



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

**THURSDAY 24 NOVEMBER 2022
ONLINE PLATFORM MEETING**

Board Members Present:

Councillor L Bruce (Convener)
Councillor C Cassini
Councillor G Gilbert
Councillor G McGuire
Councillor J McMillan

Clerk of the Licensing Board:

Mr C Grilli, Service Manager – Governance

Attending:

Ms M Winter, Licensing Officer
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration
Ms K Harling, Licensing Standards Officer
PC G Bairden, Police Scotland

Committee Clerk:

Ms B Crichton – Committees Officer

Apologies:

Councillor F Dugdale

Declarations of Interest:

None

1. MINUTES FOR APPROVAL
East Lothian Licensing Board, 27 October 2022

The minutes were agreed as an accurate record of the meeting.

2. PRESENTATION FROM SNAPPY SHOPPER DELIVERIES

Chris O'Donnell, from Snappy Shoppers Deliveries, provided the Licensing Board with a short overview of the platform, which was used by the convenience sector to make home deliveries of groceries and alcohol. His presentation explained the doorstep control over the vending of licensed products. He advised that under the Snappy Shopper platform, stores employed their own drivers to fulfil deliveries. The app made drivers aware of any age-restricted products within the order. Mr O'Donnell provided an explanation of the app's prompts to follow Challenge 25, inspect customer ID, and to capture the date of birth; if the requested ID could not be provided, the driver would refund the age-restricted items. The app would record this information live on the doorstep, and the retailer dashboard could access the electronic refusals log and other reports and information, including statistics as to how often ID was requested, geolocation data, etc. A Licensing Standards Officer (LSO) could therefore access live reports when requested. The app developers worked closely with convenience retailers and advised them to contact a licensing solicitor to submit a major variation to add deliveries to their premises licence operating plan, and to have delivery drivers undertake the mandatory two-hour alcohol licensing training.

Mr O'Donnell responded to questions from Members. He advised that it was possible from both the platform end and the retailer end to block a customer on the basis of their address, phone number, house number, etc., to ensure the system was not open to abuse. He said that brand awareness in the area was still poor, and there was room for greater uptake in East Lothian. He advised that Scotmid convenience stores were one of the platform's biggest customers. He advised that drivers were encouraged to walk away from any situations which could compromise their safety, and gave an account of strict policies whereby the name on the order had to match the name on the ID presented. Drivers had to work solely with the store, unlike other platforms such as Uber. He advised that, should it not be possible to make delivery of alcohol, drivers were required to return the products to the store.

Responding to further questions from Members, Mr O'Donnell explained there was a sign-up fee for retailers, for which they were provided a tablet and a point-of-sale kit. He advised of work with test shoppers; should a store fail a test once, further training was put in place, with another test visit undertaken within four weeks. Three test failures in a row would result in the retailer being removed from the platform. He also gave an account of how retailers could be sure that procedures were being followed, by checking refusals registers and whether ID checks were being made by individual drivers. Retailers were made aware that non-compliance by drivers would risk their licence, since delivery drivers were an extension of their business. He noted that allowances had been made for retailers through Covid-19 legislation, but rules were becoming stricter; the app developers were very happy to work with LSOs to ensure compliance.

Decision

The East Lothian Licensing Board agreed to note the presentation.

3. MAJOR VARIATION

a. Premier Store, 8 Muirpark Drive, Tranent

The application sought to add deliveries to the operating plan, and to amend the alcohol display area, amend the operating hours to 10am-10pm, add takeaway food, delivery of food and alcohol, and add background recorded music. There had been no objections from the public, police, NHS, community council, or planning. The LSO had made recommendations in relation to compliance with Board policy on deliveries.

Gordon Emslie, agent, was present to speak to the application. He provided background information on the store, and described the concept 'beer cave', which was a chilled room for alcohol display, which helped to reduce utility costs. He advised that home deliveries would be in partnership with the Snappy Shopper app. The store had undertaken home deliveries under Covid legislation; they now looked to add deliveries to their operating plan, with alcohol as an ancillary offer to groceries deliveries. He said that the store owners were responsible retailers who never had issues with the police or LSO, and he noted there had been no objections to the application.

Responding to a question from PC Bairden, and concerns from Members over the name 'beer cave', Mr Emslie described a glass room which would store alcohol, and reassured Members that it was more secure than chiller displays.

Karen Harling, LSO, had no objection to the changes to operating hours. She noted a slight increase in alcohol display capacity. She had visited the store and met with Ms Ali, the designated premises manager (DPM). Deliveries had come in whilst Ms Harling was in attendance; she had spoken with the driver and viewed the store's training records. She noted her support for the application and recommended standard conditions for the applicant to operate in terms of the Licensing (Scotland) Act 2005, Sec. 119. She also recommended that CCTV be installed inside the beer cave.

Councillor McMillan supported the application, and felt reassured by the condition to install additional CCTV. He welcomed the beer cave as an energy saving solution. The LSO added that the beer cave actually made it easier for staff to manage the alcohol display area due to it being a contained space, and Mr Emslie added that new CCTV was planned as part of the store's upgrade.

There was discussion around the alcohol display capacity, and the LSO calculated that there was no increase in terms of the licence; there was an error in the current licence listing the entire floor area of the store instead of the alcohol capacity area. Mr Emslie would correct any errors as part of this application.

Councillors McGuire and Bruce welcomed the enhancement to the local business and investment in the store, and would support the application.

The Convener moved to a roll call vote, and the major variation was unanimously approved.

Decision

The East Lothian Licensing Board agreed to grant the major variation, subject to LSO-recommended conditions.

b. Day Today, 84 High Street, Haddington

The application sought to add deliveries of alcohol and groceries to the operating plan, in conjunction with the Snappy Shopper app. There had been no objections from the public, police, NHS, community council, or planning, and the LSO had made recommendations in relation to compliance with Board policy on deliveries.

Shivakumar Kandaswamy was present to speak to the application, and operated both Day Today (item 3b) and Haddington Wines and Whiskies (item 3c). He said that the stores had never failed in a test purchase. He had spoken with the app developers to find out more about underage deliveries to ensure the system could not be abused, and provided the Board with various examples of due diligence. He advised that his wife, who was DPM of Day Today, made the deliveries.

The LSO had visited both premises, Day Today and Haddington Wines and Whiskies, where she had seen the Snappy Shopper app in action. She recommended that deliveries were carried out in compliance with the Board policy, and noted her support for the applications.

The Convener highlighted issues with proxy purchasing in the Haddington area, and enquired as to whether any deliveries were undertaken separate to the Snappy Shopper platform. Mr Kandaswamy advised that all deliveries were in conjunction with Snappy Shopper.

Councillors McGuire and McMillan both voiced their support for the applications. Councillor McMillan was reassured by the operators' due diligence, and highlighted their care for the community in which they lived and worked.

The Convener moved to a roll call vote and the major variation was unanimously approved.

Decision

The East Lothian Licensing Board agreed to grant the major variation, subject to the LSO-recommended conditions.

c. Haddington Wines & Whiskies, 82 High Street, Haddington

Carlo Grilli, Clerk of the Board, noted that all discussions pertaining to Day Today at item 3b also applied to the major variation application for the current item.

Mr Kandaswamy advised that around 25% of the deliveries from the two premises were made from Haddington Wines & Whiskies, and the majority of customers were elderly people.

The LSO noted her full support for the application, and asked Members to consider the same recommended conditions in relation to deliveries, as discussed in the previous item.

The Convener moved to a roll call vote and the major variation was unanimously approved.

Decision

The East Lothian Licensing Board agreed to grant the major variation, subject to the LSO-recommended conditions.

d. Bear & Bull, 72 High Street, Dunbar

The application sought: to change the on-sales and off-sales core hours to open at 7am (outwith core hours) for the provision of tea/coffee and cake; for children and young people to be granted access at various times, depending on age, with only adults allowed only after 7pm; addition of an outside seating area to be open 8am-8pm; to increase the capacity from 70 to 78; to add deliveries to customers; to add conference facilities, restaurant/bar meals, receptions, club meetings, and background music; and for the outside drinking area to be used in the morning outwith core hours. There had been no objections from the public, police, NHS, or planning. The LSO had made recommendations in relation to compliance with Board policy on deliveries, and standard conditions relating to: takeaway food timings; restrictions on when music could be played indoors; restrictions on use of the outside seating area; there being no amplified entertainment in the outdoor area; delineation of the outdoor area and removal of furniture when the area was no longer in use, and keeping the area clear of litter; keeping the adjacent footpath clear; and no standing being allowed in the outdoor area. Council officers had also submitted representation to note that there was no objection to outside caterers providing food for immediate consumption onsite, provided there was no cooking of meals on the premises, due to there being no onsite kitchen.

Cara Davies, licence holder, was present to speak to the application. She had run the premises as a bar since its purchase in 2019, and was developing a family-focused café through the day. She thought the proposals would be a great asset to the community, and highlighted letters of support from the community council and MSP.

The LSO had met with Ms Davies several times to provide guidance on making changes to the operating plan and licence to support services the business wished to offer. She noted that the only change to core hours was on a Sunday to 11am, which was within Board policy. She supported the changes being made to move away from a traditional pub, and listed all of the recommended conditions contained within her report. Ms Davies responded that she was aware of the support her team would require, and said Ms Harling had been very helpful throughout the process.

Councillor McMillan asked whether CCTV could be installed to cover the outside area. Ms Davies responded that there was already CCTV to the front of the building, and the outdoor area could be seen from the serving area.

PC Bairden commented that Ms Davies was organised and professional, and the premises had never caused issue to police. He asked that the outdoor area be clearly delineated with barriers.

Councillor McMillan was pleased to hear of the wide support; he would also support the application and wished Ms Davies well in diversifying the business. He commented that the plans were in line with council economic development and tourism strategies.

Councillor McGuire thought the initiative sounded exciting and well planned. He would support the initiative, noting the wide community support and its contribution to retaining footfall on the high street. The Convener also voiced his support for the venture.

The Convener moved to a roll call vote and the major variation was unanimously approved.

Decision

The East Lothian Licensing Board agreed to grant the major variation, subject to the following LSO-recommended conditions:

- Take away use only from 7am to 8am, and no persons to sit inside/outside;
- No music to be played before 8am indoors, the use of outside seating be opened no earlier than 8am and closed by 8pm;
- No public entertainment, amplified music or live music to be played in the outside area to ensure not to cause nuisance to neighbouring residential properties;
- The outdoor area should be clearly delineated with removable barriers and all seating and barriers should be removed between 8pm & 8am;
- No blockage of any part of adjacent footpath or roadway;
- Only seating, no standing in the outdoor area;
- Outdoor area to be kept clear of rubbish and cigarette litter;
- The applicant to operate in the terms of the Licensing (Scotland) Act 2005 Sec119 and those of the Board's Statement of Licensing Policy on deliveries of alcohol to be complied with.

4. GRANT OF PERSONAL LICENCE

Amerjeet Singh

The application for a personal licence had come before the Board on the basis of representation from Police Scotland, which requested that the application be refused for the purposes of preventing crime and disorder and securing public safety licensing objectives.

Amerjeet Singh, applicant, was present to speak to the application. He provided background to his employment history in the trade. He explained that he had previously completed the training to hold a personal licence, but had misplaced the certificate and therefore had not applied for the licence before now. He now worked for North Berwick Golf Club and had undertaken the training once more in July 2022.

PC Bairden advised of Mr Singh's convictions under the misuse of drugs act, and highlighted that no declaration of convictions had been made on his application form. He noted also a pending case for driving under the influence of alcohol, with a trial date of 15 March 2023; the police letter concluded that Mr Singh had a disregard for the law and was not a suitable person to hold a personal licence.

Responding to questions from Councillor McMillan, Mr Singh explained that his conviction under the misuse of drugs act had been from a difficult time in his life when he had been experiencing challenging family circumstances. It had occurred before he had his own family and had been in a secure place. He provided background to his employment in the trade, where he had held positions of responsibility, but had been made redundant during the Covid-19 pandemic. He said he had held a drivers licence for 13 years and had never before driven under the influence of alcohol, and said the circumstances around the charge had been after an argument at a family event. He said he had not been in a good state of mind at the time. He reassured Members that the incident had nothing to do with his professional position, and as a result of the incident, he no longer drank alcohol.

Responding to a question from the Convener, PC Bairden highlighted that there was also a conviction from May 2019 under the misuse of drugs act, which should have been declared. Mr Singh responded that he had not tried to mislead Members. He said he required a personal licence to progress in his career, and was concerned he could be dismissed if he could not obtain the licence. He said he had changed from when the incidents took place.

Councillor McMillan felt that Mr Singh's failure to declare his convictions and pending case raised the questions as to whether he was a fit and proper person to hold a personal licence. He noted Mr Singh's account of an unstable family background, but also felt that Mr Singh's actions were evidence of someone who acted irresponsibly when under pressure. Mr Singh responded that he was in a better place in his life and in a secure job. He said his past mistake continued to haunt him, but felt he would be able to make progress if he held a personal licence.

Councillor McMillan asked how Mr Singh would respond to a customer planning to drive home under the influence of alcohol. Mr Singh said that he would make management aware, would offer the customer a taxi, and would call the police if necessary. PC Bairden wanted to clarify that Mr Singh was aware that he had a conviction from 2019, and Mr Singh responded that he had been unsure at what point a conviction became a spent conviction.

Responding to a question from Councillor McGuire, Mr Singh advised the 2019 conviction had been from when friends had left a small quantity of cannabis in his car.

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

Upon Members' return, the Convener advised that the Board felt it would not be in a position to make a determination as to whether Mr Singh was a fit and proper person to hold a personal licence until after the court case had taken place in May 2023. They would continue the application, and discuss again after the pending case had been resolved.

Decision

The Board agreed to continue the application.

5. NON-PAYMENT OF ANNUAL FEES

a. New Plough, 63 High Street, Tranent

The Clerk of the Board advised that officers were aware that the premises had been closed for over 18 months, and no contact had been made by the licence holder. Due to non-payment of annual fees, the Clerk asked the Board to consider revocation of the licence under Section 31 of the Board's Statement of Licensing Policy.

The Convener moved to a roll call vote, and Members unanimously voted to revoke the premises licence.

Decision

The premises licence was revoked.

b. Stodola, 109 High Street, Musselburgh

The Clerk of the Board advised that the annual fees payment had been received late. Officers had made contact with the applicant to remind them of the importance of complying with the licence requirement to make payment of fees on time. He asked the Board to note the late payment of fees, but to take no further action.

The Convener noted that despite the difficulties faced by the trade in the current financial climate, there had been very few instances of late or non-payment of fees, and appreciated licence holders' cooperation in this matter.

Decision

The Board noted the late payment of annual fees and agreed that no further action would be taken.

Signed

Councillor L Bruce
Convener of East Lothian Licensing Board