

EAST LoTHIAN LICENSING BOARD

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

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

SECTION 1: TYPE OF VARIATION

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

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

(Provide Details)

.....

SECTION 2: PREMISES LICENCE DETAILS

2(a) Licence Number of Premises

EL019

2(b) Name and Address of Premises

Caprice Restaurant
 198 High Street
 Musselburgh

Post Code	EH21 7DX	Phone No.	0131 665 2991
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2(c) Full Name and Address of Current Licence Holder

Caprice Restaurant Musselburgh Ltd
 198 High Street
 Musselburgh

SC590627

Post Code	EH21 7DX	Phone No.	0131 665 2991
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SECTION 3: NATURE OF VARIATION

Complete the relevant section(s) regarding the variations sought:-

3(a) Variation to the Conditions to which the Premises Licence is subject

Provide details of the Condition(s) to be varied and the variation being sought

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)

To commence Sunday Hours at 12 Noon.

To increase the hours to 1am Thursday, Friday and Saturday and to Midnight on Sunday.

To add Off Sales from 12 Noon to 10pm every day.

To add as extra Activities – Deliveries (which may include alcohol) and Takeaways.

To provide that certain Activities answered Yes in column 4 may take place during special or general extensions.

To amend the Rules on Children and Young Persons so that Young Persons do not require to be accompanied by an adult. Young Persons will be entitled to remain on the premises until Midnight and Children until 11pm. Children and Young Persons may remain on the premises to the end of a private pre booked function.

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.

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

Provide details below of any other variation sought to the Premises Licence

(e.g. Alteration to the description of the premises contained within the Premises Licence)

SECTION 4: LICENCE TO BE AMENDED

(See note 3 below)

Does the appropriate Premises Licence accompany this application?

YES

NO

If the answer is NO, please provide an explanation.

I am unable to produce the Premises Licence because...

The licence has not yet been issued by the Board

The licence has already been returned to the Board in respect of an earlier application for variation or transfer

Other (provide details)

.....

SECTION 5: FEE PAYABLE

The fee payable in respect of the application for variation is **£150**

If the application is submitted alongside an application for Transfer of Premises Licence then the combined fee for both applications will be **£150** (see note 4 below)

If submitted with an application for transfer, please specify the order in which the applications are to be considered-

Application for Transfer of Premises Licence followed by Application for Variation

Application for Variation followed by Application for Transfer of Premises Licence

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

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

I confirm that (a) the contents of this Application are true to the best of my knowledge and belief; and (b) the appropriate fee of £150 is

Signature

..... (See note 5 below)

Date

..... 3/7/18

Capacity: APPLICANT / AGENT (delete as appropriate)

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

Macdonald Licensing
21a Rutland Square
Edinburgh, EH1 2BB

0131 229 6181, alistair@macdonaldlicensing.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>

EAST LoTHIAN LICENSING BOARD
OPERATING PLAN

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

Name, address and postcode of premises to be licensed.

<p>Caprice Restaurant 198 High Street Musselburgh EH21 7DX</p>
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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>	<i>NO</i>
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<i>NO</i>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<i>YES</i>
<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>	12 Noon	11pm
<i>Tuesday</i>	12 Noon	11pm
<i>Wednesday</i>	12 Noon	11pm
<i>Thursday</i>	12 Noon	1am
<i>Friday</i>	12 Noon	1am
<i>Saturday</i>	12 Noon	1am
<i>Sunday</i>	12 Noon	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>	12 Noon	10pm
<i>Tuesday</i>	12 Noon	10pm
<i>Wednesday</i>	12 Noon	10pm
<i>Thursday</i>	12 Noon	10pm
<i>Friday</i>	12 Noon	10pm
<i>Saturday</i>	12 Noon	10pm
<i>Sunday</i>	12 Noon	10pm

Question 4

SEASONAL VARIATIONS

<i>Does the applicant intend to operate according to seasonal demand</i>	<i>NO</i>
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**If YES – provide details*

N/A

Question 5

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

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

5(d) <i>Activity</i>	<i>Please confirm</i> YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Outdoor drinking facilities</i>	NO	NO	NO
5(e) <i>Activity</i>	<i>Please confirm</i> YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>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.

Activities answered Yes in column 4 may take place during special or general extensions.

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.

Deliveries (may include alcohol)

Takeaways

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? NO

When fully occupied, are there likely to be more customers standing than seated? 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 will be allowed entry only with a responsible adult.

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

All ages allowed with responsible adult.

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

Children will be entitled to remain on the premises until 11pm.
Young Persons will be entitled to remain on the premise until midnight, but, Children and Young Persons may remain on the premises until the end of a pre booked function.

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

All public parts of the premises.

Question 7

CAPACITY OF PREMISES

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

On Sales - 90

Question 8

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

Personal details

8(a) Name

Anthony Alfredo Alongi

8(b) Date of birth

[REDACTED]

8(c) Contact address

[REDACTED]

8(d) Email address and telephone number


[REDACTED]

8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
9 April 2018	City of Edinburgh Council	377168

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

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

The contents of  the best of my knowledge and belief.

Signature  * (see note below)

Date 23/5/18

Capacity APPLICANT/AGENT (delete as appropriate).

Telephone number and email address of signatory

*** Data Protection Act 1998**

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

Date 17/09/2018

Your Ref: EL019

Our Ref: J/LIC/3705/HB



**POLICE
SCOTLAND**

Keeping people safe

Iain Livingstone QPM
Chief Constable

Local Area Commander
The Lothians and Scottish Borders Division
Haddington Police Station
39-41 Court Street
Haddington
EH41 3AE

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

Dear Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
Caprice Restaurant
198, High Street, Musselburgh, East Lothian, EH21 7DX.
Caprice Restaurant Musselburgh Ltd, 198 High Street, Musselburgh**

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

The variation requested consists of an increase in licensed hours for 'on sales' as well as an addition of 'off sales' between 12 noon and 10pm every day. To add deliveries (which may include alcohol) and takeaways. To amend children and young persons access.

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

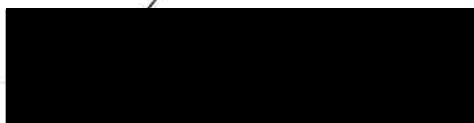
Any increase in licensed hours is out with the current Board Policy, Overprovision Statement, which is a rebuttable presumption against the grant of any increase in licensed hours of an existing premises licence within the Boards area. The Board expects the applicant to provide robust and reliable evidence to support their application sufficient to demonstrate that the grant of their application would outweigh the presumption against grant in terms of the Board's Overprovision Statement.

The applicant is also looking to add 'deliveries' (which may include alcohol) and 'takeaways'.

The applicant should be made aware of their obligations under Section 119 of the Licensing (Scotland) Act 2005 in relation to deliveries of alcohol.

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

Yours faithfully



Iain Livingstone QPM
Chief Constable

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: 09 Oct. 18

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

Caprice Restaurant, 198 High Street, Musselburgh, East Lothian EH21 7DX

I refer to the above subject and can confirm that the LSO has visited the premises and met with the manager in relation to this application.

No complaints or issues have arisen in relation to the operation of this restaurant since it was granted a Premises Licence in 2009.

Licensing Standards has no objection to any of the variations proposed in this application.

Should the Board be minded to grant this application, the applicant is advised of the need to comply with the Board's new policy on deliveries, which takes effect as of 1st November 2018. An extract from this policy is shown below:

Deliveries

- 32.1 Applicants for licences that include any type of alcohol delivery should produce a 'policy' on preventing children and young persons accessing the alcohol. This should include the staff training that will be provided, and how deliveries are recorded. Police and LSO will have access to delivery records. (ref. Section 119 L(S)A 2005)
- 32.2 Applications for deliveries from cafes, restaurants and other food businesses, not considered to be predominantly grocers/supermarkets outlets, may be granted home delivery services, provided the order is ancillary to a meal and, any alcohol purchased with the order, is proportionate. The licensee will be expected to be responsible for deciding what is proportionate in relation to individual orders placed bearing in mind the licensing objectives.
- 32.3 When making a delivery that includes alcohol, certain checks should be carried out such as Challenge 25 and checking that the customer is 18 years or over. No orders that include alcohol are to be left in nominated safe places. Staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises. Licensees who use

couriers to make their deliveries should ensure that they comply with the checks and standards required by the Licensing Board.

32.4 A meal is considered to be a substantial food offering. Snacks, sandwiches and crisps are not considered to constitute a substantial meal.

R. Fruzynski
Licensing Standards Officer

Tuesday, 9th October 20

Your ref. K Maen/mjw/EN/L/L1

Dear Sir,

Licensing Application by the Caprice Restaurant

I would ask that your Board turns the Caprice down in its application for variations to licensing hours.

I live

During the day we have to put up with the traffic on busy A1. Nighttime is peace! Unless the Caprice gets Tam on Thurs, Fri, Sat & R on Sunday. The present times are fine.

Also what is the prediction for young children all about? "Young person - 12 midnight"

That that in with "recorded music may take place"

- what is it? @ disco? Recorded music at that late hour will also upset. Too vague

"Off - Sales 12 noon to 10pm each day"

Why would you warrant that with Tesco
& R.S. McCall so nearby?

I feel the centre of the town should not
be plagued with upset which may involve
the police - but we don't know. The request
is suitably vague.

Would such a request in the main street
of Cullene or Longniddry etc be
given the go-ahead?

Please keep the ordinary people of Musselburgh
in mind.

Yours sincerely,

EAST LoTHIAN COUNCIL
LICENSING

10 OCT 2018

RECEIVED