



MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

**THURSDAY 28 JUNE 2018
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON**

Board Members Present:

Councillor F Dugdale (Convener)
Councillor L Bruce
Councillor J Henderson
Councillor J Goodfellow (from item 3)
Councillor C McGinn

Clerk of the Licensing Board:

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

Attending:

Mr R Fruzynski, Licensing Standards Officer
Ms G Herkes, Licensing Officer
Ms S McQueen, Planner
Insp A Harborow, Police Scotland
Mr A Collins, Alcohol Focus Scotland
Ms N Merrin, Alcohol Focus Scotland
Mr G Hood, Convenor of East Lothian Licensing Forum (from item 3)

Committee Clerk:

Ms J Totney, Team Manager – Democratic and Licensing

Apologies:

Councillor J McMillan

Declarations of Interest:

None

ADDITIONAL BUSINESS

Scottish Open Golf Championship

The Convener read out the following statement in respect of a licensing extension for the Scottish Open Golf Championship.

In terms of Section 67 of the Licensing (Scotland) Act 2005, the Board has determined that it is appropriate to grant a general extension of licensed hours for the Scottish Open Championship 2018. This extension will apply from Monday 9 to Sunday 16 July 2018, inclusive, and will allow an extension of the terminal hours for the sale of alcohol until 1am. This extension will only apply to on-sales and not to off-sales of alcohol. There will be no general extensions beyond this although any applications for extended hours outwith the general extension will be considered on a case-by-case basis. It should be noted that such applications will require to be submitted no later than Monday 1 July 2018. There is no need for licensees to apply for the general extension to 1am. On sale premises can utilise these hours to the extent they consider appropriate.

Marquee and Stately Home, Broxmouth House, Broxmouth Park, Dunbar

The Convener invited Stephanie McQueen, Planner, East Lothian Council, to update the Board regarding the planning application for Broxmouth House. Ms McQueen reminded members that Planning Department had been trying to establish if there is a material change of use of Broxmouth House. She advised that following a lot of contact with the owner's agent, Planning Department thought they had reached a position on how the house was being used and did not consider that to be a material change of use. However, after the Board meeting in April 2018, she had been given a copy of the publicity brochure for Broxmouth House, the content of which conflicted with the information she had been given as part of the planning application; there was also conflicting information on social media. Ms McQueen stated that the content of the brochure and social media posts would change the way that Planning Department would consider if there has been a change of use of Broxmouth House. She informed members that the situation is back in limbo, pending responses from the owner and/or his agents.

Councillor McGinn wondered if the Board could insist that the owner attend the next Board meeting. He also commented that the applicant is pushing boundaries and taking risks with young people's weddings. The Clerk reminded members that there is a new applicant/personal licence holder who attended the last Board meeting.

The Clerk advised members that a number of occasional licence applications are pending and enquired if the Board is minded to ask the owner of Broxmouth House to attend the Board meeting in August. Gillian Herkes, Licensing Officer, pointed out that there are three occasional licence applications for dates prior to the August Board meeting.

Decision

East Lothian Licensing Board agreed:

- i. to delegate to the Clerk of the Licensing Board, the granting of the three occasional licenses for dates prior to 23 August 2018
- ii. that all other outstanding occasional licence applications be brought to the August meeting of East Lothian Licensing Board

1 MINUTES FOR APPROVAL – 24 May 2018

The minutes of the East Lothian Licensing Board meeting of 24 May were approved as a true record.

**2. MAJOR VARIATION OF PREMISES LICENCE
New Pheasant (Formerly Jo's Kitchen), 73 Market Street, Haddington**

The Clerk advised that the application seeks to vary the operating plan to change the premises from a bistro to a public bar; bar meals not to be provided outwith core hours; the addition of films and gaming (gaming machine); indoor/outdoor sports by way of darts and pool; televised sport will sometimes be shown from 9am – ie Open Golf; increase capacity from 50 to 100 persons; and change the premises name to New Pheasant. She informed the Board that two public objections had been received (no objectors were in attendance); two letters of support had been submitted; and that Police Scotland has recommended attaching conditions if the application is approved.

Mr N Hassard, TLT Solicitors, was present to represent the applicant. Mr M Peters, applicant, was also present.

Mr Hassard provided an overview of the variations that are being sought and informed members that Mr Peters currently runs a successful neighbouring public house (The Gardeners' Arms) in Haddington. He added that Mr Peters now wishes to have his own venture rather than just a lease; reported the flatted properties about the premises are well soundproofed; addressed the points raised in the letters of objection; noted that there are no representations from NHS Scotland; accepted the recommendations from Police Scotland in respect of children and young persons; and informed members that CCTV would be installed and maintained covering both the inside and outside of the premises. However, with regard to the recommendation from Police Scotland that the terminal hour for the outside drinking area be 20.00hrs, he sought to retain this at 21.00hrs, in line with the Gardeners' Arms public house next door.

In response to a question from the Convener, Mr Hassard advised that his client was looking at how best to manage smokers and plans to create a delineated area at the front of the building.

The LSO complimented Mr Peters on the way he is running his current premises and supported the application.

Insp Harborow referred to the letter from Police Scotland dated 15 May 2018 and explained the reasons for requesting a terminal hour of 20.00 hrs for the outside drinking area.

Decision

East Lothian Licensing Board unanimously agreed to grant the major variations to the licence, including a terminal hour of 21.00 hrs for the outside drinking area, subject to the following conditions:

- i. Children and young persons must be accompanied at all times by a responsible parent or guardian whilst within the premises
- ii. Children must vacate the premises by 20.00hrs 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
- iii. Young persons must vacate the premises by 22.00hrs

The exception to these conditions would be if children and young persons were attending a private function, then they could stay for the duration of that private function.

3 PREMISE LICENCE REVIEW

3a The Masons Arms, 8 High Street, Belhaven, Dunbar

3b Application for Transfer of Premises Licence, The Masons Arms, 8 High Street, Belhaven, Dunbar

The Clerk advised that this item has been continued from the May 2018 meeting of East Lothian Licensing Board; that items 3a and 3b would be dealt with together. She reminded members that the previous personal licence holder's licence had been revoked.

Mr J Hughes, applicant, Scotcan Catering Ltd, was present. He explained that he is the prospective lessee of the The Masons Arms and has an option to purchase the premises in five years' time. He stated that the premises are currently closed and that he intends to modernise the operating plan by submitting an application for a major variation to the premises licence; he also outlined his plans for upgrading the premises.

The LSO advised that he regarded the transfer of the licence to Mr Hughes to be competent. He added that Mr Hughes has been the licensee at Dunbar Golf Club for a number of years and that he supported the application.

Insp Harborow referred to the Police Scotland letters dated 18 April 2018 and 12 June 2018 and stated that given the licence transfer application and the applicant's experience, there is no longer a call for the premises licence to be cancelled.

Answering a question from Councillor Henderson, Mr Hughes provided details of his experience in the licensed trade.

The Board adjourned in private to debate these items. On reconvening, the Convener advised that it was no longer necessary to review the premises licence as the grounds of failure to meet the licensing objectives no longer exist. She communicated that the Board is happy to grant the transfer of the premises licence.

Decision

East Lothian Licensing Board unanimously agreed:

- i. that there is no longer a requirement to review the premises licence
- ii. to transfer the premises licence to Mr J Hughes, Scotcan Catering Ltd

ADDITIONAL BUSINESS

SOLAR (Society of Local Authority Lawyers and Administrators in Scotland) Briefing Note – Personal Licence Renewals.

The Clerk alerted members to potential problems for Licensing Boards regarding the renewal of personal licences at the end of August 2019. She explained that, as yet, Scottish Government has not set a fee for renewals and that applications cannot therefore be processed. She advised that SOLAR is asking Chief Executives to write to the Cabinet Minister urging that regulations are issued in order that applications can be processed. She made members aware that if a licence renewal is not processed in time, people will not be able to continue as designated premises managers and there is the danger that businesses will close. The Clerk also informed the Board about the potential requirement for face to face interviews to be carried out, under the Immigration Act, to check that every personal licence holder has the right to work in the UK. If implemented, these checks would have huge resource implications.

Decision

East Lothian Licensing Board unanimously agreed that the Clerk of the Licensing Board should write to the Scottish Government on behalf of the Board.

4. ALCOHOL FOCUS SCOTLAND (AFS) - CRESH (Centre for Research on Environment, Society and Health) REPORT, EAST LOTHIAN

Aidan Collins and Nicola Merrin, Alcohol Focus Scotland, were present to deliver the CRESH research for East Lothian.

Mr Collins focused on local findings and the need for public engagement, and linked the research to the Board’s Statement of Licensing Policy which is currently being prepared for the period October 2018 – 2023. He advised that AFS would formally respond to East Lothian’s consultation on their revised Statement of Licensing Policy. He advised that overprovision decisions should be evidence based but that local knowledge carries equal weight, and asked the Board to be mindful of both on-sales and off-sales overprovision.

Ms Merrin tabled copies of the local profile and referred to the Licensing Resource Pack. She reported that the availability of alcohol is a key driver of health and social harm; explained that the profiles had been updated in April 2018; and showed worked examples of the local profile web maps which can be downloaded and manipulated to provide statistics for local neighbourhoods.

Councillor Goodfellow suggested that alcohol related crime statistics are added into the local profile.

Councillor Dugdale asked about the link with treatment centres and support for mental health. Ms Merrin commented that it is important for members to understand the local context and stressed the benefit of using CREST data and local knowledge when making decisions.

Mr Collins responded to Councillor Henderson by advising that Licensing Solicitors have access to the CREST data. Ms Merrin advised Councillor Henderson that all the statistics relate to adults.

Mr Collins and Ms reminded members that the Licensing Resource Packs contain a lot of useful information.

Councillor Henderson remarked that the presentation had been extremely helpful.

Signed

Councillor Fiona Dugdale
Convener of East Lothian Licensing Board