

The Highland Licensing Board

Meeting – 4 October 2016

Agenda Item	10.7
Report No	HLB/095/16

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

Castle Arms Hotel, Mey

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by Kell Enterprises Ltd.

1.0 Description of premises

1.1 Castle Arms Hotel was granted a premises licence, on transition, on 1 September 2009. It operates as a hotel offering the usual range of activities and services.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Mondays to Saturdays: 1100 hrs to 2300 hrs
Sundays: 1200 hrs to 2300 hrs

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Increase licensed hours on Mondays to Saturdays to 1100 hrs to 0100 hrs the following day
- (2) Increase licensed on-sales hours on Sundays to 1100 to 0100 hrs the following day
- (3) Remove existing seasonal variation to allow year round trade.
- (4) Add seasonal variation to allow the premises to take advantage of any policy hours granted by the Board in relation to festive and other extensions

- (5) To list of activities and services provided during and outwith core hours add restaurant facilities, receptions, club or other group meetings; music and televised sport and an explanation as to why provision outwith core hours is required.

4.0 Background

- 4.1 On 8 August 2016 the Licensing Board received an application for a major variation of a Premises Licence from Kell Enterprises Ltd.
- 4.2 The application was publicised during the period 26 August to 16 September 2016 and confirmation that the site notice was displayed during this time has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and 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:-

- a. The applicant has recently taken over the business and wishes to make changes to the current, restricted, operating plan so as to maximise business potential.
- b. The proposed increased hours are within Board policy and the changes to the operating plan should not cause conflict with any licensing objective.
- c. Having given further consideration to the operating plan since the application was submitted the applicant now wishes to include use of the outdoor drinking area outwith core hours. The applicant requests that the Board allow that amendment to the operating plan. It is noted that there is currently no condition restricting use of the outdoor drinking area and none is considered necessary
- d. The variations applied for are all within Board policy and do not conflict with the licensing objectives.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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 condition

Existing local conditions and add:-

- q. The licence holder shall submit to the Board and to Police Scotland, no later than 21 days before the relevant date each year, notice of the dates within the festive period or other special event or occasion specified by the Board on which it is intended that the premises remain open until the terminal hour stated for that category of premises in the Board's Policy Statement or its Supplementary Policy Statement on Extended Hours for Special Events. The Premises may remain open until the specified 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 Late opening premises conditions

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

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

2. 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 conditions detailed at paras 8.2 and 8.3 above and the addition of the outdoor drinking area outwith core hours.

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/CSR/0276
Date: 20 September 2016
Author: G Sutherland
Background Papers: The Licensing (Scotland) Act 2005/Application Form.