



MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

**THURSDAY 26 MAY 2016
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

Board Members Present:

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

Clerk of the Licensing Board:

Mrs K MacNeill, Service Manager, Licensing, Administration and Democratic Services

Attending:

Mrs M Ferguson, Service Manager, Legal and Procurement
Mr R Fruzynski, Licensing Standards Officer
Mrs D Elworthy, Licensing Administration Officer
Mrs G Herkes, Licensing Assistant
PC H Bowsher, Police Scotland
Insp A Harborow, Police Scotland

Apologies:

Councillor T Trotter

Declarations of Interest:

None

1. MINUTES FOR APPROVAL

The minutes of the Licensing Board meeting of 28 April 2016 were agreed to be a true record.

2. PROVISIONAL PREMISES LICENCE

(a) North News, 179 North High Street, Musselburgh

Mr Alastair Macdonald, Macdonald Licensing, was present to represent the applicant. He advised that his client had been held up and asked that this matter be delayed until later on the agenda.

The Board agreed to take this matter later.

(b) Sainsburys Store, Gateside West, Haddington

Ms Kevin Clancy, Shepherd and Wedderburn, was present to represent the applicant.

Mr Martin Wolfe, Store Manager was also present.

The Clerk advised that a Provisional Premises Licence had been granted for this store in March 2012 but had expired in March 2016. This was an application for a further Provisional Licence in the same terms.

Mr Clancy addressed the Board advising that the economic conditions since 2012 had led to a delay in progressing with this store. Sainsbury were undertaking a review of their estate and still saw an opportunity to progress with a store in Haddington although the granting, or not, of this Provisional Licence would have an impact on their plans. He directed the Board to the statement on the Licensing Objectives that accompanied the application and supported his assertion that this application would not contravene the Board's policy on overprovision. In particular, he noted that there were no other licensed premises within 500m of this site. As housing development is progressing on an adjacent site, he argued that the granting of a licence for a future store here would meet a need that is currently not being met by any other licensed premises.

He answered questions relating to the future plans for the site and was advised that Members were frustrated at the lack of progress in this regard.

Insp Harborow and the Licensing Standards Officer (LSO) had nothing to add to their written reports.

Decision

East Lothian Licensing Board agreed to grant this application.

(a) North News, 179 North High Street, Musselburgh

Mr Alastair Macdonald, Macdonald Licensing, was present to represent the applicant.

Mr Zohaib Mailik, applicant, was also present.

The Clerk advised that a public objection had been received along with three letters of support. Neither the objector nor the supporters were present. The Clerk advised that the letter of objection appeared to be referring to another premises, next door to the actual premises that are the subject of this application.

Mr Macdonald addressed the Board on this client's plans for this shop, noting that it was a very small shop meeting a local need for small scale groceries. His client had asked customers what they would like to see stocked and there was a demand for a small stock of alcoholic drinks. Mr Macdonald was of the view that the immediate vicinity of this shop was not over provided with licensed outlets; the only other off sales premises was the Day to Day shop near the Brunton hall. Larger supermarkets at Tesco and Lidl were not within easy walking distance, particularly for elderly customers.

With regard to the letter of objection, Mr Macdonald's client had owned the premises since November 2015 and had not seen any behaviour of the type set out in this letter. He clarified that the music referred to would be background music or the radio only.

The Licensing Standards Officer (LSO) advised that this was a very small shop and would have a very small licensed area if granted. During the time he had visited the shop, he had noted the high number of local customers using it and wouldn't see the grant of a licence compromising the Licensing Objectives. He would support the grant of this licence.

Insp Harborow stated that this area of Musselburgh had historic problems of anti social behaviour. It was an objective of the CAP to deal with this and he considered that the grant of a new off sales licence in this area would be to the detriment of the work that was ongoing in this regard. He reminded Members that the Board's Overprovision Statement required there to be 'exceptional circumstances' before a new licence would be granted.

Under questioning from the Members, Insp Harborow agreed that these premises were not responsible for any of the previous anti social behaviour.

Councillor McAllister agreed with the Police's views of the historic problems in this vicinity and was of the view that alcohol was a significant factor in this. Whilst he accepted that this premises hadn't contributed to problems previously, he was not satisfied that 'exceptional circumstances' had been demonstrated and could not support this application. He considered that a grant of this licence would compromise the Licensing Objectives relating to crime and disorder, public safety and the protection of children and young people.

Councillor Currie considered that the number of takeaway shops in this area, along with the availability of off sales, could contribute to an increase in anti social behaviour. This would be regrettable given that matters seemed to have improved over recent years as a number of licensed premises had closed. On balance he considered that the grant of this licence would have a negative effect rather than a positive effect and so he could not support this application.

Councillor Innes noted that the LSO was supportive of this application as it would meet a local need. In addition, three local residents had written to the Board to support the applicant. He considered that the shop was very small and it was unreasonable to consider that this modest size of licensed premises would have a significant impact on anti social behaviour in the vicinity. He supported the application.

Councillor Akhtar also supported the application. She considered that the level of information provided by the applicant relating to compliance with the Licensing Objectives was very impressive for a small community retailer and was satisfied that the applicant would act in a responsible manner.

Councillor Grant understood the caution in this matter but noted that there is no blame attached to these premises or this applicant for historic issues in the area. He did not think this licence would constitute a significant risk and was minded to grant it, noting that, if problems arose, the Board had the powers to deal with these.

The Board voted on this matter as follows:

For: 3
Against: 2
Abstention: 1

Decision: Accordingly, East Lothian Licensing Board agreed to grant the application.

3. VARIATION TO PREMISES LICENCE

(b) Giancarlo's, 119 High Street, Tranent

Mr Alastair Macdonald, Macdonald Licensing, was present to represent the applicant.

The Clerk advised that the application seeks to vary the operating plan to allow outside drinking as an activity and amend the layout plan to show the outside area as part of the licensed premises.

Mr Macdonald advised that this business had been extremely popular and successful and his clients were simply wishing to extend their offering to allow some outside dining space. They had a permit from the Council's transportation department that allowed use of the pavement until 2100 hours. He noted the Police request that use be limited to 2200 hours and suggested an amendment to the Operating Plan to show the time limit as 2200 hours or as restricted by the permit as he hoped that his clients could vary the permit to allow a terminal hour of 2200 hours.

Members asked questions about the music in the premises and Mr Macdonald advised that his client would accept a condition that there would be no music in the outdoor area. The transportation permit already prohibited amplified music and speech in this area.

Insp Harborow and the Licensing Standards Officer (LSO) had nothing to add to their written reports.

The Board agreed to grant this application, subject to the amendment to the Operating Plan regarding the terminal hour and a condition prohibiting music in the outdoor area.

4. OCCASIONAL LICENCE

(a) Macmerry Miners' Welfare Society and Social Club.

Mr James Fortune, President and Mrs Jessie Young, Vice President were present on behalf of the Macmerry Miners' Welfare Society and Social Club.

The Clerk advised that this was an Occasional Licence application but that, as objections had been received from Police Scotland and from the LSO, it had to be considered by the Board. The Occasional Licence sought was for the period from today to 8th June and was in respect of the premises adjacent to Macmerry Bowling Green.

Mr Fortune advised that the Club were in the process of applying for a Premises Licence for these premises imminently, but wished to get the bowling section up and running while this application was pending. Accordingly, they had applied for this Occasional Licence.

The Licensing Standards Officer confirmed that there had been contact with the Licensing Team regarding an application for a Premises Licence. His concern was that this application was for a non-specific purpose, ie not a particular event.

Insp Harborow did not wish to add anything to the terms of his letter of 16th May.

Councillor Grant noted that there was a long history here but that was all outwith the Board's remit. He was pleased to note that an application was forthcoming for a Premises Licence and would support this application for an Occasional Licence. Councillor Akhtar agreed as did Councillor Currie.

Councillor Innes noted that, should further Occasional Licences be required to bridge the gap while the Premises Licence was being processed, he would look favourably on these.

The Clerk confirmed that, at present, this was the only application before the Board. It was likely that the Premises Licence application would not be before the Board before the August meeting at the earliest.

Decision

East Lothian Licensing Board agreed to grant this application.

5. REVIEW OF PERSONAL LICENCE

(a) Ryan Baynham

Mr Macdonald, Macdonald Licensing was present to represent Mr Baynham.

Mr Baynham, personal licence holder, was also present.

The Clerk advised that Police Scotland has requested a review of Mr Baynham's personal licence and that the Board had agreed to continue the item from the April 2016 meeting.

Mr Macdonald advised the Board that the Procurator Fiscal had not yet decided whether or not to take proceedings in respect of this matter. Pending that decision, he felt he might not be able to be totally open with the Board but was prepared to proceed today if that was the wish of the Board. Alternatively, he would be happy to have this matter continued pending the decision on court proceedings.

Insp Harborow advised that he was equally happy to leave this decision to the Board. However, if the matter was to be continued, he would propose to monitor the progress of the court proceedings and, if there was undue delay, would be asking for the matter to be dealt with by the Board.

Decision

East Lothian Licensing Board agreed to continue the review of the personal licence until their meeting in August 2016 in the first instance to determine whether a decision had been made by the Procurator Fiscal at that time.