

**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

Post Code	Phone No.

### SECTION 3: NATURE OF VARIATION

Complete the relevant section(s) regarding the variations sought:-

#### 3(a) Variation to the Conditions to which the Premises Licence is subject

Provide details of the Condition(s) to be varied and the variation being sought

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
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### 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>
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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

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**

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**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**

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**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.

\*\*\*\*\*

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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**

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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