



## MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

1

THURSDAY 24 AUGUST 2017  
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON

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**Board Members Present:**

Councillor F Dugdale (Convener)  
Councillor L Bruce  
Councillor J Goodfellow  
Councillor J Henderson  
Councillor C McGinn  
Councillor J McMillan

**Clerk of the Licensing Board:**

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

**Attending:**

Mr R Fruzynski, Licensing Standards Officer  
Ms G Herkes, Licensing Officer  
Ms G Winter, Licensing Officer  
Insp A Harborow, Police Scotland  
PC H Bowsher, Police Scotland  
Ms E Oldcorn, NHS Lothian  
Mr J Sherval, NHS Lothian

**Committee Clerk:**

Ms J Totney, Team Manager – Democratic Services

**Apologies:**

None

**Declarations of Interest:**

Councillor McMillan declared an interest in item 3a.

## **1 MINUTES FOR APPROVAL**

The minutes of the East Lothian Licensing Board meeting of 22 June 2017 were approved as a true record.

## **2 GRANT OF OCCASIONAL LICENCE**

### **2a Marquee & Stately Home, Broxmouth House, Broxmouth Park, Dunbar**

Mr A D Williams, WS, was present to represent the applicant. Mr S Flame, applicant was also present.

The Clerk advised that there had been repeated applications for occasional licenses and that as this is outwith Board Policy, the current applications were being presented to the Board. She advised that an objection had been received from the Camping and Caravanning Club (the Club), who were only objecting to the marquee, but that no representative from the Club was present at the meeting. She referred to the extract minute of the Board meeting in August 2016 which stated that it was highly unlikely that further occasional licenses would be granted to Broxmouth House and made members aware of the outstanding planning considerations; adding that Ms S McQueen, Planner, was present at today's meeting to provide further information and answer any questions.

The Clerk stated that the application seeks occasional licences for wedding receptions on 1 September 2017, 5 pm – 1am; on 2 September, 11 am – 1 am; 3 September, 11am – 3 pm 2017, 8 September 6 pm – 1 am, 9 September 11am – 1 am, 23 September 11am – 1 am; 13 October 7 pm – 1am, and 14 October 11am – 1 am, with children and young persons permitted at all times.

Mr Williams commented that he was disappointed that matters were before the Board; provided reasons as to why there are unresolved planning matters; advised that this client fundamentally disagrees that there is the need for a new planning application to be submitted; indicated that his client had made several unsuccessful attempts to contact Ms McQueen to discuss matters; and informed members that a meeting had been scheduled for 1 September with Ms McQueen at Broxmouth House, to take matters forward. He outlined the measures that had been put in place to deal with the Club's objections about noise, including screening, and advised that the local site manager had rejected the offer of a meeting. He asked the Board to follow the recommendations from the Licensing Standards Officer (LSO) and Police Scotland, and grant the applications.

The LSO and Insp Harborow had nothing to add to their written reports. There were no objections or comments from the NHS Lothian representatives.

In response to questions from Board members, Mr Flame advised that Broxmouth house is not used for events and that guests do not reside in the house.

Ms McQueen set out the Council's position with regard to the planning application, and advised Councillor Goodfellow that ideally the marquee and house would form one planning application, as advised to Mr Williams and his client in early June 2017.

Councillor McGinn commented on the lack of descriptive information on all the application forms and asked questions about the 10 events that had already been held this year.

Councillor Goodfellow highlighted that the issue of operating with occasional licenses pre-dates August 2016. The LSO confirmed that this had been the case since 2013 and reminded members about the Board's policy regarding repeated occasional licence applications.

Board members adjourned to consider their decision.

On returning to the Chamber, members individually stated their comments and decision.

Councillor Goodfellow expressed disappointment to see the applicant again, as he hoped that it had been made clear previously that there was to be an end to the use of occasional licenses. He stated that he was not convinced that the applicant was trying to resolve planning issues, and purely for the convenience of wedding guests, he was minded to grant the licenses for September. However, he asked that the applications for October are held over and presented to the September meeting of the Board.

Councillor Henderson generally echoed Councillor Goodfellow's comments and was surprised that the business had been running for many years with planning concerns regarding usage. She agreed to grant the licenses for the September dates and to carry forward the October licences to the next meeting of the Licensing Board.

Councillor McGill agreed to grant the September licences and to hold over the October licenses until the next Board meeting. He reiterated his concern at the lack of detail in the application forms and stressed, that as a new Board member, he would be expecting more information in order to make a decision. He agreed to grant the September applications and for the October applications to be presented to the next meeting of the Board.

Despite the fact there had been no objections from Police Scotland, Councillor McMillan commented on the need for the applicant to demonstrate supervision, management and professionalism. He agreed to grant the September applications and stated that he was looking for the applicant to engage constructively with the Council's planning department, adding that given the Board's policy, the Licensing Board is being very liberal.

Councillor Bruce agreed to grant the September licenses but to continue the October licence applications to the next Board meeting.

Councillor Dugdale agreed to grant the September applications and to hold over the October applications until the next Board meeting for consideration. She also sought a progress report on the planning matters.

### **Decision**

East Lothian Licensing Board agreed:

- i. to grant the occasional licence applications for 1<sup>st</sup> – 3<sup>rd</sup> September 2017; 8<sup>th</sup> & 9<sup>th</sup> September 2017; and 23<sup>rd</sup> September 2017; and
- ii. to continue the applications for 13<sup>th</sup> & 14<sup>th</sup> October 2017 to the meeting of East Lothian Licensing Board to be held on 28 September 2017

## **3 GRANT OF PROVISIONAL LICENCE**

### **3(a) NB Distillery Ltd, Halfland Barns, North Berwick**

**Sederunt:** *Councillor McMillan left the meeting*

No-one was present to represent the applicant.

The Clerk advised that no public objections had been received but there was a representation from NHS Lothian seeking the condition that the applicant only sells their own products online; the Clerk confirmed that the applicant was agreeable to this. She made reference to Police Scotland's comments about engaging the overprovision policy and stated that the local Community Council support the application.

The LSO, Police Scotland and NHS Lothian had nothing to add to their reports.

Councillor Goodfellow remarked that this is a well run business, a view that was echoed by Councillor Henderson. Councillors Henderson and McGill commented positively on the well presented written report from the applicant.

**Decision**

East Lothian Licensing Board agreed to grant the provisional licence.

**Sederunt:** *Councillor McMillan re-joined the meeting*

**3(b) Station Yard Micropub, Station Road, Dunbar**

Mr G McPhillips applicant, and partner in the business, was present.

The Clerk advised that no public objections had been received; there was a representation from NHS Lothian; that the application was supported by the community council; and that a very detailed overprovision statement had been provided by the applicant.

Mr McPhillips outlined the proposals for the premises and highlighted that the business intends to retail craft ales and gins by way of off sales. He explained that children and young persons can enjoy the beer garden; acknowledged that the business is weighted toward alcohol rather than food; agreed to make it clear, as requested by NHS Lothian, that child and young persons must be accompanied by an adult at all times; and clarified the outside area that is to be delineated and licensed.

Police Scotland had nothing to add to their report.

The LSO commended the applicant on the exemplary quality of the overprovision statement.

Mr J Sherval, NHS Lothian, thanked the applicant for addressing the concerns set out in their letter.

Councillor Henderson stated that she was very impressed by the detail in the submission and commended the time, money and innovation involved. The five other Board members individually stated that they agreed to grant the provisional licence.

**Decision**

East Lothian Licensing Board agreed unanimously to grant the provisional licence.

## **4 MAJOR VARIATION OF PREMISES LICENCE**

### **4(a) County Hotel, 15-17 High Street, North Berwick**

Ms J Hood, Licensing Consultant, was present to represent the applicant. Mr Breathnach, Director of the applicant company, Killernan Inns Ltd, was also present.

The Clerk advised that a public objection had been received, along with a representation from Police Scotland.

Ms Hood informed the Board about the refurbishment taking place in these premises and listed the changes being sought in the application: to amend the core terminal hour on Thursdays and Sundays to midnight; to amend section 6(e) of the operating plan to include the restaurant areas and remove the games room; and to vary the description of the premises on the premises licence to read: (1) the ground floor comprises public bar with server and lounge/dining room off to rear, reception/cafe area, gents toilets, disabled toilets, laundry room, cleaners' closet, beer storage area and soft drinks storage area; and (2) on the first floor there is a function room with a fire exit, this is served by a ladies toilet; further there is a kitchen which has a door to a fire exit and small balcony area; and there are three bedrooms all en-suite which have been converted from the owners' accommodation. She stated that the premises will now be a more food-orientated offering; that there have been no noise complaints since the current operator has taken over the premises; acknowledged that the increase in licensed hours of two hours per week engages the overprovision policy; and provided a verbal overprovision statement to the Board.

Members debated the increase in the terminal hour; the arrangements for smokers; the terminal hour for children and young persons; and drinking patterns and health related statistics, with input from Mr Sherval and Ms Hood.

Police Scotland had nothing to add to their report and the LSO confirmed there had been no complaints since the applicant took over the premises.

Councillor McMillan expressed concern that increasing the terminal hour to midnight on Thursdays and Sundays could be seen to be supporting a drinking culture rather than a family friendly food based establishment. Despite these reservations, he was minded to grant the application. The five other Board members individually stated that they agreed to grant the provisional licence.

#### **Decision**

East Lothian Licensing Board agreed unanimously to grant the major variation to the premises licence.

### **4(b) Poonthai's, 7 Westgate, North Berwick**

Mr A Macdonald, Macdonald Licensing was present to represent the applicant. Mrs Cumpstie, Premises Licence Holder was also present.

The Clerk advised that the application seeks to increase on sale hours to 11.30 am to 12 midnight each day; add off-sales; children and young persons to have access, if accompanied by an adult, during operating hours; to provide activities taking place outwith core hours/during periods of extended hours; and to add deliveries and takeaways as activities.

Mr Macdonald indicated that there had been an alteration to the application; to which the Clerk advised that the Board had been notified. He then provided background information about the business and the reasons for seeking an increase in the licensed hours; stated that his client had complied with the recommendations from NHS Lothian and Police Scotland with regard to the terminal hour; and had taken account of the comments from North Berwick Community Council.

Insp Harborow acknowledged that a number of the issues raised by Police Scotland have now been addressed but sought clarification that children and young persons would only be permitted on the premises if they are having a meal and are accompanied by an adult over the age of 18. He also raised the issue of the terminal hour for the outside area given that it is overlooked by neighbouring residential properties; stating that the current terminal hour of 22.30 hrs is historic and outwith current Board policy. Insp Harborow also sought reassurance about home deliveries of alcohol in relation to satisfying the statutory obligations in relation to the delivery and remote sales of alcohol.

Mr Macdonald advised that his client is aware of her legal responsibilities but it would be too restrictive if home deliveries of alcohol had to be made by a Premises Licence Holder, although he would be agreeable to deliveries being made by a trained member of staff. He was also agreeable to amending the application to show that children and young persons will be allowed access to the premises if an adult is having a meal. He confirmed the terminal hour for the outside drinking area, adding that this could not be changed by the Board today as this was not a review hearing; a point that was confirmed by the Clerk.

The LSO reported that the establishment is well run and that he supports the application on the proviso that there is appropriate training and that complying with Challenge 25 and the delivery and remote sales of alcohol are local conditions on the licence. In response to Councillor McMillan, the LSO answered questions about what constitutes a 'meal'. He commented that this should be clarified in future in the Boards' policy and the Clerk undertook to include this in the updated policy that is currently being drafted. The LSO reminded members that the Board's policy allows for children and young persons to be present on premises until 22.00 hrs without reference to accompanying adults eating a meal.

Ms Oldcorn confirmed that the matters raised by NHS Lothian had been addressed.

For clarity, the Clerk summarised the issues that had been debated and the conditions that are to be attached to the licence.

Councillor Henderson was comfortable with the conditions and supported the application.

Councillor Goodfellow expressed some reservations about the home delivery of alcohol and was concerned about the terminal hour for the outside drinking area but was minded to grant the application.

Councillors McGinn, Bruce, McMillan and Dugdale stated individually that they were minded to grant the application subject to the agreed conditions.

### **Decision**

East Lothian Licensing Board agreed to grant the major variation to the premises licence subject to the following conditions:

- i. Children and young persons will be allowed access to the premises when accompanied by an adult who is eating a meal

- ii. A terminal hour of 22.00 hrs, in general, for children and young persons, unless they are attending a private party/event/function
- iii. Home deliveries of alcohol to be carried out by a fully trained member of staff

#### **4(c) Preston Lodge RFC Clubrooms, Bankfoot House, Drummohr, Prestonpans**

Mr C Reynolds, Vice President, Preston Lodge Rugby Club, was present to represent the applicant and briefly outlined the variations being applied for.

The Clerk advised that the application seeks to change the name of the premises; vary the terminal hour on Saturdays from midnight to 1 am; allow televised sport from 8 am (previously 9 am); change the licence to an open club; to include an outdoor drinking area; to include the bowling green in the licensed area; and amend the premises description. She advised that representations had been received from North Berwick Community Council and from NHS Lothian.

Police Scotland had nothing to add to their report.

The LSO supported the application.

There were no questions from Board members.

#### **Decision**

East Lothian Licensing Board unanimously agreed to grant the major variation to the premises licence.

#### **4(d) Railway Hotel, 70 Court Street, Haddington**

Mr N Hassard, TLT LLP, was present to represent the applicant. Ms E Kennedy, Operations Manager for Greene King Brewing 7 Retailing Ltd, was also present.

The Clerk advised that the application seeks to change the name of the premises to 'The Bell'; add restaurant facilities and bar meals during and outwith core hours; amend the operating plan wording: restaurant/bar meals – premises may open early for the provision of breakfasts, teas, coffees etc; no alcohol to be sold outwith core hours; children and young persons to be permitted up until 1- pm or for 24 hours if they are resident at the hotel; children and young persons to be admitted to the raised area of the premises only

Mr Hassard informed members that there has been a change of tenant and a significant investment in refurbishing the premises recently. He advised that his client was agreeable to a terminal hour of 22.00 hrs in the beer garden.

Police Scotland and NHS Lothian had nothing to add to their reports.

The LSO reported that there are no historic complaints in relation to these premises.

There were no questions from Board members.

Councillor McMillan, local ward member, supported the application and wished the business well.

Councillor Goodfellow was minded to grant the application, commenting it was good to see a significant investment in the premises.

Councillor Henderson welcomed the scale and commitment of the investment and was minded to grant the application.

Councillor Bruce, McGinn and Dugdale individually stated their intention to grant the application.

### **Decision**

East Lothian Licensing Board unanimously agreed to grant the major variation to the premises licence.

#### **4(e) Tiger Coast, 114 High Street, North Berwick**

Mr N Hassard, TLT LLP, was present to represent the applicant. Mr G Langley and Ms E Norbury, proposed new tenants, were also present.

The Clerk advised that two public objections had been received from neighbouring residents and that the objectors, Ms S Harley and Mr M Balfour, were present at the meeting. In addition, representations had been received from North Berwick Community Council and NHS Lothian.

The Clerk advised that the application seeks to vary the description to wine bar and bistro in a mixed commercial and residential street; allow on and off sales of alcohol; amend on sales to 11 am daily; amend terminal hour Thursdays to Saturday to 1 am on to 12 midnight on Sundays; delete any break in trading hours; amend off sales to 11 am – 10 pm daily; allow seasonal hours; allow conference, bar meals, receptions, club and group meetings, live performances, theatre, film, gaming and TV sport all within and outwith core hours; permit restaurant and recorded music outwith core hours; the premises may open before core hours from 8 am for breakfast, teas and coffees; ancillary activities may take place from 8 am; allow corporate, community, charity and private events such as demonstrations, product launches, education and fundraising; children and young persons to be accompanied by an adult for the purposes of a meal, snack or soft drink or attending a function; and amend the capacity to 80.

Mr Hassard advised that his clients hope to take occupancy of the premises on 15 September 2017; that the current licence is somewhat antiquated; and that his clients do not intend to take on the business with the licence in its current format, adding that he has the current licence holder's permission to be attending today's Board meeting. Mr Hassard provided details of his clients' background and previous business ventures along with the proposed short and long term changes to the business. He explained that this clients had already met with the LSO and PC Bowsher and also with Ms Harley; had made arrangements for the disposal of trade waste to eliminate historic noise complaints; were establishing relationships with local taxi firms; and would be restricting off sales of alcohol to 'meet the maker' events.

In response to a question from Councillor Goodfellow, Mr Hassard advised that it could be a condition of the licence that the increased licensing hours are not effective until his clients take over the business.

Councillor Henderson commented on the amount of information that is not available, such as a layout plan, thereby making it difficult to appreciate what it is that the applicant is asking for. Mr Hassard produced a proposed plan which had not been subject to a survey or [planning] permission.

Councillor Bruce noted that the premises would stop serving full meals at 21.30-22.00 hrs and queried as to why access was therefore being sought for children and



young persons until 23.00 hrs. Mr Hassard conceded that a terminal hour of 22.00 hrs for children and young persons would be acceptable.

Ms Harley addressed the Board and advised that she was now much more comfortable about her concerns, having met with the proposed new tenants and received reassurances regarding noise and disturbance issues. Mr Balfour reiterated this view but wondered if the terminal hour was later than that for other premises in the area.

Councillor Henderson repeated her comments about the lack of layout information, considering the major variations that are being sought. However, the LSO pointed out that no change is being proposed to the lay out plan until January 2018 and that this could be brought before the Board at that time. Councillor Henderson advised she would be content to consider that as a condition.

Insp Harborow had nothing to add to the report from Police Scotland.

In the absence of a written report, the LSO commented positively on the application and asked that Mr Langley and Ms Norbury remain mindful of the potential for noise breakout from live music and patrons smoking at the front of the building. For consistency, he recommended a terminal hour of 22.00 hrs for children and young persons, unless attending the premises for an organised event or private function.

Mr Sherval commented on the wide age range (2 – 17 years) and circumstances in relation to children and young persons when making decisions and suggested this be considered when drafting the revised Board policy.

Councillors Goodfellow and McMillan, along with Ms Harley and Mr Balfour discussed potential anti social behaviour, mitigating measures, and options available should there be any issues. Ms Harley stated that her preference would be to talk directly to Mr Langley and Ms Norbury to resolve any matters.

Councillor McGinn commented on the strong engagement with the objectors and echoed the LSO's comments regarding children and young people.

Councillor Henderson indicated that she is minded to grant the application with conditions [see decision].

Councillor Goodfellow agreed to grant the licence on the proviso that one of the conditions is that the variations to the licence are only effective from the date of entry of the new tenants; to which Mr Hassard offered to provide the date of assignation of the lease.

Councillors McGinn, Bruce, McMillan and Dugdale all individually voiced their support to grant the application subject to conditions. [see decision].

The LSO recommended that the Board discuss and agree the new layout plan for the premises before it is implemented.

### **Decision**

East Lothian Licensing Board agreed to grant the major variation to the premises licence, effective from the date of the assignation of the lease, subject to the following conditions:

- i. To have in place arrangements for the effective management of smokers
- ii. To have in place arrangements to monitor external areas to prevent public nuisance

- iii. To provide to East Lothian Licensing Board in due course, (c. January 2018), with a new premises layout plan
- iv. To limit access to children to 22.00 hrs unless attendance is at an organised event or function
- v. To limit the off-sales of alcohol to only those associated with promotional events that are being held on the premises

Signed

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Councillor Fiona Dugdale  
Convener of East Lothian Licensing Board

DRAFT

EAST LoTHIAN LICENSING BOARD

2

APPLICATION FOR OCCASIONAL LICENCE







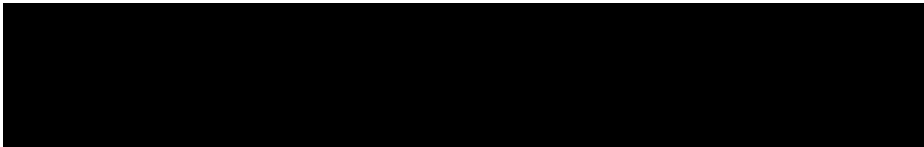
Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets, if necessary.

You may wish to keep a copy of the completed form for your records.

1. LICENCE DETAILS (see note 1)			
Premises licence number (if applicable)			
Personal licence number (if applicable) <i>EL 878</i>			
Name of voluntary organisation (if applicable)			

2. PERSONAL DETAILS			
TITLE (delete as appropriate): Mr Mrs Miss Ms Other (please state)			
Surname	<i>FLAME</i>		
Forenames	<i>SIMON PAUL.</i>		
DATE OF BIRTH	Day 	Month 	Year 
ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR CORRESPONDENCE PURPOSES			
<i>PROXMOUTH HOUSE DUNBAR.</i>			
Post town	Post code <i>EH42 1QW</i>		
TELEPHONE NUMBERS			
Daytime			
Evening			
Mobile			
FAX NUMBER			
E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)			
			

3. THE PREMISES

Description of premises

MARQUEE IN GROUNDS OF STATELY HOME

Description of activities to be carried on in the premises – (including number of persons expected to attend)

WEDDING CELEBRATIONS OF

[REDACTED]  
EXPECTED NUMBER OF GUESTS - 140.

THE EVENT CONSISTS OF A PRE-  
WEDDING BBQ FOR CIRCA 30 GUESTS, FOLLOWED  
BY WEDDING DAY RECEPTION, 3 COURSE  
MEAL + EVENING BUFFET.

Full postal address of premises which this application refers to

BROXMOUTh HOUSE.

4. DURATION OF LICENCE - (include dates and times required for event)

From: FRIDAY 13TH OCTOBER. 6:30PM TO 12 PM.  
To: SATURDAY 14TH OCTOBER 11AM TO 1AM

5. Is alcohol to be sold on & off the premises YES/NO\* - Provide relevant details as to hours requested when alcohol will be sold on/off the premises-\* delete as appropriate

Times for sale of alcohol for consumption on premises

AS ABOVE.

Times for sale of alcohol for consumption off premises

N/A.

Statement of the times at which any activities other than the sale of alcohol will be carried on in the premises

N/A.

<b>6. CHILDREN (see note 2)</b>	
This section must be completed where alcohol is for sale for consumption on the premises	
Are children or young persons permitted entry? YES/NO (if answered yes the remainder of this section must be completed)	
Ages of children or young persons permitted entry  0-17 YES	Times at which children or young persons permitted entry  AT ALL TIMES
Parts of premises to which children or young persons permitted entry  NO CHILD PERMITTED WITHIN 1.5M OF THE BAR AT ANY TIME.	

<b>7. CHECKLIST</b>	
I have - Please tick for yes	
<ul style="list-style-type: none"> <li>Made or enclosed payment of the fee for the application</li> </ul>	

<b>8. Signature and declaration by applicant (see note 3)</b>	
DECLARATION	
The contents of this Application are true to the best of my knowledge and belief.	
SIGNATURE  [Redacted Signature]	DATE  12.9.17

**NOTES**

1. Section 56 of the Licensing (Scotland) Act provides that only:-

- The holder of a premises licence;
- The holder of a personal licence; or
- A representative of any voluntary organisation

is eligible to apply for an occasional licence

2. Where alcohol is to be sold for consumption on the premises, the Act requires that a clear statement be made as to whether children or young persons are to be allowed entry and, if they are, a statement of the terms on which they are allowed entry

3. Data Protection Act 1998

The information on this form may be held on an electronic register which may be available to members of the public on request.

4. Information on the Licensing (Scotland) Act 2005 is available on the website of OPSI (<http://www.opsi.gov.uk/legislation/scotland/acts2005/20050016.htm>)

**EAST LOTHIAN**

**2**

**Meeting 28 September 2017 at 10:00am in , Council Chambers, Town House, Haddington, East Lothian**

**Licensing (Scotland) Act 2005**

**Occasional(s)**

**Premises**

**Applicant**

**Date Received**

**Comments**

1 BROXMOOUTH HOUSE  
BROXMOOUTH PARK  
DUNBAR  
EAST LOTHIAN  
EH42 1QW

SIMON PAUL FLAME

30 June 2017

Start date of event:  
13/10/2017

End Date of Event: 14/10/2017  
Wedding Celebrations

Children and young persons are  
permitted during the following  
times: all times.



Winter, Maree

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To: McQueen, Stephanie  
Subject: RE: Simon Flame - Marquee & Stately Home - Broxmouth

From: McQueen, Stephanie  
Sent: 11 August 2017 10:42  
To: Winter, Maree  
Cc: McFarlane, Iain; Fruzynski, Rudi  
Subject: FW: Simon Flame - Marquee & Stately Home - Broxmouth

Maree,

Planning application 15/00343/P for the erection and use of the marquee is still under consideration. As I have previously explained to Rudi Fruzynski the planning application has a description of "Erection of a Marquee between 15th March and 15th November each year to support the existing function and wedding facilities at Broxmouth Park (Retrospective)", and as you can see the description refers to the "existing function and wedding facilities at Broxmouth Park". I need to establish whether or not the existing use referred to in the description (i.e. the existing function and wedding facilities at Broxmouth Park) is something that in itself requires planning permission. Up until May this year (2017) I was awaiting sufficient information from the applicant / his agent to allow me to make that assessment. That information was received in May this year (2017) and in June 2017 I advised the agent that it is the Planning Service's view that the use of part of the ground floor of the existing building of Broxmouth House for function and wedding facilities is a material change of use of the building for which planning permission is required.

I have advised the applicant's agent that, ideally, a new planning application should be submitted to cover the part change of use of the existing house and the erection and use of the marquee. Alternatively a separate planning application could be submitted for the part change of use of the existing house however I am unable to determine the current application (15/00343/P) until that additional planning application has been submitted and that new planning application and the current application should be determined together. I am still awaiting a response from the applicant/agent on this matter.

I'm happy to talk this through if anything is not clear.

Regards,  
Stephanie

Stephanie McQueen | Planner | Planning Delivery |  
Ext: 7210 Email: [smcqueen@eastlothian.gov.uk](mailto:smcqueen@eastlothian.gov.uk)







The Camping and Caravanning Club (Limited by Guarantee)

Address: Greenfields House, Westwood Way, Coventry CV4 8JH

Tel: (024) 7647 5448 Fax: (024) 7647 5417

Web: www.campingandcaravanningclub.co.uk

13<sup>th</sup> July 2017

The Clerk of the Licencing Board  
East Lothian Council  
John Muir House  
Brewery Park  
Haddington  
East Lothian  
EH41 3HA

Dear Sir / Madam

**APPLICATION FOR AN OCCASIONAL ALCOHOL LICENCE FOR THE SALE & SUPPLY OF ALCOHOL -  
BROXMOUTH HOUSE, BROXMOUTH PARK, DUNBAR, EAST LOTHIAN, EH42 1QW**

It is understood that the owner / operator of Broxmouth House has or will soon be making an application for an Occasional Alcohol Licence for the Sale and Supply of Alcohol at the above property for events to be held there on the forthcoming dates:

29/07/2017

01/09/2017 to 03/09/2017

08/09/2017 to 09/09/2017

23/09/2017

13/10/2017 to 14/10/2017

As the operator of the Dunbar Site immediately to the east of the Application Site, The Camping and Caravanning Club wish to strongly object to the granting of any such licences on the basis that the ability to sell and supply alcohol will continue to cause a significant noise nuisance and intrusion to be suffered by the visitors and staff staying at our Club Site.

The Dunbar Site is an existing touring caravan, motorhome and tented camping operation, leased from the Council, comprising 90 pitches and has been operating since 2007. The Club site operates a 'quiet site' regime which restricts noise and car movements within the Site after 11pm to ensure its neighbours and our visitors, of which many are children, are able to enjoy the peaceful amenity of the countryside setting.

The Club is concerned that the approval of further Licences for the sale and supply of alcohol will further adversely impact upon our visitor's quiet enjoyment of the Dunbar Site, many of which frequently complain to the Site Managers about the level and timing of noise and music emanating from Broxmouth House during events and functions.

Registered Office: Greenfields House, Westwood Way, Coventry CV4 8JH  
Company Registration No: 445520 England (Founded 1901)

*The Friendly Club*

**The Camping and Caravanning Club** (Limited by Guarantee)

Address: Greenfields House, Westwood Way, Coventry CV4 8JH

Tel: (024) 7647 5448 Fax: (024) 7647 5417

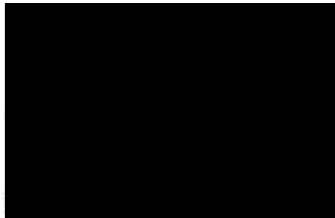
Web: [www.campingandcaravanningclub.co.uk](http://www.campingandcaravanningclub.co.uk)



In recent weeks, the Site has experienced significant noise nuisance from events being held within the marquee and grounds, with very loud music being played beyond the 12am midnight planning curfew and additional noise being generated by revellers in the early hours of the morning. As a result, our Dunbar Site Manager has made complaints to the Council via the Antisocial Behaviour Helpline and Mr Rudy Fruzynski, Licensing Standards Officer. I'm sure this contact will be held as a matter of record by the Council.

To conclude, I am sure you will appreciate that the Club Site brings an economic uplift to the area and that many local businesses benefit from the sites visitors. As such, I trust that you will bear in mind when deciding upon this application/s, that the ongoing noise nuisance suffered by the site's visitors will ultimately impact upon their decision to return and their review of the site and area.

Yours faithfully



Paul McLaughlin MRICS

Property & Development Manager

Mobile: 

The Camping and Caravanning Club (Limited by Guarantee)

Address: Greenfields House, Westwood Way, Coventry CV4 8JH

Tel: (024) 7647 5448 Fax: (024) 7647 5417

Web: www.campingandcaravanningclub.co.uk



9<sup>th</sup> August 2017

The Clerk of the Licencing Board  
East Lothian Council  
John Muir House  
Brewery Park  
Haddington  
East Lothian  
EH41 3HA

Dear Sir / Madam

**LICENSING OBJECTION – PREVENTING PUBLIC NUISANCE:**

**APPLICATION FOR AN OCCASIONAL ALCHOHOL LICENCE FOR THE SALE & SUPPLY OF ALCOHOL -  
BROXMOOUTH HOUSE, BROXMOOUTH PARK, DUNBAR, EAST LOTHIAN, EH42 1QW**

It is understood that the owner / operator of Broxmooth House has submitted an application for an Occasional Alcohol Licence for the Sale and Supply of Alcohol at the above property for events to be held there on the forthcoming dates:

01/09/2017 to 03/09/2017

08/09/2017 to 09/09/2017

23/09/2017

13/10/2017 to 14/10/2017

As the operator of the Dunbar Site immediately to the east of the Application Site, The Camping and Caravanning Club wish to strongly object to the granting of any such licences on the basis that the sale, supply and consumption of alcohol will continue to cause a significant noise nuisance and intrusion to be suffered by the visitors and staff staying at our Club Site.

The Clubs intended purpose in objecting to the granting of these Licences is to mitigate the noise nuisance coming from the use of the Marquee. The Club would therefore consider it acceptable if the sale, supply and consumption of alcohol were confined to the house itself and limited to no later than 11pm.

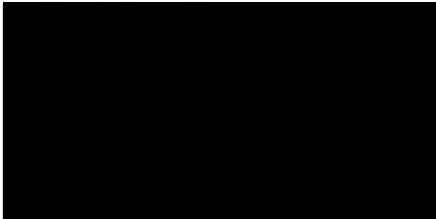
The Dunbar Site is an existing touring caravan, motorhome and tented camping operation, leased from the Council, comprising 90 pitches and has been operating since 2007. The Club site operates a 'quiet site' regime which restricts noise and car movements within the Site after 11pm to ensure its neighbours and our visitors, of which many are children, are able to enjoy the peaceful amenity of the countryside setting.

The Club is concerned that the approval of further Licences for the sale and supply of alcohol will further adversely impact upon our visitor's quiet enjoyment of the Dunbar Site, many of which frequently complain to the Site Managers about the level and timing of noise and music emanating from Broxmouth House during events and functions.

In recent weeks, the Site has experienced significant noise nuisance from events being held within the marquee and grounds, with excessively loud music being played up to and beyond the 12am midnight planning curfew and additional noise being generated by revellers in the early hours of the morning. As a result, our Dunbar Site Manager has made complaints to the Council via the Antisocial Behaviour Helpline and Mr Rudy Fruzynski, Licensing Standards Officer. I'm sure this contact will be held as a matter of record by the Council.

To conclude, I am sure you will appreciate that the Club Site brings an economic uplift to the area and that many local businesses benefit from the sites visitors. As such, I trust that you will bear in mind when deciding upon this application/s, that the ongoing noise nuisance suffered by the site's visitors will ultimately impact upon their decision to return and their review of the site and area.

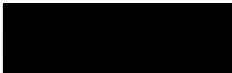
Yours faithfully



Paul McLaughlin MRICS

Property & Development Manager

Mobile:



04/07/2017

Your Ref: [text]

Our Ref: 245455

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 Sir/Madam,

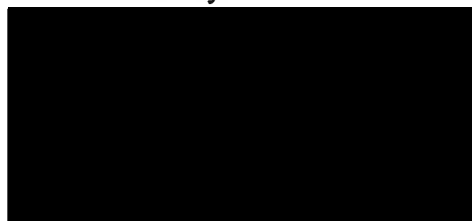
**LICENSING (SCOTLAND) ACT 2005  
OCCASIONAL LICENCE APPLICATION  
PREMISES: BROXMOUTH ESTATE  
BROXMOUTH PARK, DUNBAR, EH42 1QW.  
APPLICANT: SIMON FLAME**

**Event dates: 28/07/2017, 01/09/2017, 02/09/2017, 03/09/2017, 08/09/2017,  
09/09/2017, 23/09/2017, 13/10/2017 and 14/10/2017.**

I refer to the above application and in terms of Section 58(1)(b)(ii) of the Licensing (Scotland) Act 2005, I make the following representation in relation to the application, and recommend that it be granted subject to the conditions as indicated by an 'X' on the attached appendix being applied.

This representation is submitted for your attention in consideration of this application.

Yours faithfully



Philip Gormley QPM

Appendix

1.	No persons under the age of 18 years old to be allowed in the main bar area.	[X]
2.	A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises for the duration of the event, until all patrons have departed.	[X]
3.	Appropriate signage shall be clearly displayed within the bar area, relative to age restrictions and the relevant conditions of the licence. Signage shall clearly identify (a) No under 18's served alcohol (b) Persons who appear to be under the age of 25 shall be asked to provide identification (c) The specific opening and closing times of the bar (d) Responsible drinking message (e) No smoking signs.	[X]
4.	All staff employed in the sale or supply of alcohol must have received staff training to the standard provided for in the Licensing (Scotland) Act 2005 Schedule 3 Paragraph 6.	[X]

Herkes, Gillian

---

**From:** Fruzynski, Rudi  
**Sent:** 01 March 2017 08:38  
**To:** Herkes, Gillian; Licensing  
**Cc:** 'Heather.Bowsher@scotland.pnn.police.uk'  
**Subject:** FW: Occasional Licence applications OCC089/17; 90/17; 91/17; 92/17; 93/17; 94/17; 95/17; 96/17 & 97/17 - Weddings at Broxmouth Park Grounds, House and Marquee

Report amended to include OCC application 95/17.

Rudi Fruzynski  
Licensing Standards Officer  
East Lothian Council



01620827363

---

**From:** Fruzynski, Rudi  
**Sent:** 01 March 2017 08:08  
**To:** Herkes, Gillian; Licensing  
**Cc:** 'Heather.Bowsher@scotland.pnn.police.uk'  
**Subject:** Occasional Licence applications OCC089/17; 90/17; 91/17; 92/17; 93/17; 94/17; 96/17 & 97/17 - Weddings at Broxmouth Park Grounds, House and Marquee

I refer to the minutes of the Licensing Board dated 25th August 2016, when a similar application from Mr Flame was discussed. An extract from these minutes are shown below, which states that no further Occasional Licences will be granted in respect of these premises unless it is discussed at a Board meeting:

*"Members were strongly of the view that it was highly unlikely that any further occasional licences would be granted without a hearing. Councillor Innes stated that if an occasional licence application was presented to the Board in future, a planning officer should attend to explain the delays in granting a full premises licence. He also stressed that in the event of a further application for an occasional licence, he would expect the applicant to be present to demonstrate that they had done everything in their power not to hold up the process of applying for a premises licence. He requested that these provisos be noted. Councillor Goodfellow added that the any future occasional licence applications must be lodged at least six weeks in advance.*

**Decision**

*The Board agreed to grant the occasional licence and determined that any future applications for occasional licences be subject to the provisos as outlined by Councillor Innes."*

I therefore refer all of the above applications to the Board for their consideration.

Mr Flame and an officer from our Planning Department should be called to a Board meeting to advise members on progress made in moving towards a Premises Licence.

Rudi Fruzynski  
Licensing Standards Officer  
East Lothian Council



# EAST LoTHIAN COUNCIL

## LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

From: R. Fruzynski  
Licensing Standards Officer

To: K. MacNeill  
Clerk to the Licensing Board

---

Date: 15 August 2017

**Subject: LICENSING SCOTLAND ACT 2005 - OCCASIONAL LICENCE APPLICATIONS  
OBJECTION FROM DUNBAR CAMPING and CARAVANNING CLUB**

I refer to the above subject and can confirm that there have been a number of complaints / concerns made regarding the use of the use of Broxmouth House and events Marquee, as follows:

- 17-06-2017 complainant voiced concerns that local residents had had problems with the venue and the level of noisy music coming from it. Night Time Noise Officer enquired if the noise was ongoing and complainant stated that it had stopped at midnight.
- 04-04-2017 complaint received from the Dunbar Camping and Caravanning Club as follows:

*"My name is [REDACTED] I am one of the managers at the Camping and Caravanning Club site.*

*Further to my phone call to your office today, I am contacting you with regards to the very loud music and loud speaker announcements at the above venue when having a wedding there.*

*I have had to call the managers at Broxmouth on numerous occasions with regards to the music still being played and quite loud after 12pm, the contact numbers they have given us tend to go to answer phone I leave a message but still the music carries on, they do sometimes turn the music down but it can still be heard.*

*On a couple of occasions we can still hear the music after 1am which is very inconsiderate of the surrounding area and the campers on our site, we do warn people of this, we have had a few complaints and lost a few potential bookings recently.*

*If anything can be done it would be appreciated"*

- 31-07-2016 complaint from an individual (not clear where this person was complaining from) to the effect that very loud music was being played at a wedding at Broxmouth Park.
- 29-08-2015 at 21:36 complaint from a resident that loud music was coming from a wedding at Broxmouth Park.



- 26-07-2014 at 21:55 complaint from the Dunbar Camping and Caravanning Club. Complainer informs of horrendous noise from wedding venue. Terrible last week, worse tonight and 3 more weeks to come. Noise at 21:00 hours tonight worst ever. Manager is concerned he will lose business.

Night Time Noise Team visited around 22:30 hours to witness noise. Heavy rain had commenced since the complaint was made and this had muted the noise but it was still audible in the campsite.

- 13-07-2014 at 01-10 complaint from resident that loud music was coming from a wedding at Broxmouth Park.
- 30-03-2013 at 22:45 complaint from resident of loud music from Wedding in marquee at Broxmouth Park.
- 26-08-2012 at 00:17 complaint from resident of very loud music from Wedding in marquee at Broxmouth Park. Music is supposed to have stopped at midnight.
- 26-08-12 at 01:09 complaint as above. Music still on.
- 25-05-2012 at 21:20 complaint from resident of very loud music from Wedding in marquee at Broxmouth Park.

The foregoing complaints have been taken seriously and meetings were held separately with the complainants and Mr Flame, event organiser. It is significant that Mr Flame hired an acoustic consultant who recommended the installation of a sound suppressor on the band equipment used to play music and entertainment at weddings hosted in the event marquee. This was done and has had the effect that the bass beat and overall sound has been reduced to such a level that it can no longer be heard at the resident complainant's house on the periphery of the estate.

In 2015 mediation was offered to the Dunbar Camping and Caravanning Club to meet with Mr Flame, but this was declined in favour of self-generated contact between themselves and the estate. Advice was therefore, provided that should the sound from any event be such that it was deemed a disturbance then the Anti-Social Helpline could be used to report the problem to the Night Time Noise Team.

Environmental Protection guidance on noise is that it should be non-intrusive in any dwelling, however, campers' tents and caravans are in a different category to fixed building residences. Comment on this issue is made by the Team Manager – Public and Environmental Protection, as follows:

*This is a difficult situation with two clearly conflicting neighbouring land/property uses.*

*Ongoing complaints as far as we are aware, appear to be confined to temporary residents at the camping and caravanning site. A tent and/or a caravan offers little, if any, sound insulation and as such, particularly in a tent it is like experiencing the noise outside. It would not be reasonable for us to require the same level of amenity as would be expected within a solid residential property. We must also give consideration to the fact that those visiting the camping and caravanning site are only there for a short time/stay and are not living there permanently and being affected long term.*

*It appears that since works were undertaken to control noise levels, complaints received from nearby residential properties ceased. Any conditions we would seek to impose on noise emanating from Broxmouth Park and its associated marquee would relate to how the noise levels affect residents within a property with windows open.*

*Having said all of this, it is important to appreciate that a marquee also offers little, if any, sound insulation and associated noise emanating from entertainment provided therein must consistently be kept to a reasonable level and suitably controlled to ensure that it does not cause a nuisance. Any time restrictions associated with its use must also be carefully observed.*

*At this time, we do not have any evidence to suggest that a nuisance is being caused.*

*Shona Grant*

*Team Manager - Public Health and Environmental Protection*

In relation to the Occasional Licences issued to Broxmouth Estate these licences all include a condition imposed by the Licensing Board as follows: 'Where a function is to be held in a marquee, all music must cease no later than midnight'.

This report is submitted for the information of Licensing Board members.

R. Fruzynski

Licensing Standards Officer

Winter, Maree

---

From: Grant, Shona  
Sent: 05 July 2017 16:09  
To: Licensing  
Cc: Environmental Health/Trading Standards  
Subject: FW: OCC316-17  
Attachments: LILAC\_QXM04806\_0360\_001.pdf

I have no objections to this application however I would recommend that the standard noise condition and the standard conditions relating to the use of a marquee be attached to any approval given.

Regards

Shona

Shona Grant | Team Manager - Public Health and Environmental Protection | Environmental Health Service | East Lothian Council | John Muir House | Haddington | EH41 3HA | Tel. 01620 827336 |  
Email. [sgrant@eastlothian.gov.uk](mailto:sgrant@eastlothian.gov.uk) | Visit our website at [www.eastlothian.gov.uk](http://www.eastlothian.gov.uk)

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

From: Winter, Maree  
Sent: 03 July 2017 09:43  
To: [LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk](mailto:LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk); Fruzynski, Rudi; Environmental Health/Trading Standards; Grant, Shona  
Subject: OCC316-17

Hi,

Please find attached occasional for a wedding to be held at broxmouth on 1st-3rd September 2017.

Regards  
Maree.

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

[mwinter@eastlothian.gov.uk](mailto:mwinter@eastlothian.gov.uk)

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

From: "Winter, Maree" [<mailto:mwinter@eastlothian.gov.uk>]  
Sent: 03 July 2017 09:28  
To: Winter, Maree  
Subject: Attached Image





# POLICE SCOTLAND

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE  
EAST LoTHIAN LICENSING BOARD  
FOR THE PERIOD  
1<sup>ST</sup> APRIL 2016 to 31<sup>ST</sup> MARCH 2017

## **Foreword**

It gives me great pleasure to provide my second annual licensing report, in accordance with section 12(A) of the Licensing (Scotland) Act 2005.

This report outlines what activity has been undertaken over the last twelve months for the East Lothian Board area, which provides me with the opportunity to outline how our services will be delivered over the coming year.

Police Scotland continues to face an increasing range of demands against the backdrop of a challenging financial environment, however we will continue to work in partnership at local and national level to ensure that our communities are safe. I cannot understate the importance of empowering our people to work with others, to innovate and solve problems.

Over the last year we have seen success in our preventative problem solving approach, with officers and staff resolving issues proportionately and at the earliest opportunity. This has been possible due to the active partnerships which exist across the licensing sector, which have led to an increase in positive outcomes.

In the year ahead our approach will continue to be based on prevention and collaboration to ensure the most efficient and effective service delivery. I will encourage officers and staff to utilise the range of options available to ensure improved licensing standards, reduced violence and to positively influence behaviour and cultural attitudes across Scotland.

Finally, I would like to take this opportunity to record my thanks to all who work towards the shared aim of effective licensing regulation and I am sure that with the continued hard work and dedication of all staff, Police Scotland will continue to deliver a service that our communities can be proud of.

Mr Philip Gormley QPM  
Chief Constable  
Police Service of Scotland

## **Police Scotland Licensing Overview**

The National Licensing Policy Unit (NLPU) sits within the Specialist Crime Division – Safer Communities based at Dalmarnock Police Office, Glasgow.

The NLPU upholds the two tier structure for licensing which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams.

Each of the 13 Local Policing divisions, have a licensing team wholly committed to the day to day management of licensing administration complying with statutory requirements as well as addressing any issues that may arise within licensed premises within their local area.

Police Scotland Licensing is supported and governed by a National IT solution known as ‘Innkeeper’.

## **LICENSING BOARD AREA**

The Licensing Board area is policed by J Division. Chief Superintendent Ivor Marshall is the Local Police Commander who has the responsibility for all day-to-day policing functions. The Local Area Commander Chief Inspector Matt Paden is based at Haddington. He is responsible for performance management, community engagement, partnership working and the daily management of local personnel.

Chief Inspector Paden is supported by two sector Inspectors, Andrew Harborow who is based at Tranent and Andrew Hill, who has recently replaced Alan Hogarth, who is based at Haddington. The East Lothian Licensing Boards are attended by either Inspector Harborow or Inspector Hill.

The Licensing Department is part of the Divisional Co-ordination Unit based at Dalkeith Police Station. The senior officers who have responsibility for Licensing are Inspector Andrew Toombs and Sergeant Gordon Latto.

The local Licensing Department is based at Haddington Police Station, one police officer, supplemented by administration staff based at Dalkeith Police Station, controls the day to day function.

## **Local Policing Priorities**

Following our public consultation process, the policing priorities for J Division, as set out in our Local Policing Plan are as follows;

- Reducing Antisocial Behaviour
- Tackling Substance Misuse
- Reducing Violence
- Protecting People

## **NOT PROTECTIVELY MARKED**

- Tackling Serious & Organised crime
- Making our Roads safer
- Reducing Housebreaking

### **Description of Board Area**

The Command area of East Lothian serves approx. 101,000 local residents along 40 miles of coastline and in an area covering 262 square miles. The policing headquarters sit in the historic market town of Haddington.

There are currently 116 'on sales' and 95 'off sales' premises within East Lothian.

East Lothian Licensing Board Statement of Licensing Policy Nov 2013 – Oct 2016 includes an overprovision statement, declaring that East Lothian has sufficient on and off sales outlets and that there should be a rebuttable presumption against the grant of an application for any new premises licence or increase in capacity of an existing premises licence within the Boards area as a whole.

During this reporting year there have been 3 Provisional Premises Licences granted and 2 New Premises Licences granted by the Board, with no refusals.

The Statement of Licensing Policy is due for renewal this year (2017) and overprovision will be looked at again. There are currently no particular areas of East Lothian that place any significant demands on police resources due to night time economy, with no premises trading beyond 1am.

## **OPERATION OF THE LICENSING (SCOTLAND) ACT 2005**

### **Introduction**

The Licensing Officer is responsible for processing all correspondence received from the Licensing Board. The officer reviews applications on behalf of the Chief Constable as part of the consultation process in conjunction with the Area Commander. This consultation process forms part of the Police support of the Licensing Objectives.

This section concentrates on how the Act has been applied by the Licensing team and other Local Policing officers to support the Licensing Objectives in tandem with the local/national policing objectives for 2016-17.

- Road Safety and Road Crime
- Violence, Disorder and Antisocial Behaviour
- Counter Terrorism
- Serious Organised Crime
- Protecting People at Risk of Harm

In East Lothian there were 253 recorded incidents in licensed premises between 1<sup>st</sup> April 2016 and 31<sup>st</sup> March 2017, this is a decrease on previous years. The proactive use of exclusion orders and anti social behaviour legislation continues to contribute



## **NOT PROTECTIVELY MARKED**

hugely to this reduction. Police Scotland carried out 350 recorded inspections of licensed premises during the reporting year, a large percentage of these, were carried out by the licensing officer.

On Friday and Saturday evenings police officers are currently deployed on foot, to aid with dispersal of licensed premises and reduce anti-social behaviour and violence related incidents between the hours of 2200-0200.

### **Partnerships**

#### **Licensing Standards Officer (LSO)**

The local police Licensing Officer works regularly with a number of partner agencies including the LSO. Sharing information and carrying out joint visits to licensed premises, dealing with any noise complaints or antisocial behaviour issues. This unified approach has resulted in a number of successful resolutions.

In this reporting year the LSO teamed up with the Licensing Officer to monitor a premises in North Berwick, which a member of the public had complained about and was subject of a review hearing due to alleged noise and anti social behaviour.

Several visits were made by the Licensing Officer and LSO late at night, over a period of 6 months, which resulted in the police and LSO reporting back to the Licensing Board so that they could make an informed decision about what action should be taken. The review was heard and no further action was taken against the premises.

#### **Best Bar None (BBN)**

Best Bar None is a unique National Award Scheme aimed at raising standards and rewarding licensed premises who undertake positive management practices in support of a safe night out.

The purpose of the Best Bar None Scheme is to

- Reduce alcohol related crime.
- Promote social responsibility and duty of care.
- Improves knowledge and skills to assist in responsible management.
- Promotes partnership working to identify good practices and areas for improvement.
- Supports due diligence.
- Awards both locally and nationally to reward success.
- Operating more responsibly can improve the commercial viability and attractiveness of a venue and locality.

During this reporting year there were 14 premises that took part in the BBN scheme. 3 premises in Musselburgh, Prestonpans and Dunbar attained a Bronze Award. 2 premises in Musselburgh and Gifford attained a Silver Award. 9 premises in Musselburgh, Port Seton, Prestonpans, Ormiston, North Berwick, Haddington and

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Dunbar attained a Gold Award with one premises in Dunbar going through as a finalist to the National Awards.

### Pub Watch

Pub watch is an initiative run by local pubs/clubs to tackle crime and antisocial behaviour in and around their premises. The schemes are run by local licensees but are advised by local Community Police Officers.

There are a number of pub watch schemes operating in East Lothian all of which are working well and have achieved their goal of reducing risk and maintaining a safe and secure social environment for staff and customers. Police Scotland fully support these schemes.

### Problem Solving

#### The Intervention Process

As detailed in previous reports to the Licensing Board, issues in licensed premises are assessed using a well-established interventions process. Incidents connected to premises are identified by Licensing Officers who evaluate the licensing objectives to determine if any have been compromised.

Depending on the severity of the incident and history of the premises, Licensing Officers will categorise the premises/incident as follows:-

Police Intervention Categories	
Red	Problematic Premises - those operating in a manner inconsistent with the Licensing Objectives or out with the conditions of a premises licence and where local police intervention and support has failed or is unlikely to succeed in resolving the issues. A premises review request to the local Licensing Board is considered the most appropriate way to address the issue.
Amber	Premises that require Formal Intervention. Issues have arisen and a formal intervention agreement is entered into between premises licence holders and Divisional Licensing teams to resolve them. This action may be taken with more serious or repeat issues.
Green	Monitored - The premises have come to note for a minor adverse issue and are being monitored. This may result in an informal intervention in terms of advice/support to the premises along with police visits.
No Action	Action - An incident review has highlighted no issues regarding the management of the Premises or Licensing Legislation. No further police action.

Police intervention usually results in a meeting with the appropriate representatives of the premises concerned e.g. premises licence holder, designated premises

## **NOT PROTECTIVELY MARKED**

manager and, if appropriate, any stewarding company to discuss concerns and agree a way forward to resolve these.

Premises being monitored by way of the above system are subject to weekly visits by either local officer's or Licensing Officers to monitor progress, measure improvement and ensure that agreed remedial measures are implemented.

The intervention system is ultimately designed to support the licence holder before any premises review is sought, although a serious or significant incident may obviously merit an immediate review application.

During the reporting year there were no Problematic premises in East Lothian and 1 Monitored premises, in the Dunbar area, a reduction on the previous year.

In 2016 the Licensing Admin Tool was introduced, which is designed to streamline the review process. J Division was involved in the initial pilot of the Tool, which allows Licensing Officers to direct their focus to highlighted incidents.

### **Summary**

#### **Section 1 – Unlicensed Sale of Alcohol**

Alcohol is not to be sold on any licensed premises except and in accordance with a Premises Licence or Occasional Licence. As the Licensing (Scotland) Act 2005 is well bedded into everyday working practices.

One such occasion occurred as whilst two transfer applications were being processed it was discovered that the licence holders companies had become dissolved.

The two premises concerned, one in Musselburgh and one in North Berwick, were contacted and ceased the sale of alcohol immediately until they applied for Occasional Licences and then finally a New Premises Licence.

There was also another case involving a female selling alcohol on Facebook. She was traced to an address in Dirleton where the Licensing Officer spoke with her, advice was given and she removed the Facebook page immediately. There have been no further instances of concern.

#### **Section 22 – Applications**

Over the course of the reporting year there have been 3 New Premises Licence applications, 2 of which have been granted by the Board and the third withdrawn. We had the unusual situation where we had two applicants applying for the same Premises Licence in the village of Macmerry. In the end, one of the applicants withdrew their application and the licence was granted to the other. This was a particularly difficult situation for the Board to deal with but had a positive outcome.

## **NOT PROTECTIVELY MARKED**

There have also been 3 applications granted by the Board for Provisional Premises Licences. In every case Police Scotland have made representation in relation to the Board's Policy on overprovision.

The Board have been proactive in relation to refusing 'off sales' in some of these application and 'deliveries of alcohol' in others. This is a step in the right direction to prevent anti social behavior and reduce the number of outlets for persons to access alcohol as well as reduce the risk of children accessing alcohol.

### **Section 36 – Application for Review of Licence**

Police Scotland only seek review of a Premises Licence when an intervention (or a number of interventions) has failed, is likely to fail or there is a serious risk to public safety if the premises continues to operate in the same manner e.g. the resulting problems as well as community impact must be considered.

I am pleased to say there were no Review Applications submitted by Police Scotland in this reporting year.

### **Section 63 – Sale or Supply out with licensed hours**

Officers in East Lothian monitor the sale or supply of alcohol out with licensed hours closely. Local Officers continue to make pro-active visits to licensed premises, particularly at weekends. To ensure premises are being managed appropriately. The new Inn Keeper application can be access by police control staff and officers alike, twenty four seven, providing any information on licensed hours etc. that are required, out with normal office hours of the Licensing Department.

There was 1 person charged with this offence during the reporting year, when a premises in North Berwick, was visited by local police officers carrying out response duties. The member of staff was found within, along with several patrons still drinking, well after the terminal hour. The member of staff was reported to the COPFS.

### **Section 72 – Personal Licence Applications**

There were 113 applications made for personal licenses during this reporting year in East Lothian.

The amendment to legislation permitting the Chief Constable to request refusal for the purposes of 'any' Licensing Objective has widened the scope for making appropriate representations to the Board.

This legislation was used by the Police Licensing Officer on one such occasion when an applicant, a female member of staff, working in a Musselburgh pub, applied to East Lothian Licensing Board for her personal licence. A request for refusal was submitted by Police Scotland under the 'preventing crime and disorder' Licensing Objective. The Board convened on 28<sup>th</sup> April 2016 with the application being refused.

### **Section 84 (84A) – Personal Licence Reviews**

Police Licensing Officers are responsible for monitoring the conduct of Personal Licence Holders. In particular, there have been occasions when the holders of a personal licence have failed to report conviction(s) for a relevant offence to the Court and/or Licensing Board. Again, the amendment to legislation in terms of the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 has widened the ability for the Chief Constable to report conduct inconsistent with the Licensing Objectives.

There were 2 Personal Licence Reviews requested by Police Scotland in this reporting year one in April 2016 for a local DPM from Haddington, who was charged with a contravention of Section 38 (1) of the Criminal Justice and Licensing (Scotland) Act 2010. This review was heard in August 2016 with the licence being endorsed for a period of 5 years.

The other was heard at the same Board in August 2016, following a Personal Licence Holder from the North Berwick area being charged with allowing the consumption of alcohol out with the terminal hour. Police checks were carried out after this incident and the Police Licensing Officer discovered that the same male had been convicted of a drink driving offence in February 2016 and had failed to notify the Board. His personal licence was revoked, a decision that was fully supported by Police Scotland.

### **Section 94 – Exclusion Orders**

When a person has been charged with a violent offence within or in the immediate vicinity of any licensed premises a request for an Exclusion Order is included in the 'remarks' section of the police report. Exclusion Orders are granted by the Courts, 'on conviction', and can exclude a person from specific licensed premises for between 3 months and up to 2 years. The Police Licensing Officer proactively drives the use of exclusion orders whenever there is an incident in or in the immediate vicinity of licensed premises.

Over the last couple of years there continues to be a decrease in reported incidents in licensed premises. The proactive use of exclusion orders has contributed hugely to this reduction. Persistent offenders can also be dealt with under the Anti Social Behaviour legislation.

We are committed to keeping people safe and improving the quality of life for residents in East Lothian.

### **Section 97 – Closure Orders**

There were no closure orders used within East Lothian during the reporting year. It is fully expected that should a premises require to cease trading, due to a serious risk to public safety, that we would receive full cooperation from the licence holder or person in charge.

### **Sections 111- 116 – Drunkenness / Disorder Offences**

## NOT PROTECTIVELY MARKED

The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported to COPFS	Total
Section 111 (drunk persons within licensed premises)	3
Section 112 (obtaining alcohol by or for a drunk person)	1
Section 113 (sale of alcohol to a drunk person)	0
Section 114 (DPM to be drunk whilst on duty)	0
Section 115 (disorderly conduct within licensed premises)	3
Section 116 (refusal to leave licensed premises)	7

### PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE

Police Scotland can make a positive impact on the future outcomes for children and families, by addressing the sale and supply of alcohol to young persons and working with our partners, taking the appropriate action to address both the potential and actual misuse of alcohol within the early years.

#### Activity

In terms of Section 105 of the Licensing (Scotland) Act 2005, the Chief Constable may authorise a young person to buy or attempt to buy alcohol to determine whether an offence is being committed.

The use of young persons to conduct Test Purchase Operations provides Police with an effective tool in the fight against underage sales and represents an important safeguard against underage drinking and the resultant antisocial behaviour that adversely affect many communities.

More recently there has been an increase in youth disorder and anti social behaviour in the Haddington area. The Licensing Officer has been working closely with the Community Police Officer, liaising with the local 'off sale' premises making them aware of the problems, the type of alcohol being recovered by police and enforcing the need to 'challenge' and be aware of 'agent purchase' etc.

Particular attention has been given to local 'hot spot' areas such as Millfield, Neilson Park and the skate park at Whittinghame Drive, Haddington.

There were **3** Test Purchase Operations carried out in East Lothian during the reporting year with a total of **37** 'off sale' premises tested, this resulted in **1** failure in the Tranent area.

The 1 failure in Tranent, passed the re test, which was carried out within 14 days of the original fail date with no further action being taken.

## NOT PROTECTIVELY MARKED

The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported to COPFS	Total
Section 102 (sale of alcohol to a child)	1
Section 103 (allowing the sale of alcohol to a child)	0
Section 105 (purchase of alcohol by or for a child)	1

### Proposed Activity

Officers will continue to routinely proactively visit premises licensed for 'off sales' to ensure that they are aware of their responsibilities under the 2005 Act and in particular in the run up to school holidays.

Likewise officers will continue to routinely proactively visit premises licensed for 'on sales' to ensure that management have taken all appropriate measures to prevent the sale or supply of alcohol to young people under age.

The provision of 'Test Purchasing', in terms of Section 105 of the principal legislation, is a tactic that is used by Police Scotland and the East Lothian Command Area will continue to use this tactic as and when required.

## TACKLING SERIOUS AND ORGANISED CRIME

### Introduction

The Serious Organised Crime Task Force was set up by the Scottish Government to provide direction and co-ordination for all organisations involved in tackling Serious Organised Crime in Scotland.

The task force has a remit to disrupt, dismantle and pursue Serious Organised Crime Groups (SOCGs). Key partners include Police Scotland, NCA, HMRC, COPFS, SOLACE and the Scottish Business Resilience Centre, amongst others.

If SOCGs gain a foothold in licensed premises then this would afford the criminal group a seemingly legitimate income stream, which could be no more than a veneer for other criminal activities such as money laundering, tax evasion, drug and people trafficking and other dishonest activities.

### Activity

Over the past year, the Police Licensing Officer has scrutinised and interrogated licence applications to identify where OCG's may be trying to enter legitimate businesses. This is particularly detailed when processing New Premises and Transfer applications, where the applicant may be asked to evidence the source of any financing.

Earlier this year, the Police Licensing Officer was made aware of an event taking place in the Haddington area which may have had links to an SOCG member. Contact was made with the organiser of this event who gave assurances that the

## **NOT PROTECTIVELY MARKED**

individual would have nothing to do with the event. A responsible operator in the town then applied for the occasional licence and the event passed without incident.

### **PROPOSED ACTIVITY FOR THE YEAR AHEAD**

Police Scotland and the Fire Service continue to work closely with the Scottish Business Resilience Centre to evolve the Best Bar None scheme. As a result, this year, 14 licensed premises received an award at local level, 9 Gold, 2 Silver and 3 Bronze. Organisers of this scheme recognise that standards are improving on a year-by-year basis and hope to continue in the coming year, increasing the number of premises taking part.

As previously mentioned Police Officers in East Lothian are identifying persons who should be considered for an 'Exclusion Order' from licensed premises, in terms of Section 94 of the principle legislation, and making appropriate requests as a matter of course to the Procurator Fiscal. This should have a positive impact on Licensing Objectives.

Test Purchasing will also continue to be used as a tactic to increase awareness of underage drinking and the associated antisocial behavior that can result.

### **NATIONAL PERSPECTIVE**

Our Priorities and Policing Plans continue to be shaped by the objectives contained within Scottish Government's Strategic Objectives and National Outcomes and the Strategic Police Plan that are delivered locally through single outcome agreements.

Consultation and engagement is combined with our own analysis of the issues likely to impact on the safety of the public to inform our local and national Strategic Assessments that identify our priorities and provide a firm evidence base for local policing teams across Scotland to deliver operational plans to prevent crime and disorder and Keep People Safe.

#### **Our National Priorities are:**

- **Violence Disorder and Anti-social Behaviour**
- **Serious Organised Crime**
- **Road Safety and Road Crime**
- **Protecting People at Risk of Harm**
- **Counter Terrorism**

The National Licensing Policy Unit (NLPU) is a specialist department, which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical advice to



## NOT PROTECTIVELY MARKED

police licensing practitioners, operational officers, supervisors and policing commanders.

The NLPU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2017/18, from a licensing perspective, our particular focus will be on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Working closely with partners within a National Licensing Trade Forum we will continue to develop and promote positive partnership working between Police Scotland and the Licensed trade, in order to increase legal understanding and support a shared aim of best practice, responsible operation and respect.
- Governance and ongoing development of the National ICT Licensing System, known as “Inn Keeper”, to increase the efficiency and effectiveness of liquor and civic licensing administration and management and to ensure problem solving is at the heart of our Licensing approach.
- The implementation and ongoing development of a Licensing Admin tool which provides divisional licensing officers with an ICT product which negates the need to research police systems independently and which builds on our problem solving approach.

To conclude we would like to thank you for your continued support and stress the importance of this collaborative, problem solving approach, which ensures that police, licence holders and licensed premises staff have a better understanding of their responsibilities. This strengthens locally-led alcohol licensing practices, in order to preserve order and promote safety and public health.