

The Highland Licensing Board

Meeting – 2 February 2016

Agenda Item	9.1
Report No	HLB/015/16

Application for a major variation & section 33 transfer of premises licence under the Licensing (Scotland) Act 2005

Culloden Battlefield Visitor Centre, Culloden Moor, Inverness IV2 4EU

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by the National Trust for Scotland Hermiston Quay, 5 Cutlins Road, Edinburgh EH2 4DF per Anderson Strathern LLP, 1 Rutland Court, Edinburgh EH3 8EY.

1.0 Description of Premises

1.1 The premises are a purpose built visitor and exhibition centre, constructed on the Culloden Battlefield site. It consists of a museum, multipurpose room for education, research, presentations, seminars, product launches, private functions and corporate meetings, restaurant and gift shop.

The building is solely occupied by the National Trust for Scotland.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 2300 hours

Sunday: 1230 hours to 1430 hours and 1830 hours to 2300 hours

Off sales:

Monday to Saturday: 1100 hours to 2200 hours

Sunday: 1230 hours to 1430 hours and 1830 hours to 2200 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

1. The core 'on sales' hours on Sundays are to be amended to commence at 11.00 hrs and terminate at 23.00 hrs.

2. The core 'off sales' hours amended to commence at 10.00 hrs and terminate at 22.00 hrs.

3. The wording of the seasonal variation section changed to read "The premises shall operate (be open to the public) at the following times of year: 1 February-31 March: 10.00-16.00 hrs (7 days); 1 April-31 May: 09.00-17.30 hrs (7 days); 1 June-31 August: 09.00-18.00 hrs (7 days); 1 September-31 October: 09.00-17.30 hrs (7 days) and 1 November-23 December: 10.00-16.00 hrs (7 days)"

4. The description of the premises is amended to include the creation of the new outside drinking patio/terrace to read: "Purpose built visitor and exhibition centre, constructed on the Culloden Battlefield site. Consists of museum, multi-purpose room for education, research, presentations, seminars, product launches, private functions and corporate meetings, restaurant and gift shop and outside terrace areas."

5. The operating plan is changed to include the activity of indoor and outdoor sports at 5(e) to read: " No alcohol will be provided out-with core licensed hours; Conference facilities will be available from 08.30 hrs; Restaurant facilities will be available from 09.00 hrs daily; Receptions, etc., can commence prior to the commencement of core licensed hours; Club and other group meetings can commence from 09.00 hrs; Recorded music and recorded voice-overs will be played in the museum during the premises opening hours as part of the educational audio-visual presentation; Live performance of music, dance, theatre performances and battle re-enactments can commence from 09.00 hrs; Educational theatre can commence from 09.00 hrs; Cinema screenings can take place from 09.00 hrs; Outdoor drinking facilities include the patio area outside the restaurant as well as a roof and patio area beside the shop; Indoor/outdoor sports are included in order to offer highland games and fun runs on the site."

6. Question 5(f) any other activities changed to read: "The outdoor areas may be used outwith licensed hours as a smoking area or for non-alcoholic beverages and light snacks only; Dancing is permitted to include performances, exhibitions, displays and teaching (for example, traditional Scottish Country Dancing, Ceilidh Dancing, etc.; Whisky tastings may be provided in all licensed areas, to which the public have access; The retail shop and visitor centre may be open for occasional shopping evenings and events."

7. A new outside patio area has been created in front of the restaurant as an additional area in which the consumption of alcohol on the premises shall be permitted.

8. Section 7 of the Operating Plan is amended to include the new capacity of the outdoor drinking areas i.e. 225 persons standing; 60 seated.

9. The gift shop is being refitted to move the alcohol display for off-sales resulting in an increase to the off-sales area from 3.84m² to 4.2m² which is within policy.

4.0 Background

- 4.1 On 03 December 2015 the Licensing Board received an application for a major variation of a premises licence from Anderson Strathern LLP 1 Rutland Court, Edinburgh EH3 8EY. An application was also received to transfer the licence under section 33 to National Trust for Scotland Enterprises Ltd, Hermiston Quay, 3 Cultins Road, Edinburgh EH11 4DF.
- 4.2 The application was publicised during the period 14 December 2015 until 04 January 2016 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, Croy.
- 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:-

Culloden Battlefield Visitor Centre has operated both on and off sales for a number of years. Off sales have been dispensed from a gift shop and the on sales have taken place at a large restaurant within the premises. The licensing history is trouble free and compliance visits carried out by the LSO have shown strong standards of diligence.

Application has been made to alter on sales hours on Sunday and also claim the full complement of off sales hours available. Both variations are within the policy hours of the Highland Licensing Board and will cause no adverse effect to the licensing objectives.

The wording has been altered at Seasonal Variations to reflect differentials in trading hours at differing times of the year reflective of customer demand and seasonal staffing levels. The activities within Section 5 of the operating plan have been changed to include indoor and outdoor sports as on occasion the venue is the start and finish point for charity walks and marathons. Whisky tastings have been added at Section 5(f) to better reflect product marketing on the premises.

The layout of the premises has been altered with the inclusion of a large patio area adjacent to the restaurant to be used as an outside drinking area. Similarly the area for the display of alcohol within the gift shop has been moved. The layout plans are of a good standard and clearly show the changes to the licensing footprint. The premises are set in their own substantial estate and are so removed from nearby property that the LSO does not see a need to condition the hours of operation of the outside drinking area.

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

There are no existing local conditions and it is not considered necessary to attach any.

8.3 Special Conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application.

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/INBS/179

Date: 8 January 2016

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