

The Highland Licensing Board

Meeting – 11 June 2013

Agenda Item	8.3
Report No	HLB/073/13

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

Morven House Guesthouse, 70 Novar Road, Alness

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence in respect of Morven House Guesthouse, 70 Novar Road, Alness lodged by M & J Quinney t/a Morven Guesthouse.

1 Description of Premises

The premises are currently a bed and breakfast/guesthouse with six bedrooms, self-catering cottage, lounge and dining room. Alcohol is only sold to guests as on-sales.

1.1 Current Core Operating Hours

On-Sales:

Mondays to Thursdays – 1100 hrs to 2200 hrs

Fridays and Saturdays – 1100 hrs to 2300 hrs

Sundays – 1200 hrs to 2400 hrs

2 Summary of Variation Application

- 2.1
- a) Increase on-sales hours to Monday to Saturday 1100 hrs to 0100 hrs the following day. (Currently 1100 hrs to 2200 hrs Monday to Thursday and 1100 to 2300 hrs Friday and Saturday).
 - b) Add restaurant facilities, conference facilities, receptions, club meetings, music and dance to the list of activities and services to be provided during core hours. The restaurant and conference facilities may be available outwith core hours.
 - c) Amend description of the premises to include a small garden centre within the grounds.
 - d) Amend layout plans to include the location of the garden centre.

- e) Removal of special local condition restricting sale of alcohol to residents only.
- f) Minor amendments to the wording of the children and young persons terms of entry in accordance with Board policy.

3 Background

- 3.1 The premises are licensed for on-sales and were granted a premises licence on 12 June 2012. On 27 March 2013 the Licensing Board received an application for a major variation of the premises licence from the licenceholder.
- 3.2 The application was publicised during the period 17 April to 8 May 2013.
- 3.3 In accordance with standard procedure, Police Scotland, Highlands & Islands Fire & Rescue Service, the Council's TEC Services (Environmental Health), Planning, Building Standards were consulted on the application.

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

- 3.4 An objection was received on 26 April 2013 from Brian W McNair on behalf of himself and Martin Graham, Carolanne McGroarty, Nicole Lennan, June Stewart, William Stewart, Mary Cormack and Elaine Harper.

4 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, if the Board considers the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;
3. having regard to the number and capacity of (i) licensed premises of the same or similar description as the subject premises (taking account of the proposed variation), in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be over provision of licensed premises or licensed premises of that description in the locality.

4.2 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.

5 Licensing Standards Officer's Comments

5.1 The applicants' premises currently operate as a guesthouse catering predominantly for residents but they now seek to vary the operating plan for the premises to allow small receptions and associated activities to take place during and outwith core licensed hours and to increase the core hours to accommodate those activities which are to be available for non-residents.

5.2 A small garden centre is also to be operated within the grounds and the description of the premises requires to be varied to include that element of the business.

5.3 The licensed hours applied for are within policy and the proposed activities and services are reasonable and appropriate for this type of business.

5.4 The applicant has stressed that provision of accommodation for visitors will remain the core business and non-residents are only likely to be on the premises to attend social functions, for dining or for light refreshments or snacks following a visit to the garden centre. There is no dedicated bar room on the premises although there is a service counter within the dining room.

5.5 I discussed noise management issues with the applicant and am satisfied that he is aware of his responsibilities to neighbours and will take all possible reasonable steps to prevent nuisance.

5.6 Letter of Objection from Local Residents

5.7 On Tuesday 14 May 2013, with the agreement of the Clerk to The Highland Licensing Board, I met with Mr Brian McNair and some other residents who were signatories to his letter of objection. The objection was on the grounds of inconsistency with the licensing objectives, in particular those of the prevention of crime and the prevention of public nuisance, although that was not made clear in the letter.

5.8 The premises are situated in their own grounds and the licensed area extends over the whole property. A pedestrian lane linking the Kirkside housing estate to Novar Road separates the hotel from the objector's homes on the south side of the property.

5.9 In terms of the formula for identifying neighbours to be notified of any relevant licensing application, only 2 residents, including Mr McNair, reside within 4 metres of the boundary of the premises.

5.10 The premises formerly held a licence under the Licensing (Scotland) Act 1976. The licence was not renewed at transition and the premises closed. I understand that the local residents had cause to complain about noise and

other nuisances prior to its closure. Many of the matters referred to in the letter of objection relate to that period when the premises appeared to have operated as a *de facto* public house frequented by customers from the neighbouring estate who accessed the premises through a gate from the pedestrian lane.

- 5.11** I discussed the concerns raised and addressed some matters of misunderstanding. In particular I was able to confirm for them that there was no bar room or bar counter on the premises and that the capacity for the premises was a maximum of 68 persons including residents and that the facilities were only appropriate for small scale receptions rather than large functions which would have been of concern for the objectors.
- 5.12** One specific matter raised in the letter related to possible access to the premises from the pedestrian lane which runs between the rear of the residential properties and the boundary wall of the premises. The gate leading to the hotel has been bricked up for some time and the applicant has confirmed to me that the gate will not be reinstated. The only access to the premises is by the driveway leading from Novar Road.
- 5.13** The objectors stated that they would support conditions to restrict music on the premises to 2300 hrs and restrict the use of the outdoor drinking area to 2100 hrs. There is currently no restriction on the time for use of the outdoor drinking area.

6 HLB Local 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 Equality Strategy

7 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

The Licensing Standards Officer does not recommend any local conditions for these premises but the undernoted conditions are available to the Board following consideration of the letter of objection:-

(g) After 2100 hrs (*or other such time as may be specified by the Licensing Board*) alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.

(k) Any music or live performance will cease at 2300 hrs (*or other such time as may be specified by the Licensing Board*)

Recommendation

The Board is invited to determine the above application and consider whether they wish to impose the proposed local conditions detailed in paragraph 7.2. If the Board are minded to impose any of the local conditions, they are requested to specify times.

Designation: Clerk to the Licensing Board
Reference: HC/CSER/1623
Date: 22 May 2013
Author: G Sutherland

Background Papers: The Licensing (Scotland) Act 2005/Application Form.

Appendix: Letter of representation from Brian W McNair

BRIAN WILLIAM MCNAIR
209 KIRKSIDE
ALNESS
ROSS-SHIRE
IV17 0RH

Dear Sir/Madam

I wish to object against the application for a drinks licence to 01.00 am mon to sat by the morven House Hotel in Alness. My reasons for objections are as follows:- I stay directly facing the hotel and I know from previous experience that the loud music, people shouting and fighting that this type of licence would undoubtedly cause disruption to me as all my bedroom windows face the Hotel. I am also concerned that the owner at some point may reopen the entrance directly outside my house where we used to get customers leaving and shouting, fighting, breaking glass, putting cans in my garden and urinating in my garden. Since every person in my house is up at 6 am in the morning for work I feel this would be unacceptable, may I also make a point that no other establishment in Alness including the Commercial Hotel which is an entertainment establishment has got a licence to 1 am mon to sat and I don't believe that any place wanting to hold a function needs to open until ~~until~~ 1 am. I would also like to object to the outside drinks area as when we do have a day off

we enjoy sitting in our garden with a little peace and quiet. We don't want to hear large groups of people drinking, shouting, swearing. May I also point out that this Hotel is in a built up area surrounded on all sides by houses and I think it is impractical to expect people to put up with this type of disruption. ~~is~~ enclosed is the names of other local people who disagree with this application.

Your gratefully

Hear are the names of other people who disagree with the application for a drinks licence to 1am mon to sat.

NAME	ADDRESS
MARTIN GRAHAM	192 KIRKSIDE ALNESS
Caroline McGroarty	213 KIRKSIDE ALNESS
NICOLE LENNAN	212 KIRKSIDE ALNESS.
JUNE STEWART	214 KIRKSIDE ALNESS
WILLIAM STEWART	210 " " " "
MARY CORMACK	208 " " " "
ELANE HARPER	191 KIRKSIDE ALNESS