



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

**THURSDAY 27 JANUARY 2022
ONLINE PLATFORM MEETING**

Board Members Present:

Councillor L Bruce
Councillor F Dugdale
Councillor J Henderson
Councillor J McMillan (Convener)
Councillor F O'Donnell

Clerk of the Licensing Board:

Mr C Grilli, Service Manager – Legal & Procurement

Attending:

Ms G Herkes, Licensing Officer
Mr R Fruzynski, Licensing Standards Officer
PC G Bairden, Police Scotland
Inspector S Fletcher, Police Scotland

Committee Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor J Goodfellow

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
Licensing Board 25 November 2021**

The minutes of the East Lothian Licensing Board meeting of 25 November 2021 were approved as a true record of the meeting, subject to the correction of an error in officer attendance.

**2. Major Variation of a Premises Licence
West Barns Shop, School Brae, West Barns, Dunbar**

The application sought to increase the licenced hours from 8pm to 10pm for off-sales, and to add deliveries to the operating plan. The application had attracted no objections from the police, NHS, planning, the LSO, or community council. One public objection had been received in regard to noise caused by store shutters and delivery vans, as well as the state of the road through use by heavy vehicles.

Alistair Macdonald, agent, was present to speak to the application, along with Surria Khan on behalf of the applicant. Mr Macdonald advised that deliveries were being requested to prepare for all eventualities, particularly in light of the Covid-19 pandemic. A terminal hour of 10pm would bring the store in line with other premises in the area, although the applicants did not intend to begin opening until 10pm right away. Mr Macdonald had submitted photographs to illustrate parking availability in a small layby, and to address objections raised. He noted that most of the objections raised related to operational matters rather than the application being made for increased hours. He advised that the delivery of newspapers was in a fixed morning slot, and milk was also delivered early; these delivery times would not change as a result of the increased trading hours, but the applicants would ask delivery drivers to work as quietly as possible. Mr Macdonald referred to the photographs and said there was no noticeable problem with parking. He suggested that a notice could be posted asking patrons to park considerately, but invited the objector to raise any problems with the shop owners. He noted that objections regarding the surface of the road may be resolved by the ongoing roadworks. He said that his clients were experienced operators and had no issues in any of their other stores.

Ms Khan responded to questions from Board Members. She advised that a terminal hour of 10pm would be useful to the business, particularly in peak seasonal times. She confirmed that delivery times would not be affected by the change in terminal hour.

Councillor McMillan undertook to discuss the matter of the road repairs with council officers in his role as Transport Spokesperson.

PC Bairden confirmed that Police Scotland held no objections to the application, and advised that the premises had never caused the police any issues. He also advised that no reports of the road being blocked by traffic had been received.

Rudi Fruzynski, Licensing Standards Officer (LSO) said that the store had always been well run, and thanked the previous owner, Mr Mahinder Pal, for his service to the community over the years. He had no objection to the application, and noted the local community's reliance on the store. He referred the applicants to relevant legislation and Licensing Board policy regarding the responsibilities of delivery drivers. Mr Macdonald confirmed his clients were familiar with the rules for delivery drivers.

Councillor O'Donnell commented on the vital role small shops played during the pandemic, and Councillor Henderson noted that requests were within Board policy and was satisfied that all objections had been given due consideration.

The Convener moved to a roll call vote, and the application was granted unanimously.

Decision

The Board unanimously granted the major variation of the premises licence.

3. Occasional Licence Extension The Mercat Grill, 10 Whitecraig Road, Whitecraig, Musselburgh

The application sought an occasional licence extension from 12 midnight to 4am to hold an event to screen the Super Bowl 2022. There would be approximately 20 attendees at the ticket-only event, which would include a meal. No objections had been made, but the applicant had responded to the police letter submitted.

Graham Blaikie, applicant, was present to speak to the application. He read his submitted letter responding to the police objection, which detailed mitigations and plans to be put in place for the smooth running of the event. He reiterated that the premises would close as soon as the game had finished, probably between 3am-4am.

Mr Blaikie responded to questions from Members. He was happy to put a limit on the number of attendees, and wished to find a compromise to ensure the application would be granted to allow the event to run responsibly and respectfully. He said that he did not want police to be worrying about his premises, and described the respectful behaviour of American football fans during screenings of other games. Mr Blaikie confirmed that no children would be in attendance. Tickets would not be on general sale, and attendees would be known to the premises. Mr Blaikie would discuss transport with attendees, and intended to organise pickup with a local taxi company in advance should the licence be granted.

PC Bairden said that the premises caused no issues, and that police concern lay with whether the late finish of the event would lead to antisocial behaviour, particularly when Monday morning was at the beginning of the working week. He asked the Board to consider whether the Super Bowl could be considered an event of national significance. He said that Police Scotland would work with Mr Blaikie to support the smooth running of the event should the licence be granted.

There was discussion as to the nature of the event, which had been described as a 'Super Bowl party'. It was established that the main thrust of the event would be watching the game, with food and drinks provided. Councillor Henderson suggested that from a policing perspective, having the event contained within a venue which was working to hold a responsible event may be preferable to events being held in people's own homes. PC Bairden agreed that imposing conditions on such an event could be helpful, but reiterated concern over whether the event could be considered to be of local/national significance.

The LSO referred to his report dated 14 January 2022. He commented that Mr Blaikie was a very responsible person and there had been no complaints about the premises since he had taken over. He also noted Mr Blaikie's positions as a member of the Licensing Forum and as the Scottish Licenced Trade Association Chairperson, which he would not hold unless he was a fit and proper person. The premises had demonstrated they took imposed conditions seriously, and Mr Fruzynski held no objection to licensed premises being afforded a little extra leeway. He listed the conditions detailed in his report. He supported the application and suggested that a future application would not be considered should there be any issues.

Councillor O'Donnell found the LSO conditions reassuring, but suggested that wording be tightened up around double rounds at last orders. The timing of last orders was also discussed, and Mr Blaikie suggested last orders could be called by 2.30am. He confirmed that food would be provided and was satisfied with the LSO's suggested conditions. He said a break for cleaning after the dinner service and prior to the Super Bowl event would be achievable, as the premises would be empty by 9pm. He reassured the Board that the event would be run very professionally.

The Convener called for an adjournment for Board Members to discuss the application in private session. Upon their return, Members gave their decisions in turn.

Councillor Bruce felt that the Super Bowl was a special event, and drew comparison with other premises showing the British Lions games. He noted that it was easier to curb antisocial behaviour at a licenced event. As attendees would be a pre-existing group known to the applicant, he was comfortable to grant the application, subject to the LSO's stated conditions.

Councillor Henderson said that the event would not set any precedent and that the application was to be considered on its own merit. She was happy to support the application.

Councillor Dugdale had noted the police objection and reports of the well-run premises. She was reassured by Mr Blaikie's description of how the event had been planned. She was minded to grant, subject to the LSO's conditions and last orders being called at 2.30am. Councillor O'Donnell also supported the application, and was reassured by the LSO's conditions and by the thought given to the submission.

The Convener said that it should be made clear that the event was not a party, and asked Mr Blaikie to accept the offer of police assistance to try to minimise disruption to neighbours.

It was proposed that all of the LSO's conditions be imposed, with the exception that last orders be called at 2.30am. This was unanimously agreed by roll call vote.

Decision

The Board agreed to grant the occasional licence extension, subject to the following conditions:

- A personal licence holder be in attendance throughout the event.
- That the event be by invitation/ticket only and limited to no more than 40 persons.
- That attendance must include consumption of a meal.
- That last orders be called by 2.30am and comprise no more than one drink per customer.
- That the sale and supply of alcohol terminate no later than 3am with drinking up no later than 4am, by which time the premises should be closed.
- That staff advise customers to be considerate of others and leave quietly.
- That any Scottish Government temporary coronavirus measures and restrictions in place at the time be fully complied with.

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

Inspector Stuart Fletcher and PC Graeme Bairden were present from Police Scotland to speak to the Chief Constable's Report to the East Lothian Licensing Board for the period 1 April 2020 to 31 March 2021.

Inspector Fletcher wished to place on record his thanks on behalf of Police Scotland to the East Lothian Licensing Board, the supporting council staff, and to PC Graeme Bairden for their support through a challenging period for licensed premises. He highlighted that this support had put East Lothian in a strong position with the licensed trade moving forward, with joint working strongly established. Inspector Fletcher then highlighted changes in divisional personnel. He provided a summary of the report, and drew attention to headline figures regarding alcohol theft, alcohol outlet availability, incidents within licenced premises, and crimes of violence with an alcohol marker attached. He noted the impact of the pandemic on figures and also highlighted the positive impact of licensing officers undertaking premises inspections.

Responding a question from Councillor Dugdale, PC Bairden advised that it had not been possible to begin the national proxy purchase campaign to raise awareness of the impact of adults buying alcohol for children and young people in 2021; officers looked forward to getting this campaign underway in 2022.

Responding to a question from Councillor Henderson, Inspector Fletcher and PC Bairden provided anecdotal feedback regarding the impact of relaxation of the rules around outdoor drinking; despite concerns, it did not seem to have raised issues for the subdivision. The licensed trade had looked to future-proof their business offer by diversifying, and patrons had embraced the new approach. Councillor Henderson commented that people had enjoyed the outdoor environment and thought this approach would continue.

The Convener enquired as to whether alcohol-related crime was being committed by those travelling into an area, and asked if flexible patterns of policing could address this. Inspector Fletcher said that each incident would have to be considered in turn, and noted that some areas were a draw at weekends. However, police were not aware of people travelling and committing crime as a result of alcohol consumption.

The Convener thanked Police Scotland officers on behalf of the East Lothian Licensing Board for the reassuring report and for their work promoting public safety. He commented on the strong relationships which had been built during the period, and also wished the new officers within the division well in their new roles.

Decision

The Board agreed to note the Chief Constable's report.

Additional Item: Statement of Hours for the Queen's Jubilee Celebration

The Clerk of the Licensing Board made a statement on behalf of the East Lothian Licensing Board relating to an extension of trading hours over Queen Elizabeth II's platinum jubilee celebration.

In terms of Statement 67 of the Licensing (Scotland) Act 2005, the Board had determined it was appropriate to grant a general extension of licensed hours for the platinum jubilee holiday weekend. This extension would apply from Thursday 2 June

to Sunday 5 June 2022, dates inclusive, and would allow a general extension on the sale of alcohol during that period until 1am. This extension would apply only to on-sales and not to off-sales of alcohol. There would be no general extensions outside of this, 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 would require to be submitted no later than 16 May 2022. There would be no need for licensed premises to apply for the general extension to 1am; on-sales premises could utilise these hours to the extent they considered appropriate.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Committee agreed to exclude the public from item 4 due to the sensitive nature of discussions around the police letter.

4. TRANSFER OF A PREMISES LICENCE Shivedev Singh, The Scotsman, 179 North High Street, Musselburgh

The East Lothian Licensing Board unanimously refused the application.