

EAST LoTHIAN COUNCIL

5

Licensing Standards

From: K. Harling
Licensing Standards Officer

To: C. Grilli
Clerk to the Licensing Board

Date: 28th July 2022

Subject: LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW – NO5 DUKE STREET, 5 DUKE
STREET, WEST BARNS
AND
PERSONAL LICENCE REVIEW – NATASHA COLHOUN

On 18th July 2022 I received intimation in terms of Section 38(3)(b) of the licensing (Scotland) Act 2005 that the Licensing Board had accepted an application 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.

K. Harling
Licensing Standards Officer

Premises Licence Review and Personal Licence Review – Natasha Black

No5 Duke Street
5 Duke Street, West Barns

28th July 2022

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Licensing Standards Officer's Report

Purpose

The purpose of this report is to present information for the board members in order to conduct a review hearing for the premises licence for No5 Duke Street, West Barns and the personal licence issued to Natasha Colhoun.

Recommendations

It is recommended that the Board:

1. Note the content of the LSO Report
2. Determine whether on the basis of this Report Natasha Colhoun is considered to be a Fit and Proper person to hold a Premises Licence
3. Determines whether or not the Premises Licence should be revoked or any other sanctions imposed
4. Determines whether or not the Personal Licence held by Natasha Colhoun should be revoked or any other sanctions imposed

No5 Duke Street - General Information

The premise licence holder and premises manager of No5 Duke Street is Natasha Colhoun. Ms Colhoun was named as premises manager on 25th Jan 2017 whilst the premises licence was held by Hawthorn Leisure and the premises was known formerly as West Barns Inn.

The proprietor of the premises is listed on the Scottish Assessors as No5 Pubco Limited. No5 Pubco Limited is listed on Companies House with Company Number SC670810 and a sole Company Director of William Robert Black. Ms Colhoun and Mr Black are married partners.

It is requested by the Licensing Standards Officer that as per S147(5) - (5) *For the purposes of this Act, a person is an interested party in relation to licensed premises if the person is not the holder of the premises licence F5... in respect of the premises but--*

(a)has an interest in the premises as an owner or tenant, or

(b)has management and control over the premises or the business carried on on the premises. (writer's emphasis)

William Black's actions and responsibilities be considered in this review as per S36(5A) - (5A) *A person making a premises licence review application may include in the application any information*

that the applicant considers may be relevant to consideration by the Licensing Board of the alleged ground for review including, in particular, information in relation to—

(a) the licence holder,

(b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or

(c) any person who is an interested party in relation to the licensed premises

On 2nd Nov 2020, an application for the transfer of the premises licence was received to transfer the licence to William Black (husband of Natasha Colhoun). This was subsequently withdrawn by Mr Black.

On 8th Oct 2021 an application for the transfer of the premises licence was received to transfer the licence to Ms Colhoun. This was granted on 24th Feb 2022 where she has remained the premises manager since 2017.

The premises appears to have stopped trading approx. June 2019. Following this renovations have then started in autumn 2020. The renovations were posted on the business' social media Oct 2020-May 2021 (see Appendix E).

The premises reopened as posted on social media on 30th April 2022 with a significantly changed new layout where room functions had been changed, bar positions changed, toilets removed and altered, kitchen altered and rear extension to include toilets.

On the current operating plan the premises is described as:

No5 Duke Street is part of a terraced building on the outskirts of Dunbar. There is strong provision of public transport with 2 bus stops close to the pub and local taxi firms satisfy local demand for private hire. In addition there is a public car park for approximately 40 Cars across the road from the pub.

Ground floor consists of Public Bar with ladies & gents toilet, kitchen, lounge bar with ladies/disabled toilet function room with ladies & gents toilet. Beer garden to rear. Cellar & Office is situated on ground floor. Lessees flat upstairs with lounge, kitchen, toilet, bathroom & 4 bedrooms (2 ensuite).

The public house is used for sale of alcoholic beverage, hot and cold beverages, and hot and cold food.

This is no longer an accurate description of the premises and its operations have been in conflict with the current operating plan.

The licensed hours operated by these premises for 'On Consumption' are as follows:

Monday-Wednesday: 1100-2300 hours; Thursday - Saturday: 1100-0100 hours
Sunday: 1230-0000 hours

Off sales are permitted between the following hours:

Monday-Saturday: 1100-2200 hours; Sunday: 1230-2200 hours

A street map showing the location of the No5 Duke Street and local environs is shown in Appendix F.

Request for review from Licensing Standards Officer and Summary

On commencing post in June 2022, the Licensing Standards Officer was made aware of 5 antisocial behaviour reports including one complaint through the community wardens in relation to the premises of No5 Duke Street, West Barns. The complaints related to rubbish being left and deposited at the front of the premises by the owner, drunken screaming and fighting at the front of the pub, damage to a surrounding bus stop, noise and loud drunken conversations from the rear beer garden until after 11pm, noise and swearing that can be heard from the pub, noise and disturbance at closing time, owner approaching complainer at her work, owner accusing complainer of theft and being aggressive and abusive, over consumption of alcohol.

After consultation with police the Licensing Standards Officer was made aware of a violent disturbance that took place on the premises on 13th May 2022. A report on this incident has been requested from Police Scotland and will be submitted in due course.

Due to the complaints and the incident of violence the Licensing Standards Officer made some enquiries in relation to the operation of the premises. The current premises licence, operating plan and layout plan were reviewed in addition to social media relating to the premises which highlighted several issues in relation to the operation of the premises, the activities taking place, the layout plan, alcohol pricing and irresponsible promotions.

The Licensing Standards Officer consulted with the Planning Department in East Lothian Council. Planning Officers confirmed that they could find no records of planning permission having been sought, nor granted for the formation of an outside drinking area at the premises. As such the planning enforcement officer was contacted to review (see details below in Planning Report).

On 7th June 2022, Trading Standards and Environmental Health received a complaint in relation to a suggestion that the No5 Duke Street were watering down alcohol in particular Vodka. Environmental Health contacted the Licensing Standards Officer asking if the premise were trading as they had not registered with the department as required. The Licensing Standards Officer confirmed that the premises was trading and provided Ms Colhoun's details as requested (see details below in Environmental Health Report).

On 20th June 2022, Ms Colhoun contacted the licensing team by email and asked "I see the eagle and castle in Dunbar now have a large number of seats outside on the high street, I

presume you no longer need permission for this? Am I okay to put table and chairs outside my front?" She was informed that permission would need to be granted from transportation and a minor variation submitted to change the layout to cover the front of the building. Forms for a variation were sent to Ms Colhoun.

On 21st June 2022, the Licensing Standards Officer drove past the premises on another matter and saw 2 tables and chairs outside the front door of the premises on the pavement. It was confirmed on 22nd June 2022 by the Roads Department that a current application had been made however not granted as they were awaiting diagrams, plans and a structural report (see details below in Roads/Transportation Report). On receipt of the this the Licensing Standards Officer emailed Ms Colhoun and requested that she immediately remove the tables and chair from the front of the premises as she was allowing alcohol to be taken off the premises and consumed in a public area subject to local bylaws preventing the consumption of alcohol in public. This was a failure to following the administrative procedure set out by the Licensing Scotland Act 2005 whereby she permitted and authorised the sale of alcohol resulting in a Section 1 Licensing (Scotland) Act 2005 offence - *alcohol is not to be sold on any premises except under and in accordance with a premises licence*. A breach of this could lead to six months' imprisonment, a fine up to £20,000, or both. Ms Colhoun also condoned and allowed an offence to be committed by customers by breaching local bylaws preventing drinking in a public place. Ms Colhoun simply proceeded as she wished before confirming whether her actions were correct and lawful and continued to do so even when instructed by the Licensing team that a variation and permit were required.

Following the issues above, on 24th June 2022, a visit took place where the Licensing Standards Officer and PC Bairden made an appointment to visit the premises and speak with Ms Colhoun. On attendance, Ms Colhoun and Mr Black were present. The Licensing Standards Officer asked for the operations of the premises to be described. It was found that the layout of the premises had been significantly changed, room functions changed, bar positions changed, walls removed, toilets removed and altered, function room use changed, kitchen extended and rear extension built. The area that was the public bar had been blocked off by a wall and is no longer in use. It is was indicated by the owner Mr Black that his intention was to sell this area in the future or put it to a different use other than being part of the premises. It was also established that various activities were taking place out with the operating plan such as opening for teas, coffees and cake outwith core hours and the provision of children play area (breach of mandatory licence condition 3). It was explained to Ms Colhoun that currently the premises was not selling alcohol in accordance with the operating plan and the significant layout changes were in conflict with operations (breach of mandatory condition 2). She was informed that a major variation should have been submitted and granted before the premises could change to operate in the way it was currently doing.

Ms Colhoun was also then spoken to about the social media posts in relation to the premises. Irresponsible drinks promotions had been advertised and pricing changes had been advertised that breached the 72 hour price change period (breach of mandatory licence conditions 7&8). Drinks promotions included 4 bottled beers/larger for £10 when the single sale of one was £3.20, 5 cocktails for £25 where the sale of one single cocktail is more than £5 (as per price list) and where a price change was advertised for 48 hours or while stocks last (see Appendix E).

Ms Colhoun stated that she did not realise that she could not do this but that she was aware of the 72 hour pricing condition. A Section 14 compliance notice in relation to Conditions 3, 7 & 8 was served to Ms Colhoun (see Appendix A).

Ms Colhoun was told verbally that the sale of alcohol was not in accordance with the operating plan and was asked to submit a major variation within 3 weeks of the visit by mid July 2022. This was given as a reasonable chance to get things in order at the premises. At this time a full inspection was not completed. Ms Colhoun was also asked why she had gone ahead and put tables and chairs at the front of the premises without permission from roads to do so or a variation or occasion licence to which she replied everyone else is doing it so I thought I could. A further discussion also took place in relation to a "Mini Fest" that had been advertised to take place on 9th July involving live bands, food and a bouncy castle. Ms Colhoun was made aware that a Public Entertainment Licence would be required for such an event as the bouncy castle was not listed on the operating plan as an activity and a market operators licence should there be any stalls. She was provided with an application packs for the licences. As a ticketed event an event notification should also have been submitted to East Lothian Council Events which had not been done. She was completely unaware of these requirements & said that she would cancel the event.

After no further communication received from Ms Colhoun in over 2 weeks to the Licensing Standards Officer and only one query to the Licensing team regarding if a hand drawn layout plan would be accepted, it was decided that a further inspection of the Premises be carried out.

On 13th July 2022, the Licensing Standards Officer along with PC Bairden visited the premises. On arrival the Licensing Standards Officer and police identified themselves and asked for Ms Colhoun. They were informed in a hasty and panicked manner that she was not there but still in Scotland. The Licensing Standards Officer found this an odd thing to say and questioned why it had been said to which no clear answer was given. Mr Rory McIntyre who was at the bar identified himself as the person in charge. A full inspection was completed (see Appendix C) and multiple faults and issues were identified which included failure to display all statutory notices, failure to display summary of licence, failure to produce original licence or certified copy and failure to produce layout plan all of which are an offence. Training records were reviewed and it was established that Mr McIntyre was not a personal licence holder, he had been trained in May by Mr Black and was fairly inexperienced in the trade.

Other safety aspect were identified such as a broken fire door secured with a bike lock, fire exits blocked by picnic tables and Mr. McIntyre struggling to locate the key for the rear exits. There were concerns noted about a category C gaming machine being within the bar area that children could have access to. It was also explained that it was impossible to establish where children and young persons were permitted access to. The current operating plan detailed children and young persons were not allowed access to the public bar however it could not be established as to where that now was. A Section 14 compliance notice was then served and received by Mr McIntyre detailing the breach of condition 2 requiring the premises to immediately cease selling alcohol until lawful to do so and submit a major variation by 15th July 2022. This notice was hand delivered to Ms Colhoun's home address and emailed to her

(see Appendix B).

Ms Colhoun thereafter contacted the Licensing Standards Officer detailing that she was out of the country and struggling to get a layout plan complete. No major variation was submitted by the deadline given in order for it to be heard at the licensing board.

Information in relation to the fire safety of the premises was sent to the Watch Commander Scottish Fire and Rescue Service who visited the premises and confirmed there were obvious deficiencies and would complete a full audit on the return of Ms Colhoun (see details below in Scottish Fire and Rescue Service report).

On 19th July 2022, the Licensing Standards Officer received correspondence by email from the Building Standards Department. This detailed that a building warrant had been granted for the property at 5 Duke Street detailing alterations and extensions. It was confirmed that while the warrant had been granted the warrant had not been completed to completion acceptance and no completion certificate had been received to date. It was established through conversation that the applicant was William Black and plans of the alterations are available to the public online. The Licensing Standards Officer informed the department that building works appeared to have commenced as detailed on social media on 27th Oct 2021. No commencement date has been provided by Mr Black. As no completion certificate had been received no inspection had been carried out to approve the works were in accordance with the stamped approved drawings and has been built in accordance with the regulations. It was detailed that it is an offence to occupy an extension without the completion certificate accepted. A case surveyor has been notified in relation this to carry out further enquiries. It was subsequently established that the building works may not have been completed as per the submitted plans (see email details below from Building Standards).

Summary

Due to the changes that have been made at the premises, operations conducted, a complete lack of respect and no attempt to follow the licensing administrative procedure set out in the act the following conditions have been breached by the licence holder Ms Colhoun:

- Condition 2 – *Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.*
- Condition 3 – *Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.*
- Condition 7b – *Where the price at which any alcohol sold on the premises is varied— (b) no further variation of the price at which that or any other alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.*
- Condition 8 – *An irresponsible drinks promotion must not be carried on in or in connection with the premises –
(b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol*

than the person had otherwise intended to buy or consume,

The operating plan is a part of the premises licence and so section 1(1) comes into play - "alcohol is not to be sold on any premises except under and in accordance with a premises licence." A breach of this could lead to six months' imprisonment, a fine up to £20,000, or both. Accordingly, a breach of the terms of the operating plan as has occurred in this matter and would be an offence under section 1(1).

The importance of adhering to the operating plan cannot be stressed enough by the Licensing Standards Officer. Once the licence is granted with activities, they become the activities that the licence holder is allowed to provide. The licence holder cannot provide any activity unless it is stated on the licence, and, if they do wish to introduce a new activity, that would require a major variation application to achieve it. The provision of an activity which is not catered for in this part of the operating plan is a criminal offence – a breach of section 1(1) of the Act. The most innocuous of activities could therefore have serious repercussions for a licence holder.

The changes to the layout also have had a consequential effect on the operating plan as it is now completely unclear in relation to children's access and areas they are and are not allowed. This would contribute to a further offence under section 1(1) and could potentially put children at risk of harm.

As per S36(3) - *the grounds for review referred to in subsection (1) are—*

(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,

The Licensing Standards Officer would like the licensing board members to consider if Ms Colhoun is a "fit and proper" person to hold a premises licence on the basis of the breaches of the licence conditions above, offences in relation to S1(1) and conduct inconsistent with the licensing objectives.

Ms Colhoun is a personal licence holder, as such she has undertaken a recognised qualification to obtain that licence. The course details the responsibilities of a premises manager and the processes required as per the Licensing (Scotland) Act 2005.

It is the opinion of the Licensing Standards Officer that there has been conduct and operations that have not been consistent with all 5 Licensing Objectives as follows:

- Preventing crime and disorder - a violent incident has taken place on the premises (see police report). Multiple Antisocial behaviour reports have been received in relation to disorder and disturbance at the premises. There is no evidence or suggestion that the premises licence holder Natasha Colhoun has taken any steps to remedy this other than ferry persons in a taxi away from the pub at closing. She stated that the complaints were from a neighbour who didn't like them and was quite dismissive of them when the Licensing Standards Officer asked. As a result the premises became a monitored

premises by police. Ms Colhoun, by placing tables outside the premises in an unlicensed area condoned the breach of public drinking bylaws and allowed the sale of alcohol that was not in accordance with the premises licence, operating not in accordance with the operating plan resulting in an offence under Section 1(1)

- Securing public safety – Issues in relation to fire safety found putting customers in danger. Concerns over the rear play area use and adding it as an activity when not part of the operating plan and no checks as to safety. A completion certificate has not been submitted in respect of the works completed at the premises which have not been conducted as per the building warrant plans. As such it has not been inspected to ascertain if it adheres to building standards. This puts patron at risk should there be any defects that present as unsafe.
- Preventing public nuisance – multiple reports of antisocial behaviour submitted in relation to noise, patron behaviour and disturbance.
- Protecting and improving public health – Irresponsible drinks promotions and social medial posts encouraging customers to drink more published by/authorised by Ms Colhoun. Ms Colhoun was required to remove these posts as per S14 Compliance notice issued 24th June 2022.
- Protecting children and young persons from harm – access to children cannot now be established due to the change in layout, failure to display Schedule 3 notice detail children and young person access also prevents customers assessing this. There are concerns from the Licensing Standards Officer about the inclusion of a Category C gaming machine in the premises which is in an area children can currently access contrary to board policy where exclusion from these areas is suggested. This has come about due to the changes in layout. The supply of alcohol on the premises is the exclusive or primary purpose at this time as such is against board policy for the granting of children access.

It is requested that the personal licence issued to Natasha Colhoun should also be reviewed as detailed above in. She has acted in a manner and allowed operations that are inconsistent with the licensing objectives and allowed 4 mandatory licence conditions to be breached along with a breach of S1(1).

As per Licensing (Scotland) Act 2005 section 142: guidance for licensing boards and local authorities -

164. The named premises manager will be responsible for the day to day running of the premises, responsible for the training and supervising of the staff, and ensuring the premises is run in accordance with the requirements of the licence. The Act requires a named premises manager for each premises since this carries a greater responsibility, as the sale and supply of alcohol can have a wide impact on the wider community and on crime and anti-social behaviour. It is therefore important to have one responsible person who will require to be knowledgeable of the law and experienced in the supervision

and training of staff and suitably qualified. Ultimately the designated premises manager will be held responsible by the Licensing Board.

Ms Colhoun has failed in her responsibilities as a premises manager from an administrative perspective and in her running of the premises. She appears to be significantly lacking in her knowledge of the law which has hugely impacted her decision making and ability to uphold and apply the licensing objectives.

Ms Colhoun has shown contempt and complete disregard for the Licensing (Scotland) Act 2005 and has simply done as she pleases. There was a significant amount of time when the renovations were taking place for a major variation to have been submitted to the licensing board before reopening, however this was not considered or completed.

Ms Colhoun has been a named premises manager at this premises since 2017 and the previous Licensing Standards Officer has recorded engagement with her in 2016-2017 providing guidance and signage as detailed in the inspections logs (Appendix D). This indicates that she has been in the trade for at least 5 years and so should have significant experience of what is required.

Ms Colhoun has also shown disregard to other statutory responsibilities, has failed to communicate with numerous departments within East Lothian Council and agencies out with potential endangering person within the premises. She has failed to ensure the owner of the premises William Black has submitted completion certificates in relation to the building renovations and alterations, built as per plan and as such the premises has opened without a safety and adherence inspection completed potentially putting patrons who frequent the premise to purchase alcohol at risk of harm.

Details of complaints received by the Antisocial Behaviour Team and Community Wardens

There have been 5 reports through the Antisocial Behaviour online/telephone recording system and Community Wardens between 24th March and 3rd June 2022 as follows:

24/03/2022 – “There’s been rubbish lying outside the pub in West Barns for several weeks. Beds, mattresses, baths etc. I saw a rat at it last night. This morning the owner of the pub threw some of the rubbish from the car park over the wall onto the grassy area, then got in his car and left. A neighbour in an ambulance uniform had to move it before, presumably, leaving for work. The same man was outside shouting and swearing at a man in a van yesterday. I have young children, this isnt on!

07/04/2022 – “Beds, baths and general junk. Been there for months there are often rats at it. Left by owner of No5 Duke Street.”

09/05/2022 – “In relation to 5 Dukes Street - Public house. There is a lot of noise and swearing that can be heard from the pub. Noise increases at kick out time where people are gathering out the front and socialising. Cars beeping horns to pick people up causing a lot of disturbance. Caller doesn't want this to escalate. Caller can hear continuous noise from pub

garden including swearing. This has been a big problem for the last year. Owner has approached caller at work and complained about her. Owner blamed caller for stealing a bench and approached her and shouted that she was a [REDACTED] after he had taken down a fence that bordered her garden. Other neighbours are also having difficulties with the owner. Caller thinks there is over consumption of alcohol and patrons are very drunk. Pub is not long open - a couple of weeks." - Offender named as William Black

29/05/2022 – "Drunken screaming and fighting at front of pub at 2300. Bus stop damaged. Beer garden to rear of pub - music and loud drunken conversation until 2320. Please advise if this is acceptable. I tried to call police but had a delay of 20 mins on hold to police phone line. I gave up as at that point the noise had slightly subsided. Also the skip that has been to the front of pub is completely full with rubbish now being strewn down the road." – Offender named as William Black

03/06/2022 – "No 5 Duke street pub. Excessive noise and swearing in beer garden, until after 11pm. Screaming, shouting and swearing at the front of pub well into the night."

A report has been requested from the Antisocial Behaviour Team.

Details of the information received from Environmental Health Department

Contact was made with the Licensing Standards Officer on 13th June from Marion Muir, Environmental Health. The department had received a complaint in relation to the premises watering down alcohol in particular vodka. It was confirmed that the premises had not registered and details of the new operator were requested.

A report has been requested from Environmental Health.

Details of the information received from the Planning Department

Contact was made with Neil Millar, Planning on 13th June 2022. The department confirmed that there was no record of planning permission having been sought, nor granted, for the formation of an outside drinking area at the premises. A letter was provided dated 3rd May 2010, sent by Mr Millar as a consultee to a licensing application that he had been asked to provide comments on. The applicant had indicated that they wished to provide an outdoor drinking area for private events only and advice was given that planning permission was required and that a forthcoming application seeking planning permission should be applied for.

This matter was reported to the Planning Enforcement Officer Amelia Smith for investigation.

A report has been requested from Amelia Smith Planning enforcement.

Details of the information received from the Building Standards Department

Correspondence received 19th July 2022:

RE: 20/00928/BW 5 Duke Street, West Barns Dunbar

A building warrant has been granted for the property at 5 Duke Street, West Barns however a completion certificate has not been received. The owner and applicant listed by Building Standards is William Black, who also works at the premises -

20/00928/BW - Alterations to existing building to increase bar area by removing vestibule. Removing male and female sanitary accommodation and replacing with cellar and two extensions to form new male, female and accessible / baby changing sanitary accommodation. Roof over function hall removed and increased in height. New wall cladding to function hall. Previous cellar and office now storage.

While the warrant has been granted, the warrant has not be completed to completion acceptance where the completion certificate submission has not been received to date.

I hope this is off help.

Kind regards

Vicky

Vicky Ashburner | Senior Building Standards Surveyor | East Lothian Council Tel DD : 01620 827795 | buildingstandards@eastlothian.gov.uk | www.eastlothian.gov.uk Partnership and Services for Communities John Muir House, Brewery Park, Haddington EH413HA

Following our discussion this morning re. the above as confirmed the applicant or duly appointed agent has not submitted the completion certificate application to date therefore Building Standards have not considered the completion nor have any inspections been carried out to review the works in accordance with the stamped-approved drawings.

A completion certificate is needed to confirm that the building has been constructed/alterd in accordance with the relevant building warrant and complies with the building regulations. It is the responsibility of the relevant person (usually owner or developer) to build in accordance with the regulations.

It is offence to occupy a new building, conversion or extension without the completion certificate being accepted however the prevention of occupation does not apply to buildings subject to alterations but it is still a requirement that a completion certificate for the alteration is submitted before the expiry of the warrant.

I have updated the case surveyor following our conversion this morning.

Kind regards

Vicky

Vicky Ashburner | Senior Building Standards Surveyor | East Lothian Council Tel DD : 01620 827795 | buildingstandards@eastlothian.gov.uk | www.eastlothian.gov.uk Partnership and Services for Communities John Muir House, Brewery Park, Haddington EH413HA

The case has now been forwarded to a case officer for progression and further comment has been requested.

Correspondence received 27th July 2022 following review of submitted layout plans by Ms Colhoun:

RE: 20/00928/BW 5 Duke Street, West Barns Dunbar

Morning Karen,

With reference to the approved BW Application 20/00928/BW, I advise the following:

20/00928/BW – application was validated 16.12.2020, granted BW approval 17.11.2021 and expires 17.11.2024. We have not received any site work notification nor form 5 completion certificate for occupation yet.

I have compared the 3 licencing plans you have attached with the approved plan BW-02E. You are correct there does appear to be some differences between the 2 sets. Namely and from what I can see, size of bar counter areas (both bars), door between bar and side hall, door between hall and function room, alterations to accessible sanitary accommodation, alterations to male w.c., external door provision to lounge / function hall, and, new external bar.

Any warrantable deviations from the approved plans will require Amendment of Building Warrant Application. Amendment Application will require to be approved prior to Completion Certificate Acceptance.

I hope this helps.

Kind Regards,

Janine

Janine Paterson | Senior Building Standards Surveyor | East Lothian Council Tel DD : 01620 827232 | buildingstandards@eastlothian.gov.uk | www.eastlothian.gov.uk Partnership and Services for Communities John Muir House, Brewery Park, Haddington EH413HA

Details of correspondence with Roads/Transportation Department

Contact was made by the Licensing Standards Officer on 22nd June 2022 with the Roads/Transportation department in relation to an application to use the front area of the premises for tables and chairs. It was confirmed that an application had been received however it was awaiting diagrams/plans and a structural report and had not been granted. Further details were received from Roads/Transportation confirming there had been correspondence with Ms Colhoun with the department on 20th June whereby the process and application required was explained and that a roof report, plans and an application form would be required and a link to guidance was provided.

Details of email correspondence with Scottish Fire and Rescue Service

Following an inspection on 13th July 2022 the Licensing Standards Officer contacted Torquil Cramer, Watch Commander in relation to a broken fire door with a bike lock round it and a blocked fire exit. An inspection was carried out on 14th July 2022 where it was reported back that there were several obvious deficiencies and a full audit would be completed with Ms Colhoun once she was back.

A report was requested from Watch Commander Cramer and will be submitted to the board in due course.

Details of information received from Police

On 13th May 2022 an incident took place on the premises. Please see police report to be submitted.

This information is submitted for the information of the Licensing Board members to assist in the determination of this review raised by the Licensing Standards Officer.

APPENDICES

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Appendix 'A' - S14 Compliance Notice issued on 24/06/2022

People and Governance

COMPLIANCE NOTICE

**LICENSING (SCOTLAND) ACT 2005
SECTION 14(2) – BREACH OF A CONDITION / LICENSING OBJECTIVE
TO WHICH A PREMISES LICENCE (OR OCCASIONAL LICENCE) IS THE
SUBJECT**

**Premises - No5 Duke Street, 5 Duke Street, West Barns, Dunbar, EH42
1UR**

Premises Licence Holder - Natasha Colhoun

**Following a visit to the above premises on 24th June 2022 it was noted that
there was a failure to comply with a condition or conditions attached to the
premises licence namely:**

**Condition - 3 Any other activity to be carried on in the premises is to be carried on only in
accordance with the operating plan contained in the licence.**

**Failure to comply - Opening prior to core hours for the sale of teas/coffees and
food, introduction of children's play area**

Condition - Pricing of alcohol

(7) Where the price at which any alcohol sold on the premises is varied—

(a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought
into effect only at the beginning of a period of licensed hours, and

(b) no further variation of the price at which that or any other alcohol is sold on the premises
may be brought into effect before the expiry of the period of 72 hours beginning with the
coming into effect of the earlier price variation.

**Failure to comply - Alcoholic products namely bottled lager are or were
promoted for sale on social media on 18/05/2022, 19/06/2022 detailing a price
change for less than 72 hours**

Condition - Irresponsible drinks promotions

8 (1) An irresponsible drinks promotion must not be carried on in or in connection with the
premises.

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—

(b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,

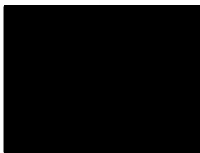
Failure to comply – Drinks promotion connected to the premises detailed on social media on 18/05/2022, 31/05/2022 and 03/06/2022 for the sale of 4 bottles of lager for £10. (where the individual sale price of these items is set at £3.20

You, Natasha Colhoun are hereby given notice in terms of Section 14 (2) (a) (1) of the Act that you must remedy the breach and, specifically, must

- **Operate in accordance with the current operating plan until a variation is granted**
- **Remove the detailed promotional material from all social media platforms connected to the premises**
- **Stop selling alcohol that breaches pricing conditions**
- **All future promotions must comply with mandatory condition 7**
- **All future promotions must comply with mandatory condition 8**

If this notice is not complied with to the satisfaction of a Licensing Standards Officer within 7 days from date of issue that Officer may apply to East Lothian Licensing Board for a premises licence review in terms of section 36(4) of the Act

Signed



K. Harling – Licensing Standards Officer

Date 24/06/2022

Appendix 'B' - S14 Compliance Notice issued on 13/07/2022

People and Governance

COMPLIANCE NOTICE

LICENSING (SCOTLAND) ACT 2005
SECTION 14(2) – BREACH OF A CONDITION / LICENSING OBJECTIVE
TO WHICH A PREMISES LICENCE (OR OCCASIONAL LICENCE) IS THE
SUBJECT

Premises - No5 Duke Street, 5 Duke Street, West Barns, EH42 1UR
Premises Licence Number EL003
Premises Licence Holder - Natasha Colhoun

Following a visit to the above premises on 24th June 2022 it was noted that there was a failure to comply with a condition or conditions attached to the premises licence namely:

Condition – 2 (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.

Failure to comply – The changed and implemented layout and operation of the premises does not comply with, and is in conflict with, the current premises operating plan.

You, Natasha Colhoun are hereby given notice in terms of Section 14 (2) (a) (1) of the Act that you must remedy the breach and, specifically, must:

- A) Immediately cease making sales of alcohol on the premises until in a position to lawfully do so.
- B) Submit a competent and accepted major variation for the required alterations of the premises licence.

If this notice is not complied with to the satisfaction of a Licensing Standards Officer in relation to paragraph (A) above immediately from date of issue, and in relation to paragraph (B) above by no later than 1700 hours, 15th July 2022, that Officer may apply to East Lothian Licensing Board for a premises licence review in terms of section 36 of the Licensing (Scotland) Act 2005.

Signed. 

K. Harling – Licensing Standards Officer

Date... 13/07/2022

Received by..... RORY DAVID MCINTYRE

Signed..... 

Date..... 13/07/22

Appendix 'C' - Premises Inspection 13/07/2022

Licensing Standards Officer
Premises Licence
Standard Inspection Report :On Sales



Date and Time of Inspection		Karen Harling Tel 01620 827478 Email: kharling1@eastlothian.gov.uk					
13/072022 @11:29hrs, K Harling and PC Bairden							
Premises contact details: 5 Duke Street, West Barns, Dunbar, EH42 1UR		Premises Manager Details Natasha Colhoun – [REDACTED] not present. Rory David McIntyre presented as responsible person for the premises stating Natasha was not at the premises but still in Scotland and that he had been left in charge - [REDACTED]					
Premises Licence No. EL		On Premises	N	Personal Licence	Y	Address Correct	Y
Statutory Notices Checklist		<input checked="" type="checkbox"/>					
		Comments					
Children and Young Persons (Schedule 3)	×	Not present or displayed					
Section 110 Notice	×	Not displayed at either of two payment points					
No Smoking Notice	×	Not displayed					
Premises Licence Documents							
Summary Displayed and Complete	×	Not displayed					
Premises Licence Available	×	Appears to be a non-certified copy and not original					
Operating Plan	×	Appears to be a non-certified copy and not original					
Layout Plan, Current : Approved copy	×	Not presented or available					

Remarks : Actions required by Premises Licence Holder/Premises manager

- Schedule 3 notice, access by children and young persons to be displayed. Breach of mandatory licence condition 11
- S110 – not displayed, Rory McIntyre provided with x2 notices to be displayed. Failure to display is an offence
- No smoking notices – provided and to be displayed. Failure to be displayed is an offence – S3 Smoking, Health and Social Care (S) Act 2005
- S14 Compliance notice served and received by Rory McIntyre for breach of condition 2 - 2 (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.
- Concerns in relation to broken fire door handle and what appeared to be a bike lock wrapped around handle. Exit from fire door blocked by picnic bench to get into rear garden. Concerns reported to Watch Commander Scottish and Fire Rescue Service.

Gaming Machines

Number 1

Category C

Has premises licence holder Notified Licensing Board of automatic entitlement? No

CCTV – Yes, staff on site unable to access

Recording period:
Unknown

Audio: Unknown

Staff, Staff Training, Staff Awareness of Legislation/Policies			
Staff on Premises : Name, Personal Licence Holder (Produced) or Training Record In order			
Rory McIntyre	PL No.	X	Training Record <input checked="" type="checkbox"/>
Comments re Staff Training			
Rory McIntyre trained on 13/05/2022 by William Black. Seemed inexperienced and struggled to locate key for rear door when asked. Could not account for whereabouts of premises manager stating she was away but still in Scotland however confirmed by Natasha Colhoun she is out of the country. Rory confirmed he is authorised to sell alcohol by Natasha Colhoun. Rory was unaware of the requirements to display notices and licence summary on the premises.			
Children and Young Persons			
Comments: It is unclear from the operating plan and new reconfiguration of the layout where children and young person have access to. A public bar, lounge bar and function room cannot be established. Concerns that children have access to an area where a Category C gaming machine is present. Previously S14 compliance notice to close children's play area (24/06/2022) which has been done as not listed on operating plan.			
Age Verification Policy and Refusals Log			
Staff Awareness of Policy	<input checked="" type="checkbox"/>	- Policy available in writing or contained within online training system - Children 1.5m from bar	U/K
Refusals Log	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Comments : Rory confirmed verbally that there was a written age verification policy however did not produce it for inspection. Refusal log presented, no refusals recorded and premises details not filled in on front.			

Note to Premises Licence holder

This report relates to a formal inspection of the premises which was carried out on the date indicated. The purposes of the inspection was to supervise and monitor compliance with the terms of the Licensing (Scotland) Act, 2005, the licensing objectives, and the conditions of

Premises licence No **EL003**

This report indicates that there are matters which require to be addressed at the premises. Please acknowledge safe receipt of this report within 14 days either in writing or by email to kharling1@eastlothian.gov.uk and/or licensing@eastlothian.gov.uk

The matters that have been highlighted during the inspection should be addressed as soon as possible. Please contact me when they have been addressed in order that I can re-inspect to verify compliance. In normal circumstances remedial action should be taken within 14 days. If you are unable for whatever reason to meet this target please contact me without delay.


.....
Karen Harling, Licensing Standards Officer

Date: 14/07/2022

Appendix 'D' - Inspection reports from Licensing Standards Officers
2016-2022

LSOEnforcement

<u>Field</u>	<u>Value</u>
Reference Number:	1407
Licence Number:	EL003
Category:	Premises Licence
Personal Licence:	- None e
Premises:	No5 Duke Street (formerly West Barns Inn)
Priority Level:	Amber
Type:	Full Inspection
Officer:	Rudi Fruzynski
Accompanying:	None
Date:	08/12/2016
Visit Description:	Pre-opening visit. Met with Willie Black and Natasha Colhoun. Pack of signs and information handed over. Electrician, joiner and decorators still to finish off prior to opening very soon.
Action:	Guidance Provided
Premises:	West Barns Inn 5 Duke Street West Barns Dunbar East Lothian EH42 1UR
Licence Holder:	Hawthorn Leisure Scotco Limited Pinewood Court Coleshill Road Marston Green Birmingham B37 7HG
Premises Manager:	Sarah Harley 4 Wingate Crescent Dunbar East Lothian EH42 1BE
ComAddress_BS7666_UPRN:	0
ComAddress_BS7666_USRN:	0

LSOEnforcement

<u>Field</u>	<u>Value</u>
Reference Number:	1440
Licence Number:	EL003
Category:	Premises Licence
Personal Licence:	- None e
Premises:	No5 Duke Street (formerly West Barns Inn)
Priority Level:	Amber
Type:	Meeting
Officer:	Rudi Fruzynski
Accompanying:	None
Date:	12/01/2017
Visit Description:	Met with Natasha Colhoun, who runs the bar. She stated that since the pub had re-opened in December 2016 the premises had been really busy with small functions and meals in particular. A full inspection was carried out and all found to be in order.
Action:	Guidance Provided
Action Details:	Sent out by post a sales refusals book and some red challenge 25 signs.
Premises:	West Barns Inn 5 Duke Street West Barns Dunbar East Lothian EH42 1UR
Licence Holder:	Hawthorn Leisure Scotco Limited Pinewood Court Coleshill Road Marston Green Birmingham B37 7HG
Premises Manager:	Sarah Harley 4 Wingate Crescent Dunbar East Lothian EH42 1BE
ComAddress_BS7666_UPRN:	0
ComAddress_BS7666_USRN:	0

LSOEnforcement

<u>Field</u>	<u>Value</u>
Reference Number:	1458
Licence Number:	EL003
Category:	Premises Licence
Personal Licence:	- None e
Premises:	No5 Duke Street (formerly West Barns Inn)
Priority Level:	Amber
Type:	Routine Check
Officer:	Police Licensing Officer
Accompanying:	Rudi Fruzynski
Date:	24/01/2017
Visit Description:	Met with Natasha Colhoun, manager. Police Licensing Officer wanted to visit since she had not seen the new layout since it had re-opened in December.
Action:	Compliant - No Action
Notes:	Pub has been busy since it re-opened for lunches, dinners and in general.
Premises:	West Barns Inn 5 Duke Street West Barns Dunbar East Lothian EH42 1UR
Licence Holder:	Hawthorn Leisure Scotco Limited Pinewood Court Coleshill Road Marston Green Birmingham B37 7HG
Premises Manager:	Sarah Harley 4 Wingate Crescent Dunbar East Lothian EH42 1BE
ComAddress_BS7666_UPRN:	0
ComAddress_BS7666_USRN:	0

LSOEnforcement

<u>Field</u>	<u>Value</u>
Reference Number:	1535
Licence Number:	EL003
Category:	Premises Licence
Personal Licence:	- None e
Premises:	No5 Duke Street (formerly West Barns Inn)
Priority Level:	Red
Type:	Complaint
Officer:	Karen Harling
Accompanying:	Police Licensing Officer
Date:	24/06/2022
Time:	11:30:00
Visit Description:	<p>Met with premises licence holder and premises manager Natasha Colhoun who was accompanied by husband/partner and employee William Black. Visit was completed after several reports through ASB of noise and conduct of William Black, as well as incident of disorder on the premises. There was indication that the premises layout and operation had changed and no major variation had been submitted to or granted by the licencing board. Compliance issues in relation to irresponsible drinks promotions on social media - 4 bottled beer/larger for £10 where the individual price was £3.20, change in drinks pricing advertised for 48 hours, picture of male consuming alcohol quickly with two drinks and straws in his mouth at once, operating outwith the activities on the operating plan by opening outwith core hours for teas/coffees, opening a children's play area not listed as an activity, advertising rooms when not listed on operating plan. The entire layout has changed significantly and is now in conflict with the licence. Rooms are now not identifiable by original names. The function room use has been changed to a bar in conflict with the current operating plan and layout. Significant changes to toilet locations and bar locations. Children access with the changes cannot be established as per the operating plan. Large bar area has been closed off for resale. May possibly have no planning permission to use outside area for drinking and not registered with environmental health since reopening and marked as closed since 2019. Complete disregard of administrative procedures and responsibilities as a premises manager. Section 14 notice served in relation to mandatory licence conditions 3,7,8. Informed verbally that a a major variation was to be submitted for the changes and given a period of 3 weeks to do this to be submitted by mid July for August licensing board. Without this the operation of the</p>

premises is in direct conflict with the premise licence in breach of mandatory licence condition 2. A planned event that had been advertised at the premises was also discussed. The event was planned for 9th July advertised live bands and acts, bouncy castle and hot food. There had been no notification of the event to the Safety Advisory Group and no submission of an application for a public entertainment licence or market operator licence should several street traders be used. It is believed that the premises intended to hold the event outdoors which would have caused significant noise disturbance to surrounding properties. Natasha was advised that all steps needed to be taken in relation to licences for the event which had not been done. She replied she might cancel it and seemed unaware of her responsibilities. Email sent after visit with points discussed and invitation to contact LSO when needed.

Action: Section 14 Compliance Notice

Action Date: 24/06/2022

Action Details: S14 compliance notice issued to be complied within 7 days

Notes: Notice issued to Natasha Colhoun in presence of PC Bairden

Premises: No5 Duke Street (formerly West Barns Inn) 5 Duke Street West Barns Dunbar East Lothian EH42 1UR

Licence Holder: Natasha Angela Colhoun 34 School Brae West Barns Dunbar EH42 1UB

Premises Manager: Natasha Angela Colhoun 34 School Brae West Barns Dunbar EH42 1UB

ComAddress_BS7666_UPRN: 0

ComAddress_BS7666_USRN: 0

LSOEnforcement

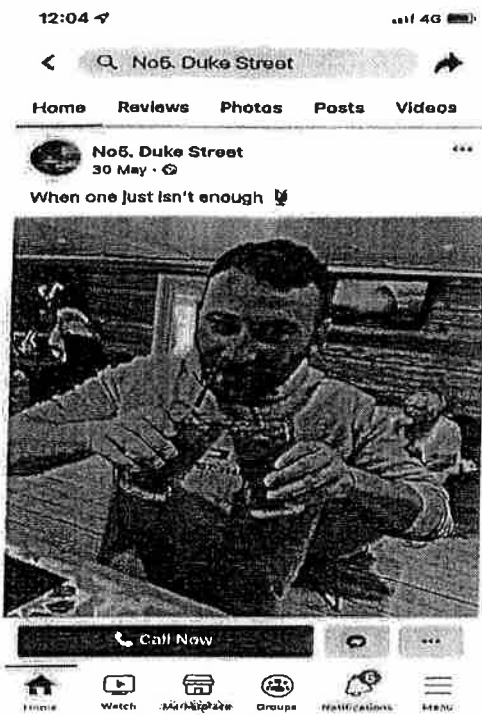
<u>Field</u>	<u>Value</u>
Reference Number:	1537
Licence Number:	EL003
Category:	Premises Licence
Personal Licence:	- None e
Premises:	No5 Duke Street (formerly West Barns Inn)
Priority Level:	Red
Type:	Full Inspection
Officer:	Karen Harling
Accompanying:	Police Licensing Officer
Date:	13/07/2022
Time:	11:29:00
Visit Description:	Full inspection of the premises carried out as per attached document. Natasha Colhoun not present and responsible person Rory MacIntyre unsure of her whereabouts other than she was in Scotland. Natash later confirmed she is out of the country. Multiple issues found in relation to display of notices, inexperience staff left in charge, issues with fire safety. S14 compliance notice served in relation to mandatory condition 2. Premises was shut on check 30 mins after leaving the premises.
Action:	Section 14 Compliance Notice
Action Date:	13/07/2022
Action Details:	S14 Compliance notice issued
Premises:	No5 Duke Street (formerly West Barns Inn) 5 Duke Street West Barns Dunbar East Lothian EH42 1UR
Licence Holder:	Natasha Angela Colhoun 34 School Brae West Barns Dunbar EH42 1UB
Premises Manager:	Natasha Angela Colhoun 34 School Brae West Barns Dunbar EH42 1UB
ComAddress_BS7666_UPRN:	0
ComAddress_BS7666_USRN:	0

Appendix E - Screenshots of renovations, activities advertised, garden area and irresponsible promotions posted on social media by accounts No5 Duke Street

Irresponsible Drinks Promotions



Single sale £3.20





65 Likes · 21 comments

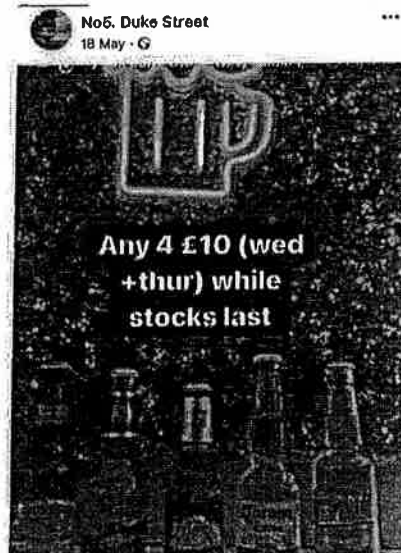
Normal price of Cocktails for reference



Pricing Variation advertised for less than 72 hours

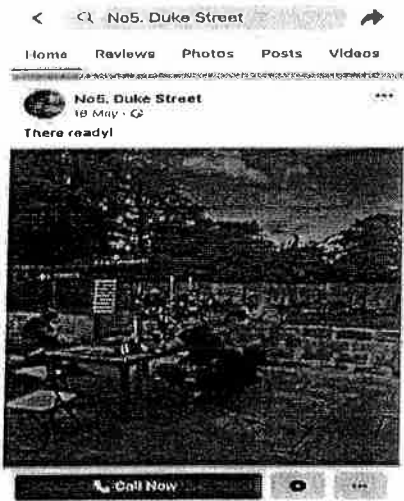
< No5, Duke Street

Home Reviews Photos Posts Videos





Activities not in operating plan

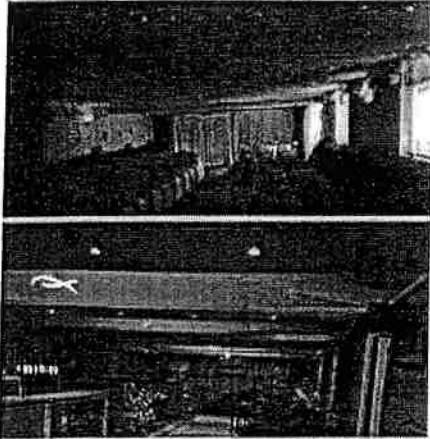


Play area shown in photo and rear garden area in use

Renovations

No5. Duke Street
20 Jun · 🌐

Before and after

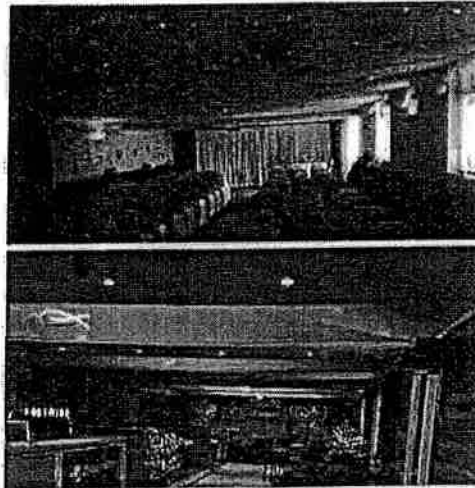


👍👍 155

8 comments 2 shares

No5. Duke Street
20 Jun · 🌐

Before and after

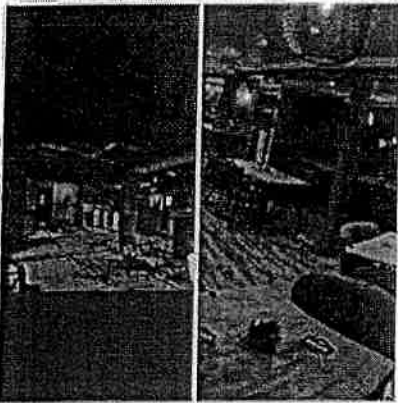


👍👍 155

8 comments 2 shares

No5. Duke Street
20 Jun · 🌐

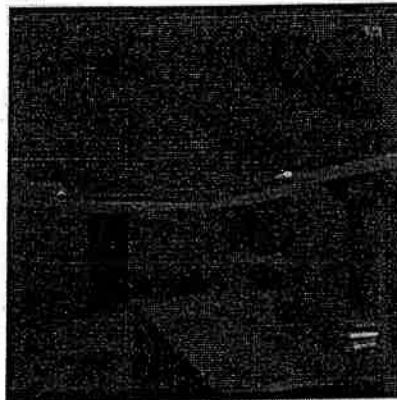
Before and after 🤫



👍👍 71

2 comments

no.5dukestreet



👍👍👍 ... 📌

20 likes

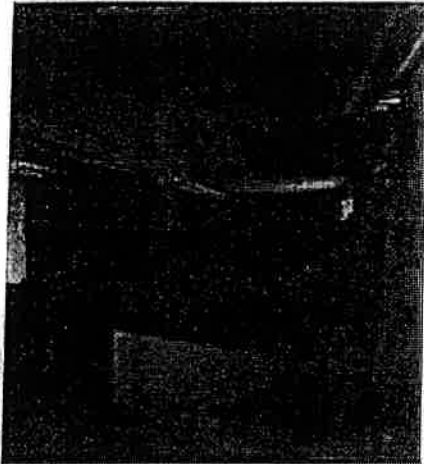
no.5dukestreet Sneaky peek at what's to come 🤫

View all 2 comments

7 January 2021

No6, Duke Street
9 January 2021 at 22:24

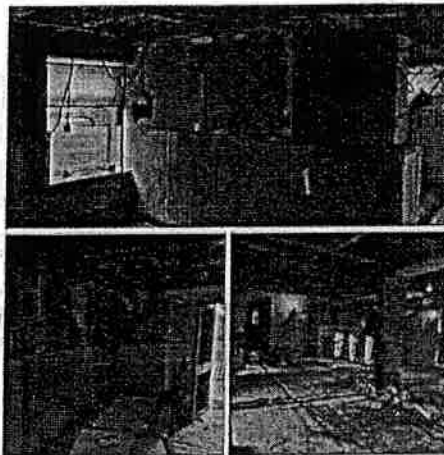
Any guesses which part of the pub this? 🤔



42 Likes · 16 comments

No5, Duke Street
20 November 2020 at 22:56

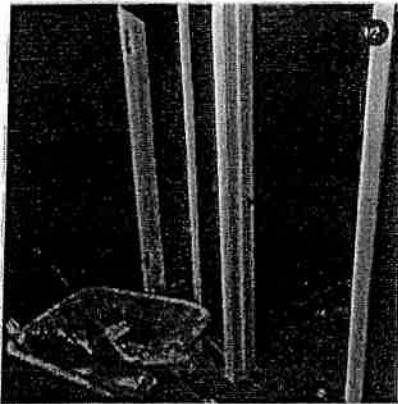
Spot the difference...



26 Likes · 4 comments

< NO5DUKESTREET Posts Follow

no.5dukestreet



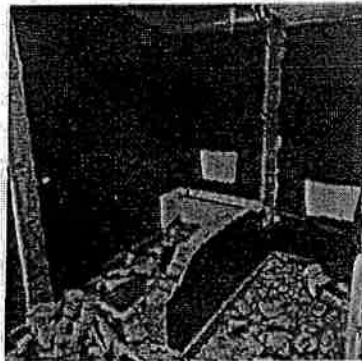
16 likes

no.5dukestreet Now time to demolish the toilets 🏗️

10 November 2020

< NO5DUKESTREET Posts Follow

no.5dukestreet



16 likes

no.5dukestreet Now time to demolish the toilets 🏗️

10 November 2020

No6, Duke Street
3 November 2020 at 22:47

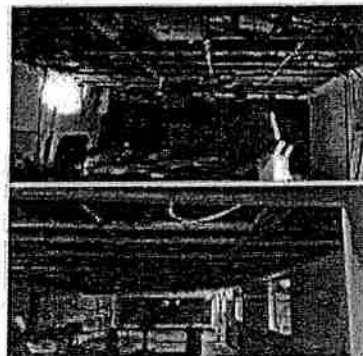
Now for the front bar



59 Likes · 8 comments

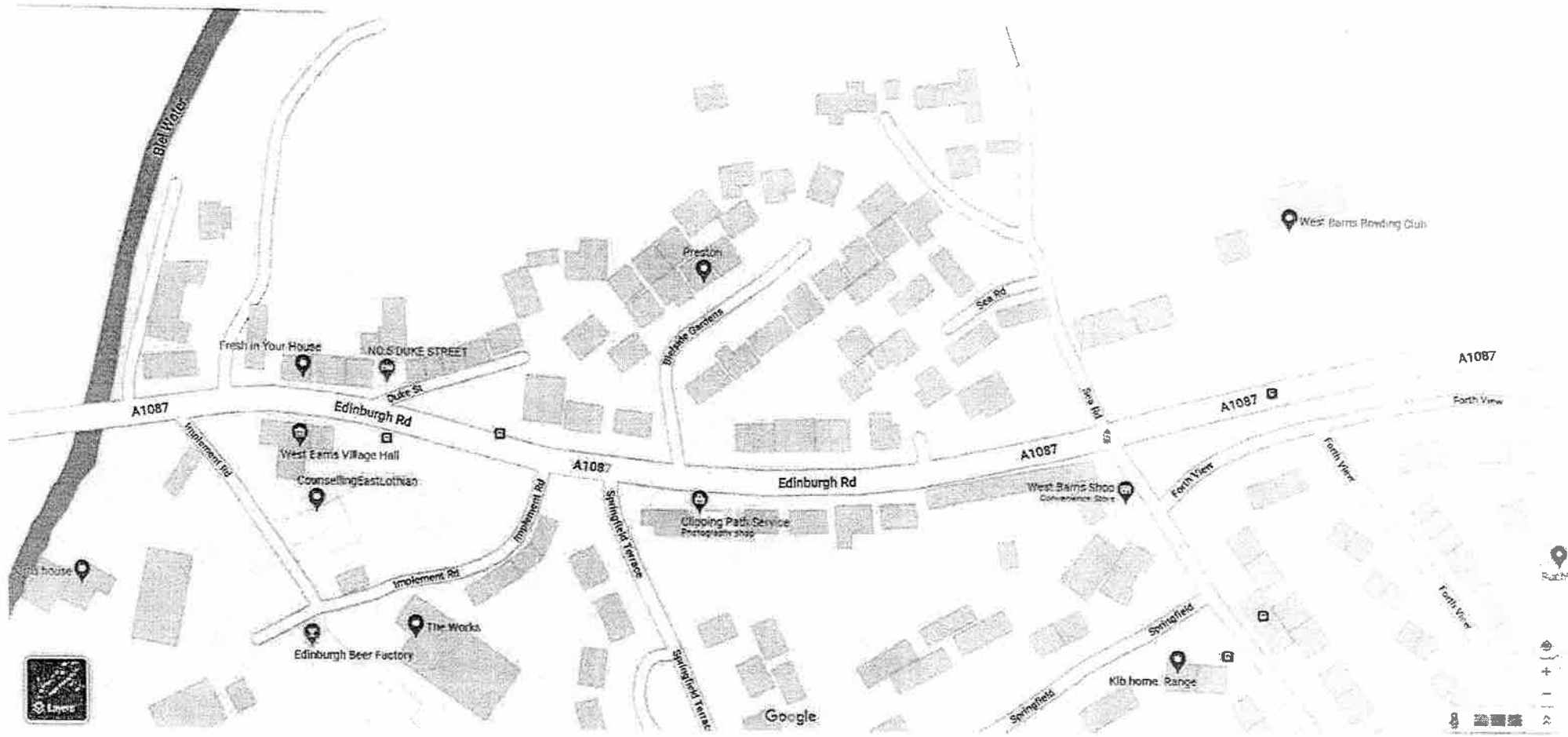
No6, Duke Street
25 October 2020 at 22:59

Today's work 🏗️



35 Likes

Appendix F - Map of premises location



Winter, Maree

From: Muir, Marion
Sent: 19 July 2022 12:36
To: [REDACTED]
Cc: Licensing; Winter, Maree; Harling, Karen (Licensing); Dunlop, Janet; Douglas, Andrew
Subject: No 5 Duke Street, West Barns
Attachments: Food Registration Form.docx; No 5 Duke Street Food Premises registration-2017.pdf

Natasha

I trust you are well?

I understand that the premises which you previously operated as No 5 Duke Street which had been closed since early 2019 and that you have now reopened the premises.

As a result of the closure in 2019, the Food Registration was removed and the entry closed on our systems.

As the premises have now reopened you require to reregister the business and to this end I have attached a Food Premises Registration Application Form for completion and return to ehs@eastlothian.gov.uk together with a copy of the previous Registration Form (for information). The registration should have been completed at least 28 days prior to re-opening or you should have advised this office of the reopening.

I would ask if you can advise if there have been any changes/improvements made to the premises in terms of the kitchen and bars as the premises were found to require improvement when last inspected (a copy of a plan/sketch would be good together with a copy of your food menu).

An inspection of the premises is also required and I would suggest Thursday afternoon (21st July) at 2pm, Friday morning (22 July) at 10am, Monday 25 July at 9:30am or Tuesday 26 July at 9:30am- please advise which date/time suits?

This email has been copied to colleagues including Licensing and Janet Dunlop who will deal with your Registration Form .

Best regards

Marion

Marion Muir
Food and Safety Section
East Lothian Council
John Muir House
Haddington
EH41 3HA
01620 827234

Information for Food Businesses from FSS is available at <https://www.foodstandards.gov.scot/publications-and-research/publications/covid-19-guidance-for-food-business-operators-and-their-employees>

Information and guidance on the current Covid 19 situation

<https://www.eastlothian.gov.uk/homepage/10448/coronaviruscovid-19> this includes links to both NHS and Scottish/UK Government guidance for businesses and the public

Sensible Risk Management. Follow the link for a common sense approach.

<http://www.hse.gov.uk/risk/principles.htm>

Why not check out your local restaurants and takeaways on the Food Hygiene Information Scheme. Visit www.food.gov.uk/ratings

NHS Coronavirus Information

[https://intranet.eastlothian.gov.uk/multimedia/1624/1624_250x83.jpg]

Environmental Health Services Inspection Report



Environmental Health
John Muir House, Court Street
Haddington, EH41 3HA
Tel: 01620 827 365
Email: ehts@eastlothian.gov.uk

Business Name:

No 5 Duke Street
West Haddington
(5 Duke Street)

Business Address:

Food Business Operator:

Notasha Colhoun
Notasha Colhoun

Date & Time of Inspection:
Inspecting Officer:

7/7/22 10.30AM
M. Muir

Full/Part-Premises Inspection (Areas):

Premises not yet operational

Scope of Inspection: <input checked="" type="checkbox"/> Food Hygiene <input checked="" type="checkbox"/> Food Standards <input type="checkbox"/> Revisit <input type="checkbox"/> Advisory <input type="checkbox"/> Investigation: <i>Discussion re operation</i>		Action we will Take: <input checked="" type="checkbox"/> Routine Inspection <input type="checkbox"/> Formal Action <input type="checkbox"/> Typed Report to follow <input checked="" type="checkbox"/> Revisit: <input type="checkbox"/> Copy to Head Office	
Matters Inspected / Discussed: <input checked="" type="checkbox"/> Food Safety Management System <input checked="" type="checkbox"/> Structure & Equipment <input checked="" type="checkbox"/> Staff Training <input checked="" type="checkbox"/> Cleaning & Chemicals <input checked="" type="checkbox"/> Temperature Control <input checked="" type="checkbox"/> Operational Hygiene <input checked="" type="checkbox"/> Pest Control <input checked="" type="checkbox"/> Cross Contamination <input checked="" type="checkbox"/> Storage & Stock Control <input type="checkbox"/> Imported Food <input type="checkbox"/> Waste Control (incl ZWS) <input checked="" type="checkbox"/> Labelling / Menu / Allergens <input checked="" type="checkbox"/> Health & Safety Matters <input type="checkbox"/> Other:		Details of Samples Taken: <i>Sanage Wastel</i> <i>4/A</i> / <i>Allergen Sign</i>	
Documents / Records Examined: <i>discussed need for food safety system such as cook log needed pre using kitchen for catering</i>			

Comments and/or Required Actions	Legal Reference & Timescale
Premises registration required - completed at time of visit	✓
Wooden pitcher has not been used and will not be used for coloring until such times as it has been upgraded + checked by EHC + Food Safety system	Requested written undertaking - Received 27/7/22
When premises was open FBO advised takeaway were ordered by customers and delivered to those customers whilst in premises - Business did not supply any food / plates / crockery et al.	
During the visit the following were noted as requiring attention -	
See next page	

Food Safety inspections and enforcement are carried out under national legislation which, in many areas, implements European Regulations. The main legislation applicable in these inspections are the Food Safety Act 1990, The Food Hygiene (Scotland) Regulations 2006, The General Food Regulations 2004 and The Food Information (Scotland) Regulations 2014. The Legal References highlight the legislation specifically applicable to the subject area. These are more fully explained in the accompanying Inspection Guidance Form

PLEASE REFER TO THE GUIDANCE NOTES ON THE REVERSE

Inspection Guidance Form Issued



Signed [Redacted]
Print Name
Position

Signed on behalf of East Lothian Council

Signed *sent by email*
Print Name *to FBO*
Position
Signed on behalf of the business

Environmental Health Services
Inspection Report
Continued



East Lothian Council
 Environmental Health
 John Muir House, Court Street
 Haddington, EH41 3HA
 Tel: 01620 827 365
 Email: ehts@eastlothian.gov.uk

Page 2 of 3:

Business Name: No 5 Duke Street, West Bams

Date of Inspection 27/7/22

Comments and/or Required Actions

Bar 2 (which I understand has been the main bar in use after opening earlier in year)	Legal Reference & Timescale
1) An additional sink is required or alternatively a glass washer.	FHR re opening
The bar must have at least the following - or 2 sinks and a hand wash unit (WHU) (substit with 1 sink, 1 glass washer machine + 1 hand wash unit (WHU) must have hot/cold water (or warm) plus drainage)	
I note this is in hand	
2) Some of the surfaces/shelve surfaces within the bar are not impervious - all such surfaces in the bar + associated areas must be treated to render them impervious, smooth and easy to clean + disinfected	FHR
3) I was unable to ascertain if the room was ventilated - it must be ensured that there is suitable and sufficient ventilation	HSW
4) There are gaps in the floor boards which may act as dirt traps and possible 'trip risks' these should be eliminated	HSW
Toilets (subside doors)	
1) The doors of the gents toilets must be made lockable (all other doors were OK) I note this is in hand.	
Cellar	
1) Suitable and sufficient chains are required to ensure the safe storage of CO ₂ cylinders	HSW
2) The exposed brickwork requires to be suitably sealed Car air washed	

Officer Signed / Initial: [Redacted]

FB Operator Signed / Initial: [Redacted] sent by email



Environmental Health Services
Inspection Report
Continued

East Lothian Council

Environmental Health
 John Muir House, Court Street
 Haddington, EH41 3HA
 Tel: 01620 827 365
 Email: ehts@eastlothian.gov.uk

Page 3 of 3:

Business Name: No 5 Duke Street, West Broom

Date of Inspection 27/7/22

Comments and/or Required Actions

Comments and/or Required Actions	Legal Reference & Timescale
<p><u>Bar 1 (Front Bar)</u> This bar currently only has one sink unit.</p>	
<p>1) An additional sink and a washhand basin or a glasswashing machine and a washhand basin are required in this bar. The bar must have at least the following: - or: 2 sinks + a washhand unit or: 1 sink, 1 glasswashing machine + a washhand unit The sinks and handwash units must have piped supplies of hot and cold (or warm water at suitable temperature) + a associated drainage</p>	<p>FHR PR 12-0004 or 12-010</p>
<p>2) It should be ensured that all bar surfaces/shelves are impervious, smooth and easy to clean/disinfect</p>	<p>FHR</p>
<p>3) It should be ensured that the space is suitably ventilated (you spoke of making windows operable which will be acceptable)</p>	<p>H5W</p>
<p><u>Childrens Play area</u></p>	
<p>1) It must be ensured that the space and equipment therein is safe. I would advise contacting ROSAA to look at its certification / re safety / signage etc.</p>	<p>H5W</p>
<p><u>External Bar</u></p>	
<p>I note this bar is not used and nor will it be intended to be used. If in the future it is to be used it must be ensured it has relevant planning consents and suitable facilities including handwash and glass washer/other - other matters as discussed, including Food Safety System Art 5.</p>	

Officer Signed / Initial



FB Operator Signed / Initial sent by email

Winter, Maree

From: Cramer, Torquil <Torquil.Cramer@firescotland.gov.uk>
Sent: 26 July 2022 14:40
To: Winter, Maree
Cc: Harling, Karen (Licensing)
Subject: RE: NO 5 Duke Street, West Barns
Attachments: FSA02 - No.5 Duke Street, Dunbar EH42 1UR.docx

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hello,

Further to your emails regarding the premises No.5 Duke Street, West Barns.

I visited the premises as discussed earlier with Karen and found very similar observations ie; the push bar handles broken from the fire exit doors, bike locks on the fire exit door (not locked) etc.

I arranged with Natasha Colhoun (wife of William Black) to audit the premises yesterday 25/7/22. From the audit conducted yesterday, they have addressed the two fire safety deficiencies above and have conducted a fire risk assessment for the premises. They have all the relevant testing and maintenance records for the fire warning system, emergency lighting, fire extinguishers. The mains electrical certificate is also satisfactory along with the PAT testing and the new interior wood panelling has been coated in fire & flame retardant solution. The outstanding deficiencies highlighted in the letter attached are in regards to staff training and awareness of the procedures which should be in written form. The survey for cavities and voids is a safety precaution due to the age of the building more than evidence found of breaks in the compartmentation. These are minor issues as they do not have any staff at the moment and will be addressed in the near future if/when they re-open. From the audit yesterday the SFRS have no objections from a fire safety position to the premises being granted a license.

Regards

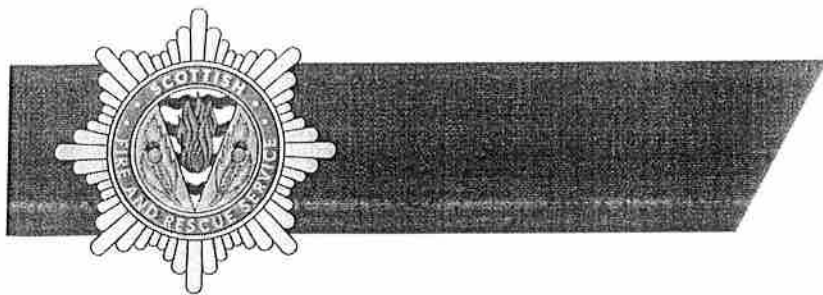
Torquil

Torquil Cramer GFireE | Watch Commander | Fire Safety Enforcement Officer
Prevention & Protection | MELB | Haddington Community Fire Station
47- 49 Court Street | Haddington | EH41 3AE
Tel: 01620 826360 | Mobile: 07989 220751
Email: torquil.cramer@firescotland.gov.uk



Safety. Teamwork. Respect. Innovation.

From: Winter, Maree [mailto:mwinter@eastlothian.gov.uk]
Sent: 18 July 2022 16:20
To: Cramer, Torquil <torquil.cramer@firescotland.gov.uk>
Subject: NO 5 Duke Street, West Barns



Scottish Fire and Rescue Service
East Service Delivery Area HQ
21 Claylands Road
Newbridge EH28 8LF
www.firescotland.gov.uk

No.5 Duke Street
5 Duke Street,
Dunbar
EH42 1UR

FAO: William Black

Direct Line 01620 826360
E-mail torquil.cramer@firescotland.gov.uk
Our Ref ESDA/SBWM4/TC/CW/138002275
Your Ref
If calling ask for Mr Cramer, Watch Commander
Date 26 July 2022

Dear Sir

FIRE (SCOTLAND) ACT 2005: PART 3
THE FIRE SAFETY (SCOTLAND) REGULATIONS 2006

NAME AND ADDRESS OF PREMISES: No.5 Duke Street, 5 Duke Street, Dunbar EH42 1UR
TYPE OF OCCUPANCY: LICENSED PREMISES
DUTYHOLDER: No.5 Pub Company Limited

OUTCOME OF FIRE SAFETY AUDIT

Following the fire safety audit of the above mentioned premises carried out on **25 July 2022** by **Watch Commander Cramer** you are hereby informed that the existing fire safety arrangements, as audited on that date, **require some areas for improvement.**

Effect should be given to the areas highlighted below as identified during the audit process:

INADEQUATE APPLICATION OF THE FIRE RISK ASSESSMENT PROCESS

The fire risk assessment should be reviewed to take cognisance of the following matters:

Provision of Information to Employees

1. Employers should ensure that they provide adequate information to employees with regard to the risks to them identified by the fire safety risk assessment and the fire safety measures in place.

Measures to Reduce the Spread of Fire

2. It is recommended that a survey be carried out as to the voids and ducting throughout the premises, to ascertain if there is a potential for fire spread. Any significant findings should be recorded in the fire safety risk assessment.

Procedures for Serious and Imminent Danger from Fire and for Danger Areas

3. There should be a written emergency fire action plan prepared for the premises. The purpose of the plan is to ensure that people on the premises know what to do if there is a fire and to ensure that appropriate action is taken in the event of fire and that the premises can be safely evacuated. It should be kept on the premises, be available in a format understood by all and form the basis of fire safety training and instruction. The plan should also be available for inspection by the enforcing authority.

The above risk control measures should not be regarded as the only option for achieving the benchmark standards. Other fire safety risk assessment methods or fire safety measures which achieve the same end may be considered.

You are however, reminded that the process of fire safety risk assessment should be ongoing. If there is reason to suspect that the current fire safety risk assessment is no longer valid, or if there has been a significant change in the matters to which it relates, then the assessment must be reviewed by the dutyholder and any changes in the fire safety measures required must be made to ensure continued compliance with the said Act and Regulations.

Where to get advice or further information

More detailed guidance on the Act and Regulations and fire safety risk assessment is available on the Scottish Fire and Rescue (SFRS) Website <http://www.firescotland.gov.uk>.

Free advice is available from the SFRS on technical details and options for compliance, however the dutyholder is responsible for carrying out the fire safety risk assessment for their premises; and identifying and implementing the fire safety measures necessary as a result of the findings of the fire safety risk assessment.

The SFRS seeks to promote the highest standards in service provision. To continually improve, we would appreciate feedback on your experience before, during and after the audit. Please click [here](#) or go to <https://firescotland.citizenspace.com/prevention-and-protection/dd71b062> to complete a short questionnaire, or alternatively use the "contact us" link on the SFRS website.

Should you require further information or clarification in relation to this letter please do not hesitate to contact the above-named officer at the following address: **Haddington Fire Station, Court Street, Haddington EH41 3AE.**

Yours faithfully,



pp
Area Commander Hilary Sangster
LOCAL SENIOR OFFICER
Midlothian, East Lothian & Scottish Borders

EAST LOTHIAN COUNCIL

Internal Memorandum

From: Planning Delivery
per: Scott Robertson
ref:

To: Clerk to the Licensing Board
ref: Licensing Board

Date: 29th July 2022

LICENSING (SCOTLAND) ACT 2005

RE: Consultation Response

Address: 5 Duke Street, West Barns, Dunbar

Application Type: Variation other than a minor variation of premises licence

Planning permission is not required for the sale of alcohol on the premises.

However, I can confirm that there are no records of a grant of planning permission for the use of a beer garden/external drinking area within the grounds of the premise.

Please note that it is the responsibility of the licensee to confirm what planning permission is in place for this use or demonstrate that planning permission is not required for it. Otherwise I would advise that a planning application is sought for the change of use of this area of land to form a beer garden/external drinking area as shown for it on the submitted drawings.

Winter, Maree

From: Ashburner, Vicky
Sent: 19 July 2022 08:05
To: Winter, Maree
Cc: Building Standards; Fairgrieve, Frank; Paterson, Janine
Subject: RE: No 5 duke Street, West Barns (Formerly West Barns Inn)

Morning Maree,

In Frank's absence I've check our records this morning.

A building warrant has been granted for the property at 5 Duke Street, West Barns and includes: -

20/00928/BW - Alterations to existing building to increase bar area by removing vestibule. Removing male and female sanitary accommodation and replacing with cellar and two extensions to form new male, female and accessible / baby changing sanitary accommodation. Roof over function hall removed and increased in height. New wall cladding to function hall. Previous cellar and office now storage.

While the warrant has been granted, the warrant has not be completed to completion acceptance where the completion certificate submission has not been received to date.

I hope this is off help.

Kind regards

Vicky

Vicky Ashburner | Senior Building Standards Surveyor | East Lothian Council Tel DD : 01620 827795 | buildingstandards@eastlothian.gov.uk | www.eastlothian.gov.uk Partnership and Services for Communities John Muir House, Brewery Park, Haddington EH413HA

My Working Pattern is Monday-Thursday only

Please Note the Building Standards Team Continue to Work Remotely

Any formal e-mail response should be sent to buildingstandards@eastlothian.gov.uk quoting the relevant building warrant number. Emails sent directly to the Surveyor rather than the Building Standards inbox may be subject to a delay in response and will not be recorded against the applicable reference.

Building Standards duty service at John Muir House on Tuesdays and Thursday mornings 09.00 -12.00hrs has been suspended at this time. We sincerely apologise for any inconvenience.

From: Building Standards <buildingstandards@eastlothian.gov.uk>
Sent: 19 July 2022 07:30
To: Ashburner, Vicky <vashburner@eastlothian.gov.uk>
Subject: FW: No 5 duke Street, West Barns (Formerly West Barns Inn)
Importance: High

Winter, Maree

From: Road Works
Sent: 18 July 2022 16:25
To: Winter, Maree
Subject: RE: No 5 Duke Street, West Barns
Attachments: Re: No5 duke street west barns

Hi Maree,

Eleni is off at the moment so I will help as best as I can. See attached the correspondence between Roads and Natasha. According to our records we are still awaiting an application and a roofing report, so to my knowledge there has been no permission given by Roads for tables and chairs in public areas.

Kind regards,

Sarah Ross

Technical Clerk |
Road Networks |



From: Winter, Maree <mwinter@eastlothian.gov.uk>
Sent: 18 July 2022 16:12
To: Road Works <roadworks@eastlothian.gov.uk>
Subject: No 5 Duke Street, West Barns
Importance: High

Hi,

The Licensing Board has received a request for a review hearing for the above premises – licence holder Natasha Colhoun (Black).

It came to the notice of the Licensing Standard Officer Karen Harling that tables and chairs were situated at the front of the premises. This was not on her layout plan.

Are you able to give the board a report as a matter of urgency regarding permission from roads for the tables and chairs.

Kind regards
Maree

Maree Winter

Licensing Officer: Accredited Specialist Paralegal in Licensing Law, Democratic & Licensing Services: East Lothian
Council: John Muir House:
Haddington: EH41 3HA

Winter, Maree

From: [REDACTED]
Sent: 20 June 2022 13:54
To: Road Works
Subject: Re: No5 duke street west barns

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Yeah it's the first time, purely because I've seen others doing it.
I'll get that info over to you
Thanks

Sent from my iPhone

> On 20 Jun 2022, at 13:46, Road Works <roadworks@eastlothian.gov.uk> wrote:

>

> Hi Natasha,

>

> If you were going to put the seating in your privately owned car park then you wouldn't need a permit from us to do so.

>

> If you wanted seating outside on the pavement, we'd need you to have an in date roofing report and to provide us with proof of that. We would also require plans of where the seating will be including the measurements of the proposed seating space, and a completed application form. Is this the first time you have applied to have seating outside of your business?

>

> You can find the application form and guidance here:

>

> https://www.eastlothian.gov.uk/downloads/download/12651/road_permits

>

> Thanks,

> Amy

>

> NRSWA and Permits Team

> John Muir House, Haddington, EH41 3HA

> 01620 827827

> roadworks@eastlothian.gov.uk

>

> You may receive this email outwith your working hours. Please do not

> feel like it is necessary to reply until you are back at work 😊

>

>

>

>

> -----Original Message-----

> From: [REDACTED]

> Sent: 20 June 2022 13:14

> To: Road Works <roadworks@eastlothian.gov.uk>

> Subject: No5 duke street west barns

>

> CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.