

Our Ref: CG/mjw/EN/L/1/OCC  
Your Ref

Date: 6<sup>th</sup> October 2022



3

Mr Rupert A. Waites



Carlo Grilli  
CLERK OF THE LICENSING BOARD

John Muir House  
Haddington  
East Lothian  
EH41 3HA  
[licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

Dear Sir

LICENSING (SCOTLAND) ACT 2005  
REPEATED OCCASIONAL LICENCE APPLICATIONS – 28<sup>th</sup> October 2022 TO 5<sup>TH</sup> JANUARY 2023  
PREMISES: BUCK & BIRCH LTD., UNIT 9, MERRYFIELD BUSINESS CENTRE, MACMERRY

Further to your attendance at East Lothian Licensing Board on Thursday 25<sup>th</sup> August 2022 regarding the repeat continuation of applying for Occasional Licences for the above premises. I now write to advise you as you have not made an application for a provisional/full licence the Licensing Standard Officer has submitted a representation requesting that you attend the next meeting of the Licensing Board.

Please find enclosed a copy of representation received from the Licensing Standard Officer.

In the circumstances, I hereby formally cite you to attend the remote connect meeting in order to address the Licensing Board on terms of the applications. If you are unable to attend the meeting you may appoint another person to speak on your behalf, you must however provide the Licensing Office a mandate which sanctions them to do so. This can be emailed to [licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

An agenda and details of the remote connect Link will follow in due course.

Yours faithfully

Carlo Grilli  
Clerk to the Licensing Board

Enc.

Direct Line: 01620 827664  
Email: [licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

## EAST LoTHIAN COUNCIL

### Licensing Standards

**From: K. Harling**  
**Licensing Standards Officer**

**To: C. Grilli**  
**Clerk to the Licensing Board**

---

Date: 29<sup>th</sup> Sep 2022

**Subject: LICENSING (SCOTLAND) ACT 2005**  
**REPRESENTATION OCCASIONAL LICENCE APPLICATIONS –**  
**BUCK & BIRCH LTD, UNIT 9, MERRYFIELD BUSINESS CENTRE,**  
**MACMERRY**

At the East Lothian Licensing Board hearing on 22nd August the below representation for the grant of occasional licence applications for the premises Buck and Birch was heard and considered. The result being that the occasional licences were granted until 27th October 2022 and the applicant Mr Rupert Waites was asked to apply for a provisional licence application. To date no provisional application for the premises has been received.

As such the below occasional licence applications are outstanding. It is requested that the board consider the application for grant as per the representation below where grant on delegated powers is against board policy.

Applications for consideration:

7 Occasional Licence Applications from 28th Oct – 5th Jan 2023

I submit this report for the information of the board members.

K. Harling  
Licensing Standards Officer

**EAST LOTHIAN COUNCIL**

**Licensing Standards**

**From: K. Harling  
Licensing Standards Officer**

**To: C. Grilli  
Clerk to the Licensing Board**

---

Date: 27<sup>th</sup> July 2022

**Subject: LICENSING (SCOTLAND) ACT 2005  
REPRESENTATION OCCASIONAL LICENCE APPLICATIONS –  
BUCK & BIRCH LTD, UNIT 9, MERRYFIELD BUSINESS CENTRE,  
MACMERRY**

The Licensing Standards Officer would like to make a representation under Section 21(1) of the Licensing (Scotland) Act 2005 that the Licensing Board review the applications made for occasional license made by the personal licence holder Rupert Waites for the premises Buck & Birch Ltd. I have no objection to the grant of these licenses and on visiting the premises and speaking with Mr Waites he has informed me that he will be submitting an application for a provisional premises licence once he secures an agent to act on his behalf. However, it is only right that the applications submitted and further applications be determined by the board as per the East Lothian Licensing Board Statement of Policy 2018 – 2023.

The premises has been selling alcohol under occasional licences granted since 2020 as follows:

23/11/2020 – 03/01/2021 (just over 1 month, 3 licences)

29/03/2021 – 23/05/2021 (approx. 2 months, 4 licences)

08/10/2021 – 13/01/2022 (approx. 3 months, 7 licences)

01/05/2022 - 29/07/2022 (approx. 3 months, 9 licences)

Further applications were received from 30/07/2022 – 05/01/2023. In order to allow the premises to continue to trade the Clerk authorised the grant of 3 of the occasional licences until 28<sup>th</sup> August 2022.

## Extract from East Lothian Licensing Board Statement of Policy 2018 – 2023

20.1 Repeated applications for Occasional Licences for the same premises and which are:

- not for specific events; and/or
- for activities that have been occurring (either in identical or largely similar terms) on the premises regularly over a period of at least 3 months will not generally be considered suitable for the grant of an Occasional Licence and will not be granted by the Board under delegated authority but will require a hearing before the Board. It is largely expected, that the premises in question should consider an application for a Premises Licence.

20.2 Section 59(6) of the Act specifies the grounds for refusal of an application for an Occasional Licence. These grounds include “that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives”. These licensing objectives include: -

- Securing public safety.
- Protecting and improving public health
- Protecting Children and Young Persons from harm

The scrutiny given to an application for a Premises Licence is not available where premises operate under a series of consecutive Occasional Licences. In the interests of securing public safety, and/or, for protecting and improving public health, the Board, considers that it is not appropriate for a premises to operate on a series of consecutive Occasional Licences, rather than apply for a Premises Licence. The Board will require an applicant to explain at a Hearing why an application for a Premises Licence is not being made unless the Clerk of the Board is satisfied that there are good reasons that prevent such an application that are not within the control of the applicant.

It is therefore requested that the board considers the 13 applications covering the period 29<sup>th</sup> August 2022 – 5<sup>th</sup> January 2023 for determination as per board policy above and not granted on delegated powers on consultation with Police and the Licensing Standards Officer alone. An example application has been provided for the board from 29<sup>th</sup> July – 7<sup>th</sup> August 2022, all subsequent applications are the same with the exception of the dates.

I submit this report for the information of the board members.

K. Harling  
Licensing Standards Officer

## Occasional Licence and Supplementary Information Form

### EAST LoTHIAN LICENSING BOARD

#### APPLICATION FOR OCCASIONAL LICENCE

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets, if necessary.

You may wish to keep a copy of the completed form for your records.

1. LICENCE DETAILS (see note 1)	
Premises licence number (if applicable)	
Personal licence number (if applicable)	EL1244
Name of voluntary organisation (if applicable)	

2. PERSONAL DETAILS			
TITLE (delete as appropriate): Mr			
Surname	WAITES		
Forenames	Rupert Alan		
DATE OF BIRTH	Day	Month	Year
	[REDACTED]		
ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR CORRESPONDENCE PURPOSES			
[REDACTED]			
Post town	[REDACTED]	Post code	[REDACTED]
TELEPHONE NUMBERS [REDACTED]			

Daytime	
Evening	
Mobile	██████████
<b>FAX NUMBER</b>	
<b>E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)</b>	
██████████	
<b>3. THE PREMISES</b>	
<b>Description of premises</b>	
A single storey unit in Merryfield Business Centre, consisting of bonded production facility and warehouse with separate office space and reception room	
<b>Description of activities to be carried on in the premises – (including number of persons expected to attend)</b>	
A retail shop in our bonded production facility selling our alcoholic liqueurs, spirits and cocktails.	
Complimentary samples may be offered to visitors but no drinks will be sold to consumed on the premises.	
All alcoholic sales would be off sales only and not consumed on the premises.	
A license has previously been granted for similar activity at the premises mentioned	
<b>Full postal address of premises which this application refers to</b>	
Buck & Birch Ltd Unit 9 Merryfield Business Centre Macmerry Industrial Estate Tranent EH33 1ET	

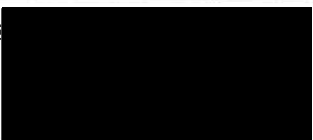
<b>4. DURATION OF LICENCE</b>
<b>From:</b> 28/10/2022
<b>To:</b> 06/11/2022

<b>5. Is alcohol to be sold on &amp; off the premises YES/NO* - Provide relevant details as to hours requested when alcohol will be sold on/off the premises-<sup>a</sup> delete as appropriate</b>	
<b>Times for sale of alcohol for consumption on premises</b>	<b>Times for sale of alcohol for consumption off premises</b>

NA	Mon to Sat 10am - 6pm
<b>Statement of the times at which any activities other than the sale of alcohol will be carried on in the premises</b> Mon to Sat 10am - 6pm	

<b>6. CHILDREN (see note 2)</b>	
<b>This section must be completed where alcohol is for sale for consumption on the premises</b>	
<b>Are children or young persons permitted entry? YES (if answered yes the remainder of this section must be completed)</b>	
<b>Ages of children or young persons permitted entry</b>  NA	<b>Times at which children or young persons permitted entry</b>  Mon - Fri 10am - 6pm (ONLY UNDER SUPERVISION OF PARENT/ GUARDIAN)
<b>Parts of premises to which children or young persons permitted entry</b>  RETAIL SPACE	

<b>7. CHECKLIST</b>	
<b>I have - Please tick for yes</b>	
<ul style="list-style-type: none"> <li>Made or enclosed payment of the fee for the application</li> </ul>	

<b>8. Signature and declaration by applicant (see note 3)</b>	
<b>DECLARATION</b>	
The contents of this Application are true to the best of my knowledge and belief.	
S 	<b>DATE</b> 12/07/2022

**NOTES**

**1. Section 56 of the Licensing (Scotland) Act provides that only: –**

- The holder of a premises licence;**
- The holder of a personal licence; or**
- A representative of any voluntary organisation**

**is eligible to apply for an occasional licence**

**PLEASE SUBMIT THIS SHEET WITH YOUR OCCASIONAL LICENCE APPLICATION FORM**

**SUPPLEMENTARY INFORMATION**

<p><b>1. Event</b></p> <p>(a) Please detail the type of event (e.g. birthday party, anniversary celebration, ceilidh, etc.)</p> <p>(b) What entertainment, if any, will be provided? (e.g. live music, recorded music etc.)</p>	<p>(a) Retail shop selling our range of cocktails and liqueurs for off sales consumption only</p> <p>(b) NONE</p>
<p><b>2. Attendance</b></p> <p>(a) Approximately how many people are expected to attend?</p> <p>(b) How is this figure obtained? (e.g. previous events, ticket sales, capacity of venue)</p> <p>(c) In the main, what age group will form the majority of those attending? Tick one box.</p> <p>(d) How is access gained to the event? (e.g. ticket purchased in advance, ticket purchased at the door, private invitation)</p>	<p>20 people per day</p> <p>Having asked potential customers if/ when they would visit</p> <p><input type="checkbox"/> Under 18</p> <p><input type="checkbox"/> 18 - 30</p> <p><input checked="" type="checkbox"/> 30 – 50</p> <p><input type="checkbox"/> over 50</p>



<p><b>3. <u>Stewarding</u></b></p> <p>Please note it is an offence under the Private Security Industry Act 2001 to <u>employ</u> unlicensed door stewards.</p>	
<p>Unpaid volunteers performing this function are not covered by the Act, however. More information can be found at <u>Security Industry Authority</u>.</p> <p>(a) Please state the number, if any, of stewards to be employed at the event.</p> <p>(b) Of that number, please state how many will be SIA registered stewards and how many will be volunteers.</p>	<p>(a) NA</p> <p>(b) NA</p>
<p><b>4. <u>Layout Plans</u></b></p> <p>Please indicate if -</p> <p>(a) there is a plan attached to a Public Entertainment Licence issued for the premises; or</p> <p>(b) the premises relate to a members club which has been issued with a premises licence; or</p> <p>(c) if neither of the above, please attach a detailed layout plan of the venue with the application</p>	<p>(a) NA</p> <p>(b) NA</p> <p>(c) Attached</p>
<p><b>5. <u>Applications Lodged by Voluntary Organisations or Members Clubs Only</u></b></p> <p>Please list the dates of previous occasional Licences granted by the Board between 1 January and 31 December</p>	

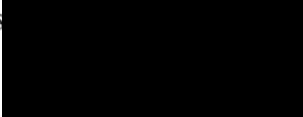
6. Will alternatives to glass receptacles be provided?	NA
7. To what standard those serving alcohol be trained? Please provide details of any training certificate held	All staff have are qualified to serve and sell alcohol

**LICENSING OBJECTIVES \*\***

**All holders of occasional licences must demonstrate how they will promote the 5 Licensing Objectives. Please provide practical examples of what you plan to do to comply with each objective.**

8. How will you prevent Crime and Disorder at the event?	As no alcohol will be served or consumed at the premises there should be minimal risk of and crime or disorder taking place.
9. How will you secure Public Safety at the event?	With numbers restricted in line with current COVID regulations risk to visitors will be minimal.
10. How will you prevent Public Nuisance at the event?	There will be no music or entertainment to cause any noise pollution and being on an industrial estate away negates any risk of upsetting residents

<p>11. How will you promote and protect Public Health at the Event?</p>	<p>All guidelines and regulations relating to COVID and other health issues will be upheld.</p> <p>There will be hand washing facilities in place and staff will wear appropriate PPE.</p> <p>Numbers will be limited to ensure social distancing rules will be adhered to.</p>
<p>12. How will you protect Children from Harm at the Event?</p>	<p>Any children present will be accompanied by a parent/ guardian at all times.</p>

<p><b>SIGNATURE AND DECLARATION BY APPLICANT DECLARATION</b></p>		
<p><b>IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION</b></p>		
<p>(Criminal Law (Consolidation)(Scotland) Act 1995 Section 44(2)(b))</p>		
<p>The contents of this Application are true to the best of my knowledge and belief.</p>		
<p>S </p>	<p>Date 12/07/2022</p>	

