

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

**THURSDAY 24 MARCH 2016
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

Board Members Present:

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

Clerk of the Licensing Board:

Mrs M Ferguson, Service Manager, Legal and Procurement

Attending:

Ms C Molloy, Legal Team Leader
Mr R Fruzynski, Licensing Standards Officer
Ms M Winter, Licensing Admin Assistant
PC H Bowsher, Police Scotland
Insp A Harborow, Police Scotland

Committee Clerk:

Ms J Totney, Team Manager – Democratic Services

Apologies:

Councillor T Trotter

Declarations of Interest:

None

The Board agreed that items 4 (b) and 4 (c) be dealt with before item 4 (a).

1. MINUTES FOR APPROVAL

The minutes of the Licensing Board meeting of 25 February 2016 were agreed to be a true record.

2. VARIATION TO PREMISES LICENCE

(a) Johnnie Cope Convenience Store, Hawthorn Road, Prestonpans

The Clerk advised that this item had been withdrawn.

Decision

East Lothian Licensing Board noted that this item had been withdrawn.

(b) Home Bargains (Formerly Madisons), Unit D, Olivebank, Musselburgh

David Crank, DWF Solicitors, was present to represent the applicant. Mr G Peat, Area Manager, of T J Morris, was also present.

The Clerk advised that the application seeks to vary the premises licence from on-sales to off-sales and that the on-sales capacity would be surrendered. She stated that there are no public objections and that reports have been submitted by Police Scotland and the Council's Licensing Standards Officer (LSO).

Mr Crank explained that the premises had previously been a bar/restaurant and have now been converted to retail premises. He provided background information and answered questions from Councillor McAllister regarding the nature of the business; the range of alcoholic products that would be sold; explained that the current designated premises manager would be replaced before the store opens in May 2016; and advised that alcohol sales, which do not include spirits, are not a prime business driver but are considered an important part of the customer offering.

In response to Councillor Currie, Mr Crank confirmed that the alcohol sales would account for about 5% of the business.

Police Scotland and the LSO had nothing to add to their written reports.

Decision

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

(c) Tweedale Arms Hotel, 3 High Street, Gifford

Ms L Gordon, applicant, was present.

The Clerk advised that the application seeks to vary the operating plan to add a take-away food service. She stated that no public objections had been received and that Police Scotland support a terminal hour of 21.00 hours for the sale of take away food. The Clerk advised the Board that an outstanding issue regarding planning is still to be resolved.

Ms Gordon explained that there is demand for a take away food service.

Police Scotland and the LSO had nothing to add to their written reports.

Decision

East Lothian Licensing Board agreed to grant the premises licence variation subject to a terminal hour of 2100 hours for this service.

3. PROVISIONAL PREMISES LICENCE

(a) 10-12 Court Street, Haddington

Alastair MacDonald, MacDonald Licensing was present to represent the applicant. Mr F Cucchi, Company Director and applicant, was also present.

The Clerk advised that the application is in respect of a proposed Italian Restaurant. She informed the Board that Police Scotland has made representation in respect of over provision and deliveries, the latter of which had now been removed from the application. The Clerk stated that there are no public objections.

Mr MacDonald provided brief background information and explained that his client is very experienced in the restaurant trade.

Police Scotland and the LSO had nothing to add to their written reports.

Councillor Innes commented that the applicant and his family have a reputation for high quality establishments elsewhere in East Lothian.

Decision

East Lothian Licensing Board agreed to grant the premises licence.

(b) Pans Convenience Store, 5 Hawthorn Road, Prestonpans

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

The Board agreed that Ms Hood could table supplementary information regarding over provision. The premises are currently operating under an Occasional licence.

The Clerk advised that the premises had previously had a Premises License but that licence had been surrendered. She referred to the objection from Police Scotland; stated that there are no public objections; advised that the Community Council have suggested that two conditions be placed on the licence; and informed the Board that there are 59 notes of positive support from local residents.

Ms Hood reported that a recent alcohol test purchase at the premises had been successful and provided a very detailed explanation about the staff training that has been carried out and the record keeping processes that are in place in the premises. In relation to over provision, she requested that the Board regard Hawthorn Road as a locality. In response to the suggestion from the Community Council, she indicated that licensed premises would not normally be expected to have a premises licence holder on site at all times.

The LSO had nothing to add to his written report.

Inspector Harborow stated that there are ongoing issues with alcohol in the area, although these are not directly related to this store. He reported that there had been two recent visits to this store, both of which highlighted that the training and training records are not to the high standard that is being claimed by Ms Hood. He provided detailed information to back up his statements.

Ms Hood repeated, in detail, the actions that had been taken regarding staff training. She added that she had stressed to Mr Nadeem that he must keep accurate training records.

Board members debated the matter in private.

On returning to the meeting, members individually commented on the application.

Councillor Innes supported the application but urged Mr Nadeem to seriously deal with the failings in staff training.

Councillor Currie stated that he was not impressed that the self-imposed high threshold regarding training had not been attained. He therefore could not support the application.

Councillor Grant supported the application but noted that the training records do not meet expectations.

Councillor McAllister commented that the Board has invested a lot of time dealing with applications for these premises. He commented that the applicant has to comply with the training and record of training that he undertook to put in place. In the absence of these, he would not be supporting the application.

Councillor Akhtar supported the application but stated that the applicant needs to take action to meet the training standards that he had set out for the premises.

Councillor Goodfellow expressed his extreme disappointment that the record keeping is not of the standard expected and stressed that this must be addressed if the licence is granted. If granted, he was also minded to place conditions on the licence: that Mr Raza is not the premises manager for these premises in the future; and that, in line with the Community Council representation; a premises licence holder is on the premises during all licensing hours. He thanked Police Scotland for their monitoring and control of these premises and asked that, if the licence is granted this be continued so that the licence could be reviewed in six months' time in relation to the proposed condition relating to a Premises Licence Holder being on the premises at all times. Despite it being a difficult decision, Councillor Goodfellow supported the application.

In response to Councillor Innes' question about the need for a premises licence holder to be on site at other premises that are reviewed by the Board, the Clerk advised that each application is considered on its own merits and that this would not set a precedent for other premises.

Ms Hood agreed to accept the conditions from the commencement date of the premises licence.

The Board voted on the application, with the inclusion of the conditions set out by Councillor Goodfellow:

For: 4
Against: 2

Councillor Innes requested that it be noted that he had some reservations about the conditions that were being attached to the licence.

The Clerk advised that the Board would invite the applicant back in six months' time for a review of the licence at which time the Board could decide whether the condition relating to the Premises Licence Holder still required to remain in place.

Decision

East Lothian Licensing Board agreed to grant the licence subject to the conditions that: Mr Raza is not the premises manager for these premises in the future; and that a premises licence holder is on the premises during all licensed hours.

4. REVIEW OF PREMISES LICENCE

(b) Co-operative Food Group Ltd, Main Street, Ormiston

No one was present to represent the applicant.

The Clerk advised that Police Scotland had requested the review of the licence, following a recent test purchase failure. She advised that the Co-operative Food Group Ltd had sought a continuation of this item as their Area Risk Manager was not available to attend today's meeting.

Councillor Innes expressed disappointment that a large national company could not provide a representative to attend the meeting.

Decision

East Lothian Licensing Board agreed to continue this item until the meeting of East Lothian Licensing Board on 28 April 2016.

(c) Elphinstone Arms, Main Street, Elphinstone

Alastair MacDonald, MacDonald Licensing was present to represent the applicant. Mrs M Dodds, premises manager, was also present.

The Clerk advised that there is an ongoing review of the premises licence, as requested by Police Scotland, and that the matter had been continued from the meeting of the East Lothian Licensing Board on 15 September 2015.

Mr MacDonald confirmed that the premises are still not habitable and are not open and operational. He indicated that it could be up to six months before the premises could re-open and stated that he is happy for the existing condition to remain on the licence prohibiting reopening without this matter coming back before the Board.

Inspector Harborow was agreeable to this.

Decision

East Lothian Licensing Board agreed that Mr MacDonald would inform the Board when the premises are nearing completion so that the ongoing review of the premises licence could be completed.

(a) Auld Hoose, 19 Forth Street, North Berwick

The Clerk advised that requests for a premises licence review had been received from two members of the public, MS Shaw and Ms Boyle, and that the Board had agreed to treat these as one review. She confirmed that the report form Police Scotland had been issued to all relevant parties. Members agreed that complaints made by a third member of the public, Mr Homer, to Police Scotland, would also be considered. All members confirmed that they had read all of the paperwork in relation to this item.

Mr Niall Hassard, TLT Solicitors, was present to represent the applicant. Ms E Kennedy, Operations Manager, Greene King Brewery, and Mr C Edwards, tenant and premises manager, were also present.

Regarding the members of the public who had raised complaints, Ms Shaw and Ms Boyle were not present. Mr Homer was present.

Inspector Harborow provided detailed information in relation to recorded incidents at the premises and complaints from neighbouring residents. He suggested that although there are issues, the premises are generally well run and that Police Scotland could work with the premises management to address these issues.

The LSO provided his view of the issues which include noise from smokers outside the premises and the fact that voices appear louder due to the high walled streets. He outlined the communication that has taken place with the premises management; the actions that have been taken to try and reduce the noise nuisance; that the premises management has had meetings with the neighbouring residents; the involvement of the Council's outside noise night team; and the fact that there has been no previous review of this premises licence. He referred to his report which suggested that one option would be to carry out monitoring for six months and to engage further with the complainers during that time.

Mr Hassard provided the Board with background information about the location of the premises and mentioned that noise and incidents in the vicinity are often, wrongly, attributed to patrons at the Auld Hoose. He advised that Mr Edwards was willing to take action and put any possible steps in place to reduce the complaints. However, Mr Hassard was of the view that this should not extend to formal Board intervention at this stage but should involve a mediation route. He supported the suggestion from the LSO that, as a first step, there be a period of independent monitoring from the Council's night time noise team. Further steps could include: monitoring the situation from the complainers' properties; strategic planning in the longer term; and a formal/informal process for neighbours to provide feedback. He added these steps would not be a bar to local residents raising further complaints and that he was seeking to secure a collaborative approach to dealing with issues.

Mr Homer addressed the Board and summarised his issues regarding the premises. In particular he mentioned the noise disturbance in the early hours of the morning.

Sederunt: *Inspector Harborow left the meeting.*

Councillor Currie stated that a period of mediation and monitoring is required if the Board is to have confidence that any measures are having an effect. He supported a six month period of monitoring with a report back to the Board thereafter. He commented that there is an unavoidable level of noise associated with a public house and added that he did not regard a restriction in licensing hours as a solution at this time.

Councillor Innes felt that the issues raised by the neighbours were reasonable. He asked that Police Scotland, the LSO and the Council's environmental health team

monitor the situation, especially after 23.00 hours, and report back to the Board in six months' time.

Councillor McAllister remarked that the premises management are taking the issues seriously. He recommended that an enhanced level of monitoring be put in place along with a written interventions plan. He added that it has to be recognised that the point will come where the noise issues outside the premises are outwith the control of the premises management.

Councillor Grant commented that Mr Hassard has presented a constructive way forward. He agreed that the situation be monitored for six months.

Councillor Akhtar acknowledged the strong will on the part of the premises management to improve the situation. She supported further monitoring and active interventions with neighbouring residents.

Local Ward member and Convenor of East Lothian Licensing Board, Councillor Goodfellow, supported continuing the review for six months. He asked that the LSO and Police Scotland support the licence holder and Greene King Brewery management in entering into dialogue and mediation with neighbouring residents, particularly in respect of nuisance noise at weekends and late into the evening. He stressed that monitoring of the outside area every 15 minutes is essential and that this activity be recorded in a log book.

The Clerk advised that the premises management would be invited back to the Board meeting in September 2016, at which time updated reports would be requested from the LSO, Police Scotland and neighbours.

Decision

East Lothian Licensing Board agreed that the review of the premises licence be continued for six months to enable the situation to be monitored with updated reports being sought from the LSO, Police Scotland, and neighbours at the end of this period. The Board also agreed that mediation and dialogue should take place with neighbouring residents.

EAST LOTHIAN

Meeting 28 April 2016 at 10:00am in Council Chamber, Town House, Haddington

Licensing (Scotland) Act 2005

Variation (Major)(s)

Variation (Major)(s)	Applicant	Date Received	Comments
1 ALDI WHITTINGHAME DRIVE HADDINGTON EAST LOTHIAN EH41 4AQ	ALDI STORES LIMITED C/O LINDSAYS WS CALEDONIAN EXCHANGE 19A CANNING STREET EDINBURGH EH3 8HE	18 March 2016	Remove existing wording replace with: Total alcohol display: 28.125m2, permanent display area: 23.625m2., seasonal display area: 4.500m2{ seasonal area will only be used between 24 November and 9 January annually. Amend layout plan to reflect slight increase in display area capacity, internal reconfiguration and introduction of tandem tills.
2 KING'S PALACE CHINESE RESTAURANT 129-131 HIGH STREET DUNBAR EAST LOTHIAN EH42 1ES	SAM YING KAN	1 March 2016	See attached sheet

Date: 22/03/2016

Your Ref:

Our Ref:

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



**POLICE
SCOTLAND**

Keeping people safe

Philip Gormley QPM
Chief Constable

Local Area Commander
The Lothians and Scottish Borders Division
Haddington Police Station
39-41 Court Street
Haddington
EH41 3AE

Dear Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
ALDI STORES LIMITED, WHITTINGHAME DRIVE, HADDINGTON**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

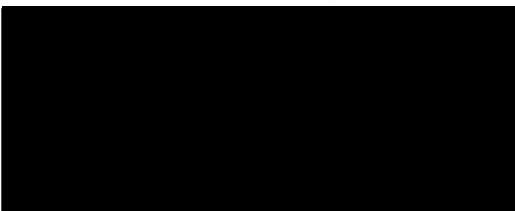
The variation requested consists of a request to increase the alcohol display area.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, I make the following representation on behalf of the Chief Constable.

Any increase in licensed area 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 variation would outweigh the presumption against grant in terms of the overprovision statement.

This representation is submitted for your attention in considering this application.

Yours faithfully



Philip Gormley QPM

EAST LoTHIAN COUNCIL

LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

From: R. Fruzynski
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 06 April 2016

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

Aldi, Whittinghame Drive, Haddington, East Lothian EH41 4AQ

I refer to the above subject and can confirm that I am satisfied that the Operating and Layout Plans are in order and, therefore, have no objections to the granting of the variation of licence.

R. Fruzynski
Licensing Standards Officer

EAST LoTHIAN LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005, SECTION 29
APPLICATION FOR VARIATION OTHER THAN MINOR VARIATION

This application should only be completed by the Licence Holder of the appropriate Premises Licence or their Agent.

SECTION 1: TYPE OF VARIATION

This application for Variation other than a Minor Variation of Premises Licence is made under Section 29(5) of the Licensing (Scotland) Act 2005 in order to vary-
(Tick all relevant boxes)

- Any of the Conditions to which the Premises Licence is subject
- Any of the information contained within the Operating Plan
- The Layout Plan
- Any other information contained or referred to in the licence (including any addition, deletion or other modification).

(Provide Details)

.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL012

2(b) Name and Address of Premises

Aldi
Whittinghame Drive
Haddington
East Lothian

Post Code	EH41 4AQ	Phone No.	c/o Agent : 0131 656 5675
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2(c) Full Name and Address of Current Licence Holder

Aldi Stores Ltd
Holly Lane
Atherstone
Warwickshire

Post Code	CV9 2SQ	Phone No.	
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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)

Q7 Remove existing wording and replace with :-

Total Alcohol Display : 28.125sqm

Permanent Alcohol Display Area (show in block red on attached plan) 23.625sqm

Additional Seasonal Display Area (shown hatched in red on attached plan) 4.500sqm (the seasonal area will only be used between 24 November and 9 January annually).

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.

Amended layout plan to reflect slight increase in display capacity; internal reconfiguration and introduction of tandem till(s). Drawing Number 0114#6 AL(76)002 Rev B dated 07.07.2015.

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)

N/A

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 £150 is enclosed.

Signature



..... (See note 5 below)

Date

.....

Capacity: APPLICANT-/ AGENT (delete as appropriate)

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

Michael McDougall, Lindsays,
Caledonian Exchange,
19a Canning Street,
Edinburgh, EH3 8HE
Tel: 0131 656 5675
Email: jackiepaterson@lindsays.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

FOR OFFICE USE ONLY

<i>Received & Receipt No.</i>	<i>System Updated</i>	<i>Licence Issued</i>
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King's Palace, Dunbar – Variation to Premises Licence

Change on-sale hours to:

11am to 1am on Thursday to Saturday inclusive & 11am to Midnight in Sunday
from:

11am to 11pm Thursday to Saturday & 12.30pm to 2.30pm & 6.30pm to 11pm on
Sunday.

Allow children/young persons when accompanied by an adult until 11pm or closing
time at special events. (was until 8pm)

Add seasonal variations to take advantage of any general extensions.

Change off-sale to 11am to 10pm Monday to Sunday inclusive

from: Midday to 10pm Monday to Saturday & 6pm to 10pm Sunday.



**POLICE
SCOTLAND**

Keeping people safe

Date: 15th 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

Web: www.scotland.police.uk

Dear Madam

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR VARIATION – SECTION 29
APPLICANT: WING SZE CAMERON
PREMISES: KINGS PALACE, 129-131 HIGH STREET, DUNBAR**

I refer to the above application and in terms of Section 22(1)(b) of the Licensing (Scotland) Act 2005, I make the following representation in relation to the application, with reference to the proposed variation.

The applicant is requesting to change the 'on sale' and 'off sale' hours. To allow children to stay until closing time when the restaurant closes at 11pm and also to allow children to remain for the duration of special events such as birthdays etc.

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

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

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: 06 April 2016

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

Kings Palace 129-131 High Street, Dunbar, East Lothian EH42 1ES

I refer to the above subject and can confirm that this application has been fully consulted on with the new premises manager. I am satisfied that the proposed amendments to the Operating Plan are in order and, therefore, have no objections to the granting of the variation of licence.


R. Fruzynski
Licensing Standards Officer



30.3.16

Dear Sir/Madam

**Re: Licensing Application For Variation of King's Palace Chinese Restaurant
129-131 High Street, Dunbar, East Lothian, EH42 1ES-On And Off Sales**

I am writing to formally lodge my objection to the above change in the licensing agreement to the Chinese restaurant. I live  and currently have to endure noise from the high street every weekend as people leave pubs, chip shops and wait on taxis. The proposed changes will extend opening times for a further two hours on a Thursday to a Saturday. I do not feel that it is acceptable that residents will have to tolerate an additional two hours of noise and will impact on those of us who have to work on a Friday and Saturday.

In addition I am concerned that with the changes, young children will be allowed to frequent the premises until 11pm or later if at a 'special event'. There will no doubt be some children who are tired and distressed and have to wait until their parents are ready to go home. This will also add to the noise outside the premises.

In addition the extension of off sale hours will invariably add to the littering of the high street. This will increase the number of people going for take-away food at the end of a night out and standing around waiting for taxis.

Yours sincerely



EAST LoTHIAN COUNCIL
LICENSING

04 APR 2016

RECEIVED

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)

.....

ELC
CUSTOMER SERVICES
U 1 MAR 2016
RECEIVED

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL0183

2(b) Name and Address of Premises

Kings Palace
129-131 High Street
Dunbar

Post Code	EH42 1ES	Phone No.	01368 863271
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2(c) Full Name and Address of Current Licence Holder

Sam Ying Kan
[REDACTED]

Post Code	EH42 1GB	Phone No.	[REDACTED]
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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

[Empty box for details of conditions to be varied]

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)

I would like to change the On sale and Off Sale Core Times for selling alcohol, also to allow children to stay until closing time when the restaurant closes at 11pm and at special events such as birthday parties until closure.

See amended operating plan attached.

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.

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)

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 £150 is enclosed.

Signature



(See note 5 below)

Date

1 March 2016

Capacity: APPLICANT / AGENT (delete as appropriate)

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

Note 1:

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

Note 2:

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

Note 3:

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

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

Note 4:

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

Note 5:

Data Protection Act 1998

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

Contact Us:

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

Phone: 01620 827217 / 827867 / 820114
Fax: 01620 827253
Email: licensing@eastlothian.gov.uk

FOR OFFICE USE ONLY

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

EAST LoTHIAN LICENSING BOARD

OPERATING PLAN

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

Name, address and postcode of premises to be licensed.

Kings Palace 129-131 High Street Dunbar, East Lothian, EH42 1ES
--

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>	YES/NO*
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	YES/NO*
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	YES/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>	11.00	23.00
<i>Tuesday</i>	11.00	23.00
<i>Wednesday</i>	11.00	23.00
<i>Thursday</i>	11.00	01.00
<i>Friday</i>	11.00	01.00
<i>Saturday</i>	11.00	01.00
<i>Sunday</i>	11.00	24.00

Question 3

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

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

Question 4

SEASONAL VARIATIONS

<i>Does the applicant intend to operate according to seasonal demand</i>	<input checked="" type="radio"/> YES/NO*
--	--

***If YES – provide details**

<p>We would wish to take advantage of any general extension to core hours in relation to local or national events of importance such as those granted for the festive period.</p>

Question 5

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

COL. 1 <i>5(a)</i> <i>Activity</i>	COL. 2 <i>Please confirm</i> <i>YES/NO</i>	COL. 3 <i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	COL. 4 <i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i> <i>YES/NO</i>
<i>Accommodation</i>	NO	N/A	N/A
<i>Conference facilities</i>	NO	NO	NO
<i>Restaurant facilities</i>	YES	YES	NO
<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	NO
<i>Club or other group</i> <i>meetings etc.</i>	NO	NO	NO
<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	NO
<i>Live performances –</i> <i>see 5(g)</i>	YES	YES	NO
<i>Dance facilities</i>	YES	YES	NO
<i>Theatre</i>	NO	NO	NO
<i>Films</i>	NO	NO	NO
<i>Gaming</i>	NO	NO	NO
<i>Indoor/outdoor sports</i>	NO	NO	NO
<i>Televised sport</i>	NO	NO	NO

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

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.

--

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 <input checked="" type="radio"/> NO*
---	--

When fully occupied, are there likely to be more customers standing than seated?	YES <input checked="" type="radio"/> 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>	YES/NO*
	<i>*Delete as appropriate</i>	

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

Accompanied by adult only between 11.00 until 23.00 when meals and non-alcoholic beverages are available for consumption on the premises. Also children can stay until a private function finishes.

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

All ages

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

Same as 6B

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

All public areas when accompanied by an adult.

Question 7

CAPACITY OF PREMISES

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

On Sales - 162

Question 8

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

Personal details

8(a) Name

Wing sze Cameron

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>
24 February 2016	East Lothian Licensing Board	EL1263

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 [Redacted] * (see note below)

Date ... 1 March 2016

Capacity APPLICANT/AGENT (delete as appropriate).

Telephone number and email address of signatory

*** Data Protection Act 1998**

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

EAST LOTHIAN

Meeting 28 April 2016 at 10:00am in Council Chamber, Town House, Haddington

Licensing (Scotland) Act 2005

Premises Licence Review(s)

Premises	Applicant	Date Received	Comments
3 TESCO EXTRA OLIVE BANK ROAD MUSSELBURGH EAST LOTHIAN	POLICE SCOTLAND	11 April 2016	
4 TESCO STORE TESCO STORE NEWTON PORT HADDINGTON EAST LOTHIAN EH41 3LZ	POLICE SCOTLAND	11 April 2016	
5 TESCO STORE TESCO STORES LIMITED TANTALLON ROAD NORTH BERWICK EAST LOTHIAN EH39 5NF	POLICE SCOTLAND	11 April 2016	

Elworthy, Debbie

4a

Subject: FW: Tesco Stores Limited

4b

From: Jill Armitage [mailto:j.armitage@mshblicensing.com]

Sent: 18 March 2016 16:48

To: Elworthy, Debbie

Subject: Tesco Stores Limited

4c

Debbie, good afternoon

**LICENSING (SCOTLAND) ACT 2005
TESCO STORES LIMITED**

As required by Section 43 of the above Act we hereby give you notice that Tesco Stores Ltd, the holder of premises licences in respect of the undernoted stores, have been convicted of the relevant offences as follow:

<i>Date of conviction or sentence</i>	<i>Court</i>	<i>Offence</i>	<i>Penalty</i>
18.3.13	Waverley Borough Council	H&S accident - S.2 Health and Safety at Work etc Act 1974	£20,000, plus costs of £5000. In addition, the court award £4400 compensation to the injured colleague.
8.12.15	Waverley Borough Council	Failure to comply with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 Contravening the Management of Health and Safety at Work Regulations 1999 Health and Safety at Work etc Act 1974 - 2 offences.	Fined £47,000 in total (£15K each in relation to a failure to provide a safe workplace for employees, and customers; £15K in relation to a failure to effectively monitor our safety systems; and £2K for late reporting of the accident)

Please confirm receipt of this e-mail

Your customary assistance is appreciated.

Kind regards

Jill

Undernote:

Newton Port, Haddington
Tantallon Road, North Berwick
Olive Bank Road, Musselburgh

Jill Armitage
Licensing Paralegal


HILL BROWN
LICENSING

Elworthy, Debbie

Subject: FW: Fao Violet Thomson
Attachments: Tesco1.pdf; Tesco2.pdf

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

From: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk
[<mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk>]

Sent: 11 April 2016 16:44

To: Licensing

Subject: FW: Fao Violet Thomson

Debbie

Please find attached documents confirming the notification of convictions for Tesco, as requested

Cheers
Heather

Please see attached extracts as requested

Surrey Magistrates' Courts

'I am not authorised to bind the Ministry of Justice contractually, nor to make representations or other statements which may bind the Ministry of Justice in any way via electronic means.' The information contained in this e-mail is intended only for the named person or organisation to whom it is addressed. If you have received it in error please destroy it or notify me. Unauthorised disclosure or use of such information may be in breach of legislation or confidentiality. Please note that we cannot guarantee that this message is virus free or has not been intercepted and amended.

TESCO STORES LTD

Tesco House
Delamare Road
Cheshunt
Hertfordshire
EN8 9SL

Case Number: **1200274783**

Defendant Present: Appears by Barrister or Solicitor in absence of Defendant
Informant: 005 Waverley Borough Council
Post-Hearing Custody Status:

1 **HS74001**

Between 23.05.2011 and 25.04.12 at Tesco Express 29-31 Ridgeway Road, Farnham failed to provide such information, instruction, training and supervision with regard to the movement of roll cages as was necessary to ensure, so far as was reasonably practicable, the health and safety at work of [REDACTED] Contrary to Section 2 (1) and 33 (1)(a) Health and Safety at Work etc Act 1974

Plea: Indicated plea of Guilty - 18/03/2013

FO

Fined £20000.00.

20,000.00

FCOMP

To pay compensation of £4400.00.
13023207V [REDACTED]

4,400.00

FVS

To pay victim surcharge of £15.00.

15.00

FCOST

To pay costs of £5000.00.
Creditor: WAVERLEY B C,

5,000.00

OFFAM

Offence amended in court.

2 **HS74018**

Failure to notify Waverley Borough Council forthwith of a major injury to [REDACTED] as a result of an accident arising out of or in connection with work. Contrary to Regulation 3 Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 and Section 33 (1)(c) Health and Safety at Work etc Act 1974

WDRN

Offence withdrawn.

3 **HS74018**

On 25.04.12 at Farnham failed to ensure that suitable personal protective equipment was provided to employees who may be exposed to a risk to their health or safety while at work in that the defendant company failed to provide safety shoes to [REDACTED] Contrary to Regulation 4 The Personal Protective Equipment at Work Regulations 1992 and Section 33 (1)(c) Health and Safety at Work etc Act 1974

WDRN

Offence withdrawn.

Time To Pay: To be paid by 15/04/2013

BALANCE

29,415.00

I certify the above extract to be a true copy

Date Printed: 08/04/2016 _____ of the said Magistrates' Court.

TESCO STORES LTD

Tesco House
Delamare Road
Cheshunt
Hertfordshire
EN8 9SL

Case Number: **1500182469**

Defendant Present: Yes

Informant: 005 Waverley Borough Council

Post-Hearing Custody Status:

1 **HS74001**

On 27/08/15 failure to comply with the requirement imposed under Regulation 5 Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2013 ("the Regulations") to follow the reporting procedure described in Paragraph 1 (1)(a) of Part 1 of Schedule 1 to the Regulations in respect of an injury suffered by a person not at work as a result of a work-related accident, in that you failed to notify Waverley Borough Council by the quickest practicable means without delay of an injury suffered by [REDACTED] at Tesco Lion Green Weyhill Contrary to Regulation 5 of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 and Section 33(1)(c) Health and Safety at Work, etc, Act 1974

FO

Fined £2000.00.

2,000.00

FVS

To pay victim surcharge of £120.00.

120.00

FCOST

To pay costs of £4599.57.

4,599.57

GPTAC

Defendant's guilty plea taken into account when imposing sentence.

Plea: Guilty - 08/12/2015

REAS

Reasons: Victim impact statement read to Court

2 **HS74001**

between 11/06/14 and 17/11/14 being an employer contravened Regulation 5(1) Management of Health and Safety at Work Regulations 1999 in that you failed to make and give effect to such arrangements as are appropriate having regard to the nature of your activities and the size of your undertaking for the effective planning organisation control monitoring and review of the preventive and protective measures identified by you in consequence of the risk assessment made under Regulation 3 as the measures you need to take to comply with the requirements and prohibitions imposed upon you by or under the relevant statutory provisions. Contrary to Regulation 5(1) Management of Health and Safety at Work Regulations 1999 and Section 33(1)(c) Health and Safety at Work, etc, Act 1974

FO

Fined £15000.00.

15,000.00

GPTAC

Defendant's guilty plea taken into account when imposing sentence.

Plea: Guilty - 08/12/2015

3 **HS74001**

On 27/08/14 being an employer within the meaning of the Health and Safety at

FO

Fined £15000.00.

15,000.00

Work etc Act 1974 ("the Act") failed to discharge the duty imposed on you by Section 3(1) of the Act in that you failed to conduct your undertaking in such a way as to ensure so far as was reasonably practicable that persons not in your employment who may have been affected thereby were not thereby exposed to risks to their health and safety namely the risks associated with slip/trip hazards. Contrary to Section 3 and 33(1)(a) Health and Safety at Work, etc, Act 1974

Plea: Guilty - 08/12/2015

4

HS74001

On 27/08/14 being an employer within the meaning of the Health and Safety at Work etc Act 1974 ("the Act") you failed to discharge the duty imposed on you by Section 2(1) of the Act in that you failed to conduct your undertaking in such a way as to ensure so far as was reasonably practicable that persons in your employment who may have been affected thereby were not thereby exposed to risks to their health and safety namely the risks associated with slip/trip hazards. Contrary to Section 2 and 33(1)(a) Health and Safety at Work, etc, Act 1974

Plea: Guilty - 08/12/2015

42

GPTAC

Defendant's guilty plea taken into account when imposing sentence.

FO

Fined £15000.00.

15,000.00

COLLO

Collection order made.

NCR

No compensation ordered because being dealt with by Civil Court

GPTAC

Defendant's guilty plea taken into account when imposing sentence.

REAS

Reasons: Been audited before incident, then audited after, policy/proceedings not been done. Someone didn't do what was written down, failed to insure proper controls in place.

Victim Impact Statement read

Time To Pay: To be paid by 05/01/2016

BALANCE

51,719.57

I certify the above extract to be a true copy

EAST LOTHIAN

Meeting 28 April 2016 at 10:00am in Council Chamber, Town House, Haddington

Licensing (Scotland) Act 2005

Premises Licence Review(s)

Premises	Applicant	Date Received	Comments
8 CO-OPERATIVE GROUP FOOD LTD. CO-OPERATIVE GROUP FOOD LTD. MAIN STREET ORMISTON TRANENT EAST LOTHIAN	POLICE SCOTLAND	12 February 2016	

Date: 12th 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
Web: 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 27th 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 27th 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 7th April 2015, the premises were subject to a re test and subsequently passed on this occasion.

On Thursday 30th 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 28th 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 10th and 11th 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 10th 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 15th 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 manger stated that this was done some time ago and that this was out with their control.

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

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

Mr McInally 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: 28th 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
Court Street
Haddington
EH41 3AE
Tel: 01620 826 147

Email: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk

Web: 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

Date: 02 March 2016

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

On Friday 19th 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 12th 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 28 April 2016 at 10:00am in Council Chamber, Town House, Haddington

Licensing (Scotland) Act 2005

Personal Licence(s)

Applicant

Date Received

Comments

6 NICOLA BURDELL

29 February 2016

PAGES 57 - 60

ARE DELIBERATELY BLANK AS THEY
CONTAIN PERSONAL INFORMATION.

Our ref: KMacN/mjw/EN/L/L1

Your ref:

Date: 21 March 2016

Nicola Burdell

Dear Sir/Madam

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR NEW PERSONAL LICENCE
NICOLA BURDELL, [REDACTED]**

I have to inform you that your application in respect of the above will be considered by East Lothian at its public meeting to be held in the Council Chamber, Town House, Haddington on Thursday 28 April 2016 at 10:00am.

The Board is obliged to hear an application where the appropriate Chief Constable has notified the Board in terms of section 73(3)(a) or (b) of the Licensing (Scotland) Act 2005, of any relevant notice(s). I have attached the notice for your information.

You are invited to attend the above meeting, however please note that failure to attend may result in the Licensing Board declining to consider your application.

Yours faithfully

**Kirstie MacNeill
Clerk of the Licensing Board**

Direct Dial: 01620 820114/827867/827217
Direct Fax: 01620 827253
Email: licensing@eastlothian.gov.uk

EL1267
PC 29/2

SCHEDULE 2

East Lothian Licensing Board

Application for a personal licence

FIRST APPLICATION/RENEWAL APPLICATION (delete as appropriate)

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets, if necessary. You may wish to keep a copy of the completed form for your records.

1. Your personal details. If relevant please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary. Read note 1	
TITLE (delete as appropriate): Mr Mrs <u>Miss</u> Ms Other (please state)	
Surname	Burdell
Forenames	Nicola
Date and Place of Birth	[REDACTED]
NI Number	[REDACTED]
ADDRESS WHERE ORDINARILY RESIDENT (We will use this address to correspond with you unless you complete the separate correspondence box below)	
[REDACTED]	
Post town	Post code
EDINBURGH	EH15- [REDACTED]
TELEPHONE NUMBERS	
Daytime	[REDACTED]
Evening	[REDACTED]
Mobile	[REDACTED]
FAX NUMBER	
E-mail address (if you would prefer us to correspond with you by e-mail)	
[REDACTED]	
Address for correspondence associated with this application (if different to the address above)	
[REDACTED]	
Post town	Post code
[REDACTED]	[REDACTED]

EAST LoTHIAN COUNCIL
LICENSING

29 FEB 2016

RECEIVED

2. Your licensing qualification		
Read note 2		Please tick
I hold an accredited qualification	<input checked="" type="radio"/> Yes	<input type="radio"/> No
If you have ticked yes please provide a copy of your qualification with your application.		

3. FIRST APPLICATIONS ONLY		
This section should only be completed if you are submitting your first application to this Licensing Board. If answering Yes to any question please provide details below.		
Note: You may only hold one personal licence at a time		Please tick
Do you currently hold a personal licence?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Do you currently have any outstanding applications for a personal licence, with this or any other Licensing Board?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Has any personal licence held by you been forfeited in the last 5 years?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
Licensing Board		
Licence number		
Date of issue		
Date of expiry		
Any further details		

4. RENEWAL ONLY	
This section should be completed only if you are applying for a renewal of your existing licence	
Your personal licence must accompany your application for a renewal. If you are unable to send your personal licence, you must explain why you cannot do so in the box provided below	
Details of current personal licence	
Licensing Board	
Licence number	
Date of issue	
Date of expiry	
Any further details	
If you cannot provide your personal licence, provide a statement explaining why	

Other personal licence		
Note: You may only hold one personal licence at a time		Please tick
I confirm that I do not hold any other personal licences other than the one submitted for renewal	Yes	No

5. CHECKLIST	
I have	Please tick yes
<ul style="list-style-type: none"> Enclosed two photographs of myself, one of which is endorsed as a true likeness of me by a person of standing in the community. Read note 3. 	
<ul style="list-style-type: none"> Enclosed a copy of any licensing qualification I hold 	
<ul style="list-style-type: none"> Enclosed my current personal licence (renewal only) 	
<ul style="list-style-type: none"> Made or enclosed payment of the fee for the application 	

6. Previous Convictions
You must provide details below of any conviction for a relevant or foreign offence that is not considered spent under the Rehabilitation of Offenders Act 1974. Please continue on a separate sheet if necessary. If you are declaring that you have no such convictions please write "none". Read note 4

Offence	Court	Date	Penalty

7. Declaration	
The contents of this application are true to the best of my knowledge and belief	
SIGNATURE – read note 5 Applicant/Agent* (*Delete as appropriate)	DATE 21/2/16

I understand that East Lothian Council is under a duty to protect the public funds it administers, and to this end may use the information I have provided on this form for the prevention and detection of fraud. East Lothian Council may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

NOTES

Information on the Licensing (Scotland) Act 2005 is available on the website of the Scottish Parliament (<http://www.opsi.gov.uk/legislation/scotland/acts2005/20050016.htm>)

EAST LOTHIAN

Meeting 28 April 2016 at 10:00am in Council Chamber, Town House, Haddington

Licensing (Scotland) Act 2005

Personal Licence Review(s) Licence Holder	Applicant	Date Received	Comments
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7 RYAN BAYNHAM	POLICE SCOTLAND	13 April 2016	
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**POLICE
SCOTLAND**

Keeping people safe

Date: 13th April 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

Telephone Licensing Dept – 01620 826 147

Email: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk

Web: www.scotland.police.uk

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84A
PERSONAL LICENCE REVIEW APPLICATION
PERSONAL LICENCE HOLDER – RYAN BAYNHAM**

I refer to the above and in terms of Section 84A (1) of the Licensing (Scotland) Act 2005 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010), the Chief Constable would like to bring to the Licensing Boards attention a recent incident involving the personal licence holder Mr Ryan Baynham, born (██████████)

The Chief Constable feels that Mr Baynham has acted in a manner, which is inconsistent with the licensing objectives namely:

- Preventing crime and disorder

The details of this incident are narrated in the appendix to this letter for the Boards consideration and attention.

Ryan Baynham was granted his personal licence by the East Lothian Licensing Board on 31st October 2011, Licence number EL778.

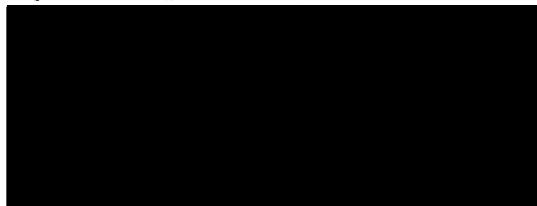
Mr Baynham is currently the designated premises manager of the Mercat Hotel, 73-74 Market Street, Haddington. This is a family run business and has been for several years.

As the Board will appreciate being a designated premises manger, is a position of responsibility and respect. [REDACTED] premises involved, are located in the same town (Haddington) as Mr Baynham operates his own premises.

This Chief Constables view is that the Board should consider all the options open to them under Section 84(7) of the Act.

In signing this report, I confirm that this Personal Licence Review Application is made under the authority of the Chief Constable of Police Service of Scotland.

Signed:

A large black rectangular redaction box covering the signature of Philip Gormley.

Philip Gormley QPM
Chief Constable

Date: 13/04/2016

For enquires please contact the Licensing dept on 01620 826 147

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IS DELIBERATELY BLANK AS IT
CONTAINS PERSONAL INFORMATION.

Our Reference: KM/de/EN/L/PL
Your Reference:

Date: 13th April 2016

Private & Confidential

Mr Ryan Baynham

Dear Madam

**Licensing (Scotland) Act 2005
Personal Licence No EL778**

I enclose a copy of a letter received from Police Scotland requesting a review of your Personal Licence in terms of S84(A) of the above Act. This is to consider whether there are grounds for finding that your recent behaviour has contravened the Licensing Objective of Preventing Crime and Disorder.

This decision is delegated to the Clerk of the Licensing Board and due to the time constraints stated in the legislation, it has been agreed to hold a review hearing. The hearing will take place at the Licensing Board Meeting on Thursday 28th April 2016 at 10am in the Council Chambers, Town House, Haddington.

You are advised to attend the above meeting where you will be given an opportunity to be heard regarding the matters raised in the letter from the police.

An agenda will follow in due course.

Yours faithfully

KIRSTIE MACNEILL
Clerk to the Licensing Board

Direct Dial: 01620 827217/827867/820114
Direct Fax: 01620 827253