

The Highland Licensing Board

Meeting – 13 May 2025

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| Agenda Item | 8.1 |
| Report No | HLB/40/25 |

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

Invernairne Guest House, Thurlow Road, Nairn, IV12 4E

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Maximus Orkney Ltd, Invernairne, Thurlow Road, Nairn, IV12 4EZ.

1.0 Description of premises

1.1 The Invernairne is one of the best boutique guest houses in The Highlands and enjoys panoramic sea-views from a beautiful villa steeped in history, with elegant suites and bedrooms. Invernairne is located within the West End of Nairn and in easy walking distance of the Town Centre.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Friday: 1200 hours to 2100 hours
Saturday: 1200 hours to 0100 hours
Sunday: 1230 hours to 2100 hours

3.0 Summary of variation application

3.1 Variation sought

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

1. Amend Company address to match address at 2(b) above.
2. Amend operating time Sunday-Thursday 1100-2400 hours; Friday-Saturday: 1100-0100 hours.
3. Retain seasonal variations and remove current wording within seasonal variation.
4. Q5(a) add restaurant and bar meals.
5. Q5(b) add receptions including (weddings, funerals, birthdays, retirements, etc., and club and other meetings.

6. Q5(c) add music, live performances and dance facilities.
7. Up-dated children and young persons' policy.

4.0 Background

- 4.1 On 14 March 2025 the Licensing Board received an application for a major variation of a premises licence from Maximus Orkney Ltd.
- 4.2 The application was publicised during the period 31 March until 21 April 2025 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, the following timeous notices of objection and representation have been received and are appended:
 1. Dr Sharon Butler Brown
 2. Nairn West & Suburban Community Council
- 4.6 The applicant and the objector/representors have all been invited to attend the hearing. All have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

http://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:-

Application is sought for a major variation to amend and update various aspects of the current licence to reflect the proposed trading activities of the premises moving forward and, as such, the operators are seeking to apply for the following amendments: -

Application is sought for amendments to the current opening time and terminal hour for on sales to add flexibility for future operations without the need to make additional applications to permit the sale of alcohol as follows: -

On Sales - Sunday to Thursday: 1100 hours to 2400 hours
Friday and Saturday: 1100 hours to 0100 hours

Application is sought at Q4 to amend and update the current seasonal variation to allow the premises to take advantage of the Licensing Boards Festive Hours Policy and other occasions as determined by Highland Licensing Board.

Application is sought at Q5 to add a range of activities not previously included in the operating plan to add flexibility and to reflect the proposed future trading model. These activities include at Q5(a) restaurant and bars meals, at Q5(b) receptions including weddings, funerals, birthdays, retirements, etc., plus club and other group meetings, and at Q5(c) music and dance facilities.

The LSO has visited the premises and provided advice and guidance in the compilation of the application. The application and operating plan are compliant with Highland Licensing Board policy.

The LSO is satisfied that should the Highland Licensing Board wish to grant this application then there will be no threat to the licensing objectives.

Following the public consultation phase of this application one objection has been received from a neighbour.

Furthermore, a representation was submitted on behalf of Nairn West and Suburban Community Council informing that they had no objection to the application but requested consideration of conditions being imposed to mitigate any potential late night noise nuisance for neighbours.

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.

8.3 Special conditions

The Board may wish to consider attaching the following special conditions:

(1) The premises licence holder shall ensure adequate supervision of patrons using the curtilage of the premises for smoking, so that no noise nuisance is caused to nearby residents.

(2) All glass disposal operations shall cease between the hours of 2300 hours and 0800 hours.

(3) All live vocals or amplified music will be so controlled after 11pm that it shall be inaudible in nearby residential property.

Late Opening Conditions:

(1) First Aider must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of: -

(a) the time at which the premises next close; and

(b) 0500 hours

(2) A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-

(a) the time at which the premises next close; and

(b) 0500 hours or such other time as the Licensing Board may specify.

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/17
Date: 30 April 2025
Author: Marjory Bain

Appendices: Dr Sharon Butler Brown
Nairn West & Suburban Community Council




REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes or emailed to licensing@highland.gov.uk. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

| | |
|---|--|
| Dr Sharon Butler Brown | |
|  | |
| Telephone Number: |  |
| Email Address: |  |

2. Address of Premises in respect of which objection / representation is made:

| | |
|--|---|
| Invernairne Guest House Thurlow Road Nairn IV12 4EZ |  |
|--|---|

3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

| | | | | | | | | | | | |
|--|----------------------------------|-------------------|----|----------------------------------|----|----------------------|----|-------------------------------|----|----------------|---|
| State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary) | | | | | | | | | | | |
| <table border="1"> <tr> <td>1.</td> <td>Excluded Premises</td> </tr> <tr> <td>2.</td> <td>Off-Sales Hours/24 hour drinking</td> </tr> <tr> <td>3.</td> <td>Licensing Objectives</td> </tr> <tr> <td>4.</td> <td>Activities/Premises/Customers</td> </tr> <tr> <td>5.</td> <td>Over Provision</td> </tr> </table> | 1. | Excluded Premises | 2. | Off-Sales Hours/24 hour drinking | 3. | Licensing Objectives | 4. | Activities/Premises/Customers | 5. | Over Provision | <p>3. Inconsistent with licensing objectives</p> <p>The proposal to extend the alcohol licensing at this premises to midnight Sun-Thursday and 1am Sat-Sun is inconsistent with licensing objectives in several areas. I am concerned that despite the intentions of the owners, any extension to the current licensing terms would cause significant disturbance to local residents' ability to peacefully enjoy their homes.</p> |
| 1. | Excluded Premises | | | | | | | | | | |
| 2. | Off-Sales Hours/24 hour drinking | | | | | | | | | | |
| 3. | Licensing Objectives | | | | | | | | | | |
| 4. | Activities/Premises/Customers | | | | | | | | | | |
| 5. | Over Provision | | | | | | | | | | |

I live with my husband and three children (6, 10, 13) at the detached family home, address provided, across the road from The Invernairne Guesthouse. This is a predominantly low traffic residential area. However, the nature of many of the properties (typically larger older buildings) has led to a small number becoming businesses, typically nursing homes, B&B type accommodation and also larger dinner, bed and breakfast guesthouses such as The Invernairne Guesthouse, The Clubhouse and the West End hotel (formerly Lovat Lodge). Having lived in this property since 2013 we have experienced occasional but significant noise disturbances associated with these businesses. Our objections therefore are realistically based on recent past experiences.

Having experienced no unreasonable level of disturbance on first moving into our home, an apparent change in business model at The Clubhouse Hotel (perhaps around 2014/2015), led to large events such as wedding receptions being held at the site. The result of this was regular noise disturbance, and an increase in intoxicated people in the surrounding streets creating further noise and antisocial disturbance. We understand that complaints were made to the licensing board by a number of local individuals at that time and the situation was eventually resolved.

Following this, more recently, The Lovat Lodge, previously a guesthouse specialising in accommodating those with mobility problems, changed owner becoming the West End hotel. This has been associated with an increase in footfall along Thurlow Road, and an increase in taxis travelling up and down the road late at night. This increased traffic in itself is not beyond tolerance, until considering the impact of alcohol. We have been regularly woken on weekend evenings by drunken singing, shouting and arguing in the street outside our home. On several occasions our children have been woken, disturbed and frightened by these experiences. They have been woken, exposed to drunken adults shouting obscenities at me in front of them, when I have asked if the noise could be kept down.

The Invernairne Guesthouse has changed ownership since we have lived in our home. It was previously a fairly quiet business with patrons tending to arrive and leave within typical business hours. This has largely continued with the change in

ownership, but there have been some changes that have had an impact. There are more cars arriving to and from the gravel car park in antisocial hours. We are often woken by the sounds of activity in the car park, cars driven over the gravel, car doors slamming etc. There is an increase in activity associated with occasional events; the Book & Arts festival, Nairn Games day etc. Overall, this is currently at a tolerable level. However, any escalation of this, we would anticipate being intolerable given our proximity, previous experiences and ongoing experiences associated with The Lovat Lodge/West End Hotel.

It is entirely predictable that increasing the licensing hours will increase footfall in this residential area, increase traffic, increase noise and public disturbance, and as this will occur until beyond midnight/1am (bearing in mind that departures after this time are unlikely to be prompt), this will have a significantly adverse impact on our ability to peacefully enjoy our home. I am extremely concerned about our children's sleep being regularly disturbed after 10pm by the kind of alcohol driven incidents that have already occurred sporadically.

I am also concerned about the disturbance associated with regular events that may occur more frequently as a result of extending the licensing hours. Frequent wedding receptions involving large numbers of intoxicated people would have an extreme impact on our peaceful enjoyment of our home.

We have no objection to infrequent and intermittent extensions of the current licence in keeping with specific local events, but the likely regular disturbance cause by routinely serving alcohol in the proposed extension to the hours would create an unacceptable and persistent nuisance.

4. Location character

Although there are a small number of businesses in this area, it remains a predominantly residential area and this variation in licensing accompanied by the likely consequences of this (detailed above) is entirely out of keeping with the character of the location.

4. **Details of any REPRESENTATION:** (complete only if you wish to make a representation in respect of the application)

| | |
|---|--|
| State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary) | |
| 1. in support of application | |
| 2. seeking an amendment to the operating plan, or | |
| 3. seeking to add additional conditions to the licence | |

Signature



Date... 29/03/2025



Nairn West & Suburban Community Council

[REDACTED]
28 March 2025

Marjory Bain
Highland Licensing Board
Highland Council
Inverness

By email to [REDACTED]

Dear Highland Licensing Board,

We refer to the notification received on 24th March 2025 regarding the major variation in licensing application for Invernairne Guest House in Nairn.

We are pleased to see that the hotel is extending its business offering within the community.

We do not have any issue with the extension of the licensing hours, but we would like the potential late-night outdoor noise nuisance for neighbours from wedding functions and the like to be taken into consideration. We therefore ask that the licensor imposes a reasonable deadline for outdoor parties and music, including on the terrace, and related restrictions, for example, that outside doors from a function room must be closed and no music outside after a certain hour.

Yours sincerely

[REDACTED]
Kevin Reid (chair)