



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The Clerk advised that this item had been withdrawn.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East Lothian Licensing Board noted that this item had been withdrawn.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