



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

**THURSDAY 26 APRIL 2018  
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

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**Board Members Present:**

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

**Clerk of the Licensing Board:**

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

**Attending:**

Ms G Herkes, Licensing Officer  
Ms C Shiel, Licensing Officer  
PC H Bowsher, Police Scotland  
Ms E Oldcorn, NHS Lothian

**Committee Clerk:**

Ms J Totney, Team Manager – Democratic Services

**Apologies:**

Councillor C McGinn

**Declarations of Interest:**

None

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

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

**2 MAJOR VARIATION OF PREMISES LICENCE**

**2a Iceland Food Ltd, Newhailes Road, Newhailes, Musselburgh**

The Clerk advised that the application seeks to increase the off-sales area from 6.62m<sup>2</sup> to 15.4m<sup>2</sup>; vary the licensing hours, Monday-Sunday, from 10 am – 8 pm to 10 am to

10 pm; allow for the sale of groceries and other non-food items (alcohol only within core hours) in and outwith core hours; permit home delivery and ecommerce services; and shall use the premises to launch new products, product sampling and food tasting events.

She reported that there are no objections from Police Scotland, the Licensing Standards Officer (LSO) or members of the public.

Mr N Hassard, TLT LLP, was present to represent the applicant. MR R Hayes, Licensing Manager, Iceland Food Ltd, and Mr D O'Brien, Area Manager, Iceland Food Ltd, were also present.

Mr Hassard provided detailed information on the background to the store refurbishment and tabled literature about the new-look store. He highlighted the fact that there would be the introduction of premium foods, wines and spirits; an additional six jobs would be created; CCTV would be enhanced; bottle tagging and other security measures would be introduced; spirits would be kept in a locked cabinet; advised that the theft of alcohol from the store is very low; and pointed out that the increase in the alcohol display area is not hugely significant in the context of the size of the overall store.

In response to Councillor Henderson, Mr Hassard advised that there will only be a limited range of spirits on sale. He added that one of the reasons behind the refurbishment/new stock lines is to appeal to additional customers who would not typically shop at Iceland.

PC Bowsher referred to the letter from Police Scotland dated 5 March 2018. In addition, she expressed concerns that a member of the management at the store had previously mentioned to her that there is a high incidence of alcohol theft, but it is not reported to the Police. She urged that all thefts of alcohol are reported to the Police. She remarked that at one of the proposed check-outs, the operator would have their back to the alcohol display, and noted that it would be preferable if this were not the case; a point that was echoed by Councillor Henderson.

Ms E Oldcorn, NHS Lothian, referred to the letter in the Board papers and referred to the Board's over provision statement.

The LSO referred to his report dated 2 March 2018. He mentioned the increasing level of alcohol and premium food thefts from supermarkets and stressed that layout plans in future need to satisfactorily prevent crime and disorder, especially given the imminent increase in the minimum pricing for alcohol. He had no objection to the increase in the alcohol display area.

In response to Councillors Dugdale and McMillan, Mr Hassard provided information on the layout and monitoring of the CCTV cameras; explained the crime prevention measures that would be put in place; stated that there would be an increase in the number of different alcohol products, including premium products that would be stocked; and confirmed that Challenge 25 and other notices would be appropriately displayed.

Responding to a question from Councillor Goodfellow, the Clerk advised that if it is a condition of a premises licence that all alcohol thefts are reported to the Police, a licence could be called for review if it is found that such reporting is not carried out.

## **Decision**

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

- that CCTV should cover the whole alcohol display area
- that all spirits are to be stored in a locked cabinet
- that the nearest checkout to the alcohol display area is to be configured so that the operator faces that area

### **2b Lockett Bros, 133 High Street, North Berwick**

The Clerk advised that the application seeks to change the premises from off-sales only to include on-sales; on sales to be to groups of 20 persons; to add children and young persons; include the facility for clubs, group meetings, and talks; information and tasting of specialist gin, whisky and wine societies; include live entertainment to allow for solo music artists or duets at small local events such as Fringe by the Sea.

She reported that no public objections had been received and that there are no objections from Police Scotland or the LSO.

Mr C Lockett, applicant, was present. He provided Board members with extensive information on his plans to diversify his business; stressed that the premises are primarily retail, and are not a bar; and outlined some options for designated spaces within the premises where alcohol tastings would take place.

Mr Lockett advised Councillor Henderson that there could be times when the retail shop is open and there are tastings taking place.

Councillor Goodfellow asked if the areas to be used for alcohol tastings could be delineated; however, Mr Lockett expressed a preference to remain flexible.

Ms Oldcorn sought clarification regarding access for children and young people. Mr Lockett advised that he would be agreeable to her suggestion to restrict pre-booked, chargeable alcohol tastings to over 18s only.

PC Bowsher echoed the comments made by Ms Oldcorn.

The LSO supported the unique business concept being proposed by this specialist retailer.

Councillor McMillan basically supported the application but sought more information on the amount of alcohol/measures that would be dispensed at the one-hour tastings; Mr Lockett provided the details requested and volunteered to cap the hours during which paid-for alcohol tastings would be available.

The LSO reminded the Board that the applicant is bound by the licensing objectives for both on and off sales of alcohol at the premises, and is therefore responsible for any overconsumption of alcohol.

Councillor Henderson supported the application and agreed that there should be no under 18s at the alcohol tasting events.

Councillor Goodfellow indicated he was tempted to support the application but had a minor concern at the lack of information about the use of the internal space for the alcohol tasting events. He suggested that the application might be adjourned to allow

the applicant to give this some thought and to provide an updated layout plan that would provide more detail.

Councillor Bruce asked if the application could be granted subject to an updated layout plan being submitted.

Councillor Dugdale stated that she would be agreeable to the suggestion made by Councillor Bruce.

### **Decision**

East Lothian Licensing Board unanimously agreed to grant the major licence variation subject to receipt of an updated layout plan, and subject to the condition that no under 18s are present at organised on sales alcohol events.

### **3 OCCASIONAL LICENCES**

**3a Joel Ghodke, Marquee, Broxmouth House Park, Dunbar, 28-29 April 2018**

**3b Joel Ghodke, Marquee, Broxmouth House Park, Dunbar, 4-6 May 2018**

**3c Joel Ghodke, Marquee, Broxmouth House Park, Dunbar, 12-13 May 2018**

The Clerk advised that several applications had been received for Occasional Licences.

She reported that no public objections had been received.

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

Mr Williams reminded members about the background to the continued applications for occasional licences. In particular he highlighted the issues in relation to planning issues and the delays, by all parties, in resolving these matters. He stated that the Council's planners are now satisfied that there is no material change of use of the house and that the planning department is likely to grant planning permission, albeit that the timescale for this is unknown. He advised that an application for a full premises licence will be submitted as soon as the planning permission is granted. He stated that there is a clear presumption for granting occasional licences and therefore there are no grounds for refusal of these applications.

Mr Flame tabled literature promoting the wedding venue. Councillor Henderson commented on the photographs that had been taken inside the house, and not in the marquee, and expressed some confusion about the obvious use of the house. Mr Flame assured the Board that the house would only be used for weddings in exceptional circumstances, such as bad weather; and that the Council's planning department has accepted this fact.

Councillor Goodfellow was satisfied with the response from Mr Flame regarding the change of personal licence holder to Mr J Ghodke, and acknowledged that Mr Ghodke would be present at all weddings.

PC Bowsher referred to the Police Scotland letter dated 28 March 2018. While there are no objections from Police Scotland, she reminded Board members about the comments they had made at their meeting on 28 September 2017.

There were no comments from the LSO.

Councillor Henderson commented that there is an element of trust, given that the planning application is still to be granted. It was therefore her view that the presumption to grant the licences should not be taken for granted. Mr Williams referred to the legislation that covers the presumption to grant, adding that the Board's Licensing Policy tempers this.

The Clerk advised Board members that further occasional licence applications are in the pipeline for forthcoming weddings. If the Board was minded to grant the applications before them today, she sought agreement that the decision on these forthcoming applications be delegated to her, as Clerk of the Licensing Board.

Mr Williams offered to provide an update on progress prior to the next occasional licence applications, which the Clerk could forward to Board members.

Councillor Henderson acknowledged the need to make a practical decision, but was uncomfortable given that planning permission had not yet been granted.

The Board members adjourned in private to debate the matter.

On reconvening, Councillor Dugdale advised that Board members had unanimously agreed to grant the occasional licences. The Board agreed that an update should be provided to the clerk on the progress of the planning application.

**Decision**

East Lothian Licensing Board agreed to grant the occasional licence applications and that the applicant's solicitor should provide an update on the progress of the planning application prior to the next Board meeting and that a decision on delegation of pending applications for occasional licences would be taken at that time.

*Sederunt: Councillor Goodfellow left the meeting.*

**4 LETTER FROM LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE – ALCOHOL LICENSING IN SCOTLAND**

The Clerk referred to the letter that had been received from the Scottish Government, welcoming views from Licensing Boards. She offered to produce a response on behalf of East Lothian Licensing Board, based on any contributions that Board members emailed to her.

Ms Oldcorn, as a representative of East Lothian Licensing Forum, mentioned that the Forum had not received this letter. She offered to send the letter to Forum members and collate responses. The Clerk undertook to organise this.

**Decision**

East Lothian Licensing Board agreed that members should email the Clerk with any comments and the Clerk would compile a response to be sent to the Scottish Government.

Signed .....

Councillor Fiona Dugdale  
Convener of East Lothian Licensing Board