



**MINUTES OF THE MEETING OF  
EAST LOTHIAN LICENSING BOARD  
THURSDAY 30 MARCH 2023  
ONLINE PLATFORM MEETING**

---

**Board Members Present:**

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

**Clerk of the Licensing Board:**

Mr C Grilli, Service Manager – Governance

**Attending:**

Ms G Herkes, Licensing Officer  
Ms A Rafferty, Licensing Officer  
Ms K Harling, Licensing Standards Officer  
Sgt R Stark, Police Scotland

**Committee Clerk:**

Ms B Crichton – Committees Officer

**Apologies:**

None

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL**  
**East Lothian Licensing Board, 23 February 2023**

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

**2. PROVISIONAL PREMISES LICENCE**  
**Buck & Birch Ltd, Unit 9, Macmerry Industrial Estate, Macmerry**

The application requested: on-sales from 10am to 10pm and off-sales from 10am to 10pm; receptions including weddings, funerals, birthdays, and meetings; recorded music to be played within and outwith core hours; tastings of products; deliveries; and for children and young persons 5-17 to be allowed access to all public areas. The application had attracted no objections from the police, planning, environmental health and safety, the community council, or the public. The LSO had submitted a report highlighting that on-sales from 10am fell outside Board policy, thus the applicant must justify why this was required.

Alistair Macdonald, agent, was present to speak to the application, along with Rupert Waites of Buck and Birch Ltd. Mr Macdonald and Mr Waites explained issues around obtaining a Section 50 Certificate which had prevented them from being able to submit an application for a full premises licence; this was due to a delay in Scottish Water being able to install hydrants. This application had been submitted as quickly as possible following the resolution of previous planning issues, and Mr Macdonald requested that the company be allowed to continue to operate under occasional licences until the premises licence had been finalised.

Karen Harling, LSO, said that all advice had been taken on board by the applicant, and advised that there had been no issues since the previous meeting at which the premises had been discussed. She drew attention to the on-sales times being outwith Board policy and asked the applicant to justify on-sales commencing from 10am. She advised that there was no other off-sales premises within the industrial estate. She fully supported the application, other than recommending discussion regarding the on-sales hours.

A discussion took place between the LSO, Mr Waites, and Mr Macdonald, and it was agreed that since tasting events would not begin until later in the day, an amended operating plan would be submitted for on-sales to commence from 11am.

Sergeant Rachel Stark, representing Police Scotland, confirmed that there were no objections on the basis that off-sales would commence from 11am.

Councillor Dugdale was content to support the application with on-sales hours now in line with Board policy. Councillor McMillan was pleased to support Buck and Birch Ltd's endeavours within the East Lothian food and drink industry. The Convener sympathised with issues around building control, but was happy to support the provisional premises licence application.

The Convener moved to roll call vote, and Members unanimously confirmed their support for the application.

**Decision**

The East Lothian Licensing Board agreed to grant the provisional premises licence, subject to the submission of an amended operating plan with on-sales commencing from 11am.

**3. MAJOR VARIATION OF PREMISES LICENCE**  
**The Main Course, 40 Main Street, Gullane**

The application requested to vary the licence to increase the on-sale capacity to 118, and to vary the layout plan showing the increased restaurant area by way of an extension that had been built on land already part of the licenced area. The application had attracted no objections from the police, planning, environmental health and safety, or the community council. Two public objections had been received, and the LSO had submitted a report to recommend that the applicant ensured all statutory permissions were in place before use of the the new extension.

Alistair Macdonald, agent, was present to speak to the application, along with Luciano Crolla, applicant. Mr Macdonald provided background information on the licensing history of the premises. He noted that the public objections referred to a retractable roof; although this had been applied for, permission had been refused, and he had sent photographs to Members to illustrate the extension under construction. He advised that the extension would serve to increase in the indoor area and decrease the size of the outdoor area, which he thought would be helpful to neighbours. Although planning permission had been granted for use of the outdoor area, this area had remained unused due to staffing problems and the ongoing construction work. Issues remaining unaddressed within the public objections related to permissions from planning and building standards, and were not licensing issues. He reiterated that the new structure would be an indoor and enclosed area.

The LSO had visited the premises. She confirmed that statutory notices had been displayed correctly and commented that the premises was well run. She advised that Mr Crolla must ensure all other statutory permissions were in place before the new area was used, and asked that he be aware of the potential for noise escaping from the new area.

Councillor McMillan sought clarity on the use of the outdoor area. Mr Macdonald confirmed that a previous request had been made for use of the outdoor area, and acknowledged that this had not been put to the test. The outdoor area would now be half the size when compared to the previous request, due to the size of the extension, and this would reduce the number of people who could be seated in the garden area. He said that the area would be used for outside dining, and there would not be entertainment in this space. Mr Crolla added that the extension was being built to accommodate customer numbers in busier months; he wished to have the option for outside dining to be able to compete with other restaurants offering this facility. He was keen not to upset neighbours.

The Convener commented that the objections were relevant to previous plans, which had since been updated, and asked about Mr Crolla's communication with neighbours. Mr Macdonald said that the retractable roof had been planned at the time the licensing application was lodged; he felt that objectors may not have had concerns about the application in its current form. He said that Mr Crolla liked to have good relationships with neighbours. The LSO added that current conditions on the licence included that there would be no amplified entertainment in the outdoor area, that the terminal hour be 2200 each day, and that notices were to be displayed to remind patrons to be respectful to neighbours and to leave the premises quietly.

On behalf of Sergeant Stark, who was experiencing technical difficulties, Carlo Grilli, Clerk of the Board, confirmed that Police Scotland had no objections to the application and concurred with the views of the LSO.

Responding to a question from Councillor Dugdale, Mr Macdonald advised that the number of seats within the outdoor area would be limited, and enough seats would have to be kept free inside the restaurant due to changeable weather.

Councillors McGuire, Gilbert, and Cassini asked Mr Crolla about his plans for smokers' use of the outdoor area, and Mr Crolla responded that he had not considered this. Mr Macdonald felt that accommodation of smokers was a management issue, and highlighted issues with a narrow pavement outside the front of the restaurant; he suggested a solution to designate smoking tables in the outdoor area, to be kept far away from the non-smoking tables. Mr Crolla advised that people currently smoked outside the front door, and there had never been an issue with groups of people smoking in this area. Mr Macdonald noted that customers currently had to come to the front because there was no access to the outdoor area at the back, but restriction on smoking in the outdoor area would see smokers having to walk all the way through the restaurant to the front door. He was confident that Mr Crolla would be able to resolve this management issue.

Responding to a question from Councillor Dugdale, the LSO confirmed that the capacity of the current restaurant area was 78, and the extension would have a capacity of 40.

The Convener commented that it was important to carefully consider where smokers could go when the premises had close neighbours. He was comforted by the LSO's conditions already in place to minimise potential noise. He encouraged the applicant to be mindful that the extension may change how noise escaped from the building, but noted that objections relating to noise had taken into account a retractable roof which would no longer be a feature. He was happy to support the application.

Councillor McMillan felt that issues from the past had been clarified, and he commented that there had been good liaison with Police Scotland and the LSO. He felt that certain issues required further consideration by management to ensure customers had the best possible experience, but he was confident that Mr Crolla knew his customers well and the changes would be well managed.

The Convener moved to roll call vote, and Members unanimously confirmed their support for the application.

## **Decision**

The East Lothian Licensing Board agreed to grant the major variation to the premises licence.

#### **4. OCCASIONAL LICENCE Aberlady Gala Committee for Aberlady Gala Day, Saturday 3 June 2023**

The application sought an occasional licence for a bar within a marquee at an annual gala day to be held on the playing fields. Activities would include food stalls, games, live music, face painting, tug-o-war, storytelling, and a magician. An exemption existed to the public alcohol byelaw in Aberlady for gala day, meaning that attendees could bring their own alcohol to the playing fields. There were no objections from the police, environmental health, or the public. The LSO report referred to the licensing policy statement whereby a function mainly for children should not necessarily need to attract an alcohol licence, and recommended that Police Scotland make comment.

Steven Polwart, Gala Day Committee Chair, and Greg Templeton, Gala Day Committee Vice-Chair, were present to speak to the application. Mr Polwart said that the gala day on 3 June marked the start of a week of events which were long-established in Aberlady. He said that organisers were keen to ensure that the event was not only for children of primary school age, but would attract the whole community, and had made an effort to promote widely. Service would be provided at the bar from 2.00pm, with last orders at 6.30pm, and the same marquee would host a stage with live music. He said that musicians from the village would be featured, and the day would celebrate the P1s coming into, and the P7s leaving, Aberlady Primary School. He stressed that gala day was the only occasion in the year where the whole village could come together. He also drew attention to a covering letter which addressed how the five licensing objectives would be upheld.

The LSO felt that activities on the day, including inflatables and funfairs, suggested that the event would be focused on children; she referred to the Board's statement of licensing policy and said that the applicants would be required to justify why an event organised predominantly for children should attract an alcohol licence. She advised that around 700 people were expected to attend. She drew attention to the applicant's lengthy and comprehensive cover letter, and also to the exemption to the local byelaw that allowed for public drinking on the playing fields on gala day. She asked that Police Scotland give their views on the matter, and asked the Board to consider whether having a licensed bar would stop people from bringing their own alcohol, or whether the presence of a bar would serve to increase alcohol consumption. She also asked the Board to consider whether the presence of a bar would affect whether the community would come together on gala day.

Sergeant Stark said that Police Scotland had not submitted any objection, but agreed that the Board should consider whether a licensed bar would give more control over the consumption of alcohol; with the local byelaw exemption in place, she felt discussion was merited to find the most appropriate arrangement on the day. She advised that there had been no recorded incidents or police calls in relation to beer tents at the gala day in previous years. She highlighted that the organisers expected the majority of attendees to be in the 30-50 age bracket. She asked that use of plastic or polycarbonate glasses be made a condition of the occasional licence.

Responding to questions from the Convener, Mr Polwart agreed that there was entertainment suitable for children all day, but said it was the organisers' wish to attract the whole community and it was imagined that most attendees would fall into the 30-50 age bracket. The live musical performances were for everyone to enjoy. He confirmed that only those aged 18+ could enter the floored area around the bar, and said that supervision of children was down to the parents. He said a personal licence holder would lead the bar and would provide a briefing to staff and volunteers. He highlighted that the gala day had always been granted an occasional licence, and the presence of the bar meant that attendees did not tend to bring their own alcohol. The LSO added that people would still be able to bring their own alcohol to the playing fields regardless of whether there was a bar available.

Responding to a question from Councillor Gilbert relating to funding, Mr Polwart and Mr Templeton said that having a bar on the day subsidised the event, but accounted for less than 10% of the total fundraising.

Responding to a question from Councillor Dugdale, Mr Polwart said that performers were a range of ages, but thought that there not being a bar available would mean that some members of the community may not attend the event.

Councillor McMillan commended the volunteers for their work for the community. He asked about stewarding arrangements to encourage responsible drinking. Mr Polwart said that although the byelaw allowed for people to drink across the whole field, organisers wished to contain drinking to the marquee area, and any behaviour inappropriate to the event would be addressed immediately. Organisers would require that drinks purchased at the bar were to be consumed within the marquee.

The LSO advised of a practice by other gala days with similar byelaw exemptions was not to have an occasional licence in place for the sale of alcohol, but to allocate a designated drinking area for people to consume alcohol they had brought with them. She noted that there would be nothing to stop people exiting the licenced bar with alcohol. She said the only area which would be controlled under licensing laws would be the marked area under the occasional licence, which would be the marquee and delineated area.

The Convener called for an adjournment to allow Board Members to discuss the application in private. Upon their return, some Members gave their views on the application.

The Convener said that he would not be in support of the application were it not for the existence of the byelaw exemption on gala day, as he would rather there be no alcohol at the event. He felt having a bar may provide some control over alcohol consumption on the day. He thanked Mr Polwart and Mr Templeton for their work, and asked that conditions be added that there be no sale of glass bottles, and that no children or young persons be allowed access to the floored area around the bar.

Councillor McGuire thanked the organisers and felt that they had presented their case well. However, he was conscious that alcohol issues were a major factor, and the Board had a responsibility to be conscious of the impact of past decisions to allow alcohol at such events. He felt that Licensing Boards had to start somewhere in addressing attitudes that alcohol had to be included at every opportunity; he would therefore oppose the application.

Councillor McMillan was minded to grant the application on the basis of the conditions highlighted by the Convener. The byelaw exemption was a factor in his decision, and he said it was important that the personal licence holder, gala committee, and stewards remained vigilant to ensure drinking was reasonable and responsible. He suggested the organisers work with the LSO in the run up to the event.

Councillor Dugdale thanked the applicants and acknowledged the hard work that went into gala days. She had considered the application carefully, but because she felt the event's focus was on children, she was minded not to grant on the basis of protecting children and young people from harm

The Convener formally proposed the following conditions: that only plastic or polycarbonate glasses to be used; and that children and young persons may not access the floored area around the bar. Councillor McMillan seconded this proposal.

The Convener then moved to roll call vote, and Members confirmed their votes on the application in turn:

Grant:	3	(Councillors Bruce, Cassini, and McMillan)
Refuse:	3	(Councillors Dugdale, Gilbert, and McGuire)
Abstain:	0	

Mr Grilli asked the Convener to confirm his casting vote on the application, and the Convener confirmed his vote to approve the occasional licence.

**Decision**

The East Lothian Licensing Board agreed to grant the occasional licence, subject to the following conditions:

- only plastic or polycarbonate glasses to be used; and
- children and young persons may not access the floored area around the bar.

Signed .....

Councillor L Bruce  
Convener of East Lothian Licensing Board