

The Highland Licensing Board

Meeting – 31 March 2015

Agenda Item	10.4
Report No	HLB/035/15

Application for a major variation of Premises Licence under the Licensing (Scotland) Act 2005

Old School Restaurant and Rooms, Inshegra, Kinlochbervie, IV27 4RH

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Lisa and Lawrence Macleod.

1.0 Description of Premises

1.1 The premises are a restaurant housed in a former school building (1879), detached, solely occupied, and in a rural location with no immediate neighbours. It is a seasonal business with the majority of restaurant trade from residents supplemented by locals and tourists from the surrounding area. In the daytime tea/coffee/light snacks and refreshments are served. Traditional home cooked meals are served in the evenings. There is no bar and alcohol is primarily served to accompany a food purchase. On offer are soft drinks, bottled beers, wine and a range of malt whiskies and liqueurs. Last food orders are at 2030 hrs with last drink orders 2300 hrs.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

On Sales:

Monday and Saturday: 1600 hours to 2300 hours
Tuesday to Friday: 1100 hours to 2300 hours
Sunday: 1230 hours to 2300 hours

3.0 Summary of Variation Application

3.1 Variation Sought

The applicant seeks to vary the premises licence as follows:-

(1) Amend description of the premises.

(2) Increase on sales operating hours on Monday to Sunday to commence at 1100 hrs and terminate at 0100 hrs the following day.

(3) Add off sales operating hours on Monday to Sunday to commence at 1100 hrs and terminate at 2200 hrs.

(4) Remove current wording in Seasonal Variation to allow trading all year round and add the following wording: "allow the premises to take advantage of Board policy hours with regards to festive extensions".

(5) To list of activities during and outwith core hours add restaurant facilities, receptions, club or other group meetings etc, live performances and outdoor drinking facilities and add wording "activities and services provided outwith core hours are for the benefit of customers during trading hours which may commence prior to 1100 hrs on that day".

(6) To list of other activities add Charity, Fund Raising Events and provision of takeaway meals.

(7) Amend Children and Young Persons terms of entry.

4.0 Background

4.1 On 13 February 2015 the Licensing Board received an application for a major variation of a Premises Licence from Lisa & Lawrence Macleod.

4.2 The application was publicised during the period 19 February until 12 March 2015 and confirmation that the site notice was displayed has been received.

4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire & Rescue Service and the Council's Community Services (Environmental Health) and Planning and Building Standards were consulted on the application.

4.4 Notification of the application was also sent to NHS Highland and the local Community Council.

4.5 Further to this publication and consultation process, no timeous objections or representations have been received.

4.6 The applicant must nevertheless be given the opportunity to be heard before the Board determines the application and has accordingly been invited to the meeting. The applicant has been advised of the hearings procedure which may also be viewed via the following link:

http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

5.0 Legislation

5.1 The Licensing Board must in considering and determining the application, consider whether any grounds of refusal apply and if none of them applies, the Board must grant the application.

Relevant grounds of refusal may be: -

1. the grant of the application will be inconsistent with one or more of the licensing objectives;
2. having regard to (i) the nature of the activities carried on or proposed to be carried on in the subject premises, (ii) the location, character and condition of the premises, and (iii) the persons likely to frequent the premises, the Board considers the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;
3. having regard to the number and capacity of licensed premises of the same or similar description as the subject premises (taking account of the proposed variation) in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises or licensed premises of that description in the locality.

5.2 The Board only has power either to grant the application and make a variation of the conditions to which the licence is subject or to refuse the application.

If the Board refuses the application, the Board must specify the ground for refusal and if the ground for refusal relates to a licensing objective, the Board must specify the objective in question.

6.0 Licensing Standards Officer

6.1 The LSO has provided the following comments:-

6.2 The licence holders have recently taken over the premises and seek to vary the premises licence to take advantage of additional trading opportunities.

6.3 The business remains a food-led operation and destination however, for the avoidance of doubt, the applicants now wish to confirm that alcohol need not primarily be served to accompany a food purchase.

6.4 The licensed hours applied for are within policy and the various activities and services to be provided are reasonable and appropriate for the specified type of operation.

6.5 Only property occupied by or under the control of the licence holder is in the immediate vicinity of the premises and it is not considered necessary to impose any restrictions on the use of the outdoor drinking area.

- 6.6 At the discretion of the management unaccompanied children may be permitted on the premises until 2100 hrs failing which they must be accompanied by a suitable adult.
- 6.7 The variations sought are reasonable and appropriate for this type of premises and should not cause conflict with any of the licensing objectives. I have no cause to object to the grant of this application.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement 2013-16
- (iii) Schedule of Local Conditions
- (iv) Highland Licensing Board Equality Strategy

8.0 Conditions

8.1 Mandatory Conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

8.2 Local Conditions

8.3 In accordance with the Board's current policy it is not considered necessary to impose any conditions other than those connected to the Board's policy on extended hours for the Festive period.

Subject to the approval of the Board the existing local conditions should be removed.

8.4 Two additional specific conditions, "that alcohol may be sold on these premises during core hours" and "that food and non-alcoholic beverages must be available for sale during core hours" may no longer be relevant and the Board may also approve their removal.

8.5 Local Condition

q. The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The Premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.

8.6 Additional Conditions

The following shall apply on any occasion that the premises are open after 0100 hrs.

Mandatory Condition

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of-

(a) the time at which the premises next close; and

(b) 0500 hrs.

And

Highland Licensing Board Special Condition

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (on any day on which the premises are open at that time) until whichever is the earlier of-

(a) the time at which the premises next close; and

(b) 0500 hrs.

Recommendation

The Board is invited to determine the above application.

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para(s). 8.5 and 8.6 above.

If the Board is minded to refuse the application, the Board must specify the ground for refusal and if the ground for refusal is in relation to a licensing objective, the Board must specify the objective in question.

Reference: HC/CSER/0193

Date: 13 March 2015

Author: L Gunn

Background Papers: The Licensing (Scotland) Act 2005/Application Form.