

The Highland Licensing Board

Meeting – 13 May 2014

Agenda Item	8.5
Report No	HLB/064/14

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

The Frigate, Shore Street, Ullapool, IV26 2UJ.

Report by the Clerk to the Licensing Board

Summary

REF: HC/RSL/0101

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

Premises: The Frigate, Shore Street, Ullapool, IV26 2UJ.

Applicant: Partnership of John Grant and Joanna Munro, The Frigate, Shore Street, Ullapool, IV26 2UJ.

1 Description of Premises

The premises are a two storey terraced building on Shore Street, Ullapool comprising of a bar, servery area, family and activities section and dining area with an additional dining area on the first floor. There is also an outdoor drinking and dining area to the rear of the premises.

1.1 Existing Core Operating Hours

On Sales:-

Monday to Saturday – 1100 hrs to 0100 hrs

Sunday – 1200 hrs to 2400 hrs

Off Sales:-

No current provision.

2 Summary of Variation Application

2.1 Variation Sought

1. Variation to on-sales hours to commence at 0900 hrs Monday to Saturday.
2. Include off-sales hours from 1000 hrs to 2200 hrs Monday to Saturday and 1200 hrs to 2200 hrs on Sunday.
3. Include seasonal variation.
4. Variation to other activities to include bar meals and gaming during and outwith core hours.

3 Background

- 3.1 On 28 March 2014 the Licensing Board received an application for a major variation of a premises licence from the Partnership of John Grant and Joanna Munro, The Frigate, Shore Street, Ullapool, IV26 2UJ.
- 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 (02 April 2014 to 23 April 2014), confirmation of display 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 A letter of observation in relation to the application was received from Police Scotland which is attached as Appendix 1.

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. that 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, if the Board considers the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;
 3. that 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

The applicant premises are a food orientated business which operated with a refreshment licence under the Licensing (Scotland) Act 1976 and maintained that style of operation following transition and a premises licence variation granted in 2013

The applicant now seeks to vary the licence to include earlier opening for the sale of alcohol to take advantage of opportunities for early custom from tourists, visiting cruise ships and ferry traffic while retaining an emphasis on the provision of food. The premises do not operate as a public house in the traditional sense.

The variation referred to is for early opening hours in terms of the Board policy for food-led operations however the applicant seeks to maintain his existing terminal hour of 0100 hrs the following day, Monday to Saturday, a continuous period of 16 hours and out with the Board's current policy on continuous periods during which alcohol may be sold. The applicant is aware of the Board policy on the matter and has submitted additional information in support of the application.

There are 14 on-sales licensed premises in Ullapool.

One premises has licensed hours from 0900 hrs to, generally 0100 hrs the following day as granted in 2009 on transition.

The majority of premises in Ullapool operate with a terminal hour, for the most part of the week, of 0100 hrs the following day.

Off-sales of alcohol will be dispensed from the stock room. Generally, off-sales hours for on-sales premises will commence at the start of on-sales hours and no earlier than 1000 hrs. If the variation to commence on-sales hours from 0900 hours is not proceeded with, off-sales hours commencing at 1000 hrs may not be appropriate in the absence of any separate off-sales section.

The proposed additional services, bar meals in addition to the existing restaurant facilities and gaming as an activity to be carried out on the premises are appropriate for this type of operation. However gaming is not permitted other than times during which sales of alcohol are allowed. The applicant now wishes to amend the application to remove gaming out with core hours and asks that the Board accept the late amendment.

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 Local Conditions

In accordance with current Board policy it would be appropriate to retain existing local conditions and, subject to consideration of the variation to commence licensed hours from 0900 hrs -

f (1). Premises opening for the sale of alcohol for consumption on the premises prior to 1100 hours shall have available a selection of hot and cold food and shall advertise this within the premises, **or**

f (2). Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals.

and

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.

7.2 Late Opening Premises 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 hours (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

1. The applicant asking to remove outwith core hours for Gaming.
2. Optional conditions if 0900 hrs is granted.
3. Change to off-sales hours if 0900 hrs is not granted.

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/RSL/0101

Date: 25 April 2014

Author: AHM/CM

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

Licensing Board Policy Statement from 1 December 2013 to November 2016

Appendix 1: The Frigate, Shore Street, Ullapool – observation from Police Scotland

8 April 2014

Your Ref: HC/RSL/0101
Our Ref: NE3774/14

REC
13 APR 2014



Clerk to the Highland Licensing Board:
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14 APR 2014

Dear Sir

**HIGHLAND LICENSING BOARD – ROSS, SKYE AND LOCHABER DIVISION
APPLICATION: VARIATION
APPLICANT: PARTNERSHIP OF JOHN GRANT & JOANNA MUNRO
PREMISES: THE FRIGATE, SHORE STREET, ULLAPOOL IV26 2UJ**

I refer to correspondence of 1 April 2014 and can advise that there are Police observations in relation to this application:

Observation – the commencement hour of 0900 hours applied for, retaining the 0100 hour terminal hour, would afford the premises a continuous trading period of 16 hours which is outwith board policy i.e. that any continuous period during which alcohol may be sold does not exceed 14 hours.

Yours sincerely

12 Alasdair Macleod
Chief Inspector
Divisional Co-ordination Unit

DIVISIONAL
CO-ORDINATION UNIT
- 8 APR 2014