

The Highland Licensing Board

Meeting – 3 February 2015

Agenda Item	8.6
Report No	HLB/017/15

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

Kylesku Hotel, Kylesku, Sutherland, IV27 4HW

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Kylesku Hotel Ltd.

1.0 Description of Premises

1.1 The premises comprise a small hotel with seven guest bedrooms, a 53 seat food oriented bar, an 18 seat restaurant and an outside area for eating/drinking with four 4 person tables. The premises also include a residents' lounge, staff accommodation, a commercial kitchen, a beer cellar, customer toilets and storerooms (as shown on the layout plan). The premises are located in the rural village of Kylesku, which is made up of the hotel, nine houses, public toilets and a harbour. The premises are a detached building and solely occupied.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 2300 hours
Sunday: 1200 hours to 2300 hours

Off sales:

Monday to Saturday: 1100 hours to 2200 hours
Sunday: 1200 hours to 2200 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

- (1) Amend on sales hours on Monday to Sunday to commence at 1100 hours and terminate at 0100 hours the following day.

- (2) Amend off sales hours on Sunday to commence at 1100 hours.
- (3) Remove current wording in Seasonal Variation restricting opening dates for the premises so as to permit opening all year round and add “allow the premises to take advantage of Board policy hours with regard to festive extensions.”
- (4) Increase the capacity on the premises from 113 persons to 189 persons.
- (5) Amend Children and Young Persons policy to allow Non Resident Young Persons (unaccompanied) and to allow Non Resident Children (in the company of an adult) to be present until the conclusion of core on sales hours.
- (6) To list of other activities during and outwith core hours add conference facilities; delete current wording in other activities and replace with “the bar may open before the commencement of the core hours for the sale of teas, coffees, soft drinks, confectionary and snacks.
- (7) Amend the layout plan and description of the premises as a consequence of partial demolition, extension and refurbishment of the premises.

4.0 Background

- 4.1 On 18 December 2014 the Licensing Board received an application for a major variation of a Premises Licence from Kylesku Hotel Ltd.
- 4.2 The application was publicised during the period 22 December 2014 until 12 January 2015 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and Rescue Service and the Council’s Community Services (Environmental Health) and Planning and Building Standards were consulted on the application.
- 4.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.5 Further to this publication and consultation process, a representation dated 12 January 2015 has been received from Frank Doherty, Building Standards Team Leader, which is attached as Appendix 1.
- 4.6 The applicant and Mr Doherty have been invited to attend the meeting. The applicant has been advised of the hearings procedure which may also be viewed via the following link:

http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

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 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 overprovision 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 relates to a licensing objective, the Board must specify the objective in question.

6.0 Licensing Standards Officer

6.1 The LSO has provided the following comments:-

6.2 The premises are being extended and renovated extensively in 2 phases by the new operator to provide a high standard of accommodation and to provide enhanced services.

6.3 The first phase for completion will be the public areas including the bar and restaurant to be followed by the accommodation block.

6.4 I am aware that Building Standards have made a representation to the effect that members of the public should not be admitted until the premises are in suitable condition.

6.5 The variations sought are reasonable and appropriate for this type of premises and should not conflict with any of the licensing objectives.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Hours
- (2) Highland Licensing Board Policy Statement 2013-16
- (3) 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

8.3 Retain existing local conditions.

8.4 The premises have a historic seasonal variation to take advantage of any additional hours granted by the Board over the festive period however no conditions were imposed at that time.

8.5 In order to ensure that the premises operate in line with current policy for the festive period the Board may wish to take this opportunity to impose the undernoted conditions.

Local Condition

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.

8.6 Additional Conditions

The following shall apply on any occasion that the premises are open after 0100 hrs.

Mandatory Condition

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; and

Highland Licensing Board Special Condition

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (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.

Special Condition

This varied licence shall not take effect fully and members of the public shall not be permitted on to the premises until any notice of the grant of a temporary occupation or use certificate for any part of the premises or a completion certificate required to be issued by Highland Council Building Standards has been submitted to Highland Licensing Board.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para(s). 8.5 and 8.6 above.

If the Board is 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/CSER/0239

Date: 16 January 2015

Author: L Gunn

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

Appendix 1 – Representation from Building Standards Team Leader

THE HIGHLAND LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005

REPRESENTATION ON VARIATION APPLICATION FOR PREMISES LICENCE

Police Scotland		Principal Environmental Health Officer	
Fire Scotland		Principal Building Standards Officer	✓
Area Planning Manager		Licensing Standards Officer	
Director of Public Health			

Please complete the Form below in respect of the attached application for a Licence by:-

Reference:	AHM/LG/HC/CSER/0239
Name and Address of Premises:	Kylesku Hotel, Kylesku, Sutherland, IV27 4HW
Applicant:	Kylesku Hotel Ltd
Variation Requested:	Amend on sales hours to commence at 1100 hrs and terminate at 0100 hours daily; amend off sales hours to commence at 1100 hours on Sunday; Remove current wording in Seasonal Variations and replace with "allow the premises to take advantage of Board policy hours with regard to festive extensions"; increase capacity to 189; amend Children and Young Persons policy; to list of other activities during and outwith core hours add conference facilities; delete current wording in other activities and replace with "the bar may open before the commencement of the core hours for the sale of teas, coffees, soft drinks, confectionary and snacks; vary and amend the layout plan and description of the premises as a consequence of partial demolition, extension and refurbishment of the premises.

ALAISDAIR H MACKENZIE

Date: 19 December 2014

Clerk

In terms of Section 22 of the Act, please select **ONE** of the following options (a), (b) or (c), and sign and date form:

- (a) ~~I HAVE NO OBJECTION TO THE APPLICATION BEING GRANTED AND I DO NOT WISH TO MAKE REPRESENTATIONS IN RESPECT OF THE APPLICATION.* or~~
 - (b) I HAVE NO OBJECTION TO THE APPLICATION BEING GRANTED. I ATTACH REPRESENTATIONS IN RESPECT OF THE APPLICATION (Section 22(1)(b)) * or
 - (c) ~~I WISH TO OBJECT TO THE APPLICATION AND ATTACH DETAILS OF THE OBJECTION (Section 22(1)(a)) (continue on separate sheet).*~~
- (OBJECTIONS AND REPRESENTATIONS MUST BE LODGED BY 5PM ON MONDAY 12 JANUARY 2015)**

This section to be completed by Police Scotland only, select EITHER (1) or (2):

- (1) In terms of Section 21(4) of the Act, I declare that neither the applicant nor any connected person has been convicted of a relevant or foreign offence* or
- (2) In terms of Section 21(4) of the Act, I append a notice giving details of convictions*

* Delete as appropriate

Signature: [REDACTED] Date: 12/01/15
 Designation: BUILDING STANDARDS TEAM LEADER

**PLEASE RETURN TO CLERK, HIGHLAND LICENSING BOARD,
 COUNCIL OFFICES, DRUMMUIE, GOLSPIE, KW10 6TA**

Under Section 22 (b) (iii) I would suggest a condition is attached to the licence approval as follows

SPECIAL CONDITION

This varied licence shall not take effect fully and members of the public shall not be permitted on to the premises until any notice of the issue of a completion certificate acceptance required to be issued by Highland Council Building Standards has been submitted to Highland Licensing Board.