

The Highland Licensing Board

Meeting – 8 October 2024

Agenda Item	9.1
Report No	HLB/99/24

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

Boath House, Auldearn, Nairn, IV12 5TE

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Cabin Highlands Limited, 64 New Cavendish Street, London, W1G 8TB.

1.0 Description of premises

1.1 Boath House is a private hotel, located on the outskirts of Nairn sitting in 20 acres of luxury woodland, gardens and lawns, complete with a trout lake. The hotel comprises of dining room, lounges, library, bedrooms and a restaurant. The wider grounds are home to a writing studio and artists studio, lodge, café and pergola, all situated within the walled garden in the grounds of Boath House.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 2300 hours
Sunday: 1230 hours to 2300 hours

3.0 Summary of variation application

3.1 Variation sought

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

Q2 - To amend the commencement hour on Sunday to 11.00 hours.

Q2 - To amend the terminal hour to 01.00 hours from Monday to Sunday.

Q4 - To add seasonal variations.

Q5 - To add bar meals, club/group meetings, dance facilities, theatre, gaming, films and televised sport as activities.

Q5 - To add outdoor drinking, bar meals and club/group facilities out with core

hours.

Q5 - To amend the wording at Q5 to read:

"The premises may be open prior to core hours for breakfasts, snacks, coffees etc., and for guest to partake in the activities mentioned above at their leisure, but no alcohol will be sold until the commencement of licensed hours."

Q5(f) - To amend the wording at Q5f to read:

"Beauty therapy is provided on site. A small garden shop operates within the walled garden. The premises may also offer outdoor training programmes, food training programmes, foraging training, art displays and galleries, creative workshops and activities e.g. painting/writing, corporate events, charity nights, wine tasting, charity dinners/auctions and film nights. The grounds of the premises may be used for wedding receptions, photography and other similar events."

Q6(b) - To amend the terms of C&YP access at 6(b) to read:

"There are no restrictions for children staying in the hotel with an adult. Children of non-residents must be accompanied by an adult. Non-resident young persons can be unaccompanied."

Q6(c) To amend the terms of C&YP access at 6(c.) to read

"0-17 years"

Q6(d) - To amend the terms of C&YP access at 6(d) to read:

"There are no restrictions for children of residents. Children of non-residents are allowed to remain until 22.00 hours or until the end of a function when accompanied by an adult. Young persons are allowed to remain until 23.00 hours or until the end of a function."

Q6(e) - To amend the terms of C&YP access at 6(e.) to read:

- "All public areas"

Q7 - To amend the capacity to 120 persons.

4.0 Background

- 4.1 On 17 July 2024 the Licensing Board received an application for a major variation of a premises licence from Cabin Highlands Limited.
- 4.2 The application was publicised during the period 19 August until 11 September 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:

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) Boath House Hotel is a well-established country hotel in its own substantial grounds adjacent to the A96 trunk route at Auldearn, Inverness-shire.

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

- Monday to Saturday: 1100 hrs until 2300 hrs

- Sunday: 1230 hrs until 2300 hrs

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

(iii) There is no bar or bar counter within the hotel and alcohol is currently supplied and will continue to be supplied, from a locked stock room on the ground floor for consumption in the downstairs lounge area. The operators are now seeking to incorporate the entire premises within the licenced footprint to enable the supply of alcohol within other public rooms and the provision of room service to guests, as and when required.

(iv) Within the grounds is an extensive walled garden which is well visited by guests and visitors throughout the year incorporating a small 20-seater tearoom/restaurant which offers alcohol sales as an ancillary service to customers. In addition, the applicants have applied to expand the ability within their licence to incorporate the entire walled garden within the licenced footprint, to enable the supply of alcohol to allow for private functions/weddings and for guests in the main hotel to enjoy a drink outdoors within the confines of the walled garden.

The extent and location of the Hotel and Walled Garden is such that, neighbouring properties will not be adversely affected by operations in either area, hence no specific condition limiting hours of operation has been proposed by the LSO.

(v) The amendments sought in respect of on and off sales are within the Highland Licensing Board policy. Amended layout plans encompassing all changes have been submitted with the application.

(vi) Application is sought at Q5 to broaden the range of activities permitted within the operating plan and at Q5(f) and Q6(b) to amend wording to reflect the operators current trading position and allows flexibility within the operating plan.

(vii) The premises have held an alcohol premises licence since 2009. The premises have been well run and LSO visits have shown the premises to be run in accordance with the terms of their licence.

(viii) 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 and are all within Board policy.

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

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

There are no existing local conditions and it is not considered necessary to attach any.

8.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application.

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/103
Date: 18 September 2024
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