



MINUTES OF THE MEETING OF THE EAST LoTHIAN LICENSING FORUM

WEDNESDAY 11 MARCH 2020
THE SEAGLASS INN, PORT SETON

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Forum Members Present:

Mr G Hood
Mr S Baxter
Mr J Thayers
Ms C O'Brien
Mr R Ross

Council Officials Present:

Ms J Totney

Elected Members Present:

There were no Elected Members present at the meeting

Clerk:

Ms S Birrell

Apologies:

Mr D Dickson
PC C Banks
Mr J Sherval
Mr R Fruzynski

Declarations of Interest: There were no Declarations of Interest.

1. ELECTION OF OFFICERS FOR 2020/21

Mr Hood proposed Ms O'Brien for the post of Secretary, and this was seconded by Mr Ross. Ms O'Brien was elected unopposed to the role of Secretary. Mr Ross proposed Mr Hood for the Convenor post, this was seconded by Ms O'Brien, and Mr Hood was elected unopposed to the role of Convenor, adding that his health could preclude him from serving the full term.

2. MINUTES OF THE MEETING OF THE EAST Lothian LOCAL LICENSING FORUM HELD ON HELD ON 11 DECEMBER 2020 FOR APPROVAL

The minute was agreed as an accurate record of the meeting.

3. MATTERS ARISING

Mr Thayers asked if there could be a standing item report at future meetings advising the number of applications that had been presented to the East Lothian Licensing Board since the last Forum meeting, to be broken down in the number granted and the number refused.

Decision

The Forum agreed that it would request that ELC Licensing team provide the number of applications granted/refused for each Meeting of the Local Licensing Forum.

4. LICENSING STANDARDS OFFICER REPORT

It was reported that as the Licensing Standards Officer (LSO) had submitted his apologies for this meeting, there would be no report. However, the Convenor advised that he had received a report direct from the LSO and indicated that he would send this to East Lothian Council Committees team for circulation to Forum members for information.

Decision

The Forum agreed that the Convenor should issue the LSO report to members, via the Council's Committee team, and that the item would be continued to the next meeting at which time an updated LSO report would be requested.

5. POLICE REPORT

It was advised that as PC Banks had submitted his apologies for this meeting, there would be no report.

Decision

The Forum agreed that this item would be continued to the next meeting.

6. PUBWATCH

The Convenor confirmed that the Pubwatch group were still in hiatus due to ongoing issues. Individuals from Prestonpans, who were keen to establish a Pubwatch scheme in the area

would be encouraged to join the RASP group, which would be meeting again soon. A redesign of the Pubwatch poster was also scheduled.

Decision

The Forum agreed to note that the Pubwatch would meet again in the near future.

7. CREATION OF WORKING GROUP TO REVIEW THE STATEMENT OF LICENCE POLICY

The Convenor intimated that he would email all members with proposed dates for working group meetings, and invited members to let him know which meetings they could attend in order to review the Statement of Licence Policy. Ms Totney recommended that any requests for further resource from East Lothian Council should be forwarded to her in the first instance.

Decision

The Forum agreed that a working group would be set up without administrative assistance from East Lothian Council to review the Statement of Licence Policy.

8. UPDATE FROM CLLR DUGDALE REGARDING RECOMMENDATIONS MADE BY THE FORUM TO THE LICENSING BOARD

It was noted that Councillor Dugdale, East Lothian Licensing Board (ELLB) Convenor, had not been able to attend the meeting. Ms Totney advised that there was no requirement for the ELLB Convenor to attend the Forum meetings and that the matter that the Forum considered to still be outstanding in relation to responses to the Forum's recommendations for the Statement of Licensing Policy, should be for the attention of Kirstie MacNeill, Service Manager, in her capacity as Clerk to the Licensing Board and not for Councillor Dugdale to address.

Decision

The Forum agreed to add this item to a future agenda and seek a response from Ms MacNeill.

9. UPDATE ON BYELAWS PREVENTING THE CONSUMPTION OF ALCOHOL IN PUBLIC PLACES

The Convenor shared an email from Mr Forrest, Senior Solicitor at East Lothian Council, which provided an update on the issue of byelaws preventing the consumption of alcohol in public places. It was unlikely that a ban could be implemented for the area of East Lothian, but, following a further consultation and approval from the Scottish Government, it was hoped that an alternative byelaw, applicable to all residential areas in East Lothian, could be passed.

The Forum discussed the original consultation, and historical reasons for the current byelaws.

Decision

The Forum agreed to ask for a more detailed update in the near future including potential timescales for a further consultation, and when new byelaws would be likely to be fully implemented.

10. UPDATE ON THE REVISION OF THE CONSTITUTION OF THE LICENSING FORUM

Ms Totney gave a detailed report on the operation of the Forum, and spoke to her updated version of the Forum's Constitution. She also outlined work that had been carried out to streamline and modernise the process of recruitment, and the new requirement for each member to reapply every two years to remain part of the Forum. She confirmed that, as the Licensing Forum's operation was based in legislation, it would not require a constitution per se, and the replacement document would accordingly be known as the Forum's Scheme of Administration.

Processing of new applications should take no longer than four weeks and would be delegated to the Service Manager – Legal and Procurement, the Service Manager – People and Governance, and the Team Manager – Democratic and Licensing. However, the phrase 'Council Officers' had been used in the Scheme of Administration, to ensure that the document would be futureproof, should role titles change.

She confirmed that the quorum for a meeting would remain at half of the membership, rounded up, due to the requirements of the relevant legislation. However, the wait time before a meeting would be cancelled due to it being inquorate, could be increased to 15 minutes. She asked for clarification on the creation and operation of Working Groups so that they could be added to the scheme.

She outlined the new procedure for removing members of the Forum due to non-attendance. The Forum discussed the inclusion of relevant information and contact details on the Forum's website. Mr Baxter pointed out that quorum rules could not be applied to Working Groups. The Forum discussed the terms and conditions of Forum membership which all members would be required to sign upon appointment and re-appointment.

Mr Thayers asked how the Licensing Board could take steps to become more responsive to queries and comments from the Forum. The Forum agreed that the relationship between the two groups was essential to maintain the strength and purpose of the Forum. Mr Thayers stressed that the Licensing Board had not provided reasons for not accepting any of the suggestions put by the Forum more than two years previously regarding East Lothian Licensing's Over-Provision Statement, despite the significant amount of work carried out by the Forum in collating these suggestions and amendments. He added that it would be reasonable to expect the Licensing Board to respond to questions put by the Licensing Forum by the following meeting date of the Forum, a time scale of around three months.

The Forum discussed recruitment further, and Ms Totney agreed to contact Council Officers regarding the potential to promote membership within the Council's Community Support Team, and the Healthy Working Lives group.

Decision

The Forum agreed that:-

- i) the Scheme of Administration should replace the Local Licensing Forum's Constitution after updating by Ms Totney;
- ii) the new application form would be added to the website, along with the Scheme of Administration, further information about the Forum, and contact details for the Convenor – effectively creating an application pack;

- iii) all current members would be invited to reapply for their membership at or before the next meeting of the Forum on 10 June 2020;
- iv) the Convenor would be referred to as the Convenor, and not the Chair;
- v) the Forum would be responsible for writing to members if a member missed two consecutive meetings without good reason;
- vi) Council Officers would be responsible for removing members of the Forum due to non-attendance after three meetings without good reason;
- vii) a standing report of attendance would be brought to each future meeting, updated to include date of membership, and reasons for apologies (where provided), so that this could be used to manage the reapplication process (after a two year period) and the issue of membership removal reminders and letters due to non-attendance as stated above;
- viii) Working Groups would be exempt from the quorum rules but all decisions and work undertaken by Working Groups would require an official sign off by the Forum;
- ix) the application form and terms and conditions letter would be combined to further streamline the process;
- x) all reference to AGMs would be deleted from Forum administration, but office bearers would be elected every two years during the first Forum meeting of that year;
- xi) written reports would be requested from the Licensing Standards Officer and Police Scotland for each meeting, regardless of whether representatives were able to attend the Forum;
- xii) Ms Totney would contact the Clerk to the Licensing Board with a view to looking at ways to enhance the connection, involvement and communication between the Licensing Forum, and the Licensing Board; and
- xiii) Ms Totney would contact the Head of Communities and the Healthy Working Lives team to discuss the possibility of Forum members from these Council teams.

11. FUTURE TRAINING NEEDS AS REQUESTED BY ALCOHOL FOCUS SCOTLAND

The Convenor stated that there was a need for training for members of the Forum. Mr Thayers agreed to ask about the possibility of training as he was in regular contact with Alcohol Focus Scotland.

Decision

The Forum agreed to delegate the task of requesting training from Alcohol Focus Scotland to Mr Thayers.

12. ANY OTHER BUSINESS

The Forum agreed to continue this item until the next meeting.

13. AGREEMENT OF PROPOSED MEETING DATES, TIMES AND VENUES

The Forum agreed the following meeting dates, times and venues.

Wednesday 10 June 2020, 10am, Seaglass Inn, Port Seton

Tuesday 8 September 2020, 7pm, Brunton Hall

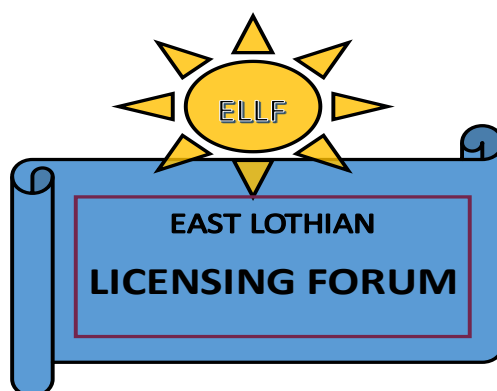
Wednesday 9 December 2020, 10am or 7pm, time and venue tbc

Wednesday 10 March 2021, 10am, venue tbc

POST MEETING NOTE:

Due to COVID-19 and continuing public health restrictions the meetings scheduled in June, September and December 2020 did not take place. The meeting scheduled for 10th March 2021 took place remotely via the Council's digital meetings system.

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LSO – Licensing Forum Notes **1st March 2020 to 19th February 2021**

George Hood

I would like to pay my respects to George who sadly passed away at home on 3rd January after a long period of illness. George was a friendly man who had a down to earth approach to life and a great love for his family and community. Among his projects he organised Port Seton Gala dances and events, he loved darts and quizzes, and he enthusiastically supported our Forum as Chairperson for a number of years, organising working groups and reports to the Licensing Board to ensure the broader picture of problems associated with the sale and supply of alcohol were highlighted and that East Lothian issues and needs were appreciated and recognised. He will be sadly missed.

Retirements

I would also like to thank Inspector Andy Haborow and PC Colin Banks for their contribution to licensing and the Forum. Andy retired in December and Colin will follow suit at the end of March. I wish them all the best in their future pursuits.

Coronavirus

March 2020 saw the last Forum meeting prior to the Coronavirus lockdowns began. From a licensing team and LSO perspective, work carried on with officers working from home. A limited number visits to licensed premises were carried out where appropriate and with safety in mind. We initially experienced an influx of enquiries on interpreting the temporary coronavirus restrictions, which comprised ever changing legislation and statutory and non statutory guidance that was either difficult to understand or lacking in content. Shortly after the first lockdown began, licensing and other departments were ordered not to give out opinions on the various restrictions to avert mixed messages being given to businesses, which could prove to be unhelpful. As such, officers were directed to refer enquirers to information and assistance on the Council and Scottish Government websites. If the

information was not clear or did not satisfy questions, the enquirer was referred to our Environmental Health Team on ehs@eastlothian.gov.uk for assistance.

In relation to enforcement of the temporary restrictions, this was identified as being the domain of the police and environmental health officers. Licensing did not investigate breaches of the rules. Complaints in relation to licensing issues continued to be dealt with by Licensing Standards.

Initially, there were some attempts by some Boards to use licensing reviews as a means of taking licensees to task in dealing with breaches of temporary coronavirus restrictions. However, it was quickly deemed that this was incompetent, since the temporary legislation was outwith the scope of licensing law. However, there have been at least three instances where Boards have now successfully reviewed premises licenses resulting in a warning, a suspension and a revocation handed out.

In general, the restrictions have been widely accepted and adhered to by the hospitality trade despite the massive impact that it has had on the ability to trade and on employment and incomes. It is encouraging that, so far, I have not had any contact from licensees to say that they will no longer be able to trade.

During the pandemic, the Licensing Board stopped having monthly meetings until July 2020, when the first on-line virtual meeting was held. As a result of the success of this Board meeting, further meetings were arranged, when there was sufficient business to be determined, in November and January.

On-line Board meetings have, as stated, been successful and although some would like to get back to the atmosphere of face-to-face meetings, there is potential for continuation of the virtual scenario that would allow wider access to these open meetings by the public, by complainants and objectors who frequently cannot attend physical meetings due to their domestic arrangements and work needs. Such meetings also save a considerable amount of travelling by applicants, agents, solicitors and other interested parties. I have no doubt that the benefits of both ways of conducting Board meetings and the possibility of jointly held types of meeting will be considered in the analysis of good working practices after the pandemic has passed.

Board Meetings

- As Licensing Standards Officer, I have been involved in the following applications etc. as presented at the Licensing Board:
 - **July Licensing Board 2020 –**
 - **Provisional Licence Application – 57 Eskview Terrace, Musselburgh (formerly the Village Tandoori takeaway)-** This was an application to licence a new chip shop. The applicant runs the licensed grocers shop next door. Application granted
 - **Major variation – Londis Store, 10A High Street, Aberlady** this application relates to a change of layout on change of ownership and name of store to Margiotta. To add in background music and opening of shop from 7am to 10pm. To include takeaways and deliveries. Granted.
 - **Major Variation – Nisa Local Store, 18 – 26 High Street, North Berwick.** – This application relates to a proposed increase in alcohol display capacity to from 23.4m² with to 28.89m² . The layout of the shop was to be completely re-arranged. Granted
 - **Major variation – Honourable Company of Edinburgh Golfers** – Proposed increase in use of the premises resulting in an increase to capacity, namely 550 person. To add in some of the normal facilities as granted to on consumption premises. Granted.
 - **Major variation – Co-op Clayknowes Road, Musselburgh –** application to add in ambient background music and home deliveries. Granted.
 - **Major Variation – Wallyford Miners** – application to add in the bowling green area and a small area to the rear of the premises as outdoor drinking areas. To vary access facilities for children and young persons in order that they could attend functions in the main hall. Granted.
 - **Occasional Licence applications – The Green, Hope Park, Haddington** – The proprietors applied to licence the premises car park, opposite the rear of the premises, as an outdoor eating and dining area. There were a number of objections from neighbouring residents who were concerned about customers safety from passing traffic. There were concerns about disturbance and noise. The applicants were able to reassure the

Board that customers would only be permitted to drink alcohol with food. That there would be an on-site bar and that customers requiring to cross the road to use the toilet facilities would be escorted and supervised by a member of staff. Following grant, there was one complaint of a woman screaming (a woman shrieked after spilling a drink down her front) and there were no other issues relating to use of the licence or road safety.

- **November Licensing Board 2020 –**
 - **Review of Premises Licence – Day To Day, Bridge Street, Tranent** – The police requested a review of the premises Licence following a complaint from a concerned parent that their 14 years old son had been sold 2 x 75 cl bottles of Mad Dog (13% by volume) and a bottle of Cactus Jack apple juice (15% by volume). The police had established that the tenant of the shop who had a current staff training record, had made no attempt to challenge the boy or ask for identification. The Board accepted that the tenant had made a serious mistake and issued a letter of warning. The male concerned was charged by the police under Section 102(1) of the Licensing (Scotland) Act 2005 for selling alcohol to a child. The court decision on this case is still pending.
 - **Major Variation to Provisional Premises Licence – 102 New Street, Musselburgh**– This application was for additional C&YP facilities after 10pm, to permit off-sales and deliveries. Granted.
 - **Major Variation to Premises Licence – The Ship Inn, 184 North High Street, Musselburgh** – application to change the layout plan on full refurbishment of the premises and add in two outdoor drinking areas. The application included service of breakfasts and the addition of some of the normal on-consumption facilities. Granted.
- **January Licensing Board 2021 –**
 - **George Hood** - The Board paid tribute to George Hood for his commitment and service to the Licensing Forum over the years and equally to his chairmanship and devotion to the Musselburgh and Tranent. A letter of condolence and thanks was sent to his family. In February, East Lothian Courier published the Boards tribute to George.

- **Provisional Premises Licence – Stodola, 109 High Street, Musselburgh** – Application by a husband and wife team for a new licensed Polish delicatessen and grocers shop. The couple already have 2 stores in Edinburgh and 1 in Midlothian. The shop opens at 7am. The alcohol display area applied for was 18.18m². Deliveries and takeaway facilities were requested. Granted.
- **Personal Licence Application – A named male, tenant of the Day Tod Day shop, Bridge Street, Tranent** – This application was brought to the Board on the back of the review of the shop's premises licence in November. The male concerned had sold alcohol to a 14 year old boy. The decision on the application was adjourned for 6 months pending the outcome of any court proceedings on the case.
- **Extension of Provisional Licence – 10-12 Court Street, Haddington** – The applicant had originally applied for a provisional licence and had the time limit for confirmation extended by 1 year in November 2019. Due to building contractor and coronavirus lockdown issues the premises have not been completed and opened as an Italian restaurant. The Board granted a further extension of 1 year.
- **Major variation - Auld Brig Tavern, 45 Eskside West, Musselburgh** – This application was to introduce bar meals, recorded music and live entertainment, club and other group meetings, receptions (i.e. funeral purveys) and service of breakfasts prior to core hours. Granted.
- **Major variation – Event Space, Archibald Hope House, Musselburgh** – This application requested that a small area of the car park and a section of garden on the south side of the premises be used as an outdoor drinking area, mainly for weddings. Granted subject to normal conditions of 10pm closure and no amplified entertainment.
- **Major variation - Lidl, High Street, Prestonpans** – This was an application for increases to the non-seasonal display of alcohol of 47.61m² to 62.02m² and to the seasonal display size, from 1st December to 2nd January each year, from 66.83m² to 81.23m², which was substantial increases of 14.41m² and 19.22m² respectively. The Community Council objected to the application on the grounds of over provision. The Board

deliberated over this for some time and granted the application by 4 votes to 1.

- During the period 1st March 2020 to 19th February 2021, the LSO and police dealt with the following:

Description of Licensing Activity	Red Nos = figure for last 11 months to 31/01/2021
Applications for Premises Licence	01 (01) (01) (00) (00) (00) (00) (00) (00) (01) (00) (00) (01) (00) (02) (03) (00) (01) (00) (00) B&M Stores, Links Shopping Centre, Prestonpans
Provisional Licence Applications	03 (01) (03) (02) (05) (00) (02) (01) (01) (03) (01) (04) (03) (02) (00) (00) (02) (02) (00) (00) Relate to New chip shop at 57 Eskview Terrace, Musselburgh. Miros Village café & Stodola, High Street, Musselburgh.
Confirmations	01 (01) (03) (01) (00) (02) (00) (00) (00) (00) (01) (00) (01) (01) (00) (01) (00) (01) (01) Relates to Stodola, High Street, Musselburgh
Applications for Major variation of Premises Licences	15 (05) (03) (03) (05) (00) (05) (01) (04) (02) (06) (08) (04) (04) (05) (04) (03) (02) (04)
Minor Variations`	44 (20) (23) (12) (12) (12) (17) (17) (16) (17) (19) (16) (19) (25)(19)(16)(12)(18)
Premises Licence Reviews	01 (00) (00) (00) (00) (00) (00) (00) (01) (00) (02) (003) (00) (00) (00) (00) (02) (01) (00) (0) (12) (01)
Personal Licence Review – <i>1 application for a personal licence is still pending from January 2021. Will be recalled when court decision is known.</i>	00 (00) (00) (00) (00) (00) (00) (00) (00) (01) (00) (00) (00) (00) (02) (01) (00) (00) (01) 01 Personal Licence application
Licences Surrendered	04 (00) (01) (00) (00) (00) (00) (01) (00) (00) (00) (00) (00) (00) (00) (04) (01) (00) (01) (04) Fine Wine Co. Devigne Wines Co-op, Links Shopping Centre, Prestonpans Scots Cheers, Drem
Applications for Occasional Licences	Total for the whole of 2020 was 476 67 applications to date for 2021

	(147 to 29/02/2020) (177) (146) (275) (52) (135) (187) (192) (120) (115) (139) (162) (111) (113) (116) (165) (110) (88) (177) (078) Total for whole of 2019 was 636 Total for whole of 2018 was 626
Applications for Occasional Extensions	Total for whole of 2020 was 06 0 applications to date for 2021 (06 to 29/02/2020) (09) (21) (16) (02) (11) (16) (12) (04) (06) (17) (26) (04) (05) (16) (19) (05) (04) (07) (05) Total for whole of 2019 was 52 Total for whole of 2018 was 44
Transfer of Licences	10 (02) (02) (01) (02) (11) (01) (04) (05) (07) (05) (01) (02) (02) 03 (02) (00) (12) (03) (03) (02) Transfers include: Mecanta Café; Musselburgh Racecourse; County Hotel, North Berwick; No5 Duke Street, West Barns; Day To Day, Tranent; Dunglass Estate Event Space. Belhaven Smokehouse.
Complaints received	17 (06) (06) (18) (11) (04) (15) (16) (10) (09) (02) (07) (03) (07) (13) (10) (05) (03) (09) (16) (02) Mainly to do with breaches of coronavirus restrictions or general noise complaints.

Provisional Licences – the following licences have been updated since the last meeting:

Provisional Grant Date	Premises	Comments re Section 50 Cert.	Confirmed
22/06/2017	Falko, 91 High Street, Haddington	Had not applied for Section 50 by 29/10/2019	
28/01/2021 (extension of one year)	Italian Restaurant, 10-12 Court Street, Haddington		
25/10/2018	The Works, Implement Road, West Barns	Possible change of use required.	
29/08/2019	Thomson's of Tranent		

26/09/2019	Fidra Gin, Kilduf	Planning issues to be resolved.	
26/09/2019	Whitekirk Hill		
31/10/2019	Iceland, Gateside Commerce Park, Haddington	Under construction	
28/11/2019	Aldi, Gateside Commerce Park, Haddington	Under construction	
July 2020	Chip Shop, 57 Eskview Terrace		
Section 50 Certs	Outstanding at 19/02/2021	10	

The Forum Website

The website was updated in February 2021.

Topics for Future Discussion:

The Forum may wish to discuss the following topics.

Occasional Licences – applications for predominantly Children and Young Persons events. There have been no events referred to the Board since the new policy was implemented in November 2018. Does this mean that this section in the Statement of Licensing Policy is redundant and requires removal? OR what type of events should be referred to the Board for determination. At present if the LSO and Police have no objections to any application this results in automatic grant.

Capacity – what does it mean? The recent LA Guidance notes makes the issue no clearer. Capacity is required to be taken into account when determining Premises Licence applications on overprovision. Alcohol Focus Scotland, in their response to the guidance consultation, asked for clarification. As yet there has been no response from the Scottish Government. In the latest case of the major variation for Lidl Prestonpans there was much discussion about how the display capacity was calculated.

Marketing the Forum – When Elizabeth Oldcorn left, she was working on proposals to market and publicise the Forum and its meetings. How do we move forward with this and who will take on the responsibility? We currently have 8 members, of which 3 are statutory, namely LSO, NHS, and Police.

Policy - A new Statement of Licensing Policy review will commence after the next local council elections in May 2022. The Board then has 18 months in

which to publish their new policy. It may be worthwhile for the Forum to work through the current policy, a section at a time, well in advance of the due date, in order to prepare the necessary consultation response without the need to have a working group, which was quite demanding on members' time last time round.

The Licensing Board Annual Report 2019/20 was compiled behind schedule due to coronavirus issues and was published in December 2020.

Licensing Forum Training - Alcohol Focus Scotland is currently reviewing local licensing forum training. A first draft is out for consultation.

