



MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

**THURSDAY 25 FEBRUARY 2016
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

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.