

The Highland Licensing Board

Meeting – 4 February 2014

Agenda Item	11.2
Report No	HLB/015/14

Application for a Major Variation of Premises Licence under the Licensing (Scotland) Act 2005

Bogbain Farm, Bogbain of Inshes, Inverness IV2 5BD

Report by the Clerk to the Licensing Board

Summary

REF: HC/INBS/281

This Report relates to an application for a Major Variation of Premises Licence.

Premises: Bogbain Farm, Bogbain of Inshes, Inverness IV2 5BD

Applicant: Northern Roots Events Ltd, per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ

1 Description of Premises

Currently an On and Off Sales premises situated approximately 3 miles south of Inverness on the A9, Bogbain Farm is an exclusive use venue which is hired out for weddings, parties, functions, festivals, concerts and fayres.

1.1 Previous Core Operating Hours

On Sales:

Mon-Thurs 11.00 hrs to 23.00 hrs

Friday 11.00 hrs to 01.00 hrs

Saturday 11.00 hrs to 00.30 hrs

Sunday 12.00 hrs to 24.00 hrs

Off Sales:

Mon-Sun. 10.00 hrs to 22.00 hrs

2 Summary of Variation Application

2.1 Variation Sought

Operating Plan:

1. On Sales hours amended to allow: Monday - Sunday 11.00 hrs to 01.00 hrs.

2. Remove Off Sales.

3. Add Seasonal Variation: 'The premises shall seek to operate any period of extended hours offered by the Highland Licensing Board such as festive extensions'

4. Add conference facilities and outdoor drinking facilities to the list of activities.

5. Remove indoor/outdoor sports from the list of activities.
6. Replace any other activities in 5(f) of the operating plan with: 'Corporate and charity events, product launches, photo shoots, music videos; music festivals, Inverness whisky festival, fayres'.
7. Amend Children and Young Persons policy to permit entry to young persons and children at any time provided they are accompanied by an adult.

Layout Plan:

8. The premises now comprise a Bar (named The Byre) Barn and Bothy.
9. Former gift shop and cafe now part of the Bothy.
10. The male and female toilets have been swapped.
11. The Barn has been added to the footprint of the licence.
12. An outside seating and grassed area have been added to the footprint of the licence.
13. The Bar counter has been relocated and a desk introduced (both within the Byre).

Description:

14. Amended to: 'situated approximately 3 miles south of Inverness on the A9, Bogbain Farm is an exclusive use venue which is hired out for weddings, parties, functions, festivals, concerts and fayres.'

3 Background

- 3.1 On 3 December 2013 the Licensing Board receipted an application for a Major Variation of a Premises Licence on behalf of the applicant, Northern Roots Events Ltd.
- 3.2 The Board has advertised the application on the Council's website for a period of 21 days and the applicant has to display the Notice on site for the same period (9 December to 30 December 2013). Confirmation of display of the site notice has been received.
- 3.3 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, The Council's TEC Services (Environmental Health) and Planning and Building Standards were consulted on the application.

Notification and a copy of the application have been sent to NHS Highland, and the local Community Council.
- 3.4 Notice of the application has been sent to and all the people listed under S21(1) of the Act.
- 3.5 No objections have been received in respect of the application.

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. That 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. 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

Bogbain Farm formerly operated as a Heritage Centre, combining educational, sporting and fun activities, with dining facilities, a farm shop and gift shop. This application seeks to develop the use of the premises to now provide an exclusive use venue which is hired out for weddings, parties, functions, festivals, concerts and fayres.

Application is made to alter the core hours to Monday to Sunday 11.00am to 1.00am. Off Sales will no longer be operated.

The premises will seek to automatically gain entitlement to extended hours dispensations granted by the Highland Licensing Board, by inserting a stock phrase to this effect at the Seasonal Variation section of the Operating Plan. The applicant accepts the local condition requiring relevant dates on which extended hours will be operated to be notified to the Licensing Board and Police (Scotland).

Within the Activities Section of the Operating Plan, conference facilities and outdoor drinking area are added to the list of activities; indoor and outdoor activities are removed from the permitted activities.

Section 5(f) of the Operating Plan has been amended to reflect the new usage of the premises with the text; “Corporate and charity events, product launches, photo shoots, music videos, music festivals, Inverness whisky festival, fayres”.

The Children and Young Persons Policy has been amended to allow children and young persons entry to the premises at any time provided they are accompanied by a responsible adult. This is seen as reasonable in light of the proposed new use of the premises. Appropriate local conditions will apply and have been accepted by the applicant.

Various changes to the Layout and use of the Premises have been incorporated within revised Layout Plans. None of these changes cause any issue in respect of the licensing objectives. The principal changes being the creation of a bar area from the former gift shop and café, an outside drinking area and the incorporation of a barn area within the licensed premises footprint.

The premises is 3 miles south of Inverness on dedicated farm land with no residential property close by. Several folk concerts and festivals have already been held without issue or public complaint.

The application is within current policy and the premises are suitable for the sale of alcohol in line with the amended Operating Plan.

6.0 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 combined Equality Scheme

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

a).Children under the age of 16 are excluded from any room where there is a bar counter after 22.00hrs 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. (Licensing Objective 5).

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. (Licensing Objective 5).

c).Notwithstanding conditions(a) and(b) children must not sit or remain at the bar counter at any time.(Licensing Objective 5)

d) On the occasion of any advertised Music Festival, throughout the Licensing hours applicable to the day or days of the Festival alcoholic or non-alcoholic drinks shall be served in plastic or polycarbonate glasses. (Licensing Objectives 1, 2, 3 and 4).

q). The Licence Holder shall submit to the Board and to Police (Scotland) prior to 1st 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 Festive 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 Northern Constabulary in accordance with this condition.(Licensing Objectives 1 and 2).

7.3

Late Opening Local Conditions

The following shall apply on any occasion on which the Premises are open after 0100 hrs.

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (on any day on which the premises are open at that time) until whichever is the earlier of:
 - (a) the time at which the premises next close, and
 - (b) 0500 hrs.
2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (on any day on which the premises are open at that time) until whichever is the earlier of:
 - (a) the time at which the premises next close, and
 - (b) 0500 hrs

8 Recommendation

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/281

Date: 3 December, 2013

Author: Wendy Grosvenor

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

Licensing Board Policy Statement from 1 December 2013 to 30 November 2016