

## The Highland Licensing Board

Meeting – 3 February 2014

Agenda Item	8.4
Report No	HLB/015/15

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

**Skiing Doo Restaurant, Myrtlefield Centre, Grampian Road, Aviemore PH22 1RH**

### Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of a Premises Licence by Caledonia Catering Ltd, 135 Culduthel Road, Inverness, IV2 4EF, per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4EF.

#### 1.0 Description of Premises

The premises consist of two storeys, comprising cafe bar restaurant on upper floor. On lower storey a substantial bar area and outside rear door and small outside drinking area. Both floors connected by public services.

#### 2.0 Current Operating Hours

##### On Sales

Monday to Saturday 1200 hours to 0100 hours  
Sunday 1200 hours to 2400 hours

##### Off Sales

Monday to Sunday 1200 hours to 2200 hours

#### 3.0 Summary of Variation Application

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

1. Amend core on sales hours to allow the premises to open from 11.00 hrs to 01.00 hours daily.
2. Amend core off sales hours to allow the premises to open from 11.00 hrs to 22.00 hours daily.
3. Add in seasonal variation to allow the premises to take advantage of Board policy hours for festive and other extensions.
4. Add in to the list of activities bar meals, live performances (as an occasional low-key facility), receptions, club or other group meetings, televised sports, gaming.

5. In 5(g) add: 'The premises may open as an unlicensed facility earlier than the commencement of core on sale hours for breakfasts, morning coffees, club and group meetings, televised sport when gaming machines will be available and music may be played.'
6. At 6(b) replace current wording with ' Young persons will be allowed unrestricted access entry to the premises, but must be accompanied by an adult from 22.00 hrs Children will be allowed entry to the premises until 22.00 hrs provided they are accompanied by an adult. At the discretion of management children who are accompanied by an adult may be allowed entry to the premises after 22.00 hours when they are attending a private function/party'.
7. At 6 (c) replace current wording with ' Young persons and children of all ages will be allowed entry to the premises under the terms noted at 6(b) above'.
8. At 6(d) replace current wording with: 'Children and young persons will be allowed entry to the premises at all times when the premises are open under the restrictions noted at 6(b) above.'
9. At 6(e) replace current wording with: 'Children and young persons will be allowed entry to all parts of the premises which are open to the public under the terms noted at 6(b) above'.
10. Remove from the description of the premises the words: ' with table service'.

#### **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 Ski-ing Doo Restaurant and Bar is a licensed premises on two storeys within a shopping precinct in the centre of Aviemore. The upper storey houses a restaurant offering table meals and on the lower storey is a substantial bar area and a small outside drinking terrace.

The premises have enjoyed a trouble free operating history. Several compliance checks have been made by the LSO in the past which have shown the premises to be run according to their operating plan and associated conditions.

Recently the premises have changed hands and the new owners are modernising the licence which they inherited upon transfer. The applicants wish to operate according to the maximum permitted hours for licensed premises available under the Highland Licensing Board's policy namely, 11.00 hrs until 01.00 hrs Monday to Sunday. Off sales hours are requested to match this commencement time with sales permitted from 11.00 hrs until termination at 22.00 hrs.

The list of activities contained within Section 5 of the operating plan is requested to be expanded to include bar meals, live performances, receptions, club or other group meetings, televised sports and gaming. Section 5(g) explains where activities may be offered out-with licensed hours without alcohol sales.

Amendment has been made to the children and young persons' policy and in the view of the LSO the policy is robust and sufficient to meet the requirements of the fifth licensing objective.

One issue to be taken consideration of with respect to the third licensing objective concerning public nuisance is the fact that the shopping precinct in which these premises are incorporated has a third storey of residential flats. The operator will certainly have to be mindful of the issue of noise which thus far has never been raised as a complaint by any party. Accordingly, to assist matters, two specific conditions relating to glass disposal and closing of windows and doors during the playing of live or recorded music are proposed as a safeguard.

## **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**

Existing local conditions will continue to apply and the following specific conditions are now recommended:

- All glass disposal should cease by 23.00hrs. (Licensing Objective 3).
- During the playing of any live or recorded music all windows and doors should be kept shut. (Licensing Objective 3).

**Recommendation**

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

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/141

Date: 15 January 2015

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