



**MINUTES OF THE MEETING OF
EAST LOTHIAN LICENSING BOARD
THURSDAY 22 JUNE 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 A Rafferty, Licensing Officer
Ms G Herkes, Licensing Officer
Ms K Harling, Licensing Standards Officer
Sgt R Stark, Police Scotland
Sgt G Wood, 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, 25 May 2023

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

2. MAJOR VARIATION OF PREMISES LICENCE
a. Carberry Tower, Whitecraig, Musselburgh

The application sought a major variation to: add the four estate houses, including film viewings; add community events, such as a Santa's grotto; increase the capacity from 320 to 366; and to amend the address of the premises manager, Peter Morrow. The application had attracted no objections from planning, environmental health and safety, the community council, the LSO, or Police Scotland. Two public objections had been received.

Chloe Johnstone, agent, was present to speak to the application, alongside Andrew and Jill Mitchell, owners of Carberry Tower. Ms Johnstone advised that the application was meant to bring the premises licence up to date, to provide the guests staying in the four estate houses the same offer as those residing in the main house, and to more accurately reflect the premises' operations. She highlighted that there had been no adverse recommendations from consultees. She referred to the one objection and one representation, and highlighted that the premises operated successfully and without incident. She advised that guests residing in the four estate houses were currently free to consume their own alcohol, and there had been no noise complaints thus far. Although the objector was concerned that the application would lead to noise pollution away from the main house, the owners imagined the guests would continue to consume alcohol within the public areas and within their estate houses, so would not lead to any real change. Ms Johnstone reassured the Board that age check verifications would be in place when room service was delivered to the estate houses. She noted that the premises operated within the luxury premium market and did not host hen and stag parties, 18th or 21st birthday parties. Although the estate houses may be booked by linked parties, there would be strict governance of outdoor traffic and large gatherings would not be permitted outside. She reassured Members that staff would not allow behaviour that may jeopardise the estate. With reference to the temporary marquee, she submitted that the conditions referred to were planning conditions and were not relevant to the licence. She advised that the marquee was used only for feasting and conferencing, and the premises licence currently permitted live events in the chapel, which had better sound insulations. She summarised that none of the grounds for refusal applied, and commended the application to the Board.

Responding to questions from Councillor McMillan, Ms Johnstone advised that the addition of films only related to televisions in bedrooms. Mrs Mitchell said staff were aware of the need to operate respectfully within their location, and the current operators had run more than 900 events. She said staff were experienced in giving strong direction to guests when the party atmosphere had to come to a close. There had been no noise complaints under their operation, and robust terms and conditions were in place for contracted parties and individual bookings. Large damage deposits were also taken to include noise and behaviour, and expectations were clearly laid out to parties as part of their contracts.

Sergeant Rachel Stark confirmed that Police Scotland had no objection to the major variation.

Karen Harling, Licensing Standards Officer (LSO), had visited the premises and found it to be well run and fully compliant. She had discussed the owners' intentions with regards to the estate houses and had no concerns with any of the proposed changes, and all of the mandatory conditions of the premises licence would still apply. She advised that there had been no complaints in the last year. Previously, only a complaint regarding a speech in the marquee being a bit loud had been received, and no complaints had been made regarding patrons' behaviour moving around the premises.

The Convener commented that he had taken the objections into account but felt satisfied with the actions taken to manage the premises. He said Carberry Tower was a well-regarded business which he was delighted to support and see business expand.

Councillor McGuire thanked the applicants for their comprehensive report into the facilities available at the premises, and felt they had shown their business to be well run. He commented that the staff were clearly competent, having run 900 events without issue. He would support the application and felt such ventures should be welcomed to attract visitors to the area.

Councillor McMillan had experience of visiting the venue and attending events, and felt assured by the clarity of reports and comments from the owners. He noted the rich history of Carberry Tower, including the 475th anniversary of signing of the Treaty of Haddington, and felt the proposals fit in well with the council's Strategy for Economic Development and Tourism.

The Convener then 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. The Co-op, Main Street, Ormiston

The application sought to vary the premises licence to add recorded background music within and outwith core hours, and to add home deliveries. There had been no objections from the public, NHS, community council, environmental health and safety, planning, Police Scotland, or the LSO.

Lewis Barn, agent, was present to speak to the application. Mr Barn sought permission from the Convener to discuss both applications from the Co-op concurrently, and the Convener agreed to this course of action. Mr Barn highlighted the continued public appetite for home deliveries amongst the public post-Covid, hence the major variation application from the two Co-op stores. The stores also looked to add recorded music to be able to play Co-op Radio. He advised of the procedures around deliveries, including Challenge 25 at the point of delivery, and alcohol never being left unattended. All delivery drivers received the two hours of mandatory training.

Sergeant Stark confirmed there were no objections from Police Scotland, and the LSO also had no objections.

Councillor McMillan had found the service in the Co-op Ormiston to be positive. He asked about the effect of loading deliveries on parking on the High Street. Mr Barn advised that the majority of deliveries would be from third party couriers, who generally used bicycles, and there had rarely been large vehicles making an obstruction as a result of deliveries from other stores. Councillor McMillan welcomed deliveries by cargo bikes and was in full support of the application.

The Convener acknowledged community benefits of having the opportunity to have groceries delivered, particularly for elderly people. He commented on the personalised service and Co-op ethos, and was happy to support the application.

Councillor McMillan clarified that he also knew the Co-op Tranent and would also be in support of their application, although Mr Grilli confirmed that the Tranent application would be introduced as a separate item and have a separate vote.

The Convener moved to a roll call vote, and Members unanimously confirmed their support for the application, including the LSO's suggested standard condition relating to deliveries of alcohol.

Decision

The East Lothian Licensing Board agreed to grant the major variation application, subject to the LSO's recommended standard condition that the terms of the Licensing (Scotland) Act 2005 and the Board's statement of licensing policy on deliveries of alcohol be complied with.

c. The Co-op, Brotherstone's Way South, Tranent

The application sought to vary the premises licence to add recorded background music within and outwith core hours, and to add home deliveries. There had been no objections from the public, NHS, community council, environmental health and safety, planning, Police Scotland, or the LSO.

The application had been made in the same terms as the previous item for the Co-op Ormiston, and as such, the Convener moved directly to a roll call vote after establishing there were no further questions or comments from Members. Members unanimously confirmed their support for the application, including the LSO's suggested standard condition relating to deliveries of alcohol.

Decision

The East Lothian Licensing Board agreed to grant the major variation application, subject to the LSO's recommended standard condition that the terms of the Licensing (Scotland) Act 2005 and the Board's statement of licensing policy on deliveries of alcohol be complied with.

3. OCCASIONAL LICENCE APPLICATION

a. Laurence Brunton, Castle Hotel, 163 High Street, Dunbar

The application was for three occasional licences for an outside seating area. There had been no objections from Police Scotland or the LSO. The LSO had recommended conditions, noted below.

Laurence Brunton had made Members aware that he would be unable to attend, but had indicated that he was happy to accept all of the LSO's recommended conditions.

Sergeant Stark confirmed there were no police objections to the proposals.

The LSO had no direct objections, but highlighted her five proposed conditions for use of the outside area. She had met with Mr Brunton and reported he had been happy to comply with those suggested conditions.

The Convener commented that he was happy to support the application, subject to the conditions suggested by the LSO.

The Convener then moved to a roll call vote, and Members unanimously voted to grant the application, subject to the LSO's recommended conditions.

Decision

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

1. No public entertainment, amplified music, amplified vocals, or live music played in the outdoor area to ensure the use does not cause nuisance to neighbouring residential properties.
2. The outdoor area should be clearly delineated with removable barriers and all seating and barriers should be removed between 2000-1100 hours.
3. The occasional licence holder shall ensure that staff:
 - a. Promptly collect all empty/unused drinking glasses and bottles from the outside area; and
 - b. Regularly supervise the outside area and its patrons.
4. Alcohol shall only be consumed in the licenced area(s) whilst being seated and a notice should be placed in a suitable place in the outside area informing all patrons of such.
5. If the outside area is on council land or a road/pavement then a valid permit/authorisation issues from the East Lothian Council Roads Department must be in place in order to use the occasional licence

b. Scott Dodds, Hickory Food, Scottish Open, Renaissance Golf Course, Cowden Hill Drive, North Berwick

The application was for six bars proposed to be situation in various locations around the course. On sales of 10am to 9pm were requested each day, and no off sales were requested. Board policy was for on sales to begin at 11am, but on sales from 10am had been allowed since 2019 when the event first came to Renaissance Golf Course. The application had attracted no objection from Police Scotland. The LSO had submitted a report asking for improvements to be made in terms of signage and staff training based on findings of a visit in the previous year. The LSO also recommended a condition that there should be a personal licence holder allocated to each of the six bar areas at all times, and all staff involved in the sale and/or supply of alcohol should have received the two hours of mandatory training as required under the legislation.

Scott Dodds and Brian Galbraith, both of Hickory Food, were present to speak to the application, and were represented by Mr Macdonald. Mr Macdonald advised that Hickory Foods were providing bars for the Scottish Open Golf from 12-16 July. Hickory Foods were a well-known events management organisation and had catered for events across the country. They had provided bars for the Scottish Open in 2019, 2021, and 2022 without adverse comment or appearance before the Board. He noted that the new LSO had assumed post by the 2022 event, and had highlighted some concern regarding signage. The LSO had also raised concern regarding staff training, and Hickory Foods had given explanation for this, namely that more agency staff had been employed in the previous year through necessity, who had been trained in a more general way than Hickory Foods would ordinarily train their staff. Mr Macdonald

reassured the Board that this year, Hickory Foods would be providing far more of their own staff. He advised that his clients were content to accept the suggested LSO conditions, and would take on feedback to lodge the application to be heard earlier in future years.

Sergeant Stark confirmed that Police Scotland had no objections to the applications. There would be a licensing officer present at the event who would be able to carry out checks and observations.

The LSO had spoken with Mr Dodds since writing her report, and said that Mr Dodds had reassured her regarding operations at the event. She would be happy to support the application with the condition that a personal licence holder would be allocated to each of the six bar areas at all times and staff would receive the mandatory two-hour training. She also asked the Board to consider the 10am commencement of on sales, which was outwith Board policy.

Mr Macdonald advised that the 9am start time had been accepted in previous years. When spectators arrived, they often purchased a drink before following their golfer, and did not engage in continual drinking. He advised that the early start time did apply to most golf events, and some clubs had permission in place for the earlier commencement of alcohol sales on a permanent basis. He advised that the first bar on the course was at the fourteenth hole.

Responding to questions from Councillor McMillan, Mr Galbraith advised of a successful recruitment drive by the company, which now had 280 front of house staff on their books. There was also a full time team which managed and delivered training.

Councillor McMillan asked whether the arrangements, including deliveries and opening times, had been discussed at a SAG meeting. The LSO advised that the main operations of the event had been through the SAG process. She had also discussed with event organisers the possibility of implementing alcohol and drug management policies to implement a wider event plan for stewards. The start time for the service of alcohol was not discussed as this was a Board decision.

Responding to further questions from Councillors McMillan and Gilbert, Mr Galbraith felt it would be positive for all facilities to be open when the public arrived. Should the sale of alcohol not be allowed to commence early, he thought this would impact on approximately 10% of all sales. He pointed out that people attended the event early but the days did not finish late.

Councillor McGuire felt that all concerns raised had been addressed. He noted the scale of the event, which expected a turnout of 60,000. Although the 10am commencement of on sales was outwith Board policy, he felt this could be justified for an exceptional international event.

Councillor McMillan felt reassured by the applicant and after hearing from the LSO. He knew from previous events that the standard of organisation would be extremely high, and the event would help to put East Lothian on the map. He would support the application, including the 10am commencement of on sales.

The Convener agreed with the descriptions of spectator behaviour at such events, and noted that arrival time was likely to be dictated by the golfer the spectator followed.

Mr Grilli confirmed the condition submitted by Mr Macdonald, as this condition varied slightly from the LSO's suggested condition. Members confirmed they were content with this condition.

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

Decision

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

- There will be a personal licence holder present at the village bar, a personal licence holder who will take responsibility for the VIP bar and the public bar at the sixth hole, and a personal licence holder at the bar at the fourteenth hole. With regard to the bar at the seventeenth hole, this will be covered by the site manager, who will also be a personal licence holder.
- All staff involved in the sale and/or supply of alcohol should have received the two hours of mandatory training as required under the legislation.

4. EXTENSION OF LICENSED HOURS Scott Dodds, Eskmills Venue, Station Road, Musselburgh

Two applications had been made for extended hours for 8 October and 15 October 2023, requesting an additional hour from midnight to 1am to accommodate two weddings. The applications had attracted no objections from Police Scotland. The LSO had made representation, which raised question as to whether the events could be considered special events for the premises to hold, as wedding functions were part of their business model. She also questioned why the events could not take place within the on sales policy hours appropriate to the premises, which took full advantage of the maximum hours as detailed in the statement of licensing policy. Her report also highlighted the venue's 15 applications for extended hours between 2021 and 2022, and recommended that the Board consider whether a major variation application would be more appropriate to continue these operations.

Mr Dodds and Mr Galbraith also spoke to this application. Mr Dodds advised that Sundays were becoming more popular for weddings, and the venue wished to be able to extend these weddings the same duration of celebrations as those held on Fridays and Saturdays, thus the request to extend the licenced hours to 1am on 8 October and 15 October.

Sergeant Stark advised that Police Scotland had no objection to the application, and noted that an occasional licence could not be put in place to cover these events as it was already a licenced premises. She raised that the weddings were not special events for the premises to hold, as weddings were part of its core business, and also asked why the celebrations could not take place within the currently permitted hours. She highlighted that clients that wanted wedding celebrations to go on to 1am had the option to book on a Friday or Saturday. She suggested that the venue should look to vary their premises licence. She recommended that the Board give these comments full consideration and assess whether this was the most appropriate course of action.

Councillor McMillan sought clarity on the business relationship between Mr Dodds and Mr Galbraith, who responded that Mr Galbraith was the owner and director of Hickory Foods, and Mr Dodds was the licence holder. The LSO clarified that Mr Dodds was the premises manager. The premises licence was held by Hickory Foods, of which Mr Galbraith was a director, and Mr Dodds had permission to make the application.

Councillor Gilbert asked whether any premises had an extension to 1am on a Sunday. The LSO advised that there were no premises which had a permanent extension

beyond 12am on a Sunday, and said that Eskmills Venue was the only premises that routinely made applications for such an extension.

Councillor McGuire asked whether consideration had been given to applying for a permanent change to a 1am terminal hour on a Sunday, and Mr Galbraith said he would be happy to make an application for this change to the premises licence.

The Convener sought clarity on the benefit of the additional hour, which under Board policy could not be granted purely to provide an additional hour of drinking time. Mr Galbraith responded that couples spent a significant sum of money on their wedding day and wanted to be able to enjoy the extra hour of dancing. He reassured the Board that guests would depart at 1am.

Councillor Gilbert felt that an application to vary the premises licence should be made and was not content to support the current application.

The Convener and Councillor McMillan were happy to support the application on the understanding that a major variation application would be brought forward should the current model continue. Councillor McGuire supported the suggestion that an application for a permanent change be made, but was prepared to support the current application, and Councillor Cassini agreed.

Councillor McMillan commented that the premises at Eskmills was an exciting and highly professional venue. He felt there was sufficient evidence to support the application made by a well-managed operation, but felt that the major variation application should be made for further such events on Sundays going forward.

The Convener then moved to a roll call vote, and votes were cast as follows:

Grant	4	(Councillors Bruce, Cassini, McGuire, and McMillan)
Refuse	1	(Councillor Gilbert)
Abstain	0	

Decision

The Board agreed to grant an extension of hours to 1am on 8 October and 15 October 2023 to accommodate weddings.

On behalf of the East Lothian Licensing Board, the Convener thanked Sergeant Rachel Stark for her help and service to the Board, and welcomed Sergeant Gail Wood, who would replace Sergeant Stark in her role. Councillor McMillan also echoed these remarks.

Signed

Councillor L Bruce
Convener of East Lothian Licensing Board