

The Highland Licensing Board

Meeting – 7 May 2024

Agenda Item	8.9
Report No	HLB/48/24

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

Fishmarket Restaurant, Station Road, Mallaig, PH41 4QS

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Partnership of George and Grace Coull.

1.0 Description of premises

1.1 The premises is situated within the village centre of Mallaig and is located at the gable end of a building with neighbouring retail premises.

2.0 Summary of variation application

2.1 Variation sought

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

1) Operating hours :

- (a) Increase opening on-sale hour on Sunday to 1100 hrs (previously 1200 hrs)
- (b) Reduce terminal on sale hours, Monday to Sunday to 2000 hrs (previously 2300 hrs)
- (c) Add provision of off sales: Monday to Sunday from 1000 hrs to 2000 hrs

2) Operating plan :

Add the following activities to take place outwith core licensed hours:-

- Restaurant Facilities
- Music

Remove the following activity from the operating plan:

- Receptions including weddings, funerals, birthdays, retirements etc

3) Capacity:

- Reduce capacity to 44 persons (previously 64 persons)
- Off-sale purchases to be sourced from stock and there is no off-sale display area.

4) Change name of premises from “Fishmarket Restaurant” to “The Fishmarket”.

5) Remove seasonal variation: “During the months of January – February the premises generally close for a variable four week period”.

6) Remove specific condition: “The Licence authorises the premises licence holder to sell alcohol in the said premises to persons taking table meals there, for consumption by such a person as ancillary to his or her meal”.

7) Layout plan:

Replace current layout plan with updated layout plan to reflect new business model.

8) Description of premises:

Update description of premises to reflect proposed modifications to Premises Licence as follows:-

“The Fishmarket is situated within the village centre of Mallaig adjacent to the pier. The premises is located at the gable end of a building with neighbouring retail premises.

The premises comprise of a deli/takeaway with some internal seating to allow customers to consume their takeaway on the premises and have a drink with their food. This business is operated from the ground floor of the premises.

The first floor of the premises is to remain within the licensed footprint as it may be used for extra seating in the future.”

3.0 Background

3.1 On 26 February 2024 the Licensing Board received an application for a major variation of a premises licence from the Partnership of George and Grace Coull.

A Transfer application in respect of the premises has also been lodged by the premises licence holder and is currently being processed, applying to transfer the premises licence to the partnership of Caroline Coull and Philip Geddes.

- 3.2 The application was publicised during the period 29 March 2024 until 19 April 2024 and confirmation that the site notice was displayed has been received.
- 3.3 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.
- 3.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 3.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.6 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

4.0 Legislation

4.1 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.

4.2 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.

4.3 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.

4.4 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.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

1. The premises are situated within the village centre of Mallaig adjacent to the Pier. The premises are located at the gable end of a building with shops next door.
2. The application seeks to change the operation of the premises from that of a 'restaurant' to a 'deli/takeaway' with internal seating being provided to allow customers to consume their "takeaway" on the premises and have a drink with their food.
3. The premises operate from the ground floor of the premises. The first floor of the premises will remain as included within the licensed footprint of the premises as it may be used for extra seating in the future.
4. The application is within Highland Licensing Board policy.
5. The application complies with the licensing objectives.
6. The variation sought is to reflect the updated operating model for the business namely from a dedicated restaurant to that of a deli/takeaway.
7. No objections or representations have been received in respect of this application.
8. The Licensing Standards Officer has no objections to this application.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2023-28
- (2) Highland Licensing Board Equality Strategy

7.0 Conditions

7.1 Mandatory conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

7.2 Local conditions

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

7.3 Special conditions

It is recommended the following special condition replaces the specific condition on the current Premises Licence due to its reference to “table meals” as it was previously operated as a restaurant:-

- This Licence authorises the Premises Licence Holder in respect of ‘on sales’ to sell and allow consumption of alcohol only as ancillary to food purchased and eaten on the said premises while seated.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special condition detailed at para. 7.3 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/RSL/1454
Date: 23 April 2024
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