

## The Highland Licensing Board

Meeting – 1 April 2014

Agenda Item	10.2
Report No	HLB/041/14

### Application for a Provisional Premises Licence under the Licensing (Scotland) Act 2005

Peet's Restaurant, Culag Square, Lochinver, IV27 4LE

#### Report by the Clerk of the Licensing Board

##### Summary

This Report relates to an application for a Provisional Premises Licence for Peet's Restaurant, Culag Square, Lochinver, IV27 4LE

#### 1.0 Background

- 1.1 Peet's Restaurant is a mid-terraced single storey bed and breakfast premises with restaurant and associated facilities providing accommodation for up to 6 persons in three rooms and 40 covers in the restaurant. There is to be an outdoor drinking area to the front of the premises. Alcohol will be sold to guests accommodated on the premises and to persons making use of the facilities provided in the restaurant. The premises do not have a bar counter.
- 1.2 On 19 February 2014 the Licensing Board received an application for the provisional grant of a Premises Licence from the partnership of Kirkaig Foods Ltd in respect of Peet's Restaurant, Culag Square, Lochinver.
- 1.3 The application was publicised during the period 21 February to 14 March 2014. A timeous notice of objection to the application was received on 13 March 2014 from Kenneth Whalen, a copy of which is appended.
- 1.4 In accordance with standard procedure, Police Scotland, Scottish Fire & Rescue Service, the Council's TEC Services (Environmental Health) and Planning and Building Standards were consulted on the application.

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

No objections or representations have been received from these agencies.

- 1.5 The applicants and the objector have been invited to attend the meeting.

## **2.0 Legislation**

- 2.1 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 premises are excluded premises;
2. the grant of the application will be inconsistent with one or more of the licensing objectives; having regard to;  
(i) the nature of the activities 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 the sale of alcohol.
3. having regard to the number and capacity of licensed premises of the same or similar description in the locality, the Board considers that if the application were to be granted, there would, as a result, be over provision of licensed premises of that description in the locality.

- 2.2 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.

## **3.0 Summary of Application**

The applicants seek the following **on-sale** hours:-

Monday to Sunday:            1100 hours to 2400 hours

## **4.0 Policies**

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) The Highland Licensing Board Equality Strategy
- (iv) Schedule of Local Conditions

## **5.0 Licensing Standards Officer**

The LSO has provided the following comments:-

- 5.1 The applicant intends to operate a guesthouse accommodating up to 6 persons and a 40 cover restaurant with facilities for other activities and services including an outdoor drinking area.
- 5.2 The application is for on sales only and there is no bar counter on the premises.

5.3 The licensed hours applied for are within policy for on sales premises and the activities or services to be provided are appropriate for such a business.

5.4 A condition restricting the use of the outdoor drinking area after 2100 hrs may be appropriate because of the premises' relative proximity to residential properties.

## **6.0 Conditions**

### **6.1 Mandatory Conditions**

If the application is approved the Mandatory Conditions set out in Schedule 3 of the Act will apply.

### **6.2 Local Conditions**

e. After 2100 hours alcoholic and non-alcoholic drinks shall not be consumed in an outdoor drinking area.

### **6.3 Special Condition**

1. Whilst within the restaurant part of the premises all children and young persons must be in the company of, or supervised by, an appropriate responsible adult after 2000 hrs. This condition does not apply to children and young persons who are resident on the premises.

## **Recommendation**

The Board is invited to determine the above application and the proposed local/special condition detailed at paragraph 6.2 and 6.3 above.

Designation: Clerk of the Highland Licensing Board

Reference: HC/CSER/1697

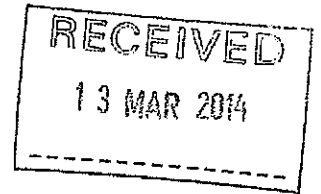
Date: 18 March 2014

Author: L Gunn

Background Papers: The Licensing (Scotland) Act 2005

Appendix: Objection from Kenneth Whalen, Culag Hotel, Lochinver

# CULAG HOTEL



Clerk to the Licensing Board  
The Highland Council  
Council Offices,  
Main Street,  
Golspie  
KW10 6RB

K F Whalen,  
CULAG HOTEL,  
LOCHINVER,  
SUTHERLAND,  
IV27 4LQ  
UK.

12<sup>th</sup> March 2014

Dear Sirs,

## **Pete's Restaurant – Licencing application**

I refer to the above application and enclose an extract from your letter on this application duly completed with our comments for rejection.

In support of our objection we would like to comment that our reservations are on the grounds that at present in the small village of Lochinver there are already some "five On Sales" premises and "two number Off Sales" shops/supermarkets. We consider that this level of provision is clearly able to cater for the local trade, the summer season tourist trade and also the commercial fishermen who have been using the port facilities for some years now. There are also a number of other unlicensed food outlets and social venues which cater for tourist trade within the village and surroundings.

In view of the above we believe that the Licenced provision applied for providing some 40 covers and external seating will be overprovision, this will have an adverse effect on the policies of the Licensing Scotland Act 2005 in that not only will this provision not assist in reducing consumption, it will also encourage external drinking.

Should this application be deemed acceptable and consideration is given to awarding a Licence, we would also take note that it is the Applicant's intention to provide outside tables and chairs on what we can only presume is the existing private car parking. Should this be the case then we would be very concerned as to the effect that guests and other users of the facility will have on existing local residents. If there are some 40 covers then there could be a significant increase in vehicle parking requirements which will inevitably result in far greater kerb-side parking, a situation that the new occupiers have already started. You will appreciate from the submission that this accommodation is at the entrance to what is still a busy commercial fishing port and any restriction in available road-surface may well have significant effect on the safety of this access.

We would take this opportunity to bring to your attention that the footpath on the boundary of this property provides the only pedestrian access to not only the port, but the Highland Council offices and also the Village Sports and Community Centre. Accordingly the perceived change of emphasis from a quiet B&B serving food with limited footfall becoming a somewhat busier venue, could pose a hazard to the lorries, other vehicles and pedestrians, and would not be in the best interest in protecting and improving public health.

As you will see from our address, we are the owners of the almost adjacent Culag Hotel, and whilst we are not keen on having commercial residential property adjacent, we would see no problem with the new owners operating a conventional B&B, even one which provides meals. But this application for a licence would appear to compromise our belief in the new owners' formal application for change of use.

Should you require any clarity or explanation then you can contact me on 01571 844270 or email [ken.whalen@btconnect.com](mailto:ken.whalen@btconnect.com).

Yours truly,

K.F. Whalen



RECEIVED  
13 MAR 2014

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE  
APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

**1. Full Name and Address of person making objection/representation:**

KENNETH F WHALEN      CULAG HOTEL, THE PIER LOCHINVOX, SUTHERLAND IV27 4LQ	
Telephone Number:	01571 844 270
Email Address:	ken.whalen@btconnect.com

**2. Address of Premises in respect of which objection / representation is made:**

PEET'S RESTAURANT, CULAG, LOCHINVOX IV27 4LE
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**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. Excluded Premises	✓ ✓ ✓
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives	
4. Activities/Premises/Customers	
5. Over Provision	

**4. Details of any REPRESENTATION:** (complete only if you wish to make a representation in respect of the application)

<b>State details of any representation (refer to representation by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. in support of application	✓
2. seeking an amendment to the operating plan, or	
3. seeking to add additional conditions to the licence	

Signature:..

..... Date...12.3.2014.....