

Our Reference: CG/GH

Date: 29<sup>th</sup> November 2024

Private & Confidential

Rakhsana Khan



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Carlo Grilli  
CLERK OF THE LICENSING BOARD

John Muir House  
Haddington  
East Lothian  
EH41 3HA  
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Dear Sir/Madam

**LICENSING (SCOTLAND) ACT 2005 – SECTION 37(1)  
NOTIFICATION OF PREMISE REVIEW HEARING  
RAKHSANA KHAN, EL022, THE STAND, 72-74 HIGH STREET, MUSSELBURGH, EH21 7BX**

The Review Hearing was heard at the Licensing Board on **Thursday 28<sup>th</sup> November, 2024.**

The decision at the meeting was to continue the hearing until the East Lothian Licensing Board on **Thursday 30<sup>th</sup> January 2025**. The Licensing Board Members have requested that **you must attend in person.**

An Agenda will follow in due course.

Yours faithfully

Carlo Grilli  
Clerk to the Licensing Board

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# EAST LoTHIAN COUNCIL

## Licensing Standards

From: Licensing Standards Officer

To: C. Grilli  
Clerk to the Licensing Board

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Date: 8<sup>th</sup> November 2024

Subject: LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW

EL022, THE STAND, 72-74 HIGH STREET, MUSSELBURGH, EAST LoTHIAN EH21 7BX

On 4<sup>th</sup> November 2024, I received intimation under Section 38(3)(b) of the licensing (Scotland) Act 2005 of the intention of the Licensing Board to review the Premises Licence in respect of the above premises for nonpayment of the annual fee.

In terms of Section 38(4) of the Act, I have prepared this report outlining information relevant to the review for the consideration of Licensing Board Members.

Licensing Standards Officer

## Premises Licence Review and consideration of Section 28 Licensing (Scotland) Act 2005

The Stand  
72-74 High Street, Musselburgh, East Lothian EH21 7BX

Licensing Board 28<sup>th</sup> November 2024

### Licensing Standards Officer's Report

In Aug 2014, the Premises Licence in respect of the above was transferred to Rakhsana Khan.

The premises manager named on the licence at that time was Christopher Townsley.

On 1<sup>st</sup> August 2024, the Clerk to the East Lothian Licensing Board wrote to all Premises Licence Holders advising of the Annual Fee due in respect of their licence, requesting payment by 1st October 2024. It was intimated at this time that payment was a mandatory condition of the Premises Licence, in terms of Section 27(1) of the Licensing (Scotland) Act 2005 and failure to pay may be treated as a breach of Premises Licence. Details of payment methods were included in this letter.

On 8<sup>th</sup> October 2024, the Clerk to the Board sent additional reminder letters to the premises address. No response was received.

On 30<sup>th</sup> October 2024, the fee had not been paid. I visited the premises which was closed and disused. A further reminder for payment from the Clerk to the Board was sent by post to the premises licence holder's personal address.

The letter gave a further reminder that the mandatory annual fee had not been paid. As this was a breach of a condition of their Premises Licence, payment of the outstanding fee was required by 1<sup>st</sup> November 2024, and the premises licence holder may be required to appear at the Licensing Board on 28<sup>th</sup> November 2024, to explain the reason for the stated breach of premises licence.

On 4<sup>th</sup> November 2024, the Board resolved to review all premises licences that had failed to pay the annual fee under Section 37(1) of the Licensing (Scotland) Act 2005. I received intimation of this proposal and produced this report.

In addition, I made some enquiries into this premises and believe that this premises should be considered under section 28(b) – period of effect of premises licence in particular, section 28(5)(b) - the licensed premises in respect of which the licence was issued cease to be used for the sale of alcohol.

The premises known as The Stand closed and has not traded since 2014. There are historic LSO reports to indicate that some building work has been undertaken, however, this has been sporadic. In 2017 a planning application was submitted to change the premises into a restaurant, however this change has not come to fruition.

On visiting the premises, I found it to be a bare shell requiring substantial works. It has sat empty and has not been used for the sale of alcohol for 10 years.

I direct the board to section 36.1 of the statement of licensing policy.

*Premises that cease trading in the sale or supply of alcohol must notify the Licensing Board of the reason for closure and the timescale for re-opening. The Board may decide to hold a hearing to determine whether in the circumstances the premises licence has ceased to have effect. If premises have been closed or ceased the sale of alcohol for a period of 18 months or more the Board will consider that the premises licence has ceased to have effect. In making a determination on this matter, the Board may hold a hearing and will consider any representations made by the licence holder as to the circumstances in which the premises closed and the likelihood of them reopening for trade.*

The current premises licence has not been varied in any way since 2014 and details a pub. There has been no communication from Rakhsana Khan for a number of years. I attempted to contact her last year through her husband Mr Khan who did not return my calls. I have since spoken to Mr Khan about the premises, but he was unable to detail any plans or development of the premises on the phone. He simply said there is work to be done. I have been unable to speak with the premises licence holder Rakhsana Khan.

On 4<sup>th</sup> November I received a phone call from Mr Khan, the premises licence holder's husband and explained the situation that the failure to pay the annual fee and that the lack of use and development of the premises was inconsistent with the premises retaining a premises licence. He said he would pay, and I gave him details on how to do this. I reminded him that the annual fee is due every year by 1<sup>st</sup> October and late payment was not acceptable. I informed him that late payment has resulted in follow up by Licensing Officers and visits by the Licensing Standards Officers and this has occurred every year since 2014. I explained the Licensing Board may review the premises licence and that Mrs Khan would be requested to attend the Licensing Board hearing. I also explained that I would present the circumstances that the premises has cease to be used for the sale of alcohol since 2014 for the board to consider under the Act. I asked that he pass this on to his wife Rakhsana Khan.

On 5<sup>th</sup> November 2024, payment of the premises licence annual fee was received. This was 35 days late.

Since 2014 the premises licence annual fee has been paid after 1<sup>st</sup> October (late) on the following dates:

03/10/2014  
07/10/2015  
08/10/2016  
03/10/2017  
31/10/2018  
11/10/2019  
06/10/2020  
06/10/2021  
12/10/2022  
07/11/2023  
05/11/2024

Each year the payment of the annual fee has been chased by Licensing Officers and the Licensing Standards Officer.

### **Licensing Board's Powers on Review**

Licensing (Scotland) 2005 Section 39 (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—

(a) to issue a written warning to the licence holder,

(b) to make a variation of the licence,

(c) to suspend the licence for such period as the Board may determine,

(d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

### **28 Period of effect of premises licence**

(1) A premises licence—

(a) takes effect on such date as the Licensing Board issuing it may determine, and

(b) ceases to have effect on the occurrence of any of the events mentioned in subsection (5).

(5) The events referred to in subsection (1)(b) are—

(b) the licensed premises in respect of which the licence was issued cease to be used for the sale of alcohol,

It is quite clear, that in all the circumstances the premises have ceased to be used for the sale of alcohol since 2014 and I would recommend that East Lothian Licensing Board note the content of this report and confirms by declaration that premises licence No. EL022 – The Stand, now ceases to have effect, and that they notify the premises licence holder accordingly.

In this case there would be no premises licence to review.

Licensing Standards Officer

