

## The Highland Licensing Board

Meeting – 14 May 2013

Agenda Item	9.6
Report No	HLB/058/13

### Application for major variation of a Premises Licence under the Licensing (Scotland) Act 2005

Frigate, Shore Street, Ullapool, IV26 2UJ

#### Report by the Clerk of the Licensing Board

##### Summary:

REF: HC/RSL/0101

This Report relates to an application for a major variation of Premises Licence.

**Premises:** Frigate, Shore Street, Ullapool, IV26 2UJ.

**Applicant:** Partnership of John Grant and Joanna Munro, Frigate, Shore Street, Ullapool, IV26 2UJ

#### 1.0 Description of Premises

The premises comprise of a two storey terraced building on Shore Street, Ullapool which currently operates as a daytime café, a small fine food shop and as a bistro in the summer evenings.

#### 2.0 Background

The premises are licensed for on sales and were converted under the 1976 Act.

2.1 On 26 March 2013 the Licensing Board received an application for the major variation of the Premises Licence from the applicant.

2.2 The application was publicised during the period Friday 29 March 2013 until Friday 19 April 2013.

2.3 In accordance with standard procedure, Northern Constabulary, Highlands & Islands Fire & Rescue Service, the Council's TEC Services (Environmental Health), Planning and Building Standards were consulted on the application.

Notification of the application was also sent to NHS Highland and to the local Community Council.

No objections or representations have been received. However, Planning Services have submitted a representation stating no planning application has been submitted in respect of the outdoor drinking area.

### **3.0 Legislation**

3.1 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 premises are excluded premises;
2. the grant of the application will be inconsistent with one or more of the licensing objectives; having regard to;  
(i) the nature of the activities 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, if the Board considers the premises are unsuitable for the sale of alcohol.
3. having regard to the number and capacity of licensed premises of the same or similar description in the locality, the Board considers that if the application were to be granted, there would, as a result, be over provision of licensed premises of that description in the locality.

3.2 The Board has power where, if they would refuse the application as made, but if a modification is proposed by them and accepted by the applicant, the application can be granted as modified.

### **4.0 Summary of Application**

The applicant seeks the following variations:-

- (1) Change on-sales Monday to Saturday to 1100 hrs until 0100 hrs the following day and, on a Sunday, to 1200 hrs until 2400 hrs.  
(Currently 1100 hrs until 2300hrs Monday to Saturday and, on a Sunday, 1200 – 1430 hrs and 1830 to 2300 hrs.)
- (2) Removal of seasonal variation
- (3) Amend activities and services to be provided during and outwith core licensed hours to include restaurant facilities, receptions, music, live performances, indoor sports, televised sports, outdoor drinking facilities, charity and fundraising events, quiz nights, wines and spirits tasting, cookery demonstrations, barbecues and special events in connection with cruise ship visits.
- (4) Amend children and young persons' terms of entry
- (5) Amend description of premises.
- (6) Alterations to layout to include an outdoor drinking area within the rear courtyard.

- (7) Removal of special condition restricting the sale of alcohol only when food is available.

## **5.0 Policies**

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) Schedule of Local Conditions
- (iv) Highland Licensing Board combined Equality Scheme.

## **6.0 Licensing Standards Officer's Comments**

**6.1** The applicant premises are a food orientated business which operated with a refreshment licence under the Licensing (Scotland) Act 1976 and maintained that style of operation following transition.

**6.2** The applicant now seeks to vary the licence to maximise the potential of the business in line with customer expectation while retaining an emphasis on the provision of food. The premises will not operate as a public house in the traditional sense.

- (1) The variation referred to at 4.1 is for hours falling within Board policy.
- (2) The removal of the seasonal variation will allow all year round operation in support of local, tourist and cruise ship trade.
- (3) The proposed services and activities are appropriate for this style of business.
- (4) The amendments to the wording of the children and young persons' terms of entry are in line with Board policy. Unaccompanied children may be permitted on the premises until 1800 hrs at the discretion of management for the consumption of snacks or meals. Such children will be excluded from the vicinity of the servery.
- (5) The description of the premises is amended to reflect the new style of operation.
- (6) A courtyard to the rear of the premises has been identified as suitable for outdoor drinking and dining. The courtyard is overlooked by residential properties and the imposition of a curfew on outdoor drinking may be required.
- (7) The special condition relating to the sale of alcohol only to take place when food is available was imposed to reflect the original operation of the premises as a refreshment place. Removal of the condition is appropriate subject to the grant of the variation.

## 7.0 Suggested Conditions:

It is suggested that the existing list of local conditions be removed and the under-noted conditions from the Board list of local conditions be imposed in line with the harmonisation of local conditions.

- a. Children under the age of 16 are excluded from any room where there is a bar counter after 10.00 pm except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.
- b. Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises when not in the bar areas.
- c. Notwithstanding conditions (a) and (b) children must not sit at or remain at the bar counter at any time.
- g. After 2100 hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.
- j. Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.

## 8.0 Objections / Representations

I have no objections nor wish to make representations in respect of this application.

### **Recommendation**

That the Board is invited to determine the above application and suggested local conditions as detailed at paragraph 7.0 above.

Designation: Clerk of the Highland Licensing Board  
Reference: HC/RSL/0101  
Date: 30 April 2013  
Author: Catherine MacLennan/David Inglis

Background Papers: The Licensing (Scotland) Act 2005 /Application Form  
Schedule of Local Conditions.