



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

**THURSDAY 28 OCTOBER 2021
ONLINE PLATFORM MEETING**

Board Members Present:

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

Depute Clerk of the Licensing Board:

Mr C Grilli, Service Manager – Legal & Procurement

Attending:

Ms M Winter, Licensing Officer
Ms G Herkes, Licensing Officer
Mr R Fruzynski, Licensing Standards Officer
PC G Bairden, Police Scotland

Committee Clerk:

Ms B Crichton, Committees Officer

Apologies:

None

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.

The Convener began the meeting by paying tribute to Councillor Willie Innes, who had been a Member of the East Lothian Licensing Board and had passed away the previous weekend. He spoke of Councillor Innes' wit and wisdom, his guidance, and said he would be missed as a Member of the Licensing Board.

The Convener also noted his thanks for the work of Kirstie MacNeill, Clerk of the Licensing Board, who had recently retired.

1. MINUTES FOR APPROVAL
Licensing Board 26 August 2021

The minutes of the East Lothian Licensing Board meeting of 26 August 2021 were approved as a true record of the meeting.

2a. GRANT OF A PROVISIONAL PREMISES LICENCE
Monktonhall Service Station, Musselburgh Bypass, Musselburgh

The application sought a provisional premises licence and had attracted no objections from the police, NHS, planning, the public, the LSO, or community council.

Mr Andrew Hunter, agent, was present to speak to the application, along with Mr Tamer Saoud of Motor Fuel Ltd.

Mr Hunter began his presentation by providing background information regarding Motor Fuel Ltd., who held a number of licences across the UK and also operated the service station at Dalrymple outside North Berwick. A national exercise to refurbish their Londis convenience stores was underway, and the Monktonhall Service Station was located in an area of new housing development. The store sought a licence to provide a relatively small offer of beers, wines, and spirits, and Mr Hunter noted that all due diligence relating to the sale of alcohol would be undertaken by the company as an experienced national operator. He made a submission as to why the site should not be considered an excluded premises in terms of Section 123(1) of the Licensing Scotland Act 2005, and referred to details contained within the Customer Profile Research Report submitted as supporting documentation. He highlighted information to confirm that the test for local reliance on the premises had been met, and pointed to a statistically significant proportion of persons shown to be materially disadvantaged in terms of convenience should the retail facilities for groceries or fuel no longer be provided by the premises. Mr Hunter provided a summary of the research methodology and highlighted answers to open-ended questions and reasons provided for customers being reliant on the premises. Mr Hunter also advised that the layout plan had changed, and therefore the display capacity of alcohol had reduced from 14.43sqm to 13.4sqm.

Mr Hunter responded to questions from Members, and provided further clarification regarding the legislative test being met and evidence provided within the market research report. He also confirmed that the alcohol display would remain in the same place as shown in the submitted plan, and advised that the total shelving had been moderately reduced.

PC Graeme Bairden advised that the initial police letter of representation had related to there being no supplementary information provided to evidence that the premises should not be regarded as an excluded premises, but was satisfied with the additional information provided. He advised that only two calls relating to shoplifting had been received by police in the previous 12 months, which demonstrated that the staff were being vigilant.

Rudi Fruzynski, Licensing Standards Officer (LSO), was happy with the presentation by Mr Hunter. He was also satisfied that mitigations in place, such as the positioning of the alcohol display and the CCTV provision, were appropriate.

The Convener called an adjournment to allow Board Members to discuss the application in private.

Upon their return, the Convener invited Board Members to give their decisions. Some Board Members raised concerns with the wording of the legislation, but all were comfortable that the submission had evidenced that the premises met the statutory exemption to excluded premises in terms of the legislation.

The Depute Clerk of the Board noted that a revised layout plan had not yet been provided to the Board. Members agreed that Mr Hunter could submit said plan in due course and this would be taken forward as a minor variation with delegated authority to the Clerk of the Licensing Board.

Decision

The Board unanimously granted the provisional premises licence.

2b. Musselburgh Service Station, 1 Edinburgh Road, Musselburgh

The application sought a provisional premises licence and had attracted no objections from the police, NHS, planning, the LSO, or community council. Five public objections had been received, which mainly related to antisocial behaviour and concerns regarding overprovision.

Mr Andrew Hunter, agent, was present to speak to the application, along with Mr Tamer Saoud of Motor Fuel Ltd.

Mr Hunter advised that the application was in similar terms to the previous application heard by the Board. He made a submission as to why this site should not be considered an excluded premises in terms of Section 123(1) of the Licensing Scotland Act 2005, and referred to details contained within the Customer Profile Research Report submitted as supporting documentation. He highlighted information to confirm that the test for local reliance on the premises had been met, and pointed to a statistically significant proportion of persons shown to be materially disadvantaged in terms of convenience should the retail facilities for groceries or fuel no longer be provided from the premises. Mr Hunter also advised that the layout plan had changed, and therefore the display capacity of alcohol had reduced from 13.57sqm to 12.54sqm. Mr Hunter then addressed the concerns of each of the public objections: he noted that the premises could not be the source of any alcohol-related littering or antisocial behaviour to date; highlighted that one objector raised concerns about antisocial behaviour, while another described the area as peaceful; he stated that any music within the premises would be played at a background level; and he also noted that there were no objections from other traders in terms of overprovision. Finally, he submitted that there was no evidential basis for the public concerns raised, and pointed to the lack of any police objection.

PC Graeme Bairden advised that his comments were similar to the previous application and was satisfied with the information provided by Mr Hunter. He noted six shoplifting incidents and two disturbances within the previous 12 months. He advised that youths gathered together in the area but that this was not directly attributable to the premises. He said that police would be able to deal with any issues on a case-by-case basis.

The LSO was satisfied that Mr Hunter had addressed the test in terms of the legislation. He noted that licensing objectives stated that availability would be considered within 800 yards of a premises, and advised that within this area there was situated an Aldi, Lidl, Iceland, and Home Bargains; it would be for the Board to determine whether this represented an overprovision. The LSO gave his support to the application.

Mr Hunter highlighted the small offer of alcohol from the Londis brand and the minimal likelihood of competing with surrounding retailers in terms of price due to the nature of the convenience offer.

The Convener then called a short adjournment to allow Members to discuss in private.

Upon their return, the Convener invited Board Members to give their decisions. All Members were minded to grant the provisional premises licence, and Councillor Bruce encouraged residents to bring any concerns to the Board going forward.

The Depute Clerk of the Board noted that a revised layout plan had not yet been provided to the Board. Members agreed that Mr Hunter could submit said plan in due course and this would be taken forward as a minor variation with delegated authority to the Clerk of the Licensing Board.

Decision

The Board unanimously granted the provisional premises licence.

Sederunt: Councillor Henderson left the meeting.

3. MAJOR VARIATION OF A PREMISES LICENCE Tantallon Golf Club, 32 Westgate, North Berwick

The application sought a major variation of the premises licence to provide off-sales. There were no objections from the police, NHS, planning, the public, the LSO, or community council.

Mr Andy Edwards, Club Secretary, was present to speak to the application. He advised that the clubhouse was accessible only to club members, of which there were 430 in total, as well as their guests. He advised that member cards were levied with money each year to spend on food and drink at the clubhouse to encourage socialisation with other members. With the closure of the clubhouse during the Covid-19 pandemic, it was proposed to give members the opportunity to spend the accumulated funds on cases of wine to be collected from the premises, hence the application to add off-sales. He provided information on the clubhouse's current operating hours, which were within Board policy, and said that hours may be reviewed coming into winter.

Mr Edwards answered questions from Members. He confirmed that the alcohol would be provided only on a collection basis, and would probably be restricted to two cases per member. Mr Edwards confirmed that full off-sales permission was sought rather than restricting the offer only to this scheme. Mr Edwards confirmed that members' guests could also purchase alcohol.

PC Bairden advised that Police Scotland held no objections to the plans and said the club caused no concerns.

The LSO was happy for the club to hold a generic off-sales licence, and commented that the premises was very well run.

The Convener invited all Members to give their decisions. Members commented on the premises being well run, and Councillors Bruce and McMillan encouraged the provision of locally-produced food and drink. All Members were minded to grant the major variation.

Decision

The Board unanimously granted the major variation of the premises licence to add off-sales.

4. Chief Constable's Report to the East Lothian Licensing Board, period 1 April 2020 – 31 March 2021

This report would be heard at the following meeting due to the presenter being called away on emergency police duties.

Decision

The East Lothian Licensing Board agreed to continue this item to the November meeting of the Board.

FESTIVE HOURS STATEMENT

The Depute Clerk of the Board read the festive hours statement on behalf of the East Lothian Licensing Board.

In terms of Section 67 of the Licensing (Scotland) Act 2005, the Board had determined that it was appropriate to grant a general extension of licensed hours for the festive period. This extension would apply as follows:-

Christmas Eve - Friday 24 December 2021,
Christmas Day - Saturday 25 December 2021,
Boxing Day - Sunday 26 December 2021,
Hogmanay - Friday 31 December 2021 and
New Year's Day - Saturday 1 January 2022, (inclusive) and would allow an extension of the terminal hour for the sale of alcohol during that period until 2am.

This extension would only apply to on-sales and not to off-sales of alcohol.

There would be no general extensions outwith these days although any applications for extended hours outwith the general extension would be considered on a case-by-case basis. It should be noted that such applications require to be submitted no later than 2 December 2021.

There would be no need for licensees to apply for the general extension to 2am. On sales premises could utilise these hours to the extent they considered appropriate.

The Convener confirmed that this information would be communicated with licensees through the usual channels.

Signed

Councillor J McMillan
Convener of East Lothian Licensing Board