

The Highland Licensing Board

Meeting – 3 August 2021

Agenda Item	8.2
Report No	HLB/069/21

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

Benleva Hotel, Kilmore Road, Drumnadrochit, 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 Benleva Hotel Ltd, Kilmore Road, Drumnadrochit, IV63 6UH.

1.0 Description of premises

1.1 Benleva Hotel is over 300 years old and is a former Church Manse. The Hotel is situated ½ mile from the centre of Drumnadrochit village, just a short walk from the shores of Loch Ness in approximately an acre of grounds.

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 to Saturday: 1100 hours to 0100 hours
Sunday: 1230 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. Local Condition(s): A variation is sought to vary the local condition which currently restricts the operating hours for the external licenced outdoor drinking area until 2100 hrs to allow this to operate until 2200 hrs.

2. Operating Plan : The variation is sought to bring into use a number of previously unused bedrooms, increasing the number of bedrooms in the premises from 6 to 11 and for private facilities to be provided in the bedrooms, and to update the recalculated occupancy figure to 263 for the entire premises.
3. Operating Plan : The opportunity is also being taken to slightly amend the current core hours to bring these in line with the Board's existing policy as follows:

Increase on sales opening hours on Sunday to 1100 hrs (previously 1230 hrs).
Increase off-sales opening hours Monday to Sunday to 1000 hrs (previously 1200 hrs - Mon- Sat and 1230 hrs - Sun).

4. Layout Plan: a variation is sought to bring into use a number of previously unused bedrooms and install private facilities.
5. Change of description to read: 'The Benleva Hotel is a small country hotel with 11 letting bedrooms, public bar, lounge bar, dining room and small outdoor beer garden. The building is detached, and situated within its own substantial grounds, in a rural location with residential dwellings nearby.'

4.0 Background

- 4.1 On 28 May 2021 the Licensing Board received an application for a major variation of a premises licence from Benleva Hotel Ltd.
- 4.2 The application was publicised during the period 18 June until 9 July 2021 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, no timeous objections or representations have been received.
- 4.6 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, both the applicant and the objector have been invited to submit a written representation to state their case.

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:-

The Benleva Hotel, is situated within its own grounds in Drumnadrochit. The hotel has held an alcohol premises licence since 2009 and has traded without issue.

(ii) A major variation application has been submitted via an agent to bring the licence up to date following recent refurbishment to the hotel, increasing its number of letting rooms. Accordingly, this extension of accommodation is requested now to be included within the licensed footprint.

(iii) Opportunity is further taken to modernise the premises licence. The current outside area is currently restricted to a 21.00 hours closure, this is requested to be increased until 22.00 hours. In the absence of any current or historical complaints this is seen as reasonable by the LSO.

(iv) On sales hours are requested to increase allowing an 11.00 hours commencement time on Sundays. Off sales hours are now requested to commence at 10.00 hours Monday to Sunday. Both changes comply with HLB policy hours and the Licensing (Scotland) Act 2005, and will not threaten the integrity of the licensing objectives.

(v) During the public consultation phase of this application no objections or representations have been received by the Highland Licensing Board.

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 will continue to apply and it is recommended that the following additional local condition be attached:

- (m) After 2200 hrs, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area. (m) replaces n(i).

8.3 Special conditions

No special conditions are considered necessary.

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 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/INBS/277

Date: 19 July 2021

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