



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

**THURSDAY 29 AUGUST 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

Board Members Present:

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

Clerk of the Licensing Board:

Mr C Grilli

Attending:

Ms G Herkes, Licensing Officer
Ms C Aitken, Licensing Officer
Ms K Harling, Licensing Standards Officer
PC L Wilson, Police Scotland
Ms E Barclay, Committees Assistant

Committee Clerk:

Ms B Crichton, Committees Officer

Apologies:

None

Declarations of Interest:

Item 2b: Councillor McMillan, due to having worked with the premises on economic development issues.

The Clerk of the Board advised that Item 3 on the agenda was no longer required to be heard because the licence holder had submitted the required documentation for confirmation of the premises licence.

1. MINUTES FOR APPROVAL
East Lothian Licensing Board, 27 June 2024

Members approved the minutes as an accurate record of the meeting.

2. PROVISIONAL LICENCE
a. Costcutter, 103-105 High Street, Tranent

An application had been received for a provisional licence for a convenience store. There had been no objections from Police Scotland or the Planning Authority. The NHS and Tranent and Elphinstone Community Council had submitted objections on the basis of overprovision. The Licensing Standards Officer (LSO) had submitted representation, including a recommended condition, noted below.

Tejinder Singh Bath, applicant, and Alistair Macdonald, agent, were present to speak to the application. Mr Macdonald advised that Mr Singh's store had been in operation since May 2024, and had sold alcohol under occasional licences. Although the applicant had intended to make an application for a premises licence, issues had surfaced due to a missing completion certificate for a building warrant from 12 years previously when the store had been a Farmfoods; this had caused issues in gathering the complete documentation required to apply for a full premises licence. Mr Macdonald had lodged this provisional licence application on behalf on his client in the interim, but advised of correspondence with building inspectors and attempts to contact Farmfoods. He undertook to do all he could to finalise the building standards issue.

Mr Macdonald provided background information on the store, and on Mr Singh's experience in running shops across the central belt. His client would accept the LSO's condition relating to home deliveries. He advised that there were two other members of staff who had, or were in the process of obtaining, personal licences. He turned to the consultees, and noted that there were no objections from planning, the public, or other stores. He addressed the list of premises with 800m provided within the LSO's report; he suggested that the only similar shops served different immediate areas, or were on a different end of the high street from his client's premises, and also pointed out that a new shop which had been granted a licence still had a 'to let' sign displayed. He noted that the premises was accessible to wheelchair users. He submitted that there was no argument towards overprovision in the centre of a town with an increasing population. He felt that NHS representation regarding higher levels of harm would always be the case because people came into the town centre, and did not present reason for refusal. He summarised that there was no evidence that an additional shop would increase availability, but instead would increase choice for customers wanting to do grocery shopping and pick up a bottle of wine.

The LSO reported she had visited the premises, and had arrived as staff were putting a delivery away. She advised that all signage was in place, and she found staff to be competent and knowledgeable. She reported that the alcohol display was tidy and per the layout plan. One member of staff already had a personal licence and was able to get Mr Singh, DPM, on the phone immediately. She highlighted the status of some of the stores contained within her list of premises within 800m, and also highlighted her suggested condition relating to deliveries.

PC Lee Wilson advised there were no police objections to the application. He had visited the store in June and found it to be well organised and with knowledgeable staff. He also advised that there had been no issues or concerns reported since the store had run on occasional licences.

Responding to questions from Councillors McMillan and Dugdale, Mr Singh described arrangements for Challenge 25 and accepted forms of identification, and gave an account of his experience in the industry. He commented that was uncommon to have underage persons trying to buy alcohol at the store when compared to his experience in Edinburgh. He advised that most staff had been trained by Mr Macdonald. He reported that posters were also displayed and an electronic refusal book was kept by the EPOS till system.

Members commented on the comprehensive presentation, the full responses to the questions, accounts of responsible management of the premises, and of use of systems, training, and policies. Councillor McMillan felt that choice provided by convenience stores on the high street was positive. He also welcomed the beginnings of a business association in the town. Members indicated that they would support the application.

The Convener agreed with his colleagues' comments on the application, and was also minded to grant. He acknowledged the comments of the NHS and Community Council relating to overprovision and said the Board was also concerned about this matter; however, he noted that the Board had not declared an area of overprovision anywhere in the county, and thought that more area-specific data would be required for refusal on this basis.

The Convener proposed the LSO's recommended condition, and this was seconded by Councillor McGuire. The Convener then moved to a roll call vote, and Members unanimously supported the application.

Decision

The East Lothian Licensing Board granted the provisional licence, subject to the following condition:

- 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 McMillan left the meeting.*

b. Papple Steading, Haddington

An application had been received for a provisional licence. There had been no objections from Police Scotland, LSO, or the Planning Authority. Dunder Community Council had submitted representation. There had also been three public objections and three public representations in support of the application.

Alistair Sutherland, agent, was present to speak to the application, and was accompanied by Papple Steading representatives George Mackintosh, Verity Sinclair, and Eri Mackintosh, as well as Tom Chisholm of Buck and Birch. Mr Sutherland provided background information about the premises, its restoration, work and partnerships within the community, and an overview of permissions, including planning permission and a short-term let (STL) licence. He gave examples of the types of high-end events held at the premises, and the team members' skills. He referred to the layout plan to explain which areas were covered under the STL licence, and provided information on future phases of development; he pointed out that the auditorium/conference centre would come forward in three-to-five years and was not covered under this licence application. He also described the heritage museum, which would show the local agricultural history. He advised that Ms Sinclair, DPM, lived close

to the premises. He highlighted that there had been no issues at the events run so far. He pointed out that there were no adverse comments from statutory consultees, and said that directors were mindful for the potential for impact on the local community. He highlighted that issues of amenity were addressed through the planning permission, and pointed out that the Planning Authority was satisfied that there would not be an unacceptable impact on the amenity of residents. Responding to objectors' concerns for the potential for antisocial behaviour as a result of guests' consumption of alcohol, he pointed out that the STL residents were already free to consume alcohol. He suggested that sale and consumption of alcohol controlled by a premises licence would be of great benefit by ensuring that trained staff would be on site, the operating plan would be enacted, and licensing objectives would be met. He also reiterated that there had been no objection by the Roads Officer.

Mr McIntosh added that plans remained consistent with his personal project to save a steading building. He explained that the size of the project meant that Papple Steading required to be a mixed-used development, and serving of refreshments and alcohol was required for financial sustainability. He advised that the steading was two-thirds of the way to being restored, and said there had been much community engagement through the works. He explained that the museum would highlight different styles of farming, and reported that Papple Steading had been warmly welcomed by the neighbourhood.

Fiona Constable spoke against the application, and said she represented the views of the tenants and residents of Papple Cottages. She said Papple Cottages faced the steading, and the boundary of her own property was only 20m away. She felt that the operating plan did not provide reassurance of the business' high degree of responsibility, and detailed licensing objectives with which she felt the proposals were inconsistent. She felt that neglecting to seek residents' views led to questions of whether the business could be trusted to manage a large event venue. She referred to previous irresponsible behaviour of the business, including allowing bonfires and fireworks, felling trees, and cutting back hedges without residents' permission. She questioned whether there was experience to move to larger scale events, particularly when managers were not resident on site. She thought that similar venues tended to have a buffer area between the premises and the nearest residents. She highlighted issue with features of the premises, such as an interior courtyard which would serve to amplify noise. She highlighted a recent noise survey which had shown the noise of the surrounding area to be barely audible. She also raised concern over use of lighting in a site of significant biodiversity. She described the plans as resulting in an unacceptable loss of amenity for neighbours. She was also concerned that off sales would allow residents to drink all day and night, and that groups such as stag parties would behave in an antisocial manner. She asked Members to consider the effect of the constant presence of strangers under the effect of alcohol, particularly when there were no streetlights, on the rural community. She also raised road safety concerns, and said that visual splays required at the entry had not been resolved under the travel plan. She felt that issuing a provisional premises licence was not justified, and pointed out that the premises was originally to have been an agricultural museum.

Eileen Gill spoke on behalf of Dunpender Community Council (DCC). She explained that DCC wanted to support local priorities and businesses and balance the views of residents; they did not wholly object, but raised concerns about this application. She covered DCC's concerns relating to several licensing objectives. On securing public safety, she raised concerns over road traffic issues, including an increase in noise in the rural location, and a further increase due to the availability of off sales. Regarding preventing public nuisance, she raised concern about residential amenity, and felt the operating plan did not set out actions to monitor and mitigate issues. She pointed out World Health Organisation guidance that noise pollution could cause annoyance, have a detrimental effect on health and sleep patterns, and cause anxiety, even at low levels;

she encouraged Members to take additional noise from traffic and socialising into account. She also noted potential effects on wildlife and livestock. Regarding public safety, DCC felt there should be no outdoor facilities for consumption of alcohol or off licence facility. It was also felt that licensed hours should be restricted to 10pm, with separate applications to be made for extensions to host specific events. It was also felt that a system for monitoring noise was required. She summarised that DCC supported local businesses, but also acknowledged the impact on wildlife and livestock, and were sympathetic to the views of those who had objected to the licence.

The LSO reported that she had visited the premises twice. She felt Ms Sinclair had communicated openly regarding the provision of alcohol and had provided regular updates. The LSO found Ms Sinclair to be very knowledgeable on the proposed operations; Ms Sinclair had clearly explained on two tours what would happen in separate parts of the venue, and how staffing would work. The LSO advised that there had been no complaints when the venue had operated on an occasional licence around Christmas. She advised that the application was compliant with the Licensing (Scotland) Act 2005 (the Act), and that there were no other premises within an 800m radius. She had no concerns about the sale of alcohol at the premises and felt that Ms Sinclair had represented herself as being in control of operations.

PC Wilson had accompanied the LSO on her second visit, and commented that Ms Sinclair had provided a good explanation of the site's operations. He said the premises raised no immediate or overt policing concerns, and he felt confident that Ms Sinclair would run the premises well. He advised that Police Scotland had also received no complaints following the Christmas event.

Responding to questions from Councillor Cassini, Mr Sutherland advised that conditions attached to the planning permission regarding soundproofing and ventilation were in relation to the auditorium, which would hold up to 150 people, but that a further licensing application would cover this space. He pointed out that the stated capacity of 190 persons could not be held in any one space, and that this would be made up of smaller gatherings. He had no concern about noise breakout from these spaces; he had advised that there would be no amplified music in the outdoor spaces, and no alcohol served after 10pm in the outdoor spaces. Ms Sinclair added that the café area would have space for 50 persons standing, and highlighted other spaces in the steading which could host only smaller groups. She thought it was unlikely that the open building would be used as an events space as it would house agricultural equipment. She advised that many of the windows could not be opened fully, and staff would ensure that doors and windows were closed to prevent noise issues. She advised that noise would be well contained within courtyard spaces.

Responding to a question from Councillor Dugdale, Ms Sinclair advised that there would be only a small number of tables and chairs for use in the courtyard at the entrance to the main café. She added that the premises would have to make a further application should they look to host a wedding in a marquee.

Councillor McGuire enquired about young people causing a disturbance in the woods, and about other security issues. Mr Sutherland responded that the disturbance in the woods had been unrelated to Papple Steading. Ms Sinclair added that staff would be present to manage people leaving the premises; guests were asked to leave quietly, and staff were very conscious of neighbours. She agreed that the premises would consider hiring security staff for a large event, and already had parking attendants. She advised that neighbours had been invited to talk to staff at Papple Steading, and stated that the steading was 220m from residences.

Responding to an earlier point, Mr Sutherland advised that the off sales part of the licence had been requested to allow Buck and Birch to sell alcohol for people to take

away with them, and submitted that this would not cause additional vehicle movements. Ms Sinclair advised that Papple Steading had good working relationships with two taxi firms, and would sell tickets to events which included a pickup and drop off service.

Responding to a question from the Convener, Ms Sinclair confirmed that the 10pm terminal hour for the outdoor consumption of alcohol would also apply to residents of the STL accommodation.

There was discussion regarding the potential to extend the licensed area to house a marquee, and Mr Sutherland confirmed that this may be considered in the future under Section 67 of the Act.

Responding to questions from the Convener, Ms Sinclair advised that her personal mobile number was available on the website, and she had met most of the residents. She was happy to attend the premises to resolve any issues. The LSO added that noise was dealt with by other statutory legislation; general noise, for example in relation to music, would be dealt with by environmental protection; she pointed out that noise was not always associated with the sale of alcohol.

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

Upon their return, the Convener gave a summary of the Board's discussions, and expressed that Members wanted to find the best situation for all parties. Members felt that this was a special location and building, and the matter had to be managed carefully. He outlined and proposed conditions, noted below, and these were later seconded by Councillor Dugdale. He also noted that any discussions regarding a marquee could not be prejudged and would have to come back before the Board. The Convener reminded residents that issues could not be dealt with if the Board was unaware of them, and encouraged residents to contact officers with any concerns.

The Convener then moved to a roll call vote, including the proposed conditions, and the application was unanimously supported by Members.

Decision

The East Lothian Licensing Board granted the provisional licence, subject to the following conditions:

- No amplified music to be played in the outdoor areas; and
- Alcohol must not be sold after 10pm in the outdoor areas.

3. Extension of Provisional Licence – Thomson's of Tranent

Following receipt of documents for confirmation of the premises licence, this item was no longer required to be heard by the Board.

Signed

Councillor L Bruce
Convener of East Lothian Licensing Board