

Debs

Debbie Elworthy (Richardson)
Licensing Administration Officer
Licensing, Administration and Democratic Services John Muir House Haddington T. 01620
827217 E. delworthy@eastlothian.gov.uk or licensing@eastlothian.gov.uk

-----Original Message-----

From: Elworthy, Debbie
Sent: 09 March 2015 14:57
To: [REDACTED]; Fruzynski, Rudi;
Environmental Health/Trading Standards; Environment Reception;
[REDACTED]
Subject: Major Variation - West Barns Bowling Club

Hello

Please find attached for report.

Kind Regards

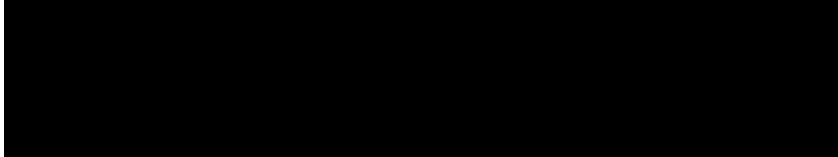
Debbie

Debbie Elworthy (Richardson)
Licensing Administration Officer
Licensing, Administration and Democratic Services John Muir House Haddington T. 01620
827217 E. delworthy@eastlothian.gov.uk or licensing@eastlothian.gov.uk

-----Original Message-----

From: "Elworthy, Debbie" [<mailto:delworthy@eastlothian.gov.uk>]

Kenneth Borthwick
Secretary



West Barns Bowling Club

Over Provision Statement.

The extension to the function room.

Committee and members realised the function room was no longer large enough for purpose. We have friendly bowling matches with teams from throughout the country and can have spectators attending also. We also have Scottish County competitions, Open Tournaments, League games, Club competitions etc. On numerous occasions the bowlers and supporters have had to split into two, some in the lounge bar and some in the function room due to size. The extension will be of benefit for players, members and spectators as it will also provide an indoor viewing area covering all of the green.



K.Borthwick

East Lothian Council
Licensing
- 3 MAR 2015
Received

EAST LoTHIAN LICENSING BOARD

ENV/POL/Kudi
ete.
9/3/15

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

~~XXXXXXXXXX~~

2(b) Name and Address of Premises

West Barns Bowling Club,
Edinburgh Road,
West Barns,
Dunbar,
East Lothian.

Post Code	EH42 1TU	Phone No.	01368 863082
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2(c) Full Name and Address of Current Licence Holder

Kenneth Borthwick,
100 Gifford Road,
Dunbar,
East Lothian.

Post Code

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

Change of Club Licence to an Open Plan Licence to allow members to hold functions, ie birthday partys, retirement, funeral teas, etc.

An extension to our function room to allow increased capacity, this will allow members and guests numbers up to 90 people whereas at the moment we can only accommodate around 60.

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 operating plan would be as we have. The capacity of the function room has increased due to the extension.

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.

The drawings included show the position of the extension on the bowling green side of the function room. The capacity has increased in the function room from around 60 people to 90.

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*)

The change to a premise licence. The holder to be Kenneth Borthwick Licence No: EH111

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

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 £150 is enclosed.

Signature



..... (See note 5 below)

Date

..... 19.2.15

Capacity: APPLICANT / AGENT (delete as appropriate)

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

.....
.....
.....

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

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

EAST LoTHIAN COUNCIL
LICENSING

31 MAR 2015

RECEIVED



**POLICE
SCOTLAND**

Keeping people safe

Date: 26th March 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, 151 – 157 HIGH STREET, TRANENT**

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 the trading hours for the premises to a maximum of 0600 – 2300 hours.

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

Yours faithfully

Divisional Licensing Officer

Winter, Maree

From: Fruzynski, Rudi
Sent: 02 April 2015 12:20
To: Winter, Maree
Subject: RE: Major Variation - Asda, 151 -157 Hlgh Street, Tranent

No objection.

Rudi Fruzynski
Licensing Standards Officer

From: Winter, Maree
Sent: 23 March 2015 13:36
To: [REDACTED] Fruzynski, Rudi; Environmental Health/Trading Standards, Environment Reception, Devine, Brian, Fairgrieve, Frank; Grant, Shona
Subject: Major Variation - Asda, 151 -157 Hlgh Street, Tranent

Hi all,

Please find attached major variation for the above premises. Could I please have any comments you may wish to make by 15th April 2015.

Regards
Maree
Licensing
X7867

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

EL0130

2(b) Name and Address of Premises

ASDA 151-157 HIGH STREET, TRANENT.		
Post Code	EH33 1LP.	Phone No.

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)

1. THE APPLICATION SEEKS TO AMEND BOX 5(F) TO REFLECT THE FACT THAT THE MAXIMUM SHOP OPENING TIMES WILL BE 6AM - 11PM.

2. BOX F IS ALSO AMENDED TO SHOW THAT ASDA OPERATES CHALLENGE 25.

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 £150 is enclosed.

Signature

[Redacted Signature]

(See note 5 below)

Date

03.03.2015

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

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

GOSCHALKS SOLICITORS, QUEENS GARDENS, HULL, HU1 3DZ

[Redacted Contact Information]

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>



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

3

10 March 2015
Our Ref: C14/8

Dear The Clerk

Elphinstone Arms, Main Street, Elphinstone, Tranent

I refer to the recent citation for the Review Hearing for the Elphinstone Arms, at the instance of the Police.

I note that the Licensing Board Meeting, later this month, cannot be held on the proposed date of 26th March and your proposal was to move this to 25th March.


As explained I am unable to attend that day, as I am taking a full Personal Licence Training Course which lasts all day, and is fully booked!

I would request that the Review Hearing be postponed to the April Board, or such other date as the Board consider appropriate.

I am happy to do whatever is necessary to facilitate this, including the waiving of the relevant period during which the Hearing should take place.

Kind regards

Yours sincerely


Alistair I Macdonald
Director

East Lothian Council
Licensing
19 MAR 2015
Received

Elworthy, Debbie

From: Elworthy, Debbie
Sent: 18 March 2015 15:34
To: 'Alistair Macdonald'
Cc: MacNeill, Kirstie; Licensing
Subject: RE: Elphinstone Inn

Alistair

Kirstie is happy to agree to the postponement of the review hearing to the April Board meeting on the basis that you are prepared to waive entitlement for the hearing to take place within the 6 week review request period.

The Board meeting is due to take place on 23rd April at 10am in the Town House, Haddington.

Kind Regards

Debbie

Debbie Elworthy (Richardson)
Licensing Administration Officer
Licensing, Administration and Democratic Services
John Muir House
Haddington
T. 01620 827217
E. delworthy@eastlothian.gov.uk or licensing@eastlothian.gov.uk

From: Jill Carrigan [<mailto:jill@macdonaldlicensing.com>] **On Behalf Of** Alistair Macdonald
Sent: 18 March 2015 13:12
To: Elworthy, Debbie
Subject: Elphinstone Inn

Dear Debbie

I attach a copy of a letter we are sending to you.

Kind regards

Yours sincerely

Alistair I Macdonald
Macdonald Licensing

Macdonald Licensing (Scotland) Limited (SC388451)
21a Rutland Square
Edinburgh
EH1 2BB

LP182 Edinburgh 2

Tel: 0131 229 6181
Fax: 0131 221 1282
www.macdonaldlicensing.com

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EAST Lothian COUNCIL

26 FEB 2015

RECEIVED



**POLICE
SCOTLAND**

Keeping people safe

Date: 12th February 2015

Your Ref:

Our Ref: J/LIC/3705/HB

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

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

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

scotland.police.uk  @PoliceScotland  PoliceScotland

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

EAST LoTHIAN COUNCIL

LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

From: Rudi Fruzynski
Licensing Standards Officer

To: Kirstie MacNeill
Clerk to the Licensing Board

Date: 03 March 2015

Subject: LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW – ELPHINSTONE ARMS, MAIN STREET,
ELPHINSTONE, EAST LoTHIAN EH33 2LT

On Tuesday 26th February 2015, I received intimation in terms of Section 38(3) (b) of the licensing (Scotland) Act 2009 that the Licensing Board had decided, on receipt of an application from Police Scotland, to review the Premises Licence in respect of the above premises.

In terms of Section 38(4) of the Act I have prepared a report for the consideration and information of Licensing Board Members. My comments are as follows:-

- Following the review of the Premises Licence in August 2014, I can confirm that the Elphinstone Arms have remained closed for business.
- On Monday 2nd March 2015, I met with Mrs Margaret Dodds who confirmed that Scott Dodds is the owner of the Elphinstone Arms; Caledonian Heritable Ltd is the guarantor of the loan on the premises and that Mrs Dodds is the sole director of the company running the pub.
- The premises remain in a damaged condition since the arson attack on 7th June 2014.
- It is likely that the insurance claim in respect of the fire damage will be settled within the next 3 – 4 weeks.
- Plans for the future of the premises continuing to trade as a pub are uncertain at this stage, but will very much depend on the outcome of the forthcoming review.
- Police Scotland investigations into the arson attacks on the premises continue.
- As stated in previous reports, during the course of the operation of the Elphinstone Arms Premises Licence, the LSO regularly visited the premises when it was found that Margaret Dodds was approachable, very helpful and ran the pub without any identified issues.

This report is submitted for the information of Licensing Board members.

R. Fruzynski
Licensing Standards Officer

Elworthy, Debbie

From: Fairgrieve, Frank
Sent: 16 March 2015 17:30
To: Elworthy, Debbie
Cc: MacNeill, Kirstie; Banks, Andrew
Subject: Elphinstone Arms, Elphinstone

Kirstie / Debbie

As discussed.

I visited the premises today, 16th March 2015 and found the building to be in the same condition as it was immediately after the previous fire incident. The building has suffered fire damage and further investigation has found that no remediation works have commenced.

The building has been assessed by ourselves and currently we would not consider it to be in such a condition that would require us to issue any statutory notices under the Building Scotland Act 2003.

I would however confirm that in our opinion the building is currently not in a suitable condition to operate as a licensed premise as it still requires remediation works to deal with the fire damage issues.

I trust this clarifies matters.

Regards

Frank

F Fairgrieve MRICS MIFireE | Principal Building Standards Surveyor | East Lothian Council | John Muir House | Haddington
EH41 3HA | T. 01620 827357 | E. ffairgrieve@eastlothian.gov.uk

Elworthy, Debbie

Subject: FW: Elphinstone Arms, Elphinstone

From: Devine, Brian [REDACTED]
Sent: 17 March 2015 12:40
To: Elworthy, Debbie
Subject: RE: Elphinstone Arms, Elphinstone

Hi Debbie

As requested following our telephone conversation, I write to confirm that I cannot provide comment or report on the present condition of this building. I would provide advice/comment on any issues where Building Control find non-compliance with building regulations. Following restoration, I would be able to attend to carry out an audit of the fire safety measures within the property. One comment I would make, however, would be that if the property has a basement, adequate fire separation should be provided. But, Building Control should stipulate this in any case.

Regards

Brian

Our Reference: KMacN/dr/EN/L/Review

Date: 4th March 2015

MacDonald Licensing Limited
21a Rutland Square
Edinburgh
EH1 2BB

Dear Sir

**LICENSING (SCOTLAND) ACT 2005 – SECTION 36(3)(b)
NOTIFICATION OF REVIEW HEARING
ELPHINSTONE ARMS – MAIN STREET, ELPHINSTONE**

East Lothian Licensing Board has received a request for a review of the Premises Licence of the above premises and I enclose a copy of that request for your information. The Licensing Board decided to accept this request for a review of the Premises Licence, in terms of Section 36 of the Licensing (Scotland) Act 2005. As a result of a review, the Licensing Board may issue a written warning, may impose an additional condition on the Premises Licence or may suspend or revoke the Premises Licence.

A Review Hearing will be held in Council Chambers, Town House, 56 High Street, in Haddington. We will notify you the date as soon as it has been arranged as we cannot hold the hearing on the original date of 26th March 2015.

The Licensing Board has asked Mr Rudi Fruzynski, Licensing Standards Officer, to prepare a report into this matter for their consideration at the Hearing. Mr Fruzynski may contact you/your client and any information you can give him will be taken into account when he prepares his report.

The Licensing Board has also asked that the applicant advises them of the future management position for the premises.

If you have any queries regarding this matter, please don't hesitate to contact me.

An agenda will follow in due course.

Yours faithfully

Kirstie MacNeill
Clerk to the Licensing Board

**Licensing Office : 01620 827217 / 827867
E-mail : licensing@eastlothian.gov.uk**

Cc. Caledonian Heritable Ltd. - [REDACTED]
Margaret Dodds - [REDACTED]
Police Scotland - Haddington