



MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

1

THURSDAY 29 OCTOBER 2015
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON

Board Members Present:

Councillor J Goodfellow (Convenor)
Councillor S Akhtar
Councillor S Currie
Councillor D Grant
Councillor W Innes

Clerk of the Licensing Board:

Mrs K MacNeill

Attending:

Mrs M Ferguson, Service Manager, Legal and Procurement
Mr R Fruzynski, Licensing Standards Officer
Mrs D Elworthy, Licensing Admin Officer
PC H Bowsher, Police Scotland
Insp A Harborow, Police Scotland

Committee Clerk:

Ms J Totney, Team Manager – Democratic Services

Apologies:

Councillor F McAllister
Councillor T Trotter

Declarations of Interest:

None

1. MINUTES FOR APPROVAL

- (a) The minutes of the Licensing Board meeting of 24 September 2015 were agreed to be a true record.

Matter arising – the Clerk advised that the premises licence in respect of Cafe Borsa had now been surrendered.

- (b) The minutes of the East Lothian Licensing Board and East Lothian Local Licensing Forum meeting of 24 September 2015 were agreed to be a true record.

Matter arising – The Clerk advised that further implementation of the Air Weapons and Licensing (Scotland) Act 2015 is not planned until after the Scottish Parliamentary Elections in May 2016. She confirmed that the changes in relation to personal licence holders are already in force.

2. STATEMENT OF EXTENSION OF FESTIVE HOURS

Councillor Goodfellow, Convenor, read out the following statement:

In terms of Section 67 of the Licensing (Scotland) Act 2005, the Board has determined that it is appropriate to grant a general extension of licensed hours for the festive period. This extension will apply from Friday 11 December 2015 until Monday 4 January 2016 inclusive and will allow an extension of the terminal hour for the sale of alcohol during that period until 2 am. This extension will only apply to on-sales and not to off-sales of alcohol. There will be no general extensions beyond this although any applications for extended hours outwith the general extension will be considered on a case-by-case basis. It should be noted that such applications will require to be submitted no later than 1 December 2015. There is no need for licensees to apply for the general extension to 2 am. On sales premises can utilise these hours to the extent they consider appropriate.

3. APPLICATION FOR PROVISIONAL PREMISES LICENCE

(i) Jo's Kitchen, 73 Market Street, Haddington

Mrs J Lawrence, the applicant, was present. No objections had been received in respect of this application. There were no further comments from the Licensing Standards Officer (LSO) or from Police Scotland.

Mrs Lawrence answered questions from Councillor Goodfellow regarding soundproofing and the performance of live music. The Board were satisfied with the measures that had been put in place. Mrs Lawrence advised the Board that off-sales of alcohol would be charged at the same price as on-sales. She indicated that she would apply for occasional licences for the first few weeks pending the completion of building works and the issue of a full premises licence.

The Board commented that they were pleased to see the building at 73 Market Street being used in a positive and family friendly way.

Decision

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

4. CHIEF CONSTABLE'S REPORT TO THE EAST LOTHIAN LICENSING BOARD 1 APRIL 2014 – 31 MARCH 2015

Inspector Harborow commented that this is a positive report and invited questions from Board members. In responding, he highlighted the preventative approach that

is being used to address the supply of alcohol to under-age persons. He thanked the Board for their support in policing the licensing trade in East Lothian.

Councillor Currie asked that the Board's thanks be recorded for the work done by Police Scotland and remarked on the success of a partnership approach to achieving the licensing objectives in East Lothian. Councillors Akhtar and Goodfellow echoed these comments.

Decision

East Lothian Licensing Board noted the report.

5. REQUEST FOR REVIEWS OF PREMISES LICENCES

The Clerk presented a report seeking the Board's agreement to instigate review proceedings in respect of premises licences where the annual fee for 2015/16 remains unpaid, that being a breach of the mandatory conditions attached to those premises licenses.

The Clerk provided details of the premises where the annual fee for 2015/16 remains unpaid, adding that some of the premises are no longer trading.

The LSO outlined the actions that had already been to ingather these outstanding fees.

Councillor Goodfellow expressed his thanks to the Licensing team and expressed his dissatisfaction that some fees remained outstanding.

Councillor Currie was astonished that the legislation allows premises to continue trading when the annual fee has not been paid. He commented that if there are serial offenders who do not pay their annual fee by the due date, then this could be grounds to review the premises licence.

Councillor Goodfellow requested that Council Officers produce a report to the Board, within the next few months, with recommendations on how to reduce the number of premises that have not paid the annual fee by the due date in 2016.

Decision

East Lothian Licensing Board agreed to hold a review hearing in respect of the premises licences listed in appendix 1 on the basis that the annual fees for 2015/16 have not been paid and this constitutes a breach of mandatory condition number 10 and is a ground for review hearings, at the Board's initiative in terms of Section 37 of the Licensing (Scotland) Act 2005.

EAST LOTHIAN

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

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises	Applicant	Date Received	Comments
1 DUNBAR GOLF CLUB DUNBAR GOLF CLUB EAST LINKS ROAD DUNBAR EAST LOTHIAN EH42 1LL	DUNBAR GOLF CLUB	17 September 2015	Vary licence to an open licence, include two outdoor seating areas. Vary opening core times Monday to Sunday - from 11am to 10am, vary thursday evening from 11pm to 1am and Sunday from 11pm to 12 Midnight. Add off-sales Monday to Sunday 10am to 10pm. Restaurant facilities, club meetings, recorded music, televised sport & outdoor drinking outwith core hours & films within core hours.



**POLICE
SCOTLAND**

Keeping people safe

Date: 25th September 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: DUNBAR GOLF CLUB
PREMISES: DUNBAR GOLF CLUB, EAST LINKS 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 change from a 'club licence' to an 'open licence'.

The premises are also requesting to commence 'on sales' at 10am every day. This is out with Board Policy and as such I would request that the 'on sales' commencement time remains as it currently stands at 11am.

I also note that the premises are requesting an 'off sale' facility. Whilst I have no objection to this request it is pertinent to point out that any increase in licensed hours is out with the Board Policy in relation to the 'overprovision statement'.

I would also request clarification on children and young persons access/times:

Children & Young Persons aged (10-17) years would be allowed access to the premises unsupervised as members of the club.

Children & Young Persons (0-17) years who are non members should only be allowed access to the premises under parental supervision.

All Children (0-15) years and Young Persons (16-17) years should be out the premises by 2200 hours unless they were attending a private function, when they would be allowed to remain for the duration of that function.

In relation to the request for outside drinking/seating, I would request that a terminal hour of 2200 hours be imposed due to neighbouring residential properties.

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

Yours faithfully

PC Heather Bowsher
Divisional Licensing Officer

Winter, Maree

From: [REDACTED]
Sent: 29 September 2015 12:06
To: Winter, Maree
Subject: Dunbar Golf Club License Application

Dear Maree,

LICENSING (SCOTLAND) ACT 2005

APPLICATION FOR VARIATION – SECTION 29

APPLICANT: DUNBAR GOLF CLUB

PREMISES: DUNBAR GOLF CLUB, EAST LINKS ROAD, DUNBAR

I write in response to the points highlighted by PC Heather Bowsher to offer clarification.

Dunbar Golf Club is a Championship Golf Club attracting many visitors from overseas to play Golf and is part of the 'Golf Coast' tour. Many of these tourists enjoy a 'dram' before they play and whilst I understand it is out with board policy to allow licensing before 11am I understand that other golf clubs in the area have been given permission for this permitting the Licensing Standards Officer has no objections. The reduction in the drink drive limit has seen a large drop in bar turnover post golf and a demand for social get together pre golf is emerging.

We have requested the 'off-sale' facility as on occasions we have had requests from members to take home unfinished wine if they have not consumed it all during a meal. We also from time to time are asked if a customer can purchase a bottle of wine they have enjoyed.

To clarify our position on children and young persons:

Children & Young Persons aged (10-17) years would be allowed access to the premises unsupervised as members of the club. Children & Young Persons (0-17) years who are non members should only be allowed access to the premises under parental supervision. All Children (0-15) years and Young Persons (16-17) years should be out the premises by 2200 hours unless they were attending a private function, when they would be allowed to remain for the duration of that function.

Finally, we are more than happy to make the terminal hour for outside seating to be 10pm.

Kind Regards,

James Hughes



EAST LoTHIAN COUNCIL

LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

From: R. Fruzynski
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 08 October 2015

Subject: LICENSING SCOTLAND ACT 2005
PREMISES LICENCE APPLICATION (MAJOR VARIATION) – SEPTEMBER 2015

Dunbar Golf Club, East Links Road, Dunbar, East Lothian EH31 2AF

I refer to the above subject and can confirm that the undernoted premises have been visited and that there has been considerable liaison between Mr James Hughes, Club Steward and Catering Manager and the LSO in respect of the changes applied for.

The change to an open licence is a positive move forward and supported by the LSO. The addition of a licensed outside seating area will provide members and guests with a pleasurable and frequently asked for experience when the weather is occasionally favourable. A terminal hour of 22:00 hours is recommended for closure of such facility to prevent the possibility of disturbance to nearby residents.

The extension of licensed hours to 10:00 hours for visitors to sample a malt with their coffee prior to playing their round of golf is out with policy on over provision and is not particularly an exceptional case for change. However, this is a decision for Board members and I do not have any particular concern or objection to the request. I can confirm that of the 20 golf clubs in East Lothian 7 have core hours commencing at 10:00 hours and 1 has the earlier time of 09:00.

No objection is made in respect of the increased hours applied for Thursday and Sunday evenings to 01:00 and 24:00 hours respectively, the current hours being up to 23:00.

Off-sales facilities are also requested in this application. This facility is supported by the LSO on the basis that members may wish to take away an unfinished bottle of wine or they might have been unable to have a drink because they are driving and may wish to take a drink with them to consume on their return home.

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

EL0223	East Lothian Council Licensing
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2(b) Name and Address of Premises

Dunbar Golf Club East Links Road Dunbar	17 SEP 2015 Received		
Post Code	EH42 1LL	Phone No.	01368 862317

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

Dunbar Golf Club
East Links Road
Dunbar

Post Code

EH42 1LL

Phone No.

01368 862317

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

We are looking to change the current members club licence into an open licence.

We are also looking to make some changes to the operating and layout plans including an outdoor seating area.

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)

~ To change the core times when alcohol will be sold for consumption on premises to 10am to accommodate visiting parties from the continent, whom like to sample a Malt with their coffee prior to golf.

~ To allow alcohol to be sold for consumption off premises.

~ To change some of the activities permitted on the premises including outdoor seating, club meetings and the like.

~ To introduce an outdoor seating area.

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.

~ To introduce an outdoor seating area where members and visitors can enjoy food and refreshments in the fresh air whilst watching the golf.

~ We have requested two areas for this to benefit from the natural shelter of the clubhouse from the wind depending on its direction.

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)

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

15/9/15

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

FOR OFFICE USE ONLY

<i>Received & Receipt No.</i>	<i>System Updated</i>	<i>Licence Issued</i>
	15	

EAST LoTHIAN LICENSING BOARD

OPERATING PLAN

Licensing (Scotland) Act 2005, section 20(2)(b)(i)

Name, address and postcode of premises to be licensed.

Dunbar Golf Club East Links Road Dunbar EH42 1LL

Question 1

STATEMENT REGARDING ALCOHOL BEING SOLD ON PREMISES/OFF PREMISES OR BOTH

<i>1(a) Will alcohol be sold for consumption solely ON the premises?</i>	<i>NO</i>
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<i>NO</i>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<i>YES</i>
<i>*Delete as appropriate</i>	

Question 2

STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION ON PREMISES

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	10:00	23:00
<i>Tuesday</i>	10:00	23:00
<i>Wednesday</i>	10:00	23:00
<i>Thursday</i>	10:00	01:00
<i>Friday</i>	10:00	01:00
<i>Saturday</i>	10:00	01:00
<i>Sunday</i>	10:00	24:00

Question 3

STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION OFF PREMISES

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	10:00	22:00
<i>Tuesday</i>	10:00	22:00
<i>Wednesday</i>	10:00	22:00
<i>Thursday</i>	10:00	22:00
<i>Friday</i>	10:00	22:00
<i>Saturday</i>	10:00	22:00
<i>Sunday</i>	10:00	22:00

Question 4

SEASONAL VARIATIONS

<i>Does the applicant intend to operate according to seasonal demand</i>	YES
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****If YES – provide details***

The clubhouse will close at 7pm throughout the winter months, determined by the clock changes between GMT & BST with the exception of club and member functions.

Question 5

PLEASE INDICATE THE OTHER ACTIVITIES OR SERVICES THAT WILL BE PROVIDED ON THE PREMISES IN ADDITION TO SUPPLY OF ALCOHOL

COL. 1 5(a) Activity	COL. 2 Please confirm YES/NO	COL. 3 To be provided during core licensed hours – please confirm YES/NO	COL. 4 Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Accommodation</i>	NO	N/A	N/A
<i>Conference facilities</i>	NO	NO	NO
<i>Restaurant facilities</i>	YES	YES	YES
<i>Bar meals</i>	YES	YES	NO
5(b) Activity Social functions including:	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Receptions including</i> <i>Weddings, funerals,</i> <i>birthdays, retirements</i> <i>etc.</i>	YES	YES	NO
<i>Club or other group</i> <i>meetings etc.</i>	YES	YES	YES
5(c) Activity Entertainment including:	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Recorded music – see</i> <i>5(g)</i>	YES	YES	YES
<i>Live performances –</i> <i>see 5(g)</i>	YES	YES	NO
<i>Dance facilities</i>	YES	YES	NO
<i>Theatre</i>	NO	NO	NO
<i>Films</i>	YES	YES	N
<i>Gaming</i>	YES	YES	NO
<i>Indoor/outdoor sports</i>	YES	YES	YES
<i>Televised sport</i>	YES	YES	YES
5(d) Activity	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO

<i>Outdoor drinking facilities</i>	YES	YES	YES
<i>5(e) Activity</i>	<i>Please confirm YES/NO</i>	<i>To be provided during core licensed hours – please confirm YES/NO</i>	<i>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</i>
<i>Adult entertainment</i>	NO	NO	NO

Where you have answered YES in respect of any entry in column 4 above, please provide further details below.

Restaurant facilities: Breakfast, Teas/Coffees will be served from 7am.

Club or other group meetings etc: Groups within the club often hold meetings within the clubhouse first thing in the morning.

Recorded music: Recorded Music/ Radio plays in the kitchen from early morning.

Indoor/outdoor sports: Indoor- There is a pool table available to members inside the clubhouse outwith core hours.

Outdoor: Golf is played outwith the core hours.

Televised sport: When there is golf events being televised from around the world we show it on the TV outwith core hours when members and visitors are having breakfast.

5(f) any other activities

If you propose to provide any activities other than those listed in 5(a) – (e) please provide details or further information in the box below.

N/A

5(g) Late night premises opening after 1.00am

<i>Where you have confirmed that you are providing live or recorded music, will the decibel level exceed 85dB?</i>	<i>NO</i>
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<i>When fully occupied, are there likely to be more customers standing than seated?</i>	<i>NO</i>
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<i>*Delete as appropriate</i>	
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Question 6 (On-sales only)

CHILDREN AND YOUNG PERSONS

6(a)	<i>When alcohol is being sold for consumption on the premises will children or young persons be allowed entry</i>	NO
	<i>*Delete as appropriate</i>	

6(b) *Where the answer to 6(a) is YES provide statement of the **TERMS** under which they will be allowed entry*

We have children and young persons who are under the age of 18 but over 10 years old, who can gain entry to the premises as members of the club. We allow children under the age of 10 entry but only under the supervision of an appropriate adult, who would usually be a member, and parent or a parent who is the guest of a member

6(c) *Provide statement regarding the **AGES** of children or young persons to be allowed entry*

We allow children and young persons of all ages to enter the club and these people are allowed access to all areas of the club except behind the bar, within 1.5M of the bar and the beer cellar.

6(d) *Provide statement regarding the **TIMES** during which children and young persons will be allowed entry*

All children must be away from the premises by 10pm unless they are attending a function such as a wedding or anniversary.

6(e) *Provide statement regarding the **PARTS** of the premises to which children and young persons will be allowed entry*

Children and young persons are allowed into all areas of the club with the following exceptions:

- ~ Behind the bar
- ~ In the beer cellar
- ~ within 1.5M of the bar area

Question 7

CAPACITY OF PREMISES

What is the proposed capacity of the premises to which this application relates?

On Sales - 150

Question 8

PREMISES MANAGER (NOTE: not required where application is for grant of provisional premises licence)

Personal details

8(a) *Name*

James Robert Hughes

8(b) *Date of birth*

[REDACTED]

8(c) *Contact address*

[Redacted]

8(d) Email address and telephone number

[Redacted]

8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
11/3/2008	East Lothian	EL038

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

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

The contents of this operating plan are true to the best of my knowledge and belief.

Signature * (see note below)
Date
Capacity APPLICANT/AGENT (delete as appropriate).
Telephone number and email address of signatory

*** Data Protection Act 1998**

The information on this form may be held on an electronic public register which may be available to members of the public on request.

EAST LOTHIAN

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

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises

Applicant

Date Received

Comments

2 THE OLD CLUBHOUSE
THE OLD CLUBHOUSE
EAST LINKS ROAD
GULLANE
EAST LOTHIAN
EH31 2AF

THE OLD CLUBHOUSE LIMITED

15 September 2015

Variation to onsales hours
from 11am to 11pm Monday to
Wednesday to 10am to 1am.
Thursday & Friday 11am - 1am,
vary to 10am to 1am. Saturday
11am to Midnight, vary to
10am- 1am & Sunday 12.30pm to
11pm to 11am - 12 Midnight.
Vary Children to be permitted
at all times premise is open.
To add activities receptions,
weddings etc, club groups and
live performances.

THE OLD CLUBHOUSE – MAJOR VARIATION

Variation originally asked for:

Variation to on sales hours from:

Monday to Wednesday was 11am to 11pm now vary to 10am to 1am.

Thursday & Friday was 11am - 1am vary to 10am to 1am.

Saturday was 11am to Midnight vary to 10am- 1am

Sunday was 12.30pm to 11pm vary to 11am - 12 Midnight.

Vary Children to be permitted at all times premises is open.

To add activities receptions, weddings etc, club groups and live performances outwith core hours.

Amended now to:

On sales: Saturday to 1am (was midnight)
 Sunday to commence 11am (was 12.30pm)

Off Sales: Sunday to commence 11am (was 12.30pm)

To add activity televised sport outwith core hours.

Children and young person to be permitted on the premises until 10pm unless consuming a meal or attending a private function, in which case they would be allowed to stay for the duration. (Previously 0-9 yrs permitted until 8pm and 10-17 yrs permitted at all times.



**POLICE
SCOTLAND**

Keeping people safe

Date: 28th September 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 - REPRESENTATION
APPLICATION FOR VARIATION – SECTION 29
APPLICANT: BRENDA PATERSON, 15 MUIRFILED APARTMENTS, STATION
ROAD, GULLANE
PREMISES: THE OLD CLUBHOUSE, EAST LINKS ROAD, GULLANE**

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 'on sales' hours to:

10am – 1am - Monday – Saturday
11am – Midnight – Sunday

the commencement hour of 10am for Monday to Saturday is out with Board Policy and as such I would request that the 'on sales' remains as it currently stands at 11am Monday - Saturday. I have no objections to the Sunday commencement time changing to 11am, as this is within Board Policy.

I would also request that the terminal hour for Monday, Tuesday & Wednesday remains as it currently stands at 11pm. 1am is out with Board Policy and as such I would object to this. Any increase in licensed hours is outwith Board Policy in relation to the overprovision statement and as such the applicant will be expected to provide robust and reliable evidence to support their application sufficient to demonstrate that the grant of their application would outweigh the presumption against grant.

I would also request that Children (0-15) years and Young Persons (16-17) years should be out the premises by 2200 hours unless they are having a meal or attending a private function, when they would be allowed to remain for the duration of that function.

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

Yours faithfully

PC Heather Bowsher
Divisional Licensing Officer

Winter, Maree

From: Old Clubhouse [info@oldclubhouse.com]
Sent: 29 September 2015 14:05
To: Winter, Maree
Subject: Re: Major Variation application - The Old Clubhouse, Gullane

Hello Maree,

I did not think that they would accept anything that was outwith the recognised norm for East Lothian Council.

I am happy to proceed with the Police advice, so please alter my application accordingly. The extension on Sundays and the child age restriction until 22.00 hours is fine.

Kind regards,

Guy campanile.

On 29 Sep 2015, at 13:27, Winter, Maree <mwinter@eastlothian.gov.uk> wrote:

F.A.O Guy Campanile or Brenda Paterson

Hi.

Please find attached copy of a letter received from Police Scotland regarding your major variation application which will be heard at the board meeting. Do you have any comments you might like to make to this.

Regards
Maree.

From: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk [<mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk>]
Sent: 29 September 2015 11:05
To: Licensing
Subject: FW: Major Variation application - The Old Clubhouse, Gullane

Maree

Please see attached letter

Cheers
Heather

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

From: Winter, Maree [<mailto:mwinter@eastlothian.qcsx.gov.uk>]
Sent: 24 September 2015 08:47
To: Lothian Scot Borders Licensing East Mid Lothian; Fruzynski, Rudi
Subject: FW: Major Variation application - The Old Clubhouse, Gullane

[Routed via PSN Network]

Hi

Please find addition to major variation application for the above.

Regards
Maree.

From: Info [<mailto:info@oldclubhouse.com>]
Sent: 23 September 2015 14:46
To: Winter, Maree
Subject: FW: Major Variation application - The Old Clubhouse, Gullane

Please find attached altered operating plan as requested.

Regards,

[Redacted]

From: [Redacted]
Sent: 23 September 2015 12:59
To: info@oldclubhouse.com
Subject: Fwd: Major Variation application - The Old Clubhouse, Gullane

Sent from my iPhone

Begin forwarded message:

From: "Winter, Maree" <mwinter@eastlothian.gov.uk>
Date: 23 September 2015 09:50:46 BST
To: [Redacted]
Subject: Major Variation application - The Old Clubhouse, Gullane

Hi

I refer to your application for a major variation, I note that you have requested activities to be held outwith core hours – receptions, weddings, funerals, clubs, groups and live performances, but you have not completed the part which requests the reason why you are requesting these hours.

I have attached a blank operating plan, could you please redo and return by email.

Regards
Maree
Licensing, Administration & Democratic Services.
East Lothian Council

Email Disclaimer - East Lothian Council

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender and ensure it is deleted and not read copied or disclosed to anyone else. It is your responsibility to scan this email and any

EAST LoTHIAN COUNCIL

LICENSING ADMINISTRATION AND DEMOCRATIC SERVICES

From: R. Fruzynski
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 15 October 2015

Subject: LICENSING SCOTLAND ACT 2005
PREMISES LICENCE APPLICATION (MAJOR VARIATION) – SEPTEMBER 2015

The Old Clubhouse, East Links Road, Gullane, East Lothian EH31 2AF

I refer to the above subject and note that the applicant is applying for extension of hours from 11:00 to 10:00 hours Monday to Saturday inclusive and from 12:30 to 11:00 hours on a Sunday. Apart from Sunday, the new hours applied for are outwith policy. The applicant should therefore convince the Licensing Board that there is an exceptional case for change per Part 4 of the Statement of Licensing Policy.

I note the application also requests an increase in the terminal to 01:00 hours in respect of Monday, Tuesday, Wednesday and Saturday and to 24:00 hours on a Sunday. I would submit that the later hours on a Monday to Wednesday inclusive are outwith policy and again the Licensing Board is asked to consider whether the applicant's business case shows exceptional grounds for change. The request for extended Saturday and Sunday closure hours is within policy and quite acceptable.

The proposed inclusion of weddings, funerals, birthdays, retirements etc and club and other group meetings outwith core licensed hours is not opposed.

In relation to the requested amendment to the times children are permitted on the premises I would propose that children (ages 0-15) should leave the premises by 22:00 each day unless they are having a meal or attending a pre-organised function, when they would be allowed to stay until the end of that event. Access to the premises for young persons, aged 16 and 17, throughout core hours is not contested.

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

EL0208

2(b) Name and Address of Premises

THE OLD CLUBHOUSE
EAST LINKS ROAD
GULLANE
EAST LoTHIAN

Post Code	EH31 2AF	Phone No.	01620 842008
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2(c) Full Name and Address of Current Licence Holder

[Redacted Name and Address]

Post Code	EH31 2HZ	Phone No.	01620 842163
-----------	----------	-----------	--------------

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

RECEIVED

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)

CHANGES TO ON SALE HOURS
CHANGES TO AGES OF CHILDREN ALLOWED ON PREMISES
CHANGES TO OTHER ACTIVITIES PROVIDED ON THE PREMISES

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

14/9/2015

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

FOR OFFICE USE ONLY		
<i>Received & Receipt No.</i>	<i>System Updated</i>	<i>Licence Issued</i>

UPDATED - 16/11/15

EAST LoTHIAN LICENSING BOARD

OPERATING PLAN

Licensing (Scotland) Act 2005, section 20(2)(b)(i)

Name, address and postcode of premises to be licensed.

<p>The Old Clubhouse East Links Road Gullane EH31 2AF</p>

Question 1

STATEMENT REGARDING ALCOHOL BEING SOLD ON PREMISES/OFF PREMISES OR BOTH

<i>1(a) Will alcohol be sold for consumption solely ON the premises?</i>	<i>NO</i>
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<i>NO</i>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<i>YES</i>
<i>*Delete as appropriate</i>	

Question 2

STATEMENT OF **CORE** TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION **ON** PREMISES

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00	23.00
<i>Tuesday</i>	11.00	23.00
<i>Wednesday</i>	11.00	23.00
<i>Thursday</i>	11.00	01.00
<i>Friday</i>	11.00	01.00
<i>Saturday</i>	11.00	01.00
<i>Sunday</i>	11.00	23.00

Question 3

STATEMENT OF **CORE** TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION **OFF** PREMISES

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00	22.00
<i>Tuesday</i>	11.00	22.00
<i>Wednesday</i>	11.00	22.00
<i>Thursday</i>	11.00	22.00
<i>Friday</i>	11.00	22.00
<i>Saturday</i>	11.00	22.00
<i>Sunday</i>	11.00	22.00

Question 4

SEASONAL VARIATIONS

<i>Does the applicant intend to operate according to seasonal demand</i>	<i>YES</i>
--	------------

**If YES – provide details*

The premises will operate the extended hours offered by the licensing board at the Christmas and new year period.

Question 5

PLEASE INDICATE THE OTHER ACTIVITIES OR SERVICES THAT WILL BE PROVIDED ON THE PREMISES IN ADDITION TO SUPPLY OF ALCOHOL

COL. 1 <i>5(a)</i> <i>Activity</i>	COL. 2 <i>Please confirm</i> <i>YES/NO</i>	COL. 3 <i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	COL. 4 <i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i> <i>YES/NO</i>
<i>Accommodation</i>	No	N/A	N/A
<i>Conference facilities</i>	No	No	No
<i>Restaurant facilities</i>	Yes	Yes	Yes
<i>Bar meals</i>	Yes	Yes	Yes
<i>5(b) Activity</i> <i>Social functions</i> <i>including:</i>	<i>Please confirm</i> <i>YES/NO</i>	<i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	<i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i> <i>YES/NO</i>
<i>Receptions including</i> <i>Weddings, funerals,</i> <i>birthdays, retirements</i> <i>etc.</i>	Yes	Yes	No
<i>Club or other group</i> <i>meetings etc.</i>	Yes	Yes	No
<i>5(c)</i> <i>Activity</i> <i>Entertainment</i>	<i>Please confirm</i> <i>YES/NO</i>	<i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i>	<i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i>

<i>including:</i>		YES/NO	YES/NO
<i>Recorded music – see 5(g)</i>	Yes	Yes	No
<i>Live performances – see 5(g)</i>	Yes	Yes	No
<i>Dance facilities</i>	No	No	No
<i>Theatre</i>	No	No	No
<i>Films</i>	No	No	No
<i>Gaming</i>	Yes	Yes	No
<i>Indoor/outdoor sports</i>	No	No	No
<i>Televised sport</i>	Yes	Yes	Yes
5(d) <i>Activity</i>	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Outdoor drinking facilities</i>	Yes	Yes	Yes
5(e) <i>Activity</i>	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Adult entertainment</i>	No	No	no

Where you have answered YES in respect of any entry in column 4 above, please provide further details below.

Restaurant facilities and bar meals may also be available (E.G. for breakfasts) outwith core hours but not before 0800 hours and not later than 0100 hours

Outdoor drinking facilities may also be available outwith the core hours (E.G. for breakfasts) but not before 0800 hours and not later than 2100 hours.

Please note that no alcohol will be sold outwith core hours when activities are taking place unless there is in place an extended hours application from the board.

5(f) any other activities

If you propose to provide any activities other than those listed in 5(a) – (e) please provide details or further information in the box below.

None

5(g) Late night premises opening after 1.00am

Where you have confirmed that you are providing live or recorded music, will the decibel level exceed 85dB?	N/A
---	-----

When fully occupied, are there likely to be more customers standing than seated?	N/A
*Delete as appropriate	

Question 6 (On-sales only)

CHILDREN AND YOUNG PERSONS

6(a)	When alcohol is being sold for consumption on the premises will children or young persons be allowed entry	YES
*Delete as appropriate		

6(b) Where the answer to 6(a) is YES provide statement of the **TERMS** under which they will be allowed entry

Children aged birth to 15 years will only be allowed access to the premises when accompanied by a responsible adult.

Young persons aged 16 and 17 will be allowed access to the premises unaccompanied by a responsible person

6(c) Provide statement regarding the **AGES** of children or young persons to be allowed entry

Children – birth to 15 years

Young person – 16 and 17 years of age

6(d) Provide statement regarding the **TIMES** during which children and young persons will be allowed entry

Children aged birth to 15 years of age and young persons aged 16 and 17 will be permitted on the premises until 2200 hours unless consuming a meal or attending a private function, in which case they would be allowed to stay for the duration of the meal or function.

6(e) Provide statement regarding the **PARTS** of the premises to which children and young persons will be allowed entry

Children and young persons will have access to all public parts of the premises with the exception of a 1.5 metre radius of the bar counter.

Question 7

CAPACITY OF PREMISES

What is the proposed capacity of the premises to which this application relates?

On sales – 130
Off sales – 41.85 M2

Question 8

PREMISES MANAGER (NOTE: not required where application is for grant of provisional premises licence)

Personal details

8(a) Name

[REDACTED]

8(b) Date of birth

[REDACTED]

8(c) Contact address

[REDACTED]

8(d) Email address and telephone number



8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
14/01/15	East Lothian Licensing Board	EL1145

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

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

The contents of this operating plan are true to the best of my knowledge and belief.

Signature * (see note below)

Date

Capacity APPLICANT/AGENT (delete as appropriate).

Telephone number and email address of signatory

*** Data Protection Act 1998**

The information on this form may be held on an electronic public register which may be available to members of the public on request.

EAST LoTHIAN COUNCIL

Licensing, Administration and Democratic Services

3 (i)

**From: Rudi Fruzynski,
Licensing Standards Officer**

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

Date: 16th November 2015

**Subject: LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW – NON PAYMENT OF ANNUAL FEES
ORMISTON POST OFFICE, 18A MAIN STREET, ORMISTON, EAST LoTHIAN
EH35 5HT**

On Thursday 29th October 2015 I received intimation in terms of Section 38(3)(b) of the licensing (Scotland) Act 2005 of the intention of the Licensing Board to review the Premises Licence in respect of the above premises.

In terms of Section 38(4) of the Act, I have prepared this report outlining the basis of the request for the review, which is submitted for the consideration of Licensing Board Members.

R. Fruzynski
Licensing Standards Officer

Licensing Standards Officer's Report

Mr Mohammed Asif Nadeem is the Premises Licence holder in respect of Ormiston Post Office, 18A Main Street, Ormiston. The annual Premises Licence fee in respect of these premises is £220.

On 31st July 2015 the Clerk to the East Lothian Licensing Board wrote to all Premises Licence Holders advising of the annual fee due in respect of their licence. The requests intimated that payment was due by 1st October 2015. It was highlighted that payment was a mandatory condition of the Premises Licence, in terms of Section 27(1) of the Licensing (Scotland) Act 2005 and failure to pay may be treated as a breach of Premises Licence.

Recently Ormiston Post Office has only been operating as a post office facility. The majority of the shelving has been removed, apart from a few shelves on one wall which only displays soft drinks. The premises have a sign on the door stating that the premises would only be open until 13:00 hours on week days.

At 1st October 2015 the mandatory annual fee in respect of Ormiston Post Office had not been received.

On 5th October 2015, the Clerk to the Board sent a letter to the licensee with a further reminder that he had not paid his mandatory annual fee and re-iterated that this was a breach of a condition of the Premises Licence. It was also stated that failure to pay would result in the Licensing Board calling for a review of the Premises Licence. Further guidance on payment methods was also given.

By the 29th October 2015 the fee had still not been paid and this was reported to the Licensing Board. This resulted in members of the Board calling for a review of the Premises Licence in respect of a breach of a mandatory condition of the licence. The Board asked the LSO to prepare a report into the circumstances leading to the review and specifically requested details of any previous occasions in which the licensee had failed to pay their annual fee by 1st October.

On 29th October 2015 the Clerk to the Board wrote out to Mr Nadeem and informed him that the Licensing Board had resolved to review his Premises Licence at the next Board meeting on 26th November 2015 and that a representative of the licence holder should attend the hearing.

On 4th November 2015, the LSO called at Ormiston Post Office and noted that the premises were closed and only operating as a post office facility, opening only until 13:00 hours on weekdays.

The LSO later telephoned Mr Nadeem who stated that the premises were soon to close and be converted into flats. He was advised that he should write into the Licensing Office stating that he no longer required an alcohol licence and that he wished to surrender his Premises Licence, which should be returned to the Licensing Board. He stated that he would do this the next day (5th November).

On the date of this report, Mr Nadeem had not surrendered his licence.

The LSO can confirm that Ormiston Post Office has been in default of annual fee payment as follows:

2013 – Payment received 23/10/2013

2014 – Payment received 03/10/2014

2015 – Payment not received

In view of the complete lack of response from the Premises Licence holder to the letters from the Clerk to the Board and enquiries made by the LSO, and the fact that the mandatory annual fee has still not been paid, the Board is asked to use its review powers and revoke Ormiston Post Office Premises Licence.

Licensing Board's Powers On Review

Licensing (Scotland) 2005 Section 39 (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—

(a) to issue a written warning to the licence holder,

(b) to make a variation of the licence,

(c) to suspend the licence for such period as the Board may determine,

(d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

EAST LoTHIAN COUNCIL

3(ii)

Licensing, Administration and Democratic Services

**From: Rudi Fruzynski,
Licensing Standards Officer**

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

Date: 13th November 2015

**Subject: LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW – NON PAYMENT OF ANNUAL FEES
MADISONS, OLIVEBANK, NEWHAILES ROAD, EAST LoTHIAN EH21 6SJ**

On Thursday 29th October 2015 I received intimation in terms of Section 38(3)(b) of the licensing (Scotland) Act 2005 of the intention of the Licensing Board to review the Premises Licence in respect of the above premises.

In terms of Section 38(4) of the Act, I have prepared this report outlining the basis of the request for the review, which is submitted for the consideration of Licensing Board Members.

R. Fruzynski
Licensing Standards Officer

Licensing Standards Officer's Report

RB & JL Properties Ltd, Broughty Ferry, Dundee is the holder of the Premises Licence in respect of the pub/restaurant known as Madisons, Olivebank, Newhailes Road, Musselburgh. The annual Premises Licence fee in respect of these premises is £500.

On 31st July 2015 the Clerk to the East Lothian Licensing Board wrote to all Premises Licence Holders advising of the annual fee due in respect of their licence. The requests intimated that payment was due by 1st October 2015. It was highlighted that payment was a mandatory condition of the Premises Licence, in terms of Section 27(1) of the Licensing (Scotland) Act 2005 and failure to pay may be treated as a breach of Premises Licence.

On 8th August 2015 Madisons permanently closed its doors for business. Since then, there has been no correspondence received from the licensee intimating their intentions in relation to retention, transfer or surrender of the Premises Licence.

At 1st October 2015 the mandatory annual fee in respect of Madisons had not been received.

On 5th October 2015, the Clerk to the Board sent a letter to the licensee with a further reminder that the Madisons had not paid its mandatory annual fee and re-iterated that this was a breach of a condition of the Premises Licence. It was also stated that failure to pay would result in the Licensing Board calling for a review of the Premises Licence. Further guidance on payment methods was also given.

By the 29th October 2015 the fee had still not been paid and this was reported to the Licensing Board. This resulted in members of the Board calling for a review of the Premises Licence in respect of a breach of a mandatory condition of the licence. The Board asked the LSO to prepare a report into the circumstances leading to the review and specifically requested details of any previous occasions in which the licensee had failed to pay their annual fee by 1st October.

On 29th October 2015 the Clerk to the Board wrote out to RB & JL Properties Ltd and informed them that the Licensing Board had resolved to review their Premises Licence at the next Board meeting on 26th November 2015 and that a representative of the licence holder should attend the hearing.

On 4th November 2015, the LSO telephoned RB & JL Properties Ltd on the number provided by them in a previous application form. The telephone rang out and then diverted to voicemail. A short message was left requesting that someone from the company call the LSO without delay to discuss an urgent matter concerning Madisons Premises Licence. There was no response to this message. A similar message was left on 11th November 2015, to which there has been no response.

The LSO can confirm that checks have shown that the premises have not re-opened for business following closure in August 2015.

The LSO can confirm that Madisons has been in default of annual fee payment as follows:

2013 – Payment received 12/11/2013

2014 – Payment received 09/10/2014

2015 – Payment not received

In view of the complete lack of response from the Premises Licence holder to the letters from the Clerk to the Board and enquiries made by the LSO, and the fact that the mandatory annual fee has still not been paid, the Board is asked to use its review powers and revoke Madisons Premises Licence.

Additional Information

The premises known as Madisons has now been taken over by a developer whose solicitor approached the Licensing Office on 11th November 2015 intimating that they would wish to change the use of the premises to a retail store and would like it to operate in a manner which includes an off-sales licence facility. The solicitor concerned was informed that if the current licence holder was to apply to transfer the Premises Licence, pay the outstanding annual fee immediately and that the new proprietors subsequently made application for a major variation, to change the Operating and Layout Plans, then the licence could potentially be saved, providing the Licensing Board were of a mind to grant such a change.

The LSO contacted the solicitor acting on behalf of the new owners of Madisons on 13th November 2015 requesting clarification of his clients intentions. He stated he was having difficulty in contacting RB & JL Properties Ltd to enquire about the possibility of transfer of the licence. In addition, he could not confirm that the new owners would in fact pay the outstanding fee and make the necessary applications without further enquiry and direction from his clients.

Licensing Board's Powers On Review

Licensing (Scotland) 2005 Section 39 (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—

- (a) to issue a written warning to the licence holder,
- (b) to make a variation of the licence,
- (c) to suspend the licence for such period as the Board may determine,
- (d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

EAST LOTHIAN COUNCIL

3(iii)

Licensing, Administration and Democratic Services

**From: Rudi Fruzynski,
Licensing Standards Officer**

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

Date: 13th November 2015

**Subject: LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW – NON PAYMENT OF ANNUAL FEES
NORTH BERWICK MASONIC SOCIAL CLUB, 8 FORTH STREET, EAST
LOTHIAN EH39 4HY**

On Thursday 29th October 2015 I received intimation in terms of Section 38(3)(b) of the licensing (Scotland) Act 2005 of the intention of the Licensing Board to review the Premises Licence in respect of the above premises.

In terms of Section 38(4) of the Act, I have prepared this report outlining the basis of the request for the review, which is submitted for the consideration of Licensing Board Members.

R. Fruzynski
Licensing Standards Officer

Licensing Standards Officer's Report

On 31st July 2015 the Clerk to the East Lothian Licensing Board wrote to all Premises Licence Holders advising of the annual fee due in respect of their licence. The requests intimated that payment was due by 1st October 2015. It was highlighted that payment was a mandatory condition of the Premises Licence, in terms of Section 27(1) of the Licensing (Scotland) Act 2005 and failure to pay may be treated as a breach of Premises Licence.

At 1st October 2015 the mandatory annual fee in respect of North Berwick Masonic Social Club had not been received.

On 5th October 2015, the Clerk to the Board sent a letter to the licensee with a further reminder that the Club had not paid its mandatory annual fee and re-iterated that this was a breach of a condition of the Club's Premises Licence. It was also stated that failure to pay would result in the Licensing Board calling for a review of the Premises Licence. Further guidance on payment methods was also given.

On 16th October 2015, The Licensing Standards Officer emailed [REDACTED] Club Treasurer, and intimated that the Club's annual fee was outstanding and that payment should be made without delay. It later transpired that [REDACTED] had changed his email address and this message may not have been received.

By the 29th October 2015 the fee had still not been paid and this was reported to the Licensing Board. This resulted in members of the Board calling for a review of the Premises Licence in respect of a breach of a mandatory condition of the licence. The Board asked the LSO to prepare a report into the circumstances leading to the review and specifically requested details of any previous occasions in which the Club had failed to pay its annual fee by 1st October.

On 29th October 2015 the Clerk to the Board wrote out to the Club and informed the management that the Licensing Board had resolved to review the Club's Premises Licence at the next Board meeting on 26th November 2015 and that a representative of the Club should attend the hearing.

Later that day, the Licensing Standards Officer visited North Berwick and called on the Club's key holder, who is also a member of the Club, and re-iterated the problems that were ongoing. This person stated he would liaise directly with [REDACTED] and try and resolve matters.

On 30th October, 2015, the Licensing Office received payment of the £180 outstanding fee.

Since payment of the outstanding fee did not include any explanation as to why the payment had been very late, the Licensing Standards Officer telephoned [REDACTED] but as he was not at home [REDACTED] encouraged that her husband be emailed with details of the what information was required. The following day, the LSO received two emails from [REDACTED] via his new email address, as follows:

"Thanks for your email.

I will be pleased to attend the meeting on the 26th inst. as suggested.

I fully admit in advance that it is my fault regarding the over sight of the annual payment.

I have been on holiday with my young family, although I realise that this is of little excuse.

The North Berwick Masonic Social Club has recently been less active off late, although this is something we are attempting to address.

We are still part of the Fringe by the Sea and hope to be an active part in future years, this can only be achieved by being a Licence Holder, which we believe can only benefit the North Berwick Community".

Mr [REDACTED] second email stated:

[REDACTED]

With reference to the foregoing, it seems that there may well have been a reasonable explanation for not paying by cheque on time, but the Licensing Office and LSO would have appreciated some contact and communication from the Club which would have negated the need for the numerous additional time consuming and unnecessary correspondence, emails and LSO's visit which were required in order to resolve the situation, not to mention the need for a report to the Licensing Board and hearing to deal with the clear breach of licence.

The LSO can confirm that North Berwick Masonic Social Club has been in default of annual fee payment as follows:

2012 – Payment received 19/10/2012
2013 – Payment received 15/11/2013
2014 – Payment received 09/10/2014
2015 – Payment received 30/10/2015

Records show that 72 licensed premises failed to their pay fees on time in 2014 and 89 defaulted in 2015. These figures equate to nearly 1/3rd of all Premises Licence Holders having defaulted in payment of their fees. As such the Licensing Board is asked to take a stern view of this type of breach of licence.

Licensing Board's Powers On Review

Licensing (Scotland) 2005 Section 39 (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—

- (a) to issue a written warning to the licence holder,
- (b) to make a variation of the licence,
- (c) to suspend the licence for such period as the Board may determine,
- (d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.



REPORT TO: East Lothian Licensing Board

MEETING DATE: 26 November 2015

FROM: The Clerk of the Licensing Board

SUBJECT: East Lothian Local Licensing Forum working group views on alcohol deliveries.

1 PURPOSE

To present the views on alcohol deliveries from a working group of East Lothian Local Licensing Forum.

2 RECOMMENDATIONS

- 2.1 That the Board notes the findings and views of East Lothian Local Licensing Forum.

3 BACKGROUND

- 3.1 At the meeting of East Lothian Licensing Board on 22 January 2015, members debated the matter of a village off sales premises carrying out home deliveries of alcohol.
- 3.2 At the request of the Board, East Lothian Local Licensing Forum formed a working group to consider and put forward their views on the issue of alcohol deliveries.
- 3.3 A joint meeting of East Lothian Licensing Board and East Lothian Local Licensing Forum was held on 24 September 2015. At that meeting, it was agreed that the views of the working group would be requested from the Chair of the Licensing Forum for circulation to Board members. Once received, these would be included on the agenda for a future Board meeting and the Chair of the Licensing Forum would be invited to attend and address the Board.

3.4 The working group views are now attached as appendix 1 to this report.

4 POLICY IMPLICATIONS

4.1 None

5 EQUALITIES IMPACT ASSESSMENT

5.1 This Report is not applicable to the wellbeing of equalities groups and Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Minute of the meeting of East Lothian Licensing Board of 22 January 2015

7.2 Minute of the joint meeting of East Lothian Licensing Board and East Lothian Local Licensing Forum of 24 September 2015.

AUTHOR'S NAME	Kirstie MacNeill
DESIGNATION	Clerk of the Licensing Board
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DATE	18 November 2015

Alcohol Deliveries Forum Views

A decision was granted by the East Lothian Licensing Board on 22nd January 2015 regarding Alcohol Delivery Services. (Gullane Mini Market for a major variation to the premises licence.)

At an East Lothian Licensing Forum Meeting on 3rd March 2015 it was put to the members to consider home delivery service and their views and report back to the Board.

A working group from the Licence Forum met on 25th August 2015 to reply to the request from the Licensing Board for their considered views on Alcohol Delivery Service within East Lothian.

Working Group Views

After discussion the following points were agreed:-

We feel that if the Board is minded to grant a licence which includes the requirements that a Personal Licence Holder must do the home deliveries that this decision sets precedence and for consistency all future applications for a home delivery service would require that the same conditions must be applied for, regardless of size of outlet.

As a forum we also have deep reservations on the granting of a licence which includes home delivery in terms of the over provision within the East Lothian Licensing Board's statement of Licensing policy 2013 to 2016. The forum felt that the statement has not been taken into consideration and we cannot see how this case can be considered as exceptional (as per page 15 paragraph 19.4 of the said policy) and this decision would lead to increased accessibility and consumption of alcohol.

