

**The Highland Licensing Board**

**Meeting – 4 February 2014**

Agenda Item	<b>11.16</b>
Report No	<b>HLB/029/14</b>

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

**The Old School Restaurant, Dunvegan, Isle of Skye, IV55 8GU**

**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 School Restaurant, Dunvegan, Isle of Skye, IV55 8GU.

**1.0 Description of Premises**

The Old School Restaurant is on the main road passing through the village of Dunvegan. It is a detached building comprising of a restaurant and owner's accommodation. The front garden is used for an outside eating area. Private parking is available.

**1.1 Current Core Operating Hours**

The premises currently enjoy the following operating hours:

**On Sales:**

Monday to Saturday: 1100 to 2300  
Sunday: 1230 to 1430 and 1830 to 2300

**2.0 Summary of Variation Application**

**2.1 Variation Sought**

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

- (1) Increase the On Sales hours on a Sunday to 1100 to 0100 hours (currently 1230 to 1430 and 1830 to 2300 hours);
- (2) Increase the terminal hour on Monday to Saturday to 0100 hours (currently 2300 hours);
- (3) Addition of Off Sale hours - Monday to Sunday - 1000 to 2200 hours;
- (4) Remove Seasonal variations;
- (5) Additional activities – club or other group meetings and music;
- (6) Activities outwith core hours – conferences, restaurant facilities, club or other group meetings, music and outdoor drinking facilities;

- (7) Additional activities – charity fundraisers and music events;
- (8) Children will be permitted to the restaurant unaccompanied until 1800 hours and thereafter must be accompanied by an adult. Children will be permitted accompanied by an adult to the lounge bar until 2200 hours or the termination of a meal, private function or live entertainment. Young persons will be permitted unaccompanied.
- (9) Increase capacity of premises from 80 to 140 persons;
- (10) Removal of specific condition of alcohol only being sold as an ancillary to a meal;
- (11) Amend description of premises to reflect addition of lounge bar;
- (12) Amend layout plan – (a) increase the premises footprint by extending the restaurant to include a lounge bar area from existing private dwelling; (b) remove existing servery in the main dining room and replace with a bar counter in the lounge bar; (c) addition of new liquor store adjacent to the kitchen/lounge bar.

### **3.0 Background**

- 3.1 On 17 December 2013 the Licensing Board received an application for a major variation of the Premises Licence from the Licence holder, John MacKenzie.
- 3.2 The application was publicised during the period 23 December 2013 and 13 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 were received in respect of the application but Planning and Building Standards have advised that consents will be required from them in respect of the proposed works. Therefore, they have no objection in principle subject to the conditions contained in the Planning Permission/Building Warrant being met and the Applicants obtaining a completion or temporary use certificate. The Applicants have given a written undertaking that they will apply for the appropriate consents.

### **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 off-sale hours applied for are within the policy hours of the Highland Licensing Board;
- the increase in core hours applied for is within the policy hours of the Highland Licensing Board;
- the additional activities sought are reasonable and appropriate for the type of operation;
- 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 policy of the Highland Licensing Board;
- The layout plan submitted complies with the required specifications;
- the description of the premises has been updated to reflect the proposed variation;
- 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) 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 Local Conditions**

If the application is approved, it is recommended that the following local conditions be attached:

- 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) Children must not sit or remain at the bar counter at any time.

#### **Recommendation**

The Board is invited to determine the above application and the proposed local conditions detailed at paragraph 7.2 above.

Designation: Clerk to the Licensing Board

Reference: HC/RSL/0788

Date: 14 January 2014

Author: AHM/CN

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