

EAST LOTHIAN

Meeting 28 November 2019 at 10:00am in Council Chambers, Town House, Haddington

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises	Applicant	Date Received	Comments
4 MUSS - BAR & KITCHEN (FORMERLY HABANEROS) 83 HIGH STREET MUSSELBURGH EAST LOTHIAN EH21 7DA	PUNCH PARTNERSHIPS (PTL) LIMITED C/O FLINT BISHOP SOLICITORS ST MICHAELS COURT ST MICHAELS LANE DERBY	17 October 2019	Vary the terminal hour from 12 Midnight to 1am on a Thursday, include conference, receptions, club group meetings, films, outdoor drinking outwith core hours. Permit children from 8am to 10pm daily, unless attending a private function when can remain until end of function and permit young persons from 8am until end of core hours. Amend Layout plan to reposition internal bar, modify internal fixed seating, increase size kitchen, remove external fence to allow rear external drinking area to be extended, creation of covered timber

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

EL0105

2(b) Name and Address of Premises

Habaneros (TBK Muss – Bar & Kitchen)
83 High Street
Musselburgh
East Lothian

Post Code EH21 7DA

Phone No.

2(c) Full Name and Address of Current Licence Holder

Punch Partnerships (PTL) Limited
Elsley Court
20-22 Great Titchfield Street
London

Post Code W1W 8BE

Phone No.

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)

1. Q2 – Extend the terminal hour for on sales on Thursday to 01.00 the following day
 2. Q5(a) – Permit conference facilities during and outwith core hours
 3. Q5(b) – Permit receptions and club or other group meetings etc. outwith core hours
 4. Q5(c) – Permit films during and outwith core hours
 5. Q5(d) – Permit outdoor drinking facilities outwith core hours
 6. Q6(d) – Permit children from 8am to 22.00 daily, unless attending a pre-arranged function when they can remain until the end of the function. Permit young persons from 8am until the end of core hours for on sales

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.

Amend the Layout Plan in accordance with drawing number LIC 001 dated September 2019 which accompanies this application. The proposed changes to the layout are:-

- Repositioning of internal bar servery
 - Modification of internal fixed seating
 - Increase size of existing kitchen
 - Removal of existing external fence to allow for the rear external drinking area to be extended
 - Creation of covered timber pergola in rear external drinking area with pop up servery units for the sale of alcohol to be positioned underneath when in use and then dismantled/stored in the rear storage area
 - Creation of designated smoking area in the rear external drinking area

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)

To change the name of the premises as shown on the Premises Licence to “Muss - Bar & Kitchen”

To amend the description of the premises to “Modern family friendly community premises with food and drinks offering”

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 **£170** (see note 4 below)

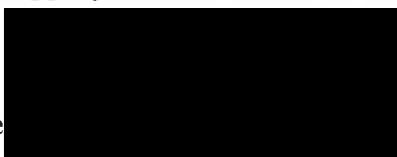
If submitted with an application for transfer, please specify the order in which the applications are to be considered-

- 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 enclosed.

Signature 

..... (See note 5 below)

Date 15th October 2019

Capacity: AGENT (delete as appropriate)

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

George Domleo, Flint Bishop LLP, St Michael's Court, St Michael's Lane, Derby, DE1 3HQ
01332 226192, George.domleo@flintbishop.co.uk

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.

HABANEROS (TBK Muss – Bar & Kitchen)
83 HIGH STREET
MIUSSELBURGH
EH21 7DA

Question 1

STATEMENT REGARDING ALCOHOL BEING SOLD ON PREMISES/OFF PREMISES OR BOTH

<i>I(a) Will alcohol be sold for consumption solely ON the premises?</i>	<i>NO</i>
<i>I(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<i>NO</i>
<i>I(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>	11:00	23:00
<i>Tuesday</i>	11:00	23:00
<i>Wednesday</i>	11:00	23:00
<i>Thursday</i>	11:00	01:00
<i>Friday</i>	11:00	01:00
<i>Saturday</i>	11:00	01:00
<i>Sunday</i>	11:00	Midnight

Question 3

STATEMENT OF **CORE** TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION **OFF** PREMISES

Day	OFF Consumption	
	Opening time	Terminal hour
Monday	11:00	22:00
Tuesday	11:00	22:00
Wednesday	11:00	22:00
Thursday	11:00	22:00
Friday	11:00	22:00
Saturday	11:00	22:00
Sunday	11:00	22:00

Question 4

SEASONAL VARIATIONS

Does the applicant intend to operate according to seasonal demand	YES
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*If YES – provide details

WE WOULD SEEK TO TAKE ADVANTAGE OF ANY GENERAL EXTENSIONS ALLOWED BY THE BOARD
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Question 5

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

COL. 1 5(a) Activity	COL. 2 Please confirm YES/NO	COL. 3 To be provided during core licensed hours – please confirm YES/NO	COL. 4 Where activities are also to be provided outwith core licensed hours please confirm YES/NO
Accommodation	NO	N/A	N/A
Conference facilities	YES	YES	YES
Restaurant facilities	YES	YES	YES
Bar meals	YES	YES	YES

5(b) Activity <i>Social functions including:</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>Receptions including Weddings, funerals, birthdays, retirements etc.</i>	YES	YES	YES
<i>Club or other group meetings etc.</i>	YES	YES	YES
5(c) Activity <i>Entertainment including:</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>Recorded music – see 5(g)</i>	YES	YES	YES
<i>Live performances – see 5(g)</i>	YES	YES	YES
<i>Dance facilities</i>	NO	NO	NO
<i>Theatre</i>	NO	NO	NO
<i>Films</i>	YES	YES	YES
<i>Gaming</i>	YES	YES	NO
<i>Indoor/outdoor sports</i>	YES	YES	NO
<i>Televised sport</i>	YES	YES	YES
5(d) Activity	<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>	YES	YES	YES
5(e) Activity	<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/SERVICES WILL CONTINUE DURING THE EXTENSIONS SOUGHT IN QUESTION 4.

THE PREMISES MAY OPEN OUTWITH CORE LICENSED HOURS FOR THE PROVISION OF TEAS, COFFEES, BREAKFAST, MEALS AND TAKEAWAY. THE PREMISES MAY BE USED FOR VARIOUS ACTIVITIES AS NOTED ABOVE PRIOR TO THE COMMENCEMENT OF CORE LICENSED HOURS.

DURING THIS TIME THE ACTIVITIES ABOVE MAY BE PROVIDED BUT NO ALCOHOL WILL BE SOLD OUTWITH THE CORE LICENSED HOURS

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.

CHARITY EVENTS, BUSINESS NETWORKING AND MEETING FACILITIES, COMMUNITY EVENTS AND MEETINGS, TASTINGS AND FOOD AND DRINK EVENTS, CULTURAL AND ARTISTIC DISPLAYS OR PERFORMANCES, SUPPER CLUB AND TAKEAWAY

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?	N/A
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When fully occupied, are there likely to be more customers standing than seated?	N/A
*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 AND YOUNG PERSONS WILL BE PERMITTED ACCESS

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

0 TO 17 YEARS

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

CHILDREN FROM 08.00 TO 22.00 DAILY, UNLESS ATTENDING A PRE-ARRANGED FUNCTION WHEN THEY CAN REMAIN UNTIL THE END OF THE FUNCTION.
YOUNG PERSONS FROM 8AM UNTIL THE END OF CORE HOURS FOR ON SALES.

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

ALL PARTS OF THE PREMISES TO WHICH THE PUBLIC HAVE ACCESS.

Question 7

CAPACITY OF PREMISES

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

ON SALES - 178

Question 8

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

Personal details

8(a) *Name*

MALCOLM BINNIE

8(b) *Date of birth*

[REDACTED]

8(c) *Contact address*

[REDACTED]

8(d) *Email address and telephone number*

[REDACTED]

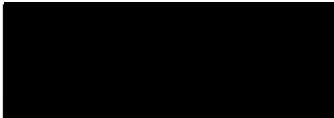
8(e) *Personal licence*

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
31 AUGUST 2009	FALKIRK COUNCIL	FC0685

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

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

The contents of this operating plan are true to the best of my knowledge and belief.

Signature ..  * (see note below)

Date15th October 2019.....

Capacity AGENT (delete as appropriate).

Telephone number and email address of signatory

George Domleo, Flint Bishop LLP, 
 George.domleo@flintbishop.co.uk

*** 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.

Supplementary Application Information

This information is required in relation to all Premises Licence/Provisional Licence applications or any application which is a Premises Licence Variation, not considered to be a Minor Variation.

Application submissions generally tend to be insufficiently detailed as to provide a complete picture of what businesses propose to provide the public. Therefore, Licensing Boards often have too little information, in advance of Board hearings, to fully appreciate what is being applied for. This situation often leads to numerous unnecessary objections and representation being made due to interested parties, such as neighbouring residents, not understanding what proposed activities really relate to i.e. What does Live Music actually mean and how will it impact on their lives. For these reasons, the Board has made a policy decision to require applicants to provide a fuller description of their business proposals and detail how the five licensing objectives will be met.

Business Profile

Premium stylish bar restaurant located in Musselburgh High Street with vibrant all day food offer and a landscaped area to the rear offering alfresco food and drink.

Fitted out to a very high standard, the facilities will attract a wide range of customers, including families, groups of residents and local workers, and visitors to East Lothian, to enjoy superb fresh food and an excellent choice of alcoholic & non alcoholic beverages.

Extensive menus to suit all types of diners, a full range of hot drinks (coffee & tea etc), as well as table service will be offered to all customers. There will be a warm welcome for disabled customers, seniors, and families of all ages.

In proximity to the bar, televised entertainment will be shown at the Licensee's discretion. Events, such as Quiz nights, which will attract local people, will be organised on a monthly basis.

The name of the premises is being changed to Muss – Bar & Kitchen to better reflect the image which we want to portray to the broad base of custom that we wish to attract.

(extend this box if you require additional space)

<p>On/Off Consumption</p> <p>(a) Please describe the type of business you intend to operate in respect of On consumption.</p> <p>(b) Please describe the type of business you intend to operate in respect of Off consumption & deliveries</p>	<p>a) <u>Food & Alcoholic & non Alcoholic Beverages</u></p> <p>a) <u>Alcoholic Beverages at core hours</u></p>
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Clarification is required in relation to the content of your proposed Operating Plan
(extend the boxes below if you require additional space)

To what extent do you intend to use any of the following: Accommodation; Conference Facilities; Restaurant Facilities; Bar Meals:

Restaurant Facilities & Bar Meals – Full Time
Meeting/Receptions/Small Conferences facilities – Full Time

Social Functions – Weddings; Birthdays; Retirements ; Other - If you intend to provide for any of these functions please describe the nature and extent and likely frequency of each:

Birthdays & other (Family) Celebrations – Regularly (Weekly)
Retirements – as above
Work get togethers – informal meetings
Group/Club/Community activities /meetings – as above
Small Wedding celebrations – as required

All group functions will be at The Licensee's discretion

Entertainment – Recorded Music; Live Performances; Dance Facilities; Theatre; Films; Gaming;

Indoor/outdoor sports; Televised Sport - If you intend to provide for any of these facilities please describe the nature and extent and likely frequency of each:

In proximity to the bar, televised entertainment will be shown at the Licensee's discretion. Events, such as Quiz nights, which will attract local people, will be organized on a monthly basis.

Entertainment – suitable for the ambience of the re-furbished premises – will be organised as appropriate (likely to be at weekends), and at the Licensee's discretion.

Finally, there will be suitable background music, the level of which will be controlled from behind the main bar service area, by senior staff members.

Outdoor Drinking Facilities - If you intend to provide outdoor drinking facilities please describe where and what the facilities will be used for. You will also be required to provide a statement in the objectives section how you intend to prevent public nuisance from use of such facilities:

The beer garden area is clearly defined and enclosed and is visible from proposed external bar. There will be waitress service for both food and drink. The external area will be covered by CCTV.

Adult Entertainment – If you intend to provide any entertainment of a sexual nature please state the type and likely frequency if use. Adult entertainment is any form of sexual stimulation and includes adult humour or explicit language. The Board will also expect you to address the objective of preventing harm to children and young persons:

It isn't happening! N/A

Activities Outwith Licensed Core Hours - In your Operating Plan, directly below question 5(e), you should have given details of any activity that will be provided outwith core licensed hours. If you wish you can expand on your explanation here:

Food & non alcoholic beverages will be available outside core hours, as per the Operating Plan

Any Other Activities - In your Operating Plan at 5(f) you should have given details of any other type of activity you are likely to cater for. It would be useful to give an indication of the extent and frequency of such events:

N/A

Children and Young Persons – If you intend to provide access for children and young persons on the premises please provide details of what facilities you have on the premises in respect of different age groups. In addition, please state where and what baby changing facilities will be provided for children under five years.

We have a separate Disabled Toilet, which has Baby changing facilities.

There will be high chairs for families who want to use them

There will also be a children's size portions (small plates)

We are keen to accommodate families of all ages.

Licensing Objectives - Please provide details below of how you will ensure that the 5 Licensing Objectives are complied with. It may be helpful in answering this section if you refer to the East Lothian Council Licensing Board's 'Statement of Licensing Policy, which can be found at the following link or the Council website [policy link](#)

(extend the boxes below if you require additional space)

Preventing Crime and Disorder:

1/ Take all reasonable measures to prevent use of illegal substances by displaying notices and supervising toilets regularly

2/ All staff trained in Challenge 25 Policies. Heineken (Star Pubs) has a Mystery Visitor programme to test compliance

- 3/ CCTV will be in operation both inside and outside the premises
- 4/ Full staff training in all licensing legislation, particularly not serving those who are intoxicated.
- 5/ A Refusal Book will be in operation. Also, an Incident Book
- 6/ The Licensee will join the local Pub Watch scheme.
- 7/ All glasses will be regularly cleared from tables as part of the table service operation

Securing Public Safety:

All staff in the pub will be trained to supervise customer activity, including groups, so that behavior is orderly and well regulated. Staff will be aware of the premises capacity.

Preventing Public Nuisance:

CCTV will be in operation both inside and outside the premises.

A clearly designated smoking area to the rear of the premises will help prevent customers from smoking at the front, or near the main entrance. We will discourage the latter.

A full Fire Risk Assessment will be completed and Fire Safety training will be given to all staff. Notices about Fire Exits etc will be posted.

Disability access facilities will be clearly marked.

There will be notices at the main entrance to the premises to encourage customers to leave in an orderly manner.

All bins (including glass) will be emptied after 7.00am and before 11.00pm

Protecting and Improving Public Health:

Information will be available to all customers on lower risk drinking – including zero rated non alcoholic drinks

A wide range of non alcoholic hot & cold drinks will be available at all times

Measures will include 125ml wine and 25ml spirits

Staff will manage all areas of the premises to prevent over crowding

Last orders will be called in plenty of time to allow customers to finish their drinks on time

Bar staff training will focus on how to spot and deal with signs of intoxication

Protecting Children and Young Persons From Harm:

Children will not be allowed within 1.5 meters of the bar server

A full range of Hot & Cold drinks – including non sugary ones – will be available for children

Challenge 25 will be in full operation – Proof of ID either Passport, or Driving Licence

Customer's language will be monitored to prevent harm to children

A Refusal Book will record any incidents

Application Supporting Comments / Any Other Additional Information

(extend the boxes below if you require additional space)

Additional Information:

Supporting Comments: i.e. reasons why the Board should support your application.

The premises are being upgraded to a very high standard (spend circa 275k).

The facilities are being expanded to include a full food service, as well as a full bar operation (alcoholic & non alcoholic beverages), to attract a broad cross section of the local community; Seniors, Families, Visitors, Business people and Residents within the surrounding area.

Comfort, accessibility, full service, and the improved range of facilities will help put Muss Bar & Kitchen at the heart of Musselburgh town centre.

Finally, the Business Operator has over 10 years' experience of running licensed premises in Edinburgh, and is committed to providing a great quality operation in a stylish venue.

SIGNATURE AND DECLARATION BY APPLICANT

IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

(Criminal Law (Consolidation)(Scotland) Act 1995 Section 44(2)(b))

The contents of this Application are true to the best of my knowledge and belief.

Signature		Date	17/10/2019
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“SCHEDULE 6

Regulation 7

DISABLED ACCESS AND FACILITIES STATEMENT

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

Question 1

Disabled access and facilities

1(a)	Is there disabled access to the premises	YES
1(b)	Do you have facilities for those with a disability	YES
1(c)	Do you have any other provisions available to aid the use of the premises by disabled people	YES
<i>*Delete as appropriate</i>		

If you have answered Yes to any of the questions above please complete, as appropriate, the following sections.

Question 2

Disabled access to, from and within the premises

Please provide clear and detailed description of how accessible the premises are for disabled people. e.g. ramps, accessible floors, signage.

There will be access for Disabled customers at the Entrance

The whole premises is on one level to allow access to Disabled Toilets

There will be adequate space between tables for wheel chair access

There will be table service to assist service to Disabled customers

Question 3

Facilities available

Please describe in detail the facilities provided for disabled people. e.g. disabled toilets, lifts, accessible tables.

Disabled Toilets

Open areas – corridors have been removed – to allow wheel chair access

Question 4

Other provisions

Please provide details of any other provisions made to aid the use of the premises by disabled people. e.g. assistance dogs welcome, large print menus.

Guide Dogs allowed in all areas

Table service – staff will assist visually impaired customers with menus

Staff will be on hand to assist customers to their seats – if required

Table service for food & drinks

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

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


The contents of this disabled access and facilities statement are true to the best of my knowledge and belief.

Signature  * (see note below)

Date 17th October 2019.....

Capacity AGENT

Telephone number and email address of signatory.....

 and George.domleo@flintbishop.co.uk

*** 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.”

Winter, Maree

From: [REDACTED]
Sent: 08 November 2019 11:48
To: Licensing
Subject: Licensing (Scotland) Act 2005 - Muss Bar, 83 High Street, Musselburgh EH21 7DA

Dear Ms MacNeill

With reference to your letter of 18th October regarding the licensing hours at the proposed new bar Muss at 83 High Street, Musselburgh, I would like to put forward the following points.

[REDACTED] Musselburgh EH21 7QZ. My bedroom windows look out on to the proposed outside space to be used by the bar. Please note that a majority of the flats have bedrooms to the rear of the building. In the past, when this was used by a previous bar, the noise, fighting, screaming etc got out of hand and I think this is what resulted in the previous bar closing down. I wonder if you or anyone on the Council would like to live with this. I think the hours for outside use should be drastically cut down especially the hours where children can be present.

I would like these points to be taken into account when considering the licence application.

Yours sincerely

[REDACTED]

Winter, Maree

From: [REDACTED]
Sent: 03 November 2019 10:56
To: Licensing
Subject: Objection to licensing application: KmacN/mjw/EN/L/L1

Dear Licensing Board,

As a resident of the Millhill Wynd development, I wish to lodge my object to the application for variation of premises at 83 High Street (formerly Habaneros), Musselburgh EH21 7DA.

The particular objections I have relate to:

- varying the terminal hour from 12 midnight to 1am on a Thursday
- extension of outdoor drinking area outwith core hours
- outdoor smoking

all of the above would have a negative impact on our quality of life. The additional noise and potential anti-social behaviour due to the extended drinking hours would negatively affect those of us in full time work who need a full night's rest. We would be subjected to noise and possibly music/television at late hours. Additionally, we would be subjected to second hand smoke with the outdoor designated smoking area.

At the moment in the warmer weather, residents are able to have their windows open and enjoy the peace and quiet. With this application for extended outdoor drinking and smoking, that would be impossible. Allowing this would have a huge negative impact on our health & wellbeing and our right to enjoy our homes in peace and quiet. I therefore strongly and vehemently object to this licensing application.

Sincerely yours,

[REDACTED]

Date 29/10/2019

Your Ref: EL105

Our Ref: J/LIC/3705/HB



**POLICE
SCOTLAND**

Keeping people safe

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

John McKenzie
Chief Superintendent
Divisional Commander
The Lothians and Scottish Borders Division
Dalkeith Police Station
Newbattle Road
Dalkeith
EH22 3AX

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
HABANEROS
83 HIGH STREET, MUSSELBURGH, EAST LOTHIAN, EH21 7DA.
PUNCH PARTNERSHIPS (PTL) LIMITED**

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 several changes to the operating plan and layout plan.

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

In relation to the outside area, the premises are currently licensed to use this until 8pm, this is due to the close proximity to residential properties and historical noise complaints. I would request that any use of the outside area does not exceed this time. I would also request that there is no amplified music or speech in the outside area.

Children and Young Person access: I would request that young persons are not permitted within the premises until the end of core hours as applied for.

I would request that young persons vacate the premises at 2200 hours, as with children. The exception would be if young persons were having a meal or when

attending a private, pre-arranged function, they would be permitted to remain for the duration of that meal/function.

I note that the applicant states there is CCTV in operation, inside and outside the premises. I would request that this is maintained in good working order at all times.

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

Yours faithfully



For enquiries please contact the Licensing Department on 01620 826147

Hello Maree

In response to the representation from Police Scotland, we would be happy to accept the following for children and young persons access:-

- Permit children from 8am to 10pm daily, unless attending a pre-arranged function when they can remain until the end of the function. Permit young persons from 8am until 10pm daily, unless having a meal or attending a pre-arranged function when they will be permitted to remain until the end of the meal/function

I also attached the proposed layout plan which was submitted with our variation.

Kind regards

George

George Domleo
Solicitor
Licensing

DD 01332 226 192 ext: 258
F 01332 207 601
DX 729320 DERBY 24

Flint Bishop LLP St. Michael's Court, St. Michael's Lane, Derby, DE1 3HQ



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From: Winter, Maree <mwinter@eastlothian.gov.uk>

Sent: 12 November 2019 10:04

To: George Domleo <George.Domleo@flintbishop.co.uk>

Subject: LIC39A PREMISES VARIATION - REPRESENTATION - MODIFICATION REQUEST.RTF

Importance: High

Hi,

Please find attached representation from Police Scotland.

Kind regards
Maree

Winter, Maree

From: Lothian Scot Borders Licensing East Mid Lothian
<LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk>
Sent: 13 November 2019 16:27
To: Winter, Maree
Subject: RE: LIC39A PREMISES VARIATION - REPRESENTATION - MODIFICATION REQUEST.RTF [OFFICIAL]

OFFICIAL

Hi Maree

I am happy with the C & YP access

cheers

PC 3705J Heather Bowsher
Divisional Licensing Officer

Divisional Coordination Unit, J Division
Police Scotland
Haddington Police Station
39-41 Court Street
Haddington
EH41 3AE

Tel / Fòn: 01620 826 147

Email/Post-d: heather.bowsher@scotland.pnn.police.uk
Team Email / Post-d na Sgioba: LothianScotBordersLicensingEastMid@scotland.pnn.police.uk
Website / Làrach-lìn: www.scotland.police.uk
Twitter: @policescotland
Facebook: www.facebook.com/policescotland

From: Winter, Maree [mailto:mwinter@eastlothian.gov.uk]
Sent: 13 November 2019 16:17
To: Lothian Scot Borders Licensing East Mid Lothian
Subject: FW: LIC39A PREMISES VARIATION - REPRESENTATION - MODIFICATION REQUEST.RTF

Hi Heather,

Are you okay with this now, or do you still have any concerns.

Kind regards
Maree.

From: George Domleo <George.Domleo@flintbishop.co.uk>
Sent: 13 November 2019 16:14
To: Winter, Maree <mwinter@eastlothian.gov.uk>
Subject: RE: LIC39A PREMISES VARIATION - REPRESENTATION - MODIFICATION REQUEST.RTF

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Divisional Licensing Officer

Divisional Coordination Unit, J Division
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Haddington Police Station
39-41 Court Street
Haddington
EH41 3AE

Tel / Fòn: 01620 826 147

Email/Post-d: heather.bowsher@scotland.pnn.police.uk

Team Email / Post-d na Sgioba: LothianScotBordersLicensingEastMid@scotland.pnn.police.uk

Website / Làrach-lìn: www.scotland.police.uk

Twitter: @policescotland

Facebook: www.facebook.com/policescotland

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Subject: LIC39A PREMISES VARIATION - REPRESENTATION - MODIFICATION REQUEST.RTF
Importance: High

Hi,

Please find attached representation from Police Scotland.

Kind regards
Maree

EAST LoTHIAN COUNCIL

PEOPLE and GOVERNANCE

From: R. Fruzynski
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 11 Nov. 19.

Subject: LICENSING SCOTLAND ACT 2005
PREMISES LICENCE MAJOR VARIATION APPLICATION

Habaneros (to be known as Muss – Bar & Kitchen, 83 High Street, Musselburgh
East Lothian EH21 7DA

I refer to the above subject and can confirm that this variation application has been assessed and I am satisfied that the Operating and Layout Plans are in accordance with the Act.

I make the following observations and recommendations:

- The current restricted size of the beer garden was mutually agreed by the Board and leaseholder of the premises when it was Brewed and Baked, partly in the interests of the business and partly to reduce the size of the outdoor footprint which had been the subject of noise and anti-social behaviour complaints from residents in the neighbouring block of flats. If the Board are minded to permit the extension of the beer garden once again and to allow the operation of a portable bar, the applicant should be reminded that the conditions of use of the beer garden are that the area should be closed by 20:00 hours and that there should be 'no public entertainment, amplified music, amplified vocals or live music played in the garden to ensure the use of the beer garden does not cause nuisance neighbouring residential properties' (Ref. Planning consent 12 May 2005). In addition the door leading out to the beer garden should be fitted with a door closure mechanism to prevent noise breakout from inside the premises to surrounding residential properties.
- It is acknowledged that the applicant has stated they will become a member of Pub Watch. This should be made a formal condition of the premises Licence.
- It is also acknowledged that the applicant will not put out bottles and rubbish between 07:00 and 23:00 each day. Again, this issue was the subject of a previous noise nuisance

complaint relating to the premises when it was a pub. The current statement of licensing policy recommends that rubbish etc., should be placed in 'appropriate receptacles between 09:00 and 21:00, not to affect nearby residents' (Ref. Section 13.5 of policy statement).

- Should the applicant operate a service of delivery of alcohol to customers, the terms of the Licensing (Scotland) Act 2005 Section 119 and those of Section 32.1 to 32.4 of the Board's statement of licensing policy on deliveries of alcohol, should be complied with, namely:

Licensing (Scotland) Act 2005:

Section 119 Delivery of alcohol from vehicles etc.

(1) A person who, pursuant to a sale of alcohol by that person, delivers the alcohol from a vehicle or receptacle without the information mentioned in subsection (2) having been entered, before the despatch of the alcohol, in—

(a) a day book kept on the premises from which the alcohol is despatched, and

(b) a delivery book or invoice carried by the person delivering the alcohol,

commits an offence.

(2) The information referred to in subsection (1) is—

(a) the quantity, description and price of the alcohol, and

(b) the name and address of the person to whom it is to be delivered.

(3) A person who carries in a vehicle or receptacle in use for the delivery of alcohol pursuant to a sale of the alcohol by that person any alcohol the quantity, description and price of which was not entered as mentioned in subsection (1) commits an offence.

(4) A person who, pursuant to a sale of alcohol, delivers the alcohol to an address not entered as mentioned in subsection (1) commits an offence.

(5) A person who refuses to allow a constable or a Licensing Standards Officer to examine—

(a) any vehicle or receptacle in use for the delivery of alcohol, or

(b) any—

(i) day book kept as mentioned in subsection (1)(a), or

(ii) delivery book or invoice carried as mentioned in subsection (1)(b),

commits an offence.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

East Lothian Licensing Board Statement of Licensing Policy 2018 -2023

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.
- 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.

This report is submitted for the information of Board members.

R. Fruzynski
Licensing Standards Officer

Winter, Maree

From: George Domleo <George.Domleo@flintbishop.co.uk>
Sent: 13 November 2019 15:59
To: Winter, Maree
Subject: RE: LSO Report Major Variation Habaneros October 2019.doc
Attachments: LSO Report Major Variation Habaneros October 2019.doc

Hello Maree

In response to the attached report from your LSO we can confirm that any rubbish etc. will be placed in appropriate receptacles between 09:00 and 21:00 only in line with Board policy.

We do not accept the membership and attendance of Pub Watch to be made a formal condition on the premises licence as this is a voluntary scheme, it would be impossible to monitor and what happens if Pub Watch ceases to exist in that area.

Are there any other conditions requested by your LSO that I have missed?

Kind regards

George

George Domleo
Solicitor
Licensing

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From: Winter, Maree <mwinter@eastlothian.gov.uk>
Sent: 12 November 2019 10:01
To: George Domleo <George.Domleo@flintbishop.co.uk>

Subject: LSO Report Major Variation Habaneros October 2019.doc

Importance: High

Hi George,

Please see attached report from our LSO. Please advise if you agree with these conditions or not.

Kind regards

Maree

Maree Winter

Licensing Officer: Democratic & Licensing Services: East Lothian Council: John Muir House:

Haddington: EH41 3HA

01620 827867

mwinter@eastlothian.gov.uk



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Winter, Maree

From: Boyle, Fiona <Fiona.Boyle@nhslothian.scot.nhs.uk> on behalf of Licensing <Licensing@nhslothian.scot.nhs.uk>
Sent: 01 November 2019 10:19
To: Winter, Maree
Subject: Current East Lothian Applications

Dear Maree

NHS Lothian are not submitting letters for the following current East Lothian Applications:

Lodge Nisbett
Town House Chippy
Habaneros High Street
Event Space

Many thanks, fiona

Fiona Boyle
PA/Administrator to:

Dr Fredi Garbe, Consultant in Public Health
Ms Alison Milne, Supporting Pregnancy & Newborn Screening
Mr Jim Sherval, Consultant in Public Health

Direct Dial: 0131 456 5817 (35817)
PHM Tel: 0131 465 5460
Email: fiona.boyle@nhslothian.scot.nhs.uk
Address: NHS Lothian, Public Health & Health Policy, Waverley Gate, 2-4 Waterloo Place, Edinburgh, EH1 3EG

**** Please note my working hours are Monday - Friday; 8.00am to 1.00pm ****



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