



**AGENDA FOR THE MEETING OF  
EAST LOTHIAN LICENSING BOARD**

**THURSDAY 26 NOVEMBER 2020 at 10.00am  
VIA TELECONFERENCE**

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**Agenda of Business**

**Apologies**

**Declarations of Interest**

*Members and officers should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.*

- 1. Minutes for Approval**  
East Lothian Licensing Board, 24 September 2020 (**pages 1-10**)
- 2. Review of Premise Licence**
  - a) Day to Day, 26-28 Bridge Street, Tranent (**pages 11-16**)
- 3. Major Variation of Premises Licence**
  - a) 102 New Street, Musselburgh (**pages 17-38**)
  - b) The Ship Inn, 184 North High Street, Musselburgh (**pages 39-62**)

**Kirstie MacNeill  
Clerk of the Licensing Board  
19 November 2020**

Public papers for this meeting are available to view on the East Lothian Council website:  
[http://www.eastlothian.gov.uk/meetings/committee/53/east\\_lothian\\_licensing\\_board](http://www.eastlothian.gov.uk/meetings/committee/53/east_lothian_licensing_board)





## MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD

1

THURSDAY 24 SEPTEMBER 2020  
TELECONFERENCE MEETING

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**Board Members Present:**

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

**Depute Clerk of the Licensing Board:**

Mr C Grilli, Team Manager – Legal

**Attending:**

Ms M Winter, Licensing Officer  
Ms C Shiel, Licensing Officer  
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration  
Mr R Fruzynski, Licensing Standards Officer  
PC R Duncan, Police Scotland

**Committee Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor W Innes

**Declarations of Interest:**

None

Due to restrictions imposed during the COVID 19 pandemic, the East Lothian Licensing Board determined to proceed with the meeting by way of video conferencing.

## **1. MINUTES FOR APPROVAL – 7 JULY 2020**

The minutes of the East Lothian Licensing Board meeting of 7 July 2020 were approved as a true record of the meeting.

## **2. PROVISIONAL PREMISES LICENCE 102 New Street, Musselburgh**

The application sought a licence for on-sales only for a restaurant serving Indian food with approximately 60-80 covers. There would be no live music. Children would be allowed on the premises, accompanied by an adult, seated away from the bar servery.

No objections had been raised by the public or Police Scotland, NHS Scotland, the Community Council, or by Planning. The Licensing Standards Officer (LSO) had made representations, as contained within his report.

Sau Tai Wong, applicant, was present to speak to the application.

Responding to a question from Councillor Henderson, Rudi Fruzynski, Licensing Standards Officer (LSO), referred to his report dated 4 September 2020. The LSO advised he had met with the leaseholder, Mr Rafeeq, and remarked that Mr Rafeeq had no licensing background. The LSO reported that he had stated to the leaseholder that no alcohol could be sold at the restaurant until a full licence was held, or until occasional licences had been granted. He remarked that there seemed to have been little dialogue between Mr Rafeeq and Ms Wong. The LSO raised concern that the licence application would not adequately serve the leaseholder's needs, noting that the current licence would not allow for birthday parties, or for customers to take home an unfinished bottle of wine. The LSO stated that he had no objection to the grant of the licence and felt the restaurant offering would be of benefit to the community, but noted that it would be a restrictive licence to operate under unless major variation applications were made.

Ms Wong responded that a basic application had been submitted because, when she had spoken to the leaseholder in August, he had not yet decided what kind of licence he would need. She had been advised to make a basic application to get things moving. Ms Wong advised that there had been little communication with the leaseholder due to the COVID 19 pandemic; she had been unaware that Mr Rafeeq was considering offering takeaways.

Councillor Bruce suggested that the application be continued to give time for the applicant and leaseholder to discuss and make amendments. The LSO had no objection to the suspension of the current application, but a new site notice may be required should changes be made to the application, and new letters would have to be issued concerning the altered application. The Depute Clerk of the Board advised that changes discussed previously would constitute major variations; he suggested that the leaseholder may wish to have a provisional licence granted that could subsequently be varied.

The applicant expressed her wish to proceed in a way that would result in a licence that was fit for purpose being granted timeously. The Depute Clerk of the Board

advised that it would still be possible for the leaseholder to trade under the current licence, if granted. He advised that either course of action would likely take the same length of time; however, he noted the benefit of having a licence under which to trade in the meantime, should the applicant choose to proceed with the current licence and subsequently apply for major variations. It was, however, up to the applicant to obtain their own advice on how to proceed. The applicant confirmed that she wished to proceed with the current application.

The LSO reminded the applicant that, should the Board be minded to grant the application, the licence would not allow for the sale of alcohol until such time as a provisional licence had been confirmed, or until occasional licences had been granted. He advised that major variations could take place after the confirmation of the licence. The applicant stated that she understood this, and advised that Mr Rafeeq did not yet hold a personal licence.

The Convener questioned the times children would be permitted access to the premises, as the application stated “at all times”. The Depute Clerk advised that it was Board policy that children be allowed on premises only until 10pm; should the applicant wish to have an alternative arrangement for larger parties, a major variation would have to be submitted. Ms Wong agreed to this change and would discuss this with the leaseholder.

Responding to a further question from the Convener, the LSO provided further information on Board policy regarding access for children. He further advised that the policy did not specify that children over the age of 12 would have to be accompanied by an adult, and stated that management would enforce rules as they saw fit.

Councillor McMillan stated that he would be minded to grant the application, however, he was disappointed that the application had not benefitted from the professional advice on offer from licensing officers; he urged the trade to access support available to them.

Councillor Bruce echoed Councillor McMillan’s comments and welcomed the application. He looked forward to hearing subsequent applications with variations to ensure the licence would benefit the establishment.

Councillor Henderson had some reservations about the relationship between the leaseholder and tenant, and sought reassurance that the leaseholder would be educated on what the licence did and did not permit; she questioned how this would be policed in the short term. The LSO made a commitment to visit on a regular basis to ensure the conditions of the licence were being adhered to, and suggested that Ms Wong communicate today’s discussions with the leaseholder. Ms Wong stated that Mr Rafeeq was aware that he was not permitted to sell alcohol.

The Convener was in agreement with the conditions discussed. She reiterated that the LSO would be in touch with the leaseholder, and that children would be permitted on the premises only until 10pm.

The Convener then moved to a roll call vote.

## **Decision**

The East Lothian Licensing Board unanimously agreed to grant the provisional premises licence, subject to standard conditions.

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

The Board were made aware that representation was awaited for items 3a and 3b, but that representation for item 3c was already present. Therefore, with permission from the Board, the Depute Clerk heard item 3c first.

#### **3c Luffness New Golf Club, Aberlady**

The application sought to remove Conditions 6 & 7 from the licence (removal of registered clubs conditions), and to add music, live performance, films, gaming, outside drinking within core hours, and charitable events to the operating plan.

No objections had been raised by the public or Police Scotland, NHS Scotland, the Community Council, or by Planning. The Licensing Standards Officer (LSO) had made representations, as contained within his report.

Mary Watkins, Assistant Secretary at Luffness New Golf Club, was present to speak to the application. She advised that the purpose of the major variation was to tidy up the premises licence application and ensure that the operating plan and licence tied in together.

The LSO advised that there had been a great deal of dialogue with officials at the Luffness New Golf Club, which had always been positive. The premises presented no cause for concern. The LSO supported the application, which would bring the club's licence in line with other golf clubs and facilities.

Responding to questions from Councillor McMillan and the Convener, Ms Watkins hoped that the variation would give the club the flexibility to use the facilities they already had, particularly under COVID 19 restrictions. Occasional licence applications had been made to licence that had not previously been used, and these were now being adopted into the club's licence. She advised that business at the clubhouse had been steady, but that the golf course itself remained very busy while many people were not yet back at work. Ms Watkins informed the Board that the club's membership was male only. She stated that it was rare that the clubhouse was open beyond 9pm.

The LSO commented that use of the outdoor area during the COVID 19 period, as permitted under occasional licences, had run without issue.

The Convener moved to a roll call vote.

#### **Decision**

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

#### **a The Main Course, Main Street, Gullane**

The application sought to add an outside drinking and dining area to the premises.

No objections had been raised by the public or Police Scotland, NHS Scotland, the Community Council, or by Planning. The Licensing Standards Officer (LSO) had made representations, as contained within his report.

Alistair Macdonald, agent, was present to speak to the application. Mr Macdonald provided background information on the premises since its opening. He advised that an area to the rear of the premises, which could be seen from the road, had been operating successfully under occasional licences during the COVID 19 period. This had proved popular with customers, many of whom had indicated that they were more comfortable to sit outside at such times. The area had been included in the original licence, and the application sought to reinstate this area into the plan and to add outdoor drinking facilities.

The LSO offered his support to the application, and had been impressed with facilities when he had visited during the construction stage. He advised that the yard was near the next-door neighbours, but felt confident that the high wall would provide neighbours with protection from noise. He stated that signs should be displayed to remind customers of Challenge 25, and that no children could come within 1.5m of the bar. His report also asked that there be no outdoor entertainment, and that the terminal hour for use of the outdoor space be 10pm. He also asked that a sign be displayed asking customers to be respectful of neighbours.

Responding to a question from Councillor McMillan, the LSO advised that the government's new guidelines meant that the area/premises should be cleared by 10pm; drinking-up time came before the terminal hour.

Responding to a question from the Convener, Mr Macdonald advised that the rules for the new outdoor area would be the same as they were for the restaurant, i.e. children and young people would not be permitted to remain on the premises after 10pm.

### **Decision**

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

### **3b Zitto, 10 Quality Street, North Berwick**

The application sought to add off-sales hours from 11am to 10pm and to add deliveries and takeaways as additional activities.

No objections had been raised by the public or Police Scotland, NHS Scotland, the Community Council, the LSO, or by Planning.

The LSO expressed his support of the application in its entirety and complimented Mr Macdonald on the supplementary information provided, which had been useful.

Alistair Macdonald, agent, was present to speak to the application. Mr Macdonald provided background information on the premises. He advised that off-sales had never been part of the business prior to the COVID 19 period, but that owners had felt at a disadvantage when they had been unable to offer this facility. The premises were looking to diversify the restaurant's offer to increase the chances of the business' survival should COVID 19 restrictions become a longer-term feature. Mr Macdonald noted that the premises had been pleased with business since they had been able to reopen. He conveyed that the owners had been delighted with the advice and backup provided by licensing and environmental health officers, which had been of great help to the business through the COVID 19 crisis. Mr Macdonald informed the Board that initially, deliveries would be made by staff, who had already received the mandatory two-hour alcohol training; however, should a delivery driver be taken on, this person would also receive the training. He commended the application to the Board.

Councillor Henderson questioned whether alcohol would be restricted to accompanying orders of food. Mr Macdonald confirmed that this would be the case, both for deliveries and takeaways.

Councillor McMillan thanked Mr Macdonald for recognising the work of council officers, and hoped that this positive relationship would continue. Councillor Henderson added that Zitto and other North Berwick businesses had served their community very well during the pandemic.

## **Decision**

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

### **4. GRANT OF PERSONAL LICENCE Lee Nelson**

The Board had received an application for the grant of a personal licence from Mr Lee Nelson. Mr Nelson had been invited to attend the hearing due to police objections to the grant of the licence on the basis of a prior criminal conviction.

PC Rona Duncan referred to the police letter dated 13 August 2020, which advised of the conviction, dated 8 June 2017, of racially-aggravated conduct causing distress and alarm, for which Mr Nelson was fined £180.

The LSO had no comment to make on Mr Nelson's application.

Mr Nelson was present and answered questions from Board Members. Mr Nelson said he was not proud of his actions, which he described as being part of his past life which he had been unable to get away from. He reported that he had been drunk on the night of the incident, and described the bouncer using force, and his own response of using a racist remark. He described his life having moved on since 2017, and informed the Board that he had been in his current workplace for 13 years.

Councillor McMillan questioned why notification of the charge had not been made by both the police and the licence holder. PC Duncan was unsure why the charge had not been reported to the Board, and advised that it was only picked up during checks made for Mr Nelson's most recent application. Mr Nelson stated that he had been a personal licence holder at the time of the incident but had not known to report the charge.

Councillor McMillan questioned why Mr Nelson was applying for renewal one year early. Mr Nelson advised that his workplace had decided to renew his personal licence at the same time as another colleague's.

Responding to further questions from Councillor McMillan, Mr Nelson advised that he was an events/duty manager and felt that his position at his place of work may be affected should the licence not be granted.

The LSO did not know where Mr Nelson worked to be able to provide comment on the running of the premises. However, he supported Mr Nelson's comment that some time had elapsed since his conviction, and that that it appeared to be a one-off situation in terms of his behaviour. He felt that people should generally be given a second chance and supported the application from an LSO perspective. Mr Nelson thanked the LSO for his comments and reiterated that it was not in his nature to behave in this way.



The Convener announced an adjournment to allow the Board to discuss Mr Nelson's application in private.

Councillor McMillan stated that the application had been taken seriously due to the applicant's failure to notify the Board of his conviction. However, the Board was conscious that time had elapsed since the incident. He reminded Mr Nelson that the Board must be notified of any further issues. He remarked that Board Members had heard remorse from Mr Nelson and understood the incident to be out of character for him. He commented that Mr Nelson worked in an industry that was heavily regulated, but this depended on the licensed trade working within the rules. He advised that, having carefully considered the police opinion, the Board were minded to grant the application. Councillor McMillan reminded Mr Nelson that his behaviour would have to be exemplary going forward.

### **Decision**

The East Lothian Licensing Board unanimously agreed to grant the personal licence.

## **5. FESTIVE HOURS**

A report had been submitted by the Clerk of the Licensing Board to ask Members to consider festive hours, and to confirm if any amendments should be made to the policy regarding festive hours this year due to the current COVID 19 pandemic.

Carlo Grilli, Depute Clerk of the Licensing Board, presented the report. He advised, under normal circumstances, that Board policy allowed licenced premises to stay open until 2am for five days over the festive period. The report sought the Board's direction to proceed given the current COVID 19 situation, and sought a decision as to whether the Board wished to remove the aforementioned term within the policy for the upcoming festive period. As one of the Board's objectives was to consider health and safety, the item would provide an opportunity for Members to discuss any concerns. Mr Grilli drew attention to the recommendation for the Board to delegate the matter to the Clerk of the Licensing Board in consultation with the Convener.

Councillor McMillan expressed that he would be happy to support the recommendation that the Board delegate authority to officers in consultation with the Convener. Mr Grilli responded that the purpose of the recommendation was to allow for quick action and response to any further changes to Scottish Government guidance, should the Board be unable to reconvene promptly. Councillor McMillan commented that there were good communication links through the LSO and networks within the Connected Economy Group; he was happy that the licenced trade would be able to air their views through existing forums.

The Convener was glad to hear that the Board could meet to discuss restrictions further should there be an opportunity, however, she was happy to support the report recommendations.

The Convener moved to a roll call vote.

### **Decision**

The East Lothian Licensing Board unanimously agreed:

- i. that the existing arrangements regarding Festive Hours would remain in place; and
- ii. to delegate to the Clerk of the Board in consultation with the Convener of the Licensing Board to make any changes to the policy relating to Festive Hours as may be required should further legislation or guidance relating to the festive period be issued by the Scottish Government.

## **6. CHIEF CONSTABLE'S REPORT TO THE EAST LOTHIAN LICENSING BOARD, 1 APRIL 2019 – 31 MARCH 2020**

The Chief Constable of Police Scotland, Mr Iain Livingstone QPM, had submitted a report to the East Lothian Licensing Board for the period 1 April 2019 – 31 March 2020.

PC Rona Duncan was present to represent Police Scotland and took questions on the report.

Responding to a question from Councillor McMillan, PC Duncan expressed that she felt that licensing was run well in East Lothian. Her view was that licenced premises wanted to keep people safe and do the right thing by the area. She felt that Police Scotland had a good relationship with the Licensing Standards Officer, Mr Fruzynski. She stated that there was good communication and records were kept well, meaning officers coming on duty were made aware of recent events. Overall, she had a positive impression of licensing in the East Lothian area.

Responding to Councillor Henderson, PC Duncan confirmed that assurance could be given to East Lothian constituents that the licensing report compared favourably to other local authority areas.

Councillor McMillan commented that the report gave some good examples of collaboration and cooperation. He spoke of the work going on in the background, such as work with community learning, the Antisocial Behaviour Team, and Police Scotland Youth Volunteers. Councillor McMillan expressed gratitude for dialogue with Inspector Harborow and Chief Inspector Neil Mitchell. He highlighted that East Lothian benefitted from having a well-run licensing trade and positive relationships with police colleagues. He asked PC Duncan to pass on his thanks to her colleagues for thier many actions that were carried out quietly and efficiently to keep people safe.

Councillor Henderson remarked that the culture between the Board and Police Scotland of getting things done and solving problems, avoiding issues becoming overdramatised or appearing in the press, was greatly appreciated. She thanked all involved for their approach.

The Convener echoed her colleagues' comments. She thanked all involved for partnership working between police, the LSO, the trade, the Licensing Forum, and the wider team. She expressed that the report was testament to excellent working relationships, and felt reassured that all of the work that went on produced such positive results.

Councillor Henderson requested that the Committees Team circulated the Chief Constable's Report to the East Lothian Licensing Board to all Elected Members.

### **Decision**

The East Lothian Licensing Board agreed to note the report.

Signed .....

Councillor F Dugdale  
Convener of East Lothian Licensing Board

DRAFT



Our Reference: KMacN/de/EN/L/Review

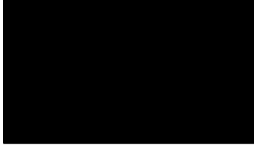
Date: 29<sup>th</sup> October 2020

PRIVATE & CONFIDENTIAL



2

Mohammad Ashraf Nadeem



Kirstie MacNeill  
CLERK OF THE LICENSING BOARD

John Muir House  
Haddington  
East Lothian  
EH41 3HA  
[licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

Dear Sir

**LICENSING (SCOTLAND) ACT 2005 – SECTION 36(3) (b)  
NOTIFICATION OF REVIEW HEARING  
DAY TO DAY – 26-28 BRIDGE STREET, TRANENT**

East Lothian Licensing Board has received a request for a review of the Premises Licence of the above premises and I enclose a copy of that request for your information. The Licensing Board decided to accept this request for a review of the Premises Licence, in terms of Section 36 of the Licensing (Scotland) Act 2005. You can attend and/or be represented and as a result of a review, the Licensing Board may issue a written warning, may impose an additional condition on the Premises Licence or may suspend or revoke the Premises Licence.

The Review Hearing will be held by Tele-conference, on 26<sup>th</sup> November 2020 at 10am. You are entitled to attend the tele-conference and the Board members may, but are not obliged to, invite you to give your views in respect of this matter. If you wish someone else to represent you at the hearing, you will be required to provide a written mandate confirming that they are instructed to do so. You can provide that mandate to me in advance of the Hearing by emailing a copy to [licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

The Licensing Board has asked Mr Rudi Fruzynski, Licensing Standards Officer, to prepare a report into this matter for their consideration at the Hearing. Mr Fruzynski may contact you and any information you can give him will be taken into account when he prepares his report.

If you have any queries regarding this matter, please don't hesitate to contact me.

An agenda and details of the tele-conference will follow in due course.

Yours faithfully



Kirstie MacNeill  
Clerk to the Licensing Board

Licensing Office : 01620 827867 (Maree Winter)  
E-mail : [licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

Cc. Police Scotland - Haddington  
MCDONALD LICENSING

[eastlothian.gov.uk](http://eastlothian.gov.uk)

29/10/2020

Your Ref: EL055

Our Ref: 28353

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



**POLICE  
SCOTLAND**

Keeping people safe  
John McKenzie

Divisional Commander

The Lothians and Scottish Borders Division  
Haddington Police Station  
39-41 Court Street  
Haddington  
EH41 3AE

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36  
PREMISES LICENCE REVIEW APPLICATION  
LICENCE NO: EL055  
PREMISES: DAY TODAY TRANENT  
26-28 BRIDGE STREET, TRANENT, EAST LOTHIAN, EH33 1AG.  
PREMISES LICENCE HOLDER: MOHAMMED ASHRAF NADEEM**

In terms of section 36(1) of the Licensing (Scotland) Act 2005 I hereby make application to the East Lothian Licensing Board for a review of the premises licence in respect of the premises known as **DAY TODAY TRANENT 26-28 BRIDGE STREET, TRANENT, EAST LOTHIAN, EH33 1AG.**

This application for review is made in terms of Section 36(3) (b) on grounds relevant to one or more of the licensing objectives as articulated at Section 4(1) of the 2005 Act, namely:

- Securing Public Safety
- Protecting and Improving Public Health
- Protecting Children and Young Persons from Harm

In support of this application, and in terms of section 36(5A) the following information is provided for your consideration:-

The premises license is held by Mohammed Ashraf Nadeem. This license was issued on 12<sup>th</sup> of September 2018. There are no adverse reports recorded in regards to Mr Nadeem. Constable Bairden (East Lothian licensing officer) has contacted Mr Nadeem and made him aware of the circumstances of the incident and that the matter was being referred to the Licensing board for consideration.

## OFFICIAL

Mr Nadeem stated his son Asif Nadeem is the owner of the business and rents this to Mr Kumar. Mr Asif Nadeem is not a license holder.

The designated premises manager is May Duncan, [REDACTED] [REDACTED] May Duncans' personal liquor license was issued on the 19<sup>th</sup> of December 2018.

Manish Kumar, [REDACTED], is the tenant of the premises and rents the business from Mr Asif Nadeem. Mr Kumar is not a personal license holder. On discussions with Mr Kumar he disclosed to Constable Bairden he is in the process of taking over the lease of the business, but that this has been delayed due to Coronavirus restrictions and personal matters. This was confirmed by Mr Mohammed Nadeem.

On Friday 2<sup>nd</sup> October 2020 a telephone call was received by Police Scotland from a member of the public to report that her stepson (Aged 14) had been found in possession of alcohol which he had purchased from the premises of Day today, Tranent.

The youth involved informed his parents that he had attended at the Day Today store and purchased three bottles of alcohol. He described Mr Kumar to his parents as the person who had sold him the alcohol. The alcohol purchased was two bottles of 75cl Mad dog 20/20 (13% vol) and a bottle of Cactus Jack Apple Schnapps (15% vol). In his statement given to Police the youth said that at no point was he challenged in regard to his age and that he himself was surprised to be served as he is aware he does not look eighteen years of age.

The father of the youth involved attended the Day Today store and challenged Mr Kumar in regard to his actions. Mr Kumar stated to him that the youth was 18 years of age and that he had said he would return to the store at a later time with proof of age documentation.

Police were then contacted.

Officers attended and noted statements from the youth involved and his father.

Officers then attended the Day Today store and were shown the CCTV footage in relation to the incident by Mr Kumar himself. This showed a very short exchange where the youth could be seen being handed the items from Mr Kumar and then paying for them. At no time from did the youth appear to present any form of identification to Mr Kumar. The CCTV did not have audio. The CCTV footage was not seized however was viewed by two police Officers.

Mr Kumar was thereafter cautioned and charged with an offence relating to section 102(1) of the Licensing Scotland Act 2005, selling alcohol to a child or young person and informed he would be reported for summons. He replied "IT WAS A MISTAKE" in reference to the charge.

**OFFICIAL**

On Thursday 22<sup>nd</sup> October 2020. Police Constable Bairden, licensing officer attended at the premises. Present were Mr Kumar and Mrs Duncan (DPM). Constable Bairden checked the training records and these were found to be in order for Mr Kumar. This training had been completed on 15<sup>th</sup> of November 2019 by Mrs Duncan.

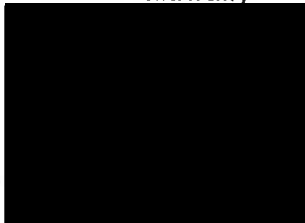
Mrs Duncan also produced the sales refusal book. This highlighted the details of persons who had been challenged and refused the sale of alcohol by staff.

Constable Bairden reiterated the licensing objectives previously noted above to both parties and made it clear that this type of incident was not acceptable and that a request for review of the premises license would be submitted.

It is clear from the circumstances of this incident that Mr Kumar has not followed his training as given by Mrs Duncan. Mrs Duncan herself came across to Constable Bairden as someone who is professional in her approach to her position and who was concerned that Mr Kumar had failed to put into practice what he had been taught in his training.

I request that the Licensing Board considers the aforementioned grounds for review and takes such steps as it considers necessary or appropriate for the purposes of the Licensing Objectives under the terms of Section 39(2) or 39(2A) of the Act.

Yours faithfully



John McKenzie

Chief Superintendent

For enquiries please contact the Licensing Department on 0131 561 6119.



## Winter, Maree

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**From:** Fruzynski, Rudi  
**Sent:** 02 November 2020 14:43  
**To:** Winter, Maree  
**Subject:** RE: Premises Licence Review Hearing application Day Today Tranent [OFFICIAL]

All that I have to add to the police report is that I concur that May Duncan, DPM, is a very competent and professional premises manager.

R. Fruzynski  
Licensing Standards

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**From:** Winter, Maree  
**Sent:** 29 October 2020 10:25  
**To:** Fruzynski, Rudi <[rfruzynski@eastlothian.gov.uk](mailto:rfruzynski@eastlothian.gov.uk)>  
**Subject:** FW: Premises Licence Review Hearing application Day Today Tranent [OFFICIAL]

Hi Rudi,

Please find attached Review from Police Scotland for Day Today, Tranent. Are you able to give me a report please, will try and get up for the November Board, as we will be out of time for the next board.

Maree.

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**From:** Bairden, Graeme <[Graeme.Bairden@scotland.pnn.police.uk](mailto:Graeme.Bairden@scotland.pnn.police.uk)>  
**Sent:** 29 October 2020 08:22  
**To:** Licensing <[licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)>  
**Subject:** Premises Licence Review Hearing application Day Today Tranent [OFFICIAL]

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

**OFFICIAL**

Good morning

Please find attached license review hearing application for Day Today store, Tranent.

Regards.

Graeme.



2011 10 07  
G L  
No 3

+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

3a

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

ELO 372
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2(b) Name and Address of Premises

102 New Street Musselburgh		
<b>Post Code</b>	EH21 6JQ	<b>Phone No.</b>

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

Sau Tai Wong 		
<b>Post Code</b>		<b>Phone No.</b>

**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

- Children to be allowed on the premises after 22:00 hours.
- To be able to host birthday parties and the like.
- Be able to play background music whilst customers are dining, as usually done in a restaurant setting
- To allow take away of alcohol i.e. unfinished bottles of wine

**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)

- Children to be allowed on the premises after 22:00 hours.
- To be able to host birthday parties and the like.
- Be able to play background music whilst customers are dining, as usually done in a restaurant setting
- To allow take away of alcohol i.e. unfinished bottles of wine

**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.

Not applicable

**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)*

Not applicable

**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 £        is enclosed.

Signature



..... (See note 5 below)

Date

8/10/2020

Capacity: APPLICANT / ~~AGENT~~ (delete as appropriate)

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

.....  
.....  
.....

**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](mailto:licensing@eastlothian.gov.uk)

FOR OFFICE USE ONLY		
<i>Received &amp; 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.*

102 New Street Musselburgh EH21 6JQ
---

### 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	1.00
<i>Friday</i>	11.00	1.00
<i>Saturday</i>	11.00	1.00
<i>Sunday</i>	11.00	0.00 (midnight)

Question 3

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

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00	22.00
<i>Tuesday</i>	11.00	22.00
<i>Wednesday</i>	11.00	22.00
<i>Thursday</i>	11.00	22.00
<i>Friday</i>	11.00	22.00
<i>Saturday</i>	11.00	22.00
<i>Sunday</i>	11.00	22.00

Question 4

*SEASONAL VARIATIONS*

<i>Does the applicant intend to operate according to seasonal demand</i>	<i>YES</i>
--	------------

*\*If YES – provide details*

<i>Extend opening hours on 25<sup>th</sup>, 26<sup>th</sup>, 31<sup>st</sup> December and 1<sup>st</sup> January to 2am</i>
---



**Question 5**

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

<b>COL. 1</b>	<b>COL. 2</b>	<b>COL. 3</b>	<b>COL. 4</b>
<b>5(a)</b> <i>Activity</i>	<i>Please confirm</i> <b>YES/NO</b>	<b>To be provided during core licensed hours – please confirm</b> <b>YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm</b> <b>YES/NO</b>
<i>Accommodation</i>	NO	NO	NO
<i>Conference facilities</i>	NO	NO	NO
<i>Restaurant facilities</i>	YES	YES	NO
<i>Bar meals</i>	NO	NO	NO
<b>5(b) Activity</b> <i>Social functions including:</i>	<i>Please confirm</i> <b>YES/NO</b>	<b>To be provided during core licensed hours – please confirm</b> <b>YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm</b> <b>YES/NO</b>
<i>Receptions including Weddings, funerals, birthdays, retirements etc.</i>	YES	YES	NO
<i>Club or other group meetings etc.</i>	YES	YES	NO
<b>5(c) Activity</b> <i>Entertainment including:</i>	<i>Please confirm</i> <b>YES/NO</b>	<b>To be provided during core licensed hours – please confirm</b> <b>YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm</b> <b>YES/NO</b>
<i>Recorded music – see 5(g)</i>	YES	YES	NO
<i>Live performances – see 5(g)</i>	NO	NO	NO
<i>Dance facilities</i>	NO	NO	NO
<i>Theatre</i>	NO	NO	NO
<i>Films</i>	NO	NO	NO
<i>Gaming</i>	NO	NO	NO
<i>Indoor/outdoor sports</i>	NO	NO	NO
<i>Televised sport</i>	NO	NO	NO



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?	NA
---	----

When fully occupied, are there likely to be more customers standing than seated?	NA
<i>*Delete as appropriate</i>	

**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
<i>*Delete as appropriate</i>		

6(b) Where the answer to 6(a) is YES provide statement of the **TERMS** under which they will be allowed entry

- Children under the age of 12 must be accompanied by an adult over the age of 18
- Children over the age of 12 can enter without an adult but will be seated away from the bar area and not served alcohol.

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

Children under the age of 12 will be allowed entry provided accompanied by an adult.  
 Children over the age of 12 can attend without an adult

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

Children to be allowed in the restaurant up until 22.00 hours unless they are part of a pre-arranged function e.g. birthday party, funeral etc where adults are also presents. In such cases, the children will be allowed to stay until the adults of the same functions leaves. This is to avoid situations where party overruns past 22.00 hours and the need to ask children to leave at 22.00 hours when the adults haven't yet finished.

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

All parts of the dining area. Where possible, tables with children will be seated away from the bar area.

**Question 7**

**CAPACITY OF PREMISES**

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

Approximately 60-80 cover, to be used as a restaurant.

**Question 8**

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

Personal details

8(a) Name

8(b) Date of birth

8(c) Contact address

--

8(d) Email address and telephone number

--


8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>

**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)

Date ..... 8/10/2020 .....

Capacity ..... APPLICANT/~~AGENT~~ (delete as appropriate).

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

**\* 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

Please describe your business offering.

*Intend to operate as an Indian restaurant serving authentic Indian Cuisine. Will allow hosting of functions such as birthday parties, funeral, club annual dinners etc as usually expected in a restaurant setting.*

*Background music will be played but no intention of using a live band.*

*Will also offer a takeaways with a delivery service.*

(extend this box if you require additional space)

### On/Off Consumption

(a) Please describe the type of business you intend to operate in respect of On consumption.

a) Provision of alcohol along with consumption of meal in a restaurant setting.

(b) Please describe the type of business you intend to operate in respect of Off consumption & deliveries

b) Customers will be allowed to take home half-finished bottles of alcohol e.g. wine. No intention to sell alcohol off premises or to provide as part of a delivery service.

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.

**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:

Hosting birthday parties, funerals, retirement parties, club annual dinners etc. Customers have the option to hire out part/ whole restaurant for functions. If they hire out part of the restaurant then they will be seated in a separate area to other diners. Customers will dine as per normal. Special menus maybe provided should the customer require. No live music will be allowed.

Expected to be quite frequent due to size of restaurant. At least once a week for smaller parties (between 10-20 people), perhaps once a month for bigger functions.

**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:

To allow playing of recorded music (mp3s, CDs) as usually provided in a restaurant setting. Usually will play gentle music to create ambience. May play more upbeat music if requested during functions such as birthday parties.

Music will be played everyday during opening hours.

**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:

NA

**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:

NA

**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:

NA

**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:

NA

**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.

Baby changing facilities available in the ladies and disabled toilets. High chairs will be available if requested for toddlers.



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:**

- Refusing entry for any person who appears drunk and disorderly or giving verbal abuse to any customer or staff
- Calling the police immediately should it be required
- Ensure all cash is safely stored and out of sight. Premises will be fully locked at night.

**Securing Public Safety:**

- Regular gas and electric safety tests
- Staff only areas clearly identified
- Ensure at least one member of staff is trained in first aid

**Preventing Public Nuisance:**

- Refusing entry for any person who appears drunk and disorderly or giving verbal abuse to any customer or staff
- Calling the police immediately should it be required

**Protecting and Improving Public Health:**

- Food safety and health certificate obtained by all relevant staff

**Protecting Children and Young Persons From Harm:**

- No serving of alcohol to any person under the age of 18
- To request ID when selling alcohol to anyone who looks under the age of 25
- Requiring presence of adult for any children under the age of 12
- Adequate baby changing facilities.

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.

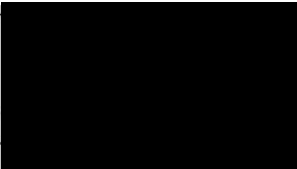
**SIGNATURE AND DECLARATION BY APPLICANT**

**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

8/10/2020

DISABLED ACCESS AND FACILITIES STATEMENT

*Licensing (Scotland) Act 2005, section 20(2)(b)(iia)*

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.

<ul style="list-style-type: none"> <li>• Accessible Flooring- no uneven surfaces or steps.</li> <li>• Wide front door that fits a wheelchair</li> <li>• Disabled toilets</li> </ul>
---

Question 3

Facilities available

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

- Disabled toilets with baby changing facilities
- Tables with a central table leg so to allow comfortable access for wheelchairs.
- All tables on ground level with no uneven surfaces so easily accessible with a wheelchair.

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.

NA

**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 ..... 8/10/2020 .....

Capacity ..... ~~APPLICANT/AGENT~~ .....

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

**\* 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:** Lothian Scot Borders Licensing East Mid Lothian  
<LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk>  
**Sent:** 13 October 2020 09:35  
**To:** Licensing  
**Subject:** FW: Application for Major Variation- 102 New Street, Musselburgh [OFFICIAL:  
POLICE AND PARTNERS]  
**Attachments:** Major Variation application.pdf; LIC38 Premises variation - no adverse comment.rtf  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

### **OFFICIAL: POLICE AND PARTNERS**

Good morning

No adverse comment to this application, please see LIC38 attached.

Kind regards

Rona

---

**From:** Winter, Maree [mailto:mwinter@eastlothian.gov.uk]

**Sent:** 09 October 2020 11:23

**To:** Lothian Scot Borders Licensing East Mid Lothian; Fruzynski, Rudi; Environmental Health/Trading Standards; Environment Reception; Grant, Shona; torquil.cramer@firescotland.gov.uk; Trading Standards;

**Subject:** FW: Application for Major Variation- 102 New Street, Musselburgh

Dear all,

Please find attached major variation application from 102 New street, Musselburgh to vary the following:-

Children to be allowed on the premises after 22:00

To be able to host birthday parties and the like.

To be able to play background music whilst diners are eating as usually done in a restaurant setting.

To allow takeaways and unfinished bottles of wine.

Could I please have your comments/representations by Wednesday 4<sup>th</sup> November 2020.

Regards

Maree

*Maree Winter*

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

**Haddington: EH41 3HA**

**01620 827867**

**[mwinter@eastlothian.gov.uk](mailto:mwinter@eastlothian.gov.uk)**

## Winter, Maree

---

**From:** Fruzynski, Rudi  
**Sent:** 19 October 2020 15:37  
**To:** Winter, Maree; LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk; Environmental Health/Trading Standards; Environment Reception; Grant, Shona; torquil.cramer@firescotland.gov.uk; Trading Standards; [REDACTED]  
**Subject:** RE: Application for Major Variation- 102 New Street, Musselburgh

From a Licensing Standards point of view, I have no objection to this major variation application.

R. Fruzynski  
Licensing Standards Officer  
Accredited Paralegal  
John Muir House  
Haddington  
East Lothian  
EH41 3HA

01620827363

*Please note the LSO is not permitted to provide legal advice and can only assist you with guidance as to what is required under licensing legislation. It is recommended that you consult with a licensing agent or solicitor if you are looking for legal advice on matters.*

---

**From:** Winter, Maree  
**Sent:** 09 October 2020 11:23  
**To:** LothianScotBordersLicensingEastMid@Scotland.pnn.police.uk; Fruzynski, Rudi <rfruzynski@eastlothian.gov.uk>; Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>; Environment Reception <environment@eastlothian.gov.uk>; Grant, Shona <sgrant@eastlothian.gov.uk>; torquil.cramer@firescotland.gov.uk; Trading Standards <tradingstandards@eastlothian.gov.uk>; [REDACTED]  
**Subject:** FW: Application for Major Variation- 102 New Street, Musselburgh

Dear all,

Please find attached major variation application from 102 New street, Musselburgh to vary the following:-  
Children to be allowed on the premises after 22:00  
To be able to host birthday parties and the like.  
To be able to play background music whilst diners are eating as usually done in a restaurant setting.  
To allow takeaways and unfinished bottles of wine.

Could I please have your comments/representations by Wednesday 4<sup>th</sup> November 2020.

Regards  
Maree

*Maree Winter*





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)

3b

- 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

EL0211

2(b) Name and Address of Premises

Ship Inn, 184 North High Street, Musselburgh

Post Code EH21 6BH

Phone No. 0131 665 2642

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

Caledonian Heritable Ltd  
4 Hope Street  
Edinburgh

Post Code EH2 4DB

Phone No. 0131 220 5511

### 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)

Q5 Conference Facilities COL. 2 3 4 change to yes  
Q5 Restaurant Facilities COL.2 3 4 change to yes  
Q5 Club Meetings COL.4 change to yes  
Q5 Dance Facilities COL. 2 3 Change to no  
Q5 Films COL 2 3 Change to yes  
Q5 Gaming COL. 2 3 Change to no  
Q5 Televised Sport COL. 4 change to yes  
Q5 Outdoor drinking facilities COL.4 Change to yes  
Additional narrative re. COL.4 activities club meetings and conferences may take place and TV sport may be shown in the morning during breakfast service.  
Access to Alfresco dining area for breakfast service.

Q5F We wish to include the following activities:

Quiz nights, charity events, wedding ceremonies, training courses, market stalls, corporate events, art workshops, BBQs, festival shows, comedy acts, product launches, home deliveries

Q6B Children and young persons will be permitted into the front bar area until 5pm daily when accompanied by a responsible adult.

Children will be permitted into the restaurant and outside area at all times when the premises is open, when accompanied by a responsible adult.

Young persons will be permitted into the restaurant and outside area at all times when the premises is open.

Q6D Children and Young persons will be permitted entry at all times when the premises is open.

Q6E Children and Young persons will be permitted to all public areas.

**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.

Complete reconfiguration of outlet with additional toilets added previous external 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)

**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

01/10/20

Capacity: APPLICANT / ~~AGENT~~ (delete as appropriate)

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

.....  
.....  
.....

**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](mailto:licensing@eastlothian.gov.uk)

FOR OFFICE USE ONLY		
<i>Received &amp; 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)

### Question 1

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

<i>1(a) Will alcohol be sold for consumption solely ON the premises?</i>	<i>NO</i>
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<i>NO</i>
<i>1(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>	11.00am	11.00pm
<i>Tuesday</i>	11.00am	11.00pm
<i>Wednesday</i>	11.00am	11.00pm
<i>Thursday</i>	11.00am	1.00am
<i>Friday</i>	11.00am	1.00am
<i>Saturday</i>	11.00am	1.00am
<i>Sunday</i>	11.00am	12 midnight

**Question 3**

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

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00am	10.00pm
<i>Tuesday</i>	11.00am	10.00pm
<i>Wednesday</i>	11.00am	10.00pm
<i>Thursday</i>	11.00am	10.00pm
<i>Friday</i>	11.00am	10.00pm
<i>Saturday</i>	11.00am	10.00pm
<i>Sunday</i>	11.00pm	10.00pm

**Question 4**

*SEASONAL VARIATIONS*

<i>Does the applicant intend to operate according to seasonal demand</i>	<i>YES</i>
--	------------

*\*If YES – provide details*

We shall apply for or take grant of extension to licensing hours during any local, national and international festivals and/or holidays as and when applicable, in accordance with the East Lothian Licensing Board's policies/guidelines.

We may also apply for extensions for special events i.e. sporting events, functions, charity evenings etc.

**Question 5**

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

<b>COL. 1</b> <i>5(a)</i> <i>Activity</i>	<b>COL. 2</b> <i>Please confirm</i> <i>YES/NO</i>	<b>COL. 3</b> To be provided during core licensed hours – please confirm <i>YES/NO</i>	<b>COL. 4</b> Where activities are also to be provided outwith core licensed hours please confirm <i>YES/NO</i>
<i>Accommodation</i>	No	N/A	N/A
<i>Conference facilities</i>	Yes	Yes	Yes
<i>Restaurant facilities</i>	Yes	Yes	Yes
<i>Bar meals</i>	Yes	Yes	Yes
<b>5(b) Activity</b> <i>Social functions including:</i>	<i>Please confirm</i> <i>YES/NO</i>	To be provided during core licensed hours – please confirm <i>YES/NO</i>	Where activities are also to be provided outwith core licensed hours please confirm <i>YES/NO</i>
<i>Receptions including Weddings, funerals, birthdays, retirements etc.</i>	Yes	Yes	No
<i>Club or other group meetings etc.</i>	Yes	Yes	Yes
<b>5(c) Activity</b> <i>Entertainment including:</i>	<i>Please confirm</i> <i>YES/NO</i>	To be provided during core licensed hours – please confirm <i>YES/NO</i>	Where activities are also to be provided outwith core licensed hours please confirm <i>YES/NO</i>
<i>Recorded music – see 5(g)</i>	Yes	Yes	Yes
<i>Live performances – see 5(g)</i>	Yes	Yes	No
<i>Dance facilities</i>	No	No	No
<i>Theatre</i>	No	N/A	N/A
<i>Films</i>	Yes	Yes	No
<i>Gaming</i>	No	No	No
<i>Indoor/outdoor sports</i>	Yes	Yes	No
<i>Televised sport</i>	Yes	Yes	Yes



<i>5(d)</i> <i>Activity</i>	<i>Please confirm</i> <i>YES/NO</i>	<i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	<i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i> <i>YES/NO</i>
<i>Outdoor drinking</i> <i>facilities</i>	Yes	Yes	Yes
<i>5(e)</i> <i>Activity</i>	<i>Please confirm</i> <i>YES/NO</i>	<i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	<i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i> <i>YES/NO</i>
<i>Adult entertainment</i>	No	N/A	N/A

*Where you have answered YES in respect of any entry in column 4 above, please provide further details below.*

Breakfasts/Teas and Coffees will be served from 10.00am, outside core licensed hours no alcohol will be served.

Music is played at all times whilst premises is open

Club meetings and conferences may take place and TV sport may be shown in the morning during breakfast service.

Access to Alfresco dining area for breakfast service.

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.

Quiz nights, charity events, wedding ceremonies, training courses, market stalls, corporate events, art workshops, BBQs, festival shows, comedy acts, product launches, home deliveries
---

5(g) Late night premises opening after 1.00am

<i>Where you have confirmed that you are providing live or recorded music, will the decibel level exceed 85dB?</i>	N/A
<i>When fully occupied, are there likely to be more customers standing than seated?</i>	N/A
<i>*Delete as appropriate</i>	

**Question 6 (On-sales only)**

*CHILDREN AND YOUNG PERSONS*

6(a)	<i>When alcohol is being sold for consumption on the premises will children or young persons be allowed entry</i>	YES
	<i>*Delete as appropriate</i>	

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 into the front bar area until 5pm daily when accompanied by a responsible adult.

Children will be permitted into the restaurant and outside area at all times when the premises is open, when accompanied by a responsible adult.

Young persons will be permitted into the restaurant and outside area at all times when the premises is open.

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

Children Aged 0 to 15 years old

Young Persons aged 16 to 17 years old

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

Children and Young persons will be permitted entry at all times when the premises is open.

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

Children and Young persons will be permitted to all public areas.

**Question 7**

*CAPACITY OF PREMISES*

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

280 Persons

**Question 8**

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

*Personal details*

8(a) *Name*

Pamela Ann May

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>
31/07/2016	East Lothian	EL1319

**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 [Redacted] ..... \* (see note below)

Date 01/10/20 .....

Capacity .....APPLICANT

Telephone number and email address of signatory 0131 220 5511

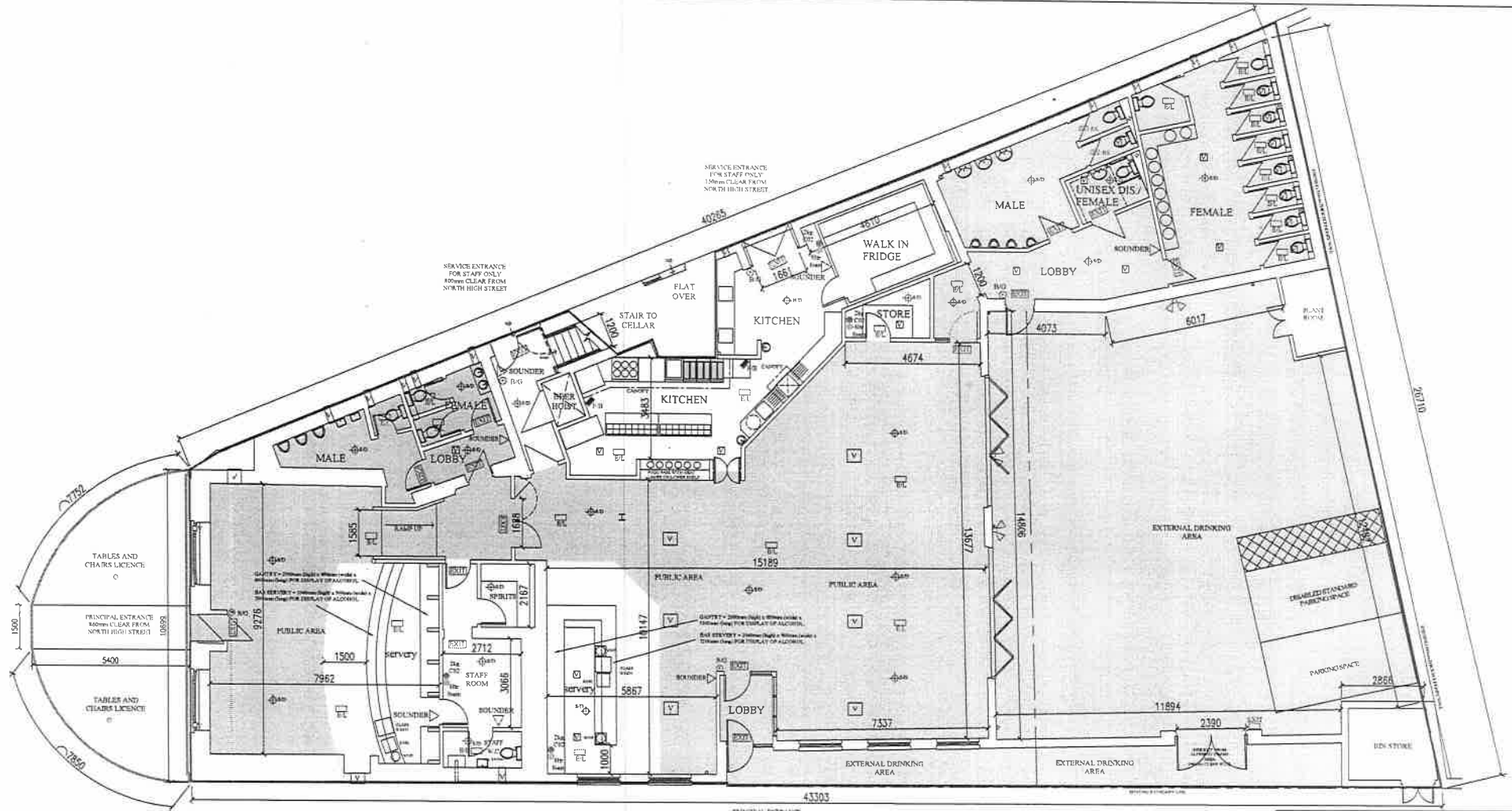
[Redacted]

**\* 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.

# PROPOSED PLAN

52



PROPOSED GROUND FLOOR PLAN

## LEGEND

- DENOTES EXISTING MANUAL BREAK GLASS POINT
- DENOTES EXISTING SOUNDER
- DENOTES EXISTING EXIT SIGN
- DENOTES EXISTING EMERGENCY LIGHT
- DENOTES EXISTING EMERGENCY FLOOD LIGHT
- DENOTES EXISTING FIRE BLANKET
- DENOTES EXISTING SMOKE ALARM
- DENOTES EXISTING HEAT DETECTOR - KITCHEN
- DENOTES CO2, H2O AND FOAM FIRE EXTINGUISHERS
- RED LINE INDICATES LICENSED AREA
- TABLE AND CHAIRS LICENSE
- AREA WHERE CHILDREN AND YOUNG PERSONS HAVE ACCESS

TOTAL OCCUPANT CAPACITY = 280

- RECEPTIONS INCLUDING - WEDDINGS, FUNERALS, BIRTHDAYS, RETIREMENTS ETC
- BAR MEALS
- CLUB OR OTHER GROUP MEETINGS
- RECORDED MUSIC
- DANCE FACILITIES
- GAMING
- INDOOR SPORTS
- TELEVISED SPORTS
- OUTSIDE DRINKING

TOTAL OCCUPANT CAPACITY = 280

EXISTING GROUND FLOOR LAYOUT  
SCALE 1 : 100 @ A3



ANY INFORMATION PROVIDED ON THIS LAYOUT PLAN THAT IS NOT REPEATED IN THE LICENSING BYELAWS ACT 2004 OR REGULATIONS MADE THEREUNDER IS PROVIDED PURELY FOR THE PURPOSE OF ASSISTANCE. SUCH INFORMATION SPECIFICALLY DOES NOT FORM PART OF ANY PREMISES LICENSE.

Project			
EXISTING LAYOUT AT THE SHIP INN 184 NORTH HIGH STREET MUSSELBURGH			
Client			
CALEDONIAN HERITABLE			
Date	Scale	Dwg. Num.	
SEPT '20	1:100	1099/01	
<b>Planning &amp; Building Design Ltd.</b> 24 West Nicholson Street Edinburgh EH8 9DA  Tel. 0131 662 8430 Fax. 0131 662 8431			



03/11/2020

Your Ref: EL0211

Our Ref: 526391/GB

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



**POLICE  
SCOTLAND**

Keeping people safe

John McKenzie  
Divisional Commander  
The Lothians and Scottish Borders Division  
Haddington Police Station  
39-41 Court Street  
Haddington  
EH41 3AE

FOR THE ATTENTION OF EAST LOTHIAN LICENSING BOARD

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005  
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE  
SHIP INN MUSSELBURGH  
184, North High Street, Musselburgh, East Lothian, EH21 6BH.**

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 the complete reconfiguration of the premises with an additional external area.

In terms of Section 29(5) of the Act this request can be considered a variation.

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

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, I am of the opinion that the variation in its current form should be modified to exclude tables and chairs from the proposed external area situated to the South of the premises on Market street, Musselburgh.

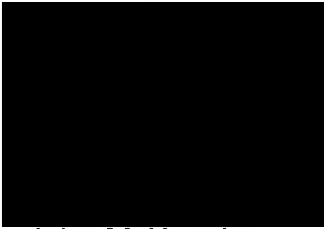
The above modification to the proposed tables and chairs on the South side of the premises will allow free flow of pedestrian traffic and avoid any potential conflict between patrons and members of the public.



**OFFICIAL**

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

Yours faithfully



John McKenzie  
Chief Superintendent

For enquiries please contact the Licensing Department on 0131 561 6119.

# EAST LoTHIAN COUNCIL

## People & Governance

**From: R. Fruzynski**  
**Licensing Standards Officer**

**To: K. MacNeill**  
**Clerk to the Licensing Board**

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Date: 2 November 2020

**Subject: LICENSING SCOTLAND ACT 2005**  
**PREMISES LICENCE APPLICATION (MAJOR VARIATION)**

**The Ship Inn, 184 North High Street, Musselburgh, East Lothian, EH21 4DB**

I refer to the above subject and can confirm that the premises have been visited and inspected in relation to application for a Premises Licence variation.

In the past these premises have been very well run.

I have no objection to the facilities or change of layout applied for.

R. Fruzynski  
Licensing Standards Officer

**EAST LOTHIAN COUNCIL**

**Internal Memorandum**

**From:** Planning Delivery  
**To:** Clerk to the Licensing Board  
**Per:** Neil Millar  
**Per:** Licensing Board  
**Cc:**

---

**Date:** 26<sup>th</sup> October 2020

**LICENSING (SCOTLAND) ACT 2005**

**Re: Consultation response**

**Address:** 184 North High Street, Musselburgh

**Application type:** Variation other than a minor variation of premises licence

In October 2019, planning permission (Ref: 19/00798/P) was granted for alterations, extensions to building, formation of outdoor seating, including covered seating areas and associated works at this premise.

I have attached a copy of the Decision Notice for planning permission 19/00798/P (with includes the 5 conditions imposed) within my email for your information.

As you will note, condition 4 of planning permission 19/00798/P states that, *'No use shall be made of the outdoor dining area hereby approved unless and until two car parking spaces have been formed within the application site in accordance with the proposed ground floor plan docketed to this planning permission. The two car parking spaces shall thereafter be retained for car parking use, unless otherwise approved in writing by the Planning Authority'*. Please note that this condition was required in the interests of road safety. I have also attached a copy of the stamped approved drawings relating to this planning permission.

Whilst I have no objection to the variations applied for, as is detailed in the application forms for them, the layout plan submitted with this licensing application does not include the two car parking spaces which, in accordance with condition 4, must be made available and thereafter retained within the site. I therefore strongly suggest that the layout plan submitted with this application is revised to reflect the approved layout plan the subject of planning permission 19/00798/P.

App No. 19/00798/P

**EAST LoTHIAN COUNCIL**

**DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**TOWN AND COUNTRY PLANNING  
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008**

**Caledonian Heritable Ltd  
c/o Planning And Building Design Ltd  
Per Keith Owens**



APPLICANT: Caledonian Heritable Ltd

With reference to your application registered on **1st August 2019** for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Alterations, extensions to building, formation of outdoor seating, including covered seating areas and associated works**

**at  
184 North High Street  
Musselburgh  
East Lothian  
EH21 6BH**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **GRANT PLANNING PERMISSION** for the said development in accordance with the particulars given in the application, the plan(s) docketed as relative hereto and the conditions set out below:-

**CONDITIONS:**

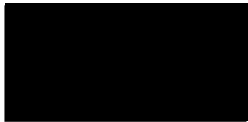
- 1 The new and heightened boundary walls hereby approved shall be finished in roughcast in a colour to match the colour of the roughcast of the walls of the Ship Inn public house building and its existing boundary walls.  
  
Reason:  
In the interests of the character and appearance of the area.
- 2 The outdoor dining area hereby approved shall only be used by customers and staff of the Ship Inn public house and that use shall only be between 0900 hours and 2300 hours on any day of the week.

Reason:

1. In accordance with Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within **THREE YEARS** of the date of this decision notice. **If development has not commenced within this time period, then this planning permission will lapse.**

2. It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

**4th October 2019**

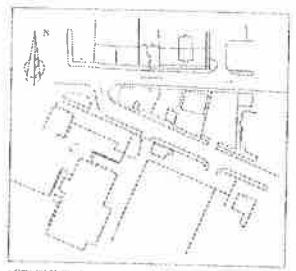


Keith Dingwall  
Service Manager - Planning





EXISTING SOUTH FACED ELEVATION  
FACING MARKET STREET



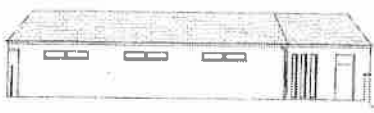
LOCATION PLAN



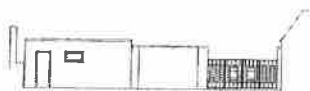
EXISTING NORTH FACED ELEVATION  
FACING NORTH HIGH STREET



EXISTING ELEVATION 'W'



EXISTING EAST FACED ELEVATION  
FACING ONTO CAR PARK



EXISTING ELEVATION OF EXTERNAL VIEW -  
NORTH FACING



EXISTING ELEVATION OF EXTERNAL STORE -  
WEST FACING



EXISTING FRONT PRINCIPAL ELEVATION -  
WEST FACING

10/00700/W

EAST LUTHERIAN CHURCH  
Planning Application 10/00700/W  
10/00700/W

PLANNING APPLICATION  
EXISTING ELEVATIONS

1. CALLEDONIAN HERITAGE LTD  
Planning & Building Design Ltd.  
24 West Humber Street  
Birmingham  
B18 7EA  
Tel: 0121 462 8176  
Fax: 0121 462 8401

