
EAST LOTHIAN

Meeting 25 August 2016 at 10:00am in Council Chambers, Town House, 56 High Street, Haddington, East Lothian

Licensing (Scotland) Act 2005

Personal Licence Review(s)

Licence Holder	Applicant	Date Received	Comments
8 RYAN BAYNHAM	POLICE SCOTLAND	13 April 2016	
9 MARTIN GACH	POLICE SCOTLAND	9 August 2016	

Date 9th August 2016

Your Ref: EL747

Our Ref: J/LIC/3705/HB

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 - SECTION 84A & 82(2)
PERSONAL LICENCE REVIEW APPLICATION
PERSONAL LICENCE HOLDER: MARTIN GACH**

[REDACTED]
LICENCE NO: EL747

The Chief Constable hereby makes application to the Licensing Board in terms of Section 84A and 82(2) of the Licensing (Scotland) Act 2005, for a review of the Personal Licence in respect of Martin Gach, on the grounds that Martin Gach has acted in a manner which is inconsistent with the licensing objectives articulated at Section 4(1) of Act, namely:

- Preventing Crime and Disorder

Martin Gach was granted a personal licence by East Lothian Licensing Board on the 17th June 2011. He is currently employed as a part time bar man at the County Hotel, 15-17 High Street, North Berwick.

In support of this application, the following information is provided for your consideration.

Around 2330 hours on Sunday 24th July 2016 the police were on routine patrol in the High Street, North Berwick when they noticed that although the front doors to the County Hotel were closed, there appeared to be a number of patrons still within. On closer inspection, police could see through the window that there were 6 patrons still consuming alcohol from glasses and bottles. This was 15 minutes after the agreed 15 minute 'drinking up' period.

It was confirmed on police systems that the County Hotel had a 2300 hours terminal hour for a Sunday night.

After banging on the front door, entry was allowed by the bar man, now known to be Martin Gach, who seemed shocked to see the officers. He was asked why people were still consuming alcohol and said he hadn't realised the time. He knew that the licensed hours ended at 2300 hours. Mr Gach thereafter asked all patrons to leave and removed all their drinks.

Mr Gach was later cautioned and charged after consultation with the Police Licensing Officer with a contravention of Section 63 of the Licensing (Scotland) Act 2005 and a report has been submitted to the Procurator Fiscal. This remains a pending case.

Following this, the Police Licensing Officer carried out checks on the police criminal history system and discovered that Martin Gach had also been convicted on the 17th February 2016, of a contravention of Section 5 of the Road Traffic Act 1988 (Drink Driving). The details of which are as follows:

About 0640 hours on Monday the 14th December 2015, on the B6363 near Gladsmuir, East Lothian, a member of the public was driving to work when he noticed a vehicle parked on the verge with its headlights on and a male slumped and asleep in the drivers seat. The member of the public stopped his car and knocked on the drivers window to check on the welfare of the occupant. There was no response from the male and so the member of the public phoned 999. A short time later the driver, now know to be Martin Gach, woke up. The male opened the door of the vehicle and spoke with Mr Gach immediately detecting the smell of alcohol from his breath. Mr Gach attempted to drive away but the male member of the public took the keys out of the ignition and told Mr Gach to wait for the emergency services.

A short time later, police were contacted and attended. They were appraised of the circumstances by the member of the public. Mr Gach admitted to being the driver of the motor car and was required to provide a specimen of breath for a breath test, which he did. The test proved positive and Mr Gach was conveyed to Haddington Police Station.

Mr Gach then provided two further breath samples the lower of which was recorded as 73 microgrammes of alcohol in 100 millilitres of breath, exceeding the prescribed limit of 22 microgrammes in 100 millilitres of breath.

Mr Gach was then cautioned and charged with a contravention of Section 5 of the Road Traffic Act 1988 and liberated on bail undertaking from Police custody to

appear at Edinburgh Sheriff Court on the 17th February 2016. He was convicted on that date and Fined £350 and Disqualified from driving for 27 months.

To date, Mr Gach has failed to notify East Lothian Licensing Board of this conviction of a relevant offence.

The Chief Constables view is that a revocation of Martin Gach's Personal Licence is appropriate in these circumstances.

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:



Philip Gormley QPM
Chief Constable

Date: 09/08/2016

For enquiries please contact the Licensing Department on 01620 826 147.

Winter, Maree

From: Fruzynski, Rudi
Sent: 11 August 2016 12:05
To: Winter, Maree
Subject: RE: Personal Licence Review- Martin Gach

I have no comment to make on this review. Martin Gach is known to me, but I have no relevant information that would assist the Licensing Board in making a determination in this case.

Rudi Fruzynski
Licensing Standards Officer - Registered Paralegal Licensing, Administration and Democratic Services John Muir House, Haddington, East Lothian, EH41 3HA Tel No. 01620827363

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"Although basic guidance may be sought from the Clerk to the Licensing Board and Licensing Standards Officer, it is for the applicant to make sure that the Application/Operating/Layout Plan is in the correct form and covers all aspects of the operation of the premises. Applicants should, consider seeking independent legal advice." (ref Statement of Licensing Policy 2013- 2016)

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

From: Winter, Maree
Sent: 10 August 2016 15:58
To: LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk; Fruzynski, Rudi
Subject: Personal Licence Review- Martin Gach
Importance: High

HI,

Please find attached. Please find this is official notice of the review.

Rudi,

Kirstie says you can submit a report if you so wish.

Regards
Maree.

Maree Winter
Licensing Officer
Democratic & Licensing Services
East Lothian Council
John Muir House
Haddington
EH41 3HA

mwinter@eastlothian.gov.uk

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