



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

**THURSDAY 30 JANUARY 2025  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON  
& HYBRID MEETING FACILITY**

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**Board Members Present:**

Councillor L Bruce  
Councillor F Dugdale  
Councillor N Gilbert  
Councillor G McGuire

**Clerk of the Licensing Board:**

Mr C Grilli

**Attending:**

Ms K Harling, Licensing Standards Officer  
Ms S Fitzpatrick, Team Leader – Licensing & Landlord Registration  
Ms G Herkes, Licensing Officer  
Ms A Rafferty, Licensing Officer  
Ms C Aitken, Licensing Officer  
Ms A O'Reilly, Licensing Officer  
Ms K Somerville, Team Manager – Arts  
Ms E Barclay, Committees Assistant  
PC S Gibson, Police Scotland

**Committee Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor J McMillan  
Councillor C Cassini

**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 committee clerk recorded the attendance of Board members by roll call.

**1. MINUTES FOR APPROVAL**  
**East Lothian Licensing Board, 28 November 2024**

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

**2. PROVISIONAL LICENCE**  
**a. Greywalls Hotel, Duncur Road, Gullane**

An application had been received for a provisional licence. There had been no objections from any statutory consultees.

Jacqui Birrell, the applicant's agent, spoke to the application, and was accompanied by Dominic Hoar of Greywalls LLC, and Ian Gray, Designated Premises Manager (DPM). Ms Birrell advised that the hotel had been working under occasional licenses recently. This had followed it recently having been highlighted that the premises licence had ceased to have effect in 2020 when the previous licence holder had died and no transfer application had been made. Ms Birrell advised that it had not been possible to obtain a Section 50 Certificate from Building Standards, so an application had been made for a provisional licence. She outlined the terms of the application, which had been similar to that of the previously held premises licence, but with some wording amendments and additional activities. She also noted the LSO's inspection, where the premises had been found to be compliant, and highlighted that there had been no objections to the application.

Karen Harling, Licensing Standards Officer (LSO), noted that the Board was aware of the circumstances with the hotel's previous premises licence. On her visit, she had been shown around by Mr Gray, and had found him to be knowledgeable and experienced. She reported that the premises was operating on occasional licences and was fully compliant. She asked the Board to take into account the four years the premises had traded without a premises licence, but advised that the current application was compliant with Board policy. She highlighted that there was only one other premises within an 800m radius.

PC Stephen Gibson advised that enquiries were ongoing into the matter whereby the business sold alcohol without a premises licence for four years, but said that Police Scotland had no comments on the current application.

Responding to questions from Councillor McGuire, Ms Birrell reported that there had been no correspondence from Building Standards, despite follow up by herself and the Licensing Team.

The Convener asked about the processes in place around managing the licence, following previous issues. Mr Gray advised that two further managers had undertaken personal licence training, and a further two members of staff would also be trained in the next quarter. He reported that there was a clear managerial cascade in place.

Councillor McGuire commented on the well-run and internationally recognised establishment. He was concerned to hear that Building Standards had not acknowledged the Section 50 application, but would support the provisional licence application.

Councillor Dugdale was happy to support the application, and was particularly pleased to hear about the increased number of personal licence holders. The comments of Councillors Dugdale and McGuire were also echoed by the Convener.

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

### **Decision**

The East Lothian Licensing Board granted the provisional licence.

#### **b. Company Bakery Café, 6 Station Road, Musselburgh**

An application had been received for a provisional licence. There had been no objections from any statutory consultees.

Niall Hassard, the applicant's agent, spoke to the application, and was accompanied by his client, Duncan Findlater. Mr Hassard provided background information on the business, and spoke positively about the café's setting, which also showcased the bakery. He explained that occasional licences had been used to cover events at the premises; going forward, there would be an offer of wines and beers and possibly hampers, but the alcohol offer would remain ancillary to the sales of bakes goods. Mr Hassard advised that Mr Findlater was a personal licence holder and had operated several premises without issue. Mr Hassard also pointed out that there had been no objections or adverse comment to the application.

The LSO had visited the premises, and found the site notice to be correctly displayed, and Mr Findlater to be a knowledgeable and experienced operator. She advised that there were 35 licensed premises within an 800m radius, however, she noted that this premises was located away from the centre of Musselburgh.

PC Gibson conveyed that Police Scotland had no objection to the application.

Board members commented that they were happy to support the application, and all had either visited the premises personally or were aware of its good reputation.

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

### **Decision**

The East Lothian Licensing Board granted the provisional licence.

### **3. MAJOR VARIATION**

#### **a. La Dolce Vita, 14 High Street, Haddington**

An application had been received for a major variation to: delete Conditions 3, 4, and 5; increase on sales to 11am to 11pm Sunday to Thursday, and to midnight Friday and Saturday; add off sales from 11am to 10pm; add receptions and live music as activities within and outwith core hours; add deliveries and takeaways; add the sale of merchandise; change young person access to allow 16-17 year olds to be on the premises without an adult to have a meal and a soft drink (but children would require to be accompanied by an adult); to change the layout plan to include small structural changes within the building; and to amend the description of the premises. The application had originally requested an outside drinking area, but this was no longer sought. The NHS had objected on the basis that the premises was located within an area identified as having a higher health-related harm, and there had been no

objections from any other statutory consultees. The LSO had submitted representation recommending a condition relating to delivery of alcohol be added.

Alistair Macdonald, the applicant's agent, spoke to the application, and was accompanied by his client, Stefano Marongiu. Mr Macdonald provided background information on the opening of the restaurant/café. He advised that the major variation had been prompted by a visit by the LSO. Mr Macdonald outlined the changes applied for. He also noted that the application had originally included outside drinking facilities, but it had been decided that this was premature. Mr Macdonald pointed out that the premises had been popular since opening, and also noted the lack of objection or adverse comment to the application.

The LSO reported that she had provided guidance to the operators that a major variation application would be required to facilitate their plans for the premises. She highlighted her recommended condition relating to deliveries, and reported she had provided guidance with regards to the responsibilities of the operator.

PC Gibson conveyed that Police Scotland had no objection to the application.

Mr Macdonald and Mr Marongiu answered questions from Board members. Mr Macdonald confirmed that his client was happy to accept the LSO's recommended condition. He advised that off sales would principally comprise specialist Italian wines. He advised that the amendment of the description had been to capture the operation of the restaurant, as the previous description was more suited to a café.

Councillor McGuire had visited the restaurant and felt it was an excellent addition to the high street. He would support the application.

The Convener formally proposed that the LSO's recommendation condition be added, and this was seconded by Councillor Dugdale.

The Convener moved to a roll call vote on the application, with the inclusion of the LSO's recommended condition, and Board members unanimously gave their support.

## **Decision**

The East Lothian Licensing Board granted the major variation, 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 Policy on deliveries of alcohol, should be complied with.

### **b. Ozy's Kitchen, 10-12 Court Street, Haddington**

An application had been received for a major variation to: add an outside seating area as an activity within and outwith core hours; and amend the layout plan to include the outside area. There had been no objections from any statutory consultees, but two public objections had been received. The LSO had submitted representation including several recommended conditions, noted below.

Mr Macdonald, the applicant's agent, spoke to the application. He provided background information on the premises, which had lain empty for a long time. He advised that the major variation application had been prompted by a visit from the LSO, and his clients sought to add outside drinking to their offer. The relevant permit from Road Services had already been obtained. Mr Macdonald advised that he had

discussed the two public objections in detail with his clients. He said his clients were willing to accept an 8pm terminal hour for use of the outside area, which addressed the concerns of one of the objectors, and gave reassurance that his clients would do all they could to monitor the situation. Also in response to an objection, no smoking signs would be placed outside, and staff would now smoke across the road to avoid causing nuisance to neighbours. He described the cafe as a well-run operation, and said his clients had taken on board all advice. He reassured Board members that the concerns from neighbours were taken seriously and would be dealt with.

The LSO advised that the application had been prompted by a visit conducted soon after the café's opening. She understood the relevant permit from Road Services to have been granted. She read out the nine conditions she had recommended relating to use of the outdoor area. She had found the café to be well run and popular, and had received no complaints regarding the premises.

PC Gibson conveyed that Police Scotland had no objection to the application.

Mr Macdonald and the applicant responded to questions from Board members, and clarified that they would accept the LSO's conditions. The applicant stated that there would be no ashtrays on tables in the outdoor area. Additional staff would be hired to help monitor the outdoor area, and would keep on top of cleaning the area. He advised that 'no smoking' signs would also state 'no vaping'. Mr Macdonald advised that the capacity of the premises would remain at 30, despite the increased space allowed by the outdoor area, as this was the maximum number of covers the café could cope with.

Councillor McGuire referred to the lengthy period the premises had been empty, and was pleased that the well-run and popular café was now open. He was happy to support the application. He felt the location lent itself well to an outdoor area, and hoped it would not be a nuisance to the neighbours above.

The Convener highlighted that neighbours could let the operators and Council officers know of any issues with the outdoor area, and commented that responsible operators should want to know about issues. He formally proposed the LSO's recommended conditions, and these were seconded by Councillor McGuire.

The Convener moved to a roll call vote on the application, with the inclusion of the LSO's recommended conditions, and Board members unanimously supported the application.

## **Decision**

The East Lothian Licensing Board granted the major variation, subject to the following conditions:

- The outside area must only be used by persons occupying the seats provided at 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 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 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.
- 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 area must cease at 8pm.

**c. Lifestyle Express, 32-34 Bridge Street, Tranent**

An application had been received for a major variation to: increase the off sales capacity to 21.15m<sup>2</sup>; amend the layout plan; and add recorded music. There had been no objections from any statutory consultees.

Alistair Macdonald, the applicant's agent, spoke to the application, and was accompanied by the licence holder and DPM. Mr Macdonald advised that premises sought to increase its alcohol display, which would be used principally for wines and beers. He also pointed out that there had been no objections or adverse comments to the application.

The LSO advised that the major variation application had been prompted by her visit, when the premises had been found not to be compliant with regards to its alcohol display. She advised that, since this time, there had been a new premises licence holder. She noted that there had been no complaints about the premises, and she had been content with signage and staff training on her follow up visits.

PC Gibson conveyed that Police Scotland had no adverse comment to make on the application.

The Convener was pleased to hear about the proactive steps taken by the business following the LSO's visit, and would support the application.

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.

**4. OCCASIONAL LICENCE  
Brunton Theatre Trust, Haddington Corn Exchange and Loretto Theatre –  
Jane Corrigan, Hazel Robertson, and David Hillis (various dates –  
February and March 2025)**

Applications had been received for occasional licences from the Brunton Theatre Trust for events running at the Haddington Corn Exchange and Loretto Theatre. The LSO had referred the application to the Board because the two premises had been used on a regular basis for the sale of alcohol over the previous 18 months.

Kirsty Somerville, Team Manager – Arts, spoke to the applications. She explained that she was the General Manager for the Brunton Theatre Trust, but the three applicants were personal licence holders. She provided background information on actions taken following the temporary closure of the Brunton Theatre, and explained that the temporary licence plan which had been explored following the temporary closure of the theatre had to be abandoned when it became clear that the theatre would not reopen. She advised that the Brunton Theatre Trust had sole use of the Haddington Corn

Exchange, and occasional use of Loretto Theatre and Northesk Church. She advised that funding from Creative Scotland, which was important in stabilising the future of the Trust, had been confirmed only that day, and it was hoped that a longer-term solution could now be sought for the licensing situation. She advised that the applicants were all experienced licence holders, and staff were well trained and had worked at the Brunton Hall for many years. She explained that the provision of a bar was an essential part of the Trust's offer and as a revenue stream. She advised that a premises licence application would soon be made for the Haddington Corn Exchange, but she requested that occasional licences be granted in the meantime.

The LSO advised that the occasional licences had come before the Board due to the period of operation at the same venues, so the occasional licences could no longer be granted under delegated powers. She advised that there had been no complaints about any of the premises. She was pleased to hear of progress, and hoped the Trust could establish itself in a new venue.

PC Gibson conveyed that Police Scotland had no adverse comment to make on the application.

Responding to questions from the Convener and Councillor Gilbert, the LSO explained that she had been uncomfortable with the same personal licence holder making applications for events that were running concurrently, but this had now been addressed. Ms Somerville explained that the number of personal licence holders was being increased. She advised that the Corn Exchange was being used for around three events each week, and Loretto Theatre was being used for screenings and occasional dance and drama performances. She also advised that Northesk Church was generally used for classical performances, and only required a bar as a one-off for an event such as a big Christmas concert.

The Convener congratulated the team on securing Creative Scotland funding, and welcomed the clear plan between the Trust, the LSO, and the Licensing Team. He was happy to support the application, and proposed that delegated authority be given to the Clerk of the Board to grant further occasional licence applications for a period of one year. Councillor Dugdale seconded this proposal.

Councillor McGuire commented that the Trust had faced a challenging situation which was not of its own making, but continued to deliver a fantastic array of entertainment. He commended staff on their work, and was content to support the applications.

The Convener moved to a roll call vote on applications, including the proposal to grant further occasional licence applications for a period of one year, and Board members unanimously supported the applications and this proposal.

## **Decision**

The East Lothian Licensing Board granted the occasional licences, and agreed that further occasional licence applications could be granted under delegated powers for a period of one year.

### **5. CONTINUED PREMISES LICENCE REVIEW**

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

The LSO had brought a premises licence review for Shish Mahal, 63a High Street, Musselburgh, to the November meeting of the Licensing Board because of non-payment of annual fees. At this meeting, the Board agreed to continue the premises licence review due to communication difficulties with Idris Khan, premises licence

holder, who had appeared by telephone. The continuation was to allow Mr Khan to appear in person at the January Board meeting.

Mr Macdonald, agent, made representation on behalf of Idris and Rakhsana Khan, premises licence holders for the Shish Mahal and The Stand, respectively. Mr and Mrs Khan were both present at the hearing, per the Board's request. Mr Macdonald spoke about the annual fees for both premises, and expressed that there was never really an excuse for late payment, and especially for regular late payment. He reassured the Board that his clients never intended to avoid payment of annual fees, regretted the unnecessary work caused to officers, and acknowledged that payment of annual fees was a condition under legislation. He asked that invoices for both premises be sent to the Kahns' home. Mr Macdonald explained that a cheque had been written on time, but had remained unsent while Mr Khan had considered what to do about the premises. Mr Macdonald said he had considered other payment methods his clients could use, and the Khans' children had assured him that they would make the payments online in future. Mr Macdonald would also personally call in to ensure the payment had been made. Following confirmation by Gillian Herkes, Licensing Officer, that the invoices were sent on 1 August each year, Mr Macdonald reiterated his clients' apologies and suggested that a written warning may be appropriate in both circumstances.

Mr Macdonald continued by explaining that the Shish Mahal was currently operating, but The Stand was not. He provided some of the licensing history of The Stand, which had been closed since it had been purchased by Mrs Khan in 2014; he commented that the Khans should have surrendered the licence rather than paying annual fees while the premises had been closed. On behalf of his clients, he asked for the premises licence to remain in force, as there was an intention to change its use from a pub to a restaurant. He reported that work had been carried out to make the building structurally sound. He advised that there had already been interest from potential tenants to run the high-profile property. He added that he felt it may be easier to deal with one premises licence holder for both premises, but he was happy to take questions as the Khans' agent.

The LSO made representation regarding the Shish Mahal premises licence review. She reported that the annual fees had continually been paid late since 2012, creating additional work for the Licensing Team and LSO. She also highlighted that failure to pay the annual fee meant that a Section 1 offence under the Licensing (Scotland) Act 2005 had been committed each year by selling alcohol after 1 October until such time as the annual fees were paid; this continued breach led her to question whether the licence holder was a fit and proper person.

PC Gibson conveyed that Police Scotland had no comment to make on the premises licence review.

Councillor McGuire expressed that those 12 years of late payment were unacceptable, particularly the additional work caused to the Licensing Team, and questioned whether Mr Macdonald should have to remind his clients of the requirement to pay annual fees. This caused him to question whether the Khans were fit and proper people to hold a licence, and was minded that further action should be taken if fees were paid late again.

The Convener commented that the payment of annual fees was not a difficult task, and was a legal requirement. He felt the continuous pattern of non-payment suggested a disregard for the licensing regime, but commented that, other than the late payment of fees, the Shish Mahal seemed to be a well-run establishment. He formally proposed that a written warning be sent to the licence holder regarding the non-payment of annual fees. Councillor Dugdale seconded this proposal.



The Convener then moved to a roll call vote, and Board members unanimously agreed to issue a written warning regarding the late payment of annual fees.

## **Decision**

The East Lothian Licensing Board agreed to issue a written warning about the late payment of annual fees.

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

The LSO had brought a premises licence review for The Stand, 72-74 High Street, Musselburgh, to the November meeting of the Licensing Board because of non-payment of annual fees. At this meeting, the Board agreed to continue the premises licence review due to communication difficulties with Mr Khan, who had appeared by telephone to represent Rakhsana Khan, premises licence holder. The continuation was to allow Mrs Khan to appear in person at the January Board meeting.

The LSO reported that it had been difficult to communicate with Mrs Kahn, and she had never had a conversation with her, despite repeated attempts; this unwillingness to communicate made the LSO question Mrs Khan's involvement with the premises. The LSO also highlighted that a premises licence would cease to have effect following closure or if it had ceased to be used for sale of alcohol for a period of 18 months. She pointed out that there had been no alcohol sales for much longer than this period, and reiterated that there had been no update from Mrs Khan for the whole period she had held the premises licence.

PC Gibson conveyed that Police Scotland had no comment to make on the premises licence review.

The Convener commented that the question of continuous late payment of fees also stood for this premises. He noted that the period of 18 months without sales of alcohol had been breached, and questioned whether the Board would allow the premises licence to remain in place to give the business opportunity to carry out the work Mr Macdonald had described at Item 5a.

Councillor Gilbert asked whether Mr Macdonald was optimistic that the premises would be available for use or lease before 1 October 2025. Mr Macdonald advised that Mr Khan was confident that work would have been carried out before 1 October, but it was outwith Mr Kahn's control as to whether a tenant would be in place by this time. The progress of the work would also be subject to finding a contractor. Mr Macdonald understood that the Board would want to see actual progress by this time, and said Mr Kahn had provided assurance that this would be the case.

The Convener felt that a transfer of premises licence to Mr Khan would be a positive step, since Mr Kahn seemed to be undertaking the work and communication; this would make clear with whom officers should discuss The Stand's licensing matters. The Convener was willing to give the Kahns until October 2025 to make progress, but formally proposed that a written warning be issued with regards to late payment of annual fees. Councillor Dugdale formally seconded this proposal.

Councillor McGuire echoed the comments of his colleagues with regards to late payment of annual fees, but acknowledged that a Section 1 offence was not being committed in this case, since The Stand premises was not making alcohol sales. Mrs Khan's lack of communication led him to question who ran the operation, and supported the suggestion that the premises licence should be transferred to Mr Khan.

He was pleased that Mr Macdonald was now on board to assist, and hoped to see progress being made on this premises.

Following a comment from Councillor Gilbert, Carlo Grilli, Clerk of the Board, asked whether the Board wanted to request a formal update to be provided so that the future licence and fee position could be settled before 1 October 2025. Based on Board members' views, Mr Grilli determined that if no progress had been reported to Licensing Team by September 2025, he would seek direction from members as to whether a further review should be brought to the September Board meeting.

The Convener then moved to a roll call vote, and Board members unanimously agreed to issue a written warning regarding the late payment of annual fees.

**Decision**

The East Lothian Licensing Board agreed to issue a written warning about the late payment of annual fees.

**6. REVIEW OF STATEMENT OF PRINCIPLES 2025-2028 – GAMBLING ACT 2005**

A report had been submitted by the Clerk of the Licensing Board to report on the results of the consultation exercise for the review of the Board's Statement of Licensing Principles. The report asked the Board to consider the consultation responses and decide whether any amendments were required to the draft policy. The Board was asked to approve and adopt the Gambling Policy at Appendix 2 to the report, subject to any agreed amendments.

Mr Grilli spoke to the report. He highlighted the report's recommendations, and advised that there had been no substantive changes made to policy compared to the last period.

The Convener thanked the officers involved in producing the Statement of Licensing Principles and consultation. He commented that the draft policy was very similar to the previous policy, which, judging by the lack of issues, seemed to be working well.

The Convener moved to roll call vote, and Board members unanimously voted in support of the report recommendations.

**Decision**

The East Lothian Licensing Board agreed to:

- Approve and adopt the draft Gambling Policy for the period 2025 – 2028; and
- Delegate to the Clerk of the Board to finalise the policy.

Signed .....

Councillor L Bruce  
Convener of East Lothian Licensing Board