

The Highland Licensing Board

Meeting – 27 March 2018

Agenda Item	9.8
Report No	HLB/028/18

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

Boath House, Auldearn, Nairn, IV12 5TE

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Wendy Matheson, Boath House, Auldearn, Nairn, IV12 5TE.

1.0 Description of premises

1.1 Private hotel on the outskirts of Nairn, sitting in 20 acres of woodland, gardens and lawns complete with a trout lake and a restaurant situated within a walled garden.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 2300 hours

Sunday: 1230 hours to 2300 hours

3.0 Summary of variation application

3.1 Variation sought

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

(1) Wish to operate a 20 cover restaurant facility within the walled garden at Boath House, to provide a selection of alcoholic and non-alcoholic beverages.

(2) Change to description of premises to include: "20 seater restaurant situated within walled gardens in the grounds of Boath House."

(3) Add off sales Monday-Sunday from 1000-2200 hours.

(4) Under 5(f) other activities: 'A 20 seater restaurant operating within walled garden offering teas, coffees, soft and alcoholic drinks. A small garden shop also operates within the walled garden.'

4.0 Background

- 4.1 On 24 January 2018 the Licensing Board received an application for a major variation of a premises licence from Wendy Matheson.
- 4.2 The application was publicised during the period 12 February until 5 March 2018 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

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) Boath House Hotel is a well-established country hotel in its own substantial grounds adjacent to the A96 trunk route at Auldearn, Inverness-shire.

(ii) The premises have held an alcohol premises licence since 2009. The premises have been well run and LSO visits have shown the premises to be run in accordance with the terms of their licence.

(iii) Within the grounds is an extensive walled garden which is well visited by guests and visitors throughout the year, primarily during the summer months. As an additional facility the applicants are seeking to establish a small 20 seater tea room/restaurant within the walled garden and offer alcohol sales as an ancillary service to customers. In addition, the applicants have applied to expand the ability within their licence to provide off sales both within the new facility from a small public display and also to guests in the main hotel, where sales will be in response to requests from guests and resourced from a stock room.

(iv) From the track record of the premises, this application causes no problem in respect of the licensing objectives. The capacity of the alcohol display falls well below the threshold for the Licensing Board to consider the matter of overprovision. Acceptable lay out plans for the new restaurant have been submitted.

(v) The description of the premises has been amended in order to reflect these new developments.

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/103
Date: 8 March 2018
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