

The Highland Licensing Board

Meeting – 14 May 2019

Agenda Item	9.5
Report No	HLB/053/19

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

The Coach House Bar and Restaurant, The Square, Dornoch

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by The Coach House Bar and Restaurant Limited.

1.0 Description of premises

1.1 The premises currently operate as a public house premises known as the The Coach House Bar and Restaurant. The premises are a traditional stone build with slated roof, located in the central square in the conservation area central to the Royal Burgh of Dornoch. The premises have a commercial garage adjoining (but not included in the area to be licensed). There is a free public car park for approximately 24 cars. The driveway for the premises provides tables which form a smoking area. The ground floor of the premises consists of a public bar area, lounge bar, cellarage, store and male and female toilets. The upper floor consists of a kitchen, restaurant for approximately 54 covers and incorporating a small bar and carvery area with male and female toilets.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Thursday: 1100 hours to 2345 hours
Friday: 1100 hours to 0100 hours the following day
Saturday: 1100 hours to 2345 hours
Sunday: 1230 hours to 2300 hours

Off Sales:

Monday to Saturday: 1100 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. Increase on sales operating hours daily on Sunday to Thursday to 1100 hrs to 0100 hrs the following day and on Friday and Saturday to 1100 hrs to 0300 hrs the following day.
2. Increase off sales operating hours on Sunday to commence at 1100 hrs.
3. Delete current description of premises and substitute "2 Storey premises located in The Square, Dornoch, comprising of public bar and lounge bar on the ground floor, a lounge/bar restaurant/function room on the first floor and an outside drinking area".
4. Add seasonal variation "to take advantage of any period of extended hours agreed by the Board for the festive period".
5. To list of other activities and services during and outwith core hours receptions including weddings, funerals, birthdays, retirements etc, club or other group meetings etc, music, live performances, dance facilities, films, gaming, indoor/outdoor sports, televised sports and outdoor drinking facilities.
6. To Q5(f) other activities charity and fundraising events, theme nights, food and drink fayres, tasting meals, takeaway meals.
7. Amend Children and Young Persons section in accordance with Board policy.
8. Amendment to layout plan to confirm location of outdoor drinking area.

4.0 Background

- 4.1 On 21 March 2019 the Licensing Board received an application for a major variation of a premises licence from The Coach House Bar and Restaurant Limited
- 4.2 The application was publicised during the period 1 April 2019 until 22 April 2019 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 At the time of writing this report, a response from the Scottish Fire and Rescue Service is awaited. A verbal update will be given on the day.
- 4.6 Further to this publication and consultation process, the following timeous notices of objection or representations have been received and are appended:

Objection dated 1 April 2019 from Nigel and Deborah Turnbull.

Objection dated 4 April 2019 from Gavin and Pam Ward.

Objection dated 8 April 2019 from Stuart and Alison Brown.

Objection dated 8 April 2019 from Gordon and Hilary Sutherland.

Objection dated 10 April 2019 from Emily Mackay

Representation dated 11 April 2019 from Yvonne Ross, Chair, Dornoch Community Council.

Objection dated 14 April 2019 from Callum Sutherland.

Objection dated 17 April 2019 from Mark and Valerie Newman.

Objection dated 18 April 2019 from Mr and Mrs David Thompson.

Objection dated 21 April 2019 from Richard and Karen Birnie

Objection dated 18 April 2019 from Dianne Hutchison

- 4.7 The applicant and the objectors 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. 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:-

6.2 The premises, formerly known as The Dornoch Inn operate as a public house which may also serve bar meals. The licence was granted with grandfather rights in September 2009.

6.3 The premises currently have licensed hours Monday to Thursday of 1100 hrs to 2345 hrs, 1100 hrs to 0100 hrs the following day on a Friday, 1100 to 2345 hrs on a Saturday and 1230 to 2300 hrs on a Sunday. Off-sales hours commence at 1100 hrs daily, Monday to Saturday and from 1230 hrs on a Sunday.

6.4 Following their recent purchase of the business the applicant has reviewed the operating plan and seeks to make several amendments to the premises licence so as to operate as "hybrid" premises with late opening on a Friday and Saturday and to increase licensed hours on other days to 0100 hrs the following day.

6.5 As hybrid premises, in terms of the Board policy on late opening premises, a terminal hour of 0300 hrs the following day is sought for hours commencing on a Friday or Saturday.

6.6 I visited the premises and discussed the terms of the Board's policy for late opening premises and, in particular, the requirement that significant facilities will be dedicated to the provision of the entertainment. Arising from that discussion the applicant has decided not to proceed with seeking late opening and now requests that the Board allow the application to be amended to show a terminal hour on each day of the week of 0100 hrs the following day.

6.7 The amended description of the premises is unaffected by removal of the late opening element of the application.

- 6.8 The applicant has identified an outdoor drinking area which is located within an area forming a part of shared access to residential properties. I am aware that some questions have been raised in objections/representations which have been lodged over the use of the shared access, however, I am not aware of any restrictions in terms of the Licensing (Scotland) Act 2005 which would prevent the applicant from making use of the area as an outdoor drinking area.
- 6.9 As the premises are located near to residential properties, I believe it appropriate that a restriction be placed on use of that area for outdoor drinking after 2100 hrs and that no live or recorded music be played or relayed to that area at any time.
- 6.10 As the applicant intends to offer live and recorded music I have asked him to complete a noise management plan and recommend that compliance with the plan be required by a condition to that effect.
- 6.11 Following the public consultation phase of this application a total of 11 written objections were submitted by the owners and occupiers of neighbouring property, together with a submission on behalf of the Community Council.

In summation these responses had common themes which tied into the licensing objectives concerning issues of noise nuisance, anti social behaviour and public nuisance and whilst not against allowing a local business to thrive there were genuine concerns that a total uplift in licensed hours would adversely affect the quality of life enjoyed by those in close proximity to the premises.

As a result LSO Ian Cox, wrote to all the objectors and reserved accommodation within the Council Service Point, Dornoch on Wednesday, 24th April, 2019. Subsequently as a result of the invitations a total of 7 objectors attended and spoke with the LSO. All put forward their concerns but it was also a common theme that they wished the premises to be also given a fair chance, however a full uplift in hours caused concern as there was potential for noise and nuisance on 7 nights of the week. A common position was taken that extended hours on Friday and Saturday was reasonable as peak customer times, but retaining the current hours on Sunday to Thursday was reasonable for a rural town such as Dornoch.

On the same date the LSO met with Mrs Audrey Mackay on behalf of the applicant. Mrs Mackay respected the concerns of the neighbours and undertook to see other members of her family to see if a compromise could be achieved in respect of hours. On Friday, 26th April the LSO contacted Mrs Mackay who informed him that 01.00hrs on Friday and Saturday was acceptable, with the retention of the existing hours Sunday to Thursday.

Sunday opening at 11.00hrs and seasonal variations involving festive extended hours were not issues of contention in this application.

6.12 The other variation sought are reasonable and appropriate for this type of operation and I am satisfied that the applicant has given due consideration to the licensing objectives.

I have no cause to object to the grant of this application as amended.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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 and additional local conditions:

- 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.
- m. After 2100 hrs, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.
- n(i) No live or recorded music shall be played in any outdoor drinking area.

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 1:00 am (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) 5:00 am.
2. A designated person who is the holder of a personal licence must be present on the premises from 1:00 am (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) 5:00 am or such other time as the Licensing Board may specify.

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.
4. All glass disposal will cease between the hours of 2300 hrs and 0800 hrs.
5. All deliveries to the premises will not take place between 2300 hrs and 0800 hrs.
6. During the playing of any live music on the premises doors and windows will require to be closed unless to be opened temporarily to admit or allow the exit of patrons.

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 paras 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/0323

Date: 26 April 2019

Author: L Gunn

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

Appendix: Objection dated 1 April 2019 from Nigel and Deborah Turnbull.

Objection dated 4 April 2019 from Gavin and Pam Ward.

Objection dated 8 April 2019 from Stuart and Alison Brown.

Objection dated 8 April 2019 from Gordon and Hilary Sutherland.

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