

**EAST LOTHIAN**

**Meeting 30 March 2017 at 10:00am in Council Chambers, Town House, 56 High Street, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

**Variation (Major)(s)**

<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
1 LIDL UK GMBH (STORE: 721) MERCAT HOUSE 6 HIGH STREET PRESTONPANS EAST LOTHIAN EH32 9AN	LIDL UK GMBH C/O LIDL UK GMBH LICENSING DEPARTMENT LOCKING CASTLE BUSINESS PARK WEST WICK WESTON-SUPER-MARE	8 February 2017	Increase in current capacity from 46.62m2 to 47.61m2. Increase in alcohol display area for the period of 1 December to 2 January each year- 66.83m2. Change to alcohol area on layout plan.

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).
- .....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL0127

2(b) Name and Address of Premises

Lidl UK GmbH  
Mercat House  
6 High Street  
Prestonpans

Post Code EH32 9AN

Phone No.

2(c) Full Name and Address of Current Licence Holder

Lidl U.K. GmbH  
19 Worple Road  
Wimbledon  
London

Post Code SW19 4JS

Phone No.

### 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)

##### **Question 4 – Does the applicant intend to operate according to seasonal demand**

The applicant seeks an increased capacity of alcohol display for the period of 1 December each year until 2 January of the following year. The relevant capacities shall be stated in question 7 below. The applicant seeks the increased capacity to allow them to adequately cope with increased seasonal demand around the Christmas and New Year period.

##### **Variation to Question 7 – Capacity of Premises**

Increase to the current alcohol section from Length 25.90m Height 1.8m (Total Capacity 46.62m<sup>2</sup>) to Capacity during non-seasonal trading: Length 26.45m Height 1.8m (Total Capacity 47.61m<sup>2</sup>)

Additional capacity during season trading (1 December each year to 2 January following year) is Length 10.68m Height 1.8m = 19.22m<sup>2</sup>

**Maximum total capacity: 66.83m<sup>2</sup>**

#### 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.

Changes to alcohol area

**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*)

**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 £50 is enclosed.

Signature



Licensing Manager

..... (See note 5 below)

Date

3/2/16

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

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

Andrew Wilkins, Lidl U.K. GmbH, Licensing Department, Locking Castle Business Park, West Wick, Weston Super Mare, BS24 7TG, TEL: 01934 523121, Email: [Licensing@lidl.co.uk](mailto:Licensing@lidl.co.uk)

**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](mailto:licensing@eastlothian.gov.uk)

**FOR OFFICE USE ONLY**

<i>Received &amp; Receipt No.</i>	<i>System Updated</i>	<i>Licence Issued</i>

Statement in Support of Non-Minor Variation of Premises Licence

In this application, Lidl UK GmbH ("Lidl") are applying to vary the premises licence to increase their off sale capacity from 46.62m<sup>2</sup> to 47.61m<sup>2</sup> during "normal" trading periods and separately, during the period of 1 December of each year to 2 January of the following year, a further increase to 66.83m<sup>2</sup>, to account for increased demand during the festive period.

The increase of 0.99m<sup>2</sup> during "normal" trading periods is required during a minor refresh to the merchandising layout of alcohol within the premises. The display of alcohol remains within the same merchandising area of the premises i.e. the location of the display remains at the furthest aisle from the entrance to the premises and adjacent to the till counters, thereby allowing full supervision of the display area by management and staff of the premises.

The net effect of the merchandising change results in the area of display increasing by a very small amount, namely 0.99m<sup>2</sup>. The products available to customers during normal trading will not change. The increase is simply as a result of the changed shelving layout resulting in a marginal increase in the area of display.

The second part of the increase in alcohol display applied for relates only to the festive period of trading at the premises, being 1 December to 2 January. During this period of trading, Lidl would like to make available an additional area of alcohol display, located next to the "normal" display to cater for (a) increased demand for alcohol purchases and (b) additional alcohol products that Lidl will only offer for sale during the festive period. (mainly liqueurs and speciality whisky).

In relation to the second part, Lidl are specifically applying only for set period of increased capacity i.e. the period of 1 December to 2 January. The alternative would be for Lidl simply to apply for the larger area of 66.83m<sup>2</sup> all year round but undertake to display "soft drinks" in the area during certain period of the year when trading is quieter. Lidl consider that their trading demands and obligations under the licensing objectives are better met by having only a fixed period of increased display – thereby avoiding the possibility that alcohol display might increase at other times of the year as it could do under the "soft drinks" model.

It is respectfully within the knowledge of the Board that demand for alcohol purchases generally increases during the festive period. The present application allows that demand to be served by allowing new products to be displayed and separately allowing displays of existing products to be increased. In the latter case, this removes the need for staff to be engaged in restocking products as often during busy periods. When 2 January is reached, the alcohol display area is then brought back down to the "normal" trading size to reflect the lowered demand for purchases.

The approach Lidl are taking in this application removes the need for annual applications for variation of licence to be made ahead of the festive period each year, followed by a minor variation at the end of the festive period. This approach reduces the burden on the Licensing Board and responsible authorities in processing these applications.

It is Lidl's submission that the grant of this additional display area will not result in overprovision of off sale display area in this locality and in particular, the grant of this variation is not inconsistent with the licensing objectives.

Lidl are a very responsible operator, who prides itself on its diligence and training of staff in all aspects of their work but with particular attention to the sale of age restricted products.

- Lidl regularly conduct their own 'integrity alcohol purchase checks' whereby they instruct an external agency to send in an 18 year old to attempt to purchase alcohol. Lidl's main objective in this is to ensure their employees are actively and thoroughly engaging in the Think 25 policy and carrying out the necessary ID checks. This allows Lidl to test the effectiveness of their Think 25 policy on an ongoing basis.
- Lidl routinely carry out Alcohol Licensing Audits in their Stores to ensure full compliance with the operating plan and also to ensure signage, training records etc. are in order.

Furthermore, and with a view to meeting the licensing objectives in store, Lidl adopt the following policies:

#### Protecting and Improving Public Health

- All Lidl stores merchandise the alcohol section as the furthest area from the customer entrance. As well as assisting with security, it also ensures that it is not necessary for customers to walk past the section in order to reach different areas of the store or reach the till counters. This reduces the likelihood of customers 'impulse purchasing' alcohol.
- Lidl were the first major retailer in the UK to remove the sale of tobacco in all stores.
- Lidl were the first major retailer in the UK to remove confectionary from the checkout / till area to reduce impulse buying of unhealthy items. Instead, Lidl display healthier alternatives.
- Lidl participates in the Department of Health's fruit and vegetable Responsibility Deal.
- Alcohol sold by Lidl focuses on quality not price. Lidl do not stock low price, high volume fortified wines or super-strength beers/lagers or any other products that might be more readily associated with problem drinkers.
- The Lidl till system cannot process alcoholic items either before 10am or after 10pm. This makes it impossible for licensing hours not to be adhered to.

## Protecting Children / Young People From Harm

- Lidl follow our 'Think 25' procedure which requires all customers who appear to be under the age of 25 to provide valid proof of age documents should they wish to purchase an age restricted product.
- Lidl's tills automatically prompt the cashier that an age restricted item has been scanned and will not allow the sale to continue unless the cashier confirms the Think 25 procedure has been followed.
- The Lidl ID procedure also supports this objective as the senior manager on duty (a personal licence holder) must authorise all ID verification as required through the Think 25 procedure before a sale can be authorised. The existence of two members of staff completing the age verification process mitigates against under age sales and separately acts as a deterrent to underage persons attempting purchases.
- Lidl does not merchandise any sweets etc near the alcohol section; this reduces the likelihood for children / young people being near alcoholic products.

## Preventing Crime and Disorder

- Lidl have installed EAS tagging systems in all stores with high theft risk items, including some alcohol lines. This acts as both deterrent and detection method for potential theft.
- Lidl have introduced bottle locks for spirits, which serves as a deterrent towards theft
- Lidl employs stringent training practices which develop staff to be aware of potential issues and how to manage difficult circumstances should they arise.
- No member of Lidl staff is permitted to undertake checkout duties until all relevant training has been completed.
- Lidl are an approved provider of SCPLH training and therefore all training and refresher training is undertaken within the company. Lidl are graded by the BII as "Grade 1", which is the highest grading that can be achieved.
- Lidl contract SIA accredited Security companies to supply SIA accredited Guards in stores which are deemed to require support to manage any crime or disorder issues.
- Lidl install state of the art CCTV systems in all stores. Images are retained and may be available as required by the police or licensing standards officer.

## Securing Public Safety

- As above SIA accredited Security Guards are present in stores which require support.
- CCTV as above.
- Lidl undertake daily, weekly and biannual health & safety, trading law and maintenance checks in all stores, to ensure compliance. Our compliance procedures and policies are regularly reviewed.



## Preventing Public Nuisance

- As above SIA accredited Security Guards are present in stores which require support.
- CCTV as above
- Waste receptacles for customers are provided for disposal of litter.
- All by-products of our premises are responsibly disposed of, and where possible, recycled.

Elworthy, Debbie

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**Subject:** FW: Major Variation - Lidl, Mercat House, Prestonpans - Public Objection

**From:** Community Council

**Sent:** 05 March 2017 16:40

**To:** Winter, Maree

**Subject:** Re: Major Variation - Lidl, Mercat House, Prestonpans

Thank you for the notification of Major Variation submitted by Lidl with regard to their shop in Prestonpans. The Community Council met and discussed the variation sought and unanimously voted to oppose the variation requested.

The Community Council is of the view that the area has too many licensed premises for the off sale of alcohol and an application to increase the area in which off sales can take place is contrary to the needs of the community, notwithstanding that the period of increase of sale is limited to December.

We would be grateful if you could acknowledge receipt of our objection.

Kindest regards



Chair of Prestonpans Community Council

Date 15<sup>th</sup> February 2017



**POLICE  
SCOTLAND**

Keeping people safe

Philip Gormley QPM  
Chief Constable

Your Ref: EL0127

Our Ref: J/LIC/3705/HB

The Clerk of the Licensing  
Board  
East Lothian Council  
John Muir House  
Haddington  
East Lothian  
EH41 3HA

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  
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE  
LIDL UK GMBH, HIGH STREET, PRESTONPANS**

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 an increase in capacity from 46.62 square metres to 47.61 square metres as well as a further increase in capacity to cater for seasonal alcohol from 1<sup>st</sup> December – 2<sup>nd</sup> January each year of 66.83 square metres.

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 capacity 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**

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Date: 01 Mar. 17

**Subject: LICENSING SCOTLAND ACT 2005**  
**PREMISES LICENCE APPLICATION (MAJOR VARIATION)**

**Lidl UK, Mercat House, 6 High Street, Prestonpans, East Lothian EH 32 9AN**

I refer to the above subject and can confirm that these premises have been visited and inspected in relation to application for a Premises Licence variation.

The variation applied for is out with the Licensing Board's policy on overprovision in relation to the increase of the current display capacity of 46.62m<sup>2</sup> to 47.61m<sup>2</sup>, an increase of 0.99 m<sup>2</sup>.

Previous applications to vary alcohol display capacity:

In May 2015 Lidl applied to change the size of the alcohol display capacity of 40.50m<sup>2</sup> to 46.62m<sup>2</sup>, an increase of 6.52 m<sup>2</sup>.

In June 2014 Lidl applied to change the size of the alcohol display capacity of 36.18m<sup>2</sup> to 40.50m<sup>2</sup>, an increase of 4.32 m<sup>2</sup>.

In May 2014 Lidl applied for a reduction in size of alcohol display capacity from 38.79 m<sup>2</sup> to 36.18 m<sup>2</sup>

In February 2011, Lidl applied for the alcohol display capacity granted at the time of a variation in 2011 to be reduced from length 36.5m x height 1.8m (total 65.70m<sup>2</sup>) to length 21.55m x height 1.8m (total 38.79m<sup>2</sup>).

During the period that Lidl used the larger area of 65.70m<sup>2</sup> there were no operational problems identified or complaints received by Licensing Standards. This trend has continued to date.

Lidl is a very well run store and as such I have no objection to the grant of the current application.

R. Fruzynski  
Licensing Standards Officer