

**The Highland Licensing Board**

**Meeting – Tuesday, 5 November 2013**

Agenda Item	<b>11.13</b>
Report No	<b>HLB/138/13</b>

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

**Skipinnish Ceilidh House, Rear of 23 High Street, 13 Middle Street, Fort William**

**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 Skipinnish Ceilidh House, Rear of 23 High Street, Middle Street, Fort William.

**1.0 Description of Premises**

1.1 The Skipinnish Ceilidh House is situated within the town centre area of Fort William with the main entrance from Middle Street and an additional entrance from the pedestrianised High Street. There is commercial property on either side with residential property and a hotel opposite the Middle Street entrance. Middle Street runs parallel to High Street and both are covered by CCTV.

The major variation application seeks to revise the description of the premises with regard to when the premises operate as a Late Night Entertainment venue. In addition to Discotheques, the premises also seek to offer other forms of significant entertainment including DJ Nights, Live Bands, Cover Bands and Traditional Ceilidhs.

**1.2 Current Core Operating Hours**

The premises currently enjoy the following operating hours:

**On-Sale:**

Monday to Wednesday: 1800 hours to 0100 hours  
Thursday to Saturday: 1800 hours to 0200 hours  
Sunday: 1300 hours to 0100 hours

**Off-Sale:**

Monday to Saturday: 1800 hours to 2200 hours  
Sunday: 1300 hours to 2200 hours

## 2.0 Summary of Variation Application

### 2.1 Variation Sought

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

- 1) Remove Local Condition relating to all drinks being served in plastic when operated as Late Opening Premises.
- 2) Increase Core Terminal Hour on Thursday, Friday and Saturday evenings from 0200 hours to 0300 hours.
- 3) Revision of Seasonal Variation to include Board's Festive Policy.
- 4) To include Indoor Sports as an activity taking place during core hours within the premises.
- 5) To include Club or other Group Meetings, both during and prior to core opening hours.
- 6) To permit Music, Live Performances and Dance Facilities to take place prior to core opening hours but no earlier than 0900 hours.
- 7) Update Children's Policy to permit Young Persons unaccompanied prior to 2200 hours.
- 8) Substitution of Premises Manager.
- 9) Revised layout of the premises to include additional bar counter where hot food will also be served.

## 3.0 Background

3.1 On 24 September 2013 the Licensing Board received an application for a major variation of a Premises Licence from MSM Highland Limited.

3.2 The application was publicised during the period 27 September 2013 until 18 October 2013 and confirmation that the site notice was displayed has been received.

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.

3.3 A location plan identifying the premises is attached as Appendix A.

3.4 A timeous *representation* to the application was received from:

- Fort William Community Council on 18 October 2013 (attached as Appendix B).

A timeous *notice of objection* to the application was received from:

- Shergill Enterprises Ltd, t/a Best Western Imperial Hotel on 17 October 2013 (attached as Appendix B(i)).

3.5 The applicant, objector and a representative from Fort William Community Council have been invited to attend the Hearing.

#### **4.0 Legislation**

##### **4.1 Late Opening Premises**

The Late Opening Mandatory Conditions apply to late opening premises pursuant to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. These premises are defined in the Regulations as premises, the capacity of which, is at least 250 people and which:-

- (a) will regularly provide at any time in the period between 1:00 am and 5:00 am–
  - (i) live or recorded music with a decibel level exceeding 85dB;
  - (ii) facilities for dancing; or
  - (iii) adult entertainment, or
- (b) when fully occupied, are likely to have more customers standing than seated.

They do not include, however, premises which have as their primary function the service of food, or which include, or are part of larger premises which include, at least 6 letting bedrooms, or in respect of which a licence under section 12 of the Theatres Act 1968(1) or section 1 of the Cinemas Act 1985(2) is in force, or which are, or are part of, an art gallery.

4.2 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.

4.3 The Board has only power to either grant the application and make a variation of the conditions to which the licence is subject or, refuse the application.

If the Board refuses 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.

## 5.0 Licensing Standards Officer

The LSO has provided the following comments:-

- The applicant seeks to remove the local condition in relation to drinks being served in plastic or polycarbonate after 2100 hours. This is in line with the policy adopted by the Board on 1 October, 2013. There have been no incidents within the premises to suggest that removal of this condition would have an adverse effect on the management of the premises. The applicant has intimated that at times, based on their house policy and risk assessment, drinks will be dispensed in polycarbonate. They will ensure that glass is collected on a regular basis.
- The additional hours applied for on Thursday, Friday and Saturday evenings until 0300 hours are within the Board's existing and new policy adopted by the Board on 1 October, 2013 in relation to Late Opening Premises.
- The current Premises Licence states that the music level will not exceed 85db and when fully occupied there is likely to be more customers standing than seated.
- The capacity detailed within the current Premises Licence is less than 250, namely 175 persons.
- The applicant seeks to include within the Seasonal Variation section of the Operating Plan, a statement permitting the festive policy as agreed by the Board, negating the requirement to submit application by way of extended hours. The applicant accepts the requirement to notify the Board and the Police of any proposed dates to be utilised within the required period.
- The additional activities sought are reasonable and appropriate for the type of operation of the premises
- The premises are considered to be a suitable environment for children and young persons and the proposed amendment to the children's policy is in line with the Board's policy.
- From the layout plan submitted, the variation complies with the required specifications. The proposed additional bar counter will also provide hot food and seeks to relieve any congestion at the existing bar counter.
- The description of the premises has been updated to reflect the proposed variation.
- The premises are members of Lochaber Pubwatch and attend meetings regularly.
- The Premises has been visited on several occasions and found to be

compliant in observing the requirements of the Licencing (Scotland) Act 2005. However, in May of this year, an issue was raised in relation to the noise of patrons exiting via the Middle Street entrance at the termination of core hours. The management addressed this issue by dispersing patrons via the High Street entrance of the premises. To date, I have not been made aware of any further issues in this regard.

- There would not appear to be any matter contained within the application that is inconsistent with the Licensing Objectives and the premises are considered suitable for use for the sale of alcohol in accordance with the proposed application.

## **6.0 HLB Local Policies**

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours (Appendix C attached)
- (ii) Highland Licensing Board Policy Statement 2013-16
- (iii) Schedule of Local Conditions
- (iv) 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 Late Opening Conditions**

The Mandatory Late Opening Conditions are currently attached.

### **7.3 HLB Local Conditions**

As a consequence of the Licensing Board's new Policy Statement 2013-16, it may be appropriate to remove all existing Local Conditions and substitute with the following:

- A. Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours 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.

- C. Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.
- G. Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.
- H. Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.
- I. Any music or live performance will cease at 0245 hours.
- J. After 2200 hours, when the premises is operating as Late Opening Premises, the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.
- N. The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.
- O. On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 2200 hours.
- Q. The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The Premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.

#### 7.4 **HLB Special Conditions**

As a consequence of the Licensing Board's new Policy Statement 2013-16, it may be appropriate to remove all existing Specific Conditions and substitute with the following:

- All glass disposal operations shall cease between the hours of 2300 hours and 0800 hours the following day.
- All Live vocals or amplified music will be so controlled after 2300 hours that it shall be inaudible in nearby residential property.
- Any under 18 event will be run according to the rules and conventions of Blue Light Disco's and with the approval of Police Scotland.

## 7.5 Specific Condition

In light of the objection received from the Shergill Enterprises (Appendix B(i)), the Licensing Board may wish to attach the following specific condition:

- at the termination of core hours patrons should leave the premises via the High Street entrance of the premises.

### Recommendation

The Board is invited to determine the above application and give consideration to:

- (i) Updating the existing Local Conditions as referred to at para. 7.3 of the report;
- (ii) If the Board are minded to grant the application as outlined at para. 2.1, in addition to the Mandatory, Late Opening and Local Conditions, consideration be given to attaching the proposed Special Conditions as referred to at Para 7.4 and the Specific Condition as referred to at para. 7.5 of the report;

or

- (iii) If the Board are 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.

Designation: Clerk to the Licensing Board

Reference: HC/RSL/1570

Date: 22 October 2013

Author: AMK:ET/JT

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

Appendices: (A) Location Plan

(B) Representation from Fort William Community Council

(B)(i) Objection from Shergill Enterprises

(C) HLB Policy on Hours



RECEIVED

17 OCT 2013

CHIEF EXECUTIVE OFFICER  
LICENSING

### 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. 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:**

Shergill Enterprises Ltd T/a Best Western Imperial Hotel	
Telephone Number:	
Email Address:	[REDACTED]

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

Skipinnish Ceilidh House, Rear of 23 High Street, Fort William
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**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)	
1. Excluded Premises	No 3 Licensing Objectives. Shergill Enterprises own and operate the Best Western Imperial Hotel in Fort William. The premises in question are a very short distance from the hotel. The hotel already suffers from noise and antisocial behaviour at weekends from customers frequenting Skipinnish Ceilidh House (the premises in question), This has resulted in a large number of complaints from guests occupying rooms at that side of the hotel. To extend the hours to 3.00am would only increase the public nuisance value affecting the comfort of our guests visiting the area and staying at the hotel.
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives	
4. Activities/Premises/Customers	
5. Over Provision	



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: 17/10/2013

MEAN WILPIN

Area & Operations Manager SGE Hotels