

The Highland Licensing Board

Meeting – 7 February 2017

Agenda Item	8.3
Report No	HLB/017/17

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

Kilchoan House Hotel, Kilchoan, Acharacle, Argyll, PH36 4LH

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Donald F I Houston.

1.0 Description of premises

1.1 The Kilchoan House Hotel is situated within the rural village of Kilchoan on the Ardnamurchan Peninsula. The premises sits within its own grounds which extend to approximately 2.5 acres and is open to both residents and non-residents.

The licensed area comprises the hotel with adjacent outside drinking areas to the front and rear of the premises.

The ground floor of the premises comprises a dining room, breakfast room, public and lounge bar areas, conservatory, kitchen and toilet facilities.

Ten bedrooms are located on the first and second floors of the premises.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Wednesday: 1100 hours to 0000 hours
Thursday to Saturday: 1100 hours to 0100 hours
Sunday: 1230 hours to 2345 hours

Off sales:

Monday to Sunday: 1000 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) Increase footprint of premises to include conservatory and extend outdoor seating area.
- (2) Amend seasonal variation to reflect operation of premises will be subject to seasonal demand.
- (3) Reduce core terminal on-sale hours as follows:
 - (i) From 0000 hours to 2300 hours : Monday to Wednesday
 - (ii) From 0100 hours to 2300 hours : Thursday
 - (iii) From 0100 hours to 2400 hours : Friday and Saturday
 - (iv) From 2345 hours to 2300 hours : Sunday
- (4) Inclusion of the following activities outwith core hours within the operating plan:
 - Conference facilities
 - Films
- (5) Removal of live performances within the operating plan outwith core hours.
- (6) Increase capacity from 135 persons to 147 persons.

4.0 Background

- 4.1 On 25 October 2016 the Licensing Board received an application for a major variation of a premises licence from Donald I F Houston.
- 4.2 The application was publicised during the period 2 December 2016 until 23 December 2016 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, Building Standards lodged a timeous objection on 8 December on the following grounds:

- A building warrant has not been sought/obtained in respect of the proposed changes.
- Justification for increase in capacity is required for means of escape purposes.

The applicant has been informed of the objection and has been requested to contact Building Standards with a view to resolving the issues.

A verbal update will be provided by the Licensing Standards Officer.

4.6 The applicant and the objector have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

http://highland.gov.uk/hlb_hearings

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:-

- The Kilchoan Hotel is a small rural Hotel situated within its own grounds.
- The premises have been incident free and visits by the Licensing Standards Officer have shown good levels of compliance.
- Application has been made by the premises licence holder to vary the existing licence by adding a new conservatory with external grassed outdoor drinking area which will produce a slight increase in the overall capacity. Revised lay out plans have been submitted with the application showing this change.
- The applicant also seeks to reduce the operating hours to accurately reflect the Hotel's public operation. Minor adjustment has been made to the activities section at part 5 of the operating plan: conference facilities and films may be offered out with core licensed hours. Live performances will not take place out with core licensed hours.
- Should the Board be minded to grant the application it is the opinion of the LSO there will be no adverse impact on 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 conditions

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

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/RSL/1352

Date: 16 January 2017

Author: IC/JT

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