



## MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

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THURSDAY 25 FEBRUARY 2016  
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON

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**Board Members Present:**

Councillor J Goodfellow (Convenor)  
Councillor S Currie  
Councillor D Grant  
Councillor W Innes  
Councillor F McAllister  
Councillor T Trotter

**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 S Akhtar

**Declarations of Interest:**

None

### 1. MINUTES FOR APPROVAL

The minutes of the Licensing Board meeting of 28 January 2016 were agreed to be a true record.

## **2. PERSONAL LICENCE APPLICATION**

### **Michael Gowenlock**

The applicant, Mr M Gowenlock, was present.

The Clerk advised that no objections had been received and that the applicant had two unspent convictions.

Police Scotland had nothing to add to their report. In response to Councillor Goodfellow, Inspector Harborow advised that convictions are spent five years from the date of conviction.

Mr Gowenlock apologised for omitting to disclose one of the offences in his application for a personal licence. He stated that given the time that has passed, he genuinely thought that this was a spent conviction. In response to Councillor Currie, he informed the Board that he was a team manager at the Co-Operative Group and that he had future career aspirations. He added that all staff who are in management roles in the Co-Operative Group require to have a personal licence.

Councillor Innes acknowledged that Mr Gowenlock was trying to move forward with his career and supported the application.

Councillor Currie stated that, on balance, granting the licence would be the right way forward and stressed the level of trust that the Board places in individuals. He supported the application.

### **Decision**

East Lothian Licensing Board unanimously agreed to grant a personal licence.

## **3. OCCASIONAL PREMISES LICENCE**

### **PAN CONVENIENCE STORE, 5 HAWTHORNE ROAD, PRESTONPANS**

Ms J Hood, Licensing Practitioner, was present to represent the applicant. Mr A K Nadeem, applicant, was also present.

The Clerk advised that the occasional premises licence application seeks to cover the period 17 February 2016 to 1 March 2016 for the off sale provision of alcohol. She advised Board members that the applicant has applied for a series of occasional premises licences and referred members to the objections from Police Scotland. The Clerk added that an application for a full premises licence would be presented to the March 2016 Board meeting.

With the agreement of the Board, Ms Hood tabled an additional compliance document.

Ms Hood asserted that her client is determined to prove to the Board that he is a fit and proper person to hold a premises licence. She referred to her representation to East Lothian Licensing Board on 28 January 2016 on behalf of Mr Nadeem and reported that a highly successful meeting had taken place on 27 February 2016 between Inspector Harborow, PC Bowsher, Mr Nadeem, Mr Younis, Mr Younis' son

and herself. Ms Hood provided detailed information about the matters discussed at the meeting. In particular, she informed the Board that Police Scotland are content that Mr Nadeem has the right to be in the premises and that, if granted, her client will be the occasional licence holder for the premises.

Ms Hood provided an update on the compliance measures that have been introduced; advised that Mr Rasa along with the member of staff who had failed the test purchase were no longer employed by Mr Nadeem; restated that the objection from Police Scotland does not relate to her client; stressed that if the premises licence had been transferred by Mr Younis, and not surrendered, this application would not be before the Board; reported that her client will appoint other people to take over the running of his two other stores, thereby allowing him and his wife to concentrate on managing Pan Convenience Store; and indicated that staff are aware of the imminent enhanced level of training that will be delivered if the occasional premises licence is granted.

In addition to his written report, the Licensing Standards Officer (LSO) commented that many of the compliance measures that have been introduced are in fact standard best practice. He added that the Board need to be convinced that these enhanced measures will actually be implemented.

In response to Councillor Currie, the LSO stated that an application for an occasional premises licence is not subject to the same scrutiny as an application for a full premises licence. He therefore stands by the view stated in his report that the grant of occasional premises licence/s should be refused pending the Board's consideration of an application for a new premises licence. He added that the matter of overprovision is not taken into consideration with regard to occasional premises licence applications. Answering further questions from Councillor Currie, the LSO highlighted a number of relevant points from his report which indicated that, since November 2015, the business has not been properly run by Mr Nadeem.

Replying to Councillor Innes, the LSO confirmed that Mr Nadeem has a licence to sell alcohol elsewhere in East Lothian and that it is not his intention to ask the Board to review this other licence or the personal licence held by Mr Nadeem's wife.

Inspector Harborow referred to the very positive meeting that had taken place with Mr Nadeem, Ms Hood and others yesterday. He reported that the business ownership issue appears to have been resolved; that he feels reassured by the fact that Mr Nadeem will only be managing this one store going forward; and commented that the compliance measures which have been introduced are nothing less than would have been expected. He echoed the views from the LSO regarding the delivery of the compliance measures to a high standard. However, he stated that he had no reason to doubt these would be delivered, given the very positive meeting that had taken place. Nonetheless, he urged the Board to reflect on the totality of the information provided by Police Scotland regarding this application.

In response to probing questions from Councillors Goodfellow and Currie, Inspector Harborow confirmed that Police Scotland continue to object to this application although the objection is not as robust as the one presented at the January 2016 Board meeting.

The Clerk confirmed that if there had not been an objection from Police Scotland, this application would not be before the Board for consideration.

PC Bowsher commented that as the premises licence had been surrendered, there was no opportunity for Police Scotland to request a review of the licence.

Answering questions from Councillor Innes, Inspector Harborow confirmed that Mr Nadeem had a licence to sell alcohol elsewhere in East Lothian and that Police Scotland had no intention to ask the Board to review his other licence.

In response to Councillor Goodfellow, the LSO advised members that, in general across Scotland, premises visits and checks do not take place for occasional premises licence applications.

Ms Hood summarised the position regarding her client and stressed that any request from Police Scotland to review the licence would have been in respect of Mr Younis and not her client. She reminded the Board that Mr Nadeem was not the premises manager and was not the premises licence holder at the time of the test purchase failures and that the application is not in front of the Board as a result of her client's actions. Ms Hood made the point that although this is an application for an occasional premises licence it has been scrutinised as if it was a full premises licence application. She stated that her client is looking to maintain the status quo at the premises and gave her personal guarantee that the staff training would be carried out.

Councillor Innes reflected back the information that had been provided at the meeting. He stated that he could see no reason what so ever not to grant the occasional premises licence, especially given that Mr Nadeem has a licence to sell alcohol elsewhere in East Lothian and was doing so at these premises to the satisfaction of Police Scotland and the LSO. He indicated that he would be supporting the application.

Councillor Currie expressed the view that it was correct that the Board had been made aware all the information that is available in order to consider all the issues. He was encouraged by the enhanced compliance measures and stressed the need for these to be adhered to. Taking into account both the extensive discussions that had taken place between Police Scotland, Mr Nadeem, Miss Hood and others, and the views of the LSO, on balance he was of the opinion that granting the occasional premises licence would be the correct way forward. On the basis that the crucial compliance documentation is put in place, Councillor Currie supported the application.

Councillor Trotter supported the application on the basis that there are no reported issues at Mr Nadeem's other premises and that Mr Nadeem will be directly involved in the day to day running of Pan Convenience Store.

Councillor Grant stated that it was right that Police Scotland had brought all issues to the attention of the Board. He was impressed by the improvements to the compliance paperwork and welcomed the fact that Mr Nadeem would be present in the premises. Councillor Grant supported the application.

Councillor McAllister echoed the comments from Councillors Innes and Currie and added his support to the application.

Councillor Goodfellow, Convenor of East Lothian Licensing Board, announced that there was agreement to grant the application. He commented on the level of scrutiny that had been afforded to this application and hoped that Police Scotland and the LSO would continue their scrutiny of these premises and provide feedback to the Board when it meets on 24 March 2016.

The Clerk advised members that two other occasional premises licence applications are pending and stated that if there are no comments to the contrary, these will be processed in the normal way.



Councillor Innes stated that he would support these additional occasional premises licence applications without the need for these to be presented to East Lothian Licensing Board.

**Decision**

East Lothian Licensing Board agreed to grant the occasional premises licence and to process the two additional occasional premises licence applications in the normal way.

DRAFT



**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

**Variation (Major)(s)**

**Premises**

**Applicant**

**Date Received**

**Comments**

1 JOHNIE COPE CONVENIENCE STORE  
HAWTHORN ROAD  
PRESTONPANS  
EH32 9QW

KAST SCOTLAND LTD.  
C/O MACDONALD LICENSING  
LIMITED  
21A RUTLAND SQUARE  
EDINBURGH  
EH1 2BB

27 January 2016

Vary Premise Licence from  
on-sales to off-sales

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) To amend description of the premises.

.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL 322

2(b) Name and Address of Premises

Hawthorn Road  
Prestonpans  
East Lothian  
EH32 9QW

Post Code EH32 9QW

Phone No.

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

Kast Scotland Limited  
137 Restalrig Road  
Edinburgh  
EH7 6HN

Post Code EH7 6HN

Phone No. 07774 159 434

### 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

N/A

#### 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 delete On Sale Hours.

To add Off Sale Hours from 10am – 10pm each day.

To delete reference to Seasonal Variations.

To delete Restaurant Facilitates, Bar Meals, Receptions and Club Meeting as Activities.

To delete reference to access arrangements for Under 18's

To delete the On Sale Capacity figure, and to replace it with an Off Sale capacity of 18.48 sq m

To provide that the premise will become a retail shop, which may open from 6am for the sale of newspapers, groceries etc. but no alcohol will be sold or supplied until the commencement of Licensed Hours. Background Music may be played in the shop during that period.

#### 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 substitute a new Layout Plan to reflect the change of use of the premises to retail shop, and removal of part of the building from the Licence.

#### 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)*

To change the description of the premises to "Retail premises located on the ground floor of a building on Hawthorn Road, Prestonpans with storage in the basement"

**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 **£150** (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



..... (See note 5 below)

Date

25/1/16

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

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

.....  
Macdonald Licensing Solicitors  
21a Rutland Square  
Edinburgh, EH1 2BB

0131 229 6181, alistair@macdonaldlicensing.com

**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](mailto:licensing@eastlothian.gov.uk)

**FOR OFFICE USE ONLY**

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

# EAST LoTHIAN LICENSING BOARD

## OPERATING PLAN

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

*Name, address and postcode of premises to be licensed.*

Hawthorn Road  
Prestonpans  
East Lothian  
EH32 9QW

### 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>	<b>NO</b>
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<b>YES</b>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<b>NO</b>
<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>		
<i>Tuesday</i>		
<i>Wednesday</i>		
<i>Thursday</i>		
<i>Friday</i>		
<i>Saturday</i>		
<i>Sunday</i>		



**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>	<b>10:00am</b>	<b>10:00pm</b>
<i>Tuesday</i>	<b>10:00am</b>	<b>10:00pm</b>
<i>Wednesday</i>	<b>10:00am</b>	<b>10:00pm</b>
<i>Thursday</i>	<b>10:00am</b>	<b>10:00pm</b>
<i>Friday</i>	<b>10:00am</b>	<b>10:00pm</b>
<i>Saturday</i>	<b>10:00am</b>	<b>10:00pm</b>
<i>Sunday</i>	<b>10:00am</b>	<b>10:00pm</b>

**Question 4**

*SEASONAL VARIATIONS*

<i>Does the applicant intend to operate according to seasonal demand</i>	<b>NO</b>
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*\*If YES – provide details*

**Question 5**

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

<b>COL. 1</b> <b>5(a)</b> <b>Activity</b>	<b>COL. 2</b> <b>Please confirm</b> <b>YES/NO</b>	<b>COL. 3</b> <b>To be provided</b> <b>during core licensed</b> <b>hours – please</b> <b>confirm</b> <b>YES/NO</b>	<b>COL. 4</b> <b>Where activities are</b> <b>also to be provided</b> <b>outwith core licensed</b> <b>hours please confirm</b> <b>YES/NO</b>
<i>Accommodation</i>	No	N/A	N/A
<i>Conference facilities</i>	No	No	No
<i>Restaurant facilities</i>	No	No	No
<i>Bar meals</i>	No	No	No

<b>5(b) Activity</b> <b>Social functions</b> <b>including:</b>	<b>Please confirm</b> <b>YES/NO</b>	<b>To be provided</b> <b>during core licensed</b> <b>hours – please</b> <b>confirm</b> <b>YES/NO</b>	<b>Where activities are</b> <b>also to be provided</b> <b>outwith core licensed</b> <b>hours please confirm</b> <b>YES/NO</b>
<i>Receptions including</i> <i>Weddings, funerals,</i> <i>birthdays, retirements</i> <i>etc.</i>	No	No	No
<i>Club or other group</i> <i>meetings etc.</i>	No	No	No

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

<i>5(d)</i> <i>Activity</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>Outdoor drinking</i> <i>facilities</i>	No	No	No

<i>5(e)</i> <i>Activity</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>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.*

The premises may open from (6am) for the sale of newspapers, groceries etc., Activities answered “yes” in column 4 may take place, but no alcohol will be sold or supplied prior to the commencement of Licenced. Hours. Background Music may be played in the shop during that period.

*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.*

Takeaways  
Deliveries

*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>N/A</i>
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<i>When fully occupied, are there likely to be more customers standing than seated?</i>	<i>N/A</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>	N/A
	<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*

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

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

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

**Question 7**

**CAPACITY OF PREMISES**

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

Off Sale 18.48 sq.m

**Question 8**

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

*Personal details*

8(a) *Name*

Shahida Tahir

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>
31 October 2009	City of Edinburgh	09/15441

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 ..... 25/4/16 .....

Capacity ..... APPLICANT/AGENT (delete as appropriate).

Telephone number and email address of signatory .....

Macdonald Licensing  
21a Rutland Square  
Edinburgh, EH1 2BB

0131 229 6181, alistair@macdonaldlicensing.com

**\* 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.

**Kast Scotland Limited**

**Hawthorn Road, Prestonpans, East Lothian, EH32 9QW**

**Provisional Premises Licence Application**

**Statement on Licensing Objectives**

The following statement is in connection with the Application for a Provisional Premises Licence at the above address, requesting additional hours.

Kast Scotland Limited is a company owned and operated by Paul Kane. It was previously the Johnny Cope Public House, which closed down. There were then proposals to turn it into a café/ restaurant, and indeed it was leased on that basis. That isn't working out and the premises have remained closed for a while.

It is now considered that the way forward is for it to be a retail shop, and our client has been approached by interested parties who would require a Licence, hence the Application.

In terms of your Statement of Licensing Policy, it is requested that for an Application of this type that a Statement on the promotion of the Licensing Objectives should be lodged.

Our client has been in the licensed trade for many years. He has not been involved in the off sale trade before but has acted as landlord, and therefore accepts his responsibilities as Premises Licence Holder.

Taking each of these in turn we would identify possible issues under each Licensing Objective as follows:-

**Preventing Crime and Disorder**

- Underage drinking.
- Drunkenness on premises.
- Public drunkenness.
- Illegal possession and/ or use of drugs.
- Violent behaviour.
- Antisocial behaviour.
- Litter.
- Unauthorised advertising.

With regard to this matter, our clients will insist on the tenant having strict due diligence in place.

Our clients are fully aware of Challenge 25 and will request evidence that the tenant is as well, and suggest that they maintain a refusals/ incident book.

They will insist on the tenant installing CCTV, and are happy for that to be a condition of any grant.

Our clients will request evidence from the tenant on Staff Training, including identifying signs of drunkenness and how to refuse.

Our clients will insist on their tenant having a zero tolerance with regard to drugs.

Our clients will expect the tenant to be aware of dealing with violent behaviour, and that they have a duty of care to their staff and other customers, who should not be put at risk. Having said that, there have been no such incidents since they took over.

### **Securing Public Safety**

- The standard of maintenance of the building having regard to its age and the design and layout of the premises, including the means of escape and the event of a fire.
- The adequacy of vehicular access to the premises by the Fire and Rescue Service.
- The safety of gas and electrical installations.
- Customer profile.

In the event of this Licence being granted, work will require to be carried out to convert the premises. Any necessary repairs will be carried out at that time.

In the future any perceived short comings are dealt with swiftly. That would be covered by the lease.

### **Preventing Public Nuisance**

- The location of the premises and the proximity to residential properties.
- The design and layout of the premises and in particular the presence of CCTV.

These premises are in a row of commercial properties, but are surrounded by residential properties.

They are aware of their responsibilities in this respect, but the people living in these properties would be their customers and they have already built up a very good rapport with the local community.

They would be happy to become involved with any initiatives regarding alcohol and/ or drugs. They are not aware of any at present.

As explained there will be sufficient CCTV.

### **Protecting and Improving Public Health**

- Serving of patrons who have over consumed.
- Agency sales to people purchasing on behalf of drunk people.
- Duty of care to customers.
- Management/ staff being aware of concerns in Scotland regarding public health.
- The calculation of units of alcohol and advisable limits per day/ week.

With regard to public health, they are aware of issues regarding the concerns of overconsumption of people in Scotland. They are aware of their restrictions with regard to promotion, and they do not discount alcohol to ridiculous prices. They simply regard alcohol as an ancillary product which customers may wish to purchase with other items. That has been the experience so far.

As will be appreciated, these are licensed premises already. Whilst we appreciate that they are not at the moment off sales, there is a Licence and therefore this is not an additional licensed premise.



### **Protecting Children from Harm**

- Underage sales.
- Agency sales to underagers.
- Suitability of staff being employed.
- Acceptance of only accredited forms of ID.

As explained before they will insist on their tenants having a rigorous Challenge 25 Policy and only accept the appropriate ID.

They will also ensure that their tenant is aware of potential agency sales and that they should not hesitate to notify the Police if any adults were involved in the purchase of alcohol on behalf of children.

They will check that the staff have been trained accordingly and it has been made very clear to them that they must keep up the standard they consider they have already set.

Ref: KMacN/mjw/EN/I./Var

Date: 08 February 2016

To,

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

EAST LoTHIAN COUNCIL  
LICENSING

**23 FEB 2016**

**RECEIVED**

Dear Sir,

We, the residents of Prestonpans , object to the grant of an off licence to Johnnie Cope, Hawthorn Road, Prestonpans because granting a licence would provide a further source of alcohol within an area already so heavily populated with licensed premises that crime, disorder and public nuisance have already reached problem levels for the local police. We are all in this area already suffer noise nuisance and antisocial behaviour at all hours of the day and night. In view of the above, we would urge the Licensing Board to refuse the application.

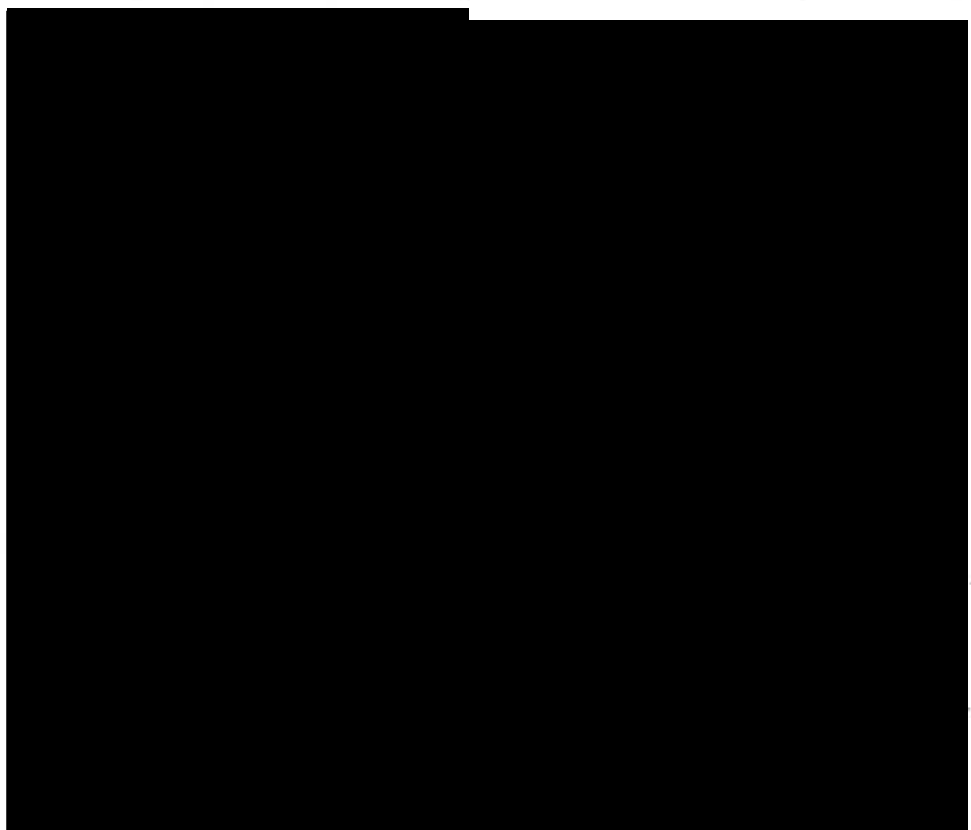
Name:

Objectors:

Name

Address

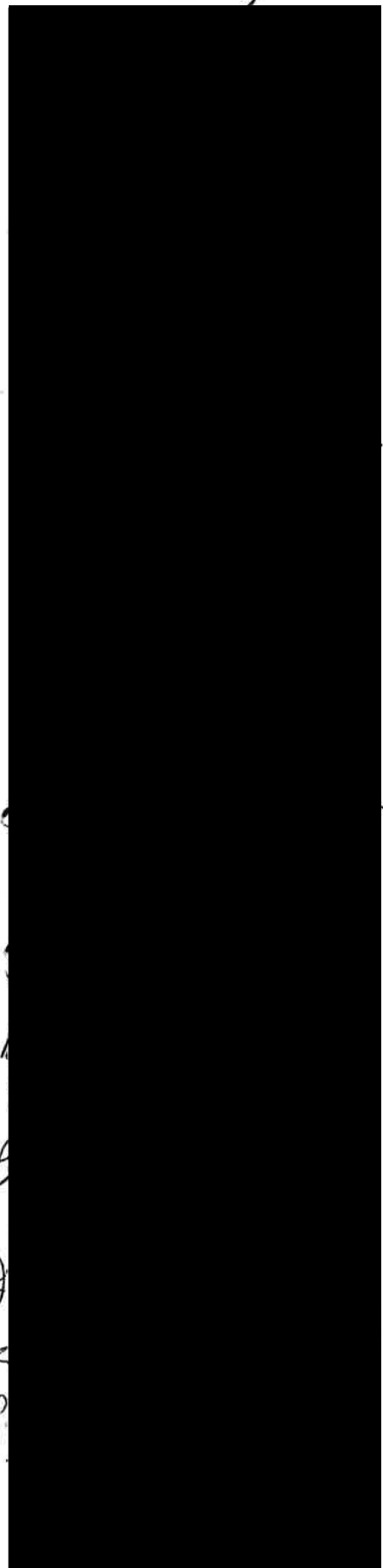
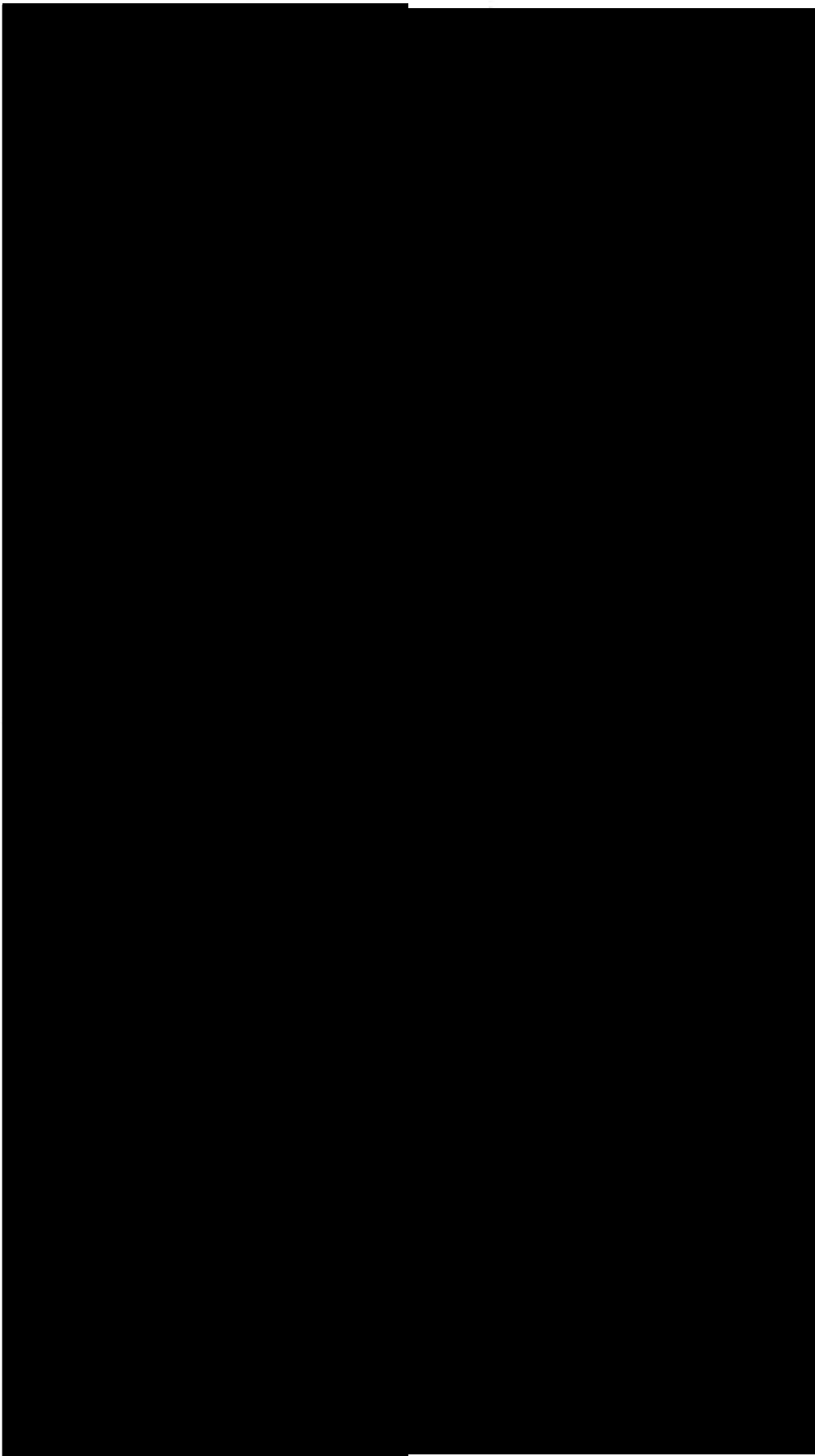
Signature



Name

Address

Signature



Name

Address

Signature

Name

Address

Signature



East Lothian  
Licensing Board

09 FEB 2016

Received

Ref: KMacN/mjw/EN/L/Var

Date: 07 February 2016

To,

The Clerk of the Licensing Board

John Muir House

Haddington

East Lothian

EH41 3HA

Dear Sir,

I object to the granting of an off licence to Johnnie Cope, Hawthorn Road, Prestonpans because already there are off licence premises in this area and the youngsters created problems for neighbours so many times in the past. This is something that I would like to object to in the strongest possible terms. If the licence would be granted, then I and the neighbourhood would suffer from noise, disturbance and anti-social behaviour because of the noise from youngsters and customers arriving/ leaving and sometime fighting as well. For these reasons I object to the grant of an off licence to the above premises.

Yours Faithfully,

 (Manageress)

East Lothian  
Licensing Board

Ref: KMacN/mjw/EN/L/Var

09 FEB 2016

Date: 07 February 2016

Received

To,

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

Dear Sir,

I object to the granting of an off licence to Johnnie Cope, Hawthorn Road, Prestonpans because already there are off licence premises in this area and the youngsters created problems for neighbours so many times in the past. This is something that I would like to object to in the strongest possible terms. If the licence would be granted, then I and the neighbourhood would suffer from noise, disturbance and anti-social behaviour because of the noise from youngsters and customers arriving/ leaving and sometime fighting as well. For these reasons I object to the grant of an off licence to the above premises.

Yours Faithfully,

[Redacted Signature]

MANAGER.

[Redacted Stamp]

Ref: KMacN/mjw/EN/L/Var East Lothian  
Licensing Board

Date: 07 February 2016

09 FEB 2016

Received

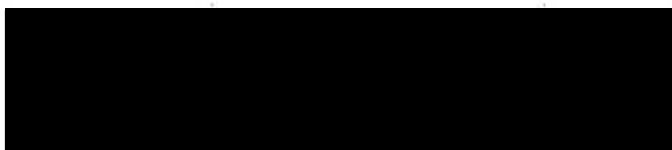
To,

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

Dear Sir,

I object to the granting of an off licence to Johnnie Cope, Hawthorn Road, Prestonpans because already there are off licence premises in this area and the youngsters created problems for neighbours so many times in the past. This is something that I would like to object to in the strongest possible terms. If the licence would be granted, then I and the neighbourhood would suffer from noise, disturbance and anti-social behaviour because of the noise from youngsters and customers arriving/ leaving and sometime fighting as well. For these reasons I object to the grant of an off licence to the above premises.

Yours Faithfully,





Ref: KMacN/mjw/EN/L/Var

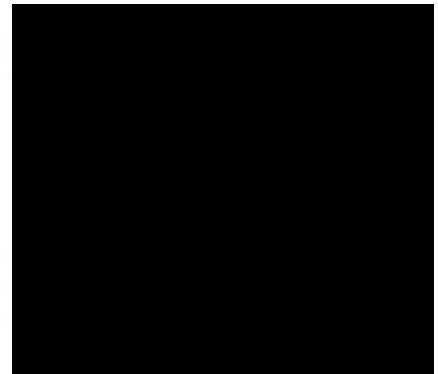
Date: 06 February 2016

East Lothian  
Licensing Board

09 FEB 2016

Received

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

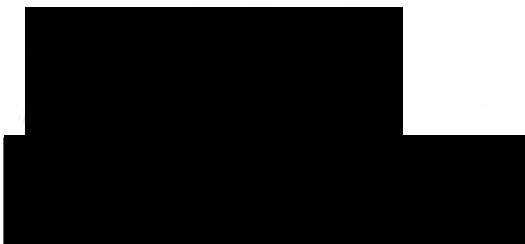


Dear Sir,

I wish to object strongly to the alcohol licence application by Johnnie Cope, Hawthorn Road, Prestonpans because the grant of the licence would be very bad impact on my business which is situated near by above location I am running this business from the ages ago and I feel that if this licence was to be granted, then I would suffer a lot and unhappy and I don't want to lose my business and this is my humble request to the honourable Licensing Board that please don't allow this application.

Many Thanks.

Yours Sincerely,



East Lothian  
Licensing Board

09 FEB 2016

Received

Ref: KMacN/mjw/EN/L/Var

Date: 07 February 2016

To,

The Clerk of the Licensing Board

John Muir House

Haddington

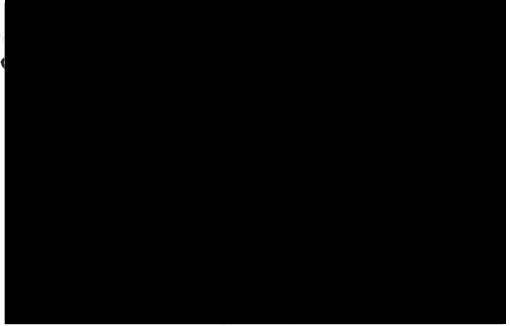
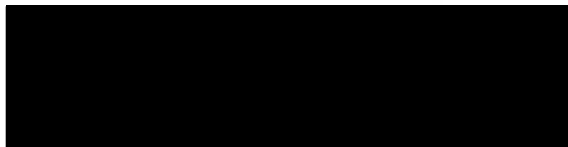
East Lothian

EH41 3HA

Dear Sir,

I object to the granting of an off licence to Johnnie Cope, Hawthorn Road, Prestonpans because already there are off licence premises in this area and the youngsters created problems for neighbours so many times in the past. This is something that I would like to object to in the strongest possible terms. If the licence would be granted, then I and the neighbourhood would suffer from noise, disturbance and anti-social behaviour because of the noise from youngsters and customers arriving/ leaving and sometime fighting as well. For these reasons I object to the grant of an off licence to the above premises.

Yours Faithfully,



East Lothian  
Licensing Board

Ref: KMacN/mjw/EN/L/Var 09 FEB 2016

Date: 07 February 2016 Received

To,

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

Dear Sir,

I object to the granting of an off licence to Johnnie Cope, Hawthorn Road, Prestonpans because already there are off licence premises in this area and the youngsters created problems for neighbours so many times in the past. This is something that I would like to object to in the strongest possible terms. If the licence would be granted, then I and the neighbourhood would suffer from noise, disturbance and anti-social behaviour because of the noise from youngsters and customers arriving/ leaving and sometime fighting as well. For these reasons I object to the grant of an off licence to the above premises.

Yours Faithfully,

[Redacted signature]



**POLICE  
SCOTLAND**

Keeping people safe

Date: 16<sup>th</sup> February 2016

Your Ref:

Our Ref: J/LIC/4462/JL

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](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk)  
Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 - REPRESENTATION  
APPLICATION FOR VARIATION – SECTION 29**

**APPLICANT: KAST SCOTLAND LIMITED, 137 RESTALRIG ROAD, EDINBURGH  
PREMISES: KEBAB MAHAL (FORMERLY THE JOHNNIE COPE), HAWTHORN  
ROAD, PRESTONPANS**

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.

It is pertinent to note that in January 2014 the above premises applied for and was granted a provisional premises licence to operate as a restaurant/bistro type business with 'on sales' only. To date the premises has never opened and remains vacate.

This variation is requesting to change the operating plan to reflect a 'convenience store', offering 'off sales' only.

This would increase "off sales" capacity in East Lothian and, as such, the application 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 licence would outweigh the presumption against grant in terms of the Overprovision Statement.

There are already 19 premises with 'off sales' facilities within Prestonpans, ten off which are purely for "off sales". It is pertinent to note that two of the premises which have "off sales" facilities are on Hawthorn Road.

There have been 33 incidents reported to police to Hawthorn Road in the year 16<sup>th</sup> February 2015 to 15<sup>th</sup> February 2016 which incidents include numerous thefts, youth disorder and violence and it is felt that another "off sales" facility in the area would have the potential to increase anti social behaviour and crime in Prestonpans.

In November 2013 when the East Lothian Licensing Board Statement of Licensing Policy was published, Prestonpans was one of the areas highlighted in the health and police stats as being over provided for when it came to alcohol outlets.

The Board will be aware that alcohol related crime, violence and anti social behaviour is a significant problem for all communities and the police. The increasing financial, health and social costs associated with the misuse of alcohol is also of growing concern. An additional "off sales" facility in Prestonpans would have the potential to increase the identified issues and associated health and social costs.

Police Scotland feels that there are more than enough outlets for persons to access alcohol in and around Prestonpans and that granting the variation of the premises licence would be surplus to requirements and as such there should be a rebuttable presumption against the grant of this licence, unless the applicant can provide robust and reliable evidence to support this application sufficient to demonstrate that the grant of this licence would outweigh the presumption against grant in terms of the Overprovision Statement

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

Yours faithfully

Insp Harborow

# **EAST LoTHIAN COUNCIL**

## **LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES**

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

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

---

Date: 2<sup>nd</sup> March 2016

**Subject: LICENSING SCOTLAND ACT 2005**  
**MAJOR VARIATION APPLICATION**

**JOHNNIE COPE, HAWTHORN ROAD, PRESTONPANS, EAST LoTHIAN EH32**  
**9QW**

I refer to the above subject and can confirm that the major variation application in respect of the Johnnie Cope Cafe/Bistro has been assessed, in line with the requirements of the Licensing (Scotland) Act 2005, and is in order.

The premises in question were a pub for many years until the licence was surrendered in February 2010. The building was then split into two, with a dance studio on the ground floor and a children's' play centre upstairs. When the dance facility fell through Kast Scotland Ltd applied for and was granted a new premises licence in July 2014 in respect of a cafe/bistro facility. This venture never really happened as, after a very short trial run, it was realised that the public would not support the business and the premises have remained closed and unused ever since, other than a small part of the ground floor has been leased to a local barber who took up occupancy in November 2015.

The applicant is aware of the Board's overprovision policy, but feels confident that there is sufficient capacity for an enhanced selection of shop facilities in Hawthorn Road with the increase in population numbers by virtue of the currently expanding housing developments in the surrounding area.

The premises were visited on 26<sup>th</sup> February 2016 when it was noted that the mandatory site notice informing the public of the details of this application was correctly displayed.

R. Fruzynski  
Licensing Standards Officer

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

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

---

**Board Members Present:**

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

**Clerk of the Licensing Board:**

Mrs K MacNeill

**Attending:**

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

**Committee Clerk:**

Ms J Totney, Democratic Services Manager

**Apologies:**

Councillor W Innes  
Councillor P McLennan

**Declarations of Interest:**

None

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

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

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

**2. PROVISIONAL PREMISES LICENCE**

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

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

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

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

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

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

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

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

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

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

### **Decision**

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

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

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

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

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



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

**THURSDAY 23 JANUARY 2014  
SALTIRE ROOMS, JOHN MUIR HOUSE, HADDINGTON**

---

**Board Members Present:**

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

**Clerk of the Licensing Board:**

Mrs K MacNeill

**Attending:**

Mrs M Ferguson, Corporate Legal Adviser  
Insp Harborow, Police Scotland  
PC H Bowsher, Police Scotland  
Mr R Fruzynski, Licensing Standards Officer  
Ms C Molloy, Senior Solicitor  
Ms D Richardson Licensing Admin Officer

**Committee Clerk:**

Ms J Totney, Democratic Services Manager

**Apologies:**

Councillor C Currie (*not yet undertaken training*)  
Councillor T Trotter (*not yet undertaken training*)

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – 28 NOVEMBER 2013**

The minutes of the Licensing Board meeting of 28 November 2013 were agreed to be a true record.

**2. PROVISIONAL PREMISES LICENCE**

**(i) The Johnnie Cope – Hawthorn Road, Prestonpans**

The Clerk advised that detailed comments had been received from the Police and the Licensing Standards Officer (LSO) and that there were no objections from members of the public. She reminded Board members that the matter had been continued from the November 2013 meeting; that this is a new application; and that the

Board should have regard to the over provision statement in the Licensing Policy when determining this application.

The applicant, Mr Paul Kane, was present and was represented by Mr MacDonald of MacDonald Licensing.

Mr MacDonald advised, that as a result of the comments from the Police and LSO, a number of proposed amendments had been submitted to the Licensing Admin Officer. Mr MacDonald tabled copies of these. He stated that a definite tenant had now been identified and that a 21 year lease had been signed; he stressed that the premises would be run as a café/bistro and not as a public house; and he stated that, at least initially, the business would cater for eat-in/take-out lunches for school children.

At this point, the tenant, Mr Abdul Nadeen, joined the meeting. —?

Mr MacDonald stated that the licensing start time would be amended to 12 o'clock midday (with a start time of 4pm Monday – Thursday); that the room designated for use by children would not display alcohol; and that there was no longer an objection from the owner of a nearby public house. In relation to the issue in respect of the over provision policy, he ran through how each of the five licensing objectives would be met.

Insp Harborow and the LSO confirmed that they had no outstanding issues.

In response to Councillor Innes, the Clerk of the Licensing Board advised that if a licence is granted for a café/bistro, the Board would need to grant a variation to the licence should the premises intend to operate as a public house at a future date. She also advised that the Board could impose a local condition so that alcohol could only be served with food purchases.

Councillor McAllister indicated his ambivalence and raised concerns in relation to the off-sales element of the application in relation to the over provision policy. In response to comments and questions from Board members, Mr MacDonald advised that he would be agreeable to the off-sales of alcohol being removed from the licence.

Councillor Goodfellow, Chair of the Licensing Board stated that he would support granting the application but voiced his concerns at going outwith the over provision statement. He therefore informed Mr MacDonald that robust and reliable evidence/control measures should have been submitted rather than the simple statements that had been made in respect of meeting the licensing objectives.

## **Decision**

The Board agreed to grant the provisional premises licence.

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

#### **(i) The Burgh – 83 High Street, Musselburgh**

The Clerk stated that the application seeks to amend core on-sale hours as follows: Monday – Thursday to 12 midnight (currently 11pm); Friday and Saturday to 1am (currently 12 midnight); and on Sunday from 11am to 1am (currently 12.30pm to 12

**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

**Variation (Major) on Transfer(s)**

<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
2 HOME BARGAINS (FORMERLY MADISONS) UNIT D OLIVEBANK NEWHAILES ROAD MUSSELBURGH	TJ MORRIS C/O DWF SOLICITORS 5 ST. PAUL'S SQUARE OLD HALL STREET LIVERPOOL	3 February 2016	Vary Premise Licence from on-sales to Off-Sales

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)description of premises  
.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL087

2(b) Name and Address of Premises

Home Bargains- formerly Madison's  
Unit D Olive Bank Estate  
Newhailes Road  
Musselburgh

Post Code EH21 6RE

Phone No.

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

Kilmac Limited

<b>Post Code</b>	<b>Phone No.</b>

**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

To remove local conditions 1 and 4.

Condition 1 because it relates to an on licence and this is a variation to operate solely as an off licence.

Condition 4 because there will be no outside drinking area for the same reason.

**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 vary the licence to allow off sales within the terms of the amended Operating Plan and remove the facility for on sales.

To vary the capacity for off sale display, currently apparently unstated, to provide a figure of 63.6m<sup>2</sup>.

To amend the other activities removing those not commensurate with operating a retail store providing a range of general grocery/ household/homeware goods and amend the general operating hours to 08.00 to 22.00 subject to any prevailing statutory restrictions reducing the hours of operation. Remove the on licence children provisions.

**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 alter the layout of the premises to create a single storey store with a retail shop layout as indicated in the attached plan as opposed to a restaurant bar layout

**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)

To amend the description of the premises to that of "Retail store providing general grocery and household products"

**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

**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 £170 is enclosed.

Signature

DWF LLP

..... (See note 5 below)

Date

1st February 2016

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

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

David Crank, DWF LLP, 5 St Paul's Square

Old Hall St., Liverpool L3 9AE

0151 907-3381 david.crank@dwf.co.uk

**Note 1:**

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

**Note 2:**

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

**Note 3:**

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

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

**Note 4:**

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

**Note 5:**

**Data Protection Act 1998**

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

**Contact Us:**

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

**Phone:** 01620 827217 / 827867 / 820114  
**Fax:** 01620 827253  
**Email:** [licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

**FOR OFFICE USE ONLY**

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

# EAST LoTHIAN LICENSING BOARD

## OPERATING PLAN

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

*Name, address and postcode of premises to be licensed.*

Madisons, Olivebank, Newhailes Road Newhailes Musselburgh East Lothian EH21 6SJ
---

### 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>YES/</i>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<i>/NO*</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>		
<i>Tuesday</i>		
<i>Wednesday</i>		
<i>Thursday</i>		
<i>Friday</i>		



<i>Saturday</i>		
<i>Sunday</i>		

**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>	<i>/NO*</i>
--	-------------

*\*If YES – provide details*

**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
Accommodation	No	N/A	N/A
Conference facilities	No	No	No
Restaurant facilities	No	No	No
Bar meals	No	No	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
Receptions including Weddings, funerals, birthdays, retirements etc.	No	No	No
Club or other group meetings etc.	No	No	No
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
Recorded music – see 5(g)	Yes	Yes	Yes
Live performances – see 5(g)	No	No	No
Dance facilities	No	No	No
Theatre	No	No	No
Films	No	No	No
Gaming	No	No	No

<i>Indoor/outdoor sports</i>	No	No	No
<i>Televised sport</i>	No	No	No
<i>5(d) 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>Outdoor drinking facilities</i>	No	No	No
<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.*

The premises will play recorded music at a low level as background when open to the public.

*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.*

The premises will trade generally between the hours of 08.00 to 22.00 subject to current restrictions on trading hours. It will trade in a wide range of products as indicated in the operating plan attached, but including household good, beauty products, food, drinks and homeware goods.

The store will be open for customers to purchase these goods and staffing levels will be maintained to monitor this trade.

*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>YES/NO*</i>
<i>When fully occupied, are there likely to be more customers standing than seated?</i>	<i>YES/NO*</i>
<i>*Delete as appropriate</i>	<i>N/A</i>

**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>	<i>YES/NO*</i>
	<i>*Delete as appropriate</i>	<i>N/A</i>

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

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

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

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

**Question 7**

**CAPACITY OF PREMISES**

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

63.6 m2

**Question 8**

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

Personal details

8(a) Name

As before

8(b) Date of birth

8(c) Contact address

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>

**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 DWF LLP DCrb \* (see note below)

Date 1st February 2016

Capacity Solicitor Agent ~~APPLICANT/AGENT~~ (delete as appropriate).

Telephone number and email address of signatory 0151 907 3381

David.Crank@dwf.co.uk

\* Data Protection Act 1998

## **OPERATING PLAN FOR T. J. MORRIS LIMITED T/a HOME BARGAINS.**

The store would look to operate in a manner consistent with other store in the group in the style of a general grocer selling a wide range of branded household products. These would include health and beauty products, cleaning products, foodstuffs, including ambient packaged good, chilled, frozen and fresh products, homeware goods, pet products and garden products. There would be some children's goods such as toys and games, some clothing, some seasonal goods, confectionary, soft drinks and, if permitted alcoholic drinks. The primary focus will be on products for use within or by a household.

In seeking to reassure the Board in relation to the reliance of the business and promotion within the business of any alcoholic drinks for off sales, the site would hold no more than 6% of the total store display area, will not include spirits in the product range, and will not be promoted by way of advertising, even within the restrictions under Alcohol ( Scotland) Act 2010, in these premises. The area of any approved display would be monitored by CCTV cameras.

The company operates some 400 stores in the United Kingdom with nearly 70 in Scotland and looks to operate this model to provide a full range of products to customers. The premises will be staffed, both on the shop floor and the tills, with in the region of 40 staff being employed in the business. At least one till will be staffed, with a tannoy to summon assistance when required, other staff members are available on the floor to help customers and rotate stock.

The Company would take the following general steps in order to observe the licensing objectives:-

The store will be open between 08.00 to 22.00 for general trade subject to any restrictions such as existing Sunday trading laws.

### **Prevention of Crime and disorder.**

The Company will have in place CCTV systems that will allow digital images to be taken of the inside of the store, including the entrance doors and exit doors. The CCTV system will be operating whenever the store is in use and images will be retained for a period of up to 28 days and made available as requested. The system can be checked from head office and a team is available to carry out repairs if required.

The staff will be trained generally, including the specific training required under the Licensing (Scotland) Act 2005, in relation to the sale of age restricted products. The Company has a due diligence system designed to prevent staff making illegal sales.

### **Prevention of Public Nuisance:**

The store will not be seeking to exercise any other licensable activities such as the playing of music, save occasionally for recorded background music, and as such



would not anticipate being a nuisance to the public. It will co-operate with the local Authority in relation to any refuse clearance requirements.

**Promotion of public safety:**

The Company will follow all guidance given by the authorities and will comply with both fire safety and health and safety requirements.

The Company has in place officers who provide advice in relation to risk assessment and the premises will be risk assessed.

**Protection of Children from harm:**

The Company will operate a 'Challenge 25' system whereby anybody who looks to be under 25 will be challenged to prove their age is over 18. They would need to do this by virtue of producing a passport, a photocard driving licence, or a government approved card with a PASS logo. The staff are all trained in these procedures and the training is recorded.

The company does not advertise prices or products generally and specifically does not advertise the sale of alcohol or the pricing applied

**Protection and promotion of Public Health:**

The Company will look to implement such advices as given by relevant authorities and will place notices as requested in the store advising in respect of this objective.

As indicated the Company does not advertise the sale of alcohol in any of the stores it operates. The alcohol is displayed in the area adjacent to the lead till that is permanently staffed so the area can be observed.



**POLICE  
SCOTLAND**

Keeping people safe

Date: 4<sup>th</sup> February 2016

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](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk)  
Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Madam

**LICENSING (SCOTLAND) ACT 2005  
APPLICATION FOR VARIATION – SECTION 29  
APPLICANT: KILMAC LIMITED  
PREMISES: MADISONS (HOME BARGAINS), OLIVEBANK, NEWHAILES ROAD,  
MUSSELBURGH**

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.

I note that the applicant is requesting to change the current 'on/off sales' licence to an 'off sale' licence only, with an alcohol display area of 63.6 square metres.

Prior to the premises opening for trade, I would expect that they provide details of the new designated premises manager, as my understanding is that the 'current' one (Stuart Shearer) has moved on.

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

Yours faithfully

PC Heather Bowsher  
Divisional Licensing Officer

**Winter, Maree**

---

**From:** David Crank [David.Crank@dwf.law]  
**Sent:** 04 February 2016 16:19  
**To:** Winter, Maree  
**Subject:** RE: Major Variation Letter - Feb 2016 [DWFLLP-ACTIVE.FID3076096]

Hi Maree,

I can confirm that before any trade commences we will notify the Board of a DPM variation. We also understand Mr Shearer will not be the DPM, but as the premises are not adapted yet there will be no trade.

Kind regards

David

**David Crank Associate**  
Litigation, Licensing and Regulatory  
**DD +44 151 907 3381 DF +44 151 907 3030 M +44 7872 808 568**

**DWF LLP**  
5 St Paul's Square Old Hall Street Liverpool L3 9AE  
**T +44 3333 20 22 20 F +44 3333 20 44 40**

---

**From:** Winter, Maree [mailto:mwinter@eastlothian.gov.uk]  
**Sent:** 04 February 2016 15:43  
**To:** David Crank  
**Subject:** Major Variation Letter - Feb 2016

Hi David,

Please find attached representation from Police Scotland. Can you please advise.

Regards  
Maree.

\*\*\*\*\*

**Email Disclaimer - East Lothian Council**

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# EAST LoTHIAN COUNCIL

## Licensing, Administration and Democratic Services

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

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

---

Date: 29<sup>th</sup> February 2016

**Subject: LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE VARIATION**

**HOME BARGAINS, UNIT D, OLIVEBANK, NEWHAILES ROAD, EAST  
LoTHIAN EH21 6RE**

I refer to the above subject and can confirm that the variation application in respect of the above premises has been assessed and I am satisfied that the Operating and Layout Plans submitted are in order.

R. Fruzynski  
Licensing Standards Officer



**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

<b>Variation (Major)(s)</b>	<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
3	TWEEDDALE ARMS HOTEL TWEEDDALE ARMS HOTEL 3 HIGH STREET GIFFORD HADDINGTON EAST LOTHIAN	CATHERINE HELEN LYNN GORDON	26 January 2016	Vary the Operating Plan to add Take-away Food Service

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)

EAST LoTHIAN COUNCIL  
LICENSING

26 JAN 2016

RECEIVED

- 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)

APPLICATION FOR TAKE AWAY FOODS LICENCE

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL 0168

2(b) Name and Address of Premises

THE TWEEEDALE ARMS HOTEL  
3 HIGH STREET  
GIFFORD

Post Code EH41 4QU Phone No. 01620 810240

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

CATHERINE HELEN LYNN GORDON

Post Code Phone No. (W)



**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

ADDITIONS OF TAKE AWAY FOOD SERVICE AS PER APPLICATION FOR VARIATION TO INFORMATION CONTAINED WITHIN EXISTING OPERATING PLAN ONLY.

ie, ADDITIONAL SERVICE ONLY FROM 7AM (+ DURING CORE HOURS OF KITCHENS OPEN - CLOSE @ 9PM)

NO OTHER CHANGES OR AMENDMENT TO LAYOUT PLAN

**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 PROVIDE A TAKE AWAY FOOD SERVICE TO LOCAL PEOPLE AND GROUPS SUCH AS WALKERS, CYCLISTS, SHOOTERS ETC WILL BE SERVED FROM EXISTING LOUNGE/BAR THUS NO CHANGES TO LAYOUT PLAN. TO BE AVAILABE FROM 7AM ONWARDS AND DURING CORE HOURS. NO ALCOHOL TO BE

**3(c) Variation to the Layout Plan of the Premises Licence** SOLD OUT WITH CORE HOURS AS STATED.

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.

NO PROPOSED CHANGES / N/A

**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)

NO CHANGE

**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 £ 7150 is enclosed.

Signature

[Redacted Signature]

(See note 5 below)

Date

20th Jan 2016

Capacity: APPLICANT / AGENT (delete as appropriate)

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

N/A

**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](mailto:licensing@eastlothian.gov.uk)

**FOR OFFICE USE ONLY**

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



**POLICE  
SCOTLAND**

Keeping people safe

Date: 8<sup>th</sup> February 2016

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](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk)

Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Madam

**LICENSING (SCOTLAND) ACT 2005  
APPLICATION FOR VARIATION – SECTION 29  
APPLICANT: CATHERINE HELEN LYNN GORDON  
PREMISES: THE TWEEDDALE ARMS HOTEL, 3 HIGH STREET, GIFFORD**

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.

I note that the applicant is requesting to change the current operating plan to include a 'take away food service'.

There are a number of anti social issues associated with take away outlets, including litter, noise and associated issues in relation to persons hanging about the outlet. Whilst it is appreciated the Tweeddale Arms Hotel is not a 'take away' as such, I would request that should the Board be minded to grant this, a terminal hour of 2100 hours be imposed as suggested by the applicant.

There are a number of residential properties in this area who may be affected by

this facility should it be available much later.

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

Yours faithfully

PC Heather Bowsher  
Divisional Licensing Officer

# **EAST LoTHIAN COUNCIL**

## **LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES**

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

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

---

Date: 26 February 2016

**Subject:**  
**LICENSING SCOTLAND ACT 2005**  
**PREMISES LICENCE APPLICATION (MAJOR VARIATION) – MARCH BOARD 2016**

**Tweeddale Arms Hotel, 3 High Street, Gifford, East Lothian EH41 4QU**

I refer to the above subject and can confirm that the above premises have been visited and inspected in relation to application for a Premises Licence variation. I am satisfied that the proposed revision will not be inconsistent with the licensing objectives.

It may be helpful to note that the applicant applied for and was granted (24/03/2011) similar takeaway facilities in respect of the Golf Tavern (Hotel), Haddington. Since the grant of this facility there has been no complaints received by licensing standards.

I can confirm that the Tweeddale Arms, which was taken over by the applicant in December 2015, is a very well run hotel.

I am supportive of the granting of the variation of licence.

R. Fruzynski  
Licensing Standards Officer

**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

<b>Provisional(s)</b>	<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
4	10- 12 COURT STREET 10-12 COURT STREET HADDINGTON EAST LOTHIAN EH41 3JA	MEUCCI LTD C/O MACDONALD LICENSING LIMITED 21A RUTLAND SQUARE EDINBURGH EH1 2BB	27 January 2016	
67 5	PANS CONVENIENCE STORE 5 HAWTHORN ROAD PRESTONPANS EH32 9QW	ABDUL KAREEM NADEEM C/O YOUNG & PARTNERS 1 GEORGE SQUARE CASTLE BRAE DUNFERMLINE KY11 8QF	18 February 2016	

EL 334

**EAST LoTHIAN LICENSING BOARD**

**APPLICATION FOR PROVISIONAL PREMISES LICENCE**

**Licensing (Scotland) Act 2005, section 20**

**APPLICANT INFORMATION** *Licensing (Scotland) Act 2005, section 20(1)*

**Question 1**

*Name, address and postcode of premises to be licensed.*

10-12 Court Street  
Haddington  
East Lothian  
EH41 3JA

**Question 2**

*Particulars of applicant*

2(a) *Where applicant is an individual, provide full name, date and place of birth, and home address including postcode and telephone number.*



2(b) *Where applicant is a partnership, please provide full name, and postal address of partnership.*

2(c) *Where applicant is a company, please provide name, registered office and company registration number.*

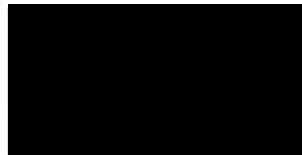
Meucci Ltd  
2 Lanark Road  
Edinburgh  
EH14 1TQ

Company Registration No. SC517963

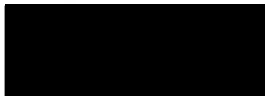
2(d) *Where the applicant is a club or other body, please provide full name, and postal address of club or other body.*

2(e) *Where applicant is a partnership, company, club or other body, please provide the names, dates and places of birth, and home addresses of connected persons.\**

Franco Cucchi



Contact:



**\* Connected person is defined in section 147(3) of the Licensing (Scotland) Act 2005.**

**Question 3**

*Previous applications*

3 *Has the applicant been refused a premises licence under section 23 of the Licensing (Scotland) Act 2005 in respect of the same premises?* *NO*

*If YES – provide full details*

--

**Question 4**

*Previous convictions*

4 <i>Has the applicant or any connected person ever been convicted of a relevant or foreign offence (1)</i>	<i>NO</i>
---	-----------

*\*If YES – provide full details*

*For the purpose of this Act, a conviction for a relevant offence or foreign offence is to be disregarded if it is spent for the purpose of the Rehabilitation of Offenders Act 1974*

<i>Name &amp; position (if applicable)</i>	<i>Date of conviction or sentence</i>	<i>Court</i>	<i>Offence</i>	<i>Penalty</i>

(1) In addition to any convictions held by the applicant at the time of application, applicants should also familiarise themselves with the contents of section 24(1) of the Licensing (Scotland) Act 2005 in respect of any convictions for relevant or foreign offences which they may receive during the period beginning with the making of the premises licence application and ending with determination of the application.

**DESCRIPTION OF PREMISES** *Licensing (Scotland) Act 2005, section 20(2)(a)*

**Question 5**

5. *Description of premises (where application is submitted by a members' club, please also complete question 6)*

Café/bistro in commercial unit situated on Court Street, Haddington.

**Question 6**


6 *To be completed by members' clubs only*

<i>Do the club's constitution and rules conform to the requirements of regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007?</i>	YES/NO*
<i>* Delete as appropriate</i>	

**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 Application are true to the best of my knowledge and belief.

Signature .....  (see note below)

Date ..... 26/1/16 .....

Capacity ..... AGENT

Macdonald Licensing  
21a Rutland Square  
Edinburgh, EH1 2BB

Telephone number and email address of signatory... 0131 229 6181, [alistair@macdonaldlicensing.com](mailto:alistair@macdonaldlicensing.com)

AMENDED 15/2/16

## EAST LoTHIAN LICENSING BOARD

### OPERATING PLAN

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

*Name, address and postcode of premises to be licensed.*

10-12 Court Street  
Haddington  
East Lothian  
EH41 3JA

#### 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>	<b>NO</b>
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<b>NO</b>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<b>YES</b>
<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>	<b>11:30am</b>	<b>10:00pm</b>
<i>Tuesday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Wednesday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Thursday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Friday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Saturday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Sunday</i>	<b>11:30am</b>	<b>10:00pm</b>

**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>	<b>11:30am</b>	<b>10:00pm</b>
<i>Tuesday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Wednesday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Thursday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Friday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Saturday</i>	<b>11:30am</b>	<b>10:00pm</b>
<i>Sunday</i>	<b>11:30am</b>	<b>10:00pm</b>

**Question 4**

*SEASONAL VARIATIONS*

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

*\*If YES – provide details*

Would like to take advantage of any general extensions granted by the Board, and may apply for extensions for certain events and occasions.

**Question 5**

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

<b>COL. 1</b> <i>5(a)</i> <i>Activity</i>	<b>COL. 2</b> <i>Please confirm</i> <i>YES/NO</i>	<b>COL. 3</b> <i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	<b>COL. 4</b> <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>	NO	NO	NO

<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	YES
<i>Club or other group</i> <i>meetings etc.</i>	YES	YES	YES

<i>5(c)</i> <i>Activity</i> <i>Entertainment</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>Recorded music – see</i> <i>5(g)</i>	YES	YES	YES
<i>Live performances –</i> <i>see 5(g)</i>	NO	NO	NO
<i>Dance facilities</i>	NO	NO	NO
<i>Theatre</i>	NO	NO	NO
<i>Films</i>	NO	NO	NO
<i>Gaming</i>	NO	NO	NO
<i>Indoor/outdoor sports</i>	NO	NO	NO
<i>Televised sport</i>	YES	YES	YES

<i>5(d)</i> <i>Activity</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>Outdoor drinking</i> <i>facilities</i>	<b>NO</b>	<b>NO</b>	<b>NO</b>

<i>5(e)</i> <i>Activity</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>Adult entertainment</i>	<b>NO</b>	<b>NO</b>	<b>NO</b>

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

The premises may open from (6am) for the provision of snacks, breakfasts etc. but no alcohol will be sold or supplied outwith Licensed Hours

Activities answered 'yes' in column 4 may take place during Seasonal Variations, during the period referred to the above, with the benefit of an extension of permitted hours.

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.

Takeaways (within Licensed Hours)
Outside Catering
Tastings
Tutorials

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)	<i>When alcohol is being sold for consumption on the premises will children or young persons be allowed entry</i>	<b>YES</b>
	<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*

Children and Young Persons are welcomed onto the premises.  
Children will be required to be accompanied by an Adult.

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

No Restrictions (0 – 17 years)

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

No Restrictions

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 areas.

**Question 7**

**CAPACITY OF PREMISES**

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

38

**Question 8**

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

Personal details

8(a) Name

8(b) Date of birth

8(c) *Contact address*

--

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>

**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.

## **Supporting Statement**

**Meucci, 10-12 Court Street, Haddington, EH41 3JA**

**Applicants: Meucci Ltd**

This is an Application for premises that were previously the Procurator Fiscal's Office on Court Street, Haddington, just round the corner from the Council Offices! Our client, Franco Cucchi, is from a well-known Italian family in the east of Scotland and already operates several restaurants within the Board's area.

They do not consider it to be the type of business that will cause any issues.

Full and Part time jobs will be created by this business.

It is considered that Haddington suffers from a lack of good quality family orientated restaurants and this will help fill the gap.

The position under the Statement of Licensing Policy with regard to overprovision in East Lothian had been explained to our clients and their requirement to show how the granting of this Licence would not be prejudicial to the Licensing Objectives. Going through each of these in turn we would comment as follows:-

### **1. Preventing Crime and Disorder**

The Premises have obtained Planning Permission as a restaurant and will operate as such. The Application to be considered will determine whether or not our clients are allowed to sell the alcohol themselves or require to ask people to bring their own alcohol with them.

It is considered that the granting of the Licence under these circumstances does not prejudice this objective.

We think it would be generally accepted that restaurants in general do not cause the issues that other types of licensed premises might. People are seated, in a civilised environment, and often, certainly during the day and in the earlier part of the evening, in a family orientated environment. The possibility of unruly behaviour, we would suggest leading to disorderly conduct either within the premises or after patrons have left the premises, is relatively slim.

Notwithstanding this, our clients accept the fact that they have an obligation to create a suitable environment. That means an environment that is pleasant for the consumer and is therefore conducive to people behaving in a civilised manner. Standards of behaviour will be set and people not prepared to accept these, or contravening in any way, will be asked to leave.

That includes overconsumption of alcohol and unruly or unsocial behaviour.

## **2. Securing Public Safety**

These will be newly fitted premises and therefore there should be no possibility of danger or inconvenience to the public. Before Building Control sign it off they will have complied with the appropriate regulations. Public safety is paramount to our clients and the tables will be set out in such a way as to minimise possibilities of inconvenience to customers who may be disabled, elderly, or young.

Our clients would also wish their staff to work in a pleasant and safe environment.

## **3. Preventing Public Nuisance**

It would be expected to patrons to behave as they are leaving. If waiting for taxis outside, or indeed people smoking outside will be asked to take into account the interest of the neighbours and to keep their voices down, including when they are on the telephone!

Music will be played, but it is not envisaged that there should be any noise escape that would cause inconvenience.

There will be a CCTV system installed.

Issues which might be detrimental to the amenity of the immediate area were considered as part of the Planning Application. Our clients are fully aware of their responsibilities in this respect.

As part of this the Planning Permission was granted for operation between 11.30am and 10pm, presumably in order to minimise any potential issues in the neighbourhood. These hours are reflected in this Application.

Similarly, in terms of the Planning Application, there are provisions regarding the design and construction of plant and equipment, and safeguards with regard to the ventilation equipment. Again these should help to minimise public nuisance. Our clients will of course comply with these.

Our clients do not anticipate causing issues to the neighbourhood. Their other restaurants are in similar localities, and they are confident that they will not cause problems, but also if, by any chance, neighbours did have concerns, that they would be able to approach our clients and discuss them, with a view to the issues being remedied. Our clients are looking to the local community to be regular clientele and the last thing that they want to do is upset them!

One thing that they are aware of will be to monitor smokers. The pavement is not particularly wide at that point and they don't want smokers causing any sort of inconvenience to passers-by.

Basically, our clients are pro-active licensees and will react in an appropriate manner to any concerns expressed by the local community, of which they wish to be part.

#### **4. Protecting and Improving Public Health**

These will be food orientated premises, as will be appreciated, with the consumption of drink ancillary, but people in certain circumstances can consume too much, particularly perhaps if they have already consumed alcohol earlier. The behaviour of clients will be monitored to ensure overconsumption, which could be a danger to their safety as well, is minimised.

Staff will be trained as to the signs of people being drunk. It can sometimes be more difficult in a restaurant than in a bar because people are generally seated and it is perhaps only when they are leaving, or possibly visiting the toilet, that this is noticed.

Overconsumption of alcohol in Scotland is an issue and East Lothian Licensing Board have recognised this by their overprovision policy. Notwithstanding this, alcohol will be consumed in these premises whether a Licence is granted or not, and it is considered more appropriate for this to be regulated by a Licence, where the Board, the Licensing Standards Officers, and Licensing Police, are involved, rather than the unregulated BYOB. We would contend that granting the Licence will promote public health in this respect.

Our client's speciality will obviously be Italian wines, with some Italian beers as well. Liqueurs will be on offer.

#### **5. Protecting Children from Harm**

Our clients wish to have a very child friendly restaurant, where children and young persons can feel at home and parents enjoy bringing their families along.

Everything will be done to promote this.

With regard to underage drinking, this does happen in restaurants, perhaps parents attempting to provide their children with alcohol, when they are not of the appropriate age. This will be closely monitored and staff will be trained in this respect.

They will of course operate a Challenge 25 Policy, and indeed a Refusals/ Incidents Book.



**POLICE  
SCOTLAND**

Keeping people safe

Date: 8<sup>th</sup> February 2016

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](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk)

Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 - REPRESENTATION  
APPLICATION FOR A PROVISIONAL PREMISES LICENCE  
APPLICANT: MEUCCI LTD, [REDACTED]  
PREMISES: 10-12 COURT STREET, HADDINGTON**

I refer to the above application and in terms of Section 21 (4) (a) of the Licensing (Scotland) Act 2005, I have to advise you that neither the applicant nor any connect persons have been convicted of any relevant offence.

I am unable to confirm the existence of any foreign offence, committed out with the United Kingdom, in respect of the applicant or any connected persons.

In terms of Section 22 (1) (b) of the Licensing (Scotland) Act 2005:

It is pertinent to point out that this new application 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 licence would outweigh the presumption against grant in terms of the overprovision statement.

I note that the applicant has requested 'Deliveries (which may include alcohol)' in the operating plan and would request that the applicant clarify in what circumstances this would take place as well as what process and preventative measures they will have to prevent the sale/access of alcohol to persons underage as well as to vulnerable adults in their own home.

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

Yours faithfully

PC Heather Bowsher  
Divisional Licensing Officer



## Elworthy, Debbie

---

**From:** Alistair Macdonald [alistair@macdonaldlicensing.com]  
**Sent:** 14 February 2016 11:58  
**To:** Elworthy, Debbie  
**Cc:** LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk  
**Subject:** 10-12 Court Street, Haddington

Morning Debbie

Our clients have, after considering the police letter, decided that they will not do Deliveries. Do you want an amended Operating Plan with this Activity deleted?

Kind regards

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](http://www.macdonaldlicensing.com)

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# **EAST LoTHIAN COUNCIL**

## **LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES**

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

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

---

**Date: 29<sup>th</sup> February 2016**

**Subject: LICENSING SCOTLAND ACT 2005**  
**PROVISIONAL PREMISES LICENCE APPLICATION**

**10 – 12 COURT STREET, HADDINGTON, EAST LoTHIAN EH41 3JA**

I refer to the above subject and can confirm that the Provisional Licence application in respect of the old Procurator Fiscal's Office has been assessed, in line with the requirements of the Licensing (Scotland) Act 2005, and is in order.

It is worthy of note that the applicant has two other licensed restaurants in North Berwick, both of which are well run and no complaints have been received by Licensing Standards in relation to any aspect of the premises operation.

I have no objections to the granting of this application.

R. Fruzynski  
Licensing Standards Officer

**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

<b>Provisional(s)</b>	<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
4	10- 12 COURT STREET 10-12 COURT STREET HADDINGTON EAST LOTHIAN EH41 3JA	MEUCCI LTD C/O MACDONALD LICENSING LIMITED 21A RUTLAND SQUARE EDINBURGH EH1 2BB	27 January 2016	
87 5	PANS CONVENIENCE STORE 5 HAWTHORN ROAD PRESTONPANS EH32 9QW	ABDUL KAREEM NADEEM C/O YOUNG & PARTNERS 1 GEORGE SQUARE CASTLE BRAE DUNFERMLINE KY11 8QF	18 February 2016	

**3b**

**EAST LoTHIAN LICENSING BOARD**

APPLICATION FOR PROVISIONAL PREMISES LICENCE

\*Delete as appropriate

Licensing (Scotland) Act 2005, section 20

**APPLICANT INFORMATION** *Licensing (Scotland) Act 2005, section 20(1)*

**Question 1**

*Name, address and postcode of premises to be licensed.*

Pans Convenience Store 5 Hawthorn Road Prestonpans EH32 9QW
--

**Question 2**

*Particulars of applicant*

2(a) *Where applicant is an individual, provide full name, date and place of birth, and home address including postcode.*

Abdul Kareem Nadeem - DOB: [REDACTED] [REDACTED]
---

2(b) *Where applicant is a partnership, please provide full name, and postal address of partnership.*

N/A
-----

2(c) *Where applicant is a company, please provide name, registered office and company registration number.*

N/A
-----

2(d) *Where the applicant is a club or other body, please provide full name, and postal address of club or other body.*

N/A
-----

2(e) *Where applicant is a partnership, company, club or other body, please provide the names, dates and places of birth, and home addresses of connected persons. \**

N/A
-----

**\* Connected person is defined in section 147(3) of the Licensing (Scotland) Act 2005.**

**Question 3**

*Previous applications*

3 *Has the applicant been refused a premises licence under section 23 of the Licensing(Scotland) Act 2005 in respect of the same premises?* **NO**

*If YES - provide full details*

--

**Question 4**

*Previous convictions*

4. <i>Has the applicant or any connected person ever been convicted of a relevant or foreign offence (a)</i>	<b>NO</b>
--	-----------

*\*If YES - provide full details*

*For the purpose of this Act, a conviction for a relevant offence or foreign offence is to be disregarded if it is spent for the purpose of the Rehabilitation of Offenders Act 1974*

<i>Name &amp; Position (if applicable)</i>	<i>Date of conviction of sentence</i>	<i>Court</i>	<i>Offence</i>	<i>Penalty</i>

(a) In addition to any convictions held by the applicant at the time of application, applicants should also familiarise themselves with the contents of section 24(1) of the Licensing (Scotland) Act 2005 in respect of any convictions for relevant or foreign offences which they may receive during the period beginning with the making of the premises licence application and ending with determination of the application.

**DESCRIPTION OF PREMISES** *Licensing (Scotland) Act 2005, section 20(2)(a)*

**Question 5**

5. *Description of premises (where application is submitted by a members' club, please also complete question 6)*

Convenience store selling groceries, newspapers, tobacco products and general merchandise.
--

**Question 6**


- 6 *To be completed by members' clubs only*

<i>Do the club's constitution and rules conform to the requirements of regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007?</i>	<i>N/A</i>
<i>* Delete as appropriate</i>	

**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 Application are true to the best of my knowledge and belief.

Signature  (see note below)

Date 15 February 2016

Capacity Agent (delete as appropriate)

Name: John Cassells

Address: Young & Partners LLP, 1 George Square, Castle Brae, Dunfermline, KY11 8QF

Telephone: 01383 721 621

Email: [jgc@businesslaw.co.uk](mailto:jgc@businesslaw.co.uk)

## EAST LoTHIAN LICENSING BOARD

### OPERATING PLAN

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

*Name, address and postcode of premises to be licensed.*

<b>Pans Convenience Store</b> <b>5 Hawthorn Road</b> <b>Prestonpans</b> <b>EH32 9QW</b>
--

#### 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>YES*</i>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<i>NO*</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>	n/a	n/a
<i>Tuesday</i>	n/a	n/a
<i>Wednesday</i>	n/a	n/a
<i>Thursday</i>	n/a	n/a
<i>Friday</i>	n/a	n/a
<i>Saturday</i>	n/a	n/a
<i>Sunday</i>	n/a	n/a



**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>	<i>NO*</i>
--	------------

*\*If YES – provide details*

**Question 5**

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

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

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

*Recorded background music may be played when the premises are open for normal trading.*

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.

The convenience store opens daily at 6am for the sale of groceries, newspapers, tobacco products and general merchandise.

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?	YES/NO*
When fully occupied, are there likely to be more customers standing than seated?	YES/NO*
*Delete as appropriate	

**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>	<i>YES/NO*</i>
	<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*

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

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

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

**Question 7**

**CAPACITY OF PREMISES**

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

*The premises has two areas for the display of alcohol.*

- 1. Sales floor area accessible to the general public. An area not exceeding 16.8 square metres in total, the display being shown shaded beige on the layout plan.*
- 2. Gantry area inaccessible to the general public. A restricted display area positioned behind the tills measuring 1m x 0.5m and shaded pink on the layout plan.*

*The maximum height of the display units will be 2.2m.*

**Question 8**

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

*Personal details*

8(a) *Name*

TO BE APPOINTED WITH CONFIRMATION

8(b) *Date of birth*

8(c) Contact address

--

8(d) Email address and telephone number

--

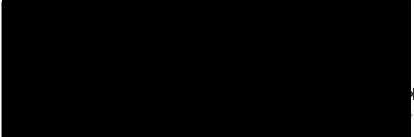
8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>

**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)

John Cassells, Young & Partners LLP, Business Lawyers, 1 George Square, Castle Brae, Dunfermline KY11 8QF

Date 15 February 2016

Capacity - AGENT

Telephone number and email address of signatory 01383 721 621 / [jgc@businesslaw.co.uk](mailto:jgc@businesslaw.co.uk)

**\* 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.

Your ref: Debbie Elworthy  
Our ref: JGC/AF/AF/NADE1/1

17 February 2016

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

By email only to: [delworthy@eastlothian.gov.uk](mailto:delworthy@eastlothian.gov.uk)

Dear Sir

**Licensing (Scotland) Act 2005**  
**Abdul Nadeem**  
**Pan Convenience Store, Prestonpans**

Further to our letters of 15 and 16 February 2016 lodging applications for provisional premises licence and occasional licences respectively, we enclose an amended Licensing Objectives Compliance together with further copies of the documentation referred to therein. The version sent to you under cover of that letter had not been fully updated. Please replace this with the enclosed and place copies with all of our applications.

We would also like to stress that the previous designated Premises Manager, Mr Ali Raza, will **not** be considered for appointment as Premises Manager in these premises or any other licensed premises which our client owns or operates.

We would ask that this letter and the enclosures be circulated to the police, Licensing Standards Officer and any other interested parties.

Yours faithfully

  
John Cassells

Partner

Email: [jgc@businesslaw.co.uk](mailto:jgc@businesslaw.co.uk)

DD: 01383 745791

cc, Inspector Harborow, Police Scotland  
Rudi Fruzynski

1 George Square, Castle Brze, Dunfermline KY11 8QF LP1 Dunfermline 3

Phone: (01383) 721621 Fax: (01383) 722080

Email: [enquiries@businesslaw.co.uk](mailto:enquiries@businesslaw.co.uk) website: [www.businesslaw.co.uk](http://www.businesslaw.co.uk)

Glasgow office: 126 West Regent Street, Glasgow G2 2BH LP 25 Glasgow 1 Tel: (0141) 428 3888 Fax: (0141) 248 6718

Members: Robin Millar, Stephen Lochrie, Ruth Waters, John Cassells and Alan Stalker.

Consultant: Neil Killick. Associates: Julie Sullivan, Craig Smith and Fiona Grant.


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Registered Office: 1 George Square, Castle Brze, Dunfermline KY11 8QF

All correspondence signed by a named individual is signed for and on behalf of Young & Partners LLP



## Licensing Objectives Compliance

Applicant	Abdul Kareem Nadeem 
Name and Address of Premises	Pans Convenience Store 5 Hawthorn Road Prestonpans EH32 9QW

In connection with the application for a Provisional Premises Licence and applications for Occasional Licences in terms of the Licensing (Scotland) Act 2005 in respect of the above premises, the Applicant will take the following steps to comply with the Licensing Objectives.

### 1 Prevention of Crime and Disorder

1. The Applicant provides in-house training, including induction and reminder training for all staff on the sale of alcohol and age restricted products.
2. Applicant has daily reminder system in place to help ensure compliance – reminder documentation attached.
3. The Premises operates a Challenge 25 proof of age policy which requires approved ID for those believed to be under 25 years of age – policy attached.
4. Staff at till all speak English and can communicate effectively with customers including communication of requests for permitted age ID and reasons for refusal.
5. Premises display full Challenge 25 information throughout the store – for example see attached.
6. The premises has CCTV cameras in operation enabling continuous monitoring of the store by staff at the till. The images can be made available to police if required.
7. Personal Licence holder to be present in store at least for part of every day and at busy times.

### 2 Securing Public Safety

1. The Applicant provides in-house training, including induction and refresher training for all staff on the sale of alcohol and age restricted products.
2. Applicant has daily reminder system in place to help ensure compliance – reminder documentation attached.
3. The Premises operates a Challenge 25 proof of age policy which requires approved ID for those believed to be under 25 years of age – policy attached.
4. Staff at till all speak English and can communicate effectively with customers including communication of requests for permitted age ID and

- reasons for refusal.
5. Premises display full Challenge 25 information throughout the store – for example see attached.
  6. The premises has CCTV cameras in operation enabling continuous monitoring of the store by staff at the till. The images can be made available to police if required.
  7. Personal Licence holder to be present in store at least for part of every day and at busy times. The premises are the subject of a health and safety risk assessment which is reviewed regularly.
  8. The premises are the subject of a health and safety risk assessment which is reviewed regularly.
  9. The premises are the subject of a fire risk assessment which is reviewed regularly.

### **3 Preventing Public Nuisance**

1. Liaison with community police.
2. The premises operates a policy that anybody exhibiting behaviour considered to be anti social are ejected and barred from the premises.
3. The Applicant provides in-house training, including induction and reminder training for all staff on the sale of alcohol and age restricted products.
4. Applicant has daily reminder system in place to help ensure compliance – reminder documentation attached.
5. The Premises operates a Challenge 25 proof of age policy which requires approved ID for those believed to be under 25 years of age – policy attached.
6. Staff at till all speak English and can communicate effectively with customers including communication of requests for permitted age ID and reasons for refusal.
7. Premises display full Challenge 25 information throughout the store – for example see attached.
8. The premises has CCTV cameras in operation enabling continuous monitoring of the store by staff at the till. The images can be made available to police if required.
9. Personal Licence holder to be present in store at least for part of every day and at busy times.

### **4 Protection of Public Health**

1. Staff are trained not to sell alcohol to those under the influence.
2. The premises does not advertise or promote alcohol in a manner to encourage excessive drinking.
3. The Applicant provides in-house training, including induction and reminder training for all staff on the sale of alcohol and age restricted products.
4. Applicant has daily reminder system in place to help ensure compliance – reminder documentation attached.
5. The Premises operates a Challenge 25 proof of age policy which requires approved ID for those believed to be under 25 years of age – policy attached.

6. Staff at till all speak English and can communicate effectively with customers including communication of requests for permitted age ID and reasons for refusal.
7. Premises display full Challenge 25 information throughout the store - for example see attached.
8. The premises has CCTV cameras in operation enabling continuous monitoring of the store by staff at the till. The images can be made available to police if required.
9. Personal Licence holder to be present in store at least for part of every day and at busy times.

## **5 Protecting Children from Harm**

1. Unaccompanied children in store are closely monitored. No more than 4 / 5 permitted in store at any one time.
2. There is a strict control on the sale of age restricted products, including EPOS till prompts to staff.
3. The Applicant provides in-house training, including induction and reminder training for all staff on the sale of alcohol and age restricted products.
4. Applicant has daily reminder system in place to help ensure compliance - reminder documentation attached.
5. The Premises operates a Challenge 25 proof of age policy which requires approved ID for those believed to be under 25 years of age - policy attached.
6. Staff at till all speak English and can communicate effectively with customers including communication of requests for permitted age ID and reasons for refusal.
7. Premises display full Challenge 25 information throughout the store - for example see attached.
8. The premises has CCTV cameras in operation enabling continuous monitoring of the store by staff at the till. The images can be made available to police if required.
9. Personal Licence holder to be present in store at least for part of every day and at busy times.

07718882837

**Janet Hood Consulting**  
not a firm of solicitors

[janethood@me.com](mailto:janethood@me.com)

ONE PAGE PER DAY

Daily reminders Pan Convenience Store  
Reminders to be made by Premises Manager  
Other Personal Licence Holder  
Other responsible person

Record of Daily Staff Reminders - must be kept on file or in book - one page per day			
DATE	eg 3 June 2016		
Staff reminded name	eg Janet Hood	eg Mary Smith	eg Joe Bloggs
Challenge 25	X		
No service of alcohol to under 18s	X		
No entry by or service to drunk persons	X		
Check outside for agency purchases	X		
Start time for sale of Alcohol 10 a.m.	X		
Closing time for sale of alcohol 10 p.m.	X		
Look at till reminders	X		
Ensure signage clear and easy to read pointed out to staff	X		
Staff signature	eg Janet Hood		
Manager advising name	eg Abdul Nadeem		
Manager Signature	eg AKNadeem		

# UNDER 25?

Please be  
prepared to show  
proof of age when  
buying alcohol



[drinkaware.co.uk](http://drinkaware.co.uk)



**CHALLENGE 25 POLICY FOR**

**PANS CONVENIENCE STORE**

In these premises it is the policy that in terms of

The Alcohol etc. (Scotland) Act 2010 section 6

No person employed within these premises to sell or serve alcohol shall sell or serve alcohol to any individual whom they believe to be under the age of 25 or to any person attempting to purchase alcohol for a person whom they believe to be under the age of 25 - UNLESS

The employee has requested, seen, and accepted photographic proof of age of the person they believe to be under 25 in the form of

1. Current Passport
2. Current Photo driving license
3. Current Young Scot, Citizen or other acceptable "PASS" logo Card.
4. EU ID CARD
5. MOD ID CARD
6. BIOMETRIC RESIDENCY PERMIT

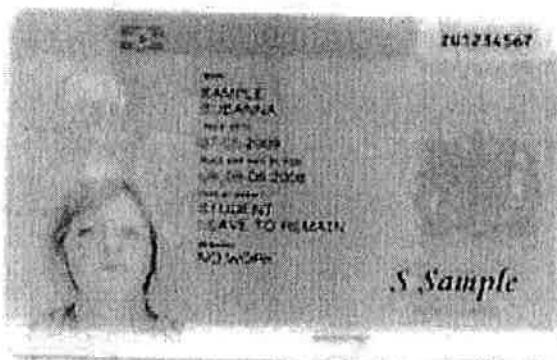
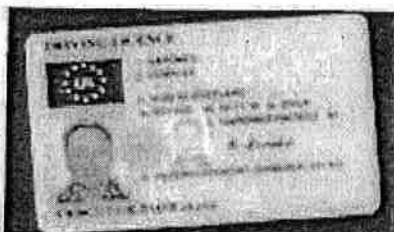
**UNDER NO CIRCUMSTANCES SHALL ALCOHOL BE SOLD TO PERSONS WHO ARE UNDER THE AGE OF EIGHTEEN.**

ALL EMPLOYEES UNDERSTAND THAT FAILURE TO ADHERE TO THIS POLICY WILL PUT AT RISK THE PREMISES LICENCE; THE JOBS OF THEIR COLLEAGUES & THE BUSINESS OF THEIR EMPLOYER. THEY FURTHER UNDERSTAND THAT ANY SUCH FAILURE MAY BE DEEMED GROSS MISCONDUCT UNDER THE TERMS OF THEIR CONTRACT OF EMPLOYMENT AND MAY LEAD TO INSTANT DISMISSAL AND CRIMINAL PROSECUTION.

EMPLOYERS SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

EMPLOYEES SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_





Janet Hood LLB Dip LP Accredited Licensing Law Specialist  
Janet Hood Consulting - [janethood@me.com](mailto:janethood@me.com) 0771 888 2337

## LICENSING (SCOTLAND) ACT 2005

### PANS CONVENIENCE STORE

It is an offence for a person under the age of 18 to buy or attempt to buy alcohol on these premises.

It is also an offence for any other person to buy or attempt to buy alcohol on these premises for a person under the age of 18.

Where there is doubt as to whether a person attempting to buy alcohol on these premises is aged 18 or over, alcohol will not be sold to the person except on production of evidence showing the person to be 18 or over.

*This notice is displayed in accordance with the provisions of section 110 of the Licensing (Scotland) Act 2005*

Notice prepared by Janet Hood,

- Accredited Licensing Specialist

E: [janethood@lms.org](mailto:janethood@lms.org) M: 0771 888 2837



## CUSTOMER INFORMATION

### PANS CONVENIENCE STORE

The Alcohol etc. (Scotland) Act 2010 section 6

**PLEASE NOTE THAT THE MANAGEMENT OF THESE PREMISES HAVE MADE THE FOLLOWING POLICY WITH WHICH THE STAFF MUST COMPLY**

**ANY PERSON ATTEMPTING TO PURCHASE ALCOHOL**

**WHO APPEARS TO BE UNDER THE AGE OF 25**

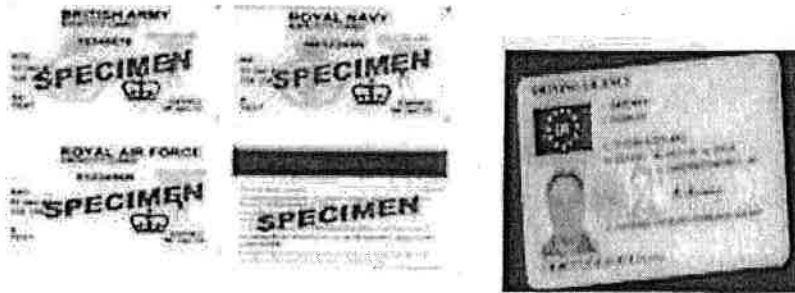
**OR ANY PERSON ATTEMPTING TO PURCHASE ALCOHOL FOR ANOTHER PERSON**

**WHO APPEARS TO BE UNDER THE AGE OF 25**

**WILL NOT BE SERVED UNLESS THE PERSON APPEARING TO BE UNDER THE AGE OF 25 CAN PRODUCE CURRENT PHOTOGRAPH AGE VERIFICATION DOCUMENTS**

**THE ONLY AGE VERIFICATION DOCUMENTS ACCEPTED ON THESE PREMISES ARE**

1. Current Passport Current 2. Photo driving licence 3. Current Young Scot, Citizen or other acceptable "PASS" logo Card. 4. EU ID CARD 5 MOD ID CARD 6. BIOMETRIC RESIDENCY PERMIT



Janet Hood LLB Dip LP Accredited Licensing Specialist Janet Hood Consulting [janethood@me.com](mailto:janethood@me.com) 0771 888 2837

**Winter, Maree**

---

**From:** Prestonpans Community Council [prestonpanscommunitycouncil@googlemail.com]  
**Sent:** 13 March 2016 22:01  
**To:** Winter, Maree  
**Subject:** RE: Provisional premise licence - EL 335 - Pans convenience store, prestonpans

Hello Maree,

Prestonpans Community Council would like to make representation on this application for a provisional licence. We have an adequate number of retail outlets that sell responsibly in Prestonpans. We are gravely concerned about the breaches that have happened on this premise, and understand that the removal of its licence is not taken lightly. We have seen no evidence that the premises has done nothing more than speak to employees. We would like to see the following licence conditions to be applied:

- 1) The personal licence holder is on the premises at all times during the trading day.
- 2) More than one licence holder at the premises, as this would strengthen their commitment to be compliant, and help strengthen their relationship with the community as being a responsible retailer.

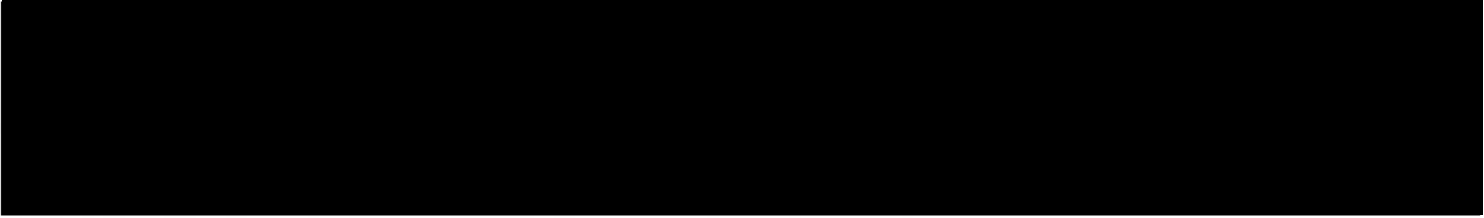
We hope our response will be considered.

Prestonpans Community Council

  
Secretary

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**From:** Winter, Maree [mailto:mwinter@eastlothian.gov.uk]  
**Sent:** 18 February 2016 15:19

  
**Subject:** Provisional premise licence - EL 335 - Pans convenience store, prestonpans  
**Importance:** High

Dear all,

Please find attached application for a provisional premise licence for the Pans Convenience Store, 5 Hawthorn Road, Prestonpans.

Could I please have any representations/objections by 14<sup>th</sup> March 2016.

Regards  
Maree  
Licensing Administration Assistant  
Licensing, Administration & Democratic Services  
East Lothian Council  
01620 827867

\*\*\*\*\*  
Email Disclaimer - East Lothian Council

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**POLICE  
SCOTLAND**

Keeping people safe

Date: 1<sup>st</sup> March 2016

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](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk)

Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 - OBJECTION  
APPLICATION FOR PROVISIONAL PREMISES LICENCE – SECTION 20  
APPLICANT: ABDUL KAREEM NADEEM, [REDACTED]  
PREMISES: PANS CONVENIENCE STORE, 5 HAWTHORN ROAD,  
PRESTONPANS**

I refer to the above application and in terms of Section 22(1)(a) of the Licensing (Scotland) Act 2005, I object to the grant of this licence on the grounds specified in Section 23(5)(c), inconsistent with one or more of the licensing objectives namely:

- Preventing crime and disorder
- Preventing public nuisance
- Preventing and improving public health

The following information is provided in support of this objection:

It is pertinent to note that the application 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 licence would outweigh the presumption against

grant in terms of the Overprovision Statement.

There are already 17 premises with 'off sales' facilities within Prestonpans, 10 of which are purely for "off sales". Furthermore, two of the premises which offer "off sales" facilities are also on Hawthorn Road.

There have been 31 reported incidents to police over the last year, in Hawthorn Road alone, these incidents include numerous thefts, youth disorder and violence.

The Board members may or may not be aware that the premises were licensed until recently (Dec 2015) when the licence holder subsequently surrendered the premises licence. The premises had failed two test purchases, one in March and another in December 2015. Had the premises licence not been surrendered Police Scotland would have requested a review of the premises licence.

Whilst it is appreciated that the applicant was not the holder of the premises licence at the time of the test purchase failures, it is a premises that is reviewed, not necessarily the licence holder. The fact that this premises failed two test purchases last year, highlights the issues in relation to alcohol being sold to persons under 18 years of age in this locality.

In November 2013 when the East Lothian Licensing Board Statement of Licensing Policy was published, Prestonpans was one of the areas highlighted in the health and police stats as being over provided for when it came to alcohol outlets.

The Board will be aware that alcohol related crime, violence and anti social behaviour is a significant problem for all communities and the police. The increasing financial, health and social costs associated with the misuse of alcohol is also of growing concern.

Police Scotland feels that there are more than enough outlets for persons to access alcohol in and around Prestonpans and that granting this provisional premises licence would be surplus to requirements and as such there should be a rebuttable presumption against the grant of this licence, unless the applicant can provide robust and reliable evidence to support this application sufficient to demonstrate that the grant of this licence would outweigh the presumption against grant in terms of the Overprovision Statement.

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

Yours faithfully

Insp Harborow

# EAST LoTHIAN COUNCIL

## LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

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

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

---

Date: 29<sup>th</sup> February 2016

**Subject: LICENSING SCOTLAND ACT 2005**  
**PROVISIONAL PREMISES LICENCE APPLICATION**

**PANS CONVENIENCE STORE, HAWTHORN ROAD, PRESTONPANS, EAST**  
**LoTHIAN EH32 9QW**

I refer to the above subject and can confirm that the Provisional Licence application in respect of the Pans Convenience Store has been assessed, in line with the requirements of the Licensing (Scotland) Act 2005, and is in order.

The applicant is Mr Abdul Nadeem who is a business partner in the above premises and is the holder of Personal Licence number EL1231, issued by East Lothian Council on 4<sup>th</sup> November 2015.

The Pan Convenience Store recently held a Premises Licence for some years until it was surrendered on 16<sup>th</sup> December 2015 following a dispute between business partners. It is claimed that the differences between the old partnership and the new have been set aside and are now resolved.

The premises were visited on 26<sup>th</sup> February 2016 when it was noted that the mandatory site notice informing the public of the details of this application was correctly displayed.

R. Fruzynski  
Licensing Standards Officer



**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

**Premises Licence Review(s)**

<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
6 AULD HOOSE 19 FORTH STREET NORTH BERWICK EAST LOTHIAN EH39 4HX	MRS WILMA SHAW	29 February 2016	
7 AULD HOOSE 19 FORTH STREET NORTH BERWICK EAST LOTHIAN EH39 4HX	MS DOROTHY BOYLE	1 March 2016	
8 CO-OPERATIVE GROUP FOOD LTD. CO-OPERATIVE GROUP FOOD LTD. MAIN STREET ORMISTON TRANENT EAST LOTHIAN	POLICE SCOTLAND	12 February 2016	
9 ELPHINSTONE ARMS MAIN STREET ELPHINSTONE EH33 2LT	POLICE SCOTLAND	13 February 2015	

**Winter, Maree**

---

**From:** [REDACTED]  
**Sent:** 29 February 2016 13:42  
**To:** Licensing; NorthBerwickCoastalCPT@Scotland.pnn.police.uk; secretary nb com council  
**Subject:** Re: The Auld Hoose Public House, North Berwick

Dear Sir/ Madam,

**Re: The Auld Hoose public house at 19 Forth Street, North Berwick, EH39 4HX**

The antisocial behaviour of clients of this pub is having a serious , negative impact on the lives of local residents.

We have made previous representation for improved consideration.

Examples of antisocial behaviour follows :

-Through evening/night -time opening hours and beyond closing time individuals and groups gather outside to smoke , talk loudly on mobile phones, argue and at times fight.  
(Most of the conversations , often full of foul language, screams and charging about can be heard inside our homes at two rooms removed from the street front.)

-Many litter the streets , tossing cigarette ends and bottles or glasses in our gardens and some urinate/ are sick against our wheelie bins which are on our properties.

-If home windows are open cigarette smoke drifts from those who smoke by our bins or in our garden area.

-They do not disperse at leaving time but hang around often running between parked vehicles shouting and screaming abuse at each other.

-An added disturbance is caused by the revving cars which now stop outside on the pavements , engines running, whilst clients come out to talk with the drivers who then race off only to return later and follow the same pattern.

-Pedestrians walk warily on other side of road and I would hesitate to go out to my own bin or car in the evening and would most certainly be too fearful to ask for consideration from those outside my home.

There are no door staff monitoring or encouraging customers to be more considerate throughout hours and to move on home at end of hours.

Calls to the police , discussions with council anti social behaviour wardens and the landlord have not improved matters for residents.

This behaviour has become habitual.

Referring to East Lothian Licensing Policy these are breeches of this policy, particularly:-  
Objectives, 3.1, Preventing Crime and Disorder , 9.2, 9.3, 9.4, Securing Public Safety, 10.2, 10.3,  
Preventing Public Nuisance 11..., Protecting Children from Harm , 13.4, Smoking 25.1,  
25.2...

Apart from a hairdressing salon opposite the pub, below a family home all the properties in this part of Forth Street are lived in by permanent residents.

I would appreciate acknowledgement of receipt of this email.



Winter, Maree

---

**From:** [REDACTED]  
**Sent:** 01 March 2016 22:22  
**To:** Licensing  
**Subject:** Re: KMacN/mjw/EN/L/EL038. Additional comment

Dear Ms Winter, This evening I attended NB community Council meeting and heard the police report about attendance to incidents at Auld Hoose.

As officers were not present I could not ask what the gap between calls made to them and attendance were .

Residents know that , yes the incidents were over because the police took over thirty minutes in one case , were longer in others and obviously cannot be taken from more serious actions to monitor the street behaviour with random checks.

Without a timescale their response carries little value. .  
It does not negate the severity of the disturbances nor the validity of the complaints.

Yours sincerely ,

[REDACTED]  
Sent from my iPad

On 1 Mar 2016, at 12:11, Licensing <[licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)> wrote:

Hi,

I acknowledge receipt of your email, the police and asbo team have been contacted for a report.

Regards  
Maree.

---

**From:** wilma shaw [REDACTED]  
**Sent:** 01 March 2016 12:09  
**To:** Licensing  
**Subject:** KMacN/mjw/EN/L/EL038

Re: Auld Hoose , North Berwick

Dear Ms Winter,

Thank you for your prompt reply.

Unfortunately I have other appointments on that date and suspect that as it is the Easter break I may find it difficult to enlist a stand-in.

I would like to refer the Board to the numerous calls to 101 and others from my neighbours and self. We have almost given up on that influencing changes hence my letter /our letters to the Board.

As the tourist season arrives we anticipate others emulating the behaviours of the current , local clientele with dread.

Yours sincerely,

[REDACTED]  
1/03/2016, [REDACTED]




1<sup>ST</sup> March 2016

Dear Sir/Madam,

**Re: The Auld Hoose Public House 15 Forth St North Berwick EH39 4HX**

I am writing to express my concerns about the increasing numbers of problems associated with the above named pub. Twice within a fortnight there have been two fights in the street outside when customers have, in numbers, spilled out the pub and began fighting in the street. On both occasions the police have been asked to attend via 999 due to the perceived severity of the fights.

The noise levels from customers standing outside to smoke and chat either to each other or on mobile phones has increased substantially and I have had several incidents of young men urinating against my gate and refuse bins. My  daughter's bedroom is at the front of the house and she was looking out the bedroom waiting on me returning from the supermarket when a young man relieved himself against the gate. I called the police immediately.

In recent weeks there has also been an increase in young people driving cars up the street and parking illegally on the pavement whilst leaving the car engine running as passengers run in and out the pub. Again these cars, some of which have modified exhausts, are so loud my daughter's sleep is being disturbed. They drive round in groups of two or three cars and appear to be racing each other as they pull up on the pavement at speed then both cars take off simultaneously again at speed.

I recently found two people sitting on my doorstep smoking and had to ask them to move, both were holding bottles of beer. I frequently pick these bottles out of my plant pot.

The pub does not employ door staff/bouncers and although the pub landlord does a great job I feel the time has come for greater input from both door staff to control the behaviour of customers outside and from the police as many of the customers are teenagers who become very rowdy when in groups outside the pub.

Over the past year I have had to phone the council re noise pollution, the police on several occasions re fighting and speak to the landlord in person due to the behaviour of some customers. Forth Street is a residential area and I feel there needs to be better consideration given to address the increasing problems the customers of this public house are causing for local residents.

Yours faithfully



# EAST LoTHIAN COUNCIL

## LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

**Rudi Fruzynski,  
Licensing Standards Officer**

**Kirstie MacNeill  
Clerk to the Licensing Board**

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Date: 04 March 2016

**Subject: LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE REVIEW – THE AULD HOOSE, FORTH STREET, NORTH  
BERWICK, EAST LoTHAIN**

On Monday 29<sup>th</sup> February 2016, I received intimation in terms of Section 38(3)(b) of the licensing (Scotland) Act 2005 that the Licensing Board had accepted an application 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

### General Information

The Auld Hoose, 19 Forth Street, North Berwick is owned by Greene King Retailing Ltd. The company has held the premises licence in respect of the pub since March 2010, after it was taken over from Belhaven Brewery Co. Ltd.

Mr Craig Edwards has held the lease for the pub since August 2007. Mr Edwards is also founder member of the North Berwick Pub Watch.

The core hours of the premises for on consumption sales are as follows:

Monday to Wednesday inclusive – 11:00 to 23:00

Thursday to Saturday inclusive – 11:00 to 01:00

Sunday -11:00 to 24:00

The core hours for off-consumption sales are 11:00 to 22:00 daily.

The premises cater for a mixed age group of clientele. Entertainment is limited to a Box Club every Saturday which comprises a piano player playing from 21:00 to 22:30; a band 3 to 4 times a year, and televised sport on a daily basis. A darts team play on Monday evenings, when hosting a home match.

At quiet periods the bar is staffed by one member of staff and at all busy periods by 3 staff. There are 2 personal licence holders, one of which is normally on at all times the premises are open.

### Premises Review

There are three separate complainers referred to in this report, namely [REDACTED] and [REDACTED] who reside at [REDACTED] respectively, in a recessed area immediately adjacent to the Auld Hoose, and [REDACTED] whose house is diagonally opposite the pub.

### Summary of Complaints and Action Taken From 01-01-2015

At 22:41 on Thursday 16<sup>th</sup> July 2015 [REDACTED] complained, via the Anti-Social Behaviour helpline, about noisy, rowdy behaviour from the Auld Hoose. A male had just come out of the pub for a cigarette and was skateboarding up and down. A crowd was outside standing smoking and making loud noise. She stated that the premises were licensed to 01:00 but patrons remained outside until 01:30. The Operator provided [REDACTED] with details of the times the Anti-Social Behaviour Team (ASB Team) operate over weekends and advised her to call the police if she felt that the situation required immediate attention. An Environmental Protection Officer was informed of the call and indicated she would contact [REDACTED] with a view to confirming fuller details of the problem for the information of the Night Time Noise Team (NTNT).

On Friday 14<sup>th</sup> September 2015 [REDACTED] emailed the Licensing Standards Officer stating he wished to highlight concerns with noise and disturbance associated with patrons of the Auld Hoose. He stated disturbance occurs late at night or in the early hours of the morning and was such that it was sufficient to wake him from sleep, or prevent him getting to sleep in the first place.

The following day (15-09-2016), [REDACTED] emailed the LSO that he had been woken at 02:00 by shouting outside the Auld Hoose. He had looked out and saw that a man was being arrested by Police Officers and was taken away in a police van. It was later learned that the pub was closed at the time of the incident and the arrested male had no connection with it.

On 19<sup>th</sup> September 2015, [REDACTED] emailed the LSO to say that at 23:00 the previous day, (Friday 18-09-2015), he got home to find a number of people going in and out of the Auld Hoose making a great deal of noise in the street. This continued on and off for some time, building up to an alleged 'crescendo' at 01.30, which prevented him being able to get to sleep. He stated he telephoned the Police on two occasions, but this had little effect in reducing the noise. He requested that the Council take action to control the problem.

On Tuesday 25<sup>th</sup> September 2015, the LSO returned from holiday and contacted [REDACTED]. He was informed him that the NTNT had been requested to monitor the pub for ASB and nuisance, duties permitting. He was also informed that the Team supervisors had asked that [REDACTED] all the ASB Helpline direct, at the time any noise nuisance was being experienced, so that officers could attend and make observations. The telephone numbers of both the Helpline and Police Scotland were provided.

[REDACTED] was also updated that the LSO had met with Mr Craig Edwards that afternoon and apprised him of the content of the complaints received. Mr Edwards was concerned about these complaints and stated he would brief staff on the issues raised, he would arrange for smoker checks every 15 minutes to ensure their orderly conduct as far as possible, he would put up big signs on the entrance/exit doors alerting customers to noise problems and to be mindful of nearby residents and he would put up a large sign, in a prominent position on the back wall of the bar stating that, due to the limited taxis service in the town, bookings should be made at least one hour before closing time to prevent noise nuisance of patrons leaving at closing time and hanging

about in the street waiting on transport home. Mr Edwards also provided telephone contact details, for himself and the bar, which [redacted] and the NTNT could use should further problems arise and this would allow for the problem to be dealt with immediately.

[redacted] acknowledged the action taken with thanks. However, he went on to say at 22:30 on 26<sup>th</sup> September 2016 four customers of the Auld Hoose were arguing and shouting at the side door of the premises which made a level of noise that prevented him getting off to sleep. He phoned Mr Edwards and asked if he could sort out the problem, which he did. Then later that night, at 01:17, there was a great deal of shouting by a group of people at the front door, which woke [redacted]. He again phoned Mr Edwards and asked if he would speak to those concerned, but Mr Edwards stated that the pub was shut and that he had no authority to move people on in the street. Mr Edwards was reported to have asked [redacted] for his name and enquired where he lived, which [redacted] felt was quite threatening. The noise continued and [redacted] telephoned the police.

The following evening (27-09-2015) [redacted] reported further disturbance from a group of people standing outside the front door of the Auld Hoose, which woke him from his sleep.

On 28<sup>th</sup> September 2016 [redacted] emailed the LSO stating that given Mr Edwards attitude he felt little purpose in trying to deal with him direct, therefore any future problems he encountered would be reported direct to the police or the LSO. [redacted] offered suggestions as to two possible solutions to the problem. The first was that the pub should employ sufficient door staff to deal with noise and disorderly conduct and the second was that the terminal hour of the pub could be reduced to 22:30.

The foregoing problems and comments encountered by [redacted] were fed back to Mr Edwards, who acknowledged [redacted] calls at the weekend and stated he had dealt with the first complaint at 22:30 on 26<sup>th</sup> September and had gone out into the street at 01.20, after the pub had closed at 01:15 and moved a group of people on. Mr Edwards stated that he had told [redacted] that he had no problem with going out to speak to people, but could not guarantee that they would comply since it was a public place. He said that he had asked [redacted] for his name and where he lived as, under the Data Protection Act, he had not been able to be informed by council officers of [redacted] name and address and he simply wished to gauge where [redacted] resided in relation to the group of persons outside. He said [redacted] was ranting at him and threatened to call the police.

No further complaints were received until 3rd November 2015 when a letter was received by the ASB Team from [redacted]. She stated that, on behalf of her neighbours, she wished to complain about having to suffer noise and rowdy behaviour from smokers and groups that gather outside the Auld Hoose and about patrons who remain in the street after the pub closes. She stated that the persons concerned run up and down the street, and nearby lanes, shouting and arguing. The language was reported to be foul. [redacted] asked, as a representative of neighbours of the pub, for some consideration to be able to have peace to be able to sleep.

Following receipt of the above letter, Mr Colin Clark, Principal Environmental Protection Officer, arranged a meeting with Mr Edwards and the LSO, which was held at 10:30 on 9<sup>th</sup> November 2015. A representative from Greene King was not available to attend, but had indicated that they would liaise with Mr Edwards as to the outcome of the meeting.

At the meeting, details of [redacted] letter and earlier complaints from [redacted] were discussed. The following actions were agreed:

- Mr Edwards and staff to check smokers every 15 minutes, when premises busy, to discourage disturbance and nuisance.
- Signage to be displayed on both exit doors for patrons to be mindful to respect the peace of neighbours.
- Sign to be put up in a prominent place to advise customers to order their taxis by no later than midnight since there is a limited service in North Berwick and calling for a taxi would take, on average, an hour to arrive.
- Pub contact numbers provided by Mr Edwards to encourage complainers to call the pub or Mr Edwards if an issue arose.
- Pub to keep a daily log to be kept of any issues.
- Staff to refer any incidents or relevant information to the police.
- Police to be contacted if patrons linger outside at closing time after being requested to move on.
- Mr Clark to write and respond to the complainer.

No further complaints were received until 29<sup>th</sup> February 2016 when an email was received at the Licensing Admin Office from [redacted] who complained of the general anti-social behaviour experienced by residents in the vicinity of the Auld Hoose, which she stated was having a negative impact on residents lives. Apart from the type of disturbance previously referred in this report, [redacted] referred to issues concerning litter nuisance from smokers, discarded beer bottles, patrons urinating against resident bins, the revving of cars stopping outside the pub, and car engines left running when people run in and out the pub to speak to each other. [redacted] stated she was wary about going out in the evening to challenge such anti-social behaviour.

[redacted] complained that the pub had no door staff on to encourage consideration for neighbours and to move people on at the conclusion of hours. She reflected that calls to the police, discussions with the ASB wardens and the landlord had not improved matters for families who predominantly occupy properties in the Forth Street, North Berwick. [redacted] also alluded to the behaviour described as having become habitual and quoted that this was a breach of the licensing objectives in relation to preventing crime and disorder, securing public safety and preventing nuisance.

On 1<sup>st</sup> March 2016 the Licensing Admin Office received a letter from [REDACTED] intimating concern that twice in recent two weeks there had been fights outside the Auld Hoose in Forth Street. Customers had apparently spilled out into the street and police had been called. Mr Edwards intimates that at 00:46 on Saturday 13<sup>th</sup> February a couple of his customers were outside smoking when someone passing by had become confrontational with the customers and a fight had occurred. Mr Edwards called the police, but by the time they arrived on the scene, the individuals concerned had left. He also states that the police called in at the pub around 23:00 on Saturday 27<sup>th</sup> February saying that they had been called regarding a fight. The premises were quiet, very few persons were in the bar, and nobody knew anything about a fight. It was later confirmed with the police that the actual incident occurred in Quality Street, nearer to the Ship Inn.

In her letter, [REDACTED] went on to complain about noise levels from smokers, chatting and using their mobile phones, incidents of men urinating against her refuse bin and referred to her [REDACTED] laughter witnessing one such event, which was reported to the police. She reiterated the disturbance, as specified by [REDACTED] caused by boy racer types visiting the pub on a frequent basis. She also alluded to finding persons sitting on her doorstep smoking and drinking bottles of beer, and that she frequently finds empty beer bottles in her small front garden. It is confirmed that on one occasion police officers detected a urinating offence in the vicinity of the pub when a fixed penalty ticket was issued. Mr Edwards has commented that bottled beer is sold on the premises, but he was not aware of customers going out into the street with any form of drinks and that he displays large signs inside the exit doors warning customers not to take drinks outside into a alcohol bylaw restriction area.

[REDACTED] stated that she feels the pub does a great job, but they should employ door staff to control the behaviour of customers outside, some of whom are very rowdy teenagers. She infers that the police presence in the area should also be more high profile to deal with issues in the street. She reiterates having had to call the council and police in the past year regarding noise and fighting in the street associated with the Auld Hoose and have spoken with the landlord about the behaviour of some customers. She seeks more consideration to address the increasing problems the pub is having on local residents. Mr Edwards states he does everything he can to prevent nuisance caused by his customers and refers to the implementation and maintained actions he has taken following meetings with Mr Colin Clark and the LSO. He states that he personally has had no approach from the complainers, other than two telephone calls from [REDACTED]. He welcomes and encourages contact from anyone who has a problem with his customers or premises in order that the issues can be discussed and dealt with quickly.

An independent police report detailing incidents reported to Police Scotland will be prepared by the police licensing officer and submitted separately.

#### LSO Observations

The 3 complainers have serious concerns relating to disturbance and noise issues caused by patrons of the Auld Hoose when they are outside the premises having a smoke or are loitering in the area of the pub at closing time.

Mr Edwards has fully co-operated with officials in implementing actions to prevent disturbance of his neighbours. He has not elected to employ door staff at busy times for reasons of cost, the feeling that door staff can be taken the wrong way by prospective customers and evoke unwanted reactions and problems, and he feels that such a presence may deter patrons from going to his pub. He has opted instead to use members of staff to make regular 15 minute checks of smokers to maintain good conduct.

Some of the incidents referred to were unconnected with the pub or caused outwith the control of the landlord.

There is no suggestion that disturbance is caused by noise from within the pub and the issue is with smokers, and persons leaving the premises at closing time. Because of the location of the pub, there is no alternative place for smokers to go when they go outside and it will be difficult to make persons be quiet when enjoying friendly conversation, having a laugh etc in the street. The sound from only two people chatting in the quiet streets of North Berwick can be horrendous, especially during the autumn and winter months.

Good communication and liaison between the landlord and neighbours is to be encouraged to develop co-operation, an understanding of each other needs, and the promotion of actions to reduce disturbance.

Reduction of core hours to 22:30 each night, as suggested by one of the complainers, is an option open to the Board, but is not a realistic one since the pub would invariably lose trade and ultimately have to close.

Monitoring of the pub, for a period of 3 to 6 months, may be considered by the Board to see if the situation improves and can be reduced to an acceptable level. Complainers are encouraged to report any disturbance they experience, at the time it occurs, in order that the weekend NTNT can attend and observe individual problems. A report would be collated at the end of the period for the information of the Board.

## Winter, Maree

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**From:** Cummings, Katrina (ASB Team)  
**Sent:** 01 March 2016 09:06  
**To:** Fruzynski, Rudi; Winter, Maree  
**Cc:** Clark, Colin - EHO; Grant, Shona; Oliver, Derek  
**Subject:** RE: Review of Premises Licence - Auld Hoose, Forth Street, North Berwick

Dear Rudi/Maree

I have checked the ASB Helpline Register from 1<sup>st</sup> January 2015 and can confirm the undernoted complaints were received –

16/07/2015 at 22.48 hours - Complaint regarding rowdy behaviour from the Auld Hoose, male had come out of pub for a cigarette and skateboarding up and down. Crowd outside making loud noise and standing outside smoking. Premises licensed until 1am but patrons still outside at 1.30 am in the mornings. Advised times that the NTNT operate over weekend and also to call police if she feels that situation needs immediate attention.

03/11/2015 – Letter received on behalf of neighbours of the Auld Hoose, suffering noise, rowdy behaviour from smokers who are outside the pub and from groups which gather and remain before and after hours in Forth Street Lane and Forth Street, often run up and down the street or lanes shouting and arguing, foul language.

Both passed to Environmental Protection for their attention.

Regards

**Katrina Cummings**  
**Antisocial Behaviour Team Administration Officer**  
**The George Johnstone Centre**  
**35 Winton Place**  
**Tranent**  
**EH33 1AE**  
**Ext: 6658**  
**Telephone: 01620 829902**  
**Fax Number: 01875 824130**

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**From:** Fruzynski, Rudi  
**Sent:** 29 February 2016 15:47  
**To:** Oliver, Derek; [Heather.Bowsher@scotland.pnn.police.uk](mailto:Heather.Bowsher@scotland.pnn.police.uk); Black, Kenneth; Clark, Colin - EHO; Grant, Shona  
**Cc:** Cummings, Katrina (ASB Team); MacNeill, Kirstie; Licensing  
**Subject:** Review of Premises Licence - Auld Hoose, Forth Street, North Berwick

Good afternoon

This morning a letter of complaint and a follow up email of complaint was received from a resident in Forth Street, North Berwick concerning anti-social behaviour and noise issues associated with e Auld Hoose public house. These issues were passed to the Clerk to the Licensing Board who has called for a review of the Premises Licence to be heard at the next Licensing Board.

I would be grateful if you can forward to me any reports of crime and disorder; anti-social behaviour or nuisance that you have received since the beginning of 2015 along with details of action taken.

As always, I would appreciate you reports as soon as possible in order that I can collate a report for the information of the Licensing Board, which meets on 24<sup>th</sup> March.





**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

**Premises Licence Review(s)**

<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
6 AULD HOOSE 19 FORTH STREET NORTH BERWICK EAST LOTHIAN EH39 4HX	MRS WILMA SHAW	29 February 2016	
7 AULD HOOSE 19 FORTH STREET NORTH BERWICK EAST LOTHIAN EH39 4HX	MS DOROTHY BOYLE	1 March 2016	
8 CO-OPERATIVE GROUP FOOD LTD. CO-OPERATIVE GROUP FOOD LTD. MAIN STREET ORMISTON TRANENT EAST LOTHIAN	POLICE SCOTLAND	12 February 2016	
9 ELPHINSTONE ARMS MAIN STREET ELPHINSTONE EH33 2LT	POLICE SCOTLAND	13 February 2015	

Date: 12<sup>th</sup> February 2016

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  
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Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 – SECTION 36  
PREMISES LICENCE REVIEW APPLICATION  
CO OPERATIVE, MAIN STREET, ORMISTON**

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 the Co Op, Main Street, Ormiston.

- 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***

The premises operates as a licensed grocers and are licensed to sell alcohol Monday to Sunday 1000hrs until 2200hrs. The premises has been subject of 4 test purchases in the last year (2015), 2 of which they failed.

In support of this application, the following information is provided for consideration.

In terms of Section 105 of the Licensing (Scotland) Act 2005, the Chief Constable may authorise a young person to buy or attempt to buy alcohol to determine whether an offence is being committed.

The use of young persons to conduct test purchase operations provides police with an effective tool in the fight against underage sales and represents an important safeguard against underage drinking and the resultant antisocial behaviour that adversely affect many communities.

A standard operating procedure, which ensures operations are carried out safely, fairly and effectively, was prepared only after consultation with various stakeholders, including:

- Scotland's Commissioners for Children & Young People;
- Society of Chief Officers for Trading Standards in Scotland;
- Association of Chief Police Officers in Scotland;
- Convention of Scottish Local Authorities;
- Scottish Executive Enforcement Advisory Group on Age Restricted Sales; and
- Crown Office.

The operating procedure provides that a test purchase operation may be carried out on premises for any of the following reasons:

- Where there is intelligence to suggest that alcohol is being sold illegally to persons under 18 years of age from specific licensed premises;
- Where there is intelligence indicating that persons under 18 years of age are consuming alcohol in the locality where the licensed premises are situated; and/or
- Where the premises are in a locality in which all premises are being subjected to test purchase operations in a non-discriminatory manner, to raise awareness in relation to the illegal sale or purchase of alcohol in licensed premises.

Young persons recruited as test purchasers must be aged between 16 and 16½ years at the time of a test purchase operation and they are assessed on their appearance, level of maturity and general character prior to deployment. If the officer in charge of an operation believes that the young person looks older than 16½ years of age, the young person will not be used in the test purchase operation.

The test purchaser must not try to persuade or coerce staff to make a sale. In short, licensed premises will pass a Test Purchase Operation if they challenge the test purchaser regarding his or her age. In addition, compliance with the requirement for licensed premises to have an age verification or "Challenge 25" policy in place and the proper training of staff, in accordance with the legislative provision, will provide premises with further safeguards against failing a test purchase operation.

As such, it was decided to conduct a test purchase operation in the East Lothian area in a non-discriminatory manner, to raise awareness, and as part of that operation on the 27<sup>th</sup> March 2015, a total of 16 'off sale' licensed premises were tested within the Tranent, Prestonpans and Musselburgh areas, with 1 failing.

The test purchase operatives used were 16 year old females. They were given a full briefing prior to the operation and informed that they must answer any questions required of them by staff truthfully.

About 2000 hours on Friday 27<sup>th</sup> March 2015, plain clothes officers entered the premises trading as the Co Op, Main Street, Ormiston to carry out a risk assessment. One of the test purchasers then entered the shop and selected a bottle of blue WKD from open display and took it to the service counter. She was sold this alcohol by a female who was working behind the counter. The test purchaser was not asked her age or for identification. The test purchaser left the shop and surrendered the alcohol to plain clothes police officers outside.

Plain clothes police officers then entered the premises and spoke with the person in charge and the female member of staff. They were informed that they had failed a test purchase.

Police officers found the staff to be cooperative throughout. The marked original £10 noted hand over by the test purchaser was recovered, CCTV was also in operation. A training record for the female member of staff was checked and found to be in order.

The female member of staff was then cautioned and charged with a contravention of Section 102 of the Licensing (Scotland) Act 2005. Staff were informed that the police would carry out a retest within the next 14 days. The circumstances of this test purchase failure was reported to the licensing officer.

On Tuesday 7<sup>th</sup> April 2015, the premises were subject to a re test and subsequently passed on this occasion.

On Thursday 30<sup>th</sup> April 2015 the premises was visited by the licensing officer following this test purchase failure and found to be compliant with licensing legislation, with all the processes in place as well as a very good till prompt system. The manager there explained that they were able to check the till prompt system to establish the history of a member of staff and any sales of age restricted items. She stated that there had been nothing uncovered about the female member of staff who had made the illegal sale and that they were happy with her training etc. As a result of the test purchase failure, the Co Op as a company, placed the store on 'lock down' for a month and the female member of staff was taken off the till point to carry out alternative duties within the store. 'Lock down' was explained to the police licensing officer as any age restricted sales were now to be 'authorised' by a supervisor/member of management.

It was noted at that time by the police licensing officer, that the alcohol display within the store did not reflect the layout plans held with the licence. This was highlighted to the store manager, Lisa Dickson. There were no other concerns.

On 28<sup>th</sup> May 2015 a letter was sent out to all 'off sale' premises in the East Lothian area as part of the ongoing process to heighten the awareness of underage sales and Police Scotland's commitment to utilising test purchasers. A copy of this letter is attached for your reference.

In the run up to Christmas, it was decided to conduct another test purchase operation in the East Lothian area and as part of that operation on the 10<sup>th</sup> and 11<sup>th</sup> December 2015, a total of 51 'off sale' licensed premises were tested within the Tranent, Prestonpans, Musselburgh, North Berwick, Dunbar and Haddington areas, with 5 failing.

The test purchase operative used in relation to the Co Op was a 16 year old male. He was given a full briefing prior to the operation and informed that he must answer any questions required of him by staff truthfully.

About 1825 hours on Thursday 10<sup>th</sup> December 2015, plain clothes officers entered the premises trading as the Co Op, Main Street, Ormiston to carry out a risk assessment. The test purchaser then entered the shop and selected a 4 pack of Budweiser from open display and took it to the service counter. He was sold this alcohol by a male who was working behind the counter. The test purchaser was not asked his age or for identification. The test purchaser left the shop and surrendered the alcohol to plain clothes police officers outside.

Plain clothes police officers then entered the premises and spoke with the person in charge and the male member of staff. They were informed that they had failed a test purchase.

Police officers found the staff to be cooperative throughout. The marked original £10 noted hand over by the test purchaser was recovered, CCTV was in operation but staff were unable to download this, at the time. A training record for the male member of staff was checked and found to be in order.

The male member of staff was then cautioned and charged with a contravention of Section 102 of the Licensing (Scotland) Act 2005. Staff were informed that the police would carry out a retest within the next 14 days. The circumstances of this test purchase failure was reported to the licensing officer.

On Tuesday 15<sup>th</sup> December 2015, the police licensing officer and the Licensing Standards Officer, Rudi Fruzynski visited the premises and spoke with one of the team managers about the test purchase failure. Again all signage, training records etc were checked and found to be in order. The member of staff informed us that the male member of staff who had made the sale had since resigned from his position and no longer worked for the Co Op. It was noted at this time that the till prompt system that was checked back in March had been modified to take out the approximate age of the customer. The team manager stated that this was done some time ago and that this was out with their control.

On Sunday 20<sup>th</sup> December 2015, the premises were subject to a re test and subsequently passed on this occasion.

On Wednesday 27<sup>th</sup> January 2016, a meeting was arranged at Tranent Police Station by the Area Risk Manager for the Co Op (Eddie McNally), the Area Manager (Graham Cranston), the police licensing officer and Insp Harborow (Sector Inspector) were all present.

Mr McNally gave reassurances that they were aware of the seriousness of the two test purchase failures and admitted that it was unacceptable. He also stated that there were now 5/6 personal licence holders within the store, he confirmed that the male member of staff who failed in December had since left the store, having tendered his resignation shortly afterwards.

There was a discussion about the Co Op's processes and it was acknowledged that their signage, staff training, till prompt system and CCTV were all satisfactory and that since the test purchase failures the Co Op have reviewed all their processes and placed more personal licence holders within the store. All of those processes with the exception of the additional personal licence holders were in place prior to the test purchase failures and should have prevented the sale of alcohol to the test purchaser but didn't, and a sale was made on two occasions.

Police Scotland have serious concerns in relation to the Co Op failing 2 test purchase operations in succession. We have been reassured that the Co Op as an organisation have processes in place, both pre and in response to the test purchase failures. But it is for the Board to consider at a local level, whether these processes are being followed. It is for that reason that Police Scotland are bringing these failures to the Board's attention.

The Chief Constable requests that the Licensing Board consider the aforementioned grounds for review and take such steps as it considers necessary or appropriate for the purposes of the licensing objectives under the terms of Section 39(2) of the Act.

Yours faithfully

Inspector Harborow

Date: 28<sup>th</sup> May 2015

Your Ref:

Our Ref:

The Manager  
Co Operative  
Main Street  
Ormiston  
EH35 5HS

Matt Paden  
Chief Inspector  
Local Area Commander  
The Lothians and Scottish Borders Division  
Haddington Police Station  
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EH41 3AE  
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Email: [LothianScotBordersLicensngEastMid@Scotland.pnn.police.uk](mailto:LothianScotBordersLicensngEastMid@Scotland.pnn.police.uk)

Web: [www.scotland.police.uk](http://www.scotland.police.uk)

Dear Sir / Madam

## **LICENSING (SCOTLAND) ACT 2005 - TEST PURCHASING**

In line with the Licensing (Scotland) Act 2005 licensing objectives, Police Scotland utilise the use of Test Purchasers.

Test Purchasing involves the use of authorised young persons, aged 16 years, entering licensed premises and attempting to purchase alcohol. This is an efficient and effective way of ensuring premises are complying with their responsibilities and have in place sufficient measures to prevent the sale of alcohol to children and young persons.

Our primary aim in using Test Purchasing is to try and reduce the availability of alcohol to persons under 18 years of age and thereby reduce the associated antisocial behaviour and criminality which can occur when young persons have access to and consume excessive quantities of alcohol.

I appreciate that you may well have sufficient measures in place and would ask that you take this opportunity to ensure that all your staff are fully aware of the legislation in relation to the sale of alcohol and the steps required to ensure that alcohol is only sold to persons 18 years of age and over. Emphasis should be placed upon obtaining proper proof of age identification from any person who may be under 25 years of age.

If you require any assistance or guidance in relation to your processes and preventative measures, please do not hesitate to contact your local licensing department on the above email or telephone number.

Your premises may or may not be subject of a Test Purchase operation in the future.

Yours faithfully

PC Heather Bowsher  
Licensing Officer



# EAST LoTHIAN COUNCIL

## LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

**Rudi Fruzynski**  
Licensing Standards Officer

**Kirstie MacNeill**  
Clerk to the Licensing Board

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Date: 02 March 2016

**Subject: LICENSING (SCOTLAND) ACT 2005 - PREMISES LICENCE REVIEW**  
**CO-OPERATIVE, MAIN STREET, ORMISTON**

On Friday 19<sup>th</sup> February 2016 I received official intimation in terms of Section 38(3)(b) of the licensing (Scotland) Act 2009 that the Licensing Board had accepted an application from the Police 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 into the circumstances of the request for this review for the consideration and information of Licensing Board Members. My observations are as follows:-

I refer the Board to the Police report on this subject dated 12<sup>th</sup> February 2016 and do not intend to expressly repeat the content of same in this report.

Over the years the LSO has made numerous inspection visits to the Co-op premises in Ormiston and noted that the Licensing compliance processes in place have always been in order. The computerised staff training system is excellent and staff are required to undertake refresher training every six months. The signage, challenge 25 checkout prompts and sales refusals system is of a high standard.

As in any system, it can be the best there is, but unless all staff follow company procedures, processes and their training then the due diligence put in place to prevent problems from occurring, in this case the sale of alcohol to young persons, can result if offences occurring, outwith the control of management. This is what happened on the two occasions test purchase failures were experienced in 2015.

In March 2015, after the first failure, management put the shop under lock down for one month requiring all age restricted sales to be authorised and all staff were retrained.

In December, after a further test purchase failure, the member of staff resigned. Again all staff were retrained.

During both problem periods, management and staff were reported to have been co-operative and helpful.

Lisa Dickson, the current premises manager, and her supervisors are experienced personal licence holders who I am confident do their best to ensure their company due diligence alcohol sales processes are implemented in such a way as to prevent licensing offences occurring and to protect the public from harm.

R. Fruzynski  
Licensing Standards Officer

**EAST LOTHIAN**

**Meeting 24 March 2016 at 10:00am in Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

**Premises Licence Review(s)**

<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
6 AULD HOOSE 19 FORTH STREET NORTH BERWICK EAST LOTHIAN EH39 4HX	MRS WILMA SHAW	29 February 2016	
7 AULD HOOSE 19 FORTH STREET NORTH BERWICK EAST LOTHIAN EH39 4HX	MS DOROTHY BOYLE	1 March 2016	
8 CO-OPERATIVE GROUP FOOD LTD. CO-OPERATIVE GROUP FOOD LTD. MAIN STREET ORMISTON TRANENT EAST LOTHIAN	POLICE SCOTLAND	12 February 2016	
9 ELPHINSTONE ARMS MAIN STREET ELPHINSTONE EH33 2LT	POLICE SCOTLAND	13 February 2015	

EAST LoTHIAN COUNCIL

26 FEB 2015

RECEIVED



**POLICE  
SCOTLAND**

Keeping people safe

Date: 12<sup>th</sup> 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](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk)  
Web: [www.scotland.police.uk](http://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](http://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 28<sup>th</sup> 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 24<sup>th</sup> 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 28<sup>th</sup> 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 18<sup>th</sup> 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 30<sup>th</sup> 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 6<sup>th</sup> 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 22<sup>nd</sup> and 23<sup>rd</sup> 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 22<sup>nd</sup> 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 23<sup>rd</sup> 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 24<sup>th</sup> 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 9<sup>th</sup> 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 9<sup>th</sup> March 2012, a second company named 'The Elphinstone Inn Ltd' number SC413538 was incorporated on 21<sup>st</sup> November 2011 with William Dodds as Director.

The Board may be aware that on Friday 28<sup>th</sup> 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 6<sup>th</sup> 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 8<sup>th</sup> 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 27<sup>th</sup> 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 11<sup>th</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> 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 4<sup>th</sup> October 2013 with Mr Malcolm Fleming as the sole director at that time.

On Thursday 24<sup>th</sup> 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 20<sup>th</sup> / 21<sup>st</sup> May 2014, it was established that the CCTV had not been recording.

On Friday 23<sup>rd</sup> 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 27<sup>th</sup> 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 26<sup>th</sup> 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 28<sup>th</sup> 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 30<sup>th</sup> 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 30<sup>th</sup> 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 7<sup>th</sup> 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 16<sup>th</sup> 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 28<sup>th</sup> 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

A black rectangular redaction box covering the signature of the Chief Inspector.

Chief Inspector Andrew Clark

**Elphinstone Arms, Elphinstone**

February 13<sup>th</sup>, 2015 – Email with attached letter from Police requesting review.

February 16<sup>th</sup>, 2015 – Letter to Margaret Dodds advising of Review request.

February 26<sup>th</sup>, 2015 – Board agreed to hold a review hearing at 26<sup>th</sup> March Meeting.

March 4<sup>th</sup>, 2015 – Emailed Mr MacDonald letter and police report advising review hearing will be held at March Board and that the applicant is to advise the Board of the future management position for the premises. Also advised date would be agreed for the meeting and he would be advised as soon as this was arranged.

March 17<sup>th</sup>, 2015 – Emailed Mr. MacDonald with copies of reports from Building Control, Fire and LSO.

March 18<sup>th</sup>, 2015 – Office receives read receipt from Mr MacDonald regarding above email

March 18<sup>th</sup>, 2015 – Mr MacDonald emailed copy of letter advising that he cannot make the Board which was arranged for 25<sup>th</sup> March. He asked for a continuation to the April Board and also waived the relevant period during which the hearing should take place.

April 16<sup>th</sup>, 2015 – Committees emailed Mr MacDonald full set of papers including all reports.

April 23<sup>rd</sup>, 2015 – At Board Meeting it was agreed to continue hearing as Mr MacDonald advised he did not receive the papers.

April 27<sup>th</sup>, 2015 – Emailed Mr MacDonald with letter, reports and confirming continuation to May Board meeting.

May 26<sup>th</sup>, 2015 – Office receives read receipt from Mr MacDonald regarding above email.

May 27<sup>th</sup>, 2015 – Mr MacDonald emailed requesting another continuation.

# EAST LoTHIAN COUNCIL

## LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

**From: Rudi Fruzynski**  
Licensing Standards Officer

**To: Kirstie MacNeill**  
Clerk to the Licensing Board

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Date: 03 March 2015

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

On Tuesday 26<sup>th</sup> 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 2<sup>nd</sup> 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 7<sup>th</sup> 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**

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**Subject:** FW: Elphinstone Arms; Elphinstone

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**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, 16<sup>th</sup> 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](mailto:ffairgrieve@eastlothian.gov.uk)

**Elworthy, Debbie**

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**Subject:** FW: Elphinstone Arms, Elphinstone

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**From:** Devine, Brian [<mailto:Brian.Devine@firescotland.gov.uk>]

**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

**Elworthy, Debbie**

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**Subject:** FW: Elphinstone Arms

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**From:** Alistair Macdonald [<mailto:alistair@macdonaldlicensing.com>]  
**Sent:** 27 May 2015 09:56  
**To:** Richardson, Debbie  
**Cc:** MacNeill, Kirstie; MacNeill, Kirstie; [andrew.williams@adwws.co.uk](mailto:andrew.williams@adwws.co.uk)  
**Subject:** Elphinstone Arms

Good Morning

Firstly, I know what happened with the citation from last month. The papers were attached to the e mail with the Agenda. I didn't download them – just the Agenda to look at- because I'd always assumed that a hard copy of a citation would be sent as well. I think there have been cases in the past when I've been missing papers and done the same. I can't think of any other Board that doesn't send a hard copy of a citation. Could you please do so. You must do for people not on e mail. If you want to send it by e mail as well, that's fine, but I do think citations should be sent by post.

Secondly, I can't do tomorrow. Andy Williams will appear. I'm committed to another Board. I would have normally asked for a continuation, rather than land Andy in this, but after last month's debacle not sure if the Board would agree! Andy will probably suggest that anyway. I don't think that there is any prejudice as the place is closed and will remain so, certainly to the date of the next Board. The insurance claim is at least several months away from being settled.

Just as a heads up, I was, and I think Andy agrees, going to deal with this on the basis that the premises were closed and would remain closed until a Hearing before the Board. Whether that is covered by a suspension, or by a Condition added to the Licence, I have no preference, but it is accepted that the premises should not re-open unless the Board agree.

The importance of the Licence remaining in force can't be under-estimated. Without it the insurance claim would be prejudiced (why would an Insurance Company pay out to re-instate a pub that has no Licence) and the premises cannot be marketed for sale or lease without a Licence, particularly in an area of Overprovision, where the presumption would be to refuse any subsequent Application.

Happy to discuss when you have had the opportunity to consider.

Regards

Yours sincerely

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