

The Highland Licensing Board

Meeting – 4 February 2014

Agenda Item	11.9
Report No	HLB/022/14

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

The Alexander Bain, Market Place, Wick

Report by the Clerk to the Licensing Board

Summary

Ref: HC/CSER/1020

Premises: The Alexander Bain, Market Place, Wick

Applicant: J D Wetherspoon (Scot) Ltd per Brunton Miller

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

1.0 Description of Premises

1.1 The premises was granted a premises licence on 27 January 2009 effective from 1 September 2009. The premises are located in the Town Centre of Wick in an area of primarily commercial usage.

1.2 Current Core Operating Hours

On Sales:

Monday to Saturday 1100 hrs to 0100 hrs

Sunday 1200 hrs to 2345 hrs

Off Sales:

Monday to Saturday 1000 hrs to 2200 hrs

Sunday 1200 hrs to 2200 hrs

2.0 Summary of Variation Application

- 2.1
1. Variation to On Sales Hours: Sunday 1100 hrs to 0100 hrs
 2. Variation to Off Sales Hours: Sunday 1100 hrs to 2200 hrs
 3. Amend children and young persons policy to allow, at the discretion of the management, unaccompanied young persons to be on the premises for consumption of a meal.
 4. Add seasonal variation – “During the Festive period, as defined by Highland Licensing Board, the premises will operate additional hours for the sale of alcohol in accordance with the said Board’s policy in that regard”.

3.0 Background

3.1 On 20 November 2013 the Licensing Board received an application for a major variation of a Premises Licence by the applicant.

3.2 The Board has advertised the application on the Council's website for a period of 21 days and the applicant had to display a Notice on site for the same period.

3.3 In accordance with standard procedure, Police Scotland, Scottish Fire and Rescue Service, the Council's Environmental Health, Planning and Building Standards were consulted on the application.

Notification and a copy of the application have also been sent to NHS Highland and to the local Community Council.

3.4 A notice of the application has been sent to all the people listed under S21(1) of the Act.

3.5 No objections have been received in respect of the application.

4.0 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.

5.0 Licensing Standards Officer's Comments

5.1 The variations applied for are all in accordance with Board policy.

5.2 I have no cause to make any objection to the grant of this variation.

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

As a consequence of the recent changes in Board policy it may be appropriate to remove all existing local conditions and to substitute the under-noted conditions from the adopted list of local and special conditions.

The premises outdoor drinking area is authorised by a pavement permit. Wick town centre is within the boundary of a byelaw prohibiting consumption of alcohol in public places otherwise than when authorised by a premises licence.

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 2200 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.
- 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 or remain at the bar counter at any time.
- e. After 2100 hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.
- k. Within 30 minutes of the conclusion of permitted hours for any outside

area governed by a Pavement Permit, all tables and chairs, parasols and other moveable furniture will be removed.

- m. The licence holder shall ensure that all outdoor tables covered by a Pavement Permit are regularly cleared of all used glassware and crockery.
- 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.

7.3 Late Opening Local Conditions

The following shall apply on any occasion that 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 when 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.

Recommendation

The Board is invited to determine the above application and the proposed local conditions and late opening local condition(s) detailed at para(s). 7.2 and 7.3 above noting that the application for variation is within the policy adopted by the Board on 1 October 2013 as the Board's new policy for 1 December 2013 to 30 November 2016.

Designation: Clerk to the Licensing Board
Reference: HC/CSER/1020
Date: 10 January 2014
Author: Iona Cook

Background Papers: The Licensing (Scotland) Act 2005/Application Form
Appendix: None