

The Highland Licensing Board

Meeting – 7 February 2017

Agenda Item	8.2
Report No	HLB/016/17

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

Royal Marine Hotel, Golf Road, Brora, KW9 6QS

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by R M Brora Ltd.

1.0 Description of premises

- 1.1 The premises are a detached period hotel set in its own grounds in the village of Brora. The accommodation includes 22 letting bedrooms, 3 restaurants, leisure facilities including a swimming pool, steam room, sauna and jacuzzi.

2.0 Current operating hours

- 2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Thursday: 1100 hrs to 2300 hrs
Friday: 1100 hrs to 2400 hrs
Saturday: 1100 hrs to 2345 hrs
Sunday: 1100 hrs to 2300 hrs

Off sales:

Monday to Saturday: 1100 hrs to 2200 hrs
Sunday: 1200 hrs to 2200 hrs

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Amend the on sales operating hours to 1100 hrs to 0100 hrs the following day on Monday to Sunday.
- (2) Amend the off sale operating hours to 1100 hrs to 2200 hrs on Sunday.

- (3) Amend the layout plan to extend the footprint of the premises to include the former curling rink.
- (4) Add seasonal variation to operate policy hours granted by the Board in relation to festive and other extensions.
- (5) Delete existing description of the premises and replace with "Detached period hotel set in its own grounds in the village of Brora".

4.0 Background

- 4.1 On 8 December 2016 the Licensing Board received an application for a major variation of a premises licence from R M Brora Ltd.
- 4.2 The application was publicised during the period 19 December until 9 January 2017 and confirmation that the site notice was displayed 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:-

6.2 The proposed increased hours and inclusion of a seasonal variation are in line with Board policy and should not cause conflict with any licensing objective.

6.3 The premises operate as a hotel with leisure facilities all contained within one main building. A single storey extension, attached to the rear of the main premises and formerly used as a curling rink, was specifically excluded from the licensed "footprint" of the hotel.

6.4 That part of the building is, from time to time, used for functions such as weddings with sales of alcohol being permitted only in accordance with the grant of occasional licences. Part of the interior has been lined with fabric to give the appearance of what is described on the layout plan as a marquee and disguising the roughly finished interior walls and ceiling of the building as well as concealing space used for general storage and disused ice rink related fittings. It is unlikely that the space can be brought into use without significant notice and when a function is being held the area is prepared and equipped to a high standard.

6.5 As a consequence of a recent change in legislation which now no longer exempts certain premises from the requirement to have a public entertainment licence issued in terms of the Civic Government (Scotland) Act 1982 (as amended), the applicant now wishes to incorporate the former rink within the parts of the premises currently licensed in terms of the Licensing (Scotland) Act 2005.

6.6 The principal access to the former rink is directly from the hotel and there does not appear to be any other formal separate entrance. Toilet facilities are located within the main hotel.

6.7 A check of records has revealed that the former rink has been used only 3 or 4 times a year for functions and I am advised that there are no plans to use it more frequently.

- 6.8 It is noted that up to 200 persons had been permitted to attend functions within the former rink and that the current capacity of the hotel is also 200. The applicant has chosen not to increase the total capacity for the enlarged premises and it will remain at 200 persons. It will be for the applicant to ensure that the permitted capacity is not exceeded when any function is taking place on the premises and residents or other customers are within the public areas of the hotel and leisure centre.
- 6.9 The premises are currently described as a detached period hotel set in its own grounds in the village of Brora. The accommodation includes 22 letting bedrooms, 3 restaurants, leisure facilities including a swimming pool, steam room, sauna and Jacuzzi” The applicant has chosen to simplify the description by removing specific details of the facilities available.
- 6.10 Two informal representations had been received from neighbours. I made contact with the authors offering information and guidance as to the reasons for the application and passed on an assurance from the applicant that there are no plans to make more frequent use of the function facility. I understand that only 3 functions have been “pencilled in” for 2017. Following discussion the representations were withdrawn.
- 6.11 The applicant has submitted a noise management checklist and noise management plan to evidence engagement with, particularly, the objective of preventing public nuisance. In particular it is noted that there will be control of volume with limiters, limit levels on base control and that doors and windows will be kept closed. I am of the opinion that the controls specified in the plan are reasonable and appropriate for the premises.
- 6.12 Notwithstanding that there are no formal objections from Scottish Fire and Rescue or from Building Standards I understand that some issues have now been identified which may require to be addressed by the applicant. In particular I understand that a fire risk assessment specifically for the former rink will be required. The Board may wish to establish the current position and perhaps consider imposing a condition preventing use of the marquee until such time as the applicant produces evidence of compliance with appropriate requirements, guidance or advice from Scottish Fire and Rescue.

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
- (3) Highland Licensing Board Policy Hours

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

Retain existing local conditions and add the following:-

1. 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 Special conditions

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
3. 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.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and special conditions detailed at paragraphs 8.2 and 8.3 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/0931

Date: 19 January 2017

Author: L Gunn

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