



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

**THURSDAY 22 MARCH 2018  
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

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**Board Members Present:**

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

**Clerk of the Licensing Board:**

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

**Attending:**

Mr C Grilli, Service Manager – Legal and Procurement, and Depute Clerk of the Licensing Board  
Ms C Shiel, Licensing Officer  
Ms G Herkes, Licensing Officer  
Insp A Harborow, Police Scotland  
PC H Bowsher, Police Scotland  
Ms E Oldcorn, NHS Lothian  
Mr G Hood, Convener, East Lothian Licensing Forum

**Committee Clerk:**

Ms J Totney, Team Manager – Democratic Services

**Apologies:**

Councillor J Goodfellow  
Councillor J McMillan

**Declarations of Interest:**

None

**1 MINUTES FOR APPROVAL – 22 February 2018**

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

**2 PROVISIONAL PREMISES LICENCE  
171-173 North High Street, Musselburgh**

The Clerk advised that three public objections had been received; Board members agreed to consider the one which had been received after the deadline. None of the objectors were present. A representation had also been received from Police Scotland.

Mr A Macdonald, Macdonald Licensing was present to represent the applicant. Carlo and Katia Crolla, company owners and directors, were also present.

Mr Macdonald provided background information about the premises, including planning permissions, and outlined the development plans for the building. He highlighted that the food offering would be different from the current chip menu and that the premises would be family orientated. He noted that Police Scotland are suggesting a terminal hour of 20.00 hrs for the outside drinking area although the Board's policy allows for a terminal hour of 22.00 hrs, which is being applied for. Mr Macdonald acknowledged the letters of objection, gave assurances that any live music would be acoustic in nature; advised that his clients own the building above the restaurant; and indicated that he did not anticipate any issues arising from this establishment.

In response to questions from members, Mr Macdonald clarified that the outside drinking area is to the front of the premises. He agreed to remove the area at the rear from the operating plan as it would not be used as an outside drinking area and would not be accessible to patrons.

Insp Harborow referred to the Police Scotland letter dated 21 February 2017. He explained that there can be a high level of pedestrian traffic in the area, with many people under the influence of alcohol potentially passing close to the outside drinking area. He added that there has been a lot of anti-social behaviour in the area but made it clear that this was in no way linked to the management of the restaurant. He asked the Board to give due consideration to an outside terminal hour of 20.00 hrs.

There were no comments from NHS Lothian.

Councillor McGinn stated that the operators are well respected; that this is a good application; but that he favoured a terminal hour of 22.00 hrs for the outside drinking area.

Mr Crolla commented that it was unfair to restrict the terminal hour, due to external influences, as this would restrict business progress. He suggested raising the height of the fence at the front of the premises to increase privacy, in what is already an enclosed area. In answer to questions from members, he stressed that smokers would not have access to the rear of the premises; and off sales of alcohol would only be permitted where food had been purchased.

Councillor Dugdale suggested that the terminal hour for the outside drinking area be set at 21.00 hrs; to be monitored by Police Scotland and the Licensing Standards Officer (LSO); that there is no customer access to the outside area at the rear of the premises; and that off sales of alcohol can only be made if food has been purchased. These suggestions were unanimously supported, and agreed, by Board members.

**Decision**

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

- i. The terminal hour for the outside drinking are to be 21.00 hrs.
- ii. There is to be no customer access to the open courtyard at the rear of the building.
- iii. The off sale of alcohol will only be permitted with the sale of food.

### **3 MAJOR VARIATION OF PREMISES LICENCE**

#### **3a Rocketeer, 26 Victoria Road, North Berwick**

The Clerk advised that the application seeks to change from a seasonal to all year round licence; vary the terminal core hour from 20.00 hrs to 22.00 hrs each night; and to record that the layout, which remains unchanged, will be enclosed in glass. She reported that public objections had been received although none of the objectors were present; the Council's Planning Department had reported that there is no planning permission to operate during the additional two hours; and that there are no objections from Police Scotland, the LSO or members of the public.

Mr S Stewart, operator/owner of The Rocketeer was present.

Mr Stewart provided background information and acknowledged the concerns raised by the objectors. He explained that he has previously opened later during "Fringe by the Sea" and there had been no issues. He informed members that he has now submitted an application to vary the planning consent to open for the extra two hours.

There were no comments from Police Scotland.

In response to questions from Board members, Mr Stewart advised that the glass is doubled glazed and will provide more sound-proofing than at present; there have been no complaints from residents since the premises opened; there is a slight increase in the internal capacity; there will no longer be an outdoor drinking area; off sales of alcohol will only be permitted with the purchase of food; recorded music should be included in the application; and confirmed that staff training and the management of customers leaving the premises have been discussed with the LSO.

Councillor Henderson stated that she was very comfortable with the application and was minded to grant the application. This view was echoed individually by Councillors Dugdale, Bruce and McGinn.

#### **Decision**

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

#### **3b The Clubhouse, Thurston Manor Leisure Park, Innerwick, Dunbar**

The Clerk advised that the application seeks to amend off-sales from 7 pm to 11 am; allow bar meals outwith core hours; amend children's/young persons' access to permit access at all times in all public areas (ages 0 – 17 years); amend the combined internal and external capacity to 670; and amend the description to multi-purpose leisure facilities.

She reported that no objections had been received from the LSO, members of the public or the community council, but representations had been received from Police Scotland and NHS Lothian.

Niall Hassard, TLT Solicitors, was present to represent the applicant. Mr M Nicholas, General Manager of the holiday park, was also present.

Mr Hassard clarified that the capacity should read: 670 internally plus 90 externally, and apologised for the error. He summarised the variations that were being sought; provided detailed background information about the recent investment in the premises; and issued photographs of the refurbished facilities. He explained that there is also a licenced convenience store on the site and outlined the types of events that would take place in the hospitality centre. Mr Hassard highlighted that there is a strong desire to relax the access arrangements for children and young people, and stressed that this is a family focused holiday park with strict internal rules.

Insp Harborow referred to the letter from Police Scotland dated 14 February 2018 and was satisfied with the clarification Mr Hassard provided about the delineation in the bar area in respect of children and young persons.

Ms Oldcorn, referred to the written representation from NHS Lothian, adding that it was not appropriate for children and young persons to have repeated, late-hours exposure to alcohol. She expressed concern that the later the hour, the greater is the likelihood that parents will be intoxicated; commenting that the representation is more concerned about children than young persons.

Members debated the application at length, with Councillor McGinn raising concern about the extent of the increase in the terminal hour, despite the premises being well-run.

Mr Nicholas stressed that there is zero tolerance towards anti-social behaviour and outlined the measures that are in place to deal with any such issues; confirmed that SIA approved door stewards are employed on the premises; explained the areas where children's entertainment takes place, along with the hours that this is provided; assured members that patrons cannot move between the public areas and the swimming pool; advised that the gaming machines are available from 9 am, and that children have access to the gaming arcade; and provided a breakdown of the numbers of owners, hire fleet and touring caravans that are on-site, with the vast majority being owners.

The Board adjourned in private to consider the application.

On reconvening, Councillor Dugdale thanked everyone for their contributions, which had been carefully considered. She reported that the Board unanimously agreed to grant the application subject to the undernoted conditions, in order to protect children from harm.

#### **Decision**

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

- i. Children under the age of 16 years can enter licenced areas of the premises, up to a terminal hour of midnight
- ii. The off-sales of alcohol to be priced at an identical level to the on-sale alcohol prices

#### **4. PERSONAL LICENCE Mei Mei Ni**

Ms Mei Mei Ni was present.

The Clerk advised that objections had been received from Police Scotland that were not in the public domain. The applicant confirmed that she had seen the report from Police Scotland.

Insp Harborow advised the Board that there is a pending case in relation to the applicant and requested that the application be refused on the grounds of preventing crime and disorder. He stressed that there should be no conversation about the pending case as that could be prejudicial to proceedings, and advised that no court date had yet been set.

The applicant stated that she considered that situation to be unfair as the incident was three years ago and she is still waiting on an outcome.

In response to Councillor McGinn, Insp Harborow advised that in the past, the Board has refused to consider an application until the outcome of the court case is known. He added that he could not anticipate the timescale as to when the case would be heard in court.

Councillor McGinn indicated he felt uncomfortable making a decision today; Councillor Henderson was of the view that the Board should await the outcome of the court case, a view shared by Councillor Bruce; and Councillor Dugdale suggested that it was not possible to make a decision today.

The Board adjourned in private to consider the application.

On reconvening, Councillor Dugdale thanked everyone for their contributions, stating that this is a difficult situation for the applicant and for the Board. She advised, that in the circumstances, the Board would continue the application.

The Clerk informed members and the applicant that the application would be reviewed in six months' time. She requested that the applicant inform the Licensing Office staff if she becomes aware before then that the charges are not proceeding.

#### **Decision**

East Lothian Licensing Board agreed to continue the application for six months.

### **5. PREMISE LICENCE APPLICATION FEES – PROPOSED INCREASE**

The Clerk presented a report, seeking approval from the Board, to increase the fees for applications for premises licences. She explained the background to the current fee levels; outlined the proposed new fees; and highlighted the need to cover all related administrative costs through fee income.

Ms Oldcorn, speaking as a member of East Lothian Licensing Forum (the Forum), noted that there is no change to the fee level for occasional alcohol licences. The Clerk informed members that the fee amount, of £10, is set by statute. Ms Oldcorn advised that the Forum had recently written to Scottish Government to continue their lobbying to have this fee level increased.

#### **Decision**

East Lothian Licensing Board agreed that, effective from 22 March 2018, the premises licence application fees should be set at the maximum amount specified in The Licensing (Fees) Scotland Regulations 2007 (553) ("the Regulations") as specified in section 3.3 of the report, rather than at 75% of that figure as is currently charged.

Signed .....

Councillor Fiona Dugdale  
Convener of East Lothian Licensing Board