

EAST LOTHIAN

Meeting 23 February 2017 at 10:00am in Council Chambers, Town House, 56 High Street, Haddington, East Lothian

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises

Applicant

Date Received

Comments

2 BREWED AND BAKED
83 HIGH STREET
MUSSELBURGH
EAST LOTHIAN
EH21 7DA

PUNCH PARTNERSHIP LIMITED

15 November 2016

Variation for alcohol for on and off sales, Offsales from 11am to 10pm - Monday to Sunday.
Add Takeaways as activity, Children and Young Persons will be permitted access.
Change wording: The premises may be used for various activities of refreshment meals and takeaways outwith core hours. No alcohol will be sold outwith core hours.

Change premises name to Habaneros and description to Mexican Cantina & Takeaway

3 MUSSELBURGH MINERS CHARITABLE SOCIETY (INCORPORATING ROYAL MUSSELBURGH PRESTONGRANGE HOUSE PRESTONGRANGE ROAD CUTHILL

MUSSELBURGH MINERS' (INCORPORATING ROYAL MUSSELBURGH GOLF CLUB

5 January 2017

Increase core hours on Friday and Saturday nights from Midnight to 1am. Variation to funerals to commence at no earlier than 10am. Variation to use of commencement and televised sport outwith core hours. This will not commence prior to 6am.

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

EL0105

2(b) Name and Address of Premises

Brewed and Baked
83 High Street
Musselburgh

Post Code	EH21 7DA	Phone No.	
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2(c) Full Name and Address of Current Licence Holder

Punch Partnership Limited
Jubilee House
Second Avenue
Burton on Trent

Post Code	DE14 2WF	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)

Q1 – Alcohol will be sold on and off the premises.

Q3 – Allow off sales from 11am to 10pm Monday to Sunday.

Q5 (further details) – change wording to: *The premises may open outwith core licensed hours for the provision of teas, coffees, breakfast, meals and takeaway. The premises may be used for various activities as noted above prior to the commencement of core licensed hours. During this time the activities above may be provided but no alcohol would be sold outwith the core licensed hours.*

Q5f) – Add takeaways as an activity.

6b) Children and young persons will be permitted access.

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)

Change premises name to: **Habaneros**

Change description of premises to: **Mexican Cantina & Takeaway**

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 14.11.16
.....

Capacity: ~~APPLICANT~~ / AGENT (delete as appropriate)

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

Stephen J. McGowan
Partner - Head of Licensing (Scotland)
T.L.J. LLP
140 West George Street, Glasgow, G2 2HG
+44 (0)333 006 1203
stephen.mcgowan@tjlsolicitors.com

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>

OPERATING PLAN

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

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>	NO
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	NO
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	YES
<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>	11AM	11PM
<i>Tuesday</i>	11AM	11PM
<i>Wednesday</i>	11AM	11PM
<i>Thursday</i>	11AM	12MN
<i>Friday</i>	11AM	12MN
<i>Saturday</i>	11AM	12MN
<i>Sunday</i>	11AM	12MN

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>	11AM	10PM
<i>Tuesday</i>	11AM	10PM
<i>Wednesday</i>	11AM	10PM
<i>Thursday</i>	11AM	10PM
<i>Friday</i>	11AM	10PM
<i>Saturday</i>	11AM	10PM
<i>Sunday</i>	11AM	10PM

Question 4

SEASONAL VARIATIONS

<i>Does the applicant intend to operate according to seasonal demand</i>	YES
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**If YES – provide details*

We would seek to take advantage of any general extensions allowed by the board.

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> Activity	COL. 2 <i>Please confirm</i> YES/NO	COL. 3 To be provided during core licensed hours – please confirm YES/NO	COL. 4 Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Accommodation</i>	NO	N/A	N/A
<i>Conference facilities</i>	NO	NO	NO
<i>Restaurant facilities</i>	YES	YES	YES
<i>Bar meals</i>	YES	YES	YES
<i>5(b) Activity</i> <i>Social functions including:</i>	<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>Receptions including Weddings, funerals, birthdays, retirements etc.</i>	YES	YES	NO
<i>Club or other group meetings etc.</i>	YES	YES	NO
<i>5(c)</i> Activity <i>Entertainment including:</i>	<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>Recorded music – see 5(g)</i>	YES	YES	YES
<i>Live performances – see 5(g)</i>	YES	YES	YES
<i>Dance facilities</i>	NO	NO	NO
<i>Theatre</i>	NO	NO	NO

<i>Films</i>	NO	NO	NO
<i>Gaming</i>	YES	YES	NO
<i>Indoor/outdoor sports</i>	YES	YES	NO
<i>Televised sport</i>	YES	YES	YES
5(d) Activity	Please confirm 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>	YES	YES	NO
5(e) Activity	Please confirm 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.

The premises may open outwith core licensed hours for the provision of teas, coffees, breakfast, meals and takeaway.

The premises may be used for various activities as noted above prior to the commencement of core licensed hours.

During this time the activities above may be provided but no alcohol would be sold outwith the core licensed hours.

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.

Charity events, business networking and meeting facilities, community events and meetings, tastings and food and drink events, cultural and artistic displays ore performances, supper club and takeaway.

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?	N/A
When fully occupied, are there likely to be more customers standing than seated?	N/A
*Delete as appropriate	

Question 6 (On-sales only)

CHILDREN AND YOUNG PERSONS

6(a)	When alcohol is being sold for consumption on the premises will children or young persons be allowed entry	YES
	*Delete as appropriate	

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

Children and young persons will be permitted access.

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

0-17 years.

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

8am to 8pm.

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

All parts of the premises to which the public have access.

Question 7

CAPACITY OF PREMISES

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

On sales – 178

Question 8

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

Personal details

8(a) Name

Andrew James Lund

8(b) Date of birth

[REDACTED]

8(c) Contact address

[REDACTED]

8(d) Email address

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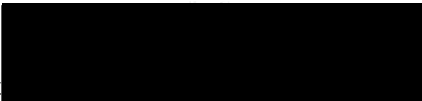
8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
15.01.11	Dumfries & Galloway Licensing Board	DG/A/0316

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 . * (see note below)

Date14.11.16.....

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.

Stephen J. McGowan
Partner - Head of Licensing (Scotland)
TLT LLP
140 West George Street, Glasgow, G2 2HG
+44 (0)333 006 1203
stephen.mcgowan@tltsolicitors.com

Date 12th December 2016



**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

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

Dear Madam,

**LICENSING (SCOTLAND) ACT 2005 - REPRESENTATION
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
BREWED & BAKED, 83 HIGH STREET, MUSSELBURGH, EAST LOTHIAN
PUNCH PARTNERSHIP LIMITED, JUBILEE HOUSE, SECOND AVENUE,
BURTON ON TRENT**

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 change of premises name to Habaneros, change of description of premises to Mexican Cantina & Takeaway, increase of 'on sales' hours on a Friday and Saturday night to 1am, to add 'off sales', change of wording to the operating plan in relation to teas and coffees etc being provided out with core hours and to add takeaways as an activity.

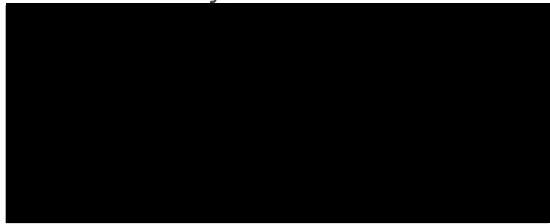
In terms of Section 29(5) of the Act this request can be considered a variation.

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.

Whilst the police have no objection to the grant of this variation, it is pertinent to point out that any increase in licensed hours 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
Chief Constable

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

EAST LoTHIAN COUNCIL

LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

From: R. Fruzynski
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 23 December 2016

As amended on 10 January 2017

Subject: LICENSING SCOTLAND ACT 2005
PREMISES LICENCE MAJOR VARIATION APPLICATION

Habaneros, 83 High Street, Musselburgh, East Lothian EH21 7DA

I refer to the above subject and can confirm that the premises have been visited and the proposed changes discussed with Malcolm Binnie, the new leaseholder, and his son Adam, who will become the Designated Premises Manager in due course.

The Brewed and Baked cafe restaurant setup, as approved by the Board in October 2015, is set to remain, but the focus of the new business will predominantly be on the provision of Mexican food for take away. The restaurant sit in option will continue should customers want to partake of a table meal.

The variations applied for relates to the following:

- Change of the premises name to Habaneros.
- Change the description of the premises to reflect that Habaneros is a Mexican Cantina and Takeaway.
- Increase in the terminal hour on Friday and Saturday evenings to 01:00. However, Mr Binnie states that Habaneros will be closed every night by 22:00 and only remain open until 23:00 on the very odd occasion. It appears therefore that the increase in hours applied for is a facility desired by Punch Taverns as a feature that would be available if required in the future, in respect of a new lease.
- As stated, Habaneros will predominantly operate as a food takeaway on the approximate ratio of 60% takeaway and 40% sit in. In this respect, the new leaseholder

indicated that he would like to be able to include alcoholic drinks as part of the takeaway offering and therefore seeks to add off-sales to the Operating Plan. He also proposed that the business would use a courier delivery service, such as Deliveroo, to make food and alcohol deliveries to customers. However, since the premises re-opened in December, after refurbishment, the applicant has taken an operational policy decision not to pursue deliveries in order to preserve the quality of food offering and that the customer takeaway collection situation is the only off-sale option that will be used.

Based on the positive contact made with the applicant and his son and their proposed business model, I am happy to support this application.

R. Fruzynski
Licensing Standards Officer