



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

**THURSDAY 31 MARCH 2022  
ONLINE PLATFORM MEETING**

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**Board Members Present:**

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

**Clerk of the Licensing Board:**

Mr C Grilli, Service Manager – Legal & Procurement

**Attending:**

Ms G Herkes, Licensing Officer  
Ms M Winter, Licensing Officer  
Ms S Fitzpatrick, Team Manager – Licensing & Landlord Registration  
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  
Councillor J McMillan  
Councillor F O'Donnell

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL  
Licensing Board 27 January 2022**

The minutes of the East Lothian Licensing Board meeting of 27 January 2022 were approved as a true record of the meeting, subject to the correction of an error in officer attendance.

**2. STATEMENT OF PRINCIPLES, 2022 TO 2025 – GAMBLING ACT 2005**

A report had been submitted by the Clerk of the Board to report to the East Lothian Licensing Board on the results of the consultation exercise for the review of the Board's Statement of Licensing Principles. The Board were asked to approve and adopt the Gambling Policy appended to the report.

Carlo Grilli, Clerk of the Licensing Board, presented the report. He provided background information to the consultation process, and advised of one comment; the individual had observed an increase in the availability of betting shops in places where people living in the surrounding area had less disposable income. The commenter would not wish to see a continuation of this pattern in the coming years. Mr Grilli highlighted that protecting people in vulnerable situations was one of the core messages of the draft Gambling Policy, and believed this was therefore adequately addressed.

The Convener moved to a roll call vote on the report recommendations, which were approved unanimously.

**Decision**

The Board unanimously agreed to:

1. approve and adopt the draft Gambling Policy for the period 2022 – 2025, and;
2. delegate to the Clerk of the Board to finalise the policy in respect of any amendments required to the draft consultation version of the policy.

**3. PREMISES LICENCE  
Falko Café & Restaurant, 91 High Street, Haddington**

The application sought a full premises licence. A provisional licence had previously been granted, but had not been confirmed within the four year timescale. No objections had been received from the LSO, police, environmental health and safety, planning, community council, or the public. The LSO had recommended conditions that the outside drinking area should close by 9pm, and no amplified entertainment be allowed in this area.

Falko Burkert, representing the applicant Zest Capital Management, was present to speak to the application.

The LSO referred to his report of 3 March 2022. He commented on the popular and well-run business, and the benefit the restaurant provided to the Haddington town centre. He recommended conditions relating to the terminal hour and amplified entertainment not being allowed in the outdoor drinking area.

PC Graeme Bairden, representing Police Scotland, had no objections to the application, and supported the suggested LSO conditions.

Councillor Henderson appreciated that the proposed terminal hour of 9pm for the outdoor drinking area was earlier than as stated within Board policy, but questioned whether 9pm was still too late when there were residential areas surrounding the restaurant; she suggested 8pm may be more appropriate. Mr Burkert explained that 9pm was in line with other businesses in the area, and that the restaurant usually closed at 5pm; the late terminal hour would only be for use when hosting a birthday party or in the summer if customers wished to continue sitting outside. He felt that with the restaurant's clientele, it would be unlikely that there would be any noise issues. The LSO added that the premises had been in operation for several years under a provisional licence which covered the outdoor area, and there had been no complaints received. He was not concerned that activity in the outdoor area was likely to cause disruption to neighbours.

Councillor Henderson commented that since the premises had been operating without issue until now, she was happy to grant the application with the requested terminal hour of 9pm for the outdoor drinking area.

Councillor Bruce felt that the restaurant had been a great addition to Haddington High Street, and commented that good management of the outdoor area would prevent any concerns being raised. He was happy to support the application.

The Convener had been reassured by the accounts of previous good management of the outdoor drinking area and was also happy to grant the application.

## **Decision**

The Board unanimously agreed to grant the full premises licence.

## **4. PROVISIONAL PREMISES LICENCE Broxmouth Courtyard, Broxmouth Park, Dunbar**

The application sought a provisional premises licence for on-sales and off-sales, conferencing and restaurant facilities, receptions, recorded music and live music, theatre, films, gambling, sports, and outdoor drinking facilities. No objections had been received from the LSO, police, environmental health and safety, planning, community council, or the public. The LSO had made recommendations regarding volume control of amplified entertainment, and noted that the capacity of off-sales required to be confirmed.

Caroline Loudon, agent, was present to speak to the application. She gave information on the history of the building, on the surrounding area, and some of the functions that had run at the premises. She provided a description of the premises, which would be a bespoke wedding venue. Off-sales were only being requested to allow guests to buy a bottle of wine to take back to their lodge house. She advised that there were no neighbouring properties around the premises, and therefore no potential for noise concerns, but her clients did accept the noise condition as requested by the LSO.

The LSO had no hesitation in supporting the application, and thought it would make a beautiful wedding venue. Although there were no neighbouring residential properties, he had suggested a noise condition protect the enjoyment of those using the nearby Dunbar Campsite.

PC Bairden confirmed that Police Scotland held no objection to the application. He felt that noise concerns would be unlikely, but police would deal with anything which arose.

Ms Loudon responded to questions from Members. She advised that the applicants lived in the main house, and that the premises had run events previously under occasional licences. The application had been designed to give the applicants as much flexibility as possible and avoid the need to apply for occasional licences; they envisioned other uses for the venue such as film productions and photoshoots.

Ms Loudon discussed the proposed noise condition with the LSO and the Clerk of the Board; it was concluded that this should be taken as a recommendation, given the proximity and nature of the campsite in question. The applicants were keen to engage with neighbours and not cause nuisance. It was felt that a recommendation regarding noise control in the outdoor area would be sufficient to bring the matter back to the Board if there were issues arising in the future.

Councillors Bruce, Henderson, and Dugdale all expressed their support for the venture and wished the applicants well.

## **Decision**

The Board unanimously agreed to grant the provisional premises licence.

### **5. MAJOR VARIATION OF PREMISES LICENCE**

#### **a. Scotmid, 180-184 High Street, Prestonpans**

The application sought to add recorded music to be played outwith core hours, for general grocery sales to operate from 7am to 10pm Monday-Sunday, and to add home deliveries. No objections had been received from the LSO, police, environmental health and safety, planning, community council, or the public. The LSO had raised that the applicant must comply with requirements in relation to deliveries, and the police sought confirmation that alcohol sales would remain within the core hours of 10am-10pm.

Scott Flannigan, agent, and Ian Lovie, representing Scotmid, were present to speak to the application. Mr Flannigan presented information regarding Scotmid's community projects and their three stores in the area. He highlighted Scotmid's responsible approach to selling alcohol, including taking part in test purchase schemes and the "You're Asking For It" campaign, and their role in training other alcohol retailers. He highlighted the use of the Snappy Shopper app to support the responsible vending of alcohol, and noted the robust measures in place for the training of drivers carrying out home deliveries.

The LSO commented on the well run stores in Prestonpans, and said he had been heartened by Mr Flannigan's presentation on how deliveries would be compatible with licensing objectives. He was supportive of the application.

PC Bairden praised the comprehensive account of the company's operations and indicated his support for the application.

Councillors Henderson, Bruce, and Dugdale had been reassured by the comprehensive presentation and were happy to grant the application.

## **Decision**

The Board unanimously agreed to grant the major variation.

### **5b. Aldi, 48-52 Dunbar Road, North Berwick**

The application sought to add a Click & Collect service, online deliveries, a lottery machine, and to increase and move the location of the permanent and seasonal alcohol displays. No objections had been received from the LSO, police, environmental health and safety, planning, community council, or the public. The LSO had recommended conditions relating to: CCTV systems; tagging of alcohol; reporting thefts of alcohol to police; compliance with delivery requirements; production of a policy on preventing children and young persons accessing alcohol; staff training; Challenge 25; and not leaving alcohol deliveries in a nominated safe space.

Caroline Loudon, agent, and Craig Hutton, on behalf of Aldi, were present to speak to the application. Ms Loudon provided information on the requests included in the major variation. The changes to layout were part of Project Fresh, whereby Aldi had installed chiller cabinets with doors and better green credentials; as these took up more space this had changed how beers, wines, and spirits were displayed in store. She gave an account of the operation of the Click & Collect service, and noted that the last collection slot would be before the store's closing time. She confirmed that the LSO condition that a CCTV camera would always cover the alcohol display would be accepted, and advised that thefts were always reported to Police Scotland. All relevant policies would be adopted in the delivery of alcohol.

The LSO referred to his report dated 25 February. He had visited the store on many occasions and had no complaints about its operation. He acknowledged that his points regarding theft of alcohol and CCTV had been taken into account by Aldi, and he supported the application.

PC Bairden confirmed there were no major issues to report with the store, and had no further comments to make on alcohol policy. Responding to a question from Councillor Henderson, PC Bairden advised that issues with youth behaviour related to supermarkets being a draw for young people to congregate, rather than being specifically related to the stores.

Councillor Dugdale highlighted the community council's questions regarding the Click & Collect times, and Ms Loudon advised that these would be within normal store operation times and there would be only 2-3 spaces dedicated to this service.

Board Members all commented that they were minded to grant the application on the basis of the LSO's suggested conditions.

## **Decision**

The Board unanimously agreed to grant the major variation.

### **5c. Tower Inn, 128-130 Church Street, Tranent**

The application sought to vary the operating plan to include food to be provided after being prepared from other premises, add outside drinking area outwith core hours, and access to children if accompanied by an adult. No objections had been received from the LSO, police, environmental health and safety, planning, or community council. One

representation had been received by the public seeking clarification on parking, curfew, and placement of bins. The LSO had recommended conditions relating to: limiting capacity of outdoor area to 40 persons, delineation of outdoor area, CCTV coverage of outdoor area; and terminal hour of outdoor area being 8pm. The police had made requests relating to: supervision of outdoor area; no amplified entertainment in the outdoor area; terminal hour for the outdoor area; and outdoor consumption of alcohol in plastic receptacles.

Alistair Macdonald, agent, and Patrick Cairney, applicant, were present to speak to the application. Mr Macdonald gave an account of the premises' use over the years, including the local community's support for the premises to remain as a bar when at one time it looked as though it may be converted for residential use. Mr Macdonald advised that the Tower Inn did not have a kitchen, and therefore food would be prepared at the licensees' other premises, the Winton Hotel, and brought onsite. He noted confusion over the area covered by the outdoor drinking area; the surrounding grassed area was in fact not covered by the application. His clients had agreed to a terminal hour of 8pm for the outdoor drinking area, and had agreed to all suggested conditions. He suggested a lower capacity of 25 persons for the outdoor area. However, he requested that the condition relating to use of plastic glasses outside be removed, as this area was likely to be used mainly as a smoking area. He noted the positives of the business highlighted by the objection letter; the applicants would take on board feedback and station a bin in the outdoor area. Mr Macdonald noted that feedback regarding parking was not relevant to the major variation. He commended the application to Members as part of the applicant's continued policy to foster a more community-friendly atmosphere.

The LSO had received no complaints regarding the premises since the new owners had taken over. He commented on the quality of refurbishment, and had no objections to any of the proposals. He had discussed young persons' access to the outdoor area with the applicant and had no concerns to raise. He noted that the area applied for in the outdoor area was a small raised area which had been used as a smoking area in the past. The area of 43.75m squared mentioned in the LSO report was highlighted only as a possible area for future use and was not being applied for at this time.

PC Bairden was grateful that the applicants had accepted advice from police and the LSO, and was happy with the maximum outdoor capacity of 25 patrons and the terminal hour of 8pm. He was happy to withdraw the request regarding use of plastic tumblers in the outdoor area.

Responding to a question from Councillor Dugdale, Mr Cairney advised that much of the premises would be a family area, and commented that patrons were aware of how the premises would have to change to be able to stay open in the long term; he was liaising with patrons to find out what they would like the premises to become. A new layout allowed patrons to move directly into the lounge instead of passing through the main bar, and he advised that the premises would be well managed and policed.

Councillor Bruce commented that the premises was an institution within Tranent and was pleased with the plans for a more community-friendly venture. He was happy to support the proposals. Councillor Henderson echoed these comments.

The Convener was reassured now that the conditions had been clarified and accepted by the applicant, and was minded to grant the application.

## **Decision**

The Board unanimously agreed to grant the major variation.

**5d. Station Yard Micropub, Station Road, Dunbar**

The application sought: to vary the statement of core hours from 11pm terminal hour to 1am Thursday-Saturday and 12am on Sunday; to amend the layout of the beer garden; and to increase the outside capacity. No objections had been received from the LSO, police, environmental health and safety, or planning. The LSO had recommended conditions that no amplified entertainment be played in the outdoor area and that the terminal hour of the outdoor area be no later than 10pm. The community council noted that a resident had been in touch about noise and asked the LSO to look into concerns about the pub encroaching on Network Rail land. Two public representations had been received in relation to the extension of hours, overprovision in the area, use of land without planning permission, and the environmental impact of patio heaters.

David MacKinnon and Steven Holligan, applicants, were present to speak to the application. Mr MacKinnon gave an account of the pub's offer, which was a family-friendly establishment serving locally-produced products. The owners wished to promote use of the outdoor area and would provide a covered extension to the beer garden. The maximum capacity would be 80 persons, and this area had been running under occasional licences since November.

Jacquie Bell, on behalf of Dunbar Community Council, was present to speak to a submitted objection. She noted that the community council had been unaware of any concerns until they had received contact from a resident of King's Court. She highlighted that residents had experienced more noise disruption since the new owners had taken over, and noted issues being caused by there being only one toilet available within the premises. Previous owners had entered into a dialogue with the residents of King's Court and it was felt that this was now missing. She also raised concerns that Network Rail land was being encroached upon by the premises for the purpose of storage without permission. King's Court residents felt that the extension of hours was too late in a residential area. She also noted that planning permission would be required before the owners could operate the new extension.

The LSO noted that the outside area had doubled in size, and made standard recommendations relating to no amplified music and control of noise. He advised that no issues had been raised regarding the premises in recent times, and previous issues had been addressed by noise protection and environmental health. He had been willing to allow opening of the outdoor area until 10pm provided proposed conditions were accepted, as the properties on King's Court were behind a very high wall, and noted that the additional hours requested were within Board policy.

PC Bairden advised that there had been two minor incidents involving police in 2020, but these had been outwith the control of the owners. He advised that the premises was operating without issues and felt it was managed well.

Mr MacKinnon responded to the objections raised by Community Councillor Bell. He advised that the CCTV system in operation and had not shown any incidents. He advised that the premises had leased land from Network Rail for the purposes of storage for some months. Although the discussion regarding planning permission was outwith the scope of the Licensing Board, planners had been supportive of the use of the land during the pandemic based on the Scottish Government's recommendations to allow licensed premises to use outdoor spaces, and an application for continued use was in process. Ms Bell responded that residents would appreciate patrons being asked to keep noise down when outside.

The Convener called for a short adjournment to allow Members to discuss the application in private, and when they returned, each Member gave their decision.

Councillor Bruce felt that the potential issues highlighted by residents were important, and asked the applicants to consider how they could improve communication with their neighbours. He suggested that a phone number be circulated so neighbours could raise any concerns. He was happy to support the application.

Councillor Henderson said Members took the objections seriously, but had not heard that the Micropub had caused many problems. She thought that the premises sounded entrepreneurial and well run, and was comfortable to grant the application.

The Convener had considered the representations but noted the lack of any operational issues or complaints made to the police. She was minded to grant the application.

Mr Holligan said that the owners would make better efforts to listen to the concerns of neighbours, and highlighted ongoing communication with some neighbours. He offered to discuss the planning application with Ms Bell offline.

## **Decision**

The Board agreed to grant the major variation.

### **5e. North Berwick Bowling Club, 17 Clifford Road, North Berwick**

The application sought: to remove the condition whereby no more than six guests may be signed in by one Member; to remove the condition that the south side door must remain closed; to add off-sales; to amend core hours to 10am each day and to 1am Friday-Saturday and 12am on Sunday; to add recorded music outwith core hours; to add bar meals and various activities including televised sport; and to extend the outdoor drinking area to include building curtilage. No objections had been received from the LSO, NHS, Environmental Health, the community council, or planning. Seventeen public objections and two late public objections had been received on the basis of potential noise disturbance, parking problems, and public safety. The LSO and police had both commented on the condition to sign in non-members, control of amplified entertainment, and the LSO recommended that the terminal hour for the outdoor area be 10pm each day. The applicant had responded to police, LSO, and public concerns.

Willie Sykes-Robertson, Club Secretary, was present to speak to the application. He highlighted the club's efforts to improve its services to its members, but said that the application was not intended to alter the way in which the club was run. The club had hoped to be able to run events for members such as funeral wakes, but as they wished to remain a private club, they had subsequently withdrawn this request. Efforts were made to ensure that neighbours were not disturbed when patrons left the premises, and would make use of the door furthest away from the houses once the surrounding lighting had been upgraded. Taxi pickups would also take place on the main road to minimise disruption. Feedback and objections had been taken on board and the club had communicated with the LSO to acknowledge and agree suggested changes.

The LSO commented that the application was in line with offerings from other bowling clubs, with facilities to sit outside to watch games and enjoy drinks. The premises was well-run and no complaints had been made since the licence for the new clubhouse had been granted, and he therefore had no reservations in supporting the application. He recommended that the terminal hour for the outdoor area be 10pm for drinking purposes,



but he would have no objection should bowling games have to continue in the area beyond this time. He noted the standard policy relating to the club's status as a private club, and therefore the condition that any one member may only sign in six guests should remain unless the club wished to apply for an open licence. He supported the majority of the application and wished the club well.

PC Bairden was satisfied that the club had agreed to remain a private club. He noted that there had been some confusion regarding which side door of the premises would be used for access and egress, but this had now been resolved. In terms of off-sales, a number of sports premises operated in this way and police were not concerned about this aspect of the application.

Responding to a query from Councillor Bruce, Mr Sykes-Robertson confirmed that amplification was never used outside. He thanked the LSO and police for their advice, and confirmed that the club wished to remain a private club. He advised that the club planned to turn any music playing inside the premises down by 10pm to minimise disruption. He confirmed that off-sales would be only for those looking to take home a drink they had already bought.

Alan Wooley spoke to his submitted objection. He highlighted that the area was a very quiet residential area, and events at the club had caused disturbance to local residents. He emphasised that any potential increase in traffic could also cause issues, as exits onto the main road were narrow. He felt that events continuing into the evening and up until 10pm were not suitable for the local environment.

The Convener called for a short adjournment to allow Members to discuss the application in private, and when they returned, each Member gave their decision.

Councillor Bruce encouraged communication with neighbours, including circulation of the phone numbers of committee members, but supported the application.

Councillor Henderson was happy to grant the application, and commented that the Board could not anticipate problems when none had been reported. She felt the requests were reasonable and noted that they were within Board policy.

The Convener was pleased to see the club choose to retain its private club status, and the undertaking to turn music down at 10pm and off at 11pm to minimise disruption was also reassuring. She encouraged that issues be communicated to the police or LSO.

## **Decision**

The Board agreed to grant the major variation.

The Convener and Members thanked Rudi Fruzynski for his service as Licensing Standards Officer on the occasion of his retirement.

Signed .....

Councillor F Dugdale  
Convener of East Lothian Licensing Board