



## **MINUTES OF THE MEETING OF EAST LOTHIAN LICENSING BOARD**

**THURSDAY 22 APRIL 2021  
ONLINE PLATFORM MEETING**

---

### **Board Members Present:**

Councillor L Bruce  
Councillor F Dugdale  
Councillor J Goodfellow (from Item 3)  
Councillor J Henderson  
Councillor J McMillan (Convener)

### **Clerk of the Licensing Board:**

Ms K MacNeill, Service Manager – People and Governance

### **Attending:**

Ms M Winter, Licensing Officer  
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration  
Inspector Stuart Fletcher, Police Scotland  
PC Graeme Bairden, Police Scotland

### **Committee Clerk:**

Ms B Crichton, Committees Officer

### **Apologies:**

Councillor W Innes  
Mr R Fruzynski, Licensing Standards Officer

### **Declarations of Interest:**

Item 2: Councillor Henderson – due to having had conversations with various parties regarding the planning application, also made by Mr Stirling Stewart, to place tables on the Anchor Green site.

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.

## **ELECTION OF NEW CONVENER**

The Clerk of the Board had received Councillor Dugdale's formal resignation as Convener of the East Lothian Licensing Board, and therefore sought nominations for a new Convener.

Councillor Dugdale nominated Councillor McMillan, and the nomination was seconded by Councillor Bruce.

### **Decision**

Councillor McMillan was elected as the new Convener of the East Lothian Licensing Board.

## **1. MINUTES FOR APPROVAL Licensing Board 25 March 2021**

The minutes of the East Lothian Licensing Board meeting of 25 March 2021 were approved as a true record of the meeting.

## **2. OCCASIONAL LICENCE APPLICATIONS Stirling Stewart, Rocketeer, North Berwick**

Three applications had been received from Mr Stirling Stewart for occasional licences relating to an outdoor area at Anchor Green by the Rocketeer, North Berwick. The applications covered the period 26 April 2021 – 6 June 2021 from 11am-8pm daily, and alcohol would be served in conjunction with food only. The Licensing Standards Officer (LSO) had raised no objection, noting there had been no sign of adverse impact on the site when he had visited the previous year. There had been no objections from Planning, the NHS, Police Scotland, or Environmental Health. The applications had attracted 16 public objections, including two late objections, which the Board Members agreed to take into account.

Mr Stirling Stewart, applicant, and Ms Yvonne Campbell, premises manager, were present to speak to the application. Ms Morna Mulgray and Ms Helen Mulgray, objectors, were also present.

Mr Stewart advised that there had been no licencing issues at the Rocketeer in the nine years since it had opened, and advised that the LSO had been content with the operation of the outdoor area when he had visited the previous year. He stated that staff would continue to ensure the smooth running of the site; he disagreed with assertions made by objectors and noted the support of the hundreds of customers who had used the area the previous year. Responding to comments from objectors regarding waste, he stated that staff emptied the twelve council bins on the site regularly. He advised that the owner of the private land and the current leaseholder also supported of the operation.

Mr Stewart responded to questions from Members. He advised that no complaints regarding operation of the site had been made to the premises, but that issues or complaints would be taken seriously and addressed. Mr Stewart felt that the operation

was not disrespectful to the site, and noted that public knowledge of the memorial cross had increased with Rocketeer customers' use of the site. The Clerk of the Board confirmed that no complaints had been made to the licensing service regarding the outside area when it had been operational in the previous year.

Responding to further questions from Members, Mr Stewart confirmed that the operation was planned to mirror the previous year's, and would use the same area of the site. He confirmed that the terminal hour would be 8pm, and that any alcohol would be consumed at tables while customers ate their meals. Mr Stewart also detailed some of the cleaning measures in place to mitigate against the spread of Covid-19.

Ms Helen Mulgray noted significant objection amongst the local population, and multiple letters sent to the East Lothian Courier by locals who were upset that tables had been placed on the Anchor Green site. She stated that the council had asked that the tables be moved from the area in front of the cross, as this had been considered disrespectful. The Clerk confirmed that no objections had been received from Environmental Health in respect of the applications. Mr Stewart responded that Historic Scotland and the Archaeological Officer for East Lothian Council had been consulted, and no objections had been raised. He advised that he was not aware of having been asked to move tables from in front of the cross, but would have been happy to oblige had the request been made.

PC Bairden advised that a call had come in from a local resident to ask where chairs and tables were allowed to be situated. There was also a recorded routine visit from community police officers, who had been impressed with the operation and noted that the site had been clean and tidy with no issues.

Ms Morna Mulgray said she agreed with taking a lenient approach to allow premises to operate from outdoor sites as the sector reopened, however, she felt that Anchor Green was an unsuitable site, which strong local opposition to alcohol being consumed in such close proximity to a cemetery. She also raised the issue of alcohol bylaws in North Berwick as Anchor Green was a public place. The Clerk clarified that once premises were licenced, local bylaws relating to alcohol consumption no longer applied.

Ms Helen Mulgray also spoke to her submitted objection. She felt that the site was unsuitable for religious reasons. She also raised issues around toilet provision, and noted that Covid-19 restrictions may reduce toilet provision within the restaurant itself. She stated that Rocketeer customers would not be able to use the toilets at the nearby Seabird Centre, and advised of decreased public toilet provision due to Covid-19 restrictions nearby on Quality Street, with extremely long socially distant queues seen the previous weekend. She felt that alcohol consumption on the Anchor Green site would lead to crowds of people waiting to use available toilets. She summarised that the application should be refused due to the lack of toilet provision and because the site was unsuitable for the consumption of alcohol.

Mr Stewart responded that the Rocketeer had a fully accessible toilet, and described the Covid-19 mitigations and processes in place when customers used the facilities. He stated that staff were very aware that this had to be policed carefully, and advised that no issues relating to toilet provision had been raised.

The Convener called an adjournment to allow Board Members to hold a private discussion.

Councillor Bruce said that he was sympathetic to complaints about noise and litter, but also took into account that Mr Stewart had received no complaints when operating the outdoor area. He appreciated that the area would be busy over the summer months,

and facilities would have to be provided for visitors. He suggested a condition that the applicants must leaflet neighbours with a direct phone number to allow the latter to raise any concerns.

Councillor Dugdale said that objections from the community had been discussed, but also noted that no official complaints had been made regarding the operation of the site. She agreed with the condition raised by Councillor Bruce and encouraged anyone who had an issue to use formal complaints procedures. With this in mind, she gave her support to the application.

The Convener felt that Mr Stewart had tried to manage the site within Covid-19 and licensing regulations. The Convener reminded people to make official complaints where necessary, but thought that the lack of complaints pointed to it being a well-run site. He suggested that allocating a time slot for customer use of their table may help with issues around queuing/toilet provision. He was minded to grant the application, and agreed with Councillor Bruce's suggested condition to leaflet neighbours.

Mr Stewart sought clarification on the area to be leafleted, and Victoria Road and the Lower Quay were agreed. The Convener recommended that those outside the area would be best raising any concerns through official channels rather than with the local press.

### **Decision**

The East Lothian Licensing Board agreed to grant the occasional licence applications. The terminal hour would be 8pm, and the applicant would be required to leaflet neighbours with a phone number to allow any concerns to be raised and addressed with the applicant in the hope that a quick resolution could be found.

***Sederunt:** Councillor Goodfellow joined the meeting.*

### **3. PERSONAL LICENCE APPLICATION Kayde Reynolds**

This application had been withdrawn.

### **4. GRANT OF FULL PREMISES LICENCE B&M Store, Prestonpans**

The application sought a full premises licence for off-sales from 10am-10pm daily. One public objection had been received on the basis of overprovision in the area. No other objections had been received from the LSO, Planning, the NHS, or Police Scotland.

Mr Richard Williams, agent, was present to speak to the application on behalf of EV Retail Ltd. Ms Dayna Corcoran, premises manager, was also present.

Mr Williams advised that the B&M store had been open for over a year, on a site which had previously been a licenced premises as a Co-op store. B&M had been an essential retailer over lockdown, and he noted that alcohol sales were ancillary to the products offered in store. He noted that B&M did not discount or deliver alcohol, display posters to advertise alcohol, and their price point for alcohol was normally higher than in supermarkets. He advised that B&M worked with police and were happy to discontinue products which were found to be problem lines with street drinkers, etc. He advised that the store had a good deal of CCTV and till prompts for the sale of age-restricted

products. He addressed the one public objection, and submitted to the Board that there was in fact no significant overprovision in the area. Mr Williams also addressed the display capacity of alcohol, and said that only a small range of beers, wines, and spirits would be offered. Regarding the LSO conditions, Mr Williams advised that the CCTV was fitted in store anyway, and that the store would report any thefts of alcohol to the police. Mr Williams responded to the LSO's request high value spirits be tagged; he advised that the store had not experienced issues with theft and therefore had not found reason to install a security tagging system. Should this condition be required, a system would cost in the region of £10,000; however, Mr Williams reassured Members that B&M was a responsible retailer, and would be prepared to install such a system if theft became an issue.

Responding to questions from Councillor Henderson, Ms Corcoran advised that there were always four members of staff in the store. The till nearest the alcohol display would always be operational to allow staff to keep an eye on the area. Ms Corcoran advised that a member of staff would work in the alcohol aisle, and spirits would be kept up high so that a member of staff would have to retrieve bottles for customers. Mr Williams confirmed that only 9 bays in the store were dedicated to the display of alcohol.

The Convener enquired how managers maintained standards in the sale of age-restricted products when the alcohol offer was considered to be ancillary. Mr Williams reassured Members that all staff undertook induction training, including Challenge 25; and this was refreshed every 6 months for all staff, and not just those who operated the tills. Ms Corcoran advised that other age-restricted products were currently sold in the store, and described the till prompt process. She advised that knife sales were refused at times when a customer could not provide ID, and that staff under 18 knew that they had to call a colleague to sell age-restricted products.

PC Bairden referred to the LSO request that high-value alcohol be tagged, and said Police Scotland's would be satisfied for alcohol not to be tagged as per the store's policy, unless theft became an issue.

Councillor Bruce commented that the store was well run and the staff were always positive. He was minded to grant the licence subject to the LSO-raised conditions, other than tagging of spirits.

Councillor Henderson noted that the site had previously sold alcohol as a Co-op. She was comfortable to grant the application.

Councillor Dugdale was reassured that spirits were kept on a high shelf, but felt the possible tagging of spirits should be kept under review. She was happy to grant the application, and Councillor Goodfellow agreed with these comments.

The Convener stressed the importance of good staff training, and was minded to grant the application.

## **Decision**

The East Lothian Licensing Board unanimously agreed to grant the full premises licence, subject to the following conditions:

- CCTV to be operational in the store;
- theft of alcohol to be reported to the police; and
- the left-hand-side till to be operational at all times to give staff a view of the alcohol display area.

**5. GRANT OF PROVISIONAL PREMISES LICENCE  
Wine Wednesdays, North Berwick**

The application sought a provisional premises licence of off-sales for Monday-Saturday 10am-6pm and Sunday 12pm-6pm. The offer was an online local wine delivery business operated from the applicant's primary residence. No objections had been received from the public, NHS, LSO, or Police Scotland.

Ms Catherine Boot was present to speak to her application. She provided information on her own experience in the wine trade, and said she had taken advice on setting up her home as a licenced premises. She advised that she received a delivery of wine cases once per week, which were repacked and delivered, mostly to repeat customers.

Ms Boot answered questions from Members. She advised that she undertook all deliveries herself as this made for a very personal offer. She stated that she would not leave wine with anyone other than an adult; she knew most of her customers, but would follow Challenge 25 where necessary. She stated that she sold mostly wine but also offered some fortified wines and local gins around Christmastime.

PC Bairden was satisfied that Ms Boot was aware of her responsibilities regarding the delivery of alcohol and Challenge 25.

Councillor Goodfellow noted that no objections had been made by Planning, and was comfortable to grant the application.

Councillor Henderson thanked Ms Boot for taking advice before bringing her application to the Board, and was happy to grant the application. Councillor Bruce wished Ms Boot success with her business and was minded to grant the application. Councillors Dugdale and McMillan were also minded to grant the application.

**Decision**

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

**6. MAJOR VARIATION OF PREMISES LICENCE  
Gullane Golf Club**

The application sought to increase the capacity of on-sales for the outside seated area from 100 to 180 persons, which was part of a new lounge and seating area. No objections had been received from Planning, the NHS, Police, the LSO, or from the public.

Members sought clarity on the track record of the golf club in terms of licensing. The Clerk confirmed that there had been no licensing issues, and noted that the premises was not in close proximity to residential areas. The Clerk advised that planning permission would be required, but that planning offers had been directed not to be overly bureaucratic while premises reopened and restrictions were lifted; she confirmed that this was a separate matter from licensing, and the premises would not be in breach of its licence should planning permission be refused.

PC Bairden advised that he had discussed the premises with the LSO, and noted that the new outdoor area faced the golf course. He advised that he had also spoken with Mr Marshall, premises manager, due to the significant increase in capacity' Mr Marshall

had confirmed that the area would be used mostly by members and their guests. PC Bairden stated that had never been any issues with the premises.

Councillor Henderson commented that the development looked to be well thought out, and was consistent with what many other golf clubs were offering. She said that the detail in the application was such that she felt comfortable to grant the major variation. Councillor Goodfellow said the clubhouse was well managed and he was also happy to grant the major variation.

Councillor Bruce commented on the proximity of the neighbours, whose properties were not situated too close to the outdoor area. He was comfortable to grant the application. Councillor Dugdale said she had been reassured by police comments; as there had been no issues in the past, she was minded to grant the application.

The Convener supported the comments made by fellow Board Members. He commented that the new licenced area would add to the world class facilities already on offer and would create jobs in the area.

**Decision**

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

Signed .....

Councillor J McMillan  
Convener of East Lothian Licensing Board