

The Highland Licensing Board

Meeting – 4 December 2018

Agenda Item	8.7
Report No	HLB/132/18

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

Nethercliffe Hotel, 48 High Street, Wick

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Mervyn J Hill.

1.0 Description of premises

1.1 The premises is a detached hotel in the centre of Wick with garden area to the rear containing a barbecue hut. A premises licence was granted, on transition, on 1 September 2009.

2.0 Current operating hours

2.1 The premises currently has the following operating hours:

On sales:

Monday to Thursday: 1100 hrs to 2400 hrs
Friday to Saturday: 1100 hrs to 0100 hrs
Sunday: 1230 hrs to 2345 hrs

Off sales:

Monday to Saturday: 1100 hrs to 2200 hrs
Sunday: 1230 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 layout plan to increase licensed area to include additional garden ground and barbecue hut;
- (2) delete existing description of the premises and substitute with – “Detached hotel with lounge bar, function suite, dining room and garden containing a barbecue hut;

- (3) remove local condition (e) relating to outdoor drinking area;
- (4) increase on-sales hours Sunday to Thursday to terminate at 0100 hrs the following day and on a Sunday, for on and off-sales, to commence at 1100 hrs;
- (5) add seasonal variation to take advantage of festive extended hours permitted by the Board;
- (6) add to list of activities/services provided during and outwith core hours - restaurant facilities, receptions, music, live performances, films, indoor/outdoor sports, televised sport and outdoor drinking facilities, and during core hours only, gaming.
- (7) replace existing explanation for when activities are available outwith core hours;
- (8) to other activities add barbecues and from time to time a marquee or other temporary structure may be erected in the grounds for functions and events;
- (9) delete existing terms of entry for children and young persons and substitute new terms which remain in accordance with Board policy.

4.0 Background

- 4.1 On 18 October 2018 the Licensing Board received an application for a major variation of a premises licence from Mervyn J Hill.
- 4.2 The application was publicised during the period 26 October to 16 November 2018 and confirmation that the site notice was displayed is awaited.
- 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://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.

5.2 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.

5.3 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.

5.4 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.

5.5 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 premises operate as hotel with lounge bar. The licence was granted on 1 September 2009 with licensed hours for on-sales of 1100 to 2400 hrs daily Monday to Thursday, 1100 hrs to 0100 hrs the following day on a Friday and Saturday and 1230 hrs to 2345 hrs on a Sunday. Off sales hours are 1100 to 2200 hrs daily Monday to Saturday and 1230 to 2200 hrs on a Sunday.

6.2 The licence holder now wishes to extend the operating hours for on-sales to terminate at 0100 hrs daily and, on a Sunday, for on and off-sales to commence at 1100 hrs, and to take advantage of any period of extended hours agreed by the Board for the festive period.

6.3 The applicant has identified an additional area at the rear of the premises as being suitable for use as an extension to the existing outdoor drinking area and in which a barbecue hut has been erected. The area is of sufficient size to accommodate a small marquee or other temporary structure for functions and events and outdoor dining.

- 6.4 The proposed change to the terms of entry for children and young persons remains within Board policy and the applicant is aware of his obligations in respect of protecting children and young persons from harm.
- 6.5 The amendments to the list of activities and services to be provided in operating plan are reasonable and appropriate for this type of business and will allow the licence holder to make a fuller use of the facilities available on the premises.
- 6.6 The description of the premises has been updated to more accurately reflect the business model but does not fundamentally change the historic operating practices.
- 6.7 The licence is currently subject to local condition (e) - After 2100 hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area. In order to permit extended use of the outdoor drinking area for dining and for small events or functions the applicant asks that the condition be removed.
- 6.8 Although the address of the premises is stated as High Street, Wick the hotel occupies a site between High Street and Louisburgh Street on which the main entrance and frontage are located. A private lane extends to High Street from the rear of the premises. Louisburgh Street is primarily a residential area however the location of the outdoor drinking area at the rear of the premises is not generally overlooked by neighbouring properties and the applicant is of the opinion that removal of condition (e) would not have an adverse effect on his neighbours.
- 6.9 I have asked the applicant to prepare a noise management plan which should include a commitment that no amplified live music would be performed in the outdoor drinking area and that controls be in place to ensure that any recorded music would not be played at such a volume so as to cause disturbance to any neighbours.
- 6.10 No representations concerning the removal of the local condition have been received and I have no cause to object to removal of the condition.
- 6.11 I am satisfied that all elements of the application fall within Board policy and that the applicant has given due regard to the licensing objectives. I have no cause to object to the grant of this variation application subject to the undernoted conditions.

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 but remove local condition (e). It is also recommended that the following additional local condition be attached:

- k. The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The premises may remain open until the festive period terminal 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

The Board may wish to consider attaching the following 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 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 or such other time as the Licensing Board may specify.

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 para 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/CSR/0246
Date: 20 November 2018
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