

The Highland Licensing Board

Meeting – 25 February 2025

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| Agenda Item | 10.3 |
| Report No | HLB/15/25 |

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

The Royal British Legion Club, Canalside, Fort Augustus, PH32 4AU

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by British Legion Scotland, Fort Augustus Branch, Canalside, Fort Augustus, PH32 4AU.

1.0 Description of premises

- 1.1 The British Legion is situated on the canal side of Fort Augustus village and is open to members and the public.

2.0 Summary of variation application

2.1 Variation sought

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

1. Live performance to 01.00 hours.
2. The playing of any pre-recorded music by way of jukebox or any other machine to 01.00 hours.
3. Include outdoor drinking area to 21.00 hours.
4. Include bar meals, theatre and films.

3.0 Background

- 3.1 On 16 December 2024 the Licensing Board received an application for a major variation of a premises licence from British Legion Scotland.
- 3.2 The application was publicised during the period 23 December 2024 until 13 January 2025 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 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.
- 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:-

(i) Application is sought at Q5 and Q5(f) to amend and broaden the range of activities permitted within the operating plan and amend wording to reflect current trading position to include bar meals, theatre and films.

(ii) Application is sought to remove the specific conditions currently attached to the licence that: -

(6) Any live performance will be required to cease by 2200 hours.

(7) The playing of any pre-recorded music by way of jukebox or any other machine will require to cease by 2300 hours.

Both conditions were imposed on the licence previously because of a complaint from the then owner of the flats above the premises. The flats are now in the ownership of the premises and are used as staff quarters. Furthermore, the operators have installed new double glazed non opening windows to further mitigate against potential noise nuisance. It is also their intention to continue with the current practice of no more than two live music performances per month. Therefore, the operators are seeking that any live performances or the playing of pre-recorded music by way of jukebox or any other machine be permitted to terminal hour of 0100 hours.

(iii) Application is sought to include an outdoor drinking area to the licensed footprint of the premises. The current outdoor drinking area is situated directly across the road adjacent to the Caledonian Canal and is set up in the same manner as outdoor drinking areas at nearby licensed premises in the same road. The outdoor drinking area has operated successfully on occasional licences for a period of two years, without any adverse issues or complaints from nearby residents.

(iv) The LSO has visited the premises 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.

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

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 it is recommended that the following additional local conditions be attached:

(m) After 2100 hrs, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

n(i) No live or recorded music shall be played in any outdoor drinking area.

(o) The licence holder shall ensure that consumption of drinks (alcoholic or non-alcoholic) in any outside drinking area is permitted only by customers seated at the tables and chairs provided in the outside drinking area and not by customers standing in that area.

(p) The licence holder shall ensure that all outdoor tables are regularly cleared of used glassware, crockery, cutlery and refuse.

7.3 **Special conditions**

Existing special conditions will remain in place.

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. 7.2 and 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/INBS/466
Date: 12 February 2025
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