

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

FOR OFFICE USE ONLY

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

Question 4

SEASONAL VARIATIONS

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

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Question 5

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

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

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

<i>5(c)</i> Activity Entertainment including:	<i>Please confirm</i> YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Recorded music – see 5(g)</i>	Yes	Yes	Yes
<i>Live performances – 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 25/1/16

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.

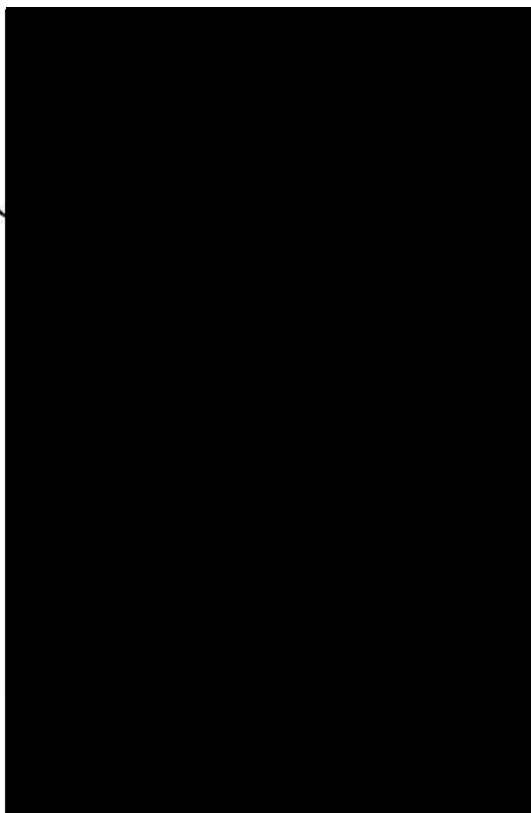
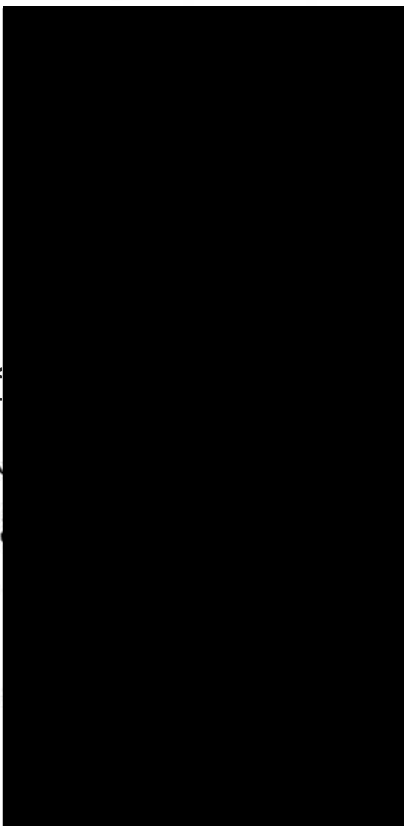
Name:

Objectors:

Name

Address

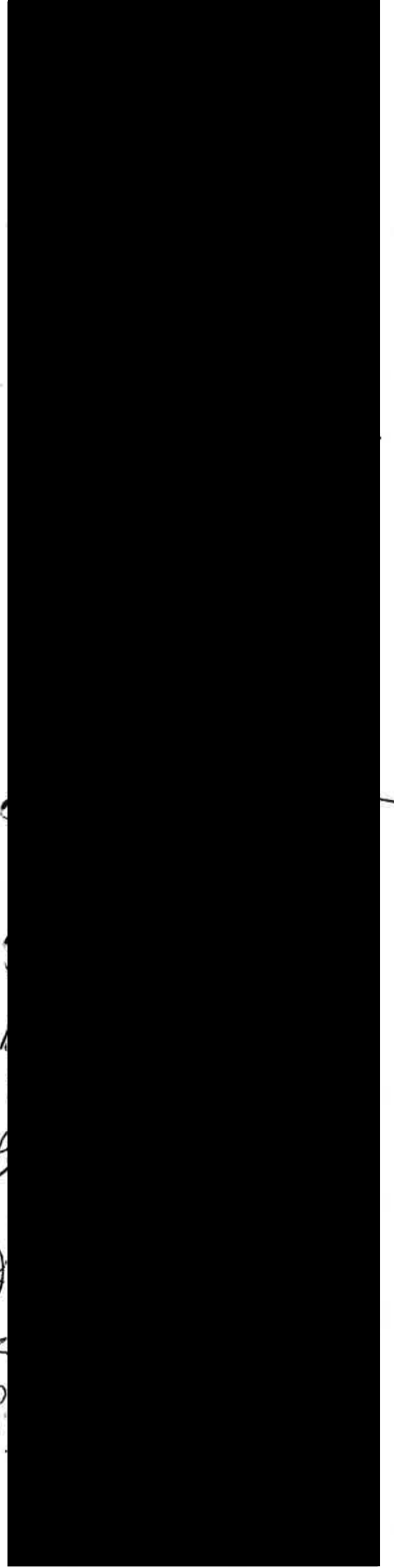
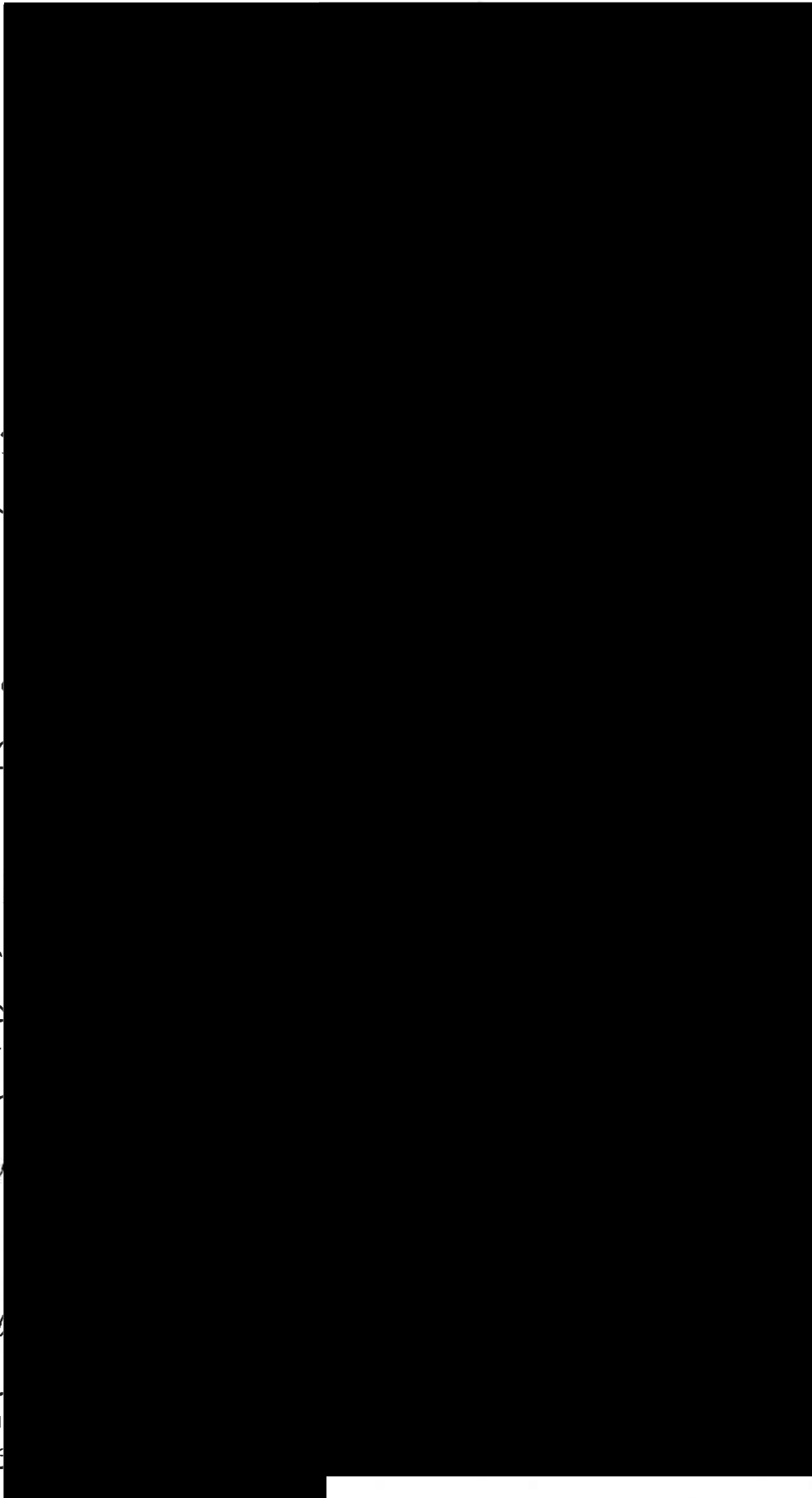
Signature



Name

Address

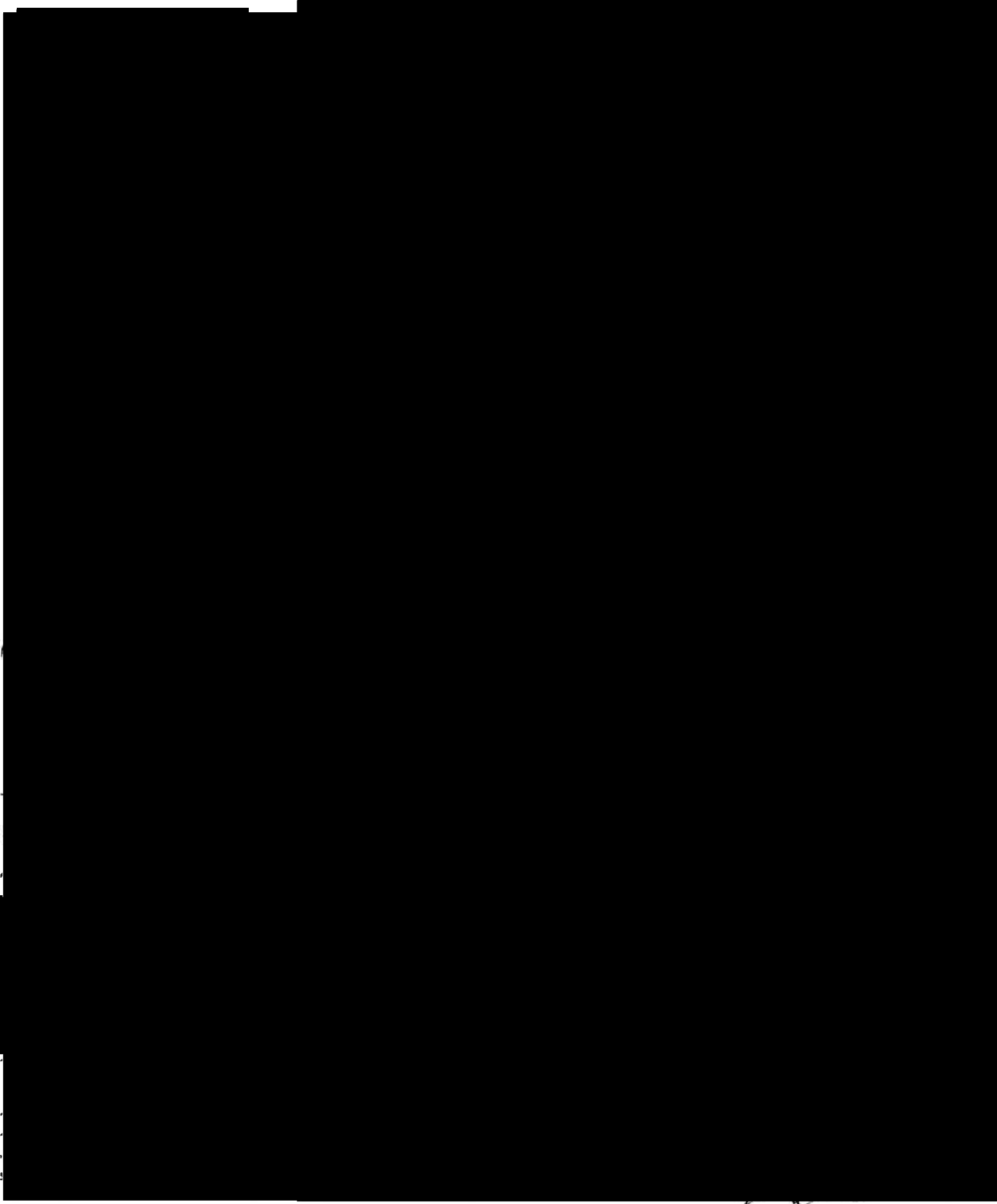
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Name

Address

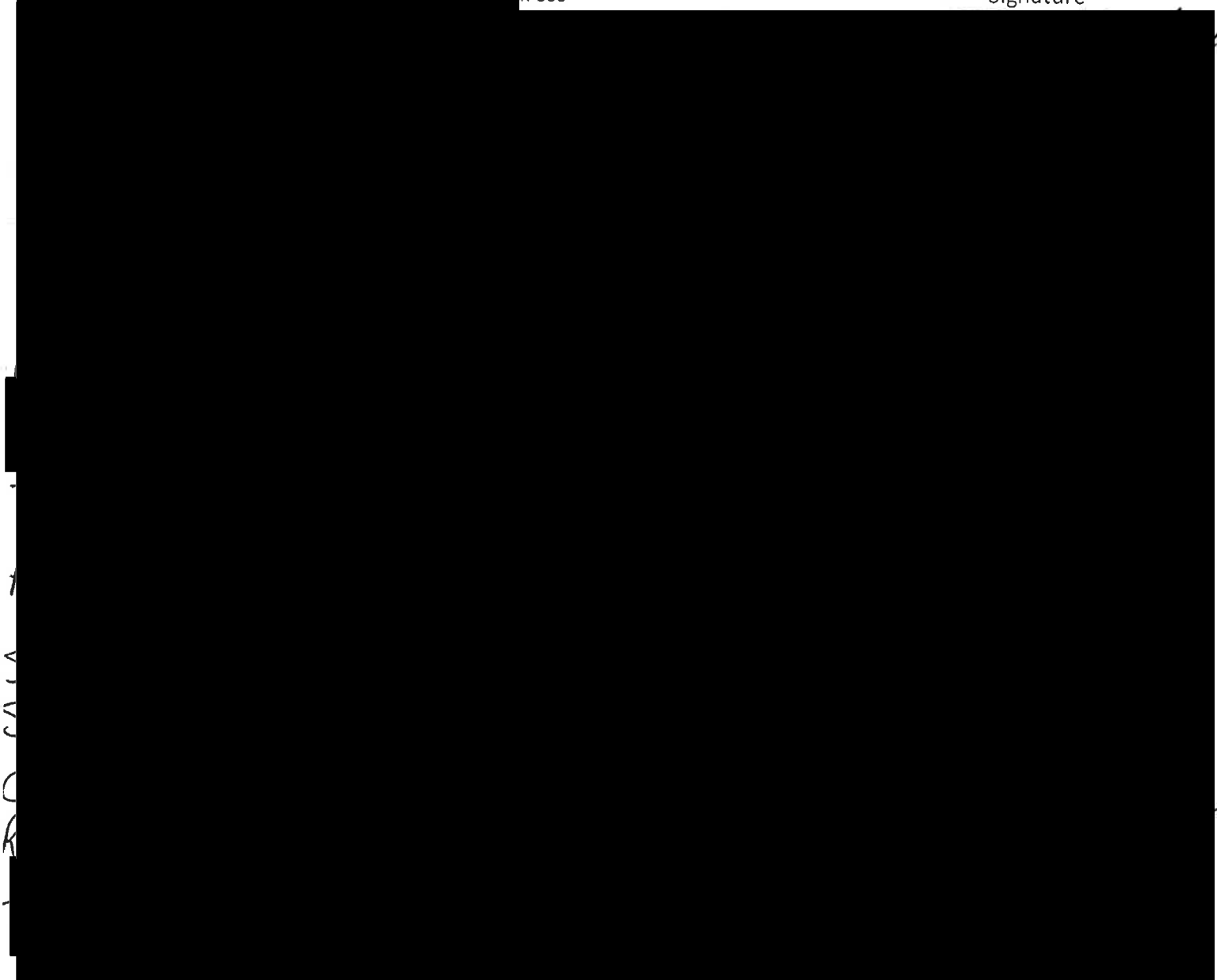
Signature



Name

Address

Signature



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5/10

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,

MANAGER.

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

Date: 07 February 2016

09 FEB 2016

Received

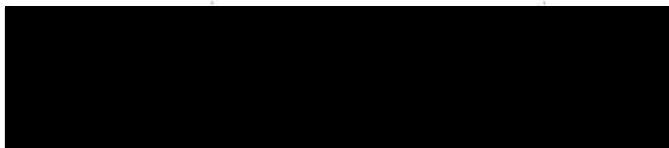
To,

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

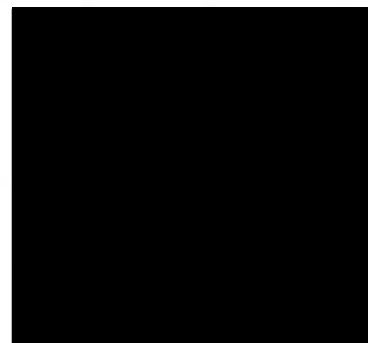
Date: 06 February 2016

East Lothian
Licensing Board

09 FEB 2016

Received

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

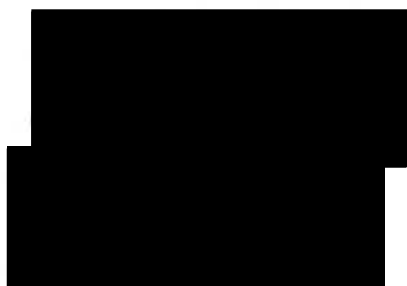


Dear Sir,

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

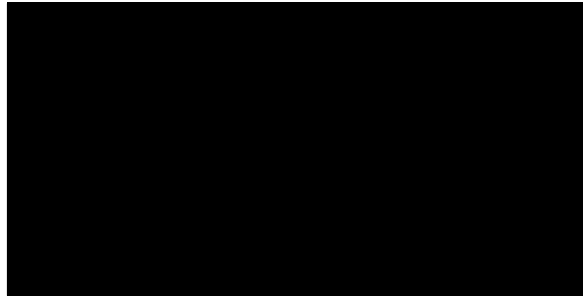
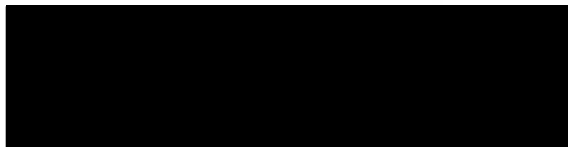
East Lothian

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,

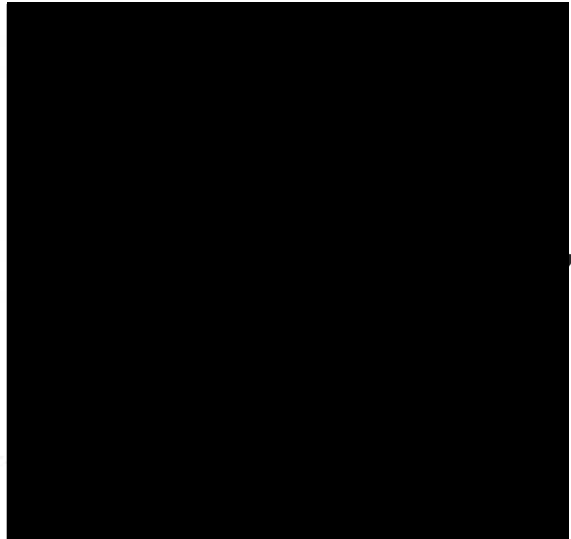
The Clerk of the Licensing Board
John Muir House
Haddington
East Lothian
EH41 3HA

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: 16th February 2016

Your Ref:

Our Ref: J/LIC/4462/JL

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

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

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

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

Dear Madam

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

**APPLICANT: 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 16th February 2015 to 15th 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: 2nd 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 26th 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