

EAST LOTHIAN

Meeting 28 June 2018 at 10:00am in Council Chambers, Town House, Haddington, East Lothian

Licensing (Scotland) Act 2005

Variation (Major)(s)	Premises	Applicant	Date Received	Comments
1	NEW PHEASANT (FORMERLY JO'S KITCHEN) 73 MARKET STREET HADDINGTON EAST LOTHIAN EH41 3JJ	JOANNA MARGO LAWRENCE C/O TLT LLP - EDINBURGH HOBART HOUSE 80 HANOVER STREET EDINBURGH EH2 1EL	18 April 2018	Vary operating plan to Bar meals not to be provided outwith core hours. Addition of films, gaming (gaming machine), Indoor/outdoor sports by way of darts and pool. Televised sport will sometimes be shown from 9am i.e. Golf Open. Increase capacity from 50 to 100 persons. Change name to New Pheasant.

EAST LoTHIAN LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005, SECTION 29
APPLICATION FOR VARIATION OTHER THAN MINOR VARIATION

This application should only be completed by the Licence Holder of the appropriate Premises Licence or their Agent.

SECTION 1: TYPE OF VARIATION

This application for Variation other than a Minor Variation of Premises Licence is made under Section 29(5) of the Licensing (Scotland) Act 2005 in order to vary-
(Tick all relevant boxes)

- Any of the Conditions to which the Premises Licence is subject
- Any of the information contained within the Operating Plan
- The Layout Plan
- Any other information contained or referred to in the licence (including any addition, deletion or other modification).

(Provide Details) Change to Name of Premises

.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

ELO 332

2(b) Name and Address of Premises

Jo's Kitchen (To be known as The New Pheasant)
73 Market Street
Haddington
East Lothian

Post Code EH41 3JJ

Phone No. c/o TLT 0333 006 1405

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

Joanna Margo Lawrence

Post Code

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)

Amendment to activities as follows:

- Bar meals not to be provided outwith core hours
- Films to be provided
- Gaming by way of a gaming machine to be provided
- Indoor/Outdoor sports to be provided by way of darts and a pool table
- General tidy up of wording in relation to Seasonal Variations; Children & Young persons and further details regarding column 4

Amend capacity from 50 to 100

Removal of the restaurant facility

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.

Change to layout to incorporate the recent change from Bistro to public house

3(d) Variation to any other information contained or referred to in the licence

Provide details below of any other variation sought to the Premises Licence
(e.g. Alteration to the description of the premises contained within the Premises Licence)

Change to name of premises from Jo's Kitchin to The New Pheasant

Change to description of premises - The premises are located on the ground floor of 73 Market Street, Haddington and is a community public house.

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 £ 170 is enclosed.

Signature

ff.....

(See note 5 below)

Date 17/04/2018

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

If agent, please provide name, address,

phone number and (if applicable) email address

Hobart House

3rd Floor

80 Hanover Street

Edinburgh

EH2 1EL

Tel: 0333 006 1405

Email: Caroline.Loudon@TLTsolicitors.com

Note 1:

Please note that the proposed Operating Plan **must** contain any aspects of the current Operating Plan that are to be preserved should the variation be granted. (e.g. If the current Operating Plan allows a premises to have 'live performances' but this is not requested on the proposed Operating Plan then the Licensing Board would view such an omission as a request to have 'live performances' deleted from the Operating Plan of the Premises.)

Note 2:

Please refer to Paragraph 5 of the Premises Licence (Scotland) Regulations 2007 regarding the format of Layout Plans.

Note 3:

The appropriate premises licence (including summary licence, operating plan and layout plan) must be returned to the Licensing Authority in order that the licence documents can be updated to reflect the details of the variation. If you are in possession of the appropriate Premises Licence but unable to provide said licence with this application, you must ensure the licence is forward to the Licensing Authority within 14 days in order to complete the process of variation.

Please note also that once the variation is completed, any certified copies of the appropriate Premises Licence must also be updated to reflect the details of the variation.

Note 4:

This refers to an application to Transfer the Premises Licence made under either Section 33(1) or Section 34(1) of the Licensing (Scotland) Act 2005

Note 5:

Data Protection Act 1998

The information on this form will be used to update the Premises Licence of the appropriate premises. Accordingly, the information contained on this form may be held on an electronic public register which may be available to members of the public on request.

Contact Us:

East Lothian Licensing Board

Licensing Office

John Muir House

Haddington, East Lothian

EH41 3HA

Phone: 01620 827217 / 827867 / 820114

Fax: 01620 827253

Email: licensing@eastlothian.gov.uk

FOR OFFICE USE ONLY

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

OPERATING PLAN

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

Question 1

STATEMENT REGARDING ALCOHOL BEING SOLD ON PREMISES/OFF PREMISES OR BOTH

<i>1(a) Will alcohol be sold for consumption solely ON the premises?</i>	NO
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	NO
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	YES
<i>*Delete as appropriate</i>	

Question 2

STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION ON PREMISES

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00am	11.00pm
<i>Tuesday</i>	11.00am	11.00pm
<i>Wednesday</i>	11.00am	11.00pm
<i>Thursday</i>	11.00am	01.00am
<i>Friday</i>	11.00am	01.00am
<i>Saturday</i>	11.00am	01.00am
<i>Sunday</i>	11.00am	Midnight

Question 3

STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION OFF PREMISES

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00am	10.00pm
<i>Tuesday</i>	11.00am	10.00pm
<i>Wednesday</i>	11.00am	10.00pm
<i>Thursday</i>	11.00am	10.00pm
<i>Friday</i>	11.00am	10.00pm
<i>Saturday</i>	11.00am	10.00pm
<i>Sunday</i>	11.00am	10.00pm

Question 4

SEASONAL VARIATIONS

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

We would like to take advantage of any seasonal variations that the Board may grant from time to time.

Question 5

PLEASE INDICATE THE OTHER ACTIVITIES OR SERVICES THAT WILL BE PROVIDED ON THE PREMISES IN ADDITION TO SUPPLY OF ALCOHOL

COL. 1	COL. 2	COL. 3	COL. 4
<i>5(a) Activity</i>	<i>Please confirm YES/NO</i>	<i>To be provided during core licensed hours – please confirm YES/NO</i>	<i>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</i>
<i>Accommodation</i>	NO	N/A	N/A
<i>Conference facilities</i>	NO	NO	NO
<i>Restaurant facilities</i>	NO	NO	NO
<i>Bar meals</i>	YES	YES	NO
<i>5(b) Activity Social functions including:</i>	<i>Please confirm YES/NO</i>	<i>To be provided during core licensed hours – please confirm YES/NO</i>	<i>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</i>
<i>Receptions including Weddings, funerals, birthdays, retirements etc.</i>	YES	YES	YES
<i>Club or other group meetings etc.</i>	YES	YES	YES
<i>5(c) Activity Entertainment including:</i>	<i>Please confirm YES/NO</i>	<i>To be provided during core licensed hours – please confirm YES/NO</i>	<i>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</i>
<i>Recorded music – see 5(g)</i>	YES	YES	YES
<i>Live performances – see 5(g)</i>	YES	YES	NO
<i>Dance facilities</i>	YES	YES	NO

<i>Theatre</i>	NO	NO	NO
<i>Films</i>	YES	YES	NO
<i>Gaming</i>	YES	YES	NO
<i>Indoor/outdoor sports</i>	YES	YES	NO
<i>Televised sport</i>	YES	YES	YES
5(d) Activity	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Outdoor drinking facilities</i>	YES	YES	NO
5(e) Activity	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Adult entertainment</i>	NO	NO	NO

Where you have answered YES in respect of any entry in column 4 above, please provide further details below.

We intend to offer coffee, cake and breakfasts from 9am. We may offer cooked food earlier than 11am.

Early morning funerals and other private functions will be catered for on occasions.

Clubs and groups will be able to hold meetings in our premises from 9am.

Recorded music will be played from 9am.

Televised sport will sometimes be shown from 9am (Local events i.e. golf open)

5(f) any other activities

If you propose to provide any activities other than those listed in 5(a) – (e) please provide details or further information in the box below.

Charity nights; Quiz nights; community nights; sporting events; fundraising events; darts matches; pool competitions; race nights or similar events of this nature may take place on the premises during core licensed hours.

5(g) Late night premises opening after 1.00am

Where you have confirmed that you are providing live or recorded music, will the decibel level exceed 85dB?	YES/NO*
When fully occupied, are there likely to be more customers standing than seated?	YES/NO*
*Delete as appropriate	

Question 6 (On-sales only)

CHILDREN AND YOUNG PERSONS

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

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

Children and Young Persons will be allowed on the premises until 10.00pm or until the end of a private function.
 Children must be accompanied by a supervising adult.

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

Children 0-15 years
 Young Persons 16 & 17 years

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

Children until 10.00pm unless attending a private function where they can remain until the terminal hour of the function.
 Young Persons until 11.00pm unless attending a private function where they can remain until the terminal hour of the function.

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

All public areas except the bar servery

Question 7

CAPACITY OF PREMISES

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

100

Question 8

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

Personal details

8(a) Name

Joanna Margo Lawrence

8(b) Date of birth

[REDACTED]

8(c) Contact address

[REDACTED]

8(d) Email address

[REDACTED]

8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
4 February 2015	East Lothian Licensing Board	EL 1150

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

If signing on behalf of the applicant please state in what capacity.

The contents of this operating plan are true to the best of my knowledge and belief.

Signature  * (see note below)

Date 17.04.2018

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

Telephone number and email address of signatory: Tel: 0333 006 1405

Email: Caroline.loudon@TLTsolicitors.com

*** Data Protection Act 1998**

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

Date 15th May 2018



**POLICE
SCOTLAND**

Keeping people safe

Your Ref: EL332

Our Ref: J/LIC/3705/HB

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

Iain Livingstone QPM
Deputy Chief Constable Designate

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
JO'S KITCHEN
73, MARKET STREET, HADDINGTON, EAST LOTHIAN, EH413JJ.
JOANNA MARGO LAWRENCE, [REDACTED]**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation requested consists of a change to the Operating Plan, Layout Plan, name of the premises and description of the premises.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, I make the following representation.

Whilst I appreciate that the premises already currently holds a liquor licence consideration should be given by the Board when dealing with this variation, with regards to the change of 'operation' from a 'Restaurant' to a 'Community Public House'.

I note that the applicant is requesting outdoor drinking facilities, I would request that due to the very close proximity of residential properties that the outside area is not used beyond 2000 hours.

Children and Young Persons

Bearing in mind the premises are offering 'bar meals' I would request that:

Terms

Children and Young Persons (0-17 years) must be accompanied at all times by a responsible parent or guardian whilst within the premises.

Times

Children (0-15 years) must vacate the premises by 2000 hours unless they are in the company of persons who are consuming a meal or consuming a meal themselves. They may remain until the end of that meal.

Young Persons (16-17 years) must vacate the premises by 2200 hours.

The only exception to this would be if Children and Young Persons were attending a private function then they could stay for the duration of that private function.

If the variation, or an amended version is approved, I request that the Licensing Board considers that conditions be imposed in respect of:

- CCTV to be installed and maintained covering both inside and outside the premises.
- The outside licensed area is not used beyond 2000 hours.

This representation is submitted for your attention in considering this application.

Yours faithfully

A large black rectangular redaction box covering the signature of the sender.

Iain Livingstone QPM
Deputy Chief Constable Designate

For enquiries please contact the Licensing Department on 01620 826147

EAST LoTHIAN COUNCIL

LICENSING, ADMINISTRATION AND DEMOCRATIC SERVICES

From: R. Fruzynski
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 18 May 2018

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

The New Pheasant, 73 Market Street, Haddington, East Lothian EH41 3JJ

I can confirm that I have liaised with Mr Michael Peters, the prospective new leaseholder of the premises at the above address, in relation to this variation.

As a bit of background, Mr Peters took over the Gardeners Arms, Market Street, Haddington in 2011. At the time of commencement of his lease, the pub had just undergone a review following a number of problems experienced by the previous management. Since taking over, Mr Peters has turned the premises around and I can confirm that there have been no complaints received by Licensing Standards regarding the operation of the Premises Licence.

In recent times, the Anti-Social Behaviour Team has received a substantial complaint made by a resident in the area complaining about late evening noise associated with persons congregating in Market Street and using nearby Cross Lane as a thoroughfare from High Street. This problem cannot be directly attributed to licensed premises in Market Street. It is more likely to be related to the make-up of the area as a whole, being a focal point for persons seeking the services of many different types of business that are open in the evenings, particularly at weekends.

I support the application.

R. Fruzynski
Licensing Standards Officer



10 May 2018

Your ref: KMacN/mjw/EN/L/L1

Dear Madam


I would like the undernoted comments to be taken into consideration when determining the application.


Already a Pubic House on the corner of this building – do we need another so close?

As you drive into Haddington town center there are 3 pubic houses with “to let” signs displayed outside – do we need another public house?

This part of Market Street is already a place for people gathering after public houses have closed. The noise generated from another 80-100 people leaving another public house in the area under the influence of alcohol will become intolerable for those of us who are trying to-sleep.

Outside seating area far too small accommodate 4 tables and 16 seats. Maybe a site visit would be appropriate.

 we will never be able to have our bedroom window open due to passive smoke as there will be people outside smoking/drinking from 9am until closing – 1am at the weekend.

 We had accepted an offer for it but the buyer decided to withdraw his offer because of the proposed change of use restaurant to public house as "due to proposed pub underneath doesn't feel comfortable with the situation having two young daughters in that environment"

 We would not have purchased it had we known this might happen.

The noise generated from up to 100 people drinking/partying/playing music directly under our home 7 days a week from 9 – 1am Thursday to Saturday would become totally intolerable.

We know in the past there was a public house on the ground floor but that was when it was part of a hotel not with residential properties above.

We trust the above comments will be taken into account when considering this application.

Yours faithfully



East Lothian Council
Licensing
25 MAY 2018
Received

Ms Kirstie MacNeill
Clerk to the Licensing Board
John Muir House
Haddington
EH41 3HA

24 May 2018

Licensing (Scotland) Act 2005 – Application for variation (major) – premises
New Pheasant (Formerly Jo's Kitchen), 73 Market Street, Haddington, East
Lothian, EH41 3JJ – Type on and off sales.

Dear Sir/Madam

Many thanks for providing us, the signatories of this letter, an opportunity to provide comments to the application as outlined above. While of course we wish Haddington to have a flourishing town centre where people come to enjoy themselves and support the local economy, we would object to a variation of operating plan at 73 Market Street – in particular the increase in capacity from 50 to 100. The proposed name change to the New Pheasant is merely an irritation for those who are aware what night time disturbance was like in the time of the 'old' Pheasant Hotel.

As you will be aware, 73 Market Street is only two doors away from the Gardener's Arms, a public house, currently with outdoor seating until 21:00. This location, like 73 Market Street is essentially on a little square with stone houses on three sides, which do little to absorb noise pollution. The outdoor seating at the Gardener's Arms is already causing significant amount of noise, even when only a small number of people are seated there. This is primarily due to a lack of care by inebriated customers, often cackling and swearing with little consideration for those who live around them. Although seats are taken away at 21:00, customers will continually throughout the evening come outside for smoking and particularly on the warmer nights this leads to extended periods of noise. At closing time this noise will significantly increase for half an hour, interspersed with regular aggression, until everyone at least disappears either at 00:30 or 1:30, dependent on the day of the week.

As you may also be aware, before Jo's Kitchen entered the premises of 73 Market Street, and before the building was renovated, it housed the Pheasant Hotel. At that time, the little square outside would regularly be completely filled with customers causing disturbance. At the time this caused significant distress to those living in the surrounding flats and houses, leading to complaints. Clearly this is not a situation that we as local residents would be happy to return to. In fact, the East Lothian Licensing Board focused strongly on the needs of the local residents when it allowed an alcohol licence for 73 Market Street to Jo Lawrence who reportedly in the East Lothian Courier (9 Nov 2015) was installing extra

layers of soundproofing for upstairs neighbours and offered to provide free soft drinks to designated drivers in her family restaurant, and presented the restaurant as 'all about the food; drunkenness will not be tolerated'. A public house is generally not all about the food and definitely much about the alcohol. Having two public houses situated beside one another is likely to be causing more than double the disturbance currently experienced, in particular if the capacity of the premises of 73 Market Street are doubled.

It may be worth pointing out too that a few of us have no option to move our bedrooms to the backs of our houses where we live with our children. Especially on warm days, crude language causes embarrassment to our children when their bedroom windows are open. Even those who are not living in the direct surroundings of 73 Market Street, the disturbance of inebriated customers walking down Market Street towards Hardgate and between Market Street and the High Street can cause upset with plants being pulled out of plant pots and urinating in the darker alley ways. While this causes more annoyance rather than fear, there is only a very limited police presence generally available in Haddington at night which does little to help matters.

There are a fair number of public houses in Haddington, with three currently out for rent. This begs the question whether another public house with a capacity of 100 people is really required. Finally, the papers very recently have been full of articles providing evidence of the much larger consumption of alcohol in Scotland in comparison to the rest of the UK with its associated negative effects on health and wellbeing not just on those who drink but also those around them. We wonder whether allowing another pub to open flies right into the face of any considered public health strategy.

We would welcome your consideration of these comments and urge you not to agree the variation as sought.

Kind regards

