

The Highland Licensing Board

Meeting – 7 May 2024

Agenda Item	8.4
Report No	HLB/43/24

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

The Garth Hotel, 21 Castle Road, Grantown-on-Spey, PH26 3HN

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Amity Hospitality (Grantown-on-Spey) Limited, 28 Wayfarers Drive, Dalgety Bay, Dunfermline, Fife, KY11 9GE.

1.0 Description of premises

1.1 The Garth Hotel is an important cornerstone of Grantown-on-Spey and is centrally situated just a two minute walk to the town square.

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: 1200 hours to 2400 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. Q2 the core licensing hours for consumption on the premises will be amended to 11.00 hrs to 01.00 hrs each day of the week.
2. Q3 of the operating plan the core hours for the sale of alcohol for

consumption of the premises will be amended to 11.00 hrs to 22.00 hrs each day of the week.

3. Q5(c) of the operating plan the answers to Music will be amended to Yes, Yes, Yes.

4. The answer to live performances, dance facilities and gaming will be amended to Yes, Yes, No.

5. The answer to televised sport will be amended to Yes, Yes, Yes.

6. In the expansion box after Q5(e) there shall be added the sentence "The activities to which the answer 'Yes' has been given in column 4 above may be available prior to the commencement of the core licensed hours".

7. Q6(b) the current wording is deleted and there is substituted, therefore, "Children and young persons who are resident in the premises shall be entitled to access the premises at all times. Non-resident children shall be entitled to access the premises provided they are accompanied by a responsible adult over the age of 18 years for the purpose of a meal or light refreshments. Young persons may at management's discretion, be entitled to access the premises unaccompanied".

Q2 the core licensing hours for consumption on the premises will be amended to 11.00 hrs to 01.00 hrs each day of the week.

2. Q3 of the operating plan the core hours for the sale of alcohol for consumption off the premises will be amended to 11.00 hrs to 22.00 hrs each day of the week.

3. Q5(c) of the operating plan the answers to Music will be amended to Yes, Yes, Yes.

4. The answer to live performances, dance facilities and gaming will be amended to Yes, Yes, No.

5. The answer to televised sport will be amended to Yes, Yes, Yes.

6. In the expansion box after Q5(e) there shall be added the sentence "The activities to which the answer 'Yes' has been given in column 4 above may be available prior to the commencement of the core licensed hours".

7. Q6(b) the current wording is deleted and there is substituted, therefore, "Children and young persons who are resident in the premises shall be entitled to access the premises at all times. Non-residents children shall be entitled to access the premises provided they are accompanied by a responsible adult over the age of 18 years for the purpose of the consumption of a meal or light refreshments. Young persons may, at management discretion be entitled to access the premises unaccompanied".

8. Q6(d) the current wording is deleted and there is substituted, therefore, "Children and young persons who are not resident in the premises will require to have vacated the premises by the end of the core licensing hours. Children and young persons who are resident in the premises shall be permitted access at any time".

9. Q6(e) the current wording is deleted and there is substituted, therefore, "Non-resident children and young persons shall have access to all public areas but not to the accommodation parts of the premises.

Children and young persons who are resident in the premises shall be entitled to access all parts of the premises". of the consumption of a meal or light refreshments. Young persons may, at management discretion be entitled to access the premises unaccompanied".

8. Q6(d) the current wording is deleted and there is substituted, therefore, "Children and young persons who are not resident in the premises will require to have vacated the premises by the end of the core licensing hours.

Children and young persons who are resident in the premises shall be permitted access at any time".

9. Q6(e) the current wording is deleted and there is substituted, therefore, "Non-resident children and young persons shall have access to all public areas but not to the accommodation parts of the premises.

Children and young persons who are resident in the premises shall be entitled to access all parts of the premises".

4.0 Background

4.1 On 11 March 2024 the Licensing Board received an application for a major variation of a premises licence from Amity Hospitality (Grantown-on-Spey) Limited.

4.2 The application was publicised during the period 18 March until 8 April 2024 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:

www.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 premises operate as a hotel which occupy a free standing two storey building located at the North end of Grantown on Spey. There is a car parking at the rear of the premises for 72 cars.

The ground floor of the premises consists of a lounge bar, reception area, sitting room, restaurant for 50 covers, and male and female toilets. There are also three bedrooms and a private dining room. There is an external seating/drinking facility outside the premises, adjacent to the entrance which has been used for the last 5 years.

The first floor has 15 bedrooms and a meeting room.

(ii) Application has been made to update the premises licence by way of application for a major variation. The premises currently enjoys the following operating hours for on sales:

- Monday to Thursday: 1100 hrs until 2400 hrs
- Friday & Saturday: 1100 hrs until 0100 hrs
- Sunday: 1200 hrs until 2400 hrs

and the amendment seeks to standardise operating hours to 1100 hrs until 0100

hrs Monday to Sunday.

(iii) The premises currently enjoys the following operating hours for off sales:

- Monday to Saturday: 1100 hrs until 2200 hrs
- Sunday: 1230 hrs until 2200 hrs

and the amendment seeks to standardise operating hours for off sales to

- Monday to Sunday: 1100 hrs until 2200 hrs

(iv) Both amendments sought in respect of on and off sales are within the Highland Licensing Board policy.

(v) Application is sought at Q5 to broaden the range of activities permitted within the operating plan and after Q5 and at Q6 (b) to amend wording to reflect current trading position.

(vi) In summation, the LSO has visited the venue and is of the opinion that none of the proposed changes to the operating plan affect the licensing objectives adversely. The previously operating history of these premises has been very satisfactory.

(vii) Following the public consultation phase of this application two objections/representations were received from owners of nearby properties.

In summation, these objections related to late licence social related issues and increased noise as the main concerns. It would appear that the majority of these issues of late-night noise stem from the outdoor drinking area which is currently permitted until midnight.

Following discussion with Mr Maclver, agent on behalf of the owner, he consulted with his client who confirmed that he was open to a compromise of 2200 hours for the use of the outdoor drinking area to alleviate the concerns of nearby residents with regard to late night noise in the vicinity of the outdoor drinking area.

Following discussion and confirmation of the owners compromise to the complainers, the objections to the application have been withdrawn.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2023-28
- (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 conditions be attached:

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

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/135

Date: 22 April 2024

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