



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

**THURSDAY 24 MAY 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:**

Mr C Grilli, Service Manager – Legal and Procurement  
Ms M Winter, Licensing Officer  
Ms C Shiel, Licensing Officer  
Mr R Fruzynski, Licensing Standards Officer  
Insp A Harborow, Police Scotland  
PC H Bowsher, Police Scotland

### **Committee Clerk:**

Ms J Totney, Team Manager – Democratic and Licensing

### **Apologies:**

Councillor C McGinn

### **Declarations of Interest:**

None

### **1 MINUTES FOR APPROVAL – 26 April 2018**

The minutes of the East Lothian Licensing Board meeting of 26 April were approved as a true record.

**2 PROVISIONAL PREMISES LICENCE  
Winton Brewery Ltd, 48 Limekilns, Pencaitland**

The Clerk advised that the application is in respect of internet sales; that there are no public objections; and that the Licensing Standards Officer (LSO) has proposed some conditions, should the licence be granted.

Mr S Holligan, co-owner, was present to represent the applicant. He explained that the premises are used solely for the storage of a small amount of beer for internet sales, and answered questions from Board members about the premises and the business. In particular, he pointed out that there is age verification/Challenge 25 in relation to alcohol deliveries and that he personally makes these deliveries. He indicated that in time there might be third party deliveries.

Insp Harborow referred to the Police Scotland letter dated 17 April 2018 and confirmed that there are no objections from Police Scotland. He added that he is in agreement with the conditions suggested by the LSO.

The LSO referred to his report dated 4 May 2018 and advised members that he had visited the property. Supporting the application, he added that the applicant has agreed to his proposed conditions.

**Decision**

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

- i. The internet sales system must verify by declaration that the purchaser is 18 years of age or older before accepting any order.
- ii. The Licence Holder to ensure that delivery staff are trained to the standard prescribed in the Licensing (Training and Staff) Regulations 2007 and the requirements of the Licensing (Scotland) Act 2005, section 119, in respect of delivery of alcohol from vehicles.
- iii. No alcohol to be left at any address where there is no person to receive it.

**3 PREMISE LICENCE REVIEW  
3a Macmerry Miners Welfare Society & Social Club, 13c Main Road,  
Macmerry**

The Clerk advised that the review hearing is in response to a request from Police Scotland. She reminded members that the premise licence had been reviewed by the Board at their meeting in February 2018, at which time additional conditions were placed on the licence.

Mr J Fortune, Chairman, and Ms J Young, Vice-Chairman, were present to represent Macmerry Miners Welfare Society & Social Club (the club).

Insp Harborow read from the Police Scotland letter dated 17 April 2018. He highlighted the additional conditions that were added to the licence on 22 February 2018, which had not been adhered to. He detailed the concerning circumstances of 24 March 2018 that had resulted in the request for today's review.

The LSO referred to his brief report of 3 May 2018 and reported that there had been no contact between him and the club since the February Board meeting. However, subsequent to producing his report, there had been a positive meeting on 15 May with

the new designated premises manager. He reported that although CCTV and staff training records are now in place, there are no drugs use or dispersal policies on file.

Mr Fortune provided background information on the rescheduled 18<sup>th</sup>/21<sup>st</sup> birthday function of 24 March and took full responsibility for the lack of re-notification, to Police Scotland, and the lack of SIA door stewards. He advised members about the remedial steps that had been put in place since 24 March and confirmed that the policies have not yet been written.

In response to a question from Councillor Henderson, PC Bowsher stated that the club had failed to notify her about a few 18<sup>th</sup>/21<sup>st</sup> birthday functions.

The Clerk clarified to Councillor McMillan that while a personal licence holder must be present on the premises at these 18<sup>th</sup>/21<sup>st</sup> birthday functions, there is no requirement for that person to be the designated premises manager.

PC Bowsher commented on the general lack of a personal licence holder being present when she has visited the premises. She acknowledged that there had been no 18<sup>th</sup>/21<sup>st</sup> birthday functions since the new designated premises manager had been recently appointed.

The LSO advised that the new designated premises manager lives locally and is taking a pro-active role in the day-to-day running of the club.

Answering a point raised by Councillor Bruce, Mr Fortune confirmed that further supplies of wristbands were due to be delivered and that a 'stamp' system had been introduced for those attending 18<sup>th</sup> and 21<sup>st</sup> birthday parties.

The Board adjourned to debate the matter in private.

On reconvening, Councillor Dugdale, Convener of East Lothian Licensing Board, advised that all the contributions had been carefully considered. She stated that the Board appreciated the efforts that were being made to promote the licencing objectives. However, the Board had unanimously agreed that a written warning be placed on the premises licence. She encouraged the club to seek the support of Police Scotland and the LSO in implementing and maintaining the conditions that were recently placed on the premises licence. Insp Harborow indicated that he would be happy to support the club in these matters.

The Clerk advised that the written warning would be issued to the club and would remain on the premises licence for five years. She advised that if there is a further review of the premises licence, the Board would take the written warning into account.

### **Decision**

East Lothian Licensing Board unanimously agreed to place a written warning on the premises licence.

#### **PREMISE LICENCE REVIEW**

**3b The Masons Arms, 8 High Street, Belhaven, Dunbar**

#### **4 PERSONAL LICENCE REVIEW**

**Christopher Darling**

The Clerk advised that items 3b and 4 would be taken together.

Mr C Darling was present.

Insp Harborow read from the Police Scotland letter of 18 April 2018 and highlighted the incident and serious offences on 31 March 2018 that had resulted in the premises licence review request. He reported that he understood that the lease of the premises to Mr Darling had been terminated by the company who own the Masons Arms, and asked the Board to consider revoking the premises licence. He stressed his concerns about the outdated conditions that were on the premises licence and the fact that the operating plan is not being adhered to. However, he suggested that the premise's owners may wish to attend a future Board meeting to represent themselves.

Responding to Councillor Goodfellow, Insp Harborow advised that the matters in relation to the offences are still pending with the Procurator Fiscal as there is still significant forensic work to be done; and answered questions on drugs related matters contained in the Police Scotland report.

PC Bowsher confirmed that she is aware that the premises are closed until further notice.

Mr Darling explained to Councillor Henderson that there is residential flat above the premises which has been vacant since 2015; that the flat is primarily used for storage; and that the flat had been used briefly by one of the premise's staff. He answered questions from Insp Harborow about the residential address and telephone number he had given to the CID.

The LSO referred to his report of 3 May 2018. He explained that historically he had a good working relationship with Mr Darling and that he had lengthy discussions with Mr Darling earlier in the year regarding the need to bring the premises licence up to date by way of major variations. He added that he considered some of Mr Darling's management skills to be questionable, and reported that Mr Darling had been late in paying the annual premises licence fee on four occasions. The LSO informed members that when he visited the premises on 1 May 2018, Mr Darling had been very rude and unhelpful; accusing the LSO of lying to him. The LSO added that Mr Darling's tenancy had been cancelled on 15 May and that the premises are not currently operating, although it is the owner's intention to re-open, dependant on the Board's determination today.

Insp Harborow referred to the further report from Police Scotland dated 21 April 2018 and sought for the Board to revoke Mr Darling's personal licence.

Mr Darling acknowledged that he had been rude to the LSO and apologised for his behaviour; however, he denied that he called the LSO a liar. He advised members that he had decided to withdraw his lease from the premises and had left on his own terms. He pointed out to the Board that he had been at the premises for five years during which time there had been no previous incidents. He admitted to all of the details as reported by Police Scotland; acknowledged his bad judgement on 31 March 2018; and accepted the seriousness of the incident on that occasion. Although he had made his decision to leave the premises, he urged the Board to permit him to keep his personal licence.

The Board adjourned in private to debate the matter.

On reconvening, the Convener advised that items 3b and 4 had been considered together, and that all contributions had been taken into account. She advised that it had been agreed to continue the review of the premises licence until the next Board meeting, on the expectation that the premises owner would attend. With regard to Mr Darling's personal licence, she stated that the events of 31 March 2018 breached the licensing objectives of preventing crime and disorder, securing public safety, and

protecting children from harm. As a result, the Board did not feel that Mr Darling was a fit and proper person to hold a personal licence.

**Decision**

East Lothian Licensing Board unanimously agreed to revoke Mr Darling's personal licence.

**CONSULTATION ON GAMBLING ACT**

The Clerk introduced an additional item. She advised that an email had been received from the Gambling Commission regarding an update on the consultation on the Gambling Act. She provided members with information on the key changes, most notably that the maximum stake for fixed odds gaming machines would be reduced from £100 to £2, and that there would be increased player protections. She undertook to keep members advised with implementation dates for the changes.

**Decision**

East Lothian Licensing Board note the verbal update.

Signed .....

Councillor Fiona Dugdale  
Convener of East Lothian Licensing Board