



## **MINUTES OF THE SPECIAL MEETING OF THE LICENSING SUB-COMMITTEE**

**THURSDAY 6 JULY 2023  
ONLINE DIGITAL MEETING FACILITY**

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**Committee Members Present:**

Councillor C Cassini  
Councillor D Collins (substitute for Councillor Findlay)  
Councillor A Forrest (substitute for Councillor McFarlane)  
Councillor T Trotter

**Other Councillors Present:**

None

**Council Officials Present:**

Mr C Grilli, Service Manager – Governance  
Ms F Haque, Solicitor  
Ms S Fitzpatrick, Team Manager – Licensing & Landlord Registration  
Ms C Aitken, Licensing Officer  
Ms G Herkes, Licensing Officer  
Ms P Gray, Communications Adviser  
Mr C Clark, Senior Environmental Health Officer

**Others Present:**

Sgt R Stark, Police Scotland

**Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor C McGinn  
Councillor J McMillan  
Councillor J Findlay  
Councillor C McFarlane

**Declarations of Interest:**

None

As the Convener and Depute Convener were not present, the Committee Clerk invited nominations for a substitute Convener. Councillor Forrest nominated Councillor Trotter, and this was seconded by Councillor Collins. There were no other nominations, and Members confirmed they were content for Councillor Trotter to act as Convener.

**1. REQUEST FOR A VARIATION OF PUBLIC ENTERTAINMENT LICENCE AT COCKENZIE HOUSE AND GARDENS**

An application had been submitted by Marietta Di Ciacca to request variation to the public entertainment licence (PEL) currently in place at Cockenzie House so as to: extend the licenced area to include the gardens; to permit live music performances within the gardens; and to permit a portable sauna within the gardens. The Sub-Committee was asked to determine the application in light of all the information presented to them.

Carlo Grilli, Service Manager – Governance, summarised the application and noted that it was not clear whether the portable sauna remained part of the application. He highlighted suggested conditions which formed part of the reports from the Licensing Standards Officer (LSO) and Environmental Health Officer (EHO).

Alistair Macdonald, agent, was present to speak to the application, along with his clients Craig Hodgson and Marietta Di Ciacca. He confirmed that any references to the portable sauna had been withdrawn. The application sought to add the outside area to the PEL and facilitate music events known as EH32 Live. EH32 Live events had taken place in the previous year and the East Lothian Licensing Board had already granted occasional licences to cover the events in 2023. After being made aware that the current PEL did not cover the outside area, his clients had followed advice to cancel the planned events until such time as a PEL variation hearing could take place, and he expressed gratitude that the meeting had been convened during the summer recess period. He highlighted that the current PEL was due to expire at the beginning of October 2023, and therefore any changes agreed by the Licensing Sub-Committee would require to be confirmed at the time of renewal. He suggested that this presented an opportunity to make the requested changes, before these could be reviewed at the time of renewal. He pointed out that although the changes were to be made to the venue's PEL, they were being requested specifically for the EH32 Live festival. Therefore, any reference to events in 2024 were irrelevant under this application because the current licence would have expired in October 2023.

Mr Macdonald then addressed points raised in the LSO's report. In the previous year, events had been held every weekend from the beginning of June to the end of August, and he acknowledged the noise complaints lodged following these. He advised that his clients were aware that children's carnival events were not included in the current PEL and confirmed they were not trying to add this activity in this application. He made reference to events his clients had considered running, including operating only the bars with a busker, but said they had resolved to put the events on hold until the PEL variation could be put in place. He highlighted the valuable performance and further business opportunities provided to local bands by the festival, some of whom had already lost this opportunity through cancelled events. His clients asked for the concerts to be permitted to continue on Saturdays and Sundays for all dates until the end of August. He agreed that going forward, engagement in the Safety Advisory Group (SAG) process would be valuable. He advised that his clients accepted that the frequency of concerts would have to be addressed in the following year, but noted that there had already been a lost month of events so far this year. His clients also accepted that an event should not take place on the same day as a wedding at the venue. His clients were aware of complaints made by members of the public relating to foul language used by bands, and said that bands would be briefed accordingly.

Mr Macdonald proceeded to address the EHO report. He said that his clients had carried out noise monitoring on a regular basis, and said that an acoustic barrier had been purchased for the back of the marquee tent. He said that noise complaints would be specifically addressed going forward, and noted equipment that could be purchased to provide an element of control with the help of a sound engineer. The hours of sales for the occasional licences had been reduced from the previous year, and this would be adhered to. Although EH32 Live events would take place only on Saturdays and Sundays, he raised that there may be other music performances the venue may wish to host, such as classical concerts.

Responding to questions from Councillor Forrest, Mr Hodgson described the effect of an acoustic sound barrier, which were common at music festivals and could cut sound by up to 40 decibels. He advised that readings were usually taken from in front of the speakers and from 4 metres away when bands were playing, and readings had also been taken from neighbouring properties when comment had been made on noise levels. He advised that a portable noise limiter to cut audio should a noise barrier be breached had been considered, but the organisers had wished to try the acoustic sound barrier first to save further outlay. He confirmed that there were no weddings planned at the venue until after the current PEL expiration in October. He also confirmed that EH32 Live music played from 2pm-8pm with breaks and changeover time for acts. In the previous year, music had always finished at least 30 minutes prior to the terminal hour of the occasional licences.

Councillor Collins asked about any clauses in contracts relating to antisocial behaviour and bad language. Mr Hodgson advised that only one performer had used foul language in the previous year, and they had been taken off the bill for future performances. He briefed bands before their performances and could include this clause in their contracts.

Responding to a question from Councillor Trotter, Mr Hodgson advised that there were eight weekends of EH32 Live planned, finishing on Sunday 27 August. One of the weekends in August would have music only on the Sunday.

Sergeant Rachel Stark said that Police Scotland had raised no objection on the basis that there had been no police incidents in the previous year. She concurred with the LSO's comments that the applicant ought to put some of the initial events through the SAG process to reduce risk and ensure best practice. She said that Police Scotland had wanted the applicant to take responsibility for ensuring the licence was in order; police would prefer to work with a licensee and provide guidance, but if events had continued to take place outwith the current PEL then Police Scotland would have taken some form of enforcement.

Responding to questions from Councillor Trotter, Sergeant Stark reiterated that no complaints had been made directly to Police Scotland from the previous year, hence there being no objection submitted. Should the events result in antisocial behaviour or issues around overconsumption of alcohol and/or drug use, then this would have an impact on policing activities. She reiterated the benefits of the SAG process in allowing input from various agencies. She said that if events resulted in police attendance, Police Scotland make representation to the East Lothian Licensing Board.

Colin Clark, Senior Environmental Health Officer, said that the representation from his department had been based on noise complaints made by members of the public from the surrounding residential area. He reported that Environmental Health were of the opinion that the 22 music events originally proposed on consecutive weekends had been excessive for the locality. He commented that it was difficult to curtail music noise, but said that officers had not been readily available over weekends to monitor noise in the previous year. Environmental Health had referred public complaints to the

LSO. He felt that the proposed number and frequency of events for this year would have an unreasonable impact on the residential properties nearby. He compared the festival to events such as Fringe by the Sea, and pointed out that other such festivals took place over a shorter period of time; he felt that three months of weekend music for EH32 Live was excessive.

Responding to questions from Councillors Forrest and Trotter, Mr Clark discussed the handling of complaints from the public. He confirmed that Environmental Health were not aware of the noise levels from the previous year. He said that complaints made over the weekend were responded to on the Monday, and advised that it would place extreme demand on the department to have officers available to monitor noise over the weekend.

Mr Macdonald felt that the festivals to which Mr Clark referred were not comparable to EH32 Live in terms of frequency of events. He felt that the system of formalising complaints only on the following Monday meant that event organisers were unable to respond or be consulted. He understood that there had been no direct contact between Environmental Health and the event organisers.

Responding to a question from Councillor Forrest, Mr Grilli advised that the Antisocial Behaviour Team had been consulted as part of the process, but had not come forward to discuss matters.

Responding to a suggestion from Councillor Collins, Mr Clark said that a test could be performed with officers present to set an environmental noise limiter, which would be adjusted to a point where the noise did not impact adversely on a sensitive receiver. He remarked that low frequency bass tended to have the greatest impact and passed directly through single-glazed windows. Although officers could perform these tests, he noted that noise levels which may be acceptable to the surrounding residents may not be acceptable to the hosts to make the event workable and successful. He advised that Environmental Health had always made the LSO aware that they would be happy to meet about the event, but their attendance had not been requested.

Councillor Forrest commented that although he did not wish to obstruct events from going ahead, he was conscious of the impact on neighbours. He felt that only one weekend each month would be acceptable, but appreciated the organisers' wish to be able to run a business.

Councillor Collins felt that having music every weekend on both Saturday and Sunday through to October was excessive, and felt that one day per weekend would provide a more measured approach.

Councillor Cassini had concerns about the management of the project. She voiced disappointment over the misinformation broadcasted by the organisers through social media, and wanted this to be corrected.

Councillor Trotter thought that the frequency of events needed to be restricted, but did not wish to interrupt entertainment for the public as he appreciated this played an important role in communities. He suggested that every Saturday but no Sundays might be acceptable.

Mr Macdonald and Mr Hodgson confirmed that the events were planned only until 27 August, and there were no events planned for September or October. They also reiterated that there would only be an event on the Sunday on the weekend of 5-6 August.

Mr Clark clarified the Environmental Health suggestion of one day per weekend, specifically Saturdays, which would reduce the number of events by half. Officers could also monitor noise before the PEL renewal in October. Councillor Forrest voiced that he would be content to see the events take place on day each weekend.

Councillor Trotter formally proposed that the EH32 Live events could take place on Saturdays only, and this was seconded by Councillor Forrest. Councillor Trotter then moved to a roll call vote, and Members unanimously supported the proposal.

Following the vote, Councillor Trotter commented on the importance of regular communications, and felt there should be an apology released by the organisers for the misinformation released relating to the council's actions following the cancellation of the earlier events.

Mr Grilli also confirmed the decision with Members, and Members advised that they would not be agreeable to any flexibility in terms of the day each weekend that events could be held.

**Decision**

The Sub-Committee agreed to vary the Public Entertainment Licence currently in place so as to:

- extend the licenced area to include the Gardens; and
- permit live music performances within the Gardens, with EH32 Live events permitted to proceed only on Saturdays until 26 August 2023 inclusive.

Signed

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Councillor T Trotter  
Convener of the Licensing Sub-Committee