

The Highland Licensing Board

Meeting – 12 May 2015

Agenda Item	10.3
Report No	HLB/051/15

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

Argyll Hotel, 18 Argyle Street, Ullapool, IV26 2UB

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of Premises Licence by Punch Partnership Ltd, Jubilee House, Second Avenue, Burton on Trent, DE14 2WF per TLT LLP, 140 West George Street, Glasgow G2 2HG.

1.0 Description of Premises

1.1 The premises were granted a premises licence, on transition, on 1 September 2009. They consist of an hotel with public bar, lounge bar, breakfasting room with small function room plus letting bedrooms.

2.0 Current Operating Hours

On Sales:

1100 hours to 0100 hours Monday to Saturday

1200 hours to 2400 hours Sunday

Off Sales:

1000 hours to 2200 hours Monday to Saturday

1200 hours to 2200 hours Sunday

3.0 Summary of Variation Application

3.1 Variation Sought

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

1. Amendment to on sales hours to 1100 hours to 0100 hours Monday to Sunday
2. Amendment to off sales hours to 1000 hours to 2200 hours Monday to Sunday.
3. Amendment to seasonal variation wording: Add any additional hours which may be available in terms of the Board's statement of licensing policy including the festive season.

4.0 Background

- 4.1 On 5 March 2015 the Licensing Board received an application for a major variation of a Premises Licence from the applicant's agent, TLT LLP, 140 West George Street, Glasgow G2 2HG
- 4.2 The application was publicised during the period 20 March 2015 until 10 April 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 Lochbroom.
- 4.5 Further to this publication and consultation process, the following timeous notice(s) of objection have been received and are appended:
- Email dated 10 April 2015 from Janice MacRae, The Bungalow, 20 Argyle Street, Ullapool, Ross Shire IV26 WUB.
 - Email dated 10 April 2015 from Iris MacRae, Lochbeag, 20 Argyle Street, Ullapool, IV26 2UB
 - Email dated 10 April 2015 from Kathleen Mackay, 18 Pulteney Street, Ullapool, IV26 3UP.
- 4.6 The applicant and objectors must be given the opportunity to be heard before the Board determines the application and all have accordingly been invited to the meeting. They have also 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

The LSO has provided the following comments:-

- 6.1 The increases to licensed hours are in accordance with Board policy.
- 6.2 The premises are currently permitted to sell alcohol by off-sales from 1000 hrs daily Monday to Saturday in accordance with the policy of the former Ross, Skye and Lochaber Divisional Licensing Board. As stock is dispensed from the bar, sales between 1000 and 1100 are very limited but the licence holder does not wish to relinquish that permission and seeks 1000 hrs on a Sunday to harmonise the off-sales hours.
- 6.3 The amended seasonal variation may allow the licence holder to take advantage of any relevant periods of extended hours agreed in a future policy on extended hours in addition to the current policy for the festive period.
- 6.4 I am aware that an objection, based on the objective of preventing public nuisance, has been made. The objection makes mention of general noise related matters but contains a specific objection to the grant of the variation on the grounds that that the increase in hours on a Sunday evening will result in unacceptable levels of noise particularly from live music.
- 6.5 I have spoken with a representative of the objectors and with the tenant of the premises who has been sent a noise management checklist and guidance notes for completion. At the time of preparation of this report the tenant was abroad on holiday and the noise management information may not be available for consideration until nearer the date of the Board. However, in advance of submission of the plan the tenant has confirmed that no live music will be played after 2300 hrs on any Sunday.
- 6.6 Other matters raised in the objection and which do not relate specifically to the variation application will be treated as a complaint and will be considered separately by the Licensing Standards Officer.

6.7 The variations sought are reasonable and appropriate for this type of premises and, subject to consideration of the noise management plan, should not conflict with any of the licensing objectives.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (2) 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

Existing local conditions should continue to apply to the licence with the additional conditions applied:

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.

8.3 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.

Following consideration of the noise management plan the Board may wish to impose the undernoted additional specific conditions which will specifically relate to concerns about excessive noise.

Specific Conditions:

- 8.4 1. A written noise management plan acceptable to the Highland Licensing Board must be in place for the premises and any relevant activity or service being provided must be conducted in accordance with that plan.
2. On any Sunday, any music or live performance will cease by 2300 hrs.

8.5 Special Conditions

1. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (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 and if minded to grant the application, to agree the proposed local/special/specific condition(s) detailed at para(s). 8.2 to 8.5 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/RSL/R/1171

Date: 22 April 2015

Author: Wendy Grosvenor

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

Appendices: 3 x e-mails dated 10 April 2015.

Marjory Bain

From: Janice MacRae [mailto:janice@argyll.com]
Sent: 10 April 2015 14:47
To: Alasdair Mackenzie
Subject: Objection to licence at Argyll Hotel, 18 Argyle Street, Ullapool

Dear Mr Mackenzie,

I am writing to object to the extended opening hours at The Argyll Hotel at 18 Argyle Street in Ullapool. I understand an application has been put in for the hotel bar to stay open until 1am seven nights a week. My house is next door to the Argyle Hotel at 20 Argyle Street. My living room wall shares the same wall as the lounge bar and with the Argyle Hotel being a live music venue there is a major noise issue. The music can be heard in my living room through the adjoining wall. The live bands always set up and play next to this wall which is only a few feet from my living room couch. Having to deal with noise disturbance seven nights a week I find totally unacceptable and I do strongly object to this.

Another issue is with noise disturbance caused when people leave the pub at closing time, from the front and the back entrance of the hotel bar. My 80 year old mother lives in the house behind my cottage and she is constantly being woken up by people leaving from this entrance. The back entrance to the hotel bar is also used as a smoking area and the noise from the customers outside is a major issue. She has had to call the hotel on numerous occasions to ask for them to keep the noise level down. She is woken up most nights from noise disturbance from the Argyll Hotel and this is totally unacceptable for herself and the other residents nearby to have to put up with.

I do strongly object to the bar being open until 1am seven nights a week for the reasons stated above.

Kind regards,

Janice MacRae

The Bungalow
20 Argyle Street
Ullapool
Ross-Shire
IV26 WUB

[Redacted]

[Redacted]

Marjory Bain

From: Janice MacRae [REDACTED]
Sent: 10 April 2015 15:34
To: Alasdair Mackenzie
Subject: Objection to licence at Argyll Hotel, 18 Argyle Street, Ullapool

Dear Mr Mackenzie,

In relation to my email below I would like to include the contact details for my mother and sister who also live close to the Argyll Hotel and object to the bar being open until 1am seven nights a week.

Iris MacRae
Lochbeag
20 Argyle Street
Ullapool
IV26 2UB

[REDACTED]

Kathleen Mackay
18 Pulteney Street
Ullapool
IV26 2UP

[REDACTED]

Kind regards,

Janice MacRae

The Bungalow
20 Argyle Street
Ullapool
IV26 2UB

[REDACTED]

Mob. 079 [REDACTED]

[REDACTED]

Begin forwarded message:

From: Janice MacRae <[REDACTED]>
Date: 10 April 2015 14:46:58 GMT+01:00
To: alasdair.mackenzie@highland.gov.scot
Subject: Objection to licence at Argyll Hotel, 18 Argyle Street, Ullapool

Dear Mr Mackenzie,

I am writing to object to the extended opening hours at The Argyll Hotel at 18 Argyle Street in Ullapool. I