

## The Highland Licensing Board

Meeting – 5 December 2017

Agenda Item	10.4
Report No	HLB/138/17

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

Benleva Hotel, Kilmore Road, Drumnadrochit, Inverness-shire, IV63 6UH

#### Report by the Clerk to the Licensing Board

##### Summary

This report relates to an application for a major variation of premises licence by The Benleva Hotel Limited, Kilmore Road, Drumnadrochit, Inverness-shire, IV63 6IH.

#### 1.0 Description of premises

1.1 The Benleva Hotel is a small country hotel with six letting bedrooms, public bar, lounge bar, dining room and small outdoor beer garden. The building is detached, solely occupied and situated within its own substantial grounds, in a rural location with residential dwellings nearby.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday to Thursday: 1100 hours to 2400 hours  
Friday: 1100 hours to 0100 hours  
Saturday: 1100 hours to 2345 hours  
Sunday: 1100 hours to 2400 hours

##### Off sales:

Monday to Saturday: 1200 hours to 2200 hours  
Sunday: 1230 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) On sales terminal hours for Saturday to be extended to 0100 hours rather than 2345 hours.

(2) Change to children's policy:

6(b) Terms: The applicants actively welcome families to the premises. Whilst on the premises all children must be in the company of an appropriate adult although this will not apply to young persons. This will not apply to children who are resident on the premises when not in bar servery areas. No children will be permitted to sit or remain at the bar counter at any time.

6(c) Ages: 0-17 inclusive.

6(d) Times: From 1100 hours to 2200 hours for the bar areas except during private functions for the purpose of taking a meal. Children and young persons' resident in the hotel, will be entitled to be present in the sleeping accommodation overnight and other public area at all times.

6(e) Parts: Children and young persons' will be allowed entry to the bar, lounge bar, dining area and outdoor drinking area, public areas and bedrooms. Children and young persons' can be in the bar for the purpose of passing to or from some other part of the premises from which there is no other convenient means of access or egress.

#### **4.0 Background**

- 4.1 On 18 October 2017 the Licensing Board received an application for a major variation of a premises licence from The Benleva Hotel Limited.
- 4.2 The application was publicised during the period 30 October until 20 November 2017 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.
- 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://highland.gov.uk/hlb\\_hearings](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. that 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 the same or similar description as the subject premises, in the locality.

5.2 For the purposes of the Act, the licensing objectives are-

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children and young persons from harm.

5.3 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.

5.4 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:-

(i) The Benleva Hotel is a long established hotel standing within its own substantial grounds . The history of the hotel is one of responsible trading, and LSO checks have found that there are appropriate standards of diligence in observing the requirements of the Licensing (Scotland) Act 2005.

(ii) Recently the premises have changed hands and the applicants now seek to modernise certain aspects of the alcohol premises licence. Core hours for Saturday evenings are requested to be extended until 0100 hours, which is in line with current HLB policy hours. From the hotel's location and operating history, the LSO is confident that this will not impact adversely on the licensing objectives.

(iii) In addition amendment to the children's policy has been requested to allow for greater access to the hotel for families in an area, where tourism is very

much inter woven with economy. The LSO is of the opinion, that the amended children's policy is compliant with the fifth licensing objective.

(iv) No additional local licencing conditions are recommended.

## **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/INBS/277  
Date: 21 November 2017  
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