

HIGHLAND LICENSING BOARD

Minute of the meeting of the **Highland Licensing Board** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 3 September 2024 at 10.00am.

Present:

Dr C Birt, Mr J Bruce, Mr J Grafton, Mrs J Hendry (Convener), Mr S Kennedy, Mr D Macpherson, Mr D Millar, Mr P Oldham, Mr K Rosie

In Attendance:

Ms C McArthur, Clerk to the Board
Mr I Meredith, Solicitor
Mr G Somers, Solicitor
Mr G Cameron, Licensing Standards Officer
Mr E MacKinnon, Licensing Standards Officer
Mr S Campbell, Licensing Standards Officer
Mrs G MacPherson, Committee Officer

Also In Attendance:

Sergeant Paterson, Police Scotland

Item 7.1: Darren Blower, applicant

Item 8.1: Aaron Ross, applicant

Item 10.1: Malcolm Beaton, applicant

Item 11.1: Ayaz Irshad, a director of Royal Hotel Tain Ltd, Andrew Hunter, Solicitor

Item 12.1: Ayaz Irshad, personal licence holder, Andrew Hunter, Solicitor

Briefing on Protocol for Webcasting of Meetings

The Convener advised the Board that the meeting would be filmed and broadcast over the internet on the Highland Council website and would be archived and available for viewing for 12 months.

1. Apologies for Absence Leisgeulan

An apology for absence was intimated on behalf of Ms E Knox.

2. Declarations of Interest Foillseachaidhean Com-pàirt.

There were no declarations of interest.

3. Confirmation of minutes Dearbhadh a' gheàrr-chunntais

There was submitted for confirmation as a correct record the minute of the meeting of the Highland Licensing Board held on 6 August 2024.

The Minutes were held as read and **APPROVED**.

**4. Licensing (Scotland) Act 2005
Licences granted under delegated powers
Achd Ceadachd (Alba) 2005
Ceadachdan a bhuilicheadh fo ùghdarras air a thiomnadh**

There had been circulated Report No HLB/85/24 detailing all Licences which had been granted under delegated powers to the Clerk during the period 25 July 2024 to 21 August 2024.

The Board **NOTED** the Report.

**5. Licensing (Scotland) Act 2005
Occasional licences and extended hours granted under delegated powers
Achd Ceadachd (Alba) 2005
Ceadachdan Corra-uair agus uairean sìnte a bhuilicheadh fo ùghdarras air a thiomnadh**

There had been circulated Report No HLB/86/24 detailing Occasional Licences and Extended Hours Applications which had been granted under delegated powers by the Clerk to the Board during the period 25 July 2024 to 21 August 2024.

The Board **NOTED** the Report.

**6. Chief Constable's Report 2023 to 2024
Aithisg an Àrd-Chonstabail 2023 gu 2024**

There had been circulated the Chief Constable's Annual Licensing Report to the Highland Licensing Board for 2023/2024.

The report included staff updates, statistics and working practices.

Police Scotland proposed to continue partnership working with the Licensing Standards Officers (LSO) and joint initiatives with partners like Trading Standards and the Security Industry Authority. Operation Respect was to continue, which would provide high visibility patrols in the city centre, engaging positively with members of the night-time economy.

Thereafter, the Licensing Sergeant thanked all partners and those in the licensed trade for their continued support and positive working relationships.

The Chair commended the report. It showed the balance that the Police were trying to achieve.

Regarding the Community Alcohol Partnership, it was asked if further areas of Lochaber could be involved and it was confirmed that this would be looked into.

**7. Licensing (Scotland) Act 2005
Application for provisional premises licence
Achd Ceadachd (Alba) 2005
Iarrtas airson ceadachdan thogalaichean le cumha**

7.1 Ref: HC/RSL/2122

Applicant: Cairn Lodges Limited per Gilson Gray, Blenheim Place, Aberdeen, AB25 2DZ

Premises: Cairn Lodges, Morar, Arisaig, PH39 4NT

Type: On sales

There had been circulated Report No HLB/87/24 by the Clerk.

The applicant spoke in support of the application.

The Board **AGREED** to **GRANT** the application for a provisional premises licence subject to the mandatory conditions only.

8. Licensing (Scotland) Act 2005

Application for new premises licence

Achd na Ceadachd (Alba) 2005

Larrtas airson cheadachdan thogalaichean ura

8.1 Ref: HC/RSL/2123

Applicant: Roslin Distillers Limited

Premises: Roslin Distillers Limited, Unit 1A, Lochaber Rural Complex, Torlundy, Fort William, PH33 6SH

Type: Off-Sales

There had been circulated Report No HLB/88/24 by the Clerk.

The Board **AGREED** to **GRANT** the application for a premises licence subject to the mandatory conditions only.

9. Licensing (Scotland) Act 2005

Application for variation (major) to premises licence

Achd Ceadachd (Alba) 2005

larrtasairson Caochladh (Mòr) a thaobh ceadachdan thogalaichean

9.1 Ref: HC/CSR/0363

Applicant: Macdonald & Muir Limited per Harper Macleod LLP, 45 Gordon Street, Glasgow

Premises: Glenmorangie House, Cadboll, Fearn, Tain

Type: On sales

Variation:

1. update the layout plan to showing new public areas outside;
2. update the premises description on the licence;
3. request amendment to local condition (a) to add the words "This condition does not apply to children who are resident on the premises";
4. amend on sales hours to 1100 hrs to 0100 hrs daily;
5. add off sales with hours of 1000 hrs to 2200 hrs daily;
6. add seasonal variation;
7. add bar meals as an activity provided during core hours;

8. add restaurant, receptions, club meetings, music, gaming and outdoor drinks as activities provided during and outwith core hours;
9. add explanation for activities provided outwith core hours;
10. update explanation for other activities provided;
11. update children and young persons policy;
12. amend on sales capacity and add off sales capacity.

There had been circulated Report No HLB/89/24 by the Clerk and a written submission from the applicant's solicitor.

The LSO stated the application planned to bring the premises in line with how the applicant hoped to go forward as a business, and a description of the variation was given.

The Board **AGREED** to **GRANT** the application for a major variation to the premises licence subject to the mandatory conditions and an amendment to local condition (a) as follows:

“the condition does not apply to children who are resident on the premises”

10. Application for personal licence Iarrtas airson ceadachd phearsanta

10.1 Applicant – Malcolm John Cameron Beaton:

There had been circulated Report No HLB/90/24 by the Clerk.

Prior to the meeting, Members were provided with a personal statement from the applicant and a character reference.

The Board heard from the Licensing Sergeant and the applicant spoke in support of his application.

The applicant shared that he would always carry guilt and shame for his actions that evening, but saw this as an opportunity to further his rehabilitation and give back to his community by upholding the licencing objectives and he hoped to help prevent other people from making similar mistakes in the future.

Members appreciated the applicant's remorse and it was said that, from the information given, the applicant had rectified his mistakes.

The Board **AGREED** to **GRANT** the personal licence.

11. Licensing (Scotland) Act 2005 Section 38 Application for review of premises licence Achd Cheadachd (Alba) 2005, Earrann 38 Iarrtasan airson èisteachd ath-bhreithneachail air ceadachd togalaich

11.1 Licence holder: Royal Hotel Tain Ltd.

Premises: Royal Hotel, High Street, Tain, IV19 1AB

There had been circulated Report No HLB/91/24 by the Clerk.

Prior to discussion, the applicant's solicitor provided a significant update to the Board, namely that Mr Parsons, one of the listed directors of the company who held the premises licence and had been the subject matter of the majority of the Police Scotland concerns, had been removed as both director and company secretary of Royal Hotel Tain Ltd. This related to a guilty plea that he had submitted in relation to certain offences.

Thereafter, the Board heard from the Licensing Sergeant who asked the Board to consider the information pertaining to Mr Irshad, also a listed director of the company who held the premises licence, and determine whether he was no longer a fit and proper person to hold the premises licence.

With the incident having taken place in November 2021, concern was raised regarding the length of time taken to provide the information to the Board. It was confirmed that the delay was due to it being sub judice (under judicial consideration and therefore prohibited from public discussion) up until now. The narrative provided played a part in the case against the culprit and could not be legally disclosed until the conviction. Mr Irshad's account of the sale of alcohol to an intoxicated patron was key material in the case against Mr Parsons.

Referral was made to page 8 of the Chief Constable's report from an earlier item and it was asked if any of the set out process used for dealing with concerns at a premises had been used here before or after the offence. The Licensing Sergeant confirmed the process had not been adopted for the premises, but could not speak for her predecessor's decision not to follow the process. However, it appeared an isolated incident and her assumption would be that it was not deemed necessary at that time.

The Board then heard from the applicant's solicitor, Mr A Hunter.

Mr Hunter submitted that the appropriate outcome would be a written warning in relation to the premises licence holder. During his submission, Mr Hunter raised the following points:-

- Mr Parsons was no longer a director of the company;
- if the Board considered that Mr Irshad was not a fit and proper person then the only outcome available would be the revocation of the premises licence, revocation of his personal licence, and by association, revocation of another premises licence for which Mr Irshad was also a director. This was considered disproportionate;
- circumstances relating to Mr Parsons were sub judice but the circumstances in relation to Mr Irshad were not. He had not been charged with any offence for the circumstances of November 2021 so it would have been competent for Police Scotland to bring a review of the premises licence and his personal licence in November 2021 if they considered there to be a significant matter of urgency;
- Mr Irshad started with the hotel in 2015, made director in 2018 and managing director in 2020. He took on a front of house role when a previous manager took the decision to move on from the premises. Mr Irshad applied for, and was granted, a personal licence and he became the manager in 2021;

- notes from the LSO stated Mr Irshad was someone not of concern, approachable, helpful and accepting of advice;
- Mr Irshad accepted he made errors that evening, that he was present when the male arrived and that the male requested alcohol. He initially refused the sale but served him at the request of Mr Parsons. Mr Irshad had assured Mr Hunter that there had been no repeat incident of anything of that order since 2021 and he had learned from his mistakes;
- the body of evidence of nearly 3 years demonstrated that Mr Irshad could be an effective premises manager and could operate premises in a compliant fashion; and
- the only complaint made against Mr Irshad was that he served somebody under the influence of alcohol. He was never charged with an offence, and there had been no further issues of concern.

Mr Hunter submitted that there was no ongoing risk with Mr Irshad as a premises licence holder (nor a personal licence holder) and a director. Further, it was critical to note that it was not an incident that happened because of Mr Irshad. He had made an error with service, but he then closed the bar and went to bed. He had no further involvement in the incident that occurred thereafter.

Mr Hunter provided information regarding the premises itself such as the number of staff and customer base, then summarised his submission. This included that circumstances involving Mr Parsons were far more serious, and had been dealt with in another forum, and the Board were reminded that Mr Parsons had not been in a customer-facing role.

It was asked, with Mr Parsons no longer being a director of the company, if he had given up all connection with the Royal Hotel, Tain, as it was felt, if there were no links at all, then his position shouldn't have any bearing on the future of the premises licence.

Mr Hunter replied that in relation to a physical presence, Mr Parsons resided there along with his family, however it was understood that he had been sentenced to 18 months in prison. Regarding a financial interest, Mr Hunter was not aware whether or not Mr Parsons retained a shareholding. If he did, it was suggested that Mr Parsons seek advice from his own solicitor. From an operational point of view, he had no current involvement and prior to his conviction, his role was only in a back-of-house office based role once a week.

It was asked if it was possible that Mr Parsons could have served more alcohol to the victim after Mr Irshad had closed the bar and gone to bed. Mr Irshad stated he closed the bar and took the keys with him. It was thought if Mr Parsons had provided the victim more alcohol, that would have been seen on the CCTV. The Licensing Sergeant confirmed that CCTV footage showed no further service of alcohol at the bar that evening.

It was asked if, upon his release, Mr Parsons would be able to resume his previous duties with the company. Mr Hunter advised that in order to resume anything, Mr Irshad and one other director would have to make a decision to reappoint him as a director and that would be a matter for them to decide in due course. However, with the review having been brought as a consequence of Mr Parson's actions, Mr Hunter would be tendering advice that it might be unwise.

The correspondence stated that Mr Irshad was the one to serve alcohol and was also present when the victim was smoking cannabis. Mr Irshad served the victim copious amounts of alcohol when the victim was already inebriated (at which point the Police had tried to find him safe accommodation at the premises). It was felt that Mr Irshad was culpable in this matter and it was asked where this left the Licensing Board in terms of the objectives.

Mr Hunter replied that Mr Irshad was not charged with any offence by Police Scotland. It was alleged that he served alcohol to a person that was intoxicated and Mr Irshad admitted it to them. Mr Irshad had instructed Mr Hunter that he had initially refused to serve alcohol to the victim but on the request of a fellow director, he made the (wrong) decision to serve alcohol but that was the extent of his involvement.

It was asked of the LSO if, before the incident and in the 3 years since, there had been any issues with Mr Irshad's conduct as a licence holder and the LSO advised that Mr Irshad had always been a professional and competent premises manager. Mr Irshad always made himself available and communicated well with the Licensing Team. The LSO had no need to speak to Mr Irshad and any compliance visits had always been light touch, as there had been no need for anything else. Mr Irshad had always been the front-facing go-to individual for the premises he directed. The LSO summarised, in his professional opinion, that Mr Irshad was a good premises manager.

The Licensing Sergeant stated it was regrettable that there had been a delay in the information being provided to the Licensing Board regarding Mr Irshad's conduct, however, the decision made at the time by her predecessors was that the information was pertinent to the serious criminal allegation, which of course took precedence.

The Licensing Sergeant was asked who the Police spoke to when booking the victim in to the hotel, and it was said that the victim booked his stay online and Police conveyed him to the hotel as he had no transport. They dropped the victim off, he entered the hotel then checked himself in.

The Police report commented that Mr Irshad's actions were relevant to the licensing objectives, and in breach of them, and it was asked if the Licensing Sergeant agreed with that impression. The Licensing Sergeant agreed.

The LSO was asked if there had been any prior or since breaches of the objectives and the LSO confirmed there had been no other occasions that the Licensing Team had worked with or had knowledge of.

Mr Hunter endorsed that this was a single incident of a failing by Mr Irshad and there was no suggestion that the licensing objectives had not been compromised, but he reiterated that there was nothing in the discussed paragraph in the Police report that couldn't have been raised in November 2021. The fact that no other incident had occurred since November 2021 could not be ignored.

During discussion, the following points were raised:-

- the seriousness of the incident was acknowledged, but it was felt to have been an isolated incident;
- the incident occurred approximately 3 years ago and no other issues had arisen at the premises, as confirmed by the LSO;
- it was felt appropriate to issue a written warning to the licence holder and that anything more would be disproportionate;
- further opinion offered that with Mr Parsons, the perpetrator, apparently having nothing more to do with the hotel, there was no reason to alter the licensing arrangements; and
- in terms of duty of care, and in hindsight, it might have been better had the Police taken the victim inside of the hotel and advised the bar staff that he should not be served any alcohol. Mr Irshad initially did not serve the victim any alcohol but felt under pressure to do so. It should be noted that a lot of alcohol was given to the victim to take upstairs. However, Mr Irshad was not to know what was going to happen and he had no part in what happened in the room.

Mr P Oldham, seconded by Mrs J Hendry, **MOVED** that the statutory grounds for review were established and it would be appropriate to issue a written warning to the licence holder.

Mr S Kennedy moved as an **AMENDMENT** that no action should be taken, however, this was not seconded.

Decision

The Board **AGREED** that:-

- (1) the statutory grounds for review were established, namely grounds relevant to the licensing objectives of preventing crime and disorder and securing public safety; and
- (2) it was necessary or appropriate for the purposes of the licensing objectives (as stated above) to issue a written warning to the licence holder.

The Clerk would draft the written warning letter and circulate to Board members for approval subject to it being issued to the licence holder.

12. Licensing (Scotland) Act 2005 Section 84A Application for review of personal licence Achd Cheadachd (Alba) 2005, Earrann 84A Ath-sgrùdadh air ceadachd phearsanta

12.1 Personal Licence Holder: Ayaz Irshad

There had been circulated Report No HLB/92/24 by the Clerk.

The Board heard from the Licensing Sergeant who reiterated the regrettable fact that it was 3 years after the incident occurred, details of which were discussed in the previous item. Now that Police could legally share the information, she felt it was prudent that the information was shared and all options open to the Board were considered regarding the conduct inconsistent with the licensing objectives.

The Chief Constable's view in the Police report was that a revocation of the personal licence was appropriate and the Licensing Sergeant agreed, however, considering the decision made regarding the premises licence it was asked that the Board consider all options to them, as explained by the Clerk.

Mr Hunter stated that having not determined that Mr Irshad was no longer fit and proper in the context of the premises licence review, it would be a perverse decision to take the view that he was not fit and proper in his personal licence review, given that the facts and circumstances and surrounding information was all the same.

Mr Hunter disagreed with the Licensing Sergeant that the information now brought before the Board could be done so lawfully, and reminded the Board that they heard in the previous item why Mr Hunter felt the information could have been shared before.

Mr Hunter felt that endorsing Mr Irshad's personal licence would be the most appropriate decision, putting forward that it would be consistent in relation to the premises licence review decision.

Mr Irshad took the opportunity at this time to highlight how the incident had affected him. He had faced depression and worry even though he had nothing to do with the crime. Both Mr Irshad, his colleagues at the hotel, and his brothers had faced racial attacks because of the incident. In June 2024, he reported a racial incident to the Police, whereby a warning was issued. In July 2024, both Mr Irshad and his brothers faced further racial attacks and although he received an email from a member of the public offering to be a witness, Mr Irshad declined to report it to the Police as he felt nothing would happen. Mr Irshad and his colleagues continued to face difficulties daily. Mr Irshad said he was sorry that the incident happened, he made a mistake serving the alcohol, but he was not responsible for the crime that occurred after.

The Licensing Sergeant implored Mr Irshad to report any matters to the Police if he or his staff were a victim of a crime. Mr Irshad responded that he had done so previously but felt there had been no further action than him being provided the crime reference number.

The Chair asked Mr Irshad to take up that matter with the Police and empathised with Mr Irshad's experience since the incident but stated that the Board had to make a decision in relation to the licensing objectives.

During discussion, the Board were satisfied with the LSO's assessment of Mr Irshad as a licence holder, and while it was clear that mistakes had been made, a considerable amount of time had passed.

Differing opinions were expressed whereby some felt it appropriate to take some action, namely an endorsement of the licence, but others felt it reasonable to take no further action in terms of Mr Irshad's personal licence.

Questioning was reiterated as to why the Police did not bring the incident to the attention of the licensing authorities before.

It was commented that Mr Irshad was a good licence holder at the Royal Hotel, Tain.

Thereafter, Mr J Grafton, seconded by Mr D Macpherson, **MOVED** that it was necessary in terms of the purposes of the licensing objectives to endorse the personal licence.

Dr C Birt, seconded by Mr S Kennedy, moved as an **AMENDMENT**, that there should be no action taken in relation to the personal licence.

On a vote being taken, the **MOTION** received 6 votes and the **AMENDMENT** received 1 vote, with 2 abstentions. The **MOTION** was therefore **CARRIED**, the votes having been cast as follows:

For the Motion:

Mr J Bruce, Mr J Grafton, Mrs J Hendry, Mr D Macpherson, Mr D Millar,
Mr K Rosie

For the Amendment:

Dr C Birt

Abstentions:

Mr S Kennedy, Mr P Oldham

Decision

The Board **AGREED** that it was necessary to **ENDORSE** the personal licence for the purposes of the licensing objectives, namely preventing crime and disorder and securing public safety.

The meeting closed at 12.10pm.