



**MINUTES OF THE MEETING OF
EAST LOTHIAN LICENSING BOARD
THURSDAY 27 APRIL 2023
ONLINE PLATFORM MEETING**

Board Members Present:

Councillor L Bruce (Convener)
Councillor C Cassini
Councillor N 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:

Councillor F Dugdale

Declarations of Interest:

None

1. MINUTES FOR APPROVAL
East Lothian Licensing Board, 30 March 2023

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

2. MAJOR VARIATION OF PREMISES LICENCE
a. Luffness New Golf Club, Gullane

The application sought a major variation to change the on sales commencement hour from 10am to 9am, Monday to Sunday. The application had attracted no objections from planning, environmental health and safety, the community council, or the public. Police Scotland had submitted an objection and brought to the Board's attention that the application was outwith Board policy and the premises should therefore justify their request and demonstrate measures which promoted the five licensing objectives.

Caroline Loudon, agent, and Stuart Graham, from Luffness New Golf Club, were present to speak to the application. Ms Loudon provided some background information on the premises. She advised that the purpose of the earlier on sales hour was to offer welcome drinks to visitors arriving to play in tournaments or attend pre-booked events; such arrangements had previously operated under occasional licences and there had been no negative impact.

Sergeant Rachel Stark advised that Police Scotland did not object to the major variation, and said Ms Loudon's presentation had provided clarity as to the justification for seeking on sales hours that were outwith Board policy. Ms Loudon responded that the occasional licences applied for in the previous year had worked well. She also noted that transport by bus was provided as part of the package, so there would be no concerns about drinking and driving.

Karen Harling, Licensing Standards Officer (LSO), had undertaken a compliance check on her visit, and reported that the premises had been fully compliant. She highlighted that participants would normally have just one welcome drink, possibly with filled rolls, then proceed to dress for the event. There was no opportunity for participants to stay in the clubhouse and consume alcohol. She advised that the premises currently held a licence for on sales hours commencing from 10am and there had been no complaints.

Councillor Gilbert questioned whether it was necessary for the earlier commencement of on sales hours to be in place throughout the year. Mr Graham advised that the club's intention was not to make use of the earlier on sales hours regularly, as it was sought only to cater for events and visiting parties. It would not therefore be widely publicised, but the club would appreciate having the facility available throughout the year to include any events which came on board over the winter months. He reiterated that the bar would not be open from 9am, and the 9am on sales would be used only for matches, competitions, and events.

Councillor McMillan felt reassured that the club intended to use the earlier on sales facility only for pre-booked events and would not encourage people to come in and drink; he was confident that the club would take this seriously for the sake of its reputation. The Convener echoed these comments, and both were minded to grant the application.

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

Decision

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

b. Glenkinchie Distillery Visitor Centre, Glenkinchie, Pencaitland

The application sought to: add bar meals as a permitted activity; host markets within and outwith the building; increase the capacity to 405 to allow for an increase of an external area to 150; and remove Local Condition 4 which required that “two weeks written notification with a contact phone number must be given to all surrounding properties, giving the nature of any evening events to take place on the premises”. The application had attracted no objections from the police, planning, environmental health and safety, or the community council. The LSO supported the application. There had been one public objection submitted which requested that the local condition requiring notice to be given of events not be removed, and complaining about noise from taxis.

David Hossack, agent, and Joanne Bee, assistant retail manager at Glenkinchie, were present to speak to the application. Mr Hossack provided background information on the licensing history of the premises, including the visitor centre opened in 2020. He referred to some concerns voiced by local residents in objection to the 2020 application, which had affected the conditions added to the licence. He outlined the requested variations to the licence. He noted that the current Local Condition 4 was considered to be a hefty burden for what may be small events. Mr Hossack reported that a drop-in event had been held to make residents aware of the proposed changes. At the event, residents had not felt that informing neighbours of events would need to be a formal condition on the licence going forward, and car parking and the height of the surrounding trees had also been discussed. Mr Hossack advised that one reason behind the request to increase the capacity of the outdoor area was to hold markets, at a maximum of 12 events per year with up to 15 stalls, to provide a hub for local produce; an application had been made for a market operator licence. He made clear that the area would not be operated as a beer garden, but as an engaging external environment. He said that the distillery operators were conscious of the premises' proximity to residential properties, and would continue to operate with this in mind. After the efforts made to engage with the community, he said staff had been disappointed to receive an objection to the proposals, but would be willing to engage with the objector to better understand her concerns. He advised that traffic marshals would assist at market events to minimise the impact on local amenity. He also referred to an email of support which had been sent by a local resident, and said that most residents appeared to be in favour of the proposals.

The LSO shared Mr Hossack's view that markets should be part of the operating plan, and welcomed the application and engagement from Ms Bee and Mr Hossack. From her visit and compliance check, she reported that the premises was operating well and had good procedures in place. She felt that the outdoor area lent itself well to market events, and she had no safety concerns about this use of the area. She had no objection to the proposals and saw no benefit to Local Condition 4 remaining in place.

Sergeant Stark had no adverse comment to make to the proposals.

Councillor McGuire asked about parking availability for events, and about any potential impact on Haddington Market. Ms Bee advised that there was additional space at the rear of the distillery, and a steward would direct visitors to this area when events were on. Mr Hossack said that the events would be infrequent so as not to get in the way of the normal operations of the distillery, so no impact on Haddington Market was expected.

Responding to questions from Councillor McMillan, Ms Bee advised that a bike repair station had been installed by the bike racks, and efforts were being made to raise awareness that the premises was well set up for cyclists and to promote walking routes from Pencaitland to the distillery. She also advised that two stewards would direct traffic on event days to alleviate pressure further up the street. Councillor McMillan suggested that the distillery could consider taking larger events to the Safety Advisory Group (SAG) for discussion and advice. Mr Hossack also noted that issues around traffic marshalling would be considered under the market operator licence process.

Councillor Bruce agreed that Local Condition 4 was no longer practical and would be happy for this to be removed, and felt that the distillery had understood its responsibility to work with its neighbours. He was happy to support Glenkinchie as one of East Lothian's premier brands. Councillor McGuire reiterated the Convener's comments and commended the distillery to visitors for their food and drink offerings.

Councillor McMillan felt that the distillery had shown itself to be a good neighbour, and hoped that the concern for the community would continue. He commented on the company's good leadership and ethos, and complimented the attention paid to the surrounding environment.

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

Decision

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

3. OCCASIONAL LICENCE APPLICATION

a. Stewart Brewing – Edinburgh Marathon Festival, Pinkie Playing Fields, Musselburgh

The application was for a pop-up bar at the Edinburgh Marathon Festival for participants and supporters. The requested hours for on sales and off sales were 10am to 7pm. The application had attracted no objections. The LSO had submitted a report highlighting that on sales from 10am fell outside Board policy, thus the applicant must justify their request and demonstrate measures that promoted the five licensing objectives.

Steve Stewart, applicant, was present to speak to the application. He advised that Stewart Brewing had run a bar at the Edinburgh Marathon Festival (EMF) since 2011, and that the company had an association with healthy pursuits, supporting local football, rugby, and sailing. About 20,000 people would participate on the day, with half marathon runners finishing from around 9.45am. The bar would serve 4000-5000 customers throughout the day. The early start from 10am was to serve the early half marathon finishers and their supporters. He noted that the customer base was transient, and people usually had one or two drinks before moving on.

The LSO had brought the application before the Board due to the start time being outwith Board policy. She understood in previous years this had been granted, but felt it was appropriate to bring forward to the new Board. She noted that Mr Stewart was a personal licence holder, and was happy that suitable measures had been provided by the applicant in terms of stewards at entrance and exit points.

Sergeant Stark said that Police Scotland had no adverse comment to make on the application and noted that the licence had been granted in previous years.

Responding to a question from Councillor Cassini, Mr Stewart said that his company was not organising the event, so was not in control of whether the site would be ready. However, the LSO confirmed that the licence holder would be responsible for protecting public safety in the licensed area, and Mr Stewart said he would refer the matter of site readiness back to GSI.

Responding to further questions from Members, Mr Stewart advised that the stewards were appointed by GSI, who were the event operators, and the majority of security efforts sought to ensure the safety of the 20,000 people who had completed the run. The company's relationship with GSI had always been good, and there had not been issues in the past with misuse of alcohol. Challenge 25 would be in operation within the bar area. He said EMF was a family event, and the majority of customers were runners. He said the clean-up operation at the end was swift for the site to be handed back to the school for the Monday morning.

The Convener was confident that GSI would run the event well. He noted that most customers would be in the EMF event area for a short time before moving on, and was happy to grant the application.

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

Decision

The East Lothian Licensing Board agreed to grant the occasional licence.

b. Michael Spink – Annual Football Festival, Memorial Park, Gullane

The application sought an occasional licence for an annual fundraising football tournament. The application had attracted no objections. Police Scotland and the LSO had both submitted reports recommending conditions.

Michael Spink, applicant, was present to speak to the application. He said that he understood the feedback from Police Scotland and the LSO and would make sure that all of the recommended conditions were in place.

The LSO advised that Mr Spink was a personal licence holder. She had advised him of the recommended measures relating to plastic containers, and having an area delineated and stewarded to ensure no alcohol was taken from the area.

Sergeant Stark provided Police Scotland's list of recommended conditions, noted below, and Mr Spink indicated that he was content to accept these.

Responding to questions from Councillor McMillan, Mr Spink advised that fundraising for the four charities came from fees paid, sponsorship, a BBQ, and a raffle. He had a personal licence because he owned various premises in Edinburgh. He organised the football tournament fundraiser each year, but noted that this was the first year he had been required to attend a meeting of the East Lothian Licensing Board. He would ensure that each of the recommended conditions was implemented.

The LSO confirmed that the signage required around the bar area was a mandatory condition attached to occasional licences and should have been implemented in previous years. She advised that this could be provided to the applicant.

Sergeant Stark asked what provisions would be in place to safely manage a situation whereby someone had to be ejected from the event due to alcohol intoxication. Mr Spink said that the community event had never been in a position of overselling alcohol. He highlighted that the event would be held in an open area on a playing field with different entry points around the field, and it would therefore be difficult to prevent someone from re-entering the area. Sergeant Stark said there would have to be good communication with stewards, and Mr Spink would have to consider how to manage a situation whereby someone arrived already under the influence.

Responding to a question from Councillor Cassini, Mr Spink advised that the bar area would be in a tent, with a surrounding barrier to prevent children accessing the bar, but consumption of alcohol could take place anywhere on the field. He advised that only wine and beer would be on offer. He reiterated that there had been no problems at the events in the past. The LSO confirmed that, in this case, the licensed area would be the entire field, and suggested that it may be more fitting for alcohol to remain in one area. Councillor Cassini said she would prefer for there to be a cordoned off area near the bar for the consumption of alcohol. Mr Spink highlighted that having a cordoned off area would prevent people from taking their drinks with them to view the football, which he felt was a part of the event.

Responding to Sergeant Stark's question about stewarding arrangements, Mr Spink advised that there would be in the region of 15-20 stewards at any one time, with around 100 volunteers throughout the day; this would require a 'change of guard', as most stewards would not be on duty throughout the whole event. Most had experience of stewarding, but no one had official training. He said that stewards would understand that they had a specific role and would therefore refrain from consuming alcohol.

Councillor Gilbert also voiced his support for there being a cordoned area for the consumption of alcohol, and felt this may also reduce the number of volunteers required.

Responding to a question from the Convener, the LSO said she was not aware of any complaints raised about the event in the past, and the event had previously been run without a cordoned off area for the consumption of alcohol. She also commented that the applicant had been able to show how all five of the licensing objectives would be upheld with regards to the licensing application. Sergeant Stark said that since the police had made no objection, it was likely that the event had run without issue in the past.

The LSO commented that the capacity of any cordoned off area would have to be assessed by the applicant; if this capacity were exceeded then stewards would have to stop people moving into the area until there was space.

At the request of the Convener, Carlo Grill, Clerk of the Board, and the LSO provided a form of words for a possible amendment to the recommended conditions. They suggested that the Board could grant delegated authority for the applicant to work with the LSO and Police Scotland to ensure a suitable cordoned off area for drinking to occur, and no drinking would occur outside of that area. This amendment was proposed by Councillor Cassini and seconded by Councillor Gilbert.

The Convener would not support the amendment to create a cordoned off area. He acknowledged that there had been no issues with the running of the event in the previous four years, and he would support the application.

Councillor McMillan felt it was important that the applicant monitored the whole area appropriately, and reiterated Sergeant Stark's comments about expectations of the stewards. He was minded to grant, subject to the applicant implementing all of the

LSO's and Police Scotland's recommended conditions to prevent any possible issues in the community.

Councillor McGuire was satisfied, subject to LSO's and Police Scotland's recommended conditions, to grant the application, also noting the good running of the event in previous years. He also was in support of the arrangements whereby children played matches in the morning and moved on prior to alcohol being served in the afternoon.

The Convener then moved to a roll call vote on the amendment proposed and seconded by Councillors Cassini and Gilbert respectively. Votes were cast as follows:

For: 2 (Councillors Cassini and Gilbert)
Against: 3 (Councillors Bruce, McGuire, and McMillan)
Abstentions: 0

The amendment therefore fell. Board Members then voted on the application, subject to Police Scotland's and the LSO's recommended conditions, as stated in their reports. Votes were cast as follows:

For: 3 (Councillors Bruce, McGuire, and McMillan)
Against: 2 (Councillors Cassini and Gilbert)
Abstentions: 0

Decision

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

- The licensed area and bar, and any licensed area around it, to be clearly delineated and stewarded by the organiser to ensure that no alcohol be taken from this area.
- The licence holder or nominee to be in charge and present on the licensed site at all times members of the public were present.
- The licence holder to ensure that no event staff, whether on duty or not, be on the licensed site in an intoxicated state.
- Appropriate signage must be clearly displayed within the bar area, relative to age restrictions, and the relevant conditions of the licence.
- The applicant must be aware that Gullane is in a byelaw, therefore they must ensure that no alcohol may be consumed outside this licensed area.
- All drinks to be served in approved plastic containers.

c. Douglas Forsyth – Blair Halls, Tranent – Tranent True Blues LOL 228 and Daughters of Israel LLOL 214

The application sought occasional licences for fundraising music events. The applicant, Douglas Forsyth, had previously applied for occasional licences for four voluntary organisations, but it was unclear if they were separate organisations in their own right, as he had not provided evidence as to the structure, constitution, or a list of office bearers. Police Scotland did not object to the application. The LSO objected on the grounds of a lack of evidence regarding organisational structure, and also recommended that the Board, directed by legal advice, consider the revocation of any occasional licences granted that exceeded the limit of 12 for one voluntary organisation.

The LSO referenced her report, which outlined the four voluntary organisations for which Mr Forsyth had applied for occasional licences. She questioned the validity of the four organisations, as they all appeared to be under the organisation Loyal Orange Lodge. She had tried to establish Mr Forsyth's role in the organisations and to obtain constitutions and lists of office bearers to establish if they were individual organisations in their own right. She noted that Lodge 44 was a district, a branch of which was the Tranent True Blues, which led her to consider that the four organisations under which Mr Forsyth applied for occasional licences were in fact under one organisation. She had submitted a table to Board Members; if the four groups were all considered to be under one organisation, then 16 occasional licences had been issued within the last 12 months, exceeding the limit of 12 occasional licences that could be issued to any one organisation in a 12-month period. She was concerned that the events had not advertised under the voluntary organisations that had applied for them, instead being advertised under No. 1 Platoon East Lothian, and were all held at Blair Halls, Tranent. The tickets did not mention the voluntary organisations under which the occasional licences had been applied for, and the LSO explained that it was not allowed for events to be advertised under a different organisation than that which had applied for the licence. She questioned how the events were fundraisers and where the funds were going. She recommended that Members consider whether they believed that all applications were in fact coming from one organisation; if this was believed to be the case then any further applications made should be refused.

Responding to a question from Councillor Gilbert, the LSO confirmed that no constitution or list of office bearers had been submitted for any of the four organisations. The applicant had not responded to emails or answered calls. There had been no confirmation as to any parent organisation, but she felt it was of particular note that all of the events all took place at the same venue.

The Convener felt the LSO had been correct to question the makeup of the organisations under the circumstances, and he had concerns about the breach of licences with regards to event advertisement. He would not support the applications due to the lack of evidence from the applicant. The LSO advised that there had already been applications granted under delegated powers for future events, and said that this case had been brought before the Board after she had spent time collecting evidence.

The Convener commented that Blair Halls should consider applying for a premises licence, as the Board was uncomfortable with a premises hosting numerous events under occasional licences. Councillor Gilbert concurred with the Convener's comments, and agreed that the Board could not grant a licence to an organisation that appeared not to exist on paper.

Councillors McGuire and McMillan concurred with the comments of their colleagues. They felt that the applicant's lack of communication showed a disregard for the LSO and Board, and Councillor McMillan commented that the applications could not be supported until further detail had been provided.

The Convener moved to roll call vote, and Members unanimously voted to refuse the applications.

Decision

The East Lothian Licensing Board refused the occasional licence applications.

4. PERSONAL LICENCE
Tony Exelby

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.

Due to the nature of the police objection, Members agreed that the remainder of the item would be discussed in private session.

Decision

The Board agreed to continue the application.