



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

**THURSDAY 27 JUNE 2024  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON  
& HYBRID MEETING FACILITY**

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**Board Members Present:**

Councillor L Bruce  
Councillor C Cassini  
Councillor F Dugdale  
Councillor G McGuire  
Councillor J McMillan

**Clerk of the Licensing Board:**

Mr R Thompson (Acting Clerk)

**Attending:**

Ms G Herkes, Licensing Officer  
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration  
Ms K Harling, Licensing Standards Officer  
PC L Wilson, Police Scotland

**Committee Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor N Gilbert

**Declarations of Interest:**

Item 2b: Councillor Bruce, due to a family member's connection with the premises.  
Item 3a: Councillor McMillan, due to having worked with the applicant on economic development issues.

**1. MINUTES FOR APPROVAL  
East Lothian Licensing Board, 23 May 2024**

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

**2. MAJOR VARIATION OF PREMISES LICENCE  
a. Co-op, Northfields, Mid Road, Prestonpans**

The application sought to add home deliveries to the operating plan. There were no objections from the public or from statutory consultees. The LSO had recommended a condition, detailed below.

Lewis Barn, agent, spoke to the application. He advised that home deliveries operated from eight Co-op stores across East Lothian. He outlined some of the company's robust procedures, implemented at the point of delivery. He advised that delivery drivers employed by the Co-op received two hours of mandatory alcohol sales training, and those employed by courier services were all trained to a level to which the Co-op was satisfied. Mr Barn highlighted that there were no objections or adverse representations, and indicated that the Co-op was content to accept the LSO's recommended condition.

Karen Harling, Licensing Standards Officer (LSO), highlighted her recommended condition and acknowledged that the store had already indicated that it would accept the condition.

PC Lee Wilson advised that there were no police objections or comments.

The Convener commented that the Co-op already ran deliveries in East Lothian and the Board was not aware of any issues with the service. He regularly used the store and found it to be a well-run premises, and was happy to support the application. He formally proposed the LSO's recommended condition, and this was seconded by Councillor Dugdale.

The Convener then moved to a roll call vote, and Members unanimously supported the application.

**Decision**

The Board granted the major variation of the premises licence, subject to the following:

- Should a service of delivery of alcohol to customers be conducted, the terms of the Licensing (Scotland) Act 2005 Section 119, and those of the Board's statement of licensing policy on deliveries of alcohol, should be complied with.

*Sederunt: Councillor Bruce left the meeting.*

**b. The Railway Hotel, 70 Court Street, Haddington**

The application sought a major variation to amend the times children and young persons would be allowed entry, namely until 10pm or for the duration of a function. It also sought to amend the parts of the premises to which children and young persons

would be allowed entry to include the upstairs function area. There had been no objections from the public or from statutory consultees.

Lynn Simpson, agent, spoke to the application. She listed the amendments requested relating to children and young persons, which were part of a wider project to make the premises more family friendly. She said that the new tenant was focused on making the premises a community pub for use by families; as part of this, the pool table had been removed, and a new food menu would soon be in place. She noted that there was demand for family-friendly use of the function space, which was the only large function space within the town. She highlighted that the requested changes were within Board policy and that no adverse representations had been received.

The LSO noted that historic discussion around issues at the Railway Hotel had related to the premises' operation under a different tenant. She had been in communication with the new management, who had indicated that increasing use of the function space was key to their plans for the premises. She had no adverse comment to make on the application.

PC Wilson advised that there were no police objections to the application. He had met the new tenant and was aware of the changes being planned for the premises; he agreed that the requested changes to children's and young persons' access were in line with this.

Responding to a question from Councillor McMillan, Ms Simpson advised that the plans were to allow hosting of family-friendly functions; it was not expected that these events would be especially noisy. Councillor McMillan said he sensed that the new tenant took their responsibilities seriously, and he commented on the importance of consideration of neighbouring residents.

Councillors McMillan and McGuire were pleased to see the Railway Hotel being brought back as a more family-friendly premises, and said that many residents had fond memories of it. Councillor McGuire commented on demand for function suites in the town, and said he was happy to grant the application.

Councillor McMillan moved to a roll call vote and Members unanimously indicated their support for the major variation application.

## **Decision**

The Board granted the major variation of the premises licence.

*Sederunt: Councillor Bruce re-joined the meeting.*

### **c. Eagle Inn, 75 High Street, Dunbar**

The application sought a major variation to: amend the commencement of on sales hours on a Sunday to 11am; amend the terminal hour on Thursdays to 1am; add bar meals and outdoor drinking within and outwith core hours; add recorded music, indoor and outdoor sports, club meetings, and receptions outwith core hours; add additional wording to the premises description to cover same; and to amend the layout plan to include the outdoor drinking area within the licensed footprint. There were no objections from statutory consultees, but three public objections had been received. The LSO and Police Scotland had submitted representation recommending a number of conditions.

Ms Simpson also spoke to this application, and was accompanied by Cara Davies. Ms Simpson advised that the purpose of the application was to add flexibility to the premises and to tidy up the operating plan. She highlighted all proposed changes. She noted that the outdoor area had already operated under occasional licences. She advised that Ms Davies would accept the recommended conditions, however, she asked that the condition relating to the use of plastic drinkware in the outdoor area not be applied; she reported that there had been no issues with glass so far, and use of plastic drinkware would hinder a more upmarket feel.

Continuing, Ms Simpson suggested that the public objections relating to recorded music may indicate that the objectors had misunderstood the site notice, as the proposal had been only to play recorded music indoors prior to licenced hours to cater to morning functions. She said that Ms Davies had been surprised to receive objections relating to noise and customers dispersing, as a lot of work had been done to improve this situation; it was felt that objections may referred to issues with noise at the rear of the building from 2022. She advised that the source of noise had since been moved to the front of the building and there had also been work done to reduce noise escape; there had been no further complaints since this time, and Ms Simpson advised that Ms Davies had offered to help arrange noise monitoring. Ms Simpson reported there was a constant staff presence on the floor to ensure no drinks were taken outside, and said drinks were served in plastic containers in the last hour of trading. Staff also spoke to customers towards the end of the night to ask them to leave in an orderly fashion and to enquire whether any assistance was needed, etc. She advised that the staff team were also onsite for an hour following the terminal hour; in this time they observed any goings on outside the premises, picked up litter, and encouraged anyone who was loitering to move on. Ms Simpson advised that the whole premises and outside area was covered by CCTV, and she reiterated earlier comments that no complaints had been received on the issues raised in the objections since 2022. She summarised that Ms Davies was a very responsible tenant.

The LSO advised that all proposed changes were within Board policy. She confirmed that noise issues raised in 2022 had been resolved following a meeting, and there had been no further complaints received about the premises since this time. She outlined her ten recommended conditions, and advised that occasional licences had run without issue. She had no adverse comment to make on the application.

PC Wilson advised that there were no police objections to the application. He further advised that no issues in the use of the outdoor area had been reported to Police Scotland when it had operated under occasional licences. He reported that there had been 13 disturbances recorded since January 2022, but only one of these had been in 2024. He acknowledged comments about use of plastic drinkware in the outdoor area and would be content if this suggested condition was not applied.

Responding to questions from Members, Ms Davies advised that she was in regular contact with neighbours about communal issues, and felt she had a good relationship with most neighbours. She advised that she wanted the Eagle Inn to become a food-led business. She said that her procedures at closing time were one of the most robust in the area: the premises was overstaffed at closing time; staff made sure customers were aware the premises was about to close; and the whole team remained at the premises for an hour after close. She advised that the 1am terminal hour on a Thursday was because customers were not always ready to go home at midnight, and this final hour could bring in significant additional income. She commented that the town was busy with people working at Torness, although there was still a local clientele. She hoped to be able to capitalise on a busy summer period, helped by the additional hours for which she had applied. She gave an account of changes made to karaoke nights to ensure this did not cause nuisance to neighbours; karaoke now ran only once a quarter, and there had been work done to reduce the number of speakers, to consider

the direction of the speakers, and to block up vents. She advised that the shift lead was always responsible to keep the entertainment provider in check should things escalate.

Councillor McMillan reminded objectors that it would be best to make any complaints directly and sort out issues locally, but reminded them that complaints could also be directed to the LSO and to protective services. He commented on the professionalism of Ms Davies and her efforts to make changes in response to complaints. He felt reassured by the answers provided, and was minded to grant the application.

Councillor Dugdale felt reassured by the level of care taken by the operators, by the level of engagement with neighbours, and how the business had managed previous issues with noise. She would support the application. Councillor McGuire echoed these comments.

The Convener recognised Ms Davies as being a responsible operator, and commented that complaints seemed to have been dealt with. He acknowledged that the outdoor area had already operated using glass rather than plastic drinkware. He then formally proposed the LSO's ten recommended conditions, and these were seconded by Councillor McGuire.

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

### **Decision**

The Board granted the major variation, subject to the following:

- The outside area must only be used by persons occupying the seats provided by the premises.
- The outside area must be clearly delineated by means of removable barriers.
- The barriers, tables, and chairs must be removed at the end of the permitted hours for use of the outside area and stored securely in an area off the footpath.
- The area must be capable of being monitored by staff either physically or via an efficient and functioning CCTV system.
- No public entertainment, amplified music, amplified vocals, or live music to be played in the outdoor area to ensure the use does not cause nuisance to neighbouring residential properties.
- The premises licence holder must ensure that the defined area and neighbouring areas are kept clear of all waste, including cigarette litter associated with their business and that may have been dropped.
- If the outside area is on Council land or a road/pavement, then a valid permit/authorisation issued from the East Lothian Council Roads Department must be in place in order to use the area.
- An authorised officer of the Council or Police Scotland may suspend the use of the area for reasons of public safety.
- The use of the outdoor areas must cease at 8pm.
- No more than 12 persons shall occupy the area at any time.

*Sederunt: Councillor McMillan left the meeting.*

### **3. OCCASIONAL LICENCES**

- a. **The Mart Farm Shop & Café, East Linton Saleground, Station Road, East Lothian (OCC399/24-OCC406/24)**

The applications sought eight occasional licences for a farm shop. The applications had come before the Board on the basis of representation from the LSO and Police Scotland after the premises had continued to sell alcohol following the lapse of occasional licences on 14 February 2024.

Neil Sinclair-Parry, applicant, spoke to the applications. He apologised for the matter having been brought before the Board, and said he had believed occasional licences to have been in place until the end of June 2024. He noted pressures on the business, including high staff turnover and staff illness. He highlighted that there had been no concerns raised about the business in the time they had operated under a provisional licence and occasional licences, and said that alcohol accounted for a relatively large proportion of sales.

The LSO advised that the business had operated under a provisional licence since August 2022, and the Board had previously granted occasional licences since October 2022. Following the lapse of the last occasional licence on 14 February 2024, she had conducted a visit on 20 May to the premises to find alcohol on display and on sale in two locations. The LSO reported that the duty manager had confirmed that sales of alcohol had been made since 15 February. The LSO had asked the business to cease all sales of alcohol, and advised that Mr Sinclair-Parry had explained the oversight. She recommended that Mr Sinclair-Parry consider appointing further personal licence holders due to concerns over health. She explained that the alcohol sales had also been reported to the police.

PC Wilson advised that 54 occasional licences had been granted since August 2022, and there had been no reported incidents or concerns in this time. He reported that Mr Sinclair-Parry had attended Haddington Police Station following the business having been found to be selling alcohol without an occasional licence in place, and had been apologetic and able to demonstrate some reasons for the oversight. Upon visiting the premises, PC Wilson had found staff to have been fully briefed, and the alcohol display covered with signage to indicate alcohol was not for sale. He advised that it was not in the immediate interest of the public to take further action on the breach, but said that future breaches may be dealt with differently.

Responding to a question from Councillor Cassini, Mr Sinclair-Parry advised that the overall site was still under construction, so it had not been possible to obtain a Section 50 certificate from building standards for the farm shop. He was currently investigating whether the farm shop could be considered independently from the rest of the site to obtain the certificate and move towards confirming a premises licence.

The Convener asked what contingencies had been put in place to ensure that a similar situation would not arise in the future. Mr Sinclair-Parry gave an account of the health concerns he had experienced, and said that, if necessary, a family member could take over the running of the shop and could obtain a personal licence. He advised that he had considered his retirement from the business, but current business pressures made this difficult to explore.

The Convener commented that Mr Sinclair-Parry seemed to appreciate the seriousness of situation and had provided explanation, and as such, the Convener was happy to grant the occasional licences. He said that the Board would appreciate seeing movement towards obtaining a premises licence, and also thought it would be worth discussing with others involved in the business whether other staff should be trained as personal licence holders to increase resilience. Councillors Dugdale and McGuire also echoed the Convener's comments.

The Convener moved to a roll call vote, and Members unanimously agreed to grant the occasional licences.

## Decision

The Board granted the occasional licences.

*Sederunt: Councillor McMillan re-joined the meeting.*

**b. Thomson's of Tranent, 22B Winton Place, Tranent (OCC250/24-OCC253/24)**

The application sought four occasional licences, and had come before the Board on the basis of representation made by the LSO and Police Scotland.

Susan Thomson, applicant, advised that her agent hoped to resolve issues in the near future so that all Section 50 certificates could be obtained and a premises licence could be confirmed.

The LSO advised that the occasional licence applications had been brought before the Board because the provisional licence in place would run out on 28 August 2024, but the occasional licences for which Ms Thomson had applied ran beyond this date. She advised that the Board had granted occasional licences for the premises for five years, and occasional licences could only be granted under delegated powers to premises with a provisional licence in place for 12 months before having to come before the Board. After 12 months, the applicant would be expected to provide an update on progress and when the provisional licence would be confirmed, but the LSO advised that no update had been provided since the grant of the extension to the provisional licence in August 2023. She noted that Mr Thomson had said at the August 2023 Board meeting that the Section 50 issues would be resolved within a couple of months. She said that the matter had been raised to enable the Board to review the continuation of the business being run in this way. The LSO reported having been informed by building standards that the building warrant had expired in February 2024 and no completion certificate had been received; given the length of time the premises had been operating, the LSO felt this raised protection of public safety concerns. She noted that an email had been received on the previous day in relation to architectural problems but did not indicate any movement on the Section 50 certificates.

PC Wilson had no further comment to make on behalf of Police Scotland.

Responding to a question from Councillor McGuire, Ms Thomson advised that the main contractor for works undertaken previously had never gotten back to them about obtaining a completion certificate. She advised that this task was now in the hands of her new architect and agent, and she expected this to be concluded in the near future.

The Convener asked about the Council's view on the building's safety status following the expiration of the building warrant in February 2024. Richard Thompson, Acting Clerk of the Board, referred to a case where a similar matter had arisen before the City of Glasgow Licensing Board, and with reference to the case law, advised that the grant of an occasional licence procedure did not require the production of any Section 50 certificate, and it was not open to the Licensing Board to impose additional requirements over and above those contained within the Licensing Statute. He understood Board Members' concerns with there being no building warrant in place, but advised that this was not a requirement that could be made as part of an occasional licence application.

Responding to a question from the Convener, Ms Thomson advised that all work had been completed, such as drainage, emergency lighting, smoke and alarm systems, etc., but certificates were still being obtained. The Convener questioned why this work and documentation had not been concluded, but acknowledged that this would be more relevant to whether the provisional licence would be allowed to be extended.

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

Upon Members' return, the Convener made a statement on behalf of the Board. He said it was the opinion of Members that the matters around completion certificates must be finished in a timely manner, as these issues had been now ongoing for too long. However, Members were willing to grant the occasional licence applications.

The Convener moved to a roll call vote, and Members unanimously agreed to grant the occasional licences.

**Decision**

The Board granted the occasional licences.

Signed .....

Councillor L Bruce  
Convener of East Lothian Licensing Board

Signed .....

Councillor J McMillan  
Depute Convener of East Lothian Licensing Board (Convener Item 2b)