

**The Highland Licensing Board**

**Meeting – 4 February 2014**

Agenda Item	<b>11.4</b>
Report No	<b>HLB/016/14</b>

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

**Foyers House, Foyers, Loch Ness Inverness IV2 6XU**

**Report by the Clerk to the Licensing Board**

**Summary**

REF: HC/INBS/087

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

**Premises:** Foyers House, Foyers, Loch Ness Inverness IV2 6XU

**Applicant:** Brenda Ellis Foyers House, Foyers, Loch Ness Inverness IV2 6XU

**1 Description of Premises**

Detached private hotel set in extensive grounds in an elevated position overlooking Loch Ness

**1.1 Previous Core Operating Hours**

**On Sales:**

Monday to Saturday 11.00 hrs to 23.00 hrs

Sunday 12.30 hrs to 23.00 hrs

**2 Summary of Variation Application**

**2.1 Variation Sought**

1. Hotel dining room to be open to non-residents. Amendment to children's policy.
2. Seasonal Variation to allow extended hours at Hogmanay.
3. Permit live music as an approved activity.
4. Increased capacity to allow non-resident diners.

**3 Background**

- 3.1 On 16 December 2013 the Licensing Board receipted an application for a Major Variation of a Premises Licence on behalf of the applicant, Ms Brenda Ellis.

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 (23 December to 13 January 2014). Confirmation display of the of 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**

Foyers House is a small country House Hotel which has in the past sold alcohol only to guests who have secured accommodation on the premises thereby securing a Category 1 tariff in relation to payment of annual fees.

The premises have an established clientele and have a trouble free operating history.

Application has now been made to allow the premises to attract off street trade as there is a market within this rural location for self-catering holiday makers to take table meals at the Hotel. As a consequence the Children's Policy is amended to allow non-resident children access.

Live music is now sought as an approved activity within the Operating Plan. The detached nature of the premises will avoid any noise nuisance. In addition the capacity of the premises is increased to reflect the number of persons who can fully occupy the dining area of the Hotel, as opposed to formerly where capacity was based solely on the number of residents the Hotel accommodated.

Lastly the Applicant wishes by way of a seasonal variation to be allowed to annually claim extended hours on Hogmanay in line with extended Hours which may be offered by the Board. The Applicant accepts the local condition requiring notification to the Licensing Board and Police (Scotland).

## **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 22.00 hrs 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).

### 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/087

Date: 6 January 2014

Author: Wendy Grosvenor

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

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