

The Highland Licensing Board

Meeting – 4 February 2014

Agenda Item	11.15
Report No	HLB/028/14

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

The Old Inn, Carbost, Isle of Skye, IV47 8SR

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 The Old Inn, Carbost, Isle of Skye, IV47 8SR.

1.0 Description of Premises

The Old Inn is a detached 18th century building operating as a bar, restaurant and small hotel. Five rooms are located in an adjacent building with an additional room located at the rear. The premises have an outside smoking area at the side as well as a patio at the rear.

1.1 Current Core Operating Hours

The premises currently enjoy the following operating hours:

On Sales:

Monday to Friday: 1100 to 0100
Saturday: 1100 to 0030
Sunday: 1230 to 2330

Off Sales:

Monday to Saturday: 1100 to 2200
Sunday: 1230 to 2200

2.0 Summary of Variation Application

2.1 Variation Sought

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

(1) Increase the commencement hour for On Sales and Off Sales on Sunday from 1230 to 1100 hours;

- (2) Increase the terminal hour for On Sales on Saturday and Sunday to 0100 hours (currently 0030 hours on Saturday and 2330 hours on Sunday);
- (3) Update Seasonal Variation so that premises are open all year round;
- (4) Change of Premises Manager.

3.0 Background

- 3.1 On 10 December 2013 the Licensing Board received an application for a major variation of the Premises Licence from the Licence holders, Spencer Smith and Angus Cooper.
- 3.2 The application was publicised during the period 18 December 2013 and 8 January 2014.
- 3.3 In accordance with standard procedure, Police Scotland, Scottish Fire and Rescue Service, the Council's TEC Services (Environmental Health), Planning and Building Standards were consulted on the application.

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

- 3.4 No objections or representations 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 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 increase in core hours applied for is within the policy hours of the Highland Licensing Board;
- the premises are considered suitable for use for the sale of alcohol in accordance with the proposed variation;
- there would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.

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) Highland Licensing Board Equality Strategy
- (iv) Schedule of Local Conditions

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

As a consequence of the Licensing Board's new Policy Statement 2013-16, in addition to the existing Local Conditions, it may be appropriate to attach the following condition: -

- 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 **Mandatory Condition – Late Opening Premises**

When the premises are operating as Late Opening Premises ie. the Festive Policy, then the following mandatory condition will apply:

1. A person trained to the satisfaction of the Licensing Board in administering First Aid must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours

7.4 **HLB Special Condition**

When the premises are operating as Late Opening Premises ie. the Festive Policy, then the following condition will apply:-

1. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours.

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. 7.2 of the report;
 - (ii) If the Board are minded to grant the application as outlined at para. 2.1, in addition to the Mandatory and Local Conditions, consideration be given to attaching the proposed Mandatory Late Opening Premises Condition referred to at 7.3 of the report and the Special Local Conditions, referred to at para. 7.4 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/1302

Date: 9 January 2014

Author: AHM/CN

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