



## **MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD**

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

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### **Board Members Present:**

Councillor J Goodfellow (Convenor)  
Councillor S Akhtar  
Councillor S Currie  
Councillor D Grant  
Councillor F McAllister  
Councillor T Trotter

### **Clerk of the Licensing Board:**

Mrs M Ferguson, Service Manager, Legal and Procurement

### **Attending:**

Mrs K MacNeill, Service Manager, Licensing, Administration and Democratic Services  
Mr R Fruzynski, Licensing Standards Officer  
Ms D Elworthy, Licensing Officer  
Ms G Herkes, Licensing Officer  
Insp A Harborow, Police Scotland  
PC H Bowsher, Police Scotland

### **Committee Clerk:**

Ms J Totney, Team Manager – Democratic Services

### **Apologies:**

Councillor W Innes

### **Declarations of Interest:**

As a remunerated non executive board member of NHS Lothian, Councillor Grant declared a potential interest in item 2 as NHS Lothian had submitted a late objection. If the Board decided to accept the late objection, Councillor Grant would withdraw from consideration of the item. Councillor Grant also declared an interest in item 5 as he has extensive knowledge of the situation.

At the suggestion of Councillor Goodfellow, Convenor, the Board agreed to amend the order of business in light of the need for Councillor Grant to withdraw from the meeting for item 5.

## **1. MINUTES FOR APPROVAL**

The minutes of the Licensing Board meeting of 27 October 2016 were agreed to be a true record.

## **2 PERSONAL LICENCE**

### **Aidan Edward Berney**

Mr Berney was present and was accompanied by the manager from the Herringbone bar and restaurant, North Berwick.

The Clerk advised that Mr Berney had not declared a previous conviction on his application form; a fact that was later disclosed by Police Scotland.

Inspector Harborow had nothing to add to the Police Scotland report.

Mr Berney informed the Board that he hopes to further his career in the licensed trade. The manager from the Herringbone advised that Mr Berney has proved to be a valuable member of staff and that he is keen to develop him further.

Councillor Currie commented that it was unfortunate that the application form had not been completed correctly; noted that there is no objection to the application from Police Scotland; welcomed the support being provided by the employer; and stated that he would be supporting the application.

Councillors Grant, Akhtar and Goodfellow echoed the comments regarding employer support and emphasised the need for paperwork to be accurately completed.

### **Decision**

East Lothian Licensing Board agreed to grant the personal licence.

## **3 PREMISES LICENCE – REVIEW**

### **Pans Convenience Store, Prestonpans**

Ms J Hood, Licensing Practitioner, was present to represent the applicant. She explained that her client was unable to attend the meeting.

The Clerk reminded members that a condition had been placed on the licence in March 2016 requiring that a personal licence holder must be on the premises at all times during licensing core hours. It had been decided that this would be reviewed after six months to determine whether the condition was still necessary and appropriate. She further advised that the item had been carried forward from last month, for determination at this meeting. Board members agreed that they were happy to deal with the matter in the absence of the applicant.

The Licensing Standards Officer (LSO) advised that he had visited the premises on numerous occasions and that he had no objection to removing the condition that was currently placed on the licence. However, he was of the view that it would be good practice if the premises were to continue to operate in this manner on a voluntary basis.

Inspector Harborow advised that Police Scotland had also visited the premises on several occasions and that the condition had always been adhered to.

Ms Hood informed the Board that her client is now seeking that the condition be removed, although her client would continue to ensure that a personal licence holder was on the premises at the weekend.

Councillor Currie remarked that the views of Police Scotland and the LSO are crucial and noted that they have not highlighted any issues or concerns. He was content to remove the condition but highlighted the risks and potential repercussions of doing so; a view shared by Councillors Akhtar and Grant.

Councillor Goodfellow asked Ms Hood to relay to her client that the Board consider it best practice to continue having a personal licence holder on the premises during licensing core hours.

### **Decision**

East Lothian Licensing Board agreed to remove the relevant condition from the premises licence.

## **4 PREMISES LICENCE – MAJOR VARIATION**

### **Glenkinchie Distillery Visitor Centre, Pencaitland**

Mr D Hossack, Morton Fraser Lawyers, was present to represent the applicant. Ms G Gascgoine, Visitor Centre Manager, was also present.

The Convenor advised members that a late objection had been received from NHS Lothian and that there was no explanation as to why it was late. The Clerk advised that the deadline was 15 November, and the objection was received on 18 November. The Board, excluding Councillor Grant, voted not to take the late objection into account as no explanation had been provided as to why it was submitted after the statutory period for representations had expired. It was agreed that there was therefore no need for Councillor Grant to declare an interest and leave the meeting.

The Clerk advised that the major variation seeks to tidy up a number of aspects of the licence and reflect current operational practice: add on sales 10am to 11pm daily; seasonal variation to read 'premises may close within core hours'; inclusion of conference, restaurant, receptions, meetings, recorded music, live performances, theatre, sport and outdoor drinking facilities; new wording for other activities; amend children and young persons to have access to all areas at all times if accompanied by an adult; add the boardwalk by the lagoons, the pavilion and bowling green/surrounding areas to the layout plan; and vary the description to include visitor centre, shop, pavilion and external areas. She further advised that the application triggers the Board's overprovision policy; that Police Scotland has requested that the terminal hour for outside drinking be 10pm; and referred members to correspondence between the Council's planning department and Mr Hossack.

Mr Hossack provided background information on the visitor centre and the outside areas; advised that whisky tasting samples are offered as part of the visitor tours; mentioned that on occasion, the samples would be offered in the grounds of the distillery; stressed that the premises do not operate as a bar; explained that it is important that his client has the correct type of licence; pointed out that some tours

finish before 11am, hence the request for a start time of 10am for on sales; stated that his client was agreeable to a terminal hour of 10pm for the outside area; and confirmed that he is in touch with the Council's planning department in respect of the issues they have raised.

The LSO advised that there has been full consultation with the premises manager and that he has no objection to the application to vary the premises licence.

Inspector Harborow had nothing to add to the Police Scotland report.

Councillor Akhtar commented on the importance of Glenkinchie Distillery as a major attraction in East Lothian and supported the application.

Councillor Grant was satisfied with the reasons for serving alcohol before 10am and supported the application.

Councillors Currie, McAllister and Trotter also advised they were in favour of granting the application.

### **Decision**

East Lothian Licensing Board agreed to grant the major variation to the premises licence, subject to a terminal hour of 10pm in the outside area.

*Sederunt: Councillor Grant left the meeting*

## **5 GRANT OF PREMISES LICENCE**

**5 (a) Macmerry Bowling Club, West Bank Road, Macmerry – Bowlers**

**5 (b) Macmerry Bowling Club Pavilion, West Bank Road, Macmerry – Miners' Welfare**

Mr N Hassard, TLT Solicitors, was present to represent Macmerry Bowling Club, West Bank Road, Macmerry – Bowlers (the Bowlers). Mr E Dickson, Secretary, was also present.

Mr A Macdonald, Macdonald Licensing, was present to represent Macmerry Bowling Club Pavilion, West Bank Road, Macmerry – Miners' Welfare (the Miners).

The Clerk advised members that the two applications will be heard together. She reminded members that the applications were discussed at the last Board meeting and had been continued to allow both applicants to work together with a view to agreeing which application should proceed. Both parties had been urged to liaise with the Council's Estates department regarding which party has the right to run the bar.

Mr Macdonald advised that the Council's Estates department had confirmed that the Bowlers have the right to occupy the premises and that in the circumstances the Miners would be withdrawing their application. He informed members that he had discussed the matter with Mr Hassard and agreement had been reached regarding reimbursing the Miners' fees associated with lodging the premises licence application; purchasing any remaining stocks of alcohol; allowing access for the removal of bar fixtures and fittings; and paying compensation/re-imburement for any fixtures and fittings that will be retained.

Mr Hassard confirmed these arrangements.

The Convenor thanked both parties for concluding matters amicably.

The Clerk confirmed that the Miners' application was being withdrawn, leaving the Bowlers' application before the Board for consideration.

The LSO stated that the premises were well run when the Bowlers previously held the premises licence. He indicated that he had no objections to the application.

Police Scotland requested that a terminal hour of 10pm be placed on any outside drinking areas. Mr Hassard confirmed that his client was agreeable to this.

Councillors Akhtar, Currie and McAllister expressed their appreciation for the way the matter had been resolved.

### **Decision**

East Lothian Licensing Board agreed to grant the premises licence subject to a terminal hour of 10pm for outside drinking areas.

## **6 REVIEW HEARINGS FOR BREACH OF LICENCE CONDITIONS – UNPAID ANNUAL FEES**

### **6 (a) Masons Arms, 8 high Street, Belhaven**

### **6 (b) Whitekirk Golf and Country Club, Whitekirk, North Berwick**

The Clerk referred to the October 2016 meeting of East Lothian Licensing Board and the Board's decision to hold a review hearing for premises who had not paid their annual fee as at today's date. However, the Board had delegated authority to the Clerk to dismiss the review hearings for all premises that paid their annual fee in the interim.

The Clerk updated members on the two premises that were detailed in their Board papers. She advised that the Masons Arms had paid their outstanding fee on the previous day and that Whitekirk Golf and Country Club had surrendered its licence. She confirmed that both reviews had therefore been dismissed.

The Board noted the position and the convenor expressed disappointment at the length of time the Masons Arms had taken to pay their annual fee and commented on the significant amount of work that is involved chasing up late payers.