



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

**THURSDAY 28 NOVEMBER 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 N Gilbert  
Councillor G McGuire

**Clerk of the Licensing Board:**

Mr R Thompson (Acting)

**Attending:**

Ms K Harling, Licensing Standards Officer  
Ms S Fitzpatrick, Team Leader – Licensing & Landlord Registration  
Ms G Herkes, Licensing Officer  
Ms E Barclay, Committees Assistant  
PS S Miller, Police Scotland

**Committee Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor J McMillan

**Declarations of Interest:**

None

The clerk advised that the meeting was being held as a hybrid meeting; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. She noted that the East Lothian Licensing Board was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for six months from the date of the meeting.

The clerk recorded the attendance of Board members by roll call.

**1. MINUTES FOR APPROVAL**  
**East Lothian Licensing Board, 24 October 2024**

Board members approved the minutes as an accurate record of the meeting.

**2. MAJOR VARIATION**  
**a. East Lothian Co-operative Bowling Club, Blawearie Road, Tranent**

An application had been received for a major variation to move from being a members-only club to having an open licence. There had been no objections from any statutory consultees. The Licensing Standards Officer (LSO) had submitted representation.

Lynne Rankin, Club Secretary, spoke to the application. She explained that the application had been submitted following a presentation from the LSO. Ms Rankin said she was new to her role and had had a lot of contact with the LSO. She explained that the one-member-to-six-guests rule for a members-only club had caused challenge at times, so the Committee had decided to apply for an open licence.

The LSO advised that she had made a presentation to clubs in East Lothian, following which, the East Lothian Co-operative Bowling Club had applied to remove the special provision under Section 125 of the Licensing (Scotland) Act 2005 ('the Act'). She described the designated premises manager (DPM), Lynne King, as being very competent. The LSO felt the Club was running well, and pointed out that several members of staff held personal licences. She advised that the day-to-day running of the Club would not change, but the major variation would allow the addition of non-members on special nights. She had no adverse comment to make on the application.

PS Stuart Miller stated that Police Scotland had no adverse comment to make on the application.

The Convener welcomed the application to open the Club's licence, and commented that this was being encouraged in East Lothian. He would support the application.

Councillor McGuire commended the Club's engagement with the LSO. He had attended private functions at the Club, and commented that it was well run and well respected; he was happy to support the application. Councillor Dugdale also echoed Councillor McGuire's comments.

The Convener moved to a roll call vote, and Board members unanimously supported the major variation application.

**Decision**

The East Lothian Licensing Board granted the major variation.

**b. Premier Store, 90 High Street, Haddington (continued application)**

An application had been received for a major variation to amend the layout plan and increase the off-sales capacity from 9.32m<sup>2</sup> to 17.1m<sup>2</sup>. There had been no objections from Police Scotland or the Planning Authority.

The LSO had previously submitted representation detailing a number of issues found on visits to the premises. At the October meeting meeting, Board members had agreed

to continue the application in light of the issues to be addressed, and the LSO had submitted a follow up report for consideration at this meeting.

Alistair Macdonald, the applicant's agent, spoke to the application, and was accompanied by his client, Zain Shah, and Zayed Haider, DPM. Mr Macdonald said that his clients had taken the comments made by the LSO and Board members at the previous meeting seriously, and provided commentary on improvements made. Mr Macdonald had delivered a training session for shop staff, and, since this time, the LSO had provided a more positive updated report. Councillor McGuire's comments regarding the staff's welcome to customers had also been taken on board. Mr Macdonald suggested that staff would now find keeping paperwork in order relatively simple, and he had also spoken with staff about the high standards expected of licence holders. Responding to comments in the updated LSO's report, Mr Macdonald commented: the pricing issue had now been resolved; that it was very regretful if alcohol had been sold on credit, but suggested this could have been the member of staff that had since left; and that there had been improvements made to paperwork, overall standards, and the customer experience.

The LSO reported that she had visited the shop twice since the last Board meeting. She had visited following confirmation that all staff had received Mr Macdonald's training, and reported that staff had been able to produce all necessary paperwork on her first and second visits. She commented that the shop had also been tidier. She had noticed that there was an issue whereby some pricing had not reflected minimum pricing increases. The LSO had received information from a member of the public that alcohol had been given to an intoxicated male on credit, but she advised that the DPM had denied this had happened. On her second visit, the minimum unit pricing issues had been addressed, but there were still some bottles of whisky without prices. The LSO said she would keep an eye on the shop to ensure standards were maintained. She highlighted her recommended condition that a personal licence holder be always on the premises when alcohol was available for sale.

PS Miller was encouraged by the LSO's comments. He had no adverse comment to make on the application, but advised that the premises was on Police Scotland's radar and would be subject to checks.

Councillor Dugdale felt reassured by the LSO's updated report. She asked who would train new staff, and Mr Macdonald advised that Mr Shah or the DPM would train any new staff; Mr Macdonald reassured the Board that they were now aware which areas the training must emphasise.

Councillor McGuire commented on the clear improvement in customer reception, and he had also noticed improvements to the signage. He noted a recent issue on a Friday night where young people were being noisy and dancing on tables outside the shop; Councillor McGuire expected shop staff to have called the police. Mr Haider responded that staff could phone the police if they could see anything outside on their cameras. He noted that since the benches had been placed outside Falko, people treated the spot like a park and brought their own bottles. He said that the large groups that gathered sometimes caused staff to feel scared, and suggested that removal of the benches would help the situation. He also reported that the shop had been able to assist Police Scotland by providing CCTV from outside the shop.

The Convener asked what practical effect the LSO's recommended condition would have on the business. Mr Macdonald suggested that it was not necessary to require a personal licence holder always to be present when alcohol was on sale, and felt it would put a strain on the business; however, the business may send other staff members to obtain personal licences. He would not defend this suggestion if there

were ongoing issues which concerned the Board, but suggested that the condition was unnecessary considering recent improvements.

The Convener reiterated that alcohol must not be sold on credit. He also highlighted the high bar set for licensing standards, and said that holding a licence was a privilege. He appreciated Mr Macdonald's undertaking with regards to ongoing improvements, and suggested that staff maintaining a relationship with the police and LSO would also be important. He agreed that requiring a personal licence holder always be present would be an onerous condition, and suggested that this could be added if further issues arose. He would support the application.

Councillor McGuire concurred with the Convener's comments. As a local resident, he had already seen improvements. He acknowledged that having young people gather outside the shop could cause challenge, but was content this would be dealt with through the proper channels. He would support the application.

Councillor Dugdale was content with the answers given about staff training, and agreed that having a personal licence holder always present would be onerous for the business. She would support the application.

The Convener moved to a roll call vote, and Board members unanimously voted to grant the application.

## **Decision**

The East Lothian Licensing Board granted the major variation.

### **3. EXTENSION OF PROVISIONAL LICENCE Tracy McDonald, 57 Eskview Terrace, Musselburgh**

The licensee's agent had made a request for an extension of the provisional licence, following challenges with obtaining a completion certificate for work done to the premises.

Mr Macdonald spoke to the request on behalf of Tracy McDonald. He referred to a previous request for an extension to the provisional licence, and said that Ms McDonald had been confident at that time that the correct certificates could be obtained. Mr Macdonald explained that issues were around obtaining a completion certificate.

Ms McDonald explained that Building Standards had asked for four pieces of documentation, and she advised that only information related to ventilation remained outstanding. She expressed frustration that her questions could take up to a month to answer. Building Standards had requested a report from her previous engineers, Keenan Consultancy, but the company no longer existed. Ms McDonald hoped her architect may be able to help, but if not, she would employ another engineer.

The LSO had no adverse comment to make, and had brought the occasional licence applications before the Board because the provisional licence was about to expire.

PS Miller advised that Police Scotland had no adverse comment to make.

The Convener commented that others had struggled to obtain timely responses from Building Standards, but was pleased to hear of the actions undertaken. He felt the extension request was understandable, and he was happy to support the extension

and the occasional licence applications. Councillor McGuire later echoed these comments.

The Convener proposed an extension to the provisional licence for a further six months, up to the May meeting of the Licensing Board. This was seconded by Councillor Dugdale.

The Convener then moved to a roll call vote, and Board members unanimously supported the six-month extension.

### **Decision**

The East Lothian Licensing Board granted an extension to the provisional licence for a period of six months.

## **4. OCCASIONAL LICENCE**

### **a. Tracy McDonald, 57 Eskview Terrace, Musselburgh (OCC749-OCC751/24)**

Applications had been received for occasional licences, and came before the Board due to the provisional licence being about to expire; however, the decision at Item 3, had been to extend the provisional licence for a further six months.

Mr Macdonald asked the Board to agree to grant these occasional licences and for further applications for occasional licences to be dealt with under delegated authority.

The LSO and PS Miller both indicated that they had no adverse comment to make.

The Convener moved to a roll call vote, and Board members unanimously agreed to grant the occasional licence applications, and agreed that further applications could be dealt with under delegated authority.

### **Decision**

The East Lothian Licensing Board granted the occasional licences.

### **b. Louise Proctor, Gilmerton House, Athelstaneford (OCC730 & OCC774/24)**

An application for two occasional licences had been received from Louise Proctor on behalf of the Edinburgh Catering Company for two weddings to be hosted at Gilmerton House, Athelstaneford. The applications had come before the Board due to the high number of occasional licence applications coming from the same venue.

Douglas Smith spoke to the application on behalf of Ms Proctor. He advised that the application had been made for two weddings in 2025. He explained that there had been a delay in moving forward with a premises licence because completion certificates were still required. He understood that the application for a provisional licence was coming together, which he was happy to support, but this interim period saw occasional licence applications being called before the Board.

The LSO appreciated Mr Smith's position as part of the catering company. She advised that she had sent Colin Carter Campbell at Gilmerton House information on application processes, and had advised him to seek legal advice, but had not heard any update since this time.

PS Miller advised that Police Scotland had no adverse comment on the application.

The Convener said he had no questions for the Edinburgh Catering Company, but noted that Mr Carter Campbell had made promises about making a provisional licence application at a previous Board meeting. Mr Smith responded that he had pushed Mr Carter Campbell to make the application, but had also applied for the occasional licences well in advance to avoid issue.

The Convener was content to support the occasional licence applications. He said the Board was disappointed that no provisional licence application had been forthcoming, but this disappointment was not aimed at the caterers.

Councillor McGuire wanted to see progress on the provisional licence application before further occasional licence applications were made.

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

## **Decision**

The East Lothian Licensing Board granted the occasional licences.

### **5. NON-PAYMENT OF ANNUAL FEES – PREMISES LICENCE REVIEW**

#### **a. The Stand, 72-74 High Street, Musselburgh**

The LSO brought a premises licence review for The Stand, 72-74 High Street, Musselburgh, before the Board on the basis of non-payment of annual fees. Rakhsana Khan, licence holder, could not attend, but had provided a written mandate for her husband, Idris Khan, to speak on her behalf.

The LSO provided some of the licensing history of the premises, and highlighted the salient points from her submitted report. She highlighted that payment of annual fees was a mandatory condition of the premises licence, and advised that the Clerk of the Licensing Board had sent additional reminders to the address. The LSO had found the building unused when she had visited on 13 October to follow up on the non-payment of fees. She noted that a premises licence ceased to have effect if a premises had stopped being used for the sale of alcohol under Section 28(5)(b) of the Act, and advised that the premises closed in 2014. She advised that a planning application for the building had been submitted, but it currently sat as a bare shell. She advised that she had had no communication with Mrs Khan, and had only ever been able to speak to Mr Khan. The LSO also noted that annual fees were always due by 1 October, and had been paid late every year since 2014. She reiterated that it was clear that the premises had not been used for the sale of alcohol since 2014, and late payment of fees had required action from officers on a yearly basis.

PS Miller advised that Police Scotland had nothing to add to the LSO's comments.

Mr Khan apologised for the late payment of fees, and expressed that it would not happen again.

Councillor Cassini enquired as to why the family wished to maintain the premises licence when the building appeared not to be used for anything. She pointed out that The Stand was in a bad state of repair and an eyesore on the high street. Councillors McGuire and Bruce also asked about the Khans' plans for the premises. Mr Khan

responded that there had been plans for the building to become a museum, but this had changed. He advised that work had already begun, and the premises would be ready by next year. Mr Khan provided further information, but it was difficult for Board members to hear what was being said because Mr Khan was making representation over the phone.

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

Upon the Board's return, the Convener expressed that Board members had struggled to hear Mr Khan's answers to their questions over the phone. The Convener therefore proposed to continue the premises licence reviews for both The Stand and Shish Mahal, since Mr Khan was also going to speak for the Shish Mahal premises licence review at Item 5b. The Convener asked that Mr and Mrs Khan both attend the January Board in person to ensure they received a full hearing. He also asked that Mr and Mrs Khan bring information about their plans for the future of the building at 72-74 High Street to this meeting. This proposal was seconded by Councillor Dugdale.

The Convener then moved to a roll call vote, and Board members unanimously voted in support of the proposal to continue Items 5a and 5b.

### **Decision**

The East Lothian Licensing Board agreed to continue the premises licence review to the January Board, to allow the licence holder to appear at the meeting in person.

#### **b. Shish Mahal, 63a High Street, Musselburgh**

The LSO brought a premises licence review for Shish Mahal, 63a High Street, Musselburgh before the Board on the basis of non-payment of annual fees. Due to communication difficulties with Mr Kahn over the phone, Board members agreed to continue the hearing until the until the January Board meeting to allow Mr Khan to appear in person.

### **Decision**

The East Lothian Licensing Board agreed to continue the premises licence review to the January Board to allow the licence holder to appear at the meeting in person.

## **6. CHIEF CONSTABLE'S REPORT TO THE EAST LOTHIAN LICENSING BOARD Period 1 April 2023 to 31 March 2024**

Police Scotland had submitted the Chief Constable's Report to the East Lothian Licensing Board for the period 1 April 2023 to 31 March 2024.

PS Miller presented the report, and highlighted the salient points. He highlighted staffing changes, including a new licensing police constable (PC) coming into post in East Lothian. He highlighted various statistics and gave details of the numbers of premises which were licensed for on sales and off sales in East Lothian. He drew attention to the significant increase in recorded police incidents, including an increase in theft of alcohol. He discussed the procedural relationship with the LSO. He also highlighted various other crimes involving licensed premises and revocation of

licences. He highlighted the number of police incidents which had an alcohol marker tag, but advised the statistics would not show the full picture because it was not compulsory for officers to add alcohol markers. He highlighted a reduction in antisocial behaviour during the recording period when compared to the previous year. He also highlighted ongoing budget constraints and staffing reductions, but gave reassurance that Police Scotland remained committed to tackling antisocial behaviour and premises issues, and would continue to work with the LSO.

PS Miller responded to questions from Board members. He advised that retail workers were being encouraged to report all assaults, and suggested this might explain the increase in numbers. He would provide a breakdown to inform the Board of how many victims within the retail sector were women and girls. He also agreed to provide information on crimes of violence against the person broken down by geographical area.

The Convener asked PS Miller about recording of crime, specifically relating to the premises which had sold alcohol without a licence. PS Miller explained that it was the position of Police Scotland that criminal intent had to be shown before an incident would be recorded as a crime; police made a determination as to whether an incident merited being recorded as a crime. The Convener disagreed with this position and asserted that any crime committed should be recorded as such.

The Convener asked why reports submitted to licensing boards in other areas contained more detailed information than was provided to the East Lothian Licensing Board. PS Miller pointed out that different areas varied greatly in the numbers of officers available, and East Lothian faced capacity issues. He said the Board could request other information to be included in future iterations of the report. He pointed out that heat maps included in previous reports were more difficult to obtain because of changes to Police Scotland's systems.

Responding to further questions from the Convener, PS Miller advised that the new licensing PC would be able to undertake premises visits alongside the LSO. PS Miller would also find out whether any report had been made to the East Lothian Licensing Board to inform them of the two adults reported to the Procurator Fiscal for buying alcohol for children.

In his comments, the Convener raised concerns about how Police Scotland were addressing licensing matters in East Lothian, including: how crimes were being recorded; resource issues and the quality of the Chief Constable's Report to the Licensing Board; and the turnover of licensing PCs. The Convener would continue to argue for more police resources to be allocated to East Lothian, as a lack of resources undermined the work of the Board. The Convener noted that when he had first joined the East Lothian Licensing Board, an experienced licensing PC had been in place, who had known all the premises operators; however, he was pleased to hear that PC Gibson would be able to accompany the LSO on premises visits. He would write to the Justice Secretary and Chief Constable about the resource issues in East Lothian, as the Board considered licensing matters to be of too great importance to be treated as an afterthought.

Councillor Dugdale drew attention to Police Scotland's work with young people in schools, and thought it was important that officers continued to engage and help to protect young people from the harms of alcohol. She also noted with concern the increase in assaults on people working in retail.

## **Decision**

The East Lothian Licensing Board agreed to note the report.



Signed .....

Councillor L Bruce  
Convener of East Lothian Licensing Board