

The Highland Licensing Board

Meeting – 3 February 2015

Agenda Item	8.3
Report No	HLB/014/15

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

Wee Puffin, 15 High Street, Grantown on Spey PH26 3EG

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of a Premises Licence by Paul Giles Richard Sandford, 24 Dulaig Court, Grantown on Spey PH26 3QQ, per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ

1.0 Description of Premises

Bar/diner on the ground and basement floors of a terraced building in a central location within Grantown on Spey with a residential flat on the upper floor.

2.0 Current Operating Hours

On Sales

Monday to Sunday 1000 hours to 2400 hours

3.0 Summary of Variation Application

- 3.1
 1. Remove the local condition which requires that alcohol be sold and supplied only to persons partaking of table meals on the premises.
 2. Include off sales from 10.00 hrs to 22.00 hrs Mondays to Sundays. Off sales will be sourced from a secure room.
 3. Amend activities:
 - a. to include restaurant facilities before the commencement of the core on sales hours under explanation that the premises will open before 10.00 hrs daily for breakfasts, morning coffees and the like.
 - b. to include receptions, club meetings and recorded music facilities before the commencement of the core on sales hours.
 - c. to include televised sport both during and before the commencement of core on sales hours;
 - d. to include gaming during core on sales hours under explanation that the premises may offer poker style entertainment in accordance with Gambling Commission guidelines.
 4. Under Seasonal Variations amend to allow the premises to take advantage of Board policy hours with regard to festive extensions.

5. Replace current description of the premises as follows:
'Bar/diner on the ground and basement floors of a terraced building in a central location within Grantown on Spey with a residential flat on the upper floor'.

4.0 Background

4.1 On 16 December 2014 the Licensing Board received an application for a major variation of a Premises Licence from the applicant's agent, Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ.

4.2 The application was publicised during the period 22 December 2014 to 12 January 2015 and confirmation that the site notice was displayed has been received.

4.3 No notices of objection to the application or representations have been received.

4.4 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, the Council's Community Services (Environmental Health), Planning, Building Standards were consulted on the application.

No objections or representations have been received from these consultees.

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

5.0 Legislation

5.1 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, 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.

5.2 The Board only has power either to grant the application and make a variation of the conditions to which the licence is subject or to 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.

6.0 Licensing Standards Officer

The Wee Puffin has operated as a restaurant /bistro on the High Street in Grantown on Spey since obtaining an alcohol premises licence on 13 August, 2014.

The LSO has visited the premises and found it to be well run and compliant with the operating plan approved by the Board.

Application has been made to remove the current Local Licensing Condition applicable to the licence that alcohol will be sold and supplied only to persons partaking of table meals on the premises. The current policy statement in respect of premises seeking “early hours” is;

“These are premises at which the sale of alcohol is ancillary to the provision of food and is only sold to persons taking table meals.”

This effectively prohibits solely ‘wet’ sales with no accompanying meal which is what is asked for in the application. This fact has been brought to the attention of the applicant and their agent and it is believed by the LSO that at the Board meeting there may be a motion to amend the application to seek more conventional licensed hours commencing from 11.00hrs.

Also within the application is a request to allow restaurant facilities to be operated prior to licensed hours to allow early morning food provision for breakfasts and the like, this in the view of the LSO would complement the premises operation and cause no problem in respect of the Licensing Objectives.

Further activities contained within Section 5 of the operating plan are requested to be operated before licensed hours namely, receptions, club meetings and recorded music and televised sport. This is to assist the premises having flexibility over aspects of their operation and again the LSO foresees no adverse impact on the Licensing Objectives.

Gaming is requested as an approved activity to allow the playing of poker on occasion on the premises; again this is likely to be a seldom used ancillary activity but allows the applicant the flexibility of providing it should it be asked for.

Section 4 of the operating plan concerning seasonal variations is now asked to be worded to allow the premises to take advantage of periods of extended hours granted over the Festive period. The applicant is accepting of the Local Condition requiring Licensing Board and Police notification.

Off Sales are requested to be sold, which should not infringe the Licensing Objectives.

The Board are asked if the existing Specific Condition should be dis-applied.

7.0 HLB Local Policies

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Statement 2013-16
- (ii) Highland Licensing Board Equality Strategy

8.0 Conditions

8.1 Mandatory Conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

8.2 Local Conditions

Local Condition Q requires to be added:

Q) The licence holder shall submit to the Board and to Police Scotland, prior to 1st 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 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 (Licensing Objectives 1 and 2).

8.3 Specific Condition to be dis-applied:

Existing specific condition: 'Alcohol shall only be sold and supplied to persons partaking of table meals on the premises' to be dis-applied.

Recommendation

The Board is invited to determine the above application and the local and specific conditions recommended at paragraphs 8.2 and 8.3

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.

Reference: HC/INBS/554

Date: 16 January 2015

Author: Wendy Grosvenor

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