

copy.

Our Reference: KMacN/mjw/EN/L/MF

Date: 1st June 2021



MHH Partnership
2 & 5 Blackshill Farm
Moscow
Galston
KA4 8PP

Kirstie MacNeill
CLERK OF THE LICENSING BOARD

John Muir House
Haddington
East Lothian
EH41 3HA
licensing@eastlothian.gov.uk

6

Dear Sir/Madam

**LICENSING (SCOTLAND) ACT 2005 – SECTION 36(3)(a)
NOTIFICATION OF REVIEW HEARING – NON PAYMENT OF ANNUAL FEE
MAITLANDFIELD HOUSE HOTEL, 24 SIDEGATE, HADDINGTON, EH41 4BZ**

The Licensing Board has requested a review of the Premises Licence noted above, The Clerk to the Licensing Board, has resolved to hold a review hearing, in terms of Section 36(3)(a) of the Licensing (Scotland) Act 2005, namely that one or more of the conditions to which the premises licence is subject has been breached. The Review Hearing will be heard at the next meeting of the Licensing Board to be held by teleconference on Thursday 24th June 2021.

You are entitled to attend the hearing 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 by email in advance of the hearing.

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.

An agenda and details of the remote connect meeting will be sent to you in due course.

Yours sincerely

Kirstie MacNeill
Clerk to the Licensing Board

c.c. Stacey-Marie McWaters, Maitlandfield House Hotel, 24 Sidegate, Haddington, EH41 4BZ
Rudi Fruzynski, LSO, John Muir House, Haddington, EH41 3HA.

Direct Dial : 01620 827867 (Maree Winter)

E-mail : licensing@eastlothian.gov.uk

EAST LoTHIAN COUNCIL

PEOPLE & GOVERNANCE

From: Rudi Fruzynski,
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 1st June 2021

Subject: LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW – NON PAYMENT OF ANNUAL FEES
MIATLANDFIELD HOUSE HOTEL, 24 SIDEGAIT, HADDINGTON, EAST
LoTHIAN EH41 4BZ

On 22nd April 2021, I received intimation in terms of Section 38(3)(a) of the licensing (Scotland) Act 2005 of the intention of the Licensing Board to review the Premises Licence in respect of the above premises.

In terms of Section 38(4) of the Act, I have prepared this report outlining the basis of the request for the review, which is submitted for the consideration of Licensing Board Members.

R. Fruzynski
Licensing Standards Officer

Premises Licence Review

PREMISES NAME

Maitlandfield House Hotel, 24 Sidegait, Haddington, East Lothian
EH41 4BZ

Licensing Board June 2021

Licensing Standards Officer's Report

In 2009 a Premises Licence was granted in respect of the above hotel. The Licence was transferred to MHH Partnership on 9th February 2017. The current Designated Premises Manager is Stacey McWaters.

On 1st August 2020 the Clerk to the East Lothian Licensing Board wrote to all Premises Licence holders advising of the Annual Fee due in respect of their licence, requesting payment by 1st October 2020. It was intimated at this time that payment was a mandatory condition of the Premises Licence, in terms of Section 27(1) of the Licensing (Scotland) Act 2005 and failure to pay may be treated as a breach of Premises Licence. Details of payment method were included in this letter.

On 10th September 2020, the Clerk to the Board sent an additional letter of reminder to the premises address. This letter indicated that a system of staged payments could be arranged. No response was received.

On 5th October 2020, the Clerk to the Board sent a final reminder to the premises address. This letter again emphasised that should the premises have difficulty in paying, due to financial issues as a result of the restrictions imposed to combat the Covid pandemic, that contact should be made with the Licensing Office to arrange a payment schedule. It was also stated that if no such arrangements were made the Board would have no alternative but to call a review hearing.

Following the letter of October 2020, Sheila Fitzpatrick, Licensing Team Leader had a lengthy telephone discussion with Mr McWaters when it was pointed out there would not be a reduction in the annual fee. Mr McWaters eventually agreed to contact the licensing team to arrange payment (possibly in instalments). No further contact was received from either of the McWaters regarding payment.

On 10th December 2020 the Licensing Standards Officer called in at the Hotel and spoke with Stacey McWaters concerning payment of the annual fee. She indicated that business had been severely limited due to the pandemic restrictions and that finance was tight. She stated that the annual fee would be paid and was advised to contact the Licensing Office to confirm how to

make full payment or arrange a staged settlement. No such contact was received by the Licensing Office.

By the time of the Licensing Board meeting, on 22nd April 2021, payment of the mandatory annual fee had still not been made. As a consequence, the Licensing Board instructed that a review of the Premises Licence would take place at the next Board meeting unless payment was made beforehand.

On 29th April 2021 the Licensing Standards called at the premises and met with David and Stacey McWaters. Mr McWaters stated that the premises had paid the annual fee in respect of 2019-2020, but had only been able to open for 6 months due to the pandemic (see attached spreadsheet). He was of the opinion that he had only had 6 months out of the period and had been unable to trade for the rest of the period, and therefore not received the service capability out of the fee paid. He quoted Aberdeen City's approach to the situation which apparently was to reduce the annual fees charged for the following period.

By 1st June 2021, no payment had been received from the licensee.

Since the transfer of the Premises Licence in 2017 the annual fee has been paid on the following dates:

02/10/2017

01/10/2018

02/10/2019

Licensing Board's Powers On Review

Licensing (Scotland) 2005 Section 39 (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—

(a) to issue a written warning to the licence holder,

(b) to make a variation of the licence,

(c) to suspend the licence for such period as the Board may determine,

(d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

R. Fruzynski

Licensing Standards Officer

Licensing year:

<u>2019</u>			<u>2020</u>								
Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Open	Open	Open	Open	Open	Open	Closed	Closed	Closed	Closed	Closed	Closed
						No Alch	No Alch	No Alch	No Alch	No Alch	No Alch
			<u>2021</u>								
Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Closed	Closed	Closed	Closed	Closed	Closed	Ph open	17th Due				
No Alch	No Alch	No Alch	No Alch	No Alch	No Alch	No Alch					
			<u>2022</u>								
Oct	Nov	Dec	Jan	Feb	Mar	Apr	May				